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The Commission convened in Suite 1150 at 1331 Pennsylvania Avenue, Northwest, Washington, D.C. at 10:05 a.m., Martin R. Castro, Chairman, presiding.

PRESENT:

MARTIN R. CASTRO, Chairman
PATRICIA TIMMONS-GOODSON, Vice Chair
ROBERTA ACHTENBERG, Commissioner
GAIL HERIOT, Commissioner
PETER N. KIRSANOW, Commissioner
DAVID Kladney, Commissioner
KAREN NARASAKI, Commissioner
MICHAEL YAKI, Commissioner*

MAURO MORALES, Staff Director

* Present via telephone
STAFF PRESENT:

PAMELA DUNSTON, Chief, ASCD
ANGELA FRENCH-BELL
DARREN FERNANDEZ
SEAN GOLIDAY
ALFREDA GREENE
JENNIFER CRON HEPLER, Parliamentarian*
DAVID MUSSATT, Chief, RPCU*
LENORE OSTROWSKY
MICHELE YORKMAN

COMMISSIONER ASSISTANTS PRESENT:

SHERYL COZART
ALEC DUELL
JASON LAGRIA
CLARISSA MULDER
AMY ROYCE
JUANA SILVERIO
ALISON SOMIN
KIMBERLY TOLHURST

* Present via telephone
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| V | ADJOURN MEETING | 99 |
CHAIRMAN CASTRO: Good morning. I'm calling this meeting to order. This is a meeting of the U.S. Commission on Civil Rights. Today is July 17, 2015 and it is 10:05 a.m. We are meeting at the Commission's Headquarters at 1331 Pennsylvania Avenue, Northwest, in Washington, D.C.

I am Chairman Marty Castro. Commissioners who are present with me here at the meeting are Vice Chair Timmons-Goodson, Commissioner Narasaki, Commissioner Heriot, Commissioner Kirsanow, Commissioner Achtenberg, Commissioner Kladney.

Commissioner Yaki will be joining us by phone. Commissioner Yaki, are you on the phone? So, he will join us at some point but we do have a quorum of commissioners present.

Is the court reporter present? Yes. Is the Staff Director Present?

DIRECTOR MORALES: Yes.

CHAIRMAN CASTRO: Okay, the meeting will come to order. The first item is the approval of the agenda.

I. APPROVAL OF AGENDA
CHAIRMAN CASTRO: I move that we approve the agenda. Is there a second?

COMMISSIONER Kladney: Second.

CHAIRMAN CASTRO: Are there any amendments? Yes, Commissioner Achtenberg.

COMMISSIONER ACHTENBERG: Mr. Chairman, I would like to move to amend the agenda for consideration of an in memoriam proclamation upon the passing of Bonnie Milstein. And I think we would have it considered if the Chair is willing, at the beginning of the Program Planning.

CHAIRMAN CASTRO: Okay, are there any other motions to amend? I know that we are going to send the Wisconsin Advisory SAC back to have a little more work done. So, I want to put it on next month's agenda, instead of this one. So, that would be a motion to amend as well.

Any other amendments? Hearing none, is there a second?

COMMISSIONER Kladney: Second.

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

(Chorus of aye.)

CHAIRMAN CASTRO: Any opposed?
(No audible response.)

CHAIRMAN CASTRO: Any abstentions?
(No audible response.)

II. PROGRAM PLANNING

CONSIDERATION OF AN IN MEMORIAM PROCLAMATION

ON THE PASSING OF BONNIE MILSTEIN

CHAIRMAN CASTRO: Okay, so the first item then is the consideration of the In Memoriam Statement.

Commissioner Achtenberg.

COMMISSIONER ACHTENBERG: Mr. Chairman, I propose that we adopt the following statement.

United States Commission on Civil Rights notes with sadness the recent passing of Bonnie Milstein, Esquire. Bonnie Milstein was a passionate, life-long advocate for justice. She was fierce in her determination to assure all persons equal treatment under law. As a consummate public interest lawyer, Bonnie worked on behalf of individuals and to advanced policies that further fairness and justice.

Bonnie began her legal career as a legal services lawyer and then as a staff attorney with the ACLU National Prison Project.

In 1976, she became the supervising attorney in the General Counsel's Office of the United
States Department of Health, Education and Welfare. Then, her work involved school segregation, as well as sex, age, and disability-based discrimination. Thereafter, she specialized in fair housing and disability issues, including the rights of the mentally disabled.

She practiced at the Center for law and social policy and then at the mental health law project, now the Bazelon Center for Mental Health Law. She went on to chair the congressionally-created Occupancy Task Force, which focused on fair housing enforcement.

In 1993, Bonnie joined the United States Department of Housing and Urban Development's Office of Fair Housing, where she directed enforcement of Section 504, the Rehabilitation Act of 1973; Title VI of the Civil Rights Act of 1964; the Americans with Disabilities Act of 1990 and other civil rights laws.

After a stint in private practice working on fair housing and disability rights enforcement in 2009, she returned to the Bazelon Center --

CHAIRMAN CASTRO: Commissioner, use the other mike instead.

COMMISSIONER ACHTENBERG: She returned to the Bazelon Center as the Director of Housing Policy.
She practiced there until her untimely death in early 2015.

Bonnie did serious work but did not take herself too seriously. She did righteous work without being self-righteous. She was a wonderful human being, a devoted mother and grandmother, and a delightful and committed friend.

With her enormous talent, intellect, and pension for hard work, she had been the arc of history toward justice, especially for people with disabilities. She is already missed.

And if the Commission would allow, I would like to sign the in memoriam, in addition to a signature from the Chair, if the Commission would so permit.

CHAIRMAN CASTRO: So, that is a motion. Is there a second?

COMMISSIONER KLADNEY: I'll second.

CHAIRMAN CASTRO: Any discussion? Discussion? I think this is definitely something we want to do. This is an individual who had a tremendous impact, not only civil rights in the United States, but clearly setting a role model for others. And I think we, as a Commission, should continue to highlight the work of individuals such as this, once they have passed.
So, I fully support it.

COMMISSIONER YAKI: Hi, this is Commissioner Yaki. I'm sorry I got on late.

CHAIRMAN CASTRO: Okay, thanks for letting us know you are on. We are just -- do you have any comments or questions on Commissioner Achtenberg's in memoriam statement?

COMMISSIONER YAKI: None at all.

CHAIRMAN CASTRO: Okay.

COMMISSIONER YAKI: I wholeheartedly agree with it.

CHAIRMAN CASTRO: Okay, then I will call it for vote. Commissioner Kirsanow, how do you vote?

COMMISSIONER KIRSANOW: Yes.

CHAIRMAN CASTRO: Commissioner Heriot, how do you vote?

COMMISSIONER HERIOT: Yes. Nicely written, too.

COMMISSIONER ACHTENBERG: Thank you.

CHAIRMAN CASTRO: Commissioner Narasaki, how do you vote?

COMMISSIONER NARASKI: Yes.

CHAIRMAN CASTRO: Commissioner Kladney, how do you vote?
COMMISSIONER KLADNEY: 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: Madam Vice Chair, how do you vote?

VICE CHAIR TIMMONS-GOODSON: Yes.

CHAIRMAN CASTRO: And I vote yes. So, it is unanimous. Thank you.

COMMISSIONER ACHTENBERG: Thank you, Mr. Chairman.

CHAIRMAN CASTRO: You're welcome.

UPDATE ON OCRE STAFFING REQUIREMENTS TO COMPLETE OUTSTANDING REPORTS

CHAIRMAN CASTRO: Next on the agenda is an update on the OCRE Staffing requirements to complete outstanding reports. I would ask our Assistant Staff Director, Angela French-Bell, to please join us. She provided us recently with -- actually a memorandum that was sent to the Staff Director was shared with us. So, you have the floor.
MS. FRENCH-BELL: Good morning, Chairman Castro, Madam Vice Chair, Commissioners, Special Assistants and staff.

The Office of Civil Rights Evaluation was asked to look at three different things. First, whether employing additional contractors --

CHAIRMAN CASTRO: There is a Wi-Fi issue with the mics.

MS. FRENCH-BELL: -- whether having additional contractors would assist us with writing our reports. Two, we were asked about a work plan that described the best use of the contractors. And three, we were asked to recommend the number of briefings that we could reasonably hold during fiscal year '16.

In answer to the first question, we would definitely find it helpful to have contractors during the next fiscal year and even this fiscal year. As far as the use of those contractors, the best use, we feel, would be using them to work on the backlog of reports that we have.

Our suggestion is that we hire a total of four contractors. And what I have in the plan is a little bit different than what it would be now, after talking to Mauro, after he consulted with our budget
So, the first contractor would hopefully start by August first and continue on for a six-month period. We could, hopefully, bring on a second contractor at the beginning of the next fiscal year, October first, and then phase in the other two after that.

The reason that it would be best to have one or two contractors at a time and not bring up all four at the same time is that one, space is at a premium at the U.S. Commission on Civil Rights. We only have so many available computers and so many available spaces.

The second reasons is that a liaison from the OCRE team would be required to work with the contractors and that would distract us from the work that we are doing. Although it would be a help and definitely beneficial, it still would take some of our time and resources.

The reason that we want to spread the contractor out over a six-month period is because it would help us to be able to one, train them adequately to be able to understand the commission reports and the way that we are currently structuring them. It would also help to build a relationship with them so that it
would be easier to manage the work that they are doing.

    As far as the order of the reports, the first report that we would like the first contractor to focus on is A Quiet Crisis. We received a letter from the Hill indicating their interest in that report. So, we will give that one top priority.

    The second question that we were asked is what number of briefings do we think would be reasonable to hold in fiscal year '16? Our response is that the best number of reports based on our current resources, as well as the additional help of the contractors would be three. There are several reasons for that.

    First, we want to make sure that the reports are well-researched and well-written. It takes time to adequately do that.

    The second reason is we would still be looking and revising the reports that are already in the pipeline and that will take time as well.

    Also, we want to make sure that there is availability to be able to add additional timely reports, as Commissioner Yaki stated. We want to be able to give you guys some flexibility to handle emerging issues. We couldn't handle a large number of reports but, in years past, it seems like that is the
practice, to add additional reports. And if we had more
than three, we could not do that.

And the last reason, and probably the most
important reason is that we want to provide the
commissioners that are currently on the commission the
ability to be able to one, see a draft of the reports
that they are proposing and two, be able to respond to
that report via a statement. If we do more than three
reports, we cannot guarantee that the reports that are
being -- the briefings that were being done in fiscal
year 2016 will have a report attached to them in a timely
manner to be able to have the individuals who might be
leaving the Commission during fiscal year '16 to be able
to issue a statement that goes along with those reports.

So, for all of those reasons, we think that
is the best plan, using the current resources that we
have at this time.

And we are open to any questions that you
may have.

CHAIRMAN CASTRO: Thank you. Do
Commissioners have questions? Commissioner Kirsanow.

COMMISSIONER KIRSANOW: What will be the
qualifications of the contractors? Where are we
getting them from? And how long do you think the
ramp-up period, that is when you are training them, how long do you think that will take?

MS. FRENCH-BELL: In answer to the first question, the qualifications that we are looking for are individuals, one, that have extensive writing experience; two, have experience doing legal research and writing; three, also have experience working for the federal government because we are thinking that would enable them to come up to speed faster.

In answer to your second question of how long it would take to get them up to speed, we anticipate anywhere from six to eight weeks, depending. They would still be researching during that time but it does take time to get acclimated to the commission.

In answer to the third question, it is our hope to bring the first contractor onboard by August first of this year.

COMMISSIONER KIRSANOW: And just a quick follow-up. How many man hours do you think will be expended by Commission staff in getting them up to speed?

MS. FRENCH-BELL: It is hard to tell. It would actually depend on the person. If there is somebody who already has experience working with the
Commission, which would definitely be a bonus, then, of course, that time would be less. If there is somebody who has less familiarity with the Commission, then it would take more time. We would hope that it would take no more than four hours a week during the initial period, to be able to bring them up to speed.

COMMISSIONER KIRSANOW: One more question. Compensation level.

MS. FRENCH-BELL: We are looking at, if it is part-time, $25,000 per contractor.

CHAIRMAN CASTRO: Commissioner Kladney.

COMMISSIONER Kladney: I have several questions. It is my understanding that you want to house these contractors here.

MS. FRENCH-BELL: Yes.

COMMISSIONER Kladney: Why can't they be contracted to do the work, come in and report, and do the work virtually?

MS. FRENCH-BELL: I would be possible, possibly after the first six to eight weeks. But at first when they are catching up and getting used to the Commission, it would be better to have them here, be hands-on, be able to grab any document that we need, be able to ask any questions that we have.
COMMISSIONER KLADNEY: So, as you have analyzed these subjects, especially the Quiet Crisis, how many hours do you think that would take? Your crew, how have they estimated and have you estimated the number of hours that these people are going to need?

MS. FRENCH-BELL: Well, we have just estimated it basically based on a time period over a period of six weeks. We are hopeful that it wouldn't --

COMMISSIONER KLADNEY: Six weeks?

MS. FRENCH-BELL: No, sorry. Six months. I'm sorry. We are hopeful that it wouldn't actually take that long and that we may even be able to start on a second report during that time period, which would be a cost savings to the Commission but we are not looking at it as man hours so much as length of time.

COMMISSIONER KLADNEY: But that would be equivalent to a thousand hours -- six months.

MS. FRENCH-BELL: Right and we are saying in that time --

COMMISSIONER KLADNEY: I mean a work year is 2,000 hours.

MS. FRENCH-BELL: Agreed. What we are saying in that time they may actually be able to do more
than one report but we just have to see what the
capability is of that individual.

COMMISSIONER KLABNEY: Okay. So, when I
initially proposed this, I thought that you would
propose something like pay someone $15,000 for a final
product and they would go off and do the final product
and come back and report. That is what I thought
contracting was.

But you are talking about having these
people work hourly. Is that correct on a contract?

MS. FRENCH-BELL: Right, correct.

COMMISSIONER KLABNEY: And that would be a
1099 or a W-2?

MS. FRENCH-BELL: That would probably be a
W-2.

COMMISSIONER KLABNEY: Okay. So, now
getting to the number of reports that you want to do
annually, which is three, I actually feel that is quite
constrained. I know perhaps we should -- Mr. Chairman,
before we make a decision on this, shouldn't we hear
about the budget numbers and how much money there will
be? I mean, obviously, someone said there is $35,000
in the budget for this year or I guess. I'm not exactly
sure.
CHAIRMAN CASTRO: You know there is a lot of issues that come into play on this decision, one of which is the budget. So, I think, at this point, if there is a question about whether we could afford what is being suggested here by OCRE, our staff director can tell us right now. We don't have to wait for the budget update. He can provide that data.

COMMISSIONER YAKI: I have a question, Mr. Chairman, this is Commissioner Yaki.

CHAIRMAN CASTRO: Yes. I have got a couple of other commissioners in line ahead of you.

COMMISSIONER YAKI: Sure. Okay, fine. I just wanted to follow up on the money issue.

CHAIRMAN CASTRO: Okay. So, I am going to have the Staff Director respond to that now. Commissioner Kladney, if you have any other questions, you can wrap them up. Then it is going to go to Commissioner Heriot, then Commissioner Yaki.

COMMISSIONER KLANDNEY: Well, I don't have any questions as of now but I probably will later.

CHAIRMAN CASTRO: That's fine.

DIRECTOR MORALES: And so in response to your question, Mr. Chairman, do we have the flexibility in the budget to do what has been proposed by the Office
COMMISSIONER KLANDNEY: I guess the question is -- is this working?

CHAIRMAN CASTRO: Yes, it's working.

COMMISSIONER KLANDNEY: The question is how -- I'm trying to figure out the mechanism here. If we are going to hire somebody now before the end of the fiscal year, are we going to take that money and contract it and set it aside from this year? And how much are we parking to cover that expense? I mean, what are the mechanics and how does it work? Because next year, there is a proposal to hire two or three extra. And then is that resulting in us only being able to do three reports? I mean all this is kind of like a moving target together.

DIRECTOR MORALES: And that is a really good way of describing it. It is a moving target.

And so what I have been given from our budget director or the best estimates at this moment in time and there is a savings that has resulted from some payroll. Unfortunately, it is not just an amount of money that is just sitting in a pot. Some of that has already been allocated for expenses that have been put off.
So, for example, some IT requirements that weren't foreseen because of some government hacking and cyber security issues that have come up in requirements, additional travel that was not anticipated for the commission, a deferred statistical analysis package. We are looking at also bringing on a contractor to assist in our audit so that we don't fall behind our audit requirements.

And so in looking at all of that and adding in a figure for the current contractor proposed by the Office of Civil Rights Evaluation, it looks like within that budget allocation and savings, that we can accommodate that.

There may be an opportunity to bring on the second contractor sooner. This is all within this fiscal year. Next fiscal year, we are anticipating that we would be able to bring on at least one or two others. During the course of the year, there are savings that come up that can't be completely foreseen. Barring something catastrophic that Congress would do in the budget process in the fall with a continuing resolution or a sequestration or what have you, we at least anticipate, at this time, that we would be able to bring on those two additional contractors that have
been requested.

Now, that could change if there is a five percent reduction in the budget because of what could happen in the fall but those are elements that we can't control at this time.

COMMISSIONER Kladney: Okay. Well, what you are saying is, at least as I recall the numbers, $35,000 can be allocated from this year's budget.

DIRECTOR Morales: That is what we have, at this time.

COMMISSIONER Kladney: So, and I don't know if this a question for the rest of the Commission but if we are looking at updated four reports, do we have to update all four reports within the next year or do we want to put them -- space them out in such a fashion that OCRE can handle more than doing three briefings next year?

I think three briefings is actually too few a number and I don't know what the rest of the commissioners feel.

CHAIRMAN Castro: Well, as I have indicated before -- this is the Chairman -- the one that I have asked to be addressed again is the Effect of Immigration upon African American Workers. I would
like that revised before I leave the Commission.

COMMISSIONER KLADNEY: We also have the ones Congress asked for in the Quite Crisis.

So, my question is, if we have to make choices, should we make that choice or are we willing to accept three briefings? I mean I don't know if that is what you want to do in the last year as chair, three briefings.

DIRECTOR MORALES: I think the question here is not that it is only three briefings. The way I understood what Ms. French-Bell was saying is that we can approve three now. That gives us the flexibility in the future to do additional briefings, should other issues come up.

MS. FRENCH-BELL: Right.

DIRECTOR MORALES: So, she is not saying three only for the whole year. She is saying right now at this point in time, this is what it is going to take to be able to accomplish everything that is here, as well as some additional new projects. That is not saying that for the rest of fiscal '16 we are only going to do three new projects. Is that right?

MS. FRENCH-BELL: That is correct.

COMMISSIONER KLADNEY: Well, I heard that
but I also understand that we are not going to be doing
any -- that the proposal is also that we are not going
to be doing anything until January.

MS. FRENCH-BELL: Well no, we wouldn't
have the statutory report in the October/November time
frame to meet our deadlines.

COMMISSIONER KLADNEY: But the rest would
not take place until next year -- next calendar year.

MS. FRENCH-BELL: Correct. Yes, early
next calendar year.

CHAIRMAN CASTRO: Okay, Commissioner
Heriot and then Commissioner Yaki.

COMMISSIONER HERIOT: Thank you, Mr.
Chairman. I have some real misgivings about the
contracting thing. So, I just want to make sure we
don't get in too deep right from the beginning.

And it sounds, to some extent, you are
working with that. You are not talking about hiring
four contractors. See my problem is like the number of
people in the world who are really capable of writing
a 100-page report that is literate and is exactly what
it should be is not as high as people sometimes thing.
And unlike something like nuclear engineering, there
are a lot of people who think they are capable of that.
CHAIRMAN CASTRO: Commissioner Heriot, hold on. We're getting you a new mic right now.

COMMISSIONER HERIOT: There are a lot more people who think they are capable of writing a 100-page literate report on a topic like this than there are people who really can. So, I am worried about the possibility about getting a contractor who doesn't work out. So, I really urge that we not jump into our second contractor until we have made the first one work and know that it really is working and that we are going to be able to go with what is being written and it is not just going to be a disaster that has to be reworked by other people here at the Commission. So, that is my big, big worry.

MS. FRENCH-BELL: Thank you for sharing that. I would also like to point out that one, we are phasing them in so that will help somewhat. And then two, there are also mechanisms in place if a contractor is not working out to remove them. So, we could also utilize that as well to help alleviate --

COMMISSIONER HERIOT: Two of the things that worry me, though. You said that number one, we were going to be looking for federal experience and, number two, we wanted somebody that we could supervise
here. And that like limits the pool.

There may be somebody out in Portland who
would be terrific for this and might be able to like fly
in, get some instruction from you and the Staff Director
and such but then work from home in Oregon or work from
home in Nebraska or whatever.

So, I would urge you to keep an open mind
on these things, given that like you really want
somebody that you have got confidence in the first time.
Experimenting here can be disastrous.

MS. FRENCH-BELL: Thank you.

COMMISSIONER HERIOT: And I am very, very
worried. Good luck on this.

MS. FRENCH-BELL: Thank you. Point well
taken.

COMMISSIONER HERIOT: On the number of
briefings, I would go with fewer and fewer. So, I think
three, that is a lot.

CHAIRMAN CASTRO: Before I pass it to
Commissioner Yaki, a quick question. Do you have an
idea where you are going to be seeking these contractors
from already?

MS. FRENCH-BELL: We gave a couple of BPAs
and we have got --
CHAIRMAN CASTRO: What does that mean?

MS. FRENCH-BELL: Blanket purchasing agreements. And we would be working with the ASCD to determine which of those agencies might already be able to pull people of that caliber for us to interview. So, we would start there because that would shorten the process for bringing them onboard.

CHAIRMAN CASTRO: Commissioner Yaki.

COMMISSIONER YAKI: Yes, I actually want to agree with Commissioner Heriot on the idea of limiting the talent pool. There are even going to be people in the D.C. Metropolitan area who have, by virtue of the fact that they don't want to sit and deal with the commute in and out of the city every day, who I know are extremely talented writer and have the kind of ability and a lot of them are people who used to work on the hearing generating committee reports. I don't have anyone in mind but I just know there is a whole cadre of people out there that have that skill set. And I think requiring them to come into the use and do see time, that will limit our pool and not just because we are excluding someone in California or Maine.

The second point is I want to make sure that we really do have the flexibility to deal with this and
to deal with issues as they come along, in case of bad
performance or poor performance. And the one thing
that really struck me was an answer that Assistant Staff
Director gave, Commissioner Kladney's question about a
1099 or a W-2. Because she said W-2, which to me reads
the word employee. And once you read the word employee,
then we are reading all sorts of other restrictions on
our behavior. I think these are purely independent
contractors. We should keep them as such. They should
be 1099s. They should be at-will. They should be --
and quite frankly, you are also going to limit the talent
pool again if you make it a W-2 versus a 1099 position
because there are some people who are former federal
employees who have no desire to come back in under a W-2
context because of how it might impact salaries,
benefits, and others.

And third, W-2 can be implied, salary,
benefits, and other things. And if we are trying to
make this a lean and mean operation, we have got to make
this an independent contractor 1099 format.

Those are the comments I wanted to say.

CHAIRMAN CASTRO: Commissioner Yaki, this
is the chair. We just received confirmation from our
head of HR that it would be a 1099. It would be an
independent contractor.

COMMISSIONER YAKI: Well, then I just said a lot of stuff for nothing but thank you.

(Laughter.)

CHAIRMAN CASTRO: You know, it's not the first time but it is okay.

COMMISSIONER YAKI: I appreciate that. Thank you. I will endeavor to keep up to those high standards.

CHAIRMAN CASTRO: Okay. Anyone else want to comment?

I actually have one question on the memo. I think that maybe it was a misunderstanding or error. We did not approve a voter fraud, voter intimidation update. The fourth one is actually updating the Native American Report that was requested by Commissioner Narasaki.

COMMISSIONER NARASKI: That is the Quite Crisis one.

CHAIRMAN CASTRO: Okay, well, then there was no voter fraud or voter intimidation, was there? Oh, was it? Oh, Commissioner Yaki. Okay. Because I don't remember it was something from --

COMMISSIONER NARASKI: It wasn't. It was
Commissioner Kirsanow.

CHAIRMAN CASTRO: Okay, so the memo should just reflect that because it caused me confusion. Okay, do we -- Commissioner Narasaki.

COMMISSIONER NARASKI: I just wanted to weigh in on something that Commissioner Kladney noted and that Commissioner Heriot noted, and that is the number of reports that can be reasonably done.

I really want to commend OCRE for being very thoughtful about how to make this work because for those of you who are here who aren't familiar, the context is there was a backlog that was built up before the current OCRE came into place because, in fact, we had gaps in staffing. So, the reason that we are talking about contracts now is because we want to catch up, be responsible and catch up on those reports, as well as address some of the requests that were made by Congress, in terms of our jurisdiction.

And hopefully, the budget will work out and it will be easier. I think commissioners might need to make some difficult decisions because I'm still fairly new. It is my, I think, one year anniversary on the Commission.

CHAIRMAN CASTRO: Already?
COMMISSIONER NARASKI: I guess. I am still trying to figure out how it all works. But I do know that there is a lot of issues that commissioners want to take on. We have four who might be retiring in a year. And so if you are talking about three reports, one of which is the statutory report, I just think that is not going to happen, from a practical standpoint. And also, the Vice Chair and I have not had yet an opportunity to have a hearing that we have shaped. And we really want to be able to start fully participating, now that we have our feet on the ground.

So, I am thinking that perhaps four might be a good target. So, I just want to weigh in on that. I know it is a stretch for a step but I also think that the four reports that were added, in terms of they are not full hearings but they are meant to update already existing reports, they are different in terms of how much work I think is actually going to be required.

The Quite Crisis one, which was requested by Congress, which I support is going to be more difficult because it crosses a lot of agencies. The Anti-Semitism Report, however, I think is more about basic research. It is a fairly finite target and it is information that I think a lot of NGOs and colleges might
already be collecting. So, it is more just trying to

gather up information that is already out there and

putting it in a coherent package.

Likewise, with the report that the Chair is
interested in, it is about gathering up the research
that has been done since that report from economists and
others and putting that in context.

So, I just want to not that not all the
reports require the same amount of heavy lifting,
although, there is one, which is the Native American
one, which will require heavy lifting. And hopefully,
one of the things that we can look at is whether the
contractor at least already has some knowledge in that
are that would make it easier for that person to really
move quickly.

So, my vote is for four.

CHAIRMAN CASTRO: Okay, I don't know that
we need a vote on this, unless folks want to take it.
I think the consensus here is obviously there are some
concerns and cautions but to move along the lines, as
was outlined by our Office of Civil Rights evaluation.
Are folks comfortable with that? Hearing no objection,
I would say you are. Madam Vice Chair?

VICE CHAIR TIMMONS-GOODSON: I was just
going to say, Mr. Chair, that I believe that you have accurately picked up on the sentiment here. I believe that we are all impressed with what the OCRE folks have done for us. We do understand that this is unchartered territory. And we are also mindful that you, yourself, have not been here that long. So, you all are doing a masterful job.

The only questions come in, I believe, dealing with the details and ironing it out. And I, too, agree, with much of what Commissioner Heriot had to say.

So, if we will keep all of that in mind as we go forward and proceed cautiously, because we may need to return to this model again for whatever reason. But I do believe, Mr. Chair, that you have picked up on the sentiment.

CHAIRMAN CASTRO: Thank you.

MS. FRENCH-BELL: Thank you.

CHAIRMAN CASTRO: Thanks again, great presentation. We appreciate the work.

MS. FRENCH-BELL: Thank you.

DISCUSSION ON THE TOPIC FOR STATUTORY ENFORCEMENT REPORT FOR FY 2016

CHAIRMAN CASTRO: Next, we are going to
move on to a discussion and a vote on a topic for the
2016 Fiscal Year Statutory Enforcement Report.

Just to clarify, I know there was confusion
as to whether we were going to be voting today on other
briefing topics. We can discuss the other briefing
topics, particularly in light of what we have heard
today but we will only be voting and making a decision
today on the fiscal '16 Statutory Enforcement Report
because that is the one that has a very tight deadline
that we have to comply with in terms of our congressional
mandate.

So, having said that, you all should have
received a number of topics for consideration. There
are two that were officially indicated for
consideration of Statutory Enforcement Reports. That
is, one that I submitted on laws that may -- I'm sorry
-- one that I submitted on. It is a report card for
federal agencies. Another is a consonant paper on the
Voting Rights Act from Commissioner Achtenberg. And I
understand that Commissioner Yaki has also put up the
Environmental Justice paper that he has put forward as
a potential consideration for statutory report, if not
a briefing topic later.

So, we will consider those three, then,
today for enforcement report. Is there -- Commissioner Heriot, did you --

COMMISSIONER HERIOT: I'm just wondering how those particular topics got designated as potential statutory report ones and other ones did not.

CHAIRMAN CASTRO: Oh, people said I would like it to be considered for. The commissioners --

COMMISSIONER HERIOT: I would propose that Commissioner Kirsanow's topic on discrimination against Asians be considered as and enforcement report --

CHAIRMAN CASTRO: Okay.

COMMISSIONER HERIOT: -- especially given that the Department of Education has declined to look at that issue.

CHAIRMAN CASTRO: All right. Then, during our discussion I am going to have each commissioner sort of give a brief overview over the paper that they are proposing. Once we have done the overviews, then we will have a discussion and then we will have a vote. Okay?

So, I will do mine last. Since I am the chair, I don't want to go first but why don't we start with Commissioner Achtenberg?
COMMISSIONER ACHTENBERG: Thank you, Mr. Chairman. Given that the Section 2 of the Voting Rights Act and the enforcement of same by the Department of Justice is clearly within our jurisdiction to consider as a statutory enforcement report, and given the number of laws either having been recently adopted or currently under consideration by various state legislatures that would impact or have the potential to impact access to the vote, I think it would be timely and significant for the Commission to examine those laws and proposed laws and to take a look at what the Department of Justice has been doing, is doing, and may be considering to do with regard to those laws.

I think it would be timely and important, given the potential that these laws have to affect the vote. I happen to think that many of them have the potential if not the actuality of suppressing the vote but I understand that there are many opinions on that. And so I think it would be worthy of this Commission's consideration to examine that and perhaps make some judgments and/or if not judgments, certain recommendations at the very least, that might inform the way legislatures proceed going forward and might inform the way the Justice Department continues to conduct
itself in that regard.

CHAIRMAN CASTRO: Are there any questions for Commissioner Achtenberg on her concept paper?

Okay, hearing none, we will go on to the next one. Then, we will circle back and have a more unified discussion about all of them. Commissioner Yaki.

COMMISSIONER YAKI: Thank you very much, colleagues. This is an issue that has been near and dear to my heart for any number of years when I worked for a member of Congress and when I worked as an elected official. It is a concept that gained some traction in the mid to late '90s and actually resulted in a report 12 years by the Commission called Not in My Backyard regarding the tools for achieving environmental justice.

I actually want to go beyond that to talk about whether or not the federal government is adequately enforcing the issue of environmental justice as regards to Title VI of the Civil Rights Act of 1964.

There are a couple of pretty interesting and, some would say, sad and tragic issues involving the siting location of coal ash deposits. Coal ash is one of the most toxic substances that is manmade. It
residue from coal-fired plants. It requires exceedingly intricate storage and there have been several huge accidents involving breaches of dams holding the coal ash into waterways, et cetera.

But the result of that has been to say well, we need to move the coal ash to other places. And invariably, unfortunately, it is resulting to political maneuvering through any number of different factors and, I think, a lack of action and activity and attention by USCPA, which is supposed to deal with some of these complaints under Title VI.

You would have a number of these extremely toxic landfills being sited in areas that had been concealing these zones next to poor and primarily minority communities in Alabama and elsewhere. There is an investigation going on right now in North Carolina.

It is something where we always wanted it in someone else's backyard but when that backyard is on poor communities of color, we have a lot of explaining to do and federal government has a lot of responsibility and justifications that they need to be involved in enforcing to that. Not in My Backyard is not simply code word for we are going to find a poor minority
community to dump the extremely toxic substances that have detrimental properties and other impacts for these communities.

So, I would appreciate your support in this. I think it is a good follow-up, actually, to the report, which talked a lot about the promise of these kinds of things that were supposedly in place to deal with environmental justice 12 years ago but, as we have seen, since then, especially for Perry County, Alabama and of course in North Carolina, where populations are almost 90 percent African American are finding out that their water and other systems are being located next to these extremely toxic burial grounds.

I think this is something worth exploring, worth bringing up again to the Commission. But looking at it from an almost point of view of how we have failed these communities and what needs to be done in order to make sure they are fully protected under the Civil Rights Act.

Thank you very much for your consideration.

CHAIRMAN CASTRO: Commissioner Yaki, I have a question. So, you are not intending to limit this only to coal ash storage, right?

COMMISSIONER YAKI: No, I was just saying
-- yes. I mean this grew up around issues of power plants in urban areas. And there are issues of location of freeway corridors through poor neighborhoods, poor, primarily minority neighborhoods. There are any number of different instances where the principles are environmental justice and where the impact on minority communities is, there is a correlation between urban and waste siting -- urban planning and waste siting. There are many different nexuses in which this can occur and I would suggest that as this develops, to look at an urban, and a rural, and an industrial examples to illustrate the point and if you have got case studies for what EPA is or is not really doing with regard to enforcement.

CHAIRMAN CASTRO: Okay. Any other questions for Commissioner Yaki on his paper?

Okay, well seeing none, then Commissioner Kirsanow.

COMMISSIONER KIRSANOW: Thank you, Mr. Chair.

CHAIRMAN CASTRO: You're welcome.

COMMISSIONER KIRSANOW: This consonant paper has been around for a while in various iterations. But we are at a critical mass when it comes to the number
of scholarly studies that have been conducted, actually stretching back 20 years, but there has been a proliferation of these studies that show that discrimination against Asian Americans in college admissions continues at pace and, in fact, is quite profound. When you look at what happened after Prop 209, the increase in the number of Asian Americans in California System Schools, the number of Asian Americans who have been discriminated against in higher level college admissions throughout the country that has been documented in a variety of more recent articles but culminating in a complaint filed by Coalition of Asian American Students related to Harvard University filed with the Department of Education's OCRE, which complaint, and this goes right to why this would be a splendid, in my estimation, enforcement topic, OCRE chose not to pursue, chose to dismiss. At the same time, there are other discrete complaints out there by Asian American students.

And the evidence that is out there right now is accumulating, it is quite significant and it shows that Asian Americans are suffering as a result of certain policies implemented by a variety of universities. And I think that what we would be charged
with doing is taking examination. Since OCRE has decided not to pursue it, why are they not pursuing it? Why is the federal government not pursuing what appears to be a very well-substantiated complaint on the part of Asian American students that in fact they are being treated dissimilarly from similarly situated students? And it could go beyond that but I think it should be limited to something that we can handle. That is, what is the federal government doing to address discrimination against Asian American students in college admissions.

CHAIRMAN CASTRO: Thank you, Commissioner Kirsanow. Any questions for him on his paper?

Hearing none, then let me briefly present my topic. I propose that we look at various federal agencies and provide a report card on their enforcement of civil rights during the term of President Barack Obama. I think that given that many of us are terming off and that many of us have been on the Commission during the length of President Obama's term, that it would be a nice way to overview the activities in the civil rights arena during our term and during the term of the President.

I think it also gives us an opportunity to
look at various multi-faceted issues, not just one area. Although I understand from some comments that I received in advance of the meeting from some of my colleagues that there is a concern that this might be an overly broad topic, given the resources that we have, et cetera. And I think that we can certainly limit the number of agencies that we look at and perhaps even, within those agencies, focus on some specific topics that we could agree on so that is not as encyclopedic a project as it may appear. But I think it does give us a unique opportunity to focus on different areas, different agencies and to do it in an omnibus fashion. And it also, I believe, would be a nice way to close some of our terms on the commission.

So, I know you have read more detail than that but that is essentially what I am proposing that we try to do with this. And I am happy to answer any specific questions.

Okay, hearing none, let's -- so, we have got four papers that have been presented to us for consideration for the enforcement topic for fiscal '16. The Office of the Staff Director has informed me that his request to General Counsel's Office has reviewed the jurisdiction of each of these papers and it has been
confirmed that they are all within the jurisdiction of
the mandate of our jurisdiction. So, there is no issue
there.

I don't know how folks would like to proceed. Commissioner Achtenberg?

COMMISSIONER ACHTENBERG: Just discussion in general before we --

CHAIRMAN CASTRO: Yes and then, at some point, we will have a motion or we could do a motion and then discussion. But I figure it might be unfair just to put one of these up as a motion.

COMMISSIONER ACHTENBERG: Sure.

CHAIRMAN CASTRO: So maybe we could have a discussion and see where the consensus goes. And then based on that consensus, someone could make a motion.

COMMISSIONER ACHTENBERG: I think these are all excellent topics, worthy of the Commission's consideration. I am in the unusual posture of liking somebody else's better than mine. So, I want to indicate that I am going to be voting in favor of Commissioner Yaki's paper to examine the environmental impacts, and the possible racial implications of same, and the enforcement or lack of enforcement being undertaken by the appropriate agencies.
I think that is timely, significant, and I think our examination of that topic would be extremely important and add something to the discourse that hasn't been there before. So, I am very much in favor of making that the statutory enforcement topic.

CHAIRMAN CASTRO: Commissioner Kladney.

COMMISSIONER KLADNEY: I concur with Commissioner Achtenberg.

CHAIRMAN CASTRO: Oh, is that all? Okay.

(Laughter.)

CHAIRMAN CASTRO: Madam Vice Chair.

VICE CHAIR TIMMONS-GOODSON: Mr. Chair, I agree with Commissioner Achtenberg about the quality of all of the topics that have been proposed. Truthfully, I am conflicted.

I believe that the environmental issue is certainly important. The voting rights issue is certainly important. But I believe that if we were to focus some additional attention on the environmental issue, we would have an opportunity to make a real contribution. I believe that much has been and will be said about the Voting Rights Act. Everybody is talking about it and many are looking at it. But I think that this environmental issue is a way for us to stand out.
and to do some heavy lifting. And so I will be supporting Commissioner Yaki's proposal.

CHAIRMAN CASTRO: Any other commissioner want to comment? Commissioner Heriot.

COMMISSIONER HERIOT: I just want to be grumpy. That is, I am not making a comment on particular comments here. I am going to be out-voted no matter what. Just, in the future, please will somebody propose an enforcement report that actually specifically says exactly what we are going, you know, the very narrow topic that we can make a real contribution, not just sort of spouting off about a general issue but like measuring something, having OCR look into some very particular statistic and generate something that otherwise isn't out there.

And I don't see that any of these topics really do a good job of that. And it is because it is hard to come up with and I don't blame the commissioners having a hard time coming up with that perfect enforcement report kind of topic. But like one day can we please do something that we are coming up with research that is new and that people are going to look at and say this really sheds light on the topic that nobody else has been able to shed that kind of light on.
And it is not writing a concept paper that just talks about a general topic. It has got to be forming exactly what the research -- and I can see our OCRE had a smile. You know she wants this, too, one day.

CHAIRMAN CASTRO: Commissioner Kirsanow.

COMMISSIONER KIRSANOW: In that vein, I want to make one last pitch. You know I am going to get out-voted for my topic, which is very narrow and I think is very timely, and it is constrained to looking at what one individual agency is doing in terms of its enforcement of civil rights law related to higher education and at least numerous allegations of discrimination against Asian Americans.

I actually like Commissioner Yaki's topic. As far as an Enforcement Report is concerned, I think the Chair's proposal is a good one, although I think it is, perhaps, too expansive for OCRE to get its hands around.

But with respect to my topic, it is timely from the standpoint of only within the last couple of weeks OCRE has made a determination with respect to the Coalition of Asian American Students' complaint.

We have got Fisher versus Texas has been taken up by the Supreme Court and it is going to probably
be issued sometime prior to when the statutory report
would come out but it would be very timely.

And we have had a couple of efforts in
recent years to repeal Prop 209. One of those efforts
was beaten back by a lot of folks in California. And
I just think I would make another pitch for it and if
it is not a statutory enforcement report, at least a
briefing topic.

CHAIRMAN CASTRO: Commissioner Narasaki.

COMMISSIONER NARASKI: I also like the
Chair's approach. And if we did not have the backlog
that we already have with reports, it would be something
that I would have supported. But I just feel, given the
presentation we had, the amount of work, even if it was
three agencies instead of a dozen agencies, it would
still be like doing three different kinds of reports.
So, I just feel we don't, unfortunately, have the
capacity to take that on.

And on Commissioner Kirsanow's, I remember
that he actually presented this topic when I first
started on the Commission. And I think I told him then
that it was something I was interested in exploring but
I would want to significantly reshape the direction it
is taking, particularly now since the Supreme Court has
taken up again the issue of affirmative action. And I think the paper is framed more as a critique of affirmative action, which is something I support because I do believe that it is in the best interest of college students to learn in very diverse environments. And that is, in fact, a very important component of education.

But I am concerned that perhaps with schools who use whole file reviews that there might be implicit bias creeping in, in terms of stereotypes about Asian American students. His paper does not point out the disparity that Asians face in terms of test scores and grades with white students, which I find interesting and should require some exploration as to why that is happening. Not that I think that test scores and grades are the sum total of an individual student because they bring other life experiences to the table but I do think the fact that there is that persistent significant gap between Asians and Caucasian student, that that is something that I would actually be interested in potentially exploring and I look forward to talking to you because we still will be talking about briefing reports.

So, I find myself very interested in
Commissioner Yaki's submission, precisely because I don't think that there has been very much light shed on environmental justice and I think that is where, in fact, the Commission could really highlight and make a contribution. And so, I am very supportive of that.

I am torn because I think Commissioner Achtenberg's suggestion about looking at the Department of Justice Civil Rights Division enforcement of voting rights would be very timely but I think that there is a lot of debate already going on and a lot of examination happening about voting rights. And so I think we could make a better, more significant contribution in the area of environmental justice.

CHAIRMAN CASTRO: Any other comments from commissioners?

Well, obviously, I was proposing my paper but I think, going into this meeting, I anticipated that it might not have the consensus, given the issues of bandwidth that we were discussing earlier today. And so for me, it really was looking at the voting rights and the environmental justice paper, both of which are important topics.

I share Commissioner Narasaki's concerns about Commissioner Kirsanow's paper, which I wasn't
thinking about before the meeting because I didn't realize it was going to be an enforcement topic until here.

But in the end, I think that I will end up voting with my personal gut on this because I come from a community in Chicago on its southeast side that is predominately Latino with a large African American population as well that has, for many years, suffered from environmental injustice. It is a huge cancer cluster, pet coke issues, the old steel mills. Many of my family members who worked in those mills died of cancer. And so we are right next to a big garbage dump.

And so it is my hope that should that paper be the one that we choose, and I will entertain a motion and if it is the paper that is moved, I will vote for it, that we would make sure that we look at that community on the southeast side of Chicago, along with some of the communities that were mentioned in the concept paper and, in particular, the Latino and African American communities in that part of Chicago.

Commissioner Narasaki?

COMMISSIONER NARASKI: Yes, I would like to make a motion, if that would be in order.

CHAIRMAN CASTRO: Go ahead.
COMMISSIONER NARASKI: So, I would like to move the adoption of Commissioner Yaki's proposal on environmental justice as our statutory report. And I would like to add to that motion that we, upon adoption, also sent out a press release noting that that is something that we have adopted, so that the people, the stakeholder community can know and start being prepared and start sending things in to our office so that we can get a running start at that.

COMMISSIONER KLADNEY: I'll second that motion.

CHAIRMAN CASTRO: Okay. Is there any additional discussion now?

COMMISSIONER YAKI: This is Commissioner Yaki.

CHAIRMAN CASTRO: Go ahead.

COMMISSIONER YAKI: Mr. Chair, first, I want to thank my colleagues for their kind remarks about this topic. As I said, this is something that has deeply concerned me for years and the magnitude of the issue, as you describe it in your own community, Mr. Chair, I think is important. And I would say that it would be my intent, and I think the Commission's intent, that we ensure that we look at -- we will get suggestions
for case studies to look at and I would definitely say
that that should be one of them.

    I do think that we should look at it in terms
of urban, and rural, and other factors as well, because
this is not just confined to remote areas or where there
are minority communities. As you said, there are
concentrated clusters of people in neighborhoods in
Chicago and other places in this great nation where city
planners, for better or for worse, and many for worse,
just to make these neighborhoods the dumping grounds for
everybody else. And I think we can make a real
contribution to awareness and enforcement or lack
thereof on something that goes to how people live and
breathe and die in this country.

    And as someone who grew up and still has
asthma, I can tell you that the prevalence of asthma
among young African American children who live in the
shadows of major freeways that wind their way through
poor neighborhoods in this country is truly astounding
in a health crisis and health epidemic that no one seems
to fully grasp.

    So, I think this is a very important topic.
I thank all my colleagues for their great comments.
They have all had great papers, too.
I agree that Chairman Castro’s proposal may have had a bandwidth issue but it is certainly something that has been part of the history of this Commission over the years. We used to have a federal funding report that examined federal funding for the civil rights functions of all agencies. For years, it was a good benchmark that researchers, advocates, non-profits, people who are interested in these issues could use to see what the federal government’s commitment to civil rights has been and that was derailed over the past few years.

Part of me is very sympathetic, obviously, with what Commissioner Kirsanow has brought up but I also share the concerns of Commissioner Narasaki that she brought up as well. And I look forward to continuing the dialogue with Commissioner Kirsanow on these issues because, certainly, if there are quotas, if there an implicit bias creeping into admissions, then that is something that needs to be addressed so that no student, in particular Asian American students, in a generation that is far different from the college environment that both Karen and I, Commissioner Narasaki and I both went into, it is wholly different.

And Commissioner Achtenberg, you know I
commend you for your continued zealous advocacy on the issue of the Voting Rights Act and this is important. It was the reason for this Commission coming into being. And I appreciate, but I doubly appreciate your support of my topic.

CHAIRMAN CASTRO: I'm going to call the motion for a vote.

Commissioner Kirsanow, how do you vote?

COMMISSIONER KIRSANOW: Yes.

CHAIRMAN CASTRO: Commissioner Heriot, how do you vote?

COMMISSIONER HERIOT: Is there a motion?

CHAIRMAN CASTRO: Yes, there was a motion made by Commissioner Narasaki and seconded by Commissioner Kladney.

COMMISSIONER HERIOT: So, this is on the environmental justice one only.

CHAIRMAN CASTRO: Yes and a press release to accompany the --

COMMISSIONER HERIOT: I think it is a fine topic for briefing. I would vote for it as a briefing. I am going to abstain as to an enforcement report.

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

CHAIRMAN CASTRO: Commissioner Kladney, how do you vote?

COMMISSIONER KLADNEY: 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: Madam Vice Chair, how do you vote?

VICE CHAIR TIMMONS-GOODSON: Yes.

CHAIRMAN CASTRO: And I vote yes. So, that is seven yeses and one abstention. The motion passes. Thank you.

DISCUSSION ON NUMBER OF BRIEFING TOPICS AND REPORTS FOR FY 2016 PROJECTS

CHAIRMAN CASTRO: I also had on the agenda for today discussion of the additional concept papers for potential briefing reports. My intention was not that those be voted on today but that we had a preliminary discussion about those and then vote on them at the August meeting.
I am open to suggestions on how we might want to proceed. If that is something folks are comfortable with and do we want to, between now and the August meeting, rank them in some way or just, at this point, kind of go through them and determine maybe even now, determine which ones seem to possibly fit what will now be two other reports.

So, obviously, we are going to be making some tough decisions and I am hoping that this will help us make those decisions when we do come to it.

Any thoughts?

COMMISSIONER YAKI: Mr. Chair?

CHAIRMAN CASTRO: Yes, Commissioner Yaki.

COMMISSIONER YAKI: I believe I may have submitted an additional report for consideration. I withdraw that, obviously because of the statutory report being approved. So, I want that taken out of consideration.

Should someone want to adopt that as their own, they are free to and they may talk to Kimberly Tolhurst, my Staff Assistant, but I will officially withdraw it from my sponsorship to the addition because I will let others have the opportunity for the limited number of briefings.
COMMISSIONER HERIOT: This is the racial incidents on campus you are withdrawing?

COMMISSIONER YAKI: I am withdrawing my sponsorship of that. If someone else wishes to take that up, they may.

COMMISSIONER KIRSANOW: I will.

COMMISSIONER HERIOT: I will sponsor it.

CHAIRMAN CASTRO: Okay, so let's do this. Let's go down the list and if commissioners will -- I'll call the paper and then if you all could give a very brief thumbnail as to the paper that you are supporting and why it should be a briefing topic. I'm just going to look at my stack here and call them in no particular order.

Let's go down the list and if commissioners will -- I'll call the paper and then if you all could give a very brief thumbnail as to the paper that you are supporting and why it should be a briefing topic. I'm just going to look at my stack here and call them in no particular order.

We are only going to choose two but I think anyone who submitted a paper should, unless they are going to withdraw it, you know propose or defend their paper, however you might want to see it.

Commissioner Achtenberg, you had a question? Oh, I saw your pen up.

Commissioner Heriot, why don't you give us your views on your proposal on -- what is the topic over here? I have got the report.

COMMISSIONER HERIOT: Can I pass until I
have had a chance to look at it again?

CHAIRMAN CASTRO: Okay. Commissioner Narasaki.

COMMISSIONER NARASKI: Thank you. My proposal is to look at the public education funding in equality at a time where we have an increasing concentration of poverty and re-segregation.

The Commission has a very long history of looking at the challenges that our country has had in terms of providing equal access to quality education for all communities, which has been particularly a challenge for African Americans, Latinos and Native Americans.

You know there has been fairly recent reports looking at the disparities. In my paper, I talk about the fact that in Philadelphia, for example, one school the parents and teachers actually had to buy paper and office supplies for the school. And yet, less than ten miles away in a more affluent suburb, students had access to laptops and a social worker, just ten miles apart.

So, there is obviously disparities between states, given how public funding necessarily happens but I am really concerned about the disparities, even
within a particular state, which I think is very troubling.

There is a lot of jurisdiction, in terms of the Department of Education's responsibilities, particularly under the Elementary and Secondary Education Act, which, as many of you know, is currently being debated today on the Hill. There is a bipartisan package that civil rights advocates are concerned will, in fact, make the problem even deeper because of the lack of enforcement measures to get states to do something about the disparity.

And we spent a lot of time, and I want to thank my Special Assistant, Jason Lagria. We spent a lot of time talking to a lot of researchers about the topic to make sure that we had a good handle and because we knew the Elementary and Secondary Education Act was up for reauthorization this year. And they assured us that, unfortunately, nothing in the Act was going to really redress the problems that we are raising.

The second layer of the paper would actually look at HUD's responsibilities for fair housing. There has been some interesting research that points to segregated housing as really one of the basic drivers of this disparity in public education funding.
And the HUD has put out some recent interesting regulations that they hope to start to address that. So, I think it would be a timely topic to look at how the housing policies also affect this issue.

And so I am hoping that my fellow commissioners will find this a compelling topic.

CHAIRMAN CASTRO: Thank you, Commissioner Narasaki. Madam Vice Chair.

VICE CHAIR TIMMONS-GOODSON: Thank you, Mr. Chair.

I proposed, first, a paper that I have entitled "A Search for Justice or a Quest for Revenue" assessing the civil rights of African American debtors, whose fees are supporting state and local budgets.

Given my past life of approximately 30 years in the judiciary of North Carolina, I have read and seen extensively how the individuals that are involved in our justice system, the participants most often in the criminal context increasingly are being called upon to bear the expense of expenses of running not only a branch, the judiciary, but also local governments using and needing these funds.

And so I thought it appropriate for us to take a look at that.
Some of you may recall that the Department of Justice, as they went in and took a look at what was going on in Ferguson, pointed out that there were predatory practices in place. That does not reflect well on our judicial system. And so I hope that we will take a look at that.

I also have submitted a paper shifting prison costs to families in the area of private prison contracts. We saw first-hand, as we visited the Family Detention Center in Texas, individuals that go into prison must continue to maintain to live. They seek to maintain contact with their family members and with the outside world to the greatest extent possible and we saw right in place there, machines where you paid for telephone cards and you paid in order to have individuals bring money in to you.

And I would like for us to take a look at all of that and ask your support for those two topics.

CHAIRMAN CASTRO: Thank you Madam Vice Chair. Commissioner Heriot, have you had a chance to review your paper?

COMMISSIONER HERIOT: Yes, my paper is about the notion of over regulation of the employment relationship puts young people at a disadvantage for...
getting their first job. And part of the reason I think that we see the current phenomenon of internships for young people, unpaid internships, I should add, is that it is much more dangerous today for an employer to hire an employee who has no track record than it would have been 50 years ago when at-will employment and very little regulation of the employment relationship existed.

And so we have developed this institution of A, unemployment for low-skilled young people and B, unpaid internships where they have to prove themselves at no pay for higher skilled, college educated young people.

And I think we need to rethink whether the structure of our employment law, including employment discrimination law doesn't put young people at a disadvantage and if there is not some way that we can at least make minor adjustments to the law that would make it easier for young people to get their foot in the door.

CHAIRMAN CASTRO: Thank you, Commissioner Heriot.

I forgot to ask if there were any questions on any of the prior papers, at this point. If none,
Commissioner Achtenberg, you have a paper on the baccalaureate attainment gap. And also, if you could let us know if you still want your voting rights paper also considered as a briefing topic or if you are just going to propose this.

COMMISSIONER ACHTENBERG: I am just going to propose this.

CHAIRMAN CASTRO: Okay.

COMMISSIONER ACHTENBERG: If someone else wants to propose voting rights, they are more than welcome.

CHAIRMAN CASTRO: Okay.

COMMISSIONER ACHTENBERG: This is the logical successor to the first inquiry on the baccalaureate attainment gap. This proposes to examine what addressing the baccalaureate attainment gap, the positive and salutary impact that that would have on the national economy. It would examine the effects of rising tuition and the impact of the debt load upon minority students. It would examine the significant problem of declining state investment and the direct relationship between that and rising costs of college, including tuition costs. And finally, it would examine proposals to eliminate the cost of college
attendance, as well as the proposals that would attempt
to address the debt, making it more easy to bear the debt
load that students already have incurred.

So, we would look at tuition-free college,
debt-free college, as well as the salutary impact that
addressing the attainment gap would have for the
national economy. This is a significant issue. The
drag on the economy of the achievement gap is
significant. The drag on the economy for young people
in general, as well as minority students, in particular,
of the debt load that is currently being borne by
students graduating from college is quite significant.

And I think building on our work on the
prior issue, I think we could make a significant
contribution in this area and kindle some real interest
in turning this around. The kind of disinvestment that
has been taking place in state after state is shameful,
in my opinion, and it wouldn't be that hard to turn this
around and the United States could then go from 32
percent of our population, achieving the baccalaureate
degree but someplace closer to 40 percent, which is
where competitive nations are going to need to be in the
years upcoming.

I mean there is no reason we can't do this
and minority students, in particular, are paying the highest price for our failure to do this. So, I would like my colleagues' consideration of this sequel paper.

CHAIRMAN CASTRO: Any questions for Commissioner Achtenberg? None? Okay, Commissioner Kladney, you only have four papers you are proposing.

COMMISSIONER KLADNEY: But I will speak with them all at once.

CHAIRMAN CASTRO: Oh, go ahead.

COMMISSIONER KLADNEY: So, I have been on the Commission four years and those who have been here with me and have suffered through my term, know that I have been big on criminal justice.

And I think the four papers are fairly self-explanatory. I think criminal justice is finally coming to the forefront of the public attention. I know the CATO Institute, the congressional Republicans and Democrats, the administration are all trying to address our prison populations. Our prison populations and jails, local jails, have become our mental health centers. The use of solitary confinement compounds this problem.

Collateral consequences, it is not that you
can't vote anymore when you get out of prison or carry
a gun but you can't go into public housing. You can't
get school loans. There is a plethora of items from
state to state that you can and cannot get.

As you know, I have had narcotics
enforcement. I have presented that every year I have
been on the Commission and I have gotten nowhere with
it. Yet, this has to do with sentencing and fairness
in sentencing. You could even expand it. I see that
a lot of jurisdictions now are taking minor offenses
and, rather than making them criminal offenses, are
making them civil in nature.

And as we saw during our Commissioner
Kirsanow's paper on criminal background checks, the
effect that any kind of conviction now, not just merely
a felony conviction, has on people's lives and their
families' lives, and their children.

Like I said, I don't think I have to go into
great length. I think they are fairly
self-explanatory. I know that collateral consequences
was approved last year but was pushed off as a result
of our New York briefing.

So, I would leave it to the Commission to
decide. I know we have been told we can only do three
-- have capacity for three. I think there are other alternatives so that we can get four scheduled and still have room for any kind of emergency. And I would like to discuss that later in this meeting.

CHAIRMAN CASTRO: Thank you. Any questions for Commissioner Kladney? None.

Commissioner Kirsanow, you wanted to speak in favor of Commissioner Yaki's previously withdrawn paper?

COMMISSIONER KIRSANOW: Yes, I would. I think it is -- well, I will let Commissioner Yaki speak for himself. I mean I'm not sure why he would want to withdraw it. I thought it was -- I agree with Commissioner Heriot. I thought it was a splendid idea. So, I would be in favor of voting for it as a briefing topic.

CHAIRMAN CASTRO: Okay, I don't know if Commissioner Yaki wants to add anything to that.

COMMISSIONER YAKI: Well you know since Commissioner Kirsanow and I have disproved the theory that we are actually the same person by showing up at the last meeting together, I would say that this is a topic that I have raised for a number of different years and every year another incident happens on a college
campus, which just makes me want to do this even more.

But I also realize that we have a very limited number of topics available. But I think it does bear some repeating that there are terrible and horrible instances of racism that are current and are on the rise on a lot of college campuses throughout the country. It is not focused on any one particular geography.

But when you have students doing slave auctions on the occasion of Dr. Martin Luther King's birthday when they are doing an undocumented person hunt and engaging in extremely racist stereotypical behavior, and when you consider how racial polarization has only increased in the past 10 to 20 years in this country, what used to be a place that people would find and learn to live and work with people of all communities, colors, ethnicities, origins, has become a place where it was sort of supposed to be a safe zone for these sorts of things to happen. They, instead, become microcosms of a frat choice in a large society. It just destroys me to no end. And that is why I constantly brought that topic up.

CHAIRMAN CASTRO: Any questions for Commissioner Yaki? If none, then I think the only one left is mine. Is that right? Okay. I want to make
Sure I am not missing someone else's.

So, I propose that we look at the condition that children working in the agricultural industry face. In particular, migrant farmworker children. They are the only class of minors that are, essentially excepted from protective elements of the Fair Labor Standards Act, which allows children as young as 12 to work in agriculture and what some consider very hazardous situations, if they have parental consent.

Essentially, these children have no restriction on hours, so they would work unlimited hours in these fields. There is no protections in terms of whether they work during school hours, whether they can work late at night or early in the morning. So essentially, many of these children, and I have included some photos of actual farm labor children, farm worker children in the proposal, are being subjected to conditions that you would read about having taken place in an earlier century in this country.

Many of these children, there is about half a million children working in agriculture, the overwhelming majority of these children are Latino.

And unlike other similarly aged children who are in the workforce, you have to be at least 16 to
work in non-hazardous work as a child under the Fair Labor Standards Act, except in agriculture. These children are being disparately treated. They are not receiving the same protection of the Fair Labor Standards Act, these Latino farm worker children, all farm worker children, as other children in the workforce.

So, I want us to examine what those conditions are. If there is in fact a disparate impact on a protected class of children here that are in the migrant farm worker population, and whether these children are being denied equal protection of the law and the administration of justice.

I think if you look at the work that we are doing this year on immigrant children in detention and the refugee children, this is sort of a natural outgrowth of that, although many of these children, while they are immigrants, many of them are United States citizen children are well. And the conditions under which they are laboring are hazardous and draconian. Any questions?

Okay, so we could go about this several ways for the next meeting. In the past, we have ranked reports, although it turns out that the ranking hardly
ever ends up being the way we vote but that does, at
least, help kind of gauge a consensus. We could have
folks between now and the next meeting designate their
top two or three and then use those as the starting point
for the discussion. I'm sure these will also be
reviewed for jurisdictional -- we actually comport with
our jurisdiction before we actually take final votes,
so we will want to have that done and shared with all
commissioners so that if they need to make some tweaks
to these papers before the vote, that can be done.

But is that a preference as to how we
proceed? Commissioner Achtenberg.

COMMISSIONER ACHTENBERG: Thank you, Mr.
Chairman. I, for one, would like the papers that are
in and actually under consideration listed and then I
would like to know whether or not -- are we voting for
two or are we voting for three?

So, we need to decide how many are being
considered in this round and that will help me make my
own choices. Right now, I mean everybody's topic
sounds terrific and we need to separate the wheat from
the chaff.

CHAIRMAN CASTRO: Well, based on the
report we received earlier from OCRE indicating that
based on their evaluation, the current bandwidth would be three additional reports, including the statutory, we just selected a Statutory Enforcement Report.

COMMISSIONER ACHTENBERG: So, we are talking about two.

CHAIRMAN CASTRO: Yes, I said three total, including.

COMMISSIONER ACHTENBERG: Okay. So, we have two left to select.

CHAIRMAN CASTRO: Yes, so we have got two left now.

COMMISSIONER ACHTENBERG: Okay.

CHAIRMAN CASTRO: And then Commissioner Kladney said he had a master plan for us to be able to do a fourth.

COMMISSIONER KLADENEY: As usual. My thought is is that John come and make a presentation to us for next year's budget and where he sees the salary savings for being able to hire these additional contractors.

I think Commissioner Narasaki was talking about length of time and estimates as to how long it would take to update these current reports; one being the Quite Crisis she indicated she thought would be a
more difficult process than the other three.

And if we are budgeting six months for four people over the next year or so, that sounds like two full-time people, actually, in hours, with six months, a thousand hours. Four people, it is 4,000 hours.

So, my thought is that if we can get a more realistic estimate of how long it is going to take to update these four reports, if Commissioner Narasaki's description is correct as to each report and time for each report, I would estimate that there would be extra hours from this budget of 70 -- $140,000. I think it was $35,000 a head. Is that right, Mr. Director?

DIRECTOR MORALES: I don't know that we came up with a total figure.

COMMISSIONER KLADNEY: I think when I spoke with you yesterday, you had -- well, there was a figure there that said $35,000. I don't know what that was for.

DIRECTOR MORALES: Well, that is the budget flexibility right now. But according to OCRE, what her proposal has is $25,000 per contractor for $100,000 and that is including this fiscal year and next fiscal year.

COMMISSIONER KLADNEY: So, my thought was
if you are thinking about getting four people a person 4,000 hours, it seems to me you should be able to update these reports and have extra time and extra bandwidth with those contractors to be able to help prepare or prepare additional briefings for next year for us. And then maybe the year after that, continue to hire a contractor to help finish up those reports as well.

DIRECTOR MORALES: Commissioner Kladney, that is also assuming that we receive the entire 9.2 that is in the budget and that there is no other additional budgetary constraints placed on us. And so we can create that scenario for you, if that is what you are asking.

COMMISSIONER KLANDNEY: Yes, because the great thing about my proposal is that we could like pick two reports, in addition to the statutory report, and then have alternative four and alternative five and be prepared for what our budget is, when we get it, and knowing how many contractors we can hire and how many hours we can use.

CHAIRMAN CASTRO: Or alternatively, not have to pick an alternative and still have the flexibility, should we have the additional funds, to either revisit the papers that we didn't support or
I mean I would love to be able to do more than three total. I just don't know that we need to make that decision until we know we have those resources for sure.

Commissioner Narasaki, then Commissioner Achtenberg.

COMMISSIONER NARASKI: Yes, I would like to respectfully offer to refine Commissioner Kladney's proposal because one of the things that I have come to understand is that the Office of General Counsel has often provided some supplementary help to writing reports. That has been an historical practice.

And one of the reasons why we are short-handed is because we don't have a General Counsel or staff. We are also missing a junior staffer in that. And my understanding is that the Staff Director is getting ready to post the opening.

So, it would be my fervent hope that we would be able to get the General Counsel onboard and also fill the position of the more junior staff. And that would actually supplement the staff that OCR commands.

So, it is my expectation that if we get the
right staff that, in fact, we will have sufficient capacity to do at least four. And I would say I wouldn't necessarily fill the whole tree in terms of having two alternatives but maybe at least have one. And that would give us room should some emergent thing come up that we would need to take up, as we had to do this year.

CHAIRMAN CASTRO: Okay. Any other --

COMMISSIONER ACHTENBERG: No.

CHAIRMAN CASTRO: Any other commissioner have comments?

COMMISSIONER Kladney: Well, I was just wondering are we now proceeding, whether the Director will come back with a more refined kind of program for next year -- alternatives. I mean that is what was offered. Is that correct?

DIRECTOR MORALES: If that is what you would like, we can prepare that for you for the next Commission hearing in terms of, again, keeping in mind these are targets that are evolving. So I mean being able to say we have exactly this, there is flexibility in there. So, I don't want to make a promise that we have to break or a promise that things have changed in the budget cycle.
COMMISSIONER Kladney: Just asking for a presentation, not a promise. And perhaps include Commissioner Narasaki's suggestion regarding the GC Office.

Director Morales: Okay. Well, I'll update that when I get to my portion.

Commissioner Narasaki: And Mr. Chair, I have actually one additional. Please, the other way or one supplemental way to help open up capacity would be for the commissioners to look at the list of reports that we have said we want to update and choose -- at least take one off. So, that is the other way to try to make room for a new report.

Those are what I see the options as being.

Chairman Castro: So, this is what we are going to do. Between now and the next meeting, I am going to ask commissioners to rank between one being their favorite and ten being their least favorite or whatever number is the last --

Commissioner Narasaki: Mr. Chair?

Chairman Castro: Yes.

Commissioner Narasaki: Could I ask, since this is kind of new for me, is rather than rank -- because to me, the two that I look at is going to be what the
mix is. So, can we go with your second alternative, which was to give the two or three that we would want to see and then look at what the overlap is.

CHAIRMAN CASTRO: Sure, we could do that, which is what I initially wanted. But given the fact that folks seem to be wanting to do more, I thought it would be easier just to rank them all. But if there is no strong objection, then let's pick our top three. Would that work, top three?

COMMISSIONER KLANDNEY: Top three just so that we can mix it up?

CHAIRMAN CASTRO: Yes, just to gauge where we begin the discussion. This is not a vote on what we are going to do but just to kind of know where things are falling out so that when we start talking, or at least maybe those could be the starting points of the conversation.

COMMISSIONER HERIOT: Can we at least like eliminate some, so that we don't come to the table -- you know if something doesn't get any top two votes.

CHAIRMAN CASTRO: Yes, that is something we could do. That is why if we say here is the top three, there are some that are not there, we could begin just to say, you know that one is not --
COMMISSIONER HERIOT: Yes, if something doesn't get any votes, it should be off the table.

CHAIRMAN CASTRO: We could determine that at the next meeting just to confirm that.

So, does that work for folks?

COMMISSIONER Kladney: Sure, just don't forget to vote for my papers.

(Laughter.)

CHAIRMAN CASTRO: So, top is it three, top three or top four? Top three, okay. I just wanted to make sure.

So, we will vote on our top three between now and the next meeting. That will be circulated in advance of the meeting. What is the deadline we should get folks, a week before the meeting they should give us their votes?

DIRECTOR MORALES: Yes, the meeting, I believe, is on August 14th.

CHAIRMAN CASTRO: Okay, so August 7th.

DIRECTOR MORALES: Yes, the 7th, thank you.

CHAIRMAN CASTRO: And in the interim, we will also have the Office of General Counsel review the jurisdictional basis for each paper. And if there is
some tweaks that need to be done, those could be interfaced -- they can interface with the particular commissioner on those. Okay? I don't think we need a motion on that but that is our consensus. So, that is how we will proceed. Okay? All right.

The 14th is our meeting. Yes, so the 7th we want everyone to turn in their votes by the 7th for their top three.

DISCUSSION AND VOTE ON PART A OF PEACEFUL COEXISTENCE REPORT

CHAIRMAN CASTRO: Okay, next we have a discussion and vote on Part A of the Peaceful Coexistence Report. This is, of course, limited to Part A, since we have not done any summaries or findings and recs yet. As Commissioner Kirsanow reminded us at the last meeting, this was one that was not included in the report from OCRE because it was done by -- are you in the Office of the Staff Director -- by the attorney in the Office of the Staff Director. So, I put it on the agenda for consideration this month.

COMMISSIONER HERIOT: So, that means we don't have the 30-day countdown after this. We have to wait for Part B?

CHAIRMAN CASTRO: Yes, we have got to come
up with a Part B.

COMMISSIONER HERIOT: Okay.

CHAIRMAN CASTRO: So, but we are approving Part A right now.

COMMISSIONER HERIOT: Okay, so we are just Part A and then Part B at some other point, and then 30 days.

CHAIRMAN CASTRO: Yes, right. Is there a motion so we could have some discussion? Commissioner Achtenberg.

COMMISSIONER ACHTENBERG: Mr. Chairman, I want to put forward a motion that we ask that the paper be sent back one more time to be returned to us by a date certain and we could arrive on that date certain by consulting OCRE about how long it would take. But I would like to see is that three Supreme Court cases that were decided subsequent to the report being issued be considered in a reformulation of Part A. And those cases would be EEOC versus Abercrombie & Fitch, which was decided on June first of this year; Reed versus Town of Gilbert, which was decided on June 18th of this year; and Obergefell versus Hodges, which was decided on June 26th of this year. All three of those cases have relevant implications for the Peaceful Coexistence
topic and I would like to see additional consideration be given to those evolving -- the evolving state of the law with regard to that issue. And those are all things that happened -- not things -- law that was developed subsequent to the report being proffered.

CHAIRMAN CASTRO: Commissioner Achtenberg, on your motion, do you mean Office of the Staff Director, not OCRE? Because Office of the Staff Director actually did the report.

COMMISSIONER ACHTENBERG: Yes. I mean either give you 60 days, or 30 days, or 90 days, whatever you thought it would take to effectively consider the three cases and then have the report returned to us for our consideration.

CHAIRMAN CASTRO: Okay. Yes, I just wanted to clarify Office of Staff Director as opposed to OCRE.

COMMISSIONER ACHTENBERG: Sure.

CHAIRMAN CASTRO: Is there a second on that motion? Is there a second to that motion?

COMMISSIONER ACHTENBERG: Is there a second?

CHAIRMAN CASTRO: I thought that was your motion.
COMMISSIONER ACHTENBERG: Yes.

COMMISSIONER KLABDENY: Second.

CHAIRMAN CASTRO: Yes, there is a second.

Any discussion?

COMMISSIONER NARASKI: Who seconded it?


COMMISSIONER KIRSANOW: I think including those cases might be useful. I just would point out that we have been -- we initially had the briefing on this more than two years ago. And I think that since the briefing didn't consider those pending cases, there should be a full-throated exposition of those cases and with statement. I would hope we could get it done within -- I don't want to put any pressure on anybody but within 30 days so that we can get this report out.

CHAIRMAN CASTRO: Any other comments?

COMMISSIONER KIRSANOW: I mean I would think -- Commissioner Narasaki asked what I mean by full-throated exposition. I don't think it should be law review kind of analysis. Given that the report that we have right now and it has been pending for this long, I don't think that it is something that should be taking up the bulk of the report but maybe would be a page, maybe
a footnote. And I would urge that it not take that much
time to conclude the report and get it out for us for
consideration.

CHAIRMAN CASTRO: Any other comments, questions, discussion?

COMMISSIONER HERIOT: Mr. Chairman?

CHAIRMAN CASTRO: Yes, Commissioner Heriot.

COMMISSIONER HERIOT: I would oppose this
on the ground of when are we ever going to get a report
out? You know I realize we haven't quite gotten this
one out. It is just Section A, if we can approve this
today, but we are looking pretty pathetic. We had a
Voting Rights Report ready that we then sent back.

You know this means that the only thing that
we are going to get out this year, if we even get it out,
is the Statutory Report and that looks deeply, deeply
pathetic to me.

There are always going to be new cases on
religion coming out and no one of them is significant
enough to hold up the report. In this case, I don't
think the three are significant enough. Those are all
important cases but not important to the central issues
that are being discussed in the report.
CHAIRMAN CASTRO: Commissioner Achtenberg, did you want to say something and then Ms. Ostrowsky.

COMMISSIONER ACHTENBERG: Yes, I do strongly express my disagreement with the point Commissioner Heriot just made but I would like to ask our staff who would be doing this how long she thinks it would take.

CHAIRMAN CASTRO: Lenora Ostrowsky is taking the microphone.

COMMISSIONER ACHTENBERG: Thank you.

MS. OSTROWSKY: I don't think it would take very long. Here is a suggestion -- it is just a suggestion, which is if you approve that part today with the understanding that the revision, which will not be very involved but will be certainly an acknowledgment and explanation of those three cases, that those would be circulated among commissioners with possibly a notational vote that would include it in the revised report. So, that would accomplish both passing, if you are going to approve the report today, and then considering the additional pieces by notational vote.

COMMISSIONER ACHTENBERG: I don't think that -- that would short circuit the process in some way.
that I am not comfortable with. I would rather see the
treatment of the cases and then feel comfortable about
adopting the report, essentially, as informed by those
three cases, which I do think are significant in terms
of what --

MS. OSTROWSKY: I agree that they are
significant.

COMMISSIONER ACHTENBERG: -- we may be
able to conclude. I'm hoping for important findings
and recommendations but that is a hope.

MS. OSTROWSKY: Thirty days would be more
than adequate. I can get that back to you.

CHAIRMAN CASTRO: Any other questions,
comments, discussion? If not, we will call the motion
for a vote.

Commissioner Kirsanow, how do you vote?

COMMISSIONER KLASNEY: I'll abstain.

CHAIRMAN CASTRO: Commissioner Heriot,
how do you vote?

COMMISSIONER HERIOT: I would have been
happy to go with Ms. Ostrowsky's suggestions but I am
going to vote no on this.

CHAIRMAN CASTRO: Commissioner Narasaki,
how do you vote?
COMMISSIONER NARASKI: I think 30 days doesn't seem unreasonable. I will vote yes.

CHAIRMAN CASTRO: Commissioner Kladney, how do you vote?

COMMISSIONER KLADNEY: 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: Madam Vice Chair, how do you vote?

VICE CHAIR TIMMONS-GOODSON: I'm abstaining, Mr. Chair.

CHAIRMAN CASTRO: Okay and I vote yes. We have one, two, three, four, five yeses, two abstentions, and a no. So, the motion passes.

DISCUSSION ON PROPOSALS FOR FORWARDING THE NY STATE ADVISORY COMMITTEE REPORT ON JUVENILE SOLITARY CONFINEMENT

CHAIRMAN CASTRO: Okay, next we have a discussion of a proposal that Commissioner Narasaki circulated this morning on how we best promote the New
York State Advisory Committee's Report on Juvenile Solitary Confinement.

Commissioner Narasaki, you have the floor.

COMMISSIONER NARASKI: Yes, Mr. Chair, thank you.

I don't think this requires a vote. This is just my reporting on an assignment that we volunteered to take up, after the briefing that was given by the New York State Advisory Committee.

As you will recall, they made a specific request that the Commission help them with dissemination, particularly suggesting a letter to the Attorney General.

And so my Special Assistant, Jason Lagria, had sent around a memo that we are providing to the Staff Director for execution. So, it updates some of the advancements that have been made that begin to address some of the issues that were raised in that report. And then we suggest who might get the letters and we have actually also provided two draft form letters, one for general dissemination and one that could be tailored to a select group of specific state and federal actors who are looking at this issue.

So, all that I request is that if...
commissioners have ideas about the list, it is a long list, so we welcome prioritization of the list or comments in terms of tweaking the letter to give that to us and to the staff director and, otherwise, we hope to be able to complete this task in support of the work that has been done by the New York State Advisory Committee.

CHAIRMAN CASTRO: Okay, any discussion?

Any questions?

Okay, I mean the only thing I would ask is that the letters come under the Chair's signature. I think that is how we have done some of these in the past on behalf of the Commission.

COMMISSIONER KLANDNEY: Don't we want to attach everybody's signature?

CHAIRMAN CASTRO: Yes, I mean if we all sign it, that is fine, too.

COMMISSIONER KLANDNEY: I mean that shows the solidarity of the Commission behind the report.

CHAIRMAN CASTRO: Yes.

COMMISSIONER ACHTENBERG: If there is solidarity behind it.

COMMISSIONER NARASKI: Yes, what we were trying to avoid, because some of the letters would
require tailoring because want to acknowledge -- for example, the fact that the New York Mayor, the City Mayor, has made some advancements but, obviously, more work to do. So, we want to tailor the letter to acknowledge what he has done but note that there is still work to do.

So, we didn't want to burden all the commissioners with having to decide whether they supported each particular letter, which is actually why we had it under the Staff Director's signature, although, of course, it would be perfectly appropriate to go under the Commission Chair's signature.

So, I am agnostic. It was just a question of how can we have a smooth process.

COMMISSIONER KLADEY: Well, if you are going to write that many letters, then that's fine with me.

COMMISSIONER HERIOT: I guess I have a very strong view on this because I am frequently going to be on dissent on letters. I think our default rule should be that letters go out under the Chair's signature. And that there are going to be some where we want everybody's signature but we don't want to have like five commissioners' signatures, unless that is what those
five really want to do. So, I think you know unless we
have decided otherwise, it should be under the Chair's
signature.

CHAIRMAN CASTRO: Thank you. Any other

questions, comments?

Okay, I don't know that we need to vote on
this but I think there is a consensus that we will
proceed as you have outlined, Commissioner Narasaki.
Okay? Great, thank you.

III. MANAGEMENT AND OPERATIONS

STAFF DIRECTOR REPORT

CHAIRMAN CASTRO: Next we have on the
agenda Management and Operations, finally. So, Mr.
Staff Director, the floor is yours.

DIRECTOR MORALES: Thank you, Mr.
Chairman. I don't want to go into, unless anyone has
any particular questions about the Staff Report.

What I would like to talk about real briefly
in the time, as we are winding down here is the status
of the vacancy announcement for the Office of General
Counsel.

I'm currently in the process of revising
the vacancy announcement. I have had some input from
staff assistant here, one of commissioner's staff
assistants and some other folks as to how to make the vacancy announcement stronger and more tailored to what our needs are here at the Commission and the mission of the Commission.

So, I was hoping to get that out today. Unfortunately, as you have been made aware in the email I sent to all staff and all headquarters is that our electricity is going out at 3:00 p.m. today in the building and it won't come on again until Monday. So, I am going to take it home and do some homework on it. I'm hoping to get it out by the close of business on Monday. I would rather get it right than just get it out.

So, if you will allow me and indulge me for another day or so, I will get this out. This is my top priority here. We are hoping to start the interview process within two weeks. And it may be, again, as I have mentioned to some of you, it is a little optimistic. We are hoping to bring a general counsel onboard by September 1, realistically, a little later, given that they have to give their notice and so forth.

So, that is the status of that. I wanted to update you on that because I know that is top priority for a lot of folks and that would help us with a lot of
challenges we have currently in our mission in getting some of the reports out.

And I know certainly I want to do a shout out for Jennifer. She has done an amazing job under some really difficult constraints here, and being the only person in shop in the General Counsel's Office. And so she has been extremely helpful. I worked with her and I just want to make sure that she is acknowledged for stepping up and making this work well. We have been a little short-handed.

So, thank you, Mr. Chair.

CHAIRMAN CASTRO: Any questions for the Staff Director on his oral or his written report that we received in advance of the meeting?

COMMISSIONER YAKI: Mr. Chair, this is Commissioner Yaki. I would just like to say that the Staff Director should communicate to Congress we need our full funding because we can't pay our electric bill.

(Laughter.)

CHAIRMAN CASTRO: And we need new microphones, too.

COMMISSIONER YAKI: Yes.

CHAIRMAN CASTRO: Okay, any questions?

IV. STATE ADVISORY COMMITTEE (SAC) APPOINTMENTS
OREGON

CHAIRMAN CASTRO: If not, then we will move on to the last remaining topic, which is the appointment of some State Advisory Committees.

We have got two of them up on the agenda. The first one is for Oregon. So, I am now going to make a motion that the Commission appoint the following individuals to the Oregon State Advisory Committee, based upon the recommendation of our Staff Director: Richard J. Elfering, Thompson M. Faller, Fernando Gutierrez, William T. Harbaugh, Marilyn E. Johnston, Ping P. Khaw, Kali T. Ladd, Marcella Mendoza, Shoshanah Oppenheim, Joyce A. Waggoner, Richard R. Walker.

Pursuant to this motion, the Commission appoints Marilyn E. Johnston as Chair of the Oregon State Advisory Committee.

These members will serve as uncompensated government employees. Under this motion, the Commission authorizes the Staff Director to execute the appropriate paperwork for the appointments. Is there a second?

COMMISSIONER KLANDNEY: Second.

CHAIRMAN CASTRO: Okay, any discussion?

Hearing none, I will call it for a vote.
COMMISSIONER NARASKI: Oh, wait. I'm sorry. I was just asking my staff assistant to get information.

I just wanted to commend the Regional Director for the work they did in trying to put together this slate. I appreciate the fact that there was an inclusion of someone who was at least under the age of 40 and also that there was reach outside of -- at least a broader attempt to get more inclusiveness in terms of religion. So, thank you.

CHAIRMAN CASTRO: Anybody else? I will call it for a vote. Commissioner Kirsanow, how do you vote?

COMMISSIONER KIRSANOW: Are voting on all --

CHAIRMAN CASTRO: Just Oregon.

COMMISSIONER KIRSANOW: Okay, I will vote yes.

CHAIRMAN CASTRO: Commissioner Heriot, how do you vote?

COMMISSIONER HERIOT: I pass.

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

COMMISSIONER NARASKI: I vote yes.
CHAIRMAN CASTRO: Commissioner Kladney, how do you vote?

COMMISSIONER Kladney: 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: Madam Vice Chair, how do you vote?

VICE CHAIR TIMMONS-GOODSON: Yes.

CHAIRMAN CASTRO: And I vote yes.

Commissioner Heriot, have you decided?

COMMISSIONER HERIOT: I'm going to abstain on this one.

CHAIRMAN CASTRO: Okay, we have seven yeses and one abstention. The State Advisory Committee passes.

SOUTH CAROLINA

The next one is South Carolina and I asked staff to make sure this was up. Given what recently happened in South Carolina, I think this is a priority that we get that State Advisory Committee up and
My motion is that the Commission appoint the following individuals to the South Carolina State Advisory Committee, based upon the recommendation of our Staff Director: Angelique Vincent, Walter Caudle, Ryan Wilson, Myriam Torres, Ebonie Nelson, Theodore Mauro, Miles Coleman, Jonathan Martin, Emma Davidson Tribbs, Derek Black, Bradley DeVos, Anne Tromsness, Carlos Johnson, Gail Reardon, and Millicent Brown. Pursuant to this motion, the Commission appoints William Caudle as Chair of the South Carolina Advisory Committee. These members will serve as uncompensated government employees. Under this motion, the Commission authorizes the state -- I'm sorry -- the Staff Director to execute the appropriate paperwork for the appointments. Is there a second?

COMMISSIONER YAKI: Second.

CHAIRMAN CASTRO: Okay, discussion?

COMMISSIONER NARASKI: Yes, Mr. Chair. Since I have been raising this, I also really want to appreciate the Regional Director's effort, Jeff Hinton, for really doing some good outreach. And we actually have several people under the age of 35, which is one
of the things that I have been raising is trying to make sure that we are getting the viewpoint of younger stakeholders in this debate, as well as finding a person with disability to chair the SAC.

So, I just wanted to note that I am paying attention and really appreciate the additional effort.

CHAIRMAN CASTRO: Okay, any additional comments? Seeing none, I will call it for a vote.

COMMISSIONER KIRSANOW: I vote no, based on lack of ideological balance.

CHAIRMAN CASTRO: Commissioner Heriot, how do you vote?

COMMISSIONER HERIOT: Can I withdraw my abstention in Oregon and vote no?

You know there is a real lack of ideological balance on both these. You know I recognize the staff actually has made an effort here. They did put some of the people on that were recommended to them by the more conservative commissioners but there is a real lack of balance here. We have got to try harder. So, I vote no.

CHAIRMAN CASTRO: Okay and I don't know the answer to your question about changing the abstention
but we will note it in the record.

COMMISSIONER HERIOT: Okay.

CHAIRMAN CASTRO: And if it is allowed, we will let it reflect it.

COMMISSIONER HERIOT: It is what it is.

It is in the record now.

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

COMMISSIONER NARASKI: Yes.

CHAIRMAN CASTRO: Commissioner Kladney, how do you vote?

COMMISSIONER KLANDNEY: 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: Madam Vice Chair, how do you vote?

VICE CHAIR TIMMONS-GOODSON: Yes.

CHAIRMAN CASTRO: And I vote yes. That is six yeses and two nos. The South Carolina package passes.
V. ADJOURN MEETING

CHAIRMAN CASTRO: And that is all the business we have for today. So, I am now calling the meeting adjourned as of 12:07 p.m., Eastern Time.

Thank you.

(Whereupon, the above-entitled matter went off the record at 12:07 p.m.)