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U.S. COMMISSION ON CIVIL RIGHTS

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MEETING UNEDITED

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FRIDAY, NOVEMBER 15, 2013

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

PRESENT:

MARTIN R. CASTRO, Chairman

ABIGAIL THERNSTROM, Vice Chair

ROBERTA ACHTENBERG, Commissioner

TODD GAZIANO, Commissioner

GAIL L. HERIOT, Commissioner

PETER KIRSANOW, Commissioner

DAVID KLADNEY, Commissioner

MICHAEL YAKI, Commissioner

MARLENE SALLO, Staff Director

JENNIFER CRON HEPLER, Parliamentarian

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STAFF PRESENT:

MARGARET BUTLER, Acting Chief, OCRE

LATRICE FOSHEE

BARBARA DE LA VIEZ

PAMELA DUNSTON, Chief, ASCD

ALFREDA GREENE

YASMIN ELHADY

TINALOUISE MARTIN Director, OM

HOPE LOVETT

MICHELE YORKMAN

COMMISSIONER ASSISTANTS PRESENT:

KENEISHA GRANT

ALEC DEULL

TIM FAY

JOHN MARTIN

CARISSA MULDER

JUANA SILVERIO

ALISON SOMIN

KIMBERLY TOLHURST

OCRE INTERN PRESENT:

RICHARD AHNE

OGC INTERNS PRESENT:

REZIYA BRUMFIELD

KRISTIN STITCHER

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P R O C E E D I N G S

9:32 a.m.

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

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

A quorum of the Commission is present. Is the court reporter present?

COURT REPORTER: Yes.

CHAIRMAN CASTRO: Is the Staff Director present?

DIRECTOR SALLO: Yes.

I. APPROVAL OF AGENDA

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

(Moved and seconded.)

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1 CHAIRMAN CASTRO: Are there any
2 amendments?

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

5 CHAIRMAN CASTRO: You have to turn your
6 mic on.

7 VICE CHAIR THERNSTROM: Sorry about that.

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

11 VICE CHAIR THERNSTROM: No? Okay. But I
12 move to amend the agenda as follows, move the
13 following Program Planning -- I'm sorry. Move the
14 following Program Planning items to the top of the
15 Program Planning section of the agenda. One,
16 discussion and vote on the 2014 Statutory
17 Enforcement Report topic. Two, discussion and vote
18 to schedule two briefings for 2014, the Statutory
19 Enforcement Report topic, and enforcing the
20 Americans with Disabilities Act on line. And,
21 lastly, discussion and vote on the Civil Rights
22 effect of regulatory and other barriers to small
23 business. So, this is just a shuffling of putting
24 these things at the top of the Program Planning
25 section.

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1 CHAIRMAN CASTRO: Do we have a second on
2 that?

3 COMMISSIONER GAZIANO: I'll second.

4 CHAIRMAN CASTRO: Okay. Any discussion
5 needed on that?

6 DIRECTOR SALLO: If I may, Chair?

7 CHAIRMAN CASTRO: Yes.

8 DIRECTOR SALLO: Are we proposing to move
9 everything before or after the training because the
10 training is mandatory for the Commissioners and the
11 Special Assistants?

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

14 DIRECTOR SALLO: After.

15 CHAIRMAN CASTRO: After the training.

16 DIRECTOR SALLO: Thank you.

17 CHAIRMAN CASTRO: Any further discussion
18 on that?

19 (No response.)

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

23 (Moved and seconded.)

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

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1 (Chorus of ayes.)

2 CHAIRMAN CASTRO: Any opposed? Any
3 abstention? Okay. So, the mic went off. How's that?
4 It's supposed to be constantly on, no? Okay.

5 So, before we actually get into the
6 formal agenda there's a couple of things I'd like to
7 say and to allow others to say. First of all, I'm
8 really pleased you've been hearing these pings, a
9 number of pings going on on our phone call with
10 folks who can listen in on our meeting via
11 telephone. And most of those folks, about 26 or 27
12 of them are members of our State Advisory
13 Committees, so I want to commend the Staff Director
14 and the Regional Directors for insuring that our SAC
15 members know the time, and the date, and the way to
16 call in on these meetings so they can listen in and
17 hear what we're doing, and participate via at least
18 telephone. Although they don't have the ability to
19 interact with us, they do have the ability to hear
20 firsthand what's going on, so I think that's a
21 welcome move in the right direction for further
22 engagement with our SACs. So, for those SAC members
23 on the phone I just want to, on behalf of the
24 Commission thank you all for your continuing service
25 and for being on the call with us today.

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

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

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

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

25 I want to say a few words about my

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1 colleagues. First, I want to thank Marty Castro for
2 his graciousness towards me even though, of course,
3 we disagree politically. But he has been very
4 gracious, and I've been very appreciative of that.

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

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

22 I have spent my professional life around
23 very smart people, in general, but Tim ranks among
24 those I've known, ranks high up on the list. So, the
25 thing I will perhaps miss the most is my

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1 relationship with Tim.

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

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

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

23 It's been my privilege to serve with
24 everybody on this Commission and all those that I've
25 served with in the past despite our sometimes

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1 acerbic disagreements, some of which was probably at
2 my instance. But, nonetheless, it's been great, but
3 especially with respect to the 12 years I've had the
4 pleasure of serving with Abby. So, thanks very much,
5 Abby.

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

9 COMMISSIONER KIRSANOW: Yes, nearly 12
10 years.

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

15 CHAIRMAN CASTRO: Commissioner Heriot.

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

23 COMMISSIONER GAZIANO: I thought people's
24 terms were expiring after mine, so I'm not prepared,
25 but I'll have to -- so very uncharacteristically --

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1 very uncharacter, but I will be missing some
2 Commissioners at a minimum. Two of us may possibly
3 be among those who are reappointed, but I didn't
4 realize this would be the last meeting. Maybe I will
5 try to collect some thoughts and mention them, but I
6 do want to thank everyone, and thank particularly
7 those who are cycling off. Uncharacteristically said
8 I'll be brief, but I can say to all of you, I kind
9 of knew from the first few months before many of you
10 joined us that it would be a great challenge and
11 learning experience. And I have another professional
12 -- I made a comment to one or two of you. It's good
13 to learn new subject areas, new skills, but I think
14 what I have valued the most is the attention and
15 difficulty in serving in a collegial way, on a
16 collegial body where you disagree. And we had some
17 rough periods, particularly as new people cycle on
18 and off the Commission. But I'm pleased that we were
19 able to kind of figure each other out, figure out
20 how to do the business of the Commission. But I also
21 -- I will try to maybe collect my thoughts a little
22 better.

23 I wanted to thank our excellent staff
24 and, of course, I can praise John Martin, and I
25 should praise John Martin individually, but I want

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1 to thank all of the Commission's Special Assistants
2 and the professional staff, as well, for making the
3 Commission run.

4 CHAIRMAN CASTRO: Well, Madam Vice Chair,
5 I want to thank you and echo your comments about me
6 back to you. It's been a gracious partnership. Being
7 Chair is a difficult job, but having you as my Vice
8 Chair has made it easier. While we are of different
9 political philosophies, I think we clearly share the
10 love of this Commission and its mission, and on many
11 occasion it was that joint mission that allowed us
12 to overcome many challenges that were facing us and
13 resolve them in a way that allowed bipartisanship to
14 actually happen here at the Commission while down
15 the road a bit it wasn't happening. And I appreciate
16 that.

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

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

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

7 COMMISSIONER KIRSANOW: But I actually
8 resemble one.

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

11 (Laughter.)

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

18 In that first meeting that we had when
19 you all were considering whether or not to support
20 me, the President's appointment of me as Chairman, I
21 know we all sat down and I told that while we may
22 not agree on the issues, I would always work to make
23 sure that we could work in a professional manner to
24 address all the issues that everyone wanted
25 addressed. And I think we did that, and it was in

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1 large measure due to the leadership that you also
2 provided in your caucus on that, and I appreciate
3 it.

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

13 (Laughter.)

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

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

25 Todd, I know I get a chance to say

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

14 COMMISSIONER GAZIANO: Thank you, Mr.
15 Chairman.

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

19 COMMISSIONER YAKI: Thank you very much,
20 Mr. Chair. And having served the longest with some
21 of the folks who are cycling off, I wanted to say a
22 few words. One, for Abby who I've considered over
23 these past 8 years a dear friend. We do fight like
24 cats and dogs on a lot of issues, but we can always
25 at the end of the day laugh about it, and talk about

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1 things of commonality. We both know we care about
2 these issues. Sometimes you care about them in
3 different ways, but it doesn't mean that we don't
4 come from a good heart. And as an individual, I've
5 never met someone who is as intellectually deep and
6 as personally warm as Commissioner Thernstrom, so I
7 want to thank you for your friendship over the
8 years.

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

14 (Laughter.)

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

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1 everything.

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

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

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

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

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1 CHAIRMAN CASTRO: Commissioner
2 Achtenberg.

3 COMMISSIONER ACHTENBERG: Just thank you
4 very much.

5 CHAIRMAN CASTRO: Okay. Well, actually,
6 we have a little something for you all. Hopefully,
7 nobody is allergic to sweets because we have a
8 little thank you cake here for our outgoing
9 Commissioners.

10 COMMISSIONER YAKI: It was a two-tier
11 cake before the sequestration, and then--

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

14 VICE CHAIR THERNSTROM: This is an oh, my
15 God moment. You've actually --

16 COMMISSIONER YAKI: Sequestration took it
17 down to one tier.

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

21 VICE CHAIR THERNSTROM: That's lovely,
22 Marty.

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

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1 II. PROGRAM PLANNING UPDATES

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

9 MS. ELHADY: Good morning, Commissioners.

10 CHAIRMAN CASTRO: Good morning.

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

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

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

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1 15th, 2014.

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

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

18 CHAIRMAN CASTRO: I'm sorry, I do have a
19 quick question.

20 MS. ELHADY: Yes?

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

25 MS. ELHADY: For matching?

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1 CHAIRMAN CASTRO: Yes.

2 MS. ELHADY: We can talk about that.

3 CHAIRMAN CASTRO: Okay.

4 MS. ELHADY: Yes.

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

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

12 CHAIRMAN CASTRO: What's our goal this
13 year?

14 MS. ELHADY: Five-thousand dollars.

15 CHAIRMAN CASTRO: Okay.

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

18 CHAIRMAN CASTRO: Thank you.

19 MS. ELHADY: Thank you so much. Bye.

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

22 COMMISSIONER HERIOT: Can I ask a
23 question?

24 CHAIRMAN CASTRO: Yes, go right ahead.

25 COMMISSIONER HERIOT: If I logon will it

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1 tell me what I'm already doing because some of the
2 charities I give to are small, and if I were to
3 adjust the amount they would say why doesn't Gail
4 like us any more if I went down.

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

7 COMMISSIONER HERIOT: So, I don't want to
8 do something like that. Will I be able to tell what
9 I did last year when I logon?

10 MS. ELHADY: No, unfortunately.

11 COMMISSIONER HERIOT: Okay.

12 MS. ELHADY: Yes.

13 COMMISSIONER HERIOT: That's all I had.

14 MS. ELHADY: Sorry.

15 CHAIRMAN CASTRO: All right, thank you.

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

17 III. OFFICE OF GENERAL COUNSEL

18 ETHICS TRAINING

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

21 CHAIRMAN CASTRO: Okay.

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

24 COMMISSIONER ACHTENBERG: Excuse me,
25 Jennifer. Excuse me, you all. We have people on the

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1 telephone, and if you don't use your microphones
2 they will not be able to hear you.

3 CHAIRMAN CASTRO: Okay, thank you.

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

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

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

25 The agenda is we're going to talk about

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1 ethics authorities, and then expiration of terms,
2 financial disclosure requirements. Yes, you have to
3 file another one even if you're leaving. Seeking
4 employment, and post-employment, and other topics.

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

13 Seeking ethics advice. And I want to
14 explain the Safe Harbor provisions, and this is for
15 current -- people are staying and leaving. If you
16 come to see me before you take action and I give
17 advice, even though it may be wrong, I try, but then
18 you will not be administratively liable. And that's
19 why I say come to me and talk before you do it. If
20 you disclose all the facts and I give you advice,
21 even if I do something wrong, you don't have to
22 worry, unless it's criminal. Now, there was a case
23 at DOI where they went to the ethics person, did not
24 tell all the facts, got an okay, and then it turned
25 out it was criminal, and they used the ethic

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1 officer's advice against the person because he did
2 not disclose all. Okay, go to the next one. That's
3 Department of Interior.

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

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

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

24 And there is a case on this
25 interpretation, United States v. Wilson. And the

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1 court -- was that you? That was you?

2 UNIDENTIFIED: No, I'm not Wilson.

3 MS. HEPLER: Okay. Know you're not
4 Wilson. Okay.

5 COMMISSIONER GAZIANO: He was a party.

6 MS. HEPLER: He was a -- okay.

7 VICE CHAIR THERNSTROM: It was memorable.

8 MS. HEPLER: It was memorable.

9 VICE CHAIR THERNSTROM: The litigation,
10 yes.

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

18 And, also, the court held that the
19 calculation of the fixed term is anchored by the
20 term of each member of the Commission and the
21 initial membership. For example, if someone only
22 served -- if they were appointed the first time and
23 then it goes on from that day, and if someone serves
24 a partial term then the next Commissioner gets the
25 rest of that term. And I think Commissioner

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1 Kladney's in that situation when someone else
2 started your term and your coming in. You can to
3 that end of that term.

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

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

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

14 And the next question --

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

17 MS. HEPLER: What? Okay. The expiration
18 of the Special Assistant's terms, because each of
19 you has a Special Assistant. And each of you hold
20 what's called a Schedule C appointment, and you work
21 directly for a Presidential or Congressional
22 appointee. You have a confidential or
23 policy-determining relationship with your
24 supervisor, who is the Commissioner. And you have a
25 confidential relationship that implies knowledge and

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1 support of the goals, viewpoints, and philosophies
2 of the supervisor. And that's all the Special
3 Assistants. Okay.

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

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

18 You have to file on or before the 30th
19 day after you leave government service, and you can
20 get a 45-day filing extension again. Okay. Must pay
21 a \$200 late filing fee for any form that is filed
22 more than 30 days late. And it isn't on there, I had
23 something -- also, if you fail to file, it's
24 referred to Department of Justice, and you owe up to
25 \$50,000, so if you are thinking of not filing, I

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1 don't recommend it.

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

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

8 COMMISSIONER GAZIANO: Okay, sure.

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

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

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

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

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

17 COMMISSIONER GAZIANO: What if there is
18 --

19 COMMISSIONER YAKI: That's what I did.

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

24 MS. HEPLER: Well, that's why I'm saying
25 -- a good thing -- if you get it ready and you can

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1 submit it on your last day. That's what I always
2 advise people.

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

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

13 COMMISSIONER GAZIANO: Okay.

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

18 COMMISSIONER GAZIANO: Okay.

19 COMMISSIONER YAKI: But isn't that -- a
20 question. Isn't that a contradiction to the fixed
21 term requirement, because if it's meant to run as a
22 fixed term, how can you be reappointed before your
23 term actually expires, because it's supposed to run
24 --

25 MS. HEPLER: I don't know -- I just -- I

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

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

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

19 COMMISSIONER YAKI: Yes.

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

25 COMMISSIONER YAKI: Right.

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

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

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

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

22 And when you say seeking employment,
23 it's when you're talking to the person. Let's say
24 the employer has contacted you about possible
25 employment and you say I'm interested. You contact

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1 the potential employer, or you're engaged in actual
2 negotiations for employment, which brings up another
3 topic. Okay.

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

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

25 Okay, post-employment. And there's a

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1 couple of bans that are interesting. One is a
2 full-time lifetime ban, and I don't think it will
3 really apply to any of you. But it is something that
4 you've worked on personally and substantially as a
5 government employee and there's a -- the United
6 States is a party and the direct and substantial
7 interest in the matter. And we handle more general
8 things, but if you have any questions come see me.
9 That's more if you worked on something specific, and
10 it later comes back, contract, grant, something like
11 that. But if you have anything let me know, and we
12 can discuss it one on one. Okay?

13 This is an interesting one I wasn't
14 aware of because I hadn't dealt with Commissioners
15 who were Special Government Employees, but it turns
16 out that this does apply to you.

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

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

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

25 Now, we're going to get to the other

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1 applicability of the Standards of Conduct, and these
2 contain the basic obligations of public service. And
3 they do not apply to you once you leave, of course.
4 There is no retroactive or past requirements. And
5 that's the CFR section, again.

6 Okay. As you call, and this is for the
7 current and staying Commissioners, too. You can use
8 your official title position for a non-governmental
9 teaching, speaking, or writing, as long as it's
10 listed as one but several biographical details while
11 engaged in teaching, speaking, or writing as an
12 outside employment or an outside activity. Okay.

13 And we have -- Commissioner Thernstrom
14 is our poster child on this one. And she --

15 (Off microphone comment.)

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

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

24 CHAIRMAN CASTRO: A similar bio of mine,
25 you indicated not to make my Commission title so

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1 prominent, so I kind of put it in the middle of
2 stuff, or in the back. So, if you lead off with your
3 Commission title, is that making it too prominent?

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

10 CHAIRMAN CASTRO: Yes.

11 MS. HEPLER: I know --

12 CHAIRMAN CASTRO: Yes, it was up front,
13 but then they put it --

14 MS. HEPLER: Put it sort of not in the --
15 okay. We'll talk about it.

16 CHAIRMAN CASTRO: Okay.

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

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1 the Special Assistants, you can say you're a former
2 Special Assistant.

3 And now we're getting to non-public
4 information and government records. Non-public
5 information includes but not limited to information
6 that's exempt from disclosure under the Freedom of
7 Information Act, information the agency has
8 designated as confidential, information that has not
9 actually been disseminated to the general public and
10 is not authorized to be made available to the --
11 that is the old one. The new one didn't get up
12 there, public upon request. I'm sorry, I don't know
13 one would end up there. Okay.

14 Examples are subpoenaed documents. If we
15 subpoena something and don't use it, you can't --
16 it's not open to the public to view. Privacy
17 protected information, comments from the public,
18 employee and State Advisory members, personal
19 telephone numbers and address, Social Security
20 numbers, those sort of things. Okay?

21 And here are some things -- and now
22 we're also going to federal records. And federal
23 records include organizations, functions, policies,
24 decisions, procedures, and operations, or other
25 information that contain information about you. And

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1 examples are -- go back one.

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

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

16 Extra copies of records, you know, that
17 are not privacy protected you could take, or
18 non-work, other work-related materials, non-record
19 materials. For example, if you print out copies of
20 cases or CFRs, you can take those. Documentary
21 material that's purely personal, of course, your
22 time, pay, leave, whatever. And then your personal
23 matters include family and personal correspondence,
24 materials documenting professional activities and
25 outside business or political pursuits even though,

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1 you know, let's say you have something you're going
2 to, some society meeting and you keep your schedule
3 there, you can take that with you. You can take your
4 personal stuff, but if it's agency stuff, be
5 careful. Okay? Any questions?

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

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

12 IV. PROGRAM PLANNING

13 2014 STATUTORY ENFORCEMENT REPORT TOPIC

14 CHAIRMAN CASTRO: As you all recall -- I
15 thought this was always going to stay on for me as
16 Chairman, but I guess not. So, we're now going to
17 discuss and vote on a replacement project for our
18 2014 Statutory Enforcement Report.

19 Those of you recall that after we voted
20 on the drug policy concept paper, there were some
21 concerns about whether or not it met with the
22 requirement for a Statutory Enforcement Report.
23 Those concerns were raised by our General Counsel's
24 office. I know there had been a lot of back and
25 forth between Commissioners and agency staff over

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1 that issue. There have been some informal
2 discussions among Commissioners as to how to
3 proceed.

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

16 So, I will move that we substitute the
17 previously approved Drug Policy Concept Paper which
18 was approved as our Statutory Enforcement Report
19 topic, and replace that with a concept paper
20 distributed by Commissioner Kladney on the issue of
21 patient dumping. You all have that in your
22 materials. And that would replace the Drug Policy
23 Concept Paper as our 2014 Statutory Enforcement
24 Topic.

25 And, in addition, that we would replace

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

7 COMMISSIONER YAKI: Second.

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

11 COMMISSIONER HERIOT: Yes, I just -

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

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

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

23 DIRECTOR SALLO: Chairman Castro, if I
24 may?

25 CHAIRMAN CASTRO: Yes, Madam Staff

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1 Director.

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

11 At this point in time, I would hope that
12 as we move forward the topics that we have so
13 extensively researched may be considered in the
14 future and adopted as a potential briefing so that
15 work does not go to waste.

16 Secondly, as it applies to the topic
17 that Commissioner Heriot is bringing forth, is there
18 a concept paper that perhaps staff could take a look
19 at, because when I hear the title I get a little
20 nervous that it's like all-encompassing, and it's
21 going to be really vague. So, I just want to make
22 sure that we have something to go by, so that we
23 could start taking a look at it.

24 COMMISSIONER HERIOT: We have a paragraph
25 written on it, and we can easily expand that if

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1 you'd like us to.

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

5 COMMISSIONER HERIOT: We can do that for
6 you.

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

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

20 So, Madam Vice Chair, how do you vote?

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

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

25 COMMISSIONER KIRSANOW: Yes.

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1 CHAIRMAN CASTRO: Commissioner Heriot,
2 how do you vote?

3 COMMISSIONER HERIOT: Yes.

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

7 COMMISSIONER ACHTENBERG: Yes.

8 CHAIRMAN CASTRO: Commissioner Yaki, how
9 do you vote?

10 COMMISSIONER YAKI: Yes.

11 CHAIRMAN CASTRO: Commissioner Kladney,
12 how do you vote?

13 COMMISSIONER KLADNEY: Yes.

14 CHAIRMAN CASTRO: And I vote yes, so it
15 passes unanimously. All right. Thank you, everybody,
16 really appreciate that.

17 IV. PROGRAM PLANNING

18 SCHEDULE TWO BRIEFINGS FOR 2014

19 THE STATUTORY ENFORCEMENT TOPIC and the

20 "ENFORCING THE AMERICANS WITH

21 DISABILITIES ACT ONLINE."

22 CHAIRMAN CASTRO: The next item is to
23 set up a schedule for the briefing on that topic.
24 The concept paper, and I guess we should also set up
25 a briefing date for the sexual harassment paper. But

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1 first let's deal with the Statutory Enforcement
2 Report.

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

9 What I would like for us to consider is
10 possibly moving our meeting to the 14th, from the
11 28th to the 14th so that we can come in once, save
12 additional dollars in terms of having to fly back
13 twice. If need be, we could work a long day so we
14 can do any work that we need to do for our monthly
15 meeting, and then go into the briefing.

16 I don't know what people's schedules
17 look like. I know some folks won't be here anymore
18 so it doesn't matter.

19 VICE CHAIR THERNSTROM: I was going to
20 say --

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

25 COMMISSIONER YAKI: I so move.

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

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

5 CHAIRMAN CASTRO: It's February 2014.
6 Okay?

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

10 CHAIRMAN CASTRO: Yes.

11 COMMISSIONER YAKI: On the date of the
12 14th.

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

15 COMMISSIONER YAKI: And my birthday is
16 the day after.

17 COMMISSIONER HERIOT: Valentine's Day.

18 COMMISSIONER YAKI: Not that anyone would
19 --

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

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

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

3 COMMISSIONER KLADNEY: Mr. Chairman?

4 CHAIRMAN CASTRO: Yes, Commissioner
5 Kladney.

6 COMMISSIONER KLADNEY: I believe a couple
7 of us have spoken about having business meeting on
8 Thursday.

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

11 COMMISSIONER KLADNEY: Well, that should
12 be part of the motion that maybe someone should have
13 discretion to schedule that so that the staff would
14 have direction on that.

15 CHAIRMAN CASTRO: Yes.

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

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

24 Madam Vice Chair, how do you vote?

25 VICE CHAIR THERNSTROM: Yes.

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1 CHAIRMAN CASTRO: Commissioner Kirsanow,
2 how do you vote?

3 COMMISSIONER KIRSANOW: Abstain.

4 CHAIRMAN CASTRO: Okay.

5 VICE CHAIR THERNSTROM: I should have
6 abstained, too.

7 COMMISSIONER YAKI: Abstain? Come on.

8 CHAIRMAN CASTRO: Commissioner Heriot,
9 how do you vote?

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

12 CHAIRMAN CASTRO: Well, you might be
13 here.

14 COMMISSIONER HERIOT: But -- I might vote
15 yes then.

16 CHAIRMAN CASTRO: Okay. I'll take that as
17 a yes. Commissioner Gaziano is still not back.
18 Commissioner Achtenberg?

19 COMMISSIONER ACHTENBERG: Yes.

20 CHAIRMAN CASTRO: Commissioner --

21 VICE CHAIR THERNSTROM: You could change
22 mine to abstain.

23 CHAIRMAN CASTRO: Okay. Commissioner
24 Yaki?

25 COMMISSIONER YAKI: Aye.

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1 CHAIRMAN CASTRO: Commissioner Kladney?

2 COMMISSIONER KLADNEY: Yes.

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

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

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

14 COMMISSIONER YAKI: And I want to -- I
15 have something for that, as well.

16 CHAIRMAN CASTRO: For the sexual
17 harassment?

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

20 CHAIRMAN CASTRO: Oh, for the Stand Your
21 Ground.

22 COMMISSIONER YAKI: Right.

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

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1 COMMISSIONER YAKI: Okay, thank you.

2 CHAIRMAN CASTRO: Okay? So, is there a
3 particular time that you want to do the sexual
4 harassment briefing?

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

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

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

13 COMMISSIONER YAKI: Right.

14 CHAIRMAN CASTRO: So, maybe --

15 COMMISSIONER HERIOT: Okay, how about
16 May?

17 DIRECTOR SALLO: I would prefer a little
18 later to give staff ample time to --

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

25 COMMISSIONER YAKI: Assuming you're here.

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

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

7 COMMISSIONER HERIOT: I know. I'm
8 sympathetic.

9 DIRECTOR SALLO: Okay, thank you.

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

12 DIRECTOR SALLO: Okay, thank you.

13 CHAIRMAN CASTRO: So, is that May then?

14 COMMISSIONER HERIOT: May.

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

17 COMMISSIONER YAKI: Second on both the
18 dates.

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

21 COMMISSIONER YAKI: Yes.

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

24 COMMISSIONER YAKI: Right.

25 CHAIRMAN CASTRO: Do we have an issue as

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1 to location that we need to discuss, or will that be
2 --

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

6 CHAIRMAN CASTRO: Okay. So, that is the
7 motion to hold the sexual harassment briefing in
8 May, and the Stand Your Ground briefing in April at
9 a location at the discretion of the Chair and the
10 Staff Director. Is there a second on that motion?

11 COMMISSIONER YAKI: Second.

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

14 Madam Vice Chair, how do you vote?

15 VICE CHAIR THERNSTROM: Yes.

16 CHAIRMAN CASTRO: Commissioner Kirsanow,
17 how do you vote?

18 COMMISSIONER KIRSANOW: Abstain.

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

21 CHAIRMAN CASTRO: You want to abstain?
22 Okay, abstain. Commissioner Kirsanow abstains.
23 Commissioner Heriot?

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

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1 CHAIRMAN CASTRO: Commissioner Gaziano?

2 COMMISSIONER GAZIANO: Why are we
3 abstaining?

4 COMMISSIONER HERIOT: Because we might
5 not be here.

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

9 COMMISSIONER HERIOT: Go for it, anyway.

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

14 CHAIRMAN CASTRO: That's why I like you.

15 (Laughter.)

16 CHAIRMAN CASTRO: Commissioner
17 Achtenberg?

18 COMMISSIONER ACHTENBERG: Yes.

19 CHAIRMAN CASTRO: Okay. Commissioner
20 Yaki?

21 COMMISSIONER YAKI: Aye.

22 CHAIRMAN CASTRO: Commissioner Kladney?

23 COMMISSIONER KLADNEY: Yes.

24 CHAIRMAN CASTRO: And I vote yes, so the
25 motion passes. We have three abstentions, and the

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1 balance are yeses.

2 IV. PROGRAM PLANNING

3 CIVIL RIGHTS EFFECTS OF REGULATORY

4 AND OTHER BARRIERS TO SMALL BUSINESSES

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

14 (Off the record comments.)

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

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

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

23 CHAIRMAN CASTRO: All Commissioners got
24 their cupcakes, so I think we can -- and more
25 importantly, we have the revisions to the draft

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1 report that have been circulated by Mr. Martin.
2 Right?

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

6 (Laughter.)

7 CHAIRMAN CASTRO: So, we are now on the
8 topic of the Part A of the Civil Rights Effects of
9 Regulatory and Other Barriers to Small Business
10 Draft Report. And Special Assistant John Martin has
11 circulated to us a revision, I believe, to Footnote
12 17, so I don't know who wants to address this, or
13 make a motion, or take this issue up.

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

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

21 COMMISSIONER GAZIANO: I second.

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

25 Madam Vice Chair, how do you vote on the

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1 amendment?

2 VICE CHAIR THERNSTROM: Yes.

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

5 COMMISSIONER KIRSANOW: Yes.

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

8 COMMISSIONER HERIOT: Yes.

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

11 COMMISSIONER GAZIANO: Yes.

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

15 COMMISSIONER ACHTENBERG: I vote yes.

16 CHAIRMAN CASTRO: Commissioner Yaki, how
17 do you vote on the amendment to the draft?

18 COMMISSIONER YAKI: No.

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

21 COMMISSIONER KLADNEY: No.

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

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1 COMMISSIONER GAZIANO: I move that we
2 adopt Part A.

3 CHAIRMAN CASTRO: As amended?

4 COMMISSIONER GAZIANO: As amended.

5 CHAIRMAN CASTRO: Is there a second?

6 VICE CHAIR THERNSTROM: Second.

7 CHAIRMAN CASTRO: Any discussion on that?

8 Okay.

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

11 VICE CHAIR THERNSTROM: Yes.

12 CHAIRMAN CASTRO: Commissioner Kirsanow,
13 how do you vote?

14 COMMISSIONER KIRSANOW: Yes.

15 CHAIRMAN CASTRO: Commissioner Heriot,
16 how do you vote?

17 COMMISSIONER HERIOT: Yes.

18 CHAIRMAN CASTRO: Commissioner Gaziano,
19 how do you vote?

20 COMMISSIONER GAZIANO: Yes.

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

23 COMMISSIONER ACHTENBERG: No.

24 CHAIRMAN CASTRO: Commissioner Yaki, how
25 do you vote?

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1 COMMISSIONER YAKI: No.

2 CHAIRMAN CASTRO: Commissioner Kladney,
3 how do you vote?

4 COMMISSIONER KLADNEY: No.

5 CHAIRMAN CASTRO: Four to four, the
6 motion fails.

7 COMMISSIONER HERIOT: Wait, but why?
8 What's the problem?

9 CHAIRMAN CASTRO: It didn't have enough
10 votes.

11 COMMISSIONER HERIOT: I guess that's
12 right.

13 CHAIRMAN CASTRO: Are you asking why the

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

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

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1 for it as drafted.

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

6 CHAIRMAN CASTRO: Yes, I just think that

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

9 CHAIRMAN CASTRO: I would think --

10 COMMISSIONER GAZIANO: Are there
11 suggestions, constructive suggestions that can be
12 made from those who didn't vote to approve this,
13 concrete suggestions, perhaps, that -- to put it in
14 a form that you all might find acceptable?

15 CHAIRMAN CASTRO: You know, I did submit
16 some changes to the Office of the Staff Director,
17 but in all honesty I felt that I would have to
18 rewrite the entire report in order to make it
19 palatable to me. And I'm just speaking for myself.
20 Other Commissioners can chime in, so absent a
21 complete rewrite or reworking of the briefing --
22 report, I just didn't feel comfortable voting for
23 it. That's not to say that maybe at some point in
24 the future we can't take that data and rewrite it,
25 but sitting here today, I think for me it would take

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1 more than some edits and some tweaks. Any other
2 Commissioner want to add anything?

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

16 VICE CHAIR THERNSTROM: Mr. Chairman?

17 CHAIRMAN CASTRO: Madam Vice Chair?

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

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

24 VICE CHAIR THERNSTROM: Right. But if you
25 really think it could be rewritten to be acceptable

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1 to the majority of the Commissioners should we set a
2 date for --

3 CHAIRMAN CASTRO: Well, you know, I don't
4 know -- sure, that's a good question. I think that
5 given the other reports that are still in the
6 pipeline from this year's hearings, the reports that
7 we've already approved today for 2014, I think those
8 need to take precedence. Once staff gets through
9 that, I think we'll have a few more new colleagues
10 in a month or two who may want to have some briefing
11 topics, that we'll have to see how we factor that
12 into all of the existing requirements on our staff.
13 But I'm not averse personally to looking at that
14 again. That would, I think, take a vote of a
15 majority of the Commission.

16 VICE CHAIR THERNSTROM: Do you think it's
17 an unimportant topic?

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

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

23 CHAIRMAN CASTRO: No, I think it is
24 important. Yes, and I think it didn't reflect, in my
25 estimation, and then we will move on, the essence of

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1 what was in the original concept paper. Some of it
2 was there, but I think we went a little far afield,
3 and as drafted I can't support it. But it is an
4 important topic, yes, I agree.

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

8 IV. PROGRAM PLANNING
9 PROPOSED EMINENT DOMAIN FINDINGS
10 AND RECOMMENDATIONS

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

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

24 CHAIRMAN CASTRO: Sure, sure. It's
25 basically a -- that's the one. It repeats what was

1 in my statement, which I'm not sure you may have
2 read anyway, but that statement was previously
3 circulated. Let me know when you all are ready to
4 discuss. And as you consider this, you really should
5 not take into account that we got you some
6 cupcakes.

7 (Laughter.)

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

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

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

23 COMMISSIONER HERIOT: I think they're a
24 package.

25 CHAIRMAN CASTRO: Okay.

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

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

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

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

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

25 CHAIRMAN CASTRO: Yes, someone else who

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1 has the resources.

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

6 CHAIRMAN CASTRO: Okay. Commissioner
7 Gaziano?

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

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

25 You know, I think part of the problem,

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1 of course, is that the -- it's really the Supreme
2 Court that made the mistake in Kelo and public use.
3 Again, local jurisdictions can and should do more
4 than what the real meaning of constitution is that
5 the Supreme Court abandoned. So, I'm -- for those
6 reasons, I don't think that I can support these.

7 CHAIRMAN CASTRO: Okay, anybody else?

8 COMMISSIONER KIRSANOW: Yes, Mr. Chair.

9 CHAIRMAN CASTRO: Yes?

10 (Off microphone comments.)

11 CHAIRMAN CASTRO: You need to turn your
12 mic on.

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

21 In addition to which, the second
22 proposed recommendation, I think I understand the
23 impetus behind it, but then, again, tenants are not
24 owners of the property, and I am not sure that they
25 would be entitled to compensation. And beyond that,

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1 as I said, I would align my comments with those of
2 my other two Commissioners.

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

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

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

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

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1 you.

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

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

11 While I agree with many of my colleagues
12 that this is an issue that is very state or even
13 municipality- specific, I think that the impact in
14 terms of the Civil Rights laws and impact on
15 minorities in this country is -- has a nationwide
16 impact.

17 I think that given when you think about
18 the fact that our Civil Rights laws are meant to
19 protect people across state boundaries, to be able
20 to cross state lines to go to places of economic
21 opportunity wherever they may be, the odd
22 juxtaposition of redevelopment laws and eminent
23 domain often result in the exact opposite, which is
24 to drive people away from areas where they could or
25 had economic prosperity, safe housing, and a place

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1 that they called their home or their neighborhood.

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

20 And like what we said about perhaps the
21 other briefing that we alluded to, I was not here
22 for this briefing. This is one of those briefings
23 where I believe I was gone for -- not of my own
24 choosing, but it's something where, obviously, this
25 is something that I would have structured

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1 differently. I would have held the briefing
2 differently. There are many more facets to this than
3 meet the eye. And as a beginning, this is okay, but
4 it's nothing anywhere near addressing the depth and
5 the human cost that eminent domain nowadays inflicts
6 upon many minority communities in America.

7 COMMISSIONER HERIOT: Mr. Chairman?

8 CHAIRMAN CASTRO: Yes.

9 COMMISSIONER HERIOT: Can I make one more
10 comment?

11 CHAIRMAN CASTRO: Yes, you may.

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

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

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

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

12 VICE CHAIR THERNSTROM: No.

13 CHAIRMAN CASTRO: Commissioner Kirsanow,
14 how do you vote?

15 COMMISSIONER KIRSANOW: No.

16 CHAIRMAN CASTRO: Commissioner Heriot,
17 how do you vote?

18 COMMISSIONER HERIOT: No.

19 CHAIRMAN CASTRO: Commissioner Gaziano,
20 how do you vote?

21 COMMISSIONER GAZIANO: No.

22 CHAIRMAN CASTRO: Commissioner
23 Achtenberg, how do you vote?

24 COMMISSIONER ACHTENBERG: Yes.

25 CHAIRMAN CASTRO: Commissioner Yaki, how

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1 do you vote?

2 COMMISSIONER YAKI: Aye.

3 CHAIRMAN CASTRO: Commissioner Kladney,
4 how do you vote?

5 COMMISSIONER KLADNEY: No.

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

10 (Laughter.)

11 COMMISSIONER HERIOT: Not all.

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

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

18 DIRECTOR SALLO: Commissioners, at this
19 point in time we do have an in-house editor for a
20 six-month period who has worked -- she's working
21 diligently to make sure that all of our current
22 reports that are in the pipeline are taken care of,
23 and edited with covers and everything in order to
24 get it out. The next two reports that are in queue
25 are the Sex Trafficking report, along with the Arab

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1 and Muslim report. And after that, we'll take the
2 rest in order with the hope that we can complete
3 everything and issue these reports no later than
4 April of next year.

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

10 IV. PROGRAM PLANNING

11 RESULTS OF THE TELEPHONIC VOTE

12 HELD ON JULY 21, 2013

13 CHAIRMAN CASTRO: Okay. So, we are
14 putting on the record -- so, I need to read those?
15 How do I do this? What do I read? I have to read the
16 whole thing?

17 DIRECTOR SALLO: Well, there have been
18 questions because folks seem to have been unaware
19 that we held a telephonic meeting, so I just wanted
20 to make sure that we put on the record the date that
21 the telephonic meeting took place, and what the
22 results were of the actual vote for the findings and
23 recs.

24 CHAIRMAN CASTRO: Okay, so let me put
25 that on the record. The meeting was held on July

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1 21st, 2013, which was a Sunday, to vote on the
2 findings and recommendations for the 2013 Statutory
3 Report on Sexual Assault in the Military. Since the
4 Commission did not hold meetings in September or
5 October, this was overlooked at the August 2013
6 meeting. That's why it's on the agenda today.

7 The result of that telephonic call was
8 that there was no consensus on the findings and
9 recommendations for the 2013 Statutory Enforcement
10 report, which has subsequently been published and
11 released by a September 30th statutory deadline.

12 IV. PROGRAM PLANNING

13 PROPOSALS FOR THE COMMEMORATION OF THE
14 13TH AND 14TH AMENDMENTS

15 CHAIRMAN CASTRO: Okay. So, now we will
16 move on to the next topic, which is a joint proposal
17 that Commissioner Heriot and I have circulated to
18 the Commission for commemoration of the 13th and
19 14th Amendment anniversaries which will be coming up
20 in due course over the next period of time.
21 Hopefully, everyone has had an opportunity to review
22 those.

23 This is similar to what we did with
24 Lincoln Cottage, although at this point, obviously,
25 we're not identifying an entity like Lincoln Cottage

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1 to partner with, but we've sort of set forward a
2 framework for directions that we might take this in.
3 And I'll actually ask Commissioner Heriot to chime
4 in, as well, and then we'll make a motion.

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

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

19 COMMISSIONER HERIOT: Second.

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

22 COMMISSIONER ACHTENBERG: Mr. Chairman, I
23 think this is an excellent proposal. I think it
24 follows nicely on the cooperative effort we
25 undertook last year with the Lincoln Cottage to

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1 commemorate the Emancipation Proclamation which, by
2 the way, I don't feel we've publicized the product
3 of which gathering was generated as broadly as I
4 hope we intend to going forward. And I like the
5 emphasis in this new proposal on having contact with
6 the states, and encouraging state legislatures, as
7 well, to recognize this in locally appropriate ways.
8 Involving our Regional Directors and State Advisory
9 Committees, I think, is a nice touch, as well. So, I
10 think it's really an excellent proposal, and I
11 intend to support it.

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

15 Madam Vice Chair, how do you vote?

16 VICE CHAIR THERNSTROM: I think it's an
17 excellent proposal. I'm not sure I should be voting
18 on anything --

19 CHAIRMAN CASTRO: Oh, yes, you should.
20 You're a sitting Commissioner. You have the right to
21 vote.

22 VICE CHAIR THERNSTROM: All right. Okay.
23 Yes. I vote yes.

24 CHAIRMAN CASTRO: Commissioner Kirsanow,
25 how do you vote?

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1 COMMISSIONER KIRSANOW: Yes.

2 CHAIRMAN CASTRO: Commissioner Heriot,
3 how do you vote?

4 COMMISSIONER HERIOT: Yes.

5 CHAIRMAN CASTRO: Commissioner Gaziano,
6 how do you vote?

7 COMMISSIONER GAZIANO: Yes.

8 CHAIRMAN CASTRO: Commissioner
9 Achtenberg, how do you vote?

10 COMMISSIONER ACHTENBERG: Yes.

11 CHAIRMAN CASTRO: Commissioner Yaki, how
12 do you vote?

13 COMMISSIONER YAKI: Aye.

14 CHAIRMAN CASTRO: Commissioner Kladney,
15 how do you vote?

16 COMMISSIONER KLADNEY: Yes.

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

21 IV. PROGRAM PLANNING

22 LETTER TO DEPARTMENT OF DEFENSE

23 ON BEHALF OF SIKH MILITARY MEMBERS

24 CHAIRMAN CASTRO: Next we have on the
25 agenda a proposal, I know some of us have talked

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1 about this, and I previously before the shutdown
2 have circulated a draft of a letter to the
3 Department of Defense regarding the issue that was
4 brought to our attention in our May briefing by
5 Major Kalsi about the concern in the Sikh American
6 community about certain policies of the Department
7 of Defense prohibiting -- possibly prohibiting
8 service of Sikh Americans and other members of
9 different religious minorities unless they gave up
10 their Articles of Faith. In the case of the Sikh
11 Americans, their beard, their unshorn hair, and
12 their turban.

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

25 So, I've tried with the assistance of a

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

7 COMMISSIONER KLADNEY: Mr. Chairman?

8 CHAIRMAN CASTRO: Yes, Commissioner
9 Kladney?

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

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

19 COMMISSIONER ACHTENBERG: Second.

20 CHAIRMAN CASTRO: Okay. Let me take a
21 vote.

22 Madam Vice Chair, how do you vote?

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

25 CHAIRMAN CASTRO: Okay. Commissioner

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1 Kirsanow, how do you vote?

2 COMMISSIONER KIRSANOW: Yes.

3 CHAIRMAN CASTRO: Commissioner Heriot,
4 how do you vote?

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

8 CHAIRMAN CASTRO: Okay, which one is
9 that?

10 COMMISSIONER HERIOT: I think it's EMS.

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

13 Commissioner Gaziano, how do you vote?

14 COMMISSIONER GAZIANO: Yes.

15 CHAIRMAN CASTRO: Commissioner
16 Achtenberg, how do you vote?

17 COMMISSIONER ACHTENBERG: Yes.

18 CHAIRMAN CASTRO: Commissioner Yaki, how
19 do you vote?

20 COMMISSIONER YAKI: Aye.

21 CHAIRMAN CASTRO: Commissioner Kladney?

22 COMMISSIONER KLADNEY: Abstain.

23 CHAIRMAN CASTRO: Madam Vice Chair?

24 VICE CHAIR THERNSTROM: I'll vote yes.

25 CHAIRMAN CASTRO: And I vote yes. Okay,

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1 so the letter passes unanimously and we will define
2 EMS. I believe we have -- Commissioner Kladney,
3 although you voted no, would you --

4 COMMISSIONER KLADNEY: I abstained.

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

7 COMMISSIONER KLADNEY: I'll sign it.

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

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

15 V. MANAGEMENT AND OPERATIONS

16 STAFF DIRECTOR'S REPORT

17 DIRECTOR SALLO: Thank you.
18 Commissioners, I just wanted to provide an update,
19 and I wanted to use the framework of our current
20 Strategic Action Plan to provide you with updates.
21 As you know, as we move toward submitting our budget
22 request in February, we have to provide an update as
23 to how far we've gotten along on certain goals and
24 objectives that are contained within our Strategic
25 Action Plan. So, as it stands right now Goal A

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1 pretty much refers to the reports that we issue.
2 And, obviously, that is an ongoing process, and we
3 do have several reports that are in queue. And as of
4 today, we've now scheduled some upcoming briefings,
5 so that goal will continuously be updated.

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

12 As you know, today we voted to hold a
13 briefing, but in reference to the actual report that
14 was submitted for consideration by Commissioner
15 Yaki, what we have done with the help of staff along
16 with our interns, Richard Ahne, and Reziya
17 Brumfield, and Ms. Stitcher, we have gone forward
18 and we have looked at at least half of what was
19 requested within the project, I guess, outline that
20 was provided by Commissioner Yaki, so I will be more
21 than happy to disseminate after our meeting today a
22 status on the different sections that we have looked
23 at. We have gathered lots of research. We have
24 looked into some of the data that's out there. At
25 the present time, we're also trying to get data from

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1 FDLE so that we can also take a look at the analysis
2 that has already been done. There are some agencies
3 in the community that have taken the data that we
4 were proposing to look at and they have analyzed it
5 themselves. And the Congressional Research Service
6 is my understanding as a result of a hearing that I
7 recently attended, that they've also done this
8 analysis. So, we're in the process of collecting
9 that, because if the analysis is along the same
10 lines of what we were proposing, then I think it
11 behooves us not to reinvent the wheel, and use the
12 information that they've provided as we move forward
13 in cultivating our project.

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

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1 also revising our Uncle Sam publication, and in
2 addition to that, we will be translating our Uncle
3 Sam publication into Spanish, as indicated in the
4 Strategic Action Plan.

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

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

24 As we move forward, we will also be
25 updating our website, removing items off the website

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1 that are out of date, and pretty much tightening the
2 website so that it becomes a bit more user-friendly.

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

18 As we look at Strategic Goal D, which is
19 about improving the Commission's profile and
20 effectiveness in communicating with the general
21 public, some of what I just spoke about also falls
22 under this umbrella, but in addition to that, we had
23 indicated that we would be translating some reports
24 into Spanish. We have identified four SAC reports
25 from different regions that addressed that affect

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1 the Latino community, and as a result those four
2 reports will be translated. And, in addition, we
3 will be translating into Spanish the Bullying
4 report, and that will also be issued. So, at the
5 present time, I believe the Illinois report is
6 completed in Spanish. We're moving on to a
7 Connecticut report, a Texas report, and I can't
8 remember the fourth state, my apologies. So, we're
9 in the process of doing that.

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

18 As we move forward, it is very important
19 when we draft our reports that there's consistency,
20 and that there's uniformity. And templates are
21 necessary, so we have someone coming on board to
22 provide training to staff for two days. They will
23 leave us with templates and everyone will be on the
24 same page as it applies to what is required in a
25 report, and what is needed in a report for it to be

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1 effective, and to allow us to present the material
2 in the best light to the public. So, we are working
3 on that, as well.

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

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

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

18 (Laughter.)

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

22 COMMISSIONER ACHTENBERG: Can I ask a
23 question?

24 DIRECTOR SALLO: Yes, ma'am.

25 COMMISSIONER ACHTENBERG: Is that live

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1 streaming of our media?

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

5 COMMISSIONER ACHTENBERG: Thank you.

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

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

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

21 As it applies to our Human Capital Plan,
22 Tina identified someone that could come in to work
23 with us whom I am very impressed with, who will be
24 working with us in order to make sure that we align
25 our Human Capital Plan with our Strategic Action

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1 Plan, with the ultimate goal to make sure as we move
2 forward into the next fiscal year that our
3 performance appraisals that we're using comport with
4 not only the Human Capital Plan, but the Strategic
5 Action Plan, and are truly delivering a very
6 specific perspective on each employee's goals and
7 objectives while they're here in the Commission.

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

20 In addition to what I've just described,
21 I told you about the training. Online training will
22 also be expanded, so as you know we also -- we
23 always have to do our ethics training. Our SAC
24 members are required to do ethics training. We now
25 have online ethics training for all of our SAC

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1 members, so as soon as they are appointed they do
2 the training, and then they can print out their
3 Certificate of Completion. And I have to thank
4 Jennifer Hepler for that. We're ongoing in Office of
5 Government Ethics audit right now, and they brought
6 to my attention that they were very happy that she
7 was able to implement this online training.
8 Apparently, this was requested from a long time ago,
9 but Jennifer came in and she was able to get it done
10 in a very short period of time, so I have to thank
11 her for that.

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

22 I have also participated in SAC
23 Committee meetings telephonically, and the goal is
24 to establish bimonthly SAC Chair conference calls
25 with the Staff Director and all the SAC Chairs so

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1 that there can be an exchange of information. The
2 one feedback that I'm getting from all the SAC
3 members is that they feel disconnected to the
4 Commission, so my goal is to not only raise
5 awareness through an exchange of information between
6 the Commission and the SAC members, but also between
7 the SAC members themselves.

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

18 In addition, we're setting up emails for
19 them so that they can have an exchange of
20 information through a LISTSERV. We're doing e-blast
21 so that they're aware of what other SACs are doing,
22 and what the Commission as a whole is doing. There
23 is a proposal by some of our Regional Directors to
24 establish a newsletter and they're going to draft
25 it, and they're going to be sending it out to make

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1 sure that there's communication between the
2 different regions, and the different SAC members.
3 And I believe that is about it as it applies to the
4 updates from the Staff Director's office.

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

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

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

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VI. ADJOURN MEETING

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

COMMISSIONER HERIOT: So moved.

CHAIRMAN CASTRO: Is there a second?

COMMISSIONER KLADNEY: Second.

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

(Chorus of ayes.)

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

DIRECTOR SALLO: I'm so sorry.

CHAIRMAN CASTRO: What?

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

CHAIRMAN CASTRO: Can you share a name?

DIRECTOR SALLO: Oh, sure. His name is Rory Smith, and he is -- he comes to us from the Courts Services and Offender Supervision Agency of the Office of the General Counsel. He has served there as both Deputy General Counsel, as well as Acting General Counsel. He has a Bachelor's in Business Administration. He has a JD, and he an LLM

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1 in Law and Government with a Constitutional and
2 Civil Rights Admin Law and Regulatory Practice
3 certificates from American University.

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

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

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

19 DIRECTOR SALLO: Yes, this is a General
20 --

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

24 COMMISSIONER GAZIANO: Okay.

25 CHAIRMAN CASTRO: Yes.

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

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

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

8 CHAIRMAN CASTRO: Call the new General
9 Counsel.

10 (Laughter.)

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

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

16 (Chorus of ayes.)

17 CHAIRMAN CASTRO: Aye. It is now --

18 COMMISSIONER YAKI: Farewell, Abby.

19 CHAIRMAN CASTRO: -- 11:25 p.m. Eastern
20 --

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

23 CHAIRMAN CASTRO: Oh, noes. Any noes?

24 COMMISSIONER HERIOT: No.

25 CHAIRMAN CASTRO: Okay. All right. Thank

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1 you, everybody.

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

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