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The Commission convened in Suite 1150 at 1331 Pennsylvania Avenue, Northwest, Washington, D.C. at 10:00 a.m., Martin R. Castro, Chairman, presiding.

PRESENT:

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

MAURO MORALES, Staff Director
JENNIFER CRON HEPLER, Solicitor, Parliamentarian

* Present via telephone
STAFF PRESENT:

EVELYN BOHOR

IVY L. DAVIS, Director, ERO

PAMELA DUNSTON, Chief, ASCD

ANTHONY FELIX, Intern

DARREN FERNANDEZ, ESQ., Civil Rights Analyst

ANGELA FRENCH-BELL

SEAN GOLIDAY

ALFREDA GREENE

ASHLEY MACAYSA, Intern

TINALOUISE MARTIN, Director, OM

LENORE OSTROWSKY, Acting Chief, PAU

MAUREEN RUDOLPH, General Counsel

PILAR VELASQUEZ-MCLAUGHLIN, Associate General Counsel

MICHELE YORKMAN

COMMISSIONER ASSISTANTS PRESENT:

SHERYL COZART

ALEC DEULL

CLARISSA MULDER

AMY ROYCE

ALISON E. SOMIN

KIMBERLY TOLHURST
A-G-E-N-D-A

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(10:00 a.m.)

CHAIRMAN CASTRO: Calling the meeting to order.

This is a meeting of the U.S. Commission on Civil Rights. It is currently 10:00 a.m. Eastern Time on November 18, 2015. This meeting is taking place at the Commission's Headquarters located at 1331 Pennsylvania Avenue, N.W. in Washington, D.C.

I'm Chairman Marty Castro. Those Commissioners who are present with me at the meeting are Commissioners Narasaki and our Vice Chair Judge Timmons-Goodson.

Participating by phone are Commissioners Kladney, Kirsanow, Achtenberg and Heriot. We understand Commissioner Yaki will not be joining the call by phone or in person.

A quorum of the Commission is present. Is the Court Reporter present? Great.

Is the Staff Director present?

MR. MORALES: I am present.

CHAIRMAN CASTRO: Okay. So, the meeting will now come to order.

The first item on the Agenda is the
Approval of the Agenda.

I. APPROVAL OF AGENDA

CHAIRMAN CASTRO: I know there will be some amendments as well, but, first, let me make the motion to approve the Agenda. Is there a second?

COMMISSIONER NARASAKI: I second.

CHAIRMAN CASTRO: Okay. Are there any amendments?

COMMISSIONER ACHTENBERG: Mr. Chairman?

CHAIRMAN CASTRO: Yes, Commissioner Achtenberg?

COMMISSIONER ACHTENBERG: Yes, Mr. Chairman, I'd like to amend the Agenda to note the discussion and vote on Part B Findings and Recommendations for Peaceful Coexistence for consideration at the December meeting. And, I will be providing a draft no less than a week in advance of the December meeting for the Commissioners' consideration.

CHAIRMAN CASTRO: Okay. Is there a second?

VICE CHAIR TIMMONS-GOODSON: Second.

CHAIRMAN CASTRO: Any other amendments?

Well, actually, I have two. I am moving to amend the Agenda to remove a discussion on the Birth
Certificate issue in Texas. It's an evolving issue.

As you all know, we wrote a letter to Texas asking them to cease and desist their failure to provide U.S. Citizen children of undocumented parents their Birth Certificates.

There is litigation currently going on, but we're exploring what other steps we can take as a Commission. We'll have something in December to present to the Commission in terms of some potential ideas on how to address that.

And, the other item is we wanted to add a review of a press release in the statement on the passing of the former EEOC Chair. You all should have gotten that in your packets.

And then, we also have some guests from the U.S. Department of Agriculture Office of Civil Rights who want to make a brief presentation to us. So, I'd like to add them to the Agenda as well.

Do I have a second?

COMMISSIONER NARASAKI: I second.

CHAIRMAN CASTRO: Okay. Any other amendments?

(No response.)

CHAIRMAN CASTRO: Okay, all those in favor
of the Agenda as amended, say aye?

(Chorus of aye.)

CHAIRMAN CASTRO: Any opposed?

(No response.)

CHAIRMAN CASTRO: Any abstentions?

(No response.)

CHAIRMAN CASTRO: Okay.

COMMISSIONER HERIOT: I guess I abstain.

I think we need to go back to Robert's Rules of Order a little bit better.

CHAIRMAN CASTRO: Okay. We'll look at that that we've got in the General Counsel, so maybe she could counsel --

COMMISSIONER HERIOT: But, what you should do is like -- hold on, hold on, hold on.

Just whoever made the original motion and whoever seconded it needed to put on the record that these were friendly amendments and then we can vote on them as a package.

CHAIRMAN CASTRO: Okay, Commissioner Heriot. We've not done that before, but if you'd like to do that, we can do that now.

Would the original mover and seconder that --
COMMISSIONER NARASAKI: I recognize that these are friendly amendments and accept them.

CHAIRMAN CASTRO: And, I think -- who seconded it? Was that you, Madam Vice Chair?

VICE CHAIR TIMMONS-GOODSON: I seconded the amendment of the Agenda to remove the Peaceful Coexistence.

CHAIRMAN CASTRO: Okay.

COMMISSIONER HERIOT: Who seconded the original motion?

VICE CHAIR TIMMONS-GOODSON: I did.

COMMISSIONER HERIOT: So, all you have to do is say, these are friendly amendments.

VICE CHAIR TIMMONS-GOODSON: I thought I just did, but okay. These are friendly amendments.

COMMISSIONER HERIOT: If it's a motion, though, to the original motion.

CHAIRMAN CASTRO: All right, we're covered then.

Okay, so anyway, speaking of General Counsel, I'd like to turn it over to our Staff Director to introduce our new General Counsel.

INTRODUCTION OF GENERAL COUNSEL

MAUREEN RUDOLPH
MR. MORALES: Thank you, Mr. Chairman. I appreciate a moment of your time here.

I'd like to just, again, take a moment of the Commission's time here to introduce our new General Counsel. Her name is Maureen Rudolph. She comes from the Department of Justice, has over 15 years of experience in litigation and civil rights and various components throughout the Department of Justice.

And, she's been with us now for about I believe four and a half or five weeks and been very helpful in a variety of matters.

And so, I just wanted to take a moment to introduce her. I don't know if you'd like to say anything real briefly, General Counsel?

MS. RUDOLPH: Good morning, everyone.

My name is Maureen Rudolph. I am your new General Counsel for the Commission.

I wanted to take a moment to introduce myself on a personal level and also on a professional level.

I grew up in a military family. My father was in the Air Force. He was career in the Air Force and retired from the Air Force.

My mother was an English as a Second
Language Teacher.

I have learned a lot from both of them over the years growing up. We lived in many different locations. We lived overseas. We lived all over the United States.

I currently have two children, a boy and a girl, who I love quite dearly and who you will hear me speak about. I also have a wonderful long term supportive partner who is also my best friend and I'm very blessed to have that in my life.

On a professional note, as the Staff Director just said, I have 15 years of experience working for the Department of Justice. In that capacity, I have worked with Congress on substantive legislation, budget requests, I have also litigated cases in front of District Courts, Circuit Courts, and the Supreme Court.

I have worked with federal agencies on policy matters and on regulations. I have negotiated an international declaration. I was part of the delegation who negotiated the United Nations Delegation on the Rights of Indigenous Peoples. In that capacity, I traveled to Geneva and also negotiated some of that declaration here in Washington, D.C.
Those were wonderful experiences that I've had in my life. My primary areas of focus have been mainly in the Native American issues and also on natural resources and environmental law issues.

I am thrilled to be here with you. I look forward to working with all of you as we carry out the mission of the Commission.

Thank you so much.

CHAIRMAN CASTRO: Well, welcome Madam General Counsel. I know in my interactions with you over the last few weeks, you already made a tremendous contribution and we look forward to continuing to see that in your term.

Thanks.

Next on the Agenda, what I'd like to do is you all did receive the statement that we have prepared mourning the loss of Jacqueline Berrien. I am going to read the statement and then ask for a vote, a motion and a vote so that it is a press release that would be issued by the Commission.

The U.S. Commission on Civil Rights mourns the passing of Jacqueline Berrien, recent Chairwoman of the EEOC. That's the headline.

The United States Commission on Civil
Rights joins the nation in mourning the passing of former EEOC Chairwoman Jacqueline Berrien, accomplished civil rights lawyer and champion of civil rights over a long and successful career.

Among her many accomplishments prior to chairing the EEOC, she served as the Assistant General Counsel -- I'm sorry, Assistant Counsel litigating voting rights and school desegregation cases at the NAACP Legal Defense Fund, as an Associate Director and Counsel at the Ford Foundation and as a faculty member at Harvard Law School.

Chairwoman Berrien graduated from Oberlin College and Harvard Law School and then clerked for a Federal Judge before joining the Lawyers Committee for Civil Rights and the Women's Rights Project of the ACLU.

At the EEOC, she increased investments in staffing, training and technology that increased productivity and substantially reduced backlogs of pending charges despite increased numbers of discrimination filings.

During her tenure, the Agency won the largest award to date under the Americans with Disabilities Act in EEOC v. Hill Country Farms.

Also under her leadership, the EEOC issued
important new guidance on the use of arrest and conviction records in employment decisions.

Martin R. Castro, Chairman of the U.S. Commission on Civil Rights stated, "the nation has lost a tremendous public servant and the civil rights community has lost a leader."

Chair Berrien's was a life well led, not only for herself but also for her nation. She leaves a great legacy for the rest of us to follow.

And then, it concludes with our standard language, the U.S. Commission on Civil Rights is an independent bipartisan agency charged with advising the President and Congress on civil rights matters and issuing federal civil rights enforcement report. And, it goes on to give our website.

So, can I entertain a motion?

VICE CHAIR TIMMONS-GOODSON: Mr. Chair, I move that we issue that press release.

CHAIRMAN CASTRO: Is there a second?

COMMISSIONER NARASAKI: Mr. Chair, I second it. I had the pleasure of working with Jackie for over 20 years and it is, indeed, a huge loss for the civil rights community.

CHAIRMAN CASTRO: All right, would any
other Commissioner like to add some words to that? If
not, then I'll call it for a vote. All those in favor
signify by saying aye?

(Chorus of aye.)

CHAIRMAN CASTRO: Any opposed?

(No response.)

CHAIRMAN CASTRO: Any abstentions?

(No response.)

CHAIRMAN CASTRO: Okay, we'll direct our
Office of Press to send that out today.

And now, I'd like to invite to the podium
very quickly here, let me pull this up, good friends
of ours from the U.S. Department of Agriculture Office
of Civil Rights, in particular, Fred Pfaeffle Arana who
is the Deputy Assistant Secretary for Civil Rights who
we've had the opportunity to work with on a number of
initiatives. He has a brief presentation for us.

Mr. Assistant Secretary?

MR. PFAEFFLE-ARANA: Good morning, Mr.
Chairman. Good morning, Commissioners.

Thank you for the opportunity to thank the
Commission on a very important project that we worked
together recently.

My name is Frederick Pfaeffle-Arana and I
I am Deputy Assistant Secretary for Civil Rights at the Department of Agriculture.

I'd like to start out with saying -- by saying that with the help and support of the U.S. Commission on Civil Rights, this past November 4th and 5th, USDA, EPA and a coalition of 14 sponsoring federal agencies held the inaugural National Civil Rights Conference entitled 21st Century Civil Rights Integrity, Integration, Innovation Initiative.

It was held at the United States Institute of Peace in Washington, D.C. It was a conference that was the first of its kind and provided a collaborative forum for federal civil rights professionals to receive training, share best practices and explore crosscutting issues in enforcement and compliance.

On behalf of the Executive Planning Committee for the conference, we thank the Commission and also express our gratitude to Chairman Castro for his participation and leadership and to Vice Chair Patricia Timmons-Goodson for delivering her salient keynote address on November the 4th.

Justice to Ms. Goodson's remarks exemplified how the civil rights community can work together to meeting seemingly insurmountable
challenges that we face in common.

More specifically, at the conference, over 275 civil rights professionals from 20 different federal agencies participated in workshops and training in some of the most exacting areas facing government and its delivery of services to the people of the United States, ranging from environmental justice, fair housing, disabilities, discrimination and social media and technology, limited English proficiency, religious discrimination, sexual and other forms of harassment and how to hold the government accountable to comply with civil rights laws and regulations in and outside of the work environment.

The conference proved an important tool that aligns with the mission of this Commission to aid in development of national civil rights policy and enforcement of federal civil rights laws to help prevent and address discrimination based on race, color, religion, sex, age, disability or national origin or in the administration of justice.

So, to sum up, we invite the Commission and the coalition of agencies to continue our joint efforts, leading to the success of this very important conference to allow us to jointly advance and enhance
civil rights through integrity, integration, innovation and initiative.

Thank you very much for your time this morning.

CHAIRMAN CASTRO: Thank you, Mr. Deputy Assistant Secretary. You and your staff and your Agency taking the lead on putting this together.

You know, we've often been talking about more collaboration between our Agency and our sister agencies in the struggle for civil rights and the federal government. And, this was really a wonderful model that I hope we continue to replicate.

I'd actually like the Vice Chair to maybe say a few words because she was kind enough to deliver the keynote address for us on behalf of the Agency.

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

I first want to thank you for your leadership in involving our agency in this and I'd like to thank our Staff Director for all of his efforts and on helping move us along and get us in the place that we want to be.

I was proud to represent the Agency in this first of its kind effort. I hope that it will not be
the last. In my eyes, it was a tremendous success.

Not only did I deliver the keynote on behalf of our Agency, but, I also took the time to attend a number of the sessions, three to be exact. And, I found each of the presenters extremely knowledgeable and did a tremendous job sharing all of the knowledge that they had.

And so, again, I hope that this will not be the last one. If we're not able to put it together annually, and I say that because it was clear all of the hard work and effort that went in to it, so if we're not able to do it annually, I hope that we will consider at least every other year, bringing these agencies together to discuss all that we have in common. And, if for no other reason, to continue to encourage one another.

We all admit that this is difficult work, extremely difficult work. And, sometimes, we're not able to, as the song says, you need to encourage yourself, sometimes, encouraging yourself is not enough. We need the encouragement of others.

And so, I hope that we will come together often. And, again, thank you so very much, Mr. Pfaeffle, for all of your hard work and the organizers...
and we were pleased to be a part of it.

MR. PFAEFFLE-ARANA: Thank you very much.
CHAIRMAN CASTRO: Thank you, Mr. Deputy Assistant.

Okay, now we'll move on to our formal Agenda. The first item is a discussion on the status of pending Commission Reports. So, we'll ask Angela French-Bell to come to the microphone, our head of OCRE.

II. PROGRAM PLANNING

STATUS ON PENDING COMMISSION REPORTS

MS. FRENCH-BELL: Good morning, Chairman Castro, Vice Chair Timmons-Goodson, Commissioners, Special Assistants and staff.

Today, we wanted to cover a couple of things. First of all, we wanted to cover the status of our pending reports. Then we wanted to talk about the timeline for our statutory report. Followed by, hopefully, obtaining your approval for our proposed town hall meetings.

So, the first item on the Agenda is an update on our OCRE reports.

We have already submitted to you three reports, namely, State Immigration, Civil Rights for Vets and Stand Your Ground.
We are awaiting comments from a few Commissioners on State Immigration and we hope to receive those soon.

We also wanted to get feedback from you in terms of what would be a good date to have the comments come back for the Civil Rights for Vets report.

Initially, we set November 20th as a good date. Clearly, that's not going to work. So, we wanted to get you input about a date that would be more appropriate.

CHAIRMAN CASTRO: What's the next date for the next report comments?

MS. FRENCH-BELL: I think it's December 21st or close to it.

CHAIRMAN CASTRO: Okay. So, then maybe sometime in early December? I don't know, what's the first week, sometime maybe towards the end of the first week of December. Is that doable for folks? Pull up your calendars.

Let's see, how's the -- well, we've got our meeting December 11th, so why don't we have them turned in by then?

MS. FRENCH-BELL: That's wonderful.

Thank you.
CHAIRMAN CASTRO: Will that work?

MS. FRENCH-BELL: Yes.

CHAIRMAN CASTRO: And, that's for Vets, right?

MS. FRENCH-BELL: That's for Vets.

CHAIRMAN CASTRO: Okay.

MS. FRENCH-BELL: Thank you.

CHAIRMAN CASTRO: Okay. Do we need to adjust any others or is that --

MS. FRENCH-BELL: I'm thinking we probably will need to adjust Stand Your Ground, but I'm not sure if you will be able to get it in by the 21st if that one's due on the 11th. But, I definitely would like your feedback.

CHAIRMAN CASTRO: How do folks feel? Do we just leave it for now? Yes, I think we can do it.

MS. FRENCH-BELL: Thank you, I like that.

CHAIRMAN CASTRO: Folks can spend some of their holiday downtime revising.

Please proceed.

MS. FRENCH-BELL: Thank you.

And, we have ENDA and SVRA, they are currently in the editorial process. So, we hope to have those reports to you within the coming weeks.
Police Use of Force is more than halfway written, so we'll be coming to you on schedule, the schedule we provided to you earlier.

As far as the Quite Crisis Report Update, we are working with Jason and Commissioner Narasaki and we've begun the writing stage. The editor --

CHAIRMAN CASTRO: Remind us, what is the Quite Crisis?

MS. FRENCH-BELL: It's the Native American court looking at the infrastructure.

CHAIRMAN CASTRO: Right, yes.

MS. FRENCH-BELL: So, that one, we're in the process of writing, so we should be able to complete our April schedule for that report as well. And, we will continue to provide details on that as we move forward.

Were there any questions on the report update portion of our presentation?

CHAIRMAN CASTRO: Commissioner Narasaki, did you have something?

COMMISSIONER NARASKI: Yes. So, as you know, we've been playing catchup because the Commission went a little bit of time before you came on board and Pat and I came on board without sufficient research
staff. So, we developed a backlog.

And then, on top of that, there were some reports that Commissioners either were -- the Commission was either asked by Members of Congress or the Commission was interested in trying to revisit an update and the Native American report is one of them.

But, we realize, we have come to see the wisdom that you had offered in terms of the reality that our staff is still overtaxed. And, particularly, since we don't have our budget in place, fully in place for next year.

So, I am offering up a motion that we put on hold, that we suspend work on two of the reports, the anti-Semitism on Campus and Voter Fraud, Voter Intimidation until the Commission can catch up on the backlog and on the reports that we have pending from last year. And then, we will revisit it as we get, hopefully, closer to getting caught up and having sufficient staff.

So, I offer up that motion.

VICE CHAIR TIMMONS-GOODSON: I'll second that motion.

CHAIRMAN CASTRO: And, just to clarify, that means we would continue to finish off the Native
American report and that we would next take in turn the immigration --

COMMISSIONER NARASAKI: Yes, the Voter Fraud, Voter Intimidation, those two reports we -- as the Director noted, we have already started on the Quiet Crisis and are fairly far along and we have -- they have hired a consultant so that we have sufficient staff capacity to do that.

Hopefully, that staff will be able -- that consultant will be able to finish that and then quickly move on to the Voter Fraud, Voter Intimidation report.

CHAIRMAN CASTRO: The immigration?

COMMISSIONER NARASAKI: I'm sorry, yes, to move on to the Effective Undocumented Immigration on Black Workers, sorry about that.

CHAIRMAN CASTRO: Okay. So, we have motion and a second, any discussion?

Hearing none, I will take a roll call vote.

Madam Vice Chair, how to you vote?

VICE CHAIR TIMMONS-GOODSON: Yes.

CHAIRMAN CASTRO: Commissioner Narasaki, how do you vote?

COMMISSIONER NARASAKI: Yes.

CHAIRMAN CASTRO: Commissioner Kladney,
1 how do you vote?

2 COMMISSIONER Kladney: Yes.

3 CHAIRMAN Castro: Commissioner Kirsanow,

4 how do you vote?

5 COMMISSIONER KIRSANOW: Abstain.

6 CHAIRMAN CASTRO: Commissioner Achtenberg, how do you vote?

7 COMMISSIONER ACHTENBERG: Yes.

8 CHAIRMAN CASTRO: Commissioner Heriot,

9 how do you vote?

10 COMMISSIONER HERIOT: This is a hard one, actually. I think I'm going to vote no given that these were the two reports I was most interested in out of the ones that we were doing. But, I agree that we need to cut back on some of the reports that we're working on. But, I think this has been has been going on too late and my instinct is that the reports are not being carved back in the appropriate way, so I vote no.

19 CHAIRMAN CASTRO: Okay, so I vote yes. The motion passes with one, two, three, four, five yeses, one no and one abstention.

22 Okay, continue please.

23 MS. FRENCH-BELL: Thank you. That was a very helpful motion and it's definitely appreciated.
The next item on the Agenda is the Environmental Justice Timeline.

II. PROGRAM PLANNING

TIMELINE ON TOWN HALL PLAN FOR 2016 STATUTORY ENFORCEMENT REPORT ON ENVIRONMENTAL JUSTICE

MS. FRENCH-BELL: so, we just wanted to cover a couple of the major dates that are on that timeline that we proposed that is currently in the Commissioners folder.

The first one is December 2015. That's the date that the interrogatories will be sent to federal agencies. And, the reason that we did that was because we were also working collaboratively with the federal agencies and we wanted to be able to ensure that the information that we requested from them wasn't information that we already would be able to obtain in other ways.

The second date is on May 20th. The initial draft will be sent to the Staff Director. The reason that we chose that date is because, one, we wanted to ensure that we would be able to have all the information and properly analyze it following the town hall meetings.
The second reason is that we wanted to ensure that the report is of the highest quality. We have heard before that there may be some reason for us to apply even more effort to ensure that the quality of our reports is high.

And, we want to be able to do that as well as we want to be able to ensure that we're offering you the independent research that you requested that we have in our reports.

So, for that reason, that date is set at May 20th.

One of the next important dates is that the draft is submitted to the Commissioners on May 30, 2016.

We set that date because we wanted to ensure that there would be at least three months for Commissioners to look at the report and to make revisions to it.

Initial comments would be due on June 30th. Commissioners' vote on the final report would be July 15th. Statements and concurrences would be due August 15th and rebuttals and concurrences and dissents would be due September 15th.

We couldn't have it due any later than that because we had to allow enough time for staff to be able
to prepare for putting the report on the web and to do the finalizing of the report.

So, that is our proposal.

COMMISSIONER HERIOT: Mr. Chairman?

CHAIRMAN CASTRO: Yes, Commissioner Heriot?

COMMISSIONER HERIOT: I just have a comment here.

I would very much like to see a draft of the discovery requests. I think one of the places that the Commission staff has gone wrong in the past is not asking for the right things. And so, I think it's important that we see drafts of the discovery requests.

MS. FRENCH-BELL: I don't know if that's a practice we've done in the past. We will leave that decision to our Staff Director, but we will submit it to him in enough time to allow him to make that decision.

COMMISSIONER HERIOT: Well, then I make a motion that we be given copies of the drafts of the discovery requests.

Again, this is an area where the staff has gone wrong in the past.

COMMISSIONER KIRSANOW: Kirsanow, second.
CHAIRMAN CASTRO: Okay. Just a second.

There's some consultation going on here that may be relevant.

COMMISSIONER HERIOT: I've actually been told that it is our past practice. But, on occasion, I have not gotten them.

CHAIRMAN CASTRO: You know, in the time I've been here, I've seen in some instances where we did get it, others where we didn't. I don't know that we've been consistent with that. But, I do recall --

MR. MORALES: Mr. Chair?

CHAIRMAN CASTRO: Yes, the Staff Director will --

MR. MORALES: I'm sorry, Mr. Chairman, I've been informed and I understand there's an AI that requires that. And so, I'll work with the General Counsel and we'll make sure that we apply that correctly and make sure that we adhere to the AI.

CHAIRMAN CASTRO: Okay. In light of that, I don't think we'll need a motion.

COMMISSIONER HERIOT: Okay, I think that I withdraw my motion.

CHAIRMAN CASTRO: I don't think we need a motion since there's an AI on it.
COMMISSIONER HERIOT: Okay, I withdraw.

CHAIRMAN CASTRO: Okay.

COMMISSIONER HERIOT: Pete, you have to withdraw, too.

COMMISSIONER KIRSANOW: I'll withdraw.

CHAIRMAN CASTRO: Okay. Now that we're going to follow Robert's Rule of Order, we've got to make sure that that happens properly.

Okay. So, we have a presentation here of a draft timeline. We need a vote on this. We need a vote on this, so do we have a motion?

COMMISSIONER KIRSANOW: Mr. Chair, I would move to amend the timeline. Unfortunately, logistically, I'm not sure that I can provide a cogent revision to this for folks that are on the phone.

The purpose of the motion would be to truncate the -- well, the period in which the Commissioners would be able to file statements, rebuttals, surrebuttals in this particular timeline has compressed to a point that is different from what we've done in the past and what AIs require.

And, what I would propose is timeline that would give Commissioners the time that is set forth in both our past practice and our AIs.
And, as I've said before, that would require me to present to you several different dates that may be difficult to comprehend over the phone.

So, I think what I may do is defer this motion until December, but I'd like to at least explain the basis for the motion to give you some idea as to what the timelines would be.

Most of the timelines would remain virtually the same with the exception of the timelines for submission of the report to the Staff Director for consideration by the Commission.

The report on -- the Commission's vote on the report would be moved up approximately one week, but others would be moved up approximately three weeks. Again, to give Commissioners sufficient time consistent with our AIs to file statements, rebuttals, surrebuttals.

But, the salient points are that the draft submission to the Commissioners would be moved up from the current May 31st to May 10th. Commissioner comments on the initial draft would be moved up from June 30th to the 10th. The Commission's vote on the final report would be moved up to July 8th instead of the 15th.
And, that would provide, if you look at the various timelines, sufficient time for Commissioners to submit statements, rebuttals and surrebuttals consistent with our past practice.

So, I simply want to note this. I will -- I'm not sure if there's a draft of this circulating among you right now. I doubt that there is, but I would propose this for our next meeting so that we have a sufficient amount of time consistent with what we've done in the past to submit reports or the statements, rebuttals and surrebuttals consistent with our AI.

CHAIRMAN CASTRO: I'd like our Chief of OCRE to respond to this.

MS. FRENCH-BELL: I can understand the reasons that the Commissioners would want to move the date that they receive --

CHAIRMAN CASTRO: Could you move the mic a little?

MS. FRENCH-BELL: Okay.

I can understand why the Commissioners would want to receive the date that they receive the report forward. However, there are a couple of concerns.

One, just because that is what we've done
in the past, it doesn't take into reality our current situation. In the past, we may not have done the intense level of independent research that we are currently doing.

We may not have had town hall meetings and they may not have been incorporated into the timeline. So, I believe that's an important consideration.

Secondly, I was pleased to hear that we're adhering to the AI when it came to interrogatories. There's also an AI when it concerns the timeline and that the national office that's creating the report is supposed to develop the timeline.

And, the reason that that's done is because this office itself is aware of what's going on, what the circumstances are and whether or not they're able to actually complete that work in a timely manner.

Another reason is quality. One of the concerns that we've heard about our reports is that they want to be -- them to be of high quality. That's what we want, too. We're aware that we're not perfect, but we are moving towards perfection. And, in order to do that, we need the time in order to create board reports.

Another reason is that we need to ensure that we're able to incorporate all of the information
and analysis from our town hall meetings. And, in order to that, we need time.

So, for all of those reasons, I would submit that, one, it might be possible that there's some sort of compromise that takes into consideration the Commissioners' concerns as well as the concerns of the staff.

And, assuming arguendo that there isn't that compromise available, then I would respectfully request that we be allowed to have move over to overtime and comp time that would be necessary to make this possible.

COMMISSIONER NARASAKI: Mr. Chair?

CHAIRMAN CASTRO: Commissioner Narasaki?

COMMISSIONER NARASAKI: So, I have a question because we also are going to be talking about what the actual plan is for the statutory report and, unlike prior reports, it does incorporate some subcommittee subhearings in addition to the main hearing that we typically do.

And so, you know, my concern is if we cut the time then the tradeoff might need to be it's either overtime, which we don't necessarily have funding for, or we may have to cut back on the amount of research
that we are doing, and this is research that the
Commissioners have asked for.

So, I'm just laying that out there. The
Director is nodding, you might, for the record want to
say something out loud.

But, my thing is I think Commissioners need
to think about that tradeoff in trying to decide where
we need to land on this issue about timeline.

MS. FRENCH-BELL: Thank you.

CHAIRMAN CASTRO: Madam Vice Chair?

VICE CHAIR TIMMONS-GOODSON: It's my
understanding that Commissioner Kirsanow is inclined
to defer the motion until December so as at least to
have his proposed timeline in writing so that those of
us that are visual and need to see it will have that.

CHAIRMAN CASTRO: But we do, he just
handed it out.

VICE CHAIR TIMMONS-GOODSON: I meant now.

COMMISSIONER KIRSANOW: Yes, Mr. Chair,
it's --

COMMISSIONER KLADEY: I haven't seen it.

VICE CHAIR TIMMONS-GOODSON: I don't
think that --

CHAIRMAN CASTRO: This is not his?
Clarissa, weren't you handing this out? This is it.

VICE CHAIR TIMMONS-GOODSON: But, do the Commissioners on the phone have it?

CHAIRMAN CASTRO: Oh, I don't know.

VICE CHAIR TIMMONS-GOODSON: So, Commissioner Kladney theoretically you have it in your email.

COMMISSIONER KладNEY: Are you still -- is Commissioner Kirsanow still included to defer his motion?

COMMISSIONER KIRSANOW: No, if everyone has it in front of them, what I would propose is that we consider this after a similar period of time, a few minutes, whatever Commissioners deem necessary to review it. It's not complicated; however, it's pretty clear as to what the dates that are being proposed.

And, I move on this now because given the timelines that we're talking about related to the staff's consideration and revision of the report, I think we're all together on this as soon as possible and I think we can do that today.

CHAIRMAN CASTRO: Okay, the longer we wait to do this, the further behind we get.

COMMISSIONER KIRSANOW: And, again, if
you simply take a look at it, I apologize for interrupting, if you take a look at the timeline that is self-explanatory, we're not making draconian changes to this.

I think that everything that Angela said is well considered. We've taken this into consideration. We understand the exigencies involved in producing this report. We nonetheless maintain that, or I nonetheless maintain that it is imperative that we preserve the timelines for Commissioners to comment upon, file statements, rebuttals and surrebuttals consistent with what we've done in the past.

CHAIRMAN CASTRO: Well, this is the Chairman.

While I agree with you, your proposals are not draconian, that doesn't mean that they're necessarily reasonable in light of the tight timelines that we're on, particularly given the rightfully aggressive effort we're undertaking to address this issue by way of not only a briefing but town halls and the additional research to make this a really impactful hearing and impactful report with information of the first instance, which is what we've all been asking for.
You know, we're not -- we're trying to not just parrot what other people are telling us. And, while 30 days seems like a little bit to us, on that the staff that we've already all agreed is overtaxed. And, in fact, took an action earlier today to take two reports off their plate because they're over stacked.

It seems to me that this is not the appropriate way to handle it. I understand that this current draft that we have from the Office of Civil Rights Evaluation does make adjustments so that Commissioners do have the opportunity to submit their statements and rebuttals, the only question is the issue of surrebuttal which I understand, should that be exercised, could take us beyond our statutory deadline.

However, we -- it's virtually impossible, at this point, we've seen, for surrebuttals to even occur because, one, it's hard for us to tell right now whether they'll happen, but just in the last report we had on immigration, one which I fully would have expected to be controversial enough to merit surrebuttals, that did not occur. And, even if it did, there would be certain triggers that needed to occur where, I believe, three Commissioners would need to
approve surrebuttals. I doubt that would happen.

So, I think that this timeline presented by OCRE accommodates the realistic needs of rebuttals and statements and also gives them a realistic opportunity to present to us the most high quality work product in the first instance.

Commissioner Narasaki?

COMMISSIONER HERIOT: Mr. Chairman?

CHAIRMAN CASTRO: Yes, Commissioner Heriot and then Commissioner Narasaki.

COMMISSIONER HERIOT: Okay. Everyone agrees that we would like this report to be of high quality. The problem is it's not just the Commissioner statements that are at stake here, it's the period under which Commissioners are able to form what goes into the body of the staff written report.

I have counseled modesty in the past. I will continue to counsel that here. If it's not possible to get a draft of the report done by the time that Commissioner Kirsanow is suggesting, it's because the outline is insufficiently modest.

For example, the outline brings in Hurricane Katrina and fracking. These issues should not be in the report at all.
Mr. Chairman, you have said that you would like that report to have an impact. It will not have an impact except an embarrassing one unless we get the draft early enough to make whatever modifications are necessary.

I strongly support Commissioner Kirsanow's motion which, if no one else has seconded it, I will certainly second.

I don't see this as really something that we have a lot of a choice on. Last year's report I think was significantly embarrassing. I don't want this report to be as well.

CHAIRMAN CASTRO: I think the only thing embarrassing was the way that the dissenters handled their position on this in the public arena.

But, in any event, Commissioner Narasaki and then I want to have the OCRE opine.

COMMISSIONER NARASAKI: So, I don't feel that Commissioner Kirsanow's request is unreasonable, but I do feel that having gotten it just five minutes ago and the fact that it's very clear from the discussion that it could impact what's actually in the report, how much we're going to do in the report.

But, I feel we should wait to make a
decision so we have a chance to hear from OCRE exactly, as Gail notes, exactly what might need to be cut out so that we completely understand the tradeoffs before we vote.

I understand that we are under a time crunch because work needs to move forward. So, we will not have the luxury of working to the December meeting.

I think this is something that maybe we could handle by notational vote. But, I'm hoping to give the staff at least some time to be able to tell us what the impact would be so that we're making a decision with the full knowledge of what the -- how that is going to impact the content of the report.

COMMISSIONER ACHTENBERG: Mr. Chairman?

CHAIRMAN CASTRO: I'm going to have the OCRE opine and then, is that you, Commissioner Achtenberg?

COMMISSIONER ACHTENBERG: Yes.

CHAIRMAN CASTRO: Yes, you'll speak after she does.

Go ahead.

MS. FRENCH-BELL: Thank you.

One of the comments that I wanted to address was that fracking and Hurricane Katrina would
be central parts of the report. That is not true. There's just going to be a brief mention of those issues at the end of the report as subjects for other individuals or other Commissions or other federal agencies to explore. So, we will not be expounding in depth upon those issues.

The second thing, the notational vote may be a good idea because we would like to make a counterproposal that maybe takes into consideration both sides. And, I don't know that we can really talk about the town hall meeting until we've figured out what the timeline will be.

CHAIRMAN CASTRO: Okay. Commissioner Achtenberg?

COMMISSIONER ACHTENBERG: Well, I'm inclined to support Commissioner Kirsanow on this, particularly, although maybe what we really need is a compromise here. So, something we hadn't thought about a subsequent notational vote to give the principles an opportunity meet yet one more time.

I would only encourage that to happen quickly, like tomorrow or the next day so that we might resolve this well before, I don't know, you know, that we get into full holiday footing here.
CHAIRMAN CASTRO: So, let me suggest this, Commissioner Achtenberg, here's my concern about a notational vote. The last time we had one, one of the Commissioner's blocked it.

If we're going to move to a notational vote, I think there should be an understanding among Commissioners that we're not going to attempt to block it. You can vote against it, obviously, but don't block it so that we have to push it to the December meeting because this does need to be addressed.

So, if there's a commitment among the Commissioners not to block the notational vote, then I'm willing to put it off. Otherwise, I'm going to want to vote today.

So, do I have a commitment from the Commissioners not to block a notational vote on a potential compromise?

COMMISSIONER NARASAKI: You have my commitment, Mr. Chair.

COMMISSIONER ACHTENBERG: Sure.

COMMISSIONER KIRSANOW: Kirsanow, yes.

CHAIRMAN CASTRO: Okay. Commissioner Heriot?

COMMISSIONER HERIOT: I'm happy to vote
for it now or on a notational vote.

CHAIRMAN CASTRO: Okay.

COMMISSIONER HERIOT: I would prefer to vote on it now.

CHAIRMAN CASTRO: That's what I would --

COMMISSIONER KIRSANOW: That's what I --

but you know, if we can do it by tomorrow or Friday, as Commissioner Achtenberg had proposed, I'm on board with that.

CHAIRMAN CASTRO: Well, there's a Notice period that we have to comply with and I think it's a four-day Notice is my recollection.

MR. MORALES: It can be waived.

CHAIRMAN CASTRO: Yes.

MR. MORALES: I can be waived.

CHAIRMAN CASTRO: Okay. Yes, it can be waived. So then we can do that.

COMMISSIONER HERIOT: Can we vote on this now?

CHAIRMAN CASTRO: No, because there's a compromise that -- that was out of order -- there was a proposed compromise that the head of OCRE wants to put forward. And so, I want to give her an opportunity to do that.
COMMISSIONER HERIOT: Well, can we vote on this now then we can then, you know, re-vote on it later if we want.

CHAIRMAN CASTRO: Here, why don't we do this?

COMMISSIONER HERIOT: It seems like, you know, a lot of time that's going to be spent --

CHAIRMAN CASTRO: Okay, believe me, I know.

COMMISSIONER HERIOT: -- you know, a lot of time will be spent instead of working on the report lobbying for more time. And, I would prefer to vote now and if there's a notational vote later, I'll vote on that, too.

CHAIRMAN CASTRO: We will put it off to --

COMMISSIONER HERIOT: And there is a motion pending.

CHAIRMAN CASTRO: We're going to put it off to a notational vote that will happen quickly.

COMMISSIONER KIRSANOW: My issue is still pending, though, Mr. Chair.

COMMISSIONER HERIOT: Yes.

CHAIRMAN CASTRO: Yes, we'll --

(Simultaneous speaking.)
CHAIRMAN CASTRO: -- table the motion. Motion to table your motion. Can we have a motion to table the motion, please?

COMMISSIONER NARASAKI: I move to table the motion.

CHAIRMAN CASTRO: Is there a second?

VICE CHAIR TIMMONS-GOODSON: I'll second.

CHAIRMAN CASTRO: Okay. We'll give an opportunity for the principles to discuss this and quickly put out a proposed compromise that meets the needs of both of OCRE as well as the Commissioners who do raise valid concerns about additional time. Okay?

COMMISSIONER HERIOT: No.

CHAIRMAN CASTRO: No? Okay, well, go ahead Ms. Vice Chair.

VICE CHAIR TIMMONS-GOODSON: Let me say, I like or could support Commissioner Kirsanow's proposal but for if we were considering this in a vacuum. But, as I look and understand that we have the statutory hearing in January, well, in March, we have another -- we have a briefing. And then, in May, we have a briefing.

The proposed timeline change that has been submitted by Commissioner Kirsanow would have the first
draft, the initial draft to the Staff Director the 19th of April.

So, January, you have the hearing, another briefing on a totally different issue in March. April 19th, you have the report, the draft has to be ready to be given to the Staff Director.

And then, in May, we have still another briefing.

Like I said, if we're looking for considering this motion or this change in a vacuum, there's certainly nothing wrong with it. We could do it, but given all of the other things, it does look like an awful lot.

And so, I hope that we can find a compromise.

CHAIRMAN CASTRO: And, that's what we're going to do so, Commissioner Heriot, look in your mailbox for a notational vote ballot.

COMMISSIONER HERIOT: We've got to vote on the motion to table.

CHAIRMAN CASTRO: All those in favor of the motion to table, say aye?

(Chorus of aye.)

CHAIRMAN CASTRO: Any opposed?
COMMISSIONER KIRSANOW: Roll call vote, please?

COMMISSIONER HERIOT: No.

CHAIRMAN CASTRO: All right, I'll do a roll call vote.

Madam Vice Chair, how do you vote?

VICE CHAIR TIMMONS-GOODSON: Aye.

COMMISSIONER KLADNEY: Are we finished discussing this?

CHAIRMAN CASTRO: Yes.

COMMISSIONER KLADNEY: I mean I have a couple of things to say.

CHAIRMAN CASTRO: Okay, well go ahead then, Commissioner.

COMMISSIONER KLADNEY: I, too, am inclined for Commissioner Kirsanow. One of the things that seems to be rattling in the back of my head is for surrebuttal. I thought the Commission needed to vote on that to allow that to occur in AI.

The second thing is, as far as overtime or comp time is concerned, I believe we've just saved a bunch of money from suspending these other reports we were going to do.

The third item I would like to mention is,
even though we have these other two briefings schedule for, as pointed out by the Vice Chair, for March and then May I believe it was, if we need to, I would assume we could copy them up or move them down the calendar another month or six weeks or something like that if that is what seems to be the problem.

It just seems to me that this can be done and there can be a compromise that's in the works to make it done, especially if we consider these three things.

I can't remember the AI, but I thought there was an AI where the Commission had to vote to allow surrebuttal.

COMMISSIONER HERIOT: No.

COMMISSIONER KLANDNEY: Maybe someone can help me out.

COMMISSIONER HERIOT: It's like you have to have three members, I think, that are in favor of it.

COMMISSIONER KLANDNEY: There we go, that's a vote. So, that's --

COMMISSIONER ACHTENBERG: Mr. Chairman?

CHAIRMAN CASTRO: So, yes, Commissioner Achtenberg?

COMMISSIONER HERIOT: Yes, I think three
members have to invoke.

CHAIRMAN CASTRO: Can I have some water, please? Can I have some water please?

Mr. Achtenberg?

COMMISSIONER ACHTENBERG: I am notionally in favor of Commissioner Kirsanow's proposal. However, given the request by the OCRE to work with Commissioners to find a compromise, I would support the motion to table but with the caveat that Commissioner Heriot requests that the possibility of surrebuttal be preserved. I won't -- unless that's a part of the consideration, I won't support a motion to table.

CHAIRMAN CASTRO: Well, I think that's the whole point of trying to find some time to find a compromise. So, I mean we're not tabling it to kill it, we're tabling it to give these people time to discuss a thoughtful resolution that meets everybody's needs.

COMMISSIONER Kladney: Can we have a date for when this --

COMMISSIONER ACHTENBERG: I'm putting my colleagues on notice --

CHAIRMAN CASTRO: Yes?

COMMISSIONER ACHTENBERG: -- that I won't
support ultimately anything that takes away from the
Commissioners' potential right in this case.

CHAIRMAN CASTRO: And, Commissioner
Kladney, I think it was said that we would issue a
notational ballot by tomorrow. So, I don't know how
much more specific a timeline you need than that.

COMMISSIONER Kladney: I must have missed
that, Mr. Chairman.

CHAIRMAN CASTRO: You must have.

COMMISSIONER Kladney: It's hard on the
phone. It's hard on the phone.

CHAIRMAN CASTRO: I know, I must have been
on mute.

So, now I will take a roll call vote on the
motion to table. The purpose of which is to give OCRE
and Commissioner Kirsanow and those who may interested
an opportunity to craft a compromise that works for
everyone which will then be used --

COMMISSIONER Hereiot: Okay, I don't quite
understand what's going on here.

CHAIRMAN CASTRO: Well, just pay
attention.

Then we will then have that compromise --

I'm not done -- we will then have that compromise
circulated by way of notational vote by tomorrow.

COMMISSIONER HERIOT: I don't want that.

CHAIRMAN CASTRO: I know you don't, but that's what we're all -- we're going to vote on.

COMMISSIONER HERIOT: No, I don't understand. Hold on, hold on.

CHAIRMAN CASTRO: No, you hold on, Commissioner Heriot.

COMMISSIONER HERIOT: Hold on, hold.

CHAIRMAN CASTRO: No.

COMMISSIONER HERIOT: Hold on, hold on, hold. The notational vote that you are proposing is that we vote on the compromise. But, I don't want to vote on the compromise because that will be just another take it or leave from the staff.

What we need is a vote that allows us to vote for peak timeline.

CHAIRMAN CASTRO: Well then, you vote no on the motion to table. That's your option.

COMMISSIONER HERIOT: That has to be part of the option.

CHAIRMAN CASTRO: Well, that's the options.

So, now I'm going to carve the question on
the motion to table.

COMMISSIONER HERIOT: Hold on, hold on, hold on, hold on. Whatever --

CHAIRMAN CASTRO: So, moving forward --

Commissioner -- Madam Vice Chair, how do you vote on the motion to table?

VICE CHAIR TIMMONS-GOODSON: Aye.

CHAIRMAN CASTRO: Commissioner Narasaki, how do you vote on the motion to table?

COMMISSIONER NARASAKI: Aye.

CHAIRMAN CASTRO: Commissioner Kladney, how do you vote on the motion to table?

COMMISSIONER KLADNEY: I abstain.

CHAIRMAN CASTRO: Commissioner Kirsanow, how do you vote on the motion to table?

COMMISSIONER KIRSANOW: No.

CHAIRMAN CASTRO: Commissioner Achtenberg, how do you vote on the motion to table?

COMMISSIONER ACHTENBERG: Yes.

CHAIRMAN CASTRO: Commissioner Heriot, how do you vote on the motion to table?

COMMISSIONER HERIOT: No.

CHAIRMAN CASTRO: And, I vote yes. So, we have one, two, three, four yeses, one abstention and
two nos. So, does that carry?

So, a majority of those voting voted in favor of tabling. It's four yeses, one abstention and two nos.

MS. HEPLER: We've got a quorum, we've got five and four out of seven is a quorum and four of them --

CHAIRMAN CASTRO: Okay, I just want to make sure because I know that we had questions about this in the past.

So, the motion to table passes then.

COMMISSIONER KIRSANOW: Mr. Chairman, I then move that a notational vote to be conducted tomorrow the Commission vote on the timeline that was just distributed to Commissioners.

COMMISSIONER HERIOT: Second.

CHAIRMAN CASTRO: We had agreed that there would be an opportunity for you to discuss with OCRE a potential compromise. So, I'm hearing that your motion is no?

COMMISSIONER KIRSANOW: If the notational vote fails, we can do that.

COMMISSIONER NARASAKI: Can I say something?
CHAIRMAN CASTRO: Yes, Commissioner Narasaki?

COMMISSIONER NARASAKI: So, Commissioner Kirsanow, what we've been discussing is, is there an opportunity to get to a compromise. Obviously, if you don't agree then there's not going to be a compromise to vote on. So then, we will be voting on your motion.

So, what I would suggest, I think hopefully this takes into account what Commissioner Heriot was seeking, is that the notational vote will be on a compromise, if a compromise is reached. And, if not, we will be voting on Commissioner Kirsanow's motion.

COMMISSIONER KIRSANOW: I'm okay with that.

CHAIRMAN CASTRO: Yes.

COMMISSIONER HERIOT: Yes, I'm okay with that, too. That's what I was missing.

CHAIRMAN CASTRO: Okay. So, I don't -- we don't need a vote on that, that's -- we will proceed under that set of circumstances. Okay?

All right, so I think we're done with that.

Anything else for you?

MS. FRENCH-BELL: I don't know if you --

CHAIRMAN CASTRO: I think we're far from
MS. FRENCH-BELL: I don't know if you want me to talk about the town hall meeting plan as it currently stands or --

CHAIRMAN CASTRO: Does it make a difference what that timeline is?

MS. FRENCH-BELL: I may need to go back with staff and discuss to kind of come to a resolution. So, but I can present it as it is right now.

CHAIRMAN CASTRO: Why don't you do that?

MS. FRENCH-BELL: Okay. So, basically, what we're proposing is, of course, the primary briefing would take place in D.C. in January 2016.

We're also proposing a town hall forum meeting in Perry County, Alabama in late February or early March. And, the reason that we wanted it on that date was to make sure that it would not interfere with the other briefings. And, to the extent possible, to try to avoid inclement weather.

The reason that we chose Alabama, and we definitely wanted you input on this as well, because it's a central issue that's in the concept paper. It's the one area that has been a Title XI case that's been -- or a complaint that's been accepted and it also bring
together a lot of issues on disproportionate health impacts in communities of color.

The second option that we have is a Commission Subcommittee briefing and we have options for three locations, Chicago, Illinois or Joliet area, the other North Carolina, the Moapa River Reservation in Nevada. And that would be a choice of the Commissioners and we would schedule according to which ever location that you selected.

And then, the last action would be a maximum of two set advisory committee SAC forms.

CHAIRMAN CASTRO: Okay, you don't need to vote on that today?

MS. FRENCH-BELL: No, it would have been helpful, but we kind of need to sort the other issues out as well.

CHAIRMAN CASTRO: All right. Thank you. Any questions?

COMMISSIONER HERIOT: I'm a little confused here, Mr. Chairman. Are we talking about having a Chicago and Alabama town hall plus these meetings in Nevada and North Carolina?

MS. FRENCH-BELL: No, it would be in one of those three options. We do not have the time, staff
or resources for three, unfortunately. We'd love to do it, but we cannot.

COMMISSIONER HERIOT: Even that seems like a lot. I thought we were just going to do Alabama and Chicago.

MS. FRENCH-BELL: Chicago may be one of those three options for the second option for a subcommittee, there's an option for Chicago or even North Carolina or Nevada, so it would one of those three. So, it still could potentially be in Chicago, Illinois.

COMMISSIONER HERIOT: Oh, I misunderstood this. I thought that originally our plan was to have subcommittees do Perry County and Chicago and that was it.

CHAIRMAN CASTRO: So, there's three different things here, right? There's the hearing, there's a town hall and then there's these subcommittee, what, fact finding kind of?

MS. FRENCH-BELL: Right.

CHAIRMAN CASTRO: So, it's really three different levels is the way I understand it. So, it's not that there's going to be three different town halls, there's going to be one town hall, and then these sort
of lower level subcommittee fact finding, maybe something like what we did to the detention centers?

MS. FRENCH-BELL: Right.

CHAIRMAN CASTRO: Is that -- okay.

MS. FRENCH-BELL: Exactly.

COMMISSIONER HERIOT: I get back to my modesty point. You do too much and you're just going to foul up.

CHAIRMAN CASTRO: Okay. Well, point well taken. We'll figure it out when we vote on it.

COMMISSIONER NARASAKI: Mr. Chair?

CHAIRMAN CASTRO: Yes, Commissioner?

COMMISSIONER NARASAKI: So, I have a question about the SACs because my understanding is that we, as a Commission, cannot tell State Advisory Committees what to do. But, so I understand is an invitation, but I'm just wondering at the timing, right, because they would need to move quickly for them to be able to do something that could be incorporated in the report.

So, I'm just wondering how realistic that is?

MS. FRENCH-BELL: We're not entirely certain that that will take place. We just wanted to
ensure that we are including the SACs and giving them
the opportunity to participate if they would like to.

We worked with Mauro and Maureen to develop
a letter to send out to the SACS asking them if they
wanted to help. And it doesn't just have to be holding
a form, it could also be research that they may have
found in other arenas that they would like to send to
us for inclusion in the report.

COMMISSIONER NARASAKI: So, would there
be sufficient regional staff capacity to support this?
If a SAC volunteered to do that, would they have support
to do that?

MS. FRENCH-BELL: We would have to work
with the ASCD and we would actually probably let them
respond to that. They are aware that that's in the
plan. We did discuss it with them beforehand, but
perhaps it would be best to have ASCD comment on whether
there will be sufficient support for a SAC meeting.

MR. MORALES: In addition, let me -- I'm
sorry, this is Staff Director Morales.

In addition, we've been in contact with,
you know, the Director of the State Advisory Committee
Regional Office, David Mussatt. And he's reaching out
as well to the SACs to see what their level of interest
is.

And, there has been some level of interest with some SACs. Whether or not you're completely correct, Commissioner Narasaki, whether or not there's the time and the ability to do it, obviously, that remains to be seen.

But, we're hopeful that we can and that, you know, because the SACS are out there, obviously, in their states, they're more, you know, they're better positioned to be able to pull something together if they can't.

So, it's an option we want to explore and will continue to explore and we're hopeful that that could occur. But, it's, you know, of course, again, as you pointed out, it's the timing and certainly with, you know, a shortened time, that may actually not be a possibility and we may have to let it go.

COMMISSIONER NARASAKI: Right. No, I love the idea, it's just about making sure that it could be executed.

COMMISSIONER Kladney: Mr. Chairman?

CHAIRMAN CASTRO: Yes? Go ahead.

COMMISSIONER Kladney: I was wondering if OCRE has looked at this and all these hearings with the
SACs and things like that? How much does that cost and how many hours of staff time does it take to put all that together? Well, that they've estimated in their budget?

MS. FRENCH-BELL: We are working with ASCD and the Office of Management and also John with budget. We can put a proposal together to you and submit it for the next meeting.

COMMISSIONER KLADNEY: So, you don't have any idea how many hours or dollars it will take at this point even though you proposed it?

MS. FRENCH-BELL: We have a rough estimate, but we don't have a complete estimate and I would rather wait until we had a complete estimate to provide it.

COMMISSIONER KLADNEY: Well, what do you think the rough estimate is?

MS. FRENCH-BELL: As I said, I think it would be better just to give an accurate estimate. I don't want to misspeak and I want to make sure that we've considered all the factors, all the individuals that may attend.

For instance, if we're talking about Alabama, it would make a difference between how many
Commissioners decided to attend what the cost would be. So, I would hesitate to give a figure that didn't fully take into account the number of people who may be attending.

COMMISSIONER KLADNEY: Okay, so we don't have any idea at this time, we'll have one next month?

MS. FRENCH-BELL: I would rather wait until we have the most accurate estimate to provide one and I will do so next month, correct. Thank you.

COMMISSIONER NARASAKI: Can I ask a question?

CHAIRMAN CASTRO: Yes, Commissioner Narasaki?

COMMISSIONER NARASAKI: So, I think maybe what might help in terms of trying to do the estimates is to figure out if we can among the Commissioners how many actually intend to participate and have a more formal subcommittee than just necessarily who wants to show up. So, that's just my suggestion. I haven't discussed with the other Commissioners, so I don't know how they feel about that.

MS. FRENCH-BELL: That would be very helpful. Thank you.

CHAIRMAN CASTRO: Okay, any other
questions? If not, thank you. You're off the hot seat now.

Now, we'll move on to the next items on the Agenda. You should have --

COMMISSIONER HERIOT: Can I just make one comment, though, about seeing the list of witnesses that are supposed to come to our briefing in January on this, it is way, way, way long and it is not clear to me that we want to have anywhere near that number of witnesses.

CHAIRMAN CASTRO: Go ahead, Angela.

MS. FRENCH-BELL: That was our initial list of witnesses. The actual list will not be that long.

CHAIRMAN CASTRO: Okay.

MS. FRENCH-BELL: And, we will --

COMMISSIONER HERIOT: So, are those people that have had invitations or are they just people that you thought about?

MS. FRENCH-BELL: They're people who have had invitations. They will not all come.

COMMISSIONER HERIOT: How many have agreed to actually participate?

MS. FRENCH-BELL: I would say about 80
COMMISSIONER HERIOT: And more may be agreeing to participate in the future or have the others said no?

MS. FRENCH-BELL: I'm a little confused by your question.

COMMISSIONER HERIOT: Are the other invitation still pending, the 20 percent?

MS. FRENCH-BELL: Some of them have said no and some of them are still pending.

COMMISSIONER HERIOT: So, we've got the list of who said yes and who said no and who's still pending?

MS. FRENCH-BELL: Yes, we will send that around next week. Thank you.

II. PROGRAM PLANNING

DISCUSSION AND VOTE ON APPROVAL OF LETTER TO SOLICITOR GENERAL REGARDING FISHER V. UNIVERSITY OF TEXAS

CHAIRMAN CASTRO: Okay. Next, we have a discussion and vote on the approval of a letter to the Solicitor General regarding the Fisher v. University of Texas case.

As you recall, two of our colleagues have
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submitted an amicus brief. Some of us believe that it improperly confuses their role as Commissioners and it makes it appear that they're statements in support or I should say against the University of Texas admission policy is the position of the Commission, which it is not.

    We have drafted a letter to the Solicitor General asking that office to ask the Clerk of the Supreme Court to change the caption on their docket so that it is clear that it is not Commission or couldn't imply that it is Commission related amicus brief.

    We wanted to vote on this letter via notational vote a couple weeks ago. Commissioner Kirsanow objected, therefore, the letter is here.

    You have all seen the letter previously as well as in your packet. So, any motion so that we can have a discussion?

    COMMISSIONER ACHTENBERG: So moved.

    CHAIRMAN CASTRO: Okay. Commissioner Achtenberg moved. Madam Vice Chair, you second?

    VICE CHAIR TIMMONS-GOODSON: I second.

    CHAIRMAN CASTRO: Any discussion?

    COMMISSIONER KIRSANOW: Yes, Mr. Chairman, Kirsanow here.
CHAIRMAN CASTRO: Go ahead, Commissioner.

COMMISSIONER KIRSANOW: I'll simply note that if anyone is confused by that brief, then they have no business being involved in the Supreme Court.

The brief is clear in so many different respects that it was filed on our individual basis and as counsel has marked, my firm name is on the brief. It doesn't say anything about the Commission on it.

This amicus brief that was filed all make it abundantly clear on whom's behalf such Commission brief is filed, whether it's Members of Congress, in this particular case, you have a number of interest groups that have filed, universities that have filed, think tanks that have filed, make it abundantly clear on whom's behalf it's filed.

In our brief, in several different locations, Mr. Harriet and I make it completely clear this is being done on our individual capacities.

So, my point to you is that this letter is overkill and I think it would be an embarrassment to the Clerk of the Court, the Solicitor General, the various Clerks in the Supreme Court, the Supreme Court Justices, if they were to concur that somehow they were confused by my brief.
CHAIRMAN CASTRO: The public docket entry -- Commissioner Kladney, let me speak and then I'll let you.

The public docket entry says brief, amici curiae of Gail Heriot and Peter Kirsanow, Members of the United States Commission on Civil Rights. If that does not imply your titles, then I don't know what does.

And, if anything is an embarrassment, it is two Commissioners of the United States Commission on Civil Rights standing up against Affirmative Action.

So, we want to that trend to change and in your substantive amicus brief, you can say what you want. We want to clear the public record so that it is clear that those titles do not appear there.

Commissioner Kladney?

COMMISSIONER KLADNEY: That's really all I had to say. I mean the brief speaks for itself, but it's just the docket entry that seems to be incorrect and I'm sure that Commissioner Heriot and Commissioner Kirsanow would not want somebody to come by or in the press and read that and say United States Commission on Civil Rights, that would be a misreading and I'm sure nobody wants that to happen.

COMMISSIONER KIRSANOW: I would say that
having mitigated cases in the U.S. Circuits and Supreme Court and elsewhere, that almost those who look at the docket are the individuals I just mentioned. There may be an extreme member of the public that may have had too many comments to say, but who's going to look at the Supreme Court docket? No one else looks at that thing, no one in the world is going to be confused by this thing.

COMMISSIONER Kladney: Then they're opened up for a challenge.

COMMISSIONER Kirsanow: If they simply look at the thing, I'm saying it's superfluous.

CHAIRMAN Castro: Commissioner Narasaki?

COMMISSIONER Kirsanow: But, why -- you don't mind if nobody's looking at it.

CHAIRMAN Castro: Order, order.

Commissioner Narasaki? Commissioner Narasaki?

COMMISSIONER Narasaki: So, I would actually like to note two things. The reason that it's improperly put into the docket is because the caption, unfortunately, erroneously included the titles. If you had left the caption at the two individual names, we would not have this problem.

So, I just want to note that it came from
the fact that the caption, unfortunately, was erroneous even though, internally, it makes it clear that you are not filing on behalf of the Commission.

The second thing is that I actually follow this issue very closely and, in fact, every time this case has been argued, the New York Time, the USA Today and other broadly circulated newspapers have actually listed all of the amici to show that the incredible interests and diversity of people weighing in.

So, while, Pete, you're right that people will not be necessarily running to the docket, it actually does get written about and that's what we're concerned about.

CHAIRMAN CASTRO: Madam Vice Chair?

VICE CHAIR TIMMONS-GOODSON: I was just wondering if in light of Commissioner Kirsanow's statement if he would consider simply removing that language, Members of the United States Commission on Civil Rights and that would, you know, since, as you say, no one looks at it, that would just clear it up and we -- I was just wondering if you would consider doing that?

COMMISSIONER KIRSANOW: I'll talk with Commissioner Heriot about it. I'm not inclined to do
so because I don't think there's been any risk of confusion. Again, I tend to think that the folks who are interested in this case are pretty smart. And, if they're interested in it, they're simply not going to look at even a public page and say, well, you know, this is the Commission's position.

In addition to that --

COMMISSIONER ACHTENBERG: Mr. Chairman?

CHAIRMAN CASTRO: Yes, Commissioner?

COMMISSIONER KIRSANOW: -- there's a very small hall closet of people interested in this issue on in terms of what my side of the issue says. They will not look at this, they know who Gail Heriot and Peter Kirsanow are. They have absolutely no doubt what our position is.

CHAIRMAN CASTRO: Commissioner Achtenberg?

COMMISSIONER HERIOT: Mr. Chairman?

CHAIRMAN CASTRO: Commissioner Achtenberg first and then Commissioner Heriot.

COMMISSIONER ACHTENBERG: Mr. Chairman, my concern is that there are ethics implications for identifying oneself either primarily or exclusively as a Commissioner of the United States Commission on Civil
Rights.

We have been admonished on many occasions that we're only entitled to use the moniker in a series of attributes and not either as the exclusive or the primary. And, that's the nature of my concern here.

And, I think if that is indeed the ethical standard, then this needs to be stricken and, it's my recollection that, internal to the brief itself, there may be -- need to be edits to the ways in which the Commissioners identify themselves.

So, I think is an ethical issue as well as an issue of potential misunderstanding.

COMMISSIONER KIRSANOW: Mr. Chair, if you'd please let me respond to that --

CHAIRMAN CASTRO: Commissioner Heriot wanted to speak.

COMMISSIONER KIRSANOW: If the very cover misstates who we are, it is not just the Commissioners, we state that Professor Gail Heriot is at the University San Diego School of Law, I'm at Benesch, Friedlander, Coplan & Aronoff. We spend two pages pursuant to Supreme Court rule identifying our interest and who we are.

It is said quite clearly that we are
part-time appointees of the Commission on Civil Rights. We are filing this brief and amici in our individual capacity as private citizens.

Again, I tend to give credit to people in our industry, in our business, that they can read and that they can understand what this means and they're not going to be confused under any circumstances about what this is, particularly because everybody who's interested in this issue knows the Commission consists of eight people and that Gail Heriot and Peter Kirsanow are only that Commission.

CHAIRMAN CASTRO: Commissioner Heriot?

And then we're going to call this for a vote.

COMMISSIONER HERIOT: Yes, the only thing I can add is that, you know, briefs are routinely filed by Members of Congress and they're identified as such. Nobody in their wildest imagination thinks they're speaking for Congress.

Our brief, if anything, was much more adamant about the fact that we were filing in our private capacities. We do not primarily identify as Commissioners. To the contrary, we say this is being done in our private capacity.

I'm happy to call the question.
CHAIRMAN CASTRO: Okay. We're going to call the question then.

Madam Vice Chair, how do you vote?

VICE CHAIR TIMMONS-GOODSON: Yes.

CHAIRMAN CASTRO: Yes?

Commissioner Narasaki, how do you vote?

COMMISSIONER NARASAKI: Because the caption on the brief only refers to being Members of the Commission, I vote yes.

CHAIRMAN CASTRO: Commissioner Kladney, how do you vote?

COMMISSIONER KLADNEY: Yes.

CHAIRMAN CASTRO: Commissioner Achtenberg, how do you vote?

COMMISSIONER ACHTENBERG: I concur with Commissioner Narasaki precisely for that reason, I vote yes.

CHAIRMAN CASTRO: Commissioner Kirsanow, how do you vote?

COMMISSIONER KIRSANOW: No.

CHAIRMAN CASTRO: Commissioner Heriot, how do you vote?

COMMISSIONER HERIOT: I vote no.

CHAIRMAN CASTRO: And I vote yes.
The motion passes with one, two, three, four, five yeses and two nos.

II. PROGRAM PLANNING

DISCUSSION AND VOTE ON APPROVAL OF
PUBLIC STATEMENT REGARDING
FISHER V. UNIVERSITY OF TEXAS

CHAIRMAN CASTRO: Similar to this issue, we circulated I believe this morning, Sheryl circulated a statement that we want to issue on this matter to the public. Hopefully everyone received that.

I don't know if you want me to read this and then -- or, you know, let's do a motion and then a second and then we can discussion.

VICE CHAIR TIMMONS-GOODSON: Mr. Chair, I move that the Commission issue the statement to which you refer regarding the Supreme Court deciding soon Fisher v. University of Texas at Austin.

CHAIRMAN CASTRO: Is there a second?

COMMISSIONER NARASAKI: I'll second.

COMMISSIONER ACHTENBERG: I'll second.

CHAIRMAN CASTRO: Do folks want me to read this or has everyone had a chance to take a look at this?

COMMISSIONER Kladney: Can I call for the question?
CHAIRMAN CASTRO: Any discussion?

Okay, you can call for the question, Commissioner.

Madam Vice Chair, how do you vote?

VICE CHAIR TIMMONS-GOODSON: Yes.

CHAIRMAN CASTRO: Commissioner Narasaki, how do you vote?

COMMISSIONER NARASAKI: Yes.

CHAIRMAN CASTRO: Commissioner Kladney, how do you vote?

COMMISSIONER KLADNEY: Yes.

CHAIRMAN CASTRO: Commissioner Achtenberg, how do you vote?

COMMISSIONER ACHTENBERG: Yes.

CHAIRMAN CASTRO: Commissioner Kirsanow, how do you vote?

COMMISSIONER KIRSANOW: No.

CHAIRMAN CASTRO: Commissioner Heriot, how do you vote?

COMMISSIONER HERIOT: No.

CHAIRMAN CASTRO: And I vote yes.

The motion passes with five yeses and two nos. So, this will be the public statement of the Commission. We'll have our press office issue it as
II. PROGRAM PLANNING

DISCUSSION ABOUT DECEMBER 11TH EVENT AT
THE LINCOLN COTTAGE CEREMONY

COMMEMORATING THE PASSAGE OF

THE 13TH AMENDMENT

CHAIRMAN CASTRO: Okay, now we're moving on to a discussion of our December 11th event at the Lincoln Cottage commemorating the passage of the 13th Amendment.

Mr. Staff Director?

MR. MORALES: Thank you, Mr. Chairman.

I'd like to just update the Commissioners on the progress and where we are.

Barbara de La Viez is not here with us but she's been spearheading a lot of this effort. We've been working with numerous of your staff assistants regarding, but I, nevertheless, still wanted to just call your attention to it now that we're getting pretty close it.

The date of the event, of course, I want to remind you, is December 11th. It'll be from 10:00 a.m. to 12:00 a.m. It'll be at the Lincoln Cottage in Northeast Washington, D.C. It'll be in the room where
President Lincoln drafted and wrote the draft of the Emancipation Proclamation.

And, of course, the celebration or the ceremony that we're having that day will be in commemoration of the passage of the 13th Amendment.

The room can handle up to 75 people maximum and we've gone through and looked at the number of invitations for Commissioners. We have six invitations per Commissioner. That invitation will include their -- does not include their special assistants, so if they want their special assistant to attend, then they need to allot one of that invitation to their special assistant.

We're in the process of drafting an Evite and we're actually sharing it today with the Chair to get his approval on it that we'll -- what we'd like to do is by the end of next week or at some time, we'll give you a date in the next week or less, probably in the next week, when we would like your -- the names and email addresses of the six individuals you would like to invite so that we can send that email -- I'm sorry, that Evite to them.

And we could have -- it's going to be to Barbara to RSVP so that we have a solid number, an
ongoing number as to the number of people that could attend. Because, again, it is limited in terms of the size of the room.

Staff, we're also trying to allot the opportunity for staff to attend. There's an overflow room if need be, but, you know, perhaps that may not occur. Not all the invitations are used up.

The program that we've created is, and I'll just read it to you. You'll get a draft of all this or you'll get this in the next days here.

But, the way we have the program set up right now is that at 10:00 a.m., the event will start. The Chair will be the Master of Ceremonies. There'll be five minutes of welcome remarks by the Director of Lincoln Cottage, five minutes of remarks by the Chair.

Commissioner Heriot has asked for an opportunity to make comments, so we've allotted five minutes of time for her at the beginning there.

We'll have approximately 15 minutes of singing by either a choir or singers, we are still working on that. We haven't been able to nail down a quartet or a singer and we're still working on that.

We have a panel, so that should end those two segments from -- it should go from 10:00 a.m., 10:15
and then should end at 10:30, that the end, you know, the singing.

And then we'll have a panel of scholars that will be moderated by the Chair. And, I'll just, very briefly, the three scholars we have, we're very excited about them.

One is a gentleman named Christian Samito. He holds his law degree from Harvard Law. He's a -- and a Doctorate in History from Boston College. He's the author of Lincoln and the 13th Amendment which was released this year. It's, I believe, on the best seller's list. He's been on numerous television shows to discuss the book and the 13th Amendment.

He's an editor of a legal history documentary and two Civil War -- he owns two Civil War letter collections. He teaches legal and Constitutional history at BU, Boston University School of Law and practices law in Boston.

And, I only mention his name to all the individuals we are reaching out to become a part of this panel, they were all very excited about his, you know, participation because he's viewed as, right now, as the preeminent scholar and figure on the 13th Amendment and as well as the Lincoln Cottage being very
excited about our being able to have secured him.

We also have Edna Greene Medford. She's the Chair of the Department of History at Howard University. She received her PhD from the University of Maryland in U.S. History. She's also published numerous books on African-Americans during the Civil War.

She's on the Scholar Advisory Circle for the Lincoln Cottage itself and she's also the author of several books including the Emancipation Proclamation, Three Views.

The third and final individual we have selected is George Rutherglen. He is a John Barbee Minor Distinguished Professor of Law at the University of Virginia. He's a former law clerk to Supreme Court Justice William O. Douglas, John Paul Stevens.

And, he has published numerous articles about civil rights, and in particular, Civil Rights in the Shadow of Slavery.

So, these three individuals should bring the type of caliber of scholar and academic, you know, interest that you will be able to appreciate, we hope.

And then, the panel will be opened up to after they've -- they'll each get 20 minutes to, you
know, discuss their views and their viewpoints on the Emancipation Proclamation -- I'm sorry, on the 13th Amendment and then we'll open it up for 25 minutes of question and answers for the Commissioners.

So, the Commissioners that wish to participate or, you know, make a statement or a remark at that time would be appropriate, and of course, ask these individuals their views and, you know, what they've just commented on.

So, we're very excited about that. That should end at approximately -- that should begin at about 11:30 and end about 11:55.

We're going to have five minutes of closing remarks by the Vice Chair. And, we're hoping the event will end at approximately 12:00 or shortly thereafter.

We will have -- we're looking into having a shuttle bus available here in the morning prior to going to the Lincoln Cottage. So, those of you that wish to ride on the shuttle bus and special assistants and staff will be able to.

We're hoping that once the event ends, we'll be able to come back here, get back here about 12:30 there and about so that you have a little bit of time to freshen up and have some lunch.
And then, perhaps, and then we're planning on starting the hearing at 2:00 p.m. I'm sorry, the business meeting of the Commission at 2:00 p.m. We believe it will go maybe an hour and a half, hour or maybe a little shorter.

I think the General Counsel's office is looking to have a period of time for some ethics training for the Commissioners since many of you will be here. If you're not, they'll work something else out.

And then, after that, we're going to have a holiday party for the staff with the Commissioners immediately thereafter, maybe start about 4:00, something like that for an hour, hour and a half.

And, I understand that some Commissioners have been graciously -- have graciously offered to provide some, you know, refreshments and food for the party. So, we want to thank the Commissioners for their generosity in doing that as well.

So, that's what I have at this point on the Lincoln Cottage. Again, you will be getting an email from me asking for your invitations and then, we'll also send you a copy of the Evite so you can see what is being sent to your guests.
So, do you have any questions?

Yes, Commissioner Narasaki?

COMMISSIONER NARASAKI: Yes, I understand that the plan was to allot so many invitations per Commissioner.

MR. MORALES: Yes.

COMMISSIONER NARASAKI: But, I'm think it's important for the staff to think about who are stakeholders apart from who we might want to invite. For example, Members of Congress, members in the Administration, who are our stakeholders before we individually decide what we want to do.

So, my suggestion would be to set aside some number for people that, as an institution, the Commission should be inviting.

MR. MORALES: I think that's a great idea. We'll very much do so. We'll see if your --

COMMISSIONER NARASAKI: In addition, you might want to invite some media as well.

MR. MORALES: Yes, we're looking into that. We've been told that C-SPAN is very interested in taping it. And, the Lincoln Cottage will tape it so that we'll have it available to put onto the website so that folks can catch that link and see what the event
was.

We looked at -- we looked into web streaming and to, you know, doing it live but it was too expensive and the Lincoln Cottage didn't have the facilities or the ability to do that. And we would have had to bring all that equipment in and it would have been a much more expensive.

But, I'd definitely like to work with the Commissioners and any ideas they have of some, you know, distinguished stakeholders or others that we should invite.

Our only concern is that if we invite them, we want to make very clear to them that they're not going to have a speaking role. This is, you know, a lot of times, Members of Congress won't show up unless they're the ones that get to speak. And I wouldn't want to disappoint them.

But, in any case, yes, definitely, we'll work with you and your staff and the staff assistants to get some names.

Thank you.

Any other questions?

VICE CHAIR TIMMONS-GOODSON: This is not a question, but of course, this program has not taken
place yet, but I'd like to say based on what I've heard, it's going to be a grand event and I can already tell that a lot of work has gone into it. And so, I applaud all that have worked on it thus far.

MR. MORALES: Well, thank you. I, you know, obviously, the credit goes to a lot of the staff. Barbara's really stepped up to make a big difference as well as Pam and the special assistants. I mean I've worked with, you know, Alison and Sheryl and Amy and Jason, they've all, you know, kind of given their input. And, you know, obviously, they speak for the Commissioners and wanted to make sure that, you know, it's a quality event that the Commission can feel proud of and we hope that will be the end result and that's what we're working towards.

So, thank you.

II. PROGRAM PLANNING

DISCUSSION AND VOTE ON APPROVAL OF LETTER TO ATTORNEY GENERAL LYNCH REGARDING PROSECUTIONS OF CHINESE AMERICANS FOR SPYING AND ESPIONAGE

CHAIRMAN CASTRO: Great. Now we move on to a discussion and vote on a letter to Attorney General Lynch regarding prosecutions of Chinese
Americans for spying and espionage.

I'll turn this one over to Commissioner Narasaki.

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

I have proposed a draft -- a letter to Attorney General Lynch concerning the recent prosecutions of Chinese American scientists for alleged spying and economic espionage.

According to a recent article in Science Magazine, in the past five years, five Chinese born scientists have been accused of trade secret theft or economic espionage only for the federal government to drop the charges.

In one case involving a Temple University physics professor, Mr. Xiaoxing, who was arrested for allegedly sharing confidential schematics of superconductor equipment with scientists in China.

The FBI agents raided his home with guns drawn and he was taken away in handcuffs in front of his wife and children.

He's a naturalized citizen and the charges were dropped after other scientists informed the Government that the blueprints he shared were not
actually for the equipment that he was charged with
sharing and, in fact, were not under any kind of trade
secret.

Now, of course, he was cleared and I want
to acknowledge the, you know, the courage of the U.S.
Attorneys who have dropped charges when they're faced
with evidence that there are, in fact, is a total lack
of evidence which has happened in numerous occasions
because of mistakes about what they're even basically
being charged with having taken.

It is not clear whether racial profiling
is involved in the targeting investigations, but there
does appear to be enough instances of a rush to judgment
and a lack of sufficient care taken before someone is
arrested when Chinese Americans are the target.

Over 40 Members of Congress just this week
and also, I think, almost 50 Asian and Chinese American
organizations have raised similar concerns and have
asked for the Attorney General to take a look at this
and make sure that what they are doing is fair and
complies with what our values are of due process.

So, accordingly, I'm asking the Commission
to call for the Department of Justice to conduct an
investigation as to whether federal investigators and
prosecutors either improperly or over relying on race. Or, need to increase training and oversight over the ongoing and future investigations to make sure that, in fact, these gross errors of in terms of evidence and judgment do not happen again.

Even though these individuals get cleared, for example, Dr. Xi who was the head of his department and he lost that position. In addition, the attorneys have put such pressure on his family that his daughter had to consider whether she had to withdraw from college.

So, even once you're cleared, there are consequences to families wrongly charged.

CHAIRMAN CASTRO: Do you have a motion?

COMMISSIONER NARASAKI: So, I move that the Commission send the draft letter to the Honorable Loretta Lynch.

I want to thank the Commissioners, my fellow Commissioners, for their constructive comments. We dialed back the tone a little bit of the letter and I believe the special assistants all got the redline of the updated draft letter.

CHAIRMAN CASTRO: Is there a second?

COMMISSIONER ACHTENBERG: I second it.
CHAIRMAN CASTRO: Okay, any discussion?

VICE CHAIR TIMMONS-GOODSON: The only thing that I would add, Mr. Chair --

CHAIRMAN CASTRO: Please turn your mic a little closer.

VICE CHAIR TIMMONS-GOODSON: The only thing that I would add, Mr. Chair, is in light of events going on around the world and here in this country, I think this letter's a very appropriate reminder. And, I support it.

CHAIRMAN CASTRO: Okay. Any other discussion? If not, I'll call the question.

All right, Madam Vice Chair, how do you vote?

VICE CHAIR TIMMONS-GOODSON: Yes.

CHAIRMAN CASTRO: Commissioner Narasaki, how do you vote?

COMMISSIONER NARASAKI: Yes.

CHAIRMAN CASTRO: Commissioner Kladney, how do you vote?

COMMISSIONER KLADNEY: Yes.

CHAIRMAN CASTRO: Commissioner Achtenberg, how do you vote?

COMMISSIONER ACHTENBERG: Yes.
CHAIRMAN CASTRO: Commissioner Kirsanow, how do you vote?

COMMISSIONER KIRSANOW: I appreciate Commissioner Narasaki's work on this, but for those particularly by the Vice Chair, while taking a different conclusion, I think we have to be careful as a Commission, while although ensuring as for which we are poorly qualified in.

This is an area that is very sensitive and we have to largely look at whether or not there is some type of unresolved prosecution.

This is a very narrow area and I don't really know that I've got sufficient information to take a vote, so I'm going to abstain.

CHAIRMAN CASTRO: Commissioner Heriot, how do you vote?

COMMISSIONER HERIOT: I have a lot of sympathy for this letter and it's possible that I might write something else. But, I'm going to have to abstain on this. I just feel like I don't know enough to vote yes.

CHAIRMAN CASTRO: And, I vote yes.

So, we have a motion that passes with five yeses and two abstentions. Okay, and then we'll have
III. MANAGEMENT AND OPERATIONS

REPORT BY SAC CHAIR FOR KANSAS

CHAIR CASTRO: We now move on to Management and Operations. Did you want to handle that?

MR. MORALES: Yes, Mr. Chairman, thank you.

Before I get into the staff report, I'd just like to open it up to David Mussatt who I believe is on the line. We have the SAC Chair for Kansas who will give us an update on their findings and their report.

COMMISSIONER NARASAKI: I'm sorry, before we do that, I forgot to ask if we -- if the Commission could ask the staff to do a press release about the letter?

CHAIRMAN CASTRO: Yes, we'll do that.

MR. MORALES: Yes.

COMMISSIONER NARASAKI: Thank you.

CHAIRMAN CASTRO: Yes, so it's the Kansas Report on Seclusion and we started in Kansas schools. It was an advisory memo that was presented to us.

MR. MORALES: And, the Kansas, you know,
SAC had worked very hard on this and wanted to report to the Commissioners.

And so, we've been in touch with them and, David, I know you're on the line, so I'll let you introduce the SAC Chair.

David? David?

CHAIRMAN CASTRO: Maybe he's not on the line.

MR. MORALES: Maybe he's not on the line.

CHAIRMAN CASTRO: Is the SAC Chair on the line?

MR. MORALES: Is the SAC Chair on the line?

MS. KRONK WARNER: Yes, this is me, I'm on the line.

MR. MORALES: Oh, okay. Well, then, for some reason, we're having technical difficulties with David, but please, introduce yourself and go forward with your presentation.

MR. KRONK WARNER: Great, thank you so much and I appreciate the time and attention of the Commissioners on this issue. We certain appreciate you taking a look at it.

My name's Elizabeth Kronk Warner, and just by way of brief introduction, in addition to serving
as Chair of the Kansas Advisory Committee, I am also a professor of law and Associate Dean for the University of Kansas School of Law and a Citizen of the Sault Ste. Marie Tribe of Chippewa Indians.

Although, I do want to make clear that I'm speaking in my capacity as Chair of the Committee and not in my capacity as an employee of the University of Kansas today.

I'd also just like to briefly start off by thanking David and also Melissa Wojnaroski for their wonderful support and work. As I'm sure you're aware, we couldn't do what we do as a Committee without their support. So, I'm very appreciative of all they do and just want to acknowledge them.

So, the report that we have sent to you and, hopefully, I'm going to assume that everybody has a copy of that, so I won't waste your time by just reading the report, is specifically an issue that was brought to our attention as one of potential concern in Kansas, and that's the issue of seclusion and restraint.

And, as you saw in the report, initially, we looked at this from the lens of disability because, of course, disability is part of the Commission's charge. But then, as you'll see throughout the report,
we believe that there may be intersections with race as well.

And so, that, as we'll talk about in a moment, one of our recommendations to the Commission is that additional information gathering as to that intersection would be very helpful. But, at the very least, we know that this is potentially an issue, or we received testimony to the fact that this is an issue with disabled people.

And so, we held a hearing on this issue on March 23rd of this year. And, I just want to bring your attention to the second full paragraph of our report on page one to highlight the fact that the purpose of this look was limited in scope because, as you may be aware, we're actually gearing up as a committee to really do an in depth and substantial look at voting rights in Kansas.

So, we didn't have the time, quite frankly, to really go in depth on this issue. But, we wanted to get a sense of whether there was an actual problem and then whether federal intervention or federal involvement would be appropriate.

So, I do want to highlight the fact that this was a limited look at this particular topic. And,
as you'll see in our recommendations, we actually recommend that the Commission look at this a little bit more in depth based on what we discovered in our own hearing.

And then, of course, this memorandum that you received and the recommendations were approved by a majority of our committee on May 27th of 2015.

In terms of background, it is important to note that seclusion and restraint can be particularly detrimental to children with disabilities. On page two of the report, you'll see that the National Disability Rights Network says that children with disabilities are at increased risk of injury, both mentally and potentially physically, through seclusion and restraint. So, this is a vulnerable population.

Also, currently, there are federal laws in place to protect children in medical institutions and hospitals and inpatient institutions, but we currently don't have federal regulations in place for children in schools.

Now, we do have the Department of Education's restraint and seclusion resource document, but that is not binding on schools, that is a guidance document.
So, right now, we don't have any binding federal law on the issue of seclusion and restraint in schools, but we do have it in other contexts.

Now, as the memo points on page three, there could potentially be some protection for students with disabilities under other federal Statutes such as the Individuals With Disabilities Education Act, Section 504 of the Rehabilitation Act and then also, of course, the Americans With Disabilities Act.

The protections may exist, however, that concrete, clear protection doesn't seem to be spelled out. And, as you'll see in the testimony and our recommendations, that's one of the areas of why we think that it would be helpful for the Commission to do increase investigation is to clear up some of these areas of confusion.

And then, continuing on on page three, there's a wide variety of ways in which the States have addressed this issue. And, in fact, the 2009 GAO report concluded that 19 States including Kansas, at the time, had no laws or regulations related to use of seclusion and restraints.

And, then of course, the paragraph goes on to explain that other States have adopted various laws
on this particular issue.

Now, in 2013, here in Kansas, the State Board of Education passed the Emergency Safety and Intervention Regulation which remain in effect today. And, if you look at page four of our report, you'll see the six things that are required under the Emergency Safety and Intervention Regulation.

Now, the concern, if you look in that first paragraph on page four, is that, while certainly these six things are helpful and fill that void that the GAO report talked about in 2009, there's still a concern from some about implementation and enforcement of those standards because implementation and enforcement is left completely to the digression of the individual school districts.

So, there's confusion about implementation and enforcement and also, there's not uniformity.

Also continuing on on page four, data collection and reporting is varying widely by State. And, one thing I do want to draw your attention is the last sentence on the second paragraph on page four which says that as part of this project, our committee issued a formal request for seclusion and restraint data to
the Kansas State Department of Education. The Department noted that available data was limited as prior to 2013 data reporting for each school was not mandatory.

And then, if you continue on page five, furthermore, the committee's request for available data to be disaggregated by disability status, race and sex was denied by the Data Release Board.

So, one of the challenges that our committee encountered was, even though we submitted this request to the State for the information, we didn't receive it. We resubmitted a request and we didn't receive it. So, we did encounter challenges in obtaining that information the State.

Moving on on page five, the first full paragraph does talk about the fact that the committee recognizes that there is some data that suggests that there is intersecting disparities on the basis of race and color. So, again, this is something, as you'll see in our recommendations, the committee -- excuse me -- to the Commission that additional information would be helpful.

Moving on to our actual panel testimony that the committee received, you'll see that we
received testimony from Tonya Wade who is a parent who spoke really passionately and forcibly about some significant trauma, both physical and emotional, that her daughter encountered as a result of seclusion.

We also heard from Kathleen Johnson who's an attorney with the Disability Rights Center of Kansas. And, her testimony, as you can see from the report, focused on some confusion in the existing laws, specifically, some confusion about what constitutes immediate danger.

She also spoke about some concerns about the complaint process that exists. Parents expressed concern that there might be retaliation from the school districts and also that there's no clarity as to when seclusion and restraint is used.

Also, I would specifically point out the second full paragraph on page seven of her testimony or the memo summary of her testimony, speaks to KAR 91-42-1 and 91-42-2 which are specifically mentioned in the Office of General Counsel's report to David Mussatt which is dated November 17 on our memorandum. So, we'll come back to that at the very end.

But, I do want to note that Ms. Johnson mentions those provisions in her testimony and spoke
specifically to them.

We also heard from Laura Jurgensen from the State Department of Education who spoke about the State's efforts and the State implementation.

Ms. Jurgensen also noted, if you look at the first full paragraph on page nine, that there's currently no federal law governing the use of seclusion and restraint in schools, so she noted the absence of federal law as well.

And then, we also heard from Terry Collins, Legislative Liaison for the Kansas Association of Special Education who testified about the current regulations that are in place and spoke about how the purpose of these regulations was really to address some of the concerns such as those that were mentioned in the 2009 GAO report.

So, Kansas has certainly taken efforts since that 2009 report to, again, fill the void.

That brings me to our committee's conclusions from our hearing.

First off, as we mentioned, as I've mentioned a couple of times, there are no clear federal rules addressing children with disabilities in schools in regards to seclusion and restraint.
Also, the effectiveness, even though Kansas certainly has taken steps in this regard since 2009 with the passage of the regulations in 2013, the effectiveness of those regulations is unclear.

There's also a disconnect between parents perception and administrative perception. And, one of the concerns that we heard in the testimony was that implementation and enforcement is left to the individual school districts so we don't have uniformity on these issues.

And then also, another concern is that the procedures for data collection are left to the individual school districts, so it's not clear whether or not we're getting uniform data. And, again, so that makes it very difficult for us to get data just aggregated by race, color, disability or sex as a result of that.

And then, last, we also concluded that there appear to be barriers to effective dispute resolution.

As a result of those, you'll see that our recommendations start on page 13. The first thing is we recommend that the Commission should collaborate with the U.S. Department of Education to review state
by state data and to take a deeper look at this issue and to see where there might be disparate impacts based on disability or potential sex, race color, because, as we mentioned in our report, we encountered obstacles to getting effective data.

And then, our second recommendation is that, if the Commission should determine that there is a disparate impact, then the Commission should issue specific recommendations to the U.S. Department of Education that govern the practices under the U.S. Constitution.

Also, it would be helpful as the committee determined in its hearing and its findings, that a clear complaint and appeals process would be very helpful because, as was elicited in our testimony, there appears to be some confusion as to complaint and appeal processes.

And then, last but not least, I also wanted to just draw your attention to page 14. Our fourth recommendation, is that, as I mentioned earlier, we did not receive a response from the Department of Education, U.S. Department of Education I should specify, as to our inquiry into this topic. And, it's my understanding that 42 USC Section 1775(b)(e)
specifies that all federal agencies shall cooperate fully.

So, we were disappointed that we did not receive cooperation from the U.S. Department of Education and we would appreciate the Department of Education's cooperation in the future because this is obviously a really important issue, especially for children with disabilities.

And then, lastly, I'll just mention, I received a copy of the Office of General Counsel's memorandum to David Mussatt. I personally haven't had a chance to talk to my entire committee. I have no objections to the recommendation to include the language that is included on page one.

I would just point out the General Counsel's language references the KAR 91-42-1 and 91-42-2 which Kathleen Johnson does or did talk about in her testimony which is captured at page seven.

And, as she specifies in her testimony, even with passage of those regulations, she indicated that she or her center still has two concerns, first, that the proposed amendment limits parents to requesting an administrative review regarding one of nine identified types of issues.
And then, second, that the authority of the hearing officer is very discretionary.

So, those two regulations were addressed in the testimony to the committee.

And, that constitutes my report. Again, I very much appreciate your time and attention and I would be happy to answer any questions.

CHAIRMAN CASTRO: Madam Chair, this is Chair Castro.

First of all, thanks for serving as Chair of the SAC. I know that's important work and we appreciate your willingness to serve the people of your State but also to work with us at the Commission on really important topics like this.

I can tell you one thing we can certainly do right off the bat is send this report to the Department of Education on our behalf. We can talk among Commissioners to see if maybe there's something more specific we could send in terms of asking for action. But, we will review this and discuss amongst ourselves what more substantive steps we could take to support your efforts here.

I did have a question. There's been a lot of news recently about, in essence, criminalization of
schools and we saw some recent videos where youth were being essentially subjected to use of force by local community affairs police officers.

I would image some children with disabilities have some issues which may be misinterpreted as acting out or other things. In your briefing and in your hearing on this topic, did you run into any issues with regard to how the children are being treated when it comes to interactions with law enforcement within the schools?

MS. KRONK WARNER: Yes, and so first, let me just start off by saying thank you so much for forwarding this on to the Department of Education. We very much appreciate that.

And, as to your question as to policing in the schools, unfortunately, no. My recollection is that none of the individuals who testified in front of us specifically spoke to the issue of policing. And, unfortunately, our hearing was relatively limited in scope.

But, I will say that kind of related to that issue that you raised, Chairman, about the fact that children with disabilities, somehow their actions can sometimes be misinterpreted, Kathleen Johnson did
testify to the fact that, and you'll see that on page six, the first paragraph of her testimony, that increased information or clarification of what constitutes an immediate danger would be helpful for exactly the reasons that you're articulating that sometimes the actions of children with disabilities may be misinterpreted. And so, increased clarification on that immediate danger standard would be helpful.

And, she also recommends serious physical harm, but at the very least, increased clarification on immediate danger would be helpful.

CHAIRMAN CASTRO: Yes, yes. We held a briefing on the police use of force in New York earlier this year and we had testimony from the Disability Rights community that, I forget the exact number, but well over half of the instances of use of deadly force by police involve someone with a disability. So, you know, it's clearly an issue that's on our radar screen.

Other Commissioners have questions?

Commissioner Narasaki?

COMMISSIONER NARASAKI: Yes, thank you, also and thank you very much for this really well-written memo. It raises a lot of important issues.

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I had a question, there's a letter in Appendix C from the Kansas Department of Education, State Department of Education, and if I understand it correctly, it's requesting that the Office of Civil Rights monitor statewide implementation. Are they referring to the Department of Education's Office for Civil Rights? Because it was directed to the Director of the State Advisory Committee's David Mussatt for the Commission.

MS. KRONK WARNER: Yes, and that was, quite honestly, something that we were confused as well. We were uncertain whether that was a statement from Director Riley that she would like to see the State take care of that and it wasn't something that we were able to get increased clarity from her.

But, if that would be helpful to the Commission, I would be delighted to reach out to Director Riley to get clarification on that, but we have not yet received clarification from her.

COMMISSIONER NARASAKI: I think that would be helpful because it goes to what the Chairman mentioned in terms of what the Commission might consider doing in terms of our request to the Department of Education.
MR. KRONK WARNER: Yes, I'd be happy to follow up.

CHAIRMAN CASTRO: All right, thank you.

Any other questions or comments from Commissioners?

Well, hearing none, we want to thank you, Chair Warner, for your presentation and your service. Thank you.

And, we'll follow up with you on next steps.

MR. KRONK WARNER: Okay, wonderful. Thank you so much.

CHAIRMAN CASTRO: You're welcome. Thank you.

Next, we have our Staff Director's report.

III. MANAGEMENT AND OPERATIONS

STAFF DIRECTOR'S REPORT

MR. MORALES: Well, thank you, Mr. Chair.

Mr. Chairman, of course, you have the report. I just want to call your attention to three things that aren't in our report that I wanted to bring to your attention.

One, I want to do a shout out and recognize Evelyn Bohor. I mispronounced her name, Bohor, right?
Correct. Okay, thank you.

She's an Administrative Assistant for our Rocky Mountain Regional Office. She's been in the area working with our Eastern Regional Office helping them update their file system. She's come out here as part of her duties and responsibilities working with the regional staff and was very helpful. And so, I want to thank her for coming and helping get that.

You know, as the Commissioners all know and have heard on numerous occasions, we're understaffed and we do the best we can with Band-Aids and scotch tape. And so, we were able to secure her services from Rocky Mountain administrative office for a week and a half. And so, you know, we're going to look at all opportunities to move staff around when we have some holes that need to be filled. So, thank you, Evelyn.

Second, I want to call the attention to the Commissioners that we, yesterday, posted the 2015 audit report that was sent to the Office of Management and Budget. Our auditors completed their work on it. It is on the website for all of you to examine.

The opinion that was given by the auditors was something called a disclaimer which means that what happened was these auditors went back to 2010 to do a
more rigorous analysis of our financial statements and an enormous amount of work went into it by the staff.

I really want to thank Pam, Tina, John and that's it, sorry, for their hard work -- I thought I was omitting somebody, I apologize -- for the hard work they did in pulling those staff together -- oh and Michelle, as well -- and a lot of the work that was done to get ready for the audit, to pull all the files together.

It's ongoing and so that's part of the reason why we got a disclaimer.

We're very confident, or I should say we're confident, that we'll get a, you know, an opinion next year that will be a positive opinion. And so, we think all the hard work done and the steps taken will result in a new opinion next year.

So, we put things in place for that. If any Commissioners have individual questions or would like to talk to me about it, please feel free to contact me.

And lastly, I just wanted to let you know that I've been working with the special assistants, the General Counsel and with David Mussatt in convening a working group of our panel here to look at revisions
and recommendations for the administrative instructions, the AI, on SAC appointments.

You know, since I've come on Board, there have been challenges with getting SACs prepared and getting it put into an area or to shape that Commissioners are willing to vote for and support.

And, there have been a lot them, you know, back and forth on it. And I just finally have reached a point where I think, you know, folks are frustrated and dissatisfied and I really am hoping that some of the individuals working, Alison has stepped up as well as Sheryl to represent the sides of the Commissioners to present some recommendations.

I'm hoping within the next 30 days, we'll have some recommendations that we can accept and I can present to the Commissioners as well.

So, with that, Mr. Chairman, I thank you and turn it back over to you.

CHAIRMAN CASTRO: Any questions for the Staff Director?

Hearing none, I will then move on to our State Advisory Committee appointments.

IV. STATE ADVISORY COMMITTEE APPOINTMENTS

MARYLAND

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CHAIRMAN CASTRO: The first we'll deal with is Maryland. So, I'm going to make a motion that the Commission appoint the following individuals to the Maryland State Advisory Committee based upon the recommendation of our Staff Director:

Thomas Mackall, George LaNoue, Pace McConkie, Susannah Prucka, Genevieve Segura, Leonard Addison, Pamela Bennett, Zainab Chaudry, Doris Cowl, Gregory Dolin, Ernie Dominguez, Walter Howell, Jr., Tara Huffman, Evelyn Kelly, David Kim, Jennifer Mathis.

Let me make sure I've got everybody here.

Okay, and also pursuant to this motion that Thomas Mackall shall serve as the Chair of the Maryland State Advisory Committee.

These members will serve as uncompensated Government employees. Under this motion, the Commission authorizes the Staff Director to execute the appropriate paperwork for the appointments.

Do I have a second?

COMMISSIONER NARASAKI: I second, Mr. Chair, and I would really like to thank staff for their efforts in responding to my request that slates contain younger representatives from the younger generations as well as more diversity of religion. So, I very much
appreciate that effort in terms of putting together this particular slate.

CHAIRMAN CASTRO: Okay. Did I get a second?

COMMISSIONER HERIOT: Mr. Chairman?

CHAIRMAN CASTRO: Did I get a second?

Just a second, did I get a second?

COMMISSIONER NARASAKI: Yes, I did.

CHAIRMAN CASTRO: Okay, yes, Commissioner Heriot?

COMMISSIONER HERIOT: I'm going to be voting no on the Maryland staff. First, because I think the viewpoint balance is a serious problem.

As I count it, there are three candidates who you could describe as right of center, 12 who could be described as left of center and one who's up on the continuum I couldn't figure out.

Finally, and I think more importantly, I'm very disappointed that two very strong conservative candidates have not been reappointed and that I haven't been able to get an explanation from our Staff Director as to why.

I think that it's possible that the explanation for at least one or two of them is that there
have been some conflicts with the staff. I'm very concerned about the vertical integration problem of the staff member who works with the SACs decides whether or not to keep members on that SAC.

And I'm very concerned with the problem that we, as the Commission, are never told why someone who has been on the SAC in the past is not being reappointed.

I'm also disappointed that a very strong candidate who previously worked at the Commission has not been chosen for an appointment, even though there are obviously several available spaces on the SAC for someone who holds similar views.

It is not like conservatives are being over represented on the Maryland SAC. So, I plan to vote no.

CHAIRMAN CASTRO: Yes, well, I didn't get three people I recommended, one of whom has been waiting for five years. So, but I'm still going to vote for this because I know that the Staff Director's put together a subcommittee that's going to address these kinds of problems for the future.

So, but, you know, thank you for your statement.
I'm going to call the vote now.

Vice Chair, how do you vote?

VICE CHAIR TIMMONS-GOODSON: Yes.

CHAIRMAN CASTRO: Commissioner Narasaki, how do you vote?

COMMISSIONER NARASAKI: Yes.

CHAIRMAN CASTRO: Commissioner Kladney, how do you vote?

COMMISSIONER KладNEY: Yes.

CHAIRMAN CASTRO: Commissioner Achtenberg, how do you vote?

COMMISSIONER ACHTENBERG: Yes.

CHAIRMAN CASTRO: Commissioner Kirsanow, how do you vote?

COMMISSIONER KIRSANOW: No.

CHAIRMAN CASTRO: Commissioner Heriot, you've indicated no already so I'll mark that down.

COMMISSIONER HERIOT: Well, you have to let me say it.

CHAIRMAN CASTRO: Okay, go ahead, say it.

COMMISSIONER HERIOT: I vote no.

CHAIRMAN CASTRO: Say it loud and proud.

COMMISSIONER HERIOT: Oh, I vote no and I consider this slate to be violation of our AI.
CHAIRMAN CASTRO: Okay, thank you.

And, I vote yes.

So, that's five yeses to two nos, the slate passes.

IV. STATE ADVISORY COMMITTEE APPOINTMENTS

WEST VIRGINIA

CHAIRMAN CASTRO: We now move on to the West Virginia SAC.

I make a motion that the Commission appoint the following individuals to the West Virginia State Advisory Committee based upon the recommendation of our Staff Director.

VICE CHAIR TIMMONS-GOODSON: I'll second that.

CHAIRMAN CASTRO: Let me read the names and then -- thank you, I appreciate the support already, though.


And then, pursuant to this motion, the
Commission appoints Tara N. Martinez as the Chair of the West Virginia State Advisory Committee. These members will serve as uncompensated Government employees. Under this motion, the Commission authorizes the Staff Director to execute the appropriate paperwork for the appointments.

Do I have a second?

VICE CHAIR TIMMONS-GOODSON: You do have a second, Mr. Chair.

CHAIRMAN CASTRO: Thank you, Madam Vice Chair.

Any discussion?

COMMISSIONER HERIOT: Mr. Chairman?

CHAIRMAN CASTRO: Yes, Commissioner Heriot?

COMMISSIONER HERIOT: I just wanted to say that I plan to vote against this stack as well which I believe to be a violation of our AI for clearly ideological balance.

CHAIRMAN CASTRO: Thank you.

I'll call the question for a vote.

Madam Vice Chair, how do you vote?

VICE CHAIR TIMMONS-GOODSON: Yes.

CHAIRMAN CASTRO: Commissioner Narasaki,
how do you vote?

COMMISSIONER NARASAKI: Yes.

CHAIRMAN CASTRO: Commissioner Kladney,

how do you vote?

COMMISSIONER KLADNEY: Yes.

CHAIRMAN CASTRO: Commissioner Achtenberg, how do you vote?

COMMISSIONER ACHTENBERG: Yes.

CHAIRMAN CASTRO: Commissioner Kirsanow,

how do you vote? Commissioner Kirsanow?

COMMISSIONER KIRSANOW: No.

CHAIRMAN CASTRO: Commissioner Heriot,

how do you vote?

COMMISSIONER HERIOT: No.

CHAIRMAN CASTRO: I vote yes.

That's five yeses to two nos, the West Virginia slate passes.

IV. STATE ADVISORY COMMITTEE APPOINTMENTS

INTERIM APPOINTMENTS TO THE

MISSOURI STATE ADVISORY COMMITTEE

CHAIRMAN CASTRO: Now, we have some interim appointments. We have interim appoints to the Missouri State Advisory Committee and the Kentucky State Advisory Committee as well as an appointment to

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the Wisconsin SAC Chair.

So, let me actually start with Missouri.

We have a number of candidates --

COMMISSIONER KLASTNEY: Mr. Chairman?

CHAIRMAN CASTRO: Yes, is that Kladney?

COMMISSIONER KLASTNEY: Yes.

CHAIRMAN CASTRO: Commissioner Kladney?

COMMISSIONER KLASTNEY: Yes, I just got

these yesterday, I think, if I'm correct.

CHAIRMAN CASTRO: I don't recall, but yes,

they --

MR. MORALES: That is correct. I had

inadvertently thought I had put it into the packet the

week before, but I noticed I hadn't.

COMMISSIONER KLASTNEY: And, actually, I

don't -- I've been on the Commission now for a while

and I haven't seen an interim appointment, so I was

wondering if somebody could explain that to me?

CHAIRMAN CASTRO: Mr. Staff Director?

MR. MORALES: Certainly, and I believe we

also -- David may still be on or he may have gotten back

on the line.

Essentially, what's happened is that there

were some exceptional circumstances that occurred with
the three Advisory Committees and that the Chief of Regional Programs Unit has requested the Commission take specific actions to address these issues.

I can go into each one if you'd like, Mr. Commissioner.

COMMISSIONER Kladney: Actually, I was just wondering if we had the authority to do this, that's all. And, what are the lengths to the appointments and things like that just to make sure it's all correct.

CHAIRMAN CASTRO: So, my understanding is that in Missouri, given the number of replacements that we needed actually brings the Missouri SAC below the minimum, is that right?

MR. Morales: That is correct because numerous -- a number of individuals resigned.

CHAIRMAN CASTRO: And, Commissioner Kladney, I don't know, but this might have been before you joined the Commission, when Commissioner Titus held your position, but I know that, in the past, we have had at least one maybe more instances of a SAC going below the number of -- minimum number of members to function.

And so, I do know that, in the past, we have
appointed individuals so that that SAC can continue to function. And those individual -- that individual served only the term that the person they're replacing is filling.

So, we have done that in the past. Again, as -- it's not frequent. It's actually rare, but this SAC in particular is doing a lot of work on the Ferguson related issue and we want to make sure they continue to be able to complete that. So, we don't want it to languish too long.

COMMISSIONER KLADNEY: Thank you, Mr. Chairman.

CHAIRMAN CASTRO: You're welcome.

COMMISSIONER HERIOT: Mr. Chairman?

CHAIRMAN CASTRO: Yes, Commissioner Heriot?

COMMISSIONER HERIOT: I have two thoughts here. One, on the issue of minimum numbers, this is one way we could cut down on work for the staff by reducing the minimum number of members of the SAC so that they don't have to go to the trouble of making interim appointments.

You know, it's a policy question as to how much the minimum ought to be, but my position is we'd
be better off with a smaller minimum. It doesn't have to be the same minimum for the initial appointment that we have for the SACs.

We could say that a committee can continue as long as it has a minimum of X, but the minimum for the initial appointment, we could set at X plus two or something. So, that's one point I have to make.

The second is, I'm concerned about why there have been resignations from the Missouri SAC. Could the Staff Director speak to that?

MR. MORALES: I can and I have a memo from a memorandum that I received from David Mussatt, Chief of the Regional Programs Unit.

So, in regards to Missouri, in what he -- it's a short paragraph here, so bear with me, in fiscal year 2015, the Missouri Advisory Committee held nine publically noticed meetings including two full-day meetings where testimony was heard regarding the topic of police community relations in the State.

This number of meetings far exceeded the number of meetings normally held by active committees and, as a result, three members resigned because they did not feel that they could fulfill the full-time commitment necessary to be constructive members.
Those three members are Anna Crosslin, Jalesia McQueen and Michelle Sherod.

To ensure balance and robust debate, the DFO for the -- the Regional Director for the Missouri Advisory Committee recruited additional potential candidates for the Committee and they completed this timely and important project.

The action requested by the Chief is that the Commission appoint the following individuals to serve the Missouri Advisory Committee from the November 18, 2015 until July 2016 when the terms of all of the Committee members expires.

And, these individuals are Chad Flanders, Amany Ragab Hacking, Domingo Martinez-Castilla, Sabrine Rhodes and David Tyson Smith.

COMMISSIONER HERIOT: So, all of this has to do with time commitments and there were no disputes that led to this?

MR. MORALES: Correct.

COMMISSIONER HERIOT: That's correct?

CHAIRMAN CASTRO: That's correct.

MR. MORALES: That is correct.

COMMISSIONER HERIOT: Okay.

CHAIRMAN CASTRO: All right, so I'm going
to go ahead and make a motion that the Commission
appoint the following individuals to the Indiana State
Advisory Committee.

MR. MORALES: No.

CHAIRMAN CASTRO: No?

MR. MORALES: That's Missouri.

CHAIRMAN CASTRO: I'm sorry, Missouri
State Advisory Committee and that these are interim
appointments to fill the unexpired term of those
individuals who previously stepped down as was
indicated by the Staff Director.

So, this is upon recommendation of our
Staff Director, the following individuals are Chad W.
Flanders, Amany Ragab Hacking, Domingo A.
Martinez-Castilla, Sabrine Y. Rhodes and David. T.
Smith.

These individuals will serve as
uncompensated Government employees. Under this
motion, the Commission authorizes the Staff Director
to execute the appropriate paperwork for the
appointments.

Do I have a second?

COMMISSIONER NARASAKI: I second and want
to note, I appreciate the staff's efforts to reach out
and recruit Muslim candidates for the various slates that we have been considering today.

CHAIRMAN CASTRO: Any other questions or comments? If not, I will call the vote on Missouri interim candidates.

Madam Vice Chair, how do you vote?

VICE CHAIR TIMMONS-GOODSON: Yes.

CHAIRMAN CASTRO: Commissioner Narasaki, how do you vote?

COMMISSIONER NARASAKI: Yes.

CHAIRMAN CASTRO: Commissioner Kladney, how do you vote?

COMMISSIONER KLADNEY: Yes.

CHAIRMAN CASTRO: Commissioner Achtenberg, how do you vote?

COMMISSIONER ACHTENBERG: Yes.

CHAIRMAN CASTRO: Commissioner Kirsanow, how do you vote?

COMMISSIONER KIRSANOW: Abstain.

CHAIRMAN CASTRO: Commissioner Heriot, how do you vote?

COMMISSIONER HERIOT: Yes.

CHAIRMAN CASTRO: And I vote yes.

So, we have six yeses and one abstention,
the slate passes.

IV. STATE ADVISORY COMMITTEE APPOINTMENTS

INTERIM APPOINTMENT TO THE

KENTUCKY STATE ADVISORY COMMITTEE

CHAIRMAN CASTRO: Next, we have Kentucky, and the Kentucky interim appointment, there's only one. So, I'm going to make a motion that the Commission appoint the following individual to the Kentucky State Advisory Committee based upon the recommendation of our Staff Director, Mitchell H. Payne.

And, pursuant to this motion, Mr. Payne will be a member and serve as an uncompensated Government employee. Under this motion, the Commission authorizes the Staff Director to execute the appropriate paperwork for the appointment.

Is there a second?

VICE CHAIR TIMMONS-GOODSON: Second.

CHAIRMAN CASTRO: Okay, any questions? Do you want to explain?

MR. MORALES: Certainly, Mr. Chairman, thank you for --

So, what I received from the Chief of Regional Programs Unit, David Mussatt, regarding this
appointment is that the Kentucky Advisory Committee was appointed on July 12, 2015.

During the recruitment period, the DFO who was new to the Commission, the regional staff, reached out to the returning members' and gave them a deadline to respond whether they were interested in reappointment.

One member, Mitchell Payne, experienced a serious personal loss at this time and did not respond to the request for reappointment. He did reach out subsequently to the regional staff after the July appointment.

And, at that time, the regional staff found out about Mr. Payne's loss as well as the major contributions Mr. Payne had made to the Committee during his previous tenure on the Committee.

Given these exceptional circumstances, the Regional Office would like to add Mr. Payne to the Kentucky Committee.

The Committee appointed Mitchell Payne to the Kentucky Advisory Committee -- the action requested is that the Commission appoint Mitchell Payne to the Kentucky Advisory Committee from November 18th until July 11, 2019 when the other committee members terms
expire.

CHAIRMAN CASTRO: Any questions?

Okay, we'll call it for a vote.

Madam Vice Chair, how do you vote?

VICE CHAIR TIMMONS-GOODSON: Yes.

CHAIRMAN CASTRO: Commissioner Narasaki,

how do you vote?

COMMISSIONER NARASAKI: Yes.

CHAIRMAN CASTRO: Commissioner Kladney,

how do you vote?

COMMISSIONER Kladney: Yes.

CHAIRMAN CASTRO: Commissioner Achtenberg, how do you vote?

COMMISSIONER ACHTENBERG: Yes.

CHAIRMAN CASTRO: Commissioner Kirsanow,

how do you vote?

COMMISSIONER KIRSANOW: Abstain.

CHAIRMAN CASTRO: Commissioner Heriot,

how do you vote?

COMMISSIONER HERIOT: Yes.

CHAIRMAN CASTRO: And I vote yes.

That's six yeses and an abstention, the

motion passes.

IV. STATE ADVISORY APPOINTMENTS
APPOINTMENT OF THE

WISCONSIN STATE ADVISORY COMMITTEE CHAIR

CHAIRMAN CASTRO: Finally, we have a motion to appoint a new Chair for the Wisconsin State Advisory Committee. So, let me make the motion and then the Staff Director can explain the circumstances.

I make a motion that the Commission appoint Naheed N. Bleecker as the Chair of the Wisconsin State Advisory Committee.

Pursuant to this motion, he shall serve as an uncompensated Government employee and the Commission authorizes the Staff Director to execute the appropriate paperwork for the appointment.

Is there a second?

VICE CHAIR TIMMONS-GOODSON: Second.

CHAIRMAN CASTRO: Okay, Mr. Staff Director will you explain?

MR. MORALES: Thank you, Mr. Chairman.

Yes, the Wisconsin Advisory Committee was appointed on August 14, 2015. The Commission reappointed Adel Mekraz to be Chair of the Committee.

After the appointment, Mr. Mekraz informed the Regional Office that he would be moving out of the country and had to resign from the Committee.
Therefore, the Committee currently has no Chair and under current Commission rules, cannot hold a meeting because no one has appointed to call meetings and certify meeting minutes.

The regional staff has reached out to the Wisconsin Advisory Committee members and only one member volunteered who was then nominated by both Democratic and Republican members. That individual was Naheed Bleecker.

The action requested is that the Commission appoint Naheed Bleecker Chairman of the Wisconsin Advisory Committee.

CHAIRMAN CASTRO: Thank you.

Any questions?

Let me just say Wisconsin has been one of our very active Committees. I have attended some of their briefings. I also want to thank Adel for his service as Chair. He was a very good and active Chair. It's unfortunate he could not participate, but, you know, we want to make sure the SAC continues to function. So, it's important that we do this.

I'm going to call the question.

Madam Vice Chair, how do you vote?

VICE CHAIR TIMMONS-GOODSON: Yes.
CHAIRMAN CASTRO: Commissioner Narasaki, how do you vote?

COMMISSIONER NARASAKI: Yes.

CHAIRMAN CASTRO: Commissioner Kladney, how do you vote?

COMMISSIONER KLADNEY: Yes.

CHAIRMAN CASTRO: Commissioner Achtenberg, how do you vote?

COMMISSIONER ACHTENBERG: Yes.

CHAIRMAN CASTRO: Commissioner Kirsanow, how do you vote?

COMMISSIONER KIRSANOW: Abstain.

CHAIRMAN CASTRO: Commissioner Heriot, how do you vote?

COMMISSIONER HERIOT: Yes.

CHAIRMAN CASTRO: I vote yes.

The motion passes with six yeses and one abstention.

V. ADJOURN MEETING

CHAIRMAN CASTRO: That concludes the business on our Agenda, so I hereby adjourn the meeting at 12:15 Eastern Time.

Thank you, everybody.

(Whereupon, the above-entitled matter
went off the record at 12:15 p.m.)