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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 HERIOT, Commissioner

PETER N. KIRSANOW, Commissioner*

DAVID Kladney, Commissioner*

KAREN NARASAKI, Commissioner

MAURO MORALES, Staff Director

MAUREEN RUDOLPH, General Counsel

* Present via telephone
STAFF PRESENT:
LATRICE FOSHEE
PAMELA DUNSTON, Chief, ASCD
SEAN GOLIDAY
ALFREDA GREENE
JENNIFER HEPLER
LENORE OSTROWSKY
JUWANDA SMITH
BRIAN WALCH
MICHELLE YORKMAN

COMMISSIONER ASSISTANTS PRESENT:
SHERYL COZART
ALEC DUELL
JASON LAGRIA
CARRISA MULDER
ALISON SOMIN
KIMBERLY TOLHURST
A G E N D A

APPROVAL OF AGENDA...............................................5

BUSINESS MEETING

A. Program Planning
Discussion and vote on Commission statement concerning recent settlement requiring Texas to issue birth certificates to U.S. citizen children of undocumented immigrants........................................8

Discussion and vote on Commission Press Release on USCCR Report on Peaceful Coexistence .............18

Discussion and vote on Commission Press Release on Selection of Women in Prison as topic for 2017 Statutory Enforcement report...............................24

Discussion and vote on Commission statement concerning U.S. Supreme Court's decision in GG v. Gloucester County School Board.................................28

Discussion and vote on a letter from the Department of Education and Department of Justice: Re: the Oklahoma State Advisory Committee's Report "Civil Rights and the School-to-Prison Pipeline in Oklahoma."........................................35

Discussion and vote on statement concerning the recent decision on the North Carolina voter ID law ..........................52

Proposal by Press Secretary Brian Walch on Issuance of Multiple Press Releases............................63

B. State Advisory Committees (SACs)
Presentation by North Carolina State Advisory Committee (SAC) Chair Matty Lazo-Chadderton on Civil Rights and Environmental Justice in North Carolina ........................................66

State Advisory Committee Appointments ...............77
North Carolina...............................................................77
Kansas........................................................................95
C. Management and Operations

Staff Director Report........................................97

Discussion and vote on Commission 2017 Business
Meeting Calendar.................................................97

Discussion on 2017 Commemoration of 60th
Anniversary of USCCR........................................100

Status of the Website Migration.........................104

Vacancy Announcement Office of Civil Rights Civil
Rights Analyst.....................................................104

Commission Outreach Use of Social Media............104

ADJOURN MEETING .............................................105
CHAIRMAN CASTRO: It is currently 10:00 a.m. Eastern Time and I am calling this meeting of the U.S. Commission on Civil Rights to order. It is August 19, 2016 and we are meeting here at the Commission's Headquarters at 1331 Pennsylvania Avenue, N.W., Suite 1550 in Washington, D.C.

I'm Chairman Marty Castro. Commissioners that are present with me here in the Headquarters are Commissioners Narasaki and Heriot. Participating by phone, currently are our Vice Chair, Commissioner Timmons-Goodson and Commissioners Achtenberg and Kladney. That gives us a quorum. We are expecting Commissioner Kirsanow to join at some point and when he does, he will let us know and we will indicate for the record that he is on.

Is the court reporter present?

COURT REPORTER: I am.

CHAIRMAN CASTRO: And is the Staff Director present?

MR. MORALES: Present.

I. APPROVAL OF AGENDA

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

I move that we approve the agenda. Is there a second?

COMMISSIONER NARASAKI: Are we going to amend it?

CHAIRMAN CASTRO: Yes, we are going to amend it, though.

COMMISSIONER HERIOT: I second.

CHAIRMAN CASTRO: Okay. And then we have some amendments. So, let me move to amend the agenda to add a discussion and vote on the approval of a press release on a recent ruling on a voting rights decision and also to remove from consideration at this month’s meeting the D.C. and Ohio SAC packages, which were not fully complete for this meeting. We would expect that they will be available for us to vote on at the next meeting. Is there a second to that?

VICE CHAIR TIMMONS-GOODSON: This is the Vice Chair. I will second.

CHAIRMAN CASTRO: Thank you, Madam Vice Chair. Do you want to make an additional motion to amend, Commissioner Narasaki?

COMMISSIONER NARASAKI: Yes, Mr. Chair, I'd like to remove from consideration the two statements, one on Dalip Singh Saund and the other on
the 100th Anniversary of the first female --

CHAIRMAN CASTRO: Is there a second to that amendment?

COMMISSIONER HERIOT: Why are we doing that?

COMMISSIONER Kladney: I'll second, Kladney.

CHAIRMAN CASTRO: Commissioner Kladney seconds it.

Commissioner Heriot, you had a question?

COMMISSIONER HERIOT: That's right. I was curious why you don't want to do it.

CHAIRMAN CASTRO: I guess there was a change of heart. These are for November. So, I think maybe if we are going to do it, we might want to consider doing it as a joint -- one of the issues that have come up is that we have a lot of commemorative and press release statements. So, we want to consolidate some of these. And I will have Brian, our Press Secretary, talk about that once we vote on these.

COMMISSIONER HERIOT: Okay, if we are going to do it for November, I'm okay.

CHAIRMAN CASTRO: Yes, I mean I don't know. We are going to look at whether or not there is a way to consolidate some of these because we are doing a lot
of commemoratives. And that way, there may be some other things that are coming up, if we can do these as a package.

COMMISSIONER HERIOT: Because I have some amendments to those. I think I can improve them.

CHAIRMAN CASTRO: Okay, well that is something that will allow us to speak about it and give us a little more time. As I said, they don't come up until November. So, we have a little bit of time on those.

So, we had a second on that. So, I will now move that we vote on the agenda, as amended.

All those in favor, say aye.

(Chorus of ayes.)

Any opposed?

Any abstentions?

II. BUSINESS MEETING

A. PROGRAM PLANNING

DISCUSSION AND VOTE ON COMMISSION STATEMENT CONCERNING RECENT SETTLEMENT REQUIRING TEXAS TO ISSUE BIRTH CERTIFICATES TO U.S. CITIZEN CHILDREN OF UNDOCUMENTED IMMIGRANTS

CHAIRMAN CASTRO: Okay, so the first item on our agenda then is a discussion and vote on the Commission statement regarding a recent settlement in
the Texas birth certificate case. You all know that this is a case that we, as the Commission, have been following closely. We have engaged in it from our perspective in getting statements to Texas asking them to cease and desist the action that they were taking. We have also requested that the Justice Department look into this and become engaged.

As you all know, there was a lawsuit that was filed by a public interest civil rights groups in Texas which resulted in a settlement, which has brought implications.

So, you have all received a copy of the proposed statement and let me just read that into the record, especially for those who are participating on the phone. I would move that we adopt the following statement.

The United States Commission on Civil Rights welcomes recent settlement requiring Texas to issue birth certificates to U.S. citizen children of undocumented immigrants. The United States Commission on Civil Rights welcomes the recent settlement in the case against the Texas Department of Health Service Vital Statistics Unit involving Texas's denial of birth certificates to U.S. citizen children born in the United States to undocumented immigrant parents. This is an
issue that the Commission engaged when we learned of
Texas's conduct, which the majority of the Commission
believes violates the 14th Amendment to the U.S.
Constitution. Failure to have their birth
certificates denies U.S. citizens the documentation
needed to prove their status and to access benefits to
which they and every other U.S. citizen are entitled.

On July 7, 2015, the Commission wrote to the
Interim Commissioner at the Texas Department of State
Health Services, Mr. Kurt Cole, demanding that Texas
cease desist its denial of birth certificates to U.S.
citizen children of undocumented parents. On the same
day, the Commission requested that the Attorney General
of the United States, Loretta Lynch, open a formal
investigation into Texas's denial of birth
certificates.

On March 21, 2016, the Commission followed
up with the Assistant Attorney General for Civil Rights,
Vanita Gupta, and requested that the United States
Department of Justice review the civil lawsuit filed by
several Texas public interest groups and consider
intervening in the suit, given the important federal
issues at stake.

On Friday July 22, 2016, Texas agreed to a
settlement under the terms of which it will begin
issuing the previously denied birth certificates by accepting from undocumented parents additional forms of identification. These will include forms of identification it has accepted in the past, such as Mexican voter identification cards.

The Commission welcomes the news that Texas will end its practice of denying vital documents to U.S. citizens. These documents not merely prove U.S. citizenship, they enable parents to have their children enrolled in school and daycare, be immunized, and have access to healthcare.

Additionally, we commend the bravery of the undocumented parents who sought justice for their U.S. citizen children in the courts, even while knowing that doing so might put them at risk for deportation.

"The settlement of this case should send a clear message to all states that efforts to circumvent the 14th Amendment to the U.S. Constitution in order to target the children of immigrants for the denial of their rights of citizenship will not be allowed to stand. We thank the Texas public interest law firms for fighting this good fight and protecting the rights of these U.S. citizen children," stated Commission Chairman Martin R. Castro.

Do I have a second?
COMMISSIONER ACHTENBERG: Second.

CHAIRMAN CASTRO: And those on the phone, please mention your name when you indicate -- when you make a statement. Who was that?

COMMISSIONER ACHTENBERG: Commissioner Achtenberg.

CHAIRMAN CASTRO: Thank you, Commissioner Achtenberg. Any discussion?

Commissioner Heriot.

COMMISSIONER HERIOT: Yes, I am going to be voting against this statement. I think it unfairly characterizes what the State of Texas has been doing. Texas, like every other state in the union does not permit anybody to walk in off the street and say hey, I want so-and-so's birth certificate. You have to have a relationship to that person and you have to be able to prove it. And this litigation has simply been about what kinds of identification are sufficiently trustworthy for the State of Texas to be willing to release information like this, which of course, includes very sensitive information, including information on paternity, which is often something that people don't really want anybody to be able to grab off the street.

Now, maybe Texas should have allowed
different identification. They have gone through this now. They have changed their procedure somewhat. To make this sound like the State of Texas was trying to deny birth certificates in order to make life hard on people born in the country to immigrant parents I think is utter nonsense.

CHAIRMAN CASTRO: Well, let me respond to that, Commissioner. Certainly, you have your personal view on it but it is not like other states were denying these. It is Texas. And these other states are accepting documents that Texas was refusing from the same kinds of parents.

These are not people walking in off the street willy-nilly, saying, hey, give me a birth certificate.

COMMISSIONER HERIOT: How does Texas know that?

CHAIRMAN CASTRO: These are the parents of the children legally born in the United States.

COMMISSIONER HERIOT: They have to prove they are the parents.

CHAIRMAN CASTRO: May I finish, Commissioner?

And Texas, unfortunately, is at the heart of so many recent cases and efforts to undercut the
rights of voters, of immigrants, of people of color, whether it is in the area of affirmative action, voting rights, the issue of access to birth certificates. So, it is certainly an issue of great concern because had Texas been able to continue with this conduct, you can rest assured that the 22 other states that joined Texas in fighting the President's Executive Order on Immigration, DACA and DAPA, would probably end up denying these same birth certificates to these types of children all over the country. And we want to make sure that that does not happen -- not on our watch.

COMMISSIONER HERIOT: That is utter nonsense.

Commissioner Narasaki.

COMMISSIONER NARASAKI: Two things, Mr. Chair. First, I want to suggest we amend the draft statement. Vanita Gupta was not confirmed as Assistant Attorney General.

CHAIRMAN CASTRO: Okay.

COMMISSIONER NARASAKI: So, her actual title is Principle Deputy Assistant AG.

And the second thing is, in response to the debate that we just heard, it is well-known that the reason that Texas was doing this was in order to punish undocumented immigrant parents and to circumvent clear
Supreme Court law that states that children who are born in the U.S., whether they are born of undocumented parents or not are U.S. citizens. And that is what this case is about, is making sure that children who are born here are able to claim their full right of citizenship under the law.

COMMISSIONER HERIOT: Mr. Chairman?

CHAIRMAN CASTRO: Commissioner Heriot.

COMMISSIONER HERIOT: Commissioner Narasaki just said "it is well-known that."

We are the U.S. Commission on Civil Rights and we are not supposed to be acting on "it is well-known that" kinds of rumors. When then-Majority Leader Lyndon Baines Johnson was passing the statute that created our Commission, he said that he wanted our Commission to be able to establish facts; facts, not fancies. It is our job to actually state what we know, based on actual facts not on "it is well-known."

This is a case where you are accusing a state of doing something wrong, when in fact they have a duty to protect peoples' privacy. And they made a judgment that the particular ID that was commonly being used that is issued by the Mexican Consulate there in Texas was simply not reliable. They did not say that other methods of proving paternity or maternity were
unreliable. They were not keen on this method.

Now, maybe they have come up with something that will work better for everybody in this settlement but accusing them of being violators of the Constitution is grossly unfair and fails to recognize the complexity of the issues before us.

CHAIRMAN CASTRO: Commissioner Narasaki.

COMMISSIONER NARASAKI: I will just note, Commissioner Heriot, that clearly the state must have felt that there was enough reason, in terms of the plaintiffs' case that they were persuaded to settle. I don't think it is necessary to re-litigate the case. This is a statement about commending the settlement and noting the long-held position that the Commission has been taking on this particular issue.

CHAIRMAN CASTRO: Okay, any other commissioners wish to respond before I call the question for a vote?

Hearing none, then let me take a roll call vote. Has Commissioner Kirsanow now joined?

COMMISSIONER KIRSANOW: Yes, I was in some kind of holding pattern for the last ten minutes.

CHAIRMAN CASTRO: Okay, well, we are glad you are on. Thank you. How do you vote?

COMMISSIONER KIRSANOW: No.
CHAIRMAN CASTRO: Commissioner Heriot, how do you vote?

COMMISSIONER HERIOT: No.

CHAIRMAN CASTRO: Commissioner Narasaki, how do you vote?

COMMISSIONER NARASAKI: Yes.

CHAIRMAN CASTRO: Commissioner Kladney, how do you vote?

COMMISSIONER KLANDNEY: I abstain.

CHAIRMAN CASTRO: Commissioner Achtenberg, how do you vote?

COMMISSIONER ACHTENBERG: Yes.

CHAIRMAN CASTRO: Commissioner Yaki?

(No audible response.)

CHAIRMAN CASTRO: Madam Vice Chair, how do you vote?

VICE CHAIR TIMMONS-GOODSON: Abstain.

CHAIRMAN CASTRO: And I vote yes. So, we have two nos, one, two three, yeses, and two abstentions. So, it passes.

Four yeses? One, two, three -- four yeses -- No, wait. I have myself -- no, we have two abstentions, Commissioner Kladney and the Vice Chair. And Commissioner Yaki is not voting. He is not on.

COMMISSIONER HERIOT: So that is three.
CHAIRMAN CASTRO: Three.

COMMISSIONER HERIOT: Three yeses, two nos.

CHAIRMAN CASTRO: Three yeses, two nos, and two abstentions.

So seven commissioners participated.

Okay.

COMMISSIONER HERIOT: An abstention counts towards the quorum but it doesn't count -- it passes. Yes, abstentions count towards quorum. It passes. Unhappily, it passes.

CHAIRMAN CASTRO: Do you agree, Madam General Counsel? Thank you.

So, the motion passes and we will issue that and we will discuss a little later how we may want to package some of the number of statements we have related to various pieces of litigation.

DISCUSSION AND VOTE ON COMMISSION PRESS RELEASE ON USCCR REPORT ON PEACEFUL COEXISTENCE

CHAIRMAN CASTRO: Next, since we removed the two statements related to the commemorations, I am next going to move on to a statement related to the Peaceful Coexistence Report that we have voted to issue.

We are going to have a statement that will accompany the report. It has been circulated to
everyone. Hopefully, everyone has had a chance to look at that. I don't know if there is any proposed changes or questions folks have.

I will make a motion. Anybody want to second it and we and discuss it?

COMMISSIONER NARASAKI: I'll second it, Mr. Chair.

CHAIRMAN CASTRO: Okay. Any questions or comments?

COMMISSIONER HERIOT: Mr. Chairman?

CHAIRMAN CASTRO: Yes, ma'am.

COMMISSIONER HERIOT: In the third paragraph to this statement, it is a bit confusing here. It says regarding the Religious Freedom Restoration Act, RFRA, the Commission found that in Burwell vs. Hobby Lobby Stores, Incorporated, the Supreme Court affirmed the narrowness of the analytical framework within which claims of governmental interference with free exercise of religion must be construed under the Act.

I would have to say I am not certain what is meant by the concept of the narrowness of the analytical framework but I think that is going to be interpreted to mean that the decision itself was narrow because RFRA, itself, is narrow and nothing could be
further from the truth. I can read you some of the passages from the actual opinion.

CHAIRMAN CASTRO: Let me --

COMMISSIONER HERIOT: Justice Alito says "Congress enacted RFRA in 1993 in order to provide very broad protection for religious liberty." And then later on, he again uses that word broad to apply to RFRA. And in fact, Justice Ginsburg, in her dissent, begins with the phrase "in a decision of startling breadth."

So, it is not quite clear how we have come off using the word narrow to apply to Hobby Lobby. And I would, therefore, suggest that we strike that paragraph for accuracy.

CHAIRMAN CASTRO: Let me ask which Commissioner drafted this initial draft and if they might be able to respond.

Is that Commissioner Kladney or is this from Commissioner Achtenberg? Does anyone no.

COMMISSIONER KLADNEY: No, I was not making that noise.

COMMISSIONER ACHTENBERG: Mr. Chairman, it is Commissioner Achtenberg.

CHAIRMAN CASTRO: Yes.

COMMISSIONER ACHTENBERG: And this is a direct reference to a commission finding. There is an
entire analysis that we undertook and that this
Commission adopted by a majority vote to which this --

COMMISSIONER HERIOT: But it is wrong. It
is wrong.

CHAIRMAN CASTRO: It is our finding.

COMMISSIONER ACHTENBERG: In our -- with
regard to our finding, it is not wrong. It is accurate.

COMMISSIONER HERIOT: But if it was not a
finding, it is wrong.

CHAIRMAN CASTRO: Commissioner Heriot,
please let her finish.

COMMISSIONER ACHTENBERG: Well, that is
your opinion, Commissioner, which I respect.

COMMISSIONER HERIOT: It is also Justice
Alito's opinion.

COMMISSIONER ACHTENBERG: But we were
quoting the report findings, which was adopted by
majority vote.

CHAIRMAN CASTRO: Commissioners, I know we
are all passionate about these issues. We come from it
from different perspectives but let's just kind of let
everyone kind of say their peace.

I know you asked a question as to why it was
like this. She, Commissioner Achtenberg is explaining
why. You may still disagree but we want to have an
ability to converse not over one another. Okay?

Commissioner Heriot.

COMMISSIONER HERIOT: Well, you know, it is wrong. Justice Alito says that this is a broad decision. Justice Ginsburg agrees with it. If you don't want to withdraw it as a finding, at least don't highlight in the press release.

CHAIRMAN CASTRO: Any other comments from any other commissioners?

COMMISSIONER ACHTENBERG: Well, I respectfully disagree.

COMMISSIONER HERIOT: I move to delete that paragraph from the press release.

CHAIRMAN CASTRO: Is there a second?

COMMISSIONER HERIOT: Pete?

COMMISSIONER KIRSANOW: Oh, to Gail's motion?

COMMISSIONER HERIOT: Yes.

COMMISSIONER KIRSANOW: Yes, second.

CHAIRMAN CASTRO: Okay. So, I am going to call a voice vote on that. Those in favor of the deletion, say aye.

(Chorus of ayes.)

Those against, say no.

(Chorus of nos.)
Any abstentions?

In the opinion of the chair, the nos have it and that amendment fails.

So, back to the original motion on the statement as drafted. Any additional comments?

If not, I am going to call the question on that.

Commissioner Kirsanow, how do you vote?

COMMISSIONER KIRSANOW: No.

CHAIRMAN CASTRO: Commissioner Heriot, how do you vote?

COMMISSIONER HERIOT: No.

CHAIRMAN CASTRO: Commissioner Narasaki, how do you vote?

COMMISSIONER NARASAKI: Yes.

CHAIRMAN CASTRO: Commissioner Kladney, how do you vote?

COMMISSIONER KLASTNEY: Yes.

CHAIRMAN CASTRO: And let's see, Commissioner Achtenberg, how do you vote?

COMMISSIONER ACHTENBERG: Yes.

CHAIRMAN CASTRO: Commissioner Yaki, are you on?

(No audible response.)

CHAIRMAN CASTRO: Madam Vice Chair, how do
you vote?

VICE CHAIR TIMMONS-GOODSON: Yes.

CHAIRMAN CASTRO: And I vote yes. That's one, two, three, four, five yeses and two nos. So, the motion passes and the statement will be issued as originally drafted.

DISCUSSION AND VOTE ON COMMISSION PRESS RELEASE ON SELECTION OF WOMEN IN PRISON AS TOPIC FOR 2017 STATUTORY ENFORCEMENT REPORT

CHAIRMAN CASTRO: Okay, next we move on to a statement regarding the upcoming Statutory Enforcement Report for 2017 that we approved at our prior meeting on the issue of incarceration of women. You all received a copy of that press statement and, hopefully, you have had a chance to take a look at it.

Does anyone have any questions, while I make a motion that we approve it? Is there a second?

COMMISSIONER NARASAKI: I will second, Mr. Chair.

CHAIRMAN CASTRO: Okay, any discussion?

COMMISSIONER HERIOT: I guess I can make this comment, Mr. Chairman.

CHAIRMAN CASTRO: Yes, I'm listening.

COMMISSIONER HERIOT: There is a quote in here from you that refers to higher rates of
incarceration for Hispanic women in comparison to white women and it says it should be cause for concern for all of us. I wanted to comment that the rate of incarceration for Hispanic women is only slightly elevated and that you can account for that mainly by the fact that the median age of Hispanic women in this country is 28 years old, whereas the median age for white women in this country is 44 years old. That actually is quite an enormous gap and it is accounted for mainly by the notion that it tends not to be elderly people who immigrant and a fairly significant number, percentage of Hispanic women in the country are either immigrants or the children of immigrants.

And so rather than being cause for concern, I think it is actually kind of expected that you would have a somewhat elevated rate there, simply based on age. Most crimes are committed by young people.

CHAIRMAN CASTRO: Unfortunately, I don't agree with you. I think studies show that both for black and Hispanic women, the incarceration rates are high. And it is easy for us to sit here in these nice offices in Washington, D.C., and say that a statistically irrelevant number is due to age and say that that is not a concern when we are not, the individuals that are living in the communities that are
victimized by crime, that are victimized by police, use
of deadly force, that lack opportunities and are
segregated.

And, as we will see, and as we have seen from
our Oklahoma SAC Report last month on the
School-to-Prison pipeline and we see about the
inequalities in our schools in the hearings that we have
had and we see how communities of color are targeted in
many instances, this is all part and parcel of the same
thing.

So, any instance where we see a deviation
from what would be expected to be the norm, and I
disagree with you that the norm is that just because they
are younger, more Hispanic women should be in prison,
I'm sorry, that is just not something that I believe in.
Hopefully that is something that the majority of this
Commission will agree with me upon.

COMMISSIONER HERIOT: Well, in the
statement, it is actually your statement.

CHAIRMAN CASTRO: I know.

COMMISSIONER HERIOT: So, if you want to
make it, that's just fine.

CHAIRMAN CASTRO: And it is based on fact.

COMMISSIONER HERIOT: But, if it is your
opinion that these statistics don't matter --
CHAIRMAN CASTRO: No, I state they do matter.

COMMISSIONER HERIOT: -- and that somehow everyone in prison is being abused, the point is most people in prison have been convicted of a crime. In fact, all of them have been.

It actually should interest you to see that the elevation rates may not be due to different behavior. It may just be different ages.

CHAIRMAN CASTRO: Well, I guess our study will look into that, won't it?

Any other comments? Hearing none, then let me take a vote on this by roll call.

Commissioner Kirsanow, how do you vote?

COMMISSIONER KIRSANOW: No.

CHAIRMAN CASTRO: Commissioner Heriot, how do you vote?

COMMISSIONER HERIOT: No.

CHAIRMAN CASTRO: Commissioner Achtenberg, how do you vote?

COMMISSIONER ACHTENBERG: Yes.

CHAIRMAN CASTRO: Commissioner Kladney, how do you vote?

COMMISSIONER KLASTNEY: Yes.

CHAIRMAN CASTRO: Commissioner Narasaki,
COMMISSIONER NARASAKI: Yes.

CHAIRMAN CASTRO: Madam Vice Chair, how do you vote?

VICE CHAIR TIMMONS-GOODSON: Yes.

CHAIRMAN CASTRO: I vote yes.

Commissioner Yaki, are you on?

(No audible response.)

CHAIRMAN CASTRO: Okay, that is five yeses and two nos. The motion passes. Thank you.

DISCUSSION AND VOTE ON COMMISSION STATEMENT CONCERNING U.S. SUPREME COURT'S DECISION IN GG V. GLOUCESTER COUNTY SCHOOL BOARD

CHAIRMAN CASTRO: Next, you all should have received a motion -- I mean, sorry, a proposed statement on the issue of recent Supreme Court decision related to the transgender bathroom issue, one that we have been also very engaged with since it reared its ugly head a few months ago. I think we were among one of the first federal agencies to speak out against what was happening in the states.

So, let me read this to you. I will make a motion that we approve the following statement: The U.S. Commission on Civil Rights expresses its strong disappointment in the U.S. Supreme Court's decision in
GG v. Gloucester County School Board. The U.S. Commission on Civil Rights expresses its strong disappointment in the U.S. Supreme Court's recent decision to grant an emergency order blocking the Fourth Circuit Court of Appeals order in GG v. Gloucester County School Board. The Fourth Circuit Order, if enforced, would allow transgender boy, Gavin Grimm, to use the boys' restroom in his Virginia school.

The Commission has been vocal in its support of transgender youth being allowed to use the restroom facilities in their schools based on their gender identities. We have also strongly supported the U.S. Department of Education's guidance to school districts nationwide on the issue of access to facilities by transgender students, which stands for the same proposition. We note the stay order is only temporary to allow the Virginia School Board to file an appeal before the Supreme Court when it returns from its recess.

Commission Chairman Martin R. Castro stated, "The rights of our transgender youth in schools throughout our nation have quickly become one of the defining civil rights issues of the day. The Commission will continue to be a strong voice to ensure that the rights of transgender youth are protected..."
vigorously by our federal government."

Do I have a second?

COMMISSIONER ACHTENBERG: Second.

CHAIRMAN CASTRO: That was Commissioner Achtenberg?

COMMISSIONER ACHTENBERG: Yes.

CHAIRMAN CASTRO: Any questions or discussion?

COMMISSIONER KIRSANOW: Mr. Chair.

CHAIRMAN CASTRO: Commissioner Kirsanow, is that you?

COMMISSIONER KIRSANOW: It is, thank you, Mr. Chair.

Regardless of where we stand individually on the substance of this, I would just respectfully suggest that the Commission be careful in weighing in on matters where the subject of litigation is at a stage of interim relief. We don't have a final adjudication of this matter. This thing is something that is going to percolate throughout the various circuits throughout the country probably. There will probably be considerable more litigation on the federal level. There might be some state litigation. I'm not sure exactly how that would begin but there might be. And I think if we are going to be weighing in on a matter
that is the subject of litigation, it might behoove us to wait to see what the conclusion is.

CHAIRMAN CASTRO: Thank you, Commissioner, I appreciate your point. However, historically, this Commission has often weighed in on matters that are in current litigation. The Texas birth certificate case that we just talked about earlier is one of those. And I like to think that hopefully our continued shining the spotlight on that helped somewhat in the resolution.

And I think if you look back on the history of the Commission, you will find other instances where we have spoken out under both conservative, as well as progressive administrations on issues in litigation because of the importance of the issue.

So, that is what I believe would be the case here. Any additional comments?

COMMISSIONER HERIOT: Mr. Chairman?

CHAIRMAN CASTRO: Yes.

COMMISSIONER HERIOT: Mr. Chairman, I just wanted to point out that the note here notes that this is just a stay but I want to emphasize that. This is really not a very significant event here. They have simply stayed the mandate out of the Fourth Circuit, pending a decision on whether or not to accept
certiorari.

And so, if you are going to issue a statement at this point, you are going to issue a statement if they decide to grant cert and then another one when they decide the case. I mean, why don't you wait until they decide whether or not to accept the case?

CHAIRMAN CASTRO: You know it is easy for us to sit here again and say this is not legally significant, this is temporary. These are not just legal and constitutional issues, although they are that. These affect the lives of real people out in the community. And this young boy is, for the rest of the school year or as long as it takes to resolve this at the Supreme Court, not going to be able to use the facilities of his choice. And this affects other children in other states as well.

COMMISSIONER HERIOT: Nobody else gets to use the facilities of their choice.

CHAIRMAN CASTRO: May I finish, please?
Well, the whole issue here is whether this child and other children like him can use the bathroom of their gender identity. And young Gavin, in this case in Virginia, had been told by the Fourth Circuit that he could begin and other children like him could be begin to do this. And given this emergency temporary
restraining order, they cannot.

So to me, and I hope to this Commission, we should look beyond merely the procedural and the legal issues and realize that each of these decisions touch the lives of our fellow Americans, in particular, in this case, our children. So, to me, it is more than just a temporary legal issue or temporary legal setback.

Anyone else?

COMMISSIONER KLADNEY: Mr. Chairman?

CHAIRMAN CASTRO: Yes, Commissioner Kladney.

COMMISSIONER KLADNEY: I support this statement.

CHAIRMAN CASTRO: Thank you.

COMMISSIONER KLADNEY: And even though it is an interim stay, pending certiorari, I think it is important for the Commission to continue to be consistent with its positions in these matters, whether it be these transgender issues or some other issues.

I hope that we add a voice to this debate. I think that the fact that we may express our disappointment does not mean we are criticizing the judicial process, nor are we denigrating anything in the process. We are just merely saying that we are disappointed with this particular action in the
litigation and expressing our feelings that way.

CHAIRMAN CASTRO: Thank you, Commissioner Kladney.

Anybody else before I call the question for a vote? Okay, let me take a roll call.

Commissioner Kirsanow, how do you vote?

COMMISSIONER KIRSANOW: No.

CHAIRMAN CASTRO: Commissioner Heriot, how do you vote?

COMMISSIONER HERIOT: No.

CHAIRMAN CASTRO: Commissioner Kladney, how do you vote?

COMMISSIONER Kladney: Yes.

CHAIRMAN CASTRO: Commissioner Achtenberg, how do you vote?

COMMISSIONER ACHTENBERG: Yes.

CHAIRMAN CASTRO: Commissioner Yaki, are you on?

(No audible response.)

CHAIRMAN CASTRO: Madam Vice Chair, how do you vote? Madam Vice Chair?

VICE CHAIR TIMMONS-GOODSON: I'm sorry, I was on mute. Abstain.

CHAIRMAN CASTRO: And I vote yes.

Commissioner Narasaki, how do you vote?
COMMISSIONER NARASAKI: I abstain.

CHAIRMAN CASTRO: So, we have two abstentions, two nos, and three yeses. So, that passes. Correct? All right, thank you.


CHAIRMAN CASTRO: Next, we move on to a discussion and vote on the letters that we are sending in response to the request by the Oklahoma State Advisory Committee on the School-to-Prison Pipeline.

There are two letters which, hopefully, you all have had the chance to receive and review. And I will make a motion that we approve these letters. Is there a second for discussion purposes?

COMMISSIONER NARASAKI: I second, Mr. Chair.

CHAIRMAN CASTRO: Thank you, Commissioner Narasaki.

Any discussion? Commissioner Heriot.

COMMISSIONER HERIOT: I just want to say that I can't support this letter. It is unusual for us to send a letter conveying a State Advisory Committee's Report and endorsing the recommendations, especially in
this case, where those recommendations run counter to the testimony that we took in the Commission's own briefing a few years back, when we had a briefing on school discipline.

And so I feel that the Oklahoma Advisory Committee recommendations got it wrong and I intend to send a letter to the Department of Education reiterating what the Commission heard from witnesses back when we did our own briefing on school discipline.

I know that Commissioner Kirsanow shares my view that we are very concerned about the Department of Education's initiative on school discipline and the pressure they are putting schools under to, essentially, take race into consideration in deciding whether students should be disciplined for misbehavior in class. I think that is not doing any student of any race any favor.

CHAIRMAN CASTRO: Thank you, Commissioner. I recall that briefing. It was the first briefing I attended as a member of this Commission. It is a briefing that had been approved by the prior Commission, had witnesses chosen by the prior Commission.

And as I prepared for that briefing, I recall that it made no reference whatsoever to several
studies that were done by our State Advisory Committees in the Southeast that concluded that there indeed was significant issue about African American children and African American-Latino children being victims of school discipline policies that disproportionately punish them compared to their white classmates. And I think that much of that briefing failed to take into account those perspectives.

And since then, a number of our other State Advisory Committees across the country have done their independent studies and each and every one of them has concluded that there is, indeed, disparate disciplinary policies that are affecting our public schools that impact students of color, especially African American students.

So, I think the overwhelming weight of evidence that this Commission and its State Advisory Committees have gathered over the years is indicative of what Oklahoma has pointed out to us most recently.

COMMISSIONER KIRSANOW: Mr. Chair?

CHAIRMAN CASTRO: Commissioner Kirsanow.

COMMISSIONER KIRSANOW: Thank you, Mr. Chair.

CHAIRMAN CASTRO: You're welcome.

COMMISSIONER KIRSANOW: I will be joining
Commissioner Heriot's letter, which I suspect is not going to be a surprise to anybody.

But I will also note that that previous briefing had adduced copious evidence with respect to the ramifications of lowering and I do mean lowering standards with respect to the issuance of discipline. And those ramifications are visited most harshly upon students of color.

The bottom line is, when you allow disruptive students to remain in class, the people who are going to be affected are the students that want to learn. And those students are likely going to be from the same racial or ethnic cohort as the disruptive students.

We have a disparate impact, possibly and I am not surprised by findings of disparate impact. You will never find any policy, test, standard, guideline that does not have a disparate impact. That doesn't necessarily mean that that is an unjustified standard policy, guideline, test, whatever it may be or that that disparate impact is somehow invidious.

The lessons of just the last few months with respect to the news reports coming out of places like Saint Paul, Minnesota, Minneapolis, and other school districts shows that when school disciplinary
guidelines are lowered, suspensions and other
disciplinary actions that are based on
racially-mandated outcomes, the folks that get hurt are
the minority students who try to learn and disruptive
behavior increases. It increases significantly.

So, I will be voting no on this and I will
be joining Commissioner Heriot's letter.

CHAIRMAN CASTRO: Thank you, Commissioner
Kirsanow.

No one here is talking about lowering
disciplinary standards. What this is all about is
making sure that existing disciplinary standards are
enforced equally and fairly, regardless of the child's
ethnic or racial background.

Commissioner Heriot.

(Simultaneous speaking.)

CHAIRMAN CASTRO: Excuse me, let
Commissioner Heriot go and then you can go, Commissioner
Kirsanow.

COMMISSIONER HERIOT: The Department of
Education has been urging these schools to lighten up
on discipline as their method of dealing with this
problem and it has created problems.

And the Department of Education is correct
that African American students are disciplined more
than often than white students are but what they usually
don't mention, but which is also true, is that white
students are disciplined more often than Asian American
students are. But the reasons behind this are a lot
more complex than simply gosh, it must be racism.

I do not believe that schools across the
country are anti-white and pro-Asian. I think that
white students are, in fact, misbehaving more often than
Asian American students are misbehaving.

If you look at rates of out-of-wedlock
births, it is not surprising that there would be
differences with Asian American families most likely to
have fathers in the household. It is not surprising
that you would get less misbehavior, given that.

But to say that schools should lighten up,
which is exactly what the Department of Education has
been doing, you know when you have got children that are
being reared in households where it is difficult to
maintain discipline because there is only parent, I mean
we all sympathize with one-parent households, whether
it is a fatherless or a motherless household, it is a
lot harder to rear a child when you have only got one
adult at home. And teachers can pitch in and they can
help teach children to lead structured disciplined
lives, unless the Department of Education is telling
them that they shouldn't do it, which is what is happening now.

CHAIRMAN CASTRO: Commissioner Kirsanow, then Commissioner Narasaki.

COMMISSIONER ACHTENBERG: Mr. Chairman, I would also like to speak.

CHAIRMAN CASTRO: Who is that? Okay, so Kirsanow, Narasaki, and Achtenberg.

COMMISSIONER KIRSANOW: I would just second what Commissioner Heriot has said. I would also note, as an anecdotal matter, I, from time to time, almost every year, I go ahead and I teach in schools in the City of Cleveland, intercity schools. And it is very significant what transpires when standards are lowered and who is harmed by that. This is not rocket science and we have got a significant amount of evidence now that has been adduced that when these standards are lowered, and they are lowered in practical effect, the disruptive students act out, it becomes not just a hostile environment but a dangerous environment.

By the way, much of the discipline that is imposed is being imposed by teachers or administrators of the same race or ethnicity as the offending students. And as Gail, Commissioner Heriot had indicated, one of the reasons you have a disparate impact is because you
have disparate behavior patterns on parts of certain students, not all. But there is no doubt whatsoever that there is a higher rate of misbehavior among black students in intercity schools, none whatsoever. That is a fact. And when you have high rates of misbehavior, I would hope that you would have higher rates of disciplinary action to protect staff, students, and especially the students that wish to learn.

I feel sorry the students who go to school on a daily basis with the intent to learn and they sit there with students -- this is not your father's classroom anymore. These are students who are -- you talk about school-to-prison pipeline, there are students in these classes who are very, very disruptive and I put that very mildly. It is a dangerous environment, quite often.

For the life of me, because I am an old man, back when I was learning things were a little bit different, I couldn't even imagine sitting in some of these classes and trying to learn my ABCs, or trying to learn my geography, or trying to learn my geometry.

This is something that is significant but the point is that we have evidence as to the disruptive effects. We have our Commission Report on this and this runs contrary to the Commission Report.
CHAIRMAN CASTRO: Thank goodness that it is not. As a fellow old man joining you, I'm glad that these are not our father's classrooms because, if they were, folks like you and folks like me of our skin color and our ethnic background would not be allowed to go to some of these schools. That is why we had Brown vs. Board of Ed and the Westminster case.

So, thank God --

COMMISSIONER KIRSANOW: No one prohibited me from going to any school I wanted to go to.

CHAIRMAN CASTRO: Commissioner Narasaki and then Commissioner Achtenberg and then I am going to call the question.

COMMISSIONER NARASAKI: Thank you, Mr. Chair.

COMMISSIONER KLASDEY: I would ask to speak, Mr. Chairman.

CHAIRMAN CASTRO: Okay, then you will speak after Commissioner Achtenberg and then I will call the question.

COMMISSIONER KLASDEY: Thank you.

COMMISSIONER NARASAKI: I'm a little surprised by this discussion because when the State Advisory Committee Chair presented the report, there was no such discussion being raised by the commissioners
questioning their findings or challenging their findings in any way. And it is troubling to me that now we are having the discussion because we did, even at that time, note that we were going to follow through on one of their requests, which was to, in fact, send their findings to the Department of Education and the Department of Justice.

So, that is one thing is I think it would be more helpful to have these discussions when the SAC Chair is presenting, so that commissioners who challenge their findings have an opportunity to engage them. And it is only fair, I think, to the State Advisory Committee members that they get a chance to respond.

The second thing I want to note is that the Commission's report, I understand, was issued in 2011. And since then, there have also been, in fact very recently, a study on implicit bias in the case of schools, in the case of these kinds of situations. And also, I doubt that it will be interesting to find whether the case is in fact that it is the same race teacher disciplining the same race student, given the recent report that shows that in fact minority teachers have been very hard to recruit and retain. And in fact, there is a dearth of minority teachers at a time when,
in fact, it has been shown that having such teachers in
the classroom help minority students.

And then the last thing I want to note is
that one of the things I have found most interesting in
the report of the State Advisory Committee is the
response they got about the significant of kids with
disabilities who end up in this track. And I think
there has been a failure to pay sufficient attention to
what kind of role that is playing in terms of these
issues and it is going to be one of the suggestions I
make for a briefing next year.

CHAIRMAN CASTRO: Commissioner
Achtenberg.

COMMISSIONER ACHTENBERG: I want to
associate myself with the comments just made by
Commissioner Narasaki with regards to students with
disabilities. I also want to say that I believe that
the Oklahoma SA amply supported their very muscular
conclusions with factual predicate. And I think on
that basis, I support the transmission of the SAC report
as specified.

Let me also say that there are many
approaches to school discipline that the Department of
Education is promoting because they actually work and
because they tend to represent much less harm to the
students who are in need of the discipline, as well as the other students in the classroom. And I would point out that those disciplinary practices, including restorative justice practices are having a very salutary impact on this issue. And I want to commend the State Advisory Committee for taking note of that and the Department of Education.

It has been said by other commissions lowering the standards. Actually, that is not at all what is going on here. It turns out that there are other disciplinary practices that yield better outcomes. And I am delighted to see those researches and I am hoping that in future briefings we can examine some of those things and promote them to the extent that they have a more salutary impact on these practices.

So, I would think they should be transmitting this report and I am going to vote yes on this statement.

CHAIRMAN CASTRO: Commissioner Kladney and then I am going to call the question.

COMMISSIONER KLADNEY: Thank you, Mr. Chairman. I would like to amplify on what Commissioner Achtenberg has just stated regarding the application of discipline.

I don't think that anybody is saying that
you should not discipline people who do wrong. I think it is the type of discipline and how you discipline. And I think my colleagues who have voiced objection to this should realize that that is exactly what has been going on when they relate to change in the country. That is, for instance, in many of our school districts, now there are policemen in schools. And instead of dealing with the student straight up through the Vice Principal's Office, at least, I don't know if Commissioner Kirsanow, he is not as old as I am, but we used to go to the Vice Principal's Office and the Vice Principal used to deal with discipline in varying and different ways.

Today, a lot of times, the students are arrested or taken to juvenile hall. I think that is probably appropriate for very violent types of situations but it is not appropriate for most. And I think there are other forms of discipline.

Not being a social scientist, I cannot comment on that. And I think that our Commission should look into it but the SAC did look into it.

And I find it interesting that also my colleagues who oppose this letter all feel that Oklahoma, who is closest to the situation in Oklahoma, is inaccurate in terms of the conclusions it came to.
I think my colleagues who oppose this letter are talking in some broad kinds of sense across the country and wish to impose that view nationally.

I think that the Oklahoma SAC is closer to the issue with local government and perhaps has a better grip on what is going on.

I have also in the past opposed the school-to-jail pipeline concept paper and perhaps we should reconsider that at some later date.

However, I do support sending this letter, as I do think that perhaps we should start sending our SAC Reports to each and every department that they touch in concern in the future. Thank you.

CHAIRMAN CASTRO: Thank you, Commissioner Kladney. I am now going to call the vote.

COMMISSIONER HERIOT: I still have something to say.

CHAIRMAN CASTRO: All right. Go ahead.

COMMISSIONER HERIOT: First of all, in response to the notion that doubting that African American teachers are harder on African American students than other teachers, that is documented in the empirical literature quite clearly.

On the point that gosh, why didn't we bring this up earlier, the point there is that well, they were
presenting the report to us for the first time and there was never a statement that we were going to endorse their recommendations.

I think that Commissioner Kladney is right. We should routinely send SAC reports to the appropriate agency but it is quite another thing for the Commission to be endorsing the recommendations of one of the SAC reports.

As to Commissioner Kladney's point that somehow opposing this is attempting to impose a national viewpoint, that is just the opposite of my view. What is happening now is that the Department of Education is imposing their viewpoint on school districts around the country. No, our Oklahoma State Advisory Committee is not an expert on disciplinary matters but school systems contain lots of experts on disciplinary matters.

I'm a teacher but I teach law students and law students tend to be very well behaved. So, I don't hold myself out as an expert on how students should be disciplined. But I very much take the position that schools and not the Department of Education and inside the Beltway persons should be deciding how to take care of cases.

And for the Department of Education, under the guise of laws that forbid race discrimination, for
them to go in and start dictating disciplinary policies to schools I think is extremely wrong-headed.

CHAIRMAN CASTRO: Okay, I think we have fully discussed this. So, I am going to call a vote now.

Commissioner Kirsanow, how do you vote?

COMMISSIONER KIRSANOW: No.

CHAIRMAN CASTRO: Commissioner Heriot, how do you vote?

COMMISSIONER HERIOT: I'm predictable. No.

CHAIRMAN CASTRO: Commissioner Narasaki, how do you vote?

COMMISSIONER NARASAKI: Yes.

CHAIRMAN CASTRO: Commissioner Kladney, how do you vote?

COMMISSIONER KLASTEY: Yes.

CHAIRMAN CASTRO: Commissioner Achtenberg, how do you vote?

COMMISSIONER ACHTENBERG: Yes.

CHAIRMAN CASTRO: Commissioner Yaki, are you on?

(No audible response.)

CHAIRMAN CASTRO: No. Madam Vice Chair, how do you vote?

VICE CHAIR TIMMONS-GOODSON: Yes.
CHAIRMAN CASTRO: And I vote yes.

It passes with one, two, three, four, five yeses and two nos.

DISCUSSION AND VOTE ON STATEMENT CONCERNING THE RECENT DECISION ON THE NORTH CAROLINA VOTER ID LAW

CHAIRMAN CASTRO: The last statement that we have before we move on to the rest of our agenda, is a statement concern the recent decision on the North Carolina Voter ID Law. You all should have received a copy of that draft that was circulated a few days ago.

I, for purposes of discussion, will make a motion that we approve. Is there a second?

COMMISSIONER ACHTENBERG: Second.

CHAIRMAN CASTRO: Okay. Was that the Vice Chair?

COMMISSIONER ACHTENBERG: Roberta.

CHAIRMAN CASTRO: Oh, I'm sorry, Commissioner Achtenberg. Okay.

Any questions or comments? Commissioner Heriot.

COMMISSIONER HERIOT: I object to the tone of this statement as well.

CHAIRMAN CASTRO: Of course.

COMMISSIONER HERIOT: It refers to all voter ID laws, as I am quoting here, "thinly veiled
efforts to deny racial minorities access to the ballot box." That is a pretty strange thing to say --

CHAIRMAN CASTRO: It's pretty true.

COMMISSIONER HERIOT: -- about legislation that is supported by a majority of Americans.

It is also true that voter fraud is real. Whether it is extensive, I'm not in a position to judge. But state legislatures, whether we are talking about a state like Rhode Island, where the strong support came from the Democratic Party, or we are talking states like Indiana, where very strong support come from the Republican Party, there has been a lot of support in state legislatures for these bills as a method of dealing with certain kinds of voter fraud.

I think, in particular, there is plenty of evidence that felons, who are not entitled to vote, sometimes mistakenly but sometimes knowing that they are doing something wrong, are voting anyway. When they do that, it is easy for someone to say well, I didn't realize, I didn't know, or even, gosh, it wasn't me who was voting. It is impossible to cut off all the possible arguments but when are you are talking about a felon voting and then finding out that felon has voted, one way to at least cut off part of the argument is to
say well, it must have been you who voted because the person had to show an ID and, therefore, that creates a very strong presumption that it is, indeed, the person who was registered who voted that vote.

Now, some of these voter ID laws, like the Indiana one, have been upheld. In North Dakota, one of the cases you are citing here, the judge deciding the case essentially said look, the State Attorney General didn't bother to defend with facts.

In other cases, some courts have found that the state legislatures have failed to provide enough safeguards to ensure that people who actually are entitled to vote are able to vote. That is fine. I'm not criticizing any of these decisions. What I am criticizing is the notion that we have characterized it in this document as a thinly disguised effort to deny racial minorities the vote. And I think that is an incorrect statement and needlessly causing people to believe that someone is out to get them in ways that it is simply not true.

I don't think it is the Commission's job to be creating that kind of distrust when it doesn't exist.

CHAIRMAN CASTRO: Our country's history, unfortunately, is replete with instances of majorities of state legislatures passing laws that have
historically violated our Constitution and personal and individual rights, whether it is considering certain people property, whether it is keeping certain people from marrying the people they love, whether it is keeping schools segregated. We have addressed those issues and toppled those laws. And some of these, to this day, continue to try to put up barriers and discriminate, whether it is some of the laws we saw passed that we stood up to in states that were anti-immigrant laws, and today these issues of transgender and now, these voting rights blockades.

So, just because a state legislature unanimously supports something, that does not necessarily pass a litmus test of it being constitutional.

Commissioner Narasaki.

COMMISSIONER NARASAKI: Yes, I just wanted to note for the record that, unfortunately, because I have vast expertise on this issue, it is killing me because there are so many factual issues that I have with what has been said so far but I have to recuse myself from this discussion.

CHAIRMAN CASTRO: Okay. Any other comments or questions before I call it for a vote?

COMMISSIONER ACHTENBERG: Mr. Chair?
CHAIRMAN CASTRO: Commissioner Achtenberg and then Commissioner Kladney, and then Commissioner Heriot.

VICE CHAIR TIMMONS-GOODSON: I'd also like to say something, Mr. Chair.

CHAIRMAN CASTRO: And then the Vice Chair.

Okay, so Achtenberg, Kladney, Heriot, and the Vice Chair.

COMMISSIONER KIRSANOW: Kirsanow.

CHAIRMAN CASTRO: Commissioner Achtenberg, go ahead.

COMMISSIONER ACHTENBERG: Mr. Chairman I just wanted to say that actually the record speaks for itself, and I concur in the characterizations that are represented in the statement and I believe them to be accurate and consistent with the findings of the Commission.

So, I wanted to make that statement.

CHAIRMAN CASTRO: Thank you. Commissioner Kladney.

COMMISSIONER KLANDNEY: I didn't request to speak.

CHAIRMAN CASTRO: Oh, I'm sorry, I thought that was you. Was it Commissioner Kirsanow, then?

COMMISSIONER KIRSANOW: It was me, Mr.
Chair.

CHAIRMAN CASTRO: Okay, go ahead, Commissioner Kirsanow.

COMMISSIONER KIRSANOW: Very briefly. First, the Commission did have hearings on voter fraud about 11 years ago, maybe it was 10 years ago, and there was considerable evidence of voter fraud. Not only that, the Congress has had hearings on these things, and contrary to popular opinion, there is extensive voter fraud. I happened to testify in one of those hearings and I've got copious evidence of that, as do a number of other statisticians.

Second, voter ID laws have been upheld numerous times by federal courts. They are not simply devices to somehow deprive individuals, on the basis of race or ethnicity, of the right to vote. They are legitimate methods of protecting the franchise for all.

And third, this is contrary to the Commission's own findings in previous voter ID hearings that we've had. That's all I have to say.

CHAIRMAN CASTRO: Commissioner Heriot, then the Vice Chair. Then I am going to call it for a question -- call the question for a vote.

COMMISSIONER HERIOT: You ended your statement, Mr. Chairman, with a statement I can agree
with. You said that just because a bill is unanimously passed, that doesn't make it constitutional. And that, of course, is quite correct.

But the problem here is that the statement doesn't simply say that the statutes are unconstitutional; it says they're thinly veiled efforts to deny racial minorities access to the ballot box.

CHAIRMAN CASTRO: Well, that's why they are unconstitutional.

COMMISSIONER HERIOT: And I would submit that, particularly in the case where it's getting votes from the Democratic Party, which tends to get more minority votes than the Republican Party, it seems very unlikely that the motivation in that situation is to deny minorities the vote.

Now, courts aren't saying, in each of these cases, that the legislation is a thinly veiled effort to deny racial minorities access to the ballot box. I mean, there are 50 different states here; 50 different stories, they have to be proven to the court in 50 different ways.

But, in general, what we have are courts that are saying, look, it's a fundamental right to vote. There are people who aren't able to comply with the requirements of this statute and we believe that, under
the circumstances of the particular case, that the
burden to those legitimate voters outweighs the
benefits in whatever prevention of voter fraud there
might be.

Note that Supreme Court Justices, like John
Paul Stevens, who's from Chicago, like you, and knows
a lot about Chicago history, have agreed: voter fraud
is a problem. We want to devise statutes that will
protect legitimate voters the best we can, while dealing
with voter fraud the best we can.

A statute may be unconstitutional, or a
court may be wrong about it being unconstitutional. I
can't speak to each one of these statutes. I haven't
seen them and I can't speak to the motivation of every
single legislator.

But what I can say is when you've got a
unanimous legislature, with legislators from both
parties voting in favor of laws like this, it's a real
stretch to think that somewhere in the minds of these
legislators must be the desire to deny racial minorities
the vote. I think it's disrespectful to state
legislatures to put it that way.

CHAIRMAN CASTRO: Thank you,
Commissioner. As a Democrat, I can say, unfortunately,
Democrats are not immune to bigotry and bias. So, the
fact that they voted for something doesn't necessarily immunize it.

Madam Vice Chair, your comments. And then I am going to call it for a question -- I'll call the question for a vote. I'm sorry.

Madam Vice Chair? Could you speak up, Madam Vice Chair? We are having a hard time hearing you clearly.

VICE CHAIR TIMMONS-GOODSON: Okay. I simply wanted to bring to the attention of the Commission that I believe that the Governor of the State of North Carolina has sought a stay with regard to this decision. And so, if we are going to get it out, we are going to want to move quickly. I don't believe the Supreme Court has ruled on the stay, however.

CHAIRMAN CASTRO: Okay.

COMMISSIONER KLADNEY: Can someone repeat what she said?

CHAIRMAN CASTRO: Yeah, it wasn't clear. Go ahead, Commissioner Narasaki.

COMMISSIONER NARASAKI: I think what she was alluding to is that the State of North Carolina has filed for a stay of the decision, pending an appeal to the Supreme Court. So, she's just saying we need to get the statement out because it's a shifting legal
environment.

CHAIRMAN CASTRO: Yeah, that was actually in the newspaper a couple of days ago.

Okay, I am going to call the question for a vote.

Commissioner Kirsanow, how do you vote?

COMMISSIONER KIRSANOW: No.

CHAIRMAN CASTRO: Commissioner Heriot, how do you vote?

COMMISSIONER HERIOT: I vote no.

CHAIRMAN CASTRO: Commissioner Narasaki, how do you vote?

COMMISSIONER NARASAKI: I recuse myself.

CHAIRMAN CASTRO: Yes, of course. Sorry.

Commissioner Kladney, how do you vote?

COMMISSIONER Kladney: I pass for a moment.

CHAIRMAN CASTRO: Okay, I'll come back to you.

Commissioner Achtenberg, how do you vote?

COMMISSIONER ACHTENBERG: Yes.

CHAIRMAN CASTRO: Madam Vice Chair, how do you vote?

VICE CHAIR TIMMONS-GOODSON: Yes.

CHAIRMAN CASTRO: And I vote yes.
Commissioner Kladney?

COMMISSIONER KLADNEY: Yes.

CHAIRMAN CASTRO: So, the motion passes with four yeses, two nos, and a recusal.

PROPOSAL BY PRESS SECRETARY BRIAN WALCH ON ISSUANCE OF MULTIPLE PRESS RELEASES

At this point, I would actually like to invite Brian Walch, our press person, to come up and present a suggestion that he had about how we may want to issue these press statements. Just given the number of them, we obviously want to do this in a way that is organized. So, Brian.

MR. WALCH: Sure. Thank you, Mr. Chairman, Commissioners, Mr. Staff Director.

Basically, my proposal is in the sense of streamlining, to a certain extent, only the press releases. This has nothing to do with the statements themselves in the sense of publicizing and releasing them.

We had already discussed, or you have already discussed, that the Peaceful Coexistence and Women in Prisons report, those are both press releases in and of themselves. So, the proposal is that, obviously, those two go out standalone.

The other proposal would be that instead of
individual press releases for Texas Birth Certificates, GG v. Gloucester School Board, and the statement regarding striking down voter identification laws, that because, in essence -- and this is my terminology -- these are all on a legal track, so to speak, that we could issue one press release indicating that all of those three statements have been approved by the Commission.

So, that's the proposal that I have.

CHAIRMAN CASTRO: And it would link to all three statements?

MR. WALCH: Yes, it would.

CHAIRMAN CASTRO: What do folks think about that? I know that there was some questions about just the number of things that we are putting out.

Commissioner Heriot.

COMMISSIONER HERIOT: I defer to the judgment of someone who knows about these things.

CHAIRMAN CASTRO: Any commissioners have any thoughts, any objections to that?

COMMISSIONER KLADNEY: Kladney here. Is what's being said that you combine the three together with links to the full statements?

CHAIRMAN CASTRO: Correct.

COMMISSIONER KLADNEY: Because I know that in the past all we've ever done is issue through PRI,
I think the name of the outfit is, or NPR or something like that. Anyways, there was some outlet that we would give the release to and there was only so many words we were allowed to put in it.

Are you now going to expand the list of people and manner of delivery of these statements to individual news organizations and outlets? How exactly is the distribution going to take place, especially if you are only linking -- if, in fact, you are speaking about links in the one and only combined individual press release?

MR. WALCH: Yes, thank you, Commissioner, for the question.

In essence, we still will continue with the procedure of issuing press releases via PR Newswire. We are in discussions, early discussions about amplifying the reach, so to speak, of press releases.

In these cases, the statements themselves will be posted individually on the website. They will also be referenced in our Twitter feed as statements, and we will try to get those the most expansive coverage we can. But again, in this case, what is just a clarifying case, the individual statements will be released. They will be posted individually. This would, again, just be a press release which indicates
that these three statements were voted on, discussed, and passed by majority vote today here at the Commission by you all.

COMMISSIONER KLADNEY: So, that would mean that people would have to come to our website, is that right, if they have a further interest?

MR. WALCH: Generally speaking, we, by tradition, have posted the statements, as you know, on the website. We have run press releases on PR Newswire to get the shorter, more targeted language out more widely. And then anything that runs in PR Newswire references the exact link to the statement on the website.

As you know, that has, to a certain extent, been tradition. We can have, I think, additional discussions at a moment in time, if Commissioners desire to decide how we might amplify that going down the road.

CHAIRMAN CASTRO: So just so we understand, the PR Newswire will have the press release. There will be an active link for each of the statements. The person who's looking at that PR news website will click the link and immediately they can see the statement.

MR. WALCH: Absolutely. Within the statement, there will be -- excuse me. Within the
single press release, there will be hyperlinks to each
of the three statements and that will be very easy to
navigate for anyone that looks at the press release.

CHAIRMAN CASTRO: Commissioner Narasaki.

COMMISSIONER NARASAKI: I just want to
note, I think the context is helpful, which is using the
PR Newswire is very expensive and it's by the word. So,
the more that we can streamline the process, the better.

I do think that we, as Commissioners, can
work with the press office to also give them other places
where it could be emailed to make sure that, as
Commissioner Kladney says, there is maximum exposure.

CHAIRMAN CASTRO: Right.

Any other questions? If not, it sounds
like you have got our blessing. Thank you, Brian.

MR. WALCH: Thank you all.

B. STATE ADVISORY COMMITTEES (SACS)

PRESENTATION BY NORTH CAROLINA STATE ADVISORY COMMITTEE
(SAC) CHAIR MATTY LAZO-CHADDERTON ON CIVIL RIGHTS AND
ENVIRONMENTAL JUSTICE IN NORTH CAROLINA

CHAIRMAN CASTRO: Okay, so now we will move
on to Advisory Committee matters. First, I'd like to
let you all know we are going to hear from one of our
colleagues, a presentation from the Chairperson of our
North Carolina State Advisory Committee, Chair Matty
Lazo-Chadderton. She's going to speak to us about the recent briefing on environmental justice in North Carolina, where myself, Commissioner Narasaki, and our Vice Chair attended.

And let me just say that the Chair of the North Carolina State Advisory Committee did a masterful job of bringing together very divergent points of view that were presenting at that hearing and allowed everyone to engage thoughtfully and respectfully in the issue. And we were very pleased to see her leadership, and that of the members of the Advisory Committee.

So, I'm very glad that she is here today to talk to us about the work that they've done. I think we've all seen the report as part of our effort to finalize our environmental report for our statutory enforcement report, but this will be a chance to dig a little deeper on this report.

So, Madam Chair, are you on the line?

MS. LAZO-CHADDERTON: Yes, Mr. Chairman, thank you.

CHAIRMAN CASTRO: Great. Welcome. Please proceed.

MS. LAZO-CHADDERTON: Should I begin?

CHAIRMAN CASTRO: Yes, go ahead.

MS. LAZO-CHADDERTON: Thank you, Mr.
Chairman, for your kind comments. We were so honored, on April 7th, having you, and Vice Chair Timmons-Goodson, and Commissioner Karen Narasaki coming in representation of total Commissioners to a small town like Walnut Cove. It was the highlight of the day because we didn't feel alone, and especially the residents.

And I would like to thank every one of the Commissioners today for allowing me to share with you about our study, and a little bit of the background and observations, important observations, because I have ten minutes, I believe. And then some recommendations, that is the most important.

So, on April 7th, 2016, the North Carolina Advisory Committee met, or convened, rather, a public meeting in the town of Walnut Cove. It is located in the Stokes County, North Carolina, along the border with Virginia.

And the Committee wanted to hear testimony regarding environmental justice issues in the state, especially issues related to coal ash disposal and its civil rights impact on communities based on race and color.

And really we heard about everyone: residents, local residents, nonprofit organizations,
the industry, Duke Energy, and the North Carolina Department of Environmental Quality. And we were very glad that this place was chosen, like any place in North Carolina. But this public meeting was connected with the coal ash, as I said.

And going a little bit back, on February 2nd, 2014, a metal pipe in the Duke Energy coal ash pond opened burst open and leaked an estimated 82,000 tons of coal ash and 27 million gallons of contaminated water into the Dan River in Eden, North Carolina. For a week, heavy metals, such as arsenic, selenium, bromine, mercury spilled into the river. According to the news, coal ash was found as far as 70 to 80 miles downstream, coating the bottom of the river.

And after the 2014 spill, Duke Energy pled guilty to nine charges of violation of the Clean Water Act and agreed to pay $68 million in fines and they paid $30 million of environmental projects and land conservation.

Additionally, Duke Energy entered into a $3 million cleanup agreement with the EPA. However, some organizations are estimating that the total cleanup cost could be as much as $300 million.

Overall, all invited parties -- we invited everyone. It was an open invitation. And we had
amazing speakers and panelists, including from Washington D.C., and from any rural and urban area in North Carolina. And whoever couldn't attend personally, they submitted written statements, offering their perspective on the civil rights concerns in question.

The only disappointment was that, in spite of several attempts, no representative from the EPA were present at the committee hearing.

So, what we find out, important findings were: the first one -- and I'm going to name them and then if you have more questions, Commissioners, feel free to ask, please.

And the following findings result directly from the testimony received, and it reflects the views of the entire seated panelists, were: industry-produced toxic waste and air pollutants are disproportionately concentrated in and around communities of color, particularly black, Latino, and American Indian.

The other observation was that the environmental protection laws that exist prohibits the contamination of water by improper disposal of toxic waste. Furthermore, there are provisions that protect the civil rights of communities from damage based on race, ethnicity, and socioeconomic status. However,
without proper enforcement by state and federal regulatory agencies, these laws failed the communities who depend on them.

The next observation from this town hall meeting was that there has been insufficient scientific research conducted on the health and environmental risks associated with coal ash. The first observation was that Mr. Tom Reeder, a representative of the NC DEQ, North Carolina Department of Environmental Quality, stated in his testimony that the NC DEQ and Governor McCrory are taking steps to redress, to set right, the case of coal ash pollution.

And then the final observation was Title VI of the 1964 Civil Rights Act, in addition to other regulations, assists to withdraw funding and enforce compliance with civil rights law.

Our recommendations were quite a few, and the number one was that the NC Department of Environmental Quality, EPA, and Duke Energy should look into long-term solutions to prevent coal ash leakage and contamination, such as conversion into cement and other waste disposal options which do not risk going into the water or the air.

And the second was that, again, that the North Carolina DEQ and EPA should take action that
prevents low-income communities and communities of
color from being affected by coal ash disposal.

Third, the EPA should conduct an
investigation to see whether the State of North Carolina
is in compliance with all EPA regulations, including
civil rights laws.

And the fourth, I have something more, if
you allow me, is that the EPA should ensure that the
programs it funds, like NC DEQ, be more considerate of
the high adverse human health and environmental affects
that their regulations on coal ash have on minority
populations.

The EPA should investigate the risk level
of residents living the closest to the coal ash pond and
potentially provide economic means for them to be
relocated.

The number six recommendation from the
North Carolina Advisory Committee is the EPA and Duke
Energy should investigate the safest way for excavate
coal ash.

Number seven, the affected community of
Walnut Creek should be annexed into the town of Walnut
Cove in order to have political representation.

Number eight, in addition to considering
environmental justice as related to coal ash disposal,
the Commission should consider other sources of land and water contamination, such as fracking, as well as air quality concerns, such as high exposure to diesel emissions and other sources of fine matter.

The Commission should consider the community effect of these contaminants on environmental justice communities and the extent to which a failure on the part of regulators to study such affect may result in inadequate environmental justice protection.

We have three more recommendations to you all commissioners. The NC Department of Health and Human Services should immediately conduct a total of health and environmental study through the University of North Carolina Medical School of the affected Walnut Cove area using guidance established by the Centers for Disease Control and the Council of the State and Territorial Epidemiologists. These results should be directly reported to the Governor, Lieutenant Governor, Speaker of the House, and North Carolina Senate President Pro Tempore.

The number ten recommendation is the State of North Carolina and the EPA should investigate ways to compensation community members for healthcare expenses and land evaluation that has resulted from coal ash contamination.
And the last one is the EPA should investigate the lasting effects of coal ash disposal on areas after the waste has been disposed of and relocated.

Thank you so much for your patience.

CHAIRMAN CASTRO: Thank you, Madam Chair. Again, very excellent work done by you and your SAC. You should know that we are including your report to us as well as a similar report from our Illinois State Advisory Committee as appendices to our environmental justice report, which will be issued prior to the end of this fiscal year and we also do incorporate some of your hearing findings and recommendations into those that we make overall.

So, the work that you have done will be well-represented as part of the work we are doing here at the national level.

MS. LAZO-CHADDERTON: Thank you.

CHAIRMAN CASTRO: You're welcome.

With that, I am happy to open it up to any questions from our commissioners. Commissioners? Commissioner Narasaki.

COMMISSIONER KLANDNEY: Mr. Chairman?

CHAIRMAN CASTRO: Yes, Commissioner Narasaki, then Commissioner Klandney.
COMMISSIONER NARASAKI: I just wanted to thank the chair for undertaking, and the committee for undertaking this study. It was very helpful to hear directly from community members, in addition to the people who formerly testified, the commission did have basically an open mike for people in the audience to be able to participate.

It was incredibly powerful to hear from the people themselves about the impacts on their loved ones and their way of life. So, really, thank you. It was a very emotional hearing and difficult to run and you did a magnificent job in running it.

CHAIRMAN CASTRO: Commissioner Kladney.

MS. LAZO-CHADDETON: Thank you, Commissioner.

COMMISSIONER KLADNEY: I, too, would like to thank the North Carolina Chair, as well as the rest of the State Advisory Commission.

One question I did have is during your briefing was it ever suggested that business entities dealing with these types of substances be required to place funds in trust, as they use them for purposes of cleanup, medical expenses, and other expenses, if necessary and then, at the end, say when they were done using them, they would either be expensed for those
purposes or reimbursed back to the company. Was that idea ever put forth?

MS. LAZO-CHADDERTON: No, Commissioner, I don't think so but that is an excellent, excellent idea.

And if you allow me in this very moment, I would like -- I am sorry taking a personal privilege to thank you for the kudos. I feel very good and more energized to keep working. As we say it takes the whole village to do some work. In this case, we having the staff only person, individual, who is an amazing, amazing colleague and key player, and hard worker that is our Executive Director for the Southern Regional and that is Mr. Jeff Hinton and he is on the phone call. So, thank you, thank you, Jeff for your outstanding work and service.

I don't recall, Commissioner, being asked or recommending that. That would be a great idea to -- a great recommendation. That would help a lot.

COMMISSIONER KLADNEY: Thank you.

CHAIRMAN CASTRO: Any other questions from commissioners?

Hearing none, then I want to again thank you, Madam Chair. If you want to stick around, we are actually going to be voting on reappointing your State Advisory Committee. Feel free to stay on for the rest
of the call. Otherwise, if you are going to be hanging up, just again, convey our thanks to all the members of the committee for their work and their continuing service on behalf of the Commission and the people of the United States. We appreciate it. Thank you.

MS. LAZO-CHADDERTON: Thank you, Mr. Chairman.

STATE ADVISORY COMMITTEE APPOINTMENTS

NORTH CAROLINA

CHAIRMAN CASTRO: Okay, so now we move on. As I indicated, we have a couple of SAC packages to consider. The first is North Carolina.

So, let me now make a motion that the Commission appoint the following individuals to the North Carolina State Advisory Committee, based upon the recommendation of our Staff Director: Carol Brook, Heather Ford, Steven Greene, Kevin Hales, Jennifer Ho, Dorrance Kennedy, Rick Martinez, Thealeeta Monet, David Moore, Olga Donna Wright, Donna Oldham, Willie Ratchford, Amalia Restucha-Klem, Jenna A. Robinson, and Matty Lazo-Chadderton.

Pursuant to this motion, the Commission appoints Matty Lazo-Chadderton Chair of the North Carolina 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: Mr. Chair, I second.

CHAIRMAN CASTRO: The Vice Chair seconds. Any discussion? If not -- yes, Commissioner Heriot.

COMMISSIONER HERIOT: I plant to vote no on this slate. I'm afraid that this particular SAC has been handled in I think quite an extraordinary way.

As I understand it, two weeks ago, on a Friday, Mr. Mussatt, the Regional Staff Director, reached out to Commissioner Kirsanow's special assistant and my special assistant to get help because he felt that this North Carolina SAC was not balanced sufficiently with regard to viewpoint diversity. So, he called upon the two special assistants he thought were most likely to be able to come up with proposals for conservative members for the SAC.

That was at 10:40 on a Friday morning. My special assistant, Ms. Somin, responded very quickly with some names by about 1:40 that afternoon. Ms. Mulder, Commissioner Kirsanow's assistant, was working on developing an additional list.
Mr. Mussatt began reaching out to the people that Ms. Somin had proposed. But at 3:00, just an hour and 20 minutes later, we got an email that there was a final slate and it didn't include any of the names that Ms. Somin or Ms. Mulder had come up with.

Ms. Somin emailed to find out if there had been some sort of a mistake and was told no, that there was not a mistake, that this was correct, that we could add names at the last minute. And I understand that two recommendations that were made have, indeed gone on.

But there was a very good candidate that Ms. Mulder came up with who, inexplicably has been left off of this. As I read it now, we have ten left-leaning members of this proposal with only five, what I would call leaning to the right in the group.

We recently passed an administrative instruction that featured the notion that these SACs need to be ideologically balanced and that my understanding is that if one person, one special assistant believes that they are not balanced, or one commissioner, that there should be a meeting of all special assistants to deal with the problem. That meeting hasn't happened here. Instead, we are just pushing through this SAC.

Oddly enough, it is not one of the SACs that
has really been out of commission for very long. This one is being jumped ahead of some that have not been completed for a longer period of time. I don't quite see why we need to rush with this one. I don't see why the person that was proposed by Ms. Mulder has disappeared from view here. And I really don't think this SAC is ideologically balanced.

CHAIRMAN CASTRO: So, two of the three that you recommended didn't make it. Is that what you are saying?

COMMISSIONER HERIOT: But right now we have twice as many people who are left-leaning than right-leaning and our administrative instructions are that they are to be balanced. This is very far from balanced.

CHAIRMAN CASTRO: Balance is not one-to-one. But having said that --

COMMISSIONER HERIOT: How come the conservatives always lose on this? Like every time, even in white conservative states.

Name me a SAC where the conservatives in the majority. Always it is gosh, there are only twice as many liberals as conservatives; why is that bothering you, Commissioner Heriot? Well, it does bother me.

Name one -- one -- one -- one State Advisory
Committee where the majority is conservative. Over, and over, and over, and over again, I am asked to say hey, well you know, we couldn't come up with them, even though we have proposals. We have a system where there is supposed to be a meeting to deal with this and it instead, it is being pushed through.

I think it is inappropriate and I object.

CHAIRMAN CASTRO: Commissioner, I suspect maybe some of this is because we have cameras here but have are not putting D.C. and --

COMMISSIONER HERIOT: Have I not objected in the past?

CHAIRMAN CASTRO: We have not put D.C. and Ohio up because you all raised a concern about balance. We are working on those.

COMMISSIONER HERIOT: Ohio is not --

CHAIRMAN CASTRO: Had you raised North Carolina before this --

COMMISSIONER HERIOT: Ohio, they want to knock the conservatives off.

CHAIRMAN CASTRO: -- I have no doubt that we would be pulling that off right now and looking for balance.

We were following and you could have easily raised these issues before the meeting today and we
would gladly have pulled this aside --

COMMISSIONER HERIOT: I did.

CHAIRMAN CASTRO: -- to find -- well, it
was not brought to the attention of the chairman.

I know you want to say something
Commissioner Narasaki and then I will ask the Staff
Director to speak. Commissioner Narasaki.

COMMISSIONER NARASAKI: I just want to
note that the commissioners are well aware of which
State Advisory Committees are open and need
recruitment. And my staff and I have gone out of our
way to help as much as possible the staff identify
people. And I have to say that not every commissioner
is doing that.

So, one of the problems we have, as
Commissioner Heriot well knows, is we have a large
number of State Advisory Committee who are open and not
filled and we need to get them done. Because, as we just
heard from the report today, they play a very important
role.

So, staff is doing the best they can to try
to get these slates up and running. And I would be happy
to entertain a waiver of rules to go back and add some
people, if there are some qualified people to some of
these slates but we need to start getting some of these
slates done.

As the chair pointed out, we have held up D.C. because of your concerns, even though D.C. is hardly a majority Republican place and it has been hard and the reason is not through any malice or ill will or political gamesmanship. It is just sometimes, in a place like D.C. for example, difficult to find people from the Republican Party in a state that like votes 90 percent Democrat.

So, I understand your frustration but I would suggest the way to deal with this in the long-term, not this case, necessarily, but in the long-term is for the commissioners to get more active in really trying to help identify potential members for the staff.

CHAIRMAN CASTRO: Staff Director and then Commissioner Heriot.

MR. MORALES: Thank you, Mr. Chairman. I just want to be able to say that you know I have worked with every commissioner's special assistants and, in particular in this case, I have worked with both Commissioner Heriot's and Commissioner Kirsanow's special assistants when they brought attention of their concerns about the balance. You know I worked with them. I asked them for their assistance.

I believe on a couple of their
recommendations, they didn't submit applications. We wanted to prepare and give commissioners enough time to review the slates so that any objections to an individual, specific individual could be resolved, if that were the case. There were none.

I agree, we need to do a better job in working with balance. You know they can't be perfect. As the chair said, it can't be a one-to-one balance but we do the best job we can with the applications of the nominees.

Sometimes we get nominees from commissioners and they don't, for whatever reason, submit an application. We go back to them. We ask them are you interested, will you submit an application and they don't submit it in time for the deadline.

So, we had that situation with North Carolina. We have had that situation with Kansas. Several of them were able to submit applications in time.

Objections were made in regards to the District of Columbia so we are working with the special assistants of Commissioners Heriot and Kirsanow to try to find a way to resolve those issues and get these SACs going.

If we keep having to object because there
is three more of one persuasion and two more of another, we will never get these done.

And quite frankly, in the case of Kansas, there are five from one ideological persuasion and four from the other; five being conservative and four being more of the progressive bend; and two complete Independents. So, we are not here trying to state that they always have to be one way or the other. We are trying to find the balance as best we can. It is a complicated job. We depend on a variety of people. I mean you are trying to get 15 people to submit applications and a package in a short period of time.

I will recommend this and I have talked to the special assistants about their frustrations and my frustrations and the frustrations of the State Advisory Committee in trying to pull all these together. One of the proposals is that we will do more of a -- David Mussatt, who is the regional coordinator for the SACs, is going to reach out. And we have had preliminary discussions about this of when the SACs come up, as you see on the appointment pages, 120 days before the expiration, what we are thinking of doing, and we haven't thought it through completely, is that we would put forward a notice to all commissioners that this particular SAC, let's New York for just argument's sake,
it is going to expire in 120 days. Please provide us with your nominees, if you have any. There is a certain number that are seeking to be reappointed but we would like to reach out to you and provide us with a list.

So then, 30 days after that, then say these are the nominees we received from you and these are the ones that have responded to us. Do you have any additional? We still have 90 days before we need to put the SAC together. And so that when we get closer to 60 days' out, we have a more robust and clear alignment of the SAC. So that by the time that we get, maybe if there is another 30 days we need to get down and we are able to get a more balanced SAC or there are some further objections, we have time to work on that so that by the time I give it to you, per the AI, which is two weeks before the vote, before the consideration, if there is an objection, we can pull it down, per the AI and work our way through that. That is the idea.

And so we are doing the best we can. I sense your frustration and Commissioner Heriot and all the commissioners, I am more than willing to work with you. I know that David is more than willing to work with all of you in trying to find a way to get these SACs completed so that we can, hopefully, reach the mandate and the request of Congress to have as many SACs as we
can fulfilled before the end of the year.

Thank you.

CHAIRMAN CASTRO: Commissioner Heriot, then Commissioner Narasaki.

COMMISSIONER HERIOT: Okay, a couple of points here I think need to be made. First of all, you know on the notion of whether or not Commissioner Kirsanow and I should have proposed more persons, well, we are getting, as Staff Director has been told, regional staff members telling us not to propose so many people. In fact, we were told that we should only propose people that we personally know, which is, again, just nonsense and not advice that I am planning to take.

My special assistant informed the Staff Director that is the advice that we were getting and that we object to it and she got no response on that.

With regard to the notion that we don't always get applications, that is true but you have applications from the person proposed by Ms. Mulder and yet, somehow, he didn't make it onto the list, despite the fact that this particular SAC leans heavily to the left and needed more conservatives.

And on the notion that maybe we should have procedures, we just worked for months to create a procedure that would eliminate the possibility of
having to deal with this in a meeting. We are supposed to have a meeting of special assistants when a particular SAC is thought to be unbalanced by the special assistants looking at it. That didn't happen in this case.

You know we really did work very hard on those procedures, tried to come up with something that was workable and yet, we are only a few weeks after having passed those procedures and we are already violating them. I would have more sympathy for the notion of now and then there is going to be a SAC where the liberals outnumber the conservatives by a lot if it weren't for the fact that it is always that way. Always, always.

As to Kansas, the notion that this is balanced because the number of Republicans and Democrats is similar, the problem is our Independents tend to be -- they are not Democrats because they are much further to the left than that. In fact, so far to the left, they are in danger of falling over sideways. So, no, it is not a question of how many Republicans and how many Democrats you have. You have got to look at the actual political ideology. We are trying to get ideological diversity so that people who have differing perspectives can come together and talk about these
issues.

CHAIRMAN CASTRO: Commissioner Narasaki, then I am going to call this for a vote.

COMMISSIONER NARASAKI: I just wanted to note a couple of things. It is my understanding is that in fact the issue of North Carolina and Kansas was raised at a meeting with the SAs, that that actually did happen. The second thing is around the issue of personal recommendations. I think what staff is dealing with is some commissioners would put forward the name of someone that they didn't know and so they hadn't actually tried to recruit them to apply and then the staff have to spend a lot of time chasing them.

And then the other issue is, upon closer examination, when you vet some of these people, it is not about sort of partisans leanings, it is about backgrounds that are problematic, having committed crimes or something like that, for example.

And in the case of Ohio, the objection there is not about political leaning, it is about having violated the Commission's rules.

So, I, personally, and I kind of take affront at this notion that somehow we are all out to get the conservatives because I, personally, have recommended and gotten placed several Republicans on
these State Advisory Committees. In fact, I spend a lot of time telling people, look, we need to find more Republicans for these State Advisory Committees.

There is not some kind of conspiracy and I think it is important to make it clear that that does not exist.

So, finally, I want to note that it is not the case, in fact, that all the Independents on the State Advisory Committees are independent because they are so leaning left that they are falling off the earth. That is not the case. Many of them are actually truly independent, truly don't have a party and that should be considered in the overall package.

CHAIRMAN CASTRO: All right, I am going to call the question.

Commissioner Kirsanow, how do you vote?

Commissioner Kirsanow, are you still there?

(No audible response.)

CHAIRMAN CASTRO: He had to get off?

Okay.

Commissioner Heriot, how do you vote?

COMMISSIONER HERIOT: I vote no.

CHAIRMAN CASTRO: Commissioner Narasaki, how do you vote?

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

COMMISSIONER KLASTNEY: I would abstain.

CHAIRMAN CASTRO: Commissioner Achtenberg, how do you vote?

COMMISSIONER ACHTENBERG: Mr. Chairman, I should have spoken up. I am going to vote no. I feel like, given the assertion that it is ideologically so out of balance. I mean I can't tell whether what happened, as characterized by Commissioner Heriot, is what actually happened or didn't happen, but as a commissioner, I want to defer to Commissioner Heriot's explanation. And whatever happened, if it is indeed the case that it is ideologically so out of balance, then as a matter of comity, we typically reconsider those things.

I do want to associate myself, however, with Commissioner Narasaki comments related to the extent to which most of us try to lean over backwards to assure some kind of, if not absolute parity, compliance with the spirit.

So, I am going to vote no because if it is indeed the case that this SAC is so unbalanced, then it probably needs to go back for reconsideration.

CHAIRMAN CASTRO: Let me just say,
Commissioner Achtenberg, and I am going to ask her to speak to this, I actually asked the Vice Chair if she thought this was balanced and my recollection is she indicated that it was. But if anybody should know whether this SAC is reflective of North Carolina, it should be our North Carolina representative.

Madam Vice Chair, could you speak to this and tell us how you vote?

COMMISSIONER HERIOT: You are interrupting the vote now?

CHAIRMAN CASTRO: You always make statements when you vote.

VICE CHAIR TIMMONS-GOODSON: Thank you very much, Mr. Chair. As a matter of fact --

COMMISSIONER HERIOT: Not during the vote.

VICE CHAIR TIMMONS-GOODSON: -- connection with this, I was surprised in terms of registration, political registration that it was not balanced. And I asked. And -- any statements regarding this. And I was surprised to hear that. No I have not heard anything from commissioners about any problems with this. And so I thought, well, if they are okay with it, I'm okay with it. But frankly, I was surprised the number of so few Republicans registered.

And I understand Commissioner Heriot's
point that it is not about political registration. It
is more about ideological thinking in balance.

And so her comments give me pause. I did
not realize that there was any problem or concern about
this or I would have brought it up myself.

CHAIRMAN CASTRO: Yes, I think that was a
concern -- many of us did not have an awareness.

Maybe we should pull this back and revisit
it in September.

VICE CHAIR TIMMONS-GOODSON: Well, frankly, I would ask that we do that.

CHAIRMAN CASTRO: So, then I will --

COMMISSIONER KLADNEY: Mr. Chairman?

CHAIRMAN CASTRO: Yes, Commissioner Kladney?

COMMISSIONER KLADNEY: I would support
that. I abstain because I have not had my full-time
representative of the commission for a while. I did not
know anything that was going on and I abstain because
I have no knowledge. But I would join Commissioner
Achtenberg and the Vice Chair.

CHAIRMAN CASTRO: Yes, so I will table my
motion and then by agreement and consensus, we will put
this over until September. And in the interim, run it
through the appropriate AI process to ensure that
everyone feels comfortable that there is balance.

COMMISSIONER HERIOT: Thank you, Mr. Chairman.

CHAIRMAN CASTRO: You're welcome.

COMMISSIONER ACHTENBERG: Thank you, Mr. Chairman.

STATE ADVISORY COMMITTEE APPOINTMENTS

KANSAS

CHAIRMAN CASTRO: You're welcome.

Now, on to Kansas. Let me make a motion that the Commission appoint the following individuals to the Kansas State Advisory Committee, based upon the recommendation of our Staff Director: Mildred Edwards, Russ Brien, Mark Dodd, Steven Gieber, Martha Hodgesmith, Ron Holt, Kristy Lambert, Jennifer Ng, Phyllis Nolan, Kirk Perucca, Ewa Unoke, and Gabriela Vega.

Pursuant to this motion, the Commission appoints Mildred Edwards Chair of the Kansas 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: I'll second.

CHAIRMAN CASTRO: Commissioner Heriot.

Who was that?

COMMISSIONER HERIOT: The Vice Chair.

CHAIRMAN CASTRO: The Vice Chair seconded.

Any questions, comments, discussion on this one, other than what was already said?

All right, we will call the question for a vote, then.

Commissioner Kirsanow, how do you vote?

(No audible response.)

CHAIRMAN CASTRO: Oh, I'm sorry, he's gone.

Commissioner Heriot, how do you vote?

COMMISSIONER HERIOT: I am going to vote yes on this one.

CHAIRMAN CASTRO: Commissioner Narasaki, how do you vote?

COMMISSIONER NARASAKI: Yes.

CHAIRMAN CASTRO: Commissioner Kladney, how do you vote?

COMMISSIONER KLADENEY: Yes.

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

CHAIRMAN CASTRO: Commissioner Timmons-Goodson, how do you vote?

VICE CHAIR TIMMONS-GOODSON: Yes.

CHAIRMAN CASTRO: And I vote yes. It is unanimous. So, this SAC package passes. Thank you.

C. MANAGEMENT AND OPERATIONS

STAFF DIRECTOR REPORT

CHAIRMAN CASTRO: Next, we move on to Management and Operations. I am going to turn it over to our Staff Director for the discussion of a few items. Staff Director Morales.

MR. MORALES: Thank you, Mr. Chairman. I wanted to just go over a couple of things real quickly here. It is almost noon. I know folks have got planes to catch.

One, the Director's Report, you have been provided with that. So, if you have any questions, please. I won't go over it.

DISCUSSION AND VOTE ON COMMISSION 2017 BUSINESS MEETING CALENDAR

MR. MORALES: But the one thing I do want to talk about is the 2017 Business Meeting Calendar, I provided a draft of that to all of you and we have worked with staff to look through to make sure there were no
conflicts with any religious holidays or federal holidays. And so this is the draft that we have come up with. I would like your opinion of it or your discussion about it. And then we can vote on that, if that is amenable so that we can start planning for next year.

CHAIRMAN CASTRO: Well, I had sent an email around to all commissioners. Again, my term expires December 5th of this year. I don't know whether that will be that but since this calendar is before me, I looked at my calendar and had a couple of proposed changes.

I had suggested that the Friday, January 27th meeting be moved to January 13th and that the Friday, September 15th meeting be moved to another Friday in September, either the 8th, 22nd, or 29th.

I was informed by one of the special assistants that the latter two dates might have a conflict with a religious holiday. But it turns out in discussions that we are going to have in a minute about our 60th Anniversary, which is September 9th, that maybe if we were to hold the meeting on September 8th, there might be a way to marry our meeting and any kind of commemoration so that it also is done in a timely fashion but also in a way that saves on resources in bringing
us together.

So, I would ask that we consider changing the proposed January and September dates.

COMMISSIONER ACHTENBERG: For the 8th of September, Mr. Chairman? Is that what you are proposing?

CHAIRMAN CASTRO: I think that would work.

COMMISSIONER ACHTENBERG: Yes, that is fine with me. I'm just trying to clarify.

CHAIRMAN CASTRO: Yes, okay, yes to September 8th. And then the January to January 13th. Obviously, the 20th is going to be an inaugural so we are not going to want to be competing with that for hotel space, et cetera. So, I just thought the 13th might works as a result.

Are folks okay with that?

COMMISSIONER HERIOT: Is the September 9th date the day that this was signed into law by the President?

CHAIRMAN CASTRO: Yes. And there is no magic to January 13, other than it is before the inauguration.

COMMISSIONER HERIOT: It's Friday the 13th.

CHAIRMAN CASTRO: Oh, yes, that is a good
one. We have done meetings on Friday the 13th and they always turn out well.

No objections to that? So, then what I would do is I would make a motion that we accept the proposed agenda of meeting dates with the change from January 27th to the 13th of January and from September 15th to the 8th.

Is there a second?

COMMISSIONER ACHTENBERG: Second.

CHAIRMAN CASTRO: And was that the Vice Chair?

COMMISSIONER HERIOT: Roberta.

CHAIRMAN CASTRO: Commissioner Achtenberg?

COMMISSIONER ACHTENBERG: Roberta.

CHAIRMAN CASTRO: Commissioner Achtenberg, okay.

Any additional discussion? If not, I am going to do this by voice vote.

All those in favor say aye.

(Chorus of ayes.)

CHAIRMAN CASTRO: Any opposed?

Any abstentions?

The ayes have it.

Okay, Mr. Staff Director.
DISCUSSION ON 2017 COMMEMORATION OF 60TH ANNIVERSARY OF
USCCR

MR. MORALES: Thank you, Mr. Chairman. As you have mentioned, we are aware that the 60th Anniversary of the Commission will occur next year. We wanted to begin the planning process or consideration of what would be appropriate to commemorate that date. And I am having Brian Walch on our staff to kind of lead the effort, since he has an expertise in public media and public outreach.

And so I wanted to just throw that out there for a discussion real briefly. I am looking -- I am thinking about putting together a working group or a planning group of whichever special assistants and/or commissioners that may be interested. Everybody is really busy in the next few weeks and months here but if we can get something going maybe in early September, it is a year out but if there is some specific things people are interested in, I think we did a very good job working together for the commemoration of the 13th Amendment when we did it at the Lincoln Cottage.

So, we are thinking about now is the time to start to put our thinking caps on and working together. So, I am going to have Brian reach out to special assistants at some point next week and see what
their interest level is and maybe kind of put together kind of an outline of preliminary planning.

But if anybody has any high-level ideas and they want to express them now or when we get to the planning stage, that would be great.

CHAIRMAN CASTRO: I just want to add that not only with the 13th Amendment but with the Emancipation Proclamation, we have worked really well in a bipartisan fashion, Commissioner Heriot and her staff, Commissioner Achtenberg and her staff, and us in putting those together and I would imagine a very similar sort of committee structure if those commissioners are interested and others, so that we can begin to give some real serious thought to this.

I think it would be very appropriate for us to acknowledge this important anniversary. Anybody have any thoughts?

If not, then let me suggest if you or your special assistants are interested in participating in this working group, please let the staff director know sooner, rather than later, so that we could then begin to start mapping out some ideas that maybe could be brought to the Commission for discussion and consideration, as we get closer to that date.

Thank you very much.
MR. MORALES: Thank you, Mr. Chairman. We will outreach to the special assistants on this.

CHAIRMAN CASTRO: Okay, great.

STATUS OF THE WEBSITE MIGRATION

MR. MORALES: I had a couple of other things I wanted to update you on. I sent an email out earlier this week regarding the website, status of the website migration. So, I just wanted to reiterate that the staff is working to make that transition and migration as smooth and seamless as possible. So far, it is going well but there always could be little glitches. So, just bear with us and we will let you know when and if that occurs.

VACANCY ANNOUNCEMENT FOR THE OFFICE OF CIVIL RIGHTS EVALUATION FOR THE CIVIL RIGHTS ANALYST

MR. MORALES: I wanted to also call attention we made the vacancy announcement for the Office of Civil Rights evaluation for the Civil Rights Analyst. It was announced, I believe yesterday by Maureen Rudolph. And what we really would like from all of you is if you can send it out to your networks so we get a really good pool of applicants and we get a good selection of somebody to come in here.

COMMISSION OUTREACH USE OF SOCIAL MEDIA

MR. MORALES: And lastly, Mr. Chairman, I
just wanted to let you know that I am working with Brian  
to enhance the use of social media to amplify the  
Commission's messaging to a wider audience.  

As you are well aware, social media is not  
the only vehicle to do this but it should be a part of  
the overall Commission outreach to press and to  
stakeholders. Our existing Twitter page has 371  
followers but we believe we can have a good potential  
to increase that base exponentially over the next three  
to six months.  

And we also want to inform the  
commissioners that we are going to be setting up the  
Commission Facebook page for the first time. We are  
working with the Office of General Counsel and, of  
course, reviewing U.S. Government social use directives  
from the White House and OPM. And so we may also be  
having to update the AI on public affairs and public  
communications.  

So, I just wanted to let -- and we will  
provide you with more information when we actually get  
to the point where we kick it off. But we really think  
this is a tool that the Commission should utilize and  
it was a commitment that I made to all of the  
commissioners about really raising the visibility of  
the work the Commission does here.
So, with that, I thank you, sir and I wish everybody safe travels.

CHAIRMAN CASTRO: Thank you. Are there any questions for the staff director before I adjourn?

Hearing none, it is now 12:04 Eastern Time and this meeting is hereby adjourned. Thank you, everybody.

(Whereupon, the above-entitled matter went off the record at 12:04 p.m.)