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U.S. COMMISSION ON CIVIL RIGHTS

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BUSINESS MEETING

UNEDITED

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FRIDAY, AUGUST 19, 2016

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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*

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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

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P R O C E E D I N G S

(10:00 a.m.)

1
2
3 CHAIRMAN CASTRO: It is currently 10:00
4 a.m. Eastern Time and I am calling this meeting of the
5 U.S. Commission on Civil Rights to order. It is August
6 19, 2016 and we are meeting here at the Commission's
7 Headquarters at 1331 Pennsylvania Avenue, N.W., Suite
8 1550 in Washington, D.C.

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

18 Is the court reporter present?

19 COURT REPORTER: I am.

20 CHAIRMAN CASTRO: And is the Staff
21 Director present?

22 MR. MORALES: Present.

I. APPROVAL OF AGENDA

23
24 CHAIRMAN CASTRO: Okay, the meeting will
25 know come to order. The first item is the approval of

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1 the agenda.

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

4 COMMISSIONER NARASAKI: Are we going to
5 amend it?

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

8 COMMISSIONER HERIOT: I second.

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

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

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

23 COMMISSIONER NARASAKI: Yes, Mr. Chair,
24 I'd like to remove from consideration the two
25 statements, one on Dalip Singh Saund and the other on

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1 the 100th Anniversary of the first female --

2 CHAIRMAN CASTRO: Is there a second to that
3 amendment?

4 COMMISSIONER HERIOT: Why are we doing
5 that?

6 COMMISSIONER KLADNEY: I'll second,
7 Kladney.

8 CHAIRMAN CASTRO: Commissioner Kladney
9 seconds it.

10 Commissioner Heriot, you had a question?

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

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

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

23 CHAIRMAN CASTRO: Yes, I mean I don't know.
24 We are going to look at whether or not there is a way
25 to consolidate some of these because we are doing a lot

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1 of commemoratives. And that way, there may be some
2 other things that are coming up, if we can do these as
3 a package.

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

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

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

13 All those in favor, say aye.

14 (Chorus of ayes.)

15 Any opposed?

16 Any abstentions?

17 II. BUSINESS MEETING

18 A. PROGRAM PLANNING

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

23 CHAIRMAN CASTRO: Okay, so the first item
24 on our agenda then is a discussion and vote on the
25 Commission statement regarding a recent settlement in

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1 the Texas birth certificate case. You all know that
2 this is a case that we, as the Commission, have been
3 following closely. We have engaged in it from our
4 perspective in getting statements to Texas asking them
5 to cease and desist the action that they were taking.
6 We have also requested that the Justice Department look
7 into this and become engaged.

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

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

17 The United States Commission on Civil
18 Rights welcomes recent settlement requiring Texas to
19 issue birth certificates to U.S. citizen children of
20 undocumented immigrants. The United States Commission
21 on Civil Rights welcomes the recent settlement in the
22 case against the Texas Department of Health Service
23 Vital Statistics Unit involving Texas's denial of birth
24 certificates to U.S. citizen children born in the United
25 States to undocumented immigrant parents. This is an

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1 issue that the Commission engaged when we learned of
2 Texas's conduct, which the majority of the Commission
3 believes violates the 14th Amendment to the U.S.
4 Constitution. Failure to have their birth
5 certificates denies U.S. citizens the documentation
6 needed to prove their status and to access benefits to
7 which they and every other U.S. citizen are entitled.

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

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

24 On Friday July 22, 2016, Texas agreed to a
25 settlement under the terms of which it will begin

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1 issuing the previously denied birth certificates by
2 accepting from undocumented parents additional forms of
3 identification. These will include forms of
4 identification it has accepted in the past, such as
5 Mexican voter identification cards.

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

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

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

25 Do I have a second?

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1 COMMISSIONER ACHTENBERG: Second.

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

5 COMMISSIONER ACHTENBERG: Commissioner
6 Achtenberg.

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

9 Commissioner Heriot.

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

25 Now, maybe Texas should have allowed

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1 different identification. They have gone through this
2 now. They have changed their procedure somewhat. To
3 make this sound like the State of Texas was trying to
4 deny birth certificates in order to make life hard on
5 people born in the country to immigrant parents I think
6 is utter nonsense.

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

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

16 COMMISSIONER HERIOT: How does Texas know
17 that?

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

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

22 CHAIRMAN CASTRO: May I finish,
23 Commissioner?

24 And Texas, unfortunately, is at the heart
25 of so many recent cases and efforts to undercut the

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1 rights of voters, of immigrants, of people of color,
2 whether it is in the area of affirmative action, voting
3 rights, the issue of access to birth certificates. So,
4 it is certainly an issue of great concern because had
5 Texas been able to continue with this conduct, you can
6 rest assured that the 22 other states that joined Texas
7 in fighting the President's Executive Order on
8 Immigration, DACA and DAPA, would probably end up
9 denying these same birth certificates to these types of
10 children all over the country. And we want to make sure
11 that that does not happen -- not on our watch.

12 COMMISSIONER HERIOT: That is utter
13 nonsense.

14 Commissioner Narasaki.

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

19 CHAIRMAN CASTRO: Okay.

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

22 And the second thing is, in response to the
23 debate that we just heard, it is well-known that the
24 reason that Texas was doing this was in order to punish
25 undocumented immigrant parents and to circumvent clear

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1 Supreme Court law that states that children who are born
2 in the U.S., whether they are born of undocumented
3 parents or not are U.S. citizens. And that is what this
4 case is about, is making sure that children who are born
5 here are able to claim their full right of citizenship
6 under the law.

7 COMMISSIONER HERIOT: Mr. Chairman?

8 CHAIRMAN CASTRO: Commissioner Heriot.

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

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

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

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1 unreliable. They were not keen on this method.

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

7 CHAIRMAN CASTRO: Commissioner Narasaki.

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

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

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

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

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

25 COMMISSIONER KIRSANOW: No.

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

3 COMMISSIONER HERIOT: No.

4 CHAIRMAN CASTRO: Commissioner Narasaki,
5 how do you vote?

6 COMMISSIONER NARASAKI: Yes.

7 CHAIRMAN CASTRO: Commissioner Kladney,
8 how do you vote?

9 COMMISSIONER KLADNEY: I abstain.

10 CHAIRMAN CASTRO: Commissioner
11 Achtenberg, how do you vote?

12 COMMISSIONER ACHTENBERG: Yes.

13 CHAIRMAN CASTRO: Commissioner Yaki?

14 (No audible response.)

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

17 VICE CHAIR TIMMONS-GOODSON: Abstain.

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

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

25 COMMISSIONER HERIOT: So that is three.

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1 CHAIRMAN CASTRO: Three.

2 COMMISSIONER HERIOT: Three yeses, two
3 nos.

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

6 So seven commissioners participated.
7 Okay.

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

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

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

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

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

24 We are going to have a statement that will
25 accompany the report. It has been circulated to

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1 everyone. Hopefully, everyone has had a chance to look
2 at that. I don't know if there is any proposed changes
3 or questions folks have.

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

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

8 CHAIRMAN CASTRO: Okay. Any questions or
9 comments?

10 COMMISSIONER HERIOT: Mr. Chairman?

11 CHAIRMAN CASTRO: Yes, ma'am.

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

21 I would have to say I am not certain what
22 is meant by the concept of the narrowness of the
23 analytical framework but I think that is going to be
24 interpreted to mean that the decision itself was narrow
25 because RFRA, itself, is narrow and nothing could be

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1 further from the truth. I can read you some of the
2 passages from the actual opinion.

3 CHAIRMAN CASTRO: Let me --

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

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

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

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

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

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

23 CHAIRMAN CASTRO: Yes.

24 COMMISSIONER ACHTENBERG: And this is a
25 direct reference to a commission finding. There is an

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1 entire analysis that we undertook and that this
2 Commission adopted by a majority vote to which this --

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

5 CHAIRMAN CASTRO: It is our finding.

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

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

10 CHAIRMAN CASTRO: Commissioner Heriot,
11 please let her finish.

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

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

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

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

23 I know you asked a question as to why it was
24 like this. She, Commissioner Achtenberg is explaining
25 why. You may still disagree but we want to have an

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1 ability to converse not over one another. Okay?

2 Commissioner Heriot.

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

8 CHAIRMAN CASTRO: Any other comments from
9 any other commissioners?

10 COMMISSIONER ACHTENBERG: Well, I
11 respectfully disagree.

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

14 CHAIRMAN CASTRO: Is there a second?

15 COMMISSIONER HERIOT: Pete?

16 COMMISSIONER KIRSANOW: Oh, to Gail's
17 motion?

18 COMMISSIONER HERIOT: Yes.

19 COMMISSIONER KIRSANOW: Yes, second.

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

23 (Chorus of ayes.)

24 Those against, say no.

25 (Chorus of nos.)

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1 Any abstentions?

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

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

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

8 Commissioner Kirsanow, how do you vote?

9 COMMISSIONER KIRSANOW: No.

10 CHAIRMAN CASTRO: Commissioner Heriot,
11 how do you vote?

12 COMMISSIONER HERIOT: No.

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

15 COMMISSIONER NARASAKI: Yes.

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

18 COMMISSIONER KLADNEY: Yes.

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

21 COMMISSIONER ACHTENBERG: Yes.

22 CHAIRMAN CASTRO: Commissioner Yaki, are
23 you on?

24 (No audible response.)

25 CHAIRMAN CASTRO: Madam Vice Chair, how do

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1 you vote?

2 VICE CHAIR TIMMONS-GOODSON: Yes.

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

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

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

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

18 COMMISSIONER NARASAKI: I will second, Mr.
19 Chair.

20 CHAIRMAN CASTRO: Okay, any discussion?

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

23 CHAIRMAN CASTRO: Yes, I'm listening.

24 COMMISSIONER HERIOT: There is a quote in
25 here from you that refers to higher rates of

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1 incarceration for Hispanic women in comparison to white
2 women and it says it should be cause for concern for all
3 of us. I wanted to comment that the rate of
4 incarceration for Hispanic women is only slightly
5 elevated and that you can account for that mainly by the
6 fact that the median age of Hispanic women in this
7 country is 28 years old, whereas the median age for white
8 women in this country is 44 years old. That actually
9 is quite an enormous gap and it is accounted for mainly
10 by the notion that it tends not to be elderly people who
11 immigrant and a fairly significant number, percentage
12 of Hispanic women in the country are either immigrants
13 or the children of immigrants.

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

18 CHAIRMAN CASTRO: Unfortunately, I don't
19 agree with you. I think studies show that both for
20 black and Hispanic women, the incarceration rates are
21 high. And it is easy for us to sit here in these nice
22 offices in Washington, D.C., and say that a
23 statistically irrelevant number is due to age and say
24 that that is not a concern when we are not, the
25 individuals that are living in the communities that are

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1 victimized by crime, that are victimized by police, use
2 of deadly force, that lack opportunities and are
3 segregated.

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

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

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

20 CHAIRMAN CASTRO: I know.

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

23 CHAIRMAN CASTRO: And it is based on fact.

24 COMMISSIONER HERIOT: But, if it is your
25 opinion that these statistics don't matter --

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1 CHAIRMAN CASTRO: No, I state they do
2 matter.

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

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

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

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

14 Commissioner Kirsanow, how do you vote?

15 COMMISSIONER KIRSANOW: No.

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

18 COMMISSIONER HERIOT: No.

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

21 COMMISSIONER ACHTENBERG: Yes.

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

24 COMMISSIONER KLADNEY: Yes.

25 CHAIRMAN CASTRO: Commissioner Narasaki,

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1 how do you vote?

2 COMMISSIONER NARASAKI: Yes.

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

5 VICE CHAIR TIMMONS-GOODSON: Yes.

6 CHAIRMAN CASTRO: I vote yes.

7 Commissioner Yaki, are you on?

8 (No audible response.)

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

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

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

22 So, let me read this to you. I will make
23 a motion that we approve the following statement: The
24 U.S. Commission on Civil Rights expresses its strong
25 disappointment in the U.S. Supreme Court's decision in

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1 GG v. Gloucester County School Board. The U.S.
2 Commission on Civil Rights expresses its strong
3 disappointment in the U.S. Supreme Court's recent
4 decision to grant an emergency order blocking the Fourth
5 Circuit Court of Appeals order in GG v. Gloucester
6 County School Board. The Fourth Circuit Order, if
7 enforced, would allow transgender boy, Gavin Grimm, to
8 use the boys' restroom in his Virginia school.

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

20 Commission Chairman Martin R. Castro
21 stated, "The rights of our transgender youth in schools
22 throughout our nation have quickly become one of the
23 defining civil rights issues of the day. The
24 Commission will continue to be a strong voice to ensure
25 that the rights of transgender youth are protected

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1 vigorously by our federal government."

2 Do I have a second?

3 COMMISSIONER ACHTENBERG: Second.

4 CHAIRMAN CASTRO: That was Commissioner
5 Achtenberg?

6 COMMISSIONER ACHTENBERG: Yes.

7 CHAIRMAN CASTRO: Any questions or
8 discussion?

9 COMMISSIONER KIRSANOW: Mr. Chair.

10 CHAIRMAN CASTRO: Commissioner Kirsanow,
11 is that you?

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

14 Regardless of where we stand individually
15 on the substance of this, I would just respectfully
16 suggest that the Commission be careful in weighing in
17 on matters where the subject of litigation is at a stage
18 of interim relief. We don't have a final adjudication
19 of this matter. This thing is something that is going
20 to percolate throughout the various circuits throughout
21 the country probably. There will probably be
22 considerable more litigation on the federal level.
23 There might be some state litigation. I'm not sure
24 exactly how that would begin but there might be. And
25 I think if we are going to be weighing in on a matter

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1 that is the subject of litigation, it might behoove us
2 to wait to see what the conclusion is.

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

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

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

18 COMMISSIONER HERIOT: Mr. Chairman?

19 CHAIRMAN CASTRO: Yes.

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

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1 certiorari.

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

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

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

19 CHAIRMAN CASTRO: May I finish, please?
20 Well, the whole issue here is whether this child and
21 other children like him can use the bathroom of their
22 gender identity. And young Gavin, in this case in
23 Virginia, had been told by the Fourth Circuit that he
24 could begin and other children like him could be begin
25 to do this. And given this emergency temporary

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1 restraining order, they cannot.

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

8 Anyone else?

9 COMMISSIONER KLADNEY: Mr. Chairman?

10 CHAIRMAN CASTRO: Yes, Commissioner
11 Kladney.

12 COMMISSIONER KLADNEY: I support this
13 statement.

14 CHAIRMAN CASTRO: Thank you.

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

20 I hope that we add a voice to this debate.
21 I think that the fact that we may express our
22 disappointment does not mean we are criticizing the
23 judicial process, nor are we denigrating anything in the
24 process. We are just merely saying that we are
25 disappointed with this particular action in the

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1 litigation and expressing our feelings that way.

2 CHAIRMAN CASTRO: Thank you, Commissioner
3 Kladney.

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

6 Commissioner Kirsanow, how do you vote?

7 COMMISSIONER KIRSANOW: No.

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

10 COMMISSIONER HERIOT: No.

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

13 COMMISSIONER KLADNEY: Yes.

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

16 COMMISSIONER ACHTENBERG: Yes.

17 CHAIRMAN CASTRO: Commissioner Yaki, are
18 you on?

19 (No audible response.)

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

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

24 CHAIRMAN CASTRO: And I vote yes.

25 Commissioner Narasaki, how do you vote?

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1 COMMISSIONER NARASAKI: I abstain.

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

5 DISCUSSION AND VOTE ON A LETTER THE DEPARTMENT OF
6 EDUCATION AND DEPARTMENT OF JUSTICE: RE: THE OKLAHOMA
7 STATE ADVISORY COMMITTEE'S REPORT "CIVIL RIGHTS AND THE
8 SCHOOL-TO-PRISON PIPELINE IN OKLAHOMA."

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

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

17 COMMISSIONER NARASAKI: I second, Mr.
18 Chair.

19 CHAIRMAN CASTRO: Thank you, Commissioner
20 Narasaki.

21 Any discussion? Commissioner Heriot.

22 COMMISSIONER HERIOT: I just want to say
23 that I can't support this letter. It is unusual for us
24 to send a letter conveying a State Advisory Committee's
25 Report and endorsing the recommendations, especially in

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1 this case, where those recommendations run counter to
2 the testimony that we took in the Commission's own
3 briefing a few years back, when we had a briefing on
4 school discipline.

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

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

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

24 And as I prepared for that briefing, I
25 recall that it made no reference whatsoever to several

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1 studies that were done by our State Advisory Committees
2 in the Southeast that concluded that there indeed was
3 significant issue about African American children and
4 African American-Latino children being victims of
5 school discipline policies that disproportionately
6 punish them compared to their white classmates. And I
7 think that much of that briefing failed to take into
8 account those perspectives.

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

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

20 COMMISSIONER KIRSANOW: Mr. Chair?

21 CHAIRMAN CASTRO: Commissioner Kirsanow.

22 COMMISSIONER KIRSANOW: Thank you, Mr.
23 Chair.

24 CHAIRMAN CASTRO: You're welcome.

25 COMMISSIONER KIRSANOW: I will be joining

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1 Commissioner Heriot's letter, which I suspect is not
2 going to be a surprise to anybody.

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

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

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

22 The lessons of just the last few months with
23 respect to the news reports coming out of places like
24 Saint Paul, Minnesota, Minneapolis, and other school
25 districts shows that when school disciplinary

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1 guidelines are lowered, suspensions and other
2 disciplinary actions that are based on
3 racially-mandated outcomes, the folks that get hurt are
4 the minority students who try to learn and disruptive
5 behavior increases. It increases significantly.

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

8 CHAIRMAN CASTRO: Thank you, Commissioner
9 Kirsanow.

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

15 Commissioner Heriot.

16 (Simultaneous speaking.)

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

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

24 And the Department of Education is correct
25 that African American students are disciplined more

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1 than often than white students are but what they usually
2 don't mention, but which is also true, is that white
3 students are disciplined more often than Asian American
4 students are. But the reasons behind this are a lot
5 more complex than simply gosh, it must be racism.

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

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

15 But to say that schools should lighten up,
16 which is exactly what the Department of Education has
17 been doing, you know when you have got children that are
18 being reared in households where it is difficult to
19 maintain discipline because there is only parent, I mean
20 we all sympathize with one-parent households, whether
21 it is a fatherless or a motherless household, it is a
22 lot harder to rear a child when you have only got one
23 adult at home. And teachers can pitch in and they can
24 help teach children to lead structured disciplined
25 lives, unless the Department of Education is telling

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1 them that they shouldn't do it, which is what is
2 happening now.

3 CHAIRMAN CASTRO: Commissioner Kirsanow,
4 then Commissioner Narasaki.

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

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

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

21 By the way, much of the discipline that is
22 imposed is being imposed by teachers or administrators
23 of the same race or ethnicity as the offending students.
24 And as Gail, Commissioner Heriot had indicated, one of
25 the reasons you have a disparate impact is because you

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1 have disparate behavior patterns on parts of certain
2 students, not all. But there is no doubt whatsoever
3 that there is a higher rate of misbehavior among black
4 students in intercity schools, none whatsoever. That
5 is a fact. And when you have high rates of misbehavior,
6 I would hope that you would have higher rates of
7 disciplinary action to protect staff, students, and
8 especially the students that wish to learn.

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

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

22 This is something that is significant but
23 the point is that we have evidence as to the disruptive
24 effects. We have our Commission Report on this and this
25 runs contrary to the Commission Report.

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1 CHAIRMAN CASTRO: Thank goodness that it
2 is not. As a fellow old man joining you, I'm glad that
3 these are not our father's classrooms because, if they
4 were, folks like you and folks like me of our skin color
5 and our ethnic background would not be allowed to go to
6 some of these schools. That is why we had *Brown vs.*
7 *Board of Ed* and the *Westminster* case.

8 So, thank God --

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

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

14 COMMISSIONER NARASAKI: Thank you, Mr.
15 Chair.

16 COMMISSIONER KLADNEY: I would ask to
17 speak, Mr. Chairman.

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

21 COMMISSIONER KLADNEY: Thank you.

22 COMMISSIONER NARASAKI: I'm a little
23 surprised by this discussion because when the State
24 Advisory Committee Chair presented the report, there
25 was no such discussion being raised by the commissioners

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1 questioning their findings or challenging their
2 findings in any way. And it is troubling to me that now
3 we are having the discussion because we did, even at that
4 time, note that we were going to follow through on one
5 of their requests, which was to, in fact, send their
6 findings to the Department of Education and the
7 Department of Justice.

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

15 The second thing I want to note is that the
16 Commission's report, I understand, was issued in 2011.
17 And since then, there have also been, in fact very
18 recently, a study on implicit bias in the case of
19 schools, in the case of these kinds of situations. And
20 also, I doubt that it will be interesting to find whether
21 the case is in fact that it is the same race teacher
22 disciplining the same race student, given the recent
23 report that shows that in fact minority teachers have
24 been very hard to recruit and retain. And in fact,
25 there is a dearth of minority teachers at a time when,

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1 in fact, it has been shown that having such teachers in
2 the classroom help minority students.

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

12 CHAIRMAN CASTRO: Commissioner
13 Achtenberg.

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

22 Let me also say that there are many
23 approaches to school discipline that the Department of
24 Education is promoting because they actually work and
25 because they tend to represent much less harm to the

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1 students who are in need of the discipline, as well as
2 the other students in the classroom. And I would point
3 out that those disciplinary practices, including
4 restorative justice practices are having a very
5 salutary impact on this issue. And I want to commend
6 the State Advisory Committee for taking note of that and
7 the Department of Education.

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

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

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

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

25 I don't think that anybody is saying that

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

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

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

22 And I find it interesting that also my
23 colleagues who oppose this letter all feel that
24 Oklahoma, who is closest to the situation in Oklahoma,
25 is inaccurate in terms of the conclusions it came to.

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1 I think my colleagues who oppose this letter are talking
2 in some broad kinds of sense across the country and wish
3 to impose that view nationally.

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

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

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

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

16 COMMISSIONER HERIOT: I still have
17 something to say.

18 CHAIRMAN CASTRO: All right. Go ahead.

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

24 On the point that gosh, why didn't we bring
25 this up earlier, the point there is that well, they were

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1 presenting the report to us for the first time and there
2 was never a statement that we were going to endorse their
3 recommendations.

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

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

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

24 And for the Department of Education, under
25 the guise of laws that forbid race discrimination, for

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1 them to go in and start dictating disciplinary policies
2 to schools I think is extremely wrong-headed.

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

5 Commissioner Kirsanow, how do you vote?

6 COMMISSIONER KIRSANOW: No.

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

9 COMMISSIONER HERIOT: I'm predictable.
10 No.

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

13 COMMISSIONER NARASAKI: Yes.

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

16 COMMISSIONER KLADNEY: Yes.

17 CHAIRMAN CASTRO: Commissioner
18 Achtenberg, how do you vote?

19 COMMISSIONER ACHTENBERG: Yes.

20 CHAIRMAN CASTRO: Commissioner Yaki, are
21 you on?

22 (No audible response.)

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

25 VICE CHAIR TIMMONS-GOODSON: Yes.

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1 CHAIRMAN CASTRO: And I vote yes.

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

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

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

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

13 COMMISSIONER ACHTENBERG: Second.

14 CHAIRMAN CASTRO: Okay. Was that the Vice
15 Chair?

16 COMMISSIONER ACHTENBERG: Roberta.

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

19 Any questions or comments? Commissioner
20 Heriot.

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

23 CHAIRMAN CASTRO: Of course.

24 COMMISSIONER HERIOT: It refers to all
25 voter ID laws, as I am quoting here, "thinly veiled

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1 efforts to deny racial minorities access to the ballot
2 box." That is a pretty strange thing to say --

3 CHAIRMAN CASTRO: It's pretty true.

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

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

16 I think, in particular, there is plenty of
17 evidence that felons, who are not entitled to vote,
18 sometimes mistakenly but sometimes knowing that they
19 are doing something wrong, are voting anyway. When
20 they do that, it is easy for someone to say well, I didn't
21 realize, I didn't know, or even, gosh, it wasn't me who
22 was voting. It is impossible to cut off all the
23 possible arguments but when are you are talking about
24 a felon voting and then finding out that felon has voted,
25 one way to at least cut off part of the argument is to

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1 say well, it must have been you who voted because the
2 person had to show an ID and, therefore, that creates
3 a very strong presumption that it is, indeed, the person
4 who was registered who voted that vote.

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

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

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

23 CHAIRMAN CASTRO: Our country's history,
24 unfortunately, is replete with instances of majorities
25 of state legislatures passing laws that have

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1 historically violated our Constitution and personal and
2 individual rights, whether it is considering certain
3 people property, whether it is keeping certain people
4 from marrying the people they love, whether it is
5 keeping schools segregated. We have addressed those
6 issues and toppled those laws. And some of these, to
7 this day, continue to try to put up barriers and
8 discriminate, whether it is some of the laws we saw
9 passed that we stood up to in states that were
10 anti-immigrant laws, and today these issues of
11 transgender and now, these voting rights blockades.

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

16 Commissioner Narasaki.

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

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

25 COMMISSIONER ACHTENBERG: Mr. Chair?

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1 CHAIRMAN CASTRO: Commissioner Achtenberg
2 and then Commissioner Kladney, and then Commissioner
3 Heriot.

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

6 CHAIRMAN CASTRO: And then the Vice Chair.
7 Okay, so Achtenberg, Kladney, Heriot, and the Vice
8 Chair.

9 COMMISSIONER KIRSANOW: Kirsanow.

10 CHAIRMAN CASTRO: Commissioner
11 Achtenberg, go ahead.

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

18 So, I wanted to make that statement.

19 CHAIRMAN CASTRO: Thank you.
20 Commissioner Kladney.

21 COMMISSIONER KLADNEY: I didn't request to
22 speak.

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

25 COMMISSIONER KIRSANOW: It was me, Mr.

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1 Chair.

2 CHAIRMAN CASTRO: Okay, go ahead,
3 Commissioner Kirsanow.

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

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

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

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

24 COMMISSIONER HERIOT: You ended your
25 statement, Mr. Chairman, with a statement I can agree

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1 with. You said that just because a bill is unanimously
2 passed, that doesn't make it constitutional. And that,
3 of course, is quite correct.

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

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

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

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

22 But, in general, what we have are courts
23 that are saying, look, it's a fundamental right to vote.
24 There are people who aren't able to comply with the
25 requirements of this statute and we believe that, under

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1 the circumstances of the particular case, that the
2 burden to those legitimate voters outweighs the
3 benefits in whatever prevention of voter fraud there
4 might be.

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

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

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

23 CHAIRMAN CASTRO: Thank you,
24 Commissioner. As a Democrat, I can say, unfortunately,
25 Democrats are not immune to bigotry and bias. So, the

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1 fact that they voted for something doesn't necessarily
2 immunize it.

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

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

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

16 CHAIRMAN CASTRO: Okay.

17 COMMISSIONER KLADNEY: Can someone repeat
18 what she said?

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

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

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1 environment.

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

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

6 Commissioner Kirsanow, how do you vote?

7 COMMISSIONER KIRSANOW: No.

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

10 COMMISSIONER HERIOT: I vote no.

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

13 COMMISSIONER NARASAKI: I recuse myself.

14 CHAIRMAN CASTRO: Yes, of course. Sorry.

15 Commissioner Kladney, how do you vote?

16 COMMISSIONER KLADNEY: I pass for a
17 moment.

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

20 Commissioner Achtenberg, how do you vote?

21 COMMISSIONER ACHTENBERG: Yes.

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

24 VICE CHAIR TIMMONS-GOODSON: Yes.

25 CHAIRMAN CASTRO: And I vote yes.

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1 Commissioner Kladney?

2 COMMISSIONER KLADNEY: Yes.

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

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

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

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

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

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

25 The other proposal would be that instead of

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

8 So, that's the proposal that I have.

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

11 MR. WALCH: Yes, it would.

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

15 Commissioner Heriot.

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

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

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

23 CHAIRMAN CASTRO: Correct.

24 COMMISSIONER KLADNEY: Because I know that
25 in the past all we've ever done is issue through PRI,

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1 I think the name of the outfit is, or NPR or something
2 like that. Anyways, there was some outlet that we would
3 give the release to and there was only so many words we
4 were allowed to put in it.

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

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

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

18 In these cases, the statements themselves
19 will be posted individually on the website. They will
20 also be referenced in our Twitter feed as statements,
21 and we will try to get those the most expansive coverage
22 we can. But again, in this case, what is just a
23 clarifying case, the individual statements will be
24 released. They will be posted individually. This
25 would, again, just be a press release which indicates

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1 that these three statements were voted on, discussed,
2 and passed by majority vote today here at the Commission
3 by you all.

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

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

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

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

24 MR. WALCH: Absolutely. Within the
25 statement, there will be -- excuse me. Within the

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1 single press release, there will be hyperlinks to each
2 of the three statements and that will be very easy to
3 navigate for anyone that looks at the press release.

4 CHAIRMAN CASTRO: Commissioner Narasaki.

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

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

13 CHAIRMAN CASTRO: Right.

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

16 MR. WALCH: Thank you all.

17 B. STATE ADVISORY COMMITTEES (SACS)

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

21 CHAIRMAN CASTRO: Okay, so now we will move
22 on to Advisory Committee matters. First, I'd like to
23 let you all know we are going to hear from one of our
24 colleagues, a presentation from the Chairperson of our
25 North Carolina State Advisory Committee, Chair Matty

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1 Lazo-Chadderton. She's going to speak to us about the
2 recent briefing on environmental justice in North
3 Carolina, where myself, Commissioner Narasaki, and our
4 Vice Chair attended.

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

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

18 So, Madam Chair, are you on the line?

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

21 CHAIRMAN CASTRO: Great. Welcome.
22 Please proceed.

23 MS. LAZO-CHADDERTON: Should I begin?

24 CHAIRMAN CASTRO: Yes, go ahead.

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

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

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

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

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

24 And really we heard about everyone:
25 residents, local residents, nonprofit organizations,

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1 the industry, Duke Energy, and the North Carolina
2 Department of Environmental Quality. And we were very
3 glad that this place was chosen, like any place in North
4 Carolina. But this public meeting was connected with
5 the coal ash, as I said.

6 And going a little bit back, on February
7 2nd, 2014, a metal pipe in the Duke Energy coal ash pond
8 opened burst open and leaked an estimated 82,000 tons
9 of coal ash and 27 million gallons of contaminated water
10 into the Dan River in Eden, North Carolina. For a week,
11 heavy metals, such as arsenic, selenium, bromine,
12 mercury spilled into the river. According to the news,
13 coal ash was found as far as 70 to 80 miles downstream,
14 coating the bottom of the river.

15 And after the 2014 spill, Duke Energy pled
16 guilty to nine charges of violation of the Clean Water
17 Act and agreed to pay \$68 million in fines and they paid
18 \$30 million of environmental projects and land
19 conservation.

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

24 Overall, all invited parties -- we invited
25 everyone. It was an open invitation. And we had

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1 amazing speakers and panelists, including from
2 Washington D.C., and from any rural and urban area in
3 North Carolina. And whoever couldn't attend
4 personally, they submitted written statements,
5 offering their perspective on the civil rights concerns
6 in question.

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

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

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

20 The other observation was that the
21 environmental protection laws that exist prohibits the
22 contamination of water by improper disposal of toxic
23 waste. Furthermore, there are provisions that protect
24 the civil rights of communities from damage based on
25 race, ethnicity, and socioeconomic status. However,

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1 without proper enforcement by state and federal
2 regulatory agencies, these laws failed the communities
3 who depend on them.

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

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

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

24 And the second was that, again, that the
25 North Carolina DEQ and EPA should take action that

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1 prevents low-income communities and communities of
2 color from being affected by coal ash disposal.

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

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

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

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

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

24 Number eight, in addition to considering
25 environmental justice as related to coal ash disposal,

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1 the Commission should consider other sources of land and
2 water contamination, such as fracking, as well as air
3 quality concerns, such as high exposure to diesel
4 emissions and other sources of fine matter.

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

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

21 The number ten recommendation is the State
22 of North Carolina and the EPA should investigate ways
23 to compensation community members for healthcare
24 expenses and land evaluation that has resulted from coal
25 ash contamination.

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1 And the last one is the EPA should
2 investigate the lasting effects of coal ash disposal on
3 areas after the waste has been disposed of and
4 relocated.

5 Thank you so much for your patience.

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

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

18 MS. LAZO-CHADDERTON: Thank you.

19 CHAIRMAN CASTRO: You're welcome.

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

23 COMMISSIONER KLADNEY: Mr. Chairman?

24 CHAIRMAN CASTRO: Yes, Commissioner
25 Narasaki, then Commissioner Kladney.

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1 COMMISSIONER NARASAKI: I just wanted to
2 thank the chair for undertaking, and the committee for
3 undertaking this study. It was very helpful to hear
4 directly from community members, in addition to the
5 people who formerly testified, the commission did have
6 basically an open mike for people in the audience to be
7 able to participate.

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

13 CHAIRMAN CASTRO: Commissioner Kladney.

14 MS. LAZO-CHADDERTON: Thank you,
15 Commissioner.

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

19 One question I did have is during your
20 briefing was it ever suggested that business entities
21 dealing with these types of substances be required to
22 place funds in trust, as they use them for purposes of
23 cleanup, medical expenses, and other expenses, if
24 necessary and then, at the end, say when they were done
25 using them, they would either be expensed for those

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1 purposes or reimbursed back to the company. Was that
2 idea ever put forth?

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

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

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

19 COMMISSIONER KLADNEY: Thank you.

20 CHAIRMAN CASTRO: Any other questions from
21 commissioners?

22 Hearing none, then I want to again thank
23 you, Madam Chair. If you want to stick around, we are
24 actually going to be voting on reappointing your State
25 Advisory Committee. Feel free to stay on for the rest

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1 of the call. Otherwise, if you are going to be hanging
2 up, just again, convey our thanks to all the members of
3 the committee for their work and their continuing
4 service on behalf of the Commission and the people of
5 the United States. We appreciate it. Thank you.

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

8 STATE ADVISORY COMMITTEE APPOINTMENTS

9 NORTH CAROLINA

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

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

22 Pursuant to this motion, the Commission
23 appoints Matty Lazo-Chadderton Chair of the North
24 Carolina State Advisory Committee.

25 These members will serve as uncompensated

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1 government employees. Under this motion, the
2 Commission authorizes the Staff Director to execute the
3 appropriate paperwork for the appointments.

4 Do I have a second?

5 VICE CHAIR TIMMONS-GOODSON: Mr. Chair, I
6 second.

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

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

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

21 That was at 10:40 on a Friday morning. My
22 special assistant, Ms. Somin, responded very quickly
23 with some names by about 1:40 that afternoon. Ms.
24 Mulder, Commissioner Kirsanow's assistant, was working
25 on developing an additional list.

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1 Mr. Mussatt began reaching out to the
2 people that Ms. Somin had proposed. But at 3:00, just
3 an hour and 20 minutes later, we got an email that there
4 was a final slate and it didn't include any of the names
5 that Ms. Somin or Ms. Mulder had come up with.

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

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

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

25 Oddly enough, it is not one of the SACs that

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

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

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

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

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

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

25 Name one -- one -- one -- one State Advisory

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

7 I think it is inappropriate and I object.

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

11 COMMISSIONER HERIOT: Have I not objected
12 in the past?

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

16 COMMISSIONER HERIOT: Ohio is not --

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

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

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

24 We were following and you could have easily
25 raised these issues before the meeting today and we

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1 would gladly have pulled this aside --

2 COMMISSIONER HERIOT: I did.

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

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

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

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

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

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1 slates done.

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

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

15 CHAIRMAN CASTRO: Staff Director and then
16 Commissioner Heriot.

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

25 I believe on a couple of their

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1 recommendations, they didn't submit applications. We
2 wanted to prepare and give commissioners enough time to
3 review the slates so that any objections to an
4 individual, specific individual could be resolved, if
5 that were the case. There were none.

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

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

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

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

25 If we keep having to object because there

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1 is three more of one persuasion and two more of another,
2 we will never get these done.

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

13 I will recommend this and I have talked to
14 the special assistants about their frustrations and my
15 frustrations and the frustrations of the State Advisory
16 Committee in trying to pull all these together. One of
17 the proposals is that we will do more of a -- David
18 Mussatt, who is the regional coordinator for the SACs,
19 is going to reach out. And we have had preliminary
20 discussions about this of when the SACs come up, as you
21 see on the appointment pages, 120 days before the
22 expiration, what we are thinking of doing, and we
23 haven't thought it through completely, is that we would
24 put forward a notice to all commissioners that this
25 particular SAC, let's New York for just argument's sake,

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1 it is going to expire in 120 days. Please provide us
2 with your nominees, if you have any. There is a certain
3 number that are seeking to be reappointed but we would
4 like to reach out to you and provide us with a list.

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

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

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1 can fulfilled before the end of the year.

2 Thank you.

3 CHAIRMAN CASTRO: Commissioner Heriot,
4 then Commissioner Narasaki.

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

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

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

23 And on the notion that maybe we should have
24 procedures, we just worked for months to create a
25 procedure that would eliminate the possibility of

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1 having to deal with this in a meeting. We are supposed
2 to have a meeting of special assistants when a
3 particular SAC is thought to be unbalanced by the
4 special assistants looking at it. That didn't happen
5 in this case.

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

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

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1 issues.

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

4 COMMISSIONER NARASAKI: I just wanted to
5 note a couple of things. It is my understanding is that
6 in fact the issue of North Carolina and Kansas was raised
7 at a meeting with the SAs, that that actually did happen.

8 The second thing is around the issue of
9 personal recommendations. I think what staff is
10 dealing with is some commissioners would put forward the
11 name of someone that they didn't know and so they hadn't
12 actually tried to recruit them to apply and then the
13 staff have to spend a lot of time chasing them.

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

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

22 So, I, personally, and I kind of take
23 affront at this notion that somehow we are all out to
24 get the conservatives because I, personally, have
25 recommended and gotten placed several Republicans on

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1 these State Advisory Committees. In fact, I spend a lot
2 of time telling people, look, we need to find more
3 Republicans for these State Advisory Committees.

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

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

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

16 Commissioner Kirsanow, how do you vote?
17 Commissioner Kirsanow, are you still there?

18 (No audible response.)

19 CHAIRMAN CASTRO: He had to get off?
20 Okay.

21 Commissioner Heriot, how do you vote?

22 COMMISSIONER HERIOT: I vote no.

23 CHAIRMAN CASTRO: Commissioner Narasaki,
24 how do you vote?

25 COMMISSIONER NARASAKI: I vote yes.

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

3 COMMISSIONER KLADNEY: I would abstain.

4 CHAIRMAN CASTRO: Commissioner
5 Achtenberg, how do you vote?

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

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

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

25 CHAIRMAN CASTRO: Let me just say,

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1 Commissioner Achtenberg, and I am going to ask her to
2 speak to this, I actually asked the Vice Chair if she
3 thought this was balanced and my recollection is she
4 indicated that it was. But if anybody should know
5 whether this SAC is reflective of North Carolina, it
6 should be our North Carolina representative.

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

9 COMMISSIONER HERIOT: You are
10 interrupting the vote now?

11 CHAIRMAN CASTRO: You always make
12 statements when you vote.

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

15 COMMISSIONER HERIOT: Not during the vote.

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

25 And I understand Commissioner Heriot's

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1 point that it is not about political registration. It
2 is more about ideological thinking in balance.

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

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

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

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

12 CHAIRMAN CASTRO: So, then I will --

13 COMMISSIONER KLADNEY: Mr. Chairman?

14 CHAIRMAN CASTRO: Yes, Commissioner
15 Kladney?

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

22 CHAIRMAN CASTRO: Yes, so I will table my
23 motion and then by agreement and consensus, we will put
24 this over until September. And in the interim, run it
25 through the appropriate AI process to ensure that

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1 everyone feels comfortable that there is balance.

2 COMMISSIONER HERIOT: Thank you, Mr.
3 Chairman.

4 CHAIRMAN CASTRO: You're welcome.

5 COMMISSIONER ACHTENBERG: Thank you, Mr.
6 Chairman.

7 STATE ADVISORY COMMITTEE APPOINTMENTS

8 KANSAS

9 CHAIRMAN CASTRO: You're welcome.

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

18 Pursuant to this motion, the Commission
19 appoints Mildred Edwards Chair of the Kansas State
20 Advisory Committee.

21 These members will serve as uncompensated
22 government employees.

23 Under this motion, the Commission
24 authorizes the Staff Director to execute the
25 appropriate paperwork for the appointments. Do I have

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1 a second?

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

3 CHAIRMAN CASTRO: Commissioner Heriot.

4 Who was that?

5 COMMISSIONER HERIOT: The Vice Chair.

6 CHAIRMAN CASTRO: The Vice Chair seconded.

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

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

11 Commissioner Kirsanow, how do you vote?

12 (No audible response.)

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

15 Commissioner Heriot, how do you vote?

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

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

20 COMMISSIONER NARASAKI: Yes.

21 CHAIRMAN CASTRO: Commissioner Kladney,
22 how do you vote?

23 COMMISSIONER KLADNEY: Yes.

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

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1 COMMISSIONER ACHTENBERG: Yes.

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

4 VICE CHAIR TIMMONS-GOODSON: Yes.

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

7 C. MANAGEMENT AND OPERATIONS

8 STAFF DIRECTOR REPORT

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

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

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

20 DISCUSSION AND VOTE ON COMMISSION 2017 BUSINESS MEETING

21 CALENDAR

22 MR. MORALES: But the one thing I do want
23 to talk about is the 2017 Business Meeting Calendar, I
24 provided a draft of that to all of you and we have worked
25 with staff to look through to make sure there were no

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1 conflicts with any religious holidays or federal
2 holidays. And so this is the draft that we have come
3 up with. I would like your opinion of it or your
4 discussion about it. And then we can vote on that, if
5 that is amenable so that we can start planning for next
6 year.

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

13 I had suggested that the Friday, January
14 27th meeting be moved to January 13th and that the
15 Friday, September 15th meeting be moved to another
16 Friday in September, either the 8th, 22nd, or 29th.

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

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1 us together.

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

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

7 CHAIRMAN CASTRO: I think that would work.

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

10 CHAIRMAN CASTRO: Yes, okay, yes to
11 September 8th. And then the January to January 13th.

12 Obviously, the 20th is going to be an
13 inaugural so we are not going to want to be competing
14 with that for hotel space, et cetera. So, I just
15 thought the 13th might work as a result.

16 Are folks okay with that?

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

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

23 COMMISSIONER HERIOT: It's Friday the
24 13th.

25 CHAIRMAN CASTRO: Oh, yes, that is a good

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1 one. We have done meetings on Friday the 13th and they
2 always turn out well.

3 No objections to that? So, then what I
4 would do is I would make a motion that we accept the
5 proposed agenda of meeting dates with the change from
6 January 27th to the 13th of January and from September
7 15th to the 8th.

8 Is there a second?

9 COMMISSIONER ACHTENBERG: Second.

10 CHAIRMAN CASTRO: And was that the Vice
11 Chair?

12 COMMISSIONER HERIOT: Roberta.

13 CHAIRMAN CASTRO: Commissioner
14 Achtenberg?

15 COMMISSIONER ACHTENBERG: Roberta.

16 CHAIRMAN CASTRO: Commissioner
17 Achtenberg, okay.

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

20 All those in favor say aye.

21 (Chorus of ayes.)

22 CHAIRMAN CASTRO: Any opposed?

23 Any abstentions?

24 The ayes have it.

25 Okay, Mr. Staff Director.

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1 DISCUSSION ON 2017 COMMEMORATION OF 60TH ANNIVERSARY OF
2 USCCR

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

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

22 So, we are thinking about now is the time
23 to start to put our thinking caps on and working
24 together. So, I am going to have Brian reach out to
25 special assistants at some point next week and see what

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1 their interest level is and maybe kind of put together
2 kind of an outline of preliminary planning.

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

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

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

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

25 Thank you very much.

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

3 CHAIRMAN CASTRO: Okay, great.

4 STATUS OF THE WEBSITE MIGRATION

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

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

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

24 COMMISSION OUTREACH USE OF SOCIAL MEDIA

25 MR. MORALES: And lastly, Mr. Chairman, I

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1 just wanted to let you know that I am working with Brian
2 to enhance the use of social media to amplify the
3 Commission's messaging to a wider audience.

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

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

19 So, I just wanted to let -- and we will
20 provide you with more information when we actually get
21 to the point where we kick it off. But we really think
22 this is a tool that the Commission should utilize and
23 it was a commitment that I made to all of the
24 commissioners about really raising the visibility of
25 the work the Commission does here.

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1 So, with that, I thank you, sir and I wish
2 everybody safe travels.

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

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

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

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