

U. S. COMMISSION ON CIVIL RIGHTS

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MEETING

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Friday, April 4, 1997

The Commission met in Room 540, YWCA
Building, 624 9th Street, N. W., Washington, D. C.
20425, at 9:30 a.m., MARY FRANCES BERRY, Chairperson,
presiding.

PRESENT:

MARY FRANCES BERRY, CHAIRPERSON
CRUZ REYNOSO, VICE CHAIRPERSON
CARL A. ANDERSON, COMMISSIONER
ROBERT P. GEORGE, COMMISSIONER
CONSTANCE HORNER, COMMISSIONER
YVONNE Y. LEE, COMMISSIONER
RUSSELL G. REDENBAUGH, COMMISSIONER (Via Telephone)

EDWARD HAILES, JR., DEPUTY STAFF DIRECTOR

STAFF PRESENT:

MARLISSA BRIGGETT
BARBARA BROOKS
SICILIA CHINN
KI-TAEK CHUN
JAMES S. CUNNINGHAM
BETTY EDMISTON
GEORGE M. HARBISON
CAROL-LEE HURLEY
FREDERICK ISLER

STAFF PRESENT: (Continued)

WILLIAM LEE
ERIC MANN
REGINALD MARTIN
STEPHANIE Y. MOORE, GENERAL COUNSEL AND
PARLIAMENTARIAN
LILLIAN MOYANO, YOB
VERONIQUE PLUVIOSE-FENTON
CHARLES RIVERA
MARCIA TYLER
AUDREY WRIGHT
NADJA ZALOKAR

COMMISSIONER ASSISTANTS PRESENT:

JOSEPH BROADUS
ADERSON FRANCOIS
CHARLOTTE PONTICELLI
WILLIAM LEE SAUNDERS, JR.
KRISHNA TOOLSIE
CYNTHIA VALENZUELA

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9:30 a.m.

CHAIRPERSON BERRY: The meeting will come to order.

VICE CHAIRPERSON REYNOSO: Redenbaugh is with us on the phone.

CHAIRPERSON BERRY: He's on the phone?

COMMISSIONER REDENBAUGH: Yes. Good morning, Mary.

CHAIRPERSON BERRY: Good morning to you, Russell.

I would like to have a motion to approve the Agenda of the meeting today, please.

COMMISSIONER HORNER: So move.

VICE CHAIRPERSON REYNOSO: Second.

CHAIRPERSON BERRY: All in favor, indicate by saying aye.

(Chorus of ayes.)

So ordered.

The minutes of the February 14th, 1997 meeting. I need a motion.

COMMISSIONER HORNER: So move.

CHAIRPERSON BERRY: Do we have a second?

VICE CHAIRPERSON REYNOSO: Second.

CHAIRPERSON BERRY: Any discussion? Anybody

1 have anything that they see that they -- the only thing
2 I have that I see is, on the second page under Program
3 Planning, the sentence says that it was agreed that
4 Vice Chair -- in the middle of the second paragraph.
5 "Vice Chair Reynoso and Commissioners Horner and
6 Redenbaugh would read staff recommendations on proposed
7 participation and consultation," et cetera.

8 The part at the end of that sentence should
9 say, "before the staff prepares final recommendations
10 for the Commissioners," which is what our understanding
11 was. And the statement isn't stated right.

12 So, if I could have that, with that
13 correction.

14 Anybody else have any other corrections?

15 (No response.)

16 Okay. All in favor, indicate by saying aye.

17 (Chorus of ayes.)

18 Opposed?

19 (No response.)

20 Okay. So ordered.

21 The next item on the agenda is Announcements.
22 First, does anyone else have any announcements? I have
23 some, somewhere.

24 Anybody want to announce anything or discuss
25 anything under Announcements?

1 The public service announcement has been
2 recorded by Phylicia Rashad, who is on the Cosby Show
3 and was on the Cosby Show -- she's the female lead in
4 the Cosby Show -- and Eric LaSalle, who plays a
5 physician on ER. Any of you who watch ER will know who
6 he is.

7 They've done the public service announcement
8 for us and there is a preliminary cassette copy. It's
9 called "Teach the Children," and it's available for
10 Commissioners to pick up today and you can take it
11 along. If you'd like somebody to tell you what it
12 says, I can do that now, but you can have a copy of it.
13 It's "Teaching the Children." And they also have
14 available for you a biographical sketch of the two
15 persons, if you don't watch ER and you don't know what
16 the Cosby show is.

17 We're very much appreciative that they were
18 willing to do this public service announcement for us
19 and I think the Commissioners are all grateful.

20 The OPM audit. You received a copy of a
21 letter that I sent you from Carol Oken at OPM,
22 acknowledging our response and saying she found it
23 thorough and et cetera. So that matter is taken care
24 of.

25 The Mississippi Delta hearing, as you know,

1 was held as scheduled. It was a very good dialogue and
2 some very good information was brought forward. And
3 the Chair of the Mississippi SAC asked me to convey to
4 the Commissioners that he was disappointed that not all
5 Commissioners were able to make it, because he looked
6 forward to welcoming them to the Delta. But he was
7 pleased that the hearing went as well as it did under
8 the circumstances. So now, I have conveyed that, as he
9 asked me to.

10 COMMISSIONER HORNER: Madam Chair?

11 CHAIRPERSON BERRY: Yes.

12 COMMISSIONER HORNER: Is he aware of the
13 reasons for --

14 CHAIRPERSON BERRY: Right. He was informed,
15 but he still just wanted us --

16 COMMISSIONER HORNER: I understand.

17 CHAIRPERSON BERRY: -- to know how
18 disappointed he was that not everyone could be there.

19 The Legal Services briefing will take place
20 in May. Some Commissioners have already suggested
21 names of participants. If any of you have any
22 participants you would like to suggest, could you
23 please ship those up to Eddie Hailes? Probably, you'll
24 need to do that in the next week or so, so that we can
25 finalize the panelists.

1 Commissioner Redenbaugh has asked for a
2 hearing on -- and I have a piece of paper here
3 somewhere -- regulatory barriers to minority entry
4 level entrepreneurship and economic opportunities. And
5 so he says that entrepreneurs are being blocked from
6 pursuing a productive livelihood by regulations and
7 regulators and the like, so he wants to talk about --
8 have a panel, a briefing on that subject, which we
9 would schedule after the Legal Services briefing.

10 So that if anyone has any participants that
11 they would like to recommend for that briefing, you
12 probably should do that in a month or so, in time to
13 schedule it for the next briefing.

14 And I assume that Commission Redenbaugh will
15 also have some participants to propose at that time.

16 COMMISSIONER REDENBAUGH: Yes, I will.

17 CHAIRPERSON BERRY: Yes.

18 Commissioner Horner?

19 COMMISSIONER HORNER: Yes, Madam Chair. What
20 is the question that is being addressed in the Legal
21 Services briefing?

22 CHAIRPERSON BERRY: The Legal Services
23 briefing is to discuss -- it's the one the Vice Chair
24 asked for.

25 Do you want to comment on that?

1 VICE CHAIRPERSON REYNOSO: Yes. The effect
2 of the cutbacks and restrictions on Legal Services, as
3 it affects civil rights; that you can't file class
4 actions. How does that affect or not affect their
5 ability to represent people in civil rights matters.

6 CHAIRPERSON BERRY: And people should be
7 present to discuss different perspectives on these
8 issues.

9 Commissioner George has already recommended
10 some people and the Vice Chair. I don't think anyone
11 else has recommended anyone to date.

12 The other thing that I wanted to point out is
13 that the State Advisory Committees did ask us last
14 year, and we considered this, whether we wanted to
15 recommend to the President that he have a White House
16 conference on civil rights, I think, or race relations.
17 And recently, one of the chairs of one of the State
18 Advisory Committees sent us a letter again, and he sent
19 copies to everybody, reminding us that they had asked
20 for that and wondering if we were willing to
21 reconsider. Because at the time, we decided, if I
22 recall correctly, not to recommend anything at that
23 time.

24 So, the query is do we want to take that up
25 again. I'm simply reminding you at this point that we

1 were reminded by the chair of -- and I've forgotten
2 which Advisory Committee.

3 Anybody know? Kansas?

4 COMMISSIONER REDENBAUGH: Kansas.

5 CHAIRPERSON BERRY: Kansas. Oh, you know.
6 Okay. The Kansas Advisory Committee -- of this subject
7 again.

8 Is there any interest in taking that up or
9 would you like to think about it, or --

10 Yes?.

11 COMMISSIONER LEE: Madam Chair?

12 CHAIRPERSON BERRY: Yes.

13 COMMISSIONER LEE: Since I wasn't here at
14 that time, can you tell me what was the reason that we
15 decided not to take up that matter?

16 CHAIRPERSON BERRY: I don't remember. I hate
17 to tell you that.

18 Commissioner Horner may remember.

19 COMMISSIONER HORNER: I think there was a
20 feeling that these kinds of events require massive
21 effort for relatively small positive outcome, given the
22 magnitude of the effort. That they become highly
23 politicized; that placing something within the context
24 of the White House forces what I would call thought
25 dislocations, based on politics, that make them less

1 productive than alternative uses of the same amount of
2 resources.

3 Maybe I'm projecting my own jaundiced
4 feelings about White House conferences from having been
5 in the White House onto the discussion we held. So,
6 maybe that isn't what everyone else was thinking.
7 That's sort of what I was thinking at the time.

8 CHAIRPERSON BERRY: Could I ask you, since
9 you've had experience with these White House
10 conferences from other there, as opposed to the
11 agencies, --

12 COMMISSIONER HORNER: Yes.

13 CHAIRPERSON BERRY: -- usually, as I recall,
14 they usually have staff from somewhere in the
15 government somewhere.

16 COMMISSIONER HORNER: Yes.

17 CHAIRPERSON BERRY: Is that right?

18 COMMISSIONER HORNER: They usually get staff
19 detailed from issue associated agencies. For instance,
20 the White House Conference on Aging would have staff
21 detailed from HHS. And then there'd be special staff
22 hired for the event.

23 I remember the 1980 White House Conference on
24 Aging and it was not a fruitful or happy experience, in
25 my recollection. You may remember it.

1 What it does it polarize differences, give
2 everyone something to argue fiercely about in the run-
3 up year. And most of the arguments revolve around
4 who's going to speak; who's going to be invited.

5 And what happens is a cascading of argument
6 based on ego, vanity and self-promotion that goes on
7 not only at the federal level, but also at the state,
8 local and private, non-profit level. And I just -- it
9 just seems to me to be sound and fury, signifying
10 nothing helpful.

11 And again, my own experience may be unduly
12 prejudiced. It seems to me that these kinds of things
13 work when there is a preexisting consensus, and the
14 White House conference calls attention to that
15 consensus. It doesn't wade into highly controversial
16 issues, but says the President's putting its imprimatur
17 on a direction the country really wants to go in and
18 giving it a strong push in that direction.

19 CHAIRPERSON BERRY: Well, my only experience
20 was with the White House Conference on Families when I
21 was in the Carter Administration. And we spent weeks
22 and weeks in turmoil in the agency because we were
23 supposed to run the conference and the Secretary kept
24 naming these people as directors. And he named
25 somebody and it turned out that she didn't have the

1 particular family profile that some people thought you
2 ought to have to run such an agency. She was divorced
3 or something.

4 And so there was a big argument about that.
5 And this just went on for weeks and weeks and weeks and
6 weeks. And I, quite frankly, don't remember in the end
7 what came out that was truly important.

8 And I do remember, as a matter of history --
9 I wasn't there -- the White House Conference on Civil
10 Rights that Johnson had, Lyndon Johnson. And there was
11 a big fight there, just as you described, about who
12 would come, who couldn't come, who would be kept away.
13 And the biggest issue, I recall, was that Martin Luther
14 King -- they told him he couldn't speak or something,
15 which was sort of interesting.

16 But maybe people who don't have that
17 experience, maybe those of us who've just been in
18 Washington, have a jaundiced view of such matters.
19 We're too cynical.

20 So if a President were about -- if the SAC's
21 wanted to recommend that a President do something,
22 based on the experience of people who have been in
23 Washington, instead of a White House conference, what
24 might they -- so that we could advise SAC. That it's
25 not just that we're just negative about anybody doing

1 anything. It's that we know Presidents are supposed to
2 be leaders and all that, but I don't know --

3 VICE CHAIRPERSON REYNOSO: Certainly nobody
4 who would read this exchange would be pessimistic about
5 the outcome of the conference.

6 My recollection is that this came out of the
7 last time that all of the representatives of the SACs
8 got together here in Washington. And I think there was
9 a feeling that we needed more leadership from the White
10 House and from the federal government in matters of
11 civil rights. Particularly from the White House, the
12 President, and people close to him. And that that
13 would be manifested, I think the feeling was, by a
14 White House conference.

15 One of the reasons, my recollection is, they
16 did not make the recommendation at that time is that
17 elections were coming up and there was a feeling that
18 it would indeed be fractious instead of unifying. At
19 least those elections are out of the way, and so
20 there's a greater possibility now that a fruitful White
21 House conference could take place.

22 I have no doubt that with all these certain
23 issues, it will come up again, but I think the sense
24 is, and I share that, that there hasn't been a coherent
25 voice coming from the White House providing leadership

1 in the area of civil rights. And I think that's what
2 the SACs were hoping for.

3 CHAIRPERSON BERRY: But maybe there isn't a
4 coherent voice in the country.

5 VICE CHAIRPERSON REYNOSO: Right. Right.

6 CHAIRPERSON BERRY: And that it's a
7 reflection of the lack of coherence.

8 COMMISSIONER HORNER: If I were to speak with
9 the SAC chair who sent the recommendation to us, my
10 suggestion for involving the White House and the
11 President in a leadership mode, given the variety of
12 opinion abroad in the land, would be for the President
13 to try to highlight and identify with things that work,
14 wherever he can find them: good community relations,
15 good forms of assistance and mediation and so on.

16 I know that's rather bland in a lot of
17 people's eyes and doesn't get at the big controversies.
18 But that would be one form of leadership I would
19 suggest.

20 CHAIRPERSON BERRY: So maybe we can, in
21 responding to the SAC chair, sort of lead him in that
22 direction. Or they can read the transcript and figure
23 out why we reached all these conclusions. That we're
24 not all hot about their idea.

25 Okay.

1 If there are no other announcements, we would
2 go to the Staff Report, which is Item Number 4. Anyone
3 have any questions on the Staff Report?

4 Yes?

5 COMMISSIONER HORNER: I have two questions.
6 One is I notice that there's no time frame associated
7 with the completion of the New York hearing report.
8 And I wonder if we have an end date.

9 I see there are interns being put on the
10 documents work, which is probably pretty massive, but I
11 would like to know if we do have a projected end date.

12 CHAIRPERSON BERRY: Okay.

13 I'll let you answer that, General Counsel.
14 But has this television show, this news spot on the New
15 York hearing materials, Wall Street, that CNBC came
16 over here to tape, has that been done yet or shown?

17 Charlie Rivera.

18 MR. RIVERA: We've been in touch. The answer
19 is no.

20 CHAIRPERSON BERRY: That's Charlie Rivera.
21 The answer is no.

22 COMMISSIONER HORNER: What is it?

23 CHAIRPERSON BERRY: The answer is no.

24 CNBC was doing a news story on Wall Street
25 and women and people of color on Wall Street or

1 something, and they knew about our New York hearing and
2 so they wanted to come over here and photograph a room
3 with the documents piled up that we got. Not look at
4 them, but just -- that we were hard at work and we had
5 all these documents.

6 And I think they did that, didn't they?

7 Yes. They came over and did that. So they
8 apparently will have this on television at some time or
9 other.

10 MR. RIVERA: Yes. We've been advised -- our
11 company that does the sweep of the things that we asked
12 to take down on TV, will alert us immediately when it
13 comes on. And then we'll get it to you.

14 CHAIRPERSON BERRY: But hasn't been on yet.
15 Okay.

16 COMMISSIONER REDENBAUGH: Were they merely
17 reporting on what we were doing or did we do something
18 that we weren't doing?

19 CHAIRPERSON BERRY: No, no. They were
20 reporting that part of the story on their report on
21 Wall Street was that the U.S. Commission on Civil
22 Rights had held hearings on Wall Street and had
23 collected a variety of documents which the U.S.
24 Commission on Civil Rights was still assessing. And so
25 the picture was to see the United States Commission on

1 Civil Rights had these documents and was somehow
2 assessing them.

3 COMMISSIONER REDENBAUGH: Right. But -- so
4 did we do the assessment for their cameras or were we
5 doing it anyway while their cameras were there?

6 CHAIRPERSON BERRY: As I understand it, we
7 are doing the assessment every day. That's part of the
8 problem.

9 COMMISSIONER REDENBAUGH: I see. It had
10 escaped my attention.

11 CHAIRPERSON BERRY: Right. This is in the
12 office where the persons work on the documents.

13 COMMISSIONER REDENBAUGH: Oh, I get it.

14 CHAIRPERSON BERRY: And they just came by and
15 took a picture of hard at work civil servants assessing
16 documents.

17 COMMISSIONER REDENBAUGH: I would suggest
18 that that is so rare as to be newsworthy.

19 CHAIRPERSON BERRY: No, no. Oh, come on,
20 Russell.

21 VICE CHAIRPERSON REYNOSO: Isn't this part of
22 the TV's visuals, they call it?

23 CHAIRPERSON BERRY: Right. They wanted some
24 visuals.

25 VICE CHAIRPERSON REYNOSO: They write

1 something and want to be showing something.

2 CHAIRPERSON BERRY: Right. And so they just
3 knew we were doing this, so they figured it would make
4 a nice visual.

5 COMMISSIONER HORNER: Could we get a fax or
6 phone call if Charlie knows that it's going to appear
7 so we can watch it?

8 CHAIRPERSON BERRY: Yes.

9 Charlie, when you find out, you know, tell
10 them to send -- fax us something so we can know.

11 VICE CHAIRPERSON REYNOSO: One of the nice
12 things about this job is to learn new terminology.

13 Sweeps? What are sweeps, Charlie?

14 MR. RIVERA: All I meant to indicate is that
15 whenever we have a press conference, whenever we had an
16 event that focuses on the Commission and its
17 activities, we have a company that in fact looks at
18 everything that was shown.

19 VICE CHAIRPERSON REYNOSO: To see what --

20 MR. RIVERA: Right. So it's not the
21 equivalent of the annual or biannual sweeps.

22 CHAIRPERSON BERRY: I'll let you answer that
23 in a second, General Counsel, but I forgot to say
24 something about St. Petersburg.

25 The story of St. Petersburg continues. Still

1 there are a lot of tensions in the community and the
2 problems really haven't been addressed. There's a
3 federal task force down there. There's some community
4 people, some state people, all involved in trying to
5 figure out what to do. And there is division in the
6 African-American community between people who are
7 characterized in the press as militants, quote/unquote,
8 and people who are characterized as not militants,
9 quote/unquote, or by various other kinds of terminology
10 about how to address the problems down there.

11 Rabbi Agin, who is our State Advisory
12 Committee chair and Bobby Doctor, who's our Regional
13 Director, have been very much involved. And they
14 released the Executive Summary of their forum and
15 answered questions for the press down there and tried
16 to encourage the warring parties to get together, and
17 are still trying to do that, along with the Community
18 Relations Service and some people from the churches and
19 -- I mean, everybody's involved.

20 But there really is nothing to report except
21 that we stay engaged. That is, staff is staying
22 engaged and the Rabbi is staying engaged, but we
23 haven't come to closure there. And the political
24 campaign is exacerbating the problem. The mayor's race
25 down there, which now -- I guess there was a first

1 round and now there will be a second round. And the
2 events surrounding the shooting and the riot are a
3 central issue in the campaign.

4 So I think that after the campaign is over,
5 maybe there will be some forward movement.

6 Anyway, to get back to Commissioner Horner's
7 question about the New York hearing.

8 General Counsel?

9 MS. MOORE: Commissioner Horner, we hope to
10 have a draft ready this year, late August. That is
11 still a very ambitious prediction on our part.

12 As you know, we've lost some staff and staff
13 is also burdened -- well, I'll say Fred -- with the
14 legal sufficiency reviews of all of the education
15 projects. So just in terms of balancing all of those
16 competing projects, we are short-staffed in our efforts
17 to complete the New York report.

18 And also, the interns will not start until
19 after May. And, of course, quality concerns will arise
20 around the interns. The interns are first-year and
21 second-year law students.

22 COMMISSIONER HORNER: I guess I might just
23 ask why the education reports would take precedence
24 over the New York hearing, since they were started
25 later.

1 MS. MOORE: Well, I'm merely following the
2 instructions that I'm given in terms of -- the legal
3 sufficiency reviews also have milestones from OCRE, so
4 when we receive the report, there's a date that is
5 attached to the report by which it has to be turned
6 back to OCRE.

7 COMMISSIONER HORNER: My other question has
8 to do with --

9 CHAIRPERSON BERRY: Maybe I can get an answer
10 to that question, the one you just asked about why.

11 Which report is the statutory report this
12 year, the monitoring report, the one that we have to
13 turn in every year?

14 Because Fred has this statutory deadline,
15 which the Commission tries every year to finish at
16 least one report, he gets to have priority --

17 COMMISSIONER HORNER: I see.

18 CHAIRPERSON BERRY: -- over everybody else
19 because he says, well, I'm trying to meet this
20 deadline. So whatever you're doing -- that's my
21 understanding that that's the way it's gone, so far.

22 COMMISSIONER HORNER: I see.

23 My other question probably has the same set
24 of circumstances surrounding it, and that is, I didn't
25 see any work progressing on the crisis of African-

1 American males in the inner city. And that was, I know
2 for Leon and me, and really high priority. And I think
3 it was more broadly shared.

4 MS. MOORE: Well, no. There has been some
5 work that -- preliminary work that was produced on the
6 crisis of African-American males. Again, Miguel Sapp,
7 who was principally working on that, has left the
8 agency and we were gearing up for the Mississippi
9 hearing.

10 We do have one position that is open that
11 we've recruited for and will be hiring shortly, and
12 we'll reconfigure the assignments in OGC at that time.

13 COMMISSIONER HORNER: Okay. Thank you.

14 MS. MOORE: Sure.

15 CHAIRPERSON BERRY: Anyone else have any
16 questions on the Staff Director's Report?

17 COMMISSIONER REDENBAUGH: Yes. I have a
18 question.

19 CHAIRPERSON BERRY: Yes, Commissioner
20 Redenbaugh.

21 COMMISSIONER REDENBAUGH: The project
22 Commissioner Horner just asked about, the crisis, is
23 that a statutory report or --

24 CHAIRPERSON BERRY: I don't think it is.

25 COMMISSIONER HORNER: No.

1 CHAIRPERSON BERRY: No, it's not.

2 COMMISSIONER HORNER: No.

3 COMMISSIONER REDENBAUGH: That's my question.

4 Thank you.

5 CHAIRPERSON BERRY: Okay.

6 Anyone else have any questions on the Staff
7 Director's Report?

8 (No response.)

9 If not, then we go to the next item, which is
10 the State Advisory Committee Reports. And we have here
11 five consultations done by states.

12 Consultation, as we use the terminology,
13 means having opinion on both sides of issues, two
14 sides. It may be four or five different sides of a
15 particular issue. And as we use it here at the
16 Commission, we don't draw conclusions or make findings
17 from consultations. They're simply informative. And
18 we publish the information that we receive. So there
19 are one, two, three, four, five.

20 Could I have a motion so that we can discuss
21 these?

22 Shall we do them one at a time or shall we do
23 them -- all right. One at a time.

24 Could I have a motion on the Indiana
25 consultation?

1 COMMISSIONER LEE: So move.

2 VICE CHAIRPERSON REYNOSO: Second.

3 CHAIRPERSON BERRY: All right. We will have
4 discussion.

5 Any discussion on the Indiana -- yes,
6 Commissioner Horner?

7 COMMISSIONER HORNER: Madam Chair, I'm
8 prepared to vote yes on several of these, but not on
9 all of them; Indiana being one of the ones that I don't
10 want to vote yes on. And the reason is --

11 CHAIRPERSON BERRY: Got a problem, Russ?
12 (Noise of fire siren.)

13 COMMISSIONER REDENBAUGH: That was just an
14 urban disturbance.

15 COMMISSIONER HORNER: As long as it's not
16 your house.

17 COMMISSIONER REDENBAUGH: Nothing I can do
18 about it. If it actually comes here, I will let you
19 know.

20 CHAIRPERSON BERRY: Okay.
21 (Laughter.)

22 COMMISSIONER GEORGE: I was worried that it
23 was a new policy on "no" votes.

24 (Laughter.)

25 CHAIRPERSON BERRY: Okay, Commissioner.

1 COMMISSIONER HORNER: Two of the reports,
2 Ohio and Wisconsin, seem to me to have a balance across
3 a range of points of view on affirmative action and
4 meet our own requirements for balance. But my survey
5 of the other three suggest that they represent not the
6 same range of perspective.

7 So, I'm eager to vote yes on Ohio and
8 Wisconsin but don't feel that I can vote yes on the
9 other three.

10 I know that we're not allowed to ask the SACs
11 to do anything in particular or make any changes, so in
12 that context, I would just say that just describing my
13 own reaction, not asking them to do something, my own
14 reaction would be that they could make the -- the other
15 three could make their reports more useful if they
16 would open up the record again and maybe invite a few
17 other people to come by who don't share the perspective
18 already represented there.

19 CHAIRPERSON BERRY: Okay. Any other --

20 COMMISSIONER REDENBAUGH: Yes. I have a
21 comment, if I may.

22 CHAIRPERSON BERRY: Yes.

23 COMMISSIONER REDENBAUGH: I think that I have
24 a similar point of view with Connie, but I would also
25 add that I think -- and I don't mean this as a

1 complaint of the Acting Staff function, but the
2 procedure that we specified to be followed here is for
3 the Staff Director to bring us reports for acceptance
4 that are in compliance with the process we defined.

5 Now, I think in the uncertain and the
6 transition in the office, I think that hasn't been
7 followed here. But I think it's an oversight and an
8 unfamiliarity, not any dereliction. But I think these
9 three appear to me to have been brought before us
10 prematurely.

11 CHAIRPERSON BERRY: Let me let -- before I
12 let Commissioner Lee and other speak, Carol-Lee, would
13 you like to comment on the process that the SACs used?
14 We need to have some comment on those.

15 Come on over here. Sit down.

16 MS. HURLEY: The process that was followed by
17 each of these committees --

18 CHAIRPERSON BERRY: Can you hear her,
19 Russell?

20 COMMISSIONER REDENBAUGH: Yes. Thank you.

21 MS. HURLEY: -- was a project -- they voted
22 to do the project. A project proposal was developed
23 and they voted to accept the project proposal. The
24 project proposals were basically identical and each --
25 they called for each Advisory Committee to set up a

1 bipartisan subcommittee to select the individuals who
2 would present papers at these consultations.

3 Now, an Advisory Committee only can ask
4 someone to appear. They can't require appearance. I
5 cannot tell you, because I do not know, whether all the
6 people who were invited agreed to appear. I do know
7 there was a conscientious effort made to present a
8 variety of points of view on the topics chosen. And
9 the reports were each individually voted on by the
10 Committee and sent forward here and followed the
11 procedures, as far as I can see.

12 CHAIRPERSON BERRY: Could we -- you should
13 stay there until we finish this, please.

14 Commissioner Redenbaugh, could you tell
15 Carol-Lee more of what you had in mind?

16 COMMISSIONER REDENBAUGH: Yes. As I recall
17 the process that we specified, what we asked was that
18 the Staff Director only bring to us reports that had
19 not only been prepared in the way you just said, but
20 that which achieved balance. And I -- for whatever the
21 reason, it looks like that was not achieved in three of
22 the five cases.

23 CHAIRPERSON BERRY: What do you mean by
24 balanced? That there was an equal number of views
25 expressed --

1 COMMISSIONER REDENBAUGH: Well, no.

2 CHAIRPERSON BERRY: -- on every side, or
3 what?

4 COMMISSIONER REDENBAUGH: No. That we
5 acknowledge that there are different points of view on
6 many issues and that more than one point of view be
7 represented. But no, certainly not an equal number.

8 CHAIRPERSON BERRY: Okay.

9 Carol-Lee, what is your -- do you have any
10 response to that?

11 MS. HURLEY: The only response I could make -
12 - but I don't know that this is so -- is that every
13 state is different and it may be that some states have
14 more people expressing one viewpoint than another. I
15 don't really know the answer. I just can assure the
16 Commissioners there was a conscientious effort to meet
17 the requirement to hear different points of view on the
18 topic.

19 CHAIRPERSON BERRY: She's raised a very
20 interesting question. It's just an intellectual
21 question which, if I may be permitted to ask it, even
22 thought the weather is nice and we'd like to finish.

23 You know how that is. Sometimes you get
24 those intellectual flits.

25 What happens if you're in a place where most

1 of the opinion is on one side or the other? Then what
2 do you do?

3 I'm asking Commissioner George, because he's
4 a philosopher.

5 COMMISSIONER GEORGE: I think we have the
6 question of whether we practice affirmative action.

7 CHAIRPERSON BERRY: Yes, Commissioner Horner.
8 And then I'll let Commissioner Lee speak, who asked to
9 speak.

10 COMMISSIONER HORNER: I think in this
11 particular case, there are national organizations with
12 local chapters whose views are known who could be
13 called upon. I think also, given the polling data on
14 this issue, it's pretty evident that there is a range
15 of opinion nationally.

16 There may be one or two state that fall
17 outside the national parameters on this but I doubt if
18 they are the three that present the problem here.

19 And Carol-Lee, I sympathize with the notion
20 of appointing a bipartisan subcommittee of the SAC to
21 make the selections but there are no partisan -- pure
22 partisan identifications with points of view on this
23 issue.

24 There are people who are for and against or
25 somewhere in between in both the national parties, so

1 it's quite easy to have a bipartisan selection process
2 which is productive of only one point of view and I
3 really am skeptical that the SACs had a full aggressive
4 appreciation of how serious we are about getting a
5 range of perspectives.

6 That doesn't mean that you have five on this
7 side and five on that side. You might have eight from
8 one side and two on another and they might be
9 addressing different aspects or angles of the problem.
10 But I really think for our dialogue for the country to
11 be useful, we really have to have credibility and we're
12 not going to have credibility if what might represent
13 40 percent of national sentiment isn't in any way
14 represented.

15 CHAIRPERSON BERRY: Okay.

16 Commissioner Lee and then Commissioner
17 George.

18 COMMISSIONER LEE: I'm prepared to vote for
19 all five of the consultation reports because I do find
20 the balance of each of the reports. And the reason why
21 I feel this way is because each of the SACs mentioned
22 that each of the members of the SACs were asked to
23 invite presenters. Is that right?

24 So each member, besides the ad hoc committees
25 that are formed, each SAC member has the opportunity to

1 bring in whoever expert to present a paper.

2 Now, whether they presented, I don't know.

3 They did not mention how many of them had declined.

4 So, based on that, I do feel that the SACs tried their

5 best to find a balanced point of view. And based on

6 that, I just feel that the reports are balanced and I

7 am ready to support them.

8 CHAIRPERSON BERRY: Did you still want to
9 speak?

10 COMMISSIONER HORNER: Well, --

11 CHAIRPERSON BERRY: Just a minute. Just a
12 second. I think Commissioner George.

13 Did you decide not to say anything?

14 COMMISSIONER GEORGE: No, no. I'd be happy
15 to say something. Although, if anyone wants to --

16 COMMISSIONER HORNER: Could I just make a
17 quite one?

18 COMMISSIONER GEORGE: Yes. Sure. I have a
19 general point.

20 CHAIRPERSON BERRY: Okay.

21 COMMISSIONER HORNER: Yvonne, I think the
22 SACs have -- even if every member of the SAC agrees and
23 they all hold to a particular point of view and all go
24 out and look for speakers reflecting their point of
25 view, I don't think they've met their obligation to us

1 or to the country. I think they must, with the
2 assistance of our staff, seek out a range of opinion,
3 even if it doesn't reflect the opinion of the members
4 of the SAC.

5 So, it's not enough to say that the SAC
6 members had an opportunity to find people. They have
7 an obligation to find a range of opinion, not just
8 opinions reflecting their own and across the range
9 reflected on the SAC.

10 COMMISSIONER LEE: But aren't the SAC members
11 appointed to serve based on their standing in the
12 community and their experiences and the like?

13 CHAIRPERSON BERRY: Supposedly. Yes.

14 COMMISSIONER LEE: Isn't that the reason why
15 they're on the committee to begin with?

16 CHAIRPERSON BERRY: We approve their
17 appointments. And you're correct. We are supposed to
18 take into account. And the papers that are presented
19 to us talk about their experience with these issues and
20 their standing in the community. That's correct.

21 Commissioner George?

22 COMMISSIONER GEORGE: Just on that narrow
23 point, and then I'll make my general point. It is
24 difficult to get -- to ensure balance of viewpoints,
25 even in the SAC appointment process. In part, because

1 we don't want to inquire too closely about people's
2 particular political views. We do ask about political
3 affiliation. We see that on the chart that we're given
4 each time, whether the person's a Republican or a
5 Democrat or an Independent.

6 It's easy to surmise something about people's
7 beliefs sometimes on the basis of what organizations
8 they've been affiliated with, if those organizations
9 are themselves of a partisan nature. Not in the sense
10 of Republican as opposed to Democrat, but as liberal as
11 opposed to conservative on this or that issue.

12 So I think it's a general problem.

13 Happily, I think this is not an issue that
14 should be too controversial because there needn't be
15 even any hint in the air of any ill will or bad motive
16 because all of these consultations come from states
17 that are in the Midwest Regional Office and under the
18 Midwest Regional Director, I assume.

19 Two of them, I agree with Connie and Russell,
20 are balanced and indeed are exemplary in their balance.
21 I learned from reading the diversity of points of view
22 that were represented there. I think they're ideal. I
23 think they could be put forward as a model for the
24 other states.

25 So there's no question that anybody rigged --

1 or that the Regional Office rigged this to come up with
2 a one-sided consultation because two of them plainly
3 don't do that. So I think the failure to achieve
4 balance in the other three -- which I agree the failure
5 is not the result of any manipulation, certainly, on
6 the part of the Regional Office.

7 And then I would therefore simply propose
8 that if the three are not approved -- I suspect that
9 Ohio and Wisconsin will be -- but if the other three
10 are not, that the minutes of this meeting will be
11 available to the Regional Director and I hope that the
12 Regional Director would convey a sense that the kind of
13 balance achieved in Ohio and Wisconsin is that that
14 should be aimed for, and without too much effort, could
15 be achieved in the other three.

16 CHAIRPERSON BERRY: Yes? Were you about to
17 say something, Vice Chair?

18 VICE CHAIRPERSON REYNOSO: I guess I'm
19 concerned about the independence that the Advisory
20 Committees are supposed to have and our relationship
21 with them in that regard. They don't have subpoena
22 power. They can invite people. I suppose that Robbie
23 might be right, that this may be reflective of how much
24 affirmative action went to get folk opposed to
25 affirmative action to come forward, there's somewhat of

1 a disconnect.

2 Even though there are four members of this
3 Commission on the Civil Rights Commission that are
4 opposed to affirmative action, most folk involved in
5 civil rights, in fact, are in favor of affirmative
6 action. And so, sometimes, those who are opposed to
7 it, are reluctant to go before a group like a State
8 Advisory Committee to express anti-affirmative action
9 views. I've seen that in many meetings that I've
10 attended.

11 And so, I think that Robbie is right that
12 sometimes, in given circumstances, it would take a
13 quite extraordinary affirmative action to get people to
14 come forward and be comfortable in expressing anti-
15 affirmative action views before a civil rights advisory
16 committee.

17 And so I don't know how much that influenced
18 the fact that some of these reports don't have as many
19 anti-affirmative action essays. But I'm sort of
20 reluctant to assume that there wasn't the sort of
21 effort that's been expressed in getting folk to come
22 forward. And I'm reluctant, out of a deference to the
23 role that the Advisory Committees have, to then say you
24 didn't do your job.

25 CHAIRPERSON BERRY: Then let the games begin.

1 (Laughter.)

2 COMMISSIONER GEORGE: I just wanted to say
3 that while I ordinarily would be very happy to have
4 Cruz agreeing with me, and am glad to know that he
5 thinks he agrees with me, I want to say that however
6 much he may agree with me, I disagree with him.

7 If you guys will get the last comments.

8 CHAIRPERSON BERRY: Why don't we -- yes,
9 Commissioner Horner?

10 COMMISSIONER HORNER: And I just need to say
11 that, for the record, that I believe it is too broad a
12 statement to make with respect to the opinion on
13 affirmative action. I think you said four members of
14 the Commission were, quote, against affirmative action?

15 VICE CHAIRPERSON REYNOSO: That's just my
16 observation.

17 COMMISSIONER HORNER: I think that's not a
18 true statement because I think you need to disaggregate
19 the elements of what goes under the broad umbrella name
20 of affirmative action. And if you disaggregate that
21 and view it historically, you might find that that's
22 not an accurate statement.

23 I understand what you're saying. It's a
24 broad impression you have. But we never have gone into
25 all the history, the whys and wherefores. And you might

1 discover that there are some Commissioners -- and I
2 think I would put myself among them -- who support
3 elements of affirmative action and don't support other
4 elements of affirmative action as it's historically
5 occurred.

6 So, I don't want to engage this now but I
7 just wanted to just make that clear.

8 VICE CHAIRPERSON REYNOSO: No. But I'd like
9 to respond because I think that your statement is a
10 very important one. And one of the things that we
11 haven't done in this Commission, in response to
12 Robbie's concern that we not get too involved in issues
13 that would be divisive instead of uniting us, is talk
14 more about affirmative action.

15 My sense is, particularly based on what you
16 just stated, that if we start dividing affirmative
17 action and the different components of it, we may in
18 fact end up agreeing, for example, that recruitment,
19 affirmative recruitment -- even in these reports,
20 affirmative recruitment of people with different views,
21 and that's hardly affirmative action, quote/unquote, is
22 a good thing.

23 And probably, in my view, it would be an area
24 in which perhaps we could provide some leadership to
25 the country if we here, who have diverse views, would

1 say we disagree on these things, but on these things,
2 we're all agreed.

3 So, I think maybe that will evolve in the
4 future, but I very much appreciate your statement.

5 CHAIRPERSON BERRY: And again, he can speak
6 for himself, but I thought Commissioner George has been
7 all over the map on this question.

8 (Laughter.)

9 COMMISSIONER GEORGE: I've been a model, an
10 icon of consistency.

11 CHAIRPERSON BERRY: Right.

12 COMMISSIONER GEORGE: Every Tuesday, Thursday
13 and Saturday, I believe that we should avoid divisive
14 issues. And every Monday, Wednesday, I believe that we
15 should engage the group --

16 CHAIRPERSON BERRY: Let me suggest -- oh,
17 yes. Commissioner Anderson is going to help us out
18 here.

19 Go right ahead.

20 COMMISSIONER ANDERSON: I would say to the
21 Vice Chair that I feel, for a long time on this
22 Commission, that we would be more productive if we
23 sought to find those areas where we agreed.

24 VICE CHAIRPERSON REYNOSO: I agree.

25 COMMISSIONER ANDERSON: And that, I believe,

1 has a lot to do with whether this Commission can be a
2 leader in the area of civil rights. We spend a lot of
3 time on disagreeing. And I would say often the
4 disagreement is on the fringe of the issues. But there
5 could very well be a core of agreement that we could
6 read and that consensus, I believe, is what's necessary
7 for leadership. And without that kind of consensus
8 that's clear, you have no vision, and leadership is
9 about vision.

10 It relates back to what we were talking
11 about, the White Conference on Civil Rights. But I
12 think that's a good point. And if we talk about
13 affirmative action, I think we ought to disaggregate it
14 and see where we cannot come to some agreement and
15 where we can come to agreement.

16 Now, in terms of Advisory Committees and
17 what's involved in this process, I would not use the
18 term affirmative action in regard to Advisory
19 Committees because I think it's an entirely different
20 thing.

21 My understanding of the Federal Advisory
22 Committee Act, which doesn't necessarily govern this,
23 but it's a good legal precedent to look at and it's
24 been around for 30-40 years, when you're seeking advice
25 on an issue, you want a broad spectrum of views and

1 opinions and expertise to advise you so you can make a
2 good decision. It doesn't have anything to do with
3 making sure that there are X numbers from this group or
4 from that group or from that group.

5 What it seems to me you're looking to is a
6 broad spectrum of advice. And so I would not talk
7 about it even jokingly in terms of affirmative action
8 because it's an entirely different kind of result
9 you're trying to achieve, which is not justice and
10 fairness to the various political groups that have an
11 opinion, but sound advice to the decisionmaker.

12 Now, it has to be balanced. My understanding
13 of, say, the Michigan report, is that out of 20-21
14 papers, there's one that's critical of affirmative
15 action. I don't think that you necessarily satisfy the
16 Advisory Committee function by applying a numerical
17 standard every time there's a question of balance, but
18 I think probably balance is not achieved by 20 papers
19 on one side and one paper on the other side. So I
20 think that when you reach that point, you don't have
21 balance.

22 But whether that respond or not to what
23 you're saying, I don't know.

24 CHAIRPERSON BERRY: Yes?

25 VICE CHAIRPERSON REYNOSO: Two things. One,

1 my greatest disappointment in being on the Commission
2 has been that we have been incapable of providing, in
3 many areas, leadership for the country. Because it
4 seems to me that we have three roles. One is to advise
5 Congress; one is to advise the President; and one is to
6 provide leadership in the country. And I think we've
7 done the first two quite well since I've been on the
8 Commission. I don't think we've done the third. And
9 that's been a matter of disappointment to me.

10 So, the suggestions both of you have made, I
11 must say I find very encouraging.

12 Secondly, just with respect to affirmative
13 action, among folks who are organized to speak to civil
14 rights issues, at least who have that as a goal, many
15 of them are prepared, based on years of history and
16 experience, to speak on the issue of affirmative action
17 and to speak in favor of it. And so those groups
18 quickly respond to an invitation by an advisory
19 committee.

20 I've found that particularly if you're
21 identified as a civil rights group that you really do
22 have to try very hard to try to assure those who don't
23 agree with that position to have a sense of comfort to
24 come forward and have that discussion. I'm reluctant
25 to assume that these Advisory Committees didn't do that

1 based on the reports that we've gotten and so on. And
2 so I'm reluctant to -- and then, out of respect for the
3 independence that they're supposed to have, I'm
4 reluctant to vote no on the reports that they've given
5 us.

6 What has been indicated, and that is that
7 some reports have had quite a few opinions expressed,
8 expressing qualms about affirmative action. To me, it
9 indicates, as was indicated by one of the Commissions -
10 - I forget who -- that there was no plan here to simply
11 get the opinions of one set of groups and not another
12 set of groups.

13 And that sort of persuades me, if you will,
14 of the good faith of these advisory committees.

15 CHAIRPERSON BERRY: I want to suggest that we
16 approve the reports where there appears to be consensus
17 and that we defer consideration of the others until the
18 SAC is afforded an opportunity to read the transcript,
19 have Carol-Lee talk to the Regional Director about the
20 comments that have been made, and see whether they want
21 to resubmit them as they are, or whether they have some
22 other response, so that they have an opportunity to
23 know.

24 I hesitate to -- and I'm very reluctant, and
25 hope that the Commission would not simply vote down the

1 reports. I think that out of respect for the fact that
2 they are people who serve because they serve, and we're
3 very grateful to them for serving, that they at least
4 need the opportunity to review our comments and to
5 think about it, and then have them submit it again, if
6 that's what they want to do, or to decide what they'd
7 like to do about it.

8 So if there's agreement that we could proceed
9 in that way, I would suggest that that's how we'd
10 proceed.

11 COMMISSIONER REDENBAUGH: I'd be happy to
12 second that.

13 CHAIRPERSON BERRY: Okay.
14 Commissioner George?

15 COMMISSIONER GEORGE: I would just add the
16 request that the Ohio and Wisconsin consultations be
17 shared with those to whom Carol-Lee will be speaking,
18 with the indication that the Commissioners consider
19 these -- that there is a consensus on the Commission
20 that these are the kinds of -- represent the kinds of
21 balance in reports we'd like to see.

22 CHAIRPERSON BERRY: I agree that they should
23 be given the Ohio and Wisconsin reports. I do not
24 agree that they should be told specifically that
25 everyone would like them see them do exactly that.

1 They may have some other ideas about what they want to
2 do.

3 I think for guidance and for their
4 information, they should be told that the Commissioners
5 indeed approved the Ohio and Wisconsin reports. And
6 they're big people. They can read. And they can read
7 the transcript, which they will read. But I hesitate
8 to specifically instruct them that they should pattern
9 themselves exactly after Ohio and Wisconsin. That's my
10 only hesitation.

11 COMMISSIONER GEORGE: Well, it was only in
12 one respect that I was suggesting that, and that was in
13 respect of the achievement of balance. In other
14 respect, sure. There's a legitimate diversity of the
15 way consultations can be conducted and the way reports
16 can be written. But I think in respect of balance,
17 I'll just reiterate it on the record, so that when the
18 record gets to them, they'll know at least what one
19 Commissioner had to say.

20 I think Ohio and Wisconsin really are
21 exemplary and are therefore models to be emulated.

22 CHAIRPERSON BERRY: Could we then withdraw
23 the motion that we approve the Indian consultations,
24 which was the motion that was on the floor. I've
25 forgotten who approved it, seconded it, or whatever.

1 And then, instead, have a motion, substitute
2 motion, to approve the Wisconsin and Ohio consultations
3 with the other consultation reports referred back to
4 the SACs with the guidance that is indicated here on
5 the record, which they can see by reading the
6 transcript and having discussions with Carol-Lee.

7 COMMISSIONER HORNER: So move.

8 COMMISSIONER REDENBAUGH: Second.

9 CHAIRPERSON BERRY: All right. All in favor
10 of that motion, indicate by saying aye.

11 (Chorus of ayes.)

12 Opposed?

13 (No response.)

14 So ordered.

15 Now we go to Number 6, which is the SAC --

16 COMMISSIONER REDENBAUGH: Before we do that -

17 -

18 CHAIRPERSON BERRY: Yes?

19 COMMISSIONER REDENBAUGH: If I may for a
20 moment.

21 Cruz, I've very much agreed with what you
22 said about the disappointment on leadership for the
23 country.

24 VICE CHAIRPERSON REYNOSO: Yes.

25 COMMISSIONER REDENBAUGH: And I think our

1 structure is very limiting in that I think these kinds
2 of conversations that we would all need to have to find
3 areas of agreement can best be had not in a group of
4 eight and not in a public forum. Maybe there's some
5 way we can think about having some of these
6 explorations in a way that's more fluid.

7 I think -- we could find that we have much
8 more agreement than appears, and then work on those
9 things.

10 VICE CHAIRPERSON REYNOSO: I agree with you.

11 CHAIRPERSON BERRY: Do you mean on that
12 specific issue or just in general?

13 COMMISSIONER REDENBAUGH: Well, I meant on
14 civil rights in general.

15 CHAIRPERSON BERRY: Okay.

16 COMMISSIONER REDENBAUGH: But -- well, why
17 not start with that, in particular, because I think
18 there is a subtle nuance of a multifaceted issue.

19 CHAIRPERSON BERRY: Well, maybe what we could
20 do is get some kind of small paper -- I hate to say
21 this -- which -- I know whenever I say that, there's
22 work for people to do. Some kind of small paper which
23 dissects the affirmative action arguments and
24 procedures.

25 We have a 1982 -- the last report the

1 Commission did was in 1982. It was a pretty good paper
2 in terms of --

3 COMMISSIONER REDENBAUGH: I think that the
4 work that's already been done is both excellent and
5 sufficient, you know, which was the history of
6 affirmative action.

7 CHAIRPERSON BERRY: Oh, yes. That.

8 COMMISSIONER REDENBAUGH: And I'd like to re-
9 read that and have discussions with maybe up to four
10 of you at a time to sort out. Because I'm just not
11 sure where I stand on all these issues and I want to be
12 able to speak in kind of speculative exploratory way,
13 so I can hear how I sound.

14 But anyway, --

15 CHAIRPERSON BERRY: Well, maybe what we'll do
16 then is -- I'll think about it, Russell, and maybe what
17 we'll do is try to schedule discussions among four of
18 us at a time.

19 COMMISSIONER REDENBAUGH: That would be very
20 productive.

21 CHAIRPERSON BERRY: And see what comes out of
22 it. We can do that without a problem, technically.

23 COMMISSIONER REDENBAUGH: Yes.

24 CHAIRPERSON BERRY: So why don't we try to do
25 that.

1 COMMISSIONER REDENBAUGH: Because I think I
2 would benefit a lot if Cruz and you and I sort of
3 swatted this around for an hour or two.

4 CHAIRPERSON BERRY: Okay. And I'd benefit if
5 Connie and I and Robbie swatted it around for an hour
6 or two.

7 COMMISSIONER GEORGE: Well, I'm putting
8 Russell under house arrest, so neither of us will be
9 available.

10 CHAIRPERSON BERRY: Okay. So we'll do that.

11 VICE CHAIRPERSON REYNOSO: Are you going to
12 hold these meetings on Monday, Wednesday and Friday,
13 or --

14 (Laughter.)

15 CHAIRPERSON BERRY: Tuesday, Thursday and
16 Friday.

17 SAC appointments. Could I have a motion on
18 the SAC appointments? Shall we take them all together
19 or one by one? Anybody have any preference?

20 COMMISSIONER GEORGE: I'll move them
21 together.

22 COMMISSIONER HORNER: Second.

23 CHAIRPERSON BERRY: All right. Any
24 discussion of the appointments for Alabama, Colorado,
25 Connecticut, Idaho, Kansas, Kentucky, Massachusetts,

1 Minnesota or New Jersey?

2 COMMISSIONER GEORGE: Madam Chairman?

3 CHAIRPERSON BERRY: Yes.

4 COMMISSIONER GEORGE: As a point of personal
5 privilege, I would simply like to here say how pleased
6 I am that my colleague, Harry Frankfurt, from the
7 Department of Philosophy at Princeton has agreed to
8 serve on the New Jersey SAC.

9 Professor Frankfurt is one of the nation's --
10 indeed, the world's truly outstanding philosopher.
11 He's a former chairman of the Departments of Philosophy
12 at both Yale University and the Rockefeller University,
13 a person with a deep commitment to civil rights, and a
14 very thoughtful commentator on the range of civil
15 rights issues.

16 He'll be joining a SAC which, as a resident
17 of New Jersey, I take pride in saying is already a very
18 strong one, and he will bring additional strength to
19 that SAC.

20 CHAIRPERSON BERRY: Okay.

21 Are you ready for the question?

22 (No response.)

23 All in favor indicate by saying aye.

24 (Chorus of ayes.)

25 Opposed?

1 (No response.)

2 So ordered.

3 Now we go to the Miami Report. And I think
4 what we should do is, if you are in agreement with that
5 -- oh, let me first point out that I have just been
6 informed that I missed the decision in the St.
7 Petersburg election. They had it last week and Fisher
8 got reelected -- he was the mayor -- 53 percent to 47
9 percent. So maybe they will now, this week, begin to
10 address all of these problems.

11 Miami. We can either go through the report
12 page by page, as Arthur Fleming rises up from his
13 grave, or we can go over the findings and
14 recommendations, or we can do whatever you'd like. But
15 first, I would like a motion on the floor to approve
16 the report just for purposes of discussion. And then
17 we'll see where we go from there.

18 COMMISSIONER ANDERSON: So move.

19 CHAIRPERSON BERRY: Could somebody move?

20 Yes.

21 COMMISSIONER ANDERSON: So move.

22 CHAIRPERSON BERRY: A second?

23 VICE CHAIRPERSON REYNOSO: Second.

24 CHAIRPERSON BERRY: All right. Discussion.

25 COMMISSIONER GEORGE: Madam Chairman?

1 CHAIRPERSON BERRY: Yes, Commissioner George?

2 COMMISSIONER GEORGE: When is our next Civil
3 Rights Commission meeting? The date.

4 CHAIRPERSON BERRY: April --

5 COMMISSIONER ANDERSON: May 9th.

6 CHAIRPERSON BERRY: May 9th. Oh, that's
7 right. We're in April already.

8 COMMISSIONER GEORGE: May 9th. So just a
9 little over a month.

10 I would like to suggest that we again employ
11 the method that has been used successfully now twice,
12 although I think we could probably improve it a little
13 bit this time, of having our assistants share with each
14 other the concerns of particular Commissioners and go
15 over the draft and make proposals for deletions or
16 additions or changes of any sort.

17 And that the one difference from past
18 practice I would suggest is that there be a definite
19 final meeting of the assistants where all concerned
20 consider that the matter has been closed among them. I
21 think there was a slight misunderstanding. It was
22 absolutely nobody's fault last time.

23 And then, they'd go back, of course, to the
24 Commissioners. And then at the next meeting, we'd vote
25 on the report, as revised.

1 CHAIRPERSON BERRY: The meeting is on the
2 9th; right? Is that what somebody just said?

3 VICE CHAIRPERSON REYNOSO: Yes.

4 CHAIRPERSON BERRY: Which means that we would
5 have to have closure before the last meeting of the
6 assistants. Let's try to do that now, because
7 otherwise, we have problems trying to figure out when
8 the assistants are going to meet and this and that and
9 the other.

10 So, how much time would you, as
11 Commissioners, like to have between the last meeting,
12 just to assure that you've gotten in touch with your
13 assistant, if you have one, and all that, and talk to
14 them before the meeting and that there's not a problem
15 and so on.

16 Yes, Commissioner Horner?

17 COMMISSIONER HORNER: I would suggest that we
18 would need Tuesday, Wednesday and Thursday, three days
19 before the meeting. Meaning that the assistants would
20 conclude their conversations on the 5th.

21 CHAIRPERSON BERRY: All right. The 5th is --
22 what day of the week is that?

23 COMMISSIONER HORNER: Monday.

24 CHAIRPERSON BERRY: And should we, to be on
25 the safe side, have them do it the end of the week

1 before that?

2 COMMISSIONER HORNER: Yes.

3 COMMISSIONER GEORGE: So by Friday, the 2nd,

4 --

5 COMMISSIONER HORNER: So that they can type
6 up their notes to us and so on.

7 CHAIRPERSON BERRY: Right.

8 COMMISSIONER GEORGE: Friday, the 2nd, would

9 --

10 CHAIRPERSON BERRY: Friday the 2nd, by close
11 of business. Let's say Friday, the 2nd.

12 Krishna, is that day okay?

13 Friday the 2nd. Let's even pick a time for
14 them. After all, they're our assistants.

15 (Laughter.)

16 COMMISSIONER LEE: Some of us don't have one.

17 COMMISSIONER ANDERSON: I would suggest 9:00
18 a.m.

19 CHAIRPERSON BERRY: 9:00 a.m. Would they
20 like that? But we're not meeting with them, Carl.
21 They're meeting, not us.

22 COMMISSIONER GEORGE: What we're planning
23 here is the final meeting of the assistants?

24 CHAIRPERSON BERRY: I know that. They'll
25 have meetings before that. But, I mean, so that we all

1 know that they had a final meeting at X time and
2 there's no confusion in our minds about when that final
3 meeting is. That's the point.

4 So shall we say afternoon or morning?
5 Morning? Okay. Why don't we say 9:30 in the morning?

6 VICE CHAIRPERSON REYNOSO: Well, it depends.
7 If it's telephonic, it means 6:30 in California. If
8 it's personal and the folk are going to be here, and
9 those might be the most productive ones, then 9:30 is
10 okay.

11 CHAIRPERSON BERRY: Why don't we say 9:30 in
12 the morning, because --

13 COMMISSIONER GEORGE: I don't know. Could we
14 really set the time? This seems --

15 CHAIRPERSON BERRY: All right. Then let's
16 say that -- we'll say that the Commissioners'
17 Assistants will have their final meeting on May the --

18 VICE CHAIRPERSON REYNOSO: 2nd. Friday, May
19 2nd.

20 COMMISSIONER HORNER: And they will have
21 oatmeal for breakfast.

22 (Laughter.)

23 CHAIRPERSON BERRY: And sometime during the
24 day of May 2nd -- and I think Charlie is trying to say
25 something to you, Connie.

1 MS. PONTICELLI: I'm sorry. I can't be here
2 on May 2nd.

3 CHAIRPERSON BERRY: Okay.

4 MS. PONTICELLI: Sorry, Russell. I'm
5 President of my school board back in Baltimore and
6 we're having an all-day retreat.

7 CHAIRPERSON BERRY: How about the day before
8 that?

9 COMMISSIONER REDENBAUGH: May what?

10 COMMISSIONER GEORGE: The first.

11 CHAIRPERSON BERRY: That's May Day, though.

12 COMMISSIONER REDENBAUGH: I'm sure it could
13 be observed in many different ways. We'll have a
14 diversity of services.

15 CHAIRPERSON BERRY: Okay. So on May Day, the
16 Commissioners' Assistants will have their final meeting
17 and they will have lots of meetings before that, but
18 that will be their last one, by the end of that day.

19 COMMISSIONER LEE: Madam Chair?

20 CHAIRPERSON BERRY: Yes.

21 COMMISSIONER LEE: Since I am probably the
22 only one who doesn't have a --

23 CHAIRPERSON BERRY: No. Commissioner Horner
24 doesn't have one, either.

25 COMMISSIONER LEE: Can you designate

1 someone's assistant so I could give them the notes so
2 they could represent me?

3 CHAIRPERSON BERRY: Why don't we, for
4 purposes of this exercise -- Cruz, how about if we let
5 Cindy, since you guys are all in California --

6 VICE CHAIRPERSON REYNOSO: Oh, be happy to.
7 Sure.

8 CHAIRPERSON BERRY: -- you'll be on the same
9 time zone for purposes of this exercise.

10 And in your case, Commissioner Horner --

11 COMMISSIONER HORNER: I'll talk with Charlie
12 and Bill.

13 CHAIRPERSON BERRY: Okay. So we're all set.
14 All right.

15 COMMISSIONER GEORGE: Now, if this goes
16 without a hitch, then we would vote on the -- at the
17 May 9th meeting?

18 CHAIRPERSON BERRY: Oh, we plan to vote on
19 that at the next meeting.

20 COMMISSIONER GEORGE: Yes. Okay.

21 CHAIRPERSON BERRY: Now does anyone want to
22 have any discussion at all of this here or would you
23 rather just leave it to the hashing it out among the --

24 COMMISSIONER HORNER: I think we should leave
25 it to hashing it out.

1 COMMISSIONER REDENBAUGH: I'd like to leave
2 it.

3 COMMISSIONER HORNER: Because that way we can
4 have a discussion at the meeting of the residue after
5 the hashing out.

6 CHAIRPERSON BERRY: After the hashing out
7 takes place.

8 COMMISSIONER HORNER: And not on the whole
9 shebang.

10 CHAIRPERSON BERRY: Okay. I, for one, would
11 like to say that this process seems to have worked. I
12 mean, it seems to have worked. I don't know how you
13 feel about it. I was a little concerned at first about
14 whether it would work. And it's a lot of work for the
15 assistants. But after all, they're supposed to work,
16 so --

17 And it has been surprising to me about how
18 much consensus you really can have if you're willing to
19 negotiate and if you're willing to talk and if you're
20 willing to not absolutely quibble over something that
21 you can either do without, even though you love it very
22 much.

23 And so it has enabled us to get some reports
24 done, so I think that's a good thing. And let's see if
25 it works on this particular one.

1 All right. Now, is there anything else then
2 that -- so the motion is deferred until the next
3 meeting and we will proceed in the way that we've
4 suggested.

5 Let me make sure. It says Future Agenda
6 Items here.

7 Let me -- one announcement I didn't make. I
8 didn't say anything about the Staff Director position.

9 The White House is still vetting -- what does
10 that mean, Connie, when they tell you they're still
11 vetting?

12 COMMISSIONER HORNER: You don't want to know.

13 CHAIRPERSON BERRY: Okay. They're still
14 vetting. And they do have a candidate who they expect
15 to propose to us if the vetting process turns out to be
16 okay. And then they will ask me to circulate a resume.
17 They still haven't asked me to do that so that's why I
18 haven't done it.

19 And I don't understand why I can't so do it.
20 Well, I guess you have to wait for vetting. Is that --

21 COMMISSIONER HORNER: So far, we're using
22 Who's Who in America.

23 (Laughter.)

24 CHAIRPERSON BERRY: Well, I think people know
25 who the candidate is anyway, so I don't understand why

1 I can't circulate a resume. But as soon as they finish
2 the vetting and ask me to do that, which I expect to
3 happen sometime in the next week or 10 days, I'm told.
4 Then I will send the resume out to you, those of you
5 who don't have it already, and then I will ask that you
6 -- when you get it, be receptive to a phone call from
7 the person so that you can meet with them, talk to them
8 or whatever you'd like to do. And then I would like to
9 schedule a vote.

10 If it happens in the next week and you are
11 able to meet with the person and satisfy yourself, we
12 might be able to do it by phone before the next
13 meeting. If you're not able to and it doesn't happen,
14 then obviously we wouldn't be able to. But there will
15 be plenty of opportunity for you to talk to the person,
16 meet with the person, do whatever you like, before any
17 kind of a vote is set.

18 Does anyone have any questions about the
19 Staff Director situation or anything else?

20 Do you have something about something else?

21 COMMISSIONER GEORGE: I might have missed
22 this earlier. I just wanted to know if we had any
23 briefings coming up in the next couple of months.

24 CHAIRPERSON BERRY: Yes. You did miss it
25 earlier.

1 COMMISSIONER GEORGE: Okay.

2 CHAIRPERSON BERRY: We have Legal Services in
3 May.

4 COMMISSIONER GEORGE: In May?

5 CHAIRPERSON BERRY: And you made a couple of
6 suggestions. And let's make sure your suggestions are
7 balanced, Commissioner George.

8 COMMISSIONER GEORGE: Okay. Will do.

9 CHAIRPERSON BERRY: And other Commissioners
10 may make suggestions.

11 And we have another briefing after that on
12 Russell's suggestion, which was about regulations as
13 they affect minority entrepreneurship.

14 COMMISSIONER GEORGE: Is that scheduled?

15 CHAIRPERSON BERRY: No. We'll probably have
16 it a month after the Legal Services one, if it can be
17 gotten together by that time.

18 COMMISSIONER GEORGE: So the May meeting is
19 the Legal Services briefing?

20 CHAIRPERSON BERRY: Legal Services. Right.

21 Okay. Any other items that anyone would like
22 to present?

23 (No response.)

24 If not, then we -- I'd like a motion to
25 adjourn.

1 COMMISSIONER HORNER: So move.

2 CHAIRPERSON BERRY: Okay. It's non-
3 debatable. Seconded by somebody. Cruz seconded it;
4 right?

5 VICE CHAIRPERSON REYNOSO: I second it.

6 CHAIRPERSON BERRY: And enjoy your weekend.
7 (Whereupon, the proceedings were concluded.)

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REPORTER'S CERTIFICATE

This is to certify that the attached
proceedings before: U.S. COMMISSION ON CIVIL RIGHTS

In the Matter of: COMMISSION MEETING

were held as herein appears and that this is the
original transcript thereof for the file of the
Department, Commission, Administrative Law Judge
or the Agency.



Official Reporter.

Dated: 4-4-97