

UNITED STATES COMMISSION ON CIVIL RIGHTS

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COMMISSION MEETING

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FRIDAY,  
JANUARY 22, 1999



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The Commission met in Room 540, 624 9th Street, N.W., Washington, D.C., at 9:30 a.m., Mary Frances Berry, Chairperson, presiding.

PRESENT:

- MARY FRANCES BERRY, Chairperson
- CRUZ REYNOSO, Vice Chairperson
- CARL A. ANDERSON, Commissioner
- YVONNE Y. LEE, Commissioner
- RUSSELL G. REDENBAUGH, Commissioner  
(via telephone)

RUBY G. MOY, Staff Director

STAFF PRESENT:

- KIMBERLEY ALTON
- DAVID ARONSON
- ERIK BROWN
- MARGARET BUTLER
- SICILIA CHINN, Parliamentarian
- KI-TAEK CHUN
- PAMELA DUNSTON
- BETTY EDMISTON
- ADERSON FRANCOIS
- M. CATHERINE GATES
- EDWARD HAILES, JR.
- GEORGE HARBISON
- CAROL-LEE HURLEY
- FREDERICK D. ISLER
- LISA M. JONES
- REBECCA KRAUSE
- STEPHANIE Y. MOORE, General Counsel

STAFF PRESENT: (Continued)

MARC PENTINO  
JESSICA ROFF  
MARCIA TYLER  
AUDREY WRIGHT  
CHRIS YIANILOS  
MIREILLE ZIESENISS

COMMISSIONER ASSISTANTS PRESENT:

CHARLOTTE PONTICELLI  
KRISHNA TOOLSIE

A-G-E-N-D-A

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P-R-O-C-E-E-D-I-N-G-S

(9:36 a.m.)

CHAIRPERSON BERRY: The meeting will come to order.

I. Approval of Agenda

We have approval of the agenda. The only addition we have to the agenda is we would like to have the Commissioners take a vote on the President's nominations and designations for Commissioners, Chair, and Vice Chair. So if we could add that, without objection, to the agenda, and do that at the beginning, I don't have any other additions.

Does anybody else want to add anything to the agenda?

Okay. I guess I need a motion to approve it.

COMMISSIONER REDENBAUGH: So moved.

CHAIRPERSON BERRY: Okay. Second, somebody?

VICE CHAIR REYNOSO: Second.

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

(Ayes.)

Opposed?

1 (No response.)

2 Okay. So ordered.

3 II. Approval of Minutes of December 11, 1998

4 Meeting

5 CHAIRPERSON BERRY: The first item --  
6 well, let's do the minutes first. The minutes of  
7 the December 11, 1998, meeting -- does anyone have  
8 any changes, additions, things they'd like to add,  
9 to the minutes?

10 Yes, Commissioner Lee?

11 COMMISSIONER LEE: Madame Chair, on  
12 page 2 --

13 CHAIRPERSON BERRY: Yes.

14 COMMISSIONER LEE: -- there must be a  
15 typo. I don't --

16 CHAIRPERSON BERRY: Page --

17 COMMISSIONER LEE: -- think that there  
18 was a Kennedy finance controversy, none that I know  
19 of. It should be campaign finance controversy.

20 CHAIRPERSON BERRY: Yeah. Campaign  
21 finance controversy instead of Kennedy finance  
22 controversy, on page 2.

23 The only other one that I can see --  
24 there are a couple of places where I think a word --  
25 an article or something has been left out, but they

1 can deal with this, like the word "complement"  
2 instead of "compliment."

3 There was -- on the project that the --  
4 on the King Report, there was a statement that  
5 Commissioner Higginbotham made when he said that  
6 other things were -- where is this on the King --

7 COMMISSIONER LEE: Page 5.

8 CHAIRPERSON BERRY: Page 5. There was  
9 something -- oh, there are other civil rights issues  
10 that are just as important as Dr. King. I think  
11 what he said was as other civil rights issues that  
12 are just as important as a project on Dr. King and  
13 not Dr. King himself personally.

14 (Laughter.)

15 So I think we ought to -- I don't think  
16 he meant that Dr. King wasn't that important. So I  
17 think we should point that out.

18 And if there are other typos that  
19 anybody sees, if they could call them to the  
20 attention -- yes, Carl?

21 COMMISSIONER ANDERSON: Madame Chair,  
22 perhaps you could refresh my memory. I was under  
23 the impression that the Report on Schools and  
24 Religion was not going to make recommendations, but  
25 --

1 CHAIRPERSON BERRY: What page are you  
2 on, Carl?

3 COMMISSIONER ANDERSON: Page 2 at the  
4 top.

5 CHAIRPERSON BERRY: Okay. The  
6 discussion we had last time was that the executive  
7 summary that the staff is doing could have  
8 conclusions in it. And we didn't mean  
9 recommendations like the findings and  
10 recommendations that we make in reports -- you know,  
11 that the numbers and whatever -- but that if in the  
12 conclusions there were any statements that they  
13 thought grew out of the conclusions, that ought to  
14 be made -- they could do -- that's what this means  
15 by "recommendations."

16 COMMISSIONER ANDERSON: Okay.

17 CHAIRPERSON BERRY: It doesn't mean  
18 recommendations, formal --

19 COMMISSIONER ANDERSON: All right.

20 CHAIRPERSON BERRY: -- findings and  
21 recommendations. And we would, of course, see it.  
22 So we would know whether it was going beyond that  
23 kind of generalized kind of statement.

24 COMMISSIONER ANDERSON: Good. Well,  
25 with that clarification --

1 CHAIRPERSON BERRY: Have I made that  
2 clear, or not?

3 COMMISSIONER ANDERSON: Yeah, I think  
4 it's clear.

5 CHAIRPERSON BERRY: Okay. All right.,  
6 Anybody see anything else?

7 I think on the first page Mr. Manalili,  
8 who is a new staff member, I think his name may be  
9 spelled wrong. M-A-N-A-L-I-L-I, I think it is.

10 But any other typos or articles left  
11 out, or anything else anybody sees, you can point  
12 that out or tell the staff and they can change it,  
13 as long as it doesn't change the substance.

14 With that, could I get a motion to  
15 approve the minutes?

16 COMMISSIONER LEE: So moved.

17 VICE CHAIR REYNOSO: Second.

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

20 (Ayes.)

21 Opposed?

22 (No response.)

23 So ordered.

24 III. Announcements

25 CHAIRPERSON BERRY: Now we come to



1 announcements. But before we do announcements, why  
2 don't I first ask the Commissioners to vote on the  
3 President's designations.

4           Somewhere I have a letter, which I  
5 cannot find now, from the Office of Presidential  
6 Personnel, Bob Nash, which says that the President  
7 has selected me and Cruz Reynoso as members and  
8 Chair and Vice Chair of the Commission,  
9 respectively, and asked us to either poll or call a  
10 meeting of the members of the Commission to affirm  
11 the President's decision regarding the Chair and  
12 Vice Chair positions.

13           I have already discussed this matter  
14 with the Commissioners who are already informed that  
15 this has happened. It is not a new topic of  
16 discussion, and we did not do a poll because we  
17 thought we would do this in the meeting, in the  
18 public meeting.

19           So I would ask now for the Commissioners  
20 to indicate -- and we'll need a piece of paper with  
21 the Commissioners' names on it, so we can --  
22 somebody can mark it down, because we have to send  
23 it over there -- whether they agree. The question  
24 is, first, whether the Commissioners approve or vote  
25 to affirm the President's designation of Mary

1 Frances Berry as Chair of the U.S. Commission on  
2 Civil Rights. And we'll have to do them separately.

3 So could we see the roll, so we could  
4 call it? Does anyone want to say anything before we  
5 call the roll?

6 Okay. Commissioner Anderson?

7 COMMISSIONER ANDERSON: Aye.

8 CHAIRPERSON BERRY: Commissioner Lee?

9 COMMISSIONER LEE: Aye.

10 CHAIRPERSON BERRY: Commissioner  
11 Redenbaugh?

12 COMMISSIONER REDENBAUGH: Aye.

13 CHAIRPERSON BERRY: Commissioner  
14 Reynoso?

15 VICE CHAIR REYNOSO: Aye.

16 CHAIRPERSON BERRY: Okay. So we have  
17 ayes from all of the Commissioners. If I were to  
18 vote, I'd vote yes, probably, but --

19 (Laughter.)

20 -- I abstain.

21 The second one is whether the  
22 Commissioners agree or affirm the President's  
23 designation of Cruz Reynoso as Vice Chair of the  
24 U.S. Civil Rights Commission. And we will do it in  
25 the same way.

1           Would you please indicate your approval  
2 by saying aye and your disapproval by saying no, or  
3 your abstention.

4           Commissioner Anderson?

5           COMMISSIONER ANDERSON: Aye.

6           CHAIRPERSON BERRY: Commissioner Lee?

7           COMMISSIONER LEE: Aye.

8           CHAIRPERSON BERRY: Commissioner  
9 Redenbaugh?

10          COMMISSIONER REDENBAUGH: Aye.

11          CHAIRPERSON BERRY: Commissioner  
12 Reynoso?

13          VICE CHAIR REYNOSO: Aye.

14          CHAIRPERSON BERRY: And Commissioner  
15 Berry? Aye.

16          Okay. So you can -- this makes it  
17 unanimous, and we will now report to Mr. Nash that  
18 this has happened.

19          And in case you're wondering, any of  
20 you, for the record, how this could happen, since we  
21 are already members of the U.S. Commission on Civil  
22 Rights, Commissioner -- Vice Chair and I will resign  
23 our positions as Commissioners appointed by the  
24 Speaker of the House and the President Pro Tempore  
25 of the Senate, respectively, effective at the moment

1 that you voted to designate us as Chair and Vice  
2 Chair. And our commissions as Commissioners  
3 appointed by the President, and designated by the  
4 President, will take effect today, at the same time  
5 that you took this action.

6 And this information will all be  
7 conveyed to the Speaker of the House, to the  
8 President Pro Tempore of the Senate, and to the  
9 Office of Presidential Personnel this day.

10 All right. Okay. Is there anything  
11 else on that? If not, let's move to the next --  
12 thank you very much -- item on the agenda, which is  
13 announcements.

14 I can't find my announcements. What are  
15 they under? Anybody know?

16 COMMISSIONER LEE: Section 3.

17 CHAIRPERSON BERRY: Oh, there we are.  
18 First of all, Commissioner Higginbotham, as we all  
19 know, A. Leon Higginbotham, passed after the last  
20 Commission meeting. The Commission sent out a press  
21 release expressing its sadness at the death of  
22 Commissioner Higginbotham.

23 I have already said to everyone that for  
24 me it was not simply a matter of an official having  
25 died, or somebody who was on the Commission, but he

1 was a personal friend of mine and had been for more  
2 years than I can remember, and was very supportive.

3 And I was very pleased, that after not having him  
4 at the Commission meeting on very many occasions  
5 because of his illness, that he was able to come  
6 into town for the meeting and I was able to spend  
7 some time with him.

8 I did go to the funeral in Boston and  
9 have expressed my personal sympathy, as well as  
10 those of the Commission, to the family. There will  
11 be other tributes, and expressions of sympathy can  
12 still be sent to Mrs. Evelyn Brooks Higginbotham and  
13 family, in care of Carol Derby, D-E-R-B-Y, at Paul,  
14 Weiss, Rifkin, Horton & Garrison, the law firm in  
15 New York.

16 There will be memorial services in  
17 various places. I had a list, which I planned to  
18 bring with me this morning, and I left it on the  
19 dining room table in my house, so that's not going  
20 to help me -- of places where the memorials will be  
21 taking place. But we will circulate that so that  
22 people will know. There is going to be one in New  
23 Haven, there's going to be one in Philadelphia, and  
24 one here in Washington, D.C.

25 The last time a sitting member of the

1 Commission expired was when Chairman Clarence  
2 Pendleton, Jr., had a heart attack and passed away  
3 while he was Chair. There were memorial services  
4 for him everywhere. The way the Commission handled  
5 it was to do the same thing we did this time. The  
6 people went to the funeral. I went to the funeral.

7 I went to the funeral for Higginbotham.  
8 Commissioners went to Clarence Pendleton's funeral.  
9 And at the memorial service, which took place in  
10 Washington, Commission staff who wanted to go, and  
11 Commissioners, went.

12 So I would suggest that members of the  
13 Commission or staff members who wish to go should go  
14 to the memorial service when it takes place here in  
15 Washington, D.C.

16 There are other ideas about tributes  
17 that the Commissioners -- the Commission, as a body,  
18 might make in Judge Higginbotham's memory. And we  
19 might think of those. One idea is to dedicate one  
20 issue of the Civil Rights Journal to him, and there  
21 are other ideas about which we can -- we can discuss  
22 those more.

23 We don't have to really come up with  
24 anything at this point that we think would work.  
25 But that's the way it was handled the last time when

1 the Chair of the Commission died, and I think we are  
2 behaving appropriately in keeping with that  
3 tradition.

4 The next announcement is that Vice  
5 President Gore announced earlier this week that the  
6 Administration is proposing an additional increase  
7 in civil rights enforcement spending. The  
8 Administration got an increase in civil rights  
9 enforcement spending last year in the omnibus budget  
10 negotiations for all of the enforcement agencies.  
11 They are requesting the same this time.

12 This Commission, as you know, requested  
13 a -- has for years recommended an increase in the  
14 budget of the federal civil rights enforcement  
15 agencies. I have personally, in the past, not only  
16 in press conferences here but with Vice President  
17 Gore and the President, urged them to increase the  
18 budget.

19 The President's Race Initiative took up  
20 that same cause. And the Civil Rights Commission,  
21 on which we serve, did not receive a budget  
22 increase, except for a small amount for -- I think  
23 it was a cost of living increase. Is that right,  
24 George, last time? Although the President had  
25 requested an increase.

1           This time, the President is requesting  
2           \$11 million for us, which is, again, an increase.  
3           Our problem is whether we can get the Congress to  
4           appropriate an increase in our budget, and we are  
5           being whipsawed from all sides on whether we should  
6           get budget increases. There are some people who  
7           think we shouldn't because they don't think we  
8           manage the agency well. But they are management  
9           issues, and I hope that those are being resolved.

10           There are other people who think that we  
11           do not produce anything that is on the cutting edge  
12           of civil rights, that our reports are too late.  
13           They may be good, but they're too late. And that we  
14           have not found ways to -- to express the  
15           Commission's view on important issues of the day in  
16           a timely fashion, so that they can be taken up in  
17           the policy debate. There are people who think that.

18           Now, we may disagree or agree with what  
19           these people think, but I'm just telling you that  
20           there are people who think this. And I would think  
21           that it behooves the staff of the Commission, and  
22           the management of the Commission, to be very  
23           thoughtful about these concerns, about the  
24           management issues, the way the agency is managed.  
25           And we are responding to the GAO audit, and we'll



1 hear more about that, and we'll be discussing this  
2 as we go along this day and at other times, and to  
3 take seriously all of these management issues.

4 And that we should also take seriously  
5 our duty to get reports done in a timely fashion,  
6 and we should take seriously the responsibility for  
7 all of us to try to think of how we can express  
8 ourselves on issues to the benefit of the American  
9 public.

10 And to serve in the way that the  
11 Commission is supposed to serve on the issues of the  
12 day, keeping in mind the differences in technology,  
13 in communications, which are very different from  
14 when the Commission got started -- the fast response  
15 to things, and how this is necessary.

16 The office that Fred runs got its  
17 statute -- got added to its statute that it had to  
18 do a report every year by a certain time because for  
19 years it never produced any reports on time. And  
20 the arguments -- and I've sat through them here  
21 years and years -- were that it took a long time to  
22 do anything well, so no one should complain if it  
23 took forever.

24 Well, there is a balance. No one wants  
25 people to do shoddy work. No Commissioner is

1 suggesting that anybody do shoddy work. But what we  
2 are suggesting is that people figure out how to  
3 manage the agency in such a way, and manage their  
4 own offices in such a way that they can, in fact,  
5 respond to crises when they occur, respond to  
6 personnel changes and shifts and people coming and  
7 going, because that's part of management. And,  
8 indeed, figure out how to do their work.

9 We will make the best case we can for  
10 the enforcement, and I would hope that we do it in a  
11 way that will end up being bipartisan or non-  
12 partisan, because Russell and I are not partisan.  
13 Right, Russell?

14 COMMISSIONER REDENBAUGH: Not at all.

15 CHAIRPERSON BERRY: Yeah.

16 (Laughter.)

17 So -- and that can happen.

18 Okay. The status report on the GAO  
19 recommendations that we're supposed to send to the  
20 Senate. Is that right? This is talking about the  
21 Senate thing? Is that what this --

22 MS. MOY: To the Congress, right.

23 CHAIRPERSON BERRY: -- is about?

24 MS. MOY: Right.

25 CHAIRPERSON BERRY: It's due to Congress

1 by next Friday in order to meet the January 31,  
2 1999, deadline.

3 Does anybody else have any announcements  
4 or want to say anything about anything at all at  
5 this point?

6 MS. MOY: Yes, I do, Madame Chair.

7 CHAIRPERSON BERRY: Go ahead.

8 MS. MOY: Some time ago we had a  
9 situation in Syracuse with Denny's Restaurant, and I  
10 would just like to bring a brief update on what  
11 Denny's has done with some of these lawsuits that  
12 involved minority plaintiffs.

13 So the Office of Civil Rights Monitor  
14 has decided to -- let me start all over. I'm sorry.

15 Denny's has been involved in protracted  
16 discrimination lawsuits brought by minority  
17 plaintiffs, which resulted in a consent decree  
18 establishing the Office of the Civil Rights Monitor  
19 to track discrimination complaints against Denny's.

20 Last week, Advantica Restaurant Group,  
21 which is the parent company of Denny's Restaurant,  
22 held a press conference. They announced a \$2  
23 million television ad campaign promoting racial  
24 diversity. And I've seen some of these ads on  
25 television.

1           And they also are to report on the  
2 progress the company has made in terms of work force  
3 and franchisee diversity.

4           As of now, the law offices of Sharon  
5 Hartman in Los Angeles will monitor this program  
6 until May 1999, at which time it may be extended for  
7 two more years. So since this is a confidentiality  
8 agreement, Hartman was not able to disclose any new  
9 cases of discrimination reported against Denny's,  
10 but our Eastern Regional Office will continue to  
11 monitor this as necessary.

12           VICE CHAIR REYNOSO: I'm sorry. Who was  
13 monitoring it? Sharon Hartman?

14           MS. MOY: Sharon Libeck Hartman.

15           VICE CHAIR REYNOSO: Hartman.

16           MS. MOY: Law offices in L.A.

17           Thank you, Madame Chair.

18           CHAIRPERSON BERRY: Okay. All right.  
19 Anyone else have any announcements or anything?

20           IV. Executive Session

21           CHAIRPERSON BERRY: Okay. The next item  
22 on the agenda is an executive session. The  
23 executive session is on the agenda for the  
24 discussion of a personnel matter involving a  
25 specific member of the staff of the Civil Rights

1 Commission. And so I need, I guess, to ask -- I  
2 need a motion, first, is that right? I need  
3 somebody to move that we go into executive session.

4 VICE CHAIR REYNOSO: So moved.

5 CHAIRPERSON BERRY: Is there a second?

6 COMMISSIONER LEE: Second.

7 CHAIRPERSON BERRY: And then I need an  
8 opinion from the parliamentarian, ethics officer,  
9 everything else. You've got about five titles,  
10 Sicilia.

11 (Laughter.)

12 As to whether, in fact, we can do this.

13 MS. CHINN: Okay. Based on today's  
14 motion, I certify that pursuant to exemptions  
15 numbers 2 and 6 of the Government Sunshine Act, we  
16 shall permit closure if the matter relates solely to  
17 the internal personnel rules and practices of  
18 agencies, or concerns information of a personal  
19 nature, or disclosure would constitute a clearly  
20 unwarranted invasion of personal privacy, the  
21 discussion may be closed to the public.

22 CHAIRPERSON BERRY: Okay. Then I need  
23 to have a vote on the motion. All those in favor of  
24 proceeding with the execution session, indicate by  
25 saying aye.

1 (Ayes.)

2 Opposed?

3 (No response.)

4 For the purposes of the staff, which may  
5 wonder how long this is going to take, it should  
6 take no more than about half an hour. Okay? All  
7 right.

8 (Whereupon, the proceedings in the  
9 foregoing matter went into executive  
10 session at 9:55 a.m. and returned to  
11 open session at 10:40 a.m.)

12 V. Staff Director's Report

13 CHAIRPERSON BERRY: In the Staff  
14 Director's report -- the Staff Director's report,  
15 does anyone have any questions or comments on  
16 anything in the Staff Director's report?

17 COMMISSIONER REDENBAUGH: I'd like to  
18 compliment the Staff Director for including  
19 completion dates of commitments in her report.

20 MS. MOY: Thank you.

21 CHAIRPERSON BERRY: Okay. And I'd like  
22 to ask the Staff Director, are those completion  
23 dates reliable?

24 MS. MOY: As of the last MIS submission.

25 CHAIRPERSON BERRY: And are these dates

1 we can count on?

2 MS. MOY: As of today, yes.

3 CHAIRPERSON BERRY: What does that mean?

4 MS. MOY: Well, in the event that there  
5 are no changes that we would have to make in the  
6 planning or change of dates for any reason.

7 COMMISSIONER REDENBAUGH: Let me see if  
8 I have the same understanding. So you're committing  
9 to these dates, not guaranteeing them?

10 MS. MOY: Well --

11 COMMISSIONER REDENBAUGH: And you will  
12 advise us as your commitment changes?

13 MS. MOY: Correct.

14 COMMISSIONER REDENBAUGH: Okay.

15 MS. MOY: And we'll let you know --

16 COMMISSIONER REDENBAUGH: So this means  
17 that you're going to act consistently with that and  
18 you can't guarantee that there won't be slippages.

19 MS. MOY: Correct. And you'll be  
20 notified.

21 COMMISSIONER REDENBAUGH: But these look  
22 like reasonably good estimates, reasonably --

23 MS. MOY: Yes.

24 COMMISSIONER REDENBAUGH: -- solid  
25 promises?

1 MS. MOY: Yes.

2 COMMISSIONER REDENBAUGH: Okay.

3 CHAIRPERSON BERRY: For example, we will  
4 get the New York Report, according to your current  
5 comment on March 17, 1999. That's what it says on  
6 page 2.

7 MS. MOY: Yes.

8 CHAIRPERSON BERRY: And Mississippi  
9 Delta on April 8th, Commission review April 8, 1999,  
10 and Schools and Religion, which has been pushed  
11 forward to June 24, 1999. Now, these dates are all  
12 different from last time, right?

13 MS. MOY: Right.

14 CHAIRPERSON BERRY: Okay. But they are  
15 your best guesstimate today. The Los Angeles Report  
16 is being printed.

17 MS. MOY: Correct.

18 CHAIRPERSON BERRY: When do we expect to  
19 have it?

20 MS. MOY: April.

21 CHAIRPERSON BERRY: April?

22 MS. MOY: April.

23 CHAIRPERSON BERRY: We would like to  
24 have a press conference in Los Angeles on the Los  
25 Angeles Report when we get it. So we need to --



1 with the Commissioners -- we don't have to do this  
2 in the meeting, but you should think about this. We  
3 need to set a date for a press conference in Los  
4 Angeles on the Los Angeles Report.

5 There are a lot of police issues there  
6 that are very salient, and we can update ourselves  
7 on matters that have happened since then by getting  
8 a memo from Public Affairs Staff Director on issues  
9 that have happened in -- anything that's in the  
10 press that has happened. But we should have, I  
11 think, a press conference in Los Angeles on that.

12 Anybody else have any comments on the  
13 Staff Director's report?

14 VICE CHAIR REYNOSO: No. I just want to  
15 say that I find the projected dates very encouraging  
16 because it looks as though we are wrapping up some  
17 of the hearings that took place a little while ago.

18 So it looks as though we're really doing quite well  
19 along those lines.

20 VI. State Advisory Committee Report "Racial  
21 Harassment in Vermont Public Schools" (Vermont)

22 CHAIRPERSON BERRY: Okay. And the next  
23 item, then, is the State Advisory Committee Report  
24 from Vermont, which is called "Racial Harassment in  
25 Vermont Public Schools." Could I have a motion to

1 approve that?

2 COMMISSIONER LEE: So moved.

3 CHAIRPERSON BERRY: Could I have a  
4 second?

5 VICE CHAIR REYNOSO: Second.

6 CHAIRPERSON BERRY: Is there any  
7 discussion?

8 VICE CHAIR REYNOSO: Well, I just want  
9 to say that I was moved, actually, by the reports of  
10 the parents, in terms of the experiences that their  
11 children are having in some of those schools. And  
12 it just reminded me of how hard and how long we, as  
13 a people, have to work to better the lives of our  
14 children, so they don't go through the experiences  
15 described by the parents in that report. But I  
16 thought it was a good report.

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

19 (Ayes.)

20 Opposed?

21 (No response.)

22 So ordered.

23 VII. State Advisory Appointments for District of  
24 Columbia, Maryland, and New York

25 CHAIRPERSON BERRY: State advisory

1 appointments for the District of Columbia, Maryland,  
2 and New York. Could we get a motion to approve the  
3 advisory appointments, please?

4 COMMISSIONER REDENBAUGH: So moved.

5 CHAIRPERSON BERRY: Second? Second?

6 VICE CHAIR REYNOSO: Second.

7 CHAIRPERSON BERRY: Any discussion? All  
8 in favor, indicate by saying aye.

9 (Ayes.)

10 Opposed?

11 (No response.)

12 No? So ordered.

13 VIII. Project Planning

14 CHAIRPERSON BERRY: Now we go to project  
15 planning.

16 MS. MOY: Madame Chair, may I --

17 CHAIRPERSON BERRY: Yes.

18 MS. MOY: -- just make a comment about  
19 the Vermont SAC report. I've been informed by the  
20 Eastern Region Office that Governor Howard Dean  
21 noted the rapidly increasing minority population, so  
22 he has proposed two appropriations which would  
23 recruit minority high school students for teacher  
24 training programs, and also fund a pilot program in  
25 three public schools for diversity training.

1           And we have since learned that many of  
2 the legislators are eager to have the Advisory  
3 Committee's report at the start of the 1999  
4 legislative session, so that various educational  
5 subcommittees can consider the topic in their  
6 debate. And the SAC Chairperson is -- and other  
7 Advisory Committee members will be meeting  
8 informally with key legislators.

9           CHAIRPERSON BERRY: Okay. Now we go to  
10 project planning. But before we do that, we have  
11 this report that goes to the Senate that we had a  
12 draft of and we got comments, and the staff prepared  
13 a new draft based on the comments. And so I want to  
14 know if you have objections to our now sending the  
15 latest draft to the Senate, so that it can get there  
16 when it's supposed to go there.

17           Anybody have any objections? You don't  
18 have any further objections?

19           You sent some comments in, Russell, and  
20 they --

21           COMMISSIONER REDENBAUGH: Yeah. You  
22 know, I have to confess, I haven't read this thing  
23 that you're now referring to. Were my comments --

24           CHAIRPERSON BERRY: Oh, yeah, your  
25 comments --

1 COMMISSIONER REDENBAUGH: Okay.

2 CHAIRPERSON BERRY: I think so.

3 COMMISSIONER REDENBAUGH: -- to my  
4 satisfaction? Okay.

5 CHAIRPERSON BERRY: Because you were  
6 expressing the notion that we don't really know how  
7 all of this is going to turn out yet.

8 COMMISSIONER REDENBAUGH: It's way too  
9 soon to tell.

10 CHAIRPERSON BERRY: And so I agreed with  
11 that.

12 COMMISSIONER REDENBAUGH: Okay.

13 CHAIRPERSON BERRY: And so they modified  
14 it to make it less inclusionary about how great  
15 everything was. So I think -- you know, I think --

16 COMMISSIONER REDENBAUGH: Okay.

17 CHAIRPERSON BERRY: -- now it can go.

18 COMMISSIONER REDENBAUGH: I have no  
19 objection.

20 CHAIRPERSON BERRY: Okay. And if we  
21 need to send anything else later, we can.

22 Now, in project planning, we have to  
23 figure out what the Commission will be doing for the  
24 year 2000 and the year 2001. Fair Employment is our  
25 statutory report next year that is what Fred's shop

1 is doing.

2 We approved already Expanding the  
3 Economic Opportunities of African-American, Asian,  
4 Latino Youth, and it was my impression that we added  
5 Native Americans to that. Did we not? Does anybody  
6 remember? It doesn't say that in this memo.

7 MS. MOY: No, that was supposed to be  
8 like 2000. It's on the back.

9 CHAIRPERSON BERRY: Do you remember that  
10 we did, anybody?

11 COMMISSIONER LEE: I thought we did. I  
12 thought we added Native Americans.

13 COMMISSIONER REDENBAUGH: Yeah, I think  
14 so. I'm not clear, but I have a vague memory we did  
15 that.

16 CHAIRPERSON BERRY: Well, do we want to?

17 COMMISSIONER REDENBAUGH: We have it in  
18 our proposal for 2001, right?

19 CHAIRPERSON BERRY: Correct. Yeah.

20 COMMISSIONER REDENBAUGH: What's that  
21 about? I can't remember.

22 CHAIRPERSON BERRY: Housing.

23 MS. MOY: It's Housing.

24 COMMISSIONER REDENBAUGH: Oh, it's only  
25 housing.

1 CHAIRPERSON BERRY: Yeah.

2 COMMISSIONER REDENBAUGH: Well, on this  
3 economic opportunities --

4 CHAIRPERSON BERRY: Right.

5 COMMISSIONER REDENBAUGH: -- I think,  
6 particularly if we add Native Americans, I think we  
7 ought to either do it in paces and/or stretch it  
8 out. Why I say that is because I think the economic  
9 issues are quite different, or certainly the answers  
10 are quite different. They may suggest, you know, a  
11 segmented approach.

12 What size is the project now? It's --

13 CHAIRPERSON BERRY: What size is this  
14 project, Staff Director?

15 MS. MOY: It will take -- let's see,  
16 starting on page 3, it's a three-year project right  
17 now.

18 CHAIRPERSON BERRY: It's a three-year  
19 project?

20 COMMISSIONER REDENBAUGH: So it's  
21 already stretched. Okay.

22 Then, let me check my notes here and see  
23 what I've got.

24 CHAIRPERSON BERRY: Charlie, do you want  
25 to remind Russell of anything about this project?

1 Can you? Is there something --

2 COMMISSIONER REDENBAUGH: I can't find  
3 what notes are being --

4 CHAIRPERSON BERRY: Can you -- Charlie  
5 is going to remind you, if I can find something for  
6 her to talk into.

7 MS. PONTICELLI: Hi, Russell.

8 COMMISSIONER REDENBAUGH: Hi.

9 MS. PONTICELLI: This was a project that  
10 we had discussed. You were interested in knowing  
11 the status of the MIS for this project.

12 COMMISSIONER REDENBAUGH: Oh, right.  
13 That's right.

14 MS. PONTICELLI: And also, a  
15 consideration as to whether this should be made --  
16 actually, not stretched but condensed to two years  
17 instead of three, beginning in 2000.

18 COMMISSIONER REDENBAUGH: Yeah. Okay.  
19 Good. Thanks, Charlie.

20 VICE CHAIR REYNOSO: Madame Chair?

21 CHAIRPERSON BERRY: Yes.

22 VICE CHAIR REYNOSO: With respect to --

23 CHAIRPERSON BERRY: I'll get an answer  
24 in a minute.

25 VICE CHAIR REYNOSO: I'm sorry. I'm



1 still on the expanding the economic opportunities.

2 CHAIRPERSON BERRY: That's what we're  
3 talking about.

4 VICE CHAIR REYNOSO: Yeah. That  
5 program, as I remember it -- and I just  
6 doublechecked and it seems to be correct -- was  
7 going to concentrate not generally on the economic  
8 opportunities but economic opportunities in the  
9 innercity. And it seems to me that it would be  
10 appropriate, if we haven't already, to add Native  
11 American youth, because, actually, a majority of  
12 Native Americans now live in the cities, not on  
13 reservations. I think that it would be correct that  
14 the issues are quite different for them when we're  
15 talking about economic development and reservations.

16 But insofar as we're talking about the  
17 innercity, I think maybe some of the issues that the  
18 innercity Native Americans deal with, Native  
19 American youths, might be somewhat related to the  
20 issues that African-Americans, Asian-Americans, and  
21 Latino youths face. I'm not sure, but it seems to  
22 me that it likely would --

23 CHAIRPERSON BERRY: We should also --  
24 when we say Asian, shouldn't we say Asian-Americans?  
25 We're not talking about Asians in Asia, are we?

1 VICE CHAIR REYNOSO: Right. No.

2 COMMISSIONER LEE: Asian-Americans and  
3 Pacific Islanders.

4 CHAIRPERSON BERRY: Yeah. And not  
5 Asians because that sounds like we're talking about  
6 people in Asia.

7 VICE CHAIR REYNOSO: Right. Right.

8 CHAIRPERSON BERRY: Which we're not, I  
9 don't think.

10 VICE CHAIR REYNOSO: Right.

11 COMMISSIONER REDENBAUGH: So, Cruz, this  
12 is urban?

13 VICE CHAIR REYNOSO: Yes.

14 COMMISSIONER REDENBAUGH: Okay.

15 VICE CHAIR REYNOSO: This is urban and  
16 even -- even innercity, as I understood it, and --

17 COMMISSIONER REDENBAUGH: Innercity  
18 and --

19 VICE CHAIR REYNOSO: Yeah.

20 COMMISSIONER REDENBAUGH: Yeah. I think  
21 the issues intersect.

22 VICE CHAIR REYNOSO: Yeah.

23 CHAIRPERSON BERRY: Yes, Commissioner  
24 Lee?

25 COMMISSIONER LEE: And when you look at

1 the background description, it does include Native  
2 Americans. So it might be just an oversight --

3 CHAIRPERSON BERRY: In the title.

4 COMMISSIONER LEE: -- yeah, in the  
5 title, because the title was the original title. It  
6 has not changed to reflect other changes, such as  
7 Pacific Islander, so -- so I'm pretty sure we  
8 approved adding on Native Americans, because I think  
9 we had two discussions on that.

10 CHAIRPERSON BERRY: Yeah, I remember  
11 that, too, so we --

12 COMMISSIONER LEE: Right.

13 CHAIRPERSON BERRY: -- will do that.

14 Now, where is the MIS for this project?

15 COMMISSIONER REDENBAUGH: It looks like  
16 it's not there yet.

17 MS. MOY: No, it is.

18 CHAIRPERSON BERRY: Where is it?

19 MS. MOY: Oh, just a minute. No, I'm  
20 sorry. It isn't.

21 CHAIRPERSON BERRY: It isn't there?

22 MS. MOY: No.

23 CHAIRPERSON BERRY: There is no MIS for  
24 this project?

25 MS. MOY: No.

1 CHAIRPERSON BERRY: Okay.

2 MS. MOY: And also, Madame Chair, I  
3 believe that Native Americans are subject to a  
4 different body of law.

5 CHAIRPERSON BERRY: Well, that's true.  
6 Yes.

7 COMMISSIONER REDENBAUGH: No, but this  
8 is economic --

9 MS. MOY: Yeah.

10 CHAIRPERSON BERRY: And that can be  
11 taken into account when we do it.

12 Are you waving your hand?

13 MS. ROFF: Yes. I'm Jessica Roff. I'm  
14 a new attorney in the General Counsel's office.

15 Federal Indian law only applies on  
16 federal Indian lands. Individuals who are within  
17 the boundaries of state or city locality are not  
18 going to be impacted by a different set of laws, so  
19 just for clarification.

20 CHAIRPERSON BERRY: Thank you, Jessica.

21 VICE CHAIR REYNOSO: Thank you.

22 CHAIRPERSON BERRY: Thank you very much.

23 And welcome.

24 (Laughter.)

25 Okay. Now, there is no MIS yet for this

1 because what -- what was the answer to that?

2 MS. MOY: We haven't done it. It has  
3 not been scheduled.

4 CHAIRPERSON BERRY: Because it hasn't  
5 been scheduled.

6 MS. MOY: This is all planning.

7 CHAIRPERSON BERRY: Because it hasn't  
8 been -- because we're planning. Did you hear that,  
9 Russell?

10 COMMISSIONER REDENBAUGH: Yeah. Now,  
11 what year are we in now?

12 CHAIRPERSON BERRY: We're in FY --

13 COMMISSIONER REDENBAUGH: 2001 for this?

14 CHAIRPERSON BERRY: This says FY 2000,  
15 it's supposed to -- well, it's supposed to start, it  
16 says here, FY 1999.

17 COMMISSIONER REDENBAUGH: I'm skeptical  
18 about that. If we haven't planned for it, how could  
19 that be?

20 CHAIRPERSON BERRY: Is this still  
21 planned to start in FY 1999, or not? Or do you want  
22 to push that into the year 2000?

23 Well, the first question we have to ask  
24 ourselves, and I don't know the answer to this -- on  
25 your point you keep making, Russell, about sizing

1 things down to the money we have. Is it realistic,  
2 first of all, for OGC to say that it's going to  
3 finish all of the projects that it has now before  
4 2000? Because if it isn't realistic, then we don't  
5 need to be adding a bunch of projects to start when  
6 they're not going to finish the ones that they  
7 already have. So we need to know that first.

8 And if Mississippi and New York and the  
9 disability thing are all going to be pushed over  
10 until the next year, then obviously Expanding  
11 Economic Opportunity isn't going to be done.

12 COMMISSIONER REDENBAUGH: Right.

13 CHAIRPERSON BERRY: We also have Crisis  
14 of Young African-American Men. So the first thing  
15 we need to know is: are the OGC projects that are  
16 already underway going to be completed on time,  
17 Staff Director, in FY1999, so that we can have a  
18 clear shot at what we're going to do in 2000?  
19 That's the first thing we need to know.

20 MS. MOY: I'm sorry. Would you --

21 CHAIRPERSON BERRY: We need to know  
22 whether the OGC projects that are listed for  
23 completion with dates under your Staff Director  
24 report, which are commitments, which may change,  
25 whether it's realistic to conclude that they're

1 going to be finished before the end of the fiscal  
2 year. Because if they're not, then when you --

3 VICE CHAIR REYNOSO: Which is July 1?

4 CHAIRPERSON BERRY: Yes. We need to --  
5 October -- September 30th.

6 VICE CHAIR REYNOSO: September 30th.

7 CHAIRPERSON BERRY: We need to rethink  
8 what we're going to do about 2000. That influences  
9 what we do about 2000.

10 MS. MOY: Madame Chair, I would like to  
11 defer this to the General Counsel's Office. Most of  
12 these should be completed in '99. But I would like  
13 to defer the answers to the Office of General  
14 Counsel, Stephanie Moore.

15 CHAIRPERSON BERRY: But don't you know  
16 whether they will be finished or not? I mean,  
17 hasn't the General Counsel shared with you --

18 MS. MOY: Most should be completed, yes.

19 CHAIRPERSON BERRY: Okay. So --

20 MS. MOY: But probably ADA will not be.

21 CHAIRPERSON BERRY: ADA will not be?  
22 When is ADA supposed to be completed, according to  
23 the MIS?

24 MS. MOY: Okay.

25 CHAIRPERSON BERRY: It must be listed in

1 the Staff Director's report, too.

2 MS. MOY: Right. I'm going to look in

3 --

4 CHAIRPERSON BERRY: When is it supposed  
5 to be finished?

6 I'm only asking because I don't think we  
7 should commit ourselves or start talking about --

8 MS. MOY: Right.

9 CHAIRPERSON BERRY: -- doing a bunch of  
10 other stuff if we know we're not going to have space  
11 to do it.

12 Russell, do you understand that?

13 COMMISSIONER REDENBAUGH: Yeah. I am  
14 starting to agree with you on this.

15 CHAIRPERSON BERRY: Okay.

16 MS. MOY: Wait a minute. I don't --

17 COMMISSIONER REDENBAUGH: I'm supportive  
18 of this project, Mary --

19 CHAIRPERSON BERRY: Yes.

20 COMMISSIONER REDENBAUGH: -- but I think  
21 we shouldn't start it in '99. That we ought to do  
22 an MIS and make sure it fits in 2000.

23 MS. MOY: Our MIS says June '99, but  
24 right now the MIS is wrong.

25 COMMISSIONER REDENBAUGH: Right.



1 CHAIRPERSON BERRY: The MIS --

2 COMMISSIONER REDENBAUGH: I think it  
3 makes your report wrong.

4 CHAIRPERSON BERRY: The MIS and the OGC  
5 and the Staff Director says the Commissioner review  
6 and comment on Americans With Disabilities will  
7 begin June 17th. Is that right?

8 MS. MOY: Well, I have to make a  
9 statement that I did not find out until yesterday  
10 that some of the MIS software in OGC has had linkage  
11 problems to the tasks before. So some of the  
12 adjustments will have to be made, and we'll have to  
13 resubmit the new dates, unless you can tell me now.

14 CHAIRPERSON BERRY: So we don't know  
15 whether these can be done? So we should assume  
16 probably --

17 MS. MOY: Most of them should be  
18 completed by this fiscal year.

19 CHAIRPERSON BERRY: Russell, what did  
20 you say about expanding economic -- just shift it  
21 over to 2000?

22 COMMISSIONER REDENBAUGH: Here is what I  
23 would propose. That we start it in 2000 -- well,  
24 first, that we reexamine the 2000 commitments in  
25 light of what was just said and in light of if we

1 don't have an MIS plan for this project. Then,  
2 based on that, we start it in 2000, not in '99, and  
3 that we shorten it up to two years.

4 We cannot forget what we were trying to  
5 do. You don't have to remember for three years. So  
6 the -- so I think we should shorten it. That's what  
7 I would propose.

8 CHAIRPERSON BERRY: And that we also  
9 keep in mind what we said the last time, which is  
10 that any project that we do, we want the report on  
11 the project, once we have an activity, like a  
12 hearing or --

13 COMMISSIONER REDENBAUGH: Yes.

14 CHAIRPERSON BERRY: -- whatever it is,  
15 to come out within a year of the time that we have  
16 the activity.

17 COMMISSIONER REDENBAUGH: Yes.

18 CHAIRPERSON BERRY: So that we ask -- we  
19 accept this project, but we ask the Staff Director  
20 to have it rewritten to conform with the things we  
21 just said. Have it sized to within two years, make  
22 sure that it says that whatever is going to be done  
23 at each stage, the report on that stage is going to  
24 be done within a year of the date that we have the  
25 activity, and that all of this should be included in

1 our approval of the project.

2 COMMISSIONER REDENBAUGH: Yes. And it  
3 all fits with the other projects that we have  
4 committed for this -- for that same time period.

5 CHAIRPERSON BERRY: Right.

6 COMMISSIONER REDENBAUGH: So we're not  
7 moving things that are impossible.

8 CHAIRPERSON BERRY: Well --

9 VICE CHAIR REYNOSO: Madame Chair, I  
10 wonder if it might be that we express sort of a  
11 policy principle from the Commissioners, and then  
12 see whether the staff agrees or disagrees with that  
13 policy principle. If they disagree, then we need to  
14 have some discussions with the staff.

15 But I would articulate the policy  
16 principle as follows -- that once we accept a  
17 project, we would hope that the project would be  
18 done as quickly as possible, and then the reports  
19 would be done as quickly as possible after that. So  
20 that we would do, even if necessary, sort of project  
21 by project, rather than having four or five projects  
22 going on at the same time.

23 Or maybe, if the SAC believes that the  
24 staff is better dispersed if it has some people  
25 working on one project -- more than one project at

1 the same time, and yet it will be consistent with  
2 the principle that once we have a project it would  
3 be better to have it done quickly than have it  
4 published quickly.

5 For example, even on the issue of  
6 employment of youth of color, which apparently is  
7 projected now for three years, Russell suggests two  
8 years. I don't know. Maybe if the staff can really  
9 focus on it, they can -- we could hold hearings, or  
10 whatever, suggest that, and even a matter of six  
11 months, and then try to have -- then try to get the  
12 report out -- again, if they can put in the  
13 resources, instead of working on several projects at  
14 the same time.

15 At least as I've heard the discussions  
16 around the table in the last few years, it seems to  
17 me that that is -- I gather that to be the wish of  
18 the Commission, that we'd rather concentrate on a  
19 project, get it done, get it printed, so we can  
20 speak to those issues quickly instead of, say,  
21 waiting three years to be able to speak with some  
22 authority on the issue of employment of youth of  
23 color.

24 And so if my enunciation of the wish of  
25 the Commissioners is correct, maybe we can indicate

1 that to the staff, even on this project, and then  
2 they can come back and say, "Yeah, we agree," if  
3 they agree with that -- with those general notions.

4 And they can say, "Well, we've got so much staff,  
5 if we really concentrate on it, having finished our  
6 other work, we can get it done in so much time. And  
7 by putting most of our staff, or whatever, on  
8 getting the report done, we think we can do it in so  
9 much time."

10 That is, I think I'd like to proceed on  
11 sort of the principle of once we accept a project,  
12 get it done as quickly as possible, then get the  
13 report done as quickly as possible, then have a  
14 dialogue or report back from the staff on whether or  
15 not that's doable.

16 For example, we are presumably going to  
17 vote on Crises of the African-American Young Men,  
18 and I think that's very important, too. But,  
19 frankly, if both projects are going to take a long  
20 time, I'd rather just vote on one and go forward on  
21 that, and then vote on the other one.

22 So I just want to express that general  
23 principle because I want to be respectful of the  
24 staff in terms of their being able to analyze where  
25 all of their resources are, and then they'd be able

1 to tell us, "Yeah. If we really concentrate on it,  
2 we can get it done in so much time." So that's the  
3 only sort of long footnote I would add.

4 CHAIRPERSON BERRY: Now, Crisis is  
5 already being done. We're going to have the  
6 consultation in -- when is it? April. That's going  
7 to take place in April.

8 VICE CHAIR REYNOSO: Okay. Okay.

9 CHAIRPERSON BERRY: Now, what I was  
10 suggesting is not inconsistent with what you said,  
11 Russell, but I'm saying that what the staff should  
12 do -- the Staff Director should do -- is go back and  
13 take our decision and have the staff rewrite the  
14 project to make it fit, in whatever way. Whatever  
15 they have to cut out, whatever they have to add, to  
16 make sure that it fits within the notion that we  
17 just laid out, the two things that we just laid out  
18 in the discussion, and to make sure that it's going  
19 to happen within a certain period of time, and so  
20 that everybody knows that.

21 And when they propose things, they  
22 should keep in mind not to propose anything if they  
23 can't get it done within that period of time.  
24 Because I think, really, what's going to happen if  
25 we don't start to clean this up is that they're

1 going to put some language in our appropriations  
2 bill or our statute, just like they did with Fred's  
3 office, saying that we need to get things done by a  
4 certain time. And I think we can manage that  
5 ourselves, rather than having somebody tell us to do  
6 that, and that's what we ought to do.

7 Okay. So we're going to do expanding  
8 the opportunity issue.

9 Now we've got -- and Fair Employment.  
10 Those are two to begin in the year 2000. Is there  
11 anything else that -- we need to do an affirmative  
12 action project. We talked about that last time when  
13 we were here. And we need to figure out how to do  
14 that project.

15 We have someone writing a briefing paper  
16 for us, and we've talked about that. I think we  
17 probably -- maybe we could have a briefing here for  
18 ourselves, just like we have briefings all the time,  
19 to discuss some of the issues. Maybe in 19 -- in  
20 the year 2000, we could have some activity -- I'm  
21 not sure what kind, whether a forum or whether a  
22 hearing, or whatever -- in some of the places where  
23 this issue has generated a lot of heat on higher  
24 education.

25 Maybe in Texas, maybe in California

1 somewhere, maybe in the State of Washington, to ask  
2 ourselves the three questions that we discussed last  
3 time -- what's the issue? What has happened? What  
4 do we do? What is being done?

5 But I don't know if that ought to be a  
6 project for 19 -- for 2000. It's not a project for  
7 this year. All that's happening is the briefing  
8 paper is being written for us to discuss and any  
9 briefing we might have.

10 So if we had an affirmative action  
11 project in 2000, how would that impact on the work  
12 that is already on the books for the year 2000? And  
13 would we be able to start the expanding economic  
14 opportunity? Which office is doing the expanding  
15 economic opportunity?

16 MS. MOY: OGC. . . .

17 MR. ISLER: Both offices.

18 MS. MOY: Both offices.

19 CHAIRPERSON BERRY: It's a joint  
20 project. Who is doing the first part of it?

21 MR. ISLER: OCRE.

22 CHAIRPERSON BERRY: Okay. If we did  
23 affirmative action and made that a joint project in  
24 the same way, would we be able to accommodate that?  
25 And we would probably, if we did -- if we had any



1 hearing component, we would probably do transcripts  
2 and statements like we're doing with Schools and  
3 Religion, as opposed to trying to do findings and  
4 recommendations, which takes forever, apparently, to  
5 get done.

6 MS. MOY: I think the first thing we  
7 would have to look at is the 11 million passback  
8 that we received -- or recommended. So then we  
9 would have to pare down some of these projects that  
10 have already -- that we have already put monies into  
11 the approved projects for fiscal 2000.

12 CHAIRPERSON BERRY: The only projects  
13 that are down here are Fair Employment and Expanding  
14 Economic Opportunity. Those are the only two that  
15 are listed. So if you assume that all of the 1999  
16 projects are going to be finished, then would the  
17 budget be able -- as currently constituted, to  
18 accommodate something on affirmative action? So why  
19 don't we -- are you trying to say something, Fred?  
20 What?

21 MR. ISLER: Are we making an assumption  
22 based on 11 million?

23 CHAIRPERSON BERRY: We are making that  
24 assumption based on what we have now.

25 Okay, well we, of course, would have to

1 have a project concept and all that stuff down the  
2 road. I'm just speaking conceptually here. We  
3 haven't seen anything, and we don't even know what  
4 the shape of it would be because we haven't gotten  
5 the briefing paper yet or had the briefing.

6 But I'm just saying that, for purposes  
7 of planning, thinking about down the road doing some  
8 sort of project.

9 Why don't we say for now, in the  
10 interest of time -- I know Russell, you're going to  
11 have to go pretty soon.

12 COMMISSIONER REDENBAUGH: Very soon.

13 CHAIRPERSON BERRY: That we would agree  
14 that we want to do a project, but we would have to  
15 more clearly define it once we have the briefing  
16 paper, the briefing; but that we'll put a plug in or  
17 a space in for -- and have them think about what  
18 sort of project could be done within the resources  
19 we have available.

20 How's that?

21 COMMISSIONER REDENBAUGH: I like that.

22 And you mean by that, Mary, that, after this is all  
23 looked at, they would say well we've got a vast  
24 amount of money --

25 CHAIRPERSON BERRY: Right.

1 COMMISSIONER REDENBAUGH: -- in 2000,  
2 here's what we can do for X.

3 CHAIRPERSON BERRY: That's what I mean.

4 COMMISSIONER REDENBAUGH: Yeah, good. I  
5 like that.

6 CHAIRPERSON BERRY: And this is the time  
7 it would take us to do it.

8 COMMISSIONER REDENBAUGH: Yes.

9 CHAIRPERSON BERRY: Okay, okay.

10 Now we go to 2001, which is way out.  
11 Block Grants have been on the books, I think, for a  
12 long time. Does anyone still think we need to do a  
13 project given all the time that's past and the  
14 issues that have been raised?

15 Is this still a salient issue that the  
16 Commission needs to, in the year 2001, keep on the  
17 books as something that we might possibly do?

18 MS. MOY: Madame Chair, if we're to do  
19 this, it would have to start in fiscal 2000 and it's  
20 a two year project.

21 CHAIRPERSON BERRY: It says 2001 on this  
22 memo I'm looking at.

23 Cruz, were you about to say something?

24 VICE CHAIR REYNOSO: Well, I was going  
25 to comment that I think both block grants and the

1 issue we've talked about, about measuring  
2 discrimination, don't have immediacy, but I just  
3 think they're so important that they should remain  
4 on our books.

5 And those are going to be, I think --  
6 well, particularly measuring discrimination is going  
7 to be, I think, pretty complicated. Block grants  
8 probably would not be as complicated.

9 CHAIRPERSON BERRY: Let me just tell  
10 you, Russell, since you -- for all of us, and since  
11 you may have to leave. Under 2001, the block grants  
12 and measuring discrimination, which are long term  
13 projects --

14 COMMISSIONER REDENBAUGH: Right.

15 CHAIRPERSON BERRY: -- and, no matter  
16 when they're finished, they'd probably have some  
17 saliency, so maybe we should leave them there as an  
18 out year sort of thing to look at.

19 But here's what the others are:  
20 Expanding Economic Opportunities -- I don't know  
21 what that is, but I guess I could read the  
22 description.

23 COMMISSIONER REDENBAUGH: Well, that's  
24 the carrying forward of --

25 CHAIRPERSON BERRY: That's the same one

1 we're doing, and we're going to drop it back to two  
2 years.

3 COMMISSIONER REDENBAUGH: Right.

4 CHAIRPERSON BERRY: And evaluation of  
5 federal civil rights enforcement efforts. This is  
6 something OCRE proposed that we --

7 COMMISSIONER REDENBAUGH: Extension for  
8 that year.

9 CHAIRPERSON BERRY: Yeah, maybe we could  
10 make that a statutory report. And that would fit  
11 the statutory report concept.

12 COMMISSIONER REDENBAUGH: It fits right  
13 in for --

14 CHAIRPERSON BERRY: If we were to do it,  
15 yeah. Were you proposing it as a statutory report?

16 MR. ISLER: Yes, yes.

17 CHAIRPERSON BERRY: Okay. So that would  
18 be good. Then we've got one they're proposing in  
19 discrimination in professional sports. I'm not  
20 sure.

21 COMMISSIONER REDENBAUGH: I don't think  
22 they entice enough people. Although an interesting  
23 issue, it's not on the frontier of civil rights, I  
24 don't think, in terms of -- I mean, when you compare  
25 it to something like crisis in youth or employment

1 opportunity, color.

2 CHAIRPERSON BERRY: What about you,  
3 Carl, does it make your heart stop?

4 COMMISSIONER ANDERSON: Well, the  
5 prospect of taking on the Major League Baseball  
6 leagues sort of makes my heart stop at times, but --  
7 I'd be willing to consider that, although I'd like  
8 to discuss it in a little bit larger context.

9 So if we're prepared to do that, we can,  
10 or do you want to wait until later?

11 CHAIRPERSON BERRY: Why don't we go  
12 ahead and do that.

13 COMMISSIONER ANDERSON: Okay.

14 CHAIRPERSON BERRY: Well, I'll just list  
15 the rest of them for Russell before he leaves.

16 Financial Aid for Higher Education,  
17 Voting Rights, Discrimination Against Persons with  
18 HIV and AIDS. I think that that --

19 COMMISSIONER REDENBAUGH: That fits over  
20 in ADA.

21 CHAIRPERSON BERRY: Yeah, we've covered  
22 that, so we don't need to worry about that.  
23 Consumer racism -- that was an issue we had a  
24 briefing on. Remember that?

25 COMMISSIONER ANDERSON: Yeah.

1 CHAIRPERSON BERRY: Racism and sexism we  
2 had a briefing on. That one I think -- what's the  
3 status of that issue? There have been some lawsuits  
4 that have been won. Consumer -- people buying  
5 things in stores and -- I don't know, what's the  
6 priority of that?

7 The gender disparities, wasn't that in  
8 health, employment and -- what else -- health,  
9 employment --

10 MS. MOY: Access to health, that's it.

11 CHAIRPERSON BERRY: Gender disparities.

12 COMMISSIONER REDENBAUGH: Mary, I'm  
13 sorry, I'm going to have to leave.

14 CHAIRPERSON BERRY: Okay. Well, and the  
15 last one, Native American issues, that was a housing  
16 one. We'll go back and continue to discuss these,  
17 but we'll leave block grants and measuring, and  
18 we'll go ahead and discuss the rest of them, all  
19 right?

20 COMMISSIONER REDENBAUGH: Yes, good.

21 CHAIRPERSON BERRY: Okay. And we've  
22 agreed -- before you go, Russell, we've agreed that  
23 the statutory report will be civil rights  
24 enforcement efforts. We'll keep block grants on and  
25 measuring. So we've got five people here to agree

1 to that.

2 Any objection to that?

3 Without objection, those are ordered to  
4 be included and we'll go on with the others.

5 Now, let's discuss professional sports,  
6 Carl.

7 COMMISSIONER REDENBAUGH: Thanks.

8 CHAIRPERSON BERRY: Thank you.

9 VICE CHAIR REYNOSO: Thank you, Russell.

10 COMMISSIONER ANDERSON: If I could back  
11 up for a minute and address Cruz's point earlier  
12 about shorter time frames. I'd like to hear from  
13 both Stephanie and Fred, at an appropriate time, as  
14 to what they think the benefits of longer time  
15 frames for reports versus shorter time frames, what  
16 problems are endemic in the longer time frame in  
17 terms of us meeting our schedule.

18 I mean, I think we all know  
19 hypothetically what some of them are; but, as a  
20 practical matter, I think it would be good to hear  
21 from them. Obviously the complexity of some of the  
22 topics of the reports mandate a longer time frame.

23 There's a trade off there, and perhaps  
24 we ought to consider whether it wouldn't be  
25 beneficial for us in the next couple of years to do



1 more narrow reports in a shorter time frame than  
2 more complex reports over a much longer time frame.

3 I think it would also be interesting, at  
4 least for me, to know what we get when we close off  
5 a report and decide we're not going to do this type  
6 of a project.

7 Do we actually free up people who can be  
8 immediately assigned to a different report, or is it  
9 because of the complexities of that report you  
10 cannot assign the people because they're not  
11 appropriate to work on it?

12 I think those kind of things would be  
13 interesting to discuss with the offices that are  
14 actually day to day working on these reports and get  
15 their input on it.

16 Now, baseball. I think I would be open  
17 to looking at that as a report. But, you know, if  
18 you're going to take on the national leagues like  
19 this project suggests, then I think we have to have  
20 a very well prepared product, and a product that  
21 meets time lines, and a product that is credible,  
22 and a product that doesn't have, for example,  
23 anecdotal information.

24 Because, I mean, what we're really doing  
25 is targeting an industry, and I suspect that they

1 are going to have whatever resources are at their  
2 disposal to respond to it, so we have to have a very  
3 good product.

4 That being the case, I think it's not a  
5 \$200,000 project. I think it's, you know, a greater  
6 outlay of resources. So that's what I have to say  
7 about that, but I'd be open to it.

8 But I think we ought to consider it in a  
9 little bit more of that broader context that, Cruz,  
10 you're raising.

11 For example, looking at the health care  
12 issue of women, that project. I mean, as I read the  
13 project outline there, it seems to me that a lot of  
14 this is already in the general domain, that we can  
15 reinforce that, and that's a good thing if that's  
16 what we see ourselves doing.

17 There are some other issues, it seems to  
18 me. For example, in health care of women, using the  
19 male physiology as the model. Now, that seems to be  
20 kind of a cutting edge issue in medical school  
21 education. But if a report by the Commission were  
22 to focus more on that kind of an issue, it could be  
23 done much more quickly and could be distributed to  
24 every medical school.

25 That would have a narrow, initially,

1 impact, but it could have a major impact. Every  
2 medical school suddenly confronted with a report by  
3 the Civil Rights Commission that there is a  
4 fundamental flaw in their approach to medical school  
5 education in terms of women's health care.

6 The fact that maybe some women are  
7 researchers at a particular hospital or medical  
8 school have already sort of begun that discussion is  
9 different than us getting into it. It could have a  
10 long term effect.

11 That's a different -- that's kind of a  
12 different report strategy than we've been thinking  
13 about in the past, but maybe it's something we ought  
14 to consider as part of the idea of narrowing a  
15 shorter time frame and getting reports that would  
16 have an effect, even it's a more narrow effect than  
17 a broader effect that we hope, but is more difficult  
18 to measure.

19 And I think it has an impact on morale  
20 of the staff, as we were discussing earlier, because  
21 it seems to me we need to get better feedback. And  
22 the best thing we can do in terms of increasing the  
23 product of the Commission is to get at least some  
24 segments of the nation responding to our reports in  
25 a very timely and positive way.

1           And that means, I think, we have to have  
2 more of a rifle shot approach to our audience.

3           CHAIRPERSON BERRY: Yes.

4           VICE CHAIR REYNOSO: Madame Chair, I  
5 agree with those observations, and particularly with  
6 respect to my emphasis on getting the work done as  
7 quickly as possible to manifest some projects that  
8 per force, in terms of the time it will take to  
9 research and all that, will take longer.

10           But I would like to have the staff think  
11 about whether it's a project that naturally will  
12 take longer, or whether it's a project that, in  
13 times past, has taken longer simply because we  
14 didn't have the resources, which appears to have  
15 been certainly true in some of the areas we've had.

16           If it's the latter, that we don't have  
17 resources, I'd rather have the resources go toward  
18 that project to get it done rather than working on  
19 two or three others. But if there's a project that,  
20 by nature, is going to take even three years, then  
21 you simply can't push it forward.

22           But that, presumably, will only take a  
23 moderately small percentage of the staff. And then  
24 if meanwhile other projects that are maybe a year  
25 project or whatever can be done by other staff

1 members, I would think that would make for a good  
2 combination.

3 But I agree that some projects, by their  
4 nature, would take a long time. But we should know  
5 -- we should hear from the staff whether, in their  
6 view, it's that type of project or whether they  
7 think it's going to take longer just because we  
8 don't have the staff.

9 Then we can decide hey, we'd rather free  
10 up the staff to work on that project and get it done  
11 more quickly than be working on two or three  
12 projects at the same time. But I think the  
13 observations are apt.

14 CHAIRPERSON BERRY: I think that the  
15 gender report proposal ought to be rewritten in  
16 light of the comments that Carl made about an  
17 approach to the health care issue. The main thing  
18 we need to get from our projects is impact, as you  
19 said, impact in the public; that there is some  
20 responsiveness and that we are dealing with issues  
21 that are crucial, and that's one way to do it.

22 I am going to let us hear from Fred and  
23 Stephanie. But, before I do that, I wanted to say  
24 that another suggestion that we might make to sort  
25 of speed up the process of doing our reports is to -

1 - this is just a suggestion -- is to let the staff  
2 do the hearings and things like that, and then to  
3 hire someone to write the actual reports.

4 Because the Commission has done that in  
5 the past. It has happened. And that way, the staff  
6 can -- since the major difficulty seems to be in  
7 trying to get the reports written, that somebody  
8 else could write them.

9 We can either not have reports and  
10 simply have transcripts and summaries and  
11 statements, which may take a shorter period of time,  
12 or we may hire someone whose job it is -- or we may  
13 divide up responsibility some way in the  
14 organization so that there are folks who prepare  
15 hearings and do them, and the staff seems to be very  
16 good at that, and there are people who write the  
17 reports.

18 I mean, I don't know what the issues  
19 are, but those are suggestions. Or we may go back  
20 to that there are some things that we might contract  
21 out and get the agreement with our committee that  
22 that's something we ought to do for whatever the  
23 thing is, particular projects, as a way of trying to  
24 get more work done.

25 But I really do think that, in

1 management terms, if the way to manage is to figure  
2 out how much time something is going to take when  
3 one proposes it, and to take into account  
4 contingencies which are not new contingencies --  
5 they arise all the time -- when it -- inevitably  
6 someone will get sick, someone will -- something  
7 will happen, it always does -- and to take that into  
8 account when one is planning.

9 But anyway, I think the health -- this  
10 gender thing ought to be rewritten in light of that.

11 And on professional sports, I think that  
12 it ought to be rewritten in view of the comments  
13 that Carl was making. Although it's a valid  
14 concept, it's actually going to cost a lot more  
15 money than what's proposed here.

16 Yes?

17 VICE CHAIR REYNOSO: Again, Madame  
18 Chair, I agree with Commissioner Anderson's  
19 observation that we would be taking on an industry  
20 that has prided itself on diversity and opportunity  
21 to all Americans, and we would be saying maybe so,  
22 but only in part of the industry. Look at these  
23 other parts of the industry.

24 And I think they would be responding  
25 rather vociferously. And I agree with Carl that we

1 really have to have a solid base beyond anecdotes in  
2 terms of showing. We've heard, of course -- there's  
3 some folk who follow this, as we know,  
4 professionally, and we would have to be very solid  
5 on the staffing of central offices that we've heard  
6 complaints about, on some sports being conspicuously  
7 absent in terms of diversity.

8 And we would have facts and figures and  
9 look at the background of why that happened and all  
10 that. I think it would have to be a very, very  
11 solid report that would be unassailable. And  
12 hopefully, after the report, the leaders of the  
13 industry would say yeah we've been saying how great  
14 we are, but we have to recognize that here we've got  
15 to improve.

16 CHAIRPERSON BERRY: And I also think  
17 though that the report -- that the proposal is, in a  
18 sense, too narrow because there are a lot of issues  
19 related to gender discrimination involved with  
20 professional sports and not just race  
21 discrimination.

22 VICE CHAIR REYNOSO: Yeah.

23 CHAIRPERSON BERRY: So that to focus on  
24 race and not on gender at all doesn't make any  
25 sense. So if the proposal is rewritten, it ought to



1 take into account both those things. And I'd be  
2 willing to support it. We'll see it when it's  
3 rewritten and support it right now conceptually, but  
4 with a sufficient amount of money to do it well.

5 On Native American issues, I am not sure  
6 -- and I need to be persuaded, Staff Director --  
7 that for Native Americans the housing issue is the  
8 most important issue. We said we were going to do  
9 more issues. We have Native Americans added to the  
10 expanding economic opportunity.

11 How did this come about? Is housing, of  
12 all the other -- I thought Native Americans were  
13 concerned about casinos and fishing rights and all  
14 sorts of self-determination issues like that. So is  
15 the housing -- from whence comes the -- what is the  
16 rationale for the housing proposal being the one  
17 that we would pick to do?

18 MS. MOY: If you're going to have  
19 Stephanie and Fred up here, then she can explain  
20 this. I thought it was in the expanding economic  
21 opportunities.

22 CHAIRPERSON BERRY: But do you agree  
23 with her that this housing thing is the --

24 MS. MOY: Yes, it is an important issue,  
25 as well as what you just mentioned before about the

1 casinos in light of that as well. And I also  
2 understand that some treaties are also coming to the  
3 end of their term, so we may be able to expand that  
4 a little bit more.

5 CHAIRPERSON BERRY: Okay.

6 MS. MOY: But I think also, before we do  
7 that, in fiscal year '99 we need to know from  
8 Commissioners if you still would like for the Office  
9 of General Counsel to conduct a health care hearing.

10 And then, if yes, we need to set a date for that.

11 CHAIRPERSON BERRY: Where is the health  
12 care hearing listed? Where?

13 UNIDENTIFIED SPEAKER: Under item number  
14 one under --

15 CHAIRPERSON BERRY: Oh, you mean the  
16 enforcement of nondiscrimination laws related to  
17 health care for women and members of --

18 MS. MOY: Right.

19 CHAIRPERSON BERRY: -- racial and ethnic  
20 minority groups, statutory reporting hearing?

21 MS. MOY: Uh-huh.

22 CHAIRPERSON BERRY: My own view would be  
23 that, given the dates that you have given us for the  
24 various projects being completed, including ADA,  
25 which is already a hearing, and the dates that we

1 have for things in 2000, that there's no room to do  
2 this in FY1999, and that all we would have is  
3 another report with a transcript and no report, you  
4 know, which would be added to the other stuff to do  
5 in the year 2000.

6 I don't know. So I would say that we  
7 would push that off to another year if we intend to  
8 do it. And we can't do it next year either given  
9 what we have decided to do unless we get more money.

10 We clearly can't do it this year.

11 In my view, I don't see any time to do  
12 it. So that answer, unless somebody objects, is no,  
13 we aren't going to do that this year.

14 MS. MOY: Okay.

15 CHAIRPERSON BERRY: And we would then  
16 push that over to 2001 and take a look at it again.

17 So, the only other activity that we have this year  
18 is -- that will be produced, aside from the reports  
19 that are coming up, is Fred's report which is to go  
20 to the Congress.

21 And the OGC hearing was related to that.

22 But even if we did the OGC hearing, when would the  
23 report be done according to the proposal? I don't  
24 see that here in my book.

25 Does anybody have that proposal? When

1 was it supposed to be done?

2 MS. MOY: Remember I mentioned that  
3 there was some slippages in the MIS? So we're going  
4 to have to get that for you.

5 CHAIRPERSON BERRY: When was the  
6 nondiscrimination, the health care -- do any of you  
7 know?

8 UNIDENTIFIED SPEAKER: (Inaudible  
9 comment from an unmiked location.)

10 CHAIRPERSON BERRY: Well, but the  
11 question is, how many months after the hearing would  
12 it take to do the report, whatever the date is? How  
13 many months of work, how many days of work, how many  
14 hours of work, how many hours are projected for it  
15 to take?

16 MS. MOY: We'll have to ask the General  
17 Counsel's Office.

18 CHAIRPERSON BERRY: Did you already ask  
19 her?

20 MS. MOY: No, I did not.

21 VICE CHAIR REYNOSO: Madame Chair, I  
22 have a different question. Since these projects  
23 were approved and scheduled to '99, I don't know  
24 whether the staff has actually done work on all  
25 these matters --

1 CHAIRPERSON BERRY: Have they?

2 VICE CHAIR REYNOSO: -- and whether they  
3 will be going to waste if we don't proceed. I just  
4 think -- I'd just like to know. It won't determine  
5 my opinion, but it's something that will influence  
6 it.

7 CHAIRPERSON BERRY: What's the answer?

8 VICE CHAIR REYNOSO: No work has been  
9 done? Okay.

10 MS. MOY: No work.

11 VICE CHAIR REYNOSO: Okay, okay, that  
12 helps me.

13 MS. MOY: And then also for the fair  
14 employment, OCRE staff, they will be finished with  
15 part of their project, and so they need to start  
16 their next -- after their health care, they need to  
17 start their fair employment in '99, fiscal '99.

18 VICE CHAIR REYNOSO: Okay.

19 CHAIRPERSON BERRY: But we need to nail  
20 down -- I already said we might push this to 2001.  
21 However, it is obviously related to the project that  
22 Fred is finishing up, which is how it started.

23 MS. MOY: Right.

24 CHAIRPERSON BERRY: So the question is,  
25 how many months would it take after we agreed to a

1 hearing to get the report done? Okay, you don't  
2 need dates to know that. You just need to know how  
3 many months it would take to do the report.

4 MS. MOY: My guess would be six months.

5 CHAIRPERSON BERRY: Six months? So if  
6 indeed -- what do we have scheduled for February for  
7 the Commission meeting to act on, any projects or  
8 anything? The crisis is in April.

9 So if we decided to do a hearing though,  
10 how long would it take OGC to get ready to do the  
11 hearing since they haven't done any work on it?

12 So my question really is, is it possible  
13 for them to do a hearing? Let me just answer the  
14 question. Having done no work on it --

15 MS. MOY: No.

16 CHAIRPERSON BERRY: -- and having the  
17 dates that you have in the staff director's report  
18 for all the other things, is it possible, even if we  
19 said we wanted them to do it, for a hearing to take  
20 place this year from OGC?

21 MS. MOY: No.

22 CHAIRPERSON BERRY: Well, then that's  
23 the answer to the question.

24 VICE CHAIR REYNOSO: Okay, okay.

25 CHAIRPERSON BERRY: We can't do it

1 anyway.

2 MS. MOY: Okay.

3 CHAIRPERSON BERRY: So now the question  
4 is, should we do it next year? And the answer to  
5 that question relates to whether everything else is  
6 going to be finished and whether we can do the three  
7 things that we've already agreed to do in the year  
8 2000.

9 What's the answer to that?

10 MS. MOY: No.

11 CHAIRPERSON BERRY: We can't?

12 MS. MOY: Correct.

13 CHAIRPERSON BERRY: So we can't. So the  
14 only possibility is to move it over to the year 2001  
15 and hope that if we got some money by that time and  
16 everything else was straightened out, we would be  
17 able to do it then.

18 Isn't that the only hope?

19 MS. MOY: Yes.

20 VICE CHAIR REYNOSO: Okay.

21 CHAIRPERSON BERRY: Okay. Now, we could  
22 hear briefly -- did you want to say something, Carl?

23 COMMISSIONER ANDERSON: No.

24 CHAIRPERSON BERRY: Could we hear  
25 briefly from Stephanie and Fred in answer to

1 Commissioner Anderson's question?

2 MR. ISLER: Commissioner Anderson, in  
3 order for me to answer your question, let me use the  
4 health care project proposal as an example of length  
5 of time and the complexity.

6 When we originally proposed the health  
7 care project proposal to the Commissioners, we  
8 proposed that that project would take from 14 to 18  
9 months to do. We also indicated because we were  
10 looking at over maybe 10,000 state programs, health  
11 care state programs in addition to HHS, we also  
12 proposed that we have health science administrators  
13 assigned to that project.

14 Of course, that project was proposed  
15 based on our \$16 million dollar budget. Well, as  
16 soon as we determined what the pass back was going  
17 to be, we immediately discussed that project with  
18 the staff director.

19 And the staff director, in turn,  
20 requested that we take another look at that health  
21 care project and scale it back and reshape it within  
22 the \$8.9 million dollars.

23 And also, in order to deal with the  
24 complexity issues, we would have to have experts on  
25 various state programs, medical programs, health



1 science administrators, and also experts dealing  
2 with medical theories and concepts, which we were  
3 unable to get because we were unable to contract out  
4 for health science administrators.

5 So we immediately revised that project  
6 proposal to eliminate the section on state programs  
7 and where we were going to deal with -- in a cross  
8 between medical concepts and theories. We scaled  
9 that back to where we would only look at HHS as an  
10 agency, and we would only look at Title VI  
11 enforcement -- civil rights enforcement and the  
12 nondiscrimination provisions in the Hill-Burton Act.

13 And we also immediately started trying  
14 to recruit some interns that were in social policy  
15 type fields to do research for us on some of the  
16 programs we have like Medicare or Medicaid or  
17 managed care, private insurance, so that we would  
18 have issue papers written for the staff that we  
19 could read so we could come up to speed on some of  
20 those issues.

21 And that cut back on resources because  
22 these were unpaid interns. And they -- we really  
23 had like 15 unpaid interns last summer working on  
24 the project. And that sort of gave us a head start  
25 on the project. And we also had briefings with

1 various health care professionals so that they could  
2 help us come up to speed on some of the health care  
3 issues.

4 And we have now scaled the project back  
5 not only from 14 to 18 months, to we're trying to do  
6 this project really -- the staff is trying to do  
7 this project in like nine months and get it to the  
8 commissioners, which would be unprecedented.

9 If we get it to the Commissioners by  
10 June, it would be a first for this Commission. And  
11 we're very close to doing that. And also, we're  
12 trying to also -- I'm trying to use my management  
13 skills to not let the staff just go off into  
14 tangents and look at every issue that they come  
15 across, because you have a tendency to want to do  
16 that.

17 One of the drawbacks in that is trying -  
18 - and I don't mean disrespect -- you have to try not  
19 to second guess the Commissioners. And you just  
20 have to focus on what you think is important and not  
21 what the Commissioners would want in that report  
22 because then it becomes out of control.

23 And you have to take that risk that if  
24 the Commissioners decide that there's a major issue  
25 out there that we missed, then they would give us

1 the time to go back and deal with that issue. And  
2 that's basically it.

3 And also, one other thing we had to do  
4 early on is we couldn't wait until after we had  
5 finished all the research to make contact with the  
6 agency because it -- we can't control when they  
7 provide us with information.

8 So we had to do that early on and build  
9 in a system where, if we missed things, we would  
10 have to be able to go back and ask them for the  
11 additional information and get them on board with us  
12 to understand that we have this deadline and we  
13 can't meet this deadline without these agencies  
14 working with us.

15 And get them to understand how important  
16 these issues are and we're not just out here to  
17 criticize them, we're here to help them ensure that  
18 minorities and women are -- have equal access to  
19 what I consider quality health care.

20 And that's basically my response to your  
21 question. And we're going to also take a look at  
22 the fair employment practice project proposal  
23 because that proposal also was -- is really a 14  
24 month project. Well, we don't have 14 months.

25 So we're going to have to take a look at

1 that and decide what we can scale back. And we  
2 would communicate to the staff director. And we are  
3 going through that process now.

4 CHAIRPERSON BERRY: So essentially you  
5 resize based on -- and adjust based on the resources  
6 that are available?

7 MR. ISLER: That's correct.

8 CHAIRPERSON BERRY: Okay. And the time  
9 that you have to -- deadlines you have to meet?

10 MR. ISLER: Right, and you have to focus  
11 on the expertise you have on your staff, too, and in  
12 what area. And you do -- as Dr. Berry said, you do  
13 have to anticipate that you're going to have turn-  
14 overs also. You have to anticipate that and try to  
15 give yourself some leeway.

16 CHAIRPERSON BERRY: And one of the  
17 advantages you have, Fred, is that you do have this  
18 statutory deadline and you do have one big report to  
19 do as an advantage.

20 MR. ISLER: A big advantage.

21 CHAIRPERSON BERRY: Which means that --

22 MR. ISLER: It's a huge advantage.

23 CHAIRPERSON BERRY: Which means that --  
24 let's go now to General Counsel.

25 MS. MOORE: Okay, thank you,

1 Commissioner Anderson, for posing the question and  
2 giving us an opportunity to respond.

3 I guess, rather than using a specific  
4 project, I would respond in the following way in  
5 terms -- I think there are four factors that  
6 principally affect the longevity of a project, some  
7 of them unique to OGC and some of them agency-wide.

8 First, I think two of the issues Fred  
9 has alluded to -- one is the scope of the project  
10 itself. That is, what the complexity of the project  
11 in terms of subject matter. That certainly can  
12 affect how much research is required and how much  
13 time it takes for the staff, based on their relative  
14 skills, to complete a project.

15 The unpredictable factors that both Fred  
16 and the Chair have alluded to -- sicknesses,  
17 turnover and what have you -- also affect the  
18 longevity or duration of a project. But there are  
19 others -- there are two other major factors that  
20 also affect all of our projects, I think, and again  
21 some that are unique to OGC.

22 One is one that I think the  
23 Commissioners rarely focus on, and that is the  
24 internal processes that are required for each  
25 project. Under regulation or AIs, we are required

1 to take certain steps for certain projects  
2 regardless of their complexity.

3 So a project that may, in some respects,  
4 seem to be less complex nevertheless has to go  
5 through the legal sufficiency review process, has to  
6 go through the editorial board process, the affected  
7 agency review process.

8 And managers have been getting together  
9 and talking about these issues with the staff  
10 director, and I think that it's -- those types of  
11 things are under consideration. But there are time  
12 frames that are imposed on -- for some of these  
13 elements through the process of a project and some  
14 are more based on experience and/or staff resources  
15 at the time.

16 So that's another element. One of the  
17 main elements I think that affects OGC is overall  
18 management -- central management, if you will, of  
19 projects. There -- and I heard reference earlier to  
20 MIS figures for some of the projects that are  
21 outstanding or have been approved or considered by  
22 the Commissioners.

23 Unfortunately, if you look at the MIS  
24 and the specific tasks that are associated with OGC  
25 projects, and also I think OCRE projects, one

1 problem that we encounter in OGC is that all of our  
2 dates revolve around a hearing date.

3 And the Commissioners rarely decide at  
4 the beginning of a planning cycle where they want to  
5 have the hearing, at what point. Even a general  
6 date, you know, just fall, spring, some time frame  
7 that we can then begin to piece out an MIS planning  
8 schedule.

9 So that also affects OGC and has  
10 affected us throughout my tenure how we can  
11 effectively plan hearing projects.

12 As you know, in the past it's been --  
13 hearing projects have been -- or hearing dates have  
14 been announced randomly throughout the year. We  
15 then have to readjust our work priorities and begin  
16 to schedule out a hearing.

17 It's been my recommendation to the staff  
18 director that, for any hearing projects that are  
19 approved by the Commission, that we get a date in  
20 the beginning of the planning cycle so that we can  
21 then prepare MIS and people on the staff would know  
22 from the beginning of the planning cycle exactly  
23 what their workload is.

24 But again, one of the things that has  
25 affected OGC and its progress on outstanding

1 projects is that we have to stop and do three  
2 Schools and Religions hearings. And lawyers know  
3 that there's, you know, lead time. If you leave  
4 something, when you come back to it you're going to  
5 take two or three weeks to get back into it and then  
6 to begin to write.

7 So there is some lag time when people  
8 are working on two or three projects and they don't  
9 know in the beginning of the year precisely what it  
10 is that they have on their plate for the full year.

11 So those are the types of things that I  
12 think affect the duration of a project.

13 CHAIRPERSON BERRY: Do you have any --  
14 anyone have any -- yes?

15 VICE CHAIR REYNOSO: I just wonder --  
16 it seems to me that we do need to come up with a  
17 more sophisticated give and take between staff and  
18 Commission decisions so that -- for example,  
19 Stephanie mentioned that it would be helpful to  
20 staff to have a hearing date.

21 We, in turn, would need to know from the  
22 staff about how long they think the original  
23 internal research is going to take even before they  
24 start setting those dates. And then, based on that,  
25 we can set a hearing date.



1           So the information needs to flow both  
2 ways. And my impression is, based on the time I've  
3 been here, that we haven't had enough of that flow  
4 of information going each way.

5           Then, if we have a project that's going  
6 to go a year and it requires three full time  
7 attorneys to work on that, when we come up with  
8 other projects we have to be sure that we have more  
9 than three attorneys to be working on that so that  
10 the attorneys can continue working on that project  
11 and not have the loss of lag time that we all know  
12 happens when you shift particularly big pieces of  
13 work like that.

14           So hopefully out of this discussion  
15 maybe we can have that two-way sharing of  
16 information, particularly, I would assume, between  
17 the staff director and the Chair. And the two of  
18 you presumably go through the staff director so we  
19 know what's happening.

20           And then, if we select a project, then  
21 you folks -- in fact, I was going to -- it seems  
22 that even though the answer was no work has been  
23 done on the FY 1999 projects -- it's true that no  
24 work has been done, but a lot of thinking has  
25 obviously gone into it just from Fred's description

1 on --

2 CHAIRPERSON BERRY: No, no, that's  
3 Fred's report. Fred finished his part. Stephanie  
4 was supposed to have a hearing -- OGC was going to  
5 have a hearing in addition to Fred's component.

6 VICE CHAIR REYNOSO: Right, right.

7 CHAIRPERSON BERRY: He's finishing his.

8 VICE CHAIR REYNOSO: Right.

9 CHAIRPERSON BERRY: It's the OGC part  
10 that nothing has been done on.

11 VICE CHAIR REYNOSO: Oh, okay. I  
12 thought the report was that nothing had been done.  
13 Well, clearly a lot has happened.

14 CHAIRPERSON BERRY: Yeah, the OCRE part.

15 VICE CHAIR REYNOSO: Okay, okay.

16 CHAIRPERSON BERRY: Yes, Commissioner  
17 Lee?

18 COMMISSIONER LEE: Your presentation is  
19 very helpful to me, so thanks very much.

20 I just have one question. We talked  
21 about the possibility of either concentrating on one  
22 major project or having the staff to do different  
23 projects at the same time. Can you share with me  
24 your comments on whether -- what are the benefits  
25 and drawbacks, let's say, to have staff working on a

1 dual track, on multiple projects?

2 MS. MOORE: I think that -- I mean, you  
3 know, we're a legal staff. Lawyers are accustomed  
4 to juggling a number of projects at one time. I  
5 don't think that that has hampered us. It has been  
6 the planning of those multiple tasks and our  
7 inability to plan in advance what it is each person  
8 is going to be responsible for.

9 So, I mean, you know, we inherited a  
10 backlog, and people are sort of digging -- well, we  
11 dug our way out of the backlog; but, from that point  
12 forward, there was no -- there was no concerted  
13 effort to plan in advance what it is that any given  
14 person in OGC would be doing for -- throughout the  
15 fiscal year.

16 So if -- for example, if a particular  
17 staff member was assigned to the Los Angeles  
18 Project, they're working on the Los Angeles Project  
19 either preparing the hearing, interviewing witnesses  
20 or writing the report, whatever stage it's in.

21 And then, you know, the fifth meeting of  
22 the Commission, the Commission decides we want to do  
23 an L.A. hearing. Then I have to look at the staff  
24 and redistribute and assign people to that project  
25 who may have been working on L.A. who now have to

1 stop work on L.A. for the immediate purpose of  
2 planning a hearing and return to that.

3 If we know in advance that that person  
4 is going to be working on all of these projects,  
5 then they can manage their time accordingly. And I  
6 guess the other part of this, the other piece of the  
7 problem for OGC, Commissioner Lee, is that -- and it  
8 ties into what the Vice Chair was asking.

9 We can certainly anticipate a time frame  
10 for background research. But again, because of the  
11 nature of the beast and OGC, the type of project  
12 that we're planning, we come to a screeching halt at  
13 the point of not knowing a hearing date or a hearing  
14 time frame because -- for example, I was -- we were  
15 discussing this the other day.

16 If we were looking at L.A. and police,  
17 which we did, and the staff -- because we're trying  
18 to identify witnesses for an actual public event, it  
19 is necessary for us to have a time frame.

20 Because if we interview Willie Williams,  
21 for example, and that is the person that we want to  
22 call, we don't have a hearing date and the  
23 Commission, four months later, put forth a hearing  
24 date, and Willie Williams has been -- has left, then  
25 we have to start all over again with the

1 interviewing process.

2 So it's necessary for us to know again  
3 way in advance so that the entire offices' work can  
4 be planned at one stage. Now obviously, throughout  
5 any year, adjustments have to be made, but we need  
6 to know in the beginning of every fiscal year,  
7 preferably October, what is on our plate for the  
8 full year so that the entire year can be planned out  
9 given the staff resources that are available at that  
10 time.

11 COMMISSIONER LEE: So assuming by the  
12 end of this fiscal year all your backlogs are  
13 cleared -- the L.A., New York and Mississippi  
14 reports are all done. Starting fiscal year 2000, if  
15 the Commission approves three projects, --

16 MS. MOORE: Right.

17 COMMISSIONER LEE: -- measuring  
18 discrimination, economic opportunities, affirmative  
19 action, your staff will be able -- and we will set a  
20 general idea where we want to have the hearing, your  
21 staff will be able to conduct all this work and, at  
22 the same time, allow some flexibility to deal with  
23 certain issues that may come up during the year.

24 Because I know that I hesitate to bring  
25 up certain issues that I find relevant. The

1 briefing may answer a lot of my concerns. But  
2 because of all these back logs, I haven't been  
3 asking. But you are telling us as long as you know  
4 in advance what's expected of your office and a time  
5 -- general time frame, you will be able to have the  
6 flexibility to not only meet those responsibilities,  
7 but, at the same time, allot staff time to deal with  
8 expected --

9 MS. MOORE: Yes.

10 COMMISSIONER LEE: -- emergencies.

11 MS. MOORE: Yes, yes, I'm saying that,  
12 at that time, based on what my staff resources are,  
13 I could be able to more effectively respond to the  
14 Commissioner's request to do two projects or three  
15 projects and plan it out.

16 Now, again, I think that any office is  
17 going to experience the unpredictable adjustments  
18 that are necessary, but I would suggest that if we  
19 begin planning in this more comprehensive way, that  
20 any lag or -- lag time would be no more than a month  
21 or two.

22 I mean, you wouldn't have substantial  
23 lags in projected time lines and the actual product.

24 CHAIRPERSON BERRY: Vice Chair.

25 VICE CHAIR REYNOSO: Based on the

1 history as you've seen it, I assume that you're  
2 going to factor in the planning for the big projects  
3 who will not be there. That is, you know about on  
4 the average how many sick days you'll have, and you  
5 know also -- at least you have an indication in the  
6 last, say, two or three years how many special  
7 projects have come up, as Yvonne has indicated.

8 So presumably, if you have five  
9 attorneys and you've figured out that 20% of the  
10 time will be taken with sick leave, vacation leave,  
11 special projects and so on, then presumably you'd be  
12 firmly assigning only four lawyers to be working on  
13 those projects.

14 That is, you can take into account what  
15 you already know that Commissioners are going to be  
16 bringing up issues and you know, based on history,  
17 roughly about that that takes one or two attorney  
18 year times to do those.

19 I assume that that can be factored into  
20 your projection for the year.

21 MS. MOORE: Right, as well as LSRs. I  
22 mean, we do quite a bit of work down there.

23 VICE CHAIR REYNOSO: Right.

24 MS. MOORE: We've got a very good,  
25 committee staff --

1 VICE CHAIR REYNOSO: Right.

2 MS. MOORE: -- who, at the drop of a  
3 hat, will stop to do certain legal projects. So  
4 yeah, I think that's --

5 CHAIRPERSON BERRY: Commissioner  
6 Anderson.

7 COMMISSIONER ANDERSON: I've got three  
8 observations, the last one of which I'd like you to  
9 respond to, but you can comment on the other two if  
10 you like. The first is the internal procedures that  
11 we ought to know about in which we can be helpful --  
12 for example, the hearing dates -- I think it would  
13 be helpful to us if we could have more input like  
14 that.

15 Now, some of the internal procedures  
16 have to be dealt with with the staff director and  
17 worked out. I'm not interested in those. But where  
18 it appears that our actions could be helpful, I  
19 think it would be good, whether it's a memo that  
20 goes through the staff director to us or another  
21 session like this after some reflection.

22 That's the first. Second, in terms of  
23 budget priorities, it seems to me that the last time  
24 we discussed the budget there was a rather lengthy  
25 discussion, as I remember it, about prioritizing of



1 projects so that if we receive the full amount of  
2 money that we had requested, we would do all of  
3 these projects.

4 If we didn't, then we would not stretch  
5 all the projects out, but we would remove certain  
6 projects and stay within a certain time line that we  
7 were initially projecting. It seems to me what we  
8 don't want to do is, if we get less money, then we  
9 go back and redo everything either shrinking or  
10 elongating.

11 But that seems to me to be something we  
12 need to focus more on in terms of giving you  
13 direction, and maybe it's worth a consideration by  
14 us again on that.

15 And the third observation I have is if  
16 we were to have a policy that for the next year or  
17 the next two years we would have a 12 month or a 14  
18 month time line for every single project, it would  
19 not exceed 12 months or would not exceed 14 months  
20 conceptually -- that is, there may be something that  
21 occurs that lengthens the time line.

22 But within the project planning process  
23 conceptually, no project would take over 12 months  
24 or 14 months. Now that would mean obviously that  
25 some of the projects would have to be narrowed in

1 terms of their scope. But say if we were to do  
2 that, would that -- would a much shorter time line  
3 for projects be a better management tool for you?

4 Do you think you'd be able to hit  
5 targets more reasonably on a shorter time line?  
6 What I'm getting at is, it seems to me we have a two  
7 or three year time line for projects and one of the  
8 things happens, since the production date is so far  
9 out, it's easy to put that project on the bottom of  
10 the desk every time something else comes and tends  
11 to spread out more.

12 As the Commissioners over time look at  
13 the project, we keep changing it, and so you've got  
14 to keep going back to the drawing board. And  
15 thirdly, the project, as it gets longer and longer,  
16 keeps getting more stale in a lot of ways.

17 So, should that be something we  
18 consider? That is, a much shorter time frame. Say  
19 we're not going to approve of anything that we can't  
20 do in 12 or 14 months. Would that be a help to you  
21 or would it be a hindrance to you in terms of  
22 actually managing and meeting targets within a  
23 reasonable period of time?

24 MS. MOORE: Well, for me that --

25 COMMISSIONER ANDERSON: That's

1 something for us to decide, but, I mean, do you have  
2 any comment on that?

3 MS. MOORE: Well, for me I think we --  
4 it's doable, but -- well, let me back up and say  
5 there are two questions that arise for me. When you  
6 say within 12 months, is that the staff completing  
7 its work within 12 months, or is that the  
8 Commissioners approving the product and the product  
9 being disseminated within that 12 month period?

10 We have no control over the latter, so  
11 that's one concern.

12 COMMISSIONER ANDERSON: I think I'm  
13 talking a target date to us.

14 MS. MOORE: Okay.

15 COMMISSIONER ANDERSON: If 12 months  
16 looks too short, maybe make it 14 months. But the  
17 point is, within the horizon of a foreseeable  
18 future, --

19 MS. MOORE: And again, I think that goes  
20 back, to me, to the processes that we are required  
21 to undergo. Now, if -- I understand I didn't know  
22 this history until a couple of days ago, I guess,  
23 with -- in the executive staff meeting -- that the  
24 affected agency review, for example, which, under  
25 our AIs, requires for a four week time period for

1 agencies to respond.

2 So the report is just sitting waiting on  
3 the agencies to respond. And once they respond,  
4 traditionally it's been a two to three week period  
5 to incorporate -- depending then on the complexity  
6 of the document that has been forwarded to them, and  
7 depending on the strength or weakness of their  
8 comments.

9 I don't know if -- we're trying to  
10 follow what the internal processes require. I don't  
11 know whether the staff director has the discretion  
12 to dispense with affected agency review for us or  
13 for the affected agency review to occur and we  
14 simply take it and attach it to the back of the  
15 document.

16 I would assume that there would probably  
17 be some political concerns that arise with respect  
18 to that whether we simply slap it at the back of a  
19 document or attempt to respond to those things. So  
20 again, I think that the processes, to me, are what  
21 all -- both offices are required to go through.

22 And when we sit down to plan it out, it  
23 would be project specific. I mean, can this  
24 particular project -- can we shorten, for example,  
25 the interview period to two weeks as opposed to two

1 months. It would be project specific and we would  
2 have to make that determination at that point.

3 I just -- I'm not sure in a vacuum that  
4 you could decide that all projects, whatever their  
5 topic, could be completed within a 12 to 14 month  
6 period given the tasks that are associated with it  
7 that -- I mean, you can look at it on the MIS there  
8 -- I mean, I think OGC has 133 tasks associated with  
9 any project, some of which overlap, some of which we  
10 have discretion to shrink and broaden.

11 But it depends on the particular -- I  
12 mean, you may want to decide as a policy matter that  
13 we won't issue subpoena duces tecums for anything.  
14 I don't know what that does to the quality of the  
15 given report.

16 But the other problem, and my staff has  
17 emphasized this point, is that the hearing record  
18 for us is generally far more than the Commissioners  
19 ever see whether it's a duces tecum hearing or not  
20 because the witnesses tend to send in -- as they are  
21 permitted to do, they do send in quite a bit of  
22 documentation, studies and the like that they've  
23 done.

24 So it's hard to answer in a vacuum. In  
25 theory, yes, I think that it's doable, but it would

1 be based on -- it would be project specific, and we  
2 would certainly make the effort on any particular  
3 project to map out a milestone that would comport  
4 with that overall principle.

5 CHAIRPERSON BERRY: Could I make -- ask,  
6 first of all, before I make any comments. The staff  
7 director said that the dates in the staff director's  
8 report for these reports are wrong. Do you have new  
9 dates so that we can be up to date on this?

10 She said these dates are all wrong.

11 MS. MOORE: Yes, they are. Our MIS --  
12 we placed into the system the date where slippage  
13 had occurred. And it was my understanding -- I  
14 haven't received training on the MIS as of yet. It  
15 was my understanding that the system was to compute  
16 in the column with three weeks, two days.

17 It was to compute forward. And  
18 apparently we did not link or the system did not  
19 link -- I don't know what the problem was, but it  
20 did not project the dates forward once the new date  
21 was inserted. So we have general -- I have general  
22 time frames, but not the specific date for any of  
23 the projects here.

24 But the MIS will be submitted to the  
25 staff director.

1 CHAIRPERSON BERRY: Could you tell us  
2 what the general -- New York, Mississippi, and  
3 schools and religion?

4 MS. MOORE: I can. Which three did you  
5 ask me?

6 CHAIRPERSON BERRY: New York,  
7 Mississippi, and Schools and Religion. And ADA,  
8 yes. Crisis we know we're supposed to have the  
9 consultation or whatever.

10 MS. MOORE: And which date are you  
11 requesting?

12 CHAIRPERSON BERRY: The one that it's  
13 supposed to come to the Commissioners.

14 MS. MOORE: ADA would be December of  
15 this year.

16 CHAIRPERSON BERRY: December 1999?

17 MS. MOORE: Yes.

18 CHAIRPERSON BERRY: Okay.

19 MS. MOORE: School and Religion is June  
20 of this year.

21 CHAIRPERSON BERRY: Okay. Mississippi  
22 or --

23 MS. MOORE: Well, I'm just going  
24 through. Mississippi -- I don't have the second  
25 page. It looks like Mississippi is the summer,

1 early summer, but I don't have the second page with  
2 me. I apologize.

3 CHAIRPERSON BERRY: Okay.

4 MS. MOORE: And New York is -- appears  
5 to be also early -- May, early summer.

6 CHAIRPERSON BERRY: Okay. Did I ask for  
7 all of them? Anybody, did I miss anything?

8 And crisis, do you have a date for after  
9 the consultation when we'd be able to --

10 MS. MOORE: Those milestones are being -  
11 - are in preparation, I'm hearing from --

12 CHAIRPERSON BERRY: Do you have any idea  
13 in terms of months or what you're projecting? You  
14 haven't projected anything yet?

15 MS. MOORE: No.

16 CHAIRPERSON BERRY: Okay, well one of  
17 the things we've learned from this is that ADA will  
18 not be ready this fiscal year. So there will still  
19 be work going on on it in the next fiscal year.

20 What this means then, and we have to ask  
21 ourselves in light of this discussion, is it  
22 realistic for us to propose that enhancing economic  
23 opportunities for minority youth, or youth of color,  
24 and the -- what was the other one, the affirmative  
25 action thing -- whether it's realistic to expect



1 those to be done in the next fiscal year in light of  
2 the fact that ADA will not be finished until  
3 December.

4 Or it won't come to us until December.  
5 Which means it will still be being worked on in the  
6 fall. So we have --

7 MS. MOORE: Well, no, actually it  
8 doesn't because in the fall it's in the process of  
9 those reviews. But the draft has been -- will have  
10 been completed substantially before that.

11 CHAIRPERSON BERRY: Yeah, and my  
12 question is whether we should -- on the affirmative  
13 action one, whether we should have it be an OCRE-OGC  
14 project or whether we should just get someone else  
15 to do it so that OGC will not have the burden of  
16 doing that while it's doing the enhancing economic  
17 opportunities.

18 I'm just trying to be realistic in terms  
19 of what we're doing here. Because, from what I've  
20 heard here -- I'll put a pin in that while I discuss  
21 my reactions to the presentation that Fred and  
22 Stephanie made.

23 The first is that on hearings, OSD ought  
24 to suggest a hearing date to us when OSD suggests  
25 the project to us. That's a responsibility of

1 management. Management should look at the  
2 priorities and what's going on with all the projects  
3 and come up with a proposed hearing date and give it  
4 to us.

5 And that hearing date ought to be  
6 consistent with everything else that's going on  
7 since we're not managing the agency. And then we  
8 can respond by either saying yea or nay or we need  
9 to do it another time. So we've got the cart before  
10 the horse here.

11 I think that that's absolutely necessary  
12 to do. The other thing that I think is that it  
13 should possible for every office to figure out how  
14 many months it takes to do something even if they  
15 don't have a date.

16 That is, how many months does it take to  
17 do research, how many months does it take to look up  
18 witnesses, how many -- or Fred's case, how many days  
19 does it take to research whatever it is, and how  
20 many months does it take to prepare the hearing or  
21 whatever the report is, and how many weeks does it  
22 take -- so that we would have a time line.

23 And we used to have that with project  
24 proposals for exactly -- we used to make staff do  
25 detailed ones exactly how many months it was going

1 to take for everything before we ever approved it.  
2 The other thing that occurs to me -- and we ought to  
3 go back to that.

4 That again is a management  
5 responsibility. It's not our responsibility as  
6 commissioners, and we have to have something to  
7 review. The second thing -- the third thing is that  
8 we did indeed, at one point here, decide that when  
9 we received the budget and any budget discussion we  
10 had we would have different cuts about what the  
11 staff would do at different levels.

12 We discussed that a long time ago. And  
13 so instead of the staff coming back, as you said,  
14 Fred, and say okay, we didn't get 16, so now we have  
15 11, so now we're going to do this, when the budget  
16 was first prepared there should be an analysis which  
17 says that, at this level -- and I think there is.

18 If we have \$8.9, this is what we're  
19 going to do. If we have \$11, this is what we're  
20 going to do. If we have \$16, that's what we're  
21 going to do. So that we could then come back and  
22 review whether we wanted to adhere to that, but we  
23 wouldn't be reinventing the wheel because we know  
24 that every year the level that comes back is not  
25 going to be exactly the level that we ask for.

1           So that again is a management  
2 responsibility to do that. Then I have a fourth  
3 sort of over arching concern here. Listening to all  
4 this, when was the last time that the manual for  
5 hearings was rewritten, does anybody know?

6           What is the date on the -- how old is  
7 the hearing manual?

8           MR. ISLER: It was written in '92.

9           MS. MOORE: The hearing manual or the --

10          CHAIRPERSON BERRY: The hearing manual.

11          MS. MOORE: The hearing manual has been  
12 updated since I've been here, so I don't know what  
13 year that was.

14          CHAIRPERSON BERRY: Well, maybe there  
15 are things in it that could be, you know, cut out or  
16 truncated or something, and maybe not. But  
17 listening to the conversation, it made me conclude  
18 that we are in a bind because hearings are a very  
19 effective way to get information because we can  
20 subpoena people if we need to.

21          But hearings are a totally inefficient  
22 way to get anything done where we can say anything  
23 about anything that's happening in any reasonable  
24 time. I mean, that's just fact, gang. We might as  
25 well accept it, unless we figure out some different

1 way to do it.

2 Because once you have a hearing, you get  
3 the glitz of we've got the hearing on, whatever.  
4 And then you can't say anything for three years or  
5 two years or whatever it is about whatever it is.  
6 And by that time, the issue may be dead and gone, or  
7 it may not.

8 So it may be that we ought to reuse  
9 hearings only for issues that have long term  
10 saliency where we think something for the ages is an  
11 issue. And that's not a criticism. It's just that  
12 if we can't figure out another way to do it, we need  
13 other work products.

14 We ought to see our other work products  
15 as things that we do -- we ought to see the hearing  
16 itself as an event where we get some visibility to  
17 the issue. And maybe we ought to begin as  
18 Commissioners to comment during the hearing about  
19 what we're hearing during the hearing.

20 That's a possibility for us to think  
21 about with the public relations office. You know,  
22 today we heard blah, blah, blah. And while there  
23 are no definitive statements about X, we, in fact,  
24 believe Y, Z.

25 We might consider, at the end of each

1 day's hearing, or the middle of the hearing or  
2 something, having some kind of statement which says  
3 what our impressions are. We ought to think about  
4 that. That's one way to get people to know what we  
5 think without waiting until the report is done.

6 The other thing is that we might then,  
7 at the end of the hearing, make some kind of  
8 preliminary statement. I don't know. But we've got  
9 to find some way without interfering with the -- but  
10 the processes of hearings and the way they've been  
11 described and the way we've experienced them, and  
12 coming up with findings and recommendations, and  
13 going through the transcripts and getting the other  
14 material takes a long time.

15 That's what I'm hearing. And so I don't  
16 know how you balance that. Whether we see briefings  
17 as a way to say something or whether we go to  
18 transcripts and statements afterwards to sort of  
19 speed it up.

20 But I just think that we, as  
21 Commissioners, when we propose things or when we  
22 think about issues -- and the final thing I'll say  
23 on this is we've got to have a way, Staff Director,  
24 to be able to respond to issues as they arise.

25 Some process, some procedure, something

1 in our array of tools to be able to do something  
2 when something happens, whether it's state advisory  
3 committees like we did with the church fires or  
4 whether it's something to be able to not just let  
5 things pass by without us being able to say anything  
6 about them at all or do anything about them at all.

7 So I'll leave it at that. Those were my  
8 reactions.

9 Does anyone else have anything for Fred  
10 and Stephanie? If not, thank you.

11 Yes?

12 MS. MOORE: I'm sorry, I received a  
13 question for clarification purposes from the Deputy  
14 General Counsel.

15 Commissioner Anderson, on the 12 month  
16 time frame, we were also wondering whether it's the  
17 Commission's view were you looking at this 12 or 14  
18 month time frame from the date of approval of the  
19 project or from the date of the -- for us, for our  
20 purposes, the public proceeding?

21 Because that's -- you know, there may be  
22 three to four months preparation period before the  
23 actual event. And so that cuts down the -- you  
24 know, if you're saying a 12 month period from the  
25 time of the approval, there's four months there that

1 the event has not occurred that would be counted as  
2 part of the 12 months.

3 So we were just trying to estimate which  
4 one you were referring to.

5 COMMISSIONER ANDERSON: I think it was  
6 the second.

7 MS. MOORE: After the event, right.

8 CHAIRPERSON BERRY: Yeah, that's what --  
9 we already discussed that last month, and we all  
10 agreed, and we still agree, that we're talking about  
11 the public proceeding. Because what we're really  
12 talking about here is the public knowing we did  
13 something and then not ever being able to say  
14 anything about it.

15 So it's 12 months from there. The  
16 public doesn't know what we're doing before we  
17 actually do anything.

18 MS. MOORE: Well, the transcript was  
19 unclear from the December meeting.

20 And there are just two other points, if  
21 you'll indulge me, that I wanted to make. One was  
22 that indeed, since I've been here, I have made  
23 recommendations to the staff directors over time for  
24 dates that I believe have been communicated and,  
25 nevertheless, we didn't get dates until it was



1 convenient for the Commissioners.

2 So I think that that is a useful sort of  
3 consensus amongst the Commissioners that we provide  
4 the dates and they go to you immediately upon  
5 recommendation.

6 The second thing I wanted to clarify,  
7 since you all are considering the Native American  
8 project, is that you may recall that the discussion  
9 of Expanding Economic Opportunities -- there was a  
10 lengthy discussion by the Commissioners after which  
11 the Commissioners concluded that the types of issues  
12 that -- and some that Dr. Berry referred to that  
13 Native Americans were concerned about were indeed  
14 subject to a different body of law than those that  
15 we were dealing with under Expanding Economic  
16 Opportunities.

17 And the Commission determined -- and I  
18 believe, at that time, John Dulles was actually on a  
19 conference call -- that there would be a briefing on  
20 those issues. And I don't know what happened after  
21 that point.

22 But the reason we focused on the housing  
23 issue is that it was my belief that there would be a  
24 briefing to explore the other types of Native  
25 American issues that you all expressed some interest

1 in, and that the Expanding Economic Opportunities  
2 would cover minorities basically in the inner  
3 cities, as the Vice Chair has alluded to.

4 CHAIRPERSON BERRY: Okay, we are  
5 supposed to have a briefing, Staff Director, on  
6 Native American issues. I don't know what ever  
7 happened to that.

8 VICE CHAIR REYNOSO: But the way it came  
9 up, I thought we were going to have a briefing on  
10 Native American issues in the Native American  
11 nations, reservations and so on.

12 MS. MOORE: Right, I think it was  
13 Montana.

14 VICE CHAIR REYNOSO: Yeah, not --  
15 because John mentioned that we often forget about  
16 those rural areas. And so, in my view, that was  
17 different than the issues in the inner city and so  
18 forth. The Native American youth that happen to  
19 find themselves in the inner city have a sense that  
20 the issues are about the same.

21 But in terms surely of the reservations,  
22 it is true that different laws apply. John  
23 emphasized different issues apply very often.  
24 Unemployment rates of 70% and so on. And so I think  
25 it still would be valuable to have a briefing on

1 that.

2 MS. MOORE: And again, just to be very  
3 clear, I think, as Commissioner Lee noted, the  
4 Expanding Economic Opportunities project does  
5 indeed, in its text, include those Native Americans  
6 who are in the inner cities.

7 So we do intend to cover that.

8 VICE CHAIR REYNOSO: Right.

9 MS. MOORE: But the discussion -- the  
10 results of the discussion led us to propose a  
11 separate Native American project that didn't  
12 duplicate those that you all were considering for a  
13 briefing.

14 VICE CHAIR REYNOSO: Right.

15 CHAIRPERSON BERRY: Okay, thank you.

16 We finally have to -- so we decided to  
17 leave on this list of projects the 2001 items except  
18 for the HIV and AIDS so far. We didn't say what we  
19 wanted to do with consumer racism. And we modified  
20 gender disparities in light of the comments that  
21 Commissioner Anderson had made.

22 And Native American issues, I guess in  
23 light of the discussion we've just had, we'd leave  
24 the housing one. So that we would simply -- and the  
25 voting rights one needs to be modified consistent

1 with developments that have happened since the cases  
2 that have been decided by the Supreme Court since  
3 this Voting Rights Act proposal was written, I  
4 think.

5 So, for 2001, with those modifications,  
6 we would leave those -- would leave those proposals  
7 as they are. We haven't answered yet, as a result  
8 of this discussion -- I guess we're leaving the  
9 project decisions for 2000 as they are in view of  
10 the representations that OGC and OCRE will be able  
11 to do the projects that we agreed to, so we'll just  
12 leave those as they are.

13 Does anyone have anything else before we  
14 -- future agenda items I think is the next item on  
15 the agenda.

16 MS. MOY: Madame Chair, what did you say  
17 for financial aid for higher education?

18 CHAIRPERSON BERRY: Well, we're leaving  
19 all of those just for the time being.

#### 20 IX. Future Agenda Items

21 CHAIRPERSON BERRY: Any other items?  
22 Future agenda items?

23 MS. MOY: We just need the approval on  
24 the GAO omnibus letter. I know that you had it --

25 CHAIRPERSON BERRY: I already mentioned

1 that earlier --

2 MS. MOY: -- from Commissioner  
3 Redenbaugh.

4 CHAIRPERSON BERRY: -- and everybody  
5 agreed that it was fine, --

6 MS. MOY: All right.

7 CHAIRPERSON BERRY: -- that we could go  
8 ahead and send it.

9 MS. MOY: Okay.

10 CHAIRPERSON BERRY: I did that before  
11 Commissioner Redenbaugh left. We have some new  
12 sheets that they're going to give you with updated  
13 information on the dollar amounts for these 2000  
14 projects. They may need to revise them again  
15 consistent with the discussion we just had.

16 So we'll be sending you those numbers as  
17 soon as they revise them once again.

18 If there's nothing else, -- yes,  
19 Commissioner?

20 COMMISSIONER LEE: I do like to ask the  
21 Commission whether we can revisit the June 11th  
22 meeting date.

23 CHAIRPERSON BERRY: June 11th meeting  
24 date? Okay. You have a suggestion for a different  
25 date?

1                   COMMISSIONER LEE: The rest of the month  
2 will be open to me. I just found out that day I  
3 will be in a wedding party and I won't be able to  
4 participate either way.

5                   CHAIRPERSON BERRY: June 11th, okay. I  
6 could do it either June 6th, June -- when is the  
7 July one?

8                   MS. MOY: The May meeting is May 14th.

9                   VICE CHAIR REYNOSO: July is 9th.

10                  CHAIRPERSON BERRY: I could do it the  
11 6th, I could do it the --

12                  VICE CHAIR REYNOSO: The 4th, you mean?  
13 We're talking about June? 4th or 18th, I guess,  
14 are the options.

15                  CHAIRPERSON BERRY: 4th or 18th.

16                  VICE CHAIR REYNOSO: Looks like I can do  
17 either one.

18                  CHAIRPERSON BERRY: How about you,  
19 Commissioner Anderson?

20                  COMMISSIONER ANDERSON: Either one.

21                  CHAIRPERSON BERRY: We don't know about  
22 Russell, do we? Why don't we take a shot and pick  
23 the 18th, and then we'll check with Russell. And if  
24 that doesn't work with him, then we'll try to --  
25 we'll come back to you and ask you for something

1 else.

2 VICE CHAIR REYNOSO: And may I inquire -  
3 - I was confused on my notes on when we're having  
4 our meeting in April. I just had down a hearing for  
5 the 15th and 16th.

6 MS. MOY: The 15th.

7 VICE CHAIR REYNOSO: And are we having  
8 the meeting during that time, too?

9 MS. MOY: 15th and 16th. The 16th is  
10 the Commission meeting --

11 VICE CHAIR REYNOSO: Okay, we're having  
12 the meeting on the 16th?

13 CHAIRPERSON BERRY: In consultation at  
14 crisis is that time.

15 MS. MOY: 15th and 16th.

16 VICE CHAIR REYNOSO: Right, right.  
17 Okay, so we have the meeting on the 16th. Okay,  
18 that makes sense.

19 CHAIRPERSON BERRY: Does anyone have  
20 anything else?

21 All right, yes, we said before  
22 Commissioner Redenbaugh left that we were going to  
23 send this report to the Senate. That happened  
24 earlier, way back. Didn't we do that? Charlie's  
25 shaking her head yes.

1 Okay, then I need a motion to adjourn.  
2 VICE CHAIR REYNOSO: So moved.  
3 CHAIRPERSON BERRY: I need a second.  
4 COMMISSIONER LEE: Second.  
5 CHAIRPERSON BERRY: And it is not  
6 debateable, so, without objection, we adjourn.  
7 Thank you very much.  
8 (Whereupon, the proceedings were  
9 adjourned at 12:22 p.m.)

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