

**LIBRARY**  
U.S. COMMISSION ON CIVIL RIGHTS

+ + + + +

MEETING

+ + + + +

Friday, May 14, 1999

+ + + + +

The Commission convened in Room 540 at 624  
Ninth Street, N.W., Washington, D.C., at 11:00 a.m.,

Mary Frances Berry, Chairperson, presiding.

PRESENT:

MARY FRANCES BERRY,	Chairperson
CRUZ REYNOSO,	Vice Chairperson
CARL A. ANDERSON,	Commissioner
CHRISTOPHER EDLEY, JR.	Commissioner (Via Telephone)
YVONNE Y. LEE,	Commissioner
ELSIE M. MEEKS,	Commissioner
RUSSELL G. REDENBAUGH,	Commissioner
RUBY G. MOY,	Staff Director

STAFF PRESENT:

KIMBERLEY ALTON	
DAVID ARONSON	
DAVID CHAMBERS	
SICILIA CHINN,	Parliamentarian
KI TAEK CHUN	
PAMELA DUNSTON	
BETTY EDMINSTON	
EDWARD A. HAILES, JR.	
GEORGE M. HARBISON	
CAROL-LEE HURLEY	
FREDERICK D. ISLER	
LISA M. KELLY	
CAROLITA LITTLE	
STEPHANIE Y. MOORE,	General Counsel

NEAL R. GROSS  
COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., NW  
WASHINGTON, DC 20005-3701

(202) 234-4433

WWW.NEALRGROSS.COM

STAFF PRESENT: (continued)

MARCIA TYLER  
JEANENE WAITE  
AUDREY WRIGHT

Yoshida  
11 19 1982

COMMISSIONER ASSISTANTS PRESENT:

CHARLOTTE PONTICELLI  
KRISHNA TOOLSIE  
EFFIE TURNBULL  
MICHELLE YOSHIDA

NEAL R. GROSS  
COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., NW  
WASHINGTON, DC 20005-3701

(202) 234-4433

WWW.NEALRGROSS.COM

A-G-E-N-D-A

	<u>PAGE</u>
I. Approval of Agenda.....	4
II. Approval of Minutes of March 5, 1999 and April 16, 1999 Meetings .....	5
III. Announcements.....	8
IV. Executive Session .....	14
V. Staff Director's Report .....	21
VI. "Equal Educational Opportunity and Nondiscrimination for Minority Students: Federal Enforcement of Title VI in Ability Grouping Practices" Report ...	24
VII. State Advisory Reports for Illinois and Alaska ...	25
VIII. State Advisory Committee Appointments for Arizona, Kansas, and Minnesota .....	26
IX. Future Agenda Items .....	105

NEAL R. GROSS  
 COURT REPORTERS AND TRANSCRIBERS  
 1323 RHODE ISLAND AVE., NW  
 WASHINGTON, DC 20005-3701

(202) 234-4433

WWW.NEALRGROSS.COM

P R O C E E D I N G S

(9:32 a.m.)

AGENDA I

CHAIRPERSON BERRY: Okay. The first item on the agenda is the approval of the agenda. Could I get a motion to approve the agenda?

VICE CHAIRPERSON REYNOSO: So moved.

CHAIRPERSON BERRY: Could I get a second?

COMMISSIONER ANDERSON: Second.

CHAIRPERSON BERRY: Okay. All in favor indicate by saying 'aye'.

(Ayes)

CHAIRPERSON BERRY: Opposed? So ordered.

AGENDA II

The second item, approval of the minutes of March 5, 1999, and April 16, 1999, meetings.

Could I get a motion to approve those?

VICE CHAIRPERSON REYNOSO: So moved.

CHAIRPERSON BERRY: Second?

COMMISSIONER ANDERSON: Second.

CHAIRPERSON BERRY: Okay. Does anybody have any corrections or changes or anything they would like to add to the minutes?

Hearing none, all in favor indicate by saying 'aye'.

NEAL R. GROSS  
COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., NW  
WASHINGTON, DC 20005-3701

(202) 234-4433

WWW.NEALRGROSS.COM

1 (Ayes)

2 CHAIRPERSON BERRY: Opposed?

3 So ordered.

4 AGENDA III

5 Announcements. We have two new  
6 commissioners here with us today. Commissioner Elsie  
7 M. Meeks, South Dakota, was appointed to the  
8 Commission by Senate Minority Leader, Tom Daschle, and  
9 Commissioner Christopher Edley, Jr., Massachusetts,  
10 was appointed by House Democratic leader, Speaker --  
11 not Speaker; that is premature. Big Freudian slip.  
12 Dick Gephardt.

13 I want to welcome both of them.

14 Commissioner Meeks is an enrolled member of  
15 the Lakota Ogala, and is the first Native American  
16 ever to serve on the U.S. Civil Rights Commission.  
17 Aside from being the first Native American who ever  
18 served on the Civil Rights Commission or even more  
19 significant, I guess, in many ways, is that she has  
20 long experience as the executive director of the  
21 Lakota Fund, very interested in economic development,  
22 business and brings a lot of background and  
23 qualifications to us.

24 She ran for political office, the first  
25 time unsuccessfully. The next time she will be

NEAL R. GROSS  
COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., NW  
WASHINGTON, DC 20005-3701

(202) 234-4433

WWW.NEALRGROSS.COM

1 successful. I just want to welcome her, and I know  
2 you share that, to the Commission.

3 The other appointee is Christopher Edley,  
4 Jr. who is a professor at Harvard Law School where he  
5 has taught for a number of years.

6 He has been a policy wonk in various  
7 capacities. I have known him and his father forever,  
8 I guess.

9 He served in the Carter Administration and  
10 the Clinton Administration as associate director for  
11 the White House Office of Management and Budget. He  
12 has been special counsel to the President during the  
13 affirmative action initiative the President had.

14 So, we welcome him too as someone who  
15 brings a distinguished background and I am sure who  
16 will make a great contribution to the Commission.

17 Welcome.

18 COMMISSIONER EDLEY: Thank you.

19 CHAIRPERSON BERRY: The second item is to  
20 just mention, on the shooting in Littleton, Colorado,  
21 there were some questions raised by some staff, and  
22 Commissioners; on whether we had some role to play  
23 because there were allegations of race or religion as  
24 a basis for some of the shooting that took place  
25 there.

NEAL R. GROSS  
COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., NW  
WASHINGTON, DC 20005-3701

(202) 234-4433

WWW.NEALRGROSS.COM

1           The regional office has been, through John  
2 Dulles, monitoring what is going on there. There  
3 doesn't seem to be anything in particular that we can  
4 do at this time. There might be some meetings that  
5 John might have with the parents there who might be  
6 interested, at a later time. But it is too soon for  
7 that sort of thing.

8           But the staff will continue to monitor what  
9 is going on there for any aspect that relates to civil  
10 rights concerns.

11           The New York hearing is on May 26 in New  
12 York. We have a site, but that might change. We will  
13 know exactly where it will be early next week. But it  
14 is going to be in New York City on May 26.

15           You have been given a witness list, which I  
16 hope you received confidentially. We don't want to  
17 publish the witness list is what I mean by  
18 confidentially.

19           The person that you recommended, only one  
20 of you recommended anybody, was included on the list.

21           You should have a list somewhere.

22           Charlie is nodding her head so she knows  
23 about it.

24           So, that hearing is all scheduled for one  
25 day in New York.

                  NEAL R. GROSS  
                  COURT REPORTERS AND TRANSCRIBERS  
                  1323 RHODE ISLAND AVE., NW  
                  WASHINGTON, DC 20005-3701

1           The other is that we had a very successful  
2 consultation on the crisis of Young African-American  
3 Males in the City. The video of it is on our web  
4 site.

5           We got very wide press coverage. Two or  
6 three AP wire stories that were published around the  
7 country. There was mention of it on various  
8 television shows. There have been columns written by  
9 various reporters commenting on how it fit in with  
10 various things they were writing.

11           I have been asked to go over to meet with  
12 the Attorney General and the Deputy Attorney General  
13 to discuss some initiatives for employment of young  
14 males coming out of prison.

15           This is a real crisis because the numbers  
16 show that with the number of African-Americans and  
17 Latinos, especially young males who are being  
18 arrested, and increasingly, young women, that over the  
19 next few years, a lot of them are going to be coming  
20 out of prison.

21           The question is what are they going to be  
22 doing? Will they have jobs? Many of them don't have  
23 very good education. And coming from the areas where  
24 they come from, the Justice Department is concerned  
25 about recidivism and about the impact on crime

NEAL R. GROSS  
COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., NW  
WASHINGTON, DC 20005-3701

(202) 234-4433

WWW.NEALRGROSS.COM

1 problems, as well as opportunity for people.

2 So, this is an issue that we have touched  
3 at the right time. As you know, we have also planned  
4 work on the crisis among Latinos and young Asian  
5 Pacific Islander male youngsters as additional work  
6 that we will be doing.

7 The Los Angeles press conference that we  
8 had scheduled and then had to change the date because  
9 some commissioners asked that it be changed, but  
10 before we could have the press conference, someone  
11 leaked the report. We think the police did it but we  
12 are not sure.

13 Someone leaked the report to the L. A.  
14 *Times* so the L. A. *Times* did a story on it. We didn't  
15 comment on it because we were waiting for the press  
16 conference.

17 The story in the L. A. *Times* focused on the  
18 recommendation to have a special prosecutor. You  
19 should have gotten copies of the clips. But the story  
20 pretty much implied negative comments about the  
21 report; not totally negative, but some.

22 Then they did an editorial in which they  
23 argued that we should have not recommended a special  
24 prosecutor or they had some doubts about it.

25 After that, the L. A. *Daily News* wrote a

NEAL R. GROSS  
COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., NW  
WASHINGTON, DC 20005-3701

1 story where they quoted various people who thought it  
2 was a great idea and there definitely was a need for a  
3 special prosecutor.

4 The timing on it is all these stories came  
5 out right when the Taisha Miller case in Riverside,  
6 where the D.A. there decided not to prosecute. There  
7 were all these people there protesting the decision.

8 So, it then seemed that our recommendation  
9 that, in order to maintain public confidence, without  
10 fingering any particular D.A., it might be a good idea  
11 to review some other mechanism for making these  
12 decisions.

13 The A.P. then called and they did a bunch  
14 of wire stories on our report and our recommendation  
15 which were published in various newspapers.

16 CNN called and I did a spot for them on our  
17 report. Cruz did some television out in California.

18 So, without having a press conference, I  
19 guess we got about as much press on it as we could  
20 have expected even if we had had a press conference,  
21 although we were not able to control our own message  
22 on this.

23 The Office of Personnel Management is doing  
24 a routine audit, not an audit requested by anybody, as  
25 they do government agencies according to a cycle.

1           What they are supposed to do is review  
2 operations and then make recommendations that may be  
3 helpful to you.

4           So, they just finished one with us and will  
5 be giving us their findings. Yesterday they asked to  
6 talk to me, and Cruz was here so the two of them  
7 talked to us and they just asked us questions.

8           Most of them were about things we didn't  
9 know anything about. They seemed to think we were  
10 here everyday running something which didn't make any  
11 sense.

12           But they basically told us they thought the  
13 operation was run pretty well, had really  
14 significantly improved since the last audit. These  
15 were not the same people; they were different people  
16 from a different office.

17           They were pleased with what they found and  
18 that would be reflected in their report, although they  
19 might have a few recommendations.

20           I have no other announcements. Oh, on Los  
21 Alamos, New Mexico, there were some concerns about the  
22 impact of the situation with Dr. Wen Ho Lee who is a  
23 naturalized American citizen, although he was born in  
24 Taiwan and all that publicity around intelligence  
25 matters and China, and Los Alamos, and the Energy

NEAL R. GROSS  
COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., NW  
WASHINGTON, DC 20005-3701

(202) 234-4433

WWW.NEALRGROSS.COM

1 Department might have on Asian-Americans in the United  
2 States.

3 It has been our experience here at the  
4 Commission that whenever somebody from some group is  
5 targeted as having done something there is a tendency  
6 on the part of some people to start scape-goating  
7 folks and making comments about all people.

8 So, there was some concern. Phil Montez,  
9 at the Western Regional Office, hasn't received any  
10 complaints about Asian-American employees being  
11 harassed at Los Alamos or any other concerns yet, but  
12 he will monitor this situation.

13 Does anybody have any comments on any of  
14 the announcements or anything that I have said, before  
15 I go on?

16 Okay.

17 We will now have a very brief, I say brief  
18 for the benefit of the people who are sitting here,  
19 executive session to discuss a personnel matter.

20 MS. CHINN: Madam Chair, what are the  
21 grounds for closing the session to the public?

22 CHAIRPERSON BERRY: We are going to discuss  
23 a sensitive personnel matter concerning an individual.

24 MS. CHINN: Is there a motion to close the  
25 session?

1 CHAIRPERSON BERRY: Yes, I need a motion.

2 VICE CHAIRPERSON REYNOSO: So moved.

3 CHAIRPERSON BERRY: Second?

4 COMMISSIONER REDENBAUGH: Second.

5 CHAIRPERSON BERRY: Okay

6 MS. CHINN: I certify that pursuant to  
7 exemptions number 2 and 6 of the Government In the  
8 Sunshine Act which permit closure of the matter (2)  
9 relate solely to the internal personal rules and  
10 practices of an agency or (6) concerns information of  
11 a personal nature where disclosure would constitute a  
12 clearly unwarranted invasion of privacy, the session  
13 may be closed to the public.

14 CHAIRPERSON BERRY: Okay. Should I say all  
15 in favor say 'aye' or just move on?

16 All in favor say 'aye'.

17 (Ayes).

18 CHAIRPERSON BERRY: This will be short.

19 (Whereupon, the session was closed at 9:46  
20 a.m. and reopened at 10:03 a.m.)

21

22

(10:03 a.m.)

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

## AGENDA V

CHAIRPERSON BERRY: Next on the Agenda is the Staff Director's report. Does anyone have any questions, comments or things they would like to know about this report.

COMMISSIONER LEE: Madam Chair, I have a question for the Staff Director.

CHAIRPERSON BERRY: Yes?

COMMISSIONER LEE: For the objectives in Hawaii, I noticed the SACs members were doing the reports instead of the staff. Is there a reason for that?

STAFF DIRECTOR MOY: I'm sorry?

COMMISSIONER LEE: The Texas and Hawaii SACs, the SAC members were doing the draft of the reports instead of the staff members. I would just like to know whether that was because of staff shortage in that region or are the SAC members supposed to do the report themselves?

STAFF DIRECTOR MOY: Usually it is a combination of both. And, yes, I think there are two vacancies we have in that office right now.

COMMISSIONER LEE: So, you think the SAC members chose to do the reports for those two SACs?

NEAL R. GROSS  
COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., NW  
WASHINGTON, DC 20005-3701

(202) 234-4433

WWW.NEALRGROSS.COM

1 STAFF DIRECTOR MOY: Well, I think so.

2 COMMISSIONER LEE: Because I just want to  
3 make sure it was not due to a staff shortage.

4 STAFF DIRECTOR MOY: Maybe Carol-Lee could  
5 answer that.

6 MS. HURLEY: It is largely because there is  
7 a staff shortage. One of the civil rights analysts  
8 left and has not been replaced yet. She handled both  
9 of those states, so that is the reason why.

10 CHAIRPERSON BERRY: You mean the actual SAC  
11 members have to sit down and write things as they are  
12 done?

13 MS. HURLEY: That is the way it has been  
14 reported.

15 In the Texas case there was a draft of the  
16 report and I assume they are working to revise that  
17 draft.

18 In Hawaii, the staff member left shortly  
19 after the forum was held and I don't really have any  
20 details on precisely what is happening except what  
21 Phil has reported.

22 CHAIRPERSON BERRY: We once discussed  
23 whether we ought to have a pool here at headquarters,  
24 and staff that wrote reports for the state advisory  
25 committees. One time, a long time ago we discussed

NEAL R. GROSS  
COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., NW  
WASHINGTON, DC 20005-3701

1 this because there were some states that didn't have  
2 people from the regional office to write reports and  
3 the SACs felt that that was unfair since they are  
4 serving as volunteers and then they couldn't get their  
5 reports written.

6 So, we talked about whether it would be a  
7 good idea to have staff members here at headquarters  
8 to do the writing. I think that discussion was in  
9 connection with whether we ought to have the regional  
10 offices have simply a representative.

11 Given the fact that we have all kinds of  
12 hook-ups now, conferencing and various things so that  
13 people don't actually have to go places to be there.  
14 I don't know if any of you remember that discussion;  
15 it was a long time ago.

16 One staff member has to go to a SAC meeting  
17 in order for them to have a SAC meeting, right?

18 VICE CHAIRPERSON REYNOSO: Yes.

19 CHAIRPERSON BERRY: So we talked once about  
20 whether we could, through tele-conferencing, have all  
21 the staff in one place and then have them tele-  
22 conference into whatever SAC meeting, particularly in  
23 the western region where they have all those places to  
24 go and the staff is very small, whether that made any  
25 sense.

NEAL R. GROSS  
COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., NW  
WASHINGTON, DC 20005-3701

1           We also talked about whether it made any  
2 sense to have sort of a central staff to team up and  
3 write reports. I think that is worth revisiting. It  
4 does seem to me that there ought to be some way,  
5 technologically, to use all of these new methods.  
6 Other people seem to use it in ways to maximize the  
7 utility of persons.

8           There ought to be some way that we could do  
9 that, too. Or is that sort of utopian to even suggest  
10 such a thing?

11           Would any of you have any interest in or  
12 support our asking our Staff Director, along with  
13 Carol-Lee, to sit down and try to figure out if there  
14 is some better way to do this?

15           Because it hardly seems to me to be  
16 reasonable to do otherwise.

17           COMMISSIONER REDENBAUGH: Yes. No, I would  
18 support that. The exploration is timely and it is  
19 beneficial to take advantage of some of these  
20 technologies, even if there is some uncertainty about  
21 who invented them, we ought to use them anyway.

22           CHAIRPERSON BERRY: Yes, I think Mr. Gore's  
23 invention should be used by all people.

24           Okay.

25           COMMISSIONER ANDERSON: I would say we

                  NEAL R. GROSS  
                  COURT REPORTERS AND TRANSCRIBERS  
                  1323 RHODE ISLAND AVE., NW  
                  WASHINGTON, DC 20005-3701

1 ought to explore using whatever technology we can to  
2 make us more effective.

3 One caveat regarding the pooling of staff  
4 to write reports in the region, we did have a series  
5 of reports on affirmative actions coming out of one  
6 region, as I recall, that sounded an awful lot alike.

7 Now, without saying whether or not those  
8 were all written by the same person or not, that is  
9 one issue that then comes to the fore, and at least it  
10 is my opinion, if we start the central staff writing  
11 the reports.

12 So, I think we need to maybe put that issue  
13 to the side and look at that independently.

14 But in terms of how we can utilize  
15 technology so that people particularly in the West are  
16 not traveling all over the place, I think is a very  
17 good idea.

18 CHAIRPERSON BERRY: Maybe if we could  
19 figure out a way so that they didn't have to travel  
20 all over the place, they would be more available to  
21 write reports.

22 Anyway, I think it is worth a look to see  
23 what we can come up with.

24 Anything else on the Staff Director's  
25 report?

NEAL R. GROSS  
COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., NW  
WASHINGTON, DC 20005-3701

1 Okay. Then let's go on to the next item.

2 AGENDA VI

3 This is a report on "Equal Educational  
4 Opportunity and Nondiscrimination for Minority  
5 Students: Federal Enforcement of Title VI in Ability  
6 Grouping Practices" report.

7 Fred, could you come up? It is your  
8 report, you and David Chambers.

9 So, if anyone wants to ask you any  
10 questions, they may do so.

11 Could I get a motion to approve this  
12 report?

13 VICE CHAIRPERSON REYNOSO: So moved.

14 CHAIRPERSON BERRY: Second?

15 COMMISSIONER LEE: Second.

16 CHAIRPERSON BERRY: Discussion, questions  
17 for Fred or David about this report?

18 No questions.

19 COMMISSIONER EDLEY: Excuse me, Mary?

20 CHAIRPERSON BERRY: Yes, Christopher?

21 COMMISSIONER EDLEY: In approval of this,  
22 there will be a little copy editing for typos and so  
23 forth?

24 CHAIRPERSON BERRY: Right. It is always  
25 understood that if commissioners have changes that do

1 not affect the substance of the report, the  
2 commissioners may submit those changes before the  
3 report is done.

4 COMMISSIONER EDLEY: I just want to commend  
5 the staff work.

6 CHAIRPERSON BERRY: You are being  
7 commended; smile. It doesn't happen very often.

8 (Laughter)

9 VICE CHAIRPERSON REYNOSO: May the record  
10 show that the staff smiled.

11 CHAIRPERSON BERRY: All those in favor of  
12 approval of this report indicated by saying 'aye'.

13 (Ayes)

14 CHAIRPERSON BERRY: Opposed?

15 COMMISSIONER ANDERSON: No.

16 CHAIRPERSON BERRY: Okay. Let's do it this  
17 way.

18 Commissioner Anderson?

19 COMMISSIONER ANDERSON: No.

20 CHAIRPERSON BERRY: Commissioner Berry?

21 Yes.

22 CHAIRPERSON BERRY: Commissioner Edley?

23 COMMISSIONER EDLEY: Yes.

24 CHAIRPERSON BERRY: Commissioner Lee?

25 COMMISSIONER LEE: Yes.

NEAL R. GROSS  
COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., NW  
WASHINGTON, DC 20005-3701

1 CHAIRPERSON BERRY: Commissioner Meeks?

2 COMMISSIONER MEEKS: Yes.

3 CHAIRPERSON BERRY: Commissioner  
4 Redenbaugh?

5 COMMISSIONER REDENBAUGH: Yes.

6 CHAIRPERSON BERRY: Vice Chair Reynoso?

7 VICE CHAIRPERSON REYNOSO: Yes.

8 CHAIRPERSON BERRY: So, it passes by 6 to  
9 1. Thank you very much. And I commend you Fred and  
10 David and the rest of your staff.

11 AGENDA VII

12 Now, we go to the State Advisory Committee  
13 reports. There are three of them and maybe we should  
14 take them one at a time.

15 "Civil Rights Issues Facing the Blind and  
16 Visually Impaired in Illinois", could I get a motion  
17 to approve that report?

18 VICE CHAIRPERSON REYNOSO: So moved.

19 CHAIRPERSON BERRY: Okay, second?

20 VICE CHAIRPERSON ANDERSON: Second.

21 CHAIRPERSON BERRY: Any discussion on this  
22 report on "Civil Rights Issues Facing the Blind and  
23 Visually Impaired in Illinois"?

24 Any comments, questions?

25 COMMISSIONER REDENBAUGH: Yes. I wanted to

NEAL R. GROSS  
COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., NW  
WASHINGTON, DC 20005-3701

1 say something of a complimentary nature.

2 If you remember it was the Illinois SAC  
3 which two or three years ago did an issue on the civil  
4 rights facing the deaf.

5 So, the Illinois staff seems to have a  
6 particular interest in physical disabilities and civil  
7 rights and I wanted to commend them, I guess for  
8 obvious reasons.

9 CHAIRPERSON BERRY: Yes, they ought to be  
10 commended because these are important issues and for  
11 staying on top of them.

12 COMMISSIONER REDENBAUGH: Yes that is well  
13 said. That is what I meant. I thought they did a  
14 good job on presenting the problems in a balanced  
15 approach.

16 CHAIRPERSON BERRY: All in favor of  
17 approval of this report say 'aye'.

18 (ayes)

19 CHAIRPERSON BERRY: Opposed?

20 Unanimous, so ordered.

21 The second report is also by Illinois. It  
22 is called "Police Protection of the African-American  
23 Community in Chicago: An Update."

24 Could I get a motion to approve it?

25 COMMISSIONER ANDERSON: So moved.

NEAL R. GROSS  
COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., NW  
WASHINGTON, DC 20005-3701

1 COMMISSIONER REDENBAUGH: Second.

2 CHAIRPERSON BERRY: Any discussion?

3 VICE CHAIRPERSON REYNOSO: Again, Madam  
4 Chair, I think it is well done and quite balanced in  
5 recognizing the needs of the police department and the  
6 needs of the community and how they could work  
7 together.

8 CHAIRPERSON BERRY: I think so.

9 COMMISSIONER EDLEY: May I make a short  
10 comment?

11 CHAIRPERSON BERRY: Yes, Commissioner  
12 Edley.

13 COMMISSIONER EDLEY: I agree, very  
14 informative and interesting. I had a little ripple of  
15 anxiety that is methodological in nature.

16 The interviews and the testimony from  
17 hearings that is included and becomes the basis for  
18 findings and recommendations, and obviously one should  
19 base findings and recommendations on the testimony and  
20 interviews that come in, but you can't help but worry  
21 about the representativeness of the folks who agree to  
22 participate in the hearing, et cetera.

23 When I step back away from it, it seems  
24 balanced and it seems solid, but perhaps the only  
25 thing I can say, constructively, as a general matter,

NEAL R. GROSS  
COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., NW  
WASHINGTON, DC 20005-3701

1 as the advisory committees are collecting evidence,  
2 collecting testimony, is there any work with the  
3 Washington-based staff, the regional staff, that there  
4 is effective outreach to make sure that the full range  
5 of views are heard, and that findings indeed reflect  
6 the weight of the evidence rather than picking and  
7 choosing from the evidence that has been received?

8 CHAIRPERSON BERRY: That is a very good  
9 question, Christopher, and almost everyone who joins  
10 the Commission asks the same question.

11 COMMISSIONER EDLEY: Okay.

12 CHAIRPERSON BERRY: We have discussed it  
13 before, numerous times.

14 When I first joined the Civil Rights  
15 Commission, longer ago than any of us wants to  
16 remember, I had big arguments with the folks who were  
17 running things then because they didn't think it was  
18 necessary to include the views or perspectives of  
19 people they disagreed with in reports.

20 I kept pointing out to them that they had  
21 to cite the literature and the views of people they  
22 disagreed with in order to challenge them.

23 To do that in the reports so that the  
24 reports had credibility because other people knew  
25 other people had other views, so it was silly not to

1 put it in there.

2 They would say, why should we give audience  
3 to their views? When the other political people are  
4 in charge, they don't give audience to our views.

5 Anyway, we fought this battle, and I think  
6 they began to have more balance. When I say balance,  
7 I don't mean just putting things in because they seem  
8 to be different, but creditable views that seem to  
9 have some rational basis of support.

10 But on the state advisory reports, yes,  
11 they do work with the regional staff. It is the  
12 regional staff that does the most of the work for the  
13 State Advisory Committees.

14 One of their problems is that, unlike us,  
15 they don't have subpoena power, when we have hearings  
16 we can usually get the people we need or want.

17 They reach out to get people for their  
18 meetings or forums, and very often some of the people  
19 they would like to have won't come, or can't come, or  
20 won't get involved.

21 So, over the years, individual  
22 Commissioners and collectively, talked about this and  
23 urged that it be done and there are balance  
24 requirements that we try to follow.

25 But it is one of the problems with forums

1 and I opposed forums when they were first approved by  
2 the Commission some years ago because I thought that  
3 State Advisory Committee reports should be based on  
4 research. . .

5 COMMISSIONER EDLEY: Yes.

6 CHAIRPERSON BERRY: . . .and investigation.  
7 And if they were research and investigation, then they  
8 would need to go out and find all the different  
9 materials.

10 But the idea then was that it was cheaper  
11 to do forums and the Commission's budget had been cut.

12 They tried to get people on all sides, but opened it  
13 up to whoever is there.

14 So, in part it is a resource issue.

15 The regional staff is principally  
16 responsible for reaching out.

17 Have I got that right, Carol-Lee?

18 MS. HURLEY: That's right.

19 CHAIRPERSON BERRY: Carol-Lee says I have  
20 that right. She runs the regional operations here.

21 When we get reports we often wonder why  
22 they don't have more views from this or that person or  
23 reflect what we know is in the literature.

24 But they do reflect the people who  
25 participate, what they said and after their best

1 efforts to get people to come in.

2 Whether we want to augment that by having  
3 materials added for media accounts, research and so  
4 on, is a different issue.

5 Some commissioners had been opposed to the  
6 augmentation of the record of the proceeding by  
7 materials that come from other sources. Other  
8 commissioners have not been.

9 COMMISSIONER EDLEY: Oh.

10 You raise a valid point; it has been  
11 discussed before.

12 CHAIRPERSON BERRY: Commissioner  
13 Redenbaugh?

14 COMMISSIONER REDENBAUGH: My own view is  
15 very similar to yours, that often one can't always get  
16 appropriate spokespeople for the points of view that  
17 should be reflected.

18 As you have just done, I would underscore  
19 the importance, in those cases, to summarize and cite  
20 the literature so that the report, by itself, is  
21 balanced with respect to the arguments, particularly  
22 on a very controversial issue.

23 CHAIRPERSON BERRY: Uh-huh. Commissioner  
24 Anderson?

25 COMMISSIONER ANDERSON: Well, I would say

NEAL R. GROSS  
COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., NW  
WASHINGTON, DC 20005-3701

1 this is something that you are going to have to decide  
2 for yourself.

3 I think given the resources of our State  
4 Advisory Committees, that the work product is quite  
5 good in over ninety per cent of the cases, from my  
6 experience. Other members of the Commission may  
7 differ and see it at a much higher level.

8 But I think the question regarding balance  
9 and the question regarding scholarship we need to ask  
10 every single time we get reports from the SACs.

11 We may always come out differently on it.  
12 The fact that new members of the Commission may ask  
13 this question doesn't mean that somehow it is  
14 redundant, I think it means it is something we have to  
15 do every time we see a report.

16 We may come down differently on our  
17 judgment, but I think it is something that we have to  
18 do.

19 CHAIRPERSON BERRY: Yes, Vice Chair.

20 VICE CHAIRPERSON REYNOSO: Madam Chair, I  
21 recall that last year that several times we have had  
22 these sort of questions when a report came to us and  
23 wondered if indeed the local SAC had invited folk with  
24 various views and we asked for a list of folk they had  
25 contacted.

NEAL R. GROSS  
COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., NW  
WASHINGTON, DC 20005-3701

1 Invariably, they had contacted folk with  
2 various views but some failed to show up.

3 So, I think we should possibly discuss this  
4 anew, but we may be close to a consensus because I  
5 happen to agree with Russell, that for a variety of  
6 reasons, sometimes folk with different views don't  
7 come to an informal hearing like this and I think a  
8 report should reflect those views and the staff ought  
9 to feel free to look at the literature so that we get  
10 a more complete understanding of the issue, which in  
11 turn forms a more experienced or educated basis for  
12 their recommendations.

13 But I have been impressed with the fact  
14 that the staff have really followed the guidelines of  
15 inviting folk with different views.

16 CHAIRPERSON BERRY: The short answer is,  
17 and to maybe tie this up, is simply this is a question  
18 that should be asked at the staff level before we ever  
19 get the report.

20 In other words, the staff should have  
21 assured itself that yes, they have reached out to find  
22 all the different people who could come in. Yes, we  
23 have augmented the report where necessary to reflect  
24 all views in a controversial issue.

25 If it is not controversial, you would

NEAL R. GROSS  
COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., NW  
WASHINGTON, DC 20005-3701

1 wonder why the SAC was even bothering with it.

2 Also, we must keep in mind, after we get  
3 the report, that the SACs are volunteers who put their  
4 time and energies into this and we want to be as  
5 respectful as possible of this time and energy they  
6 put in.

7 COMMISSIONER EDLEY: Madam Chair?

8 CHAIRPERSON BERRY: Yes.

9 COMMISSIONER EDLEY: This has been very  
10 helpful. My larger concern is not so much with  
11 people's views and opinions, as it is with things that  
12 are of a more factual nature.

13 For example, I am delighted to approve this  
14 report. As a general matter, I would just hope that  
15 the staff makes sure when it comes to something of a  
16 factual nature, that the staff takes steps to make  
17 sure that the record is fair and accurate, not just in  
18 a journalistic sense of being balanced.

19 CHAIRPERSON BERRY: Okay. Hearing a call  
20 for the question.

21 All those in favor of approving the  
22 Illinois report, "Police-Protection of the African-  
23 American Community in Chicago: An Update" say 'aye'.

24 (Ayes)

25 CHAIRPERSON BERRY: Opposed?

NEAL R. GROSS  
COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., NW  
WASHINGTON, DC 20005-3701

1 So ordered.

2 The next one is "Alaskan Natives and Other  
3 Minorities in the Special Education Program of Four  
4 Alaskan Districts."

5 COMMISSIONER ANDERSON: Madam Chair, I  
6 thought the report was well done, but I have a few  
7 matters I would like the SAC to consider in terms of  
8 the tables that are included and a few other minor  
9 matters.

10 I wonder whether we might put this report  
11 over for a month?

12 CHAIRPERSON BERRY: Are these matters  
13 generally that the staff, in looking at it, will be  
14 able to work out?

15 VICE CHAIRPERSON REYNOSO: I think so.

16 CHAIRPERSON BERRY: Well, if there is no  
17 objection, why don't we just table it and put it on  
18 for the next time.

19 AGENDA VIII

20 CHAIRPERSON BERRY: We go on to the next  
21 item which is the State Advisory Committee  
22 Appointments for Arizona, Kansas and Minnesota.

23 COMMISSIONER EDLEY: Madam Chair, may I  
24 absent myself?

25 CHAIRPERSON BERRY: Yes, you may.

NEAL R. GROSS  
COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., NW  
WASHINGTON, DC 20005-3701

1 COMMISSIONER EDLEY: Thank you.

2 VICE CHAIRPERSON REYNOSO: Thank you.

3 COMMISSIONER REDENBAUGH: Thank you very  
4 much.

5 CHAIRPERSON BERRY: State Advisory  
6 Committee Appointments for Arizona, Kansas and  
7 Minnesota.

8 Could I get a --

9 COMMISSIONER REDENBAUGH: So moved.

10 CHAIRPERSON BERRY: Could I get a second?

11 VICE CHAIRPERSON REYNOSO: Second.

12 CHAIRPERSON BERRY: Any discussion,  
13 comments, concerns?

14 Yes, Commissioner Lee?

15 COMMISSIONER LEE: I just have a concern  
16 regarding Arizona.

17 I don't have any particular problem  
18 concerning the recommendations, but I do want to raise  
19 a question.

20 In Arizona, they are proposing to increase  
21 the SAC membership from 16 to 17, and I know we had  
22 this discussion earlier regarding how increasing SAC  
23 will have the physical impact on the regional budget  
24 and that particular SAC's budget, if they have any.

25 I just met with the Hawaiian SAC members

NEAL R. GROSS  
COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., NW  
WASHINGTON, DC 20005-3701

1 last week, and they mentioned that because of  
2 budgetary constraints, they were not able to meet more  
3 than once a year.

4 So, if we have other SACs for really good  
5 legitimate reasons, they want to have a better  
6 balance, in this case they want to bring in younger  
7 members to the staff, but given the fact that we are  
8 not going to have any more increase in the budget how  
9 will that affect the overall SAC activities if you  
10 will continue to increase SAC members?

11 VICE CHAIRPERSON REYNOSO: I thought  
12 Congress was going to double our budget.

13 CHAIRPERSON BERRY: Right. Hold your  
14 breath.

15 Staff Director, what is the answer to  
16 Commissioner Lee's question?

17 STAFF DIRECTOR MOY: Yes, it will impact.  
18 As you know, our Western Regional Office is lacking in  
19 two staff members. The position is being posted as we  
20 speak. That was for a civil rights analyst.

21 But as we increase SAC members it will  
22 definitely impact the budget, and we will just have to  
23 reconfigure, if that is what you want to do.

24 COMMISSIONER LEE: So, does each SAC have  
25 its own budget?

NEAL R. GROSS  
COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., NW  
WASHINGTON, DC 20005-3701

1 STAFF DIRECTOR MOY: No.

2 COMMISSIONER LEE: So, for instance if  
3 Arizona is going to increase one member or other  
4 Western region SACs want to increase SAC members, does  
5 it negatively impact their SAC activities? How does  
6 that work?

7 STAFF DIRECTOR MOY: When they have SAC  
8 meetings, not all SAC members go, otherwise the budget  
9 would be out of sight.

10 What we will have to do is revisit the  
11 request of the commissioners to add additional  
12 volunteers because we have to pay for their expenses,  
13 and come to some sort of agreement on how many members  
14 you all want.

15 Right now it is between 11 and 18.

16 I know that in the larger states, we want  
17 to have the most.

18 Sorry about that; my voice is gone.

19 CHAIRPERSON BERRY: Commissioner  
20 Redenbaugh?

21 COMMISSIONER REDENBAUGH: Yes, it looks  
22 like we have a little mission creep going on here.

23 Isn't 11 considered a full complement and  
24 we have made exceptions in some big states like  
25 California where there are so many people and a lot of

NEAL R. GROSS  
COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., NW  
WASHINGTON, DC 20005-3701

(202) 234-4433

WWW.NEALRGROSS.COM

1 territory?

2 But isn't 11 the standard?

3 CHAIRPERSON BERRY: So, how many SACs have  
4 over 11?

5 VICE CHAIRPERSON REYNOSO: Many.

6 CHAIRPERSON BERRY: How many have 11?

7 MS. HURLEY: I can not give you an accurate  
8 answer to that. I would say that more SACs range from  
9 12 to 14, than over 14. There are some probably ten  
10 or twelve that are 11 members.

11 We have looked at many considerations for  
12 size, and there is no way to do it in proportion to  
13 the state population. You can't work out any  
14 mechanical method of providing representation because  
15 the difference between the size of the population in  
16 say, Wyoming, and California, is so extreme that you  
17 would have a California committee of 50 to 60 members  
18 if you tried to work a mathematical  
19 representation.

20 When you look at the costs of meetings, it  
21 varies enormously by where the meeting is held.

22 Meetings in Alaska are very expensive, both  
23 for the members to come and for the staff to get to  
24 Alaska.

25 Meetings in Connecticut are very cheap.

**NEAL R. GROSS**  
COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., NW  
WASHINGTON, DC 20005-3701

(202) 234-4433

WWW.NEALRGROSS.COM

1 Hardly any of the members ever give us any travel  
2 charges, so the main cost is for the staff to go up  
3 there.

4 As the Staff Director has said, not all  
5 members attend every meeting.

6 Arizona happens to be relatively  
7 inexpensive to meet in because people don't have to  
8 fly from all parts of the state to get to where the  
9 meeting is held. The same is true for Nevada.

10 Yes, Commissioner?

11 COMMISSIONER REDENBAUGH: Yes, Carol. I  
12 gather then that in dealing with this issue it is your  
13 sense that you need 16 in Arizona to fulfill the  
14 requirement and match constituencies?

15 MS. HURLEY: Given the requests of the  
16 Commissioners and given the fact that the members who  
17 have been reappointed have all been active  
18 participants, I think that should be a factor in  
19 continuing them on rather than just removing them to  
20 meet the need to put in a person of a particular  
21 ethnicity or age or religion.

22 If they are not active, then sure.

23 COMMISSIONER REDENBAUGH: That makes it  
24 easy, doesn't it. Well, I will support your request  
25 for this.

1 CHAIRPERSON BERRY: Yes, Vice Chair?

2 VICE CHAIRPERSON REYNOSO: Madam Chair, I  
3 would just like to remind us of a discussion that we  
4 had where I had been raising a concern about  
5 representation of young people.

6 We agreed sometime back that I would not  
7 vote against confirming that SAC but that there would  
8 be an understanding that younger people would be added  
9 to the SAC.

10 So, there would be an extra expense,  
11 presumably, if an extra person was added to the SAC.

12 On the other hand, when a person resigned,  
13 there need not be a replacement, so those cost factors  
14 may be taken into account as the membership of the  
15 individual SACs changes.

16 That is my understanding. Is that correct?

17 MS. HURLEY: So long as the person who  
18 resigns isn't one of the few members -- let's say we  
19 have more democrats on a committee and two republicans  
20 resign, we are going to look for republicans or  
21 independents.

22 VICE CHAIRPERSON REYNOSO: My only point  
23 was that those matters can be taken into account as  
24 there is a change in the membership.

25 CHAIRPERSON BERRY: Okay, so should we go

1 ahead and approve these? Does any one have any  
2 comments or questions about Arizona, Kansas and  
3 Minnesota?

4 COMMISSIONER MEEKS: I just have a question  
5 yet on the number. How often has this been raised, as  
6 in the case of Arizona?

7 CHAIRPERSON BERRY: How many times has the  
8 number been an issue before us? I don't remember.

9 MS. HURLEY: You have all discussed it  
10 perhaps three or four times in the last six or eight  
11 years.

12 After you all decided in I think 1990 that  
13 the number should range from 11 to 19 as the maximum  
14 in a very few cases.

15 CHAIRPERSON BERRY: Does that answer your  
16 question?

17 So, it comes up from time to time when  
18 someone notices that a number in some state is a  
19 particular number then there are resource concerns.

20 It is a continuing problem because we don't  
21 have enough money to fund them then they worry about  
22 expenses and then it comes up again.

23 Okay, then in that case, all those in favor  
24 of approving these appointments say 'aye'.

25 (Ayes)

NEAL R. GROSS  
COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., NW  
WASHINGTON, DC 20005-3701

1 CHAIRPERSON BERRY: Opposed?

2 So ordered.

3 AGENDA IX

4 We need to change the dates of the  
5 Commission meetings in September and October.

6 The meeting in September is on the tenth,  
7 and we need to change it, if possible, to either  
8 September 17 or September 3 if possible.

9 Does anyone have any particular views on  
10 this?

11 COMMISSIONER LEE: I cannot do it on  
12 September 3 so I would prefer September 17.

13 CHAIRPERSON BERRY: Okay.

14 How are you on September 17, Carl?

15 COMMISSIONER ANDERSON: I am equally bad  
16 for both, so I defer to September 17.

17 CHAIRPERSON BERRY: There is no other date?

18 VICE CHAIRPERSON REYNOSO: September 17  
19 looks fine to me.

20 CHAIRPERSON BERRY: And I am also going to  
21 ask you about changing the October meeting from  
22 October 8 to either October 15 or October 1, depending  
23 on when the September meeting was.

24 COMMISSIONER ANDERSON: The first would  
25 work for me.

1 CHAIRPERSON BERRY: Okay.

2 COMMISSIONER MEEKS: So, was there a  
3 consensus?

4 CHAIRPERSON BERRY: I am waiting for  
5 Commissioner Redenbaugh to finish looking at his  
6 schedule.

7 COMMISSIONER REDENBAUGH: Okay, I can do  
8 September 17.

9 CHAIRPERSON BERRY: Okay, can you do  
10 September 17, Elsie?

11 COMMISSIONER MEEKS: Yes.

12 CHAIRPERSON BERRY: How about you, Cruz?

13 VICE CHAIRPERSON REYNOSO: Yes.

14 CHAIRPERSON BERRY: And Carl may or may  
15 not.

16 COMMISSIONER ANDERSON: I don't object.

17 CHAIRPERSON BERRY: So, we will move the  
18 September meeting to September 17.

19 Which October date did you say you could  
20 do, Carl?

21 COMMISSIONER ANDERSON: The first would be  
22 better for me, but maybe that is too close.

23 VICE CHAIRPERSON REYNOSO: On the other  
24 hand, November is early also, on the fifth.

25 CHAIRPERSON BERRY: Yom Kippur is on

1 September 19 at sundown so September 17 is okay.

2 Now, Carl you say October 1 was better,  
3 that would be three weeks after the September meeting.

4 How do October 1 and 15 look over here?

5 VICE CHAIRPERSON REYNOSO: October 1 is  
6 okay, October 15 is not.

7 CHAIRPERSON BERRY: How about you Elsie and  
8 Yvonne?

9 COMMISSIONER MEEKS: Oh, I think for me  
10 October 15 would be better, but I could probably deal  
11 with the October 1.

12 CHAIRPERSON BERRY: Yvonne?

13 COMMISSIONER LEE: Yes, October 15 is  
14 better, but we have a short meeting on October 1.

15 CHAIRPERSON BERRY: Russell?

16 COMMISSIONER REDENBAUGH: October 15 is  
17 better.

18 CHAIRPERSON BERRY: Carl, say again.

19 COMMISSIONER ANDERSON: October 1 is better  
20 for me.

21 STAFF DIRECTOR MOY: Is October 22 good for  
22 anybody?

23 COMMISSIONER ANDERSON: I will agree to  
24 October 15 if that is the consensus.

25 CHAIRPERSON BERRY: You will? Okay.

NEAL R. GROSS  
COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., NW  
WASHINGTON, DC 20005-3701

1 So, October 15 is okay.

2 VICE CHAIRPERSON REYNOSO: I can't make it.

3 CHAIRPERSON BERRY: You can't? Let's try  
4 another one. How about October 22?

5 COMMISSIONER REDENBAUGH: I can't.

6 CHAIRPERSON BERRY: How about October 1?  
7 Who couldn't do October 1?

8 Yvonne, if we had it on October 8 would you  
9 just be on the phone or you just couldn't do it at  
10 all?

11 COMMISSIONER LEE: Not at all.

12 COMMISSIONER REDENBAUGH: I could do this  
13 on October 1.

14 CHAIRPERSON BERRY: How many can do it  
15 October 1? Everybody?

16 COMMISSIONER MEEKS: I can do October 1.

17 CHAIRPERSON BERRY: Okay, then we will play  
18 around with these others.

19 So, it would be October 1.

20 STAFF DIRECTOR MOY: And September 17 would  
21 only give the staff two weeks.

22 CHAIRPERSON BERRY: We will figure it out.  
23 We have August off.

24 COMMISSIONER REDENBAUGH: If we have a  
25 short meeting, maybe we should have a telephonic

NEAL R. GROSS  
COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., NW  
WASHINGTON, DC 20005-3701

1 meeting.

2 CHAIRPERSON BERRY: Why don't we do this.  
3 Why don't we put down October 1. Let's see what is  
4 coming up on that date, and if we don't have anything  
5 that is urgent we can either not meet or meet on the  
6 phone and go over the Staff Director's stuff.

7 COMMISSIONER REDENBAUGH: We can start  
8 saving money right away.

9 CHAIRPERSON BERRY: So, why don't we just  
10 leave it at that for now.

11 We will do a visceral check, a gut check,  
12 on ourselves as we go along.

13 Any other future agenda items? Then we  
14 will take a short break until we start the briefing on  
15 affirmative action.

16 There will be no break for lunch so that if  
17 you want anything to eat you should probably get it  
18 now.

19 (Whereupon, the proceedings recessed at  
20 10:44 a.m. and went back on the record at 11:00 a.m.)  
21  
22  
23  
24  
25