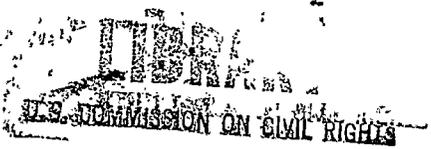


U.S. COMMISSION ON CIVIL RIGHTS

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MEETING



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FRIDAY, MARCH 5, 1999

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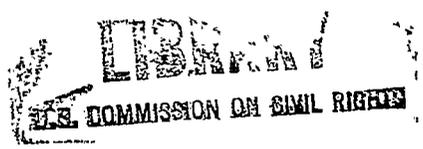
The Commission convened in Room 540 at the U.S. Commission on Civil Rights, at 624 Ninth Street, N.W., Washington, D.C., at 9:30 a.m., Mary Frances Berry, Chairperson, presiding.

PRESENT:

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

STAFF PRESENT:

- KIMBERLEY ALTON
- DAVID ARONSON
- DAVID CHAMBERS
- SICILIA CHINN, Parliamentarian
- PAMELA A. DUNSTON
- BETTY EDMISTON
- M. CATHERINE GATES
- EDWARD HAILES, JR.
- GEORGE HARBISON
- CAROL-LEE HURLEY
- REBECCA KRAUS
- JEANENE WAITE
- AUDREY WRIGHT



COMMISSIONER ASSISTANTS PRESENT:

- CHARLOTTE PONTICELLI
- KRISHNA TOOLSIE

NEAL R. GROSS
 COURT REPORTERS AND TRANSCRIBERS
 1323 RHODE ISLAND AVE., N.W.
 WASHINGTON, D.C. 20005-3701

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

(9:33 a.m.)

CHAIRPERSON BERRY: Good morning. The meeting will come to order.

I. APPROVAL OF AGENDA

CHAIRPERSON BERRY: The first item on the agenda is probably -- what -- 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 REDENBAUGH: Second.

CHAIRPERSON BERRY: All in favor indicate by saying aye.

(Ayes.)

Opposed?

(No response.)

So ordered.

II. APPROVAL OF MINUTES OF FEBRUARY 12, 1999 MEETING

CHAIRPERSON BERRY: The next item is the approval of the minutes of the February 12th meeting. Could I get a motion on the minutes?

VICE CHAIRPERSON REYNOSO: So moved.

COMMISSIONER REDENBAUGH: Second.

CHAIRPERSON BERRY: Any discussion? Any

1 changes? Anything anybody sees they want to have
2 changed on the minutes?

3 COMMISSIONER ANDERSON: Madam Chair?

4 CHAIRPERSON BERRY: Yes.

5 COMMISSIONER ANDERSON: Commissioner
6 Anderson here.

7 CHAIRPERSON BERRY: Yes.

8 COMMISSIONER ANDERSON: The minutes, on
9 -- I guess it's page 1 --

10 CHAIRPERSON BERRY: Okay.

11 COMMISSIONER ANDERSON: -- looking at
12 the bottom of the page, you're talking about a
13 letter to Attorney General Janet Reno. And then, on
14 page 2, it says, "Commissioner Anderson questioned
15 whether it was timely for the Commission to request
16 an investigation of the New York City Police
17 Department."

18 I think I was more specific than that.
19 My concern went to whether it was premature to
20 undertake or request to undertake a pattern and
21 practice investigation. So --

22 CHAIRPERSON BERRY: Okay.

23 COMMISSIONER ANDERSON: -- if you can
24 insert --

25 CHAIRPERSON BERRY: He questioned

1 whether it was --

2 VICE CHAIRPERSON REYNOSO: I'm sorry.

3 Where are we now?

4 CHAIRPERSON BERRY: On page 2 at the
5 top.

6 VICE CHAIRPERSON REYNOSO: Oh, on top.
7 Yes.

8 CHAIRPERSON BERRY: Commissioner
9 Anderson questioned whether it was timely for the
10 Commission to request a pattern and practice
11 investigation. Does that help?

12 COMMISSIONER ANDERSON: Yes, that would
13 be fine with me.

14 CHAIRPERSON BERRY: Of the New York City
15 Police Department. Okay.

16 Other changes? Okay. All in favor of
17 the minutes, with the changes as noted, indicate by
18 saying aye.

19 (Ayes.)

20 Opposed?

21 (No response.)

22 So ordered.

23 III. ANNOUNCEMENTS

24 CHAIRPERSON BERRY: Announcements. A
25 memorial service celebrating the life of Judge A.

1 Leon Higginbotham will be held in Washington on
2 April 14, 1999, which is the same week during which
3 we have the crisis or consultation. We will have
4 further details about exactly where it will be as
5 soon as we know, but we know that that is the date
6 that they have set to have the memorial.

7 The other is that there have been
8 memorial celebrations in other parts of the country
9 already. There has been one in New York. There was
10 one in Philadelphia at the university, at Penn.

11 If I say "the university," it means
12 Penn, right, Russell?

13 COMMISSIONER REDENBAUGH: Absolutely.

14 CHAIRPERSON BERRY: Absolutely.

15 And there will be memorial services
16 other places. But the Washington one is April 14th.

17 Also, Congresswoman Sheila Jackson Lee
18 entered a special order in the House honoring Judge
19 A. Leon Higginbotham, which is in the -- Judge A.
20 Leon Higginbotham, which is in the Congressional
21 Record.

22 The other thing is that I forgot last
23 time in the meeting to thank the staff for the work
24 that they did on the briefing on the census. I
25 thanked them afterwards but not in the public

1 meeting, so I want to do that now. They did a very
2 good job of pulling people together and getting it
3 done.

4 The briefing on the census was
5 videotaped and is on our web site, Commission web
6 site.

7 I don't have any other announcements.
8 Anybody else have any announcements?

9 Okay. We'll go to the Staff Director's
10 Report.

11 COMMISSIONER ANDERSON: Madam Chair?

12 CHAIRPERSON BERRY: Yes, Commissioner
13 Anderson?

14 COMMISSIONER ANDERSON: Thank you. I
15 wonder if it might be possible for the tribute, the
16 memorial to Judge Higginbotham that was entered into
17 the Congressional Record might be distributed to the
18 members of the Commission.

19 CHAIRPERSON BERRY: Okay. Staff
20 Director, could you see to it that that is done?

21 STAFF DIRECTOR MOY: Yes. Yes.

22 CHAIRPERSON BERRY: Thank you.

23 Anything else?

24 IV. STAFF DIRECTOR'S REPORT

25 CHAIRPERSON BERRY: Okay. Staff

1 Director's Report. Does anyone have any questions,
2 inquiries, or anything?

3 VICE CHAIRPERSON REYNOSO: Madam Chair?

4 CHAIRPERSON BERRY: Yes. Vice Chair?

5 VICE CHAIRPERSON REYNOSO: Are we going
6 to discuss the proposed New York hearings under the
7 Staff Director's Report?

8 CHAIRPERSON BERRY: Right.

9 VICE CHAIRPERSON REYNOSO: Okay.

10 CHAIRPERSON BERRY: We are as soon as we
11 see if anybody has any questions about anything that
12 is written in here --

13 COMMISSIONER LEE: Madam Chair?

14 CHAIRPERSON BERRY: -- or anything they
15 want -- yes, Commissioner Lee?

16 COMMISSIONER LEE: I just have a
17 question for the Staff Director. Do you have any
18 idea when the L.A. report will be published and
19 ready to go? Because I think we have talked about
20 having a press conference announcing their report in
21 L.A.

22 STAFF DIRECTOR MOY: Right. It should
23 be back from GPO, from the printing office, April,
24 sometime in April.

25 CHAIRPERSON BERRY: What does "sometime

1 in April" mean?

2 MS. HURLEY: We've just given the report
3 to OGC to look over in final. When we get it back
4 and send it, we have to allow them 20 working days.

5 CHAIRPERSON BERRY: It takes 20 days to
6 print it?

7 MS. HURLEY: To print it. So we have to
8 allow them that by law. It doesn't necessarily take
9 that long. You can get it faster if you pay more.

10 CHAIRPERSON BERRY: No, we don't want to
11 pay more.

12 VICE CHAIRPERSON REYNOSO: No.

13 (Laughter.)

14 CHAIRPERSON BERRY: So --

15 MS. HURLEY: For your planning purposes,
16 if it is back here in, say, let's say, the second
17 week of April --

18 CHAIRPERSON BERRY: Yes.

19 MS. HURLEY: -- for it to be shipped out
20 to California. You can do that.

21 CHAIRPERSON BERRY: So what -- Carol-
22 Lee, what do you think is a realistic time to be
23 thinking about a press conference? Realistically.

24 VICE CHAIRPERSON REYNOSO: Sounds like
25 late April, huh?

1 MS. HURLEY: That would be safe, very
2 safe.

3 CHAIRPERSON BERRY: Sounds like the
4 first week in May to me.

5 (Laughter.)

6 MS. HURLEY: You have your consultation
7 here in the middle of April.

8 VICE CHAIRPERSON REYNOSO: Yes.

9 MS. HURLEY: It's your schedules, too.

10 CHAIRPERSON BERRY: So sometime in May
11 we're talking here, in terms of peoples' schedules,
12 like the first week in May or the beginning of the
13 second week in May. Probably the first week in May.
14 That's the way it sounds to me.

15 But maybe you can -- we need some lead time so
16 we can set a date in our own schedules. So we need
17 to know as soon as it has gone to GPO, so that we
18 can be sort of calculating -- what -- 30 days after
19 that as the time when we would do it.

20 Okay. Any other questions?

21 Okay.

22 COMMISSIONER ANDERSON: Madam Chair?

23 CHAIRPERSON BERRY: Yes, Commissioner
24 Anderson?

25 COMMISSIONER ANDERSON: I have a

1 question on the appropriation for the Commission.
2 Has there been any congressional appropriation
3 action by the Commission? Does the Staff Director
4 know whether the committees up there have acted on
5 our budget yet?

6 STAFF DIRECTOR MOY: No, they haven't,
7 Commissioner Anderson. We have been monitoring
8 that, and, as soon as we know, I can let you know.

9 COMMISSIONER ANDERSON: Thank you.

10 CHAIRPERSON BERRY: Okay. The only
11 thing I know about it is that they are preparing the
12 budget resolution, as usual, and they are trying to
13 come up with language on the Commission and
14 everybody else for the budget resolution. And I
15 don't know what the timing is on when it should be
16 done.

17 Okay. The New York issue. We had --
18 some memos were sent to us by the Staff Director.
19 We had a memo from -- she had a memo from
20 Commissioner Redenbaugh concerning this matter of
21 New York, and we got, I think, two memos -- either
22 two or three -- from the Staff Director concerning
23 this matter.

24 Vice Chair, you raised this --

25 VICE CHAIRPERSON REYNOSO: Well, I just

1 wanted -- first, I purposely did not ask for a
2 change in the agenda, because I assumed that we
3 would be discussing it the under Staff Director's
4 Report.

5 So the minutes will note at the last
6 meeting that it was I who moved that we have the
7 hearing in New York because I thought that it was
8 very timely. And, as we've discussed many times in
9 the Commission, we want to be responsive in a timely
10 manner to the issues that come up.

11 At the same time, we want to be broad in
12 our approach to them. I was thinking of a report
13 that I hadn't looked at for a long time, but it was
14 brought to my attention, called -- that we issued in
15 October of 1991 called "Who Is Guarding the
16 Guardians?" And I remember that at the time that it
17 came out it was very well received, both by the
18 civil rights community and by the police departments
19 in this country because it made some very good
20 recommendations.

21 So I was thinking that maybe we should
22 look at the -- take a broader look and look not just
23 at New York. We have already looked at Los Angeles,
24 and we will be having the report coming out that
25 looks at some of the police practices there, and

1 what progress has been made, what more needs to be
2 done -- and we did to a certain extent, also, in
3 Miami -- and view what we're doing in New York, and
4 perhaps take a look at another city or two, as an
5 update of our 1981 report "Who Is Guarding the
6 Guardians?" in terms of what has happened since
7 1981, what changes we have seen, and what further
8 recommendations -- or reconfirming the
9 recommendations that we put in the report at that
10 time.

11 So it seemed to me that what I had
12 proposed falls so squarely within what has been a
13 long-standing interest of the Commission. But I
14 wanted to bring to the Commission's attention that,
15 in my view, it falls well within this report, maybe
16 updating it, but also maybe taking a look even at
17 one or two other cities besides New York, but
18 including also the cities that we have already
19 looked at.

20 With respect to the reports that we got
21 from the staff, I appreciate it -- the breakdown --
22 both in terms of people power and money power that
23 would be needed for this report. I thought it was a
24 realistic report that we got from the staff. And
25 while I have been one of those who has been very

1 strong in urging that we get the reports out as
2 quickly as possible after a hearing, I must say two
3 things.

4 One, I have been pleased with the way
5 the General Counsel's Office and the staff generally
6 has responded to our entreatments in that regard.
7 And I was just noting in the material that we got
8 today the progress that is being made, particularly
9 on our big report. So I think we are doing very
10 well in that regard.

11 Secondly, we still do want to be respon-
12 sive to issues that come up, as we've said, while
13 they are issues that have the greater potential for
14 catching the attention of those who are interested.
15 In this case, in terms of New York, the police
16 departments, the police chiefs, and others in the
17 law enforcement community.

18 And I think if we act while the issues
19 are being debated publicly, our hearing itself, and
20 then our report later on, have a far better chance
21 of being influential. And, after all, that is what
22 we really want. So I would still be in favor of
23 proceeding with the New York report. I would be in
24 favor of our discussing, maybe thereafter, whether
25 we want to look at another city or two.

1 And particularly I'd be interested in
2 reactions to the notion that it be viewed as sort of
3 an update on Who Is Guarding the Guardians? and
4 bringing that, again, to the attention of the
5 various folk who are interested in this issue, with
6 the hopes that it will be received as well as this
7 report, I remembered, was received.

8 CHAIRPERSON BERRY: For purposes of
9 discussion, why don't I restate, as succinctly as I
10 can, what I believe you have said, and then we will
11 put it in the form of a motion for the purposes of
12 discussion.

13 VICE CHAIRPERSON REYNOSO: What a nice
14 way of putting it.

15 (Laughter.)

16 CHAIRPERSON BERRY: As I understand the
17 motion, it would be that the Commission would update
18 "Who Is Guarding the Guardians?" which is precisely
19 on the issue of police practices and civil rights,
20 and which was, in fact, one of the first reports
21 that was issued after I came on the Commission. I
22 wasn't on the Commission when they did the hearings.

23 And that it would be that we would
24 update this report, which was based on hearings in a
25 couple of cities, and we would do a hearing in New

1 York one day in May, which I think is the 26th -- it
2 was a date we had all set aside -- and then we
3 would, in the report, include information we
4 garnered about New York, and also information from
5 the Los Angeles report, which we have already done,
6 to the extent that it is relevant to the issue, and
7 it is.

8 And we might, then, go to another city,
9 yet to be named, to look at police practices and
10 civil rights in that city, according to the format
11 that is in "Who Is Guarding the Guardians?" And the
12 Commission would issue a report with
13 recommendations, which might reiterate the earlier
14 ones or refine them, or come up with new
15 recommendations, given current circumstances, on the
16 subject.

17 So the motion, as I understand it, would
18 include doing the New York hearing, but then proceed
19 to do these others. Is that --

20 VICE CHAIRPERSON REYNOSO: Yes. Though
21 I want to keep to the notion of having either New
22 York -- having the New York hearing be just one day
23 --

24 CHAIRPERSON BERRY: Right.

25 VICE CHAIRPERSON REYNOSO: -- and if we

1 decide later that we want to have another -- look at
2 another city, have that be one day also.

3 CHAIRPERSON BERRY: Right.

4 VICE CHAIRPERSON REYNOSO: That is --

5 CHAIRPERSON BERRY: So a one-day hearing
6 in New York. To restate, the Commission would
7 update "Who Is Guarding the Guardians?" and the
8 update would be accomplished by a one-day hearing in
9 New York on May 26th, incorporating materials from
10 the Los Angeles report, and having a hearing in at
11 least one other city, a one-day hearing --

12 VICE CHAIRPERSON REYNOSO: Yes.

13 CHAIRPERSON BERRY: -- to utilize the
14 materials from that hearing. And the work-product
15 that would be produced would be an updated "Who Is
16 Guarding the Guardians?"

17 That was the motion. Could I get a
18 second, for purposes of discussion?

19 COMMISSIONER LEE: Second.

20 CHAIRPERSON BERRY: Okay. Discussion?

21 VICE CHAIRPERSON REYNOSO: Well, I just
22 want to remind us of the interest that we've had in
23 responding in a timely fashion to the issues that
24 are pressing in civil rights, and we haven't felt
25 that we could in times past because of the burden of

1 the longer reports, based on hearings principally,
2 that has taken us such a long time to get out.

3 And we have emphasized several times the
4 interest that we have on getting those out as
5 quickly as possible. But I think that we're making
6 good progress in that regard, and I think this is an
7 issue that merits our more immediate attention. So
8 I think that at this point in our history we are
9 doing pretty well in balancing that. I say "pretty
10 well" in terms of the scheduled release dates of
11 those large reports.

12 CHAIRPERSON BERRY: Commissioner Lee?

13 COMMISSIONER LEE: Thank you, Madam
14 Chair. In the several public meetings that I've
15 gone to, specifically the Sonoma hearing and the
16 L.A. hearing, when we brought the "Who Is Guarding
17 the Guardians"? report it really struck me -- first
18 of all, I only got a copy when I got on the
19 Commission.

20 And it really struck me that the majority of
21 the communities, whether they are law enforcement
22 officials or the general public, a good number of
23 them really did not know that we had this report,
24 because the law enforcement community has changed a
25 lot in the past two decades. And for those who read

1 the report, they really felt that there was a need
2 to update it because many things have changed in
3 terms of police practices and police-community
4 relations.

5 And the comments that I have received
6 from those events were that maybe the Commission
7 should look at an update -- not just updating the
8 report, but revisiting the issue that we have
9 explored in that report.

10 And I think that with the incident that
11 happened in New York, while it was tragic, but it
12 really gives us an opportunity to really do this as
13 a national project, not just a New York project, but
14 using New York, combining the L.A. report. That I
15 think was very important to the L.A. community, and
16 I support the Vice Chair's motion to go to one more
17 city besides New York in the near future, so that we
18 can have a very comprehensive update and new report
19 on "Who Is Guarding the Guardians?" for future
20 documents.

21 CHAIRPERSON BERRY: Other comments?

22 COMMISSIONER REDENBAUGH: I'd like to,
23 if I may -- this is Commissioner Redenbaugh.

24 CHAIRPERSON BERRY: Yes, sir.

25 COMMISSIONER REDENBAUGH: I think that

1 it -- I very much like the idea of updating the '81
2 report and including other cities, and I think we
3 should do even more than the New York plus one
4 other, or the two you've mentioned, because I don't
5 think it is just a problem limited to a small number
6 of cities. It's pretty widespread.

7 But what strikes me about the proposal
8 is I think there are really two projects here.
9 There is the notion of something that is timely and
10 responsive, as we did with the church burnings in
11 '97, I believe, and there is something that is more
12 in the -- more the update of the '81 report, which,
13 sooner is, of course, always better, but in
14 particularly time- or event-sensitive.

15 So am I -- does it make sense to combine
16 these or separate them? I can honestly -- you know,
17 I would say I want to cut it down, but it seems that
18 there are two -- are the issues different enough
19 that we're talking about two projects, really?

20 VICE CHAIRPERSON REYNOSO: I think the
21 answer is that my motion has the strength of
22 combining both of those. That is, by having the
23 hearing, we will be responding to something that is
24 very important in terms of the community, and even
25 some of the issues that the state SAC has looked at

1 in terms of police-community relations.

2 So it has -- so we are responding to
3 something that is happening that the press hopefully
4 will pick up on. We can have a press conference
5 right after the hearings, for example, and respond
6 quickly. And at the same time, we will be taking
7 longer to do the update on the '81 report. So, in
8 my view, it has the benefit of doing both.

9 CHAIRPERSON BERRY: Any other comments?
10 I have a couple, but I will wait to see if anybody
11 else has any.

12 COMMISSIONER ANDERSON: Well, Madam
13 Chair, I have a comment.

14 CHAIRPERSON BERRY: Yes, Commissioner
15 Anderson?

16 COMMISSIONER ANDERSON: Thank you. I
17 would say to the Vice Chair that I am less
18 enthusiastic today regarding the motion than I was,
19 if I understood it, at the last meeting. I think
20 that there are a couple of things here.

21 First, there's a serious question of
22 completing the hearing reports that we've started
23 before we launch out on a new national project. I
24 think that Commissioner Redenbaugh identified a
25 problem, and that is, at least in my mind, these are

1 two very different projects.

2 One is an immediate response to a situa-
3 tion, and the other is making sure to get a national
4 response and updating a report that is now nearly 20
5 years old. That may be a worthwhile endeavor, but I
6 don't think we can credibly do it with a one-day
7 hearing, using what we found out in Los Angeles, and
8 looking around for another one-day hearing.

9 I am not as sanguine as the Vice Chair
10 in terms of what constitutes a response by the
11 Commission. I think that we only made a very
12 partial response by holding the hearing itself, and
13 the real substantive response of the Commission is
14 by issuing a report with recommendations.

15 Now, we're going back to New York for a
16 hearing -- at least that's what we're proposing to
17 do -- when we have yet, four years after our
18 previous hearing, been able to issue a report. I
19 think it puts us in a very bad circumstance, and I
20 must say that I am less supportive of this hearing
21 in an expanded version than I was at the last
22 Commission meeting.

23 CHAIRPERSON BERRY: Okay. Let me just
24 say several things. I have the same concerns about
25 capacity as were expressed by Commissioner

1 Redenbaugh, and which he repeatedly expresses. I
2 have the same concerns that Commissioner Anderson
3 has about the reports that we have not done.

4 But I also believe that it is possible
5 to have a balance between the concerns expressed by
6 the motion of the Vice Chair and these other issues.

7 In the best of all possible worlds, the
8 Commission would do systematic two- or three-day
9 hearings in a number of cities, and update "Who Is
10 Guarding the Guardians?" I think that would be a
11 very worthwhile endeavor, and the country would be
12 appreciative.

13 Given the resource constraints of the
14 Commission, there is no way we can do that. And
15 these resource constraints do not, in my opinion,
16 appear to be something that will be relieved in the
17 short term. So we have no choice but to try to
18 figure out what we can do within the resources we
19 have available, which is something we keep asking
20 ourselves all the time.

21 As for the earlier reports, I am going
22 to accept the Staff Director's representations in
23 her memo of March 3, 1999, that New York and
24 Mississippi reports, by some management initiative
25 she has taken, will be moved up, and that they will

1 be moved up, and, therefore, go out to the affected
2 agencies and the Wall Street firms by March 19th.

3 I am going to accept that, however
4 realistic or unrealistic it is, because it is her
5 representation that this will happen. It may not
6 happen. If it does not happen, then I am prepared
7 to rethink what the Commission should be doing.

8 But as for being here today, we, last
9 year, went to New York on the schools and religion
10 hearing, and there was an exchange, as I recall --
11 my memory is not always precisely accurate, so I may
12 be wrong about this. But there was an exchange in
13 the Commission meeting about whether we should go
14 there, since we hadn't finished the Wall Street
15 report.

16 And the conclusion, pushed very hard by
17 a couple of our colleagues, in particular, one who
18 was very interested in this issue, was that we had
19 to go there because the issue was so important. I
20 don't think that issue is -- I think it's an
21 important issue, but I don't think it's any more
22 important than police practices in New York City. I
23 think that they are both very important issues.

24 So we cannot argue responsibly, without
25 more, that we can't go because the staff hasn't

1 finished Wall Street, if we could go when they
2 hadn't finished Wall Street last year. So I want --
3 I am going to believe the Staff Director that we're
4 going to get these things moved up out of OGC to --
5 out to where they are supposed to be.

6 As I look at what the staff is doing,
7 the only thing we seem to be behind on -- and
8 someone can correct me if I am wrong -- is the New
9 York and Mississippi reports. All of the other
10 issues, all of the other reports -- now Los Angeles
11 is finished, all of the others are finished. Fred's
12 report, I think, is underway and is proceeding
13 according to what the reports are to us in a timely
14 fashion.

15 All of the other materials that we have
16 had to send that are not reports out to agencies and
17 responding to various routine matters that sometimes
18 relate have been done. So the main thing is whether
19 the Staff Director can somehow get the staff to get
20 this done.

21 I also understand that we would not have
22 to get ready for the New York hearing. OGC, I
23 think, if I am -- and, again, correct me, somebody,
24 if I am wrong -- that it takes about a month, I
25 think, to get ready for a one-day hearing. So we

1 would know by March -- April the 20-whatever,
2 whether we were in a position to carry out our
3 desire to do so, if we were to vote to do so. And
4 we can always change our minds, if it turns out that
5 we can't do it.

6 So my view would be that, given the
7 constraints that we -- presume that the Staff
8 Director will deliver what she promised, and presume
9 that the OGC staff will produce what has been
10 promised, and proceed. And then, if it doesn't work
11 out, then we can just change our minds and say, hey,
12 yet again, it didn't happen.

13 I mean, that is not the best of all
14 possible worlds, but I just don't see any other
15 alternative than that. So, for that reason, I am
16 going to support the Vice Chair's motion with those
17 -- and I have already given all of my -- told you
18 all of my concerns and expressed all kinds of
19 things, so that later on I can get out of it if I've
20 made the wrong decision. But that's where it stands
21 as far as I'm concerned.

22 Yes, Vice Chair?

23 VICE CHAIRPERSON REYNOSO: Madam Chair,
24 I had raised, as we all have on this occasion, the
25 issue of resources during the hearings on religion.

1 But I was persuaded then, as I am now, that there
2 was a reason to go to New York. And New York -- New
3 York has some peculiar statutes as interpreted by
4 the courts having to do with religion and the public
5 schools.

6 And while I think Commissioner
7 Redenbaugh is absolutely correct that the issues on
8 police and the community are not found only in New
9 York, nonetheless, one of the more prominent issues
10 now is in New York, and it seems to me appropriate
11 to go there. So I share the concerns.

12 But, again, I must say that my reaction
13 is that the staff has been very conscious of the
14 priorities that we, as Commissioners, have set on
15 these reports, and they are working very hard to get
16 them out in a timely fashion.

17 And I've been very encouraged the last
18 few months with the reports that have taken a long
19 time to get done, are, indeed, getting done, and it
20 puts us in better shape for the future when we have
21 the type of hearings that you just described, Madam
22 Chair, of two or three days, and so on, then we can
23 get them out more quickly.

24 But meanwhile, I think that we do have
25 to be conscious of our resource limitations and do

1 some one-day hearings. In fact, I hate to tell you,
2 I have some ideas from other one-day hearings that I
3 won't even bring up until I feel that we are really
4 completely caught up.

5 CHAIRPERSON BERRY: I wanted to point
6 out something else. Commissioner Redenbaugh had
7 urged, at one point in an exchange, that we might
8 dispose of completing the ADA report in a fashion
9 different from what we're doing now.

10 And what I would like to say, Russell,
11 is that I would defer a decision about that until we
12 see whether what has been promised is delivered on
13 these reports. And then we will, you know, make a
14 decision, because right now, as I understand it,
15 Fred's shop is busy with the health care thing. And
16 they will be at a point later where they have a
17 little breathing space.

18 So I would just defer trying to deal
19 with that, without reaching a conclusion about it
20 until later on. It's not that I'm ignoring your --

21 COMMISSIONER REDENBAUGH: Yes. No, I --
22 thank you.

23 CHAIRPERSON BERRY: Okay. I thought it
24 was a good point.

25 COMMISSIONER ANDERSON: Well --

1 CHAIRPERSON BERRY: Yes, sir?

2 COMMISSIONER ANDERSON: -- I think I
3 just have to reiterate that, you know, if you looked
4 at our budget submissions that we sent up to the
5 Hill for fiscal year 2000, and look at page 25,
6 we've got actually down there the ADA, racial
7 tension, school bill initiatives, African-American
8 race, expanding economic opportunity for African-
9 Asians or Latino-American youth, and now we're going
10 to drop into the middle of this an update of our
11 report "Who Is Guarding the Guardians?" and do it
12 based on hearings.

13 And I don't think we have any kind of
14 room in our budget or in our resources to pull this
15 off in a credible way. And I have to say that while
16 the 1981 report may have been met with a favorable
17 response in some areas, I think the Chair might back
18 me up here that in other areas the report was not so
19 favorably received by law enforcement.

20 So I think we have to determine if we're
21 going to do this in a credible way, in a thoughtful
22 way, we have -- I just don't see trying to rush this
23 within the kind of resource constraints that we
24 have, and be able to say it's not going to affect
25 anything.

1 And I would also say that when we spoke
2 about moving up the New York hearing report, I
3 thought we were going to do more than move it up
4 about two weeks, which is, I think, effectively what
5 the March 19th date does. And so I just have to say
6 I am not convinced that --

7 CHAIRPERSON BERRY: Well, let me just
8 say two things, Commissioner Anderson. In the
9 budget submission, if we do not get a budget
10 increase -- the one on expanding economic
11 opportunities depends on whether we get a budget
12 increase. If we don't get a budget increase, we
13 wouldn't do it. I mean, that's the way it's
14 outlined here.

15 If we don't get a budget increase, we're
16 going to have to do the same thing we have to do
17 every year anyway, which is sit down and figure out,
18 you know, what we are going to not do. And what we
19 may not do -- and we'll know more about that by May,
20 too, about -- by April 25th, which is the drop dead
21 date for getting ready to do a New York hearing if
22 we do it. We will know more about what the budget
23 is at that time, and we'll know whether what we're
24 talking about is yet another -- you know, not having
25 any budget increase. So we can rethink it.

1 The other thing that I wanted to say is
2 that -- and I had forgotten to say this earlier, and
3 I'm glad you prompted me by something you said. The
4 report, as I recall, was received favorably by --
5 the earlier report -- by civil rights groups, as the
6 Vice Chair said, by the International Police Chiefs
7 Association, which, in particular, applauded the
8 Commission for adopting its standard for when deadly
9 force could be used.

10 It was criticized by some police depart-
11 ments who thought that it was too protective on
12 balance, if you had to balance the concerns about
13 law enforcement with police issues. But a lot of
14 the recommendations -- protection of police, a lot
15 of the issues, such as complaint review boards and
16 matters like that, were -- recommendations were
17 implemented by various people.

18 So I would not say that the report was
19 uniformly and unanimously received by -- and I
20 remember that Mr. Ed Meese, who was then, I think,
21 counselor to the President at that time didn't like
22 it because he thought the Civil Rights Commission,
23 as it expressed it at the time -- and, again, my
24 recollections may not be entirely correct; it has
25 been some time -- that he thought the Commission was

1 delving into things that it should not be delving
2 into.

3 But I don't think that was the unanimous
4 view. And over time, many of the recommendations
5 are just things that police departments do in terms
6 of how they select people.

7 Finally, let me say the reason I would
8 be opposed to going to New York, as if New York is
9 the place on which one should put the spotlight
10 because it's worse than any place in the country,
11 which is not proven, and I would not want anybody to
12 think that we were implying that it was, and I would
13 be opposed to going to New York if what we were
14 going to do was try to figure out who shot Mr. --
15 why Mr. Diallo was shot, and why this happened to
16 that person and the other person, because that's not
17 our role.

18 And I would be opposed to going if
19 people thought it was some kind of partisan
20 political exercise, and, therefore, we were
21 targeting New York. I would be opposed, in any
22 case, to all of that, which is, to my mind, while
23 trying to update a report. And whatever
24 recommendations we come up with would make more
25 sense than trying to just say, you know, we want to

1 focus in on New York, and show, you know, what the
2 problems are there. I mean, I just think it
3 conceptually makes best sense. So that's where we
4 are.

5 Does anyone have any other comments?

6 VICE CHAIRPERSON REYNOSO: Madam Chair,
7 just one word. Manifested, this will take some
8 resources. But that is what the report from the
9 Staff Director indicated.

10 It was my judgment that, nonetheless, in
11 light of its importance, and in light of what is
12 happening with the other reports, it is something we
13 ought to do.

14 I just want to say that, you know, I
15 agree with Commissioner Anderson that it will take
16 some resources, and that is why we wanted that
17 report -- and I thought it was a good report --
18 about how many dollars and hours, and so on, it
19 would take. It just seems to me that -- and it's a
20 matter of -- this is obviously a matter of judgment,
21 but I just thought that it was doable under the
22 present circumstances.

23 CHAIRPERSON BERRY: Commissioner
24 Redenbaugh?

25 COMMISSIONER REDENBAUGH: Yeah. I'm not

1 quite sure where to begin, but maybe in the details.
2 The Staff Director's -- the resources that it would
3 take and the impact on other projects, included in
4 it -- or one version that was prepared included the
5 notion that these estimates are very hard to make.
6 And I think that's right.

7 We also need -- it might not be very
8 precise, but the needs are estimates. So -- and my
9 experience is that, as I'm sure everyone's is, is
10 that estimates are rarely too high. And, in fact, I
11 don't think that has ever happened.

12 (Laughter.)

13 Often, you know, very low.

14 So we all say we're mindful of the
15 notion of constraint and resource limitations, but
16 the other -- some of you I am an economist. The
17 first notion of economics is that it's a scary
18 thing.

19 CHAIRPERSON BERRY: What a dismal
20 science.

21 (Laughter.)

22 What a dismal science.

23 COMMISSIONER REDENBAUGH: And calculated
24 with dismal people.

25 (Laughter.)

1 As I'm a constant reminder.

2 But the notion of resource limitations
3 scares us. And then, the second notion of economics
4 is choice. And what none of us are doing, while we
5 have these projects, is say, "This project is so
6 important. It's worth more than that project.
7 Let's not have that one." And we always think about
8 the way to do more is to have more -- do more of
9 what we want is to get more money. Well, that's not
10 very likely to happen, and then we need to make
11 choices.

12 And we started this discussion with the
13 assurance that this would have no impact on
14 anything. Now, that obviously can't be the case.

15 So I think we do have two projects here
16 that are better separated than combined. And
17 whether that is done or not, the proposal, in its
18 present form, is more resource-intensive than what I
19 was anticipating we were talking about the last time
20 we talked about.

21 So I am going to be against this on the
22 resource constraint basis. But I am also going to
23 say I recommend very seriously that when we do our
24 project planning that we include in the discussion a
25 substantial project on updating "Who Is Guarding the

1 Guardians?" And I think that may be -- have more
2 merit, just as another proposal we're considering.
3 I think it's a very important issue.

4 CHAIRPERSON BERRY: Well, we could agree
5 to do the New York hearing, which responds to the
6 timeliness concern that the Vice Chair had. And we
7 haven't said when we would do others. His motion
8 does not include any time in terms of doing others.
9 So one might consider how that would be stretched
10 out if one were going to be including it in a "Who
11 Is Guarding the Guardians?" project, which would
12 give us some more flexibility.

13 COMMISSIONER REDENBAUGH: Yes. But,
14 also, I want to be clear that all of these
15 proposals, you know, have merit. That if we're
16 going to do a big "guardian" one, and I think we
17 should, it can only be discussed, though, in the
18 context of all of the other proposals.

19 CHAIRPERSON BERRY: Right.

20 COMMISSIONER REDENBAUGH: And which they
21 are then ranked.

22 CHAIRPERSON BERRY: Right. And as I
23 understand, for the fiscal year 2000, we have got --
24 the biggest one is the expanding economic opportuni-
25 ties for African-American, Asian, and Pacific

1 Islander, and Latino-American youth, if what I'm
2 looking at is the cost estimates by program area and
3 projects for 2000 is correct.

4 Is that correct, Brother George, on
5 page 25? I'm only looking at this page because
6 Commissioner Anderson told me to. I think it was
7 Commissioner Anderson who told me to look at this
8 page.

9 Is that right, Commissioner Anderson?

10 COMMISSIONER ANDERSON: Right.

11 CHAIRPERSON BERRY: Yeah. Am I looking
12 at the right page?

13 MR. HARBISON: Yes.

14 CHAIRPERSON BERRY: Okay. So that if we
15 were to get a budget increase, we would devote
16 \$964,721 to this project. Is that correct?

17 MR. HARBISON: That's correct.

18 CHAIRPERSON BERRY: So that we would be
19 talking about -- and there are no other -- what
20 other new project do you have there?

21 MR. HARBISON: Fair employment law.

22 CHAIRPERSON BERRY: And we have to do
23 fair employment, because that's our statutory
24 report. So what we really would be talking about is
25 whether we would scale back, defer, or not begin, if

1 we needed to make some budget adjustment, something
2 else because we -- this one is dependent on an
3 increase. Am I correct?

4 MR. HARBISON: That's correct.

5 CHAIRPERSON BERRY: I'm reading it
6 right.

7 MR. HARBISON: It would be an increase
8 over --

9 CHAIRPERSON BERRY: So if we don't get
10 an increase, we're not committed to doing it anyway.
11 There is no budgetary commitment to do it, and so
12 that would mean that if we finish racial tensions,
13 as the Staff Director has said we're going to, and
14 schools and religion and crisis, and all of these
15 things, that what we would be doing is devoting
16 resources to the report-writing crisis and whatever
17 else was left there. And we would be squeezing in
18 this New York hearing idea, because it's not on the
19 books. Is that right, George?

20 MR. HARBISON: That is essentially
21 correct.

22 CHAIRPERSON BERRY: That's essentially
23 correct?

24 MR. HARBISON: Yes. There are only two
25 major projects in FY2000, and that's fair employment

1 law and the expanding economic opportunities
2 project. Those are your two major projects for
3 FY2000, and that's where the majority of the
4 resources are going to be devoted.

5 CHAIRPERSON BERRY: Right. And so if we
6 do a hearing and we don't have any money to conclude
7 the work on it, we can always just either release
8 the transcript or the summary, or something like
9 that, and move on, if we don't have the money,
10 basically. There are options. I'm not asking you
11 to make those decisions. What I'm saying is that in
12 terms of what's in the budget, that's where we
13 basically are.

14 Okay. Well, yes, any other comment?
15 I'm going to call the question --

16 VICE CHAIRPERSON REYNOSO: Yes. I'm
17 sorry. Just one more comment, and that is what my
18 effort has been here, Madam Chair, to come up with
19 ways of having good reports, but at the same time
20 have hearings that are more streamlined and don't
21 require the sort of efforts and staff time that has
22 been required in the past. At least be selective.

23 I think the quality of the reports that
24 we have done on the extended hearings, and all of
25 that, have been very good and have been influential,

1 as Commissioner Anderson has indicated. But I think
2 we also need sort of a different type of hearing
3 that we can do more quickly, be responsive to the
4 issue at hand, and have the country see that we are
5 responsive. And so I hope successfully -- this is
6 my effort in terms of a New York hearing.

7 CHAIRPERSON BERRY: Okay. If there is
8 no further urgent discussion, I'm going to call for
9 the question. All those in favor of the motion
10 indicate by saying aye.

11 (Ayes.)

12 Opposed?

13 (Nays.)

14 And I say yes, so it's a three to two
15 vote on the motion. The motion carries.

16 V. EQUAL EDUCATIONAL OPPORTUNITY AND
17 NONDISCRIMINATION FOR MINORITY STUDENTS REPORT

18 CHAIRPERSON BERRY: We go to the -- if
19 there are no other questions of the Staff Director,
20 to the "Equal Educational Opportunity and
21 Nondiscrimination for Minority Students: Federal
22 Enforcement of Title VI in Ability Grouping
23 Practices" Report.

24 I don't see Fred. Who is going to speak
25 to this?

1 STAFF DIRECTOR MOY: Rebecca and David.

2 COMMISSIONER REDENBAUGH: Madam Chair?

3 CHAIRPERSON BERRY: Yes.

4 COMMISSIONER REDENBAUGH: I need to go
5 to my meeting.

6 CHAIRPERSON BERRY: Okay.

7 COMMISSIONER REDENBAUGH: So thank you
8 very much.

9 CHAIRPERSON BERRY: All right. How do
10 you vote on this report? Or do you want to not
11 vote?

12 COMMISSIONER ANDERSON: Madam Chair?

13 CHAIRPERSON BERRY: Yes?

14 COMMISSIONER ANDERSON: Commissioner
15 Anderson.

16 CHAIRPERSON BERRY: We need to vote on
17 this report, Commissioner Redenbaugh.

18 COMMISSIONER ANDERSON: Well, wait a
19 minute.

20 COMMISSIONER REDENBAUGH: We do?

21 COMMISSIONER ANDERSON: I guess we need
22 to have an open discussion. Have we not already
23 voted on this report?

24 CHAIRPERSON BERRY: This report came
25 before us -- I've forgotten when it was -- and we

1 had a discussion after that about whether reports
2 can be brought back again once they've --

3 COMMISSIONER REDENBAUGH: Oh, this is
4 that report?

5 CHAIRPERSON BERRY: Right. Whether they
6 have been voted on. And as I recall -- we can ask
7 the parliamentarian -- but as I recall, people can
8 introduce a report once it has been disposed of,
9 and, not in the same meeting, someone can introduce
10 a motion and have the report considered.

11 It's not a motion for reconsideration,
12 as I recall the discussion. It is a new proposal,
13 much as a bill in the House, which is defeated;
14 somebody might come back next year and introduce it
15 again. Yes, we had that discussion. But if you'd
16 like the parliamentarian to address it, she can.

17 COMMISSIONER ANDERSON: Well, I think
18 maybe she should because we had the discussion.
19 Then, there was not a motion made because, as I
20 recall the meeting, we concluded that we would not
21 do this. There would be finality to a Commission
22 vote.

23 CHAIRPERSON BERRY: Well, this report,
24 as I understand it, has been revised by the staff in
25 the Office of Civil Rights Evaluation. They are

1 presenting it to us as a revision of a report that
2 they had before. But on the issue of whether one
3 can introduce a report that at some earlier meeting
4 was voted down, I thought we could consider. But
5 let me ask the parliamentarian.

6 Do you remember the discussions?

7 MS. CHINN: I believe that I was not the
8 parliamentarian at that time.

9 CHAIRPERSON BERRY: Oh, somebody else.
10 It was probably -- what was her name?

11 MS. CHINN: I think Marlissa Brigit was
12 the parliamentarian at that time.

13 CHAIRPERSON BERRY: And you don't recall
14 the discussion?

15 MS. CHINN: I --

16 CHAIRPERSON BERRY: You're not
17 prepared --

18 MS. CHINN: I was not part of the
19 discussion, but I did read -- I have reviewed
20 Roberts Rules on this issue.

21 CHAIRPERSON BERRY: Yes. Okay.

22 MS. CHINN: And the answer is that there
23 can be a motion to renew a motion that was
24 previously defeated.

25 CHAIRPERSON BERRY: Okay. So --

1 COMMISSIONER REDENBAUGH: Under what
2 circumstances?

3 CHAIRPERSON BERRY: She's looking in a
4 book.

5 COMMISSIONER REDENBAUGH: Okay.

6 MS. CHINN: I have Roberts --

7 COMMISSIONER REDENBAUGH: My
8 recollection is that it's only under certain
9 circumstances.

10 MS. CHINN: Well, there are no defined
11 circumstances. I am looking at Roberts Rules, which
12 was, I believe, the subject of the discussion
13 earlier, or previously.

14 Basically, there can be a renewal of the
15 language with substantially the same motion. And I
16 believe that if what the Chair is saying -- that
17 this is not the exact same report, then it's not
18 exactly the same motion. But it sounds like you may
19 still want an answer to --

20 CHAIRPERSON BERRY: Yes.

21 MS. CHINN: -- whether or not you can
22 raise it, even if it was the same report. And the
23 answer to that is that -- and I can -- from Roberts
24 Rules, even a slightly different wording or a
25 difference in time or circumstances can justify a

1 renewal of a motion.

2 COMMISSIONER REDENBAUGH: And can anyone
3 make the motion for renewal, or is there a
4 limitation?

5 MS. CHINN: No, there is not a
6 limitation.

7 COMMISSIONER REDENBAUGH: No limitation.
8 Okay.

9 COMMISSIONER ANDERSON: Well, I have a
10 question of the parliamentarian.

11 CHAIRPERSON BERRY: Okay. Go right
12 ahead.

13 COMMISSIONER ANDERSON: We have a motion
14 to reconsider.

15 CHAIRPERSON BERRY: It's not a motion to
16 reconsider.

17 COMMISSIONER ANDERSON: Then there is
18 the motion to renew. The motion to reconsider has
19 very specific limitations on it, which is that you
20 must be on the prevailing side to make the motion.
21 If the meeting is to last one day's duration, the
22 motion must be made during that day.

23 Now, could the parliamentarian explain
24 to us why a motion to renew would be appropriate in
25 circumstances which would prohibit a motion to

1 reconsider in the event that both motions would be
2 precisely the same?

3 CHAIRPERSON BERRY: I'm going to let the
4 parliamentarian answer that, but I am going to say
5 that my recollection of the last discussion we had
6 was that if the -- if you introduce a motion in a
7 completely different meeting, like a different
8 session of Congress -- last year there was a bill
9 introduced that was H.R. 1, or something, or H.1,
10 and it didn't pass.

11 And that doesn't mean that this year --
12 it was voted down -- that some Congressman can't
13 introduce the same motion at the beginning and call
14 it H, whatever, get it numbered, and have the
15 Congress consider it again. And if they want to
16 vote it down, vote it down again, or not consider
17 it.

18 But the fact that it was introduced the
19 year before doesn't mean that the next year --
20 otherwise, there are some bills that would never
21 pass because they have been introduced repeatedly
22 year after year after year, and the discussion we
23 had the last time, as I recall -- Marlissa, or
24 whoever it was -- pointed that out to us, that that
25 was the difference.

1 But anyway, I just wanted to say that
2 was my recollection. But let me ask Sicilia, yes.

3 COMMISSIONER ANDERSON: But maybe we
4 should hear from the parliamentarian.

5 CHAIRPERSON BERRY: Yes.

6 COMMISSIONER ANDERSON: See what her
7 response is.

8 CHAIRPERSON BERRY: Right. Okay.

9 Go ahead, Sicilia.

10 MS. CHINN: I believe your question was
11 what the difference was between renewing a motion
12 and reconsidering a motion, and there --

13 COMMISSIONER ANDERSON: Precisely, my
14 question was: where you have a motion to
15 reconsider, which has very specific restrictions on
16 its use, and a motion to renew, which can be
17 interpreted more broadly, why is it that a motion to
18 renew would be permitted, and a motion to reconsider
19 is prohibited, when it would accomplish the exact
20 same thing?

21 MS. CHINN: Well, I'm not -- I actually
22 would like to consult Roberts Rules for a second.
23 But as my -- my reading of it is, because the motion
24 to renew is made at the same or very close to the
25 same meeting, that there should be some change in

1 circumstance that would prevent basically the motion
2 being brought up to --

3 CHAIRPERSON BERRY: You mean reconsider,
4 I think.

5 MS. CHINN: I'm sorry. Did I say renew?

6 CHAIRPERSON BERRY: Yes.

7 MS. CHINN: I meant to say reconsider.
8 I'm sorry. I wish the words were a little more
9 different.

10 But because the motion to reconsider is
11 brought up at the very same meeting and there is
12 much likely -- it is much more unlikely that
13 circumstances have changed that there are stricter
14 rules for that to be brought up.

15 CHAIRPERSON BERRY: What Marlissa told
16 us, too, if I recall correctly, was -- or if it was
17 Marlissa; I don't know whether it was Marlissa --
18 was that the idea was that you didn't want somebody
19 delaying a meeting by over and over again trying to
20 get the same thing that was defeated reconsidered,
21 which a partisan who was in favor of a motion that
22 was defeated might just keep doing to hold up the
23 process in a specific meeting. Just at the same
24 meeting over and over again, keep introducing the
25 motion.

1 So, therefore, it was made a requirement
2 that an opponent of the motion had to be the person
3 to do it. But that if you weren't in the same
4 meeting, and time had passed and circumstances might
5 be different, that it was like a whole new motion
6 that was being introduced, and you weren't delaying
7 a meeting. That's what she told us, but -- and I
8 could be wrong about that because it's been so long
9 ago.

10 MS. CHINN: I think that -- I'm sorry.

11 CHAIRPERSON BERRY: Yes, Commissioner
12 Anderson?

13 COMMISSIONER ANDERSON: Well, several
14 things. First, the motion to reconsider is a tech-
15 nique by which one obtains finality to a decision.
16 Therefore, it has to be offered by the prevailing --
17 somebody on the prevailing side. And the restric-
18 tions, therefore, are restrictions that go to
19 bringing closure to a decision on a particular
20 issue.

21 Now, the question of being able to
22 reintroduce legislation between Congresses has to do
23 with the fact that when one Congress adjourns, then
24 a new Congress is constituted. And there is
25 actually a different body and different officers,

1 committees. It's not the same Congress.

2 But when you consider within the same
3 Congress, like the 116th Congress, one has to
4 consider that the motion to reconsider always gets a
5 final vote on the legislation under consideration,
6 precisely to accomplish its intent, which is to
7 bring finality to the action of the Congress by
8 either passing the legislation or not passing the
9 legislation.

10 So, you see, routinely, as a matter of
11 course, the motion to reconsider, which is
12 constantly tabled. It's the way to bring finality
13 to a consideration within the legislative day on the
14 congressional calendar.

15 We, as a commission, as far as I under-
16 stand it, don't cease to exist after every two years
17 and come into a new and different commission. So,
18 therefore, the fact that we may have voted on this
19 report last year doesn't mean that because we're now
20 in a new calendar year we can take a vote to
21 reconsider the action taken on it.

22 Now, the fact that there may be circum-
23 stances that have changed, that's precisely why the
24 rule for the vote to reconsider applies. The
25 primary circumstance that has changed is different

1 Commissioners and a change in the vote, which is, as
2 I understand it, the principal reason why, if you
3 read Roberts Rules of Order, it says that the vote
4 on a motion is prohibited unless it's brought up at
5 a different meeting, because it is precisely to
6 guard against the reconsideration where there is a
7 change of votes. And it seems to me that's what we
8 are doing.

9 I mean, if we look at the history of
10 this report, the first draft of this report was
11 supported by four members of the Commission, and
12 four members of the Commission had objections.
13 Based on that, there was an agreement that the
14 report would be returned to the staff, and there
15 would attempt to be a compromise report written.
16 Portions of the report were to be rewritten.

17 The report then came back as a rewritten
18 report, and the four commissioners who objected to
19 the first draft supported the second draft, and the
20 four commissioners that supported the first draft
21 opposed the second draft.

22 Now, at that point, there was no
23 agreement to send the report back the second time
24 and to be rewritten, to find a compromise that all
25 eight commissioners could agree on. But the vote

1 was forced, and the report failed on a tie vote. So
2 now we're back here. If we have a different report,
3 and staff can go through recommendation by
4 recommendation, showing where the changes have been
5 made, then perhaps we're dealing with a different
6 report.

7 But if we're going to argue the
8 principle of whether we can continue with this
9 before the Commission on the same report, and vote
10 on it, you know, we reach a time when there's a
11 majority of commissioners to support it after it has
12 been repeated. I have to stand on the principle
13 that I'm against that.

14 And I don't think it's a very good
15 reading of Roberts Rules of Order, because I don't
16 believe you can use a motion to renew to substitute
17 for a motion to reconsider when a motion to
18 reconsider would be prohibited under Roberts Rules
19 of Order.

20 Anyway, that's my position.

21 CHAIRPERSON BERRY: Well, there is no --
22 in what you've said, Commissioner Anderson, there is
23 no difference between a motion to reconsider and a
24 motion to renew. In other words, there would be no
25 such thing as a motion to renew under the

1 circumstances that you have described.

2 Since there is in Roberts Rules a motion
3 to renew and a motion to reconsider, they must be
4 different things, by virtue of the fact that there
5 are two different sections in Roberts Rules that
6 define them. So a motion to renew must exist;
7 otherwise, Roberts Rules would not identify it and
8 detail how it is to be carried out.

9 Under the scenario you have just given
10 us, the Commission could never entertain a motion to
11 renew, because there would be no such thing. And
12 there is such an animal; otherwise, there wouldn't
13 be a section in Roberts that refers to it. That's
14 number one.

15 Number two, the Commission, then, would
16 never be able to consider anything that the
17 Commission had ever decided before by somebody
18 raising it again. No matter what the number of
19 commissioners or who they were. We would be
20 absolutely foreclosed from ever having anybody renew
21 a discussion of something that the Commission -- the
22 motion to renew must cover something. Otherwise, it
23 wouldn't be in Roberts. It's got to cover
24 something.

25 Yes, Vice Chair?

1 VICE CHAIRPERSON REYNOSO: Madam Chair,
2 I try to be respectful of the different roles that
3 we all have, so I did not express an opinion earlier
4 when this issue came up a year or so ago. But it
5 happens that I have more than once acted as a
6 parliamentarian at meetings, and my own conclusions
7 were in agreement with the opinions that we received
8 a year or so ago, in terms of how these various
9 motions operate, and that there, in fact, is a
10 difference between the two motions.

11 But I -- just in light of the fact that
12 we, as commissioners, are discussing the rules, I
13 thought I would just add what my own understanding
14 is, though I didn't express an opinion last time.

15 COMMISSIONER ANDERSON: Madam Chair?

16 CHAIRPERSON BERRY: Yes?

17 COMMISSIONER ANDERSON: I don't have a
18 satisfactory answer to my inquiry when a motion to
19 reconsider a certain matter is prohibited. And how
20 can you accomplish the exact same prohibited effect
21 by using a motion to renew?

22 Now, if the Vice Chair can explain that
23 to me, I am very happy to concede that a motion to
24 renew has much broader implication in other
25 circumstances or other types of matters before the

1 Commission.

2 CHAIRPERSON BERRY: He is nodding his --

3 COMMISSIONER ANDERSON: You can use it
4 to substitute for a motion which is prohibited by
5 the terms of the motion.

6 CHAIRPERSON BERRY: I'll let him
7 respond.

8 VICE CHAIRPERSON REYNOSO: Yes. The
9 Roberts Rules of Order are not meant to be substan-
10 tive, but are meant to effectuate a way of coming to
11 decisions and allowing a meeting to go forward so
12 folk can reach those decisions.

13 So it, in fact, is meant to make the
14 sort of distinction that we were told about a year
15 or a year and a half ago; that is, a motion for
16 reconsideration can come up only in the same meeting
17 if the people who were in favor of the motion
18 believe that it ought to be reconsidered. So that
19 it can't be used intrusively during the course of
20 that meeting.

21 A motion to renew, then, is perfectly --
22 a person is perfectly free, as I understood it and
23 interpreted it in times past, to bring up the same
24 subject matter with simply a new motion at that
25 point. Then it's considered as a new motion.

1 Actually, it could be done at the next meeting.

2 That provides the opportunity for the
3 folk to then consider each matter, dispose of it,
4 and keep on going with their meeting, instead of
5 having some intrusiveness come into the meetings.

6 And Roberts Rules, as I say, it's not
7 meant to be a substantive response. It's just meant
8 to be a way of facilitating meetings to go forward
9 and make those decisions. At least that's the way
10 I've understood it in times past.

11 CHAIRPERSON BERRY: If I understand you
12 correctly, what you're saying, in answer to Commis-
13 sioner Anderson's question, if I understand you, and
14 if I understand what Sicilia said earlier, and what
15 Marlissa, or whomever, told us before, the reason
16 why you can do something under a motion to renew
17 that you couldn't do under a motion to reconsider is
18 because a motion to reconsider comes in the same
19 meeting where the subject matter has just been voted
20 down.

21 VICE CHAIRPERSON REYNOSO: It has just
22 been disposed of.

23 CHAIRPERSON BERRY: And all you're doing
24 is trying to delay the meeting by introducing it
25 over and over again, and Roberts is designed to

1 grease the wheels so that people can move.

2 VICE CHAIRPERSON REYNOSO: Yes.

3 CHAIRPERSON BERRY: They don't permit
4 you to ask for your motion to be reconsidered in the
5 same meeting, unless the people who opposed it want
6 it reconsidered. But if you want to come into
7 another meeting and bring your motion in as a motion
8 to renew, then you can do that because you're not
9 disrupting that meeting.

10 VICE CHAIRPERSON REYNOSO: And it can be
11 voted up or down.

12 CHAIRPERSON BERRY: You can vote it up
13 or down. And then, if you lose, you can't ask to
14 reconsider in that meeting.

15 VICE CHAIRPERSON REYNOSO: Right.

16 CHAIRPERSON BERRY: Somebody who opposed
17 you would have to do it. So all Roberts does is it
18 doesn't protect you from who has got a majority and
19 who hasn't.

20 VICE CHAIRPERSON REYNOSO: Exactly.

21 CHAIRPERSON BERRY: Or what the
22 substance is. What it protects you against is the
23 idea that you would delay a meeting just because you
24 want your thing considered over and over again, and,
25 therefore, you can't ask for a motion to reconsider.

1 Now, am I understanding this correctly
2 or not?

3 VICE CHAIRPERSON REYNOSO: That has been
4 my understanding. Those have been my rulings. But,
5 as I say, I'm not the parliamentarian this time.
6 But I did want to share --

7 CHAIRPERSON BERRY: I mean, is my under-
8 standing clear, insofar as you know?

9 MS. CHINN: Yes, I believe it's correct.

10 CHAIRPERSON BERRY: Okay. So that's the
11 answer to your question, Commissioner Anderson. Do
12 you feel you -- even if you don't agree, do you feel
13 that the question has been answered, or that they
14 have attempted an answer? I'm not asking you to
15 agree.

16 COMMISSIONER ANDERSON: Yes, I have
17 received an answer.

18 (Laughter.)

19 I do not agree.

20 CHAIRPERSON BERRY: Okay.

21 COMMISSIONER ANDERSON: If you wish to
22 go forward, then we'll go forward, but over my
23 objection.

24 VICE CHAIRPERSON REYNOSO: Well --

25 CHAIRPERSON BERRY: Okay.

1 VICE CHAIRPERSON REYNOSO: -- there is
2 one matter. I may have mentioned this last time,
3 that an organization is free to pass its own rules.
4 If we had a rule that said once you have a vote on
5 it, you can't look at it again for six months, or 12
6 months, or whatever, I suppose that, you know, we
7 could have -- internally we could have such a rule.

8 But I don't believe that the Commission
9 has any such rule. So that's why I think the
10 parliamentarians, then and now, have turned to
11 Roberts.

12 CHAIRPERSON BERRY: Yeah. We agreed
13 some years ago to use Roberts.

14 VICE CHAIRPERSON REYNOSO: Oh, that's
15 right.

16 CHAIRPERSON BERRY: Commissioner Lee?

17 COMMISSIONER LEE: I think we're talking
18 about different circumstances, not just new commis-
19 sioners coming on board, or what have you.

20 I recall sort of that the staff had come
21 back to the Commission, asking us whether they --
22 whether they can redraft certain portions of this
23 report. So, essentially, we are looking at a new
24 report.

25 CHAIRPERSON BERRY: Maybe some parts.

1 COMMISSIONER LEE: Some parts.

2 CHAIRPERSON BERRY: The whole report,
3 no.

4 COMMISSIONER LEE: Well, the majority of
5 it is still the same. But there were certain
6 aspects that they had revised or amended. So it's a
7 new circumstance that we're dealing with. It's not
8 like we are dealing with the same report,
9 essentially.

10 So, you know, we may need to have
11 another opinion, you know, for future.

12 CHAIRPERSON BERRY: Yes?

13 COMMISSIONER REDENBAUGH: Which report
14 is this that we're --

15 CHAIRPERSON BERRY: This is the one that
16 Fred did on ability grouping. This is not the --

17 COMMISSIONER REDENBAUGH: The other one
18 is in the category with --

19 CHAIRPERSON BERRY: It had to do with
20 gender, something, something, something.

21 COMMISSIONER REDENBAUGH: Gender.
22 Right.

23 CHAIRPERSON BERRY: I don't remember
24 what it was.

25 COMMISSIONER REDENBAUGH: Okay.

1 CHAIRPERSON BERRY: This is the one
2 about ability grouping.

3 COMMISSIONER ANDERSON: Madam Chair?

4 CHAIRPERSON BERRY: Yes?

5 COMMISSIONER ANDERSON: I just want to
6 say that I do not agree with this interpretation of
7 Roberts Rules of Order. But more to the point, I
8 think it is very bad for us to establish a precedent
9 that we can vote on a report, and then we can let
10 some time go by, and, depending upon what
11 commissioners are then present at the meeting, vote
12 again on the report. I think that's a bad
13 precedent.

14 If you want to do it, you have the vote
15 today to do it. But for myself, I would not --

16 CHAIRPERSON BERRY: Well, Commissioner
17 Anderson, don't you even admit to the possibility
18 that the staff has reviewed this, and where they
19 thought it was necessary to make changes, it has
20 done so, and that they ought to have the opportunity
21 to do that and present the report to the
22 Commissioners?

23 You don't believe that that is even
24 acceptable to ask the staff to do, given all of the
25 work they did on the report, and that we should just

1 simply tell them that once there is a vote, they
2 can't even engage in revision and present it to the
3 Commissioners before -- or whoever is on the
4 Commission?

5 COMMISSIONER REDENBAUGH: Excuse me. I
6 really do need to leave, but I think I might have a
7 solution in this one particular case, if I may --

8 CHAIRPERSON BERRY: Okay. What is the
9 solution?

10 COMMISSIONER REDENBAUGH: Well --

11 CHAIRPERSON BERRY: Solutions are always
12 welcome, Russell.

13 COMMISSIONER REDENBAUGH: If we
14 considered this a motion to reconsider, such a
15 motion could be made by Commissioner Anderson.

16 CHAIRPERSON BERRY: Or by you, because
17 you opposed it.

18 COMMISSIONER REDENBAUGH: Or by me,
19 right.

20 Then, Carl, would that satisfy the very
21 valid concern, which I think you have and which I
22 endorse -- and that is one bite of the apple -- that
23 if that -- if that is the case, then the issue of
24 how one votes on this report goes to the substantive
25 issue, and we may not be prepared to vote on it

1 today. But I'm trying to see if there's a
2 procedural way to move forward that takes care of
3 your concern.

4 CHAIRPERSON BERRY: That would be good,
5 and then we could defer voting on it until you folks
6 have a chance to go over it again and see -- and
7 maybe even talk to people about what changes they
8 have made, and so on, and then be prepared to vote
9 on it.

10 Sicilia?

11 The parliamentarian wishes to speak. I
12 know you have to go, but say something, Sicilia,
13 before Russell leaves.

14 MS. CHINN: Right. You were talking
15 about the motion to reconsider, and that would not
16 -- you can't do that at this meeting, because it's
17 not the same thing.

18 COMMISSIONER REDENBAUGH: Okay. It's
19 confined to the meeting that ended last year.

20 MS. CHINN: That's correct.

21 COMMISSIONER REDENBAUGH: Okay. Then
22 there is no solution here.

23 CHAIRPERSON BERRY: But we could -- if
24 we want to, we could announce -- I could rule -- if
25 you want to do that, I could rule, for purposes of

1 making everybody at least go forward in some harmony
2 and collegiality. I know it's always a mistake when
3 I try to do that, but I do it.

4 I could say that I rule that we should
5 waive the rule and permit you to have a motion to
6 reconsider, even though it's not permitted in the
7 rules, or a motion to proceed as if it were a motion
8 to reconsider, for purposes of harmony and
9 collegiality among the Commissioners, without
10 biasing what you do in the future -- it's a waiver
11 -- and get my colleagues to agree to that, if that's
12 what you wish to do, and then we could consider this
13 fully at the next time.

14 I mean, I would be willing to take that
15 step if that helps any. I don't know if it does,
16 but if it doesn't, then I'm not willing to take the
17 step. But I was trying to be helpful. I would rule
18 that way.

19 Can we waive the rules, if we wish to,
20 by agreeing to waive them for some specific thing?

21 COMMISSIONER ANDERSON: Madam Chair?

22 CHAIRPERSON BERRY: Yes?

23 COMMISSIONER ANDERSON: I think the
24 motion, if there's no objection, can be accepted.

25 CHAIRPERSON BERRY: So --

1 COMMISSIONER ANDERSON: If nobody
2 objects, the parliamentarian is not, I don't
3 believe, in a position to object, so --

4 CHAIRPERSON BERRY: Well, we can say
5 that the parliamentarian has advised us that this
6 would be a motion to renew and not a motion to
7 reconsider, because it's not in the same meeting.
8 But the Commissioners wish to have someone who
9 opposed the report the first time be the person to
10 move that we consider it again. I didn't say
11 reconsideration. And that that is how the
12 Commissioners wish to proceed.

13 Now, would you do that, Russell? And
14 then next time we'll discuss it.

15 COMMISSIONER REDENBAUGH: Well, I don't
16 want to discourage the Commissioner, or anything,
17 but yes, I would, subject to -- I want to defer to
18 Commissioner Anderson because I've got --

19 CHAIRPERSON BERRY: Okay. Well, let's
20 see what he wants to do.

21 COMMISSIONER ANDERSON: If I could say
22 -- my concern is -- I think I have made it very
23 clear that it is a matter of parliamentary
24 procedure. And I know we have a different view as
25 to the interpretation of the rules here.

1 But on the surface of the issue, I don't
2 have an objection to reconsidering, although not in
3 a formal parliamentary fashion, the revised report
4 that has been rejected. So if we can just move
5 beyond whether it's a motion to renew or whether
6 it's a motion to reconsider, I would be completely
7 opposed to reconsidering the same report.

8 If you're telling me it has been
9 significantly revised, and I mean beyond grammatical
10 changes, then I don't have an objection to
11 considering it. But I would ask that it be held
12 over to our next meeting.

13 COMMISSIONER REDENBAUGH: I would
14 support that.

15 CHAIRPERSON BERRY: What does the -- so
16 what we would do, if we followed that procedure, is
17 to -- well, we have to ask the Staff Director to
18 affirm my understanding that there have been
19 revisions. I don't know how extensive, but some
20 revisions, to the report.

21 COMMISSIONER REDENBAUGH: I need to
22 leave. All right. Thanks.

23 CHAIRPERSON BERRY: Okay.

24 COMMISSIONER REDENBAUGH: All right.

25 CHAIRPERSON BERRY: But you support

1 .doing it next time?

2 COMMISSIONER REDENBAUGH: I support --
3 yes, next time.

4 CHAIRPERSON BERRY: Okay.

5 COMMISSIONER REDENBAUGH: Thank you.

6 CHAIRPERSON BERRY: Do you know what the
7 answer to that is?

8 STAFF DIRECTOR MOY: No, I would have to
9 ask David or Rebecca.

10 CHAIRPERSON BERRY: Who knows the
11 answer? Not that you have to tell us what the
12 changes are, but have there been changes in it?
13 Because I thought there were, but my memory may be
14 --

15 MR. CHAMBERS: There have been minor
16 changes made to the report, but nothing significant
17 along the lines of what Commissioner Anderson was
18 talking about -- revisions to all of the recommenda-
19 tions.

20 CHAIRPERSON BERRY: Okay. All right.
21 Russell is gone, I guess. Are you gone,
22 Russell? Yeah. Okay. We couldn't vote anyway
23 because we don't have a quorum.

24 COMMISSIONER ANDERSON: In the absence
25 of a quorum, it gives us a month to --

1 CHAIRPERSON BERRY: Consider this
2 problem.

3 COMMISSIONER ANDERSON: -- consider how
4 to work on this.

5 CHAIRPERSON BERRY: Yes. And maybe
6 we'll get the parliamentarian to write us a little
7 note explaining this, all of this -- you know, the
8 rule about reconsider, renew, whatever, to us, which
9 would be helpful. I think that there was something
10 written before, so maybe you can dig it out and see
11 what is there.

12 So we will, then -- this report will be
13 on the agenda for the next meeting.

14 The last item that I have to discuss is
15 that -- first, I forgot to mention earlier under the
16 Staff Director's Report -- and I meant to -- that we
17 need to do something about the number of hate crimes
18 that seem to be occurring. We, of course, denounce
19 them when there is a hate crime.

20 There was one on the front page of the
21 newspaper this morning that occurred in Alabama,
22 where a man was killed, according to Alabama
23 officials, because he -- some people murdered him in
24 connection with his being gay, which is within the
25 Commission's jurisdiction under our administration

1 of justice provision.

2 I think that we should lead about --
3 that the staff should give us a little memo, in case
4 Commissioners don't know what this is about, and
5 prepare a press release on this subject. But just
6 doing that is not enough, I think.

7 Something we need to think through, what
8 is it that seems to be causing these hate crimes
9 that, according to the Justice Department reports,
10 are increasing in number? Is there some kind of
11 climate issue? What's going on here? I don't know
12 what's going on in the country?

13 And whether there is anything at all
14 that we, in general, can do, rather than saying how
15 much we deplore them, which we all do, and how much
16 we wish that they would not happen. Is there
17 something about opinion leaders and their
18 responsibility?

19 Commission reports over the years have
20 talked about the responsibility of those who hold
21 positions of power and influence to set a tone in
22 which people do not think they should engage in
23 behavior like this for invidious reasons, or whether
24 it's just that there are some baddies out there who
25 do awful things to people, and it just seems to be

1 that the media is reporting on them more. I don't
2 know what the answer is.

3 But it is a major concern, and it seems
4 like now, you know, almost every month we have to
5 have a press release about somebody who has been
6 murdered for some invidious reason associated with
7 their civil rights.

8 I wish Commissioners would give some
9 thought to it and see if there is anything at all
10 that we're not doing that we could do to be helpful
11 in this regard. I don't know what that is.

12 The other thing is that Fred had pointed
13 out -- and I meant to mention this earlier -- that
14 the EEOC has issued new policy guidance on
15 reasonable accommodation under the ADA. And what
16 they have done is, he believes, in response to a
17 recommendation made in the Commission report which
18 was issued in the fall, which said that they should,
19 within six months, develop and publish enforcement
20 guidance on the definitions on this subject. And he
21 is very pleased that they seem to have taken into
22 account the Commission reports.

23 I know that the agencies read our
24 reports and they utilize them to try to see if they
25 can improve enforcement. And so they are very

1 important in that regard.

2 VI. FUTURE AGENDA ITEMS

3 CHAIRPERSON BERRY: The last thing I'll
4 say in terms of the future agenda items, or what we
5 might discuss in the future, is the Vice Chair and I
6 went up on the Hill yesterday to meet with a couple
7 of folks who had asked us to come meet with them.
8 And in wandering all over the Hill, it seems to me
9 that what is in the air up there does not bode well
10 for our budget or for the budget of the other civil
11 rights agencies.

12 There was some discussion yesterday
13 about taking back the money that was in the budget
14 agreement last year at the end when the conference
15 -- to increase the budget of EEOC for the first time
16 in a major way, which we all applauded, and it had
17 been in our federal -- our report on increasing the
18 federal budget.

19 And we were happy about that, and the
20 President's Race Initiative had asked that it be
21 increased, so that they could deal better with the
22 backlog of cases.

23 But there was discussion about taking
24 back all of this money to make sure that the
25 supplemental for the hurricane relief down in

1 Nicaragua and Honduras, and some other matters that
2 the President had asked for, could be balanced out
3 and paid for, which was -- there were other items
4 discussed, but I was mainly focused on the civil
5 rights agencies, which was very disturbing, indeed,
6 if that were to happen after EEOC getting the
7 largest single increase that they have gotten in a
8 long time.

9 So I don't really know what is happening
10 up there. I had hoped that there would be
11 bipartisan cooperation on these budgetary matters,
12 and something positive to happen.

13 The other thing we heard was that the
14 Oversight Committee is considering having a hearing
15 on the Commission again, and that the hearing would
16 focus on management issues at the Commission.

17 And I am somewhat puzzled by that
18 because -- we were both a little puzzled by that
19 because we know that the staff here has worked very
20 hard to revise the AIs, to get the CFR over to OMB
21 and to get it out, and to get the management
22 information system up and going.

23 And we know that the staff here is
24 stretched because most of the offices have one
25 person performing a function, sometimes two. And if

1 one person is not here, then that function gets
2 delayed until they come back. And there are always,
3 in any agency, illnesses and things that happen with
4 people that require them to be away.

5 And so after everybody geared up last
6 year, and did all of that work on these matters, we
7 are wondering why we would be asked again, because
8 the only items that I'm aware of that are late are
9 the New York and Mississippi report. Now, there may
10 be other things, and the Staff Director may have to
11 more fully inform us, but that -- so we may be
12 having another hearing about management issues at
13 the Commission.

14 We also heard that the Oversight
15 Committee has -- wants to recommend that we get no
16 budget increase again, which was very disturbing and
17 which is something that we'll have to work very hard
18 on.

19 So I had thought that there would be
20 this strong air of working together to get some
21 things done, and it may happen, and I'm still hoping
22 it will happen. And maybe we were talking to the
23 wrong people or listening to the wrong people. But
24 at least it was a very -- it was like taking a cold
25 shower, going up there and having these discussions,

1 although everyone said that they would work very
2 hard to try to do something for this agency and
3 other agencies in the civil rights community.

4 So I don't have any other comments on
5 that. Does anyone have any comments about anything?

6 Yes, Vice Chair?

7 VICE CHAIRPERSON REYNOSO: I just have a
8 question. My understanding was, as we met with some
9 of the congressional folk yesterday, that we had had
10 no indication from the GAO that they were not satis-
11 fied with the final reports that we had given them.
12 And I just wonder whether that's -- that was my
13 understanding. Is that correct?

14 CHAIRPERSON BERRY: Has GAO said
15 anything to us about the AIs or the MIS or the --

16 STAFF DIRECTOR MOY: No.

17 CHAIRPERSON BERRY: -- CFR?

18 STAFF DIRECTOR MOY: No.

19 CHAIRPERSON BERRY: They have not.

20 VICE CHAIRPERSON REYNOSO: Okay.

21 CHAIRPERSON BERRY: It might be well to
22 check with the persons that we deal with at GAO to
23 see if they have any concerns, or if they would like
24 to come over and have meetings and be briefed about
25 what's going on.

1 VICE CHAIRPERSON REYNOSO: Because our
2 last piece of correspondence to them basically said
3 "'tis done," and then, since we had had no further
4 communication, I assumed that they had accepted it.
5 Maybe they haven't. I don't know. That had been my
6 assumption, so maybe the Chair's suggestion might be
7 good that we just doublecheck with them.

8 CHAIRPERSON BERRY: Okay.

9 COMMISSIONER ANDERSON: Can I ask --

10 CHAIRPERSON BERRY: Yes, Commissioner
11 Anderson?

12 COMMISSIONER ANDERSON: How about OPM?

13 CHAIRPERSON BERRY: How about OPM?

14 COMMISSIONER ANDERSON: Maybe we should
15 check there, too.

16 VICE CHAIRPERSON REYNOSO: Oh.

17 CHAIRPERSON BERRY: Yes.

18 VICE CHAIRPERSON REYNOSO: That's a good
19 idea.

20 CHAIRPERSON BERRY: Now, OPM -- let's
21 see, the last report we got from them, somebody
22 remind me of what they said. The last report that
23 we got from them, I think it was positive.

24 But, Staff Director, what's going on
25 with OPM?

1 STAFF DIRECTOR MOY: I believe that OPM
2 has expressed an interest in coming here to review
3 us and give us a full audit sometime in the spring.
4 So we are prepared for that.

5 VICE CHAIRPERSON REYNOSO: Okay.

6 CHAIRPERSON BERRY: And are we in good
7 shape? Maybe Cathy would like to -- Cathy, could
8 you come up here and tell us what you know about
9 this?

10 STAFF DIRECTOR MOY: Cathy Gates,
11 Director of Human Resources.

12 MS. GATES: Good morning. OPM will be
13 coming over in March, and, as a matter of fact, in
14 two weeks, to do a security investigation of our
15 Commission, and then they will be coming back
16 May 10th through the 14th to go over the rest of all
17 of the human resources programs.

18 We are in good shape, but we are working
19 diligently to try to do some more positive things,
20 just as -- you know, to show them that we are
21 working hard and we are trying to comply.

22 But in terms of what they found wrong
23 the last time, they have been corrected.

24 CHAIRPERSON BERRY: And they are
25 satisfied that what they found wrong the last time