

## U.S. COMMISSION ON CIVIL RIGHTS

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MEETING **EDITED**

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FRIDAY, NOVEMBER 9, 2012

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The Commission convened in Suite 1150 at 1331 Pennsylvania Avenue, Northwest, Washington, D.C. at 1:30 p.m., Martin R. Castro, Chairman, presiding.

PRESENT:

MARTIN R. CASTRO, Chairman

ROBERTA ACHTENBERG, Commissioner

TODD GAZIANO, Commissioner

GAIL L. HERIOT, Commissioner

PETER N. KIRSANOW, Commissioner

DAVID KLADNEY, Commissioner

MICHAEL YAKI, Commissioner (via telephone)

VANESSA EISEMANN, Parliamentarian (via telephone)

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STAFF PRESENT:

TERESA BROOKS

MARGARET BUTLER, Acting Director, OCRE

PAMELA DUNSTON, Chief, ASCD

YASMIN ELHADY

ALFREDA GREENE

JENNIFER CRON HEPLER, Solicitor

TINALOUISE MARTIN, Director, OM

DAVID MUSSATT, Acting Director, RPCU (via telephone)

LENORE OSTROWSKY, Acting Chief, PAU

ELOISE PLATER

EILEEN RUDERT

MICHELE YORKMAN

JOHN RATCLIFFE, Chief, BFD

COMMISSIONER ASSISTANTS PRESENT:

NICHOLAS COLTON

ALEC DEULL

JOHN MARTIN

CARISSA MULDER

ALISON SOMIN

MARLENE SALLO

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

(1:38 p.m.)

CHAIRMAN CASTRO: Calling the meeting to order. This is a meeting of the U.S. Commission on Civil Rights. It is November 9<sup>th</sup>, 2012 at the hour of 1:38 p.m. This meeting is taking place at the Commission's headquarters located at 1331 Pennsylvania Avenue, N.W., in Washington, D.C.

I'm Chairman Marty Castro. Commissioners who are present with me are myself, Commissioner Kirsanow, Commissioner Heriot, Commissioner Gaziano, Commissioner Achtenberg, Commissioner Kladney, Commissioner Yaki is joining us by telephone. We also have Vanessa Eisemann who's on the phone who will be presenting a little later, so in terms of the Commissioners we have a quorum present. Is the court reporter present?

COURT REPORTER: Yes.

CHAIRMAN CASTRO: Yes, okay. So, the meeting shall now come to order. The first item is the Approval of the Agenda.

**I. APPROVAL OF AGENDA**

CHAIRMAN CASTRO: I move that we approve the agenda. Is there a second?

COMMISSIONER ACHTENBERG: Second.

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1 CHAIRMAN CASTRO: Okay. That was a second  
2 from Commissioner Achtenberg. Are there any  
3 amendments?

4 (No response.)

5 CHAIRMAN CASTRO: So, we need to amend the  
6 agenda to anything?

7 COMMISSIONER GAZIANO: Are we going to take  
8 up the Texas SAC? I don't think that was circulated.

9 CHAIRMAN CASTRO: I don't think so.

10 COMMISSIONER HERIOT: I don't think we need  
11 to amend the agenda to not do something.

12 CHAIRMAN CASTRO: Yes, so we don't need an  
13 amendment then. Okay. Do we? Excuse me.

14 COMMISSIONER ACHTENBERG: It's listed but  
15 we're not going to bring it up.

16 CHAIRMAN CASTRO: Okay. That's fine. So,  
17 let's then move to approve the agenda. All those in  
18 favor say aye.

19 (Chorus of ayes.)

20 CHAIRMAN CASTRO: Any opposed? Any  
21 abstentions? Okay, the motion passes.

22 So, the first item up is the Program  
23 Planning Update.

24 **II. PROGRAM PLANNING UPDATE**

25 CHAIRMAN CASTRO: We're going to be

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1 discussing the approval of a Discovery Plan for the  
2 2013 Statutory Enforcement Report. I hope everyone has  
3 had a chance to review that. Vanessa disseminated it  
4 by email I believe yesterday, so do any Commissioners  
5 have questions or comments on the Discovery Plan for  
6 the Enforcement Report? I'm sorry, Commissioner  
7 Gaziano.

8 COMMISSIONER GAZIANO: Yes, I do. First, I  
9 want to thank Vanessa in two regards, first of all,  
10 for reaching out to Commissioners and for calling in  
11 on a day off. I had one or two minor suggestions.  
12 Again, thank you for already incorporating some of my  
13 thoughts.

14 (Off the record comments.)

15 The first is that --

16 CHAIRMAN CASTRO: Commissioner Yaki, you  
17 might want to mute your phone. We're hearing your  
18 other conversation.

19 COMMISSIONER YAKI: Huh?

20 CHAIRMAN CASTRO: You might want to mute  
21 your phone.

22 (Off the record comments.)

23 CHAIRMAN CASTRO: Commissioner Yaki, we're  
24 hearing your conversation. You might want to mute your  
25 other phone.

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1 COMMISSIONER GAZIANO: Anyway, back to --  
2 first of all, I also want to thank you for including  
3 the draft interrogatories --

4 (Off the record comments.)

5 COMMISSIONER GAZIANO: And just for maybe  
6 others on our staff. Normally, we adopt a Discovery  
7 Plan and then we're shown the actual draft discovery.

8 (Off the record comments.)

9 COMMISSIONER GAZIANO: I'll try to speak  
10 over, but it makes sense in this case that you did  
11 both at once.

12 Now, with regard to the interrogatories,  
13 one suggestion that I want to make that doesn't  
14 require much discussion, and then the second might  
15 invite just a little bit of discussion, is that in the  
16 -- I'm trying to turn to the right page of the  
17 interrogatories, you have what kind of looks like a  
18 standard instruction if it were civil discovery. I  
19 think here I've turned to it. It's C, and it said, "If  
20 DOD should state the basis for any objection to  
21 answering any discovery request. In the event that DOD  
22 objects to only part of the discovery request, DOD is  
23 required to furnish the other information." Again,  
24 that sort of follows the civil litigation -- there  
25 should be no objections. There aren't at least the

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1 same objection -- there can't be the same objections  
2 to our request as in civil discovery. We are allowed  
3 to ask for things that might not even lead to the  
4 discovery of admissible evidence, so what I would  
5 suggest is that you substitute the sentence from our  
6 organic statute that requires all federal agencies to  
7 cooperate fully, to comply fully with the Commission's  
8 requests, but that we are eager to talk to any agency  
9 that receives our discovery request to resolve any  
10 issues, come to any compromises.

11 I also think that this doesn't -- the next  
12 thing I'm going to suggest doesn't necessarily need to  
13 be in the discovery itself in a cover letter, and  
14 maybe it probably is standard from the Office of  
15 General Counsel, but to ask for someone, since the  
16 Statutory Report time line is tight at this point, to  
17 ask someone to contact you immediately so that you  
18 could begin coordination with DOD. These requests seem  
19 to require responses from different people. You want  
20 probably a contact person. If that contact person  
21 doesn't call you back as requested, or contact you as  
22 requested, I would suggest you be very proactive in  
23 reaching out, and not wait for 30 days, or whatever to  
24 make sure that it's landed in the right office.

25 My more general suggestion, and you or

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1 anyone else can respond to both, is that I worry -- as  
2 wonderfully exhaustive you were, worry that maybe this  
3 is just a bit too exhaustive. And my only concern  
4 there -- well, I suppose I have two-fold. One is, can  
5 we really make use of everything that we're requesting  
6 if we get it all. If we don't, then that's  
7 unfortunate. And, secondly, whether it might give the  
8 Department inadvertently, consciously, whatever a --  
9 excuse is the wrong word because maybe that sounds  
10 like it's intentional, that they'll respond to certain  
11 things and not others which are more important. So, I  
12 think that some of our requests are more important  
13 than others, and some individual questions even  
14 require a great deal of discovery, but overall I  
15 applaud the thoroughness. I'm just raising the  
16 question whether it may be just a teeny bit too much.

17 CHAIRMAN CASTRO: Do you want to answer  
18 that Ms. Eisemann?

19 MS. EISEMANN: Yes. Would you like me to --

20 CHAIRMAN CASTRO: Wait, hold on a second.  
21 Commissioner Kladney.

22 COMMISSIONER KLADNEY: So, what would you  
23 take out, Commissioner?

24 COMMISSIONER GAZIANO: I mean, I have some  
25 thoughts but I don't necessarily -- I'm more raising a

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1 question than necessarily feel strongly about it. If  
2 you think that we can really handle all the material  
3 and analyze all the material, and make use of it, and  
4 that it won't give the Department of Defense some  
5 argument about not complying with that which is the  
6 most important, then I'll defer.

7 COMMISSIONER KLADNEY: Well, I just think  
8 that if our staff interacts with them, they can define  
9 really what's necessary. I understand that there's one  
10 major database that I was asking about that's going to  
11 be provided, and it apparently includes most of the  
12 information that we need. Isn't that correct, Ms.  
13 Eisemann?

14 MS. EISEMANN: If the DOD does provide the  
15 database that they say that they have, we know that  
16 they at least have in part because their annual  
17 reports provide some of the information on a limited  
18 basis, then that would answer many of the statistical  
19 questions. I've heard different things from different  
20 people about whether this database is fully  
21 functioning, fully operational, whether it even has  
22 all the information prior years, so I don't have a  
23 firm definitive idea of all that is in it.

24 The DOD was supposed to by statute have  
25 gotten this database up and running a year ago, but as

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1 of a year ago it wasn't fully functioning yet. It  
2 should be now, and if it is, then it should have all  
3 the statistical information that we're seeking with  
4 the exception of certain things, for example, I have  
5 an outstanding question to the Deputy Director of the  
6 SAPARO, the Sexual Assault Prevention and Response  
7 Office about whether they keep that data. It's not  
8 provided in the reports, but they may keep it anyway.  
9 I noted in the interrogatories items -- I'm sorry,  
10 actually in the Discovery Plan, I noted the items that  
11 I don't know for sure whether they keep it. If they  
12 don't keep the data, then they don't keep it, and  
13 there's nothing we can do about that. But most of it,  
14 I know that they do in some format.

15 COMMISSIONER KLADNEY: Commissioner  
16 Gaziano, the only reason I'm familiar with that is  
17 when we got the interrogatories, I went through and I  
18 wrote this whole elaborate interrogatory scheme of  
19 years from so and so to so and so, years from so and  
20 so to so and so, years from so and so, and then I was  
21 told most of it is in this database, so hopefully we  
22 get that.

23 CHAIRMAN CASTRO: Commissioner Heriot.

24 COMMISSIONER HERIOT: I'm afraid I have  
25 more fundamental differences with the Discovery Plan.

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1 We have a tendency when we do these enforcement  
2 reports to basically ask for a giant document but  
3 never really think clearly about what question that's  
4 actually in dispute that we're trying to resolve. And  
5 it seems to me that the fundamental issue where you're  
6 getting disagreement these days is that some people on  
7 the inside are arguing that the military has  
8 overreacted to this issue, and are therefore sometimes  
9 prosecuting people or acting on things that are not as  
10 significant as they should be for the reaction that  
11 they're getting, while others are arguing that the  
12 military continues to not give sufficient attention to  
13 this area.

14 They might both be right, and maybe  
15 neither of them are right, but what we should be  
16 trying to accomplish here is to at least bring some  
17 new evidence that bears on that question. It seems to  
18 me that this plan is not designed to really address  
19 that issue, and yet I think that's the fundamental  
20 issue before us.

21 I think we need something that will allow  
22 us to say look, we're doing more than just going to  
23 the military and asking for all of the stuff they've  
24 got in their file on this issue already, because  
25 that's already basically -- that's already there.

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1 We're not adding to the sum total of human knowledge  
2 on this if we simply ask them to dump on us all the  
3 information as they already keep it.

4 It's not clear to me what question we're  
5 trying to answer. It's not clear to me how we think  
6 we're adding something to what's already known on this  
7 issue.

8 The military gets hauled before Congress,  
9 you know, often on this issue. They come, I'm sure,  
10 armed with lots of information, and they will give us  
11 lots of information. But to what degree is it  
12 different than the information that they've already  
13 supplied to Congress, or were prepared to supply to  
14 Congress. It just seems to me we're missing the  
15 fundamental issue here. I am not wedded to any  
16 particular way of addressing that, but I do want to  
17 see some effort to address it, and I don't see it  
18 here.

19 CHAIRMAN CASTRO: Commissioner Kladney, do  
20 you want to respond?

21 COMMISSIONER KLADNEY: I would say that  
22 actually getting this information would be important,  
23 because it's actually looking into the information and  
24 seeing the difference in ranks, how they're treated,  
25 whether -- I mean, the question I still have is

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1 whether those convicted of sexual assault in the  
2 military go on the sexual offender list. I actually  
3 understand that's not -- that there's no requirement  
4 that they do that. Sometimes officers are imprisoned.

5 The definition of sexual assault in the military is  
6 very broad, sexual crimes, and I think that this type  
7 of discussion will -- and this type of information  
8 will be able to be looked at in a different way.

9 I mean, if we look at it from those points  
10 of view among many others that the information is  
11 contained that we'll actually be able to discern a lot  
12 more things than just Congress. I mean --

13 COMMISSIONER HERIOT: Well, there are many  
14 people who are suggesting that the military overreacts  
15 sometimes to these issues. To what extent do you see  
16 this Discovery Plan as helping to answer that  
17 question?

18 COMMISSIONER KLADNEY: Well, I think the --  
19 it's not the Discovery Plan itself. I mean, we get  
20 information from discovery, and like in any kind of  
21 litigation then you go through it and discern what it  
22 says and what it doesn't say. I mean, the Discovery  
23 Plan itself doesn't draw a conclusion --

24 COMMISSIONER HERIOT: What would you  
25 envision that could answer that question the way

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1 you've asked for information here? I mean, you don't  
2 want to conduct just a general fishing expedition on  
3 anything related to sexual assault. What -- how have  
4 you tried to address that question about whether the  
5 military may have at least in some instances  
6 overreacted?

7 CHAIRMAN CASTRO: Commissioner Kladney,  
8 might not some of the witnesses we invite be able to  
9 answer those questions?

10 COMMISSIONER KLADNEY: Well, I mean,  
11 hopefully yes. Hopefully, that's what your witnesses  
12 will do. I mean we're supposed to --

13 COMMISSIONER HERIOT: How could witnesses  
14 do anything other than just --

15 COMMISSIONER KLADNEY: Can I finish my  
16 statement? Commissioner, is it all right if I finish?

17 COMMISSIONER HERIOT: Well, if you answer,  
18 yes.

19 COMMISSIONER KLADNEY: I couldn't get two  
20 words out. We're going to invite witnesses from a  
21 varied and assorted background. We want JAGs who have  
22 prosecuted cases, JAGs who have defended cases. We'd  
23 like the approach as to whether it would be over-  
24 burdensome at this point, whether they're looking at  
25 everything, whether they're prosecuting everything, or

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1 how the system works. I don't know how the JAG system  
2 works. I've never been a JAG. I've never been in the  
3 military, the JAG Corps. I was only a soldier.

4 CHAIRMAN CASTRO: Well, I don't know if we  
5 have an impasse here or maybe we can move forward on a  
6 motion?

7 COMMISSIONER GAZIANO: Let me ask one other  
8 quick question that Commissioner Kladney two  
9 statements ago raised. I didn't see a definition at  
10 least in the interrogatories for sexual assault. There  
11 was one in the Concept Paper that I know was from the  
12 DOD, but I'm not sure it's from the UCMJ. And I would  
13 at least -- I don't know what the right definition is,  
14 but I would like to say unless otherwise indicated  
15 when use the term sexual assault, we mean X. And I  
16 would prefer it to be a term that's -- and this is  
17 where I haven't spent enough time, but I would think  
18 one from the UCMJ, even if it is broader than in the  
19 civilian context to be used so that at some later date  
20 we can at least be trying to compare apples to apples.  
21 Sexual harassment is somewhat different, and might be  
22 a different military crime, but --

23 MS. EISEMANN: Can I just ask for  
24 clarification?

25 CHAIRMAN CASTRO: Yes, go ahead.

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1 MS. EISEMANN: In the instructions,  
2 Instruction C, the term sexual harass -- I'm sorry,  
3 the term sexual assault is -- it says means as define  
4 in the Uniform Code of Military Justice.

5 COMMISSIONER GAZIANO: I'm sorry, where is  
6 that?

7 MS. EISEMANN: And that is a very -- well,  
8 initially it's broken down into many levels from  
9 groping to rape and forcible sodomy. But what I've  
10 tried to do is within the interrogatories, or if it's  
11 produced in the database that would be preferable,  
12 break it down into each of those types of sexual  
13 assault. But I just wanted to be clear about what you  
14 have in mind, if that's not the definition that you  
15 think we should be using for purposes of the  
16 interrogatories.

17 COMMISSIONER GAZIANO: As long as you've  
18 defined it, you've partially answered. I don't know  
19 that I have the right -- I had a different version, I  
20 think, of the interrogatories, and I didn't see that  
21 definition.

22 COMMISSIONER KLADNEY: So, may I make a  
23 motion to approve this Discovery Plan?

24 CHAIRMAN CASTRO: We have a motion from  
25 Commissioner Kladney. Is there a second?

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1 COMMISSIONER ACHTENBERG: Second.

2 CHAIRMAN CASTRO: A second from  
3 Commissioner Achtenberg. Any additional discussion?

4 COMMISSIONER GAZIANO: I do want to at  
5 least -- maybe it doesn't go to the interrogatories,  
6 or it's exclusively the interrogatories. I want to  
7 support the kind of inquiry though that Commissioner  
8 Heriot spoke about, and I'd like our staff to pursue  
9 that. And I pass this on through my special assistant,  
10 as well. There is a question added about comparisons  
11 that DOD may have, and I know that they're imperfect,  
12 where we're asking for DOD to produce them.

13 But I hope through both our own research  
14 and our own witnesses, and probably it's more  
15 important to do so through experts, we really drill  
16 down on experts who can -- even if we're not going to  
17 get new data. Maybe out data analysis will produce  
18 something that is unique.

19 But beyond that, I am particularly  
20 interested in being able to say whether the rate of  
21 sexual assaults, whether increasing, decreasing is  
22 especially problematic compared to whatever the  
23 relevant populations. And the truth is, of course,  
24 there is no other population that's exactly like the  
25 U.S. military, whether foreign militaries, whether

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1 college campuses are arguably analogous or not, I'd  
2 like at least a fair amount of attention.

3 CHAIRMAN CASTRO: Thanks. So, we'll call  
4 the question. Commissioner Kirsanow, how do you vote?

5 COMMISSIONER KIRSANOW: No.

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

8 COMMISSIONER HERIOT: No.

9 CHAIRMAN CASTRO: Commissioner Gaziano, how  
10 do you vote?

11 COMMISSIONER GAZIANO: Let me pass.

12 CHAIRMAN CASTRO: Commissioner Yaki, how do  
13 you vote?

14 COMMISSIONER YAKI: Aye.

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

17 COMMISSIONER ACHTENBERG: Aye.

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

20 COMMISSIONER KLADNEY: Yes.

21 CHAIRMAN CASTRO: And I vote yes, so we  
22 have one, two, three, four yeses, two nos, and a pass.

23 COMMISSIONER GAZIANO: I'll --

24 CHAIRMAN CASTRO: Oh, come on, join the  
25 dark side, vote yes.

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(Laughter.)

1  
2 COMMISSIONER GAZIANO: I'll say yes with  
3 again the understanding that both Commissioners and  
4 staff will work to make this as meaningful a  
5 investigation as possible. And with that, I'd like as  
6 regular and thorough reports as we are -- we only have  
7 a couple of months before January. Maybe we shouldn't  
8 wait until -- I don't think we should probably wait  
9 until the next meeting to get some sort of update on  
10 what the DOD is likely to give us.

11 CHAIRMAN CASTRO: Fair enough. Okay, thank  
12 you. We're now moving on to the State Advisory  
13 Committee issues.

14 **III. APPROVAL OF STATE**

15 **ADVISORY COMMITTEE SLATES**

16 CHAIRMAN CASTRO: We have two things up,  
17 the agenda for approving the Massachusetts slate, and  
18 then also the appointment of a new chair for Nebraska.

19 So, the first item is the Massachusetts State  
20 Advisory Committee. I move that the Commission  
21 recharter the Massachusetts State Advisory Committee  
22 under this motion. Actually, let me hold off here for  
23 a second.

24 Did the Subcommittee address the Unified  
25 Charter issue yet?

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1 COMMISSIONER ACHTENBERG: No.

2 CHAIRMAN CASTRO: Okay. Then we'll just  
3 move forward on this. The first item, as I said, the  
4 approval of the Massachusetts Advisory Committee, so  
5 moving that the Commission recharter the Massachusetts  
6 State Advisory Committee. Under this motion, the  
7 Commission appoints the following individuals to that  
8 committee based upon the recommendations of our SAC  
9 Subcommittee; David J. Harris, Karen M. Blum, Gregory  
10 D. Cote, Martha F. Davis, Charles L. Glenn, Wendy  
11 Kaminer, Ronald G. Marlow, Eva M. Millona, Allison W.  
12 Phinney, III, Elbert L. Robertson, John S. Sivolella,  
13 Siobhan M. Sweeney, Greer T. Swiston.

14 Pursuant to this motion, the Commission  
15 appoints Mr. David J. Harris as Chair of this  
16 rechartered Massachusetts State Advisory Committee.  
17 These members will serve as uncompensated government  
18 employees. Under this motion, the Commission  
19 authorizes the SAC Subcommittee to execute the  
20 appropriate paperwork for the appointment. Is there a  
21 second?

22 COMMISSIONER ACHTENBERG: Second.

23 CHAIRMAN CASTRO: Second. Any discussion?  
24 Hearing none, I'll call the question. Commissioner  
25 Kirsanow, how do you vote

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1 COMMISSIONER KIRSANOW: Yes.

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

4 COMMISSIONER HERIOT: Yes.

5 CHAIRMAN CASTRO: Commissioner Gaziano, how  
6 do you vote?

7 COMMISSIONER GAZIANO: Yes.

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

10 COMMISSIONER YAKI: Yes.

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

13 COMMISSIONER ACHTENBERG: Yes.

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

16 COMMISSIONER KLADNEY: I abstain.

17 CHAIRMAN CASTRO: Abstain, okay. And I vote  
18 yes, so it passes.

19 The next item is the Interim Nebraska SAC  
20 Chair. I move that the Commission approve the  
21 appointment of Dr. Edmund T. Hamann as Interim Chair  
22 of the Nebraska State Advisory Committee based upon  
23 the recommendation of our SAC Subcommittee. This  
24 member will serve as an uncompensated government  
25 employee. Under this motion, the Commission also

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1 authorizes the SAC Subcommittee to execute the  
2 appropriate paperwork for the appointment. Is there a  
3 second?

4 COMMISSIONER HERIOT: Second.

5 CHAIRMAN CASTRO: Okay, any discussion?

6 COMMISSIONER HERIOT: Could I just make a  
7 comment?

8 CHAIRMAN CASTRO: Sure.

9 COMMISSIONER HERIOT: My understanding is  
10 that the SAC itself took a vote on this, and I just  
11 want to establish that it is not the SAC that elects  
12 its own chairman, it is the Commission that appoints  
13 Chairmen, and that we have to make sure that everyone  
14 understands that. That said, this guy is fine.

15 CHAIRMAN CASTRO: Absolutely. Okay. Any  
16 other questions on that? Commissioner Gaziano.

17 COMMISSIONER GAZIANO: Maybe this is a  
18 question to the SAC Chair that I should have addressed  
19 prior to this morning, but it wasn't until I focused  
20 on it last night. I voted against the slate because I  
21 thought it was very ideologically unbalanced.

22 CHAIRMAN CASTRO: Is this the Nebraska  
23 slate?

24 COMMISSIONER GAZIANO: Yes, the Nebraska  
25 slate.

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1 CHAIRMAN CASTRO: Okay.

2 COMMISSIONER GAZIANO: There were a couple  
3 of people who identified themselves as Republican,  
4 but in almost every case but the previous Chairman, I  
5 saw no indication that they were Conservative, or  
6 Libertarian. Maybe one or two of them were, but it was  
7 a very unbalanced slate for Nebraska. And I voted  
8 against it, notwithstanding the only member of the  
9 State Advisory Committee who seemed to be somewhat  
10 Conservative was the Chair. So, in replacing an  
11 unbalanced slate this becomes more ideologically  
12 imbalanced, so I'm a little uncomfortable in making it  
13 more so. With that -- but I do want to say for the  
14 record I think that the person nominated to be Chair  
15 looks fully qualified and to be a fine individual.  
16 I would have just preferred maybe to review the slate  
17 and add three or four, six or ten, whatever --

18 COMMISSIONER HERIOT: Given that it's a  
19 two-year charter --

20 COMMISSIONER GAZIANO: We'll get the  
21 chance.

22 COMMISSIONER HERIOT: Yes, it will come  
23 soon.

24 COMMISSIONER GAZIANO: Okay.

25 CHAIRMAN CASTRO: So, shall we take a vote?

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1 Okay. Commissioner Kirsanow, how do you vote?

2 COMMISSIONER KIRSANOW: Yes.

3 CHAIRMAN CASTRO: Commissioner Heriot, how  
4 do you vote?

5 COMMISSIONER HERIOT: Yes.

6 CHAIRMAN CASTRO: Commissioner Gaziano, how  
7 do you vote?

8 COMMISSIONER GAZIANO: Yes.

9 CHAIRMAN CASTRO: Okay. Commissioner Yaki,  
10 how do you vote?

11 COMMISSIONER YAKI: I'm sorry, on approving  
12 the Nebraska Interim Chair?

13 CHAIRMAN CASTRO: That's correct.

14 COMMISSIONER YAKI: Aye.

15 CHAIRMAN CASTRO: Okay. Commissioner  
16 Achtenberg, how do you vote?

17 COMMISSIONER ACHTENBERG: Aye.

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

20 COMMISSIONER KLADNEY: Abstain.

21 CHAIRMAN CASTRO: Abstain, okay. And I vote  
22 yes, so the motion passes. And let me just say that  
23 despite the news accounts there is bipartisanship here  
24 in Washington, at least here at the Civil Rights  
25 Commission, so thank you all.

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**IV. ADJOURN MEETING**

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CHAIRMAN CASTRO: Now, I move to adjourn.

Is there a second?

COMMISSIONER KLADNEY: You got it.

CHAIRMAN CASTRO: All right. Thank you.

COMMISSIONER YAKI: Mr. Chair?

CHAIRMAN CASTRO: Yes, Commissioner Yaki.

COMMISSIONER YAKI: Yes, I just want to say, again, I'm sorry I couldn't be there today, but I just wanted to put out there that at some point I want to bring up an issue that we had started, I thought came out rather starkly in this last election, and it's one where I'd like to at some point for us to think about investigating and talking about the idea of whether or not elections involving the Presidents, and perhaps maybe all federal elections should be -- the mechanisms of it should be federalized and not left to the whims of state and local authorities given the kinds of problems that were had with early voting, issues of voter purges, et cetera.

I'm currently convinced that having a single federal standard with monitoring oversight or something along those lines may be one way to prevent the kinds of political shenanigans that go on on both sides, on both Democrat and Republican sides, when it

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1 comes to partisan appointed local elected officials. I  
2 just want to put that out there. I think it's a non-  
3 partisan way to look at elections, and one where the  
4 Civil Rights Commission is uniquely qualified to take  
5 a look at.

6 CHAIRMAN CASTRO: Thank you, Commissioner.  
7 All right, we're adjourned. Thank you.

8 (Whereupon, the proceedings went off the  
9 record at 2:08 p.m.)

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