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U.S. COMMISSION ON CIVIL RIGHTS

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MEETING

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MONDAY, DECEMBER 19, 2011

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The Commission convened in Room 540 at 624
Ninth Street, Northwest, Washington, D.C. at 1:00 p.m.,
Martin R. Castro, Chairman, presiding.

PRESENT:

MARTIN R. CASTRO, Chairman

ROBERTA ACHTENBERG, Commissioner

TODD F. GAZIANO, Commissioner

GAIL L. HERIOT, Commissioner

PETER N. KIRSANOW, Commissioner

DAVID KLADNEY, Commissioner

MICHAEL YAKI, Commissioner

KIMBERLY TOLHURST, Delegated the Authority of
the Staff Director (via telephone)

FRANCES GARCIA, Inspector General

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STAFF PRESENT:

TERESA BROOKS
MARGARET BUTLER
IVY DAVIS
BARBARA DE LA VIEZ
PAMELA A. DUNSTON, Chief, ASCD
ALFREDA GREENE
MYRNA HERNANDEZ
TINALOUISE MARTIN, Director, OM
PETER MINARIK, Chief, RPCU
TORRANCE MONTGOMERY
LENORE OSTROWSKY, Acting Chief, PAU
EILEEN RUDERT
DAVID SNYDER
VANESSA WILLIAMSON
AUDREY WRIGHT
MICHELLE YORKMAN
MS. SELEW

COMMISSIONER ASSISTANTS PRESENT:

NICHOLAS COLTEN
ALEC DEULL
TIM FAY
DOMINIQUE LUDVIGSON
JOHN MARTIN
MARLENE SALLO
RICHARD SCHMECHEL
ALISON SOMIN

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

(1:04 p.m.)

CHAIRPERSON CASTRO: The meeting will come to order. This is a meeting of the U.S. Commission on Civil Rights. It is 1:03 p.m. on December 19th, 2011. This meeting is taking place at the Offices of the U.S. Commission on Civil Rights located at 624 Ninth Street, Northwest in Washington, D.C.

I am Chairman Marty Castro. Commissioners who are present at this meeting are myself, Commissioners Heriot, Commissioner Gaziano, Commissioner Kirsanow, Commissioner Kladney, Commissioner Yaki, and Commissioner Achtenberg. Vice Chair Thernstrom is unable to join us today.

A quorum of the Commissioners is present.

Is the person delegated the Authority of Staff Director present?

ACTING STAFF DIRECTOR TOLHURST: Yes.

CHAIRPERSON CASTRO: And that is Kimberly Tolhurst participating by phone because she has a case of the flu and we don't want everyone else here to have that.

Is the court reporter present? That is an affirmative.

1 Okay, so meeting shall now come to order.
2 and the first item is the approval of the agenda.

3 I. APPROVAL OF AGENDA

4 CHAIRPERSON CASTRO: I move that we approve
5 the agenda. Do we have a second?

6 COMMISSIONER YAKI: Second.

7 CHAIRPERSON CASTRO: Are there any
8 amendments? The Chair recognizes Commissioner
9 Achtenberg.

10 COMMISSIONER ACHTENBERG: Mr. Chairman, I
11 would move to amend the agenda to undertake a
12 consideration of the Lincoln Cottage proposal under
13 Program Planning Update and Discussion of Projects as
14 the first item.

15 CHAIRPERSON CASTRO: Okay, do we have a
16 second on that?

17 COMMISSIONER KLADNEY: I'll second it.

18 CHAIRPERSON CASTRO: Okay, are there any
19 further amendments? If not, let us vote to approve the
20 agenda.

21 COMMISSIONER GAZIANO: May I ask --

22 CHAIRPERSON CASTRO: Yes.

23 COMMISSIONER GAZIANO: Just a point of
24 information. I see we have the Inspector General here.

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1 Is that in the agenda?

2 CHAIRPERSON CASTRO: Yes, I was going
3 to acknowledge and have her say a few words, if you
4 think we need to amend the agenda to do that.

5 COMMISSIONER GAZIANO: Perhaps so.

6 CHAIRPERSON CASTRO: Okay, then we will
7 make a motion to allow our Inspector General to make
8 a brief presentation to the Commission. Do I have
9 a second on that?

10 COMMISSIONER GAZIANO: I second.

11 CHAIRPERSON CASTRO: Okay. Any
12 further? Commissioner Yaki.

13 COMMISSIONER YAKI: Can we do so with
14 an unconditional grant of immunity?

15 (Laughter.)

16 CHAIRPERSON CASTRO: You have to
17 negotiate that separately.

18 Okay, any further motions to amend the
19 agenda? If not, all those in favor say aye.

20 (Chorus of aye.)

21 CHAIRPERSON CASTRO: All those opposed?

22 (No response.)

23 CHAIRPERSON CASTRO: Any abstentions?

24 (No response.)

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1 CHAIRPERSON CASTRO: In the opinion of
2 the Chair, the eyes have it.

3 Before actually we move on to the
4 approval of the minutes, I would actually like to
5 take the opportunity to say a few words about an
6 important occasion that is coming up. I want to
7 recognize Audrey Wright. Is Audrey here? There
8 you are, Audrey.

9 II. RECOGNITION OF AUDREY WRIGHT'S SERVICE

10 I want to recognize Audrey because as
11 some of you know, she will be leaving us shortly.

12 But I want to recognize her for her 38 years of
13 service to the Civil Rights Commission for a total
14 of 42 years of service with the federal government.

15 Her tenure embodies the true meaning of public
16 service. Audrey has worked in several offices,
17 including the Office of the General Counsel, the
18 Office of the Staff Director, and she has been the
19 go-to person here at the Commission and she is going
20 to be taking a vast amount of our institutional
21 knowledge along with her upon her retirement.

22 Since my arrival here almost a year ago,
23 Audrey has been extremely helpful to me in assisting
24 me as I become acclimated to the Commission, as well

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1 as providing me with guidance and institutional
2 direction, and just always being a friendly,
3 cheerful, supportive person. And I just want you
4 to know that I will always appreciate that and that
5 you will be sorely missed by all of us, especially
6 by me. We hope that you will not be a stranger.

7 I know you were already telling me about coming
8 back for one of our briefings just to see what is
9 going on. And that is true service. So I want to
10 acknowledge it and actually make a motion that these
11 remarks be put in a form of a resolution that will
12 be presented to Audrey at a future point in time.

13 We actually have a few other things here we are
14 going to present to her before we move on with the
15 program.

16 Do I have a second on that?

17 COMMISSIONER HERIOT: Second.

18 CHAIRPERSON CASTRO: All those in
19 favor?

20 (Chorus of aye.)

21 CHAIRPERSON CASTRO: Any opposed or
22 abstentions? Of course not.

23 Let's hear it for Audrey.

24 (Applause.)

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1 CHAIRPERSON CASTRO: We actually have
2 a few things to present you. Now as you may recall,
3 I said Audrey had 42 years of service, but this
4 certificate is awarded to her in recognition of her
5 40 years of service, which apparently did not happen
6 when she reached that milestone two years ago. So
7 it is my pleasure as Chairman of the United States
8 Commission on Civil Rights on behalf of the
9 Commission to present you with this certificate for
10 your 40 years of service and then some.

11 (Applause.)

12 CHAIRPERSON CASTRO: And since you
13 can't carry that around with you everywhere you go,
14 we are going to have a little pin that you can wear
15 on your lapel that is a symbol of that 40 years of
16 service.

17 MS. WRIGHT: Thank you.

18 CHAIRPERSON CASTRO: Thank you the
19 service you have given to the people of the United
20 States.

21 And a little something that may not last
22 as long as those but a breath of fresh air to you
23 as you were to me when I joined the Commission.
24 Thank you.

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1 MS. WRIGHT: Thank you.

2 (Applause.)

3 CHAIRPERSON CASTRO: Thank you, Audrey.

4 Do you want to say something?

5 MS. WRIGHT: No, thank you.

6 CHAIRPERSON CASTRO: Okay.

7 COMMISSIONER YAKI: Mr. Chair?

8 CHAIRPERSON CASTRO: Yes, sir.

9 COMMISSIONER YAKI: I would like to say
10 a few words. First, I wonder if it is within the
11 powers of the Inspector General to revoke her
12 retirement because I just don't know what we are
13 going to do without her. She has been, since I have
14 been on the Commission for over six years now, Audrey
15 has been steadfast and a rock, who is unfailingly
16 polite. No matter how many times I tell her to call
17 me Michael, she just keeps calling me, she goes,
18 yes, Commissioner. It drives me crazy.

19 But she is just a joy to work with and
20 to know as a human being. And I wish her all the
21 best in her retirement and please, really, if you
22 value your sanity at all, don't come back here.

23 (Laughter.)

24 COMMISSIONER YAKI: We have audio, you

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1 can push it by audio. You can listen to music or
2 play with your cats or do whatever you want else.

3 But I will miss you. Personally, I just want to
4 say I will miss you very deeply. And thank you for
5 everything that you have done on behalf of this
6 Commission, to this country and to me personally.

7 CHAIRPERSON CASTRO: Thank you. Here,
8 here.

9 (Applause.)

10 CHAIRPERSON CASTRO: Okay, so before we
11 go to approval of the minutes, I would like to
12 present our Inspector General. As you all know,
13 the Government Accounting Office is going to be our
14 Inspector General for the U.S. Commission on Civil
15 Rights.

16 III. Introduction of Inspector General

17 CHAIRPERSON CASTRO: Frances Garcia,
18 the Inspector General is here and will introduce
19 herself and her staff. And you have the floor,
20 Madam Inspector General.

21 MS. GARCIA: Okay. Thank you,
22 Chairman. It is a pleasure to be here with you
23 today. And I'm sure it was a big surprise to you
24 as it was to us to find out exactly last month, the

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1 18th, that we were now going to be also the Inspector
2 General for the Commission of Civil Rights. And
3 with me is my Deputy Director, Cathy Helm, and our
4 General Counsel, Michael Volpe.

5 I thought this would be just like a meet
6 and greet so that you could attach faces for folks
7 here. And while I will be wearing two hats, I will
8 be not only the Inspector General here but I will
9 continue my current position as the Inspector
10 General for GAO. But I want you to know that you
11 will not be neglected. We will do our best to make
12 you feel like part of the -- We are here to help
13 you.

14 One of the things that we did that I
15 thought would be quick and easy, we put a brochure
16 together for you that just kinds of talks about the
17 authorities of the Inspector General and also some
18 of the responsibilities. And this is pretty cut
19 and dry for all the Inspector Generals and it is
20 all their responsibilities are covered under the
21 Act and so are the responsibilities that we have.

22 And we are seriously going to have a
23 hotline. Right now we have our hotline that we put
24 in here but we will have your own separate hotline

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1 for any concerns that people might have. And most
2 of the time those will be anonymous unless we
3 absolutely have to disclose the individual that made
4 those complaints.

5 One of the things that we were here to
6 do today is to just solicit some input from you in
7 some of the areas that you think we should be looking
8 into, some areas that you have concerns. I know
9 that this is a last minute thing that we are asking
10 you to do this. So if you could just send us an
11 email or call us or you can get a hold of us that
12 way or call me directly. My phone number and our
13 contacts are in the back of this.

14 We will also be reaching out to the
15 staff. We will have someone coming in and talking
16 to the staff and seeing what areas of concerns they
17 have that they think we should be looking into.
18 We have also reached out to the Congressional staff
19 that are responsible for this that have the
20 oversight and also that wrote the legislation where
21 we would be the IG and to see if there was any
22 concerns that they had in mind when they put the
23 legislation together.

24 And after we have done that, we will also

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1 be coming here and spending a couple of days. We
2 have already met with Kimberly, just a quick meet
3 and greet. We will be doing a risk assessment of
4 your policies and procedures and see what areas that
5 we think that need to be looked at. We will assign
6 a risk assignment to them and then we will be looking
7 into those areas.

8 Now the way I understand this will work
9 and the way we have done it, and so I just want you
10 to know that when we do look at these things,
11 especially when we do the auditing and we do the
12 reviews, there will not be any surprises. We will
13 have thoroughly talked to your staff about them and
14 gotten an agreement where they may not agree with
15 our conclusions but the facts are right. And of
16 course we will talk to Kimberly and I am sure that
17 she will in turn discuss the review.

18 And I plan to come and be a frequent guest
19 of yours to talk to you about any concerns that we
20 might have or any input that we might need from you
21 individually.

22 I think that pretty much wraps it up.
23 It is very general. If you have any specific
24 questions, I would be happy to answer them.

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1 CHAIRPERSON CASTRO: Are there any
2 questions? Not yet. I'm sure that they will at
3 some point. Oh, I'm sorry. Commissioner Gaziano?

4 COMMISSIONER GAZIANO: More of a
5 comment. First of all, thank you for taking on this
6 duty and bringing such a high level of delegation
7 to our meeting. I imagine we are rather small
8 numerically compared to the General -- How many
9 personnel are there in the General Accounting
10 Office?

11 MS. GARCIA: Approximately 3200.

12 COMMISSIONER GAZIANO: Yes, I thought
13 so.

14 MS. GARCIA: Not in the IG's shop.

15 COMMISSIONER GAZIANO: So I don't know
16 -- We won't tell GAO they should be jealous that
17 we are getting more attention than our numbers.
18 But thank you.

19 And one of the things I think you might
20 be able to help those who drafted an earlier version
21 of the legislation and us is to confirm there were
22 one or two notions in it about our financial, the
23 record keeping being out of order that I think were
24 out of date referred to an earlier period in the

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1 Commissioner's history. At least I hope that is
2 no longer the case.

3 And so I think part of the service that
4 you call can provide is to confirm if our impression
5 is right, we commissioners are part-timers and we
6 try to stay on top of the Agency's budget. But do
7 you, not only could confirm for us but hopefully
8 confirm for members of Congress and the public
9 generally, whether we have made those improvements
10 in recent years.

11 MS. GARCIA: Definitely Commissioner,
12 after we do a risk assessment, we will be in the
13 position to know what the risks are and what your
14 policies and procedures are, and what the internal
15 controls are and whether you have segregation of
16 duties in areas where you shouldn't be and where
17 you are vulnerable.

18 COMMISSIONER GAZIANO: Okay.

19 MS. GARCIA: Obviously we can't do it
20 now but once we do a risk assessment. And we will
21 have some pretty experienced people here that have
22 a background in this area. Everybody in the IG's
23 Office and is a GAO long-time employee, they have
24 come off the line to work with the Inspector

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1 General's Office. So they are very familiar with
2 analyzing and reviewing other agencies' policies
3 and procedures and internal controls in areas of
4 vulnerability.

5 COMMISSIONER GAZIANO: So part of the
6 reason I just wanted to comment was that it was in
7 one of the report language. You will, I'm sure if
8 not already up to speed, will be brought up to speed
9 with concerns that existed eight years ago and
10 certain attempts at correcting them five years ago,
11 four years ago, and so on. But that might be some
12 helpful background for you as you get up to speed.

13 MS. GARCIA: We have reviewed that. I
14 have also looked at your latest performance and
15 accountability report and I see where you have made
16 some progress. But then again, you know, we will
17 do an independent review of all that.

18 COMMISSIONER GAZIANO: Thank you, very
19 much.

20 MS. GARCIA: Thank you.

21 CHAIRPERSON CASTRO: I think we just got
22 our sixth straight clean audit in a row. So that
23 is always good, too.

24 MS. GARCIA: We had a CPA that was very

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1 happy to see that.

2 CHAIRPERSON CASTRO: Any other
3 questions for our Inspector General? If not, I want
4 to thank you for taking the time to be with us and
5 we look forward to working with you and your staff
6 and appreciate your service to the Commission.
7 Thank you.

8 MS. GARCIA: One of the things that we
9 did, Mr. Chairman, is we have reviewed the minutes
10 and since this is public, we plan to stay with you
11 for the rest of the day just to sort of observe.

12 CHAIRPERSON CASTRO: Absolutely, you
13 are welcome to stay for the entire meeting.

14 MS. GARCIA: Thank you, very much. And
15 again like I said, please feel free to call us to
16 ask any questions that you might have. And as time
17 goes by, we will come back and meet with you and
18 we will let you know if we are progressing. And
19 when we have our hotline, we will definitely let
20 you know here so that you can post it on your
21 webpage.

22 CHAIRPERSON CASTRO: Great. Thank
23 you. We will now move on to the approval of the
24 November 18th, 2011 meeting minutes.

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IV. APPROVAL OF THE NOVEMBER 18, 2011

MEETING MINUTES

CHAIRPERSON CASTRO: Do we have a motion on that? Or I will move that. Do we have a second on the motion?

COMMISSIONER ACHTENBERG: Second.

CHAIRPERSON CASTRO: Any discussion? None? Okay, all those in favor of approving the minutes say aye.

(Chorus of aye.)

CHAIRPERSON CASTRO: I'm sorry.

COMMISSIONER GAZIANO: I'll abstain, if you don't mind.

CHAIRPERSON CASTRO: Okay, one abstention.

COMMISSIONER HERIOT: Two abstentions.

CHAIRPERSON CASTRO: Two abstentions.

COMMISSIONER KLADNEY: Let's make it three abstentions.

CHAIRPERSON CASTRO: Okay. Any opposed? Is there a reason? Is there something in there that --

COMMISSIONER HERIOT: It's not worth it, no.

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1 CHAIRPERSON CASTRO: Okay.

2 COMMISSIONER KLADNEY: Is that our
3 Christmas present?

4 COMMISSIONER GAZIANO: It's not worth
5 bothering about.

6 CHAIRPERSON CASTRO: Five -- Four in
7 favor. So the minutes pass.

8 So that we are moving on now to Program
9 Planning. As you know when we amended the agenda,
10 we said we would add a discussion of the Lincoln
11 Cottage.

12 V. PROGRAM PLANNING UPDATE AND
13 DISCUSSION OF PROJECTS
14 - LINCOLN COTTAGE PROPOSAL

15 CHAIRPERSON CASTRO: So I defer to
16 Commissioner Achtenberg on the Lincoln Cottage.

17 COMMISSIONER ACHTENBERG: Thank you,
18 Mr. Chairman.

19 CHAIRPERSON CASTRO: Thank you.

20 COMMISSIONER ACHTENBERG: So as members
21 may recall, at our last meeting we had a discussion
22 about the proposed project to be done jointly with
23 the Lincoln Cottage to commemorate the 150th
24 anniversary of the Emancipation Proclamation. We

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1 discussed at that time that we would look further
2 at putting a proposal together in consultation with
3 colleagues. I circulated for your consideration
4 a proposal dated December 14, 2011. I believe we
5 circulated that last Wednesday. It went to
6 everybody Friday morning. And I want to move that
7 proposal and then there are additional -- there
8 concerns that people have raised that we need to
9 discuss and then there are perhaps friendly
10 amendments or amendments to certain of the
11 phraseology that certain members want to propose.

12 So is that an appropriate way to put to you --

13 CHAIRPERSON CASTRO: Yes. So we have
14 a motion. Is there a second?

15 COMMISSIONER HERIOT: I'm happy to
16 second with my friendly amendments.

17 CHAIRPERSON CASTRO: Of course. Yes,
18 are they already in here?

19 COMMISSIONER ACHTENBERG: No, they are
20 not.

21 COMMISSIONER HERIOT: No, we just -- We
22 had a ten-minute meeting before this meeting.

23 CHAIRPERSON CASTRO: Sure. So we are
24 seconding this for discussion purposes and then you

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1 could put forward your amendments.

2 COMMISSIONER HERIOT: Okay.

3 CHAIRPERSON CASTRO: So we have a motion
4 and a second. So let's have some discussion. The
5 Chair recognizes Commissioner Heriot.

6 COMMISSIONER HERIOT: I think that it
7 is a very good idea for the Commission to be involved
8 in some sort of a celebration of the Emancipation
9 Proclamation. I believe that it is one of the most
10 important events in American history and it is one
11 of the most important events in the history of the
12 world. So we shouldn't let it go by without marking
13 it and I think doing so with the Lincoln Cottage
14 organization, it is a good idea. And this program
15 is what Commissioner Achtenberg and I with the help
16 from our special assistants have tried to work out.

17 The one thing I am keen on doing that
18 is not yet reflected in the proposal that you have
19 before you is that I believe it is important to focus
20 upon the Emancipation Proclamation as an important
21 event in itself, the end of slavery. I'm willing
22 to put the Thirteenth Amendment in with that, since
23 that then applies the Emancipation Proclamation to
24 the rest of the states.

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1 But at the same time, there is some
2 sentiment both at the Lincoln Cottage and within
3 the Commission that we also talked to some degree
4 about more contemporary issues. And I am perfectly
5 happy with that, so long as they are directly related
6 to the Emancipation Proclamation or to the
7 Thirteenth Amendment.

8 And so the language that I have that is
9 somewhat different from what you have in front of
10 you, on page three we talk about the themes that
11 the scholars who would be working on our anthology
12 of essays, what they would be talking about. And
13 about two-thirds of the way down the page there is
14 a paragraph that begins with "Both the U.S.
15 Commission on Civil Rights and President Lincoln's
16 Cottage will communicate" and this is what we would
17 be telling the potential authors about what they
18 should be writing about.

19 And right now, it says that we will
20 "communicate to the author whose participation they
21 have secured the focus of the volume of essays is
22 on Lincoln, the Emancipation Proclamation, and the
23 debates about the Proclamation that took place at
24 the time." That sentence is fine.

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1 The second sentence is the sentence that
2 I want to offer a somewhat different language on.

3 In my version, what I am trying to do is to make
4 sure that these, the contemporary issues will be
5 directly relevant to the end of slavery and the
6 Thirteenth Amendment and that that includes things
7 like reparations, since reparations was an issue
8 at the time and it is an issue about what you do
9 about the end of slavery. Slavery around the world,
10 or as I have written, slavery and human trafficking,
11 those are issues that are directly related to the
12 Emancipation Proclamation.

13 So my sentence reads: "In addition to
14 these historical themes, topics may include
15 contemporary questions that are directly relevant
16 to the end of slavery and/or to the Thirteenth
17 Amendment, including but not necessarily limited
18 to, reparations, slavery and human trafficking
19 around the world, the military draft, and the
20 controversy over whether the federal hate crimes
21 legislations' constitutional basis can be properly
22 located in the Thirteenth Amendment (and not hate
23 crimes in general)."

24 CHAIRPERSON CASTRO: Okay.

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1 COMMISSIONER HERIOT: I'm writing that
2 down myself here.

3 I am happy to do a program with the
4 Lincoln Cottage in the future that deals with equal
5 protection issues, deals with general race relation
6 questions, but I think this should be something that
7 focuses on the Emancipation Proclamation and
8 doesn't let it get mixed up with the many other
9 issues that are very interesting and worthy of
10 discussion. But what I would like to see is
11 something that is more directly related to
12 Emancipation than the sentence that we have now,
13 which talks about issues that are really quite broad
14 like race relations.

15 CHAIRPERSON CASTRO: Could you do me the
16 favor and repeat the clause about the hate crimes
17 legislation?

18 COMMISSIONER HERIOT: You want me to
19 read the whole sentence again?

20 CHAIRPERSON CASTRO: Yes.

21 COMMISSIONER HERIOT: Okay. "In
22 addition to these historical themes, topics may
23 include contemporary questions that are directly
24 relevant to the end of slavery and/or to the

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1 Thirteenth Amendment, including but not necessarily
2 limited to, reparations, slavery and human
3 trafficking around the world, and the controversy
4 over whether the federal hate crimes legislations'
5 constitutional basis can be properly located in the
6 Thirteenth Amendment (and not hate crimes in
7 general)."

8 COMMISSIONER ACHTENBERG: You didn't
9 include military service.

10 COMMISSIONER HERIOT: Oh, did I --
11 sorry. Put that back in there, the military draft.

12 CHAIRPERSON CASTRO: The Chair
13 recognizes Commissioner Achtenberg.

14 COMMISSIONER ACHTENBERG: Yes, Mr.
15 Chairman, on the issue of military service and
16 citizenship, this was actually a specific request
17 from the -- could you pull that up again please --
18 from the Lincoln Cottage, which I do want to read
19 to you so that it can elucidate the discussion.

20 "The Emancipation Proclamation
21 explicitly gave African Americans the right to serve
22 in the Union Army and to bear arms. We might look
23 at how service in the military is viewed as a right
24 and a responsibility of citizenship." That was

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1 their comment about additional --

2 COMMISSIONER HERIOT: Is that right?
3 I did not know that the Emancipation Proclamation
4 mentions military service specifically.

5 COMMISSIONER ACHTENBERG: Yes.

6 COMMISSIONER HERIOT: Let me pull up the
7 Emancipation Proclamation here. If that is in
8 there, I am very happy to include. Fortunately you
9 only have to write E-M-A-M and Google immediately
10 goes for Emancipation Proclamation.

11 COMMISSIONER YAKI: Not Immanuel Kant?

12 COMMISSIONER HERIOT: No.

13 COMMISSIONER GAZIANO: Commissioner
14 Achtenberg?

15 CHAIRPERSON CASTRO: The Chair
16 recognizes Commissioner Gaziano.

17 COMMISSIONER GAZIANO: Just a point of
18 clarification. From what you understand from the
19 Lincoln Cottage folks, they would like to be able,
20 for the scholars to be able, to address military
21 service generally sort of a right to it rather than
22 just issues relating to the draft. What is the
23 scope -- What do you understand the scope of their
24 interest is?

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1 COMMISSIONER ACHTENBERG: My
2 understanding was it relates to African American
3 Service in particular and, therefore, could relate
4 in terms of more current day issues, the reason I
5 put in integration of the military is because it
6 seems to me that that is an issue directly related
7 to an issue that flowed from the Emancipation
8 Proclamation.

9 COMMISSIONER HERIOT: I'm looking for
10 the actual text here.

11 COMMISSIONER KLADNEY: I thought that
12 was Harry Truman.

13 COMMISSIONER HERIOT: Yes, integration
14 is somewhat different from the right to serve.

15 COMMISSIONER ACHTENBERG: Well in terms
16 of a more current issue to which it relates.

17 (Pause.)

18 CHAIRPERSON CASTRO: And while
19 Commissioner Heriot looks that up, my suggestion
20 is maybe she can read through all her proposed
21 amendments and we can have some discussion around
22 those. And maybe before we vote if the Democratic
23 Caucus would like to talk about how we -- get your
24 input on how we view this and then come back and

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1 take a vote.

2 COMMISSIONER ACHTENBERG: Yes, I think
3 we might want a caucus. That would be a great way
4 to deal with it.

5 COMMISSIONER GAZIANO: We could have a
6 proposed to have a more general discussion of other
7 issues besides the amendments Commissioner Heriot
8 is offering?

9 COMMISSIONER KLADNEY: Do you have
10 other things you want to bring up?

11 COMMISSIONER GAZIANO: I don't. I
12 would just like to hear from other commissioners
13 and I just wonder whether we should hear that before
14 we --

15 CHAIRPERSON CASTRO: Yes, well why
16 don't we address the amendments first and then --

17 COMMISSIONER GAZIANO: But you don't
18 want to vote on them. Okay.

19 CHAIRPERSON CASTRO: Not until --

20 COMMISSIONER GAZIANO: That's fine.

21 CHAIRPERSON CASTRO: -- we have
22 discussed it amongst ourselves.

23 COMMISSIONER GAZIANO: No, I
24 understand. Or do you want to discuss what we are

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1 going to --

2 COMMISSIONER GAZIANO: I'm wondering
3 before we take a break if there are other
4 commissioners who have other concerns or interests.

5 CHAIRPERSON CASTRO: Oh, other
6 amendments, etcetera. Yes, we will ask that.

7 Commissioner Heriot?

8 COMMISSIONER HERIOT: I can read to you
9 what the Emancipation Proclamation says. "And I
10 further declare and make known that such persons
11 of suitable condition will be received into the
12 armed service of the United States to garrison
13 forts, positions stations, and other places, and
14 to man vessels of all sorts in said service."

15 Given that that is in there, I am willing
16 to have like a special -- but we might need to caucus
17 to figure out the language for this.

18 CHAIRPERSON CASTRO: Okay.

19 COMMISSIONER HERIOT: The other issue,
20 do you want me to mention the other issue here?

21 CHAIRPERSON CASTRO: Yes, please.

22 COMMISSIONER HERIOT: I don't have
23 language for the other issue --

24 CHAIRPERSON CASTRO: Okay.

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1 COMMISSIONER HERIOT: -- but I just
2 wanted to have a provision in case, you know, the
3 way this reads now each commissioner can select a
4 scholar. In case one or more commissioners fails
5 to designate a scholar rather than the Commission
6 not have its eight scholars, I would prefer that
7 we have some backup provision so that if someone
8 doesn't participate, that the members of the
9 Commission who are appointed by the same party's
10 appointing authority would be able to get together
11 and come up with someone.

12 And I assume everybody is going to --

13 CHAIRPERSON CASTRO: You don't have
14 language for it but we can talk --

15 COMMISSIONER HERIOT: I don't have
16 language for it but I think that should be pretty
17 noncontroversial. We all want to have eight --

18 COMMISSIONER GAZIANO: You just said it
19 sufficiently, I think, if we approve that.

20 CHAIRPERSON CASTRO: Yes.

21 COMMISSIONER HERIOT: Okay.

22 COMMISSIONER GAZIANO: I don't know
23 that we need to come up with exact.

24 COMMISSIONER HERIOT: I think we might

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1 need to talk a little bit about how to word the
2 military part, though.

3 CHAIRPERSON CASTRO: Yes, let's do that
4 now, then, unless there are other --

5 COMMISSIONER GAZIANO: Yes, I do -- Are
6 there other commissioners with other questions?

7 CHAIRPERSON CASTRO: Any other
8 amendments to this? Because we have a motion
9 pending with amendments. So why don't we kind of
10 clear that up first before we go on to the broader
11 discussion?

12 COMMISSIONER KLADNEY: I'm a little
13 confused.

14 CHAIRPERSON CASTRO: Commissioner
15 Kladney?

16 COMMISSIONER KLADNEY: You only wanted
17 to limit the military service to what was said in
18 the Emancipation Proclamation but then you wanted
19 to talk about these other things that were not in
20 the Emancipation Proclamation.

21 COMMISSIONER HERIOT: Yes, things are
22 directly --

23 COMMISSIONER KLADNEY: Why did you want
24 to limit one and not the other things? Why do you

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1 want to bring the other ones that are current events
2 as opposed to the historical limitation that you
3 wanted to place on the military?

4 COMMISSIONER HERIOT: My understanding
5 is that some people wanted to be able to talk about
6 more current issues. And in order to make that
7 possible for them, I wanted to make sure that the
8 issues that they talked about were directly related
9 to the Emancipation Proclamation or to the end of
10 the slavery through the Thirteenth Amendment. And
11 I think the issues that I picked out are intended
12 to be either legally related to the Thirteenth
13 Amendment. The federal hate crimes legislation,
14 for example, claims as part of its basis the
15 thirteenth Amendment. And there is a controversy
16 over whether or not the Thirteenth Amendment will
17 actually support that argument. And so I wouldn't
18 mind someone having an essay about whether the
19 Thirteenth Amendment supports that argument.

20 Reparations, that is directly related
21 to the end of slavery. It happens to still be an
22 issue but it is, the whole point of it is slavery
23 ended and now there should be compensation for that
24 slavery.

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1 It is not like the ordinary race
2 relations issues or discriminations issues. It is
3 all about slavery. The people who would be entitled
4 to reparations would be someone who is claiming on
5 the basis of their family's status as slaves at some
6 point in the past.

7 Slavery around the world, that is
8 related to slavery.

9 COMMISSIONER ACHTENBERG: Well and
10 human --

11 COMMISSIONER HERIOT: Human
12 trafficking.

13 COMMISSIONER ACHTENBERG: By slavery
14 and human trafficking you say that is also
15 domestically, --

16 COMMISSIONER HERIOT: Yes.

17 COMMISSIONER ACHTENBERG: -- and around
18 the world. That is implied. Right?

19 COMMISSIONER HERIOT: Yes.

20 CHAIRPERSON CASTRO: We should just
21 state it explicitly domestically and around the
22 world. Will you be fine with that?

23 COMMISSIONER ACHTENBERG: Yes.

24 CHAIRPERSON CASTRO: Okay. So do we

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1 have any other amendments, proposed amendments,
2 friendly amendments, unfriendly amendments?

3 So what I would suggest is we could take
4 a brief recess. The Democratic Caucus can talk
5 about your proposed amendments and then we can come
6 back and vote on those, presumably.

7 COMMISSIONER HERIOT: We need to get
8 together on the military aspect of this.

9 CHAIRPERSON CASTRO: The military,
10 okay.

11 COMMISSIONER HERIOT: Roberta and I
12 have to talk at some point. So we could probably
13 like take a ten minute break, you guys talk, and
14 then Roberta when you are done talking to them, come
15 talk to us.

16 COMMISSIONER KLADNEY: Why don't you
17 talk about that language first and then we take the
18 ten-minute break. How does that sound?

19 CHAIRPERSON CASTRO: You want us to talk
20 about the language now on the record?

21 COMMISSIONER KLADNEY: Take a break and
22 you and Roberta work out the language and then we
23 will be in the caucus at the same time.

24 CHAIRPERSON CASTRO: So that would --

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1 COMMISSIONER ACHTENBERG: By that am I
2 assuming that the current language which says
3 military service and integration of the armed forces
4 doesn't capture it. Is that right, Gail, I mean
5 Commissioner Heriot?

6 COMMISSIONER HERIOT: I don't know
7 whether that captures it because I would like to
8 talk to my colleagues.

9 COMMISSIONER ACHTENBERG: Oh, okay. I
10 beg your pardon. No problem.

11 CHAIRPERSON CASTRO: Here is what we
12 will do. We are going to take a ten-minute recess.

13 COMMISSIONER ACHTENBERG: Everyone
14 talk to their respective colleagues.

15 CHAIRPERSON CASTRO: Right and then the
16 two commissioners will nail down the language on
17 the military. We will come back and then discuss
18 that on the record and vote for one or the other.

19 Okay, ten-minute recess. It is now 1:35
20 so we will be back at 1:45.

21 (Whereupon, the foregoing matter went off the record
22 at 1:35 p.m. and went back on the record
23 at 2:02 p.m.)

24 CHAIRPERSON CASTRO: Okay, we're back

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1 on the record. It is 2:01 and Commissioners Heriot
2 and Achtenberg, we had an initial proposed amendment
3 that had not been seconded yet but we have now --

4 COMMISSIONER ACHTENBERG: It's gone.

5 CHAIRPERSON CASTRO: It's gone. So is
6 there another motion to amend?

7 COMMISSIONER HERIOT: I have different
8 wording now.

9 CHAIRPERSON CASTRO: Okay.

10 COMMISSIONER HERIOT: We are talking
11 about replacing the same sentence and under the
12 version that I believe that everybody's good with.

13 It would now read, "In addition to these historical
14 themes, topics may include the following
15 contemporary questions: 1) Slavery and human
16 trafficking domestically and internationally;" --
17 no, not semicolon -- "and 2) military service and
18 racial integration of the armed forces."

19 CHAIRPERSON CASTRO: Okay and then your
20 other motion amendment was to give the opportunity
21 to name a second --

22 COMMISSIONER ACHTENBERG: Can we deal
23 with the amendments separately?

24 CHAIRPERSON CASTRO: Separately?

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1 Okay. So that first amendment. Do we have a second
2 on that amendment?

3 COMMISSIONER ACHTENBERG: I consider
4 that a friendly amendment.

5 CHAIRPERSON CASTRO: Okay, great. So
6 let's vote on that. Let's do this individually.

7 COMMISSIONER HERIOT: It's a friendly
8 amendment. It's already in.

9 CHAIRPERSON CASTRO: Okay.

10 COMMISSIONER ACHTENBERG: Right.

11 COMMISSIONER HERIOT: So we can just go
12 on to the next one.

13 CHAIRPERSON CASTRO: Okay.

14 COMMISSIONER YAKI: Does that assume
15 everyone thinks its friendly? I'm just teasing.

16 COMMISSIONER KLADNEY: Could you repeat
17 the language, please? May include?

18 COMMISSIONER HERIOT: "In addition to
19 these historical themes, the topics may include the
20 following contemporary questions: 1) Slavery and
21 human trafficking domestically and internationally
22 and 2) military service and racial integration of
23 the armed forces."

24 COMMISSIONER KLADNEY: Do you

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1 understood may to mean these subjects it may include
2 but is limited to?

3 COMMISSIONER ACHTENBERG: It may
4 include them but --

5 COMMISSIONER HERIOT: Yes. Otherwise,
6 nothing else is included.

7 COMMISSIONER ACHTENBERG: Right.

8 COMMISSIONER KLADNEY: Okay.

9 COMMISSIONER HERIOT: Would you prefer
10 that I use can include?

11 COMMISSIONER KLADNEY: Only includes.

12 COMMISSIONER ACHTENBERG: Only
13 includes, yes.

14 COMMISSIONER KLADNEY: Is limited to.

15 COMMISSIONER HERIOT: May only include.

16 COMMISSIONER KLADNEY: Or is limited
17 to.

18 COMMISSIONER ACHTENBERG: Or is limited
19 to --

20 CHAIRPERSON CASTRO: Or is limited to,
21 yes.

22 COMMISSIONER ACHTENBERG: -- the
23 following topics.

24 COMMISSIONER HERIOT: In addition to

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1 the historical themes, other topics are limited to
2 the following contemporary questions, colon.

3 COMMISSIONER KLADNEY: Thank you.

4 COMMISSIONER HERIOT: Okay.

5 CHAIRPERSON CASTRO: Correct. So that
6 is the friendly amendment then.

7 COMMISSIONER KLADNEY: Fine.

8 COMMISSIONER HERIOT: Okay.

9 CHAIRPERSON CASTRO: Do you have
10 another friendly amendment?

11 COMMISSIONER HERIOT: I don't have any
12 wording for the other one but what I wanted was to
13 include language that would say that if one
14 commissioner fails to or declines to designate a
15 scholar for the anthology of essays, that the three
16 members of the Commission who were appointed by
17 authorities from the same party would be able to
18 get together and select a scholar for that slot.

19 CHAIRPERSON CASTRO: And our court
20 reporter has got that down, so that would be the
21 perfect language to put in for the amendment. So,
22 good.

23 Are there any other friendly amendments?

24 If not, shall we have a discussion then on the

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1 proposal as amended? Any further discussion on
2 that? Any? If not, then let us vote on that.

3 Okay, Commissioner Kirsanow, how do you
4 vote?

5 COMMISSIONER KIRSANOW: With respect to
6 the --

7 CHAIRPERSON CASTRO: To the proposal.
8 I have asked if there is discussion on the proposal.

9 COMMISSIONER KLADNEY: Yes, I just
10 wanted to make a point.

11 CHAIRPERSON CASTRO: I'm sorry.
12 Commissioner Kladney.

13 COMMISSIONER KLADNEY: Commissioner
14 Kirsanow and I, at least you have voiced in the past
15 your concern about staff time, and so I took it upon
16 myself because I too had a concern about that. And
17 I had a list of things that our staff, which is
18 currently short several people in vital positions
19 were doing now, and so I spoke with Commissioner
20 Achtenberg about it. And Ms. Tolhurst found a memo
21 from HHS regarding doing projects with cosponsors
22 outside our thing, our Commission and it cites all
23 the statutes, and requirements, and guidance that
24 is necessary. And in my discussion with

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1 Commissioner Achtenberg, she has said that the
2 special assistants who will be working on this
3 project with Lincoln Cottage will follow this in
4 terms of negotiations of the contracts between the
5 parties and that the Lincoln Cottage will do the
6 drafting and we will do the reviewing and that the
7 essays will do the reviewing along with the
8 commissioners who were assigned to the project in
9 align with this memo which covers most every problem
10 there is so that when OGC has to review it, it should
11 be complete. In other words, they won't have to
12 spend a lot of time on it.

13 I just wanted to make that point. I
14 wanted to have it in the record that that is the
15 case. And if you want a copy of the memo, I would
16 be more than happy to give it you.

17 COMMISSIONER KIRSANOW: Thank you.

18 CHAIRPERSON CASTRO: All right. Thank
19 you, Commissioner Kladney. Commissioner Gaziano?

20 COMMISSIONER GAZIANO: If I could just
21 add that I think that the current proposal also
22 answered some of my questions that some of the
23 similar questions in that it does not commit the
24 commission to much, if any staff time, other than

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1 Commissioners and the special assistants and it does
2 not commit us to money or much money.

3 CHAIRPERSON CASTRO: Absolutely.

4 COMMISSIONER GAZIANO: And so it is
5 possible that this won't ever take place because
6 of the condition. But that is fine. I'm willing
7 to -- I was happy with that if it is consistent with
8 the laws that you have specified, that our
9 collaborator get the outside funding and that is,
10 it seems to me, spelled out in the proposal we are
11 voting on, then that has alleviated several of my
12 concerns.

13 COMMISSIONER KLADNEY: Yes, and also
14 interestingly enough, as I peruse this document,
15 it talks about fundraising and if Lincoln Cottage
16 goes about fundraising for this event, they cannot
17 use us as a fundraising mechanism.

18 CHAIRPERSON CASTRO: The Chair
19 recognizes Commissioner Heriot.

20 COMMISSIONER HERIOT: I just wanted to
21 say that in the event that this does all fall
22 through, we do need to have some sort of celebration
23 of the Emancipation Proclamation. So let's cross
24 our fingers and hope that this works.

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1 CHAIRPERSON CASTRO: Okay. Any other
2 discussion or comments? If not, we will vote.

3 Commissioner Kirsanow, how do you vote?

4 COMMISSIONER KIRSANOW: I'm going to
5 abstain and only because I really have not had an
6 opportunity to go through this in the type of detail
7 I would like because I have been extremely tied up
8 on other matters. But I commend Commissioner
9 Achtenberg for putting this together and
10 Commissioner Heriot's input, and also Commissioner
11 Kladney going through the steps of trying to
12 ascertain the funding issues. And I think it is
13 important that we commemorate it but I will abstain.

14 CHAIRPERSON CASTRO: All right.
15 Commissioner Heriot, how do you vote?

16 COMMISSIONER HERIOT: I vote yes.

17 CHAIRPERSON CASTRO: Commissioner
18 Gaziano, how do you vote?

19 COMMISSIONER GAZIANO: Yes.

20 CHAIRPERSON CASTRO: Commissioner
21 Yaki, how do you vote?

22 COMMISSIONER YAKI: Aye.

23 CHAIRPERSON CASTRO: Commissioner
24 Achtenberg how do you vote?

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1 COMMISSIONER ACHTENBERG: Aye.

2 CHAIRPERSON CASTRO: Commissioner
3 Kladney, how do you vote?

4 COMMISSIONER KLADNEY: Yes.

5 CHAIRPERSON CASTRO: And I vote yes.
6 So we have six yeses and one abstention. Almost
7 unanimous so that is good, though. This is good.

8 And thank you again. I want to also
9 express my thanks to both Commissioners Achtenberg
10 and Heriot as well as Commissioner Kladney. This
11 is great. It took a little longer but it was
12 bipartisan and I am confident that because of the
13 nature of how we approached this, that we will be
14 able to move forward and celebrate the Emancipation
15 Proclamation. So thank you all for the very
16 thoughtful way we approach this.

17 We will now move on --

18 COMMISSIONER GAZIANO: May I make one
19 more motion relating to the matter --

20 CHAIRPERSON CASTRO: Certainly.

21 COMMISSIONER GAZIANO: -- before we
22 move on?

23 CHAIRPERSON CASTRO: Okay.

24 COMMISSIONER GAZIANO: I don't know,

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1 I'm trying to find the passage, it contemplates that
2 if approved we would almost immediately I think
3 nominate --

4 CHAIRPERSON CASTRO: That's right.

5 COMMISSIONER GAZIANO: -- or adopt I
6 think at this meeting the two commissioners who
7 would represent the commission.

8 CHAIRPERSON CASTRO: Okay.

9 COMMISSIONER GAZIANO: So I propose
10 that we do that

11 CHAIRPERSON CASTRO: Okay. Well,
12 certainly I think on our Democratic Caucus side we
13 would propose Commissioner Achtenberg and
14 Commissioner Heriot.

15 So let's have a motion that
16 Commissioners Heriot and Achtenberg represent our
17 various caucuses with the Lincoln Cottage on this.

18 Is there a second?

19 COMMISSIONER GAZIANO: I second.

20 CHAIRPERSON CASTRO: Okay. Any
21 discussion? Okay, could we do this by acclamation?

22 COMMISSIONER GAZIANO: Sure.

23 CHAIRPERSON CASTRO: So all in favor say
24 aye.

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1 (Chorus of aye.)

2 CHAIRPERSON CASTRO: Any opposed, any
3 abstentions?

4 (No response.)

5 CHAIRPERSON CASTRO: Okay, great. So
6 update on our -- well now we go to Program Planning,
7 update on our 2012 Statutory Enforcement Report.

8 - UPDATE ON 2012 STATUTORY ENFORCEMENT

9 REPORT PLANNING

10 CHAIRPERSON CASTRO: Ms. Tolhurst, I
11 take it you are still on the line?

12 ACTING STAFF DIRECTOR TOLHURST: I am.

13 CHAIRPERSON CASTRO: Okay.

14 MS. PATTERSON: As you know, the
15 discovery requests were issued on December 9th to
16 the State and to the Department of Justice. I have
17 since been having conversations with people from
18 the state and DOJ in working out a way to get this
19 information out as completely and quickly as
20 possible. For some of these states, in particular
21 Texas, it is quite a busy time for them in terms
22 of the redistricting litigation but I think we will
23 have a satisfactory response.

24 The next step in this process for

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1 commissioners is that on January 13th, they will
2 receive a very detailed annotated outline for the
3 report.

4 CHAIRPERSON CASTRO: Okay.

5 ACTING STAFF DIRECTOR TOLHURST: And of
6 course, the briefing is February third.

7 CHAIRPERSON CASTRO: Okay. Any
8 questions for Ms. Tolhurst?

9 Commissioner Gaziano?

10 COMMISSIONER GAZIANO: Yes. There is
11 Miss Authority who is exercising the staff -- what
12 is her title?

13 CHAIRPERSON CASTRO: Person Designated
14 with Authority of the Staff.

15 COMMISSIONER GAZIANO: Person
16 Designated -- I have a question for you.

17 I know there has been some discussion
18 with my special assistant and you and perhaps others
19 on a date by which states or the federal government,
20 once they respond to us and it makes sense to ask
21 for a prompt response to all the discovery but things
22 are going to be changing throughout the year. And
23 if they have supplemental answers, I think that
24 there was a date I read to sort of cut off those

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1 supplemental answers that seemed a little earlier
2 than necessary. And I understand there was a little
3 bit of flexibility on your part. And in part, I'm
4 sure that staff needs some sort of, or would like
5 at least some sort of certainty in advance of when
6 you are drafting the report for us.

7 But even beyond then, I think if
8 something changes on the ground in a state where
9 the federal government discovers something or has
10 some -- that they want to supplement their answers,
11 that we ought to be willing to take it up to the
12 point when commissioners are writing their
13 statements. Is there a problem with that so that
14 we would certainly understand that you wouldn't be
15 able to integrate supplemental information from
16 them after a certain point but that we and the rest
17 of the Commission might?

18 CHAIRPERSON CASTRO: Did you hear that
19 question?

20 ACTING STAFF DIRECTOR TOLHURST: Yes.
21 Yes, certainly you know, it is my understanding
22 that the statements are statements regarding the
23 report and the report gets pretty locked in in early
24 March. That is because of all of the reviews and

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1 the multiple 30-day periods commissioners demand
2 to review the project.

3 So it gets back to the point that any
4 new information coming in after early March is not
5 usable because it wouldn't be able to go through
6 all of these required reviews.

7 COMMISSIONER GAZIANO: Well I mean,
8 some of the reviews are just our review before it
9 is sent off. And in our review and comments to you,
10 if we have new information and you have new
11 information, it could be integrated into the next
12 draft.

13 ACTING STAFF DIRECTOR TOLHURST: But by
14 early March it has already gone out for the legal
15 sufficiency review, the editorial review. We can't
16 be adding new information after those reviews.

17 Further, Dave and I are unable to
18 continue to add new information after a certain
19 point. We are already under an avalanche of
20 information for this report and we do need, as you
21 say, a cut-off in order to reasonably assess what
22 data we have already received by the discovery
23 deadline. And I just picked a date that I thought
24 was doable and that is what is doable.

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1 CHAIRPERSON CASTRO: The Chair
2 recognizes Commissioner Heriot.

3 COMMISSIONER HERIOT: I'm just a little
4 confused. Is there any reason that we can't
5 continue to accept it and just let commissioners
6 look at it, and have an internal cut-off of what
7 gets incorporated into the report? But stuff that
8 comes in later may nevertheless be valuable and to
9 sort of cut us off from that information strikes
10 me as a mistake.

11 CHAIRPERSON CASTRO: Did you hear that,
12 Madam Acting Staff Director?

13 ACTING STAFF DIRECTOR TOLHURST: No, I
14 didn't hear it.

15 CHAIRPERSON CASTRO: Could you speak up
16 a little louder? I'm sorry.

17 COMMISSIONER HERIOT: Sorry. Maybe my
18 microphone is not in the right spot.

19 It makes perfect sense that the
20 Commission staff can only take information in up
21 to a certain date. But the commissioners
22 themselves are on a somewhat different schedule and
23 I would hate to cut us off from information just
24 because we have reached the deadline for

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1 incorporation into the report itself.

2 And so I would rather continue to receive
3 the information and just pass it on to
4 commissioners. You know, something may come along
5 that is hugely important and for us to cut ourselves
6 off from that I think is a mistake.

7 ACTING STAFF DIRECTOR TOLHURST: Well
8 again, I think your statements are supposed to be
9 on the report, which will have been locked in. And
10 when there are new pieces of information that are
11 vitally important, those are all going to be public
12 information. We will see what happens in the Texas
13 litigation. We will see if additional dates get
14 pre-cleared.

15 None of the new important information
16 coming in is going to be anything that we can't get
17 for you and provide to you --

18 COMMISSIONER HERIOT: Yes, but you are
19 not going to get it for me and provide it to me.

20 ACTING STAFF DIRECTOR TOLHURST: --
21 through the database by update on all the
22 pre-clearance filings. And that we could certainly
23 continue to compile for you.

24 COMMISSIONER HERIOT: I would still

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1 prefer not to tell the states don't send us
2 information.

3 CHAIRPERSON CASTRO: Commissioner
4 Heriot, if one person could talk at a time. Ms.
5 Tolhurst had not finished her answer.

6 What were you saying? What was the last
7 thing you were saying, Ms. Tolhurst?

8 ACTING STAFF DIRECTOR TOLHURST: I was saying
9 that all of the new information of any importance
10 is going to come in the form of public data that
11 we wouldn't be getting from the states or DOJ. It
12 is going to be court decisions and pre-clearance
13 filing results, which Dave and I can provide the
14 commissioners as they occur. But it is not really
15 going to be in the form of additional information
16 from the agencies.

17 COMMISSIONER HERIOT: How do you know
18 if you haven't received the information yet?

19 ACTING STAFF DIRECTOR TOLHURST: Well
20 by the nature of the questions, which are if you
21 look at what we ask, there is information about their
22 understanding of their guidance and of the law that
23 will change. And there is questions about each
24 state's results and that what is all the public data.

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1 Our requests to them were quite
2 extensive. I don't think we are letting them off
3 easy in any way. And I think we are going to get
4 information that you need in the way that I have
5 --

6 COMMISSIONER HERIOT: Kim, the fear is
7 that they are going to blow you off on some of these
8 because the questions are indeed quite extensive
9 and so they are going to do a quickie job at answering
10 and then feel off the hook for the next six months
11 or so, actually it is a little more than six months
12 before the Commissioners' statements are actually
13 due, when we could have gotten a lot information
14 in that period had they been told yes, they do have
15 to send us everything. To then cut them off that
16 early, and that is really quite an early cut-off
17 and I understand why you have the early cut-off but
18 you know, another seven months is going to go by
19 and information that is valuable could come in
20 during that period. I would prefer not to tell them
21 don't bother to send us anything.

22 CHAIRPERSON CASTRO: The Chair
23 recognizes Commissioner Kladney.

24

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1 COMMISSIONER KLADNEY: I think first of
2 all there is an obligation for them to continue to
3 provide us information in the discovery.

4 Second of all, I think if they blow us
5 off, what are we going to do, subpoena them here
6 and have a hearing to make them give us more than
7 they already have? I mean, I doubt very much that
8 we should go with the assumption that they are going
9 to blow us off --

10 COMMISSIONER HERIOT: Well you were
11 just saying they have an obligation to supplement
12 but --

13 COMMISSIONER KLADNEY: Commissioner,
14 let me finish. They do.

15 COMMISSIONER HERIOT: -- we're not
16 going to get it.

17 COMMISSIONER KLADNEY: We don't know.
18 We don't know whether they are going to fulfill
19 their obligation and completely answer those
20 interrogatories and discovery requests until we get
21 the answers. And then once we get the answers, then
22 we can have this discussion. There is no reason
23 having a pre-discussion about it until we get the
24 responses. It is the same thing like if you are

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1 in court. You have to wait until you get the
2 responses before you take the next step. So why
3 are we having this discussion now --

4 COMMISSIONER YAKI: I think in our --

5 CHAIRPERSON CASTRO: The Chair
6 recognizes --

7 COMMISSIONER KLADNEY: -- as an
8 assumption?

9 CHAIRPERSON CASTRO: Commissioner Yaki
10 after Commissioner Kladney is done and then
11 Commissioner Gaziano.

12 Commissioner Yaki?

13 COMMISSIONER YAKI: Were you finished,
14 Commissioner?

15 COMMISSIONER KLADNEY: I'm finished.

16 COMMISSIONER YAKI: I just wanted to add
17 my own historical context to this discussion. We
18 faced a similar situation when we were -- when the
19 previous Commission was busy chasing the New Black
20 Panther Party around the country. And to the extent
21 that they kept on extending and re-extending the
22 deadline for incorporation of discovery and
23 information to the point where we were having
24 hearings in June and July and other information was

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1 coming in even then, what it did was it threw the
2 report into turmoil. It resulted in us essentially
3 blowing the statutory deadline.

4 I mean one of the problems and it is a
5 problem but it is one that is set up by Congressional
6 statute, is that with any report that we do, we are
7 necessarily dealing with a frozen moment in time.

8 And that frozen moment in time is governed by our
9 ability to have dedicated staff to unearthing issues
10 and analyzing them. And it is frozen in time by
11 the fact that there are procedures that we have to
12 follow in order to have a product that conforms to
13 our own guidelines and the guidelines set by the
14 federal government. It is not perfect by any
15 stretch of the imagination. It is one, however,
16 we have to follow if we are supposed to meet these
17 deadlines set to us by Congress.

18 So we can talk all we want about trying
19 to open this and open up that and why can't we use
20 this and why can't we use that. I can just tell
21 you that our own experience, I would think that some
22 of my own fellow commissioner's experience with that
23 other report he referred to showed what a procedural
24 writing, analytical mess it turned out to be with

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1 stuff being piled on at the last minute, not being
2 subject to the same quality standards. And I think
3 to the detriment of the Commission at that time,
4 I would rather acknowledge our limitations,
5 acknowledge the fact in our report, governed by what
6 we are limited to and understand that for people
7 who are reading it, what the limitations are. There
8 may be other materials that are coming in but we
9 could not include them because they could not be
10 subject to the rigorous scholarly analysis that we
11 are obligated to by law, and by statute, and by
12 administrative instructions and guidelines.

13 CHAIRPERSON CASTRO: Commissioner
14 Gaziano?

15 COMMISSIONER GAZIANO: My response is
16 to Commissioner Kladney. The normal discovery rule
17 is that you must supplement discovery. I think the
18 discovery that our commission has sent out reverses
19 that. I am just looking at, and Ms. Tolhurst, if
20 you changed it please let me know, but I am looking
21 at one of them that was sent December 9th to the
22 State of Alabama with an initial discovery request
23 due in 30 days. And number seven of the
24 instructions says, "These information requests and

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1 document requests are continued in nature. And to
2 the extent that a state acquires new information
3 on or before February 3, 2012 that is responsive
4 to these requests, the state should supplement its
5 response."

6 And so it looks like the instruction to
7 the state is different than the normal discovery,
8 one, and is sort of telling them that they have one
9 month to respond and if they miss it, whatever when
10 it gets to December third, all bets are off.

11 COMMISSIONER KLADNEY: February third.

12 COMMISSIONER GAZIANO: Yes, February
13 third.

14 So I think certainly that it is
15 understandable that the Staff Director or staff
16 needs to cut off their examination but that we could
17 go at least a little bit, everyone could go beyond
18 that and commissioners can consider it for some time
19 after that.

20 ACTING STAFF DIRECTOR TOLHURST: Well,
21 in addition to the written discovery, I am also in
22 conversations with these states. And many states
23 are already pre-cleared. They have all the
24 information now. Their cycle is over.

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1 For other states like Texas, I have
2 already been in talks with them. We have already
3 agreed to be getting some information much later
4 into February. So it is not just what is on the
5 written page. I am in talks with states where it
6 makes sense to let them extend their time line.
7 Where we know there will be changed information,
8 I am already arranging with them that they will be
9 providing that.

10 CHAIRPERSON CASTRO: The Chair
11 recognizes Commissioner Heriot.

12 COMMISSIONER HERIOT: You know, even
13 for states that are already pre-cleared, we ask for
14 things like how much money did they spend on
15 attorneys. They don't necessarily get the bills
16 as quickly as we are contemplating. You know, we
17 actually approved this topic months before the
18 interrogatories went out. And you know, I think
19 we got the interrogatories in a reasonably
20 expeditious manner. But you have got to
21 understand, we are asking them to answer questions
22 in the course of 60 days and it is hard to martial
23 the information that quickly. Things are going to
24 be coming in on their part later and we are telling

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1 them that even though there are seven months to go
2 before the Commissioners' statements are due, that
3 they should stop supplementing us as of early
4 February. You know, that is an awfully early
5 cut-off and we may want to cut it off for the purposes
6 of the report, since that has to then be approved
7 by the commission and it takes a few months to do
8 that.

9 But that is, you know, a very short
10 period for them to get their information in and there
11 may well be some supplements we are going to be
12 interested in. There may even be some important
13 things they want to tell us but we have told them
14 that we don't have to, or that they could tell us.

15 CHAIRPERSON CASTRO: Why don't we do
16 this. I know that we are starting to repeat some
17 of the concerns we have here. Ms. Tolhurst has
18 explained to us that she is in continuing
19 conversations with some of these governments
20 already about getting the information beyond
21 February. You have expressed certain concerns.

22 I think Commissioner Kladney's point is
23 one well taken. When we sit here next month, we
24 will have a better idea of what discovery we have,

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1 what discovery we have to go and get, and we can
2 continue this conversation then if it merits it.

3 In the interim, I think Ms. Tolhurst
4 understands the points you have raised and she is
5 in those conversations with government agencies as
6 indicated, at least as I heard it, that she is trying
7 to get additional information beyond what is set
8 forth in the written documents there.

9 So, Commissioner Gaziano and then we are
10 going to move on to the next topic.

11 COMMISSIONER GAZIANO: Yes. What I was
12 going to say is I think it is fair. I'm glad that
13 you just keep that open.

14 And it relates to the last somewhat
15 different but related point. I am most interested
16 to hear from the states that are actually in
17 litigation that I understand don't want to send a
18 witness to our hearing. Now I understand we can
19 subpoena them.

20 CHAIRPERSON CASTRO: That we can or
21 cannot?

22 COMMISSIONER GAZIANO: We could if we
23 so voted. I would rather not subpoena. But those
24 are the people that I am most interested in hearing

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1 and you know, A) they are busy, and B) they may be
2 reluctant to send a witness who may have to answer
3 questions that may affect their litigation.

4 And so again I hope in her capacity as
5 General Counsel, I spoke to her and asked whether
6 she would be at least open to the possibility of
7 if the witnesses we did secure for the hearing
8 weren't really representative, whether she would
9 be willing or open to have the General Counsel staff
10 send an attorney down to take a deposition that might
11 supplement our record. I just wanted to raise that
12 kind of issue.

13 And a state like Texas with regard to
14 the interrogatories, again, I think that their
15 interrogatory responses are going to be even more
16 interesting to me.

17 But did I characterize our conversation
18 appropriately, Ms. Tolhurst?

19 ACTING STAFF DIRECTOR TOLHURST: I
20 think that is correct. Just to make it more clear
21 to other commissioners, we would have to physically
22 go to Texas because of our 100 mile radius
23 limitation, if we wanted to make a witness appear.

24 CHAIRPERSON CASTRO: When you say we,

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1 Ms. Tolhurst, do you mean the entire Commission to
2 have a hearing --

3 ACTING STAFF DIRECTOR TOLHURST: No.

4 CHAIRPERSON CASTRO: -- or do you mean
5 one person?

6 ACTING STAFF DIRECTOR TOLHURST: No.
7 You could have two commissioners go and have a
8 mini-hearing. You could have me go and do a
9 deposition. Actually I cannot go but someone could
10 go.

11 COMMISSIONER GAZIANO: I don't think
12 you need a Commissioner for a deposition, do you?

13 We would have to look into that but --

14 CHAIRPERSON CASTRO: Well why don't we
15 --

16 ACTING STAFF DIRECTOR TOLHURST: Or
17 whether we could compel them to attend if they are
18 resistant.

19 And I will tell you in talking with
20 Texas, they, as you know, are in Supreme Court
21 litigation through January and are incredibly busy.

22 At the same time, when I spoke to them they see
23 this request as an opportunity. They are very
24 pleased and made it clear that they absolutely have

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1 information and thoughts that they want to share
2 with us and that into February, once their
3 litigation is over, I do expect that they are going
4 to be cooperative.

5 CHAIRPERSON CASTRO: Well just keep us
6 posted on that, then. Okay? You have raised your
7 concerns and we will flag those.

8 Okay, we are moving on now to the
9 Management and Operations.

10 VI. MANAGEMENT AND OPERATIONS

11 - STAFF DIRECTOR'S REPORT

12 CHAIRPERSON CASTRO: The staff
13 director's report. Ms. Tolhurst, wearing your
14 other hat.

15 ACTING STAFF DIRECTOR TOLHURST: Yes.

16 I don't have much note to report, other than you
17 all met our IG and they will be starting in full
18 force in January. I have met with them and spoken
19 with them several times.

20 We are doing preliminary actions to get
21 ready for the move, which is tentatively scheduled
22 for May or June. Again, that just depends on when
23 they finish building out the internal offices in
24 the new space. And part of what the staff is doing,

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1 it is a very time-consuming task to get ready for
2 the move is going through decades and decades of
3 federal records that were not properly sent off to
4 the national archives. So, both to comply with the
5 law and to be realistic about the somewhat smaller
6 space in the new building, staff is going through
7 all of their documents in every office and every
8 employee to eliminate or store records that should
9 properly be at the national archives at this time.

10 I think that's it. And as the agenda
11 reflects, we are adding a new piece. Peter Minarik
12 is on the phone to give you the update as to SAC
13 activities.

14 CHAIRPERSON CASTRO: And that is a good
15 segue. And as you will recall, I had mentioned at
16 the last meeting in an effort to try to have us have
17 a better idea of what is going on out in the SACs
18 in the regions, I thought it would be a great idea
19 to have Mr. Minarik regularly telephonically
20 perform a report to us on the activities that are
21 being referred by the SACs out in the regions, in
22 addition to the written report that we have in our
23 packet.

24 - CHIEF OF REGIONAL PROGRAMS REPORT

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1 CHAIRPERSON CASTRO: So, Mr. Minarik?

2 MR. MINARIK: Mr. Chairman, thank you
3 very much.

4 CHAIRPERSON CASTRO: Thank you.

5 MR. MINARIK: I'm going to recap
6 basically the items that are already in the monthly
7 report that is before you but I wanted to draw your
8 attention to the SAC charter status.

9 Right now there are 37 SACs that are
10 chartered, so we are at about 72 percent and we ended
11 the last fiscal year with about 36. You have a
12 Hawaii package before you.

13 That is not a great concern but I did
14 want to point out that in the next 90 days, another
15 five SACs are going to have their charters expires
16 and in 120 days, an additional two. So there is
17 going to be a number of SACs that are going to be
18 unchartered in the next 120 days.

19 About SAC meetings, I did want to let
20 the commissioners know that there are right now RPC
21 knows about two meetings that are coming up', a
22 planning meeting by the newly chartered Arizona SAC
23 which will be in Phoenix on January 4th and there
24 will be a meeting of the Louisiana SAC in Baton Rouge

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1 on January 26th.

2 I wanted to mention that the Commission
3 has a strategic goal of soliciting the State
4 Advisory Committee for National Program Planning
5 and during fiscal year 2011 that did not happen.

6 And to date in fiscal year 2012 that hasn't
7 happened.

8 And it also calls for a Joint National
9 Office SAC Project every two years. And during
10 fiscal year 2011, that did not happen. And I don't
11 know yet of any joint project at this time.

12 And that's it, Mr. Chairman.

13 CHAIRPERSON CASTRO: Sure. I have a
14 couple of questions for you. In your role as Chief
15 of the Regional Programs, do you follow up with the
16 other, for example with these SACs that are going
17 to be expiring in the next 90 to 120 days, what role
18 do you play in ensuring that the regional offices
19 are preparing timely packages for us to look at?

20 MR. MINARIK: I'm supposed to, under the
21 administrative instructions, give a 90-day plan in
22 advance of the charter's expiration.

23 CHAIRPERSON CASTRO: Okay.

24 MR. MINARIK: So if I don't get their

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1 plan 90 days ahead of their expiration, I ask them
2 for it. And then I send it on to the staff director
3 when I get the plan.

4 CHAIRPERSON CASTRO: So are all those
5 processes under way right now for these SACs that
6 you mentioned today?

7 MR. MINARIK: They will be this week.

8 CHAIRPERSON CASTRO: Okay. And also I
9 note that our Eastern Regional Offices have had a
10 webinar and that has generated a lot of interest
11 among the regional SACs in the east in human
12 trafficking. And I mentioned today to our staff
13 at Eastern Regional because I had an open door
14 meeting policy with staff. So periodically I will
15 come in and I met with folks today and suggested
16 that as we are moving forward with our human
17 trafficking report and they are moving forward on
18 theirs, perhaps there is some way we could
19 appropriately coordinate that. So that may very
20 well be one of the points that you raised, Mr.
21 Minarik, where we can do something nationally on
22 work that has already been commenced by the SACs
23 or is contemplated to be commenced by the SACs.
24 In work that we have contemplated, there may be

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1 similar areas in some of the other topics that we
2 have now or that we may take up.

3 So certainly I think there is an interest
4 there in human trafficking to have some sort of a
5 national effort. So perhaps you might want to, in
6 your role, coordinate that with Eastern Region and
7 see how we could coordinate that here at
8 headquarters.

9 Any other questions for Mr. Minarik?

10 If not, thank you. And we will look
11 forward to your report next month as well.

12 We now move on to State Advisory
13 Committee issues.

14 VII. STATE ADVISORY COMMITTEE ISSUES

15 - RE-CHARTERING THE HAWAII SAC

16 CHAIRPERSON CASTRO: The first
17 committee up, the first item up is the Hawaii State
18 Advisory Committee. So I move that the Commission
19 re-charter the Hawaii State Advisory Committee.
20 Under this motion, the Commission appoints the
21 following individuals to the Committee, based upon
22 recommendations of our Staff Director: Amefil
23 Agbayani, Robert Alm, H. William Burgess, Vernon
24 Char, Linda Coburn, M. Nalani Fujimori Kaina, H.K.

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1 Bruss Keppeler, James Kuroiwa, Michael Lilly,
2 Carmen Lindsey, Paul Smith, Wayne Tanna, and
3 Jacqueline Young.

4 Pursuant to this motion, the Commission
5 appoints Michael Lilly as Chair of this Re-chartered
6 Hawaii State Advisory Committee. These members
7 will serve as uncompensated government employees.

8 Under this motion the Commission authorizes the
9 Staff Director to execute the appropriate paperwork
10 for the appointment.

11 Is there a second? Do we have a second?

12 COMMISSIONER ACHTENBERG: Second.

13 CHAIRPERSON CASTRO: Second. Okay.

14 Is there any discussion? The Chair recognizes
15 Commissioner Yaki and then Commissioner Gaziano.

16 COMMISSIONER YAKI: I would like to,
17 well there is two things. One, -- Actually I have
18 an issue with one member who has been appointed.

19 But before I do that, my preference at this time
20 --

21 (Sound of train.)

22 COMMISSIONER YAKI: And the train is
23 indeed leaving the station -- the Hawaii SAC be
24 postponed for consideration at the January meeting

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1 because there are now more than one issue that I
2 realize that I would like to discuss in more detail.

3 CHAIRPERSON CASTRO: Okay. Would
4 folks be willing to agree to put that off until
5 January?

6 COMMISSIONER GAZIANO: Could I hear a
7 little bit more? I have my own question I was going
8 to raise.

9 CHAIRPERSON CASTRO: Sure.

10 COMMISSIONER GAZIANO: Can you
11 articulate why it --

12 COMMISSIONER YAKI: Well I have one
13 question about one potential appointee. But there
14 are other issues surrounding it as I was listening
15 to it, being intimately familiar with the SAC when
16 it was first chartered four years ago that there
17 is a little more consideration on my part. And
18 that's all I can say.

19 All I can say is I apologize for the late
20 notice but until I fully understood some of the
21 ramifications sitting here right now I realize I
22 really do need -- would ask the Commission's
23 indulgence to push it back until next month.

24 CHAIRPERSON CASTRO: Can we agree to

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1 that? Commissioners, shall we table this?

2 COMMISSIONER GAZIANO: Well, I suppose
3 I will agree.

4 (Laughter.)

5 CHAIRPERSON CASTRO: Can we all agree
6 to put this off to January?

7 COMMISSIONER KIRSANOW: I don't have
8 any problem with a postponement.

9 CHAIRPERSON CASTRO: Okay.

10 COMMISSIONER YAKI: Thank you very
11 much.

12 CHAIRPERSON CASTRO: So we will table
13 it until then.

14 COMMISSIONER YAKI: I appreciate it.

15 CHAIRPERSON CASTRO: You're welcome.

16 So we move next on to the Alaska State
17 Advisory Committee.

18 - NEW CHAIR FOR ALASKA

19 CHAIRPERSON CASTRO: As you know, we
20 have an item for the approval of a new chair. I
21 move that the Commission approve the appointment
22 of Dalee Dorough as Chair of the Alaska State
23 Advisory Committee, based upon the recommendation
24 of our staff director. This member will serve as

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1 an uncompensated government employee. Under this
2 motion, the Commission authorizes the Staff
3 Director to execute the appropriate paperwork for
4 the appointment. Is there a second?

5 COMMISSIONER ACHTENBERG: Second.

6 CHAIRPERSON CASTRO: Okay, is there any
7 discussion?

8 COMMISSIONER HERIOT: What happened to
9 our old chair?

10 CHAIRPERSON CASTRO: I believe the old
11 chair resigned. is that correct, Madam Staff
12 Director, Acting Staff Director?

13 ACTING STAFF DIRECTOR TOLHURST: Yes.

14 CHAIRPERSON CASTRO: Yes.

15 ACTING STAFF DIRECTOR TOLHURST: Yes.

16 COMMISSIONER HERIOT: Do we know why?

17 ACTING STAFF DIRECTOR TOLHURST: I
18 wasn't expecting to be out so I don't have my notes
19 in front of me. In one of these two states the chair
20 due to work, extra workload in their career didn't
21 have time. And in the other state, and again I can't
22 remember which was which, in the other state, the
23 chair moved out of state and was no longer eligible
24 to serve.

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1 CHAIRPERSON CASTRO: Mr. Minarik, do
2 you know which of those is the case for Alaska?

3 MR. MINARIK: I do.

4 CHAIRPERSON CASTRO: Okay.

5 MR. MINARIK: Kara Moriarty was the
6 Director for the Oil and Gas Industry and then she
7 received a promotion. And she just informed the
8 Western Regional Office that she could not even
9 serve on the Committee any more.

10 CHAIRPERSON CASTRO: Okay. Any other
11 -- Oh, sorry.

12 MR. MINARIK: And in the other state,
13 the previous chair moved out of state.

14 CHAIRPERSON CASTRO: Okay. Any other
15 questions regarding the Alaska appointment or any
16 other discussion?

17 If not, I will call the question.
18 Commissioner Kirsanow, how do you vote?

19 COMMISSIONER KIRSANOW: Abstain.

20 CHAIRPERSON CASTRO: Commissioner
21 Heriot, how do you vote?

22 COMMISSIONER HERIOT: Abstain.

23 CHAIRPERSON CASTRO: Commissioner
24 Gaziano, how do you vote?

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1 COMMISSIONER GAZIANO: No.

2 CHAIRPERSON CASTRO: Commissioner
3 Yaki, how do you vote?

4 COMMISSIONER YAKI: Aye.

5 CHAIRPERSON CASTRO: Commissioner
6 Kladney, how do you vote?

7 COMMISSIONER KLADNEY: Yes.

8 CHAIRPERSON CASTRO: Commissioner
9 Achtenberg, how do you vote?

10 COMMISSIONER ACHTENBERG: Yes.

11 CHAIRPERSON CASTRO: And I vote to
12 approve. So it passes with four yeses. We have
13 two abstentions and a no.

14 - NEW CHAIR FOR NORTH DAKOTA

15 I also move to approve the appointment
16 of let's see Cheryl Kary-Long Feather as Chair of
17 the North Dakota State Advisory Committee, based
18 upon the recommendation of our staff director.
19 This member will serve as an uncompensated
20 government employee. Under this motion the
21 Commission authorizes the Staff Director to execute
22 the appropriate paperwork for the appointment. Is
23 there a second?

24 COMMISSIONER ACHTENBERG: Second.

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1 CHAIRPERSON CASTRO: We have a second.
2 Any discussion? Any additional questions?

3 (No response.)

4 CHAIRPERSON CASTRO: If not, I will call
5 the question. Commissioner Kirsanow, how do you
6 vote?

7 COMMISSIONER KIRSANOW: Yes.

8 CHAIRPERSON CASTRO: Commissioner
9 Heriot, how do you vote?

10 COMMISSIONER HERIOT: Abstain.

11 CHAIRPERSON CASTRO: Commissioner
12 Gaziano, how do you vote?

13 COMMISSIONER GAZIANO: No. And in this
14 case, just for the record, in this case and the
15 previous state, if we -- this makes it more
16 ideologically balanced, I think that we should have
17 added people to the SAC if we lost people in this
18 way. And people, well conservatives in particular.
19 We are losing conservatives and we are --

20 CHAIRPERSON CASTRO: Gaining
21 independents?

22 COMMISSIONER GAZIANO: Well, liberals.
23 Again, I look at their sort of ideology versus their
24 -- I'm an independent but more right winged than

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1 some right wingers.

2 CHAIRPERSON CASTRO: We thought you
3 would be pleased to see two more independents as
4 an independent.

5 Again, I think it is balanced but your
6 right to vote is as said.

7 Commissioner Yaki?

8 ACTING STAFF DIRECTOR TOLHURST: Let me
9 clarify. You are not adding an independent. This
10 person was already a SAC.

11 CHAIRPERSON CASTRO: Okay, thank you.

12 Commissioner Yaki, how do you vote?

13 COMMISSIONER YAKI: I was just
14 staggered by Commissioner Gaziano's ideological
15 explanation of himself.

16 Aye.

17 CHAIRPERSON CASTRO: Okay.

18 Commissioner Kladney, how do you vote?

19 COMMISSIONER KLADNEY: Yes.

20 CHAIRPERSON CASTRO: Commissioner
21 Achtenberg, how do you vote?

22 COMMISSIONER ACHTENBERG: Aye.

23 CHAIRPERSON CASTRO: I vote yes. So we
24 have one, two, three, four, five yeses, an

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1 abstention, and a no. So the Chair for North Dakota
2 passes.

3 Any other -- No other items.

4 VIII. ADJOURN

5 So I have a motion to adjourn. Do I
6 have a second?

7 COMMISSIONER YAKI: Second.

8 CHAIRPERSON CASTRO: All in favor
9 signify by saying aye.

10 (Chorus of aye.)

11 CHAIRPERSON CASTRO: Anybody opposed or
12 abstain? No, okay. So the meeting is adjourned.

13 COMMISSIONER HERIOT: I abstain.

14 CHAIRPERSON CASTRO: You can stay if you
15 like. It is now 2:43 p.m.

16 (Whereupon, at 2:43 p.m., the foregoing meeting was
17 adjourned.)

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