

U.S. COMMISSION ON CIVIL RIGHTS

+ + + + +

MEETING

+ + + + +

Friday, March 9, 2007

+ + + + +

The Commission convened in Room 540 at 624
Ninth Street, Northwest, Washington, D.C. at 9:00
a.m., Abigail Thernstrom, Vice Chairperson,
presiding.

PRESENT:

ABIGAIL THERNSTROM, Vice Chairperson
JENNIFER C. BRACERAS, Commissioner
GAIL HERIOT, Commissioner (via telephone)
ARLAN D. MELENDEZ, Commissioner
ASHLEY L. TAYLOR, JR., Commissioner
MICHAEL YAKI, Commissioner
KENNETH L. MARCUS, Staff Director

STAFF PRESENT:

TYRO BEATTY, Director, Human Resources Division
DAVID BLACKWOOD, General Counsel
CHRISTOPHER BYRNES, Attorney-Advisor, OSD
DEBRA CARR, Associate Deputy Staff Director
PAMELA DUNSTON, Chief, ASCD
BARBARA FONTANA
LATRICE FOSHEE
KIM HOLHURST
DEREK HORNE
MAHA JWEIDE
SOOK-FOON MacDOUGAL
TINALOUISE MARTIN, Director Office of Management
EMMA MONROIG, Solicitor/Parliamentarian
EILEEN RUDERT
VANESSA WILLIAMSON
AUDREY WRIGHT
MICHELE YORKMAN RAMEY

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

COMMISSIONER ASSISTANTS PRESENT:

LISA NEUDER
KIMBERLY SCHULD
RICHARD SCHMECHEL

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

	<u>PAGE</u>
I. Approval of Agenda	4
II. Approval of Minutes of March 1, Meeting.	5
III. Announcements	7
IV. Staff Director's Report.	16
V. Management and Operations	
- Procedures for Briefing Reports	45
- Strategic Planning	92
VI. Program Planning	75
- Anti-Semitism Program Education Campaign Briefing Report	
VII. State Advisory Committee Issues	
- Fair Housing Initiative	84
- Tennessee SAC	90
VIII. Adjourn	102

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

P R O C E E D I N G S

9:16 A.M.

VICE CHAIRPERSON THERNSTROM: Good morning. The meeting will come to order. This is a meeting of the U.S. Commission on Civil Rights at 624 9th Street, N.W., Room 540 in Washington.

All the Commissioners are here, except Chairman Reynolds and Commissioner Heriot. The chair, Gerald Reynolds -- I'm sorry, Peter Kirsanow is also not here, but will be joining us later in the day.

The chair is not participating and Commissioner Heriot, as everybody just heard, is with us via telephone.

This morning we're going to be focusing our attention on the business of administrative issues at the Commission and there will be a short lunch break and we'll reconvene at 1 o'clock and hold a briefing on covert wiretapping in the War on Terror.

For this afternoon, Commissioner Taylor is going to be chairing the proceedings. I can't be here.

So the first item on the agenda is approval of the agenda.

I. Approval of Agenda

VICE CHAIRPERSON THERNSTROM: Can I have a

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 motion to approve it?

2 COMMISSIONER TAYLOR: So moved.

3 VICE CHAIRPERSON THERNSTROM: And do I
4 have a second?

5 COMMISSIONER BRACERAS: Second.

6 VICE CHAIRPERSON THERNSTROM: I'd like to
7 actually start with several motions to amend the
8 agenda.

9 First, may I have a motion to amend the
10 agenda to add Campus Anti-Semitism Public Education
11 Campaign in Section 6, Program Planning, following
12 Affirmative Action in Law Schools Briefing Report?

13 I need a motion.

14 COMMISSIONER TAYLOR: So moved.

15 VICE CHAIRPERSON THERNSTROM: Second?

16 COMMISSIONER BRACERAS: Second.

17 VICE CHAIRPERSON THERNSTROM: All in favor
18 of amending the agenda, please indicate by saying aye.

19 (Chorus of ayes.)

20 VICE CHAIRPERSON THERNSTROM: Anybody
21 opposed? The agenda is amended and the motion is
22 approved.

23 The second item is approval of the minutes
24 of March 1, 2007.

25 **II. Approval of Minutes of March 1, 2007 Meeting**

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 VICE CHAIRPERSON THERNSTROM: May I have a
2 motion on that?

3 COMMISSIONER MELENDEZ: So moved.

4 VICE CHAIRPERSON THERNSTROM: A second?

5 COMMISSIONER TAYLOR: Second.

6 COMMISSIONER YAKI: Where are the freaking
7 minutes?

8 VICE CHAIRPERSON THERNSTROM: Are there
9 any changes? Discussion, questions regarding the
10 minutes?

11 COMMISSIONER YAKI: Did you get the
12 minutes? I didn't get the minutes.

13 VICE CHAIRPERSON THERNSTROM: They came
14 electronically?

15 COMMISSIONER YAKI: Oh yeah? I print off
16 everything electronically. I don't have them.

17 VICE CHAIRPERSON THERNSTROM: Pardon me?

18 COMMISSIONER YAKI: I print up everything
19 electronically, but I don't have them. I will
20 abstain.

21 VICE CHAIRPERSON THERNSTROM: I'm sorry,
22 say it again? You abstain. All right, all in favor?
23 Any further discussion?

24 All in favor.

25 (Chorus of ayes.)

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 VICE CHAIRPERSON THERNSTROM: Anybody
2 opposed to approving the minutes? Motion is approved.

3 We have a few announcements.

4 **III. Announcements**

5 VICE CHAIRPERSON THERNSTROM: March is
6 Women's History Month. We honor the leadership of
7 extraordinary women who shaped our nation's history
8 for the better. Personal note, I grew up in an era in
9 which few women went to law school or medical school.
10 My roommate in college was one of three women at the
11 NYU Law School. No women were CEOs of major
12 corporations, to the best of my knowledge. And
13 before, of course, 1920, women could not even vote
14 which means my mother was 19 years old before women
15 were eligible. So we honor the women who were at the
16 forefront of change, creating a degree of equality
17 that we did not dream of not that many years ago.

18 Second announcement, major -- pardon me,
19 yes?

20 COMMISSIONER YAKI: Just to add to Women's
21 History Month?

22 VICE CHAIRPERSON THERNSTROM: Sure.

23 COMMISSIONER YAKI: I just wanted to say
24 especially propitious this time of year that we have
25 the first women president of Harvard University at

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 this time, as well as the first women Speaker of the
2 House of Representatives.

3 VICE CHAIRPERSON THERNSTROM: And the
4 first really serious candidate for the Presidency is a
5 woman.

6 Thank you.

7 COMMISSIONER YAKI: All of the above.

8 VICE CHAIRPERSON THERNSTROM: Major League
9 Baseball has announced it will host its first annual
10 civil rights game on March 31, 2007 at 4:30 Central
11 Standard Time.

12 COMMISSIONER YAKI: Did they invite us?

13 VICE CHAIRPERSON THERNSTROM: The civil
14 rights game --

15 COMMISSIONER YAKI: Is Joe going to throw
16 out the first pitch?

17 VICE CHAIRPERSON THERNSTROM: We thought
18 you were going to do that, Michael.

19 COMMISSIONER YAKI: I've done that.

20 VICE CHAIRPERSON THERNSTROM: You've done
21 that?

22 COMMISSIONER YAKI: Yes.

23 VICE CHAIRPERSON THERNSTROM: Did you get
24 it over the plate?

25 COMMISSIONER YAKI: Absolutely.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 (Laughter.)

2 VICE CHAIRPERSON THERNSTROM: You've got
3 unsuspected talents.

4 COMMISSIONER YAKI: I practiced the entire
5 day before because I hadn't thrown a baseball in 10
6 years and the first time I threw it it went 40 feet
7 and down into the dirt. I thought I'm going to need
8 to really practice, because there's no way I'm getting
9 on that mound and toss it in the dirt.

10 The first baseball game that my friend
11 Mayor Brown threw his first pitch out it was basically
12 rolling a bocce ball. He threw it about 10 feet in
13 front of him and it rolled across home plate. The
14 second game, he threw it over the back stop. The
15 third time he said, "Yaki, you do it." So --

16 VICE CHAIRPERSON THERNSTROM: Well, that
17 just grazes my esteem of Jerry Brown.

18 COMMISSIONER YAKI: That was Mayor Brown.
19 It was Willie Brown. Jerry Brown was supposed to
20 throw out the pitch with me, but didn't want to do it.

21 VICE CHAIRPERSON THERNSTROM: Mayor Brown,
22 sorry about that.

23 Anyway, the civil rights game will honor
24 baseball's contribution to judging athletes on the
25 basis of skills, rather than skin color and that

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 change has had a profound impact on American racial
2 attitudes.

3 COMMISSIONER BRACERAS: When and where is
4 this game taking place?

5 VICE CHAIRPERSON THERNSTROM: You missed
6 that.

7 COMMISSIONER BRACERAS: I'm sorry.

8 VICE CHAIRPERSON THERNSTROM: The where, I
9 don't know. It's got to be Central Standard Time, so
10 it's got to be some place other than here.

11 STAFF DIRECTOR MARCUS: I believe it's in
12 Memphis.

13 COMMISSIONER BRACERAS: And what is the
14 date again?

15 VICE CHAIRPERSON THERNSTROM: March 31.

16 COMMISSIONER YAKI: And who are the teams?

17 VICE CHAIRPERSON THERNSTROM: I wasn't
18 handed that information.

19 COMMISSIONER BRACERAS: I think we all
20 need to be invited and given good seats and meet the
21 players.

22 COMMISSIONER YAKI: It is Memphis, so it's
23 got to be barbecue and music, right?

24 COMMISSIONER BRACERAS: Right.

25 VICE CHAIRPERSON THERNSTROM: I'll go for

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 the music, forget the game.

2 COMMISSIONER YAKI: The key is have we
3 been invited or not, that's all I'm asking.

4 COMMISSIONER BRACERAS: Right.

5 VICE CHAIRPERSON THERNSTROM: You know
6 what, you make sure we are.

7 COMMISSIONER YAKI: I thought this was the
8 role of the chair and vice-chair, come on.

9 VICE CHAIRPERSON THERNSTROM: At
10 Commission expense.

11 COMMISSIONER BRACERAS: No, at baseball's
12 expense.

13 VICE CHAIRPERSON THERNSTROM: Or
14 baseball's expense, whatever. Do you want to take a
15 vote on -- actually, do I hear a motion that we be
16 invited?

17 (Laughter.)

18 COMMISSIONER YAKI: How did we learn about
19 this?

20 VICE CHAIRPERSON THERNSTROM: I have no
21 idea. I'm handed the script which I actually changed.

22 STAFF DIRECTOR MARCUS: We learned about
23 it through our usual research on civil rights matters
24 around the country and --

25 COMMISSIONER YAKI: Well, March 31st is

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 before opening day, so the question is are there two
2 teams that are actually going to be --

3 STAFF DIRECTOR MARCUS: It is an
4 exhibition game between two Major League Baseball
5 teams. I don't recall the two teams. I believe that
6 Cleveland is one of the teams.

7 COMMISSIONER YAKI: It should be Cleveland
8 and it should be the Dodgers.

9 STAFF DIRECTOR MARCUS: I don't recall the
10 other.

11 COMMISSIONER YAKI: I mean in terms of the
12 two teams that have African-American players in each
13 league, Brooklyn Dodgers had Jackie Robinson; Larry
14 Dobi was for the Cleveland Indians, correct? Yes.

15 STAFF DIRECTOR MARCUS: I can tell you for
16 sure that Cleveland is one of the teams.

17 If the Commission wants to do some sort of
18 resolution commending baseball for doing this or
19 something that would --

20 COMMISSIONER YAKI: We want tickets.

21 (Laughter.)

22 COMMISSIONER BRACERAS: I'm not kidding.

23 STAFF DIRECTOR MARCUS: Or a letter to
24 them congratulating.

25 COMMISSIONER YAKI: Send a letter saying

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 thank you and hint, hint.

2 COMMISSIONER BRACERAS: Right, hint, hint.

3 COMMISSIONER YAKI: Hint, hint. You can
4 do that subtly.

5 I move that we send a letter to Major
6 League Baseball, commending them for this game and
7 hoping that at some point they know of our role in
8 civil rights legislation in America.

9 VICE CHAIRPERSON THERNSTROM: The
10 acknowledgement takes a concrete form.

11 COMMISSIONER YAKI: Yes.

12 VICE CHAIRPERSON THERNSTROM: Right.

13 COMMISSIONER YAKI: Jennifer singing "The
14 Star Spangled Banner" for example.

15 COMMISSIONER BRACERAS: That would be akin
16 to Roseanne Barr singing "The Star Spangled Banner."
17 I don't think you want to go there.

18 COMMISSIONER YAKI: But let's send a
19 letter.

20 VICE CHAIRPERSON THERNSTROM: Yes, let's
21 send a letter. I agree.

22 STAFF DIRECTOR MARCUS: I'd be happy to
23 circulate a letter perhaps with the individual names
24 of each Commissioner on it.

25 VICE CHAIRPERSON THERNSTROM: That's fine.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Is that fine? Does anybody have any objections to
2 that? So if they're not going to invite us, can we
3 move on?

4 We also remember today the forty-second
5 anniversary of the March 7, 1965 Selma or I should say
6 the March for Voting Rights in Selma on March 7, 1965,
7 obviously a turning point in the civil rights
8 movement. Actually, everyone in this room knows
9 police enforcing Governor George Wallace's ban on
10 demonstrations, viciously attacked more than 500
11 protesters with tear gas and batons as they marched
12 from Selma to Montgomery. The attack on the
13 demonstrators became known as Bloody Sunday and the
14 bloodshed of that day was directly responsible for the
15 passage of the 1965 Voting Rights Act five months
16 later.

17 So I now turn to the Staff Director who
18 has a report.

19 COMMISSIONER BRACERAS: It's a minor
20 thing, but I'd like to reopen the vote on approval of
21 the minutes to reflect the fact that my assistant
22 Kimberly Schuld was on the call for the last meeting.
23 The minutes left her name off.

24 VICE CHAIRPERSON THERNSTROM: We need a
25 motion to reopen the vote, I believe.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 COMMISSIONER BRACERAS: So moved. Moved
2 to reopen the vote.

3 COMMISSIONER YAKI: I second it.

4 VICE CHAIRPERSON THERNSTROM: Right --

5 COMMISSIONER YAKI: Move to amend to
6 include --

7 VICE CHAIRPERSON THERNSTROM: Any
8 discussion?

9 COMMISSIONER YAKI: Move to amend to
10 include Kim Schuld's name as a participant.

11 VICE CHAIRPERSON THERNSTROM: Right, move
12 to amend Kim Schuld who was participating by
13 telephone. I did not get a vote on -- I did not get
14 agreement on amending it first. That's the first
15 thing we need to do, I believe.

16 If not, can we just --

17 STAFF DIRECTOR MARCUS: I think we can
18 just vote.

19 VICE CHAIRPERSON THERNSTROM: Okay, I move
20 to amend. Commissioner Yaki has just moved to amend
21 the minutes to include the fact that Kim Schuld was
22 present by phone.

23 Any discussion? All in favor?

24 (Chorus of ayes.)

25 VICE CHAIRPERSON THERNSTROM: Anybody

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 opposed? Motion is passed.

2 COMMISSIONER BRACERAS: Thank you. Sorry
3 about that.

4 VICE CHAIRPERSON THERNSTROM: It's okay.
5 I think we turn now to the Staff Director's Report.

6 **III. Staff Director's Report**

7 STAFF DIRECTOR MARCUS: Thank you, Madam
8 Vice Chair, Commissioners. I would like to add a few
9 remarks to my prior written statements regarding our
10 information quality guidelines as they apply to oaths,
11 the procurement function, the strategic plan and SAC
12 rechartering.

13 First, let me say a word about oaths. We
14 are recommending that starting today at all briefings,
15 we swear in the witnesses. The reason is that we have
16 just adopted information quality guidelines reflecting
17 and implementing the OMB guidelines. Those require
18 that we ensure the quality and accuracy of Commission
19 work products that are published or posted to our
20 website.

21 Some of our products, such as our briefing
22 reports include information provided by outside
23 parties, namely the experts. We would find it
24 certainly very difficult to independently verify each
25 factual statement made by all of our witnesses, and of

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 course, we're aware that sometimes statements made by
2 witnesses conflict with one another.

3 The guidelines anticipate that issue and
4 they provide that we are able to discharge our duty
5 for information quality with respect to those third-
6 party statements, if we rely on statements that are
7 made under oath. So beginning today, our
8 recommendation is that we swear in each of the
9 witnesses and that's why we plan to do that, if there
10 are no objections starting with today's briefing.

11 COMMISSIONER YAKI: Did we advise the
12 witnesses coming forward that they would be sworn?

13 STAFF DIRECTOR MARCUS: We certainly will
14 in all future months. I don't believe that today's
15 witnesses were apprised of this.

16 VICE CHAIRPERSON THERNSTROM: Does that
17 really solve the problem that you just pointed to of
18 --

19 COMMISSIONER YAKI: It doesn't stop lying.

20 VICE CHAIRPERSON THERNSTROM: I mean so we
21 get garbage.

22 STAFF DIRECTOR MARCUS: When it comes to
23 information quality, there's always a question as to
24 how much an agency can do to absolutely ensure that
25 what it is providing is accurate. There's always

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 going to be some error rate. There's always going to
2 be a limit to what one can do. And so what the OMB
3 guidelines do is they ensure that we have procedures
4 that we make them transparent and that we do something
5 that is appropriate to make clear the extent to which
6 we've checked on the accuracy.

7 COMMISSIONER YAKI: What OMB guideline are
8 you referring to specifically?

9 STAFF DIRECTOR MARCUS: Those are the
10 information quality guidelines issued by OMB, I
11 believe in the Year 2001 -- 2002, that are cited
12 within our own information quality guidelines.

13 VICE CHAIRPERSON THERNSTROM: When we
14 swear these witnesses in, are we accompanying that
15 process with a statement that this -- as to what --
16 are we putting them on notice, in effect, that we are
17 concerned that they bring to us verifiable
18 information?

19 This just seems to me some sort of band-
20 aid on a sore that can't be really healed.

21 STAFF DIRECTOR MARCUS: We put them on
22 notice that they are making statements that they have
23 to be accountable for in the sense that they swear
24 that it is, and the General Counsel can help me on the
25 standard, but that it is information which is true and

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 accurate to the best of their knowledge and belief.

2 The oath in full reads as follows: "Do
3 you solemnly swear or affirm that the information you
4 are providing to the Commission is true and accurate
5 to the best of your knowledge and belief."

6 COMMISSIONER YAKI: What do Committee
7 witnesses on the Hill, is that the same oath?

8 STAFF DIRECTOR MARCUS: We have reviewed a
9 significant number of oaths and tried to provide one
10 that ensure the quality, but that was not so stringent
11 that it would prevent researchers from commenting on
12 information as to which they didn't have personal,
13 direct personal knowledge.

14 I don't think it's the same one as the
15 Hill. I think it's taken from the State of Maryland.

16 MR. BLACKWOOD: Correct.

17 COMMISSIONER YAKI: What does the one on
18 the Hill say, because I was sworn in, I testified in
19 the oversight hearing two years ago.

20 STAFF DIRECTOR MARCUS: Why don't I defer
21 on this one to the General Counsel, if that's okay to
22 the Vice Chair.

23 MR. BLACKWOOD: In answer to your
24 question, Commissioner Yaki, I don't know exactly what
25 the -- what is used to swear on the Hill. I believe

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 it would be under the penalties of perjury and make
2 that explicit. We did look at a whole variety of
3 those. Given that this oath was supposed to direct or
4 to address the circumstances posed by the information
5 quality guidelines, we used a much lesser stringent
6 guideline, basically swearing that they're in good
7 faith believe that it's true and accurate what they're
8 providing as far as factual evidence.

9 We didn't think -- frankly, I didn't think
10 it was appropriate to say "under penalty of perjury."

11 STAFF DIRECTOR MARCUS: Let me also say
12 just a word about procurement. It has been my
13 observation that this Agency needs to have a much
14 stronger staffing in the procurement function than
15 what we have. As the Commissioners are aware, we have
16 introduced substantial new policies and procedures,
17 including a new manual with directions as to how
18 procurement should be properly conducted. It's a very
19 important set of reforms that we introduced last year
20 and it addressed a number of documented weaknesses in
21 that area provided in prior GAO reports.

22 Those policies are intended to be a part
23 of GAO implementation and more generally to ensure
24 that we are in compliance.

25 The problem, however, is that it's not

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 enough to have appropriate policies and procedures.
2 They need to be effectively executed by staff that
3 have the appropriate skill set. It is my observation
4 and the observation of management in that area, that
5 we do not have a sufficient staffing in that area, nor
6 have we in quite some time.

7 We have recently attempted to recruit in
8 that area and our observation, and frankly this is not
9 a surprise. It is that for a micro-agency to attract
10 the level of quality and recruitment that we need is
11 at best a challenge. What I am planning and proposing
12 to do in order to ensure that we have a greater
13 strength in the procurement function and to ameliorate
14 the problem that arises with out recruitment problem
15 within that area is to outsource a portion of that
16 function to another outside entity. We have looked
17 into it and there are a few agencies that have bid on
18 essentially a contract that would provide us the
19 services that would otherwise be provided by a
20 procurement analyst at approximately the GS-13 level.
21 We had previously planned to bring on an analyst at
22 that level. If we complete the contracting process,
23 to bring that agency on board, the cost to us would be
24 equivalent to approximately one GS-13. And we would
25 actually have someone likely physically stationed

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 here.

2 I think that that is probably the most
3 effective way, given limited resources of
4 strengthening that function to try to make sure that
5 we are able to implement the policies that we put in
6 place last year.

7 If there are no further comments on that,
8 I will make a few comments about the strategic plan.
9 As the Commissioners are aware, we recently approved a
10 preliminary draft strategic plan that could be
11 presented to OMB and Congress and we have provided it
12 to OMB. In response, however, we received a very
13 significant number of comments from OMB. We have not
14 yet submitted it to Congress, but given the
15 materiality of some of the comments, it seemed to me
16 best before going to Congress to first arrange with
17 the Commissioners possible ways of addressing the
18 comments.

19 In general, there were concerns from OMB
20 that the strategic goal should not be activities that
21 we need to describe goals so that they are outcome
22 related. Performance measures should be written so
23 they are quantifiable and have a time line for
24 completion. We need to align performance measures
25 with the appropriate long-term goals, avoid

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 unnecessary duplication and update untimely or stale
2 agency information. Those are a few of the major
3 ones.

4 In general though, the most significant
5 comments dealt with metrics and were consistent with
6 older comments that we had received from our
7 Congressional House Authorizing Committee that we need
8 to think very carefully about how we can impose
9 measurements by which the Agency will be held
10 accountable. It is in order to try to address the OMB
11 comments and using the OMB comments as a guideline to
12 anticipate what we would hear from Congress, that we
13 have provided a revised draft to the Commissioners
14 with suggested changes which are certainly fairly
15 significant.

16 The one other thing that I would like to
17 say is that we have a number of State Advisory
18 Committee recharter packages that are now in the
19 pipeline. The State of Tennessee, we have a package
20 that has been recommended to the Commissioners and is
21 ripe now for discussion. We are working right now
22 intensively on a significant number of other states,
23 including Hawaii, Nevada, Texas, Maryland, Indiana and
24 a number of others. And of course, we continue to be
25 open to suggestions from Commissioners. We recently

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 received a few suggestions from Commissioners which
2 we're very pleased with and we certainly invite
3 Commissioners to make any other suggestions.

4 The Tennessee Committee, I'm delighted
5 that we were able to attract a number of people with
6 very significant, useful experience, ranging from the
7 Director for the Office of Civil Rights of the
8 Tennessee Department of Education; to the Executive
9 Director of the Tennessee Human Rights Commission; to
10 the former board director of a LULAC; a president of
11 the Chattanooga Chamber of Commerce; a senior pastor
12 and founder of the New Covenant Fellowship, a multi-
13 ethic church; and a distinguished professor of
14 political science and law at Vanderbilt University.

15 VICE CHAIRPERSON THERNSTROM: Who is that?

16 STAFF DIRECTOR MARCUS: That is Professor
17 Carol Swain.

18 And that will be on the agenda for
19 discussion today.

20 COMMISSIONER MELENDEZ: Just a question.
21 Commissioner Melendez.

22 As far as the testimony for the
23 appropriation that's happening next week --

24 STAFF DIRECTOR MARCUS: Yes, Commissioner.
25 I was asked the day before yesterday by staff to

NEAL R. GROSS

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

1 provide them with some briefing yesterday afternoon
2 and I did brief House Appropriations staff, including
3 minority and majority staff, yesterday on the Hill.
4 And a hearing is anticipated for next week on
5 Thursday, although we have not yet received a final
6 formal indication, so I'm not sure if we know that
7 it's definite. When I last asked staff about it, I
8 was told that they anticipate that that's when it will
9 be, but that there was still some possibility that it
10 would need to be changed based on activities being
11 done at the committee level.

12 COMMISSIONER MELENDEZ: Just another
13 question. We had talked about how we can incorporate
14 trying to get more money for the Civil Rights
15 Commission. Have we kind of decided how to do that?
16 We recognize that you probably can't do it since
17 you're part of the Agency, but at some point I think
18 the message needs to be that we're drastically under
19 funded here at the Commission to do the job here and
20 the mission.

21 And the other thing would be how is the
22 reauthorization, because I know that that's mentioned
23 in the strategic plan, given I think a date to
24 accomplish that, either 2007 or 2008, which is really
25 quick to try to get reauthorization, since we haven't

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 been reauthorized since a number of years in the past,
2 so is that part of the testimony that you'll be
3 addressing those two issues, at least the
4 reauthorization, or is that something that's not --
5 you won't really talk about that?

6 STAFF DIRECTOR MARCUS: Let me try to take
7 them separately, so the questions deal with the
8 concerns that some Commissioners had about needing
9 more money and the reauthorization. The concerns that
10 some Commissioners had about money, I understand that
11 there are some Commissioners who had ideas of perhaps
12 writing a letter. Others have had different sorts of
13 ideas dealing with maybe having oral discussions. To
14 the best of my knowledge that's something that's been
15 discussed as a matter for individual Commissioners
16 recently and as opposed to a staff matter.

17 And whether I would address it on the Hill
18 depends on what the Commissioners ultimately do.

19 COMMISSIONER BRACERAS: What was the
20 impetus for including 2007 as the date for
21 reauthorization? I know it's the 50th anniversary,
22 but whose suggestion did that --

23 STAFF DIRECTOR MARCUS: To the best of my
24 recollection, it was staff originated and it was based
25 on the 50th anniversary, indications we've had now for

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 over a year that they've been planning to deal with
2 this and the announcement by the House Judiciary
3 Committee a month or so ago that their priorities for
4 this year include oversight of the Civil Rights
5 Commission.

6 Now whether this is overly ambitious or
7 not is a tough question. I don't think that we really
8 know enough about the views of all members of the
9 various authorizing committees. It would be, I would
10 characterize it as a stretch goal.

11 COMMISSIONER BRACERAS: Right, but are we
12 asking that our performance be measured by something
13 that's completely outside our control?

14 I mean whether or not the Commission is
15 reauthorized depends on what the folks on the Hill do,
16 so why are we measuring our success or failure based
17 on that?

18 STAFF DIRECTOR MARCUS: For a number of --
19 there is some risk that things outside our control
20 will affect us. I think that that's true for
21 virtually anything that we're committing to. In the
22 event that we include this within a strategic plan, it
23 would essentially prioritize the issue so that we
24 would in figuring out how to divvy up our time
25 consider working with the congressional committees to

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 be a higher priority matter towards reauthorization.

2 Now it's as Ms. Carr has reminded me, it
3 is not characterized as a goal in the plan, so in the
4 event that it doesn't happen, it's not something that
5 we would have to report as being a failure.

6 COMMISSIONER BRACERAS: I'm sorry, what
7 exactly is it characterized as? If it's not a goal,
8 is it some sort of performance measure?

9 STAFF DIRECTOR MARCUS: We have identified
10 it as an external factor that would impact on our
11 success.

12 COMMISSIONER BRACERAS: Okay. Thank you.

13 VICE CHAIRPERSON THERNSTROM: I'm sorry.
14 Commissioner Yaki?

15 COMMISSIONER YAKI: I have some concerns
16 about the minutes from the March 1 meeting accuracy
17 with regard to the discussion about the appropriations
18 process. As I recall, we actually had a rather
19 vigorous discussion regarding what the Staff
20 Director's responsibilities were with regard to
21 delivering the President's budget versus expressing
22 the concern of the Commission and I believe that -- I
23 don't think with some Commissioners -- I think it was
24 a pretty unanimous centering among the Commissioners
25 including the chair, myself and others regarding the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 resource deprivation that has gone on and continues to
2 go on and is further -- I was looking for that
3 transcript -- and is exacerbated in the budget
4 submission for this year.

5 I thought and the minutes do not reflect
6 the discussion, perhaps the transcript does, that we
7 had talked about having a separate statement variable
8 that expressed the view of the Commission and I mean
9 by that the Commission, not Commissioners, not
10 individual Commissioners, the Commission, the now
11 seven sitting members of the United States Commission
12 on Civil Rights, stating that we believe that the
13 budget is inadequate to meet our needs and although we
14 voted for it per our duty to submit a budget to the
15 Congress, it does not reflect what we believe are the
16 resources necessary to carry out our duties.

17 Furthermore, I believe that at the end of
18 that conversation, there was discussion about the
19 preparation of a letter and I wish I had the
20 transcript because I thought the Staff Director said
21 that he would take a crack at it. If not, I'm
22 mistaken and I apologize to the Staff Director. But I
23 just don't -- oh great, thank you.

24 (Pause.)

25 VICE CHAIRPERSON THERNSTROM: I wasn't at

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 that meeting, but when it was reported to me, that was
2 precisely -- as Commissioner Yaki describes it, it was
3 precisely how it was reported to me.

4 COMMISSIONER YAKI: So I -- I thought we
5 were going to be having -- well, anyway, the chair did
6 actually prepare a letter. Let me apologize for that.
7 But I thought it was going to be -- and it does
8 reflect the chair and Commissioner Kirsanow,
9 Commissioner Melendez, myself and others' viewpoints
10 on this and it was, the thought was to have a letter
11 signed by the Commission or resolution by the
12 Commission. We talked about resolution, directing the
13 Staff Director that if asked whether the Commission
14 needed additional resources, he could answer by
15 stating that the Commission has authorized me to state
16 that it is the Commission's position that they do.
17 And I would like to see that done because with all due
18 respect to Commissioner Kirsanow, I do not think that
19 individual meetings are going to do it.

20 I think that we need to at the initial
21 hearing stage, state emphatically and for the record
22 that the Commission itself, notwithstanding the
23 President's budget request, believes that its mission
24 requires more funding than is being asked for at this
25 time and I would ask to suspend the rules and to add

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 to the agenda a motion to do exactly that which is a
2 motion to direct the Staff Director that if asked by
3 Congress whether the Commission agrees with this
4 budget or whether this budget is sufficient for the
5 Commission's duties and missions, that he can answer
6 that I've been directed by the Commission to answer
7 this way that it is the Commission's position that it
8 does not believe that the budget as currently
9 submitted to you will enable the Commission to
10 adequately fulfill all of its missions, duties and
11 goals consistent with its statutory mandate.

12 VICE CHAIRPERSON THERNSTROM: Have you got
13 any --

14 STAFF DIRECTOR MARCUS: The Commissioners
15 are aware that I prepared a letter. It doesn't say
16 exactly what was indicated in there, but I prepared a
17 letter based on the notion that that could be an
18 effective way for Commissioners to communicate.

19 COMMISSIONER YAKI: Point of information,
20 just to let you know. In the transcript, page 20 to
21 21: (Commissioner Yaki reading from transcript)

22 Commissioner Kirsanow: "Kirsanow here. I
23 think what we should do is, rather than do this on the
24 fly --Chairperson Reynolds: Right. Commissioner
25 Kirsanow: -- it is true, you know, I mean, the Staff

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Director can even draft that motion. We can always
2 vote on it next week at our meeting. Chairperson
3 Reynolds: I agree. Very good. Commissioner Yaki: I
4 think that motion should include some specificity as
5 to what we believe the budget is deficient in so that
6 when we give guidance to the Committee as to where we
7 would want increases to occur, if they're being so
8 general. Commissioner Kirsanow: I think that's a
9 good idea." So --

10 STAFF DIRECTOR MARCUS: And all of that is
11 consistent with my recollection, and Commissioner Yaki
12 may recall that if he'd gone back further in the
13 transcript, there had been earlier question as to
14 whether the Staff Director thought it would be useful
15 to have such a motion and I indicated that I thought a
16 motion would be useful.

17 COMMISSIONER YAKI: Yes, absolutely.

18 STAFF DIRECTOR MARCUS: I don't believe
19 that there was ever a vote on this, just a discussion
20 and apparent consensus. Subsequent to that, after
21 discussion with staff, it occurred to me that a letter
22 might be an effective way of doing this and I
23 suggested a letter, which I believe had been reviewed
24 by all members of the Commission and there's been
25 discussion about it, including some criticism by some

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Commissioners of the idea of sending a letter.

2 If we were to go in the direction that you
3 follow, Commissioner Yaki, and to comply with OMB
4 guidelines, I will have been directed, if asked to
5 provide specific testimony, and I think that would
6 have to be characterized as testimony that I would
7 anticipate providing regarding our budget to Congress.
8 And therefore, would fall within the requirement in
9 OMB (a)(11) requiring five-day pre-clearance. So if
10 there were such a vote directing that I provide this
11 statement, if asked, we would reduce it to writing and
12 of course, provide it to OMB to see if they would pre-
13 clear.

14 COMMISSIONER YAKI: Well, I'd like to try
15 that.

16 VICE CHAIRPERSON THERNSTROM: So that
17 doesn't take the form of a motion, I assume.

18 STAFF DIRECTOR MARCUS: Yes, Commissioner
19 Yaki is suggesting that this be something on behalf of
20 the Commission, it would be a motion.

21 VICE CHAIRPERSON THERNSTROM: Do you want
22 to make a motion?

23 COMMISSIONER TAYLOR: A question. Is it
24 your view that that's the most effective way to
25 communicate our message, that is a motion that he, in

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 turn, is authorized to say in the context of a
2 hearing, rather than a letter?

3 VICE CHAIRPERSON THERNSTROM: Why is a
4 letter more effective?

5 COMMISSIONER TAYLOR: It's a question of
6 effectiveness and attention, etcetera.

7 COMMISSIONER YAKI: I think it goes to two
8 questions. One is if we are asked did we attempt to
9 do everything we could within our process and do it,
10 it answers that question, yes. In other words, if OMB
11 gives us pre-clearance or if OMB doesn't give us pre-
12 clearance, that sort of states we have exhausted that
13 remedy.

14 And the second stage is that I do not
15 anticipate this being in lieu of the letter. I think
16 that the letter should still be there on the record
17 and he may not even get the question in which case we
18 would still have the letter. But in anticipation that
19 if the question were asked, because I know that the
20 question is being -- I haven't asked the question why
21 is the Commission asking for less money than it did
22 the year before. And that will probably be -- it
23 would be natural if I had that question to come out
24 during the hearing. And if so, I would like the Staff
25 Director to say that the Commission has directed me to

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 say that they are not -- they believe -- they're
2 unhappy -- they don't have to say they don't believe
3 the President's budget -- they can simply say they
4 believe that their mission would be better served
5 through additional funding.

6 COMMISSIONER TAYLOR: Okay.

7 VICE CHAIRPERSON THERNSTROM: You don't
8 want to say "has been compromised." You'd rather --

9 COMMISSIONER YAKI: Let me put it to you
10 this way, the Staff Director is one who deals with
11 OMB. I think if the sentiment is clearly one that
12 states that it is the sentiment of the Commission that
13 funding is provided, whether you want to say "to
14 further enhance activities" or "because our mission
15 has been compromised", I leave that to the discretion
16 of the Staff Director in terms of his dealings with
17 OMB.

18 But I think that we should have an answer
19 in his testimony for that to see whether it can get
20 pre-clearance, number one. And then number two, I
21 would say that he would have -- he would be authorized
22 to submit the letter from the Commission to the
23 committee as well.

24 VICE CHAIRPERSON THERNSTROM: And
25 obviously, we'll all have a chance to look at the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 letter, but again, the tone of the letter -- it is
2 different to say would be further -- the work of the
3 Commission would be further enhanced than to say the
4 work of the Commission has actually been compromised.

5 COMMISSIONER YAKI: I mean my -- you saw
6 the edits I made to the letter which clearly state
7 that these things won't happen, these things are
8 continuing -- you know, we're cutting back on this,
9 we're cutting back on that.

10 VICE CHAIRPERSON THERNSTROM: Actually, I
11 haven't seen it.

12 COMMISSIONER YAKI: I would be much more
13 inclined to say that the mission has been compromised,
14 that we've had to cut back on briefings because of
15 staff shortages, that the regions have vacant
16 positions left and right, blah, blah, blah, blah,
17 blah. But you know, I would give that discretion to
18 the Staff Director. The letter can be more emphatic,
19 but in terms of just being able to answer the
20 question, this isn't enough money --

21 VICE CHAIRPERSON THERNSTROM: I have moved
22 on to the question of the letter.

23 COMMISSIONER YAKI: Okay.

24 VICE CHAIRPERSON THERNSTROM: You were
25 formulating a motion. You had formulated that motion,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 had you? I'm sorry, I've lost track.

2 Do we have a --

3 COMMISSIONER YAKI: I would say that why
4 don't we have the Staff Director continue with parts
5 of his report and I will write out a motion right now.

6 VICE CHAIRPERSON THERNSTROM: Okay. Is
7 the Staff Director's report at an end?

8 STAFF DIRECTOR MARCUS: Unless there are
9 further questions, I've given my report.

10 VICE CHAIRPERSON THERNSTROM: Can we kind
11 of wait 30 seconds and you'll have a motion?

12 I know how facile you are. You can do
13 this fast.

14 (Laughter.)

15 COMMISSIONER YAKI: Then I'm not going to
16 write it down. I would move that we request the Staff
17 Director to prepare a statement in anticipation of a
18 question from appropriators relating to whether this
19 funding is adequate for the Agency, that the statement
20 that the Director prepare, that we understand requires
21 pre-clearance by OMB, basically state that it is the
22 sense of the Commissioners on the U.S. Commission on
23 Civil Rights that our mission is being curtailed,
24 compromised and adversely affected by the continuing
25 diminution of funds to the Agency; and that it is

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 their request that funding be increased for the Agency
2 in order it not suffer further loss of mission
3 capability.

4 VICE CHAIRPERSON THERNSTROM: Okay.

5 COMMISSIONER YAKI: Or words to that
6 effect.

7 VICE CHAIRPERSON THERNSTROM: I have a
8 motion -- we'll go to discussion immediately after
9 that. Let's get a second on the motion.

10 COMMISSIONER MELENDEZ: Second. I have a
11 question. On this pre-clearance from OMB, does that
12 mean they could actually say no, we can't do that or
13 what does that actually mean?

14 STAFF DIRECTOR MARCUS: That pre-
15 clearance, they can say yes. They can say no. Or
16 they could say please make these changes.

17 COMMISSIONER BRACERAS: And they could
18 actually say that?

19 STAFF DIRECTOR MARCUS: Yes.

20 COMMISSIONER MELENDEZ: So if they say no,
21 what is our back-up, would it be the letter route?

22 STAFF DIRECTOR MARCUS: Agency
23 correspondence also requires five-day pre-clearance to
24 OMB.

25 COMMISSIONER MELENDEZ: So it would be

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 better to do both, take one or the other?

2 COMMISSIONER YAKI: That was the testimony
3 part. The motion will also ask that the Staff
4 Director submit to the Commission a letter signed by
5 as many Commissioners as are willing to sign it,
6 stating essentially that same point of view, that our
7 mission capability is being curtailed and adversely
8 impacted by the level of funding that we have been
9 receiving.

10 STAFF DIRECTOR MARCUS: It also has to be
11 consistent with OMB guidelines.

12 COMMISSIONER YAKI: What?

13 STAFF DIRECTOR MARCUS: Agency
14 correspondence to Congress regarding the budget also
15 requires --

16 COMMISSIONER YAKI: From individual
17 Commissioners?

18 STAFF DIRECTOR MARCUS: You know that's an
19 interesting question.

20 COMMISSIONER YAKI: My testimony during
21 the oversight hearing wasn't pre-cleared by anybody.

22 STAFF DIRECTOR MARCUS: The guidelines
23 require that agency communications must be pre-
24 cleared, so that would include communications from me
25 and from the Commission as a whole. In the event that

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 all of the Commissioners or a majority of the
2 Commissioners were to write correspondence, one could
3 ask whether the letter of the requirement requires
4 preclearance or not. It certainly seems to me that
5 the spirit of it does. If it were just one
6 Commissioner that might be another question, but it
7 seems to me that if the Agency were to forward
8 correspondence from a significant number of
9 Commissioners regarding the budget, it would likely be
10 construed to be agency correspondence --

11 COMMISSIONER BRACERAS: How about if the
12 Agency doesn't forward it? How about if Michael
13 Yaki's secretary mails it? It's ludicrous.

14 VICE CHAIRPERSON THERNSTROM: We'll go to
15 discussion immediately after that.

16 COMMISSIONER HERIOT: It can't be that we
17 can't all agree and have a letter? Maybe it doesn't
18 go on Commission letterhead.

19 VICE CHAIRPERSON THERNSTROM: Should we
20 each right the same letter?

21 COMMISSIONER YAKI: Let's first start with
22 the letter as joint, because that has the most impact
23 and see if OMB gives it pre-clearance. If they don't,
24 then we will --

25 COMMISSIONER BRACERAS: I don't even see

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 why we have to send it to them. That seems absolutely
2 ludicrous that Commissioners cannot sign a letter,
3 either individually, or as a group, whether it's the
4 majority of them or all of them or some subset and
5 have their individual secretaries send it to Members
6 of the Committee.

7 COMMISSIONER YAKI: I agree.

8 COMMISSIONER BRACERAS: We don't live in a
9 Stalinist state yet.

10 COMMISSIONER YAKI: I agree with you 100
11 percent and to me, it would have more power if it had
12 all of our signatures on it.

13 VICE CHAIRPERSON THERNSTROM: One letter,
14 all of our signatures would have more power.

15 Gail, do you have anything to say further
16 on this?

17 COMMISSIONER HERIOT: I am perfectly
18 willing to work on this with everyone. I don't see
19 that unanimous letter has to get pre-clearance, if
20 it's not sent on Commission letterhead, you know, the
21 Commissioners rather than the staff preparing this.

22 COMMISSIONER YAKI: I have my own
23 letterhead. I can print on that.

24 It's not printed at government expense.

25 COMMISSIONER HERIOT: We can try the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Commission letter first and get that pre-cleared.

2 VICE CHAIRPERSON THERNSTROM: Why don't we
3 do that, try it as a Commission letter first. See if
4 we can get it pre-cleared. If we can't, we do a
5 fakey.

6 COMMISSIONER BRACERAS: Frankly, I object
7 to even trying to get it pre-cleared because --

8 VICE CHAIRPERSON THERNSTROM: Just do it.

9 COMMISSIONER YAKI: Smash the state.

10 COMMISSIONER BRACERAS: Yes.

11 (Laughter.)

12 COMMISSIONER BRACERAS: First of all --

13 COMMISSIONER YAKI: Our Western (10:03:38)
14 Commissioner will be showing "Reds."

15 (Laughter.)

16 COMMISSIONER BRACERAS: If you submit it
17 to OMB and they don't pre-clear it and then we do it
18 this other way, it seems as if we're being
19 underhanded. Whereas, if we just send it -- I mean we
20 all have first amendment rights to send what we want
21 to send. I don't --

22 VICE CHAIRPERSON THERNSTROM: Jennifer,
23 the only problem --

24 COMMISSIONER BRACERAS: I don't want to
25 the Stalinist nature of the system. I really don't.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 (Laughter.)

2 VICE CHAIRPERSON THERNSTROM: I agree with
3 you, the only problem with this is if in fact we're
4 violating some bureaucratic procedures here, there is
5 a danger that the letter will never -- will go in the
6 nearest waste paper basket.

7 COMMISSIONER BRACERAS: How so?

8 VICE CHAIRPERSON THERNSTROM: Because it
9 hasn't gone through the proper channel.

10 Look, I'm happy --

11 COMMISSIONER BRACERAS: Who is going to
12 put it in the waste basket?

13 VICE CHAIRPERSON THERNSTROM: I don't
14 know, one of the Stalinist bureaucrats.

15 (Laughter.)

16 COMMISSIONER BRACERAS: I mean if I write
17 a letter directly to the committee, how is OMB -- how
18 are their tentacles going to reach out to the
19 committee members' office, steal the letter and put it
20 in the waste basket?

21 VICE CHAIRPERSON THERNSTROM: We're
22 talking here about an attempt to send a letter on
23 Commission stationery with our signatures on it.

24 COMMISSIONER BRACERAS: I'll do whatever
25 the majority is comfortable doing.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 COMMISSIONER YAKI: Let me ask, when we
2 sent the letter to the Smithsonian, did we have to get
3 pre-clearance -- on the African-American Museum, did
4 we have to get pre-clearance from OMB to send that
5 letter?

6 STAFF DIRECTOR MARCUS: That letter was
7 not subject to the requirements of OMB (a)(11) because
8 it did not relate to our budget.

9 VICE CHAIRPERSON THERNSTROM: He's just
10 signed on to the Stalinist state.

11 COMMISSIONER YAKI: Let's just try going
12 through the system. If the system kicks it out, I
13 will work with the anarchist Braceras and create some
14 facsimile stationery that will have all of our
15 signatures on it.

16 VICE CHAIRPERSON THERNSTROM: We could
17 create a new committee for --

18 COMMISSIONER YAKI: For the People's
19 Revolution in Civil Rights.

20 VICE CHAIRPERSON THERNSTROM: Exactly.
21 All right, we have, I believe, a motion on the table.
22 Is there any further discussion about the motion that
23 Commissioner Yaki formulated?

24 All in favor.

25 (Chorus of ayes.)

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Anybody opposed? Okay. I think we move
2 to the procedures for briefing reports and update on
3 the working group on briefing report procedures and I
4 turn to Commissioner Braceras.

5 COMMISSIONER YAKI: Comrade Braceras.

6 VICE CHAIRPERSON THERNSTROM: Comrade
7 Braceras

8 (Laughter.)

9 **V. Management and Operations, Procedures for Briefing**
10 **Reports**

11 COMMISSIONER BRACERAS: Okay, well, by way
12 of background for Commissioner Heriot's benefit, the
13 working group has been attempting to put together a
14 series of procedures for dealing with reports that are
15 not hearing reports and are not subject to the full
16 array of procedural safeguards that hearing reports
17 are subject to.

18 And so there are a number of proposals on
19 the table. The main question -- I think the main
20 over-arching question is whether or not briefing
21 reports appropriately contain findings and
22 recommendations. If they do contain findings and
23 recommendations, how those should be dealt with and
24 how those should be approved, and whether or not
25 Commissioners, individual Commissioners should have

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 the ability to submit dissenting opinions to briefing
2 reports.

3 So basically, I think that the consensus
4 of the working group is that we need not just two, but
5 three types of events. The first would be the regular
6 hearings which procedures are already outlined and
7 those, due to budgetary and other reasons are few and
8 far between nowadays. The other end of the spectrum
9 would be what I call a symposium where we bring in
10 speakers and basically publish a clearinghouse report
11 that collects their testimony and summarizes
12 Commissioners' statements without issuing findings and
13 recommendations. And the intermediate level event
14 would be the briefing report which we've done a number
15 of over the past year or two that could, if
16 Commissioners deemed it appropriate, contain findings
17 and recommendations, but that there would need to be
18 certain procedural safeguards attached to that. And
19 beyond that, we haven't come to any consensus as to
20 what those should be or what that should precisely
21 look like.

22 So after the last conference call where we
23 didn't have the benefit of Commissioner Yaki's input,
24 because of his flight and bad cell connections and the
25 like, my assistant, Kim Schuld, basically put together

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 a list of all the proposals that were on the table and
2 I merged that with a document created by Commissioner
3 Melendez' assistant and so what we have, what I
4 circulated yesterday is a document entitled "Proposals
5 for Briefings and Resulting Reports" which isn't
6 particularly organized and doesn't necessarily reflect
7 the consensus of the working group, but attempts to
8 outline everything that's on the table right now.

9 And then the second document that I
10 circulated lists the briefing reports that are already
11 in progress, based on briefings that have already been
12 held and sort of throws out a list of suggestions as
13 to how we are going to deal with those reports. I
14 think -- I don't think we're going to come to an
15 agreement today on what the proposal should be for
16 briefing reports going forward, but what I would hope
17 to do is vote on how we're going to handle those
18 reports that are already in the pipeline and put that
19 to rest so that the staff can continue their work on
20 those reports and we can move those forward.

21 So that would be my objective for today
22 and I guess with that, if we could open the
23 discussion, I know Commissioner Taylor had some views
24 on both of those questions, both how we should handle
25 reports going forward and what we should do with those

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 in the pipeline.

2 Maybe I could hand it over to him.

3 COMMISSIONER TAYLOR: Let me state at the
4 outset that I am not tied to a particular procedure. I
5 come to this to accomplish an overall goal in my
6 mind. This entire briefing structure was designed to
7 give us more flexibility to allow us to respond to
8 events as they occur, to allow us to frankly have a
9 discussion across a broad range of issues throughout
10 the year and I did not and still do not envision every
11 briefing resulting in findings and recommendations.
12 That's never been what I've had, at least in my mind.

13 I have a recommendation on the table, but
14 again, I'm not tied to it, but I do want to see the
15 process allow for what I just described.

16 If your, Jennifer, recommendation can be
17 melded with Commissioners I think Yaki and I don't
18 know if Arlan signed off to it yet or not, but the
19 hard cap concept, that's not inconsistent with what I
20 mentioned.

21 VICE CHAIRPERSON THERNSTROM: Would you
22 explain to Gail what the hard cap concept is?

23 COMMISSIONER TAYLOR: Do you want to give
24 your hard cap concept?

25 COMMISSIONER YAKI: My hard hat?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 COMMISSIONER TAYLOR: Hard cap concept.

2 COMMISSIONER YAKI: Essentially, the
3 compromise that I suggested is that there be a hard
4 cap on the actual number of briefings that contained
5 findings and recommendations each year. That serves
6 two purposes. One, it addresses my concern that we've
7 been throwing out briefings with findings and
8 recommendations in a manner that I thought was
9 inconsistent with what the original intent of
10 briefings were.

11 Number two, it also addresses the fact
12 that the procedures for a report that have findings
13 and recommendations should be much more stringent than
14 they currently are and that would obviously require an
15 allocation of staff resources and time and given the
16 fact that we are getting less and less money each
17 year, rather than cut down on the amount of activity
18 that we engage in because I think that all of us agree
19 that the briefings, notwithstanding our fights
20 afterwards on the findings and recommendations, but
21 the briefings themselves, are a valuable and to put it
22 a quite bluntly, enjoyable part of what it is that we
23 do as Commissioners. I don't want to see that further
24 curtailed because of the resource issue.

25 So my proposal was to put a hard cap of

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 two which would mean that there would be two reports
2 with findings and recommendations in addition to the
3 national report done each year which I think is
4 manageable for staff. The remainder would be briefing
5 qua briefing which is just for us to have an issue,
6 put it out there in the public domain and --

7 COMMISSIONER BRACERAS: Just for the sake
8 of the record and clarity, can we just call that a
9 symposium?

10 Or can we give it a name so that we're not
11 confusing ourselves?

12 COMMISSIONER YAKI: Yes, I know. I guess
13 my concern was symposium sounded -- sounds more like
14 where you have even -- it just didn't sound right to
15 me. I like the fact that we're a Commission and that
16 we hold something official. I don't think we hold
17 official symposia. I would just rather it be -- if I
18 were kidding I would call it a "heafing" between a
19 hearing and a briefing. I do like the word briefing
20 though for the non-finding on recommendation. I would
21 just like maybe it would be called briefing 1 or
22 briefing 2.

23 COMMISSIONER BRACERAS: Okay.

24 VICE CHAIRPERSON THERNSTROM: I think you
25 need to say for Commissioner Heriot what you have in

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 mind what you say that the procedures should be much
2 more stringent when we have findings and
3 recommendations.

4 COMMISSIONER BRACERAS: Can I jump in for
5 a second?

6 One of the things that we started with
7 with respect to how to handle briefings with findings
8 and recommendations was the notion that we would have
9 a bifurcated vote so that the reports would be divided
10 into two pieces. The first half would be the
11 clearinghouse portion that contained a summary of the
12 proceedings, a summary of Commissioner questions and
13 the discussion, as well as copies of the actual
14 statements by the witnesses. That's the clearinghouse
15 portion and that would be voted on first.

16 Then, there would be a vote on the second
17 portion of the report which would be the findings and
18 recommendations. So in other words, if the
19 clearinghouse portion passed, but we couldn't come to
20 agreement on findings and regs, that could still be
21 issued as a document into the public domain and posted
22 on the website.

23 Second, with respect to how we would deal
24 with the second portion of the report, the finding and
25 recommendations, I have for a long time been

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 suggesting and insisting that each finding and
2 recommendation receive a separate vote, that
3 Commissioners not be required to vote up or down on
4 the whole portion of the document. That way, we have
5 a better chance of getting majority support for those
6 findings and recommendations that aren't particularly
7 controversial.

8 So we would vote individually on each
9 finding and recommendation and it would be noted in
10 the final document what the vote was. So it would say
11 this recommendation passed by a vote of whatever, 5 to
12 3, with Commissioners so and so, so and so, and so and
13 so approving and the others not approving. Whatever.
14 So that would be noted, either in a footnote or
15 somehow.

16 And I haven't heard any objection to that
17 part of the process, am I right?

18 COMMISSIONER TAYLOR: I think you are
19 right.

20 COMMISSIONER YAKI: You are correct.

21 VICE CHAIRPERSON THERNSTROM: Hold on, if
22 I'm not mistaken, there is, however, some controversy
23 over exactly what the size of the --

24 COMMISSIONER BRACERAS: Right, but just to
25 start with what we agree on, I think that I believe we

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 are in agreement as to bifurcation and as to
2 individual votes on each finding and recommendation
3 with a notation in the document as to how the votes
4 broke down. And perhaps that's something we can vote
5 on today and at least have that portion of the process
6 in play.

7 I think the questions that are on the
8 table are two-fold. One is what are the front-end
9 procedures leading up to the briefing. In other
10 words, what type of information do Commissioners get
11 ahead of time; what type of input do they have ahead
12 of time; what type of discovery is done ahead of time;
13 and, if any, what type of literature review is done
14 ahead of time, if any. So that's the front end
15 question.

16 The back-end questions have to do with
17 what type of reviews take place at the staff level,
18 affected agency review and those types of things. And
19 finally, with respect to the document itself, whether
20 or not we allow dissents or Commissioner statements
21 and whether or not there's a cap on the length of
22 those statements. But honestly, I don't think that
23 those issues are unresolvable. I don't -- I think
24 they can easily be resolved. I think we've gotten
25 bogged down in some of the procedural requirements at

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 the staff level, which is not to say that those are
2 unimportant, but only to say that I think that they've
3 clogged up the discussion on the other aspects of the
4 reports. So --

5 COMMISSIONER TAYLOR: The front-end detail
6 questions, as you have just described them, it has not
7 been my sense that that has been the cause of any
8 disagreement, the particular procedures that attach.
9 The question has been how many briefings will we have
10 which could result in findings and recommendations.
11 The question of what procedural protections attach I
12 think is one that we all know is important, but I
13 don't think it's bogged down the discussion.

14 The question has been how we determine or
15 whether we determine a hard cap up front, whether we
16 determine at the beginning of the year or before each
17 briefing, we vote on whether that briefing on a case
18 by case basis may result in findings and
19 recommendations. That seems to be the question on the
20 table that has yet to be resolved.

21 COMMISSIONER BRACERAS: Right and I think
22 --

23 COMMISSIONER TAYLOR: Is that fair?

24 COMMISSIONER BRACERAS: Yes, that's fair
25 and I think I understand where Michael's proposal is

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 coming from and I'm not -- I don't have a hard and
2 fast objection to it. On the other hand, it does seem
3 to hamper our flexibility and some of these briefings
4 may not seem to lend themselves to findings and
5 recommendations until after we've heard the testimony
6 and a consensus may develop.

7 So for example, even with the Omaha
8 briefing, I think we all voted to go down there
9 thinking gee, this is a really interesting topic. It
10 really forces people to sort of reconsider their pre-
11 existing notions about civil rights and let's go down
12 there and get into the mix and see if we can generate
13 debate and what we can learn. And it was only after
14 the Commission came back from Omaha that certain
15 Commissioners seemed to indicate that it would be very
16 useful to have findings and recommendations. So I
17 don't think in the case of Omaha that was something
18 that we predicted.

19 VICE CHAIRPERSON THERNSTROM: Does
20 somebody want to explain to Commissioner Heriot what
21 the Omaha briefing was?

22 COMMISSIONER YAKI: I want to respond
23 first to what Commissioner Braceras just said. I did
24 not say afterwards that I thought findings and
25 recommendations should be necessary. I presumed since

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 we've been going down this path for the last year,
2 that we were doing findings and recommendations
3 notwithstanding my general objection to them. And on
4 the one issue where I thought there should be, then
5 the question arose well, let's pick this one as one
6 example to knock it out. So it wasn't a question of
7 saying oh, I think it should be done. It was simply
8 the expectation that we've been doing that for
9 everything else and that's what we should be doing.

10 Omaha, Commissioner Heriot, had to do with
11 the fact that the Nebraska State Legislature adopted a
12 redistricting plan for the City of Omaha that would
13 have consolidated several of the -- many of the school
14 districts into sort of three super-aggregate districts
15 which when you look at it just happen to be divided
16 along the lines of African American, Caucasian and
17 Hispanic. And it was not designed by accident, if you
18 listen to the testimony from the principal author,
19 State Senator Chambers, who is African American, who
20 authored the proposal. That's what we were
21 talking about.

22 COMMISSIONER BRACERAS: Just to get us
23 back on track, I don't want to argue right now what
24 we're going to do about Omaha, because frankly I agree
25 with you, Commissioner Yaki about Omaha and having

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 findings and recs. That's fine.

2 I simply raise it as an example of cases
3 where it may not be predictable at the outset that the
4 findings and recommendations are going to be possible

5 COMMISSIONER YAKI: I understand,
6 Commissioner Braceras, but I disagree with that
7 characterization because we did Omaha under the same
8 aegis that we've been proceeding before, so the
9 expectation was we would be doing findings and
10 recommendations on it anyway.

11 My concern has been that, as you know, my
12 original thought and partially affirmed -- affirmed in
13 part by Commissioner Taylor was that it did give
14 flexibility. It did give us a chance to give air to
15 some issues, but what we've been doing now is we have
16 been voting. We have been prioritizing. In the case
17 of -- I can use Omaha as another example. I think
18 that was a case where there was probably unanimous
19 support on the Commission to do something about that.
20 That would have been an exception to the rule that I
21 would have agreed to, to go down there and take care
22 of -- and deal with that very important issue.

23 So I don't see how that's inconsistent
24 with (a) a hard cap; and (b) a unanimous requirement
25 to waive the cap in certain instances.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 COMMISSIONER BRACERAS: Well, be that as
2 it may, the proposal, the Yaki proposal is that there
3 be a cap on a number of briefings, but that --

4 COMMISSIONER YAKI: Briefing ones.

5 COMMISSIONER BRACERAS: The number of
6 briefings that contain findings and recommendations,
7 but that there would be some flexibility preserved by
8 a unanimous vote if we wanted to increase the number.
9 So it would force us to prioritize and think ahead.

10 On the other hand, it would, I think
11 curtail our flexibility a little bit, but that said,
12 I'm willing to support the proposal. It's not
13 something I feel strongly about one way or the other.

14 I'm just trying to lay the arguments on the table.

15 So I'm willing to go along with that. My
16 main concern all along has been with the manner in
17 which we vote on reports and giving Commissioners
18 ability to vote on separate portions of the report
19 without having to accept a document hook, line and
20 sinker, which is the way things happened in the old
21 regime and I wanted to give Commissioners greater
22 input in that regard. So that's always been my main
23 concern. I have no major problem with the cap.

24 VICE CHAIRPERSON THERNSTROM: Let me ask a
25 question here.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 I'm sorry, Commissioner Heriot, do you
2 want to come in?

3 Let me ask a question and then why don't
4 you come in? I don't understand what the criteria
5 will be for deciding beforehand what briefings will
6 be, briefings with finding and recommendations, we can
7 simply call them that or just plain briefings. And I
8 do hope we are putting in place procedures that will
9 stand the test of time, as it were, so let's say that
10 if the partisan balance on this Commission changes and
11 the Democrats are in the majority, they too will agree
12 that these are proper procedures.

13 And I'm frankly -- I just read the
14 briefing report as it currently stands without any
15 findings and recommendations on the HBCUs and I
16 thought this report cries out for some findings and
17 recommendations, even if the recommendations take
18 simply the form of questions, because it is really
19 thin reading. It is, as it stands, in my view and I
20 am extremely interested in this topic, a worthless
21 document. So unless the Commissioners have some input
22 of some sort and to kind of shaping this into
23 something more interesting, we have wasted our time.

24 COMMISSIONER BRACERAS: And we have
25 discussed the alternate route of instead of particular

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 findings and recommendations, simply publishing the
2 clearinghouse portion and then having a second portion
3 which poses questions for further inquiry. They would
4 not be called recommendations. We would not be making
5 findings based on the record. We would simply have
6 Commissioners submit questions for further inquiry and
7 let it go at that.

8 VICE CHAIRPERSON THERNSTROM: Then you're
9 left --

10 COMMISSIONER HERIOT: I don't quite see
11 what the problem is here. Don't we freely allow the
12 staff to be attached to briefing reports?

13 COMMISSIONER BRACERAS: Currently, we do.
14 My view is that we shouldn't, but I realize I'm in
15 the minority on that and I'm willing to compromise on
16 that. My position has been that in other, if you look
17 at other reports by other commissions, reports put out
18 by the 20th Century Fund, for example, or reports --
19 the Title IX Report put out by the Department of
20 Education, they do not include lengthy either majority
21 opinions or dissents. They simply state the findings
22 and recommendations with the numerical breakdown of
23 the vote and sometimes they have a paragraph after
24 each finding and recommendation that says those who
25 support this recommendation felt blah, blah, blah.

NEAL R. GROSS

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

1 Those who oppose it felt blah, blah, blah. Because I
2 think that it makes it number one, more user friendly.

3 And number two, it avoids the situation
4 where basically Commissioners are taking interest
5 group work product, tinkering with it, putting their
6 names on it and publishing it as a dissenting. Or on
7 the other hand, doing their own individual lengthy
8 research and coming up with a whole separate product.

9 Now in the case of a hearing, I think
10 that's a totally different story, because hearing
11 reports are basically majority reports for which there
12 needs to be an outlet for a dissenting voice. But
13 briefing reports by definition do not contain a
14 majority opinion and therefore, I didn't see the need
15 for dissents.

16 Now I know that other Commissioners don't
17 agree with that and so my proposal will probably not
18 be accepted. That's fine. Again, my backstop
19 position was that I felt that the dissents were,
20 number one, I felt if you're going to allow dissents,
21 you have to allow any Commissioners to submit a
22 statement. But number two, I thought we could cap the
23 page limit because quite frankly, I think it's a
24 little ridiculous to publish a volume where the
25 dissenting opinions are four times as long as the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 report itself when it wasn't even a hearing, but
2 rather simply a briefing.

3 So that's where I come out on all this,
4 Gail, but again, I'm not wedded to it. I just -- I'm
5 trying to make it user friendly and I'm trying to
6 avoid having the Federal Government being the printing
7 office for the NAACP or the National Women's Law
8 Center which frankly, I think it was becoming.

9 VICE CHAIRPERSON THERNSTROM: But
10 Commissioner Braceras, it does seem to me that if I
11 just go back and I know Commissioner Yaki wants to
12 talk, if I just go back to the HBCU briefing report, I
13 mean in fact what that briefing report, without
14 findings and recommendations amounts to is inadequate
15 findings and -- yeah, that is what the testimony
16 amounts to and so there are implicit findings and if
17 there's nothing more then again, my view is this is
18 filed in the dead letter box material. And it's just
19 worthless.

20 Yes, Commissioner Yaki?

21 COMMISSIONER YAKI: That leads then to the
22 concern that Commissioner Melendez and myself have
23 continued to propose. If that's your reading of how
24 the narrative of the HBCU report is, then the reason
25 for our concern has been that we are taking limited

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 time, limited opportunity briefings and then using a
2 process that has been, for lack of better word, ill-
3 defined and inconsistent, going back through other
4 documentation to create findings and recommendations
5 that to fill the void.

6 Now if this were a hearing where witnesses
7 are sworn, interrogatories are propounded, discovery
8 is done, multiple panels of people are there, you can
9 sort of have enough to sort of glom onto. But my
10 problem has always been that with briefings, we are
11 basically taking a very -- we are skimming not just
12 the top layer, we are skimming the very, very, very
13 top layer of an issue, given our limited resources to
14 just get an idea of what the problems are and what the
15 issues are that people are bringing up. But then all
16 of a sudden we come back or my concern and I can't say
17 for Commissioner Melendez, but I think I do, that we
18 come back --

19 COMMISSIONER BRACERAS: I agree with you,
20 you speak for me on that.

21 COMMISSIONER YAKI: Four or five months
22 later and we come up and there's all this other stuff
23 in there that none of us ever heard, asked a question
24 about or what have you or mischaracterized the
25 testimony. Just for your own -- Commissioner Heriot,

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 I think the most egregious example of this,
2 unfortunately, was the briefing on Native Hawaiians
3 where we weren't taking issue with anything that you
4 said or other people said, well, we were, but that's
5 another question. But in terms of the actual findings
6 that came out, the Commission ended up stripping every
7 single one of them because it contained testimony and
8 conclusions based on information none of us had ever
9 seen before. So that has been a danger and that has
10 been the concern for me about how briefings have been
11 converted into this and that is why dissents
12 unfortunately have been -- I've never received
13 anything from anyone about how to write anything, but
14 -- so I don't know who you're referring to with regard
15 to the National Women's Law Caucus or whatever. But I
16 can say that --

17 COMMISSIONER BRACERAS: I'm talking about
18 the potential for --

19 COMMISSIONER YAKI: Okay, but I can say
20 that I feel a need in terms of representing the people
21 who I believe I represent, that if staff resources
22 which outnumber us way by a vast, vast majority having
23 used to go back into documents and records and
24 testimony that we never saw, we never heard, or were
25 never presented to us, I have an obligation to try and

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 deal with that in as best a manner as I can or
2 Commissioner Melendez can because of the lopsidedness
3 in terms of staff resources.

4 Commissioner Melendez and I have one staff
5 assistant --

6 COMMISSIONER BRACERAS: I agree with you,
7 but why isn't that in our argument for publishing a
8 clearinghouse report with questions for further
9 inquiry?

10 COMMISSIONER YAKI: That has always been
11 what I wanted.

12 COMMISSIONER BRACERAS: For example, in
13 the --

14 COMMISSIONER YAKI: I think Commissioners
15 should be allowed to and we should -- I don't mind
16 putting a page limit on that; one page, two pages of
17 questions or concerns for future --

18 VICE CHAIRPERSON THERNSTROM: Now wait a
19 minute. That wouldn't have worked with the Iacocca
20 board that you were so dissatisfied with.

21 COMMISSIONER BRACERAS: That's water under
22 the bridge.

23 VICE CHAIRPERSON THERNSTROM: It isn't
24 water under the bridge.

25 COMMISSIONER BRACERAS: Let's just forget

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 that for a minute.

2 VICE CHAIRPERSON THERNSTROM: It isn't.

3 COMMISSIONER BRACERAS: You brought up the
4 pending example of the HBCU report. Why wouldn't the
5 HBCU report be the perfect place to not have findings
6 and recommendations, but instead pose questions for
7 further inquiry?

8 VICE CHAIRPERSON THERNSTROM: Because the
9 issue was hardly -- the complexity of the issue was
10 hardly explored in the briefing and if we do not have
11 some mechanism for laying out and the HBCUs do pose
12 very tough questions that have split the civil rights
13 community. If we don't have some mechanism for
14 getting at the richness of that issue, then we have
15 published something worthless.

16 COMMISSIONER HERIOT: Ladies and
17 gentlemen, I apologize for this, but I am going to
18 have to go to my conference now. I am very interested
19 in this issue and would like to discuss it further
20 with everyone and so again, I apologize and I hope
21 that you won't be deciding anything on this without
22 more input.

23 VICE CHAIRPERSON THERNSTROM: Yes,
24 Commissioner Heriot, you're disappearing, the chair is
25 not here and I do not think we should have a vote on

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 any of this today because I do think it warrants
2 further discussion.

3 COMMISSIONER HERIOT: It's very important
4 and I would like to be able to participate fully in
5 this.

6 VICE CHAIRPERSON THERNSTROM: I would like
7 to postpone any kind of vote and have further
8 discussion in the next meeting so that you can be here
9 and so that the chair will be here.

10 COMMISSIONER TAYLOR: I don't think it was
11 Commission Braceras' intention to have a vote.

12 COMMISSIONER BRACERAS: No.

13 VICE CHAIRPERSON THERNSTROM: You wanted
14 to vote on part of it. I would say a vote on nothing
15 today.

16 COMMISSIONER BRACERAS: That is fine, but
17 we have to -- we're scheduled to move the AVA report
18 and I will only vote for the AVA report in the manner
19 outlined with a bifurcated process. I'm not going to
20 vote for it up or down. I've said for months that I
21 wouldn't do that.

22 COMMISSIONER TAYLOR: We can put this off
23 to another day, but I will tell you at the end of the
24 day the concerns you have raised, that is, we are
25 skimming the surface. We need a way to really get to

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 the richness of the discussion, goes to Commissioner
2 Yaki, his point and we can't have it both ways, you
3 all. If we have a number of briefings without all the
4 procedural safeguards attached, it will always be a
5 situation where you see it as not having enough
6 information which leads into his argument well, if we
7 don't have enough information, how can we come up with
8 good solid findings and recommendations.

9 COMMISSIONER BRACERAS: Right.

10 COMMISSIONER TAYLOR: We're at a
11 crossroads and we need to recognize it's an inherent
12 conflict, those issues can't be reconciled and that's
13 why, in my mind, what I was suggesting was a procedure
14 that recognized a conflict and said for most of our
15 briefings we will not have findings and
16 recommendations because we can't given our resources
17 and our time associate with every briefing all of the
18 procedural safeguards that get to your point and
19 provide you, Commissioner Thernstrom with what you see
20 as the tools we need to have a rich discussion.

21 VICE CHAIRPERSON THERNSTROM: We should
22 have fewer briefings.

23 COMMISSIONER BRACERAS: It's not just
24 that. I mean I think since we joined this Commission,
25 I know that Commissioner Thernstrom and I have shared

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 a frustration with some of the briefings and events
2 we've had as being cursory. I believe the term she
3 once used was "drive by shootings of events."

4 VICE CHAIRPERSON THERNSTROM: Right.

5 COMMISSIONER BRACERAS: And you know,
6 we've both felt and think many Commissioners have felt
7 that some of the briefings do not delve fully into the
8 complexity of some of these issues. That said, I
9 think it's impossible to do that without a full-
10 fledged hearing and if we are going to have a
11 mechanism whereby we respond quickly to events on the
12 ground in certain places, and we want the Commission
13 to be able to pull together material for the public
14 and make them aware of certain issues, then we have to
15 move to the Yaki-Melendez format of clearinghouse
16 reports. We might even call it the Yaki-Melendez-
17 Redenbaugh proposal on clearinghouse reports because
18 he felt strongly about that.

19 So I have to say that I would rather have
20 clearinghouse reports that were not as useful, as it
21 were, than have reports with findings and
22 recommendations that didn't fully address the
23 complexity of these issues.

24 COMMISSIONER HERIOT: I am going to have
25 to go, bye-bye.

NEAL R. GROSS

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

1 ALL: Bye.

2 VICE CHAIRPERSON THERNSTROM: Thanks for
3 joining us,

4 COMMISSIONER TAYLOR: And welcome.

5 VICE CHAIRPERSON THERNSTROM: And we
6 aren't doing anything momentous without you, I
7 promise.

8 COMMISSIONER HERIOT: Okay, thanks. Bye-
9 bye.

10 VICE CHAIRPERSON THERNSTROM: Look, we've
11 only once in recent memory responded to on-the-ground
12 events and that was the Omaha. Now I wasn't there. I
13 was under the impression that we have made, having
14 conducted that hearing, we have in some way shaped the
15 racial landscape there or nationally. So I'm not for
16 ambulance chasing anyway.

17 Either we do responsible work here or
18 we're wasting our time.

19 COMMISSIONER YAKI: Commissioner
20 Thernstrom, I agree and I think the proposal that I
21 had enables us to do that, but at the same time and
22 let me just be as honest with you as I can --

23 VICE CHAIRPERSON THERNSTROM: Which you
24 usually are.

25 COMMISSIONER YAKI: Which usually --

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 usually I am just lying through my teeth to you.

2 VICE CHAIRPERSON THERNSTROM: Right.

3 COMMISSIONER YAKI: Whenever I say
4 anything nice about you it's just -- blood dripping
5 out of my eyeballs.

6 I like -- even if it is not always the
7 deep layer of an issue that we could or should get to,
8 I do enjoy and one of the things I do enjoy is having
9 people who are leaders in the field, at least talking
10 about some of these issues because it does illuminate
11 and shed light on what it is.

12 Now is there further stuff to be done? Of
13 course. Are there deeper layers to it? Absolutely.
14 Could any of us sit here and go through some of their
15 dissertations and statistical calculations, well, not
16 this math idiot right here, but that's fine. That's
17 still good. So I don't want to eliminate those.

18 I understand what you're saying and I'm
19 saying that Omaha is almost the exception that proves
20 a rule. I've been on the Commission for over two
21 years now. It's the only one where we deviated from
22 our established pattern of ranking, putting stuff
23 together, blah, blah, blah, blah, blah. And I think
24 that adding one more thing which is which one of these
25 do we want to be the in-depth scrape as deep as we

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 possibly can kind of procedure short of a hearing
2 without all of the other discovery attached to it, I
3 mean I'd be willing -- I'm not adverse to that. I'm
4 just adverse to the churning stuff month after month
5 with a huge backlog that we already got right now.
6 That puts us further and further behind the eight ball
7 and quality will suffer.

8 VICE CHAIRPERSON THERNSTROM: Well, of
9 course, we don't have to have as many briefings. We
10 don't need to --

11 COMMISSIONER YAKI: I'm in the minority so
12 all of mine are going to be the little teeny ones.

13 COMMISSIONER BRACERAS: I think what we do
14 have to do is move on the ones that are in the
15 pipeline and we have been month after month having
16 essentially the same discussion about process and we
17 haven't been able to give any guidance to the staff or
18 move the things that are in the pipeline and it's
19 really becoming, I think, a bureaucratic nightmare.

20 So we need to come to some consensus, if
21 not today, soon, on what we're going to do with these
22 six things. We've got to get them out, they're stale.

23 What's going to be the usefulness of them if we don't
24 put them out until next year? Nothing. So we've got
25 to move them.

NEAL R. GROSS

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

1 With all due respect, I want Commissioner
2 Heriot's input, I really do, but with respect to the
3 things that are in the pipeline, she was not a
4 participant in those briefings and therefore I think
5 we can move them without her.

6 VICE CHAIRPERSON THERNSTROM: No. We need
7 to settle on some procedures here which apply to those
8 briefings and future briefings.

9 COMMISSIONER BRACERAS: I disagree. I
10 think we can move the ones that are in the pipeline
11 without coming to a resolution on future briefings.
12 Otherwise, you know what's going to happen? We're
13 going to be here at Christmas and they still won't be
14 published. You know that.

15 VICE CHAIRPERSON THERNSTROM: It won't
16 make any difference if we wait for both Commissioner
17 Reynolds and Commissioner Heriot until the next time.

18 I agree we can take a vote in order to move the ABA
19 report along.

20 COMMISSIONER BRACERAS: But I think the
21 others, we need to come to a resolution at the next
22 meeting in April on how we're going to deal with the
23 rest of these in the pipeline, including the briefing
24 we're having today.

25 VICE CHAIRPERSON THERNSTROM: Okay, April

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 is not today. Yes.

2 COMMISSIONER YAKI: Can we have a one-
3 minute recess so I can say something to you off the
4 record?

5 VICE CHAIRPERSON THERNSTROM: Absolutely.

6 I call a one-minute recess. And I have a question.

7 (Off the record.)

8 VICE CHAIRPERSON THERNSTROM: All right,
9 there has been a recess, as it turned out, more than
10 five minutes than the expected or proposed five
11 minutes. And there seems to be consensus or there
12 seems anyway to be a majority view that the whole
13 question of the ABA report and the procedures going
14 forward with respect to briefings and reports,
15 hearings should be postponed until next time. The
16 whole question of three types of events and so forth,
17 so that I need a motion to postpone -- whoops,
18 somebody turn their cell phone off -- I need a motion
19 to postpone any discussion of the Affirmative Action
20 in Law School briefing report, along with its findings
21 and recommendations.

22 COMMISSIONER BRACERAS: So moved.

23 COMMISSIONER TAYLOR: Second.

24 VICE CHAIRPERSON THERNSTROM: Any further
25 discussion? All in favor?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 (Chorus of ayes.)

2 All opposed? All right, that is
3 unanimous. And just for the record, let me say that I
4 have consulted with the chair and he was in agreement
5 as well. And Gail Heriot, of course, did request a
6 postponement of the discussion, so there is really a
7 consensus on this.

8 That brings us now to I believe the Anti-
9 Semitism Public Education Campaign.

10 **VI. Anti-Semitism Public Education Campaign**

11 VICE CHAIRPERSON THERNSTROM: Motion to
12 approve the revised website pages for the Anti-
13 Semitism Public Education Campaign that was
14 distributed to the Commission on February 5, 2007,
15 with revisions to reflect changes arising from
16 effective agency review.

17 So can I have a motion to approve these
18 revised website pages?

19 COMMISSIONER BRACERAS: So moved.

20 VICE CHAIRPERSON THERNSTROM: How about a
21 second?

22 COMMISSIONER TAYLOR: Second.

23 VICE CHAIRPERSON THERNSTROM: Any
24 discussion?

25 Hearing no discussion, all in favor

NEAL R. GROSS

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

1 indicate aye.

2 (Chorus of ayes.)

3 STAFF DIRECTOR MARCUS: If I may, Madam
4 Vice Chair, there are a number of organizations that
5 have been asked to be kept apprised about when this
6 goes live. Usually, we send a press release. It
7 occurred to me that this might be something useful to
8 bring together the groups that have been providing
9 input to us and who have asked to know about it
10 together to announce the website when it goes live
11 and at the same time we do a press release.

12 I wanted to see if there was sort of any
13 disagreement or objection or if there's general
14 consensus with that.

15 COMMISSIONER YAKI: No, I think you should
16 do a press conference, absolutely. Have one of the
17 members or chair push the button that sends it live
18 out there.

19 STAFF DIRECTOR MARCUS: Good idea.

20 VICE CHAIRPERSON THERNSTROM: When is it
21 likely to go up?

22 STAFF DIRECTOR MARCUS: I think we need
23 just a few weeks, just to polish up the last bit and
24 then to put the press release together and give people
25 enough time to schedule it.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 COMMISSIONER YAKI: Would it be too far in
2 the future for the April 13th meeting to do it at the
3 beginning so that the Commission is here with the
4 groups?

5 STAFF DIRECTOR MARCUS: We could. I
6 imagine that there are going to be a number of groups
7 here so it might take a little while, but it certainly
8 could be.

9 VICE CHAIRPERSON THERNSTROM: I think
10 we've got an -- given the fact that we've just
11 postponed this entire discussion so we're back to
12 having and we've got a briefing as well in April,
13 isn't that correct?

14 STAFF DIRECTOR MARCUS: That's a question
15 that we've got to deal with because I know there's
16 been some sentiment that we shouldn't have meetings
17 and briefings on the same day.

18 VICE CHAIRPERSON THERNSTROM: It's going
19 to be a huge business meeting.

20 STAFF DIRECTOR MARCUS: We do have a
21 briefing scheduled for April.

22 COMMISSIONER BRACERAS: Do we have a
23 briefing scheduled for May? No.

24 STAFF DIRECTOR MARCUS: No.

25 COMMISSIONER BRACERAS: So we could flip

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 them.

2 VICE CHAIRPERSON THERNSTROM: We can't
3 flip them. We can put the -- postpone the briefing.
4 We absolutely need the --

5 COMMISSIONER BRACERAS: That's what I
6 said.

7 VICE CHAIRPERSON THERNSTROM: Okay, I
8 didn't think really that was a flip, but anyway.
9 Doesn't matter.

10 COMMISSIONER BRACERAS: I feel strongly
11 about having the briefing though. I think we've done
12 nothing on gender since I came on this Commission.

13 VICE CHAIRPERSON THERNSTROM: Let's just
14 postpone that.

15 STAFF DIRECTOR MARCUS: We do have
16 speakers lined up.

17 VICE CHAIRPERSON THERNSTROM: So on the
18 assumption that we can get speakers for May.

19 COMMISSIONER BRACERAS: That's fine.

20 VICE CHAIRPERSON THERNSTROM: We can
21 confine the April meeting to a business meeting.

22 STAFF DIRECTOR MARCUS: I think this
23 should be a motion both to postpone the briefing and
24 also not to conduct a business meeting in May.

25 COMMISSIONER BRACERAS: Okay, I hereby

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 move that the Commission postpone the briefing
2 previously scheduled for April on Title IX until our
3 May meeting and that the April meeting be solely a
4 business meeting.

5 VICE CHAIRPERSON THERNSTROM: Second.

6 COMMISSIONER TAYLOR: I will second
7 subject to the Staff Director contacting the
8 panelists, if we're flipping a date, it's already
9 March. I'd hate for us to lose a panelist because of
10 a conflict which would throw us off completely. So if
11 they can't move the date and it doesn't accommodate --
12 they can't accommodate a new date, I don't want to
13 lose the panelist.

14 VICE CHAIRPERSON THERNSTROM: We do lose
15 panelists. We've lost one for this afternoon.

16 COMMISSIONER TAYLOR: That's all.

17 COMMISSIONER BRACERAS: Who do we have
18 lined up right now?

19 STAFF DIRECTOR MARCUS: We have Stephanie
20 Monroe, the Assistant Secretary of Education for Civil
21 Rights. We have Jessica Gavora who has written
22 extensively on Title IX. We have a representative of
23 the NCAA. And we have, I believe a representative of
24 the National Women's Law Center. Those are the four
25 we have lined up and we look at the potential, if we

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 go to six, of either getting a couple of statisticians
2 or an athletic director, but we've got those four.

3 COMMISSIONER BRACERAS: All right, well, I
4 mean I think we can move it and I think if they can't
5 do it, we can find someone else. I'm not concerned.

6 VICE CHAIRPERSON THERNSTROM: All right,
7 it's been moved. It's been seconded. Any further
8 discussion?

9 COMMISSIONER YAKI: Do we need to move not
10 having a business meeting?

11 VICE CHAIRPERSON THERNSTROM: That was
12 part of the motion.

13 COMMISSIONER BRACERAS: No, I was going to
14 do that as a separate question.

15 VICE CHAIRPERSON THERNSTROM: I though you
16 had put that together as a package.

17 COMMISSIONER BRACERAS: Fine, okay. Put
18 it together as a package. One and the same.

19 Okay, I hereby move that the briefing on
20 Title IX previously scheduled for April be rescheduled
21 for May. And that the May meeting consists solely of
22 a briefing and no business meeting and the April
23 meeting consists solely of the business meeting and no
24 briefing.

25 COMMISSIONER YAKI: Second.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 VICE CHAIRPERSON THERNSTROM: Any further
2 discussion?

3 All in favor?

4 (Chorus of ayes.)

5 Anybody opposed? Unanimously passed.

6 STAFF DIRECTOR MARCUS: Now just for
7 clarity, there's been discussion about whether we
8 should schedule together with the business meeting
9 next month some sort of press conference or meeting
10 with the stakeholders on the public education
11 campaign, but I'm not sure if there was a motion or
12 resolution.

13 COMMISSIONER YAKI: If there is to be a
14 meeting, that can occur on Thursday. But I think that
15 the ceremonial launch where you basically have the
16 groups all together in front of the computer and you
17 go bink could be either just prior to or during a
18 break of the business meeting. I don't see this
19 lasting more than 15 minutes, as long as everyone is
20 ready to go. Troop upstairs -- because it would have
21 to be upstairs, right? Can we do it down here?

22 STAFF DIRECTOR MARCUS: It depends how we
23 structure it. What I had previously envisioned is
24 explaining to the groups what we're doing because they
25 have not all seen the information that you've seen and

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 if people are actually here, we might show them what
2 the website looks like using audio-visual.

3 COMMISSIONER BRACERAS: Just out of
4 curiosity, is this something for the benefit of the
5 stakeholders or is this something that we're doing for
6 press coverage, like as a press conference.

7 STAFF DIRECTOR MARCUS: It's both of those
8 and it's one other thing. Since we have one advantage
9 of the stakeholders is that they are groups, many of
10 whom have indicated a willingness to convey our
11 message to their communities and to do it in a way
12 that we couldn't otherwise do. So we're presenting it
13 to them so that they can forward links by email to all
14 of their people or include a discussion in their
15 newsletter. These are the people that we would rely
16 on to get the word out, whether it be directors of
17 student unions or to various committees involving
18 faculty or administrative --

19 COMMISSIONER YAKI: We don't need to do
20 that all at one time. You can do that in the week
21 prior or the two days prior and then just have the
22 launch itself where everyone says howdy doody, what a
23 great thing during the meeting or during a break in
24 the meeting.

25 VICE CHAIRPERSON THERNSTROM: Do you want

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 to wait until -- you could launch this much earlier
2 without --

3 STAFF DIRECTOR MARCUS: I think that the
4 meeting where we explain things would be a little
5 cumbersome to really be limited to 15 minutes, so the
6 division that Commissioner Yaki indicated I think
7 makes some sense.

8 VICE CHAIRPERSON THERNSTROM: But that
9 frees you up -- Commissioner Yaki mentioned two days
10 beforehand, but it really frees you up to do it much
11 earlier.

12 STAFF DIRECTOR MARCUS: Yes, we would just
13 have the meeting at some point between now and the
14 meeting. We just have to check on people's schedules.

15 COMMISSIONER YAKI: And then the launch
16 becomes a nice sort of press thing.

17 VICE CHAIRPERSON THERNSTROM: Okay. I
18 can't remember, have we had a vote on this? We have,
19 yes.

20 STAFF DIRECTOR MARCUS: We have not had a
21 vote on it.

22 COMMISSIONER YAKI: Do we need a vote on
23 it? I think it's the discretion of the Staff Director
24 to put it on the agenda to agendize it for April, for
25 the press part and whatever -- how he chooses to brief

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 the group beforehand and walk them through it and get
2 their critiques, it's at his discretion.

3 VICE CHAIRPERSON THERNSTROM: I agree. We
4 don't need a vote on this.

5 Okay, we are up to State Advisory
6 Committee Issues.

7 **VII. State Advisory Committee Issues**

8 VICE CHAIRPERSON THERNSTROM: There's the
9 Fair Housing Initiative at the Commission meeting held
10 on February 9, 2007. Commissioners voted to produce a
11 statutory enforcement report on the Fair Housing
12 Initiative to comeback housing discrimination in FY
13 09.

14 The Commission would benefit from the
15 research assistants of State Advisory Committee and
16 Regional Offices on this issue as it prepares a
17 report.

18 We have a motion that the Commission
19 requests State Advisory Committees and Regional
20 Offices to take up the issue of the Fair Housing
21 Initiative to combat housing discrimination within
22 their jurisdiction as a research project.

23 Somebody move?

24 COMMISSIONER TAYLOR: So moved.

25 VICE CHAIRPERSON THERNSTROM: Second?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Have I got a second on this? This is --

2 COMMISSIONER TAYLOR: Somebody else has to
3 believe in housing.

4 VICE CHAIRPERSON THERNSTROM: Somebody
5 else has to believe --

6 COMMISSIONER BRACERAS: Second.

7 VICE CHAIRPERSON THERNSTROM: Is there any
8 discussion of this?

9 COMMISSIONER MELENDEZ: Yes, Commissioner
10 Melendez here. I have a concern yet with the -- I
11 guess the workload of the SACs. For one thing, they
12 already have, I guess, responsibility that we're
13 asking them to on this 50 state report, you want them
14 to -- I think part of the strategic plan is they're
15 supposed to have the states -- all 50 states are
16 supposed to have some input or to provide a report.
17 Isn't that right?

18 STAFF DIRECTOR MARCUS: Here is how I've
19 envisioned it and described it in our meetings. I
20 envision asking a series of questions in the same form
21 to all committee members in each state. I will ask
22 them for initially for them to describe what they
23 consider to be the most important civil rights issues
24 in their state. And then I will ask them from the
25 pool of issues that they've identified to rank them.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 And then we will tabulate them and come up with each
2 state what the members considered to be the issues in
3 their state.

4 I don't envision it as being a very time
5 or labor-intensive job. I don't see it as being
6 comparable to say asking each State Advisory Committee
7 to write their own report which I think would not be
8 even remotely feasible, but simply to provide their
9 views on the issues and to rank them in order of
10 importance or priority.

11 VICE CHAIRPERSON THERNSTROM: I mean I
12 think they would like to be pulled into this process a
13 bit.

14 COMMISSIONER MELENDEZ: Commissioner
15 Melendez. I guess the question would be if they see
16 it as a mandate that they're supposed to come up with
17 type of --

18 VICE CHAIRPERSON THERNSTROM: The word is
19 request here.

20 COMMISSIONER MELENDEZ: Okay. And the
21 issue is the situation with most of the SACs right now
22 is half of them are partial SACs. People are still
23 trying to recharter them and I think it's a real --
24 with only minimal funding, I think that's -- they have
25 a tremendous amount of work load that they don't

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 really have funding to do anything.

2 VICE CHAIRPERSON THERNSTROM: Well,
3 Commissioner Melendez, are you -- is your bottom line
4 that we should not even make this request in any form?

5 COMMISSIONER MELENDEZ: My concern is that
6 they don't look at it as taking precedent over any of
7 the priorities they have. Because within the State of
8 Nevada, I know that that may not be their main
9 priority right now. They're looking into some law
10 enforcement things, when I read their SAC report. So
11 this would be throwing something on top of what
12 they're already and I just didn't want to build that
13 -- whatever their priority is now, they have to drop
14 that and focus in on fair housing.

15 It's just how you make the request.

16 VICE CHAIRPERSON THERNSTROM: Yes. Let me
17 ask the Staff Director. If a SAC were to come back to
18 us and say this is, given our priorities, given our
19 work load, given whatever, it's not feasible for us at
20 the moment.

21 STAFF DIRECTOR MARCUS: I think the motion
22 is worded as a request. So some of them may find
23 there are other priorities or there might be analysis
24 that they do and they focus on an issue in their
25 state.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 VICE CHAIRPERSON THERNSTROM: Right. So
2 it is just a request.

3 Commissioner Yaki?

4 COMMISSIONER YAKI: I just had a quick
5 question on this. Which state SACs are participating
6 in the -- what is it, is it the elementary --

7 STAFF DIRECTOR MARCUS: Elementary and
8 secondary desegregation.

9 COMMISSIONER YAKI: Which states are
10 those?

11 STAFF DIRECTOR MARCUS: Generally, they
12 are the states within the Southern Regional Office and
13 some within the Kansas City-based region. Mississippi
14 and either at a SAC or regional level, Arkansas.

15 COMMISSIONER YAKI: Could (a) someone
16 email that list to me, number one; and (b) did we take
17 a vote on that as well?

18 STAFF DIRECTOR MARCUS: There was a vote
19 quite some time ago to request that they look at this
20 issue, yes.

21 There was also a request made to request
22 that the SACs look at religious discrimination in
23 prisons.

24 COMMISSIONER MELENDEZ: Just in the
25 discussion, I would just adjust that. We have some

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 language that says we welcome the SACs' input on the
2 2009 topic, but we are not requiring them to focus on
3 that, if other local issues seem more pressing to
4 them.

5 STAFF DIRECTOR MARCUS: I don't see how
6 that would be a problem.

7 VICE CHAIRPERSON THERNSTROM: That would
8 not be problematic from my point of view. So that is
9 -- I would regard that as a friendly amendment to the
10 motion on the table.

11 So do we need a rewording, a formal
12 rewording?

13 STAFF DIRECTOR MARCUS: I think
14 Commissioner Melendez --

15 VICE CHAIRPERSON THERNSTROM: Just gave it
16 to us. Okay. So -- we do need a second.

17 COMMISSIONER TAYLOR: Second.

18 VICE CHAIRPERSON THERNSTROM: All in
19 favor?

20 (Ayes.)

21 VICE CHAIRPERSON THERNSTROM: Anybody
22 opposed?

23 COMMISSIONER YAKI: I abstain.

24 VICE CHAIRPERSON THERNSTROM: All right,
25 we have one abstention. Commissioner Yaki has

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 abstained.

2 We're at the motion to approve the
3 rechartering of the Tennessee State Advisory
4 Committee. I need a motion to recharter the Tennessee
5 State Advisory Committee. Under this motion the
6 Commission appoints the following individual to that
7 committee based on the recommendations of the Staff
8 Director, Tiffany B. Cox, Amber Darcy Gooding, J.
9 Gregory Grisham, Dorothy Day Jones, Vicki Lott,
10 Reverend Bernie Miller, who is recommended as chair,
11 Carol M. Swain, Josh J. Thomas, Eluid Gonzalez
12 Trevino, Susan J. Williams, Tom Edd Wilson.
13 Furthermore, the Commission appoints, as I just
14 suggested, Reverend Bernie Miller as chair of the new
15 rechartered Tennessee State Advisory Committee. These
16 members will serve as uncompensated government
17 employees. The Commission appreciates the hard work
18 they will contribute to this State Advisory Committee.
19 Under this motion, the Commission authorizes the
20 Staff Director to execute the appropriate paperwork
21 for the appointment -- or I should say appointments.
22 And I need a motion.

23 COMMISSIONER TAYLOR: So moved.

24 VICE CHAIRPERSON THERNSTROM: And a
25 second?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 COMMISSIONER BRACERAS: Second.

2 VICE CHAIRPERSON THERNSTROM: Any
3 discussion?

4 COMMISSIONER MELENDEZ: Yes, one question.

5 As you know, we've been trying to follow these SAC.
6 This Mr. Grisham, can you tell me a little bit about
7 him? You had recommended him?

8 STAFF DIRECTOR MARCUS: Yes. As I recall
9 he is a distinguished attorney with a firm in
10 Tennessee. I believe, and I'm checking this, that
11 this background has included civil rights,
12 specifically employment and labor issues. The firm
13 he's with is Weintraub Stock and Grisham.

14 VICE CHAIRPERSON THERNSTROM: Does anybody
15 else have any further knowledge of Mr. Grisham?

16 STAFF DIRECTOR MARCUS: I guess I had
17 forgotten that he had formerly been on the staff of
18 Senator Howard Baker. And that he speaks regularly on
19 Title VII in Tennessee.

20 COMMISSIONER MELENDEZ: All right, no
21 other questions.

22 VICE CHAIRPERSON THERNSTROM: Anybody else
23 got any further questions, discussions on this list?

24 If not, all in favor?

25 (Ayes.)

NEAL R. GROSS

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

1 Anybody opposed?

2 COMMISSIONER YAKI: Abstain.

3 VICE CHAIRPERSON THERNSTROM: Let the
4 record show that Commissioner Yaki has abstained.

5 With apologies, the Staff Director has
6 just noted that somehow I missed Strategic Planning
7 which came before what we eliminated, the discussion
8 of the law school affirmative action question.

9 **V. Management and Operations - Strategic Planning**

10 VICE CHAIRPERSON THERNSTROM: So we do
11 have one further item, our strategic plan. The draft
12 strategic plan that was approved by Commissioners was
13 send to the Office of Management and Budget. Comments
14 made by OMB were included in the draft. The most
15 important change was to strengthen and qualify the
16 measures to hold the Agency accountable for results.
17 Before submitting the strategic plan to the
18 appropriate congressional committees, the additional
19 changes by OMB have to be approved by the
20 Commissioners.

21 Can I have a motion that the Commission
22 adopt the proposed preliminary draft strategic plan
23 distributed to Commissioners on March 1, 2007. Please
24 note that approval of this motion does not constitute
25 approval of a final strategic plan as the draft

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 strategic plan remains preliminary and must be further
2 vetted with OMB and Congress.

3 So I need a motion to approve this
4 proposed preliminary draft.

5 COMMISSIONER TAYLOR: So moved.

6 VICE CHAIRPERSON THERNSTROM: And a
7 second?

8 COMMISSIONER BRACERAS: Second.

9 VICE CHAIRPERSON THERNSTROM: Any
10 discussion?

11 COMMISSIONER MELENDEZ: Yes, Commissioner
12 Melendez here. I think that there's been substantial
13 changes to this plan since the last time we had worked
14 on this. In light of -- I think Commissioner Kirsanow
15 and some of the other people that also had input into
16 this, I think they should actually be here to vote on
17 this. But I think what we're saying here is that this
18 is the final draft. Even though somebody up the line
19 might recommend some changes, I would think that this
20 actually is the final changes that the Commission here
21 would really make to it, in my opinion.

22 VICE CHAIRPERSON THERNSTROM: That's not
23 necessarily so.

24 STAFF DIRECTOR MARCUS: That is not how
25 this is presented. The idea is that this is something

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 that would then go to the Hill for comments and we may
2 get substantial comments or not and if there are, then
3 it would be presented again before it goes final. In
4 fact, either way, I think it needs to be presented
5 again.

6 VICE CHAIRPERSON THERNSTROM: It will have
7 to be presented again. There will have to be a motion
8 and a discussion once again. I don't think we're at
9 the end of this road.

10 COMMISSIONER MELENDEZ: Just going over
11 some specifics, you know, if I might mention. I know
12 that I had a concern about mentioning in this a
13 document about the failure of the Commission, now
14 that's pro and con in my opinion. It has maybe
15 advantages to point out, but it's kind of like bashing
16 ourselves in my opinion. And Congress, looking at
17 this when we say we've been a failure over -- not only
18 does it -- Congress can look at that and say well, if
19 you guys are such a failure, maybe we should just do
20 away with the Commission all together.

21 So I think when we're saying that, in
22 here, even though we're saying that we're going to
23 turn things around here, I just don't think that even
24 saying something like that in this report is good.

25 VICE CHAIRPERSON THERNSTROM: What is the

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 exact wording on --

2 COMMISSIONER YAKI: Page 7, last
3 paragraph, first sentence.

4 COMMISSIONER BRACERAS: I think if I may,
5 I think when we started this process a while back
6 there was a sense that we needed to take
7 responsibility, if you will, for some of the
8 Commission's past failings. And that was something
9 that was generated by the Hill and it was felt that we
10 needed to, in looking forward and showing how we were
11 going to change things, acknowledge there were some
12 problems. So that's -- maybe not that precise
13 wording, but that sentiment has been in the strategic
14 plan from the beginning.

15 VICE CHAIRPERSON THERNSTROM: The wording
16 could be put so that we're not quite declaring
17 ourselves, as you put, a failure.

18 (Pause.)

19 I've got problems with another paragraph
20 here. On page 6, the paragraph that reads "The
21 Commission directly influences the course of national
22 civil rights policy and continues to have an impact
23 that is disproportionate to its size. The
24 Commission's 1961 report provided the intellectual and
25 factual foundation for the landmark 1964 Civil Rights

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 Act." I agree with that and by the way I would also
2 further way that the Commission's reports back in the
3 1950s and right after the Commission's formation, late
4 '50s, on disenfranchisement in the South, black voters
5 having an enormous impact on the '65 Act. But here it
6 goes on to say "similarly, the Commission's hearings
7 on the disenfranchisement of black voters formed the
8 basis of the recently renewed Voting Rights Act of
9 1965." That is simply incorrect. I mean it's -- I do
10 not think that its hearings in Florida in 2001 had any
11 impact on the reauthorization of Section 5, the
12 reauthorization and amendment of Section 5 this past
13 July, nor should it have, and it is just factually
14 incorrect.

15 STAFF DIRECTOR MARCUS: I think that's a
16 matter of unclear wording. If you see the sentences
17 are listed in chronological order. There's reference
18 to 1961, '64, '65, '83, 2005.

19 VICE CHAIRPERSON THERNSTROM: But it says
20 recently renewed.

21 STAFF DIRECTOR MARCUS: That's the
22 problem. The intention wasn't to indicate that we had
23 an impact on the recent renewal, but rather to say
24 that we had an impact on the 1965 act and we simply,
25 as an aside --

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 COMMISSIONER BRACERAS: That's not how
2 that reads.

3 STAFF DIRECTOR MARCUS: I think it's
4 unclear as written.

5 VICE CHAIRPERSON THERNSTROM: It's more
6 than unclear. It's positively misleading.

7 COMMISSIONER BRACERAS: It makes it seem
8 like we're applauding out -- not our, but the old
9 regime's Florida report by saying it was influential
10 in recent developments which I neither wish to applaud
11 the Commission's Florida report nor do I wish to
12 applaud any influence it may have had.

13 VICE CHAIRPERSON THERNSTROM: And it had
14 none.

15 COMMISSIONER BRACERAS: And it had none.

16 STAFF DIRECTOR MARCUS: I think the words
17 "recently renewed" probably were at best inartful.

18 COMMISSIONER BRACERAS: We need to put
19 some dates on that. "Similarly, the Commission's
20 hearings in the 1960s" --

21 VICE CHAIRPERSON THERNSTROM: There were
22 some good reports -- I remember wonderful reports.

23 STAFF DIRECTOR MARCUS: Yes, the intent
24 here is not to refer to any work by the Commission
25 subsequent to the year 1965. That was the intent.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 COMMISSIONER BRACERAS: That is fine.

2 VICE CHAIRPERSON THERNSTROM: You need to
3 reword that.

4 STAFF DIRECTOR MARCUS: Shall we say in
5 the 1950s and 1960s?

6 COMMISSIONER YAKI: Where are you again?

7 VICE CHAIRPERSON THERNSTROM: Page 6,
8 middle paragraph, it starts "The Commission directly
9 influences the course of national civil rights policy"
10 and my point here is that it did its reports prior to
11 the passage of the 1965 Voting Rights Act were
12 extremely important. They were very, very well done.
13 They can still be relied on today in writing up the
14 history of that period, but the more recent hearings
15 on disfranchisement in Florida --

16 COMMISSIONER BRACERAS: Alleged.

17 VICE CHAIRPERSON THERNSTROM: Alleged
18 disfranchisement in Florida, a state which in any case
19 barely covered by the voting rights, by Section 5 of
20 the Voting Rights Act, only five counties are covered
21 and they want the counties at issue -- subsequent to
22 the 2000 election. In any case, those hearings had no
23 impact on the recent renewal of the emergency
24 provisions of the --

25 COMMISSIONER BRACERAS: So the sentence

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 should read, "Similarly, the Commission's hearings on
2 the disenfranchisement of black voters in the 1950s
3 and 1960s formed the based of the Voting Rights Act of
4 1965."

5 VICE CHAIRPERSON THERNSTROM: Or were
6 important in shaping the 1965 Voting Rights Act. And
7 I have a preference for disfranchisement, rather than
8 disenfranchisement. That is a nitpicking editorial
9 comment. Disfranchisement.

10 So just to make this clear, this is an
11 historical statement about the shaping of the 1965
12 Voting Rights Act, not our impact on last summer's
13 reauthorization of the -- the reauthorization and
14 amendment of Section 5 and other emergency provisions.

15 STAFF DIRECTOR MARCUS: Is there a motion
16 to make this change?

17 VICE CHAIRPERSON THERNSTROM: I guess we
18 do need a motion.

19 COMMISSIONER MELENDEZ: My main point here
20 is there's been substantial changes to this since the
21 last time I looked at it and we only received this
22 about a week and a half, a week ago, or whenever it
23 came in.

24 What should have happened was we should
25 have been able to again send in our comments as to

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 what this latest version that came out. Trying to do
2 it right here, I think we're going to leave -- and
3 this is an important document, I'm just saying we're
4 probably going to leave a whole bunch of things -- you
5 know, I could send these back into you and there's a
6 number of them that I have questions to. So it's not
7 just like a couple of things are --

8 VICE CHAIRPERSON THERNSTROM: I had missed
9 that because I haven't had a chance -- I hadn't had
10 the time in the last 10 days.

11 COMMISSIONER MELENDEZ: I would ask if we
12 could table this until the next meeting also and
13 provide feedback into all these different changes.
14 Based on that, I just think there's a number of
15 changes that I --

16 VICE CHAIRPERSON THERNSTROM: There's a
17 motion on the table to approve it. If we're going to
18 table it, we simply vote no on approval and further
19 motion and it seems to me to table. Would that be
20 procedurally correct?

21 STAFF DIRECTOR MARCUS: We could just have
22 a motion to table.

23 VICE CHAIRPERSON THERNSTROM: We can have
24 a motion to table, even though there's a motion on the
25 floor?

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 STAFF DIRECTOR MARCUS: Yes.

2 VICE CHAIRPERSON THERNSTROM: All right, I
3 have a substitute motion to table. Commissioner
4 Melendez?

5 COMMISSIONER MELENDEZ: Yes.

6 VICE CHAIRPERSON THERNSTROM: Why don't
7 you state it?

8 I move --

9 COMMISSIONER MELENDEZ: I move to table
10 this until the next meeting in April and then to
11 provide some feedback into this later --

12 VICE CHAIRPERSON THERNSTROM: In the
13 interim period.

14 COMMISSIONER MELENDEZ: In the interim
15 period we'll send in our latest comments back to the
16 Staff Director on this latest version.

17 VICE CHAIRPERSON THERNSTROM: All right,
18 can we have a second on that?

19 COMMISSIONER TAYLOR: Second.

20 VICE CHAIRPERSON THERNSTROM: Any further
21 discussion?

22 All in favor?

23 (Chorus of ayes.)

24 Any opposed? It passes unanimously.

25 And I think we are at an end and we simply

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

1 need a motion to adjourn.

2 COMMISSIONER TAYLOR: So moved.

3 VICE CHAIRPERSON THERNSTROM: Second?

4 COMMISSIONER MELENDEZ: Second.

5 VICE CHAIRPERSON THERNSTROM: We are

6 recessed until 1 o'clock.

7 We are adjourned in this meeting.

8 (Whereupon, at 11:42 a.m., the meeting was
9 concluded.)

10

11

12

13

14

15

16

17

18

19

20

21

22

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701