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BEFORE THE  
UNITED STATES COMMISSION ON CIVIL RIGHTS

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In the matter of: :

COMMISSION MEETING :

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U.S. Commission on Civil Rights  
624 9th Street, N.W.  
Room 540  
Washington, D. C.

Friday,  
October 25, 1996

The above-entitled meeting was held, pursuant  
to notice, commencing at 9:30 a.m.

COMMISSIONERS PRESENT:

- Mary Frances Berry, Chairperson
- Cruz Reynoso, Vice Chairperson
- Carl A. Anderson
- Robert P. George (Via telephone)
- A. Leon Higginbotham, Jr.
- Constance Horner
- Yvonne Y. Lee
- Russell G. Redenbaugh

Mary K. Mathews, Staff Director

STAFF PRESENT:

- James S. Cunningham
- John Dill
- Pamela Dunston
- Gerri M. Hall
- George M. Harbison
- Carol-Lee Hurley
- Jacqueline L. Johnson

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## STAFF PRESENT: (Continued)

Frederick Isler  
William Lee  
Stephanie Y. Moore, General Counsel  
Veronique Pluviose-Fenton  
Charles Rivera  
Miguel Sapp, Parliamentarian  
Anthony K. Wells, Sr.  
Audrey Wright  
Nadja Zalokar

## COMMISSIONER ASSISTANTS PRESENT:

Aderson Francois  
Deeane Jang  
Charlotte Ponticelli  
William L. Saunders, Jr. (Via telephone)  
Cynthia Valenzuela

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

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9:30 a.m.

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CHAIRPERSON BERRY: The meeting will come to order. We do have a quorum, if I'm counting right.

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

COMMISSIONER HORNER: Madam Chair, I have just learned that Commissioner Redenbaugh's plane is delayed and I know that he has a lot of interest in the project planning issue. So I would hope that we could put that issue last on our agenda to make it more likely he'll arrive in time.

CHAIRPERSON BERRY: That's fine. I see Commissioner Higginbotham hasn't arrived either. But we'll put it last and hope that everybody shows up by that time.

COMMISSIONER HORNER: Okay.

CHAIRPERSON BERRY: Otherwise, we can even take a break and wait for him.

All right. Any other changes to the agenda?

(No response.)

Okay. If there are no other changes, could I get a motion to approve the agenda, as modified?

VICE CHAIR REYNOSO: So move.

CHAIRPERSON BERRY: Second?

1 COMMISSIONER LEE: Second.

2 CHAIRPERSON BERRY: All in favor say aye.

3 (Chorus of ayes.)

4 Opposed?

5 (No response.)

6 Okay. The second item then is the approval  
7 of the minutes of the September meeting.

8 STAFF DIRECTOR MATHEWS: Madam Chair?

9 CHAIRPERSON BERRY: Yes, Staff Director?

10 STAFF DIRECTOR MATHEWS: I would like to  
11 mention that in the staff's re-read of the minutes  
12 after they went out, we notice that in the editing  
13 process a reference was inadvertently omitted. It was  
14 the reference in the discussion last time on SAC  
15 projects and SAC reports, and the staff needs to  
16 indicate that we're going to add a statement reflecting  
17 that portion of the Commissioner discussion about  
18 encouraging the SAC's to have more fact finding and  
19 more reports with findings and recommendations.

20 CHAIRPERSON BERRY: I do remember we did  
21 discuss that last time.

22 Does anyone have any other changes to the  
23 minutes?

24 COMMISSIONER HORNER: Yes. Madam Chair, on  
25 behalf of Commissioner Redenbaugh, first of all, he

1 asks that the statement, "Commissioner Redenbaugh  
2 agreed with Commissioner Horner," applies to a request  
3 for a delay. That is, he agreed to a request to a  
4 delay.

5 I would also like to ask that the statement  
6 that "Commissioner Horner stated that the report  
7 appeared to be a strong useful report and that problems  
8 with it could be negotiated without extraordinary  
9 difficulty" be redrafted to state that in the context  
10 of only having recently received the report and had not  
11 much time to review it, I thought. And then use the  
12 word "I thought the report," et cetera, et cetera.

13 In other words, it's a slight shading but in  
14 fact I wasn't as confident as the minutes appear to  
15 suggest.

16 STAFF DIRECTOR MATHEWS: Madam Chair, I'd  
17 like to ask for clarification of the first point you  
18 made on Commissioner Redenbaugh. Is that the sentence  
19 immediately following what you just said?

20 COMMISSIONER HORNER: Yes, it is. And it  
21 ought to read, "Commissioner Redenbaugh agreed with  
22 Commissioner Horner's request for a delay." He wasn't  
23 agreeing with my whole assessment of the report. He  
24 was only agreeing with a request for a delay, as I  
25 understand it.

1 CHAIRPERSON BERRY: And then to be clear, the  
2 sentence concerning Commissioner Horner's view should  
3 state that in the context of not receiving the report  
4 in time to adequately have reviewed it, she believed or  
5 thought.

6 COMMISSIONER HORNER: Yes. Thought, please.

7 CHAIRPERSON BERRY: Thought.

8 COMMISSIONER HORNER: Thank you.

9 CHAIRPERSON BERRY: Any other changes or  
10 comments on the minutes?

11 Vice Chair?

12 VICE CHAIR REYNOSO: Madam Chair, I don't  
13 know whether this is -- I'm sort of delayed on this.  
14 I'm just reading an article that appeared apparently in  
15 the San Francisco Chronicle authored by -- it says by  
16 the four U.S. Civil Rights Commissioners, listed below,  
17 contributed to this article: Russell G. Redenbaugh,  
18 Carl Anderson, Robert P. George and Constance Horner.

19 I just wonder if we might have a discussion  
20 today about whether or not when writing something like  
21 this and using our titles it needs to be made clear  
22 that we're speaking as individuals rather than as  
23 Commissioners.

24 CHAIRPERSON BERRY: Okay.

25 VICE CHAIR REYNOSO: Or what our role is.

1 I've been puzzled, frankly, since I've been on the  
2 Commission, exactly when we can identify ourselves as  
3 Commissioners, when we should, when we should make  
4 clear though identifying ourselves as Commissioner that  
5 we're speaking individually. And as a matter of  
6 personal privilege, I'd like to make a comment on the  
7 article itself later on.

8 CHAIRPERSON BERRY: Well, why don't I put --  
9 we'll go back, if people will indulge you, even though  
10 we are now discussing the minutes. Why don't we ask  
11 that we discuss this item when we get to the Staff  
12 Director's report, since it is a housekeeping sort of  
13 detail, unless people object to him doing so.

14 COMMISSIONER HORNER: May we have a copy made  
15 for each of us of that article?

16 CHAIRPERSON BERRY: Yes. And discuss --

17 COMMISSIONER HORNER: I mean, in time for us  
18 now to see it.

19 CHAIRPERSON BERRY: Right. Somebody please  
20 make copies?

21 STAFF DIRECTOR MATHEWS: Yes. Absolutely.

22 CHAIRPERSON BERRY: And we will then discuss,  
23 if there's no objection, the points you want to discuss  
24 that you've just laid out when we get -- after  
25 announcements to the Staff Director's report.

1 Is there any objection?

2 (No response.)

3 Anybody else? Changes in the minutes?

4 (No response.)

5 If not, could I have a motion that the  
6 minutes be approved with the changes that have been  
7 suggested?

8 COMMISSIONER HORNER: So move.

9 CHAIRPERSON BERRY: Could I have a second,  
10 please?

11 COMMISSIONER ANDERSON: Second.

12 CHAIRPERSON BERRY: All in favor, indicate by  
13 saying aye.

14 (Chorus of ayes.)

15 Opposed?

16 (No response.)

17 Okay. The minutes are approved as corrected  
18 and amended.

19 Announcements. Does any Commissioner have  
20 any announcements?

21 (No response.)

22 If not, does the Staff Director have any  
23 announcements?

24 STAFF DIRECTOR MATHEWS: I do, Madam  
25 Chairperson.



1 I first wanted to mention the press  
2 conference that was held since the last Commission  
3 meeting on the release of the transcripts and the  
4 executive summaries of the six state advisory committee  
5 community forums on church fires.

6 At the press conference, Chairperson Berry  
7 and Commissioner Anderson were there, our two regional  
8 directors and the SAC chairs or SAC representatives, in  
9 the cases where SAC chairs were unavailable to come.

10 The follow-up to that release of those  
11 documents, one particular follow-up item occurred just  
12 this week. The Louisiana SAC met with the Governor of  
13 Louisiana a day or two ago, had a very productive  
14 discussion, and expect follow-up meetings with the  
15 Governor to discuss and to develop a plan for race  
16 relations improvement in the state.

17 Letters were also sent, follow-up letters  
18 from the SACs, to the Governors of Alabama and  
19 Mississippi requesting similar such discussions.

20 The next item I'd like to highlight is --

21 CHAIRPERSON BERRY: So they haven't heard  
22 anything from the Governors of the other states but  
23 they've sent letters?

24 STAFF DIRECTOR MATHEWS: That's correct.

25 CHAIRPERSON BERRY: Have they requested

1 meetings with the Governors of Tennessee and North  
2 Carolina, South Carolina and do they plan to, since  
3 they were supposed to?

4 STAFF DIRECTOR MATHEWS: Those meetings, I  
5 understand, had been requested some time back and  
6 there's been follow-up, I believe, on the telephone.  
7 I'm not aware of written follow-up since release of the  
8 documents.

9 CHAIRPERSON BERRY: Okay. Will somebody make  
10 sure that they are in fact following up?

11 STAFF DIRECTOR MATHEWS: Yes. I will check  
12 with the regional director and verify that and --

13 CHAIRPERSON BERRY: Okay. Thank you.

14 STAFF DIRECTOR MATHEWS: -- have a report  
15 back for you.

16 COMMISSIONER ANDERSON: Madam Chair, could we  
17 get a -- I don't know whether we got copies of the  
18 letter to the Governors. Maybe we could get a copy of  
19 what was sent.

20 CHAIRPERSON BERRY: That would be very  
21 useful.

22 STAFF DIRECTOR MATHEWS: Absolutely. I just  
23 received the copies myself yesterday.

24 CHAIRPERSON BERRY: Copies of any letters to  
25 any Governors about this -- you know, follow-up on this

1 matter.

2 Thank you.

3 Other announcements?

4 STAFF DIRECTOR MATHEWS: Yes, Madam  
5 Chairperson.

6 I wanted to highlight for the Commission the  
7 fact that we have just in the last two months launched  
8 the very first Home Page for the Commission on Civil  
9 Rights on the Internet's Worldwide Web and included on  
10 our Home Page is information, just background, mission  
11 related bios of the Commissioners, but also information  
12 like the catalogue of publications indicating all the  
13 various publications that are available to the public  
14 free.

15 There's an audio and a visual display of our  
16 current public service announcement; a summary of the  
17 articles in the latest issue of the Commission's  
18 magazine; copy of recent press releases; and the  
19 Commission's toll-free number for citizens to call in  
20 and ask for assistance in the correct place to resolve  
21 their civil rights complaints.

22 I feel this is a very good extension of our  
23 outreach and our service to the public.

24 The next item I'd like to mention is the  
25 Commission meeting calendar, which a revised proposal

1 was sent on October 22, just a few days ago. Any  
2 Commissioner having scheduling issues, please let us  
3 know and we'll come out with a final calendar once we  
4 hear from the Commissioners on this.

5 CHAIRPERSON BERRY: Now, calendar, since you  
6 mentioned that, this might be the best time to mention  
7 to Commissioners that we still don't have a date for a  
8 Mississippi hearing. It would seem to me that if we  
9 are going to do a Mississippi hearing -- and that, of  
10 course, is a project decision that the Commissioners  
11 made. We already approved one so we'd have to make a  
12 decision to disapprove it -- no later than March.  
13 We're trying to have it by December and I understand  
14 that staff has not been able to get a date on which  
15 Commissioners could go, enough Commissioners could go,  
16 any time between now and December. So, going before  
17 Christmas is out.

18 So the query is can we find a date in say  
19 March that Commissioners would be able to go to  
20 Mississippi? If we can find a date when everyone can  
21 go, that would be optimal because we'd like to have  
22 dates where everyone can participate.

23 If not, if we can have a date where a  
24 majority of people can participate, that would be  
25 great. And that's what we need for a hearing. And we

1 also need to worry about partisanship and issues of who  
2 is there.

3 But could people look at their schedules, if  
4 you have your own schedules, and figure out -- and if  
5 you don't have them, do it after the meeting as you  
6 look at the calendar, and figure out is there some date  
7 in March when you would be able to go to Mississippi,  
8 either in conjunction with the hearing or somehow,  
9 because I think if we get much beyond March, we're  
10 talking about another year, just to be realistic and  
11 not kid ourselves.

12 So I would hope that -- and I know people  
13 have very tight schedules. Sometime in March, maybe.

14 COMMISSIONER HORNER: Do you want us to react  
15 now or --

16 CHAIRPERSON BERRY: Yes, please, if you can.  
17 If you can't, then --

18 COMMISSIONER HORNER: I can give a list of  
19 dates I'm available or a list of dates I'm not  
20 available.

21 CHAIRPERSON BERRY: That would be great, if  
22 you could do that. If everybody knows when they're  
23 either not available -- if you can know when you're  
24 not, maybe you could just say that I am not available  
25 on X, Y and Z dates.

1 COMMISSIONER HORNER: Madam Chair, could the  
2 staff tell us does it take a day of travel time --

3 CHAIRPERSON BERRY: To get there?

4 COMMISSIONER HORNER: -- to get there and to  
5 get back because that affects the dates on which we're  
6 available.

7 CHAIRPERSON BERRY: Yes. I asked that and  
8 they said, yes, because it's some place where you have  
9 to go like the night before or something. It's not one  
10 of those places where you can go directly. So you have  
11 to go the night before in order to be there for the  
12 next day.

13 COMMISSIONER HORNER: But to get there from  
14 the East Coast of the United States involves changing  
15 planes and a multi-hour drive at the end, possibly?

16 STAFF DIRECTOR MATHEWS: It's one or the  
17 other.

18 COMMISSIONER HORNER: So realistically we  
19 can't do a day of business somewhere else or even half  
20 a day of business and still get there the night before?

21 STAFF DIRECTOR MATHEWS: No, not  
22 realistically.

23 COMMISSIONER HORNER: And may I ask if the  
24 dates in the boxes are proposed?

25 STAFF DIRECTOR MATHEWS: No. Madam Chair,

1 the calendar --

2 CHAIRPERSON BERRY: What is this in the box  
3 you just gave me?

4 STAFF DIRECTOR MATHEWS: -- the calendar was  
5 passed out to facilitate this discussion. The boxes  
6 are holidays.

7 COMMISSIONER HORNER: Oh, thank you.

8 CHAIRPERSON BERRY: Oh, I see. This would  
9 help us to look.

10 Commission Anderson?

11 COMMISSIONER ANDERSON: I know we agreed to  
12 do this in a smaller rural area but would it help if we  
13 were to consider moving it into a city in which we  
14 could get to more easily and therefore, do we want to  
15 reconsider that decision? I mean, I know the rationale  
16 for doing it in a rural setting. But given what we're  
17 trying to do this somewhat more quickly and we're  
18 having difficulty with the schedule, we'd save two days  
19 on each end, is what we'd do, I think.

20 CHAIRPERSON BERRY: I forgot. I want to  
21 thank Commission Anderson and the Vice Chair for  
22 finally getting a date together to go to Los Angeles  
23 and finish some mini hearings.

24 VICE CHAIR REYNOSO: Talking about  
25 difficulties of calendars.

1 CHAIRPERSON BERRY: Right. So -- I  
2 understand that's been done, so I'm very grateful.

3 VICE CHAIR REYNOSO: Madam Chair, if we can  
4 combine it with a meeting, I assume that it would be  
5 the easiest thing. We're meeting March 7th.

6 CHAIRPERSON BERRY: Depends on people's  
7 calendars and whether they have three or four days.

8 VICE CHAIR REYNOSO: How long will the  
9 hearing be?

10 CHAIRPERSON BERRY: We had the proposal.  
11 How many days was it?

12 STAFF DIRECTOR MATHEWS: Three days.

13 CHAIRPERSON BERRY: Three days.

14 VICE CHAIR REYNOSO: Three days.

15 CHAIRPERSON BERRY: Three days. And even if  
16 people can't be there for all of it -- I mean, if some  
17 of us could be there for part of it and if we could  
18 work out in terms of worrying about partisanship and  
19 the rest, maybe work out among ourselves to make sure  
20 that there's somebody there, that would be great.

21 But as to Commissioner Anderson's point, is  
22 there a reaction to that, Staff Director?

23 STAFF DIRECTOR MATHEWS: Yes. I just wanted  
24 to indicate that if the Commissioners are interested in  
25 pursuing that option, that there's a workload impact on



1 the staff to basically prepare all over again for a  
2 hearing in a new city with new interviews and new  
3 analysis done to gear up for where we -- in essence,  
4 for the work that's already been done, to gear up for  
5 Greenville. And that that should be, please, a  
6 consideration of your dialogue on this issue.

7 COMMISSIONER HORNER: How far is Greenville  
8 from the nearest large airport city?

9 CHAIRPERSON BERRY: We knew that because --

10 COMMISSIONER HORNER: In other words, is that  
11 an hour or a three hour drive?

12 STAFF DIRECTOR MATHEWS: It's about 2-1/2 to  
13 3 hours.

14 VICE CHAIR REYNOSO: From Memphis, I think.

15 STAFF DIRECTOR MATHEWS: From Memphis. And  
16 about a similar distance, I understand, from Little  
17 Rock. Those are the two airports.

18 CHAIRPERSON BERRY: And then there's a small  
19 plane or something that you can go on from Memphis and  
20 Little Rock.

21 STAFF DIRECTOR MATHEWS: Right.

22 CHAIRPERSON BERRY: So that actually --

23 VICE CHAIR REYNOSO: And those two miles are  
24 by bicycle.

25 (Laughter.)

1 CHAIRPERSON BERRY: I mean, if you could get  
2 a plane in the afternoon -- somebody said you can't.  
3 Carol-Lee says you can't.

4 STAFF DIRECTOR MATHEWS: If I could add here,  
5 there are only two flights in, if you're going to take  
6 the plane into Greenville, a day, and two flights out.  
7 Which greatly --

8 VICE CHAIR REYNOSO: From Memphis?

9 STAFF DIRECTOR MATHEWS: From Memphis or  
10 Little Rock. It's either way.

11 VICE CHAIR REYNOSO: Oh, I see.

12 STAFF DIRECTOR MATHEWS: There's one in the  
13 morning and one at about 5:00, 4:00, something like  
14 that. So that's another consideration. There's not  
15 all the various options for air travel that would be in  
16 a larger metropolitan area.

17 CHAIRPERSON BERRY: In other words, what  
18 happened was the staff people took the notion of going  
19 way out in the sticks, if I may use that expression, to  
20 a rural area seriously. And there we are, way out in -  
21 - and it isn't working out.

22 And I understand your point about the staff  
23 having to redo the interviews with people and if we  
24 were to change it, Jackson and Memphis have been  
25 suggested, but Jackson is not in the Delta. Remember,

1 all the talk was about being in the Delta?

2           Although I'm not sure what the Delta is?

3 What is the Delta?

4           No, I won't ask. I'll look in a geography  
5 book, because Commissioner Anderson doesn't know  
6 either. He just shook his head.

7           COMMISSIONER ANDERSON: I think Memphis is  
8 close enough.

9           CHAIRPERSON BERRY: And Memphis, I think, is  
10 in the Delta but it's in Tennessee. And we said we  
11 were going to Mississippi, so that's a problem.

12           STAFF DIRECTOR MATHEWS: Right.

13           CHAIRPERSON BERRY: And I had asked whether  
14 there was a place near Memphis but in Mississippi that  
15 we could go to. Fly into Memphis, go across the  
16 border. And the answer was yes, but it, too, would  
17 require redoing all the interviews.

18           Now, we have to, as Commissioners, balance  
19 those considerations. It would be appropriate for us  
20 if we thought that it made more sense to move from the  
21 Delta and we could fly into Memphis, then we'd just  
22 have to understand that that's what we were doing.

23           COMMISSIONER HORNER: Madam Chair, if I  
24 remember the reason we had to postpone the meeting was  
25 that a lot of people involved as witnesses were

1 involved in a state level education meeting, meaning  
2 that they are people who are accustomed to travel for  
3 half a day or however long to get to a meeting. So my  
4 question would be if they could travel to the state  
5 level meeting, maybe they could travel to Memphis.

6 In other words, maybe we wouldn't need to  
7 select a new roster of witnesses. Maybe the witnesses  
8 could travel a slightly longer distance.

9 STAFF DIRECTOR MATHEWS: Madam Chair, if I  
10 could just add something here. We have the issue in  
11 our statute about a hundred mile radius from the  
12 person's residence or place of employment. I just don't  
13 know whether that would fit within that 100 mile  
14 radius.

15 CHAIRPERSON BERRY: Could we ask if -- excuse  
16 me, Vice Chair. Could we ask if the General Counsel  
17 knows the answer to that question?

18 STAFF DIRECTOR MATHEWS: Certainly.

19 CHAIRPERSON BERRY: If they've been  
20 considering sites nearer to Memphis, maybe they know  
21 whether it means they'd have to do all new witnesses  
22 and what the subpoena -- how that would affect it or  
23 whether they would have to do half the witnesses or a  
24 third of the witnesses or something.

25 Could we ask if they know?

1                   STAFF DIRECTOR MATHEWS: General Counsel,  
2 would you please come --

3                   MS. MOORE: Yes. Do I need to --

4                   STAFF DIRECTOR MATHEWS: -- yes, near my  
5 microphone?

6                   MS. MOORE: Well, we could certainly select a  
7 site that's closer to Memphis but it would require us  
8 to do substantial re-interviewing.

9                   Now, of the witnesses that we had identified  
10 for the canceled or postponed Mississippi hearing, many  
11 of them -- actually, one of the problems that we had,  
12 many of them fell outside of the 100 mile radius. So,  
13 we're talking about in either event securing the  
14 cooperation of people who are beyond the 100 mile  
15 radius to come to the hearing.

16                   The difficulty we would have for the Memphis  
17 site, though, is that is a further distance than the  
18 Greenville site and if we rely on -- we would need to  
19 secure absolute cooperation from any set of witnesses.  
20 It's easier in Greenville because we've already  
21 interviewed these people and at least we know that that  
22 site was one that was acceptable to them.

23                   CHAIRPERSON BERRY: But do you -- I know you  
24 don't know because nobody asked you to calculate it,  
25 but could you guess how much additional work it would

1 require if we were -- and we know you're guessing -- if  
2 the Commissioners should decide that they wanted to be  
3 at a site nearer to Memphis in order to facilitate the  
4 attendance of more Commissioners and our own calendars?

5 MS. MOORE: Well, it would involve a two-  
6 stage process. I mean, the first step that we would  
7 take would be to call the 30-some odd witnesses, or 40  
8 -- I guess it was a three-day hearing -- some odd  
9 witnesses that we had identified for the Greenville  
10 hearing to determine whether they would be able to come  
11 to the Memphis site on a date certain.

12 If they say yes, then it's the end of the  
13 inquiry. But depending on where the holes fall, we  
14 would then have to engage in additional research to  
15 ensure that we had balance and the appropriate people  
16 on the panels that now have holes.

17 CHAIRPERSON BERRY: All right.

18 MS. MOORE: So it could be a substantial  
19 amount of work.

20 CHAIRPERSON BERRY: And you don't know the  
21 answer.

22 MS. MOORE: Right.

23 CHAIRPERSON BERRY: Yes, Judge Higginbotham?

24 COMMISSIONER HIGGINBOTHAM: Cruz was first.

25 CHAIRPERSON BERRY: I'm sorry. You were

1 next?

2 VICE CHAIR REYNOSO: I was just going to  
3 express my own opinion that if we can get a majority of  
4 Commissioners to a hearing where we're already done all  
5 that work, I think it would be preferable.

6 I wasn't here for the original vote to have a  
7 hearing in a rural area, but I think it's a very good  
8 idea. I think we spend too much time in urban areas.  
9 And many of the more serious civil rights issues, it's  
10 been my experience, are found in some of the smaller  
11 rural areas.

12 CHAIRPERSON BERRY: Yes, Judge Higginbotham?

13 COMMISSIONER HIGGINBOTHAM: I have the joy of  
14 not having been one of the original participants, but I  
15 am impressed by their wisdom of going to a rural area.

16 (Laughter.)

17 I really think it has a lot of historic  
18 significance for people in Washington to be willing to  
19 go to sections of the country which look a little  
20 different than Pennsylvania Avenue, so that I'd vote  
21 for that.

22 I would suggest, Madam Chair, that we just  
23 see if we can get a date right now. I have my  
24 calendar. Connie has hers. And I'll say that I can be  
25 -- Thursday and Friday, either the first week in March

1 or the second week in March full-time for both days.  
2 And on Wednesday, I'll do my best to get in. I think  
3 we may be able to be creative and get there in the  
4 morning and get there -- start a hearing about 2:00 in  
5 the afternoon on Wednesday.

6 But I pledge the 6th and the 7th and the 13th  
7 and 14th.

8 COMMISSIONER LEE: Madam Chair?

9 CHAIRPERSON BERRY: Yes.

10 COMMISSIONER LEE: I also agree that we need  
11 to do this by March in the rural area as the other  
12 Commissioners had originally agreed to.

13 I do have one suggestion. The last time, the  
14 Staff Director mentioned we had to reschedule because  
15 there were some other conflicts, and I would suggest  
16 that maybe we need to find two dates so that we'll make  
17 sure there's no other events happening in that certain  
18 week. Because I would hate to have us agree on the  
19 week, then the Staff Director calls back and say the  
20 witnesses are not available.

21 CHAIRPERSON BERRY: Oh, yes. I hadn't  
22 thought about that.

23 Okay. Well, let's get a couple, if we can,  
24 if that's possible. Just like --

25 Now, Leon, you've already given us two.



1 Anybody else have any --

2 Yes, Commissioner Horner?

3 COMMISSIONER HORNER: Madam Chair, I'm pretty  
4 much in the same situation. If I can travel on the  
5 afternoon of Wednesday the 5th; that is, if I can get a  
6 plane from Newark -- literally, Newark to Little Rock  
7 or Memphis on that afternoon, I could probably fly in  
8 the morning of the 6th and appear a little late for a  
9 meeting on the 6th and 7th.

10 And also, I could be available under the same  
11 circumstances for the 12th, 13th and 14th. I can also  
12 be available the entire -- well, yes. Those are the  
13 days I can be available.

14 Also, the 17th, 18th, 19th and 20th.

15 My own questions is is it ever possible to do  
16 this on a Saturday?

17 CHAIRPERSON BERRY: We talked about that  
18 before and I've forgotten who didn't or who did or what  
19 happened.

20 Does anybody remember?

21 STAFF DIRECTOR MATHEWS: Madam Chairperson, I  
22 recall that I have commented whenever Saturdays have  
23 been brought up. And the concern I have is that it's  
24 an additional cost to the Commission for overtime for  
25 some staff members to work on a Saturday. And then a

1 travel day may not be possible given logistics, until  
2 Sunday. So there's a cost element involved.

3 COMMISSIONER HIGGINBOTHAM: But Madam Chair,  
4 I'm willing to absorb that overtime cost. We don't get  
5 the chance to go to Mississippi often. We can afford  
6 it on a Saturday.

7 COMMISSIONER HORNER: Like we could do it the  
8 6th, 7th and 8th or the 13th, 14th and 15th?

9 COMMISSIONER HIGGINBOTHAM: I would agree to  
10 all three of those dates.

11 VICE CHAIR REYNOSO: I'm available on those  
12 dates in those two weeks also.

13 CHAIRPERSON BERRY: Okay. So Reynoso is  
14 available.

15 Yes, Staff Director?

16 STAFF DIRECTOR MATHEWS: Madam Chair, I  
17 understand from some of the comments already made that  
18 it appears as if we're looking at a two-day actually --

19 CHAIRPERSON BERRY: No. We're looking at a  
20 three-day hearing. We're talking about when specific  
21 Commissioners can come.

22 STAFF DIRECTOR MATHEWS: I wanted to just  
23 mention that we had envisioned three days.

24 CHAIRPERSON BERRY: Right. But within the  
25 framework of that, it may not be possible for everybody

1 to be there all -- for the entire thing. So we have to  
2 figure out a way -- and that happens anyway because  
3 people have changes in their schedules and they have  
4 problems. So as long as we can get everybody there for  
5 most of it or part of it and have it, then we just move  
6 on.

7 Commissioner George, did I hear you out there  
8 somewhere? I thought I heard a noise and it was  
9 Commissioner George. Well, I was mistaken.

10 Yes, Commissioner Horner?

11 COMMISSIONER HORNER: I would like to join  
12 Commissioner Higginbotham in urging contemplation of a  
13 Saturday date so that more of us could be there. That  
14 would really -- that would give us time to travel and  
15 be there for the beginning of the hearing.

16 CHAIRPERSON BERRY: Commissioner Lee, do you  
17 have any idea what your calendar will permit you to do?

18 COMMISSIONER LEE: I think the first and  
19 second week will be fine.

20 CHAIRPERSON BERRY: Those two? The 6th, 7th,  
21 8th, 13th, 14th, 15th options?

22 COMMISSIONER LEE: Yes.

23 CHAIRPERSON BERRY: Okay. And I can do the  
24 first two. I can't do the 17th, 18th, but I can do the  
25 first two.

1           So we have at least five people who can do  
2 those. And so if we can get -- and I think  
3 Commissioner Anderson is checking his calendar, so we  
4 will see if we can work out something in March then for  
5 -- it looks very promising so far, that we will be able  
6 to work out something for those dates.

7           Could you just for matter of a week hold  
8 those dates while they check to see if there's  
9 something else going on in Mississippi and then people  
10 will get back to you, and it will be a lock. And we'll  
11 check with Commissioner George and Commissioner  
12 Redenbaugh and make sure that everybody is checked  
13 with.

14           VICE CHAIR REYNOSO: I was just going to ask  
15 was Commissioner George going to join us by phone?

16           CHAIRPERSON BERRY: He was trying.

17           VICE CHAIR REYNOSO: Oh, they're still  
18 trying?

19           COMMISSIONER HORNER: I thought I did hear  
20 him. I thought he got cut off because I heard some  
21 paper rattling.

22           CHAIRPERSON BERRY: Could someone check to  
23 see if --

24           STAFF DIRECTOR MATHEWS: They are. They are  
25 checking.

          CHAIRPERSON BERRY: Oh, okay.

1           So, I mentioned that because we were  
2 discussing calendars. All right.

3           COMMISSIONER LEE: Madam Chairman, since  
4 we're talking about the Commission meeting calendar,  
5 can I ask for a suggestion to change the February  
6 meeting, because right now you're scheduling  
7 February 7th, which is Chinese New Year Day, so I would  
8 not be able to participate, either by here or by phone.  
9 So if we could change that date, I'd really appreciate  
10 it.

11           CHAIRPERSON BERRY: Would the Commissioners,  
12 the ones who are here, look at their February  
13 calendars?

14           Excuse, me while I get mine.

15           (Whereupon, a brief recess was taken.)

16           CHAIRPERSON BERRY: Now, Commissioner  
17 Anderson, do you have any -- those two weeks, the 6th,  
18 7th and 8th and the 13th, 14th, and 15th, how does it  
19 look?

20           COMMISSIONER ANDERSON: Both of those are  
21 doable for me, although the second week would be  
22 better, --

23           CHAIRPERSON BERRY: Great. Okay.

24           COMMISSIONER ANDERSON: but I think I can do  
25 both of them.

1           CHAIRPERSON BERRY: Great. We're making  
2 progress here.

3           Now what we're trying to do is see if we can  
4 figure out a change for February. Any dates that  
5 anyone can't do it or would like to suggest doing it?

6           COMMISSIONER HIGGINBOTHAM: While you were  
7 out, I think a couple of people said they could do it  
8 on the 14th.

9           CHAIRPERSON BERRY: The 14th, Valentine's  
10 Day?

11          COMMISSIONER HIGGINBOTHAM: I can do it.  
12 Not because it's Valentine's Day.

13          CHAIRPERSON BERRY: Can everyone who's here  
14 do it on the 14th?

15          COMMISSIONER HORNER: Can Russell do it on  
16 the 14th? We don't know.

17          CHAIRPERSON BERRY: We don't know if he can  
18 do it on the 7th either, do we?

19          COMMISSIONER HORNER: No.

20          CHAIRPERSON BERRY: Because we haven't -- the  
21 calendar just came out so we don't know that yet.

22          COMMISSIONER HORNER: He did not have a  
23 conflict with the 7th.

24          CHAIRPERSON BERRY: But we don't know about  
25 the 14th. Why don't we say the 14th now because people

1 ought to get back on this whole calendar. So let's  
2 strike --

3 COMMISSIONER HORNER: Did you say the 17th?

4 CHAIRPERSON BERRY: The 14th. Isn't that  
5 what everyone said?

6 COMMISSIONER HORNER: No. I thought it was  
7 Friday the 17th you were proposing, not --

8 VICE CHAIR REYNOSO: It's Friday, the 14th.

9 COMMISSIONER HORNER: January?

10 COMMISSIONER HIGGINBOTHAM: No, February.

11 COMMISSIONER HORNER: I'm sorry.

12 COMMISSIONER GEORGE: Madam Chairman?

13 CHAIRPERSON BERRY: Commissioner George?

14 COMMISSIONER GEORGE: Yes. What was the  
15 proposed date again?

16 CHAIRPERSON BERRY: What we're doing is two  
17 things. One is for the Mississippi hearing in March,  
18 most people who are here could do it either the week of  
19 the 6th, 7th, 8th or the 13th, 14th or 15th. So the  
20 query is could you be involved for all or part of the  
21 hearing on those dates?

22 COMMISSIONER GEORGE: 13th, 14th and 15th is  
23 completely fine with me.

24 CHAIRPERSON BERRY: Okay.

25 COMMISSIONER GEORGE: The 6th, 7th and 8th is

1 acceptable. I would probably not be able to come on  
2 the 6th but could come early in the morning on the 7th  
3 and stay to the end.

4 CHAIRPERSON BERRY: Oh, good. All right. So  
5 we're making progress.

6 Then the second --

7 COMMISSIONER GEORGE: So we'll resolve the  
8 difference between the -- the question between those  
9 two dates later?

10 CHAIRPERSON BERRY: Right.

11 COMMISSIONER GEORGE: We should hold them  
12 both for now?

13 CHAIRPERSON BERRY: Right. For now. For  
14 now. Commissioner Anderson prefers the 13th, 14th and  
15 15th, also, but everyone else can manage all or part of  
16 the others. And so we'll old those just for a week.

17 COMMISSIONER HORNER: And I am free on the  
18 14th of February.

19 CHAIRPERSON BERRY: And then the second  
20 question, Commissioner George, is on the 14th of  
21 February, would you be able to come to a Commission  
22 meeting?

23 COMMISSIONER GEORGE: Okay. Yes, I would.

24 CHAIRPERSON BERRY: Okay. So why don't we  
25 strike February 7th on the proposed calendar and add



1 February 14th.

2 Yes, Commissioner Horner?

3 COMMISSIONER HORNER: Madam Chair, apparently  
4 Commissioner Redenbaugh needs to change the December --  
5 is not available on the December date and would like to  
6 change it to the 5th or the 19th.

7 CHAIRPERSON BERRY: That is far enough in  
8 advance that we should be able.

9 COMMISSIONER HORNER: I would suggest the 5th  
10 would be preferable.

11 CHAIRPERSON BERRY: The 5th is closer to --

12 COMMISSIONER HORNER: Because it's farther  
13 away from Christmas.

14 CHAIRPERSON BERRY: Right. So we're  
15 proposing December 5th on this list of dates that were  
16 sent out, Friday, December 5th, instead of Friday,  
17 December 12th.

18 COMMISSIONER GEORGE: This is '97?

19 CHAIRPERSON BERRY: Right.

20 COMMISSIONER HIGGINBOTHAM: Okay by me.

21 COMMISSIONER HORNER: It's okay by me.

22 CHAIRPERSON BERRY: Now you will still be  
23 expected, if you have problems you haven't noticed, to  
24 in the next day or so or a couple of days or next week,  
25 say something if you notice something. In the

1 meanwhile, on the farther list of dates -- not  
2 Mississippi but the whole calendar of dates.

3 COMMISSIONER GEORGE: So December 5th?

4 CHAIRPERSON BERRY: December 5th; right.

5 Okay. Now, oh, the education -- I wanted to  
6 make an announcement about the Education Report.

7 The special assistant to the Commissioners  
8 are working on this report as they were instructed to  
9 do at the last meeting and there are various exchanges  
10 of information going on and your special assistant is  
11 supposed to be in touch with you, if you have one,  
12 unlike Commissioner Horner, to see what your reactions  
13 are to various things that are being proposed.

14 The hope is that by -- I'm hoping that  
15 perhaps by November, the November meeting time, all of  
16 this back and forth will be taken care of. That's the  
17 hope. So that the Commissioners can have something to  
18 look at again and so that the staff that worked on this  
19 report can review what has been done with it and figure  
20 out what their reactions are before that time, too.

21 So that's the Education Report.

22 Any other announcements?

23 (No response.)

24 No other announcements.

25 Then how about the Staff Director's Report.

1 Anyone have any comments or questions or anything on  
2 the Staff Director's Report?

3 Commissioner Horner?

4 COMMISSIONER HORNER: Madam Chair, I wonder  
5 if you or the Staff Director could give us a status  
6 report on the OPM investigation into personnel and  
7 management practices at the agency?

8 CHAIRPERSON BERRY: I can't because I don't  
9 know anything about it, but -- and I asked the Staff  
10 Director to send to you those letters so that you would  
11 know. You've got letter in there.

12 COMMISSIONER HORNER: Were they in the  
13 package mailed?

14 STAFF DIRECTOR MATHEWS: Right.

15 CHAIRPERSON BERRY: But you've only got  
16 letters describing the scope of everything because I  
17 wanted to make sure you knew what was going on with the  
18 GAO audit, as well as the OPM audit. But I want the  
19 Staff Director to give an update in response to your  
20 question.

21 Go ahead.

22 STAFF DIRECTOR MATHEWS: The OPM staff  
23 members distributed a survey to the agency employees,  
24 typical government questions about salary, training,  
25 the standard questionnaire. I don't have it in front

1 of me. I can't elaborate further off the top of my  
2 head.

3 And there were, I understand, meetings with  
4 any staff member who had an interest in discussing  
5 issues. There was a review of documents in the  
6 personnel office pertaining to personnel actions taken  
7 spanning a several year period and just as normal  
8 document review.

9 The results of their review -- I've had a  
10 discussion of them where they've orally informed me in  
11 general. They have not issued a final report yet so I  
12 don't have a conclusion to provide you.

13 COMMISSIONER HORNER: Will you make the final  
14 report available to us when it's available?

15 STAFF DIRECTOR MATHEWS: Absolutely.

16 CHAIRPERSON BERRY: Won't they give you some  
17 kind of oral briefing before they actually write a  
18 report?

19 STAFF DIRECTOR MATHEWS: Well, they did come  
20 by and provide me with an oral briefing.

21 CHAIRPERSON BERRY: I mean in terms of what's  
22 going to be in the report.

23 STAFF DIRECTOR MATHEWS: Well, they indicated  
24 at that briefing that they were not providing me with  
25 every piece of information that was in the report. And

1 I asked for an opportunity to comment on a draft  
2 report, which is the standard procedure that GAO has.  
3 But OPM did not agree to that opportunity.

4 CHAIRPERSON BERRY: I remember, because it  
5 was so long ago, Commissioner Horner, is that the way  
6 OPM does things?

7 COMMISSIONER HORNER: I must confess that my  
8 involvement did not reach to this level.

9 CHAIRPERSON BERRY: Because I always thought  
10 they always gave you something and --

11 COMMISSIONER HORNER: GAO does, I know.

12 CHAIRPERSON BERRY: And then you respond to  
13 it. You send it back.

14 COMMISSIONER HORNER: But when you get a  
15 report, it will be shared with the Commission and we  
16 can discuss it.

17 STAFF DIRECTOR MATHEWS: Absolutely.

18 CHAIRPERSON BERRY: Any other comments on the  
19 Staff Director's report?

20 COMMISSIONER LEE: Madam Chair, I just have  
21 one quick question.

22 On page 7, on your software updates, updated  
23 versions of data files were received at no cost for  
24 electronic mail, MicroSoft and the Commission's  
25 antivirus software. These were installed on all

1 Commission computers.

2 Are they also available to Commission offices  
3 outside of this central office, like are they available  
4 to my office and the other Commissioners who have  
5 offices outside Washington?

6 STAFF DIRECTOR MATHEWS: We can certainly  
7 make the software -- you know, these new software virus  
8 equipment, whatever it's called, available to you.  
9 Commissioners who are not here in Washington, most  
10 Commissioners who are not in Washington have their  
11 special assistants at their geographic location. We  
12 have at least one Commissioner who has a special  
13 assistant here in Washington, but he is in another  
14 location.

15 So we will make all of those arrangements.

16 CHAIRPERSON BERRY: Any other comments or  
17 questions on the Staff Director's Report?

18 (No response.)

19 Okay. Hearing none, then we would go to the  
20 item on the State Advisory Committee since we agreed to  
21 defer the projects.

22 Oh, I know. There was one other item. We  
23 said that with the Staff Director's Report we would  
24 talk about this article that was in the paper. I'd  
25 forgotten that.

1           There's an article, Commissioner George --  
2 are you still there, Commissioner George?

3           VOICE: He just stepped out of the room.  
4 Hold on one second.

5           CHAIRPERSON BERRY: Anyway -- that's all  
6 right. There's an article that's in the -- you can  
7 tell him, "Entitlements Are a Part of the Past," in a  
8 newspaper, a San Francisco paper, the Chronicle,  
9 10/23/96, that the Vice Chair wanted to comment on and  
10 wanted to ask questions about process.

11           Vice Chair, you are recognized.

12           VICE CHAIR REYNOSO: Yes. It may be that  
13 simply the newspaper didn't follow instructions of the  
14 writers, but there's an article entitled, "Perspective  
15 on Proposition 209." The headlines are "Entitlements  
16 Are a Part of the Past."

17           Then, before the article, there's a sentence  
18 that reads: "The four U.S. Civil Rights Commissioners  
19 listed below contributed to this article: Russell G.  
20 Redenbaugh, Carl Anderson, Robert P. George and  
21 Constance Horner."

22           And it does not make clear, at least that  
23 sentence, whether they're speaking as individuals, as  
24 Commissioners, for the Commission or what. It may be  
25 that a forwarding letter did speak to that and the

1 newspaper simply didn't mention it. But I just wonder  
2 what the groundrules are on that, particularly when  
3 Commissioners speak together. That is, more than one.  
4 When a Commissioner speaks individually, it's easily  
5 understood that the Commissioner is speaking for  
6 himself or herself. But in a joint venture, it seems  
7 to me that it gives it an ambiance of being more  
8 official.

9           So I just wonder, one, what our policies or  
10 what seems to be the proper thing to do in that regard.  
11 That's the question I have.

12           CHAIRPERSON BERRY: Okay.

13           VICE CHAIR REYNOSO: Excuse me. We had  
14 discussed before the propriety or lack of propriety of  
15 more than one Commissioner instructing the staff to do  
16 A or B, and I think we had all agreed that the staff  
17 should respond to the Commission and the Commission  
18 vote as a whole. But this issue we have not discussed  
19 before and I must say that it's come up before. That  
20 is, I've wondered about it before. But this article I  
21 just read this morning reminds me that we really ought  
22 to have that discussion.

23           CHAIRPERSON BERRY: Okay. First, before we  
24 begin the discussion, why don't we ask the General  
25 Counsel what her understanding of any rules or anything



1 else that would apply to this or if there are any. And  
2 then we can discuss as a matter of policy what the  
3 Commission policy is after she responds.

4 MS. MOORE: Well, there are guidelines that  
5 indicate that whenever employees of the Commission  
6 speak, that they must disassociate themselves. They  
7 may use the title, whatever their title is within the  
8 Commission for identification purposes only but they  
9 must make clear that their statements are not the  
10 substance of the U.S. Commission on Civil Rights as a  
11 body.

12 That should extend to the Commissioners, as  
13 well. And it is a unique situation where a group, as  
14 opposed to one individual is speaking. Vice Chair,  
15 you're right about that. But it should be made clear  
16 that under our statute the Commission speaks as a body,  
17 not as a subset unless it's in a report where you have  
18 a dissenting view or something of that nature.

19 But it should be clear that the speech is not  
20 -- or the statements that are reflected in a piece by  
21 more than one person is not the views of the  
22 Commission.

23 CHAIRPERSON BERRY: I'll recognize you in  
24 just a second, Commission Horner.

25 Let me state what my understanding has been

1 ever since I've been on the Commission and let you  
2 respond and tell me whether I'm mistaken and have been  
3 all these years.

4 My understanding is that since Commissioners  
5 are part-time employees of the federal government and  
6 have lots of other different roles that we play, that  
7 we may comment and speak out as individuals or with two  
8 or three people or whoever we want to about any subject  
9 as a matter of our freedom of speech and expression.

10 And that if we are identified either by  
11 ourselves or by someone else as being Commissioners  
12 when we do that, that there's nothing wrong with that  
13 and that there's no clearance required of the  
14 Commission or anything else simply because by virtue of  
15 not being full-time people working here.

16 And if we don't hold ourselves out and say  
17 I'm speaking for the Commission, that we may feel free  
18 to say whatever we wish to say and do whatever we wish  
19 to do. That has been my understanding and the way I  
20 have operated for the whole time that I've been on the  
21 Civil Rights Commission.

22 Would that violate anything that you just  
23 said?

24 MS. MOORE: No, it doesn't. It's in fact,  
25 quite consistent with what I've just indicated.

1           CHAIRPERSON BERRY: The other point I'll make  
2 and then recognize Commissioner Horner, I have  
3 unfortunately sat in the Commission and had these  
4 discussions -- fortunately -- at least 10 times since  
5 I've been on the Commission, occasioned by something or  
6 other that happened. And we had a Chairman once where  
7 the Commission spent hours debating whether the  
8 Chairman should have been on television discussing X, Y  
9 and Z with a little thing under his name saying  
10 "Chairman, U. S. Commission on Civil Rights," when it  
11 was matters that the Commission had not discussed.

12           The upshot of that was that we concluded that  
13 no one could keep anybody from saying whatever they  
14 wanted to say and that the media, whatever you told  
15 them would identify you whatever way they wish.

16           When I do media, I always say I'm the  
17 Geraldine R. Segal Professor at the University of  
18 Pennsylvania and they pay my salary. And almost  
19 always, unless I fight with them, underneath my name on  
20 the thing it says "and I'm a Commissioner on the  
21 Commission or Chair of the Commission" or something. I  
22 mean, I can fight like the blue blazer to get that  
23 done. And that's because of the way the public  
24 perceives it and how the media does it.

25           So my own view is -- and I'll just tell you

1 what my view is. That people should say whatever they  
2 want to say, however they want to say it. That if  
3 they're identified as being Commissioners, even though  
4 they are more than one and it may appear to the public  
5 that it's the whole Commission that did it.

6 That what other Commissioners can do -- one,  
7 you should say to that media outlet, "This is our view.  
8 Yes, we're Commissioners." And if they don't put it in  
9 the paper, you can't help that. And secondly, if other  
10 Commissioners don't like it, what they should do is do  
11 their own statement and send it to the same media and  
12 publish it.

13 But then, I'll recognize Commissioner  
14 Horner.

15 COMMISSIONER HORNER: I'll defer to  
16 Commissioner Anderson.

17 COMMISSIONER ANDERSON: Well, I would say to  
18 the Chair that I agree. That is, as I have spoken, I  
19 have never represented that I speak for anyone more  
20 than myself as a member of the Commission. But I  
21 believe I have the right to speak as a member of the  
22 Commission on my views.

23 Now, we had a news conference that we  
24 discussed earlier in this meeting on the church  
25 burnings, and I think it was the most successful news

1 conference we may have had in the history of the  
2 Commission, in the memory of this Commissioner. And I  
3 think the Chair had some very insightful and decisive  
4 comments to make.

5 She was not speaking on behalf of the  
6 Commission and I don't think that it would have been  
7 effective or appropriate for her to preface all her  
8 statements by saying I'm only speaking for myself.

9 Now, I know that you spoke in terms --

10 CHAIRPERSON BERRY: I said it once, didn't I?

11 COMMISSIONER ANDERSON: You did. And you  
12 also spoke in terms of your personal perception of it.  
13 But to continually say I'm not speaking on behalf of  
14 the Commission, I've not cleared these statements with  
15 my fellow Commissioners, I think is counterproductive  
16 as the kind of spokesmen as we are on the Commission.

17 I mean, it's a balancing. It's got to be a  
18 balancing function. I do not take the position that we  
19 are merely employees like a member of the staff that  
20 would expect would make very clear that they're not  
21 speaking on behalf of the Commission or the  
22 Commissioners or the staff when they speak, unless they  
23 are. So I think we're in a slightly different category  
24 than a mere employee of the Commission. But that's my  
25 opinion.

1           CHAIRPERSON BERRY: Would you like to comment  
2 before I recognize the Vice Chair on something that  
3 somebody said?

4           MS. MOORE: Yes. I think it's brief. I mean,  
5 the ethical obligations extend to all members of the  
6 Commission, including the Commissioners. And I think  
7 everything that we're saying is consistent with those  
8 rules.

9           There is an obligation on all participants in  
10 the Commission to not mislead the public into thinking  
11 that the sanction of the Commission is on any  
12 statement, but that responsibility is discharged by a  
13 single reference to say that I'm not speaking on the  
14 part of the Commission.

15           You may certainly say that you're speaking as  
16 a member of the Commission. That doesn't violate any  
17 problems.

18           CHAIRPERSON BERRY: The way I put it was that  
19 these were my individual views. And on one occasions  
20 during it, I said, "Speaking for myself, individually,  
21 I believe," blah, blah, blah. I think it was clear if  
22 anyone heard the whole thing. Not that I did. I  
23 didn't. That it was clear because I've had to do this  
24 too many times. I'm sorry. That I knew that the  
25 Commission had not done X, Y and Z.

1           And I think Commissioner Anderson, he didn't  
2 say that, every sentence he put, you know, "I'm  
3 speaking for Anderson only." But it was clear that  
4 that's what we were doing. And you're saying that what  
5 we have said is not inconsistent with the rules.

6           MS. MOORE: It is not inconsistent with what  
7 the ethical obligations provide.

8           CHAIRPERSON BERRY: I'll recognize you in  
9 just a minute, Commissioner George. The Vice Chair has  
10 the floor.

11          VICE CHAIR REYNOSO: Yes. Everything that's  
12 been said thus far makes a lot of sense to me,  
13 particularly Commissioner Anderson's footnote when  
14 Commissioners are speaking orally because it would seem  
15 to be awfully awkward to start every sentence by  
16 saying, "Now, you understand that."

17          But I have a question for the General  
18 Counsel, and that is, when something is in writing, as  
19 apparently this was, is there an ethical obligation to  
20 do the same thing when one submits an article to make  
21 clear in the article that one speaks for oneself and  
22 not for the Commission?

23          MS. MOORE: Well, again, I've just seen this.  
24 I am more familiar with the obligations that attach to  
25 speaking engagements and the like. I have not -- I

1 would extrapolate and say, yes, that there is an  
2 obligation. But I would need to look back at the  
3 provisions.

4           It seems to me that it would make sense that  
5 those obligations run in both forums. Whenever there's  
6 any public pronouncement by a member of the Commission  
7 in their capacity as such, -- that at least the member  
8 of the Commission make clear that they're not speaking  
9 on the part of the Commission.

10           Now, again, it may very well be that there's  
11 not significant control by the members of the  
12 Commission by what the press does. But as long as they  
13 have fulfilled their obligation to indicate that they  
14 are not speaking as the body, then they have discharged  
15 their responsibility effectively.

16           CHAIRPERSON BERRY: Commission George?

17           COMMISSIONER GEORGE: Thank you, Madam  
18 Chairman.

19           As the General Counsel and the Chairman have  
20 both pointed out, it's very difficult. At least my  
21 experience has been it's very difficult to control what  
22 the media does. My own practice is either in the body  
23 of the piece itself to say something about speaking for  
24 myself or to ask that it be included in a little  
25 biographical statement.



1           They almost never do. In fact, I can't even  
2 get the media to stop identifying me as a Commissioner  
3 on the U.S. Equal Employment Opportunity Commission. I  
4 think it's hopeless, but I agree that we should try.

5           CHAIRPERSON BERRY: Commissioner Horner?

6           COMMISSIONER HORNER: Madam Chair, I just  
7 want to, just for the protection of the Commissioners  
8 against the absence of a statement that we are not  
9 speaking for the entire Commission, to protect us  
10 against the allegation that we are engaged in unethical  
11 activity. I want to make clear -- make sure I  
12 understand what you said.

13           You said you're not aware right now of a rule  
14 that says or a law that says we must request such  
15 identification, such differentiation?

16           MS. MOORE: In writing?

17           COMMISSIONER HORNER: In written materials.  
18 But that you're extrapolating without review in your  
19 own mind from an obligation which is stated to apply to  
20 oral presentations.

21           MS. MOORE: Right. That's correct.

22           COMMISSIONER HORNER: And I want to make sure  
23 that we don't invite legal trouble for ourselves. I  
24 just wanted to make sure that was on the record.

25           As of now, there's nothing you can say which

1 would affirmatively state that we'd be in violation of  
2 ethical obligations were we not to seek such a  
3 differentiation written materials?

4 MS. MOORE: That's right.

5 COMMISSIONER HORNER: Thank you.

6 MS. MOORE: And I've assumed before I made  
7 the utterance that a request would be forthcoming that  
8 some research be conducted in that area and you'd be  
9 advised. And I will do that.

10 COMMISSIONER HORNER: I'm not making that  
11 request.

12 MS. MOORE: I anticipated it.

13 CHAIRPERSON BERRY: I would request it.

14 Okay. So the request has been made.

15 Let me just ask this. Consistent with what  
16 Commissioner George said and what I said and all that's  
17 been discussed here, does the Commission think that it  
18 is reasonable, whether the law requires it or not, that  
19 if we write something, any of us, that we at least say,  
20 whether the media does it or not, that we're speaking  
21 for ourselves and not for the Commission?

22 Is it unreasonable to ask that people do  
23 that? I mean, if it's on a matter that the Commission  
24 is involved in. I mean, if it's not, then who cares?  
25 Or should we not do that? I mean, does anybody have

1 any views about that?

2 COMMISSIONER HORNER: It's hard to define  
3 what the Commission's --

4 COMMISSIONER HIGGINBOTHAM: I would hope that  
5 we not get a wooden policy. I'm going to mail to all  
6 of the Commissioners -- I think I can mail it as of  
7 Monday, a copy of a book that I've written. And I'm  
8 doing a self-advertisement, but if someone writes a  
9 book on a broad range of race and the American legal  
10 process and if he's identified or she's identified as a  
11 professor at Harvard, and a member of the Civil Rights  
12 Commission, it seems to me that it's folly to say, but  
13 he is not speaking in behalf of the Civil Rights  
14 Commission or he is not speaking in behalf of Harvard  
15 University.

16 COMMISSIONER GEORGE: That's absolutely  
17 right.

18 COMMISSIONER HIGGINBOTHAM: So that when one  
19 writes broadly on matters which go beyond the specific  
20 issue of a civil rights commission position, that it  
21 just cheapens the whole analysis to add that footnote.  
22 And I don't think it has to be added in that context.

23 Now, if someone is writing on a specific  
24 matter which is pending before the Commission, well  
25 then I think -- and limits it to that context, then I

1 think the disclaimers would be helpful.

2 CHAIRPERSON BERRY: Well, then, why don't we,  
3 in the absence of any legal -- well, let me recognize  
4 Commissioner Lee. She's been waiting for quite some  
5 time. I forgot. Sorry.

6 COMMISSIONER LEE: Does the ethical standard  
7 apply also to legislation? Because it seems like we've  
8 been talking about issues and our opinions, which I  
9 understand fully. What happens if we as individuals or  
10 as a group of us take a position as Commissioners for  
11 or against legislation pending either in certain states  
12 or the Federal government? Does that ethical standard  
13 still apply?

14 MS. MOORE: Well, again, orally, the rules  
15 indicate that where the Commission or the member of the  
16 Commission has had an active and substantial role in  
17 evaluating or addressing whatever the subject is, that  
18 there is an obligation to make clear that whatever  
19 individual views are being put forth are not the  
20 conclusions of the Commission.

21 CHAIRPERSON BERRY: Commission Anderson?

22 COMMISSIONER ANDERSON: I would make a few  
23 points for observation.

24 First, I think it's relatively clear, or at  
25 least it's been clear in my experience on looking at

1 members of Commissions that one expects when an  
2 individual or several members of a Commission speak on  
3 an issue, they're not necessarily or assumed to be  
4 speaking on behalf of the Commission because the  
5 apparatus in which the Commission speaks when it speaks  
6 officially, speaks in a different way.

7 I think there's a greater danger actually  
8 when the Vice Chair or the Chair speak because then it  
9 is assumed, like an employees, like the Staff Director  
10 or the Director of Research or the Director of Policy  
11 and Evaluation or the Director of Legislative Affairs,  
12 when an individual in that capacity speaks there is the  
13 assumption that they're speaking on behalf of the  
14 Commission.

15 So I think it's very important than when a  
16 staff member speaks, if they're not speaking on behalf  
17 of the Commission, that they have a very clear  
18 disclaimer. I'm not opposed to adding a disclaimer for  
19 a Commissioner. But I think when an individual, or  
20 several, less than a majority speak, it's relatively  
21 clear that they're not speaking on behalf of the  
22 Commission.

23 I remember the Chair, the previous Chair, had  
24 a long op-ed piece in the New York Times which had not  
25 been circulated for approval or comment by the

1 Commission.

2 CHAIRPERSON BERRY: You've heard the word  
3 "previous" in his --

4 (Laughter.)

5 COMMISSIONER ANDERSON: And I don't recall  
6 whether there was a disclaimer on that piece or not.  
7 But I would say that in that case, I mean, the  
8 assumption could be great that the Chair was speaking  
9 on behalf of the Commission because Chairs speak on  
10 behalf of the Commission.

11 So if we're going to set a very definite  
12 policy, I think we'd better keep in mind that it will  
13 affect in a lot of ways the Chair and the Vice Chair  
14 perhaps more directly in ways that go beyond just op-ed  
15 pieces, as well.

16 So like I say, my view is that I have no  
17 opposition to making it clear that we speak for  
18 ourself. But I think when a minority of Commissioners  
19 speak, whether publicly, orally or in writing, really  
20 the assumption is that they're speaking on behalf of  
21 themselves and not on behalf of the Commission.

22 CHAIRPERSON BERRY: Well, I think that this  
23 discussion should be sufficient for now and that people  
24 have been reminded of their obligations and their lack  
25 of obligations. And that if the staff finds some other

1 rule, they will inform us. But in the meanwhile, we  
2 should all behave and comport ourselves in a reasonable  
3 manner and take all these discussions into account.  
4 And I think that that's sufficient unless somebody  
5 wants to make a motion to have a policy of some sort.  
6 Please, don't.

7 (Laughter.)

8 COMMISSIONER GEORGE: Madam Chairman?

9 CHAIRPERSON BERRY: Yes, Commission George?

10 COMMISSIONER GEORGE: Can you hear me?

11 CHAIRPERSON BERRY: Yes, I can. Very well.

12 Could you hear me?

13 COMMISSIONER GEORGE: I can hear you,  
14 although it's coming in and out and I can barely hear  
15 Commission Anderson. I think I heard him well. Is he  
16 on the telephone?

17 CHAIRPERSON BERRY: No, no. He's sitting  
18 right here. He just sort of booms away here. He's  
19 sitting right here.

20 Could you hear Commissioner Horner when she  
21 spoke and Commissioner Lee?

22 COMMISSIONER GEORGE: Not very well.

23 CHAIRPERSON BERRY: All right. Well, did you  
24 hear me summarize what --

25 COMMISSIONER GEORGE: Yes. And that's fine

1 with me.

2 CHAIRPERSON BERRY: Okay. So we'll leave it  
3 at that and hear more later.

4 Okay. Then we go to the State Advisory  
5 Committee subject, Federal Immigration Law Enforcement  
6 in the Southwest.

7 You had a memo from the Staff Director.

8 Staff Director, could you please introduce  
9 this subject?

10 STAFF DIRECTOR MATHEWS: Yes. The SAC report  
11 is a culmination of a multi-year effort by four of our  
12 State Advisory Committees and is --

13 COMMISSIONER GEORGE: I can't hear the Staff  
14 Director at all.

15 STAFF DIRECTOR MATHEWS: I'm sorry,  
16 Commissioner George. With the General Counsel up here,  
17 I had --

18 COMMISSIONER GEORGE: That's okay. I can  
19 hear you now.

20 STAFF DIRECTOR MATHEWS: I had moved the  
21 microphone and forgot I hadn't moved it back. Okay.

22 The SAC report before you is a compilation of  
23 a multi-year effort by the four State Advisory  
24 Committees in the Southwest. It's, I believe, an  
25 extremely good look at the issue of Federal Immigration



1 Law Enforcement in the Southwest and the Civil Rights  
2 Impacts on Border Communities, which is the precise  
3 title.

4           There is a particular issue that I wanted to  
5 just highlight here for Commissioner discussion and  
6 consideration, and that is how do we handle the issue  
7 of dissents.

8           There were, and I have a summary memo that  
9 was prepared for Commissioners in August on this but  
10 just to highlight here for you, there were votes taken  
11 in each of these four State Advisory Committees,  
12 Arizona, California, New Mexico and Texas. And the  
13 overall vote was 52 to 4 in approving this SAC report.  
14 Of the four individuals who did not vote in favor,  
15 three of these individuals agreed to a dissenting  
16 statement which they asked to be published as an  
17 appendix to the report.

18           In the legal sufficiency review that the  
19 General Counsel's office conducted, the review  
20 determined that pursuant to the Commission's defame and  
21 degrade standards, that the dissenting statement  
22 contained material that could injure the reputations of  
23 individuals and organizations.

24           The SAC chairs and the regional staff were  
25 informed of this and they jointly proposed that

1 footnotes be added to the SAC report to incorporate the  
2 substantive non-defamatory and non-degrading material.  
3 The dissenting California SAC member, upon being  
4 informed of that change, objected in correspondence to  
5 the Commission staff and indicated that he still was  
6 wanting to have his dissenting statement included in  
7 the report in full.

8           In light of all of this, I asked the General  
9 Counsel to prepare a follow-up memorandum which was  
10 forwarded to you just this week summarizing the defame  
11 and degrade provisions applicable to Commission reports  
12 and in this, there's also an attachment of a memorandum  
13 by a previous General Counsel. The previous General  
14 Counsel being Irene Stein. The memorandum dated  
15 September 1980.

16           If there's any further questions you may have  
17 on the issue of the defame and degrade provisions, I  
18 would ask General Counsel to come up and answer them  
19 directly.

20           COMMISSIONER GEORGE: Madam Chairman?

21           CHAIRPERSON BERRY: Yes, Commissioner George.

22           COMMISSIONER GEORGE: I've followed this  
23 matter and looked into it as closely as I can, and I  
24 have a rather firm view about it and I'd like to  
25 propose what I think is the correct solution and I hope

1 save time, although perhaps it will engender a bit of  
2 discussion.

3 I think clearly what has to be done here is  
4 that we ought to vote on the report. I'm prepared to  
5 vote to approve the report with the dissent published  
6 and with any letters that have been received to respond  
7 to the dissent or to the allegedly defamatory or  
8 degrading parts of the dissent also published as  
9 appendices so everybody has the full statement. Nobody  
10 can claim that they're right to free speech or to  
11 respond has been abrogated in any way, and we can just  
12 get on with it.

13 I don't know if it's appropriate to make that  
14 a motion. If so, I'd like to make that a motion.

15 COMMISSIONER HORNER: I'll second it.

16 CHAIRPERSON BERRY: It has been moved and  
17 seconded. Does anyone want to comment, discuss, add to  
18 the motion or anything else?

19 Commissioner Lee?

20 COMMISSIONER LEE: I do want to add to the  
21 motion that I do think people have the opportunity to  
22 respond, but my worry is what if they don't know that  
23 they have the opportunity to respond. So I would  
24 suggest the Staff Director contact those groups or  
25 individuals who may be -- you might have testified

1 before the Commission.

2 COMMISSIONER GEORGE: Has that not been done?

3 STAFF DIRECTOR MATHEWS: Madam Chair, it's my  
4 understanding that any individual and every individual  
5 and/or organization mentioned in this report received a  
6 letter from the Commission informing them of the  
7 situation and offering them an opportunity to respond.

8 There happened to have been only three  
9 responses received to all the letters sent out. And  
10 those responses are included.

11 COMMISSIONER LEE: Have they seen the SAC  
12 report, page 193, the last paragraph? "The credibility  
13 of advocacy groups whose opinions dominated the report  
14 is doubtful."

15 If I were one of the so-called advocacy  
16 groups, I would like to read this paragraph before I  
17 respond.

18 CHAIRPERSON BERRY: You mean even if you  
19 weren't named specifically?

20 COMMISSIONER LEE: Yes. I would consider  
21 myself one of the advocacy groups and I may consider  
22 this to be a potential defame situation that I may want  
23 to submit a written statement and that should be  
24 included.

25 CHAIRPERSON BERRY: Were there advocacy

1 groups that are not named here specifically that  
2 testified that could be broadly included in this, or do  
3 we know?

4 Carol-Lee probably knows the answer to that.

5 MS. HURLEY: I don't know with specificity.

6 CHAIRPERSON BERRY: But there could have  
7 been? Is that possible?

8 Commissioner George, in order to get on with  
9 this, if it is the case that there were, as a matter of  
10 fact we're talking here, that there were advocacy  
11 groups that testified that were not named and therefore  
12 were not informed that this statement generally was  
13 made about advocacy groups, if you would be willing to  
14 say that any advocacy groups that testified should be  
15 notified and given a chance to respond, and then we go  
16 ahead and publish the dissent after giving a reasonable  
17 time for them to know about it and respond? Then I  
18 think we might get on with it.

19 COMMISSIONER GEORGE: Yes. I think this is  
20 squeamishness of an extreme. I mean, groups that  
21 haven't even been mentioned and you've got three guys  
22 out in these states who say that the advocacy groups  
23 who dominate the hearing were not credible. If I were  
24 an advocacy group, I certainly wouldn't bother  
25 replying.

1           But if people want groups in general to write  
2 replies, whatever? Yes, I don't have any problem with  
3 that.

4           CHAIRPERSON BERRY: If they don't care, they  
5 probably won't reply. At least they would be notified.

6           COMMISSIONER GEORGE: That's fine. I'm not  
7 opposed to that.

8           CHAIRPERSON BERRY: Commissioner Redenbaugh,  
9 do you still want to comment?

10          COMMISSIONER REDENBAUGH: No.

11          CHAIRPERSON BERRY: Okay. Does anybody else  
12 want to comment?

13          Yes, Vice Chair?

14          VICE CHAIR REYNOSO: Madam Chair, from  
15 reading the materials, I take it that defame, for  
16 purposes of our regulations, is different than the  
17 common law definition of defame. And obviously when  
18 one defames another, that's not language protected by  
19 the First Amendment. I assume that the General Counsel  
20 has reached a conclusion that certain elements of the  
21 dissents defame pursuant to our regulations but not  
22 defame pursuant to the common law definition or  
23 statutory definition of defamation.

24          Is that correct?

25          MS. MOORE: That's correct, Vice Chair.

1 VICE CHAIR REYNOSO: Okay. Well, in light of  
2 that, then, I think I would agree with the  
3 recommendation being made.

4 CHAIRPERSON BERRY: Okay. Does the seconder  
5 of the motion accept the change which would review and  
6 see if there are other groups that were mentioned and  
7 notify them that this is being done before we actually  
8 publish it?

9 COMMISSIONER HORNER: Yes.

10 CHAIRPERSON BERRY: All right. So the maker  
11 of the motion and the seconder have accepted these.

12 Is there further discussion?

13 Yes, Commissioner Anderson?

14 COMMISSIONER ANDERSON: Is there going to be  
15 any reference to a judgment that this runs afoul of the  
16 defame and degrade standard accompanying this report in  
17 any way?

18 COMMISSIONER HIGGINBOTHAM: I would hope not.  
19 I mean, we've got an awful lot to do. And if we start  
20 dealing with the tricky problem of defamation, where  
21 truth is a defense and therefore, it's no longer  
22 defamation, we would just be getting, it seems to me,  
23 on the peripheral.

24 I look at this as a prima facie reading that  
25 conceivably under our regulations some individuals or

1 institutions could consider this to be defamatory, and  
2 therefore, we're giving everyone the opportunity to  
3 respond. And that would be the end of it. And then  
4 we'd go on and deal with the important things.

5 CHAIRPERSON BERRY: Why don't we just not --  
6 Yes, Counsel? Is that accurate?

7 MS. MOORE: Well, the reference to the fact  
8 that the dissent was considered to run afoul of the  
9 defame and degrade provisions of the Commission is made  
10 in the responses to the dissent.

11 CHAIRPERSON BERRY: In other words, the  
12 people who responded said that?

13 MS. MOORE: Right. Pursuant to our  
14 regulations, we were obligated to forward to them the  
15 dissent and give them an opportunity to reply. Those  
16 persons who replied have indicated in their responses  
17 to the dissent that they are responding to our  
18 submission to them pursuant to the defame and degrade  
19 regulations.

20 So it's quite clear in the text of the report  
21 itself. The response -- I won't name names -- in  
22 Appendix D and Appendix E both refer to letters  
23 affording them the right to respond to portions that  
24 have been identified as defame and degrade problems or  
25 concerns.



1           COMMISSIONER GEORGE: I don't want to get into  
2 infinite legal detail. This is really I think  
3 potentially getting out of hand. I think what we could  
4 do is simply have a suggested statement saying that the  
5 issue, without saying how the staff and the Commission  
6 resolved it, but in view of that issue that arose, the  
7 opportunity to respond has been given.

8           CHAIRPERSON BERRY: Why don't we just not  
9 even do that? I mean, why can't we just simply publish  
10 the report, the dissent, the responses, without further  
11 comment on that aspect of the -- I mean, I think they  
12 speak for themselves.

13           COMMISSIONER GEORGE: Yes. That should make  
14 it clear. That would be fine with me, Madam Chairman.  
15 Let's just make it clear on the record that the  
16 Commission itself has taken no stand. And that opinion  
17 is not being an opinion as to whether the dissent  
18 included defamatory or degrading material.

19           CHAIRPERSON BERRY: Right.

20           Commissioner Anderson, do you still need to  
21 say something?

22           COMMISSIONER ANDERSON: Yes.

23           CHAIRPERSON BERRY: Go right ahead.

24           COMMISSIONER ANDERSON: And it is in parallel  
25 with what Commissioner George has said. I think it is

1 one thing to have a concern, and out of that concern  
2 offer an opportunity to respond. It's another thing to  
3 make a judgment. And I don't think that would be right  
4 for us to do. And I hope it would not be the  
5 implication or the inference in publication of this  
6 report or its transmission that the Commission is  
7 making a judgment in that regard.

8           So, that's my concern. I mean, I think you  
9 have evidence presented at a hearing, testimony. Some  
10 of it you find credible. Some of it you don't find  
11 credible. If it's conflicting, if you say I don't find  
12 this evidence credible and that's why I think the other  
13 is the better case, I mean, in a sense, you're saying  
14 it's not a credible witness. But I mean, that goes on  
15 all the time. And I don't think we should make too  
16 much of a case out of that.

17           But I think we have a legitimate concern. I  
18 think we've met it. And that's how I'd like to see it  
19 go through.

20           CHAIRPERSON BERRY: Then does this amount to,  
21 though -- all the staff does is advise us. We have  
22 been advised as to what the Commission rules are and  
23 what the broader law of defamation is and that our  
24 rules are more restrictive and that we have followed  
25 our rules. And we can decide under our rules after

1 being so advised, that it is the better part of valor  
2 to publish the dissent and to publish the responses. I  
3 mean, that essentially is what has happened.

4 Did I state that in a way --

5 COMMISSIONER GEORGE: Absolutely, Madam  
6 Chairman.

7 CHAIRPERSON BERRY: Okay. So without making  
8 any judgment as to the validity or the credibility or  
9 reliability of the dissent or the responses. Is that  
10 clear?

11 COMMISSIONER GEORGE: Correct.

12 CHAIRPERSON BERRY: All right. Now we will  
13 then vote on this motion to approve the report with  
14 those understanding.

15 Yes? Commissioner Lee wants to say  
16 something.

17 COMMISSIONER LEE: Madam Chairman, I forgot  
18 to add one more recommendation. Since this report was  
19 done, we've had new legislation that was passed this  
20 year.

21 COMMISSIONER GEORGE: Yvonne, I can't hear  
22 you at all.

23 CHAIRPERSON BERRY: Talk into the mike.

24 COMMISSIONER LEE: Since the report was done,  
25 we've had new legislation passed this year dealing

1 specifically with Border Patrol. And I would suggest  
2 that we add a new footnote in this report mentioning  
3 what that new legislation is.

4 CHAIRPERSON BERRY: It's a SAC report. We  
5 can't do things to SAC reports. We have a response from  
6 the Commissioner of INS but we can't write things into  
7 the SAC report.

8 VICE CHAIR REYNOSO: Madam Chair, I just want  
9 to indicate that if we had the advice of counsel that  
10 we in fact did meet a common law or statutory framework  
11 of defaming, then I would not have voted for this -- in  
12 favor of this motion. But I'm going to vote in favor  
13 of the motion because we have a statement that our  
14 regulations in fact are far more restrictive and, in  
15 the view of the General Counsel, does not in fact  
16 defame under common law standards.

17 MS. MOORE: That's correct. What we have  
18 done is look under our regulations, which actually are  
19 I think broader than common law. They sweep in more  
20 than would be violative under common law rules.

21 VICE CHAIR REYNOSO: That's my understanding.

22 MS. MOORE: Right. And so in an effort to be  
23 safe, our rules and regulations provide that people  
24 have an opportunity to respond to those allegations  
25 which, in a court of law, would not amount to

1     defamation.

2                   CHAIRPERSON BERRY:   Commissioner Anderson?

3                   COMMISSIONER ANDERSON:   And therefore, I  
4     think we ought to come out the way we appear to be  
5     coming out on this, because if we make a judgment this  
6     is defamatory, the general public or a number of our  
7     readers, I think, may look at it in terms of the common  
8     law, the statutory definition of defame, outside of  
9     what our regulations say.

10                   And so I think we're right to take a broader  
11     look at it and just give everybody an opportunity to  
12     comment and let the reader decide.

13                   CHAIRPERSON BERRY:   And are we, when we do  
14     this, General Counsel, just so I'm clear, are we  
15     operating within the framework of our own rules which  
16     say that people have a right to respond?

17                   MS. MOORE:   Yes. Absolutely.

18                   CHAIRPERSON BERRY:   Okay.   Good.   All is fine  
19     and dandy then.

20                   Do we have any other comments?

21                   Yes, Staff Director?

22                   STAFF DIRECTOR MATHEWS:   I have a question.  
23     Is the culmination of this discussion that the  
24     footnotes will be taken out?

25                   COMMISSIONER GEORGE:   What's that?

1                   STAFF DIRECTOR MATHEWS: Sorry, Commissioner  
2 George.

3                   Is the culmination of this discussion that  
4 the footnotes will be left in or are you recommending  
5 they be taken out?

6                   CHAIRPERSON BERRY: Which footnotes?

7                   STAFF DIRECTOR MATHEWS: There are footnotes  
8 in here that were put in as a result of the SAC chairs  
9 and the regional staff's attempt to address this issue,  
10 and they are here.

11                  CHAIRPERSON BERRY: But if we publish --  
12 those were to address the issue if we didn't have the  
13 responses. We have now decided to put in the dissent  
14 and the responses and we don't need the footnotes.

15                  Am I confused?

16                  STAFF DIRECTOR MATHEWS: I am clarifying. I  
17 just wanted to clarify.

18                  CHAIRPERSON BERRY: I mean, those were  
19 alternatives. Now, not to publish it in footnotes or  
20 to mention it in footnotes, that was what we were  
21 supposed to decide, as I understood it.

22                  STAFF DIRECTOR MATHEWS: That's right.

23                  CHAIRPERSON BERRY: And are now in the  
24 process of deciding to publish the material. Okay.

25                  All right. Ready for the question?

1 All in favor indicate by saying aye.

2 (Chorus of ayes.)

3 Opposed?

4 (No response.)

5 The motion carries unanimously.

6 Now we turn to the project planning, which we  
7 deferred to this part of the agenda.

8 Staff Director, would you like to introduce  
9 this part of the discussion, which is under Number 5 in  
10 your books?

11 STAFF DIRECTOR MATHEWS: Yes, Madam  
12 Chairperson, I  
13 would.

14 Following up on the discussion at the  
15 September Commission meeting, staff prepared a  
16 memorandum entitled "Project Considerations," which was  
17 our effort to address the question, the question being  
18 --

19 CHAIRPERSON BERRY: Which question?

20 STAFF DIRECTOR MATHEWS: The question that  
21 was the general ending of the discussion at the last  
22 meeting. So I took it that it was the staff's  
23 assignment, in essence, to provide information to  
24 answer this Commissioner question about what would it  
25 cost to complete current pending projects and what

1 other project cost considerations were a portion of the  
2 request that was developed and presented to you at the  
3 last meeting for fiscal 1998.

4 The ultimate purpose of this entire exercise  
5 being to develop a budget request which we would submit  
6 to the Office of Management and Budget for fiscal 1998.

7 I want to highlight the fact that is also  
8 indicated in this material that while the Commission's  
9 appropriation for this fiscal year is \$8.74 million,  
10 which is the same number as last fiscal year, in  
11 essence we have less money available for everything  
12 this year. And that is due to the fact that in this  
13 amount we will have to absorb the normal inflation for  
14 airline tickets, purchase of other types of supplies  
15 and the cost of living increase, career ladder  
16 promotions and other similar types of costs.

17 In reviewing the memorandum that was sent to  
18 you -- and you can see the thickness of the document.  
19 It was a considerable staff assignment to prepare this.  
20 We noticed a few issues which I want to draw out here  
21 for your attention before the discussion begins.

22 First of all, in the fiscal 1996 material --

23 CHAIRPERSON BERRY: What page is it?

24 STAFF DIRECTOR MATHEWS: We'll start with the  
25 very first page after the cover memo. In the fiscal



1 1996 material there are narratives on pending projects.  
2 And if you go over to page 3, which is a summary of the  
3 costs of these pending projects, inadvertently there  
4 was an omission. The New York hearing report work  
5 done, staff work done, did not seem to make it on this  
6 list. And that amount of money was \$74,400 for fiscal  
7 1996.

8           Similarly, the Miami report preparation work  
9 that occurred in fiscal 1996 also did not make it onto  
10 this page 3, and that amount was \$14,087.

11           The third point I want to mention just in  
12 terms of your review of this material is that the staff  
13 prepared this, as I said before, in response to the  
14 question "What would it take to finish current pending  
15 projects."

16           The report on Title 6 has been finished and  
17 therefore was not addressed in this memo, but in  
18 Commissioner review of 1996 itself and costs on  
19 projects in a general sense, we need to take into  
20 consideration there was money and staff time spent  
21 following the Commission approval of Title 6 to edit it  
22 and print it. And that amount of money is  
23 approximately \$37,129.

24           The next thing I want to draw your attention  
25 to is the description of the ADA project, which -- I'm

1 trying to find the page reference here.

2 CHAIRPERSON BERRY: There's one description  
3 on the first page where it says FY 1996.

4 STAFF DIRECTOR MATHEWS: That's it. Is that  
5 the description?

6 CHAIRPERSON BERRY: Under Number 7. It says  
7 begin preliminary research, if that's the one you're  
8 talking about.

9 STAFF DIRECTOR MATHEWS: I believe that is  
10 it. Thank you.

11 The reference to EEOC was inadvertently  
12 omitted here and I wanted to make that clear. That we  
13 do intend to look at DOJ and EEOC.

14 COMMISSIONER HORNER: What page is that,  
15 please?

16 STAFF DIRECTOR MATHEWS: This is actually  
17 page 1, right after the cover memo. It's a description  
18 -- it's Item Number 7 on the page where it talks about  
19 preliminary research beginning on Americans with  
20 Disabilities Act project.

21 COMMISSIONER HORNER: And would you repeat  
22 what --

23 CHAIRPERSON BERRY: In the second paragraph?  
24 Is that -- where are you talking on this? Where it  
25 says DOJ?

1                   STAFF DIRECTOR MATHEWS: Yes. The second  
2 paragraph.

3                   CHAIRPERSON BERRY: I'm asking. I don't  
4 know.

5                   STAFF DIRECTOR MATHEWS: Yes. We need to  
6 indicate -- and I don't have a sentence right in front  
7 of me here, but we need to indicate that this project  
8 will look at DOJ and EEOC and their respective roles.

9                   Another point I wanted to mention is that  
10 there is inclusion -- and it was sort of separated out,  
11 but it is included here, some reference to a project  
12 idea that was discussed among the Commissioners at the  
13 September meeting, the idea being to take a look at  
14 measurement of discrimination.

15                   And so the staff took just the general  
16 dialogue that occurred at the meeting and made an  
17 effort to incorporate that into this memorandum for  
18 your consideration.

19                   There was also a project concept paper  
20 developed for your review and discussion, should the  
21 Commissioners decide they want to take this project on  
22 and should you decide you want to begin it this fiscal  
23 year. In order to have sufficient funding to begin it,  
24 we would have to request some supplemental  
25 appropriation monies through the OMB and the Congress.

1 So that would be the context in which that material was  
2 included.

3 The last point I would like to draw out is  
4 the summary chart for fiscal 1989. And there are no  
5 page numbers on this, I'm sorry to say, but this is  
6 about three pages from the end of the document.

7 CHAIRPERSON BERRY: Okay. We go to 16 and  
8 then turn three pages?

9 STAFF DIRECTOR MATHEWS: Yes. And this is  
10 fiscal 1998. The number says total project estimates.  
11 This was a typographical problem here. The number  
12 should not read \$3,948,000. It should read \$4,137,200.

13 COMMISSIONER HORNER: Now would you please  
14 repeat that?

15 STAFF DIRECTOR MATHEWS: Okay. This is  
16 project priorities for fiscal 1998 is the heading.  
17 Midway through the page, you'll see in bold letters the  
18 number \$3,948,000. That should be \$4,137,200.

19 And I guess the last point here, to summarize  
20 from my perspective. We've taken a very close look at  
21 the monies available for this current fiscal year and  
22 given what I said a moment ago about the need to absorb  
23 various costs within this amount, and given that we  
24 have staff vacancies in several offices in the  
25 Commission, we do not seem to have sufficient funding

1 to enable us to fill these vacancies. And I'm very  
2 sorry about that because I know how sorely we are in  
3 need of additional staff, let alone the filling of  
4 vacancies.

5 This will certainly have an impact on the  
6 ability of staff to complete projects and begin new  
7 ones. The only exception to this funding dilemma,  
8 Commissioner Horner, you will be pleased to know we  
9 have funded your special assistant when you get a  
10 chance to select one.

11 CHAIRPERSON BERRY: Well, you have to fund  
12 special assistants.

13 STAFF DIRECTOR MATHEWS: Right. And I'm just  
14 identifying that so that she doesn't assume that my  
15 comment applied to that.

16 CHAIRPERSON BERRY: Oh, I see. Okay.

17 Now, so in other words, it's not an issue of  
18 hiring additional staff. You're saying that people who  
19 have left recently, you're not going to be able to  
20 replace them. That's basically what you're saying?

21 STAFF DIRECTOR MATHEWS: That's correct.

22 CHAIRPERSON BERRY: Okay. Commissioners  
23 discussion or motions or whatever?

24 Commissioner Redenbaugh?

25 COMMISSIONER REDENBAUGH: Yes. I'm not quite

1 sure where to begin this but my interpretation is that  
2 at the end of -- or at some moment in the September  
3 meeting, under my direction, the Commissioners directed  
4 that a set of proposals and menus for projects for '97  
5 and '98 be offered to us, particularly since the nature  
6 of these things is there's some interaction between  
7 them and it's not clear in an arithmetic sense how to  
8 select them all inside a particular budget.

9 My question for the Staff Director is, is it  
10 your contention that this document satisfies that  
11 request?

12 STAFF DIRECTOR MATHEWS: Sorry, Commissioner  
13 Redenbaugh. Is it my intention that this document  
14 satisfies --

15 CHAIRPERSON BERRY: Contention. Contention.

16 STAFF DIRECTOR MATHEWS: Contention that this  
17 document satisfies the request for providing  
18 information?

19 COMMISSIONER REDENBAUGH: No. For providing  
20 a set of menus of program options that we as  
21 Commissioners could select from.

22 STAFF DIRECTOR MATHEWS: That certainly was  
23 one of the objectives that we attempted to address. I  
24 think the outgrowth of this discussion today will  
25 enable staff then to take whatever decisions are made

1 and prepare a new budget submittal along the lines of  
2 the projects you agree to.

3 COMMISSIONER REDENBAUGH: It's my view that  
4 although this is a substantial document and obviously  
5 involved a substantial effort on the part of staff, it  
6 does not satisfy the request that I made in the  
7 September meeting, as best I can tell. And I'm  
8 disadvantaged I think in part because I received it  
9 only this week.

10 But it strikes me as not what I asked for and  
11 I don't -- it may be that I can arrange it in such a  
12 way to construct what I asked for but I haven't made  
13 that determination yet.

14 So I'm still at a loss, as I have been since  
15 March, for what our projects will be in '97, as well as  
16 '98. And I'm very concerned that as the Board of this  
17 organization, that we as Commissioners have not  
18 resolved this more efficiently.

19 CHAIRPERSON BERRY: Commissioner Horner?

20 COMMISSIONER HORNER: Madam Chair, I agree  
21 with Commissioner Redenbaugh's assessment and these  
22 materials are dated October 21st for a meeting on  
23 October 25th, I guess today is?

24 STAFF DIRECTOR MATHEWS: Right.

25 COMMISSIONER HORNER: And those who don't

1 have the two or three days preceding the meeting free  
2 have some difficulty dealing with that. I'm confronted  
3 with the difficulty that we don't have a menu of  
4 options. What we have is a list that, as Commissioner  
5 Redenbaugh suggested, we could engage in some staff  
6 work and subtract and add and put together on our own.  
7 I'm also concerned because I see under FY '98, a  
8 statement that says, "Based on the Commissioners'  
9 earlier approval of FY '98 projects," and then a list  
10 of those supposed projects.

11 And I don't remember we ever agreed, for  
12 instance, to do an HIV and AIDS discrimination project.  
13 I just have no recollection of that at all. So I don't  
14 think these fall into already approved projects, even  
15 assuming we had the budget to fund all of them.

16 And like Commissioner Redenbaugh, I am at a  
17 loss as to how we can proceed.

18 STAFF DIRECTOR MATHEWS: Madam Chair?

19 CHAIRPERSON BERRY: Yes, please.

20 STAFF DIRECTOR MATHEWS: There were previous  
21 submittals at Commission meetings, prior to Commission  
22 meetings in I believe April and May where the staff  
23 provided alternative options for the Commissioners'  
24 consideration. The outgrowth of the discussions that  
25 occurred at those meetings is project decisions were



1 made by the Commissioners. And that is what this  
2 document represents. So that is the perspective that  
3 the staff had in terms of preparing this material for  
4 you.

5 CHAIRPERSON BERRY: So you're saying that we  
6 already had the options and picked?

7 STAFF DIRECTOR MATHEWS: Correct.

8 CHAIRPERSON BERRY: And what about  
9 Commissioner Horner's point, if I understood her  
10 correctly, about whether a specific project was  
11 approved?

12 STAFF DIRECTOR MATHEWS: Which project was  
13 it, Commissioner Horner?

14 COMMISSIONER HORNER: The HIV/AIDS project,  
15 by way of example. I don't recall we approved that.

16 STAFF DIRECTOR MATHEWS: There was a  
17 consensus of the Commission to keep that project on the  
18 list at the April 1996 meeting.

19 COMMISSIONER HORNER: That's not approval,  
20 with all due respect. And the document that's prepared  
21 here speaks of approval. And this is how these things  
22 slide into actuality with the Commissioners required to  
23 undertake an enormous burden to overcome the  
24 incremental slide into reality of things the Commission  
25 never made a conscious affirmative decision to do.

1           CHAIRPERSON BERRY: Well, I think that if  
2 there is an allegation that the Commission did not make  
3 a decision, then we need to get the transcript and read  
4 it, because I have not, insofar as I am concerned, ever  
5 said that the Commission decided something it didn't  
6 decide, if that's what the allegation is.

7           COMMISSIONER HORNER: I have no recollection  
8 that we did decide.

9           CHAIRPERSON BERRY: Right. So I think we need  
10 to get the transcript, if the Staff Director is telling  
11 us that we discussed these projects and that there was  
12 consensus about projects.

13           Now, you know and I know that we do not  
14 always take roll call votes on everything. Sometimes  
15 we say are there any objections, who objects, so on.  
16 But if in fact the staff has said that the Commission  
17 agreed to something that Commissioners objected to or  
18 in any way indicated it was not part of their  
19 agreement, then we've got a problem.

20           COMMISSIONER HORNER: Madam Chair, I don't  
21 want to belabor this particular point. Certainly, if  
22 I'm wrong, I want to be corrected on the particular.  
23 But Commissioner Redenbaugh's overall point is one that  
24 I think we need to address.

25           It seems to me what would have been helpful

1 would have been the menu of options within a realistic  
2 budget framework, which was requested, so that we could  
3 look at a probable overall budget available to us and  
4 select something reasonable within that budget. A  
5 proposal, a series of proposals. Option A, B, C, that  
6 would allow us to discuss. We can't discuss with this.

7 CHAIRPERSON BERRY: I think that in the  
8 interest of making sure that the record is correct,  
9 that the Staff Director should read into the record the  
10 transcript of the -- what date meeting is this?

11 STAFF DIRECTOR MATHEWS: This is the April  
12 12, 1996.

13 CHAIRPERSON BERRY: Insofar as it is  
14 relevant. Don't read the whole thing. Insofar as it  
15 is relevant to the point made about -- it's just  
16 important that we don't give the impression, especially  
17 when the GAO auditors are sitting here to see how we do  
18 projects, that the Commission somehow has a project  
19 that nobody knows how we approved it.

20 I mean, it's a small point but we ought to  
21 make sure that it's clear to everybody. So, read  
22 whatever you're going to read and make sure it's as  
23 short as it can be. And then I'll go to the next  
24 person.

25 STAFF DIRECTOR MATHEWS: Right. I'm going to

1 start with the top of page 154 of the transcript where  
2 it's in the middle of Chairperson Berry's remarks about  
3 revisiting the previous project.

4 COMMISSIONER HORNER: And what meeting is  
5 this?

6 STAFF DIRECTOR MATHEWS: This is the April  
7 12, 1996 meeting.

8 So Chairperson Berry then says at the top of  
9 page 154:

10 "Now, the next one is discrimination against  
11 persons with HIV and AIDS. Conduct hearings, produce a  
12 statutory report, which means it would have findings  
13 and recommendations."

14 There's some dialogue about going back to the  
15 voting rights project, so I'm skipping part of that.  
16 And then on the bottom of page 157, Commissioner  
17 Redenbaugh says that -- this is a quote:

18 "And I would not want to lose the HIV study.  
19 I think that unfortunately will be a larger issue, not  
20 a smaller one."

21 And I'm skipping a few sentences. And ending  
22 with, "But I think we can have something to say there  
23 that would be helpful."

24 Chairperson Berry then: "Well, then, why  
25 don't -- if there's no objection, leave open. Why

1 don't we leave it on the list for the time being and  
2 see what happens with it if no one objects to our doing  
3 that because I think you're probably right.  
4 Unfortunately, it is still going to be an issue.

5 Commissioner Redenbaugh: "I think the civil  
6 rights implications of it will be much larger than they  
7 are even now."

8 Chairperson Berry: "Okay, then, -- well,  
9 then, we'll leave it open."

10 And on to the next topic.

11 COMMISSIONER HORNER: Madam Chair, leave it  
12 open and leave it on the list for the time being are  
13 not the same as approve. And I would caution the staff  
14 in writing memos which also are on the record and  
15 without being objected to stay on the record and assume  
16 a condition of truthfulness and reality. That in fact,  
17 we did not approve. We left it open. We left it on  
18 the list for the time being.

19 There might have been a different decision  
20 entirely if we'd been asked to approve. That's all. I  
21 just want clarity here.

22 CHAIRPERSON BERRY: And to make it clear, it  
23 is still on the list. No budget submission has been  
24 made to OMB yet. The Commission has had several  
25 opportunities to take it off the list. Has yet again

1 an opportunity to do so. So nothing has been sent to  
2 OMB. And until it is and the Commission has decided to  
3 do so, none of these decisions are final.

4 Now, the staff can from now on, instead of  
5 saying approved -- what I will do from now on is call  
6 for a vote on every single item because I had thought  
7 we could operate collegially and simply say where there  
8 was consensus we would move on without doing this. But  
9 if we're going to have a situation where people do not  
10 acknowledge that even though something is left and  
11 we've agreed to do so -- no one objected to that --  
12 that there is a time now if you don't want it on the  
13 list, say you don't want it on the list.

14 I have no particular brief for this proposal.  
15 I use the same language about it that I used about  
16 every other proposal. I was simply trying to expedite  
17 consideration of it.

18 COMMISSIONER HORNER: Madam Chair?

19 CHAIRPERSON BERRY: Maybe we need to change  
20 the language we use, but I don't know what the problem  
21 is.

22 COMMISSIONER HORNER: Madam Chair, I hope we  
23 can continue to operate collegially and without votes  
24 on every jot and tittle. All I'm asking is that the  
25 staff use language which accurately represents the

1 state of play on a decision. And I don't think that's  
2 unreasonable.

3 CHAIRPERSON BERRY: Okay. Fine.

4 Yes, Commissioner Higginbotham?

5 COMMISSIONER HIGGINBOTHAM: Madam Chair, I'm  
6 probably coming at this from the other end. What  
7 concerns me is that I like to feel that when I see the  
8 figures, for example, for project priorities for fiscal  
9 year 1997, and I see a total project estimate of  
10 \$3,870,550 as if that is the totality. And I'm just a  
11 little confused because the Executive Director implied  
12 that we have a staffing problem. And that if we have a  
13 staffing problem, that these figures may not be  
14 reliable.

15 Now, can you help me on this? Because all I  
16 want to know is what the bottom line is of the  
17 estimates because you seem to be saying that we have a  
18 staffing problem and that these figures may be not  
19 totally accurate.

20 STAFF DIRECTOR MATHEWS: I'll try my best to  
21 answer your question. The decisions that we make  
22 today, that the Commissioners make today, in terms of  
23 which projects you want to address, will certainly affect  
24 the completion rate that we're able to accomplish this  
25 year, given our current staffing complement.

1           These numbers were developed actually with  
2 the assumption in some cases that we would have some  
3 additional staff. And we've just gotten the  
4 appropriation approved and we've just assessed it and  
5 determined that there is not sufficient money.

6           So all of this is happening pretty much in a  
7 dynamic, sort of a fast paced way. And so I guess I  
8 would summarize by saying that the -- I'm trying to  
9 think of an example to give to you here.

10           Let's take the ADA project as an example.  
11 There was memorandums that I provided to each of the  
12 Commissioners; one from the General Counsel and one  
13 from the Assistant Staff Director for Civil Rights  
14 Evaluation, using the civil rights evaluation  
15 memorandum as an illustration.

16           Mr. Isler has indicated the schedule that  
17 he's projecting for the completion of the series of  
18 reports on the Education Opportunity project. He is  
19 also stating in this memorandum that unless he gets two  
20 new staff members pretty much immediately, he would not  
21 be able to complete the ADA project within this  
22 calendar year.

23           And so what I am saying is that there's not  
24 sufficient funding to provide for the filling of these  
25 two vacancies, and therefore, the ADA project would be



1 completed over a longer span of time.

2 CHAIRPERSON BERRY: In other words, that's  
3 our statutory report for next year. Am I right?

4 STAFF DIRECTOR MATHEWS: The Commissioners  
5 did discuss it in that regard. The series of reports  
6 in the Education --

7 CHAIRPERSON BERRY: In other words, it was  
8 left on the list as the statutory report?

9 STAFF DIRECTOR MATHEWS: Yes.

10 CHAIRPERSON BERRY: Why don't I put it that  
11 way. It was left on the list. The last time we  
12 discussed it there was consensus to leave it on the  
13 list as the statutory report.

14 STAFF DIRECTOR MATHEWS: Correct.

15 CHAIRPERSON BERRY: There was no official  
16 vote taken, as I recall.

17 And so now what we have to do is, in my view,  
18 is the Commissioners have to decide, and we can discuss  
19 this all we want to, whether we still want to finish  
20 the reports we have on board, if that's possible to do,  
21 and do we want to finish the ones for 1997 and do we  
22 want to request all of these that we've discussed  
23 before that are listed here or do we not want to  
24 request them.

25 However we arrive at the answer to that

1 question, that's what we have to answer.

2 Yes, Commissioner Anderson?

3 COMMISSIONER ANDERSON: Well, now I have  
4 three things.

5 CHAIRPERSON BERRY: Okay.

6 COMMISSIONER ANDERSON: The first thing I  
7 have is a question and then I have two comments.

8 My question is when you get to the bottom for  
9 '97, you've got \$3.8 million. That's based on what?  
10 \$13.5 million budget submission; the \$11.4 million  
11 request or the actual \$8.7 million appropriation?  
12 What's the \$3.8 --

13 CHAIRPERSON BERRY: Are these the costs to  
14 finish these or what?

15 COMMISSIONER ANDERSON: What's the \$3.8  
16 [million] keyed to? Is it keyed to \$13 [million], \$11  
17 [million] or \$8 [million].

18 STAFF DIRECTOR MATHEWS: It's keyed to the  
19 \$11.4 million number.

20 COMMISSIONER ANDERSON: So it's keyed to  
21 \$11.4 [million] and we got \$8.7 [million]?

22 STAFF DIRECTOR MATHEWS: Correct.

23 COMMISSIONER ANDERSON: So right off the bat  
24 we're quickly \$2.5 million short. Now the frustration  
25 I see with the way this memo is set up is it doesn't

1 tell us how to get to the actual money we have in terms  
2 of what we want to do. And I think that's part of the  
3 problem with the way our planning process has been  
4 going.

5           We've been setting projects to a figure that  
6 I think is higher than at least this Commissioner  
7 thinks we will ever get, and then we're in a constant  
8 state of revision all the time but it's a very  
9 ambiguous kind of revision because we don't have it, in  
10 my opinion, keyed accurately enough to the amount of  
11 money we're actually getting.

12           So it's hard to make these kinds of decisions  
13 because we're always over planning. That's my comment  
14 about the problem with this document. The document  
15 reflects, in my opinion, a broader problem, which is  
16 our planning process in general, in terms of trying to  
17 budget.

18           Now, having said all that, I want to address  
19 the list question from my own interpretation of the  
20 meetings that I've sat in, in which we've talked about  
21 the list, and I haven't gone back over the transcript.

22           But in my own mind, I've always thought that  
23 when we talked about these project lists, we had three  
24 categories. We had a category of disapproval, which it  
25 was removed from the list; approved, in which it was

1 kept on the list; and a third category of we're not  
2 going to disapprove at this time or approve but we're  
3 going to keep the question open for further discussion.  
4 And in the interim, it will stay on the list.

5 Now, I think the transcript will show that we  
6 made decisions on all three categories but I just want  
7 to be clear that that's my recollection of the list.

8 So I think there are things on the list, as  
9 Commissioner Horner said, that may not have been  
10 approved, but their appearance on the list should not  
11 be interpreted as having been approved. At the same  
12 time, I think there are projects we approved that are  
13 rightly on the list as approved.

14 So having said that, Commissioner Redenbaugh  
15 wanted to say something.

16 CHAIRPERSON BERRY: Well, since my  
17 understanding is not the same as yours, we have another  
18 problem. My understanding is anything that's on the  
19 list is subject to the final vote that we take to  
20 submit the vote to OMB.

21 COMMISSIONER HIGGINBOTHAM: That's my  
22 understanding.

23 CHAIRPERSON BERRY: And that at any point, we  
24 may, including today or before we send it to OMB,  
25 everything on the list is quote/unquote approved, until

1 we take our final vote. That is, approved to go to the  
2 next step.

3 STAFF DIRECTOR MATHEWS: Right.

4 CHAIRPERSON BERRY: And then finally, we have  
5 to take a vote before we send it to OMB, which means we  
6 can discuss and re-discuss, except for things that we  
7 actually throw off the list. If we throw it off, then  
8 that's the end of that discussion unless somebody wants  
9 to revive it by some kind of raising it again. But if  
10 it's left on the list at any of these stages when we  
11 discuss it, it's still there. And the final vote we  
12 take is to send the things to OMB, which we haven't  
13 done yet.

14 Now, that's my understanding.

15 COMMISSIONER ANDERSON: Okay. I agree with  
16 that. I must say that I would interpret a comment,  
17 "leave it open," to mean leave the question of approval  
18 or disapproval open. And so that's why I mean I  
19 believe here are three categories with a presumption of  
20 approval but a final decision being made at the final  
21 budget submission.

22 But I think the record will show that we had  
23 a consensus that we wanted to move forward on a number  
24 of these things, at least on this one. Like I said, I  
25 interpreted leave it open to mean not reach a decision

1 on it, even a tentative decision.

2 CHAIRPERSON BERRY: Well, the actual language  
3 was leave it on the list.

4 STAFF DIRECTOR MATHEWS: Right. Right.

5 COMMISSIONER ANDERSON: Well, read the actual  
6 language again.

7 STAFF DIRECTOR MATHEWS: Bear with me one  
8 second until I find the page.

9 CHAIRPERSON BERRY: Okay. We're just going  
10 to have to take votes on all this stuff all the time.  
11 I can see it now. Go ahead.

12 STAFF DIRECTOR MATHEWS: This is the ending  
13 of the points that I previously read.

14 Chairperson Berry: "Well, then, why don't we  
15 -- if here's no objection, leave open. Why don't we  
16 leave it on the list for the time being and see what  
17 happens with it, if no one objects to our doing that,  
18 because I think you're probably right. Unfortunately,  
19 it's still going to be an issue."

20 Commissioner Redenbaugh: "And I think the  
21 civil rights implications of it will be much larger  
22 even then than they are now."

23 STAFF DIRECTOR MATHEWS: Chairperson Berry  
24 "Okay. Well, then we'll leave it open --

25 CHAIRPERSON BERRY: I didn't say "open."

1                   STAFF DIRECTOR MATHEWS: We'll leave it.

2   Excuse me. "Will leave it," period.

3                   CHAIRPERSON BERRY: But anyway, the point is  
4   that if you want to have three categories, we can do  
5   that. If you want to have four, we can do that. But  
6   my own inclination is to say -- that's been my  
7   understanding all along. That until we voted to send  
8   the thing to OMB, only things that we junked were  
9   things that we didn't want to see again unless somebody  
10  tried to revive them.

11                   And the other things we can continue to  
12  discuss, review them. We felt positive enough to leave  
13  them on the list. But that at any point before we send  
14  it to OMB, we would have to vote ultimately, which we  
15  must do to send the budget.

16                   And at that point, if we want to take it off,  
17  we take it off. That's my understanding.

18                   Now, as far as all these numbers, I just  
19  think that what the Staff Director has to tell us is  
20  whether in 1997 we have enough money to do these  
21  projects and how much -- whether we have enough money  
22  to do them.

23                   And I guess what she's saying back to us, if  
24  I hear her right, is that she wants us to tell her  
25  which ones we want to do and then she'll tell us

1 whether we have the money.

2 Did I misunderstand something?

3 STAFF DIRECTOR MATHEWS: That was what I  
4 assumed we would be doing at this discussion, is that  
5 the Commissioners would decide on projects and then  
6 we'd develop the budget that would go with your  
7 decision, and that this is where we were before.

8 CHAIRPERSON BERRY: Vice Chair?

9 VICE CHAIR REYNOSO: Madam Chair, maybe I've  
10 not understood for these three years how we operate,  
11 but I want to give you a summary of my understanding.  
12 And then if my understanding is correct, we seem to be  
13 spinning wheels uselessly.

14 My understanding is that we will now vote on  
15 the projects that we think are worthwhile. Then this  
16 will go to OMB. We may think that we have projects  
17 that are worthwhile for \$800 million. But if we think  
18 they're worthwhile, then we say let's ask for \$800  
19 million.

20 Then we go to OMB and we end up with \$1  
21 million. Then we indeed reevaluate and say what can we  
22 do with \$1 million. And insofar as '97 is concerned, I  
23 had understood -- and maybe I'm wrong -- that we're  
24 still at the posture of telling OMB what we think we  
25 want.



1 CHAIRPERSON BERRY: 1998?

2 VICE CHAIR REYNOSO: '98. Yes. And  
3 therefore, we're not bound by the budget that we think  
4 we're going to get because we don't know. It's our role  
5 and OMB expects us to go in and say this is what we  
6 think makes sense.

7 STAFF DIRECTOR MATHEWS: Right.

8 VICE CHAIR REYNOSO: And then it depends  
9 eventually on how much money we get. Since we probably  
10 will get less money -- at least it's been the  
11 experience in the three years I've been on the  
12 Commission -- get less money than what we asked for,  
13 then we'll reevaluated again and maybe the AID project  
14 will be a lower priority and it will never get funded.

15 So I had interpreted what we were doing was -  
16 - and indeed we dropped some things earlier that we  
17 said, no. I guess our feeling was even though  
18 everything is worthwhile in the world presumably, some  
19 of more equal than others, we dropped quite a few items  
20 and we left on those that we thought were still  
21 worthwhile.

22 If a majority of Commissioners feel that any  
23 project that's on there is not worth doing, then  
24 presumably we'll drop those. Then we'll still go  
25 forward. However, it's been my experience for three

1 years, asking for more money than what we have gotten  
2 each time. And so we can't get away from the process  
3 of reevaluation.

4 Am I wrong or am I right?

5 CHAIRPERSON BERRY: Well, it's not a question  
6 -- I'm going to recognize you.

7 It's not a question of you being wrong.

8 VICE CHAIR REYNOSO: I mean, in terms of the  
9 process.

10 CHAIRPERSON BERRY: I agree with you about  
11 the process of requests and OMB.

12 VICE CHAIR REYNOSO: Oh, okay.

13 CHAIRPERSON BERRY: But I think what the  
14 Commissioners who are asking another question are  
15 asking, is whether we have enough money to do what we  
16 say we're going to do in 1997. And if we don't what  
17 are the options for what we would do in 1997 before  
18 they can make a decision about what we'll do in 1998,  
19 if I understood it correctly.

20 Yes, Commission Anderson?

21 COMMISSIONER ANDERSON: Well, I would say to  
22 the Vice Chair, I think his statement about how we've  
23 been operating is quite accurate. And at this point,  
24 what I'm saying is I find it to be very ineffective and  
25 wasteful and inefficient process because we're so far

1 above the budget that we're getting.

2 I don't think we're bounded by anything  
3 except reality. And the reality is that we're getting  
4 a lot less money than we want.

5 Now, in the years I've been here, I've  
6 supported larger budgets than what Congress has given  
7 us. But I think if we're so far beyond what we can  
8 reasonably expect to get from Congress, we're going to  
9 be in a constant state of reassessing, reorganizing,  
10 re-prioritizing and going through this painful process  
11 time and time again.

12 So what I'm arguing for is I think we should  
13 bite the bullet, narrow our expectations, pick the  
14 projects that we really want that are closer to what we  
15 really expect. And I don't know. Is it \$9 million?  
16 Is it \$10 million? And try to do something like that,  
17 so if we get another \$9 million, then we can say, okay,  
18 what we've got to do is drop a project. We don't have  
19 to reconsider six different projects. That's the  
20 problem I see we have. And I think it's time that we  
21 move out of what we've been doing in the past.

22 CHAIRPERSON BERRY: Staff Director, did you  
23 want to say something?

24 STAFF DIRECTOR MATHEWS: I would, just in a  
25 general sense. The previous discussions that

1 Commissioners had and the previous documents that staff  
2 prepared that included alternatives, and the previous  
3 documents also included staff prioritization of  
4 projects, my assumption here is that this exercise was  
5 to enable Commissioners to determine exactly which  
6 projects they wanted to do and that we had already been  
7 through the alternative issue and we'd already seen, or  
8 you had already seen the staff prioritization.

9 CHAIRPERSON BERRY: I don't see anybody's  
10 hand up.

11 COMMISSIONER REDENBAUGH: I've been working  
12 on this for a long time.

13 CHAIRPERSON BERRY: Commissioner Redenbaugh?

14 COMMISSIONER REDENBAUGH: Yes. I'm not sure  
15 where to start. I'm back about seven points and I want  
16 to rebut all of them. But I think maybe rather than do  
17 that, I will just say that it appears -- you know,  
18 there is this make believe unreal Washington budget  
19 game and it appears to me that we think that's how it  
20 works really.

21 Have we approved our projects for '97?

22 CHAIRPERSON BERRY: We have done what we have  
23 described. We've gone over these projects several  
24 times.

25 COMMISSIONER REDENBAUGH: No, I know. But me

1 speaking positively about a project that I support is  
2 not the same as me affirmatively voting to approve it.

3 CHAIRPERSON BERRY: Well, we have to do that  
4 when we go with the vote to send the budget to OMB.  
5 That's the last vote. That has to be an official vote.

6 COMMISSIONER REDENBAUGH: Well, we keep  
7 pretending that there's going to be this big pile of  
8 money and we won't have to make any hard choices. It's  
9 clear that for '97, that won't be the case.

10 CHAIRPERSON BERRY: Right.

11 COMMISSIONER REDENBAUGH: I propose we do the  
12 following. That we say, look, we will size the  
13 organization to the budget we have and we will size our  
14 promised projects to the budget we have. That is the  
15 requirement of every even minimally run organization.  
16 That we figure out how much that is.

17 I can't tell from this document -- it may be  
18 there -- how much we have to spend, adjusting for the  
19 inflation and this and that. And then we just rank  
20 order the projects and apply the money as far as it  
21 goes. And I'd say as Commissioners we have been very  
22 unwilling to rank order this stuff and say, look, that  
23 means that we're only get so far down the list  
24 depending on the money.

25 CHAIRPERSON BERRY: Well, I think that's

1 right. And I think what the staff is asking is that we  
2 do that. They say that they have been through this  
3 exercise -- they're all nodding their heads -- four  
4 times with us with different iterations. And we have  
5 yet been unwilling to say that if we only get \$8  
6 million, what is it we think we ought to do.

7           COMMISSIONER REDENBAUGH: I can understand  
8 their frustration. I hope they can mine. I think  
9 you're exactly right. The eight of us have not been  
10 willing to vote the hard choices.

11           CHAIRPERSON BERRY: Now, we have approved  
12 already -- we have projects that are underway that  
13 we're supposed to be finishing that were long ago  
14 approved, and we have memos that explain to us various  
15 constraints on getting them done.

16           And so the first priority is, unless the  
17 Commission wants to decide not to do them or not to  
18 finish them, to go ahead and finish those.

19           COMMISSIONER REDENBAUGH: Well, I would like  
20 to look at that. There may be some that are older than  
21 good wine.

22           CHAIRPERSON BERRY: We talked before you came  
23 about scheduling a hearing in Mississippi, which we've  
24 done for March, or we've gotten some dates together to  
25 talk about March. We have the Wall Street hearing. We

1 have the documents. And it's been explained to us that  
2 we only have one statistician in the Commission. One.  
3 And that that statistician, while they're supposed to  
4 be working in the Office of General Counsel, has been  
5 doing work in the Fred Isler shop to help with the  
6 Education Report. And that that's why these documents  
7 that we collected have not been analyzed yet, which are  
8 the heart of this report.

9           You may remember, that was a documentary.

10           COMMISSIONER REDENBAUGH: Yes, I do. But  
11 what I see is there's a disconnect between the promises  
12 that we have made like projects, and the resources,  
13 both staff head count and money that we have to apply  
14 to them. I think we need to bring those two things  
15 together in reality and stop pretending that OMB will  
16 give us \$16 million and it will all work out. It's not  
17 going to happen.

18           COMMISSIONER ANDERSON: And more important,  
19 it comes down that Congress will. I mean, even if OMB  
20 gave it to us.

21           COMMISSIONER REDENBAUGH: Oh, right. I'm  
22 sorry. Congress.

23           CHAIRPERSON BERRY: So that the first  
24 question I guess for the Staff Director is that  
25 whatever these numbers say, will we be able to finish

1 these projects or should we be in a position of trying  
2 to decide where we're going to junk some of those for  
3 '96 and then '97 and then maybe we'll make a decision  
4 about '98?

5 COMMISSIONER REDENBAUGH: Right. And junk  
6 them against the priorities that now appear. Like  
7 what's the rate of return on the investment of  
8 finishing up something versus some other new  
9 opportunity.

10 CHAIRPERSON BERRY: Commissioner Anderson?  
11 While the Staff Director is thinking,  
12 Commissioner Anderson wants to say something.

13 COMMISSIONER ANDERSON: This may be similar  
14 to what you're saying but if we were to do everything  
15 we have on line that we decided we were going to  
16 complete, which would be at least the Wall Street  
17 hearing and the Mississippi hearing, how much money is  
18 left over?

19 CHAIRPERSON BERRY: To do something else?

20 COMMISSIONER ANDERSON: Yes.

21 CHAIRPERSON BERRY: In 1997, which we're in  
22 right now.

23 COMMISSIONER ANDERSON: Right.

24 COMMISSIONER REDENBAUGH: And L.A.

25 COMMISSIONER ANDERSON: How much money is



1 left over. And if that -- then we can start looking at  
2 whether we have two, three or four options here or one  
3 or what?

4 COMMISSIONER REDENBAUGH: Or none.

5 CHAIRPERSON BERRY: Or none. Now, if we do  
6 the L.A., and there's been a suggestion made both by  
7 the staff -- we have a memo somewhere. That for L.A.,  
8 I think it was a suggestion made both by the General  
9 Counsel and the congressional liaison, Kim Cunningham,  
10 that we split the L.A. project into two, publish the  
11 older part of the report last and publish the new part  
12 that Anderson and Reynoso are about to finish up first  
13 because the police issues are so burning, and try to  
14 get that done by March.

15 So if we were to somehow do the L.A. report,  
16 whether we do it by splitting it up or however, do the  
17 -- when will Miami be to the Commission? May I ask?  
18 Or when will it be to the Staff Director's office?

19 That may be in a memo but I don't remember  
20 what it said.

21 MS. MOORE: Yes. It was in the memo and we  
22 estimate that that report can be completed, into the  
23 Staff Director, by Thanksgiving. As I've indicated we  
24 have one staff member who is out on maternity leave who  
25 is responsible for a segment of that report. So

1 contingent on us working out some creative arrangements  
2 with that staff members who is not due back into the  
3 office until December, we could have that report  
4 finalized and to the Staff Director by Thanksgiving.

5 CHAIRPERSON BERRY: So that if you can work  
6 out that problem, we could have that one. So that  
7 would take care of Miami.

8 So then we would have Wall Street where the  
9 statistician issue is there.

10 Staff Director, what do you plan to do about  
11 that? I mean, we might as well do it retail since we  
12 can't seem to just figure out what to do. -

13 COMMISSIONER HORNER: Madam Chair, when you  
14 say Wall Street, you mean everything that's encompassed  
15 in the New York hearing, including the immigration  
16 issues and do on?

17 CHAIRPERSON BERRY: The New York thing,  
18 right. The whole -- I'm sorry. I meant to say New  
19 York. Thank you.

20 COMMISSIONER HORNER: Miami, New York --

21 CHAIRPERSON BERRY: New York.

22 Staff Director, what about -- so we just  
23 heard about Miami. What about New York?

24 STAFF DIRECTOR MATHEWS: General Counsel, do  
25 you want to comment on New York?

1 MS. MOORE: Well, our major problem with New  
2 York is that we have over 5,000 pages of documents that  
3 we collected from the Wall Street firms and banks and  
4 only one statistician who can evaluate those documents.  
5 And she has been split over the last three months, I  
6 guess, between OGC and OCRE, working on the education  
7 report.

8 It's difficult to -- if indeed we got her  
9 back full-time to work on those documents, it would  
10 take her another -- it would probably take her to the  
11 end of the year to assess the documents and then we  
12 would begin the writing process.

13 CHAIRPERSON BERRY: Which would then take --  
14 if that all happened?

15 MS. MOORE: The writing process would then  
16 probably take two months to complete the entire --

17 CHAIRPERSON BERRY: So if you get a  
18 statistician, then two months after that we're talking  
19 about March for your office to send that report up to  
20 the Staff Director. So that tells us about New York.

21 COMMISSIONER HIGGINBOTHAM: May I ask  
22 something?

23 CHAIRPERSON BERRY: Yes.

24 COMMISSIONER HIGGINBOTHAM: Is there any  
25 reason why if you don't have enough statisticians that

1 you can't get someone on an interim basis? I mean, I'm  
2 in a Wall Street law firm and I know that the financial  
3 situation is different. But when we get a problem, we  
4 say, okay, you'll get someone in, even though down the  
5 line it's going to be a cost.

6 I mean, I sort of feel like I've got the  
7 hospital director deciding when the baby is going to be  
8 delivered rather than having someone present to do the  
9 delivery.

10 VICE CHAIR REYNOSO: Doctor, what's your  
11 response?

12 STAFF DIRECTOR MATHEWS: Got a new title  
13 here.

14 (Laughter.)

15 The prioritization that you all give to these  
16 projects could indeed result in that. The tradeoff,  
17 though, which is what I was trying to outline and  
18 highlight in my earlier comments is that in order to do  
19 something like that the money would have to come from  
20 another area and another area would have to suffer.

21 That other area might be SAC meetings or  
22 regional office travel. I mean, we're in a tradeoff  
23 situation here. That's my point.

24 CHAIRPERSON BERRY: But we definitely need to  
25 get the New York report in terms of the data, done

1 within the next few months. Otherwise the data will be  
2 stale and then we will have to go back to New York to  
3 collect new data, which is ridiculous.

4 So that I don't care what it takes. For  
5 myself, I'm speaking, only. Not for the Commission.  
6 Seems to me that we ought to get this data analyzed and  
7 get this report together. And if other Commissioners  
8 disagree, then you can disagree, but that's my view.

9 Yes, Commissioner Redenbaugh?

10 COMMISSIONER REDENBAUGH: I think we ought to  
11 do that. But I think there is an intelligent and  
12 systematic way to do this, and I'm going to propose  
13 that we do something else.

14 CHAIRPERSON BERRY: Not do that report?  
15 Okay.

16 COMMISSIONER REDENBAUGH: No, no. I mean,  
17 maybe that is the one we should do. I'm going to  
18 propose that we not do this in a systematic way since  
19 we seem unable to get that kind of proposal forward,  
20 but that we just look now at everything that we have  
21 pending, like the old L.A. report, as opposed to the  
22 new L.A. report and say in light of this now reality  
23 called no money and no statisticians and no likelihood  
24 of the tooth fairy for the money, what's the value in  
25 doing the L.A. report, the first one that was done --

1 in what year was that even?

2 CHAIRPERSON BERRY: '93.

3 COMMISSIONER REDENBAUGH: '93. Well, it will  
4 be '97 when it's out. It's still young for a Cabernet.

5 (Laughter.)

6 It's all right for some of those low end -- I  
7 got back from California on the late red-eye.

8 CHAIRPERSON BERRY: That I can support.

9 Okay.

10 COMMISSIONER HORNER: It's good for you,  
11 Russell.

12 COMMISSIONER REDENBAUGH: Had some low end  
13 wine on the plane.

14 VICE CHAIR REYNOSO: For breakfast?

15 COMMISSIONER REDENBAUGH: Yes, of course.

16 Breakfast of champions.

17 So, okay, let's not do this systematically.

18 I'm going to make a proposal we throw out the old L.A.

19 Report. As valuable as it will be, it is less valuable

20 than the things that are more recent. We publish the

21 transcript from the '93 report, the L.A. but we

22 complete the Reynoso-Anderson current hearing quickly.

23 And by quickly, I mean 100 days from now because

24 clearly there are problems in L.A. County. I think we

25 can bring public service there. I think the return on

1 us doing that is very high.

2 And so I'm going to make that as a proposal  
3 and then I'm going to go through the list and make  
4 those. And I think this is not a very good way to do  
5 it but it is a way, and maybe it will get it done. Or  
6 we could have another meeting about it.

7 COMMISSIONER HIGGINBOTHAM: Could we take a  
8 recess somewhere?

9 CHAIRPERSON BERRY: Yes. As soon as Vice  
10 Chair speaks we're going to take -- how many minutes?

11 COMMISSIONER HIGGINBOTHAM: Two.

12 CHAIRPERSON BERRY: A five minutes recess.

13 VICE CHAIR REYNOSO: Madam Chair, I think my  
14 recollection is that we had a consensus around the  
15 table that our highest priority would be to get done  
16 those things that we already had on the table. And so  
17 that would -- if that consensus was correct, it would  
18 agree with part of what Russell said; i.e., get the  
19 Russell-Anderson report done. But it would go  
20 contrary, I think, to the notion that we'd not get done  
21 the previous report.

22 That consensus was simply to put the highest  
23 priority on getting those things done.

24 COMMISSIONER REDENBAUGH: Yes. And I'm  
25 moving against that consensus and now saying let's look

1 at the highest value. It would be a departure.

2 CHAIRPERSON BERRY: We'll take a five minute  
3 recess and begin right there.

4 (Whereupon, a brief recess was taken.)

5 CHAIRPERSON BERRY: We started at the point  
6 where Russell had made a proposal and then Cruz had  
7 made a response to it. Let's discuss -- if we can,  
8 let's begin there. But let me point out before I do  
9 that I asked the staff while we were recessed to tell  
10 me exactly how much money we could spend on projects  
11 for 1997, which I thought was a useful thing to know.

12 COMMISSIONER REDENBAUGH: That would be most  
13 useful.

14 CHAIRPERSON BERRY: And they gave me a number  
15 which is \$1,767,000.

16 COMMISSIONER REDENBAUGH: \$1.6 million?

17 CHAIRPERSON BERRY: \$1,767,000. That given  
18 the money we spend on everything else, including SAC  
19 reports and SAC hearings and Commissioners and  
20 everything else in the world, that the amount that you  
21 see on page -- whatever this page is, FY 1997 project  
22 priorities, where that list is, you have to reduce that  
23 \$3,870,000 by what percentage that is of the \$11  
24 million we didn't get. Which gets us down to only  
25 \$1,767,000 for projects as opposed to \$3,875,000.



1           COMMISSIONER REDENBAUGH: Well, now this is  
2 starting to look like something I can interact with.  
3 Like we've got \$1.7 million. How do we want to spend  
4 it.

5           CHAIRPERSON BERRY: Right. For 1997.

6           COMMISSIONER REDENBAUGH: Right.

7           VICE CHAIR REYNOSO: Madam Chair, I have a  
8 preliminary question. Does that include putting a high  
9 priority on getting the projects done that we've  
10 already voted to do?

11           For example, does it include maybe hiring a  
12 person to do our statistical work for three months?  
13 Staff indicated maybe that was a matter for us to talk  
14 about, maybe even decide.

15           I know my own view would be to do whatever it  
16 takes to get those done in a timely fashion, even if it  
17 means eating up \$767,000 of the \$1 million that we have  
18 for projects and having only \$1 million in new  
19 projects.

20           CHAIRPERSON BERRY: Well, the answer -- I'll  
21 let the staff say something, but the answer to the  
22 precise question you asked, Vice Chair, seems to me to  
23 be that if we were to decide that that's what we wanted  
24 to do or adhere to a decision we made previous that  
25 that's what we wanted to do -- I'm talking about

1 decisions now about the old projects, the existing  
2 projects. Not talking about new decisions. That would  
3 be what we would tell the staff to do. But that is  
4 what the precise question is.

5 Do we want to finish these projects within  
6 that? Do we want to spend money to start up these  
7 other projects? What is it we want to do? But that  
8 gives us some idea of what we're talking about in terms  
9 of money.

10 Yes, Commissioner Anderson?

11 COMMISSIONER ANDERSON: Well, I must say that  
12 it's a perplexing question because of this. Five  
13 thousand pages of document is not a light paperwork  
14 burden to have placed on private firms. And to be here  
15 this length of time now reconsidering whether or not  
16 we're going to hire a statistician to review that after  
17 -- I don't know how much staff time and xeroxing costs  
18 and all of that it took these firms to produce these  
19 documents that we asked for.

20 But if we're going to sit here and say we're  
21 not going to use those now, then I'm going to move that  
22 we return all the documents with a letter of apology  
23 and a check to cover the cost of forwarding all the  
24 documents to us.

25 CHAIRPERSON BERRY: Commissioner Anderson,

1 may I say that staff just told me that when I stated to  
2 you how much it is, the number I gave you is the number  
3 we were to subtract, not the number. And that the  
4 actual number is \$2,103,000. The number I gave you was  
5 to be subtracted from the \$3.8 million.

6 So I feel like I just found some money.

7 (Laughter.)

8 COMMISSIONER REDENBAUGH: There is a tooth  
9 fairy.

10 COMMISSIONER ANDERSON: What's the \$1.7  
11 million, though?

12 CHAIRPERSON BERRY: In other words, -- why  
13 don't you explain it? George, explain it.

14 MR. HARBISON: The \$1.7 million is the amount  
15 by which we have to reduce the projects by. In other  
16 words, we're projecting \$3.8 million in projects.

17 COMMISSIONER REDENBAUGH: I understand the  
18 mathematics. I grasped that. What is included in the  
19 \$1.7 million?

20 STAFF DIRECTOR MATHEWS: That's what we are  
21 determining right now.

22 CHAIRPERSON BERRY: In other words, you did a  
23 percentage. You said if you had \$11.4 million then the  
24 project costs, based on what the staff had put together  
25 of how many people it would take to complete and print

1 and all that, was \$3,870,550 out of \$11.4 million. Is  
2 that right?

3 MR. HARBISON: That's correct.

4 CHAIRPERSON BERRY: You're saying that we  
5 didn't get \$11.4 million, so you've simply reduced pro  
6 rata or how did you do this?

7 Is that what you want to know, Russell, how  
8 they did it?

9 COMMISSIONER REDENBAUGH: But I want to make  
10 a different request because I can't make a decision on  
11 a number that is derived at in such an approximate way.  
12 We're going to have some number like \$8.7 million;  
13 right? Of the \$8.7 million, how much is spent just to  
14 keep the doors open before we do one project? You  
15 know, all of the so-called overhead operating costs  
16 that are not associated with projects.

17 CHAIRPERSON BERRY: Do you want that to  
18 include SAC's and complaints and everything else, or  
19 you just want it to include just rent and lights and  
20 all that sort of stuff?

21 STAFF DIRECTOR MATHEWS: Ongoing business?

22 COMMISSIONER REDENBAUGH: Yes. Whatever we  
23 say is the base level. I need a number that I can  
24 interact with which says we start with \$8.7 million.  
25 It looks like we've got leases and head count costs of

1 this much. If we do the SAC's, this costs this much.

2 COMMISSIONER GEORGE: Could you speak into  
3 the mike a little more?

4 COMMISSIONER REDENBAUGH: Yes, sir. I feel  
5 like General Patton.

6 So that I'm used to seeing budgets like that  
7 all the time in organizations, some of which are not  
8 for profit, in which then the Board says, oh, I see,  
9 well, it looks like the reality is we now have X  
10 million. What are we going to spend it on.

11 CHAIRPERSON BERRY: So, why don't we --  
12 George, if you could make the budget more transparent,  
13 if I might use that expression, to the Commissioners  
14 and tell us of that \$8.74 million that we have for  
15 1997, how much of that is spent for things other than -  
16 - or must be spent for things other than projects.

17 MR. HARBISON: Approximately \$6.5 million.

18 COMMISSIONER REDENBAUGH: Great. So then we  
19 have approximately \$2 million, approximate, plus or  
20 minus 10 percent. Good.

21 So now does the \$2 million include SAC's?

22 CHAIRPERSON BERRY: Or the \$6.5 million  
23 include SAC's?

24 MR. HARBISON: The \$6.5 million includes  
25 SAC's.

1 COMMISSIONER REDENBAUGH: So the \$2 million  
2 is --

3 MR. HARBISON: Project related.

4 COMMISSIONER REDENBAUGH: -- projects, above  
5 the operation to the SAC's and all that?

6 MR. HARBISON: Yes.

7 COMMISSIONER REDENBAUGH: Good. Now, the  
8 pending and ongoing projects not yet completed, the  
9 ones that are having birthdays, what do you think it  
10 will cost in '97 to either complete or to work on those  
11 beloved legacy projects?

12 MR. HARBISON: The estimate on that was \$3.8  
13 million.

14 COMMISSIONER REDENBAUGH: That is north of  
15 the \$2 million?

16 MR. HARBISON: That's correct.

17 COMMISSIONER REDENBAUGH: I say we have a  
18 tiny little problem.

19 CHAIRPERSON BERRY: No. That included new  
20 things. Those are new projects. The question he asked  
21 was complete.

22 MR. HARBISON: I'm sorry.

23 COMMISSIONER REDENBAUGH: Well, some of them  
24 may not be completed in the year we're in.

25 CHAIRPERSON BERRY: Well, do you want us to

1 first do how much it would take us to complete the ones  
2 we're doing and do that separately and then the new  
3 ones, or do you want to do it all together?

4 COMMISSIONER REDENBAUGH: No. I definitely  
5 want to separate them out. These old projects that we  
6 have there's touching fondness for.

7 CHAIRPERSON BERRY: So in order to complete  
8 the ones that we have in the pipeline, how much money  
9 will we have to spend in 1997 of this \$2,103,000 which  
10 is what we have on them?

11 COMMISSIONER REDENBAUGH: Right. That's the  
12 question.

13 CHAIRPERSON BERRY: And then if we figure  
14 that out, then we'll know if we have anything left.

15 VICE CHAIR REYNOSO: Is that what's included  
16 at page 7, breakdown of estimated cost of projects for  
17 FY '97 or not?

18 CHAIRPERSON BERRY: It would be the total of  
19 the five on project priorities with '97. So if we add  
20 up the first five projects on that page, that will tell  
21 us the amount. Is that the answer?

22 STAFF DIRECTOR MATHEWS: Right.

23 CHAIRPERSON BERRY: Well, how much is that?  
24 I don't have a calculator.

25 STAFF DIRECTOR MATHEWS: \$739,500.

1 CHAIRPERSON BERRY: \$739,500.

2 COMMISSIONER REDENBAUGH: That's for the --  
3 could you just name the projects by name?

4 CHAIRPERSON BERRY: The New York hearing, the  
5 report, the Miami report, the LA hearing report. The  
6 Mississippi hearing and the Equal Educational  
7 Opportunity report, finishing it, if I added these up  
8 right.

9 COMMISSIONER REDENBAUGH: And how much is  
10 Mississippi?

11 CHAIRPERSON BERRY: The Mississippi Delta  
12 hearing, they have here \$195,000.

13 COMMISSIONER REDENBAUGH: Just for the  
14 hearing but not the report?

15 CHAIRPERSON BERRY: Right.

16 COMMISSIONER REDENBAUGH: The report would  
17 then come in '98.

18 CHAIRPERSON BERRY: Right.

19 COMMISSIONER REDENBAUGH: Would it be a  
20 number like \$100,000 or more like \$250,000?

21 CHAIRPERSON BERRY: In '98, you mean?

22 COMMISSIONER REDENBAUGH: Uh-huh.

23 CHAIRPERSON BERRY: Or is this for the whole  
24 thing?

25 COMMISSIONER REDENBAUGH: No, for the --



1 CHAIRPERSON BERRY: I'm asking the staff.

2 COMMISSIONER REDENBAUGH: Oh, I got it.

3 CHAIRPERSON BERRY: Is this the entire cost  
4 of the Mississippi Delta?

5 MS. MOORE: Project? No. it's the hearing,  
6 not the full project costs.

7 CHAIRPERSON BERRY: So we don't know how much  
8 the report is. That would come in 1998.

9 MS. MOORE: Right.

10 CHAIRPERSON BERRY: If it's approved to be  
11 conducted in 1997, yes.

12 COMMISSIONER REDENBAUGH: Now I see that we -  
13 - or we may be missing it here, but the report on that  
14 Mississippi is not on as a '98 project.

15 CHAIRPERSON BERRY: Right. I don't see it.

16 COMMISSIONER HIGGINBOTHAM: Madam Chair, what  
17 I would ask for the staff's security, psychological  
18 security, that after this conference is over, they have  
19 an opportunity to get a memo to us. There is nothing  
20 worse than almost putting someone under cross-  
21 examination. And this is appropriate for us to get the  
22 information within a few minutes.

23 And what I just really want to know by say  
24 maybe tomorrow or I mean Monday or Tuesday, whether  
25 you, looking at these figures, that that's where you

1 finally are.

2 I mean, I don't want to leave here thinking  
3 it's \$1.7 million, \$2 million. But I'm just trying to  
4 get a flavor because they shouldn't be bound on the  
5 figures without having an opportunity to reflect on it  
6 in a couple of days.

7 COMMISSIONER REDENBAUGH: I agree completely.

8 CHAIRPERSON BERRY: Well, they can review  
9 them but this gives us enough of an idea that we can --

10 COMMISSIONER HIGGINBOTHAM: Yes. Sure.  
11 That was the only caveat I was making.

12 COMMISSIONER REDENBAUGH: So that pending and  
13 continuing is about \$700,000?

14 CHAIRPERSON BERRY: About.

15 COMMISSIONER REDENBAUGH: Okay.

16 CHAIRPERSON BERRY: And we've already  
17 invested, Russell, since you like to know how much  
18 we've already invested in the Mississippi hearing, if  
19 I'm reading this right, that would be -- in 1996 it was  
20 \$135,000? Am I reading this right? \$135,000 was  
21 invested in 1996 in getting ready for it.

22 COMMISSIONER REDENBAUGH: I tell you -- well,  
23 that is a sunk cost. So that \$700,000, that leaves  
24 about \$1.3 million.

25 CHAIRPERSON BERRY: Right. For new things.

1           COMMISSIONER REDENBAUGH: For new things. If  
2 we rank ordered our new things, how far down the list  
3 would we get with \$1.3 million?

4           CHAIRPERSON BERRY: We would, looking at  
5 this, if we agree to keep on the list Americans with  
6 Disabilities Act as the statutory report, that would  
7 take \$1.14 million. In other words, it would probably  
8 take the money.

9           COMMISSIONER REDENBAUGH: Looks like it,  
10 doesn't it?

11          CHAIRPERSON BERRY: Yes. That's the way it  
12 looks. But I'm just pointing that out.

13          VICE CHAIR REYNOSO: Why don't we just do  
14 that and affirmative action. That is, just go straight  
15 down the line. Do six or seven for '97. That's about  
16 it in terms of the money that we have.

17          CHAIRPERSON BERRY: The only other option is  
18 to pick a cheaper statutory report in order to leave  
19 money for -- I don't know what a cheaper statutory  
20 report would be. I'm just saying that in order to get  
21 extra money for some of these others. Otherwise, just  
22 push the others into 1998.

23          VICE CHAIR REYNOSO: Yes.

24          CHAIRPERSON BERRY: If we indeed still want  
25 to do them. We could -- may I just make one suggestion

1 and then I'll recognize you.

2 We could consider the Equal Educational  
3 Opportunity Report, Volumes 2 through 6, as meeting the  
4 statutory requirement for that next year and then defer  
5 ADA to the next year. I am not suggesting that we do  
6 this.

7 COMMISSIONER REDENBAUGH: We could.

8 CHAIRPERSON BERRY: I am simply pointing out  
9 that this is a cheaper project. And if there are other  
10 things on this list that people really think ought to  
11 be done within the amount of money available, then we  
12 can discuss that. That's my only point.

13 Yes, Commissioner Horner?

14 COMMISSIONER HORNER: Just a caveat. If we  
15 were to do the ADA and affirmative action, that plus  
16 the completion of the other reports plus overhead and  
17 ongoing activities would consume our entire budget,  
18 leaving nothing for contingency. And I would suggest  
19 that it would be wiser to decide, if we were to decide  
20 to do the ADA, to decide to do that and let it go at  
21 that, thereby allowing us the contingency of deciding  
22 to do an affirmative action hearing or not, leaving us  
23 the option if something larger arises.

24 Ditto, if we were to do the crisis of African  
25 American males in inner cities, that would consume the

1 full budget, leaving no room for anything else. And I  
2 just thought Commissioner Redenbaugh should know that  
3 the two projects listed here, if we were to do  
4 affirmative action, ADA and complete the other reports,  
5 the two that would be left off would be schools and  
6 religion and crisis of African American males in inner  
7 cities.

8 CHAIRPERSON BERRY: And they would have to be  
9 deferred until the next year, if they're kept on the  
10 list.

11 COMMISSIONER REDENBAUGH: There's maybe  
12 \$200,000 if we're willing to not do Mississippi.

13 CHAIRPERSON BERRY: Now we had this  
14 discussion before you came.

15 COMMISSIONER REDENBAUGH: Oh. I gather you  
16 all like Mississippi?

17 CHAIRPERSON BERRY: Commissioner Lee?

18 COMMISSIONER REDENBAUGH: Good. Let's not  
19 reopen that issue, then. We'll keep it on.

20 VICE CHAIR REYNOSO: See you in Mississippi.

21 (Laughter.)

22 CHAIRPERSON BERRY: Commissioner Lee?

23 COMMISSIONER LEE: Since I'm one of the newer  
24 members here, I need a lesson on accounting and budget  
25 dealing with the government.

1           On some of these projects, when you submit --  
2 let's say you're going to do ADA. Can you split the \$1  
3 million to say half here and half in '98? Because when  
4 you submitted the New York, Miami hearing, whatever,  
5 that was in an earlier fiscal year, so this is a  
6 carryover. Should it be a carryover?

7           So the budget was already accounted for in  
8 earlier fiscal year?

9           CHAIRPERSON BERRY: No, no. It's based on  
10 the requests.

11          COMMISSIONER LEE: Based on the requests.  
12 Okay.

13          CHAIRPERSON BERRY: Which we didn't get.

14          COMMISSIONER REDENBAUGH: But I think the  
15 answer to your question generally is yes, Yvonne, that  
16 money that's spent in a prior year on a project is not  
17 reflected in the spending proposal for this year.

18          CHAIRPERSON BERRY: If that's what the  
19 question is.

20          COMMISSIONER REDENBAUGH: I think that was  
21 what I thought.

22          COMMISSIONER LEE: So we can still decide on  
23 doing ADA, crisis of African American males, and have  
24 the balance of the project costs to be carried over in  
25 '98?

1           CHAIRPERSON BERRY: If we're going to do ADA  
2 as a statutory report, we are supposed to try and  
3 finish it within a year. Now, whether we do or not --

4           COMMISSIONER REDENBAUGH: Well, is that  
5 accurate or it has to be --

6           CHAIRPERSON BERRY: Published or something.  
7 It's supposed to be finished within a year.

8           COMMISSIONER REDENBAUGH: No, but I mean that  
9 it could take more than one year. It would be the  
10 statutory report for the year in which it is completed.

11          CHAIRPERSON BERRY: That's true, as long as  
12 you had another one for the other year.

13          COMMISSIONER REDENBAUGH: Well, I'm willing  
14 to have a different statutory report and move ADA down.  
15 I think it is important but I don't think it rises to  
16 the level of concern that I have for issues of race as  
17 opposed to disability.

18          So I know that I have championed this report  
19 so I'll take a lead and saying against the reality of  
20 the budget which we now have, I am willing to downsize  
21 it, spread it over two years, have it be statutory in  
22 '98.

23          I would ask that it be -- that when we do do  
24 it, that it would be a statutory report, but I will  
25 certainly be willing to move it out of '97.

1 CHAIRPERSON BERRY: Now, if we did New York  
2 hearing report -- I'm just adding up numbers. Complete  
3 Miami -- one, two three, four, go down the list, five.  
4 Make the Equal Educational Opportunity part our  
5 statutory report and begin ADA in 1997.

6 In terms of money, would we then have enough  
7 money to complete or begin or something, some of these  
8 other projects? And would we want to do that? I mean,  
9 that's what the question is.

10 COMMISSIONER REDENBAUGH: Well, yes. And I  
11 would add to what you said -- and holding back some  
12 amount.

13 CHAIRPERSON BERRY: For contingencies?

14 COMMISSIONER REDENBAUGH: Yes. Because stuff  
15 always happens. And I don't know what that amount is  
16 but it's probably a couple hundred thousand, at least.

17 CHAIRPERSON BERRY: Now, whoever has got the  
18 calculator over there, if you add up these things, the  
19 first five, how much is that?

20 COMMISSIONER HIGGINBOTHAM: I think it's  
21 around \$739,500.

22 CHAIRPERSON BERRY: And then if we were to  
23 add some beginning on the ADA, like half of it in that  
24 year?

25 STAFF DIRECTOR MATHEWS: Madam Chair, if I



1 could cut at ADA slightly differently than half. The  
2 chart on page 8 represents a --

3 COMMISSIONER HIGGINBOTHAM: Page 8?

4 STAFF DIRECTOR MATHEWS: Page 8, Item Number  
5 7, is ADA. And there is a subcomponent of the overall  
6 cost there; one for the CRE enforcement portion which  
7 amounts to \$780,000, and then the OGC estimate, which  
8 includes a hearing and a hearing report, at \$220,450.

9 CHAIRPERSON BERRY: Now which one of those  
10 has to be done first?

11 MR. HARBISON: The first portion.

12 CHAIRPERSON BERRY: The OCRE part?

13 MR. HARBISON: OCRE part. Right.

14 CHAIRPERSON BERRY: So if we're going to  
15 divide it, we get to save only \$220,000, but at least  
16 that's less than \$1 million whatever.

17 STAFF DIRECTOR MATHEWS: Right.

18 CHAIRPERSON BERRY: But we don't know how  
19 much of the OCRE stuff would be done in the first year  
20 but we could budget it that way.

21 Yes, Commissioner Anderson?

22 COMMISSIONER REDENBAUGH: Can I ask you a  
23 question?

24 CHAIRPERSON BERRY: Commissioner Anderson.

25 COMMISSIONER REDENBAUGH: Oh, I'm sorry.

1 CHAIRPERSON BERRY: You want to defer?

2 He's deferring to you.

3 COMMISSIONER REDENBAUGH: Thanks. Just for  
4 clarification. ADA is \$1 million --

5 CHAIRPERSON BERRY: \$1.14 million.

6 COMMISSIONER REDENBAUGH: Okay. Let's just  
7 call it \$1 million. And that appears to be sufficient  
8 to complete it in the year '97 or immediately  
9 thereafter.

10 CHAIRPERSON BERRY: If we started it right  
11 away; right?

12 COMMISSIONER REDENBAUGH: Right. Well, you  
13 know, if all we save is \$200,000 by dividing it, it may  
14 be more effective -- efficient, actually, to do the  
15 whole thing in '98 so that we reduce our number of  
16 projects that span more than one year.

17 Does that make any sense? It may not.

18 CHAIRPERSON BERRY: It makes sense.

19 COMMISSIONER REDENBAUGH: So that we don't  
20 have to give it a birthday card if we start it in late  
21 '97 or like early '98 and complete it.

22 Now, if we move in that direction, it also  
23 will mean that we have a -- over time, we will move  
24 toward a smaller list of projects on shorter cycle  
25 times which I think would be both easier to administer

1 and manage, but it would also increase their value to  
2 the readers because it's less elongated in their  
3 preparation.

4 CHAIRPERSON BERRY: So the suggestion is that  
5 we move ADA to 1998?

6 COMMISSIONER REDENBAUGH: Well, I'm making  
7 two suggestions. That is one. I mean, that's the  
8 instant case. But I'm also suggesting that we consider  
9 reducing our -- when possible, reducing our number of  
10 multi-year projects so that we may do fewer projects in  
11 any one year but have more completions. Really shorten  
12 the cycle time so that we don't publish a report five  
13 or six years after the hearing on the incident which  
14 may have given rise to the hearing.

15 CHAIRPERSON BERRY: Okay. And if we were to -  
16 - I'm going to recognize you in a second, Carl.

17 If we were to move ADA to 1998, then we would  
18 have room to keep -- if we wanted to keep it. We've  
19 already approved -- this is '97. We have approved the  
20 '97 ones -- schools and religion. And then we still  
21 wouldn't have enough money to do, if I'm counting  
22 right, the crisis of African American males in the  
23 inner city.

24 COMMISSIONER HIGGINBOTHAM: You would.

25 CHAIRPERSON BERRY: We would not?

1           COMMISSIONER HIGGINBOTHAM: Yes, because you  
2 would. You're supposed to have \$2,103,000 available.

3           COMMISSIONER REDENBAUGH: But that calls for  
4 five hearings.

5           CHAIRPERSON BERRY: But that's for all of  
6 these up there in the beginning, finishing them. It  
7 may be that if it's in parts, there's some part of it -  
8 - is it in parts? No, it's not in parts.

9           Okay. Commissioner Anderson?

10          COMMISSIONER ANDERSON: Thanks. Well, I'm  
11 sort of sorry I deferred. I would like to offer an  
12 alternative to Commissioner Redenbaugh of  
13 consideration. I think the best thing this Commission  
14 can do this year -- I'm talking '97 here -- is to bring  
15 our uncompleted projects to closure, complete them and  
16 then, I would argue we should take a major statutory  
17 report and complete it in one year, not split it.

18          So, I would argue do spend the \$740,000  
19 necessary to do New York, Miami, Mississippi, L.A. and  
20 equal education and then decide to do either Americans  
21 with Disabilities Act statutory report or slightly trim  
22 prices of African American males, if we can do that in  
23 a year, and do that.

24          COMMISSIONER REDENBAUGH: As a statutory?

25          COMMISSIONER ANDERSON: Yes. Clean our decks

1 and then come in with a major statutory report that we  
2 can say, look, this is what we've done.

3 I think we ought to just take a year and not  
4 do any more multi-year projects, finish what we have,  
5 and then do something that we can get out of here in a  
6 year that we can have significant --

7 CHAIRPERSON BERRY: The only query I'd make,  
8 Carl, and then you might want to respond, is we can't  
9 do crisis of African American males as a statutory  
10 report because by statute what we must do is an  
11 enforcement report. And so it's go to be some kind of  
12 enforcement report.

13 COMMISSIONER ANDERSON: Well, then, I would  
14 say that we should do the ADA, a major contribution to  
15 that, and finish it this year.

16 CHAIRPERSON BERRY: I don't know who was  
17 next.

18 COMMISSIONER HIGGINBOTHAM: The Vice Chair.  
19 I have a sense of priority.

20 VICE CHAIR REYNOSO: I was just going to say  
21 that if Carl thinks the crisis of African American  
22 males in the inner city is more timely, as Russell  
23 seemed to indicate, then Americans with Disabilities  
24 Act, we could still do that one this year and do the  
25 Education Opportunity Projects, 3 to 6, as the

1 statutory project. Then do crisis of African American  
2 males, which comes in at just about right, \$1.3  
3 million. And then have Americans with Disabilities Act  
4 as the statutory report the following year, but do it  
5 all in one year.

6 CHAIRPERSON BERRY: Carl, how does that  
7 sound? In other words, we'd satisfy the statutory  
8 requirement with the Equal Opportunity, the next parts,  
9 and then do African American males and then do ADA the  
10 next year.

11 COMMISSIONER ANDERSON: Well, that's  
12 certainly an option. I think it's a reasonable one. My  
13 question, and I don't have an answer to it, is I assume  
14 if we're putting \$1 million into the ADA report, it's  
15 going to be a substantial report. Now for a quarter of  
16 a million dollars we can do something on Equal  
17 Educational Opportunity, but is the amount of resources  
18 being expended here reflective of what we think our  
19 contribution is going to be on the subject?

20 CHAIRPERSON BERRY: Well, I think the answer  
21 there, I guess -- I don't know what the total answer --  
22 is that we already have these Equal Educational  
23 Opportunity ones underway and have already invested and  
24 we could finish them and then do ADA in one year and  
25 just set ourselves up to do it.

1 I don't really have any preference as to  
2 whether we do ADA or crisis of African American males.  
3 I think they will both be problems in 1998 and 1999 as  
4 they are in 1997.

5 Yes, Russell -- Commissioner Redenbaugh?  
6 Oh, I'm sorry. Commissioner Higginbotham.  
7 COMMISSIONER HIGGINBOTHAM: No. Russell,  
8 please.

9 CHAIRPERSON BERRY: He's deferring to you,  
10 Russell.

11 COMMISSIONER REDENBAUGH: Thank you.  
12 The crisis project, tell me the pricing on  
13 that? And is that total price or just the '97?

14 CHAIRPERSON BERRY: \$1.3 million total. Is  
15 that right?

16 MR. HARBISON: Yes.

17 STAFF DIRECTOR MATHEWS: Could I have the  
18 General Counsel clarify?

19 CHAIRPERSON BERRY: Clarify what?

20 STAFF DIRECTOR MATHEWS: General Counsel,  
21 could you clarify the description on the crisis of  
22 African American males in the inner cities?  
23 Commissioner Redenbaugh referred to five hearings.

24 MS. MOORE: Right.

25 CHAIRPERSON BERRY: Oh, we have a solution.

1 We're now going to get a solution Commissioner  
2 Redenbaugh.

3 Go ahead.

4 MS. MOORE: Well, I don't know if it's a  
5 solution or not but my recollection is that the project  
6 was originally conceived as consisting of five hearings  
7 in different inner city areas, and there is no  
8 selection. My recollection is that there was a  
9 discussion with respect to that and the concept was  
10 changed so that the hearing need not -- we don't need  
11 five hearings but we would evaluate the crisis of  
12 African American males over a five-year period.

13 CHAIRPERSON BERRY: That's what the  
14 discussion was in the Commission?

15 MS. MOORE: Right. That's my recollection.

16 CHAIRPERSON BERRY: So it wouldn't be \$1.3  
17 million?

18 COMMISSIONER HORNER: \$1.3 million a year for  
19 five years roughly?

20 CHAIRPERSON BERRY: Right. Rather than in  
21 one year? If her recollection is correct and if we  
22 agree with that.

23 MS. MOORE: Right. The review of five cities  
24 over a five-year period.

25 CHAIRPERSON BERRY: And someone discussed



1 that here in the meeting. I don't remember the  
2 discussion.

3 COMMISSIONER REDENBAUGH: Now I want to ask a  
4 different question. What can we get -- just like a kid  
5 in a candy store, I want a dime's worth of these -- for  
6 \$1.3 million or whatever the number is? What could we  
7 get in one year?

8 I mean, I really like this idea of the short  
9 cycle time and very few things spreading over multi-  
10 years.

11 CHAIRPERSON BERRY: But I guess the point to  
12 be made before we go on to the next person is that we  
13 were talking about is this \$1.3 million, was that for,  
14 according to your recollection, Stephanie, was that for  
15 five years, a hearing a year or --

16 MS. MOORE: That was for the entire project.

17 CHAIRPERSON BERRY: I see. That's different.

18 MS. MOORE: Right. Which would not include  
19 five hearings but we would be collecting data for a  
20 five-year period.

21 For example, it's 1996. The data would  
22 include information from 1990 to the present, so it's a  
23 five-year period that we would be evaluating from --

24 CHAIRPERSON BERRY: Oh, we'd be looking at a  
25 five-year period?

1 MS. MOORE: Yes, yes.

2 CHAIRPERSON BERRY: That's what the  
3 discussion was.

4 COMMISSIONER HORNER: Oh, that's different.

5 CHAIRPERSON BERRY: That's a whole different  
6 discussion.

7 COMMISSIONER HORNER: So we would spend \$1.3  
8 million or \$1.4 million in total in one year?

9 MS. MOORE: Collecting and evaluating the  
10 staff time that it would take to evaluate.

11 COMMISSIONER REDENBAUGH: Oh, so it would be  
12 looking back five years?

13 CHAIRPERSON BERRY: Right. So now we  
14 understand.

15 COMMISSIONER REDENBAUGH: I completely  
16 misunderstood. So that's the complete price and the  
17 project could be completed in a year.

18 CHAIRPERSON BERRY: Oh, okay. That's an  
19 interesting --

20 MS. MOORE: One hearing.

21 COMMISSIONER LEE: So it does not include  
22 holding hearings or anything? Because I thought we were  
23 going to do that?

24 CHAIRPERSON BERRY: One hearing.

25 MS. MOORE: One hearing, not five.

1 COMMISSIONER HORNER: I think that's worth  
2 doing.

3 COMMISSIONER REDENBAUGH: I do, too.

4 CHAIRPERSON BERRY: Okay. If we think that's  
5 worth doing, then where we're left is completing old  
6 stuff. I shouldn't call it old stuff. Completing the  
7 hearings, racial tension reports.

8 COMMISSIONER LEE: The inherited backlog.

9 VICE CHAIR REYNOSO: Completing the very  
10 important projects we have ongoing.

11 CHAIRPERSON BERRY: Equal Educational  
12 Opportunity as a statutory, second phase. And then  
13 what I hear on the table is the African American males.  
14 And then doing ADA the next year as the statutory  
15 report.

16 COMMISSIONER HIGGINBOTHAM: May I just get  
17 some factual clarification? It's my understanding that  
18 if you spend \$739,000-\$740,000 to complete that which  
19 is in process, we would still have \$2,103,000 left?

20 CHAIRPERSON BERRY: No, no.

21 COMMISSIONER HIGGINBOTHAM: What will we have  
22 left?

23 CHAIRPERSON BERRY: You have to subtract  
24 \$739,500 from \$2,103,000. Is that right?

25 STAFF DIRECTOR MATHEWS: Yes.

1 CHAIRPERSON BERRY: And whatever the --

2 COMMISSIONER HIGGINBOTHAM: Well, we're  
3 talking about you'd still have \$39,000 to subtract.  
4 We'd still have approximately \$2,050,000? What I want  
5 to know is what is the figure that we're supposed to  
6 have left after we complete the projects? I wrote here  
7 one time \$2,103,000.

8 CHAIRPERSON BERRY: No, no. The \$2,103,000  
9 is how much money we have -- and if I say it wrong,  
10 tell me -- to delay projects for fiscal 1997. And the  
11 \$739,500 has to be subtracted from the \$2,103,000,  
12 which then gave us a figure which -- I don't remember  
13 what it was. \$1 million something.

14 STAFF DIRECTOR MATHEWS: \$1.3 million.

15 CHAIRPERSON BERRY: And the question was what  
16 would we do with that million? And we would have to  
17 scale down the crisis to get it within a few dollars  
18 here, to get it within having some money left for  
19 contingencies and being able to do the project. But  
20 what we were discussing then is doing New York, Miami,  
21 L.A., Mississippi Delta, Educational Opportunities and  
22 the crisis of African American males, with a little  
23 left for contingency would absorb the money that we  
24 have for projects.

25 Yes, Commissioner Redenbaugh?

1 COMMISSIONER REDENBAUGH: I don't see in the  
2 '97 report -- and I may just be missing it --

3 COMMISSIONER GEORGE: Russell, I can't hear  
4 you at all.

5 COMMISSIONER REDENBAUGH: I'm sorry, Robbie.  
6 What I'm going to say is probably not that useful.

7 COMMISSIONER GEORGE: Okay. Just put it back  
8 where it was.

9 (Laughter.)

10 COMMISSIONER REDENBAUGH: Robbie, if I want  
11 to talk to you, I will. I'm not going to let that  
12 destroy my train of thought.

13 The summary report on the five-year Anderson-  
14 Berry project, racial tensions --

15 CHAIRPERSON BERRY: Why do you keep calling  
16 it Anderson-Berry project?

17 COMMISSIONER REDENBAUGH: It was your motion.

18 CHAIRPERSON BERRY: It's Anderson-Ramirez  
19 project. You've forgotten poor Blandino Cartes-  
20 Ramirez. Shame on you, Russell.

21 COMMISSIONER REDENBAUGH: Oh, I did forget.

22 CHAIRPERSON BERRY: When you leave the  
23 Commissioners who are left here are going to forget you  
24 if you do that.

25 COMMISSIONER REDENBAUGH: I'm sure of that.

1 CHAIRPERSON BERRY: You mean it doesn't list  
2 here -- what was that called?

3 COMMISSIONER REDENBAUGH: The summary report.

4 CHAIRPERSON BERRY: It's right now listed  
5 under 1998.

6 COMMISSIONER REDENBAUGH: Oh, I got it.  
7 Okay.

8 STAFF DIRECTOR MATHEWS: And that's because  
9 Mississippi won't be completed.

10 COMMISSIONER REDENBAUGH: Okay. That makes  
11 sense. Okay. Good.

12 CHAIRPERSON BERRY: Can we now have a motion  
13 to agree, so we can do 1998, if everyone is clear on  
14 what it is we're saying.

15 COMMISSIONER REDENBAUGH: You mean '97?

16 CHAIRPERSON BERRY: Oh, '97. So we can go to  
17 '98?

18 Yes, Commissioner Higginbotham. And then  
19 Commissioner George.

20 COMMISSIONER HIGGINBOTHAM: I'll yield to  
21 Commissioner George.

22 CHAIRPERSON BERRY: He yields to you,  
23 Commissioner George.

24 COMMISSIONER GEORGE: That means for '97  
25 there's no question of taking up schools and religion?

1 CHAIRPERSON BERRY: If we do it this way, it  
2 would be deferred to '98.

3 COMMISSIONER GEORGE: Okay.

4 CHAIRPERSON BERRY: We don't have to do it.  
5 We can hear discussion.

6 COMMISSIONER GEORGE: Well, I mean, it seems  
7 to me the only --

8 CHAIRPERSON BERRY: Commissioner Horner is  
9 willing. I don't know what she's saying.

10 COMMISSIONER HORNER: I'm saying I agree to -  
11 - I support the motion as currently shaped on the table  
12 and think, Robbie, that it would be worth deferring the  
13 schools and religions for another day in order to get  
14 this done.

15 CHAIRPERSON BERRY: Do you have further  
16 comment, Commissioner George?

17 COMMISSIONER GEORGE: No. I just want to  
18 make sure that I understand. It's whittled down to a  
19 choice of whether to do crisis of African American  
20 males or something else like schools and religion. But  
21 the consensus seems to be do crisis of African American  
22 males. Am I right?

23 CHAIRPERSON BERRY: That seems to be the  
24 reading around the table.

25 COMMISSIONER GEORGE: Yes. That's fine.

1           CHAIRPERSON BERRY: Commissioner Higginbotham  
2 and then Commissioner --

3           COMMISSIONER HIGGINBOTHAM: I really want to  
4 get these figures bottom lined.

5           CHAIRPERSON BERRY: Okay. Let's get them.

6           COMMISSIONER HIGGINBOTHAM: Am I correct that  
7 what will be left will be \$1,300,000?

8           COMMISSIONER ANDERSON: Yes.

9           COMMISSIONER HIGGINBOTHAM: All right. If I  
10 am correct on that, it seems to me that we should  
11 reduce the amount of money you are going to spend on  
12 crisis of African American males for a contingency of  
13 at least \$250,000.

14          CHAIRPERSON BERRY: Agreed.

15          COMMISSIONER HIGGINBOTHAM: So, therefore, I  
16 don't want the staff to gear up for \$1,300,000 and then  
17 for us to have an emergency and then someone says, no,  
18 we can't get a lawyer or a consultant or whatever we  
19 want.

20                 So, at one time when Milton Eisenhower was  
21 Chairman and I was Vice Chairman of the Nation  
22 Commission on the Causes and Prevention of Violence, we  
23 had 200 Ph.D.'s working for us. And it's amazing. You  
24 can cut a budget by 30 percent and improve the quality  
25 of the product 50 percent.



1           So, I see no reason why we can't do the  
2 crisis of African Americans on a \$1 million figure. The  
3 staff knows it. And from the beginning we planned it  
4 that way, rather than \$1,301,000.

5           Now, I asked the staff is there any reason  
6 why we can't do it for approximately a million so we  
7 will have some contingency room of at least a quarter  
8 of a million for contingencies which will take place.

9           CHAIRPERSON BERRY: Sure, Judge.

10           (Laughter.)

11           Because if they can scale it to give us a  
12 little more flexibility, hey, why not?

13           COMMISSIONER HIGGINBOTHAM: So if you've got  
14 \$1 million, now you've got at least a quarter of a  
15 million for contingencies. I would support that.

16           CHAIRPERSON BERRY: Commissioner Anderson,  
17 did you still want to make a comment?

18           COMMISSIONER ANDERSON: No. I think we -- are  
19 you going to move that?

20           CHAIRPERSON BERRY: Redenbaugh was about to  
21 say something.

22           COMMISSIONER REDENBAUGH: No. I thought  
23 someone else had a question.

24           CHAIRPERSON BERRY: The wild man from the  
25 West Coast on the red-eye.

1                   COMMISSIONER REDENBAUGH: Cabernet is always  
2 a good strategy.

3                   Yes. I want to ask that we have an  
4 articulation of the motion rather than it be a sense of  
5 the meeting, and I also want to point out that any  
6 laudatory comments I made about any program or project  
7 should no be interpreted as my approval of them.

8                   So if we could have a motion that captures  
9 this incident, including what Leon has recommended for  
10 the reduction to \$1 million --

11                  CHAIRPERSON BERRY: They're laughing at your  
12 dog. They shouldn't do that. He's a wonderful dog.

13                  COMMISSIONER REDENBAUGH: He's wonderful.  
14 I'm willing to put in the form of a motion if it would  
15 be helpful. I'd have no objection if anyone else  
16 would modify it.

17                  My motion would be that we have at an unnamed  
18 page project priorities for fiscal year 1997, five  
19 items; affirmative action hearing, Americans with  
20 Disabilities, crisis of African American males in the  
21 inner city and schools and religion.

22                  Of those five, we would make our priority  
23 only the crisis of African American males in inner  
24 cities, conditioned upon a maximum expenditure of \$1  
25 million. And there would therefore be a contingency of

1 approximately \$250,000-\$300,000 which would be utilized  
2 for other problems which will be coming up and be  
3 designated by the Commission.

4 Inherent in that, it means that the Americans  
5 with Disabilities Act will be moved back a year and  
6 that the Equal Educational Opportunity Volumes 2  
7 through 6 would be our statutory report.

8 CHAIRPERSON BERRY: Commissioner Horner?

9 COMMISSIONER HORNER: I think I'm working off  
10 a different unnamed page, and I want to clarify not  
11 confuse.

12 CHAIRPERSON BERRY: Are you on --

13 COMMISSIONER HORNER: I'm on the page that's  
14 titled "Project Priorities for FY 1997." And then as I  
15 understand it, we would end 1997, complete the New York  
16 hearing report, the Miami hearing report, L.A. hearing  
17 report, conduct the Mississippi Delta hearing, do the  
18 Equal Educational Opportunity report. And then add to  
19 that the crisis of African American males in inner  
20 cities for -- and Commissioner Higginbotham, you said  
21 \$1 million, leaving \$250,000. But I've got a figure of  
22 \$1.381 million on my chart.

23 So if we did it for a million, that would  
24 leave us \$381,500 available. Is that what you --

25 COMMISSIONER HIGGINBOTHAM: Whatever that

1 figure is.

2 COMMISSIONER HORNER: Yes. Is that what I  
3 understand is your motion?

4 COMMISSIONER HIGGINBOTHAM: That's my motion.

5 COMMISSIONER HORNER: Okay.

6 COMMISSIONER REDENBAUGH: Second.

7 CHAIRPERSON BERRY: It has been moved and  
8 seconded that this is what the Commission agrees to do  
9 for FY 1997.

10 Is there any further discussion?

11 STAFF DIRECTOR MATHEWS: Madam Chair, the  
12 impact of this in terms of CRE would be that they would  
13 finish the education series and then the question is  
14 would you like them to begin a project for the  
15 remaining time they would have that you would  
16 subsequently decide for '98.

17 CHAIRPERSON BERRY: Well, why can't they just  
18 start ADA?

19 STAFF DIRECTOR MATHEWS: Well, that's what I  
20 was thinking.

21 CHAIRPERSON BERRY: I mean, if they have time  
22 --

23 STAFF DIRECTOR MATHEWS: That's exactly what  
24 I was thinking.

25 COMMISSIONER ANDERSON: My guess is they

1 don't have money. They have time but they don't have  
2 money under the budget would be the problem.

3 So the question would CRE have a -- could  
4 they take part in the crisis of African American males  
5 or is there another way to plug them in within the  
6 budget?

7 CHAIRPERSON BERRY: The answer is yes.

8 STAFF DIRECTOR MATHEWS: Yes. That would take  
9 care of it.

10 CHAIRPERSON BERRY: Okay? All right.

11 With that understanding are you ready for the  
12 question?

13 (No response.)

14 Okay. All in favor of the motion indicate by  
15 saying aye?

16 (Chorus of ayes.)

17 Opposed?

18 (No response.)

19 All right. It has been moved, seconded and  
20 voted on and approved that this is what the Commission  
21 will do for 1997.

22 Now, let's go to 1998. In 1998, George, you  
23 must have known I was going to ask this. In 1998 we  
24 have a different issue.

25 First, we move ADA, turn your page and put

1 ADA and schools and religion on the page. And the  
2 affirmative action hearing, the way Commissioner -- I  
3 guess we put it over there. But the way Commissioner  
4 Horner had said is if we had any money left, we might  
5 consider it, if it turned out that we did.

6 And so if it turns out that we do in 1997,  
7 somehow we could, if we save money somewhere. But  
8 otherwise, let's move these things over for  
9 consideration on this next page.

10 ADA and schools and religion had already been  
11 approved as projects sometime ago. They were approved  
12 for 1997, so the issue was not whether we were  
13 approving them. The issue is we have to move them over  
14 to 1998 unless we decide do disapprove them, which I  
15 don't think we're deciding.

16 Now, how much money would we be talking about  
17 at the bottom? Because we have to add those two to the  
18 numbers that are already on this page.

19 STAFF DIRECTOR MATHEWS: Out of the \$4  
20 million?

21 CHAIRPERSON BERRY: And so the question is of  
22 the things that are on this page, which ones does the  
23 Commission still want to do? They've been left, quote,  
24 on the list. Which ones do we want to take off the  
25 list?

1 Yes, Commissioner Redenbaugh?

2 COMMISSIONER REDENBAUGH: Would you just read  
3 them out loud?

4 CHAIRPERSON BERRY: Shall I read them?

5 COMMISSIONER REDENBAUGH: If you would,  
6 please.

7 CHAIRPERSON BERRY: I have just said  
8 affirmative action, schools and religion and the ADA  
9 are now on this list.

10 COMMISSIONER REDENBAUGH: Right.

11 CHAIRPERSON BERRY: Summary report of racial  
12 and ethnic tensions project, which would be the last  
13 thing finishing that up.

14 COMMISSIONER REDENBAUGH: Oh, yes. The  
15 Ramirez report.

16 CHAIRPERSON BERRY: Expanding the economic  
17 opportunities of African American, Asian and Latino  
18 youth.

19 Voting rights.

20 Naturalization issues.

21 Discrimination against persons with HIV and  
22 AIDS.

23 Consumer racism and sexism.

24 Evaluation of fair employment law.

25 Impact of block grant service delivery to

1 minorities.

2           Access to health care for women and members  
3 of racial and ethnic minorities.

4           Since this is a proposal to OMB, we're  
5 limited only by what we think we should submit and what  
6 projects we think we should continue to support.

7           Commissioner George?

8           COMMISSIONER GEORGE: Yes. I have a concern  
9 about the schools and religion proposal. Judging from  
10 what I see here on page 9, it looks to me as though the  
11 scope of the hearing has been scaled down considerably  
12 from what I proposed and what I thought the Commission  
13 was to do.

14           Now, I'm not sure because the details are not  
15 -- they're somewhat sketchy.

16           Under subhead 9 on page 9, schools and  
17 religions turned up in that \$181,000. It doesn't say  
18 how many hearings were going to be held. My proposal  
19 was always that we have four or five hearings so that  
20 it would be on a scale similar to what we have here for  
21 the crisis of African American males.

22           But the absence of any statement about the  
23 number of hearings, together with a comparatively low  
24 total estimate, leads me to think that somehow this has  
25 been scaled down.



1 CHAIRPERSON BERRY: Staff Director, could you  
2 tell us what the discussion was? And it doesn't matter  
3 really what it was. We can change it. But what is the  
4 staff recollection that led them to write this?

5 STAFF DIRECTOR MATHEWS: The last Commission  
6 meeting discussion on this project, there was some  
7 discussion about the number of hearings and I believe  
8 the way the discussion ended was about waiting to see  
9 what the appropriation was before deciding how many  
10 hearings. But that was under the contemplation that it  
11 would be a FY 1997 project. Now that we are  
12 considering it in '98, it's up to us. I mean, the  
13 sky's the limit as to how we want to approach it.

14 CHAIRPERSON BERRY: Is this number here --  
15 this number sounds like it's for one hearing, based on  
16 what I'm reading on page 9. Is that correct?

17 STAFF DIRECTOR MATHEWS: Is that correct,  
18 General Counsel?

19 MS. MOORE: On page 9?

20 CHAIRPERSON BERRY: Yes. On page 9, is that  
21 one hearing?

22 MS. MOORE: I believe that we did estimate  
23 one hearing. The last discussion I believe Commissioner  
24 George is correct that he did indicate his desire to  
25 keep the schools and religion project at a multi-

1 hearing level. However, the two previous submissions  
2 by the staff wherein we were asked to rank our  
3 priorities, we had submitted a recommendation that it  
4 be pared down in light of our staffing and budgetary  
5 considerations.

6 So because it wasn't approved in any form by  
7 the Commissioners, we've estimated, based on the lowest  
8 cost.

9 COMMISSIONER GEORGE: I'd like to make a  
10 suggestions.

11 CHAIRPERSON BERRY: I'll recognize you in  
12 just a second but Commissioner Horner is dying to  
13 speak, I think.

14 COMMISSIONER HORNER: Yes. Page 4 of the  
15 submission we received this week, under Part 2, schools  
16 and religion, says this project will include five brief  
17 hearings in Washington, D. C. and other sites. I just  
18 want to bring that to Commissioner George's attention  
19 so that he knows he's not crazy.

20 COMMISSIONER GEORGE: No, no. The General  
21 Counsel I think has captured it correctly. I want to  
22 suggest strongly that we put the schools and religion  
23 proposal on a stage similar to that of the crisis of  
24 African American males. We don't have to moved it up in  
25 priority with the crisis of African American males

1 because that is a crisis and we should do what we can  
2 on that as quickly as we can, but I don't want to see  
3 the schools and religion proposal scaled down. That's  
4 extremely important, something on which the Commission  
5 can make a genuine contribution. And I'd like to see  
6 it about at the scope of the proposal for crisis of  
7 African American males.

8 I realize that there are opportunity costs to  
9 all these things, but my own very strong view is that  
10 this is one that should be scoped up a bit.

11 CHAIRPERSON BERRY: So the original proposal  
12 was for five hearings and it was kept on the list at  
13 five hearings. It's your suggestion that we keep it on  
14 the list at that level and then recalculate the costs?

15 COMMISSIONER GEORGE: That's exactly right.  
16 Yes. I suspect it will be in the vicinity of the  
17 crisis of African American males but --

18 CHAIRPERSON BERRY: Okay. Let us then put in  
19 a plug figure for it of \$1 million and do five hearings  
20 and that will give us some idea. We're only talking  
21 about a recommendation anyway, a request.

22 COMMISSIONER GEORGE: Correct.

23 CHAIRPERSON BERRY: So let's do that, and  
24 then that will take care of that issue for the moment.

25 Any other Commissioner want to speak to that?

1 Yes. Vice Chair and then Commissioner  
2 Redenbaugh.

3 VICE CHAIR REYNOSO: Not to that project.

4 CHAIRPERSON BERRY: Do you want to speak to  
5 that project, Commissioner?

6 COMMISSIONER REDENBAUGH: No.

7 CHAIRPERSON BERRY: Okay. You want to speak  
8 to another project?

9 VICE CHAIR REYNOSO: Yes, Madam Chair.

10 CHAIRPERSON BERRY: Okay. Vice Chair and  
11 then Commissioner Redenbaugh.

12 VICE CHAIR REYNOSO: In some ways perhaps the  
13 most important project that we have on the list is  
14 Project Number 10 at page 9, measuring discrimination.  
15 and it's listed as a two-year project for nearly \$4  
16 million. I don't quite know what to do with the  
17 project that is that big but in terms of all the  
18 matters that we have on the table potentially, it seems  
19 to me that the most imaginative one and one where we  
20 would really be making a contribution to the people of  
21 this country is in examining how discrimination can be  
22 measured.

23 So all the others are sort of like crises, if  
24 you will. This is more in depth. And I just hate to  
25 have us lose sight of this project, particularly in

1 thinking of '98. And maybe it can be more than a two-  
2 year project if we don't have the money to put to it  
3 because that's not a crisis project, but I just view  
4 this as perhaps the single most important project that  
5 we have on here.

6 CHAIRPERSON BERRY: Well, I agree with that.  
7 In all of the debates about civil rights over the last  
8 four or five years, there have been issues raised about  
9 how much discrimination there is in various areas. And  
10 for the Commission this cuts across all of our  
11 jurisdiction, whether it's race, sex, national origin,  
12 religion and the like, and it cuts across everything  
13 from health care to education. Everything we do is  
14 affected by this.

15 When you talk about enforcement, the query  
16 is, you know, well how much discrimination is out  
17 there. I mean, everybody is against discrimination.  
18 And I spent some time over the Summer reading materials  
19 put together by those dismal people called economists  
20 about how you measure the stuff from their standpoint.

21 COMMISSIONER ANDERSON: I think that's  
22 accurate.

23 (Laughter.)

24 CHAIRPERSON BERRY: Or is it the science of  
25 economics that's dismal.

1           COMMISSIONER ANDERSON: I know that's based  
2 not only on the empirical evidence but your own  
3 experience.

4           CHAIRPERSON BERRY: Right. And there are all  
5 kinds of measures. Everybody's got their own lawyers  
6 and there are all kinds of ways to do this. But I  
7 would think that instead of this being a substitute for  
8 any other project we might do, that if the Commission  
9 wants to do it, we should make a special request  
10 explaining how it cuts across everything we do. For a  
11 big chunk of money to do a multi-year very thorough  
12 literature review, talking to scholars, briefings.

13           I mean, this is a big project if  
14 Commissioners are interested in doing it. But I think  
15 that we would be making a contribution that nobody else  
16 is making and it is very important to everything we do.

17           Yes, Commissioner Redenbaugh?

18           COMMISSIONER REDENBAUGH: Yes. I want to  
19 make a couple of comments. One about that in  
20 particular and then a proposal that has to do with the  
21 process for resolution.

22           I agree with what you've said about measuring  
23 discrimination and the potential importance of that. I  
24 would ask -- I think it is a multi-year project. Does  
25 it make sense to conceptualize it as a series of

1 related but single year projects which may either look  
2 at some -- one may design it either horizontally or  
3 vertically and I don't have a proposal for that. I  
4 mean, you may do employment one year and something else  
5 another year or you may do African Americans one year.  
6 I don't -- but I would like to think about it in terms  
7 of a series of end stand-alone projects that do  
8 connect.

9 CHAIRPERSON BERRY: Rather than a multi-year?

10 COMMISSIONER REDENBAUGH: Right. I think it  
11 would be more valuable in that way and that we would  
12 then have a series of completions rather than one four  
13 or five years out.

14 CHAIRPERSON BERRY: I don't have any  
15 objection to that. I think as long as we make it clear  
16 to the OMB and the Congress or whoever we ask the money  
17 for that we do intend to do these in all of the areas  
18 because it's so important to our jurisdiction and  
19 everything we do.

20 COMMISSIONER REDENBAUGH: And I would support  
21 the special request.

22 CHAIRPERSON BERRY: Yes.

23 COMMISSIONER HORNER: How is a special  
24 request different from our ordinary budget submission?

25 CHAIRPERSON BERRY: No, no. It would be a

1 budget submission. We could ask for a supplemental but  
2 indeed what I mean by special request is only that we  
3 shouldn't consider that we are weighing this one in  
4 terms of whether we ought to drop something else as we  
5 analyze it here.

6 And all I meant was making a special plea for  
7 it as something that we really need to do because it  
8 cuts cross everything you do and even if they don't  
9 want to give us a budget increase, at least for this  
10 one --

11 COMMISSIONER HORNER: Just make it -- you're  
12 suggesting we make it the highest priority internally?

13 CHAIRPERSON BERRY: Right.

14 COMMISSIONER HORNER: Or end, as reflected in  
15 our submission?

16 CHAIRPERSON BERRY: If the Commission wants  
17 to. Right. Because the Commission may not want to.  
18 And even if we want to make it the lowest priority, at  
19 least include it and make clear why we think that  
20 particular thing is important to everything we do.

21 So I don't know. What shall we do about this  
22 or should we just go down -- keep going down the list?

23 COMMISSIONER REDENBAUGH: I have a  
24 recommendation for a procedure for resolution on this.

25 CHAIRPERSON BERRY: Yes.



1           COMMISSIONER REDENBAUGH: I mean on the list,  
2 not on this current topic.

3           Robbie, I think you may want to hear this.

4           COMMISSIONER GEORGE: Thank you, Russell.

5           COMMISSIONER REDENBAUGH: Are there any other  
6 multi-year projects on the '98 list which could be  
7 either compressed or divided into two projects?  
8 Because that's the first way of looking.

9           CHAIRPERSON BERRY: Well, schools and  
10 religion, are we talking about having all these  
11 hearings in the same year? Hello?

12           COMMISSIONER GEORGE: Yes.

13           CHAIRPERSON BERRY: Would you like all these  
14 hearings to go in the same year?

15           COMMISSIONER GEORGE: Yes.

16           CHAIRPERSON BERRY: Okay. So I'm only  
17 inclined to answer Russell's question.

18           COMMISSIONER REDENBAUGH: Yes. So that's a  
19 one year.

20           COMMISSIONER GEORGE: It would be like what  
21 we're doing on African American males in '97, we're  
22 doing schools and religion in '98.

23           CHAIRPERSON BERRY: Okay. But on African  
24 American males, we're going to have data collection,  
25 literature review going back to 1990. Is that what I

1 understood? And a hearing?

2 MS. MOORE: Right. A five-year period.

3 CHAIRPERSON BERRY: But the project is a  
4 year.

5 COMMISSIONER REDENBAUGH: A year project.

6 CHAIRPERSON BERRY: So you're saying however  
7 this is composed it would be a year project?

8 COMMISSIONER GEORGE: That's my suggestion.

9 CHAIRPERSON BERRY: Okay. So that's a one-  
10 year one.

11 Do we have any multi-year ones on here?  
12 Commissioner Redenbaugh is eager to get rid of all  
13 multi-year projects.

14 The one for assessing the health care for  
15 women and members of racial and ethnic minorities is a  
16 more than one-year project.

17 COMMISSIONER REDENBAUGH: Is it two?

18 CHAIRPERSON BERRY: It is a -- how many years  
19 is it?

20 MR. ISLER: I think it's 18 months.

21 CHAIRPERSON BERRY: Eighteen months.

22 COMMISSIONER REDENBAUGH: Is that because of  
23 budget or because it really needs to take 18 months?

24 CHAIRPERSON BERRY: Fred?

25 MR. ISLER: Because it really needs to take

1 18 months.

2 COMMISSIONER REDENBAUGH: Okay. Got it.  
3 Anything else that's more than a year?

4 CHAIRPERSON BERRY: How long is consumer  
5 racism and sexism? That sounds like a year.

6 MS. MOORE: Yes. That's a year.

7 CHAIRPERSON BERRY: So the rest of them seem  
8 to be a year, am I correct? How about the impact of  
9 block grant service delivery, Fred?

10 MR. ISLER: One year.

11 CHAIRPERSON BERRY: One year. So that's --  
12 the only one that's over a year then is -- how about  
13 naturalization?

14 MR. ISLER: One year.

15 CHAIRPERSON BERRY: Okay. Voting rights?

16 COMMISSIONER LEE: Madam Chair, I'd like to  
17 go back to the block grant and mention it's a one-year  
18 project. The block grant didn't start until this  
19 fiscal year so you're just looking at a one-year --

20 CHAIRPERSON BERRY: But there are others  
21 besides welfare.

22 MR. ISLER: No. They've had block grants ever  
23 since 1970.

24 COMMISSIONER LEE: So you're not looking at  
25 the new block grant?

1 MR. ISLER: Yes. That would be included.

2 CHAIRPERSON BERRY: I think there's only five  
3 years of that.

4 MR. ISLER: Yes. That's correct.

5 COMMISSIONER LEE: Okay. I misunderstood. I  
6 thought you were just looking at the current change.

7 MR. ISLER: We're going back to the inception  
8 of block grants.

9 CHAIRPERSON BERRY: Is there any --

10 COMMISSIONER REDENBAUGH: So health care is  
11 18 months and the measuring discrimination is multi-  
12 year. We don't know really.

13 CHAIRPERSON BERRY: Unless we chop it up.

14 COMMISSIONER REDENBAUGH: Yes. And I hope we  
15 will do a series, but --

16 CHAIRPERSON BERRY: I am receptive of that.  
17 Is everyone -- are Commissioners receptive to even  
18 doing this project? I mean, I guess that's the first  
19 question we'd ask.

20 We have never even decided whether to keep it  
21 on the list even.

22 COMMISSIONER HORNER: Block grants?

23 CHAIRPERSON BERRY: No. Measuring  
24 discrimination.

25 Commissioner Anderson?

1           COMMISSIONER ANDERSON: Here is why I'm  
2 concerned at the moment. If you take the operating  
3 budget which I'm calling an operating budget of \$6.5  
4 million roughly and you add what we've just carried  
5 over, which is ADA, religion and school at \$1 million  
6 and affirmative action at a quarter of a million, you  
7 end up pretty much at \$8.7 million, which is sort of  
8 where we are with the Congress.

9           Now if you add on to that all of the projects  
10 we have under FY '98, plus the \$1.8 million for the  
11 measuring discrimination, you come up with, I think,  
12 somewhere around \$14.5 million, which is a pretty far  
13 place from where we are today.

14           CHAIRPERSON BERRY: May I ask you a question?  
15 I don't think I understood the first part of what you  
16 said.

17           You said if you add up the carryovers and  
18 something else, you get \$8.75 million?

19           COMMISSIONER ANDERSON: Yes. You add the  
20 operating costs, which is \$6.5 million roughly. So  
21 we're right at where we are. So it almost seems to me  
22 maybe the first question is to what extent we bring  
23 over from '97 and then how far over \$8.7 million we  
24 think we can go in '98. That may be a quicker way of  
25 doing it. And then if we want to add on the measuring

1 discrimination in America as sort of a line there that  
2 says if you want us to do this, this is what it takes  
3 over two years to do it.

4 CHAIRPERSON BERRY: Staff Director, did you  
5 want to say something?

6 STAFF DIRECTOR MATHEWS: I did. The \$6.5  
7 million, I believe, number that you were using, was the  
8 number that our Budget and Finance Chief gave for  
9 fiscal '97 as a base. We would need to add some figure  
10 for inflation and cost of living increase to bring it  
11 up to a '98 budget base.

12 COMMISSIONER REDENBAUGH: So something like  
13 \$7 million or more?

14 STAFF DIRECTOR MATHEWS: That would certainly  
15 be a good estimate for the purposes of this discussion.

16 COMMISSIONER REDENBAUGH: For this, let's use  
17 \$7.0 million.

18 CHAIRPERSON BERRY: And remember, there are  
19 career ladder employees who get promoted and that costs  
20 money.

21 COMMISSIONER REDENBAUGH: Right. We should  
22 have a refinement of this number in a day or two, as  
23 Leon asked.

24 CHAIRPERSON BERRY: Right.

25 COMMISSIONER REDENBAUGH: But it's in the

1 zone of \$7 million.

2 CHAIRPERSON BERRY: All right. So the first  
3 question we ask ourselves is do we, considering what  
4 Carl just said about how we will be adding this up to  
5 \$8.75 and more, it sounds like now.

6 MR. ISLER: \$9.2.

7 CHAIRPERSON BERRY: About \$9 [million]. Do  
8 we indeed -- we have already decided we want to carry  
9 over schools and religions. That's been decided, if I  
10 heard the table right.

11 COMMISSIONER REDENBAUGH: I think that's  
12 right.

13 CHAIRPERSON BERRY: What about -- and ADA, we  
14 have to have a statutory report and we think ADA is the  
15 one we ought to do. So there really isn't much to  
16 discuss there.

17 Do we want to carry over the affirmative  
18 action one? What is your pleasure, ladies and  
19 gentlemen?

20 COMMISSIONER REDENBAUGH: I do.

21 CHAIRPERSON BERRY: Redenbaugh does.

22 VICE CHAIR REYNOSO: I would, too. I think  
23 we'll have some experience at that time with staff and  
24 with the regions' new mandate with the University of  
25 California and I think we'll have some experiences to

1 compare in terms of what that brought about. If 209  
2 passes in California, we'll have that experience to  
3 look at.

4 COMMISSIONER REDENBAUGH: I don't want to  
5 terminate debate or discussion on the affirmative  
6 action but I will make this proposal. That we -- which  
7 may satisfy no one, but maybe still, that we adopt the  
8 priorities as they appear on this list, including any  
9 that we move over go to the top of the list. So if we  
10 do decide to move affirmative action over, then we just  
11 go down through the list as long as the money lasts.

12 CHAIRPERSON BERRY: But the money -- since  
13 we're talking about new -- you mean as long as the  
14 amount we have now and that we project?

15 COMMISSIONER REDENBAUGH: Let me say it  
16 another way. If we decide -- we'll price the list and  
17 decide that we're going to request from OMB X million,  
18 then that would decide how far down the list we run.

19 CHAIRPERSON BERRY: Well, the amount we have  
20 as a budget request right now, what's the total amount  
21 that is being proposed here? Nothing.

22 What is the amount the staff is proposing  
23 that we propose?

24 STAFF DIRECTOR MATHEWS: This would add up to  
25 the \$14 million that was presented.



1           CHAIRPERSON BERRY: \$14 million.

2           COMMISSIONER REDENBAUGH: Right. It may be  
3 that all Commissioners don't want to support a \$14  
4 million request.

5           CHAIRPERSON BERRY: Right.

6           COMMISSIONER REDENBAUGH: Then I'm proposing  
7 the expedient of using the rank order of priorities  
8 that we have here, which is probably suboptimal from  
9 any single Commissioner's point of view, but we avoid  
10 the reordering the priorities.

11          CHAIRPERSON BERRY: Okay. Now all of these  
12 items that are on the list here were left on the list  
13 and have been reviewed before and were left on the list  
14 by the choice of Commissioners.

15          COMMISSIONER REDENBAUGH: With the exception  
16 of the measuring discrimination. Was that on the list  
17 before?

18          CHAIRPERSON BERRY: Right, right. But that's  
19 not on this list. We have it down at the bottom of the  
20 page as a separate item.

21          So all of them have been vetted by the  
22 Commission before and left on the list. The question  
23 today as we go down the list is do you still want to  
24 leave X on the list as a priority. And then we'll see  
25 how much that costs. And I think everybody will say

1 leave all of them on the list. I think I just did that.  
2 And then the question is what can we drop if you think  
3 \$14 million is not enough -- I mean, is too much money  
4 to be asking OMB for. I guess that's what the question  
5 is.

6 Yes, Vice Chair?

7 VICE CHAIR REYNOSO: Madam Chair, I guess I  
8 don't share the view that we should be cutting down the  
9 projects if we think they're worthwhile. So I would say  
10 that we go forward with the \$14 million or adding the  
11 \$3 million, \$17 million, whatever it is.

12 And if we don't get it, we then have the  
13 discussion we just had in terms of priorities and  
14 probably go with schools and religion and ADA. But it  
15 seems to me appropriate for us to let OMB and Congress  
16 know what this Commission in its considerate judgment  
17 believes needs to be done in the field of civil rights.

18 And we've considered these matters and have  
19 thought of them, at least thus far, as being  
20 worthwhile.

21 CHAIRPERSON BERRY: So there's one answer.  
22 Now we have to get off the dime on this, ladies and  
23 gentlemen -- Commissioners. We have to vote today to  
24 either approve these projects or to approve something  
25 so we can send a budget to OMB.

1 Yes, Commissioner Horner?

2 COMMISSIONER HORNER: Madam Chair, I'd like  
3 to propose something in between what Commissioner  
4 Reynoso and Commissioner Redenbaugh proposed. I agree  
5 we do not need to confine ourselves to the current  
6 appropriation in our request but I also think that if  
7 we bucket OMB as is, that just asks OMB to participate  
8 in the deliberation over which projects to do. And I  
9 think we ought to assume that responsibility. But I  
10 think we ought to ask for somewhat more than our  
11 current appropriation.

12 Therefore, I would suggest just for  
13 discussion that we might begin by going through and  
14 deciding which ones we would drop with a target of  
15 something in the ballpark of \$10 million. You know,  
16 what leeway that would give us and drop our lowest  
17 priorities so that at least we take the responsibility  
18 for deciding what our priorities are for something  
19 approximating the likely real budget.

20 CHAIRPERSON BERRY: This year our budget  
21 request was how much? I mean, the one that actually  
22 went to the Congress.

23 STAFF DIRECTOR MATHEWS: For fiscal '97?

24 CHAIRPERSON BERRY: Yes.

25 STAFF DIRECTOR MATHEWS: \$11.4 million.

1                   COMMISSIONER HORNER: Okay. So maybe  
2 something like that rather than either \$8.7 or \$15  
3 [million].

4                   CHAIRPERSON BERRY: Why don't we agree to  
5 propose the same thing we proposed, I mean, the \$11.4.  
6 Because it will sound a little strange if we say we  
7 want less. To go up or to go --

8                   COMMISSIONER HORNER: Well, true. Yes.

9                   CHAIRPERSON BERRY: I mean, so can we agree  
10 to propose, just for the sake of trying to get  
11 something done here, \$11.4?

12                   Yes, Commissioner Anderson?

13                   COMMISSIONER ANDERSON: I would like us to --  
14 if we do everything that's on the page, it's \$15  
15 million. And I think to go to \$8.7 this year and ask  
16 for \$15 million next year -- I understand where you're  
17 coming from but I think in terms of the Hill, it's not  
18 going to look too good and it's just going to open OMB  
19 to do our cutting for us in a lot of ways.

20                   I would like to see us pick a number. If  
21 it's \$11, \$11.5 [million], and then within that figure,  
22 prioritize. Because we don't want to be here in July  
23 saying, okay, well, they gave us \$8.7 plus 5 percent  
24 and now we have to go back through the whole thing  
25 again.

1           So I think we ought to pick a figure, like  
2 Connie suggests, and then prioritize within that.

3           CHAIRPERSON BERRY: All right. Well, then,  
4 what we need then is the same thing we did for 1997.

5           Of this \$11.4 million, Staff Director, how  
6 much is available for projects in a request of \$11.4  
7 million? About how much, subject to you looking at it  
8 again, would be available to talk about in terms of  
9 projects after you subtract everything else; operating,  
10 PSA's, you know, SAC's, all that stuff?

11           STAFF DIRECTOR MATHEWS: About \$3.4 million.

12           CHAIRPERSON BERRY: About \$3.4 million.

13 Okay. That gives us something to work with.

14           So we're working with \$3.4 million. Now  
15 schools and religions would be \$1 million.

16           COMMISSIONER HIGGINBOTHAM: May I just ask of  
17 George on this?

18           CHAIRPERSON BERRY: Can you hear,  
19 Commissioner George?

20           WILLIAM SAUNDERS: Hold it one second. He  
21 just stepped out of the room.

22           COMMISSIONER HIGGINBOTHAM: You mean he's  
23 missed all of this wisdom?

24           CHAIRPERSON BERRY: We have \$3.4 million. As  
25 soon as we know he's back, we'll let you ask him a

1 question.

2 \$1 million and less, if that changes, for  
3 schools and religion. That leaves \$2.4 million. ADA  
4 is \$1.14 million. Somebody subtract that from \$2.4.  
5 How much is it?

6 COMMISSIONER ANDERSON: \$1.4 is close enough  
7 I think, Mary.

8 CHAIRPERSON BERRY: \$1.4? Okay. So we've  
9 got \$1.4. Then we go -- we've got \$1.4 left here.  
10 Then there's the summary of racial and ethnic tensions  
11 we have to do or have to propose to do. That's  
12 \$189,000. Keep subtracting, folks.

13 COMMISSIONER HORNER: That's about \$1.2  
14 [million].

15 CHAIRPERSON BERRY: \$1.2 million. Now, ADA  
16 will be our statutory report, so we don't need OCRE's  
17 fair employment law as our statutory report. That's  
18 what it was going to be for '98. Now we're talking  
19 about ADA. So we can push that to '99, which saves us  
20 \$637,000.

21 Boy, I just found money again.

22 COMMISSIONER ANDERSON: We're down to \$1.2  
23 though.

24 CHAIRPERSON BERRY: We're down to \$1.2?

25 COMMISSIONER ANDERSON: Yes.

1           CHAIRPERSON BERRY: Okay. We're down to  
2 \$1.2. How about expanding the economic opportunities  
3 of African American, Asian and Latino youth? Shall we  
4 keep it, lose it? It's \$462,000 here.

5           COMMISSIONER HORNER: I'd like very much to  
6 keep it. I think it's overwhelmingly important.

7           CHAIRPERSON BERRY: So \$462,000 from \$1.2  
8 [million] leave something. How many?

9           COMMISSIONER ANDERSON: \$700,000.

10          CHAIRPERSON BERRY: \$700,000. Next we have  
11 voting rights and -- voting rights is next and then  
12 after that, naturalization. Voting rights is \$430,000?

13          COMMISSIONER REDENBAUGH: Let's say \$300,000  
14 for contingencies?

15          COMMISSIONER GEORGE: Russ, I can't hear you.

16          COMMISSIONER REDENBAUGH: I'm proposing  
17 \$300,000 for contingencies.

18          CHAIRPERSON BERRY: Which leaves us down to  
19 \$400,000 and something; right? And Commissioner George  
20 is back. Hold the \$400,000 in your head.

21          Commissioner Higginbotham, you wanted to ask  
22 Commissioner George something about the schools and  
23 religion project while he was out?

24          COMMISSIONER HIGGINBOTHAM: I just wonder  
25 whether -- what the basis is for your confidence that

1 you have to have \$1 million on schools and religion. I  
2 don't think you can conclude that you have to have a  
3 million on schools and religion because you've got \$1  
4 million in the whole of the earlier one of crisis of  
5 African American males in inner cities.

6 I don't know whether you need the type of  
7 statistical data and the things which would go into the  
8 first project, that you need in schools and religion,  
9 and I feel uncomfortable just assigning that \$1 million  
10 without some articulation and justification for it,  
11 particularly when the staff came in at about \$400,000  
12 to \$500,000.

13 CHAIRPERSON BERRY: That was one hearing,  
14 though.

15 COMMISSIONER HIGGINBOTHAM: Yes.

16 COMMISSIONER GEORGE: Yes. I know for us to  
17 do five hearings instead of one hearing, that's going  
18 to add, you know, substantial amount of money to the  
19 cost. I'm not confident that it's \$1 million but --  
20 this would go up to \$1 million, but I wouldn't be at  
21 all surprised if it does. It's the scope of the  
22 hearing strikes me as roughly the scope of the African  
23 American males hearings.

24 I take your point that in the degree of data  
25 analysis and collection might be different and it might



1 cost less money, but I don't want to underestimate.  
2 I'd rather slightly overestimate the cost.

3 Is that responsive, Leon?

4 COMMISSIONER HIGGINBOTHAM: Well, it is. But  
5 I mean, \$500,000 reminds me of what Dirksen said one  
6 time. You're starting to talk about real money. When  
7 I look at all the others, I don't want schools and  
8 religion to preclude us from some other things which  
9 may be equally important, just because we had  
10 overallocated on schools and religions.

11 COMMISSIONER GEORGE: Yes. There is a  
12 prioritization issue here and we might not agree  
13 amongst ourselves as to how the priorities ought to go  
14 and we'll just have to resolve it according to our  
15 usual procedures. But I can at least I think explain  
16 the difference between the \$400,000 something figure  
17 and \$1 million figure just in terms that it's a  
18 question of whether it's one hearing or five.

19 CHAIRPERSON BERRY: Commissioner George,  
20 would you accept the idea of reducing the cost slightly  
21 by having some mini hearings? Not mini, but you know,  
22 two Commissioner hearings as part of the hearings or  
23 would you rather not do that?

24 COMMISSIONER GEORGE: I would like to keep it  
25 on the scale that I've been proposing all along. I

1 realize it comes with opportunity costs and perhaps a  
2 majority of Commissioners doesn't share my view about  
3 this. But I would not like to see it reduced.

4 CHAIRPERSON BERRY: Okay. It was in fact  
5 approved in the way that you proposed it.

6 COMMISSIONER GEORGE: Yes.

7 CHAIRPERSON BERRY: So if we were going to  
8 change it, it would require a motion to disapprove.

9 Okay. So we have \$400,000 as a figure after  
10 we took out -- we took out the reserve; right? And so  
11 the question, the next item on the list is  
12 discrimination against -- did I do naturalization?

13 MR. ISLER: No.

14 CHAIRPERSON BERRY: Voting rights. Voting  
15 rights. Voting rights is the next one on the list at  
16 \$430,000 and then naturalization at \$332,000.

17 VICE CHAIR REYNOSO: And how much money do we  
18 have left?

19 CHAIRPERSON BERRY: \$400,000.

20 VICE CHAIR REYNOSO: Well, I'd like to  
21 suggest the naturalization one. It should be  
22 naturalization and citizenship issues, not just  
23 naturalization.

24 CHAIRPERSON BERRY: Anybody have any  
25 objections?

1           COMMISSIONER ANDERSON: I don't have an  
2 objection to amending that but the question is whether  
3 we do voting rights or naturalization and citizenship  
4 issues? That's the question?

5           VICE CHAIR REYNOSO: No. I think that we're  
6 down to only doing one more, I think.

7           CHAIRPERSON BERRY: We have \$400,000.

8           COMMISSIONER HORNER: And we have to choose  
9 as among voting rights, naturalization and citizenship  
10 and all the other items on the list.

11          VICE CHAIR REYNOSO: And all the others.

12          COMMISSIONER ANDERSON: Okay. Thanks.

13          COMMISSIONER HORNER: I would support  
14 naturalization over voting rights.

15          COMMISSIONER HIGGINBOTHAM: I would, too.

16                 You've got a lot of litigators and people who  
17 are doing voting rights and you've got a much more  
18 articulate constituency for that than I think you have  
19 on the naturalization.

20          CHAIRPERSON BERRY: Then we would defer the  
21 rest of these to next year because they don't fit. And  
22 then, let me ask you. Does this include or not include  
23 putting down at the bottom, as Anderson said, measuring  
24 discrimination is something that would be important to  
25 all of our work but we realize that it's beyond the

1 \$11.4 million that was requested for us last year, but  
2 that the Commission believes that this is important if  
3 a way could be found to fund it or something, or not?  
4 Or should we not do that?

5 COMMISSIONER ANDERSON: Let's do it.

6 COMMISSIONER REDENBAUGH: I would do that.

7 CHAIRPERSON BERRY: Okay. Now let's have a  
8 motion so we can in fact vote. We need a motion. We  
9 need a motion incorporating all of these items.  
10 Come on, Commissioner Anderson?

11 COMMISSIONER ANDERSON: Okay. I move that  
12 the --

13 CHAIRPERSON BERRY: Can you hear, Robbie?

14 COMMISSIONER GEORGE: Yes, I can.

15 COMMISSIONER ANDERSON: I move that the  
16 Commission adopt the following projects for 1998. The  
17 Americans with Disabilities Act report at \$1.14  
18 million. These are estimates; right?

19 Schools and religion at \$1 million;  
20 affirmative action at \$254,000; the summary report of  
21 racial and ethnic tensions at \$189,000; expanding  
22 economic opportunities for \$462,000; naturalization and  
23 citizenship issues for \$340,000; and that the  
24 Commission recommend as a line item that we be given an  
25 additional \$1.86 million for a two-year study on

1 measuring discrimination in America.

2 In addition, we add to our budget  
3 approximately \$7 million for the ordinary and necessary  
4 operating expenses, which includes a figure for  
5 inflationary raises for staff.

6 COMMISSIONER HORNER: I second the motion.

7 CHAIRPERSON BERRY: And could we, just to  
8 make sure that we're clear -- just a second. I'm going  
9 to have discussion.

10 In the motion when you said in addition, this  
11 includes an additional \$7 million -- in addition, it  
12 includes an additional amount which is understood to be  
13 about \$7 million, so that we're not off on the numbers  
14 or something and stuck for the other operating  
15 expenses.

16 COMMISSIONER ANDERSON: The intention here is  
17 to submit a \$11.4 million budget with the \$1.86 for the  
18 additional study.

19 CHAIRPERSON BERRY: That was seconded; right?

20 COMMISSIONER HORNER: I seconded that.

21 COMMISSIONER REDENBAUGH: I have an amended.

22 CHAIRPERSON BERRY: And Commissioner  
23 Redenbaugh has an amendment.

24 COMMISSIONER REDENBAUGH: I propose it be  
25 amended to include the \$300,000 for contingency. That

1 was an oversight, not an intentional omission.

2 CHAIRPERSON BERRY: Why doesn't the maker of  
3 the motion just simply accept that and the seconder,  
4 and let's go with it.

5 COMMISSIONER ANDERSON: Okay.

6 COMMISSIONER HORNER: Okay.

7 CHAIRPERSON BERRY: All right. Any further  
8 discussion?

9 COMMISSIONER GEORGE: I'd just like to raise  
10 one issue very briefly, Madam Chairman.

11 CHAIRPERSON BERRY: Yes, Commissioner George.

12 COMMISSIONER GEORGE: I wonder if it would be  
13 possible, and I'm not going to press this if people  
14 have objections to it, but on the expanding the  
15 economic opportunities of African American, Asian and  
16 Hispanic youth, if there is a way to avoid the ethnic  
17 identifications in that project, to me it would be  
18 desirable.

19 Why don't we call it expanding the economic  
20 opportunities of underprivileged youth. Obviously,  
21 since they're members of minorities, certain minorities  
22 are disproportionately disadvantaged, it would  
23 necessarily focus on expanding opportunities for them.  
24 But of course, there are non-minorities who  
25 disadvantage and there are obviously minorities who are

1 not disadvantaged.

2 I guess from a public education publicity  
3 point of view, plus I think it would be more faithful  
4 to the truth of the problem, it would be better not to  
5 use the ethnic identifications. But if people feel  
6 strongly that there are very good reasons to prefer  
7 that, I'll back off.

8 VICE CHAIR REYNOSO: I feel strongly.

9 COMMISSIONER LEE: I feel strongly.

10 COMMISSIONER HIGGINBOTHAM: The data is a  
11 1995 -- just as an example, on health coverage. It was  
12 14.2 percent white; 21 percent African American; and 33  
13 percent Latinos without health care coverage. And when  
14 you look at all of them -- I just happened to be  
15 working on something. The disparities are so different  
16 that you've got to note them even though you're  
17 including the overall poverty problems which exist.

18 CHAIRPERSON BERRY: So I think we may have to  
19 discuss this again.

20 COMMISSIONER GEORGE: I don't want to hold up  
21 our decision on doing it on these grounds if my fellow  
22 Commissioners do feel strongly about this. I'll simply  
23 withdraw it. It was a suggest of my own view about the  
24 best way to handle these things. But it's one upon  
25 which reasonable people do disagree.

1           CHAIRPERSON BERRY: Why don't we have a  
2 discussion of that on another Commission meeting and  
3 talk about that issue. But I think for now, maybe we  
4 need to get the projects done.

5           If there are no further comments, I call for  
6 the question.

7           All of those in favor of the motion, indicate  
8 by saying aye.

9           (Chorus of ayes.)

10          Opposed?

11          (No response.)

12          The Commission unanimously approves the  
13 recommendations for the 1998 budget to be submitted to  
14 OMB.

15          Now, are there other items on our agenda?  
16 Are there any future agenda items that need to be --  
17 oh, I know. For the November meeting, the public  
18 affairs office is working on a briefing on welfare  
19 issues, immigration issues -- welfare issues and civil  
20 rights. If any of you have any interest in people who  
21 you think should come and talk or things that you think  
22 should be done, you can get in touch with the Staff  
23 Director or have your special assistant do so and they  
24 can get in touch with Charlie.

25          So we want you to know this so that you will



1 be prepared for this eventuality.

2 Is that all, Staff Director?

3 STAFF DIRECTOR MATHEWS: I want to clarify  
4 one thing.

5 CHAIRPERSON BERRY: Please, do.

6 STAFF DIRECTOR MATHEWS: Based on our  
7 discussion here, we had some discussion about the  
8 possibility of looking at the L.A. report completion in  
9 two stages. Did we finally vote that on one stage or -  
10 - I want to clarify what we did.

11 COMMISSIONER HIGGINBOTHAM: One stage.

12 COMMISSIONER HORNER: One stage. Finish it  
13 up.

14 CHAIRPERSON BERRY: We didn't do two stages.

15 COMMISSIONER ANDERSON: We didn't change it.

16 CHAIRPERSON BERRY: We didn't change that.

17 STAFF DIRECTOR MATHEWS: Okay. I just wanted  
18 to make sure.

19 CHAIRPERSON BERRY: Okay. I can't think of  
20 anything else.

21 Yes, Commissioner Redenbaugh?

22 COMMISSIONER REDENBAUGH: I just have a  
23 little housekeeping thing. It should have really come  
24 up earlier had I been here. And that is the special  
25 assistants are employees of the Commission?

1 COMMISSIONER GEORGE: I'm sorry, Russell.

2 Did you say they are or they aren't?

3 COMMISSIONER REDENBAUGH: I'm asking. They  
4 are like considered full-time employees of the  
5 Commission?

6 CHAIRPERSON BERRY: If they are full-time,  
7 yes.

8 COMMISSIONER REDENBAUGH: If they are. I  
9 have a report that they do not appear in the directory  
10 of Commission employees for phone numbers. Is that the  
11 case? And why?

12 STAFF DIRECTOR MATHEWS: I'm not sure what  
13 you mean. They're not in the telephone directory? Is  
14 that what you mean?

15 COMMISSIONER REDENBAUGH: That's what I've  
16 been told. So that people both inside the Commission  
17 and outside the Commission cannot locate easily our  
18 special assistants, which I think, as employees, should  
19 be listed in that way.

20 STAFF DIRECTOR MATHEWS: I'll be glad to look  
21 into that Commissioner Redenbaugh.

22 COMMISSIONER REDENBAUGH: Would you do that?  
23 Thank you.

24 STAFF DIRECTOR MATHEWS: yes.

25 CHAIRPERSON BERRY: If they're not listed,

1 they should be listed, so that's the answer to that  
2 question. And if they aren't, they will be. How's  
3 that?

4 STAFF DIRECTOR MATHEWS: I think they are  
5 listed.

6 MS. MOORE: They are internally.

7 STAFF DIRECTOR MATHEWS: But I'll be glad to  
8 look. I will be glad to check into it for you.

9 CHAIRPERSON BERRY: Anybody have anything  
10 else?

11 (No response.)

12 Then I will entertain a motion to adjourn.

13 COMMISSIONER ANDERSON: So move.

14 CHAIRPERSON BERRY: Nondebatable. Thank you  
15 very much.

16 (Whereupon, the proceedings were concluded at  
17 2:30 p.m.)

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