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MEETING

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Friday, November 14, 1997

The Commission met in Room 540, YWCA Building, 624 9th Street, N. W., Washington, D. C. 20425, at 9:30 a.m., MARY FRANCES BERRY, Chairperson, presiding.

PRESENT:

MARY FRANCES BERRY, CHAIRPERSON  
CRUZ REYNOSO, VICE CHAIRPERSON  
CARL A. ANDERSON, COMMISSIONER  
ROBERT P. GEORGE, COMMISSIONER  
A. LEON HIGGINBOTHAM, JR., COMMISSIONER (Via Telephone)  
CONSTANCE HORNER, COMMISSIONER (Via Telephone)  
YVONNE Y. LEE, COMMISSIONER  
RUSSELL G. REDENBAUGH, COMMISSIONER

RUBY MOY, STAFF DIRECTOR

STAFF PRESENT:

MICHELLE AVERY  
MARLISSA BRIGGETT, PARLIAMENTARIAN  
BARBARA BROOKS  
KI-TAEK CHUN  
JAMES S. CUNNINGHAM  
BOBBY DOCTOR (Via Telephone)  
JOHN DULLES  
PAMELA DUNSTON  
BETTY EDMISTON

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M. CATHY GATES  
STAFF PRESENT: (Continued)

EDWARD HAILES, JR.  
GEORGE M. HARBISON  
CAROL-LEE HURLEY  
FREDERICK ISLER  
MELVIN JENKINS  
JACQUELINE L. JOHNSON  
WILLIAM LEE  
REGINALD MARTIN  
PETER MINARIK  
PHILIP MONTEZ  
STEPHANIE Y. MOORE, GENERAL COUNSEL  
CHARLES RIVERA  
MARCIA TYLER  
CATHERINE WALLACE  
AUDREY WRIGHT  
NADJA ZALOKAR

COMMISSIONER ASSISTANTS PRESENT:

KAREN CENCE  
ADERSON FRANCOIS  
CHARLOTTE PONTICELLI  
KRISHNA TOOLSIE  
CYNTHIA VALENZUELA

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

9:30 a.m.

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CHAIRPERSON BERRY: I call the meeting to order.

Can the people on the telephone hear me?

COMMISSIONER HORNER: Yes.

COMMISSIONER HIGGINBOTHAM: Yes.

CHAIRPERSON BERRY: Who's on the telephone? Anybody I don't see here? Is that the answer?

COMMISSIONER HORNER: Connie Horner is on.

CHAIRPERSON BERRY: Oh, Commissioner Horner. Who else?

MR. DOCTOR: Bobby Doctor.

CHAIRPERSON BERRY: Hi, Bobby.

Commissioner Higginbotham, are you on?

COMMISSIONER HIGGINBOTHAM: I am. Good morning.

CHAIRPERSON BERRY: Okay. All right. So, we're all set.

The first item on the agenda is the approval of the agenda. Could I have a motion?

VICE CHAIR REYNOSO: So moved.

COMMISSIONER ANDERSON: Seconded.

CHAIRPERSON BERRY: Before I call the question, anybody have any comments or changes they want?

1 (No response.)

2 Okay. All in favor, indicate by saying aye.

3 (Chorus of ayes.)

4 Opposed?

5 (No response.)

6 So ordered.

7 The second item is the approval of the  
8 minutes of the October 10, 1997 meeting.

9 COMMISSIONER REDENBAUGH: So moved.

10 CHAIRPERSON BERRY: Could I get a second?

11 COMMISSIONER GEORGE: Seconded.

12 CHAIRPERSON BERRY: Any changes?

13 Yes, Commissioner Anderson?

14 COMMISSIONER ANDERSON: Thank you, Madam  
15 Chair.

16 On the discussion of the State Advisory  
17 Committee Reports, the discussion of Commissioners  
18 Anderson and Horner are described as having found the  
19 language in the report to be, quote, excessive.  
20 Unquote. I think the word we used was intemperate. I  
21 think it would be better if the language in the minutes  
22 was described as intemperate rather than excessive.

23 I know it's a small point but --

24 CHAIRPERSON BERRY: Okay. We'll cross out  
25 excessive if there's no objection and include

1 intemperate. Okay.

2 Can we put quotation marks around it?

3 COMMISSIONER ANDERSON: Sure. That would be  
4 fine.

5 CHAIRPERSON BERRY: Okay.

6 Any other changes?

7 (No response.)

8 Okay. All in favor with the change, as  
9 noted, indicate by saying aye.

10 (Chorus of ayes.)

11 Opposed?

12 (No response.)

13 So ordered.

14 Announcements.

15 Staff Director, announcements?

16 STAFF DIRECTOR MOY: The Office of the  
17 General Counsel is preparing a briefing paper on the  
18 Asian-American-Pacific briefing to be held at the  
19 December 5th Commission meeting.

20 The staff has indicated that there is a need  
21 to reschedule the ADA hearing. The reasons stated are  
22 that the Office of General Counsel staff has focused  
23 their time on the Asian-American briefing and the  
24 Administrative Services staff have been unable to  
25 locate a site for the hearing.

1           There are several conferences in Washington  
2 during the March 17-19 dates we selected for the ADA  
3 hearing and staff says that a date two to three weeks  
4 later would be helpful.

5           CHAIRPERSON BERRY: So that means that what  
6 we should do is change the date for the two reasons  
7 given. There's no space. No room at the inn, I guess,  
8 during these dates. And then we've got this briefing  
9 that has involved staff who were not supposed to be  
10 involved in it because they didn't know this was going  
11 to happen.

12           So we've got these two reasons, so we need  
13 another date.

14           Could the Commissioners consult their  
15 calendars? Should we simply do it the -- what are we  
16 doing the month after that? Does anybody remember?

17           I guess I should have asked that question.  
18 Well I didn't know this, so --

19           Did we have anything scheduled for the April  
20 meeting other than a meeting? I know we don't have the  
21 Schools and Religion until when? I'm sure Commissioner  
22 George knows that.

23           When is the hearing? That's in May and June?

24           COMMISSIONER GEORGE: Well, we have hearings.

25           CHAIRPERSON BERRY: Right.

1 COMMISSIONER GEORGE: Yes.

2 CHAIRPERSON BERRY: And we have -- we don't  
3 have the African-American Youth Crisis until later. So  
4 if the April meeting is simply a meeting, perhaps could  
5 have the hearing in connection with the April meeting.  
6 That would give the staff the additional two or three  
7 weeks that they're --

8 COMMISSIONER GEORGE: That would be  
9 April 17th.

10 CHAIRPERSON BERRY: Does anyone have any  
11 concerns about April 17th and making it -- I guess it  
12 would have to be two days.

13 COMMISSIONER HORNER: Madam Chair, I'm going  
14 to have to put down the phone and go get my calendar,  
15 and I shall be right back.

16 CHAIRPERSON BERRY: Sure. Thank you.

17 COMMISSIONER GEORGE: Mary, would the  
18 proposal be for the 16th and 17th then or 17th and  
19 18th?

20 CHAIRPERSON BERRY: The 17th is a Friday;  
21 right? So usually it's Thursday-Friday. That's the  
22 proposal.

23 COMMISSIONER GEORGE: Okay. So it would be  
24 the 16th and 17th.

25 And this would be moving it -- it's current



1 date is --

2 CHAIRPERSON BERRY: March 17th. So we would  
3 be moving it a month if we do this.

4 COMMISSIONER GEORGE: Okay.

5 CHAIRPERSON BERRY: Anyone else have any  
6 problems with that?

7 COMMISSIONER REDENBAUGH: I have none.

8 CHAIRPERSON BERRY: Thank you, Commissioner  
9 Redenbaugh.

10 You can go ahead because we're waiting for  
11 Commissioner Horner.

12 COMMISSIONER REDENBAUGH: Also, might this  
13 change have implications for the briefing, which I  
14 believe is scheduled for February?

15 CHAIRPERSON BERRY: What's scheduled for  
16 February? That's the OCRE staff briefing on ADA.

17 COMMISSIONER HORNER: Madam Chair, this is  
18 Commissioner Horner. I just got back. I don't know  
19 what transpired while I was off. But in conjunction  
20 with the April 17th meeting would be fine with me.

21 CHAIRPERSON BERRY: Okay. It seems to be  
22 fine.

23 Is it fine with you, Commissioner  
24 Higginbotham?

25 COMMISSIONER HIGGINBOTHAM: I think it will

1 be okay, .

2 VICE CHAIR REYNOSO: Are we talking only  
3 about the 17th?

4 CHAIRPERSON BERRY: No, no. 16th. If we  
5 have a hearing, we have to have another day. So what  
6 we'd be doing is extending it by a day, just as we  
7 would have in March.

8 Commissioner Redenbaugh, were you about to  
9 say something?

10 COMMISSIONER REDENBAUGH: No. I want to  
11 dispose of this and then I did want to ask about the  
12 briefing. And now I'm reminded that it's a different  
13 unit that's doing that.

14 CHAIRPERSON BERRY: Right.

15 All right. If there's no objection to this  
16 then we'll do it in April. It seems to work for  
17 everybody.

18 COMMISSIONER GEORGE: Mary?

19 CHAIRPERSON BERRY: Yes.

20 COMMISSIONER GEORGE: Do we have a date for  
21 the Crisis of African-American Males or a target, even  
22 if not a firm date?

23 CHAIRPERSON BERRY: We announced one last  
24 time. I've forgotten.

25 When did we say?

1 (Crosstalk.)

2 They all say with one voice, September.

3 COMMISSIONER GEORGE: The --

4 CHAIRPERSON BERRY: Crisis. Sometime in  
5 September.

6 COMMISSIONER GEORGE: But it will be sometime  
7 in September. We don't have a date yet?

8 CHAIRPERSON BERRY: Right.

9 COMMISSIONER GEORGE: Okay.

10 CHAIRPERSON BERRY: Probably around the  
11 meeting time.

12 COMMISSIONER GEORGE: The meeting in  
13 September is the 18th.

14 CHAIRPERSON BERRY: So it probably will be  
15 around that time, which is what we've been trying to  
16 do, but September is the target.

17 Okay. All right. That takes care of that.

18 Commissioner Redenbaugh, you said you wanted  
19 to ask something else? Did you want to ask something  
20 else?

21 COMMISSIONER REDENBAUGH: I wanted to ask the  
22 Staff Director about the status of the ADA briefing.

23 CHAIRPERSON BERRY: The one for February?

24 COMMISSIONER REDENBAUGH: February.

25 CHAIRPERSON BERRY: That's Fred's.

1 STAFF DIRECTOR MOY: Right. He isn't here.

2 CHAIRPERSON BERRY: Najda is here. Maybe she  
3 knows.

4 STAFF DIRECTOR MOY: Najda?

5 MS. ZALOKAR: Staff is planning to go ahead  
6 with the briefing.

7 COMMISSIONER REDENBAUGH: And it is on track  
8 for those dates? Okay.

9 CHAIRPERSON BERRY: Okay. Any other  
10 questions, announcements, whatever?

11 (No response.)

12 All right. Any questions on the Staff  
13 Director's Report? That's the next item on the agenda.

14 Staff Director's Report?

15 STAFF DIRECTOR MOY: Madam Chair?

16 CHAIRPERSON BERRY: Yes.

17 STAFF DIRECTOR MOY: Congress passed our  
18 appropriations bill last night, and this will give us  
19 funding through fiscal year '98 at \$8.74 million.  
20 Until the President signs our appropriations we will  
21 continue to operate under a sixth continuing resolution  
22 which will expire November 26.

23 CHAIRPERSON BERRY: November 26th?

24 STAFF DIRECTOR MOY: Right.

25 CHAIRPERSON BERRY: Okay.

1           The next item is the Regional Director's  
2 Discussion.

3           Madam Staff Director, how would you like to  
4 handle this?

5           STAFF DIRECTOR MOY: Well, I would like for  
6 our Regional Directors to come up to the conference  
7 table.

8           CHAIRPERSON BERRY: Do they need these mikes  
9 or will they be able to be heard through those?

10          STAFF DIRECTOR MOY: I guess we'll just have  
11 to try John out.

12          CHAIRPERSON BERRY: Okay. John, say  
13 something to see if the people on the phone can hear  
14 you.

15          MR. DULLES: Good morning.

16          CHAIRPERSON BERRY: Say it again.

17          MR. DULLES: Welcome to Denver, Colorado.

18          CHAIRPERSON BERRY: Did the Commissioner who  
19 are on the phone hear John Dulles?

20          COMMISSIONER HIGGINBOTHAM: Yes.

21          CHAIRPERSON BERRY: Did you hear,  
22 Commissioner Horner?

23          COMMISSIONER HORNER: Yes.

24          CHAIRPERSON BERRY: Okay.

25          STAFF DIRECTOR MOY: Okay. Let's start with

1 John Dulles.

2 COMMISSIONER HORNER: Madam Chair, may we  
3 know who else is there?

4 CHAIRPERSON BERRY: Right.

5 Staff Director, could you introduce the  
6 Regional Directors, please?

7 STAFF DIRECTOR MOY: Yes.

8 John Dulles, Melvin Jenkins, Ki-Taek Chun,  
9 Phil Montez and Peter Minarik is here for Constance  
10 Davis. And I believe on our line is Bobby Doctor.

11 MR. DOCTOR: Yes.

12 CHAIRPERSON BERRY: Okay. So you're starting  
13 with --

14 STAFF DIRECTOR MOY: With John Dulles, who  
15 will talk about his region.

16 CHAIRPERSON BERRY: That's the Rocky Mountain  
17 Region; right?

18 STAFF DIRECTOR MOY: Right.

19 MR. DULLES: Thank you very much,  
20 Commissioners, Madam Chair. Certainly appreciate the  
21 opportunity to appear before you. I think it's been  
22 approximately 17 years since I was here before.

23 CHAIRPERSON BERRY: You're kidding?

24 MR. DULLES: At that time I was the Deputy  
25 Regional Director of the Southwest Regional Office in

1 San Antonio, Texas, and the Regional Director was  
2 unable to make one of the briefings when he gave a  
3 State of the Region Report, and so I substituted. And  
4 that was my one prior appearance before this auspicious  
5 Commission.

6 Indeed, a pleasure and an honor and I  
7 appreciate this.

8 The Rocky Mountain Regional Office handles  
9 six states. They are North and South Dakota, Montana,  
10 Wyoming, Utah and Colorado. The Region is quite rural  
11 for the most part, sparsely populated and quite  
12 geographically isolated. With the exception of Denver  
13 and Salt Lake City, there are no real major  
14 metropolitan centers. And in my region, if you hit  
15 50,000 in population, that's a big city in most of  
16 these states.

17 With the exception of Colorado, all the  
18 states have a population exceeding 90 percent white  
19 Anglo. Native Americans constitute about 7 percent of  
20 the population in South Dakota and in Montana.  
21 Hispanics represent approximately 15 percent of  
22 Colorado's population, although that's growing. And in  
23 the Denver area, it's well over 20 percent.

24 The African-American community is primarily  
25 located in the Denver metropolitan area in our region.

1 We do have a small but growing Asian-American  
2 population.

3 I'm just going to cover a couple of issues  
4 quickly.

5 CHAIRPERSON BERRY: Is your Asian-American  
6 population mostly Chinese, Japanese, Pacific Islanders,  
7 or what?

8 MR. DULLES: Well, it's becoming more varied.  
9 There's a relatively large Chinese-American and also  
10 Japanese-American population, but we're getting  
11 diversity in terms of especially in some of the  
12 metropolitan communities, and also in communities such  
13 as Sioux Falls and some of the eastern communities in  
14 our region in North and South Dakota.

15 One of the principal problems in our region  
16 is that there is an absence or I might say a very  
17 limited number of civil rights organizations in many of  
18 the communities that we serve.

19 By that I mean that you do not have many of  
20 the traditional large nonprofit civil rights  
21 organizations such as MALDEF or the NAACP or the Urban  
22 League, organizations that are resources for victims or  
23 potential victims of discrimination. This creates a  
24 problem.

25 I was somewhat surprised when I first arrived



1 in Denver and started going to our Advisory Committee  
2 meetings that many people came to the meetings  
3 believing that the Advisory Committee was in fact the  
4 state civil rights commission for that state because  
5 people really did not feel that they had other  
6 resources.

7           We have done some studies, as you know, and  
8 we are continuing to do studies on the effectiveness of  
9 some of our state and local civil rights enforcement  
10 agencies as a result of some requests from community  
11 members throughout our region.

12           In addition to this issue, the other issue I  
13 would like to raise because I think it's important and  
14 I think it's especially relevant to our region, is the  
15 plight of American Indians.

16           I think -- and this is an opinion -- that  
17 American Indians are the most neglected, forgotten and  
18 isolated group in the United States. They have  
19 virtually no political clout. They're underrepresented  
20 in all significant government bodies.

21           For an example, as you probably know, in the  
22 40 years of the existence of this Commission, there's  
23 never been one Native American appointed to serve on  
24 this body. And in state after state -- well, for an  
25 example, in North Dakota, there is one American Indian

1 legislator in the state legislature and he is a member  
2 of our Advisory Committee. And he's expressed to me  
3 tremendous frustrations that he's felt because of the  
4 numerous issues that he feels he has to carry and the  
5 difficulty that he has feeling isolated as the single  
6 American Indian in the entire state legislature.  
7 That's just one example.

8           We find that tribal governments face constant  
9 jurisdictional incursions by state governments. Their  
10 sovereignty is sometimes challenged. State governments  
11 often view Indian tribes in a hostile manner and  
12 sometimes this is reflected in public policy.

13           American Indian children are dropping out of  
14 school in the 6th grade. We did a study recently in  
15 the state of Montana on Indian education. The dropout  
16 rates for American Indians was about 10 percent or so.  
17 But then we dug a little deeper and we found out the  
18 reason that the rate isn't higher is because the  
19 dropout rates were not compiled until the 9th and 10th  
20 grades, and those kids had already dropped out of  
21 school.

22           In the school districts serving Native  
23 American tribal reservations and serving Native  
24 Americans, basically you have public school systems and  
25 you find an absence of Indian teacher, counselors,

1 administrators, and most importantly, in my opinion,  
2 board members, school board members on the schools that  
3 serve Indian children. So the public education system  
4 in my opinion is failing these kids, failing them  
5 miserably, and forcing them into the criminal justice  
6 system, into the jails. And I would say that  
7 alternative solutions that are more in keeping with  
8 tribal traditions and beliefs for troubled Indian youth  
9 are simply not being made available. I think it's a  
10 critical situation.

11 I don't want to belabor the point but should  
12 you have the opportunity to travel, for instance, to  
13 the Pine Ridge Reservation in South Dakota, you'll be  
14 convinced you're either in a Third World or Fourth  
15 World country: widespread poverty, unemployment,  
16 disease, virtual absence of an economic base. Law  
17 enforcement throughout Indian country is almost  
18 nonexistent. The structures have fallen apart. And  
19 even tribal government structures are very fragile and  
20 often unable to cope with the severe deprivation that  
21 affects their communities.

22 American Indians face great discrimination in  
23 reservation border towns and in the white man's world  
24 at large. They're subjected to harassment,  
25 mistreatment, consumer exploitation and worse. They

1 suffer silently and they are largely ignored by the  
2 civil rights community, in my opinion. Other than  
3 misleading and exaggerated stories of windfall casino  
4 profits, this population is largely isolated, invisible  
5 and forgotten.

6 Thank you.

7 CHAIRPERSON BERRY: Thank you very much.

8 Should we have questions from each one or  
9 shall we just wait until we hear all of them? What is  
10 your pleasure, Commissioners?

11 Commissioner Redenbaugh?

12 COMMISSIONER REDENBAUGH: I'd like to propose  
13 questions as we go.

14 CHAIRPERSON BERRY: Okay. Well, then, let's  
15 see if anyone has any questions for John Dulles.

16 COMMISSIONER REDENBAUGH: I have one. Merely  
17 a procedural refinement.

18 (Laughter.)

19 I was very struck by what you said,  
20 particularly in the characterization of the Native  
21 Americans as invisible and forgotten. And that strikes  
22 me as largely or even entirely correct.

23 What do you think as a Commission we might be  
24 doing? Because the issues that you point to, of  
25 course, go right to the heart of civil rights as well

1 as economic opportunity and education. And so where  
2 would you think or where would you advise us that we  
3 might begin? And keeping in mind, of course, in a way  
4 that could produce a large impact rather than a study  
5 that may only reach a small audience.

6 MR. DULLES: Well, Commissioner -- and I  
7 appreciate the question and concern. I do know that  
8 this Commission, when it had probably double the  
9 resources it has now in the early 1970's, visited  
10 Albuquerque and Phoenix to look at urban Indian civil  
11 rights issues. I believe it was in 1973 or 1974. The  
12 Commission went to Window Rock, Arizona and held  
13 hearings on economic development issues, discrimination  
14 in the economic area affecting the Navaho reservation  
15 and produced a report.

16 Now, I'm not certain that this Commission has  
17 the resources. I know you have a very full plate. I  
18 would suggest that whenever you are considering an  
19 issue that may affect American Indians, that you  
20 attempt to include that in the scope of whatever  
21 project you might be addressing.

22 And for an example, I know you're looking at  
23 African-American youth. And I don't know what the  
24 scope of that project is intended to be, but I would  
25 just suggest that you not forget the American Indian

1 youth.

2           We were in Billings, Montana and we had a  
3 panel of students who voluntarily came forward. And I  
4 tell you there was not a dry eye in the room after  
5 their testimony because they felt that they were  
6 basically not part of the system, not wanted. There  
7 were Indian girls that testified and they said by the  
8 time they get to the 7th and 8th grade, there are no  
9 Indian boys in their classroom at all. They have all  
10 left the system.

11           And so I -- again, it's very, very difficult  
12 because American Indians don't constitute a significant  
13 portion of our population and our political system is  
14 also in some ways alien to some of the tribal  
15 government traditions. So one thing that's very  
16 frustrating is trying to figure out some means of  
17 assuring meaningful involvement and participation of  
18 Indian interests in local government, state government,  
19 school boards, legislature, even national government.

20           And I really don't know what the solution is,  
21 Commissioner, but I just think it needs much more  
22 attention. And I think as a Civil Rights Commission,  
23 that you might want to take a look at that.

24           COMMISSIONER HORNER: Madam Chair?

25           CHAIRPERSON BERRY: Yes. But first, I

1 recognize Commissioner George, then Commissioner  
2 Horner, then Commissioner Lee.

3 COMMISSIONER GEORGE: John, one of the points  
4 that you made which I found quite striking was that  
5 impediments were put in place to the attempt to solve  
6 problems by way of using tribal traditions, tribal  
7 autonomy, tribal authority, tribal solutions, at a time  
8 when the general trend in social policy does seem to be  
9 in the direction of relying on local and often  
10 indigenous communities to move in the direction of self  
11 help.

12 It is very striking to hear that impediments  
13 are being put in the way of doing that with these  
14 American Indian communities and I wonder if you could  
15 expand a bit more on that and tell us sort of what  
16 those impediments are and how perhaps they could be  
17 shifted out of the way so that self help could begin to  
18 function.

19 MR. DULLES: Thank you, Commissioner.

20 I recall this Commission did a study on the  
21 Indian Civil Rights Act some number of years ago. One  
22 conclusion that I very much agreed with was the  
23 conclusion of this Commission that the federal  
24 government had failed in its obligations to provide  
25 training and to provide funding to try to build up the

1 tribal governmental jurisprudence system. Because what  
2 you've got basically are some structures of government  
3 that need a lot of help.

4 COMMISSIONER GEORGE: Can I interrupt, John,  
5 just to ask whether that would be primarily in the  
6 criminal law area or do you mean both the criminal law  
7 and the civil law?

8 MR. DULLES: I think in both areas, although  
9 to some extent my greater knowledge and interest is the  
10 criminal system because so many -- if you're on a  
11 reservation, you have very little protection from law  
12 enforcement. And it's become such a major issue that  
13 the Attorney General of the United States asked every  
14 attorney general in states that have considerable  
15 Indian populations to focus directly on what might be  
16 done. And there's discussion now of whether the U.S.  
17 Department of Justice should take over some of the  
18 responsibilities of the Bureau of Indian Affairs  
19 because many, many tribal governments don't believe  
20 that the BIA has done its job.

21 So I think partly it's a failure to create  
22 and develop and nurture the structures of government  
23 internally within the tribe. And then secondarily, I  
24 would say that when Indians go off the reservation that  
25 it's a very difficult situation.



1 I've done a number of studies in the past on  
2 border town situations, Gallup, New Mexico; Farmington,  
3 New Mexico. And what you find oftentimes is some  
4 almost institutional hostility towards American Indians  
5 for any number of reasons that we could get into.

6 But basically, I think, although I didn't  
7 agree with everything in that Indian civil rights  
8 study, I must say that I absolutely concurred that the  
9 federal government had failed in its responsibility to  
10 really provide support. Because if you're going to ask  
11 Indian tribal governments to institute the Indian Civil  
12 Rights Act and the Pine Ridge Reservation just did it  
13 very, very recently.

14 In fact, they've asked us to assist them in  
15 setting up their own internal civil rights commission.  
16 We're involved in some technical assistance there. But  
17 if we're going to ask them to in fact enforce an Indian  
18 Civil Rights Act, then we've got to be cognizant of  
19 what the historical and institutional problems are, and  
20 also what the resource difficulties are.

21 Because at least in my region, if you drive  
22 to one of those casinos, the only people who are  
23 gambling are Indians and they're not doing well and  
24 they're not providing a windfall profit. And  
25 therefore, you do not have any kind of a tax structure

1 or an economic base to provide the resources to develop  
2 these governmental systems.

3 COMMISSIONER GEORGE: Is the thought that in  
4 many, many cases a young man typically, an Indian man  
5 would get himself into trouble and instead of the  
6 tribal law enforcement mechanisms being allowed to  
7 function in such a way as perhaps to achieve some sort  
8 of rehabilitation or reconciliation, that state law  
9 moves in in a situation where it's just not appropriate  
10 because of the boy's relationship to the tribe and so  
11 forth, and then we've got the young man lost for good?

12 MR. DULLES: Absolutely. And I think part of  
13 the problem is one of resources and part of the problem  
14 is just the jurisdictional complexities of the criminal  
15 justice system. Which, if you study -- and I've looked  
16 at it. I haven't studied it but I've looked at it for  
17 many years and it's extremely complicated; the whole  
18 question of who has jurisdiction and who has authority.

19 But let me just say there was a recent  
20 example. We had hearings in North Dakota and the  
21 Spirit Lake tribal judge talked to the Commission  
22 staff. She did not attend the factfinding meeting.  
23 And she expressed her concern because she was trying --  
24 when kids in trouble on the reservation were coming  
25 before her court, she was trying to find some

1 alternative means rather than sending them to juvenile  
2 hall or sending them into the prison system because she  
3 told me they would then be lost forever.

4 The problem was that the state refused to  
5 cooperate with her recommendations because the state  
6 was unwilling to provide the resources that might be  
7 required to do some form of alternative rehabilitation.

8 It's very complicated but that's my take on  
9 it.

10 COMMISSIONER GEORGE: Thank you.

11 CHAIRPERSON BERRY: Okay.

12 Commissioner Horner?

13 COMMISSIONER HORNER: Yes. My question is on  
14 the same lines as Commissioner George's.

15 I'm uncertain -- and maybe you can clarify it  
16 for me. I'm uncertain who is responsible for the  
17 education of American Indians who live on reservations  
18 or who don't live on reservations under the government-  
19 to-government treaty arrangement. Is education for  
20 Indians a state government responsibility, a municipal  
21 responsibility or an Indian government responsibility,  
22 formally speaking?

23 MR. DULLES: I'm not sure that I have the  
24 legal answer to your question, Commissioner. I do know  
25 that when we were looking at Native American

1 discrimination issues in the 1970's, that probably a  
2 good percentage of Indian kids were being educated  
3 either in BIA schools or some form of reservation  
4 institution, and that what has evolved is that in the  
5 present day the vast majority of Native American youth,  
6 whether they be on reservation or off reservation are  
7 in fact being educated by the state public school  
8 system.

9           Now, oftentimes they will place schools on  
10 the reservation but interestingly enough in the  
11 Flathead Reservation in Montana, I believe out of 600  
12 teachers serving the Flathead Reservation, I think we  
13 found there were seven Native American teachers. But I  
14 don't want to belabor the answer. But I do know that  
15 the vast majority of kids, at least on our region,  
16 Native American youth, are in public school systems  
17 that are controlled by state and local educational  
18 systems.

19           COMMISSIONER HORNER: Do the state and local  
20 education authorities believe that they have real  
21 authority over these kids such that they can have the  
22 same capacity to help and make demands on kids that  
23 they can for non-American Indian kids?

24           In other words, is there any barrier here  
25 because of the state government or municipal government

1 deference to tribal government or can the states and  
2 municipalities do the best that they think they want to  
3 do?

4 MR. DULLES: Well, I'm certain that there are  
5 impediments because there always are, if nothing more,  
6 communications problems between tribal governmental  
7 institutions and non-tribal governmental institutions  
8 at any level. But with respect to the school system,  
9 interestingly enough, the state of Montana recently  
10 enacted a constitutional amendment to assure equal  
11 educational opportunities for Native Americans in the  
12 state of Montana.

13 This was not a statute. This was not a  
14 regulation. This was an amendment to the constitution  
15 of the state of Montana. So I think that certainly  
16 implies that they understand that they had a commitment  
17 and an obligation to educate all youth in their state,  
18 including Native Americans.

19 COMMISSIONER HORNER: Yes. It certainly  
20 sounds like it.

21 MR. DULLES: Yes, ma'am.

22 COMMISSIONER HORNER: Why do you think there  
23 are so few American Indian teachers? Are there  
24 insufficient numbers of college graduates or is it  
25 something else?

1           MR. DULLES: Well, I don't know how much time  
2 we have. That's a very tough question. And I'm sure  
3 many of you Commissioners have as much insight, or  
4 more, than I do on this particular question.

5           As I pointed out, if you have Native American  
6 youth that are dropping out of school in the 4th, 5th  
7 and 6th grades, they never get to the point that  
8 they're even eligible to be high school dropouts. They  
9 don't get that far.

10           But I do think that the teacher training  
11 institutions in this country have a greater  
12 responsibility for recruitment and outreach of Native  
13 Americans and I think there are some states and some  
14 state institutions -- I know Arizona State University  
15 and the University of Arizona. They have been a number  
16 of universities in Indian Country that are making  
17 strides in doing what they can to improve the  
18 situation. But I think that we're talking about some  
19 very, very long-term patterns here of social  
20 disadvantage and of impoverishment and some cultural  
21 issues, and I think it's going to be a long-term  
22 effort. But the commitment has to be there.

23           And I think on the part of some institutions  
24 of higher learning, we're beginning to see that they  
25 have taken this responsibility seriously.

1 COMMISSIONER HORNER: Thank you very much.

2 CHAIRPERSON BERRY: Commissioner Lee?

3 COMMISSIONER LEE: I'd like to reserve my  
4 general questions on regional operations later when all  
5 the Regional Directors have a chance to present their  
6 case.

7 I just have a general question, not directly  
8 to Mr. Dulles, but maybe to the staff. A few months  
9 ago I recall I asked why we did not include Native  
10 American youth in our report, Economic Opportunities  
11 for Asian and Pacific Islander Youth, African Americans  
12 and Latino Youth. And at that time, I think the staff  
13 mentioned we did not have jurisdiction to study Native  
14 American youth or something. That's why we left them  
15 out.

16 Can you refresh my memory why they were not  
17 included?

18 CHAIRPERSON BERRY: I'm sure we have  
19 jurisdiction. I can answer that because we've done all  
20 kinds of studies on Indians.

21 MS. MOORE: What we've said is that --

22 CHAIRPERSON BERRY: Go ahead, counsel.

23 MS. MOORE: The response to the question was  
24 that the laws that applied were different, so that  
25 would require a lot of the jurisdictional complexities

1 that Mr. Dulles has just referred to. We would be  
2 looking at a very different set of laws to deal with  
3 Native American youth.

4 CHAIRPERSON BERRY: In other words, if you  
5 did -- now, I recall the discussion. It was that if  
6 you looked at non-Indians or people who define  
7 themselves as non-Indians, then you had the same laws  
8 to look at, anti-discrimination laws and the like to  
9 look at as you analyzed each group of people, but that  
10 when you analyzed Native American Indians, since you  
11 have this tribal relationship with the Congress and the  
12 laws are different, the study would be -- you could  
13 look at the same problems of education or economic  
14 opportunity but the laws you would be looking at would  
15 be different because they have, for example, Indian  
16 preference acts which are quite legal under federal  
17 authority which there's dispute about in other areas.  
18 So it's not the same laws.

19 So I guess we wanted to do an Indian study we  
20 could do one, so long as we knew that what we were  
21 doing was looking at a whole different set of laws of  
22 circumstances.

23 Commissioner Lee, did you -- I'll let you in  
24 just a second.

25 COMMISSIONER LEE: Let me finish. I



1 understand we are doing the report separately. We're  
2 having separate reports for the Latinos and African-  
3 American youth.

4 CHAIRPERSON BERRY: Right. Right.

5 COMMISSIONER LEE: How much more resources  
6 would you need if we were to do a report for the Native  
7 American youth?

8 CHAIRPERSON BERRY: I don't think they know.

9 COMMISSIONER LEE: It definitely would be a  
10 lot more staff resources that you would need to spend  
11 because of the different set of --

12 CHAIRPERSON BERRY: Why don't we have them  
13 tell us the answer to that question. That's a good  
14 question.

15 Staff Director, why don't you have the people  
16 who work with numbers tell us how much it would cost to  
17 do Native American Indians, a study on Native American  
18 Indians paralleled after the studies on the other  
19 groups so we can look at it and make some kind of  
20 judgment about it.

21 COMMISSIONER LEE: Thank you.

22 MR. DULLES: I just wanted to point out that  
23 in the early '70s, one of the ways that the Commission  
24 overcame any jurisdictional or sovereignty problems was  
25 that the Navaho Nation, because of its grave concern

1 about its economic plight, invited the Commission to  
2 come in and welcomed the Commission to Window Rock,  
3 Arizona because they wanted the Commission's  
4 assistance.

5 CHAIRPERSON BERRY: Commissioner Anderson?

6 COMMISSIONER ANDERSON: Thank you.

7 I think it would be fine to do the cost study  
8 to see what this would entail. I'd also like us to  
9 think about a briefing on the general topic sometime  
10 this year. And the point of that briefing would be to  
11 give us an overview, a more contemporary overview,  
12 because we've done hearings and we've done reports in  
13 the past.

14 It may be that we want to do something on  
15 difficulties with American Indian youth. It may be  
16 that we want to do something much broader than that.  
17 So, if we're looking at cost studies of what we might  
18 be doing, I'd like to suggest we ought to think about a  
19 briefing on the general topic to give us an overview  
20 and we might want to subsequent to that, then look at a  
21 hearing.

22 I don't know whether we're talking about '89  
23 (sic) --

24 CHAIRPERSON BERRY: '98.

25 COMMISSIONER ANDERSON: '98 or 2000.

1 CHAIRPERSON BERRY: '99, probably.

2 COMMISSIONER ANDERSON: But that may be more  
3 beneficial for us.

4 CHAIRPERSON BERRY: Commissioner Lee, would  
5 you accept the idea that instead of considering a study  
6 and having them work up numbers and have us consider  
7 that, we first have a briefing on the issues?

8 COMMISSIONER LEE: Could we have it then  
9 concurrently?

10 CHAIRPERSON BERRY: Or would you like both?  
11 Okay.

12 COMMISSIONER LEE: Yes.

13 CHAIRPERSON BERRY: So, we'll do the numbers.

14 And Commissioner Anderson, could this be a  
15 briefing on the social and economic opportunity for  
16 Native American Indians? Something like that? Or what  
17 did you have in mind?

18 COMMISSIONER ANDERSON: That would be fine.

19 CHAIRPERSON BERRY: Okay.

20 Vice Chair?

21 VICE CHAIR REYNOSO: I have two questions;  
22 one on Native Americans.

23 Has there been a problem in the past that  
24 when we think of issues pertaining to Native Americans  
25 we immediately think of New Mexico and Arizona rather

1 than the states that have smaller Native American  
2 populations as is found in your region?

3 I wonder if a briefing, for example, should  
4 include not just issues that we find in New Mexico and  
5 Arizona where there are more Native Americans and where  
6 the reservations are bigger, but that we make sure that  
7 we hear from the smaller reservations and from the  
8 smaller towns.

9 As you mentioned, in your region a town of  
10 50,000 is a city. In California, at least around the  
11 Los Angeles area, a town of 50,000 is a village. So,  
12 what observation would you make in that regard?

13 MR. DULLES: Well, I would totally agree,  
14 Commissioner, because I think that most of the focus,  
15 at least -- well, I've worked primarily in the western  
16 states and southwestern states, but it appears to be  
17 that most of the institutions that we've called on for  
18 expertise have been national organizations or  
19 organizations in the southwest.

20 What really strikes me is the scarcity of  
21 Indian tribal organizations in some of our states. But  
22 we do have some fairly strong Native American tribal  
23 leadership. There are affiliations of different  
24 tribes. And I think it would be most appropriate to  
25 assure that some of the states and some of the areas

1 that have traditionally been neglected be included, and  
2 I would support that.

3 VICE CHAIR REYNOSO: Thank you.

4 I have a completely separate question.

5 You mentioned in your introductory remarks  
6 that you had looked at and that sometimes there did not  
7 appear to be the civil rights structure. And you  
8 mentioned particularly the organizations. And you  
9 mentioned in passing the state organizations.

10 What would you tell us in terms of the  
11 strength of the local governmental organizations that  
12 enforce civil rights in the states in your region?

13 I ask particularly: One, because we had a  
14 report recently on Utah; which this Commission  
15 rejected, indicating areas of weakness; two, I just  
16 wonder how that's reflected in the other states; and  
17 three, since we're going now more into block grants, it  
18 seems to me that if we don't have strong enforcement  
19 mechanisms in the states, we're in trouble in terms of  
20 civil rights.

21 So I just wonder what you would share with us  
22 in that regard.

23 MR. DULLES: Well, to answer your question,  
24 really at the local level there are very, very few  
25 institutions. Those that exist are primarily human

1 relations commissions that don't have real powers. And  
2 there are very, very few of those in our communities  
3 outside of the Denver metropolitan area and the Salt  
4 Lake Basin. And that's where the major institutions,  
5 nonprofit civil rights organizations would also be  
6 found.

7           What happens so often at our Advisory  
8 Committee meetings, and most recently in the state of  
9 North Dakota, the Advisory Committee meeting was held  
10 in Fargo. We had one in Fargo and the other one was in  
11 Bismarck. And many people came forward and said that  
12 there are no avenues of redress for discrimination.  
13 North Dakota is one of I believe only two states, maybe  
14 two or three -- five states, very few states, that do  
15 not have a state civil rights commission with some  
16 meaningful enforcement powers and authority.

17           So one of the things the Advisory Committee  
18 is looking at is whether to make a recommendation that  
19 such an entity might be helpful to the state. The  
20 Committee had not taken a position but we have listened  
21 to many diverse views on the issue.

22           One thing, interestingly enough, that we just  
23 found out at our factfinding meeting in Fargo, North  
24 Dakota was that in a period of the past two years, the  
25 North Dakota Department of Labor, which is the 706

1 deferral agency for the Equal Employment Opportunity  
2 Commission, that that state agency had accepted 200  
3 complaints of discrimination, approximately. I don't  
4 have the statistics in front of me. And that there had  
5 been zero probable cause for discrimination findings.

6 Now, a number of people came before us and  
7 said we do not have any faith or confidence in the  
8 state's enforcement of a federal law; that being Title  
9 VII of the Civil Rights Act. Well, this fairly well  
10 coincides, of course, with some of the issues and some  
11 of the problems that our Committee was studying in  
12 Utah. But I would say that it is a major problem.

13 The state of Montana recently, for lack of a  
14 better word, gutted its human rights commission. They  
15 had a very effective -- small but effective state human  
16 rights commission. And they removed some of its powers  
17 and they also took away its independence and they  
18 placed it within another agency.

19 One of the problems with some of these  
20 enforcement efforts is that they are not under the  
21 auspices of a human rights commission or a civil rights  
22 commission but are subsumed in an agency which has  
23 functions which may have competing or conflicting  
24 interests.

25 Traditionally in my region it would be

1 Departments of Commerce, Departments of Industry,  
2 departments that represent the business and industrial  
3 sector. Now, there's nothing wrong with the work of  
4 these departments. The only question is if you have a  
5 civil rights function that's submerged in some place  
6 within that institution and possibly not at the highest  
7 level and your commissioners have other interests in  
8 addition to civil rights enforcement, it can create, if  
9 not the reality, the perception of a conflict of  
10 competing interests.

11 VICE CHAIR REYNOSO: In light therefore of  
12 the importance of the State Advisory Committees, what  
13 reaction or what result, what fallout have you seen in  
14 the Advisory Committees in light of this Commission's  
15 rejection of the Utah report that was recently  
16 submitted to this Commission?

17 MR. DULLES: Well, fortunately for the  
18 Advisory Committee, Commissioner Yvonne Lee was at the  
19 most recent meeting of the Utah Advisory Committee in  
20 Salt Lake City. She could share her impressions with  
21 you, as well.

22 I think the Committee was very disappointed.  
23 I think they were surprised. I didn't think they  
24 expected it. And I have to say as their federal  
25 officer, maybe I let them down because I was fairly



1 encouraging in my optimism, because this process had  
2 taken four years, that this report would to fruition  
3 and would be accepted for publication.

4           So I think it's fair to say that they felt  
5 let down. I have to say we have a very, very  
6 professional and a very committed group of people out  
7 there and they have not given up, as Commissioner Lee  
8 will be happy to explain to you.

9           In addition to the Advisory Committee  
10 members, there were numerous civil rights organizations  
11 and especially women's organizations that came forward  
12 to express their concerns. And I think the most -  
13 reasonable, in my opinion -- not the most reasonable  
14 but the one request that they formally made was that  
15 this Commission provide them at least with an answer to  
16 the question: why did you turn it down. Could you  
17 please at least give us a reason as to why the report  
18 was rejected in a formal sense. And I think that will  
19 probably be coming before you in some means, whatever  
20 that might be.

21           I think that they were disappointed.

22           One thing that's interesting, Commissioner,  
23 is that in 1996, there was a state legislative audit of  
24 the same agency that our Committee reviewed, the Utah  
25 Anti-Discrimination Division. And their report -- I

1 think the only appropriate word, it was scathing  
2 indictment of that enforcement agency by a legislative  
3 entity, that being the state legislative auditor. And  
4 they found a failure of leadership, disorganization,  
5 chaos, lack of effective administrative. Basically a  
6 breakdown of the Utah Anti-Discrimination Division.

7 This was a report that came after ours. It  
8 was released in 1996. And in conjunction with the work  
9 of our State Advisory Committee, has led to the  
10 beginning of some institutional reforms within that  
11 structure.

12 So I think the feeling was that there was  
13 almost a consensus on the part of many leaders in the  
14 state of Utah that that system was not working  
15 effectively, and I think therefore they were puzzled  
16 and surprised that their report was not acceptable for  
17 publication. But, I think they are still energized.  
18 They're still committed. They want a response from  
19 this Commission. They want to work with you. They  
20 have not given up hope. And I think that's a very  
21 positive sign.

22 CHAIRPERSON BERRY: Okay. Well, we don't  
23 want to take all day with John, but go ahead,  
24 Commissioner Lee.

25 See that, Russell? That's what you get for

1 having questions one by one.

2 But anyway, go ahead.

3 COMMISSIONER REDENBAUGH: I defer, in the  
4 future, to your wisdom and experience.

5 CHAIRPERSON BERRY: Commissioner Lee?

6 COMMISSIONER REDENBAUGH: Both of which  
7 exceed my own.

8 COMMISSIONER LEE: I was going to make my  
9 report on Utah later, but --

10 CHAIRPERSON BERRY: No. Go ahead, since  
11 you're right on point.

12 COMMISSIONER LEE: I was going to Utah for a  
13 business trip and I thought it would be nice to drop in  
14 to visit.

15 CHAIRPERSON BERRY: Did you want to  
16 interrupt, Commissioner Redenbaugh? A point of order.

17 COMMISSIONER REDENBAUGH: No, no.

18 CHAIRPERSON BERRY: You just want to be  
19 recognized after?

20 COMMISSIONER REDENBAUGH: After.

21 CHAIRPERSON BERRY: Okay. Go ahead.

22 COMMISSIONER LEE: So I thought it would be  
23 nice to drop by to visit the Utah SAC Committee. And  
24 at that time, we were not voting on the Utah report  
25 yet, so I didn't know what kind of reception I would be

1 getting now that we've voted down the report.

2 I have to say it was a very good experience  
3 for me to attend the SAC meeting, because at that  
4 meeting not only were the SAC members very vocal with  
5 their feelings on the Commission's action, but also the  
6 community. The community represented women business  
7 owners, professional women, workers with disabilities,  
8 representatives from every other civil rights  
9 community.

10 And I think they were all, as John said,  
11 shocked. Besides shocked, I think they were very  
12 frustrated.

13 When I read the report, that was the one  
14 thing that came to me, the high level of frustration  
15 from the residents and workers in Utah because of the  
16 sense that there was really a great lack of civil  
17 rights enforcement.

18 And they were angry and frustrated because  
19 they saw the Civil Rights Commission as the last or  
20 only resource for them to come to for civil rights  
21 enforcement investigation, which they felt was the main  
22 mission of the Commission.

23 So, my half and hour there, I heard -- these  
24 are the folks from different spectrum of the community  
25 -- left, right, middle or whatever you want to call it

1 -- and they were all in unison in expressing their  
2 bewilderment and disappointment.

3           And I hope that this Commission can address  
4 some of their concerns when the letter comes in. I  
5 understand different community groups are going to  
6 write to the Commission because they asked me, and I  
7 have no answer to them, aside from the brief discussion  
8 that we had at the briefing.

9           CHAIRPERSON BERRY: Okay. Thank you.

10           Commissioner Redenbaugh?

11           COMMISSIONER REDENBAUGH: I think it would be  
12 good while we have the Regional Directors and  
13 representative here, that we take a moment and discuss  
14 this, the process issue in general, and this report in  
15 particular. So I ask permission to do that.

16           CHAIRPERSON BERRY: Okay. Can you do that --  
17 do you want to do it right now or do you want to wait  
18 until the rest of them give a presentation without  
19 questioning and then do it and then have questions?

20           COMMISSIONER REDENBAUGH: As I said earlier,  
21 I'll defer to your wisdom and experience.

22           CHAIRPERSON BERRY: Well, my experience would  
23 lead me to believe that we ought to hear from each one.  
24 Then we will take the item you propose with each one,  
25 with all of them together, and then ask questions of

1 any of them about anything they've said or anything  
2 else in their regions.

3 COMMISSIONER REDENBAUGH: Sounds very good to  
4 me.

5 CHAIRPERSON BERRY: Okay.

6 Now we're going to recognize --

7 STAFF DIRECTOR MOY: Bobby Doctor from the  
8 Southern Region. I understand he has a time problem.

9 CHAIRPERSON BERRY: Okay.

10 Mr. Doctor?

11 MR. DOCTOR: Yes, ma'am. Thank you very  
12 much. I certainly bring you all greetings from the  
13 Deep South.

14 I'm pleased to have the opportunity to share  
15 with you some of what's going on in this region. I  
16 think it goes without saying that an awful lot is going  
17 on in the region.

18 I think the South tends to be sort of I guess  
19 a sample of what goes on in the country or perhaps  
20 should be going on in the country in terms of race  
21 relations.

22 As you well know, we've had our share of  
23 problems, both currently and certainly in a historical  
24 sense.

25 I think it's important to note though before

1 I get started that well over 50 percent of all African-  
2 Americans in this country reside here in the Deep  
3 South. And so much of our problem has to do with race  
4 relations of the more traditional type, although I  
5 certainly have great affinity for what John has put on  
6 the table.

7           As you well know, we have a number of  
8 different Native American nations here in this region,  
9 Seminoles in Florida and Georgia, who -- interestingly  
10 enough, I've just discovered I have some heritage with  
11 the Seminoles. But the Seminoles in Florida and  
12 Georgia; the Cherokees in South Carolina and North  
13 Carolina; the Lumbees in North Carolina; the Choctaw's  
14 in Mississippi, Tennessee and Alabama; and the  
15 Chickasaws, obviously, in Tennessee and Mississippi.

16           And so it is very, very clear that the  
17 problems that characterize Native Americans in this  
18 region are pretty much in keeping with the kinds of  
19 problems that John has put on the table as they affect  
20 Native Americans in his particular region.

21           In this region, we could seriously -- the  
22 Commission vote back in 1991 coming out of that retreat  
23 in Richmond, Virginia, the primary subject of racial  
24 tensions, as you well know, was adopted in Richmond.  
25 And we in this particular region took it to heart and

1 have set out and have completed racial tensions  
2 projects in five of our six states here in the region.  
3 And the states that I'm talking about are Florida,  
4 South Carolina, North Carolina, Tennessee, Kentucky and  
5 Georgia.

6 In Florida, for example, we did this study on  
7 racial tensions. We went into the major cities of the  
8 state of Florida, looked at racial tensions. The  
9 information that we gleaned from those meetings and  
10 forums that we held in those major cities clearly  
11 suggest to us that racial tensions are on the increase  
12 in Florida.

13 As you well know, we also did a project in  
14 St. Pete in the aftermath of the so-called riots in  
15 that city. And there were two of them, by the way.  
16 Clearly, that particular situation was characterized by  
17 a great deal of racial tension.

18 I'm happy to report that in St. Pete a lot of  
19 effort is being made to try and address the problems in  
20 that city, and I certainly commend the mayor and a  
21 number of other city officials, along with community  
22 leaders in that community, in spite of their  
23 difficulties with each other. They've come together  
24 and they are making some great strides, I think,  
25 towards solving the problems there in St. Pete.



1           Interestingly enough, the federal government  
2 has joined hands with them. They've set up a number of  
3 different satellite offices in that city; the Small  
4 Business Administration, the Labor Department. They  
5 also have -- HUD has an effort going there, as well,  
6 and there is what is called a federal coordinator in  
7 that city that's attempting to coordinating -- or she  
8 is, rather, attempting to coordinate all that effort on  
9 the part of the federal government.

10           So a lot is going on in the city of St. Pete  
11 that I think could be shared with the rest of the  
12 country in terms of how you deal effectively with  
13 racial tensions in a given community.

14           We've also looked at racial tensions in South  
15 Carolina. And of course, the church burnings in that  
16 state, as well. And, of course, we looked at racial  
17 tensions in the major cities in the state of South  
18 Carolina. We came away with the same kinds of  
19 reactions we came away with in Florida. Racial  
20 tensions in the state of South Carolina are also on the  
21 increase.

22           We had an opportunity to meet with the  
23 Governor of that state in the aftermath of the efforts  
24 we did on church burnings, as well as the racial  
25 tensions effort, and interestingly enough we got a very

1 positive kind of response after much time having  
2 elapsed.

3 He made it very, very clear that he obviously  
4 was concerned about racial tensions in South Carolina.  
5 And of course, the flag issue, the Confederate flag  
6 issue was a big issue in that state, which we think is  
7 one of the reasons why racial tensions are so critical  
8 in that state.

9 But the Governor has worked with us and been  
10 very responsive. We've also met with the leadership of  
11 the Black Legislative Caucus in the state of South  
12 Carolina and while clearly at this point the flag issue  
13 remains an issue, we are inclined to believe that  
14 there's a much more sympathetic ear to racial tensions  
15 on the part of the state government than was the case  
16 prior to our going in there.

17 In North Carolina we did a project also on  
18 racial tensions and, of course, the church burnings.  
19 We obviously had the Chair of the Commission there,  
20 both in South Carolina and North Carolina and, of  
21 course, Tennessee. And she was joined in North  
22 Carolina by one of the other Commissioners,  
23 Commissioner Anderson. And Commissioner Anderson, by  
24 the way, was also in St. Pete for a part of that effort  
25 in the aftermath of the riots down there.

1           But it is very clear in North Carolina, again  
2 that racial tensions are on the increase, based on the  
3 information we have collected. The church burnings,  
4 obviously, in all three of the states are reflective,  
5 we think -- or at least I think anyway -- of increased  
6 racial tension. They're not the end. They are  
7 reflective of. And we have pointed that out time and  
8 time again, as are a number of other developments.

9           For example, the re-segregation of schools  
10 that are going on or that is going on, rather, in many  
11 of the states here in the Deep South, particularly in  
12 the urban centers of the Deep South, along with the re-  
13 segregation of residential communities.

14           I think all those things are reflective of  
15 increased racial tensions, a problem that we clearly  
16 have not found the key to resolve at this point.

17           We also went to Tennessee with the racial  
18 tensions project. We looked at racial tensions. We  
19 had forums, again, in the major cities of Tennessee.  
20 We also had the church burnings project there. And we  
21 came away with the same conclusions that we came away  
22 with in the other states; racial tensions in the state  
23 of Tennessee are on the increase, and of course the  
24 church burnings are partly reflective of that.

25           We recently concluded a racial tensions

1 project in Kentucky. We looked at bias and bigotry in  
2 that particular state and have concluded, again, that  
3 all of that contributes to racial tensions in the state  
4 of Kentucky.

5 I think it's fair to say, based on what we've  
6 been able to collect and pull together over the past  
7 four or five years now, that racial tensions here in  
8 the Deep South are certainly on the increase.

9 The only state that was not part of this  
10 racial tensions project is the state of Georgia. And of  
11 course, here in Georgia -- or there in Georgia, since  
12 I'm here in Tennessee at this moment -- we're doing a  
13 symposium on civil rights that's scheduled to take  
14 place the first part of next year.

15 I, at this point -- I have some ideas about  
16 some of the problems since we've lived there in  
17 Georgia, that are going on in that state. Again, the  
18 flag issue, the Confederate flag issue is a primary  
19 focus in the state of Georgia, as well.

20 I mean, it's also interesting to note that  
21 hate group activity, I think as reflected by some four  
22 or five different bombings which have occurred in and  
23 around the city of Atlanta within the past 15 or 16  
24 months now certainly are reflective of what be  
25 described as increased racial tensions.

1 I think it's also noteworthy that recent  
2 months it's been discovered or there have been  
3 discovered several bomb making operations in the state  
4 of Georgia, which clearly, I think, tends to not bode  
5 well for the future of race relations in that state.

6 We're concerned here in the Deep South also  
7 about the increase in the activity of splinter groups  
8 that are aligned directly or indirectly with the so-  
9 called militia movement, not only in this region but in  
10 other regions around the country. I think it's very  
11 clear and safe to say that that activity has increased.

12 There is a stockpiling of weapons, the  
13 stockpiling of weapons of mass destruction,  
14 interestingly enough. And I think we all need to be  
15 very, very aware of all of that as it impacts the  
16 overall subject of racial tensions.

17 That's it, Madam Chair.

18 CHAIRPERSON BERRY: Okay. Well, thank you  
19 Could you hold on while we hear from the  
20 others and then we'll have the discussion.

21 MR. DOCTOR: Sure.

22 CHAIRPERSON BERRY: I'm going to skip around  
23 here a little bit. Let's go to the West Coast here and  
24 have Phil tell us what's going on out there.

25 MR. MONTEZ: Well, I'm Phil Montez from Los

1 Angeles and Commissioner George disagreed with me. I  
2 told him that that's the center of the universe.

3           Melvin Jenkins says that in a few years,  
4 Kansas City will be the new beachfront, so he's taking  
5 orders for beach property if anybody wants to buy for  
6 the future.

7           But let me talk a little bit about the  
8 Western Region, which consists of 10 states, all the  
9 way to Alaska, Washington Oregon, Idaho, California,  
10 Nevada, Hawaii, Arizona, New Mexico and Texas, which is  
11 a pretty good piece of real estate when you look at it.  
12 And each state has its own unique problem as it relates  
13 to civil rights, depending on the population and the  
14 changing demographics that is going on in all states.

15           Some are moving much faster in the change  
16 with the coming new populations that are increasing.  
17 In particular, California, as you well know, we have  
18 probably the largest mix of ethnic and racial groups of  
19 any place in the country.

20           One of the problems that I see -- I think  
21 it's maybe a future problem that I'm speculating on,  
22 but as you begin to develop and have all the different  
23 ethnic groups, I have to go back to the idea that about  
24 three years ago we had a forum in Portland, Oregon as  
25 it related to hate crimes after the killing of a young

1 Ethiopian young man by four skinheads who are now in  
2 prison for life over the killing. We had a forum there  
3 and invited all the heads of agencies, enforcement  
4 agencies, to try to make some assessment as to what  
5 they were doing as it relates to hate crime.

6 I have never forgotten the head of the FBI  
7 who spoke before the Committee, and his remarks have  
8 stayed with me ever since. He stated to the Committee  
9 that the problem -- I quote what he said. The problem  
10 with the United States today is that everybody hates  
11 everybody. And that's becoming more of a reality,  
12 particularly as I see it in California, as we have all  
13 the different groups that are coming together and  
14 trying to live with one another. And yet it seems to  
15 be that the political system, the economic, the  
16 education -- nobody's addressing that.

17 We're talking about Hispanics or Mexicans,  
18 whatever it is, are talking about their problem. They  
19 don't have any interest in anybody else. Afro-  
20 Americans are talking about the problems of Afro-  
21 Americans. Women are talking about the problems of  
22 women, which I think is fine. It creates separate  
23 nationalistic attitudes, but I don't know if that's the  
24 basis of a democracy.

25 My problem that I see for the future, and I

1 keep thinking about it. Just this week, for example --  
2 let me give you an immediate example. Commissioner  
3 Berry and I were in Linwood, California. It was this  
4 past year, wasn't it?

5 CHAIRPERSON BERRY: Yes.

6 MR. MONTEZ: To look at the problem of  
7 police-community relations and the minority  
8 communities. The black community, with the exception  
9 of one Hispanic, made up the city council. And last  
10 week, to show the changing demographics, the Hispanic  
11 community took over the city council this past week.  
12 So, now between those two groups there's antagonism.

13 I called the office and they said the state  
14 legislature, one of the assistants, is looking for you  
15 and he wants you to call him. I said, well, I don't  
16 have time right now. Have Tom call him. And what it's  
17 related to is the problem in a week that has now  
18 developed between Hispanics and blacks in Linwood  
19 because one side lost and the other side won.

20 My concern is that if this continues, and I'm  
21 sure eventually it will be nationwide. I've heard of  
22 other large cities that have the same problem. I sit  
23 sometimes late at night and wonder whether Bosnia will  
24 be kindergarten compared to what could possibly happen  
25 in this country if we continue in this way.



1 I think it's probably, to me, in my limited  
2 perception as a Regional Director of 10 states, it is  
3 probably the future most crucial problem that this  
4 country faces. And if I can put that together with the  
5 idea of the FBI director in Oregon and what I see going  
6 on, as we perceive what is going on, you know,  
7 everybody wants a big piece of the pie and there isn't  
8 enough pie. There's only one pie and it's already  
9 overloaded with people taking their share.

10 That is one of the main concerns we face.

11 I don't want to get into a lot of specifics  
12 on the states unless you particularly have an interest  
13 in what we're talking. I can tell you about all the  
14 projects that we're talking about.

15 The problems in Hawaii are -- you know, there  
16 are so many different people coming in there and the  
17 envy of human behavior is amazing because -- and the  
18 people who are the less recognized in Hawaii, of  
19 course, are the native Hawaiian and the newly arrived  
20 Filipinos. That's the problem we have in Hawaii.

21 Of course, throughout the Southwest you're  
22 constantly getting the immigrant bashing, particularly  
23 mostly of Hispanics or Mexicans that are crossing the  
24 border illegally. That is a crucial problem and -- you  
25 know, the thing is that I'm convinced and I'm very

1 close to the Regional Director of Immigration and  
2 Naturalization because I now sit on the Southern  
3 California Federal Executive Board as an elected  
4 member, and I had a discussion with him after we did  
5 our border report that John so ably worked on with me  
6 before he deserted us and went to Denver, because he  
7 wanted to become a bigshot, too.

8           But one of the things I asked the Regional  
9 Director -- him and I have lunch because we're on  
10 committees. We're on the Federal Combined Campaign to  
11 raise money. And the federal agencies in Southern  
12 California raise more money than anybody else. Last  
13 year we raised \$3.5 million and we were even honored at  
14 a Dodger baseball game because we're so powerful  
15 because we can raise that kind of money.

16           But I asked him. I said, you know, we've  
17 just finished this study and we received compliments  
18 from Commissioner Misner on it and I said, I want to  
19 ask you a question and be very direct. I have a  
20 feeling that you and the United States Government could  
21 close the Mexican border within 24 hours if you really  
22 wanted to. Am I right or wrong?

23           He says, I think you're right, he says, but  
24 remember that big business has to keep replenishing  
25 cheap labor and Mexico is where it's coming from. So

1 we can't stop everybody. He says, every time we get  
2 successful in the border and we're almost getting ready  
3 to shut it down, our funds get cut.

4 Now, I was amazed that he would tell me that  
5 because the problem isn't necessarily that -- illegal  
6 aliens know how they can get in. They have people at  
7 the border that they pay and they come in and so forth.  
8 But it's creating -- I don't think we'll ever be able  
9 to close the border because I believe we do need cheap  
10 labor and we have to keep replenishing it.

11 When people come in, all of a sudden they get  
12 into -- I was surprised at one woman that used to  
13 babysit for my daughter, was telling my daughter. She  
14 said, I'm having a heck of a time -- collecting rent  
15 from her renters. And my daughter said, what are you  
16 talking about? She said, well, you know, we have about  
17 15 pieces of property now. And she said, eventually,  
18 we're going to have to quit doing this kind of work,  
19 taking care of your kids, because we've almost got it  
20 made.

21 Somebody's got to replace her. And it's  
22 amazing that it's going on. It's the land of  
23 opportunity and it's really something to see. But  
24 these problems of intergroup relations are really,  
25 really beginning to in my mind create panic. And I

1 would think that it would be something that we would  
2 begin to look at and think about.

3           Groups don't really like other groups. I'm  
4 convinced of that. And then we have the political  
5 system that plays group against group for the sake of  
6 political benefit. It doesn't help anybody in the  
7 different groups.

8           And so, we have problems in New Mexico where  
9 the federal government came in, the Department of  
10 Agriculture, and gave food stamps to the state so that  
11 the district attorney could use them and go into  
12 Clovis, New Mexico and sell food stamps -- undercover  
13 people selling food stamps to the poor people and then  
14 came in behind them and indicted them all for buying  
15 food stamps illegally. And that was done by the  
16 Department of Agriculture.

17           Now, you know, when you see those kind of  
18 things going on, you begin to think. And we have a lot  
19 of problems with agencies in each state of the federal  
20 government that are not doing what we suspect they  
21 should be doing.

22           EEOC. I mentioned last night to a couple of  
23 Commissioners that I didn't know they were a political  
24 organization. Now I know that. That they use their  
25 money for political reasons, from what I understand.

1 It has to be looked at seriously.

2 The testimony that you took in Los Angeles, I  
3 was reading part of it, where the U.S. Attorney says,  
4 oh, no, we don't do anything about police brutality.  
5 We leave that up to the local district attorneys.  
6 Well, they ought to check out the district attorneys  
7 because they're not going to take on the police  
8 department either.

9 The problem in Sonoma County that  
10 Commissioner Lee and I've been talking about, the  
11 different police departments in Sonoma County have  
12 decided to stonewall us and have told me -- and the  
13 chairman of their association -- that they're not going  
14 to come to anything we do unless they're subpoenaed.

15 So where are we with the State Advisory  
16 Committee? We're going to sit there and listen to  
17 community people tell us about their problems and  
18 that's about all we're going to be able to get.

19 So I ask the Commission, because two  
20 Commissioners can go over and have subpoena power and  
21 assist us in that because I think that's a very  
22 important issue. Sonoma County is like so many  
23 counties in Northern California which we commonly call  
24 the Cow Counties. And the Cow Counties are the counties  
25 where there is no close city to them that sort of

1 creates pressure for them to do things in civil rights  
2 and so forth, so they go on and do just about anything  
3 they want.

4 The police powers that the American public  
5 gives to police is awesome, awesome power. And yet  
6 sometimes there's question about how they handle their  
7 responsibilities with that kind of power.

8 CHAIRPERSON BERRY: Phil, I'm going to note  
9 those two things about the subpoena power and the EEOC  
10 issue for further discussion.

11 Is there anything else you need to tells us  
12 before I go on to Melvin?

13 MR. MONTEZ: No. That's about all I have to  
14 say. If you have any questions specifically about any  
15 place --

16 COMMISSIONER GEORGE: Madam Chairman, if I  
17 could just very quickly --

18 CHAIRPERSON BERRY: We're going to wait until  
19 the end to ask questions.

20 COMMISSIONER GEORGE: Well, it's not a  
21 question. I just wanted to say that Phil's comment  
22 about his babysitter just makes it impossible for me to  
23 resist repeating that great line of Yogi Berra's when  
24 he was told that the good Catholic people of Dublin had  
25 elected a Jewish man as their mayor. Yogi Berra said,

1 "Only in America."

2 CHAIRPERSON BERRY: Oh, okay. So it wasn't a  
3 question.

4 Melvin Jenkins.

5 VICE CHAIR REYNOSO: You know, Yogi must have  
6 lived 300 years.

7 MR. JENKINS: May it please the  
8 Commissioners, I'm Melvin Jenkins, Director of the  
9 Central Regional Office, Kansas City, Kansas.

10 Within my region that I handle, there are  
11 nine states under my jurisdiction, including the states  
12 of Alabama, Mississippi, Arkansas, Louisiana, Oklahoma,  
13 Iowa, Kansas, Missouri and Nebraska.

14 I have a staff of five, including myself, to  
15 handle all nine states and to do the job that we've  
16 been assigned by the Commissioners and the Staff  
17 Director.

18 Some of the things that we've been working on  
19 for the last couple of years in putting together a  
20 programmatic scheme for the Central Regional Office,  
21 I've tried to develop a theme for enforcement, a review  
22 or investigation. And the theme that I've been dealing  
23 with for the last two years is education and  
24 enforcement.

25 As I've traveled throughout the nine states

1 and all across the country, I find that persons do not  
2 know their basic civil rights or how to file a  
3 complaint with the various federal or state agencies,  
4 if there are state agencies, on employment, housing,  
5 problems dealing with the public school system or  
6 community block grant programs. You name it. You can  
7 go across the scheme. Persons do not know how to file  
8 complaints.

9           It was great that the Commission reissued the  
10 publication, "Getting Uncle Sam to Enforce His Civil  
11 Rights." But you need to go a little bit further. And  
12 this is towards the vacuum that the Advisory Committees  
13 in the Central Region has taken things now.

14           We have held briefing sessions in some of the  
15 rural parts of Mississippi, Alabama, Iowa, Nebraska,  
16 you name it, providing an educational tool for persons  
17 to file or how to file a complaint of civil rights.  
18 And when you're dealing with a program like HUD, which  
19 is quite different from filing an employment  
20 discrimination complaint versus a Title VI complaint,  
21 all those things come into play.

22           We've enjoyed good success in bringing  
23 federal agencies involved into this hole by inviting  
24 those agencies to put on sessions throughout the nine-  
25 state area on how to file complaints.



1           We used a very innovative approach in the  
2 state of Iowa, which is 90 percent white -- 99 percent  
3 white, where we used an interactive public television  
4 station to broadcast to 13 local jurisdictions in Iowa  
5 a six-hour seminar on filing complaints. We intend to  
6 replicate that process in the other states also.

7           But what good does it do a person to file a  
8 complaint if you don't have an effective enforcement  
9 agency involved? When you begin to look at EEOC, HUD  
10 and some of the Title VI agencies, those agencies have  
11 not been very responsive, particularly EEOC and HUD.

12           When you look at the local level, there are  
13 quite a few states in my jurisdiction that do not have  
14 local commissions or state commissions. For the past  
15 several weeks, I've been working with the state of  
16 Mississippi and the Governor's Office there in  
17 developing a draft piece of legislation for a human  
18 rights commission or human relations commission, as we  
19 term it now.

20           Several years ago the Alabama Advisory  
21 Commission issued a major report, "The Need for a State  
22 Civil Rights Agency in the State of Alabama." That  
23 report has been resurrected by the Governor and is  
24 being looked at now as a potential piece of legislation  
25 that will be introduced come January. In a meeting

1 with the Governor this past summer, along with the  
2 Chair of the Committee, Rodney Max, the Governor said,  
3 look, I may shortcut the process and issue an executive  
4 order on this. And that was quite astonishing coming  
5 from Governor James of Alabama, to say that he may well  
6 issue an executive order.

7           So we've been working in that process,  
8 because if you have persons now armed with the  
9 information of enforcement knowing where to turn, we  
10 need that enforcement mechanism there. So this is why,  
11 with the states of Alabama and Mississippi, we've moved  
12 forward.

13           The state of Arkansas has a piece of  
14 legislation that we worked -- the Advisory Committee  
15 worked on several years ago. Unfortunately, that civil  
16 rights legislation did not have a mechanism for  
17 enforcement by a state agency, so we have a civil  
18 rights placebo, if you please, where you have a state  
19 law but no enforcement mechanism.

20           What we want to do with the Advisory  
21 Committee is to return to that state now to develop a  
22 state enforcement mechanism.

23           John mentioned several states and what he's  
24 been working on in probably Utah and North Dakota.  
25 That's the thing that I think that we all are looking

1 at now is the effectiveness of these state and local  
2 enforcement agencies. When we compare with a state  
3 like Kansas where in a meeting with the Governor last  
4 December, the chair of that committee -- of the Kansas  
5 Advisory Committee and myself met, and we talked in  
6 terms of civil rights enforcement.

7           The Governor was quite concerned that the  
8 state government was paying out quite a few dollars in  
9 terms of settling discrimination complaints, sexual  
10 harassment complaints. There was no agency in state  
11 government, and you would think that the state civil  
12 rights agency would provide training to the EEO  
13 counselors in state government.

14           That state agency, the Kansas Human Relations  
15 Commission, has not moved to do that. In order to fill  
16 that gap, we are working with the Governor's office to  
17 hold a briefing next week for state EEO counselors and  
18 executive agency heads on employment discrimination and  
19 sexual harassment complaints.

20           So, what does that all mean in the few  
21 minutes that I have? Education and enforcement. You  
22 need those two vehicles now to arm persons to file  
23 complaints on discrimination.

24           Given the concerns in this country about  
25 affirmative action and where we're going with all of

1 that, if you don't have an educated population on using  
2 that system that we have in place and then effectively  
3 massaging that system and those state and local  
4 agencies, then we're nowhere because the bulk of the  
5 information that I've received is that more and more  
6 monies will be given out by HUD and EEOC to deferral  
7 agencies.

8           If that's the case, then what we need to do  
9 is to take a closer look at the effectiveness of these  
10 state and local agencies, and that's what we intend to  
11 do in my region and along the same lines as John is  
12 doing in his region.

13           Those are the comments that I have at the  
14 present time. Thank you

15           CHAIRPERSON BERRY: Okay. Thanks.

16           Now we'll take Peter Minarik from Chicago,  
17 who's representing Connie Davis.

18           MR. MINARIK: I represent Ms. Davis who is a  
19 woman Regional Director, so there is one.

20           She has established a priority in the Midwest  
21 Regional Office, --

22           COMMISSIONER HORNER: Excuse me, Madam Chair.  
23 I'm having trouble hearing.

24           CHAIRPERSON BERRY: Okay. Let's put the  
25 microphone over closer.

1           Try again, Peter.

2           MR. MINARIK: Is that better?

3           COMMISSIONER HIGGINBOTHAM: Yes.

4           MR. MINARIK: She's established as a priority  
5 that the state advisory committees in the Midwest will  
6 study and report in substantive and quantitatively  
7 based studies to the Commission. And in the Midwestern  
8 Regional Office which is one of the newer regional  
9 offices -- it has been in existence now for six years,  
10 fully became operational in 1992, effectively, and  
11 includes the states of Minnesota, Wisconsin, Illinois,  
12 Indiana, Ohio and Michigan, essentially surrounding the  
13 Great Lakes, a large expanse of land, a huge  
14 population, and a significant minority population.

15                   A brief history of the Midwest Regional  
16 Office in terms of race relations is that it was  
17 ethnically settled and industrially based. And in a  
18 vast migration typically from the South of African-  
19 Americans moved to the industrial Midwest, beginning in  
20 the '40s, terminating mostly in the '70s. And in  
21 recent years, there's been a significant influx of  
22 Latinos and Hispanics.

23                   For whatever reasons, there has been a de  
24 facto segregation among the various communities and  
25 this has resulted in an isolation of a majority of the

1 minority communities from the dominant white community,  
2 and that pattern is throughout the Midwest. In the  
3 Twin Cities in Minnesota, Milwaukee, Detroit,  
4 Cleveland, Cincinnati, Chicago, Indianapolis, the  
5 pattern is the same.

6           And this isolation has resulted in tensions,  
7 misunderstandings and concern about the impact that  
8 this isolation of the minority community has in terms  
9 of equal education, housing, policing, even media  
10 regulations.

11           As a result, the reports that you have seen  
12 from the Midwest have run the gamut. You've received  
13 three from Minnesota; affirmative action, media  
14 stereotyping, resources and enforcement. You've  
15 received four reports from Illinois; policing, the  
16 Proviso Report the Commission asked them to do,  
17 affirmative action, the Asian community. You've  
18 received four reports from Indiana on hate crime, the  
19 enforcement of the OCCP regulations, affirmative  
20 action. You've received three from Wisconsin on the  
21 Mong, on policing, on affirmative action. You've  
22 received two from Ohio on hate crime, another one on  
23 affirmative action. You've received three from Michigan  
24 on education, on affirmative action and on hate crime.  
25 And so that is the mandate the Regional Director has

1 put forth and she has continued to ask the Advisory  
2 Committees to study issues which run the gamut.

3 And unlike the other regions which I think  
4 have changing populations -- the Midwest is somewhat  
5 stagnant in terms of its racial/ethnic mix and its  
6 population base right now.

7 Thank you.

8 CHAIRPERSON BERRY: Thank you very much.

9 And then we've saved the best for last.

10 Okay. Ki-Taek. Go, go, go.

11 MR. CHUNG: Well, thank you.

12 Good morning, Commissioners. I'm Ki-Taek  
13 Chung, Director of the Eastern Regional Office.

14 VICE CHAIR REYNOSO: And there are no  
15 problems there.

16 MR. CHUNG: Well, in the interest of time,  
17 I'd like to be brief. My colleagues have covered what  
18 appears to be -- I thought it was rather unique to the  
19 Eastern Region but I now realize perhaps it's rather  
20 pervasive across the country.

21 What I'd like to do is cover briefly, give  
22 you a picture of where the Eastern Region has been in  
23 the past year or two and where I think we are headed in  
24 the next year or two, and then perhaps end my  
25 presentation with an observation as to what seems to be

1 happening in the region.

2           The Eastern Region covers 14 states, starting  
3 from Virginia and West Virginia and going up north to  
4 New Hampshire, Vermont and Maine. And that's a vast  
5 territory.

6           We have statistics that show that we are the  
7 most understaffed. Consequently, as a result of that,  
8 we have realized that many committees have not been  
9 able to meet the frequency quota, so to speak, the  
10 number of meetings a committee has to hold in a given  
11 year. But in the past year or two, we have been able  
12 to fulfill that goal, so to speak, and all of them, I  
13 am happy to say, have obtained a certain level of  
14 operational or functional momentum. So they're all  
15 going. And while that is exciting news, it is a matter  
16 of concern because there are consequences, the price we  
17 have to pay because of the activities.

18           In the past year, we have held an equivalent  
19 of 11 full days of factfinding meetings, consultations  
20 and forums and statewide conferences on varied topics  
21 like police misconduct, racial harassment in public  
22 schools and bilingual education and fair housing and  
23 whatnot. Those reports will be, in due time, coming  
24 for your consideration, hopefully in the current fiscal  
25 year.



1           As much as you have been concerned, we staff  
2 have been concerned about the long processing time at  
3 the Regional Office. Processing time itself. I think  
4 the average is something like three to four years. We  
5 think that is a disgrace and we'd like to reduce it  
6 down to maybe two -- if possible, one and a half years  
7 from inception to the release.

8           There are many reasons I think it might be  
9 that contributes to this delay. And I think, and I'd  
10 like to be the first one to say that one of the  
11 contributing causes must be at the regional level in  
12 our office.

13           I'm prepared to work as much as we can so  
14 that we can reduce that processing time maybe down to  
15 hopefully one year. What would happen after that point  
16 is not for me to touch upon.

17           Now, in the next year or two, the committees  
18 will continue to decide on their own as to what they  
19 would like to do. And they will continue to do what  
20 they have been doing; that is, conduct appropriate  
21 forms of activities produce what appears to be  
22 justified and appropriate in light of the nature of the  
23 activities.

24           In addition to that though there is one push  
25 I think we're interested in trying to add. That is, in

1 order for the committees to truly serve as ears and  
2 eyes for the Commission, we are hoping -- and some SACs  
3 have signed on so to speak -- the idea of producing an  
4 annual or perhaps biannual status report on civil  
5 rights. That is to say, select a few manageable number  
6 of topics, major topic issue areas, and say in the past  
7 year or year and a half, these are the major events  
8 that happened in a very readable fashion so that any  
9 reader has a place to go to and get a synopsis of what  
10 has happened in a given state over the past year.

11 That, we think, will have an impact on  
12 galvanizing -- arousing and galvanizing the interest of  
13 citizens and elected officials as a reminder that there  
14 are serious civil rights issues that still have to be  
15 attended to.

16 And in that monitoring -- what shall we say -  
17 - annual report sort of effort, we hope that we can  
18 interject some quantifying efforts, quantification of  
19 on what basis can you say race relations are getting  
20 worse or improving. And I think that is one of the  
21 sort of seminal ingredients in this forthcoming  
22 Commission project on the measurement of racism.

23 At the local level, we'd like to try. And we  
24 anticipate long time-consuming process of OMB  
25 clearance, but we're prepared to at least give a try so

1 that perhaps we can in a manageable fashion. We'll see  
2 what happens but at least the intent is to provide you  
3 with a periodic assessment of development with some  
4 built-in effort at quantifying. That is to say,  
5 identification and classification of the kinds of pulse  
6 reading we need from the political readers, citizens,  
7 advocates, apathetic public citizens, whatnot, so that  
8 we can begin to get a clue as to how, when we attempt  
9 to do a national moratorium on civil rights what kind  
10 of sensitivities do we have to sort of build in.

11 Do we just ask one global almost sill  
12 question of is race relations improving? It doesn't  
13 mean much. It may make headlines but it just does not  
14 inform us properly in terms of possible policy  
15 deliberations and so on.

16 So in the Eastern Region, as must be the case  
17 in other regions, as well, the membership consists of  
18 imminent citizens; scholars, respectable scholars and  
19 researchers and former public officials, governors and  
20 state attorney generals. I think there's a vast amount  
21 of resources we have untapped as yet, so we'd like to  
22 see maximizing the possible contributions, all  
23 channelled into this kind of product.

24 We'll see how it goes. Maybe in a year or  
25 two I can tell you better.

1           Now, I thought about giving you some sense of  
2 what is happening in the Eastern Region in terms of  
3 civil rights but we readily recognize that each region  
4 in the state or for that matter individual  
5 municipalities are a universe in their own right. They  
6 have their own political climate and political forces  
7 therefore. So I know it's futile to provide any kind  
8 of a sort of a snapshot of this is what's happening  
9 here and that is what's happening over there.

10           But as I go over the entire region over the  
11 past year or two, I'm struck with one observation that  
12 there's a phenomenon or trend, you might call. And it  
13 is something my colleagues touched upon but it is very  
14 salient and unmistakably there. And in my view, this  
15 phenomenon or trend has several features or facets to  
16 it. So since they have touched on it, let me just tick  
17 them off.

18           One facet is this. Concern for civil rights  
19 is receding, fading away. It hardly makes a blip on  
20 your radar screen. It hardly exists.

21           And the notion is gaining strength and  
22 momentum: the notion that ill effects or consequences  
23 of the past several hundred years of our history in  
24 this nation somehow has been all remedied; a level  
25 playing field has been achieved; fairness has been

1 restored; and to continue to talk about discrimination  
2 and the lingering effects of past discrimination and so  
3 on are signs of a debilitating obsession with the past  
4 and that time has come for us to move forward, look  
5 ahead and move forward.

6           That notion seems to be gaining ground and  
7 strength.

8           The intergroup relations is worsening, as  
9 well as police-community relations. I can cite a long  
10 list of examples but let me stay with that. The  
11 mechanism or infrastructure of civil rights enforcement  
12 at local and state levels is really becoming  
13 ineffective, if not crumbling.

14           The number of complaints filed at local or  
15 state levels increases, continues to increase, but  
16 funding remains the same or oftentimes decreases.  
17 Sometimes the power of an agency to render compensatory  
18 damages has been stripped off. So at best, you try to  
19 restore the whole, but many claim that that is not  
20 enough. Why do I go through this ordeal if that's all  
21 I can get?

22           The ineffectiveness and the perceived  
23 impotence of so-called enforcement agencies is becoming  
24 very pervasive. That, in turn, breeds pessimism, a  
25 sense of futility and despair on the part of those who

1 they think have not recognized.

2           Minority communities seem to feel -- become  
3 more and more so. They feel marginalized so that they  
4 are no longer an effective partner in the deliberation  
5 of building the future. They seem to feel uncared for  
6 by the political leadership and the establishment,  
7 uncared and unprotected. They feel vulnerable.

8           And by the time you go through this kind of a  
9 list -- and one can go on -- then you can readily  
10 anticipate the consequences of these sort of dynamics  
11 at play. There would be frustration, to say the least.  
12 There will be resentments and there will be anger. And  
13 you can go on.

14           I don't want to allude to fears, sort of a  
15 vision of a Bosnia sort of disaster, but it's not too  
16 far fetched. There would be consequences.

17           What is surprising and disturbing, I think,  
18 is this is what I said is nothing new. I'm sure we've  
19 talked about and you're all aware of it. This is out  
20 there. Yet what is disturbing is we do not seem to  
21 have something of a countermeasure. The beginning of  
22 countermeasures are not in sight.

23           So combining the fact that there's a trend a  
24 phenomenon, unmistakable phenomenon on one hand. On the  
25 other hand, no sign of any inkling or countermeasures,

1 the concern. Combine the two and it begins to become a  
2 source of some concern for me, and I find that is the  
3 case with many others.

4 Let me just end my presentation with one  
5 vignette which describes and captures the essence of  
6 this escalating and negative dynamism.

7 About two months ago, Massachusetts community  
8 decided to hold a planning meeting. They were planning  
9 a large-scale statewide civil rights leadership  
10 conference sometime in March. Devall Patrick agreed to  
11 come and the Governor agreed to come and some of  
12 prominent figures will be there.

13 But in connection with this planning, we  
14 heard from an African-American person in Springfield,  
15 Massachusetts that we have a problem. I wish you guys  
16 can come and at least make your presence so that we can  
17 talk to you.

18 And he had some persuasive vignettes to share  
19 with us, so the committee decided to hold a meeting, a  
20 planning meeting there, but allocate about an hour and  
21 a half for briefing purposes.

22 We invited the mayor, police chief and  
23 community representatives so that we can get balance,  
24 so there'll be input about what seems to be happening.

25 It was amazing. It was a capacity audience.

1 The capacity was 50 or 60 at the law school there,  
2 which was nearly filled. And we had about five or six  
3 persons scheduled to speak. Everybody wanted to speak.  
4 And because of this overwhelming sort of force at play,  
5 the committee decided -- forget about the planning  
6 meeting and we'll just listen to them.

7 And it lasted mind you four hours without  
8 lunch break. And afterwards, we just had to break and  
9 end it because were at the point of exhaustion and the  
10 hunger pains, as well.

11 Toward the end, many people said really what  
12 John and Phil said. That is, there's clearly despair.  
13 You know, you are the last sort of body. However  
14 impotent you may be, you are the last agency  
15 accountable. They have no place to go.

16 The police doesn't care for us. The mayor  
17 doesn't listen to us. State attorney doesn't care for  
18 us. Where do we go? I wish you can do something about  
19 it.

20 I don't think they necessarily meant that we  
21 can do something about it, the Advisory Committee, but  
22 it is a cry of despair. It was unmistakable.

23 We have something of a transcript. It was  
24 taped, so it's all there. Now, we are going through  
25 this and we are hearing this kind of message.



1           Way toward the end, there's an elderly  
2 gentleman sitting in the middle of the audience and he  
3 kind of raised his hand. I'm so-and-so. Could I have a  
4 few minutes to make a few comments? And our chair  
5 person was gracious enough to recognize.

6           And he comes forward and he says, I'm 70-some  
7 years old and I'm a retired -- he's a professional  
8 person, a white person I've lived in this town for  
9 about 30-some years and so on. And he says, it is true  
10 that in his youth he was something of an activist but  
11 he has ceased to be that. He's just an ordinary  
12 observer and plain citizen, he said.

13           But what is happening in Springfield vis-a-  
14 vis police-community relations and police abuse is  
15 horrible. I say this, he said, as a white person. I  
16 say this as a conscience from my conscience that  
17 something like this cannot go on. He said something  
18 has to be done. If nothing is done, I don't know  
19 what's going to happen.

20           Again, was that person thinking that the  
21 committee could do something about it? I doubt it very  
22 much. I think, again, it was very spontaneous,  
23 unavoidable expression of what many thoughtful  
24 concerned citizens are thinking about. That's the kind  
25 of message I took.

1           And let me just end with that because that  
2 hardly is an exaggeration or exception. I think it's  
3 there.

4           So, thank you for your time.

5           CHAIRPERSON BERRY: I want to thank you very  
6 much and we'll go to questions. But let me just say  
7 one or two things first very briefly.

8           The first is that when you were talking, Ki-  
9 Taek, and the rest of you, I was reminded that Arthur  
10 Fleming, who isn't here any more to tell us, used to  
11 tell me the story -- he must have told me at least 100  
12 times at breakfast or lunch or dinner, about the  
13 meeting, Cabinet meeting, at which Dwight Eisenhower  
14 decided to set up the Civil Rights Commission and he  
15 and Herb Brownell were discussing it. Brownell was the  
16 Attorney General. And that -- two things come to mind.

17           One was that the Civil Rights Commission was  
18 supposed to be a safety valve. We were supposed to be  
19 the place that would listen when nobody else would, and  
20 that one of Eisenhower's ideas was that whatever else  
21 the Civil Rights Commission did, it would give a  
22 hearing to people.

23           He thought of that in terms of relieving  
24 tensions, in one respect. That people would feel that  
25 they had someplace to go. So that idea was there from

1 the beginning. And I don't know how faithful we have  
2 been to it over the years, but that's the idea.

3 The second is that Brownell -- Eisenhower  
4 wanted us to have subpoena power and he wanted us to  
5 have subpoena power because he wanted to, as Fleming  
6 told us a million times, to get the facts on top of the  
7 table. And he always pounded the table whenever he  
8 said that because he said that's what Eisenhower did,  
9 and that that's why he had Herbert Brownell, instead of  
10 an Executive Order, have Congress amend our statute so  
11 that the Commission would use its subpoena power so  
12 that whenever it was necessary to bring people forward.

13 And I suppose, and conceptually, that would  
14 be whether they were in the states in connection with  
15 hearings or whatever, that we would be imaginative and  
16 creative in using it to try to get the facts, as it  
17 were, on top of the table, even when people didn't want  
18 to bring the facts to the table.

19 I took note of three things -- and then I'll  
20 recognize Commissioners -- that I don't want us to  
21 forget that were raised. One was the suggestion that  
22 often they can't get people to come to State Advisory  
23 Committee meetings or forums to discuss issues, and the  
24 idea that we, two Commissioners, might be willing to go  
25 or we might have some kind of approach that would

1 advise people enough ahead of time that two were  
2 coming, so that they could subpoena people.

3 Commissioner Anderson and I went to St.  
4 Petersburg together. And had they known far enough in  
5 advance and had we known there was going to be a riot  
6 and all that, we could have notified them and they  
7 could have used our presence to subpoena people there,  
8 but the timing was not with us. That's an idea. But  
9 the two of us did go there.

10 The other thing I wrote down was the question  
11 about enforcement, which many of you mentioned your  
12 concerns about the enforcement agencies of the federal  
13 government and the state agencies.

14 You will recall -- all of us will recall that  
15 our Title VI report looks at state enforcement, federal  
16 and state enforcement, and points out that there's not  
17 much going on in terms of enforcement insofar as Title  
18 VI. And I will tell you that the President -- Clinton,  
19 that is -- has become very concerned about this issue  
20 in connection with the race initiative, because the  
21 understanding is that everybody in the country is  
22 against discrimination. They may not like affirmative  
23 action or they may not like something or other, but  
24 that we don't know anybody who in public says that it's  
25 okay to discriminate against people based on race, sex,

1 national origin.

2           And so that one would expect agencies to  
3 enforce -- have some mechanism for enforcing people's  
4 civil rights and investigating their complaints, both  
5 because it relieves tensions -- the old safety valve  
6 idea -- and because it's fair and it's just and there's  
7 some concern about what to do about it.

8           So I pinpointed those, as well as the  
9 question about the SAC reports, which Commissioner  
10 Redenbaugh wanted to make sure that everybody had a  
11 chance to address.

12           But with that, I'll just recognize anybody  
13 who wants to ask something.

14           Yes, Commissioner Anderson?

15           COMMISSIONER ANDERSON: Thank you.

16           Well, let me begin by thanking all of you. I  
17 think this was very good that we did this.

18           I'd like to suggest that we do it every year,  
19 have a meeting like this. I think it would be  
20 beneficial if we could time it so that we could take  
21 into consideration the conversation at this kind of  
22 meeting within our planning cycle. So whatever month  
23 that would make sense. But I just put that on the  
24 table as a suggestion.

25           What I'd like to ask, and I'd just basically

1 ask one question to begin with, although there are a  
2 number of substantive kinds of questions and procedural  
3 kinds of questions that could be asked. I'd like to  
4 ask a procedural question to begin with and that is to  
5 each of you.

6 How do you develop the priorities for the  
7 regional office? As I hear all of you speak, there  
8 seem to be different lists of priorities. And I'd like  
9 you to just address, each of you individually, what  
10 goes into the assessment of priorities for your office.

11 CHAIRPERSON BERRY: And could we have Bobby  
12 answer that question first because I understand at  
13 11:30 he has to go.

14 And while you're answering it, Bobby, if  
15 there is anything else you want to say about any of  
16 these other things before you go, make sure you do  
17 that.

18 MR. DOCTOR: Okay. Very good. Thank you,  
19 Madam Chair.

20 Commissioner Anderson, as I understand your  
21 question, I think a lot has to do with the region, and  
22 a lot has to do with a given state within a region.  
23 And, of course, a lot has to do with given issues  
24 within a given state, within a given region.

25 And clearly in our particular region, where

1 you've got a significant number of let's say, shall we,  
2 African-Americans, very clearly a lot of your problems  
3 are going to have to do with race. And not only race  
4 as we currently understand it, but race in a historical  
5 context, as well. And I think that tends to drive  
6 decisions that are made by State Advisory Committees.

7 I think it's also interesting to note the  
8 last time around the Commissioners drove our decision  
9 down here for us in that meeting in Richmond, Virginia  
10 that I alluded to earlier.

11 I think you guys, if I might be so  
12 presumptuous, ought to entertain the idea of doing that  
13 every year; holding a retreat to not only discuss  
14 issues that have to do with programming direction but  
15 also to deal with issues that have to do with  
16 philosophical differences, personality differences,  
17 issues that have to do with anything that might make us  
18 more effective, that might put this agency back on  
19 track.

20 I was most impressed with that meeting in  
21 Richmond, Virginia back in '91. And I think at that  
22 time we had conservative Commissioners. Obviously we  
23 had Commissioners who were more moderate, Commissioners  
24 who were liberal, and I was amazed at how you guys got  
25 together and worked through the issues that were on the

1 table.

2 I have an old friend. Many of you may know  
3 him, Maulana Karenga, from out Phil's way, who talks  
4 about the idea of operational unity or functional unity  
5 and the need to try and recognize the things that you  
6 have in common and be about the business of  
7 highlighting those things that you have in common, and  
8 of course, putting those things that you don't have in  
9 common on the back burner for the good of the agency,  
10 for the good of an effective agency.

11 I think now is the time for this Commission  
12 to come to the forefront.

13 I was most embarrassed, to be honest with  
14 you, by the fact that the President didn't see fit to  
15 name this agency to look at the question of race  
16 relations in America. It seemed to me we're already  
17 doing that. I know we're doing it here in this  
18 particular region. And I view myself -- again, if I  
19 might be so presumptuous, I view myself as one of the  
20 leading experts in the country on race relations.

21 And so I was highly offended by the fact that  
22 we were not asked by President Clinton to look at the  
23 question of race relations in America, and especially  
24 in light of the fact that we are looking at racial  
25 tensions in America, which obviously is a parallel kind



1 of an issue.

2 I know that we've had some difficult time and  
3 you may not believe it but the kind of interaction and  
4 the kind of relationship that you guys have at the very  
5 top of the Commission structure tends to filter down to  
6 the staff. And so the divisiveness that you guys  
7 experience at the very top also tends to adversely  
8 impact the relations that we have amongst our staff.

9 For a while there, we literally had a we/they  
10 kind of a situation existing amongst the staff. And I  
11 think clearly you can't function effectively when you  
12 have that kind of divisiveness. And I think too much  
13 is at stake at this point for us not to realize and get  
14 back to the realization that we have to provide  
15 leadership on this issue in this country. Nobody else  
16 is.

17 And so as already been indicated, it is very,  
18 very clear that the federal government -- and this is  
19 not something that has happened with this  
20 Administration but it's happened with every  
21 Administration since I've been around, and I've been  
22 around over 30 years with this agency now. But you've  
23 got to have the federal government actively and  
24 aggressively and vigorously enforcing federal civil  
25 rights laws. And if you don't have that, you send a

1 terrible message to the rest of the country that the  
2 federal government is not serious about civil rights  
3 enforcement.

4 And when that happens, then you have  
5 regression and you have racial tensions and you have  
6 slippage and you have what we have now, a deeply  
7 divided country.

8 That's it, Madam Chair.

9 CHAIRPERSON BERRY: Okay. We need an answer  
10 to Commissioner -- let's get back to Commissioner  
11 Anderson's question and then anything else that anybody  
12 wants to say.

13 Why don't we go down here to you, Peter. How  
14 do you determine priorities, program priorities?

15 MR. MINARIK: The Regional Director holds a  
16 planning meeting of the committee, and at that meeting,  
17 every advisory committee member -- excuse me.

18 The Regional Director has a planning meeting.  
19 And before the planning meeting she contacts every  
20 member of the Advisory Committee to ensure that they  
21 can make the meeting. At that meeting, each member is  
22 allowed to present a briefing or having a briefing come  
23 forward.

24 After the briefings, there's a SAC discussion  
25 and then there's a decision at that meeting. The SAC

1 does it. One exception was when the Commission brought  
2 up the Proviso High School issue in the New York Times  
3 magazine. The Regional Director did take the  
4 initiative to take that project to the Advisory  
5 Committee of Illinois and they agreed to take it on.

6 CHAIRPERSON BERRY: Okay. The rest of you?  
7 We'll just go down the --

8 MR. MONTEZ: Yes. Our position is similar to  
9 Pete's but we have two pressure points, the advisory  
10 committees and the communities. We catch everything  
11 from the communities or individuals and we make a  
12 preliminary assessment of when people tell us there's a  
13 certain problem going on and you ought to look at it.

14 Well, it may not be as big a problem as the  
15 individuals that are telling us until we take a good  
16 look at it and check it out. Then we will bring it  
17 before the Advisory Committee staff people and sort of  
18 get into competition with the kinds of things that the  
19 Advisory Committee wants. And then, in a unified way,  
20 we decide which ones should be the priorities; whether  
21 what we bring to the table, the staff, or whether it's  
22 going to be what the Advisory Committees think are the  
23 problems.

24 But we usually have enough on the plate that  
25 we're constantly going. It's not we get one project;

1 they get one project. We just amass. And, of course,  
2 Advisory Committee people have, like every other human  
3 being, their own special interests that they want  
4 looked at and so forth and that comes in, too. But  
5 eventually it gets filtered through where the  
6 priorities are established in a unified manner.

7 MR. CHUNG: More or less the same. The final  
8 decision as to what priority should be given within a  
9 committee is a committee's prerogative, but I respect  
10 that.

11 Typically what happens is everybody knows  
12 that such-and-such a meeting is for the planning  
13 purpose, the selection of topics. Every member, if  
14 they're present in person, if they're absence, through  
15 perhaps correspondence, will convey their sense of what  
16 ought to be done in the forthcoming year or so. Staff  
17 would have its own observations and recommendations  
18 placed on the table. The committee discusses these and  
19 then they take a vote. So that serves is a final  
20 decision.

21 At the Regional office level do we have any  
22 region-wide priorities and so on? The twist that I  
23 mentioned for the future, it is going to be a  
24 suggestion.

25 I talked to a couple of SAC chairs and they

1 say, yes, that's a good idea. Why don't you develop  
2 that and then let's bring it to the committee and we'll  
3 just act on it.

4 So, is that going to be a priority? I think  
5 if anything it is a persuasion, sharing an idea. Some  
6 committees will like it and so they'll buy into  
7 something or we have another agenda. That's fine. And  
8 I do not think the -- perhaps I'm wrong on this one,  
9 but I did not think that the Regional Director has that  
10 kind of an administrative prerogative and authority to  
11 indirectly direct or dictate.

12 COMMISSIONER HORNER: Could you speak more  
13 directly into the mike, please?

14 MR. CHUNG: I'm sorry, Commissioner. Should I  
15 repeat what I said or --

16 COMMISSIONER HORNER: No.

17 MR. CHUNG: So that's the way roughly it is.

18 CHAIRPERSON BERRY: Melvin?

19 MR. JENKINS: Sure. There are two levels of  
20 planning that we've utilized in the Central Regional  
21 Office. For several years we've held what we call  
22 Chairpersons Conferences where we invite all the chairs  
23 in from the region to sit in and prioritize from a  
24 regional perspective things that we want to do.

25 Several years ago we outlined that we wanted

1 to entertain the idea of doing something on welfare  
2 reform. Before that, we wanted to do something on  
3 community block grant programming. Now the effort has  
4 shifted towards education enforcement.

5           So from a regional perspective, we develop a  
6 theme and then, within each individual state, we hold,  
7 like all other regional offices, planning meetings with  
8 the SAC chair and the Advisory Committee members to  
9 determine what priorities we want to set for the  
10 Advisory Committee.

11           To give an example, this coming week,  
12 November 20th in Vicksburg, Mississippi, that Advisory  
13 Committee will be meeting in a day and a half planning  
14 meeting to outline several themes that they want to  
15 undertake for the next two years, so that we can keep  
16 this planning process going.

17           So, each Advisory Committee, we plan things  
18 at least a year or two years in advance so we don't  
19 have to revisit areas. Oftentimes you do get pressure  
20 points coming in, so we try to build in and react to  
21 those pressure points.

22           So in sum, two levels. The regional level, a  
23 theme, and each state will develop a theme of where  
24 they want to go. All that is by the Advisory  
25 Committees and we do the necessary background work

1 that's requested of us by the Advisory Committee  
2 members and the chairs.

3 CHAIRPERSON BERRY: John?

4 MR. DULLES: I'll be brief. I think there  
5 are basically three levels. The first and probably the  
6 most important is the State Advisory Committee planning  
7 process where they come together to discuss issues.  
8 And I think that's why it's so important that there be  
9 diversity on those committees because they bring their  
10 individual views, experiences and concerns. If you  
11 don't have geographic balance, ethnic balance, gender  
12 balance, religious balance, political balance, you're  
13 not going to get the full mix in that planning process,  
14 so that is critical.

15 Number two, it is driven by pressure points,  
16 by issues. I recall a number of years ago there were  
17 some brutal savage murders of Navajos in Northwestern  
18 New Mexico and we reacted, the Advisory Committees and  
19 the staff, because there was a critical situation.

20 It can be driven by constituency groups that  
21 come before the Advisory Committee and try to influence  
22 their planning process but it's still the SAC advisory  
23 planning process.

24 Finally, it's this Commission. In the past,  
25 we have participated and cooperated with you on

1 desegregation studies, on law enforcement studies, on a  
2 number of different issues. In the case of the  
3 immigration law enforcement project, actually it  
4 emanated with some requests from some congress people  
5 who asked the Commission, and the Commission in turn  
6 asked the four State Advisory Committees, California,  
7 Arizona, New Mexico and Texas, to assist them. So it's  
8 a joint process.

9 CHAIRPERSON BERRY: Commission Lee?

10 COMMISSIONER LEE: Thank you.

11 I want to thank all of you for coming. This  
12 has been very, very educational for me and I really  
13 hope that maybe in the future for the staff report that  
14 we can have a little bit more information such as the  
15 ones that you've provided to be included.

16 So besides the activities that you're  
17 planning or whatever, just observations that you have  
18 in your regions will be very helpful to me, at least.

19 I just want to have a follow-up question to  
20 Commissioner Anderson's, talking about how you set  
21 priorities. Does budget or do you have a budget? Does  
22 the budgetary question ever play in your decision in  
23 setting priorities?

24 MR. JENKINS: All the time.

25 COMMISSIONER LEE: I'm sorry to ask that



1 question.

2 MR. JENKINS: If I can take perhaps two  
3 minutes, if I can.

4 It's very difficult -- and all my colleagues  
5 will agree -- for us to undertake and entertain major  
6 studies with the staff that we have.

7 In John's office, we have two professionals  
8 and one support staff. Six states. I have nine states  
9 and Ki-Taek, 14 states with a staff of about five or  
10 six persons.

11 MR. CHUNG: Are you kidding? Only three.

12 MR. JENKINS: Okay. Three.

13 In terms of what we can do, the pressure  
14 points, we can only service so many states at one given  
15 time. With nine states or 14 states, we can only serve  
16 perhaps two or three states with major activities for a  
17 given year. So therefore, you have some states with  
18 some extreme problems that you're not able to provide  
19 any type of service to.

20 You can hold the regular meetings but I'm a  
21 person -- why should I just hold a meeting for the sake  
22 of my performance standards if I can't do anything  
23 else. I refuse to do that any more unless I can  
24 provide a quality type meeting where we can invite  
25 persons in and come out with something concrete.

1           This is why we moved several years ago to the  
2 briefing sessions where we can invite representatives  
3 in from state and local government so that they would  
4 be able to provide information that we can't do.

5           So, the budgets -- we're driven and our  
6 programs are driven by the lack thereof, of an adequate  
7 budget. Years ago the rule of thumb was for each  
8 regional office you would have one civil rights analyst  
9 or equal opportunity specialist to service two states.  
10 Now we have four to five states that one person has to  
11 serve, and that's very difficult to do.

12           MR. DOCTOR: I second that, by the way.

13           MR. JENKINS: Thank you, Brother Bobby.

14           CHAIRPERSON BERRY: Ki-Taek?

15           MR. CHUNG: Yes. I'd just like to piggyback a  
16 little bit on that.

17           CHAIRPERSON BERRY: Talk right into the mike,  
18 Ki-Taek.

19           MR. CHUNG: At least in one region, that is,  
20 Eastern Region, I broke down the number of weeks one  
21 can devote to a SAC. In my region, it is about  
22 effectively 10 weeks per year per state.

23           If you subtract from that the route sort of  
24 administrative processing for having to organize a  
25 meeting and call people and do processing, you really

1 do not have much time left to do anything substantive.

2 I know very well from reading transcripts and  
3 participating at Commission meetings that many of you  
4 have what I would say something of a displeasure or  
5 disappointment out there to say about the quality of  
6 SAC reports, it seems.

7 Oftentimes, comments were made that this  
8 doesn't go deep enough, doesn't have findings,  
9 recommendations. And I think your reference point is  
10 something that comes out from OGC, Office of General  
11 Counsel or Office of Civil Rights Evaluation.

12 If you ever compare, do the comparison in  
13 terms of person or investments, person hours that goes  
14 into headquarters reports against SAC reports in terms  
15 of person hours now, I think you'll be surprised and I  
16 would even bet that you'd change your views that the  
17 product however unsatisfactory and so on it may be, the  
18 project is well worth the time we've spent on it. And  
19 that's the investment aspect that has not been really  
20 carefully looked at.

21 So, I would plead you that when you consider  
22 State Advisory Committee product, we have to consider  
23 what has gone into this, let alone good intention.  
24 That doesn't matter. How many staff persons or weeks  
25 have gone into this product and what did we get out of

1 this.

2           You mentioned budgets. We have been  
3 operating -- at least the Eastern Region has been  
4 operating without its own budget for the past good many  
5 years, so that creates -- Regional Directors may vary  
6 about discrepancies about that but at least from my  
7 standpoint, operating without an annual or quarterly  
8 budget is very dysfunctional and it's cost ineffective  
9 because -- well, to give you an example.

10           When D.C. Committee was reappointed by you  
11 very recently, I had a luncheon with the SAC  
12 chairperson, and in one or the other context, he said,  
13 you know, I think it will be nice if we can meet at  
14 least quarterly. I knew very well in my mind we  
15 couldn't afford that. But for me to say, I can't  
16 really promise that, I would look so incompetent,  
17 silly. What am I doing there?

18           I can't even say, D.C. Committee does not  
19 require much expenses. But it is the staff resources.  
20 If staff spends that much time for D.C. Committee, then  
21 something else will have to be sacrificed.

22           It is that kind of painful deliberation on my  
23 part which in turns makes me look rather incompetent,  
24 not knowing what I'm doing, and I'm ashamed of that.

25           So, whereas if we have a reasonable amount

1 closely monitored by headquarters office, a budget with  
2 a clear understanding as to how and how much is to be  
3 spent for what purpose, in my view it will increase a  
4 degree of autonomy and imaginative flexibility into  
5 allocations of resources.

6 And I'd like to just mention that as a  
7 possibility for you to consider.

8 CHAIRPERSON BERRY: Let me ask you this  
9 question, Ki-Taek, with reference to what you just  
10 said. I have two concerns with what you said and what  
11 Melvin said, and some of the rest of you.

12 Given stable budgets; that is, we don't seem  
13 to get budget increases, appropriation increases -- I  
14 mean, everyone knows that every part of the Commission  
15 needs more money. That's why we keep requesting more  
16 money every year. It's no surprise. But we don't get  
17 it.

18 So, given stable resources, which is a  
19 reality, what suggestions would you make for areas in  
20 which we might rearrange regional activities or change  
21 the way you do things. Let me give you some examples.  
22 And I'm not suggesting we do anything.

23 I've noticed at Board meetings, on boards  
24 that I'm on, whenever I ask people questions, they  
25 always think I am suggesting they do something and all

1 I'm doing is asking a question. So these are  
2 hypotheticals. They have nothing to do with my  
3 position on the issue.

4           Some people have argued that what we ought to  
5 do is to close down the Regional Offices and to have  
6 all the staff brought centrally or to consolidate the  
7 Regional Offices, given the fact that there's e-mail  
8 and Internet and all these things, technology. And  
9 that's one way to save money on space and everything  
10 else to do that and then there would be more staff  
11 people to go out to the meetings of the advisory  
12 committees and the like; that consolidation rather than  
13 expansion is the model we ought to have in mind given  
14 limited resources since we don't have the resources.

15           Other people have argued that that doesn't  
16 make sense because you need face to face contact with  
17 people and what we ought to be doing is reducing what  
18 we do at headquarters, whatever that is, and expanding  
19 what we do out in the regions because we get, according  
20 to this iteration, more bang for the buck or something.  
21 There's been that suggestion.

22           The second thing is to address the issue of  
23 budget. Years ago, the Commission, as I understand it,  
24 did allocate budgets to the regions and one of the  
25 acting staff directors who had been a regional director

1 recommended that that not be done any more because  
2 given the size of the Commission budget and the stable  
3 budgets, in order to have maximum flexibility all  
4 across the agency it was necessary to keep very close  
5 tabs on what everybody spent, when they spent it,  
6 because there isn't enough money. And that very often  
7 when you allocated money to a particular function, the  
8 person thought it belonged to them and therefore, when  
9 you needed it for something else, you'd get into a big  
10 argument about -- this is what I'm told. I wasn't privy  
11 to it -- about whether this is my money or whether it's  
12 the agency's money. And that given year ago when the  
13 Commission had a large appropriation, that might have  
14 made sense but not now.

15           So I'm just wondering. Everybody knows their  
16 needs but do you guys have any sort of recommendations  
17 about any of this stuff?

18           Phil and then Ki-Taek and then whoever.

19           MR. DOCTOR: I'd like to respond to that,  
20 too.

21           CHAIRPERSON BERRY: Yes, Bobby.

22           MR. MONTEZ: One of the statements I have  
23 about this budgetary thing. The marriage of Washington  
24 expectations and field office capability is a marriage  
25 of incompatibility. The stuff that we get from the

1 Commissioners and the kinds of programs they expect  
2 from the field are terribly unreal.

3 I mean, you know, it just doesn't work when  
4 you're out there in the field. And then you ask for  
5 more staff.

6 At one time the Western Field Office, when  
7 there were 10 field offices, had four states. We had  
8 10 people in that office. We had a full-time lawyer  
9 there. We didn't need to call the Office of General  
10 Counsel because the staff director at that time thought  
11 we should have our own lawyer.

12 We had four states. We had Hawaii, Arizona,  
13 California and Nevada. We did all kinds of things. We  
14 exceeded the expectations of Washington.

15 Then as the expectations increased the  
16 capability decreased. So, it just doesn't make sense  
17 the way the budgetary thing.

18 I don't know who it was that ever said the  
19 budget belongs to me. I never heard that before. I'm  
20 surprised that it ever came up. And I don't think  
21 that's a problem because as you get towards the end of  
22 the fiscal year, if you haven't used your budget, you  
23 tell the staff director we have this excess money.  
24 John need it or Ki-Taek or whoever. So I don't think  
25 that's a problem.



1 I think you have to realistically look at our  
2 capability and analyze your expectations. And I think  
3 the expectations are overblown compared to the  
4 capability. We can't do it.

5 CHAIRPERSON BERRY: Okay.

6 Ki-Taek, and then Bobby.

7 MR. CHUNG: Madam Chair, the reference to the  
8 possessiveness and unfortunate sort of squabbles that  
9 may ensue from that, I do not necessarily subscribe to  
10 that view because I, for one, never even for a moment  
11 have entertained the illusion that it's my region. I'm  
12 somewhat an old-timer. I wish I can entertain that  
13 illusion, but I don't.

14 And I think the reality is the extreme  
15 opposite. For each trip we make, even to Westminster,  
16 which is an hour and a half away where the staff  
17 director went, I have to get permission, process all  
18 those things, and so on. That is how stringently and  
19 micro managed we are.

20 What we are talking about, at least when I  
21 say some budgetary allocation and so on, all I have in  
22 mind is not more than what we have spent the past year.  
23 We can make reasonable -- there may be some room for  
24 adjustments. We may have in certain regions may have  
25 underspent for some reasons. But let's be rational

1 about this is what we spent for the past year. Is that  
2 sort of a reliable figure for the current year. It may  
3 or may not be. I think there's some room for rational  
4 reassessment and adjustment.

5 And based on that, that's a target figure.  
6 I'm suggesting under the \$8.7 million budget, this is  
7 what we think would be reasonable for this region. And  
8 then the administrative flexibility that staff director  
9 and Commission would retain, even be confiscated.

10 And so that kind of flexibility I think every  
11 bureaucrat understands. Do you ever entertain  
12 seriously that once I give say \$500,000 for Ki-Taek  
13 that guy would not release it and I can't get it back  
14 That's just -- to me, doesn't hold water.

15 So, really what I'm really saying is being  
16 within the limit that is permissible under the current  
17 budget, give some flexibility so that that flexibility  
18 can be used in such a way that optimizes the  
19 effectiveness and outcome and utility of it.

20 To give an example, when we do not have that  
21 authority, we have a meeting. I can rent a room at the  
22 hotel, which will cost \$300 or \$400 easily. Instead,  
23 if I know that there's an incentive for me if I was to  
24 save the \$300, I can use it for something else, then I  
25 would go to the city hall and wherever I can and get a

1 free rental.

2 MR. DULLES: Meet at your house.

3 MR. CHUNG: My house?

4 That is to say I think there's a certain  
5 degree of creative flexibility.

6 CHAIRPERSON BERRY: Ki-Taek, you should be  
7 very careful. You mean to say that you could get a  
8 cheaper accommodation but because you know that the  
9 money is available, you wouldn't unless you knew you  
10 would get the money --

11 MR. CHUNG: I was interrupted by Phil. If  
12 you look at our record, I encourage them to do that.

13 CHAIRPERSON BERRY: I understand.

14 MR. CHUNG: But the point is that when  
15 there's an incentive, it's just in us, I think, in  
16 human mortal nature that when there's incentive we work  
17 harder.

18 CHAIRPERSON BERRY: Okay.

19 I'm going to recognize Bobby, but I did  
20 notice that no one answered the first part of what I  
21 asked, which was what suggestions would you make for  
22 things that could be done differently.

23 Bobby?

24 MR. DOCTOR: Yes. Thank you, Madam Chair.

25 Let me first of all indicate that obviously

1 I'm on leave but this issue and this discussion is so  
2 important and so interesting that I've decided to hold  
3 off on my flight for another half hour or so.

4 But I think it's important to note that the  
5 rubber meets the road out here in the field and in  
6 spite of the fact that a lot of people in Washington  
7 especially the political types would like to think that  
8 the rubber meets the road for this country up there,  
9 certainly politically that's probably the case. But  
10 when it comes to issues, the rubber meets the road out  
11 here in the field.

12 And I think the Commission, interestingly  
13 enough, is more uniquely qualified to deal with that  
14 rubber on the road out here because of our structure  
15 than practically any other federal agency.

16 We've got a built in system that allows us to  
17 take a close look at how that rubber is handling the  
18 road. You've got hundreds of state advisory committee  
19 members out here who have strong relationships with  
20 staff out here, and the relationships are strong  
21 because the staff is out here. That puts this agency  
22 in a very unique position to be advised on some of  
23 everything that has to do with civil rights in America.

24 I recall years ago when we -- interestingly  
25 enough, before we went to these regional offices -- and

1 some of us were around back then -- we didn't have  
2 nearly the kind of relationship because we traveled, at  
3 least most of us anyway, traveled out of Washington to  
4 get to Florida or to get to wherever, you know, at a  
5 distant point. And so the relationships were not  
6 nearly as strong as they are now.

7           And I would hate to think that the Commission  
8 would even consider giving up its field operation as  
9 uniquely organized as it is in favor of something that  
10 might be called centralization.

11           I don't know that I can answer your question  
12 about -- I don't know that any of us can answer your  
13 question. It's an interesting question but I do know  
14 that I have the experience of seeing it happen both  
15 ways, and maybe even a number of different ways.

16           This agency has some of the most talented  
17 staff people in the field of civil rights in this  
18 country, bar none. And I think it's interesting to  
19 note that out in the field you have some of the truly  
20 most talented and experienced people inside of this  
21 agency and inside of government as it relates to civil  
22 rights. And I think we need to begin to equality that.

23           As I've said to the staff director, we need  
24 to recognize that resource, that expertise, and begin  
25 to better utilize it and to give it more resources and

1 to not only deal with the question of whether or not we  
2 ought to have independent budgets, but how do you make  
3 plans.

4 And I'm sure you guys are wrestling with the  
5 same question. How do you make plans, programming  
6 plans, meeting plans, all sorts of plans,  
7 administrative plans for the region when you don't know  
8 what sort of money you're talking about. That's  
9 totally illogical.

10 We sit and try to do that pooling -- I don't  
11 know where we get the figures from. But we start out  
12 with the premise that we should have two meetings per  
13 SAC, and then we sort of go from there. But I don't  
14 know how you deal effectively or efficiently or  
15 proficiently -- well, efficiently anyway -- without  
16 some sort of base figure. It's illogical.

17 CHAIRPERSON BERRY: Okay.

18 Now, Commission Redenbaugh, I don't think  
19 anybody addressed the question that you asked them to  
20 discuss about the SACs. Do you want to rephrase or  
21 pose your question again? We haven't discussed that.

22 COMMISSIONER REDENBAUGH: Yes. I would like  
23 to do that. And before I do that, I would preface that  
24 by saying, a some of my colleagues have, this has been  
25 an extremely informative and valuable session and I \*

1 thank you all for being here, and the headquarters  
2 people for thinking it up or agreeing to it. I don't  
3 know which. But it's been very valuable and I hope it  
4 will be continued.

5           And also, I come away from this meeting  
6 seeing that we need to find a way to have more money  
7 for the reasons and more clarity about what the budget  
8 is. I mean, it is obviously an important  
9 organizational principle to have clarity about the  
10 budget. Otherwise, you don't know how to achieve the  
11 objective. So it's with that sort of in the background  
12 that I want to speak about the SAC report process,  
13 which we kind of backed into a discussion of that  
14 earlier.

15           In '94, the Commission reviewed the process  
16 with the objective of increasing the velocity,  
17 increasing the clarity and bringing a more uniform  
18 standard to the production of these reports. . And we  
19 adopted that. And since the adoption of that new SAC  
20 process, I think it's worked extremely well in the  
21 main.

22           I want to speak specifically about the Utah  
23 Report, which is a troubling instance because my own is  
24 that there are problems with enforcement of civil  
25 rights and anti-discrimination laws probably

1 everywhere, but certainly in Utah. And the report  
2 raises important issues and I think issues that ought  
3 more formally to come before the public and before this  
4 Commission.

5 But I want to say that part of the process  
6 that we specified in '94 was that SAC reports would not  
7 strive for but would be balanced. And I've found from  
8 the minutes of our meeting in '94 an expression of how  
9 this process would work and how we would work with the  
10 SACs to produce this.

11 Commissioner Anderson, if you would read  
12 that? Because I think a lot of time has passed since  
13 '94 and it's good to come back to what the conversation  
14 was at that time.

15 COMMISSIONER ANDERSON: I'd be happy to.

16 And it was the transcript from the March 4th,  
17 1994 meeting which was attached to the memorandum we  
18 got from the Staff Director.. I got it October 9th, the  
19 day before our meeting. And it actually quotes  
20 language of the Chair, so I'll just read it into the  
21 record for a minute so you know what we're speaking  
22 about.

23 "Then the last recommendation is that the  
24 Commissioners now get SAC reports one month in advance  
25 and the recommendation is that we have them two months



1 in advance. And the purpose of that is so that we can  
2 read them, that we can tell the Staff Director or our  
3 Assistants can tell the Staff Director and the regional  
4 staff will know what our objections are, what problems  
5 do we have, work them out. And the idea is that by the  
6 time the report comes to the Commission, approving it  
7 should be or receiving it should be pro forma and  
8 people should have some understanding as to what they  
9 intend to do with it and we don't have to spend a lot  
10 of time at the Commission meeting trying to figure out  
11 how it was done, who did it or whomever."

12 Is that the quote you --

13 COMMISSIONER REDENBAUGH: Yes. That's what I  
14 had in mind.

15 So there's this process that's described  
16 there.

17 Now, when I saw the Utah SAC report, I felt  
18 that it lacked balance, that some of the language was  
19 intemperate, but that the issue was an important one  
20 and I raised those concerns with the Staff Director so  
21 that the Utah Committee could know what those concerns  
22 were and how they might be addressed.

23 On one other occasion recently we did this  
24 and changes were made to a report that have improved it  
25 very much. So it was in order to -- so that the Utah

1 Report could be passed that I said to the Staff  
2 Director through my special assistant, what bothered me  
3 about the report.

4 The report, my understanding is that the Utah  
5 Committee wanted to submit the report on a take it or  
6 leave it basis, and did that. And then on that basis,  
7 there were four of us who voted that the issue of  
8 balance wasn't sufficiently -- standard of balance  
9 wasn't sufficiently met in that report.

10 MR. DULLES: I would like to comment.

11 CHAIRPERSON BERRY: Yes, yes.

12 MR. DULLES: I am the Regional Director.

13 CHAIRPERSON BERRY: Commissioner

14 Higginbotham, are you trying to say something?

15 COMMISSIONER HIGGINBOTHAM: I have for the  
16 last hour.

17 CHAIRPERSON BERRY: Okay. I'll recognize you  
18 in just one minute. I'm sorry. I didn't hear you.  
19 But I'll recognize you in just one minute, one second.

20 Go ahead, John.

21 MR. DULLES: I would defer to Commissioner  
22 Higginbotham.

23 CHAIRPERSON BERRY: Commissioner

24 Higginbotham, please. I'm sorry.

25 COMMISSIONER HIGGINBOTHAM: Let him finish

1 because mine is not focused precisely on this point.

2 CHAIRPERSON BERRY: Okay. Go ahead, John.

3 MR. DULLES: As soon as we were made aware,  
4 Commissioner, that you had some concerns regarding the  
5 report, I, as Regional Director, did communicate with  
6 the Staff Director and I wrote a memorandum and I  
7 requested two points of information. And one was to  
8 explain exactly what those concerns were; and  
9 secondarily, to explain what the process is at this  
10 point.

11 As far as I know, no one, at least at the  
12 staff level, knew. And I'm not sure whether your  
13 committee, when it reviewed the procedures, dealt with  
14 what might happen if one Commissioner had concerns  
15 about a report.

16 I would like to say that I think you acted in  
17 good faith in trying to at least communicate somehow  
18 your concerns directly to the Chair of the Committee,  
19 buy it seems to me that's not really a formal process.

20 COMMISSIONER REDENBAUGH: No. I communicated  
21 --

22 MR. DULLES: And makes it extremely  
23 difficult. I'm sorry. I didn't mean to interrupt you.

24 COMMISSIONER REDENBAUGH: I communicated them  
25 to the Staff Director.

1           MR. DULLES: I don't think we have a  
2 procedure where, during the period of time that you  
3 have the report, that if you have a question or a  
4 problem other than some informal process, I'm not sure  
5 what that procedure is.

6           CHAIRPERSON BERRY: May I interrupt you,  
7 John, because I think I can clarify this and then we  
8 can agree and then move on.

9           Commissioner Redenbaugh, as I understand the  
10 materials that Commissioner Anderson read, which are  
11 part of the process -- did you want to say something?  
12 Is someone seeking recognition?

13          MR. DOCTOR: No, no.

14          CHAIRPERSON BERRY: As I understand the  
15 process, it seems like the small hole in it is what  
16 happens when the concern is communicated to the Staff  
17 Director. Now, maybe I have some misunderstanding.  
18 But we don't seem to have in the procedure, at least  
19 from the summary when I summarized it when we passed  
20 the motion, what happens if a Commissioner expresses a  
21 concern.

22                 We don't say that then what will happen is  
23 the Staff Director will ask or the Commissioners expect  
24 their assistants to do what we did with the report.  
25 You know, our regular reports, to try to work out and

1 agree on language or something or figure out. There  
2 doesn't seem to be anything in the process for when one  
3 individual Commissioner objects to something, or two or  
4 three or four, that there's some involvement here to  
5 try to figure out what to do.

6           Because ostensibly, if -- and I'm just  
7 querying. If the Staff Director responded -- say I  
8 said I didn't like something or Cruz said he didn't  
9 like something and no one else expressed an opinion on  
10 the same subject or two people did, and the Staff  
11 Director tried to get the SAC to change that one thing.  
12 It may very well be that other Commissioners who don't  
13 even know anything about that may not like what they  
14 changed it to, if I may put it that way.

15           COMMISSIONER REDENBAUGH: Yes. That's quite  
16 possible.

17           CHAIRPERSON BERRY: So that we need to have,  
18 I would think in the procedure, something which says  
19 what is supposed to happen when a Commissioner  
20 expresses an objection. Maybe what we ought to do is  
21 say that the Staff Director should consult or ask if  
22 other Commissioners have views about whatever this is  
23 or we could say that our assistants, if we have an  
24 objection or a problem, will talk to each other and try  
25 to see if there can be some agreement about what our

1 objections or problems are. And then when the Staff  
2 Director gets in touch with the Regional Director to  
3 get them to fix this or see if we can fix this, we know  
4 that fixing that isn't going to make something else go  
5 wrong, if you get my point.

6 COMMISSIONER REDENBAUGH: No. That is a good  
7 point.

8 CHAIRPERSON BERRY: And therefore, then when  
9 it's fixed, we can expect to either accept it, reject  
10 it, or we'll know we're not going to at that point.  
11 Maybe that's where the issue is there. I don't know.

12 MR. DULLES: Madam Chair, I would like to  
13 comment that at least there has been some discussion.  
14 And maybe there needs to be a better explanation or  
15 instruction on exactly what the Federal Advisory  
16 Committee Act speaks to. Because there's always the  
17 concern of the possibility of undue influence by the  
18 parent body of the advice or the process of providing  
19 advice by an advisory committee. And I think at least  
20 you, as Commissioners, have to be sensitive to that  
21 point.

22 That is not to say that our report should not  
23 meet your standards. But I think we have to be very,  
24 very careful to assure that you understand that the  
25 advice that you receive from the Advisory Committees is

1 nothing more than their advice as an advisory  
2 committee, as one of 51 bodies. Doesn't necessarily  
3 mean you have to embrace it or even like the report,  
4 but that is their advice to you. And I know that you  
5 encourage diversity and so you do receive quite a bit  
6 of diversity in the reports that are submitted to you  
7 from the Advisory Committees.

8           So I simply note that and ask that you take  
9 that into consideration.

10           CHAIRPERSON BERRY: Well, I really think,  
11 Commissioner Redenbaugh, that we need to ask your  
12 taskforce to review this matter again. Everything that  
13 happened was done in good faith. There's not any issue  
14 about that. But in terms of the concern about do we  
15 need some other step in our procedure for review and  
16 then how do we balance that against the concern John  
17 just raised about us not being overly intrusive.

18           But we have to -- I mean, I don't know what  
19 the answer to that is. And also, to revisit again the  
20 question of balance. Like what do we mean by balance  
21 compared with what FACA says about balance, and do we  
22 mean the same thing or something different.

23           I know you did some of this work before and I  
24 hate to ask you to do it again. But in light of what  
25 has happened, maybe you could -- I could ask you and

1 your taskforce to review it again and at least look at  
2 these issues and then come back with an answer to us.

3 Is that okay?

4 COMMISSIONER REDENBAUGH: Yes, it is. It is  
5 okay. And it is something that I could undertake, not  
6 in the balance of this calendar year.

7 CHAIRPERSON BERRY: Okay.

8 COMMISSIONER REDENBAUGH: But in the first  
9 quarter.

10 CHAIRPERSON BERRY: Okay. Now on that  
11 subject, is there anything else any of you want to say  
12 that should be taken into account? And if you don't  
13 want to say it here, you should send a little note  
14 along to the Staff Director so that the taskforce can  
15 have whatever your concerns are.

16 MR. MONTEZ: For me in the field, the idea of  
17 balance that is discussed in the --

18 CHAIRPERSON BERRY: Commissioner Horner, are  
19 you seeking recognition?

20 COMMISSIONER HORNER: At some point I have a  
21 question, yes.

22 MR. MONTEZ: -- proposal, it's quite  
23 difficult at times to achieve. Sometimes it falls  
24 right into place and people accept it just the way it  
25 is. And sometimes you'll say to yourself, well,



1 they're not going to buy this but that's the best  
2 balance we can get. And it goes right through.

3 So my clarification of balance needs to be a  
4 little more amplified. Other times there's no way in  
5 hell you're going to get balance, and I use the example  
6 of Sonoma, where the police are stonewalling us.

7 Now, how am I going to get balance? When I  
8 send you a report on them, I'm going to have community  
9 views and that's about all. And somebody's going to  
10 say, well, there's no balance here. And I'm going to  
11 say, what do you mean there isn't?

12 So the word balance at this point in my young  
13 life, 39 years old, is somewhat or a myth, or as I've  
14 looked at, it's in the eye of the beholder. I can say  
15 it's balanced and it comes back here and somebody says,  
16 no, it's not balanced.

17 CHAIRPERSON BERRY: And maybe what the  
18 taskforce then ought to consider also, Commissioner  
19 Redenbaugh, is the suggestion about the use of  
20 Commissioners and subpoena power if the kind of balance  
21 you're talking about actually requires -- that we're  
22 talking about -- requires the presence of certain  
23 people and there's no way the SAC can have the presence  
24 assured unless they have the option of using the power  
25 to do so.

1 MR. MONTEZ: One suggestion. When the  
2 taskforce does its work, the work that they're doing to  
3 do, communicate with us.

4 CHAIRPERSON BERRY: Okay.

5 MR. MONTEZ: Maybe we can help. Maybe.

6 CHAIRPERSON BERRY: Commissioner  
7 Higginbotham, do you want to speak now or wait until we  
8 finish this issue?

9 COMMISSIONER HIGGINBOTHAM: How close are you  
10 to finishing?

11 CHAIRPERSON BERRY: I think Commissioner  
12 Horner -- are you commenting on this issue,  
13 Commissioner Horner?

14 COMMISSIONER HORNER: Yes.

15 CHAIRPERSON BERRY: She's commenting. Then  
16 after that, we're finished.

17 Commissioner Horner?

18 COMMISSIONER HORNER: Thank you, Madam Chair.

19 First, let me add my thanks to the regional  
20 people who have come here. This has been extremely  
21 useful in helping us think through these questions and  
22 I'm most grateful for it and hope we can continue to do  
23 it in the future.

24 I have one observation and one question.

25 My observation -- and we'll go into this more

1 in the taskforce, but my observation on the question of  
2 balance is that in most government documents I've read  
3 over my now about 15 years in government, when we talk  
4 about balance, we don't mean half the people writing  
5 the document or helping in the composition of the  
6 document think one way and half think another. We mean  
7 objective presentations in good faith of the strongest  
8 arguments for and against a question.

9           That doesn't require even that someone  
10 literally show up to make the case in person at a  
11 hearing. It means that the writer of the document who  
12 understands and has heard and has read other arguments  
13 fairly presents those arguments in the document and  
14 attributes them where possible to responsible  
15 individuals, but not necessarily even to individuals.

16           So I think it's possible to have balance  
17 through an intellectual effort, not through physical  
18 presence of people or physical opinion gathering.

19           My question to any of you, any of the  
20 Regional Directors, is who literally writes these  
21 reports? Do you? Does a member of your staff? Does a  
22 volunteer from the Advisory Committee? Does it differ  
23 from place to place or are all these reports written by  
24 one kind of person?

25           I wonder if you could tell me.

1 MR. MONTEZ: It goes from place to place.  
2 This is Montez from the Western Field Office.

3 We will write, put something together and  
4 present it to the SAC. Then they comment. That's the  
5 beginning of the process.

6 COMMISSIONER HORNER: When you say "we," who?

7 MR. MONTEZ: The staff, all four of us.

8 COMMISSIONER HORNER: Everyone who works in  
9 your office has a hand in the writing of reports.

10 MR. MONTEZ: We sit down and staff it, how we  
11 should lay it out, after each person has read the  
12 transcript or whatever information we have. We call  
13 that a staffing. After that, we put something together  
14 for the person that is handling that particular  
15 advisory committee.

16 Each person on the staff has so many states  
17 of the 10 states. We try to divide them up. I, as the  
18 Regional Director, have California and Arizona. Then  
19 they go to the advisory committee and they all make  
20 comments on our original idea. By the time we meet  
21 with them again, we have then put more of it together  
22 for them to go over it and bring it to the meeting.

23 So it's a joint effort. The actually sitting  
24 down with pencil and paper is done by the staff, but  
25 it's in constant communication with the advisory

1 members.

2           Now, understand some advisory members take no  
3 action whatsoever. You always have the four or five on  
4 the committee that do most of the work along with the  
5 staff. But some members, you know, oh, that's fine,  
6 and let it go at that. You know, that looks good to  
7 me. But there are four or five that constantly work  
8 with us on every committee. Some you may have seven or  
9 eight. One committee, as I recall, we have about 10  
10 people that are very active in preparing the report.

11           So it's sort of a give and take in our  
12 regional office between staff and the advisory  
13 committee.

14           COMMISSIONER HORNER: And how much do you  
15 feel compelled, if at all, to rely upon hearing  
16 testimony for your report and how much do you feel at  
17 liberty to go out and find other sources of  
18 information?

19           MR. MONTEZ: Once again, we don't have the  
20 capability that you discuss to get into the in depth  
21 research you're talking about. That takes hours and  
22 hours just to try to find an opposing point of view.  
23 Sometimes that becomes unreal, no matter how much time  
24 people spend in the intellectual endeavor you talk  
25 about in doing library research. In some cases, there

1 is no opposing view.

2 COMMISSIONER HORNER: Then why are we  
3 discussing it?

4 MR. MONTEZ: Why are we discussing it?

5 COMMISSIONER HORNER: Why are we discussing  
6 an issue if there's no difference of opinion on it?

7 MR. MONTEZ: Because it seems the Commission  
8 is discussing it more than we are. The Commission is  
9 discussing it from the standpoint of balance. That  
10 they can't agree on reports whether they're balanced or  
11 not. That's why we're discussing it, I presume.

12 COMMISSIONER HORNER: No. I mean why are you  
13 doing a report? Why are you in fact doing a report on  
14 an issue where there's total consensus and no different  
15 point of view?

16 MR. MONTEZ: Well, because it's a problem of  
17 communities. It's a problem that exists for a  
18 community and it is there.

19 We have heard testimony -- take, for example,  
20 law enforcement. Everything is going along fine with  
21 law enforcement and there are no problems in  
22 communities. Then you go to the community that has to  
23 suffer under that kind of law enforcement and you have  
24 a different view.

25 And people would say, well, the police

1 department said there's no problems. My position is  
2 what do they know? They're the ones that are enforcing  
3 sometimes with brutality, sometimes with guns, and the  
4 community who's feeling that is the one that we get the  
5 response from. Sometimes there's no opposition because  
6 the establishment is very sophisticated about how they  
7 handle things.

8 I heard the testimony of Sheriff Block in Los  
9 Angeles and every time he testifies he has an excuse.  
10 There's no money. There's no this and that. And the  
11 brutality goes on.

12 Now, that's my response. I don't know if it  
13 satisfies the answer you're seeking. But if you come  
14 to the field, you're going to find that balance is the  
15 most difficult thing in the world to achieve. It's  
16 easy to intellectualize it here and talk about it, but  
17 doing it is a different thing.

18 COMMISSIONER HIGGINBOTHAM: Madam Chair, I'm  
19 going to have to leave in four minutes.

20 COMMISSIONER HORNER: I'll stop here, Leon.  
21 Please, go ahead.

22 CHAIRPERSON BERRY: Leon, please go ahead and  
23 speak.

24 Commissioner Higginbotham.

25 COMMISSIONER HIGGINBOTHAM: Okay. I'm sorry.

1 I have to leave in a few minutes but I've listened and  
2 learned.

3 I want to start off by speaking to the staff.  
4 I'm proud of you. I've had the responsibility of being  
5 chief judge in a court in three states, Pennsylvania,  
6 New Jersey, Delaware and the Virgin Islands. I was a  
7 Commissioner for the Federal Trade Commission. And one  
8 tragic lesson I learned is that I'm dealing with human  
9 beings.

10 And when you're dealing with human beings  
11 there are levels of perfection and excellence, but when  
12 you look at a staff as a whole, I'm proud of this  
13 staff. You've done, from my observation, a good job.  
14 You can do better and the Commissioners can do better.

15 So I would not want this dialogue to be  
16 construed that at least from my chair that there is a  
17 significant dissatisfaction with your performance. And  
18 I believe that if there is a problem, less of it has to  
19 do with staff and more of it has to do with the  
20 Commissioners.

21 Let me give you this story. A man was  
22 driving up a mountain in a closed truck and he would go  
23 about 10 feet and stop. And then, with a huge stick,  
24 pound on his truck. And so he did it every 20 feet,  
25 every 50 feet, stopping. And the person in back of him



1 was furious and said, man, are you crazy? Why are you  
2 beating on the panels of the truck?

3 And he said, my problem is a simple one. I'm  
4 driving a truck which has a capacity to pull one ton  
5 and I have inside of that van two tons of birds. And  
6 unless I keep half of them up in the air at all times -  
7 -

8 (Laughter.)

9 And to a real extent, that's the way I look  
10 at the staff. You are asked to function with a two ton  
11 capacity given an engine which cannot pull more than  
12 one ton and you become the victim of a critique rather  
13 than it being made clear that the fundamental problem  
14 is one of the engine capacity and not the driver.

15 Now, the second point. I think that it is  
16 unconscionable, absolutely unconscionable to refuse to  
17 publish a report because it is purportedly not  
18 balanced. If that were done by the United State  
19 Supreme Court, more than one half of the opinions could  
20 not be published because in the dissent or in the  
21 majority opinion there is often not that marvelous  
22 moderate consensus which many would like.

23 We have to be big enough and strong enough on  
24 this Commission to accept matters which we may appear  
25 to think are unbalanced and leave it to others to fill

1 in that interstitial gap. So that I do not favor  
2 preclusion of reporting something because it is  
3 allegedly unbalanced. The remedy for that is for the  
4 Commission or for someone else to write what they think  
5 are the words of wisdom which would bring the truth  
6 back to give the objective balance that they think the  
7 reality deserves.

8 CHAIRPERSON BERRY: I want to thank you for  
9 those words.

10 COMMISSIONER HIGGINBOTHAM: Now, the next  
11 point which I'm going to be more strong on because I've  
12 been so mild up to this point --

13 CHAIRPERSON BERRY: Yes. I noticed. I  
14 noticed, Leon.

15 COMMISSIONER HIGGINBOTHAM: On this question  
16 -- I believe it was Bobby who said he felt outraged  
17 that the President of the United States did not utilize  
18 the expertise that he had and other members of the  
19 staff. And I am sympathetic to the intentional refusal  
20 to utilize whatever may be the strength of this  
21 Commission.

22 But can you think of any further irony that  
23 on a matter on which the President of the United States  
24 thought was one of the most critical priorities, and  
25 after spending millions of dollars of staff time, we

1 could not publish a report because the Commission was  
2 divided 4/4.

3           What would the american public think of a  
4 civil rights commission, which on an issue which is  
5 critical for the survival of America and because they  
6 were divided, they didn't have enough steel in their  
7 backbone to put on the marketplace of ideas what the  
8 differences were.

9           So, Bobby, my friend, I'm sorry that your  
10 intelligence and the excellence of so many of your  
11 colleagues will not go directly into the Presidential  
12 report. But the President, in refusing to utilize our  
13 Commission, was more familiar with our history and what  
14 our failures have been and our impotence on getting  
15 critical things through that he felt that the American  
16 public should not be put at that risk.

17           So I want to close by thanking all of you on  
18 the staff for the precision of your critique. I  
19 confess that we have not been what we should be. And  
20 maybe when Martin Luther King, in that closing speech  
21 in 1963 said about the old Baptist preacher who said we  
22 aren't what we ought to be but we aren't what we was.

23           As I see it, we aren't what we ought to be  
24 but I hope that we can become what we should be.

25           CHAIRPERSON BERRY: Thank you, Judge

1 Higginbotham, for those remarks. And of course, it  
2 goes without saying that we know that it was precisely  
3 the thinking that you've described that went into the  
4 President's decision not to use the Civil Rights  
5 Commission, which couldn't come up with anything in the  
6 end to report to the American people.

7           So in a sense, we should be happy we weren't  
8 used, since we don't have to be in the public eye,  
9 unable to decide anything.

10           MR. DOCTOR: Madam Chair?

11           CHAIRPERSON BERRY: Yes.

12           MR. DOCTOR: If I may, just a brief minute.

13           I certainly am -- I'm speechless almost.

14 I've known the Judge's reputation for a long, long  
15 period of time and have had over those years a great  
16 deal of admiration for him and his reputation. I think  
17 what I was saying, it was not only the fact that I was  
18 offended by the fact that the Commission was not called  
19 upon, but I am also deeply offended by the fact that,  
20 as far as I know, no staffers have been contacted by  
21 that commission.

22           And so I think the problem goes much further  
23 than the Commissioners as this Commission. If you've  
24 got a resource out there in the field that's already a  
25 part of the federal establishment, it appears to me

1 that you'd utilize that resource, particularly when  
2 that resource is the leading resource in the country on  
3 the issue that you are obviously concerned about  
4 dealing with.

5 I just wanted to make that distinction, if I  
6 may, because I think what the Judge has indicated  
7 certainly has a great deal of merit and that's why I  
8 made some of the comments I've made. I thought I was  
9 getting off the phone when I made some of those  
10 comments.

11 I'd like to think this Commission would look  
12 at that part of the transcript when it becomes  
13 available and think and reflect upon some of the things  
14 I've tried to put on the table because I think it's in  
15 the best interest of this agency. But perhaps more  
16 importantly than that, it's in the best interest of  
17 this country that we come together as a Commission. Not  
18 only the Commissioners, but the staff, as well. And I  
19 think there's just too much at stake. There is too  
20 much that can happen in a negative sense to this  
21 country if we don't begin to provide the kind of  
22 leadership we have historically provided.

23 CHAIRPERSON BERRY: Bobby, it may be  
24 worthwhile to tell everyone that the President's  
25 taskforce or advisory board, it's called, is well aware

1 of the work of the Commission, has been reminded of the  
2 work, has been told of the availability of materials  
3 that we have, staff, anything else that they want. So  
4 whether they take advantage of it or not, we'll just  
5 have to see. But the advisory board seems to be having  
6 its own problems, so we'll see about that.

7           COMMISSIONER HIGGINBOTHAM: Madam Chair, I am  
8 not at all convinced that they are not utilizing the  
9 strengths of the Commission. We've written volumes and  
10 those volumes have become part of the literature.

11           CHAIRPERSON BERRY: Right.

12           COMMISSIONER HIGGINBOTHAM: And the people  
13 who are familiar with this problem have read it. So  
14 the fact that we do not participate directly as live  
15 witnesses, it may be unfortunate but I don't feel that  
16 the best thoughts of the Commission have gone unheard  
17 of or unread. So that the legacy of the Commission at  
18 its greatest moments, I think will have some impact on  
19 shaping whatever policy this group may come out.

20           And I don't want any -- I would hate for the  
21 Commission, which is headed by John Hope Franklin, a  
22 very distinguished historian whose credentials are  
23 extraordinary -- I would not want any difference to be  
24 suggested that the Commission's report would be of  
25 minuscule value because they did not consult us.

1 I think that we would be helpful but I think  
2 that they can handle it themselves.

3 CHAIRPERSON BERRY: Well, we have high hopes  
4 for that, though our understanding is that the report  
5 will be the President's statement. The advisory board  
6 is not making a report. The President is making the  
7 report. They will advise him.

8 And I know that they are using our advice and  
9 I have the same high regard that you do for John Hope  
10 and the other members of that body. And I'm sure  
11 they'll do a great job and we should do everything we  
12 can to help them.

13 Okay. Thank you, again.

14 COMMISSIONER HIGGINBOTHAM: I've got to sign  
15 off. I'm very sorry.

16 CHAIRPERSON BERRY: All right. Thank you,  
17 again, for the presentations.

18 The next item on the agenda is future agenda  
19 items. And let me just clarify for the staff. We  
20 asked for some information on how much it would cost to  
21 add the Indians to the study on youth in crisis, and  
22 the briefing was suggested on the Indians.

23 Are we suggesting that this cost, that the  
24 proposal be on Indians nationwide or are we just  
25 talking about the one in John Dulles' region?

1           What was your thought, Commissioner Lee?

2           COMMISSIONER LEE: I thought it was going to  
3 be on a nationwide basis.

4           CHAIRPERSON BERRY: All right. Because it  
5 makes a difference in terms of how they -- all right.

6           Anyone else have any other items for the  
7 agenda?

8           COMMISSIONER ANDERSON: I have a question for  
9 the Staff Director on our Asian-American briefing. Are  
10 we going to get a list of witnesses to review or what's  
11 your timing on that?

12          STAFF DIRECTOR MOY: I think within the next  
13 couple of days we will have the list for the  
14 Commissioners.

15          CHAIRPERSON BERRY: That's not how it's being  
16 done, is it?

17          Well, let's be clear here. My understanding  
18 is that we're not doing this briefing exactly as we've  
19 done them in the past. One purpose of this briefing is  
20 to give the people who petitioned a hearing, which is  
21 what we said we were going to do. That any of them who  
22 wanted to be heard.

23          Normally when we do a briefing, we pick  
24 people and -- well, we all know how we do it. We get  
25 lists and we add people. My understanding is that we



1 were calling this a briefing because it's not a  
2 hearing. It's not anything like that. But the major  
3 purpose of it was to have the people who asked for a  
4 hearing be able to come and tell us their concerns and  
5 to identify people who were identified by them in the  
6 petition who wished to come to say something about what  
7 was said about them to come also.

8 Now, that was my understanding and I think  
9 that's the understanding that Charlie and Public  
10 Affairs and Stephanie and the rest of them are  
11 operating under.

12 Did I state that clearly for you guys?  
13 They're both nodding their heads. Which means that  
14 it's not simply a briefing where we would jut pick  
15 people who weren't involved in the petition, who  
16 weren't named in the petition who weren't -- otherwise,  
17 we'd be here forever. That was my understanding.

18 Now if that's not some of your understanding,  
19 we need to know that today.

20 COMMISSIONER HORNER: Madam Chair?

21 CHAIRPERSON BERRY: Yes.

22 COMMISSIONER HORNER: Do understand you're  
23 saying that the complainants would be invited to come  
24 in and also those complained against would be invited o  
25 come in?

1 CHAIRPERSON BERRY: If they wished to. That  
2 was my understanding.

3 COMMISSIONER HORNER: And are those who are  
4 complained against named by the complainants?

5 CHAIRPERSON BERRY: A lot of them are, I  
6 think. Yes. There are actual names, offices and  
7 everything else.

8 COMMISSIONER HORNER: I thought that we were  
9 going to discuss broad questions of stereotyping  
10 Chinese Americans, Asian-Americans, particularly Asian-  
11 Americans, and that we had agreed not to have a  
12 discussion of a particular --

13 CHAIRPERSON BERRY: No, no. We agreed,  
14 Commissioner Horner, not to discuss campaign finance  
15 reform. That was our agreement.

16 COMMISSIONER HORNER: Campaign finance  
17 issues.

18 CHAIRPERSON BERRY: Right.

19 COMMISSIONER HORNER: Could you just  
20 summarize for us your understanding of what the  
21 complaint is and against whom it's levied?

22 CHAIRPERSON BERRY: Let me explain what I  
23 think the briefing is about. Maybe that's a better  
24 thing to do so we can see if there's disagreement here.  
25 The briefing is not about campaign finance

1 reform issues. That's my understanding. I'm just  
2 stating my understanding. It's not about that. Okay?

3           The briefing is about civil rights issues  
4 involving the stereotyping of Asian-Americans which  
5 came about as a result of the petition that was filed  
6 with us asking for a hearing about people. And they,  
7 the people who petitioned, raised the petition question  
8 in connection with campaign finance reform issue but  
9 we're not concerned with campaign finance reform  
10 issues. But we will hear them, the petitioners, to the  
11 extent they feel Asian-Americans have been stereotyped.  
12 They may come and tell us about the stereotyping of  
13 Asian-Americans because that was the whole purpose.

14           And that people who are accused of  
15 stereotyping them may, if they wish -- if they don't --  
16 that's my understanding. The staff can tell me if I'm  
17 wrong, too -- would be invited to come, if they wish to  
18 come since they were named in the petition, which was  
19 made public and which was presented to us to say  
20 whether they were stereotyping Asian-Americans or what  
21 their views are about it.

22           Now have I missed something?

23           First, let me ask the staff if I've missed  
24 something in my characterization of what they're doing  
25 because that's important. And then we'll figure out

1 whether we agree or disagree about what they're  
2 supposed to be doing.

3 COMMISSIONER HORNER: And could you also tell  
4 us who was named in the petition so that we might know  
5 who is being complained against and therefore offered  
6 the opportunity to respond.

7 CHAIRPERSON BERRY: Okay. We'll the staff.  
8 Charlie and Stephanie can go over there and  
9 talk. Is that okay, Staff Director?

10 STAFF DIRECTOR MOY: Yes. Please.

11 MR. RIVERA: Yes. I think it would be  
12 appropriate for Stephanie to go first.

13 Let me just say very quickly that in this  
14 instance we came to some agreement between Public  
15 Affairs and OGC concerning a division of the work that  
16 would be involved in identifying potential witnesses or  
17 presenters, because they're not witnesses, per se. No  
18 one is under subpoena. And Public Affairs took the  
19 slice that was the news media portion of this.

20 So let me just start --

21 CHAIRPERSON BERRY: What do you mean by news  
22 media?

23 MR. RIVERA: The news media. Since the  
24 petition very clearly said that part of the  
25 responsibility for the scapegoating and stereotyping

1 rested with news media coverage --

2 CHAIRPERSON BERRY: Okay.

3 MR. RIVERA: -- of the political campaign  
4 financing issue. So we contacted news media,  
5 journalists and news media people.

6 CHAIRPERSON BERRY: Okay.

7 Stephanie?

8 MS. MOORE: There were three categories.  
9 Commissioner Horner, I don't have the petition in front  
10 of me, but there were three categories of persons named  
11 as having been responsible for the scapegoating. And  
12 that was the news media bore some responsibility;  
13 Congress, and particular members of Congress; as well  
14 as the White House, I believe, was the three. And the  
15 -- I'm sorry -- and the major political parties the  
16 Democratic National Party as well the National  
17 Republican Senatorial Committee.

18 Now, we have pursued people named in the  
19 petition by letter and phone and are making quite a bit  
20 of headway with paneling the briefing.

21 COMMISSIONER HORNER: Okay. May I just have  
22 a copy of the letters that you've sent out to news  
23 media, Congress, White House, DNC, RNC? I think if the  
24 Commissioners could have a copy of that, that would  
25 reassure us.

1 MS. MOORE: We can give you a sample of the  
2 letter but each and every letter --

3 CHAIRPERSON BERRY: It's all the same.

4 MS. MOORE: Yes. They're basically -- it's a  
5 form letter, so we can get it to again.

6 COMMISSIONER HORNER: Fine. Then just send a  
7 list of people to whom the letter has gone plus one  
8 letter, plus the form letter, assuming that every  
9 letter is the same.

10 MS. MOORE: Sure.

11 CHAIRPERSON BERRY: Okay. All right. So that  
12 will be done. And we should have that done -- you want  
13 it done by a certain time, Commissioners?

14 COMMISSIONER HORNER: Well, I think they  
15 could be faxed out by Monday, could they not?

16 CHAIRPERSON BERRY: Let's give them Tuesday,  
17 just to be on the safe side. Okay?

18 COMMISSIONER HORNER: Sure.

19 CHAIRPERSON BERRY: Okay.

20 Commissioner Anderson?

21 COMMISSIONER ANDERSON: Let me ask what we  
22 anticipate having at the briefing? Do we think what  
23 we're going to end up here with is a significant amount  
24 of time taken with allegations concerning White House  
25 staff, Congressional staff, DNC or RNC and then

1 responses? Do we see that as a significant part of  
2 this or is it going to be in another area?

3 MS. MOORE: What we're actually trying to  
4 accomplish is to determine whether or not there are  
5 procedures for preventing some of the problems that are  
6 identified in the petition.

7 For example, -- maybe Charlie would like --  
8 the clearest example I can think of is with the media.  
9 How do they actually go about determining headlines for  
10 articles? Do they take into account racial sensitivity  
11 issues when the President and the First Lady are  
12 pictured with slanted eyes on the cover of the national  
13 -- I forget which. National Review. Right.

14 Do they take into account, do they have any  
15 kind of sensitivity training within the news media to  
16 take those issues into account. So we are trying to  
17 see if there are processes that would avoid these types  
18 of insensitivities in the future.

19 MR. RIVERA: In the case of the news media  
20 panel, if I can just add, since we had, as you recall  
21 some time back a briefing where we had paneled vice  
22 presidents of the three major networks that were good  
23 enough to come down and talk to us about some of these  
24 same issues, except we were focusing on employment.  
25 But behind that was the concern, you know, what

1 happens; why do we need minorities and women in key  
2 positions.

3 In this case, what we decided to do was to  
4 focus on the issue that the petitioners included, which  
5 really was the Senate investigation itself. And so we  
6 wanted people who could comment on news reportage  
7 concerning Asian-American involvement or any attention  
8 that was paid to Asians and Asian-Americans as part of  
9 the news coverage of the controversy.

10 And what we, of course, had to contend with  
11 is First Amendment concerns. Print media is hardly  
12 likely to want to come out. Washington Post didn't  
13 want to come out. L.A. Times didn't want to come out.  
14 But we concentrated more on scholars who had been  
15 working journalists for many years. And so we have, I  
16 think, a good mix of people who will be able to focus  
17 very explicitly on what the petitioners allege occurred  
18 during this Senate investigation that impacted on  
19 Asians and Asian-Americans.

20 CHAIRPERSON BERRY: Will there be any of the  
21 petitioners?

22 MS. MOORE: Yes.

23 MR. RIVERA: Yes.

24 MS. MOORE: But that's in OGC's. But, yes,  
25 we do have representatives, a representative of the



1 petitioners who will set forth basically the whole of  
2 the complaint.

3 CHAIRPERSON BERRY: Oh, good. Not a whole  
4 bunch of people.

5 MS. MOORE: I might just say that the  
6 briefing paper that we are preparing, we have offered  
7 those members, for example, of Congress, who were  
8 accused of making insensitive remarks the opportunity  
9 to simply submit something in writing, if they desire,  
10 rather than to come forth before the Commission. So  
11 the briefing paper, we hope, will reflect all sides of  
12 the issue even if the briefing does not.

13 CHAIRPERSON BERRY: How are you going to keep  
14 these people from talking about campaign finance  
15 reform? Do you have like a club to beat them over the  
16 head every time they mention -- I mean, how do we keep  
17 them from recommending something or saying something.

18 I guess we've told them not to, and then I  
19 guess --

20 MR. RIVERA: No. That's essentially -- I  
21 don't think it will be a problem for the news media  
22 panelists.

23 MS. MOORE: Well, it will --

24 MR. RIVERA: Yes. It may be more of an issue  
25 for the presenters that OGC is bringing together.

1 MS. MOORE: Yes. And I think that without  
2 treading on the agreement that was made, we won't  
3 necessarily address the merits of the legislation that  
4 is presently before Congress. But the fact that that  
5 legislation has grown out of this controversy may  
6 indeed be an angle that some of the petitioners -- and  
7 as I'm sure you all have read in the petition that was  
8 circulated, the petitioners do indeed allege that the  
9 legislation has grown out of this controversy and that  
10 it will negatively impact and more adversely impact  
11 Asian-Americans and Latino Americans.

12 CHAIRPERSON BERRY: Which is a discrimination  
13 issue.

14 MS. MOORE: Which is a discrimination issue.  
15 Yes.

16 COMMISSIONER HORNER: In fact, it seems  
17 pretty clear that the Commission has become the willing  
18 vehicle for the opportunity to televise advocacy in  
19 support of this legislation nationally, thereby  
20 garnering attention it otherwise hasn't been able to  
21 get.

22 COMMISSIONER HORNER: Which legislation,  
23 Commissioner Horner?

24 COMMISSIONER HORNER: The legislation  
25 Stephanie is talking about. And it was pretty clear to

1 me when I initially read the petitions that that was  
2 the intention and it's pretty clear that a massive  
3 organizational grouping has occurred around this issue.  
4 And the scenario is to highlight the Republican  
5 congressional contribution to this discussion as  
6 negative and thereby develop political support against  
7 the Republican reaction to this problem.

8           And I say for the record that I dislike this  
9 fact. But because we were placed in a situation  
10 because of Commissioner Higginbotham's apparently very  
11 serious spell of illness during the Commission, that we  
12 really had to react very quickly and without discussion  
13 so that we could conclude the meeting.

14           We went along with this and I don't intend to  
15 ask for any change whatsoever in the hearing as its  
16 designed. I just wanted to put that assessment of  
17 what's going on on the record.

18           CHAIRPERSON BERRY: Commissioner Horner, I  
19 can assure you that if anyone starts discussing  
20 campaign finance reform legislation, either for or  
21 agin' -- although I understood the General Counsel to  
22 say that the people who petitioned are against the  
23 legislation that you're mentioning -- I will remind  
24 them that we're not here to discuss that.

25           I mean, I can assure you of that because

1 that's our agreement.

2 COMMISSIONER HORNER: Okay. Thank you.

3 CHAIRPERSON BERRY: Yes.

4 COMMISSIONER LEE: However -- Madam Chair?

5 CHAIRPERSON BERRY: Commissioner Lee is  
6 trying to get recognized.

7 COMMISSIONER LEE: In that petition, the  
8 petitioners did not take any position on any kind of  
9 legislation. The campaign finance reform legislation,  
10 as I recall, was used as one of the many examples the  
11 petitioners used to allege discrimination against the  
12 Asian-American community.

13 So I do think that if people are coming to  
14 talk about how the community is being stereotyped or  
15 being affected, if they want to mention, for instance,  
16 campaign finance reform, we shouldn't say, oh, no,  
17 that's a three letter word so you can't mention it. As  
18 long as they don't take any position, I understand  
19 that. But if the petitioners allege that this  
20 legislation is going to impact abilities of the entire  
21 community to participate in the future, I think it's  
22 perfectly within the realm of the briefing in December.

23 CHAIRPERSON BERRY: Well, let me repeat again  
24 what I -- let me try to be as precise as I can be.

25 It is perfectly okay within our agreement for

1 someone to say that as a result -- and I'm just using  
2 examples -- of campaign finance reform discussions,  
3 Asian-Americans have been scapegoated and discriminated  
4 against, in our view. I see nothing wrong with anybody  
5 saying that because that's a question of fact. I mean,  
6 it happened. Or at least I can understand this.

7           But if a person says, and I think that  
8 campaign finance reform is necessary because of blah,  
9 blah, blah, or a particular kind of campaign finance  
10 reform is necessary because of what I think about all -  
11 - you know. Well, that isn't within what we're  
12 supposed to be discussing. But so long as they're  
13 connecting up whatever they say and the focus is on how  
14 Asian-Americans are discriminated against or have been  
15 according to their view -- and as I understand also  
16 from counsel and from Charles that the discussion will  
17 be not just about Congress but about the White House  
18 and about everybody who's alleged --

19           MS. MOORE: Right. The DNC.

20           MR. RIVERA: Including DNC.

21           CHAIRPERSON BERRY: -- have scapegoated  
22 Asian-Americans.

23           COMMISSIONER HORNER: Madam Chair?

24           CHAIRPERSON BERRY: Yes.

25           COMMISSIONER HORNER: The legislation that

1 I'm referring to is -- and I don't even know who's  
2 sponsoring it but there is some legislation, some  
3 legislative proposal which is designed to differentiate  
4 between citizens and non-citizens.

5 CHAIRPERSON BERRY: Oh, you mean that  
6 legislation?

7 COMMISSIONER HORNER: Yes. And it's my view,  
8 and perhaps it's very incorrect, this view. My view is  
9 that the intention of the organization's writing to us  
10 was to promote the idea that non-citizens should be  
11 allowed to contribute because many of the people  
12 promoting this idea believe that non-citizens should be  
13 able to contribute and vote and have all the attributes  
14 of citizenship without becoming citizens.

15 I strongly disagree with that point of view  
16 and I think the intention of those who are complaining  
17 to us and wanting to use our Commission as a vehicle  
18 for airing their complaint is to develop opposition for  
19 that legislation.

20 And perhaps you didn't know what I was  
21 talking about when I was talking with you before --

22 CHAIRPERSON BERRY: No. I didn't know what  
23 you were talking about.

24 COMMISSIONER HORNER: -- when we huddled  
25 during a break in our last meeting. But I was

1 referring to that particular legislation.

2           And my concern is that we will present a very  
3 one-sided view of that legislation to the extent it is  
4 discussed.

5           Now of course, both sides could be discussed,  
6 I supposed, or neither. But that's what I was  
7 referring to.

8           CHAIRPERSON BERRY: Well, we can -- I think  
9 that if they want to raise it -- now that I know what  
10 you're talking about, if they want to raise it and  
11 argue that some particular approach to it would  
12 perpetuate discrimination against Asian-Americans in  
13 their view, they might do that. Although there should  
14 be somebody at the briefing who will argue a different  
15 position if that's what your fear is.

16           COMMISSIONER HORNER: I have a suggestion.  
17 Perhaps we could send a letter to the congressional  
18 proponents, whoever is proposing this legislation.  
19 Tell them it may very well be discussed, will likely be  
20 discussed, and would they like to send someone to give  
21 the proponents' point of view.

22           MS. MOORE: Commissioner Horner, that's  
23 already part of our correspondence.

24           COMMISSIONER HORNER: Have you mentioned this  
25 legislation specifically?

1 MS. MOORE: I believe that we have, yes.  
2 Because it's in the petition.

3 COMMISSIONER HORNER: And you've identified  
4 the proponents of the legislation and invited --

5 MS. MOORE: Well, actually, what we attempted  
6 to do to accommodate your concern was to focus on the  
7 DNC's policy, which is similar to the legislation that  
8 you're referring to.

9 COMMISSIONER HORNER: Well, I don't think the  
10 DNC is going to give a good -- is going to make the  
11 case.

12 MS. MOORE: Well, the DNC made the same  
13 position.

14 COMMISSIONER HORNER: Yes. But the  
15 complainants are complaining not just against the DNC  
16 but against a particular Republican proposal. And I  
17 would very much appreciate it if you would correspond  
18 with the legislative proponents of this proposal,  
19 whoever introduced the proposal, and ask that person,  
20 whoever it is, to come or send a staffer.

21 MS. MOORE: Well, Commissioner Horner, just  
22 to make the record accurate, the complaint did not  
23 complain against the legislation. It complained  
24 against the DNC.

25 As Commissioner Lee indicated, they mentioned



1 as part of a number of factors that they felt indicated  
2 discrimination against Asian-Americans this  
3 legislation. That was not a specific item that was  
4 emphasized in the petition at all. But the DNC and its  
5 policy, its voluntary policy of not taking  
6 contributions from legal residents was a specific  
7 criticism.

8 But we'll be happy to add in the sponsors of  
9 the legislation, but that's just not a correct  
10 depiction of the petition.

11 COMMISSIONER HORNER: Thank you.

12 Well, I wasn't even aware this legislation  
13 existed until I read the complaint and the letters we  
14 received in support of the complaint. So I, at least,  
15 came to understand there was such a Republican proposal  
16 from reading the materials we got.

17 So I appreciate your doing that and I thank  
18 you for it. I appreciate your getting someone.

19 MS. MOORE: You're welcome.

20 CHAIRPERSON BERRY: Anybody have any other  
21 comments?

22 So now we've cleared all that up. That's  
23 good. That's very healthy. Now we all know where we  
24 stand or where we sit or something.

25 Anybody have any other comments before we

1 adjourn?

2 Okay. I entertain a motion to adjourn.

3 COMMISSIONER LEE: So move.

4 CHAIRPERSON BERRY: You've got something to  
5 say?

6 STAFF DIRECTOR MOY: Yes.

7 CHAIRPERSON BERRY: Oh, I can't if the Staff  
8 Director has something to say.

9 STAFF DIRECTOR MOY: I just wanted to thank  
10 you, Madam Chair, and the other Commissioners for  
11 letting the Regional Directors come to Washington to  
12 make their presentations.

13 CHAIRPERSON BERRY: And it was the Staff  
14 Director's idea, as I recall, and the staff. Although  
15 they were happy to come.

16 STAFF DIRECTOR MOY: Thank you.

17 CHAIRPERSON BERRY: Okay. Thank you very  
18 much.

19 Motion to adjourn is nondebatable. We're  
20 adjourned.

21 (Whereupon, the proceedings were concluded.)

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In the Matter of: COMMISSION MEETING

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Sedric Zuber  
Official Reporter

Dated: NOVEMBER 14, 1997

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