

U.S. COMMISSION ON CIVIL RIGHTS

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TELEPHONIC MEETING

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Monday, September 22, 1997

The Commission met in Room 540, YWCA Building, 624 9th Street, N.W., Washington, D.C. 20425, at 10:05 a.m., MARY FRANCES BERRY, Chairperson, presiding.

PRESENT:

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

RUBY G. MOY, STAFF DIRECTOR

STAFF PRESENT:

JAMES S. CUNNINGHAM
PAMELA DUNSTON
BETTY EDMISTON
GEORGE M. HARBISON
FREDERICK ISLER
JACQUELINE L. JOHNSON
STEPHANIE Y. MOORE, GENERAL COUNSEL AND PARLIAMENTARIAN
LISA SHAW
MARCIA TYLER
ANTHONY K. WELLS, SR.
AUDREY WRIGHT

COMMISSIONER ASSISTANTS PRESENT:

CHARLOTE PONTICELLI
KRISHNA TOOLSIE

P R O C E E D I N G S

10:05 a.m.

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CHAIRPERSON BERRY: We will convene the meeting.

The only item on the agenda for this special meeting is to discuss the Commission's budget, the budget request. So, I would ask the staff director if she has anything she would like to say.

First of all, can I have approval of the agenda for the meeting?

(So moved)

(Seconded)

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

(Chorus of ayes)

CHAIRPERSON BERRY: Opposed?

(No response)

CHAIRPERSON BERRY: Okay. So ordered. Staff director, is there anything you'd like to say to us about the budget request or the memo that we received before we proceed?

STAFF DIRECTOR MOY: Yes, thank you, Madam Chair.

We sent heavy documentation on September 19th to all the Commissioners on the FY '98 and '99

1 appropriation and OMB estimates with back-up material.

2 COMMISSIONER GEORGE: Excuse me. This is
3 Commissioner George. Could you speak directly into the
4 microphone for me?

5 STAFF DIRECTOR MOY: Sorry.

6 COMMISSIONER GEORGE: Thank you. That's
7 better.

8 STAFF DIRECTOR MOY: Let me raise it up
9 higher. Yes, material was sent out to all the
10 Commissioners on September 19 for FY '98 annual
11 appropriation and FY '99 OMB estimate in detail, plus
12 yesterday, we sent corrections on the corrected
13 additions on the revisions to '98 and '99 budget
14 estimates.

15 Nothing really has changed, except the
16 addition, and after you have made your decision, the
17 staff will reconfigure to make it consistent with the
18 decision today.

19 CHAIRPERSON BERRY: Okay. Thank you, staff
20 director.

21 Could I have a motion to approve the
22 revisions to the FY 1998 budget? I'm going to ask for
23 two motions. One on that, and then one on the budget
24 estimate.

25 Could I have a motion to approve the

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1 revisions to the FY 1998 budget as requested by the
2 staff?

3 (So moved)

4 CHAIRPERSON BERRY: Second? Did I hear a
5 second somewhere?

6 (Second)

7 CHAIRPERSON BERRY: Discussion?

8 COMMISSIONER HORNER: I have a question.
9 Ruby, in your memo of September 21st, the revision to
10 the budget estimates, --

11 STAFF DIRECTOR MOY: Yes.

12 COMMISSIONER HORNER: -- under FY '98, you
13 have two sentences. The second one says, "All projects
14 not funded have been zeroed out", and I'm not quite
15 sure what that means.

16 STAFF DIRECTOR MOY: Madam Chair, may I defer
17 that to George, who is sitting right here.

18 CHAIRPERSON BERRY: Okay. George Harbison is
19 sitting here. He's a budget director.

20 MR. HARBISON: This is George Harbison. That
21 simply means that no funds were allocated for those
22 projects. If there is a zero in -- in the -- in the --
23 in the blank -- in the space, there's no funds
24 allocated.

25 COMMISSIONER HORNER: No funds allocated by

1 your proposed?

2 MR. HARBISON: That's correct.

3 CHAIRPERSON BERRY: Okay. Any other
4 discussion?

5 COMMISSIONER LEE: This is Commissioner Lee.

6 CHAIRPERSON BERRY: Yes?

7 COMMISSIONER LEE: I sent a comment to the
8 office this morning because it's 7:00 time here. Is
9 the addition --

10 CHAIRPERSON BERRY: You mean the September
11 21st?

12 COMMISSIONER LEE: Yes, the memo. I haven't
13 gotten that one yet.

14 CHAIRPERSON BERRY: Okay. The September 21st
15 -- you have the other one, right?

16 COMMISSIONER LEE: Yes, I have it.

17 CHAIRPERSON BERRY: The September 21st one
18 was done because when they were adding up the numbers
19 on the FY 1999, they discovered that the calculations
20 were incorrect, is that right, staff director?

21 STAFF DIRECTOR MOY: Correct. Madam Chair,
22 may I just make an inclusion here? For Commissioner
23 Lee, I faxed it to her home number.

24 CHAIRPERSON BERRY: Well, she says she
25 doesn't have it.

1 STAFF DIRECTOR MOY: Okay. So.

2 CHAIRPERSON BERRY: So, do you have it, Vice
3 Chair?

4 VICE CHAIRPERSON REYNOSO: Yes, I do. Thank
5 you.

6 CHAIRPERSON BERRY: Okay. Do you want us to
7 read it to you? What would you like us to do, Yvonne?
8 It's --

9 COMMISSIONER LEE: Is it just minor --

10 CHAIRPERSON BERRY: It's a -- why don't we --
11 I'll read this one page real fast. Okay? But I won't
12 read the numbers. You know the same charts you have?

13 COMMISSIONER LEE: Yes.

14 CHAIRPERSON BERRY: There's a page in front
15 of the chart that says, "Revisions to FY 1998 and 1999
16 Budget Estimates, Revised Scheduled" --

17 COMMISSIONER HORNER: Madam Chair?

18 CHAIRPERSON BERRY: Yes?

19 COMMISSIONER HORNER: If I might interrupt
20 briefly, if you could tell us what has changed only,
21 that would not only answer Yvonne's question of what's
22 significant on this page, but also answer my question
23 as to whether the zeroing-out of certain projects in FY
24 '98 represents a change from the text that we had read,
25 where we might presume an inclusion in FY '98.

1 CHAIRPERSON BERRY: Why don't we try that,
2 and then see if that answers both people's questions?
3 Staff director, do you want to answer or
4 explain?

5 STAFF DIRECTOR MOY: If I just read -- it's
6 quite short. It's "Revised Schedules for FY '98 and
7 '99" that was sent to the Commissioners. "Revisions
8 are based on our discussions of September 19 and
9 subsequent review of both previously-submitted
10 schedules. The revised schedules correctly sums
11 discretionary and non-discretionary data and corrects
12 estimated project costs for fair employment in
13 measuring discrimination in FY '99."

14 There was no change to the bottom line for FY
15 '98. However, the net result of correcting fair
16 employment and measuring discrimination increased the
17 FY '99 OMB estimate to 13 million seven, an increase of
18 562,000, and, more specifically, the two sentences
19 under FY '98, "the sum of discretionary/non-
20 discretionary amounts equals total estimate, all
21 projects not funded have been zeroed out."

22 CHAIRPERSON BERRY: Could I just stop you
23 there and --

24 STAFF DIRECTOR MOY: Yes.

25 CHAIRPERSON BERRY: -- ask you, does that

1 mean that the sheets that we got, we don't need to
2 worry about any change on the FY 1998 one? Is that
3 essentially what that means?

4 STAFF DIRECTOR MOY: Yes, Madam Chair.

5 CHAIRPERSON BERRY: So, whatever we got --
6 what we got on the -- what was it -- the 19th memo,
7 Commissioner Lee, that memo stands, and the numbers for
8 FY 1998, okay? Commissioner Lee?

9 COMMISSIONER LEE: Yes.

10 CHAIRPERSON BERRY: Did you hear me?

11 COMMISSIONER LEE: Yes.

12 CHAIRPERSON BERRY: Now, --

13 COMMISSIONER HORNER: Just to make sure, this
14 is Commissioner Horner, --

15 CHAIRPERSON BERRY: Yeah.

16 COMMISSIONER HORNER: -- nothing has been
17 zeroed out for '98 that wasn't previously identified as
18 not receiving '98 funding?

19 CHAIRPERSON BERRY: Is that correct?

20 STAFF DIRECTOR MOY: Yes.

21 COMMISSIONER HORNER: Okay.

22 CHAIRPERSON BERRY: Now, FY 1999, staff
23 director, you were reading that there's an increase of
24 562,000, and then you were going to read that other
25 part, so Commissioner Lee can see what that consists

1 of?

2 STAFF DIRECTOR MOY: Correct.

3 CHAIRPERSON BERRY: Okay. Go ahead.

4 STAFF DIRECTOR MOY: FY '99, "Evaluation of
5 Fair Employment Project, Both OGC and OCRE Estimates
6 corrected to include cost estimates previously omitted,
7 resulted in increase of 562,000 to FY '99 estimate.
8 The sum of discretionary and non-discretionary amounts
9 equals total estimate. Access to health care and block
10 grants projects were zeroed out this year for possible
11 funding in FY 2000."

12 That's it, Madam Chair.

13 CHAIRPERSON BERRY: Okay. Is there any other
14 discussion?

15 COMMISSIONER GEORGE: This is Commissioner
16 George. I have some concerns about the Schools and
17 Religion project.

18 CHAIRPERSON BERRY: Go right ahead.

19 COMMISSIONER GEORGE: Thank you. Unless I'm
20 misreading the documentation that was sent to us on
21 Friday, it looks like the proposal is for this project
22 to be carried over into '99, to be done in '99 as
23 statutory report. Am I misreading that?

24 CHAIRPERSON BERRY: Staff director, is it all
25 right if General Counsel answers?

1 STAFF DIRECTOR MOY: Yes, please. Stephanie
2 Moore.

3 CHAIRPERSON BERRY: Yes. Okay. Just a
4 second, Commissioner George.

5 (Pause)

6 GENERAL COUNSEL MOORE: Commissioner George,
7 this is Stephanie Moore. The Schools and Religion --
8 the recommendation for the Schools and Religion project
9 is that the hearing be held -- the hearings, I think
10 there are three of them, be held in fiscal 1998 with
11 the hearing report being issued in 1999.

12 When you said statutory report, I wasn't sure
13 if you were referring to the annual enforcement report
14 which is not the responsibility of OGC.

15 CHAIRPERSON BERRY: And, Commissioner George,
16 you may recall or I don't know why -- saying statutory
17 report here is confusing. Statutory --

18 COMMISSIONER GEORGE: I'm not hearing you.

19 CHAIRPERSON BERRY: You can't hear me?

20 COMMISSIONER GEORGE: Now I can. Go ahead.

21 CHAIRPERSON BERRY: Statutory report, I
22 understand -- if -- if we're on the same track, aside
23 from the numbers, is confusing because statutory report
24 generically means a report with findings and
25 recommendations.

1 Statutory report non-generically means the
2 annual enforcement report. So, I don't know whether
3 you -- because I, too, when I looked at that, I
4 thought, gee, are they going to convert that into the
5 annual enforcement report?

6 COMMISSIONER GEORGE: I take it from what
7 Stephanie is saying that no, the proposal is not to
8 convert it into the enforcement report, which would not
9 be OGC's bailiwick anyway.

10 CHAIRPERSON BERRY: Right.

11 COMMISSIONER GEORGE: But, rather, here
12 statutory report -- I'm on Page 6, right here at the
13 top, under the Staff Recommendation Section. It says
14 published statutory report in FY 1999, and that simply
15 refers to the fact that this report will have findings
16 and recommendations?

17 GENERAL COUNSEL MOORE: Right. It's the
18 statutory report connected with this project.

19 COMMISSIONER GEORGE: Yes, I see. I see. Not
20 the as in only?

21 GENERAL COUNSEL MOORE: Right. Exactly.

22 COMMISSIONER GEORGE: We need to do something
23 about coming up with some terms that we all agree on
24 the meaning of here, but I think I understand now.

25 I -- I -- I have -- I do have a concern,

1 though. I have been present, as you know, over the
2 past couple of years on this to make sure that this was
3 a report that was completed at least by the end of '98
4 when I would leave the Commission

5 I think we've discussed this on a number of
6 occasions, and unless that is simply impossible for
7 some reason, I would very much like it depicted as an
8 agreement of plan.

9 CHAIRPERSON BERRY: When is your -- do you
10 know when you leave?

11 COMMISSIONER GEORGE: December '98

12 CHAIRPERSON BERRY: So that's into FY 1999,
13 but not very far into it.

14 COMMISSIONER GEORGE: Not very far in.

15 CHAIRPERSON BERRY: Hm-hmm. So, what you
16 would like is to make sure the staff -- staff director,
17 Commissioner George, is urging that this report be
18 produced at some point before he -- his -- his current
19 term expires.

20 Did you hear that?

21 STAFF DIRECTOR MOY: Yes, I did, Madam Chair.

22 COMMISSIONER GEORGE: I wonder if our
23 spending is sufficient to accomplish that as far as our
24 1998 spending on the project is concerned, because it
25 would be in 1998 that the hearings are -- are held, and

1 the amount that we have down in the proposal is 81,168
2 for the FY '98 portion. Am I right about that?

3 GENERAL COUNSEL MOORE: A 112. For 1998, the
4 cost is 283.

5 COMMISSIONER GEORGE: Okay. 181,168 figure,
6 which I've also marked on here, is for the Crisis of
7 African American Males Consultation -- now, I do want
8 -- the -- of course, that project is also one that I
9 was one of the initiators of, but I wonder why we're
10 spending that much money on the consultation, and my
11 concern is that it's money then, of course, that isn't
12 available for this other project.

13 Could -- could we get an explanation for the
14 extent of the costs on the consultation given that it
15 is a one-day consultation that doesn't involve the
16 Commission traveling?

17 GENERAL COUNSEL MOORE: Well, sure. The -- I
18 mean I think as you -- we've discussed previously, the
19 consultation -- the persons who write for the Crisis of
20 the African American Males Consultation will themselves
21 receive a stipend, and the discussion has been
22 somewhere -- I think we estimated 1,500 per person.

23 We also have travel costs associated with
24 them, all of whom or at least most of whom would be
25 traveling from a way from Washington, D.C., and --

1 COMMISSIONER GEORGE: How many of them was it
2 -- do we have the list here?

3 GENERAL COUNSEL MOORE: You do not have the
4 final list, no.

5 COMMISSIONER GEORGE: Do we have any list?
6 Do we have a proposed list?

7 GENERAL COUNSEL MOORE: I assume so. We did
8 -- I -- I circulated one to the staff director. I
9 don't --

10 COMMISSIONER GEORGE: Staff director, I have
11 no recollection of having seen the proposed list to be
12 able to comment.

13 CHAIRPERSON BERRY: I thought we saw it at a
14 meeting, but could someone -- is there someone whose
15 memory is as good as mine? I thought we saw a list,
16 and then we made suggestions to add to it or something.

17 COMMISSIONER HORNER: Madam Chair, I think we
18 may have seen a list of people we assumed were going to
19 be making presentations at a hearing, but not that
20 would be writing papers.

21 In other words, I know that we understood
22 there would be papers written, but I think the list may
23 have come to us --

24 GENERAL COUNSEL MOORE: No.

25 COMMISSIONER HORNER: -- in the format that

1 we thought it was --

2 STAFF DIRECTOR MOY: No. The caption,
3 Commissioner Horner, was proposed persons for -- for
4 the consultation. We have not --

5 COMMISSIONER HORNER: Sure.

6 GENERAL COUNSEL MOORE: -- begun to -- to
7 identify people for a hearing, which, of course, as
8 we've discussed previously, would be based on the
9 outcome of the consultation.

10 COMMISSIONER HIGGINBOTHAM: Madam Chair?

11 CHAIRPERSON BERRY: Yes?

12 COMMISSIONER HIGGINBOTHAM: A question.

13 CHAIRPERSON BERRY: Yes.

14 COMMISSIONER HIGGINBOTHAM: One of
15 Commissioner George's concern is that the Schools and
16 Religion hearing, in which apparently he has invested a
17 substantial amount of his time, that the Schools and
18 Religion hearing be in process if not in fact finished
19 before his term ends, what I'm trying to figure out is
20 what would that cost figure be and make the conversion.

21 Do you follow me?

22 CHAIRPERSON BERRY: Right.

23 COMMISSIONER HIGGINBOTHAM: If -- if someone
24 said, look, for \$50,000, we could modify other things
25 in order to get it to the stage where he would be able

1 to have some input, I would just instinctively think
2 now with an \$8 million budget, we certainly have the
3 latitude of \$50,000.

4 On the other hand, if what we're talking
5 about is a half million, that's a rather very different
6 ball game. So, my problem is I don't know what amount
7 we're talking about.

8 CHAIRPERSON BERRY: Yeah. Well, I think
9 that's a very good question, and if I get the drift of,
10 it, I would like to phrase it to the staff director a
11 little differently, but I think maybe it will get to
12 the same point, which is that what on here that you're
13 proposing for 1998, that the staff is proposing, what
14 would we have to modify or what could you suggest we
15 change or defer or expect to do later if we were to try
16 to move up the Schools and Religion hearings to far
17 enough ahead so that the report could be written to
18 come before the Commission no later than, say, October
19 1999? I'm just making up October, just to be on the
20 safe side. October, November at the latest.

21 Would we have to defer some of the other
22 hearing reports or what do we have to do, and how could
23 we accomplish that if the Commission decided that's
24 what it wanted to do or the consultation or something?

25 Could I ask that question? Would that help,

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1 if we get an answer to that question, Commissioner
2 George and Commissioner Higginbotham? Hello? Am I
3 asking the right question?

4 COMMISSIONER REDENBAUGH: I think so, Madam
5 Chair. This is Commissioner Redenbaugh.

6 CHAIRPERSON BERRY: I just want to --

7 COMMISSIONER HORNER: Madam Chair?

8 CHAIRPERSON BERRY: Yes?

9 COMMISSIONER HORNER: I have a suggestion as
10 to how we might save some money. I notice that there's
11 a plan to publish the consultation papers in FY '98
12 separately and before the report in '99.

13 If we simply paid the paper-writers in '98
14 but deferred publication and published them in the same
15 binder with the report or at the -- I imagine we would
16 save considerably on printing costs, and the printing
17 costs would go over into '99.

18 CHAIRPERSON BERRY: Well, I -- I -- I think
19 that suggestion -- staff director will give the
20 response to that in just a second. But I also think we
21 have to keep in mind something the staff director wrote
22 in her memo to us, which is that the staff -- we have
23 to think in terms of staff are here. What projects are
24 they working on? How much time do they spend on them?

25 So, printing costs would save some money,

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1 that's true, maybe -- I don't know whether that means
2 you could hire somebody else or what you could do, but
3 would we also be able to modify the report schedule in
4 some way? I don't mean the enforcement report, but the
5 report schedule for OGC since this is an OGC project,
6 in some way, if the Commission desired to do so, so
7 that we could accommodate moving up Schools and
8 Religion to sort of guarantee that we would get it in
9 October.

10 Is there some way to answer those questions?

11 STAFF DIRECTOR MOY: Yes, Madam Chair.

12 Stephanie Moore has the answer.

13 CHAIRPERSON BERRY: You hope.

14 GENERAL COUNSEL MOORE: I think I have the
15 answer in part. Certainly there are -- are managerial
16 questions associated with -- with budget preparation,
17 and it is not merely the cost of the project that has
18 to be taken into account in terms of cost distribution
19 for any given fiscal year, but the current staffing --
20 we based these figures on current staffing with no
21 expectation of new hires, Number 1, and, Number 2,
22 there is the issue of what -- what staff members are
23 actually assigned to which project in trying to -- to
24 work towards the milestones that the Commissioners
25 desire.

1 CHAIRPERSON BERRY: Now, --

2 GENERAL COUNSEL MOORE: So, we would indeed
3 -- I mean right now, we have the ADA hearing and the
4 consultation on Crisis and the three Schools and
5 Religion projects, in addition to the hearing reports
6 from Racial and Ethnic Tensions.

7 In addition, we would be accountable for all
8 of the legal sufficiency reviews with the current
9 staffing level of 12 -- 12 attorneys.

10 CHAIRPERSON BERRY: Now, if you were able to
11 save some money from printing costs that Commissioner
12 Horner suggested and hire some temporary people, I'm
13 just asking, I don't know how much money that is, to
14 work on -- in the preparation of the report on Schools
15 and Religion, would that help in some way to try to get
16 it?

17 GENERAL COUNSEL MOORE: I don't think so.
18 Temporary people would have to be trained and involved
19 in the process from the beginning. The printing costs
20 are in my view irrelevant to -- I mean it saves money,
21 but the printing costs does not affect OGC workload at
22 all because that's done outside of OGC, although it's a
23 cost associated with that office.

24 CHAIRPERSON BERRY: Now, since you can't --
25 since you cannot do -- you have to do legal

1 sufficiencies on all kinds of things that are in the
2 Commission, so we're not talking about deferring that,
3 how about if some of the hearing reports -- if we
4 decided that we wanted to defer, say, Mississippi Delta
5 -- I'm just making this up as I go along -- in terms of
6 writing the report for awhile and have people -- and
7 move up the Schools and Religion hearings from whatever
8 date we said earlier than that, and then have people
9 worked on -- work on the Schools and Religion report,
10 and then get -- go back to doing the other -- I mean is
11 there some way to jigger -- you know, fool -- fool
12 around with your -- your work schedule now to do that,
13 if the Commission decided it wanted to do that?

14 GENERAL COUNSEL MOORE: Well, there is, Madam
15 Chair, but I -- I would recommend that we not defer
16 writing the reports of those -- those projects that
17 have already been -- the hearing projects that have
18 been completed, lest we find ourselves in the same
19 situation when -- when I came on board, people
20 inheriting records from hearings that had been
21 previously conducted.

22 I think that we may very well have to
23 consider deferring some of the other projects, if this
24 is the wish of the Commission, deferring some of the
25 new projects, like if we want to move Crisis over ADA

1 over, but not --

2 COMMISSIONER HORNER: I have an alternative
3 suggestion that might -- maybe Stephanie could tell us
4 whether this would save sufficient money.

5 I noticed that the ADA report is going to be
6 published or staff proposes to publish it in two
7 stages, one a staff report, which the Commission would
8 not vote on in FY '98, I think, and then in FY '98, a
9 statutory report.

10 CHAIRPERSON BERRY: No.

11 COMMISSIONER HORNER: I have a concern that
12 we wouldn't be voting on the --

13 CHAIRPERSON BERRY: No, no, no, no, no,
14 Commissioner Horner. Point of information.

15 COMMISSIONER HORNER: Good.

16 CHAIRPERSON BERRY: The Commission will vote
17 on the report.

18 COMMISSIONER HORNER: On the staff report.

19 CHAIRPERSON BERRY: But it would be converted
20 into the enforcement report for that year, which the
21 Commission can do.

22 COMMISSIONER HORNER: I see. Have we been
23 voting on something called -- this is a terminological
24 problem again. I thought a staff report was something
25 the staff put out without Commissioner input.

1 CHAIRPERSON BERRY: Well, that's true, but
2 what we do -- what they're proposing here, as I
3 understand it, and, staff director, you can tell me if
4 I don't understand, is that what used to be called the
5 staff report be converted into a regular enforcement
6 report which would be voted on by the Commission with
7 findings and recommendations to be sent up to the Hill,
8 if I understand that.

9 Do I understand that right or not?

10 STAFF DIRECTOR MOY: Yes, you do, Madam
11 Chair.

12 COMMISSIONER HORNER: So, OCRE will produce a
13 staff report. That will be for internal consumption
14 only.

15 CHAIRPERSON BERRY: No, no, no.

16 COMMISSIONER HORNER: It will be then
17 transmuted subsequently in '98.

18 CHAIRPERSON BERRY: They're saying that the
19 original staff -- the original project proposal called
20 for a staff report. What they are proposing to us now
21 is that we change that and make what was supposed to be
22 a staff report into a regular enforcement report with
23 findings and recommendations done by the staff.

24 (Multiple conversations)

25 CHAIRPERSON BERRY: Just a moment. Please do

1 not talk at the same time.

2 COMMISSIONER HORNER: If I could just finish
3 this point. You understand my confusion because I'm
4 reading from the memo that --

5 CHAIRPERSON BERRY: Where are you reading?

6 COMMISSIONER HORNER: I am reading from Page
7 5 of the September 22nd memo, and the second paragraph
8 begins, "This is planned as a three-part project", and
9 the end of that paragraph says, "OCRE will produce a
10 staff report", and then in the last paragraph of the
11 September 22nd memo, "The staff report into OCRE's FY
12 '98 statutory enforcement report."

13 So, my only question is does the staff have
14 to produce this staff report, and, if so, will it be
15 voted on?

16 CHAIRPERSON BERRY: Commissioner Horner, what
17 you have read down to where it says, "staff
18 recommendation", according to what -- answer the
19 question. Tell her what -- excuse me. Is it all right
20 if Fred answers the question?

21 STAFF DIRECTOR MOY: Yes.

22 MR. ISLER: The original project proposal
23 calls for us to do two reports, a staff report and
24 statutory report. Well, staff is proposing that we --
25 instead of doing the staff -- staff report, that we

1 convert the staff report into a statutory enforcement
2 report. So, we will only be doing one report, and
3 that's our recommendation.

4 COMMISSIONER HORNER: Okay. So, that
5 sentence has to come out that says OCRE will produce a
6 staff report, because it's quite misleading.

7 CHAIRPERSON BERRY: That's -- tell her what
8 that's from, Fred.

9 MR. ISLER: That's from the original project
10 proposal.

11 COMMISSIONER HORNER: That shouldn't be in
12 the report that we're focusing on today, if it's -- if
13 it's been dropped. It should be dropped if it's hasn't
14 been dropped.

15 MR. ISLER: But this is our recommendation.
16 It hasn't been dropped yet. We're making a
17 recommendation for the Commissioners to consider today.

18 CHAIRPERSON BERRY: Commissioner Horner, the
19 first -- the first --

20 COMMISSIONER HORNER: I understand that.
21 Thank you.

22 CHAIRPERSON BERRY: -- memo on Page 1 of the
23 memo, it says, "Also enclosed are brief project
24 descriptions as originally approved." So, all this is
25 is the project description as we originally approved

1 it, for your information rather than having you go find
2 the ones that were originally approved, and, so, that's
3 where the confusion came from. But we would be voting
4 on it.

5 COMMISSIONER HORNER: Okay. That's all I
6 needed to know. So, it wouldn't save any money then.

7 CHAIRPERSON BERRY: No. But how about the
8 idea of moving the consultation and the consultation on
9 Crisis over till another year all together in order to
10 make for both staff time and everything else, to try to
11 get the Schools and Religion done?

12 I mean that seems to be an option that the
13 staff here seems to think that if that's what the
14 Commissioners want to do, that that might be the most
15 productive way to get it done.

16 COMMISSIONER HIGGINBOTHAM: You know, Madam
17 Chair, I'd like to make a response. I'm fairly anxious
18 that we use Commissioners' time efficiently.

19 My problem is that I feel sort of like the
20 shell and the pea game, where I don't know where the
21 pea is, and the -- I would say that -- to Commissioner
22 George, that at any time that we have some discretion,
23 and we're talking about \$80,000 on reallocation of
24 funds, if we have the discretion, we're talking about
25 one percent, and that would mean that a project which a

1 Commissioner is anxious to get finished could get
2 finished without hurting other things, I'm willing to
3 go along with that.

4 But I sort of think that my question has
5 never been answered about how much that additional cost
6 will be, and that's what I'm trying to figure out so
7 that I can intelligently vote.

8 If -- if -- if I were -- we were practicing
9 law, and I were close to settlement, and someone says,
10 well, look, will \$50,000 close it, I will vote for
11 that, and I would hope that we would be smart enough to
12 reallocate \$50,000.

13 But on the other hand, if it takes a half
14 million dollars, then it's impossible. I just don't
15 know what that ball park bridge is to close.

16 CHAIRPERSON BERRY: Well, Commissioner
17 Higginbotham, Judge Higginbotham, let me just say that
18 my understanding, and staff can correct me if I'm
19 wrong, is that we can't ask that -- we can ask that
20 question, but answering it won't answer the problem
21 because what they're telling us is that staff is
22 deployed at various projects.

23 Everybody's working on something, and in OGC,
24 things like legal sufficiency and all kinds of matters
25 having to do with other things in the agency, and that

1 if we want a project moved up, what we have to do is
2 figure out how to deploy the same bodies that are
3 deployed on something else on to this project, that
4 that's the way you have to answer the question, because
5 the bodies are all fully deployed at this time, and
6 that they have prepared for us a budget that fully
7 deploys them.

8 So that they were trying to figure out not in
9 terms of money because the staff is -- is not -- you're
10 not going to fire, you know, -- it's not are you going
11 to fire four people or two people or get two more
12 people.

13 The question is how do -- what do you do with
14 the 12 people you've got, and, so, they were trying to
15 figure out what you could not do in order to do this,
16 and as they reviewed the projects, they decided that
17 you can't stop OGC from doing legal sufficiency reviews
18 because that has to be done on everything in the
19 agency. You can't stop them from doing the
20 administrative legal work that they do because that has
21 to be done, but you can rejigger the projects, and, so,
22 one suggestion is that if they don't do the
23 consultation and move it to another year, it might be
24 possible to have the staff that are involved with that
25 work on the Schools and Religion and then try to finish

1 it.

2 I mean that -- and they couldn't see any
3 other project, and I'll ask them again. I'll ask the
4 staff director, but they didn't -- so, that -- so that
5 -- am I right, staff director, general counsel, or is
6 it -- is there some way to answer just in terms of
7 dollars or is it just in terms of what work the staff
8 is doing?

9 STAFF DIRECTOR MOY: I don't believe we can
10 do it in terms of dollars at this point without going
11 back to the table.

12 CHAIRPERSON BERRY: Unless we could hire --
13 you know, if we could hire some more people or
14 something, maybe that would help.

15 STAFF DIRECTOR MOY: Right.

16 CHAIRPERSON BERRY: But we can't because we
17 don't have the money.

18 STAFF DIRECTOR MOY: Correct.

19 VICE CHAIRPERSON REYNOSO: Madam Chair, --

20 CHAIRPERSON BERRY: Yes?

21 VICE CHAIRPERSON REYNOSO: -- this is Cruz.

22 CHAIRPERSON BERRY: Yes, Vice Chair.

23 VICE CHAIRPERSON REYNOSO: Unless I'm
24 misreading the materials we got, it seems to me that
25 the only way we'd be able to accomplish that would be

1 to postpone the Crisis in Young African American Males
2 in the Inner Cities, and if that's true, I don't know
3 whether it's appropriate for me for discussion purposes
4 to so move to put that on the table.

5 CHAIRPERSON BERRY: Well, it's appropriate --
6 it's always appropriate to so move. I think -- is
7 Commissioner George back yet?

8 (No response)

9 CHAIRPERSON BERRY: No, he's not. Hmm. Can
10 we just hang on for a minute to see if he comes back
11 and talk about something else because this is --

12 COMMISSIONER REDENBAUGH: Can I make some
13 general comments?

14 CHAIRPERSON BERRY: Yes, yes.

15 COMMISSIONER REDENBAUGH: These are not
16 specific.

17 CHAIRPERSON BERRY: Yes.

18 VICE CHAIRPERSON REYNOSO: This is
19 Commissioner Redenbaugh speaking.

20 CHAIRPERSON BERRY: Oh, yes.

21 COMMISSIONER HIGGINBOTHAM: Hi, how are you?

22 COMMISSIONER REDENBAUGH: Hi, Leon. My
23 compliments to the staff. This is a document that
24 allows us to have a very informed and intelligent
25 discussion about our scarce resources, and, so, I want

1 to compliment the staff for their preparation of this
2 document because it does put everything out in a way
3 that lets us see the -- really the small size of our
4 discretionary budget. So.

5 CHAIRPERSON BERRY: Yeah. It's depressing in
6 a way.

7 COMMISSIONER REDENBAUGH: Well, it is. You
8 know, we -- we spend the majority of our time
9 discussing what amounts to about 15 percent of our
10 budget.

11 CHAIRPERSON BERRY: Yeah.

12 VICE CHAIRPERSON REYNOSO: This is Cruz.
13 Discretionary only in terms of the extra funds because
14 we do have discretion in terms of how to ask the staff
15 to deploy itself, if you will, and -- and, so, that's
16 why we're coming down now to discussion. Not so much -
17 - in terms of discretionary money, but we're really
18 interested in working with the staff to see how those
19 can work because that's where our money goes.

20 COMMISSIONER REDENBAUGH: Well, I think
21 that's right, Cruz, but even -- even so, the project
22 component of the budget --

23 VICE CHAIRPERSON REYNOSO: That's true.

24 COMMISSIONER REDENBAUGH: -- is only 15
25 percent of the total.

1 VICE CHAIRPERSON REYNOSO: Yes.

2 CHAIRPERSON BERRY: And -- and -- and I --
3 and I might say that I got into this discussion when I
4 was up for the hearing, and I asked the staff to redo
5 our budget in a form that would show that while it
6 appears to be 15 percent of our budget, and you're
7 correct, that it really is more than that because if
8 you told people that we only spent 15 percent of our
9 budget on projects, they would say what are you
10 spending the rest of the 85 percent on? Nothing?

11 And in point of fact, it's because we don't
12 add indirect costs to the staff. It's as if the staff
13 are working out in the air somewhere, and the kind of
14 budgets I'm used to operating with at the university
15 are budgets where you put down -- you allocate
16 utilities and everything else and rent to each person
17 who's working, so you can actually get a clear picture
18 that it's not 15 percent, it's much more than that when
19 you add all what we all indirect cost recovery.

20 We don't do that. The Government for some
21 reason doesn't do that with budgets, which leaves
22 people open to criticism that we're not doing any
23 projects, we're just spending 15 percent of our budget.

24 But you're correct in terms of how much
25 discretion we have. The discretionary areas in the

1 budget.

2 COMMISSIONER HORNER: Madam Chair?

3 CHAIRPERSON BERRY: This is it. Yes,
4 Commissioner Horner?

5 COMMISSIONER HORNER: I don't know whether
6 this would do the job, and I don't know whether
7 Commissioner George would agree with it, but as the
8 project is scheduled now, it's for two full one-day
9 hearings and one mini-hearing.

10 I wonder if one full-day hearing and one
11 mini-hearing would save enough staff time to allow
12 moving the project up and also permit completion of the
13 project earlier in the fiscal year.

14 CHAIRPERSON BERRY: Yeah. Go right ahead.
15 Were you finished?

16 COMMISSIONER HORNER: I was just going to say
17 it would allow the completing it in time before
18 Commissioner George departs..

19 CHAIRPERSON BERRY: To catch Commissioner
20 George up, though, on what happened while he was
21 unhooked, did you hear the idea of deferring Crisis all
22 together for -- into another year, in order to
23 accommodate your concern? Were you on when that --

24 COMMISSIONER GEORGE: No. I was cut off at
25 that point. No. This is -- this is news to me. The

1 idea would be to defer the consultation until fiscal
2 '99?

3 CHAIRPERSON BERRY: Right. Just move the
4 whole thing forward, and Cruz was prepared to make a
5 motion to do that in order to accommodate your concern,
6 but now Commissioner Horner has made another
7 suggestion.

8 COMMISSIONER GEORGE: Well, I -- I appreciate
9 everyone's thought about how to get this done within a
10 reasonable scope and in a timely fashion.

11 I would be extremely reluctant to accept
12 Commissioner Horner's proposal.

13 COMMISSIONER HORNER: Okay. That's all.

14 COMMISSIONER GEORGE: I'm not --

15 VICE CHAIRPERSON REYNOSO: How about my
16 suggestion then on the Crisis of Young African
17 Americans because we were talking earlier about the
18 reality that -- what we're really talking about here is
19 not so much money of that kind, so that we have to do
20 some reconfiguration of staff time, and at least as I
21 read the materials we got, about the only substantial
22 portion of staff time where we could save in '98 would
23 be in the Crisis of Young African American Males in the
24 Inner City.

25 So, it seems to me that in terms of staff

1 time, and Stephanie can correct me if I'm wrong on
2 that, would be we'd just about have to focus on this
3 item.

4 COMMISSIONER HORNER: Naturalization and
5 Citizenship project now not on the block for '98?

6 CHAIRPERSON BERRY: It is for '98. That --

7 COMMISSIONER HORNER: So, that would be
8 another one. We could defer that one rather than the
9 Crisis of the Young African Americans.

10 VICE CHAIRPERSON REYNOSO: Yeah, that's true,
11 and that would deal with that -- I'd be in favor of
12 that, too.

13 GENERAL COUNSEL MOORE: It wouldn't
14 completely do it. I think because we currently have
15 both the consultation and the public -- some -- there -
16 - there would still, I think, need to be some revisions
17 on consultation -- on the Crisis of the African
18 American Male, even if we also deferred Immigration and
19 the Naturalization project, which is a joint project
20 with OCRE.

21 So, the OGC staff time is not -- is not
22 absorbed as much by that project as it would be for the
23 Crisis.

24 CHAIRPERSON BERRY: Okay.

25 VICE CHAIRPERSON REYNOSO: In light of that,

1 I'd rather not postpone both.

2 CHAIRPERSON BERRY: So, why don't you move --
3 oh, well, is there a motion to do this?

4 COMMISSIONER GEORGE: Madam Chair, can I
5 discuss it with Cruz a little bit further?

6 CHAIRPERSON BERRY: Oh, go ahead.

7 COMMISSIONER GEORGE: Yeah. Cruz, I -- I
8 think you've given us sort of something to work with
9 here. An additional consideration is that I've been
10 skeptical about us managing to pull off the
11 consultation at the time we had hoped to because we
12 have to get all those papers produced, and we need to
13 have time to read them.

14 VICE CHAIRPERSON REYNOSO: Right.

15 COMMISSIONER HORNER: So, there's an
16 additional consideration now in favor of moving it
17 back. I wouldn't like to move it back too far because
18 it's so important, and I think that it also is a matter
19 on which we're going to have a united Commission or at
20 least I'm hoping we'll have a united Commission.

21 So, this is not something that I'd like to
22 push off too far. On the other hand, I think there's a
23 combination now of good reasons for pushing it back a
24 bit.

25 Do you have a concrete proposal as for when

1 it -- when it could be scheduled?

2 VICE CHAIRPERSON REYNOSO: No. I'm just --
3 no. The mandate is -- if we agree on this, the mandate
4 to staff would be to have them reconfigure how they
5 would be using their time in such a way that religion
6 and the school project could be finished well before
7 the end of your current term, and then it would be up
8 to them -- you know, with limited staff, they would be
9 the ones who could tell us how quickly then this one
10 could go forward because they really would be setting
11 this aside until they got the other one done. So, I
12 don't know what the staffing would be.

13 COMMISSIONER GEORGE: Okay. So, we could get
14 more information on that.

15 Let me toss out another possibility. Instead
16 of having two full one-day hearings and one mini-
17 hearing, what would it do the funding if we moved it to
18 one full-day hearing and three mini-hearings, but then
19 instead of making it a statutory report with findings
20 and recommendations, make a fact-finding report which
21 would basically be publishing transcripts of the
22 hearing and mini-hearings?

23 GENERAL COUNSEL MOORE: Well, a fact-finding
24 report would -- wouldn't -- well, Commissioner George,
25 this is Stephanie.

1 COMMISSIONER GEORGE: Could you speak up,
2 Stephanie?

3 GENERAL COUNSEL MOORE: Yes, it is. The --
4 it would not reduce OGC's problem because the staff
5 time to prepare a hearing, whether it's a mini-hearing
6 or a full hearing, is essentially the same. So, you've
7 just increased the workload by calling it a mini-
8 hearing. All that means is that there are two
9 Commissioners instead of eight. But it does not
10 decrease the staff time in preparing that -- those
11 actual hearings, locating the witnesses, interviewing
12 the witnesses, making determinations of who would and
13 who would not be able to attend. All of that staff
14 time is still -- is essentially the same.

15 CHAIRPERSON BERRY: How about if we published
16 the transcripts as he suggested?

17 COMMISSIONER GEORGE: Yeah. That would be --

18 CHAIRPERSON BERRY: Instead of to write a
19 report?

20 GENERAL COUNSEL MOORE: Well, that would
21 certainly reduce staff work incredibly.

22 VICE CHAIRPERSON REYNOSO: Stephanie, this is
23 Cruz. You've heard the discussion. Based on the
24 discussion thus far, you know your own staff obviously
25 better than we do, but would you have a suggestion for

1 us in terms of how we could get the -- can you hear me?

2 CHAIRPERSON BERRY: Yes, we can hear.

3 VICE CHAIRPERSON REYNOSO: Okay. I was just
4 asking Stephanie if she had any suggestions on -- on
5 how we could get the School and Religion report out
6 earlier, meaning obviously we have to defer something,
7 and I just wonder whether in terms of how far you are
8 with your different projects, what sort of makes sense
9 to you, I guess, is my question?

10 GENERAL COUNSEL MOORE: Well, again, I -- I
11 -- other projects that are currently proposed for '98,
12 I would prefer that we complete the hearing reports,
13 both so that the records don't go stale and -- and --
14 and that the staff -- you never can anticipate turn-
15 over and what have you. So that the current staff who
16 is here and worked on those projects can complete those
17 timely and efficiently.

18 VICE CHAIRPERSON REYNOSO: Thanks.

19 CHAIRPERSON BERRY: And then?

20 GENERAL COUNSEL MOORE: And -- and then, I --
21 I guess the options would include deferring the entire
22 Crisis project which would consume quite a bit of staff
23 time to do the consultations -- the consultation and --
24 and the reports and/or the ADA hearing. Those are the
25 -- those are the --

1 CHAIRPERSON BERRY: Now, ADA --

2 GENERAL COUNSEL MOORE: -- options.

3 CHAIRPERSON BERRY: ADA is now scheduled --
4 let's see. What did we do with ADA? We agreed to -- I
5 mean the recommendation is to do the staff report in
6 '98, and then in '99, do the -- hold a hearing -- oh, I
7 see what you mean.

8 GENERAL COUNSEL MOORE: Well, the annual
9 enforcement report for '98 on ADA.

10 CHAIRPERSON BERRY: Right.

11 GENERAL COUNSEL MOORE: We would also -- then
12 OGC would conduct a hearing which enables those persons
13 who are -- are affected by ADA, not just the agencies,
14 to -- to have a public forum to -- to air their
15 concerns, but we would separately do a hearing report
16 on that hearing in 1999, and what I'm suggesting now is
17 that one of the options we have available is to -- is
18 to not do the ADA hearing in '98.

19 CHAIRPERSON BERRY: In '98. What would be --

20 GENERAL COUNSEL MOORE: If we really want to
21 move the Schools and Religion up.

22 CHAIRPERSON BERRY: Fred, what's the
23 enforcement report for '99?

24 MR. ISLER: Fair Employment Practice,
25 Evaluation of Fair Employment Practice.

1 CHAIRPERSON BERRY: That's still here
2 somewhere?

3 MR. ISLER: Yes.

4 CHAIRPERSON BERRY: What page is that on?
5 And, so, then in that case, OGC would either do a
6 hearing on ADA in 1999 or not do it at all? Is that
7 the suggestion?

8 GENERAL COUNSEL MOORE: Well, that's the
9 option.

10 CHAIRPERSON BERRY: That's what I mean.
11 Okay. So, we have some options here. One option is
12 instead of getting rid of Crisis, having Crisis
13 consultation as scheduled, defer the hearing to FY
14 1999, and defer the ADA hearing because the statutory
15 report -- enforcement report will be what has now been
16 converted from a staff report for 1998 and go ahead
17 with Fair Employment for the statutory report for 1999,
18 and defer the idea of having an ADA hearing until a
19 later time. So, that's one option. So, it's either
20 that or get rid of Crisis, if we want -- yes? Yes?
21 Yes? Who -- who's speaking?

22 COMMISSIONER GEORGE: I am.

23 CHAIRPERSON BERRY: Commissioner George?

24 COMMISSIONER GEORGE: Yes. My proposal to
25 publish the transcripts of Schools and Religion instead

1 of a statutory report, that I -- I would ask that we
2 make it one full-day and three mini-hearings.

3 I think in that -- judging from what
4 Stephanie was suggesting, that would address it
5 sufficiently that probably we could continue on track
6 with the African American Male consultation, although I
7 think we ought to consider pushing the dates back on
8 that.

9 CHAIRPERSON BERRY: Commissioner George, you
10 understand, and all Commissioners understand, that
11 mini-hearings, where you save money is on if all the
12 Commissioners don't go. If we all go anyway, which we
13 can, if we want to, --

14 COMMISSIONER GEORGE: Stephanie pointed that
15 out.

16 CHAIRPERSON BERRY: Yeah. You don't save any
17 money.

18 COMMISSIONER GEORGE: My thought was that she
19 was suggesting we could save a lot of money if we don't
20 try to make a statutory report, and I was hoping that
21 because of that savings, we could both make it four
22 instead of three hearings and save the timing on the
23 African American Male consultation.

24 CHAIRPERSON BERRY: I -- could I ask a
25 question, please? Point of information, Commissioner

1 George?

2 COMMISSIONER GEORGE: Yes.

3 CHAIRPERSON BERRY: I'm puzzled by your
4 suggestion that the transcripts only be published. If
5 that's the case, why should we have a "hearing"? Why
6 don't we simply have either forums or, you know, where
7 people can come in who are invited to speak as well as
8 others who wish to speak in different places, like the
9 SACs do when they have forums?

10 COMMISSIONER GEORGE: Well, because I thought
11 it would be good to make a serious fact-finding inquiry
12 where we could use our subpoena power.

13 CHAIRPERSON BERRY: Oh, I see. Okay. But
14 then you don't want -- you wanted findings and
15 recommendations, but you're saying in terms of resource
16 constraints, you'd be willing to --

17 COMMISSIONER GEORGE: Oh, yeah.

18 CHAIRPERSON BERRY: -- defer --

19 COMMISSIONER GEORGE: If we can have -- if we
20 can have -- I'm trying to think of a way to do it in a
21 timely fashion, not to push back African American Males
22 too far, and at the same time to accomplish a
23 reasonably comprehensive set of hearings where we could
24 at least get the facts out there.

25 CHAIRPERSON BERRY: Okay.

1 VICE CHAIRPERSON REYNOSO: Madam Chair?

2 CHAIRPERSON BERRY: Yes?

3 VICE CHAIRPERSON REYNOSO: This is Cruz.

4 Staff knows that situation better than we, and they
5 made a recommendation that included several parts to it
6 that would permit us to go on and -- and have -- and
7 finish the Religion and School hearings in a timely
8 fashion.

9 So, I thought that Stephanie knows better
10 what her staffing requirements are. I -- I was
11 thinking that she was giving us a pretty good solution
12 to the problem.

13 CHAIRPERSON BERRY: Yeah. So, if we -- is
14 there some reason why we couldn't do the option of
15 deferring the ADA hearing and doing the Schools and
16 Religion as proposed or deferring Crisis?

17 COMMISSIONER GEORGE: We would defer Crisis
18 or we wouldn't?

19 CHAIRPERSON BERRY: Would.

20 COMMISSIONER HIGGINBOTHAM: Madam Chair?

21 CHAIRPERSON BERRY: Yes, Judge Higginbotham?

22 COMMISSIONER HIGGINBOTHAM: I really think
23 that we're going to be giving very, very significant
24 adverse inferences to the nation if we defer the Crisis
25 of African American Males because it will be construed

1 that we consider Schools and Religion or whatever else
2 to be a problem of magnitude, more urgent than the
3 others.

4 Within my soul and heart, I believe that the
5 Crisis of African American Males is so extraordinary,
6 that America's future is at stake, and I would hate for
7 this Commission to act as if it could put that back,
8 and, so, my instincts are I would hate to see the
9 Crisis of African American Males put back.

10 Now, if there is something else which, as
11 Stephanie has suggested, -- hello?

12 CHAIRPERSON BERRY: Yes, we're still here.

13 COMMISSIONER HIGGINBOTHAM: Oh, okay. As
14 Stephanie is suggesting that can be done and the Crisis
15 of the African American Males, I certainly would be
16 receptive, but I would hate to see us move that back.
17 We're late getting on it now, and I -- I don't wish to
18 do anything to delay the ultimate outcome.

19 GENERAL COUNSEL MOORE: Madam Chair, may I
20 ask a question?

21 CHAIRPERSON BERRY: Yes. Yes, there's a
22 staff question here, and then I'll recognize the next
23 person. Yes?

24 GENERAL COUNSEL MOORE: This is Stephanie
25 again, asking of Commissioner George, is it -- because

1 actually as I see this laid out, we could -- we could
2 conduct the hearings as proposed; that is, two full
3 one-day hearing and one mini-hearing in 1998, and focus
4 now on -- on shifting costs to simply publish the
5 transcript as you've suggested and not change anything
6 else or --

7 COMMISSIONER GEORGE: And that includes
8 having to defer for budgetary reasons African American
9 Males, although I hope we will at least have some
10 conversations about whether it's realistic for other
11 reasons to make our target date.

12 GENERAL COUNSEL MOORE: Or is the issue to --
13 to timely complete the project because -- I mean my
14 view of a hearing is that there would be a fact-finding
15 report when one uses the subpoena powers associated
16 with that, that there should be some findings and
17 recommendations at some point down the road, I mean
18 even if it's when you're gone.

19 CHAIRPERSON BERRY: So, in other words, we
20 could publish the transcripts first and then do the
21 report?

22 GENERAL COUNSEL MOORE: And then have a
23 report, but he would be off the Commission.

24 COMMISSIONER HIGGINBOTHAM: As far as I'm
25 concerned, I hope you won't -- Madam Chairman, may I?

1 CHAIRPERSON BERRY: Yes.

2 COMMISSIONER GEORGE: Why don't you send a
3 letter to the President?

4 COMMISSIONER HIGGINBOTHAM: Madam Chair, may
5 I?

6 CHAIRPERSON BERRY: Yes.. I will recognize
7 you after I just make one point of information.

8 COMMISSIONER HIGGINBOTHAM: Sure.

9 CHAIRPERSON BERRY: The Commission has
10 traditionally published hearing transcripts and a
11 report. So, if you're suggesting that we publish the
12 -- and we started to do this again this time because it
13 was interrupted by somebody for some reason that we
14 don't understand why.

15 GENERAL COUNSEL MOORE: I think it was money.

16 CHAIRPERSON BERRY: But the Commission has
17 traditionally since 1957 published both its hearing
18 transcripts so everybody can see what went on and a
19 report. So, if you would want assurance that the
20 transcript at least came out before you were off, no
21 matter what happened, then it seems to me that one
22 could provide that assurance at least.

23 Judge Higginbotham?

24 COMMISSIONER HIGGINBOTHAM: Madam Chair, I
25 know that isn't compatible with Robert's Rules, but

1 what I would suggest is that when you have a situation
2 like this, and we publish a transcript, I see nothing
3 wrong with an individual Commissioner who is leaving
4 office to record on the public record his views of what
5 he has or she has seen or heard up to the date of their
6 leaving.

7 The -- the National Commission for the
8 Prevention of -- had interim reports like for various
9 times.

10 So that if what you're concerned about,
11 Commissioner George, is that you would like to be able
12 to make some individual input on the basis of your
13 cumulative insights, I think that we should have enough
14 flexibility that when someone is leaving, for them to
15 be able to record some document which notes where they
16 are, and what they think is important on the issue.

17 That doesn't mean that you have a vote on the
18 final one, but at least your input is recorded, not in
19 the abstract of a transcript but -- but with your fine
20 writing style convey your thoughts on it.

21 CHAIRPERSON BERRY: We may have a solution
22 here because if we agree to accept the staff
23 recommendation with the understanding that the
24 transcript at least would be -- that they try to finish
25 the report, but that the transcript at least of these

1 hearings would be released with any comment that
2 anybody wanted to make in the absence of them finishing
3 it.

4 It would achieve your purpose, Commissioner
5 George, of having the transcripts released, and we also
6 would not have to defer, to make the decision that
7 people seem to be reluctant to make, to defer some of
8 these other items.

9 VICE CHAIRPERSON REYNOSO: Madam Chair, this
10 is Cruz.

11 CHAIRPERSON BERRY: Yes?

12 VICE CHAIRPERSON REYNOSO: To me, that sounds
13 like a reasonable way of proceeding.

14 CHAIRPERSON BERRY: Commissioner George, did
15 you hear me? Is he still there?

16 (No response)

17 CHAIRPERSON BERRY: Did we lose him again?

18 COMMISSIONER GEORGE: Hello?

19 CHAIRPERSON BERRY: Commissioner George?

20 GENERAL COUNSEL MOORE: Yeah. That's him.

21 CHAIRPERSON BERRY: Commissioner George?

22 COMMISSIONER GEORGE: Hello?

23 CHAIRPERSON BERRY: Commissioner George?

24 Commissioner Higginbotham? I could hear you, Judge.

25 GENERAL COUNSEL MOORE: I can hear him.

1 CHAIRPERSON BERRY: I can hear you,
2 Commissioner George, but you can't hear me.

3 COMMISSIONER LEE: Madam Chair, this is
4 Yvonne. Why we're waiting for Commissioner George, I
5 just have a question.

6 CHAIRPERSON BERRY: Yes?

7 COMMISSIONER LEE: Can someone remind me? I
8 thought we had scheduled a consultation for the Crisis
9 of African American Males coming up in October.

10 STAFF DIRECTOR MOY: November.

11 CHAIRPERSON BERRY: November, and we -- the
12 staff director found a memo that was sent to the
13 Commissioners on August 4th, which has a list of
14 potential consultation, it says, persons, and then asks
15 Commissioners to send back suggestions, also. Is that
16 right, staff director?

17 STAFF DIRECTOR MOY: Yes.

18 CHAIRPERSON BERRY: And some people did, I
19 guess.

20 STAFF DIRECTOR MOY: That's correct.

21 CHAIRPERSON BERRY: Okay. Is Commissioner
22 George back? Commissioner George?

23 COMMISSIONER GEORGE: Madam Chairman, can you
24 hear me?

25 CHAIRPERSON BERRY: Yes, Commissioner George.

1 COMMISSIONER GEORGE: Yes, I -- I heard the
2 -- the last part of that conversation, and which I'd
3 like to comment on, but also the -- I heard Judge
4 Higginbotham's comments early.

5 CHAIRPERSON BERRY: And did you hear what I
6 said when I said we might have a solution?

7 COMMISSIONER GEORGE: Yes, I believe so. Let
8 me say what I thought the proposal was.

9 CHAIRPERSON BERRY: Okay.

10 COMMISSIONER GEORGE: Would be that we'll
11 have three hearings.

12 CHAIRPERSON BERRY: Right.

13 COMMISSIONER GEORGE: Then immediately or
14 very shortly thereafter publish the transcripts.

15 CHAIRPERSON BERRY: Right.

16 COMMISSIONER GEORGE: And then we would try
17 to complete before the end of my term the report which
18 would be a findings and recommendations report, but in
19 the event that that wasn't possible, the report would
20 be completed after I was gone, but as I heard Judge
21 Higginbotham's proposal, any Commissioner or myself or
22 Commissioner Horner or anybody who was leaving could
23 publish some sort of statement of our own views if the
24 opposition -- if -- on the Commission, so one is in a
25 position to record concurrence or dissent or whatever.

1 CHAIRPERSON BERRY: Right. That was
2 basically his recommendation.

3 COMMISSIONER HIGGINBOTHAM: I want to make it
4 perfectly clear, just so we don't get caught in a
5 jurisdictional aspect. While you are still a member of
6 the Commission, even though it has not issued a report,
7 you can prepare a report, and that report will be
8 available for the public record so that it is clear
9 what you are thinking up to the date of your commission
10 --

11 CHAIRPERSON BERRY: Statement.

12 COMMISSIONER HIGGINBOTHAM: -- expiration.
13 So, after your commission expires, you are just like
14 everyone else in the graveyard.

15 CHAIRPERSON BERRY: Statement, not report.
16 You could prepare a statement, yeah.

17 COMMISSIONER HIGGINBOTHAM: But I mean -- I
18 don't want to get involved on -- I would not agree to
19 someone having a statement written after they left
20 included in a report. I mean it's just like Justice
21 White now giving an opinion on the United States
22 Supreme Court, which was just decided last term.

23 Just so that it's clear, whatever you think
24 while you are in office and you're willing to take the
25 sweat and put it down, that should be preserved.

1 COMMISSIONER GEORGE: Any report would have
2 to be written and filed during the Commissioner's
3 tenure.

4 COMMISSIONER HIGGINBOTHAM: That's right.

5 COMMISSIONER GEORGE: We can call it a
6 statement.

7 COMMISSIONER HIGGINBOTHAM: Yeah. Fine.

8 COMMISSIONER GEORGE: And then the statement
9 would be published together with the report in
10 concurrences or dissents?

11 COMMISSIONER HIGGINBOTHAM: Well, --

12 CHAIRPERSON BERRY: Or with the transcript.

13 GENERAL COUNSEL MOORE: With the transcript.

14 COMMISSIONER HIGGINBOTHAM: Go with the
15 transcript.

16 COMMISSIONER GEORGE: Go with the transcript.
17 So, it would be -- it would go out when the transcript
18 goes out.

19 CHAIRPERSON BERRY: Right.

20 COMMISSIONER HIGGINBOTHAM: I don't even want
21 to get in that much of a refinement. It all depends on
22 what one says. But it seems to me that -- that the
23 best time is anything you have written in some way will
24 see that it's published, if you have written and filed
25 it, prior to the time you leave.

1 If you haven't filed it prior to the time you
2 leave, it's gone. You have no right to such a
3 statement.

4 CHAIRPERSON BERRY: Yes. Perhaps working
5 with Judge Higginbotham's idea, we could do this, that
6 when we publish the transcripts, any Commissioner who
7 wishes to publish an accompanying statement can publish
8 the accompanying statement.

9 So, the first thing that goes out is the
10 transcript with the Commissioner's statement. After
11 that, whoever's on the Commission when the report is
12 finally completed by staff and revised and voted on by
13 the Commissioners is on the Commission, and whoever's
14 not has no hold. How's that?

15 COMMISSIONER HIGGINBOTHAM: Yeah. I don't
16 know whether I would go as far as you're suggesting.
17 It seems to me that it's only the Commissioner whose
18 term may expire prior to the report coming -- the
19 ultimate report coming out.

20 I don't want us to get involved on a lot of
21 divisionary statements filed before the final report.
22 This is done as an accommodation, so that the idea
23 which our departing brother or sister had is not lost
24 and is available.

25 CHAIRPERSON BERRY: To handle that

1 logistically, I might suggest that if we should decide
2 to do this, that we would simply hold the transcript.
3 We will know by this time whether the report is going
4 to be finished or not. I mean at some point, we will
5 know this before one's term is up, and that the
6 statement can be written, and we have the transcript,
7 and if it appears that the report is not going to be
8 finished, the person -- the transcript would be
9 released with the statement.

10 If it appears that the report will be
11 finished, then in fact one doesn't need to make a
12 statement in the transcript, one could make a statement
13 with the report, but we will know that by the time we
14 finish the hearings, and we see what the work schedule
15 is and how far the staff is along, and what resources -
16 - we will know that before the year is out, but the
17 point now is if we agree, we agree that anyone who's
18 going off can write a statement with the transcript, if
19 it appears that the report is not going to be done
20 before they leave.

21 COMMISSIONER ANDERSON: Madam Chairman?

22 CHAIRPERSON BERRY: Yes?

23 COMMISSIONER ANDERSON: This is Commissioner
24 Anderson.

25 CHAIRPERSON BERRY: Commissioner Anderson?

1 COMMISSIONER ANDERSON: Just to be clear as
2 to what we're agreeing to, we're agreeing that
3 Commissioner Horner and Commissioner George will have
4 the right to file an accompanying statement with the
5 transcript publication --

6 CHAIRPERSON BERRY: If --

7 COMMISSIONER ANDERSON: -- and no other
8 Commissioner?

9 CHAIRPERSON BERRY: If -- if, Commissioner
10 Anderson, if it appears that there will be no report or
11 if there is no report.

12 In other words, in the -- if -- if there is a
13 report, then they don't need to, and the suggestion is
14 no other Commissioner, but I would modify -- there may
15 be Commissioners who decide to resign before the end of
16 their terms, and if that's the case, and they intend to
17 go off before the report is finished, I would think
18 they would be covered, too.

19 COMMISSIONER GEORGE: That is acceptable to
20 me.

21 CHAIRPERSON BERRY: Okay. So, now what have
22 we done here? Anybody know?

23 COMMISSIONER GEORGE: I would just ask that
24 in agreeing to this, I would just ask that we have in
25 mind that -- that the idea -- everybody try to make a

1 good faith effort to try to get the reports finished
2 before those of us who are leaving leave, so that the
3 reports will be done by the Commission as constituted
4 when the hearings were held, if at all possible.

5 CHAIRPERSON BERRY: And under our new
6 management information system, which will be in place
7 by October, the Commission will review these projects
8 and so on every month or quarterly or something. So,
9 we will have a definite idea about how this is going.

10 COMMISSIONER GEORGE: I think we have
11 agreement.

12 CHAIRPERSON BERRY: Okay. So, is there
13 anything else that either -- staff director or staff,
14 you folks have any other thing you need to know before
15 we --

16 GENERAL COUNSEL MOORE: Well, yes, I think we
17 still -- we still have to reallocate some monies for
18 the printing of the transcript in '98.

19 CHAIRPERSON BERRY: For what?

20 GENERAL COUNSEL MOORE: For the Schools and
21 Religion. If we -- if we do any printing in '98, --

22 CHAIRPERSON BERRY: But it might be in '99.
23 They're still here in '99. It's just that they leave
24 early in 1999.

25 GENERAL COUNSEL MOORE: Okay.

1 CHAIRPERSON BERRY: Is that right? Yeah.
2 Okay. Now, do we need anything else, to discuss
3 anything else on the 1998 revisions?

4 COMMISSIONER LEE: Madam Chair?

5 CHAIRPERSON BERRY: Yes? Commissioner -- who
6 was that?

7 COMMISSIONER LEE: Russell was first, I
8 think.

9 CHAIRPERSON BERRY: Commissioner Redenbaugh?

10 COMMISSIONER REDENBAUGH: Yeah. Thank you.
11 Yeah. If we could just get the staff director to
12 comment on -- for those projects that are committed for
13 '98, give us some sense of the -- the dates of
14 completion of those.

15 CHAIRPERSON BERRY: Okay. Staff director, on
16 the list of projects for 1998 -- that will be the ones
17 starting on Page 4 or --

18 STAFF DIRECTOR MOY: Right. Just a second.

19 CHAIRPERSON BERRY: When -- when do we --
20 when does the staff think they're going to finish these
21 -- these projects?

22 STAFF DIRECTOR MOY: Madam Chair, may I defer
23 this question over to the project managers?

24 CHAIRPERSON BERRY: Okay. First, why don't
25 we ask -- well, here's the list. OGC.

1 STAFF DIRECTOR MOY: Stephanie?

2 CHAIRPERSON BERRY: When -- when do you think
3 these reports will be up to the staff director?
4 Because then it's out of your control at that point.

5 GENERAL COUNSEL MOORE: Right. The -- the
6 only one that I can give a firm prediction on is the
7 L.A. report is actually in draft and should be to the
8 staff director next Monday.

9 CHAIRPERSON BERRY: Okay. So, that will be
10 to the staff director on Monday, and depending on how
11 long -- you don't know, staff director, how long that
12 -- anyway, that will go Monday to the staff director.

13 How about Mississippi Delta?

14 GENERAL COUNSEL MOORE: Mississippi Delta
15 project has -- is -- is basically at this point
16 suspended due to staff loss. I mean we have only two
17 persons who worked on the original project currently on
18 staff. So, we do have to make some managerial
19 adjustments which I would be able to -- to make more
20 intelligently after this discussion.

21 CHAIRPERSON BERRY: After this meeting?

22 GENERAL COUNSEL MOORE: Right. Knowing who
23 would be deployed to what projects rather than over-
24 loading certain people on -- on old projects.

25 CHAIRPERSON BERRY: So, you can't give us a

1 date for that one?

2 GENERAL COUNSEL MOORE: No. I can say that
3 it would be completed in fiscal '98.

4 CHAIRPERSON BERRY: Okay. How about the New
5 York report?

6 GENERAL COUNSEL MOORE: The New York hearing
7 report, again our goal is to complete it in this
8 calendar year.

9 CHAIRPERSON BERRY: 1997?

10 GENERAL COUNSEL MOORE: '97.

11 CHAIRPERSON BERRY: Okay.

12 GENERAL COUNSEL MOORE: To complete and have
13 a draft to the staff director in the calendar year.

14 CHAIRPERSON BERRY: Okay. Now, we got Equal
15 Educational Opportunity Law Enforcement, five school
16 district profile. Fred?

17 MR. ISLER: Okay. I had to deploy all of my
18 full-time staff to the ADA, and I now have five interns
19 working on those profiles. So, considering skill
20 levels of the student interns, I would say about March.

21 CHAIRPERSON BERRY: Okay.

22 MR. ISLER: We will have the profiles to
23 staff director.

24 CHAIRPERSON BERRY: And then those were the
25 ones you wanted to know about, Russell, or you wanted

1 me to go through the '98 ones, too?

2 COMMISSIONER REDENBAUGH: Just '98.

3 CHAIRPERSON BERRY: Okay. And ADA, which is
4 our next year staff report, the timing on that is what?

5 MR. ISLER: Milestones says that I'm going to
6 get it to the staff director in June.

7 CHAIRPERSON BERRY: June.

8 COMMISSIONER REDENBAUGH: The enforcement
9 report?

10 CHAIRPERSON BERRY: Yeah. For next year.

11 MR. ISLER: Yes.

12 COMMISSIONER REDENBAUGH: Yep.

13 CHAIRPERSON BERRY: June. Okay. And --

14 COMMISSIONER REDENBAUGH: And we have the ADA
15 hearing in?

16 CHAIRPERSON BERRY: '98, also, and we have
17 the date for that, but I forget what it is.

18 GENERAL COUNSEL MOORE: Yes, it's March 17th,
19 18th and 19th, I think, or --

20 CHAIRPERSON BERRY: March 17th, 18th, --

21 GENERAL COUNSEL MOORE: -- somewhere around
22 there. Don't hold me to those dates.

23 CHAIRPERSON BERRY: All right. Then we got
24 Schools and Religion, and we have some dates for the
25 hearing.

1 GENERAL COUNSEL MOORE: We have broad -- we
2 have months. I don't think that we said dates. We --
3 the Commissioners agreed May-June.

4 CHAIRPERSON BERRY: Okay. And then we have
5 the summer report we're eliminating. So, I don't have
6 to ask you about that, and Crisis. We're supposed to
7 have this in November, the consultation.

8 Naturalization and Citizenship, what's the
9 deal on that, Fred and Stephanie?

10 MR. ISLER: I've not established a date for
11 the consultation.

12 CHAIRPERSON BERRY: There's no date for
13 consultation. That -- okay. And is that it?
14 Measuring Discrimination. Nothing's happening. That's
15 been deferred to 1999. So, that's all the 1998.

16 COMMISSIONER REDENBAUGH: Okay. Thank you.

17 CHAIRPERSON BERRY: So, anybody else have any
18 questions?

19 COMMISSIONER HORNER: Madam Chair?

20 CHAIRPERSON BERRY: Yes?

21 COMMISSIONER HORNER: Madam Chair, just --

22 CHAIRPERSON BERRY: Yes, Commissioner Horner?

23 COMMISSIONER HORNER: -- a very minor wording
24 suggestion. Under Measuring Discrimination in America,
25 the final sentence before the staff recommendation

1 reads, and I know this is now being moved to '99, at
2 least that's the staff recommendation, but "Based on
3 the information compiled during the consultation and
4 additional research, the Commission will develop a
5 detailed project plan covering FY '99", we've always
6 changed "will" to "may decide to" because the
7 Commission has always said it may or may not decide to
8 do the Measuring Discrimination project, based on what
9 comes out during the consultation.

10 CHAIRPERSON BERRY: That's fine. For FY '99
11 -- so, we now then agree with the changes that were
12 made. We had a motion to accept the 1998
13 recommendations. So, could we --

14 COMMISSIONER GEORGE: Madam Chair?

15 CHAIRPERSON BERRY: Yes, Commissioner George?

16 COMMISSIONER GEORGE: Perhaps this is the
17 time to do this. The description of the Schools and
18 Religion report on Page 5, --

19 CHAIRPERSON BERRY: Page 5. Yes.

20 COMMISSIONER GEORGE: -- the first sentence
21 has shifted a bit from the original description that we
22 had proposed, and I don't think that there are
23 substantive changes, but just to be certain, I would
24 like to propose inserting into the fourth line from the
25 bottom of the page, that's the line that begins, "In

1 regards to teaching religious doctrine for practice
2 while complying with", then I would like to insert "the
3 required equal accommodations of the free exercise of
4 religion and equal access law."

5 STAFF DIRECTOR MOY: Could you repeat that,
6 please? I'm sorry.

7 COMMISSIONER GEORGE: "While complying with
8 the required equal accommodations of the free exercise
9 of religion and", then the rest of the sentence remains
10 as is.

11 The purpose of the insertion is to ensure
12 that it is not focused narrowly and exclusively on
13 statute law, the Equal Access Act, but more broadly on
14 the fair accommodation, non-discriminatory
15 accommodation of free exercise of religion, which is
16 the other side of the challenge of no entanglements and
17 neutrality.

18 What I'm doing here is just restoring the
19 original description. This is October 21st, 1996;
20 project consideration.

21 CHAIRPERSON BERRY: Staff director -- we got
22 that. Staff director, could you -- General Counsel
23 wanted to make a comment.

24 STAFF DIRECTOR MOY: Yes.

25 CHAIRPERSON BERRY: Would you recognize her?

1 STAFF DIRECTOR MOY: Yes, please. Stephanie
2 Moore?

3 GENERAL COUNSEL MOORE: Commissioner George,
4 --

5 COMMISSIONER GEORGE: Yeah, Stephanie?

6 GENERAL COUNSEL MOORE: --- as much as I hate
7 to say this, the -- the -- the -- again, the proposals
8 that have been listed in the -- in the memorandum from
9 the staff director, dated September 19th, are the
10 descriptions as originally approved at different
11 funding levels.

12 I have -- I think that -- that the -- that
13 the view is that the project heads will produce new
14 proposals consistent with these -- with the funding
15 levels that have -- that are now approved by the
16 Commissioners to be submitted to you all at -- at a
17 later date.

18 CHAIRPERSON BERRY: And they're also -- in
19 other words, we will see another proposal after today
20 before the project actually gets underway. I thought I
21 -- she's pointing that out to you, Commissioner George.

22 COMMISSIONER GEORGE: Yeah.

23 CHAIRPERSON BERRY: So, your comments have
24 been noted, but there will be other revised proposals
25 for this as well as some of the other things that we've

1 discussed today.

2 COMMISSIONER GEORGE: So, we're not voting to
3 approve this specific description?

4 CHAIRPERSON BERRY: No.

5 COMMISSIONER GEORGE: Okay.

6 CHAIRPERSON BERRY: There may be some
7 revisions, and you will get another proposal before we
8 actually do a hearing because we're also going to have
9 to have a discussion about jurisdiction on this issue
10 of the Schools and Religion with the Commissioners, and
11 I think we'll do that after we have a revised proposal.
12 So, this is not the last shot at this.

13 COMMISSIONER GEORGE: My -- my comments here
14 have been noted?

15 CHAIRPERSON BERRY: Yes.

16 STAFF DIRECTOR MOY: Yes.

17 CHAIRPERSON BERRY: Okay. So, could we then
18 -- with the revisions that we have discussed, would the
19 maker of the motion and the person who seconded it
20 accept that your motion includes the revisions that we
21 have discussed here, and then with that, could I get
22 agreement among the Commissioners that we approve the
23 1998 revisions with the -- in light of the discussion
24 here and including the matters that have been discussed
25 and agreed to here by the Commissioners?

1 All those in favor, indicate by saying aye.

2 (Chorus of ayes)

3 CHAIRPERSON BERRY: Opposed?

4 (No response)

5 CHAIRPERSON BERRY: Okay. Could I get a
6 motion that we approve the staff recommendations on the
7 FY 1999 budget for purposes of a discussion?

8 COMMISSIONER GEORGE: So moved.

9 CHAIRPERSON BERRY: Could I get a second?

10 COMMISSIONER HORNER: Seconded.

11 CHAIRPERSON BERRY: Second. All right.

12 Discussion?

13 COMMISSIONER REDENBAUGH: May I make --

14 CHAIRPERSON BERRY: Yes?

15 COMMISSIONER REDENBAUGH: -- a couple of
16 questions? There's a -- I want to presume that the
17 regional offices are covered in the budget, it's just
18 not broken out as a line item? There's an increase in
19 funding for them or -- or what assumptions are being
20 made about that?

21 CHAIRPERSON BERRY: Staff director?

22 STAFF DIRECTOR MOY: Yes. Commissioner, if
23 you -- let's see -- look at your FY '99, the revised,
24 and then pull from it the other back-up pages that you
25 have for the detail, --

1 COMMISSIONER REDENBAUGH: Oh, okay.

2 STAFF DIRECTOR MOY: -- you had the three
3 separate columns, Commissioners, regions and library.

4 CHAIRPERSON BERRY: Someone should explain
5 this to Commissioner Redenbaugh.

6 COMMISSIONER REDENBAUGH: Okay.

7 CHAIRPERSON BERRY: By the way, Commissioner
8 Redenbaugh, I heard about your request about staff. If
9 I had known that this was to accommodate your -- your
10 needs, your disability, I would have been over here
11 fighting with folks to get that to happen, and, --

12 COMMISSIONER REDENBAUGH: Oh, thank you.

13 CHAIRPERSON BERRY: -- so, you and I can talk
14 about that, but --

15 COMMISSIONER REDENBAUGH: All right.

16 CHAIRPERSON BERRY: -- let -- let -- please,
17 somebody explain this item.

18 STAFF DIRECTOR MOY: All right. George?

19 MR. HARBISON: The second sheet essentially
20 breaks out the -- the cost of the headquarters units
21 for --

22 CHAIRPERSON BERRY: Can you hear, Russell?
23 Can you hear George?

24 COMMISSIONER REDENBAUGH: Yes, I can.

25 CHAIRPERSON BERRY: Okay.

1 MR. HARBISON: For the regional offices, for
2 the library, and a limited amount of funds in the
3 category called "others" which generally support these
4 activities, headquarters, commissioners, regions,
5 library.

6 COMMISSIONER REDENBAUGH: Okay. Good. So,
7 that's back. Okay. That's fine. Thank you.

8 I didn't see anywhere in here, excuse me,
9 something we discussed before, and we may not actually
10 be able to do that, and that's the notion of a
11 contingency fund.

12 MR. HARBISON: There is none -- there is no
13 contingency accounted for in these -- in these
14 documents.

15 CHAIRPERSON BERRY: Why? Does OMB permit you
16 to? We had this discussion before.

17 COMMISSIONER REDENBAUGH: Yeah. Is it
18 permitted by OMB rules?

19 MR. HARBISON: I'll be honest with you, I
20 don't know that it is permitted. I would think it
21 would be a little -- somewhat unusual to request that.

22 Kim Cunningham and I have had some
23 discussions on that, and we are -- at least at last
24 discussion, we were trying to come up with a way that
25 we could possibly do this, but as of right now, there

1 is no contingency.

2 COMMISSIONER REDENBAUGH: All right. Again
3 in the nature of our work, contingencies do happen.

4 COMMISSIONER HORNER: Madam Chair?

5 CHAIRPERSON BERRY: Yes, Commissioner Horner?

6 COMMISSIONER HORNER: Commissioner Horner.
7 Our Government Performance and Results Act plan, I
8 think, does talk about responding to events such as the
9 Southern Church Burning. So, maybe budgeting for the
10 process of responding to events affecting civil rights
11 -- in other words, perhaps as a way to word this, is
12 that we -- the word "contingency" might not be
13 acceptable to OMB, but if you allude to the church
14 burnings hearings, that might be illustratively a way
15 to demonstrate the need for this money.

16 I don't take a position on whether we, you
17 know, have -- have the capacity to budget for such a
18 thing, but I think we could probably persuade OMB if we
19 worded it in a certain way.

20 STAFF DIRECTOR MOY: Madam Chair, may I --

21 CHAIRPERSON BERRY: Yes, please.

22 STAFF DIRECTOR MOY: -- answer that?

23 CHAIRPERSON BERRY: Please, staff director.

24 STAFF DIRECTOR MOY: Under the section that
25 says "other emerging issues", that would be that.

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1 COMMISSIONER REDENBAUGH: \$21,000-22,000.

2 STAFF DIRECTOR MOY: Correct.

3 COMMISSIONER REDENBAUGH: Then my comment
4 would be that seems --

5 CHAIRPERSON BERRY: That's a cheap emerging
6 issue.

7 COMMISSIONER REDENBAUGH: It's a very --
8 yeah. Yeah. If it's only got that much, it's probably
9 not very important.

10 STAFF DIRECTOR MOY: Well, let's hope there
11 won't be any.

12 CHAIRPERSON BERRY: Well, staff director,
13 could you pursue this, keeping in mind the way it's
14 stated under the GPRA? Could you and your staff pursue
15 this item with the staff at OMB and see if there's some
16 way we can come up with this?

17 STAFF DIRECTOR MOY: Yes.

18 CHAIRPERSON BERRY: And let us know.

19 COMMISSIONER REDENBAUGH: I have a couple of
20 other clarifying questions. There's a category that
21 begins called "others", --

22 CHAIRPERSON BERRY: Yeah.

23 COMMISSIONER REDENBAUGH: -- which includes
24 things that appear to me to be on-going.

25 CHAIRPERSON BERRY: Is your question why is

1 it called "other"?

2 COMMISSIONER REDENBAUGH: Yes.

3 CHAIRPERSON BERRY: Other than what?

4 STAFF DIRECTOR MOY: Madam Chair, may I defer

5 --

6 CHAIRPERSON BERRY: Yes.

7 STAFF DIRECTOR MOY: -- this question to

8 George.

9 CHAIRPERSON BERRY: We want to know what the
10 word "other" means. Is this on-going stuff, as
11 Commissioner Redenbaugh says?

12 MR. HARBISON: In some instances. What was
13 intended here was to give a picture of what it costs
14 basically to open doors and bring people to work, and
15 that's what's essentially in that "others" category.

16 With some allowance for having them do
17 something, other than just show up for work.

18 CHAIRPERSON BERRY: But does this on-going --
19 I mean what's -- these things -- like, for example,
20 Privacy Act, administrative managing, monitoring, and
21 all that stuff, --

22 MR. HARBISON: Yes.

23 CHAIRPERSON BERRY: -- field services, legal
24 sufficiency. That's on-going?

25 MR. HARBISON: I was wrong -- I'm sorry.

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1 These -- these are the necessary -- the necessary tasks
2 of running both Office of General Counsel and Civil
3 Rights Evaluation.

4 In other words, these things -- these are all
5 part of their direct costs of running those offices, in
6 addition to projects. So, what we're really saying
7 here is that you have more costs than just the major
8 projects in these offices. You also --

9 COMMISSIONER REDENBAUGH: But these are non-
10 project costs?

11 MR. HARBISON: Exactly.

12 COMMISSIONER REDENBAUGH: They're what I
13 would call -- think of it as overhead or infrastructure
14 costs or -- right?

15 CHAIRPERSON BERRY: Yeah. What would you
16 call, Russell, for example, the fact that on everything
17 that happens in the agency, every decision, every piece
18 of paper, there has to be a legal sufficiency review?
19 What do you recall that?

20 COMMISSIONER REDENBAUGH: Well, that would be
21 a mandated process and a mandated cost.

22 CHAIRPERSON BERRY: Okay.

23 COMMISSIONER LEE: This is Yvonne. I got to
24 go downstairs to tell my airport shuttle people to
25 reschedule going to the airport, and I didn't know the

1 meeting was going to go this long. So, I'm going to be
2 away for about 10 minutes.

3 CHAIRPERSON BERRY: Well, would you like to
4 vote before you go? Because -- would you like to
5 either comment or vote on the 1999 budget before you go
6 or indicate your vote?

7 COMMISSIONER LEE: I'm sure the
8 conversation's going to be going on for another 10
9 minutes. So, I'll be back by then.

10 COMMISSIONER REDENBAUGH: I think you're
11 right.

12 CHAIRPERSON BERRY: Oh, okay.

13 COMMISSIONER LEE: Okay. I'll be away for
14 about 10 minutes.

15 CHAIRPERSON BERRY: Okay.

16 COMMISSIONER LEE: Thanks.

17 CHAIRPERSON BERRY: All right.

18 COMMISSIONER REDENBAUGH: There's something
19 else I wanted to ask. I see that the total budget
20 amount is increased by about 60 percent '99 over '98,
21 yet the amount for projects is up only about 25
22 percent, and I wanted to ask for some discussion of why
23 the sort of -- the overhead or the fixed costs or the
24 cost of basic operations are increasing so much year
25 over year, when our project costs are increasing only

1 25 percent.

2 CHAIRPERSON BERRY: Okay. What's the answer
3 to that?

4
5 STAFF DIRECTOR MOY: I'm going to defer to
6 George.

7 MR. HARBISON: The overall answer to that is
8 that, if I understand your question correctly, is that
9 we have -- we have -- we have -- these costs represent
10 what our desired position would be.

11 We also have increases in the headquarters as
12 well as the regional offices, and those costs, when
13 you're talking about personnel costs, those costs add
14 up significantly, and they're not in this case directly
15 related or directly associated with the projects.

16 CHAIRPERSON BERRY: Well, I don't understand
17 that answer. I mean I keep -- I keep asking the same
18 question, and I keep getting the answer, and I never
19 understand it because it does not relate to anything I
20 know in life about budgets.

21 If you have -- if you have personnel costs,
22 the personnel are working on projects, right? And, so,
23 are they working on the complaints, they're working on
24 something, and, so, I don't understand why personnel
25 costs -- or they are support personnel who are

1 supporting the people who are working on the complaint
2 projects, public affairs, PSAs and so on.

3 So that everybody in the agency is working on
4 something substantive. Ostensibly there isn't anyone
5 in the agency who isn't working on anything or is
6 working on something that can't be identified.

7 So, I don't understand why the way our budget
8 is displayed raises all these questions about are we
9 spending any money on anything substantive and all of
10 our money is being spent on something non-substantive.

11 There's something going on here, and I don't
12 know what it is, but it's not explained in terms of how
13 -- how can we explain the budget, make it more
14 transparent, if I may put it that way, so that people
15 can look at it and say here you are in this agency? If
16 somebody works in administrative services, for example,
17 they are supporting the people who are working as
18 professionals on projects, etc.

19 The Commissioners are displayed as we take up
20 a big chunk of the budget, but it doesn't appear in the
21 budget that we're doing anything, and I assume what
22 we're doing is substantive. We are a cost. Special
23 assistants are a cost. We're all working on -- we work
24 on projects. As a matter of fact, we spend a lot of
25 time working on them. That doesn't seem to be shown

1 either.

2 So, I don't understand this. Do you under-
3 stand it, Russell?

4 COMMISSIONER REDENBAUGH: Well, no. What I
5 can't understand -- you know, I have the same question.
6 You know, we have in round numbers going from nine
7 million to 14 million, yet our output as measured by
8 projects is going from, you know, depending on how you
9 do it, but certainly a million and a half to a million
10 eight or something like that, and I would think someone
11 would ask, well, what do we get for the extra \$6
12 million? And -- and I think you're right to say we get
13 higher personnel costs and probably not a benefit many
14 people would want to pay for.

15 MR. HARBISON: It's not a -- this is George
16 Harbison. It's not -- it's not -- I agree with you.
17 It's not a benefit that we would pay for, but that's
18 the cost of doing business of the Commission.

19 COMMISSIONER REDENBAUGH: Well, here's what I
20 don't understand. We're doing business at the current
21 level of eight-seven. If we're going to go to 13-five,
22 what are we going to get?

23 CHAIRPERSON BERRY: 13-five.

24 COMMISSIONER REDENBAUGH: 13-5. This
25 difference of what we're getting at eight-seven. To

1 say that it's the cost of doing business doesn't
2 respond to what I'm asking.

3 CHAIRPERSON BERRY: Now, one change I see on
4 here, George, is I see that we have more money for
5 monitoring in 1999. Under Fred's shop, you've got
6 monitoring educational issues, monitoring fair housing,
7 monitoring disability, which was zero in 1998, and then
8 in 1999, you have some money for doing that. Eight,
9 six and nine.

10 Is that -- what else accounts for that money?

11 MR. HARBISON: That's part of it, but you
12 also have to account for the increase in -- in staffing
13 for the direct projects. You also have to account for
14 it in this case because it is an estimate of what we
15 would like to have.

16 There's also increases in -- in personnel in
17 headquarters. There is things for increases in the
18 cost of travel, increases in the cost of
19 communications, equipment associated with new hires.
20 All those things add up.

21 CHAIRPERSON BERRY: For example, George, how
22 -- what percentage of our communications budget is
23 expended for each staff member who works on a specific
24 project, and how much is expended by Commissioners, and
25 how much is expended by special assistants?

1 In other words, what are we getting out of
2 the communications budget for specific people or even
3 per square feet, you know, how much does each person
4 who's working on Racial Tensions or Schools and
5 Religion or whatever they happen to be working on, so
6 that the real project cost is not the staff salary of
7 the person who's working on it, and the printing costs?

8 The real cost is everything it takes to
9 support that one person. Each one person is part of
10 the cost. So, -- but the way it's displayed, it raises
11 all these questions -- and if you hire one more person
12 for 1999, then there's more communications costs.
13 There's more rent costs. So, what do we do?

14 MR. HARBISON: Well, we can display the
15 budget any way that -- as far as internally, we can
16 display the budget any way that makes sense to those
17 people who need to use it that way to make a decision.

18 CHAIRPERSON BERRY: Commissioners apparently
19 need, at least some of them, to know that, so that we
20 - we can know in our own heads at least what it is
21 we're getting for the money each time and be able to
22 answer when people ask what are you getting for your
23 money, here's what you're getting.

24 Is that what you're talking about, too,
25 Commissioner Redenbaugh? Am I --

1 COMMISSIONER REDENBAUGH: Yeah. It -- it --
2 it is. Yeah. It strikes me that there's this 60
3 percent increase that's being requested, and I
4 acknowledge that there's some inflation with that, but
5 I would like to see that we're looking to have a 40 or
6 50 percent increase in output, and I don't mean
7 projects, but in -- in -- in what we're contributing to
8 the country.

9 CHAIRPERSON BERRY: Okay. Maybe, George, you
10 could figure out how to do that for our information.
11 Maybe that will come with the management information
12 system.

13 COMMISSIONER REDENBAUGH: Maybe that's it.

14 CHAIRPERSON BERRY: That's when we'll see
15 that.

16 Is there any of these projects on here that
17 are proposed for 1999 -- does anyone see anything that
18 they absolutely hate, and that they know they would
19 never vote for if a report was done? Because if that's
20 true, we might as well take it off now rather than
21 proposing to spend any money on it, or anything that
22 anybody would like to take off or --

23 COMMISSIONER HORNER: Madam Chair?

24 CHAIRPERSON BERRY: Yes, Commissioner Horner?

25 COMMISSIONER HORNER: I understand from the

1 September 21st memo that health care and block grants
2 are now not on the list, is that correct, that we're
3 only voting on Numbers 1 and 2?

4 CHAIRPERSON BERRY: Commissioner -- I mean
5 staff director, is that correct?

6 STAFF DIRECTOR MOY: Yes.

7 COMMISSIONER HORNER: Okay.

8 CHAIRPERSON BERRY: That was correct. That's
9 correct.

10 COMMISSIONER ANDERSON: Madam Chair?

11 CHAIRPERSON BERRY: Yes?

12 COMMISSIONER ANDERSON: Commissioner
13 Anderson.

14 CHAIRPERSON BERRY: Yes, Commissioner
15 Anderson?

16 COMMISSIONER ANDERSON: I have a question
17 about the '99 budget, down at the bottom.

18 CHAIRPERSON BERRY: Okay. Where?.

19 COMMISSIONER ANDERSON: Where we're talking
20 about new hires, equipment, etc. You go to the total
21 estimated minimal costs, which is 8.3 million, and then
22 you drop down to the left, and you see a number of
23 figures.

24 Under new hires, 370,000, and then a little
25 further down; equipment 546,000, and then new hires

1 again 537,000. Now, is that 537, is that equipment for
2 the new hires?

3 CHAIRPERSON BERRY: Staff director?

4 STAFF DIRECTOR MOY: Yes. I'm going to defer
5 to George on this.

6 COMMISSIONER HIGGINBOTHAM: Excuse me. What
7 page are you referring to?

8 STAFF DIRECTOR MOY: This is the back-up
9 material to the FY '99. It says revised.

10 COMMISSIONER HIGGINBOTHAM: What page is he
11 citing from?

12 STAFF DIRECTOR MOY: It would be the back-up
13 page, the third page. It's no number.

14 CHAIRPERSON BERRY: The third -- the third --

15 STAFF DIRECTOR MOY: It will say on the upper
16 left September 1997. It's the last page.

17 CHAIRPERSON BERRY: September 19, 1997, and
18 --

19 COMMISSIONER HORNER: Back Page Number 014,
20 if that helps.

21 COMMISSIONER HIGGINBOTHAM: Okay.

22 CHAIRPERSON BERRY: So, it's the absolute
23 last page on the September 19 memo?

24 STAFF DIRECTOR MOY: Correct.

25 CHAIRPERSON BERRY: Okay. Have you found it,

1 Leon?

2 COMMISSIONER HIGGINBOTHAM: I think I have.
3 We're talking about the Back Page 14?

4 CHAIRPERSON BERRY: It says at the top 19
5 September '97, then it has a list of things, GPO,
6 warehousing --

7 COMMISSIONER HIGGINBOTHAM: Yeah. I'm there.

8 CHAIRPERSON BERRY: -- PSA or something.

9 COMMISSIONER HIGGINBOTHAM: Slowly but
10 surely, I got there.

11 CHAIRPERSON BERRY: Okay.

12 COMMISSIONER ANDERSON: Well, look down at
13 the list at the bottom there, where it says "plus".
14 New hires 370,000, equipment 546,000, new hires
15 537,000.

16 So, my question is, is the 537,000 equipment
17 for the new hires?

18 CHAIRPERSON BERRY: Okay.

19 MR. HARBISON: The 537 is new hires.

20 COMMISSIONER ANDERSON: The 370 is new hires,
21 too?

22 MR. HARBISON: Exactly.

23 CHAIRPERSON BERRY: Okay. What's the
24 difference in one new hire as opposed to other new
25 hires?

1 MR. HARBISON: It was a matter of -- of how
2 we were getting the information and putting it out at
3 the time in order to get this sheet out, but the first
4 one, the first new hires represents new hires in the --
5 in the headquarters, and the second new hires is the
6 new hires in the region, regional offices.

7 CHAIRPERSON BERRY: So, 537 is new hires in
8 the regions, right?

9 MR. HARBISON: That's correct.

10 CHAIRPERSON BERRY: And 370,939 is new hires
11 proposed for headquarters?

12 MR. HARBISON: That's correct.

13 CHAIRPERSON BERRY: And then what is the
14 equipment? Which place is that for?

15 MR. HARBISON: The equipment is to support
16 all new hires.

17 CHAIRPERSON BERRY: This is for all, both in
18 headquarters and in the regions? Okay.

19 COMMISSIONER ANDERSON: So, the 2.4 million
20 for the regional offices up above doesn't include the
21 additional travel or the new hires or equipment, things
22 like that?

23 MR. HARBISON: Exactly.

24 CHAIRPERSON BERRY: What's the 2.4 then?
25 That's -- that includes what?

1 MR. HARBISON: 2.4 is your current on-board
2 staff, some limited travel for staff travel, office
3 space rental, and court reporters for SAC meetings.

4 COMMISSIONER LEE: How much -- this is
5 Yvonne. How much of an increase does that represent
6 from fiscal year 1997 for regional offices?

7 MR. HARBISON: The 2.14 or the total? I'm
8 not sure.

9 CHAIRPERSON BERRY: If they got the increase --
10 --

11 COMMISSIONER LEE: If they got the increase.

12 CHAIRPERSON BERRY: -- that we're proposing.

13 COMMISSIONER LEE: Including the --

14 MR. HARBISON: I don't have the answer.

15 CHAIRPERSON BERRY: If they got -- Yvonne,
16 you're asking if the regions got this \$537,000, --

17 COMMISSIONER LEE: Right.

18 CHAIRPERSON BERRY: -- what percentage
19 increase would they get --

20 COMMISSIONER LEE: Right.

21 CHAIRPERSON BERRY: -- in their budget?

22 COMMISSIONER LEE: Yes.

23 CHAIRPERSON BERRY: I don't know. Somebody
24 got a calculator?

25 COMMISSIONER LEE: Just give me a percentage

1 increase.

2 CHAIRPERSON BERRY: That seems to be a
3 mathematical calculation.

4 COMMISSIONER LEE: Okay.

5 CHAIRPERSON BERRY: No, no, no. I don't know
6 it either. They're sitting here. Anybody got a -- I
7 can only count with a calculator. So, I --

8 STAFF DIRECTOR MOY: Madam Chair, I can't
9 compute percentages without a computer, but it's about
10 \$300,000.

11 CHAIRPERSON BERRY: About \$300,000.

12 VICE CHAIRPERSON REYNOSO: Of increase?

13 CHAIRPERSON BERRY: Hm-hmm.

14 VICE CHAIRPERSON REYNOSO: On what base?

15 CHAIRPERSON BERRY: So, if they got 2.41 now,
16 and they get 537 more --

17 VICE CHAIRPERSON REYNOSO: That's about 20
18 percent.

19 CHAIRPERSON BERRY: About 20 percent by my
20 figuring. So, it's a 20 percent increase, Yvonne, in
21 new hires.

22 COMMISSIONER LEE: Okay. All right. Thanks.

23 CHAIRPERSON BERRY: Now, this tells us
24 something else I just noticed here. If the regions
25 cost 2.414, and our budget now is only 8.75, then the

1 regions take up a big chunk of our budget.

2 COMMISSIONER REDENBAUGH: Which is much
3 larger than I would have expected.

4 CHAIRPERSON BERRY: Right. They take much
5 more than projects, much more than -- I mean they take
6 a huge -- not that they shouldn't. I'm just saying
7 that that accounts for a lot of where the money goes.

8 COMMISSIONER REDENBAUGH: I wasn't aware of
9 that till just now.

10 CHAIRPERSON BERRY: Yeah.

11 COMMISSIONER ANDERSON: Madam Chair?

12 CHAIRPERSON BERRY: Yes, Commissioner
13 Anderson?

14 COMMISSIONER ANDERSON: That brings it up to
15 about 2.6 million, which is about a third of the
16 minimal costs, maybe a little bit less than that, 25
17 percent of the minimal costs.

18 CHAIRPERSON BERRY: Right.

19 COMMISSIONER ANDERSON: Anyway, it seems that
20 maybe we ought to look at that a little bit in terms of
21 our -- our budget calculations. We spent a lot of time
22 on the project budget, but maybe we ought to look at
23 the regional offices a little bit, too.

24 CHAIRPERSON BERRY: Yeah. Because they cost
25 more. Heavy investment.

1 COMMISSIONER REDENBAUGH: Yeah.

2 CHAIRPERSON BERRY: Yeah. So, we spent all
3 of our time on something that's smaller, but I guess
4 the regions -- maybe it's because we don't think we
5 have much discretion because it's -- it's -- what is
6 that 2.4? That's mostly staff and rent or what? SACs?
7 Are SACs in that? SACs. Yeah.

8 COMMISSIONER HIGGINBOTHAM: Madam Chair?

9 CHAIRPERSON BERRY: Yes, Commissioner
10 Higginbotham?

11 COMMISSIONER HIGGINBOTHAM: This is for
12 something down the road. I know that the staff is
13 overwhelmed with the magnitude of work it has, but it
14 would be very helpful to me if someone would prepare
15 alternative pies and analyzed how the money is spent by
16 region, etc., because we are learning some of these
17 things, I am, for the first time, and I guess what we
18 need is for someone to take time out and say forget
19 about OMB, what's another way in which you can explain
20 how we allocate our money, and the percentage that goes
21 into projects, percentage which goes into regions,
22 percentage which goes into any other category, besides
23 which goes into the inflationary costs.

24 That might be just helpful for discussion
25 purposes here, and I think we would have more of an

1 understanding of what's happening.

2 CHAIRPERSON BERRY: Could we -- when we do
3 the MIS, staff director, could we get this kind of a
4 presentation? Just so that we have more transparency
5 in the budget process, in the way that -- so we can
6 see, you know, what -- who -- what takes the biggest
7 chunk of the pie out of the money we've got and the
8 money we're proposing, and what are we using it for,
9 and what are we proposing?

10 Maybe when we have the MIS discussion, we
11 could -- we could have it then, but that's a good
12 point, Leon, and that would be great.

13 Now, what do we do about this existing
14 proposal here? Is there any project that anybody wants
15 to take off or do anything with or what are we doing
16 with it or shall we go ahead and approve this FY 1999
17 or --

18 COMMISSIONER ANDERSON: Well, Madam Chair,
19 Commissioner Anderson again.

20 CHAIRPERSON BERRY: Yes?

21 COMMISSIONER ANDERSON: Well, the difficulty
22 I see with this, I don't necessarily have an answer
23 for, but the difficulty is we're at 8.74 now.

24 CHAIRPERSON BERRY: Right.

25 COMMISSIONER ANDERSON: That's all we had

1 last year. If you look at our '99 projection, our
2 minimal cost is at 8.3, and, so, almost all of the
3 increase, at least the increase up to 10.1, is
4 additional hires and travel, etc.

5 Now, to cover all of this, plus our projects,
6 we're looking at nearly a 60 percent budget increase.
7 Now, we were both up on the Hill this summer. I didn't
8 see any great ground swell of support up there for
9 increasing our budget by 60 percent, but, you know, if
10 we were looking at a 10 percent increase or 15 percent
11 increase, which might be reasonable, we're up to 9.6
12 million, say, for a 10 percent increase.

13 That gives us our minimal costs of 8.3
14 million, nothing under this plus, and about 1.3 million
15 to do some projects. Maybe we'll get more than that,
16 but I just wonder whether it makes a whole lot of sense
17 to run through a \$14 million budget with all these
18 things added into it when I suspect some of the
19 Appropriations Committees up there -- I don't know what
20 they're going to do, but I mean if I were looking at an
21 8.7 million base and saw that our minimum for next year
22 was 8.3, I don't think I would add another two million
23 on new hires and travel.

24 CHAIRPERSON BERRY: Hm-hmm.

25 COMMISSIONER ANDERSON: Anyway, that's my

1 observation. What we do with it, I don't know.

2 CHAIRPERSON BERRY: Well, we -- we -- you
3 make a good point. We also have to keep in mind that
4 we're sending this to OMB, and whatever we send there,
5 OMB is always of a mind to cut from whatever we send
6 over there. So, we have to leave space for them to cut
7 down, you know, down to where we really think we ought
8 to be by the time they finish.

9 COMMISSIONER ANDERSON: I just -- I just am --
10 glad I'm not at the Defense Department submitting a 60
11 percent increase to the budget.

12 VICE CHAIRPERSON REYNOSO: Madam Chair, this
13 is Cruz.

14 CHAIRPERSON BERRY: Yes, Cruz?

15 VICE CHAIRPERSON REYNOSO: We've gone through
16 this several times, and it appears to me as though this
17 is part of the regimen that we seem to have to go
18 through in the Federal Government because we go through
19 so many stages. This is only the very first stage.

20 So, unless any of us have a very strong
21 objection to something that's included, it seems to me
22 that we just ought to approve it and then let the
23 process go through as it did last year, and we will
24 probably be lucky to end up with a 10 percent increase.

25 CHAIRPERSON BERRY: What did we -- what did

1 we -- what did we recommend last year? Anybody
2 remember?

3 STAFF DIRECTOR MOY: 13.2.

4 CHAIRPERSON BERRY: We recommended 13.2 to
5 OMB?

6 COMMISSIONER HORNER: And what did we get?

7 CHAIRPERSON BERRY: And they came back with
8 11 what?

9 MR. HARBISON: Straight 11.

10 CHAIRPERSON BERRY: Straight 11. So, that's
11 what happened last year. So, that means they knock off
12 about two million off whatever we send.

13 COMMISSIONER REDENBAUGH: Well, --

14 CHAIRPERSON BERRY: Yes? Yes, Commissioner?

15 COMMISSIONER REDENBAUGH: -- I don't object
16 to this. I would propose that we add something because
17 I think Cruz is right. This is, you know, part of the
18 annual process, but I don't think we have a very strong
19 articulation of what we would do with 13, whatever it
20 is, 13 plus.

21 CHAIRPERSON BERRY: Yes.

22 COMMISSIONER REDENBAUGH: And to say, well,
23 it's for new staff and more travel isn't -- isn't
24 persuasive. So, I would recommend if we're going to --
25 for whatever we submit, that we have an articulation

1 for why that -- what people would get for that, and if
2 we can provide that.

3 CHAIRPERSON BERRY: Okay. So, we identify
4 substantively what will result from these hires and
5 services and all the rest of it.

6 COMMISSIONER REDENBAUGH: Well, I think so.
7 I mean that's the way we -- you know, in other places,
8 but I don't -- I don't know if OMB looks at that or if
9 any of that matters, but I certainly think it's
10 customary in other businesses.

11 VICE CHAIRPERSON REYNOSO: This is Cruz. I
12 think that's an excellent idea.

13 CHAIRPERSON BERRY: Yeah. It's a good idea.
14 Staff, you heard that?

15 STAFF DIRECTOR MOY: Yes.

16 CHAIRPERSON BERRY: So, now --

17 COMMISSIONER REDENBAUGH: We could do this
18 many more PSAs, and we do this -- this and that and
19 this and that.

20 CHAIRPERSON BERRY: If we get the money,
21 yeah. So, we -- the motion on the floor is that we
22 approve the recommendation with the understanding that
23 we will include what Commissioner Redenbaugh suggested
24 about explaining in substantive term what -- what
25 people will get for the money.

1 We also had some discussion about whether
2 this is the right number and so on. So, what is your
3 wish? More discussion or voting?

4 COMMISSIONER HIGGINBOTHAM: Voting.

5 COMMISSIONER ANDERSON: Voting.

6 CHAIRPERSON BERRY: Okay. All those in favor
7 of the motion that's on the floor with the under-
8 standings about explaining the substantive impact
9 output from these inputs, indicate by saying aye.

10 (Chorus of ayes)

11 CHAIRPERSON BERRY: Opposed?

12 (No response)

13 CHAIRPERSON BERRY: Okay. So, that takes
14 care of that for this year.

15 VICE CHAIRPERSON REYNOSO: Madam Chair?

16 CHAIRPERSON BERRY: Yes, Vice Chair?

17 VICE CHAIRPERSON REYNOSO: Just one sort of
18 footnote. I really think that we have to take
19 seriously the suggestion made by a couple of my
20 colleagues that we have sort of a rolling budget report
21 that's internal, it doesn't go to OMB or anybody else,
22 for our own purposes, so we understand what we're
23 voting on.

24 CHAIRPERSON BERRY: That's a great idea, and
25 maybe -- I have -- I am now thinking that MIS is going

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1 to take care of all problems. So, with MIS, we'll have
2 all of this.

3 I want to thank you, colleagues, and no other
4 business is to come before us, I move -- I will
5 entertain a motion that we adjourn.


6 (So moved)

7 CHAIRPERSON BERRY: Okay. So ordered.

8 (Whereupon, the Commission meeting was
9 adjourned.)

10

11

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