

U.S. COMMISSION ON CIVIL RIGHTS

COMMISSION MEETING

Friday, December 10, 1999
Washington, D.C.

The Commission convened in Room 540, YWCA Building, 624
9th Street, N.W., Washington, D.C. 20425, at 9:30 a.m., Mary
Frances Berry, Chairperson, presiding.

PRESENT:

MARY FRANCES BERRY, Chairperson
CRUZ REYNOSO, Vice Chairperson
CARL A. ANDERSON, Commissioner
CHRISTOPHER EDLEY, Commissioner (via telephone)
YVONNE Y. LEE, Commissioner
ELSIE M. MEEKS, Commissioner
RUSSELL G. REDENBAUGH, Commissioner
RUBY G. MOY, Staff Director

STAFF PRESENT:

KIMBERLEY ALTON
LAURA R. ANECKSTEIN
DAVID ARONSON
KI-TAEK CHUN
PAMELA A. DUNSTON
BETTY EDMISTON
M. CATHERINE GATES
EDWARD A. HAILES, JR.
GEORGE M. HARBISON
MYRNA HERNANDEZ
CAROL-LEE HURLEY
LISA M. KELLY
REBECCA KRAUS
JOSEPH MANALILI
STEPHANIE Y. MOORE, General Counsel
PETER REILLY, Parliamentarian
KWANA ROYAL
DAWN SWEET
FERNANDO SERPA
MARCIA TYLER
AUDREY WRIGHT
MIREILLE ZIESENISS

LIBRARY
U.S. COMMISSION ON CIVIL RIGHTS

COMMISSIONERS ASSISTANTS PRESENT:

PATRICK DUFFY

CHARLOTTE PONTICELLI

KRISHNA TOOLSIE

EFFIE TURNBULL

A G E N D A

I.	Approval of Agenda	5
II.	Approval of Minutes of November 5, 1999	6
III.	Announcements	7
IV.	Staff Director's Report	18
V.	Racial and Ethnic Tensions in American Communities: Poverty, Inequality, and Discrimination, Volume VII: The Mississippi Delta Report	19
VI.	Equal Educational Opportunity and Nondiscrimination for Girls in Advanced Mathematics, Science, and Technology Education: Federal Enforcement of Title IX Report	20
VII.	Zero Tolerance - Decatur	38
VIII.	Racial Attitudes and Incidents in the Military: Defense Department Report	50
IX.	State Advisory Committee Report Employment Rehabilitation Services in Michigan (Michigan) The Personal Responsibility and Work Opportunity Reconciliation Act of 1996: An Examination of its Impact on Legal Immigrants and Refugees in Rhode Island (Rhode Island)	52 54
X.	Future Agenda Items	63

P R O C E E D I N G S

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
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CHAIRPERSON BERRY: The meeting will come to order.

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

Could I get a motion to approve the agenda?

COMMISSIONER REYNOSO: Madam Chair, I wonder if we might add--I don't know whether--discussion somewhere, maybe--maybe under Staff Director's Report--a discussion of the zero tolerance--an issue that has been much in the news out of Decatur, but actually a broader issue.

CHAIRPERSON BERRY: Okay. We can add it either--we've mentioned something having to do with Decatur before. But we can either add it there, or we can just add it--why don't we just add it as a separate--

COMMISSIONER REYNOSO: Okay.

CHAIRPERSON BERRY: --item. And I'll put it on after the report on "Mathematics, Science and Technology" for girls--how's that?

COMMISSIONER EDLEY: Madam Chair?

CHAIRPERSON BERRY: Yes, Commissioner Edley?

COMMISSIONER EDLEY: I was hoping that we could briefly think about the Defense Department study that was released recently concerning racial attitudes and incidents in the military?

CHAIRPERSON BERRY: Okay. I'll put that on right after the "zero tolerance"--Decatur and zero tolerance issue, as an item right before the State Advisory Committee Report.

COMMISSIONER EDLEY: Okay.

1 CHAIRPERSON BERRY: Anybody have anything else?

2 [No response.]

3 CHAIRPERSON BERRY: Okay. With that, could I get a motion
4 to approve the agenda as changed?

5 COMMISSIONER ANDERSON: So moved.

6 CHAIRPERSON BERRY: Second?

7 COMMISSIONER REYNOSO: I second.

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

9 [Chorus of ayes.]

10 CHAIRPERSON BERRY: Opposed?

11 [No response.]

12 CHAIRPERSON BERRY: So ordered.

13 Now, a motion to approve the minutes of November 5, 1999?

14 COMMISSIONER ANDERSON: So moved.

15 CHAIRPERSON BERRY: Could I get a second?

16 COMMISSIONER REYNOSO: Second.

17 CHAIRPERSON BERRY: Okay. Thank you.

18 Yes, Commissioner Lee?

19 COMMISSIONER LEE: On page 2, regarding the Joseph
20 individual situation, I'd like to add a paragraph to explain the first
21 paragraph on page 2. "Joseph was allegedly killed by a gunman who had
22 earlier been on a shooting spree at a Jewish community center in
23 Southern California.

24 CHAIRPERSON BERRY: Okay. All right. Did the staff get
25 that--or, at least, it will be in the transcript.

1 All right--anything else? Does anybody see anything else in
2 the minutes they want changed, or anything they--okay.

3 All in favor of the minutes, as amended, indicate by saying
4 aye.

5 [Chorus of ayes.]

6 CHAIRPERSON BERRY: Opposed?

7 [No response.]

8 CHAIRPERSON BERRY: Then we go to the announcements.

9 We have a copy of the report from the Office of the Attorney
10 General of New York City Police Department Stop and Frisk Practices,
11 which was reported in the news--if anyone wants a copy of it, you may,
12 of course, have a copy, if you want to read that.

13 Earlier this week, as you probably noted, again, in the
14 news, there was a trial in Tennessee, with a Tennessee jury, on the
15 issue of Martin Luther King's assassination. You may recall that there
16 was some discussion on this Commission about whether we should do
17 something concerning that issue, and the family had decided to
18 participate in the court proceeding.

19 The court proceeding is this jury trial in which the jury--a
20 Tennessee jury--decided that he was the victim of an assassination
21 conspiracy, and did not die at the hands of a one gunman. I don't know
22 what will happen; whether there will be any Federal investigations as a
23 result of that, so we'll have to see what happens.

24 The other thing I wanted to point out is that Rose Byrd, who
25 was a distinguished member of the bench on the California Supreme

1 Court--Chief Justice--passed away this week. Ms. Byrd and Vice Chair
2 Reynoso both served on the California Supreme Court at the same time in
3 that period.

4 The other announcement is to discuss briefly--and I guess it
5 hear--the other announcement--the South Dakota forum that the
6 Commissioners attended this week. As you may recall, Commissioner
7 Meeks urged us to see if the South Dakota SAC wanted to engage in an
8 activity initiated by such things as unsolved killings of Native
9 Americans in that area--and now that I've been in South Dakota, I now
10 know to say "Native American Indians," or "indigenous people"--who were
11 killed under suspicious circumstances in South Dakota. And the State
12 Advisory Committee chaired by Mark Feinstein did have a forum in Rapid
13 City. Members of this Commission went out to join Commissioner Meeks
14 in her home territory, and we made some site visits on Sunday to the
15 town of Whiteclay, where two of the persons who were killed were on
16 their way from, or were in, or whatever at the time that they were
17 beaten and killed.

18 And we also visited the jail and talked to the sheriff in
19 that county. We also visited the reservation, which is called "The
20 Rez," and we talked to people at the Council--is that called the
21 "Council Chambers?"--on the reservation, and listened to people in the
22 Council Chambers. And we listened to a wide variety of people in all
23 sorts of places, including cafes and on the street, and everywhere
24 else. And then we had a forum which was well attended by hundreds of
25 people who crowded the facility, and who stayed there until all hours--

1 the wee hours of the morning, the next day. And over a hundred people,
2 I think it was, gave testimony in the public part of the meeting, and
3 who had driven for miles all across the state in order to get there--
4 although, in South Dakota you have to drive for miles to get almost
5 anywhere--isn't that right, Commissioner Meeks?

6 COMMISSIONER MEEKS: Right.

7 CHAIRPERSON BERRY: And we heard from Federal panels on what
8 they're doing--and not doing; and State panels and prosecutors on what
9 they're doing and not doing; and from community people in that State.
10 We promised them--as we had said beforehand--that a report would be
11 prepared in 90 days--the SAC--that we would--Headquarters would give
12 support to the SAC, and the Regional Office, in getting their report
13 done and out to the people in 90 days.

14 There was deep suspicion about whether we could do anything,
15 or whether anybody would do anything. As one reporter said to me,
16 "These problems have existed in South Dakota forever--this racial
17 divide between the White community and the Native Americans, or the
18 Indians--indigenous people--and what makes you think you can do
19 anything to heal it." And so it's worth a try.

20 I also think it would be important to have conversations
21 with the Governor of Nebraska, where Whiteclay exists, which I intend
22 to try to arrange--about the Whiteclay situation, which exists
23 primarily to sell liquor--beer, I guess--to the Indians.

24 And so we think it was a worthwhile visit. We took a great
25 deal of the--the SAC took a great deal of testimony, and we will, over

1 the next few weeks, be working on trying to find some answers to some
2 of the problems so that when the SAC report comes to us, we as
3 Commissioners, in responding to it, will be able to perhaps make some
4 suggestions. So there will be ongoing discussions taking place.

5 There are problems of alcohol abuse, and the absence of de-
6 tox facilities and various things, in addition to the justice--the
7 allegations of racism in the justice system, which were deep and strong
8 there.

9 So, does anyone want to discuss further anything that
10 happened in South Dakota, or ask any questions about it, or--yes, Vice
11 Chair?

12 COMMISSIONER REYNOSO: Madam Chair, I was just a little bit
13 surprised by the intensity of feeling on the part of the Indian
14 population from whom we heard, as to what you described as a divide.
15 It's really--quite strong feelings that there is discrimination
16 throughout the state, particularly within the criminal justice system;
17 and those strong perceptions, even if they were not fortified by fact,
18 are important matters to take into account in dealing with civil rights
19 issues, because they just were far more intense than I had expected
20 before going to South Dakota.

21 CHAIRPERSON BERRY: Mm-hmm.

22 Commissioner Redenbaugh?

23 COMMISSIONER REDENBAUGH: Yes, I wanted to ask Commissioner
24 Meeks if--it may be too soon to tell, but from the point of view of the
25 people there, what expectation do they now have, and how do they view

1 our visit?

2 COMMISSIONER MEEKS: Well, I think they, you know, view the
3 visit very positively on the one hand. I mean, they're really--for the
4 most part, people were really overwhelmingly thankful that South Dakota
5 was given this kind of attention by the Commission.

6 You know, I think there were some expectations that we can
7 do some things that maybe we can't do. But I think there are some
8 real--you know, some real issues that we can address. I mean, for one
9 thing, you know, I hope that what can come out of this report is that--
10 you know, there's such a high perception that there is a double
11 standard of justice in South Dakota. And if there's some way that we
12 can look at the numbers and find out if that's true, or if it's not
13 true. I mean, I think that would do a world of good.

14 You know, I think people feel like any time that there's a
15 crime committed against themselves or, you know, in the case of the
16 murders, that there's not an immediate response by law enforcement--FBI
17 or otherwise--and I think we can make some recommendations there--I
18 hope. I may be putting my foot in my mouth.

19 I mean, for instance, you know, two days before the
20 Commissioners came out, 22 FBI agents went into Pine Ridge with a dog.
21 And these bodies were found back in June. So, I mean, the question
22 really came out: why now? I mean, why did they send 22 people--why
23 didn't they do that in June? And, believe me, if they were sending a
24 message, that would have sent a loud message, if they'd done that in
25 June.

1 So, I mean, I think--I mean, I think, yes, we probably won't
2 satisfy everyone; we won't fulfill every expectation, but I think that
3 we can at least address those issues.

4 COMMISSIONER REDENBAUGH: Is it your sense that as a
5 consequence of our attention, law enforcement is being more attentive
6 to the problems? Or is it too soon to tell?

7 COMMISSIONER MEEKS: Well, I think it's too soon to tell.

8 COMMISSIONER REDENBAUGH: Yeah.

9 COMMISSIONER MEEKS: I mean, they certainly responded--I
10 mean, of course the FBI didn't say that's why they sent 22 agents out--

11 COMMISSIONER REDENBAUGH: Coincidental.

12 COMMISSIONER MEEKS: Right. Right. But, you know, I mean,
13 that's my hope.

14 COMMISSIONER REDENBAUGH: Yeah. Okay. Thank you.

15 COMMISSIONER EDLEY: Madam Chair?

16 CHAIRPERSON BERRY: Yes, Commissioner Edley?

17 COMMISSIONER EDLEY: I'd like to underscore the point that
18 Commissioner Meeks just made, and that you made also--I think that
19 there--I think it would be great if some combination of the Commission
20 staff and the advisory committee were to take a serious look at how
21 better data--or any data--could be collected that would shed light on
22 this question as to what extent there are disparities in the criminal
23 justice system; because there is clearly an enormous gulf in
24 perceptions which is an important part, as Elsie said, in fueling the
25 division itself.

1 So I think--and I don't want to be pollyanna-ish about the
2 good that data and research can do in problems as intractable as these,
3 but it seems to me that it would be a useful foundation for any efforts
4 towards progress in the issue. And this is something in which it seems
5 to me the Justice Department, and the Bureau of Justice Statistics,
6 working with State officials really ought to be able to provide some
7 help--and not just in South Dakota, but I'm sure that the problems--
8 similar problems exist on a national scale. That's probably number
9 one.

10 Point number two is: I was struck by what was almost a
11 naivete on the part of the FBI, with respect to their--the need for
12 them to do a better job at relating to the community as a simple matter
13 of having the legitimacy to do their job effectively. It's striking
14 that--one element of this, I think, may be that the FBI has special
15 responsibilities in Indian country that are unlike its responsibilities
16 in the rest of the country. In many respects, in Indian country,
17 because of the jurisdictions involved, they get involved in
18 investigating ordinary violent crimes in the way that, say, the New
19 York City Police Department does, or the state police do in other
20 places.

21 And in those other contexts, the whole movement towards
22 community policing has begun to sensitize police departments towards
23 how better to work with diverse communities in order to do their jobs
24 effectively and promote public confidence in law enforcement. And I
25 kind of think the FBI, I think, has missed the boat on this, because

1 they don't ordinarily have community-policing kinds of
2 responsibilities. So there may be an opportunity here--certainly
3 there's a need--to encourage the FBI to take a lesson out of the pages
4 of some of the more successful local law enforcement organizations
5 around the country.

6 CHAIRPERSON BERRY: And you usually think in threes, Chris--
7 so what's point number three?

8 [Laughter.]

9 CHAIRPERSON BERRY: You only gave us two.

10 COMMISSIONER EDLEY: I was trying to be concise.

11 CHAIRPERSON BERRY: Oh, okay.

12 COMMISSIONER EDLEY: The third point--no, it's all right--

13 [Laughter.]

14 CHAIRPERSON BERRY: Say it, Christopher.

15 COMMISSIONER EDLEY: I appreciate the opportunity--here is
16 the third point.

17 [Laughter.]

18 COMMISSIONER EDLEY: I would encourage the staff--maybe this
19 is a point of personal privilege--I'd encourage the staff to make
20 available to the South Dakota Advisory Committee some of the work done
21 in the early 1960s by the Civil Rights Commission on conditions in
22 Indian country. As I was growing up, my father was hired as a
23 consultant to the Commission on Civil Rights, and spent six months on
24 Indian reservations investigating conditions there, and writing some
25 material for the Commission. And I re-read that a couple of months

1 ago, and I'm struck by the sense that the glass is nowhere near being
2 half full.

3 And--so it was a very meaningful trip for me personally.

4 CHAIRPERSON BERRY: Well, I think that we should, at the
5 very least, work on this. We won't bias--I mean, whatever the State
6 Advisory Committee reports to us; we'll see what they report to us.
7 But there was a very clear sense on their part, and on ours, that this
8 disparities issue was really important, and we had testimony there,
9 from the prosecutor--the State prosecutor from--was it Roberts County?--
10 -what county was the dad from, where the woman--the Indian woman was
11 put in jail for 15 years?

12 COMMISSIONER MEEKS: Roberts County.

13 CHAIRPERSON BERRY: From Roberts County--on the record,
14 where he said that he had gathered information in response to that
15 young woman's father, who did appear before us, too, that her sentence
16 was so out of proportion to any sentences that had ever been given for
17 a negligent homicide--driving a car and drinking--in that county; that
18 the average sentence, you know--what was it? --three years, or
19 something--no more than that--and here she was being given 15 years.
20 He just didn't--you know, he just pointed out that that discrepancy to
21 him was just like--wow--and that people--that one might take a look at
22 that.

23 So it may be that we will have to take a look at one of
24 those counties, and look at the statistics there, and analyze them to
25 set an example before we tell BGAS--Bureau of Justice Statistics, and

1 other people--to start, in general, looking at these statistics.

2 As far as the FBI was concerned, I--as those of you who were
3 there know--excoriated the Federal officials. I think excoriated is
4 the best word--the politest word that I could use--the FBI officials,
5 because they were sort of like--Carl, when we went down to the South,
6 and sometimes the FBI didn't seem to understand that the local people
7 didn't trust them--you know. And they were giving us one of these, you
8 know, business-as-usual, Jim-Dandy, here's what the FBI did sort of
9 stories.

10 COMMISSIONER EDLEY: Very articulate, though.

11 CHAIRPERSON BERRY: Very articulate and smooth, but--and the
12 people there were so alienated, and so angry, and so distrustful, and
13 they seemed to not have a clue that any of this was going on--or the
14 idea that they should even be communicating with the people about the
15 progress of the investigations, you know; that for six months they've
16 been investigating this, everybody's worried about it, and it doesn't
17 even matter who ultimately is found to be the perpetrators--I mean, who
18 killed the Indians. It could be Indians, it could be white people, it
19 could be--the point is, the seriousness or lack of seriousness
20 perceived by people that the FBI was taking, in terms of trying to find
21 out who did it.

22 The other was the local sheriff from wherever Rapid City--
23 that county--who did--I mean, I don't know whether it was a result of
24 our coming there or what, but he did announce that it was a serious
25 matter that eight people had fallen into the creek and died--

1 mysteriously--over the last few months, and the creek is only--what--
2 two feet high, or something, at its highest, and these people have
3 mysteriously--keep turning up dead. It sort of reminded me of in the
4 South, how black people used to mysteriously fall off the Tallahatchee
5 bridge and end up dead, and nobody knew why. But he seems now to be
6 taking that seriously.

7 So there will be follow up. That's the long and short of
8 it. So that's--yes, Carl?

9 COMMISSIONER ANDERSON: You know, next month we're going to
10 be discussing project planning, and we have a project for FY 2001 on
11 Native American housing issues. And it occurs to me whether we ought
12 to be considering something possibly before then, arising out of what
13 was learned at the hearing and the visit to South Dakota.

14 I'm not in a position to make that recommendation, but I
15 think we ought to perhaps reflect on that, since we do seem to have the
16 advantage of having been out there a month before we make some
17 decisions on what we're going to be doing for our projects.

18 CHAIRPERSON BERRY: Mm-hmm.

19 COMMISSIONER ANDERSON: So I raise that issue. I don't know
20 whether it's worth taking a few minutes now and talking about it, or
21 whether we task it to the staff. But, even a smaller report on maybe
22 this issue of the FBI could be something that might be do-able in FY
23 2000, or early 2001.

24 CHAIRPERSON BERRY: Well, that's a good suggestion, and we
25 had--those of us who were out there, in talking among ourselves

1 informally, were saying that at the planning meeting we really ought to
2 consider whether housing is even what we want to do. I mean, housing
3 is a problem--everything is a problem.

4 So--health care is a problem. You name it, it's a problem.
5 But in trying to figure out--we now have a better fix on trying to have
6 a discussion among ourselves about what to do, and the staff that was
7 there ought to be able to do some staff work to give us some better
8 advice on what to do.

9 Yes, Commissioner Meeks?

10 COMMISSIONER MEEKS: Yes, I think that Carl's recommendation
11 is good. I mean, also I think some of the other issues that, I mean,
12 I've been aware of, all have to do with the justice systems, including--
13 -because so many Indians fall under Federal jurisdiction, that this
14 Federal sentencing guidelines, by everybody's standards, is way harsher
15 than even the state sentences. And so, I mean, that was one of the
16 recommendations I wanted to make anyway. So I'm completely agreeable
17 with that.

18 CHAIRPERSON BERRY: So we need to have the staff do for us
19 sort of--some work, so that we can discuss, in general, issues arising
20 from this and figure out what the best thing to do. And it may be the
21 justice issue. But it's a good suggestion.

22 Okay. Does anyone else have anything to announce about
23 anything?

24 If not, then I will go on to the Staff Director's report.
25 Does anyone have any questions about the Staff Director's Report?

1 [No response.]

2 CHAIRPERSON BERRY: Hearing none--for now--and if you think
3 of some later, we can come back to it.

4 The staff has asked us--for item number V, the staff has
5 asked us, after receiving comments from Commissioners who had comments
6 on the Mississippi Report, and who submitted them since the last
7 meeting, which it was agreed that they would do, that the staff would
8 like to update and re-write this report--some portions of it--and give
9 it back to us again, in view of the comments that they got from
10 Commissioners, and they would not like us to try to approve it, subject
11 to their making the changes; just go back and do a little re-vamping
12 and bring it back to us, and take it--I found this out after I put it
13 on the agenda, which is why it's on the agenda. It was on the agenda
14 last time.

15 But that is the staff view of what we should do, so we will
16 see this again, in short order, but unless someone objects and would
17 like to approve it without the staff fixing it--

18 [Laughter.]

19 CHAIRPERSON BERRY: --which I doubt. Yes--Commissioner Lee?

20 COMMISSIONER LEE: Did the staff give us a timeline that
21 they're going to be working on it?

22 CHAIRPERSON BERRY: Did the staff give us a timeline, Madam
23 Staff Director, as to when we would see this again?

24 STAFF DIRECTOR MOY: No, we needed your counsel.

25 CHAIRPERSON BERRY: You needed our counsel.

1 Well, I think--why don't you consult with those who are in
2 the process of writing it, and let us know a date, or let us know, at
3 least by the next meeting, and if it's not the next meeting, it will be
4 in the MIS system, as to when we can expect this again, and we will
5 know that.

6 So the answer is she doesn't know right now.

7 Okay. Now let's go to the Equal Education Opportunity and
8 Nondiscrimination for Girls in Advanced Mathematics, Science and
9 Technology Education: Federal Enforcement of Title IX.

10 This report, which was one of the last ones done while Fred
11 Isler was the Director of that office, is the fifth in the series of
12 Equal Educational Opportunity. And the report offers findings and
13 recommendations regarding the activities of OCR relating to girls'
14 opportunities in science and mathematics.

15 The other--Krishna, could you come here just a second?

16 [Pause.]

17 CHAIRPERSON BERRY: Okay. And the report looks at some of
18 the barriers to the opportunity of girls to choose college majors and
19 enter careers in advanced mathematics, science and technology; and
20 whether--what OCR is doing under Title IX to make it possible for girls
21 to have these opportunities.

22 The last time we discussed this report, there was some
23 concern that it did not acknowledge that there are areas in which boys
24 have disadvantages--even though the report isn't about boys. But the
25 staff has included information which acknowledges gender differences,

1 which place boys at a disadvantage, also--such as, the data would show
2 that boys under-achieve in reading, compared to girls.

3 But the focus of the report is on advanced mathematics and
4 science. There's been some improvement, according to this report, in
5 girls' opportunities to learn math, and to learn science, but not at
6 the advanced level. And so it's about Title IX enforcement, as well as
7 what the Federal government does under the Women's Educational Equity
8 Act, and goals 2000, and the Education America Act, to promote
9 opportunity for girls in advanced mathematics, science and technology
10 education.

11 Could I get a motion to approve the report?

12 COMMISSIONER REYNOSO: So moved.

13 COMMISSIONER MEEKS: Second.

14 CHAIRPERSON BERRY: Is there discussion?

15 COMMISSIONER REDENBAUGH: Yes.

16 CHAIRPERSON BERRY: Yes. And OCRE staff is here, who worked
17 on the report, for comment, in case there are some staff questions--
18 some questions for the staff.

19 Who had a comment?

20 COMMISSIONER REDENBAUGH: I do.

21 CHAIRPERSON BERRY: Oh--Commissioner Redenbaugh.

22 COMMISSIONER REDENBAUGH: Yes, I--I'm going to vote against
23 this report--again--as I did in 1997, I believe. I think this report
24 is--it has a number of deficiencies, from what I--well, actually, for
25 one, it's very old and out-of-date, and based on work, I believe, that

1 was done some of it as early as 1990. So it may not reflect conditions
2 now.

3 I also think that it's unbalanced. I mean, there are more
4 than 100 cites from one source, and the balance on the other side of
5 the argument has a very small number of cites.

6 So that's my view on this report.

7 CHAIRPERSON BERRY: Could you explain to us--just so we are
8 clear--what do you mean by "the other side of the argument?" You mean,
9 the argument on the issue, or the argument on the--I mean, on the issue
10 of science and math education? Or on the issue of whether it's being
11 enforced? Or on the issue of--I'm just trying to be clear on what
12 issue you mean.

13 COMMISSIONER REDENBAUGH: On the issue that there is--that
14 these differences constitute a civil rights discrimination.

15 CHAIRPERSON BERRY: So your concern is not that there--
16 you're not saying that there are no differences--

17 COMMISSIONER REDENBAUGH: No. That's right. I'm not saying
18 that there are no differences.

19 CHAIRPERSON BERRY: I just want to be clear.

20 COMMISSIONER REDENBAUGH: Right.

21 CHAIRPERSON BERRY: Umm--

22 COMMISSIONER REDENBAUGH: As a matter of fact, the report
23 says that there--in one place--it's interesting, it says that the
24 overall scores between boys and girls are the same, but that girls
25 score, I think, higher in some areas, which means that boys would then

1 also have to score lower in others.

2 CHAIRPERSON BERRY: Mm-hmm.

3 COMMISSIONER REDENBAUGH: So--yeah, I think the report does
4 acknowledge that there are differences, and I think that was consistent
5 with other literature of which I'm aware.

6 CHAIRPERSON BERRY: But your concern is that the civil
7 rights implication--that you're concerned about not that there are
8 differences in levels of access or taking science and math courses. I
9 just want to be clear.

10 COMMISSIONER REDENBAUGH: Yeah. No, I believe there are
11 differences, and it's not clear to me that these differences are the
12 consequence of civil rights discrimination violation.

13 CHAIRPERSON BERRY: Okay. I just want to be clear.

14 COMMISSIONER REDENBAUGH: Yeah. Mm-hmm.

15 CHAIRPERSON BERRY: Does anyone else have questions before I
16 let the staff answer the questions that are being raised?

17 COMMISSIONER REDENBAUGH: Yes.

18 COMMISSIONER REYNOSO: Madam Chair, more of an observation--
19 the issue of gender equality has had two--it seems to me two different
20 branches. One is that in appropriate circumstances, there should
21 simply be an opportunity to compete. The other branch is that in other
22 situations, equality can be better reached by providing the resources
23 separately to boys and girls or women and men.

24 Title IX, it seems to me, has the aim of reaching equality
25 of opportunity no matter how you get there. And it seems to me that

1 this report has done a quite good job of analyzing the differences and
2 making some recommendations on how we can end up with better
3 opportunities for women in this particular field, where all the studies
4 indicate that there is disparity and more work needs to be done.

5 So I thought, basically, it was a very good report.

6 CHAIRPERSON BERRY: Okay.

7 Staff--who's the staff person who's going to answer
8 questions about this?

9 Could you come up, please?

10 [Pause.]

11 CHAIRPERSON BERRY: You heard the question. First of all,
12 there's a challenge as to whether the disparities that are reported on
13 this report have anything to do with civil rights--I'm just putting it--
14 -I'm not trying to put words into anybody's mouth; and the second is
15 that your report is not--quote--"up to date." Or not "quote"--I
16 shouldn't say "quote," because he didn't say "up to date." I'm saying
17 "up to date"--outdated, or something.

18 Do you guys want to--who wants to answer the questions?

19 MS. ANECKSTEIN: Well, I guess I can start off.

20 CHAIRPERSON BERRY: Say who you are.

21 MS. ANECKSTEIN: I'm Laura Aneckstein. I'm a Civil Rights
22 Analyst in Civil Rights Evaluations. And I didn't work on the report
23 in '97. I did do some work on it recently when we updated it. We have
24 updated the report, and I think I can speak to the way--some of the
25 methods we used in updating our report, as far as the social science

1 research that we looked into in developing that.

2 But I guess the point I would like to make is that the
3 statutory report that's done by OCRE focuses on civil rights
4 enforcement by the civil rights offices, and there are going to be
5 social issues that are involved in these issues and, to some extent,
6 social forces will play into some of these problems, but there also may
7 be discrimination involved in these issues.

8 CHAIRPERSON BERRY: Mm-hmm.

9 MS. ANECKSTEIN: So the focus of OCRE is on what offices of
10 civil rights in the various agencies can do as far as limiting the
11 effects of discrimination and how they impact the issues. And that's
12 the focus of the report.

13 CHAIRPERSON BERRY: So, in other words, there may be other
14 factors that influence the opportunities that are available, but your
15 focus is on the extent to which OCR ensures that discrimination does
16 not affect the opportunities.

17 Did I say that right?

18 MS. ANECKSTEIN: Yes.

19 CHAIRPERSON BERRY: Okay. Yes.

20 Say who you are for the record.

21 MS. KRAUS: I'm Rebecca Kraus.

22 CHAIRPERSON BERRY: Yes.

23 MS. KRAUS: And one of the items of new information we added
24 was some information on how sexual harassment can affect women's self
25 esteem and women's participation in math and science courses. And

1 sexual harassment does come under the purview of Title IX. And one of
2 our concerns, as we looked at the report, and as we talked to OCR at
3 the Department of Ed was that they don't--they haven't made a link
4 between participation in certain areas like technology courses and
5 sexual harassment. But a lot of the new research that we looked at,
6 and that we added into the report dropped through this connection. So
7 that was one area that maybe OCR needs to do technical assistance
8 materials with, and look at if there is a connection; if that really
9 does, in fact--why girls may participate in different numbers.

10 CHAIRPERSON BERRY: Mm-hmm.

11 MS. KRAUS: Also, to address the issue of other--updates.
12 We looked at the most recent information from the National Assessment
13 of Educational Progress, and the latest NECES statistics that we could
14 find, so we have definitely updated the statistical portions of the
15 report, as well as we've included new--the latest information we could
16 find from the educational literature.

17 CHAIRPERSON BERRY: Okay.

18 And would you like to comment, also? Or are you just there
19 in case we--go ahead.

20 MS. ZIESENIS: Right. My name is Mireille Zieseniss, for
21 the record. And I just want to restate what Rebecca just mentioned--
22 that we did--the recent literature does state that even though
23 improvement has been made--and I think this is a point that we really
24 did try to focus on, and the AAUW, the initial 1992 report, that really
25 raised this issue and brought to a national level has been updated.

1 And we included that, and tried to show that although improvement has
2 been made, it hasn't been across the board; and there are definitely
3 areas where gender equity, particularly in the advanced courses, which
4 is what I was focusing on, has not been achieved yet.

5 CHAIRPERSON BERRY: Okay. Thank you.

6 Commissioners have other questions?

7 Yes, Commissioner Meeks?

8 COMMISSIONER MEEKS: So this report is updated, but I take
9 it that some of the studies haven't been--is that right?

10 MS. ZIESENISS: Some of the studies that we--

11 COMMISSIONER MEEKS: Yeah, right, that you--is that--

12 MS. ZIESENISS: There are some older studies that--'92,
13 especially on the parents' involvement. Those are almost classic
14 studies from the reviews it looked at, but we did try to get new
15 information. We got information from several--like parents and
16 teachers organizations, and parents' organizations. Much of the
17 information we got was from the Internet. So we left in the kind of
18 classic articles, but we did include information that was newer, that
19 said the same thing.

20 CHAIRPERSON BERRY: Okay--other questions from
21 Commissioners?

22 Yes, Commissioner Redenbaugh?

23 COMMISSIONER REDENBAUGH: Yes, I actually have just a
24 question--a legal question, not a--the use of the "disparate impact"--

25 COMMISSIONER REYNOSO: I'm sorry, should the Commission be

1 forewarned that a legal question might require a legal response?

2 CHAIRPERSON BERRY: Yes.

3 COMMISSIONER REDENBAUGH: Then the notion of brevity is
4 antithetical--and clarity, too.

5 [Laughter.]

6 COMMISSIONER REDENBAUGH: I think this could be a short
7 answer. It has to do with the use of disparate impact theory in gender
8 discrimination cases. Is there case law well-developed on that? I'm
9 unfamiliar with--

10 CHAIRPERSON BERRY: What's the question, Russell? Is
11 disparate--

12 COMMISSIONER REDENBAUGH: The notion of disparate impact--

13 CHAIRPERSON BERRY: Yes, what about it?

14 COMMISSIONER REDENBAUGH: Is there much case law as that
15 applies to gender discrimination?

16 CHAIRPERSON BERRY: Oh, lots.

17 COMMISSIONER REDENBAUGH: There is.

18 CHAIRPERSON BERRY: Oh, lots.

19 COMMISSIONER REDENBAUGH: Okay.

20 CHAIRPERSON BERRY: Piles. Piles. Loads.

21 Do you want me to give you a brief summary of it?

22 COMMISSIONER REDENBAUGH: If it is brief, sure.

23 CHAIRPERSON BERRY: It will take me about two hours.

24 [Laughter.]

25 COMMISSIONER REDENBAUGH: Okay--well, one more time I've

1 revealed my--

2 CHAIRPERSON BERRY: Okay. Well, if there are no other
3 questions--oh, Commissioner Anderson has one.

4 COMMISSIONER ANDERSON: I'll try to put it in the form of a
5 question.

6 I think the difficulty that I have with the report--and
7 perhaps it's a difficulty that I have with Title IX itself, is that
8 there is an anthropological presumption that underlies, I believe, the
9 report, which is that there are no essential differences between men
10 and women; and particularly in terms of their career objectives.

11 If you look at a couple of quick examples--Chapter 1, page
12 6--and you can look this up, if you like, but I don't think you have
13 to: "Girls tend to focus on a smaller set of career options than boys."
14 And then Chapter 2, page 19: "Boys are encouraged to enter lucrative,
15 growing fields such as engineering and computer science, girls are not
16 encouraged equally." Chapter 2, page 22: "Women are socialized to
17 avoid risk"--and we mentioned this morning, jokingly, that they still
18 enter marriage and raise families.

19 [Laughter.]

20 COMMISSIONER ANDERSON: "They're socialized to avoid risk,
21 which may be a source of their unwillingness to participate in
22 discussions concerning math or science concepts or learn new
23 technology."

24 Now--

25 CHAIRPERSON BERRY: What page is that on, Carl--or chapter?

1 COMMISSIONER ANDERSON: 22--page--or Chapter 2, page 22.

2 CHAIRPERSON BERRY: Okay.

3 COMMISSIONER ANDERSON: Now, at one level, I suppose--the
4 question comes like this: if you are counseling a girl--a young woman--
5 who tells you her first priority is marriage and to raise a family and
6 to devote sufficient time to the raising of her children, and she
7 intends to be the primary caregiver to those children, especially in
8 their early years. Now, do you counsel her on the same broad range of
9 career objectives and post-high school education options as you would a
10 man who tells you, "My first priority is not going to be dedicating
11 myself as the primary nurturer of my young children?" Or do you give
12 her a list of priorities, in terms of career and education which are
13 compatible with her intended commitment of time toward her children and
14 her family?

15 CHAIRPERSON BERRY: I don't think they should answer that,
16 but I will, because it's not within their purview to answer that.

17 COMMISSIONER ANDERSON: Well, I--

18 CHAIRPERSON BERRY: That's a policy question.

19 COMMISSIONER ANDERSON: Well, wait a minute--

20 CHAIRPERSON BERRY: I'll be happy to answer it.

21 COMMISSIONER ANDERSON: Well, it's fine that--I'd like to
22 hear your answer, but my point is--my point is, it's a staff-driven
23 document, and there are anthropological assumptions that run through
24 it. And the question is to raise how that affects the way this report
25 is written.

1 CHAIRPERSON BERRY: Well, I'll let them answer it in a
2 minute, but first let me point out that the statement is based on a
3 research report of Susan Bassow and Lisa Rubin, "Gender Influences in
4 Adolescent Development," a 1999 study on adolescent girls.

5 I'll let them answer it, but my answer is that all students
6 should be given all options--whatever they say their present
7 inclination is about what they might do. I mean, I myself, at least 20
8 times when I was in high school, changed my mind about what I was going
9 to do with my life--and other people do, too. And so I think that
10 everybody needs to be told about all options, and then they can figure
11 out what to do.

12 But I'll let you guys answer that, having said that. Don't
13 be biased by my answer, or by the question.

14 MS. KRAUS: Well, there's one--there's a couple articles
15 that we cite to in the parental involvement chapter that talk about the
16 more parents know about math and science, the better they are at being
17 able to help their children with math and science.

18 There's also a line of sociological literature that I don't
19 think we put in the report, that talks about the more educated mothers
20 are, the better they are able to take care of their children. That's
21 not in the report, though. But there are some indications that, you
22 know, more education is important for the family. And I think one of
23 the things that is important is to give people opportunities to know
24 how education can affect their future opportunities, and their future
25 choices.

1 MS. ANECKSTEIN: Also, just from a legal perspective, we're
2 looking at OCR and what they should be doing. And it's not our
3 practice to micro-manage them and tell them exactly what to write when
4 they develop policy guidance, but Title IX clearly, in the regulations,
5 provides that counselors should not be biased in their counseling of
6 students. So that's what we were focusing in on--one of the things
7 that we were focusing in on in doing the enforcement report.

8 COMMISSIONER ANDERSON: Well, I think that's all very
9 helpful. And I think I would agree that you provide a broad range of
10 options, and I'm sure there are recent studies that confirm what you're
11 saying.

12 The reason I raised the question is that it seems to me it
13 is not a form of bias when you are counseling a woman--a young woman in
14 that circumstance--to look at career objectives that are more
15 compatible with her family interests, or her intended family interests.
16 And to do that would seem to me to be responsible counseling. And it's
17 not a result of bias.

18 And so if you have a subset of students who say, "Look,
19 becoming CEO of a company is not my primary objective. My primary
20 objective is oriented toward my family," there are consequences that
21 follow from that, and those are not a result of bias or discrimination.

22 But I think the assumption is that that kind of a disparity
23 is a result of bias and discrimination, and it doesn't adequately take
24 any account of the fact that you have a rather large portion of this
25 universe that may not be giving career objectives the highest priority.

1 The assumptions--

2 CHAIRPERSON BERRY: But--

3 COMMISSIONER ANDERSON: --the assumption may be that they
4 must, or they should. But I'm not sure that the difference here is one
5 of discrimination of bias. And the assumption, I believe, in the
6 report is that it is.

7 CHAIRPERSON BERRY: The assumption in the report is that if
8 OCR fails to enforce the law which requires that students be told of
9 all available options, and decisions are made not to tell this student
10 about some options, and to tell the other student about them so that
11 the student may--and their parents--freely choose, that OCR is not
12 doing their job. And it makes no--it draws no conclusion about whether
13 one option is better than another. The point is that OCR has no
14 business deciding that people should only be told about one thing as
15 opposed to the other. If they're not told about everything, how do you
16 ever know that they, in fact, have freely chosen.

17 But--Vice Chair?

18 COMMISSIONER REYNOSO: Yes. Madam Chair, I guess in some
19 ways I want to underscore the purpose of the law, which is to provide
20 the information and opportunity to all of these young people,
21 irrespective of gender, and not to assume ahead of time that because a
22 woman wants to put a priority on raising children that she will decide
23 to go one way or the other. That decision should be hers.

24 I must say, for example, that in this day and age, a large
25 number of women go into teaching. I have a daughter who's gone into

1 teaching. She tells me how difficult it is for her to fault--to not
2 teach for a few years, because then it's difficult to get back into the
3 retirement program and all that; apparently far more difficult for
4 teachers than for lawyers. When women became more conscious that the
5 lawyering field was open to them--now we have 40 to 50 percent of the
6 law students being women, and that was not true some years ago. I
7 think it's a matter of education, a matter of accepting by them that
8 there are those opportunities and though being a lawyer, a woman, if
9 she wants to, can work part time, as many do, or do other things while
10 the children are young.

11 But those decisions--the law says--ought to be made by the
12 women, and by their families, and not by the counselor saying, "Well,
13 you know, we think teaching is better for a girl than going into
14 mathematics." And I find it curious, incidentally, that women don't do
15 that well in higher mathematics, because my recollection is that they
16 always did better than we did in grammar school in math. So somewhere
17 along the line that starts--

18 CHAIRPERSON BERRY: That was basic mathematics, though.
19 [Laughs.]

20 COMMISSIONER REYNOSO: Basic mathematics--but the law really
21 exists--these are--everybody, irrespective of gender, ought to have a
22 shot at these positions. Then how they handle their own lives, in
23 terms of taking time off for family--and I have to agree that family is
24 very, very important--it's up to them, and not up to the counselors to
25 suggest to them that one profession is less apt to meet their needs.

1 And, like I said, I think that's really the basis for the
2 law, and our job is to take a look at whether or not the agencies are
3 carrying out the Congressional mandate in that regard.

4 CHAIRPERSON BERRY: Commissioner Redenbaugh?

5 COMMISSIONER REDENBAUGH: Cruz, the way you've articulated
6 the purpose of the law--you know, I support that expression of the law--
7 -is there evidence that the counselors are doing what you and I both
8 would--you and I both would agree they should not do?

9 CHAIRPERSON BERRY: The staff can answer--she's nodding.
10 Yeah.

11 COMMISSIONER REDENBAUGH: Yes, I'm sorry.

12 MS. KRAUS: Yes, there's a--I believe that we have a chapter
13 on, you know, parents, teachers, counselors, and there was a recent
14 report--I don't remember by whom--who did say that there is evidence
15 that girls aren't getting the same types of counseling. The AAUW also
16 did a report saying that girls aren't--and women, later, in
17 occupations, report that they weren't happy with the types of
18 counseling they'd received. They didn't feel that they were told of
19 all the options that were available to them. And there were several
20 recent reports that agreed with that.

21 CHAIRPERSON BERRY: Which are in this chapter--Chapter 6.
22 Okay.

23 MS. KRAUS: They also may be in Chapter 2--

24 CHAIRPERSON BERRY: 2 also? Okay.

25 MS. KRAUS: --support by parents and peers and counselors.

1 I apologize--I don't know which chapter that particular study is in.

2 COMMISSIONER ANDERSON: If I may say--

3 CHAIRPERSON BERRY: Yes--Commissioner Anderson?

4 COMMISSIONER ANDERSON: I don't know whether this is going
5 to help, because I don't think we ought to do cite and source on the
6 report during the Commission meeting, but I do have a few cite and
7 source kinds of issues, where studies are footnoted, and then when you
8 go back to the study it doesn't say what the footnote says it should
9 say. And I don't know how productive it is to get into that kind of
10 detail, because out of hundreds of footnotes, I suppose you can have a
11 few that are wrong. But it's one reason why, having found a number of
12 examples like this, I hesitate to vote for the report.

13 But I do want to say that I would agree that counselors
14 ought to give fair and comprehensive counseling, in terms of options.
15 On my own experience, with my own children, is that I thought the
16 counseling that they received had been pretty poor--if non-existent.
17 And that's for both the boys and the girls.

18 But counseling is an awfully--like counseling in any area,
19 where you're trying to provide information, and the counselor is the
20 expert, and yet you're trying to achieve informed consent by the person
21 that's being counseled--it's a large problem in the medical area. It's
22 also a large problem in the educational area. I would really be
23 concerned that we have hard data that shows that the counseling is a
24 result of bias, and that the disparity in education objectives, in
25 terms of majors and employment are as much the result of bias and

1 prejudice as this report would suggest. Because there just doesn't
2 seem to be in it much of an acknowledgement that there is a fundamental
3 difference, in terms of the way many women, and the way many men see
4 their career path and their primary responsibilities, vis-a-vis
5 marriage and family. And I don't think there's enough of that taken
6 into consideration in this report.

7 CHAIRPERSON BERRY: Should the report be approved, we will
8 do, as standard practice, which is that you will give, please, your
9 citations, and anybody else who has citation questions, or matters that
10 they think should be changed or amended will hand them in and the staff
11 will deal with them before the report is printed. We will do that as
12 we always do.

13 Is there any further discussion?

14 Then I call for the question.

15 All those in favor of approving this report indicate by
16 saying aye.

17 [Chorus of ayes.]

18 CHAIRPERSON BERRY: Opposed?

19 [Chorus of nos.]

20 CHAIRPERSON BERRY: Did you vote, Edley?

21 COMMISSIONER EDLEY: Yes. I said "aye."

22 CHAIRPERSON BERRY: Okay.

23 COMMISSIONER EDLEY: In my meek, mild-mannered way.

24 CHAIRPERSON BERRY: Speak up in a big, proud voice. Okay.

25 Okay--one, two three, four, five--okay. Five in favor, two

1 opposed. So the report is passed.

2 Please get in your changes, emendations, corrections and the
3 like sometime within the next--tell me a time--two weeks, so that we
4 can make them and so that the report can be printed, and so that we may
5 issue it.

6 Thank you very much.

7 Now, let's go on to the next item, which is the issue of
8 zero tolerance and Decatur.

9 You may have noticed in the media that there is--that a lot
10 of stories about an incident in Decatur, Illinois, at a school in
11 which, at a game--a sports event--high school--there was an
12 altercation, and after that, or--and there's been film footage on
13 television of the events that occurred--after that some students were
14 suspended from school. And at first, I think, it was for two years, or
15 something, and then it's being discussed back and forth in Decatur.
16 And there is a court case on the 26th or 27th, I think--or at the end
17 of the month--in Federal District Court, where there has been an
18 attempt to get an injunction, to try to argue that the students should
19 be treated on a case-by-case basis, rather than being dealt with under
20 a zero-tolerance policy, which is how they're being dealt with.

21 And we had a request that was delivered to me orally by
22 Reverend Jackson--who delivered it to me in a press conference he was
23 having--that the Civil Rights Commission look into the matter to see if
24 there were any civil rights issues related to how these students were
25 treated.

1 I responded to the press by saying we would take it up at
2 our meeting, and that we would probably refer any inquiries about it to
3 the Regional staff in Chicago, since we have a Regional Office in
4 Chicago, and they're closer to the situation.

5 Since that time there have been some articles in the Chicago
6 Tribune, on the Sunday paper--big, front-page analyses--of race
7 relations in Decatur--and if you don't have those, the staff should
8 give them to you--in which they have said that there are a wide
9 variety--or, at least, the paper says--a wide variety of racial
10 problems in that area. And there has finally been an article in the
11 Chicago Tribune that said that Reverend Jackson was essentially
12 pointing out a serious problem in the issue of students' not being
13 treated on a case-by-case basis.

14 There's been a lot of media discussion of this. My own
15 view, from the calls and e-mails and other things that I've been
16 receiving, is that this issue is broader than what happened in Decatur,
17 and there is an issue about zero tolerance and civil rights. I've had
18 a number of people in the disabilities community come to me with
19 complaints about how disabled kids are treated in schools, some of whom
20 have emotional and mental problems, and who have, when they sort of
21 engage in certain behaviors, been expelled from school, according to
22 their allegations, or suspended from school without anybody even
23 discussing how to deal with their problems.

24 And the disabilities rights communities is even more upset
25 about this than all the stuff that's being discussed in--with Decatur.

1 So I wanted us to discuss it today. My own view is that
2 perhaps we should ask the State Advisory Committee, or the Regional
3 Office in Chicago, to have that SAC look into whether they want to do
4 anything in Decatur about the issue in Decatur; but that for us to look
5 at the broader issues, which will include what happened in Decatur, but
6 things of the sort that happened in Decatur, or that are alleged to
7 have happened in Decatur, and it would be some time after the Federal
8 District Court hearing at the end of the month--some time in the--next,
9 either next February meeting--because January we have planning--can we
10 have some briefing or something on zero tolerance issues in general and
11 civil rights, to sort of see what else the Commission might want to do.

12 But I bring this before you for your consideration.

13 Yes, Vice Chair?

14 COMMISSIONER REYNOSO: To me, as I have read the reports on
15 zero tolerance, beyond Decatur--because in Decatur, the situation is
16 hard to judge individually, except I was interested in a report that
17 said that, apparently, the school board had not thought about
18 alternative schooling for these youngsters which, as I understand it,
19 is routine in California, but apparently not in Illinois--which would
20 have meant that the youngsters who got in trouble would then have been
21 out on the streets with no supervision; which, from a community point
22 of view appears to be not the best approach.

23 But I couldn't help but think of the relationship of these
24 widespread zero tolerance policies on drugs, on guns, on violence, on
25 this or that, with our approach to the sentencing guidelines that we

1 heard about in South Dakota, and how we seem to want, in our society,
2 to find simple answers to complex issues. And we seem to think that's
3 going to solve them.

4 It's sad to say those simple answers so often seem to have a
5 far more serious effect on folks who don't have a lot of political
6 power; who are poor, who are minority. And as I see it, the sentencing
7 guidelines and the zero tolerance programs, from the articles and
8 reports that I read, seem to be having that far more serious effect on
9 poor and minorities.

10 I would think that it would be important for us to take a
11 look at those issues. Again, I'm not quite sure whether we ought to do
12 it, in terms of having a briefing. We need to educate ourselves more,
13 I think. But, certainly, the impressions that I have from many
14 articles that I've read, and so on, is that those two areas--sentencing
15 guidelines and zero tolerance--are quick and easy responses to complex
16 issues, that seem, in my view, not to have worked.

17 CHAIRPERSON BERRY: Mm-hmm.

18 Yes, Commissioner Anderson?

19 COMMISSIONER ANDERSON: Well, the latest information I had
20 seen on zero tolerance was, I guess, on the PBS news--a discussion in
21 which African-American school superintendents and principals were
22 defending zero tolerance. And I think I would come down with them on
23 the issue.

24 It seems that we're in a position where the schools can do
25 nothing right; that is, if they have a system which allows for wide

1 discretion, then they're constantly being micro-managed: this student
2 got a four-month suspension, but this student got a six-month
3 suspension, but these people didn't get a suspension. If you try to
4 take discretion out of the system, so that there is no discretion, and
5 it's a zero tolerance, essentially, then we find that that runs afoul,
6 because, after all, it--we see people in perhaps different
7 circumstances being treated the same way. So I think what's happened
8 here is an example of no matter what the schools try to do to solve a
9 very serious problem they can do nothing right.

10 Now, I don't think it comes as a surprise to any of us that
11 this may be a larger problem in inner-city schools, where violence
12 tends to be more endemic than, perhaps, in suburban schools, and
13 therefore you have a disparity of students' being affected by zero
14 tolerance. But I don't know whether this Commission has to micro-
15 manage this kind of an issue at this point. But if we do, then it
16 seems to me we need to look clearly at our project planning for next
17 year, and take one or two of these other items off the calendar.

18 CHAIRPERSON BERRY: Commissioner Redenbaugh?

19 COMMISSIONER REDENBAUGH: Just to--really, a question of
20 information.

21 The hearing that you spoke about is for a temporary
22 restraining order?

23 CHAIRPERSON BERRY: Which hearing.

24 COMMISSIONER REDENBAUGH: The one--

25 CHAIRPERSON BERRY: The court--

1 COMMISSIONER REDENBAUGH: --the one in Federal--

2 CHAIRPERSON BERRY: --now that has to do with trying to get
3 a--either a TRO, an injunction, or something, about the specific
4 incidents that happened in Decatur.

5 COMMISSIONER REDENBAUGH: Right. So that issue will likely
6 be resolved quickly.

7 CHAIRPERSON BERRY: Maybe.

8 COMMISSIONER REDENBAUGH: Okay. But, either way, though,
9 isn't there likely to be a subsequent trial? Or is that not known, or-
10 -

11 CHAIRPERSON BERRY: Maybe.

12 COMMISSIONER REDENBAUGH: --not--okay.

13 CHAIRPERSON BERRY: But my suggestion was not that we do
14 anything--we, as a Commission, here in Washington, do anything to
15 specifically address what will happen to those persons in Decatur.

16 COMMISSIONER REDENBAUGH: Mm-hmm.

17 CHAIRPERSON BERRY: That was my suggestion--that was not my
18 suggestion.

19 COMMISSIONER REDENBAUGH: Okay.

20 CHAIRPERSON BERRY: My suggestion was, given the articles in
21 the Chicago Tribune on race relations in Decatur, and the context in
22 which these things took place, that the State Advisory Committee might
23 be interested in--and we would ask the Regional Director to find out,
24 as a response to the request--doing something about that issue.

25 COMMISSIONER REDENBAUGH: Right.

1 CHAIRPERSON BERRY: My concern was that zero tolerance and
2 civil rights issues, in general, I have discovered, as a result of all
3 these discussions--

4 COMMISSIONER REDENBAUGH: Mm-hmm.

5 CHAIRPERSON BERRY: --are not limited to race. There is a
6 major disability issue in this, according to the disability rights
7 advocates who have come to me, and people who are parents of children
8 who are disabled, who have sent me e-mails, and notes, and called me on
9 the phone, and so on. Okay?

10 And that, I wasn't even thinking about. And since I am now
11 aware that there is this major issue, and that it has some racial, you
12 know, connotations, but there's also this other whole thing--that one
13 might--we might educate ourselves about it by at least having a
14 briefing and have these people come and tell us what all these issues
15 are that we should be concerned about; which, as you know, is the
16 minimal sort of intrusion, or response, that we give to anything. That
17 was my only point.

18 COMMISSIONER REDENBAUGH: And that would form the starting--

19 CHAIRPERSON BERRY: Right. And then we would decide whether
20 we wanted to do anything else or not.

21 The second thing--and we'd have people from the disability
22 rights community; people who want to talk about the racial--whatever
23 issues related to zero tolerance and civil rights.

24 The other thing I would say in response to Commissioner
25 Anderson is: I don't care two pins if African-American superintendents

1 were seen on PBS supporting this policy. Because they were African-
2 Americans--some African-Americans have made comments that I regard as
3 stupid, too. So just because they're black, I don't care.

4 [Laughter.]

5 CHAIRPERSON BERRY: The point I would make is--as I say--I
6 have become aware that it's a broader issue than race--that's the first
7 thing - which I didn't know, and I'm glad I know that now. And, as a
8 matter of fact, it's bigger on the disability rights side than it is--
9 it has things to do with the medicines that people apparently give kids
10 to calm them down and stuff. I don't know what all those medicines
11 are--but issues all around that, and so on.

12 And since I am new to this discussion, I thought--and since
13 I've been told that it has something to do with civil rights, and that
14 I should be aware of it, that I thought we might be interested in
15 having somebody come and tell us about it.

16 And I--but I don't believe, generally, as a matter of
17 philosophical bent, in the one size fits all solutions to any problem,
18 because one size invariably doesn't fit all.

19 Commissioner Lee?

20 COMMISSIONER LEE: I would support a--either a forum or a
21 briefing on this matter, because there are a lot of insights I don't
22 know, that I would want information on. Certainly we all support any
23 efforts to make the schools safer for all the children. You mentioned
24 about how zero tolerance had impacted the disability community, but it
25 certainly has impacted children with different immigration status, that

1 people have not talked about.

2 I would like to hear from the experts on not only why zero
3 tolerance, but different thoughts into prevention. No one's talked
4 about prevention; talk about other intervention programs.

5 You know, the Vice Chair was right--the social impact. So I
6 would like to see a forum--in the very near future, hopefully--to
7 address the different things, to educate ourselves better, before we
8 decide whether we want to take this up as a future project.

9 CHAIRPERSON BERRY: Yes, we may decide not to. But, I mean,
10 at least we'd know more about it.

11 Yes, Commissioner Anderson?

12 COMMISSIONER ANDERSON: Possibly in the defense of stupid
13 school superintendents--

14 [Laughter.]

15 COMMISSIONER ANDERSON: --my point in raising that is the
16 Decatur situation contrasts the question of zero tolerance--presents
17 the issue in the context of a white administration and black students.
18 And my point in using that example is that that is not the whole story.
19 The other part of the story is black school administrators defending
20 this policy, and using it, they think, in a very effective way, to
21 bring some kind of safety and peace to their schools.

22 Now, that presents the issue in a slightly different
23 context, and so if we're going to move forward with a briefing or some
24 kind of an analysis, I think their view of the matter--how they have
25 implemented it, why they defend it and think it's a useful policy--is

1 something certainly we ought to hear from.

2 CHAIRPERSON BERRY: Well, I don't have any objection to
3 hearing from all perspectives on this. I just don't want to start out
4 assuming that because they support it it's somehow good. But I don't
5 mind hearing from them and everybody else, and I think it's important
6 to hear the different perspectives.

7 So maybe we'll think about either a briefing paper that the
8 staff might write for us, which will give us all these different
9 perspectives, or a briefing--or both--so that we can get up to speed on
10 whether there's anything we ought to be doing about these issues. And
11 if there's no objection, we will ask the Staff Director to see if the
12 Regional people in Chicago--to pass along to them this idea that
13 something should be done out there, and they can decide whether they
14 want to do something about the Decatur race relations situation. It
15 will be up to them.

16 COMMISSIONER EDLEY: Madam Chair?

17 CHAIRPERSON BERRY: Yes--I'll recognize you in just a
18 second. Commissioner Redenbaugh had his hand up at the same time.

19 COMMISSIONER REDENBAUGH: It's just an informational
20 question. Are we doing--are we doing something already on mandatory
21 sentencing?

22 CHAIRPERSON BERRY: Umm--

23 COMMISSIONER REDENBAUGH: Or sentencing guidelines--the
24 issue that Cruz raised?

25 CHAIRPERSON BERRY: No. No, we're not.

1 COMMISSIONER REDENBAUGH: Okay. Well, then we're going to
2 talk about that separately, and not linked to this. Okay.

3 CHAIRPERSON BERRY: Okay.

4 COMMISSIONER REDENBAUGH: Thank you.

5 CHAIRPERSON BERRY: Commissioner Edley?

6 COMMISSIONER EDLEY: I'd just like to register a preference
7 that we--that whatever briefings we have of this be a paper--or papers
8 or presentations, whatever--that I'd like a lot of attention to the
9 facts; what's going on in various places; examples; data that's
10 available, but anecdotes--a rich collection of anecdotes. I want to
11 get a feel for what's going on, and not have to rely on Time Magazine,
12 or whatever for that.

13 And I say this in contrast to simply getting a collection of
14 people's opinions--

15 CHAIRPERSON BERRY: Right.

16 COMMISSIONER EDLEY: --or judgments about what they're doing
17 and why they're doing it, or what they think might be good or what
18 might not be good. So I--I mean, I'm happy to listen to a variety of
19 opinions, but I'd also like to get--to get some facts and to understand
20 what the research community believes is going on.

21 CHAIRPERSON BERRY: Right. When we have briefings,
22 Commissioner Edley, we will have expert opinion, and not just advocates
23 of one position or another.

24 COMMISSIONER EDLEY: Yes--I'd just like the experts to
25 bring--

1 CHAIRPERSON BERRY: Some data.

2 COMMISSIONER EDLEY: --yeah--information--data along, not
3 just their opinions--

4 CHAIRPERSON BERRY: Right.

5 COMMISSIONER EDLEY: --that's all--

6 CHAIRPERSON BERRY: Right--because we all have opinions.

7 COMMISSIONER EDLEY: Some of my best friends are experts--
8 right.

9 CHAIRPERSON BERRY: Right. All God's children have
10 opinions.

11 [Laughter.]

12 CHAIRPERSON BERRY: Commissioner Anderson?

13 COMMISSIONER ANDERSON: Well, I would agree, but I think it
14 depends on how you define "expert." And it seems to me that some of
15 the experts are the school administrators that have been grappling with
16 this problem for a decade or two, and think they may now have a
17 solution to it. And their practical expertise may lead them to
18 conclusions that are different that a social scientist's survey or
19 study of the matter.

20 So if we're going to hear from one--we tend to hear mostly,
21 it seems to me, from the social sciences experts who do the surveys.
22 But I think, in this matter, it would be very helpful to us to really
23 look at the people on the ground trying to deal with the problem and
24 have had some experiential expertise in the matter.

25 COMMISSIONER EDLEY: I--

1 CHAIRPERSON BERRY: Go ahead, Chris.

2 COMMISSIONER EDLEY: I--I--yes.

3 [Laughter.]

4 COMMISSIONER EDLEY: However, I think there are many people-
5 -my fear is that there are many people who have extensive practical
6 experience improving the environments in their schools by throwing out
7 of their schools students they don't care to deal with, or don't know
8 how to deal with.

9 CHAIRPERSON BERRY: Well, of course, the way we will deal
10 with that is if we have superintendents, we will ask them to bring data
11 on who's been suspended or expelled, and why, and how that compares
12 with something else--and not just their opinions about whether they
13 think this is will solve the problem--

14 COMMISSIONER EDLEY: Right--and what kind of education those
15 students who have been suspended or expelled are now getting.

16 CHAIRPERSON BERRY: Yes, what happened to them.

17 COMMISSIONER EDLEY: Right.

18 CHAIRPERSON BERRY: Okay.

19 The other is the Defense Department study on the racial
20 attitudes of people in the military that came out in the press--I guess
21 it was this week, it was last week--this study that was done. You
22 asked that we put this on the agenda, Christopher.

23 COMMISSIONER EDLEY: Well, I have been unsuccessful in my
24 own efforts to actually get a copy of the study, or understand what it
25 is. And--

1 CHAIRPERSON BERRY: Why don't we just ask the staff to get
2 us a copy. They do that.

3 COMMISSIONER EDLEY: Yes. And I'm--the press accounts of
4 the report lead me to conclusions--two senses: one is that they--one is
5 that there was a lot of negative information about the experience of
6 the Defense Department; that the Defense Department for two years to
7 try to package, in a palatable form, and if there's any readily
8 available information about what the process was for producing this
9 report that the staff could figure out, that would be of use.

10 But the second is that the information seemed to be in
11 contrast with what has been the prevailing public story about the
12 successes of the military, particularly the Army.

13 CHAIRPERSON BERRY: The Charlie Moscos--

14 COMMISSIONER EDLEY: Exactly--the Moscos and Butler work.
15 Then you've got the President and the Secretary of Defense and
16 everybody going around all the time talking--pointing to the Army as a
17 great success story, and I've done it myself. And--

18 CHAIRPERSON BERRY: We all do it.

19 COMMISSIONER EDLEY: Yeah. So, you know, I think it would
20 just be a good thing for us to figure--you know, and people always talk
21 about aren't there lessons from the military that should be exported to
22 the rest of society, in how to deal with these issues of diversity, and
23 combatting prejudice and discrimination and the like. And if this
24 report suggests that that's incorrect, that needs to be well
25 understood. If, on the other hand, the report doesn't do that, then

1 that too needs to be carefully assessed.

2 Why don't we ask the staff director to get the report and
3 ask OCRE staff to--since they're supposed to do research and
4 evaluation--

5 COMMISSIONER EDLEY: Yes, what do they think.

6 CHAIRPERSON BERRY: --to do us a little briefing memo for
7 us--

8 COMMISSIONER EDLEY: Great.

9 CHAIRPERSON BERRY: --on what's in the report, how it fits
10 in with the research, and to give it to us so we can read it.

11 Okay--yes?

12 COMMISSIONER ANDERSON: And can we have copies of the
13 report, too?

14 CHAIRPERSON BERRY: Yes--and to get us copies of the report,
15 so we can read it ourselves.

16 Okay. With that, let's go to the State Advisory Committee
17 report: Employment Rehabilitation Services in Michigan, and take that
18 up separately.

19 The Rehabilitation--Employment Rehabilitation Services in
20 Michigan.

21 Could I get a motion to approve that report?

22 COMMISSIONER MEEKS: So moved.

23 CHAIRPERSON BERRY: Okay.

24 COMMISSIONER REYNOSO: Second.

25 CHAIRPERSON BERRY: All right. Any discussion?

1 COMMISSIONER LEE: Madam Chair?

2 CHAIRPERSON BERRY: Yes.

3 COMMISSIONER LEE: On page 61, the recommendation, on the
4 last paragraph--I was under the impression that as an independent body,
5 we cannot take any position on legislation. Does that apply to SACs?
6 Because on the last paragraph, it does say that the Michigan SAC
7 supports two Federal Acts.

8 CHAIRPERSON BERRY: Page--

9 COMMISSIONER LEE: The last paragraph of the report; the
10 last sentence of the report, actually. "The Michigan Advisory
11 Committee supports both pieces of legislation."

12 CHAIRPERSON BERRY: Well--

13 COMMISSIONER REYNOSO: I didn't know there was a special
14 policy that we could not endorse--

15 CHAIRPERSON BERRY: No, we're not supposed to lobby for--to
16 get legislation passed.

17 COMMISSIONER REYNOSO: Yes, we don't lobby, but we can
18 endorse.

19 CHAIRPERSON BERRY: We can support--we can say -

20 COMMISSIONER LEE: You mean, all those years--

21 [Laughter.]

22 CHAIRPERSON BERRY: --but we're not supposed to lobby.

23 COMMISSIONER REYNOSO: Yes.

24 CHAIRPERSON BERRY: Okay. All right.

25 Any other discussion?

1 [No response.]

2 All in favor indicate by saying aye.

3 [Chorus of ayes.]

4 Opposed?

5 [No response.]

6 So ordered.

7 CHAIRPERSON BERRY: Now we have the Personal Responsibility
8 and Work Opportunity Reconciliation Act--the "Welfare Reform Act"--an
9 Examination of Its Impact on Legal Immigrants and Refugees in Rhode
10 Island.

11 Could I get a motion concerning this report?

12 COMMISSIONER REYNOSO: So moved.

13 COMMISSIONER MEEKS: Second.

14 CHAIRPERSON BERRY: Any discussion?

15 [No response.]

16 Okay, all in favor indicate by saying aye.

17 [Chorus of ayes.]

18 Opposed?

19 [No response.]

20 So ordered.

21 Are there future Agenda items beyond the future agenda items
22 that we already discussed earlier, before we go to future agenda items-
23 -that anyone would like to discuss?

24 Yes, Commissioner Anderson?

25 COMMISSIONER ANDERSON: I apologize if this was better

1 brought up under the Staff Director's report, but there's a question of
2 personnel security, and that was distributed to us.

3 I just want to raise an issue, and that is the background
4 FBI reviews of Congressional appointed Commissioners, which I think is
5 under consideration at OPM. I don't have a view on that, having had a
6 number of them done when I was in the Administration, but the question
7 arises whether there isn't--and perhaps separation of powers is too
8 strong a term to interject into this issues, but I don't know of
9 Congressional appointments having this kind of check by the
10 Administration, and I think before we get too far down that road--there
11 may be no objection on the Hill to it, but I think it would be well if
12 we reviewed the issue, maybe, with the House and Senate leadership in
13 an informal--or maybe a more informal way. But it just seems to me
14 that it could be something that we get down the road on, and then
15 people in the Senate or House leadership--and I'm not sure which party--
16 -whether it makes any difference there. It's a Congressional
17 prerogative--may run up against something. So I would just flag that
18 and ask--

19 CHAIRPERSON BERRY: What page is it on in that?

20 [Pause.]

21 COMMISSIONER ANDERSON: Well, I know I--I'm looking at the
22 chart here on page 14. That doesn't--

23 [Pause.]

24 COMMISSIONER ANDERSON: I'm sure the other Commissioners
25 will be happy to know they're considered "high risk."

1 [Laughter.]

2 COMMISSIONER ANDERSON: But I think on pages 12 and 13 as
3 well. I don't know whether we have to discuss this at much length, but
4 I do think that--

5 CHAIRPERSON BERRY: So your point is that before there is
6 any movement--because--what I'm saying is that I wasn't aware that they
7 were planning to do that.--before there's any movement to require this,
8 that it ought to be clear that this may raise some issues?

9 COMMISSIONER ANDERSON: I think so, because obviously
10 Presidential appointments, security investigations and background
11 investigations are pro forma. But from the standpoint of Congressional
12 appointments, I've never heard of them being done before. And so if
13 we're now going to recommend that the executive branch begin those kind
14 of background reviews before an appointment is made, see, it shifts the
15 type of decision-making from the legislative to the executive branch.

16 CHAIRPERSON BERRY: Right. Do you think we should tell OPM-
17 -since we didn't recommend--this is OPM's thing.

18 COMMISSIONER ANDERSON: Yeah.

19 CHAIRPERSON BERRY: Do you think we should tell OPM that
20 they ought to be aware of these concerns?

21 COMMISSIONER ANDERSON: I think so. And I'm not sure who is
22 going to make the decision on this, but I'd be reluctant to do it
23 without having some consultation with the Congressional leadership on
24 both sides of the aisle.

25 COMMISSIONER EDLEY: Madam Chair?

1 CHAIRPERSON BERRY: Well, the point is, of course, as they
2 tell us all the time in the White House--various White House personnel
3 offices over the years--and I, like you, have been cleared both ways.
4 And so have you, now, Cruz.

5 COMMISSIONER REYNOSO: Yes.

6 CHAIRPERSON BERRY: They always say that even an ax murderer
7 could get a Congressional appointment overnight, because there's no FBI
8 check, there's nothing.

9 [Laughter.]

10 CHAIRPERSON BERRY: Whereas if you get, you know, the White
11 House appointment, you've got to take forever and get all those
12 clearances.

13 But maybe--you know, maybe ax murderers ought to--

14 [Laughter.]

15 CHAIRPERSON BERRY: But the odds that there would be an ax
16 murderer are not great enough to even to care about it. I'm speaking
17 only--I'm tongue in cheek. I'm speaking totally tongue in cheek.

18 [Laughter.]

19 Commissioner Edley? Edley? Didn't Edley say something?

20 All right.

21 Yes?

22 COMMISSIONER REYNOSO: Madam Chair, I would assume that, in
23 fact, the separation of powers would be quite important in this matter,
24 and that the Administration would not be able to do that without the
25 approval of the--

1 CHAIRPERSON BERRY: Right. I don't think so.

2 COMMISSIONER REYNOSO: --Congressional committee, so I don't
3 see how the Administration can interfere with the Congressional
4 appointing power.

5 CHAIRPERSON BERRY: Yes. Well, we'll just say it over the
6 phone to somebody, in case they didn't know that--that that's something
7 we're sure they're thinking about and are aware of.

8 Any other items that we need to discuss? Okay.

9 COMMISSIONER LEE: Umm--

10 CHAIRPERSON BERRY: Yes, Commissioner Lee.

11 COMMISSIONER LEE: Madam Chair, now that I find out that we
12 have the ability to take positions on legislation, I'd like to bring up
13 an issue that's been very dear to me, which is the Hate Crime
14 legislation.

15 As some of you know I was targeted as someone who did not
16 appreciate the view that I was quoting on hate crimes, and I was
17 threatened. Unfortunately, even though everybody from law enforcement
18 and the civil rights community--because hate crime legislation the
19 person was not charged with hate crime. He was only charged with
20 making a threat to a Federal official. He was recently sentenced--a
21 very light sentence. I felt very strongly about that if we had a
22 stronger and more comprehensive hate crime statute in place, not only
23 would this person be serving a longer sentence because of what he did,
24 but also send a stronger message out to folks who may be considering
25 these kinds of activities that it would not be tolerated.

1 And, on a personal level, and also as a professional--
2 because I'm sure everyone on this panel has received threats or
3 whatever because of what we do as Commissioners, and I would--I would
4 like to see this Commission send a letter to Congressional leaders on
5 both sides of the aisle expressing our support for a stronger hate
6 crime law in this country, to protect not only ourselves, but also
7 every American.

8 CHAIRPERSON BERRY: Okay.

9 COMMISSIONER LEE: I never brought it up because I thought
10 we couldn't--

11 CHAIRPERSON BERRY: We can't lobby. So why don't we say
12 that we will consider, at the next meeting, whether we--because the
13 session is over in Congress, anyway--

14 COMMISSIONER LEE: Oh.

15 CHAIRPERSON BERRY: --whether we want to endorse and support
16 the hate crimes legislation--officially.

17 Yes?

18 COMMISSIONER REYNOSO: Yes, I would just like a memo from
19 the staff indicating what it covers, what it doesn't cover, so I can
20 have the background for understanding it.

21 CHAIRPERSON BERRY: The other thing is that--the staff was
22 about to let me forget to do--is it was asked at the last meeting that
23 we get a copy of the list of all the projects at this meeting that the
24 Commission has on its list, in preparation--and that we discussed last
25 time--in preparation for the January meeting, so that you'd know what

1 the list looked like.

2 The staff has such a list, so why don't you just give it to
3 the Commissioners, and then we'll have it, and if you want to discuss
4 it, we can.

5 The second thing--they do have it? Okay.

6 The second thing is these are projects that we've already
7 sort of talked about, and that we would have the staff discuss with us
8 at the January meeting as we make decisions about whether we want to
9 finish these, do these, new ones and the like. And so they just wanted
10 to give us a list of what's been discussed so far, so that we would
11 know.

12 The other thing is calendar. We need to again go over the
13 next year's calendar because, apparently, some people still have
14 glitches--if I might put it that way.

15 On Friday, January 14th we were supposed to have the
16 planning meeting, and I assume everyone is on board. And I have said--
17 at the last meeting, Commissioner Redenbaugh--that this meeting will
18 last all day.

19 COMMISSIONER REDENBAUGH: Mm-hmm.

20 CHAIRPERSON BERRY: Okay--so that people will be aware of
21 that.

22 The February meeting is scheduled now for February 4th. And
23 Commissioner Lee can't meet on February 4th. So is there any other day
24 in February--if that's possible--that--Commissioner Lee--you can't meet
25 and you can't be on the phone, right?

1 COMMISSIONER LEE: No. It's Chinese New Year.

2 CHAIRPERSON BERRY: That's Chinese New Year? Is there any
3 other day in the month of February--any other Friday--

4 COMMISSIONER MEEKS: I thought we originally had the 18th of
5 February.

6 CHAIRPERSON BERRY: Yes, but I think we changed it because
7 Russell couldn't do it. I think that's right. I'm not sure.

8 COMMISSIONER REDENBAUGH: What's that?

9 CHAIRPERSON BERRY: The 18th?

10 COMMISSIONER REDENBAUGH: I still have the 18th down.

11 CHAIRPERSON BERRY: But then we changed it. I thought
12 Russell couldn't do it.

13 COMMISSIONER REDENBAUGH: I don't know.

14 CHAIRPERSON BERRY: You could do it, or you couldn't do it?

15 COMMISSIONER REDENBAUGH: If it was previously reported that
16 I can't do the 18th--

17 [Laughter.]

18 COMMISSIONER REDENBAUGH: To the best of my recollection.

19 CHAIRPERSON BERRY: Okay. What other day is--okay let me go
20 through this. So, February 4th is problematic--she cannot do it,
21 Commissioner Lee.

22 March 3rd is the March meeting. Is there anyone who can't
23 do the March 3rd meeting?

24 [No response.]

25 April 14th, April meeting. Anyone who can't do the April

1 meeting?

2 [No response.]

3 May 12th?

4 COMMISSIONER REYNOSO: You know--I'm--"Commission, the 14th-
5 -" that's for April. And when for March? That's--

6 CHAIRPERSON BERRY: It says "March 3rd" here. It was a date
7 change from some other date.

8 COMMISSIONER REYNOSO: Okay. I guess I still have--

9 CHAIRPERSON BERRY: I think it, too, was because
10 Commissioner Redenbaugh couldn't do it.

11 COMMISSIONER REYNOSO: And then--we're discussing whether
12 those are firm dates?

13 CHAIRPERSON BERRY: Yes, whether people--whether there are
14 still people who can't do it.

15 COMMISSIONER REYNOSO: Okay.

16 CHAIRPERSON BERRY: Ahh--March 3rd.

17 [No response.]

18 April 14th.

19 [No response.]

20 May 12th.

21 [No response.]

22 June 16th.

23 [No response.]

24 July 21st.

25 [No response.]

1 No meeting in August.

2 September 15th.

3 [No response.]

4 October 13th.

5 [No response.]

6 November 3rd.

7 [No response.]

8 December 8th.

9 [No response.]

10 Now, we'll wait to see whether Russell can do these, and
11 we'll assume Christopher can, even if he can't. So he'll have to do
12 them.

13 COMMISSIONER MEEKS: So we're saying February 18th.

14 CHAIRPERSON BERRY: Well, no, he's checking right now.

15 COMMISSIONER LEE: If not the 18th, the 11th?

16 CHAIRPERSON BERRY: Is there--how about the 11th, Russell,
17 if you can't do it the 18th?

18 COMMISSIONER REDENBAUGH: I'm checking now.

19 [Pause.]

20 CHAIRPERSON BERRY: Okay. Well, then--

21 COMMISSIONER REDENBAUGH: I can--I can do the 18th of
22 February.

23 CHAIRPERSON BERRY: You can?

24 COMMISSIONER REDENBAUGH: Yes. I just--I need to take the
25 red-eye back to California, but if I do that I can do the 18th. That

1 is a Friday, right?

2 CHAIRPERSON BERRY: Right.

3 COMMISSIONER REDENBAUGH: So--yes.

4 CHAIRPERSON BERRY: Okay. Let's do--so you can either do it
5 by red-eyeing or on the phone--one or the other--

6 COMMISSIONER REDENBAUGH: Yes.

7 CHAIRPERSON BERRY: --if you decide not to red-eye.

8 COMMISSIONER REDENBAUGH: No--that's right, I can do that.
9 Yes. So let's do the 18th for the February meeting. That works for
10 you, Yvonne?

11 COMMISSIONER LEE: Yes.

12 CHAIRPERSON BERRY: Does it work for everybody else?

13 COMMISSIONER REDENBAUGH: For everybody else?

14 CHAIRPERSON BERRY: Okay. It will shorten the time to the
15 March meeting, but we'll just leave it that way, because it's too much
16 trouble to try to--okay March the--it will be February the 18th; back
17 to the 18th.

18 COMMISSIONER REYNOSO: And the March is still going to be--

19 CHAIRPERSON BERRY: Yeah, we'll leave it. It will be a
20 short period of time.

21 Okay. Is there anything else we need to bring up at this
22 time, that Commissioners would like--oh, the staff's holiday party will
23 be on Monday--this coming Monday, around noon. Those Commissioners and
24 their staff who will be around are cordially invited.

25 Also the staff, as their holiday project, dressed bears and

1 stockings to present to the Salvation Army. Those who would like to
2 see them can look at them at Human Resources--the personnel office--
3 before they become part of the window display at the old Woodie's
4 building.

5 [Pause.]

6 Okay. All right. If there is no other thing that people
7 would like to do--do you want to leave any record since this is the
8 last meeting before what people are calling the millennium, even though
9 it isn't--does any Commissioner want to say anything for the record so
10 that they can say that the last meeting in the year I said x, y and z
11 about the future of--

12 [Laughter.]

13 CHAIRPERSON BERRY: --civil rights. I want to give you this
14 opportunity. And I don't mean to pooh-pooh it, but, you know, every
15 other forum I've been in recently--a board meeting and anything--
16 somebody has to say some statement that they want kept in the time
17 capsule for the next millennium.

18 So, anyone have any profound statement--profound or
19 otherwise--to make?

20 [Laughter.]

21 CHAIRPERSON BERRY: All right. Well, if not, then I'd
22 entertain a motion to adjourn.

23 COMMISSIONER ANDERSON: So moved.

24 COMMISSIONER MEEKS: Second.

25 CHAIRPERSON BERRY: It's non-debateable, so all in favor say

1 aye.

2 [Chorus of ayes.]

3 CHAIRPERSON BERRY: So ordered.

4 [Whereupon, at 11:04 a.m., the meeting was adjourned.]

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