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1 U.S. COMMISSION ON CIVIL RIGHTS

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3 MEETING

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5 Friday, October 1, 1999

6
7 The Commission convened in Room 540,
8 YWCA Building, 624 9th Street, NW,
9 Washington, D.C., 20425, at 9:43 a.m., Mary Frances
10 Berry, Chairperson, presiding.

11 PRESEMT:

- 12 MARY FRANCES BERRY, CHAIRPERSON
13 CRUZ REYNOSO, VICE CHAIRPERSON (via telephone)
14 CARL A. ANDERSON, COMMISSIONER (via telephone)
15 ELSIE M. MEEKS, COMMISSIONER
16 RUBY G. MOY, STAFF DIRECTOR

17 STAFF PRESENT:

- 18 KIMBERLEY ALTON
19 DAVID ARONSON
20 SICILIA CHINN, Parliamentarian
21 PAMELA DUNSTON
22 BETTY EDMISTON
23 M. CATHERINE GATES
24 MARVIN GRAHAM
25 EDWARD A. HAILES, JR.

STAFF PRESENT: (Continued)

CAROL-LEE HURLEY

FREDERICK D. ISLER

STEPHANIE Y. MOORE, General Counsel

MARCIA TYLER

AUDREY WRIGHT

COMMISSIONER ASSISTANTS PRESENT:

PATRICK DUFFY

CHARLOTTE PONTICELLI

KRISHNA TOOLSIE

EFFIE TURNBULL

A G E N D A

1

2 Approval of Agenda --

3 Approval of Minutes of September 17, 1999, Meeting --

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6 Racial and Ethnic Tensions in American Communities:

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11 Montgomery County, Ohio 18

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P R O C E E D I N G S

9:43 a.m.

CHAIRPERSON BERRY: The meeting is called to order.

I saw what has been happening in L.A. And, Cruz, I think that what is interesting to me is: A lot of the issues that are being discussed were in our report.

COMMISSIONER REYNOSO: Oh, absolutely.

CHAIRPERSON BERRY: And we made recommendations about -- and part of the thing that is interesting is the L.A. Times, as you know, did an editorial criticizing our recommendations.

COMMISSIONER REYNOSO: Right. I had Effie pull that, because that was critical and sort of saying they agreed with the police department that all these recommendations were dated. And here the very same issues come up.

And I thought that I would mention that we had testimony in New York, if you will remember, from several of the religious leaders saying, "Look, we don't want to dump on Mayor Giuliani." We have been having these sorts of problems for 20, 30 years, since we have been working on it. This just happens to be the last data.

CHAIRPERSON BERRY: Yes. But I just -- I think all that is right, but I think that what is even more striking, I don't know if they are aware of how they blasted -- did the person who called you know how they had blasted the

1 recommendations and said all the problems were solved and so
2 on?

3 COMMISSIONER REYNOSO: He didn't mention that, so I
4 don't know.

5 CHAIRPERSON BERRY: Okay. So are you drafting this,
6 and Effie, or do you want somebody here to help you or what?

7 COMMISSIONER REYNOSO: No. Effie has already put
8 the materials together for me. I am going to see if I can
9 write it out.

10 CHAIRPERSON BERRY: Okay. Let me say that we do not
11 have a quorum. Commissioner Redenbaugh told me he would not be
12 here. Commissioner Lee --

13 COMMISSIONER REYNOSO: So two are there.

14 CHAIRPERSON BERRY: I beg your pardon?

15 COMMISSIONER REYNOSO: If you have two people there
16 and the two of us, doesn't that make a quorum?

17 CHAIRPERSON BERRY: I think we need five.

18 COMMISSIONER REYNOSO: Oh. Do --

19 CHAIRPERSON BERRY: Is that right, Sicilia?

20 COMMISSIONER REYNOSO: Do we need five no matter,
21 even if we have vacancies?

22 CHAIRPERSON BERRY: Sicilia is nodding her head and
23 so is Charlie. Various people are nodding their heads up and
24 down.

25 COMMISSIONER REYNOSO: We do need five?

1 CHAIRPERSON BERRY: That we need five people to have
2 a quorum.

3 Commissioner Lee, we became aware this morning that
4 she would not be here. We are trying to figure out where
5 Commissioner Edley is at the moment.

6 But what I think we ought to do -- this has happened
7 before. It should not happen, and people should make
8 themselves available for meetings, especially when we try very
9 hard to figure out whether people can come to a meeting before
10 we schedule it. It is not like we just schedule a meeting and
11 then hope people will show up.

12 So we would hope that people on the phone -- either
13 on the phone or in person, one or the other is acceptable --
14 would be willing to participate. And I know that things come
15 up, and people can't help it. And they have schedule problems
16 and all sorts of difficulties, just as I am late this morning,
17 only because they decided to pave the street where my car was
18 parked. So they moved my car to someplace where I didn't know
19 they had moved it to.

20 COMMISSIONER REYNOSO: Oh, my goodness.

21 CHAIRPERSON BERRY: But that was unplanned. I guess
22 I didn't read the sign carefully enough when I parked there.

23 But anyway, let's hope that when we schedule
24 meetings and when we go over the schedule for next year's
25 meeting, which we will do -- next year's meetings, which we

1 will do sometime or other, we can help -- people can figure out
2 their calendars and see when it is most likely that they will
3 not be able to participate. If they are not, just say so.

4 COMMISSIONER REYNOSO: Mary, in terms of future
5 meeting dates from my point of view, always the earlier the
6 better, so I can plan around them.

7 CHAIRPERSON BERRY: Right. And so I don't know when
8 the staff plans to do this -- when does the staff plan to find
9 out about the meetings? Monday. You will be sending a notice
10 to us on Monday. Okay.

11 So why don't we do this: Since we cannot take any
12 formal actions, let me make the announcements that are here.
13 And maybe we can have just a little bit of discussion of the
14 Mississippi report and anything else we want to talk about. We
15 can talk about things; we just can't make decisions.

16 Is that right, Sicilia?

17 MS. CHINN: Right.

18 CHAIRPERSON BERRY: We are permitted to talk? She
19 says yes. Okay.

20 The announcements are that we are in a three-week
21 continuing resolution, which I am sure everybody -- this
22 happens every year. The first time it happened some years ago,
23 everybody got all upset and excited and wondered if the Agency
24 was going to close down.

25 And I remember all of the things that federal

1 agencies had to go through to get prepared for shutdown. And
2 some of you who have been working in the civil service for a
3 long time know that we used to do all these shutdown
4 procedures. And everybody thought everybody was going home,
5 and that was the end of -- you know, cut the lights out. And
6 we have, in fact, had one shut down.

7 But we now know how we are to respond to a
8 continuing resolution. So we do have one, and we are still
9 operating.

10 And Congress may pass some legislation by October
11 21, if the President signs. If not, they will have another
12 continuing resolution. And if not, then they will have another
13 continuing resolution, because that is the way these things go
14 nowadays.

15 The statutory report on health care, which was to be
16 done in this year, was done and was sent to the Congress and to
17 the White House, I assume, as it was supposed to be.

18 I wonder -- there is one thing we can discuss,
19 whether we should do a press conference on the health care
20 report. I would like to have -- where is the staff director?

21 Well, anyway, the health care report, I think, has
22 some very timely information in it and some very good
23 information. And as you know, health care policy and
24 enforcement are issues that are very important to the public.
25 And they are being much discussed in the public arena.

1 And so sometimes we have press conferences when we
2 have reports to emphasize their importance and when we think^f
3 that there will be a substantial public interest.

4 That is usually the way we decide it, Elsie.

5 And so the question is whether we think we ought to
6 just release the report or have a press conference to do the
7 report. And I was wondering if anybody had any ideas about
8 this at all.

9 COMMISSIONER REYNOSO: Well, health is certainly
10 much in the news now. I guess the standard we ought to use in
11 deciding whether we have a press conference is whether we think
12 there is enough that the press actually will come.

13 Other than that, you know, it is not worth having a
14 press conference, if we don't think they are interested. But I
15 would assume that, health being as important as it is now,
16 there might be.

17 CHAIRPERSON BERRY: Why don't I have staff do a bit
18 of exploration to see in the next few days -- and I will talk
19 to some people myself -- to see how much interest there is in
20 this subject and if there is enough to have one? And if there
21 is, I will let you know.

22 Carl, were you about to say something?

23 COMMISSIONER ANDERSON: No, but that sounds fine to
24 me.

25 CHAIRPERSON BERRY: Okay.

1 Mississippi report. Does anyone have any comments
2 or suggestions about the Mississippi report? The status of
3 this is, we had not planned to approve it today anyway, or get
4 it passed today anyway, because Commissioner Redenbaugh asked
5 that we delay actually voting on it until the next time. He
6 asked that in the last few days.

7 And so the plan was to discuss it and be prepared to
8 vote on it the next time, if possible. And I wondered if there
9 are any comments on it or any discussion you would like to
10 have.

11 COMMISSIONER ANDERSON: I thought it was a good
12 report. I do have a few objections that I can discuss with the
13 staff. I will send the staff them early next week. And
14 certainly anything that I am suggesting will not be that much.
15 So it can be done by the time we have that next meeting.

16 Did Russell indicate he would be ready to vote on it
17 the next meeting?

18 CHAIRPERSON BERRY: He said that he would like to
19 participate in the discussion. And I would assume he would be
20 ready to vote on it next time. Charlie is nodding her head.
21 So yes, he would be prepared to vote on it next time.

22 I myself think that there are many places where the
23 report needs to be updated, which the staff can do. And I
24 would be prepared to say where either today or next time.

25 But there are places where the -- the information is

1 still all very good and very valid, based on what I know about
2 what is happening in Mississippi and what has happened since
3 the time we were there. But there are places where data from
4 both the Census Bureau -- there are current population surveys
5 that are done frequently, and that needs to be updated so that
6 we have the latest information.

7 There are also places where employment data on
8 people in the casino industry, for example, that we got from
9 the casino industry, since I don't think the State of
10 Mississippi keeps any data, that we might ask the Tunica
11 Commission, or whatever they are called, the gambling
12 commission, to see if they have any updated information.

13 I think what the staff should do routinely on these
14 reports is to update them. And the other thing is the staff
15 has updated some of the information already. I noticed that
16 there are places where there is information that they collected
17 since the hearings.

18 But the first part of the report, as I recall, does
19 not say that. It says that the report is based on the
20 hearings.

21 COMMISSIONER REYNOSO: Well, no. It does also say
22 that it is based on research or something of that sort. I
23 forget.

24 CHAIRPERSON BERRY: Let me see.

25 COMMISSIONER REYNOSO: Because we have discussed

1 that sort of problem before. It is broad enough that they
2 could update it. But the introduction, I guess the preface --

3 CHAIRPERSON BERRY: Well, the sentence that they
4 have, Cruz, says the report is based on testimony, documents,
5 as well as legal research and analysis.

6 COMMISSIONER REYNOSO: That is what I was thinking
7 of.

8 CHAIRPERSON BERRY: Right. But the inference one
9 might draw is that it is based on legal research and analysis
10 associated with the hearing.

11 COMMISSIONER REYNOSO: That testimony. Yes, you are
12 right.

13 CHAIRPERSON BERRY: What I am saying is, they ought
14 to add, in addition, something about how they updated it from
15 information that they collected, whether from media sources,
16 government agencies and the like, since that time. In other
17 words, just be very up front --

18 COMMISSIONER REYNOSO: Yes, I agree.

19 CHAIRPERSON BERRY: -- about the fact that they are
20 collecting stuff. They are not just going to be collecting
21 information and then stop everything at the date on which the
22 hearing took place.

23 COMMISSIONER REYNOSO: Yes.

24 CHAIRPERSON BERRY: And that as a rule, they ought
25 to just systemically update whatever they have. And that is

1 because the time between the hearing and the time we get the
2 report is so long. We hope to shorten that. But when it is^f so
3 long, we don't want the report to be stale because something
4 else happened between the time of the report.

5 Now Eddie is shaking his head.

6 What does that mean, Eddie? Would you like to say
7 something? Come on up.

8 Eddie wants to say something, Eddie Hailes.

9 As we are just talking, anybody who wants to say
10 anything --

11 MR. HAILES: Just for discussion purposes.

12 CHAIRPERSON BERRY: Okay.

13 MR. HAILES: Good morning, and thank you for this
14 opportunity.

15 The staff did undertake a subsequent review of the
16 data. And as you mentioned, updates have been made. And at
17 your suggestion, we will continue to do it. I will say, with
18 regard to the census data, that the breakdown provided in the
19 report was based on county figures. And those county figures
20 represent the most recent data.

21 So we did make an effort to update those sections.
22 And we learned very clearly that that is the best we can do at
23 this point. We have been in contact with the gambling
24 commission to get additional data. And some of that is
25 reflected in the report. But we will, of course, go over it

1 again and try to even update it more.

2 CHAIRPERSON BERRY: Well, I think it is incumbent^f
3 upon commissioners to tell you places -- and I will do that; I
4 just don't have the notes with me -- places where they think
5 that there should be updates, so that you can either respond by
6 updating or by simply saying what you just said, although I
7 would think you should go beyond that.

8 If the answer to why the population information is
9 not updated any more than it is is that you have county data,
10 which is the answer you gave, since people who know about
11 census information, who would look at this, scholars and the
12 like, would wonder about the current population survey and
13 other things, you should simply say in the footnote or
14 whatever, "This is, you know, county data." CPS may have later
15 data, but it is better to array it by county, or whatever your
16 judgment is for why you did it that way.

17 What you are trying to do there is to be responsive
18 to people who may decide that you should have looked at
19 something else that you did not look at, so that it is done
20 thoroughly.

21 . Yes, Cruz?

22 COMMISSIONER REYNOSO: I would like to notice that
23 the report is quite specific, and I think very properly so, in
24 saying these percentages come from the 1999 -- 1999 report or
25 whatever. So I think identifying it in that fashion is good,

1 and also that a later report came out or there are different
2 figures, in terms of from when we got those figures.

3 CHAIRPERSON BERRY: Well, I think that when this
4 report is done, and assuming that it is ultimately approved, we
5 should have a press conference on this report in Mississippi --

6 COMMISSIONER REYNOSO: Yes.

7 CHAIRPERSON BERRY: -- because the storm around the
8 Mississippi hearing -- and some of you may recall that I went
9 to meet with Governor Fordice after our hearing, with Melvin
10 Jenkins.

11 Melvin and I went over there to talk to him about
12 the education matters that were in here, and also about one of
13 the counties there that had been taken
14 over -- county school districts that had been taken over by the
15 state, because the state thought that the county district was
16 not functioning properly.

17 But the state had taken no responsibility, as I
18 recall, for improving the quality of education. Their concerns
19 were fiscal.

20 The parents in the community were complaining
21 because the schools were crummy. And they said having the
22 state take over the schools and keeping them, as they put it,
23 as crummy schools was not any better than having the local
24 people run it. And they wanted the state to take some
25 responsibility, since the state constitution of Mississippi,

1 like the state constitution of every other state, gives the
2 state government a responsibility for education.

3 The governor was somewhat reluctant, as I recall, to
4 make any commitments. But when the press arrived to hear what
5 he had to say, and he was asked the same question, I recall him
6 saying that he was going to look into it, and he was going to
7 see whether there was something that could be done.

8 So I don't know what has happened in Mississippi
9 since, but I think that the -- I know that the education system
10 still has a number of problems. I know that. But that is true
11 in every state.

12 But I do think that all this work that went into
13 this, and for the benefit of the people in Mississippi and the
14 government, that this would be one that we might want to go to
15 Mississippi and have a press conference, say, in Jackson and
16 release it, and then maybe go by and meet with the governor, if
17 it is the same governor or another governor.

18 I don't know who is the governor of Mississippi now.
19 Does anybody know if Mr. Fordice is still the governor of
20 Mississippi? That is not the kind of information that one goes
21 around with right at one's fingertips. Right? Does anybody
22 know offhand?

23 MS. HURLEY: He is a lame duck, if he is.

24 CHAIRPERSON BERRY: If he is, he is a lame duck,
25 says Carol-Lee. Okay.

1 Well, is there anything else we might usefully do,
2 since we are gathered here together?

3 (No response.)

4 CHAIRPERSON BERRY: Does anyone have any questions
5 about the state advisory committee report, Employment
6 Opportunities for Minorities in Montgomery County, Ohio, so
7 that we can know whether there is a statement to release?

8 (No response.)

9 CHAIRPERSON BERRY: Well, we also have a request to
10 add to the list of briefings. And we are supposed to get a
11 list of possible briefings, which I am told by a note that we
12 will get in the mail next week.

13 Commissioner Redenbaugh asks that we add the subject
14 of bilingual education, pointing out that a number of things
15 have happened in California and other places on bilingual
16 education, and that we update. Does anyone have any responses
17 or interest in that subject or think that we ought to --

18 COMMISSIONER REYNOSO: I think that is an important
19 subject to look at. And there has been a lot happening. I
20 think it would be good to hear, not just from offices, but
21 particularly from educators.

22 CHAIRPERSON BERRY: Yes. Okay. All right. Well,
23 if we have no other items to discuss and no one
24 has --

25 COMMISSIONER MEEKS: I --

1 CHAIRPERSON BERRY: Yes?

2 COMMISSIONER MEEKS: I would just like to kind of
3 update on some of the things happening in South Dakota.

4 CHAIRPERSON BERRY: Oh, yes, please do.

5 COMMISSIONER MEEKS: Well, I don't know if we talked
6 specifically about the young man in Mobridge, South Dakota,
7 that was found dead, stuffed into a trash can. He was 22 years
8 old and had FAS, but had been drinking with some non-Indians,
9 three young men that had given him alcohol that evening.

10 CHAIRPERSON BERRY: FAS, you said, fetal alcohol
11 syndrome?

12 COMMISSIONER MEEKS: Yes. At first the other young
13 men, three young men, were charged with manslaughter. But the
14 judge just yesterday, or the day before, dropped charges on
15 them because the autopsy had shown that he had died of alcohol
16 poisoning. Now, why he was stuffed in a trash can is beyond
17 me.

18 But needless to say, the Indian communities
19 are -- you know, and all the other things that have been
20 happening in South Dakota, this is just sort of the icing on
21 the cake. And I am not sure what is going to come as a result
22 of this.

23 And I think the judge probably followed the letter
24 of the law, but I am not sure if at this point there is
25 something we should do or -- I guess I would like advice on

1 that, if anybody has a little more experience in this.

2 CHAIRPERSON BERRY: What is the mood out there
3 generally, as you would describe it now? Are people -- how are
4 they feeling about waiting to see whether, you know,
5 investigations come to fruition, or how are they feeling about
6 --

7 COMMISSIONER MEEKS: Well, at Pine Ridge I think
8 people are resigned to waiting for, you know, more evidence.
9 The FBI says there is some more evidence that has to be sifted
10 through yet. But I think this -- and, I mean, this just came
11 out in the news yesterday. And Patrick was at a meeting in
12 Rapid City.

13 CRS had a mediation meeting of some kind, and I am
14 not sure how effective it was or even for sure what it
15 entailed. But people were very emotional, people from the
16 Indian community. And especially a woman who was from the
17 American Indian movement was very, very emotional and said, you
18 know, that they are gathering their forces.

19 So I -- if in fact that happens, you know, I can
20 assume that anybody in a car that looks like they are Indian
21 will be pulled over by a patrolman. And it could
22 be -- you know, I am ambivalent whether I hope it happens or
23 not.

24 CHAIRPERSON BERRY: So one of the issues here, Carl
25 and Cruz and the rest of us, is that we did not know about any

1 of this, and something else major happened, then we could say
2 we didn't know anything about it and say, "Well, if we had, we
3 would have done X, Y and Z."

4 But since Elsie is here and she keeps telling us
5 about it, and we probably, some of us, read about it or hear
6 about it otherwise, we can't say, one, we don't know anything
7 about it, because we do, because we are getting reports on it
8 every time we meet.

9 So the question is -- I am told, by the way, that
10 Commissioner Edley is on his way here. We will see if he is
11 here in a few minutes.

12 So the question is: Is there anything else we can
13 do? Now let's try to sum up what we have done so far.

14 How would you, Commissioner Meeks, sum up? We have
15 had some conversations.

16 COMMISSIONER MEEKS: Right.

17 CHAIRPERSON BERRY: We have asked the Attorney
18 General -- help me here. We have asked the Attorney General to
19 get the FBI to forcefully look into this.

20 COMMISSIONER MEEKS: Yes.

21 CHAIRPERSON BERRY: We asked for a meeting with the
22 Attorney General. And the Attorney General passed us to the
23 Assistant Attorney General for Civil Rights, since that is the
24 person who does the work.

25 And the Attorney General, who I am sure would have

1 been happy to meet with us, but the only thing she would have
2 done was to have the Assistant Attorney General for Civil
3 Rights. So we were meeting with the right person, and from
4 CRS.

5 So we had those meetings, and we had those
6 discussions. And they have now promised us to brief us again
7 and to give us some more information and to meet with us again
8 and keep us updated, which I am sure they will do.

9 COMMISSIONER MEEKS: Right.

10 CHAIRPERSON BERRY: We talked about having a forum,
11 but we have not resolved whether to do that or not. Is there
12 anything else that we really should be doing right now?

13 COMMISSIONER MEEKS: Well, I have yet to have a
14 meeting with the U.S. attorney, Ted McBride.

15 CHAIRPERSON BERRY: Oh, that's right. You were
16 supposed to do that. Right.

17 COMMISSIONER MEEKS: Yes. And I don't believe he
18 has tried to get in touch with me, although -- well, none of my
19 messages indicated that. I think I need to do that. But --

20 COMMISSIONER REYNOSO: Mary?

21 CHAIRPERSON BERRY: Yes.

22 COMMISSIONER REYNOSO: This is Cruz. You know, so
23 often it is not just what happens or what is done, but how it
24 happens and what is done to what has happened that is so
25 important.

1 In this case, for example, any comments made by
2 public officials would have been important, even when the judge
3 dismissed the case. And he may have been properly following
4 the law. I am sure there is a violation of law in stuffing a
5 person who has died in a garbage can, or whatever happened
6 here.

7 So maybe more can be done in that way just to show
8 the community official's repulsion as to what happened. And
9 then the more difficult process of getting the community,
10 particularly the white officials, to understand the point of
11 view of the Indian community is important; and if we can do
12 anything, the advisory committee or through our staff or
13 through you, Mary, going to the area to meet with them, some of
14 the officials, and getting both together.

15 So often in probably insular communities, it helps
16 very much to have a third party come in it and say basically,
17 "Okay, boys and girls, let's take a look at the problem," and
18 what do we do, at least put those issues on the table in sort
19 of a neutral way and sort of discuss it. I don't know
20 whether any of those sort of approaches or techniques might
21 work here, but it just seems to me that we have in this
22 community, and sadly we have in other communities, sort of a
23 continuing lack of understanding of how other folks view life.
24 And therefore, these incidents keep coming up over and over
25 again in different forms. But that is the reality.

1 CHAIRPERSON BERRY: Well, if we were to go to -- the
2 chief of police who is in charge of all this is where? I mean,
3 the sheriff or whoever it is.

4 COMMISSIONER MEEKS: Mobridge. What county is that?
5 Walworth County.

6 CHAIRPERSON BERRY: And his title is sheriff or
7 what?

8 COMMISSIONER MEEKS: Yes.

9 CHAIRPERSON BERRY: Which county is it?

10 COMMISSIONER MEEKS: Walworth County.

11 CHAIRPERSON BERRY: Walworth County. And he is the
12 sheriff.

13 COMMISSIONER MEEKS: Yes.

14 CHAIRPERSON BERRY: Would it do any good for us to
15 go without any kind of -- you know, not going to beat him over
16 the head but just have a meeting, to go meet with the sheriff
17 and to then meet with some of the Native American people,
18 Indian people, or together or not together or separately or a
19 series of meetings? Do you think that would do any good at
20 all?

21 COMMISSIONER MEEKS: Actually, I think that is a
22 very good idea, I mean, especially if you came out, put them on
23 the spot a little bit. I mean, I think that would get a lot of
24 press, that the Chairman of Civil Rights came out. I really --
25 I think that would be a great idea. I really do.

1 Beyond that, I mean, you know, if there -- I have to
2 agree with Cruz in that there has to be some criminal
3 wrongdoing here. I mean, maybe it wasn't manslaughter, but
4 there has to be some retribution for doing that. I don't know.

5 CHAIRPERSON BERRY: Are there lawyers? I mean, when
6 situations like this happen in a black community or in the
7 Latino community, you have lawyers from ALDEF (phonetic) from
8 the Asian-American community, ALDEF, et cetera.

9 Are there lawyers who are trying to analyze what the
10 legal basis for some of this is and figure out private rights
11 of action, or is it just simply waiting to see what the Feds
12 are going to do?

13 COMMISSIONER REYNOSO: There are Indian rights
14 organizations, particularly the one headed up by John
15 Eaglehawk. But, you know, it is always a matter of resources.

16 COMMISSIONER MEEKS: Resources. Exactly.

17 COMMISSIONER REYNOSO: Maybe they can put somebody
18 to do some research. What is harder in more communities is to
19 find the local lawyers to do pro bono work along these lines.
20 Traditionally, it has been harder in the smaller areas to --

21 COMMISSIONER MEEKS: Right. No, I don't believe
22 that there is any independent examination going on. I mean, I
23 could be wrong about that, but I am not aware of it.

24 COMMISSIONER REYNOSO: You know, we might give John
25 a call and see if he can break one of his lawyers loose in the

1 library, even though they are not in that particular state.

2 They can always look up state law.

3 But maybe communication with a local prosecutor and
4 sheriff would be enough to remind them that they ought to take
5 a look at the statutory scheme, because I cannot believe that
6 some violation of criminal norms didn't take place when
7 something like that happened.

8 CHAIRPERSON BERRY: Well, the idea of going -- I
9 like both those ideas. One is to get somebody to look at the
10 legal issues other than relying on the Justice Department, even
11 though I like the people at the Justice Department. They have
12 their own workload considerations and everything, too. And
13 they said that they would respond and that they would give us
14 another briefing about this and keep updating this.

15 I am willing to go there to have a meeting, if
16 somebody is willing to go with me. Are there any other
17 commissioners who would be willing to go out there?

18 COMMISSIONER MEEKS: Well, of course, I could meet
19 you there.

20 CHAIRPERSON BERRY: Yes. I know you will already be
21 there.

22 COMMISSIONER REYNOSO: This is Cruz. If it happens
23 after October 20, then I might be able to make it.

24 CHAIRPERSON BERRY: Okay.

25 COMMISSIONER REYNOSO: Unfortunately, not before

1 then.

2 COMMISSIONER ANDERSON: Well, I tell you I would
3 like to do it. I can't promise my schedule would permit me to
4 do it.

5 I just want to raise the point, if we are going to
6 start going out there, whether this is the right issue to have
7 a large presence of the Commission. Now I am not saying it is
8 not, but, again, thinking about how we are going to approach
9 this whole issue.

10 In other words, do we want to do it on this
11 occasion, Native American issues? And if we go out there this
12 fall, when are we going to go back?

13 COMMISSIONER MEEKS: Well, I would hope that this is
14 not -- I mean, several commissioners coming out and bringing
15 some attention and talking to the sheriff and the judge and
16 whoever wouldn't be the Native American project, because this
17 may not be the right issue. But --

18 COMMISSIONER REYNOSO: This is just a response.
19 There was a quick response to the school burning. That is, it
20 is not like a long-term project. It is a response to an issue
21 that has come up.

22 I think beyond that, though, it is sort of a -- it
23 is the raising of consciousness that we need to be mindful of
24 the responsibility that we, as public officials, have to all
25 the communities and --

1 COMMISSIONER MEEKS: Well, if we can raise the
2 consciousness in South Dakota, we will have accomplished a
3 great deal, believe me.

4 COMMISSIONER ANDERSON: So we are not saying this is
5 going to be it. We are looking to do something else, as well.

6 COMMISSIONER MEEKS: Well, I think I, for one, would
7 push, push you on that. So --

8 CHAIRPERSON BERRY: Yes. We have on the books,
9 housing, the Native American housing project.

10 But, Carl, let's -- I mean, those are -- the
11 questions we are looking at, these are all the right questions.
12 Obviously, we do other projects. This, then, if we decide to
13 do it, would be a short-term going out to see if we can get
14 something done.

15 And I guess it makes sense to do it, because I just
16 gave the same advice to somebody on another commission to go do
17 this -- so I guess I should follow my own advice -- who was
18 asking me what he should do with a new commission, which has to
19 do with religion, freedom of religion, and religious
20 discrimination issues. He was saying in terms of long-term
21 projects.

22 And then when some episode or event happened
23 somewhere with the particular community, and they are under
24 pressure, what should he do?

25 And I said, "Well, you should have a presence. And

1 if it is really that much of a problem that it is ongoing, you
2 ought to go there. Whatever the staff is doing, whatever the
3 people are doing there, whatever the Justice Department is
4 doing, whatever the State Department is doing, you ought to
5 show up."

6 So I guess I told him to show up, so I guess the
7 answer is we ought to show up, too.

8 COMMISSIONER REYNOSO: It might be a good idea, and
9 I don't know whether a regional office could do this for us or
10 not, but are we pretty confident that we understand why no
11 charges were filed against these people? Maybe we ought to at
12 least see some analysis as to why nothing was done.

13 COMMISSIONER MEEKS: Well, we can put something
14 together in a fairly short time. I mean, I know what was
15 reported in the paper.

16 COMMISSIONER REYNOSO: But I think that probably we
17 will not be in a position to challenge that. I am willing to
18 accept that charges were dropped properly. But that doesn't
19 resolve the broader issues that we have been discussing. But
20 you are right that we should have a memo.

21 CHAIRPERSON BERRY: We need a memo. We need
22 something that could be input.

23 Elsie, maybe you guys can put something together.
24 And then John --

25 COMMISSIONER MEEKS: Dulles.

1 CHAIRPERSON BERRY: -- Dulles in the regional office
2 can for us, so that we are clear.

3 My understanding is the reason why we would be going
4 would be not about just this particular incident with the guy
5 getting stuffed in the trash can. But because it has been
6 brought to our attention that there have been a series of
7 incidents that have created tension in that area.

8 COMMISSIONER MEEKS: Which the media has contributed
9 to a lot.

10 CHAIRPERSON BERRY: The media has?

11 COMMISSIONER MEEKS: Yes. I think that, you know, a
12 good share of these issues and the problems arising from them
13 has come from either the media's lack of attention to it or the
14 media's over-reaction to it.

15 Now, in this case, I can't -- I mean, there was no
16 press about this to begin with. And now, you know, the judge
17 is speaking out in defense of his ruling. But again, I mean,
18 that is one thing that your presence there, I think, would
19 bring the right kind of consciousness-raising to the media on a
20 lot of different levels.

21 CHAIRPERSON BERRY: Okay. But in order to do that,
22 we need a memo which summarizes what we think we know about
23 what happened. And that really is the responsibility of the
24 regional person. But you guys can work with us.

25 COMMISSIONER MEEKS: Yes. I feel confident now.

1 CHAIRPERSON BERRY: I beg your pardon?

2 COMMISSIONER MEEKS: I said I feel confident now.

3 CHAIRPERSON BERRY: And then -- so we know. We have
4 a briefing memo so we know exactly what it is we are supposed
5 to be concerned about, although we know viscerally, and we know
6 some of the facts, and with the update of information that we
7 got from Justice and any other information, because what we are
8 trying to do is not address any particular incident, but just
9 trying to do something to create a climate and to also make
10 clear that we are monitoring this and are aware of it and
11 understand it. And that is not our Indian project or Native
12 American project for the year.

13 So we will do that. I have been thinking -- and we
14 will try to do it. And it will be after October 20 when we
15 actually do it, but maybe we can get the memo sometime in the
16 next week or ten days. That would be good.

17 I have been thinking -- and I would like to know
18 what others think about this, since we have some time to
19 consider it -- wondering whether the Commission ought to be
20 trying to figure out a way within our resources to
21 systematically do work on Latinos and Asian-Americans and
22 Native American Indians in as systematic a way as the
23 Commission has in the past done work concerning African-
24 Americans and how African-Americans fare compared to whites.

25 We have done a lot of work in the past on women and

1 on women's issues, not as much in recent years, but some. We
2 have done some work on Asian-American issues. We got those two
3 reports that I very much cited. And we have paid attention to
4 Asian-American issues, Asian-American and Pacific Islander
5 issues, when we are dealing with other topics, or whatever
6 topic we are happening to deal with, if it has relevance.

7 We have not done much since the reports that were
8 done years ago when commissioners went out. Two commissioners
9 went to the reservations, and we did something on the tribal
10 government issue, which was a very hot issue at that time.

11 And before that, we had some reports on fishing
12 rights and other kinds of rights. I have forgotten the name of
13 it.

14 Some years ago the Commission did a report before
15 the one on tribal matters, a big report on the conflicts
16 between Native Americans and whites over things like fishing
17 and hunting and issues like that.

18 COMMISSIONER ANDERSON: Mary?

19 CHAIRPERSON BERRY: Yes.

20 COMMISSIONER ANDERSON: I have been involved with
21 the Natural Resources Defense Council on the issue of whaling
22 and treaty rights of Native Americans. And certainly in the
23 environment field, that has become a big issue and obviously
24 has civil rights implications. And we have not gotten involved
25 in that issue at all.

1 So I think that you are right, that we ought to take
2 a more systematic review of the issues that have come up and
3 that we know are going to be coming up.

4 CHAIRPERSON BERRY: Because there are two things, I
5 mean, I think, looking toward the 21st Century. One is the
6 demography, which shows us what the population is like. The
7 second is not to leave behind issues related to populations
8 that have been here a long time, just because the demography is
9 changing. I mean, there are all of these factors to keep in
10 mind.

11 And then there is the conflict or the possible
12 conflict, which one wants to avoid, between all the different
13 groups of people who will go to make up the country. So there
14 has to be some kind of balance between using resources to deal
15 with unsolved nagging issues that persist and to deal with just
16 sort of a baseline approach to studies on some of the groups.

17 I mean, if you look at employment, health care,
18 education, all of the issues, we have not done anything, or
19 entrepreneurship, whatever, systematically on Native Americans.
20 We have done some work on Asian-Americans, not a lot. Years
21 ago, the Commission did a few.

22 There are some older studies on Latino education,
23 mainly, I think, Mexican-Americans in the Southwest. I don't
24 think California was in that study.

25 So I have been wondering whether we ought to look at

1 what we have done. That is, somebody sit down and put together
2 -- I mean, that ought to be easy to do. The library has a list
3 of reports the Commission has done in categories.

4 We had an intern here one summer, the summer before
5 last, who did some work, going through all the different
6 reports we had done and trying to organize them. Maybe we can
7 resurrect that somewhere. He was planning for us to give it to
8 the commission, the race commission.

9 Now, they are trying to reach Commissioner Lee to
10 see if they can get her on the phone so we can vote on
11 something.

12 So I was just wondering if that is something we
13 ought to do so that when we come up in January and start
14 talking about a planning meeting, that we might -- because this
15 is a good point, because we are finishing up a backlog of
16 reports at this point. We have the New York police report and
17 the ADA report still in OGC. We have Fred's annual reports.

18 I would think that Fred's shop ought to be able to
19 do more than his one report a year, whether that means, in
20 terms of staffing allocations, one looks at that, or however.

21 But on the research evaluation side, there ought to
22 be more than -- possible to do more than one thing during a
23 year. On the hearing side, of course, we have to make sure
24 that we don't do more than we can, writing up the report in a
25 reasonable time.

1 But I am just wondering: Is there an advantage to
2 systematically just saying, "Okay. What have we done?"

3 We did a lot of stuff on gender years ago, the
4 Commission did. The Commission used to have, when it had
5 resources, a whole section devoted to working on gender issues,
6 women's issues. A lot of reports came out.

7 I don't know. Does anybody have any reactions to
8 that?

9 COMMISSIONER REYNOSO: I think this would be a good
10 time to evaluate sort of where we stand and where we are
11 thinking we should be going.

12 COMMISSIONER MEEKS: It would be really useful for
13 me. I am new to the Commission. I mean, without me having to
14 go do all the research myself, it would be great to have a
15 summary at least of all the different issues.

16 CHAIRPERSON BERRY: Of Commission work products.

17 COMMISSIONER MEEKS: Right.

18 CHAIRPERSON BERRY: Are we having any luck here?

19 Why don't we just forget it?

20 Okay. I don't have anything else here. We do not
21 have a quorum, so why don't we just give ourselves a day off?

22 COMMISSIONER REYNOSO: Well, the only thing we would
23 be able to do with a quorum at any rate, I think, is voting on
24 the staff report.

25 CHAIRPERSON BERRY: Oh, that's right. So do we have

1 any questions on the staff director's report? I didn't ask
2 that. We can do that.

3 COMMISSIONER ANDERSON: I don't have a question, per
4 se, but I think it would be nice if we could get a list of the
5 recommended briefings and maybe a projected schedule of when we
6 might have them. We talked something about that earlier this
7 morning.

8 CHAIRPERSON BERRY: Yes. Well, the staff director
9 is here now.

10 Did you hear what Commissioner Anderson said?

11 STAFF DIRECTOR MOY: Yes. Commissioner Anderson, I
12 will be glad to send those out next week.

13 COMMISSIONER ANDERSON: Great. Okay.

14 STAFF DIRECTOR MOY: Thank you.

15 CHAIRPERSON BERRY: What does this -- oh, I see.
16 That is voting rights. Oh, that was the other thing. Going
17 back to the Mississippi report once more, one of the things I
18 noticed in the report when I was reading it was that the voting
19 rights cases that are discussed, that there have been some
20 cases that are mentioned there, which means that the cases need
21 to be updated from what is in the report. That was one of the
22 things. So staff might want to look at that, too.

23 All right. I have nothing further. And if no one
24 else has anything further, thank you very much for this brief
25 encounter, meeting.

1 And when is the next meeting?

2 STAFF DIRECTOR MOY: November 5.

3 CHAIRPERSON BERRY: The next meeting of the
4 Commission is November 5. Thank you very much. And we are
5 adjourned.

6 Have a good day, Commissioner Anderson. Thank you
7 for being on.

8 And thank you, Cruz, for being on.

9 COMMISSIONER REYNOSO: Thank you.

10 (Thereupon, at 10:30 o'clock, a.m., the
11 meeting was adjourned.)

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Library