

U.S. COMMISSION ON CIVIL RIGHTS

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COMMISSION MEETING

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FRIDAY

NOVEMBER 3, 2000

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The Commission convened in Suite 540, YMCA Building, 624 9th Street, Northwest, Washington, D.C. 20425 at 9:30 a.m., Mary Frances Berry, Chairperson, presiding.

Present:

MARY FRANCES BERRY, Chairperson

CRUZ REYNOSO, Vice Chairperson

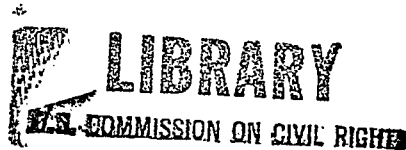
YVONNE Y. LEE, Commissioner

ELSIE M. MEEKS, Commissioner

RUSSELL G. REDENBAUGH, Commissioner (via telephone)

VICTORIA WILSON, Commissioner

LESLIE R. JIN, Staff Director



NEAL R. GROSS
COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

Staff Present:

DAVID ARONSON
 KIM BALL
 KI-TAEK CHUN
 TERRI DICKERSON
 PAMELA A. DUNSTON
 MICHAEL FOREMAN
 M. CATHERINE GATES
 GEORGE HARBISON
 EDWARD HAILES, Acting General Counsel
 LISA KELLY
 JOSEPH MANALILI
 JENNY PARK
 MARC PENTINO
 PETER REILLY, Parliamentarian
 JOYCE SMITH
 KWANA ROYAL
 MARCIA TYLER
 AUDREY WIGGINS
 AUDREY WRIGHT
 MIREILLE ZIESENISS

Commissioner Assistants Present:

PATRICK DUFFY
 CHARLOTTE PONTICELLI
 SCOTT SCHREIBER
 KRISHNA TOOLSIE

5/11/01

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

(9:39 a.m.)

CHAIRPERSON BERRY: The meeting will come to order and the first item on the agenda is the approval of the agenda.

APPROVAL OF AGENDA

CHAIRPERSON BERRY: Again, a motion to approve the agenda.

COMMISSIONER REDENBAUGH: So moved.

CHAIRPERSON BERRY: Hi, Russell. How are you doing?

COMMISSIONER REDENBAUGH: I'm doing better, Mary. Thank you.

CHAIRPERSON BERRY: Great. Did somebody second it?

VICE CHAIRPERSON REYNOSO: Second.

CHAIRPERSON BERRY: All in favor indicate by saying aye.

(Chorus of ayes.)

CHAIRPERSON BERRY: Opposed?

[No response.]

CHAIRPERSON BERRY: So ordered.

The next item on the agenda is announcements.

ANNOUNCEMENTS

1 CHAIRPERSON BERRY: I understand that
2 Commissioner Meeks, well, let me make these
3 announcements first. Betty Edmiston, who is Chief of
4 the Administrative Services and Clearinghouse
5 Division, has announced that she plans to retire and
6 Betty has worked for 31 years in the federal
7 government and 12 of those years have been here at the
8 Commission as Chief in the Administrative Services
9 Division. Her official retirement date is today. She
10 has been a valuable asset to the Commission. I have
11 known her throughout my long association with the
12 Commission and have always found her to be efficient
13 and effective and although we wish her well in her
14 retirement, we will sorely miss her.

15 We also want to say farewell today to Lisa
16 Kelly, Special Assistant to the Staff Director.
17 Lisa's last day will be November 10th. She's been
18 with us for two years and has helped to develop a
19 number of critical projects during her tenure. She's
20 done a great job and we're going to miss you, but we
21 wish you well in your future endeavors.

22 This is Native American Heritage Month.
23 The Commission will be sending out a press release on
24 this subject and the Planning Committee will make
25 available programs for the staff for this month.

1 Commissioner Meeks was one of our speakers last year
2 and it was one of the most popular presentations.

3 The Commission's Report "Sharing the
4 Dream: Is the ADA Accommodating All?" is now posted
5 on our Web site. It went up earlier this week during
6 American Disability Month. Printed copies will be
7 available in December.

8 The Agency is still operating under a
9 Continuing Resolution and apparently will do so until
10 November 14th.

11 What I want to do now is ask Commissioner
12 Meeks, I think, had an announcement to make and see if
13 anybody else has one.

14 COMMISSIONER MEEKS: Yes, thank you, Madam
15 Chair. I just wanted to publicly acknowledge one of
16 our South Dakota State Advisory Committee members. It
17 seems like the State Advisory Committee members really
18 get so little recognition and this is very important.
19 Dorothy Butler who has served on the State Advisory
20 Committee in South Dakota since 1969, her and her
21 husband were recipients of the Inaugural Brooking
22 Human Rights award for their work with affirmative
23 action and race relations. Eugene Butler was among
24 the first black aviators during World War II of the
25 Tuskegee Airmen, the legendary group of black pilots

1 and navigators. And then he went to South Dakota and
 2 obtained his doctorate and was one of the first
 3 affirmative action officers at SDSU, South Dakota
 4 State University. And as I said, Dorothy Butler has
 5 been on the State Advisory Committee for 31 years.
 6 And so I just want to publicly acknowledge their work
 7 in South Dakota. It's been very important and very
 8 appreciated.

9 CHAIRPERSON BERRY: All right.

10 VICE CHAIRPERSON REYNOSO: Madam Chair, I
 11 just want to express my thanks to the staff and the
 12 Commissioners for the commendation that was sent on
 13 the occasion of a reception in my honor because I had
 14 received the Medal of Freedom and my law school, UCLA,
 15 and the law firm I am associated with were having a
 16 reception and I was surprised when Phil Montez showed
 17 up and had the resolution and read it to the folk who
 18 were present. So thank you very much.

19 CHAIRPERSON BERRY: All right, well, we
 20 were quite pleased to be able to do that and we expect
 21 to have to do that at a reception somewhere every
 22 month for you.

23 VICE CHAIRPERSON REYNOSO: It's been just
 24 about that way.

25 (Laughter.)

1 CHAIRPERSON BERRY: I need to -- does
2 anyone else have an announcement? Okay.

3 I need to get approval of the minutes of
4 the last meeting.

5 APPROVAL OF MINUTES OF OCTOBER 13, 2000

6 MEETING

7 CHAIRPERSON BERRY: Could I get a motion
8 to approve the minutes?

9 COMMISSIONER WILSON: So moved.

10 CHAIRPERSON BERRY: Could I get a second?

11 VICE CHAIRPERSON REYNOSO: Second.

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

14 [A chorus of ayes.]

15 CHAIRPERSON BERRY: Opposed?

16 [No response.]

17 CHAIRPERSON BERRY: So ordered.

18 Does anyone have any changes or anything
19 they saw that they need to have changed in the
20 minutes? Okay. In that case, all those in favor of
21 approving the minutes indicate by saying aye.

22 [Chorus of ayes.]

23 CHAIRPERSON BERRY: Opposed

24 [No response.]

25 CHAIRPERSON BERRY So ordered.

1 The next item is the Staff Director's
2 report.

3 STAFF DIRECTOR'S REPORT

4 CHAIRPERSON BERRY: Does anyone have any
5 questions about anything in the Staff Director's
6 report?

7 Yes, Commissioner Meeks?

8 COMMISSIONER MEEKS: Actually, I have one
9 correction. The Hawaii Forum, you said the Staff
10 Director's Report said that we went there to discuss
11 the impact of the Native American Entitlement Programs
12 because of the Rice v. Cayetano case and that was not
13 the case. We actually went to discuss the impact it
14 had on the Native Hawaiian issues.

15 CHAIRPERSON BERRY: Are we on the first
16 page of the Staff Director's Report?

17 COMMISSIONER MEEKS: Yes.

18 CHAIRPERSON BERRY: So you're saying that
19 the forum on the plight of Native Hawaiians should not
20 be described as being in the context of Rice v.
21 Cayetano.

22 COMMISSIONER MEEKS: On Native American
23 Entitlement Programs which is what the report says.

24 CHAIRPERSON BERRY: Okay. All right.
25 That change should be made.

1 Does anyone else have any changes in the
2 Staff Director's Report? Yes?

3 COMMISSIONER LEE: Sorry, Madam Chair,
4 it's not a change but a couple of questions. Number
5 one, I'd like to ask the Staff Director for the status
6 of the letters that we sent two months ago to both the
7 Department of Justice, Inspector General and
8 Department of Energy, Inspector General, last month
9 regarding the Wen Ho Lee case investigation. Have
10 they responded?

11 STAFF DIRECTOR JIN: With regard to the
12 letter to the Attorney General's Office, that has been
13 sent and I don't believe we've heard back from them
14 yet on that.

15 With respect to The Department of Justice,
16 we've made some inquiries on kind of a staff-to-staff
17 level. We have found some information on it, but have
18 not finished determining what to do next on it. We're
19 getting some helpfulness, but we're not sure that
20 that's eventually going to be a fully fruitful
21 approach.

22 CHAIRPERSON BERRY: So we haven't gotten
23 any answers from Justice?

24 STAFF DIRECTOR JIN: No.

25 CHAIRPERSON BERRY: We sent the letter

1 through, right?

2 STAFF DIRECTOR JIN: Right.

3 CHAIRPERSON BERRY: What about Energy?

4 STAFF DIRECTOR JIN: We made some contacts
5 with various people over there. Perhaps, Terri, do
6 you want to elaborate on this just a little bit?
7 Terri Dickerson, who is our Chief of Office of Civil
8 Rights Evaluation, her office did the contacting.

9 CHAIRPERSON BERRY: Terri, you need to put
10 on a mike. There's one right there on the table.

11 MS. DICKERSON: Thank you, Madam Chair.
12 We made some inquiries at the Department of Justice
13 and we determined that there had been a statement
14 issued --

15 STAFF DIRECTOR JIN: This is Department of
16 Energy or Justice?

17 MS. DICKERSON: I'm sorry, by the
18 Department of Energy, thank you, and we determined
19 that there had been a statement issued with regard to
20 racial profiling that it was not going to be tolerated
21 at the Department and neither at the staff level nor
22 by contractors. Additionally, there are two
23 investigations, on-going, both looking into what
24 occurred and as well, there's an internal
25 investigation or an examination, not quite at the

1 investigation level, of their contracts with vendors
2 and whether or not there's any unintended racial
3 profiling going on. And so they indicated that they
4 would continue to keep us apprised. We spoke with the
5 Inspector General's Office that has both of those
6 investigations on-going.

7 CHAIRPERSON BERRY: Okay, so you will
8 continue to monitor this?

9 MS. DICKERSON: Yes.

10 CHAIRPERSON BERRY: Okay, all right, and
11 let us know what the results are. And if we don't get
12 letters or a response from Justice, I'd be happy to
13 call over there if you have a problem to follow up on
14 that.

15 Yvonne, is that okay for now?

16 COMMISSIONER LEE: Well, I think what the
17 Department of Justice, since it has been two months,
18 maybe the Chair can give them a call to just remind
19 them that we are waiting for the response.

20 CHAIRPERSON BERRY: I'll call them after
21 the election. Commissioner Meeks, I'm kidding. I'll
22 call them.

23 COMMISSIONER MEEKS: Thank you. Yes, one
24 more announcement that I had and of course, you made
25 aware to me is that the Department of Justice did --

1 Bureau of Justice Statistics did offer the Attorney
2 General some funding for the study and I think that's
3 very important and I'm very happy that that has
4 happened.

5 CHAIRPERSON BERRY: We had, in the context
6 of this, when we did the State Advisory Committee
7 Forums in South Dakota on issues related to Native
8 Americans and it blows from the unexplained killings
9 of a number of Native Americans in South Dakota and
10 Commissioner Meeks importuned us and the State
11 Advisory Committee to have a forum and we did and the
12 Commissioners went out and we had a report and one of
13 the recommendations in the SAC report was that there
14 ought to be a study done of the criminal justice
15 system in South Dakota in some specific counties, at
16 least, to figure out from everything from arrests all
17 the way through the process and trial whether there
18 were disparities based on race and whether Indians
19 were being discriminated against since there were
20 denials without any evidence from some of the
21 officials out there. And the question was where would
22 the money come from and would they do such a study and
23 as Commissioner Meeks has pointed out, the Bureau of
24 Justice statistics in the Justice Department here in
25 Washington has agreed to provide some funding for the

1 State Attorney General, if the Attorney General will
2 proceed with this. So we're all very pleased that the
3 recommendation is being acted upon and we can hope
4 Commissioner Meeks and you can follow up from out
5 there and the Regional Director can, that the Attorney
6 General will, in fact, accept the funding and proceed
7 with the study.

8 Commissioner Reynoso?

9 VICE CHAIRPERSON REYNOSO: Well, Madam
10 Chair, I had understood, I may be wrong that there had
11 been at least some preliminary inquiry as to whether
12 or not the funding of that study could be made
13 available with not an affirmative response initially
14 until the report actually came out and was published
15 and that appeared to have been influential in
16 influencing that unit of Justice, so I just want to
17 comment favorably on the work that the Advisory
18 Committee and the staff did in getting that report out
19 so quickly, because apparently that helped in the
20 process.

21 CHAIRPERSON BERRY: Yes, and Commissioner
22 Meeks was very effective on this. She and I, with her
23 assistant and my assistant, went over and met with the
24 people at Justice on more than one occasion and beat
25 various people around the head and had greatly

1 receptive comments from the Attorney General, who is
2 very interested in this question.

3 So I think that all of that follow up is
4 helping to make the recommendations have some
5 viability and not just be something that gathers dust.
6 So let's hope the Attorney General responds positively
7 and if he does not, let's see what else we need to do
8 to make that happen.

9 Anybody else have anything? Oh, in the
10 Staff Director's Report, let me just point out that
11 next month, at next month's meeting, we will be having
12 a briefing on issues related to the detention of those
13 immigrants and refugees that we have discussed before
14 and we agreed that we want to do something on this
15 issue. So next -- these are the folks who are
16 detained in jails and various prisons, State prisons,
17 not being sent home, but at the same time, not
18 admitted to the United States and who have been there,
19 many of them for quite a period of time.

20 There's an article, by the way, in the
21 most recent issue of the ABA Journal which is at
22 abajournal.com or something like that. It's -- is
23 that the Web site, does anybody know?

24 STAFF DIRECTOR JIN: That's correct, dot
25 net.

1 CHAIRPERSON BERRY: Dot net, on this
2 subject of the folks who are in detention and Amnesty
3 International and the International Human Rights Group
4 in New York have done a lot of work on this and we
5 agree we wanted to do some work on this. So we will
6 have an overview at the December meeting on these
7 issues and then the Staff Director will be providing
8 us with a plan for continuing to follow up on the
9 issue. It won't be a one time only -- and part of the
10 follow up also on immigration and refugees will be to
11 consider the issues that Commissioner Lee and the Vice
12 Chair raised concerning immigration and aliens, both
13 documented and undocumented, so that the Commission
14 can have a series of inquiries which at some point may
15 include going out to visit for this first topic some
16 of the prisons and places where people are detained.
17 So all of that we will begin on that -- we'll roll out
18 that initiative at the December meeting.

19 Okay. Now we have a report on the -- the
20 next item on the agenda is a report on the budget.

21 REPORT ON THE BUDGET

22 CHAIRPERSON BERRY: As I understand, Staff
23 Director, the OMB, the Office of Management and Budget
24 is not requiring a detailed budget submission this
25 year because it's an election year. And not only is

1 it an election year, there will be a new President in
2 office, so there's not any possibility of re-electing
3 the incumbent and so while we have to submit a budget,
4 we don't have to submit as much detail as we would in
5 normal years. This is also somewhat compromised by
6 the fact that the Congress and the President have not
7 agreed on a budget for this year and there seems to be
8 continuing standoff which if I read media accounts
9 correctly, and what I hear from the staffers
10 correctly, they aren't likely to until after the
11 election. So our ability to try to figure out what's
12 going on is somewhat compromised by that. But in any
13 case, we do have to make some sort of budget
14 submission, so where are we on this?

15 STAFF DIRECTOR JIN: That's correct, Madam
16 Chair. We provided you recently with a little more
17 information regarding the budget. Like the Chair
18 said, we know it's more sparse than in the past, but
19 in good part it's a reflection of a couple of things.
20 One is that this is an unusual year. It's an election
21 year. And second of all because our budgeting the
22 items, they're not that different than in the past.

23 I think where we are right now is if the
24 Commission would like, our Chief of Budget, George
25 Harbison is here and will answer any questions you

1 might have on it in terms of the planning and so
2 forth.

3 CHAIRPERSON BERRY: Now we have in our
4 budget book, I mean in our book, this slimmed down
5 submission that is required which doesn't have a lot
6 of information, but the amount requested is consistent
7 with the amount we requested last time which we didn't
8 get obviously. And so there isn't much change on
9 that.

10 Does anyone have any questions about what
11 is in this submission at this time? There will be a
12 later opportunity to modify some of this once the
13 election is out of the way and there will be guidance
14 about what people should be submitting.

15 VICE CHAIRPERSON REYNOSO: Madam Chair, it
16 just seems to me that it's so preliminary that I
17 personally would feel comfortable simply going forward
18 with the figures suggested by the staff, mainly \$13
19 million plus and then as you indicate, there will be
20 plenty of opportunity to go over it in greater detail
21 later when we know who's in office and what we think
22 the response would be.

23 CHAIRPERSON BERRY: The only thing I would
24 point out to you for your information and if you have
25 any questions, George, you can ask him about it. I

1 don't know if we need to get into that detail, is on
2 the budget sheet, the last page. There are some
3 projects listed and then there is a category called
4 monitoring. Do you see complaint processing and then
5 you see monitoring? We have had a discussion about
6 the need to have funds reserved for what do we call
7 it, short term projects or emerging issues or
8 something like that? And I understand from the Staff
9 Director and from George that this monitoring word is
10 put there instead of emerging issues. Is that
11 correct, George?

12 MR. HARBISON: It's not put there in lieu
13 of. It's just a more -- I think a more descriptive
14 way of defining it in terms of what we do.

15 CHAIRPERSON BERRY: Okay, so monitoring
16 means in the parlance that we use, talking among
17 ourselves, and anything that comes up that is part of
18 what we're looking at, but it's something we hadn't
19 planned on, but we have to deal with it.

20 MR. HARBISON: That's the interpretation
21 that I applied.

22 CHAIRPERSON BERRY: As long as everybody
23 understands that. And that's not the same as
24 monitoring which is part of the responsibility, the
25 overall responsibility of OCRE. It may be part of

1 that, but there's also monitoring down here under OGC
2 because in both cases, they may be dealing with
3 emerging issues. Is that correct?

4 MR. HARBISON: That's correct.

5 CHAIRPERSON BERRY: I just wanted to make
6 sure the Commissioners understood that that's where
7 that is.

8 All right, with that why don't we have a
9 motion to agree to this summary initial request for
10 the time being with the understanding that once we get
11 more guidance, there will be some modification in
12 which we'll just have to wait and see what that is.

13 COMMISSIONER WILSON: So moved:

14 CHAIRPERSON BERRY: Could I get a second?

15 VICE CHAIRPERSON REYNOSO: Second.

16 CHAIRPERSON BERRY: All in favor indicate
17 by saying aye.

18 [Chorus of ayes.]

19 CHAIRPERSON BERRY: Opposed?

20 [No response.]

21 CHAIRPERSON BERRY: So ordered.

22 If there's -- let's see, we go on now to
23 the Police Practices Report.

24 **POLICE PRACTICES REPORT**

25 CHAIRPERSON BERRY: The Commissioners will

1 recall that we agreed several months ago that after we
2 finish the New York hearing we would have a briefing
3 from experts who would come here to talk to us about
4 police practices. And we did that. And we had the
5 experts come in and then we agreed that we would take
6 the 1981 Commission Report, "Who Is Guarding the
7 Guardians, Police Practices and Civil Rights in
8 America" and we would update it so that we could take
9 a look at what's happened since the "Guardians" came
10 out and include a consideration of all of the reports
11 the Commission has done since then, whether the State
12 Advisory Committee reports or Commission hearings or
13 reports that we have done and other information and
14 see if we wanted to reiterate the same recommendations
15 or make some different ones or to take another bite at
16 what was happening with this issue of police practices
17 and civil rights in the Year 2000. That was all done
18 and the staff has prepared a report which is in draft,
19 of course, on this subject for us to review. I am
20 going to read a draft executive summary, it is a draft
21 because it is subject, of course, to being revised,
22 but it will at least give us the setting for what we
23 are doing.

24 The draft summary goes like this, "For
25 almost twenty years, the U.S. Commission on Civil

1 Rights has been at the forefront of the police
2 practices debate. Through its report "Who Is Guarding
3 the Guardians?" and numerous subsequent reports, the
4 Commission has made important recommendations to
5 improve the quality of police protection while
6 ensuring the protection of civil rights for all
7 Americans. The Commission has consistently endeavored
8 to underscore these connected goals.

9 "Law enforcement work is undeniably
10 difficult." We know that. We can read in the press
11 or even hear on the news about police officers who are
12 killed by perpetrators or whose lives are endangered.
13 "Officers must constantly be aware of the pressures to
14 reduce crime and make arrests"--which is what they're
15 supposed to do, "while balancing concerns about their
16 own safety and the constant stress of making split-
17 second decisions that could mean the difference
18 between life or death. The Commission applauds the
19 efforts of many law enforcement agencies to improve by
20 increasing diversity among the ranks of officers,
21 developing new training methods on the use of force,
22 and bolstering their internal affairs divisions. Many
23 police departments have also worked to strengthen
24 their relationships with people of color in their
25 communities and have updated their policies in order

1 to respond adequately to the needs of an ever-changing
2 constituency. Some police departments have
3 drastically reduced crime in the last few years and
4 fundamentally changed the communities in which they
5 serve. Indeed, the Commission found that cities like
6 New York City and Los Angeles, for example, have made
7 great strides in lowering crime rates. These
8 departments have not developed into what we regard as
9 world class police forces, however, due to lingering
10 concerns over the number and type of police misconduct
11 charges they must address."

12 In fact, in New York City and other
13 cities, the number of police shootings have declined,
14 while in other places they've gone up and the crime
15 rates have gone down to such an extent that the public
16 does not express as much concern about crime now as
17 they did, say, ten years ago as an issue of public
18 concern. But we still have lingering concerns over
19 the number and type police misconduct charges they
20 must address.

21 "Regrettably, crime reduction has often
22 come at a significant cost to the vulnerable
23 communities in greatest need of police protection."
24 And that's one of the issues. When we did "Who Is
25 Guarding the Guardians" before, a big concern was

1 communities of people of color who were called
2 minorities about the fact that they didn't have enough
3 police protection in their community. That was really
4 one of the highlighted concerns 20 years ago. We
5 don't -- they don't come to our community, they don't
6 protect us. We need to have greater police
7 protection. And these are the communities still in
8 greatest needs of police protection. But they are the
9 communities also where there are "reports of alleged
10 police brutality, harassment, and misconduct which
11 continues to spread in places throughout the country.
12 People of color seem to bear the brunt of the abuse,
13 which compounds the other injustices that they may
14 suffer as a result of their racial and ethnic
15 identity. In their laudable eagerness to achieve
16 crime reduction goals some police officers, it's sad
17 to say, appear to overstep their authority, trample on
18 individuals' civil rights and may cause entire
19 communities to fear the same people that they hired
20 and trusted to protect them.

21 "Based on the Commission's research, the
22 problem of police misconduct has affected every facet
23 of police culture and policies. Perpetrators can come
24 from any race, ethnicity or gender."

25 In other words, you can have Latino police

1 officers who hassle and harass Latinos and other
2 people of color. You can have black police officers
3 who do the same, as well as -- it's not just a matter
4 of white police officers doing something to people who
5 are of color. "Perpetrators can come from any race,
6 ethnicity or gender. They can be women or men, but
7 all police officers are essentially trained by the
8 same law enforcement methods that fail to adequately
9 address cultural diversity and civil rights.
10 Moreover, although law enforcement agencies may
11 significantly reduce crime and the number of police
12 shootings, these come," as I've said, "at a terrible
13 price... including racial profiling and... which continues
14 to make headlines in this country.

15 "The Commission has a long history of
16 looking at police in their administration of justice
17 and has made numerous recommendations to improve law
18 enforcement in all of our reports as a whole. Many of
19 our recommendations have been implemented and have
20 positively impacted the communities. Despite this,
21 reports of abuse seem to be incessant and we don't
22 seem to be able to get on top of this problem.
23 Federal investigators evaluate rogue police officers
24 and entire departments; politicians debate about
25 policies that purport to be tough on crime, yet strong

1 on civil rights. What emerges is the need for a
2 reasoned, systematic approach to honestly and
3 sufficiently address this matter once and for all," if
4 that's possible.

5 "By supplementing "Guardians" and its
6 other related reports, the Commission hopes that this
7 publication will move the apparent conflict between
8 law enforcement and civil rights objectives toward a
9 meaningful resolution." So what we have here is some
10 guidelines and objectives to remedy police misconduct.

11 "Some of the key findings have been made
12 in other reports. For example, we reiterate the need
13 to increase diversity in all law enforcement agencies
14 from the officer patrolling the streets to the
15 precinct captain."

16 As I've said, that won't solve the whole
17 problem because you can have people of color who are
18 abusing folks. It's not just a matter of white folk
19 abusing people of color.

20 "There's also a continuing need to
21 implement successful models of community policing
22 which is major."

23 There are communities in this country,
24 cities in this country, and Boston is one example, San
25 Diego and others, where they have effectively reduced

1 crime as well as reduced the number of police
2 brutality complaints. So communities that haven't
3 been able to do that need to look at these models and
4 try to figure out what they can do to improve police
5 training and cultural sensitivity issues and the
6 proper use of force.

7 We make "recommendations on the issue of
8 racial profiling, that need to be given the highest
9 priority. It is well settled that profiling exists in
10 some areas of law enforcement. However, profound
11 differences exist between the perceptions of the
12 police and the public, particularly with regard to
13 people of color. People of color often conclude that
14 they have been targeted and that there is racial
15 profiling rather than crime patterns or citizens
16 complaints. In contrast, many law enforcement
17 officers say that race and ethnicity are appropriate
18 elements of proper police investigations," that they
19 ought to take race and ethnicity into account
20 appropriately when they're making investigations and
21 they may have data which they think show that certain
22 people commit certain crimes and therefore; it's like
23 Willie Sutton, who when asked why he robbed banks, he
24 said, "because that's where the money is," that you
25 ought to go look at those communities because they're

1 the ones where the crime is going to be and they can
2 tell you that that's what they think.

3 "Despite efforts to monitor racial
4 profiling, some police officers and officials resist
5 collecting statistics on the race and ethnicity of the
6 people that they stop. It is clear that modified
7 police techniques based on facts, rather than myths,
8 about communities of color, would begin to remedy many
9 of the current problems surrounding this issue. So we
10 strongly recommend the collection of racial profiling
11 data to examine the extent of its use, legislation to
12 prosecute those who utilize it and the total
13 elimination of this practice in law enforcement."

14 On recruitment, selection, promotion and
15 retention, law enforcement personnel -- we still have
16 to figure out a way to get more bilingual officers,
17 more women, more people of color. Police departments
18 "have tried to implement affirmative action policies,
19 they have been unable to sustain diversity." There
20 are several reasons. One is attacks on affirmative
21 action and the other is that the recruitment efforts
22 have not specifically been able to target enough of
23 the people that they say they're trying to get or
24 they're not able to attract them because many people
25 of color have negative reactions to an attitude

1 towards law enforcement based on what they perceive as
2 the way that they have been treated.

3 We find that "the promotion and rewards
4 system of many law enforcement agencies are seriously
5 flawed. They emphasize crime reduction strategies and
6 that's fine, but they may negatively impact civil
7 rights by encouraging officers to engage in unlawful
8 practices in the hopes of gaining a promotion.
9 Indeed, racial profiling may be encouraged by this
10 rewards system because communities of color are
11 targeted as 'high crime areas.' The Commission
12 recommends that law enforcement agencies reevaluate
13 their retention and promotion policies, recognizing
14 that a system of rewards that promotes crime
15 prevention or the protection of civil rights should be
16 replaced with one that incorporates and reinforces
17 both those concerns."

18 Training, one of the problems is the
19 training of officers. Many police officers are afraid
20 all of the time. All well they should be, given the
21 circumstances in which they have to involve themselves
22 dealing with people who may be criminals. But the
23 kind of training that they have and the kinds of
24 decisions that they make, often we enforced their
25 reactions in a way that ends up interfering with

1 people's civil rights rather than community policing
2 and other kinds of crime prevention methods that get
3 the community involved so that they don't have these
4 problems of fear and can be seen as a welcome presence
5 in the community as opposed to a hostile presence.

6 "Finally, consent decrees with the federal government
7 may also be used to force recalcitrant police
8 departments to comply with federal mandates to improve
9 their training practices."

10 We also have some recommendations that
11 concern the way police departments handle complaints
12 within departments because there are a lot of
13 criticisms that the police departments do not seem to
14 punish adequately those who are engaged in abuse or
15 seem to be engaged in misconduct.

16 External Controls. We have for a long
17 time the Commission has recommended community civilian
18 review boards for police and many communities have
19 them now, but in some communities the civilian review
20 boards are looked at with contempt by the citizens
21 because they either do not have the authority to make
22 investigations where conclusions can be reached about
23 what may have happened in a given case or when they
24 make recommendations they're ignored by the
25 responsible officials when they make a recommendation

1 that someone should be punished or should be demoted
2 or should have some kind of remedy to an allegation of
3 police harassment or misconduct. Civilian review
4 boards need to exist and they need to be strengthened
5 and they need to have the powers to do their jobs.
6 Our "Guardians" report years ago recommended that they
7 be set up and many were set up in response to that,
8 but they do need to be strengthened, otherwise they
9 will be seen by people as simply a sham operation
10 where they really aren't doing a good job. Federal
11 monitors to oversee police misconduct should also be
12 enhanced in light of the civil rights statutes that
13 are in place to address these issues. But federal
14 monitors should only be used when all efforts to
15 alleviate the problem at the State level have been
16 taken and have not proven to be effective because
17 policing and responsibility for the police is a local
18 and State responsibility and not a federal
19 responsibility.

20 Prosecution of police misconduct is a
21 major issue because the attorneys, the District
22 Attorneys who are responsible for the prosecution are
23 often the same people who are responsible for
24 eliciting the cooperation of police departments when
25 they prosecute suspects, criminal suspects. So you

1 have -- it makes it very difficult for the District
2 Attorney to go about prosecuting a police officer. In
3 these cases, especially in high profile cases, the
4 Commission recommends an independent or special
5 prosecutor assigned solely to such cases and we think
6 that this would be a better result.

7 Remedies and Legal Developments - "The
8 passage of the Violent Crime Control and Law
9 Enforcement Act authorized the Attorney General of the
10 United States to bring civil actions against State and
11 local law enforcement agencies that engage in a
12 pattern of practice of constitutional rights
13 violation. This is very important, but the Justice
14 Department is inadequately funded to realize the full
15 authority provided under this Act." And some
16 Departments know that they can escape scrutiny simply
17 because the Justice Department doesn't have the
18 resources to go to all the places where there are
19 complaints and where there appear to be patterns and
20 practice. This relates to another major
21 recommendation that the Commission has made in another
22 report which is that the budgets of civil rights
23 enforcement agencies over the last 15 years have been
24 inadequately funded in general to do their jobs
25 including the Justice Department which makes the

1 effort to try to enforce civil rights in many cases a
2 joke, but this is a real problem for the Justice
3 Department in trying to implement its mandate and to
4 have money and funds available to investigate systemic
5 police misconduct.

6 The criminal prosecutions are important.
7 There are individual police officers who may have
8 engaged in some kind of misconduct. There's a federal
9 statute, 18 U.S. Code 242, which requires that if an
10 officer is accused of violating one's federal civil
11 rights in an incident of alleged police abuse, that it
12 must be shown that the officer had a specific intent
13 to violate civil rights, not just that the officer did
14 it, but must have a specific intent. And proving
15 specific intent has been shown to be a major problem
16 and the Commission has recommended over and over again
17 that the "specific intent" requirement should be
18 removed, to be replaced with simply an intent
19 requirement as opposed to a "specific intent"
20 requirement.

21 The last thing I will say is that one of
22 the remedies has been to have people bring civil suits
23 against police departments with the idea that if the
24 public finds out that it's spending millions of
25 dollars in outlays of taxpayers' money for these

1 police brutality suits that perhaps that will have
2 some influence on improving the training and making
3 sure that police departments protect civil rights.
4 That has not proven effective. When the Commission
5 did the "Guardians" Report years ago we thought that
6 that would be a great idea and it would help to reduce
7 the incident. It hasn't. And the reason why it
8 hasn't is because the public, in general, doesn't
9 really know how much money is being spent. Police
10 department guard jealously information about how much
11 money is being spent and so do government agencies and
12 then when people hear about how much money is being
13 spent, for example, there was a story in this
14 morning's paper that \$6 million has already been spent
15 in taxpayers' money this year in Prince George's
16 County, Maryland which is a suburb here for police
17 brutality cases. When people hear about the funds and
18 there's more being spent in Los Angeles and New York
19 and other places, I'm sure, they say well, maybe
20 that's the price of law enforcement. Maybe we have to
21 spend that money in order to make sure that crime is
22 controlled and what we're saying is that that's
23 ridiculous. There are departments that do not have
24 huge damage awards against them for police abuse and
25 where crime is controlled and so what these other

1 departments need to do is to follow their example. So
2 in sum, we believe that implementing the
3 recommendations in this report will help society
4 ensure effective police practices and protection of
5 civil rights.

6 What I would like to do now,
7 Commissioners, if it is okay with you is to ask first
8 if anyone has any general comments. First, I need a
9 motion to approve the report. I should have done that
10 and I need one, so we can discuss it.

11 VICE CHAIRPERSON REYNOSO: So moved.

12 COMMISSIONER LEE: Second.

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

15 [Chorus of ayes.]

16 CHAIRPERSON BERRY: Opposed?

17 [No response.]

18 CHAIRPERSON BERRY: So ordered.

19 Does anyone have any general comments and
20 then after we get general comments we're going to go
21 page by page. yes?

22 COMMISSIONER REDENBAUGH: Yes, this is
23 Commissioner Redenbaugh. My general comment -- maybe
24 there is more than one, but the first one is
25 procedural or process. I think of this as an

1 important report, yet the Executive Summary just came
2 to us this morning and the sole draft report came only
3 Monday and I believe we have the practice in the
4 Commission of giving Commissioners about a month or
5 more to review reports. The rush on this one might,
6 in fact, cause some people to think that there's a
7 pining issue to release this before the election.

8 CHAIRPERSON BERRY: Are you asking a
9 question?

10 COMMISSIONER REDENBAUGH: I'm asking the
11 question of do we have the policy of giving
12 Commissioners more than a week to examine reports?

13 CHAIRPERSON BERRY: First of all, we don't
14 have a policy about Commission reports. We have a
15 policy about SAC reports. The second is that I can't
16 see how this report could have anything to do with the
17 election since both the major party candidates, I
18 don't know what Mr. Nader stands for, I haven't
19 followed -- or Mr. Buchanan, but both of the major
20 party candidates are very strong supporters of police.
21 They haven't said anything about police misconduct to
22 my knowledge and this report does not say anything
23 about any of the candidates having anything to do with
24 anything. And since this report was approved by the
25 Commission as something it should do long before

1 anybody knew who was going to run for anything --

2 COMMISSIONER REDENBAUGH: Right.

3 CHAIRPERSON BERRY: So I don't see how
4 this report could have anything to do with whatever it
5 says.

6 COMMISSIONER REDENBAUGH: It's just the
7 press of business that gives us four days to look at
8 this.

9 CHAIRPERSON BERRY: Maybe it's because the
10 staff didn't finish it, but we had scheduled this
11 report for October and it's now November, so it's just
12 simply a matter of getting it done when they get it
13 done. I can see nothing -- perhaps you can point
14 something out to me, but I can see nothing in this
15 report.

16 COMMISSIONER REDENBAUGH: There is an
17 indirect criticisms of Presidents Reagan and Bush.

18 CHAIRPERSON BERRY: You mean the
19 Presidents who -- you're not talking about the
20 putative President Bush. You're talking about George
21 Bush who was President.

22 COMMISSIONER REDENBAUGH: For one.

23 CHAIRPERSON BERRY: That election?

24 COMMISSIONER REDENBAUGH: That election.

25 CHAIRPERSON BERRY: What does that

1 election have to do with --

2 COMMISSIONER REDENBAUGH: No, no. I'm not
3 talking about that election, but the criticism before
4 this next election of those two Administrations.

5 CHAIRPERSON BERRY: I can't understand how
6 criticizing, if there is some criticism of President
7 Reagan who was President -- when was he President,
8 1980 to 1988.

9 COMMISSIONER REDENBAUGH: I'm sure we can
10 agree on that.

11 CHAIRPERSON BERRY: Bush, he was president
12 from 1988 to 1992 has anything to do with this
13 election. Maybe I'm missing something.

14 COMMISSIONER REDENBAUGH: All right, well,
15 then --

16 CHAIRPERSON BERRY: And in fact, I have a
17 criticism of President Clinton, who is in office right
18 now, which is a little closer to this election.

19 COMMISSIONER REDENBAUGH: Uh-huh.

20 CHAIRPERSON BERRY: - For not issuing an
21 order to outlay racial profiling. Now I think that's
22 a little closer.

23 COMMISSIONER REDENBAUGH: Uh-huh.

24 CHAIRPERSON BERRY: And I could care less
25 about whether it criticizes somebody who was in office

1 before or in office now for that matter.

2 COMMISSIONER REDENBAUGH: Okay. So then
3 the issue really is or the question is do you feel
4 that four days is a sufficient time for us to study
5 this report?

6 CHAIRPERSON BERRY: It depends on whether
7 you personally feel that it is, for you, and how the
8 Commissioners feel.

9 COMMISSIONER REDENBAUGH: Right, okay. I
10 felt rushed by this.

11 CHAIRPERSON BERRY: Okay.

12 COMMISSIONER REDENBAUGH: The other is a
13 question about clarification. This report is -- if I
14 understand, as you said, to update a "Guardians"
15 report. Let me just -- in general, rather than
16 focused on any particular cities?

17 CHAIRPERSON BERRY: It means that it is --
18 "Guardians" was based on hearings in specific places
19 all over the country. It means that it takes all the
20 information we have from all the different kinds of
21 reports the Commission has done before, whether
22 they're SAC reports or ones that the Commission did or
23 wherever and the information that the scholars and
24 experts who came to talk to us gave us as well as
25 anything else the staff looked up and tries to come up

1 with what it regards as the best practices and the
2 best recommendations.

3 COMMISSIONER REDENBAUGH: Okay, then the
4 findings here do in many cases reference experts or
5 prior work, but I'm told that, in fact, in many cases
6 they reference newspaper accounts.

7 CHAIRPERSON BERRY: What's wrong with
8 newspaper accounts?

9 COMMISSIONER REDENBAUGH: I wouldn't -- if
10 we're going for findings of fact, I think it would be
11 a good practice to go to original sources and not rely
12 on newspaper accounts which, as you know, sometimes
13 aren't completely and fully accurate.

14 CHAIRPERSON BERRY: Well, this is not a
15 hearing report, Commissioner Redenbaugh, as you know.

16 COMMISSIONER REDENBAUGH: Right.

17 CHAIRPERSON BERRY: Where we have
18 witnesses and have them come under oath and subpoena
19 materials. This is not a hearing.

20 COMMISSIONER REDENBAUGH: Right.

21 CHAIRPERSON BERRY: It is simply a report
22 based on what we have done already on other kinds of
23 issues as well as any research materials and
24 newspapers are primary sources. One may controvert
25 what is in a news story, but they may or may not be

1 correct, but they are definitely primary sources, I
2 can tell you that.

3 COMMISSIONER REDENBAUGH: Well, those are
4 the procedural questions that I had.

5 CHAIRPERSON BERRY: All right, okay.

6 COMMISSIONER REDENBAUGH: I'll have more
7 questions later.

8 CHAIRPERSON BERRY: Okay. Vice Chair?

9 VICE CHAIRPERSON REYNOSO: Madam Chair, I
10 too, normally would like more time to study it.
11 However, I did have a chance to study it and the
12 recommendations that we have here are not remarkable
13 in terms of our previous reports. So if it were a
14 greatly -- a report that greatly changed or was
15 different than the reports that we've had before, then
16 I would have thought that I needed more time, but in
17 going through it, it's really, as the Chair has
18 indicated, somewhat of a summary of all of the various
19 reports and considerations that we've already placed
20 before the public and tries to put it in a cohesive
21 manner in this report. So in light of that, I felt
22 that I had sufficient time to go over the report and
23 its recommendations.

24 I too, have some observations that I'll
25 make later on, but in general, that was my reaction to

1 the report.

2 CHAIRPERSON BERRY: Okay, does anyone else
3 have any general comments, either about the report
4 itself or about the Executive Summary which we are not
5 approving the Executive Summary today. The Executive
6 Summary is just something we do before we print a
7 report so that the people who read it can read that,
8 if they don't want to read the whole report. But if
9 you have any comments about changes that you think
10 should be made in that, the staff can take into
11 account --

12 COMMISSIONER REDENBAUGH: Madam Chair?

13 CHAIRPERSON BERRY: Yes.

14 COMMISSIONER REDENBAUGH: I actually quite
15 like this Executive Summary. But our practice is not
16 to not necessarily approve those?

17 CHAIRPERSON BERRY: What I'm saying is
18 that we're not going to issue it. We are going to --
19 it can be revised. And in fact, we have left it
20 really to the staff to prepare Executive Summaries,
21 which are assumed to be just a summary of what's in
22 the recommendation.

23 COMMISSIONER REDENBAUGH: Uh-huh.

24 CHAIRPERSON BERRY: That's generally how
25 we've done it.

1 COMMISSIONER REDENBAUGH: Okay.

2 CHAIRPERSON BERRY: But I'm saying if you
3 have comments on or the things you'd like to change in
4 it or something about the writing of it or anything,
5 you can share that now or you can share it with the
6 staff.

7 COMMISSIONER REDENBAUGH: I'm reluctant to
8 do this, but I think I better. I quite like -- I like
9 the Executive Summary much more than the report.

10 (Laughter.)

11 CHAIRPERSON BERRY: That's very
12 interesting. I don't know how quite to take that,
13 Russell. So I won't go there.

14 COMMISSIONER REDENBAUGH: That's fine. I
15 don't want to offer any suggestions that would then --

16 CHAIRPERSON BERRY: Maybe you liked the
17 way I read it.

18 COMMISSIONER REDENBAUGH: That, too, was
19 quite good.

20 (Laughter.)

21 CHAIRPERSON BERRY: Okay, Commissioner
22 Wilson?

23 COMMISSIONER WILSON: Thank you, Madam
24 Chair. I also found the report, the Executive Summary
25 very helpful. I have a number of comments in terms of

1 language and in terms of the way it's actually set up,
2 in terms of its readability that I would like to
3 discuss or I'd be happy to pass on my comments to the
4 staff, if they're interested.

5 CHAIRPERSON BERRY: So these are comments
6 that won't, obviously won't change the substance
7 because it's a summary of the report, but it will make
8 it more user friendly?

9 COMMISSIONER WILSON: Okay.

10 CHAIRPERSON BERRY: Well, we very much
11 would appreciate that if you would share that with the
12 Staff Director and talk to him about it.

13 VICE CHAIRPERSON REYNOSO: Yes, Madam
14 Chair, one further comment. In going over the report,
15 I had in mind the emphasis we've placed over the last
16 couple of years on getting the reports out in a timely
17 fashion, so I think I have that in mind also in going
18 through it because we had been scheduled for October
19 and if we can get it out as quickly as possible,
20 obviously that's what we ought to do in terms of our
21 responsibility to the public.

22 CHAIRPERSON BERRY: Okay, yes?

23 COMMISSIONER WILSON: I just have one
24 final comment before we move on in relationship to
25 what Commissioner Redenbaugh said. I've been here

1 since January and I don't think I've ever had a month
2 since January to consider a report. I think we
3 usually get them either two weeks or a week before and
4 by this time I'm in training.

5 CHAIRPERSON BERRY: Yes, and the other
6 part of it is that we had the briefing with the
7 experts and we were all sitting here listening to the
8 experts and had plenty of opportunity to ask them
9 questions and we got a transcript from them which we
10 could read or have read to us and so we -- and we were
11 at the hearings. So it's not that we are without
12 expertise on these and the various other kinds of
13 forums.

14 Anyway, why don't we go to the
15 recommendations, if that's okay, with the
16 understanding that the language in it, if you have
17 changes in the language or anything that you would
18 like to change in the report or any other items, you
19 can give those to the staff and as usual, they will
20 make whatever changes. Also, I would point out to you
21 that when the staff has revised the material on page 6
22 and 7 or in the process of revising it, to include a -
23 - well, the copy, we've included the information on
24 the decline in shootings in New York City and pointed
25 out what I said in the Executive Summary about the

1 relationship between a decline in shootings which may
2 or may not, or an increase in shootings, you relate it
3 to the number of civil rights complaints. There's a
4 small change on page 14 where they have an implication
5 that if you are better educated you are somewhat
6 smarter and we pointed out in our New York hearing
7 report that just because someone is better educated
8 that doesn't mean they're smarter. They may or may
9 not be smarter and so they have simply now left in
10 better educated and not smarter. Some people I know
11 that are better educated are dumber, if I may say so,
12 or they appear to be anyway.

13 And the point is that all the research
14 shows that police officers who are better educated
15 have fewer civil rights complaints filed against them.
16 That's really the point. And they have pointed out
17 what I said in the summary that officers of color are
18 just as capable of engaging in racial profiling as
19 anybody who is not a person of color.

20 Why don't we go over the recommendations
21 to the extent that anyone wants to make any -- is
22 there any overall recommendation or any recommendation
23 -- let's see, in this first -- on page 37, I guess it
24 is, what page is it?

25 COMMISSIONER LEE: Madam Chair?

1 CHAIRPERSON BERRY: Yes.

2 COMMISSIONER LEE: Before you go to the
3 recommendations, can I make a comment regarding
4 Chapter 2?

5 CHAIRPERSON BERRY: You may do whatever
6 you like.

7 COMMISSIONER LEE: Chapter 2 deals with
8 recruitment and training for police work, dealing with
9 the population and they talk about the diversity and
10 other needs, but I would like to put in a new opening
11 paragraph talking about the demographic changes since
12 1981 because the tremendous demographic change causes
13 the need to address the whole issue of diversity
14 differently in terms of cultural and linguistic needs
15 of the various communities the police serve. I'd like
16 to have that as the background for Chapter 2.

17 CHAIRPERSON BERRY: So we would in the
18 beginning of it, on the first page, add something
19 about the greater diversity in the population.

20 COMMISSIONER LEE: Yes, in the last 20
21 years.

22 CHAIRPERSON BERRY: Before we start
23 talking about the lack of diversity in the law
24 enforcement, okay, so we would add something there.

25 If there's no objection, we would do that.

1 VICE CHAIRPERSON REYNOSO: Madam Chair, I
2 have a general concern with respect to Chapter 2 where
3 in times past the reports that we've issued, we have
4 recommended, made recommendations pertaining to
5 recruitment, selection and training of police
6 officers, all of which is manifestly important. The
7 report points out that we still do not have enough
8 diversity in terms of gender, enough diversity in
9 terms of race and ethnicity in many police departments
10 and that's very important. And the training that the
11 police officers get at the police academy is
12 manifestly important.

13 On the other hand, we see -- we hear so
14 often that a young police officer has just graduated
15 from the police academy. They go on the job the first
16 day and the officer in charge of that recruit will say
17 now this is the real world, forget everything that you
18 learned in the academy. This is the way you do
19 things. And a young officer goes through basically a
20 new training and in that regard, it seems to me that
21 the recommendations will not take hold until a
22 department really investigates in depth what are the
23 rewards that an officer feels or gets in his job, when
24 will his commanding officer say hey, you've done a
25 good job and we heard the complaints in the hearings

1 that very few officers get commendations for
2 protecting the civil rights of individuals. In Los
3 Angeles, for example, where I'm from, the point of
4 commendation is how many arrests an officer makes, not
5 how many convictions, but how many arrests. So we
6 have to -- seems to me, sit back and investigate with
7 some care what's the reward system. What will make
8 one officer turn to a fellow officer and say Jane, you
9 did a good job. Jaime, that's a great -- you really
10 treated that citizen the way a citizen ought to be
11 treated. We really have to get to that sort of reward
12 system, a reward system that comes from above, a
13 reward system that comes from fellow officers and I'm
14 -- and that's hinted at in our recommendations. But I
15 just wonder whether we might make something more
16 express -- I'm not sure that we've had enough,
17 frankly, I haven't read reports that really try to get
18 into that in depth, but I'm just concerned that
19 probably every recommendation we make could be
20 accepted, but until that sort of culture changes, we
21 may not get to the core of what we need to do. So I
22 just want to express that sort of general concern. In
23 some ways I'm reluctant to because even these, what I
24 consider more modest recommendations, many departments
25 haven't accepted, but I just don't think we'll get to

1 the core of the issue without that type of in-depth
2 study and then recommendations that come from it.

3 Let me, however, add one footnote. Some
4 years ago this Commission issued a report pertaining
5 to problems that the Latino community was having here
6 in Washington, D.C., and I recall that on that
7 occasion the police department accepted the
8 recommendations, implemented them, and we haven't had
9 continuing expressions of concern from the Latino
10 community in this city. So I think that when even our
11 more modest recommendations are accepted, good things
12 can happen. Nonetheless, we've been dealing with
13 these issues -- we've been a Commission in 1957 and I
14 just think that sometime we need to get even more in
15 depth. So that's the general observation that I have.

16 CHAIRPERSON BERRY: There are two things.
17 One is that at the New York hearing we had testimony
18 from police officers about the fact that no one ever
19 rewarded them for crime reduction and protecting civil
20 rights because no one ever cared whether they -- in
21 their view at least, the ones who testified, that no
22 one cared about the civil rights aspect one way or the
23 other, either whether it was assumed or whether it was
24 not a priority. And they thought there ought to be
25 some reward system and in the New York Police

1 Practices Report, the report we did on New York, we
2 made a recommendation that civil rights -- the civil
3 rights record of police officers ought to be
4 considered along with other aspects of their job.

5 We also pointed out in our analysis of the
6 data on arrests in New York this disparity between
7 police officers stopping people and not arresting them
8 or arresting them and then not convicting them as one
9 measure that really ought to be looked at. So there
10 are those things.

11 The other thing is about our
12 recommendations. You're right that in the case of
13 Mount Pleasant here in D.C. the police department did
14 respond positively. When police departments don't
15 respond positively, bad things happen. You may recall
16 that in the Los Angeles report we pointed out some of
17 the problems that exist in Los Angeles, LAPD and in
18 the county police before the recent eruption of media
19 stories about all the stuff that has happened there.

20 VICE CHAIRPERSON REYNOSO: Rampart.

21 CHAIRPERSON BERRY: And when we issued our
22 report, the police department denied that anything was
23 wrong and even the major media out there, you recall

24 --

25 VICE CHAIRPERSON REYNOSO: The Los Angeles

1 Times editorialized that we were too late, all those
2 problems have been taken care of.

3 CHAIRPERSON BERRY: The problems had been
4 solved.

5 VICE CHAIRPERSON REYNOSO: Yes.

6 CHAIRPERSON BERRY: And here we come a
7 year later and the same problems exist and they had
8 ignored, even though we had pointed them all out, had
9 subpoenaed people, had the records, the information
10 and the rest of it. So I think it would be well if
11 people did pay attention.

12 Now on the specific question you raise, on
13 page 41 under Promotion and Retention, staff has a
14 recommendation about the reward system and how the
15 reward system should be changed. But I think what
16 they should do is expand that recommendation to
17 include the kind of language that you have said here,
18 either there or in the beginning of the section on
19 selection, training and recruitment and promotion to
20 point out what you just said in general about the
21 culture and about the need to have overall a reward
22 system in place and then these recommendations that
23 are already here on page 41 would simply be
24 subheadings of the --

25 VICE CHIARPERSON REYNOSO: And it's been

1 pointed out to me that there is some mention about the
2 rewards system under promotion and retention.

3 CHAIRPERSON BERRY: Right, on page 41.

4 VICE CHAIRPERSON REYNOSO: Right. Though
5 my sense goes even a little bit further than promotion
6 retention, is how do fellow officers --

7 CHAIRPERSON BERRY: Regard each other.

8 VICE CHAIRPERSON REYNOSO: Regard each
9 other, because there have been a lot of reports after
10 Ramparts of officers in Los Angeles who did file
11 reports against fellow officers when they lie later
12 civil rights and at least those media reports indicate
13 that those officers have testified that they were
14 ostracized by their fellow officers within the
15 department after doing that. So we need a reward
16 system, not just in terms of promotion, that's very
17 important and what the heads of those departments do
18 and say, but also how they feel about one another and
19 their role within the department, their role as
20 officers. So I like what we have here. I'm not
21 objecting to what we have here. I'm just suggesting
22 that we need to go more in depth on that issue.

23 CHAIRPERSON BERRY: Okay.

24 COMMISSIONER REDENBAUGH: Madam Chair?

25 CHAIRPERSON BERRY: Yes, Commissioner.

1 COMMISSIONER REDENBAUGH: I wanted to say
2 I think you're putting your finger right on two
3 important issues, one of which we might be able to do
4 something about. The other, I'm sure not. And one is
5 incentives, the official system of acknowledgements
6 and rewards. Those changes there do change behaviors.
7 I think you're right. The second one is a cultural
8 change. As you mentioned, how fellow officers regard
9 one another. That is essentially a difficult
10 organizational problem. And so hard to change, like a
11 corporate culture, that for us to think that we can
12 recommend that and that that would carry, have any
13 effect, that it will just disappoint us.

14 VICE CHAIRPERSON REYNOSO: Madam Chair, my
15 only suggestion is that since I think many of the
16 recommendations could be accepted and yet that
17 incentive or reward system in terms of what an officer
18 says. "Gee, you've done a good job," but we won't
19 necessarily get there, but my only suggestion is that
20 we, in turn, suggest to the police departments
21 themselves or municipalities, of course, concern about
22 the police departments that they investigate that and
23 think about that more in depth. I'm not sure that I
24 have specific recommendations now that we would make,
25 but we've been in this business. We as a Commission of

1 looking at community-police relations and during the
2 now seven years that I've been on the Commission,
3 we've had several hearings on that issue and I'm
4 struck with how often in the hearings, particularly,
5 we seem to hear from two different communities, the
6 political leadership and the police departments come
7 in and testify that everything is perfectly fine in
8 their communities, then dozens and hundreds of
9 individuals and religious and community leaders come
10 and tell us about all the things that aren't right in
11 the departments and so I'm concerned about that divide
12 and I don't, as I say, I don't have specific
13 recommendations, but I do feel strongly that we need
14 to get even below the level of recommendations, some
15 time in the future and I'm just suggesting that we
16 make the suggestion now that we look more in depth
17 into those issues.

18 CHAIRPERSON BERRY: Perhaps if we can go
19 with the incentives, then hope that the culture
20 changes and then maybe we won't be too disappointed
21 even if it doesn't, at least the incentives might have
22 some impact.

23 COMMISSIONER REDENBAUGH: Some behaviors
24 will change.

25 CHAIRPERSON BERRY: Yeah, people who

1 respond to incentives will change.

2 COMMISSIONER REDENBAUGH: Well, that's the
3 supply side, certainly.

4 CHAIRPERSON BERRY: And I know you believe
5 that.

6 COMMISSIONER REDENBAUGH: I do.

7 CHAIRPERSON BERRY: You reiterated it over
8 and over again, so I would think that you would be
9 jumping up and down over the issue of incentives.

10 COMMISSIONER REDENBAUGH: My position is
11 quite clear.

12 (Laughter.)

13 CHAIRPERSON BERRY: So recruitment,
14 selection, training we have been discussing and
15 community policing, consent decrees. Then we have a
16 section on internal regulation of police departments.
17 In part, the issue of shootings and other kinds -- now
18 how does the department regulate itself and what does
19 it do when there is an allegation that something has
20 happened and trying to figure out what to do about
21 that?

22 COMMISSIONER REDENBAUGH: What chapter are
23 you in?

24 CHAIRPERSON BERRY: Whatever the next one
25 is --

1 VICE CHAIRPERSON REYNOSO: Findings and
2 recommendations, Chapter 3.

3 COMMISSIONER REDENBAUGH: Thank you.

4 CHAIRPERSON BERRY: What page?

5 VICE CHAIRPERSON REYNOSO: We have two
6 different versions, apparently. Page 68?

7 CHAIRPERSON BERRY: Yes. Reducing
8 incidents of unnecessary deadly force, how to do that
9 and there have been some departments that have reduced
10 the number of incidents of deadly force.

11 We recommended in "Guardians" that police
12 should be trained in the use of deadly weapons and
13 report discharges of fire arms within 24 hours of the
14 occurrence. The report says we continue to support
15 that, but that some departments have varying
16 interpretations as to what is a legitimate use of
17 deadly force and what we need is some kind of uniform
18 policy to get people to understand, so that the public
19 can understand and so can people.

20 A lot of it is the question of when does
21 it occur. Then there is what to do about establishing
22 that racial profiling has occurred, how do we get --
23 one of the major problems is even when community
24 people would absolutely agree that it has happened,
25 you have departments insisting that it hasn't or as I

1 said in the summary, or that if it did, did that make
2 sense and that they should do it. So there has to be
3 a system of record keeping so that we can be able to
4 evaluate who's been stopped and why in every
5 department. Some departments have resisted that. And
6 also a dialogue between people in the community and
7 the police in every community about what is an
8 acceptable definition that everybody can agree so
9 there aren't these big fights about whether it
10 happened or didn't happen and when do people in the
11 community believe that it is appropriate for it to
12 happen or not and until that's settled, there's no way
13 to get around this particular problem.

14 Does anyone have any questions about the
15 recommendations in Chapter 3? Yes?

16 VICE CHAIRPERSON REYNOSO: Madam Chair, I
17 just want to indicate that I've been teaching a
18 seminar this semester on the U.S. Commission on Civil
19 Rights and the issues it deals with, so I've had
20 occasion to read a lot of history and I've been
21 impressed by the emphasis that President Eisenhower
22 placed on the importance of getting facts and that's
23 why this Commission got subpoena power. The President
24 said in his address to the Congress that once we have
25 the facts, Congress and the nation can decide what to

1 do about civil rights at that time, voting and so on.

2 And I just think that one of the most important
3 recommendations that we have here, being resisted by
4 many people, including one governor of the State of
5 California, is to getting the facts about profiling
6 and so I think the recommendation that we "just get
7 the facts, ma'am," is very important and then from
8 there, knowing what the facts are, I think the various
9 legislative bodies will respond to the issue. But
10 we've got to know the facts and I regret that we have
11 resistance to finding out what the facts are and the
12 recommendation that we indeed take those steps to find
13 out what the facts are in terms of profiling,
14 particularly is very important.

15 CHAIRPERSON BERRY: And also the video
16 taping of arrests and stops by police is a very
17 important way to sort of document some of this. I
18 will add for the use of your seminar, Cruz, the
19 information that when Eisenhower was at the Cabinet
20 meeting discussing the legislation for the U.S.
21 Commission on Civil Rights, his Attorney General
22 Herbert Brownell pointed out to him that he would have
23 to have congressional legislation instead of an
24 Executive Order, if we were to have subpoena power and
25 that Art Fleming who was a long time chair of this

1 Commission and who served in every Administration as a
2 Cabinet Officer going back to Herbert Hoover and was
3 in the Eisenhower Administration as Secretary of
4 Health and Human Education and Welfare was at that
5 meeting and Arthur used to tell us all the time that
6 he was sitting there and Eisenhower looked at Brownell
7 and he pounded the table and said, "Well, we have to
8 get the facts on top of the table."

9 VICE CHAIRPERSON REYNOSO: Yes.

10 CHAIRPERSON BERRY: And so we got to have
11 subpoena power so take it to the Congress and don't
12 give me an Executive Order to sign and that's how it
13 happened. You can add that story to your meetings.

14 VICE CHAIRPERSON REYNOSO: Good story.

15 CHAIRPERSON BERRY: The external controls,
16 Chapter 4, a series of recommendations related to
17 review, civilian review boards as I've pointed out in
18 summary. When District or County Attorneys can --
19 when we talked about in the New York Report the need
20 for perhaps some kind of independent prosecutor or
21 something so that DA's would not have the burden
22 placed on them, "some of the" District Attorneys
23 objected and thought that we were criticizing them.
24 And we pointed out that we weren't criticizing them
25 personally, it's just that there is a problem with

1 trying to prosecute crime and work with the police on
2 a daily basis and being asked to prosecute police,
3 especially since one of the most difficult
4 prosecutions in which to get a conviction as we know
5 is the prosecution of a police officer. That's seen
6 over and over again, whether it's a federal civil
7 rights case or a local case, because there are these
8 tensions involved that we talk about elsewhere in the
9 report between the desire for public to support the
10 police and at the same time to worry about what
11 happens and then people end up filing these civil
12 suits. So this is about the outside remedies in this
13 problem.

14 COMMISSIONER REDENBAUGH: I have some
15 comments about this.

16 CHAIRPERSON BERRY: Yes, please.

17 COMMISSIONER REDENBAUGH: Thank you, Madam
18 Chair. This is a chapter that troubles me the most.
19 Profiling is obviously wrong and it's prejudging or
20 prejudice and I think we are prejudging the ability of
21 the State's District Attorneys by saying that they
22 can't possibly do their job. We're judging and
23 there's a whole category and it goes by the conclusion
24 that they can't do and aren't doing the job which
25 they're sworn to do. And this chapter does that.

1 VICE CHAIRPERSON REYNOSO: Madam Chair,
2 I'm not acquainted with all of the procedures in all
3 of the States, but in California, a local prosecutor
4 and an elected District Attorney can request when he
5 or she feels that there's a conflict of interest or
6 for any other reason, can request the Attorney
7 General's Office, a State office to come in and do the
8 prosecution and that's done, not frequently, but from
9 time to time.

10 What our suggestion in some ways, our
11 suggestion is more protective of the District
12 Attorneys because it indicates that the local
13 governmental bodies in California that the counties be
14 aware that in some prosecutions like these it's very
15 difficult for the DA to go forward and we recommend
16 that basically those local legislative bodies be
17 authorized, no doubt with the cooperation of the local
18 District Attorney to use their discretion. We're not
19 recommending that it be done all the time, but in high
20 profiles, sort of specific cases that this be done and
21 I think it's just suggesting that that discretion --
22 one that there be a system for utilizing that
23 discretion and two, that the discretion be used in
24 appropriate cases.

25 CHAIRPERSON BERRY: The Vice Chair speaks

1 from not only being a lawyer in California, but having
2 been a Member of the Supreme Court of the State of
3 California. But --

4 COMMISSIONER REDENBAUGH: Madam Chair?

5 CHAIRPERSON BERRY: I will let you in just
6 a second.

7 COMMISSIONER REDENBAUGH: Yes.

8 CHAIRPERSON BERRY: Let me just comment
9 that the recommendation is not directed at any
10 specific prosecutor or any DA. What's it directed at
11 is the structural problem. It's not the DA's problem
12 that he is sworn to uphold the law and has to
13 prosecute all these people, perpetrators, and in fact,
14 or alleged perpetrators, of various crimes and at the
15 same may be called upon to prosecute a police officer
16 whose somebody's testimony he's relying on in the case
17 where he's trying to -- it's just a difficult position
18 to put a DA in and when a DA is in that position,
19 whoever it is, we don't care -- we're not targeting
20 any specific DA, it seems that there ought to be some
21 kind of safety valve or some other way for them to
22 approach this, otherwise it engenders disrespect for
23 the prosecutor of the DA's office when the public
24 believes that the DA somehow has this conflict of
25 interest and when, in fact, no one wants to do

1 anything to engender disrespect for the office. So we
2 would think that the DA, him or herself, would be the
3 first person to say that in cases like that maybe we
4 ought to consult and maybe get some pro bono white
5 shoe attorney or get somebody from some place to come
6 in to do it or maybe the State could help us. Or
7 there ought to be a response. I'll let Commissioner
8 Redenbaugh say something and then I'll call on you
9 again, Vice Chair.

10 COMMISSIONER REDENBAUGH: Thank you, Madam
11 Chair. Well, to me it's actually more troubling that
12 we aren't recommending this in a set of specific
13 instances, but are making it as a general
14 recommendation as I think we do clearly on page 65.
15 That does profile all the DAs, rather than identify
16 any particular problem. On page 66 we characterize
17 the condition of the DAs as one that is a hopeless
18 conflict of interest.

19 Now do we have a good, solid basis for
20 making these recommendations and claims that it's a
21 hopeless conflict of interest?

22 CHAIRPERSON BERRY: Right, because the
23 answer is, as I said, it is a structural, it is a
24 statutory, it is a legal issue. It is not a practical
25 concern. It is the way the DA's Office is structured

1 and the responsibilities of the DA are structured in
2 the law in some States and in some localities, the DA
3 ends up having these twin responsibilities.

4 COMMISSIONER REDENBAUGH: I understand
5 that.

6 CHAIRPERSON BERRY: That has to be
7 exercised. It doesn't have anything to do with us
8 wishing it weren't one way or the other and when that
9 structural difficulty is there, unless it's changed so
10 that the statute is changed somehow, do what we're
11 suggesting, perhaps, have the DA advise that there
12 ought to be somebody else to come in on this case to
13 do this or having an independent body like a review
14 board or somebody say we think on this one we ought to
15 have somebody who is not involved with the police
16 department or having to prosecute these. It's a
17 structural problem. It doesn't have anything to do --

18 COMMISSIONER REDENBAUGH: I understand
19 what you're saying, but how do we know that there's a
20 structural problem? What's the basis for us knowing
21 that.

22 CHAIRPERSON BERRY: Oh, okay. Because we
23 know that the statutes in the States, in general, that
24 have to do with how DAs' offices are set up, DAs have
25 these responsibilities and in New York, for example --

1 COMMISSIONER REDENBAUGH: I think we know
2 what the structure is. How do we know that that's a
3 problem?

4 CHAIRPERSON BERRY: Because it is a
5 logical problem. When I say it's not a practical
6 problem, it's not a problem of Joe Jones has this
7 problem and Suzy Smith may not.

8 COMMISSIONER REDENBAUGH: So we don't have
9 evidence. We have logic?

10 CHAIRPERSON BERRY: We have logic from the
11 statute. That is the only inference that can be drawn
12 from the existence of the statute that it is logically
13 probable that a person would find themselves in this
14 position because the statute creates the problem.

15 COMMISSIONER REDENBAUGH: So our
16 recommendation is based on what's logically probable
17 rather than evidence?

18 CHAIRPERSON BERRY: From the statute.

19 COMMISSIONER REDENBAUGH: Right.

20 CHAIRPERSON BERRY: Yes. Because the only
21 way --

22 COMMISSIONER REDENBAUGH: That's why I'm
23 against it.

24 CHAIRPERSON BERRY: The only way we would
25 know this as a practical matter is to bring in some DA

1 and say in your mind and heart, did you feel biased or
2 feel like you were hard pressed when you brought that
3 prosecution? How many DAs are going to say yes?

4 COMMISSIONER REDENBAUGH: Well, we had one
5 that said quite the opposite.

6 CHAIRPERSON BERRY: One, yes. Vice Chair?

7 VICE CHAIRPERSON REYNOSO: Well, Madam
8 Chair, several observations. One, I don't think it's
9 just logic. I think it's experience. We've seen what
10 happens and the difficulties. In fact, in Los Angeles
11 right now, we have a prosecutor who is prosecuting
12 officers out of the Rampart experience. The local
13 police union which had endorsed him previously has now
14 withdrawn that endorsement and is now endorsing his
15 opponent. I mean there are political consequences to
16 the prosecutors doing what's happening in Los Angeles
17 and we've seen similar difficulties in many, many
18 places. so I think it's not just logic. It's
19 experience and our recommendation is really quite --
20 it's quite specific in recognizing that problem,
21 though it has some latitude in terms of how to respond
22 to it. It says specifically, "although local
23 prosecutors are often responsible for requesting that
24 a special prosecutor be appointed when a conflict of
25 interest arises," and that's the California situation

1 where the DA can ask the Attorney General to come in,
2 it says "an independent auditor or Solicitor General
3 overseeing police misconduct cases, should also be
4 allowed to make the request." And again, very often
5 in police departments, there's an independent person
6 that's reviewing that on a recommendation, says we've
7 seen that the DA is in this conflicted situation and
8 very often for the reasons Russell has indicated won't
9 ask the Attorney General, i.e., it will be -- he feels
10 like it's a confession that he can't prosecute those
11 officers. So they will not ask the Attorney General
12 to come in. If, however, you have an independent
13 person there who sees the situation and says you know,
14 we really ought to ask the Attorney General or another
15 State-wide office to come in on this case, maybe that
16 would work. So our suggestion -- so that's the way
17 the suggestion is put together in our recommendation
18 and I think in light of all of the hearings that we've
19 had and the experience that we now have after several
20 decades of study and observation, that this is a good
21 recommendation. Again, only time will tell whether it
22 works or doesn't work.

23 CHAIRPERSON BERRY: I think that the staff
24 should put into the finding in the recommendation or
25 in the chapter before they have the recommendation the

1 experience that you have noted, that is, they will
2 document the situation you've described as well as the
3 structural problems that exist in the statutes to
4 which these DAs are subjected so that there can be no
5 doubt from anyone who reads the report that it is
6 based on that because people may not understand.
7 Although I think that they've seen enough TV shows of
8 law and order, whatever, to know what prosecutors do.
9 But in case they don't understand, I want the staff to
10 document in the actual finding in the chapter so that
11 people can look at it and see what's the reason the
12 recommendation that they don't understand.

13 VICE CHAIRPERSON REYNOSO: It reminds me,
14 Madam Chair, a little bit of the argument that used to
15 be presented many years ago by police departments who
16 objected to having a policy indicating when deadly
17 force should be used by their officers and they felt
18 there was an effort by local government to interview
19 in police practices. And eventually the police
20 departments themselves recognized that it was a
21 protection, not just for the public, but for their own
22 police officers to have those guidelines to police
23 officers. In like manner, some DAs might object to
24 our recommendation, but in fact, I think it will be a
25 protection to local DAs who under proper circumstances

1 can recognize that it's better for an outside
2 prosecutor, probably the State Attorney General to
3 come in and prosecute that case instead of the local
4 elected District Attorney.

5 CHAIRPERSON BERRY: Okay.

6 COMMISSIONER REDENBAUGH: If I could just
7 follow up with Cruz on this.

8 CHAIRPERSON BERRY: Yes, sure.

9 COMMISSIONER REDENBAUGH: So Cruz, you
10 think that DAs are not able to recognize what's in
11 their own best interest?

12 VICE CHAIRPERSON REYNOSO: They're
13 conflicting --

14 CHAIRPERSON BERRY: Have you stopped
15 beating your wife?

16 (Laughter.)

17 VICE CHAIRPERSON REYNOSO: They're
18 conflicted sometimes, Russell, in terms of what is
19 their own best interest because they will be charged
20 with not having confidence in their own offices --

21 COMMISSIONER REDENBAUGH: I'm saying they
22 would oppose this recommendation, but it would be a
23 protection for them?

24 VICE CHAIRPERSON REYNOSO: That's correct.
25 Sometimes officials feel that their discretion is

1 being impeded by a suggestion like this and I was
2 pointing out that that -- say we went through that
3 evolutionary experience and argument with respect to
4 the use of deadly force by police departments where
5 there was a lot of objection 20 to 30 years ago to
6 having those regulations and guidelines and yet now so
7 far as I know uniformly police officers believe that
8 it's a good thing for police officers, police
9 departments to have those guidelines and I think we
10 may be going through that same sort of problem that is
11 with some DAs feeling that their discretion is being
12 impeded by this recommendation, but in fact, I think
13 that they will be well served by a recommendation that
14 recognizes that under some circumstances it's better
15 to bring in the Attorney General or an outside
16 prosecutor to handle these cases.

17 CHAIRPERSON BERRY: But it's also the case
18 that in the thinking of DAs, it may well be that just
19 as we've been having this discussion about whether
20 they, in fact, can be trusted to do it or should be
21 asked to do it, they may feel that the public which
22 doesn't understand will think that a recommendation
23 like this, if they accepted it and said they endorsed
24 it, would mean that they were saying, I'm not capable
25 of performing the various functions in my office.

1 VICE CHAIRPERSON REYNOSO: Yes.

2 CHAIRPERSON BERRY: Which would subject
3 them to --

4 COMMISSIONER REDENBAUGH: Which is what we
5 are saying.

6 CHAIRPERSON BERRY: Which would subject
7 them -- no, we're not saying that they're not
8 personally capable. An individual District Attorney
9 may feel that someone would attack him and say he's
10 not personally capable. The recommendation is about
11 the structure of the office and the responsibility in
12 general so that while a DA might welcome such a
13 recommendation which might get him off the hook in
14 trying to deal with some of these cases, he would not
15 want to publicly say that because someone may
16 immediately reach for the point well you, Joe, don't
17 believe that you can carry out these functions and not
18 understand it anyway which is why, I think, staff
19 needs to do a better job of explaining the basis of
20 the recommendations.

21 COMMISSIONER REDENBAUGH: Well, we're far
22 off into the realm of speculation about speculation.
23 I'm going to have no more comments on this section and
24 just go on.

25 CHAIRPERSON BERRY: Having taken us there

1 --

2 (Laughter.)

3 Does anyone have -- let's go to the
4 recommendations in Chapter 5, remedies and legal
5 developments, which I somewhat summarized. These are
6 the federal statutes and the -- both the consent
7 decrees and the Section 242 and other matters. Are
8 there any further considerations to be made here?

9 COMMISSIONER WILSON: I have a question.

10 CHAIRPERSON BERRY: Yes, Commissioner
11 Wilson.

12 COMMISSIONER WILSON: I have a question on
13 -- this is Chapter 5, is that correct?

14 CHAIRPERSON BERRY: Right.

15 COMMISSIONER WILSON: For recommendation
16 5.8 which is 115, it's the last recommendation, I
17 finally understood that noncompliance which was the
18 word -- maybe I was just tired when I was reading it,
19 but that it was noncompliance for not being able to
20 collect the data on traffic stops, rather than on
21 racial profiling itself. So I think they should
22 clarify that since it's the last recommendation.
23 Maybe it was just me. I don't know if anyone else had
24 a problem with it.

25 CHAIRPERSON BERRY: Okay, mandate

1 collection of traffic stops data. Okay, so that
2 should be revised, although the bill hasn't been
3 passed. I guess it's not. I guess it's in committee
4 or something or died.

5 Okay, so the statute changed the language
6 of that so that it's clear what it says. Okay. Now
7 having gone through this I am sure that people have
8 comments, specific comments and editorial matters
9 throughout the report that you would submit to the
10 staff as you normally do and the staff will be guided
11 in terms of the changes that we have asked them to
12 make here.

13 So on that basis I would like to ask -- we
14 have a motion on the floor to approve the report which
15 was seconded, so the report we could not approve it
16 with the staff being understood that the staff will
17 make the changes that we have discussed, as well as
18 make the editorial changes that will be submitted by
19 the Commissioners as we normally do.

20 That would be what we usually would do, so
21 that's one possibility. The only other possibility is
22 to either reject the report or to ask the staff to
23 make the changes and bring it back some other month
24 and look at it again. So I would feel comfortable
25 having us vote on it with the understanding that the

1 changes would be made. I think we've had a rather
2 full exchange of views and discussion here and have
3 made clear and given clear guidance as to what changes
4 we would like to have made and we have studied this
5 subject at great length and have had briefings on it
6 and reports and everything else, so I really see no
7 advantage to delaying it further if that is the wish
8 of the Commissioners.

9 Yes, Commissioner Lee?

10 COMMISSIONER LEE: Madam Chair, I wasn't
11 sure if this was an editorial change or a substantive
12 change back in Chapter 2, I didn't bring it up. I
13 want to bring it up before we vote on the report. The
14 recommendation 2.2 on page 34 of the original report.

15 I don't know what page it is on the revised report.

16 In terms of recruitment --

17 CHAIRPERSON BERRY: It's 2.2?

18 COMMISSIONER LEE: Yes. At various
19 Commission hearings the community had talked about the
20 need for their involvement to assist the police
21 department in recruitment from the community. I
22 wanted to put that in so that the communities could be
23 partners in their endeavor. And also the issue of
24 offering incentives for officers who have special
25 qualifications, specifically bilingual capability,

1 that should be treated as an incentive. I think that
2 was brought up at several hearings. I would like to
3 put that in the recommendation. And also the issue of
4 residency requirement. The community has talked about
5 the need for officers to either come from the
6 community who understand the community or to reside in
7 the community that they serve. That's part of the
8 community policing data that they were talking about.
9 And the officers, on the other hand, had always talked
10 about the difficulty of living in certain communities,
11 the affordability issue. So I'd like to put in maybe
12 recommendation 2.3 on the incentives for certain
13 qualifications such as bilingual capability and also
14 offering incentives for officers to remain in the
15 neighborhoods that they serve. I don't know whether
16 that was an editorial change or whether we have any --

17 CHAIRPERSON BERRY: Why don't we get
18 consensus on -- let me suggest that -- and then we'll
19 see if we have consensus.

20 What we might do is in finding 2.2 and
21 then a recommendation there, point out specifically
22 that recruitment efforts, "the communities" should be
23 asked to participate and join with the police
24 department in developing effective recruitment
25 techniques and strategies. That would be the first

1 one. After 2.2, part of the finding and then a
2 recommendation.

3 You're correct, we made a recommendation
4 like that in the New York report. It was one of the
5 issues. So that would be added to that one and there
6 would be a recommendation.

7 Then on 2.3, about residential -- where
8 the police officers reside, we could say that there
9 ought to be an incentive structure developed to
10 encourage police officers to live in the communities
11 they serve.

12 Then on Section -- recommendation 2.2 on
13 bilingual personnel, etcetera, we could insert that
14 incentives should be developed to encourage the hiring
15 of persons who possess the special qualifications
16 needed by the department such as language proficiency,
17 okay?

18 COMMISSIONER LEE: That's good.

19 CHAIRPERSON BERRY: Is there any objection
20 to us --

21 COMMISSIONER REDENBAUGH: I have none.

22 CHAIRPERSON BERRY: Okay. I knew when I
23 mentioned the word "incentives" and Yvonne did, we'd
24 be fine. Well said.

25 (Laughter.)

1 All right, having said that is there
2 anyone who has anything else they would like to add or
3 change that's not editorial?

4 COMMISSIONER REDENBAUGH: I have something
5 that is editorial.

6 CHAIRPERSON BERRY: Oh, is editorial. Hm.

7 COMMISSIONER REDENBAUGH: Have we not come
8 to editorial or have we passed that?

9 CHAIRPERSON BERRY: No, what I said was
10 that if you had editorial changes, if any Commissioner
11 had editorial changes that were not substantive, all
12 they have to do is turn them in to the staff and the
13 staff will make them.

14 COMMISSIONER REDENBAUGH: Okay. This goes
15 to a question of certain language and tone.

16 CHAIRPERSON BERRY: If you wish to point
17 it out, go ahead.

18 COMMISSIONER REDENBAUGH: I believe, this
19 is just an example of what I don't like about this, I
20 believe it's in the final sentence of Chapter 4.

21 CHAIRPERSON BERRY: Okay.

22 COMMISSIONER REDENBAUGH: I characterize
23 the language as somewhat inflammatory. If I pointed
24 you in the right spot, if you could read that to me.

25 CHAIRPERSON BERRY: The final sentence of

1 Chapter 4. Is that the right place, Charlie? Okay,
2 the final sentence. "Creative efforts" -- that
3 sentence? "-- must be explored to address this
4 persistent problem or police brutality will continue
5 to plague America's cities for generations to come."
6 Is that the one?

7 COMMISSIONER REDENBAUGH: Yes.

8 COMMISSIONER WILSON: What's the word?

9 COMMISSIONER REDENBAUGH: Brutality.

10 CHAIRPERSON BERRY: How about
11 "misconduct"?

12 COMMISSIONER REDENBAUGH: Yeah. I think
13 that's a more professional word.

14 CHAIRPERSON BERRY: How about "allegations
15 of police misconduct"?

16 COMMISSIONER REDENBAUGH: I'm satisfied
17 with just "misconduct."

18 CHAIRPERSON BERRY: Okay. Absolutely.

19 COMMISSIONER REDENBAUGH: Thank you.

20 CHAIRPERSON BERRY: I would even be
21 willing to say "Creative efforts must be explored to
22 address this persistent problem of police misconduct
23 may" instead of "will" -- "continue to plague
24 America's cities." How's that?

25 COMMISSIONER REDENBAUGH: I like that.

1 Thank you.

2 CHAIRPERSON BERRY: Do you have any
3 others?

4 COMMISSIONER REDENBAUGH: That's all I
5 recall at the moment.

6 CHAIRPERSON BERRY: Well, if you recall
7 any others, point them out.

8 COMMISSIONER REDENBAUGH: I will.

9 CHAIRPERSON BERRY: There's no effort on
10 the part of those of us who are Commissioners to be
11 either florid or use purple prose or do anything like
12 that, so we're always happy to have you, or anyone
13 point out changes and we expect Vickie to take the
14 staff to task.

15 All right, are you ready for the question?

16 All in favor indicate by saying aye.

17 [Chorus of ayes.]

18 CHAIRPERSON BERRY: Opposed?

19 COMMISSIONER REDENBAUGH: No.

20 CHAIRPERSON BERRY: Okay, the motion
21 passes and the report is approved with the changes
22 that we have indicated here as well as editorial
23 changes that Commissioners will submit by close of
24 business next week. And if any Commissioner wishes to
25 write a separate statement for the report -- we're

1 going to make available advance copies if anyone wants
2 an advance copy understanding that it's a draft. But
3 we will make -- we will give Commissioners three weeks
4 to submit, if that's sufficient --

5 COMMISSIONER REDENBAUGH: That's fine with
6 me.

7 CHAIRPERSON BERRY: -- Separate statements
8 if they have any, three weeks from today. I don't
9 know, is that Thanksgiving? I don't want to run into
10 Thanksgiving. Well, the Monday after Thanksgiving,
11 how is that?

12 Okay?

13 COMMISSIONER REDENBAUGH: Uh-huh. I
14 accept. Thank you.

15 CHAIRPERSON BERRY: The next item on the
16 agenda is future agenda items.

17 **FUTURE AGENDA ITEMS**

18 COMMISSIONER REDENBAUGH: Madam Chair?

19 CHAIRPERSON BERRY: Yes.

20 COMMISSIONER REDENBAUGH: If I may, I need
21 to make a call.

22 CHAIRPERSON BERRY: All right.

23 COMMISSIONER REDENBAUGH: I apologize to
24 all of my colleagues for having been so inattentive
25 the last few months. I look forward to being back and

1 seeing you all in person.

2 CHAIRPERSON BERRY: Okay.

3 COMMISSIONER REDENBAUGH: Thank you.

4 CHAIRPERSON BERRY: Thank you.

5 VICE CHAIRPERSON REYNOSO: Thank you,
6 Russell.

7 COMMISSIONER LEE: Bye, Russell.

8 COMMISSIONER REDENBAUGH: Good-bye.

9 CHAIRPERSON BERRY: Does anyone have any
10 future agenda items to suggest that we have not
11 already discussed or that you wish to share?

12 Hearing none, I will entertain a motion to
13 adjourn.

14 COMMISSIONER LEE: So moved.

15 VICE CHAIRPERSON REYNOSO: Second.

16 It's nondebatable, so we are adjourned.

17 All in favor say aye.

18 [Chorus of ayes.]

19 CHAIRPERSON BERRY: Thank you very much
20 Commissioners. I forgot to say that the OGC team -
21 had... let me put this on the record. Joseph Manalili
22 was the team leader, Deborah Reid, Jenny Park, Joyce
23 Smith and Audrey Wiggins. Thank you.

24 (Whereupon, at 11:19 a.m., the meeting was
25 concluded.)

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