

U.S. COMMISSION ON CIVIL RIGHTS

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COMMISSION MEETING

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FRIDAY,

MAY 4, 2001

+ + + + +

WASHINGTON, D.C.

+ + + + +

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

PRESENT:

MARY FRANCES BERRY, CHAIRPERSON
CRUZ REYNOSO, VICE CHAIRPERSON
YVONNE Y. LEE, COMMISSIONER
ELSIE M. MEEKS, COMMISSIONER
RUSSELL G. REDENBAUGH, COMMISSIONER
(via telephone)
ABIGAIL THERNSTROM, COMMISSIONER
VICTORIA WILSON, COMMISSIONER

LESLIE R. JIN, STAFF DIRECTOR

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STAFF PRESENT:

MANUEL ALBA
KIMBERLEY ALTON
DAVID ARONSON
KI-TAEK CHUN
BARBARA DELAVIEZ
TERRI DICKERSON
PAMELA A. DUNSTON
BETTY EDMISTON
MICHAEL FOREMAN
GEORGE HARBISON
EDWARD HAILES, General Counsel
JENNY PARK
PETER REILLY, Parliamentarian
DAWN SWEET
MARCIA TYLER
AUDREY WIGGINS
AUDREY WRIGHT
MIREILLE ZIESENISS

COMMISSIONER ASSISTANTS PRESENT:

KRISTINA ARRIAGA
PATRICK DUFFY
ELIZABETH OUYANG
CHARLOTTE PONTICELLI
SCOTT SCHREIBER
KRISHNA TOOLSIE

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

(9:33 a.m.)

CHAIRPERSON BERRY: The meeting will come to order.

I. Approval of Agenda

CHAIRPERSON BERRY: The first item on the agenda is the approval of the agenda. Could I get a motion to approve the agenda? And then I'll see if there are any changes.

VICE CHAIR REYNOSO: So moved.

CHAIRPERSON BERRY: Can I get a second? And then we'll discuss it.

COMMISSIONER REDENBAUGH: Second.

CHAIRPERSON BERRY: Okay. Commissioner Lee?

COMMISSIONER LEE: Madam Chair, can I add an agenda item to discuss the U.S. China relations, how it may impact the Asian American community?

CHAIRPERSON BERRY: Okay. U.S. China Relations and Impact on the Asian American Community.

Okay. And I would like to add an item concerning the Alaska Federation of Native Americans, and a resolution submitted to us by our State Advisory Committee concerning that subject.

And I would also like to add an item

1 concerning a Supreme Court case that was decided last
2 week, which is called the Sandoval case.

3 All right. With those -- does anyone
4 else have anything else they'd like to add? Okay.
5 With those additions, can we get approval of the
6 motion with those additions? All in favor indicate by
7 saying aye.

8 (Chorus of ayes.)

9 Opposed?

10 (No response.)

11 So ordered.

12 **II. Approval of Minutes of**

13 **April 13, 2001 Meeting**

14 CHAIRPERSON BERRY: The next item is the
15 minutes of the April 13, 2001 meeting. Commissioner
16 Edley asked that we add that he was late but he was at
17 the briefing, but we're not going to add it because he
18 wasn't at the meeting. He was not at the business
19 part of the meeting, which is the part that counts.

20 But we will note for the record that he
21 did show up at the briefing. He had been in
22 California at some meeting, a meeting of the
23 Commission that President Ford and Carter are chairing
24 in reference to electoral stuff, to which he has been
25 added as a member, and came back on the red-eye on

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1 account of his plane was late. But he wasn't at the
2 meeting, so -- but we will so note that he did come in
3 during the briefing -- not in the minutes, but I'm
4 just telling you that.

5 The other thing is that -- anybody else
6 have anything to add to the minutes? Okay. So could
7 I get approval of the minutes? I need a motion. Did
8 I ask already?

9 VICE CHAIR REYNOSO: Yes.

10 CHAIRPERSON BERRY: All those in favor
11 indicate by saying aye.

12 (Chorus of ayes.)

13 Opposed?

14 (No response.)

15 So ordered.

16 **III. Announcements**

17 CHAIRPERSON BERRY: Announcements. The
18 first announcement is I am deeply, deeply saddened to
19 announce that Deric Newton, a member of our staff, a
20 young man 28 years old, who worked very diligently in
21 the Office of Human Resources and other offices in the
22 Commission, including some work with Krishna, passed
23 away on Saturday, April 28th. He would have been with
24 the Commission for a year on May 29th, and he will be
25 greatly missed by everyone who came into contact with

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1 him here at the Commission. So that's the first
2 announcement. Some of you may have seen him here,
3 Commissioners, when you came to meetings.

4 Also, to announce that Leon Sullivan, a
5 major giant in the cause of human rights and social
6 justice, passed on April 24th at a hospital in
7 Scottsdale. He had been ill for a while. Leon first
8 came to prominence in the 1960s when he organized
9 economic boycotts against Philadelphia companies that
10 refused to have black workers, and he was pastor of
11 Philadelphia's largest church for 38 years.

12 He is well known for developing a code of
13 conduct for corporations in dealing with apartheid in
14 South Africa that became known as the Sullivan
15 Principles. These principles were very important in
16 trying to equalize conditions there. They didn't work
17 totally because that's why we all started the Free
18 South Africa movement, ended up having sanctions.

19 But Leon worked very closely with that
20 movement, and the principles were important as a stage
21 of consciousness-raising about these issues, and did
22 improve conditions of life for many people. So he's a
23 giant. He was a giant, and he is gone.

24 And the next announcement is that, on a
25 more mundane level, but a very important one, our

1 Director of Human Resources here at the Commission,
2 Catherine Gates -- Cathy -- decided to take a new job
3 with the Department of Agriculture. So that means
4 that the Staff Director has to find a new Director of
5 Human Resources. And we, of course, wish Cathy the
6 best in her future endeavors.

7 The other item is that May is Asian-
8 Pacific-American Heritage Month, and the Commission
9 has sent out the press release. We do press releases
10 on this subject -- on these subjects -- and we'll be
11 conducting activities to celebrate this month.

12 Okay. Those are announcements. Does
13 anyone else have an announcement that they would like
14 to make? Okay. If not, then we will go on to the
15 next item -- well, before we get -- well, let's do the
16 Staff Director's report.

17 **IV. Staff Director's Report**

18 CHAIRPERSON BERRY: The only thing I will
19 mention to you under the Staff Director's report,
20 since it happened between the last meeting and this
21 one -- I'll mention two things. One is the -- last
22 week, I think it was last week, I issued a statement
23 in my own name as Chair reiterating the Commission's
24 policy of not demonizing Americans who are descended
25 from various immigrant groups because of activities

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1 that involve the country of their origin.

2 The Commission has, over the years,
3 issued such statements routinely. We did it during
4 the various terrorist activities in which Arab-
5 Americans were demonized and had a lot of problems
6 because people thought that since they were Arab-
7 Americans and the countries were Arab that they
8 somehow automatically ought to be kept off airplanes
9 and denied service in restaurants and various things
10 happened to them.

11 We issued a statement saying that that's
12 not something that we would hope people would do.
13 We've done it before in terms of Asian Americans
14 around the campaign finance issues, and so all the
15 statement basically said was to remind people that
16 this is not the kind of thing that -- that people do
17 not bear the burden of being somehow harassed because
18 they happen to be descended from some particular
19 foreign population. So I did that last week.

20 The other thing that I want to do under
21 the Staff Director's report, because it is an ongoing
22 part of what we at the Commission have been doing, is
23 to see if I can get agreement to issue a statement for
24 the Commission commending the State of Florida for
25 passing the legislation which has been reported in the

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1 news concerning the allegations of voting problems in
2 Florida.

3 And I think that it's very important that
4 the Commissioners feel comforted that they are taking
5 the time to go to Florida and spend that time going to
6 hold hearings, to keep the spotlight on this issue.
7 It was not in vain. And that the Commissioners feel
8 comfortable that the timeliness of our status report
9 at a time when the Speaker of the House down there had
10 been quoted as saying that not much was going to
11 happen on this issue -- it wasn't a priority -- was
12 timely.

13 And you know -- Commissioners who have
14 been here for a while know, and others may know from
15 reading it, that the Commission's impact comes in many
16 ways. And that very often when we hold hearings
17 people go out to do whatever it is we're holding
18 hearings about before we ever do the report in
19 response to the public exposure, depending on how much
20 public exposure there is. And we're always very happy
21 about that.

22 Reporters have said to me, "Well, aren't
23 you disappointed if somebody does what you guys want
24 them to do before we get the report done?" And we
25 say, "No. If they do it, we're happy. If they don't

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1 do it, you know, we'll still, you know, urge them on."

2 So I think it's great. It's a great day.

3 When I heard this last night I went out and
4 celebrated that they had done this. But we also know
5 here, as Commissioners, that the devil is in the
6 details. And we also know that the devil is in the
7 implementation. We've learned that from all of our
8 reports all these years and from our monitoring.

9 So I think that commendations all around
10 are in order, and I think that we should note the
11 areas -- we don't even need to note at this time the
12 areas that are still a concern. We'll wait until we
13 get the report.

14 But I think that our earlier decision to
15 go to Florida if they did not do something, that we
16 don't need to go to Florida because they didn't do
17 anything, because they have at least passed the
18 package, I've been told by General Counsel, but
19 they've not voted on it. They've had a conference
20 committee, and they have not approved the necessary
21 appropriation, he said. He said that should occur
22 today, and that county commissioners must also approve
23 funding.

24 So I think that with those caveats in
25 mind, which, you know, we always have to be cautious,

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1 and with the idea that we would still go to Florida --
2 we would still go to Florida, again, once
3 implementation has started of whatever they pass, and
4 that we will have it all analyzed by the time we do
5 our report.

6 I think that we should commend them for
7 having passed some legislation that dealt with some of
8 these issues, and I think that we should do that.

9 So if there are people who object -- does
10 anyone object to our doing this? There is no
11 objection? Okay. Without objection, then, we will
12 have a statement which says what I said, which is that
13 -- yes?

14 VICE CHAIR REYNOSO: Madam Chair?

15 CHAIRPERSON BERRY: Vice Chair?

16 VICE CHAIR REYNOSO: I understand that
17 among the provisions that are being passed by the
18 Florida legislature includes a provision for a
19 provisional ballot, which I had thought would be one
20 of the most important things that could be done in
21 Florida in light of the types of problems that they
22 had in voting. So I'm very encouraged by that.

23 CHAIRPERSON BERRY: Yes, Commissioner
24 Thernstrom?

25 COMMISSIONER THERNSTROM: I would -- I'm

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1 a little more comfortable in kind of voting on
2 statements from the Commission. I did agree to this,
3 because, in principle, I do agree. But I am a little
4 more comfortable when I see the exact wording of
5 statements that go out.

6 And I would like also to have seen the
7 statement that you issued a few days ago. So that if
8 we could -- you know, I like to sign my name to things
9 I see, just in principle. So if that was -- if that
10 process is possible, I would very much like it.

11 CHAIRPERSON BERRY: Well, I was going to
12 ask that someone go off and try to -- that was my next
13 -- try to draft up something.

14 COMMISSIONER THERNSTROM: Okay.

15 CHAIRPERSON BERRY: And bring it back to
16 us to see, while we're having this meeting --

17 COMMISSIONER THERNSTROM: Good.

18 CHAIRPERSON BERRY: -- I was hoping.

19 COMMISSIONER THERNSTROM: Okay.

20 CHAIRPERSON BERRY: When I say that for
21 the Commissioners, and it's a statement that I would
22 like us to issue, that's what I usually would do --
23 ask people to go write something and hope that they
24 bring it back while we're here.

25 COMMISSIONER THERNSTROM: I see. But you

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1 had issued a statement a few days ago --

2 CHAIRPERSON BERRY: Right. Which you did
3 not need to see, because the statement was -- it
4 said -- well, you can show them copies. I thought you
5 had -- that Chairperson Berry believes blah, blah,
6 blah, blah, blah.

7 COMMISSIONER THERNSTROM: I see.

8 CHAIRPERSON BERRY: But this is
9 consistent with the Commission's already-established
10 --

11 COMMISSIONER THERNSTROM: I see. Right.

12 CHAIRPERSON BERRY: -- policy.

13 COMMISSIONER THERNSTROM: Right. Okay.

14 CHAIRPERSON BERRY: So all it was was the
15 policy of the Commission.

16 COMMISSIONER THERNSTROM: I see.

17 CHAIRPERSON BERRY: Reiterating it. And
18 I was very aware that I was not asking the Commission
19 to reiterate or make a new policy.

20 COMMISSIONER THERNSTROM: Okay.

21 CHAIRPERSON BERRY: And that is why it
22 says Chairperson Berry. If you will take a moment to
23 just look at it, you will see that that's what it
24 says. Okay.

25 So could somebody go off -- could you go

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1 off and try to write something on this subject of the
2 voting rights? And probably what you need to do --
3 Eddie, you need to go and come back, and we just need
4 to have a statement, just something drafted that we
5 can look at. It doesn't have to be long.

6 Okay. Is there anything else on the
7 Staff Director's report? Yes, Commissioner Lee?

8 COMMISSIONER LEE: Thank you, Madam
9 Chair. I want to thank the Staff Director and the
10 staff for submitting all these reports that we have
11 asked for. I have a question regarding the Department
12 of Energy's report to us. My understanding was we
13 requested the Inspector General at DOE to give us a
14 report not only on racial profiling but also on
15 specifically the Wen Ho Lee Case, and he did not send
16 any information on that matter.

17 CHAIRPERSON BERRY: Staff Director, you
18 sent these memos to the Commissioners?

19 STAFF DIRECTOR JIN: Yes, I did.

20 CHAIRPERSON BERRY: Okay. Did you
21 actually get them?

22 COMMISSIONER LEE: Yes.

23 CHAIRPERSON BERRY: The ones that he
24 sent?

25 COMMISSIONER LEE: Yes.

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1 STAFF DIRECTOR JIN: I think --

2 CHAIRPERSON BERRY: I didn't know when
3 they were sent.

4 STAFF DIRECTOR JIN: Right.

5 CHAIRPERSON BERRY: Could you answer
6 Commissioner Lee's question, please?

7 STAFF DIRECTOR JIN: I'll have to look
8 into that, to be honest with you. I thought that --
9 I'll just have to look. Can we get back to this?

10 Terri, can you help me out on this? Is
11 this responsive to what we sent to Department of
12 Energy, or --

13 MS. DICKERSON: What I understood was
14 that the letter that they -- the response that they
15 gave had not been responsive in terms of sending an IG
16 report. And so what we were attempting to do was to
17 get a copy of that report, which has been released,
18 and to summarize that.

19 STAFF DIRECTOR JIN: Okay. I mean, do we
20 have an understanding that there is a -- you did a
21 specific investigation, the IG did a specific
22 investigation of the Wen Ho Lee matter? Is it still
23 outstanding?

24 CHAIRPERSON BERRY: I thought they
25 already did the -- excuse me for interrupting. But my

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1 recollection was from our discussions here previously
2 was that they had already done a report on the Wen Ho
3 Lee matter. Is that correct?

4 COMMISSIONER LEE: And we wanted a copy.
5 I think we had asked for a copy.

6 CHAIRPERSON BERRY: They never gave it to
7 us?

8 MS. DICKERSON: There were two reports.
9 One was the task force report that --

10 COMMISSIONER LEE: No, that wasn't it.

11 MS. DICKERSON: I'm sorry. The task
12 force report, which was issued in December that I had
13 forwarded, and then the second part was the IG
14 investigation, which was just released in April. So
15 both of those were forwarded.

16 STAFF DIRECTOR JIN: What we'll do is
17 we'll check with them again to see if they have
18 another outstanding report, especially on the Wen Ho
19 Lee matter. The impression that I think we had gotten
20 was that this was included in what they had on racial
21 profiling. But we'll check that again.

22 CHAIRPERSON BERRY: Okay. So the answer
23 is we don't have it, or we do have it, or that we will
24 have it? What's -- it's unclear.

25 STAFF DIRECTOR JIN: Yes, it's unclear to

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1 us at this point. I think -- I thought we had -- we
2 thought we had everything, but we could be wrong. We
3 will check on that.

4 CHAIRPERSON BERRY: Okay. Is that all
5 right with you?

6 COMMISSIONER LEE: Okay.

7 CHAIRPERSON BERRY: Does anyone have any
8 questions about any of the other things either the
9 Staff Director sent you or -- how about the situation
10 in Cincinnati? We discussed it last time. I sent a
11 letter to Mayor Luken, which I assume you sent to the
12 Commissioners, expressing concern about the -- and
13 reminding -- mainly just reminding him of the SAC
14 report that we did on events in Cincinnati that came
15 out years ago, and the report that we did on
16 revisiting who is guarding the guardians.

17 Do you have any information that you'd
18 like to --

19 STAFF DIRECTOR JIN: Yes. In terms of
20 kind of the latest in Cincinnati, I did talk to the
21 Regional Director yesterday. And she has been in
22 fairly constant contact with the Director of Community
23 Relations Service at Department of Justice. And CRS
24 has been very active, having a presence in Cincinnati
25 directly working with the various communities there as

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1 well as working with the various different departments
2 and community groups there.

3 And from what I can tell, I think
4 everybody is kind of waiting right now to see if the
5 police officer who shot and killed the young man,
6 Timothy Thomas, is going to be indicted. There is
7 some anticipation that that might happen at any point,
8 and there is anticipation as to what -- you know, what
9 would happen, depending on the -- whether the decision
10 to indict is affirmative or not.

11 The sense I get is that Civil Rights
12 Division at Department of Justice is there in fairly
13 full force. They are particularly looking at this --
14 after the funeral for Mr. Thomas. A woman was shot by
15 a bean bag pallet by one of the police officers, and
16 apparently that is being fairly thoroughly
17 investigated by Civil Rights Division. And the sense
18 I get is that Justice is fairly involved there in
19 different capacities.

20 I think one of the things that -- in
21 terms of my talking to -- to Ms. Davis that seemed to
22 be concerned -- of concern to perhaps both of us is
23 the people that are in the field for the CRS or
24 others. There seems to be some feeling that a lot of
25 issues that we raised in the 1981 State Advisory

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1 Committee report seem to be the same issues that are
2 there now, and that it appears that a lot of the
3 issues have perhaps not even been addressed, much less
4 resolved. I think that's something that was of
5 concern.

6 In terms of what the Commission might
7 want to do at this point, I think in terms of my
8 conversations with Ms. Davis, I think the feeling is
9 there is a lot of people there right now. There seems
10 to be a lot of activity. Perhaps the best thing to do
11 is continue to closely monitor and see what happens in
12 the next few months, and then we will have more
13 information for the Commission to kind of assess at
14 that point.

15 CHAIRPERSON BERRY: Okay. Does anyone
16 have anything else on the Staff Director's report?

17 **V. Alaska Federation of Native**
18 **Americans and SAC Resolution**

19 CHAIRPERSON BERRY: Okay. All right.
20 Then we will move on. Why don't we consider, first,
21 the issue of the Alaska Federation of Natives that I
22 had said that I would like to raise.

23 I have been very aware for some time of
24 the interest of the Alaska Federation of Natives and
25 Native Americans in Alaska in having the Commission

1 look into some of their problems.

2 And today Julie Kitka, who is the
3 Executive Director of the Alaska Federation of
4 Natives, is here in the audience. She's over there.
5 Do you want to stand up, Julie, so people can see who
6 you are. Thanks.

7 And I have received a great deal of
8 correspondence about issues in Alaska. I was asked to
9 come up to meet with Senator Stevens about these
10 issues, which I did do last week. And we got a SAC --
11 State Advisory Committee of Alaska is apparently
12 recommending to us, based on their last meeting which
13 was a week ago, that the Commission hold some kind of
14 forum or hearings in Alaska to consider Native
15 American issues.

16 And what I would like to do is to read a
17 statement that the Alaska Natives -- or summarize it
18 -- put together concerning what their issues are, so
19 that those of you who haven't been following this
20 could know, and then I would like to discuss whether
21 we can do anything about this in being responsive to
22 these issues.

23 It says the AFN is -- Alaska Federation
24 of Natives is AFN -- has asked us to -- they want us
25 to investigate, hold hearings, and issue a report on

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1 hate crimes and acts of discrimination against Alaska
2 Natives. And the latest incident that they're
3 concerned about happened in January when three white
4 teenagers rode through downtown Anchorage shooting
5 frozen paintballs at Alaska Natives.

6 The teenagers videotaped their hunt for
7 "drunk Eskimos" or "muktuks." And when the tape was
8 released to the public, it sent shockwaves throughout
9 Alaska. But for Alaska Natives it was only the latest
10 indication of the kind of intolerance that they are
11 complaining about and the way they think policies are
12 enforced.

13 And the incident prompted a series that
14 -- a series of public forums in Anchorage, and
15 following one meeting of this kind participants
16 returned to their cars to find racist flyers on their
17 windshields. And the paintball incident, as they call
18 it, also prompted the governor of Alaska to form a
19 cabinet-level task force on racial intolerance and to
20 introduce a hate crimes law in the legislature.

21 But AFN doesn't, and the Natives groups
22 doesn't believe -- do not believe that the task force
23 will address, in an impartial manner, a number of the
24 issues that they have -- instate employment and law
25 enforcement education and education in native

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1 communities.

2 And that the legislature hasn't stepped
3 forward to do anything, which has disappointed them.
4 That the House of Representatives passed a resolution
5 which said that they condemn hate crimes, but the
6 Senate insisted on a watered-down version that
7 condemns only something called unlawful acts of
8 discrimination.

9 And they regard this as an example of
10 what they're up against. And the resolution is in a
11 conference committee, and they don't believe it's
12 going to pass.

13 Since October 2000, at least five Alaska
14 native women have been raped in Anchorage. And since
15 1999, six women of color have been murdered in
16 Anchorage. Four of these crimes remain unsolved. An
17 Anchorage Police Department crime report shows that,
18 between '95 and 1999, 42 percent of the rapes
19 committed in Anchorage victimized Alaska Native women.

20 The Alaska Natives I think are, what,
21 one-sixth of the population? Is that right? So that
22 gives you some -- I don't know what the percentage is
23 in Anchorage, but it's one-sixth in the whole state.
24 The rate of violent victimization among American
25 Indians, including Alaska Natives, is more than twice

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1 the national average for all racial groups.

2 It tells me here Alaska Natives, until
3 1996, were 16 percent of the population but 28 percent
4 of the state's murder victims. And many of the acts
5 of violence were committed by natives against natives,
6 revealing the cultural and personal deterioration
7 resulting from poverty, loss of control over their own
8 community, and other issues of opportunity.

9 This is also reflected in the fact that
10 30 percent -- 36 percent of Alaska's inmates are
11 Alaska Natives. And they believe that these terrible
12 statistics are rooted in the long history of
13 discrimination. They point to their history, which
14 includes denial of access to the courts, deprivation
15 of resources, segregation, and public accommodations,
16 bars, restaurants, in the 1940s, "Warning: No Dogs or
17 Indians Allows."

18 After touring the territory in 1944, a
19 social worker from the Indian BIA said, "Alaska is a
20 territory where race prejudice is more shocking than
21 in the south."

22 Today the signs are gone and theaters are
23 integrated, but discrimination against Alaska Natives
24 remain. They are disproportionately unemployed,
25 overincarcerated, hunting and fishing rights

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1 continually compromised. And their basic right to
2 govern themselves and their villages is under
3 challenge.

4 And they believe that an environment has
5 been created in which individual acts of private
6 hatred occur with increasing frequency. State public
7 policy, controlled by an urban, mostly non-native,
8 majority in the legislature, had set about reducing
9 public expenditures at any cost. And the resulting
10 policy decisions have diminished the quality of life
11 for all Alaskans, but it has fallen most heavily on
12 Alaska's native villages, which are rural villages.

13 And they believe that the state knowingly
14 risks the safety of rural residents and invites
15 environmental damages to its own lands and waters
16 because it doesn't upgrade or replace deteriorating
17 bulk fuel storage facilities in native communities.

18 They look at legislation that forces the
19 closure of village schools in defiance of a mandate
20 under the constitution to educate all of the state's
21 children. About 20 local schools have been forced to
22 close.

23 They look at the lack of construction and
24 maintenance of rural schools serving native students
25 on the same basis as urban schools, which has recently

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1 been ruled unconstitutional by the State Superior
2 Court. And that the state does not provide a minimal
3 level of public safety and law enforcement in the
4 villages.

5 The pay for village public safety offices
6 is so low that some qualified and receive food stamps
7 in order to feed their families. Eighty-eight off-
8 road villages have no local police, yet the state
9 House rejected the governor's request to include a 15
10 percent salary increase and 20 new village public
11 safety officers.

12 And the legislature has blocked federal
13 disaster aid to Western Alaska villages hit hard by
14 fisheries collapses, as well as other federal
15 initiatives that require state contributions. At the
16 same time, the legislature has found millions of
17 dollars to fight tribal governments in the villages
18 and mount judicial assaults against federal
19 subsistence protections, and support the imposition of
20 English as the only language of Alaska's public
21 institutions.

22 And they think that the most fundamental
23 danger to their survival is the decade-long political
24 attack by the state on the traditional subsistence --
25 hunting and fishing rights of the villages. The

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1 legislature views subsistence as nothing more than the
2 taking of a natural resource -- something everyone
3 should be entitled to do on an equal basis.

4 And that they don't understand that
5 requiring Alaska's indigenous people to change their
6 traditional values and ways of life in order to be
7 assimilated into mainstream society -- in short, to
8 disappear in their view -- is a policy of
9 discrimination.

10 Despite the goodwill of many individual
11 Native Alaskans, much of the public debate over
12 subsistence remains, in their view, a thinly-veiled
13 exercise in racial intolerance. The legislature
14 claims that Alaska Native villages should not depend
15 upon the state to finance local operations, but pay
16 their own way, and that that ignores the fact that all
17 of Alaska, especially Anchorage, depends on the
18 state's oil well to meet extraordinarily high costs of
19 living.

20 Legislatures have called tribal
21 governments absolute evil to be feared. They have
22 publicly denigrated villages as freeloaders in the
23 name of a false equality, and that they trample upon
24 constitutional protected tribal rights. In short, the
25 state has targeted rural Alaska with discriminatory

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1 treatment.

2 This inequity at the highest levels of
3 government is unacceptable, and they believe that this
4 urban-rural divide is a major problem, because most of
5 the native people are rural and are scattered. And
6 that it gave rise in 1998 to one of the largest civil
7 rights marches in the history of Alaska, attracting
8 over 4,000 people in Anchorage, similar protests in
9 '99 and 2000.

10 They've looked to the United States for
11 protection. The current situation facing Alaska is no
12 different from in the past, and they've joined forces
13 with national civil rights community religious
14 congregations and other organizations of conscience to
15 halt the destruction of them as an indigenous people
16 who have lived in Alaska for more than 10,000 years.

17 At the urging of the United Nations High
18 Commissioner for Human Rights -- that would be The
19 Honorable Mary Robinson of Ireland -- AFN will take
20 its case to the U.N. World Conference Against Racism
21 in South Africa in August. And they are appealing for
22 help from the United States Commission on Civil
23 Rights.

24 As I said, Senator Stevens expressed
25 great interest in having us consider doing something

1 -- a forum, a hearing, or something, or several -- and
2 the State Advisory Committee has expressed great
3 interest in the Federation of Natives. So the query
4 is: what could we do?

5 I understand that it is -- if one is
6 going to Alaska for any reason to do something like
7 this, that it has to be done or should be done in
8 August, September, or October at the latest, that that
9 is -- and that the timing on this is -- they see it as
10 a matter of great urgency.

11 You know, as I do, that hearings -- the
12 way we do hearings and the way we prepare for them,
13 would take a year, or several months. It wouldn't
14 take a year, but several months, to organize.

15 One option that they are recommending is
16 that we do the State Advisory Committee -- we support
17 the efforts of the State Advisory Committee to hold
18 some forums, and communities -- rural communities in
19 Africa -- in Alaska. And that -- yes, we could go to
20 Africa, too. That would be good.

21 (Laughter.)

22 And that we might do what we did in the
23 case of Hawaii and in the case of South Dakota, where
24 some Commissioners might attend. That's one option.
25 Does anyone want to move something on this or speak to

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1 the subject at least?

2 Yes, Commissioner Meeks?

3 COMMISSIONER MEEKS: Well, probably, you
4 know, a hearing might be a little too hard to organize
5 at this point. But I do think that a forum would be
6 effective. We could get to several of the communities
7 at least. I think it would shed light on this issue.
8 I mean, it's all too familiar.

9 And I just know that any time a group of
10 people are isolated like, you know, a lot of Indian
11 reservations and the Alaska Natives, that -- and
12 without adequate representation, that they are
13 powerless and they remain powerless. And if we can
14 shed some light, bring some attention to the issue, I
15 definitely make a motion that we do this.

16 CHAIRPERSON BERRY: Yes. Vice Chair?

17 VICE CHAIR REYNOSO: I just wonder about
18 the geography, because Alaska is so spread out. Would
19 it be -- could we, as we did in Hawaii or South
20 Dakota, have a forum? Or would it require more than
21 one, just because of the geography? I don't know what
22 -- you know, what the thoughts are of the Federation.

23 CHAIRPERSON BERRY: Well, the discussion
24 that we had was about maybe going to three or four
25 different places. Krishna just handed me a map of

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1 Alaska and where people live. It is a big place.
2 I've been up there once. It was dark the whole time I
3 was there.

4 (Laughter.)

5 COMMISSIONER WILSON: That's the wrong
6 time of year to --

7 (Laughter.)

8 CHAIRPERSON BERRY: Yes. I don't know
9 what time of year that was. The weather was nice, but
10 it was dark.

11 Anyway, I think that we talked about
12 maybe going three or four places for forums, and maybe
13 if we could organize flights that could take us from
14 one place to the other. Apparently, the way people
15 get around in Alaska is to fly, apparently. That's
16 what -- everybody keeps talking about flying
17 everywhere. And --

18 COMMISSIONER WILSON: We could always
19 pretend we're in the Iditarod.

20 CHAIRPERSON BERRY: Yes, we could.
21 Right.

22 (Laughter.)

23 And get some dog sleds.

24 (Laughter.)

25 I don't know what time of year that is.

1 But, anyway, so the idea would be that if we could --
2 if the SAC wanted to hold some forums, we would agree
3 that either all of us or some of us would go. I would
4 certainly commit myself.

5 But one of the points I made to them was
6 that the Commission doesn't have resources to do this.

7 We are stretched thin, as you know. And that
8 anything we decide to do is contingent upon some
9 resources, in addition to what we do have, because we
10 just don't -- there's no -- I mean, we dropped
11 everything we can drop, and we do everything we can
12 do. And there may be some creative ideas about how we
13 can handle that problem.

14 But I think in general what we might do
15 is agree that we are supportive of this and would like
16 to do it. But I would think three or four places,
17 since the population is so scattered and the Native
18 Americans are -- the Native Alaskans are rural people,
19 by and large, and we would go from one place to the
20 other and try to organize flights.

21 Maybe on one day and an evening have a
22 forum in one place, and then maybe go by plane from
23 there to some other place, and the next day and
24 evening have another one. And like take three or four
25 days. It could even include a Saturday.

1 We're going to run into schedule
2 problems, because those of us who teach know that when
3 fall comes we have classes. And so that's a problem.

4 And other people have other things on their schedules
5 that they have to do. I mean, everybody has a lot to
6 do.

7 So we'd have to work up the schedule.
8 But that's the idea -- maybe three or four places.

9 Yes, Commissioner Wilson?

10 COMMISSIONER WILSON: Thank you, Madam
11 Chair. I'm glad you brought up the issue of our
12 financial resources, because, I mean, I think -- in
13 fact, I think it's a shame that we don't have the
14 resources to pull together a hearing, because I think
15 a hearing would have much more impact.

16 One large hearing would have more of an
17 impact than -- I mean, you know, it would -- you know,
18 if that's what we can do, and meaning that we -- if we
19 have to fly from place to place, that's good. I think
20 we should definitely go. But I think it's a shame
21 that we don't have the money to be able to pull
22 together in a quick way a hearing.

23 CHAIRPERSON BERRY: Yes, Commissioner
24 Thernstrom?

25 COMMISSIONER THERNSTROM: Well, I would

1 just -- I'd kind of like to take the time to have some
2 kind of -- for the staff to provide some kind of brief
3 for there to be a series of, you know, facts before
4 us, so we can stare at the information, decide exactly
5 how to handle this.

6 This, for me, is just too once over
7 lightly and fast in terms of the decisionmaking
8 process. And I just wonder whether we can't have a
9 briefing by the staff on this issue and come back to
10 it next time with a more considered judgment.

11 I mean, I, frankly, you know, just
12 listening -- it's just not sufficient for me. I'd
13 like to hear, you know, the complexities of the issue,
14 both sides when it's a public policy matter, etcetera,
15 etcetera. Then I, you know, can think about it with
16 some integrity.

17 CHAIRPERSON BERRY: That would be very --
18 a way to do it procedurally if that was the way it
19 could be done. The State Advisory Committees have the
20 power to decide to have forums on their own. We don't
21 decide whether they have forums or not. That's up to
22 them.

23 COMMISSIONER THERNSTROM: Right. But
24 it's --

25 CHAIRPERSON BERRY: All we would be

1 deciding is whether we were willing to go. And if
2 we're not willing to go, we don't have to. And when
3 we've had them before, some Commissioners don't go.
4 Others decide to go. It's entirely up to the
5 Commissioners to decide.

6 COMMISSIONER THERNSTROM: But is it not
7 the case, Madam Chair, that when we go there is a --
8 it becomes, in part, our report, and, you know, an
9 activity of this Commission as well as the -- as the
10 SAC. And, therefore, it does seem to me that before
11 this Commission takes -- makes that decision, it would
12 be nice to be better informed than I feel at the
13 moment.

14 CHAIRPERSON BERRY: Well, the purpose of
15 forums is to educate people. That's the whole
16 purpose. And the purpose of SAC reports -- they're
17 their reports; they're not our reports. And the
18 purpose is to educate us.

19 If the SAC feels that they are informed
20 enough to have a forum, to have people come in from
21 all sides of the issues, which is what they do, to
22 talk about it, it wouldn't just be a forum. We talked
23 about this with Senator Stevens. It's not just a
24 forum where only Alaska Natives come to talk about
25 their problems.

1 It's a forum where anybody who wants to
2 talk about the issues, from all sides, comes. And
3 then the hope is that you get some positive outcomes,
4 and that people are moved to together deal with
5 whatever their local issues are. That's the whole
6 idea.

7 COMMISSIONER REDENBAUGH: Madam Chair?

8 CHAIRPERSON BERRY: And so my point -- I
9 will recognize you in just a moment, Commissioner
10 Redenbaugh.

11 The point is that, one, the SACs can
12 decide to do this on their own. And if we don't, you
13 can give them the resources. They can figure out some
14 way to do it as best they can and wherever they can,
15 since they don't get paid anything. Whether they can
16 write a report or not depends on, you know, the
17 resources. But they can at least shine a spotlight on
18 this issue.

19 And all we're being asked to do is not --
20 you noticed when I read the statement I didn't say
21 that these were conclusions I had reached. I said
22 that these were things that the Alaska Natives had
23 alleged were problems that they had.

24 If the SAC believes that they want to
25 have a forum, they can vote to have one anyway. But

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1 the process of deciding to have a forum does not
2 include the Commissioners -- we don't decide it. I
3 guess that's the first thing. We decide what we do,
4 but they are our eyes and ears. They have autonomy.
5 They decide what they want to do. We don't decide for
6 them.

7 Commissioner Redenbaugh?

8 COMMISSIONER REDENBAUGH: Yes. I'm
9 sorry. I wasn't intending to interrupt.

10 I think that the whole area is one
11 definitely worth study and investigation. Would it
12 make sense to consider a briefing that we've had on
13 many subjects, or is the nature of this so local that
14 a briefing wouldn't add much to our knowledge? What's
15 your sense of that?

16 CHAIRPERSON BERRY: My sense of it is
17 that the best way to start it -- and it would just be
18 a start -- would be to have the forums, have people
19 from all sides in Alaska, have us see what the place
20 looks like, and get down on the ground, and who the
21 people are, and get some feel for it, and have the SAC
22 come back with whatever they come back with.

23 And then, my guess would be that out of
24 that we would see some areas where a hearing would
25 make sense -- a real formal process where there's

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1 inquiry, there are witnesses, there are facts, you
2 know, that are in -- you know, that are being
3 considered. That will take longer to do.

4 It will probably be next year or
5 something before it could be done, but in the
6 meanwhile the desire of local people to try to help
7 solve their problem, which they have a lot of tension,
8 they have a lot of problems, and they think that this
9 is one way to get an airing of these and have people
10 come together to talk about them around their state.

11 But I think, well, that's -- you know,
12 that's a positive thing that can be contributed, so
13 long as there is access from everybody who wants to
14 come.

15 COMMISSIONER REDENBAUGH: Right.

16 CHAIRPERSON BERRY: So long as we're
17 there to look and to listen and that it's the SAC's
18 operation. But we're just showing our interest in it
19 by coming there.

20 COMMISSIONER REDENBAUGH: I'm very
21 interested in it, and, in fact, would be inclined to
22 go there if we were to do that. What I don't have is
23 any sense of what this would cost and what we would
24 displace if we were to do this. I gather this would
25 cost substantially more than going to South Dakota,

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1 but I don't have any sense that these are -- a number.

2 So given just the resource constraint,
3 I'd like to think about this in terms of the cost and
4 what we would give up to do it. But I am inclined to
5 do it and inclined to go.

6 CHAIRPERSON BERRY: Okay. Well, listen
7 to me very carefully, Russell. I said that it's
8 contingent upon us getting additional resources if we
9 decide to do it, that we're not going to displace
10 anything. Did you hear?

11 COMMISSIONER REDENBAUGH: Yes, I heard.

12 CHAIRPERSON BERRY: So my inclination is
13 not to try to -- we've displaced enough. And we've
14 got so many things to do, and so little money. So I
15 made it very clear to everyone that my -- I'm
16 supportive, and I think we should, you know, do
17 something, and we should support the SACs if they want
18 to do something. But that we do need additional
19 resources to pull it off. It will be expensive.

20 COMMISSIONER REDENBAUGH: That's my
21 sense, just from what you've said.

22 CHAIRPERSON BERRY: Absolutely.

23 COMMISSIONER REDENBAUGH: Yes.

24 CHAIRPERSON BERRY: Commissioner Lee?

25 COMMISSIONER LEE: Thank you, Madam

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1 Chair. I think it's a fact that we really have not
2 enough resources to do everything we want, but
3 particularly for the SACs. Many of them have
4 complained year after year since I've been here they
5 just do not have even enough money to hold a yearly
6 hearing -- a yearly meeting.

7 And it's worse for Alaska and Hawaii,
8 because they're not so close technically here, and
9 they tend to be neglected. And when you read the
10 state -- when I read the Staff Director's report,
11 there's hardly anything from Alaska and Hawaii. So I
12 think that through the years, because of the resource
13 allocation, I don't think they have been getting that
14 kind of attention to their issues.

15 So I would strongly support any efforts
16 by the SACs if they want to do something, and I think
17 it's due time that they should get some resources. I
18 don't think we're going to drop anything because SAC
19 should do the reports. They should hold forums when
20 they're needed, and I think that it's a really
21 critical time for Alaska.

22 All these issues that they've brought up,
23 they've been around for a long time, but now it's at
24 the very critical stage. So I really hope that we'll
25 be able to go hopefully before the end of September --

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1 that's the new fiscal year -- because we don't know
2 what's going to happen in the new year.

3 CHAIRPERSON BERRY: Yes, Commissioner
4 Wilson?

5 COMMISSIONER WILSON: Thank you, Madam
6 Chair. It seems as if there is some urgency, and also
7 there is the other element of the weather. And so you
8 had mentioned August/September. That doesn't give us
9 a lot of time.

10 So my question is: are these SAC
11 meetings taking place definitely?

12 CHAIRPERSON BERRY: Well, the SACs want
13 to do them, and they -- as I said, they could do them
14 by the seat of their pants with nothing and just go
15 meet somewhere, because, you know, nobody -- you know,
16 if that's what they want to do. But they will need
17 some additional -- the regional office will need some
18 additional resources to support them.

19 And if we decide -- if they'll have to
20 travel, you know, all these places. And the regional
21 office will have to staff them. And if we decided to
22 go it would cost something. It could be -- and then
23 the reports, which weren't planned for.

24 So what I think we ought to do is we
25 ought to -- if Elsie would modify her unseconded

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1 motion to say that we would -- contingent upon the
2 availability of additional resources we would support
3 the holding of -- the SAC's desire to hold forums in
4 Alaska on the Alaska Native issues, drawing
5 participants widely from the various communities in
6 Alaska, and that Commissioners would be urged to
7 attend, or Commissioners have -- some Commissioners
8 have agreed to attend such forums if they take place.
9 Something like that.

10 COMMISSIONER WILSON: But I have a part B
11 to what I was saying.

12 CHAIRPERSON BERRY: Part B?

13 COMMISSIONER WILSON: Yes. Part B is
14 that since our going is -- and our proceeding fully is
15 contingent upon resources, my suggestion is that we
16 have -- we have a plan A, as if we did have the money,
17 and that we go ahead and plan this to figure out what
18 would be the right time, rather than having them go
19 ahead and plan it and then people --

20 CHAIRPERSON BERRY: In other words, we
21 could say when we might be able to come.

22 COMMISSIONER WILSON: Right.

23 CHAIRPERSON BERRY: So that they would
24 know for planning purposes.

25 COMMISSIONER WILSON: Exactly. And then,

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1 if we don't get the money, they would go ahead anyway.

2 CHAIRPERSON BERRY: If that's what they
3 want to do.

4 COMMISSIONER WILSON: Right.

5 CHAIRPERSON BERRY: Yes. Unless they
6 want to denounce us from not doing --

7 (Laughter.)

8 Yes, Commissioner Thernstrom?

9 COMMISSIONER THERNSTROM: Illuminate me
10 as to the process by which we would get additional
11 resources to carry this project out.

12 CHAIRPERSON BERRY: The same way every
13 other government agency does -- by appropriation.

14 COMMISSIONER THERNSTROM: Well, but, so
15 we are making plans here, dependent on the
16 Congressional appropriation, that seems to me quite
17 unlikely between now and -- you're talking about
18 September?

19 CHAIRPERSON BERRY: Could be a
20 supplemental or a reprogramming. I think the
21 Appropriations Committee must know how -- I don't know
22 how to do this.

23 COMMISSIONER THERNSTROM: Yes. But, I
24 mean, in your estimate, what is the likelihood of such
25 an appropriation, a timely appropriation?

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1 CHAIRPERSON BERRY: Well, I think
2 probably 60/40 or 50/50. It could happen. I think
3 the -- I mean, Senator Stevens must know how to get an
4 appropriation if he really thinks it's something
5 important. And it's only a small amount of money
6 compared to what, you know, people do.

7 So I would say all we can do is say that
8 we're willing to do it. We think it's important,
9 because I do think it's important. I wouldn't say we
10 would do it contingent even upon resources if I didn't
11 think it was important. So I know it's important. It
12 came to us. The SACs want to do it. And I think we
13 should say we can do it. But we're just being
14 realistic when we say if we don't have the resources,
15 we can't do it.

16 COMMISSIONER THERNSTROM: Right. And
17 would plan A, as Commissioner Wilson outlines it,
18 would it take staff time and resources here, just in
19 the planning stage on the chance that we would --

20 CHAIRPERSON BERRY: No. No.

21 COMMISSIONER THERNSTROM: -- get a
22 Congressional appropriation?

23 CHAIRPERSON BERRY: No. All she was
24 saying is that we figure out when we could go, if we
25 thought in terms of our own calendars, and inform the

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1 SAC, so that if they want to plan something -- these
2 are volunteers. They work for nothing. They can do
3 it, keeping in mind that these are the only times the
4 Commissioners would be able to come if it should
5 happen. That's all she really meant, as I understood
6 it. Was that --

7 COMMISSIONER WILSON: I do think that if
8 we go ahead with this as planned, it's really not
9 costing anybody anything. In fact, we've actually
10 been spending 10 minutes discussing whether we should
11 make the plan.

12 (Laughter.)

13 A theoretical plan. And I think we
14 should just make the plan, so that -- because a lot of
15 -- it seems to me many of the Commissioners are
16 interested in going, and it would be a shame if we
17 couldn't go because of scheduling.

18 CHAIRPERSON BERRY: So she's really
19 talking about scheduling, and I don't know how much it
20 costs to look at one's calendar.

21 (Laughter.)

22 COMMISSIONER THERNSTROM: I was assuming
23 that once we got into gear that we would have the
24 staff working on briefings, etcetera.

25 CHAIRPERSON BERRY: No. No. That's not

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1 how you do forums.

2 COMMISSIONER THERNSTROM: All right.

3 Okay.

4 CHAIRPERSON BERRY: All they do is the
5 SAC figures out who they want to invite.

6 COMMISSIONER THERNSTROM: Yes. But for
7 our purposes.

8 CHAIRPERSON BERRY: Yes. We would only
9 do that if we needed it, and we'd get a briefing
10 paper, and it would be right before we went there or
11 something.

12 COMMISSIONER THERNSTROM: Yes.

13 VICE CHAIR REYNOSO: Madam Chair, two
14 things. One, I've had occasion to participate in
15 three SAC forums where several Commissioners
16 participated. And it seems to me they have been very,
17 very effective. Each of them, interestingly, has been
18 in somewhat of an outlying area -- Santa Rosa,
19 Northern California, South Dakota, and Hawaii -- folk
20 who often feel that it's hard for them to get the ear
21 of government and other folk.

22 And so when we have been able to respond
23 to them they've been very satisfied that finally, you
24 know, they had an official group that could listen.
25 And thereby the local officials pay more attention to

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1 the issues that are before them. So I just want to
2 make that observation based on my own experience.

3 Secondly, you know, if -- I agree that it
4 would be too bad to have this go forward and then
5 because of calendar none of us could attend. I'd
6 suggest that we might look at July and when we have
7 the already scheduled Commission meeting and try to do
8 something around that date, if that makes sense.

9 COMMISSIONER WILSON: Do you mean to go
10 in July?

11 VICE CHAIR REYNOSO: I beg your pardon?

12 COMMISSIONER WILSON: Are you suggesting
13 that we would go in July?

14 VICE CHAIR REYNOSO: Hope so.

15 CHAIRPERSON BERRY: He likes Alaska.

16 COMMISSIONER WILSON: Well, I like New
17 York in June. I don't know about Alaska in July.
18 But --

19 VICE CHAIR REYNOSO: I've been in Alaska
20 in July. It's great.

21 (Laughter.)

22 CHAIRPERSON BERRY: I don't know why they
23 said August.

24 COMMISSIONER WILSON: I thought they said
25 August, September, and October.

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1 CHAIRPERSON BERRY: And I don't know why,
2 because I don't know anything about what happens in --

3 COMMISSIONER WILSON: Maybe it would take
4 them that time to pull it together.

5 VICE CHAIR REYNOSO: No, no, I -- yes, I
6 think they were just thinking that it takes time to
7 get together, and the latest we should have it is
8 August, September, or October. We could have it
9 earlier if, by chance, finances fall into place, and
10 so on.

11 CHAIRPERSON BERRY: Yes, Commissioner
12 Wilson?

13 COMMISSIONER WILSON: Thank you, Madam
14 Chair. I would just like to make this point. Call me
15 madcap, but if we do get the money to go to the SAC
16 meetings, I would also hope that there would be
17 sufficient funds appropriated to us, so that if we
18 decided to have a full hearing after -- after we had
19 looked at all of the information and digested it, that
20 we would have the money to go ahead with that.

21 CHAIRPERSON BERRY: Yes. Well, that's
22 what I was thinking. I was thinking that if we got a
23 sufficient increase in our appropriation we could plan
24 for a hearing, like a real hearing -- you know, the
25 full-fledged ones the Commission does -- and have lots

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1 of time to plan it.

2 And, in fact, what you'd learn at the
3 forums would help you to figure out what to have the
4 hearing about. So that would -- in a way, it would be
5 an idea way to go forward. And then there are the
6 reasons that Cruz gave about people who are in states
7 like Alaska and Hawaii, and so on. And, Yvonne, they
8 figured no one ever pays any attention to their
9 grievances, and it's important to pay attention to
10 them.

11 I understand that in September and
12 October there is -- they are not hunting and
13 gathering.

14 COMMISSIONER WILSON: So does that mean
15 it's better or worse?

16 CHAIRPERSON BERRY: That's why October is
17 not good. That's why August -- July could work.
18 That's why August is good, too. But Cruz's suggestion
19 is that we do it around the Commission meeting.
20 That's interesting. I hadn't thought about doing it
21 that early. But that we tentatively put those down as
22 dates for the SAC people, to try to figure out --

23 COMMISSIONER WILSON: Would they be able
24 to pull it together?

25 CHAIRPERSON BERRY: Let me try to answer,

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1 Commissioner Wilson. Generally, my experience has
2 been that when it's one of these forums, if they know
3 they can do it and they have the resources, that
4 they're going to have resources available to help.
5 They already know who the people are who they want to
6 come to the forums. It's not like they don't know.

7 So they can pull them together in rather
8 short order out in the states. They probably, right
9 at this moment, know who they would like to have come.
10 And so I don't think that would be a problem. Yes?

11 VICE CHAIR REYNOSO: Yes. Madam Chair,
12 my supposition is that getting more funds -- it really
13 depends on an individual Senator, and in this case it
14 might be Senator Stevens -- having a sufficient
15 interest, that the person would push it internally for
16 a supplemental appropriation or something of that
17 sort.

18 And so if that or other legislators who
19 are interested in this know the -- tell me the date
20 that we're thinking about, why then they can try to
21 see whether they have any luck in being able to get
22 those resources by that date.

23 CHAIRPERSON BERRY: What I would like to
24 do is to have us consider the dates that Cruz
25 mentioned, which would be like Thursday, Friday,

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1 Saturday, maybe even Wednesday, Thursday, Friday, and
2 Saturday. But also an alternative date, which would
3 be at the end of August, even though school will have
4 started by then, if we could do it sometime the week
5 of August 27th, say. Maybe at the end of that week,
6 if people aren't going to the World Conference in
7 South Africa. I'm supposed to go, but I don't think
8 I am. And to look at those -- that as an alternative,
9 like a Thursday, Friday -- something -- Saturday.

10 I know you have classes, Cruz, but I know
11 Thursday and Friday is possible. What do other people
12 have as calendar considerations? Yes?

13 COMMISSIONER THERNSTROM: Can I just ask
14 a question on Senator Stevens? Has he already been
15 contacted? Have we had contact with him about a
16 supplemental?

17 CHAIRPERSON BERRY: We don't request or
18 lobby Congress for funds.

19 COMMISSIONER THERNSTROM: No, just as --

20 CHAIRPERSON BERRY: All I'm saying is --
21 and we haven't even asked. What I had said was that
22 I met with Senator Stevens at his request, and
23 explained that we would discuss this, and we had
24 gotten the recommendation I had gotten from the SAC,
25 that they were recommending that they wanted to do

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1 this.

2 And that -- but I just made it clear to
3 him that I just didn't see how we could do it without
4 any additional resources. But I did not ask him to
5 give us a supplemental, no. I didn't ask him to give
6 us anything. I just said that we couldn't do it
7 without the additional resources, and he seemed to
8 think that there was some way to do it.

9 So all we can do is say that we are
10 willing to do it. The Commissioners are willing to
11 say that these are some dates when they might be
12 willing to participate, and that we've had this
13 discussion, and let it go at that for the time being.
14 That's about all we can do.

15 What about those dates still at the end?
16 Anybody got a -- yes, Elsie?

17 COMMISSIONER MEEKS: It works for me.

18 CHAIRPERSON BERRY: Those work, too?

19 Okay.

20 COMMISSIONER WILSON: Are you talking
21 about the end of August here?

22 CHAIRPERSON BERRY: Yes. One alternative
23 is the July thing that Cruz mentioned. The other one
24 is to try to -- if that doesn't work for some reason
25 -- to try to do the one at the end of August.

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1 VICE CHAIR REYNOSO: August is fine.

2 COMMISSIONER WILSON: The July is fine
3 for me, but the August is not possible.

4 CHAIRPERSON BERRY: The August is not
5 possible. Okay.

6 What's your view, Yvonne?

7 COMMISSIONER LEE: August works better
8 for me.

9 CHAIRPERSON BERRY: Okay.

10 COMMISSIONER LEE: July would be a rough
11 time.

12 CHAIRPERSON BERRY: Russell?

13 COMMISSIONER REDENBAUGH: I don't happen
14 to have my August calendar, so I -- I can't speak to
15 that right now.

16 CHAIRPERSON BERRY: Okay. Do you know
17 what your July calendar is like, the July meeting
18 date?

19 COMMISSIONER REDENBAUGH: Yes. What is
20 the July meeting date?

21 VICE CHAIR REYNOSO: 13th.

22 CHAIRPERSON BERRY: The 13th.

23 COMMISSIONER REDENBAUGH: I think that
24 does work. I mean, August may. I just don't know.

25 CHAIRPERSON BERRY: I see. Okay. Yes?

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1 COMMISSIONER MEEKS: So if we went with
2 Cruz's recommendation, which really wouldn't be as
3 good for me, but that would mean we'd have the SAC --
4 or the meeting there?

5 CHAIRPERSON BERRY: Yes. Like we would
6 have the Commission -- if we did what he suggests, we
7 would have our business meeting, whatever we were
8 doing in terms of business, and a small meeting up
9 there. But we'd have to make sure we had a quorum or
10 that we didn't have any items to --

11 Which one was the one you couldn't come
12 to?

13 COMMISSIONER WILSON: August.

14 CHAIRPERSON BERRY: The whole week?

15 COMMISSIONER WILSON: Yes, I'm going to
16 be away, very away.

17 COMMISSIONER THERNSTROM: I have no -- my
18 calendar is incomplete. It's complete at home. It's
19 incomplete here.

20 CHAIRPERSON BERRY: So you don't know
21 either.

22 COMMISSIONER THERNSTROM: I don't know.

23 CHAIRPERSON BERRY: Well, then, what we
24 will say is -- I could do either one of those dates,
25 if I don't go to South Africa, so that'll help me

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1 decide not to go, if we do it in August.

2 So why don't we just leave it that those
3 two dates are possible. Could Commissioner Redenbaugh
4 and Commissioner Thernstrom let the Staff Director's
5 office know later?

6 COMMISSIONER REDENBAUGH: Yes, I will do
7 that.

8 CHAIRPERSON BERRY: Have Charlie and
9 Kristina let them know, say sometime next week,
10 whether those are possible dates for you?

11 COMMISSIONER THERNSTROM: That's fine.

12 COMMISSIONER REDENBAUGH: Will do.

13 CHAIRPERSON BERRY: And can we -- the
14 motion, Elsie, would you like to have the motion
15 restated or restate it as I restated it, or whatever?

16 COMMISSIONER MEEKS: Well, I am willing
17 to restate that. However, provided we do not -- I
18 mean, if we would not get appropriations, I would want
19 to revisit this.

20 CHAIRPERSON BERRY: Okay.

21 COMMISSIONER MEEKS: And see what is
22 possible, because it's not an excuse not to shed light
23 on this issue. They've not been able -- the SAC, I
24 think in the mid '90s, invited several federal
25 agencies, and I think out of nine only two showed up

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1 because they didn't have the budgets to go to Alaska.

2 And I think it's high time that there was light shown
3 in Alaska on these issues, so --

4 CHAIRPERSON BERRY: So we would pass the
5 motion, but with the understanding that should we not
6 get an appropriation, we would revisit in the next
7 cycle somehow how we could do something in Alaska
8 anyway, despite the fact that we didn't get any money
9 to do it. That's reasonable.

10 Okay. So the motion is whatever I said.
11 Oh, that we would have, what, four -- three or four
12 -- we would support the SAC in their desire to have
13 three or four forums in Alaska, contingent upon
14 resource availability, and that the Commissioners
15 agree, in principle, that they would attend the forum.

16
17 And Cruz and I agree absolutely that we
18 would attend? Okay.

19 COMMISSIONER MEEKS: And I agree
20 absolutely.

21 COMMISSIONER LEE: I do, too.

22 CHAIRPERSON BERRY: And Elsie and Yvonne
23 agree absolutely that they would attend, and Vickie
24 and the rest depending on their schedules and when
25 this thing will be set up. So that's the motion.

1 Could I get a second?

2 COMMISSIONER WILSON: Second.

3 CHAIRPERSON BERRY: It's Elsie's motion.
4 It's not mine.

5 COMMISSIONER WILSON: Second.

6 CHAIRPERSON BERRY: All those in favor
7 indicate by saying aye.

8 (Chorus of ayes.)

9 Opposed?

10 (No response.)

11 Okay. So ordered.

12 **VI. U.S. China Relations and Impacts**

13 **on the Asian American Community**

14 CHAIRPERSON BERRY: The next item is --
15 as soon as I find the agenda -- what's the next item?

16 Oh. The next item is the issue of the Asian
17 American -- U.S. China relations and impact on Asian
18 Americans that Commissioner Lee wanted to discuss.

19 COMMISSIONER LEE: Thank you, Madam
20 Chair. First of all, I want to thank you for the
21 statement. I got many calls from members of the
22 Asian American community. They really welcomed it.
23 In fact, the local press had printed it just to assist
24 those who live in smaller towns who did not have civil
25 rights organizations to assist them when they're

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1 dealing with situations like this.

2 Since the plane collision incident, the
3 situation between U.S. and China relations has gotten
4 more tense. Besides the examples that you have cited
5 here, there has been stepped up efforts through the
6 internet, through radio talk shows, to really stir up
7 antagonism against Asian Americans.

8 And for the next few weeks and the next
9 few months I think tension is going to continue to
10 rise, because Congress is expected to hold a series of
11 hearings involving China, such as MFN and the plane
12 investigation, and what have you.

13 And also, recently, Committee of 100,
14 which is a New York-based organization whose members
15 include Yo Yo Ma, I. M. Pei, and other prominent
16 Chinese Americans, they commissioned a survey of over
17 a thousand Americans. And, you know, some of us don't
18 think it was surprising, but some felt it was
19 surprising, that over 60 percent of the respondents
20 hold either a somewhat or a very negative view of
21 Chinese-Americans.

22 And since most cannot make a distinction
23 between Chinese Americans and Asian Americans, the
24 Asian American community think this is a really
25 spiraling wakeup call.

1 Because of all these events, the Asian
2 American community continues to feel the heat, what
3 have you, as you have mentioned in your statement.
4 And I remember during the '96/'97 campaign finance
5 controversy we held a forum here, and community
6 members and media observers came and testified, saying
7 that because of the media and public officials'
8 comments, and the way they reported on the way to
9 campaign finance controversy was Asian Americans were
10 particularly targeted.

11 And, worse yet, because of this kind of
12 discriminatory reporting and observation, when
13 Congress was holding hearings on the campaign finance
14 controversy several Congressional leaders were using
15 derogatory or stereotypical comments on Asian
16 Americans, which caused further antagonism toward the
17 entire community.

18 And given the fact that Congress is going
19 to hold these hearings relating -- regarding China in
20 the near future, I wanted to bring up the possibility
21 of this Commission sending to both the leadership and
22 the ranking members of the committees who will be
23 holding these hearings a copy of your statement, and
24 also a letter to them urging them to refrain from
25 certain rhetoric that would inflame antagonism toward

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1 particular groups of Americans.

2 And also, to urge them to be very careful
3 when they're debating on U.S. China relations. That
4 it's not U.S. and Chinese-American or Asian American
5 relations, that they have to make a really clear
6 distinction that they're dealing with Chinese, but
7 they should not be mixing up Chinese-Americans and
8 Asian Americans in the debate, because the American
9 public already does not have a very clear view of who
10 Asian Americans are. And we certainly need public
11 officials to help make a clear distinction.

12 So I hope that we can issue a letter in
13 addition to the statement that you have sent out to
14 the public.

15 CHAIRPERSON BERRY: Okay. Discussion?
16 What do Commissioners -- what is your pleasure? Vice
17 Chair?

18 VICE CHAIR REYNOSO: Madam Chair, I think
19 it would be wise to send a letter ahead of the
20 hearings. I still recall so vividly the quite
21 dramatic testimony that we received from Asian
22 Americans who had participated politically by making
23 political contributions.

24 And then to have particularly a
25 Democratic party investigating them to see if they had

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1 made any improper investigations was more than
2 humiliating. I remember one witness saying that she
3 wasn't sure whether she wanted to participate in the
4 political process anymore.

5 And the Democratic party, in turn, was
6 responding to the type of rhetoric that's just been
7 described in those Congressional hearings. And so out
8 of intemperate Congressional hearings we can have
9 either party or administrative agencies responding
10 quite negatively. And so I think -- an early
11 acclamation I think would be helpful.

12 CHAIRPERSON BERRY: Okay. Yes,
13 Commissioner Thernstrom?

14 COMMISSIONER THERNSTROM: I have a
15 question for Commissioner Lee. Who conducted this
16 survey that you referred to? You know, how large a
17 sample, and so forth? Because it doesn't square with
18 any other polling data that I have seen on the matter.

19 And I would also like to hear the
20 specific examples of Congressional rhetoric,
21 inflammatory rhetoric to which you referred.
22 Obviously, none of us will condone any kind of
23 rhetoric in Congress that is inflammatory towards
24 members of any group in the United States. But I'd
25 like to see specific examples of what you are

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1 referring to.

2 COMMISSIONER LEE: I think, first of all,
3 the report on the briefing contained most, if not all,
4 of the rhetoric -- the statement that was made by
5 committee members. One, in particular, I think there
6 was a -- one of the parties involved was John Huang,
7 and one of the Senators was saying that two Wongs
8 don't make a right, you know.

9 And there was a comment about that this
10 is a whole -- we have not seen the tip of the egg
11 roll. So there are a lot of things that were said in
12 public record that we heard in testimonies and we -- I
13 think the staff has found in Congressional Records.
14 So most, if not all, of the Congressional members have
15 issued apologies.

16 One in particular, Mr. Brownback from
17 Kansas, he had issued a formal apology. But at the
18 very same time, it has been four years since the last
19 hearing, and it is very important for us, because we
20 have those records. We have heard from the community.

21 It's just a matter of reiterating what we heard.

22 And the survey that was done was done in
23 conjunction with -- was it the anti-defamation league
24 in -- it was done by the anti-defamation league. It
25 was done by Matildo Communications Group, yes, and

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1 Yankolovich Partners. I think they've done a national
2 survey. That's been covered widely by --

3 COMMISSIONER THERNSTROM: You said it
4 was --

5 CHAIRPERSON BERRY: Yankolovich.

6 COMMISSIONER THERNSTROM: Yes,
7 Yankolovich I know, of course.

8 CHAIRPERSON BERRY: ABL and the Chinese-
9 American group did it to get funded.

10 COMMISSIONER LEE: Right.

11 COMMISSIONER THERNSTROM: Using the
12 Yankolovich's --

13 COMMISSIONER LEE: Right.

14 COMMISSIONER THERNSTROM: -- expertise.

15 COMMISSIONER LEE: Right.

16 COMMISSIONER THERNSTROM: I would very
17 much like to see that survey, if it could be
18 distributed to members of the Commission.

19 CHAIRPERSON BERRY: Does staff --

20 COMMISSIONER LEE: Well, I think that has
21 been widely reported in The New York Times and
22 elsewhere.

23 VICE CHAIR REYNOSO: Yes.

24 CHAIRPERSON BERRY: Don't the
25 Commissioners Assistants get news clips? I'm just

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1 asking for information. I thought they did.

2 VICE CHAIR REYNOSO: Maybe not quickly,
3 no.

4 CHAIRPERSON BERRY: They don't get the
5 news --

6 VICE CHAIR REYNOSO: This was just last
7 week, I believe.

8 CHAIRPERSON BERRY: But I thought that we
9 were supposed to distribute news clips every day to
10 the people who are here.

11 COMMISSIONER WILSON: No. We don't get
12 them every day. We get --

13 CHAIRPERSON BERRY: Well, just a minute.
14 You are not a Commissioner Assistant. I'm asking
15 about the Commissioners Assistants.

16 (Laughter.)

17 COMMISSIONER WILSON: Well, you know
18 what? I don't have an assistant.

19 CHAIRPERSON BERRY: I know that, but
20 that's why I'm asking about the ones who do have
21 assistants.

22 COMMISSIONER WILSON: So I would think if
23 I don't have one, it would come directly to little old
24 me.

25 CHAIRPERSON BERRY: Okay. But I thought

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1 that they did, and if they did they must have gotten a
2 copy of the thing --

3 COMMISSIONER WILSON: Okay.

4 CHAIRPERSON BERRY: -- because Krishna
5 got it. You guys didn't get it, huh?

6 COMMISSIONER THERNSTROM: You know, this
7 does bring up a larger question. I wish we would have
8 these news clippings available on a -- by computer
9 access, so I could say, you know, "I want to find the
10 latest clippings that the Commission is" --

11 CHAIRPERSON BERRY: Okay.

12 COMMISSIONER THERNSTROM: That should be
13 a high priority.

14 CHAIRPERSON BERRY: I think so. I think
15 it would make our lives a whole lot easier if we did.

16 Yes, Vice Chair?

17 VICE CHAIR REYNOSO: Madam Chair, I just
18 want to suggest that maybe the transcript of the
19 briefing that we had -- I guess it was four years ago
20 -- be made available to Commissioner Thernstrom,
21 because I just found it very dramatic, and I think --
22 I think it would be very helpful to go back and review
23 that.

24 COMMISSIONER WILSON: I would like to
25 have that, too.

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1 VICE CHAIR REYNOSO: That's right,
2 because you weren't here at that time.

3 COMMISSIONER THERNSTROM: Madam Chair?

4 CHAIRPERSON BERRY: Yes.

5 COMMISSIONER THERNSTROM: My assistant
6 just said she reviews the clippings every day, that it
7 was not included in the clippings, and that she just
8 got it -- he pulled it -- Commissioner Meeks'
9 assistant pulled it off the internet. But evidently
10 it was not in our package of clippings, according to
11 Kristina Arriaga.

12 CHAIRPERSON BERRY: Yes. Well, the point
13 I was making by asking the question is that my
14 understanding was, and we revisited this question a
15 million times, there ought to be news clips -- there
16 are supposed to be. And I have said and thought, when
17 we discussed this before, that people would be given
18 them every day, depending on what, you know, happened
19 in the press that day.

20 So I was just assuming that. So I
21 discover, again, that I was wrong. I remember when
22 Leon was here -- Higginbotham -- he went into a great
23 tirade about the fact that we couldn't get news clips,
24 and he thought that since the Commission gave us so
25 little else, that at least we ought to be able to

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1 figure out, you know, the news clips. And somebody
2 said, "Why don't you look it up on the internet?"

3 (Laughter.)

4 So, Staff Director, having said that,
5 let's see if we can do a job of getting the news clips
6 every morning to the Commissioners or their
7 assistants, if they have any.

8 STAFF DIRECTOR JIN: Okay.

9 CHAIRPERSON BERRY: All right. I've
10 forgotten where we were in the discussion.

11 VICE CHAIR REYNOSO: Madam Chair, I would
12 just suggest that the briefing -- that the transcript
13 of the briefing that we had on this issue, which I
14 thought was a very important briefing, be made
15 available, particularly to the Commissioners who
16 weren't here at that time, because it was really quite
17 dramatic, I thought.

18 CHAIRPERSON BERRY: Yes. I think that
19 that should be -- we should make sure that
20 Commissioners have a copy of that, so they can read
21 it, because, as Commissioner Lee was pointing out, a
22 number of the things that were said by different
23 people came up in the briefing. And there was not any
24 -- no one controverted that people had actually said
25 these things.

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1 It was a question of apologizing for
2 them, feeling sorry about it, not really meaning,
3 whatever. So we should get those copies out to people
4 who don't have --

5 STAFF DIRECTOR JIN: It's not very thick,
6 so let me -- let us get it to all of you, just in
7 case. Even some of you that were here four years ago
8 may not be able to put your hands on it too quickly.

9 Just a question -- was Commissioner
10 Thernstrom's request for the -- that we try to get the
11 survey itself, or was it just the report?

12 COMMISSIONER THERNSTROM: Well, it
13 depends on -- yes, I wouldn't mind seeing the survey.

14 CHAIRPERSON BERRY: If they will give it
15 to us. I mean --

16 STAFF DIRECTOR JIN: Okay. We'll make an
17 effort to do that.

18 COMMISSIONER THERNSTROM: Yes, I like to
19 look at data as it is collected, as it --

20 CHAIRPERSON BERRY: Yes. So if they'll
21 give it to us --

22 STAFF DIRECTOR JIN: Okay. We'll try.

23 CHAIRPERSON BERRY: -- and it's not
24 proprietary, then we can --

25 STAFF DIRECTOR JIN: We can try.

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1 CHAIRPERSON BERRY: Okay. Do you wish to
2 speak further, Commissioner Lee?

3 COMMISSIONER LEE: If I could just add
4 one more thing. Partial answer to Commissioner
5 Thernstrom's question -- when you said you found this
6 sort of surprising. I think that it really fit into
7 the Asian American stereotype of being the model
8 minority in certain things, and being treated as
9 foreigners in the same breath.

10 While they have a negative view of Asian
11 Americans, overwhelmingly, 23 percent of Americans are
12 uncomfortable voting for an Asian American candidate
13 for President. Many of them disapprove of someone in
14 the family marrying a Chinese-American. But at the
15 same time, they value the Asian American work ethic,
16 you know, education, family values, and everything.

17 So I think that's why the Asian American
18 community has felt that the American public really
19 does not have a complete view of who they are. You
20 know, they are not the model minority, but at the same
21 time they are not foreigners either.

22 So I think this survey really shed the
23 light that the community has been saying, and that's
24 why the upcoming hearings are going to be so critical.

25 Whatever is being said on -- in Congress will

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1 resonate to the community. So if people continue to
2 make insensitive remarks, it's really going to
3 perpetuate the --

4 COMMISSIONER THERNSTROM: But the
5 Yankolovich does very, very good work. I'm delighted
6 to look at this. My point was only that it didn't
7 square with other polling data that I have seen. And,
8 you know, if we talk about things like intermarriage
9 rates, because they're very, very high, and suggesting
10 -- and, after all, intermarriage is the test of --
11 intermarriage rates are the test of tolerance towards
12 groups.

13 And so, you know, I simply was interested
14 in the actual data. Again, I have the highest respect
15 for Yankolovich's work.

16 CHAIRPERSON BERRY: Since we have a few
17 moments here to have a seminar and we're not, you
18 know, worried about C-SPAN and their timetable, let me
19 engage in seminar here.

20 Commissioner Thernstrom, why did you say
21 that the test is intermarriage rates? It seems to me
22 -- let me just follow up. This is an intellectual
23 interest. It has nothing to do with what we're doing
24 here.

25 (Laughter.)

1 I'm indulging myself.

2 It seems to me that, arguably, the
3 willingness of one individual to marry another across
4 racial or ethnic lines may occur with or without any
5 evidence that overall attitudes toward a particular
6 group have been modified or changed, either before or
7 after that action.

8 So I'm just asking for intellectual
9 insight.

10 COMMISSIONER THERNSTROM: Well, look -- I
11 mean, if we look at one of the signs of the
12 persistence of the American dilemma, as it were, is
13 that black-white intermarriage rates are still very
14 low -- about 12 percent of all new black marriages.

15 And, obviously, historically relations
16 between races, sexual relations, dating, it -- and
17 eventually marriage has been the most enormous -- you
18 know, it's been symbolic of -- you know, it's what the
19 white south feared. God, what's going to happen to
20 our precious white women, etcetera, with
21 desegregation?

22 And so that I regard it as a very telling
23 figure. Intermarriage rates is a very telling figure,
24 and, indeed, as I said, the most telling figure, when
25 the degree of acceptance of members of a group has

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1 gotten to the point where intermarriage rates, indeed,
2 are very high.

3 CHAIRPERSON BERRY: Well, I guess what
4 I'm saying is, I don't see the necessary connection.
5 I can see that one could posit a connection, but I do
6 not see that it is necessarily the case in an
7 evidentiary sense --

8 COMMISSIONER THERNSTROM: I mean, we've
9 got all --

10 CHAIRPERSON BERRY: -- that that would be
11 the --

12 COMMISSIONER THERNSTROM: -- Asian
13 Americans marrying non-Asians that are third
14 generation. We do not have a lot of third generation
15 Asians. Obviously, we've had a lot of newcomers.

16 But, I mean, that is a telling figure, it
17 seems to me, when one is thinking about attitudes
18 towards Asian Americans in this society.

19 CHAIRPERSON BERRY: Well, let me try to
20 pose it differently, since we have a minute here, that
21 -- if the Commission will indulge me. If you won't,
22 say so, step on my foot, or something, Cruz.

23 (Laughter.)

24 It would seem to me that one way you
25 might look at it, and this is just one way, is that to

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1 the extent that a group is seen to be more like those
2 who traditionally are in a majority or have power in
3 our society -- in the society, any society, that it
4 might be more likely that an individual who decides to
5 marry one of them, like an individual marriage
6 decision, might take and place in a context a feeling
7 that there will be more acceptance.

8 You know, when John and Jo Suzi decide to
9 marry each other, or Wen Ho Lee and Suzi Chen decide
10 to marry each other, or Wen Ho Lee and Suzi O'Connor
11 decide to marry each other, they may think that if
12 Asian Americans are regarded as more like whites in
13 terms of neighborhood integration, all sorts of
14 things, that their individual choice to marry each
15 other might be more acceptable and create fewer
16 problems for them than if these other indicators
17 didn't show that.

18 So all I'm saying is that intermarriage
19 rates may indeed show that there is more tolerance.
20 I'm not disputing that it's possible. But they don't
21 necessarily -- it could be the other way around, that
22 individual marriage rates are dependent upon what
23 happens elsewhere on the other indicators, which show
24 -- I mean, I realize that this is a nice point. But I
25 just --

1 COMMISSIONER THERNSTROM: We do have
2 other indicators. We've got average family income
3 among Asian Americans is higher at this point than
4 that of whites. I celebrate that. I think it's a
5 wonderful American story, but it is a fact.

6 CHAIRPERSON BERRY: But the Commission
7 has discovered that while they are higher for some
8 groups of Asian Americans -- I'll let you say that.
9 You know it well. You've pointed it out to us. That
10 while the incomes are higher for some groups of Asian
11 Americans, some particular groups of Asian Americans,
12 those particular groups of Asian Americans are
13 subjected to discrimination.

14 And that, in fact, if they weren't
15 Japanese Americans or Chinese Americans, the
16 projections are that their incomes would be even
17 higher because until recent years they've had great
18 difficulty moving up from the levels where they are to
19 become in charge of things.

20 There have been a lot of complaints about
21 that, and that if they had been white, not only would
22 they have made what they make now, assuming no
23 recession, but they would make even more. Isn't that
24 -- am I articulating the concern accurately?

25 COMMISSIONER THERNSTROM: I don't know

1 how -- I mean, as a social scientist, I don't know how
2 you figured that -- how one comes to that conclusion.

3 I mean, there simply are not the data upon which you
4 can base such an "if" proposition. If, you know, Jews
5 hadn't experienced the discrimination they did, their
6 incomes would have been even -- I mean, I just -- I
7 can't go down that road, because it's not one that it
8 seems to me you can support in a rigorous manner.

9 CHAIRPERSON BERRY: I can easily project
10 how much money somebody would make given their levels
11 of education, their backgrounds, and all the rest.
12 And you can, too. We can project, based on human
13 capital and conditions, how much particular
14 individuals, given the markets, are likely to make.
15 And if they don't make that -- I'm talking about an
16 individual, not a group of people -- we can start
17 looking to try to figure out what's wrong.

18 COMMISSIONER THERNSTROM: Well, we're
19 talking about group averages here and group --
20 portraits of groups. But I don't think we should
21 continue this seminar.

22 CHAIRPERSON BERRY: Russell, do you have
23 any light to shed on this?

24 COMMISSIONER REDENBAUGH: Well, I
25 wouldn't say that it's light. Perhaps it's heat.

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1 (Laughter.)

2 But, no, I wanted to say the obvious,
3 which is that Mary's preference is a private, not a
4 civil, decision.

5 CHAIRPERSON BERRY: Right.

6 COMMISSIONER REDENBAUGH: It is one of
7 the few areas where government should not enter. And
8 so I only want to make clear the distinction between
9 the Civil Rights Commission and our responsibility for
10 civil matters --

11 CHAIRPERSON BERRY: Yes.

12 COMMISSIONER REDENBAUGH: -- and the
13 absolute right of individuals in their marriage
14 preferences.

15 CHAIRPERSON BERRY: To marry whomever
16 they please.

17 COMMISSIONER REDENBAUGH: Yes.

18 CHAIRPERSON BERRY: We hope, if the
19 person will marry them.

20 COMMISSIONER REDENBAUGH: Well, yes.

21 (Laughter.)

22 That's one of my problems.

23 CHAIRPERSON BERRY: Oh, okay. All right..

24 (Laughter.)

25 COMMISSIONER WILSON: Are you asking that

1 we hold a hearing on who should marry whom?

2 CHAIRPERSON BERRY: No, no.

3 (Laughter.)

4 COMMISSIONER WILSON: I missed that.

5 CHAIRPERSON BERRY: I was just enjoying
6 myself.

7 Commissioner Lee, did you want to say
8 something?

9 COMMISSIONER LEE: I just want to add one
10 more -- since I am the only happily single person here
11 -- I do believe in marriage -- but in response to
12 Commissioner Thernstrom's comment about Asian
13 Americans having high rates of intermarriage -- number
14 one, when you look at the intermarriage rate between
15 Asian American women to non-Asian Americans, and Asian
16 American males to non-Asian Americans, there's a huge
17 difference.

18 Overwhelmingly, intermarriages occur with
19 Asian American women, not men. Now that's one thing
20 maybe the social scientist can look at.

21 Number two, in terms of why the high
22 rate, you know, there are certain issues, such as mail
23 order brides. Many Asian American women were brought
24 to this country as an economic means, or what have
25 you. So when you look at that, that does not mean

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1 automatically that Asian Americans are being accepted
2 in the mainstream, because we have such a high rate of
3 intermarriage.

4 So intermarriage within the Asian
5 American community has different factors. But one
6 should not conclude that just because we have one of
7 the highest rates of intermarriage that means that we
8 are being more accepted by the mainstream community.

9 Secondly, one more thing about the
10 economic situation that the Chair had mentioned, back
11 in '94 a report was issued that shows very clearly
12 Asian American professionals, despite their
13 educational level, experience, qualifications, are
14 being paid much less than their white counterparts
15 with similar backgrounds.

16 So, you know, those are the things that
17 maybe we cannot look at that maybe the social
18 scientists can take a look at.

19 COMMISSIONER THERNSTROM: Well, I don't
20 want to continue this, obviously, but I did
21 specifically on the intermarriage refer to third
22 generation, so that Asian Americans, you know --

23 CHAIRPERSON BERRY: Okay. Well --

24 COMMISSIONER THERNSTROM: -- talking
25 about different data here.

1 CHAIRPERSON BERRY: Yes. It's been an
2 interesting discussion. Maybe we should have a full-
3 blown discussion sometime on these issues. They seem
4 much more interesting than some issues we discuss. I
5 won't say which ones.

6 Commissioner Lee, your pleasure, as I
7 understand it, is that we would send a letter to the
8 committees that you referred to. Is that right?

9 COMMISSIONER LEE: That's right.

10 CHAIRPERSON BERRY: What else would you
11 -- what would this motion consist of? So we can --
12 send a letter --

13 COMMISSIONER LEE: Send letters to the
14 chairs and ranking members of the involved committees
15 that will be discussing U.S. China issues, urging
16 them to use restraint in terms of rhetoric, and also
17 to be sensitive in terms of treating Chinese and Asian
18 Americans distinctively, and also enclose your
19 statement, and also possibly -- not possibly -- the
20 finance forum that we held.

21 CHAIRPERSON BERRY: Oh. The stuff from
22 the campaign finance --

23 COMMISSIONER LEE: Yes. The --

24 CHAIRPERSON BERRY: -- thing that we
25 already did?

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1 COMMISSIONER LEE: -- report that we
2 have.

3 CHAIRPERSON BERRY: The report we already
4 did, just for information.

5 COMMISSIONER LEE: Yes.

6 COMMISSIONER THERNSTROM: Could we have a
7 written version of this that we could look at before
8 the end of the meeting and before we vote on this?

9 CHAIRPERSON BERRY: We can ask the staff
10 to write a letter. But as I understand the letter
11 that you want, it should be -- I'm outlining what
12 should be in the letter -- that the letter would
13 simply state to these committees that the Commission
14 is -- has -- that we have this traditional or
15 consistent interest in issues concerning -- I've
16 forgotten the language -- anti-foreign, you know,
17 whatever -- demonizing Americans -- not the word
18 "demonize" but some other nice word -- Americans from
19 some extraction for when activities occur from foreign
20 nations.

21 COMMISSIONER LEE: Perceived.

22 CHAIRPERSON BERRY: Perceived or
23 something. Maybe you could have your assistant and
24 Krishna work with the lawyer and folks to try to draft
25 up something.

1 COMMISSIONER LEE: Okay. And maybe we
2 could just use the campaign finance hearing as --

3 CHAIRPERSON BERRY: As informational.

4 COMMISSIONER LEE: -- as information why
5 we --

6 CHAIRPERSON BERRY: And all we're doing
7 is forwarding the information and a copy of my
8 statement which addresses the general areas of
9 concern. Period. It doesn't have to be a long letter
10 or anything, because the enclosures are there and
11 they're just showing the intent.

12 So could you guys go away and draft
13 something and bring it back?

14 In the meanwhile, we will vote that we
15 would like to proceed with the action, if that's the
16 case, on whether we would like to proceed with sending
17 a letter, and the other actions that you have. And we
18 will look at the letter when it comes back.

19 All those -- the motion -- did it have a
20 second?

21 COMMISSIONER REDENBAUGH: Second.

22 CHAIRPERSON BERRY: Okay. All those in
23 favor of the motion indicate by saying aye.

24 (Chorus of ayes.)

25 Opposed?

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1 (No response.)

2 So ordered.

3 **VII. Discussion of Press Release: Draft U.S.**
4 **Commission on Civil Rights Commends Florida**
5 **Leaders for Post-Overhaul of Voting System**

6 CHAIRPERSON BERRY: The next thing I'd
7 like to do is to look at this letter that they -- the
8 proposed press release that they sent out to us. You
9 could -- could you read it, somebody, so that Russell
10 can hear it?

11 VICE CHAIR REYNOSO: I'll be happy to
12 read it. It's entitled "Draft U.S. Commission on
13 Civil Rights Commends Florida Leaders for Post-
14 Overhaul of Voting System."

15 "The U.S. Commission on Civil Rights
16 commends the approval of Florida electoral reform
17 legislation that addresses many of the issues
18 presented to the Commission during its investigation
19 that included hearings conducted in Florida in January
20 and February 2001.

21 "The Commission launched its
22 investigation within days of receiving reports of
23 voting irregularities during the November 2000
24 Presidential election. The Commission plans to issue
25 a report in June on its investigation, which will

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1 include recommendations.

2 "The leaders of the Florida House and
3 Senate have agreed upon a legislative package that
4 will be presented for a vote today. The Commission
5 hopes it will pass and that Governor Jeb Bush will
6 sign the legislation.

7 "The Commission's preliminary assessment
8 found serious flaws in the voting mechanisms used in
9 Florida and is pleased with the proposed elimination
10 of punch cards, paper ballots, mechanical lever
11 machines, and central voting -- central counting
12 voting systems.

13 "Once implemented, the provisional ballot
14 would also decrease some of the problems that
15 disproportionately impact poor communities and
16 communities of color that were revealed at the
17 Commission's hearings. Funding, which should be
18 provided for education and poll worker training, could
19 reduce the problems that were experienced by Florida
20 voters.

21 "The legislation also addresses, among
22 other things, absentee ballots, recounts,
23 certification deadlines, and military and overseas
24 voting -- all of which were problematic in the
25 November 2000 election.

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1 "Once the legislation has passed and
2 implementation has begun, the Commission will travel
3 to Florida to monitor the impact of the legislation
4 and to encourage appropriate distribution of resources
5 to eliminate the well-publicized irregularities that
6 were experienced in the last election.

7 "While commending the proposed
8 legislation, Chairperson Mary Frances Berry said, 'We
9 are all cognizant of the fact that not all areas of
10 concern are covered, such as the need for language and
11 special needs assistance. We know also that this
12 legislation can only be effective if the
13 implementation matches the legislature's intent to
14 eliminate the irregularities.'"

15 Mary's not here, hasn't returned back.
16 So let me just ask of my fellow Commissioners --
17 first, Russell, were you able to hear it okay?

18 COMMISSIONER REDENBAUGH: Yes. We like
19 that, thank you.

20 VICE CHAIR REYNOSO: And how does it
21 sound to you?

22 COMMISSIONER REDENBAUGH: Well, I think
23 there were three words that I thought were a little
24 harsh. On the provisional ballot, which I know is
25 something you've spoken a great deal about --

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1 VICE CHAIR REYNOSO: Right.

2 COMMISSIONER REDENBAUGH: -- since the
3 legislation hasn't passed, I would just make the
4 editorial change to say "if," make it a conditional,
5 rather than "once."

6 And then, I would feel more comfortable
7 with a word other than "monitor." You know, "examine"
8 or, you know, something more neutral than --

9 VICE CHAIR REYNOSO: In terms of the
10 hearing, where we say here that we'll be having
11 hearings. It now reads, "Once the legislation has
12 passed and implementation has begun, the Commission
13 will monitor the impact" -- as opposed to "assess the
14 impact"?

15 COMMISSIONER REDENBAUGH: Yes. I would
16 prefer something like "assess."

17 VICE CHAIR REYNOSO: "Assess the impact."

18 COMMISSIONER REDENBAUGH: I think that's
19 a much better word.

20 VICE CHAIR REYNOSO: So that the third
21 paragraph, the one where, "If passed," it now reads,
22 "Once implemented, the provisional ballot could also
23 decrease some of the problems that disproportionately
24 impacted the poor community," etcetera. So it would
25 now read, "If passed, the provisional ballot" -- "If

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1 passed, the provisional ballot could also . . ."

2 COMMISSIONER REDENBAUGH: Right.

3 VICE CHAIR REYNOSO: Okay.

4 COMMISSIONER REDENBAUGH: Two

5 conditionals. But, yes --

6 VICE CHAIR REYNOSO: Right.

7 COMMISSIONER REDENBAUGH: But --

8 VICE CHAIR REYNOSO: Right. And then
9 change "monitor" to "assess." I think those are good
10 suggestions, Russell.

11 COMMISSIONER REDENBAUGH: Thank you. I
12 have one more, and that is in a subsequent paragraph
13 we say "voting irregularities."

14 VICE CHAIR REYNOSO: Well, actually, I
15 think it's the same paragraph. After it we say, "Once
16 the legislation has passed and the implementation has
17 begun, the Commission will travel to Florida to assess
18 the impact of the legislation and to encourage
19 appropriate distribution of resources to eliminate the
20 well-publicized irregularities that were experienced
21 in the last election."

22 COMMISSIONER REDENBAUGH: Yes. Isn't
23 "irregularities" a term of art here?

24 VICE CHAIR REYNOSO: I don't think so. I
25 think that's just a broad category to say something

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1 went awry. At least that's the way I take it.

2 COMMISSIONER REDENBAUGH: Yes. Well, I
3 would prefer something like "difficulties" or
4 "problems." Certainly --

5 VICE CHAIR REYNOSO: Yes, okay.

6 COMMISSIONER REDENBAUGH: -- much of what
7 we heard had to do with just the system being
8 overwhelmed by the volume of voter turnout.

9 VICE CHAIR REYNOSO: "Well-publicized
10 difficulties that were experienced in the last
11 election." I think that's fine.

12 CHAIRPERSON BERRY: So that would mean in
13 the last paragraph you would --

14 VICE CHAIR REYNOSO: Yes, we --

15 CHAIRPERSON BERRY: -- change
16 "irregularities" to "problems."

17 VICE CHAIR REYNOSO: Yes. We repeat that
18 -- "irregularities" and "problems" would fit very
19 nicely there. Yes.

20 COMMISSIONER REDENBAUGH: Good change.
21 I'd make the change globally.

22 VICE CHAIR REYNOSO: Yes. Okay.

23 CHAIRPERSON BERRY: Go right ahead,
24 please.

25 VICE CHAIR REYNOSO: Yes.

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1 COMMISSIONER THERNSTROM: Well, I'm not
2 entirely happy with this statement. I think that the
3 paragraph -- actually, it's two paragraphs here, that
4 the Commission's preliminary assessment found serious
5 flaws in the voting mechanisms used in Florida,
6 etcetera.

7 I mean, this is conclusionary. We have
8 not yet issued a report, and I do not -- I continue to
9 think that our preliminary assessment was too
10 preliminary, that we should be holding our fire until
11 we have properly gone through all the subpoenaed and
12 other material, until the affected public officials
13 have had a chance to respond, and that we say -- it
14 says here -- there is reference to problems that
15 disproportionately impacted poor communities,
16 communities of color.

17 But we did hear conflicting testimony
18 that, in fact, for instance, punch card ballots were
19 used in more affluent rather than less affluent
20 communities. I would like to delete any -- to make
21 this much simpler and to delete the two paragraphs
22 starting with the Commission's preliminary assessment,
23 just simply a commendation of what has been approved
24 or is likely to be approved in Florida immediately.

25 VICE CHAIR REYNOSO: Well, no, I

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1 appreciate your observations, Commissioner Thernstrom.
2 But it is a fact -- I know that you've brought these
3 issues before, but it's a fact that that was the
4 Commission's preliminary assessment by a substantial
5 vote in the Commission.

6 So one might still disagree with that,
7 but it was officially on a vote the preliminary
8 assessment of this Commission.

9 COMMISSIONER THERNSTROM: Well, I still
10 -- I still believe that a very simple statement simply
11 saying, "We are very pleased at what has happened in
12 Florida" will be more effective and, you know, raises
13 none of the problems which I have -- which, if I am
14 spotting, others will, too.

15 VICE CHAIR REYNOSO: Well, I'm not quite
16 sure how to respond, because this really was the
17 assessment, though one may disagree with that, then.
18 So it seems to me not inappropriate to include that
19 summary.

20 CHAIRPERSON BERRY: Are you on another
21 point? Could I, then, speak, Vice Chair?

22 VICE CHAIR REYNOSO: Yes.

23 CHAIRPERSON BERRY: Let me speak to this
24 point. The Commission has learned over the years to
25 be very cautious, and I often have to be reminded by

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1 staff myself to be very cautious -- to give praise
2 when praise is due, but to be wary.

3 And we've got, you know, experience since
4 1957 at legislation being passed, and then things
5 don't happen that we think will happen. We also have
6 experience with trying to be fair to both -- all sides
7 in a process.

8 It would be unfair to the people who are
9 concerned about the serious flaws in the process, and
10 to people who understand that we did make a
11 preliminary assessment, for us to just simply make a
12 statement that we commend what happened without saying
13 any caveats or what we thought before or -- and to
14 ignore the role that this Commission played in helping
15 to get the legislation passed.

16 I mean, I was told by several reporters
17 that the polling data in Florida, whether they're
18 lying or not I don't know -- reporters I assume tell
19 the truth all the time -- showed that the public down
20 there, by a huge majority, whatever party they
21 belonged to, or if they didn't belong to any, was
22 energized by the hearings we did, was energized
23 further by our preliminary assessment made at a time
24 when there was serious concern about whether anything
25 was going to happen.

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1 And so I think it would minimize the role
2 that we played, and I think this Commission was very
3 courageous in playing, and with great sacrifice on the
4 part of many of the members going down there and doing
5 all that, and the courage and the timing on everything
6 else we've done, not to mention the preliminary
7 assessment.

8 So I think that praise is in order, but I
9 think we also need the rest of this, Mr. Vice Chair.

10 VICE CHAIR REYNOSO: Yes, Commissioner
11 Wilson?

12 COMMISSIONER WILSON: Thank you, Mr. Vice
13 Chair.

14 Going back to the use of the word
15 "irregularities," I have to say I have a problem
16 removing that word altogether from the statement. I
17 can understand the first -- taking it out in the first
18 mention, where it says, "The Commission launched its
19 investigation within days of receiving reports of
20 voting irregularities."

21 You have replaced it with "problems." Is
22 that --

23 COMMISSIONER REDENBAUGH: Well, in that
24 case, actually, where it says "reports of" --

25 COMMISSIONER WILSON: Well, wait a

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1 minute. Let me just -- I mean, I don't mind if you
2 wanted -- well, in other words, I'm just saying, what
3 did you replace that with? The first one.

4 VICE CHAIR REYNOSO: No. I didn't
5 replace the first -- the word "irregularities" in the
6 first paragraph with anything. That still reads that
7 way, because that's what we have heard --
8 irregularities. But then, later on, changed the word
9 "irregularities" at the next-to-the-last paragraph,
10 "well-publicized difficulties," and then changed
11 "irregularities" in the last paragraph, the quote from
12 the Chair to refer to it as "problems."

13 COMMISSIONER WILSON: Well, the word --
14 the replacement of the word "irregularities," the one
15 that bothers me is the one that's in the last line of
16 the second-to-the-last paragraph.

17 VICE CHAIR REYNOSO: Okay.

18 COMMISSIONER WILSON: Because those were
19 well-publicized irregularities, and they were referred
20 to as irregularities, and they were in every newspaper
21 across the country.

22 Now, the fact that we -- the fact that
23 the Commission received reports of problems would seem
24 to me more accurate in the first paragraph. "When we
25 got calls that there were problems." But in the

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1 second-to-the-last paragraph, they were
2 irregularities, and they were well-publicized in the
3 use of -- and the word was "irregularities." So I
4 would stand by that word.

5 VICE CHAIR REYNOSO: Madam Chair?

6 CHAIRPERSON BERRY: Would it suffice for
7 us to put quotation marks around the word
8 "irregularities," where we say either "well-publicized
9 irregularities," because that's what -- you know, in
10 the public stuff it was called that. Would that help
11 any to heal this breach between Wilson and Redenbaugh?

12 COMMISSIONER REDENBAUGH: Between the two
13 editors?

14 (Laughter.)

15 COMMISSIONER WILSON: Well, I have to say
16 in this instance -- even though I like to not be
17 difficult, in this instance I have to say no, it would
18 make it worse as far as I'm concerned.

19 CHAIRPERSON BERRY: So are you objecting
20 -- the first -- as I understand it, Mr. Vice Chair,
21 you're keeping "irregularities" in the first mention
22 where it describes what we called "our hearings."
23 That's what we said we were doing.

24 VICE CHAIR REYNOSO: Yes.

25 CHAIRPERSON BERRY: And in the third --

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1 the next mention of it, which is down somewhere or
2 other --

3 VICE CHAIR REYNOSO: Next-to-the-last
4 paragraph.

5 CHAIRPERSON BERRY: Next-to-the-last
6 paragraph, after changing "monitor" to "assess," you
7 changed that to "well-publicized difficulties"?

8 VICE CHAIR REYNOSO: Yes.

9 CHAIRPERSON BERRY: And then, down in the
10 last one, you eliminate the "irregularities."

11 VICE CHAIR REYNOSO: And insert
12 "problems."

13 CHAIRPERSON BERRY: Insert "problems."
14 How about if we split the difference?

15 (Laughter.)

16 How about if we -- the two of you, how
17 about if we leave it in the -- it's already in the
18 first one. So if we split the difference down here in
19 the bottom, how about if we change one of them and not
20 the other? I mean --

21 COMMISSIONER WILSON: Okay.

22 CHAIRPERSON BERRY: -- takes your money
23 and it pays your choice, or pays your money or takes
24 your choice.

25 COMMISSIONER WILSON: Russell, here is my

1 vote -- that we keep the "well-publicized
2 irregularities," but, in fact -- and take out "to
3 eliminate the irregularities" in your quote.

4 CHAIRPERSON BERRY: And put "problems."

5 COMMISSIONER WILSON: Yes.

6 CHAIRPERSON BERRY: Okay.

7 COMMISSIONER WILSON: But I would say
8 that it would be more accurate -- I read this very
9 carefully. The irregularities is referring to
10 receiving reports. Now, chances are the Commission
11 received reports of problems that people had voting.
12 So you could put -- I could give you two "problems,"
13 if you put "problems" in the first paragraph --

14 (Laughter.)

15 -- and ended with "problems" in the last
16 sentence of the last paragraph. But I don't --

17 CHAIRPERSON BERRY: No, Victoria.

18 COMMISSIONER WILSON: Okay. I was just
19 trying to --

20 COMMISSIONER REDENBAUGH: That's why it
21 came out like some books turn out the way they --

22 (Laughter.)

23 CHAIRPERSON BERRY: So, Russell, will you
24 accept changing "irregularities" to "difficulties" as
25 you have already -- you and Cruz had a little back and

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1 forth about, in the next-to-the-last paragraph, but
2 then leaving it in the last paragraph, or vice versa?

3 COMMISSIONER REDENBAUGH: No, I don't
4 think so. I mean, I was on the fence on this already.

5 I'll just -- I'll just sit on the other side of the
6 fence, so you all can have it the way you want.

7 CHAIRPERSON BERRY: When you say "on the
8 fence," do you mean you --

9 COMMISSIONER REDENBAUGH: Yes, I share
10 some of the Commissioner Thernstrom's concerns. But I
11 felt that the letter was --

12 CHAIRPERSON BERRY: Yes.

13 COMMISSIONER REDENBAUGH: -- for my case
14 by the changes I proposed. The only thing, with
15 "irregularities" you can, you know --

16 CHAIRPERSON BERRY: Stay with them.

17 COMMISSIONER REDENBAUGH: You should do
18 that.

19 CHAIRPERSON BERRY: Yes.

20 COMMISSIONER REDENBAUGH: Yes. But I
21 won't support it.

22 CHAIRPERSON BERRY: Are you saying that
23 if we change "irregularities" -- excuse me, Vice
24 Chair. Do you mind if I --

25 VICE CHAIR REYNOSO: Of course.

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1 CHAIRPERSON BERRY: -- proceed? If we
2 change "irregularities" in the two places that you and
3 Cruz discussed, to "difficulties" on the one hand and
4 "problems" on the other, that you would be inclined to
5 support the statement?

6 COMMISSIONER REDENBAUGH: Yes, I would
7 support it.

8 CHAIRPERSON BERRY: Okay. And change
9 "monitor" to "assess"?

10 COMMISSIONER REDENBAUGH: Yes.

11 CHAIRPERSON BERRY: Which is the other
12 thing you asked for.

13 COMMISSIONER REDENBAUGH: I know there's
14 another change that --

15 VICE CHAIR REYNOSO: If passed rather
16 than --

17 CHAIRPERSON BERRY: If passed.

18 COMMISSIONER REDENBAUGH: -- that Cruz
19 concurs with, I believe.

20 VICE CHAIR REYNOSO: Yes.

21 CHAIRPERSON BERRY: Yes, the exchange
22 that you and Cruz had.

23 VICE CHAIR REYNOSO: Right.

24 CHAIRPERSON BERRY: So, Commissioner
25 Wilson, are you willing, in the interest of

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1 collegiality, to accept on this occasion this -- I'm
2 not going to call it an olive branch, it's not an
3 olive branch, this nice attitude on the part of
4 Commissioner Redenbaugh, and see if we can get some --

5 COMMISSIONER WILSON: Well, after he has
6 insulted my profession and the way I go about --

7 (Laughter.)

8 -- editing books, I'm not so sure. But I
9 do want to make -- say that I think that taking out
10 the use -- taking out the word "irregularities" in the
11 second-to-the-last paragraph weakens the statement.

12 CHAIRPERSON BERRY: Okay. And it's a
13 press statement. Okay.

14 Yes, Commissioner Thernstrom?

15 COMMISSIONER THERNSTROM: I just wondered
16 whether in this -- my memory may not be what it should
17 be, but I wondered whether in the preliminary
18 assessment we did, in fact, talk about a
19 disproportionate impact on poor communities and
20 communities of color. I don't believe that was in the
21 preliminary assessment statement.

22 I mean, I've obviously got a problem with
23 the whole paragraph, but I do not think that that was
24 in the preliminary assessment. And if it was not, I
25 mean, you know, I'm obviously not voting for this

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1 anyway, but I would think you would want to eliminate
2 this.

3 CHAIRPERSON BERRY: Oh. You're not
4 voting for it anyway. Is that what you said?

5 COMMISSIONER THERNSTROM: Well, yes,
6 because you're not --

7 CHAIRPERSON BERRY: I see.

8 COMMISSIONER THERNSTROM: -- you are not
9 -- I mean, I've got a problem with the whole
10 paragraph. I've already stated I have a problem with
11 the entire paragraph, and, therefore, I can't support
12 it.

13 But I also think that there is a point,
14 to those who are going to support it, asking --
15 looking at that sentence to see whether it accurately
16 reflects the preliminary assessment.

17 VICE CHAIR REYNOSO: Yes. Well, Madam
18 Chair, I'll just call on one or two more persons. I
19 do want to say that I very, very, very much lament
20 that we cannot issue statements that are voted upon
21 unanimously.

22 It's been my -- it has always been my
23 view that in the first many years of this Commission
24 one of the reasons that Congress and the people of
25 this country listened to the Commission is that it was

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1 able to speak with one voice. So I just want to say
2 that because --

3 COMMISSIONER THERNSTROM: I would love to
4 speak with one voice. I would love it. But this
5 paragraph is too troubling --

6 VICE CHAIR REYNOSO: Yes.

7 COMMISSIONER THERNSTROM: -- to me.

8 VICE CHAIR REYNOSO: Yes.

9 COMMISSIONER MEEKS: But to leave out
10 something about provisional ballots, which I think was
11 a huge problem, showed up at the hearings. Vice Chair
12 Cruz has talked about this a lot -- would really, you
13 know -- I just absolutely think something about
14 provisional ballots needs to be in the statement.

15 VICE CHAIR REYNOSO: Thank you very much.

16 With that, why don't I call for a vote. All those in
17 favor of issuing the statement indicate by saying aye.

18 (Chorus of ayes.)

19 All those opposed by like sign.

20 (Nays.)

21 Okay. The statement passes.

22 CHAIRPERSON BERRY: Well, wait a minute.

23 Just a second. Commissioner Redenbaugh agreed that
24 he -- on the record that he was going to vote for the
25 statement if we kept the changes in that he asked for.

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1 We did, indeed, keep those changes in.

2 COMMISSIONER REDENBAUGH: I
3 misunderstood. I misunderstood that.

4 CHAIRPERSON BERRY: We kept the changes
5 in that you asked for.

6 COMMISSIONER REDENBAUGH: Okay. I didn't
7 realize that Commissioner Wilson yielded.

8 VICE CHAIR REYNOSO: Yes.

9 CHAIRPERSON BERRY: She did. She didn't
10 yield, but we beat her down with a stick.

11 (Laughter.)

12 COMMISSIONER WILSON: No. She was not
13 beaten down with a stick.

14 CHAIRPERSON BERRY: She's very unhappy
15 about this. But we insisted that in the interest of
16 collegiality --

17 COMMISSIONER REDENBAUGH: I voted
18 mistakenly. Let me switch that to an affirmative.

19 CHAIRPERSON BERRY: Okay.

20 VICE CHAIR REYNOSO: Very good.

21 CHAIRPERSON BERRY: All right. I
22 appreciate that, Commissioner Redenbaugh.

23 COMMISSIONER REDENBAUGH: Thank you.

24 VICE CHAIR REYNOSO: The motion passes --
25 what is it -- five to one.

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1 CHAIRPERSON BERRY: Six to one.

2 VICE CHAIR REYNOSO: Six to one?

3 CHAIRPERSON BERRY: Yes. Redenbaugh is
4 on the phone.

5 VICE CHAIR REYNOSO: Oh, of course. I
6 forgot. With that, I'll turn the --

7 COMMISSIONER REDENBAUGH: Out of sight
8 out of mind.

9 (Laughter.)

10 CHAIRPERSON BERRY: I thank you very
11 much, Commissioners. And if the staff would make the
12 editing changes to reflect the discussion, and then
13 issue that, we would very much appreciate it.

14 **VIII. Discussion of Sandoval Case**

15 CHAIRPERSON BERRY: Then, the next item
16 on the agenda is the State Advisory Committee Reports.
17 We've got -- oh, no. It's not the State Advisory --
18 it's the Sandoval case. And we're going to ask the
19 General Counsel to come forward to brief us on this.

20 COMMISSIONER REDENBAUGH: Madam Chair?

21 CHAIRPERSON BERRY: Yes.

22 COMMISSIONER REDENBAUGH: I'm sorry, but
23 I need to go to a meeting at this time, so I'll be
24 leaving now.

25 CHAIRPERSON BERRY: I understand. And I

1 thank you very much for your participation.

2 VICE CHAIR REYNOSO: Yes. Thank you,
3 Russell.

4 COMMISSIONER REDENBAUGH: Okay. Thanks.

5 CHAIRPERSON BERRY: The Sandoval case is
6 a Supreme Court case that was decided, what was it,
7 last week? Is that correct, counsel?

8 MR. HAILES: Yes, April 24th.

9 CHAIRPERSON BERRY: Could you just give
10 us sort of a summary of what's going to happen? And I
11 will tell you, just so that you will know -- and this
12 may influence how you do this summary -- that I think
13 the -- we may -- I may ask the Commissioners if they
14 wish to have a -- some kind of report done, some brief
15 report, which will be a legal analysis, on the case
16 and on the other cases that were decided concerning
17 civil rights this term by the court, and that that
18 would be the format in which we might take this up.

19 But anyway, you go ahead in whatever way
20 you want. And I understand that you have prepared a
21 memo, which, unfortunately, didn't get done until
22 yesterday, but that's all right -- given everything
23 else you have to do -- and you will circulate it to
24 the Commissioners.

25 MR. HAILES: Yes. Our OGC staff did

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1 review the case. And, in particular, Barbara Delaviez
2 of the staff highlighted some of the significant
3 findings in this decision, and I would point out that
4 we're talking about Alexander v. Sandoval, which was a
5 decision rendered by the U.S. Supreme Court on
6 April 24th.

7 It was a five-four decision. The
8 decision was written by Justice Scalia, Chief Justice
9 Rehnquist, and Justices O'Connor, Kennedy, and Thomas
10 joined Justice Scalia. And Justice Stevens wrote a
11 dissenting opinion, joined by Justices Souter, Breyer,
12 and Ginsburg.

13 And this decision involved a challenge to
14 the State of Alabama's English-only policy that
15 limited the administration of driver's license
16 examinations to English only. And the lower courts
17 struck down this policy as a violation of Title VI
18 regulations promulgated by the Department of Justice
19 that prohibit national origin discrimination on a
20 disparate impact theory.

21 The U.S. Supreme Court reversed those
22 lower court decisions, and it effectively vitiated the
23 right of individuals to sue federally-funded agencies
24 until Title VI over policies that have a disparate
25 impact on racial groups.

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1 And this decision was -- it should be of
2 particular emphasis and importance to this Commission,
3 because in 1996 the Commission published a report
4 entitled "Federal Title VI Enforcement to Ensure Non-
5 Discrimination in Federally-Assisted Programs," and
6 found -- and I will read from that report -- that the
7 overall Title VI enforcement efforts by federal
8 agencies remain inadequate.

9 The report further concluded that if the
10 failures and deficiencies cited in this report are not
11 addressed properly, many individuals excluded from
12 participating in or otherwise affected by federally-
13 assisted programs, will continue to face
14 discrimination or the denial of equal opportunities
15 because of their race, ethnicity, or national origin.

16 Furthermore, in some instances, these
17 individuals will never receive the opportunities and
18 benefits that the federal programs are intended to
19 provide. In other cases, they never will realize
20 their rights to equal access to, and equal
21 opportunity, to participate in federal programs. And
22 those are quotes directly from the 1996 report
23 published by this Commission.

24 And so because federal agencies have
25 failed in too many instances to pursue allegations of

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1 Title VI violations, individuals have taken actions to
2 court to ensure equal opportunities were protected.

3 And prior to the Sandoval decision, these
4 cases were brought on many occasions, and I believe
5 the Commission would be concerned that many of these
6 actions will no longer be brought or cannot be brought
7 under the Sandoval decision unless Congress chooses to
8 amend Title VI to provide a clear right to private
9 individuals to bring these actions under a disparate
10 impact analysis.

11 In particular, the Commission should know
12 that many actions -- many allegations of
13 discrimination are based on statistical analyses in
14 racial profiling, in bank and other redlining
15 instances, environmental justice claims, the use of
16 SAT scores and other testing in colleges and
17 universities.

18 And so this particular decision may also
19 invite, as we see it, as the staff has made clear --
20 and we've seen other analyses that suggest the same --
21 it appears that the majority of Justices have invited
22 some challenges to the Justice Department and some
23 federal agencies' ability to bring these actions under
24 Title VI on a disparate impact analysis.

25 And so the only open door that is

1 suggested in the dissent is an action under
2 Section 1983, which also is -- makes it possible for
3 actions to be brought challenging constitutional
4 violations by state and local authorities. But 1983
5 is limited to those state and local authorities. It
6 would not reach discrimination by private contractors,
7 for example, that receive federal funding.

8 And so as we look at this decision, we
9 see that it raises issues that are of unique
10 importance to this Commission. It appears it will
11 have a very devastating impact on the ability of
12 individuals to enforce Title VI of the Civil Rights
13 Act.

14 CHAIRPERSON BERRY: Thank you.

15 Vice Chair?

16 VICE CHAIR REYNOSO: Madam Chair, this is
17 only the last of a series of, in my view, disgraceful
18 and shameful opinions by the U.S. Supreme Court. Not
19 surprisingly, 20, 30 years ago, African-American and
20 other communities had a high regard for the judiciary,
21 particularly the federal judiciary.

22 Most indicated that up to 90 percent of
23 African-Americans had a great deal of confidence in
24 the judiciary. It's sad to say that The L.A. Times
25 just had a poll not long ago; those rates are

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1 practically reversed. Maybe 10 or 20 percent of
2 African-Americans have faith in the judiciary.

3 I think it's found that decisions of this
4 sort by the U.S. Commission of Civil Rights -- by the
5 U.S. Supreme Court, and I believe the U.S. Commission
6 of Civil Rights has the ability to speak to those
7 issues and to urge Congress, because this is the
8 statutory interpretation or opinion, to change that,
9 just as Congress did when the U.S. Supreme Court, in
10 its efforts to derail every civil rights -- apparently
11 every civil rights legislation, that one had to show
12 intentional discrimination to violate the voting
13 rights law.

14 And Congress then changed it and said,
15 "We said it once, we'll say it again, it doesn't
16 include -- it doesn't mean intentional
17 discrimination." Thus, again, the Supreme Court has
18 said on a piece of legislative interpretation that
19 Congress meant to have Title VI be intentional
20 discrimination, and, further, that private individuals
21 can't bring those actions.

22 This law has been interpreted completely
23 to the contrary, by now, a great majority of Court of
24 Appeal opinions. It was considered established law,
25 and, belatedly, the Supreme Court now changes the

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1 ground rules. I just consider it an absolute disgrace
2 and a great disservice to this country.

3 CHAIRPERSON BERRY: Others who --

4 VICE CHAIR REYNOSO: That's my expression
5 when I don't feel strongly about it.

6 (Laughter.)

7 CHAIRPERSON BERRY: Does anyone else --
8 yes, Commissioner Thernstrom?

9 COMMISSIONER THERNSTROM: I would very
10 much like to postpone further discussion of this until
11 we do have more materials. I would like, in fact, to
12 read the decision itself, which I haven't done. My
13 understanding is the decision involved now a statutory
14 interpretation, but I can't possibly participate in a
15 discussion on a decision that I haven't actually read.

16 I also want to comment on what the Vice
17 Chair just said. The 1982 amendments to the Voting
18 Rights Act indeed did change the statute to include a
19 results standard, but it was -- the statute itself did
20 not have a disparate impact standard built into it,
21 except with respect to the jurisdictions covered by
22 Section V. That is mainly the south.

23 And so that that was a -- not a return to
24 the original Voting Rights Act, but a radical change
25 in it, for better or worse, depending on one's view of

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1 those amendments.

2 In any case, I would like to continue
3 this -- very much like to continue this discussion,
4 but I would like to do it after we've had a chance --
5 we've had some material from the Office of the General
6 Counsel, as well as having had a chance to read the
7 decision ourselves, and any other pertinent decisions
8 that you would like to discuss.

9 CHAIRPERSON BERRY: I'm going to indulge
10 myself again. And if anyone wishes to stop me, you
11 may kick me, Cruz.

12 First of all, I assume that members of
13 this Commission read the newspapers and are aware of
14 the news concerning civil rights, and that no one has
15 to tell them that some major Supreme Court decision
16 has been handed down in the area of civil rights.

17 Just as I read this decision on the
18 morning that it was in the paper, I would assume that
19 anyone who has a deep interest in civil rights -- it
20 was front page, headline news in the newspaper. It's
21 not like it was obscure or hidden over behind
22 something where you couldn't find it, without anyone
23 telling them.

24 I would assume that members of this
25 Commission -- maybe my assumptions are just crazy --

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1 would be interested in any major thing that occurred
2 that had to do with civil rights. That's why we're on
3 this Commission. That's why we make sacrifices to be
4 involved in it. And that I have a reasonable
5 expectation to be able to engage in dialogue with my
6 colleagues.

7 They now know the specificity. In fact,
8 they may not actually read the opinion, but there are
9 excerpts in the newspapers. So that they would have
10 some familiarity with a case, without somebody having
11 to call them up or e-mail them to say, "There is a
12 case, and here it is," and whatever.

13 So I'm just saying that for everybody,
14 not just for you, Commissioner Thernstrom. I mean
15 everybody here. So I don't believe that I have to --
16 or the Staff Director has to call your attention to
17 some major episode concerning civil rights.

18 And that your curiosity would lead you to
19 ask your special assistant or somebody, if you have
20 one, to get that information for you and to brief you
21 on it, so that when you came to the Commission meeting
22 you would have some awareness of it and not act as if
23 you never heard of it, or if you did you don't know
24 anything about it.

25 The second thing I would say, on the

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1 matter of the case itself, Cruz, what you said about
2 people having faith in the courts, the history of this
3 country -- and I teach this stuff, so I know -- and I
4 don't teach the history of civil rights. I teach the
5 history of American law.

6 That the history of this country is that
7 the Supreme Court consistently interpreted the civil
8 rights laws and the 14th Amendment against the rights
9 of African-Americans, all the way up until the 1920s
10 and '30s, and that Brown was a watershed.

11 So we had a long period in which the
12 court did not interpret any of the laws in ways to
13 protect them. That's part of the history of this
14 country. There is consensus among historians -- this
15 is not history according to Berry -- that this is a
16 part of our nation's history.

17 So that the short window of time in which
18 the Supreme Court has decided cases to protect the
19 rights of African-Americans, Latinos, Asian Americans,
20 other people of color, is so short, and every group
21 can look at its own history, look at the treaty rights
22 of Native Americans, look at the way Chinese Americans
23 were excluded.

24 I mean, we could go chapter and verse.
25 Look at what happened to Latinos. We want you when we

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1 need your labor; otherwise, kick you in the whatever.

2 We could see that we just had this little brief
3 moment of glory in which people could turn to the
4 courts, and now we can't anymore. And so the --
5 that's one of the incredible ironies of this.

6 And then the third thing I would say is
7 those of us who were around when the 1982 amendments
8 were passed, and who fought very hard, and members of
9 this Commission who discussed it, know that the
10 history -- and you know this -- that the history of
11 the cases before that, however one wants to
12 characterize it, was that everyone understood that
13 intent was not required.

14 VICE CHAIR REYNOSO: That's right.

15 CHAIRPERSON BERRY: That's what the case
16 law shows.

17 And then the last thing I'll say is those
18 of us who were involved in these great battles over
19 the Title VI and Title IX and whether -- and the Civil
20 Rights Restoration Act, and whether, indeed, taxpayers
21 wanted their money to go to institutions that
22 discriminate on the basis of race and sex, the answer
23 was that taxpayers, by large majorities in this
24 country, supported that legislation to restore those
25 rights after Grove City was decided, and said, "We

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1 don't want our money going to institutions that
2 discriminate on the basis -- if they want to
3 discriminate, don't -- you know, don't take taxpayers'
4 money."

5 And now we're in a position where, given
6 that court decision, it is entirely possible that
7 taxpayers' money can go to either individuals,
8 organizations, or institutions that will discriminate.

9 And also, the history of African-
10 Americans -- to go to that history -- in this country
11 is that for years and years we were told -- my mother
12 laughs every time somebody says, "You've got to prove
13 intent before you can do anything." People would do
14 all sorts of things to us as a people, and then laugh
15 and say, "You can't prove I intended to do it. Ha,
16 ha, ha." As if that was a big joke.

17 And so what disparate impact does is it
18 makes it possible for you to try to prove something so
19 that the "ha, ha, ha" is no longer viable.

20 So for all of those reasons, without
21 knowing chapter and verse, I do know what I read in
22 the paper, and I did read the case, and I did hear a
23 discussion of it in the media, I think that what we
24 are hearing is to ask the General Counsel and the
25 staff to put together something on this case, but not

1 just this case, all the cases that were decided this
2 year, this term, having to do with civil rights, and
3 to get it back to us so that we might want to make a
4 statement.

5 Yes, Commissioner Lee?

6 COMMISSIONER LEE: Thank you, Madam
7 Chair. The staff has done an excellent job on the
8 review of Supreme Court cases last -- was it last year
9 or early this year.

10 CHAIRPERSON BERRY: And we never issued
11 that.

12 COMMISSIONER LEE: Oh, I thought we did.

13 CHAIRPERSON BERRY: No, we didn't.
14 They're still editing it, but we --

15 COMMISSIONER LEE: Okay. Well, this
16 could be a good amendment, to add that in. I do agree
17 with both the Chair and the Vice Chair. We have a
18 responsibility to keep the public informed. It is
19 true that, you know, those of us who are involved with
20 civil rights read these things, but the general public
21 may not know this decision is going to be so crucial.

22 And besides this general -- the Office of
23 General Counsel preparing a report on this and other
24 issues, I really believe that we need to do this in a
25 briefing form, so that the public, whether it's the

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1 media, or whoever, can come and listen along with us
2 of your interpretation, your analysis, so that other
3 people will get the same benefit as we do.

4 So I'd like to do it as a briefing, not
5 just a report that is submitted to us, like the
6 previous one. I know it's more work for you, but,
7 what the heck?

8 CHAIRPERSON BERRY: Yes, okay.

9 Yes, Commissioner Thernstrom?

10 COMMISSIONER THERNSTROM: Well, I do, in
11 general, read Supreme Court decisions involving civil
12 rights. This came down on the 24th of April. I
13 haven't had time to do so yet, and this is not an item
14 on the agenda for this Commission meeting, or I
15 certainly would have prepared myself so that I had,
16 indeed, read it.

17 So that I don't think it's correct to say
18 that in some way, or to suggest that in some way
19 Commissioners, the day a Supreme Court decision comes
20 out, should, you know, have it under their belt.

21 Let me just reiterate, because I can't
22 quite let it go, on the Voting Rights Act -- Madam
23 Chair, the statement you made. The Supreme Court
24 14th Amendment decision that triggered the 1982
25 amendment simply lined voting rights law up with

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1 existing 14th Amendment decisions. That was -- it did
2 nothing more than that. It triggered an amendment.
3 The amendment changed the Act. That's fine. But, you
4 know, I think we should get the record straight on
5 exactly what happened.

6 In any case, I think we should have time
7 -- all of us should have the chance to -- we now know
8 it is an agenda item, and that Sandoval and other
9 cases are an agenda item, and we should read them in
10 preparation, and read any other material you can
11 provide in preparation for a subsequent meeting.

12 CHAIRPERSON BERRY: Yes. Well, I don't
13 want to get into a debate with you about the
14 14th Amendment, but I do want to say that the Voting
15 Rights Act jurisprudence of the courts before
16 Mobile v. Bolden -- I'm not talking about employment
17 or anything else -- in my view was inconsistent with
18 what they decided.

19 And voting rights lawyers were shocked
20 because they had gone so far in minority voter
21 dilution claims that they didn't imagine that that
22 would happen. And the shock was heard around the
23 city, which is one reason why the Congress hurried up
24 there.

25 And the record will show that the

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1 Congress said that, indeed, this was a deviation from
2 what had been decided before. When I say "the
3 record," I don't mean my record. I mean the record of
4 the debate, and that, in fact, it was a deviation from
5 the voting rights jurisprudence, not the -- what they
6 did in employment or what they did in contracting or
7 some other area.

8 But the reasonable people may disagree
9 about that, so I'll leave it at that.

10 The other thing is that I think that what
11 we need is to agree that the staff should prepare a
12 brief report on the subject of the Supreme Court
13 decisions. This may involve a briefing, if that is
14 the determination. Staff may have some discussion
15 among themselves about this. Or whether there should
16 be a report just analyzing the decisions and have
17 somebody come to have a briefing to discuss it.

18 But we'd like to have something by the
19 end of the -- and it may not be possible to have a
20 briefing, because we can't have one in June. And the
21 Supreme Court session will be over -- unless they
22 change, they'll go home in July, won't they? They've
23 been doing that.

24 And so who will want to do it at the end
25 of the session? We're going to have to agree that

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1 we'll try to put something together to -- either to
2 have it to vote on in June or we'll agree at that
3 time, if it's not ready, to vote on it in between the
4 meetings, so we can have it. But we will have a draft
5 to look at.

6 So can I get a motion that we do what I
7 just suggested?

8 VICE CHAIR REYNOSO: So moved.

9 CHAIRPERSON BERRY: Could I get a second?

10 COMMISSIONER THERNSTROM: Second.

11 CHAIRPERSON BERRY: Could I get -- all in
12 favor indicate by saying aye.

13 (Chorus of ayes.)

14 Opposed?

15 (No response.)

16 So ordered.

17 Okay. Thank you very much, Eddie. We
18 really appreciate the discussion.

19 **IX. State Advisory Committee Report**

20 CHAIRPERSON BERRY: We now go to the
21 State Advisory Committee Reports, race relations in
22 Des Moines, new immigrants, the Iowa Report. Staff
23 Director, do you want to introduce --

24 STAFF DIRECTOR JIN: The Iowa Report is a
25 short report. It's kind of a contrast with the recent

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1 report we've been discussing, the Hawaii Report, in
2 that it's a much shorter report, a very different
3 report. It doesn't have the findings and
4 recommendations and stuff like that.

5 The only thing I perhaps kind of just
6 want to add as an introduction -- of course, I'll try
7 to answer questions if the Commission has any -- is
8 that somewhere early in the report, I believe it was
9 on -- I thought it was on page 2, but, yes, it says
10 that Asian-Pacific Islanders were the second-largest
11 racial minority. That was a mistake. It should say
12 third-largest minority.

13 But other than that, I will just be
14 prepared to answer questions from the Commissioners.

15 CHAIRPERSON BERRY: Okay. Does anyone
16 have any questions about the Iowa Report?

17 VICE CHAIR REYNOSO: I move its adoption.

18 CHAIRPERSON BERRY: Okay. Could I get a
19 second?

20 COMMISSIONER MEEKS: Second.

21 CHAIRPERSON BERRY: All in favor indicate
22 by saying aye.

23 (Chorus of ayes.)

24 Then we have the Montana SAC Report. Do
25 you want to say something about it? And then I have

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1 something I'd like to say.

2 STAFF DIRECTOR JIN: No. Only I think
3 the obvious to the Commissioners that, you know, it's
4 a -- they talked to a lot of different people about
5 Native American education issues in Montana, and there
6 were some recommendations at the end that seemed like
7 they were worthwhile.

8 CHAIRPERSON BERRY: And the report I
9 thought was very interesting in that it discussed over
10 time how negative stereotyping impacts progress, which
11 is one of the issues that we discussed when we were
12 talking about the Native American names and mascots
13 issue, where we let -- we issued the statement last
14 time. I thought that was very interesting
15 information.

16 And then, the fact that they had these
17 followup meetings, a study and then a followup
18 meeting, in Billings, I thought that was interesting,
19 and then the interviews. The way they went about it I
20 thought was very good.

21 And the recommendations about teachers
22 taking human relations courses, specifically Native
23 American studies, I thought that that would be very,
24 very good.

25 One of the things I noticed one time I

1 went through Montana -- well, let me let you speak,
2 and then I'll finish what I'm saying, Commissioner
3 Meeks.

4 COMMISSIONER MEEKS: Okay. Thank you.

5 I believe that the SAC began this work in
6 1997 is what the report said, and in this -- this past
7 November, the Montana Office of Public Instruction put
8 out a newspaper about Indian education in the state.

9 And, actually, they adopted eight of the
10 nine recommendations that were offered by this SAC
11 report. So I believe the SAC was right on, and I
12 commend their work on this.

13 CHAIRPERSON BERRY: Well, that's
14 fantastic. Good. Because I thought the
15 recommendation was so reasonable that I couldn't
16 understand how anybody would, you know, disagree that
17 they should happen. And so it's important work that
18 the SAC does, and there are important issues related
19 to Native Americans.

20 I have friends who are from Montana, who
21 are not Native Americans, who are Anglos from Montana
22 who live in Montana, been in Montana their whole
23 lives. And they explained that throughout their
24 growing up and education in Montana that they learned
25 very little about the Native American population of

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1 the state, and that in many instances, unless they
2 lived somewhere near the reservation, they hadn't a
3 clue, except who they might see in town or something,
4 and that there was no effort to deal with this, you
5 know, in the schools, and so on.

6 So I thought this was very interesting.

7 Yes, Commissioner Wilson?

8 COMMISSIONER WILSON: Thank you, Madam
9 Chair. I just wanted to commend the SAC report on the
10 thoroughness and the detail and the obvious work and
11 effort that went into this, and it was a very
12 impressive report.

13 CHAIRPERSON BERRY: Okay. Could we --
14 again, did we move to accept -- did we move? No.
15 Could I get a motion to accept this report?

16 COMMISSIONER THERNSTROM: I move we
17 accept it.

18 COMMISSIONER MEEKS: Second.

19 CHAIRPERSON BERRY: All in favor indicate
20 by saying aye.

21 (Chorus of ayes.)

22 **X. Future Agenda Items**

23 CHAIRPERSON BERRY: Okay. Do we have any
24 other items that I have overlooked that we need to
25 discuss? Oh, I know one I wanted to discuss. I sent

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1 a letter to President Bush telling him -- let me see
2 if I can find the letter -- about the briefing we had
3 on education issues, and about the importance of
4 keeping those issues in mind during this debate that's
5 going on on the educational bill on the Hill.

6 And I ticked off the things we discussed,
7 like high stakes testing and bilingual education. And
8 the thing that stuck in my mind about bilingual was to
9 remember that 90 percent of the people who are in
10 supposed bilingual education aren't really. Remember
11 they told us that, that when people go out assessing
12 bilingual education programs, they're not really
13 bilingual?

14 And pointing out the need to make the OCR
15 and the Department of Education enforce the civil
16 rights laws when it comes to education. And I wanted
17 you to know that, and I was trying to figure out --
18 and we sent copies of the letter up to -- and we
19 pointed out that school choice initiatives should not
20 exacerbate resource inequalities.

21 So it was a summary of all the different
22 items that we discussed. Testing should be used for
23 assessment, and so on. If you didn't get a copy of
24 the letter, you should have one. And then we had it
25 sent up to the ranking members and the chairs of the

1 committees that are dealing with this issue.

2 It may be that as they go on next week
3 that there may be the need for a followup letter up
4 there emphasizing these things all over again, because
5 they are still being debated. And if that, in fact,
6 happens, do I have your support in proceeding to deal
7 with it?

8 COMMISSIONERS: Yes.

9 VICE CHAIR REYNOSO: Of course.

10 CHAIRPERSON BERRY: Okay.

11 COMMISSIONER WILSON: Also, I don't know
12 if the letter has been distributed, but it --

13 STAFF DIRECTOR JIN: It has not. I will
14 do that.

15 CHAIRPERSON BERRY: Yes. Is there any
16 objection to my continuing to deal with it, consistent
17 with what was said in the briefing?

18 VICE CHAIR REYNOSO: Again, I don't know
19 whether it was sent to us.

20 STAFF DIRECTOR JIN: It had -- I doubt
21 it. I will send it out next week.

22 CHAIRPERSON BERRY: Okay. All right.
23 Okay. I don't have any other agenda items. I will
24 entertain a motion to adjourn.

25 VICE CHAIR REYNOSO: So moved.

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1 CHAIRPERSON BERRY: Second?

2 COMMISSIONER: Second.

3 CHAIRPERSON BERRY: All in favor indicate
4 by saying aye.

5 (Chorus of ayes.)

6 Opposed?

7 (No response.)

8 So ordered. Thank you very much.

9 (Whereupon, at 12:05 p.m., the
10 proceedings in the foregoing matter were
11 adjourned.)

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