

UNITED STATES COMMISSION ON CIVIL RIGHTS

+ + + + +

COMMISSION MEETING

+ + + + +

FRIDAY

NOVEMBER 15, 2002

+ + + + +

SAN DIEGO, CALIFORNIA

+ + + + +

The Commission convened at 8:35 a.m., in the Coast Ballroom, Holiday Inn by the Bay, 1355 North Harbor Drive, San Diego, California, Chairperson Mary Frances Berry, presiding.

Present:

MARY FRANCES BERRY, CHAIRPERSON
CRUZ REYNOSO, VICE CHAIRPERSON
JENNIFER C. BRACERAS, COMMISSIONER
CHRISTOPHER EDLEY, JR., COMMISSIONER
ELSIE M. MEEKS, COMMISSIONER

LESLIE R. JIN, STAFF DIRECTOR

Present by telephone:

PETER N. KIRSANOW, COMMISSIONER
RUSSELL G. REDENBAUGH, COMMISSIONER
ABIGAIL THERNSTROM, COMMISSIONER

LIBRARY
U.S. COMMISSION ON CIVIL RIGHTS

NEAL R. GROSS

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

Staff Present:

KIMBERLY ALTON
DEBRA CARR, DEPUTY GENERAL COUNSEL
IVY DAVIS
TERRI DICKERSON
PAMELA DUNSTON
JOYCE SMITH
ALEX SUN

Staff from the Western Regional Office Present:

GRACE HERNANDEZ
PHIL MONTEZ
ART PALACIO
ANGIE TREVINO

State Advisory Committee Members Present:

FERNANDO HERNANDEZ, Chair, California SAC
GIL ALSTON, Retired Judge, Member California SAC
JUNE WEBB-VIGNERY, Chair, Arizona SAC

Commissioner Assistants Present:

LAURA BATIE
PATRICK DUFFY
JOY FREEMAN
KIMBERLY SCHULD
KRISHNA TOOLSIE

Also present:

PENNY EDGERT

I-N-D-E-X

Approval of Agenda..... 4

Approval of Minutes of July 19 Meeting and
 Acknowledgement of September 13 and
 October 11, 2002 Meetings..... 6

Announcements..... 8

Staff Director's Report..... 19

SAC Appointments 36

SAC Report 39

FY-2004 Budge Estimate to OMB..... 40

Discussion of Status of Commission
 Projects..... 35, 120

Discussion of Letter to the DOJ regarding
 Border-Crossing Deaths..... 46

Western Regional SAC Presentations..... 52

Presentations and Discussion Relating to
 Challenges of Equal Opportunity in Higher
 Education..... 88

Future Agenda Items..... 121

Adjournment 129

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

(8:35 o'clock a.m.)

1 CHAIRPERSON BERRY: The meeting will come
2 to order. Online. I think -- who's online, could you
3 please identify yourselves?
4

5
6 COMMISSIONER REDENBAUGH: Commissioner
7 Redenbaugh.

8 CHAIRPERSON BERRY: And, Commissioner
9 Thernstrom, are you there?

10 COMMISSIONER THERNSTROM: Commissioner
11 Thernstrom is online.

12 CHAIRPERSON BERRY: Okay. Thank you.

13 The meeting will come to order.

14 COMMISSIONER THERNSTROM: Commissioner
15 Kirsanow should be online.

16 COMMISSIONER KIRSANOW: I'm on.

17 CHAIRPERSON BERRY: Are you on,
18 Commissioner Kirsanow?

19 COMMISSIONER KIRSANOW: Commissioner
20 Kirsanow's on.

21 CHAIRPERSON BERRY: Hello. Good morning.

22 COMMISSIONER KIRSANOW: Good morning.

23 **I. Approval of the Agenda**

24 CHAIRPERSON BERRY: I guess it's still
25 morning.

NEAL R. GROSS

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

(202) 234-4433

www.nealrgross.com

1 The first item on the agenda is the
2 approval of the agenda. I wanted to say to the
3 Commissioners that our SAC Chairs are here. And our
4 SAC Chair from Arizona will have to leave early today.

5 And so I am going to ask the Commissioners'
6 indulgence, that we could have the presentation of
7 projects after the SAC presentations.

8 There are two SAC members who will --
9 Chairs who will present to us, from Arizona and
10 California, so that we can indulge and appreciate her
11 schedule since she came here all the way from Arizona
12 and has to go back, it turns out, in order to give a
13 presentation.

14 So if there is no objection to that, I
15 would ask for the approval of the agenda with that
16 understanding. Could I get a motion to --

17 COMMISSIONER MEEKS: I'll move.

18 COMMISSIONER EDLEY: Second.

19 CHAIRPERSON BERRY: Could I get a second?

20 COMMISSIONER EDLEY: Second.

21 CHAIRPERSON BERRY: Is there anybody who
22 has any other discussion of the agenda?

23 COMMISSIONER THERNSTROM: Yes. I wonder,
24 Madam Chair, whether we could -- if there are items to
25 be voted on, whether we could push them towards the

NEAL R. GROSS

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

(202) 234-4433

www.nealrgross.com

1 front as well as so that those of us who cannot stay
2 for the entire time will miss no vote.

3 CHAIRPERSON BERRY: I couldn't understand
4 what you said, Commissioner.

5 COMMISSIONER THERNSTROM: Are there items
6 that we need -- that will be voted on today? Because
7 I have a preference, if possible, for voting, bringing
8 those items up earlier rather than later because I
9 have some time constraints myself.

10 CHAIRPERSON BERRY: Okay. That's good,
11 because the items that we understand that we need to
12 vote on will all be brought up before the SAC Chair
13 gives her presentation.

14 COMMISSIONER THERNSTROM: Good. Thank
15 you.

16 CHAIRPERSON BERRY: Okay. Unless
17 something happens that I don't know about, and I can't
18 tell that.

19 All those in favor of approving the agenda
20 with those understandings indicate by saying "Aye."

21 COMMISSIONERS: Aye.

22 CHAIRPERSON BERRY: Opposed?

23 So ordered.

24 **II. Approval of the Minutes**

25 CHAIRPERSON BERRY: The next item is to

1 approve the minutes of the July 19th meeting. We
2 simply do not ask the approval of any minutes for
3 September 13th and October 11th because the Commission
4 did not have an official meeting on that date, but we
5 are asking the item is to approve the minutes of the
6 July 19 meeting.

7 Could I get a motion?

8 COMMISSIONER THERNSTROM: So moved.

9 COMMISSIONER EDLEY: Second.

10 CHAIRPERSON BERRY: All those -- anybody
11 have any changes in the minutes for July 19th?

12 All those in favor indicate by saying,
13 "Aye."

14 COMMISSIONERS: Aye.

15 CHAIRPERSON BERRY: Opposed?

16 So ordered.

17 COMMISSIONER THERNSTROM: Madam Chair,
18 just one question. I'm sorry, I should have brought
19 this up before. Someplace in this agenda shouldn't
20 there be approval of the calendar for 2003?

21 CHAIRPERSON BERRY: That will be under the
22 Staff Director's Report.

23 COMMISSIONER THERNSTROM: Okay. Thank
24 you. I'm sorry.

25 CHAIRPERSON BERRY: That's all right.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

III. Announcements

CHAIRPERSON BERRY: On the announcements, there are many announcements to make about events associated with civil rights. I will mention a few of them.

November 16th, this month, we recognize that in 1990 on that date the Native American Graves Protection and Family Abuse Prevention Act was passed, which provides protection of American Indian gravesites and the repatriation of Indian remains and cultural artifacts to tribes, which was a very important issue for them and for the country.

November 10th, Fred Korematsu and Minoru Yasui and Gordon Hirabayashi filed their petitions to overturn their World War II convictions for violating the curfew and evacuation orders. They did that in 1983 and later on there was of course the law passed for recompense and they received apologies. So that day is marked.

There are the Individuals with Disabilities and Education Act, was enacted on November 29th, 1975.

I also point out that since the last time we had an official meeting, of course, Democratic

1 Congresswoman Patsy Mink, who was a great champion of
2 civil rights and women's rights, education, died at
3 the age of 74 in Honolulu of viral pneumonia. She was
4 very instrumental in the passage of Title IX of the
5 education amendments.

6 I also would like to point out that since
7 our last meeting, Senator Paul Wellstone, of Minnesota
8 of course, who was a champion in the cause of civil
9 rights and human rights, among other things, and I
10 remember getting up at four o'clock in the morning in
11 Alabama to catch a plane to fly to -- a little plane
12 to fly to Minnesota during his first campaign to go to
13 breakfast, that he called up and begged me to come to.

14 That great champion of course died along with members
15 of his family and staff on this airplane.

16 This also is National American Indian and
17 Alaska Native Heritage Month, in November.

18 So I wanted to point out these. There are
19 other items, legislation and the like, that have taken
20 place that we could acknowledge, but I thought that
21 these were important.

22 Does anyone else have any announcements
23 that they would like to make?

24 COMMISSIONER BRACERAS: I do, Madam Chair.

25 CHAIRPERSON BERRY: Yes.

NEAL R. GROSS

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

1 COMMISSIONER BRACERAS: As some of you may
2 know, this year the Navy has revived its scholarship
3 program for students attending historically black
4 colleges. The ROTC program has 10 full scholarships
5 at each of 12 major historically black colleges or
6 universities. The restoration of these 120
7 scholarships for African American students is a
8 wonderful outreach program to help achieve diversity
9 in our armed forces.

10 And I'd like to congratulate this
11 administration for reviving that program which was
12 dormant under the previous administration.

13 My second announcement has to do with
14 President Bush's Commission on the Educational
15 Excellence for Hispanic Americans. And I just wanted
16 to announce that that commission has released an
17 interim report, the final report being due out in
18 March of the coming year. The report basically
19 studies the issue of Hispanic education in this
20 country. It does not make specific recommendations at
21 this time, but I believe the final report plans to do
22 that.

23 And I would recommend that anybody who's
24 interested take a look at it on the website, which is
25 www.yesican.gov.

1 And in conjunction with that, one of the
2 interim things they talk about is the need to do more
3 outreach to Hispanic parents, particularly immigrant
4 parents, about education and the importance of their
5 kids getting an education and staying in school.

6 And I know that this Commission, one of
7 the things we're charged with doing is issuing public
8 service announcements. That's part of our statute and
9 our charter. So I'd like everybody to at least think
10 about whether we might do some public service
11 announcement in Spanish for Spanish-language
12 television, just encouraging -- you know, in line with
13 our recommendation -- encouraging immigrant children
14 to stay in school and get a good education.

15 I think that might be something that would
16 be worth us looking into, so I wanted to announce the
17 report and suggest people take a look at it and ask
18 that we consider maybe doing a PSA on the topic.

19 CHAIRPERSON BERRY: Why don't we ask the
20 Staff Director to look into the possibility of doing
21 this PSA.

22 STAFF DIRECTOR JIN: Okay.

23 CHAIRPERSON BERRY: Okay? All right.

24 COMMISSIONER THERNSTROM: And I have one
25 announcement.

NEAL R. GROSS

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

1 CHAIRPERSON BERRY: Yes, Commissioner
2 Thernstrom. Yes.

3 COMMISSIONER THERNSTROM: I don't know if
4 all Commissioners know, but Hugh Price is stepping
5 down as President of the National Urban League. And I
6 just would like to personally note that Price has been
7 an enormously effective leader. That he will be hard
8 in fact to replace. I am very sorry to see him go. I
9 understand the need to move on in his own life, but
10 I'd like personally to commend Price for the work he
11 has done at the National Urban League and particularly
12 with respect to education.

13 CHAIRPERSON BERRY: Well, I think that
14 that's -- thank you for reminding us of Hugh's leaving
15 --

16 COMMISSIONER EDLEY: Madam Chair?

17 CHAIRPERSON BERRY: -- the Urban League.
18 Do you want to say something about that?

19 COMMISSIONER EDLEY: Yeah. I think that
20 -- I agree whole-heartedly. I think that might
21 warrant sort of a formal letter or something like that
22 from the Commission as a body. I think Commissioner
23 Thernstrom put it very well.

24 CHAIRPERSON BERRY: Well, we can do that.
25 When I became aware that he was leaving, I sent Hugh

1 a note telling him that before he became President of
2 the Urban League I had said publicly, and it was
3 various articles, that the Urban League was missing in
4 action in many of the great policy debates of the
5 period and that since he had been there the Urban
6 League was in the midst of a very important policy
7 debate about issues such as education and the like.

8 So you're all right, he's done a great
9 job. If there's no objection to doing so, we may
10 draft a note to him saying that the Commission
11 commends him for his service, in particular his work
12 on education issues, wish him well and know that he
13 will be hard to replace. How's that?

14 COMMISSIONER THERNSTROM: That's great.

15 CHAIRPERSON BERRY: Yes, okay. Any other
16 announcements? Commissioner Meeks?

17 COMMISSIONER MEEKS: Yes, I do. It could
18 fall under the Staff Director's Report, but it's
19 related to the 2000 South Dakota SAC study that came
20 out of the forum that the Commissioners attended in
21 South Dakota.

22 After the SAC report was released the
23 Governor of South Dakota commissioned a study to
24 determine whether Native Americans were treated
25 differently than nonIndians. And I think we had some

NEAL R. GROSS

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

1 concerns about how can that be -- the methodology of
2 the report. But I think in the end the report was a
3 pretty balanced report, but it did find that there
4 were some disparities.

5 The researchers are now extending their
6 study to attempt to determine why that is. And those
7 findings are supposed to be released next summer.

8 And one of the recommendations that came
9 out of the report too was on the federal sentencing
10 guidelines, which affects Native Americans, you know,
11 more than it does just about any other race. They
12 have formed an advisory committee of which I am a
13 member. And we're researching to see if Native
14 Americans are disproportionately affected by the
15 federal sentencing guidelines because of the federal
16 criminal jurisdiction over typical local law offenses.

17 And so we are also looking at comparing
18 the federal sentences to the state sentences for
19 similar cases. State by state where there's a large
20 population of Native Americans. We're going to try to
21 get an interim report out in March.

22 And one other recommendation that came out
23 of that report was for a treatment center at Pine
24 Ridge, South Dakota. And the Oglala Sioux Tribe
25 received a \$12.4 million DOJ grant to build a

NEAL R. GROSS

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

1 correctional facility that also includes space for
2 inmates to receive career counseling, substance abuse
3 treatment, and medical services.

4 The Lower Burrell Tribe has also been
5 approved a grant to build a similar facility.

6 And, lastly and relative to the Indian
7 vote, in the 2000 South Dakota SAC report a
8 recommendation was made that Indians get involved with
9 state and federal elections and vote. And the 2002
10 election I'm happy to say had an unprecedented Indian
11 voter turnout in South Dakota.

12 On Pine Ridge, the typical turnout is
13 usually about 17 percent. This year it was 43
14 percent. And, you know, it can get better, but I
15 really believe that Native Americans can see now that
16 they can make a difference and stay involved in
17 elections. And it was -- I just attended the National
18 Congress of American Indians' conference and that was
19 really big news and got talked about a lot, and will
20 inspire I hope reservations across the country.

21 CHAIRPERSON BERRY: Thank you, Elsie.

22 I think it's really important that our
23 South Dakota SAC report, which made all those
24 recommendations, in the forum that we held out there
25 has been responded to in the way that you point out.

NEAL R. GROSS

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

1 And that it seems to, by all accounts from South
2 Dakota, made a tremendous difference.

3 I want to commend our South Dakota SAC for
4 the work that they did. And maybe the Staff Director
5 ought to send them a note and tell them that we
6 acknowledge that here. They will see the transcript,
7 but their work has had so many reverberations since
8 that time and it just keeps going.

9 Yes, Commissioner Edley.

10 COMMISSIONER EDLEY: Just a different
11 matter.

12 CHAIRPERSON BERRY: Yes.

13 COMMISSIONER EDLEY: The Civil Rights
14 Project at Harvard put out a report a couple of weeks
15 ago on just a simple analysis looking at state by
16 state and county by county disparities in spoiled
17 ballot rates using the 2000 election data.

18 And it got some press attention. I
19 commend it to everyone's attention. I'll see that
20 everybody gets a copy of it complete with the very
21 pretty color maps.

22 And I think we're all generally familiar
23 already from the work that we did on Florida with the
24 phenomenon. This is only county-level data, not
25 precinct level data. And the central finding of

NEAL R. GROSS

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

1 course is that there are very wide disparities from
2 state to state in the residual ballot rates. And that
3 even in many of the relatively well performing states
4 there are tremendous disparities county to county
5 within a state.

6 COMMISSIONER THERNSTROM: Controlling for
7 demographic?

8 COMMISSIONER EDLEY: No, not controlling
9 for anything. Just looking at the residual, --

10 COMMISSIONER THERNSTROM: I see.

11 COMMISSIONER EDLEY: -- at the error
12 rates.

13 COMMISSIONER THERNSTROM: Okay.

14 COMMISSIONER EDLEY: And the reason I
15 raise is that -- the reason I raise it is for two
16 things. One is that the recently -- the recently-
17 enacted federal election reform legislation, in my
18 view, frankly doesn't do very much to directly get at
19 this issue of disparities from jurisdiction to
20 jurisdiction in residual ballot rates, which is
21 unfortunate. Certainly some of the things that they
22 do in terms of the new technology and some money for
23 voter education will indirectly have an impact on
24 residual error rates over time, but one could have
25 some questions about whether the legislation goes as

NEAL R. GROSS

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

(202) 234-4433

www.nealrgross.com

1 far as it should.

2 But for the future, I hope at some point
3 over the next year or two the Commission will have a
4 chance to revisit this issue to look at the -- to look
5 at the '02 data to see what happens, what the trends
6 are with respect to these disparities. I'm not
7 talking about race now. I'm just talking about
8 disparities from jurisdiction to jurisdiction. The
9 basic principle is the one person-one vote principle.

10 And that we understand very well in law that when
11 election districts are redrawn, the courts insist,
12 under the equal protection clause, are really quite
13 close match in populations from district to district
14 so as not to have vote dilution.

15 But the reality of course is if elections
16 are administered in a way that then results in
17 effective vote dilution because of disparities in
18 spoilage rates, then it just strikes me we're back in
19 the same ballgame of worrying that one community with
20 a poor election infrastructure or inadequate
21 investments in worker training or voter education may
22 end up having the votes from that jurisdiction not
23 count as much as votes in other jurisdictions.

24 So I simply wanted to -- I'll circulate
25 that report to -- to the Commission as a whole for

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 your interest, and I wanted to flag it as something
2 that in the fullness of time and other work
3 permitting, we may want to take a look at this issue
4 of voter dilution as this new election commission gets
5 established under the statute. We may have some
6 recommendations for them to focus on.

7 CHAIRPERSON BERRY: Okay. Is there an
8 appropriation for that, or do you know? Does anybody
9 know? Is it being appropriated now or what?

10 COMMISSIONER EDLEY: It is, Madam Chair.
11 There's a -- yeah, a lot more than we will.

12 CHAIRPERSON BERRY: Oh. That's not too
13 hard.

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

15 CHAIRPERSON BERRY: The next item on the
16 agenda is the Staff Director's Report. And, as
17 Commissioner Thernstrom pointed out, we need to vote
18 on the Commission schedule for next year.

19 I think you were sent a schedule to take a
20 look at to see if those days were -- the point was to
21 look to see if those were days on your calendar that
22 you thought you might be able to -- or would be able
23 to meet and to see if you agreed to that. And if you
24 had any suggestions to change these, that you would
25 make those suggestions.

1 So if people brought their calendars or
2 are aware already of what their calendars are, could
3 we get a motion to approve this for purposes of
4 discussion?

5 COMMISSIONER MEEKS: I'll move.

6 CHAIRPERSON BERRY: And a second from
7 somebody.

8 COMMISSIONER THERNSTROM: I'll second it.

9 CHAIRPERSON BERRY: All right. Any
10 discussion?

11 COMMISSIONER THERNSTROM: If it was
12 possible for the other Commissioners, I would prefer
13 rather than March 14th a week later, March 21.

14 CHAIRPERSON BERRY: March 21? Everyone
15 should look at March.

16 Anybody else, anybody have a problem with
17 that?

18 COMMISSIONER MEEKS: I don't.

19 CHAIRPERSON BERRY: Okay. Well, then why
20 don't we change it to the 21st.

21 COMMISSIONER THERNSTROM: Thank you very
22 much.

23 CHAIRPERSON BERRY: All right. If there
24 are no other changes could we have agreement that this
25 schedule will be the dates of the meetings for the

NEAL R. GROSS

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

1 next calendar year?

2 All those in favor indicate by saying,
3 "Aye."

4 COMMISSIONERS: Aye.

5 CHAIRPERSON BERRY: Opposed?

6 So ordered.

7 COMMISSIONER BRACERAS: May be I heard
8 just a moment, Madam Chair?

9 CHAIRPERSON BERRY: Yes.

10 COMMISSIONER BRACERAS: I'm just wondering
11 whether it might be possible to have a little bit more
12 advanced notice from the staff on the location of the
13 meetings and the agenda. And I say this because I
14 realize that we voted in May to hold our meetings
15 outside the beltway wherever possible so that we could
16 hear from our State Advisory Committees, but for
17 planning purposes it would certainly be helpful to me
18 and I know to other Commissioners to be able to plan a
19 little bit farther in advance.

20 I was not able to attend either the
21 September meeting or the October meeting and may have
22 been able to juggle some things and do so at least in
23 September if I had known sooner that we would not be
24 meeting in Washington. And it was just logistically
25 impossible for me to get there in Delaware in

NEAL R. GROSS

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

1 September, and I regret that I was unable to do so.

2 But I think that if we were able to have a
3 little bit more notice, it might facilitate all of the
4 Commissioners being able to attend, so.

5 CHAIRPERSON BERRY: Okay. Why don't we
6 agree -- yes, Commissioner Edley.

7 COMMISSIONER EDLEY: And if I can add.
8 Also I think if we're going to be -- if we're going to
9 have some activities the day before, that we also --

10 COMMISSIONER BRACERAS: Right.

11 COMMISSIONER EDLEY: -- get notification
12 of that as early as we can as well.

13 COMMISSIONER BRACERAS: Right. So I mean
14 I guess if I were going to put it in the form of a
15 motion -- well, why don't I just move to amend our
16 policy of 30-day notice to 60-day notice.

17 COMMISSIONER THERNSTROM: Well, why don't
18 you include Commissioner Edley's suggestion. And also
19 in order to properly prepare for subjects that are
20 being discussed at the meetings, it would be at the
21 same time very good to know what the topic will be, so
22 that we don't come to meetings unprepared.

23 CHAIRPERSON BERRY: Staff Director, what
24 do you think?

25 STAFF DIRECTOR JIN: Well, Madam Chair, I

NEAL R. GROSS

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

1 --

2 CHAIRPERSON BERRY: It wouldn't be for the
3 meeting in December because we already decided that.
4 So we're not asking you to --

5 COMMISSIONER BRACERAS: Just starting in
6 the next calendar year.

7 CHAIRPERSON BERRY: What would be your --
8 so that would be that you would have to let us know
9 about, let's see practically speaking, what would be
10 the next thing you'd have to do? We'd have to know --

11 STAFF DIRECTOR JIN: Well, I certainly
12 would ask if we were to adopt this policy that we have
13 a certain grace period so we wouldn't have to like at
14 this moment come up with whatever's needed for
15 January. I mean we --

16 COMMISSIONER THERNSTROM: Well, January is
17 the planning meeting. Wouldn't that naturally be in
18 Washington?

19 CHAIRPERSON BERRY: Well, we don't know
20 yet. But the -- why don't we say that you will -- why
21 don't we agree to the motion with the understanding
22 that no later than the notification for the March
23 meeting, --

24 STAFF DIRECTOR JIN: Okay.

25 CHAIRPERSON BERRY: -- which gives you --

1 since it's going to be two months, that you --

2 COMMISSIONER BRACERAS: Well, how about
3 February?

4 CHAIRPERSON BERRY: -- let us know. You
5 would have to let us know about February in December,
6 --

7 STAFF DIRECTOR JIN: We can do that.

8 CHAIRPERSON BERRY: -- if we passed that.
9 Can you do that?

10 STAFF DIRECTOR JIN: We can do that.

11 CHAIRPERSON BERRY: Okay. The Staff
12 Director says he can do that.

13 STAFF DIRECTOR JIN: Yeah. Madam Chair,
14 notice provision we can do. The other things, I
15 understand the sense of the Commission, and we will do
16 the absolute best we can. Some of the activities that
17 are less formal, they get developed as we --

18 CHAIRPERSON BERRY: Work with the SACs.

19 STAFF DIRECTOR JIN: Yes, --

20 COMMISSIONER BRACERAS: I don't think we
21 need to know what the activities are. We just need to
22 know if there's going to be a day of activities on the
23 Thursday, then we can, you know, adjust our schedules
24 accordingly to be there, whatever those activities may
25 end up being.

NEAL R. GROSS

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

1 COMMISSIONER THERNSTROM: Well, and I'd
2 like to know the general subject. I have a great
3 preference for arriving at meetings having done my
4 homework.

5 CHAIRPERSON BERRY: Well, I think that --
6 just a second, and I'll respond, but Commissioner
7 Meeks.

8 COMMISSIONER MEEKS: I mean I have no
9 objection to being notified as early as possible, or
10 whatever. But you know, for instance, Cruz and I, we
11 know we have to reserve time to go either to D. C. or
12 somewhere. And it's never -- if I have to come to San
13 Diego, that's just no different. It's easier in some
14 ways.

15 So, you know, to make it 60 days, to me,
16 puts the staff at some disadvantage, I'm not sure.
17 But I'm not arguing the case necessarily, but I just
18 think that for those that have a short trip to D. C.,
19 there are some of us that have a long trip to D. C.

20 COMMISSIONER BRACERAS: Yeah. No, and I
21 certainly respect that. It's just that, for example,
22 a trip to New York, you know, would not require a
23 large amount of planning for daycare purposes in my
24 case, but a trip to California requires a huge amount
25 of daycare planning. And so it's just easier if I

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 know in advance and I'm able to make those
2 arrangements. So I realize that others have planning
3 difficulties all the time, but if we could all have
4 our lives made a little bit easier, I think that would
5 be to the benefit of everybody.

6 CHAIRPERSON BERRY: Let us be clear about
7 what we're moving. We are moving, and the motion
8 would be, that the Staff Director will tell me, so I
9 can notice, I'm the one who's supposed to decide it,
10 and he will notify you at least 60 days in advance
11 where the location of the next Commission meeting.
12 And that this policy will go into effect with respect
13 to the February meeting. That's the motion.

14 COMMISSIONER BRACERAS: I'm sorry, and
15 Commissioner Edley said --

16 CHAIRPERSON BERRY: And -- and that the
17 Staff Director will inform you at that time whether or
18 not there are activities on the day before the
19 meeting, okay?

20 COMMISSIONER BRACERAS: Great.

21 CHAIRPERSON BERRY: That's all that we are
22 moving. In terms of letting you know exactly what
23 activities, that's all worked out with SACs. And the
24 SACs, as you know, are volunteers. So they get
25 together and the Staff Director and the Regional

NEAL R. GROSS

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

1 Coordinator gets together with them as they can and
2 work this out. And everybody tries to work
3 cooperatively, but the timing on it may not always be
4 exactly what they would like and what we would like,
5 given the constraints of resources and their
6 volunteering and their other activities and the like.

7 So you will do the best we can, right?

8 STAFF DIRECTOR JIN: That's correct, Madam
9 Chair.

10 CHAIRPERSON BERRY: Let us know. But the
11 motion is 60-days notice starting with the February
12 meeting and letting people know at that time when the
13 notice issued whether there are activities on the day
14 before.

15 COMMISSIONER THERNSTROM: Well, is it
16 possible, Madam Chair, to include the topic, the
17 general topic as part of this motion? Because
18 certainly if we decide we're going to x city, we must
19 have some idea of what the general topic is.

20 CHAIRPERSON BERRY: I would rather not do
21 that because for what reasons the Staff Director gave
22 already. There are many topics that the SAC may be
23 considering, and they may be trying to finalize
24 whether they want to do one or the other. And giving
25 them as much time as possible is really important, and

NEAL R. GROSS

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

(202) 234-4433

www.nealrgross.com

1 I would rather opt on the side of giving them latitude
2 and letting him work with them, rather than boxing
3 them in that far ahead.

4 STAFF DIRECTOR JIN: That's right, Madam
5 Chair. I mean sometimes the SAC has one specific idea
6 and they are planning way ahead. Other times the SAC
7 has an idea as to what they want to do, but it's
8 really not firm. And so we're not really ready to say
9 that we're probably going to do this because it may
10 not happen and it could create confusion. There are
11 other times where what we try to put together is a
12 combination of things, and those things tend to get
13 done, you know, much more closely to the time when the
14 event is supposed to take place.

15 The one thing to remember is that, and
16 again we try to provide you accurate information as
17 early as possible, but we'd rather not give you stuff
18 that could eventually be incorrect.

19 I think one thing to remember is when the
20 Commission has voted on this, one of the key reasons
21 for doing it was to go and just talk to the SAC
22 members and other people in the civil rights community
23 there to find out what's going on. So that's really I
24 think -- I always thought that was the key part of
25 going there, not necessarily, you know, all the

NEAL R. GROSS

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

1 different topics.

2 CHAIRPERSON BERRY: All right. I call for
3 the question, or somebody has to call for the
4 question.

5 COMMISSIONER THERNSTROM: Can I just one
6 ask question on this still? So, in other words, when
7 the staff is picking a location it is not necessarily
8 because there are issues that have arisen, let's say
9 border control, in that location that is fruitful for
10 the Commission to address. It's really -- you know,
11 we are simply going to places where there will be SAC
12 committees that may or may not be addressing something
13 that is central to our concerns. Is that -- I'm just
14 a little confused on that.

15 CHAIRPERSON BERRY: It is clear that we go
16 in part. And we need to close off this part of the
17 discussion because it's taking too long --

18 COMMISSIONER THERNSTROM: Right.

19 CHAIRPERSON BERRY: -- and people are
20 waiting.

21 COMMISSIONER THERNSTROM: Yes. I'm sorry.

22 CHAIRPERSON BERRY: It's -- it is clear
23 that we go to places for a combination of reasons, and
24 the Staff Director and I discuss it. Sometimes
25 there's a hot issue there. Other times there's

NEAL R. GROSS

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

1 several issues. And the SAC may be in need of
2 reinforcement or wish to have us urgently come to meet
3 with them in terms of reinforcing what they're doing
4 in their local communities.

5 There may be a combination of reasons or
6 they may have two or three issues that they want to
7 tell us about or people in the community who they
8 think need to meet with us. And so we try to assess
9 all of those factors and to figure out the logistics
10 of it to try figure out where we would get the maximum
11 response and bang for our buck.

12 Yes, Commissioner Edley.

13 COMMISSIONER EDLEY: Can we -- I don't
14 think this ought to be that hard. Can we just have it
15 be part of the legislative record, or whatever, that
16 when the -- when the Staff Director and the Chair
17 notify us at the 60 days, that they tell us as best
18 they can what they think the topics might be and so
19 we'll accept any comments or input that commissioners
20 may have about things that ought to be addressed if
21 we're going to Las Vegas?

22 But that it -- but that we -- it just be
23 understood that that's not any sort of -- that that's
24 not binding, that that's not definitive, that there's
25 got to be some fluidity built into it. And the Staff

NEAL R. GROSS

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

(202) 234-4433

www.nealrgross.com

1 Director and the Chair will do their best to keep us
2 informed as things change, as things develop.

3 But I think just a good faith, let us know
4 as early as convenient, as early as possible what the
5 possibilities are and what the staff is thinking
6 about.

7 VICE CHAIRPERSON REYNOSO: Call for the
8 question.

9 CHAIRPERSON BERRY: All those in favor of
10 the motion indicate by saying, "Aye."

11 COMMISSIONERS: Aye.

12 CHAIRPERSON BERRY: Opposed?

13 So ordered.

14 Is there anything under the Staff
15 Director's Report that people would like to ask, under
16 this particular topic, the Staff Director about or not
17 beyond what we've just been discussing?

18 COMMISSIONER KIRSANOW: Madam Chair, this
19 is Commissioner --

20 CHAIRPERSON BERRY: Yes, Commissioner.

21 COMMISSIONER KIRSANOW: We have a
22 question, and actually a motion. When we originally
23 discussed on May 17th the issue of flying to various
24 locations, possibly in conjunction with the SAC, it
25 was done the understanding that it would be that that

NEAL R. GROSS

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

(202) 234-4433

www.nealrgross.com

1 traveling would be done absent a specific vote to the
2 contrary.

3 And I would like to move that, in fact,
4 whenever we are going to be holding meetings outside
5 of Washington, D.C. that perhaps within that 60-day
6 notice, a full vote be conducted by the staff, the
7 Staff Director of all Commissioners as to their
8 preference going to a particular city or going out of
9 Washington for that particular day.

10 CHAIRPERSON BERRY: You heard the motion.

11 COMMISSIONER THERNSTROM: I second it.

12 CHAIRPERSON BERRY: Okay. All those in
13 favor of the motion indicate by saying, "Aye."

14 COMMISSIONERS: Aye.

15 CHAIRPERSON BERRY: Opposed?

16 VICE CHAIRPERSON REYNOSO: Nay.

17 COMMISSIONER EDLEY: Nay.

18 VICE CHAIRPERSON REYNOSO: Or nay.

19 CHAIRPERSON BERRY: Nay. You oppose?

20 COMMISSIONER EDLEY: Can we get maybe a
21 roll call?

22 CHAIRPERSON BERRY: I add to your no.

23 All right. Someone has requested a roll
24 call. Commissioner Kirsanow?

25 COMMISSIONER KIRSANOW: Aye.

NEAL R. GROSS

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

1 CHAIRPERSON BERRY: Commissioner
2 Thernstrom?

3 COMMISSIONER THERNSTROM: Aye.

4 CHAIRPERSON BERRY: Commissioner Reynoso?

5 VICE CHAIRPERSON REYNOSO: No.

6 CHAIRPERSON BERRY: Commissioner
7 Redenbaugh?

8 COMMISSIONER REDENBAUGH: Aye.

9 CHAIRPERSON BERRY: Commissioner Meeks?

10 COMMISSIONER MEEKS: No.

11 CHAIRPERSON BERRY: Commissioner Edley?

12 COMMISSIONER EDLEY: No.

13 CHAIRPERSON BERRY: Commissioners
14 Braceras?

15 COMMISSIONER BRACERAS: Aye.

16 CHAIRPERSON BERRY: Commissioner Berry,
17 no.

18 The motion fails.

19 All right. Anything else under the Staff
20 Director's Report?

21 COMMISSIONER BRACERAS: I have a few
22 things. I'm sorry. Just one of them relating to the
23 dates and the logistics of traveling. As most of you
24 can tell, I am going to be having a baby in December.
25 So I just wanted to put you all on notice that

NEAL R. GROSS

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

1 unfortunately I will not be able to be in New York in
2 December, but would very much like to participate by
3 telephone hook-up and would like my assistant Kimberly
4 Schold to be able to do so as well.

5 I'm not yet sure about January. That will
6 depend on where we go and my doctor's order and how
7 the delivery goes and so forth. So I will certainly
8 keep you posted about that, but I just -- I wanted it
9 to be clear on the record that I will be
10 participating, you know, via telephone hook-up for
11 those two meetings due to the circumstances. And I
12 hope that all accommodations can be made so that my
13 assistant and I can participate in that fashion.

14 CHAIRPERSON BERRY: Fine. No objection
15 and we already have a policy, so it's fine. And good
16 luck to you.

17 COMMISSIONER BRACERAS: Thank you.

18 CHAIRPERSON BERRY: Let us know when you
19 have the twins.

20 VICE CHAIRPERSON REYNOSO: Yeah, there's
21 only one condition.

22 COMMISSIONER BRACERAS: I will.

23 VICE CHAIRPERSON REYNOSO: There's only
24 one condition. You should bring the baby as you can
25 so we can meet it.

1 COMMISSIONER BRACERAS: The only -- the
2 more substantive things I wanted to ask about are the
3 Educational Accountability Project. I know the
4 written Staff Director's Report says that we'll be
5 having a briefing probably some time in the first part
6 of 2003. And I'm wondering if the staff has any idea
7 of how that briefing will be structured or if we know
8 more clearly what month it will take place. Because
9 that's an issue that I'm very interested in, so I'd
10 just like some clarification from the staff on where
11 we think that project's going and how it's shaping up.

12 CHAIRPERSON BERRY: Did you want to
13 discuss it now or under commission projects?

14 COMMISSIONER BRACERAS: Oh, well, it was
15 under the Staff Director's Report in this area, so --

16 CHAIRPERSON BERRY: Okay. All right.
17 Well, that's fine. We can do it now.

18 COMMISSIONER BRACERAS: -- it doesn't
19 matter to me. I'd just like a more detailed briefing
20 on what's happening with that project.

21 CHAIRPERSON BERRY: Okay. Could we wait
22 until -- would you mind waiting?

23 COMMISSIONER BRACERAS: No, not at all.
24 That's fine.

25 CHAIRPERSON BERRY: Since some of the

NEAL R. GROSS

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

1 Commissioners want us to get things out of the way
2 that have to be voted on.

3 COMMISSIONER BRACERAS: Okay.

4 CHAIRPERSON BERRY: So we'll defer that
5 question, okay.

6 **V. SAC Appointments**

7 CHAIRPERSON BERRY: The next item on the
8 agenda is the SAC appointments for Arkansas, Georgia,
9 Illinois, New Hampshire, New York, Oklahoma, Texas,
10 and Tennessee.

11 Could I get a motion to approve those?

12 COMMISSIONER REDENBAUGH: So move.

13 CHAIRPERSON BERRY: Could I get a second?

14 COMMISSIONER BRACERAS: Second.

15 CHAIRPERSON BERRY: Is there any
16 discussion?

17 Yes, Vice Chair.

18 VICE CHAIRPERSON REYNOSO: Madam Chair,
19 we've agreed that in the past that I would vote in
20 favor of it with the understanding that the staff
21 would take a second look at some of the concerns I
22 have. And I have on this occasion three concerns.

23 In Illinois there's only one Latino on the
24 SAC even though the population is something like 12
25 percent, so I suggest that the staff take a look to

NEAL R. GROSS

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

1 see if one or two others can be added for balance
2 purposes.

3 And in all others there's only one Native
4 American in -- in the SAC. And, again, I suggest that
5 maybe there ought to be more than one Native American
6 one in the SAC. The SAC is composed of 12.

7 And in Texas four of the 17 are Latinos
8 even though in Texas Latinos represent a third of the
9 population. So I suggest that we take a second look
10 at that.

11 I've been told in the past that normally
12 we'd have flexibility and that folk can be added to
13 the SAC. If that's true, then I would vote with the
14 others to approve these reports.

15 CHAIRPERSON BERRY: Okay. Does anybody
16 else have any comment? Yes, --

17 STAFF DIRECTOR JIN: Madam Chair and Vice
18 Chair, we'll definitely do that. We'll look into
19 that.

20 The only thing I would like to add is that
21 we would also ask that the Commission vote to endorse
22 the chairs of those eight states except for Arkansas,
23 New Hampshire, and Texas. Those we still need some
24 leadership statements from, and we'll provide those to
25 you at a later time.

NEAL R. GROSS

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

1 CHAIRPERSON BERRY: I didn't -- I meant to
2 say that I needed the motion to include of course the
3 chairs of these SACs, which are in the appointment
4 packages.

5 So could we --

6 COMMISSIONER BRACERAS: Wait. Can I just
7 have some clarification? Is it that you can add
8 additional members to the SACs after we vote --

9 CHAIRPERSON BERRY: They have to bring
10 them back --

11 COMMISSIONER BRACERAS: So is there a
12 limit on how many numbers there are?

13 STAFF DIRECTOR JIN: SACs have a limit of
14 21. The range is 11 to 21.

15 MS. DAVIS: No, no, no.

16 CHAIRPERSON BERRY: Ivy's trying to answer
17 the question.

18 MS. DAVIS: Thank you. There's a floor of
19 -- you have to at least have 11 as a minimum, but I
20 will remind you, California has 26 members right now.

21 COMMISSIONER BRACERAS: Okay. So these
22 aren't full, and the Vice Chair's recommendations can
23 be...

24 CHAIRPERSON BERRY: Considered.

25 COMMISSIONER BRACERAS: Gotcha.

NEAL R. GROSS

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

1 CHAIRPERSON BERRY: Now I forget what I
2 was -- oh, the Chairs of the SACs are included in the
3 appointment packages, so when you vote for the motion
4 you are voting for the entire package, which includes
5 the chairs, which is what the Staff Director was
6 pointing out.

7 Did the maker of the motion accept that?
8 I forgot who made the motion?

9 COMMISSIONER REDENBAUGH: I made it. I
10 accept.

11 CHAIRPERSON BERRY: And does the seconder
12 accept that? And I don't remember who seconded it,
13 but whoever --

14 COMMISSIONER BRACERAS: I think I do.

15 CHAIRPERSON BERRY: All right. So the
16 motion is then to approve these appointments with the
17 Chairs and with the understanding that you'll go back
18 and look and see if you want to recommend some more
19 people to us to respond to these concerns.

20 All those in favor of the motion indicate
21 by saying, "Aye."

22 COMMISSIONERS: Aye.

23 CHAIRPERSON BERRY: Opposed?

24 So ordered.

25

VI. SAC Report

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

1 CHAIRPERSON BERRY: The next items is the
2 State Advisory Committee Report on Civil Rights Issues
3 in West Virginia. Could I get a motion to approve the
4 SAC report?

5 VICE CHAIRPERSON REYNOSO: So move.

6 CHAIRPERSON BERRY: Could I get a second?

7 COMMISSIONER BRACERAS: Second.

8 CHAIRPERSON BERRY: All those in favor of
9 approval the Civil Rights Issues in West Virginia
10 Report from our SAC indicate by saying, "Aye."

11 COMMISSIONERS: Aye.

12 CHAIRPERSON BERRY: Opposed?

13 So ordered.

14 **VII. FY-2004 Budget Estimate**

15 CHAIRPERSON BERRY: The next item is the
16 FY 2004 budget estimate to OMB for purposes of
17 discussion. Could I get a motion to approve?

18 VICE CHAIRPERSON REYNOSO: So moved.

19 CHAIRPERSON BERRY: Can I get a second?

20 COMMISSIONER MEEKS: Second.

21 CHAIRPERSON BERRY: All those in favor of
22 the --

23 COMMISSIONER REDENBAUGH: Madam Chair?

24 CHAIRPERSON BERRY: Yes.

25 COMMISSIONER REDENBAUGH: Commissioner

NEAL R. GROSS

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

1 Redenbaugh.

2 CHAIRPERSON BERRY: Yes, Commissioner
3 Redenbaugh.

4 COMMISSIONER REDENBAUGH: A point of
5 clarification and then I think I do want to have a
6 discussion.

7 Could you just review with me, this has
8 been submitted already to OMB -- or I'm not sure where
9 we are.

10 CHAIRPERSON BERRY: The Staff Director, as
11 I understand from him, has -- the staff has had staff-
12 to-staff discussions at OMB about what the
13 recommendation is from the staff to the Commission,
14 with the understanding that it is the staff
15 recommendation, and the Commission has not yet
16 endorsed a budget. Is that right?

17 STAFF DIRECTOR JIN: That's correct, Madam
18 Chair. We sent over the staff draft and made it very,
19 very clear that the Commissioners have not voted on
20 it.

21 COMMISSIONER REDENBAUGH: And this was due
22 to OMB in --

23 CHAIRPERSON BERRY: The schedule.

24 COMMISSIONER REDENBAUGH: -- September,
25 presumably, or --

1 STAFF DIRECTOR JIN: Right. Based on our
2 conversations with OMB, our budget officer's
3 communications with them, we felt that it was prudent
4 to get them over a copy even if it hadn't been voted
5 on.

6 COMMISSIONER REDENBAUGH: All right.
7 Well, then I do want to have some discussion. And I
8 admit that I'm significantly underprepared for this,
9 having seen this document -- having not spent enough
10 time with it.

11 But as I've over expressed in the past,
12 you know, generically all budget documents are a set
13 of promises between the parties. And I'm not prepared
14 to support this particular submission without a review
15 of how we performed on the current budget and project,
16 which I think as a manager we ought to be doing
17 periodic anyway. So that's the general concern that I
18 have with this particular submission.

19 CHAIRPERSON BERRY: Okay. Any other
20 comments?

21 COMMISSIONER THERNSTROM: Well, I could
22 add a word on that, that it is confusing to some of us
23 to have a budget and a list of projects for the year
24 and then a complete alteration of our priorities,
25 which is what these trips have involved. I do

NEAL R. GROSS

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

(202) 234-4433

www.nealrgross.com

1 personally feel a fiduciary responsibility here that
2 -- and, you know, it's troubling to me when I can't
3 come through on it, in effect.

4 CHAIRPERSON BERRY: Anybody else have a
5 comment?

6 Yes.

7 VICE CHAIRPERSON REYNOSO: Madam Chair, I
8 think we discussed this last meeting where we've gone
9 over the scheduling, where we're required by OMB and
10 the budgetary process to agree like two years ahead of
11 time what the projects are going to be. But it's
12 understood by OMB and the budgetary apparatus that in
13 fact we're free to change those projects and
14 priorities as we go along and as the matters require.

15 So it seems to me that there's no danger to
16 proceeding as is normally done in the federal
17 government.

18 The other thing is of course that we're
19 duty-bound to include a budget that explains what our
20 resources are and what we need to actually do the job.

21 And I think that's what we've tried to do with the
22 budget, so it seems to me we're proceeding in the
23 normal federal way.

24 CHAIRPERSON BERRY: Okay. Anybody else
25 have any further discussion on the subject of this

NEAL R. GROSS

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

(202) 234-4433

www.nealrgross.com

1 budget proposal?

2 Yes.

3 COMMISSIONER EDLEY: Well, I just want to
4 make clear at least in my experience -- my experience
5 over the years on these matters and, in particular,
6 from my time working in OMB.

7 For what it's worth, I want to assure my
8 colleagues that in the minds of OMB officials but also
9 in the minds of appropriators, the budget decisions
10 that the White House and the appropriation decisions
11 of the Congress are not contingent in any way upon
12 some specific list of programmatic activities. That's
13 not what the appropriation line items contain. It's
14 not what the report in the appropriations bill
15 contains. It's not what the narrative in the
16 President's budget submission contains.

17 So our responsibility -- our fiduciary, if
18 you will, responsibilities or even our quasi
19 contractual obligations to OMB and the Congress don't
20 include that level of detail as to what topics we're
21 going to be taking up or even where we're going to be
22 going.

23 So that's not -- I think the question of
24 what kind of role or what kind of oversight the
25 Commission takes of the decisions made by the staff is

NEAL R. GROSS

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

1 a separate matter from the budget submissions to the
2 White House and the Congress. And I think we have a
3 planning meeting scheduled for January and it's at
4 that planning process internally where I think the
5 issue of topics and travel and so forth is much more
6 relevant.

7 CHAIRPERSON BERRY: Any further discussion
8 of this matter?

9 If there is no further discussion, then
10 someone call for the question.

11 COMMISSIONER BRACERAS: I call for the
12 question.

13 CHAIRPERSON BERRY: All those in favor of
14 item number 7, which is the FY 2004 Budget Estimate
15 indicate by saying, "Aye."

16 COMMISSIONERS: Aye.

17 CHAIRPERSON BERRY: Opposed?

18 COMMISSIONER REDENBAUGH: No.

19 COMMISSIONER THERNSTROM: No. I'm going
20 to oppose it, too.

21 CHAIRPERSON BERRY: Okay. I hear --
22 hearing only two opponents of it, the motion passes,
23 and so the budget is approved.

24 COMMISSIONER KIRSANOW: Commissioner
25 Kirsanow also opposed.

NEAL R. GROSS

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

1 CHAIRPERSON BERRY: I couldn't hear you.

2 COMMISSIONER KIRSANOW: Commissioner
3 Kirsanow also opposed.

4 CHAIRPERSON BERRY: Then the budget is
5 still approved.

6 The -- we are aware, I will say after we
7 have approved it, that this is just what we think the
8 Commission needs. It doesn't mean we'll get it. It'd
9 be nice if we get it, but we won't.

10 **VIII. Discussion of Letter to the DOJ**

11 The next item on the agenda is to hear
12 from our -- oh, let me do this first because there may
13 be necessity for a vote on it.

14 Commissioner Braceras yesterday suggested,
15 if I recall correctly, and she's here and can speak
16 for herself obviously, that we might consider sending
17 a letter to Justice about the allegations that there
18 were some vigilante incidents along the border in
19 Arizona.

20 Am I recalling correctly?

21 COMMISSIONER BRACERAS: Yes. We talked
22 about maybe sending a letter asking them just to look
23 into it. I don't think we have enough information to
24 ask them to take specific action, --

25 CHAIRPERSON BERRY: Right.

NEAL R. GROSS

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

1 COMMISSIONER BRACERAS: -- but we can ask
2 them to look into it and see whether anyone's civil
3 rights may have been violated.

4 CHAIRPERSON BERRY: Okay.

5 COMMISSIONER BRACERAS: And report back to
6 us or take whatever action is necessary.

7 CHAIRPERSON BERRY: Could you off the top
8 of your head, Commissioner Braceras, repeat what you've
9 just said so the staff can write it down in addition
10 to looking at the transcript and draft a letter so it
11 would be -- comport with what you have in mind?

12 COMMISSIONER BRACERAS: Just to send a
13 letter to the Justice Department indicating that we
14 heard testimony on this issue and we're concerned
15 about it. And, you know, could they look into it and
16 either report back or take whatever action is
17 necessary.

18 CHAIRPERSON BERRY: See if the allegations
19 -- if there is any validity to any of the allegations
20 and report back. If there is any action, let us know,
21 or something like that.

22 COMMISSIONER BRACERAS: That sounds fine.

23 CHAIRPERSON BERRY: Yes, Commissioner.

24 COMMISSIONER EDLEY: Well, we also heard
25 then --

NEAL R. GROSS

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

1 CHAIRPERSON BERRY: Are you going to help
2 Commissioner Braceras?

3 COMMISSIONER EDLEY: Well, we also --

4 COMMISSIONER BRACERAS: I don't want to
5 draft the letter off the top of my head. I'm sure the
6 staff is perfectly capable of doing that.

7 COMMISSIONER EDLEY: As I understand it,
8 the Arizona SAC has looked into this somewhat, so --

9 CHAIRPERSON BERRY: And they're going to
10 tell us about that.

11 COMMISSIONER EDLEY: Right. So I think it
12 would make sense in the letter to at least reference
13 the fact that our SAC in Arizona has looked into it
14 and without -- without framing the letter as though
15 we're endorsing any factfindings by the Arizona SAC, I
16 think it would be good to at least --

17 COMMISSIONER BRACERAS: Right.

18 COMMISSIONER EDLEY: -- acknowledge that
19 the Arizona SAC has been working on it, mentioned --

20 COMMISSIONER BRACERAS: I mean I guess we
21 could even -- you know, if there's any -- I haven't
22 had a chance to read this fully, but if there's any
23 specific report or document from the Arizona SAC on
24 it, we could include it, and then they could take it
25 from there.

NEAL R. GROSS

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

1 CHAIRPERSON BERRY: Right. That would be
2 great. So after we hear from the Arizona SAC we'll
3 know better, but is there anyone who has an objection
4 to sending the letter of inquiry to the Justice
5 Department that we are discussing?

6 Hearing no objection, the staff will send
7 such a letter and see what we get back. And we will
8 then -- now we go onto the presentations from the SAC
9 members.

10 And we have with us the SAC Chairs from
11 California and Arizona and a member to give reports on
12 their states. We're happy to have them come. We're
13 so grateful for their service to the Commission.

14 The Arizona SAC, as was just pointed out,
15 recently looked into the issue of federal border and
16 immigration policy in that state, including with the
17 migrant deaths along the border. And so it will be
18 interesting to hear from them. And they're now just
19 giving us a package of what looks like news articles
20 concerning this subject.

21 And from the -- so let me introduce the
22 two SAC Chairs and the member. From the California
23 SAC we have with us Fernando Hernandez, Dr. Fernando
24 Hernandez, who is Chair of the State Advisory
25 Committee and was recently reappointed to a second

NEAL R. GROSS

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

(202) 234-4433

www.nealrgross.com

1 term. Is that right?

2 DR. HERNANDEZ: Yes, ma'am.

3 CHAIRPERSON BERRY: Thank you very much
4 for your service.

5 Dr. Fernandez is from Long Beach and is
6 Chairman of the Foundations Department in the College
7 of Education at California State University at Los
8 Angeles. He is a strong advocate for equal
9 educational opportunity for everyone. He is the
10 former chairman of the board of directors for the
11 Community Youth Gang Services. He is active in
12 service to his university and his community, and he
13 will be discussing the activities of the California
14 SAC.

15 Also with us from the California SAC is
16 Gilbert C. Alston of Pasadena who is a retired
17 Superior Court Judge, a retired U.S. Air Force Pilot,
18 a past Military Affairs Committee Chairman of the
19 Pasadena Chamber of Commerce, and he has experience as
20 a peace officer and as a prosecutor. He's also a life
21 member of the NAACP and a member of the Pasadena
22 Chapter of the Red Cross Advisory Council.

23 He served on the boards and committees of
24 many church groups and community-based organizations.

25 He attended the briefing in Arizona on migrant deaths

NEAL R. GROSS

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

1 along the border, but he will be discussing issues
2 from the California perspective or any other
3 perspective he feels like discussing.

4 And, finally, all the way from Tucson is
5 June Webb-Vignery, who is Chair of the Arizona SAC.
6 And we are grateful for your service, and who was also
7 recently reappointed by the Commission to a second
8 term.

9 Dr. Vignery is executive director of the
10 Metropolitan Education Commission. She served as a
11 member of -- the Arizona Civil Rights Advisory Board,
12 the Arizona Women's Committee. She's been a member of
13 the University of Arizona Latin American Resource
14 Board and served on the Executive Board of the NAACP
15 Tucson Chapter.

16 Her extensive community involvement also
17 includes service on the Arizona Womens Political
18 Caucus, the Tucson Civil Rights Coalition, the Tucson
19 Womens Discrimination Task Force, the League of the
20 United Latin American Citizens otherwise known as
21 LULAC.

22 Dr. Vignery is a historian by training and
23 has published several books and articles. And we want
24 to mention that we don't list books and articles --
25 I'm teasing you -- many of which concern equal rights

NEAL R. GROSS

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

(202) 234-4433

www.nealrgross.com

1 and employment issues. And she will be discussing
2 border control issues in our state.

3 But before I -- we continue with the SACs,
4 I think Phil Montez, who is our Director for the
5 Western Regional Office and has been at the Commission
6 since I think 1967 -- is that right, Phil?

7 MR. MONTEZ: I forgot the year.

8 CHAIRPERSON BERRY: I'll say a few words.
9 He started as a Consultant in the Field Services
10 Division and was promoted to Civil Rights Community
11 Service Specialist, a job that no longer exists, the
12 title at least, in July 1968. He's been a Supervisor
13 Equal Opportunity Specialist, and then the Regional
14 Director of the Western Regional Office since 1982.
15 And has continued to serve admirably and well in that
16 position ever since.

17 So, Phil, will you please proceed, and
18 then we will hear from our SAC members.

19 **IX. Western Regional SAC Presentations**

20 MR. MONTEZ: All I wanted to say was Dr.
21 Hernandez will introduce our illustrious guest and
22 make their presentations to the Commission. I'm glad
23 you're here.

24 CHAIRPERSON BERRY: All right. Okay.
25 Well, we're glad we are.

1 Dr. Hernandez.

2 DR. HERNANDEZ: Thank you very much,
3 Commissioner Berry. And I want to welcome to
4 California my Arizona -- the Arizona SAC Chair June
5 Vignery.

6 And I want to thank Judge Alston for
7 taking time to come.

8 I think most importantly I want to thank
9 the Commission for accepting our invitation to come to
10 California. I know we've asked Phil to invite you
11 numerous times. And I'm glad that you were able --

12 VICE CHAIRPERSON REYNOSO: Are you sure
13 he's done it.

14 DR. HERNANDEZ: And I'm glad you're able
15 to be here in San Diego, that has the best weather in
16 the entire world.

17 I also want to thank Commissioner Braceras
18 for mentioning the Navy scholarship program. I'm a
19 Captain in the United States Naval Reserve and very,
20 very much involved in recruiting minority officers
21 into the Navy. And so I want to thank you for that,
22 Commissioner. That's a real important activity and I
23 think we want to make sure that our armed forces and
24 are Navy reflects the diversity of our nation. -

25 The California State Advisory Committee is

NEAL R. GROSS

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

1 presently involved with several -- several projects.
2 And we have completed a post-9/11 forum in San Diego
3 and one in San Francisco. And on November the 20th
4 we'll be holding a forum in Sacramento as a
5 continuation of our 9/11 project.

6 The final city to be reviewed will be Los
7 Angeles. And then upon completion of this project,
8 the committee would like to issue one report focusing
9 on what is happening post 9/11 in the four cities and
10 how civil rights in each of these cities is being
11 handled and the state of civil rights post-9/11.

12 Each one -- each city will be a separate
13 chapter in the report.

14 Recently the Western Regional Office
15 received complaints of discrimination against minority
16 officers in the City of Huntington Park. And the
17 regional staff and I discussed the situations and we
18 agreed that these Huntington Park officers, the
19 minority officers should be referred to the Equal
20 Employment Opportunity Commission.

21 The staff communicated with the regional
22 director of EEOC asking him to meet with these police
23 officers. And this was due to the delicacy, as you
24 might imagine, of the police officers challenging
25 their own department.

NEAL R. GROSS

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

1 The director of EEOC spent a good
2 afternoon discussing the ramifications of their filing
3 a complaint against the Huntington Park Police
4 Department. And subsequently these minority officers
5 filed a complaint against the Huntington Park Police
6 Department.

7 The EEOC is now investigating their
8 complaints of discrimination and unequal treatment.

9 The Regional Director and I met with the
10 city attorney and the police chief to get a background
11 on these complaints. And we will be holding a forum
12 in Huntington Park in the very near future to look at
13 allegations of discrimination and unequal treatment
14 against minority police officers in Huntington Park.

15 We are also going to look at the grievance
16 procedure that the Police Department uses in -- and
17 their complaint process for aggrieved officers, so
18 we'll be holding that forum in the next few weeks.

19 In California there have been two consent
20 decrees filed against two police departments. And the
21 Department of Justice filed in federal court, asking
22 the court to set a consent decree against the Los
23 Angeles Police Department, and the request was
24 honored.

25 In Los Angeles City we have a new police

NEAL R. GROSS

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

1 chief. And the committee has voted to analyze the
2 consent decree and to hold a public forum in the first
3 part of the year. The staff's been collecting data,
4 and all the SAC members have received a copy of the
5 consent decree.

6 I'd like to thank Judge Gil Alston, who is
7 here, who did a great job in analyzing for the SAC the
8 two consent decrees. And he's done a line-by-line
9 analysis of the consent decree. And the fact that
10 he's been a superior court judge helps him to -- helps
11 the SAC to make sense out of some very, very difficult
12 legal terminology. And he's done a great job helping
13 us to understand exactly what the decrees say and what
14 they're asking. So he'll talk a little bit more about
15 that in a bit.

16 The other police department that we'll be
17 analyzing with respect to the second consent decree is
18 the Riverside Police Department, where the state
19 Attorney General has filed against the department.

20 The committee has voted to hold a briefing
21 in Riverside and to analyze the progress of the
22 consent decree.

23 Now the committee feels strongly that
24 these two consent decrees have to be looked over by a
25 committee to make sure that they're progressing and

1 that all the powers that be are carrying out the
2 mandate of the courts.

3 Judge Alston's analysis I think is going
4 to help us to ask the right questions and try to get
5 to the bottom of exactly what it is that's going on
6 with these consent decrees.

7 We also intend to collaborate with four
8 other SACs, Arizona, New Mexico, and Texas, to explore
9 some of the issues that you explored earlier with
10 respect to border problems.

11 In our San Francisco meeting we recently
12 had a rather spirited discussion surrounding the whole
13 issue of border violence and the associated problems
14 of people coming across the border trying to get into
15 the United States and the deaths and the way that some
16 of the authorities have been handling these
17 unfortunate people that are crossing the border into
18 the United States.

19 I'm real pleased that my fellow chair from
20 Arizona is here. It's going to give me an opportunity
21 to pursue a little further exactly how we want to do
22 this, but we are intent on working with the other SACs
23 on this problems because it's a huge problem and it's
24 a problem that cannot be addressed by just one SAC.
25 We think we really need to take on a regional

NEAL R. GROSS

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

(202) 234-4433

www.nealrgross.com

1 approach.

2 And I'm gratified that the Commission
3 looked at the issue here. And it may well be that we
4 can work very, very closely with you as you begin to
5 look at these issues and we're of course going to be
6 transmitting all that we find along to you.

7 Finally, I'd like to say that we have
8 another concern and it's a concern that we're going to
9 be looking at down the line once we finish these
10 projects, and that's the state of minorities in higher
11 education here in California.

12 Given the impact of affirmative action,
13 one of the things that we've been concerned about and
14 that we've received a lot of complaints about is
15 access to higher education on the part of minorities.

16 And, in addition to access, we're also concerned
17 about the number of minorities represented on the
18 faculties and the administration of both the
19 California State University and the University of
20 California.

21 These are areas where we're getting a lot
22 of complaints and where there's an awful lot of
23 concern being raised.

24 The State of California has one of the
25 finest higher education systems in the nation and I

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 daresay probably in the world. It's a fine system,
2 but we're beginning to get really concerned about
3 whether minorities are going to be participating in
4 representative numbers in these two very, very fine
5 systems.

6 Finally I'd like to say that the United
7 States Commission on Civil Rights is a very, very
8 important commission. We're gratified that you're
9 reconnecting with the SACs again. You are the
10 conscience, the moral conscience of the United States
11 of America.

12 You play a very, very important role in
13 our communities. When you come to San Diego or
14 California, or whatever state you're in, you represent
15 the best of what this nation has to offer.

16 And we are very gratified that you're here
17 in California. And we support the work of the
18 Commission. We're think you're very, very important
19 and we feel that the United States needs the
20 Commission on Civil Rights. And we are -- and as the
21 Chair of the SAC, I know -- the California SAC, I know
22 I speak on behalf of the State Advisory Committee of
23 California in saying that we will do everything we
24 possibly can to support your work and to partner with
25 you to make sure that the moral conscience of America

NEAL R. GROSS

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

(202) 234-4433

www.nealrgross.com

1 stays alive and well.

2 Thank you again. And I want to just --
3 before I finish my remarks thank, in particular,
4 Commissioner Cruz Reynoso, who's a resident of
5 California and who has been great for the State
6 Advisory Committee. He attends our committee meetings
7 from time to time. He's attended our forums. And I
8 just want to say on behalf of the entire SAC of
9 California, Commissioner, thank you very much for all
10 of the fine work that you've done with us and for
11 being a partner in helping the Commission and the
12 State Advisory Committee do its work.

13 Thank you very much. And I'd now like to
14 introduce my colleague from Arizona, June Vignery.

15 CHAIRPERSON BERRY: Thank you.

16 DR. WEBB-VIGNERY: I too would like to
17 express the Arizona SAC's appreciation for your coming
18 to this region of the country.

19 This opportunity for us to share with you
20 the issues and concerns of this locality is valuable
21 not only for the civil rights health of this region,
22 but actually the United States. And I know it takes
23 some work on our part to get to different regions of
24 our country. It's a big country, but what you are
25 doing is invaluable and thank you for being here to

NEAL R. GROSS

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

1 listen to us.

2 The Arizona SAC has engaged in several
3 activities, and I'll just briefly mention. We have
4 held two hearings to date on the education of minority
5 children and also the Justice system in Arizona and
6 it's treatment of minorities. Those hearings have
7 been held in Tucson and in Flagstaff.

8 A third one has been put on hold, but will
9 be -- I gather from talking with our Regional
10 Director, we'll be able to hold this shortly in the
11 Phoenix area so that we can complete that series of
12 hearings.

13 At the same time we have met or I have met
14 with the state Attorney General after 9/11 to discuss
15 profiling of Muslims in our state. And that was with
16 our Regional Director.

17 But the most important thing that we have
18 done this year has -- and that's not to say that those
19 hearings are not extremely important and at the top of
20 our list, but we have had 320 deaths on the border in
21 Arizona this summer. And it is extremely at the top
22 of the list not only of the political community -- if
23 you could have heard the gubernatorial candidates talk
24 about this in Arizona, but also the economic
25 development community.

NEAL R. GROSS

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

(202) 234-4433

www.nealrgross.com

1 What is happening there is just crucial
2 that we deal with it. So on August 23rd, 2002, the
3 Arizona SAC held a factfinding hearing to gather
4 information about Mexican nationals -- and at that
5 time we learned there are many other nationals
6 crossing the border -- and attempting to cross into
7 southern Arizona from Mexico.

8 We held the hearing because this issue of
9 the deaths was the primary problem that we saw at that
10 time. We're concerned about the deaths. And Arizona
11 -- and it's very salient in Arizona and a top priority
12 issue for our religious leaders as well.

13 Media coverage of the issue has been and
14 continues to be extensive, as your packet of media
15 materials demonstrates. And that continues, and I
16 just recently -- I brought one article over with me
17 that I'll be quoting from that was just in the
18 newspaper just recently.

19 Representatives from both public agencies
20 and private organizations approved before the
21 committee to address the situation along the border.
22 We heard testimony from Henry Ramon, who is the Vice
23 Chair, of the Tohono O'odham Nation. We heard Robin
24 Hoover, Humane Borders; Katie Hudak, BorderLinks;
25 Chief David Aguilar, U.S. Border Patrol; Andy

NEAL R. GROSS

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

(202) 234-4433

www.nealrgross.com

1 Silverman, University of Arizona, College of Law;
2 Aljania Cabrera, who is Deputy Counsel General from
3 the consulate of Mexico; the Reverend John Fife,
4 Samaritan Patrol; and many others.

5 Much of what was presented by the speakers
6 yesterday addressed what we heard. Operation
7 Safeguard in Arizona does channel border crossers to
8 rural Arizona, where they enter into one of the driest
9 and harshest desert environments in the world.

10 Vice Chair Ramon of the Tohono O'odham
11 Nation emphasized an issue which was not addressed
12 yesterday concerning this. The Tohono O'odham Nation
13 occupies a large portion of this rural area. Its
14 people live on both sides of the border, and about
15 1400 the Tohono O'odham People, and they are
16 registered, live on the Mexican side. Seven thousand
17 on the United States side are U.S. citizens, but they
18 can't produce documentation because, as Ramon stated,
19 historically the Native People did not document on
20 paper. And the elders were primarily born at home.
21 Thus no birth -- no birth certificates are there, and
22 this is a problem.

23 These people are harassed by the Border
24 Patrol incessantly. He stated, "Our people are no
25 longer free to travel. They are intimidated, their

NEAL R. GROSS

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

(202) 234-4433

www.nealrgross.com

1 vehicles tailgated by the Border Patrol agents,
2 looking into their cars, shining bright lights in
3 their faces, running them off the road, asking them to
4 produce documents they don't have."

5 "Now our people," to quote Ramon, "are
6 afraid to go out in the open to gather native plants
7 and fruits because they're warned if they stop you and
8 you don't have papers, 'We will deport you.'" And the
9 people who are born here on the reservation would be
10 at a loss if they're deported to the other side.

11 So most of the elders who don't have birth
12 certificates hide from the Border Patrol. Further, he
13 said, the Border Patrol has not sought agreement or
14 permission to operate on the reservation.

15 Reverend Fife, of the Samaritan Patrol,
16 described the need for change in Border Patrol and
17 Immigration Officials' policy so we do not have
18 another summer of record deaths.

19 He warned that the attempt now to seal the
20 border is impossible. There are 2,500 miles of desert
21 and mountains out there. And what it takes to control
22 a border we learned from the example of the migration
23 between east and west Berlin during the Cold War.

24 That wasn't a remote desert wilderness
25 area. It was an urban area of about 37 miles. And

NEAL R. GROSS

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

1 border officials tried to control and seal that border
2 with everything you've heard about going down on this
3 border and more.

4 They increased the number of border
5 agents; that didn't do it. They built a wall -- that
6 didn't do it. They militarized the border with
7 military units; that didn't do it. They tried
8 helicopters and dogs; that didn't do it.

9 They built two walls, that didn't do it.
10 What it did was to mine the area with landmines
11 between these two walls, put a machine gun nest every
12 50 yards and issue shoot-to-kill orders. And that's
13 what it took and in urban area of just 37 miles to
14 seal off the border.

15 You can imagine the cost to do that over
16 2,500 miles, let alone the human and moral cost of
17 putting machine gun nests and landmines along that
18 border and issuing shoot-to-kill orders.

19 In your press packets are suggested
20 matters for solving the border problem and saving
21 lives from both Reverend Fife and Vice Chairman Ramon,
22 as well as U.S. Congressman Jim Colby and U.S. Border
23 Patrol Chief David Aguilar.

24 The Arizona SAC also made recommendations
25 to the U.S. Commission on Civil Rights after the

NEAL R. GROSS

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

(202) 234-4433

www.nealrgross.com

1 hearing was over. They voted to send a letter to you
2 which was sent on September 6th, 2002 requesting the
3 following: One, a call for formal congressional
4 hearings on the issue of deaths of people crossing
5 into the U.S. from Mexico.

6 We are concerned that if something isn't
7 done quickly we will have deaths again next year, and
8 it will rest on our conscience.

9 And, number two, the Commission support HR
10 2348, which has been introduced to address the Tohono
11 O'odham People and their U.S. citizenship.

12 In conclusion, recently the *Tucson Citizen*
13 ran an editorial from Ricard Pimentel, an *Arizona*
14 *Republic* columnist. It stated that, quote: The U.S.
15 should be outraged at the deaths of 320 border
16 crossers last fiscal year. It is a national tragedy.

17 Three hundred and twenty is 152 more than died in the
18 Oklahoma City bombing.

19 They are dying to come to work in the
20 United States. Our business interests are desperate
21 that they continue to do so. Immigration reform,
22 expanding the number of visas allowed Mexicans.
23 Helping Mexico narrow the gap between its economy and
24 ours. Amnesty. These, more than militarizing the
25 border, will save lives.

NEAL R. GROSS

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

1
(202) 234-4433

www.nealrgross.com

1 CHAIRPERSON BERRY: Thank you. Thank you
2 very much.

3 DR. HERNANDEZ: I'd now like to introduce
4 Judge Gilbert Alston, a member of the California SAC.

5 JUDGE ALSTON: Welcome to California,
6 Commissioners. I will keep my remarks to a time limit
7 in order to conserve time. I would like to comment on
8 the last issue that the Arizona SAC Chairman mentioned
9 to you, and that is the selective policing of the
10 border which is causing the deaths in the desert.

11 This is something which could be changed
12 by a simple policy change on the part of the Border
13 Patrol to channel the border crossers away from the
14 most difficult routes across the border and into the
15 United States, into those that are the easiest. It
16 would make their job a little easier because if
17 apprehension is their goal, certainly the border
18 crossers would take the easy routes and eschew the
19 difficult ones. That can be done with the stroke of a
20 pen.

21 The gentleman who did testify in Arizona,
22 the chairman -- or the Director, David Aguilar, the
23 Chief of the Border Patrol, did not seem to realize
24 that his agency's method of enforcing the immigration
25 laws was the basic cause of the deaths of the desert.

NEAL R. GROSS

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

(202) 234-4433

www.nealrgross.com

1 He was concentrating primarily on the *coyotes*, who
2 are the people who smuggle -- the smuggler who smuggle
3 the aliens in. His focus was on apprehending them.

4 He did have some sympathy for the workers,
5 but did not seem to realize that his enforcement
6 methods were a primary cause of the deaths. The
7 *coyotes* were taking the routes and losing the people
8 because the other routes were heavily patrolled by his
9 agency.

10 Turning from that to the consent decrees
11 that we have in Riverside and in Los Angeles. We do
12 have a new Chief of Police now in Los Angeles. You've
13 probably all read about Mr. Bratton. He comes to us
14 from New York, and has an excellent reputation of
15 reform.

16 I saw Mr. Bratton being interviewed on a
17 news broadcast just last week. And he made mention of
18 the consent decrees in the same sentence as other
19 obstacles like changing officers' attitudes and other
20 things that were -- I don't know exactly how to put
21 it, but he put us in a category of thinking of the
22 consent decrees as one of those things that somehow he
23 was going to have to get around or, quote, get rid of.

24 He speaks -- he talks a good game. He
25 says he's for the kind of reformation of the Police

NEAL R. GROSS

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

1 Department that the consent decrees is directing.
2 This is an excellent chance for the Commission to get
3 together with Mr. Bratton to analyze what has been
4 done prior to his coming onboard and to assist him in
5 getting the balance of the consent decree up and
6 running and enforced.

7 All of the consent decrees -- both of the
8 consent decrees contain paragraphs which specify time
9 limits by which certain things must be done and
10 reports must be made. We do not have the information
11 as to whether or not those reports have been filed and
12 whether those things have been done. It would be very
13 simple and nonconfrontational simply to establish
14 which things have not been done, which things are
15 behind schedule, and to offer our assistance in
16 helping him get those things taken care of.

17 Any questions you might have, I prepared
18 an analysis of each decree which might be helpful if
19 you wish to go through the decree. The one on the
20 L.A. consent decree should be on your left knee while
21 the consent decree is on your right knee as you're
22 going through it. The one on the Riverside decree is
23 more general. I listed the things, the basic elements
24 of the decree and the time limitations that were
25 placed on those things, and it would be rather simple

NEAL R. GROSS

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

(202) 234-4433

www.nealrgross.com

1 there too to make an inquiry of the chief there.

2 The chief there is also new, incidentally,
3 and has come aboard since the decree was entered into.

4 CHAIRPERSON BERRY: Which chief?

5 JUDGE ALSTON: Riverside.

6 VICE CHAIRPERSON REYNOSO: Riverside.

7 JUDGE ALSTON: Yes.

8 CHAIRPERSON BERRY: The suggestion you
9 made about the meeting with Mr. Bratton, --

10 JUDGE ALSTON: Yes.

11 CHAIRPERSON BERRY: -- the Chief. I
12 really hadn't thought about that. The Commission is
13 already on record and has a policy concerning the LAPD
14 and the County, because we did a report on it and we
15 made recommendations. And that was a report that Cruz
16 Reynoso may recall, and you may too, Fernando, and the
17 rest of you, that we --

18 DR. HERNANDEZ: Could you speak up, Mary?

19 CHAIRPERSON BERRY: -- we found a number
20 of serious problem with the -- which had been in
21 existence for a long time and made some
22 recommendations and highlighted them. And the *L.A.*
23 *Times*, I think it was, wrote an article --

24 VICE CHAIRPERSON REYNOSO: Editorial.

25 CHAIRPERSON BERRY: -- an editorial saying

NEAL R. GROSS

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

1 we shouldn't have done that because everything was
2 fine and dandy in the L.A. Police Department. It was
3 a month or two after that that all the information
4 came out that everything we said was exactly right in
5 the paper, so the reporter who had done a little story
6 on it called me and said he was shocked to find out
7 that this was the case.

8 But, in any case, I think, Phil, in terms
9 of follow up, maybe what we ought to do is you -- and
10 we can just do this, we don't need because we already
11 have a policy, to set up a meeting, I'd be happy to
12 come out and go with you guys to meet with Bratton,
13 and to go over this. And I'd like to take a look at
14 the consent decree.

15 If you will just share with the
16 information with us, we can distribute it to anyone
17 who's interested, any Commissioners, and just go over
18 some of these items and talk about their responses.

19 And we might do it with the Riverside one,
20 too, but on L.A. we clearly have a record of
21 recommendations and analyzes and all the rest of that
22 that I think we could act on, and see where we get.

23 JUDGE ALSTON: We have something here in
24 California called the three strikes law.

25 CHAIRPERSON BERRY: Right, we heard of it.

1 JUDGE ALSTON: And we're on the third
2 strike with respect to the Police Department. We had
3 Willy Williams, we've had Chief Parks. Neither one of
4 them could do anything with the Police Department. We
5 now have Bratton and I think that he is our third
6 strike. And I think we have to get behind him.

7 The Los Angeles Police Department, by
8 virtue of being here in Hollywood, and getting all the
9 publicity they get, they kind of set the stage. They
10 the set the standard for police departments all over
11 the country.

12 If we can't tame the L.A. Police
13 Department, we can't tame any of them. And Bratton
14 needs every bit of help that he can get in order to do
15 that. And if we can come in in an advisory kind of --

16 CHAIRPERSON BERRY: Right.

17 JUDGE ALSTON: -- helping role, he might
18 be able to do it.

19 CHAIRPERSON BERRY: Yeah. Because of my
20 impression of him is that he, from the experience in
21 New York and other experiences, is that he would be
22 receptive.

23 And the comments that you -- that he made
24 that you referred to probably were comments made in
25 ignorance of what was actually going on. And I'm sure

1 he's got a whole load of problems to deal with, but we
2 might do that. If you want to follow up on that, I'd
3 be perfectly happy to do so.

4 MR. MONTEZ: We'll get copies of the
5 consent decree to the Staff Director along with the
6 analysis of Dr. --

7 CHAIRPERSON BERRY: Right, the analysis.

8 MR. MONTEZ: -- Judge Alston.

9 CHAIRPERSON BERRY: And I wanted to say to
10 Chairperson Vignery from Arizona. The Staff Director
11 said that there is in preparation some kind of summary
12 of what they recommended. I don't know whether there
13 are any time sensitive issues in your recommendations.

14 I myself -- I don't know about the other
15 Commissioners. I didn't know anything about the issue
16 of the Native Indian population and the border issues
17 as related to that community being divided and the
18 elders not having documentation. It's like my mother
19 not being able to get on the airplane because she
20 doesn't have a driver's license, and she's 87.

21 But, anyway, -- yes.

22 COMMISSIONER MEEKS: What's the name of
23 that bill again?

24 DR. WEBB-VIGNERY: It's HR...

25 COMMISSIONER EDLEY: 2348.

NEAL R. GROSS

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

1 JUDGE ALSTON: 2348.

2 DR. WEBB-VIGNERY: 2348.

3 COMMISSIONER MEEKS: And what's your sense
4 as far as support for that in Arizona?

5 DR. WEBB-VIGNERY: Well, the support in
6 Arizona is strong for that. The -- they've been on
7 the Tribal Rolls since 1938 in the Indian
8 Reorganization Act.

9 COMMISSIONER MEEKS: Right.

10 DR. WEBB-VIGNERY: And many live -- this
11 is not only on the United States side of the border,
12 but it's on the Mexican side. And they've always had
13 the opportunity to travel back and forth. And it's
14 only been since 9/11 that that's been cut off.

15 And at the same time the citizenship
16 status of those in Mexico is in question. But the
17 ones, as I said, on the United States side, they have
18 no birth certificates, so it's a very deep problem for
19 them.

20 CHAIRPERSON BERRY: So this bill would
21 regularize their status?

22 DR. WEBB-VIGNERY: Yes, uh-huh.

23 CHAIRPERSON BERRY: We need to know more
24 about that to see if we want to -- I mean I don't know
25 what the status of it is or where it is. Congress of

NEAL R. GROSS

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

(202) 234-4433

www.nealrgross.com

1 course is not --

2 DR. WEBB-VIGNERY: Well, I know there's
3 been visitations from delegations from Arizona to the
4 congressional offices in Washington on this. And we
5 understood it was on the right track for passage. And
6 then 9/11 happened and everything got...

7 DR. HERNANDEZ: But that's also the other
8 reason why I think we have out have a multistate
9 approach to this and a multistate project. As we
10 started looking at this issue. And if you remember a
11 few years ago, the committee did a multistate project
12 on border violence.

13 And I think we did some really good work
14 there. It was picked up widely by the press and I
15 think forwarded to the Commission. And the Commission
16 also helped us in terms of calming the situation and
17 improving the border violence problem.

18 CHAIRPERSON BERRY: Right.

19 DR. HERNANDEZ: But what we're looking at
20 now is with these deaths and all the associated
21 problems, it's not going to be enough to look at it
22 just in an isolated situation just in Arizona, because
23 we're experiencing similar problems in some of the
24 desert areas in California that are less patrolled and
25 certain the same can be said of Texas and New Mexico.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 So we want to take a multistate look at
2 this. And I think one of the things that we found
3 very, very positive the last time we did this, is when
4 you get four SACs together, pieces of the puzzle start
5 coming together in a very interesting fashion. And I
6 think this is something that the four SACs could
7 collaborate with the entire Commission on and I think
8 really move on agenda and begin to help the nation
9 figure out what it's going to do with its border.

10 And there are a lot of issues associated
11 with those people crossing the border. And I think
12 the nation has to face those issues. And certainly
13 you can provide the moral leadership to take the
14 country in the right direction with respect to the
15 human lives that are at stake here because we're
16 talking about large numbers of people dying because
17 they want to come to the United States to have a
18 better life.

19 These are not bad people. It's a real
20 problem. And it's something that ends up being very
21 inhumane in the long run. So we want to take a look
22 at this. And we think that a four-state approach,
23 multistate approach to this is going to have much more
24 impact than if just California did or just Texas or
25 just Arizona.

NEAL R. GROSS

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

(202) 234-4433

www.nealrgross.com

1 CHAIRPERSON BERRY: Well, we -- as you
2 know, we went out yesterday and had good meetings with
3 people from the Border Patrol and we heard from people
4 here. And it just seemed that, you know, the Border
5 Patrol, these folks are trying to do their jobs. And
6 there's so many inconsistencies in the policy and so
7 many things that are detrimental.

8 The point you made, Judge Alston, about --
9 and I hadn't thought about that either. I guess
10 that's why we have meetings and stuff, so we can think
11 about things we never thought about before. But,
12 anyway, that the funneling of migrants, that they
13 might funnel them into an easy-to-cross area and then
14 arrest them, from the Border Patrol's standpoint,
15 which would make their job easier because they could
16 funnel them there and arrest them, as opposed to
17 funneling them to someplace where they're likely to go
18 out and die, where the terrain is rough.

19 But of course they're more visible if you
20 funnel them someplace that is heavily populated.
21 That's one of the political issues. And it's one
22 reason why they were diverted from the San Diego area,
23 for example, because it had become a hot political
24 issue.

25 And so the diversion, which I think when

1 it was done, well-meaning people didn't think about in
2 getting the problem out of sight. It's going to be
3 out of mind because they're going to go die. They
4 were just thinking out of sight, out of mind, and
5 maybe they'll stop coming and not making those
6 connections.

7 But your idea of channeling them to the
8 easy areas, they were already coming to the easy
9 areas, and they decided to do the opposite, right?

10 DR. HERNANDEZ: Well, Madam Chair, the
11 other thing is that, I think that needs to be pointed
12 out here, and I think Chairman -- Chairwoman Vignery
13 pointed it out, is why do they keep coming. They keep
14 coming because there's a need.

15 It's '90 just that they're coming to
16 someplace and they don't have any place to go. They
17 come and they get employed. They actually find
18 employment. And I think if you look around the San
19 Diego area and you look at who's washing the dishes,
20 who's washing the cars, who's serving your food, who's
21 parking your cars, --

22 VICE CHAIRPERSON REYNOSO: Who's cooking
23 Chinese food.

24 DR. HERNANDEZ: Exactly. -- what you're
25 going to find is they look a lot like the people that

NEAL R. GROSS

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

1 are crossing the border. And there's an awful lot of
2 people making an awful lot of money off of people that
3 cross the border.

4 And so the other part of the issue is not
5 just funneling people so that they can be arrested,
6 but the other part of the issue is that those that do
7 cross, find a place. And why. So it's not -- it's
8 not just that these people are breaking the law,
9 they're getting across.

10 I think the thing that people miss is that
11 there's also people that are breaking the law on the
12 other side of the border, employing these people. And
13 I think that we've got to begin to face up to the
14 issue. And certainly this is true in California and
15 this would -- this is true in terms of the California
16 economy.

17 If you took all those illegal immigrants
18 and put them back in Mexico tomorrow, the California
19 economy would be devastated, would be devastated. And
20 daresay the same is probably true for Arizona, Texas,
21 and New Mexico.

22 So the other half of this is the issue of
23 economic justice. And who's making money off of these
24 people. It goes both ways. And the other half is
25 never talked about. All we focus on is these poor

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 people trying to get across the border, being
2 arrested, the Border Patrol racking up numbers. But
3 what happens to the people that get past the Border
4 Patrol, where do they go and what do they contribute
5 to this country. That story hasn't been told. And I
6 think that's one of the things we want to focus on as
7 we get together with our other colleagues to see what
8 is going on, what is the business side of the
9 immigration question.

10 CHAIRPERSON BERRY: Um-hum. Right.

11 COMMISSIONER MEEKS: An excellent issue.

12 DR. WEBB-VIGNERY: The question of
13 militias was raised before we took our seats here.
14 And the militia question was addressed in the
15 transcript, which I gather you're going to receive a
16 synopsis of?

17 STAFF DIRECTOR JIN: We're going to work
18 up a synopsis where --

19 DR. WEBB-VIGNERY: Well, there are --
20 there are. And we have, one of the members of our SAC
21 has been threatened by the militia. She is an
22 advocate for changing what's happening on the border.

23 And we've had disappearances in Arizona of people
24 coming across. And I think there's article in your
25 news packet which refers to that, where the militia

NEAL R. GROSS

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

1 has probably been involved.

2 CHAIRPERSON BERRY: These are vigilante
3 groups?

4 DR. WEBB-VIGNERY: Yeah.

5 CHAIRPERSON BERRY: Okay.

6 JUDGE ALSTON: I would like to make one
7 comment about House Resolution 2348. The Tohono
8 O'odham Nation is an Indian Tribe that was here in
9 1492. How does it look for us to be passing a
10 resolution declaring them to be citizens? Isn't that
11 a little bit ridiculous.

12 Their reservation or their Native lands
13 were cut in half by the -- was it the Treaty of
14 Guadalupe Hildago with Mexico?

15 CHAIRPERSON BERRY: Yes.

16 JUDGE ALSTON: And this is the difficulty:
17 They live on both sides of the border. We did it to
18 them. They didn't do it to us.

19 VICE CHAIRPERSON REYNOSO: Shouldn't those
20 folks have dual citizenship? It's not the only tribe
21 that was cut in this fashion. And until certain
22 years, they certainly not until the late '30s or '40s
23 did we start sort of looking strictly at restricting
24 folk going both ways. So until rather recently,
25 historically speaking, these folk were able to go to

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 Mexico and come back without being harassed.

2 And it seems to me that we might go beyond
3 2348 and suggest that these folks are perfect
4 candidates for dual citizenship.

5 CHAIRPERSON BERRY: Yes. Isn't it true --

6 JUDGE ALSTON: As a law professor, sir,
7 you know that the Constitution says that if you're
8 born of American parents in another country you're a
9 citizen.

10 VICE CHAIRPERSON REYNOSO: Right.

11 JUDGE ALSTON: So that automatically makes
12 them citizens.

13 VICE CHAIRPERSON REYNOSO: Well, no, but
14 presumably there are some who just live -- I assume
15 there are some who just live on the Mexico side whose
16 children are born there. But they still belong to the
17 same tribe.

18 CHAIRPERSON BERRY: Isn't it true on the
19 northern border too that -- isn't it true on the
20 northern border --

21 VICE CHAIRPERSON REYNOSO: Sure. Sure.

22 CHAIRPERSON BERRY: -- that there are
23 tribes -- are there tribes that are on both sides of
24 the Canadian-U.S. border?

25 COMMISSIONER MEEKS: Yeah. Some of the

NEAL R. GROSS

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

1 Mohawk Tribes.

2 CHAIRPERSON BERRY: There are?

3 COMMISSIONER MEEKS: Yes, um-hum.

4 CHAIRPERSON BERRY: So among all the
5 things that we have on our list, we need to get
6 somebody to look into that whole general topic.

7 Let me -- does anyone else have anything
8 else that they would like to either say or ask our SAC
9 representatives before we thank them for their
10 wonderful service and say that we will follow up on
11 the recommendations and we'll read with interest the
12 materials that you give us?

13 VICE CHAIRPERSON REYNOSO: Madam Chair,
14 just -- I assume that the staff will send a copy of
15 the material that we received to the Commissioners who
16 are not here present?

17 STAFF DIRECTOR JIN: Yes, of course.

18 VICE CHAIRPERSON REYNOSO: Okay.

19 CHAIRPERSON BERRY: Okay. All right.
20 Well, thank you very, very much.

21 DR. WEBB-VIGNERY: Thank you.

22 CHAIRPERSON BERRY: Who's the governor.
23 You mentioned the governor of Arizona? I know who the
24 governor of California is.

25 DR. WEBB-VIGNERY: Oh, it's Janet

1 Napolitano, who was our attorney general.

2 CHAIRPERSON BERRY: Oh, you've got a new
3 governor?

4 DR. WEBB-VIGNERY: Yes.

5 VICE CHAIRPERSON REYNOSO: Pretty tight
6 election, huh?

7 DR. WEBB-VIGNERY: Very tight.

8 CHAIRPERSON BERRY: Yeah. Okay. Thank
9 you.

10 Now we have a presentation. We want to
11 discuss the -- where am I -- the presentation on
12 education?

13 VICE CHAIRPERSON REYNOSO: Yes. Yes.

14 CHAIRPERSON BERRY: Okay. All right.
15 Terri, let's do your presentation.

16 VICE CHAIRPERSON REYNOSO: Madam Chair,
17 I'd just like to recognize the presence of Penny
18 Edgert, who's here today, who's very involved with
19 higher education in California. And so she was
20 interested in hearing this report.

21 CHAIRPERSON BERRY: Oh, all right.
22 Welcome.

23 Thank you, Terri.

24 MS. DICKERSON: Good morning.

25 VICE CHAIRPERSON REYNOSO: Good morning.

1 CHAIRPERSON BERRY: Good morning to you.

2 MS. DICKERSON: This is a review that the
3 Office of Civil Rights Evaluation conducted.

4 I'll move over to here because there's
5 some feedback for some reason. I guess, as usual, I'm
6 the only thing standing between you and lunch. And I
7 have --

8 (Laughter.)

9 MS. DICKERSON: And, as usual, I have
10 data, --

11 CHAIRPERSON BERRY: Oh, good.

12 MS. DICKERSON: -- which I hope you find
13 fascinating.

14 CHAIRPERSON BERRY: I enjoyed reading your
15 draft very much.

16 MS. DICKERSON: Thank you.

17 CHAIRPERSON BERRY: Thank you. I'm
18 looking forward to looking at it on the screen.

19 **X. Equal Opportunity in Higher Education**

20 CHAIRPERSON BERRY: Thank you. This is a
21 staff report and the staff authors who worked on this
22 were Sock-Foon MacDougall, she was the Team Leader;
23 and the people who served on the Team were Wanda
24 Johnson; Margaret Butler, Monique Dennis-Elmore;
25 Manuel Alba; and Mireille Zieseniss -- basically our

1 whole office conducted this analysis.

2 We looked at percentage plans, the
3 challenge of equal opportunity in higher education.
4 And the purpose was to update and expand on the 2000
5 report that was issued by the Commission Toward an
6 Understanding of Percentage Plans in Higher Education:
7 Are They Effective Substitutes for Affirmative Action.

8 We also wanted to review admissions
9 policies, national enrollment trends, to give some
10 context to the percentage plans and to examine what
11 the federal role is, since that is our interest.

12 In order to do this we obtained
13 application admission enrollment data from the States
14 of California, Texas, and Florida. And we also got
15 national enrollment data from the internet that we
16 reviewed and analyzed and made part of this
17 examination.

18 We also looked at literature from a number
19 of other sources. We did a pretty extensive
20 literature review and we conducted some interviews
21 with federal, state, and university officials.

22 CHAIRPERSON BERRY: So the data you got
23 from the states is their official data?

24 MS. DICKERSON: Yes, it is.

25 CHAIRPERSON BERRY: Okay, all right.

1 MS. DICKERSON: We got it directly from
2 the schools.

3 And we evaluated all of that. In
4 addition, we'll go -- the report went into some detail
5 about the schools we reviewed and why we looked at the
6 ones that were affected by percentage plans. In some
7 states it's across the board, in others it's not. But
8 primarily looked at those that had flagship status or
9 those that were involved in the percentage plan
10 programs, to just begin to develop a picture of the
11 effects of new admissions policies on minority
12 enrollment in particular.

13 Okay. Well, let's talk about affirmative
14 action. Traditional affirmative action programs were
15 already significantly improving diversity on college
16 campuses. I guess affirmative action really came
17 about in the 1960s and visible progress was really
18 evident by the 1980s, though some disparities still
19 existed in higher education. And some of the
20 admissions policies started to be challenged in the
21 1990s.

22 There were a lot of legal and legislative
23 challenges in recent years, including the
24 consideration of race in admissions, financial aid,
25 recruitment and outreach programs.

1 Kind of setting the stage for this review
2 and for talking about percentage plans. In the report
3 we noted that challenges seem as if they are going to
4 continue. The Supreme Court, looks like there are
5 some cases that are moving through the system, and the
6 Supreme Court may have an opportunity to speak on this
7 again, sometime soon, in fact. And the challenges
8 that we know have resulted in percentage plans have
9 done so in the states of California, Texas, and
10 Florida.

11 Okay. Let's talk just about the
12 percentage plans. And then, as you know from looking
13 at the paper, we looked at a number of other things.
14 For example, national enrollment trends and the impact
15 of the SAT and other success predictors.

16 But just talking about percentage plans
17 alone, first the University of California. The
18 University of California had a 12.5-percent plan for
19 admissions since 1960. So that was before the race
20 ban in the state as well as after. This is the only
21 state in which there was a percentage plan in place
22 even before the race ban.

23 And so it's interesting to look at
24 California because you can look at the effect of
25 percentage plans both with and without affirmative

NEAL R. GROSS

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

1 action. And by affirmative action, I guess I'm
2 generally talking about consideration of race in
3 admissions decisions, but also if you talk about
4 affirmative action you can talk about outreach
5 programs as well that target minority students.

6 Since the race bans came into effect the
7 plan has undergone modifications. Some of the
8 modifications, the modifications were made to increase
9 the diversity of the students. One of the
10 modifications was the Four Percent Plan and the other
11 was the comprehensive review. These are just in
12 California.

13 The Four Percent Plan admits California
14 students who graduate in the top four percent of their
15 high schools. And this expands the eligible pool to
16 includes students who rank near the top in their
17 school but not the top 12 percent graduates statewide.

18 So what I mean by that is say statewide the 12
19 percent of students had a GPA of 3.5. I have a GPA of
20 3.4, but I'm still in the top four percent of my high
21 school, even though I didn't meet the statewide
22 cutoff, then the plan was modified to include students
23 like me, like that would be in that example.

24 And the whole idea is to drill a little
25 deeper and get students who didn't qualify statewide,

1 but they are very good students. And, you know, maybe
2 it sort of evens out the inequalities in the
3 infrastructure that might be across the state and the
4 differences between school districts.

5 The other is the comprehensive review.
6 That was the other modification that came about after
7 the affirmative action ban. And it expanded the
8 existing 10, that purely academic selection criteria,
9 to include four nonacademic factors: Motivation,
10 leadership, initiative. There's another one that I
11 don't have listed right here. I can't recall right
12 now.

13 What were the effects of the race ban and
14 the policy changes? The race ban further reduced the
15 already small portions of African American, Hispanic,
16 and Native American students in the U.C. system's
17 undergraduate and professional schools. The recent
18 changes in policies have been accompanied by small
19 increases in undergraduate and professional
20 applications and admissions from underrepresented
21 minorities, compared to when the race ban was
22 initially imposed.

23 Further effects. For both undergraduate
24 and professional schools, the proportions of the
25 groups remain lower than they were before the race

NEAL R. GROSS

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

1 ban. In particular, the chances of undergraduate
2 admission for African American, Hispanic, and Native
3 American applicants to the L.A., Berkeley, and San
4 Diego campuses dropped.

5 This is what we found when we reviewed the
6 data. For the U.C. system as a whole, higher rates of
7 underrepresented minorities didn't always result in
8 higher enrollment rates in the undergraduate and
9 professional schools.

10 Now as far as affirmative action and
11 outreach. Prior to the race ban, the University of
12 California had an array of affirmative action programs
13 that were intended to increase minority students'
14 eligibility rates for college. These are like Stay in
15 School Programs and programs that -- workshops.
16 Things that help students sometimes in the lower
17 grades, but also in high school, mentoring programs,
18 things of that nature that are targeted specifically
19 to black, Hispanic, Native American students based on
20 race and their families.

21 Because of the ban, the University of
22 California wasn't allowed to target outreach in that
23 way. So they've changed those programs. They when --
24 the programs became more targeted to disadvantaged
25 students and high schools with low numbers of students

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 attending the university -- attending the University
2 of California.

3 They extended efforts deeper into the
4 middle and elementary schools, especially to beef up
5 and math since preparation. And they also tried to
6 double in size the number and results of the previous
7 outreach program. So they doubled the amount of money
8 they were putting into it. They tried to include
9 twice as many students and they tried to admit twice
10 as many students.

11 The University of California outreach
12 programs currently include programs for enrichment,
13 mentoring, and scholarships for disadvantaged
14 students, but these aren't based on race.

15 Making the process of transferring from
16 community colleges was another part of it. Making
17 that easier, because a lot of the -- if you read the
18 report, a lot of minority students tend to be in the
19 community colleges. Improving the teaching skills in
20 low performing schools, so better preparing -- so that
21 they can better prepare students for college admission
22 and facilitating teacher recruitment and retention.

23 The full effects of these programs is
24 really not going to be known for years to come. For
25 example, the ones that were put in place for eighth

NEAL R. GROSS

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

1 graders in the past year, we won't know for four years
2 when those students start applying for college what
3 the effect of these programs are.

4 So, in conclusion, for California, the
5 race ban has resulted in admitting and enrolling
6 smaller proportions of African Americans, Hispanics,
7 and Native Americans than it did with affirmative
8 action programs; and modifications to the long
9 existing percentage plan and extended outreach have
10 yet to overcome the detrimental effects of the ban.

11 Okay. Now we're in Texas. We looked at
12 the *Hopwood* ruling which abolishes the use of race or
13 ethnicity as college recruitment, admission, financial
14 aid, and student retention criteria in the is that.

15 The plan was initiated in '88 -- I mean in
16 '98. And the percentage plan was -- came about as a
17 result of HB 588. This guaranties high school
18 graduates in the top ten percent of their classes
19 admission to Texas public schools or university of
20 their choice.

21 Now the non-10 percent students are not
22 guaranteed admission. Whether or not they are
23 admitted depending we seats that are left over after
24 the 10 percent have made their decisions about whether
25 or not they're going to accept the offers from the

1 Texas schools.

2 Admissions and guidelines apply to
3 students not ranked in the top 10 percent. And at the
4 point that that determination is made and if a student
5 is not in the top 10 percent, the university can
6 consider a student's academic performance and other
7 factors. They can look at socioeconomic background
8 and standardized test scores in order to make that
9 determination.

10 December 2001, the Texas A&M system
11 regents tentatively approved a plan that would pursue
12 the top 20 percent of students at approximately 250
13 low-performing or disadvantage high schools. These
14 are schools that are perennially underrepresented or
15 are never represented in the top 10 percent. They've
16 never had a student to qualify in the top 10 percent.

17 So legal concerns prompted the University
18 to table this proposal, though. The concerns were
19 associated with how many schools, what number of
20 schools, is it 250, how -- at what level does it go
21 too far to not comply with *Hopwood*. So there were so
22 many concerns about that, that this was tabled.

23 In 1994 during affirmative action
24 admission policies, the racial and ethnic breakdown at
25 the University of Texas at Austin was white, 65

NEAL R. GROSS

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

1 percent; blacks, 5 percent; Hispanics 15 percent. All
2 minorities 36 percent. And *Hopwood* has had a profound
3 effect on minority enrollment. Blacks are now less
4 three percent and Hispanics are less than 13 percent,
5 whereas they used to be 15.

6 The primary beneficiaries have been Asian
7 Pacific Americans. Asian American enrollment
8 increased initially. It was a very perceptible jump
9 eventually, but it's leveled off since. So that's
10 something that really the state universities should
11 continue to examine and track to see if it has leveled
12 off, if it's going to increase or decrease or stay the
13 same.

14 They still struggle to recruit,
15 especially, African American students. They are 12
16 percent of the state's population but, as I said, only
17 three percent of the school system.

18 The Texas Universities are continuing to
19 look for methods to admit more minorities within the
20 legal boundaries of *Hopwood*. For example, they have
21 started the "Keep Texans in Texas Program" in that
22 they have matched scholarship offers from out-of-state
23 schools to try to keep the Texas students in the Texas
24 schools.

25 Overall the number of minority students

1 has declined at the University of Texas. The
2 percentage of applicants admitted has declined and the
3 number of those admitted, who actually enroll has
4 declined since the 1996 --

5 CHAIRPERSON BERRY: So the applications
6 are up, but the applicants admitted and the admittees
7 who enroll have declined?

8 MS. DICKERSON: Correct.

9 CHAIRPERSON BERRY: Okay.

10 MS. DICKERSON: In '96 UT Austin admitted
11 57 percent of black applicants. But by 2001 black
12 applicants had increased by 24 percent, but admittees
13 decreased by 19 percentage points.

14 Only 38 percent applicants were admitted
15 in 2001 and of those only 266 total enrolled. So pre-
16 race ban 1996: 2,496 Hispanics applied. 65 percent
17 were admitted. And by 2001, fewer Hispanics were
18 admitted in 2001 than in 1996. The number of
19 Hispanics applied had increased by 20 percent, but the
20 percentage who were admitted decreased by 15 percent.

21 So we can really see there's been a profound effect
22 on Hispanic enrollment and African American
23 enrollment.

24 The University of Texas at Austin was
25 concerned about declined minority enrollment, and they

NEAL R. GROSS

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

1 have started to take action. And one action that they
2 have attempted to draw students, they created the
3 "Long Horn Scholarship Program." It's aimed at low
4 income high schools. And they awarded 64 four-year,
5 need-based scholarships in the first year.

6 We're going to see the relationship
7 between financial need and minority enrollment a
8 little bit earlier, as it was expressed in the paper.

9 As for graduate and professional schools, the number
10 of minorities in graduate and professional schools is
11 declining since *Hopwood* as well. Even though the 10
12 percent plan doesn't apply to professional schools, it
13 really can't because the source of that is high
14 schools in the state. But minority enrollment rose at
15 both law school, 17 percent in 2000 -- the year 2000-
16 2001, the academic year. This was only a one percent
17 increase from the previous academic year and overall a
18 seven-and-a-half percent decline from when the plan
19 began in 1996.

20 As well, although minority admissions data
21 from the three law schools varied to some extent, the
22 U. T. Austin school of law has admitted fewer
23 minorities in each of the post *Hopwood* years that we
24 looked at.

25 The most recent data on minority

1 enrollment at the University of Texas Medical School
2 shows that five and a half percent fewer enrolled
3 students are students, when compared to the 1997-1998
4 year.

5 The only grouped to have experienced a
6 steady increase at the University of Texas Medical
7 Branch was Asian Pacific Americans. And, again, time
8 is going to tell if that trend continues. But,
9 generally, the trend foretells a further reduction of
10 minority enrollments in the coming years, if they
11 continue the direction they are now.

12 Outlawing race, conscience affirmative
13 action programs and higher education in Texas has had
14 a negative impact on minority enrollment at the
15 University of Texas, Austin. And I'm talking about
16 overall minority.

17 And also increasing at some schools,
18 minority admission rates have mostly declined at the
19 premier Texas law and medical schools. Some of the
20 main conclusions, after we looked at taxes.

21 And let's go to Florida now. The Florida
22 percentage program has its roots in the order, an 1999
23 order which banned the use of race or ethnicity in
24 University of admissions and replaced it with the
25 Talent 20 Program. That took effect in the year 2000

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 -- academic year 2000-2001. And it does not apply to
2 graduate, law, and medical admissions.

3 This program similarly guarantees
4 admission to one Florida's 11 public institution.
5 Who's eligible? Any Florida resident who graduated in
6 the top 20 percent of his or her public class. And
7 students also must have completed a prescribed 19-unit
8 academic high school curriculum. The number of units
9 is spelled out in the report, the Florida section of
10 the report.

11 The Talented 20 Program is one of three
12 pathways to enrollment in the state University system.

13 The second is through traditional criteria, reviewing
14 SAT, ACT, and GPA. And the third is the profile
15 assessment which examines nonacademic factors for
16 students who may have a weak high school record, then
17 schools can start out look at their background.

18 That's in a nutshell the talented 20
19 program.

20 The use of class ranks in admissions
21 decisions particularly hurts blacks, is what we found,
22 in their access to higher education. Specifically,
23 because of their weaker high school performance
24 relative to other groups, blacks have the smallest
25 percentage of high school graduates qualifying for the

1 Talented 20 students.

2 You look at black high school graduates,
3 blacks have the smallest percentage applying to
4 college.

5 We looked at three classes in our review.
6 And what we found is the percentage of blacks
7 identified as Talented 20 students changed minimally
8 for the three classes that we examined. And so what
9 we have determined is that African American students
10 in the state of Florida are disadvantaged from the
11 very beginning of the admissions process because of
12 the low high school record.

13 In the University system enrolled black
14 Talented 20, first-time students, as the percentage of
15 all enrolled black first-time students is lower than
16 the comparable figures for other groups.

17 Civil rights advocates are concerned in
18 the state that minorities are being shut out and that
19 they're saying that that really needs to be examined.

20 Hispanic, Native American and especially black
21 Talented 20 students are underrepresented at the
22 selective University of Florida relative to their
23 presence in the entire state university system and in
24 comparison with the group's presence among high school
25 graduates.

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 So in Florida, let's see, we analyzed the
2 enrollment in two ways, both as a part of the school
3 and as a part of the state university system. As for
4 enrollment outcome of the three pathways to enrollment
5 in Florida, enrollment increased overall so that the
6 number of minority and nonminority first-time students
7 enrolled in the university system increased, as one
8 might have expected. But the percentages of minority
9 groups didn't change because enrollment on that
10 changed. So even -- there are even more white
11 students. So the percentages of minority groups
12 didn't change.

13 The data show that blacks are admitted to
14 the University system at rates almost always lower
15 than those of other groups. White admission rates are
16 always substantially higher than the overall minority
17 rates. And as a group minority admittees enroll
18 Hispanic and blacks at a lower rate than whites.

19 Within the University system, the
20 University of Florida and Florida State University,
21 the percentage of black first-time students who are
22 consistently lower than the 1999 -- the percentage is
23 consistently lower than that of the 1999 high school
24 class. Hispanics are similarly underrepresented at
25 the selective University of Florida and Florida State

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 University.

2 We looked at graduate and professional
3 schools as well as in the state of Florida and we
4 found the same pattern. First time black graduate
5 admission rates are almost always lower than other
6 groups. And white admission rates are -- a whole lot
7 higher than overall graduate minority rates.
8 Substantively.

9 Graduate and professional students, to
10 continue, the first time minority graduate enrollment
11 grew substantively in the University system in 2001
12 and 2002, the second year of the race ban, however
13 Hispanics and especially blacks remain
14 underrepresented in the University of Florida relative
15 to their presence in the whole University system.

16 Minority rates of admission are lower than
17 for other groups. First-time black and Hispanic law
18 school students were admitted at lower rates than
19 other groups. Minority law enrollment fluctuated,
20 while those at the other law school, the University of
21 Florida Law School, College of Law, it fell steadily.

22 Admission rates for first-time minority
23 medical students improved after the race ban. Still,
24 overall minority admission rates are lower than those
25 for whites. While blacks and Hispanics have the

NEAL R. GROSS

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

1 lowest rate at all. The first minority medical
2 students grew minimally at the -- in the University
3 system and the two medical schools that we studied.
4 Again, the black and Hispanic were the lowest of all.

5 So we concluded about the Florida is that
6 the Talent 20 Program does not enhance action to
7 higher education for blacks, nor does it help improve
8 the presence of blacks and Hispanics at the two
9 selective flagship universities. And I'm going to get
10 into why that is a concern in the next set of slides.

11 The overall proportion of minorities in
12 the University system stayed the same despite
13 increases in the number of minority first-time
14 students. So the proportions did not change.

15 Graduate admission rates for blacks are
16 almost lower than for those in the other groups. Law
17 and medical school admission rates for blacks and
18 Hispanics are lower than those for other groups. So
19 you can see a common pattern here.

20 Just to summarize and compare the
21 percentage plan programs and how we focused this
22 report. And if you look at the middle column,
23 California had a percentage plan in place before the
24 race been and after the race ban. And that's what we
25 looked at.

NEAL R. GROSS

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

1 In Texas and Florida we looked at the
2 effect of admission, the effect of the percentage plan
3 on admission before and after the plan was
4 implemented.

5 And for the University of California we
6 only looked at the U.C. system because the 12-and-a-
7 half percent plan only applies to the University of
8 California. There's a 33-and-a-half percent plan
9 which applies to Cal State. And community colleges in
10 that state don't have a presence plan at all. But
11 U.C. has the strictest percentage plan, and that's
12 what we looked at.

13 And in Texas and in Florida, the percent
14 plan applies to all of the colleges and universities
15 in the system.

16 In terms of eligible students, a student
17 can be -- statewide in California, a student can
18 qualify by being in the top 12 and a half percent, as
19 I said before. Or the top four percent of their high
20 school. And in Florida, the plan only applies to
21 students' high school academic record in their
22 particular high school.

23 I'm sort of tempted to kind of fast
24 forward through --

25 CHAIRPERSON BERRY: Go right ahead and do

1 it because we will remember those. We just had them,
2 so that's okay. You can go to the next session.

3 MS. DICKERSON: Go to the next set. I'm
4 going to go -- well, basically what we found when we
5 looked at admission standards and success predictors,
6 like the ACT and the SAT, that there really has been
7 an over reliance on those tests and they've become
8 widely disputed, largely due to disparities in the
9 test scores and the racial and ethnic groups.

10 The gaps in the scores between white and
11 nonwhite students has really widened. There is a lot
12 of evidence that shows that and several studies that
13 show the disparity -- the gap may be more due to the
14 number of times that people take the SAT tests. Those
15 who take it multiple times tend to progressively
16 better. Those who have access to preparation, SAT
17 preparation classes tend to do a whole lot better.
18 And so there is a widening, there is a gap that is
19 growing between students that can be connected to race
20 in terms of SAT and ACT scores.

21 As for national trends in college
22 enrollment, I'll just summarize that as well. What we
23 found is that -- I'll pick a few of them. Affirmative
24 action increased minority participation in higher
25 education. Over the last 25 years, minorities were 20

1 percent of college students in 1976 and they are 33
2 percent today. Blacks are 12 percent of college
3 students, Hispanics 11 percent, and Asian Pacific
4 Americans are five percent. But there still are
5 problems.

6 COMMISSIONER EDLEY: Is that all I read?

7 MS. DICKERSON: Yes.

8 COMMISSIONER EDLEY: Or just four year
9 schools or does that include -- is that only four-year
10 schools?

11 MS. DICKERSON: I would have to look it up
12 because I don't know, but I believe it's all schools.

13 COMMISSIONER EDLEY: Okay. Two-year and
14 four-year.

15 COMMISSIONER REDENBAUGH: Excuse me, Madam
16 Chair?

17 CHAIRPERSON BERRY: Yes.

18 COMMISSIONER REDENBAUGH: Yes. Commission
19 Redenbaugh. This has been a very informative and
20 productive meeting. I regret I have to leave to go to
21 an appointment, but I wanted to -- I wanted to commend
22 the presenters from the various SACs and the current
23 presentation on the education report. This is all
24 well done.

25 CHAIRPERSON BERRY: All right. Thank you

NEAL R. GROSS

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

1 very much.

2 COMMISSIONER EDLEY: Take care, Russell.

3 CHAIRPERSON BERRY: Take care, Russell.

4 COMMISSIONER REDENBAUGH: Okay. Thank
5 you.

6 MS. DICKERSON: The disparities that still
7 exist is there is enrollment and variation within
8 groups and among subgroups so there's a tendency to
9 lump all Hispanic students all together when you
10 really shouldn't look at the subgroups as well as The
11 Asian Pacific Americans because some groups are well
12 ahead of others.

13 And as well there's a disparity, white
14 students are more likely to attend college at a
15 traditional age and minority students tend to be
16 older. Whites and Asian Americans are more likely to
17 attend four-year colleges and blacks Hispanics are
18 more likely to attend the two-year colleges.

19 And the trends are similar in graduate and
20 professional schools.

21 Let's see what some of the main
22 disparities are. Hispanics are five percent, blacks
23 are nine percent of graduate students. And minorities
24 are 21 percent of law schools and 31 percent of
25 medical school students.

NEAL R. GROSS

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

(202) 234-4433

www.nealrgross.com

1 Asian Pacific Americans, though, account
2 for 17 -- I'm not sure that -- I think what that's
3 supposed to say is even though minorities are highly
4 represented in medical schools, 17 percent of that is
5 Asian Americans. And the rest are all other
6 minorities combined.

7 CHAIRPERSON BERRY: Oh, okay. I remember
8 that from reading it.

9 MS. DICKERSON: Yeah. That's what that's
10 supposed to say.

11 Okay. I don't think I'm going to go over
12 all the information about financial access in the TRIO
13 programs. Essentially some of the problems that we
14 discussed were that there are repeaters. These are
15 programs that are targeted to counselors, school
16 districts, et cetera.

17 And it's very difficult to expand beyond
18 the schools that have always participated in TRIO
19 programs, because now there are new immigrant groups
20 that may be situated in suburbs and rural areas and
21 people who will have different language requirements.

22 And TRIO is not able to expand beyond that because
23 there's just not enough money to reach all the
24 students. It only reaches about seven percent of the
25 eligible population, which is a very, very small

1 percentage. So it creates a real disconnect with
2 people who need access to financial aid.

3 The other thing we find with financial aid
4 is now that it's starting to rely more on academic
5 record than it used to rely on need, a lot of
6 scholarships that used to go to people based on
7 academic need, are going on --

8 COMMISSIONER EDLEY: You mean based on
9 financial need.

10 MS. DICKERSON: -- based on financial need
11 -- thank you -- are going to people, other people who
12 may not -- who may otherwise -- who would otherwise be
13 able to afford college.

14 CHAIRPERSON BERRY: Like the people in the
15 *New York Times* editorial who will take the Hope
16 Scholarships and buy cars with them.

17 MS. DICKERSON: Okay. So it really
18 creates a crisis for students who but for the
19 financial means, they might be -- they are excluded
20 from being able to go to college.

21 Okay. Let's get to some of the overall
22 conclusions. Let's skip through the financial aid.
23 Overall, I guess what the picture ends up being is,
24 you know, we're saying to black, Hispanic, Native
25 American students that: Compared to others, you

1 probably won't be admitted to college. If you are
2 it's going to be a lower tier university, possibly a
3 two-year degree and not a four-year degree.

4 If you get in, you may not have the
5 financial aid to be able to accept, or it's going to
6 take you longer to graduate because we find that there
7 are a lot of students that because of part-time work,
8 they are taking longer to get that degree or taking
9 longer to even enter college.

10 So -- and some of the financial aid that
11 used to go to them is going to students who might be
12 able to have afforded it without assistance.

13 Percentage plans, we found weren't a
14 viable substitute for affirmative action. That in
15 each percentage plan statement, minority students are
16 faring the same or worse. And of course we're looking
17 at this evaluation in terms of what it's done to
18 minority enrollment. The plans have to be
19 supplemented with proactive recruitment, outreach, and
20 academic support programs. And the earlier that they
21 start, the better.

22 A model percentage plan did find very good
23 features and best practices in all of them. The
24 extensive outreach that is part of the California
25 percentage plan program, the focus on improving,

NEAL R. GROSS

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

1 reaching students early and getting them to stay in
2 school and recognize the value of education, which is
3 done in Florida, and the school choice which is built
4 into the Texas program.

5 States have to broaden the use of things
6 as such as the comprehensive review that allows
7 administrators to look at other factors, like
8 demonstrated leadership or motivation or use work
9 experience in evaluating a candidate. And they also
10 have to perform regular examinations of percentage
11 plans.

12 We found that there was not very -- that
13 there aren't a lot of studies at all done by the
14 states on these percentage plan programs. In fact, we
15 were asking for data and they were collecting it for
16 the first time to send it to us. So states really
17 need to look at what the impact of these programs has
18 been. They need to study them regularly and they need
19 to do a comprehensive review of all the schools in
20 their system that with five analysts we weren't able
21 to do.

22 And the federal government has to make
23 TRIO and financial aid programs accessible to all who
24 are eligible.

25 That's the end of my presentation.

NEAL R. GROSS

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

(202) 234-4433

www.nealrgross.com

1 CHAIRPERSON BERRY: I think it's -- yes.

2 COMMISSIONER MEEKS: Terri, I just have
3 one question. Why -- I mean were the Native American
4 numbers so small that you couldn't pick them up or
5 they did not just counted them?

6 MS. DICKERSON: Yeah, they're in the
7 report. I guess generally the trends are -- the
8 numbers that you start with were so small that it was
9 hard to make the big conclusions. I think the state
10 university systems probably could if they were, you
11 know, picking up on the data and looking at it across
12 the board for a number of years. But in relation to
13 the data that we got we were able to make the broad,
14 the sweeping conclusions.

15 CHAIRPERSON BERRY: But the numbers are in
16 the report?

17 MS. DICKERSON: They are in the report,
18 yes.

19 COMMISSIONER THERNSTROM: I have a
20 procedural question --

21 CHAIRPERSON BERRY: Yes, Commissioner
22 Thernstrom.

23 COMMISSIONER THERNSTROM: I just want to
24 know as we go forward here on this report what is the
25 process. I haven't had a chance to read it, frankly,

NEAL R. GROSS

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

1 but I will do so very carefully. Are there going to
2 be -- can Commissioners write, you know, separate
3 statements of some sort and react in response to it?
4 Is it going to be published, what is the time table
5 and so forth?

6 CHAIRPERSON BERRY: It's a draft staff
7 report. And for staff reports the Commission does not
8 have to approve them. They're just put out for the
9 informational purposes. And it was presented to us
10 and given to us. And if we have any comments that the
11 staff might use, since it says "Draft," as they
12 finalize they would very much appreciate having those
13 in terms of any questions we have or points we'd like
14 to make or things that we think that they missed.

15 And the overall purpose of it was simply
16 to update the situation on the percentage plans and to
17 provide data that other researchers might be able to
18 use because the data is not out there, as Terri
19 pointed out, until they asked for it. The states
20 hadn't even collected it, so one of the benefits of
21 this exercise is to get the data and get it out there
22 so that people can look at it and reach their own
23 conclusions.

24 So that was the general idea. Although if
25 the Commission wants to do something else with it, it

1 can, but that was the idea.

2 COMMISSIONER THERNSTROM: Oh, so as it
3 stands now, we don't vote on this at any point?

4 CHAIRPERSON BERRY: Not unless we wish to
5 decide that we wish to --

6 COMMISSIONER THERNSTROM: Okay. Now I
7 just -- it's just a point of clarification. I just
8 didn't know.

9 CHAIRPERSON BERRY: And if there are any
10 comments that you have, I'm sure that the staff would
11 love to have a good read and some feedback would be
12 great as they work on this.

13 COMMISSIONER THERNSTROM: Good.

14 CHAIRPERSON BERRY: Commissioner Edley.

15 COMMISSIONER EDLEY: I think I'd like,
16 like Commissioner Thernstrom, I'd like to give some
17 comments to the staff on the draft report, which I'll
18 try to do in the next ten days or so. But it strikes
19 me that we might consider at the next meeting whether
20 there are some policy recommendations we want to make
21 to Congress arising from the staff report to try to
22 inform Congress' consideration of reauthorization of
23 the Higher Education Act.

24 My understanding is that the staff, the
25 bipartisan staff on the Hill have asked the public to

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

WASHINGTON, D.C. 20005-3701

(202) 234-4433

www.nealrgross.com

1 provide recommendations for the reauthorization by the
2 end of December so that they can be putting together
3 their legislative language early in the calendar year.

4 So actually if we had two, three, four
5 particular ideas building off of what the staff has
6 discovered or otherwise, December -- it would be
7 really timely if we could talk about those in
8 December, see if we might actually have some things we
9 could agree upon as a group.

10 CHAIRPERSON BERRY: Well, I think that's a
11 great idea and that after you read it, if you have any
12 suggestions that you would like to make in terms of
13 policy, that we could consider, why don't you get them
14 to the Staff Director in time for him to circulate and
15 put the item on the agenda. And then we can discuss
16 it at the last meeting -- next meeting and decide
17 whether we want to agree to it. Anyone can -- any
18 commissioner is perfectly welcome to do that, and we
19 would appreciate it.

20 Also, if you have any comments on the
21 staff draft, if you could get them to the staff
22 director within the next 10 days. And then as they
23 finalize, they can look at your comments and see how
24 they fit in and so on. That would be helpful too.

25 Also the document is in draft out on our

1 website so that people who read it, who are
2 researchers or who are interested who may want to ask
3 questions about it or add something or check it out,
4 and I'm not going to do this, but I was going to ask
5 Penny whether the data seemed to her to fit with what
6 was going on in California, but it won't go on the
7 record.

8 MS. EDGERT: Thank you.

9 CHAIRPERSON BERRY: But, in any case, so
10 it's perfectly -- it's a perfectly open public process
11 and we'll see how it works in terms of it. But so far
12 I think we've made a great contribution in just
13 getting the data and putting together and putting it
14 out there so people can have it.

15 And, Terri, I want to commend you for the
16 work of your staff and for --

17 MS. DICKERSON: Thank you.

18 CHAIRPERSON BERRY: -- your usual good
19 work.

20 Does anybody else have anything else on
21 this?

22 Okay. The -- yes.

23 COMMISSIONER EDLEY: Can I -- just one
24 other thing. If it's not too burdensome there's an
25 aspect of this that I'd be very interested in. I know

NEAL R. GROSS

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

1 the Civil Rights Project we did some work relating to
2 the merit versus financial need scholarships and the
3 disparate impact of those state level policy changes.

4 But if you could -- if you can find out anything
5 easily generally about what's going on in the country
6 with regard to cut-backs in state financial aid
7 programs as a result of to the recession? You know
8 with all the state budget pressure.

9 I've heard generally that they've been
10 raising tuitions, cutting down on financial aid
11 programs. If there's any way to get a handle on just
12 what the magnitude of what that phenomenon is and --
13 and some sense of whether that's having an impact on
14 people's ability to go to postsecondary education. I
15 think that would be interesting and might affect
16 recommendations we could have to Congress.

17 COMMISSIONER THERNSTROM: I think, Chris,
18 the budgetary process is just starting in a lot of the
19 states that are feeling financially strapped. I'm not
20 sure that information is yet in place.

21 VICE CHAIRPERSON REYNOSO: Yeah, that may
22 be -- that may be so. My sense is, though, this is a
23 trend that started last year. And then if the actual
24 policy decisions haven't -- even if the actual policy
25 decisions haven't been made, I know there's some

NEAL R. GROSS

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

(202) 234-4433

www.nealrgross.com

1 places like in California where they're talking about
2 a 20-percent across-the-board cut -- the, governor's
3 talking about a 20-percent across-the-board cut, it
4 might be interesting to at least call them.

5 Maybe the way to frame the question again
6 would be what, if anything, do we know --

7 COMMISSIONER THERNSTROM: Yeah. No,
8 that's fine. Yeah.

9 COMMISSIONER EDLEY: -- about the cyclical
10 -- about the cyclical impact of -- of the economy on
11 state budgets for higher ed. financial assistance.

12 COMMISSIONER THERNSTROM: Right. I think
13 it's a good question. I would like to know the answer
14 myself.

15 CHAIRPERSON BERRY: So if you can find out
16 anything, Terri, and in particular for this you're
17 only interested in three states, but just in general
18 if you could find out for us, that would be --

19 MS. DICKERSON: Okay.

20 CHAIRPERSON BERRY: Anything you can find
21 out we'd love to know.

22 MS. DICKERSON: We'll look and see what's
23 out there.

24 CHAIRPERSON BERRY: Okay. Maybe when you
25 ask the question, maybe they'll go find out the

NEAL R. GROSS

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

1 answer.

2 MS. DICKERSON: Yeah, like they would on
3 this. What do we have to ask 50 states, though?
4 We'll see what's out there.

5 CHAIRPERSON BERRY: Yes.

6 COMMISSIONER THERNSTROM: Well, actually
7 you know the states that are really financially
8 strapped.

9 CHAIRPERSON BERRY: Maybe the DuPont
10 Circle has some answers, you know, ACE and all those
11 folks, Dazzle Group and the rest of them.

12 VICE CHAIRPERSON REYNOSO: Yes, Madam
13 Chair, a related issue in California and I know
14 elsewhere is the increased cost of education in public
15 institutions of higher education, so that in law
16 schools for example, institutions that I'm associated
17 with. It's go up more than twice in the last few
18 years. And it's happened also at the community
19 college level and at the undergraduate level. So
20 obvious as the cost goes up, for those who are
21 financially needy, presumably the help should go up,
22 and it hasn't.

23 MS. DICKERSON: That's true. One of the
24 points we make in the paper is how education -- people
25 are being priced out of education now. Yeah.

NEAL R. GROSS

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

(202) 234-4433

www.nealrgross.com

1 VICE CHAIRPERSON REYNOSO: Yeah.

2 CHAIRPERSON BERRY: I wanted to point out
3 that of course California, which has made some very --
4 according to what you have given us -- some positive
5 responses to this whole problem than in the -- I guess
6 the president of the U.C. system is retiring, Dr.
7 Atkinson, who has shown marvelous leadership on this
8 issue. I can say myself having been a chancellor of a
9 university, that in the late 20th century and the
10 early 21st century it is not often that heads of
11 universities show any great leadership on matters of
12 public policy. They mostly keep their heads down or
13 raise a whole lot of money, or something, and are on
14 their way.

15 So he has been remarkable in his
16 willingness to find ways, and I admire his ability to
17 find ways through a sort of minefield on this issue
18 and it's the people who work for him. It means he
19 picked good people. To come up with something that
20 would satisfy the desires of people to have access to
21 higher education at the same time maintaining what the
22 U.C. system stands for in terms of its quality.

23 And, you know, he is an epitome of the
24 idea -- of the example of the idea in higher
25 education, the positive idea, that you can have equal

NEAL R. GROSS

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

1 opportunity and excellence at the same time. And so I
2 just wanted to take note of this.

3 I knew had he to retire sometime, but I
4 didn't know it was going to be this year.

5 VICE CHAIRPERSON REYNOSO: Madam Chair, I
6 just wanted to comment that I was teaching at UCLA Law
7 School both before and after affirmative action. And
8 it was of interest to me that the law school was
9 commended for its ability to increase all of the
10 indices of excellence during the time that affirmative
11 action was in place. So there's in my view no
12 conflict between the notion of affirmative action and
13 excellence, as I've seen it operate.

14 CHAIRPERSON BERRY: Right. Well, I won't
15 tell other stories. I could sit here and tell other
16 stories about that, but I won't do it.

17 Any other comments on what -- well, okay,
18 hearing none, we have -- unless I forgot something and
19 no one reminded me, gotten through the items on the
20 agenda.

21 Have I missed something?

22 COMMISSIONER THERNSTROM: I think Future
23 Projects.

24 **XI. Future Agenda Items**

25 CHAIRPERSON BERRY: Oh, I missed the

1 projects. I'm sorry. Let's do the projects and
2 answer first Commissioner Bracer's question, which
3 question was about the education accountability
4 report.

5 COMMISSIONER BRACERAS: Just a little more
6 detailed information on --

7 CHAIRPERSON BERRY: Right.

8 COMMISSIONER BRACERAS: -- where we stand
9 with the educational account --

10 CHAIRPERSON BERRY: And thank you, Terri,
11 again.

12 MS. CARR: Did we do the Staff Report?

13 STAFF DIRECTOR JIN: Thank you, Terri.

14 Well, along with myself -- Terri Dickerson
15 is here from the Office of Civil Rights Evaluation and
16 Debra Carr, the Deputy General Counsel of General
17 Counsel's Office is here, so hopefully with the three
18 of us we can answer all the questions that you might
19 have.

20 In terms of the Educational Accountability
21 Project, I think we're looking at the briefing in
22 January or February, somewhere around there. And
23 again Debra could --

24 COMMISSIONER BRACERAS: I would love it if
25 it could be in February so that I could definitely

NEAL R. GROSS

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

1 attend. I don't want -- I mean obviously don't do it
2 around me, but I'd just like to put in that word.

3 STAFF DIRECTOR JIN: Okay.

4 COMMISSIONER BRACERAS: Because I'm not
5 sure about January. I mean I'll participate by phone,
6 but I'd love to be at such a briefing if I can, so.

7 CHAIRPERSON BERRY: Okay. We'll keep that
8 in mind.

9 COMMISSIONER THERNSTROM: Um, --

10 COMMISSIONER BRACERAS: Go ahead.
11 Continue.

12 COMMISSIONER THERNSTROM: I'm sorry. If
13 we were off the education, I wanted to ask about the
14 environmental --

15 CHAIRPERSON BERRY: No, no, no.

16 COMMISSIONER THERNSTROM: -- test report,
17 but --

18 CHAIRPERSON BERRY: Excuse Me,
19 Commissioner. Excuse me. I think Staff Director Jin
20 is going to give more, some answers to Commissioner
21 Braceras' question.

22 COMMISSIONER THERNSTROM: Oh, I'm sorry.
23 Okay.

24 STAFF DIRECTOR JIN: I was just going to
25 add also that, you know, this is -- we had subpoenaed

1 a lot of documents related to this, the Educational
2 Accountability Project. And staff is going through it
3 quite nicely, but it's taking quite a bit of time. So
4 that's kind of where the status is.

5 The General Counsel's Office, over the
6 summer especially, lost a number of lawyers, and
7 they're rebuilding somewhat but, anyway, they're going
8 through it, are getting new people involved, and so I
9 think we're moving along pretty well in respect -- in
10 light of that.

11 COMMISSIONER BRACERAS: Is it -- one of my
12 questions is it going to be a staff briefing or are we
13 having a briefing from witnesses?

14 MS. CARR: Witnesses.

15 COMMISSIONER BRACERAS: Witnesses, okay.

16 CHAIRPERSON BERRY: Okay. Commissioner
17 Thernstrom, you had something.

18 COMMISSIONER THERNSTROM: Yeah. Hanging
19 out there is the Environmental Justice Report. I was
20 wondering what was happening with that.

21 CHAIRPERSON BERRY: Did we get the
22 Management Information Systems report?

23 STAFF DIRECTOR JIN: Yes. All the
24 Commissioners should have gotten management
25 information statement timelines for the various

1 projects from the General Counsel's Office and from
2 OCRE. And so --

3 CHAIRPERSON BERRY: We can look at the MIS
4 for environmental justice.

5 COMMISSIONER THERNSTROM: Yes. Somehow I
6 missed that in a...

7 CHAIRPERSON BERRY: Is it in the --

8 STAFF DIRECTOR JIN: Debra, do you want to
9 just elaborate on that since...

10 CHAIRPERSON BERRY: If you turn to the MIS
11 you will find -- and Debra will --

12 MS. CARR: I'm sorry. Commissioner
13 Thernstrom, could you repeat your question for me?

14 COMMISSIONER THERNSTROM: well, if it's in
15 the information, that's fine. I actually -- we can
16 just move on. I don't want to take people's time. I
17 somehow missed that.

18 COMMISSIONER BRACERAS: I'm just looking
19 at it right now. It looks like in the documents that
20 circulated, it says the target date for completion is
21 May 2003.

22 COMMISSIONER THERNSTROM: Fine.

23 CHAIRPERSON BERRY: And now you will have
24 enough of a package each time, Commissioner
25 Thernstrom, to tell you exactly where each project is

1 --

2 COMMISSIONER THERNSTROM: Okay. That's
3 great.

4 CHAIRPERSON BERRY: Isn't that what it's
5 doing. And then --

6 COMMISSIONER THERNSTROM: Sounds good.

7 COMMISSIONER EDLEY: There's a two-day
8 training session available from the staff on how to
9 interpret these endless reports.

10 (Laughter.)

11 COMMISSIONER EDLEY: I think the next
12 training sessions is scheduled for June --

13 CHAIRPERSON BERRY: Let the record show
14 that Commissioner Edley is teasing.

15 COMMISSIONER BRACERAS: I have a question
16 on this.

17 CHAIRPERSON BERRY: Yes.

18 COMMISSIONER BRACERAS: It's number 18 on
19 the list as a staff director review. Is there a
20 window in here in which Commissioners have a chance to
21 review and comment on the report? And then do we vote
22 on the report, or how does that work.

23 CHAIRPERSON BERRY: It says --

24 STAFF DIRECTOR JIN: Yes, Commissioner
25 Braceras. This is -- it's like any other report.

1 Once the staff is finished with it, including the
2 Staff Director's Review, then it comes to the
3 Commissioners. And of course at that point you can
4 either approve it or reject and make comments and us
5 to, you know, we work in light of your comments.

6 CHAIRPERSON BERRY: And what this means is
7 that these office reports are telling us where the
8 office is finished.

9 COMMISSIONER BRACERAS: Right. So --

10 CHAIRPERSON BERRY: When they get their,
11 the OGC is through, it's going to go to the staff
12 Director.

13 COMMISSIONER BRACERAS: Right. And it
14 looks like the timeline for Staff Director review is
15 that that office would finish reviewing it at the
16 beginning of April 2003 which should hypothetically
17 give us almost two full months, the Commissioners, a
18 chance to review it. And then I guess it would be
19 probably on the agenda for the June meeting.

20 CHAIRPERSON BERRY: If this all works out,
21 yes.

22 STAFF DIRECTOR JIN: Right.

23 COMMISSIONER THERNSTROM: I have just been
24 reminded by my husband that we are due at a memorial
25 service for David Riesman, the great Harvard

1 physiologist, in less than an hour. I better get off
2 and I thank everybody.

3 CHAIRPERSON BERRY: We're just about
4 finished anyway, Abigail. We're just going over this.

5 COMMISSIONER THERNSTROM: Okay. Very
6 good.

7 CHAIRPERSON BERRY: Thank you.

8 COMMISSIONER THERNSTROM: Thanks. Bye.

9 COMMISSIONERS: Bye.

10 CHAIRPERSON BERRY: Okay. So it looks
11 like if this works out, that you're extrapolation from
12 the dates is correct.

13 STAFF DIRECTOR JIN: Right.

14 COMMISSIONER BRACERAS: Right.

15 CHAIRPERSON BERRY: If it all goes --

16 COMMISSIONER BRACERAS: So we should be
17 expecting barring other circumstances, --

18 CHAIRPERSON BERRY: Somewhere in that one
19 --

20 COMMISSIONER BRACERAS: -- we'd basically
21 be approving it in June and --

22 CHAIRPERSON BERRY: Yeah, basically.

23 COMMISSIONER BRACERAS: -- hopefully
24 having, you know, a month or so to look it over.

25 VICE CHAIRPERSON REYNOSO: But we can't

NEAL R. GROSS

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

1 help but add a footnote that sometimes things don't
2 work out quite the way we want.

3 COMMISSIONER BRACERAS: That is true.

4 CHAIRPERSON BERRY: But the MIS does give
5 us the staff's best guesstimate --

6 COMMISSIONER BRACERAS: Right.

7 CHAIRPERSON BERRY: -- and only for us as
8 to where these things are.

9 COMMISSIONER BRACERAS: Well, that's what
10 we're looking for.

11 CHAIRPERSON BERRY: Yes.

12 COMMISSIONER BRACERAS: So thank you.

13 CHAIRPERSON BERRY: Okay. Anything else,
14 gang?

15 All right. Hearing nothing else, thank
16 you very much for coming and the meeting is adjourned.

17 VICE CHAIRPERSON REYNOSO: Thank you very
18 much.

19 (The meeting was adjourned for the day at
20 11:08 o'clock a.m.)

21

22

23

24

25

LIBRARY
U.S. COMMISSION ON CIVIL RIGHTS