

U.S. COMMISSION ON CIVIL RIGHTS

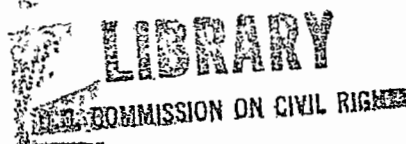
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MEETING

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FRIDAY



FEBRUARY 8, 2002

+ + + + +

The Commission convened in Room 540 at 624 Ninth Street, N.W., Washington, D.C. at 8:30 a.m., Mary Frances Berry, Chairperson, presiding.

PRESENT:

MARY FRANCES BERRY	Chairperson
CRUZ REYNOSO	Vice Chairperson
JENNIFER C. BRACERAS	Commissioner
CHRISTOPHER EDLEY, JR.	Commissioner
ELSIE M. MEEKS	Commissioner
ABIGAIL THERNSTROM	Commissioner
VICTORIA WILSON	Commissioner
LESLIE R. JIN	Staff Director

STAFF PRESENT:

LENOLA ALLEN-SOMMERVILLE
KIMBERLY ALTON
CAROLE BARRETT
LYNWOOD BATTLE, JR.
CAROL BERZ
LEANNA BROWN
PHILLIP CALDWELL
DEBRA CARR
KI-TAEK CHUN
IVY DAVIS
BARBARA DELAVIEZ
MONIQUE DENNIS-ELMORE
TERRI DICKERSON
BOBBY DOCTOR
JOHN DULLES
PAMELA A. DUNSTON
BETTY EDMISTON

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STAFF PRESENT: (CONT.)

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GILBERT GUITERREZ
GEORGE M. HARBISON
MELVIN JENKINS
STELLA KIM
WYATT KIRK
JUNE LITTLER
ANASTASIA LUDPEN
SOCK-FOOM MacDOUGALL
TRAVIS McCLAIN
KATHERINE MITCHELL
PAMELA MOYE
DAVID MUSSATT
JENNY PARK
MARC PENTINO
KIRK PERRY
PETER REILLY, Parliamentarian
KWANA ROYAL
JOHNNY SMITH
MARCIA TYLER
AUDREY WIGGINS
DAVID WONG
AUDREY WRIGHT
MIREILLE ZIESENISS

COMMISSIONER ASSISTANTS PRESENT:

KRISTINA ARRIAGA
LAURA BATIE
PATRICK DUFFY
KIMBERLY SCHULD
KRISHNA TOOLSIE

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

(8:33 a.m.)

I. Approval of the Agenda

CHAIRPERSON BERRY: The meeting will come to order. The first item on the agenda is the approval of the agenda. Can I get a motion to approve the agenda?

VICE CHAIRPERSON REYNOSO: So moved.

CHAIRPERSON BERRY: Can I get a second? All in favor, indicate by say aye.

(Chorus of ayes.)

CHAIRPERSON BERRY: Opposed?

COMMISSIONER THERNSTROM: Well, I'd like to bring up an issue about the approval of the agenda. Madame Chair, I was told by the staff director to bring an issue related to the press releases, and I don't know when it was the place to bring it up or whether --

CHAIRPERSON BERRY: That can be done when you get to the staff director's report. Anything that you have for the staff director, that relates to the staff director.

COMMISSIONER THERNSTROM: Okay. I didn't know whether it should be a topic under this.

CHAIRPERSON BERRY: No, you can put it under the staff director's report.

COMMISSIONER THERNSTROM: Good, thank you.

CHAIRPERSON BERRY: Okay, with that, let's do

1 it again. All in favor, indicate by saying aye.

2 (Chorus of ayes)

3 CHAIRPERSON BERRY: Opposed?

4 (No response)

5 **II. Approval of the Minutes of the**
6 **January 11, 2002 Meeting**

7 CHAIRPERSON BERRY: So ordered. The next
8 item on the agenda is the approval of the minutes of the
9 January 11, 2002 meeting. Could I get a motion?

10 UNIDENTIFIED SPEAKER: So moved.

11 VICE CHAIRPERSON REYNOSO: Second.

12 CHAIRPERSON BERRY: All in favor?

13 COMMISSIONER THERNSTROM: I have an objection
14 to the minutes, Madame Chair.

15 CHAIRPERSON BERRY: Okay.

16 COMMISSIONER THERNSTROM: Actually, and I can
17 pass around -- I thought I could pass around, anyway, the
18 text of the transcript. The minutes read by a vote of six
19 to one. The Commission agreed that the Commissioner
20 interested in the litigation can schedule a meeting with
21 the staff director to further discuss the matter. The
22 transcript reads, Christopher Edley, ES, it said the staff
23 director arranged for a briefing, whether in person or by
24 conference call with interested commissioners to discuss
25 the legal issues and the posture of the litigation.

1 This motion wasn't amended, and if it stands
2 as it was agreed, I had expected the staff director to
3 arrange a briefing, including written materials, to fully
4 explain the basis for his decision in requesting intervenor
5 status. So, there is a disparity between how the minutes
6 read and how the transcript reads, and you know, they call
7 for quite different things.

8 The transcript, according to Edley's motion,
9 according to the transcript, the staff director was to
10 arrange for a briefing.

11 CHAIRPERSON BERRY: She's referring to the
12 minutes on the first page, under the discussion of staff
13 director's action. I don't recall any discussion in the
14 motion about the staff director giving something in writing
15 to anyone. I don't recall that as part of the motion.

16 COMMISSIONER THERNSTROM: Well, staff
17 director arrange for a briefing is -- well, you know.

18 VICE CHAIRPERSON REYNOSO: Well, Madame
19 Chair, my recollection is, but I would have to review the
20 transcript. My recollection was that that motion was made.

21 I don't recall that that motion was voted on. My
22 recollection is that there was a discussion thereafter and
23 it was agreed that any commissioner could get together with
24 the --

25 COMMISSIONER THERNSTROM: Well, it was I want

1 to make a motion.

2 VICE CHAIRPERSON REYNOSO: Was there a second
3 and a vote on the motion?

4 CHAIRPERSON BERRY: Well, let's see what the
5 transcript says.

6 COMMISSIONER THERNSTROM: Well, yes, I
7 seconded it. It's in the transcript here.

8 CHAIRPERSON BERRY: But did we ever vote on
9 it?

10 COMMISSIONER THERNSTROM: And yes, we voted
11 for it. All in favor of the motion of the Commissioner,
12 Chairperson Berry, all in favor of the motion, indicate by
13 saying aye.

14 CHAIRPERSON BERRY: Well, in order to
15 expedite the discussion, the transcript shows that I said
16 parliamentarian, if we pass this motion and the Commission
17 does have such a briefing, a conference call, which will
18 only happen if people want it, can it be closed session
19 since it's about the litigation. Mr. Reilly says, "I
20 believe so, Madame Chair." If it happens, I said,
21 hypothetically.

22 Then after that, Mr. Reilly says something
23 about the Sunshine Act, and I thank him, and then I say all
24 in favor of the motion, indicate by saying aye. There was
25 a chorus of ayes. Then I said opposed, and Vice Chair

1 Reynoso said no, which meant it was six to one.

2 So that in substance, the motion seems to
3 indicate that yes, the staff director will arrange for a
4 briefing, but the explanation is that only if people want
5 it, and the staff director can arrange for one even if
6 people don't want it, if that's your intent. If you'd like
7 him to schedule one whether or not people ask for it, then
8 we can so instruct him, and I'm perfectly willing to do
9 that, to have him call you up and see if he can arrange one
10 for you.

11 COMMISSIONER THERNSTROM: Yes, I mean, it was
12 a question of where the initiative, what's to come, you
13 know, in whose hands the initiative was. It was my
14 understanding from last meeting that the staff director
15 would take that initiative.

16 CHAIRPERSON BERRY: If you would like him to,
17 I don't think anybody else would object. Staff director,
18 could you please arrange such a briefing and call the
19 people or get in touch with the commissioners and ask them
20 if they want to be briefed and arrange a time for them to
21 be briefed, either individually or together, if that's what
22 they'd like to do?

23 STAFF DIRECTOR JIN: Certainly.

24 CHAIRPERSON BERRY: Okay.

25 COMMISSIONER THERNSTROM: Thank you very

1 much.

2 CHAIRPERSON BERRY: Good morning,
3 Commissioner Braceras

4 COMMISSIONER BRACERAS: Good morning,
5 everyone.

6 CHAIRPERSON BERRY: With that, can we then
7 vote on the motion? The motion is to approve the minutes
8 of the January 11, 2002 meeting. It has been moved and
9 seconded. All in favor indicate by saying aye.

10 (Chorus of ayes.)

11 CHAIRPERSON BERRY: Opposed?

12 (No response.)

13 CHAIRPERSON BERRY: So ordered.

14 **III. Announcements**

15 CHAIRPERSON BERRY: Then the next item is
16 announcements. The first thing I would like to do is to
17 see if the Commission is willing to change the meeting date
18 in May, which is on the 17th, to May 24. If any of you
19 have calendars and can figure that out now. If you can do
20 that, it would be very much appreciated. If you can't, I
21 would like to know whether you can. Do you have your
22 calendar, Commissioner Meeks, or are you one of those
23 people like me who can't figure it out?

24 COMMISSIONER MEEKS: Actually, I left it in
25 the library last night.

1 CHAIRPERSON BERRY: Okay.

2 COMMISSIONER WILSON: Madame Chair, is the
3 24th a --

4 CHAIRPERSON BERRY: A Friday, yes,
5 Commissioner Wilson.

6 COMMISSIONER WILSON: Thank you. Okay, now
7 that we've established that the 24th is a Friday, is it the
8 Friday of Memorial Day weekend?

9 CHAIRPERSON BERRY: I don't know.

10 COMMISSIONER WILSON: Does anybody know?

11 VICE CHAIRPERSON REYNOSO: Yes, it is. My
12 calendar says that Memorial Day is on Monday, the 27th.

13 CHAIRPERSON BERRY: Oh, it is? Oh, so that's
14 a problem.

15 COMMISSIONER WILSON: I think there will be
16 tears.

17 CHAIRPERSON BERRY: Okay.

18 COMMISSIONER WILSON: As my mother used to
19 say.

20 CHAIRPERSON BERRY: We'll leave it. That's
21 all right. I just thought I'd ask.

22 Okay, the other announcements, Commissioner
23 Braceras, would you mind introducing your assistant? We
24 didn't do that last time.

25 COMMISSIONER BRACERAS: Of course. Kimberly

1 Schuld. She's right here. She's a special assistant and
2 comes from the Independent Women's Forum where she worked
3 previously.

4 CHAIRPERSON BERRY: Okay.

5 COMMISSIONER BRACERAS: We're glad to have
6 her.

7 CHAIRPERSON BERRY: Thank you. We would also
8 like to welcome and introduce student interns, if they
9 manage to be here, at least name them. Anastasia Ludden
10 from Fitchburg State College and Travis McClain from
11 Bethany College. They're working in the Office of Public
12 Affairs. I don't know if they're here. If they are, they
13 can stand. Are they here?

14 VICE CHAIRPERSON REYNOSO: Yes.

15 CHAIRPERSON BERRY: Hi, welcome. Joy
16 Freeman. Is Joy here? Well, Joy is a third year law
17 student at Howard and has been working in OGC.

18 Stella Kim from the University of California
19 Berkeley, who is -- she's not here, but she's working in
20 OCRE.

21 We also would like to note that Seth
22 Grossman, who was Commissioner Wilson's assistant, has left
23 for other projects that he's working on before he goes off
24 to law school next year at Yale. So, we wish Seth the best
25 in his future endeavors.

1 I also wanted to tell you, in case you didn't
2 note it, although I could say it under the staff director's
3 report, that I did send a letter to Governor Jeb Bush in
4 Florida that we discussed at least three or four times here
5 in meetings, on January 14. I think you have copies of it.

6 You will note that in the letter, we did what you
7 discussed, which is to ask him for a response.

8 You will recall also that we had already
9 decided before that we would go back to Florida at some
10 time to see how election reform was faring. We then at a
11 later discussion, decided to send him the letter and try to
12 get a report from him first before we finalized that
13 decision. So, I just wanted you to take note that we've
14 done that.

15 The other announcement that I want to make is
16 that we are having -- we're thinking about two additional
17 briefings that we've discussed before in the past. One of
18 them would be on welfare reform, which is being debated or
19 about to come up for reauthorization, in the Congress.
20 We're trying to get that briefing together, if possible, in
21 the next month in order to be timely because it appears
22 that the OGC staff will not be prepared to do the education
23 hearing until April. So, we would have time to do the
24 briefing on welfare reform.

25 We also had discussed previously a briefing

1 on housing discrimination, and you can be thinking about
2 that one. On the welfare briefing, if you have some ideas
3 of people you would like to recommend or propose for that
4 briefing, you should do so at least by the 15th of
5 February. Just think about it and turn in some names of
6 people who you think might be considered by the staff as
7 participants in that briefing.

8 Are there any other announcements? Did I
9 give the wrong date?

10 COMMISSIONER BRACERAS: What date did you
11 give?

12 CHAIRPERSON BERRY: For what?

13 COMMISSIONER BRACERAS: The welfare.

14 CHAIRPERSON BERRY: I said we would try to do
15 it in March if possible.

16 COMMISSIONER THERNSTROM: And on the
17 education briefing?

18 CHAIRPERSON BERRY: Education is a hearing,
19 and that's not until April. That's what I said, and that
20 if you have names -- people have already -- the staff is
21 working on the education hearing, as you know. We've
22 discussed it. We had the documents hearing, and the OGC
23 staff is preparing that. They now think that they will
24 have it for April.

25 I'm saying that since March, we could have

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1 this other briefing for welfare reform. They are trying to
2 get that together for March, and that therefore, you should
3 be thinking about names of people that you might want to
4 propose to the staff director to include in the welfare
5 reform discussion. If you have names, you should give them
6 to the staff director so that he can have the staff
7 consider them for inclusion. Yes?

8 COMMISSIONER THERNSTROM: Madame Chair, I
9 don't know. You will tell me whether this is an
10 appropriate time to do so. I, as you know, expressed some
11 concerns regarding the letter to Governor Bush in Florida,
12 and I wonder if I could read into the record the letter
13 that we --

14 CHAIRPERSON BERRY: You may read whatever
15 you'd like into the record.

16 COMMISSIONER THERNSTROM: The letter that we
17 sent, that Commissioner Braceras and I sent.

18 CHAIRPERSON BERRY: By all means, sure.

19 COMMISSIONER THERNSTROM: We sent the
20 following letter. "Dear Chairman Berry, We write to
21 express our concern with your failure to consult with
22 members of the Commission prior to sending your letter and
23 demand for a status report to Governor Jeb Bush of Florida
24 dated January 14, 2002. In your letter, you indicate that
25 the Commission is interested in assessing the progress on

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1 the implementation of the Florida Election Reform Act of
2 2001 and demand that Governor Bush submit to you a status
3 report on the implementation of election reforms by May 1,
4 2002. You further suggest that your satisfaction with
5 Governor Bush's response will determine whether the
6 Commission will return to Florida during the summer of 2002
7 to hold hearings on voting reforms.

8 "We are troubled that the full Commission did
9 not have a chance to review the substance of this letter
10 before it was mailed, although we discussed in general
11 terms at the December meeting the idea of sending a letter
12 to Governor Bush, the Commission did not actually vote to
13 do so, and we regret that a draft was not circulated to the
14 full Commission for comment. Surely it is not unreasonable
15 to expect any letter to a sitting governor purportedly
16 issued in the Commission's name be circulated to all
17 commissioners prior to mailing, and we are at a loss to
18 understand why you neglected to do so in this instance.

19 "The inclusion of the letter in the materials
20 for this week's meeting, nearly three full weeks after it
21 was sent, is simply unacceptable. We genuinely hope that
22 in the future, you will seek counsel of all commissioners
23 before issuing letters on behalf of the entire body."

24 I thank you for allowing me to read that into
25 the record.

1 CHAIRPERSON BERRY: Right. Commissioner
2 Thernstrom, as I hope you are aware, the standard operating
3 procedure at the Commission is that the Chair is authorized
4 to send letters on behalf of the Commission anytime the
5 Commission votes to send such a letter or agrees to send
6 such a letter by consensus without objection.

7 We have discussed sending a letter to Jeb
8 Bush at least three times in the meeting, and in December,
9 we had a discussion when I stated that I would indeed send
10 such a letter, and stated the contents of the letter would
11 be to ask him for a report in June, and to remind him that
12 we had already agreed previously to go back to Florida. We
13 agreed at the time that we first went to Florida. We
14 agreed at the time that we approved the Florida report that
15 we would go back again to see what election reform, how it
16 was faring.

17 I would just say that if the Commission would
18 like to change the procedure so that the procedure would
19 now be that any letters that are sent by the Chair on
20 behalf of the Commission shall be screened and approved by
21 the commissioners, I'm perfectly happy to entertain such a
22 motion that we do so.

23 Yes, Commissioner Braceras?

24 COMMISSIONER BRACERAS: I would like to make
25 such a motion, but let me just say at the outset, I

1 certainly have no objection to investigating voting
2 procedures in Florida or anywhere else. My only concern
3 here is that we did discuss in general terms at the
4 December meeting the possibility of doing this. I believe
5 the transcript reflects that you even said that this was an
6 idea. It was not voted on. It was not agreed upon, and I
7 do think it would be helpful when you send a letter to any
8 elected official, governor, Congressman, what have you, on
9 behalf of the entire body, I think it would be helpful for
10 commissioners to be able to review the letter and debate
11 the substance of the letter and perhaps suggest changes
12 before it goes out because you are speaking on behalf of
13 the entire Commission, and I think it's good policy to see
14 our input.

15 So, I would move that in the future, when the
16 Chair sends a letter to any elected official that the
17 entire body have a chance to review the draft and comment
18 on the draft before it is sent. That's the motion.

19 CHAIRPERSON BERRY: Okay. Is there a second?

20 COMMISSIONER THERNSTROM: I second it.

21 CHAIRPERSON BERRY: Anyone want to speak to
22 the motion?

23 COMMISSIONER MEEKS: I'll speak to it. In my
24 time since I've been here, which is almost three years now,
25 I mean, the issue was raised. There wasn't any objection

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1 to doing it. The Chair has written letters in the past in
2 the same way. So, there wasn't any objection when it was
3 raised.

4 COMMISSIONER BRACERAS: Well, that's because
5 it was raised as an idea. I didn't think it was open to
6 debate.

7 CHAIRPERSON BERRY: Will the commissioners
8 please be in order?

9 COMMISSIONER MEEKS: Well, it had been
10 discussed so many times previously.

11 CHAIRPERSON BERRY: The standard operating
12 procedure of the Commission since 1957 has been that the
13 Chair writes letters on behalf of the Commission, and they
14 usually say for the commissioners, long before I was chair
15 of this Commission, and that once the Commission agreed to
16 send such a letter, unless the commissioners said in the
17 meeting, we would like to see a copy of it before it goes,
18 the staff writes it, and the Chair signs it. The staff
19 writes it consistent with what was discussed, and that we
20 do that.

21 So, I'm perfectly happy to change the policy
22 so that commissioners will read these things and get back
23 to us and put time lines on it. It doesn't bother me one
24 bit. I'm just saying that if you'd like to change the
25 policy, please let's just vote and change it, because it

1 doesn't bother me a bit.

2 COMMISSIONER BRACERAS: Great.

3 VICE CHAIRPERSON REYNOSO: I'd like to speak
4 in opposition to the motion, with due respect. I think it
5 will just further delay the communication. Very often
6 we've instructed the Chair to send letters that are timely.

7 If we go to this type of procedure, if a commissioner has
8 a feeling about what should be included and so on, that
9 could be communicated to the Chair. I don't even see that
10 the letter that was sent this time was at all contrary to
11 the views expressed by the commissioners.

12 I haven't seen a problem, and I do see
13 problems in delay and so on if we have a prior approval of
14 rules. So, I speak in opposition.

15 CHAIRPERSON BERRY: Commissioner Thernstrom?

16 COMMISSIONER THERNSTROM: I don't see the
17 down side of this. I mean, all of us work on a lot of
18 boards, and it's just routine with other organizations that
19 I'm associated with that press releases that go out or
20 letters that go out in the commission's name be circulated
21 beforehand. You can put a 24-hour limit on it. It can be
22 sent by e-mail. It can be, you know, I mean, this could be
23 a very expeditious process.

24 I've never seen so far in my year on the
25 commission either a press release or a letter that couldn't

1 wait 24 hours for us to say I'm comfortable with this, I'm
2 not comfortable with it for the following reasons.

3 In the press release question, I mean, there
4 have been press releases that have gone out under my name
5 that I'm really not comfortable with and yet I would like
6 to have documents come out that every commissioner is
7 comfortable with.

8 CHAIRPERSON BERRY: Before I recognize
9 Commissioner Braceras, perhaps I could expedite
10 consideration of this matter by saying that I am in favor
11 of the motion, and the reason why I'm in favor of it, which
12 may surprise you, is that when I was in this Commission for
13 years, and I was always dissenting on everything, I always
14 asked if I could see press releases, if I could see
15 letters, and no one ever showed me any press releases or
16 any letters. Most of the time, I didn't even see the
17 agenda before the meeting. I'd just come in and folks
18 would tell me, this is what we're going to do.

19 So, I think that this is great. I mean,
20 we'll put time lines on it, and if you don't get back by
21 that time --

22 COMMISSIONER THERNSTROM: Too bad.

23 CHAIRPERSON BERRY: Too bad.

24 COMMISSIONER THERNSTROM: Absolutely.

25 CHAIRPERSON BERRY: And if you can't

1 understand that whatever you say is going to be accepted,
2 because there is a majority process.

3 COMMISSIONER THERNSTROM: Of course.

4 CHAIRPERSON BERRY: Just because you say it
5 doesn't have to be the case. So, I don't have any problem
6 with this at all, and I think that it is a great idea, and
7 it's my experience from being on the Commission all those
8 years when nobody ever showed me anything.

9 So, as long as it solves the problem you
10 raised, Vice Chair, is that we put a time line on it. If
11 you don't get back within whatever the sensitive time frame
12 is, don't start complaining that the thing went.
13 Understand that it's going.

14 COMMISSIONER THERNSTROM: Of course.

15 CHAIRPERSON BERRY: I don't have any problem
16 with it. Yes, Commissioner Wilson?

17 COMMISSIONER WILSON: Thank you, Madame
18 Chair. Opening the door to what you suggest can create
19 another problem, it seems to me, because once people make
20 suggestions, then how are they resolved?

21 CHAIRPERSON BERRY: How they're resolved is
22 you get the comments from all the people who are involved,
23 and you follow whatever policy prescription was there. If
24 there is any real dispute about it, you give another 24
25 hours if you can, and if you can't, you just do it by the

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1 weight of the majority of the comments. That's the only
2 thing you can do.

3 COMMISSIONER WILSON: So, in other words,
4 then you take the time to call or to send --

5 CHAIRPERSON BERRY: No, no, no, because once
6 you do it once -- see, you can't do it, if the idea is to
7 be obstructionists and to simply stop any letter from ever
8 going because nobody accepted somebody's comments, which
9 was never my intent when I was in that position, that's one
10 thing.

11 But if you operate in good faith and you mean
12 that I want to have a chance to know about it and a chance
13 to comment, and if it goes after that, I'm not going to
14 say, you didn't say exactly what I wanted, then, you know,
15 we have to have that understanding, and that has to be here
16 in the transcript and part of it. Once you get your say,
17 then it goes, and if you've got a complaint about it at the
18 next meeting, you can raise that.

19 Yes, Commissioner Braceras?

20 COMMISSIONER BRACERAS: The intent of this is
21 not to be obstructionist. It is, as you said, to help
22 build a consensus among the commissioners. Now, obviously,
23 not everybody's suggestions can always be accepted, but
24 what I would add is that if a letter is going to go out, if
25 a majority of the commissioners do not agree with the

1 substance of the letter, it should not go out.

2 I mean, part of my concern about this has to
3 do with the fact that I am an attorney, and I am not
4 comfortable having my name on documents that I didn't have
5 a chance to review before they went out. It's just not
6 good practice. It's not common practice in other
7 organizations for somebody to be signing letters on behalf
8 of other people when those people haven't had a chance to
9 review the text.

10 Now, if we can review the text, if we can
11 have 24 hours to make comments, which may or may not be
12 accepted, and if we can have an opportunity to say look, I
13 don't want my name on this if it's not agreed to, then
14 that's fine. If a majority of the Commission still wants
15 the letter to go out, obviously the Chair is authorized to
16 write on behalf of the Commission, and that's fine. But if
17 for some reason the majority of the commissioners are
18 uncomfortable with the text, then I would argue that the
19 Chair should not be authorized to send the letter.

20 CHAIRPERSON BERRY: I will recognize you in a
21 minute. One little part of what you say I wasn't clear
22 about. When you said I don't want my name on it, when a
23 letter is signed for the commissioners, it means that by
24 majority vote, the commissioners took a certain position.

25 COMMISSIONER BRACERAS: Right and if --

1 that's right.

2 CHAIRPERSON BERRY: It doesn't mean that
3 every single commissioner agreed with every single thing.

4 COMMISSIONER BRACERAS: Absolutely, I agree
5 with you, as long as the commissioners have had a chance to
6 vote and the majority of the commissioners have approved
7 the letter, that's fine with me.

8 CHAIRPERSON BERRY: Commissioner Meeks?

9 COMMISSIONER MEEKS: I want to call for the
10 question, except for that I want to make a comment first.

11 COMMISSIONER THERNSTROM: Well, but I have
12 one clarification.

13 COMMISSIONER MEEKS: One, I'm on some boards
14 of national organizations. You know, we agree at the
15 meeting, not necessarily by a vote, and never have we been
16 asked to edit the letter or news releases, press releases.
17 There's one more point, but I'll let it go.

18 CHAIRPERSON BERRY: Well, it may be one of
19 those things, Elsie, where in trying to be open minded that
20 I may be hoisted by my own petard, but it does seem to me
21 by not being able to send --

22 COMMISSIONER BRACERAS: Let me just make
23 clear that the motion --

24 CHAIRPERSON BERRY: Yes, Commissioner
25 Thernstrom was recognized.

1 COMMISSIONER THERNSTROM: Well, and I think
2 there's a little bit of a distinction between press
3 releases here and letters. That is, if the majority --

4 COMMISSIONER BRACERAS: My motion only
5 addresses letters, just to be clear.

6 COMMISSIONER THERNSTROM: Right, and if
7 --

8 COMMISSIONER BRACERAS: And only letters to
9 public officials, sitting governors and other public
10 officials. That's it.

11 COMMISSIONER THERNSTROM: I mean, on the
12 question of press releases, it seems to me that if any
13 commissioner is uncomfortable with the particular press
14 release, there's no reason why that particular
15 commissioner's name has to be on a press release.

16 CHAIRPERSON BERRY: Commissioner Thernstrom,
17 names on press releases are listed for purposes of
18 identification only, that X, Y, and Z are members of the
19 commission, not that X, Y, and Z agree with everything
20 that's in it. There's a list of people who are on the
21 commission. Now, if you want not to be listed as a member
22 of the commission, then that's fine with us.

23 COMMISSIONER THERNSTROM: It's seems to me
24 that look, maybe this is underestimating the press, but --
25 unfairly, obviously, but it does seem to me that when that

1 list occurs at the bottom, there's an assumption that this
2 is a press release, the precise wording of which all
3 commissioners have signed onto. I don't feel, you know, I'm
4 not going to woe about this, but it does seem to me that on
5 press releases, if there's a press release, a specific
6 press release a commissioner feels uncomfortable with, it
7 could go out in the name of the commissioner who are
8 comfortable with it, but whatever.

9 CHAIRPERSON BERRY: Somebody called for the
10 question.

11 COMMISSIONER MEEKS: I called the question.

12 COMMISSIONER THERNSTROM: Called the
13 question.

14 CHAIRPERSON BERRY: The question has been
15 called, Commissioner Wilson and Commissioner Braceras.
16 Commissioner Meeks called for the question. The motion,
17 could you restate your motion, or do you want it read back?

18 COMMISSIONER BRACERAS: No, I'll restate it.
19 The motion is that with respect to letters sent on behalf
20 of the Commission to any sitting governor or other public
21 official, that the entire body have a chance to review the
22 text of the letter and have 24 hours to comment on the text
23 of the letter, make suggestions, and then vote on whether
24 to actually send the letter.

25 CHAIRPERSON BERRY: Okay.

1 COMMISSIONER BRACERAS: The majority of the
2 commissioners should approve the actual letter that goes
3 out. That's the motion.

4 CHAIRPERSON BERRY: They should approved it,
5 okay. Does the seconder -- I forgot who seconded it.

6 COMMISSIONER THERNSTROM: I believe I
7 seconded.

8 CHAIRPERSON BERRY: Does the seconder agree
9 with that?

10 COMMISSIONER THERNSTROM: Well, yes. I mean,
11 is there a difference between the first wording and the
12 second wording?

13 CHAIRPERSON BERRY: No, I'm just puzzled.
14 that's why I was asking you whether you agreed.

15 COMMISSIONER THERNSTROM: You seem to think
16 there's some disparity between the first --

17 CHAIRPERSON BERRY: Oh, no, I just wanted to
18 make sure you as the seconder agreed.

19 COMMISSIONER THERNSTROM: Okay, I agree to
20 it. You know, I think part of the package that you talked
21 about was letting us see press releases at least before
22 they go out as well, but just see them.

23 CHAIRPERSON BERRY: We're only talking about
24 letters in this motion.

25 COMMISSIONER THERNSTROM: Here we're only

1 talking about letters in the motion.

2 COMMISSIONER WILSON: Madame Chair, you
3 called the question, and I wanted to make a comment.

4 CHAIRPERSON BERRY: All right. One last
5 question, I'll defer. Go ahead.

6 COMMISSIONER WILSON: I just want to make
7 this clear because you have said this now, Commissioner
8 Braceras now, several times, so I want to make it clear.
9 What you're saying in your motion, that once each
10 commissioner has a chance to read the statement, that the
11 Chairperson or the staff director will then coordinate so
12 that each commissioner will vote on the statement?

13 COMMISSIONER BRACERAS: Right, up or down,
14 you agree or don't agree.

15 COMMISSIONER THERNSTROM: And you only have
16 24 hours or whatever time limit you want to state.

17 COMMISSIONER BRACERAS: Suggestions can be
18 made. They can be incorporated or not, and they have an
19 opportunity to say yes or no, thumbs up or thumbs down.

20 CHAIRPERSON BERRY: Okay. The question has
21 been called for. We'll take a vote. All those in favor of
22 the motion -- why don't we do it by roll calling? Is that
23 all right

24 COMMISSIONER BRACERAS: Fine.

25 CHAIRPERSON BERRY: Commissioner Braceras?

1 COMMISSIONER BRACERAS: Aye.

2 CHAIRPERSON BERRY: Edley is not here at the
3 moment. Commissioner Meeks?

4 COMMISSIONER MEEKS: No.

5 CHAIRPERSON BERRY: Vice Chair Reynoso?

6 VICE CHAIRPERSON REYNOSO: No.

7 CHAIRPERSON BERRY: Commissioner Thernstrom?

8 COMMISSIONER THERNSTROM: Yes.

9 CHAIRPERSON BERRY: Commissioner Wilson?

10 COMMISSIONER WILSON: No.

11 CHAIRPERSON BERRY: One, two, that's three
12 no's and two yes's. I guess I can count. So, the motion
13 fails.

14 COMMISSIONER THERNSTROM: But wait a minute,
15 your vote.

16 CHAIRPERSON BERRY: I'm not going to vote. I
17 abstain.

18 COMMISSIONER BRACERAS: You said you were in
19 favor of it.

20 CHAIRPERSON BERRY: I did, but I abstain on
21 my actual vote. I don't want to vote on the motion. If I
22 did vote on it, it would be tied, three, three. That means
23 it would fail anyway.

24 COMMISSIONER THERNSTROM: Well, the tie could
25 be re-raised.

1 CHAIRPERSON BERRY: If the motion is three,
2 three. In fact, I will vote for it. It fails anyway
3 because you've got to have a majority to have it pass.

4 Yes, Commissioner Wilson?

5 COMMISSIONER WILSON: Madame Chair, just a
6 point of clarification. When you said you were for the
7 motion, this is why I asked the question. I specifically
8 asked you if it meant that commissioners would then vote on
9 the statement, and you said no, you would just have the 24-
10 hour.

11 CHAIRPERSON BERRY: Right, which is why I
12 decided at first to abstain because the first motion didn't
13 say that there would be a vote afterwards. Anyway, just to
14 expedite matters, I will vote for it, and it's three,
15 three, and it fails. So, that's the end of that motion.

16 Now, that takes care of announcements. Now
17 we have the staff director's report, and one of the items
18 in the staff director's report -- is there anything you
19 want to say to us, or do you just want us to ask you
20 questions?

21 STAFF DIRECTOR JIN: No, I don't have any.

22 CHAIRPERSON BERRY: You don't have anything
23 to say beyond?

24 STAFF DIRECTOR JIN: I don't have anything
25 specific I want to say before I answer any questions.

1 CHAIRPERSON BERRY: Okay. Anybody want to
2 raise anything about the staff director's report?
3 COMMISSIONER THERNSTROM: Yes.
4 CHAIRPERSON BERRY: Yes, Commissioner
5 Thernstrom? I mean Braceras, you had your hand up first.
6 COMMISSIONER BRACERAS: You want to go first?
7 COMMISSIONER THERNSTROM: No, go on.
8 COMMISSIONER BRACERAS: I have a question for
9 the staff director. I have now sent not one, but two
10 letters to the staff director seeking information on his
11 decision to hire outside counsel in the matter of U.S. vs.
12 Wilson. I have not received a written answer to those
13 letters, which was requested by both of my letters, the
14 first one dated January 2, the second one dated February 1.
15 Specifically, I am seeking to know, number
16 one, under what authority and under what circumstances may
17 the Commission obtain outside legal counsel? Now, I'm
18 seeking the answer to this question not only with respect
19 to this particular matter, the particular case, U.S. vs.
20 Wilson, but also because I think it's important to clarify
21 that legal question going forward just so we know what the
22 Commission's authority is and what you based your decision
23 on. I'm looking for a citation to a specific statute,
24 policy, rule, or regulation that entitles the Commission to
25 do that because my guess is this will come up again in the

1 future.

2 The second question that I've asked Mr. Jin
3 to answer is under what authority and under what
4 circumstances may he, as staff director, unilaterally hire
5 outside counsel and instruct that counsel to file or
6 intervene in litigation without prior authorization from
7 the full Commission. I think that's also another important
8 institutional question, the significance of which goes well
9 beyond the specific case in which the question arose.

10 The third question, which is more specific to
11 the particular litigation at hand, is are taxpayer funds
12 being used to pay Paul Weiss Rifkind Wharton & Garrison,
13 and/or any other outside counsel? I'm looking to see a
14 copy of the engagement letter between the Commission and
15 Paul Weiss and if, in fact, taxpayer funds are being used
16 to pay the law firm, I seek to know exactly how much Paul
17 Weiss has billed to the Commission for fees and costs,
18 whether such charges have been paid, and if so, by what
19 method. If Paul Weiss has been serving in a pro bono
20 capacity, I would just like the details of the precise
21 relationship between the Commission and the firm, and I'd
22 like to know with what authority the Commission is entitled
23 to hire pro bono legal counsel.

24 All of these are questions which have great
25 institutional importance. They are questions which are

1 important for not only commissioners to be able to have the
2 answer to, but for the taxpayers and the public to be able
3 to know because it goes to the institutional integrity of
4 this organization.

5 I have now written two letters requesting the
6 answers to these questions, and I'm wondering when I can
7 expect your written answer.

8 CHAIRPERSON BERRY: Commissioner Braceras, I
9 think it would be inappropriate for the staff director to
10 respond to you in writing. We discussed all these matters
11 at the last meeting of this Commission, as you know.

12 COMMISSIONER BRACERAS: We actually didn't
13 discuss these precise questions. I've reviewed the
14 transcript thoroughly. These questions were not answered.

15 CHAIRPERSON BERRY: Commissioner Braceras, we
16 issued a press release stating that the Commission is
17 paying Paul Weiss Rifkind. It's in the press wire.
18 There's no --

19 COMMISSIONER BRACERAS: Actually, that press
20 release was never sent to me. It may have been sent to
21 other commissioners. It was not sent to me.

22 CHAIRPERSON BERRY: Well, it should have
23 been. If it wasn't, could you send her the press release?

24 COMMISSIONER BRACERAS: And it did not answer
25 the question under what authority the Commission is

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1 entitled to do that. I understand that you're doing it.
2 I'd just like to know under what authority you're doing it.

3 CHAIRPERSON BERRY: Commissioner Braceras,
4 and the authority, the Commission voted last time at this
5 meeting, when we met last month, the Commission voted, did
6 we not?

7 COMMISSIONER MEEKS: Yes, we did.

8 COMMISSIONER BRACERAS: That wasn't the
9 question, actually.

10 CHAIRPERSON BERRY: Ratify, reaffirm our
11 support of the staff director in engaging counsel, if I
12 recall correctly. Did we do that last time?

13 COMMISSIONER BRACERAS: Oh, I understand that
14 that's what was done.

15 CHAIRPERSON BERRY: And, in fact, the
16 Commission has done this. We have ratified this. The
17 staff director is acting under our --

18 COMMISSIONER BRACERAS: Retroactively.

19 CHAIRPERSON BERRY: The staff director, we
20 said in our motion last time, and this is the policy, has
21 the authority to contract for services so long as he's
22 doing it consistent with Commission policy, which was to
23 defend our interpretation of our statute, and that is what
24 he did. Last time, we voted on a motion to say we
25 commended him, as a matter of fact, for going out and being

1 aggressive about doing this.

2 Now, the specific matters that you want
3 answers to are related to the litigation, which is in
4 court.

5 COMMISSIONER BRACERAS: Actually, they're
6 not. They're related to the institutional --

7 CHAIRPERSON BERRY: In my view, they are, and
8 if --

9 COMMISSIONER BRACERAS: -- authority of this
10 body.

11 CHAIRPERSON BERRY: If commissioners
12 disagree, then we can have a motion and we can vote on it,
13 but in my view, they are related to the litigation.

14 COMMISSIONER BRACERAS: I have a point of
15 order, Madame Chair.

16 CHAIRPERSON BERRY: They're related to the
17 litigation, and if you wish to continue, I'll let you in
18 just a second, but in my view, they're related to the
19 litigation. If the Commission would like to vote otherwise
20 and discuss those matters here, that's fine.

21 COMMISSIONER BRACERAS: No, no, no, I have a
22 point of order, okay? This is not an issue for the
23 Commission to vote on. In my understanding, any
24 commissioner can at any time request information from the
25 staff. The staff of this body does not work for you. The

1 staff of this body works for all commissioners, and I think
2 that any commissioner at any point in time can pick up the
3 phone or write a letter to the member of the staff and
4 request information about what the staff is doing.

5 This is not an unreasonable request. This
6 request is not particularly related to the litigation, the
7 first two questions are not. I am interested in knowing,
8 going forward, the statutory or regulatory authority that
9 allows this body to take certain actions. I am an
10 attorney. I want to make sure that we're doing things by
11 the letter of the law. I think the taxpayers have a right
12 to know how their funds are being spent. I am interested
13 in openness and having a public discussion about the role
14 of this body in litigation.

15 What concerns me is that these things were
16 done without a vote of the Commission. I understand that
17 the Commission voted retroactively to approve Mr. Jin's
18 decision, but that does not answer the institutional
19 question of what legal authority A, gives the Commission
20 the right to hire outside counsel and litigate. I'm just
21 curious. I think I have a right to know what legal
22 authority allows us to do that because none has been
23 pointed to me.

24 CHAIRPERSON BERRY: Can the court --

25 COMMISSIONER BRACERAS: Excuse me. The court

1 did not address that question. I've read all the materials
2 very carefully. Excuse me. I have read all the materials
3 very carefully. What the court held in U.S. vs. Wilson,
4 the court approved a motion to intervene. She allowed the
5 Commission to intervene. She did not cite a single statute
6 saying under what authority the Commission could hire
7 outside counsel. That issue was not briefed. That issue
8 was not argued. That issue was not addressed by the judge.

9 This is not a question of whether the
10 Commission -- I did not ask whether the Commission could
11 necessarily come into the litigation. What I am asking is
12 that under what authority the Commission can use taxpayer
13 funds to hire an outside law firm to do anything. What I
14 specifically want to know, in addition to that, is under
15 what authority the staff director could make such a policy
16 decision without a vote of the full body. Now, I know it
17 was retroactively voted on, but I want to know what gave
18 him the authority to do it in the first instance.

19 Thirdly, I think that the taxpayers have a
20 right to know how much money has been spent by this body on
21 this litigation. I'm not arguing the propriety of the
22 litigation or anything of that nature. I just think there
23 should be openness with respect to how taxpayer funds are
24 spent.

25 If the staff director did not see fit to

1 answer a questions from a sitting commissioner on a matter
2 of public import, then I'll simply file a FOIA request and
3 get the information that way, but this is a very reasonable
4 request.

5 CHAIRPERSON BERRY: What information would
6 you like?

7 COMMISSIONER BRACERAS: The exact information
8 I requested in my letter.

9 CHAIRPERSON BERRY: What information
10 specifically would you like to know today?

11 COMMISSIONER BRACERAS: My letter is right
12 here. I read the question into the record.

13 CHAIRPERSON BERRY: What would you like to
14 know?

15 COMMISSIONER BRACERAS: I just told you.

16 CHAIRPERSON BERRY: Just tell me the specific
17 question, and ask and then answered. Is the question
18 whether we hired Paul Weiss? Yes.

19 COMMISSIONER BRACERAS: Do you want me to
20 read the questions again into the record?

21 CHAIRPERSON BERRY: No. If your question is
22 did we hire Paul Weiss Rifkind, the answer is yes.

23 COMMISSIONER BRACERAS: That's not the
24 question, okay?

25 CHAIRPERSON BERRY: If the question is how

1 much are we paying them, staff director, how much have we
2 contracted to pay Paul Weiss Rifkind?

3 STAFF DIRECTOR JIN: Under the purchase
4 order, we are paying Paul Weiss \$1,000 for legal services
5 related.

6 COMMISSIONER BRACERAS: Flat fee?

7 STAFF DIRECTOR JIN: Flat fee.

8 COMMISSIONER BRACERAS: Okay. That's fine.

9 CHAIRPERSON BERRY: What else would you like
10 to know?

11 COMMISSIONER BRACERAS: Under what legal
12 authority and under what circumstances may the Commission
13 obtain outside counsel, and I am asking for the citation to
14 the relevant statute, regulation, policy, rule, guidance,
15 something legally binding.

16 CHAIRPERSON BERRY: General counsel, would
17 you answer --

18 COMMISSIONER BRACERAS: I'd be happy to have
19 a written legal opinion --

20 CHAIRPERSON BERRY: No, no, she's going to
21 answer you right now, because I think that the audience
22 needs to hear this. Go right ahead.

23 COMMISSIONER BRACERAS: Fine, that's all I've
24 been looking for, is an answer.

25 CHAIRPERSON BERRY: Go right ahead, answer

1 her.

2 MS. CARR: I think your question raises two
3 issues. As you know, when the Commission agreed to
4 intervene, it was the Justice Department's position that
5 the Justice Department was the only agency that could
6 represent the Commission. That raised the issue of a
7 conflict of interest because clearly, the Justice
8 Department had taken a position inconsistent with the
9 Commission's view in terms of the law and the need to
10 protect the Commission's independence. Therefore --

11 COMMISSIONER BRACERAS: I'm not asking about
12 intervention. I'm asking about hiring.

13 CHAIRPERSON BERRY: Commissioner Braceras,
14 could you please let her answer the question?

15 COMMISSIONER BRACERAS: Okay.

16 CHAIRPERSON BERRY: She's trying to answer
17 it.

18 COMMISSIONER BRACERAS: She's answering the
19 wrong question.

20 CHAIRPERSON BERRY: And when she's finished,
21 if you're not satisfied, I'll permit you to ask her another
22 question.

23 COMMISSIONER BRACERAS: Okay.

24 CHAIRPERSON BERRY: But could you please let
25 her finish?

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COMMISSIONER BRACERAS: Sure.

MS. CARR: So, therefore, because of the Justice Department's position and the Commission's desire to intervene, the two issues became intertwined. Therefore, when the court ruled that the Commission had a right to intervene to protect its interest, it created the need, legally and factually, to have counsel to represent it.

While the Justice Department relies on a particular statute concerning its counsel as being counsel for all federal agencies, that same statute also says that there were exceptions, either written into it or that could be recognized later to allow for government agencies to use counsel outside the Justice Department.

CHAIRPERSON BERRY: Now, would you like to ask her another question?

COMMISSIONER BRACERAS: Yes. Can you please cite the statute or the rule that allows this Commission to hire an outside law firm? I mean, my understanding is that you're our attorney, and I'm wondering what the need is to have to hire Paul Weiss Rifkind, Wharton & Garrison.

MS. CARR: Well, there are several examples of occasions when the General Counsel's Office is not representing Commission interests directly, and it most often happens in employment cases, but it happens in other

1 instances as well. So, hiring of outside counsel has not
2 been inconsistent with the internal practices of the
3 Commission.

4 COMMISSIONER BRACERAS: I'm not asking you
5 about past practice. I'm asking you for the legal
6 authority.

7 MS. CARR: And it's not prohibited expressly
8 by any statute.

9 COMMISSIONER BRACERAS: Okay, just to be
10 clear, you base your decision on the fact that in your
11 view, there's nothing that prohibits it, therefore, you are
12 entitled to make that decision.

13 MS. CARR: Well, let's be clear. My view is
14 that based on the Justice Department's interpretation of
15 the federal statute which names them as legal counsel for
16 all federal agencies, that that statute recognizes that
17 there are exceptions and that the actual litigation would
18 fall under the spirit of the statute that recognizes
19 exceptions in cases where there is conflict of interest.

20 CHAIRPERSON BERRY: Commissioner Meeks?

21 COMMISSIONER MEEKS: I just ask that we move
22 past this discussion. We've got some important things on
23 the agenda today, and this is just taking up time that I
24 think doesn't need to be discussed at this point.

25 COMMISSIONER BRACERAS: That's fine, but I'd

1 like to be perfectly clear.

2 COMMISSIONER MEEKS: And I want to say one
3 more point on that.

4 CHAIRPERSON BERRY: Commissioner Braceras,
5 would you please not address another commissioner directly
6 and be recognized, please.

7 COMMISSIONER MEEKS: I mean, it sounds like
8 it's a fairly nominal fee that we're paying Rifkind. You
9 know, I would like to know how much, you know, it's costing
10 taxpayers for the U.S. to appeal this case, and I think it
11 will be plenty more.

12 CHAIRPERSON BERRY: You mean how much the
13 Justice Department -- I didn't understand you, Elsie.

14 COMMISSIONER MEEKS: Yes. I just think that
15 the amount the taxpayers are going to end up paying to
16 appeal this case is, you know, far beyond what we're
17 paying, but I opt that we move on.

18 CHAIRPERSON BERRY: Now, we've told you how
19 much they're getting paid. The counsel has told you the
20 legal authority. So, was there some other question that
21 you had?

22 COMMISSIONER BRACERAS: Yes, there is, and
23 let me just say that this is not even -- this goes beyond
24 these specific questions. The resistance and the hostility
25 of the staff to answering legitimate questions the

1 commissioners may have, I'm sorry, but Ms. Carr just gave a
2 perfectly reasonable answer. I may not agree with that
3 answer, but it was a perfectly reasonable answer, and
4 there's no reason that Mr. Jin couldn't have answered my
5 letters stating precisely that.

6 Now, all I'm asking is that sitting
7 commissioners be given enough respect that the staff can
8 answer legitimate question they may have with good faith
9 answers like Ms. Carr just gave. It doesn't mean we all
10 have to agree on what the answer is, but when commissioners
11 have questions about how this agency is being run, I think
12 they have a right to have them answered.

13 CHAIRPERSON BERRY: Vice Chair?

14 VICE CHAIRPERSON REYNOSO: Madame Chair, I've
15 reviewed the correspondence between the staff director and
16 Commissioner Braceras. The staff director did answer.

17 COMMISSIONER BRACERAS: No, he didn't.

18 VICE CHAIRPERSON REYNOSO: It seems to me
19 that the commissioner was unhappy with the answer. He
20 indeed sent to her a copy of all of the briefs which say
21 exactly what the general counsel has just said.

22 COMMISSIONER BRACERAS: They actually do not.

23 VICE CHAIRPERSON REYNOSO: So, with due
24 respect, and so it seems to me that there was an answer.
25 What we have here is a dissatisfaction with the answer.

1 That's now, however, the way it was stated. It was stated
2 that there was no answer, et cetera. I think it's unfair
3 and unjust and a sad indication, and one that's not
4 correct, as to the activity of the staff director and the
5 staff. I think they always, in my view, they've tried to
6 be responsive, and I think they were responsive on this
7 occasion. There is simply disagreement with that response.

8 - COMMISSIONER BRACERAS: You know what, that's
9 very disingenuous. And I will simply say that since I came
10 to this Commission two months ago, and I've had the
11 opportunity to send two letters to the staff director, he
12 didn't have the common courtesy to either answer them or
13 pick up the phone and call me and say, I received your
14 letter. Let me explain what's going on.

15 Now, that is not the way to run an
16 organization. We are all supposed to be concerned here
17 about the preservation of Civil Rights. Let's try to work
18 collegially, and the first step in that process could be
19 acknowledging somebody's correspondence to you. I mean,
20 how can we move forward on anything else when people won't
21 even answer your letters?

22 CHAIRPERSON BERRY: I think it's a good point
23 that Commissioner Meeks made, that perhaps we ought to
24 think about the guests that we have here from our State
25 Advisory Committee Chairs who are here to speak to us this

1 morning. In a few minutes, we should do that.

2 I also point out to you that the Commission
3 agreed some months ago that the staff director was not
4 required to send detailed answers to commissioners when
5 they write to him in writing, and that he could, in fact,
6 either have his assistant call their assistant or in some
7 other way respond rather than sitting down and writing
8 letters.

9 COMMISSIONER BRACERAS: Well, that wasn't
10 done either.

11 CHAIRPERSON BERRY: So, therefore, I will, if
12 it is indeed true that no one called you to respond, then I
13 would hope and encourage them to do so, but I also think
14 that the Vice Chair is correct, that what we should do is
15 acknowledge when the staff is being responsive. I agree
16 with him, that we even talked last time about sending the
17 briefs. I'm glad you reminded me.

18 We said when this question came up that the
19 briefs should be sent to all of the commissioners so that
20 they could read the arguments in the briefs, and they would
21 see what argument was being made, and I had forgotten that
22 we did that.

23 Now, Commissioner Thernstrom wants to speak.

24 COMMISSIONER THERNSTROM: I don't think that
25 the whole Commission agreed. I think it was a statement by

1 the Chair, but let me make another point here, two other
2 points. One, we hadn't heard the \$1,000 figure before, and
3 of course, that was part of Commissioner Bracer's
4 question, and it does raise an interesting question for me
5 immediately. That's not the usual fee for Paul Weiss. So,
6 that means that, in part, they are doing pro bono work for
7 us, which has been an issue before this Commission, whether
8 people can do pro bono work for us.

9 That's one question. Two, I would like to
10 thank the staff director for forwarding the transcript of
11 the last meeting in the electronic form. I very much
12 appreciate that that process has started. But, I would
13 also like them to be sent in a timely manner. I understand
14 that the last set of transcripts took longer than usual,
15 but the record remains only open for 30 days, and it took
16 18 days to get a copy of the transcript of the hearing.

17 So, I'd like to request, reiterate my
18 request, that the transcript records be forwarded in a
19 timely manner. I'd like to move, in fact, that the record
20 of the hearings remain open for 60 days after a hearing so
21 the commissioners can have appropriate time to submit
22 questions in writing.

23 CHAIRPERSON BERRY: Isn't that a regulation,
24 or is it a policy? Do you care?

25 General counsel said she doesn't care if we

1 keep the record open for 60 days. So, without objection,
2 why don't we just keep it open for 60 days, if nobody cares
3 one way or the other.

4 COMMISSIONER THERNSTROM: Okay, and the final
5 thing, just to go back for a second to the press releases,
6 I wonder, given the fact that there's usually plenty of
7 time, whether we couldn't just see press releases before
8 they're sent out. You don't have to listen to, you know,
9 but if there were small items in the press release that one
10 of us wanted to change, surely we could just run it past
11 you. Would you mind, going out in the Commission's name?

12 CHAIRPERSON BERRY: Well, you have a
13 discussion with the staff director about that. Why don't
14 you guys talk about that?

15 COMMISSIONER THERNSTROM: All right. I have
16 tried to bring this up with the staff director before, and
17 I was told that I had to bring it up at the meeting. I
18 didn't understand why I had to bring it up at the meeting,
19 but I'm delighted to.

20 CHAIRPERSON BERRY: Do you want a motion or
21 something?

22 COMMISSIONER THERNSTROM: No, you know, if we
23 can have a conversation about it. I was told I had to
24 bring it up at the meeting.

25 CHAIRPERSON BERRY: The staff director wants

1 to say something.

2 STAFF DIRECTOR JIN: Commissioner Thernstrom,
3 I think the question that you had raised previously was the
4 fact that at the bottom of the press release, we identify
5 all the commissioners, and my understanding is that's a
6 long standing Commission policy. So, that was one of the
7 things that I indicated that if the commissioners wanted me
8 to change, I would change but that I didn't feel that
9 unilaterally I could change.

10 In terms of the other things, again, I will
11 follow whatever guidance that the commissioners give me.

12 COMMISSIONER THERNSTROM: I'd just like to
13 see a press release before it went out, especially when
14 there's plenty of time to do so, because if I have a small
15 suggestion, you know, I'd just like to run it past you.

16 STAFF DIRECTOR JIN: Just my only concern, I
17 raise this as a concern, not as an objection, is that I
18 would hope that there would be clarity as to how I'm
19 supposed to respond to your suggestion.

20 COMMISSIONER THERNSTROM: Look, your
21 authority. All I would just like the chance to put my two
22 cents in. You throw it in the wastepaper basket or you
23 don't, whatever.

24 CHAIRPERSON BERRY: Why don't we just leave
25 it that, unless somebody's got a motion, that if there's a

1 lot of time --

2 COMMISSIONER THERNSTROM: Well, there's a lot
3 of time.

4 CHAIRPERSON BERRY: If there's time, the
5 staff director will ask Commissioner Thernstrom what she
6 thinks about --

7 COMMISSIONER THERNSTROM: I mean, we always
8 have e-mail. I'm not sure why e-mail is never used to
9 communicate. We all have it. Send it to me by e-mail.

10 CHAIRPERSON BERRY: So, why don't we just say
11 that if there's time and the staff director, you see if,
12 you know, share it, and see if she's got anything that she
13 wants to say.

14 Yes, Commissioner Wilson?

15 COMMISSIONER WILSON: Well, theoretically it
16 sounds like a good idea. However, I do want to say that
17 Commissioner Thernstrom did say that she had a small little
18 change. However, if on the chance that she has a large
19 little change, we then open up this process of voting on
20 the press release and then --

21 COMMISSIONER THERNSTROM: I'm not suggesting
22 that --

23 COMMISSIONER WILSON: Excuse me. Excuse me.
24 I would like --

25 COMMISSIONER THERNSTROM: Okay, I'm just not

1 suggesting that.

2 COMMISSIONER WILSON: Please. I absolutely
3 request that the Chairperson go through the rules of
4 decorum in terms of cross-talk and civility in the way that
5 commissioners speak in this Commission. I have been on
6 this Commission since January of 2000, and please, I just
7 request that you would go through that when I'm finished
8 speaking.

9 The only thing I want to say is that if one's
10 suggestion is not incorporated into the Commission press
11 release, I would hope that I then don't have to read in the
12 press that the Chairperson is accused of being a book
13 burner and other accusations of that sort. If it's going
14 to open the door to more accusations and more
15 victimization, I'm absolutely opposed to it.

16 CHAIRPERSON BERRY: Well, we haven't done
17 anything except to say that if there's time, then the staff
18 director will ask Commissioner Thernstrom if she has some
19 ideas for this, and I would hope that we would leave it at
20 that.

21 As for the rules about decorum, I mean, I've
22 stated them several times. I mean, I've asked people not
23 to speak when other people are speaking and to speak only
24 when they're recognized and the like, and giving some
25 latitude to it. So, I'll repeat it again. Please speak

1 only when you're recognized, and please don't speak when
2 other people are speaking. Please be courteous to your
3 colleagues. Let us do everything in decency and order.
4 So, now I've stated it. Let's see if it does any good.

5 COMMISSIONER WILSON: Thank you.

6 CHAIRPERSON BERRY: Commissioner Meeks, were
7 you about to say something?

8 COMMISSIONER MEEKS: I'm just asking, once
9 again, that we move forward with the agenda.

10 CHAIRPERSON BERRY: Okay, let's move the
11 agenda.

12 **IV. State Advisory Appointments for Alabama,**
13 **the District of Columbia, Maryland, Virginia**
14 **and West Virginia**

15 Now we have state advisory appointments for
16 Alabama, the District of Columbia, Maryland, Virginia, and
17 West Virginia. Could I get a motion to approve the
18 appointments?

19 VICE CHAIRPERSON REYNOSO: So moved.

20 CHAIRPERSON BERRY: Could I get a second?

21 COMMISSIONER MEEKS: Second.

22 CHAIRPERSON BERRY: All if favor, indicate by
23 saying aye.

24 (Chorus of ayes.)

25 CHAIRPERSON BERRY: Opposed?

1 (No response.)

2 CHAIRPERSON BERRY: So ordered.

3 STAFF DIRECTOR JIN: Madame Chair, I need to
4 add one thing here, and I apologize if I preempted what you
5 were about to say anyway. For all of those states except
6 District of Columbia, we also have chair nominees that
7 statements have been forwarded to the Commission.

8 CHAIRPERSON BERRY: Right.

9 STAFF DIRECTOR JIN: And so, that needs to
10 either be approved, or it needs to be understood that that
11 was part of the approval. We don't have it for the
12 District of Columbia. In addition, the Mississippi chair
13 statement was provided to the commissioners for the last
14 meeting, and we ask that chair be approved also.

15 CHAIRPERSON BERRY: Well, we saw Mississippi
16 from last time.

17 STAFF DIRECTOR JIN: Yes, we did.

18 CHAIRPERSON BERRY: We'll have to have
19 another motion for Mississippi.

20 STAFF DIRECTOR JIN: Okay.

21 CHAIRPERSON BERRY: Okay, now we need a
22 motion for -- and the one for the District of Columbia, I
23 understand, is coming.

24 STAFF DIRECTOR JIN: The District of Columbia
25 one, we believe is coming, but what we're going to do is if

1 it's, you know --

2 CHAIRPERSON BERRY: Do you want me to modify
3 the motion to exclude the District of Columbia?

4 STAFF DIRECTOR JIN: Yes, we would.

5 CHAIRPERSON BERRY: All right. Let's do this
6 again. The motion then is -- this is a second motion. The
7 motion is that we rescind the approval of the District of
8 Columbia, and somebody will have to make this.

9 STAFF DIRECTOR JIN: It's just for the chair,
10 Madame Chair.

11 CHAIRPERSON BERRY: Just for the chair on
12 that committee insofar as that is concerned, and that we
13 approve the Mississippi chair, whose statement we got the
14 last time. Could somebody make that?

15 COMMISSIONER MEEKS: I'll move.

16 CHAIRPERSON BERRY: All right. Could I get a
17 second?

18 VICE CHAIRPERSON REYNOSO: Second.

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

21 (Chorus of ayes.)

22 CHAIRPERSON BERRY: Opposed?

23 (No response.)

24 **V. Reports of State Advisory Committee Chairs**

25 CHAIRPERSON BERRY: So ordered. Now, we have

1 reports from a number of state advisory committee chairs
2 about their activities in their state. They came yesterday
3 to meet with us.

4 We had some discussions with them yesterday,
5 and we now would like the regional directors to come
6 forward to give a brief summary of the state in their
7 region, and we're going to do that in order, if I can find
8 my piece of paper that has the names of the people that I'm
9 supposed to be -- first is the Eastern Region, and that
10 will be Ki-Taek Chun, who is the Eastern Regional Director,
11 and the New Jersey SAC Chair, Leanna Brown was here
12 yesterday and had to return.

13 STAFF DIRECTOR JIN: Mr. Chun will give a
14 very, very brief statement about his region. Normally when
15 the other SAC chairs are here, he would basically just
16 introduce the SAC chairs, but since there are no SAC chairs
17 here present from the Eastern Regional Office, Mr. Chun
18 will just give a short summary.

19 MR. CHUN: I will make it really short.

20 CHAIRPERSON BERRY: Go right ahead, Ki-Taek.
21 Speak up.

22 MR. CHUN: Can you hear me? Now, as a way to
23 just bring you up to date on what we've been up to, pretty
24 soon you will be receiving a report from Pennsylvania SAC
25 on various issues facing minority and women owned small

1 businesses. It's being cleaned up. I think in just
2 another week or two I think you will be receiving that for
3 your action.

4 Then after that, we have finished a report by
5 West Virginia SAC, which the SAC is now in the process of
6 voting on. After that, we'll go through the review process
7 of both the internal and external, and then it will come to
8 your attention. After that, we have in the pipeline making
9 reports by Maryland, New Jersey, and Connecticut SAC, and I
10 hope these are the ones that hopefully we can finish before
11 the end of the current fiscal year.

12 On top of that, just one more thing in the
13 interest of time, in the aftermath of the 9/11 tragedy, the
14 three advisory committees in Virginia, New Jersey, and
15 Maryland, we have formed an interstate committee, and we
16 have met several times, and we are planning to hold a
17 forum, addressing in late April or early May. So, this is
18 unique in the sense of three SAC's who are undertaking
19 these joint activities, addressing five issues.

20 One is understanding Islam in the aftermath
21 of 9/11, and briefs of the panel on that. Another panel
22 issue on the historical review of the national crises and
23 the government actions in the recent past, maybe going back
24 to second World War. The third issue is going to be
25 Patriots Act, Civil Rights concerns, and government

1 responses. So, we plan to invite some of the advocacy
2 organizations and the federal government officials to
3 respond to it, particularly the newly created Inspector
4 General's Office in DOJ.

5 Then we will be addressing concerns and fears
6 of the at-risk or affected communities. We are thinking of
7 maybe inviting representatives of at least four or five at-
8 risk groups. Muslim-American, let's say Arab-Muslim
9 communities, African American Muslim communities, Muslim
10 women, and the Sikhs. Perhaps we may add one or two more,
11 depending.

12 Then we would be interested in knowing
13 something about the actions taken by local governments,
14 state and local governments in the three jurisdictions.
15 That will be taking place, as I said, in late April or
16 early May. Then soon thereafter, you will be receiving a
17 transcript, and the staff director's office will make
18 something out of it.

19 The committee is actively exploring the
20 possibility or advisability, let's say, of putting together
21 a collection of invited essays or papers addressing how
22 best to PR for the public education, how the public should
23 understand Islam, particularly in the aftermath of 9/11.
24 There are books out there, but it really isn't addressed
25 for general public consumption. I think we think it is

1 very a much needed area, and we are leaning toward, and the
2 advice seems to be getting stronger and stronger that we do
3 it as a, shall you say, appendix or addendum to this forum.

4 So, I thought I would let you know.

5 CHAIRPERSON BERRY: Okay.

6 MR. CHUN: I don't think I have anymore time,
7 do I?

8 CHAIRPERSON BERRY: When is that forum?

9 MR. CHUN: We are contemplating four days
10 doing the processing of canvassing our members. The last
11 two days in April and the first two days in May.

12 COMMISSIONER BRACERAS: And I'm sorry, where
13 will that be?

14 MR. CHUN: Where will it be?

15 COMMISSIONER BRACERAS: Yes.

16 MR. CHUN: Well, we are considering a couple
17 of venues. The prevailing sentiment is let's have it in
18 neutral ground rather than at the Commission or mosque.
19 Then the question is where, and once the location has been
20 maybe, places like Howard campus. So, this is a wide open
21 campus, and we really have to pay a really high degree of
22 sensitivity because I think it will attract some publicity,
23 and we don't want to be misperceived in any fashion.

24 So, it will take some give and take, show
25 that that kind of academic setting -- if we can afford,

1 perhaps we can find a place like the Lincoln Center where
2 the facility is very amicable and accessible to all kinds
3 of people. So, that may be one choice, but the other will
4 be dictated by financial consideration. So, we just
5 haven't gone through that process of narrowing down and
6 when.

7 CHAIRPERSON BERRY: But here in D.C?

8 MR. CHUN: That would be our preference, but
9 then the fact would be sort of collectively deciding on
10 that.

11 CHAIRPERSON BERRY: Okay, Ki-Taek, thank you
12 very much.

13 Then we have the southern region, Bobby
14 Doctor, who is the regional director. He has Bishop Smith,
15 Johnny Smith from South Carolina, Ms. June Littler from
16 Florida, Carol Berz from Tennessee, and Wyatt Kirk from
17 North Carolina.

18 Okay, Bobby, welcome

19 MR. DOCTOR: Ladies and gentlemen of the
20 Commission.

21 VICE CHAIRPERSON REYNOSO: You're well
22 represented today.

23 MR. DOCTOR: Indeed we are. There's no
24 question about that, but we bring you greetings from the
25 deep south. There, too, we have a number of problems that

1 still exist in our region. In Florida, for example, we
2 have been focusing a great deal of attention on the subject
3 of police-community relations.

4 We obviously have also looked at the question
5 of public employment in Ft. Lauderdale. We have had a
6 number of meetings, that is, staff and SAC members, with
7 the U.S. Attorney, as well as some four different police
8 chiefs in South Florida, as well as the city manager of Ft.
9 Lauderdale. You may well have heard that there have been
10 some 13 indictments of some 13 police officers in Miami,
11 charges ranging from murder to conspiracy to commit murder,
12 and we have followed with a great deal of interest those
13 developments.

14 We also have spent a great deal of time in
15 Tampa, Florida dealing with the question of the HUD Hope VI
16 project and the impact it's having on public housing
17 tenants in both Tampa and St. Petersburg. We've also
18 followed with a great deal of interest developments out at
19 the University of South Florida, as they relate to the
20 women's basketball program there, which very clearly is in
21 litigation right now.

22 Some 13 black female basketball players are
23 alleging that there is widespread discrimination in the
24 basketball program there. As a result of those allegation,
25 the basketball coach has been terminated, and of course,

1 the athletics director has also been terminated. So, we
2 continue to follow that with a great deal of interest.

3 We also are very much concerned about a
4 professor who obviously has been displaced or terminated
5 from the University, allegedly because he poses a threat to
6 security on the campus. He's a tenured professor. That
7 case is in court right now, and because of his
8 participation in a forum we had down there most recently,
9 we also hope to move to Miami to look at the question of
10 the civil rights there of Americans, post 911. In a number
11 of other states, for example, Tennessee and North Carolina,
12 we're focusing on Title VI and the impact that Title VI is
13 having on the whole question of contracts both at the state
14 level as well as the local levels.

15 We are joined today by June Littler, who
16 chairs our Florida committee, Carol Berz, who obviously
17 chairs our Tennessee committee, Dr. Wyatt Kirk, who chairs
18 our North Carolina committee, and Bishop Johnny Smith, who
19 chairs the South Carolina committee. We'll hear from June
20 at this point.

21 MS. LITTLER: Well, he said everything I was
22 going to say except that I will add that Miami and many
23 other places are in the midst of culture clash. Not enough
24 of us have yet figured out that in the family of man, our
25 kinship with each other is more like cousins, I think, and

1 that the only differences we have are minor idiosyncrasies,
2 and we are not aliens or they aren't either, from either
3 another continent or another planet.

4 It is my hope that we can change the
5 strategies of confrontation of 30 years ago and progress to
6 another level, emphasizing education for tolerance. We've
7 talked with those police chiefs many times, but they keep
8 turning over. So, we have new people to talk to and
9 educate all the time. I think you're right, education is
10 our main forte.

11 There's plenty for us to do so that people
12 are not unfairly deprived of their civil rights.

13 CHAIRPERSON BERRY: Thank you.

14 MS. BERZ: Good morning, ladies and
15 gentlemen. Carol Berz from Tennessee.

16 CHAIRPERSON BERRY: Good morning.

17 MS. BERZ: We have already finished our Title
18 VI study going across the state and speaking with folks,
19 and that's in the pipeline somewhere to get to you all. It
20 was a terrific experience, just a terrific experience.

21 We're changing our focus a little bit, and
22 you will see me talking about that when I fill out the
23 questionnaire for me if I'm okay and approved as the chair,
24 and that's women's issues. I have the pleasure of serving
25 on, at the pleasure of the governor, the Economic Council

1 on Women in Tennessee, and we are very much in favor of
2 self sufficiency and people reaching their highest
3 potential. However, the infrastructure isn't there, as
4 many of you well know.

5 That has to do with the educational system,
6 with the health care system, with the child care system,
7 and other supported systems, not to mention the pay scales,
8 glass ceilings and all those things that, ladies and
9 gentlemen, unfortunately are back on the drawing board
10 again and that we need to take a serious look at for true
11 equity.

12 So, that's what we will be looking at. The
13 other issue that is always around that we continue to look
14 at is police brutality, police-community relations, which
15 after 9/11, seems to be on the rise again because I think
16 of a whole nation's insecurity.

17 I'd be happy to answer any questions.

18 MR. DOCTOR: I think it's also interesting to
19 note, if I may very quickly point out, that Tennessee is
20 the only state in the region which has passed its own
21 version of Title VI, one of the few states, if not the only
22 state, in the country that's done so. As you well know,
23 Title VI clearly forbids, prohibits, discrimination in the
24 use of federally assisted monies in federally assisted
25 program.

1 Obviously, the state of Tennessee, by
2 definition, is a federally assisted program. So, it's most
3 interesting to point out that they've passed their own
4 version of Title VI.

5 MR. KIRK: Yes, good morning. I just gave to
6 Ivy a report from North Carolina, asking that you give us
7 permission to go ahead and hold hearings on Title VI to
8 present some evidence. We have serious problems in North
9 Carolina, and I understand as of Wednesday, that the
10 Justice Department was on ground in North Carolina looking
11 at Title VI. I presented to you a report asking that we
12 hold hearings as quickly as we can to get to the root of
13 this.

14 There have been many complaints and suits,
15 and none of them have gone anyplace. I'm working with the
16 Legislative Black Caucus. They're trying to get from the
17 governor information on how he treats Title VI, or what
18 they know, but we must do something in North Carolina on
19 Title VI as soon as possible. Minorities and women are
20 suffering in terms of bids, contracts, and being able to
21 get a fair shake at what goes on. That's our goal. We
22 want to get these hearings on as soon as possible. We need
23 approval from you all.

24 CHAIRPERSON BERRY: Okay, Dr, Kirk. Hello,
25 Bishop, good morning to you.

1 MR. SMITH: Good morning. We have been
2 looking at the Hope Title VI program. It was our hope that
3 the Hope Program would really bring about an integration of
4 perhaps middle class and lower class together, and the
5 housing situation that would make the entire community
6 better.

7 What's happening is that people are asked to
8 leave their communities. They demolish the housing, and
9 there's no place for them to go. So, what was intended for
10 good is really turning out to be very bad. That's one of
11 the issues that we're looking at.

12 Everyone's mentioned, and I might say that
13 South Carolina is not in compliance with Title VI. That's
14 the second thing. I listened to HUD representatives
15 yesterday, and I'm just wondering how HUD or how government
16 on this level or in Washington feels about Title VI because
17 it's a mess.

18 The third issue -- there are many, but the
19 third is educational reform in South Carolina. We've
20 passed what is called the Education Accountability Act of
21 1998. The act has been passed, but there are flaws in it
22 that perhaps affects those poorer people in the state. For
23 example, the Act sets standards for improving the state's K
24 through 12 educational system.

25 There is what is called a report card that

1 comes out, and the report card is based on how much
2 community support is given to the schools as well as state
3 support in those areas that are not affluent cannot
4 support. What, again, was intended to be good has turned
5 out to be somewhat bad.

6 Now, we've had hearings on this Educational
7 Accountability Act, as Mr. Doctor will tell you, and there
8 is great concern on the part of the business community
9 having people remain in South Carolina. Seemingly, if they
10 get to the college level, they leave the state. They go
11 someplace else, and there is an influx into South Carolina,
12 but the work force is going to be greatly affected by this.

13 So, we need to look further and hold their feet to the
14 fire on this Educational Accountability Act.

15 CHAIRPERSON BERRY: What we're going to do is
16 the reason why we're not going to ask you questions is
17 because we don't have time, and because we did have
18 discussions with you yesterday, and because we wanted to
19 get this on the record and have you present this here in
20 this forum.

21 There will be follow-up with you as you
22 embark on these various projects and we'll follow up. The
23 reason why we're not doing it is we have the hearing. You
24 understand that, and I think you knew that before you sat
25 down. So, appreciate your telling us that, and we will

1 follow up on it.

2 Yes, Bob?

3 MR. DOCTOR: Madame Chair, just two comments,
4 if I may, before we leave. There is without question on
5 the HUD Hope VI project the mass demolition of public
6 housing projects throughout the deep south, and a lot of
7 poor people, a lot of minorities are being displaced.
8 They're being put out. In many instances, they're being
9 given two years of Section VIII money, and at the end of
10 the two-year period, they're on their own. So, a lot of
11 poor people are being adversely impacted by HUD's Title VI
12 program.

13 A lot of folk are also being impacted by the
14 Title VI program. In other words, every state in our
15 region probably has less than two or three percent minority
16 and women's contracts going to them at the state level.
17 Those figures may increase slightly at the local level, but
18 it's interesting, I think, to note that there is widespread
19 noncompliance with Title VI of the 1964 Civil Rights Act.

20 So, we're going to be focusing a great deal
21 of attention on those two issues, and we thank you so very
22 much for this opportunity.

23 CHAIRPERSON BERRY: Thank you. Ms. Littler
24 is demanding that she say something.

25 MS. LITTLER: I'm sorry. I neglected to

1 mention that INS problems over the years, incarcerating
2 people for long periods of time without due process.

3 CHAIRPERSON BERRY: Okay, thank you very
4 much.

5 MS. LITTLER: Thank you.

6 CHAIRPERSON BERRY: If we could now come up
7 the two groups. We want to have the Midwest Regional
8 Office and the Central Regional Office come up at the same
9 time. We're going to have David Mussatt who is here for
10 Connie Davis, the Regional Director who couldn't be here,
11 and Mr. Battle, I think, is here from Cincinnati.

12 Then we want the Central Regional Office. We
13 want Melvin Jenkins and Ms. Allen-Sommerville from Des
14 Moines, Iowa, but from Iowa state, the Cyclones, to come
15 up, and Ms. Katherine Mitchell from Arkansas come up, if
16 they would.

17 Let us start out with you, David, from
18 Chicago, please -

19 MR. MUSSATT: Okay. Thank you,
20 commissioners. Thank you for letting us be here today, the
21 regions and the SAC's. It's a good opportunity for us to
22 tell you our concerns and what's going on in our states. I
23 also send the regrets of our regional director, Connie
24 Davis, who could not be here with you.

25 Briefly, I'd like to just update you on a

1 couple of states and activities that the Midwestern
2 Regional Office is doing. On Tuesday, a proposal is going
3 to be voted on on whether or not to do a report in
4 Minnesota on media coverage of minority communities in
5 Minneapolis/St. Paul. It's actually an update of a 1993
6 report that we'd done. At that time, we had suggested that
7 we go back and do an update, and this is going to be our
8 update.

9 Also, in the state of Illinois, we are
10 planning on having a community forum in June, discussing
11 issues of Arab and Muslim Americans post-911. We're
12 planning on getting various community leaders together, and
13 also members of the FBI, INS, and other government
14 agencies.

15 I'd like to introduce now Linwood Battle. He
16 is the Chair of the Ohio SAC and a member of the SAC for
17 many, many years.

18 CHAIRPERSON BERRY: Hey, Mr. Battle.

19 MR. BATTLE: Thank you, Madame Chair,
20 commissioners. It's a pleasure to be here. We appreciate
21 the opportunity to get before you some of the issues in
22 Ohio. We had a very, very good, high energy meeting in
23 November of last year where we were rechartered, and we're
24 looking forward to a very exciting year coming up.

25 Some of the major issues in Ohio that we have

1 put back in the laps of Connie and David to do some
2 research and decide which is going to be the most
3 meaningful one for us to pursue include revisiting the hate
4 crimes, a report that we did and published with great
5 result back in the mid-90's. The reason for that is that
6 as recently as November of last year, there was a study
7 that showed that Ohio has the most racist groups in the
8 entire country. It was reported in the Cleveland Plain
9 Dealer and by the Associated Press that it's been highly
10 energized since the September 11 attacks, and we felt that
11 it would be very instructional to revisit this.

12 In the Midwest, we also had several other
13 SAC's that did hate crimes, so we have a body of
14 information, if you would, and the Commission itself has a
15 body of information, I think, that would be very helpful to
16 us in that. In addition, we are also considering profiling
17 the disability issue with children in elementary schools.
18 Even though there is a sister agency, the Department of
19 Education, who has a civil rights organization to handle
20 that, I think it can stand some additional scrutiny because
21 of the problems and opportunities for children who have
22 disabilities in elementary schools.

23 That pretty much summarizes where Ohio is,
24 and we very much appreciate the opportunity.

25 CHAIRPERSON BERRY: All right, thank you very

1 much. Now, Melvin?

2 MR. JENKINS: Good morning, commissioners.
3 From the Central Regional Office, we want to applaud your
4 efforts to hold hearings on environmental justice. In
5 1994, the Louisiana Advisory Committee was the first state
6 advisory committee to issue a report on environmental
7 justice. We're following up that report within a very few
8 weeks with our second report, which will be forwarded to
9 the commissioners on environmental justice, looking at Lake
10 Charles, Louisiana.

11 Our focus for the southern states that we
12 deal with in Alabama, Mississippi, Louisiana and to some
13 extent Arkansas has been on developing and implementing a
14 fair housing state agency, also state and local human
15 rights agencies in Alabama and Mississippi. Several years
16 ago, Madame Chair, we met with the governor of Mississippi,
17 who indicated an interest in developing a state human
18 rights agency.

19 We're moving forward by meeting with the
20 Lieutenant Governor and the speaker of the house to develop
21 legislation to be submitted this year to fully staff a
22 state agency. We're doing likewise in Alabama also.

23 We have two chairs this morning from Iowa and
24 the great state of Arkansas, and I will yield the balance
25 of my time to them.

1 CHAIRPERSON BERRY: All right. Let's go with
2 Arkansas first because A is before I. Come on, Ms.
3 Mitchell.

4 MS. MITCHELL: Good morning, commissioners.
5 I'm Katherine Mitchell, and I serve as the Chair of the
6 Arkansas SAC. We're appreciative of the assistance that we
7 have gotten from Mr. Jenkins' office in doing some things
8 in Arkansas.

9 Our focal point now is to put some teeth in a
10 civil rights law in the state. The law is there, but there
11 is no enforcement agency. We have had several meetings
12 with the governor, and we have also goyyen some of the
13 state legislators to help us. One in particular has
14 introduced and will re-introduce a bill in the session in
15 January to help us do that.

16 We have also been communicating with citizens
17 throughout the state to keep them informed and to get their
18 help in meeting with their local legislators or legislators
19 that represent their particular area to get some support in
20 order to pass legislation to establish an agency to enforce
21 the law.

22 The Attorney General's office has agreed to
23 house such an agency. We just need to make sure that the
24 funds are there in order to support that.

25 We have been on talk shows throughout the

1 state also, on the radio and TV. We're working with some
2 of the civic organizations to get them to help us to do
3 some things that we need to do in order to make sure that
4 we really have someone to enforce civil rights in Arkansas.

5 Additionally, I serve on the Little Rock
6 School Board, and I keep a watch over what happens there as
7 it relates to equity in education for not only the students
8 but for the employees.

9 CHAIRPERSON BERRY: All right. Ms. Allen-
10 Sommerville?

11 MS. ALLEN-SOMMERVILLE: Good morning,
12 commissioners. For the past three years, the Iowa SAC has
13 addressed three critical areas. One, relations and the Des
14 Moines immigrants. Two, the status of civil rights in
15 Waterloo, and three, a follow-up of the immigrant status in
16 Iowa. From those, we have identified five critical areas
17 in which we will potentially focus in the future, and those
18 five areas, and you can see the relationship and
19 connection.

20 The inequities in the criminal justice
21 system. We have found that many of our immigrants risk
22 jailing without sentencing. Number two, racial profiling.
23 Number three, police brutality. It has been found that we
24 need to critically examine the procedures that underlie
25 negative systemic practices in police departments.

1 Number four, discrimination in lending. Some
2 of the areas in the state have indicated there have been
3 discrimination in lending practices, especially in the
4 small business loans. Of course, one of the most critical
5 areas that looks toward the future of the state, the poor
6 academic achievement of minority students. Iowa has a
7 state mandated law that all of the K through University
8 curriculum must be presented from a multi-cultural agenda
9 fair approach. We are heavily monitoring the
10 implementation of that mandate.

11 CHAIRPERSON BERRY: All right. Well, I want
12 to thank you very much for the time that we spent with you
13 yesterday and today, and we will be following up with you.
14 Thank you very much.

15 MS. MITCHELL: Thank you very much.

16 CHAIRPERSON BERRY: The last group is Mr. Gil
17 Guterrez from Alaska, who is in the Western Region, John
18 Dulles from the Rocky Mountain Region, and Leo Goto from
19 Colorado, Carol Barnett from North Dakota, and Phillip
20 Caldwell from Montana.

21 Hello again. Gil, why don't you go first
22 since you're one, unless you want to -- are you going to do
23 the Western, too, John?

24 MR. DULLES: Yes. Okay, well you go ahead
25 then.

1 MR. GUITERREZ: I just expanded my reach.

2 CHAIRPERSON BERRY: Okay. Hello, John

3 MR. DULLES: Greetings from the Rocky
4 Mountain Region and the Western Region and from the mile
5 high city of Denver. Since our time is limited, I will
6 refrain from making remarks, which is difficult, but I will
7 do so. I will introduce our esteemed guest chairs.

8 We will begin with Carole Barrett, who is a
9 professor of American Indian Studies at The University of
10 Mary Bismarck. We will hear from the Reverend Phillip
11 Caldwell, who is a pastor at Mt. Olive Christian Church in
12 Great Falls, Montana. Leo Goto is at the University of
13 Denver and the President and CEO of Walsher Inn. If you're
14 ever in Denver, it's a four star restaurant, and you should
15 definitely frequent his establishment. Ever since we
16 started holding SAC meetings there, I don't worry about a
17 quorum. We always have full participation of our
18 committee.

19 Then finally, as a special, really it gives
20 me pleasure to introduce Gil Guiterrez, who is an old
21 friend from Valdez, Alaska. He started out in New Mexico,
22 and he followed the trail all the way up to Valdez. He
23 presently works for the Alieska Pipeline Supply Company.
24 So, those are the introductions, and we will begin with
25 Carole Barrett from North Dakota.

1 CHAIRPERSON BERRY: Good morning.

2 MS. BARRETT: Good morning, Chairman Berry
3 and commissioners. It's really a pleasure to get to come
4 to Washington and see the workings of the committee and to
5 get to meet people. North Dakota is the state that I
6 represent, and in late 1999, we produced a report, Civil
7 Rights Enforcement in North Dakota. In that, we were
8 critical of the state for a complete lack of a human rights
9 commission and a lack of enforcement of basic civil rights
10 within the state.

11 They have a law that's fairly good in terms
12 of providing for basic civil rights, but there's absolutely
13 no enforcement, particularly in the areas of housing and
14 employment. We see spillover issues, certainly in justice
15 issue and lending, but we really nailed down the ideas of
16 housing and employment.

17 The report continues to be a really important
18 catalyst in urging change and awareness of issues within
19 the state. It's become a document that other groups are
20 interested in, promoting the idea of the enforcement of
21 civil rights and so on, and the states has used to good
22 advantage.

23 The diligence of the regional staff as well
24 as our state advisory committee has begun to produce, I
25 think, some real positive changes. There is a Fargo Human

1 Rights Commission. There was absolute resistance to that
2 during the early days of our hearings, and the mayor of
3 Fargo came in and so on and really resisted that. Now he's
4 quite a supporter.

5 It looks like Bismarck is beginning to get
6 together a human rights commission. I think they're going
7 to have to do a little bit more work, but they'll have a
8 meeting on the 14th of February, in fact, and begin to
9 announce that they're making some efforts in that
10 direction.'

11 Those are two major cities in North Dakota,
12 and hopefully there will be some other work done. We will
13 be meeting soon. We've reorganized the committee a little
14 bit. There are some new additions, and I know all of the
15 people. I think they will be really good. We'll probably
16 be meeting initially with some immigrant issues in the
17 eastern part of the state. There have been a little bit of
18 spillover problems with 9/11, and there are some immigrant
19 issues that are raising their head in the state, and we'd
20 like to help monitor those because nobody else seems to be
21 doing very much about that.

22 Another thing we've been interested in doing
23 and would like to probably move forward on is maybe some
24 regional discussion of issues. Major issues within our
25 regional area would be in the area of American Indian

1 issues. Certainly South Dakota has had issues, and there
2 were hearings on that. There's still a lot of work to be
3 done on that.

4 North Dakota shares some of those issues, as
5 do the states of Wyoming, Montana, and also now New Mexico
6 is part of our area. There's widespread discrimination in
7 the areas of housing, employment, lending, education, and
8 justice issues, and so we'd be interested in maybe looking
9 at that as a thread to follow through as maybe a larger
10 issue.

11 CHAIRPERSON BERRY: Okay.

12 MR. DULLES: Thank you very much, Carole.
13 Reverend Caldwell from the great state of Montana.

14 MR. CALDWELL: Madame Chair, you'll forgive
15 me if I exceed my 90 seconds, but I must read this
16 recommendation that we made in our recent report.

17 In 1996, we began a study of the Native American education
18 in the state of Montana. In 2001, we completed the report.

19 The Montana Advisory Committee believes that
20 the various education entities are sincere in their goals
21 to gradually guarantee equal educational opportunities for
22 Native American children in Montana public schools. The
23 Advisory Committee believes that the laws, studies,
24 programs, and other efforts in place have provided some
25 limited benefits to Native American children.

1 However, there needs to be concrete numerical
2 goals with specific time tables established to move Indian
3 education in Montana forward. Indian children continue to
4 drop out of schools at a disproportionate rate. Indian
5 children in Montana public schools continue to have low
6 achievement scores.

7 A significant number of Indian children do
8 not graduate from high school. Few Indian children attend
9 college. Families of Indian children are unable to see a
10 bright future for their children. All too often, the Indian
11 children in Montana public schools are not excited about
12 their own future or the future of their friends and
13 relatives.

14 The Montana Advisory Committee makes the
15 following recommendations, and we made eight
16 recommendations at that time. I would conclude by reading
17 the final synopsis of federal civil rights enforcement.

18 The Advisory Committee urges that the federal
19 Civil Rights enforcement agencies responsible for insuring
20 adherence by school districts with federal education
21 mandates, the U.S. Department of Education and U.S.
22 Department of Justice, increase their monitoring and
23 compliance activities in Montana.

24 Compliance reviews of selected districts and
25 significant Native American enrollment should be undertaken

1 promptly. I'm not completely satisfied with the wording of
2 that passage because it said it urges, not mandates, that
3 these departments of education or departments of justice
4 enforce these recommendations. I would trust that somehow
5 we make some effort to have those recommendations
6 implemented in a timely manner, and we're doing all we can.

7 CHAIRPERSON BERRY: Staff director, could you
8 have somebody check probably Terry's office with the
9 Department of Education, OCR, to find out when they have
10 anything scheduled for Montana, how that is, and get back
11 to us and let us know?

12 STAFF DIRECTOR JIN: Certainly.

13 CHAIRPERSON BERRY: Thank you, Mr. Caldwell.

14 MR. DULLES: Leo Goto from Denver, Colorado.

15 MR. GOTO: Thank you very much, and thank you
16 for all your hospitality here. Recently, we've had three
17 meetings in Ft. Collins, Pueblo, and Grand Junction, two-
18 day meetings on town forum formats where local politicians,
19 police officials, and students and educational officials
20 were present.

21 I think the committee was all surprised by
22 some of the underlying tensions that existed in each one of
23 these areas. We hope to get out to more of the outlying
24 areas. Thanks to our regional director, we've had
25 excellent media relations. We've got a local and state-

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1 wide television coverage as well as newspaper coverage on
2 all of our meetings, and they've been very effective, I
3 think. Our follow-up meetings have resulted in positive
4 steps in community relations and human relations.

5 We had a very good meeting with the mayor of
6 Colorado Springs. We go to the outlying areas because
7 Denver in itself is very diverse and has an excellent human
8 relations commission, and needless to say, there are no shy
9 people in Colorado. Our committee is very active and
10 articulate, and they are certainly not prone to taking the
11 other side any time you come up with an opinion.

12 I'd like to say at this time thanks to John
13 Dulles. Our committee has been, in spite of the fact that
14 he only has two staff there, that we enjoyed being a part
15 of this commission. Thank you so much.

16 CHAIRPERSON BERRY: Thank you.

17 MR. DULLES: Thank you. From the Western
18 Region, Gilbert Guterrez from Valdez, Alaska.

19 MR. GUITERREZ: Madame Chair, commissioners,
20 I'm very glad to be here to talk to you today. We have
21 instituted a form of review. It started late last year
22 when there was an incident of a paintball attack which hit
23 the national news. It was an attack against Alaska natives
24 in Anchorage Alaska by some white youths.

25 That really tore the belly open of

1 discrimination in Alaska. It had been sitting there for
2 many years, and now it all became instantly in a flash in
3 front of us, and we had to do something about it.

4 We did receive a request by the Alaska
5 Federation of Natives, which is the overall group that
6 represents 252 Indian tribes in Alaska, to do an extensive,
7 concrete study and review of the facts and come back with
8 some recommendations. We did. We had two forums, and we
9 were pleased to see Commissioner Meeks, Commissioner
10 Reynoso, and Commissioner Lee, the Staff Director, came up
11 to Alaska and provided us support in that regard.

12 Of course, the Regional Western Region and
13 their staff have also provide tremendous support. We've
14 had two forums since we started looking into this issue.

15 There are three areas that we're looking at.
16 We're looking at discrimination in employment,
17 discrimination in education, and discrimination in the
18 administration of justice. We recently received a draft,
19 provided by the technical writer here at this, I believe
20 it's in this office.

21 So, we're getting support all the way from
22 here down to the region, as well as to the Alaska people
23 who are working with us. We've interviewed everybody from
24 the governor down to speaker of the House, president of the
25 Senate.

1 So, it's a very extensive study. We hope to
2 complete it here, hopefully in 2003, simply because we may
3 have two more forums. We have large distances in Alaska.
4 We want to have one in central Alaska, which is in
5 Fairbanks, which is the headquarters of the Alieska
6 Pipeline Service Company, which is a private employer
7 there, as well as in Juneau, Alaska, which is the capital.

8 That may or may not take place, but at any
9 rate, we're in the planning stages in that regard.
10 Hopefully, we will have someone at the release of the
11 report from the Commission, if that's possible. Thank you.

12 MR. DULLES: Let me just say on behalf of the
13 advisory committees in both the Western Region and the
14 Rocky Mountain Region, we're very grateful for the
15 attention, the participation, the involvement of the
16 commissioners, especially in work in Hawaii and Alaska,
17 Sonoma, South Dakota. I think it shows that a partnership
18 of advisory committees and the commissioners can
19 effectively look at issues throughout the country, and we
20 encourage your continued participation, and we certainly
21 thank you for this opportunity this morning.

22 CHAIRPERSON BERRY: All right. We really
23 enjoyed the discussions yesterday, which went on much
24 longer than this, obviously, and that you were able to at
25 least have this brief intervention for the record here this

1 morning. Thank you very much, and we hope you can stay for
2 the rest of the time, if you can, for the hearing.

3 Yes, Commissioner Meeks?

4 COMMISSIONER MEEKS: Well, I got to say this
5 yesterday, but I really want to say it for the record, that
6 I appreciate all the SAC chairs and the regional directors
7 for coming in. You know, again, it's really the heart of
8 our work. You know, as I said, you know, when I've gone
9 out to the different state forums, I mean, that's where,
10 you know, you can see the value of the Civil Rights
11 Commission. Every time, it's been this overwhelming
12 appreciation that someone's been willing to come out and
13 give those people a voice.

14 Here in D.C., we're not appreciated very
15 much, obviously. I want to say I appreciate your work, and
16 thank you.

17 CHAIRPERSON BERRY: All right. Thank you
18 very much.

19 **VI. Other Business**

20 CHAIRPERSON BERRY: We apologize for delaying
21 the start of the hearing, which will take place in a
22 minute, but we have two other things that if they can
23 happen quickly, we will do them. Otherwise, we can't. One
24 of them is Commissioner Meeks, you wanted to make a
25 suggestion.

1 COMMISSIONER MEEKS: Yes, and I actually
2 should have brought this up under the staff director's
3 report, but if I could, please, one of the things I wanted
4 to bring up is because of the forum that was held in South
5 Dakota and the subsequent report, one of the
6 recommendations was a study. In fact, the governor took it
7 upon himself to initiate a study, which I understand has
8 been completed, and we thought would be released the first
9 of the year.

10 We haven't heard anything, and I just
11 wondered if the Commission could write a letter asking the
12 governor when that might be released.

13 CHAIRPERSON BERRY: Okay. Do you want to
14 make that in the form of a motion?

15 COMMISSIONER MEEKS: Yes, I'd like to move.

16 CHAIRPERSON BERRY: So moved then. Second?

17 VICE CHAIRPERSON REYNOSO: Second.

18 CHAIRPERSON BERRY: Is there any discussion
19 or objections? All in favor, indicate by saying aye.

20 (Chorus of ayes.)

21 CHAIRPERSON BERRY: Opposed?

22 (No response.)

23 CHAIRPERSON BERRY: So ordered. So, it's an
24 inquiry to the governor.

25 The second one, Edley, you had a motion.

1 Fast now. We've got people waiting for this hearing.

2 MR. EDLEY: I just want to make a motion that
3 the Commission send a letter. It might be appropriate,
4 Madame Chair, a letter to the Senate, urging prompt
5 consideration of election reform legislation.

6 CHAIRPERSON BERRY: Is that Dodd/McConnell?

7 MR. EDLEY: The Dodd/McConnell substitute.
8 There's a bipartisan substitute that needs to get floor
9 time, and I think a letter from the Commission urging the
10 majority leader to go ahead and make room for it on the
11 floor, I think would be very timely.

12 I would also ask that the letter, while the
13 legislation substantially addresses many of the concerns
14 that the Commission and other observers have raised from a
15 civil rights perspective, if there could just be a line in
16 there that specifically urges that the legislation include
17 something meaningful to address the sharp disparities in
18 residual ballot error rates that we observed.

19 CHAIRPERSON BERRY: That we found, that we
20 discussed.

21 MR. EDLEY: I don't think the letter needs
22 to, in the interest of trying to get the letter to be sent
23 unanimously, I don't think that the letter needs to
24 specifically address voting rights issues or mention race
25 or anything. I think all of us should agree that

1 disparities in ballot error rates on whatever basis are
2 something that should be addressed by the election system,
3 whether it's on the basis of race or class or geography or
4 equipment or whatever.

5 So, this was something that was addressed
6 somewhat in the House legislation. It's not yet in the
7 Senate legislation, and I think a little mention of that
8 from us would be helpful.

9 CHAIRPERSON BERRY: Okay, that's a motion.

10 MR. EDLEY: That is a motion, a motion that
11 we send a letter out.

12 CHAIRPERSON BERRY: Is there a second?

13 COMMISSIONER WILSON: I'll second.

14 CHAIRPERSON BERRY: All right. Any
15 objection?

16 COMMISSIONER THERNSTROM: Well, I have a
17 question, to begin with. What's the status of the bill? I
18 have a couple of questions. What's the status of the bill
19 at the moment?

20 MR. EDLEY: There was a bill reported out of
21 committee on a party line vote, after which Senator Dodd
22 sat down with Senators McConnell and Bond to try to
23 negotiate a bipartisan substitute, which they have done.
24 Daschle has indicated a willingness to take it to the
25 floor. Whether it comes before or after energy legislation

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1 is an issue.

2 There was some concern about the
3 identification provisions in the compromise raised by civil
4 rights groups. My understanding is that they've basically
5 agreed not to try to change the bill but to just have a
6 floor debate about that. So, I don't think that that's
7 anything that we need to weigh in on, the I.D. provisions
8 that are being disputed by some of the civil rights groups.

9 I think it's more a matter of saying that
10 this continues to be an important issue, and we hope the
11 Senate will act.

12 CHAIRPERSON BERRY: I don't think, quite
13 frankly, I know enough to pass the thing.

14 MR. EDLEY: To send a letter?

15 CHAIRPERSON BERRY: To discuss it in this
16 brief time and to send a letter without knowing. Now that
17 you say that there are objections by various people, and I
18 don't know what the objections are. So, I'm not sure, and
19 you said that they're going to be debated on the floor.
20 I'm not sure --

21 MR. EDLEY: Well, I'm not suggesting --

22 CHAIRPERSON BERRY: -- that I know enough to
23 know what I want to do about it. Maybe others do, but I
24 don't.

25 COMMISSIONER THERNSTROM: I was about to say

1 the same thing, I have to say. I just don't know enough at
2 this point.

3 CHAIRPERSON BERRY: So, while I'd love to do
4 it, I just don't know. Do you know? Yes, Commissioner
5 Wilson.

6 COMMISSIONER WILSON: I know nothing,
7 Chairperson Berry, but perhaps Commissioner Edley would
8 like to amend his motion so that there could be a motion
9 that pending further investigation and discussion of what
10 we find, that we would then have a letter.

11 MR. EDLEY: Well, maybe this way. If the
12 staff could prepare a short memo explaining what the status
13 of the bill is, along with a draft letter from the
14 Commission to the Senate. My motion, by the way, was that
15 we urge Senate action, not that we specifically endorse any
16 particular bill, and that that be circulated for notational
17 voting. If, together with the briefing, it's not
18 sufficient for people to embrace it, then so be it.

19 CHAIRPERSON BERRY: What I am willing to do,
20 hearing the discussion and since we have people waiting and
21 we're late, and we don't want to get further behind, what I
22 am willing to do is to say that there is consensus on this
23 Commission that there should be election reform. I mean,
24 that's clear, that something ought to pass. Beyond that
25 consensus, and that error rates probably ought to be

1 addressed in some way, but I'm not sure about the other
2 things that you said.

3 So, therefore, I would say, have the staff do
4 a little memo updating us on what's going on and a draft
5 letter that is as vague as possible in terms of committing
6 us to details, and agree that we will have in this case
7 notational voting, which means, when we say notational
8 voting, that when this is sent out to people, that they can
9 either vote against it or for it, because you're voting on
10 the substance, not just on the letter. Then we will decide
11 it in the interest of time, but we don't have more time
12 here to debate this.

13 So, we need to get the information. So, I'm
14 suggesting that if you want to modify your motion to do
15 that. Is that the modification?

16 MR. EDLEY: Yes.

17 CHAIRPERSON BERRY: Does a seconder accept
18 that modification?

19 COMMISSIONER MEEKS: Yes.

20 CHAIRPERSON BERRY: Who wants to speak
21 quickly to that?

22 COMMISSIONER THERNSTROM: Very quickly, is it
23 possible to have a copy of the actual bill itself?

24 CHAIRPERSON BERRY: All right. Send along a
25 copy of the bill, too. Anything else? All right, all in

1 favor indicate by saying aye.

2 (Chorus of ayes.)

3 CHAIRPERSON BERRY: Opposed?

4 (No response.)

5 CHAIRPERSON BERRY: So ordered. The meeting
6 is, without objection -- make a motion that we adjourn this
7 part of the meeting.

8 VICE CHAIRPERSON REYNOSO: So moved.

9 CHAIRPERSON BERRY: Without objection, so
10 ordered. We will clear this out and start the hearing
11 right away. Sorry, folks, we're late.

12 (Whereupon, the above-referenced matter was
13 concluded at 10:21 a.m.)

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