

U.S. COMMISSION ON CIVIL RIGHTS

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COMMISSION MEETING

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JUNE 21, 2002

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MIAMI, FLORIDA

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The Commission convened at 9:35 a.m., in the Hyatt Regency Miami Hotel, Tuttle Room, Miami, Florida, Chairperson Mary Frances Berry, Presiding.

PRESENT:

MARY FRANCES BERRY, CHAIRPERSON  
CRUZ REYNOSO, VICE CHAIRPERSON  
CHRISTOPHER EDLEY, JR., COMMISSIONER  
PETER N. KIRSANOW, COMMISSIONER  
ELSIE M. MEEKS, COMMISSIONER

LESLIE R. JIN, STAFF DIRECTOR

STAFF PRESENT:

KIMBERLEY ALTON  
JUNITA ALVAREZ-MAINSTER  
FRAN BOHNSACK  
DEBRA CARR, Deputy General Counsel  
GILBERT COLÓN  
IVY DAVIS (Via Telephone)  
TERRY DICKERSON (Via Telephone)  
BOBBY DOCTOR  
BETTY EDMISTON  
SHELDON FULLER  
GEORGE M. HARBISON (Via Telephone)  
TINALOUISE MARTIN (Via Telephone)  
JENNY PARK  
MARC PENTINO (VIA Telephone)  
BERNARD QUARTERMAN  
DEBORAH REID

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

STAFF PRESENT CONTINUE:

PETER REILLY, Parliamentarian  
KWANA ROYAL  
ALEXANDER SUN  
SYLVIA UNZUETA  
AUDREY WIGGINS  
AUDREY WRIGHT

COMMISSIONER ASSISTANTS PRESENT:

LAURA BATIE  
PATRICK DUFFY  
JOY FREEMAN  
KIMBERLY SCHULD

A-G-E-N-D-A

I. Approval of Agenda..... 4

II. Approval of Minutes of..... 5  
 May 17, 2002 Meeting

III. Announcements..... 5

IV. Staff Director's Report..... 9

V. State Advisory Committee Appointments..... 10  
 for Florida

VI. State Advisory Committee Reports..... 32  
 Barriers Facing Minority-and Women-Owned  
 Business in Pennsylvania

VII. Future Agenda Items..... 36

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

## I. APPROVAL OF AGENDA

CHAIRPERSON BERRY: The first item on the agenda is the approval of the agenda, and I wish someone would note that as part of the agenda we will ask the representative of our Florida Advisory Committee, our State Advisory Committee, who is here, to say a few words to us since we are here meeting in Florida, and our Regional Director, Bobby Doctor who was here all day yesterday, and every time anything -- I got a break a minute I was about to introduce him and have him stand up and I never did get around to doing it. I'm sorry, Bobby. I saw you here yesterday. And there are other members of the SAC here also, and we'll have them introduced when we get to that point.

But if there is no objection or if someone would note, since I guess I'm not supposed to do it, I don't want to do it on my own motion, that we will include them in the agenda.

VICE CHAIRPERSON REYNOSO: So moved.

-CHAIRPERSON BERRY: All right. Is there -  
- with that addition, could someone move --

COMMISSIONER EDLEY: I move the agenda.

CHAIRPERSON BERRY: Second?

1 VICE CHAIRPERSON REYNOSO: Second.

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

4 (A chorus of ayes.)

5 CHAIRPERSON BERRY: Opposed?

6 (No response.)

7 **II. APPROVAL OF MINUTES OF MAY 17, 2002 MEETING**

8 CHAIRPERSON BERRY: The next item is the  
9 approval of the Minutes of the May 17, 2002 meeting.

10 Could I get a motion, please?

11 VICE CHAIRPERSON REYNOSO: So moved.

12 CHAIRPERSON BERRY: Could I get a second?

13 COMMISSIONER EDLEY: Second.

14 CHAIRPERSON BERRY: Any discussion? Any  
15 changes anyone would like to have made in the minutes?

16 (No response.)

17 CHAIRPERSON BERRY: In that case, all  
18 those in favor, indicate by saying aye.

19 (A chorus of ayes.)

20 CHAIRPERSON BERRY: Opposed?

21 (No response.)

22 CHAIRPERSON BERRY: So moved.

23 **III. ANNOUNCEMENTS**

24 CHAIRPERSON BERRY: On the announcements  
25 section, I want to just note that yesterday, June

1 19th, was the 20th anniversary of the murder of  
2 Vincent Chin, the 27 year old Chinese-American who was  
3 brutally beaten to death by two white auto workers  
4 outside of a McDonald's restaurant in Detroit,  
5 Michigan. The two men reportedly thought he was  
6 Japanese-American and blamed him for the decline in  
7 the American automobile industry which was apparently  
8 taking place at that time.

9 He died from massive head injuries and his  
10 sentencing, what many people in the Asian-Pacific-  
11 American community interpreted as a weak sentence in  
12 his case and they were quite upset about this  
13 incident, and for many of them it's sort of like a  
14 milestone, and they remember this day and have  
15 determined to be more politically active at that time.

16 And so I just thought I wanted to point  
17 out that this was something that Yvonne Lee when she  
18 was on the Commission used to remind us of this every  
19 year to make sure we didn't forget it and that we do  
20 not forget, and that of course, we have systematically  
21 on this Commission denounced any kind of murder of  
22 that kind that seem to be related to the national  
23 origin, race, ethnicity, as particularly heinous,  
24 although any murder is heinous.

25 The other thing that I wanted to say was

1 yesterday -- this month marks the celebration of what  
2 is known in the African-American community,  
3 particularly in Texas, is June tenth day, and that  
4 was a day when the people in Texas finally found out  
5 in 1865 that slavery had been abolished and did not  
6 know that, which is celebrated there. This was two  
7 and a half years after the Emancipation Proclamation,  
8 which would have applied to Texas because Texas was  
9 out its proper relationship, as they used to say in  
10 those days, with the Union, and that there were not  
11 enough Union soldiers there to tell folks so they  
12 didn't find out until June 19th in 1865. This is  
13 celebrated locally and in the neighborhoods and is now  
14 in many African-American communities around the  
15 country.

16 Title 9, this Sunday Title 9 of the  
17 Education Amendment -- will be 30 years since Title 9  
18 was enacted, and Title 9, which would be on sex  
19 discrimination and programs that get Federal education  
20 money, has been controversial in part because of its  
21 impact on athletics. Some people feel that it has a  
22 detrimental affect on college athletic programs for  
23 men, when as far as this Commission is concerned, we  
24 have noted that what needs to happen is more money  
25 needs to be raised for sports like that. But in any

1 case, it has had a great impact on educational  
2 opportunity for women, women in law schools, medical  
3 schools, colleges, universities and the like. And so  
4 this is an important landmark in our history also.

5 Does anyone else have anything that they  
6 would like to announce, any Commissioner?

7 MS. DAVIS: Madam Chair, I do have  
8 something I'd like to announce. I just found out  
9 yesterday and sadly to report that Tony Creswell, the  
10 former Assistant Staff Director for Regional Programs,  
11 passed away last week. Tony was a member of the staff  
12 from the late '60's to the late '70's and after  
13 leaving the Commission he worked for a time in D.C.  
14 Government, and then the Tennessee Valley Authority  
15 from which he retired. Tony was an attorney and came  
16 from Tennessee, and our warmest sympathies go out to  
17 his family and friends and I'd like to thank Melvin  
18 Jenkins, Regional Director of the Central Regional  
19 Office for helping us put this together.

20 CHAIRPERSON BERRY: Thank you, Ivy. That  
21 comes as a great shock to me. Tony Creswell and I  
22 went to school together in Nashville and I knew him,  
23 of course, when he was at the Commission and I did not  
24 know of his death. Thank you.

25 VICE CHAIRPERSON REYNOSO: Perhaps we can



1 proceed with the Staff Director's Report and then  
2 we'll come back to the Chair.

3 **IV. STAFF DIRECTOR'S REPORT**

4 STAFF DIRECTOR JIN: Thank you, Vice  
5 Chair.

6 I do have one thing that I want to say.  
7 The last three or four days there's been some reports  
8 in the press regarding an EEO matters that we have at  
9 the Agency, and some of the reports have erroneously  
10 suggested that the ultimate decision-maker on  
11 personnel EEO matter is the Chair of the Commission,  
12 which of course the Commissioners know that is not the  
13 case. Our regulations make clear that the Staff  
14 Director is the ultimate decision-maker on all those  
15 personnel matters. And certainly I have been  
16 conducting myself in terms of the decisions and in  
17 terms of the written documents with that  
18 understanding.

19 So it seems that this error has probably  
20 been based on an erroneous footnote in a recent EEOC  
21 opinion regarding one of our cases, and so I have  
22 asked -- I have directed the Deputy General Counsel to  
23 next week, as early as possible, make sure that that  
24 is appropriately corrected and that the EEOC is  
25 notified of such -- that that is an error.

1 Unless the Commissioners have other  
2 questions about other matters, that's I think all I  
3 have in terms of the Staff Director's Report.

4 VICE CHAIRPERSON REYNOSO: Thank you very  
5 much.

6 CHAIRPERSON BERRY: I'm sorry. I just was  
7 shocked by being told at this meeting that Tony had  
8 died. I didn't know he died.

9 MS. DAVIS: I'm sorry, Madam Chair.

10 CHAIRPERSON BERRY: You didn't know, Ivy,  
11 that he was a friend of mine. I'm very sorry, but it  
12 just shocked me, like somebody hit me over the head.

13 But anyway, let me just thank you Vice  
14 Chair.

15 **V. STATE ADVISORY COMMITTEE APPOINTMENTS FOR FLORIDA**

16 CHAIRPERSON BERRY: Let me just say that  
17 we now would go to the State Advisory Committee  
18 Appointments -- no, we now go to the State Advisory  
19 Committee, our Committee here in Florida and ask them  
20 to come forward, and we're asking Gil Colon, who has  
21 been a member of the Florida SAC since 2000 -- before  
22 that he was a member of the Virginia State Advisory  
23 Committee. When he moved from the Washington, D.C.  
24 area to South Florida to become Deputy District  
25 Director of the South Florida District Office of the

1 Small Business Administration.

2 In addition to contributing to the  
3 Commission while he was in Florida and in Virginia, he  
4 has a long and distinguished record of public service,  
5 and I understand he has other members of the SAC with  
6 him.

7 So please proceed, Gil.

8 MR. COLÓN: Good morning, Madam Chair.  
9 I'm not accustomed to calling you Madam Chair because  
10 we know each other from way back as Mary and Gil. We  
11 want to welcome you to sunny Florida. Hope you enjoy  
12 the rain. You came right in the middle of hurricane  
13 season and we will experience rain through November.  
14 So we look forward to it. However, I've told one of  
15 the staff persons -- I won't identify the person --  
16 that South Beach never closes, so you might as well go  
17 to South Beach and have a good time. But we welcome  
18 you to Florida.

19 I need to tell you that we have a very  
20 active State Advisory Committee. We can't afford to  
21 be bi-partisan because bi-partisan doesn't mean a damn  
22 thing when it comes to the civil rights of American  
23 people. So we don't look at each other as democrats,  
24 republicans, or anything else. We look at each other  
25 as individuals who are keenly interested on the issues

1 that face us on a day to day basis. And we are  
2 pleased to be before you.

3 My colleagues, Juanita Alvarez Mainster  
4 who is to my left, and Fran Bohnsack to my right, and  
5 Silvia Unzueta to my far right, are members and are  
6 very active in all that we do.

7 I have been asked to give you kind of a  
8 thumbnail sketch or brief overview of what has been  
9 going on in our particular area in our state, which  
10 unfortunately has been too much, but nevertheless it  
11 does exist and we need to address those issues.

12 I would like to share with you some of the  
13 planning activities that have transpired and some of  
14 the briefings that have also taken place. As a matter  
15 of fact, here in Miami Beach there have been very many  
16 issues, including the whole Broward County area as  
17 well. Fort Lauderdale employment discrimination has  
18 been reported as being rampant in Fort Lauderdale.  
19 The police relations issues has also been a major  
20 issue as you well know here in South Florida, in every  
21 aspect of our county, whether it's Miami Beach, the  
22 City of Miami or Miami-Dade County in general.

23 We have met, we have planned so that we  
24 can discuss these issues in the various issues. We  
25 have met, have had meetings such as this one in the

1 community. They have been very active. The  
2 individuals that have come before us have been very  
3 articulate about the issues at hand. Fort Lauderdale  
4 in particular is having, continues to have major,  
5 major issues regarding employment issues, in spite of  
6 the fact that the City Manager happens to be African-  
7 American, which is a rather interesting dynamic there.

8 Subsequent to our meetings, your staff has  
9 gone forward, have met with the Mayors and the City  
10 Commissioners, along with the City Managers, and they  
11 have conferred about the various issues. They also  
12 met with the Police Chief in Miami Beach, the Police  
13 Chief in the City of Miami, the Police Chief in Miami-  
14 Dade County, North Miami Beach and the U.S. Attorney.

15 So we have been extremely active because  
16 we believe it is absolutely necessary. I'll take a  
17 position, I don't know where you stand relative to  
18 your faith, but I thank God that we have a U.S.  
19 Commission on Civil Rights.

20 Secondly, Tampa. Again, planning sessions  
21 occurred, meetings occurred, discrimination of all  
22 places in the area of basketball programs in the  
23 University of South Florida. Go figure. You know,  
24 the whole issue of Title 6 enforcement, the issue of  
25 the Hope 6 program which is a HUD program, is also not

1 only an issue in Tampa but it's an issue here in  
2 Miami-Dade County.

3 Again, we find ourselves having to follow  
4 up on these issues, meeting with the appropriate  
5 personnel in Tampa, and in St. Petersburg as you well  
6 know, several years ago there was quite a bit of civil  
7 unrest which required various Federal entities to go  
8 into the City of St. Petersburg for the mere purpose  
9 of trying number one, to calm down that community;  
10 number two, take resources into that community. And  
11 as I speak today, they still put barriers up when  
12 there are events in the big complex there between the  
13 African-American community and that big complex where  
14 they play football where individuals who attend those  
15 events cannot cross the line to spend their dollars in  
16 the African-American community.

17 So unfortunately racism is still alive and  
18 well.

19 And in Miami, post 9/11, again we had a,  
20 planning, meeting. We met with numerous, numerous  
21 Arab-Americans regarding their civil rights, they are  
22 very concerned, living in fear, many not even wanting  
23 to leave their homes as a result of the activities  
24 that have transpired post 9/11. That is still a major  
25 pending issue. As a matter of fact, in my Agency we

1 have -- the Congress has decided to again extend our  
2 Economic Injury Disaster Loan Program through  
3 September 30th because the after effects of 9/11 just  
4 don't seem to go away.

5 We're seeing businesses drop. We're  
6 seeing employment drop. As a result, South Beach post  
7 9/11 was like a ghost town and it's just starting to  
8 pick up. As a result of 9/11 our Arab-Americans  
9 throughout South Florida and throughout Florida are  
10 being targeted. There's a lot of profiling still  
11 continuing and it's a very, very terrible situation.

12 We met recently, as a matter of fact, in  
13 Jacksonville. We spent a lot of time there meeting  
14 and dealing with the issues. We had a room full of  
15 individuals reporting immigration irregularities in  
16 Clay County and allegations of discrimination. I'm  
17 not even going to read through my notes. I'm going to  
18 tell you what I heard, and I had to put my head down  
19 like Mary Berry just did to do a little weeping  
20 because I just couldn't believe what I was hearing.

21 We've got people who are immigrants who  
22 have been picked up and detained for years without  
23 knowing what they were doing there, because there was  
24 no one that could communicate what it was that they  
25 were doing.

1           We are aware that the Immigration  
2 Naturalization Service has decided to contract this  
3 work out to detain these individuals.       Wow.  
4 Lucrative. \$67,000.00, \$79,000.00 per person. Guess  
5 what you do? Boy, you go out and look for business.  
6 You go out and profile those people and you find them  
7 and you lock them up and you collect your \$67,000.00,  
8 \$79,000.00 per head. So you can imagine those pens  
9 are full with individuals whose rights have been  
10 totally violated, do not know why they're there, have  
11 not received any counseling, have not received an  
12 agent from the Immigration Naturalization Service. So  
13 it is a horrible, horrible situation.

14           We've got several out there looking for  
15 people that look like you and I, because we might look  
16 like a Hispanic who perhaps should not be in this  
17 country. We've heard stories of people being picked  
18 up and the individual was not only Hispanic but raised  
19 in that town, working in that town, being picked up,  
20 being detained after communicating, "I am one of you.

21       I live here. I work here. I was born here. What am  
22 I doing here?"

23           And of course if you tell them you're  
24 Puerto Rican, they don't know what a Puerto Rican is.

25       They ask you for a green card.



1           So we have some very severe, severe  
2 problems, I kid you not. I lived in Washington 22  
3 years and when I moved to Springfield, Virginia they  
4 asked me for a green card, and I said, "Why don't you  
5 read your history? The Jones Act of 1917 made me a  
6 U.S. citizen automatically. What are you teaching our  
7 children?"

8           Folks, we still have some very severe,  
9 severe problems, I would imagine not only in the State  
10 of Florida, but all throughout this country. And I  
11 remember Mary and I way back in the Carter  
12 Administration when we dealt with that issue, and here  
13 we are more than 20 years later still dealing with the  
14 same situation, and we will.

15           But in spite of that, we welcome you to  
16 our town. We hope that your sessions are productive.

17           We hope that what's conveyed to you here is important  
18 to you and can be used -- can I give a few moments to  
19 my colleagues to perhaps address you?

20           CHAIRPERSON BERRY: Yes. Please introduce  
21 them.

22           MR. COLÓN: Silvia Unzueta.

23           MS. UNZUETA: Delighted to be here.

24           Essentially something that Gil said  
25 touches a cord. I am one of you, and that was the

1 statement by this Puerto Rican when they were trying  
2 to pick him up.

3 The notion that at some point you can be  
4 one of a few partaking in this wonderful free system,  
5 people go through many (inaudible) to be one of you.  
6 And yet, that issue is the crux of what brings us to  
7 the table.

8 In spite of many years of struggle here  
9 and in many other places, we still have many people  
10 that are not part of this wonderful us.

11 I'm glad that it's raining and humid  
12 outside, so the temptation is not there for you to  
13 escape elsewhere, because I think the mission and the  
14 task at hand is awesome. Some of us have been in the  
15 trenches for many, many years. We were young once. I  
16 recall seeing you in the YWCA many years ago in the  
17 struggle.

18 Sometimes the faces change, but the  
19 realities, we're all part of it, regardless how we  
20 look and how we talk and how we come to the table and  
21 how much cleansing we try to do. Some of us have  
22 given up the notion of the cleansing, and do want an  
23 art part of it, and that is the -- I think the beauty  
24 of being in a system that allows at least the fighting  
25 back and the redress.

1           So having lived in Cuba with Castro and in  
2 Spain with Franco, the notion that there is such a  
3 body and that we are here and we continue to kick to  
4 make sure those folks are heard. What we heard in  
5 Jacksonville is awesome. What we know about Haitian  
6 women in detention is awesome. And what we know about  
7 folks of color, even light color, what goes on in this  
8 Nation.

9           It reminds me that we're still in the  
10 South, but it is refreshing to know that a lot of  
11 people of goodwill are working to turn the tide, have  
12 done it for many years and have still not given up.  
13 So we are delighted you are in South Florida. Thank  
14 you.

15           MS. BOHNSACK: Well, I want to welcome you  
16 too. My name is Fran Bohnsack. I want to thank you  
17 especially for your hard work yesterday and previous  
18 to that with regard to the 2000 election. I really  
19 wish I could have been with you yesterday. That's  
20 still an election that causes a lot of division and  
21 pain for many people that I know. So I very much  
22 appreciate your attention to it.

23           And I would like to say that I also am  
24 particularly looking forward to your trip this  
25 afternoon.

1           In my employment life I work for the Miami  
 2 River Cargo Carriers. You may not know, the Miami  
 3 River is the fourth largest port in the State of  
 4 Florida and they are credited with doing four billion  
 5 dollars worth of business for our county here on an  
 6 annual basis.

7           What we also do is serve the island  
 8 nations of the Caribbean, and in particular Haiti and  
 9 Santa Domingo. And in my day to day observations, we  
 10 have many interactions with Federal agencies, INS and  
 11 Customs in particular, have been very unbalanced in  
 12 their treatment of those folks who traverse back and  
 13 forth between the island nations of Haiti and Santa  
 14 Domingo.

15           I can't help but observe, have observed in  
 16 the past and listened to many complaints, that there's  
 17 a special treatment given to the Haitians who engage  
 18 in this trade, very legitimate trade, but it's a  
 19 problem that's been compounded. I'm sure you read the  
 20 papers, the stories that come from Miami about drug  
 21 interdiction problems and things of that kind. And  
 22 I'm concerned that the agencies tend to perceive that  
 23 those problems generate from one segment of the  
 24 community.

25           I'm here to tell you from my first-hand

1 observation that is not true. But it's a very  
2 difficult message to convey to the Federal agencies  
3 and I think when you -- and I'm going with you this  
4 afternoon - to visit the women who are detained, you  
5 will find similar special treatment that is  
6 heartbreaking and appalling, and so I'm very glad  
7 you're devoting your attention to that and I thank  
8 you.

9 MR. COLÓN: And Juanita Alvarez Mainster.

10 MS. MAINSTER: Good morning, Buenos dias.

11 I also want to welcome you to our area and  
12 I hope that you have a wonderful stay here.

13 I, like Gil, thank God that we have a  
14 Civil Rights Commission for those people who just have  
15 been trampled on year after year.

16 After listening to the testimony out of  
17 Jacksonville, you know, I have to stop and think about  
18 when I was a migrant worker traveling up and down the  
19 east coast of this country as a young child being  
20 deported. I have been deported from my country five  
21 times. And that was a long time ago.

22 To listen to it again, here we are in  
23 2002, and it's still happening. I have seen it --

24 VICE CHAIRPERSON REYNOSO: Are you in the  
25 book of Guinness?

1 MS. MAINSTER: I probably should be.

2 But I have seen this happen in Homestead  
3 just south of here. I have been involved in  
4 situations where, you know, INS has been just cruising  
5 the streets of Homestead and they follow this young  
6 man wearing a hat. He looks very Mexican. He was  
7 pulled over. And you know, no questions. The agent  
8 didn't speak Spanish. The gentleman didn't speak  
9 English. And it's kind of like sign language, "get in  
10 the car."

11 You know, I stopped and I said, "What's  
12 going on?" He was just riding his bike. There is no  
13 crime in riding a bike on a public street in  
14 Homestead.

15 But because he looked Mexican, because he  
16 was wearing that hat, he was going to be transported  
17 to Krome. You know, fortunately, we were able to  
18 intervene in that.

19 But that's just one minor case. There are  
20 so many up and down the east coast of this country.  
21 Lately I have been focusing a lot in North Carolina  
22 where the largest -- there's the largest increase of  
23 immigrant workers in North Carolina. And these  
24 violations are like blatant. They're right there,  
25 like they were in the late '50's and early '60's. And

1 I hope that we can put our little grain of sand in  
2 there and make a difference. We must. We can't just  
3 sit back and say, "Well, you know, somebody else will  
4 take care of it."

5 It hasn't been taken care of. It wasn't  
6 taken care of when it happened to me and people have  
7 continued to suffer these horrible situations.

8 Thank you.

9 MR. COLÓN: Madam Chair and Commissioners  
10 and Mr. Jin, I would be remiss if I didn't make a  
11 final comment by indicating that number one, we  
12 appreciate your attention, we appreciate your being  
13 here. We know that you're here because you want to be  
14 here. We know that you don't necessarily control  
15 appropriations, and in spite of the fact that there  
16 are limited resources, somehow Bobby Doctor, Ivy and  
17 others in the Commission have found a way to be with  
18 us, to challenge our causes, to work with us, and as  
19 you can see by our agenda, we have been extremely  
20 active.

21 I frankly don't know how he does it, but  
22 it happens and I would be remiss if I didn't tell you  
23 that, because it is extremely difficult. I run a  
24 Federal agency as well and without money you can't do  
25 anything, and yet he's here doing it on behalf of not

1 only you and us, but the American people. And so we  
2 congratulate you on getting the job done in spite of  
3 the fact that we might not necessarily be the agency  
4 of favor relative to appropriations. So I  
5 congratulate you on what you're accomplishing with  
6 such meager resources.

7 Thank you so very much for being with us.

8 CHAIRPERSON BERRY: Thank you. Does  
9 anyone want to ask anything?

10 VICE CHAIRPERSON REYNOSO: I wondered, you  
11 mentioned one Bobby Doctor. Would you mind  
12 introducing him?

13 MR. COLÓN: Bobby Doctor, would you stand,  
14 please?

15 Thank you, Bobby, on behalf of the SAC.

16 CHAIRPERSON BERRY: Bobby has given long  
17 service to this agency, long and distinguished  
18 service.

19 MR. COLÓN: I think it was wisdom not to  
20 bring him to the microphone.

21 (Laughter.)

22 CHAIRPERSON BERRY: You think so?

23 You may know -- I don't know how much you  
24 know, but we've had some discussions on the Commission  
25 on the resource issue and we've talked about how SAC's



1 can have more meetings, because that's one of the big  
2 problems. And one of the ideas is that we finally  
3 found out that the Federal Advisory Committee Act, I  
4 think FACA, would not be a barrier to SAC's having  
5 telephone meetings if they could have someone sitting  
6 in on the meeting by -- as opposed to -- otherwise --  
7 which may be of a help to you, as you try to figure  
8 out, you know, what you want to do, because it is a  
9 real problem, and also trying to get -- until we can  
10 get some resources, whenever that is, maybe the  
11 Central Office to try to help out on, you know,  
12 getting some of your reports written or something.

13 We're trying to find ways to maximize your  
14 productivity, because you're volunteers and we  
15 appreciate that. I mean you're doing this for  
16 nothing. We're doing it for almost nothing, but --  
17 some of us are doing it for nothing, less than  
18 nothing. So we do appreciate you.

19 Does anyone want to ask or say anything to  
20 the SAC's? If not, then we thank you -- yes? Yes,  
21 Commissioner Kirsanow?

22 COMMISSIONER KIRSANOW: You talked about  
23 employment discrimination in Fort Lauderdale. Was  
24 that public employment or private employment?

25 MR. COLÓN: Public. I would assume both,

1 but this one was targeted directly at the City of Fort  
2 Lauderdale.

3 COMMISSIONER KIRSANOW: And what kind of  
4 discrimination are we talking about?

5 MR. COLÓN: Job retention, job hiring,  
6 promotions, the gamut.

7 COMMISSIONER KIRSANOW: Have charges been  
8 filed?

9 MR. COLÓN: Yes, sir.

10 COMMISSIONER KIRSANOW: Do you know what  
11 the basis of -- I mean is there some public official  
12 that is in charge or some supervisors or --

13 MR. COLÓN: The City Manager is ultimately  
14 responsible, as Mr. Jin is ultimately responsible for  
15 the Commission, for all hiring practices, and  
16 unfortunately, he's the target of the discrimination.

17 COMMISSIONER KIRSANOW: Is this something  
18 that's new?

19 MR. COLÓN: No, it's -- unfortunately,  
20 it's not new because we had this meeting quite some  
21 time ago. It has unfortunately, not gone away. And I  
22 know that Bobby and his folks have been interacting  
23 with the appropriate individuals to try to bring to  
24 bear some kind of understanding and compromise in that  
25 city.

1 COMMISSIONER KIRSANOW: Do you know what  
2 categories of employment we're talking about?

3 MR. COLÓN: Do you remember that Bobby?

4 COMMISSIONER KIRSANOW: The categories  
5 with classifications of employees are being  
6 discriminated against?

7 MR. DOCTOR: (Inaudible). I think it's  
8 interesting to note that the Justice Department has  
9 intervened. (Inaudible). The EEOC has also been  
10 involved and they have ruled in favor of I think about  
11 three different employees. We met with the Mayor and  
12 the City Managers and members of the City Commission a  
13 few months ago. And they had indicated that  
14 (inaudible) institutionalize some progressive changes.  
15 (Inaudible).

16 MR. COLÓN: Guy Lewis' office, who he is  
17 the U.S. Attorney in this area, has been involved.

18 CHAIRPERSON BERRY: Okay. Thank you very,  
19 very much for coming. We appreciate it.

20 COMMISSIONER EDLEY: Madam Chair, before  
21 we leave the Staff Director's section, I wanted to  
22 raise the issue of the pending Federal legislation  
23 concerning creation of a department for Homeland  
24 Security.

25 I think it's -- we discussed in some of

1 the meetings that we had late fall concerning post  
2 9/11 developments. Week by week I think it's becoming  
3 increasingly clear that there are substantial civil  
4 rights and civil liberties questions that arise in the  
5 conduct of the Nation's War on Terrorism. And it  
6 seemed to me that as Congress legislates the creation  
7 of a new department, there is an opportunity to devise  
8 administrative safeguards to insure insofar as  
9 possible that our anti-terrorism efforts and our  
10 related law enforcement efforts are conducted in a way  
11 that's respectful of civil rights and civil liberty  
12 norms, whatever those norms happen to be.

13 So I'm saying let's put aside the question  
14 of what constitutes impermissible racial profiling or  
15 what constitutes impermissible intrusions on privacy  
16 and the like, and just ask the question how can we be  
17 sure that enforcement investigative intelligence  
18 authorities are living by the spirit of whatever those  
19 norms are. Whether it's through some kind of a Watch  
20 Dog Commission or some kind of super Inspector  
21 General, it seems to me that something needs to be  
22 explored that takes a page from the experience of the  
23 monitoring of police departments, the monitoring of  
24 the Central Intelligence Agency and its covert  
25 activities, the use of special courts to handle

1 warrants in national security cases.

2 There's a whole constellation of  
3 experiences that might be brought to bear in asking  
4 the question, as Congress creates a new department for  
5 Homeland Security, how administratively can we insure  
6 that it is appropriately respectful of civil rights  
7 and civil liberties.

8 Especially since, Madam Chair, yesterday  
9 you said we were going to be going to Detroit next  
10 month and talking with people from the Arab-American  
11 community and others about post 9/11 developments, I  
12 was wondering if it would be possible for the staff to  
13 do a little thinking about this question of whether  
14 there's something we might suggest to Congress in the  
15 way of administrative safeguards to build into the  
16 Department of Homeland Security.

17 CHAIRPERSON BERRY: I don't know the  
18 timing on the legislation. All we all know is what we  
19 hear and what we read, and from this morning's T.V. it  
20 seems to be moving a little slower than it was at  
21 first. But I guess I can assume it's not going to  
22 pass before July the -- pass both Houses, go to  
23 conference and get signed by July. I guess that's a  
24 fair assumption.

25 So we have a little time but not too much

1 and we should weigh in on the debate as early as  
 2 possible if we wish to weigh in on it. And I think  
 3 it's an excellent idea. The Commission has always  
 4 made recommendations about administrative structures  
 5 and how civil rights should be protected in offices  
 6 and review them as we do in the Office of Civil Rights  
 7 Evaluation. And there are, as you say, a lot of  
 8 models, whether it's an IG model, Inspector General,  
 9 or something.

10 So I think the staff should analyze the  
 11 Homeland Security proposals and proposals about civil  
 12 rights and civil liberties, appropriate structures for  
 13 guaranteeing civil rights and civil liberties in  
 14 agencies, whether in agencies or as you said, as some  
 15 kind of Watch Dog Commission or the like, and draft up  
 16 something for us in terms of a paper or something.

17 What timing are you asking for on that?

18 COMMISSIONER EDLEY: I think if we can  
 19 come up with something very simple to suggest and  
 20 devote on no later than the July meeting, I think that  
 21 would be -- I think that would work. But just to  
 22 verify that that's the case, I think staff should  
 23 check on the hill to make sure that anything we come  
 24 up with by mid July would still be timely.

25 Let me also mention, another example that

1 comes to mind is in the immigration legislation in  
 2 '96, maybe it's before '96, Congress created a special  
 3 Ombudsman kind of a function within INS because it was  
 4 concerned about the risks of increased employer  
 5 discrimination because of the employer sanction  
 6 provisions.

7 VICE CHAIRPERSON REYNOSO: That was during  
 8 the Reagan Administration.

9 COMMISSIONER EDLEY: So back in '87, I'm  
 10 sorry. So there's another possible model, although I  
 11 don't think that one is as effective. And I'm really  
 12 thinking about something where you would have either a  
 13 Commission or an Inspector General with all the  
 14 security clearances necessary in order to do things,  
 15 not necessarily in public, but just so that we have  
 16 some comfort that there's somebody out there whose  
 17 mission is to keep an eye on whether or not the I's  
 18 are dotted and the T's are crossed with respect to  
 19 civil rights and civil liberties compliance.

20 CHAIRPERSON BERRY: And it would have to  
 21 be -- you need, obviously, a structure because as I  
 22 understand it, this is a long term endeavor and the  
 23 agency is as permanent as any other agency in the  
 24 Federal Government.

25 So we will -- if there's no objection --

1 is there objection?

2 (No response.)

3 CHAIRPERSON BERRY: The staff will without  
4 objection check the dates, come up with something, and  
5 if need be, if we need to act on something before July  
6 because of timing on the hill, then we could reset  
7 something and do it by poll vote; otherwise, we would  
8 consider it in July if it's ready.

9 Okay. Does anyone have anything else?

10 STAFF DIRECTOR JIN: About the Staff  
11 Director's Report?

12 CHAIRPERSON BERRY: Anything else, period?

13 STAFF DIRECTOR JIN: Yes, there's the  
14 State Advisory Committee, one report from  
15 Pennsylvania.

16 CHAIRPERSON BERRY: All right, let's go to  
17 the State Advisory Committee Report from Pennsylvania,  
18 Barriers Facing Minority and Women-Owned Business in  
19 Pennsylvania.

20 VI. STATE ADVISORY COMMITTEE REPORT

21 BARRIERS FACING MINORITY AND WOMEN-OWNED BUSINESS IN

22 PENNSYLVANIA

23 COMMISSIONER EDLEY: Madam Chair --

24 CHAIRPERSON BERRY: Could I get a motion  
25 first?



1 it. Is that what you want?

2 COMMISSIONER MEEKS: Second.

3 CHAIRPERSON BERRY: Okay, go ahead.

4 COMMISSIONER EDLEY: I thought it was a  
5 terrific piece of work. I mean it was thorough. It  
6 had lots of meat in it. And I just want to commend  
7 the Staff and the Advisory Committee for it. I  
8 thought it was quite impressive.

9 I do want to note however, that there was  
10 a little bit of a tale of woe in terms of the efforts  
11 of the Advisory Committee to get the information that  
12 they needed from officials in Philadelphia and  
13 elsewhere.

14 Ivy, I don't know what generally happens,  
15 but it did strike me that in situations like that --  
16 do State Advisory Committees through the Regional  
17 Offices really avail themselves of whatever clout the  
18 Washington office can bring to bear to help them get  
19 access to the information and the witnesses and so  
20 forth that they need?

21 MS. DAVIS: Well, I'm going to ask Marc  
22 Pentino who is the staff person that worked on that.  
23 He's been writing while we were talking and he hasn't  
24 looked up so I can give him the sign. It was a great  
25 effort on Marc's part and he's worked with the

1 Advisory Committee.

2 Marc, can you speak to that?

3 MR. PENTINO: Assistance from headquarters  
4 would be most appreciative. I think at some point  
5 Peter and I were going to pose to headquarters and the  
6 Staff Director some type of guidance on how we can  
7 best get agency resources when we encounter problems  
8 through state and local officials.

9 It's going to -- officials do respond, but  
10 sometimes we do get stonewalled, and that did happen  
11 in Philadelphia and it continues. To try to update  
12 the report, some sections, I again wrote to  
13 Philadelphia and called some people in Pittsburgh,  
14 Pittsburgh is more welcoming than Philadelphia. We're  
15 making an attempt, but with our limited resources we  
16 can certainly use some help in that regard.

17 COMMISSIONER EDLEY: I just wanted to flag  
18 that for the Staff Director, as again, I think a  
19 relatively easy way that we can help leverage the  
20 effectiveness of the SAC's and the regions by kind of  
21 a strategic application of a little Washington muscle  
22 to help them on the data issues.

23 I just want to note, I was really very  
24 dismayed that -- at the slothfulness in Philadelphia  
25 with respect to doing a utilization study to make sure

1 that they are in compliance with the Supreme Court's  
2 rulings on -- it was a very good report.

3 CHAIRPERSON BERRY: And not only was it a  
4 good report, but when I was reading it I was reminded  
5 yesterday -- I mean I connected with something that I  
6 heard yesterday -- a former President of a national  
7 organization happened to be in the audience yesterday  
8 when we were having the Florida voting discussion, and  
9 she came up to me afterwards to say hello and she  
10 said, "I love coming to Commission meetings, but I  
11 wish I could come to one where I didn't feel like I  
12 had to cry because there's so many problems and we  
13 hear all these things. I'd like to come one day and  
14 have all these successes."

15 And when I was reading that report, I  
16 thought, "My God, the same things are going on with  
17 minority in women's business programs that have been  
18 going on for years," though all these issues about  
19 bonding and not being able to get bonding, and we had  
20 a big hearing in Baltimore years ago in which the  
21 largest bonding company in the country testified that  
22 they charged people of color who had companies higher  
23 rates to get a bond for performance, even though their  
24 performance record was better. And the guy sat there  
25 under oath and couldn't figure out why he was doing

1 that. He said, "I don't know why we do that. We've  
2 just done that for years and we just continue to do  
3 that."

4 And so these problems persist. But it was  
5 a very good report, a fine example of what Staff does  
6 and the State Advisory Committees.

#### 7 VII. FUTURE AGENDA ITEMS

8 CHAIRPERSON BERRY: One of the things I  
9 forgot to mention again, which I mentioned yesterday,  
10 formerly was to say that the meeting -- and  
11 Commissioner Edley said it -- that the meeting in July  
12 will be in Detroit.

13 The other thing is to say that after  
14 yesterday's discussion about voting rights, the Staff  
15 will prepare some kind of statement for us on what we  
16 heard yesterday and send it out to us and we'll put  
17 that to a poll vote as soon as they finish it to see  
18 if -- a short statement -- to see if there's a  
19 statement that we can agree to about what we heard  
20 yesterday.

21 Are there any other items on the agenda  
22 that I should do? I see Kim waiving another message.

23 So what else?

24 Did we vote on the SAC report? We did  
25 not.

1 Commissioner Edley, you should move that  
2 we accept the SAC report.

3 COMMISSIONER EDLEY: I move we accept the  
4 report for printing.

5 CHAIRPERSON BERRY: Second?

6 COMMISSIONER MEEKS: Second.

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

9 (A chorus of ayes.)

10 CHAIRPERSON BERRY: Opposed?

11 (No response.)

12 CHAIRPERSON BERRY: So ordered.

13 STAFF DIRECTOR JIN: Madam Chair, I was  
14 just going to announce a change in location for the  
15 briefing on the Haitian detention issue. It's been  
16 switched to this room. They need about five to ten  
17 minutes to set it up and then we'll have it in this  
18 room.

19 CHAIRPERSON BERRY: Okay. So we will now  
20 adjourn this meeting, without objection, and in about  
21 five minutes we will come back here to meet with the  
22 people who invited us to talk about the Haitian  
23 detention issues.

24 Thank you very much, Commissioners.

25 (Whereupon, the meeting was adjourned at

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