

U.S. COMMISSION ON CIVIL RIGHTS

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COMMISSION MEETING

+ + + + +

FRIDAY,

APRIL 11, 2003

+ + + + +

WASHINGTON, D.C.

+ + + + +

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

PRESENT:

- MARY FRANCES BERRY, Chairperson
- CRUZ REYNOSO, Vice Chairperson
- JENNIFER C. BRACERAS, Commissioner (via telephone)
- CHRISTOPHER EDLEY, Jr., Commissioner
- PETER N. KIRSANOW, Commissioner
- ELSIE M. MEEKS, Commissioner
- RUSSELL G. REDENBAUGH, Commissioner
- ABIGAIL THERNSTROM, Commissioner

LESLIE R. JIN, Staff Director



STAFF PRESENT:

- KIMBERLEY ALTON
- DEBRA CARR, ESQ., Deputy General Counsel
- KI-TAEK CHUN
- EDWARD DARDEN
- IVY DAVIS, Chief, Regional Programs Coordination
- TERRI DICKERSON, Assistant Staff Director for OCRE
- PAMELA DUNSTON
- SHELDON FULLER
- GEORGE M. HARBISON
- SOCK FOON MACDOUGAL
- TINALOUISE MARTIN
- MARC PENTINO
- KWANA ROYAL

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STAFF PRESENT CONTINUED:

JOYCE SMITH, Parliamentarian
ALEXANDER SUN
AUDREY WRIGHT
TIFFANY WRIGHT
MIREILLE ZIESENISS

SAC MEMBERS PRESENT:

DEBRA C. LEMKE, Member, Maryland SAC
RICHARD E. PATRICK, Esq., Chairperson, Virginia SAC

COMMISSIONER ASSISTANTS PRESENT:

KRISTINA ARRIAGA
LAURA BATIE
JOY FREEMAN
KIMBERLY SCHULD
MELISSA SHARP
KRISHNA TOOLSIE

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A-G-E-N-D-A

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 Columbia, Maryland, and Virginia

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

9:37 a.m.

CHAIRPERSON BERRY: This meeting will come to order. 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: Could I get a second, please?

COMMISSIONER REDENBAUGH: Second.

CHAIRPERSON BERRY: All in favor indicate by saying, "Aye."

COMMISSIONER THERNSTROM: Can we have just one little tiny discussion?

CHAIRPERSON BERRY: Okay.

COMMISSIONER THERNSTROM: Is it possible to move the future agenda items up in the order of business? After the Staff Director's Report or something like that?

CHAIRPERSON BERRY: If you would like to do that. Does anybody object? Although there may be some item that comes up after that, after people hear other stuff that they would like to add, which we could do.

COMMISSIONER THERNSTROM: Of course.

I. Approval of Agenda

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1 CHAIRPERSON BERRY: Okay. All right. After
2 the Staff Director's Report without objection. Anybody
3 who wants to present future agenda items. All in favor
4 of approving the agenda indicate by saying, "Aye."

5 (Chorus of Ayes.)

6 CHAIRPERSON BERRY: Opposed?

7 (No response.)

8 CHAIRPERSON BERRY: So ordered.

9 **II. Approval of Minutes**

10 CHAIRPERSON BERRY: Next item is the
11 approval of the minutes of March 21, 2003. Could I get
12 a motion to approve the minutes?

13 COMMISSIONER KIRSANOW: So moved.

14 CHAIRPERSON BERRY: Could I get a second,
15 please?

16 COMMISSIONER THERNSTROM: Second.

17 CHAIRPERSON BERRY: All in favor indicate
18 by saying, "Aye."

19 (Chorus of Ayes.)

20 CHAIRPERSON BERRY: Any changes or any
21 additions? Nothing, okay, so ordered.

22 **III. Announcements**

23 CHAIRPERSON BERRY: Now for announcements.
24 A few announcements. April 4th is the anniversary of
25 the assassination of Dr. Martin Luther King, Jr.,

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1 which we acknowledge.

2 April 11, this day in 1968 commemorates
3 the American Indian Civil Rights Act, which guaranteed
4 for reservation Native Americans many of the same
5 civil rights and liberties that the Constitution
6 guarantees to other folks. And the Indian Civil Rights
7 Act also allows states to give back criminal and civil
8 jurisdiction to tribes.

9 April 6, 1846, was the Dred Scott
10 decision, which lived in infamy for years. April 9,
11 1866, the Civil Rights Act of 1866 was enacted, which
12 is one of the most important pieces of civil rights
13 legislation that ever existed, and lives on in parts
14 of Section 1980 -- the 1883 and Section 1985 and 86 of
15 the U.S. Code.

16 This piece of legislation rectified part
17 of the Dred Scott decision and declared African-
18 Americans to be citizens, and guaranteed equal
19 protection in making contracts, lawsuits, purchases
20 and the like. It was vetoed, of course, and passed
21 over the veto of Andrew Johnson on April 9.

22 April 26, 1862, was another day that lives
23 in infamy, which is when California, one of our most
24 ethnically diverse states today, imposed a police tax
25 of \$2.50 a month on all the Chinese. This shamefully

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1 discriminatory act passed --

2 VICE CHAIRPERSON REYNOSO: Of course we
3 have to thank California.

4 CHAIRPERSON BERRY: Right. They call it
5 the Mongolian Race Act to protect against coolies.
6 Today, of course, Americans of Chinese and other Asian
7 descent are over 12 percent of California's
8 population.

9 April 15, 1960, is the founding of the
10 Student Nonviolent Coordinating Committee, which we
11 call SNCC, after the sit-in and rioting in North
12 Carolina in February, 1960.

13 So does anyone else have anything they'd
14 like to announce or mention?

15 (No response.)

16 CHAIRPERSON BERRY: Okay, with that we go
17 to the Staff Director's Report.

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

19 CHAIRPERSON BERRY: Anyone have any
20 questions or anything on the Staff Director's Report
21 before we do two things? One, the budget issue that
22 was raised last time. I mean, not budget, but the
23 reports on the commission's budget.

24 Russell raised that last time, and then he
25 and Christopher Edley were supposed to get together

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1 and come up with something. That's one of the items
2 that we can consider in the Staff Director's Report.

3 And let's see. Is there anything else,
4 Staff Director?

5 VICE CHAIRPERSON REYNOSO: Madam Chair?

6 CHAIRPERSON BERRY: Yes. Just a second,
7 please.

8 VICE CHAIRPERSON REYNOSO: I have a
9 question pertaining to a discussion on encouraging the
10 advisory committees to have telephone conference
11 meetings. I just wondered if we had any report or
12 progress on that.

13 I'm very interested in the advisory
14 committees proceeding to do that because I know they
15 don't have the resources for as many meetings as they
16 would like to have.

17 STAFF DIRECTOR JIN: Can we do that now?

18 CHAIRPERSON BERRY: Proceed in whatever
19 way you wish.

20 STAFF DIRECTOR JIN: I think -- At the
21 last meeting I think the commission had asked for some
22 more information on that in terms of how frequently
23 the various SACs are meeting, and to say for the last
24 year or two, whether they were at least going to try
25 to meet this year and so forth.

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1 We had, I believe there were six or seven
2 SACs that had not met for the last two years. And
3 about half of them had met this year, which there was
4 about five, I believe, that had not met at all this
5 year. I know two of those had planned meetings and
6 something went awry, so I know that those -- that they
7 will be meeting in the near future.

8 But the meetings, as we discussed last
9 time, meetings themselves are important, but not the
10 sole criteria for effectiveness. And we continue to
11 work with the SACs to make sure that they are not only
12 meeting, but that they are doing meaningful things.

13 In terms of the telephone conferencing,
14 yes, that is even more important now because, as I
15 mentioned last time, we have to significantly restrict
16 the number of face to face meetings during the next
17 four or five months due to the cost of travel.

18 So I think the regional directors are
19 working very hard to appropriately do the restricting
20 without shutting off key meetings that have to take
21 place. Again, that has actually increased the
22 importance of having telephonic meetings.

23 And so at this time I don't have a
24 specific number of how many now have met in the last
25 month, but I know that it has increased significantly

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1 since last time. And I will keep the commissioners
2 apprised on the developments in upcoming months.

3 COMMISSIONER REDENBAUGH: Good.

4 CHAIRPERSON BERRY: Okay. Yes,
5 Commissioner Redenbaugh.

6 COMMISSIONER REDENBAUGH: Madam Chair.

7 CHAIRPERSON BERRY: I recognize you.

8 COMMISSIONER REDENBAUGH: Yes, thank you.

9 CHAIRPERSON BERRY: For whatever purpose
10 you wish.

11 COMMISSIONER REDENBAUGH: Let me take the
12 discussion back to the question we left last time,
13 about the budget motion which failed. And my
14 continuing concern about the status of projects with
15 respect to timeliness and budget.

16 If I may do that now?

17 CHAIRPERSON BERRY: You may do it, by all
18 means.

19 COMMISSIONER REDENBAUGH: Thank you. I
20 felt that the budget proposal that I made to inquire
21 into the status of projects and their financial
22 consequences, which was voted down as we know, was a
23 pretty -- was a modest proposal.

24 In light of what the staff director has
25 just said, that is due to budgetary constraints which

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1 seem somehow unanticipated, we're reducing even
2 further our travel.

3 This comes as a concern to me. Also at the
4 last meeting, I got the astonishing representation
5 from the staff director and chair that projects were
6 on time and on budget.

7 Now I asked Melissa to look that up. And
8 my experience in the commission is that that's not
9 generally been the case. And what we found, it's
10 certainly not been the case recently. And I have a
11 statement I'd like to --

12 CHAIRPERSON BERRY: Go right ahead.

13 VICE CHAIRPERSON REYNOSO: -- ask
14 Commissioner Kirsanow to read it in the record.

15 But just one example is this environmental
16 study, which I think is -- looks to either be,
17 depending on how one interprets the data, either 12
18 months late or six months late.

19 And I'm not confident that it will hit the
20 existing mark. But my concern is even higher than it
21 was last month. So Peter, if you would read the
22 statement. Thank you.

23 COMMISSIONER KIRSANOW: This is the
24 statement of Commissioner Redenbaugh. During the last
25 commission meeting, the Staff Director stated, quote,

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1 "I think we've delivered on a timely basis, and in
2 some ways more timely than perhaps in the past when we
3 had more resources," end quote.

4 And the chairperson reiterated, quote,
5 "The staff has done a great job of getting the
6 projects done on time," end quote. We have greatly
7 interesting projects ahead of us. However, my
8 unfortunate experience at this commission has been
9 that there are a very limited number of projects that
10 are completed on or before their specific deadline.

11 It occurs to me that instead of expecting
12 projects to meet their deadlines, it would surprise me
13 to find that it was finished on time. Therefore, I had
14 my assistant take a look at the status of the most
15 recent projects.

16 This was no easy task. The record-keeping
17 process itself is inadequate. The MIS only reflects
18 the most recently established deadlines, instead of
19 the deadline originally established by the commission.

20 To determine the start date of many
21 projects, my assistant had to read through transcripts
22 and past GPRA reports. This fact alone should be very
23 troubling to the commission.

24 If we look at the status of approved
25 projects for Fiscal Year 2003, the majority of the

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1 projects are already behind schedule. All three
2 projects under the Office of Civil Rights Evaluation
3 missed internal deadlines.

4 The status of the projects under the
5 Office of General Counsel is not documented clearly.
6 The Native American project has been an approved
7 project for the commission for several years without
8 anything being accomplished. If the project meets its
9 current deadline, the total time for completion will
10 have exceeded six years.

11 This is not acceptable. It is imperative
12 that these practices be addressed so that our work is
13 timely and useful to the public. I have in the past
14 requestèd the commissioners be informed about the
15 progress and costs of each project.

16 These are responsibilities, Commissioners,
17 to be briefed on the financial situation at the
18 commission so we can better direct the staff to
19 effectively use the resources available to them.

20 We cannot continue to task the staff with
21 completing more and more projects while unfinished
22 projects get pushed aside.

23 I have two documents to distribute to
24 commissioners and Staff Director. One is a chart that
25 outlines the timelines for past commissioner projects,

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1 and the other is a status report for the approved 2003
2 projects.

3 I request that the staff director answer
4 our questions regarding the 2003 approved projects in
5 writing before the May 9 commission meeting. I also
6 ask my colleagues that they push aside all politics
7 and renounce the cynical idea that this is business as
8 usual at the commission.

9 We have an opportunity to issue valuable
10 reports this year and I, for one, would like to
11 embrace this opportunity. That's the end of the
12 statement.

13 CHAIRPERSON BERRY: I would like to --
14 whoever wishes to speak, speak. But I just wanted to
15 make one point about the Native American project,
16 which perhaps Elsie could make better than I could.

17 The information you've just been given is
18 totally erroneous, and the commission, in fact -- go
19 ahead, Elsie -- made its own decision, which is
20 reflected in the transcripts, that we would leave it
21 to Elsie to work out which projects we were going to
22 do over a time.

23 And we have changed it from time to time,
24 not the staff, to finally determine when we even
25 wanted it to start. And that is reflected in

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1 transcripts after that. So to start from the first day
2 that it was discussed, and then try to count from
3 there, does not reflect decisions that were made by
4 the commission as we went along.

5 But anyway, is that what you were going to
6 say, Elsie?

7 COMMISSIONER MEEKS: Yes. I actually do
8 feel like I need to come to the defense of the staff -
9 - where the Native American project was concerned.
10 Because I wasn't satisfied with the way that that was
11 shaping up, and I really wanted a chance to talk to
12 Indian leaders across the country.

13 And when we were in San Diego at that
14 meeting, some of the commissioners did meet with the
15 leaders. Not with just the National Congress of
16 American Indians, but some other people too that were
17 at that meeting. We met with them. I think that four
18 or five of us were present.

19 And it really looked like the health care
20 issue was one of the number one concerns that we would
21 have the most impact with. And so, you know, I
22 requested that that be changed.

23 And so because I did -- and since then
24 I've been very happy we did go in that direction,
25 because it just gets validated nearly everywhere I go

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1 on the health care issues.

2 I mean, there have been protests. Three or
3 four of them since then, I mean with no knowledge that
4 the commission was going to look at the Indian Health
5 Service and health care relating to Native Americans.

6 So -- And in other ways it's gotten
7 validated. So, you know, I did have something to do
8 with that getting put off, but I'm very happy that I
9 did.

10 CHAIRPERSON BERRY: And the point I made
11 was even before that time, if you go through the
12 transcripts of the commission meetings, you will find
13 that the commission has on many occasions discussed
14 the Native American project again.

15 And each time we've either modified,
16 changed it, deferred it, said we'd wait until Elsie
17 had a better chance to talk to people about this one,
18 or that one, or the others. And that has -- the staff
19 wasn't required to actually finish that project during
20 that time, although we discussed it.

21 And this was done openly at commission
22 meetings. It wasn't something anybody did behind the
23 door. I recognize the vice chair.

24 VICE CHAIRPERSON REYNOSO: Yes, an inquiry
25 that's not unrelated to this was whether or not the

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1 staff person, in putting this memo together, talked to
2 the staffs involved with those projects and to the
3 commissioners who have an interest in those projects
4 to ascertain what was happening with those projects.

5 CHAIRPERSON BERRY: And whether they
6 looked at the transcript for any discussions after the
7 time the thing was approved that mentioned the same
8 project, as in the case of the Indian project.

9 That's all I'll say about it. I'll let the
10 staff director --

11 STAFF DIRECTOR JIN: Yes, I would like to
12 make a couple of comments. Only thing I'd like to add
13 about the Native American project was when
14 Commissioner Redenbaugh said that it would be six
15 years from when it was initially discussed, I think
16 that's misleading in a sense that, of course, as -- as
17 with a lot of other government agencies, the budget
18 cycle -- is three years ahead.

19 So it was clearly understood, and had to
20 be understood, that when it was initially discussed in
21 2000 project-- you know, that it was going to be done
22 three years down the road.

23 For example, later today we'll talk about
24 a project that Commissioner Redenbaugh wants to do as
25 a 2005 project. So, to start counting from the date

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1 that it's decided is, I think, misleading.

2 Second of all, in terms of -- especially
3 Commissioner Redenbaugh mentioned, I think, that three
4 projects from OCRE are not going to meet their own
5 deadlines.

6 I think that the key point on that is that
7 every one of those projects, three specific projects,
8 they're going to come to the commissioners somewhere
9 between three and 10 months after it was started.

10 They're all going to come in on the fiscal
11 year in which they were supposed to be done. I think
12 if anything on those projects perhaps that gives
13 credence to what Commissioner Redenbaugh said about on
14 deadline is that OCRE has been too much of a
15 perfectionist and too hard on themselves in terms of
16 setting deadlines.

17 For example, the funding of civil rights
18 agencies project. They put a deadline of last month.
19 Well, first of all, that was under the assumption that
20 the budget would have been decided by no later than
21 the beginning of January, which of course wasn't true.
22 The budget was not consummated until February 28, and
23 that information did not get to the agencies until
24 February 28. And then -- so it could not have gotten
25 to our staff until then.

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1 And even then, the staff couldn't just
2 write it based on simply what was out there. They had
3 to contact the agencies in order to get the numbers,
4 and at least one agency, Department of Justice, was a
5 bit slow getting back, and so forth.

6 You know, so I think that it was
7 unrealistic, especially in that light, to say that it
8 would ever get done by March. I expect it will
9 probably be done by next month, if not sooner, by
10 June. If it is done by June, it will have been done
11 less than four months after they got the numbers. I
12 think that is extraordinary.

13 As far as the other projects the staff is
14 to report, they almost always come to the commission
15 in June or July, which is necessary in order to make
16 sure it gets out on the street by the end of the
17 fiscal year.

18 OCRE projected that they have to get it to
19 the commission in May. Well, I don't think that's
20 going to happen. It may happen in June, but I can
21 assure you it's going to happen well before July.

22 The Native American project similarly.
23 It's a Fiscal Year 2003 project. They will have it
24 ready in the next two or three months. So I think
25 that, you know, that's an example of how perhaps

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1 certain statements, even if not intended, could be
2 misleading.

3 Not every project comes in perfect. I
4 understand that.

5 CHAIRPERSON BERRY: So Les, what you're
6 going to have to do is you're going to have to write
7 down what you just said and write a response, because
8 we are aware the GAO is investigating the commission
9 again, as it has done every time politically motivated
10 folks on the Hill -- which is what they're supposed to
11 be, politically motivated, that's why they're up there
12 -- have decided to investigate the commission to try
13 to prove that it is inefficient.

14 We all understand this game. I've been in
15 Washington so long that I understand this in season
16 and out. When the Democrats are in charge, they
17 investigate the Republican commission to find out if
18 they're inefficient, and write reports with glaring
19 headlines on them.

20 And poor GAO, as they found out with the
21 Cheney investigation, was always looked at in terms of
22 whether they do what the party that's in power wants
23 to have done.

24 We all know that game. We've been through
25 it. And we know that the GAO report will come out and

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1 say the commission is inefficient, deadlines were
2 missed, programs not whatever. We already know that
3 before the report even comes out.

4 So what I do every time that happens is to
5 get all the reports that have been written about the
6 commission when it's Republican and Democrat, and then
7 just line them all up with all the screaming
8 headlines.

9 But this data is wrong. It is inaccurate,
10 and so -- and this will be a nice document for GAO to
11 have. So what you need to do is write your own
12 document, not that they'll use it, and put down what
13 you just said about the deadlines.

14 OCRE has done an outstanding job since
15 Terri has been in charge of meeting their deadlines.
16 The statutory reports used to be late. I've been on
17 here long enough to know when they used to be late all
18 the time.

19 They haven't been late once. Not only have
20 they not been late, they've been good. And not only
21 have they done the statutory reports, they've got a
22 little small staff, some good folks they've got over
23 there. They have also done all these other things we
24 think up from time to time.

25 And they're probably sitting there hoping

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1 we don't think of something else to do. So I think
2 that they ought to be commended. And I think that it
3 undermines staff morale to claim that staff, when they
4 are good people, have done a bad job when they
5 haven't; and that they haven't met deadlines when it's
6 not true.

7 It plays to the, you know, the galleries.
8 I don't know about the rest of it. If you want to
9 answer specifically or you just want to respond in
10 writing, which is fine with me.

11 STAFF DIRECTOR JIN: I'll just respond in
12 writing.

13 CHAIRPERSON BERRY: Commissioner
14 Thernstrom.

15 COMMISSIONER THERNSTROM: Thank you, Madam
16 Chair. Couple of things. One, on your statement just
17 now about GAO and being politically driven in its
18 investigations and all that. I believe it is accurate
19 to say that GAO investigates every agency every five
20 years.

21 This is not a question of, you know, the
22 people on the Hill.

23 CHAIRPERSON BERRY: That is not true.
24 That is patently false, what you just said.

25 COMMISSIONER THERNSTROM: Well, okay.

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1 CHAIRPERSON BERRY: I'm getting too old to
2 sit around having people make misleading statements
3 and to just sit here and act like they're true. That's
4 not true. The GAO does not investigate every agency in
5 the federal government every five years.

6 COMMISSIONER THERNSTROM: Well, I do not
7 believe it is accurate to say that its investigation,
8 after all the last investigation was during the
9 Clinton administration five years ago approximately.

10 I don't believe it's accurate to say, one,
11 this is some politically driven look at this agency,
12 and two, we know exactly what it's going to say when
13 of course we haven't seen a word of it.

14 But I mean --

15 CHAIRPERSON BERRY: You said that about
16 our report on Florida. I can get the transcript out
17 and find where you said it. That you knew what it was
18 going to say before we wrote it.

19 COMMISSIONER THERNSTROM: Right. That was
20 based on my --

21 CHAIRPERSON BERRY: This is based on my --

22 COMMISSIONER THERNSTROM: -- was based on
23 my listening to the hearings in Florida. It's
24 perfectly clear what was going to go down in writing.
25 And I think that's a very, very different situation.

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1 Now, as to Russell's statement, of course
2 the first question is whether the overall picture is
3 accurate, and I view it to be, you know, I'm very
4 interested in what the staff director has to say, and
5 then of course look at it.

6 But the point here is not to keep GAO
7 informed, or not to inform them with the staff
8 director's response. The point is to keep the
9 commissioners better informed, and Melissa Sharp
10 should certainly not have had to look through
11 transcripts and so forth to try to put a picture
12 together.

13 I mean, the vice chair made the suggestion
14 that -- or made a whatever it was, commissioner's
15 assistants, Melissa Sharp in this case, should have
16 phoned the staff, talked to the staff itself, to get
17 information.

18 Of course, commissioners are not allowed
19 to call the staff, only the staff director. We're not
20 supposed to have any direct contact with anyone on the
21 staff except for the staff director, which makes
22 getting information very hard; getting answers to very
23 simple questions very hard.

24 And in terms of the Native American topic,
25 I accept the description of what happened, but the

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1 fact is that every topic we take up, there's a certain
2 -- you know, it changes on the ground.

3 As the facts change, the picture changes,
4 there are new questions that arise every time we come
5 up with a report. Nevertheless, we certainly can't, as
6 a rule, keep changing the definition of the project
7 and altering the deadline because the topic has in
8 some way -- the facts have in some way been altered.

9 So that answer doesn't seem to me to speak
10 to the larger picture. Thank you.

11 CHAIRPERSON BERRY: Who is seeking
12 recognition? The vice chair is seeking recognition.

13 VICE CHAIRPERSON REYNOSO: Madam Chair,
14 two things. One, I'm empathetic with the notion of
15 having something simple that tells us where the
16 projects are.

17 Sometime back -- because of concern of the
18 commission about where projects were, we get those
19 timelines about what's happening with the projects.

20 Frankly, I have found those useless, but
21 the staff works very hard on them to sort of let us
22 know. I assume they do that. And I assume that
23 somebody looking at that would know what's happening
24 with the projects.

25 I don't because I find it confusing. I've

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1 found it a lot easier to have a monthly report that's
2 about two or three sentences, tells me where the
3 projects are. But that's one thing.

4 The second thing is that I just -- I guess
5 I feel like being blunt here. I think it's absolutely
6 irresponsible to have put this report in black and
7 white, giving greater fodder to the folk on Capitol
8 Hill who are out to do anything they can to defeat the
9 purposes of this commission.

10 We are getting letters like every other
11 week, every other day from the Capitol Hill asking us
12 what are you doing about this, what are you doing
13 about that.

14 It reminds me of the harassment this
15 commission got from the Dixiecrats when this
16 commission was first formed. And to put a document
17 like this in black and white without proper
18 investigation, accusing this commission of being
19 incompetent and late, I consider absolutely
20 irresponsible. End of my sermon.

21 CHAIRPERSON BERRY: I thought you were
22 going to say, Vice Chair, that obviously when you said
23 that the person could get in touch with the staff,
24 that the procedure is to get in touch with the staff
25 director that he would be happy to help --

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1 VICE CHAIRPERSON REYNOSO: Of course, of
2 course.

3 CHAIRPERSON BERRY: Every commissioner
4 knows that.

5 VICE CHAIRPERSON REYNOSO: Of course.

6 CHAIRPERSON BERRY: And we keep having to
7 say that over and over and over again as if it's
8 something new nobody ever heard of. And they never do
9 it, to my knowledge. Maybe they have and I don't know
10 it.

11 Yes, Commissioner Redenbaugh.

12 COMMISSIONER REDENBAUGH: This has been --
13 this process and management issue has been my issue
14 since before you were chair. As you remember, I was
15 very tough on the prior chair, and have been very
16 persistent with all of our staff directors for
17 timeliness and clarity in reporting.

18 So I've been a consistent irritant, and
19 reject the notion that my involvement in this issue is
20 politically motivated. I do not think we have bad
21 people or poor staff.

22 I do believe that we don't have visibility
23 into where we are in the projects. And I believe and
24 have said many times that as commissioners, we
25 continue to task the staff with far more than any

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1 staff could accomplish. And that we are the ones who
2 are guilty of not making the more difficult choices to
3 say we must eliminate these also worthy projects,
4 because we cannot do them with the resources we have.

5 That's the essence of good management is
6 the hard choices. Now, when we began our travels to
7 other cities, however worthwhile that was, I did raise
8 the question when I returned to the commission, I did
9 raise the issue with the staff director, what impact
10 will this have on our existing and committed projects
11 in the area of the money and staff's limited time,
12 because we're understaffed.

13 I received the astonishing assurance that
14 it would have no impact on our committed projects.
15 Now, I have a concern that -- I have a concern that
16 our ability to do what we say is even less than I
17 think, but I don't know where we are.

18 I agree with Cruz about the project
19 timelines, I can't figure them out. I don't know if
20 we're going to run out of money this month or in two
21 months.

22 And what I strongly believe is that we
23 have, as commissioners, a responsibility to manage the
24 money. And I'm in the dark about the money. That's why
25 I made that motion last meeting, because I'd like to

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1 see where we are.

2 CHAIRPERSON BERRY: Anyone else? Yes,
3 Commissioner Edley.

4 COMMISSIONER EDLEY: I just want to
5 briefly say that I don't conceive of the -- my role as
6 a commissioner, or the role of the commission itself
7 to manage the money.

8 My understanding is that under the statute
9 that's the staff director's responsibility. I think we
10 have a much more removed responsibility, and that is
11 to say that if we feel that there has been a problem
12 of timeliness or quality in producing the work that
13 the commission has requested, then the appropriate
14 remedy is not to try to micromanage the finances, or
15 indeed even for us to immerse ourselves in the
16 finances or the operational issues of the commission
17 staff, but rather to seek a change in the leadership
18 of the staff.

19 So I guess I just want to dissent from
20 Russell's last comment about what the role of the
21 commission or commissioners is, and associate myself
22 with what the chair and the vice chair have said.

23 My question is that the last couple of
24 years, which is only when I've been on here, things
25 have improved markedly in terms of timeliness and

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1 quality. And it's all the more remarkable given the
2 problems with the appropriations.

3 CHAIRPERSON BERRY: Yes, Vice Chair.

4 VICE CHAIRPERSON REYNOSO: I just want to
5 remark that Russell's perfectly right that he has been
6 concerned about the timeliness and management all
7 along irrespective of who's in charge of Congress or
8 of the White House.

9 But I don't know of anybody who has been
10 stronger in agreement with him when those issues have
11 come up than has the chair. I think that it's because
12 of the persistent attention of the chair to the
13 timeliness. I remember her frustrations when I first
14 got on the commission 10 years ago at the lateness of
15 the reports and so on.

16 I think it's due to a large extent to her
17 leadership and insistence that we've gotten to the
18 point where we are now where the reports are timely
19 and so on.

20 And so I'm doubly concerned that this
21 matter is put down in black and white, giving fodder
22 to some folk on Capitol Hill.

23 CHAIRPERSON BERRY: Well --

24 COMMISSIONER BRACERAS: May I be heard,
25 Madam Chair?

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1 CHAIRPERSON BERRY: Yes. Commissioner
2 Braceras, after Commissioner Thernstrom who had her
3 hand up, unless she --

4 COMMISSIONER THERNSTROM: Well, I'd be
5 delighted to, because she hasn't spoken.

6 CHAIRPERSON BERRY: Commissioner Braceras,
7 please speak.

8 COMMISSIONER BRACERAS: Sure. It seems to
9 me that what Commissioner Redenbaugh and those who
10 would support his motion and his ideas are looking for
11 is simply more information.

12 And I continue to be flabbergasted at the
13 resistance by both the staff director and other
14 commissioners to providing more information. I don't
15 necessarily object to Commissioner Edley's views about
16 what the possible remedy might be.

17 But certainly we can't make a decision
18 about remedies until we have information and can
19 ascertain whether or not there's a problem. And so, to
20 the extent that Commissioner Redenbaugh is seeking to
21 have all of the commissioners be enlightened as to the
22 facts on this matter, I support him and his efforts
23 fully.

24 CHAIRPERSON BERRY: Okay. Commissioner
25 Thernstrom.

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1 COMMISSIONER THERNSTROM: Well, I was just
2 about to say the same thing plus something else. The
3 issue, it seems to me here, is not micromanaging. The
4 issue -- and it's not a lack of confidence in the
5 staff, either.

6 The issue is simply the desire to keep
7 properly informed in a kind of minimal way so that we
8 can be discussing possible projects, issues we look
9 into, travel, et cetera, with a bit more knowledge;
10 that there is a kind of seamless web between the
11 budgetary picture and the decisions that we do need to
12 make here as commissioners.

13 And the second thing I wanted to say is
14 that the vice chair has just accused members of
15 Congress of being latter-day Dixiecrats. Now, of
16 course, Dixiecrats were breakaway Democrats, but I
17 assume that the vice chair is now talking about
18 Republicans.

19 And I would like to see the letters that
20 occasion that kind of name-calling. I mean, if we are
21 being harassed I would like -- again, this is a matter
22 of information. I would like to have some -- I would
23 like to see precisely what form that harassment takes.

24 And I think if it's going on, of course we
25 could discuss it.

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1 CHAIRPERSON BERRY: And what I will ask
2 the vice chair to -- or ask the staff to provide it,
3 Commissioner Thernstrom, as soon as you provide
4 documentation for the various charges you have
5 assailed and hurled at this meeting, as to please
6 document the five-year review that the GAO takes of
7 every federal agency, and submit that information that
8 that is a true statement.

9 COMMISSIONER THERNSTROM: Well, is it true
10 --

11 CHAIRPERSON BERRY: From now on, every
12 time you express yourself and give an opinion, I will
13 ask you to document it and to submit evidence that
14 your opinion of XYZ is, in fact, the case, if that is
15 what you want the vice chair to do.

16 Otherwise, I will simply say that you have
17 now expressed your opinion, and he has now expressed
18 his opinion, and I will recognize Commissioner Edley.

19 COMMISSIONER EDLEY: I'm wondering --
20 First of all, I just want to correct the record. I
21 think I said that the statute makes these
22 administrative matters the responsibility of the staff
23 director, but it may not be the statute. It may be the
24 commission regulations --

25 CHAIRPERSON BERRY: The commission

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1 regulations --

2 COMMISSIONER EDLEY: The commission has
3 delegated -- has by regulation delegated to the staff
4 director. So I just wanted to make that point --

5 CHAIRPERSON BERRY: But it could be taken
6 back.

7 COMMISSIONER EDLEY: It could be taken
8 back. And I -- I would hasten to add I would not
9 support taking it back, because I don't think that --
10 I just don't think that would lead to an effective
11 organization.

12 I guess I'd like to make a motion. I
13 apologize to Commissioner Redenbaugh and to my
14 colleagues for not having taken the initiative to
15 confer with him to try to work out a budget resolution
16 that he and I might put forward jointly. Just chalk it
17 up to my disorganization, which was in the extreme
18 this past month or two.

19 But I'd like to move that -- the
20 following. That the staff director shall provide a
21 quarterly report of the commission's fundings to
22 commissioners.

23 This report shall include, number one,
24 quarterly costs by office; number two, quarterly costs
25 for each commission-approved project, period. This

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1 reporting system shall start with the third quarter of
2 Fiscal 2003.

3 Quarterly report covering March through
4 June 2003 shall be due to commissioners no later than
5 the close of the following quarter, period. That's the
6 body of the motion.

7 CHAIRPERSON BERRY: Can I get a second on
8 the motion so we can discuss it?

9 COMMISSIONER REDENBAUGH: Second.

10 CHAIRPERSON BERRY: All right. Let's have
11 some discussion of the motion.

12 COMMISSIONER EDLEY: If I may just add a
13 little bit here.

14 CHAIRPERSON BERRY: Speak to your own
15 motion, please.

16 CHAIRPERSON EDLEY: Thank you. I recognize
17 that this is substantially short of what Commissioner
18 Redenbaugh proposed last -- at the last meeting, but I
19 think it might be a useful first step, and it could
20 provide some additional information to commissioners.

21 I think also as just part of the
22 legislative record here, I'm assuming that the staff
23 director is going to undertake, in light of the
24 comments that the vice chair has made and that
25 Commissioner Redenbaugh has made, that the staff

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1 director is going to undertake to find a slightly more
2 comprehensible and useful way of giving us regular
3 progress reports on the status -- the substantive
4 status, as opposed to the financial status, of the
5 various projects that the commission has required.

6 So what I would imagine is that that would
7 be going hand in hand with his quarterly budget
8 information.

9 STAFF DIRECTOR JIN: Madam Chair?

10 CHAIRPERSON BERRY: If this motion passed?
11 Okay. Commissioner Redenbaugh.

12 COMMISSIONER REDENBAUGH: Let me recover
13 my thought, which --

14 CHAIRPERSON BERRY: Would you like me to
15 recognize Commissioner Meeks, and then recognize you?

16 COMMISSIONER REDENBAUGH: Yes, that would
17 be fine, because --

18 CHAIRPERSON BERRY: Is that better?

19 COMMISSIONER REDENBAUGH: Yes, because it
20 goes to the motion. Yes, thank you.

21 COMMISSIONER MEEKS: Oh, I'm sorry. I
22 didn't have my hand up.

23 CHAIRPERSON BERRY: Oh, I thought you had
24 your hand up. But she didn't. Well, we can take a
25 breath here a minute.

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1 COMMISSIONER REDENBAUGH: That would be
2 good. Chris -- and I'm sorry that this organization
3 didn't allow us to freely respond. Would you make the
4 motion again? I just want to clarify something. Read
5 back the quarterly information part, please.

6 COMMISSIONER EDLEY: It would be quarterly
7 reports by office, the quarterly costs for each
8 commission-approved project.

9 COMMISSIONER REDENBAUGH: In a cumulative
10 way. I presume what you mean there is not really a
11 quarter by quarter, but in some cumulative sense for a
12 project cost. By office cost cumulative for the fiscal
13 year projects.

14 COMMISSIONER EDLEY: Sure. I would accept
15 that as an amendment.

16 COMMISSIONER REDENBAUGH: Okay. Yes, it
17 just makes the data more useful for interpretation.
18 Would you also as a preliminary agreement add an --
19 another column for extraordinary or non-recurring
20 costs that are not project -- not linked to any
21 particular project, but can, in fact, be substantial?

22 COMMISSIONER THERNSTROM: Travel? Do you
23 have in mind travel? What do you have in mind?

24 COMMISSIONER REDENBAUGH: Well, I had in
25 mind the technical materiality, so rather than the

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1 nature of the project -- if it exceeded a certain
2 amount we would consider that material.

3 CHAIRPERSON BERRY: Well, what amount
4 would you consider?

5 COMMISSIONER REDENBAUGH: I would propose
6 that's a question for the finance department.

7 COMMISSIONER EDLEY: I think you're
8 looking for just some sort of -- you're basically
9 looking for an update, how's the budget, how are we
10 doing on the budget.

11 COMMISSIONER REDENBAUGH: Yes. And is
12 there -- if there's a quote, "extraordinary," quote,
13 "non-recurring" charge that is substantial, and by
14 substantial, gosh, I don't know what I mean. Maybe
15 \$10,000 or \$20,000. Maybe that's not --

16 CHAIRPERSON BERRY: That's too small.

17 COMMISSIONER EDLEY: Okay. We're not sure
18 -- Wouldn't that show up in the quarterly reports by
19 office? So if you just looked back --

20 COMMISSIONER REDENBAUGH: If they captured
21 all the facts so that there were no what accountants
22 mystically call "below the line." Can you hear me? So
23 if the reports captured some of this, then that would
24 satisfy me. We don't want to have a situation where
25 there's a substantial --

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1 CHAIRPERSON BERRY: All costs are
2 attributed to offices.

3 COMMISSIONER REDENBAUGH: Yes.

4 COMMISSIONER EDLEY: Right.

5 COMMISSIONER REDENBAUGH: Okay, that's the
6 understanding.

7 CHAIRPERSON BERRY: They already are.

8 COMMISSIONER REDENBAUGH: No, I mean
9 having been part of the financial accounting standards
10 process for 30 years. Yes, everything is someplace.

11 CHAIRPERSON BERRY: We're the ones
12 responsible for all these projects.

13 (Laughter.)

14 COMMISSIONER REDENBAUGH: Of course we
15 are. But yes, okay. Then I -- The seconder accepts
16 the friendly amendments.

17 COMMISSIONER EDLEY: Great.

18 CHAIRPERSON BERRY: Yes, Vice.Chair?

19 VICE CHAIRPERSON REYNOSO: Madam Chair. I
20 don't want to make an amendment, but I just want to
21 suggest to the staff director that maybe he come back
22 with us next meeting on -- It seems to me the
23 quarterly report is a good idea. But it seems to me it
24 may be a bad time, too.

25 It's just quarterly costs for each

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1 commission-approved project, maybe just a sentence or
2 two about where the project is, and that way it takes
3 care of my concern about knowing where the progress
4 is, and the economic concern.

5 So that way they'd have a quarterly
6 report. But I don't want to make an amendment.

7 CHAIRPERSON BERRY: Rather than having the
8 staff do it.

9 STAFF DIRECTOR JIN: Sure. I was just
10 going to say in the Staff Director's Report, it's not
11 like we have a rule that says every project has to be
12 discussed in every report, but we do try to keep the
13 commission apprised of new developments.

14 VICE CHAIRPERSON REYNOSO: Yes.

15 CHAIRPERSON BERRY: So, is that -- yes.
16 Commissioner Meeks.

17 COMMISSIONER MEEKS: Yes. I just want to
18 say one thing for the record. It's that in my time
19 since I've been on this commission, we have completed
20 a good number of projects that were scheduled on time.

21 Plus, we've tried to be fluid in that we
22 responded to current events. I mean, the forum in
23 South Dakota is a good example, the voting issues in
24 Florida. And yet somehow we still maintained that
25 budget.

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1 So I mean, I just feel like someone needs
2 to say that for the record, that I don't feel like
3 this commission is in any way out of control. We've
4 operated on a very small budget, and still been able
5 to accomplish many, many good projects.

6 CHAIRPERSON BERRY: That's right.

7 COMMISSIONER MEEKS: The staff are fine
8 with this motion, but you know, I would hate to see it
9 go any further than this.

10 CHAIRPERSON BERRY: Okay. Yes,
11 Commissioner Redenbaugh.

12 COMMISSIONER REDENBAUGH: Yes. I have
13 another friendly amendment request, and that is -- and
14 I should have seen this sooner. Would you add -- for
15 the project cost portion, we need some estimate of
16 where we are relative to the total budgeted cost for
17 that project.

18 COMMISSIONER EDLEY: Can I ask the -- I
19 thought about that and I worried about the
20 administrability of it, given the way the commission
21 is funded. But if I could ask the staff director to
22 comment on that.

23 STAFF DIRECTOR JIN: Commissioner, I'm
24 sorry, I'm not quite sure I understand the question.

25 COMMISSIONER REDENBAUGH: Okay. Well, as

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1 project managers are managing their individual
2 projects, you know, the things that the project
3 manager always assesses are what percent of the time
4 is gone and what percent of the money is gone.

5 Because those are always the two
6 constraints.

7 CHAIRPERSON BERRY: We don't do that. We
8 can't.

9 STAFF DIRECTOR JIN: Commissioner
10 Redenbaugh, I think the best way to try to answer
11 this, and you know, is we -- I don't want to kind of
12 go off on a tangent, but you know, what I try to do
13 is, I think you had indicated earlier about the need
14 as money gets more scarce to be more cognizant of what
15 has to be eliminated.

16 And I certainly agree with the concept
17 that at some point you cannot do more, or even as
18 much, with fewer and fewer resources. But I've always
19 thought that one of my jobs is to, as long as I can,
20 try to make sure that this body's priorities are done
21 as much as I can within the constraints of the
22 resources.

23 And largely through some very outstanding
24 people on the staff and very outstanding managers, I
25 think I've been able to do that.

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1 So the way I always look at these projects
2 is you give me a project. If I don't think I can do
3 it, I need to tell you I can't do it, because if I
4 mess that one up, then it's my responsibility. But if
5 I feel I can do it, then I have to go ahead and do it.

6 Seventy percent of our resources are in
7 staff. Most of the rest of our resources are fixed one
8 way or another. The rent, the communications cost, the
9 printing costs, stuff like that.

10 So the amount of our discretionary money
11 is really small. So we're not like a typical, agency
12 or company where we really do have a lot of money
13 where we can say, okay, this is the project. Let's
14 allot the money and then let them spend it. I really
15 do need to keep a close eye on it. And so we don't
16 really have that information that way.

17 COMMISSIONER REDENBAUGH: Okay, I can
18 understand that. But then how do you decide to do --
19 How do you make the decision about whether or not we
20 can afford to do something? Like, how do you decide
21 whether or not we could afford to go to Utah in two
22 months?

23 STAFF DIRECTOR JIN: Well, largely between
24 the budget director and I, we keep very close tabs on
25 our budget, on the line items in our budget. We keep

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1 close tabs on the authorizations that have gone out.
2 We keep close tabs on the vouchers that have come in.

3 And especially at the end of the year when
4 it gets extra tough, we have to be much more cautious,
5 you know. But we have a travel budget, and you know,
6 we look at that in terms of making sure that's within
7 the travel budget.

8 We also look at all the other costs that
9 we have. So for example, at this -- you know, again, I
10 made clear last month that this is a very challenging
11 year. So I'm not diminishing that, but if we at this
12 point weren't in a situation where we were down four
13 or five people from last year, I would be extremely
14 worried.

15 But we do have four or five positions from
16 last year that we have not filled. And that was done
17 in part because of planning. So you know, again, we
18 keep very close tabs, but you know, we just have to
19 make those judgments as we go forward.

20 And one advantage of being a small agency
21 is we can have that kind of control.

22 CHAIRPERSON BERRY: And if we were to
23 allocate money to projects and to offices ahead of
24 time that was theirs no matter what, you would lack
25 flexibility --

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1 STAFF DIRECTOR JIN: That's right.

2 CHAIRPERSON BERRY: -- given the smallness
3 of the budget, and the span of control, and the agency
4 in order to do that within that framework and have any
5 flexibility for needs that arise that we hadn't even
6 thought of because of some current crisis.

7 STAFF DIRECTOR JIN: That's right.

8 CHAIRPERSON BERRY: So it would constrain
9 your flexibility. And I really think that the bottom
10 line is that we hold you accountable for making sure
11 the budget is balanced at the end of the year.

12 And with most of the things that the
13 commission, whatever -- however the commission is
14 constructed wants to do. You say you can do them, you
15 do them.

16 And that's up to you to figure out how to
17 balance the different offices and the staff, and how
18 the vouchers are going, and whether next month you can
19 do this, or that, or the other. But you're accountable
20 for making sure the budget is balanced.

21 Yes, Commissioner.

22 COMMISSIONER THERNSTROM: I just have a
23 quick question for the staff director. You did say
24 this is a challenging year, and it's not clear to me
25 why this is a particularly challenging year with

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1 respect to the budget.

2 STAFF DIRECTOR JIN: Well, every year it
3 gets a little more challenging, because with the cost
4 of living that we have to absorb. For nine years now,
5 Congress has not chosen to give us any money to cover
6 the cost of living, which is a fixed cost, which
7 again, I think employees deserve it. So I'm all for
8 it, but we have to find a way to cover that.

9 So every year it's that additional cost on
10 top of the previous year. So every year it's a little
11 more challenging by that definition alone.

12 We entered into a new lease here this
13 year. It turned out, I think it was a very, very good
14 lease, but nevertheless, and I think you all noticed
15 that this neighborhood is up and coming. It costs
16 more. Not as much as we feared, but it does cost
17 more.

18 And our accounting system's new. And
19 again, I think that has been in probably every one of
20 the -- virtually every one of the Staff Director's
21 Reports now for two years.

22 George Harbison has warned me of this a
23 long time ago. So it's not a surprise. Not out of our
24 own choice, but out of the NFC pricing us out,
25 basically, along with a number of other small agencies

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1 because they decided we weren't worth doing business
2 with.

3 We had to go find a new relationship. And
4 we think we found a good one. It will cost more. So
5 those are the main things.

6 CHAIRPERSON BERRY: Could I get -- Are you
7 ready for the question on the motion?

8 COMMISSIONER KIRSANOW: Yes. Just one
9 question. I suppose I'm prepared to vote for this with
10 the reasonable -- or the friendly amendments that have
11 been proposed by Russell, although I'm not completely
12 satisfied with the motion.

13 I would have preferred Commissioner
14 Redenbaugh's previous motion. But it seems to me that
15 responsible oversight, whether it comes from on the
16 Hill or from GAO isn't harassment.

17 But to the extent it could be construed as
18 harassment, one of the best ways of thwarting it would
19 be to have as much transparency as possible. And that
20 transparency, it seems to me, is encompassed in
21 Russell's original motion.

22 But that being said, the question I have
23 for the staff director is what is the difficulty in
24 providing the additional information that was
25 requested in Commissioner Redenbaugh's motion, that

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1 being the travel costs associated with regularly
2 scheduled meetings, any payments to outside
3 contractors.

4 I think I indicated last meeting that I
5 thought that that would be something that would be
6 done as a part of ordinary, customary business on an
7 ongoing basis.

8 So, although I'm prepared to vote for this
9 particular motion, I'd still like to know for my own
10 edification is there some great, grand difficulty in
11 preparing that kind of information.

12 STAFF DIRECTOR JIN: Okay, I'm going to
13 answer this question leaving aside the philosophical
14 discussion the commissioners had about how much
15 information should be provided, because I think that's
16 something the commission's been talking about for a
17 real long time, and if it wants to change course, of
18 course the commission can do that.

19 But the short answer is that, you know, we
20 have pretty much all this information, but in most of
21 the cases, other than the aspects that Commissioner
22 Edley indicated, they're in a different format.

23 For example, we have cost of travel. You
24 know, we have a category called cost of travel, that's
25 how we keep our records. Do we keep track of them in a

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1 format that allows us to push a button and figure out
2 how much is associated with each particular meeting?
3 No, we don't. We would have to, you know, calculate
4 that and add that up.

5 We have records of payments to outside
6 contractors. And of course, contractors have their own
7 files and so forth, but do we have -- the way we keep
8 the contractor list is it's in -- it's by ID number
9 and by transaction.

10 And so we have that as a list, but in
11 order to make it anything really meaningful, we would
12 have to again, put in -- to convert it into a
13 different format.

14 Again, you don't specify exactly what
15 format you want here, but we would -- but definitely
16 the way we keep our record is very useful to us, but
17 for the average reader it would be pretty much
18 meaningless.

19 And again, you need to remember that,
20 while I think everybody thinks of contractors as a
21 certain type of relationship, the reality -- we have
22 contracts on a -- with many, many people on a very
23 routine basis.

24 For example, the court reporter today. A
25 separate contract. Contracts with hotel. Contracts

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1 with meeting rooms. So we keep lists of those, and --
2 but you know, I know that if you wanted that item, you
3 would want it in a much more readable basis.

4 So basically, what I'm saying is that the
5 information is there, but not -- but in most cases,
6 not really in the format that you would find useful
7 and we would have to spend some of the commission's --
8 the staff resources' time.

9 CHAIRPERSON BERRY: Who is the "we" that
10 would do this?

11 STAFF DIRECTOR JIN: The "we" would be
12 largely George Harbison, and Kim Alton.

13 CHAIRPERSON BERRY: What budget people
14 have you got?

15 STAFF DIRECTOR JIN: We've got two budget
16 persons. You know, we should have at least three,
17 maybe more. He should have a clerical person. He
18 doesn't.

19 So you know, again, not to be pleading
20 whatever, but you know, many of our people and many of
21 our managers are doing two people's jobs.

22 So basically, I make, you know it's
23 important, of course, that we follow the rules, that
24 we do everything we have to do, but in terms of beyond
25 that, it's a real stretch.

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1 And again, I -- my position, I mean, I'm
2 just saying this to respond to your question. I mean,
3 if the commission wants us to do it, we'll find a way
4 to do it.

5 COMMISSIONER KIRSANOW: Les, I understand
6 that. And I understand, it makes perfect sense to me.
7 But isn't there a means by which you can print out a
8 spreadsheet for us, and then we can make the
9 determination as to whether or not it's useful?

10 I mean, it may be indecipherable for us,
11 but maybe then that's our problem.

12 STAFF DIRECTOR JIN: Well, again, that
13 would go, you know, I mean back to the philosophical
14 question, but like I said, I just don't think you
15 would understand the format that we have most of the
16 stuff in.

17 I mean, I think when it's all said and
18 done, you're going to ask us for a report, frankly.

19 CHAIRPERSON BERRY: Commissioner Meeks.

20 COMMISSIONER MEEKS: I call for the
21 question.

22 CHAIRPERSON BERRY: All right. The
23 question's been called for. All in favor of the motion
24 introduced by Edley, seconded by Redenbaugh, with the
25 friendly amendments indicate by indicating, "Aye."

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1 (Chorus of Ayes.)

2 CHAIRPERSON BERRY: All those opposed to
3 the motion?

4 (No response.)

5 CHAIRPERSON BERRY: Anyone who abstains
6 from the motion?

7 (No response.)

8 CHAIRPERSON BERRY: So ordered. The motion
9 passes. Are there other --

10 COMMISSIONER REDENBAUGH: May I note, this
11 is the first 8-0 vote in recent memory.

12 CHAIRPERSON BERRY: In recent memory. No,
13 it's not.

14 COMMISSIONER REDENBAUGH: Oh, it's not?

15 VICE CHAIRPERSON REYNOSO: Oh, no, we had
16 the vote, urging the voters of California to vote
17 against the initiative that -- racial data.

18 CHAIRPERSON BERRY: Privacy.

19 VICE CHAIRPERSON REYNOSO: Yes. And then
20 that was a unanimous vote also.

21 COMMISSIONER REDENBAUGH: Ah, then we
22 concur on something that means privacy?

23 CHAIRPERSON BERRY: I don't remember
24 whether we voted or not.

25 COMMISSIONER THERNSTROM: I don't think we

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1 had a vote on that.

2 CHAIRPERSON BERRY: But I remember on the
3 record, I think you said you were opposed to the
4 initiative. Was that correct, or am I wrong?

5 COMMISSIONER THERNSTROM: Well, I think
6 that it's important that we did not have a vote on
7 that issue.

8 CHAIRPERSON BERRY: A-ha, that tells you
9 something. The other thing under Staff Director's
10 Report is this minority employment project that the
11 subcommittee that Russell had worked on. And is this
12 ready for us to somehow agree to?

13 COMMISSIONER REDENBAUGH: Yes. I think so.

14 CHAIRPERSON BERRY: You have the floor,
15 Russell.

16 COMMISSIONER REDENBAUGH: I'll be brief.
17 Well, knowing that I run the risk of exhausting the
18 patience of all of us. Staff has made the decision or
19 proposal to combine this economic study into -- with
20 two existing studies.

21 I think that's a very good idea with
22 respect to one aspect of the proposal. And since I
23 concur with staff, I don't even need to discuss which
24 one that is.

25 The other part of this study, which is

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1 really the minority employment and economic
2 participation, the staff asked to combine that with
3 the Adarand, I believe.

4 CHAIRPERSON BERRY: Review, yes.

5 COMMISSIONER REDENBAUGH: Review. And I
6 think that isn't a very good idea from a policy point
7 of view, and would not want us to do that, in that
8 they're really so very different in their nature.

9 One is a review, one is a question of
10 compliance and consequences, where the other -- the
11 proposal that Meeks and Edley and I came up with is
12 much more of policy analysis-oriented.

13 It's a very different skill set, and I
14 propose that we consider it as a stand-alone project,
15 rather than combine it with the Adarand review.

16 CHAIRPERSON BERRY: And are you familiar
17 with, and are incorporating in this, the two points
18 that Edley made. You sent these two points, right
19 Edley?

20 COMMISSIONER EDLEY: Yes, but I think it
21 was some time yesterday, so I'd be happy to read them.

22 CHAIRPERSON BERRY: He made --

23 COMMISSIONER REDENBAUGH: I didn't see.

24 COMMISSIONER EDLEY: I'm sorry, Russell.

25 Yes.

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1 COMMISSIONER REDENBAUGH: I'm sorry, I was
2 traveling.

3 COMMISSIONER EDLEY: You were traveling
4 and I was tardy. The -- In this I suggest augmenting
5 the description provided by Russell with the following
6 two points.

7 Number one, to what extent are regionally
8 focused strategies effective in narrowing income and
9 wealth disparities. Or are they really inconsequential
10 in relation to macroeconomic policies, including tax
11 policy, and income maintenance policies.

12 COMMISSIONER REDENBAUGH: If you would add
13 tax and monetary.

14 COMMISSIONER EDLEY: Right. I thought that
15 was more obviously part of my --

16 CHAIRPERSON BERRY: Tax and monetary
17 policy. And income maintenance policy.

18 COMMISSIONER EDLEY: Income maintenance
19 policies. And then you see what I'm getting at?

20 COMMISSIONER REDENBAUGH: Yes.

21 COMMISSIONER EDLEY: I was just kind of
22 really playing around the edges.

23 COMMISSIONER REDENBAUGH: Yes, I like
24 that.

25 COMMISSIONER EDLEY: With these various

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1 regional strategies, when it's really the big picture
2 economic policy measures that make the difference.

3 COMMISSIONER REDENBAUGH: Yes. That was
4 the first one?

5 COMMISSIONER EDLEY: Right. The second is
6 to what extent have human capital investments and
7 supports affecting labor supply. Being -- that is to
8 say, paren (affecting labor supply) close paren --
9 been important in changing the income and wealth gaps;
10 semi-colon, to what extent have business capital
11 investments and supports, paren (affecting labor
12 demand) close paren, been important.

13 COMMISSIONER REDENBAUGH: I think those
14 are intriguing, hard and difficult questions.

15 COMMISSIONER EDLEY: Maybe that when one
16 does a literature review the answer is we don't know.
17 Whatever it may be that we -- or whatever, but I mean,
18 I think that that -- I think there is a school of
19 thought that you're going to narrow the income and
20 wealth gaps by investing in people, and education, and
21 job training.

22 On the other hand, there is a school of
23 thought that says the way you're going to do it is by
24 giving businesses more incentives to hire people, or
25 to hire particular people, or --

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1 COMMISSIONER REDENBAUGH: Or affected --
2 Or giving individuals more incentives to start or
3 grow.

4 COMMISSIONER EDLEY: Yes, right.

5 COMMISSIONER REDENBAUGH: Just because I
6 don't -- I don't want to fall in the trap of the round
7 table, the business round table of -- and say that all
8 incentives should flow through us.

9 COMMISSIONER EDLEY: Exactly.

10 COMMISSIONER REDENBAUGH: The already
11 existing and prosperous. No, I would certainly include
12 those. I think they're interesting and tough
13 questions, and we'll see what the literature turns up.

14 COMMISSIONER EDLEY: Or if I may, Madam
15 Chair, I think it would be very interesting if the
16 literature is confused, or if resources are limited,
17 just to maybe make interesting panels, and get experts
18 to come in and talk about this.

19 CHAIRPERSON BERRY: Okay. Commissioner
20 Meeks?

21 COMMISSIONER MEEKS: Yes, I think these --
22 this literature review is -- I mean, these are all
23 issues that need to be explored. I don't know if the
24 argument is at all whether we have it as a separate
25 project, because I do think these are the kinds of

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1 issues that are going to inform, you know, the CRA
2 project and the Adarand.

3 So I mean, all of these are issues that I
4 think that we need to explore. Now, you know, again,
5 I'm not going to argue whether it should be a separate
6 project or not, because I really think ultimately it's
7 just going to feed into those other two projects.

8 CHAIRPERSON BERRY: Okay. Commissioner
9 Thernstrom and then Commissioner Edley.

10 COMMISSIONER THERNSTROM: So, where does
11 the question of the relationship between the Adarand
12 follow-up and this minority employment project, where
13 does the question of the relationship between the two
14 stand?

15 Because it does seem to me in some
16 fundamental ways, employment and contracting are two
17 separate issues, and I don't want to lose sight of
18 that.

19 CHAIRPERSON BERRY: Well, I think what
20 Russell said was the reason why he's proposing this
21 language for the minority employment project is
22 because he disagreed with the staff that this could be
23 put under Adarand.

24 Did I hear you right?

25 COMMISSIONER REDENBAUGH: Yes. The

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1 sensible proposal --

2 CHAIRPERSON BERRY: This is a stand-alone
3 proposal. He's only pointing out that the suggestion
4 had been made that it might be --

5 COMMISSIONER THERNSTROM: Okay. I'm asking
6 where that suggestion stands. Can it --

7 CHAIRPERSON BERRY: It's not -- This is a
8 separate --

9 COMMISSIONER THERNSTROM: This is separate
10 and it will remain separate.

11 CHAIRPERSON BERRY: Separate proposal.

12 COMMISSIONER THERNSTROM: Okay.

13 CHAIRPERSON BERRY: So we have to figure
14 out if we want to approve it.

15 COMMISSIONER THERNSTROM: Okay.

16 CHAIRPERSON BERRY: Were you trying to say
17 something, Vice Chair?

18 VICE CHAIRPERSON REYNOSO: Oh, I was just
19 -- Thank you. I was just going to say that to me, the
20 minority employment part of it is all very important.

21 But equally important is the wealth gap
22 between minorities and non-minorities. So I just --
23 that's just mentioning it again. I hope it's not
24 forgotten, and made an equal part of the analysis.

25 CHAIRPERSON BERRY: Is that one of the

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1 Redenbaughs, Russell?

2 COMMISSIONER REDENBAUGH: That's my
3 economic adviser. Cruz, would you repeat what you
4 said?

5 CHAIRPERSON BERRY: I was just saying he's
6 a very small one.

7 COMMISSIONER REDENBAUGH: In fact, he
8 advises only on a micro level.

9 VICE CHAIRPERSON REYNOSO: I was going to
10 suggest that the title of the project be Minority
11 Employment and the Wealth Gap Between Minorities and
12 Non-Minorities, so that the staff doesn't forget the
13 second part of it, which I think is equally important.

14 COMMISSIONER REDENBAUGH: Excellent.

15 VICE CHAIRPERSON REYNOSO: Thank you.

16 COMMISSIONER REDENBAUGH: It's a very good
17 macro point.

18 CHAIRPERSON BERRY: Okay. Commissioner
19 Edley.

20 COMMISSIONER EDLEY: I'm a little confused
21 about -- given the roster of things that we've already
22 got, whether we've got the --

23 CHAIRPERSON BERRY: Space?

24 COMMISSIONER EDLEY: -- wherewithal to
25 actually do this. So I guess --

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1 VICE CHAIRPERSON REYNOSO: This is for the
2 future, isn't it?

3 COMMISSIONER EDLEY: This is for the
4 future. We're going to have a much bigger
5 appropriation, is that the --

6 (Laughter.)

7 CHAIRPERSON BERRY: Shall be it that there
8 be a bigger appropriation.

9 COMMISSIONER EDLEY: So I guess what I'm
10 asking is that I suppose it's implicit that if we were
11 to approve this project, the staff director would come
12 back and say either it's doable, or it's going to be
13 shaped in a way that can be accommodated within the
14 research -- within the resources available or
15 something?

16 CHAIRPERSON BERRY: Yes. Les, does this
17 assume that one of the other projects will be dropped?

18 STAFF DIRECTOR JIN: Yes, Madam Chair.
19 This gives me a great opportunity to --

20 CHAIRPERSON BERRY: To drop one.

21 STAFF DIRECTOR JIN: -- interject my
22 bureaucratic half. This is the time where I've got to
23 detail the commissioners, or ask the commissioners to
24 say that I think that we need to take some action here
25 to make sure that the staff's work load is reasonable.

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1 If the commissioners remember, actually
2 the last time we had project planning discussions,
3 there were five projects left on the table even
4 without the one that Commissioner Redenbaugh's adding
5 today.

6 And my view has always been that,
7 especially with emerging issues always coming up, and
8 with other responsibilities that General Counsel's
9 Office and OCRE has, that each office should have no
10 more than two new projects per year.

11 And so, and which was, again, I appreciate
12 Commissioner Redenbaugh's comments about the
13 reasonableness of our efforts, even though I
14 understand reasonably he disagrees, that was one of
15 the reasons we were looking for a way to maybe combine
16 this with some other projects.

17 Because when all's said and done, whether
18 we now have five projects or six projects we're
19 looking at, I'm going to ask that the commissioners
20 reduce it back to four.

21 CHAIRPERSON BERRY: So OCRE has three
22 under the --

23 STAFF DIRECTOR JIN: Yes, and then we
24 passed out something to you today that kind of
25 refreshes --

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1 CHAIRPERSON BERRY: One of them was the
2 internet and other technological discrimination
3 against persons with disabilities. The other one is 10
4 years after Adarand, and the effect of changed federal
5 procurement standards on women and minority-owned
6 businesses.

7 And the third one is removing the vestiges
8 of de jure segregation in public higher education
9 systems in states with a prior history of segregation
10 pursuant to the state law.

11 Well, I would be in favor of moving the
12 first one, and leaving the other two, and doing this
13 if you can have -- How many can you have, though?

14 STAFF DIRECTOR JIN: Well, yes. I would
15 really like to have two per office. That is my strong
16 recommendation.

17 CHAIRPERSON BERRY: Oh, I see. We'll
18 remove that one, and keep this one. Then we still
19 would have to drop another one.

20 STAFF DIRECTOR JIN: That's right.

21 CHAIRPERSON BERRY: Yes, Commissioner
22 Edley.

23 COMMISSIONER EDLEY: Is it -- Could we do
24 more projects if we identified one or two of these,
25 with the staff director identifying one or two of

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1 these that could be contracted out?

2 That is to say, if you hired an academic
3 or a law firm or somebody to produce a report, or to
4 do a study. I mean, that would be one way of doing it.
5 I think another way of doing it would be to, perhaps,
6 shape one or more of these as more of a panel or a
7 series of panels, even, over a period of time, rather
8 than something --

9 In other words, I'm trying to figure out -
10 - it seems to me that we could make a lot of headway
11 on several of these projects by, instead of allocating
12 scarce staff time, we get all these smart people out
13 there around the world who've studied these things in
14 depth to write things for us, or to come in and make
15 presentations, or a combination.

16 STAFF DIRECTOR JIN: Yes, Commissioner,
17 that would be just, I think, simply a cost issue. I
18 don't know -- I'm not quite sure how much it would
19 cost, and so if the money was there, then we could do
20 that.

21 Another possibility is to -- I kind of
22 remember from the last debate, I think, that there was
23 interest, obviously, in all of these. I think that
24 there was some discussion with the internet project,
25 that, you know, like, well are these issues still

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1 going to be really relevant two or three years from
2 now.

3 I mean, one possibility is to maybe make
4 that into a briefing of some kind, and then see if
5 that results in something that needs further
6 examination. That's one -- another possibility.

7 CHAIRPERSON BERRY: That's a good idea.
8 Why don't we make that into -- you know, just have
9 that as one of our, you know, one of the briefings, or
10 put that as an asterisk by it as a briefing.

11 And then get rid of the first one, not
12 because it isn't important, but it is of less
13 importance than this one that Russell and the group
14 have come up with, and put it in.

15 STAFF DIRECTOR JIN: Yes.

16 CHAIRPERSON BERRY: How's that sound? Do
17 you see what I'm doing, Russell?

18 COMMISSIONER REDENBAUGH: Yes.

19 COMMISSIONER EDLEY: When you say the
20 first one, do you mean the removing the vestiges?

21 CHAIRPERSON BERRY: Yes. And that can be
22 some kind of briefing too, if people want to know
23 what's going on.

24 COMMISSIONER EDLEY: It could be, but I'll
25 also bet that you could get a really first-rate law

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1 firm or law professor to, for \$5,000, as their summer
2 project write us an article about it.

3 Because this -- I mean this is really
4 doing kind of a survey of what's happening in these
5 various states, where the various court cases stand,
6 et cetera, which is -- it's not like it's an -- if I
7 understand the definition of the project the right
8 way.

9 So, we don't have to decide this, but I
10 just --

11 CHAIRPERSON BERRY: So, why don't we leave
12 that idea, the one you just proposed, and the internet
13 as a briefing, those two ideas, with the staff
14 director, and not these as full-blown projects in the
15 usual sense of the word that the staff will staff up
16 to do.

17 And then why don't we put the new one in
18 that you guys have proposed, and then that would be
19 two for OCRE, and it would be no more than the two you
20 think that they can digest.

21 Yes, Commissioner.

22 COMMISSIONER THERNSTROM: If we hired an
23 outside contractor of some sort, I personally would
24 like to know beforehand from the staff director who
25 you are thinking of hiring, and to be able to have

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1 some discussion, because obviously, like all matters
2 before this commission, there's a political aspect to
3 it.

4 CHAIRPERSON BERRY: Really?

5 (Laughter.)

6 CHAIRPERSON BERRY: Shocking.

7 COMMISSIONER THERNSTROM: Shocking, right,
8 I know it comes as a big revelation, but I think that
9 the last outside contractor obviously that we hired I
10 didn't know even beforehand whom we were hiring, and I
11 had some questions about the quality of the work, to
12 say the least.

13 CHAIRPERSON BERRY: Well, I had some
14 questions about the quality of the work of the person
15 you hired --

16 COMMISSIONER THERNSTROM: I understand
17 that.

18 CHAIRPERSON BERRY: I have been very
19 generous in not ever mentioning anything about all the
20 publicity surrounding that person.

21 COMMISSIONER THERNSTROM: Well, all the
22 more reason --

23 CHAIRPERSON BERRY: -- your work. In fact,
24 if the commission had vetted that person, the person
25 would never -- and we have it as an embarrassment in

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1 the commission report, an appendix done by that person
2 which we can't get rid of --

3 COMMISSIONER THERNSTROM: All the more
4 reason for having a discussion with --

5 CHAIRPERSON BERRY: You raised it, ma'am.
6 You raised it.

7 COMMISSIONER THERNSTROM: Yes, I'm happy
8 to have raised it. All the more reason for having a
9 discussion beforehand so that we do not end up with,
10 you know, bitter, antagonistic whatever feelings about
11 the course of events.

12 CHAIRPERSON BERRY: Staff Director, you
13 want to?

14 STAFF DIRECTOR JIN: Yes, Madam Chair. At
15 the risk of sounding a bit bold, I might have a
16 solution that will satisfy both Commissioner
17 Thernstrom, and Commissioner Edley, as well as meeting
18 my managerial concerns.

19 (Laughter.)

20 STAFF DIRECTOR JIN: In terms of the two
21 projects for OCRE, you know, we can do the one that
22 Commissioner Redenbaugh suggested, 10 years after
23 Adarand. And in terms of the removing vestiges of de
24 jure segregation, let us go back and look into the
25 idea that Commissioner Edley has and report back to

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1 the commission next month in terms of the feasibility
2 of what he's talking about.

3 And then at that point, the commission can
4 decide whether to make it into a briefing, or make it
5 more than a briefing.

6 CHAIRPERSON BERRY: Why don't we leave
7 that up to you to determine based on the discussion,
8 and then you can tell us the outcome.

9 STAFF DIRECTOR JIN: Okay.

10 CHAIRPERSON BERRY: I don't think we need
11 to debate that. There are other, more serious matters
12 with political implications for us to debate. I'm only
13 -- I'm being funny, Russell.

14 (Laughter.)

15 CHAIRPERSON BERRY: Can we vote on this as
16 a project, with the understanding that we are calling
17 the other two now, the vestiges and the internet
18 thing, not a project, so that OCRE will end up with
19 two projects, which is where we want them to end up,
20 if we approve this one.

21 So, could I get somebody to call for the
22 question?

23 COMMISSIONER REDENBAUGH: So the motion
24 includes all of that.

25 CHAIRPERSON BERRY: All of that. Correct.

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1 COMMISSIONER REDENBAUGH: Call for the
2 question.

3 CHAIRPERSON BERRY: All right. All those
4 in favor of the motion indicate by saying, "Aye."

5 (Chorus of Ayes.)

6 CHAIRPERSON BERRY: Opposed?

7 (No response.)

8 CHAIRPERSON BERRY: Abstainers?

9 (No response.)

10 CHAIRPERSON BERRY: The motion is passed.
11 Okay, are there other things on the Staff Director's
12 Report? I don't think so.

13 STAFF DIRECTOR JIN: Not from me.

14 CHAIRPERSON BERRY: Oh, yes. Commissioner
15 Kirsanow.

16 COMMISSIONER KIRSANOW: I'd like to ask
17 if, given that we just had oral argument in the
18 Michigan case, and we're looking at a decision
19 probably in early summer, if we could have a briefing
20 in one of the upcoming meetings, but preferably prior
21 to the outcome of the case, on the effects of race-
22 conscious admissions policies on a group that I didn't
23 hear anything about during the oral argument, and that
24 is on non-preferred minorities, specifically Asians.

25 CHAIRPERSON BERRY: Non what?

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1 COMMISSIONER KIRSANOW: Non-preferred
2 minorities, specifically Asian-Americans.

3 CHAIRPERSON BERRY: Well, I'm not inclined
4 to have any briefing about the Michigan case until
5 that Michigan case is decided. I think the Supreme
6 Court has heard the argument.

7 We have not, in the past, done briefings
8 that may tend to appear to some as an attempt to
9 influence -- not that we have any influence -- the
10 outcome of the situation when the Supreme Court was in
11 the posture of having heard argument, and was trying
12 to decide a case.

13 I think it would be interesting to have a
14 briefing after they decide the case on what the
15 implications of that case are. We don't know what
16 they're going to decide, but whatever they decide. So
17 I would not be inclined to ask the staff director to
18 do that.

19 Are there other --

20 COMMISSIONER KIRSANOW: Can I make a
21 motion on that? I'd like to move that we do have such
22 a briefing sometime prior to the outcome of the
23 Michigan case.

24 CHAIRPERSON BERRY: All right. There's
25 your motion. Second? We'll get a second?

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1 COMMISSIONER THERNSTROM: I second it.

2 CHAIRPERSON BERRY: Okay.

3 VICE CHAIRPERSON REYNOSO: I'm just
4 curious as to the import of that briefing. Usually we
5 have a briefing, particularly when there's a pending
6 issue where we think we want to do more study later
7 on.

8 COMMISSIONER KIRSANOW: Sure. I think
9 there are a couple of reasons. One is I have
10 absolutely no problem, and I concur with the chair
11 that I think it would be very valuable to have a
12 briefing, maybe a series of briefings, depending on
13 the outcome of the case.

14 It could come out in several different
15 ways, depending on, you know, compelling interest,
16 narrow tailoring, who knows how it will come out. I do
17 think, however, that it's important to have a briefing
18 now, because frankly, not that we will have any kind
19 of an influence, but I think it's important for public
20 discourse, given that there's been an entire group,
21 apparently, that's not been involved, or has been
22 excluded from the entire discussion.

23 I scanned the transcripts. I didn't see
24 anything about Asian-Americans in there, at least in
25 any -- to any great extent. And I know there's a

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1 little bit of literature on that, but apparently not a
2 whole lot, just based on my quick internet review.

3 And I think it's something that's
4 important for the public to consider, and for us to
5 consider, in terms of what may or may not happen in
6 just a couple of months.

7 CHAIRPERSON BERRY: The Asian-American
8 civil rights groups are supporting the University of
9 Michigan in this case, in both briefs submitted by
10 various people, and have taken a strong position on
11 the issue.

12 VICE CHAIRPERSON REYNOSO: Well, I just
13 want to hear the rationale for it, because I guess
14 after hearing it, I'm more convinced that the chair is
15 correct, that these are things that are better heard
16 of and analyzed after the meeting -- after the
17 decision.

18 CHAIRPERSON BERRY: Okay. And if there's
19 no further discussion, could someone call for the
20 question?

21 COMMISSIONER EDLEY: Call the question.

22 CHAIRPERSON BERRY: All those in favor of
23 the motion to hold such a briefing in advance of the
24 Supreme Court decision, indicate by saying, "Aye."

25 (Chorus of Ayes.)

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1 CHAIRPERSON BERRY: Opposed?

2 (Chorus of Nos.)

3 CHAIRPERSON BERRY: Would you like a roll
4 call?

5 COMMISSIONER KIRSANOW: Yes.

6 CHAIRPERSON BERRY: Okay. Berry, no.
7 Braceras?

8 COMMISSIONER BRACERAS: Aye.

9 CHAIRPERSON BERRY: Edley?

10 COMMISSIONER EDLEY: No.

11 CHAIRPERSON BERRY: Kirsanow?

12 COMMISSIONER KIRSANOW: Yes.

13 CHAIRPERSON BERRY: Meeks?

14 COMMISSIONER MEEKS: No.

15 CHAIRPERSON BERRY: Redenbaugh?

16 COMMISSIONER REDENBAUGH: Aye.

17 CHAIRPERSON BERRY: Reynoso?

18 VICE CHAIRPERSON REYNOSO: No.

19 CHAIRPERSON BERRY: Thernstrom?

20 COMMISSIONER THERNSTROM: Aye.

21 CHAIRPERSON BERRY: The motion fails for
22 want of a majority. Okay, Abby, you asked that future
23 agenda items be put before the SAC. Do you mind if we
24 vote on the SAC report? It will be fast.

25 COMMISSIONER THERNSTROM: Sure. That's

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1 fine.

2 V. State Advisory Committee Report: The
3 Grand Junction Report -- Issues of Equality in Mesa
4 Valley (Colorado)

5 CHAIRPERSON BERRY: Okay. There's a state
6 advisory committee report, the Grand Junction Report,
7 Issues in Equality in Mesa Valley, Colorado, which is
8 -- I thought was a very good report, done by the staff
9 out there in the -- that's John's region.

10 VICE CHAIRPERSON REYNOSO: Rocky Mountain
11 region.

12 CHAIRPERSON BERRY: Rocky Mountain region.
13 Could I get a motion to accept that report?

14 VICE CHAIRPERSON REYNOSO: So moved.

15 COMMISSIONER KIRSANOW: Second.

16 CHAIRPERSON BERRY: Any further
17 discussion?

18 VICE CHAIRPERSON REYNOSO: Madam Chair?

19 CHAIRPERSON BERRY: Yes.

20 VICE CHAIRPERSON REYNOSO: I just, I want
21 to comment favorably on the report. It's given us a
22 snapshot of what's happening in so many areas, and I
23 just want to point out that it gives statistics. It's
24 particularly important, it seems to me, when you
25 consider that 10 percent of the population there is

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1 Latino.

2 And someplace, I forgot my spot now,
3 classroom teachers: total number 81. Black: male zero,
4 female zero; Hispanics: male two, female one. You
5 know, we have a long ways to go in so many parts of
6 the country.

7 CHAIRPERSON BERRY: That's Colorado,
8 right?

9 VICE CHAIRPERSON REYNOSO: This is a little
10 snapshot of how far we have to go to bring some equity
11 to the children of this country, irrespective of race
12 and ethnicity.

13 CHAIRPERSON BERRY: Okay. All those in
14 favor of accepting the report, indicate by saying,
15 "Aye."

16 (Chorus of Ayes.)

17 CHAIRPERSON BERRY: Opposed?

18 (No response.)

19 CHAIRPERSON BERRY: So ordered.

20 **VI. Future Agenda Items**

21 CHAIRPERSON BERRY: Future agenda items
22 before we give the presentations. Does anyone have a
23 future agenda item that they would like to propose,
24 beyond what has already been discussed?

25 Hearing none -- oh, yes.

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1 COMMISSIONER EDLEY: Well, I think just to
2 follow up, I thought your suggestion about a post
3 Michigan something or other -- briefing would be
4 terrific, because I -- I mean, I could bet you dollars
5 to doughnuts that whatever the Court decides, there
6 are going to be rampant mischaracterizations by
7 somebody, by lots of people probably.

8 And if there is -- maybe this is
9 incredibly naive, but if there's anything that we
10 could do to shed some light, and clarify, I think it
11 would be a good public service.

12 CHAIRPERSON BERRY: Yes, we can do that.
13 We only need -- We don't need a motion to do that. We
14 only need a motion if I say that we can't do it, and
15 then somebody doesn't like it, they can do it.

16 All right. The -- Any other future agenda
17 items? Oh, I thought you had one and that was why you
18 forwarded it.

19 COMMISSIONER THERNSTROM: No, I just
20 wanted to --

21 CHAIRPERSON BERRY: To make sure we did
22 it.

23 COMMISSIONER THERNSTROM: To make sure --
24 I, with apologies, will not be able to stay for the
25 entire meeting, and I wanted to make sure that if

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1 there were future agenda items, that --

2 CHAIRPERSON BERRY: Oh, I see.

3 COMMISSIONER THERNSTROM: -- I'd be
4 interested in. I wanted to move it up in time. And I
5 thank you very much for doing so.

6 **VII. Presentations from the Eastern**
7 **Regional State Advisory Committee Members Representing**
8 **the District of Columbia, Maryland, and Virginia**

9 CHAIRPERSON BERRY: All right. Now we're
10 going to have presentations from the Eastern Regional
11 State Advisory Committee members. We would -- Are they
12 here?

13 STAFF DIRECTOR JIN: Yes, Madam Chair. I
14 understand that, unfortunately, the Washington, D.C.,
15 chair could not make it.

16 CHAIRPERSON BERRY: He was here last --

17 STAFF DIRECTOR JIN: Yes, the commission
18 may remember he was here last week. I think our
19 Eastern Regional Office Director Ki-Taek Chun will
20 kind of present for him. And I think our other
21 representatives are here.

22 CHAIRPERSON BERRY: Okay. Please proceed.

23 MR. CHUN: Okay. Good morning
24 commissioners. I'm Ki-Taek Chun, Director of Eastern
25 Regional Office as you may recall. As you may know, we

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1 have 14 advisory committees in the eastern region. And
2 some of those unfortunately have been less than fully
3 active in the last couple of years, but I'm happy to
4 say, to report to you that each one of them has been
5 reactivated and reinvigorated. And thanks for special
6 consideration for making that possible.

7 Among the 14 advisory committees, there
8 are three in the metropolitan area. Namely Virginia,
9 Maryland and D.C. have been most visible and
10 prominent. I'm happy to be with the chairpersons and
11 representatives of those three committees.

12 Who would you like us to start with?

13 CHAIRPERSON BERRY: I would like -- yes.
14 Did you say? I would like you to begin with perhaps,
15 let's see, in alphabetical order. I guess Maryland
16 comes before Virginia.

17 Why don't you go ahead and do D.C. D.C. is
18 first.

19 (Laughter.)

20 MR. CHUN: All right. There is, yes, I
21 think we are each of us prepared to make a
22 presentation about what is happening in each of the
23 respective state advisory committees, but there is
24 this inter-SAC advisory committee activity, and
25 personal one-on-one events. You recall that.

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1 CHAIRPERSON BERRY: Right.

2 MR. CHUN: And Mr. Patrick is here. He has
3 served as the chairperson of the inter-SAC committee.
4 So perhaps if I may suggest that he may like to spend
5 a few minutes to give an overview on that effort
6 first.

7 CHAIRPERSON BERRY: That would be a good
8 idea. Please.

9 MR. PATRICK: Madam Chair, members of the
10 commission. My name is Richard Patrick, and I'm chair
11 of the Virginia State Advisory Committee.

12 CHAIRPERSON BERRY: Let me introduce you
13 more fully. You are the senior partner in the law firm
14 of Patrick, Henry, Kappel & Lewis, is that right?

15 MR. PATRICK: That's correct.

16 CHAIRPERSON BERRY: And it's not Patrick
17 Henry, but it's just Mr. Patrick, right? Okay, and you
18 are the executive board member and counsel to the
19 Virginia State Conference of Branches, the NAACP, and
20 you're a member of everything you should be a member
21 of, including the National Bar Association, and
22 Metropolitan Washington Employment Lawyers
23 Association, and the like.

24 You are an alumnus of Hampton and the
25 University of Virginia Law School, is that correct?

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1 MR. PATRICK: That's correct.

2 CHAIRPERSON BERRY: All right. Please
3 proceed.

4 MR. PATRICK: Thank you. I am very happy
5 to have the opportunity to speak to the commission
6 today as it continues its work, its very worthwhile
7 work in this area.

8 The state advisory committees of Virginia,
9 Maryland and the District of Columbia came together
10 about a little less than a year ago, and decided that
11 it would be very important to have inter-SAC meetings
12 to discuss having a report on the civil rights
13 concerns in the metropolitan area in the aftermath of
14 the 9/11 tragedies.

15 This would have been one of the first
16 times that committees came together to work on a
17 project. And so we were faced with a number of initial
18 very intriguing questions, given the size of many of
19 the committees, and the diversities in the committees.

20 How should we approach this task in the
21 aftermath of 9/11.

22 It so happened that because of the many
23 very good members on the committees, we came together
24 and settled some procedures with some guidance from
25 the eastern regional office, Ki-Taek and Ed in the

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1 back.

2 And so we have at this time a number of
3 conference calls, and I listened intently to the staff
4 director talking about ways in which we can come
5 within the budget.

6 And so we utilize telephone conference
7 calls very effectively to streamline the process to
8 discuss how we would approach this very, very
9 important issue.

10 We decided on, first of all, the topic. We
11 narrowed down the scope of the topic. We decided who
12 are going to be the participants, making it very clear
13 that we wanted to have a well-rounded panel who would
14 represent the views of the local government, the
15 federal government, and the views of the affected
16 minorities. And by this we mean that we looked at the
17 minorities who indicated that they were most adversely
18 affected by 9/11.

19 And we concluded that the Arab-Americans,
20 or those who constituted a Muslim religion were the
21 affected communities. So we wanted to make sure that
22 we had a well-rounded representation.

23 So the members came together, decided on a
24 topic. We also wanted to make sure that word got out
25 to the media that we were having this important

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1 discussion.

2 We had to make sure that we selected a
3 place. And while it seemed an innocuous kind of topic,
4 among the members, we decided that we wanted to settle
5 on a place that was not foreboding.

6 If you're trying to connect members of the
7 affected minority, you wouldn't hold it in a place
8 where they were loathe to come. Surely we didn't want
9 to do that.

10 So we finally settled on a place close to
11 my office in Annandale, Virginia, the governmental
12 center -- in Annandale. And so we narrowed down this,
13 and over a period of time, three or four sessions, we
14 decided on it.

15 And we put all these things into place, on
16 April 24 and 25 of last year, we held our report. This
17 report at the moment, we held the conference over two
18 days. And at this moment, the report is being looked
19 at internally. And hopefully it should be -- we should
20 be able to present it to the commission by next month.

21 That's just a snapshot of what I believe
22 can be the focus of the state advisory committees, and
23 how the state advisory committees can function as the
24 eyes and ears of the commission. Because we are
25 volunteers, but civil rights is a serious issue, and

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1 we all take these responsibilities seriously.

2 And so to the extent that we can inform
3 the commission by having a collaborative effort among
4 these three jurisdictions, we felt that it would be
5 useful and worthwhile for everyone concerned. And we
6 hope that the commission feels the same way when they
7 see the report.

8 I will next turn briefly to the Virginia
9 State Advisory Committee, and just update the
10 commission briefly on a project that we undertook
11 called Equal Justice: African-Americans in the
12 Virginia Criminal Justice System, that we did in
13 April, 2000.

14 This was -- This report is a very good
15 indication of the work all state advisory committees
16 do, because two days ago, I received a call from the
17 Lawyers' Committee for Civil Rights Under the Law,
18 which is one of the more active civil rights
19 organizations in the metropolitan area.

20 One of the things that they told me was
21 that they are looking at the issue of restoration of
22 voting rights for convicted felons in Virginia. And
23 our report in 2000 focused on this issue, along with
24 some others, and held the feet to the fire of the
25 Virginia government, so to speak, on this issue.

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1 And that was in 2000 we published this
2 report, and here it is 2003, and we have another civil
3 rights organization picking up, if you will, on this
4 particular issue and saying you published in your
5 report the most comprehensive statistics on this issue
6 that we have seen, and we are going to go forward on
7 it.

8 And in addition to that, in the aftermath
9 of this report, I've received letters from prisoners
10 in Virginia saying we heard your report because
11 members of the public were there. Can you do something
12 for us? Can you do something for us?

13 And so, in Virginia, what we are planning
14 to do, we are planning to revisit these issues because
15 we've also received calls asking, well, you focus on
16 these issues, what are you going to do?

17 And so, in the coming months, we hope, we
18 will focus on three sub-issues that came out of this
19 report. Again, the voting rights for ex-felons, the
20 quality of court appointed counsel for indigent
21 defendants, and racial profiling.

22 And on the issue of voting rights for ex-
23 felons, just an update. When we delivered this report,
24 and we had a public hearing in the State Capitol in
25 Richmond, Governor Gilmore was then the governor of

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1 Virginia.

2 And he dismissed this report out of hand.
3 But in so focusing on the issue related to ex-felons,
4 we had testimony from one of the senators who
5 indicated that Virginia had an appalling record of
6 restoration of civil rights for ex-felons.

7 And so in 2001, 2002, bills were
8 introduced. And I just did some recent research on
9 Lexis and found out that the system of restoration of
10 civil rights became a little bit easier.

11 It's still not easy, but it became easier
12 because now felons -- ex-felons, instead of having to
13 rely solely on the governor, can petition the circuit
14 court in their jurisdiction to have those rights
15 restored. Albeit the governor must still have some
16 input on it, but they now have, at least from what
17 I've seen, a little bit easier way.

18 So in -- from the Virginia standpoint,
19 from the standpoint of the Virginia State Advisory
20 Committee, that's what we are trying to do. And again,
21 if there's one thing that I could bring to the
22 commission it is that even though it may seem like the
23 state advisory committees sometimes are not up to the
24 task, I can tell you when they ride in, hold the
25 public's feet to the fire, or the government's feet in

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1 the fire, it focuses on the issues.

2 And even though there's some frustration
3 in the public when they say, well, you've shone the
4 light, now what can you do for us. Even if we don't
5 have the power to make the change, at least we've
6 alerted the public that there's an issue, and that
7 something can be done about it.

8 Something can be done, and I want to thank
9 the commission for their time.

10 CHAIRPERSON BERRY: Thank you. There will
11 be some questions for you and some exchanges, but
12 first of all, I want to go to -- secondly, I want to
13 go to Dr. Lemke.

14 Dr. Lemke, I really appreciate you, and I
15 wanted to say too, Mr. Patrick, we really appreciate
16 your being willing to be on the state advisory
17 committee, and being willing to do the work that you
18 do. It really is a public service.

19 And Dr. Deborah Lemke is here to represent
20 the Maryland SAC in place of the chair, Reverend
21 Douglas Sands, who was unable to attend due to
22 illness.

23 Dr. Lemke is professor of sociology and
24 chair of the sociology department at McDaniel College,
25 which was formerly known as Western Maryland College.

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1 She is currently conducting survey
2 research in three areas: poverty and homelessness,
3 sociological implications of Alzheimer's Disease, and
4 China -- and social policies of one-child families in
5 China.

6 Dr. Lemke has a strong interest and
7 involvement with international women and African-
8 American students at McDaniel College. She -- Her
9 interests, as you can see, are social inequalities,
10 gender, poverty, race and ethnicity.

11 Please proceed.

12 MS. LEMKE: Thank you. Being an academic,
13 I have my script here all prepared. Like giving a
14 paper at a meeting.

15 I'm really pleased to be invited to speak
16 today, and I'm happy to report that the Maryland
17 Advisory Committee has been rather productive.

18 Over the last several years, we have had
19 an evolving focus on overlooked groups and overlooked
20 areas of the State of Maryland, which has caused many
21 of us to trek out into places that we had never been
22 before.

23 It really began in about 1998, with a
24 community forum in Baltimore to address the treatment
25 of Korean-Americans by other residents and by the

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1 City.

2 The two primary tensions there seemed to
3 be between Korean-American business owners and
4 African-American residents, and between Korean-
5 American business owners and the City itself.

6 The committee had an open forum and
7 invited a variety of city services and community
8 groups to speak. The major conclusions of this forum
9 were that there was a lack of equitable city service
10 provision in blighted areas of the city that were
11 predominantly populated by African-Americans, and
12 where Korean-American business owners had their shops.

13 We saw no evidence of a racial pattern of
14 inequality. It seemed to be more of an issue of
15 poverty and blighted areas where service provisions --
16 and this included things like police and ambulance
17 services.

18 Community residents expressed appreciation
19 at being given a forum to air their concerns. And the
20 committee received pretty favorable responses in terms
21 of remedying situations that were uncovered by the
22 police and fire departments, who seemed to be taking
23 measures to alleviate the problems that the community
24 was concerned with.

25 The responses we received, however, from

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1 the Community Relations Committee for the City of
2 Baltimore and from the Mayor's Office were poor.

3 After this Baltimore forum, the committee
4 decided to incorporate into our regular planning
5 series a series of meetings in areas of the State that
6 the committee had not yet visited.

7 So we tried to have our planning meetings
8 in areas of the State where we had not ever had a
9 forum or visited. To this end, we held open forum
10 planning meetings in Howard County, Frederick County,
11 and Montgomery County.

12 These were highly advertised meetings
13 where community members were encouraged to come in and
14 present any issue they felt should come before the
15 committee.

16 After these meetings, members of the
17 committee followed up on these issues by seeking more
18 information, either from the jurisdictions involved,
19 or in many cases writing letters of concern or
20 complaint to the principals involved.

21 The Maryland committee felt that these
22 open forums were so fruitful that we endeavored to
23 create a series of listening posts to address civil
24 rights monitoring in areas previously overlooked by
25 the committee.

1 It was decided that we would undertake
2 projects to discover the state of civil rights in
3 three geographic areas of Maryland: southern Maryland,
4 eastern Maryland, and western Maryland. So far we've
5 had meetings in Lexington Park and Salisbury,
6 Maryland, and we are currently planning to meet in
7 Hagerstown.

8 The response to these meetings in the
9 communities of Lexington Park and Salisbury has been
10 extremely gratifying. Community members in both of
11 these areas expressed gratitude that the committee had
12 chosen to come to their area, and stated that it was
13 the first time in 20 or 30 years a meeting of this
14 type had occurred in their area.

15 To date, the key issues in both
16 communities are issues of discrimination in the school
17 system -- and I heard mention of that earlier by the
18 vice chair -- in law enforcement, that includes racial
19 profiling and also lack of service when they're called
20 into minority areas, the response time, in jobs and
21 employment areas where minority populations -- again,
22 I've heard that mentioned already this morning where
23 the population should dictate more people in jobs, and
24 they're just not getting employment -- and most
25 disturbingly in housing, which is particularly an

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1 issue in southern Maryland, as it is being re-
2 gentrified, if you might, and low-income housing is
3 being completely overlooked as options for the
4 population who are domestic there and not just coming
5 in for the nice weather.

6 Those seem to be the major issues. And Mr.
7 Patrick has eloquently talked about the 9/11 report,
8 but I'd like to say just a word about that. I want to
9 start by expressing that the Maryland Advisory
10 Committee found it extremely rewarding to join with
11 D.C. and Virginia to complete such a project. We had
12 not done anything like that in recent memory, and it
13 was extremely gratifying.

14 We were eager to contribute to the
15 project, and we're impressed by the depth of
16 preparation of the numerous subcommittees, and the
17 involvement of members on both the meeting itself and
18 the final report.

19 An event such as this doesn't happen
20 without multiple planning meetings and monumental
21 effort on the part of the members of the committee.
22 Yet the job is not over after the meeting. Members of
23 the committee held multiple meetings to design and
24 edit this final report, that hopefully you'll be
25 getting soon.

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1 And I was very personally impressed with
2 the degree of input committee members had on the final
3 document, and the level of involvement that committee
4 members had on this very less than exciting job of
5 editing a final report.

6 (Laughter.)

7 I trust that the commission will be
8 equally pleased and impressed. Let me end by
9 expressing the gratitude of the Maryland Advisory
10 Committee for the hard work, especially of Mr. Chun
11 and Mr. Darden, who worked so hard and long to see the
12 plans of our committee, which sometimes become rather
13 grandiose, to actually come to fruition. Thanks.

14 CHAIRPERSON BERRY: Now, have you -- Ki-
15 Taek can we just -- is there anything more to say
16 about the D.C. one? Or should we just leave that to
17 the next time that Reverend Anthony is around?

18 MR. CHUN: Well, it's up to you. I have a
19 few sort of informational items I can bring up so that
20 the committee has been updated.

21 CHAIRPERSON BERRY: Okay, go ahead.

22 MR. CHUN: All right. So don't let me try
23 to emulate Reverend Anthony's eloquence. He was here
24 last month. He was planning to be here this morning,
25 but he is stranded somewhere in the United States.

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1 Fortunately not in the Middle East we heard.

2 Now, I think he would have said something
3 in terms of factual information. I think he would have
4 covered a couple of things. One, the D.C. committee
5 issued a report a couple of years ago -- three or four
6 years ago entitled Residential Mortgage Lending
7 Disparities.

8 It was very well received, and I remember
9 some of you commissioners were very generous in giving
10 complimentary remarks on the report.

11 Since then the committee retained interest
12 in the topic area, and held a public forum on
13 financial -- equal access to financial services in
14 D.C. about two years ago.

15 And the committee is now in the process of
16 writing an executive summary. And in the next few
17 months you will have the pleasure or displeasure of
18 looking at it.

19 Now that's where we are now. In terms of
20 what the committee is planning to do, the committee
21 has long held a plan, a three-pronged plan of holding
22 this equal access forum we held already. And the
23 second one is going to be police/community relations.

24 The committee has been monitoring what has
25 been happening with the City and the Metropolitan

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1 Police Department vis-a-vis Latino community and other
2 minority communities. And you heard last month from
3 the City officials.

4 We know that the Mayor's Office is going
5 to hold a forum with the community representatives on
6 the tenth of May. The committee is keen on monitoring
7 that event -- and then after that Mayor's forum, the
8 committee will decide as to what appropriate shall we
9 say follow-up activities it could and should
10 undertake.

11 So that will be the next, shall we say,
12 public activity the committee will undertake. After
13 that, the third component of the long-range plan is
14 that of looking into exploring the consequences or
15 effects of relocating federal and private sector
16 businesses outside the District, and see what impact
17 it has on employment, obviously, but on other aspects
18 as well.

19 Much of the dialogue is in progress, and
20 perhaps I presume sometime next year we will be
21 holding a public event on that topic. So that covers
22 the current appointment period in a way.

23 CHAIRPERSON BERRY: So they've got quite a
24 few activities lined up.

25 MR. CHUN: It's very active, and members

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1 have been just nothing but stellar in terms of the
2 SAC, the contributions they make and willingness to
3 participate long hours of discussion and debate.

4 And as I've been sometimes sharing with
5 you, whenever I deal with or work with the advisory
6 committee members, including inter-SAC activities we
7 have participated, it is really sort of really rare
8 experience as a public servant that civil rights
9 movement really thrives among, for other reasons, the
10 citizen commitments and the willingness to make
11 sacrifice in terms of their personal time and whatnot.

12 When Richard spends an hour, or say half a
13 day with us, you know what kind of a sacrifice he's
14 incurring as a practicing attorney. And when Deborah
15 does likewise, her students suffer.

16 CHAIRPERSON BERRY: Her research suffers.

17 MR. CHUN: That's right, obviously. So
18 this realization, you know it just reminds me, this is
19 what this country's all about. Along with, or
20 sometimes in spite of bureaucracy, you know, this
21 citizen participation really keeps the civil rights
22 movement going.

23 And for me, it is a very refreshing and
24 ennobling realization. So with that note of
25 appreciation, maybe I'll just end.

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1 CHAIRPERSON BERRY: Well, let me -- I had
2 a few questions, so maybe others have some. First of
3 all, well, my other question is, Professor Lemke,
4 where is Lexington Park, let me ask?

5 MS. LEMKE: Lexington Park --

6 CHAIRPERSON BERRY: I can look at a map,
7 but I don't have it.

8 MS. LEMKE: That's in Howard County? Ki-
9 Taek probably knows this.

10 MR. CHUN: It's the southern part.

11 CHAIRPERSON BERRY: Southern part of
12 Howard County?

13 MR. CHUN: Yes.

14 MS. LEMKE: Southern part. Yes, Howard
15 County, that's right.

16 CHAIRPERSON BERRY: Okay. I have the
17 impression -- have you had telephone conference calls
18 yet, your SAC?

19 MS. LEMKE: Yes, we have.

20 CHAIRPERSON BERRY: A meeting, I mean, on
21 the phones.

22 MS. LEMKE: Many multiples.

23 CHAIRPERSON BERRY: You guys have done
24 that, you've tried -- you've done that?

25 MS. LEMKE: Yes.

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1 CHAIRPERSON BERRY: Does it work?

2 MS. LEMKE: Yes.

3 CHAIRPERSON BERRY: I mean to keep in
4 touch.

5 MS. LEMKE: Oh, absolutely, yes. I was
6 just thinking about my ear. Because when we do these,
7 we're on the phone sometimes for two and a half hours.

8 But we do a good bit of planning that way.
9 We meet -- I don't think we've actually had a face-to-
10 face planning meeting since the 9/11 report. We've
11 been meeting through --

12 CHAIRPERSON BERRY: On the phone.

13 MS. LEMKE: On the phone. And it is
14 successful.

15 CHAIRPERSON BERRY: Good, because we --
16 How about your SAC?

17 MR. PATRICK: The same is true here. The
18 biggest difficulty is in lining up everybody's
19 schedule. Once that's done, it works very well to me.
20 We've had a number this year already.

21 CHAIRPERSON BERRY: And do you connect
22 with each other by e-mail also?

23 MR. PATRICK: Oh, yes. Very active on e-
24 mail.

25 CHAIRPERSON BERRY: Okay. Because given

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1 the lack of resources that you heard about while you
2 were sitting there, it's always a problem. So it's not
3 that anybody is trying not to provide the resources
4 the SACs need, but we're just trying to find ways to
5 make sure you can, you know, stay in touch.

6 Ki-Taek wants to say something, and then
7 Commissioner --

8 MR. CHUN: May I just make a comment on
9 that question?

10 CHAIRPERSON BERRY: Yes.

11 MR. CHUN: We have held numerous
12 teleconferences of varying size, full committees,
13 subcommittees, and this and that. And the experience
14 has been yes, indeed it is true that certain amount of
15 substantive discussion can take place in terms of
16 information-sharing and whatnot.

17 But I should be less than fully candid if
18 I do not point out that there is something missing
19 when you have teleconference calls. The relationship-
20 building among the committee members and with the
21 staff is lacking.

22 There is something to be gained by this,
23 the face-to-face meeting. And the relationship-
24 building, opportunity for that, is somewhat less than
25 present -- fully present there.

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1 I also found when you see face-to-face,
2 there's some positive momentum generated by just
3 looking at each other, listening to and being able to
4 respond right away, looking at the other person.

5 So that observation really is the
6 observation I have. And what that means to me is it
7 should be combined. I do not think sometime our
8 budgetary situation will improve so that we can
9 conduct a face-to-face meeting as well, in addition to
10 -- whenever necessary and appropriate just take
11 advantage of teleconference mechanism.

12 CHAIRPERSON BERRY: Yes, Commissioner
13 Meeks?

14 COMMISSIONER MEEKS: Yes, Ki-Taek, I would
15 agree completely. And I don't think that, at least I
16 ever thought that teleconferencing should be
17 substituted. It's just an additional way.

18 But I just want to say I'm always so
19 struck when SAC members come and testify. And I've
20 been to several SAC meetings in my state, and you
21 know, that's where the work is done. And I always say
22 that I'm so honored that you all are willing to serve.

23 I mean, you hear what goes on here. We
24 argue a lot. And then you get into the SAC meetings,
25 and into the communities, and that's where the real

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1 issues are.

2 And so, I just, I always say this, but I
3 just want you to know I appreciate your work.

4 MR. CHUN: Thank you for the support.

5 CHAIRPERSON BERRY: So that means we need
6 to go -- I want to go to a Maryland meeting, and to a
7 Virginia meeting sometime.

8 MS. LEMKE: Come to Hagerstown, it's going
9 to be a fun time.

10 CHAIRPERSON BERRY: When is it?

11 MS. LEMKE: I believe it's in June? Or
12 July?

13 MR. CHUN: I think we're holding a
14 planning meeting on May 1 for Maryland,
15 teleconference, by the way. And then at that meeting
16 we will decide as to exactly when and where.

17 CHAIRPERSON BERRY: I'll check to see, but
18 I'd like to come. Now, the Virginia SAC has, over the
19 years, gotten a lot of public recognition of its work
20 here in the local media.

21 And sometimes it gets more than the
22 Maryland. I don't know why that is.

23 VICE CHAIRPERSON REYNOSO: They must have
24 a PR person.

25 CHAIRPERSON BERRY: Yes, they must have.

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1 (Laughter.)

2 CHAIRPERSON BERRY: A PR person, but you
3 do lots and lots of good work on criminal justice
4 issues that gets picked up. Most of your stuff gets
5 picked up very well in the media.

6 And the SAC, with Curtis Harris there for
7 a long time, and now with you there, has been so
8 active, in season and out, which means that you've got
9 a lot of members who put in a lot of time.

10 And Maryland gets some visibility, but it
11 has not been -- it doesn't seem to have been -- How
12 long have you been on, Professor Lemke?

13 MS. LEMKE: Since about '97.

14 CHAIRPERSON BERRY: About '97?

15 MS. LEMKE: '97. The press seems to be
16 there, but we never seem to get in the newspapers or
17 on the media.

18 CHAIRPERSON BERRY: So maybe some of us
19 can come to your Hagerstown meeting.

20 MS. LEMKE: Giving us some visibility
21 would be wonderful.

22 CHAIRPERSON BERRY: And help with that.

23 MS. LEMKE: It's frustrating to see them
24 there. You see the press, and they're doing their
25 thing, but --

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1 CHAIRPERSON BERRY: Nothing comes out.

2 MS. LEMKE: We never see anything out of
3 it.

4 CHAIRPERSON BERRY: Yes. So maybe we'll
5 try. And it is true, it just strikes me, as it does
6 Elsie. I just -- When we go out to SAC meetings, I
7 love going to SAC meetings. Because -- And I love
8 going out in the country, because when you sit here,
9 and you think that, my God, all we're doing is just,
10 you know, picking over this, and fighting over that,
11 and this and that procedural issue.

12 And you go out there, and all the people
13 are interested in is substance. They want to hear
14 about the issues. They want to tell you about the
15 issues. They want to know.

16 And they see this little old itty-bitty
17 civil rights commission, but you guys listen to us.
18 And you'll take the word back. And most of the time,
19 they don't even know about the political fights, and
20 who did what to whom.

21 And every time we've gone somewhere,
22 there's been some small thing that we're able to do
23 for people. Like if they've been trying to get
24 information about something.

25 Time and time again, just by us being

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1 there and asking, the information comes forward. Or
2 the officials won't come to tell them stuff. Like the
3 South Dakota thing. And then we went, you know, we got
4 the FBI and everybody came. Governors and other people
5 will give information and will come.

6 And so the local people are just, I mean,
7 the more I think about, I think the commission ought
8 to figure out a way to directly fund SAC activities. I
9 don't know how to do that.

10 Someday when the commission has a lot of
11 money to do that, because that's where the rubber hits
12 the road, and that's where the work gets done. Yes.

13 COMMISSIONER EDLEY: It must be because we
14 have these fancy badges, that must be why we have so
15 much success with it.

16 CHAIRPERSON BERRY: Right. I never used
17 it, because one day I forgot my driver's license, and
18 I had that thing in my thing, and they wouldn't let me
19 on the plane. So I showed them that, and it was more
20 trouble than anything.

21 They wanted to know if I had a gun. I
22 said, "I don't have a gun."

23 (Laughter.)

24 CHAIRPERSON BERRY: I don't even know how
25 to shoot a gun. I don't know what you people are

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1 talking about. So, yes, Commissioner Edley.

2 COMMISSIONER EDLEY: I wanted to raise
3 something that -- just a comment that Dr. Lemke made
4 that got me to thinking. Looking at the Korean shop
5 owners and so forth when you talk about the poverty in
6 these neighborhoods, and you said it didn't seem to be
7 so much about race as it was about poverty and
8 blighted neighborhood.

9 You had said something about that --
10 looking into this issue regarding Korean shop owners
11 and so forth, it didn't -- that the problems in the
12 neighborhood seemed to be less about race than about
13 the problems of poverty and blight.

14 And forgive me if this seems an overly
15 academic point, but I'd just like to distinguish, and
16 urge you to keep in mind, that there are obviously
17 many ways in which race might play a role. And that
18 the role of race in the sense of invidious disparate
19 treatment is the most obvious and most virulent sense
20 in which race might be a factor.

21 And while that might be detected, there
22 could be other senses in which race plays a role. For
23 example, I think it's at least arguable, not as a
24 legal matter, perhaps, but certainly as a -- perhaps
25 as a legal matter, but certainly as a philosophical

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1 matter, as an ethical matter, that in many
2 communities, the reason that poor communities, or
3 communities that you call blighted, are left in that
4 condition, and so little is done to try to intervene
5 and change them, is because race is a factor, and that
6 color gets in the way of people caring about the
7 conditions of that community. That's one -- That's
8 sort of one sense in which it is.

9 Another, I think, is that it does also
10 just raise the question of what race means; what is
11 the, almost in a social science sense, of what is the
12 content of race.

13 Because we know there's all this talk
14 about biologists saying that genetically there's just
15 this -- it's inconsequential, and that -- and then you
16 get the situation in which social scientists, we've
17 had this discussion in some sense on the commission,
18 that social scientists will say let's do a study. And
19 we'll look at race, and we'll look at a number of
20 other variables. And then what we'll do is we'll
21 control for income, and we'll control for wealth, and
22 we'll control in the equation for who's gone to
23 college, and we'll control for education status, and
24 we'll control for health status, and we'll control for
25 this, that and the other.

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1 Well, by the time you've pulled all of
2 those things out, then in a sense, you've actually
3 subtracted away the entire social definition of what
4 race means in America, so that there's nothing left in
5 the equation but pigment.

6 So I guess I would just say that even when
7 there is not the smoking gun of proof of virulent,
8 different treatment based upon race, there still may
9 be things at work in terms of attitudes, in terms of
10 patterns of investment, in terms of the structure of
11 opportunity in a society, that makes race an
12 underlying part of the phenomenon, even if it isn't
13 the symptom that's most powerfully or obviously
14 manifesting itself.

15 And I apologize for the sermon.

16 CHAIRPERSON BERRY: So what does the
17 sociologist think?

18 MS. LEMKE: Well, of course I can't
19 disagree with anything he said. It's a perfect
20 sociological treatise on race. My comment, I think,
21 needs to be clarified.

22 When we were asked to come into that
23 community, it was in the wake of the Joel Lee case,
24 and the Canaan grocery case. And the accusation was
25 actually being leveled by Korean groups -- Korean-

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1 American groups, that they were being targeted, almost
2 as hate crimes; that African-Americans were targeting
3 them for violence.

4 And that was the issue that we looked at.
5 Was that really happening. And we didn't really see
6 any evidence of that. We did see evidence of the City
7 completely ignoring those areas because they were
8 predominantly African-American, and the business
9 owners were Korean-American, and they didn't really
10 provide services in the same way.

11 It's all in the report, but there's a
12 heart-rending case of a Korean grocer who was shot by
13 a shopper -- a robber. And the ambulance came, and the
14 person was -- it was a body cavity wound -- turned
15 over, turned back over. And then rather than bring in
16 the stretcher, they picked -- you know, they picked
17 him up hands and feet and drug him out of the store.
18 Well, anybody with EMT experience will tell you that
19 you walk in and there's a body cavity wound and
20 there's no blood. And they handled him like a sack of
21 potatoes and took him out.

22 Now, if that had happened to a shop owner
23 in Westminster, Maryland, he never would have been
24 handled like that, ever. Because, you know, it would
25 have been handled very differently.

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1 And the response time was very low. The
2 ambulance sat in the parking lot for -- The woman who
3 talked to us was the wife of the person who later
4 died, the shopkeeper. She said they sat in the grocery
5 store parking lot for 20 minutes, and she's, you know,
6 yelling at them to take him to the hospital, take him
7 to the hospital, and they wouldn't transport.

8 That's the kind of things that we were
9 hearing. We didn't actually see evidence of African-
10 Americans targeting Korean-Americans. These were just
11 two groups of people in a blighted area with no
12 services, and they came into conflict because of, you
13 know, issues of haves and two have-nots having
14 nothing.

15 COMMISSIONER EDLEY: I'm with you, and I
16 sort of separate the issue of the Korean and African-
17 American community issue -- tension issue from this
18 question of the provision of police and EMT services
19 and so forth in this neighborhood.

20 MS. LEMKE: Race certainly played an issue
21 in that.

22 COMMISSIONER EDLEY: Yes. It reminds me
23 of, remember when we did the New York policing thing?
24 We did the hearing in New York. And I asked the state
25 attorney general whether he thought it was acceptable

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1 that in poor and minority neighborhoods the rates of
2 victimization were so disparate in comparison with
3 middle-class areas.

4 Was it -- Sort of the implication that
5 because you're minority, or because you're poor, that
6 somehow you have to be willing to accept this lower
7 quality of service; this greater degree of
8 dangerousness, et cetera.

9 If there is more need because there is
10 more crime, then shouldn't there also be an
11 application of more services, more resources, to the
12 point where no matter who you are, no matter where you
13 live, you have the right to expect comparable levels
14 of service, comparable levels of safety, comparable
15 levels of quality drinking water and the like.

16 And of course, with the television cameras
17 there, he agreed. But similarly, it really is
18 troubling if -- it's really troubling when you see
19 these little examples of just the willingness of the
20 public and of officials to accept that second-rate
21 protection, second-rate services, are just to be
22 expected.

23 CHAIRPERSON BERRY: Yes, Vice Chairman.

24 VICE CHAIRPERSON REYNOSO: Sad to say, I
25 think they are to be expected when we don't have the

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1 economic and political resources. I have a couple of
2 questions having to do with economic and political
3 resources.

4 Mr. Patrick, I was interested in your
5 report on the voting rights of ex-felons. And you
6 indicated that there's been some progress, because at
7 least the way of approaching restoration of voting
8 rights has been localized some.

9 And I have a couple of questions about
10 that system. One, have you -- do you know whether or
11 not that new procedure has been made known to the
12 community, and secondly, whether you know whether the
13 folk have taken advantage of it.

14 Those are two questions. I'm defining them
15 as one question. You know, it's like a legislative
16 interpretation. And then the one has to do with the
17 State.

18 You indicated that the governor at that
19 time simply didn't take the report very seriously. But
20 we have a situation in New Mexico where a Republican
21 governor took it very seriously, and signed a statute
22 that now restores the rights -- well, it doesn't take
23 the right away from voting when a person has finished
24 his term, having served after violating the law.

25 And so I just wonder what your assessment

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1 is presently about state-wide reaction to maybe
2 changing the law. So one's local, one's state.

3 MR. PATRICK: That's something that our
4 upcoming planning will be about. It's very difficult
5 to assess this. The statistics in our report were
6 quite alarming. The number of felons who were restored
7 was astoundingly low, because you had to go to the
8 governor, and the governor's staff will look at this
9 petition. And then the governor had the absolute right
10 to deny that. Even under Governor Wilder, actually,
11 the percentages didn't rise very much in Virginia.

12 Now you have to go to the circuit court,
13 make a petition, and from what I've heard, and again,
14 this is just in way of information from the community.
15 I don't have any hard facts to back this up, but it's
16 still a difficult process, but less so than when you -
17 - when ex-felons had to go to the governor and present
18 your petition to the governor.

19 Basically, these are for non-violent
20 felonies. So we are hoping that when we hold our
21 meeting, our session in the coming months, that this
22 is information that we will be able to gather, because
23 that's exactly one of the topics that we are about to
24 -- that we will be looking at.

25 VICE CHAIRPERSON REYNOSO: Excuse me. I

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1 just -- at least my own feeling is that unless the
2 felony conviction is directly related to voting, a
3 fraud in voting or something of that sort, I just
4 don't understand the rationale for removing the right
5 to vote for a person who's been convicted of a felony,
6 has served his or her time, is then out, we're trying
7 to rehabilitate them. One of the best ways to
8 rehabilitate is to have them participate in community
9 affairs, seemingly -- it seems to me, also voting.

10 And it seems to me that this is counter-
11 productive to our efforts to reintegrate those folk as
12 being responsible members of society. So, I mean, that
13 happens to be my own view.

14 But of course, it also has to do with
15 political power. And if you have political power, then
16 there's more responsiveness. That's why I raise the
17 question.

18 MR. PATRICK: That is my personal view.
19 And as I was doing my research, I came across a Fourth
20 Circuit case, which is the circuit in which Virginia
21 resides, that says it is not unconstitutional not to
22 restore these voting rights to ex-felons.

23 So when Governor Gilmore was the governor,
24 actually we held the press conference in Richmond, at
25 some point, and either Ki-Taek or Ed can shed a little

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1 bit of light on this.

2 His staff person, I think, came running
3 into the room with a one-page document, and said, "You
4 see, we've done all these things here."

5 So that was the -- that was his response.
6 However, the Washington Post had at least three
7 articles in a row on it. And so, over the period of
8 time, the governor was forced into responding to some
9 of those things, even though he responded in different
10 ways. He had to acknowledge that these were issues of
11 public import.

12 And because I have seen from the
13 standpoint where it was the governor, and now it's the
14 circuit court level, I can envision a time when,
15 perhaps in the next three or four years, there will be
16 legislation introduced, or we'll have a constitutional
17 amendment, which will completely restore voting
18 rights.

19 That's a very optimistic view, but I think
20 the pendulum is going in that direction.

21 VICE CHAIRPERSON REYNOSO: Good. Very
22 good. Dr. Lemke, I have also another question for you.
23 It has to do with housing. All the studies I've read
24 indicate that housing ownership by families is one of
25 the most important matters in stabilizing the

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1 community, and one of the most important matters
2 economically; that if you own homes, you have some
3 equity. If you want to go into business, you can
4 borrow money. If you want to send your kids to school,
5 and to college, you could again borrow money.

6 It gives -- It's just a great thing for a
7 society. And we had a candidate in California last
8 gubernatorial election, the candidate for the Green
9 Party, so he didn't win. But one of his platforms was
10 to have a state project to help fund folk in buying
11 their first home.

12 And he said -- I don't know whether this
13 is true, I've never checked it out -- that New Zealand
14 has a national policy of helping people buy their
15 homes, and that home ownership in New Zealand is
16 something in the 90th percentile or something of that
17 sort.

18 And you mentioned housing as one of the
19 four things that you all were looking at. I just
20 wonder if you think that out of those studies might
21 come some sort of recommendation to the state not to
22 wait for the federal government, but to itself start
23 thinking about a program that helps folk buy their
24 homes. Then they become taxpayers, they help the
25 community, they're more stable.

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1 It just seems to me that's an area of law
2 -- an area of our national life that we have ignored.
3 We have some federal projects, weak though they are,
4 to help folk. But it's just an area that we haven't
5 taken seriously in half a century.

6 We took it seriously after the Second
7 World War. But since that time we haven't,
8 particularly for low-income people.

9 MS. LEMKE: What we're hearing in these
10 areas where we've met that even those programs are
11 difficult for minorities to navigate. Because you go
12 into the office. They give you a pile of papers this
13 big and say fill these out. There's no assistance.

14 And we've had some incidences where groups
15 like the NAACP in the area will, you know, assist
16 people or match you with someone who can help you
17 navigate these forms. But simple things like that,
18 that it's not -- even what little is done is being
19 made inaccessible because of the legalities or the
20 paperworks involved.

21 Another issue in Maryland, because as
22 particularly some areas of Maryland, as D.C.'s getting
23 closer and Baltimore's spreading out, we have a lack
24 of low-income housing. And that's whether it's for
25 rent or for buying.

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1 I've done a little study for the Maryland
2 Interfaith Housing Commission. They try to put
3 together almost a Habitat for Humanity-like housing.
4 They'll build low-income housing with sweat equity for
5 individuals.

6 And there's certain counties in Maryland,
7 Carroll County in particular, the county where I
8 reside, that they've never been able to get a project
9 in. And they just had one five years ago. They got it
10 in Hagerstown.

11 Real resistance, but what you find is
12 housing prices go up and up and up. Low-income
13 families cannot afford to live in the area. There's
14 very little rental property in most of the rural areas
15 that we're visiting, and the cost of housing has gone
16 up.

17 It's especially a problem, I think, in the
18 areas around Baltimore. And the meeting that we held
19 in Salisbury, that was one of the bigger discoveries,
20 is that more of the vacation properties are being
21 built. You know, \$300,000 and \$400,000 homes.

22 The people who live and work there can't
23 afford to buy a house because of the cost of housing.

24 CHAIRPERSON BERRY: You know what's really
25 interesting, Cruz, about your point, and your response

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1 about the paperwork and all the rest of stuff. Major
2 private universities in this country, the rich ones,
3 and employers actually handle the paperwork for people
4 who they are trying to entice.

5 If they're trying to get you to come on
6 the faculty, and you say, well, I need a house, and
7 you know I can't afford it. They don't ask you to fill
8 out a whole bunch of stuff. They just say to you,
9 well, how much money do you have. And I say nothing.
10 And they say, well, don't worry about it. We'll buy
11 the house and then we'll figure out some way to get
12 it. And I say well, what forms do I have to fill out?
13 Nothing. Just tell us, you know, we'll get somebody to
14 do all that stuff.

15 Employers do the same thing. They'll take
16 care of you from getting the house, to getting you out
17 of the house you've got, to getting you where you're
18 going to go. And we all know this.

19 VICE CHAIRPERSON REYNOSO: Even in
20 Manhattan they do that.

21 CHAIRPERSON BERRY: Right. Right. And
22 they'll do it anywhere. They'll do it in Princeton, or
23 in Cambridge, or in New Haven, wherever.

24 MS. LEMKE: They don't do it at McDaniel
25 College.

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1 (Laughter.)

2 CHAIRPERSON BERRY: Right. I said major
3 private employers. And so it's not a question of
4 minority folks, or poor folks not being smart enough
5 to figure out the stuff, the paperwork. I'm sure
6 faculty members and CEOs can't figure out the stuff.

7 It is terribly complicated and burdensome.
8 So whatever you come up with, if you make a
9 recommendation, I hope it would include some
10 assistance being provided to them in the same way that
11 other people get it.

12 MS. LEMKE: In some areas that seems to be
13 a big need, because even things like Fannie Mae and
14 some of the low-income housing, that people just don't
15 know where to go. There seems to be a tremendous
16 information gap, and then again, it's very
17 intimidating to be handed a packet and they turn
18 around and go back to the telephone.

19 CHAIRPERSON BERRY: Say fill it out. Yes.

20 VICE CHAIRPERSON REYNOSO: But Madam
21 Chair, after the Second World War, when we had a
22 national determination to build homes, particularly
23 for returning veterans, we made all of that very easy.
24 You had government employees who helped fill out the
25 forms, and you had practically a no down payment

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1 program, and very low interest rates guaranteed by the
2 government, and so on.

3 If we had a national or a state political
4 determination to do that, it can be done economically.
5 Because all you need is to have interest enough to pay
6 for the paperwork and for the employees that help.

7 So it could be a three or four percent
8 interest rate, and that would not debilitate the state
9 in terms of its economic standing. And in the long
10 run, it would help that.

11 CHAIRPERSON BERRY: So it's a question of
12 priorities.

13 VICE CHAIRPERSON REYNOSO: Of priority.

14 CHAIRPERSON BERRY: I had a question on
15 another line of -- but Ki-Taek, you want to say
16 something about this?

17 MR. CHUN: On behalf of -- yes, this is
18 such a question here. Just to remind you that the D.C.
19 committee has been interested for some time in the
20 ownership issue. That is, the committee's aware that
21 the ownership racial proportion has increased, but at
22 a certain cost. Namely, the form of sub-primary
23 lending.

24 And that has been a matter of interest.
25 And the forum that we held covers it to a certain

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1 extent, but not in an extensive fashion. That's -- So
2 that's the case, and I'll just tell you that there is
3 interest in that area.

4 If I may just expand out a little, all the
5 points you have made, they're absolutely true, and we
6 do make some differences as we go to localities. And
7 there are some substantive issues which require some
8 systematic effort in terms of collating information,
9 digesting that, and promoting or publicizing in such a
10 way that public can really read it.

11 Now, so we see these needs and the
12 possibilities of how they can be done. Our problem has
13 been, and this I would like to share so you can factor
14 that in in your future planning. The current reality,
15 at least in the eastern region, is a person, one civil
16 rights analyst is burdened or charged with taking care
17 of at least four state advisory committees.

18 Now, which is like -- and then on top of
19 other sort of routine things we have to do. Which is
20 like working for, shall we say, four faculty members,
21 working on four research projects. It's just not
22 possible.

23 So we have this continuing struggle of
24 frustration of seeing clearly as to what needs to be
25 done, and we know we can do it, but not being able to

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1 do that.

2 If you have some insightful, resourceful
3 ideas, we would welcome that. That really has been the
4 problem. And as you recall, the Virginia report is
5 one, and in many of the states in our region, when we
6 succeed in pulling together, even though it sometimes
7 takes a couple of years, some product. Pennsylvania
8 report, Vermont, and others, including Virginia. It
9 does make the difference, because it serves as the
10 landmark reference point people refer to.

11 If you go to Vermont, the report the
12 Vermont SAC has done is a monument. We have become a
13 credible player there. And everybody refers to it.
14 Even after, what, two or three years we still get
15 requests from churches, can you send us 50 copies of
16 this. We have this town hall meeting. And another
17 organization will say send us 100 copies for this.

18 So I just see the second and third wave
19 impacts of the hard work we have been able to put
20 together. But to produce any substantive report that
21 you'd be happy with, I kind of know what you'd be
22 happy with, it just takes more than one civil rights
23 analyst being able to put, at max, 10 working weeks a
24 year.

25 That's what it boils down to. You have 52

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1 weeks a year. Subtract this and that. At max you have
2 10 working weeks per SAC. So to expect something -- a
3 product of substance, not counting the bureaucratic
4 processing time, serving them, talking to them
5 sometimes, resolve some -- you know, it's inter-
6 committee matters.

7 You in effect have far less than 10
8 working weeks per SAC. It just becomes a logistic and
9 supply, you know, sort of a dilemma.

10 CHAIRPERSON BERRY: Yes.

11 VICE CHAIRPERSON REYNOSO: I've got a
12 suggestion.

13 MR. CHUN: Please do. I'm all ears.

14 VICE CHAIRPERSON REYNOSO: I was once
15 retained by the U.S. Commission on Civil Rights to do
16 a project during the summer. I was then a law
17 professor. This was many years ago.

18 But we professors get credit for writing
19 articles. And maybe we ought to explore this -- this
20 may take a little time to implement, but maybe we
21 ought to explore whether or not some professors in the
22 local area in the state has an interest in a
23 particular area that the advisory committee is
24 interested in.

25 And then if they do a project, maybe the

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1 professor can write that up and give that professor --
2 it would have to be approved by the committee, but say
3 written by Professor so and so. Then it can go on
4 their resume, and when it goes out to one thousand
5 people they say that Professor Lemke has done this
6 piece of work. What a great piece of work she's done,
7 et cetera.

8 Now seriously, we get summer stipends to
9 do research and writing during the summer. I don't
10 know whether other professors do, but you know, it
11 seems to me --

12 CHAIRPERSON BERRY: So it's a publication,
13 and it's service.

14 VICE CHAIRPERSON REYNOSO: Yes. It seems
15 to me if you think ahead of time, it may easily be --
16 it could work out. It's got to be thought through.

17 CHAIRPERSON BERRY: Yes, Professor Lemke.

18 MS. LEMKE: Just the idea of the stipends.
19 Typically the way it works, at least in the school I'm
20 in, those stipends are external. So we look for grants
21 or requests.

22 So if -- I think it would be possible if
23 the funds to do the research were attached to it. For
24 example, let's say a study on housing in Maryland. It
25 might be doable with, I don't know, low budget, couple

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1 of thousand dollars, but you'd need money for
2 interviewers, and money to collect data. And that, at
3 least not for little schools, University of Maryland
4 may be different, the little schools, those funds we
5 typically look outside for for granters and agencies.

6 VICE CHAIRPERSON REYNOSO: But that's why
7 I say you can't do it -- well, sometimes it's actually
8 internal. We have some internal funds. So that's
9 easier.

10 Very often, as you say, it's external.
11 That's why I'm saying it wouldn't be that easy,
12 necessarily, but if you plan ahead of time and explore
13 those possibilities of funding and so on, it might be
14 doable.

15 CHAIRPERSON BERRY: That's a great idea.
16 Some synergy there. I -- The question I had was an
17 entirely different direction, and it's just brief, but
18 to ask you about the impact -- what do you think the
19 impact will be on the budget problems that your states
20 have with the education of children who are
21 underserved in your schools.

22 I've been reading a lot about the budget
23 crisis in Virginia, and in Maryland. And Maryland had
24 something to do with lotteries or something, or slot
25 machines or something.

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1 But -- and I guess there was not a budget,
2 or there is a budget or something. And then there's
3 this new No Child Left Behind law. But I just wondered
4 if the SAC had had any discussion, or if there's any
5 interest in trying to figure out what is happening
6 with education in your state for minority kids. And
7 has anyone talked about what the impact -- or is there
8 any buzz in the air, even if not on your SAC, about
9 what the possible impact of all this might be on kids.

10 MR. PATRICK: There has been. In another
11 one of my capacities, I attended a meeting where the
12 chairman of the Fairfax County Budget Committee and
13 the Board of Supervisors chatted. And Fairfax, because
14 of its economic base, I learned that some 70 or so
15 percent of the local taxes collected go to education.

16 So in Fairfax County, they have put a high
17 premium on educating the students. And from time to
18 time I listen to the superintendent of schools discuss
19 these kinds of issues, even in light of the state's
20 inability, or the state's cutting back on the monies
21 that it gives to the local jurisdictions.

22 And perhaps Fairfax County -- not perhaps,
23 it is a little different, because if you get down-
24 state in some of the other areas, Tidewater and going
25 into southern Virginia, where the counties cannot

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1 finance the schools at the local level, it is a little
2 different.

3 So I've heard education has taken center
4 stage. And in my -- wearing my NAACP hat now, we often
5 hear of some of these issues in Richmond and how
6 schools are -- in minority communities are underserved
7 or not served as well as in some of the jurisdictions
8 in Fairfax County, where you have a good economic base
9 from which to fund those schools and to fund
10 education.

11 CHAIRPERSON BERRY: Okay. Have you heard
12 any discussions in Maryland?

13 MS. LEMKE: Yes. Not specifically on the
14 SAC, though we do talk about -- or the community
15 members bring in education. There seems to be the camp
16 that believes the No Child Left Behind might be the
17 opportunity; others who fear it will be a way to
18 perpetuate the already drastic inequality.

19 For example, there's a real problem in
20 recruiting teachers to Baltimore County and Baltimore
21 City, in that if you can't get good teachers, it
22 doesn't -- your students are not going to score well
23 on these tests that now are being used as a measure of
24 how well your schools are doing.

25 And so it becomes a perpetuating cycle.

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1 It's sort of tied in with not only the No Child Left
2 Behind, but these tests that they're now using to
3 judge schools; that the schools are judged by how well
4 their students test.

5 So no optimism at this point.

6 CHAIRPERSON BERRY: Okay. Yes,
7 Commissioner.

8 COMMISSIONER KIRSANOW: Professor Lemke,
9 I'm wondering with respect to your Salisbury town
10 hall, if memory serves me correct, there have been at
11 least -- my memory's not all that great, but I recall
12 a number of reports about significant Klan activity in
13 eastern Maryland.

14 And we have the Supreme Court decision
15 about cross-burning. But I'm wondering was there any
16 discussion of that, and if so, is there anything that
17 would reveal what the dynamics are that would lead to
18 something like that?

19 MS. LEMKE: I remember it being brought
20 up. It didn't seem to be as central an issue as things
21 like housing and police. If I remember correctly, Ki-
22 Taek, I think the bigger issues tended to be racial
23 profiling, and the unequal treatment at the hands of
24 law enforcement in that area.

25 They did note some Klan activity. It

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1 didn't seem to be recent. It didn't seem to be in
2 anybody's immediate memory of something that they
3 needed addressed. Their more immediate issues were
4 housing and profiling by police.

5 COMMISSIONER KIRSANOW: Just so I can
6 gauge whether or not my memory is correct, wasn't
7 there, for a period of time, a significant amount of
8 Klan activity in that area?

9 MR. CHUN: In the distant past. This forum
10 in Salisbury was held, I think, about a year and a
11 half or two years ago. So using that as a reference
12 point. I mean, I agree with her characterization of
13 what has happened.

14 So at that point, it wasn't a burning
15 issue. What has happened prior to that, what impact it
16 had locally and so on, what underlies the dynamics and
17 so on, that issue we did not look into.

18 MS. LEMKE: And the community members
19 didn't come in with reports of incidences with Klan
20 members. It was noted that there was an active Klan in
21 that area, but again, that wasn't what they wanted to
22 talk to us about. And we didn't have any activity at
23 the meeting, so.

24 CHAIRPERSON BERRY: You apparently have a
25 Klan in Virginia too, I guess, according to the

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1 Supreme Court decision.

2 MR. PATRICK: Yes, and headquarters not
3 far from -- here in one of the areas.

4 CHAIRPERSON BERRY: I see. Okay, well if
5 there are no further questions, we will thank you very
6 much for your service to the SAC again. And thank you
7 very much for taking the time to come here to talk to
8 us.

9 And I look forward to coming to your state
10 to come to a SAC forum or a meeting. Thank you very
11 much.

12 Is there any other business that we need
13 to take care of? Can we get a motion to adjourn?

14 VICE CHAIRPERSON REYNOSO: So moved.

15 CHAIRPERSON BERRY: Second?

16 COMMISSIONER KIRSANOW: Second.

17 CHAIRPERSON BERRY: All in favor?

18 (Chorus of Ayes.)

19 CHAIRPERSON BERRY: The meeting is
20 adjourned.

21 (Whereupon, the above-entitled matter went
22 off the record at 12:03 p.m.)

23

24

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