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U.S. COMMISSION ON CIVIL RIGHTS

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BUSINESS MEETING

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FRIDAY, JUNE 16, 2017

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The Commission convened in Suite 1150 at
1331 Pennsylvania Avenue, Northwest, Washington, D.C.
at 9:30 a.m., Catherine Lhamon, Chair, presiding.

PRESENT:

CATHERINE E. LHAMON, Chair

PATRICIA TIMMONS-GOODSON, Vice Chair

DEBO P. ADEGBILE, Commissioner

GAIL HERIOT, Commissioner

PETER N. KIRSANOW, Commissioner

DAVID KLADNEY, Commissioner

KAREN K. NARASAKI, Commissioner

MICHAEL YAKI, Commissioner *

MAURO MORALES, Staff Director

MAUREEN RUDOLPH, General Counsel

** Present via telephone***NEAL R. GROSS**

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STAFF PRESENT:

LASHONDRA BRENSON

IVY DAVIS

PAMELA DUNSTON, Chief, ASCD

ALFREDA GREENE

DAVID MUSSATT, RPU

WARREN ORR

MICHELE RAMEY

SARALE SEWELL

BRIAN WALCH

MARIK XAVIER-BRIER

COMMISSIONER ASSISTANTS PRESENT:

SHERYL COZART

JASON LAGRIA

CARISSA MULDER

AMY ROYCE

RUKKU SINGLA

ALISON SOMIN

IRENA VIDULOVIC

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P R O C E E D I N G S

(9:31 a.m.)

CHAIR LHAMON: Okay, we're going to get started. The meeting of the US Commission on Civil Rights comes to order at 9:31 a.m. on June 16, 2017. This meeting takes place at the Commission's headquarters at 1331 Pennsylvania Avenue, Northwest, Washington, D.C.

I'm Chair Catherine Lhamon. Commissioners who are present at this meeting, in addition to me, are Vice Chair Timmons-Goodson, Commissioner Adegbile, Commissioner Heriot, Commissioner Kirsanow, Commissioner Kladney, Commissioner Narasaki. And Commissioner Yaki, I believe you're joining us by phone, is that correct?

COMMISSIONER YAKI: I am indeed.

CHAIR LHAMON: Terrific. Thank you. We have a quorum of the commissioners present. Is the court reporter present? Indicating yes. All right, is the Staff Director present?

STAFF DIRECTOR MORALES: I am.

CHAIR LHAMON: Terrific. The meeting now comes to order.

Before we start today's business, I want to recognize and welcome our interns who are with us

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1 this summer. Every year we have the privilege and the
2 joy of benefitting from really terrific interns from
3 around the country. I'm very grateful for the work
4 that each of you does, and I want to identify you by
5 name for our record.

6 So this summer we have, interning in the
7 staff director's office, from USC Law School, Diana
8 Kniazewycz. And with two interns in the Office for
9 Civil Rights Enforcement, one is Madison Hubbard, from
10 Michigan State University. I should have said that
11 Diana is with us from USC. And also Raika Kim, from
12 UC Berkeley. And then interning for the General
13 Counsel's office we have Alexandra Curd, from Howard
14 University Law School.

15 We have two interns in the Chicago
16 Regional Office who I believe are with us by phone
17 from Chicago. Early in the morning, thank you. They
18 are Sarah Dincin, from Cornell University, and Joseph
19 Benak, from DePaul University College of Law.

20 Then we have with us from the Eastern
21 Regional Office, Demetria Hayman, from the University
22 of District of Columbia School of Law, and interning
23 for Commissioner Narasaki is Ben Chang, from the
24 University of Texas School of Law.

25 Interning for the Vice Chair and for

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1 Commissioner Adegbile, is Joe Johnson, from Georgetown
2 Law. Interning for me -- thank you -- and for
3 Commissioner Yaki, is Christina Krokee, from UC
4 Berkeley Law School. And interning for Commissioner
5 Kladney is Edward Lu, from George Washington
6 University School of Law.

7 So, thank you to each of you for your
8 service with us this summer.

9 Next we'll turn to approving the agenda.

10 **I. APPROVAL OF AGENDA**

11 CHAIR LHAMON: Is there a motion to
12 approve the agenda for today's business meeting?

13 COMMISSIONER NARASAKI: So moved.

14 COMMISSIONER KLADNEY: Second.

15 CHAIR LHAMON: Thank you. I'm going to
16 amend the agenda to add one item, and that's a
17 discussion and a vote on a statement titled, US
18 Commission on Civil Rights Expresses Concern Regarding
19 Federal Civil Rights Enforcement Efficacy and
20 Priorities, to be considered after item B, the
21 discussion vote on the FY 2019 Statutory Enforcement
22 Report. Is there a second?

23 COMMISSIONER KLADNEY: Madam Chair, I'd
24 like to amend the agenda too, to ask for an extension
25 of 30 days for public to respond to -- to give comment

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1 on collateral consequences.

2 CHAIR LHAMON: Terrific. Well my motion
3 was pending first so --

4 COMMISSIONER KLADNEY: Okay.

5 CHAIR LHAMON: -- let's get a second.

6 COMMISSIONER KLADNEY: Oh, you want to do
7 one at a time? Okay, I send your motion.

8 CHAIR LHAMON: Thank you. And then I'll
9 second yours. So other -- any other amendments in
10 addition to those two?

11 (No audible response.)

12 CHAIR LHAMON: Great. So if there are no
13 further amendments, let's go to approve the agenda as
14 amended. All those in favor say aye.

15 (Chorus of aye.)

16 CHAIR LHAMON: Any opposed? Any
17 abstentions? Terrific. The motion passes
18 unanimously.

19 **II. BUSINESS MEETING DISCUSSION AND VOTE ON FY 2018**

20 **PROJECT PROPOSALS**

21 **A. FY 2018 STATUTORY ENFORCEMENT REPORT**

22 So first we'll discuss and vote on our
23 FY 2018 project proposals, beginning with the
24 Statutory Enforcement Report. Do I have a motion?

25 COMMISSIONER ADEGBILE: Madam Chair, I'd

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1 like to make a motion to have voting rights via the
2 2018 Statutory Enforcement Report.

3 CHAIR LHAMON: Thank you. Is there a
4 second?

5 COMMISSIONER NARASAKI: I second.

6 COMMISSIONER KLADNEY: I second.

7 CHAIR LHAMON: Terrific. Any discussion
8 of that motion? Hearing none, I'll call the question,
9 we can take a roll call vote. Commissioner Adegbile,
10 how do you vote on your motion?

11 COMMISSIONER ADEGBILE: Aye.

12 CHAIR LHAMON: Commissioner Heriot?

13 COMMISSIONER HERIOT: Sorry, I missed the
14 discussion. But anyway, I just have a no then.

15 CHAIR LHAMON: Okay. Commissioner
16 Kirsanow?

17 COMMISSIONER KIRSANOW: No.

18 CHAIR LHAMON: Commissioner Kladney?

19 COMMISSIONER KLADNEY: Yes.

20 CHAIR LHAMON: Commissioner Narasaki?

21 COMMISSIONER NARASAKI: Yes.

22 CHAIR LHAMON: Commissioner Yaki?

23 COMMISSIONER YAKI: Aye.

24 CHAIR LHAMON: Vice Chair?

25 VICE CHAIR TIMMONS-GOODSON: Yes.

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1 CHAIR LHAMON: And I vote yes. So the
2 motion passes. Two commissioners opposed, no
3 commissioner abstained, and all others were in favor.

4 **B. OTHER PROJECT PROPOSALS**

5 CHAIR LHAMON: Next we take discuss our
6 other project proposals to take up for the fiscal year
7 of 2018. To begin, I move that we shift the Women in
8 Prison project previously approved for FY 2018, to
9 FY 2019. Is there a second?

10 COMMISSIONER KLADNEY: I second.

11 CHAIR LHAMON: Thank you. Any discussion?
12 Okay, hearing none, call the question, take a roll
13 call vote. Commissioner Adegbile, how do you vote?

14 COMMISSIONER ADEGBILE: Aye.

15 CHAIR LHAMON: Commissioner Heriot?

16 COMMISSIONER HERIOT: I'll vote yes on
17 that one.

18 CHAIR LHAMON: I'm sorry, did you say yes?

19 COMMISSIONER HERIOT: Yes. Thank you.

20 CHAIR LHAMON: Commissioner Kirsanow?

21 COMMISSIONER KIRSANOW: Yes.

22 CHAIR LHAMON: Commissioner Kladney?

23 COMMISSIONER KLADNEY: Yes.

24 CHAIR LHAMON: Commissioner Narasaki?

25 COMMISSIONER NARASAKI: Yes.

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1 CHAIR LHAMON: Commissioner Yaki?

2 COMMISSIONER YAKI: Aye.

3 CHAIR LHAMON: Vice Chair?

4 VICE CHAIR TIMMONS-GOODSON: Yes.

5 CHAIR LHAMON: And I vote yes. So the
6 motion passes unanimously. Do I have another motion?

7 COMMISSIONER YAKI: Yes. I move that we
8 adopt the Hate Crimes Concept proposal, the SAC Survey
9 Concept proposal, and the School Discipline Concept
10 proposal, all to serve as our fiscal year 2018
11 projects.

12 CHAIR LHAMON: Is there a second?

13 COMMISSIONER NARASAKI: I second.

14 CHAIR LHAMON: Any discussion?

15 COMMISSIONER HERIOT: Clarification.

16 Those are all for briefings then, right?

17 CHAIR LHAMON: I believe that the SAC
18 survey does not involve a briefing. The proposal for
19 that one was not. But the other two are for
20 briefings.

21 COMMISSIONER HERIOT: Okay, so can we run
22 by again what the motion is?

23 COMMISSIONER NARASAKI: Yes. Hate Crimes
24 Concept proposal, the School Discipline, and as I
25 understand it, the SACs is simply a survey.

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1 COMMISSIONER HERIOT: Okay. Okay.

2 CHAIR LHAMON: Commissioner Kladney?

3 COMMISSIONER KLADNEY: We're talking about
4 our two projects for next year besides the Statutory
5 Report?

6 CHAIR LHAMON: There would be three
7 projects in the motion under consideration. Two are
8 for briefing, and the third is without briefing, but a
9 project for reporting, which is the survey of the
10 State Advisory Committees.

11 COMMISSIONER KLADNEY: Oh, okay. Thank
12 you.

13 CHAIR LHAMON: Sure. Any further
14 discussion? Okay, I'll call the question.
15 Commissioner Adegbile, how do you vote?

16 COMMISSIONER ADEGBILE: Aye.

17 CHAIR LHAMON: Commissioner Heriot?

18 COMMISSIONER HERIOT: Yes.

19 CHAIR LHAMON: Commissioner Kirsanow?

20 COMMISSIONER KIRSANOW: No.

21 CHAIR LHAMON: Commissioner Kladney?

22 COMMISSIONER KLADNEY: I'd like to express
23 my concern about the data portion of the hate crimes
24 report. However, I will vote aye.

25 CHAIR LHAMON: Thank you. Commissioner

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1 Narasaki?

2 COMMISSIONER NARASAKI: I would like to
3 express my feeling that the data portion is incredibly
4 important in the hate crimes report, and I'm voting
5 for all of the motion.

6 CHAIR LHAMON: Terrific. Commissioner
7 Yaki?

8 COMMISSIONER YAKI: Aye.

9 CHAIR LHAMON: Vice Chair?

10 VICE CHAIR TIMMONS-GOODSON: Yes.

11 CHAIR LHAMON: I vote yes. So the motion
12 passes, with one opposition, no abstentions, and all
13 others in favor.

14 COMMISSIONER HERIOT: Madam Chairman?

15 CHAIR LHAMON: Yes?

16 COMMISSIONER HERIOT: Could I ask
17 Commissioner Kladney what his concern is over the data
18 collection?

19 COMMISSIONER KLADNEY: My concern
20 basically is just that we've had issues -- it's my
21 understanding that this data collection is to try and
22 find out the best practices to use in terms of
23 reporting hate crimes.

24 And I think that it may delay and, because
25 we've had trouble with collecting the data and using

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1 data in the past, my concern is, is that this is going
2 to delay the ability to get the report out in a timely
3 fashion.

4 COMMISSIONER HERIOT: Do you have a
5 particular remedy for that?

6 COMMISSIONER KLADNEY: Pardon,
7 commissioner?

8 COMMISSIONER HERIOT: Do you have a
9 particular remedy for something you'd like to do to
10 change the way it's presented here, that you think
11 would --

12 COMMISSIONER KLADNEY: Yes, I just thought
13 that the witnesses could -- we were going to have
14 witnesses here, and I thought that they were going to
15 be able to explain who has the best policies regarding
16 reporting -- say the top three to five in the
17 country -- and we could incorporate those policies --
18 their entire policy manual for reporting hate
19 crimes -- into the report, and just let it be that, so
20 that other jurisdictions can read it and decide for
21 themselves.

22 CHAIR LHAMON: Commissioner Narasaki, did
23 you want to speak to that?

24 COMMISSIONER NARASAKI: Yes. I'd like to
25 clarify. This is not data collection in the sense

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1 that it's collecting statistics. It is looking at
2 jurisdictions, and asking the law enforcement agencies
3 in those jurisdictions that are considered to have
4 good practices, to respond to questions about what
5 they do in various aspects.

6 This is something that actually, groups
7 who work with hate crime victims has asked us to do,
8 and has felt would be an important contribution to
9 their work.

10 I've worked on hate crime policy for over
11 a quarter of a century now, and one of the problems we
12 have in terms of fully being able to address hate
13 crimes, is the degree to which victims feel
14 comfortable coming forward to report them, and part of
15 feeling comfortable reporting is understanding that
16 something will actually be done to address them.

17 They also have to have an avenue to
18 report, and it has been shown that those law
19 enforcement that have practices that do outreach to
20 community, that do in-language reporting forums, that
21 properly train their officers, that all these things
22 are things that can help contribute to better
23 reporting, and therefore better focus and attention
24 and prioritization by the police.

25 This is a modest proposal from what I had

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1 originally envisioned, that I thought I had
2 satisfactorily addressed Commissioner Kladney's
3 concern, because at this point, rather than trying to
4 survey a large number of law enforcement agencies,
5 we're only looking to survey about five.

6 And so I feel -- and I have talked to the
7 head of OCRE, and she feels that this is very doable.

8 CHAIR LHAMON: Thank you. Commissioner
9 Heriot?

10 COMMISSIONER HERIOT: I just want to add
11 here that I've got some concerns over the notion of
12 having already decided which of these jurisdictions
13 are engaging in best practices. I think that's
14 something that requires the judgment of the
15 commissioner.

16 I would rather see a random sampling of
17 different ways that this issue is addressed, rather
18 than picking those jurisdictions as doing a good job
19 beforehand.

20 COMMISSIONER NARASAKI: I actually agree
21 with you, Commissioner Heriot. But that was actually
22 one of the compromises I made in order to -- at
23 actually Commissioner Kladney's suggestion. That
24 instead of asking OCRE to do that broad of survey,
25 which he felt would take too much time, to instead

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1 identify jurisdictions from the beginning, so that
2 they would not have to spend time doing that piece.

3 We did write it in a way, and I have
4 talked to the head of OCRE, about there being
5 flexibility. So we've identified some of the ones
6 that advocates have pointed to.

7 But there is room to substitute,
8 particularly because the list involves that we have
9 our big cities, but the cities that tend to have
10 problems are the smaller ones.

11 So we would like, if possible, to identify
12 a smaller jurisdiction that is doing a good job that
13 then could provide a good model for those smaller
14 jurisdictions.

15 COMMISSIONER HERIOT: Well I strongly
16 object to the notion of advocacy organizations
17 pointing us towards which cities they believe are
18 using best practices. That's just allowing the
19 Commission to be a mouthpiece for advocacy
20 organizations.

21 COMMISSIONER NARASAKI: I should say --
22 what I'm talking about is organizations like the Anti-
23 Defamation League, which is a well-known national
24 expert in actually working with law enforcement,
25 providing technical assistance on this issue. So it's

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1 not so much about their advocacy on hate crimes, but
2 about their expertise in working with law enforcement
3 agencies.

4 COMMISSIONER HERIOT: Yes. Again, I
5 object to that.

6 CHAIR LHAMON: Staff Director, you have
7 some comments about that?

8 STAFF DIRECTOR MORALES: Yes. Now that
9 we're at the point where you're considering your
10 concept proposals, I just want to add that as I
11 understand it, you're looking at three briefings next
12 year, one being the statutory enforcement report, one
13 being for hate crimes, and the other, school
14 discipline -- thank you.

15 And so I just wanted to just add a caveat
16 that we're adding in some challenges to us in terms of
17 what we're facing as a commission, in terms of
18 potential continued resolution in the fall, potential
19 sequestration.

20 My job is to point out -- to be fiscally
21 conservative and point out some of the challenges to
22 our staffing needs. And so really, all I want to
23 mention is that if, as we move forward and we learn
24 more of what's going on with our budget and what could
25 happen in the fall, that commissioners be willing to

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1 work with OCRE and my office to work on how we can
2 accomplish these briefings if we need to modify them
3 to some extent because of budget challenges that we
4 may face in the fall.

5 I'd really like to encourage that, and
6 allow the commissioners to provide us with some
7 flexibility to work with you as we move forward in
8 trying to do all three hearings -- potentially a field
9 hearing and two other hearings -- and so we could have
10 some challenges that could impact that, and I just
11 want to put that on everybody's radar.

12 CHAIR LHAMON: I appreciate having that on
13 our radar. I am committed -- I believe all of my
14 fellow commissioners are committed, to working within
15 the very, very challenging budget restrictions that we
16 live within, and trying to ensure that we fulfill our
17 mission as effectively as we can within a
18 devastatingly distressingly small budget for the
19 Commission. So I think we will all keep that in mind.
20 Commissioner Narasaki?

21 COMMISSIONER NARASAKI: I just want to add
22 the way that -- that was actually one of the reasons
23 why we want to -- I wanted to put this in the concept
24 paper, because in lieu of inviting six or seven law
25 enforcement from around the country where we would

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1 have to pay travel, this is basically a way of trying
2 to collect that same information.

3 CHAIR LHAMON: Sounds like we have
4 concluded discussion on this topic. I'll move next to
5 discussion and vote on the Commission's FY 2019
6 Statutory Enforcement Report.

7 **C. FY 2019 STATUTORY ENFORCEMENT REPORT**

8 CHAIR LHAMON: I want to begin with thanks
9 to Commissioner Heriot for raising the suggestion that
10 we ought to think a year in advance, in addition, and
11 so that we can ensure that our staff and we as a
12 commission have an opportunity to provide sufficient
13 to what will be a statutory enforcement report.

14 So with that in mind, I move that we adopt
15 what is my proposal to review the efficacy of federal
16 agency civil rights enforcement, as the 2019 Statutory
17 Enforcement Report. Do I have a second?

18 COMMISSIONER NARASAKI: I second.

19 CHAIR LHAMON: Thank you. Is there any
20 discussion of that proposal?

21 COMMISSIONER HERIOT: What, we're talking
22 about your proposal here?

23 CHAIR GIBBONS: Yes.

24 COMMISSIONER HERIOT: Okay. Hearing none,
25 I'll call the question, take a roll call vote.

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1 Commissioner Adegbile, how do you vote?

2 COMMISSIONER ADEGBILE: Aye.

3 CHAIR LHAMON: Commissioner Heriot?

4 COMMISSIONER HERIOT: Yes.

5 CHAIR LHAMON: Commissioner Kirsanow?

6 COMMISSIONER KIRSANOW: Yes.

7 CHAIR LHAMON: Commissioner Kladney?

8 COMMISSIONER KLADNEY: Yes.

9 CHAIR LHAMON: Commissioner Narasaki?

10 COMMISSIONER NARASAKI: Yes.

11 CHAIR LHAMON: Commissioner Yaki?

12 COMMISSIONER YAKI: Aye.

13 CHAIR LHAMON: Vice Chair?

14 COMMISSIONER YAKI: Yes.

15 CHAIR LHAMON: And I vote yes. The motion
16 passes unanimously.

17 COMMISSIONER HERIOT: I did have a comment
18 though. And that is, the word effectiveness gets used
19 in this, and I want to say that civil rights issues
20 are very, very complex, and it's very difficult to
21 measure effectiveness. It's not simply the matter of,
22 like how quickly are things processed. And so I hope
23 that when we get to this, we're careful with that
24 term.

25 CHAIR LHAMON: I very much appreciate

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1 that, and wholeheartedly agree that progress and
2 effectiveness cannot be measured only by time, but
3 also by the degree to which a mission is satisfied.
4 So thank you for that caution.

5 **D. DISCUSSION AND VOTE ON THE STATEMENT REGARDING**
6 **THE COMMISSION'S CONCERN WITH FEDERAL CIVIL RIGHTS**
7 **ENFORCEMENT EFFICACY**

8 Next item is a discussion vote on the
9 statement regarding the commission's concern with
10 federal civil rights enforcement efficacy on that
11 point. I will begin by reading the statement, so we
12 know what it is that we are voting on, and then we can
13 have a discussion.

14 So the statement is titled, the US
15 Commission on Civil Rights announces investigation,
16 and expresses concern regarding federal civil rights
17 enforcement efficacy and priorities. And below the
18 title, the statement is, The Commission expresses
19 concern with the administration's proposed budget cuts
20 to, and planned staff losses in, numerous programs and
21 civil rights offices across the Federal Government,
22 that enforce our nation's federal civil rights laws.

23 Along with changing programmatic
24 priorities, these proposed cuts would result in a
25 dangerous reduction of civil rights enforcement across

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1 the country, leading communities of color, LGBT
2 people, older people, people with disabilities, and
3 other marginalized groups exposed to greater risk of
4 discrimination.

5 The Commission has unanimously approved a
6 comprehensive two-year assessment of federal civil
7 rights enforcement, which will conclude in fiscal year
8 2019.

9 The review will examine the degree to
10 which current budgets and staffing levels allow civil
11 rights offices to perform their statutory and
12 regulatory functions, the management practices in
13 place in the offices, and whether these practices are
14 sufficient to meet the volume of civil rights issues
15 within the offices' jurisdiction, and the efficacy of
16 recent resolution efforts from the offices.

17 The Commission believes this investigation
18 is necessary to fulfill our core mandate to, quote,
19 monitor federal civil rights enforcement in the United
20 States. That mandate includes assessment of
21 discrimination or denials of equal protection in the
22 administration of justice.

23 The Commission has grave concerns about
24 continuing signals from the current administration,
25 including the President's proposed budget, and

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1 statements of cabinet and senior administration
2 officials, that the protection and fulfillment of
3 civil rights of all persons will not be appropriately
4 prioritized.

5 The Commission is particularly concerned
6 with the following at the Department of Justice.

7 Actions by the Department indicate it is
8 minimizing its civil rights efforts. For example, a
9 majority of the Commission criticized DHA's decision
10 to cite immigrations and customs enforcement officers
11 in courthouses, as a dangerous impediment to access to
12 justice for all Americans.

13 Following distressing changes.

14 DHA's Civil Rights Division's newly
15 identified priorities do not mention the need for
16 constitutional policing, or to combat discrimination
17 against the LGBT community, or people with
18 disabilities.

19 Tellingly, the Civil Rights Division's
20 budget request calls for cutting 121 positions,
21 including 14 attorneys.

22 At the Department of Education, the
23 proposed budget calls for reducing staffing by seven
24 percent, losing 46 full-time equivalent positions at
25 the Department's Office for Civil Rights, which

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1 investigates sex-, race-, disability-, and age-based
2 civil rights complaints.

3 The proposed budget itself reflects that
4 the cutbacks would result in an untenable caseload of
5 42 cases per staff member. These proposed cuts are
6 particularly troubling in light of Education Secretary
7 Betsy DeVos repeated refusal in Congressional
8 testimony, and other public statements, to commit that
9 the Department would enforce federal civil rights
10 laws.

11 At the Department of Labor.

12 The administration has proposed to reduce
13 staffing levels at the Department's Office of Federal
14 Contract Compliance programs -- OFCCP -- by nearly 23
15 percent. The administration also proposes merging
16 OFCCP, which monitors and enforces civil rights laws
17 among federal contractors, with equal opportunity --
18 I'm sorry -- the Equal Employment Opportunity
19 Commission -- EEOC.

20 OFCCP and EEOC have distinct missions, and
21 folding a reduced staffed OFCCP into EEOC, while at
22 the same time not providing additional resources to
23 EEOC, will lead to significant reductions in the
24 capability to monitor civil rights compliance efforts
25 among federal contractors, and at best, compromise the

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1 EEOC's ability to satisfy its already extant civil
2 rights enforcement functions.

3 At the Department of Housing and Urban
4 Development.

5 The President's budget proposal calls for
6 an approximately 15 percent cut to HUD's budget,
7 resulting in staff loss, as well as billions of
8 dollars of cuts to programs that subsidize housing and
9 community development for our nation's most
10 vulnerabilities.

11 The proposed budget also calls for the
12 elimination of the US Interagency Council on
13 Homelessness.

14 The reduction of these programs would deal
15 devastating blows to the Department's work to reduce
16 segregation, and promote fair housing.

17 At the Department of Health and Human
18 Services.

19 The proposed budget calls for a 15 percent
20 cut and a ten percent reduction to the Office of Civil
21 Rights, the office charged with investigating civil
22 rights violations in healthcare settings.

23 At the Environmental Protection Agency.

24 The proposed budget eliminates the EPA's
25 environmental justice program, including nearly 40

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1 employees. The program provides support to address
2 the disproportionate burden of environmental policies
3 and decisions on communities of color, and low-income
4 and tribal communities.

5 The Legal Services Corporation.

6 The proposed budget eliminates federal
7 funding of \$351 million for LSC. LSC is a private,
8 non-profit organization established by Congress to
9 support civil legal aid for low-income Americans.
10 Access to counsel is crucial to ensuring the fair
11 administration of justice.

12 Any reduction in the availability of these
13 services, which are already insufficient to meet the
14 needs of low-income Americans, indicates that fewer
15 just and fair outcomes would be secured.

16 Chair Catherine E. Lhamon states, quote,
17 for 60 years Congress has charged the Commission to
18 monitor federal civil rights enforcement, and
19 recommend necessary change. We take this charge
20 seriously, and we look forward to reporting our
21 findings to Congress, the President, and the American
22 people.

23 We will now discuss the statement, if
24 there's any discussion. Mr. Kirsanow?

25 COMMISSIONER KIRSANOW: Yes. I'm going to

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1 vote no on this for the simple reason that -- well
2 maybe I should vote yes, because then that would
3 obviate the need to do the statutory enforcement
4 report, because it seems that we've already concluded
5 this is a verdict first, trial later quality to it.

6 We have a statutory enforcement report for
7 2019, and we're going to be evaluating the efficacy of
8 some of the various organizations that have been cited
9 in this statement, and the statement presumes that
10 cuts in money necessarily mean cuts in efficacy.

11 We've concluded that this is a dangerous
12 reduction, it's going to have devastating blows, and
13 that any reduction in funds is going to have a harmful
14 effect on the mission of the various agencies or
15 departments that have just been discussed.

16 We're jumping to conclusions that are more
17 properly the precinct or the province of our statutory
18 enforcement report for 2019. And beyond that, we're
19 talking about reductions -- for example, in DOJ, of 12
20 attorneys, that still leave nearly 400 attorneys
21 there. Only in government, which has a \$20 trillion
22 debt, could we say that a reduction in money
23 necessarily harms a program. So I'll be voting
24 against it.

25 CHAIR LHAMON: So I welcomed your

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1 suggestion that you might vote for it, and that in the
2 beginning I will say that I think that their statement
3 is carefully worded not to assume a conclusion, but to
4 identify a set of concerns, and to say that we look
5 forward to investigating them.

6 And to note that these are proposed budget
7 suggestions that Congress has not yet actually
8 appropriated, and I have heard from many members of
9 Congress on both sides of the aisle, that their view
10 is that this proposed budget is dead on arrival.

11 I welcome that because I am deeply
12 concerned about what it is that this budget would work
13 for civil rights enforcement in the country. But I
14 also welcome hearing if it is the budget that we live
15 with, or whatever budget we do live with in the civil
16 rights agencies, how it is that the agencies believe
17 that they can fulfill their mission, and if they think
18 that they can, I welcome hearing that.

19 I also welcome an opportunity for us to
20 review it and draw our own conclusions, and make our
21 own recommendations about what the efficacy is and is
22 not. Vice Chair?

23 VICE CHAIR TIMMONS-GOODSON: Yes, Madam
24 Chair, I will be voting for it. As you have pointed
25 out, it is our role to monitor what's going on where

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1 civil rights is concerned, and speaking out and
2 commenting on our observations to-date seems very
3 reasonable to me, and I support the letter.

4 CHAIR LHAMON: Commissioner Heriot?

5 COMMISSIONER HERIOT: I just want to
6 comment that the sentence about Secretary DeVos is
7 utterly over the top. At no time did she say that she
8 would not enforce federal civil rights laws. She has
9 a different interpretation of what those laws require,
10 in all likelihood. So I think that sentence should
11 certainly be stricken. But I will be voting against
12 this in any event.

13 CHAIR LHAMON: Thank you. The sentence
14 about Secretary DeVos does not say that she has said
15 that she will not. It says that she has refused to
16 commit that she would enforce civil rights laws.

17 COMMISSIONER HERIOT: No, but that's not
18 true.

19 CHAIR LHAMON: It's very true --

20 COMMISSIONER HERIOT: And that she
21 interprets the statutes differently from you.

22 CHAIR LHAMON: What she said in her most
23 recent Congressional testimony, is that any recipient
24 of federal funds will follow the law. She is not in a
25 position to make a commitment on behalf of someone she

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1 doesn't control. The most and the best of the
2 Department of Education can commit, is that it will
3 enforce non-compliance that it finds. She has refused
4 to make that commitment. In transcript. In
5 Congressional testimony. That is a concern.

6 COMMISSIONER HERIOT: That is an unfair
7 interpretation of what she is saying.

8 CHAIR LHAMON: Well we can agree to
9 disagree on that point. So any further discussion of
10 this statement? Commissioner Narasaki?

11 COMMISSIONER NARASAKI: I will be running
12 for this statement. I think it is helpful actually to
13 the agencies to know up front what some of our
14 concerns are. This is an investigation that will be
15 taking place a while from now. So hopefully it
16 actually provides some guidance to them.

17 And that's part of our role -- to give
18 advice to Congress and to the administration. So I
19 feel it's perfectly appropriate.

20 CHAIR LHAMON: Hearing no further
21 discussion, I'll call --

22 COMMISSIONER KIRSANOW: I just have one
23 question.

24 CHAIR LHAMON: Commissioner Kirsanow?

25 COMMISSIONER KIRSANOW: What is the

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1 appropriate level of expenditures for these various
2 agencies? Isn't that a prerequisite to making a
3 determination as to whether or not these cuts are
4 dangerous or problematic?

5 CHAIR LHAMON: I thought that knowing the
6 appropriate level is a prerequisite to recognizing
7 that cutting them below their current levels would be
8 dangerous or problematic. But in addition, I think it
9 would be useful for us to evaluate that question in
10 the course of the two-year oversight investigation
11 that we will be conducting.

12 COMMISSIONER KIRSANOW: Couldn't it
13 possibly be that we're spending more than we should
14 be, or that the dollars to be allocated differently,
15 or that there is some dead wood, or maybe there's not
16 enough.

17 We don't know any of these things. And
18 that's the purpose for the statutory report.

19 CHAIR LHAMON: I think it's certainly
20 possible that we are spending more than we should be.

21 It's not my view that in any of these agencies we are
22 now spending more than we should be.

23 I have, for obvious reasons, the most
24 familiarity with the Department of Education's budget,
25 and it well underfunded from a high of many years ago,

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1 when the Office for Civil Rights hired, for example,
2 11,000 staff, at a time when it was processing 3,000
3 complaints.

4 The Office, at the end of the last fiscal
5 year, processed 17,000 complaints with fewer than 600
6 staff. I am confident that that is an insufficient
7 level of staffing, necessitated by an insufficient
8 budget in that office.

9 I also understand from the other offices,
10 that they face very significant budgetary challenges
11 that we as a commission face ourselves, and we are
12 familiar with what we are unable to do because of our
13 own budgetary challenges.

14 I look forward to hearing detailed
15 information from the offices, both about their
16 budgets, and about their management practices, and
17 about the places where they could improve efficiency
18 and efficacy, because I think there's likely room for
19 improvement in any office on that front, and it would
20 be important for us to take in that information as
21 well.

22 COMMISSIONER KIRSANOW: I will just note
23 that it's disappointing that more than 50 years after
24 the 1964 Civil Rights Act, that we actually need more
25 money to fight discrimination, which would suggest

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1 that it's been an abject failure for 50 years. You
2 would think the numbers would be going down. But
3 that's just me.

4 CHAIR LHAMON: You know, I think that not
5 one of us on this Commission understands us to have
6 reached the mountaintop with respect to civil rights.

7 And I believe we are all disappointed about the
8 volume of civil rights harm that persists in this
9 country.

10 I am a strong believer that we have
11 advanced profoundly in the 60 years that the
12 Commission has been in existence, and certainly in my
13 own lifetime. I am deeply grateful for my own
14 children, and for all of the nation's children, about
15 the progress that we have made, and at the same time,
16 I am deeply grateful for the opportunity that each of
17 us has to commit to helping the nation move toward
18 actually achieving the promises that we have lived for
19 those 60 years. Commissioner Narasaki?

20 COMMISSIONER NARASAKI: I share your wish
21 that we wouldn't need this kind of enforcement effort
22 commissioner. But the reality is, I think you also
23 fail to take into account that, thankfully as a
24 country, we've actually expanded the notion of what
25 civil rights means, since the 1960s, and there are

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1 many more vulnerable communities that we are seeking
2 to protect, against many more different kinds of
3 discrimination that we now recognize as pernicious,
4 and as undermining our democracy.

5 CHAIR LHAMON: Commissioner Adegbile?

6 COMMISSIONER ADEGBILE: I would just like
7 to speak to Commissioner Kirsanow's point as well. I
8 think that it's not inconsistent to have achieved
9 significant progress, which we all hold up and
10 embrace, but also have further to go.

11 And my conception of the Constitution and
12 our civil rights laws, is that they're aspirational,
13 and that the work is intergenerational and ongoing.
14 So even when we address problems in a certain era,
15 sometimes we see that those problems come back in a
16 different form and mutate. Sometimes they're
17 satisfied and there are new areas to explore, as
18 Commissioner Narasaki has expressed.

19 And so I don't think it's a dichotomous
20 choice of having a state of complete equality, and
21 that is the definition of success. Or having more
22 work to do in civil rights. And I think there's
23 probably a fair amount of agreement on this
24 Commission, that both things can be true. We can have
25 addressed some things and made progress, and still

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1 need to do more. And I understand the charge of this
2 Commission to be a steadfast guardian, and providing
3 analysis of those very areas where we need to do more.

4 CHAIR LHAMON: Thank you all for the
5 discussion. Why don't we see if we have a motion to
6 approve the statement regarding federal civil rights
7 enforcement efficacy.

8 VICE CHAIR TIMMONS-GOODSON: So moved.

9 COMMISSIONER ADEGBILE: Second.

10 CHAIR LHAMON: Terrific. Commissioner
11 Adegbile, how do you vote?

12 COMMISSIONER ADEGBILE: Aye.

13 CHAIR LHAMON: Commissioner Heriot?

14 COMMISSIONER HERIOT: No.

15 CHAIR LHAMON: Commissioner Kirsanow?

16 COMMISSIONER KIRSANOW: No.

17 CHAIR LHAMON: Commissioner Kladney?

18 COMMISSIONER KLADNEY: Yes.

19 CHAIR LHAMON: Commissioner Yaki?

20 COMMISSIONER YAKI: Aye.

21 CHAIR LHAMON: Vice Chair?

22 VICE CHAIR TIMMONS-GOODSON: Yes.

23 CHAIR LHAMON: And I vote yes. The motion
24 passes. Two commissioners opposed, no commissioner
25 abstained, all others were in favor.

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1 COMMISSIONER HERIOT: Madam Chairman?

2 CHAIR LHAMON: Yes.

3 COMMISSIONER HERIOT: Just want to remind
4 you that our rules require that when you issue a
5 statement, it state that there were two dissenting
6 commissioners.

7 CHAIR LHAMON: Our rules require that I
8 state that it was a majority, and I will be happy to
9 follow those rules.

10 **E. DISCUSSION AND VOTE ON REVISED SCHEDULE**
11 **REGARDING THE FY 2017 STATUTORY ENFORCEMENT REPORT**
12 **ON MUNICIPAL FEES**

13 CHAIR LHAMON: Next we consider a revised
14 schedule for FY 2017 Statutory Enforcement Report.
15 That revised schedule shifts the schedule back a week
16 in order to allow the commissioners sufficient to
17 review before voting on the final report.

18 It will not impact the time for
19 commissioners to draft their statements and rebuttals,
20 and if any, surrebuttals. Any discussion?

21 Okay, do I have a motion to approve the
22 revised schedule for the FY 2017 Statutory Enforcement
23 Report?

24 COMMISSIONER NARASAKI: So moved.

25 COMMISSIONER KLADNEY: Second.

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1 CHAIR LHAMON: Terrific. Commissioner
2 Adegbile, how do you vote?

3 COMMISSIONER ADEGBILE: Aye.

4 CHAIR LHAMON: Commissioner Heriot?

5 COMMISSIONER HERIOT: I have to pass here.
6 I'm --

7 CHAIR LHAMON: Do you want me to come back
8 to you, or are you abstaining?

9 COMMISSIONER HERIOT: I'm just trying to
10 figure out what the schedule is now.

11 CHAIR LHAMON: Do you want them to go over
12 it?

13 COMMISSIONER HERIOT: Yes. Could you tell
14 me what the schedule would be here?

15 CHAIR LHAMON: I can. Hang on just one
16 second. Okay, having had a motion and a second, we
17 should go forward with the vote, but I'm told that it
18 would be helpful if we look at the schedule for our
19 telephonic business meeting to discuss it first. Are
20 you all comfortable with tabling the motion?

21 COMMISSIONER ADEGBILE: Yes.

22 COMMISSIONER HERIOT: Yes.

23 CHAIR LHAMON: Okay, terrific.

24 **F. DISCUSSION AND VOTE ON HOLDING A TELEPHONIC**

25 **BUSINESS MEETING ON FRIDAY, JUNE 23, 2017**

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1 CHAIR LHAMON: So we had had a plan to
2 hold a telephonic business meeting on Friday,
3 June 23rd at 12:00 noon. I understand that there are
4 some calendar conflicts. That telephonic business
5 meeting would be to discuss and vote on the Statutory
6 Enforcement Report for FY 2017, which is the Municipal
7 Fines and Fees Report.

8 Our agenda for today also contemplated
9 that we would discuss the LGBT Workplace
10 Discrimination Report. But we will limit the call
11 when we have it, to the Municipal Fines and Fees
12 Report, in order to allow sufficient time to review
13 the LGBT Workplace Discrimination Report before the --

14 COMMISSIONER HERIOT: Okay, but when does
15 the telephonic business meeting going to be?

16 CHAIR LHAMON: I'll get into that.

17 COMMISSIONER HERIOT: Okay.

18 CHAIR LHAMON: So we had planned on
19 Friday, June 23rd at 12:00 noon. I understand that
20 there are some calendar conflicts, so before voting on
21 that, we need to vote on some alternate dates. One
22 alternate date is Tuesday, June 27 from 12:00 to 1:00.
23 The other is Wednesday, June 28 from 12:00 to 1:00.

24 Should we discuss which of those dates
25 will work before moving to vote on one of them?

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1 COMMISSIONER HERIOT: Yes. I mean if
2 we're voting on a schedule, then we got to have a
3 schedule.

4 CHAIR LHAMON: Thanks for that helpful
5 suggestion. So Vice Chair, does Tuesday the 27th at
6 noon work for you?

7 VICE CHAIR TIMMONS-GOODSON: No. It does
8 not work for me.

9 COMMISSIONER NARASAKI: It does not work
10 for me either.

11 CHAIR LHAMON: Okay. Commissioner
12 Adegbile, it does work for you? Is that correct?

13 COMMISSIONER ADEGBILE: That's correct.

14 CHAIR LHAMON: Commissioner Heriot?

15 COMMISSIONER HERIOT: It works for me,
16 yes.

17 CHAIR LHAMON: Commissioner Kirsanow?

18 COMMISSIONER KIRSANOW: No it doesn't.

19 CHAIR LHAMON: Okay. Commissioner
20 Kladney?

21 COMMISSIONER KLADNEY: Whatever you'd like
22 ma'am.

23 CHAIR LHAMON: I love that vote.
24 Commissioner Yaki? Commissioner Yaki, if you're
25 speaking --

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1 COMMISSIONER YAKI: Aye.

2 CHAIR LHAMON: Okay, so it does work for
3 you. So then let's look at the June 28th from 12:00
4 to 1:00. Vice Chair, does that time work for you?

5 VICE CHAIR TIMMONS-GOODSON: Yes, it
6 works.

7 CHAIR LHAMON: Commissioner Adegbile?

8 COMMISSIONER ADEGBILE: No.

9 CHAIR LHAMON: Commissioner Heriot?

10 COMMISSIONER HERIOT: Yes.

11 CHAIR LHAMON: Commissioner Kirsanow?

12 COMMISSIONER KIRSANOW: Yes.

13 CHAIR LHAMON: Commissioner Kladney?

14 COMMISSIONER KLADNEY: I could make it
15 work.

16 CHAIR LHAMON: I like the general yes for
17 me, but okay.

18 COMMISSIONER KLADNEY: I mean I would
19 prefer Tuesday, but Wednesday's fine.

20 CHAIR LHAMON: Thank you. Commissioner
21 Narasaki?

22 COMMISSIONER NARASAKI: Yes.

23 CHAIR LHAMON: Commissioner Yaki?

24 COMMISSIONER YAKI: It doesn't.

25 CHAIR LHAMON: No? Okay.

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1 COMMISSIONER YAKI: It does not.

2 CHAIR LHAMON: So it looks -- at the
3 scheduling, it looks like -- with no disrespect
4 intended to Commissioner Yaki and Commissioner
5 Adegbile that the June 28th from 12:00 to 1:00 works
6 for a quorum and most of us. So I will move that we
7 will hold a telephonic business meeting on Wednesday,
8 June 28th from 12:00 to 1:00 to discuss the FY 2017
9 Statutory Enforcement Report. Do I have a second?

10 VICE CHAIR TIMMONS-GOODSON: I'll second
11 that motion.

12 CHAIR LHAMON: Okay. So Commissioner
13 Adegbile, how do you vote?

14 COMMISSIONER ADEGBILE: Aye.

15 CHAIR LHAMON: Commissioner Heriot?

16 COMMISSIONER HERIOT: I just want to
17 clarify that 3037 works for that. That's a -- okay,
18 yes, I'm getting a nod yes from the General Counsel.
19 With that, then yes.

20 CHAIR LHAMON: Okay. Commissioner
21 Kirsanow?

22 COMMISSIONER KIRSANOW: Yes.

23 CHAIR LHAMON: Commissioner Kladney?

24 COMMISSIONER KLADNEY: Yes.

25 CHAIR LHAMON: Commissioner Narasaki?

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1 COMMISSIONER NARASAKI: I'm trying to get
2 a clarification about something.

3 CHAIR LHAMON: So are we waiting?

4 COMMISSIONER NARASAKI: So I'm voting no.

5 CHAIR LHAMON: Commissioner Yaki?

6 COMMISSIONER YAKI: No.

7 CHAIR LHAMON: Vice Chair?

8 VICE CHAIR TIMMONS-GOODSON: Yes.

9 CHAIR LHAMON: And I vote yes. So I think
10 we will hold -- the motion passes. We had two no
11 votes, so we will hold the telephonic business meeting
12 on Wednesday, June 28 from 12:00 to 1:00 to discuss
13 and vote on the FY 2017 report.

14 COMMISSIONER YAKI: I just want to -- can
15 I say something?

16 CHAIR LHAMON: Sure.

17 COMMISSIONER YAKI: I just think it's very
18 bad form to do a statutory report vote when two
19 commissioners are known to not be able to attend,
20 especially for a special meeting. I don't think
21 that's right.

22 CHAIR LHAMON: Okay. Commissioner Yaki,
23 do you have a suggestion for another way to achieve a
24 vote on the report in time for its completion? My
25 understanding from the Office of Civil Rights

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1 Enforcement is that we need to vote on that report
2 before July, to be able to complete the report timely
3 for this fiscal year.

4 COMMISSIONER YAKI: Well, all I know is
5 that we're given two different dates, two different
6 times. I don't know what options there were, why -- I
7 mean, it's just -- I just want to register my protest.

8 COMMISSIONER KLADNEY: Madam Chair, I was
9 wondering, if we're picking the 28th and two
10 commissioners can't make it at the time that we've
11 set, perhaps there is a time after business hours that
12 we can meet, where everybody would be available that
13 day.

14 CHAIR LHAMON: Why don't we do this.
15 Although we had a motion that passed for a particular
16 time, I hear Commissioner Yaki's concern, and I
17 think -- I see nods, I think many of us share it. So
18 why don't we vote on whether we could take a
19 notational vote to try to secure a date that could
20 work for all of us.

21 And if we can vote not to block a
22 notational vote on that topic, then I think we can
23 move forward from here. So I move that we hold --
24 that we agree that --

25 (Off-microphone comment.)

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1 CHAIR LHAMON: That's exactly what we're
2 talking about. So why don't I --

3 COMMISSIONER HERIOT: Can we, like figure
4 it out now instead, because I'm not really inclined --

5 CHAIR LHAMON: You don't have your
6 microphone on.

7 COMMISSIONER HERIOT: Yes, sorry. I'm not
8 really inclined to want to push this scheduling off.
9 Let's come up with a time now. Is there a different
10 time that day that everybody can meet? Because if you
11 do one of these, we could end up putting it off too
12 long.

13 COMMISSIONER NARASAKI: I know that we
14 have guests coming. So perhaps after they present, we
15 can huddle for a few minutes, see if we can find a
16 time, come back briefly into session, and vote on it.

17 CHAIR LHAMON: Okay. Or -- I think our
18 guests are not here yet. Why don't we take a recess,
19 discuss among ourselves calendars, without trying to
20 subject the court reporter to recording it, and then
21 come back. Thanks.

22 (Whereupon, the above-entitled matter went
23 off the record at 10:15 a.m. and resumed at
24 10:20 a.m.)

25 CHAIR LHAMON: So I'm ending our recess

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1 and coming back to the record. Having conferred, it
2 looks like June 29th from noon to 1:00 may work. So
3 I'm -- that's Eastern Time.

4 So I move that we will hold a telephonic
5 business meeting on Thursday, June 29 from noon to
6 1:00 Eastern, to discuss and vote on the FY 2017
7 Statutory Enforcement Report on Municipal Fines and
8 Fees. Do I have a second?

9 COMMISSIONER ADEGBILE: Second.

10 CHAIR LHAMON: Okay. Commissioner
11 Adegbile, how do you vote?

12 COMMISSIONER ADEGBILE: Aye, and thank you
13 for the accommodation.

14 CHAIR LHAMON: Commissioner Heriot?

15 COMMISSIONER HERIOT: Yes.

16 CHAIR LHAMON: Commissioner Kirsanow?

17 COMMISSIONER KIRSANOW: Yes.

18 CHAIR LHAMON: Commissioner Kladney?

19 COMMISSIONER KLADNEY: Yes.

20 CHAIR LHAMON: Commissioner Narasaki?

21 COMMISSIONER NARASAKI: Yes.

22 CHAIR LHAMON: Commissioner Yaki?

23 COMMISSIONER YAKI: Aye, and thank you as
24 well.

25 CHAIR LHAMON: Vice Chair?

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1 VICE CHAIR TIMMONS-GOODSON: Yes.

2 CHAIR LHAMON: And I vote yes, so the
3 motion passes unanimously.

4 **G. DISCUSSION AND VOTE ON REVISED SCHEDULE**
5 **REGARDING THE FY 2017 STATUTORY ENFORCEMENT REPORT**
6 **ON MUNICIPAL FEES**

7 CHAIR LHAMON: Given that motion that has
8 superseded our previous one, we will not consider a
9 revised schedule for the FY 2017 Statutory Enforcement
10 Report.

11 And as mentioned, that schedule shifts the
12 schedule back a week, to allow the commissioners
13 sufficient time to review before voting, and does not
14 impact the time for commissioners to draft their
15 statements and rebuttals, and if invoked, any
16 surrebuttals. So any discussion on that?

17 Do I have a motion to approve the revised
18 schedule for the FY 2017 Statutory Enforcement Report?

19 COMMISSIONER ADEGBILE: So moved.

20 CHAIR LHAMON: A second?

21 COMMISSIONER Kladney: Second.

22 CHAIR LHAMON: Commissioner Adegbile, how
23 do you vote?

24 COMMISSIONER ADEGBILE: Aye.

25 CHAIR LHAMON: Commissioner Heriot?

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1 COMMISSIONER HERIOT: Yes.

2 CHAIR LHAMON: Kirsanow?

3 COMMISSIONER KIRSANOW: Yes.

4 CHAIR LHAMON: Commissioner Kladney?

5 COMMISSIONER KLADNEY: Yes.

6 CHAIR LHAMON: Commissioner Narasaki?

7 COMMISSIONER NARASAKI: Yes.

8 CHAIR LHAMON: Commissioner Yaki?

9 COMMISSIONER YAKI: Aye.

10 CHAIR LHAMON: Vice Chair Timmons-Goodson?

11 VICE CHAIR TIMMONS-GOODSON: Yes.

12 CHAIR LHAMON: And I vote yes. The motion
13 passes unanimously. Okay.

14 **H. DISCUSSION AND VOTE ON CHANGING THE NOVEMBER**
15 **AND DECEMBER COMMISSION BUSINESS MEETING DATES**

16 So at the risk of introducing more
17 confusion, we're going to now discuss and vote on
18 changing our November and December Commission business
19 meeting dates. Now first, the Staff Director will
20 provide us with the staff recommendation on when we
21 should schedule these meetings.

22 STAFF DIRECTOR MORALES: Thank you Madam
23 Chair. In regards to changing the commissioner
24 meetings in December and November, let me start first
25 by addressing December first.

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1 Given the interests of OCRE and
2 commissioners to hold a briefing on statutory
3 enforcement report in December, I mean -- in December,
4 yes, conversations have occurred between Special
5 Assistance -- representing commissioners of course --
6 and OCRE, to indicate the preference should be in
7 early December. Later in the month could be
8 problematic because of the holidays.

9 Having said all this, this could be
10 subject to change if there is a Government shutdown,
11 budget sequestration, we have to exist under a
12 continuing resolution, or something like that. But
13 nevertheless, I propose moving the current December
14 meeting date from December -- from Friday,
15 December 15th, to Friday, December 8th.

16 And in regards to the November date, we've
17 secured an ornate room at the Library of Congress for
18 holding our 60th anniversary event that we have under
19 consideration and discussion. However, the Library of
20 Congress can only accommodate us on Tuesday,
21 November 14th. Anything later, Congress will be out
22 of session, and then we'll run into the Thanksgiving
23 holidays.

24 In another week or two, and no later than
25 July business meeting, I'll update you with the final

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1 planning for the event. I'm not prepared to do so at
2 this time. However, I propose to move the Commission
3 business date from November 17th -- Friday,
4 November 17th -- to Tuesday, November 14th, and it
5 looks like we'd be able to hold a Commission business
6 meeting earlier that morning, and the event
7 commemorating the 60th anniversary would be in the
8 afternoon. Thank you Madam Chair.

9 CHAIR LHAMON: Thank you. Having heard
10 from the staff -- Commissioner Heriot?

11 COMMISSIONER HERIOT: Yes, that's -- could
12 you tell me again the times on the 14th? What's
13 the --

14 STAFF DIRECTOR MORALES: We don't have the
15 time, other than generally looking at them. We're
16 kind of flexible. Kind of depends on availability of
17 one of our speakers. But we're looking at holding a
18 Commission business meeting in the morning, probably
19 like from 9:30 or 10:00 to noon. We don't anticipate
20 it being a long business meeting.

21 And then thereafter, potentially starting
22 either at two or 3 o'clock for the event at the
23 Library of Congress. And we can only have it from I
24 believe 2 o'clock to 5:00 p.m. -- have the room. And
25 one of the reasons we've selected the room is because

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1 we have the potential of having some Library of
2 Congress artifacts that pertain specifically to the
3 Commission available.

4 And so we're working with the Library of
5 Congress and the National Archives to have those
6 available for the guests and folks who attend. And so
7 we're looking a time frame between I believe two and
8 5 o'clock, but hoping to have it -- we think it would
9 probably take -- the event would take about two hours,
10 so something in that range.

11 COMMISSIONER HERIOT: Is it possible to
12 hold it earlier in the day, and hold the Commission
13 meeting on Monday afternoon?

14 STAFF DIRECTOR MORALES: That would be
15 available. We can certainly entertain that if it fits
16 commissioners' schedules. I don't see a reason not --
17 I mean I don't --

18 COMMISSIONER HERIOT: I got a meeting --

19 STAFF DIRECTOR MORALES: There's nothing
20 that prevents us from doing that.

21 COMMISSIONER HERIOT: Yes. I got to be in
22 San Diego by Tuesday night, and that means last plane
23 is going to leave probably about 5:00. And if we
24 could hold the Commission meeting the day before, and
25 the celebration earlier in the day, that would work

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1 for me. Otherwise it doesn't.

2 STAFF DIRECTOR MORALES: It could be a
3 challenge holding the event earlier in the day, but
4 let me get back to you on that, and look at the
5 feasibility of getting the room earlier. It may not
6 be available earlier. The speaker may not be
7 available earlier. We'd like to have maybe a couple
8 of members of Congress come and participate as well.

9 COMMISSIONER HERIOT: How about flip and
10 do the day before for the celebration?

11 STAFF DIRECTOR MORALES: On Monday?

12 COMMISSIONER HERIOT: Yes. And then the
13 Commission meeting Tuesday morning.

14 STAFF DIRECTOR MORALES: Right now we know
15 the room is available on Tuesday. I don't know if the
16 room's available on Monday. And I don't know what
17 commissioners' travel schedules would be, but we can
18 certainly look that. I can get back to you on that.

19 COMMISSIONER HERIOT: Yes.

20 STAFF DIRECTOR MORALES: I can get back to
21 you on that in an email in the next week or so, and
22 let you know what that possibility is. I don't want
23 to delay the moving of the date. I mean, I think the
24 date has to be moved either to that Tuesday or that
25 Monday anyway, because Congress goes out of session on

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1 Thursday.

2 And so -- and we know the room is not
3 available on the 15th. So we were looking originally
4 at holding it on Wednesday the 15th, but the room that
5 we'd like is not available. It's available -- we know
6 for a fact it's available on Tuesday the 14th. And so
7 that's why we picked that.

8 COMMISSIONER HERIOT: Yes. Well the way
9 you have it now I can't do it.

10 CHAIR LHAMON: I'm not sure it's
11 productive to proceed with a vote, given the
12 uncertainty --

13 STAFF DIRECTOR MORALES: Yes, well we can
14 hold that if -- I don't know if you want to do the
15 vote on moving the December date, but we can revisit
16 that.

17 CHAIR LHAMON: Okay.

18 COMMISSIONER NARASAKI: Maybe we can vote
19 on it when we do the vote on the report.

20 CHAIR LHAMON: Okay.

21 STAFF DIRECTOR MORALES: We could add
22 that. Certainly.

23 COMMISSIONER HERIOT: Does anybody object
24 to the December. I mean if not, maybe we could vote
25 on that now. At least get that out of the way.

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1 CHAIR LHAMON: Okay, it sounds like
2 there's two options for votes. Why don't we have a
3 motion to vote on the December date, and also a motion
4 to add the discussion of the November date to the
5 telephonic meeting that we have just voted. Do we
6 have a motion for --

7 COMMISSIONER NARASAKI: I move that we
8 vote to move the December meeting date, and that we
9 vote to consider moving the November date, and vote at
10 that at our telephonic meeting.

11 COMMISSIONER KLADNEY: I second.

12 CHAIR LHAMON: And just to clarify, the
13 December meeting date would be December 8, 2017.
14 Okay. So having had a motion and a second,
15 Commissioner Adegbile, how do you vote?

16 COMMISSIONER ADEGBILE: Aye.

17 CHAIR LHAMON: Commissioner Heriot?

18 COMMISSIONER HERIOT: Aye.

19 CHAIR LHAMON: Commissioner Kirsanow?

20 COMMISSIONER KIRSANOW: Yes.

21 CHAIR LHAMON: Commissioner Kladney?

22 COMMISSIONER KLADNEY: Yes.

23 CHAIR LHAMON: Commissioner Narasaki?

24 COMMISSIONER NARASAKI: Yes.

25 CHAIR LHAMON: Commissioner Yaki?

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1 COMMISSIONER YAKI: Aye.

2 CHAIR LHAMON: Vice Chair?

3 VICE CHAIR TIMMONS-GOODSON: Yes.

4 CHAIR LHAMON: And I vote yes. The motion
5 passes unanimously.

6 COMMISSIONER KLADNEY: Madam Chair, I was
7 wondering if the Director could get several dates and
8 times from the location for our discussion at our
9 meeting, rather than trying to pick one, which I think
10 is more difficult for eight people to agree on.

11 STAFF DIRECTOR MORALES: Yes, I'll do my
12 best.

13 COMMISSIONER KLADNEY: Thank you.

14 CHAIR LHAMON: Thank you. Okay, next
15 we'll discuss three State Advisory Committee --

16 COMMISSIONER HERIOT: We actually only
17 voted to consider the December thing. We didn't
18 actually do it.

19 CHAIR LHAMON: Okay.

20 COMMISSIONER HERIOT: So I move that we
21 actually do what the Staff Director asked us to do,
22 and that is move the meeting to December whatever it
23 was.

24 CHAIR LHAMON: Eighth.

25 COMMISSIONER HERIOT: Eighth.

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1 COMMISSIONER KLADNEY: I'll second that.

2 CHAIR LHAMON: Okay, just to be very, very
3 clear, so we have a motion and a second. We can go
4 through our votes again. Commissioner Adegbile, how
5 do you vote?

6 COMMISSIONER ADEGBILE: Aye.

7 CHAIR LHAMON: Commissioner Heriot?

8 COMMISSIONER HERIOT: Yes.

9 CHAIR LHAMON: Commissioner Kirsanow?

10 COMMISSIONER KIRSANOW: Yes.

11 CHAIR LHAMON: Commissioner Kladney?

12 COMMISSIONER KLADNEY: Yes.

13 CHAIR LHAMON: Commissioner Narasaki?

14 COMMISSIONER NARASAKI: Yes again.

15 CHAIR LHAMON: Commissioner Yaki?

16 COMMISSIONER YAKI: Aye-aye.

17 CHAIR LHAMON: Vice Chair?

18 VICE CHAIR TIMMONS-GOODSON: Yes.

19 CHAIR LHAMON: And I vote yes. The motion
20 passes unanimously, to be clear.

21 **I. STATE ADVISORY COMMITTEES**

22 CHAIR LHAMON: Okay, I'd like to turn to
23 the State Advisory Committee section of our agenda.
24 Before we discuss the three State Advisory Committee
25 appointment slates to consider, I acknowledge the

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1 passing of Peter Lawler, a member of our Georgia State
2 Advisory Committee, who recently died, and our deepest
3 condolences extend to his family.

4 As we turn to the three State Advisory
5 Committee appointment slates to consider, before we
6 begin discussion, a brief reminder for all, that
7 objections to these slates have been shared with all
8 commissioners.

9 To the extent that anyone would like to
10 discuss continuing objections, I ask that you not
11 mention specific candidates by name. Each of these
12 individuals has agreed to volunteer time and energy in
13 the pursuit of the protection of civil rights. With
14 that I begin with the Alabama State Advisory
15 Committee.

16 **1. VOTE ON APPOINTMENTS TO THE ALABAMA STATE**
17 **ADVISORY COMMITTEE**

18 CHAIR LHAMON: I move that the Commission
19 appoints the following individuals to the Alabama
20 State Advisory Committee, based on the recommendation
21 of the Staff Director. Jenny Carroll, Marc Ayers,
22 Craig Hymowitz, Michael Innis-Jimenez, Peter Jones,
23 Angela Lewis, Raphael Maharaj, Isabel Rubio, Martha
24 Lynn Shearer, Maurice Shevin, Cameron Smith, David
25 Smolin, Daiquiri Steele, and Tari Williams.

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1 With this motion, the Commission will also
2 appoint Jenny Carroll as Chair of the Alabama State
3 Advisory Committee. All of these members shall serve
4 as uncompensated government employees. If the motion
5 passes, the Commission will authorize the Staff
6 Director to execute the appropriate paperwork for the
7 appointments. Do I have a second for this motion?

8 VICE CHAIR TIMMONS-GOODSON: I second it.

9 CHAIR LHAMON: Any discussion? Hearing
10 none, Commissioner Adegbile, how do you vote?

11 COMMISSIONER ADEGBILE: Aye.

12 CHAIR LHAMON: Commissioner Heriot?

13 COMMISSIONER HERIOT: I vote yes on this
14 one.

15 CHAIR LHAMON: Commissioner Kirsanow?

16 COMMISSIONER KIRSANOW: Yes.

17 CHAIR LHAMON: Commissioner Kladney?

18 COMMISSIONER KLADNEY: Yes.

19 CHAIR LHAMON: Commissioner Narasaki?

20 COMMISSIONER NARASAKI: Yes.

21 CHAIR LHAMON: Commissioner Yaki?

22 COMMISSIONER YAKI: Aye.

23 CHAIR LHAMON: Vice Chair Timmons-Goodson?

24 VICE CHAIR TIMMONS-GOODSON: Yes.

25 CHAIR LHAMON: And I vote yes. The motion

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1 passes unanimously.

2 **2. VOTE ON APPOINTMENTS TO THE MONTANA STATE**

3 **ADVISORY COMMITTEE**

4 CHAIR LHAMON: I now move that the
5 Commission appoints the following individuals to the
6 Montana State Advisory Committee, based on the
7 recommendation of the Staff Director. Gwendolyn
8 Kircher, Kiah Abbey, John Baden, Doug Betters, Norma
9 Bixby, Joan Hoff, David Lopez, David Stanley Morales,
10 Dale Rambur, Denise Rogers, Maylinn Smith, Dennis
11 Taylor.

12 With this motion, the Commission will also
13 appoint Gwendolyn Kircher as Chair of the Montana
14 State Advisory Committee. All of these members will
15 serve as uncompensated government employees. If the
16 motion passes, the Commission will authorize the Staff
17 Director to execute the appropriate paperwork for the
18 appointments. Do I have a second for this motion?

19 COMMISSIONER ADEGBILE: Second.

20 CHAIR LHAMON: Thank you. Any discussion?
21 Hearing none, Commissioner Adegbile, how do you vote?

22 COMMISSIONER ADEGBILE: Aye.

23 CHAIR LHAMON: Commissioner Kirsanow?

24 COMMISSIONER KIRSANOW: No.

25 CHAIR LHAMON: Commissioner Heriot?

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1 COMMISSIONER HERIOT: I'm voting yes on
2 this one.

3 CHAIR LHAMON: Commissioner Kladney?

4 COMMISSIONER KLADNEY: Yes.

5 CHAIR LHAMON: Commissioner Narasaki?

6 COMMISSIONER NARASAKI: Yes.

7 CHAIR LHAMON: Commissioner Yaki?

8 COMMISSIONER YAKI: Aye.

9 CHAIR LHAMON: Vice Chair Timmons-Goodson?

10 VICE CHAIR TIMMONS-GOODSON: Yes.

11 CHAIR LHAMON: And I vote yes. The motion
12 passes with one no vote, no abstentions, and all
13 others in favor.

14 **3. VOTE ON APPOINTMENTS TO THE OKLAHOMA STATE**

15 **ADVISORY COMMITTEE**

16 CHAIR LHAMON: I now move that the
17 Commission appoints the following individuals to the
18 Oklahoma State Advisory Committee, based on the
19 recommendation of the Staff Director. Vicki Limas,
20 Mary Sue Backus, Wendell Bollinger, Maria del
21 Guadalupe Davidson, Adam Doverspike, Moises
22 Echeverria-Ashworth, Amir Khaliq, Andy Lester, Charity
23 Marcus, Michael Owens, Christopher Smith, Amanda
24 Snipes, Joseph Thai, and Donya Williams.

25 With this motion, the Commission will also

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1 appoint Vicki Limas as Chair of the Oklahoma State
2 Advisory Committee. All of these members will serve
3 as uncompensated government employees. If the motion
4 passes, the Commission will authorize the Staff
5 Director to execute the appropriate paperwork for the
6 appointments. Do I have a second for this motion?

7 VICE CHAIR TIMMONS-GOODSON: Second.

8 CHAIR LHAMON: Any discussion? Hearing
9 none, Commissioner Adegbile, how do you vote?

10 COMMISSIONER ADEGBILE: Aye.

11 CHAIR LHAMON: Commissioner Kirsanow?

12 COMMISSIONER KIRSANOW: No.

13 CHAIR LHAMON: Commissioner Heriot?

14 COMMISSIONER HERIOT: No, this one is not
15 properly balanced.

16 CHAIR LHAMON: Commissioner Kladney?

17 COMMISSIONER KLADNEY: Yes.

18 CHAIR LHAMON: Commissioner Narasaki?

19 COMMISSIONER NARASAKI: Yes, and I'd like
20 to thank the staff for all the hard work that they
21 have been putting in to putting together such really
22 strong slates.

23 CHAIR LHAMON: Commissioner Yaki?

24 COMMISSIONER YAKI: Aye.

25 CHAIR LHAMON: Vice Chair Timmons-Goodson?

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1 VICE CHAIR TIMMONS-GOODSON: Yes.

2 CHAIR LHAMON: And I vote yes. The motion
3 passes. There are two no votes, no abstentions, all
4 others in favor, and I certainly wholeheartedly echo
5 the thanks from Commissioner Narasaki, for the work to
6 appoint these State Advisory Committees.

7 It's been very exciting to me to see these
8 committees appointed at each of these meetings of
9 late, and to witness the work that the State
10 Advisories are doing.

11 I had the privilege to attend the main
12 State Advisory Committee's briefing last Wednesday on
13 the criminalization of the homelessness. It was
14 incredibly moving and compelling and important, and
15 I'm very grateful for it, and I look forward to the
16 work that each of the State Advisory Committees that
17 we have appointed today will do moving forward.

18 **J. MANAGEMENT AND OPERATIONS STAFF DIRECTOR'S**
19 **REPORT**

20 CHAIR LHAMON: Next we will hear from the
21 Staff Director for his monthly Staff Director report.

22 STAFF DIRECTOR MORALES: Thank you Madam
23 Chair. I have nothing more to add than what's already
24 contained in the report. I would like to point out
25 that in addition to some of the -- to the report, I

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1 sent some material to all of you regarding the
2 livestreaming last month of the briefing. It was
3 contained in materials sent to you.

4 It looks like we had -- in that report we
5 had 13,000 views on our Facebook. And then we also
6 had 4,000 -- I'm sorry, 425 individuals that signed on
7 to livestream, and at some points -- some were on for
8 only a few minutes, some were on for the full length
9 of time, and I just really want to commend the work
10 done by all the special assistants, all of you and
11 staff and Brian, in terms of the outreach efforts to
12 the public and to stakeholders, and the work we're
13 doing. So, thank you. I have nothing more to add.

14 CHAIR LHAMON: All right, thank you. All
15 right.

16 COMMISSIONER KLADNEY: Madam Chair, I have
17 a question --

18 CHAIR LHAMON: Commissioner Kladney.

19 COMMISSIONER KLADNEY: -- if I may, of the
20 Director. I was wondering, in light of the budgetary
21 items that you've been sending out, have we done any
22 work, or do we have anybody working on the possibility
23 of doing or collecting witness testimony via
24 videoconferencing, to the meeting, rather than
25 bringing the witnesses here to DC? That kind of

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1 thing. Or are we going to consider that or look into
2 that at all?

3 STAFF DIRECTOR MORALES: I'm not aware
4 that we've done that, but -- excuse me, we're crossing
5 each other here, we're much closer.

6 All right, I'd be open to that. I'm not
7 sure how that would work, but anything that would
8 provide the Commission with more testimony or
9 information, I believe we'd be open to. So let me sit
10 down with you and with other commissioners and special
11 assistants to get more information as to what that
12 might look like.

13 COMMISSIONER KLADNEY: Okay.

14 STAFF DIRECTOR MORALES: Great.

15 CHAIR LHAMON: I'm going to jump ahead in
16 our agenda. Commissioner Kladney, I'll come back to
17 your discussion on amending the public comment period,
18 because I understand that the Chair of our Connecticut
19 State Advisory Committee is only available until
20 10/25. So I'm delighted that we will hear on the
21 phone from David McGuire, the Chair of the Connecticut
22 State Advisory Committee, who will discuss the
23 Committee's recent Advisory Memorandum on Solitary
24 Confinement. David?

25 **K. PRESENTATION BY CONNECTICUT STATE ADVISORY**

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1 **COMMITTEE CHAIR DAVID MCGUIRE ON ADVISORY MEMORANDUM**
2 **ON SOLITARY CONFINEMENT**

3 MR. MCGUIRE: Thank you so much for having
4 me. I want to start by just thanking a few people
5 briefly. Mauro Morales and Maureen Rudolph, just
6 thank you so much for supporting our SAC and the work
7 we've done.

8 Brian has also done some tremendous
9 outreach through press, which has really helped
10 amplify the work that we're doing here, and I'll
11 explain how large of an impact that had on some really
12 good policy here in Connecticut. And also Barbara
13 de la Viez for constantly supporting us, and kind of
14 keeping us on track.

15 So what I thought might be helpful, is I
16 can just really briefly walk through what our SAC has
17 done over the last five or six months, and the great
18 results that we've achieved through our work together.

19 Our particular SAC was appointed just
20 almost exactly a year ago -- a year ago tomorrow. So
21 we quickly met, and have had some really great
22 attendance at our phone and in-person meetings from
23 the SAC, which is great.

24 And we coalesce around the issue of
25 solitary confinement -- specifically the great racial

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1 disparities -- that we have heard about in the
2 Connecticut Supermax, for example, as well as the fact
3 that many other protected classes are kept in solitary
4 confinement for long periods of time.

5 So we started to do our due diligence, and
6 ultimately got a tour through the Commissioner's
7 office here, of the Supermax here in Connecticut,
8 which is called Northern Correctional, as well as a
9 level 2, which is the lowest level facility, and to
10 kind of have a comparison of these different
11 conditions.

12 We went on that tour in February, and it
13 was a great experience for many of the SAC members who
14 had never been to a correctional facility before. We
15 had the opportunity to speak with some corrections
16 officers, as well as prisoners at those facilities.
17 And it really informed or perspective. We also
18 brought a State Representative -- her name is Robin
19 Porter, she's from New Haven -- who is seriously
20 thinking about filing some prisoner rights
21 legislation, specifically focusing on the overuse of
22 solitary confinement.

23 She was really struck by the tour, and
24 also attended our briefing, which we had at the State
25 Capitol on February 7th. We, on very short notice,

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1 were able to pull together three really solid panels,
2 one focusing on juveniles in isolation, one featuring
3 a lot of professors, both from legal discipline, as
4 well as medical, on mental health issues.

5 And then we had the Commissioner of
6 Corrections sit on that panel. And finally, we had a
7 panel of survivors and family members who had spent
8 time in Connecticut facilities and solitary. We had
9 both females represented on that panel who were in
10 solitary, as well as some folks that were put in
11 solitary here at the age of 17.

12 So we had a really great sampling, and got
13 to understand how this actually plays out in the
14 facilities. That briefing was important because it
15 kind of put a focus and spotlight on the issue, and
16 ultimately did lead to a bill being introduced about
17 three weeks later by that Representative, Robin
18 Porter.

19 That bill started to stall out. It had a
20 public hearing, but then started to kind of stall out.

21 And at that point I came to Barbara and said that we
22 were already working on making some findings and
23 recommendations, but we were probably two or three
24 months away from fully flushing everything out and
25 getting through the transcript, because we had a

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1 lengthy hearing.

2 So we have come up with the idea of
3 putting out an advisory memorandum recommending
4 legislation, or at least certain components of
5 legislation, which we were able to with the support
6 down in DC, put together pretty quickly. And we
7 recommended five specific areas that should be
8 included in legislation, having to do with putting a
9 definition on solitary confinement, banning the use of
10 solitary confinement in most cases on juveniles.

11 Also doing a similar ban on people with
12 serious mental illness. Pawing for some data
13 reporting so we can understand better exactly how
14 solitary's used, and on who, because again the racial
15 disparities are a real issue here and across the
16 country, in this extreme form of isolation.

17 And then lastly, we called for some
18 training and wellness support for corrections
19 officers. Because after our tour, it was quite
20 apparent that a lot of the corrections officers did
21 not have the tools or mental health support to do this
22 really difficult job.

23 So when we put that advisory memo out,
24 that was on May 10th, and Brian was kind enough to
25 help get out a news release. That jump-started the

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1 bill that was in the legislature, and I'm happy to say
2 that it passed unanimously just a couple of weeks
3 later.

4 So that bill is now awaiting signature by
5 the Governor, but has really advanced -- has made some
6 huge advancements. And I think it's in large part due
7 to the work that we've done as a SAC.

8 We -- it's three of our five
9 recommendations made it into the bill that passed into
10 law, and we're confident the Governor will sign it,
11 and it will be the most stringent data reporting of
12 any state in the country, and that will really allow
13 us to understand whether protected classes are in fact
14 ending up in solitary more often, and I think will
15 give us the data we need going forward as a SAC, to
16 further monitor this situation.

17 The last thing I wanted to mention, is
18 that one of the people that we had speak on our
19 panel -- his name is Professor Michael Mushlin -- he's
20 a law professor, and he writes a treatise called The
21 Rights of Prisoners.

22 It's in its 4th Edition, and he reached
23 out, because he had seen some of the national
24 attention about the bill being passed, and he wants to
25 include something in his next treatise about this

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1 bill, and the work that we've done.

2 So we've really made quite an impact, and
3 I appreciate the support from all of you down there,
4 and if you have any questions now, I can answer them.

5 CHAIR LHAMON: Thanks very much David.
6 It's very, very exciting to hear about what the
7 Connecticut State Advisory Committee has been able to
8 achieve in such a short period of time, and the
9 difference it looks like you are poised to make for
10 residents in Connecticut, and potentially around the
11 country.

12 It's incredibly impressive, and I am
13 especially grateful to you for the degree to which you
14 and your fellow volunteer members in the State
15 Advisory Committee were able to move so nimbly to make
16 such a difference following the information that you
17 had taken in, and I look forward to your ultimate
18 report as well.

19 It's very, very exciting to be able to
20 hear about that kind of change coming from the
21 information you've taken in. And if others -- my
22 fellow commissioners -- have questions or comments?
23 Well I think we are -- oh sorry, Commissioner
24 Narasaki? Yes.

25 COMMISSIONER NARASAKI: I want to add my

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1 thanks and admiration for the great work that your SAC
2 has done. I just have one question, you don't need to
3 answer it --

4 MR. MCGUIRE: Sure.

5 COMMISSIONER NARASAKI: -- now, but
6 perhaps you can discuss it with your SAC members. And
7 I'm wondering if you have something that you would
8 like to recommend that the Commission as a whole do.
9 I know that you have a list of recommendations in
10 terms of what any law should look like.

11 But is -- are there members of Congress,
12 or people in the Administration, that you feel it
13 would be helpful for us to forward this report to?

14 MR. MCGUIRE: Oh absolutely. So when we
15 get together as a SAC -- on the 28th we're meeting
16 again -- we'll certainly discuss it. I do think
17 there's some lessons to be learned, and that we're
18 starting to see a way of reform in this area, and I
19 think some of the things that we got through here, and
20 some of the testimony that we elicited at our
21 briefing, would be helpful to share.

22 So I will work on that and get that
23 information to Barbara. Thank you for that.

24 CHAIR LHAMON: Vice Chair.

25 VICE CHAIR TIMMONS-GOODSON: Yes. I too

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1 thank you for your efforts. I wanted to -- you
2 mentioned that three of the five recommendations that
3 your committee put forth were incorporated into the
4 legislation -- the new proposed legislation. Can you
5 tell us what those three were?

6 MR. MCGUIRE: Sure. So there is now --
7 once this is signed into law, it will be impermissible
8 to put juveniles -- that's anyone under the age of
9 18 -- in solitary for an extended period. So that is
10 one of the safeguards.

11 The other is the reporting requirements.
12 And the reporting is quite broad. Some states have
13 mandated reporting just on -- for example, how long
14 people are in solitary -- but this reporting goes to
15 race, ethnicity, gender, the reason that they're put
16 in solitary confinement, whether they have a mental
17 health issue -- there's a score that's assigned to
18 each prisoner, the mental health score -- as long
19 as -- and also how long they've been in solitary
20 confinement.

21 And this will be annual reporting that
22 will start to be collected on January 1st of next
23 year. And then the very last is the training and
24 wellness support for corrections officers.

25 And that will task the Commissioner with

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1 coming up with training and wellness support, and the
2 training is hopefully going to focus on some of the
3 mental health issues. Both how corrections officers
4 can identify mental health issues, as well as de-
5 escalate folks' mental health crisis.

6 The last bit that I didn't mention in the
7 reporting is -- and it's significant -- is every year
8 when the Commissioner submits his report of the data,
9 he or she will also have to submit what they've done
10 to reduce the department's reliance on solitary
11 confinement.

12 So this will be an opportunity hopefully
13 for commissioners of corrections to show how they are
14 being thoughtful, and finding alternate ways to deal
15 with safety and security threats in the facility,
16 without putting people in these conditions for
17 extended periods of time.

18 VICE CHAIR TIMMONS-GOODSON: One last,
19 small follow-up. Did you make any progress in having
20 set forth a definition of what constituted solitary
21 confinement in the State of Connecticut?

22 MR. MCGUIRE: So that was complicated,
23 because the corrections union, which was really fairly
24 supportive of the bill as a whole, were very defensive
25 about coming up with a particular number of hours, for

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1 example.

2 The legislation at one point had it set at
3 20 hours or more in cell. But there were concerns
4 that that would tie the hands of corrections officers
5 too much.

6 And candidly, our SAC is kind of having a
7 vigorous debate as to where we should land on that.
8 Whether we should go with the International Human
9 Rights' definition, or some definitions other states
10 have used.

11 But I do think that our SAC will continue
12 to work on this, and come up with more recommendations
13 and conclusions, and we may touch on that, or we'll at
14 least highlight that this is an issue that needs to
15 kind of grappled with going forward.

16 VICE CHAIR TIMMONS-GOODSON: Again, thank
17 you so very much Dave. This is just wonderful news.

18 CHAIR LHAMON: Commissioner Narasaki?

19 MR. MCGUIRE: Thanks for the support.

20 COMMISSIONER NARASAKI: Yes, sorry. I
21 think I had one more question and observation --

22 MR. MCGUIRE: Sure.

23 COMMISSIONER NARASAKI: -- I know that
24 this issue is also an issue for the LGBTQ community,
25 and I didn't see a mention in the list of

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1 recommendations. So I'm wondering if that's something
2 that the SAC was able to address, and if not, if
3 there's something that you might consider there?

4 MR. MCGUIRE: So we're absolutely mindful
5 of that, and I know that particularly transgender
6 prisoners who have been a difficult population for our
7 Department of Corrections to manage. I think a lot of
8 it comes from just a lack of awareness or sensitivity
9 among some corrections officers.

10 So it is something we're definitely aware
11 of. At one point we had thought about adding that to
12 the vulnerable classes category. But then there was
13 some pushback from corrections, saying that it would
14 be very difficult to really assess whether someone was
15 vulnerable in a certain way because of their
16 orientation.

17 So it's something that we're considering
18 and grappling with. But it's a great point, because I
19 think that is another vulnerable class, and a
20 protected class.

21 COMMISSIONER NARASAKI: Thank you.

22 CHAIR LHAMON: Commissioner Adegbile.

23 COMMISSIONER ADEGBILE: Was the
24 definitional issue that you just described, the
25 recommendation that was not accepted as part of the

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1 legislation? Or was it something else? And if it was
2 something else, can you give us some sense of why you
3 think the other recommendation was rejected?

4 MR. MCGUIRE: So our recommendation in our
5 advisory memo was just to have a clear definition of
6 what constitutes solitary confinement. We didn't at
7 that stage and that preliminary, really put what it
8 should be.

9 And what ended up happening was, there is
10 currently -- our state is unique in that our
11 Department of Corrections is governed by
12 administrative directives that, unlike other
13 administrative agencies, does not have a public review
14 period.

15 It's changed at the will of the Correction
16 Commissioner, because of very real and sometimes
17 immediate public safety issues. Our current
18 Commissioner of Corrections, who testified at our
19 briefing, is very mindful, and has greatly reduced our
20 reliance on solitary.

21 The numbers in Connecticut have gone from
22 somewhere around 200 five years ago, to under 40 now.

23 So we've had a large reduction. But part of the
24 complication is that some of the administrative
25 directives that are still in place are outdated, and

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1 not actually followed by the Commissioner.

2 The legislature wanted to memorialize the
3 administrative directive definition of solitary
4 confinement. But advocates, including the legislator
5 who went on the tour with us and came to our briefing,
6 agreed that memorializing an outdated version of what
7 solitary is, or is defined as, wouldn't make sense.
8 It would actually tie the hands of this and future
9 commissioners.

10 So that's why ultimately it was decided
11 not to put any definition in statute for now. And I
12 do think that when our SAC comes out with the full
13 report, it will likely drive future advocacy and
14 legislative reform, and maybe even administrative
15 reform from the Commissioner. So we're still working
16 on that.

17 COMMISSIONER ADEGBILE: Thanks.

18 CHAIR LHAMON: David, I know we're
19 pressing to be on time. Do you have time for one more
20 question?

21 MR. MCGUIRE: Yes, absolutely. No, I have
22 until 11:00. Thank you.

23 CHAIR LHAMON: Oh, terrific. Thank you.
24 Okay. Commissioner Kladney?

25 COMMISSIONER KLADNEY: Thank you Madam

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1 Chair. And thank you for your good work in this area.

2 My question really revolves around two things. One
3 is the length of time that you found that people were
4 put into solitary confinement for, and were there any
5 recommendations regarding that?

6 Also, how your state handled the mental
7 health people that they wanted to put into solitary
8 confinement?

9 MR. MCGUIRE: Absolutely. So in terms of
10 the cap on solitary, the original proposal that came
11 out of the briefing, was to have a hard cap of six
12 months. That after six months, someone would need to
13 be put in alternative placement, the idea being that
14 if solitary is not working after six months, there's
15 really no penological benefit to keeping someone in
16 those very harsh conditions.

17 Ultimately, that was stripped out of the
18 bill, and a lot of this is because our state is in a
19 very, very extreme financial crisis right now. And
20 there was a sentiment that finding alternative
21 placement, even if it's just for a dozen prisoners in
22 our system, would be costly and difficult to come up
23 with.

24 So that was a driving force. But I think
25 that it was a general understanding that people should

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1 not be in solitary for years at a time, which there
2 are people here that have been -- for example, in the
3 Supermax, which opened in 1996. They had been there
4 since it opened.

5 So even the Commissioner of Correction
6 testified at our briefing that that was a problem.
7 And then -- what was the second question? I'm sorry.
8 Oh, about the mental health --

9 COMMISSIONER KLADNEY: Did they feel that
10 a six-month solitary confinement was an appropriate
11 amount of time? A maximum amount of time? I mean
12 they didn't find that out to be too long?

13 MR. MCGUIRE: Well yes, so that --
14 unfortunately, as you well know, legislature is a
15 building of compromise. So that was a number that --
16 we didn't generate that number, but that's what the
17 legislators kind of settled on as an absolute ceiling.

18 I think the other thing that we had in the
19 initial bill was some real due process mechanisms,
20 where prior to being placed in solitary, you had a
21 hearing in the facility, but then also every thirty
22 days, of a meaningful reevaluation, which hopefully
23 would trigger some critical thinking as to whether
24 this is working or necessary.

25 One of the things that came out of our

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1 mental health panel that was really kind of cutting
2 edge I thought, we had a professor named Homer
3 Venters, who's at NYU, and he used to be a
4 psychiatrist at Rikers Island.

5 He talked about dual loyalty and this idea
6 that the Corrections' mental health folks are in a
7 very difficult position, because they have a duty to
8 the patient -- the prisoner -- but also to the
9 facility, and the corrections agency that they're
10 working in.

11 Here in Connecticut, under this current
12 Commissioner, they've greatly reduced the number of
13 people with serious mental illnesses in solitary.
14 They have a screening process, and a pretty good
15 mental health tool that they use.

16 But the concern that we had as a SAC, is
17 that these are all relatively informal procedures.
18 They're not memorialized in statute, which is why we
19 did, and will continue to, push for these really good
20 policies be memorialized in law, so that a future
21 Commissioner can't just quickly change back and start
22 warehousing people with mental health issues in
23 solitary.

24 COMMISSIONER KLADNEY: Thank you.

25 MR. MCGUIRE: No problem.

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1 CHAIR LHAMON: David, thank you so much
2 for your time speaking with us today, and for your
3 time advancing this issue in such an inspiring way.
4 And thank you, and to all of your fellow volunteers,
5 for the time and commitment you put into eliminating
6 civil rights issues around the country.

7 As you know, and as we know, you are the
8 eyes and ears on the ground for the US Commission on
9 Civil Rights, and we depend on you to advise us about
10 civil rights issues.

11 MR. MCGUIRE: I will --

12 CHAIR LHAMON: Thank you.

13 MR. MCGUIRE: -- I will relay that to the
14 SAC, and I appreciate it, and it's an honor to serve
15 in this role. Thank you so much.

16 CHAIR LHAMON: Thank you. Thank you. And
17 thank you also to our regional staff, who have been
18 putting in hard work to put together the slates that
19 we heard from today, and to support the work that you
20 described today. So thanks very much David.

21 MR. MCGUIRE: Take care.

22 CHAIR LHAMON: Take care.

23 **L. DISCUSSION AND VOTE ON PROPOSED AMENDMENT TO**
24 **EXTEND PUBLIC COMMENT PERIOD**

25 CHAIR LHAMON: So we'll turn back,

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1 Commissioner Kladney, to our last agenda item before
2 moving to our presentations, and that is your proposed
3 amendment on extending the public comment period. Is
4 there a motion?

5 COMMISSIONER KLADNEY: Yes, I'd like to
6 make a motion to extend the public comment period on
7 collateral consequences for 30 extra days. I don't
8 think the OCRE has any objection to that.

9 CHAIR LHAMON: Okay. Is there a second
10 for that motion?

11 VICE CHAIR TIMMONS-GOODSON: I'll second
12 that.

13 CHAIR LHAMON: Any discussion? Hearing
14 none, Commissioner Adegbile, how do you vote?

15 COMMISSIONER ADEGBILE: Aye.

16 CHAIR LHAMON: Commissioner Kirsanow?

17 COMMISSIONER KIRSANOW: Yes.

18 CHAIR LHAMON: Commissioner Heriot?

19 COMMISSIONER HERIOT: Yes.

20 CHAIR LHAMON: Commissioner Kladney?

21 COMMISSIONER KLADNEY: Yes.

22 CHAIR LHAMON: Commissioner Narasaki?

23 COMMISSIONER NARASAKI: Yes.

24 CHAIR LHAMON: Commissioner Yaki?

25 COMMISSIONER YAKI: Yes.

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1 CHAIR LHAMON: Vice Chair Timmons-Goodson?

2 VICE CHAIR TIMMONS-GOODSON: Yes.

3 CHAIR LHAMON: And I vote yes. The motion
4 passes unanimously. Thank you.

5 We are just a few minutes before
6 11:00 a.m., when we will hear our presentations from
7 our invited speakers. So why don't we recess for
8 those two minutes, until our speakers have a chance to
9 come to the table.

10 (Whereupon, the above-entitled matter went
11 off the record at 10:59 a.m. and resumed at
12 11:05 a.m.)

13 **M. PRESENTATION ON HISTORY OF LGBTQ CIVIL RIGHTS**
14 **MOVEMENT**

15 CHAIR LHAMON: Thank you. We'll get
16 started again now, so we're going to turn to our
17 historical presentation that we scheduled for today,
18 the Perspectives on the History of LGBTQ Rights in the
19 United States.

20 I want to thank Commissioner Yaki, who is
21 on the telephone, for suggesting this month's speaker
22 topic, and also I welcome each of our speakers. We
23 know June is commonly celebrated as Pride Month, and
24 today's Pride celebrations stem from a DC resident,
25 Frank Kameny, who organized what he called an annual

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1 reminder demonstration in Philadelphia, around the 4th
2 of July.

3 Yale History Professor George Chauncey has
4 said that, quote, the annual reminder was meant to
5 remind the nation on its birthday, of the promise of
6 rights, liberty, and the pursuit of happiness that had
7 been denied to gay people.

8 We've come a long way from 1964, when
9 Mr. Kameny first organized his annual remembrances,
10 and I look forward to hearing from our speakers about
11 what that progress has looked like as a nation in that
12 time.

13 Today's topic informs and permeates all of
14 the work that we in the Commission currently
15 investigate, because LGBT Americans participate in all
16 of our social institutions. Just today, we voted to
17 investigate hate crimes as a topic in the coming year,
18 and we know painfully, that the LGBT community is, and
19 has been, targets of hate incidents in this nation.

20 Last month, during our briefing about the
21 collateral consequences of incarceration, we heard
22 testimony and received information about the
23 experiences of LGBT persons in prison, and through
24 reentry into the non-incarcerated community.

25 The Commission is currently working on a

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1 report about employment and employment discrimination
2 experiences of LGBT workers, and a majority of the
3 Commission has voted to recognize that sex
4 discrimination necessarily includes gender identity
5 discrimination, for purposes of compliance with
6 Title IX, and to condemn state laws and proposals
7 targeting members of the LGBT community for
8 discrimination.

9 These are a fraction of so many ways our
10 LGBT community members live and have lived civil
11 rights struggles in this country. For this and all
12 social movements, we must know our past, so we can
13 know our future. And I am so deeply grateful to our
14 speakers today for helping to guide us.

15 Our first speaker, Rea Carey, has served
16 as the National LGBTQ Task Force Executive Director
17 since 2008, and has advanced a vision of freedom for
18 LGBTQ people and their families that is broad,
19 inclusive, and progressive, grounding her work solidly
20 in racial, economic, and social justice.

21 Ms. Carey counts among her many successes,
22 winning an LGBT-inclusive federal hate crimes
23 prevention law, defeating multiple state anti-LGBT
24 ballot measures, spotlighting discrimination against
25 transgender people, winning marriage equality, and

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1 securing scores of changes in federal agencies, to
2 attend to the needs of the LGBT community.

3 Our second speaker, Eliza Byard, is the
4 Executive Director of the Gay, Lesbian and Straight
5 Education Network, also known as GLSEN. She has led
6 GLSEN for 16 years, first as Deputy Executive
7 Director, and now as Executive Director.

8 In her tenure, GLSEN has developed winning
9 national and international campaigns, secure core
10 rights protections for LGBT students and young people,
11 created teaching guides and in-school programming to
12 prevent bullying and harassment, and support student
13 learning success, and trained and supported youth
14 advocates and leaders.

15 And our third speaker, Mara Keisling, is
16 the Executive Director of the National Center for
17 Transgender Equality, the nation's leading social
18 justice advocacy organization for transgender people.
19 Since founding NCTE in 2003, Mara has led
20 organizational and coalition efforts that have won
21 significant advances in transgender equality.

22 As one of the nation's leading voices for
23 transgender equality, Mara is regularly quoted in
24 national and local print media, and now here at the
25 Commission. So Ms. Carey, we'll hear from you first.

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1 MS. CAREY: Thank you so much Chair
2 Lhamon. And thank you commissioners for inviting us
3 in this particular month, Pride Month. It holds
4 special meaning as you noticed -- as you noted, and I
5 brought a picture of Frank with me, not knowing what
6 your opening comments will be, because he is key to
7 our history and to our movement, not just here in DC,
8 but nationally.

9 I carry this with me often when I go to
10 events, particularly in the Government, and in a
11 minute I'll talk about why, to when I go to Government
12 agencies.

13 Thank you so much for inviting us here,
14 and we were asked to talk a little bit actually about
15 our personal stories and journeys with regard to
16 working in the movement, how we got here. So I'll be
17 doing a little bit of that, and then some historical
18 context. And then my friends here will pick up the
19 rest of it.

20 So I -- in terms of my own personal
21 experience, I came out as a 16-year-old in Denver,
22 Colorado, in the mid-'80s, in the midst of the AIDS
23 crisis, when it was just starting. In fact, my
24 uncle's partner died of GRID -- Gay-related Immune
25 Deficiency Syndrome.

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1 And that really was formative in terms of
2 my advocacy of really up until now -- I'm 50 years old
3 now, so I've spent really my entire career, in one way
4 or another, working on LGBT issues, and in the
5 movement.

6 It's -- at that time my story and the
7 story of the movement parallel each other in that we
8 have had different phases, in our movement, of
9 development. Different issues have come to the fore,
10 whether it's public policy or what's facing our
11 community, and I've had the honor of being a part of
12 that.

13 And I guess one thing I want to say about
14 coming out as a teenager in the '80s, was I thought I
15 was exempt from getting married and having kids. I
16 thought that's not what happens to lesbians. Right?

17 Little did I know that in fact, what I was
18 doing was making sense for myself about things that
19 were not accessible to me, or expected of me. I'm now
20 married and have a daughter. So -- but my journey
21 through this, again briefly, is because at the time
22 when I came out, my friends were getting sick and
23 dying, I immediately turned to HIV and AIDS work and
24 activism.

25 And here in Washington, that took two --

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1 kind of manifested in two ways. I was one of the
2 first advocates and lobbyists on HIV prevention,
3 particularly for high-risk and runaway youth, and I
4 was also an ACT-UP.

5 And many of us were at the time. And that
6 experience, and I think for our movement, has formed
7 for a lot of us, an understanding that there is no one
8 way to achieve civil rights. There is no one avenue,
9 one tactic, one strategy. That we really have to work
10 in many ways. Through legal avenues, law being
11 advocacy and activism.

12 And I spent a particular amount of time
13 partnering with others to create organizations
14 attending to the needs of our community, including
15 youth service organizations, anti-violence projects,
16 and community-based services -- particularly around
17 HIV and AIDS.

18 I want to move to the history of the
19 movement. I know we have limited time, and I'm happy
20 later to talk and answer other questions. But the
21 history of our movement really has been about
22 resilience.

23 I won't go back hundreds of years for our
24 movement. I'll just mostly talk about what's
25 considered to be the modern LGBTQ movement. Most

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1 people frame that time as starting with the Stonewall
2 riots in New York City in 1969.

3 There were some significant things that
4 happened before then, that are in fact a through-line
5 to your work and to our work, in terms of progress or
6 challenges that our community has faced over the
7 years.

8 Very early on -- in the '20s and '30s,
9 '40s, '50s -- groups of what would have been
10 identified at that time as gay and lesbian people,
11 formed social clubs, had to have secret meetings in
12 order to share their stories with each other.

13 We had a couple of organizations that were
14 instrumental to our community gathering together. One
15 was the Mattachine Society, which was founded by Harry
16 Hay and Frank Kameny actually.

17 We also -- and I'm going to give you a few
18 markers. There are many, but I'm just going to give
19 you a few, because there's a through-line to some of
20 the progress that we've made as a community. There's
21 also the Daughters of Bilitis, which was the lesbian-
22 focused organization.

23 In 1952, the American Psychiatric
24 Association included in its diagnostic manual,
25 homosexuality as a sociopathic personality

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1 disturbance. And we spent 20 years before that was
2 removed as a mental illness.

3 In 1973, when my organization was founded
4 as the National Gay Task Force, our first order of
5 business was to de-stigmatize that homosexuality --
6 de-stigmatize being gay, lesbian, bisexual, and we
7 were successful in removing that from the DSM.

8 That was a major marker in our movement's
9 history, and has helped us build on legal cases, on
10 research, both physical and mental health over the
11 years, ever since that time.

12 In 1957 -- there's another through-line
13 here -- 1957, Frank Kameny was kicked out of the
14 Federal Government. He was a public servant. He was
15 an astronomer with the US Army, and was kicked out of
16 Federal Government.

17 It wasn't until a few years ago with the
18 Obama Administration, that the Federal Government
19 formally apologized to him for doing so, and that was
20 a momentous occasion, after all Frank had done for our
21 movement, to be recognized as the leader that he is,
22 and that he should not have been kicked out of the
23 Government, along with others.

24 The relationship between our community and
25 the Federal Government, there are many, many markers,

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1 but the first-ever meeting of what were then out-gay
2 and lesbian people, was in 1977, with the Carter
3 administration.

4 And that was the first time at the White
5 House with the Federal Government, there had been an
6 open conversation about the needs of our community.
7 We have had hundreds of meetings ever since then.
8 Frank was part of that meeting as well. And much
9 progress has been made through the agencies in a
10 number of administrations.

11 When I was first doing HIV and youth
12 services, we made significant progress with the first
13 Bush administration, in making sure that we could
14 start getting data to prove that we existed.

15 Excuse me. Just a couple of other things
16 about our history, and kind of where we are now and
17 moving forward. And then I'll turn this off to my
18 colleagues. I mentioned earlier, our history is one
19 of resilience. That's both personal, but it's also
20 structural in a way.

21 That we have had to build from the ground
22 up, from zero, institutions that serve our
23 communities. In the '70s, a lot of those
24 organizations were social groups or community
25 organizations, many of which turned into what are

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1 today our LGBT community service centers.

2 In the '90s we spent a lot of time
3 building up anti-violence projects around the country,
4 and the youth service infrastructure, including LGBTQ-
5 specific youth services, because they couldn't turn
6 anywhere else for services.

7 And certainly notably, we built an entire
8 AIDS service structure, with one of the most
9 significant health crises in our nation's and in this
10 world's history, the community came together and built
11 our own institutions.

12 Over time, we have been very methodical
13 about gathering data, partnering with federal agencies
14 to gather data to continue to build those services,
15 and over time the Government has funded a number of
16 those services.

17 But early on, in any of those
18 infrastructures, we were self-funded and self-created.

19 In terms of looking forward, and kind of
20 the trajectory of our movement, where we are now in
21 some ways hearkens back to the Stonewall riots. What
22 happened that night at Stonewall, is a lot of young
23 people, a lot of people of color, a lot of what would
24 be considered transgender or gender non-conforming
25 people, and a lot of drag queens, got fed up. They

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1 got fed up of being raided by the police again and
2 again, and they said stop.

3 In our movement now, when we look at the
4 work to be done, more than ever I think is cross-
5 movement with other movements. We are a movement now
6 with an eye toward racial justice, economic justice.
7 Some of the same people who were homeless and who were
8 at Stonewall that night, would be central to the work
9 that we are doing right now were they alive.

10 We have seen a lot of hope in our work
11 over the last number of years, as we have partnered
12 with other movements, including the immigrant rights
13 movement, the reproductive rights movement, Muslim
14 organizations, women's organizations, and that, when
15 we look forward, I think is really the next phase of
16 how we'll be working on civil rights together.

17 We have been doing that, but I think many
18 more organizations are going to get involved in
19 working across movements in addressing civil rights
20 issues.

21 But also recognizing that each of us carry
22 many identities. You can't be a bisexual woman one
23 day, a Latino the next, and a mom the third day. You
24 are all of those every single day. And as a movement,
25 and as a country, we have to attend to people as whole

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1 people. Thank you.

2 CHAIR LHAMON: Thanks very much.
3 Ms. Byard.

4 DR. BYARD: Well first of all, thank you
5 again Chair Lhamon and members of the Commission. It
6 means a great deal to be here today. It is
7 particularly moving to be here at what I believe -- at
8 least as far as I'm aware -- is the only federal
9 agency commemoration of the fact that it is Pride
10 Month this year, an event that means a great deal to
11 those of us who have spent years in a community that
12 has largely built itself a separate infrastructure,
13 while trying to ensure its inclusion in other
14 institutions.

15 I'm going to shift my attention a bit to a
16 more recent ark of the history of the LGBT movement,
17 and focus a bit on the human cost behind the urgency
18 that has driven us for so many generations, to create
19 institutions, organizations, and manifestations of our
20 resilience.

21 To do that, a bit of a personal reflection
22 first. In June of 2009, I attended an official event
23 at the White House for the very first time in my own
24 life. It was a reception to celebrate LGBT pride,
25 held by President Obama at the very outset of his

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1 first term.

2 And walking through the door of the White
3 House and being welcomed by the Marines who stood
4 there, I cried. I come before you today as an
5 advocate for LGBT youth and education equity, a one-
6 time US history professor, and a lesbian whose life
7 has been shaped by my relationship to the law, and to
8 the civilized pioneers and heroes to whom I owe so
9 very much.

10 And that day at the White House, for me,
11 represented a communion with this country's promise of
12 equality, beyond anything I had ever dared to dream of
13 myself.

14 I was accompanied that day by Conrad
15 Honicker, a gay high-school student from Tennessee,
16 and his parents. And as I watched Conrad looking
17 around at the inside of the White House, in absolute
18 awe and disbelief, I thought back to June of 1986,
19 when I myself graduated from high school.

20 And that Pride Month I mostly, at that
21 point, closeted -- to the rest of the world at
22 least -- got a very different message from my
23 Government about my relationship to these United
24 States of America, as the Supreme Court issued its
25 decision in Bowers versus Hardwick.

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1 As I got ready to leave the safety of my
2 parents' home -- I was not out to them, so my home was
3 still safe for me -- justice Byron White said that any
4 arguments that LGBT people were not criminals by
5 reason of a fundamental right to privacy, were
6 facetious.

7 You can imagine how that landed on the
8 ears of a 17-year-old trying to make sense of her
9 place in the world. My right to exist was outweighed
10 by an amorphous body of information that Justice White
11 referred to as simply millennia of moral teaching.

12 That decision remained the guiding law of
13 the land until 2003 -- only 14 years ago -- at which
14 time Justice Anthony Kennedy finally said, in Lawrence
15 versus Texas, the State cannot demean the very
16 existence of LGBT people, or control their destiny, by
17 making their private conduct a crime.

18 Those words finally ended a regime which
19 simply made me a criminal, and all the rest of my
20 peers within the community.

21 What is amazing to see is how much we
22 have -- how far we have come even just since Lawrence.

23 Lawrence itself was only five short years before I
24 stepped across the threshold and was welcomed at the
25 White House.

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1 And in the eight years of the Obama
2 administration, with engagement from the Civil Rights
3 Enforcement infrastructure of the Federal Government,
4 we have begun to make real progress.

5 LGBT students today -- students like
6 Conrad -- just two high school generations later, have
7 begun to get a glimpse in a world in which their lives
8 are valued, not demeaned. And we have just begun to
9 chip away at the psychic and physical violence that
10 makes our country's promises of liberty and equality
11 seem, for LGBT youth, either a cruel joke, or a
12 distant dream.

13 And as we sit here today, aspects of that
14 are being called into question. Some in Government at
15 the state and federal level, seek to carve out reasons
16 to allow continued discrimination against LGBT people,
17 and to specifically undermine some of the civil rights
18 progress that has meant so much to so many millions of
19 Americans over the past decade.

20 So today I want to be really clear about
21 the current human cost of the discrimination that we
22 seek to end, and that our civil rights promises give
23 us a hope of addressing.

24 In my professional life at GLSEN, we
25 measure our success in terms of the health and well-

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1 being of LGBT youth, and the opportunity they have to
2 live up to their potential. So let's think about who
3 we're thinking about here.

4 In the most recent youth-risk behavior
5 survey -- the CDC's national sort of dashboard for
6 youth, health, and well-being in this country, the
7 national survey asked about sexual orientation for the
8 first time, and more than 11 percent of US students
9 who answered the survey, identified as lesbian, gay,
10 or not sure.

11 Estimates of transgender students
12 currently in the United States range from about
13 125,000 to 200,000 students. So this translates to
14 more than 6.1 million students in this country who are
15 directly affected by these issues, and by what their
16 Government is telling them about who they are and what
17 their rights are, every day.

18 Let's also remember that LGBT people are
19 drawn from every single community which this
20 Commission is empowered to protect, and represent
21 people who live in all of their identities every day.

22 They cannot be separated out from their race, their
23 religion, their -- whether or not they have a
24 disability, or their immigration status. And what
25 they experience every day remains very troubling.

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1 More than 85 percent of LGBT youth
2 experience routine harassment at school. I wager that
3 most people in this room -- most of us, thankfully --
4 are in a position where we do not have to leave our
5 homes in the morning expecting to face violence during
6 the course of the day.

7 Eighty-five percent of LGBT youth simply
8 going to school, have to expect that at some point
9 during that day they will experience some form of
10 harassment as part of their daily routine.

11 Fifty-six percent of LGBT youth in this
12 country have also experienced direct discrimination on
13 the part of the institutions that they attend, whether
14 that is -- those things range from not being allowed
15 to write a paper on the topic of your choice --
16 students have been prohibited from writing about the
17 Stonewall riots and other landmarks in LGBT history,
18 as part of their high school education.

19 It might be being prohibited from
20 attending the prom with the person of your choice. It
21 might be about putting a sign up in the hallway on the
22 same basis as other students in the school.

23 And in some cases, students report they
24 have actually been disciplined for being LGBT itself.

25 These students are also much more likely to

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1 experience school discipline than their peers, a
2 disparity which rises when you're talking about LGBT
3 students who are students of color, or have
4 disabilities, or who are transgender or gender non-
5 conforming.

6 So clearly -- and I have to tell you in
7 the midst of this, that 85 percent is a dramatic
8 improvement from where those numbers were when I
9 started working with GLSEN in 2001. In 2001, more
10 than 90 percent of LGBT youth were experiencing this
11 kind of harassment every single day.

12 So we have a body of students who are
13 experiencing things we wouldn't wish on anyone, as
14 part of their life in school, and the consequences of
15 that experience are concrete and dramatic.

16 There are consequences for their
17 educational aspirations and life outcomes, for those
18 who are victimized at a high rate, they are most than
19 twice as likely as their peers, for example, to say
20 they don't plan to graduate and go on to college.
21 Their GPAs are lower.

22 In that same YRBS where they finally were
23 able to actually identify and document the existence
24 of all these students across the country, this
25 dashboard of youth well-being in America demonstrated

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1 that in every single one of the categories of risk
2 behavior and diminished health outcomes that the CDC
3 chooses to track, these students do more poorly -- do
4 worse -- than their heterosexual, or gender-
5 conforming, or cisgender, peers. Every single one.

6 There is some good news here, particularly
7 in our recent history. When discrimination against
8 LGBT students is directly addressed, and when this
9 violence is reduced, students' lives improve. This is
10 both in terms of the ways that reducing bias and
11 violence can improve an individual life right away,
12 and in terms of how systemic approaches to reducing
13 discrimination in our society, actually have a
14 concrete impact on the health, well-being, and life
15 chances, of individual Americans.

16 For example, from 1999 to 2015, LGBT
17 people in this country repeatedly experienced their
18 states debating, and in many cases passing,
19 Constitutional amendments that abrogated and limited
20 their civil rights with respect to marriage.

21 A long-term study of the health effects of
22 living in that context demonstrated that when states
23 did not pass those measures, in those states that
24 rejected efforts to ban marriage equality, and in
25 those states where marriage equality eventually was

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1 passed, there was a 14 percent reduction in suicide
2 rates among LGBT youth in those states.

3 There was a concrete correlation between
4 your understanding of your relationship to your
5 community, your state and your government, and your
6 willingness to live.

7 That's translated for adults as well.
8 Another study found that rates of suicide, anxiety and
9 depression among LGBT adults in those states that had
10 those debates, was concretely correlated with the
11 outcomes of these civil rights debates across our
12 country.

13 Most specifically, in schools, we found
14 that in those places where we addressed the
15 discrimination in schools, where measures are put in
16 place to improve LGBT student experience, you see
17 improvement.

18 We know what works. And with partnership,
19 and with federal and state and local agencies to
20 actually affect civil rights progress for all
21 students, we have seen a 13 percent reduction across
22 the country since 2005, in rates of bullying,
23 harassment, and violence that students face every day.

24 What that translates into, is seven
25 million students who are not experiencing or

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1 witnessing this routine violence. Seven million fewer
2 students actually having this as part of their
3 everyday experience in school.

4 So here we are today. As LGBT people, we
5 are no longer criminals. We are no longer classified
6 as ill. And yet, there are some in our governments,
7 at the local, state and federal level, who seek to
8 carve out new reasons to allow discrimination against
9 us to continue.

10 This flies in the face of all of the
11 evidence we have of what makes sense for our
12 communities, what makes sense for our future.

13 Indeed, as the Seventh Circuit Court
14 recently said in upholding their right of a student
15 named Ashton Whitaker to use the correct bathroom,
16 that when a school district came forward to say no,
17 actually we need to discriminate against this student,
18 the court responded, the harms identified by the
19 school district in this case are all speculative, and
20 based upon conjecture, whereas the harms to Ash, the
21 harms to the student, are well-documented, and
22 supported by the record.

23 In the larger picture, and in the arc of
24 our history, right now, with respect to civil rights
25 injustice in this country, the harms of discrimination

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1 against the LGBT community are well documented, and
2 supported by the record.

3 The benefits of addressing that
4 discrimination, and alleviating the burden of
5 prejudice, fear and violence, are very, very clear.

6 And the question remains, why we won't
7 simply continue. I hope that we will, and to think
8 about all the ways that we can. I will turn it over
9 to my colleague, Mara Keisling.

10 CHAIR LHAMON: Thank you. Ms. Keisling.

11 MS. KEISLING: Thank you so much Eliza and
12 Rea. Thank you commissioners, Chair Lhamon. I really
13 appreciate being here. My name is Mara Keisling. I'm
14 57 years old, and I represent the roughly two million
15 transgender people in the United States.

16 Before I start, I want to just take a
17 moment of privilege and recognize that today is the
18 159th anniversary of Abraham Lincoln accepting the
19 nomination to be a US Senator from Illinois. And at
20 the Republican Convention where he got that, he made
21 his famous speech where he noted -- and I think it is
22 worth listening to today -- that a house divided
23 against itself cannot stand.

24 It's something we should think about more
25 often in general, and thought I would take the

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1 opportunity to remind us of that now.

2 I want to start in 2001. In Pennsylvania,
3 the -- what was becoming the LGBT community was trying
4 to pass a hate crimes bill, and it would add sexual
5 orientation as a category, and we wanted to add gender
6 identity into it.

7 So we went to see the Senate Minority
8 Leader this particular day. This was -- and it's
9 important to the story. This was a liberal democrat,
10 and we said we wanted gender identity in the bill. He
11 said no.

12 Then he pulled me aside as the only trans-
13 person in the delegation, and he said, but Mara, look
14 at the bright side. Two years ago I would not have
15 let you in my office.

16 It was 15 years or 16 years ago. Since
17 then I've also been in the White House. Last week Rea
18 and I were meeting with 16 United States Senators.
19 Things have changed very dramatically in the last 15
20 years, and I want to note that.

21 Last year I was speaking at the University
22 of Chicago Institute of Politics, and when some of the
23 students found out that I had attended the University
24 of Chicago, when it was question time, they said, how
25 was the administration on transgender issues when you

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1 were there?

2 And I said, I was there in 1979. And they
3 were like, yes, well how was the administration? And
4 I said, there weren't transgender students. And they
5 were like, well you were there. And I'm like, whoa,
6 no. If you had called me out as a transgender
7 student, I would have denied it at the time.

8 It was not a possibility. It wasn't even
9 that I was in the closet. It was not a possibility.
10 There were not out-trans-people. Of course there were
11 some, but most of us could not even imagine it would
12 be possible to come out.

13 Things have changed so much. I was in a
14 school in Mount Vernon, Virginia, last week, a
15 secondary school that has nine out-transgender
16 students in it. Transgender students are now in
17 virtually every school in the country. Certainly in
18 every school district. There are some school
19 districts where they may not feel they are safe to
20 come out, but they are there, and they are beginning
21 to come out even in those schools.

22 I want to back up about ten years to when
23 the Americans with Disability Act was passed, around
24 1980 -- during the debates of 1989 and 1990. There
25 was no trans-voice in Washington. There were no

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1 trans-voices in public policy in the United States.

2 And so the Americans with Disabilities Act
3 passed with what can only be nicely be called
4 disrespectful language about transgender people, but
5 was really dismissive, dangerous, and insulting.

6 There was nobody to speak for trans-
7 people. As the century ended, we started coming out.

8 We started learning about ourselves on the Internet,
9 and learning about each other, and building community,
10 and started understanding why it was we were
11 discriminated against.

12 And one of the things we came to
13 understand kind of conceptually, is that if I'm facing
14 discrimination in employment, education, housing,
15 healthcare, or anything else, it is because of my
16 gender, or because of my sex.

17 Using those interchangeably as a non-
18 attorney, I will do that, and for our purposes, they
19 really are interchangeable. But what we understood
20 was the discriminating -- if you discriminated against
21 me in employment, it's because I am a woman or I'm not
22 a woman, or you think I'm not a woman, or you think
23 I'm not enough of a woman, it is clearly about sex.

24 And that was a hard thing to sell at
25 first, because people had this idea in their head that

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1 they had had for centuries, and it is now pretty
2 clearly understood. As one conservative attorney told
3 me the other day, in courts it is now a foregone
4 conclusion, that sex discrimination protects
5 transgender people.

6 That has been an amazing way that we've
7 progressed, but the truth is, while that's happening
8 every single day in the United States, there are
9 thousands of tragedies happening to really good
10 people.

11 Just two days ago in Ithaca, New York,
12 Josie Berrios was murdered. She was the 14th
13 transgender woman of color this year murdered in the
14 United States. She was murdered and then burned
15 beyond recognition. That is also a common anti-trans-
16 bias MO.

17 What we have learned in the last 15 years,
18 as we've been doing these work -- this work as a
19 trans-movement -- a transgender movement, as an LGBT
20 movement, is that we have to talk about it. For the
21 longest time, we as a community were afraid to talk
22 about marriage. If we said what we wanted was
23 marriage, people wouldn't like us.

24 As soon as we started talking about
25 marriage, we started winning marriage equality. We

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1 were terrified in the '80s and '90s to talk about
2 queer children, to say that there were gay children
3 and transgender children.

4 We were just afraid to do it because our
5 enemies would attack us. They would call us
6 predators, they would call us recruiters, they would
7 call us horrible things. When groups like GLSEN
8 started talking about protecting our children, we
9 started protecting our children.

10 Transgender people are now at the place
11 where we are talking about bathrooms. We didn't want
12 to talk about bathrooms. We still don't really want
13 to talk about bathrooms. I have a friend who's trying
14 to start a campaign called, get your head out of the
15 toilet, to get people to stop talking about bathrooms.

16 But here's the truth. We are talking --
17 we are having a national conversation about this, and
18 we will come out on the other side stronger. We will
19 come out on the other side with people
20 understanding -- if the kids Eliza was talking about,
21 like Ash Whitaker, cannot use the correct bathroom at
22 school, they cannot be students.

23 If somebody who works here at the
24 Commission cannot use the right bathroom, they can't
25 have a job. They just can't work here. This is not

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1 about -- I read it again this morning in the Los
2 Angeles Times when they were talking about another
3 rollback at the US Department of Education OCR, where
4 they said -- they talked about children using the
5 bathroom of their choice.

6 It is not about that. Trans-people will
7 tell you it is not about that. There is no choice.
8 If there's a choice, it's, do I go in this one and get
9 arrested, or do I get in this one and get beat up?

10 There is not a choice. You know which one
11 you have to go to if you're Trans, and we have to
12 recognize that. The bathroom conversation also leads
13 me to one other thing I just want to tell you about
14 that happened to me last year.

15 We were deeply involved in trying to get
16 North Carolina to come to its senses, and the day that
17 they passed HB2 last March, I was at the hearings
18 briefing people who were testifying. I didn't testify
19 myself, but there was this amazing 15-year-old from
20 Greenville, North Carolina named Skye.

21 And Skye got up bravely in front of the
22 State Senate Committee, and talked to them about what
23 this meant to him. And the one thing he said that
24 just really stuck with me, he looked at everybody, and
25 even as a 15-year-old, he pointed his finger and he

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1 said, every day I go to school, and I worry that some
2 kid is going to bully me.

3 I worry that maybe even a teacher will
4 bully me. And now you're telling me the State Senate
5 is bullying me? My Governor is bullying me? That is
6 not okay. And that is how it feels to these kids.
7 And I think that's very important to understand.

8 These kids now are networked. They are
9 learning. They are teaching. I always say that I'm
10 so proud of the work we do at NCTE, but I know the
11 most important work I've ever done as an LGBT person,
12 the most important work any of us as LGBT people have
13 ever done, is to educate people.

14 It's to educate our families and our
15 classmates, and the people we work with and the people
16 we go to a mosque with. I cannot tell you -- one of
17 the proudest moments of my life in two or three years,
18 was when a close relative of mine told me on Mother's
19 Day -- it was not my mother -- told me on Mother's Day
20 that he had been educating his AA meeting about
21 transgender people, because somebody had said
22 something wrong.

23 That is why we're moving forward. We are
24 moving faster than any civil rights movement has in
25 American history. Not because we are better, or

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1 faster, or just -- or more -- I'm sorry -- better or
2 smarter or more deserving.

3 It is because of everybody else who has
4 come before us. It is about the women's rights
5 movement, the black civil rights movement, the farm
6 workers movement. These movements have created the
7 civil rights ability for us to advance.

8 They have created the structures, the
9 commission, the syntax. All of the enforcement
10 mechanisms which are now seeming incredibly fragile at
11 the federal level.

12 The other reason transgender people have
13 come so far, very similar to the gay rights movement,
14 is we are in every family. We are not segregated into
15 communities. We are in every family. And that is why
16 we are unstoppable.

17 When Rea and I were speaking before the
18 Senators last week, one of the Senators said --
19 referring to what is clearly a challenging moment in
20 federal civil rights enforcement -- the Senator said,
21 I hope all LGBT people can weather this storm.

22 And I don't know what it was about the way
23 she said it, but I said, Senator, we are the storm.
24 We are the ones who are raining down justice, and
25 radical acceptance all over America. The people who

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1 are trying to roll back civil rights now are the
2 dinosaurs holding a little fragile \$5 umbrella.

3 We are moving. We are advancing. And I
4 promised the Commission, I promised trans-people, I
5 can't say it any other way than, we have not come this
6 far to only come this far.

7 We are so thankful for the work you do
8 here. I am so thankful for the opportunity to speak
9 to you today. And thank you so much.

10 CHAIR LHAMON: Thank you. Thank you to
11 each of you for your testimony and your presentations.
12 And I want to open up for questions and comments from
13 my fellow commissioners. Commissioner Kladney?

14 COMMISSIONER KLADNEY: Madam Chair, thank
15 you. And thank you all for coming and making such
16 great presentations. I apologize because I have to
17 leave by noon. So that's why I got here first.

18 I'm from probably the smallest city of
19 anybody here, and I'm surrounded by a very rural
20 America. And I know we have the Internet. I have
21 very good friends who come from very rural towns, and
22 they're LGBT.

23 And I was wondering, how are you reaching
24 out to them in terms of providing support for these
25 high school kids, and these junior high or middle

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1 school kids? They live in very difficult communities.

2 So I was wondering if you have any comment on that.
3 Or if you're proceeding, or have programs or things
4 along that line.

5 DR. BYARD: Thank you for the question.
6 Absolutely. I think, as you referred to, the Internet
7 is an absolute lifeline for students who are in rural
8 communities, and what we see is an amazing degree of
9 exactly what Mara was talking about, the incredible
10 leadership of students themselves, who are creating
11 structures like gay-straight alliance students clubs,
12 or gender and sexuality alliances, as they're
13 sometimes called now. And networking with each other
14 online.

15 We had the opportunity to partner with the
16 CDC on a study of youth Internet use, which was
17 largely focused on the concern about safety online,
18 but really found for LGBT youth that this is a
19 critical component.

20 For GLSEN, we work in a networked way with
21 communities large and small across the country, and
22 have local chapters that are actually in places
23 like -- well in Omaha, Nebraska, Wichita, Kansas -- in
24 some of these communities where teachers are really
25 the point of contact and the point of support for the

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1 student leadership that's there.

2 And what is remarkable to me, is that
3 across the networks of professionals working within
4 schools, they see what happens, they understand the
5 nature of the problem, and they want to take action.
6 And through contact with those professional networks,
7 there's actually a great deal happening.

8 I'll just note as a final point, this
9 is -- it is exactly those rural communities and their
10 isolation that is also why we are so deeply concerned
11 about any measures that would create permission to
12 discriminate, particularly on the part of youth-
13 serving professionals.

14 We have a situation now in Tennessee,
15 where there is a law that allow counselors to opt out
16 of providing support to LGBT youth on the basis of
17 personal/religious belief, and in many schools now,
18 the ratio of counselors to students is incredibly low.

19 One in California, in fact, it's now over
20 one in 700 -- 1 to 700. So it's not as if a student
21 being denied support can go down the hall and talk to
22 somebody else.

23 I'm pleased to say professionals provide a
24 base of support in many, many schools across the
25 country. They are a lifeline. But we need to do much

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1 more. Thank you for your question.

2 CHAIR LHAMON: Ms. Carey.

3 MS. CAREY: I'll just briefly add to your
4 question. So I appreciate that perspective in
5 thinking about where young people get support. Many
6 of them have grown up in their synagogues, their
7 congregations, and unfortunately have been turned
8 away.

9 Over the last decade or so, we have been
10 partnering with people of faith, of many
11 denominations, many faiths, in rural communities and
12 cities across the country, who believe that
13 discrimination is immoral, and they are creating
14 welcoming congregations.

15 We now have over 4,500 welcoming
16 congregations across the country, who have gone
17 through a discernment process of explicitly exploring
18 and determining that their congregation will be a
19 welcoming place for all people, including LGBT people
20 and youth.

21 COMMISSIONER KLADNEY: Thank you.

22 CHAIR LHAMON: Commissioner Narasaki.

23 COMMISSIONER NARASAKI: Thank you all for
24 heartfelt personal testimony. It's hard to tell those
25 personal studies, I know.

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1 Two things. One is, this morning the
2 Commission adopted our hearing docket for the coming
3 year.

4 One will be on hate crimes, and will
5 include what the Department of Education is doing and
6 could be doing to help improve the situation in
7 schools, as well as looking at best practices in terms
8 of law enforcement agencies, and what could be done to
9 help increase the quality of reporting of hate crimes.

10 And I very much hope that you will be
11 submitting testimony about what best practices are,
12 and which police agencies you think are doing a good
13 job, that could be held up as examples.

14 Another topic is the school-to-prison
15 pipeline, and one of you mentioned the intersection
16 between race, LGBT status, and disability. And so we
17 would very much welcome your input on that.

18 My question has to do with data
19 collection. I know when I started in DC 25 years ago,
20 to work with the Asian-American community, the number
21 one problem we had was, no one believed there were
22 problems, because they weren't collecting data.

23 And I would ask them to collect data, and
24 they would ask me to prove there was a problem, in
25 order to prove there was a need to collect data. I

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1 know that there are similar issues in terms of gaps
2 with federal agencies, in terms of what they are
3 collecting, in order to better serve -- provide better
4 programming and identify issues.

5 And so I'm wondering where you see the
6 gaps, and what might be being done about that?

7 MS. KEISLING: Well I will say the first
8 gap is, we are sensing dramatic backsliding in the
9 current administration, and it's backsliding from
10 where it wasn't very good. We've made some advances
11 in the last ten years in data collection by the
12 Federal Government. Not enough, and actually fairly
13 paltry.

14 We have to keep doing that. The data
15 collection has to be based on science, and it has to
16 be based on programmatic need. And by the way, also
17 on budget restraints, and I think we're sympathetic to
18 that. And I'm going to let Rea go next. I just want
19 to say one really interesting gap we're having, is
20 actually very similar to what API people have been
21 having, which is the disaggregation and aggregation
22 problem, whereas data is collected on Asian people,
23 which is not as helpful of a category as it could be.

24 And it's the same thing with LGBT people.
25 Where trans-people or bi-people or other kinds of

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1 people might just be mixed into the big ball that
2 needs to be disaggregated. Rea, if I could turn it
3 over to you please.

4 MS. CAREY: And get you some water. Thank
5 you. And thank you for asking the question. I have
6 the exact same experience with LGBT youth. This kind
7 of chicken-or-the-egg conversation in the '90s here.

8 To follow up on Mara, this has been one
9 of -- a key focus of our community and our advocacy
10 work in our colleague organizations as well, because
11 if we aren't counted, we don't exist. And if we don't
12 exist, there isn't funding flowing to support the many
13 needs of our community.

14 Over the last number of years, our staff
15 and others have been working with the Census Bureau,
16 to look at ways that we can be counted. In addition
17 to the hundreds of federal surveys -- the YRBS Eliza
18 mentioned, and others that have made progress over the
19 years -- we were successful a number of years ago in
20 getting the Census Bureau to not manually divorce
21 same-sex couples, which was their practice.

22 If I fill out a form and my wife fills out
23 a form, we check married to a woman, we're manually
24 divorced. We stopped that practice, which had a
25 residual benefit of actually counting our children.

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1 So there has been progress. We were on
2 track to having the American Communities survey --
3 part of the census -- start including questions that
4 would get to how many LGBT people are in this country.

5 That has been stopped.

6 That progress in counting our community
7 has now been stopped. We will continue to advocate
8 for that. But we were very, very hopeful that we
9 would be seen, and that our families would be seen.

10 Also in the last number of months, this
11 administration has decided to stop asking questions
12 about seniors -- LGBT seniors -- and some other areas.

13 So just when we were making progress, there had been
14 a number of roadblocks put up.

15 We will continue to advocate and partner
16 with others, and the point has been made many times,
17 it's not that we are just LGBT people and only want
18 data on that. We represent many, many identities and
19 many communities. So we'll continue to pursue that.

20 CHAIR LHAMON: Commissioner Adegbile.

21 COMMISSIONER ADEGBILE: I'm wondering if
22 there is data about the percentage of homeless youth
23 that identify as LGBT. And to the extent that there's
24 data about this particular topic, what specific
25 interventions and work is happening around the country

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1 to address and provide supports for these young people
2 who are finding themselves literally on the streets,
3 in many cases because of very painful rejection, and
4 then all of the associated risks that come with not
5 having a place to call home.

6 DR. BYARD: Start on that. I think
7 absolutely the LGBT youth are so vastly
8 disproportionately represented in homeless
9 populations, and in New York City, certainly there are
10 accounts as much as 40 percent of the homeless and
11 street-involved young people identify as LGBT.

12 There are, of course, very
13 disproportionately young people of color, and
14 transgender young people, and they become -- and they
15 become involved with ways to make a living and make a
16 life for themselves when they're disconnected from
17 their families.

18 There are sort of two tracks of work I
19 think that are so important for addressing the needs
20 of these young people.

21 Of course, on the one side is the sort of
22 mitigation of the current situation, working with -- I
23 was able to serve on Mayor Michael Bloomberg's
24 Commission on Runaway and Homeless LGBT Youth, to try
25 to ensure that there were welcoming services in those

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1 institutions set up to serve homeless youth, funding
2 for those places that were created separately, to the
3 separate institutions that Rea spoke of, and just to
4 ensure that these young people had affirming access to
5 services.

6 Of course, on the other end of things,
7 there are so many ways that we need to ensure that
8 these young people do not become homeless in the first
9 place.

10 While they are at home, there's a
11 project -- the Family Acceptance Project -- that has
12 found that if a family -- even if they cannot accept
13 their LGBT child, if they choose not to throw them out
14 of the house, the difference in the life outcomes for
15 them is unbelievably dramatic, between rates of drug
16 use, suicidality, and all of that.

17 So family acceptance to the extent of
18 allowing a child to stay at home, is a hugely
19 important first step, and something that we need to
20 continue to work on.

21 Then there are also places that other
22 institutions can touch. I'll just mention one that
23 seems so picayune, given the nature of the problem.
24 One of the issues that happens for LGBT young people,
25 is when they go to college, often young people will

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1 come out to their families in their first year of
2 college, and be cut off.

3 And as a result of this involuntary
4 emancipation -- as it is known -- they don't have
5 enough money to continue on in school. Sometimes all
6 it is, is about having emergency federal financial aid
7 to allow them to pay a fee to continue on at school.

8 So one of the things we've talked with
9 organizations working in higher ed about, is making
10 sure that financial aid administrators have the
11 flexibility to award emergency financial aid to
12 students who have been involuntarily emancipated as a
13 result of coming out to their families, because these
14 are also 18- and 19-year-olds who may become homeless
15 when they can no longer be at school, and cannot
16 return home.

17 So there are some very simple steps that I
18 think -- again, it's not a large amount of money often
19 that stands between vulnerable youth and being on the
20 street.

21 MS. KEISLING: If I could note about the
22 extent of the problem with transgender youth, our
23 United States Trans Survey, in which we interviewed
24 28,000 transgender adults, showed that about 1/5th of
25 us who have -- about 1/5th of us have been homeless at

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1 some point in our lives, and about one in 12 have been
2 homeless in the last year.

3 I had a conversation with Lorri Jean,
4 who's the Executive Director of the Los Angeles Gay
5 and Lesbian Center, which is the largest LGBT
6 organization in the universe, and I don't remember the
7 exact numbers, but I'm pretty close here.

8 She said, in Los Angeles on any given
9 night, there are 2,500 homeless youth. They estimate
10 that about 40 percent of them are LGBT, and at the
11 time I spoke to her about two years ago, there were 11
12 beds -- 11 known beds where they were welcome.

13 So the LGBT Center was creating new beds.

14 So it's probably improved by a couple dozen beds.
15 But it is a significant problem, with significant
16 complex causes.

17 COMMISSIONER ADEGBILE: Thank you. Thank
18 you for those responses. Those numbers in two of our
19 nation's largest cities at 40 percent, I think was a
20 common number, would be identified in this way speaks
21 to a very serious problem that demands urgent
22 attention.

23 And I think if there were some broader
24 knowledge about the extent to which being rejected in
25 this way for your identity can lead to this pattern of

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1 homelessness, and the associated risks on our youngest
2 people.

3 Many people would be forced to sort of
4 stand up and grapple with this very serious issue in
5 our country. So I thank each of you for your work,
6 and for the attention that you bring to these
7 important issues. Thank you.

8 CHAIR LHAMON: Commissioner Yaki, I think
9 I heard you trying to get in a while ago on the phone.
10 Just want to make sure you have a chance to ask a
11 question if you do have one.

12 COMMISSIONER YAKI: I will. I'm okay, I'm
13 fine right now. I may say something later when others
14 ask questions.

15 CHAIR LHAMON: Okay, thanks. I understand
16 the Staff Director, you have a question?

17 STAFF DIRECTOR MORALES: I do Madam Chair.
18 Thank you very much. Prior to my appointment as the
19 Staff Director here, is at the Commission. I worked
20 for the Director of the Office of Personnel
21 Management, John Berry.

22 And he was -- besides being an outstanding
23 leader, and later getting appointed to be Ambassador
24 of Australia, he loved history, and he liked to relay
25 a lot of stories to us. And one of the stories that

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1 stuck with me is the story of what happened to Frank
2 Kameny.

3 And you've touched on that, and I don't
4 know if you can elaborate a little more. I think it's
5 a fascinating story of what happened to him and his
6 struggles, and then how it kind of came around that
7 folks recognized what he went through, and what he
8 meant to the movement. Maybe you will elaborate a
9 little more, it'd be great.

10 MS. CAREY: Sure. Frank was -- I knew
11 Frank. He just passed a couple of years ago. And in
12 fact, when I first became the Executive Director of
13 the Task Force, my plus one was often Frank when I
14 went to the White House, because he had been dismissed
15 from the Government.

16 And he quite a character. He was very
17 smart and determined man. And in addition to creating
18 community institutions -- like the Mattachine
19 Society -- he worked to organize with others.

20 So pickets in front of the White House --
21 again, was at the first White House meeting -- and I
22 think he, himself, would say that he understood both
23 the importance of his own story, but that he was just
24 one of thousands who had experienced that who, for a
25 variety of reasons, could not come out about being

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1 discriminated. And very much recognized that not only
2 his shoulders have helped many of us, but he was
3 helped by many people and their shoulders.

4 And he was so moved by the progress of our
5 movement, and Mara's exactly right, he understood the
6 historical context of our movement, and that in fact,
7 many of our forbearer's -- Bayard Rustin among them in
8 the black civil rights movement, as an out-gay man --
9 have taught many of us.

10 So it has been a loss to our community,
11 but he passed along I think, his wisdom and passion
12 for advocacy, and he believed in the Government. He
13 believed in the Government. He so believed in the
14 possibility of the United States to fully take
15 advantage of the talents of LGBTQ people, and was
16 advocating that until the very end.

17 MS. KEISLING: Could I add something? And
18 I'm a huge fan of Ambassador Berry's by the way. But
19 I just want to point out it has been less than a year
20 that transgender service members were -- transgender
21 people were permitted to be service members in the
22 United States military.

23 People who want to serve their country.
24 People who are serving their country -- we believe
25 there's about 15,000 active duty transgender people.

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1 They have only been permitted to be there for less
2 than a year. And in fact, we're still waiting for the
3 regulations that would permit transgender people to
4 enlist in the military.

5 So I mean Frank is a real hero. Frank is
6 also somebody I knew. And I think Frank would say
7 it's still going on. It is -- or we're done yet. He
8 was a super optimistic person, but he wasn't the
9 first, and he certainly wasn't the last.

10 CHAIR LHAMON: Thanks. So we're coming
11 close to our close. I would love if the three of you
12 could close with us with some reflections on where we
13 are now. I was so moved by the ways that each of you
14 talked about the need for cross-identity
15 intersectional work in the movement, and Ms. Keisling,
16 by your reference to how we are the storm raining down
17 justice. It's certainly vivid as an image, and we'd
18 love to hear how it is that you anticipate that we
19 will rain down that justice moving forward.

20 Obviously, the intersectional work touches
21 the work of the Commission, because we have broad
22 jurisdiction over all those areas, and so it's -- it
23 would be useful to us to hear where you think we are
24 now.

25 MS. KEISLING: Well, in our survey of

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1 20,000 trans-people, we saw that 25 percent had not --
2 had at one point last year not sought medical
3 attention when they needed it, because they were
4 afraid of being disrespected.

5 But we also saw that a third -- so even
6 more -- did not seek medical treatment when they
7 needed it because they couldn't afford it. That is
8 about civil rights, but it is also about the fact that
9 the biggest problem a transgender person may face as a
10 trans-person, may be poverty. It may be racism. It
11 may be that they're an immigrant. It may be that they
12 have a disability.

13 And one the -- I think the most amazing
14 things that's been happening in the last year, and
15 particularly this year, is the LGBT movement is really
16 quickly, quickly becoming an anti-racism movement, a
17 pro-immigrant movement, a pro-worker movement, pro-
18 woman movement, pro-disability rights movement,
19 because we are understanding we are in every family,
20 and we are in every circumstance, and we are in every
21 city, and we can no longer be a moral or effective
22 movement unless we understand that intersectionality,
23 and we do that work all together.

24 CHAIR LHAMON: Thank you.

25 MS. KEISLING: Oh, and particularly with

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1 civil rights enforcement really at risk of severe,
2 quick, temporary degradation. When Rea said they have
3 stopped collecting the data, I wanted to interrupt and
4 say, they have stalled in collecting the data.

5 But we're all in this together. All of
6 the parts of all of us.

7 CHAIR LHAMON: Thanks.

8 DR. BYARD: Absolutely. And I would say
9 that from the point of view of those of us who work
10 with LGBT youth, I was asked a number of years ago by
11 a reporter, what is the greatest danger currently
12 facing LGBT youth, and I said I had two answers.

13 One was the systematic underfunding and
14 undermining of public education in the United States.

15 And two, the disregard for the role of the Federal
16 Government as civil rights oversight and enforcement.

17 Our lives and our progress exist in the
18 context of all of the ways that so many different
19 communities task, expand, and seek to live out the
20 American dream, quote unquote, and we have to be there
21 for it now.

22 I would just add that there are ways today
23 that all of this will still move forward. I think we
24 cannot be erased from the data that has already been
25 collected. Just this year I'm so pleased to say right

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1 now that the YRBS in 17 states is measuring -- is
2 asking about trans-identity.

3 So those students will no longer be
4 invisible. And they will not be invisible as trans-
5 students, they will not be invisible as trans-students
6 of color, they will not be invisible as trans-students
7 who may be Muslim.

8 We are here, we have been counted, we
9 continue to count, and we continue fighting.

10 CHAIR LHAMON: Thanks.

11 MS. CAREY: I think what we're seeing in
12 moving forward, and where we go from here, and this is
13 particularly germane to your work as a Commission, is
14 that we are seeing so many struggles over civil rights
15 in this country -- voting rights, many civil rights.

16 And in fact, what we are seeing in North
17 Carolina, in Houston, in Arkansas, and other places,
18 is when the public conversation is about where someone
19 can use the bathroom, we're working across movements
20 to make visible that these laws, these are chipping
21 away at civil rights, and are in fact, not solely, or
22 even primarily, about whether or not you can use the
23 bathroom.

24 So I say that because as a matter of civil
25 rights, I think we have to continue to make the

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1 connections. Our movement is running fast to do that,
2 and partnering very closely with other organizations
3 and movements on the ground, so that we're making the
4 connections for people.

5 The law that was overturned in Houston --
6 human rights ordinance -- it absolutely hurt LGBT
7 people, but it also hurt black people, it hurt
8 Latinos, and anyone else who had been covered by that
9 law and is no longer covered.

10 That's the future of our movement, and I
11 think the future of our fight for civil rights is to
12 see the connections.

13 CHAIR LHAMON: Thank you. Thank you to
14 each of you for your presentations today, and for the
15 work that you do. Very much appreciate your coming to
16 illuminate and educate for us, and also want to thank
17 Alec Deull and Marik Xavier-Brier for their assistance
18 in collecting and putting together today's
19 presentations, and of course all of our staff for
20 making today's work possible.

21 COMMISSIONER YAKI: Madam Chair?

22 CHAIR LHAMON: Commissioner Yaki?

23 COMMISSIONER YAKI: Madam Chair?

24 CHAIR LHAMON: Yes?

25 COMMISSIONER YAKI: Yes. First, I also

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1 wanted to thank Alec for his role in doing this today.

2 I just wanted to say I apologize to the speakers that
3 I'm not there today. But when I hear the story of --
4 one of the reasons why I am here at this Commission is
5 because my own father had to fight his way every day
6 in school as a young boy, as a Japanese American who
7 had just been released from internment camp while
8 World War II was still raging.

9 And the debates and the discussions that
10 we have today -- even, ironically, the issue of
11 bathrooms when we know the Jim Crow history of how
12 bathrooms were used in terms of denying people who
13 they were and what their rights were -- continues
14 today.

15 I'm very proud of the fact that I come
16 from a city that has values, and cherish LGBT rights.

17 I was part of the first group of elected officials to
18 perform what was then groundbreaking domestic
19 partnership ceremonies, and count that as some of the
20 highlights of my political career in San Francisco.

21 But it is really due to the efforts of the
22 people here today, and countless others and thousands
23 who have stood up and marched, been arrested,
24 protested, run for office, done all the things that
25 make us, as a democracy, work.

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1 But we must continue the fight. We shall
2 continue the fact. And I just want to really thank
3 our speakers today for giving us a history less that
4 is, in some ways, not even a lesson anymore, but a
5 primer on how to continue our work going forward. So
6 thank you very much.

7 CHAIR LHAMON: Thank you. So if there's
8 nothing further, I hereby adjourn our meeting at 12:14
9 Eastern Daylight Time. Thank you.

10 (Applause.)

11 (Whereupon, the above-entitled matter went
12 off the record at 12:14 p.m.)