

## 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 U.S. 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, "U.S.  
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 [State  
9 Advisory Committees] survey concept proposal, and the  
10 School Discipline Concept proposal, all to serve as  
11 our fiscal year 2018 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 Commissioners.

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 [Office of Civil Rights  
25 Evaluation] to do that broad of survey, which he felt

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

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

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

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

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

22 COMMISSIONER NARASAKI: I should say --  
23 what I'm talking about is organizations like the Anti-  
24 Defamation League, which is a well-known national  
25 expert in actually working with law enforcement,

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1 providing technical assistance on this issue. So it's  
2 not so much about their advocacy on hate crimes, but  
3 about their expertise in working with law enforcement  
4 agencies.

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

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

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

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

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

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

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

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

21      Commissioner Narasaki?

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

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1 enforcement from around the country where we would  
2 have to pay travel, this is basically a way of trying  
3 to collect that same information.

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

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

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

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

19 COMMISSIONER NARASAKI: I second.

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

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

24 CHAIR GIBBONS: Yes.

25 COMMISSIONER HERIOT: Okay. Hearing none,

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1 I'll call the question, take a roll call vote.

2 Commissioner Adegbile, how do you vote?

3 COMMISSIONER ADEGBILE: Aye.

4 CHAIR LHAMON: Commissioner Heriot?

5 COMMISSIONER HERIOT: Yes.

6 CHAIR LHAMON: Commissioner Kirsanow?

7 COMMISSIONER KIRSANOW: Yes.

8 CHAIR LHAMON: Commissioner Kladney?

9 COMMISSIONER KLADNEY: Yes.

10 CHAIR LHAMON: Commissioner Narasaki?

11 COMMISSIONER NARASAKI: Yes.

12 CHAIR LHAMON: Commissioner Yaki?

13 COMMISSIONER YAKI: Aye.

14 CHAIR LHAMON: Vice Chair?

15 COMMISSIONER YAKI: Yes.

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

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

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

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

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

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

24 Along with changing programmatic  
25 priorities, these proposed cuts would result in a

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1 dangerous reduction of civil rights enforcement across  
2 the country, leading communities of color, LGBT  
3 people, older people, people with disabilities, and  
4 other marginalized groups exposed to greater risk of  
5 discrimination.

6 The Commission has unanimously approved a  
7 comprehensive two-year assessment of federal civil  
8 rights enforcement, which will conclude in fiscal year  
9 2019.

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

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

24 The Commission has grave concerns about  
25 continuing signals from the current administration,

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1 including the President's proposed budget, and  
2 statements of cabinet and senior administration  
3 officials, that the protection and fulfillment of  
4 civil rights of all persons will not be appropriately  
5 prioritized.

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

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

15 Following distressing changes.

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

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

24 At the Department of Education, the  
25 proposed budget calls for reducing staffing by seven

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1 percent, losing 46 full-time equivalent positions at  
2 the Department's Office for Civil Rights, which  
3 investigates sex-, race-, disability-, and age-based  
4 civil rights complaints.

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

13 At the Department of Labor:

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

22 OFCCP and EEOC have distinct missions, and  
23 folding a reduced staffed OFCCP into EEOC, while at  
24 the same time not providing additional resources to  
25 EEOC, will lead to significant reductions in the

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1 capability to monitor civil rights compliance efforts  
2 among federal contractors, and at best, compromise the  
3 EEOC's ability to satisfy its already extant civil  
4 rights enforcement functions.

5 At the Department of Housing and Urban  
6 Development [HUD].

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

13 The proposed budget also calls for the  
14 elimination of the U.S. Interagency Council on  
15 Homelessness.

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

19 At the Department of Health and Human  
20 Services.

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

25 At the Environmental Protection Agency

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1 [EPA].

2 The proposed budget eliminates the EPA's  
3 environmental justice program, including nearly 40  
4 employees. The program provides support to address  
5 the disproportionate burden of environmental policies  
6 and decisions on communities of color, and low-income  
7 and tribal communities.

8 The Legal Services Corporation.

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

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

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

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

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

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

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

19           We're jumping to conclusions that are more  
20 properly the precinct or the province of our statutory  
21 enforcement report for 2019. And beyond that, we're  
22 talking about reductions -- for example, in DOJ  
23 [Department of Justice], of 12 attorneys, that still  
24 leave nearly 400 attorneys there. Only in government,  
25 which has a \$20 trillion debt, could we say that a

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1 reduction in money necessarily harms a program. So  
2 I'll be voting against it.

3 CHAIR LHAMON: So I welcomed your  
4 suggestion that you might vote for it, and that in the  
5 beginning I will say that I think that their statement  
6 is carefully worded not to assume a conclusion, but to  
7 identify a set of concerns, and to say that we look  
8 forward to investigating them.

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

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

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

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1                   VICE CHAIR TIMMONS-GOODSON: Yes, Madam  
2 Chair, I will be voting for it. As you have pointed  
3 out, it is our role to monitor what's going on where  
4 civil rights is concerned, and speaking out and  
5 commenting on our observations to-date seems very  
6 reasonable to me, and I support the letter.

7                   CHAIR LHAMON: Commissioner Heriot?

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

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

20                  COMMISSIONER HERIOT: No, but that's not  
21 true.

22                  CHAIR LHAMON: It's very true --

23                  COMMISSIONER HERIOT: And that she  
24 interprets the statutes differently from you.

25                  CHAIR LHAMON: What she said in her most

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1 recent Congressional testimony, is that any recipient  
2 of federal funds will follow the law. She is not in a  
3 position to make a commitment on behalf of someone she  
4 doesn't control. The most and the best of the  
5 Department of Education can commit, is that it will  
6 enforce non-compliance that it finds. She has refused  
7 to make that commitment. In transcript. In  
8 Congressional testimony. That is a concern.

9 COMMISSIONER HERIOT: That is an unfair  
10 interpretation of what she is saying.

11 CHAIR LHAMON: Well we can agree to  
12 disagree on that point. So any further discussion of  
13 this statement? Commissioner Narasaki?

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

20 And that's part of our role -- to give  
21 advice to Congress and to the Administration. So I  
22 feel it's perfectly appropriate.

23 CHAIR LHAMON: Hearing no further  
24 discussion, I'll call --

25 COMMISSIONER KIRSANOW: I just have one

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1 question.

2 CHAIR LHAMON: Commissioner Kirsanow?

3 COMMISSIONER KIRSANOW: What is the  
4 appropriate level of expenditures for these various  
5 agencies? Isn't that a prerequisite to making a  
6 determination as to whether or not these cuts are  
7 dangerous or problematic?

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

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

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

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

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

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1 I have, for obvious reasons, the most  
2 familiarity with the Department of Education's budget,  
3 and it well underfunded from a high of many years ago,  
4 when the Office for Civil Rights hired, for example,  
5 11,000 staff, at a time when it was processing 3,000  
6 complaints.

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

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

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

25 COMMISSIONER KIRSANOW: I will just note

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1 that it's disappointing that more than 50 years after  
2 the 1964 Civil Rights Act, that we actually need more  
3 money to fight discrimination, which would suggest  
4 that it's been an abject failure for 50 years. You  
5 would think the numbers would be going down. But  
6 that's just me.

7 CHAIR LHAMON: You know, I think that not  
8 one of us on this Commission understands us to have  
9 reached the mountaintop with respect to civil rights.  
10 And I believe we are all disappointed about the  
11 volume of civil rights harm that persists in this  
12 country.

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

23 COMMISSIONER NARASAKI: I share your wish  
24 that we wouldn't need this kind of enforcement effort  
25 commissioner. But the reality is, I think you also

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1 fail to take into account that, thankfully as a  
2 country, we've actually expanded the notion of what  
3 civil rights means, since the 1960s, and there are  
4 many more vulnerable communities that we are seeking  
5 to protect, against many more different kinds of  
6 discrimination that we now recognize as pernicious,  
7 and as undermining our democracy.

8 CHAIR LHAMON: Commissioner Adegbile?

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

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

22 And so I don't think it's a dichotomous  
23 choice of having a state of complete equality, and  
24 that is the definition of success. Or having more  
25 work to do in civil rights. And I think there's

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1 probably a fair amount of agreement on this  
2 Commission, that both things can be true. We can have  
3 addressed some things and made progress, and still  
4 need to do more. And I understand the charge of this  
5 Commission to be a steadfast guardian, and providing  
6 analysis of those very areas where we need to do more.

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

11 VICE CHAIR TIMMONS-GOODSON: So moved.

12 COMMISSIONER ADEGBILE: Second.

13 CHAIR LHAMON: Terrific. Commissioner  
14 Adegbile, how do you vote?

15 COMMISSIONER ADEGBILE: Aye.

16 CHAIR LHAMON: Commissioner Heriot?

17 COMMISSIONER HERIOT: No.

18 CHAIR LHAMON: Commissioner Kirsanow?

19 COMMISSIONER KIRSANOW: No.

20 CHAIR LHAMON: Commissioner Kladney?

21 COMMISSIONER KLADNEY: 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. The motion  
2 passes. Two commissioners opposed, no commissioner  
3 abstained, all others were in favor.

4 COMMISSIONER HERIOT: Madam Chairman?

5 CHAIR LHAMON: Yes.

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

10 CHAIR LHAMON: Our rules require that I  
11 state that it was a majority, and I will be happy to  
12 follow those rules.

13 **E. DISCUSSION AND VOTE ON REVISED SCHEDULE**  
14 **REGARDING THE FY 2017 STATUTORY ENFORCEMENT REPORT**  
15 **ON MUNICIPAL FEES**

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

21 It will not impact the time for  
22 Commissioners to draft their statements and rebuttals,  
23 and if any, surrebuttals. Any discussion?

24 Okay, do I have a motion to approve the  
25 revised schedule for the FY 2017 Statutory Enforcement

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1 Report?

2 COMMISSIONER NARASAKI: So moved.

3 COMMISSIONER KLADNEY: Second.

4 CHAIR LHAMON: Terrific. Commissioner  
5 Adegbile, how do you vote?

6 COMMISSIONER ADEGBILE: Aye.

7 CHAIR LHAMON: Commissioner Heriot?

8 COMMISSIONER HERIOT: I have to pass here.

9 I'm --

10 CHAIR LHAMON: Do you want me to come back  
11 to you, or are you abstaining?

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

14 CHAIR LHAMON: Do you want them to go over  
15 it?

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

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

24 COMMISSIONER ADEGBILE: Yes.

25 COMMISSIONER HERIOT: Yes.

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1 CHAIR LHAMON: Okay, terrific.

2 **F. DISCUSSION AND VOTE ON HOLDING A TELEPHONIC**  
3 **BUSINESS MEETING ON FRIDAY, JUNE 23, 2017**

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

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

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

19 CHAIR LHAMON: I'll get into that.

20 COMMISSIONER HERIOT: Okay.

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

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1 The other is Wednesday, June 28 from 12:00 to 1:00.

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

4 COMMISSIONER HERIOT: Yes. I mean if  
5 we're voting on a schedule, then we got to have a  
6 schedule.

7 CHAIR LHAMON: Thanks for that helpful  
8 suggestion. So Vice Chair, does Tuesday the 27th at  
9 noon work for you?

10 VICE CHAIR TIMMONS-GOODSON: No. It does  
11 not work for me.

12 COMMISSIONER NARASAKI: It does not work  
13 for me either.

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

16 COMMISSIONER ADEGBILE: That's correct.

17 CHAIR LHAMON: Commissioner Heriot?

18 COMMISSIONER HERIOT: It works for me,  
19 yes.

20 CHAIR LHAMON: Commissioner Kirsanow?

21 COMMISSIONER KIRSANOW: No it doesn't.

22 CHAIR LHAMON: Okay. Commissioner  
23 Kladney?

24 COMMISSIONER KLADNEY: Whatever you'd like  
25 ma'am.

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1 CHAIR LHAMON: I love that vote.  
2 Commissioner Yaki? Commissioner Yaki, if you're  
3 speaking --

4 COMMISSIONER YAKI: Aye.

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

8 VICE CHAIR TIMMONS-GOODSON: Yes, it  
9 works.

10 CHAIR LHAMON: Commissioner Adegbile?

11 COMMISSIONER ADEGBILE: No.

12 CHAIR LHAMON: Commissioner Heriot?

13 COMMISSIONER HERIOT: Yes.

14 CHAIR LHAMON: Commissioner Kirsanow?

15 COMMISSIONER KIRSANOW: Yes.

16 CHAIR LHAMON: Commissioner Kladney?

17 COMMISSIONER KLADNEY: I could make it  
18 work.

19 CHAIR LHAMON: I like the general yes for  
20 me, but okay.

21 COMMISSIONER KLADNEY: I mean I would  
22 prefer Tuesday, but Wednesday's fine.

23 CHAIR LHAMON: Thank you. Commissioner  
24 Narasaki?

25 COMMISSIONER NARASAKI: Yes.

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1 CHAIR LHAMON: Commissioner Yaki?

2 COMMISSIONER YAKI: It doesn't.

3 CHAIR LHAMON: No? Okay.

4 COMMISSIONER YAKI: It does not.

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

13 VICE CHAIR TIMMONS-GOODSON: I'll second  
14 that motion.

15 CHAIR LHAMON: Okay. So Commissioner  
16 Adegbile, how do you vote?

17 COMMISSIONER ADEGBILE: Aye.

18 CHAIR LHAMON: Commissioner Heriot?

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

23 CHAIR LHAMON: Okay. Commissioner  
24 Kirsanow?

25 COMMISSIONER KIRSANOW: Yes.

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1 CHAIR LHAMON: Commissioner Kladney?

2 COMMISSIONER KLADNEY: Yes.

3 CHAIR LHAMON: Commissioner Narasaki?

4 COMMISSIONER NARASAKI: I'm trying to get  
5 a clarification about something.

6 CHAIR LHAMON: So are we waiting?

7 COMMISSIONER NARASAKI: So I'm voting no.

8 CHAIR LHAMON: Commissioner Yaki?

9 COMMISSIONER YAKI: No.

10 CHAIR LHAMON: Vice Chair?

11 VICE CHAIR TIMMONS-GOODSON: Yes.

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

17 COMMISSIONER YAKI: I just want to -- can  
18 I say something?

19 CHAIR LHAMON: Sure.

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

25 CHAIR LHAMON: Okay. Commissioner Yaki,

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1 do you have a suggestion for another way to achieve a  
2 vote on the report in time for its completion? My  
3 understanding from the Office of Civil Rights  
4 Enforcement is that we need to vote on that report  
5 before July, to be able to complete the report timely  
6 for this fiscal year.

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

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

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

24 And if we can vote not to block a  
25 notational vote on that topic, then I think we can

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1 move forward from here. So I move that we hold --  
2 that we agree that --

3 (Off-microphone comment.)

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

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

8 CHAIR LHAMON: You don't have your  
9 microphone on.

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

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

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

25 (Whereupon, the above-entitled matter went

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1 off the record at 10:15 a.m. and resumed at  
2 10:20 a.m.)

3 CHAIR LHAMON: So I'm ending our recess  
4 and coming back to the record. Having conferred, it  
5 looks like June 29th from noon to 1:00 may work. So  
6 I'm -- that's Eastern Time.

7 So I move that we will hold a telephonic  
8 business meeting on Thursday, June 29 from noon to  
9 1:00 Eastern, to discuss and vote on the FY 2017  
10 Statutory Enforcement Report on Municipal Fines and  
11 Fees. Do I have a second?

12 COMMISSIONER ADEGBILE: Second.

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

15 COMMISSIONER ADEGBILE: Aye, and thank you  
16 for the accommodation.

17 CHAIR LHAMON: Commissioner Heriot?

18 COMMISSIONER HERIOT: Yes.

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, and thank you as  
2 well.

3 CHAIR LHAMON: Vice Chair?

4 VICE CHAIR TIMMONS-GOODSON: Yes.

5 CHAIR LHAMON: And I vote yes, so the  
6 motion passes unanimously.

7 **G. DISCUSSION AND VOTE ON REVISED SCHEDULE**

8 **REGARDING THE FY 2017 STATUTORY ENFORCEMENT REPORT**

9 **ON MUNICIPAL FEES**

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

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

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

22 COMMISSIONER ADEGBILE: So moved.

23 CHAIR LHAMON: A second?

24 COMMISSIONER KLADNEY: Second.

25 CHAIR LHAMON: Commissioner Adegbile, how

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1 do you vote?

2 COMMISSIONER ADEGBILE: Aye.

3 CHAIR LHAMON: Commissioner Heriot?

4 COMMISSIONER HERIOT: Yes.

5 CHAIR LHAMON: 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 Timmons-Goodson?

14 VICE CHAIR TIMMONS-GOODSON: Yes.

15 CHAIR LHAMON: And I vote yes. The motion

16 passes unanimously. Okay.

17 **H. DISCUSSION AND VOTE ON CHANGING THE NOVEMBER**

18 **AND DECEMBER COMMISSION BUSINESS MEETING DATES**

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

25 STAFF DIRECTOR MORALES: Thank you Madam

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1 Chair. In regards to changing the commissioner  
2 meetings in December and November, let me start first  
3 by addressing December first.

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

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

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

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1       holidays.

2                   In another week or two, and no later than  
3       July business meeting, I'll update you with the final  
4       planning for the event. I'm not prepared to do so at  
5       this time. However, I propose to move the Commission  
6       business date from November 17th -- Friday,  
7       November 17th -- to Tuesday, November 14th, and it  
8       looks like we'd be able to hold a Commission business  
9       meeting earlier that morning, and the event  
10      commemorating the 60th anniversary would be in the  
11      afternoon. Thank you Madam Chair.

12                   CHAIR LHAMON: Thank you. Having heard  
13      from the staff -- Commissioner Heriot?

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

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

24                   And then thereafter, potentially starting  
25      either at two or 3 o'clock for the event at the

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1 Library of Congress. And we can only have it from I  
2 believe 2 o'clock to 5:00 p.m. -- have the room. And  
3 one of the reasons we've selected the room is because  
4 we have the potential of having some Library of  
5 Congress artifacts that pertain specifically to the  
6 Commission available.

7 And so we're working with the Library of  
8 Congress and the National Archives to have those  
9 available for the guests and folks who attend. And so  
10 we're looking a time frame between I believe two and  
11 5 o'clock, but hoping to have it -- we think it would  
12 probably take -- the event would take about two hours,  
13 so something in that range.

14 COMMISSIONER HERIOT: Is it possible to  
15 hold it earlier in the day, and hold the Commission  
16 meeting on Monday afternoon?

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

21 COMMISSIONER HERIOT: I got a meeting --

22 STAFF DIRECTOR MORALES: There's nothing  
23 that prevents us from doing that.

24 COMMISSIONER HERIOT: Yes. I got to be in  
25 San Diego by Tuesday night, and that means last plane

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1 is going to leave probably about 5:00. And if we  
2 could hold the Commission meeting the day before, and  
3 the celebration earlier in the day, that would work  
4 for me. Otherwise it doesn't.

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

12 COMMISSIONER HERIOT: How about flip and  
13 do the day before for the celebration?

14 STAFF DIRECTOR MORALES: On Monday?

15 COMMISSIONER HERIOT: Yes. And then the  
16 Commission meeting Tuesday morning.

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

22 COMMISSIONER HERIOT: Yes.

23 STAFF DIRECTOR MORALES: I can get back to  
24 you on that in an email in the next week or so, and  
25 let you know what that possibility is. I don't want

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1 to delay the moving of the date. I mean, I think the  
2 date has to be moved either to that Tuesday or that  
3 Monday anyway, because Congress goes out of session on  
4 Thursday.

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

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

13 CHAIR LHAMON: I'm not sure it's  
14 productive to proceed with a vote, given the  
15 uncertainty --

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

20 CHAIR LHAMON: Okay.

21 COMMISSIONER NARASAKI: Maybe we can vote  
22 on it when we do the vote on the report.

23 CHAIR LHAMON: Okay.

24 STAFF DIRECTOR MORALES: We could add  
25 that. Certainly.

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

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

10                   COMMISSIONER NARASAKI: I move that we  
11 vote to move the December meeting date, and that we  
12 vote to consider moving the November date, and vote at  
13 that at our telephonic meeting.

14                   COMMISSIONER KLADNEY: I second.

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

19                   COMMISSIONER ADEGBILE: Aye.

20                   CHAIR LHAMON: Commissioner Heriot?

21                   COMMISSIONER HERIOT: Aye.

22                   CHAIR LHAMON: Commissioner Kirsanow?

23                   COMMISSIONER KIRSANOW: Yes.

24                   CHAIR LHAMON: Commissioner Kladney?

25                   COMMISSIONER KLADNEY: Yes.

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1 CHAIR LHAMON: Commissioner Narasaki?

2 COMMISSIONER NARASAKI: Yes.

3 CHAIR LHAMON: Commissioner Yaki?

4 COMMISSIONER YAKI: Aye.

5 CHAIR LHAMON: Vice Chair?

6 VICE CHAIR TIMMONS-GOODSON: Yes.

7 CHAIR LHAMON: And I vote yes. The motion  
8 passes unanimously.

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

14 STAFF DIRECTOR MORALES: Yes, I'll do my  
15 best.

16 COMMISSIONER KLADNEY: Thank you.

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

19 COMMISSIONER HERIOT: We actually only  
20 voted to consider the December thing. We didn't  
21 actually do it.

22 CHAIR LHAMON: Okay.

23 COMMISSIONER HERIOT: So I move that we  
24 actually do what the Staff Director asked us to do,  
25 and that is move the meeting to December whatever it

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1 was.

2 CHAIR LHAMON: Eighth.

3 COMMISSIONER HERIOT: Eighth.

4 COMMISSIONER KLADNEY: I'll second that.

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

9 COMMISSIONER ADEGBILE: Aye.

10 CHAIR LHAMON: Commissioner Heriot?

11 COMMISSIONER HERIOT: Yes.

12 CHAIR LHAMON: Commissioner Kirsanow?

13 COMMISSIONER KIRSANOW: Yes.

14 CHAIR LHAMON: Commissioner Kladney?

15 COMMISSIONER KLADNEY: Yes.

16 CHAIR LHAMON: Commissioner Narasaki?

17 COMMISSIONER NARASAKI: Yes again.

18 CHAIR LHAMON: Commissioner Yaki?

19 COMMISSIONER YAKI: Aye-aye.

20 CHAIR LHAMON: Vice Chair?

21 VICE CHAIR TIMMONS-GOODSON: Yes.

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

24 **I. STATE ADVISORY COMMITTEES**

25 CHAIR LHAMON: Okay, I'd like to turn to

1 the State Advisory Committee section of our agenda.  
2 Before we discuss the three State Advisory Committee  
3 appointment slates to consider, I acknowledge the  
4 passing of Peter Lawler, a member of our Georgia State  
5 Advisory Committee, who recently died, and our deepest  
6 condolences extend to his family.

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

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

19 **1. VOTE ON APPOINTMENTS TO THE ALABAMA STATE**

20 **ADVISORY COMMITTEE**

21 CHAIR LHAMON: I move that the Commission  
22 appoints the following individuals to the Alabama  
23 State Advisory Committee, based on the recommendation  
24 of the Staff Director. Jenny Carroll, Marc Ayers,  
25 Craig Hymowitz, Michael Innis-Jimenez, Peter Jones,

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1 Angela Lewis, Raphael Maharaj, Isabel Rubio, Martha  
2 Lynn Shearer, Maurice Shevin, Cameron Smith, David  
3 Smolin, Daiquiri Steele, and Tari Williams.

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

11 VICE CHAIR TIMMONS-GOODSON: I second it.

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

14 COMMISSIONER ADEGBILE: Aye.

15 CHAIR LHAMON: Commissioner Heriot?

16 COMMISSIONER HERIOT: I vote yes on this  
17 one.

18 CHAIR LHAMON: Commissioner Kirsanow?

19 COMMISSIONER KIRSANOW: 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: Aye.

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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.

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

6 **ADVISORY COMMITTEE**

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

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

22 COMMISSIONER ADEGBILE: Second.

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

25 COMMISSIONER ADEGBILE: Aye.

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1 CHAIR LHAMON: Commissioner Kirsanow?

2 COMMISSIONER KIRSANOW: No.

3 CHAIR LHAMON: Commissioner Heriot?

4 COMMISSIONER HERIOT: I'm voting yes on  
5 this one.

6 CHAIR LHAMON: Commissioner Kladney?

7 COMMISSIONER KLADNEY: Yes.

8 CHAIR LHAMON: Commissioner Narasaki?

9 COMMISSIONER NARASAKI: Yes.

10 CHAIR LHAMON: Commissioner Yaki?

11 COMMISSIONER YAKI: Aye.

12 CHAIR LHAMON: Vice Chair Timmons-Goodson?

13 VICE CHAIR TIMMONS-GOODSON: Yes.

14 CHAIR LHAMON: And I vote yes. The motion  
15 passes with one no vote, no abstentions, and all  
16 others in favor.

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

18 **ADVISORY COMMITTEE**

19 CHAIR LHAMON: I now move that the  
20 Commission appoints the following individuals to the  
21 Oklahoma State Advisory Committee, based on the  
22 recommendation of the Staff Director. Vicki Limas,  
23 Mary Sue Backus, Wendell Bollinger, Maria del  
24 Guadalupe Davidson, Adam Doverspike, Moises  
25 Echeverria-Ashworth, Amir Khaliq, Andy Lester, Charity

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1 Marcus, Michael Owens, Christopher Smith, Amanda  
2 Snipes, Joseph Thai, and Donya Williams.

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

10 VICE CHAIR TIMMONS-GOODSON: Second.

11 CHAIR LHAMON: Any discussion? Hearing  
12 none, Commissioner Adegbile, how do you vote?

13 COMMISSIONER ADEGBILE: Aye.

14 CHAIR LHAMON: Commissioner Kirsanow?

15 COMMISSIONER KIRSANOW: No.

16 CHAIR LHAMON: Commissioner Heriot?

17 COMMISSIONER HERIOT: No, this one is not  
18 properly balanced.

19 CHAIR LHAMON: Commissioner Kladney?

20 COMMISSIONER KLADNEY: Yes.

21 CHAIR LHAMON: Commissioner Narasaki?

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

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1 CHAIR LHAMON: Commissioner Yaki?

2 COMMISSIONER YAKI: Aye.

3 CHAIR LHAMON: Vice Chair Timmons-Goodson?

4 VICE CHAIR TIMMONS-GOODSON: Yes.

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

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

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

21 **J. MANAGEMENT AND OPERATIONS STAFF DIRECTOR'S**

22 **REPORT**

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

25 STAFF DIRECTOR MORALES: Thank you Madam

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1 Chair. I have nothing more to add than what's already  
2 contained in the report. I would like to point out  
3 that in addition to some of the -- to the report, I  
4 sent some material to all of you regarding the  
5 livestreaming last month of the briefing. It was  
6 contained in materials sent to you.

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

17 CHAIR LHAMON: All right, thank you.

18 COMMISSIONER KLADNEY: Madam Chair, I have  
19 a question --

20 CHAIR LHAMON: Commissioner Kladney.

21 COMMISSIONER KLADNEY: -- if I may, of the  
22 Director. I was wondering, in light of the budgetary  
23 items that you've been sending out, have we done any  
24 work, or do we have anybody working on the possibility  
25 of doing or collecting witness testimony via

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1 videoconferencing, to the meeting, rather than  
2 bringing the witnesses here to DC? That kind of  
3 thing. Or are we going to consider that or look into  
4 that at all?

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

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

15 COMMISSIONER KLADNEY: Okay.

16 STAFF DIRECTOR MORALES: Great.

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

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1 Confinement. David?

2 **K. PRESENTATION BY CONNECTICUT STATE ADVISORY**  
3 **COMMITTEE CHAIR DAVID MCGUIRE ON ADVISORY MEMORANDUM**  
4 **ON SOLITARY CONFINEMENT**

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

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

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

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

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1           And we coalesce around the issue of  
2 solitary confinement -- specifically the great racial  
3 disparities -- that we have heard about in the  
4 Connecticut Supermax, for example, as well as the fact  
5 that many other protected classes are kept in solitary  
6 confinement for long periods of time.

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

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

25           She was really struck by the tour, and

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1 also attended our briefing, which we had at the State  
2 Capitol on February 7th. We, on very short notice,  
3 were able to pull together three really solid panels,  
4 one focusing on juveniles in isolation, one featuring  
5 a lot of professors, both from legal discipline, as  
6 well as medical, on mental health issues.

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

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

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

23 And at that point I came to Barbara and said that we  
24 were already working on making some findings and  
25 recommendations, but we were probably two or three

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1 months away from fully flushing everything out and  
2 getting through the transcript, because we had a  
3 lengthy hearing.

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

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

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

25 So when we put that advisory memo out,

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1 that was on May 10th, and Brian was kind enough to  
2 help get out a news release. That jump-started the  
3 bill that was in the legislature, and I'm happy to say  
4 that it passed unanimously just a couple of weeks  
5 later.

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

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

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

24 It's in its 4th Edition, and he reached  
25 out, because he had seen some of the national

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1 attention about the bill being passed, and he wants to  
2 include something in his next treatise about this  
3 bill, and the work that we've done.

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

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

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

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

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1 Narasaki? Yes.

2 COMMISSIONER NARASAKI: I want to add my  
3 thanks and admiration for the great work that your SAC  
4 has done. I just have one question, you don't need to  
5 answer it --

6 MR. MCGUIRE: Sure.

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

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

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

24 So I will work on that and get that  
25 information to Barbara. Thank you for that.

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1 CHAIR LHAMON: Vice Chair.

2 VICE CHAIR TIMMONS-GOODSON: Yes. I too  
3 thank you for your efforts. I wanted to -- you  
4 mentioned that three of the five recommendations that  
5 your committee put forth were incorporated into the  
6 legislation -- the new proposed legislation. Can you  
7 tell us what those three were?

8 MR. MCGUIRE: Sure. So there is now --  
9 once this is signed into law, it will be impermissible  
10 to put juveniles -- that's anyone under the age of  
11 18 -- in solitary for an extended period. So that is  
12 one of the safeguards.

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

23 And this will be annual reporting that  
24 will start to be collected on January 1st of next  
25 year. And then the very last is the training and

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1 wellness support for corrections officers.

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

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

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

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

24 MR. MCGUIRE: So that was complicated,  
25 because the corrections union, which was really fairly

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1       supportive of the bill as a whole, were very defensive  
2       about coming up with a particular number of hours, for  
3       example.

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

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

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

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

20               CHAIR LHAMON: Commissioner Narasaki?

21               MR. MCGUIRE: Thanks for the support.

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

24               MR. MCGUIRE: Sure.

25               COMMISSIONER NARASAKI: -- I know that

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1 this issue is also an issue for the LGBTQ community,  
2 and I didn't see a mention in the list of  
3 recommendations. So I'm wondering if that's something  
4 that the SAC was able to address, and if not, if  
5 there's something that you might consider there?

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

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

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

23 COMMISSIONER NARASAKI: Thank you.

24 CHAIR LHAMON: Commissioner Adegbile.

25 COMMISSIONER ADEGBILE: Was the

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1       definitional issue that you just described, the  
2       recommendation that was not accepted as part of the  
3       legislation? Or was it something else? And if it was  
4       something else, can you give us some sense of why you  
5       think the other recommendation was rejected?

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

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

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

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

25      So we've had a large reduction. But part of the

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1 complication is that some of the administrative  
2 directives that are still in place are outdated, and  
3 not actually followed by the Commissioner.

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

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

19 COMMISSIONER ADEGBILE: Thanks.

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

23 MR. MCGUIRE: Yes, absolutely. No, I have  
24 until 11:00. Thank you.

25 CHAIR LHAMON: Oh, terrific. Thank you.

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1 Okay. Commissioner Kladney?

2 COMMISSIONER KLADNEY: Thank you Madam  
3 Chair. And thank you for your good work in this area.

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

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

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

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

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1           So that was a driving force. But I think  
2           that it was a general understanding that people should  
3           not be in solitary for years at a time, which there  
4           are people here that have been -- for example, in the  
5           Supermax, which opened in 1996. They had been there  
6           since it opened.

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

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

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

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

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1 this is working or necessary.

2 One of the things that came out of our  
3 mental health panel that was really kind of cutting  
4 edge I thought, we had a professor named Homer  
5 Venters, who's at NYU [New York University], and he  
6 used to be a psychiatrist at Rikers Island.

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

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

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

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1 COMMISSIONER KLADNEY: Thank you.

2 MR. MCGUIRE: No problem.

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

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

13 MR. MCGUIRE: I will --

14 CHAIR LHAMON: Thank you.

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

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

23 MR. MCGUIRE: Take care.

24 CHAIR LHAMON: Take care.

25 **L. DISCUSSION AND VOTE ON PROPOSED AMENDMENT TO**

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1                                   **EXTEND PUBLIC COMMENT PERIOD**

2                   CHAIR LHAMON:     So we'll turn back,  
3           Commissioner Kladney, to our last agenda item before  
4           moving to our presentations, and that is your proposed  
5           amendment on extending the public comment period. Is  
6           there a motion?

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

11                  CHAIR LHAMON:   Okay. Is there a second  
12          for that motion?

13                  VICE CHAIR TIMMONS-GOODSON:   I'll second  
14          that.

15                  CHAIR LHAMON:   Any discussion? Hearing  
16          none, Commissioner Adegbile, how do you vote?

17                  COMMISSIONER ADEGBILE:   Aye.

18                  CHAIR LHAMON:   Commissioner Kirsanow?

19                  COMMISSIONER KIRSANOW:   Yes.

20                  CHAIR LHAMON:   Commissioner Heriot?

21                  COMMISSIONER HERIOT:   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: Yes.

3 CHAIR LHAMON: Vice Chair Timmons-Goodson?

4 VICE CHAIR TIMMONS-GOODSON: Yes.

5 CHAIR LHAMON: And I vote yes. The motion  
6 passes unanimously. Thank you.

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

12 (Whereupon, the above-entitled matter went  
13 off the record at 10:59 a.m. and resumed at  
14 11:05 a.m.)

15 **M. PRESENTATION ON HISTORY OF LGBTQ CIVIL RIGHTS**  
16 **MOVEMENT**

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

22 I want to thank Commissioner Yaki, who is  
23 on the telephone, for suggesting this month's speaker  
24 topic, and also I welcome each of our speakers. We  
25 know June is commonly celebrated as Pride Month, and

1 today's Pride celebrations stem from a DC resident,  
2 Frank Kameny, who organized what he called an annual  
3 reminder demonstration in Philadelphia, around the 4th  
4 of July.

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

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

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

22 Last month, during our briefing about the  
23 collateral consequences of incarceration, we heard  
24 testimony and received information about the  
25 experiences of LGBT persons in prison, and through

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1 reentry into the non-incarcerated community.

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

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

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

23 Ms. Carey counts among her many successes,  
24 winning an LGBT-inclusive federal hate crimes  
25 prevention law, defeating multiple state anti-LGBT

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1 ballot measures, spotlighting discrimination against  
2 transgender people, winning marriage equality, and  
3 securing scores of changes in federal agencies, to  
4 attend to the needs of the LGBT community.

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

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

17 And our third speaker, Mara Keisling, is  
18 the Executive Director of the National Center for  
19 Transgender Equality, the nation's leading social  
20 justice advocacy organization for transgender people.

21 Since founding NCTE in 2003, Mara has led  
22 organizational and coalition efforts that have won  
23 significant advances in transgender equality.

24 As one of the nation's leading voices for  
25 transgender equality, Mara is regularly quoted in

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1 national and local print media, and now here at the  
2 Commission. So Ms. Carey, we'll hear from you first.

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

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

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

22 So I -- in terms of my own personal  
23 experience, I came out as a 16-year-old in Denver,  
24 Colorado, in the mid-'80s, in the midst of the AIDS  
25 crisis, when it was just starting. In fact, my

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1       uncle's partner died of GRID -- Gay-related Immune  
2       Deficiency Syndrome.

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

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

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

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

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1 activism.

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

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

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

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

25 I won't go back hundreds of years for our

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1 movement. I'll just mostly talk about what's  
2 considered to be the modern LGBTQ movement. Most  
3 people frame that time as starting with the Stonewall  
4 riots in New York City in 1969.

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

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

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

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

25 In 1952, the American Psychiatric

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1 Association included in its diagnostic manual,  
2 homosexuality as a sociopathic personality  
3 disturbance. And we spent 20 years before that was  
4 removed as a mental illness.

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

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

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

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

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1           The relationship between our community and  
2           the Federal Government, there are many, many markers,  
3           but the first-ever meeting of what were then out-gay  
4           and lesbian people, was in 1977, with the Carter  
5           Administration.

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

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

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

23          That we have had to build from the ground  
24          up, from zero, institutions that serve our  
25          communities. In the '70s, a lot of those

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1 organizations were social groups or community  
2 organizations, many of which turned into what are  
3 today our LGBT community service centers.

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

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

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

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

21 In terms of looking forward, and kind of  
22 the trajectory of our movement, where we are now in  
23 some ways hearkens back to the Stonewall riots. What  
24 happened that night at Stonewall, is a lot of young  
25 people, a lot of people of color, a lot of what would

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1 be considered transgender or gender non-conforming  
2 people, and a lot of drag queens, got fed up. They  
3 got fed up of being raided by the police again and  
4 again, and they said stop.

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

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

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

23 But also recognizing that each of us carry  
24 many identities. You can't be a bisexual woman one  
25 day, a Latino the next, and a mom the third day. You

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1 are all of those every single day. And as a movement,  
2 and as a country, we have to attend to people as whole  
3 people. Thank you.

4 CHAIR LHAMON: Thanks very much.  
5 Ms. Byard.

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

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

23 To do that, a bit of a personal reflection  
24 first. In June of 2009, I attended an official event  
25 at the White House for the very first time in my own

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1 life. It was a reception to celebrate LGBT pride,  
2 held by President Obama at the very outset of his  
3 first term.

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

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

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

22 And that Pride Month I mostly, at that  
23 point, closeted -- to the rest of the world at  
24 least -- got a very different message from my  
25 Government about my relationship to these United

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1 States of America, as the Supreme Court issued its  
2 decision in Bowers versus Hardwick.

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

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

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

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

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

25 Lawrence itself was only five short years before I

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1 stepped across the threshold and was welcomed at the  
2 White House.

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

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

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

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

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1           In my professional life at GLSEN, we  
2           measure our success in terms of the health and well-  
3           being of LGBT youth, and the opportunity they have to  
4           live up to their potential. So let's think about who  
5           we're thinking about here.

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

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

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

24          They cannot be separated out from their race, their  
25          religion, their -- whether or not they have a

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1 disability, or their immigration status. And what  
2 they experience every day remains very troubling.

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

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

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

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

25 And in some cases, students report they

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1 have actually been disciplined for being LGBT itself.

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

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

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

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

24 In that same YRBS where they finally were  
25 able to actually identify and document the existence

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1 of all these students across the country, this  
2 dashboard of youth well-being in America demonstrated  
3 that in every single one of the categories of risk  
4 behavior and diminished health outcomes that the CDC  
5 chooses to track, these students do more poorly -- do  
6 worse -- than their heterosexual, or gender-  
7 conforming, or cisgender, peers. Every single one.

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

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

23 A long-term study of the health effects of  
24 living in that context demonstrated that when states  
25 did not pass those measures, in those states that

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1 rejected efforts to ban marriage equality, and in  
2 those states where marriage equality eventually was  
3 passed, there was a 14 percent reduction in suicide  
4 rates among LGBT youth in those states.

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

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

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

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

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1                   What that translates into, is seven  
2 million students who are not experiencing or  
3 witnessing this routine violence. Seven million fewer  
4 students actually having this as part of their  
5 everyday experience in school.

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

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

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

25                   In the larger picture, and in the arc of

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1 our history, right now, with respect to civil rights  
2 injustice in this country, the harms of discrimination  
3 against the LGBT community are well documented, and  
4 supported by the record.

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

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

12 CHAIR LHAMON: Thank you. Ms. Keisling.

13 MS. KEISLING: Thank you so much Eliza and  
14 Rea. Thank you commissioners, Chair Lhamon. I really  
15 appreciate being here. My name is Mara Keisling. I'm  
16 57 years old, and I represent the roughly two million  
17 transgender people in the United States.

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

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1           It's something we should think about more  
2 often in general, and thought I would take the  
3 opportunity to remind us of that now.

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

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

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

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

23           Last year I was speaking at the University  
24 of Chicago Institute of Politics, and when some of the  
25 students found out that I had attended the University

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1 of Chicago, when it was question time, they said, how  
2 was the administration on transgender issues when you  
3 were there?

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

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

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

24 I want to back up about ten years to when  
25 the Americans with Disability Act was passed, around

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1 1980 -- during the debates of 1989 and 1990. There  
2 was no trans-voice in Washington. There were no  
3 trans-voices in public policy in the United States.

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

8 There was nobody to speak for trans-  
9 people. As the century ended, we started coming out.  
10 We started learning about ourselves on the Internet,  
11 and learning about each other, and building community,  
12 and started understanding why it was we were  
13 discriminated against.

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

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

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1           And that was a hard thing to sell at  
2 first, because people had this idea in their head that  
3 they had had for centuries, and it is now pretty  
4 clearly understood. As one conservative attorney told  
5 me the other day, in courts it is now a foregone  
6 conclusion, that sex discrimination protects  
7 transgender people.

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

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

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

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1           As soon as we started talking about  
2 marriage, we started winning marriage equality. We  
3 were terrified in the '80s and '90s to talk about  
4 queer children, to say that there were gay children  
5 and transgender children.

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

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

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

25           If somebody who works here at the

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1 Commission cannot use the right bathroom, they can't  
2 have a job. They just can't work here. This is not  
3 about -- I read it again this morning in the Los  
4 Angeles Times when they were talking about another  
5 rollback at the US Department of Education OCR [Office  
6 for Civil Rights], where they said -- they talked  
7 about children using the bathroom of their choice.

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

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

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

23 And Skye got up bravely in front of the  
24 State Senate Committee, and talked to them about what  
25 this meant to him. And the one thing he said that

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1 just really stuck with me, he looked at everybody, and  
2 even as a 15-year-old, he pointed his finger and he  
3 said, every day I go to school, and I worry that some  
4 kid is going to bully me.

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

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

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

25 That is why we're moving forward. We are

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1 moving faster than any civil rights movement has in  
2 American history. Not because we are better, or  
3 faster, or just -- or more -- I'm sorry -- better or  
4 smarter or more deserving.

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

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

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

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

24 And I don't know what it was about the way  
25 she said it, but I said, Senator, we are the storm.

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1 We are the ones who are raining down justice, and  
2 radical acceptance all over America. The people who  
3 are trying to roll back civil rights now are the  
4 dinosaurs holding a little fragile \$5 umbrella.

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

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

12 CHAIR LHAMON: Thank you. Thank you to  
13 each of you for your testimony and your presentations.

14 And I want to open up for questions and comments from  
15 my fellow Commissioners. Commissioner Kladney?

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

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

25 And I was wondering, how are you reaching

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1 out to them in terms of providing support for these  
2 high school kids, and these junior high or middle  
3 school kids? They live in very difficult communities.

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

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

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

22 For GLSEN, we work in a networked way with  
23 communities large and small across the country, and  
24 have local chapters that are actually in places  
25 like -- well in Omaha, Nebraska; Wichita, Kansas -- in

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1 some of these communities where teachers are really  
2 the point of contact and the point of support for the  
3 student leadership that's there.

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

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

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

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

25 I'm pleased to say professionals provide a

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1 base of support in many, many schools across the  
2 country. They are a lifeline. But we need to do much  
3 more. Thank you for your question.

4 CHAIR LHAMON: Ms. Carey.

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

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

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

23 COMMISSIONER KLADNEY: Thank you.

24 CHAIR LHAMON: Commissioner Narasaki.

25 COMMISSIONER NARASAKI: Thank you all for

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1 heartfelt personal testimony. It's hard to tell those  
2 personal studies, I know.

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

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

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

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

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

25 And I would ask them to collect data, and

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1 they would ask me to prove there was a problem, in  
2 order to prove there was a need to collect data. I  
3 know that there are similar issues in terms of gaps  
4 with federal agencies, in terms of what they are  
5 collecting, in order to better serve -- provide better  
6 programming and identify issues.

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

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

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

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1           And it's the same thing with LGBT people.  
2           Where trans-people or bi-people or other kinds of  
3           people might just be mixed into the big ball that  
4           needs to be disaggregated. Rea, if I could turn it  
5           over to you please.

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

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

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

24           If I fill out a form and my wife fills out  
25           a form, we check married to a woman, we're manually

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1 divorced. We stopped that practice, which had a  
2 residual benefit of actually counting our children.

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

7 That has been stopped.

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

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

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

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

22 CHAIR LHAMON: Commissioner Adegbile.

23 COMMISSIONER ADEGBILE: I'm wondering if  
24 there is data about the percentage of homeless youth  
25 that identify as LGBT. And to the extent that there's

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1 data about this particular topic, what specific  
2 interventions and work is happening around the country  
3 to address and provide supports for these young people  
4 who are finding themselves literally on the streets,  
5 in many cases because of very painful rejection, and  
6 then all of the associated risks that come with not  
7 having a place to call home.

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

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

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

23 Of course, on the one side is the sort of  
24 mitigation of the current situation, working with -- I  
25 was able to serve on Mayor Michael Bloomberg's

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1 Commission on Runaway and Homeless LGBT Youth, to try  
2 to ensure that there were welcoming services in those  
3 institutions set up to serve homeless youth, funding  
4 for those places that were created separately, to the  
5 separate institutions that Rea spoke of, and just to  
6 ensure that these young people had affirming access to  
7 services.

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

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

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

23 Then there are also places that other  
24 institutions can touch. I'll just mention one that  
25 seems so picayune, given the nature of the problem.

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1 One of the issues that happens for LGBT young people,  
2 is when they go to college, often young people will  
3 come out to their families in their first year of  
4 college, and be cut off.

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

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

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

23 MS. KEISLING: If I could note about the  
24 extent of the problem with transgender youth, our  
25 United States Trans Survey, in which we interviewed

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1 28,000 transgender adults, showed that about 1/5th of  
2 us who have -- about 1/5th of us have been homeless at  
3 some point in our lives, and about one in 12 have been  
4 homeless in the last year.

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

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

15 So the LGBT Center was creating new beds.

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

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

25 And I think if there were some broader

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1 knowledge about the extent to which being rejected in  
2 this way for your identity can lead to this pattern of  
3 homelessness, and the associated risks on our youngest  
4 people.

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

10 CHAIR LHAMON: Commissioner Yaki, I think  
11 I heard you trying to get in a while ago on the phone.

12 Just want to make sure you have a chance to ask a  
13 question if you do have one.

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

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

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

24 And he was -- besides being an outstanding  
25 leader, and later getting appointed to be Ambassador

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1 of Australia, he loved history, and he liked to relay  
2 a lot of stories to us. And one of the stories that  
3 stuck with me is the story of what happened to Frank  
4 Kameny.

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

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

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

22 So pickets in front of the White House --  
23 again, was at the first White House meeting -- and I  
24 think he, himself, would say that he understood both  
25 the importance of his own story, but that he was just

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1 one of thousands who had experienced that who, for a  
2 variety of reasons, could not come out about being  
3 discriminated. And very much recognized that not only  
4 his shoulders have helped many of us, but he was  
5 helped by many people and their shoulders.

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

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

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

25 People who want to serve their country.

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1 People who are serving their country -- we believe  
2 there's about 15,000 active duty transgender people.  
3 They have only been permitted to be there for less  
4 than a year. And in fact, we're still waiting for the  
5 regulations that would permit transgender people to  
6 enlist in the military.

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

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

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

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1 now.

2 MS. KEISLING: Well, in our survey of  
3 20,000 trans-people, we saw that 25 percent had not --  
4 had at one point last year not sought medical  
5 attention when they needed it, because they were  
6 afraid of being disrespected.

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

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

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1 CHAIR LHAMON: Thank you.

2 MS. KEISLING: Oh, and particularly with  
3 civil rights enforcement really at risk of severe,  
4 quick, temporary degradation. When Rea said they have  
5 stopped collecting the data, I wanted to interrupt and  
6 say, they have stalled in collecting the data.

7 But we're all in this together. All of  
8 the parts of all of us.

9 CHAIR LHAMON: Thanks.

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

15 One was the systematic underfunding and  
16 undermining of public education in the United States.

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

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

24 I would just add that there are ways today  
25 that all of this will still move forward. I think we

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1 cannot be erased from the data that has already been  
2 collected. Just this year I'm so pleased to say right  
3 now that the YRBS in 17 states is measuring -- is  
4 asking about trans-identity.

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

10 We are here, we have been counted, we  
11 continue to count, and we continue fighting.

12 CHAIR LHAMON: Thanks.

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

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

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1           So I say that because as a matter of civil  
2 rights, I think we have to continue to make the  
3 connections. Our movement is running fast to do that,  
4 and partnering very closely with other organizations  
5 and movements on the ground, so that we're making the  
6 connections for people.

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

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

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

23           COMMISSIONER YAKI: Madam Chair?

24           CHAIR LHAMON: Commissioner Yaki?

25           COMMISSIONER YAKI: Madam Chair?

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1 CHAIR LHAMON: Yes?

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

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

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

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

23 But it is really due to the efforts of the  
24 people here today, and countless others and thousands  
25 who have stood up and marched, been arrested,

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1 protested, run for office, done all the things that  
2 make us, as a democracy, work.

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

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

12 (Applause.)

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

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