

U.S. COMMISSION ON CIVIL RIGHTS

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BUSINESS MEETING

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FRIDAY, JULY 19, 2019

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The Commission convened in Suite 1150
 at 1331 Pennsylvania Avenue, Northwest,
 Washington, D.C. at 10:00 a.m., Catherine E.
 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

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STAFF PRESENT:

LASHONDA BRENSON

KATHERINE CULLITON-GONZALEZ

BARBARA DE LA VIEZ

PAMELA DUNSTON, Chief, ASCD

ALFREDA GREENE

PILAR MCLAUGHLIN

WARREN ORR

LENORE OSTROWSKY*

JUANDA SMITH

BRIAN WALCH

MARIK XAVIER-BRIER

COMMISSIONER ASSISTANTS PRESENT:

SHERYL COZART

ALEC DUELL

JASON LAGRIA

CARISSA MULDER

AMY ROYCE

RUKKU SINGLA

ALISON SOMIN

INTERNS:

BEN FALSTEIN

LAUREN KELLY

CHRISTINE KUMAR

LILLIAN OFILI

KYLE PHAM

KORI PRUETT

MARK SAUNDERS

BROOKE SCHWARTZ

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

2 (10:01 a.m.)

3 CHAIR LHAMON: Thank you. This
4 meeting of the U.S. Commission on Civil Rights
5 comes to order at 10:01 a.m. on July 19th, 2019.
6 The meeting takes place at the Commission's
7 Headquarters, which is located at 1331
8 Pennsylvania Avenue Northwest, Washington, D.C.

9 I'm Chair Catherine Lhamon. And
10 Commissioners who are present in addition to me
11 are Vice Chair Timmons-Goodson, Commissioner
12 Adegbile, Commissioner Heriot, and Commissioner
13 Narasaki.

14 On the phone, if you could confirm
15 that you are present after I say your name, I'd
16 appreciate it. I believe we have Commissioner
17 Kirsanow?

18 COMMISSIONER KIRSANOW: Present.

19 CHAIR LHAMON: Thank you.
20 Commissioner Kladney?

21 COMMISSIONER KLADNEY: Present.

22 CHAIR LHAMON: Thank you.
23 Commissioner Yaki?

24 COMMISSIONER YAKI: Here.

25 CHAIR LHAMON: Thank you. A quorum of

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1 the Commissioners is present. Is the court
2 reporter present?

3 COURT REPORTER: Present.

4 CHAIR LHAMON: Thank you. Mr. Staff
5 Director, could you confirm that you are present?

6 STAFF DIRECTOR MORALES: I am present.

7 CHAIR LHAMON: Thank you. The meeting
8 now comes to order. Is there a motion to approve
9 the agenda for this business meeting?

10 **I. APPROVAL OF AGENDA**

11 VICE CHAIR TIMMONS-GOODSON: So moved.

12 CHAIR LHAMON: Thank you.

13 COMMISSIONER ADEGBILE: Second.

14 CHAIR LHAMON: Thank you. Are there
15 any amendments? Commissioner Narasaki?

16 COMMISSIONER NARASAKI: Yes. I move
17 for the Commission to consider a statement
18 regarding the replacement of interpreters with a
19 video at immigrants' first immigration hearing
20 that has been circulated by my special assistant,
21 Jason Lagria, this past Tuesday evening.

22 CHAIR LHAMON: Thank you. Is there a
23 second?

24 COMMISSIONER ADEGBILE: Second.

25 CHAIR LHAMON: Thank you. Are there

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1 any other amendments?

2 COMMISSIONER YAKI: Madam Chair,
3 Commissioner Yaki.

4 CHAIR LHAMON: Go ahead Commissioner
5 Yaki.

6 COMMISSIONER YAKI: Yes, I would like
7 to amend the agenda to include a statement that
8 I drafted and circulated Tuesday night, regarding
9 the, hang on a second. I want to make sure I get
10 it right.

11 Regarding the recent statement of
12 President Trump in regard to U.S. Congresswomen
13 and going back to their countries.

14 CHAIR LHAMON: Thank you. Is there a
15 second?

16 COMMISSIONER NARASAKI: I second.

17 CHAIR LHAMON: Thank you. Are there
18 any other further amendments? Hearing none,
19 let's vote to approve the agenda as amended. All
20 those in favor say aye?

21 (Chorus of ayes.)

22 CHAIR LHAMON: Any opposed? Any
23 abstentions? Okay, the motion passes. One
24 Commissioner abstained, no Commissioner opposed,
25 all others were in favor.

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1 We'll now hear from the Chair of our
2 Montana Advisory Committee Gwen Kircher, on the
3 Committee's most recent report titled Bordertown
4 Discrimination in Montana.

5 BUSINESS MEETING

6 **A. PRESENTATION BY MONTANA ADVISORY**
7 **COMMITTEE CHAIR ON THE COMMITTEE'S REPORT,**
8 **BORDERTOWN DISCRIMINATION IN MONTANA**

9 CHAIR LHAMON: Chair Kircher.

10 MS. KIRCHER: Yes. Thank you, Madam
11 Chair. The Montana Committee choose to continue
12 to investigate the issue of discrimination in
13 border towns in Montana. The Natives here say
14 all of Montana towns are border towns and that
15 all towns should be investigated.

16 Our project began in the fall of 2016
17 in Billings with plans for a follow-up meeting in
18 Hardin in the spring of 2017. However, due to
19 unforeseen events in our nation's capital, our
20 committee was not approved by Congress until the
21 summer of 2017.

22 This was six months after our expected
23 appointment time in December. This setback,
24 along with the two additional shutdowns, put our
25 second briefing in Hardin off until the spring of

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1 2018.

2 Even though there were gaps in the
3 time of the briefing, the social and economic
4 relationships of Native Americans, and the White
5 community, has remained the same.

6 Many of the communities, such as
7 Hardin, were originally part of the reservation
8 that surrounds them. And the Whites commissioned
9 Congress to grant them the areas as off
10 reservation, which created a chasm between the
11 two sides that has continued until this day.

12 These areas of our state seem to have
13 more issues with discrimination than others.
14 But, along with all the other communities, people
15 who come from the outside notice the
16 discrimination right away.

17 We included the education portion in
18 this briefing as a follow-up to our previous
19 briefing. Since the current briefing was filed
20 in May, the Department of Education is now
21 investigating the school system in Wolf Point,
22 Montana.

23 They were found to have been in
24 violation of several laws, discrimination against
25 Native youth 15 years ago. And it appears that

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1 this activity has continued in the Wolf Point
2 school system.

3 Montana has the highest rate of
4 suicide in the nation, including the highest of
5 youth suicide. And of that number, the highest
6 percentage is of Native children.

7 We, like many of the urban areas, seem
8 to have a pipeline that goes straight from school
9 to prison for the youth of our community.
10 Disparities in areas of education lead to
11 poverty, addiction, suicide, crime, and other
12 behaviors that are destroying our community.

13 For these reasons we ask that, our
14 committee asks that the Commission would take
15 action in all of the recommendations that we have
16 issued in our brief. And I would like to thank
17 you for this time. If there are any questions,
18 I'd be happy to try to answer them at this time.

19 CHAIR LHAMON: Thank you very much,
20 Chair Kircher, I'm going to open for questions
21 and comments from my fellow Commissioners.
22 Commissioner Narasaki.

23 COMMISSIONER NARASAKI: I really want
24 to thank the SAC in Montana for its really
25 thorough analysis of what is going on. Sadly, it

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1 dovetails much with the report that the
2 Commission recently published last December on
3 the challenges that Native Americans are facing
4 because of the lack of funding and the other
5 issues that are happening.

6 And I was particularly struck by a
7 couple of things in your report. One was the
8 difference in terms of registration access for
9 voting. That in Big Horn, Whites had to travel
10 about, a little less than 12 miles, where Native
11 Americans had to travel an average of 22 miles,
12 and in Yellowstone, Whites traveled a little less
13 than ten miles compared to almost 32 miles for
14 Native Americans.

15 I'm wondering, it looks like there was
16 a settlement to try to start to address that, I
17 was wondering if you had an update about how that
18 was going?

19 MS. KIRCHER: Big Horn County is where
20 Hardin, Montana is, which is one of the reasons
21 that we had our briefing held there. They did
22 come up with a Band-Aid solution I'll call it.
23 It is not really, it does not really give the
24 Natives access that the Whites still have.

25 If you realize the size of our state

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1 and the size of the reservations, that is where
2 the problem is. They don't really want to have
3 a voting place, or as many, on the reservations
4 that would make it more accessible.

5 And I don't know if a lot of it has
6 to do with money, which I think that it does.
7 Which is what the counties say, they cannot
8 afford to have these other voting locations.

9 But they are still working on it. We
10 have several different grass roots Native groups
11 here, that are working on that voting issue about
12 the difference in that.

13 Yellowstone County is where Billings
14 is, and then Big Horn County is where Hardin is.
15 And that was the reason that we choose those two
16 communities.

17 Those two communities have the highest
18 number of discriminations listed and noted over
19 the, actually, a century, if you can believe
20 that.

21 COMMISSIONER NARASAKI: Thank you.
22 And I note that there were a lot of
23 recommendations and requests for the Commission
24 to act in terms of making some, sharing some of
25 the findings with the various agencies. I'm also

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1 wondering whether you were able to share your
2 findings with the State Government of Montana?

3 MS. KIRCHER: I have personally shared
4 these findings with several of our legislators.
5 I keep them informed on a lot of things that I'm
6 involved in. The Commission is not the only thing
7 that I do in this state.

8 So I keep them abreast of these
9 things. And they were all invited to attend these
10 briefings. We did have letters from a few of the
11 legislators that were not able to come, saying
12 that they could not make it. So they are aware
13 of it.

14 I have received calls from the largest
15 newspaper in the state concerning the briefing.
16 But the information is out there to the
17 legislators.

18 We do have several committees within
19 the state that were appointed by Governor Bullock
20 to address several of the issues that affect the
21 Native Americans within our state. And those
22 committees are working very hard.

23 I have been in touch with a couple of
24 the people on those committees and I am pleased
25 with the work that they are doing and what they're

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1 trying to accomplish. Our goal is to get the
2 federal government involved.

3 Our state can do what we can do but
4 we need to have federal help on some of these
5 things because these are federal laws that are
6 being broken. Or that are not being adhered to.

7 COMMISSIONER NARASAKI: Right. Well,
8 thank you very much for all of your hard work.

9 CHAIR LHAMON: Chair Kircher, I echo
10 Commissioner Narasaki's thanks to you for the
11 work. And also just wanted to note, for what use
12 it is to you, that we can use much of the material
13 that's in this report for the various reports
14 that we have pending now at the Commission. In
15 particular, I've been reading a draft of our
16 report about women in prison, and I saw that
17 there's material in this that we can incorporate
18 in that too.

19 So I very much appreciate the concrete
20 information and the ability to incorporate it
21 into the work that we are doing here at the
22 Commission.

23 I want to echo Commissioner Narasaki's
24 questions about Montana's specific focus on some
25 reform. There was information that I found

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1 really devastating in your brief that noted on
2 the first page the widespread perception of
3 unfairness in the Native American community and
4 how pervasive it is.

5 And then the contrast of that with the
6 information from the Billings police chief, who
7 doesn't consider Billings to be in close
8 proximity to a reservation, as you note, and
9 focused on an expectation, an external
10 expectation about how people will comply with law
11 as distinct from an expectation about how the
12 police community can effectively coordinate with
13 the community and be respectful of a community.

14 And I wonder if there are steps that
15 your committee plans to take to follow-up on the
16 pervasiveness of the perception of discrimination
17 and work within the state, among state officials,
18 about ways to address that perception?

19 MS. KIRCHER: The reason that we had
20 Chief St. John return to the second briefing, was
21 because of the answers that we received from him
22 and Sheriff Linder during the first briefing. At
23 that point we included the police from the Hardin
24 Bighorn County area, and also from the Rosebud
25 County areas. Those areas surround the

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1 reservation.

2 They also have numbers that are
3 exactly the same as the Billings numbers. And
4 for some reason, they also do not see that that
5 is an issue. We see that it's an issue because,
6 if you don't have that high of a population, why
7 is your jail population so much higher?

8 We have not decided what our follow-
9 up will be yet so I cannot really answer what
10 we're going to do at this point. I, myself
11 personally, would like to continue to follow-up
12 on that.

13 But I do not know what the Committee
14 will decide, and I cannot answer that. We have
15 not had a meeting to make that determination yet.

16 CHAIR LHAMON: Terrific. Thank you.
17 I look forward to hearing what you will do, and
18 again, I very much appreciate the text that is in
19 your brief. Madam Vice Chair.

20 VICE CHAIR TIMMONS-GOODSON: Yes,
21 thank you very much. I'd like to follow-up on
22 Chair Lhamon's remarks regarding the chief there
23 in Billings.

24 I was wondering, many jurisdictions,
25 in terms of reviewing discrimination complaints,

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1 have a review process that involves citizens of
2 the community as well. And so, I was wondering,
3 or thinking that perhaps as you continue your
4 discussion with the chief, that one possible
5 proposal might be that they revamp their review
6 process such that it includes some participation
7 by members of the public in that.

8 And so, I just wanted to put that out
9 there as a possible solution and have you give
10 some thought to that.

11 MS. KIRCHER: We did have a committee
12 that was, community committee that did. They
13 were the police oversight committee. That
14 committee has been disbanded by the city.

15 We do have a human relations
16 commission in Billings. And I was on that
17 committee. And they would be the ones now that
18 would take any complaint against the police.

19 While I was on that commission, we had
20 three complaints, three discrimination
21 complaints, against the police department. Two
22 involved Native Americans and one involved
23 transgender people.

24 So, the human relations commission in
25 Billings is the one that a person would have to

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1 go to if they have a complaint against the city
2 of Billings. Then that commission investigates
3 and then turns it over to whoever should actually
4 be handling the problem.

5 And that is the way the system is
6 right now in Billings.

7 However, I do need to say that there
8 have been plans to disband that commission. And
9 that commission has been fighting to stay in
10 Billings, Montana. Because right now, it is the
11 only thing we have for civil rights at all within
12 Yellowstone County.

13 VICE CHAIR TIMMONS-GOODSON: Thank
14 you.

15 CHAIR LHAMON: Commissioner Adegbile.

16 COMMISSIONER ADEGBILE: Thank you for
17 your report. I just wanted to follow-up for a
18 moment on some of the facts that you shared with
19 us about health issues with respect to Native
20 Americans in Montana. And in particular, the
21 suicide rate.

22 I think you said that Montana leads
23 the nation in the suicide rate?

24 MS. KIRCHER: Yes, we do. We're
25 number one in suicide overall. We're number one

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1 in veteran suicide and we're number one in teen
2 suicide.

3 Out of the teen suicides, the highest
4 percentage is the Native American children. And
5 we're talking about children from the age of
6 about 7. I think the youngest is 7.

7 They had five kids in the Wolf Point
8 area that killed themselves within one year. And
9 they were all junior high and elementary kids.

10 There's a very serious problem, which
11 is why now the DOE is investigating the Wolf Point
12 school system. Because of the problems there.

13 Some of the information that I would
14 receive was horrific of the things that they were
15 doing. Native Americans kids that were disabled
16 would be just locked up in a room. They would
17 get no instruction, they received nothing. They
18 were literally just being warehoused.

19 And that is what the Department of
20 Education is currently investigating, is that,
21 the Wolf Point school system.

22 COMMISSIONER ADEGBILE: Yes. It seems
23 to me that those are pretty staggering statistics
24 that no state or governmental authority would be
25 proud of. And the idea that it's being visited

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1 upon children is a real cause for alarm.

2 Are there any specific initiatives,
3 apart from the Department of Education
4 investigation, to provide some crisis level
5 response with respect to the mental health needs
6 and supports of these children and people in
7 Montana?

8 MS. KIRCHER: Yes, there were several
9 grants that were received. Governor Bullock has
10 set up a committee that is working specifically
11 on the issue of the Native youth suicides.

12 So, we do have something in the state
13 that is working on that. I do not have a lot of
14 information on it. I just know that the committee
15 was formed.

16 I think the first grant that they got
17 was only \$700,000. And I think they were supposed
18 to get another grant of about \$1 million to work
19 on that project.

20 We have seven reservations within our
21 state. We actually have eight Indian tribes.
22 One tribe has not yet been recognized by the
23 federal government.

24 So, it's a lot of area to cover. And
25 because our state is so large, it also adds a lot

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1 of problems to try and provide, especially mental
2 health services.

3 We don't have, believe it or not,
4 there is no mental health service in the eastern
5 part of all of the state of Montana. That's for
6 anybody.

7 So, we have problems providing mental
8 health services for everyone. And then it
9 becomes even more exasperated when you say that
10 it's a Native American.

11 COMMISSIONER ADEGBILE: Yes. Well,
12 thank you for highlighting this issue and
13 bringing a focus to it. It seems to me that this
14 is a red alert issue for this state and for the
15 people of Montana.

16 And I appreciate the SAC's effort to
17 try and highlight it and underscore that more
18 must be done to support the mental and physical
19 health and possibilities of generations of
20 Americans who are facing very dire situations.
21 Thank you.

22 MS. KIRCHER: Thank you.

23 CHAIR LHAMON: Commissioner Narasaki.

24 COMMISSIONER NARASAKI: Thank you. I
25 just wanted to note that the Commission will be

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1 releasing our report on the issue of
2 discrimination against students of color with
3 disabilities next week. And hopefully that might
4 help you with some of the advocacy that might be
5 happening in Montana.

6 I did want to ask our Chair, whether
7 we need to take any action to empower the staff
8 to move forward on the many recommendations that
9 the SAC made and requested us to act on.

10 CHAIR LHAMON: I don't think we do. I
11 think it's now routine for us, when we receive
12 the SAC reports, to go ahead and forward them on
13 to the agencies when they ask for it.

14 So, thank you for the request and also
15 thank you to the advisory committee for making
16 the request of us.

17 Are there other questions, including
18 from Commissioners on the phone? Hearing none,
19 Chair Kircher, thank you again for your
20 leadership on this advisory committee and for
21 taking your time today to present to us over the
22 phone. We very much appreciate it.

23 We'll next hear from the chair --

24 MS. KIRCHER: Thank you for giving us
25 the opportunity.

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1 CHAIR LHAMON: Oh, of course. We'll
2 next hear from the chair of our Massachusetts
3 advisory committee, David Harris, on the
4 committee's advisory memorandum on hate crimes.

5 **B. PRESENTATION BY MASSACHUSETTS ADVISORY**
6 **COMMITTEE CHAIR ON THE COMMITTEE'S ADVISORY**
7 **MEMORANDUM, HATE CRIMES IN MASSACHUSETTS**

8 CHAIR LHAMON: Chair Harris.

9 MR. HARRIS: Good morning and thank
10 you so much for this opportunity to speak with
11 you. I know you have a full agenda so I'm going
12 to try to concentrate on the major assertions and
13 themes that we found.

14 I know it's breaking protocol, but I
15 do want to give thanks to my committee member
16 Wendy Kaminer, who took responsibility for
17 writing this memo. And also, obviously to
18 Barbara De La Viez and --

19 CHAIR LHAMON: Chair Harris, I'm
20 sorry, we're having a --

21 MR. HARRIS: Can you hear me?

22 CHAIR LHAMON: -- we're having a hard
23 time hearing you, is it possible to get closer to
24 the phone or --

25 MR. HARRIS: Is this any better?

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1 CHAIR LHAMON: This is better, thank
2 you.

3 MR. HARRIS: Is this better?

4 CHAIR LHAMON: Yes, thank you.

5 MR. HARRIS: Okay, I'm sorry. So,
6 again, I'll just thank you for the opportunity to
7 be with you. So we undertook this issue in part
8 to support the Commission's work in the area,
9 looking at hate crimes.

10 We knew that Massachusetts had a
11 history of legislation and gubernatorial
12 initiatives to address hate crimes. And in light
13 of your report of bias and incidents, we wanted
14 to explore how well we were doing in addressing
15 it.

16 Overall, we found the Commonwealth's
17 performance falling short in terms of
18 standardized and consistent approach to
19 addressing hate crimes. And we were particularly
20 surprised by an issue raised by the defense bar
21 in terms of a lack of clarity as to what actually
22 constitutes a hate crime. That is how closely
23 it's tied to the criminal act.

24 Although we have evidence of a rise in
25 reported hate crime in recent years, it's

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1 difficult to know its actual scope in the
2 Commonwealth. There is significant under
3 reporting, particularly in the Muslim and
4 transgender communities, where we believe to be
5 areas of increased incidents.

6 This is certainly not surprising, but
7 it's deeply concerning beyond these two specific
8 populations. As we note in our memo, only 101 of
9 409 reporting jurisdictions in the Commonwealth,
10 reported one or more hate crimes in the fiscal
11 year of 2017.

12 And one expert reported to us it's not
13 unusual to have no reports from cities with
14 population of 100,000 or more, which that witness
15 found not particularly credible.

16 The reasons for this are complicated,
17 we talked about them a little in the memo. But
18 trace it to the fact that despite regulations
19 guiding data collections, reporting is voluntary.
20 And there is a lack of consistent training for
21 police departments responsible for data
22 collection and reporting.

23 There is also evidence that the
24 statute is not being applied consistently.
25 Experts' question whether incidents involving

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1 homophobia, transphobia, and Islamophobia, are
2 charged consistent with incidents of racial
3 animus.

4 The lack of data forces us to rely on
5 anecdotal evidence. But here, again, we see the
6 impact of a lack of training so far as charging
7 decisions remain largely dependent on an
8 officer's assessment.

9 According to our experts, while
10 prosecutors have the power to review charges,
11 they tend to rely on the arresting officer's
12 judgment.

13 There's also a compelling consensus
14 across disciplines and perspectives on a need for
15 increased education about the operation of bias.
16 Most experts called for increased community
17 involvement and partnerships in this regard with
18 an emphasis on training for police, but also
19 mandatory public school anti-bias training.

20 Such training takes place in a limited
21 fashion. But there's current legislation
22 mandating anti-bias education training with an
23 emphasis on consequences of unchecked hatred.

24 I should note here as an aside that
25 Massachusetts, for years, has eliminated a basic

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1 civics curriculum from our public schools. And
2 there's also legislation pending to try to
3 reinstate that.

4 There's also a recognition of the need
5 for uniform police training, including criteria
6 for identification of hate crimes, the training
7 on special handling of investigations where a
8 hate crime is suspected and training on proper
9 reporting of hate crime data.

10 As follow-up, we'd like to forward our
11 memo to the Association of Chiefs of Police as
12 well as to the Department of Education here in
13 the Commonwealth. We also would like to suggest
14 the possibility of a joint venture with other New
15 England states to think about how we're
16 addressing hate crimes in the New England region.

17 In addition, we ask the Commission to
18 consider weighing in on the need for more
19 rigorous data collection by states, as well as
20 sufficient funding for education and training to
21 combat hate crimes.

22 So, in closing I'm reminded of the
23 wisdom of Arthur Fleming who chaired the
24 Commission when I was a civil rights analyst with
25 the agency many years ago. Chair Fleming always

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1 insisted that we accept the absence of
2 enforcement powers and mandate to generate
3 information that would allow us to make change to
4 moral suasion.

5 And I commend the Commission in its
6 current state as doing that very thing. In this
7 instance we know that hate crimes are on the rise,
8 but must redouble our efforts to apply the very
9 tools already at our disposal to reduce its
10 incidence and harm.

11 On behalf of the Massachusetts
12 Advisory Committee, I'm hopeful our memo can aid
13 you in such efforts. Again, on behalf of the
14 Committee, I want to thank you for the
15 opportunity to join you this morning and welcome
16 any questions you may have.

17 CHAIR LHAMON: Thank you, Chair
18 Harris. I'll open for questions and comments
19 from my fellow Commissioners. Commissioner
20 Narasaki.

21 COMMISSIONER NARASAKI: Thank you,
22 Madam Chair, I have two questions. One is, that
23 as you know, since this report was issued because
24 the full commission is actually looking at hate
25 crimes, that we actually took a deeper dive in

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1 looking at Boston and the practices of the police
2 department there.

3 Because Boston had a long reputation
4 as doing a fairly good job, as police departments
5 go. I was wondering if you had a chance to look
6 into that department specifically and had any
7 thoughts about that, that we should take into
8 consideration?

9 MR. HARRIS: So, we didn't look at
10 Boston specifically. Our focus was really state-
11 wide. And the people we had talking to us
12 represented state-wide organizations largely.

13 So I don't think that the committee
14 itself has input I can convey to you. And
15 anything I said would be based on my own personal
16 experience.

17 COMMISSIONER NARASAKI: Well, we'd be
18 interested in that too. The second thing is, you
19 mentioned a regional joint venture, which is
20 intriguing, and I'm wondering why and what that
21 would look like.

22 MR. HARRIS: Well, I'm not sure what
23 it would look like or could look like. I do know
24 from my own experience, I was involved back in
25 the '90s when the first effort took place to

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1 create a hate crime capacity within the state.

2 And over the years, there have been
3 incidents that have occurred in Massachusetts
4 that seem to flow out of Connecticut. So there
5 seems to be kind of a relationship between
6 certain hate groups and their activity in
7 Connecticut and in Massachusetts.

8 And my sense is that we might benefit
9 by learning from one another what we're doing and
10 the different approaches that we're taking. I
11 think we here are very concerned about the
12 absence of funding and the way in which hate
13 crimes are addressed.

14 And creating a kind of a regional
15 approach could be helpful. And then something to
16 explore, we're kind of curious about it.

17 COMMISSIONER NARASAKI: Thank you.

18 MR. HARRIS: And my understanding is
19 there might be an effort underway in Rhode
20 Island. And I don't know, I think that there
21 have been other efforts to look at hate crimes
22 elsewhere in New England and it might make sense
23 to try to coordinate our efforts.

24 CHAIR LHAMON: Chair Harris, I
25 appreciate, as always, the nimbleness of your

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1 Advisory Committee, and also your creative
2 thinking about ways to maximize the effectiveness
3 of your committee among others. So I appreciate
4 that insight, among others.

5 And also, I'm very grateful that your
6 Committee, among others, have taken the time to
7 address the topic that we are addressing so that
8 we can incorporate it into our materials.

9 In particular, you highlight in your
10 presentation, and you include at Page 7 of the
11 memo, concern about a need for community
12 involvement and partnership with law enforcement
13 to address bias incidents before they become hate
14 crimes --

15 MR. HARRIS: Yes.

16 CHAIR LHAMON: -- and to ensure
17 community safety. And I wonder if you could say
18 more about where that recommendation comes from,
19 at Page 7 in your memo, and why it is of
20 significant enough concern that you highlighted
21 it for us this morning?

22 MR. HARRIS: I'm sorry, I actually was
23 having a hard time hearing you. So, I know you
24 referred to a topic on Page 7, but the question
25 is again?

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1 CHAIR LHAMON: Sorry, I will lean
2 closer to the mic as I asked you to do as well.
3 And just to say that I appreciated your
4 highlighting in your remarks, and then also,
5 including in the memo, a recommendation that the
6 underlying problem of bias requires community
7 involvement and partnership with law enforcement.

8 And I wonder if you could say more
9 about the basis for that concern, that I take it
10 as reasonably significant because you both
11 highlighted it in your remarks and included it in
12 the written memo.

13 MR. HARRIS: Okay, yes, thank you.
14 And that was something that was specifically
15 raised by the representative from the ADL but was
16 also suggested by the chair of our NAACP.

17 There are a couple of concerns. There
18 are events and incidents, recently here in
19 Massachusetts, in which police departments have
20 been involved and engaged in kind of social
21 media, hate speech.

22 And there have been incidents where
23 police departments have actually been seen as
24 contributing to an intolerant atmosphere. And
25 there's a sense that there is a need to do more

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1 work, both with community members and with the
2 police to try to think about and understand the
3 way in which bias continues to operate, continues
4 to infect the operation of our legal system, as
5 well as our general and social atmosphere.

6 And I think Mr. Trestan from the ADL,
7 whose organization has created a number of anti-
8 bias curricula and are kind of implementing those
9 in the schools, is concerned about this. And I
10 think raises a question about the extent to which
11 the police themselves have undergone this kind of
12 training and the need for it.

13 So, I mean, it reflects some things
14 about incidents that have happened here, but also
15 a general understanding that we on the Committee
16 have as well, that addressing the operation of
17 bias in all its forms and doing so across
18 institutions is probably one of the best weapons
19 we have to combat hate crimes in the first place
20 as opposed to just prosecuting them, trying to
21 address them at their root.

22 CHAIR LHAMON: Thank you. Madam Vice
23 Chair.

24 VICE CHAIR TIMMONS-GOODSON: I too
25 want to join others in thanking you for your

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1 efforts. You highlighted for us the fact that
2 reporting of hate crimes is voluntary in the
3 state. I was wondering whether there have been,
4 are any efforts underway to possibly get that
5 changed, either through lobbying for legislation
6 or any other efforts?

7 MR. HARRIS: So, to my knowledge there
8 aren't, but to tell you the truth, it would be my
9 hope that this memorandum can actually stimulate
10 an interest in doing that.

11 I mean, it's clearly a problem, and
12 the data on the kinds of reporting we have show
13 that the voluntary mechanism doesn't work.
14 However, one of the real problems has to do with
15 the extent to which these efforts are coordinated
16 and funded.

17 So that any requirement has to be, and
18 again, I'm going beyond your question, and giving
19 an opinion here, but any effort in that regard
20 really has to be coupled with adequate training
21 and the funds to do that training. Because
22 otherwise, one of the problems is, under the
23 voluntary method, people don't really know what
24 to do.

25 And so, I think there are probably

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1 legislators who will be quite interested in our
2 memo and would probably consider trying to
3 introduce some legislation.

4 As you know from the memorandum, and
5 one of the problems was that, that the funding,
6 we had this hate crimes taskforce, whose funding
7 was eliminated at a certain point. And it's one
8 thing to have it in name, but if there's no
9 funding or support for it then it can't really
10 act.

11 VICE CHAIR TIMMONS-GOODSON: Thank
12 you.

13 CHAIR LHAMON: I'll open for any other
14 questions from fellow Commissioners, including on
15 the phone. Hearing none, Chair Harris, thank you
16 again for your service and for your leadership on
17 your advisory committee and for taking your time
18 to speak with us today.

19 MR. HARRIS: Thank you all so much.
20 Take care now.

21 CHAIR LHAMON: We'll turn next to our
22 discussion and vote on proposed slates for
23 several advisory committees.

24 **C. DISCUSSION AND VOTE ON STATE ADVISORY**

25 **COMMITTEE APPOINTMENTS**

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1 CHAIR LHAMON: We'll turn first to the
2 Illinois Advisory Committee.

3 **ILLINOIS ADVISORY COMMITTEE**

4 Before we begin discussion, I remind
5 my fellow Commissioners that objections to this
6 nomination have already been shared with all the
7 Commissioners. To the extent that we would like
8 to discuss continuing objections, I remind my
9 fellow Commissioners that the Commission has a
10 policy to not defame, degrade, or incriminate any
11 person.

12 Each of these individuals has agreed
13 to volunteer time and energy in the pursuit of
14 the protection of civil rights, which we
15 appreciate. With that said, I move that the
16 Commission appoint the following individuals to
17 the Illinois Advisory Committee based on the
18 recommendation of the Staff Director.

19 Ryan Dunigan, Barbara Barreno-
20 Paschall, Jonathan Bean, Joanna Bohdziewicz-
21 Borowiec, Cindy Buys, Mark David Calaguas, Trevor
22 Copeland, Tabassum Haleem, Reyahd Kazmi, Matthew
23 Paprocki, Gregory Sanford, and Kyle Westbrook.

24 With this motion, the Commission would
25 also appoint Ryan Dunigan as the Chair of the

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1 Illinois Advisory Committee. All of these
2 members will serve as uncompensated government
3 employees.

4 If the motion passes, the Commission
5 will authorize the Staff Director to execute the
6 appropriate paperwork for the appointments, which
7 will begin on August 14, 2019 after the current
8 committee expires. Do I have a second for this
9 motion?

10 COMMISSIONER ADEGBILE: Second.

11 CHAIR LHAMON: Thank you. Any
12 discussion on this slate? Hearing none, I'll
13 call the question and take a roll call vote.
14 Commissioner Adegbile, how do you vote?

15 COMMISSIONER ADEGBILE: Aye.

16 CHAIR LHAMON: Commissioner Heriot?

17 COMMISSIONER HERIOT: I'm voting no on
18 this one. Again, this is another one that has
19 not been properly balanced.

20 CHAIR LHAMON: Commissioner
21 Kirsanow?

22 COMMISSIONER KIRSANOW: No.

23 CHAIR LHAMON: Commissioner Kladney?

24 COMMISSIONER KLADNEY: Yes.

25 CHAIR LHAMON: Commissioner Narasaki?

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1 COMMISSIONER NARASAKI: Yes.

2 CHAIR LHAMON: Commissioner Yaki?

3 COMMISSIONER YAKI: Aye.

4 CHAIR LHAMON: And Vice Chair Timmons-
5 Goodson?

6 VICE CHAIR TIMMONS-GOODSON: Yes.

7 CHAIR LHAMON: And I vote yes. The
8 motion passes. Two Commissioners opposed, no
9 Commissioner abstained, all others were in favor.

10 **MASSACHUSETTS ADVISORY COMMITTEE**

11 We'll now move to the Massachusetts
12 Advisory Committee. I move that the Commission
13 appoint the following individuals to the
14 Massachusetts Advisory Committee based on the
15 recommendation of the Staff Director.

16 David Harris, Nazia Ashraful,
17 Christina Bain, Emilio Cruz, Thomas Cushman,
18 Martha Davis, Neenah Estrella-Luna, Daniel
19 Hartman, Eric Jepeal, Wendy Kaminer, S. Atyia
20 Martin, Eva Millona, John Sivolella, Jake
21 Sussman, Siobhan Sweeney and Jessica Tang. With
22 this motion, the Commission will also appoint
23 David Harris as the Chair of the Massachusetts
24 Advisory Committee.

25 All of these members as uncompensated

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1 government employees.

2 If the motion passes, the Commission
3 will authorize the Staff Director to execute the
4 appropriate paperwork for the appointments, which
5 will begin on August 14, 2019 after the current
6 committee expires. Do I have a second?

7 COMMISSIONER ADEGBILE: Second.

8 CHAIR LHAMON: Thank you. Any
9 discussion on this appointment?

10 COMMISSIONER NARASAKI: Madam Chair,
11 I just want to thank the staff for the work
12 they've done and presenting us with an incredibly
13 diverse slate on all fronts. Thank you very much.

14 CHAIR LHAMON: Any further discussion?
15 Commissioner Heriot.

16 COMMISSIONER HERIOT: This was
17 actually one of the better balanced SACs until
18 Joshua Katzen was taken off of it, and I object
19 on that basis.

20 CHAIR LHAMON: Any other discussion?
21 Okay, I'll call the question, take a roll call
22 vote.

23 Commissioner Adegbile, how do you
24 vote?

25 COMMISSIONER ADEGBILE: Aye.

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1 CHAIR LHAMON: Commissioner Heriot?

2 COMMISSIONER HERIOT: No.

3 CHAIR LHAMON: Commissioner Kirsanow?

4 COMMISSIONER KIRSANOW: No.

5 CHAIR LHAMON: Commissioner Kladney?

6 COMMISSIONER KLADNEY: Yes.

7 CHAIR LHAMON: Commissioner Narasaki?

8 COMMISSIONER NARASAKI: Yes.

9 CHAIR LHAMON: Commissioner Yaki?

10 COMMISSIONER YAKI: Aye.

11 CHAIR LHAMON: Vice Chair Timmons-
12 Goodson?

13 VICE CHAIR TIMMONS-GOODSON: Yes.

14 CHAIR LHAMON: And I vote yes. The
15 motion passes. Two Commissioners opposed, no
16 Commissioner abstained, all others were in favor.

17 **SOUTH DAKOTA ADVISORY COMMITTEE**

18 We now move to the South Dakota
19 Advisory Committee. I move that the Commission
20 appoint the following individuals to the South
21 Dakota Advisory Committee based on the
22 recommendations of the Staff Director.

23 Tiffany Graham, Charles Abourezk,
24 Paula Antoine, Sara Frankenstein, Patrick Garry,
25 Taneeza Islam, Arlouine Gay Kingman, Brittany

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1 Kjerstad McKnight, Travis Letellier, Mike Levsen,
2 Aaron Pilcher, Thomas Simmons, and Natalie Stites
3 Means. With this motion, the Commission will
4 also appoint Tiffany Graham as the Chair of the
5 South Dakota Advisory Committee.

6 All of these members will serve as
7 uncompensated government employees.

8 If the motion passes, the Commission
9 will authorize the Staff Director to execute the
10 appropriate paperwork for the appointments, which
11 will begin on August 14, 2019 after the current
12 committee expires. Do I have a second?

13 VICE CHAIR TIMMONS-GOODSON: Second.

14 CHAIR LHAMON: Thank you. Any
15 discussion on this appointment? Hearing none,
16 I'll call the question, and take a roll call vote.

17 Commissioner Adegbile, how do you
18 vote?

19 COMMISSIONER ADEGBILE: Aye.

20 CHAIR LHAMON: Commissioner Heriot?

21 COMMISSIONER HERIOT: There are some
22 great people on this one. It is not perfect but
23 good enough for government work. Aye.

24 CHAIR LHAMON: Commissioner Kirsanow?
25 Commissioner Kirsanow?

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1 COMMISSIONER KIRSANOW: Yes.

2 CHAIR LHAMON: Commissioner Kladney?

3 COMMISSIONER KLADNEY: Yes.

4 CHAIR LHAMON: Commissioner Narasaki?

5 COMMISSIONER NARASAKI: Yes.

6 CHAIR LHAMON: Commissioner Yaki?

7 COMMISSIONER YAKI: Aye.

8 CHAIR LHAMON: Vice Chair Timmons-
9 Goodson?

10 VICE CHAIR TIMMONS-GOODSON: Yes.

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

13 I do want to note, just for purposes
14 of our effort not to defame or degrade, that my
15 view is that we have great people on all of our
16 advisory committees.

17 COMMISSIONER HERIOT: And I will
18 second that. We do have great people on all of
19 our advisory committees.

20 **WISCONSIN ADVISORY COMMITTEE**

21 CHAIR LHAMON: Thank you. We'll now
22 move to the Wisconsin Advisory Committee. I move
23 that the Commission appoint the following
24 individuals to the Wisconsin Advisory Committee
25 based on the recommendation of the Staff

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1 Director.

2 Angelique Harris, Bernardo Cueto,
3 William Flaunders, Alexander Lodge, David Nelson,
4 O. Emil Ovbiagele, Pardeep Singh Kaleka, William
5 Tisdale, Nancy Vue Tran, and Chris Walton. With
6 this motion, the Commission will also appoint
7 Angelique Harris as the Chair of the Wisconsin
8 Advisory Committee.

9 All of these members will serve as
10 uncompensated government employees.

11 If the motion passes, the Commission
12 will authorize the Staff Director to execute the
13 appropriate paperwork for the appointments, which
14 will begin on August 14, 2019 after the current
15 committee expires. Do I have a second?

16 COMMISSIONER ADEGBILE: Second.

17 CHAIR LHAMON: Thank you. Any
18 discussion on this appointment? Hearing none,
19 I'll call the question, take a roll call vote.

20 Commissioner Adegbile, how do you
21 vote?

22 COMMISSIONER ADEGBILE: Aye.

23 CHAIR LHAMON: Commissioner Heriot?

24 COMMISSIONER HERIOT: Again, not
25 properly balanced. No.

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1 CHAIR LHAMON: Commissioner Kirsanow?

2 COMMISSIONER KIRSANOW: No.

3 CHAIR LHAMON: Commissioner Kladney?

4 COMMISSIONER KLADNEY: Yes.

5 CHAIR LHAMON: Commissioner Narasaki?

6 COMMISSIONER NARASAKI: Yes.

7 CHAIR LHAMON: Commissioner Yaki?

8 COMMISSIONER YAKI: Aye.

9 CHAIR LHAMON: Vice Chair Timmons-
10 Goodson?

11 VICE CHAIR TIMMONS-GOODSON: Yes.

12 CHAIR LHAMON: And I vote yes. The
13 motion passes. Two Commissioners opposed, no
14 Commissioner abstained, all others were in favor.

15 **WASHINGTON ADVISORY COMMITTEE**

16 We'll now move to consideration of
17 interim appointments for the Washington Advisory
18 Committee. I move that the Commission appoint
19 the following individuals to the Washington
20 Advisory Committee based on the recommendation of
21 the Staff Director. Joe Silem-Enlet, Endel
22 Kolde, John Safarli, and Brian Screnar. All of
23 these members will serve as uncompensated
24 government employees.

25 If the motion passes, the Commission

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1 will authorize the Staff Director to execute the
2 appropriate paperwork for the appointments.

3 Do I have a second?

4 COMMISSIONER ADEGBILE: Second.

5 CHAIR LHAMON: Thank you. Any
6 discussion on this appointment? I'll call the
7 question and take a roll call vote.

8 Commissioner Adegbile, how do you
9 vote?

10 COMMISSIONER ADEGBILE: Aye.

11 CHAIR LHAMON: Commissioner Heriot?

12 COMMISSIONER HERIOT: Yes.

13 CHAIR LHAMON: Commissioner Kirsanow?

14 COMMISSIONER KIRSANOW: Yes.

15 CHAIR LHAMON: Commissioner Kladney?

16 COMMISSIONER KLADNEY: Yes.

17 CHAIR LHAMON: Commissioner Narasaki?

18 COMMISSIONER NARASAKI: Yes.

19 CHAIR LHAMON: Commissioner Yaki?

20 COMMISSIONER YAKI: Aye.

21 CHAIR LHAMON: Vice Chair Timmons-
22 Goodson?

23 VICE CHAIR TIMMONS-GOODSON: Yes.

24 CHAIR LHAMON: And I vote yes. The
25 motion passes unanimously.

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1 The next item on our agenda is to
2 consider project proposals for Fiscal Year 2020
3 and the Statutory Enforcement Report for Fiscal
4 Year 2021.

5 **D. DISCUSSION AND VOTE ON 2020 AND**
6 **2021 PROJECT PROPOSALS**

7 CHAIR LHAMON: For Fiscal year 2020,
8 we already have one project moving forward as
9 approved last year with a briefing likely in
10 November 2019 on sub-minimum wages for workers
11 with disabilities.

12 I appreciate, again, Commissioner
13 Heriot's suggestion that we identify statutory
14 enforcement reports two years in advance to give
15 staff and the Commission sufficient time to
16 review those materials and to be able to publish
17 on time. So we will continue with that process
18 in today's vote and for the coming years.

19 Moving forward with Fiscal Year 2020
20 program planning. I understand from the Staff
21 Director that we currently have capacity,
22 financial and otherwise, to take on two
23 additional projects. To open the floor for
24 discussion based on the rankings circulated by
25 Commissioners in the last few weeks, I move that

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1 the Commission approve, for Fiscal Year 2020, the
2 projects on bail reform and maternal mortality.
3 Is there a second?

4 COMMISSIONER ADEGBILE: Second.

5 VICE CHAIR TIMMONS-GOODSON: Second.

6 COMMISSIONER ADEGBILE: I yield to the
7 Vice Chair.

8 (Laughter.)

9 VICE CHAIR TIMMONS-GOODSON: Second.

10 CHAIR LHAMON: Thank you. I'll begin
11 with a few points about the bail reform project
12 since that is my project proposal.

13 In our 2017 report on civil rights
14 implications of municipal fines and fees, we
15 explicitly noted that the report would not take
16 up issues of bail and pre-trial incarceration.

17 Nevertheless, the report noted that
18 the March 2016 Dear Colleague Letter, issued by
19 the United States Department of Justice, and
20 later rescinded by then Attorney General
21 Sessions, stated the principle that, quote,
22 courts must not employ bail or bond practices
23 that caused indigent defendants to remain
24 incarcerated solely because they cannot afford to
25 pay for their release, end quote.

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1 Similar to the issue of fines and
2 fees, in which we found that some jurisdictions
3 were targeting low income communities and
4 communities of color, in the assessment of high
5 fees for low level offenses, there is evidence of
6 injustice with respect to bail practices that
7 hold the defendant in jail, if the defendant
8 cannot pay a certain amount, regardless of
9 ability to pay or a nexus with public safety,
10 even where the defendant has not been charged
11 with any offense.

12 The real-life impact of pre-trial
13 detention should not be underestimated.
14 Individuals, quote, may lose their jobs, default
15 on vehicles, lose their homes, get behind on
16 child support payments, lose custody of dependent
17 children, and more, as found by the Justice
18 Policy Institute.

19 The past couple of years have seen
20 varying stages of reform on this issue, including
21 in the great State of California, where I now
22 live, and in various states around the country.

23 This issue has seen coalitions built
24 across the political aisle with proponents of
25 criminal justice reform, including reform in

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1 pre-trial detention and money bail, coming from
2 both progressive and conservative advocates.

3 This project would evaluate the
4 current state of money bail in operation in
5 states and local jurisdictions around the
6 country, and how it impacts the fair
7 administration of justice as well as whether it
8 operates in a manner that denies equal protection
9 of the law to individuals on the basis of race or
10 another protected class.

11 It will also evaluate the role of the
12 private bail industry and how the involvement of
13 the private sector exacerbates or mitigates these
14 impacts. I look forward to taking up this
15 critical issue with a bipartisan lens and hope
16 that my fellow Commissioners will support it.

17 Commissioner Adegbile, as a sponsor of
18 the project on maternal mortality, would you like
19 to begin our discussion on that topic, and we can
20 then discuss both together, if there's any
21 discussion?

22 COMMISSIONER ADEGBILE: Absolutely.
23 The issue of maternal mortality is one that is
24 receiving some increased attention, and indeed,
25 in my judgement, needs to receive still more.

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1 There is evidence that there are some
2 significant disparities in the experience of
3 maternal mortality. And the fact that there are
4 disparity levels that are quite severe impacting
5 minority populations, African American
6 populations and others, is something on which I
7 would like us to train our focus, to dig into
8 some of the underlying causes, examine some of
9 the pending legislation and assess whether or not
10 there are opportunities for the Commission to use
11 its analytical force and power to help illuminate
12 the importance of this issue.

13 CHAIR LHAMON: Thank you. I'll ask
14 those who are on the phone to please mute your
15 lines if you're not speaking, we're getting a
16 little bit of feedback. And I'll open for
17 discussion of these topics if there is any.

18 Hearing none -- Again, with the
19 respect to put your line on mute if you are on
20 the phone because we are hearing significant
21 background noise.

22 I'll call the question and take a roll
23 call vote on this motion. Commissioner Adegbile,
24 how do you vote?

25 COMMISSIONER ADEGBILE: Aye.

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1 CHAIR LHAMON: Commissioner Heriot?

2 COMMISSIONER HERIOT: I vote no on
3 these.

4 CHAIR LHAMON: Commissioner Kirsanow?

5 COMMISSIONER KIRSANOW: No.

6 CHAIR LHAMON: Commissioner Kladney?

7 COMMISSIONER KLADNEY: Yes.

8 CHAIR LHAMON: Commissioner Narasaki?

9 COMMISSIONER NARASAKI: Really no,
10 even on bail?

11 COMMISSIONER HERIOT: It's together.

12 COMMISSIONER NARASAKI: Yes.

13 CHAIR LHAMON: Commissioner Yaki?

14 COMMISSIONER YAKI: Aye.

15 CHAIR LHAMON: Vice Chair Timmons-
16 Goodson?

17 VICE CHAIR TIMMONS-GOODSON: Yes.

18 CHAIR LHAMON: And I vote yes. The
19 motion passes. Two Commissioners opposed, no
20 Commissioner abstained, all others were in favor.
21 If you are not speaking and you are on the phone,
22 please mute your line.

23 The next item for discussion and vote
24 is our Fiscal Year 2021 program planning for the
25 statutory enforcement report for Fiscal Year

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1 2021. As I mentioned, we'll continue our
2 practice of voting two years in advance.

3 And I'll open the floor for motions
4 now on projects for consideration.

5 COMMISSIONER ADEGBILE: Madam Chair?

6 CHAIR LHAMON: Commissioner Adegbile.

7 COMMISSIONER ADEGBILE: I would like
8 to move for consideration of a disaster relief
9 and FEMA concept paper and analysis that
10 Commissioner Yaki and I are proposing jointly. I
11 circulated a draft, or I should say we circulated
12 a draft, of this proposal.

13 I did, shortly before our meeting,
14 circulate a minor revision correcting some
15 typographical and stylistic points that I have
16 shared with the Commissioners.

17 I take it that those who are on the
18 phone have the revision in their email. And I
19 would be happy to read those minor changes into
20 the record at an appropriate time.

21 But I move consideration of this
22 concept paper, jointly, with Commissioner Yaki.

23 CHAIR LHAMON: Thank you. Is there a
24 second?

25 COMMISSIONER HERIOT: I second.

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1 CHAIR LHAMON: So, I'll open the floor
2 for discussion. Commissioner Yaki or
3 Commissioner Adegbile, would you like to begin
4 our discussion of the topic?

5 COMMISSIONER ADEGBILE: Commissioner
6 Yaki, would you like me to begin?

7 COMMISSIONER YAKI: Sure.

8 COMMISSIONER ADEGBILE: 2017 was a
9 year that saw some major natural disasters hit
10 various regions of our country and wreak very
11 substantial devastation that required the
12 substantial mobilization of FEMA and local
13 resources to attend to American populations that
14 were in distress.

15 The Stafford Act and certain other
16 federal provisions dictate and provide some
17 guidance about how FEMA is supposed to go about
18 in discharging its duties.

19 And this natural disaster response
20 concept paper is intended to shine a light on
21 FEMA's preparedness and response to major natural
22 disasters in different parts of the country and
23 to see how they are affecting different
24 populations and whether or not there are any
25 disparities or concerns that this Commission

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1 should be aware of and that we should highlight
2 for the benefit of the federal government and of
3 the population, so that we can improve in the
4 future at these times of crisis.

5 I thank Commissioner Yaki for his
6 substantial guidance on framing this concept
7 paper. And I look forward to the Commission's
8 effort to try and shed some light.

9 CHAIR LHAMON: Thanks. Any discussion
10 on this proposal? Vice Chair.

11 COMMISSIONER YAKI: Yes. This is
12 Commissioner Yaki.

13 CHAIR LHAMON: Go ahead, Commissioner
14 Yaki.

15 COMMISSIONER YAKI: I want to thank
16 Commissioner Adegbile for his leadership in
17 reviving a concept paper that I put together,
18 approximately this time last year. I would say
19 that one of the interesting things that has
20 occurred in my life is that I may be the only
21 current United States Commissioner on Civil
22 Rights who has actually ever had to directly work
23 with FEMA in response to a natural disaster,
24 which I did after the earthquake in the San
25 Francisco Bay area in 1989.

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1 And as Congresswoman Nancy Pelosi's
2 Chief of Staff, I was tasked with attempting to
3 work with them. And after a somewhat bad response
4 to a hurricane called Hugo on the North Carolina
5 coast, it was incumbent upon us to attempt to
6 steer them in the right direction and to teach
7 them things such as, what is a condominium and
8 what is seismic, things they had never
9 understood before.

10 Almost 30 years later, FEMA is still
11 learning, or is still on a learning curve. And
12 I think that the points brought up in our
13 proposal, regarding the comparable response
14 aspect of this agency to different areas,
15 different populations, is something that is
16 worthy of our discussion and our inquiry.

17 And I thank my fellow Commissioner for
18 bringing this back, and I look forward to working
19 with him to shed light on an agency that is
20 responsible for responding at some of the worst
21 times in people's lives. And ensuring that it
22 does so in a way that respects the diversity of
23 our country. Thank you.

24 CHAIR LHAMON: Thank you.
25 Commissioner Narasaki?

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1 COMMISSIONER NARASAKI: No.

2 CHAIR LHAMON: Oh, Madam Vice Chair.

3 VICE CHAIR TIMMONS-GOODSON: Thank
4 you. I would like to thank Commissioner Adegbile
5 and Commissioner Yaki for putting this forward.
6 I do intend to support the natural disaster
7 response concept paper.

8 Last year, North Carolina was among
9 the jurisdictions that were strongly affected by
10 Hurricane Florence. In fact, just 30 miles or so
11 from my home, folks are still reeling from the
12 effects of that natural disaster.

13 And I think the only way that we get
14 better, and improve our services, regardless of
15 what area you're talking about, but governmental
16 services is for us to review what we did well and
17 what we perhaps could improve upon. That's the
18 only way that we get better. And I thank you for
19 having the Commission shine the light on this.

20 CHAIR LHAMON: Commissioner Narasaki.

21 COMMISSIONER NARASAKI: I also intend
22 to support this as the statutory report. Sadly,
23 I won't be around to actually attend the
24 briefing.

25 It is shocking to me that this much

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1 time after the disaster in Puerto Rico that
2 Puerto Rico is being treated so badly. And that
3 the people of Puerto Rico, who are American
4 citizens, are being left without the full support
5 of their government. I think it's shocking and
6 so it's time for the Commission to take it up.

7 CHAIR LHAMON: Thank you. Any further
8 discussion on this proposal?

9 Okay, I'll call the question and we'll
10 take a roll call vote. Commissioner Adegbile,
11 how do you vote?

12 COMMISSIONER ADEGBILE: Madam Chair,
13 two quick questions. One, does the record
14 reflect a second?

15 COMMISSIONER HERIOT: I seconded.

16 CHAIR LHAMON: Yes.

17 COMMISSIONER ADEGBILE: Okay. And
18 thirdly, instead of secondly in that case, is the
19 Commission --

20 COMMISSIONER YAKI: Fourthly.

21 COMMISSIONER ADEGBILE: Fourth.

22 (Laughter.)

23 COMMISSIONER ADEGBILE: Is the
24 Commission satisfied with the redline that I
25 provided or is there any need for me to read the

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1 largely ministerial changes into the record?

2 CHAIR LHAMON: I think we would all
3 appreciate if you did not.

4 (Laughter.)

5 CHAIR LHAMON: So, thank you.

6 COMMISSIONER ADEGBILE: It makes me
7 sad that my voice is so cacophonous that it leads
8 my fellow Commissioners to that position, but --

9 CHAIR LHAMON: I cast no aspersions on
10 your voice.

11 COMMISSIONER ADEGBILE: But I
12 recognize it none the less.

13 COMMISSIONER YAKI: It is very
14 soothing, Commissioner Adegbile.

15 (Laughter.)

16 COMMISSIONER ADEGBILE: If it's time
17 to vote --

18 COMMISSIONER YAKI: In fact, the
19 problem with a 7:00 a.m. meeting on the West Coast
20 is I have a dire urge to fall back asleep, so
21 we're all --

22 (Laughter.)

23 COMMISSIONER ADEGBILE: I've been told
24 my voice has that impact.

25 CHAIR LHAMON: Before you vote, I

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1 under Commissioner Heriot has a comment or a
2 question?

3 COMMISSIONER HERIOT: No. I decided
4 it's not worth it.

5 (Laughter.)

6 CHAIR LHAMON: Okay, thank you. Okay,
7 so now we are back to the vote. Commissioner
8 Adegbile, how do you vote?

9 COMMISSIONER ADEGBILE: Aye. And
10 goodnight, Commissioner Yaki.

11 (Laughter.)

12 CHAIR LHAMON: Commissioner Heriot?

13 COMMISSIONER HERIOT: I've got real
14 doubts that we've got the capability of doing
15 this well, but like, what the heck, let's vote
16 yes here.

17 CHAIR LHAMON: Okay. Commissioner
18 Kirsanow?

19 COMMISSIONER KIRSANOW: Yes.

20 CHAIR LHAMON: Commissioner Kladney?

21 COMMISSIONER KLADNEY: Yes. Yes.

22 CHAIR LHAMON: Commissioner Narasaki?

23 COMMISSIONER NARASAKI: Yes.

24 CHAIR LHAMON: Commissioner Yaki?

25 COMMISSIONER YAKI: Oh, oh, yes.

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1 CHAIR LHAMON: Vice Chair Timmons-
2 Goodson?

3 VICE CHAIR TIMMONS-GOODSON: Yes.

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

6 The next item on our amended agenda is
7 a discussion and vote on a proposed statement
8 titled, U.S. Commission on Civil Rights denounces
9 replacement of interpreters with a video at
10 immigrants' first immigration hearing,
11 introduced by Commissioner Narasaki.

12 **E. U.S. COMMISSION ON CIVIL RIGHTS,**
13 **ANNOUNCEMENT REPLACEMENT OF INTERPRETERS**
14 **WITH A VIDEO AT IMMIGRANTS FIRST**
15 **IMMIGRATION HEARING**

16 CHAIR LHAMON: Commissioner Narasaki,
17 could you please read the statement proposed for
18 consideration?

19 COMMISSIONER NARASAKI: Yes, thank
20 you, Madam Chair. And consistent with our
21 accepted practice, I will not be reading the
22 footnotes.

23 It's entitled, the U.S. Commission on
24 Civil Rights Denounces Replacement of
25 Interpreters with a Video at Immigrants' First

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1 Immigration Hearing. The Commission on Civil
2 Rights strongly objects to the Department of
3 Justice's plans to replace in-person interpreters
4 at immigrants' first immigration hearing with a
5 video recorded in multiple languages.

6 The elimination of interpreters is a
7 significant impediment to the fair administration
8 of justice. And is a blatant violation of the
9 due process and civil rights of immigrants with
10 limited English proficiency who are entitled to
11 understand what is happening at their hearings.

12 Under the new policy, the master
13 calendar hearings where immigration judges
14 schedule future hearings and advise immigrants of
15 their rights will no longer have in-person
16 interpreters. Instead, interpreters will be
17 replaced with a video recorded in multiple
18 languages that would purport to inform immigrants
19 of their rights and the course of the
20 proceedings.

21 If a limited English proficient
22 immigrant does not understand the video or has
23 questions, or if the immigrant and judge need to
24 communicate with each other, judges will have to
25 rely on the chance that someone in the building

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1 speaks the immigrant's language, which may be a
2 less common indigenous language, or rely on a
3 telephone service that judges say is inadequate
4 or delayed.

5 Or the judge may have to reschedule
6 the hearing, which will add costly delays rather
7 than add efficiency.

8 The Department of Justice claims that
9 this move is due to limited resources. While the
10 Commission acknowledges that all federal agencies
11 have fiscal pressures, cost pressures do not
12 exempt agencies from their responsibility to
13 ensure due process and civil rights requirements
14 are met, especially when the serious consequences
15 of being deported are involved.

16 Under executive order 13166, federal
17 agencies must provide meaningful access to the
18 programs and services they provide to limited
19 English proficient individuals, under the
20 national origin discrimination provisions of
21 Title VI of the Civil Rights Act of 1964, which
22 include language access.

23 Immigrants already face many barriers
24 to a fair hearing in immigration court. They
25 only have the right to counsel in immigration

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1 proceedings at their own expense. And most have
2 no attorneys because of the remoteness of many of
3 the detention centers, the expense, and the
4 difficulty of being able to find representation
5 while in detention.

6 The immigration court system also
7 faces a large backlog. And immigrants, including
8 those seeking asylum or fighting deportation,
9 often wait years for the cases to be decided.

10 Immigration judges have already
11 complained that not having in-person interpreters
12 at these initial hearings will disrupt
13 proceedings and waste time.

14 Since the 1960s, the Commission and
15 its state advisory committees have chronicled the
16 civil rights implications of our nation's
17 immigration laws and policies. We strongly urge
18 the Department of Justice to reverse its
19 decision.

20 And we urge Congress to require the
21 Department to provide interpreters at all stages
22 of immigration cases.

23 CHAIR LHAMON: Thank you. Do we have
24 a motion to approve the statement, to open the
25 floor for discussion?

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1 VICE CHAIR TIMMONS-GOODSON: So moved.

2 CHAIR LHAMON: Do we have a second?

3 COMMISSIONER ADEGBILE: Second.

4 CHAIR LHAMON: Thank you. Is there
5 any discussion on the statement? I'll begin with
6 you, Commissioner Narasaki, as the sponsor of the
7 statement.

8 COMMISSIONER NARASAKI: I think the
9 statement stands for itself. It's a fairly
10 simple proposition that people who are going
11 through a legal process should have the right to
12 understand, in their language, what is going on.

13 CHAIR LHAMON: Thank you. Any further
14 discussion? Commissioner Heriot.

15 COMMISSIONER KLADNEY: Madam Chair,
16 Commissioner Kladney. I'd just like to note that
17 I've taken part in hearing the administrative
18 hearings where interpreters have been on the
19 phone and it is very difficult and disruptive for
20 the client to, well, my client at the time,
21 clients, to get a complete comprehension of
22 what's going on and understanding. And it does
23 take an inordinate, more time in the courtroom
24 process. Thank you.

25 CHAIR LHAMON: Thank you.

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1 Commissioner Heriot.

2 COMMISSIONER HERIOT: I'm going to be
3 voting no on this one. I'm concerned that we're
4 getting our news from the newspapers here.

5 I would like to see in writing what
6 the policy is. And I think we should be
7 consulting with the Department of Justice and get
8 their side of the story better than simply quotes
9 from the newspapers.

10 And it's very hard to get translators
11 for indigenous languages.

12 My understanding is that these first
13 hearings are basically cattle calls, where you
14 get a date. And I'm concerned that we're a little
15 premature on this and that I'm not certain what
16 side of this we ought to be on.

17 CHAIR LHAMON: Thank you. Any other
18 discussion? I'll call the question and take a
19 roll call vote. Commissioner Adegbile, how do
20 you vote?

21 COMMISSIONER ADEGBILE: Aye.

22 CHAIR LHAMON: Commissioner Heriot?

23 COMMISSIONER HERIOT: No.

24 CHAIR LHAMON: Commissioner Kirsanow?

25 COMMISSIONER KIRSANOW: No.

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1 CHAIR LHAMON: Commissioner Kladney?

2 COMMISSIONER KLADNEY: Yes.

3 CHAIR LHAMON: Commissioner Narasaki?

4 COMMISSIONER NARASAKI: Yes.

5 CHAIR LHAMON: Commissioner Yaki?

6 COMMISSIONER YAKI: Aye.

7 CHAIR LHAMON: Vice Chair Timmons-
8 Goodson?

9 VICE CHAIR TIMMONS-GOODSON: Yes.

10 CHAIR LHAMON: And I vote yes. The
11 motion passes. Two Commissioners opposed, no
12 Commissioner abstained, all others were in favor.

13 The next item on our amended agenda is
14 a discussion and vote on a proposed statement
15 titled, U.S. Commission on Civil Rights Strongly
16 Condemns the Recent Statements of President Trump
17 Telling U.S. Congresswomen to Leave the Country
18 and, quote, Go Back to Their Countries,
19 introduced by Commissioner Yaki.

20 **F. DISCUSSION AND VOTE ON A PROPOSED STATEMENT**
21 **TITLED, U.S. COMMISSION ON CIVIL RIGHTS STRONGLY**
22 **CONDEMNS THE RECENT STATEMENTS OF PRESIDENT TRUMP**
23 **TELLING U.S. CONGRESSWOMEN TO LEAVE THE COUNTRY**
24 **AND "GO BACK TO THEIR COUNTRIES"**

25 CHAIR LHAMON: Commissioner Yaki,

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1 could you please read the proposed statement for
2 consideration?

3 COMMISSIONER YAKI: Thank you very
4 much, Madam Chair. And in, perhaps a Commission
5 first, I decided not to use any footnotes at all.

6 First paragraph. The U.S. Commission
7 on Civil Rights, by a majority vote, strongly
8 condemns statements by the President declaring
9 that elected United States Congresswomen should,
10 quote, go back, end quote, to countries they,
11 quote, originally came from, end quote.

12 Notwithstanding that all, therefore
13 all four congresswomen, their county is in fact
14 the United States. Such racist and nativist and
15 xenophobic statements undermine the equality
16 principles to which this country aspires, instill
17 and promote division and fear among Americans and
18 seeks to denigrate some among us as less American
19 than others.

20 Next paragraph. Throughout the
21 history of this country, racism and bigotry has
22 often manifested itself in jingoistic
23 sloganeering, asking immigrants or others,
24 regardless of citizenship or birthright, to,
25 quote, return home, end quote.

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1 The Know Nothing party, which began
2 its life as the Native American party, campaigned
3 openly against Catholicism and advocated that
4 Irish and German Catholics to return to their
5 native countries, and native in quotes. Various
6 movements in the 1800s sought to, quote, resettle
7 freed African-American enslaved people in West
8 Africa, notwithstanding generations of living in
9 the United States. Latin and Asian Americans
10 have often been the recipients of slurs, ending
11 in quote, go back home, end quote.

12 Next paragraph. Particularly for many
13 Americans whose roots, recent or deep, are not
14 from White European ancestors, there's been an
15 unfortunate truth that at some point in their
16 lives someone, because of racism, bigotry, or
17 ignorance, has told them to, quote, go back home
18 to
19 a country not of their birth, often not even of
20 their ancestry, solely because someone does not
21 like their skin color, their ethnicity, or their
22 accent.

23 Next paragraph. This claimed
24 separation of true Americans from others is
25 divisive, logically flawed, and undermines core

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1 American values. Americans, all of us, are at
2 home here.

3 None of us has some place else we
4 should go back to when we disagree with an elected
5 leader. And certainly, no elected leader should
6 suggest otherwise.

7 Free speech, including the freedom to
8 dissent and the ability of all Americans to
9 participate in a robust marketplace of ideas, are
10 hallmark American ideals. In our democracy, the
11 right of the legislative and executive branches
12 and the individuals within each to disagree, is
13 a bedrock principle of the separation of powers
14 enshrined in our Constitution.

15 The Commission, which Congress has for
16 six decades, charged to advise the President and
17 Congress about status of civil rights, roundly
18 condemns irresponsible rhetoric that castigates
19 disagreement in a manner that renders Americans
20 less safe, less welcome in their own country and
21 divides this country based on stereotyped
22 attribution of values, based on historic or
23 recent national origin.

24 This Commission has already urged the
25 Administration to increase hate crime enforcement

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1 to combat the rise of White nationalism. The
2 President's recent comments only exacerbate the
3 problem of White nationalism by normalizing one
4 of their most racist tropes.

5 On this issue I want to -- there's a
6 typo. I have the word S, the S should be stricken
7 on racist.

8 Final paragraph. With this statement,
9 the Commission uses our voice to reaffirm
10 American values of inclusion and respect for
11 dignity of all persons in our midst. We call on
12 the President to use his platform likewise to
13 lead, rather than to tear down, this country.

14 CHAIR LHAMON: Thank you. Do we have
15 a motion to approve the statement to open the
16 floor for discussion?

17 COMMISSIONER NARASAKI: So moved.

18 CHAIR LHAMON: Is there a second?

19 COMMISSIONER ADEGBILE: Second.

20 CHAIR LHAMON: Thank you. Any
21 discussion on this statement? Commissioner Yaki,
22 I'll begin with you as the sponsor of the
23 statement.

24 COMMISSIONER YAKI: Well, I mean, I
25 would actually like to defer first to my

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1 colleagues. And I wanted to thank many of my
2 colleagues for their input on participation.

3 For when I wrote this, I wrote it
4 late. It was a little ragged and I want to thank
5 all of you for your assistance.

6 But I'd like to hear from you first,
7 and then I'd like to sort of give a closing, Madam
8 Chair.

9 CHAIR LHAMON: Okay. Madam Vice
10 Chair.

11 VICE CHAIR TIMMONS-GOODSON: Yes. I
12 struggle on, and with, the frequency with which
13 the Commission should issue public comments and
14 statements regarding tweets and other statements
15 by our President, who often says things that I
16 deem offensive and harmful.

17 And I have struggled with this
18 particular one. It seems that at the rate that
19 we're going this Commission could spend much of
20 its time issuing statements condemning or
21 criticizing our President's statement.

22 But on this one, after some struggle,
23 I don't see how I cannot support it. That is
24 because of the additional, there has been so much
25 fallout from this. So, you have other folks

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1 picking up on this direction.

2 As recently as a couple of days ago,
3 our President was in my home state of North
4 Carolina, and during the course of his remarks a
5 rally chant began, send her back. Or something
6 to that effect.

7 And I think this marks just the
8 beginning. And so I'll be joining in this
9 statement. And I thank you, Commissioner Yaki,
10 for taking the leadership on this. And I see the
11 merit in what you began early on. Thank you.

12 CHAIR LHAMON: Thank you.
13 Commissioner Narasaki.

14 COMMISSIONER NARASAKI: Like the Vice
15 Chair, I have been hesitant about supporting this
16 statement. Not because I don't believe in it,
17 but like her, I believe that the subject of the
18 statement is making incendiary statements on a
19 regular basis. And I'm concerned that we'll have
20 to expend substantial energy and time responding
21 to tweets.

22 However, my social media feeds
23 exploded with statements from friends and
24 colleagues, recalling their personal hurt and
25 outrage about being told to go back to where they

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1 came from, though they were U.S. citizens. I,
2 myself, have felt that pain.

3 The pain felt by friends not born
4 here, but whose families chose America as their
5 home, is no less than those who were born
6 citizens. There is no question in any of our
7 minds that the tweet is racist.

8 It is distressing to see members of
9 the party of Lincoln trying to defend them.
10 President Reagan said, you can live in France,
11 but you cannot become a Frenchman.

12 You can live in Germany or Turkey or
13 Japan, but you cannot become a German, a Turk or
14 a Japanese. But anyone from any corner of the
15 earth can live in America and become an American.
16 That is the beauty of this country.

17 My father believed, as the four
18 Congresswomen believed who were the target of the
19 tweets, that real patriotism is standing up to
20 bullies and loving the United States enough to
21 call it out where it can do better and make the
22 sacrifices necessary to help it to live up to its
23 promises and its founding documents.

24 My father volunteered to fight in
25 Europe during World War II to defend America's

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1 freedom, even though the country of his birth put
2 him and his American born mother behind barbed
3 wire because of the color of their skin and their
4 ancestry.

5 Commissioner Yaki, who's often the
6 conscience of this Commission, has convinced me
7 that silence is read by White supremacists as
8 acceptance and agreement. However, where we are,
9 the barrage of bigotry from a President who is
10 emboldening White supremacists, we cannot let it
11 become normal.

12 Unchallenged racism and bigotry led to
13 the internment of over 120,000 Japanese Americans
14 in concentration camps and the deaths of millions
15 of Jewish people in the Holocaust.

16 The Commission's job is to be the
17 conscience of the nation on civil rights. And
18 unfortunately, silence in this case is simply not
19 an option. Thank you.

20 CHAIR LHAMON: Thank you. Any other
21 discussion? Commissioner Yaki, did you want to
22 give your --

23 COMMISSIONER YAKI: All right, thank
24 you very much colleagues. And I first want to
25 thank both Commissioners Timmons-Goodson and

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1 Commissioner Narasaki for supporting this.

2 It is a sad state of affairs when we
3 have to ask ourselves, as a Commission and as
4 Americans, as individuals, do we need to respond,
5 yet again, to another outrage that goes to the
6 heart of attempting to redefine who or what is an
7 American in this country.

8 And it is tiring, it is fatiguing, it
9 is humiliating, it is angering. But like them,
10 in this particular instance, when a vicious, well
11 worn, racist trope of telling people who do not
12 look like you, who do not talk like you, who do
13 not come from the same neighborhood or city or
14 country or anywhere, to go back home as if you,
15 as an American, have any other home, but this
16 country, prompted me to take this action.

17 This was even before, as Commissioner
18 Timmons-Goodson pointed out, the horrible
19 chanting at the rally the other night,
20 spontaneous chants of, send her back, referring
21 to one of the Congresswomen, and the refusal of
22 the person speaking at that event, who prompted
23 these chants, to do anything to stop, prevent, or
24 rebuke that chant.

25 We cannot normalize this kind of

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1 wording in our country. We cannot normalize this
2 kind of response in this country.

3 It has been something that has been
4 part of the darker side of our nature for
5 generations. And this country has always sought
6 to rise above that and adhere to its ideals and
7 understand that, as Commissioner Narasaki said,
8 being an American is not bound by race, it is not
9 bound by color or creed or national origin or
10 religion, it is who we are put together by people
11 200 years ago in a magnificent experiment called
12 constitutional democracy.

13 When someone attempts to create a
14 dividing line at the who or what constitutes an
15 American, the Civil Rights Commission has to act,
16 it has to stand, and it has to stand united. I
17 urge my colleagues, all of my colleagues on both
18 sides of the aisle, to support this measure.

19 This is not about whether or not you
20 agree or disagree with all the policies and
21 principles of the current occupant of 1600
22 Pennsylvania Avenue, it is about the fact that as
23 a Commission and as a country, no occupant of
24 1600 Pennsylvania Avenue should ever utter these
25 types of words or this type of phrase or create

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1 this kind of expectation or normalcy around
2 statements such as these.

3 We are better than that. That is not
4 who we have been, that is not what we have
5 struggled to do. It is not what, as Abraham
6 Lincoln said, it does not rise to the better
7 angels of our nature. It is not who we are as
8 Americans. And I thank you for your
9 consideration. And I thank you for your support.

10 CHAIR LHAMON: Thank you.
11 Commissioner Heriot.

12 COMMISSIONER HERIOT: I'm not going to
13 be able to join this statement as it's written
14 right now, but let me say a few words at least
15 here. While I disagree with parts of the majority
16 statement today, I agree with my colleagues'
17 point that the President's recent tweets were ill
18 considered.

19 Whether intended or not, it was
20 predictable that these statements would be
21 interpreted by many the way the Commission now
22 interprets them. Still, it needs to be pointed
23 out that the words racist and white nationalist
24 are tossed around entirely too promiscuously
25 these days. The temperature needs to be brought

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1 down.

2 Like the President, I have profound
3 disagreements on just about every major policy
4 issue with the four Congresswomen who were the
5 subject of the tweets condemned by the Commission
6 statement. Nonetheless, it's my view that he
7 should not have said what he said, in the way he
8 said it.

9 All four Congresswomen are American
10 citizens. Three of the four were born in the
11 United States. The United States is their home.

12 One can disagree strenuously with the
13 four Congresswomen's policy views without
14 implying that they are somehow less American than
15 any of the rest of us.

16 CHAIR LHAMON: Thank you.
17 Commissioner Adegbile.

18 COMMISSIONER ADEGBILE: Yes. Thank
19 you, Commissioner Yaki, for your work on this
20 statement. I would just add that, as I understand
21 it, at the rally the other day where this chant
22 and sentiment was renewed, you can see in the
23 pictures and video that there were children
24 present.

25 And there are many things that we call

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1 upon leaders to do, but a principal thing is to
2 set a tone from the top that we all aspire to.
3 And when we have a rally where American children
4 are being taught, literally taught, to espouse
5 and embrace these types of racist sentiments,
6 we're not only debasing the office, but we are
7 debasing the lived experience of the country,
8 from its founding to the present day.

9 And the people who have sat before
10 this Commission over decades, some of whom are
11 the relatives of people who have given their
12 lives in service of the principles of equality.

13 And so, it is a very serious thing
14 that is much bigger than tweets. It goes to the
15 core of who we aspire to be as a nation. And it
16 troubles me that children are being taught that
17 this is what America stands for in the year 2019.
18 Thank you, Commissioner Yaki.

19 CHAIR LHAMON: Commissioner Yaki, I
20 just --

21 COMMISSIONER KLADNEY: Madam Chair?

22 CHAIR LHAMON: Commissioner Kladney.

23 COMMISSIONER KLADNEY: Commissioner
24 Kladney here. I too would like to add my thanks
25 to Commissioner Yaki's leadership on this matter.

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1 And I would like to say that one of
2 our charges is that of national origin, and many
3 of us, and our families, have immigrated to the
4 United States in the 20th century. Not that far
5 in the past.

6 And many of our relatives have
7 suffered at the hands of those people who
8 intentionally want to create animus between
9 people within our country and within the races in
10 our country. And it is difficult for me to
11 believe that these pronouncements were not
12 intentional in nature and did not want to have
13 the effect that they did have in North Carolina.

14 Therefore I'm supporting this
15 statement 100 percent. Thank you.

16 CHAIR LHAMON: Thank you.
17 Commissioner Yaki, to take us down to the truly
18 mundane, I noticed one other typo. And with your
19 permission, we would change seeks to seek, at the
20 end of the first paragraph in the statement.

21 COMMISSIONER YAKI: I accept that as
22 a friendly amendment.

23 CHAIR LHAMON: Thank you. And I also
24 just want to note, I appreciate Commissioner
25 Heriot's commitment to, and statement of

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1 commitment to, concern about the harm that such
2 a statement from the President makes.

3 I also think it's important for us to
4 recognize that the EEOC, which is the nation's
5 authority about employment discrimination,
6 includes these words, go back home, as an example
7 of race discrimination and national origin
8 discrimination. That is so archetypal that it is
9 explicit in their guidance.

10 And there is, I think no question,
11 that the intent and the receipt of the text from
12 the President is racial harm. And it is our job
13 to call it that, to speak against it, and to make
14 sure that we, as a nation, don't live that harm.
15 So, I will support this statement.

16 Do we have any further discussion?
17 I'll call the question and take a roll call vote.
18 Commissioner Adegbile?

19 COMMISSIONER ADEGBILE: Aye.

20 CHAIR LHAMON: Commissioner Heriot?

21 COMMISSIONER HERIOT: Abstain.

22 CHAIR LHAMON: Commissioner Kirsanow?

23 COMMISSIONER KIRSANOW: No.

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 Timmons-
6 Goodson?

7 VICE CHAIR TIMMONS-GOODSON: Yes.

8 CHAIR LHAMON: And I vote yes. The
9 motion passes. One Commissioner abstained, one
10 Commissioner opposed, all others were in favor.

11 Next we will hear from Staff Director
12 Mauro Morales for the monthly Staff Director's
13 report.

14 **G. MANAGEMENT AND OPERATIONS**

15 **STAFF DIRECTOR'S REPORT**

16 STAFF DIRECTOR: Thank you, Madam
17 Chair. In respect for the limited time we have
18 left before the next presentation, I have nothing
19 further to add than is already contained in the
20 report. If any Commissioner has a specific
21 question concerning a matter contained in the
22 report, I welcome the opportunity to speak to you
23 about it.

24 I would like to take just a brief
25 moment, Madam Chair and Commissioners, just to

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1 thank our law clerks and interns that have been
2 with us this summer. Many of them, this will be
3 their last Commission business meeting.

4 We've enjoyed having you here. We
5 appreciate your hard work in assisting the
6 special assistants, the Office of General
7 Counsel, the Office of Civil Rights Evaluation,
8 and my office as well.

9 I hope you got a lot of really good
10 experience out of your time with us, and I wish
11 you all the best. Please keep in touch with us
12 as you continue on in your careers and in your
13 law school studies. So thank you very much.

14 That's all I have, Madam Chair.

15 CHAIR LHAMON: Thank you. I'll echo
16 those thanks to our summer interns who have done
17 us a terrific service in being here.

18 And I'd like also to use this minute
19 to take a point of personal privilege, with
20 Commissioner Narasaki's permission. I understand
21 that this is our last business meeting in which
22 Commissioner Narasaki's special assistant, Jason
23 Lagria, will be with us. And I, okay, we can
24 hope that it's not ---

25 (Laughter.)

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1 CHAIR LHAMON: -- but on the off
2 chance that it is, I want to say, while Jason is
3 still with us, how very much I have enjoyed
4 working with you, Jason, what incredible service
5 you have given to us.

6 As a Commission, I think that we
7 Commissioners, who are by statute part-time in
8 doing our work, could not do the work as
9 effectively as we do without the assistance of
10 our extraordinary special assistants.

11 And Jason has been willing from Day 1
12 for me to go well above the call to help me when
13 I didn't yet have a special assistant, and to
14 help all of us in providing extraordinary
15 research and terrific service. We will miss you.
16 I will miss you. Thank you. Commissioner
17 Narasaki?

18 COMMISSIONER NARASAKI: I'd like to
19 add, since I won't be in person for the August
20 business meeting, and it is quite likely that he
21 will have left, I want to say that it has been an
22 honor and a pleasure to work with him. I stole
23 him from my former place of employment. So in
24 all fairness to him, he knew what he was getting
25 when he agreed to work with me.

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1 And he's done an incredible job, not
2 just the work, you know, the written work, and
3 the research, and all of that important stuff,
4 but I asked him when I started, to help build a
5 spirit of camaraderie in the Commission between
6 the appointees and the staff, and to sort of
7 bridge the political divides and have an open
8 door.

9 And I think that he has contributed a
10 lot to the environment of the Commission. And
11 I'm very proud of his work, and I look forward to
12 seeing the, I'm sure, the impact that he will
13 continue to have on the world and on civil rights.
14 So thank you, Jason.

15 CHAIR LHAMON: Madam Vice Chair?

16 VICE CHAIR TIMMONS-GOODSON: Is it
17 okay to ---

18 CHAIR LHAMON: Pile on.

19 VICE CHAIR TIMMONS-GOODSON: -- to
20 pile on ---

21 (Laughter.)

22 VICE CHAIR TIMMONS-GOODSON: Jason has
23 done all of this, made this incredible effort
24 that you've been hearing about with his work
25 while at the same time building a family. And so

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1 I think he gets extra credit.

2 How many babies have you had since
3 you've been here?

4 (Laughter.)

5 CHAIR LHAMON: We're veering into
6 discriminatory land.

7 (Laughter.)

8 CHAIR LHAMON: Maybe we should stop.

9 VICE CHAIR TIMMONS-GOODSON: Well, I
10 was just going to say, I don't know if it's the
11 pressures that we brought to bear on him ---

12 PARTICIPANT: He had time to make the
13 babies.

14 CHAIR LHAMON: Okay, really we should
15 stop.

16 (Laughter.)

17 VICE CHAIR TIMMONS-GOODSON: But thank
18 you, thank your wife, and your children. That's
19 where I was going, Madam Chair --

20 CHAIR LHAMON: Thank you.

21 VICE CHAIR TIMMONS-GOODSON: -- for
22 sharing you and allowing such great effort. All
23 the best to you. And when I look at you, I see
24 what our future leaders look like. Thank you.
25 Madam Chair?

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1 COMMISSIONER YAKI: Madam Chair, I
2 need to pile on at this point.

3 (Laughter.)

4 CHAIR LHAMON: Please don't talk about
5 the baby making.

6 COMMISSIONER YAKI: No, I will not get
7 into the biological functions of our Commission.
8 But I will say that Jason has been, I think,
9 really the rock of so much of what has happened.
10 And as someone who has been deprived of a special
11 assistant for many months, which has now finally
12 been remedied just as he leaves, thank God, that
13 his work on the upcoming immigration detention
14 update that we were doing has been phenomenal.

15 But even aside from that, he is just
16 a phenomenal human being, someone who understands
17 the world of public service in every single
18 positive aspect that you can think of. And we
19 have been benefitted by him, the government will
20 be benefitted by him.

21 And, Jason, you know, it goes without
22 saying, but if I can ever do anything for you in
23 the future, please know that I can and I will.

24 CHAIR LHAMON: Thank you.
25 Commissioner Heriot?

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1 COMMISSIONER KLADNEY: This is
2 Commissioner Kladney, I'd also like to add my
3 best wishes to Jason and his family, a wonderful,
4 well, to me a young man, and a very hard worker
5 and committed person as well. So, Jason, thank
6 you and best of luck.

7 CHAIR LHAMON: Commissioner Heriot?

8 COMMISSIONER HERIOT: I just want to
9 thank Jason, who has been blushing a lot since
10 all this started. I want to thank him for all
11 his work in bridging the ideological divide. And
12 he's been wonderful to work with, and I'll miss
13 him. And, you know, thanks very much, Jason.

14 CHAIR LHAMON: Commissioner Adegbile?

15 COMMISSIONER ADEGBILE: In the spirit
16 of our ongoing work together at the Commission,
17 Jason, me too.

18 (Laughter.)

19 CHAIR LHAMON: All right, Mr. Staff
20 Director?

21 STAFF DIRECTOR: You know, I can't
22 thank you enough, Jason, for your commitment to
23 us to work with the professional staff, the
24 special assistants, more importantly with me in
25 my transition when I got here and throughout the

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1 years. You're going to be missed. So thank you
2 for your service.

3 CHAIR LHAMON: Thank you. So with
4 that, I think we'll take a five-minute break.
5 And then reconvene just at 11:40, a six-minute
6 break, for our next iteration of our speaker
7 series to which I very much look forward. Thank
8 you.

9 (Whereupon, the above-entitled matter
10 went off the record at 11:34 a.m. and resumed at
11 11:43 a.m.)

12 CHAIR LHAMON: Okay. I will get us
13 started for our next iteration of our speaker
14 series. The title for today is the History and
15 Legacy of the Immigration Reform and Control Act
16 of 1986. I thank Commissioner Narasaki, for
17 suggesting this month's speaker topic and for
18 coordinating Mr. Kamasaki's appearance.

19 The need for immigration reform and to
20 protect against particular civil rights
21 violations has long been an issue of concern for
22 the Commission. The Commission, along with our
23 advisory committees, has issued policy statements
24 and full reports addressing various concerns
25 ranging from enforcement practices across the

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1 country as well as at the border, the need for
2 efficient, fair, and thorough adjudication of
3 immigration cases, protection for undocumented
4 immigrants, and detention center policies.

5 I am glad that today we will reflect
6 on the last successful movement for major
7 immigration reform from 1986. Before I introduce
8 our speaker, I'll turn to Commissioner Narasaki
9 for some brief opening remarks.

10 **H. SPEAKER SERIES PRESENTATION BY**
11 **CHARLES KAMASAKI ON HIS BOOK,**
12 **IMMIGRATION REFORM: THE CORPSE THAT WILL NOT DIE**

13 COMMISSIONER NARASAKI: Thank you,
14 Madam Chair. I want to add my thanks to Charles
15 Kamasaki for briefing us today on the history of
16 the 1986 legalization law and some of the
17 legislation that followed.

18 While it occurred well over 30 years
19 ago, it has relevance and lessons for policy
20 makers and immigration reform advocates today.
21 Then, as now, the immigration system was badly
22 broken as policies had not kept up with the global
23 and domestic realities that create the push and
24 pull factors that drive migration to the United
25 States.

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1 The history of immigration in America
2 has been the pull of America's labor needs and
3 the push of the political, economic, and
4 environmental crises around the world, some of
5 which American foreign military and trade
6 policies help to drive.

7 America has often recruited immigrant
8 labor, but American communities have not always
9 been prepared to welcome immigrants, particularly
10 those with different religions, languages, and
11 cultures and particularly when they're not White.

12 For example, the Chinese laborers came
13 to help build the railroads. And then when that
14 was done, they were banned. The Japanese then
15 came to the West Coast to fill the demand for
16 fishing and farming, and then they were banned.
17 And then the Filipinos came in numbers after both
18 of the Chinese and Japanese were banned.
19 Eventually, all Asian immigration was curtailed.

20 The story in this book is well told,
21 I got to read some advance drafts, and
22 extensively researched by an author who's lived
23 through it. It's more than a story of an
24 extraordinary piece of legislation, it's the
25 story of a community, whose struggles have been

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1 largely invisible and whose voice has largely
2 been ignored, finally coming of age and becoming
3 a force in the nation's capital.

4 And to me, all this is more
5 interesting that it's coming from a Japanese
6 American who grew up in Texas more among Latinos
7 than Asians. I've had the honor of working with
8 Charles Kamasaki for over a quarter of a century,
9 and I was fortunate, along with hundreds of
10 others coming into the field of civil and
11 immigrant rights, to have had him tutor me on how
12 DC really works.

13 The book is a master class on how
14 democracy actually functions from an expert who's
15 committed his life to helping America live up to
16 its most fundamental values and promises. And I
17 thank you for documenting the time in America's
18 history and sharing it with us today.

19 CHAIR LHAMON: Thank you. So we now
20 welcome Charles Kamasaki who is Senior Cabinet
21 Advisor for UnidosUS and resident fellow at the
22 Migration Policy Institute. At UnidosUS, Mr.
23 Kamasaki is a senior member of management with a
24 range of responsibilities including supervising
25 immigration legal services and citizenship

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1 program strategies and overseeing the
2 organization's other immigration initiatives.

3 Mr. Kamasaki is also the author of the
4 recently published book titled Immigration
5 Reform: The Corpse that Will Not Die, a History
6 of the Immigration Reform and Control Act.

7 In that book, Mr. Kamasaki shares his
8 personal insights as, quote, a direct participant
9 in the many meetings, hearings, markups, debates,
10 and other developments that led to the passage,
11 end quote, of the 1986 legislation.

12 Mr. Kamasaki, we look forward to
13 hearing from you.

14 MR. KAMASAKI: Sorry about that.
15 After having been instructed twice on how to turn
16 the microphone on, I forgot.

17 Thank you to the Commission for this
18 opportunity, to Commissioner Narasaki
19 especially, and her aide, Jason, who I will not
20 pile on more accolades, Staff Director, Mauro
21 Morales.

22 And I would just note, I observed his
23 comments to the interns and law clerks who
24 assisted the Commission. There are two of us in
25 this room who began our careers as interns at

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1 then National Council of La Raza, now UnidosUS.
2 And so we share, I think, some of your
3 experiences.

4 I do need to start with a caveat.
5 Although I am proudly employed by UnidosUS, and
6 a fellow at the Migration Policy Institute, the
7 views and opinions in the book and in my talk
8 today are solely my own.

9 What I'd like to do is cover three
10 sets of issues today in my remarks. First, I'll
11 attempt to provide a brief overview of my book
12 which is, as you can tell, a pretty lengthy tome
13 about the passage, implementation, and aftermath
14 of the Immigration Reform and Control Act of
15 1986, or IRCA, as it's known to insiders.

16 Second, because I am speaking to the
17 US Commission on Civil Rights, I'll try and
18 outline a few of the civil rights implications of
19 the policy debates during the IRCA era and maybe
20 some thoughts about the future.

21 And finally, I'll conclude with a
22 brief thought about the relevance of IRCA for
23 those, many of us included, yearning for
24 immigration reform today.

25 As an overview, I'm really struck by

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1 how many otherwise very well informed people know
2 so little about the Immigration Reform and
3 Control Act of 1986.

4 It's often called, quote, unquote, the
5 Reagan Amnesty Bill. But in fact, his
6 administration was internally divided on the
7 legislation, generally hostile to the idea of
8 legalizing unauthorized immigrants, and played a
9 fairly minimal role in its passage except
10 importantly, as the picture on the screen notes,
11 signing the final legislation.

12 Many people today blame IRCA for the
13 growth of the undocumented population since 1986.
14 But that growth actually accelerated far faster
15 after passage in 1996 of a tough enforcement-only
16 immigration law.

17 Because it successfully legalized
18 nearly three million people and, along with its
19 follow-on bill in 1990, protected perhaps two
20 million more from deportation, many people simply
21 assumed that it must have been supported by
22 progressives and conservatives and must have been
23 supported by Latinos and the entire civil rights
24 community. The reality is actually far different
25 and far more nuanced.

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1 My book, Immigration Reform: The
2 Corpse That Will Not Die, is about IRCA's life
3 and times. It's full of details. Because, in
4 the legislative process, details matter. It
5 includes lengthy portrayals of key actors,
6 because people obviously matter. It tells the
7 story of how the last major immigration reform
8 came to be through every single procedural step.
9 Because in the legislative process, the procedure
10 matters a lot.

11 And finally, it covers the bill's
12 implementation, not just because implementation
13 matters too, but also because it was in that
14 period that the battle lines of today's debate
15 about immigration reform were being drawn.

16 Especially when considered together
17 with its follow-on bill, the 1990 Act, the last
18 set of comprehensive immigration reforms, by
19 every standard, were highly consequential. For
20 the first time in American history, those laws
21 made it unlawful for an employer to knowingly
22 hire or employ an unauthorized immigrant,
23 so-called employer sanctions provisions of IRCA.

24 The bill authorized more border
25 enforcement leading to what my colleagues at the

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1 Migration Polity Institute today call a
2 formidable enforcement machinery that far exceeds
3 spending on all other federal law enforcement
4 combined.

5 At the same time, it legalized nearly
6 three million people, and the two bills together
7 protected at least two million more from
8 deportation, at least temporarily. And the two
9 bills together set the stage for a doubling of
10 the number of legal immigrants authorized to come
11 into the United States compared to its 1980s
12 levels.

13 To understand how that bill came to be
14 from a political science perspective, one might
15 start with what political scientists call the
16 three Ps.

17 John Kingdon, who is one of the most
18 astute and influential political scientists of
19 the modern era, once stated that the enactment of
20 major reforms like IRCA occur only with the
21 convergence of three streams which he called the
22 three Ps, a recognized problem stream,
23 significant enough to require legislation,
24 second, a mature policy stream of proposals that
25 might solve the problem, and third, the third P,

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1 political will sufficient to overcome the forces
2 comfortable with or entrenched in the status quo.

3 When it comes to immigration, the
4 problem stream of unauthorized migration, a
5 policy stream of reforms to address it, and
6 sufficient political will to move it through at
7 least one house of Congress have clearly been in
8 place for more than over a dozen times over the
9 past five decades.

10 Yet only in 1986 and again in 1990 did
11 Congress enact sweeping, comprehensive reforms.
12 The stories in my book attempt to explain how and
13 why that happened. But unlike most standard
14 legislative chronicles, this book is told not
15 from the perspective of lawmakers but from the
16 perspective of a small coalition of non-profit
17 advocates that called itself The Group.

18 Its unofficial leader was Arnolando
19 Torres of the League of United Latin American
20 Citizens, once the most conservative of the
21 Latino civil rights organizations. While they
22 work largely outside the process, if generally in
23 parallel, representatives of the Mexican American
24 Legal Defense and Educational Fund were also key
25 players.

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1 These Latino groups were joined by the
2 ACLU, the American Immigration Lawyers
3 Association, Church World Service, the
4 immigration and refugee arm of the National
5 Council of Churches. And all of them were members
6 of an organization that today is called the
7 National Immigration Forum.

8 A few months after this group was
9 formed in 1983, a guy named Kamasaki, unlikely,
10 with less than a year of experience in DC, was
11 assigned literally by default to cover
12 immigration policy for the National Council of La
13 Raza, now UnidosUS.

14 The Group faced enormous policy
15 challenges. They wanted to defeat or mitigate
16 employer sanctions, what House bill sponsor Ron
17 Mazzoli called the heart of the bill. They sought
18 a far more generous legalization program than the
19 million or so undocumented the original bill
20 might have offered legal status to.

21 Instead of reducing family-based
22 legal immigration, which the first two versions
23 of the Simpson/Mazzoli bill would have done, they
24 wanted to increase it. They opposed greater
25 restrictions on asylum seekers that IRCA

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1 originally would have opposed.

2 The Group wanted to prevent the
3 creation of a major new Agricultural Guest Worker
4 Program which, although it wasn't in the original
5 legislation, passed the House in 1984 and the
6 Senate in 1985.

7 Several in The Group audaciously
8 demanded protections from deportation for
9 Salvadorans fleeing massive civil strife in the
10 region. And some envisioned building a whole new
11 field of pro-immigrant and Latino advocates in
12 the process.

13 And The Group initially opposed the
14 legislation that proffered these proposals. This
15 coalition had very few resources.

16 The powerful Leadership Conference on
17 Civil Rights, the preeminent voice for minorities
18 in the policy process, sat out the debate in large
19 part because its most powerful and influential
20 members, the NAACP and, with few exceptions,
21 Organized Labor, along with other powerful
22 progressive elites, including virtually every
23 editorial board in the country, supported the
24 bill.

25 The Group's resources were dwarfed by

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1 opposing interests, like Labor, agricultural
2 growers, big business, and an emerging
3 conglomerate of anti-immigrant groups beginning
4 with an organization called the Federation for
5 American Immigration Reform. And in fact, all of
6 the Latino organizations, LULAC, MALDEF, and
7 NCLR, were literally teetering on the edge of
8 bankruptcy during the entire IRCA era.

9 And with respect to public opinion,
10 pro-immigrant policy goals that The Group
11 supported were uniformly far less popular than
12 they are today. And yet, while the advocates
13 couldn't stop employer sanctions, they succeeded
14 almost everywhere else.

15 IRCA, in the 1990 Act, did not include
16 a major Agricultural Guest Worker Program. It
17 resulted in, as I said, legalizing nearly three
18 million previously undocumented people to become
19 permanent lawful residents of the United States.

20 It extended administrative and
21 eventually permanent protection from deportation
22 for a million close family members of those
23 legalized. It doubled legal immigration from the
24 1980s levels, kept an asylum system largely
25 intact and, through a new temporary protected

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1 status created in the 1990 Act, provided relief
2 for perhaps another 800,000 to a million Central
3 Americans fleeing civil strife or natural
4 disaster.

5 Except for the exclusion of a large
6 temporary worker program, I think it's fair to
7 say that not a single knowledgeable observer
8 would have predicted any of these outcomes when
9 the debate began in 1981.

10 So the question arises, how did The
11 Group and its allies inside and outside of
12 Congress do it? And unfortunately, for that
13 answer you have to read the book.

14 Honestly, I do hope the book has value
15 strictly as an historical document or as a
16 legislative case study. It's a story filled with
17 intrigue, ups and downs, secret deals in
18 smoke-filled rooms. But I also think it raises
19 important civil rights implications and it has
20 lessons for future reformers.

21 And since this is a meeting of the US
22 Commission on Civil Rights, I'm obligated, I
23 think, to discuss some of the major civil rights
24 implications of that debate as well as this
25 Commission's very significant role in that

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1 debate.

2 I'd like to specifically address three
3 civil rights related themes. First is the
4 adverse effects of immigration enforcement on the
5 civil rights of Hispanic American citizens and
6 others lawfully present in the US.

7 That story actually begins in the
8 mid-1850s after the Mexican American War in which
9 some 100,000 or so people of Mexican origin
10 became subject to the jurisdiction of the United
11 States. For the next 100 years, Mexican
12 Americans experienced widespread systemic
13 discrimination that many scholars have described
14 as akin to those in the Jim Crow south.

15 One scholar, Rodolfo Acuna, famously
16 described this period as an occupation under
17 which Mexican Americans were subjects of,
18 somewhat analogous to those of the European
19 colonies, but never full citizens of the nations
20 of their Colonial masters.

21 One important instrument of this
22 occupation was a kind of immigration policy in
23 reverse. In four separate campaigns from the
24 1920s through the mid-1950s, which ended with the
25 notorious Operation Wetback, millions of people

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1 of Mexican origin were, quote, unquote,
2 repatriated to Mexico, most without any form of
3 due process.

4 Perhaps half of those removed were
5 American citizens. Virtually all would have had
6 some valid claim to lawful presence had they been
7 given the opportunity to assert it. But none
8 were.

9 Another key immigration policy of the
10 period was the infamous Bracero Temporary
11 Agricultural Worker Program which operated from
12 1942 through 1964 under which several million
13 Mexican workers were allowed into the country to
14 work.

15 While many, arguably most, were well
16 treated by the standards of the era, the program
17 was also fraught with abuse and exploitation.
18 But the program, even after it ended in 1964,
19 cemented in place an agricultural system
20 dependent on cheap labor from Mexico.

21 And finally, in 1976, Congress enacted
22 legislation that cut legal immigration from
23 Mexico in half, literally at the same time that
24 country's population was booming and its economy
25 was tanking, which left a perfect storm of

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1 factors.

2 Repatriates seeking to return to their
3 homes and unite with their families, former
4 Bracero Program workers recruited to work in the
5 fields, and Mexico's failing economy all
6 generated massive migration pressures. But
7 instead of meeting this demand by increasing the
8 supply of visas, Congress cut that supply of
9 visas in half.

10 Having closed the proverbial front
11 door to entry to the United States, not
12 surprisingly immigrants attempted to enter
13 through the back door, and unauthorized migration
14 rose rapidly. Congress then attempted to enact
15 legislation beginning in the 1970s, mainly
16 through employer sanctions, the penalties on
17 employers for hiring unauthorized immigrants.

18 And through the 1980s, Latino
19 advocates opposed employer sanctions because they
20 were thought to be both ineffective and would
21 lead to increased employment discrimination,
22 preferring instead a combination of tough labor
23 law enforcement, stronger border controls, and
24 increased legal immigration as a more rational
25 response.

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1 Which leads me to my second theme
2 which is the evolution of the Hispanic civil
3 rights organization and of the civil rights field
4 writ large on the issue of immigration reform.

5 As I described in my book, up through
6 the early 1970s, Latino civil rights
7 organizations and thought leaders, like most
8 Americans, were almost uniformly supportive of
9 tough immigration enforcement.

10 That began to change with the
11 widespread abuses associated with Operation
12 Wetback and accelerated through the Chicano
13 movement which, even after it faded away in the
14 late 1960s, left a Mexican American leadership
15 that I say in my book was, quote, markedly more
16 ethnocentric and pro-immigrant in its
17 orientation.

18 Notwithstanding its opposition to
19 employer sanctions and its pro-immigrant
20 orientation, in the mid-1980s two of the three
21 major Latino civil rights groups, the League of
22 the United Latin American Citizens and the
23 National Council of La Raza, led by Congressman
24 Esteban Torres, broke with ideological orthodoxy
25 and helped produce the reforms that ultimately

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1 protected some five million previously
2 unauthorized immigrants from deportation.

3 Many mainstream civil rights
4 institutions began the IRCA era, like their
5 Latino counterparts, as ardent restrictionists.
6 But by the turn of the century, I believe it's
7 fair to say, that virtually the entire civil
8 rights community became united around generally
9 pro-immigrant principles.

10 The last civil rights related theme
11 I'd like to address is the role of this Commission
12 in that debate. This Commission was among the
13 very first mainstream institutions to recognize
14 and call for increased policy attention to
15 discrimination against Latinos in the mid-1960s
16 and supported NCLR and others in their call for
17 Hispanics to be counted for the first time in the
18 1980 census.

19 With respect to immigration, this
20 Commission's landmark 1980 report, the Tarnished
21 Golden Door, broke with conventional wisdom and
22 presciently predicted the failure of employer
23 sanctions to reduce unlawful immigration and its
24 propensity to increase employment
25 discrimination.

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1 After IRCA was enacted in 1989, this
2 Commission again issued a report documenting
3 discrimination related to employer sanctions
4 which was later verified by the General
5 Accounting Office, now a Government
6 Accountability Office report, in 1990 that
7 estimated some nine percent of employers, that's
8 nearly half a million, had adopted discriminatory
9 hiring practices after IRCA was enacted.

10 And in the years since, this
11 Commission has often spoke out against civil and
12 human rights abuses in immigration enforcement,
13 examples of which we had literally this morning.

14 There is more the Commission can do to
15 build on this proud legacy, and let me offer three
16 suggestions. First is to examine the extent to
17 which the current enforcement system is fatally
18 flawed by discrimination.

19 For the past several years, research
20 has documented that well over half of all new
21 unauthorized immigrants don't come across the
22 southern border but enter lawfully and then
23 overstay their visas. Yet year after year, well
24 over 90 percent of all deportations are Latinos
25 who, so called, entered without inspection across

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1 the southern border.

2 While I recognize that traditional
3 disparate impact measures for a variety of very
4 complicated technical reasons may not always be
5 applied to immigration enforcement, it is hard to
6 avoid the conclusion that, regardless of which
7 administration is in power, enforcement is
8 exclusively imposed on offenders that just happen
9 to be Latino.

10 Second, a crucial subset of those
11 adversely impacted by immigration enforcement are
12 the nearly six million US citizens and others
13 lawfully present who have one or more
14 undocumented family members. The toxic stress
15 imposed on these children is incalculable.

16 To paraphrase my boss, Janet Murguia,
17 who is joining us today, imagine what it must be
18 like to know that the next knock on your door may
19 be ICE agents coming to deport your mom, that the
20 next time the phone rings, it could be your dad
21 who was picked up in a traffic stop and is calling
22 to say goodbye, or that the next letter in the
23 mail is one demanding that one of your parents
24 appear at a deportation proceeding.

25 Surely these children who have done

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1 nothing wrong, have some right to pursue life,
2 liberty, and happiness in the country of their
3 birth. Yet there is literally no remedy for the
4 toxic stress that they feel every day.

5 Finally, I'd note that reports of
6 racial profiling, apprehension, detention, and
7 even deportation of US citizens and others
8 lawfully present in the United States are
9 significant.

10 Similarly, systems like E-Verify
11 regularly produce false positives whereby people
12 authorized to work cannot be verified due to
13 marriage, or divorce, or other name change, or
14 even a typo on a DHS record. These people are
15 routinely denied a job, often even without
16 knowing why.

17 Many of you are distinguished legal
18 practitioners in your own right, and you know how
19 burdensome and difficult it can be to obtain
20 redress through the legal system if you are
21 wrongfully apprehended, or detained, or denied a
22 job.

23 And so the question is, are there less
24 burdensome administrative remedies that could
25 both prevent this from happening by holding

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1 offending agencies and officials accountable
2 while also providing appropriate and timely
3 redress for those adversely affected.

4 Surely there are other questions this
5 Commission could consider, but allow me to
6 return, as I close, to a theme in my book. I
7 suspect many of you here are wondering what the
8 story of IRCA, a bill that passed more than 30
9 years ago, whether that story is at all relevant
10 to today's debate.

11 I for one think it has a lot of
12 relevance. And I would ask for you just to step
13 back and think of how quickly the politics of the
14 issue have changed in the last 15 years.

15 In 2006 the Senate passed a
16 comprehensive immigration reform bill, but then
17 the House refused to act. In 2007 a similar bill
18 died on the Senate floor when the House almost
19 certainly would have been able to produce a bill
20 when it was headed by the new speaker, Nancy
21 Pelosi.

22 In 2010 it reversed again. The House
23 passed the DREAM Act, but it died in the Senate.
24 And three years later, it reversed again when the
25 Senate passed a comprehensive bill that was never

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1 brought up for vote in the House.

2 I think most of us, certainly most
3 immigration advocates, see this record and see
4 failure. But to me, it looks a lot like the 15
5 years that preceded IRCA's passage in 1986.

6 So I'll close, for me, on what's an
7 unusually optimistic note. In the 1970s, Peter
8 Rodino introduced immigration reform measures
9 three times, twice passing the House and dying in
10 the Senate. In 1979, the new Immigration
11 Subcommittee Chair, Al Simpson, from Wyoming,
12 half joked that he'd been thrown into leadership
13 of that subcommittee because no one else wanted
14 it.

15 In his wonderful book, The Last Great
16 Senate, Ira Shapiro lamented that the era of
17 bipartisanship in Congress had ended with the
18 election of Ronald Reagan in 1980. In 1982, the
19 new House Immigration Subcommittee Chair said he
20 had to, quote, virtually shanghai, unquote, other
21 members of Congress to even join his
22 subcommittee.

23 The immigration reform measures
24 sponsored by Simpson and Mazzoli passed the
25 Senate twice but died in 1982 and in 1984. And

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1 in mid-October of 1986, after his own immigration
2 reform bill died on the House floor, House
3 Judiciary Committee Chairman Rodino told aides
4 that he was ready to, quote, wash his hands of
5 the legislation.

6 That same week, the ranking
7 Immigration Subcommittee member, Dan Lungren, of
8 California, who had led the fight to kill the
9 bill, called the legislation, quote, a corpse,
10 unquote.

11 But just three years later, in
12 November 1986, in that picture that you have on
13 your screens, Simpson, Mazzoli, Rodino, Lungren,
14 and others gathered in the Roosevelt Room at the
15 White House and watched President Reagan sign
16 that corpse into law.

17 Thank you again for the invitation to
18 discuss my book. And I'd be happy to answer any
19 questions.

20 CHAIR LHAMON: Thank you so much for
21 your presentation. And I will open for questions
22 and comments from my fellow Commissioners.

23 COMMISSIONER KLADNEY: Madam Chair?

24 CHAIR LHAMON: Commissioner Kladney?

25 COMMISSIONER KLADNEY: Thank you,

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1 Madam Chair. One of my questions is when you
2 started your presentation, you talked about
3 employer sanctions in the '86 bill. How
4 effective have they been in light of the I-19, I
5 think it's an I-19, I can't remember the number,
6 that actually gives employers protection when
7 they copy two forms of identification and fill
8 out a form?

9 MR. KAMASAKI: Well, without speaking
10 to the merits of the specific, it's the I-9 form
11 that employers use --

12 COMMISSIONER KLADNEY: Oh.

13 MR. KAMASAKI: -- to verify new hires.
14 I think it's obvious that employer sanctions have
15 not been effective in stemming the flow of
16 unauthorized immigration.

17 And it's, I guess, ironic that only in
18 Washington that those who go against the
19 conventional wisdom and are proven right by
20 subsequent events get no credit, while those who
21 go along with the conventional wisdom that's
22 proven wrong somehow aren't held accountable.

23 It was actually immigration
24 restrictionists who first proposed employer
25 sanctions and predicted they would be effective.

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1 And it was Latino civil rights organizations that
2 predicted that they would not be effective and
3 that they would cause discrimination.

4 I guess it's a very complicated
5 subject. But I guess what I would say is, to be
6 fair, the proponents of employer sanctions argue
7 that, like the tax laws, most employers, most
8 people are good actors. And they will try in
9 good faith to comply with the law. And I believe
10 that assumption is actually largely correct.

11 The issue is that it's only a tiny
12 fraction of employers who hire the vast majority
13 of undocumented immigrants. So even if you have
14 something like 90 percent compliance, if the ten
15 percent of employers who are not complying with
16 the law, who are evading the law, who are calling
17 their employees contractors and not employees and
18 thus not new hires, then I think you have a recipe
19 for a system that cannot possibly work.

20 COMMISSIONER KLADNEY: And I would ask
21 you what would be your, in any immigration reform
22 bill going forward, what would be the top five
23 issues and any proposed solutions that you would
24 have for such a proposal?

25 MR. KAMASAKI: And if possible, full

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1 text.

2 (Laughter.)

3 MR. KAMASAKI: No problem.

4 (Laughter.)

5 COMMISSIONER KLADNEY: Well, just the
6 five issues, why don't we start with that. How's
7 that?

8 MR. KAMASAKI: Well, I think, you
9 know, the outlines of what's called comprehensive
10 immigration reform, I think, have been well
11 established for some time. So I believe any
12 comprehensive measure has to include effective
13 enforcement.

14 And that would include not just border
15 enforcement but heightened labor law enforcement
16 that actually gets at that ten percent of
17 employers who knowingly hire unauthorized
18 immigrants so that they can be exploited. And
19 for whatever reason, this country's commitment to
20 labor law enforcement has weakened considerably
21 in the last four or five decades.

22 I think it's also fair to say that
23 immigration results from not just pull factors in
24 the United States but push factors from abroad.
25 So any comprehensive set of reforms has to look

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1 at push factors that send people to the United
2 States. And I think the current debate about
3 Central America underscores that.

4 Second, we believe that there should
5 be more avenues for lawful migration. And what
6 exactly those numbers are, and in what categories
7 they should be, are hotly contested. But I think
8 there is consensus on that point.

9 Third, for those undocumented people
10 who have put down roots in this country, many of
11 whom have children, I think it's fair to say that
12 a process to legalize their status is far
13 preferable to any of the alternatives, including
14 mass deportation.

15 So I think those are the three core
16 provisions. There are any number of other
17 issues. Whether there should be broader
18 temporary worker programs as part of a legal
19 immigration stream, the size of those programs
20 and so forth, whether there should be a point
21 system, all of those are, I think, matters of
22 debate.

23 But enforcement, dealing humanely and
24 thoughtfully with the unauthorized already here,
25 and matching our future labor market and social

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1 needs with a legal immigration system that
2 accurately and adequately meets those needs, I
3 think, have been and remain the fulcrum of
4 comprehensive reform.

5 COMMISSIONER KLADNEY: Thank you.

6 CHAIR LHAMON: Commissioner Narasaki?

7 COMMISSIONER NARASAKI: So it would be
8 interesting to hear your thoughts about how
9 national origin discrimination played out during
10 IRCA and how you see it continuing to play out
11 now. And also, to note that, while IRCA's thought
12 about mainly in terms of its legalization of
13 Latinos, it actually also had a large impact for
14 Asian Americans.

15 MR. KAMASAKI: Indeed. So maybe
16 beginning with the second question first, Latinos
17 were, I think, about 75 percent of those
18 legalized under IRCA. And obviously the
19 remaining 25 percent included large numbers of
20 Asians and others.

21 You know, the interplay of national
22 origin discrimination and immigration
23 enforcement is almost inextricable. And some of
24 the history, Karen, that you articulated earlier,
25 I'm sorry, Commissioner Narasaki, earlier I think

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1 speaks to that fact.

2 I will say that I'm a little concerned
3 about making the immigration debate only about
4 race or national origin. Because I personally
5 don't believe it is. And while it is hard to
6 avoid outright racism or accusations of outright
7 racism in immigration policy debates, I think the
8 country is best served if those are, while
9 recognized, don't become the central or only
10 element of those debates.

11 To specifically answer your question
12 about national origin discrimination, you might
13 think about, again, speaking to those three major
14 pillars.

15 With respect to enforcement, I think
16 in my statement I covered much of those issues.
17 I think it's very, very difficult to enforce
18 immigration laws as they are currently drafted
19 without imposing very significant disparate
20 burdens on specific populations, especially
21 Latinos.

22 I for one would like to take a step
23 back and look at whether there are different
24 strategies that we could pursue that could
25 effectively enforce the immigration laws without

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1 selectively enforcing them on a single
2 population.

3 Secondly, with respect to dealing with
4 the unauthorized population here, I do think,
5 particularly with respect to the children of
6 undocumented people, again, there is a clear
7 disparate impact on --- and in this case not just
8 Latinos but Asians.

9 And I think thinking through the
10 balancing of equities and the balancing of values
11 of what rights do they have, regardless of the
12 offenses that their parents may have committed,
13 is something that is often missing from today's
14 debates.

15 And then finally, the question of
16 national origin and legal immigration has been
17 omnipresent since the beginning of our first
18 immigration laws. And whether we choose to
19 alter, consciously or unconsciously, the
20 demographic makeup of this country, is dependent,
21 at least in part, on how we design the legal
22 immigration system.

23 CHAIR LHAMON: Mr. Staff Director?

24 STAFF DIRECTOR: Thank you, Madam
25 Chair. Charles, I want to thank you for your

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1 presentation. You've been a good friend and
2 mentor to me for over 30 years when we first came
3 to Washington, D.C., something along those lines.
4 So during those 30 years, you have become an
5 important policy expert, on not only immigration
6 but other vital issues for Unidos, but for all
7 civil rights advocates.

8 My question is what motivates you to
9 remain involved in the struggle for civil rights?

10 CHAIR LHAMON: Remember, our interns
11 are here.

12 (Laughter.)

13 MR. KAMASAKI: You know, I'd like to
14 say that I grew up with a strong passion for civil
15 rights, and I knew as soon as I got out of school
16 that was my future destiny. And the truth,
17 however, would be very far from that.

18 So I started as an intern at NCLR
19 actually working on housing policy. I was given
20 an opportunity to come to DC, and I thought only
21 for a couple of years before I found my real
22 career. And while I was working on housing
23 policy, the legislative director for NCLR,
24 someone you know well, Francisco Garza, decided
25 to leave DC to go back to California and get

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1 married.

2 And I was just kind of sitting around
3 the office when the boss said you're covering
4 immigration. And that was really kind of the
5 beginning of how I entered the field.

6 I think what's kept me in the field is
7 maybe two or three things. And I will try and
8 avoid Commissioner Narasaki's example and keep
9 from being sentimental here. But one of those is
10 you get to do important work.

11 You know, it's pretty rare in one's
12 lifetime that you can work on a piece of
13 legislation and then a few years later be walking
14 down the street, or talking to a cab driver, and
15 they'll turn around and say that's the bill that
16 I got legal status through. And that's obviously
17 extraordinarily rewarding.

18 Second, it's less common now but
19 certainly when I first started, when I would be
20 sitting in a meeting and we'd go around the room
21 and introduce ourselves, people would kind of
22 give me an interesting look, like, what are you
23 doing working for that organization?

24 And I would say it's always felt quite
25 natural to me. And I think that's been helped

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1 along by the fact that the Latino organizational
2 community, and I think the Latino community in
3 general, is a very welcoming one.

4 And as to the question of why I've
5 stayed so long, one that I occasionally ask
6 myself, honestly it's less a question of civil
7 rights and more a question of, I think,
8 professional advancement.

9 At each stage of my career, when I
10 thought, okay, I've done this, and I'm about to
11 move on to something different, something was
12 happening at UnidosUS that gave me an opportunity
13 to literally change careers while being in the
14 same organization. And I think as much as
15 anything else, it always felt more natural and a
16 place where I could contribute the most was by
17 doing different jobs, albeit in the same
18 organization.

19 CHAIR LHAMON: I'll follow that on
20 with thanks for what you documented in your book,
21 and then also what you presented to us today, for
22 the optimism and the reminder that what can feel
23 quixotic isn't always and that there's value in
24 sticking with it and in continuing to work toward
25 an end goal that will make us more just. So thank

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1 you for the concrete reminder that sometimes it
2 happens and also for documenting what it took to
3 make it happen.

4 MR. KAMASAKI: Thank you.

5 CHAIR LHAMON: Any comments or
6 questions?

7 (No audible response)

8 **III. ADJOURN**

9 CHAIR LHAMON: With that, I will thank
10 you for your presentation, and for your book, and
11 we will adjourn our meeting at 12:29.

12 (Whereupon, the above-entitled matter
13 went off the record at 12:29 p.m.)

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