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U.S. COMMISSION ON CIVIL RIGHTS

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BUSINESS MEETING **UNEDITED/UNOFFICIAL**

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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 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-GONZALES

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

(10:01 a.m.)

CHAIR LHAMON: Thank you. This meeting of the U.S. Commission on Civil Rights comes to order at 10:01 a.m. on July 19th, 2019.

The meeting takes place at the Commission's Headquarters, which is located at 1331 Pennsylvania Avenue Northwest, Washington, D.C.

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

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

COMMISSIONER KIRSANOW: Present.

CHAIR LHAMON: Thank you. Commissioner Kladney?

COMMISSIONER KLADNEY: Present.

CHAIR LHAMON: Thank you. Commissioner Yaki?

COMMISSIONER YAKI: Here.

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, can 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 I
8 drafted, circulated Tuesday night, regarding the,
9 hang on a second. I want to make sure I get it
10 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 Border town
4 Discrimination in Montana.

5 BUSINESS MEETING

6 **A. PRESENTATION BY MONTANA ADVISORY**
7 **COMMITTEE CHAIR ON THE COMMITTEE'S REPORT,**
8 **BORDER TOWN 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 the 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 how the challenges that Native Americans are
4 facing because of the lack of funding and the
5 other 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: They did, Big Horn
20 County is where Hardin, Montana is, which is one
21 of the reasons we had our briefing held there.
22 They did come up with a Band-Aid solution I'll
23 call it. It is not really, it does not really
24 give the Natives access that the Whites still
25 have.

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

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

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

14 Yellowstone County is where Billings
15 is, and then Big Horn County is where Hardin is.

16 And that was the reason that we choose those two
17 communities.

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

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

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1 the findings with the various agencies. I'm also
2 wondering whether you were able to share your
3 findings with the State Government of Montana?

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

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

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

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

24 I have been in touch with a couple of
25 the people on those committees and I am pleased

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1 with the work that they are doing and what
2 they're trying to accomplish. Our goal is to get
3 the federal government involved.

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

8 COMMISSIONER NARASAKI: All right.
9 Well, thank you very much for all of your hard
10 work.

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

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

25 I want to echo Commissioner Narasaki's

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1 questions about Montana's specific focus on some
2 reform. There was information that I found
3 really devastating in your brief that noted on
4 the first page the widespread perception of
5 unfairness in the Native American community and
6 how pervasive it is.

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

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

21 MS. KIRCHER: The reason that we had
22 Chief St. John return to the second briefing, was
23 because of the answers that we received from him
24 and Sheriff Linder during the first brief. At
25 that point we included the police from the Hardin

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1 Bighorn County area, and also from the Rosebud
2 County areas. Those areas surround the
3 reservation.

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

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

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

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

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

25 I was wondering, many jurisdictions,

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

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

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

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

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

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1 So, the human relations commission in
2 Billings is one that a person would have to go to
3 if they have a complaint against the city of
4 Billings. Then that commission investigates and
5 then turns it over to whoever should actually be
6 handling the problem.

7 And that is the way the system is
8 right now in Billings.

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

15 VICE CHAIR TIMMONS-GOODSON: Thanks.

16 CHAIR LHAMON: Commissioner Adegbile.

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

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

25 MS. KIRCHER: Yes, we do. We're

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

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

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

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

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

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

24 COMMISSIONER ADEGBILE: Yes. It seems
25 to me that those are pretty staggering statistics

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1 that no state or governmental authority would be
2 proud of. And the idea that it's being visited
3 upon children is a real cause for alarm.

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

10 MS. KIRCHER: Yes, there was, there
11 were several grants that were received. And the
12 governor, Governor Bullock, has set up a
13 committee that is working specifically on the
14 issue of the Native youth suicides.

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

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

23 We have seven reservations within our
24 state. We actually have eight Indian tribes.
25 One tribe has not yet been recognized by the

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1 federal government.

2 So, it's a lot of area to cover. And
3 because our state is so large, it also adds a lot
4 of problems to try and provide, especially mental
5 health services.

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

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

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

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

25 MS. KIRCHER: Thank you.

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1 CHAIR LHAMON: Commissioner Narasaki.

2 COMMISSIONER NARASAKI: Thank you. I
3 just wanted to note that the Commission will be
4 releasing our report on the issue of
5 discrimination against students of color with
6 disabilities next week. And hopefully that might
7 help you with some of the advocacy that might be
8 happening in Montana.

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

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

17 So, thank you for the request and also
18 thank you to the advisory committee for making
19 the request of us.

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

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1 We'll next hear from the chair --

2 MS. KIRCHER: Thank you for giving us
3 the opportunity.

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

8 **B. PRESENTATION BY MASSACHUSETTS ADVISORY**
9 **COMMITTEE CHAIR ON THE COMMITTEE'S ADVISORY**
10 **MEMORANDUM, HATE CRIMES IN MASSACHUSETTS**

11 CHAIR LHAMON: Chair Harris.

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

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

22 CHAIR LHAMON: Chair Harris, I'm
23 sorry, we're having a --

24 MR. HARRIS: Can you hear me?

25 CHAIR LHAMON: -- we're having a hard

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1 time hearing you, is it possible to get closer to
2 the phone or --

3 MR. HARRIS: Is this any better?

4 CHAIR LHAMON: This is better, thank
5 you.

6 MR. HARRIS: Is this better?

7 CHAIR LHAMON: Yes, thank you.

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

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

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

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1 it's tied to the criminal act.

2 Although we have evidence of a rise in
3 reported hate crime in recent years, it's
4 difficult to know its actual scope in the
5 Commonwealth. There is significant under
6 reporting, particularly in the Muslim and
7 transgender communities, why we believe to be
8 areas of increased incidents.

9 This is certainly not surprising, but
10 it's deeply concerning beyond these two specific
11 populations. As we note in our memo, only 101 of
12 409 jurisdictions, reporting jurisdictions in the
13 Commonwealth, reported one or more hate crimes in
14 the fiscal year of 2017.

15 And one expert reported to us it's not
16 unusual to have no reports from cities with
17 population of 100,000 or more. Which that
18 witness found not particularly credible.

19 The reason for this is complicated, we
20 talked about them a little in the memo. But
21 based on the fact that despite regulations
22 guiding data collections, reporting is voluntary.

23 And there is a lack of consistent training for
24 police departments responsible for data
25 collection and reporting.

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1 There is also evidence that the
2 statute is not being applied consistently.
3 Experts' question whether incidents involving
4 homophobia, transphobia and Islamophobia, are
5 charged consistent with incidents of racial
6 animus.

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

12 According to our experts, while
13 prosecutors have the power to review charges,
14 they tend to rely on the arresting officer's
15 judgment.

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

24 Such training takes place in a limited
25 fashion. But there's current legislation

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1 mandating anti-bias education training with an
2 emphasis on consequences of unchecked hatred.

3 I should note here as an aside that
4 Massachusetts, for years, has eliminated a basic
5 civics curriculum from our public schools. And
6 there's also legislation pending to try to
7 reinstate that.

8 There's also a recognition of the need
9 for uniform police training. Including criteria
10 for identification of hate crimes, the training
11 on special handling of investigations where a
12 hate crime is suspected and training on proper
13 reporting of hate crime data.

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

21 In addition, we ask the Commission to
22 consider weighing in on the need for more
23 rigorous data collection by states, as well as
24 sufficient funding for education and training to
25 combat it. Combat hate crimes.

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1 So, in closing I'm reminded of the
2 wisdom of Arthur Fleming who chaired the
3 Commission when I was a civil rights analyst with
4 the agency many years ago. Chair Fleming always
5 insisted that we accept the absence of
6 enforcement powers and mandate to generate
7 information that would allow us to make change to
8 moral suasion.

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

15 On behalf of the Massachusetts
16 advisory committee, I'm hopeful our memo can aid
17 you in such efforts. Again, on behalf of the
18 Committee, I want to thank you for the
19 opportunity to join you this morning and welcome
20 any questions you may have.

21 CHAIR LHAMON: Thank you, Chair
22 Harris. I'm looking for questions and comments
23 from my fellow Commissioners. Commissioner
24 Narasaki.

25 COMMISSIONER NARASAKI: Thank you,

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1 Madam Chair, I have two questions. One is, that
2 as you know, since this report was issued because
3 the full commission is actually looking at hate
4 crimes, that we actually took a deeper dive in
5 looking at Boston and the practices of the police
6 department there.

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

13 MR. HARRIS: So, we didn't look at
14 Boston specifically. Our focus was really state-
15 wide. And the people we had talking to us
16 represented state-wide organizations largely.

17 I do, so I don't think if the
18 committee itself has input I can convey to you.
19 And anything I said would be based on my own
20 personal experience.

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

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1 MR. HARRIS: Well, I'm not sure what
2 it would look like or could look like. I do know
3 from my own experience, I was involved back in
4 the '90s when there was an effort, when the first
5 effort took place, to create a hate crime
6 capacity within the state.

7 And over the years, there have been
8 incidents that have occurred in Massachusetts
9 that seem to flow out of Connecticut. So there
10 seems to be kind of a relationship between
11 certain hate groups and their activity in
12 Connecticut and in Massachusetts.

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

19 And things get, creating a kind of a
20 regional approach could be helpful. And then
21 something to explore, we're kind of curious about
22 it.

23 CHAIR LHAMON: Thank you.

24 MR. HARRIS: And I think I, I mean,
25 and my understanding is there might be an effort

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1 underway in Rhode Island. And I don't know, I
2 think that there are other efforts to look at
3 hate crimes elsewhere in New England and it might
4 make sense to try to coordinate our efforts.

5 CHAIR LHAMON: Chair Harris, I
6 appreciate, as always, the nimbleness of your
7 advisory committee, and also your creative
8 thinking about ways to maximize the effectiveness
9 of your committee among others. So I appreciate
10 that insight, among others.

11 And also, I'm very grateful that your
12 committee, among others, have taken the time to
13 address the topic that we are addressing so that
14 we can incorporate it into our materials.

15 In particular, you highlight in your
16 presentation, you include a Page 7 of the memo,
17 concern about a need for community involvement
18 and partnership with law enforcement to address
19 bias incidents before they become hate crimes --

20 MR. HARRIS: Yes, ma'am.

21 CHAIR LHAMON: -- and to ensure
22 community safety. And I wonder if you could say
23 more about where that recommendation comes from,
24 at Page 7 in your memo, and why it is of
25 significant enough concern that you highlighted

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1 it for us this morning?

2 MR. HARRIS: I'm sorry, I actually was
3 having a hard time hearing you. So, I know you
4 referred to the question, to some, a topic on
5 Page 7, but the question is again?

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

13 And I wonder if you could say more
14 about the basis for that concern, that I take it
15 as reasonably significant because you both
16 highlighted it in your remarks and included it in
17 the written memo.

18 MR. HARRIS: Okay, yes, thank you.
19 And that was something that was specifically
20 raised by the representative from the ADL but was
21 also indicated by, was suggested by the chair of
22 our NAACP.

23 And I think the concern was, there are
24 a couple of concerns I mean. There are events
25 and incidents, recently here in Massachusetts, in

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1 which police departments have been involved and
2 engaged in kind of social media, hate speech.

3 And there have been incidents where
4 police departments have actually been seen as
5 contributing to an intolerant atmosphere. And
6 there's a sense that there is a need to do more
7 work, both with community members and with the
8 police to try to think about and understand the
9 way in which bias continues to operate, continues
10 to infect our, the operation of our legal system,
11 as well as our general and social atmosphere.

12 And I think Mr. Trestan from the ADL
13 was, whose organization has created a number of
14 anti-bias curricula and are kind of implementing
15 those in the schools, is concerned about this.
16 And I think raises a question about the extent to
17 which the police themselves have undergone this
18 kind of training and the need for it.

19 So, I mean, it reflects some things
20 about incidents that have happened here, but also
21 a general understanding that we on the committee
22 have as well, that kind of addressing the
23 operation of bias in all its forms and doing so
24 across institutions is probably one of the best
25 weapons we have to combat hate crimes in the

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1 first place as opposed to just prosecuting them
2 and trying to address them at their roots.

3 CHAIR LHAMON: Thank you. Madam Vice
4 Chair.

5 VICE CHAIR TIMMONS-GOODSON: I too
6 want to join others in thanking you for your
7 efforts. You highlighted for us the fact that
8 reporting of hate crimes is voluntary in the
9 state. I was wondering whether there have been,
10 are any efforts underway to possibly get that
11 changed, either through lobbying for legislation
12 or any other efforts?

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

17 I mean, it's clearly a problem, and
18 the data on the kinds of reporting have shown
19 that the voluntary mechanism doesn't work.
20 However, one of the real problems has to do with
21 the extent to which these efforts are coordinated
22 and funded.

23 So that any requirement has to be, and
24 again, I'm going beyond your question, I'm just
25 giving an opinion here, but any effort in that

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1 regard really has to be coupled with adequate
2 training and the funds to do that training.
3 Because otherwise, one of the problems is, under
4 the voluntary method, people don't really know
5 what to do.

6 And so, I think there are probably
7 legislators who will be quite interested in our
8 memo and would probably consider trying to
9 introduce some legislation.

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

16 VICE CHAIR TIMMONS-GOODSON: Thank
17 you.

18 CHAIR LHAMON: I'll open it for any
19 other questions from fellow Commissioners,
20 including on the phone. Hearing none, Chair
21 Harris, thank you again for your service and for
22 your leadership on your advisory committee and
23 for taking your time to speak with us today.

24 MR. HARRIS: Thank you all so much.
25 Take care now.

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1 CHAIR LHAMON: We'll turn next to our
2 discussion and vote on proposed slates for
3 several advisory committees.

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

5 **COMMITTEE APPOINTMENTS**

6 CHAIR LHAMON: We'll turn first to the
7 Illinois Advisory Committee.

8 **ILLINOIS ADVISORY COMMITTEE**

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

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

24 Ryan Dunigan, Barbara Barreno-
25 Paschall, Jonathan Bean, Joanna Bohdziewicz-

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1 Borowiec, Cindy Buys, Mark David Calaguas, Trevor
2 Copeland, Tabassum Haleem, Raeyahd Kazmi, Matthew
3 Paprocki, Gregory Sanford, and Kyle Westbrook.

4 With this motion, the Commission would
5 also appoint Ryan Dunigan as the chair of the
6 Illinois Advisory Committee. All of these
7 members will serve as uncompensated government
8 employees.

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

15 COMMISSIONER ADEGBILE: Second.

16 CHAIR LHAMON: Thank you. Any
17 discussion on this slate? Hearing none, I'll
18 call the question and we'll take a roll call
19 vote. Commissioner Adegbile, how do you vote?

20 COMMISSIONER ADEGBILE: Aye.

21 CHAIR LHAMON: Commissioner Heriot?

22 COMMISSIONER HERIOT: I'm voting no on
23 this one. Again, this is another one that has
24 not been properly balanced.

25 CHAIR LHAMON: Okay. Commissioner

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1 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: And 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 **MASSACHUSETTS ADVISORY COMMITTEE**

16 We'll now move to the Massachusetts
17 Advisory Committee. I move that the Commission
18 appoint the following individuals to the
19 Massachusetts Advisory Committee based on the
20 recommendation of the Staff Director.

21 David Harris, Nazia Ashraful,
22 Christina Bain, Emilio Cruz, Thomas Cushman,
23 Martha Davis, Nennah Estrella-Luna, Daniel
24 Hartman, Eric Jepeal, Wendy Kaminer, S. Atyia
25 Martin, Eva Millona, John Sivolella, Jake

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1 Sussman, Slobhan Sweeney and Jessica Tang. With
2 this motion, the Commission will also appoint
3 David Harris as the chair of the Massachusetts
4 Advisory Committee.

5 All of these members as uncompensated
6 government employees.

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

13 COMMISSIONER ADEGBILE: Second.

14 CHAIR LHAMON: Thank you. Any
15 discussion on this appointment?

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

20 Any further discussion? Commissioner
21 Heriot.

22 COMMISSIONER HERIOT: This was
23 actually one of the better balanced SACs until
24 Joshua Katzen was taken off of it, and I object
25 on that basis.

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1 CHAIR LHAMON: Any other discussion?
2 Okay, I'll call the question, take a roll call
3 vote.

4 Commissioner Adegbile, how do you
5 vote?

6 COMMISSIONER ADEGBILE: Aye.

7 CHAIR LHAMON: Commissioner Heriot?

8 COMMISSIONER HERIOT: No.

9 CHAIR LHAMON: Commissioner Kirsanow?

10 COMMISSIONER KIRSANOW: No.

11 CHAIR LHAMON: Commissioner Kladney?

12 COMMISSIONER KLADNEY: Yes.

13 CHAIR LHAMON: Commissioner Narasaki?

14 COMMISSIONER NARASAKI: Yes.

15 CHAIR LHAMON: Commissioner Yaki?

16 COMMISSIONER YAKI: Aye.

17 CHAIR LHAMON: And Vice Chair Timmons-
18 Goodson?

19 VICE CHAIR TIMMONS-GOODSON: Yes.

20 CHAIR LHAMON: And I vote yes. The
21 motion passes. Two Commissioners opposed, no
22 Commissioner abstained, all others were in favor.

23 **SOUTH DAKOTA ADVISORY COMMITTEE**

24 We now move to the South Dakota
25 Advisory Committee. I move that the Commission

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1 appoint the following individuals to the South
2 Dakota Advisory Committee based on the
3 recommendations of the Staff Director.

4 Tiffany Graham, Charles Abourezk,
5 Paula Antoine, Sara Frankenstein, Patrick Garry,
6 Taneeza Islam, Arlouine Gay Kingman, Brittany
7 Kjerstad McKnight, Travis Letellier, Mike Levsen,
8 Aaron Pilcher, Thomas Simmons, and Natalie Stites
9 Means. With this motion, the Commission will
10 also appoint Tiffany Graham as the chair of the
11 South Dakota Advisory Committee.

12 All of these members will serve as
13 uncompensated government employees.

14 If the motion passes, the Commission
15 will authorize the Staff Director to execute the
16 appropriate paperwork for the appointments, which
17 will begin on August 14th, 2019 after the current
18 committee expires. Do I have a second for this
19 motion?

20 VICE CHAIR TIMMONS-GOODSON: Second.

21 CHAIR LHAMON: Thank you. Any
22 discussion on this appointment? Hearing none,
23 I'll call the question, and take a roll call
24 vote.

25 Commissioner Adegbile, how do you

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1 vote?

2 COMMISSIONER ADEGBILE: Aye.

3 CHAIR LHAMON: Commissioner Heriot?

4 COMMISSIONER HERIOT: There are some
5 great people on this one. It is not perfect but
6 good enough for government work. Aye.

7 CHAIR LHAMON: Commissioner Kirsanow?
8 Commissioner Kirsanow?

9 COMMISSIONER KIRSANOW: Yes.

10 CHAIR LHAMON: Commissioner Kladney?

11 COMMISSIONER KLADNEY: Yes.

12 CHAIR LHAMON: Commissioner Narasaki?

13 COMMISSIONER NARASAKI: Yes.

14 CHAIR LHAMON: Commissioner Yaki?

15 COMMISSIONER YAKI: Aye.

16 CHAIR LHAMON: And Vice Chair Timmons-
17 Goodson?

18 VICE CHAIR TIMMONS-GOODSON: Yes.

19 CHAIR LHAMON: And I vote yes. The
20 motion passes unanimously.

21 I do want to note, just for purposes
22 of our effort not to defame or degrade, that my
23 view is that we have great people on all of our
24 advisory committees.

25 COMMISSIONER HERIOT: And I will

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1 second that. We do have great people on all of
2 our advisory committees.

3 **WISCONSIN ADVISORY COMMITTEE**

4 CHAIR LHAMON: Thank you. We'll now
5 move to the Wisconsin Advisory Committee. I move
6 that the Commission appoint the following
7 individuals to the Wisconsin Advisory Committee
8 based on the recommendation of the Staff
9 Director.

10 Angelique Harris, Bernardo Cuerto,
11 William Flaunders, Alexander Lodge, David Nelson,
12 O. Emil Ovbiagele, Pardeep Singh Kaleka, William
13 Tisdale, Nancy Vue Tran and Chris Walton. With
14 this motion, the Commission will also appoint
15 Angelique Harris as the chair of the Wisconsin
16 Advisory Committee.

17 All of these members will serve as
18 uncompensated government employees.

19 If the motion passes, the Commission
20 will authorize the Staff Director to execute the
21 appropriate paperwork for the appointments, which
22 will begin on August 14th, 2019 after the current
23 committee expires. Do I have a second for this
24 motion?

25 COMMISSIONER ADEGBILE: Second.

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

4 Commissioner Adegbile, how do you
5 vote?

6 COMMISSIONER ADEGBILE: Aye.

7 CHAIR LHAMON: Commissioner Heriot?

8 COMMISSIONER HERIOT: Again, not
9 properly balanced. No.

10 CHAIR LHAMON: Commissioner Kirsanow?

11 COMMISSIONER KIRSANOW: No.

12 CHAIR LHAMON: Commissioner Kladney?

13 COMMISSIONER KLADNEY: Yes.

14 CHAIR LHAMON: Commissioner Narasaki?

15 COMMISSIONER NARASAKI: Yes.

16 CHAIR LHAMON: Commissioner Yaki?

17 COMMISSIONER YAKI: Aye.

18 CHAIR LHAMON: And Vice Chair Timmons-
19 Goodson?

20 VICE CHAIR TIMMONS-GOODSON: Yes.

21 CHAIR LHAMON: And I vote yes. The
22 motion passes. Two Commissioners opposed, no
23 Commissioner abstained, all others were in favor.

24 **WASHINGTON ADVISORY COMMITTEE**

25 We'll now move to consideration of

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1 interim appointments for the Washington Advisory
2 Committee. I move that the Commission appoint
3 the following individuals to the Washington
4 Advisory Committee based on the recommendation of
5 the Staff Director. Joe Silem-Enlet, Endel
6 Kolde, John Safarli, and Brian Screnar. All of
7 these members will serve as uncompensated
8 government employees.

9 If the motion passes, the Commission
10 will authorize the Staff Director to execute the
11 appropriate paperwork for the appointments.

12 Do I have a second for this motion?

13 COMMISSIONER ADEGBILE: Second.

14 CHAIR LHAMON: Thank you. Any
15 discussion on this appointment? I'll call the
16 question, 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: Yes.

22 CHAIR LHAMON: Commissioner Kirsanow?

23 COMMISSIONER KIRSANOW: Yes.

24 CHAIR LHAMON: Commissioner Kladney?

25 COMMISSIONER KLADNEY: Yes.

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1 CHAIR LHAMON: Commissioner Narasaki?

2 COMMISSIONER NARASAKI: Yes.

3 CHAIR LHAMON: Commissioner Yaki?

4 COMMISSIONER YAKI: Aye.

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

7 VICE CHAIR TIMMONS-GOODSON: Yes.

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

10 The next item on our agenda is to
11 consider project proposals for Fiscal Year 2020
12 and the Statutory Enforcement Report for Fiscal
13 Year 2021.

14 **D. DISCUSSION AND VOTE ON 2020 AND**
15 **2021 PROJECT PROPOSALS**

16 CHAIR LHAMON: For Fiscal year 2020,
17 we already had one project moving forward as
18 approved last year with a briefing likely in
19 November 2019 on sub-minimum wages for workers
20 with disabilities.

21 I appreciate, again, Commissioner
22 Heriot's suggestion that we identify statutory
23 enforcement reports two years in advance to give
24 staff and the Commission sufficient time to
25 review those materials and to be able to publish

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1 on time. So we will continue with that process
2 in today's vote and for the coming years.

3 Moving forward with Fiscal Year 2020
4 program planning. I understand from the Staff
5 Director that we currently have capacity,
6 financial and otherwise, to take on two
7 additional projects. To open the floor for
8 discussion based on the rankings circulated by
9 Commissioners in the last few weeks.

10 I move that the Commission approve,
11 for Fiscal Year 2020, the projects on bail reform
12 and maternal mortality. Is there a second?

13 COMMISSIONER ADEGBILE: Second.

14 VICE CHAIR TIMMONS-GOODSON: Second.

15 COMMISSIONER ADEGBILE: I yield to the
16 Vice Chair.

17 (Laughter.)

18 VICE CHAIR TIMMONS-GOODSON: Second.

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

22 In our 2017 report on civilized
23 implications of municipal fines and fees, we
24 explicitly noted that the report would not take
25 up issues of bail and re-trial incarceration.

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1 Nevertheless, the report noted that
2 the March 2016 dear colleague letter, issued by
3 the United States Department of Justice, and
4 later rescinded by then Attorney General
5 Sessions, stated the principle that, quote,
6 courts must not employ bail or bond practices
7 that caused indigent defendants to remain
8 incarcerated solely because they cannot afford to
9 pay for their release, end quote.

10 Similar to the issue of fines and
11 fees, in which we found that some jurisdictions
12 were targeting low income communities and
13 communities of color, in the assessment of high
14 fees for low level offenses, there is evidence of
15 injustice.

16 With respect to bail practices that
17 hold the defendant in jail, if the defendant
18 cannot pay a certain amount, regardless of
19 ability to pay or a nexus with public safety,
20 even where the defendant has not been charged
21 with any offense.

22 The real-life impact of pre-trial
23 detention should not be underestimated.
24 Individuals, quote, may lose their jobs, default
25 on vehicles, lose their homes, get behind on

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1 child support payments, lose custody of dependent
2 children, and more, as found by the justice
3 policy institute.

4 The past couple of years have seen
5 varying stages of reform on this issue, including
6 in the great State of California, where I now
7 live. And in various states around the country.

8 This issue has seen coalitions built
9 across the political aisle with proponents of
10 criminal justice reform. Including reform in
11 pre-trial detention and money bail, coming from
12 both progressive and conservative advocates.

13 This project would evaluate the
14 current state of money bail in operation in
15 states and local jurisdictions around the
16 country. And how it impacts the fair
17 administration of justice. As well as whether it
18 operates in a manner that denies equal protection
19 of the law to individuals on the basis of race or
20 another protected class.

21 It will also evaluate the role of the
22 private bail industry and how the involvement of
23 the private sector exacerbates or mitigates these
24 impacts. I look forward to taking up this
25 critical issue with the bipartisan lens and hope

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1 that my fellow Commissioners will support it.

2 Commissioner Adegbile, as a sponsor of
3 the project on maternal mortality, would you like
4 to begin our discussion on that topic, and we can
5 then discuss both together, if there's any
6 discussion?

7 COMMISSIONER ADEGBILE: Absolutely.
8 The issue of maternal mortality is one that is
9 receiving some increased attention, and indeed,
10 in my judgement, needs to receive still more.

11 There is evidence that there are some
12 significant disparities in the experience of
13 maternal mortality. And the fact that there are
14 disparity levels that are quite severe impacting
15 minority populations, African American
16 populations and others, is something on which I
17 would like us to train our focus, to dig into
18 some of the underlying causes, examine some of
19 the pending legislation and assess whether or not
20 there are opportunities for the Commission to use
21 its analytical force and power to help illuminate
22 the importance of this issue.

23 CHAIR LHAMON: Thank you. I'll ask
24 those who are on the phones to please mute your
25 lines if you're not speaking, we're getting a

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1 little bit of feedback. And I'll open for
2 discussion of these topics if there is any.

3 Hearing none -- Again, with the
4 respect to put your line on mute if you are on
5 the phone because we are hearing significant
6 background noise.

7 I'll call the question and take a roll
8 call vote on this motion. Commissioner Adegbile,
9 how do you vote?

10 COMMISSIONER ADEGBILE: Aye.

11 CHAIR LHAMON: Commissioner Heriot?

12 COMMISSIONER HERIOT: I vote no on
13 these.

14 CHAIR LHAMON: Commissioner Kirsanow?

15 COMMISSIONER KIRSANOW: No. No.

16 CHAIR LHAMON: Commissioner Kladney?

17 COMMISSIONER KLADNEY: Yes.

18 CHAIR LHAMON: Commissioner Narasaki?

19 COMMISSIONER NARASAKI: Really no,
20 even on bail?

21 COMMISSIONER HERIOT: It's together.

22 COMMISSIONER NARASAKI: Yes.

23 CHAIR LHAMON: Commissioner Yaki?

24 COMMISSIONER YAKI: Aye.

25 CHAIR LHAMON: Vice Chair Timmons-

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1 Goodson?

2 VICE CHAIR TIMMONS-GOODSON: Yes.

3 CHAIR LHAMON: And I vote yes. The
4 motion passes. Two Commissioners opposed, no
5 Commissioner abstained, all others were in favor.
6 If you are not speaking and you are on the phone,
7 please mute your line.

8 The next item for discussion and vote
9 is our Fiscal Year 2021 program planning for the
10 statutory enforcement report for Fiscal Year
11 2021. As I mentioned, will continue our practice
12 of voting two years in advance.

13 And I'll open the floor for motions
14 now on projects for consideration.

15 COMMISSIONER ADEGBILE: Madam Chair?

16 CHAIR LHAMON: Commissioner Adegbile.

17 COMMISSIONER ADEGBILE: I would like
18 to move for consideration of a disaster relief
19 and FEMA concept paper and analyst that
20 Commissioner Yaki and I are proposing jointly. I
21 circulated a draft, or I should say we circulated
22 a draft, of this proposal.

23 I did, shortly before our meeting,
24 circulate a minor revision correcting some
25 typographical and stylistic points that I have

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1 shared with the Commissioners.

2 I take it that those who are on the
3 phone have the revision in their email. And I
4 would be happy to read those minor changes into
5 the record at an appropriate time.

6 But I move consideration of this
7 concept paper, jointly, with Commissioner Yaki.

8 CHAIR LHAMON: Thank you. Is there a
9 second?

10 COMMISSIONER HERIOT: I second.

11 CHAIR LHAMON: So, I'll open the floor
12 for discussion. Commissioner Yaki or
13 Commissioner Adegbile, would you like to begin
14 our discussion of the topic?

15 COMMISSIONER ADEGBILE: Commissioner
16 Yaki, would you like me to begin?

17 COMMISSIONER YAKI: Sure.

18 COMMISSIONER ADEGBILE: 2017 was a
19 year that saw some major natural disasters hit
20 various regions of our country and wreak very
21 substantial devastation that required the
22 substantial mobilization of FEMA and local
23 resources to attend to American populations that
24 were in distress.

25 The Stafford Act and certain other

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1 provisions dictate and provide some guidance
2 about how FEMA is supposed to go about in
3 discharging its duties.

4 And this natural disaster response
5 concept paper is intended to shine a light on
6 FEMA's preparedness and response to major natural
7 disasters in different parts of the country and
8 to see how they are affecting different
9 populations. And whether or not there are any
10 disparities or concerns that this Commission
11 should be aware of and that we should highlight
12 for the benefit of the federal government and of
13 the population, so that we can improve in the
14 future at these times of crisis.

15 I thank Commissioner Yaki for his
16 substantial guidance on framing this concept
17 paper. And I look forward to the Commission's
18 effort to try and shed some light.

19 CHAIR LHAMON: Thanks. Any discussion
20 on this proposal? Vice Chair.

21 COMMISSIONER YAKI: Yes. This is
22 Commissioner Yaki.

23 CHAIR LHAMON: Go ahead, Commissioner
24 Yaki.

25 COMMISSIONER YAKI: I want to thank

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1 Commissioner Adegbile for his leadership in
2 reviving a concept paper that I put together,
3 approximately this time last year of -- I would
4 say that one of the interesting things that has
5 occurred in my life is that I may be the only
6 current United States Commissioner in Civil
7 Rights who has actually ever had to directly work
8 with FEMA in response to a natural disaster. In
9 which I did after the earthquake in the San
10 Francisco Bay area in 1989.

11 And as Congresswoman Nancy Pelosi's
12 chief of staff, I was tasked with attempting to
13 work with them. And after a somewhat bad
14 response to a hurricane called Hugo on the North
15 Carolina coast, it was incumbent upon us to
16 attempt to steer them in the right direction and
17 to teach them things such as, what is a
18 condominium and what is seismic. Things they had
19 never understood before.

20 Almost 30 years later, FEMA is still
21 learning. Or is still on a learning curve. And
22 I think that the points brought up in our
23 proposal, regarding the comparable response
24 aspect of this agency to different areas,
25 different populations, is something that is

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1 worthy of our discussion and our inquiry.

2 And I thank my fellow Commissioner for
3 bringing this back, and I look forward to working
4 with him to shed light on an agency that is
5 responsible for responding at some of the worst
6 times in people's lives. And ensuring that it
7 does so in a way that respects the diversity of
8 our country. Thank you.

9 CHAIR LHAMON: Thank you.
10 Commissioner Narasaki?

11 COMMISSIONER NARASAKI: No.

12 CHAIR LHAMON: Oh, Madam Vice Chair.

13 VICE CHAIR TIMMONS-GOODSON: Thank
14 you. I would like to thank Commissioner Adegbile
15 and Commissioner Yaki for putting this forward.
16 I do intend to support the natural disaster
17 response concept paper.

18 Last year, North Carolina was among
19 the jurisdictions that were strongly affected by
20 Hurricane Florence. In fact, just 30 miles or so
21 from my home, folks are still reeling from the
22 effects of that natural disaster.

23 And I think the only way that we get
24 better, and improve our services, regardless of
25 what area you're talking about, but governmental

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1 services is for us to review of what we did well
2 and what we perhaps could improve upon. That's
3 the only way that we get better. And I thank you
4 for having the Commission shine the light on
5 this.

6 CHAIR LHAMON: Commissioner Narasaki.

7 COMMISSIONER NARASAKI: I also intend
8 to support this as the statutory report. Sadly,
9 I won't be around to actually attend the
10 briefing.

11 It is shocking to me that this much
12 time after the disaster in Puerto Rico that
13 Puerto Rico is being treated so badly. And that
14 the people of Puerto Rico, who are American
15 citizens, are being left without the full support
16 of their government. I think it's shocking and
17 so it's time for the Commission to take it up.

18 CHAIR LHAMON: Thank you. Any further
19 discussion on this proposal?

20 Okay, I'll call the question and we'll
21 take a roll call vote. Commissioner Adegbile,
22 how do you vote?

23 COMMISSIONER ADEGBILE: Madam Chair,
24 two quick questions. One, does the record
25 reflect a second?

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1 COMMISSIONER HERIOT: I seconded.

2 CHAIR LHAMON: Yes.

3 COMMISSIONER ADEGBILE: Okay. And
4 thirdly, instead of secondly in that case, is the
5 Commission --

6 COMMISSIONER YAKI: Fourthly.

7 COMMISSIONER ADEGBILE: Fourth.

8 (Laughter.)

9 COMMISSIONER ADEGBILE: Is the
10 Commission satisfied with the redline that I
11 provided or is there any need for me to read the
12 largely ministerial changes into the record?

13 CHAIR LHAMON: I think we would all
14 appreciate if you did not.

15 (Laughter.)

16 CHAIR LHAMON: So, thank you.

17 COMMISSIONER ADEGBILE: It makes me
18 sad that my voice is so cacophonous that it leads
19 my fellow Commissioners to that position, but --

20 CHAIR LHAMON: I cast no aspersions on
21 your voice.

22 COMMISSIONER ADEGBILE: But I
23 recognize it none the less.

24 COMMISSIONER YAKI: It is very
25 soothing, Commissioner Adegbile.

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1 (Laughter.)

2 COMMISSIONER ADEGBILE: If it's time
3 to vote --

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

8 (Laughter.)

9 COMMISSIONER ADEGBILE: I've been told
10 my voice has that impact.

11 CHAIR LHAMON: Before you vote, I
12 under Commissioner Heriot has a comment or a
13 question?

14 COMMISSIONER HERIOT: No. I decided
15 it's not worth it.

16 (Laughter.)

17 CHAIR LHAMON: Okay, thank you. Okay,
18 so now we are back to the vote. Commissioner
19 Adegbile, how do you vote?

20 COMMISSIONER ADEGBILE: Aye. And
21 goodnight, Commissioner Yaki.

22 (Laughter.)

23 CHAIR LHAMON: Commissioner Heriot?

24 COMMISSIONER HERIOT: I've got real
25 doubts that we've got the capability of doing

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1 this well, but like, what the heck, let's vote
2 yes here.

3 CHAIR LHAMON: Okay. Commissioner
4 Kirsanow?

5 COMMISSIONER KIRSANOW: Yes.

6 CHAIR LHAMON: Commissioner Kladney?

7 COMMISSIONER KLADNEY: Yes. Yes.

8 CHAIR LHAMON: Commissioner Narasaki?

9 COMMISSIONER NARASAKI: Yes.

10 CHAIR LHAMON: Commissioner Yaki?

11 COMMISSIONER YAKI: Oh, oh, yes.

12 CHAIR LHAMON: Vice Chair Timmons-
13 Goodson?

14 VICE CHAIR TIMMONS-GOODSON: Yes.

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

17 The next item on our amended agenda is
18 a discussion and vote on a proposed statement
19 titled, U.S. Commission on Civil Rights,
20 announcement replacement of interpreters with a
21 video at immigrants first immigration hearing,
22 introduced by Commissioner Narasaki.

23 **E. U.S. COMMISSION ON CIVIL RIGHTS,**
24 **ANNOUNCEMENT REPLACEMENT OF INTERPRETERS**
25 **WITH A VIDEO AT IMMIGRANTS FIRST**

IMMIGRATION HEARING

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

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

It's entitled, the U.S. Commission on Civil Rights to Announcement its Replacement of Interpreters with a Video at Immigrants First Immigration Hearing. The Commission on civil rights strongly objects to the Department of Justice's plans to replace in-person interpreters at immigrants' first immigration hearing with a video recorded in multiple languages.

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

Under the new policy, the master calendar hearings where immigration judges schedule future hearings and advise immigrants of

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1 their rights will no longer have in-person
2 interpreters. Instead, interpreters will be
3 replaced with a video recorded in multiple
4 languages that would purport to inform immigrants
5 of their rights and the course of the
6 proceedings.

7 If a limited English proficient
8 immigrant does not understand the video or has
9 questions, or if the immigrant and judge need to
10 communicate with each other, judges will have to
11 rely on the chance that someone in the building
12 speaks the immigrant's language. Which may be a
13 less common indigenous language, or rely on a
14 telephone service that judges say is inadequate
15 or delayed.

16 Or the judge may have to reschedule
17 the hearing, which will add costly delays rather
18 than add efficiency.

19 The Department of Justice claims that
20 this move is due to limited resources. While the
21 Commission acknowledges that all federal agencies
22 have physical pressures, cost pressures do not
23 exempt agencies from their responsibility to
24 ensure due process and civil rights requirements
25 are met. Especially when the serious

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1 consequences of being deported are involved.

2 Under executive order 13166, federal
3 agencies must provide meaningful access to the
4 programs and services they provide to limited
5 English proficient individuals, under the
6 national origin discrimination provisions of
7 Title VI of the Civil Rights Act of 1964. Which
8 include language access.

9 Immigrants already face many barriers
10 to a fair hearing and immigration court. They
11 only have the right to counsel on immigration
12 proceedings at their own expense. And most have
13 no attorneys because of the remoteness of many of
14 the detention centers, the expense and the
15 difficulty of being able to find representation
16 while in detention.

17 The immigration court system also
18 faces a large backlog. And immigrants, including
19 those seeking asylum or fighting deportation,
20 often wait years for the cases to be decided.

21 Immigration judges have already
22 complained that not having in-person interpreters
23 at these initial hearings will disrupt
24 proceedings and waste time.

25 Since the 1960s, the Commission and

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1 its state advisory committees have chronicled the
2 civil rights implications of our nation's
3 immigration laws and policies. We strongly urge
4 the Department of Justice to reverse its
5 decision.

6 And we urge Congress to require the
7 department to provide interpreters at all stages
8 of immigration cases.

9 CHAIR LHAMON: Thank you. Do we have
10 a motion to approve the statement, to open the
11 floor for discussion?

12 VICE CHAIR TIMMONS-GOODSON: So moved.

13 CHAIR LHAMON: Do we have a second?

14 COMMISSIONER ADEGBILE: Second.

15 CHAIR LHAMON: Thank you. Is there
16 any discussion on the statement? I'll begin with
17 you, Commissioner Narasaki, as a sponsor of the
18 statement.

19 COMMISSIONER NARASAKI: I think the
20 statement stands for itself. It's a fairly
21 simply proposition that people who are going
22 through a legal process should have the right to
23 understand, in their language, what is going on.

24 CHAIR LHAMON: Thank you. Any further
25 discussion? Commissioner Heriot.

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1 COMMISSIONER KLDADNEY: Madam Chair,
2 Commissioner Kladney. I'd just like to note that
3 I've taken part in hearing the administrative
4 hearings where interpreters have been on the
5 phone and it is very difficult and disruptive for
6 the client to, well, my client at the time,
7 clients, to get a complete comprehension of
8 what's going on and understanding. And it does
9 take an inordinate, more time in the courtroom
10 process. Thank you.

11 CHAIR LHAMON: Thank you. Commission
12 Heriot.

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

16 I would like to see in writing what
17 the policy is. And I think we should be
18 consulting with the Department of Justice and get
19 their side of the story better than simply quotes
20 from the newspapers.

21 And it's very hard to get translators
22 for indigenous languages.

23 My understanding is that these first
24 hearings are basically cattle calls, where you
25 get a date. And I'm concerned that we're a

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1 little premature on this and that I'm not certain
2 what side of this we ought to be on.

3 CHAIR LHAMON: Thank you. Any other
4 discussion? I'll call the question and take a
5 roll call vote. Commissioner Adegbile, how do
6 you vote?

7 COMMISSIONER ADEGBILE: Aye.

8 CHAIR LHAMON: Commissioner Heriot?

9 COMMISSIONER HERIOT: No.

10 CHAIR LHAMON: Commissioner Kirsanow?

11 COMMISSIONER KIRSANOW: No.

12 CHAIR LHAMON: Commissioner Kladney?

13 COMMISSIONER KLADNEY: Yes.

14 CHAIR LHAMON: Commissioner Narasaki?

15 COMMISSIONER NARASAKI: Yes.

16 CHAIR LHAMON: Commissioner Yaki?

17 COMMISSIONER YAKI: Aye.

18 CHAIR LHAMON: Vice Chair Timmons-
19 Goodson?

20 VICE CHAIR TIMMONS-GOODSON: Yes.

21 CHAIR LHAMON: And I vote yes. The
22 motion passes. Two Commissioners opposed, no
23 Commissioner abstained, all others were in favor.

24 The next item on our amended agenda is
25 a discussion and vote on a proposed statement

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1 titled, U.S. Commission on Civil Rights Strongly
2 Condemns the Recent Statements of President Trump
3 Telling U.S. Congresswoman to Leave the Country
4 and, quote, Go Back to Their Countries,
5 introduced by Commissioner Yaki.

6 **F. DISCUSSION AND VOTE ON A PROPOSED STATEMENT**
7 **TITLED, U.S. COMMISSION ON CIVIL RIGHTS STRONGLY**
8 **CONDEMNS THE RECENT STATEMENTS OF PRESIDENT TRUMP**
9 **TELLING U.S. CONGRESSWOMEN TO LEAVE THE COUNTRY**
10 **AND "GO BACK TO THEIR COUNTRIES"**

11 CHAIR LHAMON: Commissioner Yaki,
12 could you please read the proposed statement for
13 consideration?

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

17 First paragraph. The U.S. Commission
18 on Civil Rights, by a majority vote, strongly
19 condemns statements by the President declaring
20 that elected United States Congresswomen should,
21 quote, go back, end quote, to countries they,
22 quote, originally came from, end quote.

23 Notwithstanding that all, therefore
24 all four congresswomen, the county is in fact the
25 United States. Such racist and nativist and

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1 xenophobic statements undermines the quality
2 principles to which this country aspires, instill
3 and promote division and fear among Americans and
4 seeks to denigrate some among us as less American
5 than others.

6 Next paragraph. Throughout the
7 history of this country, racism and bigotry has
8 often manifested itself in jingoistic,
9 sloganeering, asking immigrants or others,
10 regardless of citizenship or birthright, to,
11 quote, return home, end quote.

12 The Know Nothing party, which began
13 its life as the Native American party, campaigned
14 openly against Catholicism and advocated that
15 Irish and German Catholics to return to their
16 native countries, and it is in quotes. Various
17 movements in the 1800s sought to, quote, resettle
18 freed African-American and slaved people in West
19 Africa, notwithstanding generations are living in
20 the United States. Latin and Asian Americans
21 often made the recipients of slurs, ending in
22 quote, go back home, end quote.

23 Next paragraph. Particularly for many
24 Americans whose roots, recent or deep, are not
25 from White European ancestors. There's been an

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1 unfortunately truth that at some point in their
2 lives someone, because of racism, bigotry or
3 ignorance, has told them to, quote, go back home.

4 So a country not of their birth, often
5 not even of their ancestry. Solely because
6 someone does not like their skin color, their
7 ethnicity or their accent.

8 Next paragraph. As claims separation
9 of true Americans from others is divisive,
10 logically flawed and undermines core American
11 values. Americans, all of us, are at home here.

12 None of us has some place else we
13 should go back to where we disagree with an
14 elected leader. And certainly, no elected leader
15 should suggest otherwise.

16 Free speech, including the freedom to
17 dissent and the ability of all Americans to
18 participate in a robust marketplace of ideas, are
19 Hallmark American ideals. In our democracy, the
20 right of the legislative and executive branches
21 and the individuals within each to disagree, is a
22 bedrock principle of the separation of powers
23 enshrined in our constitution.

24 The Commission, which Congress has for
25 six decades, charged to advise the President and

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1 Congress of our status of civil rights, wrongly
2 condemned irresponsible rhetoric that cascades
3 disagreement in a matter that renders Americans
4 less safe, less welcome in their own country and
5 divides this country based on stereotype,
6 attribution of values, based on historic or
7 recent national origin.

8 This Commission has already urged the
9 administration to increase hate crime enforcement
10 to combat the rise of White nationalism. The
11 President's recent comments only exasperate the
12 problem of White nationalism by normalizing one
13 of their most recent tropes.

14 On this issue I want to -- there's a
15 typo. I have the word S, the S should be
16 stricken on racist.

17 Final paragraph. With this statement,
18 the Commission used their voice to reaffirm
19 American values and inclusion and respect for
20 dignity of all persons in our midst. We call on
21 the President to use his platform likewise to
22 lead rather than to tear down this country.

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 COMMISSIONER NARASAKI: So moved.

2 CHAIR LHAMON: Is there a second?

3 COMMISSIONER ADEGBILE: Second.

4 CHAIR LHAMON: Thank you. Any
5 discussion on this statement? Commissioner Yaki,
6 I'll begin with you as the sponsor of the
7 statement.

8 COMMISSIONER YAKI: Well, I mean, I
9 would actually like to defer first to my
10 colleagues. And I wanted to thank many of my
11 colleagues for their input on participation.

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

15 But I'd like to hear from you first,
16 and then I'd like to sort of give a closing,
17 Madam Chair.

18 CHAIR LHAMON: Okay. Madam Vice
19 Chair.

20 VICE CHAIR TIMMONS-GOODSON: Yes. I
21 struggle on, and with, the frequency with which
22 the Commission should issue public comments and
23 statements regarding tweets and other statements
24 by our President, who often says things that I
25 deem offensive and harmful.

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1 And I have struggled with this
2 particular one. It seems that at the rate that
3 we're going this Commission could spend much of
4 its time issuing statements condemning or
5 criticizing our President's statement.

6 But on this one, after some struggle,
7 I don't see how I cannot support it. That is
8 because of the additional, there has been so much
9 fallout from this. So, you have other folks
10 picking up on this direction.

11 As recently as a couple of days ago,
12 our President was in my home state of North
13 Carolina, and during the course of his remarks a
14 rally chant began, send her back. Or something
15 to that effect.

16 And I think this marks just the
17 beginning. And so I'll be joining in this
18 statement. And I thank you, Commissioner Yaki,
19 for taking the leadership on this. And I see the
20 merit in what you began early on. Thank you.

21 CHAIR LHAMON: Thank you.
22 Commissioner Narasaki.

23 COMMISSIONER NARASAKI: Like the Vice
24 Chair, I have been hesitant about supporting this
25 statement. Not because I don't believe in it,

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1 but like her, I believe that the subject of the
2 statement is making incendiary statements on a
3 regular basis. And I'm concerned that we'll have
4 to expend substantial energy and time responding
5 to tweets.

6 However, my social media feeds
7 exploded with statements from friends and
8 colleagues, recalling their personal hurt and
9 outrage about being told to go back to where they
10 came from, though they were U.S. citizens. I,
11 myself, have felt that pain.

12 The pain felt by friends not born
13 here, but whose families chose America as their
14 home, is no less than those who were born
15 citizens. There is no question in any of our
16 minds that the tweet is racist.

17 It is distressing to see members of
18 the party of Lincoln trying to defend them.
19 President Reagan said, you can live in France,
20 but you cannot become a Frenchman.

21 You can live in Germany or Turkey or
22 Japan, but you cannot become a German, a Turk or
23 a Japanese. But anyone from any corner of the
24 earth can live in America and become an American.

25 That is the beauty of this country.

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1 My father believed, as the four
2 Congresswomen believed who were the target of the
3 tweets, that real patriotism is standing is
4 bullies and loving the United States enough to
5 call it out where it can do better and make the
6 sacrifices necessary to help it to live up to its
7 promises and its founding documents.

8 My father volunteered to fight in
9 Europe during World War II to defend America's
10 freedom, even though the country of his birth put
11 him and his American born mother behind barbed
12 wire because of the color of their skin and their
13 ancestry.

14 Commissioner Yaki, who's often the
15 conscious of this Commission, has convinced me
16 that silence is read by White supremacist as
17 acceptance and agreement. However, where we are,
18 the barrage of bigotry from a President who is
19 embolden White supremacist, we cannot let it
20 become normal.

21 Unchallenged racism and bigotry led to
22 the interment of over 120,000 Japanese Americans
23 in concentration camps and the deaths of millions
24 of Jewish people in the holocaust.

25 The Commission's job is to be the

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1 conscious of the nation on civil rights. And
2 unfortunately, silence in this case is simple not
3 an option. Thank you.

4 CHAIR LHAMON: Thank you. Any other
5 discussion? Commissioner Yaki, did you want to
6 give your --

7 COMMISSIONER YAKI: All right, thank
8 you very much colleagues. And I first want to
9 thank both Commissioners Timmons-Goodson and
10 Commissioner Narasaki for supporting this.

11 It is a sad state of affairs when we
12 have to ask ourselves, as a Commission and as an
13 American, as individuals, do we need to respond,
14 yet again, to another outrage that goes to the
15 heart of trying to, attempting to redefine who or
16 what is an American in this country.

17 And it is tiring, it is fatiguing, it
18 is humiliating, it is angering. But like them,
19 in this particular instance, when a vicious, well
20 worn, racist trope of telling people who do not
21 look like you, who do not talk like you, who do
22 not come from the same neighborhood or city or
23 country or anywhere, to go back home as if you,
24 as an American, have any other home, but this
25 country, prompted me to take this action.

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1 This was even before, as Commissioner
2 Timmons-Goodson pointed out, the horrible
3 chanting at the rally the other night, chants,
4 spontaneous chants of, send her back, referring
5 to one of the Congresswoman, and the refusal of
6 the person speaking at that event, who prompted
7 these chants, to do anything to stop, prevent or
8 rebuke that chant.

9 We cannot normalize this kind of
10 wording in our country. We cannot normalize this
11 kind of response in this country.

12 It has been something that has been
13 part of the darker side of our nature for
14 generations. And this country has always sought
15 to rise above that and adhere to its ideals and
16 understand that, as Commissioner Narasaki said,
17 being an American is not bound by race, it is not
18 bound by color or creed or national origin or
19 religion, it is who we are put together by people
20 200 years ago in a magnificent experiment called
21 constitutional democracy.

22 When someone attempts to create a
23 dividing line at the who or what constitutes an
24 American, the civil rights commission has to act,
25 it has to stand, and it has to stand united. I

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1 urge my colleagues, all of my colleagues on both
2 sides of the aisle, to support this measure.

3 This is not about whether or not you
4 agree or disagree with all the policies and
5 principles of the current occupant of 1600
6 Pennsylvania Avenue, it is about the fact that as
7 a Commission and as a country, no occupant at
8 1600 Pennsylvania Avenue should ever utter these
9 types of words or this type of phrase or create
10 this kind of expectation or normalcy around a
11 statement such as these.

12 We are better than that. That is not
13 who we have been, that is not what we have
14 struggled to do. It is not what, as Abraham
15 Lincoln said, it does not rise to the better
16 angels of our nature. It is not who we are as
17 Americans. And I thank you for your
18 consideration. And I thank you for your support.

19 CHAIR LHAMON: Thank you.
20 Commissioner Heriot.

21 COMMISSIONER HERIOT: I'm not going to
22 be able to join this statement as it's written
23 right now, but let me say a few words at least
24 here. While I disagree with parts of the
25 majority statement today, I agree with my

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1 colleagues point that the Presidents recent
2 tweets were ill considered.

3 Whether intended or not, it was
4 predictable that these statements would be
5 interpreted by many the way the Commission now
6 interprets them. Still, it needs to be pointed
7 out that the words racist and white nationalist
8 are tossed around entirely too promiscuously
9 these days. The temperature needs to be brought
10 down.

11 Like the President, I have profound
12 disagreements on just about every major policy
13 issue with the four Congresswomen who were the
14 subject of the tweets condemned by the Commission
15 statement. Nonetheless, it's my view that he
16 should not have said what he said, in the way he
17 said.

18 All four Congresswomen are American
19 citizens. Three of the four were born in the
20 United States. The United States is their home.

21 One can disagree strenuously with the
22 four Congresswomen's policy views without
23 implying that they are somehow less American than
24 any of the rest of us.

25 CHAIR LHAMON: Thank you.

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1 Commissioner Adegbile.

2 COMMISSIONER ADEGBILE: Yes. Thank
3 you, Commissioner Yaki, for your work on this
4 statement. I would just add that, as I
5 understand it, at the rally the other day where
6 this chant and sentiment was renewed, you can see
7 in the pictures and video that there were
8 children present.

9 And there are many things that we call
10 upon leaders to do, but a principle thing is to
11 set a tone from the top that we all aspire to.
12 And when we have a rally where American children
13 are being taught, literally taught, to espouse
14 and embrace these types of racist sentiments,
15 we're not only debasing the office, but we are
16 debasing the lived experience of the country,
17 from its founding to the present day.

18 And the people who have sat before
19 this Commission over decades, some of whom are
20 the relatives of people who have given their
21 lives in service of the principles of equality.

22 And so, it is a very serious thing
23 that is much bigger than tweets. It goes to the
24 core of who we aspire to be as a nation. And it
25 troubles me that children are being taught that

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1 this is what America stands for in the year 2019.

2 Thank you, Commissioner Yaki.

3 CHAIR LHAMON: Commissioner Yaki, I
4 just --

5 COMMISSIONER KLADNEY: Madam Chair?

6 CHAIR LHAMON: Commissioner Kladney.

7 COMMISSIONER KLADNEY: Commissioner
8 Kladney here. I too would like to add my thanks
9 to Commissioner Yaki's leadership on this matter.

10 And I would like to say that one of
11 our charges is that of national origin, and many
12 of us, and our families, have immigrated to the
13 United States in the 20th century. And that
14 that's far in the past.

15 And many of our relatives have
16 suffered at the hands of those people who
17 intentionally want to create animus between
18 people within our country and within the races in
19 our country. And it is difficult for me to
20 believe that these pronouncements were not
21 intentional in nature and did not want to have
22 the result, effect that they did have in North
23 Carolina.

24 Therefore I'm supporting this
25 statement 100 percent. Thank you.

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1 CHAIR LHAMON: Thank you.
2 Commissioner Yaki, to take us down to the truly
3 mundane, I noticed one other typo. And with your
4 permission, we would change seek to seeks, at the
5 end of the first paragraph in the statement.

6 COMMISSIONER YAKI: I accept that as a
7 friendly amendment.

8 CHAIR LHAMON: Thank you. And I also
9 just want to note, I appreciate Commissioner
10 Heriot's commitment to, and statement of
11 commitment to concern about the harm that such a
12 statement from the President makes.

13 I also think it's important for us to
14 recognize that the EEOC, which is the nation's
15 authority about employment discrimination,
16 includes these words, go back home, as an example
17 of race discrimination and national origin
18 discrimination. That is so archetypal that it is
19 explicit in their guidance.

20 And there is, I think no question,
21 that the intent and the receipt of the text from
22 the President is racial harm. And it is our job
23 to call it that, to speak against it and to make
24 sure that we, as a nation, don't live that life.
25 So, I will support this statement.

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1 Do we have any further discussion?
2 I'll call the question and we'll take a roll call
3 vote. Commissioner Adegbile?

4 COMMISSIONER ADEGBILE: Aye.

5 CHAIR LHAMON: Commissioner Heriot?

6 COMMISSIONER HERIOT: Abstain.

7 CHAIR LHAMON: Commissioner Kirsanow?

8 COMMISSIONER KIRSANOW: No.

9 CHAIR LHAMON: Commissioner Kladney?

10 COMMISSIONER KLADNEY: Yes.

11 CHAIR LHAMON: Commissioner Narasaki?

12 COMMISSIONER NARASAKI: Yes.

13 CHAIR LHAMON: Commissioner Yaki?

14 COMMISSIONER YAKI: Aye.

15 CHAIR LHAMON: And Vice Chair Timmons-
16 Goodson?

17 VICE CHAIR TIMMONS-GOODSON: Yes.

18 CHAIR LHAMON: And I vote yes. The
19 motion passes. One Commissioner abstained, one
20 Commissioner opposed, all others were in favor.

21 Next we will hear from Staff Director
22 Mauro Morales for the monthly Staff Director's
23 report.

24 **G. MANAGEMENT AND OPERATIONS**

25 **STAFF DIRECTOR'S REPORT**

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1 STAFF DIRECTOR: Thank you, Madam
2 Chair. In respect for the limited time we have
3 left before the next presentation, I have nothing
4 further to add than is already contained in the
5 report. If any Commissioner has a specific
6 question concerning a matter contained in the
7 report, I welcome the opportunity to speak to you
8 about it.

9 I would like to take just a brief
10 moment, Madam Chair and Commissioners, just to
11 thank our law clerks and interns that have been
12 with us this summer. Many of them, this will be
13 their last Commission business meeting.

14 We've enjoyed having you here. We
15 appreciate your hard work in assisting the
16 special assistants, the Office of General
17 Counsel, the Office of Civil Rights Enforcement,
18 and my office as well.

19 I hope you got a lot of good
20 experience out of your time with us, and I wish
21 you all the best. Please keep in touch with us
22 as you continue on in your careers and in your
23 law school studies. So thank you very much.

24 That's all I have, Madam Chair.

25 CHAIR LHAMON: Thank you. I'll echo

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1 those thanks to our summer interns who have done
2 us a terrific service in being here.

3 And I'd like also to use this minute
4 to take a point of personal privilege, with
5 Commissioner Narasaki's permission. I understand
6 that this is our last business meeting in which
7 Commissioner Narasaki's special assistant, Jason
8 Lagria, will be with us. And I, okay, we can
9 hope that it's not ---

10 (Laughter.)

11 CHAIR LHAMON: -- but on the off
12 chance that it is, I want to say, while Jason is
13 still with us, how very much I have enjoyed
14 working with you, Jason, what incredible service
15 you have given to us.

16 As a Commission, I think that we
17 Commissioners, who are by statute part-time in
18 doing our work, could not do the work as
19 effectively as we do without the assistance of
20 our extraordinary special assistants.

21 And Jason has been willing from Day 1
22 for me to go well above the call to help me when
23 I didn't yet have a special assistant, and to
24 help all of us in providing extraordinary
25 research and terrific service. We will miss you.

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1 I will miss you. Thank you. Commissioner
2 Narasaki?

3 COMMISSIONER NARASAKI: I'd like to
4 add, since I won't be in person for the August
5 business meeting, and it is quite likely that he
6 will have left, I want to say that it has been an
7 honor and a pleasure to work with him. I stole
8 him from my former place of employment. So in
9 all fairness to him, he knew what he was getting
10 he agreed to work with me.

11 And he's done an incredible job, not
12 just the work, you know, the written work, and
13 the research, and all of that important stuff,
14 but I asked him when I started to help build a
15 spirit of camaraderie in the Commission between
16 the appointees and the staff, and to sort of
17 bridge the political divides and have an open
18 door.

19 And I think that he has contributed a
20 lot to the environment of the Commission. And
21 I'm very proud of his work, and I look forward to
22 seeing the, I'm sure, the impact that he will
23 continue to have on the world and on civil
24 rights. So thank you, Jason.

25 CHAIR LHAMON: Madam Vice Chair?

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1 VICE CHAIR TIMMONS-GOODSON: Is it
2 okay to ---

3 CHAIR LHAMON: Pile on.

4 VICE CHAIR TIMMONS-GOODSON: -- to
5 pile on ---

6 (Laughter.)

7 VICE CHAIR TIMMONS-GOODSON: Jason has
8 done all of this, made this incredible effort
9 that you've been hearing about with his work
10 while at the same time building a family. And so
11 I think he gets extra credit.

12 How many babies have you had since
13 you've been here?

14 (Laughter.)

15 CHAIR LHAMON: We're veering into
16 discriminatory land.

17 (Laughter.)

18 CHAIR LHAMON: Maybe we should stop.

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

22 PARTICIPANT: He had time to make the
23 babies.

24 CHAIR LHAMON: Okay, really we should
25 stop.

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1 (Laughter.)

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

5 CHAIR LHAMON: Thank you.

6 VICE CHAIR TIMMONS-GOODSON: -- for
7 sharing you and allowing such great effort. All
8 the best to you. And when I look at you, I see
9 what our future leaders look like. Thank you.
10 Madam Chair?

11 COMMISSIONER YAKI: Madam Chair, I
12 need to pile on at this point.

13 (Laughter.)

14 CHAIR LHAMON: Please don't talk about
15 the baby making.

16 COMMISSIONER YAKI: No, I will not get
17 into the biological functions of our Commission.

18 But I will say that Jason has been, I think,
19 really the rock of so much of what has happened.

20 And as someone who has been deprived of a
21 special assistant for many months, which is now
22 finally been remedied just as he leaves, thank
23 God, that his work on the upcoming immigration
24 detention update that we were doing has been
25 phenomenal.

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1 But even aside from that, he is just a
2 phenomenal human being, someone who understands
3 the world of public service in every single
4 positive aspect that you can think of. And we
5 have been benefitted by him, the government will
6 be benefitted by him.

7 And, Jason, you know, it goes without
8 saying, but if I can ever do anything for you in
9 future, please know that I can and I will.

10 CHAIR LHAMON: Thank you.
11 Commissioner Heriot?

12 COMMISSIONER KLADNEY: This is
13 Commissioner Kladney, I'd also like to add my
14 best wishes to Jason and his family, a wonderful,
15 well, to me a young man, ha, ha, ha, and a very
16 hard worker and committed person as well. So,
17 Jason, thank you and best of luck.

18 CHAIR LHAMON: Commissioner Heriot?

19 COMMISSIONER HERIOT: I just want to
20 thank Jason, who has been blushing a lot since
21 all this started. I want to thank him for all
22 his work in bridging the ideological divide. And
23 he's been wonderful to work with, and I'll miss
24 him. And, you know, thanks very much, Jason.

25 CHAIR LHAMON: Commissioner Adegbile?

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1 COMMISSIONER ADEGBILE: In the spirit
2 of our ongoing work together at the Commission,
3 Jason, me too.

4 (Laughter.)

5 CHAIR LHAMON: All right, Mr. Staff
6 Director?

7 STAFF DIRECTOR: You know, I can't
8 thank you enough, Jason, for your commitment to
9 us to work with the professional staff, and
10 special assistants, more importantly with me in
11 my transition when I got here and throughout the
12 years. You're going to be missed. So thank you
13 for your service.

14 CHAIR LHAMON: Thank you. So with
15 that, I think we'll take a five-minute break.
16 And then reconvene just at 11:40, a six-minute
17 break, for our next iteration of our speaker
18 series to which I very much look forward. Thank
19 you.

20 (Whereupon, the above-entitled matter
21 went off the record at 11:34 a.m. and resumed at
22 11:43 a.m.)

23 CHAIR LHAMON: Okay. I will get us
24 stated for our next iteration of our speaker
25 series. The title for today is the History and

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1 Legacy of the Immigration Reform and Control Act
2 of 1986. And thank you, Commissioner Narasaki,
3 for suggesting this month's speaker topic and for
4 coordinating Mr. Kamasaki's appearance.

5 The need for immigration reform and to
6 protect against particular civil rights
7 violations has long been an issue of concern for
8 the Commission. The Commission, along with our
9 advisory committees, has issued policy statements
10 and full reports addressing various concerns
11 ranging from enforcement practices across the
12 country as well as at the border, the need for
13 efficient, fair, and thorough adjudication of
14 immigration cases, protection for undocumented
15 immigrants, and detention center policies.

16 I am glad that today we will reflect
17 on the last successful movement for major
18 immigration reform from 1986. Before I introduce
19 our speaker, I'll turn to Commissioner Narasaki
20 for some brief opening remarks.

21 **H. SPEAKER SERIES PRESENTATION BY**

22 **CHARLES KAMASAKI ON HIS BOOK,**

23 **IMMIGRATION REFORM: THE CORPSE THAT WILL NOT DIE**

24 COMMISSIONER NARASAKI: Thank you,
25 Madam Chair. I want to add my thanks to Charles

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1 Kamasaki for briefing us today on the history of
2 the 1986 Legalization Law and some of the
3 legislation that followed.

4 While it occurred well over 30 years
5 ago, it has relevance and lessons for policy
6 makers and immigration reform advocates today.
7 Then as now, the immigration system was badly
8 broken as policies had not kept up with the
9 global and domestic realities that create the
10 push and pull factors that drive migration to the
11 United States.

12 The history of immigration in American
13 has been the pull of America's labor needs and
14 the push of the political economic environmental
15 crises around the world, some of which American
16 foreign military and trade policies help to
17 drive.

18 America has often recruited immigrant
19 labor, but American communities have not always
20 been prepared to welcome immigrants, particularly
21 those with different religions, languages, and
22 cultures and particularly when they're not White.

23 For example, the Chinese laborers came
24 to help build the railroads. And then when that
25 was done, they were banned. The Japanese then

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1 came to the West Coast to fill the demand for
2 fishing and farming, and then they were banned.
3 And then the Filipinos came in numbers after both
4 of the Chinese and Japanese were banned.
5 Eventually, all Asian immigration was curtailed.

6 The story in this book is well told, I
7 got to read some advance drafts, and extensively
8 researched by an author who's lived through it.
9 It's more than a story of an extraordinary piece
10 of legislation, it's the story of a community,
11 whose struggles have been largely invisible and
12 whose voice has largely been ignored, finally
13 coming of age and becoming a force in the
14 nation's capital.

15 And to me, all this is more
16 interesting that it's coming from a Japanese
17 American who grew up in Texas more among Latinos
18 than Asians. I've had the honor of working with
19 Charles Kamasaki for over a quarter of a century,
20 and I was fortunate, along with hundreds of
21 others coming into the field of civil and
22 immigrant rights, to have had him tutor me on how
23 DC really works.

24 The book is a master class on how
25 democracy actually functions from an expert who's

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1 committed his life to helping America live up to
2 its most fundamental values and promises. And I
3 thank you for documenting the time in America's
4 history and sharing it with us today.

5 CHAIR LHAMON: Thank you. So we now
6 welcome Charles Kamasaki who is Senior Cabinet
7 Advisor for UnidosUS and resident fellow at the
8 Migration Policy Institute. At UnidosUS, Mr.
9 Kamasaki is a senior member of management with a
10 range of responsibilities including supervising
11 immigration legal services and citizenship
12 program strategies and overseeing the
13 organization's other immigration initiatives.

14 Mr. Kamasaki is also the author of the
15 recently published book titled Immigration
16 Reform: The Corpse that Will Not Die, a History
17 of the Immigration Reform and Control Act.

18 It that book, Mr. Kamasaki shares his
19 personal insights as, quote, a direct participant
20 in the many meetings, hearings, markups, debates,
21 and other developments that led to the passage,
22 end quote, of the 1986 legislation.

23 Mr. Kamasaki, we look forward to
24 hearing from you.

25 MR. KAMASAKI: Sorry about that.

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1 After having been instructed twice on how to turn
2 the microphone on, I forgot.

3 Thank you to the Commission for this
4 opportunity, to Commissioner Narasaki especially,
5 and her aid, Jason, who I will not pile on more
6 accolades, Staff Director, Mauro Morales.

7 And I would just note, I observed his
8 comments to the interns and law clerks who
9 assisted the Commission. There are two of us in
10 this room who began our careers as interns at
11 then National Council of La Raza, now UnidosUS.
12 And so we share, I think, some of your
13 experiences.

14 I do need to start with a caveat.
15 Although I am proudly employed by UnidosUS, and a
16 fellow at the Migration Policy Institute, the
17 views and opinions in the book and in my talk
18 today are solely my own.

19 What I'd like to do is cover three
20 sets of issues today in my remarks. First, I'll
21 attempt to provide a brief overview of my book
22 which is, as you can tell, a pretty lengthy tome
23 about the passage, implementation, and aftermath
24 of the Immigration Reform and Control Act of
25 1986, or IRCA, as it's known to insiders.

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1 Second, because I am speaking to the
2 US Commission on Civil Rights, I'll try and
3 outline a few of the civil rights implications of
4 the policy debates during the IRCA era and maybe
5 some thoughts about the future.

6 And finally, I'll conclude with a
7 brief thought about the relevance of IRCA for
8 those many of us included yearning for
9 immigration reform today.

10 As an overview, I'm really struck by
11 how many otherwise very well informed people know
12 so little about the Immigration Reform and
13 Control Act of 1986.

14 It's often called, quote, unquote, the
15 Reagan Amnesty Bill. But in fact, his
16 administration was internally divided on the
17 legislation, generally hostile to the idea of
18 legalizing unauthorized immigrants, and played a
19 fairly minimal role in its passage except
20 importantly, as the picture on the screen notes,
21 signing the final legislation.

22 Many people today blame IRCA for the
23 growth of the undocumented population since 1986.

24 But that growth actually accelerated far faster
25 after passage in 1996 of a tough enforcement-only

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1 immigration law.

2 Because it successfully legalized
3 nearly three million people and, along with its
4 follow-on bill in 1990, protected perhaps two
5 million more from deportation, many people simply
6 assumed that it must have been supported by
7 progressives and conservatives and must have been
8 supported by Latinos and the entire civil rights
9 community. The reality is actually far different
10 and far more nuanced.

11 My book, Immigration Reform: The
12 Corpse That Will Not Die, is about IRCA's life
13 and times. It's full of details. Because, in
14 the legislative process, details matter. It
15 includes lengthy portrayals of key actors,
16 because people obviously matter. It tells the
17 story of how the last major immigration reform
18 came to be through every single procedural step.

19 Because in the legislative process, the
20 procedure matters a lot.

21 And finally, it covers the bill's
22 implementation, not just because implementation
23 matters too, but also because it was in that
24 period that the battle lines of today's debate
25 about immigration reform were being drawn.

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1 Especially when considered together
2 with its follow-on bill, the 1990 Act, the last
3 set of comprehensive immigration reforms, by
4 every standard, were highly consequential. For
5 the first time in American history, those laws
6 made it unlawful for an employer to knowingly
7 hire or employ an unauthorized immigrant,
8 so-called employer sanctions provisions of IRCA.

9 The bill authorized more border
10 enforcement leading to what my colleagues at the
11 Migration Polity Institute today call a
12 formidable enforcement machinery that far exceeds
13 spending on all other federal law enforcement
14 combined.

15 At the same time, it legalized nearly
16 three million people, and the two bills together
17 protected at least two million more from
18 deportation, at least temporarily. And the two
19 bills together set the stage for a doubling of
20 the number of legal immigrants authorized to come
21 into the United States compared to its 1980s
22 levels.

23 To understand how that bill came to be
24 from a political science perspective, one might
25 start with what political scientists call the

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1 three Ps.

2 John Kingdon, who is one of the most
3 astute and influential political scientists of
4 the modern era, once stated that the enactment of
5 major reforms like IRCA occur only with the
6 convergence of three streams which he called the
7 three Ps, a recognized problem stream,
8 significant enough to require legislation,
9 second, a mature policy stream of proposals that
10 might solve the problem, and third, the third P,
11 political will sufficient to overcome the forces
12 comfortable with or entrenched in the status quo.

13 When it comes to immigration, the
14 problem stream of unauthorized migration, a
15 policy stream of reforms to address it, and
16 sufficient political will to move it through at
17 least one house of Congress have clearly been in
18 place for more than over a dozen times over the
19 past five decades.

20 Yet only in 1986 and again in 1990 did
21 Congress enact sweeping, comprehensive reforms.
22 The stories in my book attempt to explain how and
23 why that happened. But unlike most standard
24 legislative chronicles, this book is told not
25 from the perspective of lawmakers but from the

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1 perspective of a small coalition of non-profit
2 advocates that called itself The Group.

3 Its unofficial leader was Arnolando
4 Torres of the League of United Latin American
5 Citizens, once the most conservative of the
6 Latino civil rights organizations. While they
7 work largely outside the process, if generally
8 and parallel, representatives of the Mexican
9 American Legal Defense and Educational Fund were
10 also key players.

11 These Latino groups were joined by the
12 ACLU, the, American Immigration Lawyers
13 Association, Church World Service, the
14 immigration and refugee arm of the National
15 Council of Churches. And all of them were
16 members of an organization that today is called
17 National Immigration Forum.

18 A few months after this group was
19 formed in 1983, a guy named Kamasaki, unlikely,
20 with less than a year of experience in DC, was
21 assigned literally by default to cover
22 immigration policy for the National Council of La
23 Raza, now UnidosUS.

24 The Group faced enormous policy
25 challenges. They wanted to defeat or mitigate

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1 employer sanctions, what House bill sponsor Ron
2 Mazzoli called the heart of the bill. They
3 sought a far more generous legalization program
4 than the million or so undocumented the original
5 bill might have offered legal status to.

6 Instead of reducing family-based legal
7 immigration, which the first two versions of the
8 Simpson/Mazzoli bill would have done, they wanted
9 to increase it. They opposed greater
10 restrictions on asylum seekers that IRCA
11 originally would have opposed.

12 The Group wanted to prevent the
13 creation of a major new Agricultural Guest Worker
14 Program which, although it wasn't in the original
15 legislation, passed the House in 1984 and the
16 Senate in 1985.

17 Several in The Group audaciously
18 demanded protections from deportation for
19 Salvadorans fleeing massive civil strife in the
20 region. And some envisioned building a whole new
21 field of pro-immigrant and Latino advocates in
22 the process.

23 And The Group initially opposed the
24 legislation that proffered these proposals. This
25 coalition had very few resources.

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1 The powerful Leadership Conference on
2 Civil Rights, the preeminent voice for minorities
3 in the policy process, sat out the debate in
4 large part because its most powerful and
5 influential members, the NAACP and, with few
6 exceptions, Organized Labor, along with other
7 powerful progressive elites, including virtually
8 every editorial board in the country, supported
9 the bill.

10 The Group's resources were dwarfed by
11 opposing interests, like Labor, agricultural
12 growers, big business, and an emerging
13 conglomerate of anti-immigrant groups beginning
14 with an organization called the Federation for
15 American Immigration Reform. And in fact, all of
16 the Latino organizations, LULAC, MALDEF, and
17 NCLR, were literally teetering on the edge of
18 bankruptcy during the entire IRCA era.

19 And with respect to public opinion,
20 pro-immigrant policy goals that The Group
21 supported were uniformly far less popular than
22 they are today. And yet, while the advocates
23 couldn't stop employer sanctions, they succeeded
24 almost everywhere else.

25 IRCA, in the 1990 Act, did not include

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1 a major Agricultural Guest Worker Program. It
2 resulted in, as I said, legalizing nearly three
3 million previously undocumented people to become
4 permanent lawful residents of the United States.

5 It extended administrative and
6 eventually permanent protection from deportation
7 for a million close family members of those
8 legalized. It doubled the legal immigration from
9 the 1980s levels, kept an asylum system largely
10 intact and, through a new temporary protected
11 status created in the 1990 Act, provided relief
12 for perhaps another 800,000 to a million Central
13 Americans fleeing civil strife or natural
14 disaster.

15 Except for the exclusion of a large
16 temporary worker program, I think it's fair to
17 say that not a single knowledgeable observer
18 would have predicted any of these outcomes when
19 the debate began in 1981.

20 So the question arises, how did The
21 Group and its allies inside and outside of
22 Congress do it? And unfortunately, for that
23 answer you have to read the book.

24 Honestly, I do hope the book has value
25 strictly as an historical document or as a

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1 legislative case study. It's a story filled with
2 intrigue, ups and downs, secret deals in
3 smoke-filled rooms. But I also think it raises
4 important civil rights implications and it has
5 lessons for future reformers.

6 And since this is a meeting of the US
7 Commission on Civil Rights, I'm obligated, I
8 think, to discuss some of the major civil rights
9 implications of that debate as well as this
10 Commission's very significant role in that
11 debate.

12 I'd like to specifically address three
13 civil rights related themes. First is the
14 adverse effects of immigration enforcement on the
15 civil rights of Hispanic American citizens and
16 others lawfully present in the US.

17 That story actually begins in the
18 mid-1850s after the Mexican American War in which
19 some 100,000 or so people of Mexican origin
20 became subject to the jurisdiction of the United
21 States. For the next 100 years, Mexican
22 Americans experienced widespread systemic
23 discrimination that many scholars have described
24 as akin to those in the Jim Crow south.

25 One scholar, Rodolfo Acuna, famously

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1 described this period as an occupation under
2 which Mexican Americans were subjects of,
3 somewhat analogous to those of the European
4 colonies, but never full citizens of the nations
5 of their Colonial masters.

6 One important instrument of this
7 occupation was a kind of immigration policy in
8 reverse. In four separate campaigns from the
9 1920s through the mid-1950s, which ended with the
10 notorious Operation Wetback, millions of people
11 of Mexican origin were, quote, unquote,
12 repatriated to Mexico, most without any form of
13 due process.

14 Perhaps half of those removed were
15 American citizens. Virtually all would have had
16 some valid claim to lawful presence had they been
17 given the opportunity to assert it. But none
18 were.

19 Another key immigration policy of the
20 period was the infamous Bracero Temporary
21 Agricultural Worker Program which operated from
22 1942 through 1964 under which several million
23 Mexican workers were allowed into the country to
24 work.

25 While many, arguably most, were well

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1 treated by the standards of the era, the program
2 was also fraught with abuse and exploitation.
3 But the program, even after it ended in 1964,
4 cemented in place an agricultural system
5 dependent on cheap labor from Mexico.

6 And finally, in 1976, Congress enacted
7 legislation that cut legal immigration from
8 Mexico in half, literally at the same time that
9 country's population was booming and its economy
10 was tanking, which left a perfect storm of
11 factors.

12 Repatriates seeking to return to their
13 homes and unite with their families, former
14 Bracero Program workers recruited to work in the
15 fields, and Mexico's failing economy all
16 generated massive migration pressures. But
17 instead of meeting this demand by increasing the
18 supply of visas, Congress cut that supply of
19 visas in half.

20 Having closed the proverbial front
21 door to entry to the United States, not
22 surprisingly immigrants attempted to enter
23 through the back door, and unauthorized migration
24 rose rapidly. Congress then attempted to enact
25 legislation beginning in the 1970s, mainly

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1 through employer sanctions, the penalties on
2 employers for hiring unauthorized immigrants.

3 And through the 1980s, Latino
4 advocates opposed employer sanctions because they
5 were thought to be both ineffective and would
6 lead to increased employment discrimination,
7 preferring instead a combination of tough labor
8 law enforcement, stronger border controls, and
9 increased legal immigration as a more rational
10 response.

11 Which leads me to my second theme
12 which is the evolution of the Hispanic civil
13 rights organization and of the civil rights field
14 writ large on the issue of immigration reform.

15 As I described in my book, up through
16 the early 1970s, Latino civil rights
17 organizations and thought leaders, like most
18 Americans, were almost uniformly supportive of
19 tough immigration enforcement.

20 That began to change with the
21 widespread abuses associated with Operation
22 Wetback and accelerated through the Chicano
23 movement which, even after it faded away in the
24 late 1960s, left a Mexican American leadership
25 that I say in my book was, quote, markedly more

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1 ethnocentric and pro-immigrant in its
2 orientation.

3 Notwithstanding its opposition to
4 employer sanctions and its pro-immigrant
5 orientation, in the mid-1980s two of the three
6 major Latino civil rights groups, the League of
7 the United Latin American Citizens and the
8 National Council of La Raza, led by Congressman
9 Esteban Torres, broke with ideological orthodoxy
10 and helped produce the reforms that ultimately
11 protected some five million previously
12 unauthorized immigrants from deportation.

13 Many main stream civil rights
14 institutions began the IRCA era, like their
15 Latino counterparts, as ardent restrictionists.
16 But by the turn of the century, I believe it's
17 fair to say, that virtually the entire civil
18 rights community became united around generally
19 pro-immigrant principles.

20 The last civil rights related theme
21 I'd like to address is the role of this
22 Commission in that debate. This Commission was
23 among the very first mainstream institutions to
24 recognize and call for increased policy attention
25 to discrimination against Latinos in the

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1 mid-1960s and supported NCLR and others in their
2 call for Hispanics to be counted for the first
3 time in the 1980 census.

4 With respect to immigration, this
5 Commission's landmark 1980 report, the Tarnished
6 Golden Door, broke with conventional wisdom and
7 presciently predicted the failure of employer
8 sanctions to reduce unlawful immigration and its
9 propensity to increase employment discrimination.

10 After IRCA was enacted in 1989, this
11 Commission again issued a report documenting
12 discrimination related to employer sanctions
13 which was later verified by the General
14 Accounting Office, now a Government
15 Accountability Office report, in 1990 that
16 estimated some nine percent of employers, that's
17 nearly half a million, have adopted
18 discriminatory hiring practices after IRCA was
19 enacted.

20 And in the years since, this
21 Commission has often spoke out against civil and
22 human rights abuses in immigration enforcement,
23 examples of which we had literally this morning.

24 There is more the Commission can do to
25 build on this proud legacy, and let me offer

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1 three suggestions. First is to examine the
2 extent to which the current enforcement system is
3 fatally flawed by discrimination.

4 For the past several years, research
5 has documented that well over half of all new
6 unauthorized immigrants don't come across the
7 southern border but enter lawfully and then
8 overstay their visas. Yet year after year, well
9 over 90 percent of all deportations are Latinos
10 who, so called, entered without inspections
11 across the southern border.

12 While I recognize that traditional
13 disparate impact measures for a variety of very
14 complicated technical reasons may not always be
15 applied to immigration enforcement, it is hard to
16 avoid the conclusion that, regardless of which
17 administration is in power, enforcement is
18 exclusively imposed on offenders that just happen
19 to be Latino.

20 Second, a crucial subset of those
21 adversely impacted by immigration enforcement are
22 the nearly six million US citizens and others
23 lawfully present who have one or more
24 undocumented family members. The toxic stress
25 imposed on these children is incalculable.

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1 To paraphrase my boss, Janet Murguia,
2 who is joining us today, imagine what it must be
3 like to know that the next knock on your door may
4 be ICE agents coming to deport your mom, that the
5 next time the phone rings, it could be your dad
6 who was picked in a traffic stop and is calling
7 to say goodbye, or that the next letter in the
8 mail is one demanding that one of your parents
9 appear at a deportation proceeding.

10 Surely these children who have done
11 nothing wrong, have some right to pursue life,
12 liberty, and happiness in the country of their
13 birth. Yet there is literally no remedy for the
14 toxic stress that they feel every day.

15 Finally, I'd note that reports of
16 racial profiling, apprehension, detention, and
17 even deportation of US citizens and others
18 lawfully present in the United States are
19 significant.

20 Similarly, systems like E-Verify
21 regularly produce false positives whereby people
22 authorized to work cannot be verified due to
23 marriage, or divorce, or other name change, or
24 even a typo on a DHS record. These people are
25 routinely denied a job, often even without

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1 knowing why.

2 Many of you are distinguished legal
3 practitioners in your own right, and you know how
4 burdensome and difficult it can be to obtain
5 redress through the legal system if you are
6 wrongfully apprehended, or detained, or denied a
7 job.

8 And so the question is, are there less
9 burdensome administrative remedies that could
10 both prevent this from happening by holding
11 offending agencies and officials accountable
12 while also providing appropriate and timely
13 redress for those adversely affected.

14 Surely there are other questions this
15 Commission could consider, but allow me to
16 return, as I close, to a theme in my book. I
17 suspect many of you here are wondering what the
18 story of IRCA, a bill that passed more than 30
19 years ago, whether that story is at all relevant
20 to today's debate.

21 I for one think it has a lot of
22 relevance. And I would ask for you just to step
23 back and think of how quickly the politics of the
24 issue have changed in the last 15 years.

25 In 2006 the Senate passed a

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1 comprehensive immigration reform bill, but then
2 the House refused to act. In 2007 a similar bill
3 died on the Senate floor when the House almost
4 certainly would have been able to produce a bill
5 when it was headed by the new speaker, Nancy
6 Pelosi.

7 In 2010 it reversed again. The House
8 passed the DREAM Act, but it died in the Senate.

9 And three years later, it reversed again when
10 the Senate passed a comprehensive bill that was
11 never brought up for vote in the House.

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

16 So I'll close, for me, on what's an
17 unusually optimistic note. In the 1970s, Peter
18 Rodino introduced immigration reform measures
19 three times, twice passing the House and dying in
20 the Senate. In 1979, the new Immigration
21 Subcommittee Chair, Al Simpson, from Wyoming,
22 half joked that he'd been thrown into leadership
23 of that subcommittee because no one else wanted
24 it.

25 In his wonderful book, The Last Great

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1 Senate, Ira Shapiro lamented that the era of
2 bipartisanship in Congress had ended with the
3 election of Ronald Reagan in 1980. In 1982, the
4 new House Immigration Subcommittee Chair said he
5 had to, quote, virtually shanghai, unquote, other
6 members of Congress to even join his
7 subcommittee.

8 The immigration reform measures
9 sponsored by Simpson and Mazzoli passed the
10 Senate twice but died in 1982 and in 1984. And
11 in mid-October of 1986, after his own immigration
12 reform bill died on the House floor, House
13 Judiciary Committee Chairman Rodino told aids
14 that he was ready to, quote, wash his hands of
15 the legislation.

16 That same week, the ranking
17 Immigration Subcommittee member, Dan Lungren, of
18 California, who had led the fight to kill the
19 bill, called the legislation, quote, a corpse,
20 unquote.

21 But just three years later, in
22 November 1986, in that picture that you have on
23 your screens, Simpson, Mazzoli, Rodino, Lundren,
24 and others gathered in the Roosevelt Room at the
25 White House and watched President Reagan sign

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1 that corpse into law.

2 Thank you again for the invitation to
3 discuss my book. And I'd be happy to answer any
4 questions.

5 CHAIR LHAMON: Thank you so much for
6 your presentation. And I will open for questions
7 and comments from my fellow Commissioners.

8 COMMISSIONER KLADNEY: Madam Chair?

9 CHAIR LHAMON: Commissioner Kladney?

10 COMMISSIONER KLADNEY: Thank you,
11 Madam Chair. One of my questions is when you
12 started your presentation, you talked about
13 employer sanctions in the '86 bill. How
14 effective have they been in light of the I-19, I
15 think's an I-19, I can't remember the number,
16 that actually gives employers protection when
17 they copy two forms of identification and fill
18 out a form?

19 MR. KAMASAKI: Well, without speaking
20 for the merits of the specific, it's the I-9 form
21 that employers use --

22 COMMISSIONER KLADNEY: Oh.

23 MR. KAMASAKI: -- to verify new hires.

24 I think it's obvious that employer sanctions
25 have not been effective in stemming the flow of

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1 unauthorized immigration.

2 And it's, I guess, ironic that only in
3 Washington that those who go against the
4 conventional wisdom and are proven right by
5 subsequent events get no credit, while those who
6 go along with the conventional wisdom that's
7 proven wrong somehow aren't held accountable.

8 It was actually immigration
9 restrictionists who first proposed employer
10 sanctions and predicted they would be effective.

11 And it was Latino civil rights organizations
12 that predicted that they would not be effective
13 and that they would cause discrimination.

14 I guess it's a very complicated
15 subject. But I guess what I would say is, to be
16 fair, the proponents of employer sanctions argue
17 that, like the tax laws, most employers, most
18 people are good actors. And they will try in
19 good faith to comply with the law. And I believe
20 that assumption is actually largely correct.

21 The issue is that it's only a tiny
22 fraction of employers who hire the vast majority
23 of undocumented immigrants. So even if you have
24 something like 90 percent compliance, if the ten
25 percent of employers who are not complying with

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1 the law, who are evading the law, or calling
2 their employees contractors and not employees and
3 thus not new hires, then I think you have a
4 recipe for a system that cannot possibly work.

5 COMMISSIONER KLADNEY: And I would ask
6 you what would be your, in any immigration reform
7 bill going forward, what would be the top five
8 issues and any proposed solutions that you would
9 have for such a proposal? And if possible, full
10 text.

11 (Laughter.)

12 MR. KAMASAKI: No problem.

13 (Laughter.)

14 COMMISSIONER KLADNEY: Well, just the
15 five issues, why don't we start with that. How's
16 that?

17 MR. KAMASAKI: Well, I think, you
18 know, the outlines of what's called comprehensive
19 immigration reform, I think, have been well
20 established for some time. So I believe any
21 comprehensive measure has to include effective
22 enforcement.

23 And that would include not just border
24 enforcement but heightened labor law enforcement
25 that actually gets at that ten percent of

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1 employers who knowingly hire unauthorized
2 immigrants so that they can be exploited. And
3 for whatever reason, this country's commitment to
4 labor law enforcement has weakened considerably
5 in the last four or five decades.

6 I think it's also fair to say that
7 immigration results from not just pull factors in
8 the United States but push factors from abroad.
9 So any comprehensive set of reforms has to look
10 at push factors that send people to the United
11 States. And I think the current debate about
12 Central America underscores that.

13 Second, we believe that there should
14 be more avenues for lawful migration. And what
15 exactly those numbers are, and in what categories
16 they should be are hotly contested. But I think
17 there is consensus on that point.

18 Third, for those undocumented people
19 who have put down roots in this country, many of
20 whom have children, I think it's fair to say that
21 a process to legalize their status is far
22 preferable to any of the alternatives, including
23 mass deportation.

24 So I think those are kind of, like,
25 the three core provisions. There are any number

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1 of other issues. Whether there should be broader
2 temporary worker programs as part of a legal
3 immigration stream, the size of those programs
4 and so forth, whether there should be a point
5 system, all of those are, I think, matters of
6 debate.

7 But enforcement, dealing humanely and
8 thoughtfully with the unauthorized already here,
9 and matching our future labor market and social
10 needs with a legal immigration system that
11 accurately and adequately meets those needs, I
12 think, have been and remain the fulcrum of
13 comprehensive reform.

14 COMMISSIONER KLADNEY: Thank you.

15 CHAIR LHAMON: Commissioner Narasaki?

16 COMMISSIONER NARASAKI: So it would be
17 interesting to hear your thoughts about how
18 national origin discrimination played out during
19 IRCA and how you see it continuing to play out
20 now. And also, to note that, while IRCA's
21 thought about mainly in terms of its legalization
22 of Latinos, it actually also had a large impact
23 for Asian Americans.

24 MR. KAMASAKI: Indeed. So maybe
25 beginning with the second question first, Latinos

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1 were, I think, about 75 percent of those
2 legalized under IRCA. And obviously the
3 remaining 25 percent included large numbers of
4 Asians and others.

5 You know, the interplay of national
6 origin discrimination and immigration enforcement
7 is almost inextricable. And some of the history,
8 Karen, that you articulated earlier, I'm sorry,
9 Commissioner Narasaki, earlier I think speaks to
10 that fact.

11 I will say that I'm a little concerned
12 about making the immigration debate only about
13 race or national origin. Because I personally
14 don't believe it is. And while it is hard to
15 avoid outright racism or accusations of outright
16 racism in immigration policy debates, I think the
17 country is best served if those are, while
18 recognized, don't become the central or only
19 element of those debates.

20 To specifically answer your question
21 about national origin discrimination, you might
22 think about, again, speaking to those three major
23 pillars.

24 With respect to enforcement, I think
25 in my statement I covered much of those issues.

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1 I think it's very, very difficult to enforce
2 immigration laws as they are currently drafted
3 without imposing very significant disparate
4 burdens on specific populations, especially
5 Latinos.

6 I for one would like to take a step
7 back and look at whether there are different
8 strategies that we could pursue that could
9 effectively enforce the immigration laws without
10 selectively enforcing them on a single
11 population.

12 Secondly, with respect to dealing with
13 the unauthorized population here, I do think,
14 particularly with respect to the children of
15 undocumented people, again, there is a clear
16 disparate impact on --- and in this case not just
17 Latinos but Asians.

18 And I think thinking through the
19 balancing of equities and the balancing of values
20 of what rights do they have, regardless of the
21 offenses that their parents may have committed,
22 is something that is often missing from today's
23 debates.

24 And then finally, the question of
25 national origin and legal immigration has been

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1 omnipresent since the beginning of our first
2 immigration laws. And whether we choose to
3 alter, consciously or unconsciously, the
4 demographic makeup of this country, is dependent,
5 at least in part, on how we design the legal
6 immigration system.

7 CHAIR LHAMON: Mr. Staff Director?

8 STAFF DIRECTOR: Thank you, Madam
9 Chair. Charles, I want to thank you for your
10 presentation. You've been a good friend and
11 mentor to me for over 30 years when we first came
12 to Washington, D.C., something along those lines.

13 So during those 30 years, you have become an
14 important policy expert, on not only immigration
15 but other vital issues for Unidos, but for all
16 civil rights advocates.

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

19 CHAIR LHAMON: Remember, our interns
20 are here.

21 (Laughter.)

22 MR. KAMASAKI: You know, I'd like to
23 say that I grew up with a strong passion for
24 civil rights, and I knew as soon as I got out of
25 school that was my future destiny. And the

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1 truth, however, would be very far from that.

2 So I started as an intern at NCLR
3 actually working on housing policy. I was given
4 an opportunity to come to DC, and I thought only
5 for a couple of years before I found my real
6 career. And while I was working on housing
7 policy, the legislative director for NCLR,
8 someone you know well, Francisco Garza, decided
9 to leave DC to go back to California and get
10 married.

11 And I was just kind of sitting around
12 the office when the boss said you're covering
13 immigration. And that was really kind of the
14 beginning of how I entered the field.

15 I think what's kept me in the field is
16 maybe two or three things. And I will try and
17 avoid
18 Commissioner Narasaki's example and keep from
19 being sentimental here. But one of those is you
20 get to do important work.

21 You know, it's pretty rare in one's
22 lifetime that you can work on a piece of
23 legislation and then a few years later be walking
24 down the street, or talking to a cab driver, and
25 they'll turn around and say that's the bill that

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1 I got legal status through. And that's obviously
2 extraordinarily rewarding.

3 Second, as a, you know, it's less
4 common now but certainly when I first started,
5 when I would be sitting in a meeting and we'd go
6 around the room and introduce ourselves, people
7 would kind of give me an interesting look, like,
8 what are you doing working for that organization?

9 And I would say it's always felt quite
10 natural to me. And I think that's been helped
11 along by the fact that the Latino organizational
12 community, and I think the Latino community in
13 general, is a very welcoming one.

14 And as to the question of why I've
15 stayed so long, one that I occasionally ask
16 myself, honestly it's less a question of civil
17 rights and more a question of, I think,
18 professional advancement.

19 At each stage of my career, when I
20 thought, okay, I've done this, and I'm about to
21 move on to something different, something was
22 happening at UnidosUS that gave me an opportunity
23 to literally change careers while being in the
24 same organization. And I think as much as
25 anything else, it always felt more natural and a

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1 place where I could contribute the most was by
2 doing different jobs, albeit in the same
3 organization.

4 CHAIR LHAMON: I'll follow that on
5 with thanks for what you documented in your book,
6 and then also what you presented to us today, for
7 the effort and the daily reminder that what can
8 feel quixotic isn't always and that there's value
9 in sticking with it and in continuing to work
10 towards and end goal that will make us more just.

11 So thank you for the concrete reminder that
12 sometimes it happens and also for documenting
13 what it took to make it happen.

14 MR. KAMASAKI: Thank you.

15 CHAIR LHAMON: Any comments or
16 questions?

17 (No audible response)

18 **III. ADJOURN**

19 CHAIR LHAMON: With that, I will thank
20 you for your presentation, and for your book, and
21 we will adjourn our meeting at 12:29.

22 (Whereupon, the above-entitled matter
23 went off the record at 12:28 p.m.)
24
25

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