

## U.S. COMMISSION ON CIVIL RIGHTS

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## BUSINESS MEETING

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THURSDAY, DECEMBER 5, 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\*

MICHAEL YAKI, Commissioner\*

MAURO MORALES, Staff Director

MAUREEN RUDOLPH, General Counsel

\* Present via telephone

**STAFF PRESENT:****NICHOLAS BAIR****KATHERINE CULLITON-GONZALEZ****IVY DAVIS****PAMELA DUNSTON, Chief, ASCD****LATRICE FOSHEE****ALFREDA GREENE****JUANDA SMITH****TINA LOUISE MARTIN****PILAR VELASQUEZ MCLAUGHLIN****SARALE SEWELL****BRIAN WALCH****MARIK XAVIER-BRIER****COMMISSIONER ASSISTANTS PRESENT:****ALEC DUELL****CARISSA MULDER****AMY ROYCE****RUKKU SINGLA****ALISON SOMIN****IRENA VIDULOVIC**

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

(10:01 a.m.)

OPERATOR: Good day and welcome to the Commission business meeting conference call. At this time, I would like to turn the conference over to Catherine Lhamon. You may begin.

CHAIR LHAMON: Thank you. This meeting of the U.S. Commission on Civil Rights comes to order at 10:01 a.m. on December 5th, 2019. The meeting takes place at the Commission's headquarters, which are located at 1331 Pennsylvania Avenue, N.W., Washington D.C. I am Chair Catherine Lhamon. The Commissioners who are present at this meeting in addition to me are Vice Chair Timmons-Goodson, Commissioner Adegbile, and I believe Commissioner Heriot will join us shortly. On the phone -- if you could confirm that you are on the line after I say your name. I believe we have Commissioner Kirsanow?

COMMISSIONER KIRSANOW: Here.

CHAIR LHAMON: Thank you.  
Commissioner Kladney?

COMMISSIONER KLADNEY: Here.

CHAIR LHAMON: Thank you. Commissioner Yaki?

1 COMMISSIONER YAKI: Hi.

2 CHAIR LHAMON: Thank you. A quorum of  
3 the commissioners is present. Could the court  
4 reporter confirm that you are present?

5 COURT REPORTER: Yes, ma'am.

6 CHAIR LHAMON: Thank you. Mr. Staff  
7 Director, will you confirm that you are present?

8 MR. MORALES: I am present.

9 I. APPROVAL OF AGENDA

10 CHAIR LHAMON: Thank you. The meeting  
11 now comes to order. So a motion to approve the  
12 agenda for his business meeting?

13 COMMISSIONER ADEGBILE: So moved.

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

16 VICE CHAIR TIMMONS-GOODSON: Second.

17 CHAIR LHAMON: Thank you. I will  
18 begin the call for amendments with several of my  
19 own, starting with adding presentations from the  
20 West Virginia Advisory Committee and the Alaska  
21 Advisory Committee on their recent reports, and  
22 consideration of a statement of 2020 priorities  
23 for Congress. Is there a second for my  
24 amendment?

25 COMMISSIONER ADEGBILE: Second.

1 CHAIR LHAMON: Thank you.

2 COMMISSIONER YAKI: I second.

3 CHAIR LHAMON: Thank you.

4 Enthusiastic seconds. Are there any other  
5 amendments?

6 Commissioner Kladney, I believe you  
7 have an amendment?

8 COMMISSIONER KLADNEY: Yes, I do. Oh,  
9 I am sorry.

10 CHAIR LHAMON: Thank you.

11 COMMISSIONER KLADNEY: I'm zoned out.  
12 It's early, it's early.

13 (Laughter.)

14 COMMISSIONER KLADNEY: I would like to  
15 amend the agenda to take up the subject of a  
16 subcommittee for our sub minimum wage project for  
17 site visits.

18 CHAIR LHAMON: Thank you. Is there a  
19 second?

20 COMMISSIONER ADEGBILE: Second.

21 CHAIR LHAMON: Terrific. Are there  
22 any further amendments?

23 If there are no further amendments,  
24 let's vote to approve the agenda as amended. All  
25 those in favor, say aye.

1 (Chorus of aye.)

2 CHAIR LHAMON: All those opposed, say  
3 so.

4 Any abstentions?

5 The motion passes unanimously. We  
6 will begin with one of our amended business  
7 meeting items to hear from the newly appointed  
8 chair of the West Virginia Advisory Committee,  
9 Lisa Younis, on the committee's recent report  
10 titled Civil Rights Impacts from Collateral  
11 Consequences in West Virginia. Chair Younis, I  
12 really appreciate that you came in person to join  
13 us, and we're looking forward to hearing your  
14 presentation.

15 II. REPORT FROM WEST VIRGINIA SPECIAL  
16 ADVISORY COMMITTEE

17 MS. YOUNIS: Thank you. Thank you for  
18 the opportunity to present the West Virginia  
19 Advisory Committee Report, titled Civil Rights  
20 Impacts from Collateral Consequences in West  
21 Virginia. The Committee chose this issue because  
22 collateral consequences compound the difficulties  
23 West Virginians with a criminal record have in  
24 relation to the already precarious economic  
25 status of our state. Especially as criminal

1 convictions occur from a burgeoning opioid  
2 crisis. The penalties after serving time as  
3 punishment for a crime are legal and regulatory.  
4 Often these individuals with a criminal record  
5 suffer from collateral consequences, not directly  
6 as punishment for the crime, but because of their  
7 record. We focused on the economic consequences,  
8 those that exclude someone from economic  
9 reintegration, and reviewed laws as well as  
10 perceptions and misunderstandings that impose  
11 employment, licensing, housing and public  
12 benefits.

13 The Committee held two briefings. The  
14 first one, an overview briefing by national  
15 experts highlighting the issues that would be  
16 covered. The second, a day-long, in-person  
17 briefing that focused specifically on the impact  
18 of collateral consequences in West Virginia.  
19 There were five panels -- housing, employment,  
20 occupational licenses, public benefits, and a  
21 legislative panel -- or legislative response  
22 panel, excuse me.

23 The day-long briefing included  
24 presentations by West Virginians who shared the  
25 challenges they face trying to reintegrate into

1 their communities when accessing employment,  
2 housing, public benefits and professional  
3 licenses because of their prior criminal records.  
4 The committee identified these persons as  
5 returning citizens. The committee chose to use  
6 this term to provide a name to individuals with a  
7 criminal record that would treat such persons  
8 with dignity and respect, and to suggest that  
9 such persons are due equal dignity with other  
10 citizens who do not have a record of arrest or  
11 conviction. This report advises the Commission  
12 about what the committee learned and its  
13 recommendations to address the impact that  
14 collateral consequences have on West Virginians  
15 with criminal records.

16 In my summary today, I focused on  
17 several key recommendations recommended by the  
18 committee members who drafted the report. Under  
19 employment, the committee noted that employers'  
20 skepticism and suspicion about persons with  
21 criminal records is understandable in some cases.  
22 But where there is no relation between the job  
23 and the past crime, denial of employment poses a  
24 barrier. Unemployment is correlated with  
25 recidivism. Use of background checks has

1 increased. Although liability insurance is  
2 available for employers who hire ex-felons, many  
3 employers are not aware of it, or if they are,  
4 they are not convinced to take advantage of it.  
5 The committee recommended the West Virginia  
6 Governor, one, commission a study to review  
7 barriers to entry into the jobs market specific  
8 to individuals with a criminal record, including  
9 reduced access to training and apprenticeship  
10 programs, as well as financial aid for post-  
11 secondary education. And two, direct the  
12 Department of Military Affairs and Public Safety  
13 to develop a work-release program to help  
14 individuals with a criminal record transition to  
15 their community in a supportive manner.

16 Under licensing, West Virginia has one  
17 of the highest unemployment rates and a very low  
18 workforce participation rate. Limiting  
19 occupational licensing stating public safety  
20 related to moral turpitude punishes our working  
21 community. The application process and lack of  
22 coordination between the various licensing boards  
23 are issues. Our committee recommended that the  
24 West Virginia Legislature require licensing  
25 boards be diligent in collecting information

1 related to a licensing applicant and in reviewing  
2 the application. For example, occupational  
3 boards should look at people in a more individual  
4 basis and remove vague language regarding what  
5 convictions can be considered, and placing time  
6 limits on how far back convictions are  
7 considered. To note, earlier this year, House  
8 Bill 118 eased restrictions on many professional  
9 licenses for people with a criminal conviction  
10 and eliminated moral turpitude as a disqualifying  
11 standard in the licensing process. The use of  
12 criminal convictions to disqualify a person from  
13 obtaining a professional license will need to  
14 "bear a rational nexus to duties and  
15 responsibilities to the profession or  
16 occupation."

17 Under housing, HUD allows for  
18 discretion for local public housing authorities  
19 to -- authorities to create policy. In West  
20 Virginia, family members can be denied housing or  
21 considered ineligible for housing benefits due to  
22 a felony conviction of a family member. The  
23 committee advised the Commission that the West  
24 Virginia Legislature conduct a study to provide  
25 targeted funding to encourage public housing

1 authorities and private property owners to offer  
2 housing to individuals with criminal records.

3 Under public benefits, at the time of  
4 the briefing, West Virginia was one of three  
5 states denying SNAP benefits to drug felons and  
6 individuals with felony convictions -- oh, and  
7 individuals with felony convictions could not  
8 obtain SNAP or TANF benefits. Women are  
9 disproportionately affected. 32 percent of  
10 working age West Virginians qualify as disabled.  
11 While incarcerated, supplemental security income  
12 and social security disability insurance benefits  
13 are suspended or discontinued. Once released,  
14 SSDI benefits are re-instated. Those who receive  
15 SSI benefit -- or, SSI, go through a long process  
16 to have eligibility redetermined.

17 We recommended that the West Virginia  
18 legislature should remove any restrictions  
19 related to the severity or nature of the crime  
20 from eligibility for public assistance benefits,  
21 including denying benefits based on offenses that  
22 are violent, sexual or drug-related. Earlier  
23 this year, West Virginia House Bill 2459 was  
24 enacted. It no longer denies Supplemental  
25 Nutritional Assistance Program benefits to people

1 with drug felony convictions.

2 We also had some other recommendations  
3 with regard to the pre-conviction notice of  
4 collateral consequences. The committee  
5 recommends the creation of a standardized model  
6 of communications between defense attorneys and  
7 criminal defendants with regard to the collateral  
8 consequences of criminal convictions including  
9 misdemeanor convictions, which is required to be  
10 presented before a defendant accepts a plea  
11 bargain so that the defendant understands the  
12 full implication of the conviction. And with  
13 regards the lack of general data, the committee  
14 recommends that the West Virginia Department of  
15 Military Affairs and Public Safety establish an  
16 entity with the department charged with  
17 collecting data at every stage of the criminal  
18 justice process -- from arrest through reentry.  
19 Such information should be made available online  
20 and for the general public with individual  
21 identifying information redacted after release  
22 from incarceration.

23 Finally, various policy groups and  
24 many of the state legislators were aware of the  
25 committee's review of these issues. Our

1 committee is unified as a strong supporter of  
2 better legislation regarding the impact of  
3 collateral consequences. As noted in our report,  
4 the State Legislature enacted a number of laws.  
5 It is my hope that this report will be shared  
6 with stakeholders in West Virginia and elsewhere.  
7 Thank you for the opportunity and I welcome --  
8 has any questions.

9 CHAIR LHAMON: Thank you very much,  
10 Chair Younis. I will open for questions from  
11 fellow commissioners, including on the phone.

12 COMMISSIONER KLADNEY: Madame Chair?

13 CHAIR LHAMON: Go ahead, Commissioner  
14 Kladney.

15 COMMISSIONER KLADNEY: I would like to  
16 thank the committee from West Virginia. I was  
17 fortunate enough to be able to attend that  
18 briefing, and I was quite impressed with the  
19 slate of witnesses and very impressed with the  
20 knowledge and inquiry of the committee itself on  
21 the subject. I was especially impressed with the  
22 witnesses that they were able to obtain who had  
23 experienced collateral consequences. The  
24 importance they placed on the subject was very  
25 imperative. I'd like to thank (telephonic

1 interference) -- I find excellent. The  
2 committee's report complements our Commission's  
3 own subject and adds to the discussion. I would  
4 like to ask if the committee has any plans -- I  
5 love the idea of establishing a pro bono legal  
6 services for housing and other issues that arise  
7 from the imposition of collateral consequences on  
8 people. Does the committee have any plans of  
9 transmitting this, or having discussions with the  
10 West Virginia bar on that subject?

11 CHAIR LHAMON: If you could turn your  
12 microphone back on --

13 COMMISSIONER KLADNEY: Hello?

14 CHAIR LHAMON: She's coming. Thanks.

15 MS. YOUNIS: Excuse me. I am not  
16 aware that the -- that our committee was speaking  
17 to anybody on a formal level. But there are  
18 people on our committee who are very connected to  
19 the bar in West Virginia. So they might -- there  
20 might be some informal conversations going on,  
21 but that was not at this time planned.

22 CHAIR LHAMON: I noted in your report  
23 that you had a formal recommendation to the state  
24 bar?

25 MS. YOUNIS: Yes, yes.

1                   CHAIR LHAMON:  And I hope that you'll  
2                   be able at least to transmit that -- the report,  
3                   including that recommendation to the state bar.  
4                   I too was really struck by that recommendation  
5                   and thought it was a terrific idea, that the  
6                   state bar include a program that would help with  
7                   reentry.  And there are -- there are parallel  
8                   state bar programs that have been extraordinarily  
9                   effective outside this area.  And so the -- the  
10                  comprehensiveness of the recommendation seemed  
11                  especially important.  So I do hope that the  
12                  committee will choose to send the report to the  
13                  state bar so they might think about whether they  
14                  can take up the recommendation.  And Commissioner  
15                  Kladney, I had --

16                   COMMISSIONER KLADNEY:  Hello?

17                   CHAIR LHAMON:  Just -- with your  
18                   permission, you were breaking up a little bit as  
19                   you were speaking.  I just want to make sure the  
20                   record is clear.  I think you were complimenting  
21                   the regional programs unit also for supporting  
22                   the committee in this report, and so I just want  
23                   to make sure that the regional programs unit  
24                   hears that, and knows that that was your -- your  
25                   commendation.  Go ahead, Commissioner Kladney.

1                   COMMISSIONER KLADNEY: There are no  
2 misstatements, for the report, yes. I'd also  
3 like to thank -- I'd also like to add that I  
4 thought that the -- the idea of notice to the  
5 defendant is very important. I believe we had  
6 that in our report. And the canvas that is  
7 currently done by courts really isn't sufficient  
8 to -- to give defendants an idea of what they're  
9 stepping into. And I'd like to compliment the  
10 committee on that recommendation as well. Thank  
11 you. And thank you for your presentation today.  
12 I thought it was excellent.

13                   CHAIR LHAMON: Madam Vice Chair?

14                   VICE CHAIR TIMMONS-GOODSON: I too  
15 would like to thank the committee for looking  
16 into this topic. And thank you for being with  
17 us. I was wondering, I am quite interested in  
18 the housing issue. And I've read your  
19 recommendations in connection with that and the  
20 targeted funding and the public benefits. It's  
21 my understanding that it takes roughly \$2,000 to  
22 \$3,000 for an individual to set up a household  
23 themselves. I was wondering whether there was  
24 any discussion about what kinds of compensation  
25 is provided to inmates while incarcerated, and

1           whether there might be an increase in whatever  
2           money is paid and thereby increasing the  
3           likelihood that upon release these returning  
4           citizens would have access to a pool of money  
5           that specifically would be used to help set them  
6           up in a household.

7                         Was there any -- my question is, was  
8           there any discussion -- or what information would  
9           you have that would bear on a notion like that?

10                        MS. YOUNIS: I am not aware of that  
11           discussion. If I am misspeaking for the  
12           committee, I can certainly try to find that  
13           information for you. But it is a good question,  
14           and I certainly can take that back to our group  
15           and try to answer it for you later. So  
16           apologize.

17                        VICE CHAIR TIMMONS-GOODSON: Oh,  
18           please do not apologize. Thank you, ma'am.

19                        CHAIR LHAMON: Chair Younis, I think  
20           that your testimony today is especially timely  
21           given the Trump Administration's recent decision  
22           to limit access to SNAP food assistance benefits,  
23           and the material in the committee's report about  
24           the importance of SNAP food assistance benefits  
25           to returning citizens was extraordinarily

1 compelling, thorough, and I thought timely in  
2 light of the national conversation about this as  
3 well. I congratulate you and the committee on  
4 working to change state law, and the success in  
5 seeing state law changed on that topic for West  
6 Virginia and -- so in this time, when I think  
7 nationally hundreds of thousands fewer people  
8 will be able to access these critical benefits, I  
9 am glad to know that in West Virginia there will  
10 be some improvement. And I congratulate the  
11 committee on helping to make that happen. So  
12 thank you for that.

13 I also thought that the report in  
14 general was extraordinarily thorough, extremely  
15 well written, very compelling. And the inclusion  
16 of information from people who -- whose life  
17 experience leads them to know the challenge of  
18 the collateral consequences on reentry was -- was  
19 really terrific. So thank you very much for --  
20 for giving us such a comprehensive window into  
21 the experiences in your state and for the careful  
22 examination of this really important issue.

23 Thank you. There's -- oh, Commissioner Adegbile?

24 COMMISSIONER ADEGBILE: Just briefly,  
25 two comments. I wanted to thank you for the

1 focus on the issue and the wonderful effort that  
2 went into the report. It's a really first-rate  
3 effort, and I think it's -- it's an exemplar of  
4 some of the work that we've seen from our state  
5 advisory committees who we describe as the eyes  
6 and ears of the Commission throughout the nation.  
7 But so many of these committees have done  
8 extraordinary work on issues on which you  
9 identify and set the agenda and determine what is  
10 important in your own state. And to lift it up,  
11 to gather the information, to bring the experts  
12 together and to create change in a public forum -  
13 - because the work you do is, in many ways,  
14 precisely the design of your committees. And so,  
15 please share with your fellow committee members  
16 that we appreciate the effort. That in the face  
17 of a national discussion about criminal justice  
18 reform, we need to think not only what's  
19 happening with people on the way in, but what the  
20 consequences are in the country of what our  
21 practices have been for a long time. And it  
22 seems to me that as a matter of public policy and  
23 rationality, having people have an opportunity to  
24 make productive use of their lives once their  
25 time has been served and paid is an essential

1 element of a thriving democracy, as opposed to  
2 relegating people to dead-ends in life and  
3 opportunity. And so hats off to you, and please  
4 share our compliments with your colleagues.

5 CHAIR LHAMON: So with that, I will  
6 thank you very much for coming here. I hope that  
7 you will stay and allow us to take a picture with  
8 you afterwards and share proof that you were with  
9 us, and also just very many thanks -- before you  
10 get up -- to you for your service and for your  
11 leadership on the advisory committee. And to the  
12 committee as a whole for being so extraordinarily  
13 active. It's really a pleasure to get to benefit  
14 from the expertise and the work of the committee.  
15 So many, many thanks, and I hope you will take  
16 that back to the committee as a whole as well.  
17 Thank you.

18 MS. YOUNIS: Thank you very much.

19 CHAIR LHAMON: Next we will hear from  
20 our Alaska Advisory Committee's chair, Natalie  
21 Landreth, on the committee's recent report on  
22 Alaska Native voting rights. And I will note  
23 that I think it is too early even to call it  
24 early morning in Alaska right now. So many  
25 thanks to you for getting up at this brutal time.

1           And we look forward to your presentation. Go  
2           ahead, Chair Landreth.

3           III. REPORT FROM ALASKA ADVISORY COMMITTEE

4                       MS. LANDRETH: Thank you very much.  
5           Yes, I am not usually up at this time unless I am  
6           still up from the night before. So bear with me  
7           and be merciful with questions. So I am going to  
8           present an overview of our report entitled Alaska  
9           Native Voting Rights. There were two pieces of  
10          this report. One was to evaluate the  
11          effectiveness of the implementation of the  
12          Toyukak versus Mallott settlement and court  
13          order. This was a Section 203 case that  
14          contained a broad variety of remedies ordered by  
15          the Federal Court. And the second piece of the  
16          report is the potential disparate impact of a  
17          state-wide vote by mail system that Alaska, at  
18          the time of the preparation of the report, was  
19          indeed considering. But if I may offer this  
20          guess, it appears that the close scrutiny to this  
21          issue by the State Advisory Commission and others  
22          during the pendency of the -- that process caused  
23          the state to reconsider, and it will not be  
24          implementing a vote by mail system at this time.  
25          We have maintained all of the information and

1 recommendations in this report because that issue  
2 could, of course, rear its head at any time.

3 I know you do have the report, so I am  
4 going to focus very basically on really key  
5 findings and recommendations from the report.  
6 There are, by way of very little background --  
7 because again that is pretty well detailed in the  
8 report. There are 14 different census areas in  
9 Alaska covered by Section 203 of the Voting  
10 Rights Act. And the -- there were two successive  
11 cases lasting almost 10 years of litigation to  
12 enforce compliance in only three -- apologies --  
13 four of those census areas. And the purpose of  
14 this report -- prior to my arrival, the committee  
15 had chosen to evaluate an implementation with  
16 those court orders. So that is the origin of the  
17 mandate here.

18 Some of the key findings are that the  
19 state, despite making improved efforts under  
20 certain administrations -- the state was still  
21 not in compliance with the court order. 46  
22 percent of the poll workers received no training  
23 prior to the election within the past year, and  
24 40 percent overall had never received training.  
25 The second key finding is that bilingual poll

1 workers were not trained on how to translate the  
2 contents of the ballot. This is a key feature in  
3 the lawsuit and a surprising discovery during the  
4 preparation of this report.

5 The Division of Elections, in finding  
6 number three, was very candid and admit they were  
7 unable to adequately log the frequency and  
8 effectiveness of any of their outreach. This  
9 also was a key feature of the court order because  
10 the case showed that, in terms of outreach, that  
11 the average voter would receive an entire  
12 official election pamphlet in English that  
13 contained more than 100 pages of information, and  
14 yet in advance of an election, most Native  
15 villages were receiving three pieces of  
16 information -- date of the election, time of the  
17 election, and notice that there would be an  
18 election, along with the place where you could  
19 vote. And that was the discrepancy. And so the  
20 lack of outreach in the third finding was a real  
21 surprise, established the core of the case. I am  
22 sorry; I should say the lack of the ability to  
23 document or log the outreach that was supposed to  
24 have been occurring.

25 The fourth finding was that some

1           villages just didn't have the bilingual poll  
2           workers available that were required by the  
3           order. And the fifth finding -- the Division of  
4           Elections admitted that it had not been able to  
5           complete all of the translations. We did  
6           discover, in number six, that even for materials  
7           that were translated, there were not translated  
8           materials in one-third of the covered villages,  
9           representing some pretty significant  
10          discrepancies between what was ordered and what  
11          is actually occurring. I will leave the balance  
12          of the findings on that order, as I know the  
13          Commission has them, but those were the key  
14          features -- were and are -- is the State of  
15          Alaska complying with the requirements of the  
16          Toyukak versus Mallott court order? Not  
17          according to this information, no. And I should  
18          add that this information is not derived from an  
19          independently commissioned state advisory  
20          committee study. This is all derived from  
21          witness testimony and primarily from Federal  
22          Observer reports that have been entered into the  
23          record in support of this committee's report.

24                   The second component -- where findings  
25          concerning the potential impact of a vote by mail

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system. This came up at the time that we were beginning the legwork on the Section 203 piece of the report. And so we thought it critical because we pointed out the overlap between trying to implement a vote by mail system on a non-English speaking population that was under a current court order requiring extra assistance. So I will discuss the primary findings of this piece as well, and then at the end discuss the recommendations that we are requesting the parent Commission make.

The first was that voters across the board in a testimony expressed grave concern over Alaska's potential implementation of a vote by mail system based on the notoriously slow mail system that can take two to three weeks just from Anchorage into the villages. The weather and the fact that the -- many of the airports in rural Alaska do not have a -- they basically have dirt or gravel runways -- means that you are limited in access. And so reliance on that struck people at the outset as unwise.

The second finding is that there had been no comprehensive study about what the impact would be on Alaska Natives on -- specifically on

1 people who are limited-English proficient, or  
2 linguistically isolated. The third finding is  
3 that there were specific concerns raised about  
4 the use of a vote by mail system. And one of  
5 these is that this is a nationwide issue in  
6 Indian country, but specifically in Alaska --  
7 there are a number of families that can often  
8 share P.O. Boxes. Which means if your ballot is  
9 mailed to you, the chance that you are going to  
10 receive it is much smaller than someone who has  
11 their own P.O. Box. It's what one academic has  
12 referred to as the leaky pipeline. There are  
13 lots of places in which your mail disappears,  
14 especially in this kind of a scenario.

15 The fourth was that the implementation  
16 of a mail-in voting system just -- you know, in  
17 terms of its -- as a bare proposal didn't make  
18 any sense because the agreement -- the court  
19 order in the Toyukak case -- required language  
20 assistance, a lot of it in person. And it could  
21 not be complied with in a vote by mail system,  
22 meaning that the implementation of that kind of  
23 system on these communities would de facto be a  
24 violation.

25 And the fifth one is that in-person

1 assistance is required by a lot of other laws as  
2 well as the court order in this case. And you  
3 simply can't do that in a vote by mail system  
4 unless you are going to replicate that assistance  
5 by creation of what are called voting centers.  
6 This was one of the expert recommendations for  
7 these types of communities.

8 Finally with regard to vote by mail,  
9 there were a number of recommendations specific  
10 to -- sorry, findings specific to the Postal  
11 Service. And one thing that is unusual, which is  
12 --

13 (Simultaneous speaking.)

14 CHAIR LHAMON: Chair Landreth, we'll

15 --

16 MS. LANDRETH: Yes?

17 CHAIR LHAMON: Chair Landreth, we  
18 thank you for presenting, and I am going to just  
19 move us on to questions from commissioners at  
20 this point. Thank you very much. Open for  
21 questions, Commissioner Adegbile?

22 COMMISSIONER ADEGBILE: Good morning,  
23 Chair Landreth. Thank you for getting up early  
24 and for the wonderful work of this SAC in Alaska.  
25 Like Commissioner Kladney before me, I had the

1 opportunity to attend the briefing in Anchorage  
2 and to observe and hear the powerful testimony.  
3 And the work that the SAC did to underscore the  
4 challenges that are still faced after that very  
5 complex and substantial litigation is a real  
6 value-add for the people of Alaska, for which I  
7 commend you. Hearing about the case made it very  
8 clear to me that you are a better lawyer than I  
9 am. You are a better lawyer than me for sure,  
10 but the people of Alaska are lucky to -- lucky to  
11 have you.

12 I was wondering if you could help  
13 explain, so that people can fully understand --  
14 and you've begun to do it -- but I think that the  
15 -- there is thinking that generally, vote by mail  
16 is a way to expand the franchise and try and make  
17 it easier. To lower bars to voting, as opposed  
18 to -- as opposed to imposing new barriers to  
19 voting. And I was wondering if you could just  
20 animate for us in a little bit greater detail  
21 what the specific challenges are in Alaska, which  
22 was so compelling during the testimony, so that  
23 people can understand that very often one size  
24 fits all responses don't work because of the  
25 complexities and the specifics of people in

1 different jurisdictions?

2 MS. LANDRETH: Well, thank you for  
3 raising that issue. There are -- it was sort of  
4 a nationwide movement that has created the  
5 impression, or the talking points, I should say,  
6 supporting expansion of vote by mail, are that  
7 it's cheaper, number one, and number two, that it  
8 expands the franchise.

9 I can't speak to number one especially  
10 if you're going to provide return postage. We  
11 didn't study that issue.

12 The second is that we found there was,  
13 in looking at other states, Indian communities in  
14 other states, because we did bring experts in to  
15 say we don't have a study on Alaska, as I  
16 mentioned in our second finding. What was the  
17 impact in Nevada, or Arizona, or other places  
18 where this occurred?

19 And the fact is that these experts  
20 said to us there is no evidence that it increases  
21 voter turnout, and there are places where, if the  
22 right conditions are present, it actually  
23 decreases it. It is not a panacea for increasing  
24 voter turnout in certain areas and the reasons  
25 are quite specific.

1                   Number one is that you must have  
2                   reliable regular mail delivery and Alaska does  
3                   not have that. We have not only the weather  
4                   issue and the access issue of basically people  
5                   having gravel runways, but election mail,  
6                   frankly, on these small planes, takes lower  
7                   priority after passengers, and baggage, and  
8                   things like that, and so that creates a third  
9                   impediment.

10                   And you have others as well, one of  
11                   which is the lack of availability of postal  
12                   workers in all of the villages. Because of the  
13                   small population, it's often hard to get them  
14                   staffed at regular hours, so that creates another  
15                   issue.

16                   The fifth issue is that you can't  
17                   control when something is postmarked. You put it  
18                   in the mail on Election Day, for example. You  
19                   and I will put it in a mailbox where there is  
20                   collection that day. It will get postmarked that  
21                   day, and that ballot will be counted. That does  
22                   not exist in the villages.

23                   If there is no one physically at the  
24                   post office for you to hand it to and watch them  
25                   stamp it, it will not be stamped until it arrives

1 in Anchorage three to five days later, which  
2 means that all of these ballots will de facto be  
3 presumed late. This is something that was  
4 brought up during the testimony.

5 But I should add one of the issues  
6 that in Alaska creates vote by mail problems that  
7 is nationwide really, because Alaska does have  
8 its unique issues, but the nationwide problem is  
9 this, there isn't really a standardized  
10 addressing system on reservations. They do not  
11 have -- they aren't platted in the same way where  
12 everybody will have street addresses.

13 There is a significant number of  
14 nontraditional addresses such as House on BIA  
15 Road 7 behind the grocery store. That will be a  
16 real address on certain reservations, and as  
17 such, they cannot get delivery of certain things  
18 because there is no standardized process for  
19 which that occurs.

20 We are currently working on that issue  
21 separately at Native American Rights Fund, but  
22 that is one of the primary reasons that we  
23 encounter difficulties looking at this issue.

24 COMMISSIONER ADEGBILE: Thank you, two  
25 more questions just briefly. One is I want to

1 know if there were any specific findings that we  
2 should be aware of that you want to underscore  
3 for us, and then separately, what is the  
4 Department of Justice doing to enforce the  
5 protections for Native Alaskan voters in a very  
6 large state where substantial resources are  
7 necessary to make sure that people have access to  
8 the vote?

9 MS. LANDRETH: So that's our very  
10 first request and recommendation to the main  
11 Commission is to send this report and a formal  
12 request to the Department of Justice to  
13 vigorously enforce Section 203 of the Voting  
14 Rights Act in Alaska.

15 There is an enormous number of covered  
16 jurisdictions, covered populations, and yet the  
17 only people to enforce Section 203 is myself at  
18 the Native American Rights Fund with the  
19 assistance of the state affiliate of the ACLU  
20 during our first lawsuit, and it's simply like  
21 trying to empty the ocean with a teacup, but it  
22 has to be monitored.

23 As part of that component, our  
24 recommendation and request to the main Commission  
25 was also that it issue this report with a

1 recommendation directly to our own Division of  
2 Elections and to the Department of Justice that  
3 this court order be extended based on the fact  
4 that we do not yet see even close to full  
5 compliance with that order.

6 And my apologies, your first question  
7 was about which finding to highlight, and my  
8 question is what topic are you referring to? Do  
9 you mean with regard to 203 or do you mean with  
10 regard to vote by mail?

11 COMMISSIONER ADEGBILE: Well, maybe  
12 the way to come at it is helping people  
13 understand what the challenges in the 203 context  
14 with respect to the number and nature of Native  
15 Alaskan languages.

16 I was struck in learning something  
17 about how many different languages there are, how  
18 not all of them are written, and the specific  
19 complexities of trying to provide access to  
20 eligible voters and how important 203 is, which  
21 of course was what I understood to be at the core  
22 of the litigation.

23 MS. LANDRETH: Right, so there are a  
24 huge variety of Alaskan Native languages due to a  
25 previous discriminatory policy of the lack of

1 accessible schooling. The byproduct is that a  
2 lot of people still speak Alaskan Native  
3 languages. This is extremely common.

4 There are, in fact, eight different  
5 census areas in Alaska for which Yupik is a  
6 covered language. However, there are at least  
7 eight different dialects of it, and it poses an  
8 enormous challenge for someone like a private  
9 organization, a nonprofit to litigate protection  
10 for that.

11 There are also different languages in  
12 the interior known as Gwich'in and other  
13 Athabaskan languages, and then up on the north  
14 slope, not touched on this report, but a covered  
15 language that has received very little attention  
16 is Inupiaq, and that is the people further up  
17 north in Alaska.

18 So nearly the entire state is covered  
19 for these, and of course pre-Shelby, we did have  
20 de facto statewide coverage under that coverage  
21 formula, but even the census level jurisdictions  
22 still have coverage.

23 And it is really a challenge to do  
24 that as a private organization, so one of our key  
25 requests is to the Department of Justice to

1 vigorously enforce this, and very importantly  
2 related to that is to continue to send federal  
3 observers to Alaska.

4 That was the primary source of  
5 information about specific failures at the  
6 polling place that we were able to rely on  
7 without having to use individual witness  
8 testimony.

9 That supplemented what we learned, but  
10 that was another key recommendation was to  
11 continue to send federal observers. As a source  
12 of information, they are second to none.

13 COMMISSIONER ADEGBILE: Thank you.

14 CHAIR LHAMON: Thank you, Chairman.  
15 I will open it for other questions, including on  
16 the phone.

17 And I'll just note for myself how much  
18 I appreciate that your advisory committee did  
19 both the quick brief memo that summarized the  
20 information from the investigation so that we had  
21 it in time for inclusion in our voting rights  
22 report, and then that the committee returned to  
23 this fuller explanation and discussion of the  
24 issues that you investigated so that we have that  
25 and Alaska has that for a full and complete

1 record.

2 I have used the information from both  
3 materials many times in our presentations about  
4 voting rights and I was very, very grateful to be  
5 able to incorporate the Alaska specific  
6 information in the report that we issued on  
7 voting rights, which I thought was incredibly  
8 helpful.

9 So I send you my thanks for both  
10 documents and also my congratulations for  
11 achieving a victory along the way in the course  
12 of the investigation to protect voters in Alaska  
13 from what I take the committee to believe a  
14 harmful vote by mail process that was under  
15 consideration.

16 So with that, I thank you for your  
17 early morning presentation to us in addition to  
18 the work, and for your leadership and service on  
19 the advisory committee, and thank you very much.  
20 I hope you will take our appreciation back to the  
21 rest of the committee. And with that --

22 MS. LANDRETH: Thank you very much.

23 CHAIR LHAMON: I will turn to the next  
24 item on our agenda which is a discussion and vote  
25 on the Commission's report titled Federal #MeToo:

1 Examining Sexual Harassment in Government  
2 Workplaces.

3 A. DISCUSSION AND VOTE ON THE COMMISSION'S  
4 REPORT, FEDERAL #METOO: EXAMINING SEXUAL  
5 HARASSMENT IN GOVERNMENT WORKPLACES.

6 CHAIR LHAMON: We'll hold two votes.  
7 First, we'll consider the report, and second, we  
8 will consider findings and recommendations to  
9 open the floor for discussion. Is there a  
10 motion?

11 COMMISSIONER ADEGBILE: So moved.

12 CHAIR LHAMON: I'm hoping that you're  
13 going to move to approve the report as circulated  
14 by, in the last few days.

15 COMMISSIONER ADEGBILE: Because I'm  
16 feeling such sympathy with Chair Landreth, I'm  
17 feeling that it's 6:00 in the morning, so I need  
18 a little additional prompting. I am, indeed,  
19 going to move approval of our Federal #MeToo  
20 Sexual Harassment Report examining sexual  
21 harassment in the federal workplace.

22 CHAIR LHAMON: And as circulated in  
23 the last few days with a set of redlines and  
24 corrections, correct?

25 COMMISSIONER ADEGBILE: As circulated

1 December 4 by my special assistant, the  
2 inimitable Irena Vidulovic.

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

5 VICE CHAIR TIMMONS-GOODSON: Second.

6 CHAIR LHAMON: So I'll offer a few  
7 points to begin our discussion. First, I thank  
8 Commissioner Adegbile, who is not listening, for  
9 his leadership on this project, and I thank our  
10 staff who are listening, particularly Katherine  
11 Culliton-Gonzalez, and Marik Xavier Brier, as  
12 well as other members of our staff who pitched in  
13 to research and develop this project.

14 Thanks to their efforts, we, today,  
15 consider a report that looks at federal  
16 workplaces to assess how well this sector  
17 addresses workplace sexual harassment.

18 We looked at the practices of the  
19 Equal Employment Opportunity Commission and their  
20 enforcement efforts to combat workplace sexual  
21 harassment, and we examined practices at two  
22 federal agencies, the Department of State and the  
23 National Aeronautics and Space Administration,  
24 commonly referred to as NASA.

25 At our briefing, we heard compelling

1 testimony from a member of Congress, current and  
2 former federal officials from the EEOC, State,  
3 and NASA, legal and academic experts, as well as  
4 individuals who shared their own experiences from  
5 federal workplaces.

6 I believe this report honors that  
7 testimony and I look forward to seeing the  
8 reforms that its text can drive. I now open the  
9 floor for discussion beginning with Commissioner  
10 Adegbile as the sponsor of this project.

11 COMMISSIONER ADEGBILE: Thank you,  
12 Madam Chair, and I too begin with thanks for the  
13 efforts of the U.S. Civil Rights Commission and  
14 its able staff that put in a Herculean effort to  
15 turn in this report in short order.

16 In particular, I would like to thank  
17 Marik Xavier Brier for his wonderful work in  
18 leading the effort for OCRE, and of course the  
19 Director of OCRE, Katherine Culliton-Gonzalez,  
20 for stewarding the effort as well.

21 Because it's a labor of love and  
22 because we have legal requirements in our  
23 reports, our general counsel's office, Maureen  
24 Rudolph and Pilar McLaughlin, also made  
25 substantial contributions in the review, as well

1 as our special assistants.

2 I've already mentioned that Irena  
3 Vidulovic made extraordinary contributions, and  
4 on this report, we had really a set of committed  
5 interns that made special contributions, Corey  
6 Pruitt and Ryan Kelly, who deserve special  
7 mention.

8 As always, I thank the entire staff  
9 who contributed to the report, and I thank my  
10 Commissioners whose inputs and eagle eyes have  
11 helped to make the report stronger as we move  
12 forward.

13 And so with those thanks, I just  
14 wanted to say a quick word about why we have  
15 focused on this topic, what we focused on, and at  
16 the risk of putting the cart before the horse,  
17 foreshadowing some of what we may have learned if  
18 our votes go in the way that I hope they will  
19 today.

20 So why we focused on this issue,  
21 sexual harassment in America and in the American  
22 workplace is a substantial problem. It's a  
23 problem that we've come to understand a bit more  
24 about in recent years as the #MeToo movement has  
25 shown a klieg light on a problem that too often

1 was existing outside the purview of people that  
2 should have their eyes on it and a responsibility  
3 to stop it and address it.

4 The federal government is not immune  
5 as an employer from these problems, and indeed,  
6 has a special obligation in some sense in that  
7 the federal government is the largest employer in  
8 the United States.

9 Two million, approximately two million  
10 employees are federal government employees, and  
11 so if this is a problem that we have observed in  
12 America, we must certainly ensure that the  
13 federal government, as having the leading  
14 responsibility for enforcing civil rights, is  
15 making sure that we have best practices in the  
16 federal workplace.

17 And we also looked at this issue  
18 because, like other areas, there are so many  
19 agencies of different types, that there's lots of  
20 complexity in figuring out how this problem may  
21 manifest in the remote places where people work.

22 What we examined very quickly, and  
23 we've already heard this from the Chair, a  
24 comprehensive review of a workforce that's that  
25 big, of a government that's that big is

1           difficult, and so we've not been able to look  
2           under every rock or every corner, but we have  
3           made a concerted effort to try and look at this  
4           issue in the federal government because we've  
5           learned that it's been under-examined in the  
6           federal workplace.

7                           More and more attention is  
8           coming to this issue nationally and in lots of  
9           different workplaces, but we thought that it was  
10          time that there be an additional focus on these  
11          issues in the federal workplace.

12                          And so we did indeed look both at the  
13          EEOC's important role for enforcing protections  
14          in this area, for advising about policy and best  
15          practices, and that we hope will make some  
16          contributions, but we also took a deep dive into  
17          two of the larger agencies.

18                          And those agencies were picked, as we  
19          will describe in the report, for some reasons to  
20          have an example, a very large governmental agency  
21          to see how they are handling the issue and  
22          addressing the issue, and we compare and contrast  
23          their approaches.

24                          We looked at the applicable law to  
25          talk about how it is playing out in practical

1 terms, and we held a briefing where we heard from  
2 victims of sexual harassment, lawyers,  
3 administrators, and experts of all kinds that  
4 really added layers to our understanding.

5 We also held public comments and had  
6 a public comment portal available on our website  
7 so we could add to the dimension of it, and all  
8 of these things have contributed to our study, as  
9 well as the data that we looked at.

10 And so again, and before we turn to  
11 the vote, very quickly what we learned,  
12 disclosing that this is a bit of a cart before  
13 the horse approach, so I'll keep it very high  
14 level.

15 We learned that sexual harassment is  
16 driven by power dynamics principally and that it  
17 tends to infect certain types of environments  
18 such as isolated workplaces, but those are not  
19 the only places that it exists, but there are  
20 certain conditions that may increase the  
21 likelihood of sexual harassment works in the  
22 workplace.

23 We learned also that the problem is  
24 dramatically underreported for a variety of  
25 reasons. So while we point to data and talk

1 about existing data in a number of different  
2 studies in the report, one of the things that the  
3 studies have in common is this phenomenon of  
4 people not reporting when sexual harassment is  
5 visited upon them.

6 And that happens for a number of  
7 different reasons, including perceptions of the  
8 adequacy of the remedial measures that are in  
9 place, and also fear of the consequences and  
10 retaliation and career impacts for those who have  
11 experienced it.

12 And finally, we learned that sexual  
13 harassment has both individual and workplace-wide  
14 impacts. It has individual impacts on the  
15 individuals that have this limit and impede their  
16 own work aspiration and experiences.

17 It has economic impacts which are both  
18 going to the individual and also have a larger  
19 societal consequence for agencies that have to  
20 deal with replacing people or not getting the  
21 most out of people that are being inhibited by  
22 the way that they're being treated in the  
23 workplace.

24 And so I was struck by the testimony.  
25 I learned a great deal from this study, and I

1 look forward to the vote and the comments and  
2 input of my Commissioners as we have a further  
3 discussion.

4 CHAIR LHAMON: Thank you, Commissioner  
5 Adegbile. Any further discussion on this report?  
6 Hearing none, I'll call the question and we can  
7 take a roll call vote. Commissioner Adegbile,  
8 how do you vote?

9 COMMISSIONER ADEGBILE: Aye.

10 CHAIR LHAMON: Commissioner Heriot?

11 COMMISSIONER HERIOT: I vote no.

12 CHAIR LHAMON: Commissioner Kirsanow?

13 COMMISSIONER KIRSANOW: No.

14 CHAIR LHAMON: Commissioner Kladney?

15 COMMISSIONER KLADNEY: Yes.

16 CHAIR LHAMON: Commissioner Yaki?

17 COMMISSIONER YAKI: Aye.

18 CHAIR LHAMON: Vice Chair

19 Timmons-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  
24 favor.

25 Next, we will consider the findings

1 and recommendations for the report to open the  
2 floor for discussion. Is there a motion?

3 COMMISSIONER ADEGBILE: I move  
4 consideration of the findings and recs without  
5 further commentary.

6 CHAIR LHAMON: And I hope by  
7 consideration, you mean a vote to approve the  
8 findings and recommendations as circulated by  
9 your special assistant on December 4 with a set  
10 of edits?

11 COMMISSIONER ADEGBILE: I do, and I  
12 would like to note for the record that sitting  
13 behind me is my special assistant who is  
14 wondering again why I won't read the script  
15 that's in front of me so that I can adequately  
16 discharge my duties, but as we sometimes say, it  
17 takes a village, and I'm glad to be a member of  
18 this particular village.

19 CHAIR LHAMON: And to be clear, we all  
20 wonder that, but is there a second for  
21 Commissioner Adegbile's excellent motion?

22 VICE CHAIR TIMMONS-GOODSON: Second.

23 CHAIR LHAMON: Thank you. Any  
24 discussion or amendments? Hearing none, I'll  
25 call the question and take a roll call vote.

1 Commissioner Adegbile, how do you vote?

2 COMMISSIONER ADEGBILE: Aye, with the  
3 substantial input of Irena Vidulovic.

4 CHAIR LHAMON: Commissioner Heriot?

5 COMMISSIONER HERIOT: I almost wanted  
6 to second that one myself, but I'm going to have  
7 to vote no on the substance.

8 CHAIR LHAMON: Commissioner Kirsanow?

9 COMMISSIONER KIRSANOW: No.

10 CHAIR LHAMON: Commissioner Kladney?

11 COMMISSIONER KLADNEY: Yes.

12 CHAIR LHAMON: Commissioner Yaki?

13 COMMISSIONER YAKI: I'm still getting  
14 used to the fact that Commissioner Narasaki's  
15 name isn't called before mine. Aye.

16 CHAIR LHAMON: It's painful in her  
17 absence, but thank you. And Vice Chair  
18 Timmons-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  
23 favor.

24 I note now with the adoption of the  
25 report and findings and recommendations, the

1 clock begins ticking with respect to deadlines  
2 for statements and rebuttals.

3 Statements will be due on Monday,  
4 January 6, 2020, with rebuttals due on February  
5 6, 2020. Commissioners must file a notice of  
6 their intention to file a surrebuttal by February  
7 13, 2010, and then must file the text of their  
8 surrebuttal on February 20, 2020.

9 The next item on our agenda is a  
10 discussion and vote on the fiscal year 2020  
11 briefing dates.

12 B. DISCUSSION AND VOTE ON COMMISSION 2020  
13 BRIEFING DATES

14 CHAIR LHAMON: To open the floor for  
15 discussion, I move that the Commission schedule  
16 briefings for Friday, March 21 on the approved  
17 project on maternal mortality, and for Friday,  
18 May 8 on the approved project on bail reform. Is  
19 there a second?

20 COMMISSIONER HERIOT: I second.

21 CHAIR LHAMON: Thank you. Any  
22 discussion? Hearing none, I'll call the question  
23 and take a roll call vote. Commissioner  
24 Adegbile, how do you vote?

25 COMMISSIONER ADEGBILE: Aye, with the

1 substantial input of Irena Vidulovic.

2 CHAIR LHAMON: Commissioner Heriot,  
3 how do you vote?

4 COMMISSIONER HERIOT: I vote yes.

5 CHAIR LHAMON: Commissioner Kirsanow?

6 COMMISSIONER KIRSANOW: Abstain.

7 CHAIR LHAMON: Commissioner Kladney?

8 COMMISSIONER KLADNEY: Yes.

9 CHAIR LHAMON: Commissioner Yaki?  
10 Commissioner Yaki?

11 COMMISSIONER YAKI: Sorry, sorry, I  
12 could not hit the mute button in the correct  
13 manner. My vote I cast is an aye.

14 CHAIR LHAMON: Thank you. Vice Chair  
15 Timmons-Goodson?

16 VICE CHAIR TIMMONS-GOODSON: While  
17 I'll not be here with you, I cast an enthusiastic  
18 aye.

19 CHAIR LHAMON: Thank you, and I vote  
20 yes. The motion passes. No Commissioner  
21 opposed. One Commissioner abstained. All others  
22 were in favor.

23 We now turn to our next amended agenda  
24 item which is a discussion and vote on a  
25 statement regarding the Commission's legislative

1 and oversight priorities for Congress in 2020 as  
2 circulated last week.

3 I will say that I offered an error.  
4 I am being corrected. The date for the project  
5 on approved, the approved project on bail reform  
6 would be Friday, May 20, so I think we need to  
7 retake that vote because I said the wrong day, so  
8 I apologize to all.

9 COMMISSIONER ADEGBILE: I would like  
10 to offer the services of Irena Vidulovic to the  
11 Chair.

12 CHAIR LHAMON: Oh, okay, sorry, I'm  
13 wrong yet again. It's Friday, March 20. That  
14 would be the date for maternal mortality, which  
15 is to say that not only do we Irena's help, but  
16 we also need Rukku and Kathy's help. Thank you  
17 all for the village today.

18 So if we could vote again, first, is  
19 there a second?

20 COMMISSIONER HERIOT: Second, yes, I  
21 second.

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

24 COMMISSIONER ADEGBILE: An  
25 enthusiastic aye all by myself.

1 CHAIR LHAMON: Thank you.

2 Commissioner Heriot?

3 COMMISSIONER HERIOT: I vote yes.

4 CHAIR LHAMON: Commissioner Kirsanow?

5 COMMISSIONER KIRSANOW: Abstain.

6 CHAIR LHAMON: Commissioner Kladney?

7 COMMISSIONER KLADNEY: Yes.

8 CHAIR LHAMON: Commissioner Yaki?

9 COMMISSIONER YAKI: Oh, sorry, I still  
10 think I have three seconds before I get called  
11 because of Commissioner Narasaki. Aye.

12 CHAIR LHAMON: Thank you. Vice Chair  
13 Timmons-Goodson?

14 VICE CHAIR TIMMONS-GOODSON: Yes.

15 CHAIR LHAMON: And I vote yes. This  
16 motion passes with the correct date. No  
17 Commissioner opposed. One Commissioner  
18 abstained. All others were in favor.

19 So now we will turn to our next  
20 amended agenda item which is a discussion and  
21 vote on a statement regarding the Commission's  
22 legislative and oversight priorities for Congress  
23 in 2020 as circulated earlier this week.

24 C. DISCUSSION AND VOTE ON A STATEMENT REGARDING  
25 THE COMMISSION'S LEGISLATIVE AND OVERSIGHT

## 1 PRIORITIES FOR CONGRESS IN 2020

2 CHAIR LHAMON: To open the floor for  
3 discussion, I move for approval of this  
4 statement. Is there a second?

5 COMMISSIONER ADEGBILE: Second.

6 CHAIR LHAMON: Thank you. To begin  
7 discussion, I'm going to offer a few points. I'm  
8 not going to read it because it is very long, but  
9 our points are that last year in December of  
10 2018, the Commission approved a statement of  
11 legislative and oversight priorities for the  
12 116th Congress. That statement drew on the  
13 Commission's work up to date and it drew on  
14 in-depth reports and policy statements.

15 I'm delighted to note that in the last  
16 year, Congress has heeded our call for action in  
17 many ways in both the oversight and legislative  
18 capacities, and there is still more work to do,  
19 and the Commission has also produced a  
20 significant amount of new research and analysis  
21 since December of 2018.

22 So I ask my fellow Commissioners to  
23 support this new statement of priorities  
24 recognizing the work Congress had done and urging  
25 it to do more to ensure that all civil rights are

1 protected.

2 So any other discussion of the  
3 statement? Hearing none, I'll call the question  
4 and take a roll call vote. Commissioner  
5 Adegbile, how do you vote?

6 COMMISSIONER ADEGBILE: Aye.

7 CHAIR LHAMON: Commissioner Heriot?

8 COMMISSIONER HERIOT: I vote no. I  
9 would explain, but I think I'm the only thing  
10 standing between the Christmas caroling, so let's  
11 just go. I vote no.

12 CHAIR LHAMON: Commissioner Kirsanow?

13 COMMISSIONER KIRSANOW: No.

14 CHAIR LHAMON: Commissioner Kladney?

15 COMMISSIONER KLADNEY: Yes.

16 CHAIR LHAMON: Commissioner Yaki?

17 COMMISSIONER YAKI: Aye.

18 CHAIR LHAMON: Vice Chair

19 Timmons-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  
24 favor. Commissioner Heriot is not the only thing  
25 standing between now and the Christmas

1 celebration.

2 The next item on our agenda is a  
3 discussion and vote on forming a subcommittee for  
4 our ongoing project on subminimum wages for  
5 workers with disabilities for the purpose of  
6 conducting site visits.

7 D. DISCUSSION AND VOTE ON FORMING A SUBCOMMITTEE  
8 FOR THE ONGOING PROJECT ON SUBMINIMUM WAGES FOR  
9 WORKERS WITH DISABILITIES FOR THE PURPOSE OF  
10 CONDUCTING SITE VISITS

11 CHAIR LHAMON: To begin discussion, is  
12 there a motion?

13 COMMISSIONER KLADNEY: Yes, Madam  
14 Chair, Dave Kladney here. I move to authorize  
15 the Chair to appoint a subcommittee of  
16 Commissioners to conduct one or more site visits  
17 on our subminimum wages project. Specific sites  
18 will be selected in consultation with OCRE and  
19 the subcommittee.

20 Our discovery materials limit the  
21 traveling delegation for site visits to four  
22 Commissioners. So if the subcommittee is larger  
23 than four, the subcommittee will determine in its  
24 meeting with Commissioners which ones would  
25 travel to each site.

1                   Also in the event the subcommittee is  
2 not permitted under our regulations in the  
3 future, I move to authorize the staff director to  
4 continue the site visit planning and to provide a  
5 traveling delegation of Commissioners to attend  
6 and participate in site visits in accordance with  
7 our regulations. We've done some work on -- oh,  
8 I need a second.

9                   CHAIR LHAMON: Thank you, Commissioner  
10 Kladney. You were breaking up a little bit at  
11 the beginning. Just to clarify, your motion is  
12 that the Chair would appoint a subcommittee and  
13 with the caveats that you then followed. Is that  
14 correct?

15                   COMMISSIONER KLADNEY: Yes.

16                   CHAIR LHAMON: Thank you.

17                   COMMISSIONER KLADNEY: And if one  
18 can't be conducted, did you catch that part of  
19 the motion?

20                   CHAIR LHAMON: Thank you. Is there a  
21 second?

22                   COMMISSIONER ADEGBILE: Second.

23                   CHAIR LHAMON: Thank you.

24                   Commissioner Kladney, as the sponsor of this  
25 motion, would you like to begin our discussion?

1                   COMMISSIONER KLADNEY: Yes, as you  
2 know, we had a briefing that was quite extensive.  
3 I think it's worthwhile for the Commissioners to  
4 actually go and see the two different types of  
5 situations.

6                   One is the work centers as they are  
7 now, the functioning work center, I should say,  
8 and we should also go and see what competitive  
9 integrated employment is like as well.

10                   I think that that's what -- uh oh.  
11 That's what the purpose of the subcommittee would  
12 be, although my special assistant, Amy Royce,  
13 says I made a mistake somewhere along the line  
14 and I'm not exactly sure what she's talking  
15 about, so perhaps --

16                   CHAIR LHAMON: Well, we'll just maybe  
17 pause there.

18                   COMMISSIONER KLADNEY: Yes.

19                   CHAIR LHAMON: I'll continue the  
20 discussion with a few points, and Commissioner  
21 Kladney, I'll give you a chance to join in again  
22 if you'd like. So first, I just appreciate  
23 Commissioner --

24                   COMMISSIONER KLADNEY: Thank you.

25                   CHAIR LHAMON: -- Kladney's leadership

1 in promoting site visits for this investigation,  
2 allowing us again to gather information outside  
3 of the comprehensive briefings that we hold in  
4 D.C.

5 I have found it immensely valuable  
6 when the Commission has traveled outside of D.C.  
7 in the past, and I look forward to seeing what  
8 information and insight can be gained from these  
9 site visits that can be incorporated into our  
10 ultimate report findings and recommendations.

11 Commissioner Kladney, it sounds like  
12 you have more you'd like to add?

13 COMMISSIONER KLADNEY: Yes, I would  
14 like to reread my motion if I could. I'm --  
15 obviously it's early here, although not as early  
16 as it was when we started.

17 I move to authorize the Chair to  
18 appoint a subcommittee of Commissioners to plan  
19 and conduct one or more site visits for our  
20 subminimum wages project. Specific sites will be  
21 selected in consultation between OCRE and the  
22 subcommittee.

23 Our discovery materials limit the  
24 traveling delegation to site visits of four  
25 Commissioners, so if the subcommittee is larger

1 than four, the subcommittee will determine in its  
2 meetings which Commissioners would travel to each  
3 site. Planning will take place with input from  
4 the Commission staff.

5 In the event the subcommittee is not  
6 permitted under our statute in the future, I move  
7 to authorize the staff director to establish the  
8 site visit planning committee which will include  
9 input of the staff special assistants and  
10 Commissioners to continue site visit planning and  
11 to provide for a traveling delegation of  
12 Commissioners to attend and participate in site  
13 visits in accordance with our regulations.

14 If I could get a second for that or  
15 amend my motion to that, I would appreciate it.

16 CHAIR LHAMON: Thank you for the  
17 amended motion.

18 COMMISSIONER KLADNEY: And I  
19 apologize.

20 CHAIR LHAMON: Is there a second?

21 COMMISSIONER ADEGBILE: Second.

22 CHAIR LHAMON: Thank you. Unless  
23 there is further discussion, I'll call the  
24 question and take a roll call vote. Commissioner  
25 Adegbile, how do you vote?

1 COMMISSIONER ADEGBILE: Aye.

2 CHAIR LHAMON: Commissioner Heriot?

3 COMMISSIONER HERIOT: Yes.

4 CHAIR LHAMON: Commissioner Kirsanow?

5 COMMISSIONER KIRSANOW: Yes.

6 CHAIR LHAMON: Commissioner Kladney?

7 COMMISSIONER KLADNEY: With the great  
8 assistance of my special assistant, Amy Royce, I  
9 vote yes.

10 CHAIR LHAMON: Commissioner Yaki?

11 COMMISSIONER YAKI: I'm thinking.

12 Would you keep on going?

13 CHAIR LHAMON: Vice Chair  
14 Timmons-Goodson?

15 VICE CHAIR TIMMONS-GOODSON: Yes.

16 CHAIR LHAMON: And I vote yes.

17 Commissioner Yaki, we return to you for your  
18 vote.

19 COMMISSIONER YAKI: Yeah, I mean, I'm  
20 going to vote for it. I'm a little disappointed  
21 over the fact that similar discretion was not  
22 granted to the subcommittee I chaired on  
23 immigration detention.

24 I thought it would have added greatly  
25 to the discussion we had yesterday before the

1 Congressional Hispanic Caucus. I note that some  
2 of the comments raised regarding resources and  
3 the ability to do that have been not raised with  
4 regard to this, but I will vote yes.

5 CHAIR LHAMON: The motion passes. No  
6 Commissioner opposed. The motion passes  
7 unanimously. No Commissioner opposed and no  
8 Commissioner abstained.

9 And Commissioner Yaki, for what it's  
10 worth, for our record, we are in a different year  
11 from the subcommittee that you chaired, and then  
12 living with different fiscal and staffing  
13 constraints than we lived with at that time, but  
14 I hear you and I share the view that that  
15 investigation and all investigations that we  
16 conduct would benefit from site visits outside of  
17 D.C.

18 COMMISSIONER YAKI: I would just like  
19 to add that, you know, I'm one of the biggest, I  
20 have always been one of the biggest proponents  
21 for being able to get out of the Beltway.

22 I actually believe that it's better  
23 for the entire Commission to go and do a site  
24 hearing, and I'd rather have our resources  
25 prioritized in that manner, and I'm thinking

1 especially with regard to the report regarding  
2 the response to hurricanes as a perfect example  
3 of that.

4 And I would hope that when we are  
5 deciding to allocate where and when to go for  
6 this or any other site visit, that we are  
7 cognizant of the fact that I believe a higher  
8 priority is to get the entire Commission out of  
9 D.C., and with regard to the coming fiscal year,  
10 especially with regard to the report regarding  
11 the hurricane and its disparate impact on the  
12 people of Puerto Rico, for example.

13 So I just want to put that out there  
14 for the record. I would like that to be  
15 addressed at some point by the staff director,  
16 and, you know, if we need to, for example,  
17 reserve funds for things in the future that are  
18 extraordinary and do come up so that we are not  
19 faced with a situation as I was faced last year,  
20 that would be, I think, smart and prudent  
21 planning.

22 CHAIR LHAMON: So there are statutory  
23 constraints on the reservation of funds. We have  
24 to spend the funds appropriated for the  
25 Commission in a given year, but your comments are

1           timely. I think we can move next to the staff  
2           director's, monthly staff director's report. And  
3           I note that our record is that we have voted for  
4           the disaster investigation, not that we would  
5           travel.

6                        COMMISSIONER HERIOT: Madam Chair,  
7           could I bring up something here? I think we need  
8           to prepare for the contingency, even though it's  
9           not a really big one, that we're not going to be  
10          able to have a quorum for the briefings that we  
11          just scheduled a minute ago.

12                       And I would like to make a motion that  
13          in the event that there is not a possible quorum,  
14          that there be a subcommittee to hold those  
15          briefings so that the show will go on even if the  
16          Trump administration and the members of Congress  
17          who right now are supposed to be appointing  
18          members, even if they don't do that in time.

19                       Because as you might recall, our own  
20          Vice Chair didn't make it onto the Commission  
21          until several months after there was -- and  
22          Commissioner Narasaki as well. So can I make a  
23          motion to that effect?

24                       CHAIR LHAMON: Sure.

25          E. DISCUSSION AND VOTE REGARDING FORMING A

1           SUBCOMMITTEE IF A QUORUM IS NOT AVAILABLE FOR TWO  
2           SCHEDULED BRIEFINGS

3                   COMMISSIONER HERIOT: I move that in  
4           the event that a quorum is not available for the  
5           Commission for the two briefings that we  
6           scheduled earlier today, that a subcommittee  
7           consisting of those members who can make it be  
8           able to hold that briefing.

9                   I say that without saying that it is  
10          impossible for the Commission to hold a briefing  
11          without a quorum. That's a question of law that  
12          we don't need to address, but if that issue  
13          should be resolved against us, then a  
14          subcommittee consisting of any Commissioner who  
15          can make it be able to hold those two briefings.

16                   VICE CHAIR TIMMONS-GOODSON: I have a  
17          question.

18                   CHAIR LHAMON: First, I do think that  
19          we have a motion, so let me just second it, so  
20          then we can have a discussion of the motion, and  
21          then go ahead, Madam Vice Chair.

22                   VICE CHAIR TIMMONS-GOODSON: Have we  
23          done this before and what would be the effect of  
24          such a hearing by the subcommittee and the  
25          product that comes from it?

1                   COMMISSIONER HERIOT: I think that  
2 what has happened before -- now, don't quote me  
3 on this because I may be misremembering. There  
4 was a briefing that took place before less than a  
5 quorum of the Commission at some point, maybe  
6 even in Kansas City, and this is before I was on  
7 the Commission.

8                   And there was some dispute as to  
9 whether or not a quorum is necessary to hold a  
10 briefing or whether it's fine to have it with  
11 less than a quorum because they don't act. There  
12 is no actual business transacted. They just  
13 listen and ask questions. There are no motions  
14 in that.

15                   So I think that, you know, the only  
16 thing this would do would be allow the  
17 Commissioners to conduct the briefing. Allow  
18 them to ask questions. It would nevertheless be  
19 a Commission report at which all Commissioners  
20 would be able to vote up or down on eventually.

21                   It's just for the purpose of holding  
22 the testimony so that we don't have a weird  
23 situation where we don't get five Commissioners  
24 because perhaps three appointees haven't been  
25 made and one Commissioner has the flu. We don't

1 have to tell the witnesses to go home. We can  
2 hold it anyway.

3 CHAIR LHAMON: And for what it's  
4 worth, I believe that it would be as if those of  
5 us who were not there for briefings in the past  
6 were still voting on the ultimate reports that  
7 follow from it, so I think that there's logic to  
8 that.

9 And I had a chance to confer with the  
10 general counsel after you've raised your motion,  
11 and it is the position of the general counsel  
12 that, as considering it in this moment, that we  
13 would be able to move, but I think it's  
14 appropriate.

15 (Simultaneous speaking.)

16 CHAIR LHAMON: But let's have the vote  
17 just in case so that we're safe, and I appreciate  
18 the forethought. Thank you. I'm sorry, Madam  
19 Vice Chair, did you have --

20 COMMISSIONER YAKI: This is  
21 Commissioner Yaki. I was involved in some of  
22 those briefings that Commissioner Heriot  
23 discussed. I think actually the briefing she may  
24 have referred to was the one that occurred in  
25 Omaha, I think, in 2007 or 2008.

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Throughout my tenure, it has always been the position, both of the Office of General Counsel and the staff director, that briefings, because there is no action taken other than the hearing and taking of testimony, do not require a quorum.

And in fact, there have been many instances when during the briefing, Commissioners might wander out. Something may come up and the briefing was allowed to continue despite the fact that there was not a quorum up on the dais, so I believe that has been the continuing interpretation and still continues to be the continuing interpretation going forward.

Again, the caveat is that you cannot take a vote and you cannot take any action, but you can hear and receive testimony and ask questions through the briefing process as in a quorum.

CHAIR LHAMON: Thank you. So, oh, go ahead, Commissioner Heriot.

COMMISSIONER HERIOT: Yeah, I like that logic. I hope that's right. I just want to do this as a precaution.

CHAIR LHAMON: I think that's right,

1 and we have a motion and it is seconded, so let's  
2 go through our vote. Commissioner Adegbile, how  
3 do you vote?

4 COMMISSIONER ADEGBILE: Aye.

5 CHAIR LHAMON: Commissioner Heriot?

6 COMMISSIONER HERIOT: Yes.

7 CHAIR LHAMON: Commissioner Kirsanow?

8 COMMISSIONER KIRSANOW: Yes.

9 CHAIR LHAMON: Commissioner Kladney?

10 COMMISSIONER KLADNEY: Yes.

11 CHAIR LHAMON: Commissioner Yaki?

12 Commissioner Yaki?

13 COMMISSIONER YAKI: Sorry, I hit the  
14 button again. I'm going to abstain.

15 CHAIR LHAMON: Vice Chair  
16 Timmons-Goodson?

17 VICE CHAIR TIMMONS-GOODSON: Yes.

18 CHAIR LHAMON: And I vote yes. The  
19 motion passes. No Commissioner opposed. One  
20 Commissioner abstained. All others were in  
21 favor.

22 So with that, we can turn to the staff  
23 director for the monthly staff director's report.

24 F. STAFF DIRECTOR'S REPORT

25 MR. MORALES: Thank you, Madam Chair.

1 In the interests of time, I will not go over what  
2 is already contained in the report. I'm always  
3 available to speak any time with a Commissioner  
4 about information contained in the report, so I  
5 thank you.

6 I would like to just make one more  
7 comment, Madam Chair, that this is the last  
8 meeting in 2019. I want to thank all of the  
9 staff for the amazing work that was done this  
10 year, Commissioners and special assistants  
11 included.

12 As you know, we started off this year  
13 delayed by the shutdown of the government.  
14 Nevertheless, staff came together and worked  
15 together as a team to overcome a lot of  
16 challenges, and with that, we've released an  
17 extraordinary number of reports, briefings, the  
18 regional programs. The state advisory  
19 committee's work has been phenomenal.

20 And just everywhere up and down every  
21 department within our agency has been phenomenal,  
22 and I can't thank the Commissioners enough for  
23 their support and their work and the hard work  
24 they've done, and the hard work the special  
25 assistants have also done in helping the staff

1 achieve these goals.

2 So, with that, I just want to thank  
3 everybody. I wish them well in the coming year,  
4 2020.

5 CHAIR LHAMON: Thank you, and I  
6 wholeheartedly echo the thanks and the gratitude  
7 for how productive the Commission has been and  
8 how collegial the Commission has been in what was  
9 a very difficult year with the longest shutdown  
10 in the history of the federal government, and  
11 extraordinary work output volume, so thank you to  
12 all for meeting and exceeding those expectations.

13 That concludes the business on the  
14 agenda for today's business meeting, but before  
15 we adjourn, I would like to take a moment to  
16 recognize Vice Chair Timmons-Goodson whose term  
17 with the Commission ends today.

18 G. REMARKS ON VICE CHAIR TIMMONS-GOODSON

19 CHAIR LHAMON: Before Vice Chair  
20 Timmons-Goodson came to the Commission, she was  
21 an associate justice on the Supreme Court of  
22 North Carolina, and served for many years before  
23 that on the benches of the North Carolina Court  
24 of Appeals in the 12th Judicial District of North  
25 Carolina.

1 Her years of judicial service to the  
2 people of North Carolina have been recognized  
3 with awards such as the Order of the Long Leaf  
4 Pine, Liberty Bell, Appellate Judge of the Year,  
5 three honorary degrees, and induction into the  
6 North Carolina Women's Hall of Fame.

7 Vice Chair Timmons-Goodson began her  
8 career as a district manager at the United States  
9 Census Bureau in the Department of Commerce from  
10 1979 to 1980, and her professional quest for  
11 justice began as an assistant prosecutor and  
12 continued as a legal services lawyer in  
13 Fayetteville, North Carolina.

14 These professional accolades and  
15 accomplishments, as impressive as they are, only  
16 hint at the gift whom the Vice Chair is. Madam  
17 Vice Chair, I have been grateful for your wisdom,  
18 insight, and steadfast support as the Vice Chair  
19 of the Commission.

20 You have served with honor and  
21 dedication, and in my nearly three years  
22 overlapping with your term, you have been a  
23 constant promoter of more equal justice, a calm  
24 voice of wisdom, a phenomenal colleague, and  
25 best of all for me, my friend. I will sorely

1 miss you.

2 Vice Chair Timmons-Goodson, thank you  
3 for your service to the Commission and to the  
4 country. I'm going to just pause in case other  
5 Commissioners want to step in with --

6 COMMISSIONER YAKI: This is  
7 Commissioner Yaki here. I just would like to say  
8 I want to echo everything that you've said, Madam  
9 Chair, and just say that on a deep personal  
10 level, the utmost respect I have for Commissioner  
11 Timmons-Goodson's personal story and what she has  
12 done and brought to this Commission.

13 I consider her a friend. I had a  
14 wonderful time with her yesterday before at least  
15 nine members of Congress who came to a briefing  
16 that they asked us to attend to brief them on the  
17 immigration detention report. She, of course,  
18 did splendidly as we would all expect her to be.

19  
20 But she is certainly someone who,  
21 during my long years on the Commission, is  
22 someone who I believe is of the first caliber and  
23 the first rank as a Commissioner, but more than  
24 that, as a human being, as a person, as someone  
25 who is a role model to so many in this country.

1 I just wanted to add that and say  
2 thank you, and this is not goodbye. It's just  
3 farewell for the time being, and we look forward  
4 to working with you and seeing you in the future  
5 for your future endeavors and future successes.

6 CHAIR LHAMON: Thank you, Commissioner  
7 Yaki.

8 COMMISSIONER KLADNEY: Dave Kladney  
9 here.

10 CHAIR LHAMON: Go ahead, Commissioner  
11 Kladney.

12 COMMISSIONER KLADNEY: I'd like to  
13 thank Vice Chair Timmons-Goodson for her six  
14 years of service and commitment to civil rights.  
15 Her strong and quiet leadership and her logic and  
16 humanity have added to her work at the Commission  
17 tremendously.

18 She treats everyone with respect and  
19 honesty, and I have learned so much from her  
20 during her time here. I'd like to thank her for  
21 her service and tell her that she'll be very,  
22 very missed from our Commission. Thank you, Vice  
23 Chair Timmons-Goodson. I will miss you  
24 tremendously. Thank you.

25 CHAIR LHAMON: Thank you. I know that

1 Mr. Staff Director, you wanted to speak.

2 MR. MORALES: Thank you, Madam Chair.  
3 On behalf of the staff, all of the entire staff,  
4 we want to thank you for your graciousness, your  
5 wisdom, your kindness to all of us. You often  
6 helped mediate some challenges that we would  
7 encounter at times.

8 And I can't thank you enough  
9 personally. When I first arrived, you were a  
10 north star to me and provided me with great  
11 counsel as to how to operate professionally as  
12 the staff director here.

13 You will be missed. Your  
14 graciousness, and class, and how you've always  
15 conducted yourself was acknowledged and known by  
16 all of us here, so we thank you.

17 You will be missed, but we also want  
18 you to keep engaged with us and keep an eye on us  
19 and make sure that we are carrying out our  
20 responsibilities and mission. So we wish you the  
21 best in your future endeavors and we look forward  
22 to again working with you sometime in the future.

23 CHAIR LHAMON: Commissioner Adegbile?

24 COMMISSIONER ADEGBILE: I would like  
25 to add my voice to the tributes of our colleagues

1 today, and to note that Commissioner  
2 Timmons-Goodson is an extraordinary person in so  
3 many ways.

4 And I was just scratching down some of  
5 the things that I've had the opportunity to  
6 observe and to learn from over the course of the  
7 last three years, and that I have benefitted from  
8 personally, and that I think the United States  
9 has benefitted from by virtue of your service on  
10 this Commission.

11 And an under-inclusive list is that  
12 you're a person of tremendous wisdom, of  
13 extraordinary character. Your judgment is  
14 impeccable and to be relied upon at every turn.

15 You have a characteristic that is  
16 important of all successful lawyers and jurists,  
17 and I take it Commissioners as well, which is you  
18 have a tremendous curiosity, and so although you  
19 know a great deal about the law and have shared  
20 it with us, you are always prepared to learn and  
21 to push into areas where you have something more  
22 to learn, and you build on your considerable base  
23 of knowledge, but come to new issues openly and  
24 in a way that encourages me and hopefully others  
25 to do the same.

1                   We have spoken about your dedication,  
2                   but it's unwavering and extraordinary, and let us  
3                   not forget that you are a person of good humor in  
4                   a number of ways, both in that you can laugh at  
5                   and make a joke, but also that your presence  
6                   brings a calm and a feeling of things will be  
7                   okay because you are such a steady public  
8                   servant.

9                   And so for your unwavering commitment,  
10                  because you have served as an exemplar, as a  
11                  colleague, as a public servant, as a lawyer, and  
12                  as a person, I find and would like to announce  
13                  publicly that your new job, whether or not you  
14                  accept it, is that I intend to refer young  
15                  lawyers to you as a mentor and as an exemplar of  
16                  what one should do to walk as a professional in  
17                  the legal community, and to learn from your  
18                  considerable contributions and all that you have  
19                  shared and will share in the future, and I thank  
20                  you for your service to the nation and for your  
21                  friendship.

22                  CHAIR LHAMON: Commissioner Heriot?

23                  COMMISSIONER HERIOT: I would like to  
24                  thank the Vice Chair for her kindness and her  
25                  thoughtfulness, which has been extraordinary. I

1 believe you have served your country well.

2 You have been an absolutely lovely  
3 colleague to have for these past six years, I  
4 mean, past five and a half years. You didn't get  
5 your full six years, but I think that means that  
6 you should come and hang out with us at least for  
7 the next six months, but it has been just  
8 wonderful having you here, and I thank you very  
9 much.

10 COMMISSIONER KIRSANOW: Madam Chair?

11 CHAIR LHAMON: Commissioner Kirsanow?

12 COMMISSIONER KIRSANOW: Thank you.

13 It's been an honor, and a privilege, and a  
14 pleasure to work with the Vice Chair. She  
15 really, I think, epitomizes what most people in  
16 public service aspire to. She brought great  
17 grace, intelligence, and civility to the  
18 Commission and I'm really going to miss her.

19 CHAIR LHAMON: Thank you. This is  
20 also the last business meeting for the current  
21 terms of Commissioner Heriot and Commissioner  
22 Kirsanow, whose terms both end later this month,  
23 and because history and statutory requirements  
24 for Commission bipartisanship, as well as  
25 Commissioner Heriot's own public posting,

1 suggests they likely will return as appointees.

2 I will not start eulogizing their time  
3 at this meeting, but we would of course thank  
4 them both for their service if they do, in fact,  
5 depart the Commission, and for now, I look  
6 forward to the work that this Commission will  
7 continue to produce as we reconstitute under  
8 reappointment and new appointment.

9 IV. ADJOURN MEETING

10 If there is nothing further, I hereby  
11 adjourn this meeting at 11:22 eastern time.

12 Thank you.

13 COMMISSIONER HERIOT: Bring on the  
14 Christmas carols.

15 (Whereupon, the above-entitled matter  
16 went off the record at 11:22 a.m.)

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In the matter of: Business Meeting

Before: USCCR

Date: 12-05-19

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Court Reporter

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