

U.S. COMMISSION ON CIVIL RIGHTS

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TELEPHONIC BUSINESS MEETING

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FRIDAY, MARCH 20, 2020

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The Commission convened via
teleconference at 10:00 a.m., Catherine Lhamon,
Chair, presiding.

PRESENT:

CATHERINE E. LHAMON, 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

STAFF PRESENT:**NICK BAIR****KATHERINE CULLITON-GONZALEZ****BARBARA DE LA VIEZ****PAMELA DUNSTON, Chief ASCD****ALFREDA GREEN****RYAN KELLEY****ANUSHA MANNAM****TINALOUISE MARTIN****BOBBYE McGRAW****TILAR McLAUGHLIN****MICHELLE RAMEY****JUANDA SMITH****COMMISSIONER ASSISTANTS PRESENT:****ALEC DEULL****CARISSA MULDER****AMY ROYCE****RUKKU SINGLA****ALLISON SOMIN****IRENA VIDULOVIC**

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P R O C E E D I N G S

(10:02 a.m.)

OPERATOR: Good day and welcome to the Commission Telephonic Meeting. At this time, I would like to turn the conference over to Chair Lhamon. Please go ahead.

CHAIR LHAMON: Thank you, Operator. This meeting of the U.S. Commission on Civil Rights comes together at 10:02 a.m. Eastern Time on March 20, 2020. This meeting takes place over the phone. I am Chair Catherine Lhamon. I would like to confirm that each of the commissioners is on the line, and I will take a roll call here at the outset. Please say present when I say your name. Commissioner Adegbile?

COMMISSIONER ADEGBILE: Present.

CHAIR LHAMON: Commissioner Heriot?

COMMISSIONER HERIOT: I am here.

CHAIR LHAMON: Commissioner Kirsanow?

COMMISSIONER KIRSANOW: Here.

CHAIR LHAMON: Commissioner Kladney?

COMMISSIONER KLADNEY: Here.

CHAIR LHAMON: Commissioner Yaki?

COMMISSIONER YAKI: Sheltering in place.

CHAIR LHAMON: Thank you. Based on that, a quorum of the commissioner is present. Is the court

1 reporter present?

2 COURT REPORTER: I'm here.

3 CHAIR LHAMON: Thank you. Is the staff
4 director present?

5 MR. MORALES: I am present.

6 APPROVE AGENDA

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

10 COMMISSIONER KLADNEY: I make motion --
11 Kladney.

12 (Simultaneous speaking.)

13 CHAIR LHAMON: Thank you, Mr. Kladney.
14 To begin --

15 (Simultaneous speaking.)

16 COMMISSIONER KLADNEY: Madame Chair, I'd
17 like to amend the agenda, if I could.

18 CHAIR LHAMON: Go ahead, Commissioner
19 Kladney.

20 COMMISSIONER KLADNEY: I am -- I would
21 like to add to -- a discussion -- a vote on the
22 statement on Coronavirus in Healthcare and Prisons and
23 Detention Centers.

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

1 COMMISSIONER ADEGBILE: Adegbile seconds.

2 CHAIR LHAMON: Thank you. I have a couple
3 of amendments to propose of my own. I move to amend
4 the Agenda to add consideration of a statement on
5 anti-Asian racism in the midst of the COVID-19
6 pandemic. Do I have a second?

7 (Simultaneous speaking.)

8 COMMISSIONER YAKI: Second by Commissioner
9 Yaki.

10 CHAIR LHAMON: Sorry, who was the second?

11 COMMISSIONER YAKI: Yaki.

12 CHAIR LHAMON: Thank you. Any other
13 amendments?

14 COMMISSIONER YAKI: Commissioner Yaki
15 here.

16 CHAIR LHAMON: All right, Commissioner
17 Yaki?

18 COMMISSIONER YAKI: Yes, I have an
19 amendment to waive the 48-hour rule on the Agenda, a
20 statement regarding the expansion of the travel ban.

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

23 COMMISSIONER ADEGBILE: Adegbile seconds.

24 CHAIR LHAMON: Thank you. Any further
25 amendments?

1 (No audible response.)

2 CHAIR LHAMON: Hearing none, let's vote to
3 approve the Agenda as amended. All those in favor,
4 say aye. Aye.

5 (Chorus of aye.)

6 CHAIR LHAMON: Any opposed?

7 (No audible response.)

8 CHAIR LHAMON: Any abstentions?

9 COMMISSIONER HERIOT: I abstained.

10 BUSINESS MEETING

11 CHAIR LHAMON: Oh, thank you. The motion
12 passes. No commissioner opposed, one commissioner
13 abstained. All others were in favor. The first item
14 on our agenda is a discussion in both on appointments
15 to the Commission's Georgia Advisory Committee.
16 Before we begin discussions, I remind my fellow
17 commissioners that objections to this nomination have
18 already been shared with all the commissioners. To
19 the extent you would like to discuss continuing
20 objections, I remind my fellow commissioners that the
21 Commission has a policy not to defame, degrade, or
22 intimidate any person. Each of these individuals has
23 agreed to volunteer time and energy in the pursuit of
24 the protection of civil rights, which we appreciate.
25 With that said, I move that the Commission appoint the

1 following individual for the Georgia Advisory
2 Committee, based on the recommendation of the staff
3 director -- Chantel Mullen, Percy Brown, Benita
4 Cotton, Jake Evans, Jerry Gonzalez, James Hunt, Eric
5 Jacobson, Tarece Johnson, Richard Lorenc, De'Andre
6 Pickett, Bryan Ramos, Jonathan Rogers, Baker Smith and
7 Laura Soltis. With this motion, the Commission also
8 appoint Chantel Mullen as the Chair of the Georgia
9 Advisory Committee. All of these members will serve
10 as uncompensated government employees. If the motion
11 passes, the Commission will authorize the staff
12 director to execute the appropriate paperwork to the
13 appointments, which will begin after the current
14 committee expired. Do I have a second for this
15 motion?

16 COMMISSIONER ADEGBILE: Adegbile.

17 CHAIR LHAMON: Thank you. Any discussion
18 on this slate?

19 (No audible response.)

20 CHAIR LHAMON: Hearing none --

21 COMMISSIONER HERIOT: I --

22 CHAIR LHAMON: Oh -- go ahead,
23 Commissioner Heriot.

24 COMMISSIONER HERIOT: I think this slate
25 is not balanced as well as it could be -- not even

1 close. I would like to ask the question, of why Carrie
2 Martin was not appointed, given the need for more
3 balance -- more ideological balance.

4 CHAIR LHAMON: I don't know that we can
5 answer that question, given that these -- these names
6 come to us --

7 (Simultaneous speaking.)

8 (Pause.)

9 MR. MORALES: This is the Staff Director.
10 My understanding was that we were going to appoint
11 Carrie Martin, she was inadvertently left off. Is
12 David on the phone?

13 (Pause.)

14 MR. MORALES: And I have sent an email out
15 to that effect -- to all Commissioners.

16 (Pause.)

17 COMMISSIONER HERIOT: I didn't see that.
18 Was that today? Was that yesterday? When was that?

19 MR. MORALES: Several days ago.

20 COMMISSIONER HERIOT: Well then, can we
21 then just add Carrie Martin then?

22 (Pause.)

23 (Simultaneous speaking.)

24 COMMISSIONER HERIOT: I hear that. I am
25 looking to see if I can find the email from Staff

1 Director.

2 (Pause.)

3 PARTICIPANT: I mean, I have the -- I have
4 -- person who was mistakenly left out the main slate,
5 but I don't have -- oh, here it is. No, I don't see
6 it.

7 (Pause.)

8 CHAIR LHAMON: Well, why don't we table
9 this conversation and come back to it if anyone can
10 find this email during this business meeting. Or, Mr.
11 Staff Director, if you're able to research it later.

12 MR. MORALES: Yes, I will. I'll look for
13 --

14 CHAIR LHAMON: Thank you. Well we will
15 turn next -- next to a discussion of the Maine
16 Advisory Committee. I move that the Commission
17 appoint the following individuals to the Maine
18 Advisory Committee based on the recommendation of the
19 Staff Director. Maria Baeza, Marpheen Chan, Mufalo
20 Chitam, Gia Drew, Silvestre Guzman, Michael Hawley,
21 Judith Jones, Diane Khiel, Samantha Le, Eric Mehnert,
22 Nicole Rancourt, and Cait Vaughn. With this motion
23 the Commission will also appoint Maria Baeza as the
24 Chair of the Maine Advisory Committee. All of these
25 members will serve as uncompensated government

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

6 COMMISSIONER YAKI: Second by Commissioner
7 Yaki.

8 CHAIR LHAMON: Thank you. I will begin
9 discussion of this slate with a few points. As with
10 all of our advisory committees, we aim to have
11 candidates who represent a diversity of perspectives
12 and backgrounds. In this instance, despite extensive
13 recruiting efforts, which include staff reaching out
14 to state government offices, congressional offices,
15 advocacy organizations, religious organizations,
16 schools, and various professions at law schools,
17 colleges and universities -- we were not able to
18 recruit more than a couple conservative candidates for
19 the applicant pool. Ultimately, the state advisory
20 committees are composed of volunteer appointees, and
21 we are grateful to all who are willing to serve. Are
22 there any further discussions at this point?

23 COMMISSIONER HERIOT: Madame Chair?

24 CHAIR LHAMON: Commissioner Heriot?

25 COMMISSIONER HERIOT: For the reasons

1 expressed in an earlier email, I will be voting
2 against this slate. It includes Mufalo Chitam, who I
3 believe should not be on the SAC.

4 CHAIR LHAMON: Is there any further
5 discussion?

6 (No audible response.)

7 CHAIR LHAMON: Hearing none, I will call
8 the question and take a roll call vote. Commissioner
9 Adegbile, how do you vote?

10 COMMISSIONER ADEGBILE: Aye.

11 CHAIR LHAMON: Commissioner Heriot?

12 COMMISSIONER HERIOT: No.

13 CHAIR LHAMON: Commissioner Kirsanow?

14 COMMISSIONER KIRSANOW: No.

15 CHAIR LHAMON: Commissioner Kladney?

16 COMMISSIONER KLADNEY: Yes.

17 CHAIR LHAMON: Commissioner Yaki?

18 COMMISSIONER YAKI: Aye.

19 CHAIR LHAMON: And I vote yes. The motion
20 passes. Two commissioners opposed, no commissioners
21 abstained. All others were in favor. Next we will
22 move to an amended item on our agenda -- consideration
23 of a Commission statement on healthcare access in
24 prisons, jails, and immigration detention centers
25 proposed by Commissioner Kladney. So that we

1 understand what we are considering, I will ask
2 Commissioner Kladney to read the statements.

3 COMMISSIONER KLADNEY: Thank you, Madame
4 Chair. The U.S. Commission on Civil Rights on a
5 majority vote encourages Directors of the Departments
6 of Corrections, Sheriffs, Chiefs of Police,
7 Immigration and Customs Enforcement, and Customs and
8 Border Protection Officials to provide COVID-19
9 healthcare protections and medical care to those in
10 their custody during the COVID-19 pandemic. The
11 Commission's recent report on women in prison pointed
12 out many of the healthcare failings in the correction
13 system as it relates to women. Based on the reports
14 we've received, the Commission recognizes the
15 potential for serious health consequences for those
16 incarcerated in prisons and detention facilities as
17 COVID-19 continues to spread. This is a critical
18 concern regarding the administration of justice, and
19 one that is based on the demographics of incarcerated
20 persons. There is directly and disproportionately on
21 minority populations and on people of particular
22 national origins. We urge all officials responsible
23 for overseeing these facilities to see that those who
24 provide healthcare in these facilities address COVID-
25 19 with the latest known medical care.

1 The Commission found in recent reports
2 that healthcare in prisons and immigration detention
3 is not consistently provided to meet the healthcare
4 needs of incarcerated and detained people. For
5 example, the Commission heard that people in
6 immigration detention facilities were only given pain
7 killers in response to serious illnesses despite the
8 requirements for medications to be ordered, dispensed,
9 and administered in a timely manner and as prescribed
10 by a licensed healthcare professional.

11 Similarly, the Commission heard reports
12 from people incarcerated in prisons that their
13 healthcare, concerns were ignored and an adequate
14 treatment was not provided despite the government's
15 constitutional obligation to provide healthcare to all
16 incarcerated persons. Given this background, the
17 Commission reiterates the imperative all -- that all
18 detention, prison, and jail administrators have to
19 ensure the well-being of incarcerated and detained
20 people.

21 Recent reports have emerged questioning
22 the preparation of prison, jail, and immigration
23 detention and juvenile detention systems to manage a
24 serious outbreak. Many incarcerated and detained
25 people are at high risk because of the underlying

1 health conditions or age. The nature of carceral
2 environments means some proactive measures, such as
3 social distancing, are not available, heightening the
4 need for administrators to ensure incarcerated and
5 detained people receive appropriate care. Overcrowded
6 facilities provide an ideal condition for rapid
7 transmission of COVID-19 and limits the ability of
8 authorities to isolate those who have been diagnosed.
9 Additionally, incarcerated people in many settings do
10 not have ready access to soap and running water. And
11 prison guards and correction officials are also at
12 high risk of exposure in settings where large numbers
13 of people are housed in facilities in very close
14 quarters.

15 For prisons and detention centers located
16 in rural areas, providing adequate healthcare is
17 already challenging, including access to specialist
18 care and maintaining sufficient medical supplies, such
19 as ventilators. If virus and diseases spread in
20 detention facilities, jails, and/or prisons, not only
21 will it pose a danger to incarcerated and detained
22 people and correctional staff such as a spread will
23 only exacerbate our public health threat by burdening
24 already strained medical resources. The average
25 length of stay of just a few days, outbreaks in jails

1 will quickly spread and accelerate within the
2 community when people return home. At least one death
3 of a correctional staff member from COVID-19 has
4 already been reported, underscoring the need for swift
5 action in all detention and incarceration facilities.

6 Officials should take all necessary steps
7 to provide adequate treatment to those who are
8 incarcerated, and also to adopt the best practices for
9 health and safety of affected correctional staff. In
10 these incredibly difficult circumstances, the health
11 of incarcerated and detained people and staff must
12 remain a priority and their safety in the midst of a
13 viral outbreak must not be ignored.

14 Thank you, Madame Chair. And I move at
15 this time to approve this statement by the Commission.

16 CHAIR LHAMON: Thank you Commissioner
17 Kladney. Is there a second?

18 COMMISSIONER ADEGBILE: Adebile seconds.

19 CHAIR LHAMON: Thank you. I will open the
20 floor for discussion, starting by noting that I am
21 recused from consideration of the statement.

22 COMMISSIONER HERIOT: Madam Chair?

23 CHAIR LHAMON: Commissioner Heriot.

24 COMMISSIONER HERIOT: I just want to say
25 that when I first read this -- the first version of

1 this, I was concerned about our jurisdiction over the
2 issue. I consulted, through my special assistant, our
3 general counsel who agreed that this was -- this was
4 a more difficult than usual case, but that we did have
5 jurisdiction. Since then, Commissioner Kladney has
6 amended it -- beefed up the -- the parts of it that
7 might otherwise be regarded as outside our
8 jurisdiction. So I intend to vote for it.

9 I do however want to say that I have no
10 evidence that -- that prisons and jails have been
11 neglecting their duties with regard to COVID-19 and
12 that this -- at least in terms of my vote -- is not
13 meant in any way to suggest that there has been a
14 problem. And so I just wish good luck to prisons and
15 jails dealing with this issue.

16 CHAIR LHAMON: Is there any further
17 discussion?

18 COMMISSIONER KIRSANOW: Madame Chair,
19 Kirsanow.

20 CHAIR LHAMON: Commissioner Kirsanow?

21 COMMISSIONER KIRSANOW: Thank you. I just
22 wanted to say that I don't necessarily agree with
23 every jot and tittle of this, but I want to commend
24 Commissioner Kladney who is generally an otherwise
25 disreputable figure, but none the less I intend to

1 vote --

2 (Laughter.)

3 CHAIR LHAMON: I remind my fellow
4 Commissioners that we have a policy to not defame or
5 degrade any member of the Commission.

6 (Simultaneous speaking.)

7 (Laughter.)

8 CHAIR LHAMON: I will just note that that
9 was stated with humor.

10 COMMISSIONER KLADNEY: Coming from
11 Commissioner Kirsanow, that may be a compliment.

12 (Laughter.)

13 CHAIR LHAMON: Again, we don't defame or
14 degrade any persons --

15 (Laughter.)

16 COMMISSIONER YAKI: This is Commissioner
17 Yaki and I would just like to commend Commissioner
18 Kirsanow for the use of the phrase "jot and tittle."

19 COMMISSIONER KIRSANOW: We disreputable
20 figures have broad vocabularies.

21 (Laughter.)

22 CHAIR LHAMON: Is there any further
23 discussion of the statement?

24 COMMISSIONER YAKI: Other than that self-
25 degradation is okay according to Commissioner

1 Kirsanow. But --

2 (Laughter.)

3 COMMISSIONER ADEGBILE: I think we cut
4 Commissioner Kirsanow off in the middle of his
5 statement.

6 COMMISSIONER KIRSANOW: No, I didn't.
7 That was -- that was sufficient. I am a man of few
8 words. And fewer thoughts.

9 (Laughter.)

10 CHAIR LHAMON: All right. I am going to
11 call a question -- or call a vote. Commissioner
12 Adegbile, how do you vote?

13 COMMISSIONER ADEGBILE: Aye.

14 CHAIR LHAMON: Commissioner Heriot?

15 COMMISSIONER HERIOT: Yes.

16 CHAIR LHAMON: Commissioner Kirsanow?

17 COMMISSIONER KIRSANOW: Yes.

18 CHAIR LHAMON: Commissioner Kladney?

19 COMMISSIONER KLADNEY: Yes.

20 CHAIR LHAMON: Commissioner Yaki?

21 COMMISSIONER YAKI: I will jot my aye.

22 (Simultaneous speaking.)

23 CHAIR LHAMON: And I -- and I am recused.

24 The motion passes unanimously. Next we will move to
25 the next amended item on our agenda which is

1 consideration of a Commission statement that I
2 proposed about anti-Asian racism and xenophobia in
3 this time of the COVID-19 pandemic. So that we
4 understand what we are considering, I will begin by
5 reading a statement, omitting a footnote in this
6 version of the statement as amended -- that my special
7 assistant circulated this morning.

8 Statement entitled of the U.S. Commission
9 on Civil Rights expresses concern over growing anti-
10 Asian racism and xenophobia amid the COVID-19
11 outbreak. The U.S. Commission on Civil Rights, by a
12 majority vote, expresses grave concern over recent
13 demonstrations of violence and hate toward people of
14 Asian descent, provoked by misplaced fear over the
15 COVID-19 pandemic. As the nation's civil rights
16 watchdog, the Commission has long recognized that
17 xenophobia wears many faces. In recent weeks, we have
18 seen those faces surface in the form of ignorance and
19 misinformed assumptions, hateful remarks and violent
20 acts.

21 In one case, a man riding a New York
22 subway train sprayed a fellow passenger, an Asian-
23 American man, with air freshener, while yelling at him
24 to move away. In Washington D.C., a woman was
25 accosted by a fellow passenger on a Metro train who

1 told her, "Get out of here -- go back to China. I
2 don't want none of your swine flu here." A man riding
3 a public bus in Boston, upon seeing a woman sneeze
4 into her sleeve, began making comments about "diseased
5 Chinese people."

6 A list of similar incidents across the
7 country grows longer by the day. A food sample vendor
8 at the Seattle Costco told a Korean woman to "get
9 away" from the samples, questioning whether she had
10 come from China. A 13-year-old girl from Connecticut
11 said that classmates at her middle school had begun
12 calling Asian-American students "corona" while a nine-
13 year-old boy in New Jersey was told by a classmate
14 "You're Chinese, so you must have the coronavirus."

15 While racially charged slurs and hateful
16 comments are deeply troubling and unacceptable under
17 any circumstances, the Commission is particularly
18 alarmed by the increasingly frequent reports of
19 physical violence resulting from prejudice against
20 Asian-Americans. An Asian man in New York was kicked
21 in the back earlier this week. Before the attacker
22 spat in his face, angrily retorting "F-word the
23 Chinese coronavirus." And told the man to go back to
24 his country.

25 The same day, another attacker in midtown,

1 New York, punched an Asian-American woman in the face
2 while yelling, "Where's your corona mask, you Asian B-
3 word?" These incidents dangerously undermine the
4 fundamental equality principle espoused within the
5 United States Constitution and its laws. This latest
6 wave of xenophobic animosity towards Asian-Americans
7 should not be normalized or encouraged by public
8 officials characterizing COVID-19 as the "Chinese
9 coronavirus" or "Chinese virus."

10 These characterization contribute to
11 unnecessary stigmatization associated with what all
12 now recognize to be a global pandemic that threatens
13 human beings on every continent. Therefore, it is
14 misleading and harmful to characterize COVID-19 as a
15 "Chinese" or "Asian" disease.

16 In addition to the racist remarks and
17 violence, this wave of anti-Asian bias has economic
18 repercussions. In hearing of the House Committee on
19 Oversight and Government Reform on March 12, prior to
20 the governmental closing of dining in restaurants --
21 in certain jurisdictions, Congressman Ayana Pressley
22 from Massachusetts emphasized that this painful
23 rhetoric has consequences, further noting that
24 "restaurants across Boston's Chinatown have seen up to
25 an 80-percent drop in business. And I believe this

1 has everything to do with the rapid spread of
2 misinformation and paranoia."

3 The Chinatowns across America experienced
4 rapid drops of business well prior to the recent
5 shelter at home declarations, or even the first report
6 of COVID-19 infections in our communities. Anti-Asian
7 violence has a bitter legacy in the recent history of
8 our country. In 1982 the Chinese American Vincent
9 Chin was beaten to death by two white auto workers in
10 Michigan who blamed their economic difficulty on the
11 importation of Japanese-made cars. On September 15,
12 2001 in the immediate aftermath of the attacks on the
13 World Trade Center, Balbir Singh Sodhi, a Sikh-
14 American was killed in the gas station he owned in
15 Mesa, Arizona by a man who believed he was an Arab
16 Muslim. In these and other cases there is no
17 distinction as to whether someone has heritage from
18 Japan, China, or any of the many countries and
19 ethnicities of Asia. For someone with bad intentions,
20 inspired by anti-Asian rhetoric, there is no
21 difference.

22 In our recent report on hate crimes, the
23 Commission discussed research findings that hate
24 crimes "are fueled by racial anxieties, or social
25 changes that are perceived as threatening," like the

1 attacks on September 11, 2001. In the current
2 circumstances, people are frightened for their health
3 and the health of their families and their economic
4 security. But that makes it all the more imperative
5 that no American is ostracized solely because of their
6 race or national origin.

7 Having read the statement, I move for the
8 Commission to approve the statement that I just read
9 out loud. Do I have a second?

10 COMMISSIONER YAKI: Second by Commissioner
11 Yaki.

12 CHAIR LHAMON: Thank you. I open the
13 floor for discussion.

14 COMMISSIONER YAKI: This is Commissioner
15 Yaki.

16 CHAIR LHAMON: Yes, Commissioner Yaki?

17 COMMISSIONER YAKI: Yes. Thank you,
18 Chair. Thank you for incorporating my edit to the
19 statement. For me, it's especially important as
20 someone who first started becoming very active in the
21 civil rights communities when, as a young law student,
22 the murder of Vincent Chin sort of struck home. And
23 I would just say that, the World Health Organization
24 has asked that COVID-19 be called COVID-19, and that
25 it not be characterized by a country. But I would say

1 that it -- and while, you know, there are those who
2 say, well, we have called -- we have things like West
3 Nile Virus, and Zika -- I would say that there's a
4 fundamental difference here that goes even beyond a
5 concern about place of origin. Because the word
6 Chinese is not a place of origin. The word Chinese is
7 a statement about -- is more associated a statement
8 about a person's ethnicity. You don't say, he's
9 China. You say, he's Chinese. You don't say, this
10 woman is China. They say, this woman is Chinese. I
11 might still have concerns, but not the same if it were
12 called the Wuhan or the Hubei virus. But to call it
13 the Chinese virus indicates a nationality and racial
14 connotation that goes well beyond what any other
15 disease has named, except for, you know -- in recent
16 memory. And that's not how these are done. And you
17 can always call that the 2009 swine flu which
18 originated in the United States. And no one calls it
19 the American swine flu.

20 So you know, it just kind of goes beyond
21 even the boundaries that have been pushed a little bit
22 in terms of the naming of these diseases. And I just
23 -- I seriously question why, and as recently these
24 reports show, the president himself crossed out the
25 word Corona from the notes that had been provided to

1 him and wrote in hand the words Chinese. As an Asian-
2 American, as a Chinese-American, as a Japanese-
3 American -- I know that when someone looks at me, they
4 do not make the distinction about whether I am Chinese
5 or Japanese -- whatever. I have been assaulted by
6 people who thought I was -- by Vietnam veterans who
7 thought I was someone from Vietnam. Because they were
8 having a PTSD flash-back.

9 This is not something that can be easily
10 dissuaded from the public mind, and I think it's
11 really important that our leadership in the federal
12 government do whatever they can to not make this an
13 issue of us versus a country, or us versus a people.
14 It's just us against a virulent super bug that the
15 world and all of us are experiencing right now and are
16 fighting and working to find a cure together.

17 So, thank you very much, Chair, for your
18 leadership on this.

19 CHAIR LHAMON: Thank you, Commissioner
20 Yaki. Any further discussion?

21 (No audible response.)

22 CHAIR LHAMON: Okay, I will call the
23 question and take a roll call vote.

24 (Simultaneous speaking.)

25 COMMISSIONER KIRSANOW: Madam Chair,

1 Kirsanow here.

2 CHAIR LHAMON: Commissioner Kirsanow?

3 COMMISSIONER KIRSANOW: Yes, I think I
4 would be comfortable voting for the first four
5 paragraphs of this, where I have a objection -- I
6 respect what Commissioner Yaki has to say about this.
7 I think it's appropriate for the Civil Rights
8 Commission to make a point about any hate crimes or
9 biases against Asian-Americans, Chinese-Americans.

10 However, with respect to what it's called,
11 or the statement with respect to Ayana Pressley, which
12 I think is actually not exactly accurate, in this
13 particular case what we have is, if we sign on to
14 this, we are parroting the propaganda that's coming
15 from the Communist Party of China. They have been
16 disseminating propaganda that claims that this is some
17 -- that was caused by the American military. They hid
18 the virus for two months, and then didn't tell anybody
19 -- in fact, misrepresented to the World Health
20 Organization that it was not contagious. Pretty much
21 said, nothing to see here, move along.

22 Those were crucial weeks that all
23 epidemiologists say has contributed to the pandemic in
24 a significant way. And as Commissioner Yaki alluded
25 to, almost every other virus that I can think of has

1 a place of origin. It's typical. This is not a case
2 of some party or parties attempting to cast aspersions
3 upon an ethnicity. This is consistent with what the
4 medical community has done -- and the broader public
5 has done -- for at least 100 years. And as, you know,
6 Commissioner Yaki had indicated, we've had other types
7 such as -- you don't even have to go back that far,
8 frankly. You know, I think of German measles,
9 Japanese encephalitis -- Lyme disease, even. You
10 know, the Middle East Respiratory Syndrome, which is
11 MERS. It goes on and on. West Nile Virus.

12 It's something that is consistent with
13 what the medical community has done. But in this
14 particular case I am not inclined to sign on to what
15 the Chinese government has done in terms of trying to
16 propagandize this and mislead the public. They are
17 engaged in a very significant and aggressive
18 propaganda campaign to make it look like they're the
19 saviors here. That they're coming out with all kinds
20 of equipment and protocols -- when they are the ones
21 who cover-up, ineptitude, led to this pandemic.

22 CHAIR LHAMON: This is Chair Lhamon. I
23 certainly don't want to subscribe to that notion. And
24 I will strongly disagree with you. And just say that
25 the notion that anything is an ethnicity-based virus,

1 is anathema to our respect for and our aspirations to
2 inclusion and respect for all people.

3 (Simultaneous speaking.)

4 COMMISSIONER KIRSANOW: This is an
5 accurate term. And with respect to your second
6 paragraph, with respect to Ayana Pressley, you know
7 look, in my practice we saw an immediate decline in
8 business all across the country, regardless of
9 ethnicity, regardless of who owns a restaurant or a
10 business. This is a pandemic. This is one of the
11 most frightful pandemics we've had in a long, long
12 time. People sometimes act irrationally. But to say
13 that the calling it -- you know, calling it a Chinese
14 coronavirus somehow led -- that itself led to a
15 decline in business -- people were self-sheltering,
16 self-quarantining, people afraid to go out. All
17 businesses were being harmed. And I doubt very
18 seriously that that discreet phrase led to any kind of
19 decline. People make irrational decisions. Sometimes
20 people make decisions based on faulty information.
21 Sometimes people make rational decisions based on the
22 calculus set before them. But if we could limit this
23 to maybe the first four paragraphs, I am fine with it.

24 CHAIR LHAMON: Commissioner Yaki?

25 COMMISSIONER YAKI: Look, I mean -- I

1 understand what Commissioner Kirsanow is saying in
2 regard to what the government of China is doing. But
3 this is not about that debate any more than this is a
4 debate about whether or not the president is
5 attempting to turn this in a way to allay -- to shift
6 any blame for whether we acted too slowly in response
7 to COVID-19 -- than it is for the Chinese to claim
8 that somehow it wasn't their fault. That's beyond the
9 scope of what we are talking about here. What we are
10 talking about here is the fact that the misuse of the
11 term Chinese is really at the heart of what this
12 discussion is about. They did not call the Wuhan
13 virus, they do not call it the Hubei virus. They're
14 calling it a Chinese virus. And it to me it just
15 brings back bad memories of how in the early days of
16 AIDS it was called the gay flu, or the gay disease.
17 There was a certain pejorative quality attached to the
18 way it was used to stain a community for something
19 that people do not understand. And this is a
20 situation where using the word Chinese, which is not
21 a term of place, it is a term of person, is completely
22 different. And that's, I think, what we're talking
23 about here today.

24 CHAIR LHAMON: Thank you, Commissioner
25 Yaki. I am going to call the question and take a roll

1 call vote. Commissioner Adegbile, how do you vote?

2 COMMISSIONER ADEGBILE: Aye.

3 CHAIR LHAMON: Commissioner Heriot?

4 COMMISSIONER HERIOT: No.

5 CHAIR LHAMON: Commissioner Kirsanow?

6 COMMISSIONER KIRSANOW: No.

7 CHAIR LHAMON: Commissioner Kladney?

8 COMMISSIONER KLADNEY: Yes.

9 CHAIR LHAMON: Commissioner Yaki?

10 COMMISSIONER YAKI: Aye.

11 CHAIR LHAMON: And I vote yes. The motion

12 passes. Two commissioners opposed, no commissioner

13 abstained, all others were in favor. Next we will

14 move to the next amended item on our agenda, which is

15 considerations of a statement title that's amended --

16 or, circulated this morning. The U.S. Civil

17 Commission on Civil Rights Voices Concern over

18 Executive Proclamation Expanding Existing Orders on

19 Religious and National Origin Travel Discrimination.

20 Proposed by Commissioner Yaki this morning -- before

21 we can proceed to consideration of the statement, we

22 have secured a waiver from the Commissioners, so

23 Commissioner Yaki, would you read the statement?

24 (No audible response.)

25 CHAIR LHAMON: Commissioner Yaki?

1 COMMISSIONER YAKI: I am sorry, my
2 earpiece just went flying and I am trying to find it.

3 CHAIR LHAMON: I was asking if you could
4 read the statement --

5 (Simultaneous speaking.)

6 COMMISSIONER YAKI: So what did you say,
7 Chair Lhamon? I am sorry.

8 (Simultaneous speaking.)

9 CHAIR LHAMON: Okay, I --

10 COMMISSIONER YAKI: -- it's a little crazy
11 right now, as we all know. So did we --

12 CHAIR LHAMON: Commissioner Yaki, I asked
13 if you could read the statement so we know what we are
14 voting on.

15 COMMISSIONER YAKI: Oh, of course. Now,
16 my glasses just fell off. Just a moment. These 7:00
17 a.m. calls, I got to rethink this. On February 27,
18 2017 the U.S. Commission on Civil Rights expressed
19 concern that a cluster executive orders unilaterally
20 imposed travel restrictions in the United States from
21 certain Muslim-majority nations on the absence of any
22 legal basis for discriminating standards on admission
23 to this country. On January 31, 2020, less than three
24 years after this Commission's original condemnation of
25 the relevant executive orders and only two years from

1 their subsequent validation by the U.S. Supreme Court
2 -- which this commission has also denounced. The
3 White House issued a proclamation on improving
4 enhanced vetting capabilities and processes for
5 detecting attempted entry. By this order, the White
6 House expanded the reach on the original Muslim ban
7 and unilaterally closed doors to almost all would-be
8 immigrants from Myanmar, Eritrea, Kyrgyzstan, Nigeria,
9 Sudan, and Tanzania. The new rules quickly went into
10 effect on February 21, 2020.

11 The justifications given for these
12 exclusions relate to issues such as information
13 sharing, identity management criteria, elevated risk
14 deterrence, and others considered to be wired to the
15 national security. However, it was difficult not to
16 see that there are two commonalities within the latest
17 seven banned countries. They have significant Muslim
18 populations and four of the six are African.
19 According to multiple news reports, the president has
20 previously stated his hostility to immigration from
21 Africa asking "Why do we want all these people from
22 those -- from S-hole countries coming here?" In those
23 same reports, he remarked that people from Nigeria
24 "will never go back to their huts." And thus, all the
25 newly impacted countries, Muslims constitute a large

1 majority, or near-majority of the population.

2 (Telephonic interference)

3 COMMISSIONER YAKI: -- persons of the
4 Muslim faith, and now persons of African origin. Both
5 constituting, in our opinion, discrimination on the
6 basis of religion, race and national origin. Both in
7 our opinion are contrary to the principles to which
8 our country aspires. Ironically, the administration
9 undercut its own policy of trying to protect the
10 Rohingya Muslim population of Myanmar, a population
11 that has been subjected to harsh anti-Muslim
12 oppression, suppression and internment by the
13 government. According to the United States Department
14 of State, "The United States has leading contributor
15 of humanitarian assistance in response -- in the
16 crisis, providing nearly \$542 million since the
17 outbreak of violence in August 2017." To
18 indiscriminately exclude the persecuted Rohingya is
19 contrary to international and American principles
20 governing claims of asylum.

21 The United States Commission on Civil
22 Rights strongly condemns the continuation of these
23 discriminatory immigration bans and urges the White
24 House to reverse its policies and adhere to the
25 principles of nondiscrimination and the law of asylum

1 that protects free speech, free thought, and
2 democratic principles at home and abroad.

3 CHAIR LHAMON: Thank you Commissioner
4 Yaki. Do we have a motion to approve the statement?

5 COMMISSIONER YAKI: I move approval on
6 this statement.

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

9 (Pause.)

10 COMMISSIONER ADEGBILE: Adegbile seconds.

11 CHAIR LHAMON: Thank you. I open the
12 floor for discussion.

13 (No audible response.)

14 CHAIR LHAMON: Hearing none, Commissioner
15 Adegbile, how do you vote?

16 COMMISSIONER ADEGBILE: Aye.

17 CHAIR LHAMON: Commissioner Heriot?

18 COMMISSIONER HERIOT: No.

19 CHAIR LHAMON: Commissioner Kirsanow?

20 COMMISSIONER KIRSANOW: No.

21 CHAIR LHAMON: Commissioner Kladney?

22 COMMISSIONER KLADNEY: Yes.

23 CHAIR LHAMON: Commissioner Yaki?

24 COMMISSIONER YAKI: Aye.

25 CHAIR LHAMON: And I vote yes. The motion

1 passes. Two commissioners opposed, no commissioner
2 abstained, all others were in favor. I will turn back
3 to our discussion of the Georgia slate. I believe
4 that the Staff Director misspoke about sending an
5 email about adding an additional member, or anyway I
6 haven't found it. So I'll turn to the Staff Director.

7 MR. MORALES: Madam Chair, thank you yes.
8 I did misspoke on our earlier conversation today. The
9 Georgia SAC was complete when I submitted it and
10 decided not to add another candidate. Thank you.

11 CHAIR LHAMON: Thank you. So we have a
12 motion and a second for the slate as proposed. Is
13 there any further discussion?

14 COMMISSIONER HERIOT: Madam Chair?

15 CHAIR LHAMON: Commissioner Heriot?

16 COMMISSIONER HERIOT: Given all that,
17 given that it's unbalanced and there -- I see no
18 reason to have rejected a candidate who went through
19 the trouble of applying, I am going to be voting no.

20 CHAIR LHAMON: I will call the question
21 and take a roll call vote. Commissioner Adegbile, how
22 do you vote?

23 COMMISSIONER ADEGBILE: Aye.

24 CHAIR LHAMON: Commissioner Heriot?

25 COMMISSIONER HERIOT: No.

1 CHAIR LHAMON: Commissioner Kirsanow?

2 COMMISSIONER KIRSANOW: No.

3 CHAIR LHAMON: Commissioner Kladney?

4 COMMISSIONER KLADNEY: Yes.

5 CHAIR LHAMON: Commissioner Yaki?

6 (Pause.)

7 COMMISSIONER YAKI: Pass, for now.

8 CHAIR LHAMON: And I vote yes. The motion
9 passes. Two commissioner opposed. One commissioner
10 abstained. All others were in favor.

11 (Simultaneous speaking.)

12 COMMISSIONER HERIOT: He passed, he didn't
13 abstain.

14 COMMISSIONER KIRSANOW: Wait a minute, we
15 don't have a majority of the Commission.

16 (Pause.)

17 (Simultaneous speaking.)

18 COMMISSIONER HERIOT: You need a majority
19 of those voting, but the things is, Yaki didn't
20 abstain, he passed.

21 CHAIR LHAMON: Commissioner Yaki, do you
22 want to clarify your position? I understood you to
23 have abstained. Did you abstain?

24 COMMISSIONER YAKI: No, I am thinking
25 about this. Usually, if someone objects to not being

1 included, we usually get an email about why, with any
2 justification as to why not. And I never tracked this
3 in regards to Georgia. Did we, or did we not -- did
4 you raise -- I didn't ask Commissioner Heriot. Did
5 you raise this in an email to the rest of the
6 Commission?

7 (Pause.)

8 MR. MORALES: Is that question -- is that
9 question to Commissioner Heriot?

10 COMMISSIONER YAKI: Yes.

11 MR. MORALES: Commissioner Yaki?

12 COMMISSIONER YAKI: Yes. Commissioner
13 Heriot, did you raise this person's appointment to the
14 rest of the Commission prior to the --

15 (Simultaneous speaking.)

16 COMMISSIONER HERIOT: You mean to the
17 Commissioners rather than the Staff Director?

18 COMMISSIONER YAKI: Yes, to the
19 Commissioners.

20 COMMISSIONER HERIOT: I don't think so,
21 no. No.

22 COMMISSIONER YAKI: Okay. In that case
23 I'll -- in that case, I'll vote yes.

24 CHAIR LHAMON: Okay. The motion passes.
25 Two commissioners opposed, no commissioner abstained.

1 All others were in favor. Before we turn to hearing
2 from the Staff Director for our monthly Staff
3 Director's Report, I just want to take a moment to
4 recognize the difficult times in which we are
5 operating -- difficult and unprecedented. Our
6 circumstances change by the day, and in some instances
7 by the hour. And we appear to be both uncertain times
8 now, and to presage more uncertain times ahead. I
9 very much appreciate the Staff Director at the helm
10 for our staff.

11 And I am deeply grateful for the
12 resilience of all of our staff, and my fellow
13 commissioners who continue to move our important work
14 forward to the extent possible amidst all of these
15 challenges. I was, I imagine we all were,
16 disappointed that we could not hold the briefing that
17 we had scheduled today because of social distancing
18 measures and concern for public health and safety. I
19 look forward to being able to turn back to that
20 important briefing at a time when we can. And I hope
21 very much that our staff, our fellow commissioners,
22 their families can stay safe in this time. And I
23 thank each of you for the collaboration and the
24 continued work together to safeguard civil rights for
25 the country. Thank you.

1 Staff Director Morales, in your report, I
2 hope you could perhaps share a bit more about how
3 we're responding to COVID-19 as a staff.

4 STAFF DIRECTOR'S REPORT

5 MR. MORALES: Thank you, Madam Chair.
6 First of all, I would like to apologize for being
7 unable to get the Staff Director's Report available on
8 time to Commissioners. I will be submitting another
9 day or so early next week. Things got a little busy
10 this week -- and the following week and the week
11 before.

12 But yes, in reply to you, you know our
13 response as we're dealing with this COVID-19 crisis --
14 first of all, I want to just commend the staff -- of
15 course all of you, Commissioners, as well for your
16 support and leadership. And the staff, Special
17 Assistants and all the Agency leadership for coming
18 together -- you know, understanding that we're all
19 facing this crisis. And, you know, we're all in this
20 together.

21 To that end, Madam Chair and
22 Commissioners, we're exploring the use of technology
23 to continue future briefings and business meetings.
24 We're looking at the availability of this. We're
25 being informed that there's a bandwidth challenge

1 because all agencies and the public now are turning to
2 this technology. And so these resources are being
3 stretched. But we're going to continue to work
4 through. And -- but once we have more definitive
5 answers, we'll certainly share them with you. We're
6 working with your SAs and exploring these
7 opportunities as they develop.

8 And so, you know, as we kind of move
9 forward, we'll advise you as this information becomes
10 available. But we're asking everybody, Commissioners
11 and all staff, to be patient as we look to address
12 these challenges. And of course, please contact me
13 with any questions or suggestions.

14 I will tell you that we utilized for the
15 first time this week Zoom -- the process and the
16 technology or service of Zoom, as they call it, to
17 have an executive team meeting. We'll look to other
18 opportunities as well. I am going to be meeting with
19 the SAs next week, and we'll try to use Zoom as well
20 to get familiarity with it, to work out any bugs as we
21 get forward, and we'll look to see what may be
22 available in the future for any briefings coming out.
23 And we have several meetings coming up in the next few
24 days here to determine what's the best way to proceed.

25 So with that, Madam Chair, that's all I

1 have to add, except thank you again. And everybody --
2 by the way, I should tell you and you've seen in some
3 of the emails, the staff is teleworking. I actually
4 contemplated going to the office today, but after
5 seeing what the governor of California has done and
6 the need for social distancing, decided not to go in,
7 even just to check on the office. So we're all trying
8 to be very careful here. So thank you.

9 (Simultaneous speaking.)

10 CHAIR LHAMON: Thank you --

11 COMMISSIONER YAKI: Commissioner -- Chair.
12 Madam Chair, may I say a few words?

13 CHAIR LHAMON: Go ahead Commissioner Yaki.

14 COMMISSIONER YAKI: Commissioner Yaki.
15 Yes, I was just going to say, to add my thanks to him
16 for his leadership, and to all the staff for their
17 work during this critical time.

18 We at the U.S. Election Assistance
19 Commission, we've been holding meetings amongst our
20 various 40-odd members virtually. I began to
21 institute that as the current chair of the Board of
22 Advisors. And what we've found is that between, say,
23 WebEx and Zoom, that for members of the disabled
24 community, Zoom was a far easier product for them to
25 use. So just wanted to put that into your book of how

1 different options are being weighed, and in terms of
2 how virtually things will work. Zoom just was a lot
3 easier interface for members of the disabled community
4 -- the people who are sight-disabled and have other
5 forms of physical challenges. And Zoom just proved a
6 lot easier for them to handle.

7 CHAIR LHAMON: Thank you. With that, we
8 conclude the business on today's Agenda for the
9 Business Meeting. And I hear by adjourn the meeting
10 at 10:51 Eastern Time. Thank you all.

11 (Whereupon, the above-entitled matter went
12 off the record at 10:51 p.m.)

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In the matter of: Business Meeting

Before: US CCR

Date: 03-20-20

Place: teleconference

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Court Reporter

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