

U.S. COMMISSION ON CIVIL RIGHTS

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TELEPHONIC BUSINESS MEETING

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FRIDAY, APRIL 17, 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:

**PAMELA DUNSTON, Chief ASCD
CAROLYN ALLEN**

NICK BAIR

KATHERINE CULLITON GONZALEZ

IVY DAVIS

LATRICE FOSHEE

ALFREDA GREENE

DAVE HARRIS

LISA GOODMAN

TINALOUISE MARTIN

DAVID MUSSATT

CORRINE SANDERS

SARALE SEWELL

JUANDA SMITH

MALLORY TRACHTENBERG

MARIK XAVIER-BRIER

COMMISSIONER ASSISTANTS PRESENT:

ALEC DEULL

CARISSA MULDER

MAYOWA OLUBAKINDE

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.

CHAIR LHAMON: This meeting of the U.S. Commission on Civil Rights comes to order at 10:01 a.m., eastern time, on April 17, 2020. This meeting takes place over the phone.

I'm Chair Catherine Lhamon. And I confirm that each of the Commissioners is on the line, so, I'll take a role call here at the outset.

Please say present when I say your name. Commissioner Adegbile?

(No response)

CHAIR LHAMON: Commissioner Heriot?

COMMISSIONER HERIOT: I'm here.

CHAIR LHAMON: Okay. Commissioner Kirsanow?

COMMISSIONER KIRSANOW: Here.

CHAIR LHAMON: Commissioner Kladney?

COMMISSIONER KLADNEY: Here.

CHAIR LHAMON: Commissioner Yaki?

COMMISSIONER YAKI: I'm here.

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

COURT REPORTER: I'm here.

1 CHAIR LHAMON: Good. Is the Staff
2 Director present?

3 MR. MORALES: I am present.

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

7 I. APPROVAL OF AGENDA

8 COMMISSIONER KLADNEY: I'm Dave Kladney.
9 I'll make the motion.

10 CHAIR LHAMON: Thank you.

11 COMMISSIONER YAKI: Commissioner Yaki
12 seconds.

13 CHAIR LHAMON: Thank you. I'll begin the
14 call for amendments with two of my own. I move to
15 amend the agenda to add consideration for statements
16 on Federal Civil Rights Employment during the COVID-19
17 pandemic.

18 I'd like to table the Vermont State
19 Advisory Committee slate consideration until our next
20 meeting. And to add discussion and votes for fiscal
21 year 2020 and 2021 project planning --

22 MS. DUNSTON: Excuse me, Chair. Someone
23 needs to mute their line. There's a lot of feedback
24 on it.

25 CHAIR LHAMON: Well folks, while I'm

1 talking, if you could mute your line, I'd appreciate
2 it. Thank you.

3 Do I have a second for my motions for
4 amendments?

5 COMMISSIONER KLADNEY: Dave Kladney, I'll
6 second.

7 CHAIR LHAMON: Thank you. Are there any
8 other amendments?

9 (No response)

10 CHAIR LHAMON: Commissioner Kirsanow, I
11 believe you had an amendment you wanted to add?

12 COMMISSIONER KIRSANOW: No.

13 CHAIR LHAMON: Okay. Well, if there are
14 no further amendment --

15 COMMISSIONER HERIOT: Budget? Wait, wait,
16 wait, wait, wait. Weren't you going to move on Abby's
17 statement?

18 COMMISSIONER KIRSANOW: Oh, yes. Yes, I
19 move to include in for consideration a statement with
20 respect to the passing of the former Vice Chair,
21 Abigail Thernstrom.

22 COMMISSIONER YAKI: Commissioner Yaki
23 seconds. Oh, I'm sorry.

24 CHAIR LHAMON: Okay. Are there any
25 further amendments?

1 (No response)

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

5 (Chorus of aye)

6 CHAIR LHAMON: Any opposed?

7 (No response)

8 CHAIR LHAMON: Any abstentions?

9 (No response)

10 CHAIR LHAMON: The motion passes
11 unanimously. Is the Massachusetts Advisory Committee
12 Chair on the line?

13 MR. HARRIS: I am. This is David Harris.

14 CHAIR LHAMON: Oh, terrific. So, we will
15 next hear from our Massachusetts Advisory Committee
16 Chair, David Harris on that Committee's report titled
17 Human Trafficking in Massachusetts. Chair Harris,
18 please go ahead.

19 II. BUSINESS MEETING

20 A. PRESENTATION BY CHAIR OF MASSACHUSETTS

21

22 ADVISORY COMMITTEE ON THE COMMITTEE'S REPORT

23 HUMAN TRAFFICKING IN MASSACHUSETTS

24 MR. HARRIS: Okay. Thank you very much.

25 And good morning, Commissioners. I might begin by

1 saying that I had the privilege of being employed at
2 the Commission under Commissioner Thernstrom. And I
3 join you when you passed expressing condolences to her
4 family for her passing.

5 I also want to thank you for the
6 opportunity to be here this morning. I'll try to be
7 quick.

8 I assume you've all been able to look at
9 the report. And we're very pleased with
10 Massachusetts, to be able to set up the work of the
11 Commission by looking at trafficking in the
12 Commonwealth.

13 And I think our committee chose to look
14 specifically at labor trafficking, because it seems to
15 be wholly understudied and underscrutinized. Which
16 seems to be the case as you've read in our report.

17 There is very limited data on the -- on
18 the human trafficking in the Commonwealth. This
19 started back in 2011, we passed a forced services
20 statute that was actually broader than federal law.

21 And it doesn't require fraud or force or
22 coercion. But the law has been hard to enforce. And
23 had led to no prosecutions and no convictions under
24 the statute. Which has had a ripple effect on the
25 statute designed to generate some funds for victim

1 assistance.

2 I won't dwell too much on, you know, the
3 method. But I'll answer your questions. But I'll
4 make another, a few more highlights.

5 You know, one is that our study revealed
6 that in 2014, the labor trafficking and the policy
7 task force created some recommendations that were very
8 strong, powerful, and suggested five new areas that
9 they identified as critical to addressing this issue.

10 Beginning with victim services, which
11 included the funding I just noted; demand reductions,
12 which involve supply chain monitoring; data collection
13 and information sharing, again, a huge problem; and
14 education and training for both public and private
15 sector actors, as well as expanding public awareness.

16 And I think this last comment was really
17 critical from all the people who talked to us.
18 Indeed, you know, it -- as you read there was an
19 observation and then an additional trafficking report
20 that, quote, a common misconception is that labor
21 trafficking exists outside of one's own city or town,
22 while in reality it's more common than any of us may
23 assume.

24 And this certainly again this was heard
25 time and again by the people we spoke to. Several

1 people also emphasized the difficulty in
2 distinguishing between trafficking and unfair labor
3 practices. That's it's a difficulty that only
4 heightens the need for the information sharing and
5 public awareness campaign.

6 A major conclusion of that study would be
7 that we desperately need more proactive efforts. That
8 came up time and again, and you can see in our
9 recommendations.

10 And then we have an idea that the steps
11 that need to be taken to follow through. And some of
12 those steps were included in the legislation that we
13 reported by Commissioner Montigny, a bill that he
14 introduced last year, which would move us much closer
15 to other states, by requiring notice of human
16 trafficking be posted in rest stops, welcome centers,
17 and transportation stations. We also created some
18 procedures for data collection and dissemination of
19 information.

20 Sadly, I have to report to you that on
21 February 20, that -- of this year, that legislation is
22 reported and relegated to additional study. Which in
23 the Commonwealth means that it's dead for this
24 session.

25 So, you know, that's -- those are the

1 highlights. And I'd love to be able to share, you
2 know, to answer any questions you might have about the
3 report. And so, please do so now.

4 CHAIR LHAMON: Thank you very much, Chair
5 Harris. As my fellow Commissioners are preparing
6 their questions, I'll just start by saying that I
7 noted that your report was unanimous.

8 And I appreciated the careful and
9 thoughtful study. And also, I'm sorry, I hear the
10 disappointment in your voice about the cessation of
11 the legislation for this session.

12 That the recommendations from the report
13 were quite thorough. And I appreciated reading the
14 progress over years in Massachusetts, and also the
15 unanimous recommendations for continued progress in
16 this area.

17 So, thank you very much for that report.

18 MR. HARRIS: Thank you.

19 CHAIR LHAMON: Are there questions for
20 Chair Harris from my fellow Commissioners?

21 (No response)

22 CHAIR LHAMON: Hearing none, I'll thank
23 Chair Harris for your service and your leadership on
24 the Massachusetts Advisory Committee, and for taking
25 the time to speak with us today. Thank you very much.

1 MR. HARRIS: Thank you again to the
2 members of this Committee.

3 CHAIR LHAMON: All right. Thank you, I'm
4 glad. And next we'll hear from our Delaware Advisory
5 Committee Chair, Lisa Goodman, on the Committee's
6 report titled, Implicit Bias and Policing in
7 Communities of Color in Delaware.

8 Chair Goodman, please go ahead.

9 B. PRESENTATION BY CHAIR OF DELAWARE
10 ADVISORY COMMITTEE ON COMMITTEE'S REPORT,
11 IMPLICIT BIAS AND POLICING IN COMMUNITIES
12 OF COLOR IN DELAWARE

13 MS. GOODMAN: Well, thank you. Madam
14 Chair and Commissioners, on behalf of all members of
15 the Delaware Advisory Committee, thanks for having me
16 here today.

17 And I hope all of you and yours as well,
18 are well during these crazy times. I want to thank
19 you for the opportunity to present the Committee's
20 report on Implicit Bias and Policing in Communities of
21 Color in Delaware.

22 I was going to just briefly talk a little
23 bit about how we selected this fact. Committee
24 members were asked to prepare written descriptions of,
25 you know, various projects. And there was a pretty

1 robust discussion on what topic would be selected.

2 Two topics really were considered. The
3 one that we eventually choose, we also considered
4 doing a report on racial disparity in infant mortality
5 rates, which are fairly striking in Delaware, and on
6 implicit bias in general.

7 We ended up on the policing topic. Which
8 I'm presenting to you today. There was really
9 extensive planning on this project in terms of
10 including speakers, and setting up a planning working
11 group.

12 And I want to commend and thank Ivy Davis,
13 who really went above and beyond anything that I think
14 could be reasonably be expected of her role for the
15 six years that we took to bring this project to
16 fruition. She was extraordinary. And she's a
17 treasure.

18 We conducted a public briefing. That took
19 place at Widener University School of Law. It was a
20 full day briefing.

21 And we really had some extraordinary
22 speakers come in to do that presentation. And I can
23 talk a little bit more about that.

24 Madam Chair, I want to thank you
25 personally for coming to that briefing and staying all

1 day. I think we learned never to schedule five panels
2 in a day. It was a really long day.

3 And you stayed with us all day. And we're
4 really grateful that you attended. I think I would
5 advise any staff never to do more than four panels in
6 a day. And perhaps one less person per panel. You
7 know, but it was really a productive day even though
8 it was really long.

9 So, you know, when this committee was
10 appointed, or reappointed, I guess in 2016, we had 15
11 members. Four members have stepped off for various
12 reasons.

13 But, you know, the committee did an
14 amazing job. And specifically the two working group
15 co-chairs, Professor Aaron Kupchik and Professor
16 Leland Ware, both of the University of Delaware, did
17 extraordinary work. And I want to recognize them.

18 We also had an incredible Master's Degree
19 student from the University of Chicago School of
20 Social Administration, Stephanie Agmin (phonetic), who
21 did her clinical rotation with the Agency's Regional
22 Programs Unit. She really brought, you know,
23 invaluable knowledge and professionalism to help us to
24 finalize our report.

25 We just want to talk quickly about the key

1 findings and recommendations. You know, I think we
2 learned unsurprisingly that law enforcement officials
3 at every level are grappling with the issues that the
4 committee identified.

5 And our -- also the report adequately
6 speaks for itself. It just wanted to summarize
7 briefly some of the highlights.

8 You know, social science research has
9 established that, you know, human biases and
10 prejudices operate on two levels, conscious and
11 unconscious, right, to explicit and implicit bias.
12 And that biased policing occurs when law enforcement
13 considers race, ethnicity, and other factors when
14 deciding who or how to intervening.

15 And that police agency's role would be to
16 take a comprehensive, introspective approach to
17 address implicit bias. And you know, let me just stop
18 and say that, you know, Delaware in particular, in
19 Wilmington especially, has had, you know, a long
20 history of, you know, of overly aggressive policing.

21 From jump out squads to, you know, we were
22 the -- Wilmington was the city with the longest and
23 last -- last to be lifted intervention from the
24 National Guard in the 1960s.

25 So, we have a long and difficult history

1 that, you know, it's fair to say that we're still
2 grappling with. You know, one of our findings is
3 that, you know, people are more likely to obey the law
4 and trust police when the police are perceived as
5 being courteous, respectful, and acting in
6 procedurally justified ways.

7 And so, our report really urges, you know,
8 police leadership to focus on teaching officers the
9 importance of respect. Giving respect and it could
10 lead to achieving respect from the community.

11 And that law enforcement officials should
12 seek to develop trust and rebuild relationships with
13 communities of color, by focusing more on community
14 building and less on arresting and punishing
15 residents.

16 And that police officers do need to be
17 held accountable for their actions. And the
18 accountability procedures must be fair for police
19 officers. Law enforcement requirement of fair police
20 actions.

21 You know, I think it's fair to say that
22 Wilmington in particular has made advances over the
23 last three years in achieving some of these goals.
24 And that our murder rate, and many of you may recall
25 Murder Town, which was, you know, which was Wilmington

1 according to, I can't remember if it was Time or
2 Newsweek.

3 We've made great strides with new
4 leadership in our city. But it's not perfect. And
5 so, you will note that we had two minority reports, or
6 two minority statements.

7 And those minority statements, I think,
8 you know, it's fair to probably characterize them as
9 wanting us to focus more on the progress and less on
10 the problems.

11 And more on, you know, the hard job that
12 police officers have. Which I think we did our best
13 to acknowledge in a balanced way in the report.

14 But, you know, we're really -- we're
15 really proud of the work that the Committee did, you
16 know, with this difficult topic.

17 And I'm happy to answer any questions that
18 you might have from the report as well. Thank you.

19 CHAIR LHAMON: Thank you, Chair Goodman.
20 As you noted, I was privileged to attend this
21 briefing.

22 I was really blown away by the breadth of
23 the testimony taken in and the power of the day. And
24 so, it's a pleasure now to read the written report
25 that followed from the testimony and information that

1 you all took in.

2 And so, thank you for letting me join you.
3 Thank you for this work product. And I am pleased
4 because it's beautiful and it's comprehensive.

5 And I appreciate the variety of views
6 expressed, including among your committee members.
7 You know, so thank you very much for the work and its
8 contribution to public safety in Delaware and beyond.

9 MS. GOODMAN: Thank you.

10 CHAIR LHAMON: I'll open the floor for
11 questions from my fellow Commissioners?

12 COMMISSIONER KLADNEY: Madam Chair, Dave
13 Kladney here.

14 CHAIR LHAMON: Go ahead Commissioner
15 Kladney.

16 COMMISSIONER KLADNEY: Thank you. I was
17 wondering, I want to thank you very much for your
18 report. I thought it was a very good report.

19 And this is an area of interest that I
20 have on the Commission. I was thinking, have you or
21 the commission, or the committee thought about ways of
22 measuring improvement?

23 You said there's been improvement over the
24 last few years in Wilmington. How do you go about
25 measuring improvement in bias? Which I think

1 everybody has bias. So, how do we do that? Have you
2 given that any thought?

3 MS. GOODMAN: We did hear some testimony
4 on that that is reflected in the report. It's
5 obviously a very difficult thing to measure.

6 One of the things that the Wilmington
7 Police Force is doing now, I believe that it was not
8 doing under our previous Mayor, our previous one term
9 Mayor, let's just leave it at that, was much, much
10 better data analytics.

11 And I think that, you know, that would be
12 something that should a future committee choose to
13 stay with the product and look at that, might be an
14 interesting way to study that, or to study current
15 training.

16 You know, this report gives us effectively
17 add a snapshot in time. And so, did not really delve
18 into, you know, measuring forward progress.

19 But, that certainly would be a ripe area
20 for starting.

21 COMMISSIONER KLADNEY: Thank you.

22 CHAIR LHAMON: Any other questions from
23 Commissioner?

24 (No response)

25 CHAIR LHAMON: Hearing none, I thank Chair

1 Goodman for your service and your leadership on the
2 Delaware Advisory Committee. And I thank you for
3 taking the time to speak with us today.

4 MS. GOODMAN: Thank you.

5 C. DISCUSSION AND VOTE ON COMMISSION

6 ADVISORY COMMITTEES

7 • CHAIR KENTUCKY ADVISORY COMMITTEE

8 CHAIR LHAMON: Thank you. The next item
9 on our agenda is a discussion and vote on the Chair
10 for the Kentucky Advisory Committee, the Commission.

11 Before we begin discussions, I remind my
12 fellow Commissioners that objections to this
13 nomination could have already been shared with all the
14 Commissioners, to be sent. And we would like to
15 discuss continuing objections. And I remind my fellow
16 Commissioners that the Commission has a policy to not
17 defame, degrade, or incriminate any person. Each of
18 these individuals has agreed to volunteer time and
19 energy in the pursuit and the protection of civil
20 rights.

21 With that said, I move that the Commission
22 appoint Enid Trucios-Haynes to serve as Chair of the
23 Kentucky Advisory Committee. Do I have a second for
24 this motion?

25 COMMISSIONER KLADNEY: Dave Kladney, I

1 second.

2 CHAIR LHAMON: Thank you. Any discussion
3 on this appointment?

4 (No response)

5 CHAIR LHAMON: Hearing none, I'll call the
6 question and take a roll call vote. Commissioner
7 Adegbile, I believe you've joined us. How do you
8 vote?

9 COMMISSIONER ADEGBILE: Aye.

10 CHAIR LHAMON: Thank you. Commissioner
11 Heriot?

12 COMMISSIONER HERIOT: Yes.

13 CHAIR LHAMON: Thank you. Commissioner
14 Kirsanow?

15 COMMISSIONER KIRSANOW: Yes.

16 CHAIR LHAMON: Commissioner Kladney?

17 COMMISSIONER KLADNEY: Yes.

18 CHAIR LHAMON: Commissioner Yaki?

19 COMMISSIONER YAKI: Aye.

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

22 • Connecticut Advisory Committee

23 CHAIR LHAMON: For our next agenda item,
24 to begin discussion, I move that the Commission
25 appoint the following individuals to the Connecticut

1 Advisory Committee based on the recommendation of the
2 Staff Director: David McGuire, Ingrid Alvarez-DiMarzo,
3 Saud Anwar, Anthony Ciolli, Chris Corgel, Charles
4 Gardner, Mark Guis, Venesia Hurtubise, Melanie Rausch,
5 Cheryl Sharp, Stephanie Storms, John Tanski, Susan
6 Toliver, Michael Werner, and Olivia White.

7 With this motion the Commissioner will
8 also appoint David McGuire as the Chair of the
9 Connecticut Advisory Committee.

10 All of these members will serve as
11 uncompensated government employees. If the motion
12 passes, the Commission will authorize the Staff
13 Director to execute the appropriate paperwork for the
14 appointments, which will begin after the current
15 Committee expires.

16 Do I have a second for this motion?

17 COMMISSIONER ADEGBILE: Second by
18 Commissioner Adegbile.

19 CHAIR LHAMON: Thank you. I will now open
20 the floor for discussion.

21 (No response)

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

25 COMMISSIONER ADEGBILE: Aye.

1 CHAIR LHAMON: Commissioner Heriot?

2 COMMISSIONER HERIOT: I'm going to abstain
3 on this one.

4 CHAIR LHAMON: Commissioner Kirsanow?

5 COMMISSIONER KIRSANOW: Yes.

6 CHAIR LHAMON: Commissioner Kladney?

7 COMMISSIONER KLADNEY: Yes.

8 CHAIR LHAMON: Commissioner Yaki?

9 COMMISSIONER YAKI: Aye.

10 CHAIR LHAMON: I vote yes. The motion
11 passes. No Commissioner opposed, one Commissioner
12 abstained, all others were in favor.

13 • Delaware Advisory Committee

14 CHAIR LHAMON: For our next agenda item to
15 begin discussion, I move that the Commission appoint
16 the following individuals to the Delaware Advisory
17 Committee based on the recommendation of the Staff
18 Director: Calvin Christopher, Brad Baldia, Danielle
19 Craig, Brian DeMott, Susan Dixon, Matthew Meyer,
20 Samuel Moultrie, Corinthia Pierce, Mark Purpura,
21 Javonne Rich, Trish Rodriguez, Bradley Skelcher, Enid
22 Wallace-Simms, and Leland Ware.

23 With this motion the Commission will also
24 appoint Calvin Christopher as the Chair of the
25 Delaware Advisory Committee. All of these members

1 will serve as uncompensated government employees.

2 If the motion passes, the Commission will
3 authorize the Staff Director to execute the
4 appropriate paperwork for the appointments, which will
5 begin after the current committee expires.

6 Do I have a second for this motion?

7 COMMISSIONER KLADNEY: Dave Kladney
8 seconds.

9 CHAIR LHAMON: Thank you. I'll now open
10 the floor for discussion.

11 (No response)

12 CHAIR LHAMON: Hearing none, I'll call the
13 question and take a roll call vote. Commissioner
14 Adegbile, how do you vote?

15 COMMISSIONER ADEGBILE: Aye.

16 CHAIR LHAMON: Commissioner Heriot?

17 COMMISSIONER HERIOT: I'm going to vote
18 yes on this one. It's unbalanced, but I think there
19 was an effort to make it balanced.

20 CHAIR LHAMON: Commissioner Kirsanow?

21 COMMISSIONER KIRSANOW: Yes.

22 CHAIR LHAMON: Commissioner Kladney?

23 COMMISSIONER KLADNEY: Yes.

24 CHAIR LHAMON: Commissioner Yaki?

25 COMMISSIONER YAKI: Aye.

1 CHAIR LHAMON: And I'll vote yes. The
2 motion passes unanimously.

3 Next we will hear from Commissioner
4 Michael Yaki, who along with Commissioner David
5 Kladney, serves as the Commission's appointees to the
6 Board of Advisors to the U.S. Election Assistance
7 Commission.

8 Commissioner Yaki serves as Chair of the
9 Board of Advisors. Commissioner Yaki?

10 D. PRESENTATION ON U.S. ELECTION ASSISTANCE

11 COMMISSION BOARD OF ADVISORS BY

12 COMMISSIONER MICHAEL YAKI

13 COMMISSIONER YAKI: Thank you very much,
14 Chairman and colleagues. I, in the spirit of our
15 Staff Director, I have submitted my report. It is in
16 your -- it is in the files for you to review.

17 And I am here to answer any questions you
18 may have on the report on our U.S. Election Assistance
19 Commission, and the Commission's the actions of the
20 Commission's appointees to the Board of Advisors.

21 CHAIR LHAMON: Thank you, Commissioner
22 Yaki. And thank you especially for your service, and
23 Commissioner Kladney's service on this Commission in
24 this very important time.

25 Are there questions for Commissioner Yaki?

1 (No response)

2 CHAIR LHAMON: Hearing none, we thank
3 Commissioners Yaki and Kladney for serving on the
4 Board of Advisors for the U.S. Election Assistance
5 Commission, and commend Commissioner Yaki for his
6 leadership.

7 E. U.S. COMMISSION ON CIVIL RIGHTS
8 STATEMENT TO URGE FEDERAL AGENCIES
9 TO VIGILANTLY ENFORCE CIVIL RIGHTS
10 LAWS DURING AND IN THE WAKE OF
11 THE COVID-19 CRISIS

12 CHAIR LHAMON: Next, we will move to the
13 first amended item on our agenda, which is
14 consideration of a Commission Statement that I
15 proposed, urging federal agencies to vigilantly
16 enforce civil rights law during, and we hope
17 ultimately in the wake, of the COVID-19 crisis.

18 Given the length of the statement, in lieu
19 of reading the full statement, I will instead
20 summarize its key points.

21 The Commissioner urges all federal
22 agencies to remain vigilant in enforcing civil rights
23 laws during the current COVID-19 pandemic. And to
24 stand ready to address potential civil rights
25 violations that arise in relation to the crisis.

1 The unprecedented disruption to American
2 life and commerce requires extraordinary measures to
3 sustain life and well-being. Nevertheless, the
4 federal laws that guard against discrimination in the
5 United States remain vital.

6 The Commission also calls on Congress to
7 provide necessary funding for civil rights enforcement
8 for fiscal year 2021, including for COVID-19
9 associated enforcement.

10 The Commission recognizes that some
11 agencies such as Health and Human Services, Department
12 of Education, EEOC, and FEMA has issued relevant civil
13 rights guidance in this time.

14 But the Commission is concerned with
15 directives from other agencies to pull back on civil
16 rights enforcement, such as from the EPA and the
17 Department of Labor's Office of the Federal Contract
18 Compliance Programs.

19 The Commission also points out that
20 federal agencies need the appropriate data to
21 investigate and craft appropriate policies to prevent
22 potential civil rights violations. Locally collected
23 data has already reflected profound racial disparities
24 in deaths due to coronavirus.

25 These pronounced disparities and the need

1 to better protect the health of all Americans from
2 current and future catastrophic viral risks, make it
3 imperative that the federal government require data
4 broken down by demographics like race, national
5 origin, sex, gender, ability status, and age.

6 Begin discussion. I move for the
7 Commission to approve the amended statement as
8 circulated by my special assistant on Thursday, April
9 15. Do I have a second?

10 COMMISSIONER KLADNEY: Dave Kladney, I'll
11 second.

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

14 (No response)

15 CHAIR LHAMON: Hearing none, I'll call the
16 question and take a roll call vote. Commissioner
17 Adegbile, how do you vote?

18 COMMISSIONER ADEGBILE: Aye.

19 CHAIR LHAMON: Commissioner Heriot?

20 COMMISSIONER HERIOT: I'm voting no.
21 There are things that I agree with in this statement.
22 But there are also too many things that I disagree
23 with.

24 CHAIR LHAMON: Commissioner Kirsanow?

25 COMMISSION KIRSANOW: I'm going to

1 abstain. Although I ditto Commissioner Heriot's
2 statement that there's much here that I agree with.

3 CHAIR LHAMON: Commissioner Kladney?

4 COMMISSIONER KLADNEY: Yes.

5 CHAIR LHAMON: Commissioner Yaki?

6 COMMISSIONER YAKI: Aye.

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

10 F. COMMISSION STATEMENT MOURNING

11 THE PASSING OF ABIGAIL THERNSTROM

12 CHAIR LHAMON: Next we will move to an
13 amended item on our agenda, which is consideration of
14 a Commission Statement mourning the passing of Abigail
15 Thernstrom. The statement was proposed by
16 Commissioner Kirsanow.

17 So that we understand what we are
18 considering, I will ask Commissioner Kirsanow to read
19 the statement.

20 COMMISSIONER KIRSANOW: Thank you, Madam
21 Chair. The statement reads as follows, today, the
22 Commission mourns the passage of Abigail Thernstrom.
23 She served as a member of the Commissioner from 2001
24 to 2013, and as Vice Chairman from 2004 to 2013.

25 Quote, throughout her illustrious career,

1 Thernstrom was a tireless champion for the principles
2 of equal justice for all, end quotes, said Gail
3 Heriot, a member of the Commission who served with
4 Commissioner Thernstrom from 2007 to 2013.

5 Quote, Abby Thernstrom was an intellectual
6 powerhouse whose scholarship on voting rights,
7 education, and race made vital contributions to
8 fashioning public policy. Her voice on these issues
9 will be sorely missed, end quotes, said Peter
10 Kirsanow, another Commissioner who served with
11 Thernstrom from 2001 to 2013.

12 Commissioner Michael Yaki said quote,
13 Abigail was a colleague of mine -- was a colleague of
14 many years, but also my closest friend on the
15 Commission, despite the fact that our views could be,
16 in her words, miles apart.

17 We also shared a commitment to the ongoing
18 mission of the Commission. And often found common
19 ground that enabled us to partner together on the
20 important civil rights issues of our time.

21 I shall miss her with, her intellect, her
22 humanity, but most of all, her friendship, end quote.

23 At the time of her passing, Ms. Thernstrom
24 was Adjunct Scholar at the American Enterprise
25 Institute. She was previously a Senior Fellow at the

1 Manhattan Institute, and a member of the Massachusetts
2 Board of Education.

3 Ms. Thernstrom received her PhD from the
4 Department of Government at Harvard University in
5 1975. Ms. Thernstrom was the author of *Voting Rights
6 and Wrongs, the Elusive Quest for Racially Fair
7 Elections.*

8 She was the coauthor with her husband,
9 Harvard Historian, Stephan Thernstrom, of *No Excuses:
10 Closing the Racial Gap in Learning*, which was awarded
11 a 2007 Fordham Foundation Prize for quote,
12 distinguished scholarship, end quote, and was named by
13 both the Los Angeles Times and the American School
14 Board Journal as one of the best books of 2003.

15 The Thernstroms also collaborated on
16 *America in Black and White: One Nation, Indivisible*,
17 which the New York Times Book Review in its annual end
18 of the year issue, named as one of the notable books
19 of 1997.

20 The Thernstroms' 1987 book, *Whose Votes
21 Count? Affirmative Action and Minority Voting Rights*,
22 won four awards, including the American Bar
23 Association Certificate of Merit, the Anisfield-Wolf
24 Prize for the best book on race and ethnicity. It was
25 named the best policy studies' book of that year by

1 the Policy Studies Organization, and won the Benchmark
2 Book Award for the Center for Judicial Studies.

3 In 2007 the Thernstroms, along with James
4 Q. Wilson, Martin Feldstein, and John Bolton, were the
5 recipients of a Bradley Foundation Prize for
6 Outstanding Intellectual Achievement.

7 The Commission recognizes Vice Chair
8 Thernstrom's distinguished career of scholarship and
9 public service. We mourn her loss, we commemorate her
10 life, and extend our condolences to her family and
11 friends.

12 CHAIR LHAMON: Thank you, Commissioner
13 Kirsanow. To begin the discussion, is there a motion?

14 (Simultaneous speaking)

15 COMMISSIONER KIRSANOW: Go ahead Michael.

16 COMMISSIONER YAKI: Commissioner Yaki
17 moves the motion.

18 COMMISSIONER HERIOT: I second it.

19 CHAIR LHAMON: Commissioner Yaki just to
20 be clear, the motion is to approve the statement, is
21 that correct?

22 COMMISSIONER YAKI: Yes.

23 CHAIR LHAMON: Thank you. I open the
24 floor for discussion.

25 COMMISSIONER KLADNEY: This is

1 Commissioner Kladney here.

2 CHAIR LHAMON: Go ahead.

3 COMMISSIONER KLADNEY: I want to clear
4 that in my head, Michael.

5 COMMISSIONER YAKI: Go ahead, David.

6 COMMISSIONER KLADNEY: Okay. I'd just
7 like to say a few words about Abby. She was a friend
8 and respected colleague and a partner on the
9 Commission.

10 She helped me out a great deal when I was
11 new, when I was a new Commissioner, which I've always
12 appreciated. She had strongly -- strong views,
13 principled views which she always expressed with
14 clarity.

15 She strove to work together even when --
16 even when we disagreed. And I extend condolences to
17 her family.

18 I would like to thank Commissioners Heriot
19 and Kirsanow for offering this remembrance. And she
20 was a friend.

21 Thank you very much. She'll be sorely
22 missed.

23 CHAIR LHAMON: Thank you, Commissioner
24 Kladney. Commissioner Yaki?

25 COMMISSIONER YAKI: Well, thank you very

1 much, Madam Chair. Abigail was a complex person as we
2 all are.

3 When I first came on the Commission, I was
4 told by some that she might be the most formidable
5 opponent that I might have on the Commission. And in
6 many ways, she lived up to that.

7 But, as with all things, one can disagree
8 with someone but still find that person very
9 agreeable. And over time, we developed a friendship
10 which I cherish to this day.

11 She was someone who in many ways embodied
12 the spirit of what it means to be a Commissioner. To
13 fight hard. To hold fast to their views.

14 But also to learn and to listen. And
15 there are many times when we found we'd be working
16 together.

17 And I would just note that the first
18 hearing on this Commission on LGBTQ issues, was
19 because she cast the deciding vote to hold a briefing
20 on the report on a school bully, and especially those
21 of LGBTQ youth.

22 She was someone who cast one of the first
23 votes for an investigation on Stand Your Ground. And
24 she was someone who, like I said, was just, she was
25 complex, but she was also just a wonderful person.

1 I want to take this time now to extend our
2 deepest condolences to her husband, Stephen and her
3 family, but also to one of our own alumni of her
4 family, Tim Fay, who was her long-standing special
5 assistant for as long as I was on the Commission. And
6 she was -- and she was, we were together from 2005 to
7 2013.

8 So to Tim, my condolences as well. And to
9 all those other Commissioners who knew here and worked
10 with her, I share your grief. Thank you.

11 CHAIR LHAMON: Thank you, Commissioner
12 Yaki. Any further discussion?

13 (No response)

14 CHAIR LHAMON: I'll call the question and
15 take a roll call vote. Commissioner Adegbile, how do
16 you vote?

17 COMMISSIONER ADEGBILE: Aye.

18 CHAIR LHAMON: Commissioner Heriot?

19 COMMISSIONER HERIOT: Yes.

20 CHAIR LHAMON: Commissioner Kirsanow?

21 COMMISSIONER KIRSANOW: Yes.

22 CHAIR LHAMON: Commissioner Kladney?

23 COMMISSIONER KLADNEY: Yes.

24 CHAIR LHAMON: Commissioner Yaki?

25 COMMISSIONER YAKI: Aye.

1 CHAIR LHAMON: I vote yes. The motion
2 passes unanimously.

3 G. DISCUSSION OF FISCAL YEAR
4 2020 AND 2021 PROJECT PLANNING

5 CHAIR LHAMON: We'll now move to the next
6 item on our amended Agenda, which is discussion and
7 vote for Fiscal year 2020 and 2021 project planning.

8 As we are all painfully aware, due to the
9 global pandemic, the Commission had to postpone the
10 two briefings that we had scheduled for March and May
11 2020.

12 I am so appreciative of our staff efforts
13 to lay out for consideration the various alternatives
14 we have available to us as we attempt to navigate our
15 challenging circumstances.

16 Based on the information provided, and
17 after discussion with my fellow Commissioners, and to
18 begin discussion, I move that we designate our current
19 project on maternal health disparities as to statutory
20 enforcement reports from fiscal year 2021.

21 We schedule a briefing on bail reform that
22 was previously scheduled for May 2020 for an in-person
23 briefing in August 2020. We schedule our briefing on
24 maternal health disparities that was previously
25 scheduled for March 2020 for an in-person briefing in

1 November 2020.

2 And we ask the Staff Director regularly to
3 update the special assistants on the progress of
4 virtual briefing capacity developments at our biweekly
5 meetings.

6 In advance of the next business meeting,
7 which is scheduled for May 8, the Staff Director will
8 provide the Commissioners a detailed time line for the
9 development of the capacity for virtual briefings,
10 including expected dates to meet interim benchmarks
11 and hold testimony.

12 Is there a second?

13 COMMISSIONER KLADNEY: Dave Kladney
14 seconds.

15 CHAIR LHAMON: Thank you. And I open the
16 floor for discussion beginning with a few points of my
17 own.

18 The Commission's in-person briefings serve
19 as a primary mechanism for the Commission to share
20 with the public critical information about current
21 civil rights issues, as well as to gather evidence
22 that informs the Commission's understanding of the
23 particular civil rights issue.

24 They are consistent with our statutory
25 charge to share public information and to disseminate

1 it. We hear testimony from experts with diverse
2 perspectives and Commissioners directly engage with
3 those experts in robust questioning.

4 And we hear testimony from members of the
5 public, who often themselves have been impacted by the
6 particular civil rights issue that we are discussing.
7 Those events are themselves a contribution to the work
8 of the Commission, and they are critically important
9 to our ability to take in information and to offer and
10 share expertise.

11 We are all, I know, dismayed by the global
12 pandemic, but in addition to the devastating
13 consequences to health and well-being of thousands of
14 people around the world and here in the United States,
15 has also impacted our ability to continue this aspect
16 of the Commission's work.

17 I'm glad for our staff who have continued
18 to push forward with the work that we can do remotely.
19 I'm grateful for their efforts in generating
20 alternatives for us to do this aspect of our critical
21 work in these difficult times.

22 The Commission's work, I'm proud to say,
23 has by no means halted during the pandemic, as our
24 statement that we approved earlier in this meeting
25 reflects. It is imperative that we continue to inform

1 Congress, the President, and the American people on
2 the civil rights issues that we are investigating,
3 particularly as we see civil rights issues arrive as
4 a result to the public health crisis we are facing.

5 I believe that shifting the statutory
6 enforcement report for fiscal year 2021 to one of our
7 current projects, will better allow the Commission to
8 plan for other projects requiring field briefings for
9 a time when travel is feasible again.

10 The Staff Director's report will allow
11 Commissioners to have the ability to continually
12 assess any necessary alterations to the briefing
13 agenda and procedures for Commissioners to engage with
14 panelists in light of the technological capabilities.

15 I'll now open the floor for discussion.

16 (No response)

17 CHAIR LHAMON: Hearing none, I'll call the
18 question and take a roll call vote. Commissioner
19 Adegbile, how do you vote?

20 COMMISSIONER ADEGBILE: Aye.

21 CHAIR LHAMON: Commissioner Heriot?

22 COMMISSIONER HERIOT: Yes.

23 CHAIR LHAMON: Commissioner Kirsanow?

24 COMMISSIONER KIRSANOW: Yes.

25 CHAIR LHAMON: Commissioner Kladney?

1 COMMISSIONER KLADNEY: Yes.

2 CHAIR LHAMON: Commissioner Yaki?

3 COMMISSIONER YAKI: Aye.

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

6 Next, we'll hear from Staff Director Mauro
7 Morales for the monthly Staff Director's Report.

8 H. MANAGEMENT AND OPERATIONS

9 • STAFF DIRECTOR'S REPORT

10 MR. MORALES: Madam Chair, thank you.
11 Good morning on the West Coast to those of you out
12 there.

13 In the interest of time, I have nothing
14 further to add beyond what is contained in the report.
15 Of course, if any of you have any questions about
16 anything in particular in the report, please contact
17 me.

18 I would like to acknowledge that in the
19 Commission, the personnel are 100 percent teleworking.
20 And doing so successfully.

21 I'd also like to thank everybody for their
22 hard work and professionalism. And I'd just like to
23 remind folks and just say that if anybody has any
24 concerns or questions during our COVID-19 crisis here,
25 please feel free to contact me, TinaLouise Martin, or

1 your supervisor.

2 We're here to assist you in carrying out
3 your duties, and making sure that you and your
4 family's well-being are safe and secure.

5 So, with that Madam Chair, that's all I
6 have at this point.

7 CHAIR LHAMON: Thank you, Mr. Morales.

8 COMMISSIONER HERIOT: Madam Chair?

9 CHAIR LHAMON: I suspect that we're going
10 to the same place Commissioner Heriot. Do you want to
11 go first?

12 COMMISSIONER HERIOT: I don't know that
13 we're going to the same place. I just wanted to say
14 that today is the last meeting for my special
15 assistant and counsel, Alison Somin, who has been with
16 me now for over ten years, I think.

17 And it has been a very, very short ten
18 years. She has been just a delight to work with. She
19 is an immense talent. And I am going to miss her so
20 much.

21 And I'm very sad that she's leaving us
22 during these peculiar times. Ordinarily we'd want to
23 have a party for her, but I think this is the best we
24 can do right now.

25 She has actually asked me to read a

1 statement of hers, because the special assistants of
2 course are not on the speaking line. So, let me just
3 quote Alison here.

4 She has said, as many of you know, my last
5 day on the Commission will be Friday, May 1. While I
6 am excited about the new opportunity that awaits me,
7 I will be sad to leave the Commission after over ten
8 years here.

9 In an ad posting the special assistant job
10 that I answered in 2009, Gail noted that quote, nobody
11 works on more interesting issues than the Commission,
12 close quote. She was absolutely right.

13 I have learned so much in my time here,
14 including from those whose views on these questions
15 have often been very different from my own. Thank you
16 to everyone for all that I have learned from you.

17 That's from Alison. And again, I will
18 miss her terribly. And you know, she has been the
19 most excellent special assistant that anybody could
20 ever ask for.

21 CHAIR LHAMON: Thank you, Commissioner
22 Heriot. We were going to the same place. As is our
23 tradition.

24 This is the last business meeting for one
25 of our own, Ms. Somin. And just to say in addition to

1 what Alison asked you to read herself, and what you
2 said about her, I know how very much I rely on my
3 special assistant.

4 And I witnessed how deeply and intensely
5 each of us on the Commission relies on and works with
6 their special assistants. And I have seen how much
7 Alison has meant to you, Commissioner Heriot.

8 And I've seen also the commitment to her
9 work and the intense research and contributions to the
10 ultimate reports that we produce from Alison's careful
11 work.

12 So, thank you for your contribution to the
13 Commission, Alison. Good luck in your next endeavors.
14 And Commissioner Heriot, I feel your pain in the loss
15 and look forward to your having someone who can fill
16 Alison's big shoes for you. With that, that concludes
17 the business on today's business meeting.

18 III. ADJOURN MEETING

19 CHAIR LHAMON: And if there is nothing
20 further, I hereby adjourn the meeting at 10:43 a.m.
21 Eastern time. Thank you all.

22 (Whereupon, the above-entitled matter went
23 off the record at 10:44 a.m.)
24
25

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In the matter of: Business Meeting

Before: USCCR

Date: 04-17-20

Place: teleconference

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Court Reporter

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