

U.S. COMMISSION ON CIVIL RIGHTS

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TELEPHONIC BUSINESS MEETING

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FRIDAY, OCTOBER 30, 2020

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The Commission convened via teleconference at 12:00 p.m. EDT, Catherine Lhamon, Chair, presiding.

PRESENT:

- CATHERINE E. LHAMON, Chair
- J. CHRISTIAN ADAMS, Commissioner
- DEBO P. ADEGBILE, Commissioner
- STEPHEN GILCHRIST, Commissioner
- GAIL HERIOT, Commissioner
- PETER N. KIRSANOW, Commissioner
- DAVID KLADNEY, Commissioner
- MICHAEL YAKI, Commissioner

- MAURO MORALES, Staff Director
- MAUREEN RUDOLPH, General Counsel

STAFF PRESENT:

EMILY DIEVENDORF, Michigan Advisory Committee

PAMELA DUNSTON, Chief ASCD

ROLAND HWANG, Michigan Advisory Committee

TINALOUISE MARTIN, Director, OM

DAVID MUSSATT, Director, RPCU

ROBERT STEINBUCH, Arkansas Advisory Committee

COMMISSIONER ASSISTANTS PRESENT:

ALEC DEULL

ALEXANDER HEIDEMAN

JOHN K. MASHBURN

CARISSA MULDER

AMY ROYCE

THOMAS SIMUEL

RUKKU SINGLA

IRENA VIDULOVIC

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

2 (12:02 p.m.)

3 OPERATOR: Good day and welcome to the
4 Commission telephonic business meeting. Today's
5 conference is being recorded. At this time, I would
6 like to turn the conference over to Chair Lhamon.
7 Please go ahead.

8 CHAIR LHAMON: Thank you, operator. This
9 meeting of the U.S. Commission on Civil Rights comes
10 to order at 12:02 p.m. Eastern Time on October 30,
11 2020. The meeting takes place over the phone. Because
12 we are on the phone, please state your name when
13 speaking to assist the court reporter in identifying
14 speakers for the transcript.

15 I'm Chair Catherine Lhamon. I'd like to
16 confirm each of the Commissioners is on the line so I
17 will take a roll call here at the outset. Please
18 confirm your presence when I say your name.
19 Commissioner Adams?

20 COMMISSIONER ADAMS: Present.

21 CHAIR LHAMON: Thank you. Commissioner
22 Adegbile?

23 COMMISSIONER ADEGBILE: Present.

24 CHAIR LHAMON: Thank you. Commissioner
25 Gilchrist?

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1 COMMISSIONER GILCHRIST: Present.

2 CHAIR LHAMON: Commissioner Heriot?

3 COMMISSIONER HERIOT: I'm here.

4 CHAIR LHAMON: Thank you, Commissioner

5 Kirsanow?

6 COMMISSIONER KIRSANOW: Here.

7 CHAIR LHAMON: Thank you, Commissioner

8 Kladney?

9 COMMISSIONER KLADNEY: Here.

10 CHAIR LHAMON: Thank you. And Commissioner

11 Yaki?

12 COMMISSIONER YAKI: Present.

13 CHAIR LHAMON: Thank you. Based on that

14 roll call, a quorum of the Commissioners is present.

15 Is the court reporter present?

16 COURT REPORTER: Yes, I'm present.

17 CHAIR LHAMON: Thank you. Is the staff

18 director present?

19 MR. MORALES: I am present.

20 I. APPROVAL OF AGENDA

21 CHAIR LHAMON: Thank you. The meeting

22 shall now come to order. Turning to our agenda for

23 today, I move to approve the agenda as posted on the

24 Federal Register with the following amendment. To

25 remove the discussion and vote on the Amendment to

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1 Administrative Instruction 5-9, because some
2 Commissioners have requested more time to work on the
3 draft. Is there a second for my motion, including the
4 amendment?

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5 COMMISSIONER YAKI: Seconded by
6 Commissioner Yaki.

7 CHAIR LHAMON: Any further amendments?
8 Hearing none, let's vote to approve the agenda as
9 amended. All those in favor say aye.

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10 (Chorus of aye.)

11 CHAIR LHAMON: Any opposed?

12 Any abstentions? The motion passes
13 unanimately.

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14 First, we will hear from our Arkansas
15 Advisory Committee chair, Robert Steinbuch on the
16 Committee's recently released report titled, Mass
17 Incarceration and Civil Rights in Arkansas. Chair
18 Steinbuch, please go ahead.

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19 II. BUSINESS MEETING

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20 A. PRESENTATION FROM ARKANSAS ADVISORY COMMITTEE

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21 TO THE COMMISSION ON THEIR REPORT

22 MASS INCARCERATION AND CIVIL RIGHTS IN ARKANSAS

23 MR. STEINBUCH: I'm a professor of law
24 here at Little Rock, Arkansas. I'm the chair of the
25 Arkansas Advisory Committee. And I will take just a

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1 few minutes to describe our report. And, of course, I
2 am available for any questions.

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3 We started with an examination of mass
4 incarceration. And, of course, you all well know that
5 this concept reflects the fact that while the
6 country's crime rates have been relatively stable for
7 decades, the nation's prison population has quadrupled
8 over the last 40 years.

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9 Now in and of itself, this is neither good
10 nor bad -- well I guess it's bad in the sense that we
11 would prefer to have fewer criminals than more, of
12 course. But the rate relative to the other factors
13 that I mentioned need further digging and that's what
14 we did. And we've decided to focus in on the question
15 of racial disparities.

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16 In Arkansas, we do have significant racial
17 disparities in our incarceration. Again, further
18 digging is necessary to determine what that means. But
19 let me describe briefly those disparities.

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20 African Americans in the nation make up
21 between 12 and 13 percent of the population, in
22 Arkansas slightly larger at 16 percent. Forty-three
23 and a half percent of the prison population, however,
24 is African American.

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25 When it comes to sentencing, we don't see

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1 the same type of disparity. In fact, Latino men have
 2 by far the highest sentencing rates in Arkansas at
 3 almost 18 years when compared with blacks at 9-1/2
 4 years and whites at 8 years. I'm sorry. All of that is
 5 for men and then black women and white women are both
 6 significantly less at seven and six years,
 7 respectively.

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8 So we as a committee discussed, what are
 9 the possible explanations for this racial disparity in
 10 mass incarceration? And we came up with two possible
 11 hypotheses. One is the differential selection thesis,
 12 which suggests that the disproportionate incarceration
 13 rates are due to bias, stereotyping, and practices
 14 within the criminal justice system, which some people
 15 call systemic discrimination in our criminal justice
 16 system.

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17 We also contrasted this with our
 18 alternative theory, and that's the differential
 19 involvement thesis, which hypothesizes that members of
 20 overrepresented populations in prison reflect a
 21 greater criminal act rate.

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22 Now at this point it's important to note
 23 for two reasons, perhaps, that we were only able to
 24 focus on one of the two hypotheses and that was the
 25 differential selection thesis. And so we were not able

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1 to take testimony or collect further information on
2 the differential involvement thesis.

3 And for this reason I, as the chair, wrote
4 a separate statement from the committee saying that
5 while I think we have identified very important issues
6 for examination, for discussion and for study, it was
7 premature to come to any conclusions or make any
8 findings because effectively we analyzed half of the
9 issues that we had presented.

10 Again, I don't think that the issues that
11 we presented are bad. I just don't think they allow us
12 to draw any conclusions.

13 So with that I'd like to jump to the
14 findings and conclusions and pick out just a few that
15 I think are important and relevant whether or not you
16 adopt either one of the theses that we presented as
17 possible explanations for the racial differences
18 within mass incarceration.

19 And one factor that we think, across the
20 board I would say on the committee, is worthy of
21 further investigation is the significantly different
22 amount of money that public defenders get relative to
23 prosecutors. And we think in any criminal justice
24 system for it to be fair that we need to make sure
25 that the representation of both parties is adequate.

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1 Now that doesn't mean that the funding needs to be
2 directly identical, but we just want to ensure that
3 it's adequate.

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4 One other area that was of particular
5 concern to, again, I think all members of the
6 committee was re-entry services, regardless of why the
7 people are incarcerated, and that includes skilled and
8 vocational training, education in general, and,
9 importantly, mental health and drug counseling.

10 And, finally, we all thought it would be
11 worthwhile, and mind you we drafted this report before
12 sort of the recent events that has transpired
13 regarding what happened in Minnesota, we nonetheless
14 thought it was worthwhile to recommend the governor to
15 look into further enhancing training regarding skills
16 for problem solving strategies, conflict mediation
17 techniques, and de-escalation tactics.

18 There are a number of more findings and
19 conclusions. They are found in the report. They, I
20 think personally, are worthy of further examination,
21 but at this point I personally believe are premature
22 given our focus on only one of the two explanations.

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23 And so with that, that's all I have to say
24 in terms of my presentation. And as I said at the
25 opening, I am available for any questions.

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1 CHAIR LHAMON: Thank you, Chair Steinbuch.

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2 I'll open for questions from my fellow Commissioners.

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3 COMMISSIONER YAKI: This is Commissioner
4 Yaki.

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5 (Simultaneous speaking.)

6 COMMISSIONER YAKI: Oh, I'm sorry. Go
7 ahead.

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8 CHAIR LHAMON: Go ahead, Commissioner
9 Gilchrist.

10 COMMISSIONER GILCHRIST: No, please.

11 COMMISSIONER YAKI: Go ahead, Commissioner
12 Gilchrist. Go ahead, go ahead.

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13 COMMISSIONER GILCHRIST: Thank you,
14 Commissioner.

15 COMMISSIONER YAKI: I'll wait.

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16 COMMISSIONER GILCHRIST: I want to ask the
17 chairman two questions. Chair Steinbuch, let me thank
18 you for the report. It was stated in the report that
19 the increase in incarceration was due to the war on
20 drugs in the 1980s and certainly there's much evidence
21 to support that.

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22 My question was was there also any
23 consideration in your report given to or has the
24 committee given thought to how you were putting this
25 together any impact the 1994 Crime Bureau may have had

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1 on similar actions?

2 MR. STEINBUCH: We did not focus
3 explicitly on the '94 Crime Bill. No doubt that
4 legislation like the '94 Crime Bill is similar to the
5 1980s war on drugs in which there were significant
6 increases in penalties, in particular for drug crimes.
7 So I individually can say that I believe that it is a
8 factor in the incarceration rate. But as a committee,
9 we did not focus on that piece of legislation.

10 COMMISSIONER GILCHRIST: Thank you very
11 much. And my second question, from a -- with regard to
12 what's been happening, actually, in Arkansas and
13 obviously what's been happening nationally with regard
14 to the First Steps Act, was there any consideration --
15 you know, one of the things that I've been paying
16 quite a bit of attention to is how states will follow
17 what the First Steps Act was actually able to do.

18 Did Arkansas give any thought what's been
19 happening in that Act and more specifically any
20 recommendations from that that could potentially be
21 used in states?

22 MR. STEINBUCH: Similarly, the committee
23 didn't focus in on that piece of legislation in part
24 because I think most of our work occurred before that
25 was dramatically in the Zeitgeist.

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1 However, I do think it is an issue that we
2 in Arkansas and the legislature in particular is
3 likely to consider. There was a bill -- for example
4 our legislature meets only every other year for
5 substantive bills and then the alternative years for
6 budget bills.

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7 And there was in the last legislative
8 session a bill put forward which failed but it was
9 bipartisan, of course, not bipartisan enough to have a
10 majority vote, but it was bipartisan. And the idea
11 was, given that there has been some reform in Arkansas
12 as to sentencing, particularly on drug crimes, there
13 are still some people in prison based on the old
14 sentencing and that we should rationalize that
15 sentencing because, as a society, we've come to the
16 conclusion that the penalty for such and such a drug
17 crime should now be, let's say, half of what it was
18 previously.

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19 Well, if the guy is still in prison under
20 the older sentence, that seems to be incongruent. So I
21 think that's an idea that we, in Arkansas in general,
22 will likely investigate, and I hope we pursue because
23 I think that's a matter of equity.

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24 COMMISSIONER GILCHRIST: Okay. Thank you
25 very much, Mr. Chairman. I certainly appreciate it.

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1 That's all I have, Madam Chair.

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2 CHAIR LHAMON: Okay. Thank you.
3 Commissioner Yaki?

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4 COMMISSIONER YAKI: Thank you very much,
5 Madam Chair. Thank you very much, Chair. I just had a
6 quick sort of background question. What is the
7 prevalence of private prisons in Arkansas? And did you
8 look at that in terms of impact on incarceration rates
9 in Arkansas?

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10 MR. STEINBUCH: I don't know the
11 percentage. I do know that we do have private prisons
12 here in Arkansas. There was at least one speaker at
13 our presentations who dealt with that somewhat. And
14 there was some suggestion that that might lead to
15 greater incarceration. But there was no further
16 development of that question.

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17 I will also mention that I happened to
18 speak with a public defender here in Arkansas, in
19 Little Rock, in fact, a federal public defender, who
20 told me, now this is anecdotal to be clear, but told
21 me that her perception of the prisons, in other words
22 her perception of the situation in which her clients
23 sit when it comes to the private prisons, was actually
24 better.

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25 And I found that surprising because I

1 don't know much about what goes on in prisons. But I
 2 think it's really an interesting question to look at
 3 two dynamics. What is the effect of private prisons on
 4 leading to legislation calling for more imprisonment,
 5 right? Are those private prison lobbying groups trying
 6 to increase incarceration rates for their own benefit?

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7 And then perhaps move -- pointing in the
 8 other direction somewhat, not the incarceration rate,
 9 but the context in which prisoners serve their time,
 10 is it better or worse to be in a private prison versus
 11 a government prison?

12 COMMISSIONER YAKI: Mm-hmm. Thank you.

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13 CHAIR LHAMON: Thank you.

14 COMMISSIONER KLADNEY: Madam Chair,
 15 Commissioner Kladney here.

16 CHAIR LHAMON: Go ahead, Commissioner
 17 Kladney.

18 COMMISSIONER KLADNEY: Thank you so much.
 19 Mr. Chairman, thank you so much for the report. I was
 20 wondering -- just a couple of questions. I know that
 21 Arkansas actually started Crisis Stabilization Units
 22 for when police come across someone in a mental health
 23 crisis committing offenses and, depending on the
 24 severity of the offense, they offer the person the
 25 opportunity to either go to jail or go to the Crisis

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1 Stabilization Unit.

2 And I thought that Governor Hutchinson was
3 very forward-thinking when he put \$5 million in his
4 budget to be used in 2017. Do you see any post-
5 imprisonment or post-sentencing increase in mental
6 health services for people?

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7 MR. STEINBUCH: I think it's one of the
8 most important issues that we can deal with when it
9 comes to criminal behavior in general, incarceration
10 and post-incarceration.

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11 And related to exactly that question, I
12 believe, a complement of that question is drug
13 treatment, drug counseling. And we have in Arkansas,
14 for example, drug courts. They're not ubiquitous, but
15 certain jurisdictions have them.

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16 And I think all of these approaches add to
17 our ability to address crime in the first instance and
18 reintegrate people in the second instance. And so I'm
19 hopeful that as your question suggests, we will focus
20 more on those types of alternatives.

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21 That doesn't mean that we don't put
22 hardened criminals in jail. But we also need, I
23 believe, to focus on what we do with the mass majority
24 of those who are incarcerated, those who are going to
25 be reintegrated in one form or another back into

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1 society and try to do the most to make them productive
2 in our society.

3 COMMISSIONER KLADNEY: My other question
4 deals with the average time -- at the beginning of
5 your presentation, you spoke about the average time of
6 certain groups of people. You also spoke about average
7 time sentenced for women.

8 And I felt there was a big difference
9 there. Was that because of the nature and quality of
10 the crime committed by, say, that women usually commit
11 versus what men have committed? Were you able to make
12 any distinction within the groups and between the
13 groups?

14 MR. STEINBUCH: I believe your question
15 relates to the overarching issue in our report and the
16 issue that I had regarding our second hypothesis is
17 that crime rates themselves, excuse me --
18 incarceration rates themselves do not tell you that
19 there is a problem of disparity. You must further
20 investigate that disparity.

21 Nationwide, as well as within Arkansas,
22 the incarceration rates for women are significantly
23 lower than men. We don't hear any discussion about
24 that generally across this country that somehow we are
25 over-punishing men relative to women.

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1 Now there may be some of that happening,
 2 but we don't have that as an automatic conclusion. And
 3 it's because we need to dig deeper into why people,
 4 individuals -- every crime is an individual act. And
 5 we need to dig deeper into how individuals act and
 6 then the aggregate of those individuals to see whether
 7 any disparities reflected in those aggregations are a
 8 problem in terms of how we sentence people, how we
 9 arrest people or otherwise in society.

10 I think that a major factor that leads to
 11 different incarceration rates across racial groups is
 12 economic. We know quite well that different racial
 13 groups also typically fall into different economic
 14 groups. And so that's a, I believe, partial
 15 explanation for the disparity in incarceration rates.

16 So ultimately I think your question
 17 touches on the most important issue in our report,
 18 which is what drives different racial incarceration
 19 rates and relatedly what drives different sex-based
 20 incarceration rates?

21 COMMISSIONER KLADNEY: And one more
 22 question. Does your committee have any plans to try
 23 and look into that or do you have sufficient resources
 24 to do that, I guess, on a state committee level or
 25 would that be something more in line for our

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1 Commission?

2 MR. STEINBUCH: Well, I certainly would
3 never discourage the Commission from looking into any
4 of these issues. We all felt that these issues were
5 very important. We are now moving forward, the
6 Committee is.

7 Either all or almost all of our terms are
8 up. And so we are in the process of renewing our
9 terms. And once that is completed -- well, for those
10 seeking renewal. And once that is completed, we are
11 going to decide what our next project is. One option
12 being continuing this investigation, another is to
13 start a new topic.

14 So I can't answer what the committee will
15 choose because that's a democratic process. We will
16 literally vote on that. But that, I can guarantee you,
17 will be one of the options on the table. I know it
18 because many of us have already talked about that.

19 CHAIRMAN KLADNEY: Thank you very much and
20 thank the committee for me and the Commission and
21 thank you for your good work.

22 MR. STEINBUCH: Thank you.

23 CHAIR LHAMON: Are there any other
24 questions from fellow Commissioners? Hearing none,
25 thank you, Chair Steinbuch, for your service and for

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1 your leadership on the Arkansas Advisory Committee and
2 for taking the time to speak with us today.

3 MR. STEINBUCH: Thank you, Madam Chair.

4 CHAIR LHAMON: Next we will hear from our
5 Michigan Advisory Committee members, Roland Hwang and
6 Emily Dievendorf, on the committee's recently released
7 report entitled, Voting Rights and Access in Michigan.
8 Mr. Hwang, Ms. Dievendorf?

9 B. PRESENTATION FROM MICHIGAN ADVISORY COMMITTEE

10 TO THE COMMISSION ON THEIR REPORT
11 VOTING RIGHTS AND ACCESS IN MICHIGAN

12 MR. HWANG: Thank you, Chairman Lhamon and
13 the Commission. I'm Roland Hwang and I'm co-vice chair
14 of the Michigan State Advisory Committee. I am an
15 attorney, and I teach civil rights and race inequity
16 at the University of Michigan.

17 I am joined by Emily Dievendorf, who is
18 the other co-vice chair. We chose the topic voting
19 rights and access in Michigan.

20 For the sake of background in terms of
21 language access under the Voting Rights Act, Section
22 203, Hamtramck, an enclave suburb surrounded by
23 Detroit, is one of those cities by virtue of the
24 language of Bangla. Colfax Township in Fennville are
25 covered by Spanish. They're on the west side of the

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1 state.

2 As for voter ID law, we do have a photo ID
3 law in place although there is a state ID alternative
4 as a photo ID and an affidavit alternative if one does
5 not produce a photo ID. And that's with some mixed
6 success with respect to access to state IDs.

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7 With respect to purging practices, they
8 are usually when the voting ID cards are returned
9 undeliverable or the clerk learns that someone is
10 deceased or is registered in another place.

11 With respect to ballot initiatives, I
12 report that in 2018 a proposal to set up a
13 redistricting commission in place of the currently
14 legislatively based district guidelines or district
15 drawing. And it calls for a Republican foreign number,
16 Democrat foreign number and then five non-partisan
17 members of a 15 member commission. And it's just been
18 populated in the last couple of months.

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19 And there's also a Proposal 3 which
20 provided for no-reason absentee voting. And we
21 restored the ability to vote straight party lines.

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22 That is in place of the prior status where you had to
23 be age 60 or by signed affidavit indicated you were
24 not going to be available at the polls on that day.

25 With respect to registration rates, based

1 upon the census we found that 76 percent of whites
2 were registered, 67 percent of African Americans, 68
3 percent of Asian Americans and 49 percent of Latinx
4 individuals were registered.

5 One of the problem areas with respect to
6 disability rates was with respect to the voting
7 assistance terminals where there was testimony that
8 booths were frequently not set up at the right height
9 to facilitate voting.

10 Another complication at the polls was that
11 quite often poll workers would not offer the affidavit
12 alternative if someone did not produce a photo ID.

13 In terms of observations of the sort of
14 voting process landscape, it was observed that it's
15 really complicated rules. It's a de-centralized system
16 relying upon, you know, a network of city and township
17 clerks.

18 There was information about the
19 friendliness of the system for students that quite
20 often they would not have permissible alternative ID.
21 They wouldn't have the alternative methods of evidence
22 like utility bills, library cards or other means or
23 checks or other means of providing alternative ID. So
24 that was a problem area.

25 Also training was deemed a problem. There

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1 was information about providing frivolous reasons for
2 non-acceptance of signatures in terms of signature
3 matching. And there were examples cited of methods of
4 quickening the voting process by approaching, for the
5 most part, limited English proficient voters to quote
6 unquote skip the non-partisan section of the ballot.

7 The committee urges that the Commission
8 send our report to the Department of Justice so as to
9 enforce the provisions of the Voting Rights Act and
10 the Americans with Disabilities Act.

11 We urge that the report be sent to the
12 Michigan legislature for the most part to provide
13 through legislation for pre-registration of
14 individuals who may be just 16 or 17 years of age and
15 also to provide appropriations for the voting process
16 and implementation of the HAV Act, the Help Americans
17 Vote Act, and also to send the report to the Secretary
18 of State to facilitate the access issues that are
19 documented. Also to provide for tracking on the status
20 of the voted ballot. And to send the report to the
21 judiciary and to provide for the education about the
22 new provisions of Proposal 3 that provides for no-
23 reason absentee ballot and to the clerks of the
24 township and county clerks foytttttttttttttttr the
25 various affected issues involving voter access,

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1 providing knowledge about election law to provide for
2 the better use of voter IDs and the affidavit option
3 if one does not have a photo ID.

4 Also to provide, through the clerk's
5 offices, education about cultural competencies,
6 especially aimed at older voters and disabled voters
7 and to accommodate those disabled voters who rely upon
8 the VAT machine, the voter assistance machines.

9 And also education with respect to
10 signatures to the extent that signatures may evolve
11 over the passage of time and to focus on students and
12 their access to voting by perhaps broadening the list
13 of acceptable documents that are used to verify a
14 student's voting location, and provide for the
15 training of poll workers. And ensure ADA compliance
16 and for those who are in, you know, the criminal
17 justice system and provide for the re-entry, smooth
18 re-entry of those individuals back into the voting
19 public.

20 And that is my part of the report. And I
21 yield to Emily Dievendorf, who is going to talk about
22 our later addition of testimony with respect to COVID-
23 related issues.

24 MS. DIEVENDORF: Yes. Thank you, Roland.
25 And as Roland said, I'm Emily Dievendorf, and I'm a

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1 long-time public policy and political analyst and
2 civil rights leader in Michigan.

3 And, of course, we did focus on access to
4 voting because it has been a concern in Michigan that
5 there are still obstacles to voting for marginalized
6 communities, BIPOC communities, black, indigenous,
7 people of color, people with disabilities, LGBT
8 people, particularly the transgender community with ID
9 issues.

10 So that is why we ended up hearing much to
11 the effect of challenges related to identification,
12 whether machines were working for folks with
13 disabilities. And we decided to extend our
14 investigation because we did end up with a little bit
15 of time to add onto our investigation regarding voting
16 rights to see how COVID was affecting voting rights
17 and access to voting.

18 And we are in the middle of a preliminary
19 look at how the state and organizations can best
20 prepare for potential obstacles, what they expect to
21 see in terms of obstacles. And we will be doing a
22 series of hearings after the election since we really
23 don't know exactly what is going to happen. You could
24 say it's anybody's guess. But obviously we did guess
25 and so did they in terms of what will come up.

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1 We came up with a number of
 2 recommendations. And some of them mirrored what we saw
 3 in our original investigation. And, of course, some of
 4 them were very in tune with the health recommendations
 5 made by our federal health officials. And the things
 6 that we're doing every day that we really did not see
 7 our state officials or our organizations or one or the
 8 other working in coordination in order to make voting
 9 safer doing.

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10 So we did come up with a list of
 11 recommendations in order to try to make voting safer
 12 and also more accessible since not everybody who will
 13 be voting will get the information that is being
 14 created in order to make voting more virtual or
 15 something that can be done through the mail.

16 Not everybody will be getting the
 17 information that will allow them to do that. Not
 18 everybody will be choosing to do that. Some people
 19 will still want to vote at the polls. Some people will
 20 be showing up at the polls and still not have that
 21 accessibility that we recommended in the first
 22 investigation.

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23 So we are recommending things in this
 24 preliminary part of our COVID investigation into voter
 25 accessibility like masks that have the visibility

1 panel for those who are members of the deaf community
2 that do not know sign language.

3 The majority of the deaf community doesn't
4 actually know sign language. They rely on reading
5 lips. There's an assumption made that much of the deaf
6 community does know sign language and yet we do have
7 to for this time have safeguards in place and assume
8 that everybody will need masks. And we still need to
9 accommodate everybody who shows up at the polls.

10 We often don't have, of course, those who
11 sign at the polls, period. So we need to think in
12 terms of accessibility for everybody at this time in
13 order to create that safety. So we were looking at
14 those types of things, COVID right now and how to
15 accommodate those things.

16 So we included that here, but we just
17 wanted to flag that after the election we will be
18 coming back with more recommendations based on this
19 time in history and the kinds of things that came up
20 and how we responded to it and what we found needed to
21 happen as a result of that.

22 CHAIR LHAMON: Thank you very much, Ms.
23 Dievendorf and Mr. Hwang. I'll open for questions from
24 my fellow Commissioners. Hearing none, thank you very
25 much.

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1 COMMISSIONER ADEGBILE: Chair Lhamon, I
2 have one question.

3 CHAIR LHAMON: Go ahead, Commissioner
4 Adegbile.

5 COMMISSIONER ADEGBILE: I'm wondering with
6 respect to the issue that you raised about people that
7 read -- that most people that have a hearing
8 impairment read lips and don't use sign language. Was
9 there any exploration into the issue of what the cost
10 factor is associated with clear masks as opposed to
11 masks that cover one's lips? I know that in some
12 educational settings, professors have been moving in
13 this direction as an accommodation for students that
14 need to be able to see one's lips in order to
15 understand what's being communicated.

16 MS. DIEVENDORF: The commission didn't
17 look into that cost, but the Secretary of State was
18 going to look into making sure that was worked into
19 their budget in order to provide at least one or two
20 masks at each polling location.

21 We're hoping that that is going to happen.
22 Obviously, that could be somewhat significant. We do
23 believe that, of course, that will be necessary. Our
24 deaf population is significant, but that is an
25 accessibility minimum.

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1 Obviously, we can't -- to provide a sign
 2 language interpreter at every site would be a heavy
 3 lift. To provide a mask is significantly lighter in
 4 comparison. But they said they were going to do that.

5 Another challenge that they're facing
 6 right now in Michigan because we do have such a heavy
 7 militia presence and we are facing the voting obstacle
 8 of the clear and vocalized threat -- not even threat
 9 but the intent of the militia to be at polls, and they
 10 legally can do so, armed at a legal distance in front
 11 of polls, we have our Secretary of State needing to
 12 find ways to ensure that voters feel safe.

13 So there are a number of costs that will
 14 need to be budgeted for within each area that Michigan
 15 will need to address in order to make sure that there
 16 is voting accessibility and that means organizations
 17 will need to figure that out as well.

18 So that goes into another recommendation
 19 that we made to the Secretary of State and to the
 20 Michigan organizations and that is to really
 21 communicate clearly who is participating in trying to
 22 create that voter accessibility, especially for
 23 marginalized communities and those protected classes
 24 so that people can know who to go to, know who to
 25 report obstacles to voting to, voter suppression to,

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1 so that they can both get involved in trying to work
2 the day of the polls to ensure voter accessibility and
3 also so that they can report any potential obstacles
4 to safety and voter suppression.

5 COMMISSIONER ADEGBILE: Thank you.

6 CHAIR LHAMON: Thank you. Are there other
7 questions from Commissioners? Hearing none, thank you
8 very much, Mr. Hwang and Ms. Dievendorf and your
9 fellow committee members, for this very timely and
10 important investigation.

11 We look forward to what yields beyond your
12 preliminary results from the COVID-19 voting
13 recommendation as well. Thank you for your service and
14 for your leader on the advisory committee and for
15 taking the time to speak with us today.

16 MR. HWANG: Thank you very much.

17 C. DISCUSSION AND VOTE ON COMMISSION REPORT

18 COVID-19 IN INDIAN COUNTRY: THE IMPACT OF
19 FEDERAL BROKEN PROMISES ON NATIVE AMERICANS

20 CHAIR LHAMON: The next item on our agenda
21 is a discussion and vote on the Commission's report
22 entitled COVID-19 in Indian Country, The Impact of
23 Federal Broken Promises on Native Americans. To open
24 the floor for discussion, I'll begin by moving for
25 approval of the report as circulated by my special

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1 assistant on Tuesday, October 27, 2020. Is there a
2 second?

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3 COMMISSIONER KLADNEY: Kladney will
4 second.

5 CHAIR LHAMON: I'll begin discussion.
6 First, I think our staff, particularly Katherine
7 Culliton-Gonzalez, Julie Grieco and Marik Xavier-Brier
8 as well as all the other members of our staff who
9 pitched in during the research and development of this
10 project.

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11 This project was the first virtual
12 briefing we have held at the Commission. And I thank
13 our staff who worked so hard to make that virtual
14 briefing successful, including TinaLouise Martin, Pam
15 Dunston, Michele Yorkman-Ramey, among other critical
16 members of our team.

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17 Last May this Commission voted unanimously
18 to examine the impacts of the COVID-19 pandemic on
19 Native Americans, updating our 2018 report that
20 discusses the federal funding shortfalls as measured
21 against federal obligations and the state of need in
22 the Native American community.

23 We voted to conduct our examination on an
24 expedited timeline given the urgency of our civil
25 rights concerns. Members of Congress also requested

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1 that the Commission take up this specific topic.

2 The needs our investigation uncovered are
3 staggering. As of August 2020, the CDC found that
4 Native Americans experienced the highest
5 hospitalization rate due to COVID-19 compared to any
6 racial or ethnic groups in the United States.

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7 Native Americans are dying from COVID-19
8 at a higher rate than most racial and ethnic
9 populations, including Latinx, Asian and white
10 Americans with the exception of black Americans who
11 had the highest death rate from COVID-19.

12 CDC has suggested, quote, investment in
13 tribal public health infrastructure to address this
14 and future pandemics and disparities in chronic
15 conditions that disproportionately impact health
16 outcomes for Native Americans. End quote.

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17 The CDC recommendation responds to the
18 reality we learned that as of March 2020, the Indian
19 Health Service had only 81 ventilators available
20 across the IHS system nationwide, which serves more
21 than 2.5 million people. The entire Indian health
22 system had just 37 ICU beds and 1,257 hospital beds
23 available.

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24 Some might think that these shortages are
25 not so consequential because Native patients could

1 access other health care options. But just last week
2 the Wall Street Journal reported that multiple
3 hospitals in my home state refused or delayed
4 accepting COVID-19 patients based on their insurance
5 status.

6 That reporting underscores the very real
7 harm that can follow from a system of health care that
8 is shockingly unprepared to address the pandemic we
9 now face.

10 The shortages also reflect the distance
11 the United States has to travel to satisfy our recent
12 federal statutory commitment, quote, to ensure the
13 highest possible health status for Indians and urban
14 Indians and to provide all resources necessary to
15 effect that policy. End quote.

16 Whereas CDC ordered a nationwide
17 moratorium on evictions because of the public health
18 harm in this pandemic, CDC has not ordered, even in
19 Indian countries, much less nationwide, that water
20 cannot be shut off as a public health measure to
21 ensure people can wash their hands to take basic
22 precautions against COVID-19.

23 Seventeen percent of Native American homes
24 lack safe water or adequate wastewater disposal
25 facilities compared with less than 1 percent of homes

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1 nationwide.

2 Native American households experience
3 incomplete plumbing facilities at a rate 10 times
4 greater than the national average. Our investigation
5 also confirmed current discrimination in the COVID-19
6 context that Native Americans experience.

7 A federal civil rights investigation
8 documented that health care workers in a New Mexico
9 hospital operated a policy to separate Native American
10 women, but not other women, from their babies based on
11 an assumption that the women, because they are or
12 appeared to hospital workers to be Native American,
13 were more likely to have COVID-19 than any other
14 mothers giving birth at that hospital.

15 The findings of this civil rights
16 investigation demonstrate the intense need for federal
17 civil rights agencies, including the Department of
18 Justice, HHS, HUD, and FEMA with jurisdiction to
19 continue civil rights investigation and resolution
20 work related to discrimination harm Native Americans
21 may experience specific to the COVID-19 pandemic.

22 It is our mandate that this Commission to
23 conduct careful study of civil rights issues like
24 these and report our findings to Congress, the
25 President and the American people.

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1 Four federal agencies, the Indian Health
2 Service, Centers for Disease Control, the Federal
3 Communications Commission, and the Department of
4 Housing and Urban Development took the time to review
5 this draft report and provide effective agency review
6 to ensure the accuracy of its text.

7 I am proud of our commitment to use this
8 Commission's resources to address the present civil
9 rights issues in this pandemic for Native Americans.
10 And I support this report text as modified in the
11 version my special assistant circulated. I will now
12 open the floor for further discussion.

13 COMMISSIONER KLADNEY: Madam Chair, David
14 Kladney here.

15 CHAIR LHAMON: Commissioner Kladney.

16 COMMISSIONER KLADNEY: I think one of the
17 most important -- an important part of this report has
18 to do with digital infrastructure. Many Native
19 American communities are far flung in this country and
20 are in very, very rural places.

21 They are four times less likely to have
22 access to internet than the general population. And
23 the lack of this access impacts the Native American
24 communities as regarding education, health care,
25 especially health care during the COVID crisis and

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1 especially education, participation in the internet
2 economy, engagement in government and the interaction
3 between family and friends that are not in the same
4 household or even in the same community. Many Native
5 American students are missing out on critical
6 educational opportunities at this time.

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7 I do live in Nevada. And we have Indian
8 communities throughout our state in very, very rural
9 places. For instance, the Federal Bureau of Land
10 Management and the Forest Service has moved all of
11 their public hearings and their tribal consultation
12 exclusively to virtual formats during the COVID-19
13 crisis.

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14 And in spite of tribal protests, they
15 continue to conduct these hearings even though
16 indigenous communities are most impacted by these
17 projects in question.

18 Congress should address these issues by
19 prioritizing development of infrastructure sufficient
20 to make broadband readily available and at high speed
21 in rural communities, including Native American rural
22 communities, and appropriating funds to provide
23 wireless hot spots, technological equipment such as
24 laptops for students and teachers through the Board of
25 Indian Education Schools.

1 I think, and I'd like to note, by
 2 providing this service to Native American communities,
 3 which are so rural and, like I said, are four times
 4 less to have these services than the general
 5 population, it would also help the rural general
 6 population because they, too, in a lot of cases lack
 7 inadequate access to internet or reliable internet.

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8 As a result I think this is a very
 9 important part of the report that I don't want to have
 10 it go unnoticed. Thank you very much.

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11 COMMISSIONER LHAMON: Thank you,
 12 Commissioner Kladney. Other discussion? Hearing none,
 13 we'll call the question and take --

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(Simultaneous speaking.)

14
 15 COMMISSIONER ADEGBILE: Madam Chair, I
 16 yield to Commissioner Yaki.

17 COMMISSIONER YAKI: No, No. No, go ahead,
 18 Commissioner Adegbile. I was slow on the mute button.
 19 Sorry.

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20 COMMISSIONER ADEGBILE: Madam Chair, I
 21 just wanted to talk about some of the observations in
 22 the report that I thought deserved some attention in
 23 light of the pandemic that we're now facing.

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24 You touched on many important points, and
 25 I just wanted to underscore a couple of others, in

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1 particular my understanding, and the report seems to
2 have uncovered it, due to the Indian Health Service's
3 limited funding, it allocates money to medical care
4 but not to preventative public health programs.

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5 And in light of the situation we face with
6 COVID-19, that leaves Native Americans particularly at
7 risk to this public health harm because it's our
8 understanding that the science tells us that the best
9 approach to dealing with COVID is to not get it in the
10 first place and to take the steps to avoid exposure to
11 the extent possible.

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12 Relatedly, the report notes that tribes
13 have faced shortages of personal protective equipment,
14 which is talked about widely as PPE during the COVID-
15 19 pandemic. And in other situations they actually
16 received expired or faulty PPE from the federal
17 government during the pandemic which is, of course,
18 inexcusable.

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19 Tribes and the Indian Health Service do
20 not currently have a guaranty of access to the
21 strategic national stockpile in contrast to the access
22 that the states and large municipalities have. And so
23 that's an issue that, of course, should be revisited
24 in light of the statistics you mentioned about the
25 impact of COVID-19 on our Native American population.

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1 And the Indian Health Service should
2 require all IHS funded facilities to provide data on
3 COVID-19 cases and outcomes, including Native
4 Americans as a distinct group so that we can better
5 track the impacts of the pandemic in those
6 communities.

7 And then federal readiness for possible
8 health crises such as, but not limited to, the COVID-
9 19 pandemic, would seem to require at a minimum a
10 congressional appropriation of funds sufficient to
11 meet the basic health care needs of our Native
12 American people.

13 And these are just some of the additional
14 observations that this study has brought to light and
15 that I think are worth considering as we think about
16 with the COVID examinations that we have taken, we're
17 looking at what the nexus is between the pandemic and
18 considerations of the protected groups that we look to
19 help vindicate the principles of equality and civil
20 rights throughout the nation. Thank you, Madam Chair.

21 CHAIR LHAMON: Thank you, Commissioner
22 Adegbile. Commissioner Yaki?

23 COMMISSIONER YAKI: Thank you very much,
24 Chair Lhamon. In my 15 years on this Commission, I
25 take very seriously the role of the Commission as a

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1 watchdog. We have criticized both Republican and
2 Democratic Presidents and administrations for the work
3 that they have done or have not done or how they have
4 done it during my tenure.

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5 It has been something that to me is truly
6 a part of what our mission is and should be. And here
7 we have a situation that is unique in so many ways in
8 our country. And that is how our nation has responded
9 in its history, mostly tragically unfortunately, to
10 the sovereign nations and First Americans of our land,
11 people who are members of a sovereign tribe but who
12 are also citizens of these United States and where
13 separate and unequal seems to be unfortunately how the
14 government has tended to treat them through the years.

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15 And as we look at how this nation is
16 responding to the pandemic and will continue to
17 respond to the pandemic and how this report can
18 contribute to the next series or sets or single, we
19 don't know what, of COVID relief measures that this
20 country still needs and still requires, is going to be
21 critical.

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22 And for the Native Americans and for the
23 First Peoples of our country, our ability to speak
24 with and on their behalf in these critical policy
25 junctures is going to be crucial because what we heard

1 in our testimony and what we've seen in our analysis
2 is that there is a crisis on the reservations and for
3 people who are Native American in this country with
4 regard to COVID.

5 And in fact the Congress and
6 administration attempted to remedy this by including
7 specific funding in the various CARES bills for Native
8 Americans. But in doing, so they did not either take
9 any understanding of how it should be allocated or
10 whether or not the infrastructure was really there to
11 make that allocation substantial and reach these
12 critical populations.

13 Because after all we're only talking about
14 574 federally recognized Tribal Nations and only 605
15 health facilities, which only 13 have the criteria to
16 be designated as critical access hospitals with very
17 few emergency rooms, few operating rooms and the
18 entire Indian Health System has only 37 ICU beds.

19 And we know how critical ICU beds as a
20 count as we reach -- as states, counties and cities
21 look to their inventory to determine whether or not
22 they need to take additional measures to deal with
23 rising COVID rates in their communities.

24 We've seen that in the way that the CARES
25 Act money was allocated with testimony that there were

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1 provisions and set asides spread throughout numerous
2 agencies and programs. But each have their own
3 mechanism and requirements and making it very
4 burdensome and complicated for Tribal Nations to
5 identify and access critical funding.

6 We saw that in fact several Native
7 American tribes had to challenge the disbursement of
8 COVID-19 aid funding because of how slow it was going
9 and how inefficiently it was being distributed with
10 partial payments only for quite some time until a
11 federal judge this summer ordered the administration
12 to distribute these funds to tribes as promised,
13 taking twice as much time to distribute funds to
14 Native American tribes as it did to other communities
15 across this country.

16 And we also know that if you are -- that
17 urban Indian organizations cannot even receive federal
18 funding, much less COVID funding, under current law.
19 And the ability to have direct interagency agreements
20 between Tribal Nations and the federal government will
21 make it much easier to transmit and in essence block
22 grant these funds to these communities to enable them
23 to get them to the right facilities and access them --
24 create access for residents who are -- their folks who
25 are ill.

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1 These are all things that our report is
2 pointing out and which will be important and critical
3 for policymakers to see in the coming months and in
4 the coming year as we continue to battle this
5 pandemic.

6 And quite frankly one thing I'm not too
7 sure was adequately addressed in the report, but one
8 which I hope will be remedied in the future, is just
9 what is the infrastructure to distribute any vaccine
10 that may be developed? Because we have trouble just
11 getting money out the door, how good are we going to
12 be at ensuring that for a population that is more
13 vulnerable due to socioeconomic and other conditions
14 to the deadlier effects of COVID-19? To a population
15 that has inadequate health services to begin with and
16 inadequate infrastructure to begin with, how are we
17 going to ensure that these First Americans are able to
18 receive and be part of the priority list for vaccine
19 distribution when they live in areas where we have
20 already shown the dearth and scarcity of the ability
21 of the ability of the federal resources to mobilize
22 itself in order to address their needs?

23 These are the kinds of questions that are
24 so important and so urgently need to be addressed,
25 pointed out, and recommendations made to our federal

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1 government that we need to get this report out as
2 quickly as possible.

3 There are lives at stake. There are
4 American lives at stake. There are friends and friends
5 and relatives and members of communities at stake. And
6 we cannot sit idly by in the midst of this pandemic
7 and abdicate our own duties as watchdogs on this
8 particular issue, not to get these out and not to
9 fulfill our role and mandate to Congress and to the
10 people of the United States.

11 Thank you.

12 COMMISSIONER LHAMON: Thank you,
13 Commissioner Yaki. Any further discussion? Hearing
14 none, I'll call the question and take a roll call
15 vote. Commissioner Adams, how do you vote?

16 COMMISSIONER ADAMS: No.

17 CHAIR LHAMON: Commissioner Adegbile?

18 COMMISSIONER ADEGBILE: Aye.

19 CHAIR LHAMON: Commissioner Gilchrist?

20 COMMISSIONER GILCHRIST: No.

21 CHAIR LHAMON: Commissioner Heriot?

22 COMMISSIONER HERIOT: No.

23 CHAIR LHAMON: Commissioner Kirsanow?

24 COMMISSIONER KIRSANOW: No.

25 CHAIR LHAMON: Commissioner Kladney?

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1 COMMISSIONER KLADNEY: Yes.

2 CHAIR LHAMON: Commissioner Yaki?

3 COMMISSIONER YAKI: Yes.

4 CHAIR LHAMON: I vote yes. The motion
5 fails. Four Commissioners opposed, no Commissioner
6 abstained, all others were in favor.

7 I am disappointed in this vote. And I
8 continue to think it would be best served, we would be
9 best served, with approving the full text of the
10 report. In the absence of that possibility, I believe
11 it is important that we lift up the expert testimony
12 we received and issue Commissioner statements so that
13 the public can benefit from our collective expertise
14 on this topic.

15 We had a lengthy discussion during our
16 June business meeting about the bipartisan desire of
17 Commissioners to write statements on the topic of this
18 report. I'd like to be sure we still offer that
19 opportunity to publish those statements following the
20 investigation even without a report consistent with
21 this Commission's longstanding practice following an
22 investigation that does not yield a report the
23 Commission votes to produce.

24 I move that in lieu of the report we
25 release Commissioner's statements on this topic

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1 written on the same timeline as we approved
 2 unanimously in June. Commissioner's statements due on
 3 Monday, November 23, 2020, with rebuttals due on
 4 Monday, December 23, 2020, and surrebuttal notice due
 5 by Wednesday, December 30, 2020, with surrebuttal text
 6 filed by Wednesday, January 6, 2021. Do I have a
 7 second?

8 COMMISSIONER YAKI: Second by Commissioner
 9 Yaki.

10 CHAIR LHAMON: Thank you. Any discussion?

11 COMMISSIONER YAKI: I have a discussion,
 12 Chair Lhamon.

13 CHAIR LHAMON: Go ahead.

14 COMMISSIONER YAKI: I mean, I just want to
 15 again reiterate that we have a role, and we have a
 16 historic and legislatively-charged role to be the
 17 watchdog to render advice and recommendations to the
 18 Congress on this, one of the most important issues
 19 facing our country today.

20 And if we cannot find agreement on what
 21 that report says and much less what findings and
 22 recommendations there may be, but just on the report
 23 itself, which I think is not colored by bias, left or
 24 right, that at the very minimum as a means of
 25 attempting to achieve some semblance of our duty, the

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1 ability to issue statements based on our individual
2 understandings of this report is a poor second but
3 still a better than none second choice.

4 CHAIR LHAMON: Thank you, Commissioner
5 Yaki. Any further discussion? Hearing none, I'll call
6 the question and take a roll call vote. Commissioner
7 Adams, how do you vote?

8 COMMISSIONER ADAMS: No.

9 CHAIR LHAMON: Commissioner Adegbile?

10 COMMISSIONER ADEGBILE: Aye.

11 CHAIR LHAMON: Commissioner Gilchrist?

12 COMMISSIONER GILCHRIST: No.

13 CHAIR LHAMON: Commissioner Heriot?

14 COMMISSIONER HERIOT: No.

15 CHAIR LHAMON: Commissioner Kirsanow?

16 COMMISSIONER KIRSANOW: No.

17 CHAIR LHAMON: Commissioner Kladney?

18 COMMISSIONER KLADNEY: Yes.

19 CHAIR LHAMON: Commissioner Yaki?

20 COMMISSIONER YAKI: I would just again
21 like to comment that this is unprecedented in my 15
22 years on the Commission, to go through this process
23 and not even do Commissioner statements when at times
24 we made sure that in eventualities such as this and
25 ties when there are disagreements we nevertheless gave

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1 -- let each Commissioner have a voice in discussing an
2 issue that was at least important enough to have been
3 brought before the Commission. I vote aye.

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4 CHAIR LHAMON: And I vote yes. The motion
5 fails. Four Commissioners opposed, no Commissioner
6 abstained, all others were in favor.

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7 COMMISSIONER ADEGBILE: Madam Chair?

8 CHAIR LHAMON: Commissioner Adegbile, go
9 ahead.

10 COMMISSIONER ADEGBILE: I just would like
11 to join Commissioner Yaki in expressing not only
12 disappointment but a degree of consternation that a
13 report that lays out the factual circumstance of life-
14 threatening and in some cases life-ending risks to our
15 First Americans and the impact that it's having based

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16 on the statistics that you cited and that are
17 contained in the report, that the idea that this civil
18 rights body that is intended to advise the nation and
19 do research so that we can make ourselves a better and
20 more inclusive nation, the idea that we would
21 unanimously vote to move forward, take the testimony,
22 do the analysis in a time of a pandemic about these
23 very, very serious life and death issues --

24 COMMISSIONER ADAMS: Madam Chairman, Madam
25 Chairman.

1 COMMISSIONER ADEGBILE: -- not vote, not
2 vote -- I have the --

3 (Simultaneous speaking.)

4 COMMISSIONER ADAMS: Objection. It's an
5 improper matter, Madam Chairman.

6 COMMISSIONER ADEGBILE: -- yield, yield --

7 CHAIR LHAMON: Commissioner Adegbile, go
8 ahead.

9 COMMISSIONER ADEGBILE: -- and --

10 COMMISSIONER ADAMS: This is Commissioner
11 Adams, Madam Chairman. I'm putting an objection --

12 (Simultaneous speaking.)

13 COMMISSIONER ADEGBILE: We have it for the
14 record. We recorded your objection. We have it for the
15 record. We have your objection. I have the floor --

16 (Simultaneous speaking.)

17 COMMISSIONER ADEGBILE: You're free to
18 speak after me. Commissioner Adams, you're free to
19 speak after me. You're permitted to object. We have
20 your objection. You should feel free to speak after
21 me, but I'm not yielding to you.

22 The Chair has recognized me to finish my
23 comment. And you will yield and then I will listen to
24 you as we all will.

25 So the point here is that in my estimation

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1 this is an abdication of our charge and
 2 responsibility. And we've been asked to look at this
 3 and we have. And I'm puzzled by why we wouldn't make
 4 the facts bare so that the nation can try and get
 5 better and improve. This is a pandemic, but it's
 6 unlikely to be the last one. And today the nation is
 7 going to wonder why on the two issues of COVID impacts
 8 and civil rights, this Commission has not voted out
 9 the reports. Thank you, Madam Chair.

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10 CHAIR LHAMON: Thank you, Commissioner
 11 Adegbile. Commissioner Adams?

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12 COMMISSIONER ADAMS: Madam Chairman, I am
 13 lodging an objection to deviating from the agreed
 14 agenda. That was an out of order speech. And I was
 15 merely lodging an objection to it as not debatable.

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16 CHAIR LHAMON: I didn't hear anyone debate
 17 it. Thank you for objection.

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18 D. DISCUSSION AND VOTE ON COMMISSION ADVISORY

19 COMMITTEE APPOINTMENTS

20 NEW YORK ADVISORY COMMITTEE CHAIR

21 CHAIR LHAMON: Now we can turn to our next
 22 agenda item to begin discussion. I move that the
 23 Commission appoint Bryanne Hamill as the chair for the
 24 New York Advisory Committee, as recommended by the
 25 staff director, with her appointment to begin

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1 immediately. Do I have a second for this motion?

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2 COMMISSIONER YAKI: Seconded by
3 Commissioner Yaki.

4 CHAIR LHAMON: I now open the floor for
5 discussion noting that the prior chair, Alexandra
6 Korry served the Advisory Committee for many years,
7 and we mourn her loss. Hearing no further discussion,
8 I'll call the question and take a roll call vote.

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9 Commissioner Adams, how do you vote?

10 COMMISSIONER ADAMS: Yes.

11 CHAIR LHAMON: Commissioner Adegbile?

12 COMMISSIONER ADEGBILE: Aye.

13 CHAIR LHAMON: Commissioner Gilchrist?

14 COMMISSIONER GILCHRIST: Aye.

15 CHAIR LHAMON: Commissioner Heriot?

16 COMMISSIONER HERIOT: Yes.

17 CHAIR LHAMON: Commissioner Kirsanow?

18 COMMISSIONER KIRSANOW: Yes.

19 CHAIR LHAMON: Commissioner Kladney?

20 COMMISSIONER KLADNEY: Yes.

21 CHAIR LHAMON: Commissioner Yaki?

22 COMMISSIONER YAKI: Aye, with condolences
23 to Ms. Korry's family.

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

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ARKANSAS ADVISORY COMMITTEE

CHAIR LHAMON: For our next agenda item to begin discussion, I move that the Commission appoint the following individuals to the Arkansas Advisory Committee based on the recommendation of the staff director: Robert Steinbuch, Nicholas Bronni, Holly Carmichael, Bridgette Frazier, Kandi Hughes, Paul Love, Robert Maranto, Cynthia Nance, Susana O' Daniel, Andres Rhodes, Danielle Weatherby, and Danielle Williams.

With this motion, the Commission will also appoint Robert Steinbuch as the chair of the Arkansas Advisory Committee. All of these members will serve as uncompensated government employees.

If the motion passes, the Commission will authorize the staff director or his designee to execute the appropriate paperwork for the appointments, which will begin after the current committee expires. Do I have a second for this motion?

COMMISSIONER KLADNEY: Kladney seconds.

CHAIR LHAMON: Thank you. I will now open the floor for discussion. Hearing none, I'll call the question and take the roll call vote. Commissioner Adams, how do you vote?

COMMISSIONER ADAMS: Yes.

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1 CHAIR LHAMON: Commissioner Adegbile?

2 COMMISSIONER ADEGBILE: Aye.

3 CHAIR LHAMON: Commissioner Gilchrist?

4 COMMISSIONER GILCHRIST: Aye.

5 CHAIR LHAMON: Commissioner Heriot?

6 COMMISSIONER HERIOT: I vote 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: Aye.

13 CHAIR LHAMON: I vote yes. The motion

14 passes unanimously.

15 COLORADO ADVISORY COMMITTEE

16 CHAIR LHAMON: For our next agenda item to
17 begin discussion, I move that the Commission appoint
18 the following individuals to the Colorado Advisory
19 Committee based on the recommendation of the staff
20 director: Alvina Earnhart, Christina Alonzo, William
21 Banta, Ming Hsu Chen, Darrell Jackson, Charles King,
22 David Kopel, Joseph Peters, Qiang Raleigh, Douglas
23 Spencer, William Trachman, and Aleta You.

24 With this motion, the Commission will also
25 appoint Alvina Earnhart as the chair of the Colorado

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

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3 If the motion passes, the Commission will
4 authorize the staff director or his designee to
5 execute the appropriate paperwork for the
6 appointments, which will begin after the current
7 committee expires. Do I have a second for this motion?

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8 COMMISSIONER KLADNEY: Kladney seconds.

9 CHAIR LHAMON: Thank you. I will open the
10 floor for discussion. Hearing none, I'll call the
11 question and take a roll call vote. Commissioner
12 Adams, how do you vote?

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13 COMMISSIONER ADAMS: No.

14 CHAIR LHAMON: Commissioner Adegbile?

15 COMMISSIONER ADEGBILE: Aye.

16 CHAIR LHAMON: Commissioner Gilchrist?

17 COMMISSIONER GILCHRIST: No.

18 CHAIR LHAMON: Commissioner Heriot?

19 COMMISSIONER HERIOT: No.

20 CHAIR LHAMON: Commissioner Kirsanow?

21 COMMISSIONER KIRSANOW: No.

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 fails, four Commissioners opposed, no Commissioner
 3 abstained, all others were in favor.

4 NORTH CAROLINA ADVISORY COMMITTEE

5 CHAIR LHAMON: For our next agenda item to
 6 begin discussion, I move that the Commission appoint
 7 the following individuals to the North Carolina
 8 Advisory Committee based on the recommendation of the
 9 staff director: Olga Wright, Daniel Bowes, Pearl
 10 Burris-Floyd, Travis Cook, Christopher Duggan, Marcus
 11 Gadson, Steven Greene, Jonathan Guze, Jennifer
 12 Lechner, Angelo Mathay, Donna Oldham, Catherine Reed,
 13 A. Mercedes Restucha-Klem, E. Gregory Wallace, and
 14 Bradley Young.

15 With this motion, the Commission will also
 16 appoint Olga Wright as the chair of the North Carolina
 17 Advisory Committee. All of these members will serve as
 18 uncompensated government employees.

19 If the motion passes, the Commission will
 20 authorize the staff director or his designee to
 21 execute the appropriate paperwork for the
 22 appointments, which will begin after the current
 23 committee expires. Do I have a second for this motion?

24 COMMISSIONER YAKI: Second, Commissioner
 25 Yaki.

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1 CHAIR LHAMON: I will open the floor for
2 discussion.

3 COMMISSIONER ADAMS: Commissioner Adams.

4 CHAIR LHAMON: Go ahead, Commissioner
5 Adams.

6 COMMISSIONER ADAMS: I will be voting no
7 on the slate. It is because it is not a balanced
8 slate. And hopefully it will become readily apparent
9 that for this Commission to get anything done, it's
10 going to need to reflect express wishes for balance.
11 And those express wishes were denied. And therefore I
12 will be voting no.

13 CHAIR LHAMON: I appreciate your
14 explanation for how you intend to vote on the record.
15 I think that it's incorrect that the committee is not
16 balanced, although obviously we can hold our own
17 views. But the staff worked hard to develop a
18 committee that is consistent with our administrative
19 instructions and that reflects ideological balance and
20 also diversity among a variety of types among the
21 committee.

22 And I appreciate the work that they did. I
23 appreciate the expertise of the proposed members of
24 this committee and believe that it is appropriately
25 balanced and in operation consistent with our

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1 administrative instruction. Any further discussion?
2 Hearing none, I'll call the question and
3 take a roll call vote. Commissioner Adams, how do you
4 vote?

5 COMMISSIONER ADAMS: No.

6 CHAIR LHAMON: Commissioner Adegbile?

7 COMMISSIONER ADEGBILE: Aye.

8 CHAIR LHAMON: Commissioner Gilchrist?

9 COMMISSIONER GILCHRIST: Gilchrist is
10 voting no.

11 CHAIR LHAMON: Commissioner Heriot?

12 COMMISSIONER HERIOT: I vote 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: I vote yes. The motion
20 fails, four Commissioners opposed, no Commissioner
21 abstained, all others were in favor.

22 F. MANAGEMENT AND OPERATIONS

23 STAFF DIRECTOR'S REPORT

24 CHAIR LHAMON: Staff Director Morales,
25 we'll now hear from you for the monthly Staff Director

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1 Report.

2 MR. MORALES: Thank you, Madam Chair. I
3 have nothing further to add. I did send an email out
4 earlier this morning, informing the Commissioners that
5 the Staff Director's Report as contained in their
6 folders is incomplete. I did not receive all the
7 sections from folks in time to add to the report.

8 I will supplement the report sometime next
9 week. I apologize for any inconvenience this may have
10 caused. It couldn't be helped. Nevertheless, I'm
11 always available to speak to any Commissioner about
12 anything contained in the Staff Director's Report.

13 With that, I have nothing further to add.
14 Thank you, Madam Chair.

15 III. ADJOURN MEETING

16 CHAIR LHAMON: Thank you, Mr. Staff
17 Director. And that concludes the business on the
18 agenda for today's business meeting. If there's
19 nothing further, I hereby adjourn the meeting at 1:18
20 p.m. Eastern Time. Thank you all.

21 (Whereupon, the above-entitled matter went
22 off the record at 1:18 p.m.)
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