

U.S. COMMISSION ON CIVIL RIGHTS

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TELEPHONIC BUSINESS MEETING

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FRIDAY, JULY 23, 2021

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

PRESENT:

NORMA CANTU, 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

DAVID GANZ, General Counsel

STAFF PRESENT:

DIANE CLEMENTS-BOYD, IN SAC

ALEC DUELL

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PAMELA DUNSTON, Chief, ASCD

ALEXES HARRIS, WA SAC

ALEXANDER HEIDEMAN

TINALOUISE MARTIN, Director, OM

JOHN MASHBURN

CARISSA MULDER

DAVID MUSSATT, Director, RPCU

AMY ROYCE

JUANA SILVERIO

THOMAS SIMUEL

IRENA VIDULOVIC

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P R O C E E D I N G S

12:00 p.m.

Operator: Good day, and welcome to the commission meeting for July 23rd, today's conference is being recorded. At this time I would like to turn the conference over to Chair Cantu. Please go ahead.

CHAIR CANTU: Welcome to the business meeting for the U.S. Commission on Civil Rights. The meeting comes to order at noon, Eastern Standard Time, on July 23rd, 2021. I am Chair Norma V Cantu, and we thank the staff who completed the public notice necessary for this meeting, and arranged for this public phone call. We also thank the general public for their interest in attending today. Due to respect for health, and safety, the commissioners are conducting this business meeting by phone conference.

I would like to start by confirming that each commissioner is online, and we'll take roll call. Please say present when I say your name. Commissioner Adams?

COMMISSIONER ADAMS: Present.

CHAIR CANTU: Commissioner Adegbile?

COMMISSIONER ADEGBILE: Present.

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CHAIR CANTU: Commissioner Gilchrist?

COMMISSIONER GILCHRIST: Present.

CHAIR CANTU: Commissioner Heriot?

COMMISSIONER HERIOT: I'm here.

CHAIR CANTU: Commissioner Kirsanow?

COMMISSIONER KIRSANOW: Here.

CHAIR CANTU: Commissioner Kladney?

COMMISSIONER KLADNEY: Here.

CHAIR CANTU: Commissioner Yaki?

COMMISSIONER YAKI: Present, and
accounted for.

CHAIR CANTU: And including me, based
on the response, a quorum of commissioners is
present. Is the court reporter here? Thank you.
Is the staff director present?

MR. MORALES: Present.

CHAIR CANTU: Thank you. The meeting
will now come to order.

I. APPROVAL OF AGENDA

CHAIR CANTU: I'll begin with noting
that the agenda has been published, our first item
would be to call for any amendments, and I've
already heard from Commissioner Kladney, that he

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would like to add an item, or two items I believe, one regarding a statement, and one regarding a special assistant, a special person. So Commissioner Kladney, I yield to you for your proposed items.

COMMISSIONER KLADNEY: Thank you Madam Chair. I move that we amend the agenda to consider a statement on the rise of antisemitism that occurred this last May in the United States. And I also ask for some time before we adjourn to speak about Amy Royce, who has been my special assistant for seven years, and will be leaving the commission at the end of the month sadly, sadly for me.

CHAIR CANTU: Thank you, sadly for all of us. So, let's take the first one, this is a proposal to amend the agenda to add an item discussed, and vote on a commission statement regarding antisemitism. Discussion?

COMMISSIONER YAKI: Second.

CHAIR CANTU: I hear a second, was that Commissioner Adegbile?

COMMISSIONER YAKI: No, it's Commissioner Yaki.

CHAIR CANTU: I apologize Commissioner, on the phone I am not good at this. Commissioner

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Yaki seconds the motion, now we can have discussion, thank you.

COMMISSIONER KLADNEY: I call the question Madam Chair.

CHAIR CANTU: Is that you Commissioner Kladney?

COMMISSIONER KLADNEY: Yes ma'am.

CHAIR CANTU: Who is calling the question?

COMMISSIONER KLADNEY: Kladney.

CHAIR CANTU: Thank you.

COMMISSIONER YAKI: Seconded by Commissioner Yaki.

CHAIR CANTU: Calling the question, let us vote, all in favor please say aye.

(Chorus of aye.)

CHAIR CANTU: Any opposed? Any abstaining? I also vote aye, it is approved unanimously with none opposed, none abstained. Thank you commissioner. Commissioner, would you like to save the item regarding Amy Royce toward later in the meeting, or are you ready now?

COMMISSIONER KLADNEY: No, I'd like to address it toward the end of the meeting, thank

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you.

CHAIR CANTU: Thank you sir. Any objections?

COMMISSIONER ADEGBILE: Madam Chair?

CHAIR CANTU: Yes?

COMMISSIONER ADEGBILE: I'm just asking whether, or not we're adding an item on that, or is it just a point of privilege? If we're amending the agenda, then we need to vote on that.

CHAIR CANTU: We're still on the topic of the agenda, I would treat that as a point of privilege, but I understand also that one of the commissioners wants to make a point of privilege regarding thanking staff, would that commissioner like to speak to that now?

COMMISSIONER KLADNEY: No Madam Chair, I'd like to do that toward the end of the meeting.

CHAIR CANTU: Thank you, we'll reserve that as well. We've had a terrific state of work in the last month, and I know that special congratulations, and appreciations are earned. Other administrative items, other additions to the agenda? All right, so motion to approve the agenda, all in favor?

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(Chorus of aye.)

CHAIR CANTU: I'm sorry, any opposed?
Any abstaining? The agenda is approved with the
additions for Commissioner Kladney, thank you.

II. BUSINESS MEETING

The order of the agenda has keeping some guests
on the line toward the end, and I'd like to address
these folks at the beginning, so bear with me if I
move out of order. We have some folk who have been
submitted to us concerning authorizing them as
members of the Iowa State Advisory Committee. It's
listed as Item D, but I am promoting them to top.

II.D. DISCUSSION AND VOTE ON ADVISORY COMMITTEE APPOINTMENTS

CHAIR CANTU: In that order, if they do
need to leave early, before the meeting is over,
then they most certainly can. What I'd like to
address in this item is, as you know, the
commission depends on advice from highly qualified
persons who serve in each of our 50 states, plus
the District of Columbia. So, I move to appoint
the following persons to serve as State Advisory
Committee members in the State of Iowa based on the
recommendations of the staff director, and thanks

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to the staff, and the commissioners who were involved in recruiting, and vetting, and coming up with this excellent list.

The names of these proposed appointees are Kyle Burgason, new appointee. Paul Fessler, new appointee. Katie Fiala, new appointee. Adam Freed, new appointee. Juan Garcia, returning appointee. Henry Hamilton, new appointee. Cynthia Koehler, returning appointee. Stefanie Munsterman-Scriven, new appointee. Alan Ostergren, new appointee. Donald Roth, new appointee. LaSheila Yates, new appointee. All of these individuals will serve as uncompensated government employees.

If the motion passes, the commission will authorize the staff director to execute the appropriate paperwork. Do I have a second for this motion regarding the Iowa Advisory Committee?

COMMISSIONER HERIOT: Second.

CHAIR CANTU: Thank you Commissioner Heriot. I'll open the floor for discussion. Thank you. So, unless there are other interventions on this point, I'm going to call to question, and take a roll call vote. Commissioner Adams, how do you vote?

COMMISSIONER ADAMS: Yes.

CHAIR CANTU: Commissioner Adegbile?

COMMISSIONER ADEGBILE: Aye.

CHAIR CANTU: Thank you. Commissioner
Gilchrist?

COMMISSIONER GILCHRIST: Yes.

CHAIR CANTU: Commissioner Heriot?

COMMISSIONER HERIOT: Yes.

CHAIR CANTU: Commissioner Kirsanow?

COMMISSIONER KIRSANOW: Yes.

CHAIR CANTU: Commissioner Kladney?

COMMISSIONER KLADNEY: Yes.

CHAIR CANTU: Commissioner Yaki?

COMMISSIONER YAKI: Aye.

CHAIR CANTU: And I vote yes, thank
you. The motion passes unanimously. So, turning
to our item, I'm staying with the administrative
ones, because these are going to move, I hope
quickly.

II.B. DISCUSSION AND VOTE TO CONFIRM

OCTOBER 22, 2021 AS FEMA FIELD

BRIEFING IN HOUSTON, TX

CHAIR CANTU: We have an item regarding
our scheduling for the FEMA field briefing in

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Houston Texas. The commission previously voted to conduct a field briefing in Houston, Texas, and we had scheduled it for November 19, 2020 as part of our statutory enforcement report investigations into FEMA's responses to Hurricanes Maria, and Harvey. To facilitate planning among the commission staff, and to space out the Puerto Rico field briefing scheduled for December 10th, I move to confirm the Houston field briefing date for October 22nd, 2021.

That date is already scheduled for a commission business meeting. Do I have a second for that motion?

COMMISSIONER ADAMS: Adams second.

CHAIR CANTU: Thank you Commissioner Adams. I'll open the floor for discussion. Just so you all will know, we still don't know if we will be having governance in person, so this, we're going to have to be flexible on that one. Any discussion? Okay, I guess I can call to question myself, and take a roll call vote. You all are remarkably helpful to me on these administrative, thank you. Commissioner Adams, how do you vote?

COMMISSIONER ADAMS: Yes.

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CHAIR CANTU: Commissioner Adegbile?

COMMISSIONER ADEGBILE: Aye.

CHAIR CANTU: Commissioner Gilchrist?

COMMISSIONER GILCHRIST: Yes.

CHAIR CANTU: Commissioner Heriot?

COMMISSIONER HERIOT: Yes.

CHAIR CANTU: Commissioner Kirsanow?

COMMISSIONER KIRSANOW: Yes.

CHAIR CANTU: Commissioner Kladney?

COMMISSIONER KLADNEY: Yes.

CHAIR CANTU: Commissioner Yaki?

Commissioner Yaki?

COMMISSIONER YAKI: Aye.

CHAIR CANTU: Thank you. And I vote
yes too, the motion passes unanimously.

II.C. DISCUSSION AND VOTE ON FISCAL
YEAR 2022 BUSINESS MEETING CALENDAR

CHAIR CANTU: The next administrative
item also deals with our meeting calendar, and it's
a discussion, and vote on our fiscal year 2022.
Those of you with agendas, that would be item C.
The meeting calendar dates for fiscal year 2022
were circulated in advance to the commissioners,
and to the staff, and I move to adopt the following

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dates for our commission business meetings. These are all Fridays in 2022.

January 14, February 18, March 11, April 8, May 13, June 24, July 22, August 19, September 16, November 18, December 9.

COMMISSIONER KLADNEY: Is there one for October.

CHAIR CANTU: I don't have one for October. Can I check in with our Staff Director? Did I have a typo? Do we have a typo for October?

Mauro Morales: Let me check the list in our staff folder.

COMMISSIONER KLADNEY: Madam Chair, I did not hear the dates after August, you broke up.

CHAIR CANTU: I apologize, that was my little sister calling me. August 19, September 16, November 18, and December 9.

COMMISSIONER KLADNEY: Is there one for October?

CHAIR CANTU: I don't have one for October on this. Can I check in with our staff director? Mauro, did I have a typo? And you didn't type it, I did it, so do you have a typo for October?

MR. MORALES: We do, hold on, let me double check the calendar list in the commissioner's folder.

CHAIR CANTU: I have that too, I wrote it down.

MR. MORALES: Let's see, it was circulated to commissioners, and to your.

CHAIR CANTU: I know you sent it to us.

MR. MORALES: Not in the folder, I did, I need to find it now.

CHAIR CANTU: Wait a minute, I think I got it. I have October 16, no, October 14. Yeah, I have October 14. Can't read my own writing gentlemen, and ladies. So, do I have a second? Thank you for that catch.

COMMISSIONER ADEGBILE: Madam Chair, is October 14 a Friday?

CHAIR CANTU: For 2022? Yes. Okay, we have a yes.

COMMISSIONER ADEGBILE: Thank you.

CHAIR CANTU: Any other discussion? Call to question. Should I go through the dates again, are we okay?

COMMISSIONER ADEGBILE: Second.

CHAIR CANTU: Which Commissioner is that?

COMMISSIONER ADEGBILE: Adegbile.

CHAIR CANTU: Thank you, we have a second. Any further discussion? All right, let's call a question to it. All in favor of the schedule read for business meetings for the commission for 2022 say aye.

(Chorus of aye.)

CHAIR CANTU: Any no's, or nay? Any abstention? And I vote aye, so the motion passes unanimously. All right, the next item after our business calendar, while I was searching for this I moved it.

II.A. DISCUSSION AND VOTE ON FINDINGS
AND RECOMMENDATIONS FOR THE DISPARITIES
IN MATERNAL HEALTH

CHAIR CANTU: We're back to Item A, which is the discussion, and vote on the recommendations, and findings on the maternal health report. And I apologize, but I have just now moved -- there it is. Okay, the commission approved the final report by notational vote. This meeting we're going to discuss findings, and

recommendations which will accompany the report, and I'm going to open the floor for discussion, but first let's have someone make a motion, so that we can follow the procedure.

Is there a motion to approve the proposed findings, and recommendations that would accompany the final report, which we've already voted by notation?

COMMISSIONER ADEGBILE: So moved.

CHAIR CANTU: Is that, please help me out.

COMMISSIONER ADEGBILE: That's Commissioner Adegbile.

CHAIR CANTU: Thank you.

COMMISSIONER YAKI: Seconded by Commissioner Yaki, so maybe Debo, and I can speak next to each other, so that you can figure out how very different our very different our voices are. So, it's seconded by Commissioner Yaki.

CHAIR CANTU: I wish I was as optimistic as you are about my discernment of -- I'm going to open the floor for discussion, and I'm going to, try to help me out folks. If Commissioner Adegbile, you could talk first, and then Commissioner Yaki?

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COMMISSIONER HERIOT: Madam Chair?

CHAIR CANTU: Yes.

COMMISSIONER HERIOT: I'd like to speak as well.

CHAIR CANTU: Thank you, so we have a queue, thank you.

COMMISSIONER ADEGBILE: Thank you Madam Chair. I just wanted to begin by taking this opportunity, which we didn't have when our meeting was scheduled suddenly. But importantly, on account of the new federal Juneteenth holiday, which is what necessitated the notational vote on the report, and delayed the vote that we're about to take on these findings, and recs, but I just wanted to thank this opportunity to thank my fellow commissioners for voting to approve the report language, and for all of their work, and their judgment to take up this important topic to contribute to the national conversation about racial disparities in maternal healthcare.

I also wanted to thank, again, because we didn't have an opportunity on account of our canceled meeting, to thank the staff, and

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particularly the Office of Civil Rights and Evaluation, and Dr. Merrick Briar, and Nick McBayer who did extraordinary work in helping this report come to fruition. The Office of the General Counsel, and David Ganz, and Laura McLoughlin, and Cheryl Cozart. And the Office of Management, and Tina Louise Martin, and Pam Dunston, and of course always thanks to Mauro Morales, who oversees our staff ably.

I really appreciate all of the work that each of you did in bringing this to fruition. These reports are a lot of work, but they're important, they're our principal contribution to civil rights in the nation, and I'm grateful for it, and I owe a special thanks to my special assistant, Irena Vidulovic, who worked tirelessly from the time of the proposal for this topic, all the way through the vote on this report, and that work continues even today. So, many thanks to each of you.

We began this journey, as you'll recall, in 2019 when we took the vote to investigate this topic, and conduct this report, and the year prior to the commission taking up this

project was a time in which the country began to take up these issues in a more focused way, and the country, and the leadership in Washington, and the president signed into law the Preventing Maternal Deaths Act of 2018. On the heels of that legislation -- forgive me for the pandemic intrusion of the noise in the background -- on the heels of that new legislation, we decided to take this up, to try to and contribute to the dialogue.

And I think our report does make important contributions, including some good work, and input from various commissioners, not the least of which was Commissioner Gilchrist, who has some important experience in this area that predates his service on the Commission on Civil Rights. So, this is an important contribution in my judgement, and I thank all of the commissioners for their work in advancing it. Turning, if I can, to the subject of the findings, and recs, and here I will be brief.

The reality is that there are very substantial disparities in maternal morbidity rate, and in infant death rates that we should not tolerate as The United States of America. Sadly,

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while other so called developed countries have these rates decreasing, ours is going in the other direction, and that's very troubling. In fact as we understand it, women giving birth in the U.S. today are (telephonic interference) is more than twice as likely to die in a pregnancy related death than her own mother was, as the report observes in various places.

And the overall rate of severe maternal mortality has not improved in nearly 30 years, which is an issue of tremendous concern, we heard a lot of testimony on that. Maternal health disparities have been the focus of bipartisan efforts to address, and try to begin to push back on these intolerable disparities. I've already mentioned that in 2018 the president signed federal legislation, the purpose of which was to eliminate disparities in maternal health outcomes for pregnancy related, and pregnancy associated deaths, and a multitude of variables impact the likelihood of a pregnancy related death.

And the report talks about the various contributing factors in some detail, but what is noteworthy is that even when you control for many

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factors, what we see is that black, and Native American women have consistently dramatically higher rates of pregnancy related deaths than white women, and that trend is one that sort of calls out the need for this work. The disparities that exist in these areas, and in the areas of health outcomes consider various things. Geography is an issue, low resources, there are lots of challenges that contribute to access to healthcare, and the like.

But what the report finds is that even when you isolate these things, race is a troubling factor. We note however that we need better data on these things in order to track the problem. There is enough information that we can discern that there is a problem, but more comprehensive data, as the report notes, would help us identify it with greater particularity, and be able to answer it more effectively. We have seen some efforts that seek to address this, and a project of the CDC, and state health departments, which is known as the Pregnancy Risk Assessment Monitoring System is one way to capture this data, and we think that it deserves greater focus.

But issues of access, the absence of

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prenatal care, or equal access to prenatal care, and to maternal fetal specialists are issues. The postpartum period is under recognized as an important temporal window in which we can, and need to do more if we're to attack this problem. Focusing on the disparity in rural America is an issue that deserves greater attention, and as a trend that goes through many of our reports over my years on the commission, and that predate me, we need to bring special attention to what is happening to our Native American families, which suffer terrible disparities in these areas.

And it is perhaps no coincidence that that population is over concentrated in some of the rural areas that have poor statistics in this area. We'd like to say that federal Medicaid insurance is the source of payment for a staggering number of all births in the United States, 42.3 percent, and that Medicaid is a significant source of healthcare coverage for many Americans, including people of color, black Americans, Native Americans, Latinx individuals, and 32 percent of both black, and Native Americans, and 30 percent of Latinx people are insured by Medicaid.

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There are many states that have not expanded Medicaid, and we've learned that many women, particularly women of color, are therefore left in what is known as a coverage gap, which we have identified as a problem in tackling this issue. I will close by saying these problems are serious, they're hard, they're multifaceted, but they are not irremediable. We can do something to act, and the recommendations set out in the draft which we shared point to a number of different things, some of which go to data, and consistent terms, so that we know what we're talking about, and can focus on these issues.

The CDC notes that 60 percent of these maternal mortalities are preventable, and improved accuracy, and reporting data can help that. Making sure the PRAMS system that I described is resourced, and can cover 100 percent of all verse would be helpful, and there are a number of other data reporting recommendations that we make. Adopting culturally congruent maternal healthcare is another one, and thinking about all of the issues that make us more attuned to differences, and make sure that we are being driven by science, and not bias, or assumptions.

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And the practices of having maternal checkups prior to the standard six week infant checkup, and continuing maternal focus checkups for at least a year postpartum is important. We've seen some good things happening in places like North Carolina, and the proposed recommendations suggest that that should be taken up more broadly, and there is a recommendation that Medicaid be expanded to anyone who is under 133 percent of the federal poverty level throughout the states.

We can take additional steps to eliminate racial disparities in maternal healthcare, and a country that aspires toward equality, and a country that was unable to take the vote as scheduled, in part because we are still working through our history of racial discrimination, and the wake of slavery, and everything that followed should focus on the continuing ramifications of our very complex, and troubling history in areas of race, and protecting the lives of our citizens is certainly one good way to do it. Thank you Madam Chair.

CHAIR CANTU: Thank you Commissioner Adegbile. Commissioner Yaki please.

COMMISSIONER YAKI: Thank you very much Madam Chair. I want to thank Commissioner Adegbile for his leadership on this extremely important topic. I'm not going to repeat anything that he has said, because he's covered everything that I think is critical, I just wanted to note a couple things. One, this has been an issue that I've been aware of for quite some time. We had many early projects, probably 15, 20 years ago about the prevalence of blindness in back babies, and the disparities there, and how it related to issues of prenatal care for their mothers.

And now what we're seeing in my view is the result of, for a lack of a better word, structural racism in our healthcare system. And I don't think it needs us to belabor the point that it should take more than a celebrity like Serena Williams to point out that black women are treated differently in the maternity ward than others in terms of being listened to, and recognized as custodians of their own care, and advocates for their own care.

But the statistics simply bear out what this report talks about, we have the highest

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maternal mortality rate among developed nations. We have one of the highest infant mortality rates, and when it comes to black babies, it's nearly over twice that of white. This is something that needs to be looked at carefully, and needs to be addressed strongly. This report opens that door, and in fact I think kicks it wide open, and is something that we as a commission should be proud of.

But we can only be proud of it if continued efforts, as Commissioner Adebile says, are continued in terms of the kind of research data, and for my part, training, and awareness in our medical system to ensure that we are listening correctly. That we are not viewing it through an implicit, or explicit lens of bias so that we are disadvantaging, and killing black, and brown women who come in, entrusting in good care of themselves, and their babies to our medical system. So, I want to thank the staff for their good work on this. And again, thank Commissioner Adebile for his leadership.

CHAIR CANTU: Thank you Commissioner Yaki. Commissioner Heriot please proceed.

COMMISSIONER HERIOT: Thank you. This is indeed a very important topic, I am glad that the commission has taken up this topic, and I have no problem with Commissioner Adegbile, and Commissioner Yaki wanting to put on the record, something about the issue. We did not get a chance to meet on Juneteenth, but I think it's too late for the commission to be adopting these findings, and recommendations, and that would be true, regardless of what they say.

Back in June, I agreed, and the other conservative commissioners agreed that we would start the clock ticking on commissioner statements even before the commission had actually adopted the report, because we wanted to move things along, we want this to be ready when it needs to be ready at the end of September. And so that's why we agreed to that, and we later voted by notational vote to adopt the report, and we have now filed our statements.

Those statements would ordinarily address findings, and recommendations with which the commissioners might disagree, and at this point it is too late to do that unless we open up the

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statements again for another period of time, and I don't think we want to do that. I think we want to move ahead. I had thought at the time that we agreed that we would start the clock ticking even before the report was put through, that there would be a notational vote on the report, and there was, and that there would be a notational vote on the findings, and recommendations, which never happened.

I had assumed that the reason they never happened was that Commissioner Adegbile understood that they would not pass, and therefore thought well why take the time to do it. I did respond in my statement to two of the proposed findings, and recommendations, and as you can see, I'm not making this argument up now, in that statement I wrote that, what I thought was true at the time. And that was since those proposals would not have passed, that they weren't proposed. So, I think it is way too late to be bringing this up now.

We really do want to get this show on the road, we do want this report to be published on time, and I think in the spirit of cooperation, we

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are a four-four commission now. We have four people who I think would classify themselves as progressives, and four who I think would classify themselves as conservatives, or something like that. And yet we've been able to get some things done. We've gotten this report agreed to. We had agreed to a fast schedule in the belief that this was what was needed to get things going, and in the belief that the other side was going to be cooperating with us.

In this very meeting we've been able to cooperate on the IOWA SAC, and all that's really good. But then to adopt findings, and recommendations after the commissioner statements have already been completed, to me that's bad faith, and so I really don't want to see that. On the substance of the findings, and recommendations specifically, I think Commissioner Adegbile misspoke just a minute ago when he said that it was his understanding that the chances that a young mother would die in connection with her pregnancy in childbirth is twice what it was in her mother's time.

I think he meant to say 50 percent

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higher, that's what the findings, and recommendations actually say, but even that is clearly incorrect. The numbers that we see published in statistics do show an increase, but as far as I know, everyone who is familiar with statistics agree that this is very largely the result of how those numbers are collected. Our report talks about the check boxes which the federal government proposed in the early 2000s that required the doctor who was signing the death certificate to determine was the decedent pregnant at the time.

Or has the decedent been pregnant, I can't remember the exact number of days, I think it's in 42 days or less, and then a year or less. Those check boxes have goaded those physicians to check into that matter, and to refer the issue of whether or not a death is pregnancy related ordinarily to people who have some particular expertise in that, and that is what has caused the numbers to look so much worse now than they did 20, 25 years ago.

One can argue about whether that's 100 percent of the difference, 95 percent of the

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difference, but I don't think anybody claims that it's anything other than a very large hunk of the difference. So it's important that we don't pass findings, and recommendations that will make the commission make look like they are unaware of what's happening. I should add as a footnote, states are in charge of their death certificates. So, they adopted this practice one by one essentially, and you can see the numbers tick up as the states adopt check boxes, there's a pretty clear causal connection there.

As for the notion that racial disparities, and we're the commission on civil rights, that's what we are concerned with, of course, but as for the notion that this is caused by racism, I mean the best I can say right now, and I'm going to read the statement that I've drafted, but I think the easiest point to make right now is that for example maternal mortality rates for Hispanics are actually lower than they are for whites. So, it's a much more complex picture than the notion that this is due to racism.

And in all likelihood, as I explained in my statement, the rates for Asian American

mothers are even lower than the rates for Hispanic mothers. So, there's a very complex picture going on here, and it's something that we really do need to investigate, and understand. But to hang it all on structural racism, I think that's a mistake, and I think it's the kind of mistake that is going to make things worse, rather than better. We really need to think about the real causes behind maternal mortality.

And as I explained in my statement, there are a lot of them, and I suspect there are certainly some that I don't know about, and maybe some that even medical science doesn't understand right now. But to view this as a product of structural racism I think is a big mistake. I intend to vote no on the findings, and recommendations, and moreover, the fact that we're even voting on these makes me worried about our ability to cooperate.

COMMISSIONER ADEGBILE: Madam Chair,
Mr. Adebile.

CHAIR CANTU: Yes please, please
proceed.

COMMISSIONER ADEGBILE: Thank you.

I've listened carefully to Commissioner Heriot's statement, and really I guess it's really happening in two parts, it touches two things. One is a process point, and then the other is debating some of the points that are covered in the report that was dully passed by a majority of the voting members of the commission, which also represents bipartisanship that Commissioner Heriot extolls, let me take them in order.

With respect to the first point, as I said when I thanked all of the people at the commission that helped make this report possible, the vote, the scheduled, and anticipated vote on this report, and findings, and recs was canceled due to an unprecedented event in the history of The United States of America, which was a rapidly, and perhaps unforeseeable federal holiday that occurred on the date of the vote.

And that required us to recalibrate in certain ways, and to figure out how we could honor the vote, which as I have noted, is a vote which is part of America recognizing the claims of history, and racism, and slavery as part of our own history. That's the whole point of that holiday, and news

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that the slaves have been freed, and when it arrived, and traveled to people in Texas, that's the genesis of the Juneteenth holiday, and so we had to follow federal law, and observe the holiday, and that caused us to recalibrate.

And we did work in bipartisan fashion to proceed with a notational vote. The interesting point that Commissioner Heriot has chosen to leave out, as she accuses people of bad faith, is that those members of the commission who she characterizes as conservative, or something like that I believe is what she said, preferred to proceed on notational vote with the substance of the report, but not with the findings, and recommendation.

And so it was that preference that introduced different schedules between a vote on the substance of the report, and the findings, and recs that we're voting on today. It was that preference not to, notwithstanding the holiday, that none of us had any ability to foresee, or anticipate that separated the vote, and effected the timing on these issues. And Commissioner Heriot is quite right, there was cooperation to

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take the notational vote, and I think that the reason that there was cooperation on that is because this is what we call our statutory enforcement report.

We have a statutory duty to deliver the statutory enforcement report in a specific time frame as part of our duty, and charge as an agency. So, there was cooperation from commissioners to allow us to discharge what is our duty under law, and I appreciate, and began by thanking everybody for their contributions to that vote. But this make weight issue of elevating the timing, and the nature of statements over the vote on the findings, and recs seems to me to be disingenuous.

And to accuse me, and, or any other members of the commission of bad faith on account of the clear factual record of the occasion of the federal holiday that popped up on the day of the vote is to me, something that is beneath all of us. Not just Commissioner Heriot, but beneath all of us to accuse us of bad faith on account of that sequence, which are not contestable. The holiday affecting the vote on this report, and the findings, those are facts.

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And so I appreciate Commissioner Heriot's views about how her statement might have been different, I appreciate that she wrote her statement with certain assumptions, but I never said to anybody, nor did I ever intend that there would be no vote on findings, and recs, we always have votes on findings, and recs when we have reports. Now, a vote on the findings, and recs does not dictate whether, or not they will pass. Sometimes they pass, sometimes they don't. But the idea was not to lose the opportunity for this commission to take what we have studied in the report, and suggest some ways to address it.

One small point on the substance, because I don't want to litigate the report here, the report can speak for itself, as can the testimony of the many witnesses, and experts who came before us, but there is one point that I find particularly troubling in the substantive critique of the report, and that is the notion that Commissioner Heriot seems to be suggesting, that if some groups are not suffering from the same level of disparity, that some racially identified, racial minorities are not suffering from precisely the same statistical disparities that somehow it casts

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doubt on whether there is discrimination affecting others.

And that to me is not logically sensible, and it's certainly not sensible in the history of The United States. There are of course different ways that discrimination manifests itself against different groups, but never do we say that because one group is particularly victimized, and suffering from discrimination, that it mitigates, or disproves that another group is suffering from discrimination.

And so the idea that we would have to find equal patterns of discrimination for every racial minority group in order to have race be part of the explanation of the disparity that black people face, particularly in this nation in light of the history of what black people have faced, and the degradation that black people have faced, and the way in which black people's reproductive systems, and freedom could be determining of those choices in the history of The United States is ridiculous to me, and contrary to the lived experience of those of us who pay attention to history in The United States of America.

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And so I respect Commissioner Heriot, I know that Commissioner Heriot is somebody who tries to discharge her duty to the commission in a thoughtful way, but to accuse any of the members of this commission of proceeding in bad faith because we were trying, after a spontaneously occurring federal holiday to conduct the statutorily assigned business of the commission is beneath us.

COMMISSIONER HERIOT: Madam Chair.

CHAIR CANTU: If your response could be, this would be like a surrebuttal, I will give you one minute for surrebuttal, because I'm afraid I'm going to lose some speakers from the next panel. So one minute please commissioner.

COMMISSIONER HERIOT: Okay. The notion that because the meeting on Juneteenth was canceled, it was impossible to engage in a vote on the findings, and recommendations, the whole premise of our conversation is that because we all agree that meeting was canceled, we did the report vote as a notational vote. The findings, and recommendations should have been done as a notational vote at the same time. Any notion that I had prevented Commissioner Adegbile from

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presenting these things as a notational vote is utter nonsense.

And that's the whole point, all of this could have been taken care of. Our point was to take care of it, we started the clock ticking a little bit early so that we would get this done, and now more than a month later there are, we want an insertion into the report of stuff that we have not had the opportunity to rebut in our statements. So, I stand by everything I said in my initial point. On the notion that it is not possible for the fact that Hispanics actually have a lower maternal mortality rate, that somehow it's outrageous to suggest that that doesn't mean that African American mothers are being discriminated against, it doesn't necessarily mean that, nor do I ever claim that.

But we don't have anything other than racial disparities to show that discrimination. In fact Commissioner Kirsanow, and he may want to comment on this himself, asked witnesses whether they had any occasions they can point to as showing discrimination on the basis of race. We have a lot of evidence that maternal mortality is a problem

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because of various health issues for which there are racial disparities.

It is a fact that diabetes is more common in African Americans than it is in whites. It is also a fact that it is less common in Asian Americans than it is in whites. And you see lined up pretty well many of these various health problems that I think are a much better explanation for why maternal mortality is higher in African Americans than it is in whites, and lower in Hispanics, and most probably in Asian Americans, but not in Pacific Islanders. So --

(Simultaneous speaking.)

CHAIR CANTU: I hear you, I'm going to have to --

(Simultaneous speaking.)

COMMISSIONER KLADNEY: Madam Chair, Madam Chair, Commissioner Kladney here, can we continue this after the next item on the agenda?

CHAIR CANTU: Yes. Let us, we've scheduled some panelists, and this is really important, and thank you, that is an elegant answer. We're going to take the next item up, and we're going to come back to this when we've heard

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from our two presentations. So, could we then please note what you're going to say, because I'm going to keep a queue, and allow everyone to have a voice on this.

The reason we have these business meetings by the way, and the reason we have the process where agendas can be amended at the meeting itself is because we don't give up, we continue to work on a problem, and continue to try to resolve it, and that's exactly what I would like for us to try to do today. And if at the end of this, we can't get the findings approved, it will not be because we didn't give everyone a voice today.

So, speaking of giving them the voice, the next presentation will be from the Washington State Advisory Committee, and I apologize to the committee members that we didn't start as early as we could, but you can see how interested everyone is about the business, and we're very interested on your report.

II.E. PRESENTATIONS FROM ADVISORY COMMITTEES
TO THE COMMISSION ON RECENT REPORTS/MEMOS

CHAIR CANTU: Folk in the Washington State Advisory Committee have prepared a memorandum

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called voting rights, and felony convictions, and I'd like to hear from that panel.

MS. HARRIS: Hi, my name is Alexes Harris, is this the appropriate time for me to do the quick presentation?

CHAIR CANTU: Please, thank you, please do, we're looking forward to you.

MS. HARRIS: Great, thank you, and actually I'm excited to be here, and to listen to this conversation, it's neat to see how engaged people are about these really serious issues. Our report from Washington last year was on voting rights, and felony convictions. And just to sort of start it off, for our hearing, we had Professor Chris Yugen at the University of Minnesota provide sort of a national landscape of voting rights.

And he explained to our committee that as of 2020, there's an estimated 5.17 million people disenfranchised due to felony convictions, meaning over 5 million people in The United States who otherwise would have been eligible to vote were not eligible. That was one out of 44 adults, so just under three percent of the total U.S. voting eligible population is disenfranchised. And in

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terms of racial disparity, one in 16 African Americans is disenfranchised, about six percent of the adult African American population that is eligible to vote.

So, we began our hearing by setting the depth of the problem, and in particular, highlighting racial disproportionality. Several of the people that we had testify focus on the historical felon disenfranchisement laws, and highlighted how they were intended to limit the voting rights of people of color, specifically black populations following the passage of the 15th Amendment.

The folks who testified also spoke to the restrictions on voting for people with felony convictions have a disparate impact on people of color, particularly African Americans. Within Washington, many people testified that there's a great deal of misinformation about when voting rights are restored. So, there's one problem, a major barrier for voting for individuals is that they just don't know whether, or not they're eligible, and out of fear of conviction, further conviction, they decide not to vote.

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Many of the folks who testified said that restricting voting rights on individuals who were on community supervision after release from prison can create additional challenges. So, at the time of our hearing in Washington, the right to vote was automatically restored once someone was released from the Department of Corrections supervision, so off of probation, but there was still a lot of misinformation about those rules.

Other panelists suggested that the consequences for wrongfully voting because of a felony conviction were severe, and could even result in incarceration, and the misalignment of the consequences, and the offense had a deterrent effect for engaging in the voting process. I'll just sort of speed up. Specific to Washington, folks talked about the racial impact of the voting restrictions, we found this to be true both historically, and in the current racial disparities of today.

The restrictions were confusing, and unclear. One main finding was that there was no criminogenic evidence to support restricting people's right to vote, and one key recommendation

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within Washington State was that we recommended to the Washington State legislature to automatically restore voting rights after incarceration. So, even when someone is on supervision, once they are out of Department of Corrections facilities, that they would have the right to vote.

And a very exciting turn, and effective January 1, 2022, if you were convicted of a felony in Washington State, or in another state, or in federal court, your right to vote will now be restored automatically as long as you're not currently serving a DOC sentence in consignment. This is even for folks who owe legal financial obligations, or fines, and fees, as long as they're regularly making payments they will have the right to vote.

Another key recommendation, and particularly now it's salient after the change in law post our hearing, and the finishing of this advisory memorandum, was that the Department of Corrections in Washington State worked with the secretary of state's election office to provide a public education campaign focused on the voting rights of people with a felony record, and really

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making sure that they notify, and educate individuals who are affected by the change in the Washington felony voting restriction.

And then in regards to the USCCR, our recommendation was to submit the advisory memorandum to the USDOJ to uphold the requirements of the Voting Rights Act in its entirety, and strengthen your enforcement of protections against discrimination based on race regardless of discriminatory intent. And second, the advisory memorandum should be sent to Congress to pass, and the president to sign legislation to one, restore the Voting Rights Act to its original intent, and strengthen its protections of voting rights for all Americans.

And two, to expand the voting rights for individuals with felony convictions released from incarceration in all federal elections. Again, I just want to thank Brook Perry, and Heleca Trivina, who were our federal appointed staff members, who helped a great deal in setting up the hearings, and then producing the sign off report.

CHAIR CANTU: Thank you Chair Harris.

Do any of the commissioners have questions for

Chair Harris?

COMMISSIONER ADAMS: Adams Madam Chair.

CHAIR CANTU: Yes, I recognize you commissioner, please ask your question.

COMMISSIONER ADAMS: Thank you much for your presentation. Did your examination explore whether or not those convicted of felony voter fraud, or election crimes should automatically have their right to vote restored after incarceration?

MS. HARRIS: We did not explore that. We actually engaged with the State Elections Commission to try, and get numbers, and they were unable to produce, they said that the numbers were very, very small, of people who may have engaged in some sort of inappropriate voting. But we did not, no one raised that issue.

COMMISSIONER ADAMS: And to be clear, my question wasn't just confined to inappropriate voting, it included election crimes such as intimidating voters, polling place disturbances.

MS. HARRIS: Definitely, I mean there was one recommendation that we, to the state officials to ensure that people would not be intimidated to vote, and so, like the people who

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had felonies, we wanted to make sure that they felt welcome to exercise their rights.

COMMISSIONER ADAMS: Well let me try a third time. What I'm asking is did you examine whether or not people who were convicted of election crimes including intimidation should have their right to vote automatically restored?

MS. HARRIS: No, we did not.

COMMISSIONER ADAMS: That's all, thank you.

COMMISSIONER GILCHRIST: Madam Chair?

CHAIR CANTU: Yes please.

COMMISSIONER GILCHRIST: Gilchrist here.

CHAIR CANTU: Yes commissioner, please proceed.

COMMISSIONER GILCHRIST: I just had a quick question for the presenter, thank you so much for your comments. I read in the report that you all invited several groups who were opposed to felony convictions, and apparently they did not show, is that right?

MS. HARRIS: That's correct.

COMMISSIONER GILCHRIST: So what

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strategies do you think, or efforts need to be in place to ensure that folk who have felt opposition to that are able to at least have their voices heard in the process?

MS. HARRIS: We think that's really important, and actually what we did was, in 2019, 2020 legislation in Washington State, there was a bill that was submitted for, regarding voting rights changes for felons, and that did not pass. And so what we did was we looked at the people who testified against the bill, and we reached out to them to see if they would testify at our hearing, and they declined.

So, I'm not certain, they're testifying at the state level regarding legislation, but we were not able to, for some reason, to have them present at our hearing, but we did explore their reasoning, and we have a footnote, I can't give it to you right now, but there was a footnote linking to the public debate in the report.

COMMISSIONER GILCHRIST: So, you guys felt like those were adequate efforts to try, and include their participation?

MS. HARRIS: We did. And if you heard

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of other ways to try, and include people's participation, I'd be happy to hear them, we can try them for future hearings.

COMMISSIONER GILCHRIST: Welcome the opportunity to follow up with you on that for sure.

MS. HARRIS: Thank you.

CHAIR CANTU: Any other commissioner's questions? Chair Harris, we thank you very much, this has been enlightening, and please continue your endeavors. I'm impressed with how inclusive you've been, and I'm impressed that you've taken up this important topic.

MS. HARRIS: Great, thank you so much for your time.

CHAIR CANTU: So, if we have no further questions, let's move on to the next item, and that would be the presentation by the Indiana State Advisory Committee Chair, and we'll hear from Diane Clements-Boyd who is the committee chair on their released report, Environmental Injustice Lead Poisoning in Indiana.

MS. CLEMENTS-BOYD: Thank you, and good afternoon. Thank you Chair Cantu for the opportunity to share some key findings, and

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recommendations of the report. Again, we did take up this issue in 2019, we held virtual briefings, and we also held one of them, an in person briefing in Evansville, Indiana, and there was one held in Indianapolis. So, the report did cover a number of different issues, and I'm going to try, and parse this out, because there are so many different, I guess prongs to this report.

But initially the Indiana Advisory Committee was interested in studying the impact of lead poisoning in children of color after learning that Indiana was not following the CDC's recommended policy of testing for blood lead contamination at five micrograms per deciliter, but continues to test at the higher threshold of ten micrograms per deciliter, which consequently resulted in fewer children being tested, and services being provided to these children.

And moreover, the CDC provides that the Indiana State Department of Health with federal grand funding, and still Indiana did not test at the lower threshold, and this was reported to result in fewer than 40 percent of children that were required to be tested under the grant actually

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being tested. It was also noted that Indiana also does not have a universal blood level testing policy, but Indiana children that receive Medicaid are required to have their blood tested for lead poisoning at 12, and 24 months.

But still, Indiana tests less than 40 percent of the Medicaid recipients resulting in a disproportionate number of children of color being tested, and consequently not receiving the wrap around services afforded to lead exposed children. So initially the recommendation was to make testing the focus of the report. However after considerable discussion on the issue, the committee decided to take a more comprehensive macro level approach to lead poisoning, and its effects in communities of color.

The committee came to the conclusion that there was no one cause of lead poisoning in Indiana, but the issue was quite nuanced, and there were a number of contributing factors to consider, and parse out. However the testimony revealed that there are really three key things that I would like to list, and number one is lead poisoning in Indiana disproportionately affects communities of

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color. And two, federal government agencies did not respond to lead contamination, and policy issues that resulted in disproportionate numbers of lead infected children, or coordinate in a fashion to address lead poisoning, and communities of color.

And lastly there was no investment, or state funding to address lead poisoning contributing to a serious physical impact. Again, the report is really heavy on talking about the dangers of lead. I think that we wanted to make sure that our readers understood the impact of lead, and of course I'm sure most people know that, but so we did go into some great detail on the medical impact of lead. That there is really no safe level of lead in the blood of a child.

It affects the speech, ability to control behavior, ability to assess difficult situations, resulting in low IQ, and possibly progressing throughout adulthood. And of course children struggle more in school, have issues in the work place, and earn less across their learning years. The study showed that lead poisoned individuals also drop out of school, are seven

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times more likely to drop out of school, and six times more likely to enter the criminal justice system, contributing to the school to prison pipeline.

But I will focus just a bit on the West Calumet Housing Complex located in East Chicago that also did shine a light on the issue of racial segregation in housing. It was really troubling to hear that testimony, and it was perhaps the most extreme, egregious example of lead contamination in Indiana. It was documented in the report that the housing development was built on contaminated land, namely the Anaconda Lead and International Refining Company.

Also in that area right across the street was the USS Lead Refinery Plant, a subsidiary of the United States Smelting Refining and Mining Company. So these combined companies were operating on this land from 1910 to 1985. So, despite knowing the harmful effects of lead, the West Calumet Housing Complex was built on this former Anaconda Lead Refinery in 1972.

So, although it was known by the East Chicago Redevelopment Commission going back to 1959

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that the suitable for higher cost residential homes, or residential housing, the East Chicago Housing Authority made a decision to locate public housing at this site with the understanding that most of the residents would be people of color. The housing development was not declared a superfund site until 2016, and at that time 1100 households were given 60 to 90 days to vacate their homes.

Again, at the time, the housing development was located on a census track that was one of the highest poverty rates in the area, and was 97.2 percent black. So, just to give you some more context, the EPA designated East Chicago as an environmental justice community, and which after hearing all the testimony, and hearing the historical context wasn't surprising that communities of color have a history of being impacted by industrial contamination.

We received a lot of testimony from the NAACP that intervened in that matter, and the NAACP testified that the EPA was aware of lead contamination since the 80s, but delayed that cleanup for decades. Due to a testing flaw that

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looped the residents of the housing complex from residents from East Chicago in general, so the problem wasn't addressed due to that flaw.

Testimony also revealed that ongoing discrimination in Indiana housing narrows housing options for people of color across income.

And poor children, and communities of color are more likely to be exposed in their homes because (telephonic interference) live in poorly maintained, older housing. It was also noted, systemic issues such as despite the prevalence of older housing stock across Indiana, there was no systemic testing of these homes, or rental registry of these homes that indicate whether the resident had been inspected for lead, or abated.

So home inspections, and potential abatements only occurs when a child tests positive for the lead poisoning, just a really serious implication of a systemic issue. One of the other findings is that the federal agencies provided no coordinated response, but tended to work in silos was another finding. So, just some important gaps were that some of the key players did not participate in the hearings.

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We did not have participation from the Indiana State Department of Health on the testing issue. We did not have robust participation from the EPA that would have shed light on the West Calumet situation. We did manage to get hub officials to participate during one web hearing. But it would have been ideal to have all of these agencies on one panel to talk about a government response, and what is done when these issues come about.

Again, testing, it started out being almost what we were going to exclusively focus on, so it was concluded that more testing of black children would increase the number of black children eligible to receive services. There was also testimony from one mother that lived in the West Calumet Complex, and she asked the panel what testing services could be provided for older children that were exposed to the lead when they were younger, and was there a long term longitudinal study to assess the impact of residents impacted by the lead exposure.

So, I'll just end with some of the civil rights implications. There was testimony on

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the possibility of a violation of title six of the 1964 Civil Rights Act, and the Indiana Department of Health, as recipients of Medicaid funding, may not be in compliance with the law. As you know, recipients of public funding may not have programs that have the effect of discriminating against certain populations, and we felt that that nexus was established.

Testimony from academics highlighted that black, and Hispanic children have higher rates of lead poisoning than white children even when accounting for socioeconomic status. We also did address the possible violation of title eight, the Fair Housing Act, but it's not clear in the report. But just we really did make note that there was a low level of concern, and inattention to remediating these known effects of lead poisoning in communities, and it just really underscored the issues of environmental racism, environmental justice issues.

There was also, again, the lack of response at all levels, at the highest level. There was testimony given that when East Chicago was identified publicly as being a superfund, the then governor Mike Pence was asked to provide

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disaster relief necessary to relocate families to safety, and he refused to do so. But provided the same assistance to Green Town, where the population is 97 percent white.

However Governor Holcomb did grant that disaster declaration in 2017 once it was determined that the contamination was 227 times the legal limit. I'll wrap up here. One thing that I think came out of this was I think more awareness in our state. I think that organizations are doing innovative things to try and address it, again, absent a clear government response. Indiana, IUPUI researchers are partnering with faith organizations to address the risk of lead by providing lead test kits.

They are testing for household dust, soil samples, and the testing is anonymous. So, just recently, as recent as last week, these tests were distributed at the Indiana Black Expo, and also in the City of Muncie. So, we see that as aligning with one of the findings, or recommendations in the report to align with the citizens science approach, which suggests that teaching children to test for lead is an impactful

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endeavor.

So, we would encourage as much as possible that the commission encourage federal agencies to participate in these hearings. It was not made clear to the committee the extent that the remedy actually made the people of East Chicago whole, and we understand that there was a consent decree entered into, but again, we were not able to bring EPA, and HUD to the table, or even DOJ to find out the extent of that.

So, again, we would just hope that we get that type of response, and willingness to address, and interact in a way that is robust, and brings clarity to these issues. Thank you.

CHAIR CANTU: Thank you. Thank you very much. You went 10 minutes, and 30 seconds, but because it was so interesting, I did not interrupt. Commissioners, would you have any questions of Chair Clements-Boyd?

COMMISSIONER YAKI: Commissioner Yaki here.

CHAIR CANTU: Yes, please proceed.

COMMISSIONER YAKI: I just wanted to thank the committee for their report. This

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commission, a few years ago, addressed the issue environmental justice with regard to coal ash placements in communities, but lead has always been something that has continued to, I would say be a significant issue for low income, and communities of color in this country, Flint being perhaps the singular example of it.

But its insidious nature, and the fact that it is so prevalent in soil, and paint, and building structures across this country is one that demands better attention, and I just wanted to commend the committee for their very thorough work, and very sensible, and thorough recommendations in their report, especially the issues of, for example putting a tax on paint, and some of the other work that they're providing.

And I would hope that the federal government, with regard to HUD, would do a better job of ensuring that any properties under their jurisdiction prior to, or during occupancy do this kind of testing to ensure that the people who believe they're being assisted by the federal government aren't inadvertently being poisoned as well, but thank you very much for your report.

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MS. CLEMENTS-BOYD: Thank you, thank you so much.

CHAIR CANTU: Any other commissioners? Chair Clements-Boyd, I just also want to compliment you, the way you presented your report is a classic description of how someone inquires about discrimination. You inquired where the folk had actual knowledge of racial impact. You inquired as to whether folks disregarded that actual knowledge. You inquired about their responsiveness, and in this instance, non-responsiveness to requests from the communities.

You inquired about whether there was state action that was different, and in this instance you talked about locating a program in an area that had been owned by a refinery of lead. And you inquired whether people explored alternatives to avoid the harmful effect on the families. So, you did a textbook examination, and you were very thorough, so I'm very impressed, thank you for your report today.

MS. CLEMENTS-BOYD: Thank you, thank you so much.

CHAIR CANTU: Are there any other

questions for Chairman Clements-Boyd?

MS. CLEMENTS-BOYD: Yes.

CHAIR CANTU: Is that you Commissioner Heriot, did you say yes?

MS. CLEMENTS-BOYD: I'm sorry Chair Cantu, that was me, this is Diane, I'm sorry.

CHAIR CANTU: You were affirmatively inviting more questioning. We did allocate ten minutes for your presentation, and time for the commissioners. So, I'm going to pause, commissioners do you have any more for her? All right, I take that that they have digested your presentation, so I thank you for the time you've given us, and all of your hard work. We can now go back to our agenda item where I have a queue started with -- go back to my notes -- Commissioner Yaki, were you about ready to respond?

COMMISSIONER YAKI: No.

CHAIR CANTU: Let's see, I've got --

COMMISSIONER YAKI: Are we going back to the debate on the?

CHAIR CANTU: Yes, we're going back to the maternal health disparities.

COMMISSIONER YAKI: Yeah, no, I would

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like to respond.

CHAIR CANTU: And I'd like to ask, let me just ask who would like to be in the queue so I don't miss anyone?

(Simultaneous speaking.)

COMMISSIONER GILCHRIST: Gilchrist would like to be in the queue.

COMMISSIONER YAKI: Commissioner Yaki.

CHAIR CANTU: Gilchrist?

COMMISSIONER GILCHRIST: Yes.

CHAIR CANTU: Yaki?

COMMISSIONER YAKI: I would, yes.

CHAIR CANTU: Anyone else in the queue? I'll add myself. Okay, Commissioner Gilchrist.

COMMISSIONER ADEGBILE: Sorry, Commissioner Adegbile would like to speak again.

CHAIR CANTU: Thank you, I've got you in the queue. Commissioner Gilchrist?

COMMISSIONER GILCHRIST: Yes, Madam Chair, thank you so much. And thank you for allowing me to weigh in on this. I was very interested in this topic because I served on my state's infant mortality board some years ago, and what was quite interesting to me as I listened to

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some of the testimony, and my own research was that much of the data that was consistent in 2004 had gotten a little worse for black women in 2021.

And as far as the process, and I listened to Commissioner Heriot, and Commissioner Adegbile, and by the way Commissioner Adegbile, thank you for the shout out earlier. I believe our reports go through a very strenuous, and laborious process, and I've shared this with some of my other commissioners. When they go through that process, in my opinion, they are no longer individual commissioner reports, but at that -- excuse me -- they become the commissioners, and the commission.

Meaning that the report is no longer an individual commissioner's report. My statement as an individual commissioner is reflected in the documents that were submitted in my statement, and I believe commissioner individual statements are sufficient enough, because in my opinion they reflect the individual thoughts, and the true diversity of the commission. And so at the conclusion of my statement, I said that this is about sounding the alarm for women, and in particular, black women in The United States

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regarding maternal health.

And I was delighted to be able to respond in that manner, but it is my hope that as we continue to think through what is it that we want to do as it relates to these commission's statements, and findings, and recommendations, that we really give some thought to our own individual statements, and what those statements reflect as it relates to individual commissioners. Those are my thoughts Madam Chair.

CHAIR CANTU: Thank you. Our own administrative instructions tell us that the published report will only reflect what the majority has voted on, and that's why it's important that we discuss having a vote, because that would be the published report, that which the majority has chosen. But this conversation informs the vote, and before it can take place, I do want to hear from the commissioners. So, I appreciate you speaking up Commissioner Gilchrist, thank you.

COMMISSIONER GILCHRIST: Thank you Madam Chair.

CHAIR CANTU: Commissioner Yaki?

COMMISSIONER YAKI: Yes, I just wanted

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to echo Commissioner Gilchrist's wise words on this, and then just add that along with Commissioner Adegbile, I also do not believe that we should be in the position of saying because one group of national origin, or race, or color, religion is not discriminated against, or at least appears not to be discriminated against, it therefore applies to any other classification of race, color, national origin, religion, et cetera, that's not how equal protection from cause has been interpreted over the years.

It's not how the 14th Amendment has been interpreted over the years, and shouldn't be applied in this instance either. Thank you.

CHAIR CANTU: Thank you. I'm going to just comment on the timeliness. It's never too late to raise issues of constitutional, and statutory interest. I participated in a school desegregation case in Odessa, Texas, and the case had been languishing for 25 years before I was able to bring the case into court, and I'm happy to say that the African Americans, and the Latinos were able to get a ruling to desegregate the public schools even though it was 25 years after Houston,

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Midland, and Austin desegregated.

The circuit affirmed, and the Supreme Court denied cert. So, it's not late if we still have a chance, and our deadline is coming up, the staff need time in order to present a file report, and that's why having a vote today is so important. So, I'll yield to Commissioner Adegbile.

COMMISSIONER ADEGBILE: I think Heriot was next.

CHAIR CANTU: Sorry, Commissioner Heriot.

COMMISSIONER HERIOT: I don't think I'm on this queue right now, am I?

CHAIR CANTU: She spoke before.

COMMISSIONER HERIOT: Yeah, I've already spoken twice.

CHAIR CANTU: Has anyone who has not had a chance to speak to the topic of the proposed findings, and recommendations of the maternal health report?

COMMISSIONER ADEGBILE: Madam Chair?

CHAIR CANTU: Yes please.

COMMISSIONER ADEGBILE: I have a very narrow point to make, and I've already had the

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indulgence of the commission to give me time to speak on this.

CHAIR CANTU: Please proceed.

COMMISSIONER ADEGBILE: As I said, I respect Commissioner Heriot's views, I respect the views, and the rights of each, and every commissioner to vote up, or down on the various items that come before us, that's our duty, and we take an oath to do this job to the best of our duty. My concern is that on the record, during this business meeting, Commissioner Heriot accused members of our commission of bad faith, used the term bad faith because we asked commissioners to follow our regular practice of voting on the findings, and recs that are associated with the statutory enforcement report, which is our statutory duty.

And she said further, that she would have expected a notational vote, and that the findings, and recs should have been taken up earlier. All of which might be a theoretical possibility but for the fact that in order to have a notational vote, you need unanimity of the commissioners to agree, and Commissioner Heriot was

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the specific person who disagreed with the notational vote on the findings, and recs.

COMMISSIONER HERIOT: That's simply false.

COMMISSIONER ADEGBILE: So, and there's a writing to that effect, and we have a writing to that effect. We have a writing to that effect. So, the idea that on that record Commissioner Heriot would accuse others of bad faith is astounding to me, and Madam Chair, again, it's unusual that we have to talk about internal business of the commission, but where one of our members takes the extraordinary step of accusing others on the record of bad faith when we're trying to just have a vote, up, or down, it is whatever it is.

And when somebody goes to the extraordinary length of accusing people of bad faith, the record needs to be made clear.

CHAIR CANTU: I believe Commissioner Heriot said she assumed that there would not be a notational vote, but that there would be no reason.

(Simultaneous speaking.)

COMMISSIONER HERIOT: No, I said --

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(Simultaneous speaking.)

CHAIR CANTU: Well, I don't, either way commissioner, an assumption is not a fact, and the time is still appropriate for this conversation, and for a vote.

COMMISSIONER HERIOT: How can it be appropriate?

CHAIR CANTU: So after the statements are finished that we're amending the report. I mean the whole purpose of our compromise, where we agreed to start the clock ticking, was that we knew that the report was going to pass. If findings, and recommendations had passed shortly thereafter, we could incorporate that, but it's too late now, the statements are in.

(Simultaneous speaking.)

COMMISSIONER HERIOT: To just be clear, you --

CHAIR CANTU: You, and I disagreed about what too late meant. Back in June you said it was too late because you needed until November. So, you intended not to agree to any findings, unless the whole deadline was to pass. The deadline was the end of September, and you wanted

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until November, and that was not legal to do that.

COMMISSIONER HERIOT: You're really confused on that, you're really confused.

CHAIR CANTU: So, I had no choice but to sever -- okay, where we are today --

COMMISSIONER HERIOT: You're really confused.

CHAIR CANTU: Is that we have the motion in front of us, a second to the motion, we're starting to repeat ourselves, so I will entertain a motion call to question.

COMMISSIONER HERIOT: Call the question.

CHAIR CANTU: Thank you. So, I'm going to do this by roll call vote. Commissioner Adams, how do you vote on --

COMMISSIONER ADAMS: I was just going to add, point of parliamentary inquiry, you may have already answered, is this on calling the question?

CHAIR CANTU: No, there's no vote on calling the question.

COMMISSIONER ADAMS: Okay, I just want to make sure.

CHAIR CANTU: Under parliamentary rules, once we start repeating ourselves, then we're calling the question, and that's a chair's prerogative under the rules. Now, the motion in front of you is a vote yea will approve the proposed findings, and recommendations to the maternal health disparities task that we have to complete. Our --

COMMISSIONER ADAMS: Point of inquiry.

CHAIR CANTU: Yes.

COMMISSIONER ADAMS: Point of inquiry again, this is the document that was distributed Thursday?

CHAIR CANTU: This is, the one that was distributed on Thursday was a revision, and it was the same topics that you all received back in June, but I asked folks to make it more of a narrative, rather than in short bullets.

COMMISSIONER ADAMS: Okay.

CHAIR CANTU: So, what you've got is the same data in a more readable format.

COMMISSIONER ADAMS: Thank you.

CHAIR CANTU: And that was the data that has been in folk's hands since before the

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holiday. So, where we are then is a vote yes is to approve the more recent version of the same topics, the same proposed findings that you've had for a while.

COMMISSIONER ADAMS: Thank you.

CHAIR CANTU: Okay. So, Commissioner Adams, how do you vote?

COMMISSIONER ADAMS: No.

CHAIR CANTU: Commissioner Adegbile?

COMMISSIONER ADEGBILE: Aye.

CHAIR CANTU: Commissioner Gilchrist?

COMMISSIONER GILCHRIST: No.

CHAIR CANTU: Commissioner Heriot?

COMMISSIONER HERIOT: No.

CHAIR CANTU: Commissioner Kirsanow?

COMMISSIONER KIRSANOW: No.

CHAIR CANTU: Commissioner Kladney?

COMMISSIONER KLADNEY: Yes.

CHAIR CANTU: Commissioner Yaki?

COMMISSIONER YAKI: Aye.

CHAIR CANTU: And I vote yes. So, the motion does not carry, because we require five votes, and it's a four-four vote. What I want to do though is compliment everyone for coming to this

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meeting prepared to talk about this very important matter, and we'll move on to the last topic on our agenda, which is the management issues. Director Morales, do you have an oral report for us? I know you keep us informed by writing, and by internet, do you have anything you would like to report today?

MR. MORALES: I do Madam Chair, but I believe Commissioner Kladney has a statement, and he wanted to make a statement about Amy.

CHAIR CANTU: Oh yes, always looking after the staff, okay. Commissioner Kladney, would you like to share with us a special message regarding special assistant Amy Royce?

COMMISSIONER KLADNEY: Madam Chair, I'd like to make a motion first regarding the statement entitled the U.S. Commission on Civil Rights expresses concern over the spike in antisemitism in The United States surrounding the outbreak of violence between Israel, and Hamas in May of 2021. The version of the statement was circulated by my special assistant this morning just with an amendment. It was originally, the body of it was circulated Wednesday. Before reading the statement, I want to thank our intern, Clara Malkin for the

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genesis of the statement, and her research contained in the statement. If I may read the statement now Madam Chair?

CHAIR CANTU: Yes, please.

COMMISSIONER KLADNEY: The U.S. Commission on Civil Rights expresses concern over the spike of antisemitism in the United States surrounding the outbreak of violence between Israel, and Hamas in May of 2021. The United States Commission on Civil Rights expresses critical concern over the recent spike in violence, and hate toward Jewish Americans provoked by the most recent outbreak in violence between Israel, and Hamas. This commission has a long history of denouncing hate crimes that occur in this country.

This summer saw a rise in the acts of physical violence, and hate filled online commentary against Jewish Americans as the violence between Israel, and Hamas increased. During this period, anti-Semitic incidents in the U.S. doubled compared to 2020. The Anti-Defamation League recorded 251 incidents including assault, vandalism, and harassment from May 11th, to May 31st, which is 115 percent increase from the same

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time period in 2020.

Incidents occurred throughout the United States including vandalism of numerous synagogues. In Salt Lake City, a man scratched a swastika on the front door of an orthodox synagogue. And in Alaska, Nazi imagery was posted on a synagogue. In Val Harbor, Florida, four men yelled die Jew at a man wearing a yarmulke, and then threatened to rape his wife, and daughter.

In midtown Manhattan, a group of people attacked a Jewish man in the middle of the street in broad daylight. The man wearing a yarmulke, and walking to a pro-Israeli protest, was called a dirty Jew, and was told to F Israel, we're going to kill you. The New York Police Department confirmed the attackers made the anti-Semitic reports. A few Islamic incidents were reported during this time period, including anti Palestinian graffiti painted on the front door of an Islamic center in Brooklyn, New York, which reportedly said death to Palestine.

A mosque in Long Island was also vandalized. There was also an increase in anti-Semitic rhetoric online across multiple social media platforms including Facebook, Twitter,

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TikTok, and Instagram. Between May 7th, and May 14th, there were more than 17000 tweets that used variations of the phrase Hitler was right, other as hash tags such as COVID-1948, an attempt to conflate the birth of Israel in 1948 to the COVID-19 virus, and Zionazi were trending during the conflict.

Many social media posts have misled the public, as users take videos out of context, or deliberately spread misinformation. Antisemitism is not a new phenomenon in the United States. In 2019, FBI hate crime statistics report found that although Jews comprise approximately 2.4 percent of the American population, they are victims of 60.2 percent of antireligious hate crimes. The commission recognizes that individuals have a right to be critical of Israel, and of the Israeli government.

However anti-Semitic bigotry disguised as antizionism is no less morally deplorable than any other form of hate. These incidents of hate, and fear mongering undermine the freedom of religion guaranteed within the United States Constitution. They harm specific victims, but also

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create long lasting, and deeply harmful fear, anxiety, and insecurity for witnesses, and the broader community. The spike of antisemitism cannot be normalized as political rhetoric, Jewish Americans cannot be held responsible for actions of the State of Israel.

All Americans have a right to practice their religion without fear of hateful speech, threatening actions, or physical violence. The commission has been a long standing voice for the safety of marginalized groups, for example through our work on hate crimes, antisemitism on campus, and Islamophobia after 9/11. The commission stands for equal, fair, and safe treatment of all people regardless of race, color, religion, sex, age, disability, or national origin.

I hope the commission adopts this statement of concern about the issue that affects people throughout the country. I believe we should add our voice to the chorus condemning these acts. Thank you Madam Chair.

CHAIR CANTU: Thank you Commissioner Kladney. To open the floor for discussion, is there a motion?

COMMISSIONER KLADNEY: I made the motion to ma'am.

COMMISSIONER KIRSANOW: Kirsanow second.

CHAIR CANTU: Thank you. Discussion?

COMMISSIONER KIRSANOW: Madam Chair, Kirsanow.

CHAIR CANTU: Yes?

COMMISSIONER KIRSANOW: I'd like to just commend Commissioner Kladney for putting together this very fine statement. It's not precisely how I would have written it, no statements are precisely how any of us would have necessarily written them, but I think it's a very strong statement. My only quibbles are there are a couple places where it could be read as suggesting equivalency between Hamas, and Israel, which I think is a false equivalency.

I'm not saying that's the equivalency being made in the statement, but it could be read as such. Nonetheless, overall, I think it's a good statement, and I tend to support it.

CHAIR CANTU: Thank you commissioner, other comments?

COMMISSIONER HERIOT: Madam Chair.

CHAIR CANTU: Yes, Commissioner Heriot?

COMMISSIONER HERIOT: I haven't had a chance to go through the statement, so I'm going to have to abstain, but I did want to thank Commissioner Kladney for the statement, and I suspect it's great, but I'm going to have to abstain, and can't comment any further.

CHAIR CANTU: Thank you. Other commissioners? Okay, are we ready for a vote? All right. Commissioner Adams, how do you vote?

COMMISSIONER ADAMS: Yes.

CHAIR CANTU: Commissioner Adegbile?

COMMISSIONER ADEGBILE: Aye.

CHAIR CANTU: Commissioner Gilchrist?

COMMISSIONER GILCHRIST: Yes Madam Chair.

CHAIR CANTU: Commissioner Heriot, abstain, is that correct?

COMMISSIONER HERIOT: Abstain with apologies to Commissioner Kladney, I know he worked hard on this, and I wish I had a chance to look at it.

CHAIR CANTU: Thank you. Commissioner

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Kirsanow?

COMMISSIONER KIRSANOW: Yes.

CHAIR CANTU: Commissioner Kladney?

COMMISSIONER KLADNEY: Yes.

CHAIR CANTU: Commissioner Yaki?

COMMISSIONER YAKI: Aye.

CHAIR CANTU: And I vote yes, the vote passes, eight commissioners, one abstention. Thank you for the very hard work commissioners, and to the special assistants, it is a very serious matter, and I appreciate you bringing it to this national level.

II.F. MANAGEMENT AND OPERATIONS

STAFF DIRECTOR'S REPORT

CHAIR CANTU: Our final matter of business is to hear from our director, Staff director Morales, would you like to speak please?

MR. MORALES: Thank you Madam Chair, in the interest of time I have nothing further to add than what's already contained in the report. I'm always available to speak to any commissioner if they have any questions about anything contained in the report, thank you Madam Chair.

CHAIR CANTU: You're welcome. And I do

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want to convey, again, I've given you this before, but the staff have been working very hard. When a business meeting is canceled, as one was done in June, it puts the responsibilities on the shoulders of the commissioners, and the staff to catch up with all of the business you saw today, we put in several hours, well, all of that time is multiplied 100 fold when a meeting is canceled. It was canceled for an excellent reason, but it does show very well how the staff responded, and they've burned by it, my deep, deep appreciation.

So, please convey that Director Morales, to all of the staff. We have concluded our agenda --

COMMISSIONER KLADNEY: Madam Chair, Madam Chair.

CHAIR CANTU: Yes, I hear you.

COMMISSIONER KLADNEY: Before we adjourn, I'd like to take a point of personal privilege, and note for the record that this is the last business meeting of my special assistant Amy Royce.

CHAIR CANTU: There you are.

COMMISSIONER KLADNEY: May I continue?

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CHAIR CANTU: Yes, you have the floor, there you are.

COMMISSIONER KLADNEY: She has put up with me for nearly seven years, and will be sorely missed. Not just by me, but I know by many others at the commission as well. During her tenure, I have proposed, and served, and led as commissioner on numerous reports, all of which benefitted greatly from her work. The list includes increasing compliance with section seven of the National Voter Registration Act, collateral consequences, women in prison seeking justice behind bars, police use of force, an examination of modern policing practices, sub minimum wages, impact on civil rights of people with disabilities, and our ongoing project on civil rights implications of cash bail.

These varied topics show her work ethic, and willingness to tackle critical issues in critical rights, and the diversity she has in being able to do the work. I have appreciated her work, and good humor, and am proud of what she accomplished while here. She has promised to keep in touch, and fortunately has moved back to the

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D.C. area from Baltimore, it's going to make it that much easier. So, I thank her for her service, and look forward to all the great things to come in her life, and career.

Her contribution has made me better person, and commissioner. I believe she has made all of our work better, and has been a positive influence on the commission's mission. I am glad to be able to call her a colleague, and a friend. Thank you Amy, and much success in life, and your future endeavors, you will be missed. Thank you Madam Chair.

CHAIR CANTU: You're welcome. Amy, you can't see us, but you can hear us, and I would ask if people would please applaud this wonderful person who was only loaned for a little over four months, Amy Royce, we applaud you. Is there any further business? Amy did you want to say anything?

COMMISSIONER ADEGBILE: She may not be on a speaker's line Madam Chair.

COMMISSIONER HERIOT: Yeah, I don't think she can.

CHAIR CANTU: I am so sorry, this is

why I'm looking forward to someday we'll be in person, where we can salute, and celebrate each other.

COMMISSIONER YAKI: Have her call into Dave's line, and have him conference her in.

CHAIR CANTU: What do you think Commissioner Kladney?

COMMISSIONER KLADNEY: If she so feels.

CHAIR CANTU: We're going to make a fuss about her, we really are.

OPERATOR: This is the operator here, I can just go ahead, and just open up her line.

CHAIR CANTU: Please.

OPERATOR: Sure, Amy, your line is now live.

MS. ROYCE: Well thank you all so much for those kind words, I will miss everybody at the commission, and I do promise to keep in touch, thank you so much.

CHAIR CANTU: That's wonderful, thank you.

COMMISSIONER YAKI: Thanks Amy.

COMMISSIONER KLADNEY: Amy, I will issue a separate statement, and surrebuttal.

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MS. ROYCE: Thank you.

COMMISSIONER YAKI: And I'll
surrebuttal your surrebuttal.

CHAIR CANTU: You're a star Amy, you're
a star. That concludes the business on the agenda
for today's business meeting.

III. ADJOURN MEETING

If there's nothing further, I hereby adjourn the
meeting at 1:55 Eastern Standard Time. Be well, be
safe.

OPERATOR: And this concludes today's
call. Thank you all for your participation, you
may now disconnect. (Whereupon, the
above-entitled matter went off the record at 1:53
p.m.)