

UNEDITED

U.S. COMMISSION ON CIVIL RIGHTS

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TELEPHONIC BUSINESS MEETING

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FRIDAY, JANUARY 21, 2022

+ + + + +

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

PRESENT:

NORMA V. 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

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STAFF PRESENT:

PAMELA DUNSTON, Chief, ASCD

STANLEY CARR, ASCD Contractor

COMMISSIONER ASSISTANTS PRESENT:

SHERYL COZART

JASON LAGRIA

CARISSA MULDER

AMY ROYCE

RUKKU SINGLA

ALISON SOMIN

IRENA VIDULOVIC

ALSO PRESENT:

DIANE CITRINO, Ohio State Advisory Committee Chair

MARTHA DAVIS, Massachusetts State Advisory Committee

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

2 (12:02 p.m.)

3 OPERATOR: Welcome to the Commission
4 meeting. Today's conference is being recorded. At
5 this time, I'd like to turn this conference to Chair
6 Cantu. Please go ahead.

7 CHAIR CANTU: Welcome to the business
8 meeting for the U.S. Commission on Civil Rights. The
9 meeting comes to order at 12:02 p.m. Eastern Standard
10 Time on Friday January 21, 2022.

11 I am Chair Norma Cantu. We thank the Staff
12 who completed the public notice needed for this meeting
13 and arranged for this public phone call. We thank the
14 general public for their interest in attending today.

15 Due to respect for health and safety during
16 the ongoing COVID-19 pandemic, the Commissioners are
17 conducting this business meeting by phone conference.

18
19 I would like to confirm the Commissioners
20 are on the line, and we'll take a roll call.

21 Please say aye or present when I say your
22 name.

23 (Roll call.)

24 Thank you. Based on the response, we have
25 a quorum of our Commissioners. Is the court reporter

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1 present? Thank you. Is the Staff Director present?

2 DIRECTOR MORALES: I am present.

3 CHAIR CANTU: Thank you. The meeting
4 will now come to order. I will begin by asking if any
5 of the Commissioners wish to amend today's agenda.

6 It's been circulated, it's been commented,
7 and so I'm holding the line open for suggestions.

8 COMMISSIONER KIRSANOW: Madam Chair,
9 Commissioner Kirsanow here.

10 CHAIR CANTU: Yes, Commissioner?

11 COMMISSIONER KIRSANOW: I move to amend
12 the agenda note to include a discussion and vote on
13 my crime-increase concept paper that was provided to
14 Commissioners in the fall.

15 COMMISSIONER HERIOT: Heriot here, I
16 second.

17 CHAIR CANTU: We have a motion to include
18 the crime-increased paper provided in the fall. Tell
19 me so we can identify the correct document and have
20 it in front of us.

21 COMMISSIONER KIRSANOW: I don't have the
22 document from me but it was the concept paper dealing
23 with causes of crime increase. It included a concept
24 with respect to hate crimes too I believe.

25 It was distributed sometime in the fall,

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1 October or September.

2 CHAIR CANTU: Just so we're all talking
3 about the same document, this is not any other form
4 of communication regarding crime increases.

5 COMMISSIONER KIRSANOW: No, it's not the
6 letter.

7 CHAIR CANTU: Putting that in the same
8 level as the other concept papers that have been
9 circulated.

10 COMMISSIONER KIRSANOW: Right.

11 CHAIR CANTU: While I did identify that
12 document correctly -- I feel like I'm in court. Thanks
13 for giving me that opportunity to enjoy that feeling.
14 And we have a second, so let's do it one by one.

15 We will have a discussion and then we'll
16 call for a vote on that and that's the procedure under
17 Robert's rules.

18 COMMISSIONER KIRSANOW: Yes, Madam Chair,
19 I circulated this several months ago. It has to do
20 with causes underlying the crime spike that we've seen
21 over the last year or so. There are various potential
22 causes, we don't know what those causes might have been.

23 They could have been the ordinary causes,
24 dealing with economic reasons, could have been law
25 enforcement reasons, judicial reasons, there may be

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1 a number of reasons.

2 They have as many things due to
3 disproportionate impact on minority communities and
4 the concept was to examine the factors that led to what
5 was an extraordinary crime increase, it was something
6 we haven't seen in decades.

7 CHAIR CANTU: Would anyone else like to
8 speak to that?

9 COMMISSIONER YAKI: Madam Chair, this is
10 Commissioner Yaki.

11 CHAIR CANTU: Yes, Commissioner?

12 COMMISSIONER YAKI: Notwithstanding
13 whether this document has been circulated before, which
14 I won't dispute it has, there's been other documents
15 around this Commission.

16 To put it on the agenda at this late a date
17 is not timely so I will be voting to oppose it going
18 on the agenda.

19 CHAIR CANTU: Thank you. May I hear from
20 other Commissioners?

21 COMMISSIONER HERIOT: Madam Chair?

22 CHAIR CANTU: Yes, Commissioner Heriot?

23 COMMISSIONER HERIOT: I just wanted to say
24 that I'm very interested in putting this document on
25 the agenda. I think it's a very important topic, I

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1 was surprised.

2 The agenda says we will talk about concept
3 papers and it wasn't until I was able to get into the
4 collection of documents that I realized this one was
5 not on the agenda. I think most people probably assumed
6 it was.

7 I don't think there is any topics on our
8 list of potential topics that's more important than
9 this. So, I would definitely like to have a discussion
10 about this today.

11 CHAIR CANTU: Thank you, and because as
12 Chair I put items on the agenda, we are talking today
13 about concept papers for 2022 and there have been
14 discussion back in September that this would be a topic
15 that should not be voted on.

16 I believe this, speaking for me
17 personally, I believe this concept paper was not ready
18 for 2022 and the reason I was asking for identifications
19 is there was another document that was suggested for
20 2023.

21 So, I wanted to be clear which one we're
22 talking about.

23 We're talking about a concept paper that
24 I already expressed some difficulties with and was
25 trying to work out in a collaborative way, a way of

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1 continuing discussions but not having that voted on
2 at this meeting.

3 So, I will leave it to the vote to decide
4 whether it will be on this agenda.

5 COMMISSIONER HERIOT: Madam Chair?

6 CHAIR CANTU: Yes, Commissioner?

7 COMMISSIONER HERIOT: I just wanted to add
8 that polls indicate this is a very high topic on the
9 public's agenda.

10 They're very concerned about the crime
11 increase and so again, I think this is certainly the
12 most important topic we have seen of their proposals
13 for this fall, and again, I was very surprised not to
14 see it in the packet.

15 CHAIR CANTU: And that was not one of the
16 criteria we used for adopting the concept papers but
17 I note your comment for the record. Thank you. Do
18 I have further comment before we do a vote?

19 I'm waiting in case someone is muted
20 because it's usually me.

21 COMMISSIONER KIRSANOW: Madam Chair, this
22 is Kirsanow again.

23 Just to make one other point on this, one
24 of the other reasons why this is important, many of
25 the reasons have already been stated by Commissioner

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1 Heriot, the data indicate that we've had exceptional
2 crime increase.

3 I am going to into my seventh decade and
4 I don't recall a spike like this anytime in my lifetime.

5 In addition to that, I live in inner city Cleveland
6 and I can tell you that this is palpable.

7 Of all the things that we study, all of
8 which are meritorious, I can't think of anything that
9 we've studied on my tenure during this Commission,
10 which is now 20 years, that has a more meaningful impact
11 on minority communities than this spike in crime.

12 It's affected every community, Asian
13 community, Hispanic community, white community, black
14 community, you name it, and done so in such a dramatic
15 fashion. And as I say, everything else that we talk
16 about has its importance but these are life and death
17 issues that we're talking about here.

18 So, I'd urge my colleagues to vote yes to
19 put this on the agenda.

20 CHAIR CANTU: Thank you for your
21 intervention.

22 COMMISSIONER ADEGBILE: Madam Chair,
23 Commissioner Adegbile.

24 CHAIR CANTU: Please proceed.

25 COMMISSIONER ADEGBILE: I'm speaking now

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1 only as to one point, which is some of my fellow
2 Commissioners have in various comments been assigning
3 importance to this topic and trying to compare it to
4 other topics that we have dealt with.

5 And I just want to note for the record that
6 we have recently tried to examine the topic of the
7 disparities in responding to COVID-19 and the impacts
8 in Native American people in the nation and what the
9 disparities are, including how those impacts may result
10 in an increased rate of death.

11 And that addendum, duly voted on by this
12 body, was voted down by some of the proponents of this
13 report after the report was completed.

14 We similarly had an update on voting
15 rights, obviously an issue of public concern, of
16 national concern of the democracy itself, that update
17 to our earlier report was voted down by those who today
18 would have us rank the importance of various civil
19 rights issues.

20 And so speaking only for one point, we deal
21 with a range of issues, we deal with them when we have
22 time and resources and votes.

23 And I just want to put in some context that
24 many, many of the issues, all of the issues in fact
25 that we address are serious issues that affect

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1 Americans and some of them are life and death issues
2 like the maternal healthcare report we worked on as
3 well.

4 So, I just want to put that into some
5 context so that we don't lose the forest from the trees
6 as we take this vote.

7 COMMISSIONER KIRSANOW: Madam Chair,
8 Kirsanow here.

9 CHAIR CANTU: Yes, sir?

10 COMMISSIONER KIRSANOW: I thank
11 Commissioner Adegbile for his comments, they're well
12 taken. The difference here is that we had a hearing
13 on those matters, those matters had a hearing, we
14 considered them.

15 I'm simply trying to get this on the agenda
16 so we can have a discussion as to whether or not this
17 would be the concept paper that may make its way into
18 the Commission's queue for hearing or some type of
19 report that might be issued at some point.

20 COMMISSIONER KLADNEY: Madam Chair, may
21 I call for the question?

22 CHAIR CANTU: Thank you, Commissioner
23 Kladney. Having heard an exchange regarding the
24 merits of changing the agenda, I'm adding an additional
25 item for today's business.

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1 I am ready to do a roll call vote.

2 So, in alphabetical order, Commissioner
3 Adams, how do you vote?

4 COMMISSIONER ADAMS: Yes.

5 CHAIR CANTU: Commissioner Adegbile?

6 COMMISSIONER ADEGBILE: Nay.

7 CHAIR CANTU: Commissioner Gilchrist?

8 COMMISSIONER GILCHRIST: Aye.

9 CHAIR CANTU: Commissioner Heriot?

10 COMMISSIONER HERIOT: I vote yes.

11 CHAIR CANTU: Commissioner Kirsanow?

12 COMMISSIONER KIRSANOW: Yes.

13 CHAIR CANTU: Commissioner Kladney?

14 COMMISSIONER KLADNEY: No.

15 CHAIR CANTU: Commissioner Yaki?

16 COMMISSIONER YAKI: No.

17 CHAIR CANTU: And I vote no. We'll keep
18 lines open to continue discussing with Commissioner
19 Kirsanow and others but we have a vote and the next
20 item that you all would like to recommend to add to
21 today's agenda?

22 COMMISSIONER KIRSANOW: Madam Chair,
23 Kirsanow here.

24 CHAIR CANTU: Yes, sir?

25 COMMISSIONER KIRSANOW: I move to amend

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1 the agenda to include a discussion vote on the
2 Commission letter to Attorney General Merrick Garland
3 regarding the crime increase that was provided to all
4 Commissioners last week.

5 COMMISSIONER HERIOT: Heriot here, I
6 second.

7 CHAIR CANTU: We have a motion and a second
8 to consider adding to the day's agenda a discussion
9 for a majority vote to dispatch the letter that was
10 circulated a week ago to Attorney General.

11 Would any Commissioner wish to speak to
12 that? I would start perhaps with Commissioner
13 Kirsanow?

14 COMMISSIONER KIRSANOW: Thank you. I
15 think we've had a discussion on this briefly in our
16 previous meetings.

17 This is a letter that would go to Attorney
18 General Garland expressing our, as it says, deep
19 concern over the dramatic increase in crime and recites
20 some of the steps that are really dramatic.

21 They speak for themselves. It's an incredible
22 increase and we see a rise in hate crimes also, that's
23 pretty dramatic, most of which, or much of which affect
24 black Americans.

25 And the idea here, pursuant to discussions

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1 we've had previously, is to at least see if the Justice
2 Department will embark on an endeavor related to this.

3 This is right in their wheelhouse.

4 Of course, it's in our wheelhouse also but
5 the data that's collected could then be used, since
6 this crime increase has occurred over the last year
7 and a half or so, it would give us the ability to utilize
8 Justice Department data.

9 But also give us that time in which we could
10 assess the impact of the crime increase and the data
11 related there to have a more fulsome report next year
12 if we weren't going to do one, as the Commission has
13 voted down this year.

14 CHAIR CANTU: Thank you for sharing the
15 report in the week before the meeting. Were there
16 other Commissioners that helped you draft that letter?

17 COMMISSIONER KIRSANOW: No other
18 Commissioners helped me draft the letter, no, but I
19 think there are several other Commissioners that would
20 be interested as evidenced by the fact that I think
21 we've had four Commissioners that voted for a hearing
22 on crime increase by the Commission.

23 CHAIR CANTU: Do Commissioners have
24 comments please? Do you ask to be recognized?

25 COMMISSIONER ADEGBILE: Madam Chair,

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1 Commissioner Adegbile?

2 CHAIR CANTU: Please speak.

3 COMMISSIONER ADEGBILE: I'm not clear
4 that the letter in question was circulated insistent
5 with our AI to all Commissioners and requisite essays
6 to the Staff's Director.

7 And we should get some clarification on
8 whether the circulation of the letter met with our
9 procedural requirements.

10 CHAIR CANTU: Staff Director, could you
11 respond to that please?

12 DIRECTOR MORALES: Madam Chair, are you
13 there?

14 CHAIR CANTU: Yes, I'm here.

15 DIRECTOR MORALES: Sorry, I thought we cut
16 ourselves off.

17 CHAIR CANTU: Did you receive the draft
18 letter prepared by Commissioner Kirsanow addressed to
19 the Attorney General?

20 DIRECTOR MORALES: I did not. I may have
21 received it via another but I did not get one directly
22 from him. I don't recall at the moment, I'm sorry.

23 CHAIR CANTU: Thank you.

24 COMMISSIONER ADEGBILE: Also, the point
25 is not receipt, it's whether it was duly circulated

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1 under the provisions of the AIs that govern our
2 meetings.

3 CHAIR CANTU: So, you're posing that
4 question to Commissioner Kirsanow?

5 COMMISSIONER ADEGBILE: I'm posing it to
6 you, I guess, in the first instance. You're the one
7 makes sure that all of us have the materials duly
8 circulated to be considered at the meeting.

9 And if this is an addendum that we're
10 trying to add to the meeting, that's fine, Commissioner
11 Kirsanow said we had previously considered this letter
12 in an earlier meeting.

13 I don't recall that. My memory is not
14 infallible but I don't remember considering this letter
15 at an earlier meeting.

16 And I don't believe it was circulated
17 consistent with our AI and I want the record to be clear
18 so we know what we're doing.

19 DIRECTOR MORALES: Madam Chair, if I could
20 respond?

21 CHAIR CANTU: I will respond as well but
22 please go first.

23 DIRECTOR MORALES: Thank you, with
24 respect to Commissioner Adegbile's comments as to
25 whether or not this was circulated, it was circulated

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1 to Commissioners a week ago in plenty of time for
2 consideration at this put together.

3 I don't think there was any other
4 requirements that have not been met on this.

5 CHAIR CANTU: If I could add to that, the
6 first time I heard about a letter was when I was in
7 conversation with Commissioner Gilchrist.

8 He and I were discussing whether there were
9 alternatives, because I had a very strong negative
10 concern, not solely about how many lives had been lost,
11 I'm deeply concerned about that, but very concerned
12 about whether we had accurate national data.

13 Because we are a national Commission and
14 whether in the national database, could we avail
15 ourselves of credible data that related to the
16 description of this crisis?

17 My concerns were the following, that we
18 have seen general overall crime decrease for several
19 years and in a spike here, there was an increase.

20 When I asked for the causes and what
21 research had occurred on the causes, there was silence
22 because all of the scholars do not agree on what the
23 causes are.

24 And further, the year that has not been
25 reported yet, the 2021 data will not be available until

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1 2022, and further, it would be November 2022.

2 So, my concern is we're founding it too much on
3 data that I said we should move a little slowly to be
4 sure we have credible data in front of us and not just
5 descriptions from social media or descriptions from
6 television.

7 I'm going back through my emails and going
8 back through my recollection of how well circulated
9 this draft letter was. I don't believe it was sent
10 to our Staff Director.

11 I certainly would have asked him if it were
12 sent to him that he would ask the experts that we have
13 on our staff.

14 And my recollection is that in the summer
15 or September, the Staff did provide comments to
16 Commissioner Kirsanow on some of the weaknesses of the
17 descriptions, that there are many different types of
18 crime.

19 And that while it appears from some reports
20 in the media that murder rates in that year spiked up
21 in 2019 through 2020, in other area of law enforcement
22 we have reason to commend and be proud of our law
23 enforcement community.

24 COMMISSIONER KIRSANOW: Madam Chair?

25 CHAIR CANTU: Is this Commissioner

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1 Kirsanow?

2 COMMISSIONER KIRSANOW: It is, thank you
3 very much, Madam Chair. Much of what you say is
4 absolutely correct but we now are going into the second
5 year of this.

6 This is not a one-year spike and the
7 objective of the letter is given the fact that we were
8 trying to compile a certain amount of data and maybe
9 we don't have the resources to compile that data, we
10 could partner with the Justice Department and utilize
11 much of their reporting, much of their investigatory
12 resources that they would look into it.

13 So, we would send as an interim this letter
14 to the Justice Department and say, look, this stuff
15 is going on big time.

16 I think that one-year spike, yes, maybe
17 it's an anomaly, maybe it's COVID-19-related, who knows
18 what it may be attributable to?

19 But now we're going on two years and it's
20 not just simply related to murder and all of the other
21 crimes where there may have been a decline over the
22 last -- it has been since the 1990s, there's been a
23 general decline in crime with certain minor spikes.

24

25 We've had a prodigious spike now, and not

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1 just in homicides, but every time the -- it's anecdotal
2 but this is why we want to research it, to see what's
3 going on.

4 Every time you look in the newspaper or
5 on the web, TV, you see dramatic images of rampant crime
6 everywhere.

7 Many of us experience it here in Cleveland,
8 Ohio. In my neighborhood we're experiencing this
9 stuff, carjackings through the roof, murders through
10 the roof, everything is going through the roof.

11 I don't know if it has to do with COVID-19
12 but the Justice Department could probably provide
13 adequate data. We can synthesize the data.

14 That's why the interim letter would go now,
15 to see if we can alert the Justice Department towards
16 an intent that perhaps next year we'll be positioned
17 to research this a little bit more deeply as a
18 Commission.

19 COMMISSIONER ADEGBILE: Madam Chair,
20 Commissioner Adegbile?

21 CHAIR CANTU: Please proceed.

22 COMMISSIONER ADEGBILE: As I said before,
23 I don't believe this letter was properly circulated,
24 consistent with our AIs.

25 If Commissioner Kirsanow has an email that

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1 proves otherwise, he should feel free to circulate it
2 now, subject to procedural objections.

3 And I call the question about whether we
4 should amend the agenda to speak about this letter.

5 CHAIR CANTU: I share your concern that
6 not enough of the expertise within the Agency has been
7 tapped and that the comments that were provided by OCRE
8 and by me were ignored. They were not incorporated
9 in this letter.

10 So, there's a call to question, I'm sorry
11 I snuck my last comment in right before that, I accept
12 your call to question. We are now proceeding to vote.

13 Please say yes or no as I call your name.

14 Commissioner Adams?

15 COMMISSIONER ADAMS: Yes.

16 CHAIR CANTU: Commissioner Adegbile?

17 COMMISSIONER ADEGBILE: Nay.

18 CHAIR CANTU: Commissioner Gilchrist?

19 COMMISSIONER GILCHRIST: Aye.

20 CHAIR CANTU: Commissioner Heriot?

21 COMMISSIONER HERIOT: I vote yes.

22 CHAIR CANTU: Commissioner Kirsanow?

23 COMMISSIONER KIRSANOW: Yes.

24 CHAIR CANTU: Commissioner Kladney?

25 COMMISSIONER KLADNEY: No.

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1 CHAIR CANTU: Commissioner Yaki?

2 COMMISSIONER YAKI: No.

3

4 CHAIR CANTU: And I vote no so the agenda
5 is not amended. Are there other proposals to amend
6 today's agenda?

7 Hearing no other proposals, our first
8 order of business, we will turn to presentations from
9 Advisory Committees to the U.S. Commission on their
10 recent reports and memos.

11 First we will hear from our Massachusetts
12 State Advisory Committee Member, Martha Davis on the
13 Committee's released report on water affordability,
14 Turning off the Tap: Massachusetts' Looming Water
15 Affordability Crisis.

16 COMMISSIONER HERIOT: Madam Chair, you're
17 still supposed to take a vote on the agenda.

18 CHAIR CANTU: I'm sorry, we had the vote
19 on the agenda. The votes were four yeses, four noes,
20 it doesn't carry.

21 (Simultaneous speaking.)

22 COMMISSIONER HERIOT: That was the motion
23 to amend, so now take a vote on the agenda.

24 CHAIR CANTU: Thank you. Having no
25 changes to the agenda, you're right, Robert's Rules

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1 require we now take a vote on the agenda before us.

2 So, shall I do a roll call vote again?

3 A yes vote to approve the agenda and a no, of course,
4 to not.

5 **I. VOTE TO APPROVE THE AGENDA**

6 CHAIR CANTU: Commissioner Adams?

7 COMMISSIONER ADAMS: Yes.

8 CHAIR CANTU: Commissioner Adegbile?

9 COMMISSIONER ADEGBILE: Aye.

10 CHAIR CANTU: Commissioner Gilchrist?

11 COMMISSIONER GILCHRIST: Aye.

12 CHAIR CANTU: Commissioner Heriot?

13 COMMISSIONER HERIOT: Aye.

14 CHAIR CANTU: Commissioner Kirsanow?

15 COMMISSIONER KIRSANOW: No.

16 CHAIR CANTU: Commissioner Kladney?

17 COMMISSIONER KLADNEY: Yes.

18 CHAIR CANTU: Commissioner Yaki?

19 COMMISSIONER YAKI: Aye.

20 CHAIR CANTU: I vote yes so we have seven
21 votes yes, one vote no, the agenda is approved.

22 And I will again turn to the order of
23 business, the Massachusetts State Advisory Committee
24 Member, Martha Davis, will be speaking to the State
25 Advisory Committee report, Turning off the Tap:

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1 Massachusetts' Looming Water Affordability Crisis.

2 We will allocate it 10 minutes so please
3 proceed.

4 **II. TURNING OFF THE TAP: MASSACHUSETTS'**

5 **LOOMING WATER AFFORDABILITY CRISIS BY MARTHA DAVIS**

6 MS. DAVIS: Great, thank you very much.

7 I assume you can only hear me. Thank you for the
8 opportunity to brief the Commission on our December
9 2020 report on water affordability.

10 The State Committee took up this issue for
11 a number of reasons, water costs have been rising
12 rapidly for several years, faster than other household
13 costs and we were concerned that household water
14 policies in Massachusetts create a particular burden
15 on minority communities.

16 During the time we worked on the issue,
17 of course, COVID-19 brought additional focus on water.

18 You'll remember the significance of hand-washing and
19 water access that were stressed in early efforts to
20 fight the spread of the pandemic.

21 And particularly during the shutdowns that
22 marked the initial phases of the pandemic, many people
23 in the state were unable to pay utility bills, an issue
24 that just snowballed as the pandemic continued.

25 Many local governments issued moratoria

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1 on water shut-offs but none in Massachusetts offered
2 forgiveness of accumulated unpaid bills.

3 Massachusetts is perhaps an unlikely place
4 for this study since there was no galvanizing incident,
5 like the poisoning of water in Flint, Michigan that
6 turned the State's attention to water issues.

7 But Massachusetts is distinguished by one
8 of the highest racial housing gaps in the United States,
9 the legacy of red-lining.

10 And as we found through our study, there's
11 a general lack of awareness of the civil rights
12 implications of various local household water
13 policies.

14 Local water policies and regulations are
15 extremely complex and perhaps for that reason there
16 are few studies that examine them from a civil rights
17 perspective, despite the critical nature of water.

18 And indeed, I understand that our report
19 represents the first time that the U.S. Civil Rights
20 Commission has examined the issue of water
21 affordability in its 65-year history.

22 Because there's been little application
23 of civil rights law in this sphere, we found that local
24 water administrators themselves have tended to operate
25 as if civil rights are not a concern.

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1 Yet when we began our work we already had
2 reason to be concerned.

3 A 2014 report called The Color of Water
4 used Boston Water and Sewer Authority data to
5 demonstrate that water shutoffs for non-payment were
6 disproportionately happening in the
7 minority-identified neighborhoods, even after taking
8 income into account.

9 Further, a 2019 survey of water customer
10 assistance programs in Massachusetts, that is programs
11 that were developed in response to rising water costs
12 showed wide variations across the state.

13 Some localities had no assistance programs
14 at all, some discounted water but not sewer even though
15 sewer charges often dwarf the water portion of the bill.

16 Some set dollar figures while some set
17 percentages of discounts.

18 Some provided discounts based on
19 disability while others, most others, did not. Some
20 offered discounts based on age without regard to
21 income. Others limited their assistance to low-income
22 seniors living in specifically one or two family homes.

23 All of the programs reviewed were limited
24 to owner occupants.

25 That same 2019 report found that local

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1 water districts collected little to no data that might
2 help them assess and avoid potential disparate racial
3 impacts and bias in, for example, negotiating payment
4 plans or enforcing liens.

5 Building on that information, the
6 Massachusetts State Advisory Committee was in a
7 position to conduct original research led by our
8 Member, sociology professor Neenah Estrella-Luna and
9 assisted by law students at Northeastern University
10 School of Law.

11 The result of that research set out in
12 Appendix C to the report strongly suggests that indeed,
13 water policies in Massachusetts have disparate racial
14 impacts.

15 These policies impact homeowners who may
16 have their water shut off or be subjected to liens that
17 may even result in the loss of their homes.

18 And these policies impact renters who pay
19 for water through their landlords but are not eligible
20 for any of the discounts and assistance offered by local
21 water Districts.

22 As the report points out, the
23 Massachusetts jurisdiction's lack of awareness of
24 these impacts stands in contrast to the innovations
25 being undertaken in other parts of the country, in for

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1 example Philadelphia and Baltimore.

2 These new initiatives and others around
3 the country recognize the singular importance of water
4 and are designed in an effort to avoid the structural
5 racism and disparate racial impacts of seemingly
6 neutral water policies, of which the focus on offering
7 discounts to senior homeowners alone is an example.

8 Because of the demographics of
9 Massachusetts and particularly because of the dramatic
10 racial housing gap in our state, the impact of failing
11 to reach renters is even greater than in many other
12 jurisdictions, and the need for new innovative policies
13 is even more critical.

14 In Massachusetts and in most places in the
15 United States, water systems that are not privatized
16 are run by local governments. And as our report notes
17 in Massachusetts, there is little privatization of
18 water.

19 Our report argues, however, that greater
20 state-level oversight and coordination is needed. For
21 example, we suggest adoption of these standards set
22 of customer assistance provisions that reflect a
23 greater sensitivity to racial disparities including
24 renters' needs.

25 We suggest the State return to its practice

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1 of two decades ago of funding a statewide water
2 assistance program that would extend alongside the
3 heating assistance program that is currently provided.

4 Our Committee's report came out more than
5 a year ago and there have been several positive
6 developments since then that we would take into account
7 if we were writing today.

8 Federal infrastructure funding will
9 provide an important influx of support in our state
10 that should help alleviate some of these aging
11 infrastructure issues that have contributed to rising
12 water costs.

13 But costs are not only rising because of
14 infrastructure failures, extreme weather events and
15 flooding also make significant contributions and may
16 seem to be increasing.

17 Also, American rescue plan funds and
18 temporary federal funding of the low-income household
19 water assistance program will make a big difference,
20 but only if the funds are extended to renters as well
21 as homeowners.

22 At this time, the program is only a
23 one-time emergency expenditure. When those funds are
24 gone, we will go back to a situation where water is
25 becoming a larger and larger portion of individuals

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1 and families' household budgets and less affordable
2 for all.

3 Our report concludes with a number of
4 recommendations and I'm pleased to share that we
5 recently learned that the Massachusetts Office of the
6 State Auditor has been using our report to inform its
7 work on disparate water policies.

8 However, I want to stress that the biggest
9 challenge that we face in conducting this report was
10 the failure of local water districts to collect data
11 that would allow for civil rights monitoring by us or
12 by anyone.

13 Without such monitoring, the race-based
14 impacts of local water policies are and will remain
15 invisible and unaddressed. I welcome the Commission's
16 comments and questions.

17 CHAIR CANTU: Thank you, Ms. Davis, that
18 was really an excellent summary of the report on water
19 affordability. You have made USCCR history by being
20 the first to bring this issue to the attention of the
21 Commission.

22 We have time for questions for the
23 Commissioner. Any questions?

24 COMMISSIONER YAKI: This Commissioner
25 Yaki.

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1 CHAIR CANTU: Yes, Commissioner?

2 COMMISSIONER YAKI: Thank you very much
3 for the report. As someone who comes from the West
4 where there are rampant water shortages, droughts and
5 et cetera, I think I just want to say this was extremely
6 timely.

7 No one seems to really focus on this and
8 the privatization of water in America has become
9 increasingly, as we all know, a lucrative commodity
10 industry, a lot of water wars and that just stemming
11 back from the movie Chinatown.

12 But to this day, as I becomes a much more
13 scare and precious resource in development, it doesn't
14 seem to quite figure that out yet is something that
15 I think we all need to pay attention to.

16 And I intend on looking at that section
17 of the report carefully and distributing it to
18 colleagues of mine in California. So, I just wanted
19 to thank them for their foresight and vision in putting
20 this together.

21 MS. DAVIS: That's great to hear, thank
22 you very much.

23 CHAIR CANTU: Other Commissioners, do you
24 have questions?

25 COMMISSIONER ADEGBILE: Madam Chair,

1 Commissioner Adegbile?

2 CHAIR CANTU: Please speak.

3 COMMISSIONER ADEGBILE: I echo
4 Commissioner Yaki's and the Chair's thanks for taking
5 up this issue, which I think is an important one to
6 consider in the area of civil rights implications.

7 And I was particularly interested in the
8 type of disparate impact analysis I think that
9 undergirds some of the findings of your study and the
10 way in which not affording reliefs to renters in which
11 minority communities may be overrepresented cuts off
12 people to sources of aid and relief.

13 And I'm just wondering if there is any
14 sense that you got from your study about whether this
15 problem -- I heard and understood you said some cities
16 are ahead of Massachusetts on these issues?

17 But I'm just wondering about whether or
18 not there is a best practice or a way to have policy,
19 water policy, take account of the disparities and
20 ownership and renters.

21 MS. DAVIS: Thank you for that question.

22 There are, as you say, I'll point out a
23 number of places that have addressed the renter issues.

24 Seattle is the place that has been doing it the
25 longest, I'm not sure it's mentioned in the report

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1 specifically.

2 But there, as I understand it, they have
3 shared information between LIHEAP, the heating
4 program, and the water district authority and used the
5 LIHEAP data to then determine who are rents who might
6 need assistance with the water.

7 And so they're able to do that because of
8 data-sharing that they can do because of they have a
9 shared administration.

10 Another example, though, is Portland,
11 Oregon, which, as I understand it, adds some funds to
12 housing assistance that they provide to renters in
13 order to provide subsidies for water.

14 So, if they're providing housing
15 assistance to low-income renters they add a certain
16 amount to that housing assistance to account for the
17 water bill that is not otherwise being addressed.

18 And often, Texas has initiated a program
19 similar to what Seattle does. They did that
20 specifically in response to findings about racial
21 impacts of the failing to address renters'
22 predicaments.

23 So, there are some examples at the city
24 level of how this is being handled. I think for all
25 of these places, the initial issue is really

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1 identifying the problem because the data is so hard
2 to come by.

3 Because it's so difficult to get from water
4 authority's information about who is being shut off
5 and who is being served and how people are paying for
6 water that it requires an initial investment of time
7 to do the analysis to figure out what kind of program
8 would really provide equitable access to water to
9 everyone in the community.

10 COMMISSIONER ADEGBILE: Thank you.

11 CHAIR CANTU: Thank you for your question.

12 Are there other questions from the Commissioners?
13 If there are no further questions, then we will move
14 to the next item on our agenda.

15 Thank you, Ms. Davis, for your leadership
16 on the Massachusetts State Advisory Committee and for
17 taking the time today to speak to us about this
18 important matter of affordable water. Thank you,
19 thank you.

20 If you would like, you could remain on the
21 line but if you've got pressing matters, you're free
22 to go on to your next business.

23 We now hear from Diane Citrino, Chair of
24 the Ohio Advisory Committee, who will present their
25 report on the COVID-19 and health disparities.

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1 The report is called Civil Rights and
2 Equity in the Delivery of Medical and Public Services
3 During the Covid-19 Pandemic in Ohio.

4 **III. CIVIL RIGHTS AND EQUITY IN THE DELIVERY**
5 **OF MEDICAL AND PUBLIC SERVICES DURING THE**
6 **COVID-19 PANDEMIC IN OHIO BY DIANE CITRINO**

7 MS. CITRINO: Thank you, good afternoon,
8 Chair Cantu and Commissioners.

9 It's my honor and privilege to discuss the
10 work of the Ohio Advisory Committee on the topic of
11 civil rights and equity during the COVID-19 pandemic
12 and the delivery of medical and public services.

13 I'll note that we started this in May of
14 2020, which seems a lifetime ago, and even though at
15 that point COVID-19 had already exposed and amplified
16 some of the inequities, including in healthcare.

17 And I note in light of the conversation
18 earlier the very applicable quote from Dr. Martin
19 Luther King, who said of all of the forms of inequality,
20 injustice in health is the most shocking and inhuman
21 because it often results in physical death.

22 And sadly, the devastation from the
23 COVID-19 pandemic has brought that quote painfully to
24 our minds.

25 And what we looked at in our report were

1 specifically responses to the known disparities in the
2 incidents and severity of infections.

3 We looked to see were there any
4 disparities, including death, on the basis of race,
5 color, age, disability, or other federal protected
6 categories.

7 The impact of the responses to the virus
8 on identifiable health disparities, or access to public
9 services.

10 And then we looked to see what potential
11 policies or practices could help remedy any of the
12 discovered inequities.

13 At the time of our report, the U.S. Centers
14 for Disease Control and Prevention revealed that
15 African Americans were more than four times as likely
16 as non-Hispanic white Americans to be hospitalized from
17 the virus and more than twice as likely to die.

18 American Indians, Alaska natives, and
19 Hispanic or Latino persons were similarly
20 disproportionately affected. In our study, the Ohio
21 Advisory Committee sought to understand the underlying
22 causes of these disparities that were highlighted by
23 the pandemic.

24 Ohio has many outstanding world-renowned
25 hospitals, nevertheless, hospitals and healthcare

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1 facilities have faced significant challenges preparing
2 for the outbreak and dealing with the outbreak,
3 especially in ensuring adequate care to non-COVID
4 patients.

5 Certainly, we also saw that creating a
6 framework for resource allocation based on objective
7 medical evidence and free from bias was difficult to
8 achieve, particularly related to people with
9 disabilities.

10 The main finding from our review was that
11 Ohioans in federally protected civil rights categories
12 have suffered disparate impact in the delivery of
13 medical and public services during the COVID-19
14 pandemic in Ohio.

15 And while the discrimination may be
16 unintentional, the disparate impact was nevertheless
17 apparent. We sought to understand some of the risk
18 factors that led to this disparate impact.

19 We identified those in our report, many
20 of which are common knowledge today. People at high
21 risk for severe complications to Coronavirus
22 infections include people with co-morbid conditions
23 such as diabetes, asthma, or hypertension.

24 A person's risk of infection and eventual
25 health outcomes are influenced also by socioeconomic

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1 conditions, where they live. And we found that
2 COVID-19 mortality rates were highest in counties with
3 the highest poverty rates.

4 Under that umbrella, black people and
5 other minorities were over-represented in unemployment
6 and in low-wage jobs with fewer benefits and poorer
7 working conditions, limiting access to healthcare and
8 including, especially in rural areas, older adults and
9 people with disabilities were among the most likely
10 to lack resources and to rely on support for access
11 to healthcare and other community services.

12 Housing issues including the ability to
13 isolate properly if needed also contributed to risk
14 factors, as did people living in congregate care
15 settings, such as nursing homes, assisted living
16 facilities, or prisons.

17 In fact, one immigration detention
18 facility in Monroe County, Ohio reportedly saw 100
19 percent of its inmates infected with the virus due to
20 poor protective procedures.

21 We found that there were some preventive
22 or protective measures in place due to the pandemic
23 that may have disproportionately affected high-risk
24 populations. For example, the
25 pandemic has resulted in the decline in routine care

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1 and emergency room visits, especially for African
2 Americans, which raises concerns of delayed diagnosis
3 and potential progression of non-COVID-19 disease.

4 Strict visitor limitation policies in
5 hospitals disadvantaged people with disabilities who
6 frequently rely upon supportive individuals for
7 communication and decision-making.

8 And another example, school closures have
9 created mass layoffs for childcare workers,
10 disproportionately impacting Hispanic and black women.

11 We made a number of specific
12 recommendations focusing on potential ways to assist
13 in remedying these disparities.

14 They go to obtaining better data, planning
15 for the future, training people, educating people and
16 our submission to this Commission is that the U.S.
17 Commission on Civil Rights should conduct a national
18 study of health disparities related to the Coronavirus
19 pandemic, including a review of available data.

20 And identification of areas where the data
21 may be missing or sufficient, as well as the impact
22 of the federal response to the pandemic on identified
23 health disparities and suggest policy changes and best
24 practices with the potential to remediate the
25 identified concerns.

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1 I would like to thank all of the Members
2 of the Ohio Committee as well as the amazing Staff,
3 Melissa Wojnaroski and Emily Zanolli, who was an
4 intern on this project, as well as all of the people
5 who testified for us and especially the health
6 professionals who were in crisis mode but still took
7 the time to come from the front lines and talk to our
8 Committee and provide this information.

9 I'd be happy to answer any questions.

10 CHAIR CANTU: Thank you for sharing the
11 document, it was a wonderful read because it was 14
12 pages long and I commend you for being so pithy. Do
13 the Commissioners have questions?

14 I turn to you all to be recognized.

15 COMMISSIONER KIRSANOW: Madam Chair,
16 Kirsanow here.

17 CHAIR CANTU: Commissioner from your home
18 state.

19 COMMISSIONER KIRSANOW: Thank you. I
20 also want to extend my thanks, Diane, for this report
21 and for its pithiness too, 14 pages, it falls within
22 my timeframe.

23 I unfortunately was not able to read any
24 of the transcripts or related materials so one of the
25 questions I have may be answered by some of the evidence

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1 that you deduced, the first one was more of a medical
2 question.

3 Was there anything in the testimony or
4 anything in the evidence deduced that showed that any
5 disparate outcome might be related to race per se as
6 opposed to race plus?

7 And by that I mean there are very few but
8 there are diseases, for example, that have a heavier
9 impact on certain races, such as Tay-Sachs disease for
10 Ashkenazi Jews, sickle cell for blacks, and so on and
11 so forth.

12 Was there any evidence that any
13 disparities with respect to COVID-19 and outcomes
14 related to COVID-19 may be related to race per se?

15 MS. CITRINO: Thank you, Commissioner
16 Kirsanow, for the question.

17 So much has happened since hearing this
18 testimony that I know that initially there were
19 questions raised about whether certain racial
20 characteristics were more protective or not.

21 But I don't have any specific recollection
22 that came up in this testimony, I believe there has
23 been inquiry on that point that I've seen since then
24 so I don't want to have it color my views.

25 I don't recall that was specifically

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1 addressed.

2 COMMISSIONER KIRSANOW: Thank you.

3 CHAIR CANTU: I did see something similar
4 in the concurring page and thank you to you and all
5 of the Advisory Committees who do allow different
6 points of view and dissenting points of view.

7 In concurring they did mention that more
8 attention could be given to the situation of...they
9 use the term co-morbidity, which is a scary word and
10 not wanting to scare this audience, what they meant
11 was could it be race or something else?

12 So, only in the discussion of the remedies
13 but Commissioner, I think you're correct in identifying
14 there wasn't much directed at that. Like you, I did
15 not read all the wonderful attachments, I skimmed.

16 So, I apologize for that and I do thank
17 you deeply. Do other Commissioners have additional
18 questions?

19 COMMISSIONER KIRSANOW: Kirsanow again.

20 I guess I should know this because it's
21 my home state but I'm curious as to whether Ohio in
22 addition to some other states, I think Washington State
23 is one, if I'm not mistaken, New York, maybe Utah, that
24 have prioritized the treatment of certain people by
25 ethnicity or race in the provision of COVID-19

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1 treatment, such as monoclonal antibodies and others.

2 Has Ohio done anything like that?

3 MS. CITRINO: At the time we did this
4 inquiry, there was no vaccine, there were no monoclonal
5 antibodies and I can't speak to that. I don't know.

6 CHAIR CANTU: An honest answer, thank you.
7 Other questions, Commissioners?

8 COMMISSIONER ADEGBILE: Madam Chair,
9 Commissioner Adegbile?

10 CHAIR CANTU: Please proceed.

11 COMMISSIONER ADEGBILE: I just want to
12 provide a comment to the Chair.

13 Thank you for the report and the
14 examination, it's an important issue and something that
15 I think we need to continue to examine as the overlap
16 between race and healthcare gets more attention and
17 more closely scrutinized.

18 I also wanted to direct you to testimony
19 that we received when we did an inquiry into the impact
20 of the COVID-19 pandemic in Native American
21 communities. There was extensive testimony on these
22 issues.

23 The Commission did not release a report
24 on those topics but the testimony is publicly available
25 and on the website, and may be of interest to those

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1 of you who participated in the study.

2 I'm sure that thematically there will be
3 some points that are consistent with what you found.

4 MS. CITRINO: Thank you.

5 CHAIR CANTU: Other questions? If there
6 are no further questions, we will move to the next item
7 on the agenda.

8 And please, Chair Citrino, thank you,
9 thank you for your service and for your leadership on
10 the Virginia State Advisory Committee and for taking
11 the time to speak with us today.

12 As you can tell, the interest level was
13 really high on your topic and if you'd like to stay
14 on the line you may, but if you've got other matters,
15 of course you can be excused.

16 So, we're going to turn now to the next
17 item. As you know, the Commission depends on the
18 advice from highly qualified persons who serve in each
19 of our 50 states plus the District of Columbia.

20 And most recently, the U.S. Virgin
21 Islands, Puerto Rico, the Northern Mariana Islands,
22 Guam, and American Samoa.

23 So today, our agenda item deals with the
24 appointment of three Advisory Committees, Wyoming,
25 District of Columbia, and Puerto Rico.

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1 So, I will move and ask for a second to
2 appoint the following persons to serve as the State
3 Advisory Committee Members for the State of Wyoming.

4 And this is based on vetting and recommendations of
5 the Staff Director.

6 The names that I will call out, there is
7 one returning to appointee to the State Advisory
8 Committee and all the rest of them are new appointees.

9 James O'Brien, nominated for Chair,
10 Virginia Abery, Pavlos Papadopolous, Nicholas Psaki,
11 Gail Ridgely, Sally Soto, Judy Shephard, James Simmons,
12 Virginia Sloan, and Valerie Thompson-Ebanks.

13 I ask for a second and I will call for a
14 vote.

15 COMMISSIONER HERIOT: Second.

16 CHAIR CANTU: Thank you, Commissioner
17 Heriot. We have a second and we can now vote on
18 Wyoming. Commissioner Adams?

19 COMMISSIONER ADAMS: Yes.

20 CHAIR CANTU: Commissioner Adegbile?

21 COMMISSIONER ADEGBILE: Aye.

22 CHAIR CANTU: Commissioner Gilchrist?

23 COMMISSIONER GILCHRIST: Aye.

24 COMMISSIONER ADAMS: Yes.

25 CHAIR CANTU: Commissioner Adegbile?

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COMMISSIONER ADEGBILE: Nay.

CHAIR CANTU: Commissioner Gilchrist?

COMMISSIONER GILCHRIST: Aye.

CHAIR CANTU: Commissioner Heriot?

COMMISSIONER HERIOT: I vote 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, it is unanimous, congratulations.

All these individuals will serve as uncompensated government employees. Since the motion passes, the Commission will authorize the Staff Director to execute the appropriate paperwork.

The next group is Wyoming, we've got District of Columbia, does that look right? Yes, I see it now.

I'm going to move to appoint the following persons and ask for a second, for these persons to serve as State Advisory Committee Members in District of Columbia based on the recommendations of the Staff Director.

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1 Blake Peterson, nominated for Chair, he's
2 the new appointee, Michael Atkins, new appointee,
3 Denise Barns, new appointee, Paul Borchers, returning
4 to appointee, Kayla Goubbog, new appointee, Wayne Herd,
5 new appointee, Kendrick Hawley, returning to
6 appointee, Rochel Iqlan, new appointee, Craig Lean,
7 new appointee, Max Lesko, new appointee, Daniel Lipps,
8 new appointee, Charles Lowery, returning to appointee,
9 and Schuberth, new appointee, and Robert Law, returning
10 to appointee.

11 I would ask for a second, please?

12 COMMISSIONER ADAMS: Adam seconds.

13 CHAIR CANTU: I heard Commissioner Adams.
14 You should be on Jeopardy!, you pressed that buzzer.
15 We can now proceed for a vote in alphabetical order.

16 Commissioner Adams?

17 COMMISSIONER ADAMS: Yes.

18 CHAIR CANTU: Commissioner Adegbile?

19 COMMISSIONER ADEGBILE: Aye.

20 CHAIR CANTU: Commissioner Gilchrist?

21 COMMISSIONER GILCHRIST: Aye.

22 CHAIR CANTU: Commissioner Heriot?

23 COMMISSIONER HERIOT: I vote yes.

24 CHAIR CANTU: Commissioner Kirsanow?

25 COMMISSIONER KIRSANOW: Yes.

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1 CHAIR CANTU: Commissioner Kladney?

2 COMMISSIONER KLADNEY: Yes.

3 CHAIR CANTU: Commissioner Yaki?

4 COMMISSIONER YAKI: Aye.

5 CHAIR CANTU: And I vote yes. It is
6 unanimous, the motion carries. Congratulations to the
7 new and returning to Members of the State Advisory
8 Committee. All these individuals will serve as
9 uncompensated government employees.

10 If the motion passes the Commission will
11 authorize the Staff Director to execute the appropriate
12 paperwork. I said that already.

13 Now I move to appoint the following persons
14 to serve as State Advisory Committee Members in the
15 Puerto Rico Advisory Committee. This is an historic
16 vote. All of these are new appointees obviously.

17 I did the motion and second first, right?

18 Do I have a second for this motion or should I read
19 the names first?

20 COMMISSIONER HERIOT: You've been reading
21 the names first so far.

22 CHAIR CANTU: Thank you, someone is
23 listening. Andres Cordova,
24 nominated for Chair, Frank Arenal, Roman Barquin,
25 Ariadna Godreau Aubert, Charlotte Gossett Navarro,

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1 Manual Iglesias-Belendez, Sergio Marxuach, Cristina
2 Maria Miranda-Pelacios, Ever Padilla Ruiz, Jose Olmos,
3 Dan Santiago, William Villafane-Ramos, the attorney.

4 Do I have a second for this motion?

5 COMMISSIONER HERIOT: Heriot second.

6 CHAIR CANTU: Thank you. Is there
7 discussion or should I should move on to the vote?
8 I just realized that I could have been asking for
9 discussion.

10 COMMISSIONER KLADNEY: Kladney calls the
11 question.

12 CHAIR CANTU: Thank you, that helps me
13 procedurally. So, taking the roll call vote
14 alphabetically, Commissioner Adams, how do you vote?

15 COMMISSIONER ADAMS: Yes.

16 CHAIR CANTU: Commissioner Adegbile?

17 COMMISSIONER ADEGBILE: Aye.

18 CHAIR CANTU: Commissioner Gilchrist?

19 COMMISSIONER GILCHRIST: Aye.

20 CHAIR CANTU: Commissioner Heriot?

21 COMMISSIONER HERIOT: I vote yes.

22 CHAIR CANTU: Commissioner Kirsanow?

23 COMMISSIONER KIRSANOW: Yes.

24 CHAIR CANTU: Commissioner Kladney?

25 COMMISSIONER KLADNEY: Yes.

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1 CHAIR CANTU: Commissioner Yaki?

2 COMMISSIONER YAKI: Aye.

3 CHAIR CANTU: And I vote yes. The vote
4 was unanimous approval to the Advisory Committee for
5 Puerto Rico. So, our next agenda item is the
6 discussion and vote on the fiscal year concept papers.

7 **IV. DISCUSSION AND VOTE ON THE FISCAL**
8 **YEAR CONCEPT PAPERS.**

9 So, established as an independent
10 bipartisan fact-finding federal agency, our mission
11 is to inform the development of national civil rights
12 policies and enhance enforcement to federal civil
13 rights laws.

14 We pursue this mission by staying the
15 alleged deprivations of voting rights and alleged
16 discrimination based on race, color, religion, sex,
17 age, disability, or national origins, or in the
18 administration of justice.

19 Although the U.S. Commission of Civil
20 Rights is not a law enforcement agency, through the
21 Commission's work, the civil rights issues are lifted
22 to a national level.

23 Today's meeting, we have two topics to
24 focus on for Fiscal Year 2022 and these two topics are
25 the impact of COVID-19 and the digital divide on

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1 education. And the lead for that concept paper is me,
2 Norma Cantu.

3 A survey of the U.S. Commission on Civil
4 Rights State Advisory Committees, the state of civil
5 rights, and I'm also listed as lead on that.

6 We've done concept papers before where we have
7 done a review on the state of civil rights by
8 interviewing and collecting data from our State
9 Advisory Committees.

10 I read the one from 2018, it was excellent.
11 So, each paper will be voted on separately and the ones
12 with a majority vote will be passed onto the Office
13 of the Civil Rights Evaluation, OCRE, and to Office
14 of the General Counsel, OGC, to begin the research and
15 briefing and planning.

16 So, with these topics, I will just describe
17 the -- let's do the first one. The first one is the
18 impact of COVID-19 and the digital divide on education.

19 In this concept paper, which was shared
20 back in August 2020, I noticed this topic because it
21 was in the queue, it had been proposed in prior years,
22 and we had not added it to the final list. So,
23 hopefully this time it will be approved.

24 This issue looks at trying to review and
25 investigate whether federal programs have been

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1 effective in increasing access to the interest, to
2 telecoms and to digital resources for schools, and
3 whether those resources are being provided in an
4 equitable and non-racial manner.

5 The issues are not new ones.

6 In the 1990s, the Department of Commerce
7 undertook a review of how the digital divide was
8 manifesting itself and that agency found significant
9 disparities based on race, based on social economic
10 status, and based on geographic location.

11 Even today though, the disparities still
12 exist and so a quarter century that has not resulted
13 in an elimination of those gaps. The gaps are still
14 going today in access to home broadband and traditional
15 computer.

16 But particularly, it's impactful for black
17 and African Americans and Hispanic adults who work as
18 caretakers for their kids and help their kids learn.

19 Disparities are also presenting with
20 regards to people with distance and I'm opening that
21 possibility to be explored in this concept paper.

22 One of the arenas that have received a lot
23 of recent attention in the past year is that
24 increasingly, the digital education landscape has been
25 marked with heavier reliance on online homework

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1 submissions and turning in your schoolwork, your
2 research assignments.

3 And the civil rights problem is that
4 students who are African American or Hispanic do not
5 have regular access to the Internet at home. And they
6 face and incredibly difficult challenge completing and
7 submitting schoolwork on time.

8 What has been referred to by scholars
9 is the homework gap and it has affected even before
10 the pandemic between 8.5 to 12 million students, with
11 a heavier reliance on the pandemic it is an appropriate
12 topic to review.

13 The methodology is one that we will
14 undertake discussions with OCRE so in this paper, I
15 did not presume to have more expertise than I propose
16 to discuss with the OCRE folks, which are the right
17 programs we should be examining in the wake of the
18 American Rescue Plan.

19 And also, to have a methodology for
20 investigating how the funds have been distributed and
21 how they've been used or not used to support students
22 of color or national origin students.

23 The jurisdictions, it is within the USCCR
24 jurisdiction because of the constitution, equal
25 protection, and also Title 6 as it relates to

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1 discrimination on the basis of color, race, national
2 origin.

3 If we pursue the disability angle, we will
4 look within the Americans with Disabilities Act, the
5 Elementary and Secondary Education Act.

6 And we have as well federal legislation,
7 some of it going back to 1996 that deals with
8 telecommunications and some of it that came recently
9 in 2021 as part of the large packets of legislation
10 that provide funding for part of the American Rescue
11 Plan to address COVID-19.

12 That in a nutshell, I'm sorry I took so
13 long, is the COVID-19. Are there questions?

14 COMMISSIONER HERIOT: Madam Chair, can I
15 just make a quick comment?

16 CHAIR CANTU: Yes, thank you. Our SACS
17 go through so easily because we negotiate these
18 beforehand. And with this concept paper, I think a
19 lot of people are well disposed towards the topic and
20 the abstract.

21 But we provided edits trying to do the same
22 sort of negotiations we do with the SACs on this. None
23 of that showed up in the document, much to my surprise,
24 so that's very troubling to me.

25 I did not have an opportunity to make the

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1 changes, I was trying to negotiate which were the topics
2 that would finally --

3 COMMISSIONER HERIOT: These were provided
4 back in September is my understanding, it's been a long
5 time.

6 CHAIR CANTU: I'm sorry, I believe this
7 was something the special assistants have been talking
8 about. I did see the red lines that were going back
9 and forth.

10 Can you give me an example for today's
11 discussion of an edit that you would see as necessary
12 for this vote?

13 COMMISSIONER HERIOT: I don't have the
14 document in front of me right now but that's just the
15 point, this was edited back in September and yet,
16 nothing shows up in the document now.

17 CHAIR CANTU: As I recall from the request
18 for edits, they wanted to know what were the statutes.

19 I'm going to on my memory, the statutes
20 that we intended to include, which is in this document
21 that I'm reading to you, and they wanted to know --

22 That's the only one I can remember, is
23 identifying the statute.

24 COMMISSIONER KLADNEY: Madam Chair,
25 Kladney here.

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1 Perhaps it would be better...my concern
2 and I think I've raised this with you, this program,
3 the UA program, was passed March 1, 2020, and the money
4 just started, I think, the school districts or the
5 states were putting their programs in for the 2021
6 schoolyear.

7 I'm sorry, it was signed March 2021. So,
8 they just put in for the 2021 schoolyear and the 2022.

9 I don't know when you planned on having a briefing
10 or collecting data or the methodology in which you were
11 superseded.

12 But it seems to me, there won't be any
13 statistics at least for only one year in the fall.
14 Is that correct? Am I right?

15 CHAIR CANTU: We've had statistics
16 because this has been an ongoing research project for
17 Congressional research service for the Department of
18 Commerce and it's timely that we not continue to put
19 this off.

20 Even though some of the money has gone out,
21 many of the states have held the money back for
22 multi-year purposes and our gift to the country would
23 be to identify where there is money that is not being
24 dispersed and why it's not being dispersed.

25 If we were to wait two or three years to

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1 work on this, then we would delay and miss an
2 opportunity to ensure the money reaches schools that
3 serve children of color and the money would reach
4 programs that expand the offering of the Wi-Fi and other
5 types of services the children need.

6 COMMISSIONER KLADNEY: Because as I read
7 the paper, I thought you were just focusing on the
8 American Rescue Plan and the E-Rate program, which
9 really in the past focused on libraries and schools
10 themselves, and only individual students beginning
11 this year.

12 CHAIR CANTU: The first sentence, which
13 I didn't read and I should go back and read again,
14 proposes to investigate whether federal programs that
15 seek to provide increased access to internet, telecom,
16 and digital resources.

17 So, digital resources is a broad category.
18 Within that, and in parentheses, we opened the
19 parenthesis and said chiefly the E-rates but it was
20 not limited only to the E-rates.

21 And it continued, actively work to bridge
22 the digital divide and address the homework gap
23 disparities.

24 COMMISSIONER KLADNEY: I have nothing
25 further.

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1 CHAIR CANTU: Thank you, Commissioner.
2 Are there other questions?

3 COMMISSIONER GILCHRIST: I call a
4 question.

5 CHAIR CANTU: Thank you. We'll do a roll
6 call vote on the proposal for the concept paper.
7 Commissioner Adams?

8 COMMISSIONER ADAMS: No.

9 CHAIR CANTU: Commissioner Adegbile?

10 COMMISSIONER ADEGBILE: Aye.

11 CHAIR CANTU: Commissioner Gilchrist?

12 COMMISSIONER GILCHRIST: No.

13 CHAIR CANTU: Commissioner Heriot?

14 COMMISSIONER HERIOT: I'm going to vote
15 no. I'd be happy to do this with notational vote if
16 we can get those amendments in there and get this done.
17 But we've been ignored so I guess I vote no.

18 CHAIR CANTU: I appreciate your being
19 forthright with me. Thank you. Commissioner
20 Kirsanow?

21 COMMISSIONER KIRSANOW: No.

22 CHAIR CANTU: Commissioner Kladney?

23 COMMISSIONER KLADNEY: A tentative yes.

24 CHAIR CANTU: Commissioner Yaki?

25 COMMISSIONER YAKI: Aye.

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1 CHAIR CANTU: And I vote yes. We have
2 four noes and four yeses, is my mouse right?

3 COMMISSIONER KIRSANOW: Three yeses and
4 a tentative yes.

5 CHAIR CANTU: Thank you, let me write that
6 down. It does not carry as it requires a majority vote
7 of five to four, so the motion does not carry. We do
8 not have a concept paper on the digital divide.

9 The next item is a concept paper on survey
10 of the U.S. Commission on Civil Rights State Advisory
11 Committee.

12 As I've described before, because of the
13 contributions from the Commissioners and recommending
14 members and because of the vetting, we have excellent
15 people serving on our State Advisory Committees and
16 we've gone from the 51 plus District of Columbia to
17 51 plus District plus 5 new Advisory Committees.

18 This survey would follow the same
19 methodologies but would update it in terms of being
20 sure that we ask questions about how COVID-19 has
21 affected. I do not have the specific questions we will
22 ask.

23 We are the only people who could authorize
24 working on this type of survey and the OCRE people on
25 their own cannot proceed to do this paper without our

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1 approval of it.

2 So, to pursue this, this would count not
3 as a statutory enforcement, one of those papers that
4 we have to have in order to comply with our statutes,
5 but it would count as a regular concept paper or regular
6 report of the U.S. Commission on Civil Rights.

7 Am I correct on that? Is there someone
8 that would tell me differently? Do we have discussion
9 on this? I want to be sure, did I ask for a second
10 on this?

11 COMMISSIONER HERIOT: Heriot seconds in
12 case you didn't.

13 CHAIR CANTU: Thank you for reminding me.
14 Any question, discussion, things that went well, those
15 of you who were here in 2018, things that went well,
16 things you would do differently?

17 COMMISSIONER GILCHRIST: Madam Chair,
18 Chris calls for the question.

19 CHAIR CANTU: Thank you. We'll do a roll
20 call vote. Before I do that I'm reminded that I erred
21 and should not have used the gender pronoun for Blake
22 Peterson. Blake is using the pronouns she and her.

23 So, thank you for that update on that.
24 I should have asked for the State Advisory Committee.

25 So, a roll call vote getting back to the survey of

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1 the U.S. Commission State Advisory Committee. Adam?

2 COMMISSIONER ADAMS: Yes.

3 CHAIR CANTU: Commissioner Adegbile?

4 COMMISSIONER ADEGBILE: Aye.

5 CHAIR CANTU: Commissioner Gilchrist?

6 COMMISSIONER GILCHRIST: Aye.

7 CHAIR CANTU: Commissioner Heriot?

8 COMMISSIONER HERIOT: I vote yes.

9 CHAIR CANTU: Commissioner Kirsanow?

10 COMMISSIONER KIRSANOW: Yes.

11 CHAIR CANTU: Commissioner Kladney?

12 COMMISSIONER KLADNEY: Yes.

13 CHAIR CANTU: Commissioner Yaki?

14 COMMISSIONER YAKI: Aye.

15 CHAIR CANTU: And I vote yes. The motion
16 passes. We have a focus, an approval for our talented
17 staff to move forward.

18 We'll turn to our final item on our agenda,
19 the discussion and vote on adopting the Commission's
20 five-year strategic plan.

21 **V. DISCUSSION AND VOTE ON ADOPTING THE**
22 **COMMISSION'S FIVE-YEAR STRATEGIC PLAN.**

23 This was presented before the questions
24 and objections were made at a prior meeting, where we
25 had some language that was either asked to be amended

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1 or removed.

2 I'm taking personal privilege and offering
3 that I would support the recommendation that we strike
4 from the plan the language that says the Commission
5 will routinely post to social media to keep the public
6 informed on civil rights and historical events.

7 The Commission will strike the language
8 on increased engagement with the Commission's social
9 media accounts it seems through analytic tracking.

10 This does not affect all the other bullets
11 in the strategic plan but those bullets were a source
12 of robust discussion and talking with other
13 Commissioners afterwards.

14 I will support if that is the wish of the
15 others, to strike that language.

16 COMMISSIONER YAKI: Madam Chair?

17 (Simultaneous speaking.)

18 CHAIR CANTU: Yes?

19 COMMISSIONER YAKI: I will not support
20 taking the language out.

21 CHAIR CANTU: Thank you. Let's put this
22 in a formal, I've made a motion to withdraw it and if
23 there is no second, we don't proceed. Let's find out
24 if there's a second.

25 COMMISSIONER HERIOT: I second, Heriot.

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1 COMMISSIONER KLADNEY: Excuse me, where
2 are we with this? In support or withdraw? I'm
3 confused.

4 COMMISSIONER HERIOT: Our two options are
5 to come up with new language to replace the language
6 that was under the bullets of the strategic plan that
7 dealt with how we hold ourselves accountable in the
8 use of social media.

9 The prior plan for 2018 to 2022, and it's
10 expiring, it already has expired, it expired on January
11 1st, that prior plan did not have indicators for whether
12 we were making progress on social media.

13 And so that was language that fit within
14 the section of the strategic plan that had to do with
15 operating a clearinghouse, running our public affairs
16 unit, it had to do with the work of the Staff and whether
17 we would collect data and whether we would make progress
18 in those types of functions.

19 Because we have other issues that cause
20 concern, and I'm very concerned with the concept
21 papers, I would just take this off the table and
22 withdraw that language that would commit the Staff to
23 routinely post to social media, commit the Staff to
24 increasing their tracking, their keeping record of how
25 much social media is being performed.

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1 I'm not agreeing that's the right thing,
2 I am doing it because we have some major issues with
3 only one paper and it does not mean, going back to the
4 --

5 COMMISSIONER KLADNEY: What does that
6 have to do with the paper? This is totally different.

7
8 This is just how the Commission runs, Madam
9 Chair, so I don't understand. If it's the performance
10 measures, that's one thing, but the objective is
11 totally different.

12 I don't understand why you would want to
13 take out what we should always be doing simply because
14 you can't get consensus on some other issue.

15 CHAIR CANTU: The issue is that we are
16 being held up on a statutory requirement of turning
17 in a five-year plan and we are being held up by this
18 language, which does not --

19 COMMISSIONER KLADNEY: Let's discuss the
20 language, let's discuss why we're being held up on this
21 language.

22 CHAIR CANTU: Please.

23 COMMISSIONER KLADNEY: Madam Chair, I
24 appreciate what you're trying to do, but before you
25 take any action in terms of moving to withdraw this,

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1 I would ask you to withdraw your withdrawal of this
2 language.

3 And let's have a discussion about this and
4 find out what exactly about this objective is
5 objectionable to our colleagues?

6 CHAIR CANTU: I would yield to the second
7 because I can live with the language.

8 COMMISSIONER KLADNEY: You're the author
9 of the motion, you can withdraw your motion. What the
10 second does with it is irrelevant, the second can make
11 their own motion.

12 CHAIR CANTU: Okay, let me give you the
13 pros. I've looked at other civil rights agencies
14 within government. They focus on the priorities of
15 the actions they plan to take that will directly and
16 indirectly expand civil rights.

17 None of them in their current five-year
18 plans and I only looked at five or six of them,
19 Department of Labor, Department of Justice, EEOC.
20 They don't have plans for what they want to post on
21 social media, nor do they measure that.

22 (Simultaneous speaking.)

23 So, one of my concerns was we are not
24 obliged to do this.

25 COMMISSIONER KLADNEY: We are the United

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1 States Commission on Civil Rights.

2 We were formed in 1957 to address the issue
3 of civil rights and become the watchdog for the entire
4 nation. We are not an office or a department within
5 a department.

6 We are our own agency with a singular
7 function and our singular function is the issue of civil
8 rights.

9 The idea that the civil rights agency for
10 the United States does not keep the public apprised
11 of historic and current civil rights issues is quite
12 frankly absurd.

13 CHAIR CANTU: Commissioner Heriot, I am
14 leaning towards withdrawing my motion and I have the
15 right to do that. Would you like to speak to this
16 issue?

17 COMMISSIONER HERIOT: I actually don't
18 think you have the right to do that but the point here
19 is we've been getting some tweaks that contain furthest
20 and inaccurate information so we don't want to have
21 something that gooses the system by saying, hey, we're
22 committed to doing as much of this as possible.

23 So, I am not against a social media
24 presence but I am very much against some of the tweaks
25 that have come out in the last year or so.

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1 And therefore, I think rather than putting
2 in this document that we're going to try to increase
3 that level of participation, we need to come up with
4 some sort of system that vets these tweaks better than
5 we have in the past.

6 CHAIR CANTU: I'm not aware of any such
7 tweaks. Can you give me an example?

8 COMMISSIONER HERIOT: I'm trying to come
9 up with them.

10 I had an email that had a list of them a
11 couple of months ago when we first complained about
12 this, but I'm a bit of an old lady these days and I
13 cannot remember exactly what they are.

14 I don't know whether I am going to be able
15 to come up with the email. I've got three devices going
16 at the same time and I really can't wait until we get
17 to the point where we meet in person again, where I
18 can have documents around me a little bit more
19 efficiently.

20 But no, I don't have it with me right now.

21 COMMISSIONER YAKI: Madam Chair, with all
22 due respect to Commissioner Heriot, I understand as
23 much as anyone there are times when an agency or an
24 individual may send out something that perhaps veers
25 from or maybe somewhat, how should I put it, not as

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1 politicked as it could be.

2 I don't know what those are, I'm not
3 accusing anyone in our agency of doing that, I would
4 just not that does happen from time to time.

5 That is entirely different from the
6 objective of keeping the public apprised of historic
7 and current civil rights issues. That is who we are
8 and what we do.

9 And the notion that we strip an objective
10 that, for example, would talk about the Montgomery Bus
11 Boycott, Rosa Parks, the March on Washington is just
12 nuts.

13 CHAIR CANTU: -- I would say bananas.
14 Your objection I think assumes that folks don't
15 continue posting. What this is asking for is more
16 structure in how the routine is of posting and it's
17 asking for more tracking.

18 We can keep doing what we're doing without
19 raising it to a more complicated, more intensive data
20 collection type of activity.

21 COMMISSIONER YAKI: That may be what you
22 think. I'm not too sure if that's the objective of
23 trying to take it out.

24 CHAIR CANTU: That's why this discussion
25 is important.

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1 COMMISSIONER YAKI: That's why I'm asking
2 you to withdraw your motion because I wanted to find
3 out exactly why people were objecting to this
4 particular thing.

5 CHAIR CANTU: You provided me another
6 reason to withdraw it.

7 COMMISSIONER YAKI: If we need to deal
8 with -- what Commissioner Heriot was talking about was
9 not a performance measure. Commissioner Heriot was
10 talking about an actual tweak.

11 That's an entirely different situation.

12 CHAIR CANTU: That is different than what
13 the strategic plan calls for.

14 The strategic plan cannot change our
15 statutory responsibilities to be a clearinghouse of
16 civil rights information, nor can it can the fact that
17 we have current AIs that have created the
18 responsibilities for sharing out information and have
19 placed it under the public affairs section, which
20 reports only to our Staff Director.

21 If you have complaints about the tweaks,
22 we already have a process in place where you notify
23 the Chair immediately and the Chair will then notify
24 the Staff Director immediately.

25 And we would never, ever allow a false

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1 tweak that denigrates or degrades, we would not allow
2 that to happen. So, because this is adding bureaucracy
3 to a valuable part, I'm not in front of that kind of
4 bureaucracy.

5 That's how I saw it but you have shown me
6 the language is confusing and that there is some merit
7 if we continue discussing the language.

8 And so I withdraw my proposal to go ahead
9 and just drop it, and I want you all to keep talking
10 about this.

11 COMMISSIONER GILCHRIST: Madam Chair,
12 Gilchrist here.

13 CHAIR CANTU: Yes, Commissioner?

14 COMMISSIONER GILCHRIST: In light of what
15 Commissioner Yaki shared with us just moments ago, I
16 would like to offer a subsequent motion if I may, to
17 look at the language and strategy on Page 7 of the
18 strategic plan.

19 And include in that that the Commission
20 and the Commissioners will keep the public apprised
21 of current and historic civil rights issues, with the
22 approval of the majority of the Commissioners.

23 I think that at least gives the Commission some
24 ability to be able to have some input into that process
25 and I will certainly put that same language within the

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1 strategy section of Section B as well, on Page 7.

2 Prior to the Commission posting of events,
3 historical or otherwise, approval from the majority
4 of the Commission shall be granted. So, I would like
5 to offer both of those as friendly amendments to the
6 strategic plan.

7 CHAIR CANTU: Yes, the strategic plan has
8 to comply with our AIs and we have two AIs, we have
9 AI1-6, which has the Chair and the Staff Director as
10 the designated spokespersons for the Commission.

11 So, that AI would now have a process where
12 any message would have to be pre-cleared by a majority
13 vote. We already have an AI that has the spokesperson
14 identified.

15 We also have the AI9-1 which sets the
16 guidelines and lines of authority for the public
17 affairs unit. The unit function is to respond as press
18 requests are coming in, to provide support to the
19 spokespersons.

20 And you as Commissioners can ask for
21 information from the Public Affairs Unit, but you've
22 got to go through the Chair. It says that in Section
23 1 of AI9-1.

24 So, you all, however, can tweak and use
25 social media, that's covered under Section 3. All

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1 Commissioners individually are free to post and to
2 speak as long as they make it clear that they are
3 speaking as individuals and not as Commission
4 spokespersons.

5 So, I am trying to share out information
6 for you of what we've done before. I had to dig this
7 up because this is not relevant to the strategic plan.

8 It's a completely new idea, it's an idea
9 to re-designate who the spokespersons are, and this
10 is not how you do that.

11 COMMISSIONER GILCHRIST: Thank you Madam
12 Chair.

13 Gilchrist here again.

14 In light of the A1 that you described,
15 would it be more feasible, then, to insert language
16 that the Chair would then keep the public apprised of
17 historic and current civil rights issues with the
18 approval of the majority of the Commission.

19 CHAIR CANTU: That is not something we
20 posted on the agenda that we were going to discuss
21 today.

22 (Simultaneous speaking.)

23 COMMISSIONER YAKI: Let me paraphrase
24 what my colleague, Commissioner Gilchrist, is trying
25 to do.

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1 Basically, he's trying to do, just taking
2 his language at face value, his goal appears to be to
3 require that as part of our public appraisal mission
4 of historic and civil rights issues, that it be ratified
5 by a majority vote.

6 If I'm misspeaking I apologize but it seems
7 to me that's what he wants. And this raises a totally
8 different objection to me, quite apart from what our
9 AI is saying. And this again, there is history and
10 there is opinion.

11 And I don't think the history should be
12 subjected to the majority vote.

13 There is no majority vote needed about
14 whether or not a historical event such as the Montgomery
15 Bus Boycott, the Japanese internment in 1941, all the
16 farm workers strike by Cesar Chavez in the Central
17 Valley in the 1960s, those are things that have
18 happened.

19 Those are things that are out there, those
20 are things that have been made part of who we have been
21 as a Commission.

22 And to say that only those things approved
23 by a majority of the Commission get to see the light
24 of day is to essentially put a muzzle on history and
25 put a muzzle on what this Commission is supposed to

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1 be.

2 I don't think this is what Commissioner
3 Gilchrist intended to do but that's the practically
4 effect of it. And I would object to it 100 percent.

5 CHAIR CANTU: I have wanted this
6 conversation to happen as part of an in-person
7 discussion and I blame no one for being interested in
8 joining in. I welcome this kind of conversation.

9 The strategic plan that we submit in order
10 to comply with the federal requirement but it was also
11 going to be helpful to track. And so it would be of
12 use to assist Commissioners.

13 But what I'm understanding from the
14 conversations is that people are wanting someone to
15 track the content, not just how often the tweaks or
16 what topics, but also the ideology behind it or whether
17 there was some kind of issue that would arise dealing
18 with the content.

19 I don't think strategic plan is the right
20 vehicle for that kind of a content review and I've asked
21 someone, not for this meeting but for a later meeting,
22 to come up with a process where we could have
23 representatives from both of our caucuses read what's
24 on social media and share it out with me as a chair.

25 So, if we need to put it out on a public

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1 business meeting like we're doing today, we have an
2 opportunity to do that.

3 But we're talking theoretically and in
4 concept right now because we don't have before us any
5 actual examples of what needs to be fixed.

6 And for that reason, to save our time I
7 think we're close to calling a question. We don't have
8 a motion to call a question. Would someone like to
9 file a motion?

10 (Simultaneous speaking.)

11 COMMISSIONER GILCHRIST: Madam Chair?

12 CHAIR CANTU: Yes, I hear Commissioner
13 Gilchrist.

14 COMMISSIONER GILCHRIST: I think we have
15 a motion on the floor so I guess I would need to withdraw
16 that motion before we move forward, is that right?

17 CHAIR CANTU: Refresh me on the language,
18 please.

19 COMMISSIONER HERIOT: Heriot seconds.

20 COMMISSIONER GILCHRIST: The language was
21 to insert with the approval of the majority of the
22 Commission.

23 The Commission/Commissioners will keep
24 the public apprised of historic and current civil
25 rights issues with the approval of the majority of the

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1 Commission. That would be under Section B under
2 objectives.

3 And so there were two amendments and the
4 other one was to amend the language under the strategy
5 section in Section B.

6 Prior to the Commission posting of events,
7 historical or otherwise, approval from the majority
8 of the Commission shall be granted.

9 And I think I heard my colleague,
10 Commissioner Heriot, who has seconded that.

11 (Simultaneous speaking.)

12 COMMISSIONER HERIOT: -- clarification of
13 when is this strategic plan due?

14 CHAIR CANTU: It was requested by the
15 Staff Director that would start working on this in April
16 2021 and the actual due date I believe was when the
17 year ended.

18 We were supposed to start with a 2022 on
19 plan because this plan were to carry us to January 2022.

20 Now, am I wrong on that? I'm going on what
21 I know when I turned in strategic plans. You start
22 with the beginning of the year and you drew up a new
23 one. I have seen other offices because I did my own
24 check to see what other civil rights agencies do.

25 Some of them don't do a five-year plan,

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1 some of them do a four-year plan. So, we're kind of
2 on the outside in taking longer to do plans but I thought
3 our report to Congress date was January.

4 Can I call on Mauro Morales to be more
5 specific for me?

6 DIRECTOR MORALES: Thank you, Madam
7 Chair. You are correct, the five-year strategic plan
8 has already expired. The draft strategic plan that
9 you have before you was submitted to the SAs and
10 Commissioner in August.

11 We at that time requested any changes be
12 included, as well as a request for names of external
13 contacts for a survey that we're required to do under
14 the statute, the Modernization Act, which governs this.

15 We received a number of names from all
16 Commissioners as well as our own external contacts.

17 We sent out over 1000 surveys. We received
18 approximately 10 percent, which is standard for the
19 return of surveys.

20 The plan was finalized and submitted to
21 Commissioners for their consideration in October and
22 you all brought it up in November at the business
23 meeting. At that time, an objection was made about
24 the inclusion of historical civil rights.

25 So, the Commissions withdrew

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1 consideration of the plan at that time and it was not
2 voted on.

3 A subsequent conversation I had with a
4 Commissioner, it was raised that there was some
5 considered bias of our social media and that was the
6 hang-up they had or the concern they had.

7 When I requested a single example or a
8 pattern or instances of bias, none could be provided
9 and none have been provided.

10 So, for my viewpoint and the viewpoint of
11 the Staff, the entire Staff of the U.S. Commission on
12 Civil Rights, I can say that these amendments are a
13 solution looking for a problem.

14 Again, this is a strategic plan, it's not
15 an administrative instruction. It's something that
16 we report on and we report that we do part of our
17 clearinghouse responsibilities are to report on
18 historic events.

19 I'll give you a good example. The Martin
20 Luther King holiday was last week, where we reported
21 on that and we used a quote that it was from Martin
22 Luther King and we added the link to the report that
23 we have on hate crimes.

24 And so that's how we use our social media.

25 It's never to defame and degrade, it's

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1 never to push any kind of political viewpoint, it's
2 there to apprise the public on the work that the U.S.
3 Commission on Civil Rights does in our reports in our
4 statements that you as a majority will issue press
5 releases on, reports that you vote on and issue.

6 It's matter-of-fact stuff, we don't have
7 any bias and if we ever do, please point it out to me
8 and we will rescind it and we will change it.

9 All this social media, all our press releases,
10 all our statements that we issue are done with and in
11 conjunction with the Chair and with my approval.

12 And so I am solely responsible, as well
13 as the Chair, for any media contact information that
14 goes out externally. So, what the strategic plan is
15 just stating to the world is that these are the things
16 we're going to report on.

17 And if you don't want us to report on those
18 things then so be it but the plan should not be try
19 to use to restrict and get other restrictions on the
20 ability of a Chair or the Staff Director to report on
21 the work of a Commission.

22 Thank you, Madam Chair.

23 COMMISSIONER GILCHRIST: Madam Chair, can
24 I call the question and we have a vote?

25 CHAIR CANTU: Thank you. We have a motion

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1 that postings on social media requires a majority vote
2 of the Commissioners. Is that a fair recitation?

3 COMMISSIONER GILCHRIST: That's a fair
4 representation.

5 CHAIR CANTU: And it's been seconded by
6 Commissioner Heriot. So, calling alphabetical for a
7 vote, Commissioner Adams? Are you on mute?

8 OPERATOR: Commissioner Adams actually
9 did step away from the conference.

10 CHAIR CANTU: Commissioner Adegbile?

11 COMMISSIONER ADEGBILE: Nay.

12 CHAIR CANTU: Commissioner Gilchrist?

13 COMMISSIONER GILCHRIST: Aye.

14 CHAIR CANTU: Commissioner Heriot?

15 COMMISSIONER HERIOT: I vote yes.

16 CHAIR CANTU: Commissioner Kirsanow?

17 COMMISSIONER KIRSANOW: Yes.

18 CHAIR CANTU: Commissioner Kladney?

19 COMMISSIONER KLADNEY: No.

20 CHAIR CANTU: Commissioner Yaki?

21 COMMISSIONER YAKI: Are you kidding? No.

22 CHAIR CANTU: And I vote no. I have four
23 noes and three yeses. The Commissioners
24 vote...checking one more time, is he back?

25 OPERATOR: It doesn't matter.

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1 CHAIR CANTU: We will report him not
2 voting because it does not affect the result. The
3 motion fails and I do want to thank you all for trying
4 to improve us by trying to do this practice.

5 Now that we have dealt with friendly amendments,
6 we still have the proposal in front of us, which is
7 approving the Commission's five-year strategic plan.

8 DIRECTOR MORALES: I call for the
9 question, Madam Chair.

10 CHAIR CANTU: Thank you. Alphabetical
11 again?

12 DIRECTOR MORALES: Does it have to be a
13 motion? It has to be a motion to approved. I'll make
14 a motion to approve.

15 CHAIR CANTU: Remember that I have a tin
16 ear. Was it Commissioner Kladney that made the motion?

17 COMMISSIONER KLADNEY: Yes, ma'am.

18 COMMISSIONER YAKI: Commissioner Yaki
19 seconds.

20 CHAIR CANTU: Commissioner Yaki seconded.
21 Thank you. This motion is to approve the five-year
22 strategic plan 2018 to 2022 without changes.
23 Commissioner Adams, not voting again.

24 OPERATOR: Commissioner Adams has not
25 rejoined just yet.

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1 CHAIR CANTU: I'll call again.

2 Commissioner Adegbile?

3 COMMISSIONER ADEGBILE: Aye.

4 CHAIR CANTU: Commissioner Gilchrist?

5 COMMISSIONER GILCHRIST: Gilchrist
6 abstains.

7 CHAIR CANTU: Commissioner Heriot?

8 COMMISSIONER HERIOT: Heriot abstains,
9 this should have been easy to negotiate.

10 CHAIR CANTU: I really love your optimism.
11 I hope to be as optimistic as you are. Thank you.

12 COMMISSIONER HERIOT: This may be when we
13 meet in person things will be better. Thank you, this
14 is getting ridiculous.

15 CHAIR CANTU: Commissioner Kirsanow?

16 COMMISSIONER KIRSANOW: No.

17 CHAIR CANTU: Commissioner Kladney?

18 COMMISSIONER KLADNEY: Yes.

19 CHAIR CANTU: Commissioner Yaki?

20 COMMISSIONER YAKI: Aye.

21 CHAIR CANTU: And I vote yes. Help me
22 with my totals. Four yeses, one abstention, one no?
23 I'm missing something. Two abstentions, that's why
24 my mouth wasn't working. One no, four yeses, one
25 non-voting.

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1 I'm checking again with Commissioner Adams
2 just to be sure my mouth is right. Okay, the motion
3 passes. Now we will turn to our Staff Director
4 Morales.

5 We will hear from you if you'd like to share
6 with us about your monthly Staff Director's report.

7 Thank you, Madam Chair. In the interest
8 of time I have nothing further to add than what has
9 already been contained in the report.

10 If Commissioner has a specific issue or
11 matter or question, I'm more than happy to speak with
12 him or her about the item.

13 And with that, thank you, Madam Chair.

14 COMMISSIONER HERIOT: Madam Chair, could
15 I ask a question of the Staff Director? What are the
16 four media entities that receive Commission emails
17 through FOIA?

18 And did those emails include internal
19 deliberations?

20 DIRECTOR MORALES: I'll have to get back
21 to you on that.

22 COMMISSIONER HERIOT: Thank you.

23 CHAIR CANTU: Any other questions? I say
24 the magic word. That concludes the business on the
25 agenda for today's business meeting.

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1 I have the same gavel that we all packed
2 and took with us to the Puerto Rico meeting and I'm
3 gaveling and adjourning this meeting at 1:56 p.m.
4 Eastern Standard.

5 Thank you all very much, you were very
6 patient with me and when we meet in person and when
7 I have my eye surgery on my bad eye, I will be better
8 with you. Thank you, take care all, be safe.

9 (Whereupon, the above-entitled matter
10 went off the record at 1:56 p.m.)
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