TELEPHONIC BUSINESS MEETING

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
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
AGENDA

I. APPROVAL OF AGENDA................................24

II. TURNING OFF THE TAP: MASSACHUSETTS' LOOMING WATER AFFORDABILITY CRISIS BY MARTHA DAVIS .........................25

III. CIVIL RIGHTS AND EQUITY IN THE DELIVERY OF MEDICAL AND PUBLIC SERVICES DURING THE COVID-19 PANDEMIC IN OHIO BY DIANE CITRINO, CHAIR OF THE OHIO ADVISORY COMMITTEE.......36

IV. DISCUSSION AND VOTE ON THE FISCAL YEAR CONCEPT PAPERS. .........................51

V. DISCUSSION AND VOTE ON ADOPTING THE COMMISSION'S FIVE-YEAR STRATEGIC PLAN. ....63
OPERATOR: Welcome to the Commission meeting. Today's conference is being recorded. At this time, I'd like to turn this conference to Chair Cantu. Please go ahead.

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

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

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

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

Please say aye or present when I say your name.

(Roll call.)

Thank you. Based on the response, we have a quorum of our Commissioners. Is the court reporter
present? Thank you. Is the Staff Director present?

DIRECTOR MORALES: I am present.

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

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

COMMISSIONER KIRSANOW: Madam Chair, Commissioner Kirsanow here.

CHAIR CANTU: Yes, Commissioner?

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

COMMISSIONER HERIOT: Heriot here, I second.

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

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

It was distributed sometime in the fall,
October or September.

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

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

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

COMMISSIONER KIRSANOW: Right.

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

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

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

They could have been the ordinary causes,
dealing with economic reasons, could have been law
enforcement reasons, judicial reasons, there may be
a number of reasons.

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

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

COMMISSIONER YAKI: Madam Chair, this is Commissioner Yaki.

CHAIR CANTU: Yes, Commissioner?

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

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

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

COMMISSIONER HERIOT: Madam Chair?

CHAIR CANTU: Yes, Commissioner Heriot?

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

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

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

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

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

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

We're talking about a concept paper that I already expressed some difficulties with and was trying to work out in a collaborative way, a way of
continuing discussions but not having that voted on at this meeting.

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

COMMISSIONER HERIOT: Madam Chair?

CHAIR CANTU: Yes, Commissioner?

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

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

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

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

COMMISSIONER KIRSANOW: Madam Chair, this is Kirsanow again.

Just to make one other point on this, one of the other reasons why this is important, many of the reasons have already been stated by Commissioner
Heriot, the data indicate that we've had exceptional crime increase.

I am going to into my seventh decade and I don't recall a spike like this anytime in my lifetime. In addition to that, I live in inner city Cleveland and I can tell you that this is palpable.

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

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

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

CHAIR CANTU: Thank you for your intervention.

COMMISSIONER ADEGBILE: Madam Chair, Commissioner Adegbile.

CHAIR CANTU: Please proceed.

COMMISSIONER ADEGBILE: I'm speaking now
only as to one point, which is some of my fellow Commissioners have in various comments been assigning importance to this topic and trying to compare it to other topics that we have dealt with.

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

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

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

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

And I just want to put in some context that many, many of the issues, all of the issues in fact that we address are serious issues that affect
Americans and some of them are life and death issues like the maternal healthcare report we worked on as well.

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

COMMISSIONER KIRSANOW: Madam Chair, Kirsanow here.

CHAIR CANTU: Yes, sir?

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

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

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

CHAIR CANTU: Thank you, Commissioner Kladney. Having heard an exchange regarding the merits of changing the agenda, I'm adding an additional item for today's business.
I am ready to do a roll call vote.

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

COMMISSIONER ADAMS: Yes.

CHAIR CANTU: Commissioner Adegbile?

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: No.

CHAIR CANTU: Commissioner Yaki?

COMMISSIONER YAKI: No.

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

COMMISSIONER KIRSANOW: Madam Chair, Kirsanow here.

CHAIR CANTU: Yes, sir?

COMMISSIONER KIRSANOW: I move to amend
the agenda to include a discussion vote on the Commission letter to Attorney General Merrick Garland regarding the crime increase that was provided to all Commissioners last week.

COMMISSIONER HERIOT: Heriot here, I second.

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

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

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

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

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

And the idea here, pursuant to discussions
we've had previously, is to at least see if the Justice Department will embark on an endeavor related to this. This is right in their wheelhouse.

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

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

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

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

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

COMMISSIONER ADEGBILE: Madam Chair,
Commissioner Adegbile?

CHAIR CANTU: Please speak.

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

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

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

DIRECTOR MORALES: Madam Chair, are you there?

CHAIR CANTU: Yes, I'm here.

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

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

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

CHAIR CANTU: Thank you.

COMMISSIONER ADEGBILE: Also, the point is not receipt, it's whether it was duly circulated
under the provisions of the AIs that govern our
meetings.

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

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

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

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

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

DIRECTOR MORALES: Madam Chair, if I could
respond?

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

DIRECTOR MORALES: Thank you, with
respect to Commissioner Adegbile's comments as to
whether or not this was circulated, it was circulated
to Commissioners a week ago in plenty of time for consideration at this put together.

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

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

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

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

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

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

And further, the year that has not been reported yet, the 2021 data will not be available until
2022, and further, it would be November 2022.

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

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

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

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

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

COMMISSIONER KIRSANOW: Madam Chair?

CHAIR CANTU: Is this Commissioner
Kirsanow?

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

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

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

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

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

We've had a prodigious spike now, and not
just in homicides, but every time the -- it's anecdotal but this is why we want to research it, to see what's going on.

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

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

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

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

COMMISSIONER ADEGBILE: Madam Chair, Commissioner Adegbile?

CHAIR CANTU: Please proceed.

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

If Commissioner Kirsanow has an email that
proves otherwise, he should feel free to circulate it 
now, subject to procedural objections. 

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

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

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

    Please say yes or no as I call your name. 

    Commissioner Adams? 

    COMMISSIONER ADAMS: Yes. 

    CHAIR CANTU: Commissioner Adegbile? 

    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: No.
CHAIR CANTU: Commissioner Yaki?

COMMISSIONER YAKI: No.

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

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

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

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

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

(Simultaneous speaking.)

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

CHAIR CANTU: Thank you. Having no changes to the agenda, you're right, Robert's Rules
require we now take a vote on the agenda before us.

So, shall I do a roll call vote again?

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

I. VOTE TO APPROVE THE AGENDA

CHAIR CANTU: Commissioner Adams?

COMMISSIONER ADAMS: Yes.

CHAIR CANTU: Commissioner Adegbile?

COMMISSIONER ADEGBILE: Aye.

CHAIR CANTU: Commissioner Gilchrist?

COMMISSIONER GILCHRIST: Aye.

CHAIR CANTU: Commissioner Heriot?

COMMISSIONER HERIOT: Aye.

CHAIR CANTU: Commissioner Kirsanow?

COMMISSIONER KIRSANOW: No.

CHAIR CANTU: Commissioner Kladney?

COMMISSIONER KLANDNEY: Yes.

CHAIR CANTU: Commissioner Yaki?

COMMISSIONER YAKI: Aye.

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

And I will again turn to the order of business, the Massachusetts State Advisory Committee Member, Martha Davis, will be speaking to the State Advisory Committee report, Turning off the Tap:
Massachusetts' Looming Water Affordability Crisis.

We will allocate it 10 minutes so please proceed.

II. TURNING OFF THE TAP: MASSACHUSETTS'

LOOMING WATER AFFORDABILITY CRISIS BY MARTHA DAVIS

MS. DAVIS: Great, thank you very much.

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

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

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

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

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

Many local governments issued moratoria
on water shut-offs but none in Massachusetts offered forgiveness of accumulated unpaid bills.

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

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

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

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

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

Because there's been little application of civil rights law in this sphere, we found that local water administrators themselves have tended to operate as if civil rights are not a concern.
Yet when we began our work we already had reason to be concerned.

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

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

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

Some set dollar figures while some set percentages of discounts.

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

All of the programs reviewed were limited to owner occupants.

That same 2019 report found that local
water districts collected little to no data that might help them assess and avoid potential disparate racial impacts and bias in, for example, negotiating payment plans or enforcing liens.

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

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

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

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

As the report points out, the Massachusetts jurisdiction's lack of awareness of these impacts stands in contrast to the innovations being undertaken in other parts of the country, in for
example Philadelphia and Baltimore.

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

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

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

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

We suggest the State return to its practice
of two decades ago of funding a statewide water assistance program that would extend alongside the heating assistance program that is currently provided.

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

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

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

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

At this time, the program is only a one-time emergency expenditure. When those funds are gone, we will go back to a situation where water is becoming a larger and larger portion of individuals
and families' household budgets and less affordable for all.

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

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

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

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

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

COMMISSIONER YAKI: This Commissioner Yaki.
CHAIR CANTU: Yes, Commissioner?

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

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

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

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

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

CHAIR CANTU: Other Commissioners, do you have questions?

COMMISSIONER ADEGBILE: Madam Chair,
Commissioner Adegbile?

CHAIR CANTU: Please speak.

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

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

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

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

MS. DAVIS: Thank you for that question.

There are, as you say, I'll point out a number of places that have addressed the renter issues. Seattle is the place that has been doing it the longest, I'm not sure it's mentioned in the report
specifically.

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

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

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

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

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

So, there are some examples at the city level of how this is being handled. I think for all of these places, the initial issue is really
identifying the problem because the data is so hard to come by.

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

COMMISSIONER ADEGBILE: Thank you.

CHAIR CANTU: Thank you for your question.

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

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

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

We now hear from Diane Citrino, Chair of the Ohio Advisory Committee, who will present their report on the COVID-19 and health disparities.
The report is called Civil Rights and Equity in the Delivery of Medical and Public Services During the Covid-19 Pandemic in Ohio.

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

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

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

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

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

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

And what we looked at in our report were
specifically responses to the known disparities in the incidents and severity of infections.

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

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

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

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

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

Ohio has many outstanding world-renowned hospitals, nevertheless, hospitals and healthcare
facilities have faced significant challenges preparing for the outbreak and dealing with the outbreak, especially in ensuring adequate care to non-COVID patients.

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

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

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

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

A person’s risk of infection and eventual health outcomes are influenced also by socioeconomic
conditions, where they live. And we found that COVID-19 mortality rates were highest in counties with the highest poverty rates.

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

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

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

We found that there were some preventive or protective measures in place due to the pandemic that may have disproportionately affected high-risk populations. For example, the pandemic has resulted in the decline in routine care
and emergency room visits, especially for African Americans, which raises concerns of delayed diagnosis and potential progression of non-COVID-19 disease.

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

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

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

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

And identification of areas where the data may be missing or sufficient, as well as the impact of the federal response to the pandemic on identified health disparities and suggest policy changes and best practices with the potential to remediate the identified concerns.
I would like to thank all of the Members of the Ohio Committee as well as the amazing Staff, Melissa Wojnaroski and Emily Zanoli, who was an intern on this project, as well as all of the people who testified for us and especially the health professionals who were in crisis mode but still took the time to come from the front lines and talk to our Committee and provide this information.

I'd be happy to answer any questions.

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

I turn to you all to be recognized.

COMMISSIONER KIRSANOW: Madam Chair, Kirsanow here.

CHAIR CANTU: Commissioner from your home state.

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

I unfortunately was not able to read any of the transcripts or related materials so one of the questions I have may be answered by some of the evidence
that you deduced, the first one was more of a medical question.

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

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

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

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

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

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

I don't recall that was specifically
addressed.

COMMISSIONER KIRSANOW: Thank you.

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

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

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

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

COMMISSIONER KIRSANOW: Kirsanow again.

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

Has Ohio done anything like that?

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

CHAIR CANTU: An honest answer, thank you.

Other questions, Commissioners?

COMMISSIONER ADEGBILE: Madam Chair, Commissioner Adegbile?

CHAIR CANTU: Please proceed.

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

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

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

The Commission did not release a report on those topics but the testimony is publicly available and on the website, and may be of interest to those
of you who participated in the study.

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

MS. CITRINO: Thank you.

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

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

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

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

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

So today, our agenda item deals with the appointment of three Advisory Committees, Wyoming, District of Columbia, and Puerto Rico.
So, I will move and ask for a second to appoint the following persons to serve as the State Advisory Committee Members for the State of Wyoming. And this is based on vetting and recommendations of the Staff Director.

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

James O’Brien, nominated for Chair, Virginia Aberly, Pavlos Papadopolous, Nicholas Psaki, Gail Ridgely, Sally Soto, Judy Shephard, James Simmons, Virginia Sloan, and Valerie Thompson-Ebanks.

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

COMMISSIONER HERIOT: Second.

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

COMMISSIONER ADAMS: Yes.

CHAIR CANTU: Commissioner Adegbile?

COMMISSIONER ADEGBILE: Aye.

CHAIR CANTU: Commissioner Gilchrist?

COMMISSIONER GILCHRIST: Aye.

COMMISSIONER ADAMS: Yes.

CHAIR CANTU: Commissioner Adegbile?
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.
Blake Peterson, nominated for Chair, he's the new appointee, Michael Atkins, new appointee, Denise Barns, new appointee, Paul Borchers, returning to appointee, Kayla Goubbog, new appointee, Wayne Herd, new appointee, Kendrick Hawley, returning to appointee, Rochel Iqlan, new appointee, Craig Lean, new appointee, Max Lesko, new appointee, Daniel Lipps, new appointee, Charles Lowery, returning to appointee, and Schuberth, new appointee, and Robert Law, returning to appointee.

I would ask for a second, please?

COMMISSIONER ADAMS: Adam seconds.

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

Commissioner Adams?

COMMISSIONER ADAMS: Yes.

CHAIR CANTU: Commissioner Adegbile?

COMMISSIONER ADEGBILE: Aye.

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, the motion carries. Congratulations to the new and returning to Members of the State Advisory Committee. All these individuals will serve as uncompensated government employees.

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

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

I did the motion and second first, right?
Do I have a second for this motion or should I read the names first?

COMMISSIONER HERIOT: You've been reading the names first so far.
CHAIR CANTU: Thank you, someone is listening. Andres Cordova, nominated for Chair, Frank Arenal, Roman Barquin, Ariadna Godreau Aubert, Charlotte Gossett Navarro,
Manual Iglesias-Belendez, Sergio Marxuach, Cristina
Maria Miranda-Pelacios, Ever Padilla Ruiz, Jose Olmos,
Dan Santiago, William Villafane-Ramos, the attorney.

Do I have a second for this motion?

COMMISSIONER HERIOT: Heriot second.

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

COMMISSIONER Kladney: Kladney calls the
question.

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

COMMISSIONER ADAMS: Yes.

CHAIR CANTU: Commissioner Adegbile?

COMMISSIONER ADEGBILE: Aye.

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. The vote was unanimous approval to the Advisory Committee for Puerto Rico. So, our next agenda item is the discussion and vote on the fiscal year concept papers.

IV. DISCUSSION AND VOTE ON THE FISCAL YEAR CONCEPT PAPERS.

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

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

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

Today's meeting, we have two topics to focus on for Fiscal Year 2022 and these two topics are the impact of COVID-19 and the digital divide on
education. And the lead for that concept paper is me, Norma Cantu.

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

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

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

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

In this concept paper, which was shared back in August 20201, I noticed this topic because it was in the queue, it had been proposed in prior years, and we had not added it to the final list. So, hopefully this time it will be approved.

This issue looks at trying to review and investigate whether federal programs have been
effective in increasing access to the interest, to
telecoms and to digital resources for schools, and
whether those resources are being provided in an
equitable and non-racial manner.

The issues are not new ones.

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

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

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

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

One of the arenas that have received a lot
of recent attention in the past year is that
increasingly, the digital education landscape has been
marked with heavier reliance on online homework
submissions and turning in your schoolwork, your research assignments.

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

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

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

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

The jurisdictions, it is within the USCCR jurisdiction because of the constitution, equal protection, and also Title 6 as it relates to
discrimination on the basis of color, race, national origin.

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

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

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

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

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

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

I did not have an opportunity to make the
changes, I was trying to negotiate which were the topics that would finally --

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

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

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

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

CHAIR CANTU: As I recall from the request for edits, they wanted to know what were the statutes. I'm going to on my memory, the statutes that we intended to include, which is in this document that I'm reading to you, and they wanted to know --

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

COMMISSIONER KLABNEY: Madam Chair, Kladney here.
Perhaps it would be better...my concern and I think I've raised this with you, this program, the UA program, was passed March 1, 2020, and the money just started, I think, the school districts or the states were putting their programs in for the 2021 schoolyear.

I'm sorry, it was signed March 2021. So, they just put in for the 2021 schoolyear and the 2022. I don't know when you planned on having a briefing or collecting data or the methodology in which you were superseded.

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

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

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

If we were to wait two or three years to
work on this, then we would delay and miss an opportunity to ensure the money reaches schools that serve children of color and the money would reach programs that expand the offering of the Wi-Fi and other types of services the children need.

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

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

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

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

COMMISSIONER KLADNEY: I have nothing further.
CHAIR CANTU: Thank you, Commissioner. Are there other questions?

COMMISSIONER GILCHRIST: I call a question.

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

COMMISSIONER ADAMS: No.

CHAIR CANTU: Commissioner Adegbile?

COMMISSIONER ADEGBILE: Aye.

CHAIR CANTU: Commissioner Gilchrist?

COMMISSIONER GILCHRIST: No.

CHAIR CANTU: Commissioner Heriot?

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

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

COMMISSIONER KIRSANOW: No.

CHAIR CANTU: Commissioner Kladney?

COMMISSIONER KLASTNEY: A tentative yes.

CHAIR CANTU: Commissioner Yaki?

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

COMMISSIONER KIRSANOW: Three yeses and a tentative yes.

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

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

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

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

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

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

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

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

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

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

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

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

So, a roll call vote getting back to the survey of
the U.S. Commission State Advisory Committee. Adam?

COMMISSIONER ADAMS: Yes.

CHAIR CANTU: Commissioner Adegbile?

COMMISSIONER ADEGBILE: Aye.

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. The motion passes. We have a focus, an approval for our talented staff to move forward.

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

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

This was presented before the questions and objections were made at a prior meeting, where we had some language that was either asked to be amended
I'm taking personal privilege and offering that I would support the recommendation that we strike from the plan the language that says the Commission will routinely post to social media to keep the public informed on civil rights and historical events.

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

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

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

COMMISSIONER YAKI: Madam Chair?

( Simultaneous speaking. )

CHAIR CANTU: Yes?

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

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

COMMISSIONER HERIOT: I second, Heriot.
COMMISSIONER KLADNEY: Excuse me, where are we with this? In support or withdraw? I'm confused.

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

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

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

Because we have other issues that cause concern, and I'm very concerned with the concept papers, I would just take this off the table and withdraw that language that would commit the Staff to routinely post to social media, commit the Staff to increasing their tracking, their keeping record of how much social media is being performed.
I'm not agreeing that's the right thing, I am doing it because we have some major issues with only one paper and it does not mean, going back to the --

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

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

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

Chair Cantu: The issue is that we are being held up on a statutory requirement of turning in a five-year plan and we are being held up by this language, which does not --

COMMISSIONER Kladney: Let's discuss the language, let's discuss why we're being held up on this language.

Chair Cantu: Please.

COMMISSIONER Kladney: Madam Chair, I appreciate what you're trying to do, but before you take any action in terms of moving to withdraw this,
I would ask you to withdraw your withdrawal of this language.

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

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

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

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

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

(Simultaneous speaking.)

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

COMMISSIONER KLADNEY: We are the United
States Commission on Civil Rights.

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

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

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

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

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

So, I am not against a social media presence but I am very much against some of the tweaks that have come out in the last year or so.
And therefore, I think rather than putting in this document that we're going to try to increase that level of participation, we need to come up with some sort of system that vets these tweaks better than we have in the past.

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

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

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

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

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

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

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

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

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

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

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

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

CHAIR CANTU: That's why this discussion is important.
COMMISSIONER YAKI: That's why I'm asking you to withdraw your motion because I wanted to find out exactly why people were objecting to this particular thing.

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

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

That's an entirely different situation.

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

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

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

And we would never, ever allow a false
tweak that denigrates or degrades, we would not allow that to happen. So, because this is adding bureaucracy to a valuable part, I'm not in front of that kind of bureaucracy.

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

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

COMMISSIONER GILCHRIST: Madam Chair, Gilchrist here.

CHAIR CANTU: Yes, Commissioner?

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

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

I think that at least gives the Commission some ability to be able to have some input into that process and I will certainly put that same language within the
Prior to the Commission posting of events, historical or otherwise, approval from the majority of the Commission shall be granted. So, I would like to offer both of those as friendly amendments to the strategic plan.

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

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

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

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

So, you all, however, can tweak and use social media, that's covered under Section 3. All
Commissioners individually are free to post and to speak as long as they make it clear that they are speaking as individuals and not as Commission spokespersons.

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

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

COMMISSIONER GILCHRIST: Thank you Madam Chair.

Gilchrist here again.

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

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

(Simultaneous speaking.)

COMMISSIONER YAKI: Let me paraphrase what my colleague, Commissioner Gilchrist, is trying to do.
Basically, he's trying to do, just taking his language at face value, his goal appears to be to require that as part of our public appraisal mission of historic and civil rights issues, that it be ratified by a majority vote.

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

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

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

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

And to say that only those things approved by a majority of the Commission get to see the light of day is to essentially put a muzzle on history and put a muzzle on what this Commission is supposed to
I don't think this is what Commissioner Gilchrist intended to do but that's the practically effect of it. And I would object to it 100 percent.

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

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

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

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

So, if we need to put it out on a public
business meeting like we're doing today, we have an opportunity to do that.

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

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

(Simultaneous speaking.)

COMMISSIONER GILCHRIST: Madam Chair?

CHAIR CANTU: Yes, I hear Commissioner Gilchrist.

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

CHAIR CANTU: Refresh me on the language, please.

COMMISSIONER HERIOT: Heriot seconds.

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

The Commission/Commissioners will keep the public apprised of historic and current civil rights issues with the approval of the majority of the
Commission. That would be under Section B under objectives.

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

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

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

(Simultaneous speaking.)

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

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

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

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

Some of them don't do a five-year plan,
some of them do a four-year plan. So, we're kind of
on the outside in taking longer to do plans but I thought
our report to Congress date was January.

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

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

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

We received a number of names from all
Commissioners as well as our own external contacts.
We sent out over 1000 surveys. We received
approximately 10 percent, which is standard for the
return of surveys.

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

So, the Commissions withdrew
consideration of the plan at that time and it was not voted on.

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

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

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

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

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

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

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

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

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

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

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

Thank you, Madam Chair.

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

CHAIR CANTU: Thank you. We have a motion
that postings on social media requires a majority vote of the Commissioners. Is that a fair recitation?

COMMISSIONER GILCHRIST: That's a fair representation.

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

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

CHAIR CANTU: Commissioner Adegbile?

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 KLABDEY: No.

CHAIR CANTU: Commissioner Yaki?

COMMISSIONER YAKI: Are you kidding? No.

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

OPERATOR: It doesn't matter.
CHAIR CANTU: We will report him not voting because it does not affect the result. The motion fails and I do want to thank you all for trying to improve us by trying to do this practice.

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

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

CHAIR CANTU: Thank you. Alphabetical again?

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

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

COMMISSIONER Kladney: Yes, ma'am.

COMMISSIONER YAKI: Commissioner Yaki seconds.

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

OPERATOR: Commissioner Adams has not rejoined just yet.
CHAIR CANTU: I'll call again.

Commissioner Adegbile?

COMMISSIONER ADEGBILE: Aye.

CHAIR CANTU: Commissioner Gilchrist?

COMMISSIONER GILCHRIST: Gilchrist abstains.

CHAIR CANTU: Commissioner Heriot?

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

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

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

CHAIR CANTU: Commissioner Kirsanow?

COMMISSIONER KIRSANOW: No.

CHAIR CANTU: Commissioner Kladney?

COMMISSIONER KLADNEY: Yes.

CHAIR CANTU: Commissioner Yaki?

COMMISSIONER YAKI: Aye.

CHAIR CANTU: And I vote yes. Help me with my totals. Four yeses, one abstention, one no? I'm missing something. Two abstentions, that's why my mouth wasn't working. One no, four yeses, one non-voting.
I'm checking again with Commissioner Adams just to be sure my mouth is right. Okay, the motion passes. Now we will turn to our Staff Director Morales.

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

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

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

And with that, thank you, Madam Chair.

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

And did those emails include internal deliberations?

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

COMMISSIONER HERIOT: Thank you.

CHAIR CANTU: Any other questions? I say the magic word. That concludes the business on the agenda for today's business meeting.
I have the same gavel that we all packed and took with us to the Puerto Rico meeting and I'm gaveling and adjourning this meeting at 1:56 p.m. Eastern Standard.

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

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