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

PRESENT:

NORMA V. CANTU, Chair
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:

ROBERT AMARTEY

DR. JONI BAKER, Vice-Chair, TX Advisory Committee

EVELYN BOHOR

STANLEY CARR

BARBARA Delaviez

PAMELA DUNSTON, Chief, ASCD

SARA FRANKENSTEIN, Member, SD Advisory Committee

PATRICIA FLETCHER

LATRICE FOSHEE

ALFREDA GREENE

JULIE GRIECO

TRAVIS LETELLIER, CHAIR, SD Advisory Committee

DAVID MUSSATT, Dir, RPCU

JULIAN NELSON

MICHELE RAMEY

JOHN RATCLIFFE

ANGELIA RORISON

CORRINE SANDERS

MARIK XAVIER-BRIER
COMMISSIONER ASSISTANTS:

SHERYL COZART
ALEC DUELL
CARISSA MULDER
IRENA VIDULOVIC
JOHN MASHBURN
JOSHUA DANSBY
JUANA SILVERIO
THOMAS SIMMUEL
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OPERATOR: Good day and welcome to the Commission Business Meeting. Today's conference is being recorded. At this time, I would like to turn the conference over to Chair Cantu. Please go ahead.

CHAIR CANTU: Welcome. My name is Norma V. Cantu and welcome to the business meeting for the U.S. Commission on Civil Rights. The meeting comes to order at 12:01 Eastern Standard Time on Friday, May 13, 2022.

We thank the staff who completed the public notice needed for this meeting and arranged for this public telephonic meeting. We thank the general public for their interest in attending.

Due to respect for health and safety and due to a light agenda, the commissioners are on conference call and are hosting the general public by phone conference.

I would like to confirm the commissioners present both in person and on the line and will take a roll call vote. Please say present when I say your name. Commissioner Adams?

COMMISSIONER ADAMS: Present.

CHAIR CANTU: Commissioner Adegbile?
COMMISSIONER ADEGBILE: Present.

CHAIR CANTU: Commissioner Gilchrist?

COMMISSIONER GILCHRIST: Present.

CHAIR CANTU: Commissioner Heriot?

COMMISSIONER HERIOT: I'm here.

CHAIR CANTU: Commissioner Kirsanow?

COMMISSIONER KIRSANOW: Here.

CHAIR CANTU: Commissioner Kladney?

COMMISSIONER KLADENEY: Here.

CHAIR CANTU: Commissioner Yaki?

COMMISSIONER YAKI: Present.

CHAIR CANTU: Based on the response of all here and present, a quorum of the commissioners are here. Is the court reporter present?

COURT REPORTER: Yes, I am.

CHAIR CANTU: Thank you. Is the Staff Director present?

MR. MORALES: I am present.

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

I. APPROVAL OF AGENDA

CHAIR CANTU: Do any commissioners have any amendments to the proposed agenda? Not hearing any proposed amendments, we proceed to voting on the agenda. All those in favor of approving the agenda
that was posted for today's meeting, say aye.

(Chorus of aye.)

CHAIR CANTU: Any opposed? Any abstaining? The motion passes, well, no, the agenda has been approved.

II. BUSINESS MEETING

A. PRESENTATIONS BY STATE ADVISORY COMMITTEE CHAIRS ON RELEASED REPORTS AND MEMORANDUMS

CHAIR CANTU: For our first order of business, we turn to presentations from advisory committees to the Commission on Civil Rights on their recent reports and their memos.

TEXAS ADVISORY COMMITTEE

Today's first presentation will be by the Texas State Advisory Committee member, Dr. Joni Baker, on the Committee's advisory memorandum on the government response to hurricane disasters. Dr. Baker, we've allocated ten minutes and are looking forward to it.

DR. BAKER: Thank you, Madam Chairwoman and distinguished commissioners. I'm Joni Baker, the Vice Chair of the Texas Advisory Committee or TAC.

It is a pleasure to provide a summary of our inquiry into the local, state, and federal government responses to Hurricane Harvey, which made

The TAC chose this topic because the U.S. Commission itself had identified disaster response as a priority in addressing inequities and disparities in the wake of natural events.

It was, in a sense, a no-brainer for the TAC to delve more deeply into efforts to meet the needs of those who were impacted by Hurricane Harvey. Due to limited time today, my remarks will mostly be limited to problems and recommendations at the federal level.

It comes as no surprise that communities of color have the fewest resources, face the longest, deepest path to recovery, and are more vulnerable to the stress and shock caused by a natural disaster. Black and Hispanic residents in Harris County, outside the flood zone, were flooded at disproportionately higher rates during Hurricane Harvey than white residents.

This was particularly true in the city of Houston where these groups, as well as immigrants, traditionally live on low-lying land because of historic segregation and discriminatory housing
policies, with neighborhoods that experience decades of disinvestment such as poor storm water infrastructure.

The locally administered buyouts offered to these homeowners in the wake of previous hurricanes were not enough to help them afford new homes away from flood zones.

Our findings include the following, one, experiencing a natural disaster like Hurricane Harvey exacerbates preexisting systemic inequalities. For example, lack of access to information, low technology literacy, and/or limited English proficiency is common in immigrant communities and/or communities with low rates of education.

Two, inconsistent and inadequate policies, programs, and eligibility criteria create unnecessary compounding challenges for already marginalized populations.

For example, after Hurricane Harvey made landfall, FEMA deployed one person to serve as the liaison for the 410,000 people with disabilities in Harris County.

Further, although there are 145 languages spoken in Houston alone, real-time information was rarely available except in English and Spanish. Even
so, three in ten residents in the 24 counties surveyed reported that it was either very or somewhat difficult to find information about recovery assistance in Spanish.

Three, applications for recovery assistance are overly complicated and further separate marginalized populations from fairly and adequately receiving aid.

Applying for aid was the top item people said they needed help with after a disaster, but only one in four applicants complete the housing aid application process, which is disproportionately burdensome on disabled individuals, the elderly, those with little or no access to technology, and people with limited English proficiency.

Four, aid distribution policies and decisions had a disparate impact on marginalized populations and contributed to widening wealth inequality.

For example, the three cities in the southeast Texas region with the highest percent of Black, non-Hispanic people were allocated the lowest per capita funding for buyouts of flood devastated homes. Nearby cities with an average non-Hispanic white population of 88 percent received the highest
per capita funding.

Before Hurricane Harvey, a federal court found a disqualifying factor to receiving aid known as deferred maintenance, a standard of a resident not meeting a certain home standard pre-disaster, to be illegal. However, during Hurricane Harvey recovery, FEMA continued to apply the same standard using a different term, quote, preexisting conditions.

Five, recovery construction workers, many of whom are immigrants, experienced high rates of wage theft following Hurricane Harvey, with little accountability from government agencies. There were also unsafe working conditions caused by a lack of both safety equipment and training.

The contracting and subcontracting chain set up during and after disasters often limited workers legal claims to the smallest and less established contractors, while the larger wealthier companies that have the ability and means to ensure proper pay and safety measures are not held liable.

Six, Texas' large immigrant population face distinct challenges in recovering from hurricanes and navigating disaster recovery programs. FEMA requires aid applicants to provide information on every member of a household, not just a U.S. citizen.
or an eligible immigrant.

Many mixed status homes with eligible residents do not apply for aid for fear of identifying undocumented household members, including the 250,000 U.S. citizen children in the Houston area, as well as refugees.

FEMA applications clearly state that information may be shared with other U.S. agencies, including U.S. Immigration and Customs Enforcement. Thirty-eight percent of immigrants who were possibly undocumented avoided seeking help in recovery because they are afraid of calling attention to their own or a family member's immigration status.

Further, FEMA used trucks with the Department of Homeland Security logo, labeled Police Rescue, to provide security with at least 200 ICE officers at mass shelters and other locations of assistance, deterring qualified residents from accessing assistance there.

Seven, HUD's policies, like FEMA's, for disaster housing assistance are inefficient and negatively impact mostly low income people of color and/or people with disabilities.

For example, HUD does not directly aid renters, but rather developers, reinforcing
discrimination of low income, largely minority populated areas and families.

Regarding recommendations, TAC recommended that the USCCR should send TAC's advisory memorandum and issue a formal request to Congress and the President to pass legislation to one, modify policies and/or procedures that enable discriminatory practices.

For example, disaster assistance programs should allow proof of eligibility in other government aid programs such as Medicaid, Supplemental Security Income, or Temporary Assistance for Needy Families, to automatically qualify individuals and families for aid following a disaster for all federal emergency management programs. During a hurricane and flood, documents required for aid applications are frequently destroyed.

Two, implement new or modified current operating procedures and policies to improve disaster recovery response from federal agencies such as establishing or connecting agency database tools to share relevant information needed in applying for disaster recovery to improve application processing timelines.

Three, strive to improve communication and
access to resources for survivors in all disaster recovery agencies and programs. For example, require consistent public criteria that clearly define aid eligibility, the application process, resources, and options.

Four, allocate funding for, for example, interagency collaboration between government agencies and nonprofits.

Five, allocate funding and direct federal disaster recovery agencies to implement staff management and operations improvements such as employing full-time employees who are subject matter experts in each of the protected classes throughout the year, regardless of disaster occurrences, to enhance programs and processes with the goal of minimizing future discrimination.

And six, establish deployable civil rights outreach task forces and immediately activate them following a disaster. These should be culturally competent and specially trained in all the protected classes.

TAC also recommended that the USCCR share its advisory memorandum with the Department of Labor, Homeland Security, and HUD, with specific directives.

As far as the TAC is concerned, we distributed the
memorandum to numerous local, regional, state, and federal officials, and the media for their review and consideration.

TAC faced significant gaps in its investigation because of regional, state, and federal agencies' non-responsiveness to the Committee's invitation to participate in the inquiry.

FEMA and HUD, for example, are key stakeholders in disaster response, but they declined to testify, provide written statements, or respond to written questions. Frankly, this is disheartening because now is the time to implement improvements, not after the next disaster.

On behalf of the TAC, thank you for your time and attention to this very important civil rights concern. Thank you.

CHAIR CANTU: Thank you. I have no questions of you at this point because I would like to reserve time for the other commissioners. Commissioners, please identify yourself before asking the question so the court reporter can catch your name.

COMMISSIONER YAKI: Commissioner Yaki.

CHAIR CANTU: Yes, please proceed.

COMMISSIONER YAKI: Thank you very much
for the report by your committee. It certainly tracks with what the Commission was doing as well, and we thank you for all the great work that you did helping us on that.

There was one sort of, one question that I had that just came to my mind when you were talking about some of the language issues and it goes to the diversity, especially in the Houston community.

Did you do any outreach or have any work with the Southeast Asian, particularly the Vietnamese community that's very robust in Houston, and what their experiences were with the recovery from Hurricane Harvey?

DR. BAKER: We did, Mr. Commissioner. The Asian community, as you know, is very large in that area, and as I said before, we had to, we, I say we, as Texas, relied on, a lot of times on school officials or church officials to provide translation services for those in the Asian, who spoke Asian languages or other languages because the federal government, and even state government in most situations, did not have translators to be able to help these individuals.

COMMISSIONER YAKI: Thank you, and to follow up, were there any announcements by FEMA
officials during the recovery that they would not forward information or names to ICE as a result of any information gathered by the application forms for aid?

DR. BAKER: No, to my knowledge, they did not, and one of our specific recommendations is that they eliminate that question on the application for aid, and instead clearly state that that information will not be provided to ICE, for example, or any other federal agency who does not have a need to know.

COMMISSIONER YAKI: Thank you. I may have some more, Madam Chair, but I'll defer to my colleagues for now.

CHAIR CANTU: Excellent questions. Thank you, Commissioner Yaki. Do we have other questions?

COMMISSIONER ADEGBILE: Madam Chair, Commissioner Adegbile.

CHAIR CANTU: Yes, please proceed.

COMMISSIONER ADEGBILE: Thank you for much for your report and your hard work on this important topic, which will help us as we finish our own examination of the FEMA response to disasters that is currently underway. It really makes a contribution and we appreciate it.

With respect to a particular issue that you raised, I just wanted to dig in a little bit and
understand it a little better. I thought I heard you say that one of the issues with people qualifying for FEMA aid was that FEMA was using a standard that could disqualify people for access to funds based on preexisting conditions in their properties, and as I understand it, I think that there had been a federal court case that addressed the issue of whether or not deferred maintenance was an appropriate basis to use to deny people access to aid.

And so, deferred maintenance, preexisting conditions, those two things sound quite logically similar to me, and I'm wondering whether or not, in light of this court ruling, people were ever notified, had they been improperly denied based on the concept of preexisting conditions, that they may well be eligible in light of the interpretation?

DR. BAKER: Thank you for that excellent question. Again, to my knowledge, they did not. In fact, we heard testimony over and over again that the processing of applications was extensively delayed, so that in many instances, individuals didn't get a response at all to their application for a year or maybe two years later, and then sometimes their notification was simply that it was denied without an explanation of the reason for denial.
Again, this is one of our specific recommendations as far as streamlining the process so that individuals, their applications are processed quickly, and if they're denied, the reason for denial is given, and if it's missing some type of information or documentation, that that's specifically listed on their notification.

COMMISSIONER ADEGBILE: Thank you. Thank you for that clarification. I have one more question that I'd like to put to you.

One of the things that I think I was taking away from the testimony that we heard about the hurricane response in Texas was that there was a bit of a runaround or sort of pass the buck dynamic going on, and as I heard the testimony, it was sort of happening on two levels.

On the one hand, the state was sort of claiming that they didn't have the resources and money to do what was necessary for the impacted persons in Texas, and so there was sort of a state/federal dynamic where the state was saying they didn't have the money and FEMA was saying that it had disbursed funds.

So, it was happening on that level, but then there was another piece of it that seemed to be
happening within the state and between various arms of
the state government, and so, for example, the Texas
General Land Office or GLO and then the Southeast
Texas Regional Planning Commission.

There seemed to be a dynamic in which
people were getting caught between these various
agencies that had a role, and everybody was sort of
pointing at somebody else, but meanwhile, the people
weren't necessarily getting what they needed.

Is that a fair characterization of what
was happening, or could you explain whether I'm
misunderstanding what we heard and what you heard from
people on the ground?

DR. BAKER: I'd say that that's a very
fair summary of what was going on. My remarks were
somewhat limited to the federal response, but some of
these issues were also common within the state
response.

Federal monies were often passed through.
They went through the GLO or other Texas state
agencies, who in turn passed it down to, in most
cases, regional councils of government to decide how
to divide up and disburse them.

And there were a lot of inequalities
related to that because the more wealthy cogs, as we
called them, had more clout, I would say, in accessing those funds than in the more rural and lower income counties and those cogs who had very little voice in stepping up and making their claims for their share of the money.

So, yes, there was a lot of finger pointing going around, and similar to the federal agencies, the Texas Division of Emergency Management, the Texas Department of Insurance, the Texas Windstorm Association, and several other of these government groups at the state and local level also declined to participate in our inquiry.

COMMISSIONER ADEGBILE: Thank you again for this important look. These are important issues. People are in dire circumstances when these natural disasters are visited upon them, and obviously they come without a lot of warning and people don't have a lot of capacity on their own to respond, so doing better in the future is important for all of us.

And really, any of us could need the federal government's assistance in these circumstances, and so we very much value the examination that you did and the contribution it will make to the broader look that the national commission is doing on these issues. Thanks very much.
DR. BAKER: Thank you, Mr. Commissioner. I should also add that the Southeast Texas Regional Planning Commission also declined to participate in our inquiry.

CHAIR CANTU: That's important for you to notice that. Thank you, and thank you for your questions, Commissioner Adegbile. We did gain great insight thanks to your intervention. Do the other commissioners have any questions? And please identify yourself before speaking.

COMMISSIONER KLADNEY: Madam Chair, Kladney here.

CHAIR CANTU: Yes, Commissioner Kladney, please proceed.

COMMISSIONER KLADNEY: I think you said at the top of your presentation FEMA only assigned one person regarding giving advice on disabled people and how to handle them during the hurricane. Did I get that right?

DR. BAKER: Yes, sir, FEMA deployed one person to serve as the liaison for the 410,000 people with disabilities just in Harris County. As you know, the hurricane affected far more than Harris County, and so, yes, individuals with disabilities faced tremendous, tremendous hardship in, first of all,
being rescued, and then second of all, in accessing other types of federal aid.

COMMISSIONER Kladney: During our investigation, we found, or we asked a question of when FEMA became involved with Texas regarding the response to the hurricane, and we were told that they don't become involved until they are invited in by the state and local people for assistance. Do you know if that occurred before the hurricane struck, did landfall, or did it occur afterwards?

Dr. Baker: Sir, I do not know the answer to that, but at the time, I was living in College Station, which is about 75 miles northwest of Houston, and FEMA -- there, of course, we were getting a lot of displaced people who were looking for assistance.

I don't recall seeing any FEMA-related officials or any kind of representation from them for, I would say, at least a good month after the hurricane.

When it started raining, you know, Texans, we like to be very independent, and a lot of times, in my area, anybody who had a boat hooked it up and went right down there to start rescuing people, because even with the Texas National Guard, it took time for them to deploy forces down there.
So, as a matter of fact, there's a town north of College Station where about 2,000 FEMA mobile homes or trailers were parked for well over two years. They were never deployed down to the affected area. And, of course, it took time and money to get them there, but then they were never used.

COMMISSIONER KLADNEY: Do you know if the emergency services had a list or if there was a list anywhere regarding the handicapped people in the affected area and how they were able to contact them and provide them services, whether it be -- I understand electricity went out -- say, medications, or electricity for their equipment, or things like that? Did you do any investigation in that regard and what did you find if you did?

DR. BAKER: Yes, sir. For Harris County itself, it has a program. The acronym is STEAR, S-T-E-A-R. I can't tell you at this moment what that stands for, but it's a process where individuals with disabilities can register, so to speak, so that local officials have, you know, immediate access to who they are, where they are, and what their needs are.

To my knowledge, the federal government never requested access to this list, and in fact, we found some problems in the list itself because once
you register, you have to re-register once a year, and individuals don't always know that, and so they may be registering and fall off the list after a year and then that particular information is no longer available.

COMMISSIONER Kladney: I'd like to thank you very much for an excellent report and a very well-organization presentation.

(Simultaneous speaking.)

CHAIR CANTU: Someone needs to mute their phone.

COMMISSIONER Kladney: And if you could take our thanks back to the committee, I would really appreciate it. Thank you very much.

DR. BAKER: Certainly and thank you for the time.

CHAIR CANTU: Outstanding questions and responses. Commissioners, are you encouraged to ask other questions?

COMMISSIONER YAKI: Commissioner Yaki has a follow-up if no one else has a question.

CHAIR CANTU: Commissioner Yaki, I think you can do your follow up.

COMMISSIONER YAKI: Thank you. So, Madam Chair of the committee, I almost said advisory
committee, one thing that sort of struck in my mind is just the ability to ensure that people receive financial assistance as soon as possible.

And one of the things that we, the nation, sort of decided to do when the pandemic hit and the economy shut down, which is not dissimilar to what happens when a national disaster strikes and completely, you know, pretty much obliterate an area's economic activity for quite some time, was, rather than go through an application process, we decided as a nation, through Congress and the President, to simply, and I don't mean simply, it was not a simple thing, but to allocate funds immediately to everyone essentially in the country who they deemed eligible without having to go through an application process.

Those were the pandemic assistance grants that basically went out to hundreds of millions of Americans in this country to deal with the dislocation caused by the disaster, the pandemic disaster.

I am wondering, and I've just been thinking about this lately, but -- and you may not be able to answer it now, but, and maybe you might want to bring it up with your committee, but do you think that perhaps that kind of an approach to disaster relief localized perhaps via zip codes and, you know,
surveys in what areas were hit, an assessment of the
economic damage done, would be a better way to
allocate aid rather than the application process that
FEMA currently uses right now?

DR. BAKER: Is that a question for the
Chairwoman or for me?

COMMISSIONER YAKI: It's for you.

DR. BAKER: Okay, yeah, personally, I
think that would be extremely equitable, certainly
much more equitable than what happened in the case of
Hurricane Harvey, where the wealthier neighborhoods
would, for example, get up to $6,000 per capita, and
in the lower income areas, it may have been as low as
$84.

And another issue that we heard a lot
about was that if a family had been previously
affected by a hurricane and had received monetary aid
for housing repairs, for example, if they instead used
that money for food, or for medical care, or for
anything else other than repairing their house, then
they would not be eligible for assistance in any other
future disaster.

COMMISSIONER YAKI: And we never asked
those questions during the pandemic. We didn't ask
you what you were going to spend your money on or how
you were going to spend it, and, in fact, the two, I think there were two disbursements of grants to families in this country, those questions weren't asked, and I think that's why I'm thinking this might be a better way to get aid out than the current system that we have right now.

DR. BAKER: As long as, I would say, the infrastructure is there -- because again, you know, the electricity was out and stores were closed. In some cases, material assistance is going to be necessary to be brought in because it can't be purchased locally.

But as far as recovery from the hurricane, yes, it's not just limited to housing, but, you know, there's a whole host of other expenses that the current system is sort of restricting individuals from making the decision of what they need at the immediate moment compared to the long term.

COMMISSIONER YAKI: Well, thank you, and if you have any more thoughts, if you can give any more thought to that or want to give more thought to that and relay that back to us, that would be much appreciated. Thank you for letting me kind of spring that on you.

DR. BAKER: Thank you, sir.
CHAIR CANTU: Thank you, and your answers were very clear, Dr. Baker. I'm going to check one last time if there is one last commissioner who would like to ask a question? Hearing no further questions, Dr. Baker, I really do appreciate what you've done in terms of your service.

There are people who claim that they are serving the general public when, in fact, it's part of their job description to do that and they're paid for it. What you, and the Texas Advisory, and all our other advisory committees do is provide service as volunteers for no pay.

You are included in my -- I'm grateful for that and included with those heroes. You should be included with those heroes who do what I call extreme service. It actually costs you all time and effort to provide the type of service and leadership that you provide.

So, thank you for taking the time to speak with us today. You're welcome to stay on the line if you'd like to hear the next presentation, or, of course, if you need to spend the time with your family, I'd urge you to do that. So, thank you, Dr. Baker.

DR. BAKER: Thank you, Madam Chairwoman.
II. BUSINESS MEETING

A. PRESENTATIONS BY STATE ADVISORY CHAIRS ON

RELEASED REPORTS AND MEMORANDUMS

SOUTH DAKOTA

CHAIR CANTU: Our next presentation will be by South Dakota State Advisory Committee Chair, Mr. Travis Letellier, please correct me, sir, and Committee Member, Ms. Sarah Frankenstein, on the Committee’s report on the maternal mortality and health disparities of American Indian woman in South Dakota. You all have ten minutes combined, which you may split five and five. I'll leave that up to you folks, so please proceed. Are you on the line?

MR. LETELLIER: Oh, I'm sorry. I'm sorry. I muted myself. Thank you, Madam Chairwoman. Good morning and hello from South Dakota.

My name is Travis Letellier, and for the record, my last name is spelled L-E-T-E-L-L-I-E-R. I use he and his pronouns, and I am currently serving as the Chair of the South Dakota Advisory Committee after recently being appointed to this position just a few months ago.

Thank you for the invitation to join your public meeting and for including time on your agenda to hear our discussion of the South Dakota Advisory
Committee's most recently released report.

The report today centers on maternal mortality and health disparities of American Indian women in South Dakota. This project was unanimously adopted by committee members in October 2019, and then throughout 2020, the advisory committee held four public meetings at which testimony was collected.

The final report and the included recommendations were unanimously approved in May 2021, with the report's publication occurring a few months later in July.

Joining me today on the call is Sarah Frankenstein, who has served for the past three years as the advisory committee's vice chair, and she actually led the committee meetings and took the lead role in developing this report last year.

So, Madam Chairwoman, with your permission, I'd like to ask Ms. Frankenstein to introduce herself and then lead us through the important findings and the recommendations we'd like to highlight for you, and also to help address any of the commissioners' questions.

CHAIR CANTU: Ms. Frankenstein?

MS. FRANKENSTEIN: Thank you. Yes, this is Sarah Frankenstein, and I thank Chairman Letellier
for the introduction. Again, I'm Sara Frankenstein. I'm a private practice attorney at Gunderson Palmer Law Firm in Rapid City, South Dakota.

My practice specializes in civil rights, including election law and governmental aspects of the law, and I will be presenting a summary of our report regarding maternal mortality and health disparities of American Indian women in South Dakota.

Our committee found this topic compelling as the statistics initially provided to us were staggering. American Indian women make up eight percent of our state population, yet suffer 36.9 percent of our state's pregnancy-related deaths.

The national maternal mortality and maternal morbidity rates of American Indian women are double that of white women. American Indian women in South Dakota experience nearly seven times the 2018 national maternal mortality rate.

These statistics led our committee to choose this topic for study. We found that any number of civil rights issues are important, of course, but studying this particular topic may allow our state to save lives.

The cause of these disparities was not immediately apparent to us as there is a lack of data...
compiled in a consistent, comprehensive manner regarding maternal health of American Indian populations in our state of South Dakota. Without such data, it is difficult to determine explanations for these disparities in our state.

The causes appear, however, to be manyfold, and revealed the complex nature of overall health and well-being for American Indian women, and particularly those living on reservations in South Dakota.

The CDC's pregnancy risk assessment monitoring system provided data, shedding some light on the topic. That data indicated that 27 percent of American Indian mothers reported not having access to transportation needed for prenatal appointments.

27.5 percent of American Indian mothers were unable to access prenatal care due to lack of access to childcare. 19.1 percent of American Indian mothers reported being unable to get an appointment with their healthcare provider.

The disparities are starker for those American Indian mothers between the ages of 15 to 19. In this group, 55.4 percent of American Indian mothers received late or no prenatal care compared to 21.8 percent of white teen mothers.
Looking at other contributing factors, substance abuse could not be ignored. Substance abuse is certainly a contributing factor to American Indian maternal health and the causes of that are also complex.

American Indian mothers that experience more trauma and adverse childhood experiences are more likely to develop substance use disorders, and those numbers are disparate among American Indian women versus white women in our state.

There is both a disproportionate use of substances by American Indian women than white women, and also preconceptions that surround substance use as well.

American Indian illicit drug use before pregnancy is three times that of white women in our state. In 2014, South Dakota tribes anecdotally reported that 50 to 70 percent of prenatal American Indian mothers were using a non-prescribed drug.

A follow-up inquiry by the CDC with local tribes in 2016 confirmed tribal leaders’ perspectives that 60 percent of the delivering mothers were using a non-prescribed drug.

We have two important statutes informing this discussion in South Dakota, the first being our
statute SDCL 26-8A-2, sub 9, which defines the term abused or neglected child as including a child who is subject to prenatal exposure to abusive use of alcohol, marijuana, or any controlled drug or substance not lawfully prescribed.

Couple that with the second statute I referenced, our mandatory reporting statute, which is SDCL 26-8A-3. That statute requires any health professional, as well as a host of others, who has reasonable cause to suspect that a child has been abused or neglected as defined in the statute I just read shall report that information. If that health professional does not do so, it is a Class 1 misdemeanor to fail to report.

Pregnant women using substances want to avoid the criminal justice system and they want to avoid having their babies taken away, and therefore, these mandatory reporting laws disincentivize them to obtain prenatal care.

American Indian mothers can be drug tested for, quote, noncompliance, end quote, if they sign up for Medicaid later in their pregnancy. While this delay may be caused by avoiding the detection of substance abuse, it is also often simply caused by a woman's inability to apply for Medicaid due to a lack
of computer and phone access, as well as travel barriers.

This problem is coupled with inadequate substance abuse services. Without access and support for substance abuse, American Indian mothers are more likely to find themselves in the criminal justice system.

For those with health insurance, there are few wraparound services for women experiencing addiction, and I'll touch more on that in a bit.

IHS or Indian Health Services is often regarded as underfunded, difficult to access, and providing substandard healthcare to our American Indian women on and off the reservations.

We heard testimony that American Indian mothers are anxious about attending those appointments due to not only a few of inadequate healthcare, but also cultural insensitivity there are those clinics and hospitals.

American Indian mothers experience a disproportionate amount of trauma and these affect pregnancies, causing premature death, as well as morbidity and mortality.

You'll see that we determined a number of recommendations that consist of many pages, and I'll
touch upon a few to highlight here.

We recommend that IHS, Indian Health Services, is increased in funding, particularly to fund a data research program to investigate and address barriers to maternal health and help us develop preventative measures.

With evaluative tools to track maternal care services, IHS hospitals specifically, and when compared to healthcare given in regular state and private hospitals and clinics, can be compared so that we can have insight as to whether maternal mortality issues are universal regardless of the healthcare provider.

That data would also indicate whether private insurance billing measures, cultural training or insensitivity, and medical services affect maternal mortality.

We often heard requests to create reservation-based birthing centers. Many of our reservations don't have a place to give birth at all, and many would like an accessible birth center on the reservation where travel wasn't a barrier, and family can attend and provide the cultural practices and familial support that their culture would like to be able to provide to young mothers.
In addition, telemedicine services would be particularly suited for our reservations to provide maternal health and mental health appointments. We'd like to see an expansion in that area.

We also recommend that IHS funds and provides more mental health and substance abuse services for American Indian mothers on reservations, and that Medicaid reimbursement eligibility is changed in order to include maternal health case managers, which aren't provided in South Dakota for the most part.

With that, Chairman Letellier and I would be happy to take your questions.

CHAIR CANTU: An excellent presentation and you still had 30 seconds to go. So, I'm going to turn to our commissioners to see if they have questions for either Chair Letellier or for Ms. Frankenstein. Questions, Commissioners?

COMMISSIONER ADEGBILE: Madam Chair, Commissioner Adegbile.

CHAIR CANTU: Yes, Commissioner, please proceed.

COMMISSIONER ADEGBILE: My question is directed to Ms. Frankenstein in the first instance. I just wanted to hear from you a little bit about how
the Medicaid coverage gap bears on all of this and whether you think that there is an impact in your state?

And the reason I say that is that in the work that we have been doing on maternal healthcare, I think we've come across some data that suggests that Medicaid coverage, access to Medicaid coverage can reduce the incidence of adverse maternal health outcomes, and so I'm wondering if you have visibility on how that's playing out in your state?

MS. FRANKENSTEIN: First, to what I just spoke to just at the end of my presentation with regard to health managers or case managers, I believe there's only one in the state of South Dakota, and so we heard health professionals request that Medicaid be revisited in order to allow reimbursements for those case managers, because apparently currently they are not.

The case managers are important in that we know maternal healthcare is not only limited to helping a woman give birth, but of course it provides prenatal care, particularly for those who have substance abuse issues and need those addressed really immediately, those that need postpartum care, including substance abuse and mental health help and
the like.

And with no case manager in order to help a patient see all those areas of healthcare and obtain that healthcare at various clinics, wherever it may be accessible, those patients just aren't receiving that, so Medicaid eligibility for that particular type of position, and one per reservation would be ideal.

Also, with regard to late sign-ups, those new mothers who are trying to get enrolled in Medicaid but have not yet, that causes late care well into the pregnancy where no care is obtained.

And like I said, for those that sign up for Medicaid late, whether it's because they are using substances and don't want that detected or simply they have no phone, computer, or travel access, they're deemed noncompliant and then a drug test can be ordered. All of that acts as a barrier or a reason for pregnant mothers to avoid healthcare.

We have such a paucity of mental health and substance abuse centers, particularly on our reservations, but those really are needed here in South Dakota. Did that answer your question?

COMMISSIONER ADEGBILE: Yes, thank you for those comments. One other question, what is the approach that might improve the transportation issue
that you described? Are there any innovative ideas about how to address that?

MS. FRANKENSTEIN: That is a difficult issue. We have transportation issues that range everything from just the rural, the rurality of our citizens who live in dirt roads, unmaintained roads, we have American Indian mothers who just don't have cars, can't afford gas or vehicles.

We do have a program in the state of South Dakota that transports women to their prenatal or postpartum medical appointments. That was very problematic in the age of COVID. Those home health pickups weren't happening during our lockdowns and our COVID protocols.

But we do have a program that I think needs to be expanded. I don't think it's widely used, but there is a transportation program in South Dakota for those young mothers.

COMMISSIONER ADEGBILE: And finally, I would just say that the statistics that you shared are very stark and you're quite right that interventions in these areas will literally save lives, and that it's important that we bring attention to it and bring attention to the impact on our rural communities.

So, thank you very much for both of your
presentations and the work that you're doing on this area, which, as you know, is a focus of the statutory report that the Commission has worked on.

CHAIR CANTU: Thank you for the questions and for the comments and answers. I mean, if it is an infrastructure issue of roads or lack of ability for people to have transportation, these are old problems. I was co-counsel in a case in the '80s and the court did not provide any solutions back then, so I'm very pleased that your advisory council has produced such a report. These are common sense items that you are asking for.

Commissioners, are there any other questions, please? If there are no further questions, I want to thank both of you, Dr. Frankenstein and Dr. Letellier, for your presentations.

MS. FRANKENSTEIN: Thank you.

MR. LETELLIER: Thank you.

CHAIR CANTU: Thank you. So, let me thank you both for your service and the leadership on the advisory committee, and I will then turn to our next item, agenda item.

If you would like to continue and listen to the next presentations, you're quite welcome, but since we're going to be voting on appointing advisory
committee members, it's your move as to whether you stay on board or not, so thank you all very much.

**B. DISCUSSION AND VOTE ON ADVISORY COMMITTEE APPOINTMENTS**

CHAIR CANTU: Our item on the agenda is the discussion and vote on state and territory advisory committee appointments. As you know, the U.S. Commission on Civil Rights depends on 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, Northern Mariana Islands, Guam, and American Samoa.

Today, we're going to appoint one advisory committee, and that's Colorado. I begin with a motion to appoint the following persons to serve as advisory committee members in Colorado based on the recommendations of the Staff Director.

The persons are Alvina Earnhardt, nominated for chair and returning appointee; Christina Alonzo, returning appointee; William Banta, returning appointee; Pamela Benigno, new appointee; Darrell Jackson, new appointee; Charles King, new appointee; David Kopel, returning appointee; Joseph Peters, new appointee; and William Trachman, returning appointee.

All of these individuals will serve as
uncompensated government employees. If the motion passes, the Commission will authorize the Staff Director to execute the appropriate paperwork. Do I have a second for this motion? Someone's on mute.

COMMISSIONER ADAMS: Second.

CHAIR CANTU: Who was that, please?

COMMISSIONER ADAMS: Adams, second.

CHAIR CANTU: Thank you, Commissioner Adams. Unless there's further discussion, I'll call the question and take a roll call vote. Commissioner Adams, how do you vote?

COMMISSIONER ADAMS: Yes.

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 KLADENEY: Yes.

CHAIR CANTU: Commissioner Yaki?

COMMISSIONER YAKI: Aye.

CHAIR CANTU: And I vote yes. The motion passes.

COMMISSIONER ADEGBILE: Madam Chair, I
think you forgot Commissioner Adegbile.

CHAIR CANTU: I apologize, excuse me.

Commissioner Adegbile?

COMMISSIONER ADEGBILE: Aye.

CHAIR CANTU: Thank you. Thank you for catching that, Commissioner. The motion passes.

So, we will now turn to our final item on our agenda and that's appointment of a Nebraska -- is that still on? No, then that was the final item. We have no further --

C. MANAGEMENT AND OPERATIONS

STAFF DIRECTOR REPORT

CHAIR CANTU: Oh, I do get to ask, as we do at every business meeting, to see if the Staff Director would like to have the floor to present a monthly report?

MR. MORALES: Thank you, Madam Chair. You know, in the interests of time, I have nothing further to add than what's already contained in the Staff Director's report. Of course, I'm always available to discuss any item, or issue, or matter with the commissioner in the report, so, Madam Chair, thank you.

CHAIR CANTU: Thank you, Staff Director, and those are interesting reports. I find myself
highly enlightened when I read them, so I do remind
the commissioners that they are available in our
inbox.

D. VOTE ON ADVISORY COMMITTEE CHAIR FOR THE

NEBRASKA STATE ADVISORY COMMITTEE

CHAIR CANTU: All right, we do have a
final business item and that is the appointment of an
Advisory Committee Chair for Nebraska, for the
Nebraska State Advisory Committee.

So, due to the resignation of the previous
chair, and I will make the motion to appoint Nikitah
Imani as Chair. Mr. Imani has been recommended by the
Staff Director. Is there a second to the appointment
of the committee chair?

COMMISSIONER GILCHRIST: Gilchrist
seconds, Madam Chair.

CHAIR CANTU: Thank you, Commissioner
Gilchrist. And unless there's further discussion,
I'll call the question and take a roll call vote.
Commissioner Adegbile, I'll start with you. I'm
trying to make amends here.

COMMISSIONER ADEGBILE: Aye.

CHAIR CANTU: Thank you. Commissioner
Adams?

COMMISSIONER ADAMS: Aye.
CHAIR CANTU: Commissioner Gilchrist?

COMMISSIONER GILCHRIST: Aye.

CHAIR CANTU: Commissioner Heriot?

COMMISSIONER HERIOT: I vote yes.

CHAIR CANTU: Thank you. 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, and the motion passes unanimously to confirm the new Commission Chair. Congratulations to Mr. Imani. And we've already had the Staff Director's report, so that concludes the business on the agenda for today's business meeting.

III. ADJOURN MEETING

CHAIR CANTU: There not being any further business before us, I hereby adjourn the meeting at exactly 1:00 Eastern Standard Time. Thank you all. I think you've set a record for conducting the business meetings. Appreciate you very much.

(Whereupon the above-entitled matter went off the record at 1:00 p.m.)