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 KLABNEY, Commissioner
MICHAEL YAKI, Commissioner

MAURO MORALES, Staff Director
DAVID GANZ, General Counsel & Parliamentarian
STAFF PRESENT:
STANLEY CARR, ASCD Contractor
PAMELA DUNSTON, Chief ASCD
ALFREDA GREENE
TINALOUISE MARTIN, Director, OM
DAVID MUSSATT, Director, RPCU

COMMISSIONER ASSISTANTS PRESENT:
JOSHUA DANSBY
ALEC DEULL
ALEXANDER HEIDEMAN
JOHN K. MASHBURN
CARISSA MULDER
JUANA SILVERIO
THOMAS SIMUEL
IRENA VIDULOVIC
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OPERATOR: Good day and welcome to the Commission meeting. Today's conference is being recorded. At this time, it is my pleasure to turn the conference over to Chair Cantu. Ma'am, please begin.

CHAIR CANTU: Thank you. Welcome to the business meeting for the U.S. Commission on Civil Rights. The meeting comes to order at 12:00 Eastern Standard Time on Friday, November 19, 2021.

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

Due to respect for health and safety, the commissioners are conducting this business meeting by phone conference.

We are recording all business telephone calls, so I remind everyone that please have the commissioners and our guests not talk over each other so the court reporter can hear you clearly and we can obtain the best quality transcription of today's meeting.

I would like to confirm that the
commissioners are on the line and I will take a roll

call at the outset, so please say aye or present when

I say your name. Commissioner Adams?

COMMISSIONER ADAMS: Present.

CHAIR CANTU: Commissioner Adegbile?

COMMISSIONER ADEGBILE: Aye.

CHAIR CANTU: Commissioner Gilchrist?

COMMISSIONER GILCHRIST: Aye.

CHAIR CANTU: Commissioner Heriot?

COMMISSIONER HERIOT: I'm here.

CHAIR CANTU: Commissioner Kirsanow?

COMMISSIONER KIRSANOW: Here.

CHAIR CANTU: Commissioner Kladney?

COMMISSIONER KLANDNEY: Here.

CHAIR CANTU: Commissioner Yaki?

COMMISSIONER YAKI: Presente.

CHAIR CANTU: Based on this bilingual

response, a quorum of the commissioners is present.

Is the court reporter present?

COURT REPORTER: Yes, Madam Chair, the
court reporter is present.

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: I will begin by my moving to add an item to our agenda for consideration of the Commissioner's five-year strategic plan. This plan, also known as the PAR, is to be prepared every five years and has expired at the end of fiscal year 2020, yes, 2020.

So, on October 1, we should have had a new five-year strategic plan. So, I call a second for the motion to add the agenda to our item at the end of today's discussion. Could I have a second, please?
Hello?

COMMISSIONER YAKI: Commissioner Yaki will second.

CHAIR CANTU: Thank you. Do any commissioners wish to further amend today's agenda? I don't hear anyone, and I appreciate it because it is a lengthy agenda, so thank you all very much.

All right, so the motion to amend the agenda, I need to -- it may be faster -- folks, would you allow me to just ask if any commissioners are opposed to speak up, please?

COMMISSIONER HERIOT: They are. We are opposed.
CHAIR CANTU: Yes, please, okay, so please --

COMMISSIONER HERIOT: You're going to have to take a roll call vote.

CHAIR CANTU: -- state your name. I'll take a roll call vote. Thank you. I'll do that. That's more organized. Commissioner Adams, the motion to amend the agenda?

COMMISSIONER ADAMS: Was there any discussion we had about this? I'm sorry, I --

CHAIR CANTU: No, no, there was -- we can have discussion about adding something to the agenda, yes.

COMMISSIONER ADAMS: Okay, can you pass over me, please, and come back to me? I'm sorry.

CHAIR CANTU: Absolutely, sir. Commissioner Adegbile?

COMMISSIONER ADEGBILE: Aye.

CHAIR CANTU: Commissioner Gilchrist?

COMMISSIONER GILCHRIST: No.

CHAIR CANTU: Commissioner Heriot?

COMMISSIONER HERIOT: No, I think we can work this out by notational vote really quickly next week, but you didn't respond to our request on this, so we're going to have to vote no, or I'm going to have
to vote no.

CHAIR CANTU: Thank you. I did respond to Commissioner Gilchrist, but, yes, ma'am, I didn't respond to you and I hear you as you want more time.

Commissioner Kirsanow?

COMMISSIONER KIRSANOW: Yes, I'd like more time also, so I'm going to vote no.

CHAIR CANTU: Commissioner Kladney?

COMMISSIONER Kladney: Yes.

CHAIR CANTU: Commissioner Yaki?

COMMISSIONER YAKI: Aye.

CHAIR CANTU: Coming back to Commissioner Adams?

COMMISSIONER ADAMS: No.

CHAIR CANTU: Okay, while I have you all, because we are already behind, can I poll you? This is not a vote, but can I poll you as to whether you can be available before Friday to have a notational vote? Can we do a notational vote in a week? This is just a poll. Adams?

COMMISSIONER ADAMS: Yes, sooner than that.

CHAIR CANTU: Sooner than that. Adegbile?

COMMISSIONER ADEGBILE: Of course.
CHAIR CANTU: Gilchrist?

COMMISSIONER GILCHRIST: Yes, Madam Chair.

CHAIR CANTU: Heriot?

COMMISSIONER HERIOT: Yes, I'm available all week. I think this will be easy. It's just that we got to do it.

CHAIR CANTU: Kirsanow?

COMMISSIONER KIRSANOW: Yes.

CHAIR CANTU: Kladney?

COMMISSIONER Kladney: I don't know how easy it will be, but I'm available.

CHAIR CANTU: Yaki?

COMMISSIONER YAKI: Assuming that we can reach an agreement, I'll be available.

CHAIR CANTU: Okay, now just again a poll, how many of you all received the request to amend the strategic plan? Did anyone not receive it because that will slow things down? Did anyone not receive the proposal to amend the strategic plan?

COMMISSIONER ADEGBILE: Madam Chair, this is Commissioner Adegbile. I would suggest that we take offline the business about whether or not we're going to have a notational vote and just stick to whatever is the approved agenda for this meeting and not have
these administrative matters on the record.

CHAIR CANTU: Okay, since the motion came from -- since it was my motion and it looks like my motion has failed, and, yes, it did, then I accept the counsel of my fellow commissioner. Thank you.

Are there any other agenda items that would amend today's agenda? If there are no other amendments, no other proposed amendments, we'll proceed to approve the amended agenda, the agenda. Thank you. By roll call vote, please say aye or no if you approve the agenda. Adams?

COMMISSIONER ADAMS: Yes, approve.

CHAIR CANTU: Commissioner Adegbile?

COMMISSIONER ADEGBILE: Aye.

CHAIR CANTU: Commissioner Gilchrist?

COMMISSIONER GILCHRIST: Aye.

CHAIR CANTU: Commissioner Heriot?

COMMISSIONER HERIOT: Yes.

CHAIR CANTU: Commissioner Kirsanow?

COMMISSIONER KIRSANOW: Yes.

CHAIR CANTU: Commissioner Kladney?

COMMISSIONER KLADNEY: Yes.

CHAIR CANTU: Commissioner Yaki?

COMMISSIONER YAKI: Aye.

CHAIR CANTU: Thank you very much.
II. BUSINESS MEETING

E. Vote to Amend January 2022 Business Meeting Date

CHAIR CANTU: I also have a housekeeping matter that I need to take care of. I move to take care of the item E on today's agenda. That is amending the January 2022 business meeting.

We had given notice to the commissioners that the January meeting would take place January 14, 2022 and we are moving back that to January 21 of 2022.

Do I have a second to this motion?

COMMISSIONER YAKI: Commissioner Yaki seconds.

CHAIR CANTU: Thank you, Commissioner Yaki. Is there discussion on this?

COMMISSIONER ADAMS: Commissioner Adams.

CHAIR CANTU: Yes, Commissioner Adams?

COMMISSIONER ADAMS: Is it the regular time, noon?

CHAIR CANTU: I don't want to guess at that. Does someone on the line have that answer? It's going to depend on whether it's in person or not. We don't have an answer, Commissioner. We're going to get back to you on that.

COMMISSIONER ADAMS: Okay, thank you.

MR. MORALES: Madam Chair, this is Staff
Director Morales. I can answer that.

CHAIR CANTU: Oh, yes, please.

MR. MORALES: As always, we will comply with whatever commissioners' desire is for the time.

Generally, we've had them at noontime to accommodate the commissioners on the west coast and their time change. We could continue to do that for this meeting on the 21st.

We do not anticipate that this meeting will be in person because the staff will just be getting in. We're hopeful that we will have the first, be able to have the first in-person business meeting in February for the February meeting. So, with that, I would yield back the floor to you, Madam Chair.

CHAIR CANTU: Thank you. So, it is noon on January 21 if this motion carries, so I'm going to call for a vote. 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: Yes.

CHAIR CANTU: Commissioner Kirsanow?
COMMISSIONER KIRSANOW: Yes.
CHAIR CANTU: Commissioner Kladney?
COMMISSIONER KLDANEY: Yes.
CHAIR CANTU: Commissioner Yaki?
COMMISSIONER YAKI: Aye.
CHAIR CANTU: The motion passes and I vote aye. So, now turning to our agenda, I would like to welcome our guests from our advisory committees, so we're going to turn to presentations from advisory committees on recent reports and memos that they prepared.

A. Presentations from Advisory Committees to the
Commission on Recent Reports/Memo Releases

CHAIR CANTU: The first presentation will be from our Missouri State Advisory Chair Elizabeth A. Moran on the committee's released memorandum Voting Rights in Missouri, the Impact of COVID-19.

Chair Moran, we've got ten minutes and I give bonus points for people who stay within time, and after that, there will be questions and answers.

MS. MORAN: Very good, thank you, Madam Chair and commissioners for providing the opportunity to present the Missouri Advisory Committee's summary of testimony on Voting Rights in Missouri, the Impact of COVID-19.
So, the state of Missouri has some of the strictest absentee voting laws in the country, and during the course of the committee's research and inquiry leading up to and during meetings back in April of 2020, it became apparent that there were concerns regarding the impact and potential additional barriers to absentee voting during the COVID-19 pandemic and the need to investigate potential discriminatory practices and burdens on Missouri citizens' fundamental right to vote.

In particular, the committee expressed concern regarding barriers to voting for already marginalized populations. This includes, but is not limited to, people with disabilities, the working poor, people living in rural areas, and then other citizens with limited access to things like transportation, internet access, and just information about voting in general.

The committee chose to study the extent to which the COVID-19 pandemic impacted the right to vote in Missouri in recognition of both the significance of the right in our democracy, but also the role that Missouri law and election policy and practices have played in shaping that right.

So, the committee considered state and
local responses to the virus and an examination of potential disruptions in the election process which could lead to deprivations of that right to vote.

To that end, we convened a series of public meetings which ultimately ended up being four teleconferences, and we invited election official panelists which included the Missouri Secretary of State, county election officials, some local party leaders and advocates, academics, and then a couple of just national election experts that were identified by our committee members, and those teleconferences were held in June, July, August, I'm sorry, June, July, and then two in August of last year.

So, the investigation and sort of the inquiry really centered on two issues, voter fraud and then, of course, COVID-19, and in Missouri, the specter of fraud competed sort of with the threat of the disease, and at that time, you know, the lockdowns, and mask mandates, and sort of the restrictions that were going on in the state of Missouri and across the nation at that time.

And so, this report addressed sort of the lead-up to the election that year, so among the topics included in the testimony were things like the notarization requirement for absentee and vote by mail
ballots, fair access to ballot boxes, and then voter disenfranchisement.

I will say the candor of the witnesses at our hearings revealed that even as members of panels disagreed about the status or the reality of the voting in Missouri, they were committed to open and frank discussions, which we very much appreciated, and it wasn't uncommon for some of the hearings to run a little bit over time or right up to that last minute.

So, while the report does not make specific findings and it doesn't offer any specific recommendations, the summary of the testimony provided in the report is a product of all of those discussions.

And it's intended to inform the Commission on the potential civil rights implications of the steps taken and not taken during the pandemic to ensure that all citizens in Missouri with the legal right to vote were given access to a ballot and/or the polls.

And with that, there are three areas of the report that I would like to direct the Commission's attention to and that I feel were of particular importance and worthy of further discussion and investigation.

The first one is Missouri's requirement for a notarized voter signature on an absentee ballot.
So, Missouri already has very, very strict absentee voter laws, which has exacerbated voters' potential exposure during COVID-19 by keeping the notarization requirement on the absentee and mail-in ballots, and allowing waivers for those people among the high-risk categories for contracting COVID.

As one of our panelist's remarked, the very reason why we should by staying home socially makes it unsafe to congregate in crowds at the polls.

The second piece that I think is worth looking at is the conclusion over mail-in and absentee voting. So, any registered Missouri voter can request a mail-in ballot. Absentee ballots are only for eligible voters that meet very strict criteria.

So, we asked our panelists about this and our policy experts and election officials remarked on the confusing requirements for each type of ballot, so they differ in the manner in which they can be requested.

So, some can be requested by mail, by fax, by email, or how they must be returned. So, for instance, mail-in ballots must be returned by mail, but absentee ballots can be returned by mail or in person, and this information, although it was online, was often not intuitive to find.
So, the only commonality is they both had to be notarized, which led many policy experts on our panel to question how this process offers protection from COVID-19 exposure when it still required the voter to engage with people outside their normal social circle or their household.

And I think it's important to note that while electronic notarizations have slowly become more common, that that sort of notarization creates even additional barriers for voting already for marginalized populations.

So, if you're an individual with a disability, if you are among the working poor with little to no access to transportation or internet, if you are living in a rural community or have other reasons for limited access to transportation information, but also for individuals who have disabilities, let's say cognitive impairment due to aging and/or disability, this extra layer makes it even more difficult for those individuals to participate in the voting process.

So, the combination of strict deadlines, slowed mail service, notary requirements, and ballot confusion were among the more alarming threats identified in the 2020 election by our panelists.
The final area that I think is worth mentioning and directing your attention to is what I just talked about regarding voters with disabilities.

So, one of our experts on the election administration side said that the issue is that a lot of voters with accessible challenges have is transportation to get from A to B, so COVID exacerbated that, but we knew that before COVID.

And we also knew that particularly for individuals who have disabilities, many of their services and supports moved to a tele or a telemedicine or a telesupport network, and so, again, exacerbating the need for notarization, but also just getting to the polls generally.

That same expert claimed that that was true for other systems. For instance, California and Utah have created remote accessible vote mail-in program voters for those voters who need accessible technology to vote, so they can now do that at home.

They have to print the ballot at that end, so it's not electronic delivery, but they print the ballot in the end, insert it into envelope, and then return it that way, and that one's on the books in a couple of different states.

So, I want to mention too with regard to
disabilities, speaking about accommodation for voters, another panelist who was also an elections official said he would just add that curbside voting under Missouri law is available for disabled voters at every polling place, and that has been the case for a long time.

He said I will say though, and I'm quoting him here, that curbside voting is labor intensive, and at a polling place when a voter does vote curbside, it takes two election officials away from the polling place, and that usually leads to the line backing up. That's why we do encourage voters who want to vote in their car curbside to come to the main office.

So, in summary, some key points that I think are worthy of the Commission's review, Missouri is one of the few states that offers absentee voting only for limited reasons. Missouri is also only one of three states that require notarized voter signatures on an absentee ballot.

In addition to absentee balloting, Missouri allows registered voters to vote by mail, but these ballots must also be notarized and they must be returned by mail by election day.

Our policy experts and public interest organizations testified that these regulations are
unnecessarily burdensome, and our state leaders, despite the public health guidelines and warnings, promoted in-person voting based on the specter of fraud.

Our own secretary of state told the committee that despite the pandemic, that in-person voting is still the best way to make sure our ballot counts.

So, as far as any gaps in our committee's investigation, there were none that I'm aware of. That being said, while the report doesn't make specific findings or offer any specific recommendations, as chair of the committee at the time the hearings were held and in the spirit of nothing about me without me, if I could go back, I would encourage future inquiry to identify and provide meaningful engagement for representation of those marginalized populations just to get them in the loop to get some testimony about sort of what their experiences have been with voting in Missouri.

And then finally, I will say that there were no dissenting opinions on the report to my knowledge, and the only dissension among committee members throughout the process was really with regard to specific individuals that might be invited to
provide the testimony at those hearings, but even that was minimal and easily resolved through a nomination process that was facilitated by our DFO, David Barreras, who has just been incredible and instrumental in providing logistical support, coordination, and just organization of our committee's wishes.

So, I think that concludes my report and I think I'm right at ten minutes, so thank you, and I will pass it back to you, Madam Chair.

CHAIR CANTU: Thank you, Chair Moran. Yes, it is exactly below ten minutes, so you did really, really well. Do I have any -- thank you, thank you, thank you. Do I have any discussion or conversation from the commissioners? And please identify yourself by name.

(Pause.)

CHAIR CANTU: Okay, I'm trying to turn off the timer. It just went off.

MS. MORAN: Well, hearing none, Madam Chair, I will just thank you for your time and thank the Commission for their time, and if anyone has any questions following the committee, I welcome those through email or phone.

CHAIR CANTU: Thank you very much.

COMMISSIONER YAKI: Madam Chair, this is
Commissioner Yaki. I just wanted to thank the Missouri Chair for her presentation.

She obviously raises a lot of the issues that we have considered and discussed in our reports, and I'm glad to see that they addressed those in their hearings, and again thank her for the work that she's done.

MS. MORAN: Thank you, much appreciated.

CHAIR CANTU: So, if there are no further questions, thank you again to Chair Moran.

We're going to move onto our next item, and so we're going to hear from Virginia State Advisory Committee Chair K. Shiek Pal on the committee's released statement condemning the rise in hate crimes and violence targeted at Asian Americans and Pacific Islanders and in anti-Semitic incidents in the United States. Chair Pal, welcome, and you've got ten minutes.

MR. PAL: Thank you, Madam Chair. Actually, I think I'm supposed to present on our report that was submitted, not the statement on anti-Asian crimes, but our multi-year study of hate crimes in Virginia.

CHAIR CANTU: I believe you are right, of course. Please proceed.
MR. PAL: Should I go ahead with that?

CHAIR CANTU: Yes, I see it right in front of me.

MR. PAL: Okay, thank you.

CHAIR CANTU: Thank you.

MR. PAL: And thank you to the Commission for this opportunity to present. I'd like to start with just a procedural observation that will provide some context for this report.

As you'll see, our report actually started, the work on this report stated in the fall of 2016, immediately following the 2016 election when, the day after the election, there was a string of hate crimes across northern Virginia that brought this to several of our members' attention and we chose it as a topic.

A year later, after the events of the Unite the Right rally in Charlottesville, sort of the urgency and the tone of our inquiry changed and took on a lot more urgency.

Unfortunately, at the same time, that incident also introduced a significant amount of internal discord within our committee that we hadn't encountered, at least not to the same degree, prior to that.
Our work was then interrupted by the
government shutdown in 2018 into 2019, which actually
caused us to miss one of our scheduled hearings, and
then following that, we actually ended up losing
several members.

And so, the committee that did the bulk
of this work ultimately ended up disbanding, and the
report that you have in front of you was written by
the new committee that came in for the next term.

That committee worked off of the
transcripts of the hearing that the prior committee
held, but given that they were working off secondhand
material, they had some reservations about conducting
their own analysis based simply on a transcript without
the opportunity to engage with the experts.

And so, the report that you have in front
of you is more of a summary of the findings of the
experts from the hearings and some overall observations
as opposed to the analysis that the original committee
had intended to do before it was disbanded.

So, with that procedural background, let
me just quickly run through some of the key points in
our report.

The first thing that became evident to us
very quickly is that one of the major problems in
understanding the scope of hate crimes, not only in Virginia, but really it seemed in any jurisdiction, is the question of the definition of what is a hate crime.

Many jurisdictions don't have standalone hate crime statutes. It's an add-on statute that can be used at sentencing in the law enforcement context or for categorization of other violations of the criminal code, but is not in and of itself a separate violation that can be prosecuted.

In those jurisdictions where it can be added, often it's an option that is not utilized because in both contexts, the nature of defining a hate crime requires proving the bias in addition to the elements of the underlying crime.

And so, it creates an additional burden for law enforcement and for prosecution, and so numerous experts testified that hate crimes are routinely and significantly underreported because it presents -- it's easier to prosecute a non-hate crime because there's no need to prove the bias, and therefore, there's no incentive to identify a given transgression as a hate crime, which then has further ramifications for the reporting and the statistics.

Additionally, there's another aspect of
the underreporting which is from the victims' perspective. Several of our experts testified that for particular groups, particularly those oriented around ethnicity or religion, there's often a stigma about reporting hate crimes.

There is pressure to keep incidents of bias within the community, to not engage law enforcement, to not bring publicity to the group that serves to additionally other them, and so there's underreporting of hate crimes from both the prosecutorial side and the victims' side.

When we got to the question of trying to look at the trends in the data to understand whether indeed there had been a statistically significant increase in hate crimes, we found that another problem that emanated from the same question of definition is that the various reporting entities, and we looked primarily at the BJS, which is the Bureau of Justice Statistics, and the FBI hate crime database, that the reporting requirements turned on the same question of prosecutorial discretion.

And so, the underreporting that happened in the field also manifests itself in the data, and then between the BJS and the FBI, there's different time periods.
And so, all of our experts agreed that, in terms of a longitudinal study, it was very difficult to draw empirical conclusions about trends, but all but one of the experts said that in conjunction with the consensus that hate crimes are underreported and the colloquial evidence of an increase in bias crimes, all but one of our experts agreed that there was a significant rise from 2016 onwards.

The one that did not agree was the representative from the Bureau of Justice Statistics, and as you'll see in the report, a lot of that can be attributed, I believe, and this is my personal opinion, to the differences in the way BJS collects their data as opposed to the FBI as I alluded to earlier.

Let me just conclude with some of the recommendations for best practices that our experts shared with us, and really they fall into three buckets, the identification of hate crimes, prevention of hate crimes, and prosecution of hate crimes.

One of the consistent things that all of our experts agreed on is that better training on the front lines in terms of law enforcement and first responders is absolutely essential to identifying hate crimes, and then processing them in a manner that would make them eligible for mandatory reporting such that
statistics can be followed and measured.

Additionally, part of that training has to be engagement with the targeted communities, and particularly for those communities where cultural, or linguistic, or in some cases, religious differences are often at play in terms of appearance or the reasons underlying the bias.

First responders and law enforcement should receive training, not only in terms of sensitivity, but in terms of being able to understand when a victim may not self-report issues of bias such that a first responder or law enforcement can follow-up and ask further questions to make an independent assessment of whether bias was at play.

On a related note, there was also agreement that engaging with activists in the local communities, community activists, community leaders, social service providers, religious institutions.

These are all opportunities to develop ties and to build trust between the affected communities, law enforcement, and the resources available to help victims get the help they need and to register that they've been the victim of a bias crime.

And I think I will stop there. I think
that covers most of it, and so I'm happy to take any
questions that anyone may have. Thank you.

CHAIR CANTU: Thank you, Chair. You left
a minute on the table and I appreciate the gift of time.
This is now where the commissioners have an
opportunity to interact with you. Any questions,
 commissioners?

COMMISSIONER YAKI: This is Commissioner
Yaki. I just wanted to say to the chair that as someone
who, when he was growing up, was one of two Asian
Americans, the other one being his sister, in high
school in northern Virginia, Virginia has changed a
lot since my youth, and the issues of diversity and
inclusion have multiplied in a good way there.

I just wanted to sort of get a sense from
you about how you see the diversity in Virginia changing
and how it's reflected in how you conducted your work
and the people who are on your committee.

MR. PAL: Thank you for that question.
I would say three things. First, on a demographic
level, you're absolutely correct that diversity, not
only in northern Virginia, but in several parts of
Virginia, has definitely increased in recent times.

But the second point is that the
integration of diverse populations has not been as
seamless, and although that might be slightly better in northern Virginia than in other parts of the state, there are still fundamental issues, particularly around questions of language for the Asian American community, questions of religion for the Muslim community, and there’s also some question of intersectionality between the LGBTQ community and these other marginalized groups.

And so, the final point that I would make is that I believe that although the numbers are changing, if anything it's underscoring that there continues to be, in my view, a growing problem in Virginia.

COMMISSIONER YAKI: Thank you.

COMMISSIONER ADEGBILE: Madam Chair, Commissioner Adegbile.

CHAIR CANTU: Yes, please.

COMMISSIONER ADEGBILE: Thank you very much for your report and for the work that the state advisory committees, I take it two different committees in effect, have contributed to this one, so thanks to both of those cohorts for the work in this space.

As you may be aware, the U.S. Civil Rights Commission has done a report that covers some of these topics on hate crimes, and in service of that study,
we had an opportunity to have people come before us and testify pre-pandemic.

And we heard the very poignant testimony of Judy Shepard, Matthew Shepard's mother, of Micah Fletcher, a young man who nearly lost his life intervening on a hate crime on public transportation in Oregon, and we also heard from Susan Bro, the mother of Heather Heyer, who was killed in Virginia as you know.

And one of my questions to you is did the study have the opportunity to dig in with victims of hate crimes to capture their perspectives and to add that layer of understanding to just how terrible a blow these crimes are to the fabric of the United States and of Virginia?

MR. PAL: Thank you for the question. Actually, Susan Bro was one of our witnesses, and in a personal twist, I was actually in Charlottesville for the Unite the Right rally.

I had gone down with some other volunteers, and so I'd actually had an opportunity to meet Ms. Bro several times prior to her testimony, and as you know from having heard her, every time I hear from her, she's so eloquent and so powerful on this.

We also had somebody who, while not a
direct victim, was a family member of a victim of the Tree of Life Synagogue, which although it isn't in Virginia, obviously it goes to, you know, some of the central questions that we were facing. That was somebody that was invited by one of our witnesses who was the regional representative or president of the ADL.

Other than that, we heard from several advocates who represented victims, but not direct victim testimony, so just those two.

COMMISSIONER ADEGBILE: Thank you, and thanks again for the study.

CHAIR CANTU: Do any of the other commissioners wish to ask questions? I would ask one brief question. Chairman, how were — what were your success stories in terms of being able to overcome all of these barriers that you described, a government shutdown, the pandemic?

I mean, what additional steps did you and your colleagues on the advisory committee have to do to be able to deliver such a well-researched and well-developed report? What worked for you?

MR. PAL: I'll be very honest with you. I actually don't think that our initial committee, the one that did the bulk of the work on this, worked
Unfortunately, given the politics of the time, given the events of Charlottesville, given some of the particular membership of the committee, unfortunately, by the end, the bulk of 2019, I think, partisan issues overcame a lot of the functionality of the committee.

And so, I would have to start by acknowledging the yeoman's work done by the new committee which has only two carryover members. Myself and one other member were the only two carryovers, and so the bulk of this work was done by the new committee which, although it represents a wide cross-section of social and political views, was far more functional than our prior committee was.

And I recognize that, to a certain extent, that's a reflection on my leadership as the chair of both committees and I own that, but unfortunately, I have to admit that I think, unfortunately, our work -- we weren't able to overcome those issues, let alone larger systemic issues like the shutdown.

CHAIR CANTU: Thank you. Unless there are other further questions, I want to give you again my thanks, Chair, for your service and your leadership on the Virginia State Advisory Committee, and for
taking the time to speak with us today. We're going to move to the next presentation, but you're welcome to stay on the line, and again, thank you.

MR. PAL: Thanks very much.

CHAIR CANTU: Thank you. So, we're now going to hear from the California State Advisory Committee. The vice chair of that committee is Brian Moriguchi, and the vice chair will be reporting on the committee's released report, Understanding the Impact of Immigration Enforcement on California Children in K-12 Schools.

So, for the presentation, we actually have three committee members speaking. Presenting the report is Vice Chair Brian Moriguchi, and I've allocated six minutes, and then presenting a dissenting view is Committee Member Maimon Schwarzschild for two and a half minutes and Committee Member Rogelio Ruiz for one and a half minutes, and I have a bell that lets you know the time is over. So, thank you so much, Vice Chair. Would you please proceed?

MR. MORIGUCHI: Thank you, Madam Chair.

We're aware that the Commission has addressed many immigration topics which can be very controversial, so we did narrow our review specifically to the impact on schoolchildren.
In California, there have been numerous reports, media reports regarding immigration enforcement at or near schools. These reports, whether accurate or not, sparked fear in the community and fear in children attending school, so our committee wanted to examine the immigration enforcement practices and the impact they have on students and their access to education.

The way we went about our project is we held two committee, or two public meetings, one in Los Angeles and one in Chula Vista, which is a city closer to the U.S.-Mexico border.

And we heard from stakeholders, including Customs and Border Protection, California Department of Justice, academics, national and state advocacy groups, legal experts and other individuals. We also convened a meeting with representatives from U.S. Immigration and Customs Enforcement.

Through the collection of data and testimony, we found there are approximately three million K-12 students in the U.S. who are children of undocumented parents. In California, approximately 750,000 children live with undocumented parents and approximately 250,000 are undocumented as well.

California has one of the highest numbers
of K-12 students with undocumented immigrant parents, representing about 12 percent of all students.

In Plyler v. Doe, the U.S. Supreme Court recognized that undocumented immigrants are guaranteed due process and equal protections rights under the U.S. Constitution, and that children cannot be denied equal access to a public education on the basis of their immigration status.

The committee heard testimony and reviewed studies regarding the effect immigration enforcement may have on children, as well as an examination of the policies and practices of immigration enforcement.

Several studies concluded that immigration enforcement in or around --

(Telephonic interference.)

MR. MORIGUCHI: -- on students, and not just undocumented students. These studies state that children suffer from anxiety, depression, withdrawal, as well as externalized behavioral problems such as rule breaking and aggression as a result of the immigration enforcement.

In one study, 85 percent of educators polled reported observing students overt expressions of fear of an ICE intervention in their lives. Many educators reported an increase in bullying against
those perceived to be undocumented immigrants.

In addition, it was reported that absenteeism increased when fear of immigration enforcement was high, and we've provided links to these various studies in our report.

Next, we examined the immigration enforcement practices and policies in California. California Senate Bill 54 prevents state and local law enforcement agencies from using their resources on behalf of federal law enforcement agencies with a few exceptions, so immigration enforcement was almost exclusively handled by ICE.

ICE has a policy known as the sensitive locations policy to address enforcement in certain locations. Under this policy, enforcement activity near sensitive locations, including schools, should generally be avoided, though not prohibited, and they require prior approval from a supervisor or exigent circumstances.

Unfortunately, ICE does not capture data related to activities in or around schools specifically, so we were unable to determine the extent of such activity or the effectiveness of this policy, or even adherence to the policy.

So, what about the perspective of the
schools? We found that California has several laws related to the handling of immigration-related issues.

For example, Assembly Bill 699 restricts the collection of immigration status data and restricts the release of personal information of students.

In addition, the California Attorney General produced the guide and model policy report, which we have provided a link to, to assist the schools in responding to immigration issues and immigration enforcement requests on school property.

So, with the California laws and the policies of the schools, as well as the sensitive location policy of ICE, there appears to be many safeguards to prevent or minimize immigration enforcement at or near schools, yet there are still media reports of alleged inappropriate enforcement activities occurring at schools.

As I stated earlier, collecting data relative to enforcement and arrests in and around schools would be helpful in determining the extent of the problem, if one exists.

I briefly mentioned California Senate Bill 54 earlier. This bill was known as the California Values Act or sanctuary law. ICE representatives expressed that due to this law, local law enforcement
no longer shared information about undocumented persons in custody, with a few exceptions as I mentioned before.

This law makes it difficult for ICE agents to identify or deal with deportation and immigration issues of those who are incarcerated. As a result, immigration and deportation enforcement has shifted into the communities instead of the controlled environment of jails or prisons. This shift increases the risk to agents, the undocumented individual being sought, as well as the community at large.

The ICE representatives believe this increase in enforcement in the community increases the negative perception of ICE in those communities, and increased greater fear for undocumented individuals and their children who live in those communities.

We also heard testimony regarding violent crimes, including murder, alleged to have been committed by undocumented individuals who were released into the community in accordance with California law.

And so, we were very concerned about this, and so we recommended that an in-depth study be done on the effects of California's laws related to immigration and whether they are meeting their intended
goals and whether they negatively impact public safety.

In relation to immigration enforcement at schools, it's clear that California and California schools, as well as the federal government, understand the need for schools to be a safe place for children, and it does appear that ICE understands the sensitive nature of conducting such activities as well. What is left to clear is whether this activity is actually occurring.

The immigration impact on children is a very complex one that extends beyond the schools, so we covered some areas in our report, including border practices, access to legal representation, and enforcement at other locations like courthouses, but I'll stop my presentation to allow my colleagues some time to speak.

So, I'd like to introduce Rogelio Ruiz to say a few words and then Maimon Schwarzschild to give a dissenting opinion.

CHAIR CANTU: Thank you.

MR. MORIGUCHI: Can I turn this over to Rogelio?

CHAIR CANTU: Yes, please. Thank you.

MR. RUIZ: Thank you, and thank you, Madam Chair and the Commission for allowing us this
opportunity. I'd like to address one issue primarily and then a couple of other side issues.

But I think it's important to note for this Commission that the genesis of this report was really an extraordinary letter in 2017 that was sent by Tani Cantil-Sakauye, the Chief Justice of the California Supreme Court, to the Secretary of Homeland Security and to the Attorney General, the United States Attorney General.

And in her letter, she noted that there were ICE enforcement actions occurring in courthouses in California and she expressed her view that she felt that those enforcement activities were undermining the judiciary's ability to provide equal access to justice, and she was deeply concerned by these efforts.

And then as Brian said, at the same time, there were multiple media reports relating to ICE enforcement activities around schools, public schools specifically, and so that was really the genesis of this.

And I think one of the critical things that we learned as a committee was that this is an issue that impacts not just immigrant children living in the United States, documented or undocumented immigrant children.
As Brian said, there are approximately four and a half million children in the United States who have an undocumented parent, but those children are U.S. citizens, and so I would like to just stress that this issue isn't just about ICE enforcement actions and the impact on the immigrant communities.

These are ICE enforcement actions that have an actual impact on U.S. citizens as well, and specifically their access to the administration of justice and to public education, and so I can limit my comments to that and give it to Mr. Schwarzschild.

Thank you.

CHAIR CANTU: Thank you.

MR. SCHWARZSCHILD: Shall I go ahead?

Maimon Schwarzschild here.

CHAIR CANTU: Yes, please proceed, and there's a little extra time, so you're getting one more minute in addition to your two and a half.

MR. SCHWARZSCHILD: Okay, thank you.

Madam Chair and members of the Commission, you have the extensively documented supplemental and dissenting statement of three of us on the California SAC.

We do not support many of the majority's recommendations, nor do we believe that the information, testimony, and public comments gathered
by the committee support them.

The evidence indicates that effective immigration law enforcement enhances the quality of life for families with children, including immigrant families.

Immigration law enforcement contributes to public safety and protects job opportunities, wages, affordable housing, and resources for social services. These protections are perhaps most important for those American citizens and legal immigrants who live on the economic margins of our society.

The Commission should not endorse the adoption of policies that undermine these protections and the families who benefit from them.

The committee document dwells largely, if not primarily, on an emotionally inflammatory claim that children are victimized by immigration law enforcement. The committee uncovered no convincing link between actual law enforcement operations and the well-being of California children, and no systemic civil rights violations or abuse of authority.

As our statement demonstrates, much of the committee report puts forth a false narrative about immigration enforcement, claiming misleadingly that enforcement is ubiquitous, overzealous, and abusive.
Its assertions about the effects on children in particular rely on dubious and unsubstantiated claims refuted at least in part by some of the very advocacy studies relied upon by the SAC majority.

The SAC's entire exercise was transparently designed to lead to a set of recommendations for reduced immigration law enforcement rather than to address any actual civil rights violations.

We urge the Commission to read our detailed and documented statement and not to adopt the flawed findings and misguided recommendations in the committee's majority's document. Thank you, Madam Chairman and commissioners.

CHAIR CANTU: Thank you. Thank you very much, and I do want to compliment you on how well planned and how well presented you did today.

So, commissioners, would you have any questions, please? We have all three still with us, Vice Chair Brian Moriguchi, and we have Maimon Schwarzschild, and we have Rogelio Ruiz.

So, if you want to ask any particular one of them a question, please identify who you'd like to hear from.
COMMISSIONER YAKI: Madam Commissioner,
this is Commissioner Yaki, Madam Chair.

CHAIR CANTU: Yes, please.

COMMISSIONER YAKI: Yeah, I mean, I just
wanted to thank the vice chair for their report.

As the committee is probably aware, this
Commission on numerous occasions sent letters to the
Department of Justice over the past few years regarding
the sensitive location policy that in many cases was
the targeted location policy by the previous
administration.

And we, during that time, did our own
additional investigation report on the separation of
children from their parents at the southern border and
the psychological impact that it had upon them.

So, I just wanted to thank them for their
continued work and to note that report is available
for people to, by the Commission for people to follow
up and read in more detail.

MR. MORIGUCHI: I want to thank you for
that. And I just wanted to add that one of our
recommendations was to respond to the Supreme Court
Justice Sakauye about possibly adding court buildings
to that sensitive locations policy. It is notably
missing from that policy.
CHAIR CANTU: The experiences of students being pursued by immigration agents into school buildings has been happening for several decades and it does traumatize the students, particularly when we have high stakes days where students are taking final exams.

I do want to share one experience because I suffered trauma, and that was as a law graduate, I took the California bar exam, which is traumatic by itself, but federal agents showed up just before the exam started and arrested someone in front of all of us who had memorized everything and thought this was going to be the most important day of our lives, and we had to see someone put down on the ground, handcuffed, and taken away.

So, it's also a matter of common sense, to use better judgment and to abide by existing policies. So, I really appreciate the effort of this group and I do agree that's what we all want is some common sense here, so thank you very much. Any other commissioner have something to add?

COMMISSIONER KIRSANOW: Madam Chair?

CHAIR CANTU: Yes?

COMMISSIONER KIRSANOW: This is a question for anybody who may have the information.
We were you able to adduce any numbers as to or the percentage of California students who are illegal immigrants?

MR. RUIZ: This is Rogelio Ruiz. I can give a -- I believe I have some information on that. So, the data that we received was that at least 750,000 children in California live in households where one parent is undocumented. Of those 750,000 children, 250,000 are undocumented.

COMMISSIONER KIRSANOW: And do you have any idea what percentage that makes of the entire student population of California?

MR. RUIZ: I do not.

MR. MORIGUCHI: It's roughly about 12 percent.

COMMISSIONER KIRSANOW: Thank you.

CHAIR CANTU: And I'm sorry, Commissioner, I didn't hear your name when you spoke up.

COMMISSIONER KIRSANOW: Kirsanow.

CHAIR CANTU: Kirsanow, thank you, sir. Thank you, Commissioner. Are there any other questions?

If there's no further questions, thank you to the panel again, and Committee Members Schwarzschild
and Ruiz, and Vice Chair Moriguchi, and thank you for your service and your leadership on the California State Advisory Committee.

And you're welcome to stay and hear the rest of the meeting, but your panel has done its service and thank you so very, very much.

We move now to the second item -- yes, I'm sorry?

MR. MORIGUCHI: Thank you, Madam Chair.

CHAIR CANTU: Thank you, sir. Okay, the second item on today's agenda is a discussion and vote on state advisory committee appointments.

B. Discussion and Vote on Advisory Committee Appointments

CHAIR CANTU: As you know, the Commission depends on advice from highly qualified persons who serve in each of our 50 states plus the District of Columbia, and most recently, the U.S. Virgin Islands, Puerto Rico, Northern Mariana Islands, Guam, and American Samoa.

Today, we will appoint four advisory state committees, Mississippi, Nebraska, Indiana, and Arizona.

So, I'm going to make a motion and then read out the names because I know their parents and
their children are proud, and I move to appoint the following persons to serve as state advisory committee members.

First, in the state of Mississippi, based on the recommendation of the staff director, Ronald Rychlak nominated for chair and he's a returning appointee; Rhonda Bailey, new appointee; Brittany Barbee, new appointee; Zeb, also Zeke, Baucum, new appointee; Jessica Carter, new appointee; Charles Cowan, new appointee; Macey Edmondson, returning appointee; Lisette Gushiniere, new appointee; Russ Latino, new appointee; Nicholas Lott, returning appointee; Michael Oropeza, new appointee; Aaron Rice, new appointee; and Darein Spann, new appointee.

All of these individuals will serve as uncompensated government employees. If the motion passes, the Commission will authorize the staff director to execute the appropriate paperwork.

Do I have a second for this motion for Mississippi's state advisory committee?

(Simultaneous speaking.)

COMMISSIONER ADAMS: Adams, second.

CHAIR CANTU: Yes, please identify yourself. Seconded by Commissioner?

COMMISSIONER ADEGBILE: Go right ahead,
Commissioner Adams.

COMMISSIONER ADAMS: Adams, Adams seconds.

CHAIR CANTU: Thank you, thank you. Now I'll open the floor for discussion. Thank you. Unless there's any other questions, I'm going to call the question and take a roll call vote.

Commissioner Adams, how do you vote?

COMMISSIONER ADAMS: Yes.

CHAIR CANTU: Commissioner Adegbile.

COMMISSIONER ADEGBILE: Aye.

CHAIR CANTU: Commissioner Gilchrist.

COMMISSIONER GILCHRIST: Aye.

CHAIR CANTU: Commissioner Heriot.

COMMISSIONER GILCHRIST: Yes.

CHAIR CANTU: Commissioner Kirsanow.

COMMISSIONER KIRSANOW: Yes.

CHAIR CANTU: Commissioner Kladney.

COMMISSIONER KILADNEY: Yes.

CHAIR CANTU: Commissioner Yaki.

COMMISSIONER YAKI: Pass.

CHAIR CANTU: I vote yes. The motion passes, congratulations to the members returning and who are new to the Advisory Committee for Mississippi.

I now move to appoint the following persons
to serve as state advisory committee members in the state of Nebraska, based on the recommendations of the Staff Director.

Judy -- oops, someone coughing. I have practiced this name. Judy Gaiashkibos, nominated for Chair and returning appointee.


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.

Do I have a motion, do I have a second for this motion?

COMMISSIONER Kladney: Kladney seconds.

CHAIR CANTU: Commissioner Kladney, thank you. I'll open the floor for discussion. Thank you.
With no further discussion, I'll call a question.

Commissioner Adams, how do you vote?

COMMISSIONER ADAMS: Aye.

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: Abstain.

CHAIR CANTU: Thank you. Commissioner Kladney.

COMMISSIONER KLADNEY: Yes.

CHAIR CANTU: Commissioner Yaki.

COMMISSIONER YAKI: Aye.

CHAIR CANTU: The motion passes, seven in favor, one abstention. Thank you all very much, and I congratulate the new members of the state advisory committee for the state of Nebraska.

I now move to appoint the following persons to serve as state advisory committee members in the state of Indiana, based on the recommendations of the Staff Director. 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.


Do I have a second for this motion to approve state advisory committee members for the state of Indiana?

COMMISSIONER GILCHRIST: Madam Chair, Gilchrist second.

CHAIR CANTU: Thank you Commissioner Gilchrist. I'll open the floor for discussion. Unless someone chimes me, I'll call the question by roll call.
Commissioner Adams, how do you vote?
COMMISSIONER ADAMS: Yes.
CHAIR CANTU: Thank you. Commissioner Adegbile.
COMMISSIONER ADEGBILE: Aye.
CHAIR CANTU: Thank you. Commissioner Gilchrist.
COMMISSIONER GILCHRIST: Aye.
CHAIR CANTU: Thank you. Commissioner Heriot.
COMMISSIONER HERIOT: I vote yes.
CHAIR CANTU: Thank you. Commissioner Kirsanow.
COMMISSIONER KIRSANOW: Yes.
CHAIR CANTU: Thank you. Commissioner Kladney.
COMMISSIONER Kladney: Yes.
CHAIR CANTU: Thank you. Commissioner Yaki.
COMMISSIONER YAKI: Aye.
CHAIR CANTU: Thank you. And I vote yes.
The motion passes, eight in favor.
And lastly I now move to appoint the following persons to serve as state advisory committee members in the state of Arizona, based on the
recommendations of the Staff Director.


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.

Do I have a second for this motion for the committee members for the state of Arizona?

COMMISSIONER GILCHRIST: Gilchrist second, Madam Chair.

CHAIR CANTU: Thank you, Commissioner Gilchrist. I'll open the floor for discussion. Thank you. Unless there's further discussion, I'm going to call the question. I now take a roll call vote.
Commissioner Adams, how do you vote?

COMMISSIONER ADAMS: Yes.

CHAIR CANTU: Thank you. Commissioner Adegbile.

COMMISSIONER ADEGBILE: Aye.

CHAIR CANTU: Thank you. Commissioner Gilchrist.

COMMISSIONER GILCHRIST: Aye.

CHAIR CANTU: Thank you. Commissioner Heriot.

COMMISSIONER HERIOT: I vote yes.

CHAIR CANTU: Thank you. Commissioner Kirsanow.

COMMISSIONER KIRSANOW: Yes.

CHAIR CANTU: Thank you. Commissioner Kladney.

COMMISSIONER KLADNEY: Yes.

CHAIR CANTU: Thank you. Commissioner Yaki.

COMMISSIONER YAKI: Aye.

CHAIR CANTU: And I vote yes. The motion passes, with eight votes. So congratulations to the Commissioners.

We're going to turn now to our third agenda item. I know there's champagne corks popping...
somewhere, but let's go on to our next item. This is a motion to -- a vote to appoint Travis Letellier as the new Chair of the South Dakota Advisory Committee.

C. VOTE TO APPOINT TRAVIS LETELLIER AS NEW CHAIR OF SOUTH DAKOTA ADVISORY COMMITTEE

CHAIR CANTU: The Commissioner thanks the former Chair and looks forward to her continued participation in the state advisory committee. Thank you for service, please.

At the recommendation of the staff, I move to appoint Travis Letellier as the new Chair of the South Dakota Advisory Committee, effective immediately through the Chair's expiration date, which will be August 13, 2023.

So could I -- at this time I'm going to ask if someone will make the motion for the new Chair for the South Dakota Advisory Committee. Just to change it a little bit.

COMMISSIONER YAKI: So moved by Commissioner Yaki.

CHAIR CANTU: Thank you, Commissioner Yaki. Is there a second?

COMMISSIONER Kladney: Kladney seconds.

COMMISSIONER HERIOT: Heriot seconds.

CHAIR CANTU: Did I hear -- did I hear
Commissioner Heriot?

COMMISSIONER HERIOT: Yes, you did.

CHAIR CANTU: Thank you, you have seconded. I'll open the floor for discussion. Hearing no discussion I'll call the question and take the roll call.

Commissioner Adams, how do you vote?

COMMISSIONER ADAMS: Abstain.

CHAIR CANTU: Commissioner Adegbile.

COMMISSIONER ADEGBILE: Aye.

CHAIR CANTU: Commissioner Gilchrist.

COMMISSIONER GILCHRIST: Abstain.

CHAIR CANTU: Thank you. Commissioner Heriot.

COMMISSIONER HERIOT: I vote yes.

CHAIR CANTU: Commissioner Kirsanow.

COMMISSIONER KIRSANOW: Abstain.

CHAIR CANTU: Did I -- say it again, please.

COMMISSIONER KIRSANOW: Abstain.

CHAIR CANTU: Thank you, sir, thank you, Commissioner. Commissioner Kladney.

COMMISSIONER KLADENEY: Yes.

CHAIR CANTU: Commissioner Yaki.

COMMISSIONER YAKI: Aye.
CHAIR CANTU: And I vote aye. The motion carries, with three abstentions and five yeses. Congratulations.

We're now going to turn to our fourth item on our amended agenda, and that is the vote to confirm the US Commission on Civil Rights Representative to the Election Assistance Commission.

D. VOTE TO CONFIRM USCCR REPRESENTATIVE TO THE EAC

CHAIR CANTU: By way of background, the commissioners of the USCCR have the sole authority to appoint members to serve on other federal entities such as advisory boards, task forces, other commissions. And this is exercised by majority vote of the commissioners.

The Election Assistance Commission solicited nominations and requested the US Commission on Civil Rights, among other organizations and other entities, to nominate advisors. We were asked to nominate two advisors to the Election Assistance Commission Board of Advisors’ 35-member board.

The Commission previously ratified by majority vote two candidates to serve. So we followed, and now I'm ad-libbing, bear with me. We followed a new process that started when I became Chair. And the
new process was to fulfill our mission as a bipartisan organization and to nominate two members, one representing the conservatives on our commission, and the other representing the progressives.

This is aligned to the Election Assistance Commission, which is a bipartisan organization, as well as we are. Due to changes in candidates' availability, though, the Commission had one available slot to fill.

And so today I am moving to have the Commission confirm Jenny E. Carroll, who is with the University of Alabama School of Law. She holds the Wiggins, Childs, Quinn, and Pantazis Professor of Law, and she is the Chair of the Alabama Advisory Committee to the US Commission on Civil Rights.

So I nominate her to fill the -- a position that became vacant. And this will meet our requirements that we entered into in April of this year to have appointments to the Election Assistance Commission be bipartisan. So open the floor for discussion. Let's hear from a motion from one of the Commissioners.

COMMISSIONER ADAMS: Motion made, Adams.

CHAIR CANTU: Thank you, Commissioner
Adams. Is there a second?

COMMISSIONER KLANDENY: I will.

CHAIR CANTU: Yes, sir? Is there a second?

COMMISSIONER KLANDENY: Kladney will second.

CHAIR CANTU: Kladney, thank you, Commissioner Kladney. I'll open the floor for discussion. Hearing no discussion, I'll call the question and take the roll --

COMMISSIONER KIRSANOW: Madame Chair, Kirsanow here. I'm sorry, I was on mute. I was trying to talk and I wasn't -- I didn't realize. Apologize for that.

I just want to raise a point regarding the process and some emails I received from members of the media that suggested some type of, well, it went beyond suggesting. They indicated that some of our Commissioners were being defamed in terms of the process, calling them, you know, all kinds of -- or ascribing to them ill motives related to the process in how we arrived at this.

And I just want to note a little bit of disappointment. Not that -- I'm not saying that anybody did that, but I'm hopeful that the reports are
incorrect. And we'd think there'd be a little bit
greater collegiality among us if in fact these reports
are correct.

CHAIR CANTU: I'm not sure which specific
report you're referring to, but yes, we have had a bunch
of media requests. And we have referred them to the
records, the transcripts of our April meeting where
we approved the process of having two nominees, one
from progressive and one from conservative.

The fact that each caucus picked the two
and then -- and that there -- that we followed the
agreement that was included in an administrative
instruction. So we pointed the media to the facts.

Can you give me more information?

COMMISSIONER KIRSANOW: Well, one of the
reports, and I'm looking for the email right now,
ascrbed to one of our Commissioners a motive with
respect to how this appointment process occurred and
referred to him as somebody who has done all kinds of,
you know, bad things for Black and Brown people.

And to my knowledge, I don't know of any
Commissioner serving on this Commission that has done
bad things related to Black and Brown people.

CHAIR CANTU: I don't know how to respond
if you don't have more information.
COMMISSIONER KIRSANOW: I'm looking for the email, I'm sorry.

CHAIR CANTU: Yes, sir, I appreciate that. I'll pause.

COMMISSIONER KIRSANOW: Madam Chair, I don't want to hold up the proceedings. I'm still looking. I get about 300 emails a day, and I put in key words. If I can find it, I'll raise it.

CHAIR CANTU: We are here so that each Commissioner can have a voice and can have their interests addressed. So I do want you to have your voice. Sounds like he waived it.

COMMISSIONER ADEGBILE: Madam Chair?

Commissioner Adegbile.


COMMISSIONER ADEGBILE: So of course I welcome an opportunity for Commissioner Kirsanow to amplify his comments should he identify information that's relevant. I just want to raise a question, not to the press, but on the record just for an abundance of clarity.

One of the things that had been identified in some of the news stories was the fact that one of the appointees at the time that the two appointees were
voted in to serve on the EAC Advisory Committee served
in some capacity as Board Chair in the organization
that employs Commissioner Adams.

And to the extent that that's true, I don't
know if it's true or not, but if it indicates that Ms.
Mitchell is the Board Chair of an organization that
employs and compensates Mr. Adams, it would be my hope
that any issue about the appropriateness of Mr. Adams's
vote in connection with Ms. Mitchell was ventilated
pursuant to the ethics rules and the financial
disqualification rules that apply to our work.

I don't know whether that was done or not,
but if there was a concern that there could be some
appearance of a financial interest or a business
relationship, because boards of director typically
approve compensation for folks in not-for-profits,
then that would be something that should be ventilated
and should have been the subject of inquiry with the
appropriate official at the US Civil Rights Commission.

It may be the case that all of this was
ventilated and looked into. If it was, if Commissioner
Adams was approved to vote on that appointment, so be
it. If it wasn't, then I think our Office of General
Counsel should focus on giving us a writing on whether
or not this raises any issue or not. And if it does,
we would need to know what the impacts should be on
the vote.

CHAIR CANTU: And before our General
Counsel answers, I want to have you help me recall,
if my recollection is correct, at our last business
meeting, we had a conversation about what our agency
duties were with response to the ethical behavior or
the communication and transparency of our appointees
on other agencies.

And the response I recall was that when
we appoint someone, they're not an employee of our
agency. And so we are -- we neither -- we neither hold
them to our own standards as fellow commissioners
because they are not on our payroll, they are not folk
who take our ethics training. And they have become
the responsibility of the receiving agency, who will
then have to apply the appropriate federal requirements
for ethic disclosure and financial disclosures.

But if I'm not correct in what happened,
the transcript will speak for itself.

COMMISSIONER ADEGBILE: Madam Chair, I
would just direct the GC to 5 CFR 2635- -- in sorry,
.402, and the question is in what context potential
financial interests or financial entanglement impact
the vote and action of a special government employee
in connection with our work. It's not -- it's not a question of what is the compensation or not of the EAC designee.

It's a question of whether people that have a financial interest in connection with that person who's being voted on by these members of the board, whether that's something that should be disclosed and approved before there's a vote on it. That's the question.

CHAIR CANTU: Thank you for clarifying. I do understand now that you are asking about one of our commissioners who is an employee of the federal government. Yes, that's an appropriate question that we did not at the last meeting of this commission. So you're raising a new point. So, sorry for my intervention, but I do see that this is an appropriate question.

Could our General Counsel please reply to this?

MR. GANZ: Hi, this is David Ganz, I'm the GC. Yeah, it's -- we'll look into it. It's something, you know, I can't offer an opinion right here and now. But it's certainly something that we'll look into in the future. I'll discuss it I guess offline.

COMMISSIONER ADAMS: Madame Chair, Adams.
CHAIR CANTU: Yes, Commissioner Adams.

COMMISSIONER ADAMS: First of all, I was expecting to hit unmute because I thought the question had been called. But regardless, I understand there is a tremendous fever to see the EAC pick rid of Cleta Mitchell. And I understand that. The conservatives of course are prepared to offer the Democrats a whole new range of people that they can choose from like they did Cleta Mitchell, if in fact there was some issue that would be implicated here.

But I understand there's a huge frenzy in some parts to undo the action of the Commission. So we can go right back to square one if that's where folks want to go. But there wasn't any question about her being in the position she's in when we addressed this over the last five months.

We started this process in March to find a bipartisan process where each side can make a bipartisan pick. And obviously some people are unhappy with that. But as far as I'm concerned, I think both sides made a good pick, and I'm prepared to support the pick that we made from the progressive nomination list.

That's all I have.

CHAIR CANTU: Thank you for your
intervention, Commissioner Adams. Just -- I don't like the language of the fevered pitch because I've been trying to be as deliberate and inclusive as I have ever been in my entire life. And I do -- I do want it on the record that there's no one trying to throw anyone off this train.

In fact, when the conservative caucus was late in coming up with a decision, I had an opportunity to say well, okay, they don't -- they didn't meet the deadline, I'll come up with a name. But that's not fair to you all, and I didn't do that.

My intent has been and continues to be to follow the agreement that we all entered to in April to be bipartisan and to be fair. And I called looking for everybody on the conservative caucus. I did find Commissioner Heriot, and she was able, although it was late, I really appreciate very much that she was able to give me the decision made on the replacement candidate, on the nominee.

So there's no fevered pitch here. There's a very slow, deliberate, inclusive effort to be sure that both caucuses are treated fairly.

COMMISSIONER ADEGBILE:  Madam Chair, Adegbile. Sorry, I yield to Commissioner Kirsanow.

COMMISSIONER KIRSANOW: Thank you,
Commissioner Adegbile. I just wanted to. Make mention of the email that I think some of us got from inquiries from media. And the reference point that I made was that they made reference to, apparently this is a quote from one of our commissioners that in terms of how it came about that we had these picks to the EAC, specifically Cleta Mitchell.

And it said, A lawyer who has led the right-wing efforts to destroy the voting rights of Black and Brown people in this country -- it's a choice between a lawyer who led the right-wing efforts to destroy the voting rights of Black people and Brown people in this country, or a lawyer who backed up Trump's election lies that resulted in the January 6 insurrection.

And I don't know of anybody on this commission that was trying to destroy voting rights of Black and Brown people. I think everybody on this commission is pretty committed to preserving the Black and Brown rights -- the voting right of Black and Brown people.

It's a little disturbing that such a comment would be made to media. And it was more than one media source that at least emailed me. I didn't get back in touch with them.
CHAIR CANTU: We're still in the same place we were before you went on your hunt that we don't have a name. I think we will have to take this offline if we don't -- we should have an exercise among us as commissioners to remind us that, I've done this at prior meetings, that statements -- statements that are being made should not -- should be factual. And if they are factual, we'll have that conversation.

If they're not factual, we will remind commissioners about the effect it has on the team-building I'm trying to create here at the Commission. We all chose to be on this commission, this was not a draft into the military. We all chose to be here because we believe in the mission of civil rights for all. And so how we speak to each other should be professional.

COMMISSIONER GILCHRIST: Madam Chair?

CHAIR CANTU: Yes, please, who is speaking?

COMMISSIONER GILCHRIST: This is Gilchrist.

CHAIR CANTU: Thank you, Commissioner Gilchrist.

COMMISSIONER GILCHRIST: I just want to echo Commissioner Kirsanow's comments regarding our
fellow commissioners. I was very disappointed and quite disturbed actually to read a CNN article about one of our colleagues here on the Commission that was actually being accused of being one of the biggest enemy of Black and Brown voting rights in the United States.

As a matter of fact, if the colleague that our other colleague is referring to is correct, I have the pleasure -- I had the pleasure of being actually involved in an effort here in South Carolina, where my colleague, Commissioner Adams, before I knew him actually, was engaged in an effort to fundamentally change the voting rights of county -- a school board and a county in South Carolina, Georgetown County, to give Black people the right to have equity when it comes to voting, fair representation on the school board.

That was when I first learned about Commissioner Adams's work as it relates to helping Black and Brown people in this country. And I never thought I would actually reconnect with him on the United States Civil Rights Commission, but reading the accounts in the media regarding Commissioner Adams was very disturbing to me as an African American that recognized his work in this space.

And so I just wanted to echo my colleague Commissioner Kirsanow's reference as well that it's
my hope that as we work with our fellow commissioners on the Commission, that these mischaracterizations of our fellow commissioners, we've got to make sure that that does not become commonplace for the work that we're trying to do on behalf of the American people.

So I just wanted to share my two cents on that for sure.

CHAIR CANTU: I'm hearing you all and I want anyone who's not had a chance on the Commission to speak, to speak. You know how I am, once it gets repetitive I will ask people to -- if we're ready for a vote. So is anyone who has not spoken, please be heard.

COMMISSIONER ADEGBILE: Madam Chair, I believe I was in the queue.

CHAIR CANTU: Thank you.

COMMISSIONER ADEGBILE: I just wanted to clarify a couple of points. You referred a couple of times to the vote in April about how representatives, the Commission's representatives to the EAC Advisory Committee were to be selected, and that was a vote that prevailed by a majority of the Commission that Commissioner Kladney and I dissented from. But it became the rule of the Commission through the administrative rules. But I just wanted the record
to be clear about what the vote was.

Now, on this issue that I'm raising, I'm not -- and I don't suggest that Commissioner Kirsanow has suggested anything to the contrary. I'm not raising any personal or ad hominem attacks.

Everybody's record on what they have or haven't done for the Voting Rights Act and protecting access to voters for all voters in America is a matter of public record, and people can go explore it in great detail and decide where people line up. And that's not the question I'm focused on.

I'm focused specifically on the rules that govern our conduct as commissioners, and I have asked for an opinion from the GC's office. And I did not expect Mr. Ganz to offer the opinion on the fly, I don't think it would be appropriate, so he should have adequate time.

But I've asked for a written opinion about whether the procedures under the CFR that I mentioned were applicable, and if applicable they were followed. And if they're applicable and they weren't followed, then I want to know what the appropriate response should be. And that's an issue on the record, not anybody in the press. That's just about the way we do our business.
MR. GANZ: This is David, yeah, as I said, I will work that up in the coming weeks for the other commissioners.

COMMISSIONER Kladney: Madam Chair, this Dave Kladney.

CHAIR CANTU: Thank you, Commissioner Kladney.

COMMISSIONER Kladney: I would just like to note that Commissioner Adams did note that during the five months from the time this procedure was adopted until the vote on the two individuals for the EAC, that no one raised this issue regarding any relationship between him and one of the nominees.

I would just like to say that it was never disclosed. Thank you. On the record.

CHAIR CANTU: Thank you. And I can add that I have asked commissioners by email if you have a conflict, I remind them, if you have a conflict, and I don't believe it was with regards to be up for election to be nominated to the Election Assistance Commission's Board of Advisors. I believe it was with regard to the concept papers.

But I reminded all commissioners, if you have any conflict of interest, financial or otherwise, you need to disclose it. So this is not a surprise
because I've got my email where I sent it out to you folks.

Any other commissioner wish to speak while we are on the topic of our appointment to the Election Assistance Commission?

COMMISSIONER KLADENY: Madam Chair, Dave Kladney here. I apologize, I accidentally cut myself off, so if I missed anything, I'd appreciate being informed before I comment further. Thank you.

CHAIR CANTU: Thank you, Commissioner. Further discussion?

COMMISSIONER HERIOT: Madam Chair, I'm a bit confused at this point.

CHAIR CANTU: Yes, Commissioner Heriot.

COMMISSIONER HERIOT: I mean, is the suggestion that somehow, even though this motion carried months ago, and it would have carried even without Commissioner Adams's vote, that that is now somehow up in the air? If that's the feeling, then I suppose that makes the current motion up in the air as well.

CHAIR CANTU: No, Commissioner Heriot, as I said before, I will adhere to the language of the agreement that we reached on how to conduct ourselves in making these elections happen. And I had an
opportunity, as I said, I could have said hey, they
didn't turn something in, but I don't think that's fair.

So no, we've not -- we've not been advised
by our General Counsel for the Commission on what issues
-- we don't even know what questions we need to raise
right now. But I think this is a healthy exercise to
remind each other that we look out for each other.

And if we see someone getting close to
doing something that's not ethical, we help them, and
we say so. And this is -- this is part of having a
strong team, that we all look out for each other.

COMMISSIONER HERIOT: Yeah, I'm still not
clear what you mean by that. I mean, you know, if the
election of Cleta Mitchell to this advisory board is
somehow up in the air because of this issue, even though
it would have passed anyway, does that mean that the
election of Jenny Carroll also needs to be up in the
air until this is resolved?

I mean, the way we had intended to do this
is that it would all be together. We elected both
Commissioner Yaki and Cleta Mitchell to this advisory
board. Now he has resigned. But are we potentially
without anyone on the Advisory Board, or are we not?

CHAIR CANTU: No, as I understand it, the
question about whether one of our commissioners, need
to respond about ethics, that's apart from Jenny
Carroll. But I can't say definitively, that's just
my gut as a person who's practiced law since the 70s.

COMMISSIONER HERIOT: The question is
whether it's apart from Cleta Mitchell.

COMMISSIONER KLADNEY: Madam Chair, Dave
Kladney here. As I understand it, Cleta Mitchell is
on the Election Advisory Commission currently. So I
don't know if it's up in the air, or she's currently
a member of the EAC.

And we should move forward with this
nomination in the spirit of good faith because half
of the Commission is unrepresented. To do so would
be unfair and untimely. It's not -- it's not
appropriate yet to discuss anything about Ms. Mitchell
because she is on the EAC. I don't understand the
question, I guess.

COMMISSIONER HERIOT: It sounds like you
do understand the question. You said that, you know,
the question is unresolved.

COMMISSIONER KLADNEY: I don't understand
the allegation that her nomination is up in the air,
when in fact she's seated on the EAC.

MR. GANZ: Advisory Commission.
COMMISSIONER HERIOT: And I tried -- and I tried to explain that that -- this is a different question that what we discussed before. We're not trying to apply our commission's ethical standards to Cleta Mitchell. She is now on a different commission and she is not an employee of this commission. So I don't see -- I don't see a nexus. I also am confused by your question.

COMMISSIONER GILCHRIST: Madam Chair, Gilchrist here.

CHAIR CANTU: Yes, Commissioner.

COMMISSIONER GILCHRIST: And so are we planning to vote on Ms. Carroll today?

CHAIR CANTU: That is the motion on the -- yes. So I have Commissioner Adams saying he filed a motion, I have a second from Commissioner Kirsanow, and we are in discussion. When we start repeating ourselves, then we'll be at a point where I can call a question.

COMMISSIONER GILCHRIST: Thank you, Madam Chair.

COMMISSIONER HERIOT: I think we're repeating ourselves, so I would also say that all of this has been out of order. If it's not related to the Jenny Carroll motion, then it's all been out of
order.

CHAIR CANTU: It has been a healthy team-building exercise. We need to -- we need to speak up to each other rather than through the press. So this is a very --

COMMISSIONER KLADNEY: Kladney calls the question, Madam Chair.

CHAIR CANTU: Call the question, bang, we're done. Okay. We are going to have a roll call vote.

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 motion
passes by eight votes.

    We -- do you all need a ten-minute break?

    Because we're going to go to our last item. Oh no, our second-to-the-last item. Folks? Then let's proceed.

**F. DISCUSSION AND VOTE ON FISCAL YEAR 2022 CONCEPT PAPERS AND FISCAL YEAR 2023 STATUTORY ENFORCEMENT REPORT**

CHAIR CANTU: We turn to the fifth item on our amended agenda, Discussion and Vote on Fiscal Year 2022 Concept Papers, and the Fiscal Year 2023 Statutory Enforcement Report, establishes an independent, bipartisan fact-finding federal agency.

The USCCR mission is to inform the development of national civil rights policy and enhance enforcement of federal civil rights laws.

    We pursue this mission by studying alleged deprivations of voting rights and alleged discrimination based on race, color, religion, sex, age, disability, or national origin, or in the administration of justice. Although the US Civil Rights Commission is a non-enforcement agency, through the Commission's work, the civil rights issues are lifted to a national level.

    At today's meeting, we will discuss and
vote two topics for our fiscal year 2022, which started October 1, 2021. I'm sorry, there are -- we are choosing two topics. We have three topics that have been presented in your -- in your Commission packets.

The three topics that are in front of us today are, one, the impact of COVID-19 and the digital divide on education. Lead Cantu, me. Two, crime increase. Lead, Commissioner Kirsanow. Three, minority entrepreneurship. Lead, Commissioner Adams.

Each paper will be voted on separately, and the ones with the majority vote will be passed on to the Office of Civil Rights Evaluation and the Office of our General Counsel to begin the research and the briefing planning.

So I will go last. Commissioner Kirsanow, do you mind presenting briefly on your concept paper?

COMMISSIONER KIRSANOW: Yeah, thank you, Madam Chair. I would, first of all, I was a little confused. I thought we were moving on four different, including the 230, Section 230 and hate speech.

CHAIR CANTU: That project has been withdrawn.

COMMISSIONER KIRSANOW: Okay.

CHAIR CANTU: So we're -- this is
progress. We started out, remember, with a dozen topics.

COMMISSIONER KIRSANOW: Yeah, and toward that end --

CHAIR CANTU: I've spent a great amount of time with all of you discussing them and I'm happy to see we're getting closer. So we have a withdrawal of the Section 230 project from Yaki.

COMMISSIONER KIRSANOW: Given that we only have three topics, Madam Chair, I would make a friendly amendment or suggest that we vote on all three as a package. I don't think there's any reason why we can't do all three.

CHAIR CANTU: Provided a reason's in writing to the commissioners. I can say them again for the record if you'd like for me to do it again.

COMMISSIONER KIRSANOW: Yes.

CHAIR CANTU: Okay. So each of -- each of the topics has to be reviewed by the Office of Civil Rights Evaluation and by the Office of General Counsel to see if there's any ethics of conflict of interests. Whether someone should have withdrawn, and that's what I reported out to you all.

That when they are bundled and discussed together, it is confusing as to whether someone who
should not have participated, participated. I did ask
would people will please tell me if they have a
conflict. Some did, and many thanks for that.
Others, I got no response at all.

So the commissioners bundling them
together as a discussion of three creates a problem
of sorting out who should have spoken up and who should
have recused themselves.

The second objection is we have leads
indicated and some projects are meritorious and should
be discussed on their own merits. I mean, all three
have strong advocates and strong leads.

But I think that we -- each project
deserves the attention to look at both the impact that
can be had by our devoting resources of this
organization to it. But also the urgency. And some
projects I think can be pitched to 2023. And that
discussion can't happen if we talk about them as a
bundle.

So it's ethics, resources, and timing.

COMMISSIONER HERIOT: Madam Chair?

CHAIR CANTU: Yes, Commissioner Heriot.

COMMISSIONER HERIOT: The ethics issue is
like out of this world. It is extremely rare for a
commissioner to have to be, you know, recused from a
report. The notion that putting the three together will make it difficult is almost laughable.

CHAIR CANTU: I'm not laughing.

COMMISSIONER HERIOT: You should start, I mean, you have --

CHAIR CANTU: I wish you could see me --

(Simultaneous speaking.)

COMMISSIONER HERIOT: But if you don't do them as a bundle, you won't get them through.

CHAIR CANTU: I've been asked already in writing, and in writing I responded that I don't support doing them as a bundle. So, so --

(Simultaneous speaking.)

COMMISSIONER HERIOT: You can get them through as a bundle. You can't get them through --

COMMISSIONER YAKI: Madam Chair, Madam Chair? Commissioner Yaki here.

CHAIR CANTU: Thank you, Commissioner.

COMMISSIONER YAKI: I am not voting for it as a bundle.

COMMISSIONER KLABNEY: Madam Chair, this is Dave Kladney. If they were bundled together, I would move to divide the question. So quoting the Robert's Rules of Order, I have that right. And I would move to enforce it.
COMMISSIONER HERIOT: Then you're moving to not have anything picked.

CHAIR CANTU: Okay, let me hear all the commissioners.

COMMISSIONER Kladney: Commissioner Heriot, everybody votes the way they vote. And how it turns out, it will turn out.

CHAIR CANTU: Robert's Rule is correct that in matters than can be handled with more clarity, they should be broken into separate components. You can ask, Commissioner Heriot, you make a motion to waive Robert's Rules. It will require a majority for that motion to pass.

COMMISSIONER HERIOT: Madam Chair, my point is not that you cannot split this up. My point is you've got a four-four Commission on your hands, and this is a way that you can get agreement. If you don't want agreement, if you don't want there to be briefings, then this is the right thing to do, to vote on them separately.

But this is the way that compromise is had. And we were quite prepared to vote for all four, including Commissioner Yaki's. But if you'd rather not, you know, get a majority.

COMMISSIONER ADAMS: Madam Chair, Adams.
CHAIR CANTU: Yes, please.

COMMISSIONER ADAMS: Just very briefly, I am prepared to vote for anything that Commissioner Adegbile, Commissioner Yaki, Commissioner Kladney, or you want. So I extend that deference to whatever you all want to do, I will support. That's all I have.

COMMISSIONER YAKI: Commissioner Cantu -- Chair Cantu, this is Commissioner Yaki.

CHAIR CANTU: Yes, Commissioner.

COMMISSIONER YAKI: To me, the definition of bipartisanship when it comes to the Commission on Civil Rights is not a question of I get mine, the comments made by Commissioner Heriot and Commissioner Adams, but I do not agree with the results.

I think that if we truly wish to get to a bipartisan such matter, as we did during the days when we previously had a four to four split and we worked together to find topics of common interest.

And even if we may disagree on components and parts and in the end some of the findings, we still managed to find common ground on a fair number of those, enough to be able to issue a report that did have common findings and recommendations.

I cannot in good conscience vote for the two proposals advanced thus far. I know that there
are other proposals that were put forward, some by other commissioners in -- by other commissioners that I think may be worth exploring, and could in fact become the basis of a bipartisan project moving forward.

But as constituted right now, I cannot -- I cannot support the two projects advanced by my esteemed colleagues, Commissioner Kirsanow and Commissioner Adams, and would require -- and I doubt that I -- and I doubt that I would be able to reach an accommodation with them. But I'm not averse to trying.

But as is, I cannot do it. I would suggest that we redouble our efforts to discuss these and possible other topics that may not get to be on the table to figure out a way to get to a point where we can move forward in a true bipartisan fashion. Rather than simply one that, in my view and in my estimation and in my opinion, does not truly reflect a bipartisan approach that adheres to the mission of the United States Commission on Civil Rights.

COMMISSIONER GILCHRIST: Madam Chair, Gilchrist here.

CHAIR CANTU: Yes, Commissioner Gilchrist.

COMMISSIONER GILCHRIST: So are we are
under a timeline with regard to the three proposals?

CHAIR CANTU: Yes, absolutely. The -- we are fortunate that for the enforcement report, the statutory enforcement report, that the Commission has already done its work and the staff are working on it. And so for our fiscal year 2022, we have an enforcement report, but we have no other reports in the works.

So we missed -- the deadline normally would be to -- at the end of the fiscal year we'd already have the staff working. And sometimes we'd do it long before that, we'd do early in the summer. But we don't have -- we're here already into the fiscal year where the staff should be working on these topics.

So yes, the timeline came and went October 1. And not for a lack of attention and not for a lack of work. Those three who were -- have been leaders on the topics and the fourth including Yaki have all tried to be as persuasive to gain the majority vote.

And we have done it all following all the federal rules. We never had quorum, we never broke the FACA, we never did anything with that.

But we now are at a point where I'm not able to parse out the merits of the topic I prepared separate from the topics that Commissioner Kirsanow and Commissioner Adams. I'm being held to their votes
passing without ever knowing, you know, what -- whether
the Commission actually understood or was able to ask
questions about.

And I look forward to that conversation
because these get voted on again. And what you tell
me about the program that I'm trying to lead helps me
respond to you and give you a better understanding of
what we're trying to do with this research topic. So
we blew the deadline. We're on overtime now.

And I called to you, and you look at it
when you have the discussion about the performance
report and the strategic plan that I had to put in the
column of reports by the Commission. I had to put under
whether it was met or not met for 2222, and I had to
write in not met. Because we didn't come up with a
topic that we should be working on right now.

And it's on me. I'm your leader, I'm your
Chair. But I don't want to be an enabler. I want to
be fair and honest with us in terms of where we are.

COMMISSIONER KLANDNEY: Madam Chair, Dave
Kladney here.

CHAIR CANTU: Thank you, David.

COMMISSIONER KLANDNEY: I would just like
to note that a compromise isn't trading one paper for
another. A compromise is finding a page that
(telephonic interference) where people agree there is interest in the subject area and that each part, different parts of the subject create an interest in different commissioners or different participants in the paper.

And that has not occurred here. I know I wrote what my feelings were on some of these papers and submitted them, and I saw no change in any paper. So that is what I believe compromise is. Compromise is not one paper for another. Thank you.

COMMISSIONER ADEGBILE: Madam Chair, Commissioner Adegbile.

CHAIR CANTU: Yes, Commissioner.

COMMISSIONER ADEGBILE: It seems to me, based on this colloquy, that we would be best served by taking this offline and trying to see if an agreement can be reached, rather than having internal business conducted in this way.

CHAIR CANTU: Would that require a motion?

COMMISSIONER ADAMS: Madam Chair, Adams.

CHAIR CANTU: Yes, Commissioner Adams.

COMMISSIONER ADAMS: Pursuant to your invitation, I agree with Commissioner Adegbile, it's sometimes best to take things offline to deal with.

And therefore I would move to table the consideration
of these papers for a future date.

COMMISSIONER KIRSANOW: Kirsanow second.

COMMISSIONER Kladney: Move the question.

Kladney --

CHAIR CANTU: Was that Commissioner Kladney?

COMMISSIONER Kladney: Yes.

CHAIR CANTU: Commissioner Kladney, thank you. I am now going to have a roll call vote to table, knowing that everyone understands our timeline that -- and so I appreciate that you folks wanted to continue to discuss. That is positive. So please, please accept my thanks for that.

So on a roll call vote, Commissioner Adams, how do you vote? So this is a vote --

COMMISSIONER ADAMS: Yes.

CHAIR CANTU: To table -- thank you.

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 on the assumption we're going to get to this very quickly.
CHAIR CANTU: Thank you, Commissioner Kirsanow.

COMMISSIONER KIRSANOW: Yes.

CHAIR CANTU: Commissioner Yaki.

COMMISSIONER YAKI: Aye.

CHAIR CANTU: I'm leading from behind, but I'm with you folks, so I put aye as well.

COMMISSIONER Kladney: Can I vote, Kladney? Kladney vote?

CHAIR CANTU: Pardon me, I'm sorry, Commissioner Kladney.

COMMISSIONER Kladney: Thank you.

CHAIR CANTU: I didn't have a gap in my notes for this vote, so I put -- I had to do it by memory. So Commissioner Kladney, you are very memorable. And how do you vote, sir?

COMMISSIONER Kladney: I vote yes.

CHAIR CANTU: Thanks, Commissioner.

We are ready for a staff report, is that where we are on the agenda? Yes, we're ready for -- if the Staff Director would like to make a report, this is his window.

G. MANAGEMENT AND OPERATIONS,

STAFF DIRECTOR'S REPORT

MR. MORALES: Thank you, Madam Chair.
In the interest of time, I have nothing further to add than what's already contained in the report. As always, I'm available to speak with any commissioner about any item contained in the Staff Director's report.

And with that, I'd like to take a moment just to commend the staff for the work they've done in not only preparation for this meeting, but for the release of the performance accountability report that all of you received that we are required to file with Congress and place on our website, as well as the statutory enforcement report.

I will note that in the performance accountability report, we had received a unmodified opinion, which is the highest opinion that auditors can give to an organization in the federal government. And so this is for the fifth year in the row. I'm very pleased obviously with that development over the years here.

We look forward to whatever changes or compromises you might want to make in the strategic plan, and please provide those to us. And we can take a notational vote per commissioners' desire.

Lastly, I just want to acknowledge some of the team here that were a part of both the performance
accountability report and the strategic plan. They worked very hard over the last eight to six months on these things to get them prepared and up and ready to go and ready to file.

They are TinaLouise Martin, Pam Dunston, Robert Amartey, John Ratcliffe, Zakee Martin, Mayowa Olu Bakinda. And there were others I probably am leaving off, but I -- we have an outstanding staff, and everybody works really hard and diligent in the finest of federal employment, federal employee traditions.

So thank you with that. We're pleased for all their work they've done on the audit, the PAR, and the strategic plan. Thank you very much, Madam Chair.

I have nothing further.

CHAIR CANTU: Thank you. And I do want to say that, as we come up on the holidays, whether we celebrate it as indigenous, which my DNA check says I'm a third, but I've not been raised on a reservation. But I am grateful to you. I am thankful this Thanksgiving for the work that you all are delivering as staff. You are amazing.

And I am thankful to the commissioners. The service that you're performing is hard to do. If it were easy, anyone would be doing it. And I do
look forward to a quick resolution to those tabled items.

III. AJOURN MEETING

With that, I'm going to conclude the business of the agenda for today's business meeting. If there's nothing further, we adjourn this meeting at 2:07 p.m. Eastern Standard Time. Thank you, and God bless. Bye bye.

(Whereupon, the above-entitled matter went off the record at 2:07 p.m.)