

# UNEDITED

U.S. COMMISSION ON CIVIL RIGHTS

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BUSINESS MEETING

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THURSDAY, MAY 18, 2023

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The Commission convened at 1331  
Pennsylvania Avenue NW, Suite 1150, Washington,  
D.C. 20004, at 12:36 p.m. EDT, Mauro Morales, Staff  
Director, presiding.

PRESENT:

- J. CHRISTIAN ADAMS, Commissioner
- VICTORIA NOURSE, Commissioner
- ROCHELLE GARZA, Commissioner
- STEPHEN GILCHRIST, Commissioner \*
- GAIL HERIOT, Commissioner
- MONDAIRE JONES, Commissioner
- PETER N. KIRSANOW, Commissioner
- GLENN MAGPANTAY, Commissioner
  
- MAURO MORALES, Staff Director
- DAVID GANZ, General Counsel

\* telephonic

STAFF PRESENT:

ROBERT AMARTEY

CODY BOWLER

CHERYL COZART

PAMELA DUNSTON, Chief, ACSD

PATRICIA FLETCHER

TINA LOUISE MARTIN

JULIAN NELSON

ESSENCE PERRY

JOHN RATCLIFFE

ANGELIA RORISON

REBEKAH SILIEZAR

MARIK XAVIER-BRIER

MICHELE YORKMAN-RAMEY

ZAHIDUNNISA

COMMISSIONER ASSISTANTS PRESENT:

ALEXIS FRAGOSA

JOHN MASHBURN

CARISSA MULDER

IRENA VIDULOVIC

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## A G E N D A

APPROVAL OF AGENDA.....7

BUSINESS MEETING.....9

    Discussion and Vote on Presidential  
    Designation of Commissioner Rochelle  
    Mercedes Garza as Chairperson and  
    Victoria Frances Nourse  
    as Vice Chair of the U.S.  
    Commission on Civil Rights

ADJOURN MEETING .....15

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## PROCEEDINGS

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(12:36 p.m.)

MODERATOR: Good day and welcome to the May Commission business meeting. Today's conference is being recorded.

At this time I would like to turn the conference over to Staff Director Mauro Morales, please go ahead.

MR. MORALES: Thank you.

This is the U.S. Commission on Civil Rights' May 18, 2023 business meeting. Welcome all to the business meeting for the U.S. Commission on Civil Rights, this meeting comes to order at 12:36 p.m. eastern time on Thursday, May 18, 2023.

I am Staff Director Mauro Morales, I will not substantively be participating in this meeting, but because of the current absence of the Chair and Vice Chair I'm administering this meeting pursuant to my administrative function set out in 42 USC 1975(b).

Is the Court Reporter ready?

COURT REPORTER: Yes, sir.

MR. MORALES: Thank you.

I would like to confirm the Commission

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1 is present, and we'll take a roll call. Please  
2 say present when I say your name.

3 Commissioner Adams?

4 COMMISSIONER ADAMS: Present.

5 MR. MORALES: Commissioner Garza?

6 COMMISSIONER GARZA: Present.

7 MR. MORALES: Commissioner Gilchrist?

8 COMMISSIONER GILCHRIST: Present.

9 MR. MORALES: Commissioner Heriot?

10 COMMISSIONER HERIOT: I'm here.

11 MR. MORALES: Commissioner Jones?

12 COMMISSIONER JONES: Present.

13 MR. MORALES: Commissioner Kirsanow?

14 COMMISSIONER KIRSANOW: Here.

15 MR. MORALES: Commissioner Magpantay?

16 COMMISSIONER MAGPANTAY: Here.

17 MR. MORALES: Commissioner Nourse?

18 COMMISSIONER NOURSE: Here.

19 MR. MORALES: Based on the response, a  
20 quorum of commissioners is present.

21 COMMISSIONER ADAMS: Mr. Morales?

22 MR. MORALES: Yes? Who's speaking?

23 COMMISSIONER ADAMS: Commissioner  
24 Adams.

25 MR. MORALES: Yes, Commissioner Adams?

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1                   COMMISSIONER ADAMS:     Because we're  
2     very close to resolving all of the procedural and  
3     substantive issues that led to the last two hours  
4     or so of delay, I would move to adjourn this  
5     meeting. So, we can finish those negotiations,  
6     and reach an agreement, and confirm the chair at  
7     the next meeting.

8                   COMMISSIONER HERIOT:    I second that  
9     motion.

10                  MR. MORALES:    All favor of voting on  
11     the motion -- oh, I'm sorry -- discussion of the  
12     motion?

13                  COMMISSIONER ADAMS:        It's not  
14     debatable.

15                  MR. MORALES:    It's not debatable, so  
16     is there a vote on the motion?

17                  COMMISSIONER ADAMS:        Call the  
18     question?

19                  MR. MORALES:    Commissioner Adams, how  
20     do you vote?

21                  COMMISSIONER ADAMS:    Yes to adjourn.

22                  MR. MORALES:    Commissioner Garza, how  
23     do you vote?

24                  COMMISSIONER GARZA:    No.

25                  MR. MORALES:    Commissioner Gilchrist,

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1 how do you vote?

2 COMMISSIONER GILCHRIST: Yes.

3 MR. MORALES: Commissioner Heriot, how  
4 do you vote?

5 COMMISSIONER HERIOT: I vote yes.

6 MR. MORALES: Commissioner Jones, how  
7 do you vote?

8 COMMISSIONER JONES: No.

9 MR. MORALES: Commissioner Kirsanow,  
10 how do you vote?

11 COMMISSIONER KIRSANOW: Yes.

12 MR. MORALES: Commissioner Magpantay,  
13 how do you vote?

14 COMMISSIONER MAGPANTAY: No.

15 MR. MORALES: Commissioner Nourse, how  
16 do you vote?

17 COMMISSIONER NOURSE: No.

18 MR. MORALES: Motion to adjourn fails.

19 The meeting will now come to order.

20 During the last business meeting Commissioners  
21 requested time to negotiate an agreement on the  
22 proposed AI16, and the Victims of Crime Timeline  
23 and Discovery Plan.

24 Commissioners were informed that if  
25 they could not mutually agree on agenda then

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1 there would be only one item for the agenda, and  
2 that would be the President's request to  
3 designate a Chair and Vice Chair for the  
4 Commission.

5 I've been informed an agreement could  
6 not have been reached, as a consequence the only  
7 item on the agenda is a discussion and vote on  
8 the Chair and the Vice Chair. And of course,  
9 Commissioners may add or remove items to the  
10 agenda by a majority vote.

11 Do any Commissioners have amendments  
12 to the agenda?

13 COMMISSIONER ADAMS: Mr. Morales?

14 MR. MORALES: Yes, Commissioner Adams?

15 COMMISSIONER ADAMS: You move to amend  
16 the agenda to remove votes on the Chair and Vice  
17 Chair.

18 COMMISSIONER KIRSANOW: Second.

19 MR. MORALES: Then we move to vote on  
20 your motion.

21 Commissioner Adams, how do you vote?

22 COMMISSIONER ADAMS: Yes.

23 MR. MORALES: Commissioner Garza, how  
24 do you vote?

25 COMMISSIONER GARZA: No.

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1 MR. MORALES: Commissioner Gilchrist,  
2 how do you vote?

3 COMMISSIONER GILCHRIST: Yes.

4 MR. MORALES: Commissioner Heriot, how  
5 do you vote?

6 COMMISSIONER HERIOT: I vote yes.

7 MR. MORALES: Commissioner Jones, how  
8 do you vote?

9 COMMISSIONER JONES: No.

10 MR. MORALES: Commissioner Kirsanow,  
11 how do you vote?

12 COMMISSIONER KIRSANOW: Yes.

13 MR. MORALES: Commissioner Magpantay,  
14 how do you vote?

15 COMMISSIONER MAGPANTAY: No.

16 MR. MORALES: Commissioner Nourse, how  
17 do you vote?

18 COMMISSIONER NOURSE: No.

19 MR. MORALES: The motion fails.

20 Any other amendments?

21 (No audible response.)

22 MR. MORALES: Okay, our first order of  
23 business is noted in the agenda posted in the  
24 Federal Register. We'll turn to a discussion and  
25 a vote on the designation of Rochelle Mercedes

1 Garza to serve as Chair, and Victoria Francis  
2 Nourse to serve as Vice Chair of the U.S.  
3 Commission on Civil Rights, pursuant to the  
4 request of President Joseph Biden.

5 I'll proceed to open the floor for  
6 discussion. Is there any discussion?

7 (No audible response.)

8 MR. MORALES: Hearing none --

9 COMMISSIONER HERIOT: Well, I'd like  
10 to say something.

11 (Simultaneous speaking.)

12 MR. MORALES: Okay, I'm sorry.  
13 Commissioner Heriot, please go ahead.

14 COMMISSIONER HERIOT: You know, we  
15 have been trying to negotiate -- and I think we  
16 got pretty close on how to do this. Again, it's  
17 very important that, before a Chair or Vice Chair  
18 be approved, it's important that certain ground  
19 rules are laid. I think the things that we have  
20 asked for which, and that is simply a  
21 continuation of our long-standing policy that  
22 each individual Commissioner can submit a  
23 statement, two reports that are passed by the  
24 Commission.

25 They have 30 days to do so, then those

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1 Commissioner statements are traded among the  
2 commissioners, 30 days to respond to other  
3 commissioners, and in extraordinary occasions --  
4 on extraordinary occasions -- 10 days for  
5 surrebuttal. It's a very fair policy and I think  
6 we're very close to an agreement on that.

7 Our other requirement was that the  
8 crime report which was agreed to last year, as  
9 part of a deal where the conservative  
10 commissioners would agree to hold a report that  
11 the progressive commissioners wanted. That is a  
12 report on anti-Asian hate crimes, and the  
13 conservatives wanted a report in return for that  
14 on the impact of crime on minorities.

15 And all this was very fair and simply  
16 getting for us what had been agreed to earlier.  
17 Unfortunately, we were, I think, double-crossed  
18 on that report by the previous progressive  
19 commissioners.

20 We're not asking for anything that's  
21 out of the ordinary. And in fairness, I think,  
22 to Commissioners Garza and Nourse, they've been  
23 trying to negotiate with us on that -- it's  
24 complicated. And I think we can achieve an  
25 agreement, but we do not feel that we can vote in

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1 good faith for President Biden's nomination until  
2 such time as we have an actual agreement.

3 And again, we're quite close, I  
4 requested of Commissioner Garza that we postpone  
5 this meeting, that we cancel the meeting for  
6 today, and instead deal with this when we have  
7 achieved that agreement. She informed me that  
8 the progressive caucus would refuse to do this,  
9 and that instead they would prefer that we take a  
10 vote, even knowing that they would lose the vote.

11 I don't quite see the point in that,  
12 but, you know, if others do, then fine. We can  
13 vote down the nominations, but I think that's a  
14 sad waste of time.

15 MR. MORALES: Any further discussion?

16 COMMISSIONER KIRSANOW: Kirsanow here,  
17 I would reiterate what Commissioner Heriot has  
18 said. In addition, we appreciate the good faith  
19 that Commissioners Nourse and Garza have shown in  
20 trying to negotiate certain conditions with  
21 respect to this. And as Commissioner Heriot  
22 indicated, those were conditions that had already  
23 been in place. But, we were concerned because  
24 some of those conditions changed in the previous  
25 Commission iteration. So, we wanted to be sure

1 we'd always have those particular conditions.

2 We are prepared to do the work of the  
3 Commission. You know, receiving SAC reports,  
4 hearing SAC reports, making sure that we staff  
5 SACs appropriately. You know name it. And I  
6 know that several of our commissioners have been  
7 examining various civil rights issues on their  
8 own, and we are eager to get about the business  
9 of the Commission.

10 However, we made a reasonable request  
11 and we think that this could be done by  
12 notational vote, for example. It could be done  
13 tomorrow, it could be done the day after that.  
14 And we're eager to have both, a affirmative vote  
15 on chair and vice chair. And also to be sure  
16 that the minority, or at least the nominal  
17 minority's interests are protected for all  
18 commissions moving forward, to have 3310 place.

19 And also, with respect to the crime  
20 report, that is as-is and it doesn't shift simply  
21 because there's been a dislocation or a change in  
22 the composition of the Commission.

23 COMMISSIONER HERIOT: I just --

24 (Simultaneous speaking.)

25 MR. MORALES: Any further discussion?

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1 COMMISSIONER HERIOT: One real quick  
2 statement, and that is --

3 MR. MORALES: Commissioner Heriot,  
4 please proceed.

5 COMMISSIONER HERIOT: It's not just  
6 that we're eager to get on the Commission's work,  
7 we've been doing it. We've been working on  
8 editing the current anti-Asian report, we've been  
9 working on coming up with personnel for the State  
10 Advisory Committees.

11 And what we're eager for is for the  
12 progressive Commissioners to get settled in so  
13 that they can help us out.

14 MR. MORALES: Anything further, any  
15 further discussion?

16 (No audible response.)

17 MR. MORALES: I'll call the question  
18 and take a roll call vote.

19 Commissioner Adams?

20 COMMISSIONER ADAMS: Pursuant to power  
21 of 42 USC 1974(d), I vote no.

22 MR. MORALES: Commissioner Adams votes  
23 no.

24 Commissioner Garza?

25 COMMISSIONER GARZA: Yes.

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1 MR. MORALES: Commissioner Gilchrist?

2 COMMISSIONER GILCHRIST: No.

3 MR. MORALES: Commissioner Heriot?

4 COMMISSIONER HERIOT: I vote no.

5 MR. MORALES: Commissioner Jones?

6 COMMISSIONER JONES: I vote yes.

7 MR. MORALES: Commissioner Kirsanow?

8 COMMISSIONER KIRSANOW: No.

9 MR. MORALES: Commissioner Magpantay?

10 COMMISSIONER MAGPANTAY: Yes.

11 MR. MORALES: Commissioner Nourse?

12 COMMISSIONER NOURSE: Yes.

13 MR. MORALES: Vote is four-four,  
14 fails.

15 COMMISSIONER ADAMS: Mr. Morales?

16 COMMISSIONER ADAMS: Move to adjourn.

17 COMMISSIONER HERIOT: Second.

18 MR. MORALES: All items are ended on  
19 this agenda, so there's no motion necessary.  
20 But, we adjourn the meeting. Thank you. The  
21 meeting is adjourned.

22 COMMISSIONER ADAMS: Thank you

23 COMMISSIONER HERIOT: Thank you.

24 (Whereupon, the above-entitled matter  
25 went off the record at 12:47 p.m.)