U.S. COMMISSION ON CIVIL RIGHTS

BUSINESS MEETING

FRIDAY, JUNE 16, 2017

The Commission convened in Suite 1150 at 1331 Pennsylvania Avenue, Northwest, Washington, D.C. at 9:30 a.m., Catherine Lhamon, Chair, presiding.

PRESENT:

CATHERINE E. LHAMON, Chair
PATRICIA TIMMONS-GOODSON, Vice Chair
DEBO P. ADEGBILE, Commissioner
GAIL HERIOT, Commissioner
PETER N. KIRSANOW, Commissioner
DAVID Kladney, Commissioner
KAREN K. NARASAKI, Commissioner
MICHAEL YAKI, Commissioner *

MAURO MORALES, Staff Director
MAUREEN RUDOLPH, General Counsel

* Present via telephone
STAFF PRESENT:
LASHONDRA BRENSON
IVY DAVIS
PAMELA DUNSTON, Chief, ASCD
ALFREDA GREENE
DAVID MUSSATT, RPU
WARREN ORR
MICHELE RAMEY
SARALE SEWELL
BRIAN WALCH
MARIK XAVIER-BRIER

COMMISSIONER ASSISTANTS PRESENT:
SHERYL COZART
JASON LAGRIA
CARISSA MULDER
AMY ROYCE
RUKKU SINGLA
ALISON SOMIN
IRENA VIDULOVIC
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CHAIR LHAMON: Okay, we're going to get started. The meeting of the U.S. Commission on Civil Rights comes to order at 9:31 a.m. on June 16, 2017. This meeting takes place at the Commission's headquarters at 1331 Pennsylvania Avenue Northwest, Washington, D.C.

I'm Chair Catherine Lhamon. Commissioners who are present at this meeting, in addition to me, are Vice Chair Timmons-Goodson, Commissioner Adegbile, Commissioner Heriot, Commissioner Kirsanow, Commissioner Kladney, Commissioner Narasaki. And Commissioner Yaki, I believe you're joining us by phone, is that correct?

COMMISSIONER YAKI: I am indeed.

CHAIR LHAMON: Terrific. Thank you. We have a quorum of the commissioners present. Is the court reporter present? Indicating yes. All right, is the Staff Director present?

STAFF DIRECTOR MORALES: I am.

CHAIR LHAMON: Terrific. The meeting now comes to order.

Before we start today's business, I want to recognize and welcome our interns who are with us
this summer. Every year we have the privilege and the
goal of benefitting from really terrific interns from
around the country. I'm very grateful for the work
that each of you does, and I want to identify you by
name for our record.

So this summer we have, interning in the
staff director's office, from USC Law School, Diana
Kniazewycz. And with two interns in the Office for
Civil Rights Enforcement, one is Madison Hubbard, from
Michigan State University. I should have said that
Diana is with us from USC. And also Raika Kim, from
UC Berkeley. And then interning for the General
Counsel's office we have Alexandra Curd, from Howard
University Law School.

We have two interns in the Chicago
Regional Office who I believe are with us by phone
from Chicago. Early in the morning, thank you. They
are Sarah Dincin, from Cornell University, and Joseph
Benak, from DePaul University College of Law.

Then we have with us from the Eastern
Regional Office, Demetria Hayman, from the University
of District of Columbia School of Law, and interning
for Commissioner Narasaki is Ben Chang, from the
University of Texas School of Law.

Interning for the Vice Chair and for
Commissioner Adegbile, is Joe Johnson, from Georgetown Law. Interning for me -- thank you -- and for Commissioner Yaki, is Christina Krokee, from UC Berkeley Law School. And interning for Commissioner Kladney is Edward Lu, from George Washington University School of Law.

So, thank you to each of you for your service with us this summer.

Next we'll turn to approving the agenda.

I. APPROVAL OF AGENDA

CHAIR LHAMON: Is there a motion to approve the agenda for today's business meeting?

COMMISSIONER NARASAKI: So moved.

COMMISSIONER KLADNEY: Second.

CHAIR LHAMON: Thank you. I'm going to amend the agenda to add one item, and that's a discussion and a vote on a statement titled, "U.S. Commission on Civil Rights Expresses Concern Regarding Federal Civil Rights Enforcement Efficacy and Priorities," to be considered after item B, the discussion vote on the FY 2019 Statutory Enforcement report. Is there a second?

COMMISSIONER KLADNEY: Madam Chair, I'd like to amend the agenda too, to ask for an extension of 30 days for public to respond to -- to give comment
on collateral consequences.

CHAIR LHAMON: Terrific. Well my motion was pending first so --

COMMISSIONER Kladney: Okay.

CHAIR LHAMON: -- let's get a second.

COMMISSIONER Kladney: Oh, you want to do one at a time? Okay, I send your motion.

CHAIR LHAMON: Thank you. And then I'll second yours. So other -- any other amendments in addition to those two?

(No audible response.)

CHAIR LHAMON: Great. So if there are no further amendments, let's go to approve the agenda as amended. All those in favor say aye.

(Chorus of aye.)


II. BUSINESS MEETING DISCUSSION AND VOTE ON FY 2018 PROJECT PROPOSALS

A. FY 2018 STATUTORY ENFORCEMENT REPORT

So first we'll discuss and vote on our FY 2018 project proposals, beginning with the Statutory Enforcement Report. Do I have a motion?

COMMISSIONER ADEGBILE: Madam Chair, I'd
like to make a motion to have voting rights via the 2018 Statutory Enforcement report.

CHAIR LHAMON: Thank you. Is there a second?

COMMISSIONER NARASAKI: I second.

COMMISSIONER Kladney: I second.

CHAIR LHAMON: Terrific. Any discussion of that motion? Hearing none, I'll call the question, we can take a roll call vote. Commissioner Adegbile, how do you vote on your motion?

COMMISSIONER ADEGBILE: Aye.

CHAIR LHAMON: Commissioner Heriot?

COMMISSIONER HERIOT: Sorry, I missed the discussion. But anyway, I just have a no then.

CHAIR LHAMON: Okay. Commissioner Kirsanow?

COMMISSIONER KIRSANOW: No.

CHAIR LHAMON: Commissioner Kladney?

COMMISSIONER Kladney: Yes.

CHAIR LHAMON: Commissioner Narasaki?

COMMISSIONER NARASAKI: Yes.

CHAIR LHAMON: Commissioner Yaki?

COMMISSIONER YAKI: Aye.

CHAIR LHAMON: Vice Chair?

VICE CHAIR TIMMONS-GOODSON: Yes.
CHAIR LHAMON: And I vote yes. So the motion passes. Two commissioners opposed, no commissioner abstained, and all others were in favor.

**B. OTHER PROJECT PROPOSALS**

CHAIR LHAMON: Next we take discuss our other project proposals to take up for the fiscal year of 2018. To begin, I move that we shift the Women in Prison project previously approved for FY 2018, to FY 2019. Is there a second?

COMMISSIONER KLADNEY: I second.

CHAIR LHAMON: Thank you. Any discussion? Okay, hearing none, call the question, take a roll call vote. Commissioner Adegbile, how do you vote?

COMMISSIONER ADEGBILE: Aye.

CHAIR LHAMON: Commissioner Heriot?

COMMISSIONER HERIOT: I'll vote yes on that one.

CHAIR LHAMON: I'm sorry, did you say yes?

COMMISSIONER HERIOT: Yes. Thank you.

CHAIR LHAMON: Commissioner Kirsanow?

COMMISSIONER KIRSANOW: Yes.

CHAIR LHAMON: Commissioner Kladney?

COMMISSIONER Kladney: Yes.

CHAIR LHAMON: Commissioner Narasaki?

COMMISSIONER NARASAKI: Yes.
CHAIR LHAMON: Commissioner Yaki?

COMMISSIONER YAKI: Aye.

CHAIR LHAMON: Vice Chair?

VICE CHAIR TIMMONS-GOODSON: Yes.

CHAIR LHAMON: And I vote yes. So the motion passes unanimously. Do I have another motion?

COMMISSIONER YAKI: Yes. I move that we adopt the Hate Crimes concept proposal, the SAC [State Advisory Committees] survey concept proposal, and the School Discipline Concept proposal, all to serve as our fiscal year 2018 projects.

CHAIR LHAMON: Is there a second?

COMMISSIONER NARASAKI: I second.

CHAIR LHAMON: Any discussion?

COMMISSIONER HERIOT: Clarification.

Those are all for briefings then, right?

CHAIR LHAMON: I believe that the SAC survey does not involve a briefing. The proposal for that one was not. But the other two are for briefings.

COMMISSIONER HERIOT: Okay, so can we run by again what the motion is?

COMMISSIONER NARASAKI: Yes. Hate Crimes concept proposal, the School Discipline, and as I understand it, the SACs is simply a survey.
COMMISSIONER HERIOT: Okay. Okay.

CHAIR LHAMON: Commissioner Kladney?

COMMISSIONER KLADNEY: We're talking about our two projects for next year besides the Statutory report?

CHAIR LHAMON: There would be three projects in the motion under consideration. Two are for briefing, and the third is without briefing, but a project for reporting, which is the survey of the State Advisory Committees.

COMMISSIONER KLADNEY: Oh, okay. Thank you.

CHAIR LHAMON: Sure. Any further discussion? Okay, I'll call the question.

Commissioner Adegbile, how do you vote?

COMMISSIONER ADEGBILE: Aye.

CHAIR LHAMON: Commissioner Heriot?

COMMISSIONER HERIOT: Yes.

CHAIR LHAMON: Commissioner Kirsanow?

COMMISSIONER KIRSANOW: No.

CHAIR LHAMON: Commissioner Kladney?

COMMISSIONER KLADNEY: I'd like to express my concern about the data portion of the hate crimes report. However, I will vote aye.

CHAIR LHAMON: Thank you. Commissioner
Narasaki?

COMMISSIONER NARASAKI: I would like to express my feeling that the data portion is incredibly important in the hate crimes report, and I'm voting for all of the motion.

CHAIR LHAMON: Terrific. Commissioner Yaki?

COMMISSIONER YAKI: Aye.

CHAIR LHAMON: Vice Chair?

VICE CHAIR TIMMONS-GOODSON: Yes.

CHAIR LHAMON: I vote yes. So the motion passes, with one opposition, no abstentions, and all others in favor.

COMMISSIONER HERIOT: Madam Chairman?

CHAIR LHAMON: Yes?

COMMISSIONER HERIOT: Could I ask Commissioner Kladney what his concern is over the data collection?

COMMISSIONER KLABDNEY: My concern basically is just that we've had issues -- it's my understanding that this data collection is to try and find out the best practices to use in terms of reporting hate crimes.

And I think that it may delay and, because we've had trouble with collecting the data and using
data in the past, my concern is, is that this is going
to delay the ability to get the report out in a timely
fashion.

COMMISSIONER HERIOT:  Do you have a
particular remedy for that?

COMMISSIONER Kladney:  Pardon,
commissioner?

COMMISSIONER HERIOT:  Do you have a
particular remedy for something you'd like to do to
change the way it's presented here, that you think
would --

COMMISSIONER Kladney:  Yes, I just thought
that the witnesses could -- we were going to have
witnesses here, and I thought that they were going to
be able to explain who has the best policies regarding
reporting -- say the top three to five in the
country -- and we could incorporate those policies --
their entire policy manual for reporting hate
crimes -- into the report, and just let it be that, so
that other jurisdictions can read it and decide for
themselves.

CHAIR Lhamon:  Commissioner Narasaki, did
you want to speak to that?

COMMISSIONER NARASAKI:  Yes. I'd like to
clarify. This is not data collection in the sense
that it's collecting statistics. It is looking at jurisdictions, and asking the law enforcement agencies in those jurisdictions that are considered to have good practices, to respond to questions about what they do in various aspects.

This is something that actually, groups who work with hate crime victims has asked us to do, and has felt would be an important contribution to their work.

I've worked on hate crime policy for over a quarter of a century now, and one of the problems we have in terms of fully being able to address hate crimes, is the degree to which victims feel comfortable coming forward to report them, and part of feeling comfortable reporting is understanding that something will actually be done to address them.

They also have to have an avenue to report, and it has been shown that those law enforcement that have practices that do outreach to community, that do in-language reporting forums, that properly train their officers, that all these things are things that can help contribute to better reporting, and therefore better focus and attention and prioritization by the police.

This is a modest proposal from what I had
originally envisioned, that I thought I had satisfactorily addressed Commissioner Kladney's concern, because at this point, rather than trying to survey a large number of law enforcement agencies, we're only looking to survey about five.

And so I feel -- and I have talked to the head of OCRE, and she feels that this is very doable.

CHAIR LHAMON: Thank you. Commissioner Heriot?

COMMISSIONER HERIOT: I just want to add here that I've got some concerns over the notion of having already decided which of these jurisdictions are engaging in best practices. I think that's something that requires the judgment of the Commissioners.

I would rather see a random sampling of different ways that this issue is addressed, rather than picking those jurisdictions as doing a good job beforehand.

COMMISSIONER NARASAKI: I actually agree with you, Commissioner Heriot. But that was actually one of the compromises I made in order to -- at actually Commissioner Kladney's suggestion. That instead of asking OCRE [Office of Civil Rights Evaluation] to do that broad of survey, which he felt
would take too much time, to instead identify jurisdictions from the beginning, so that they would not have to spend time doing that piece.

We did write it in a way, and I have talked to the head of OCRE, about there being flexibility. So we've identified some of the ones that advocates have pointed to.

But there is room to substitute, particularly because the list involves that we have our big cities, but the cities that tend to have problems are the smaller ones.

So we would like, if possible, to identify a smaller jurisdiction that is doing a good job that then could provide a good model for those smaller jurisdictions.

COMMISSIONER HERIOT: Well I strongly object to the notion of advocacy organizations pointing us towards which cities they believe are using best practices. That's just allowing the Commission to be a mouthpiece for advocacy organizations.

COMMISSIONER NARASAKI: I should say -- what I'm talking about is organizations like the Anti-Defamation League, which is a well-known national expert in actually working with law enforcement,
providing technical assistance on this issue. So it's not so much about their advocacy on hate crimes, but about their expertise in working with law enforcement agencies.

COMMISSIONER HERIOT: Yes. Again, I object to that.

CHAIR LHAMON: Staff Director, you have some comments about that?

STAFF DIRECTOR MORALES: Yes. Now that we're at the point where you're considering your concept proposals, I just want to add that as I understand it, you're looking at three briefings next year, one being the statutory enforcement report, one being for hate crimes, and the other, school discipline -- thank you.

And so I just wanted to just add a caveat that we're adding in some challenges to us in terms of what we're facing as a Commission, in terms of potential continued resolution in the fall, potential sequestration.

My job is to point out -- to be fiscally conservative and point out some of the challenges to our staffing needs. And so really, all I want to mention is that if, as we move forward and we learn more of what's going on with our budget and what could
happen in the fall, that Commissioners be willing to work with OCRE and my office to work on how we can accomplish these briefings if we need to modify them to some extent because of budget challenges that we may face in the fall.

I'd really like to encourage that, and allow the Commissioners to provide us with some flexibility to work with you as we move forward in trying to do all three hearings -- potentially a field hearing and two other hearings -- and so we could have some challenges that could impact that, and I just want to put that on everybody's radar.

CHAIR LHAMON: I appreciate having that on our radar. I am committed -- I believe all of my fellow Commissioners are committed, to working within the very, very challenging budget restrictions that we live within, and trying to ensure that we fulfill our mission as effectively as we can within a devastatingly distressingly small budget for the Commission. So I think we will all keep that in mind.

Commissioner Narasaki?

COMMISSIONER NARASAKI: I just want to add the way that -- that was actually one of the reasons why we want to -- I wanted to put this in the concept paper, because in lieu of inviting six or seven law
enforcement from around the country where we would have to pay travel, this is basically a way of trying to collect that same information.

CHAIR LHAMON: Sounds like we have concluded discussion on this topic. I'll move next to discussion and vote on the Commission's FY 2019 Statutory Enforcement Report.

C. FY 2019 STATUTORY ENFORCEMENT REPORT

CHAIR LHAMON: I want to begin with thanks to Commissioner Heriot for raising the suggestion that we ought to think a year in advance, in addition, and so that we can ensure that our staff and we as a commission have an opportunity to provide sufficient to what will be a statutory enforcement report.

So with that in mind, I move that we adopt what is my proposal to review the efficacy of federal agency civil rights enforcement, as the 2019 Statutory Enforcement Report. Do I have a second?

COMMISSIONER NARASAKI: I second.

CHAIR LHAMON: Thank you. Is there any discussion of that proposal?

COMMISSIONER HERIOT: What, we're talking about your proposal here?

CHAIR GIBBONS: Yes.

COMMISSIONER HERIOT: Okay. Hearing none,
I'll call the question, take a roll call vote.

Commissioner Adegbile, how do you vote?

COMMISSIONER ADEGBILE: Aye.

CHAIR LHAMON: Commissioner Heriot?

COMMISSIONER HERIOT: Yes.

CHAIR LHAMON: Commissioner Kirsanow?

COMMISSIONER KIRSANOW: Yes.

CHAIR LHAMON: Commissioner Kladney?

COMMISSIONER Kladney: Yes.

CHAIR LHAMON: Commissioner Narasaki?

COMMISSIONER NARASAKI: Yes.

CHAIR LHAMON: Commissioner Yaki?

COMMISSIONER YAKI: Aye.

CHAIR LHAMON: Vice Chair?

COMMISSIONER YAKI: Yes.

CHAIR LHAMON: And I vote yes. The motion passes unanimously.

COMMISSIONER HERIOT: I did have a comment though. And that is, the word effectiveness gets used in this, and I want to say that civil rights issues are very, very complex, and it's very difficult to measure effectiveness. It's not simply the matter of, like how quickly are things processed. And so I hope that when we get to this, we're careful with that term.
CHAIR LHAMON: I very much appreciate that, and wholeheartedly agree that progress and effectiveness cannot be measured only by time, but also by the degree to which a mission is satisfied. So thank you for that caution.

D. DISCUSSION AND VOTE ON THE STATEMENT REGARDING THE COMMISSION'S CONCERN WITH FEDERAL CIVIL RIGHTS ENFORCEMENT EFFICACY

Next item is a discussion vote on the statement regarding the Commission's concern with federal civil rights enforcement efficacy on that point. I will begin by reading the statement, so we know what it is that we are voting on, and then we can have a discussion.

So the statement is titled, “the U.S. Commission on Civil Rights announces investigation, and expresses concern regarding federal civil rights enforcement efficacy and priorities.” And below the title, the statement is, “The Commission expresses concern with the Administration's proposed budget cuts to, and planned staff losses in, numerous programs and civil rights offices across the Federal Government, that enforce our nation's federal civil rights laws.”

Along with changing programmatic priorities, these proposed cuts would result in a
dangerous reduction of civil rights enforcement across
the country, leading communities of color, LGBT
people, older people, people with disabilities, and
other marginalized groups exposed to greater risk of
discrimination.

The Commission has unanimously approved a
comprehensive two-year assessment of federal civil
rights enforcement, which will conclude in fiscal year
2019.

The review will examine the degree to
which current budgets and staffing levels allow civil
rights offices to perform their statutory and
regulatory functions, the management practices in
place in the offices, and whether these practices are
sufficient to meet the volume of civil rights issues
within the offices' jurisdiction, and the efficacy of
recent resolution efforts from the offices.

The Commission believes this investigation
is necessary to fulfill our core mandate to, quote,
monitor federal civil rights enforcement in the United
States. That mandate includes assessment of
discrimination or denials of equal protection in the
administration of justice.

The Commission has grave concerns about
continuing signals from the current administration,
including the President's proposed budget, and
statements of cabinet and senior administration
officials, that the protection and fulfillment of
civil rights of all persons will not be appropriately
prioritized.

The Commission is particularly concerned
with the following at the Department of Justice.

Actions by the Department indicate it is
minimizing its civil rights efforts. For example, a
majority of the Commission criticized DHS's
{Department of Homeland Security} decision to cite
immigrations and customs enforcement officers in
courthouses, as a dangerous impediment to access to
justice for all Americans.

Following distressing changes.

DHS's Civil Rights Division's newly
identified priorities do not mention the need for
constitutional policing, or to combat discrimination
against the LGBT community, or people with
disabilities.

Tellingly, the Civil Rights Division's
budget request calls for cutting 121 positions,
including 14 attorneys.

At the Department of Education, the
proposed budget calls for reducing staffing by seven
percent, losing 46 full-time equivalent positions at
the Department's Office for Civil Rights, which
investigates sex-, race-, disability-, and age-based
civil rights complaints.

The proposed budget itself reflects that
the cutbacks would result in an untenable caseload of
42 cases per staff member. These proposed cuts are
particularly troubling in light of Education Secretary
Betsy DeVos repeated refusal in Congressional
testimony, and other public statements, to commit that
the Department would enforce federal civil rights
laws.

At the Department of Labor:

The Administration has proposed to reduce
staffing levels at the Department's Office of Federal
Contract Compliance programs -- OFCCP -- by nearly 23
percent. The administration also proposes merging
OFCCP, which monitors and enforces civil rights laws
among federal contractors, with equal opportunity --
I'm sorry -- the Equal Employment Opportunity
Commission -- EEOC.

OFCCP and EEOC have distinct missions, and
folding a reduced staffed OFCCP into EEOC, while at
the same time not providing additional resources to
EEOC, will lead to significant reductions in the
capability to monitor civil rights compliance efforts among federal contractors, and at best, compromise the EEOC's ability to satisfy its already extant civil rights enforcement functions.

At the Department of Housing and Urban Development [HUD].

The President's budget proposal calls for an approximately 15 percent cut to HUD's budget, resulting in staff loss, as well as billions of dollars of cuts to programs that subsidize housing and community development for our nation's most vulnerabilities.

The proposed budget also calls for the elimination of the U.S. Interagency Council on Homelessness.

The reduction of these programs would deal devastating blows to the Department's work to reduce segregation, and promote fair housing.

At the Department of Health and Human Services.

The proposed budget calls for a 15 percent cut and a ten percent reduction to the Office of Civil Rights, the office charged with investigating civil rights violations in healthcare settings.

At the Environmental Protection Agency
The proposed budget eliminates the EPA’s environmental justice program, including nearly 40 employees. The program provides support to address the disproportionate burden of environmental policies and decisions on communities of color, and low-income and tribal communities.

The Legal Services Corporation.

The proposed budget eliminates federal funding of $351 million for LSC. LSC is a private, non-profit organization established by Congress to support civil legal aid for low-income Americans. Access to counsel is crucial to ensuring the fair administration of justice.

Any reduction in the availability of these services, which are already insufficient to meet the needs of low-income Americans, indicates that fewer just and fair outcomes would be secured.

Chair Catherine E. Lhamon states, quote, for 60 years Congress has charged the Commission to monitor federal civil rights enforcement, and recommend necessary change. We take this charge seriously, and we look forward to reporting our findings to Congress, the President, and the American people.
We will now discuss the statement, if there's any discussion. Mr. Kirsanow?

COMMISSIONER KIRSANOW: Yes. I'm going to vote no on this for the simple reason that -- well maybe I should vote yes, because then that would obviate the need to do the statutory enforcement report, because it seems that we've already concluded this is a verdict first, trial later quality to it.

We have a statutory enforcement report for 2019, and we're going to be evaluating the efficacy of some of the various organizations that have been cited in this statement, and the statement presumes that cuts in money necessarily mean cuts in efficacy.

We've concluded that this is a dangerous reduction, it's going to have devastating blows, and that any reduction in funds is going to have a harmful effect on the mission of the various agencies or departments that have just been discussed.

We're jumping to conclusions that are more properly the precinct or the province of our statutory enforcement report for 2019. And beyond that, we're talking about reductions -- for example, in DOJ [Department of Justice], of 12 attorneys, that still leave nearly 400 attorneys there. Only in government, which has a $20 trillion debt, could we say that a
reduction in money necessarily harms a program. So I'll be voting against it.

CHAIR LHAMON: So I welcomed your suggestion that you might vote for it, and that in the beginning I will say that I think that their statement is carefully worded not to assume a conclusion, but to identify a set of concerns, and to say that we look forward to investigating them.

And to note that these are proposed budget suggestions that Congress has not yet actually appropriated, and I have heard from many members of Congress on both sides of the aisle, that their view is that this proposed budget is dead on arrival.

I welcome that because I am deeply concerned about what it is that this budget would work for civil rights enforcement in the country. But I also welcome hearing if it is the budget that we live with, or whatever budget we do live with in the civil rights agencies, how it is that the agencies believe that they can fulfill their mission, and if they think that they can, I welcome hearing that.

I also welcome an opportunity for us to review it and draw our own conclusions, and make our own recommendations about what the efficacy is and is not. Vice Chair?
VICE CHAIR TIMMONS-GOODSON: Yes, Madam Chair, I will be voting for it. As you have pointed out, it is our role to monitor what's going on where civil rights is concerned, and speaking out and commenting on our observations to-date seems very reasonable to me, and I support the letter.

CHAIR LHAMON: Commissioner Heriot?

COMMISSIONER HERIOT: I just want to comment that the sentence about Secretary DeVos is utterly over the top. At no time did she say that she would not enforce federal civil rights laws. She has a different interpretation of what those laws require, in all likelihood. So I think that sentence should certainly be stricken. But I will be voting against this in any event.

CHAIR LHAMON: Thank you. The sentence about Secretary DeVos does not say that she has said that she will not. It says that she has refused to commit that she would enforce civil rights laws.

COMMISSIONER HERIOT: No, but that's not true.

CHAIR LHAMON: It's very true --

COMMISSIONER HERIOT: And that she interprets the statutes differently from you.

CHAIR LHAMON: What she said in her most
recent Congressional testimony, is that any recipient of federal funds will follow the law. She is not in a position to make a commitment on behalf of someone she doesn't control. The most and the best of the Department of Education can commit, is that it will enforce non-compliance that it finds. She has refused to make that commitment. In transcript. In Congressional testimony. That is a concern.

COMMISSIONER HERIOT: That is an unfair interpretation of what she is saying.

CHAIR LHAMON: Well we can agree to disagree on that point. So any further discussion of this statement? Commissioner Narasaki?

COMMISSIONER NARASAKI: I will be running for this statement. I think it is helpful actually to the agencies to know up front what some of our concerns are. This is an investigation that will be taking place a while from now. So hopefully it actually provides some guidance to them.

And that's part of our role -- to give advice to Congress and to the Administration. So I feel it's perfectly appropriate.

CHAIR LHAMON: Hearing no further discussion, I'll call --

COMMISSIONER KIRSANOW: I just have one
CHAIR LHAMON: Commissioner Kirsanow?

COMMISSIONER KIRSANOW: What is the appropriate level of expenditures for these various agencies? Isn't that a prerequisite to making a determination as to whether or not these cuts are dangerous or problematic?

CHAIR LHAMON: I thought that knowing the appropriate level is a prerequisite to recognizing that cutting them below their current levels would be dangerous or problematic. But in addition, I think it would be useful for us to evaluate that question in the course of the two-year oversight investigation that we will be conducting.

COMMISSIONER KIRSANOW: Couldn't it possibly be that we're spending more than we should be, or that the dollars to be allocated differently, or that there is some dead wood, or maybe there's not enough.

We don't know any of these things. And that's the purpose for the statutory report.

CHAIR LHAMON: I think it's certainly possible that we are spending more than we should be. It's not my view that in any of these agencies we are now spending more than we should be.
I have, for obvious reasons, the most familiarity with the Department of Education’s budget, and it well underfunded from a high of many years ago, when the Office for Civil Rights hired, for example, 11,000 staff, at a time when it was processing 3,000 complaints.

The Office, at the end of the last fiscal year, processed 17,000 complaints with fewer than 600 staff. I am confident that that is an insufficient level of staffing, necessitated by an insufficient budget in that office.

I also understand from the other offices, that they face very significant budgetary challenges that we as a commission face ourselves, and we are familiar with what we are unable to do because of our own budgetary challenges.

I look forward to hearing detailed information from the offices, both about their budgets, and about their management practices, and about the places where they could improve efficiency and efficacy, because I think there's likely room for improvement in any office on that front, and it would be important for us to take in that information as well.

COMMISSIONER KIRSANOW: I will just note
that it's disappointing that more than 50 years after the 1964 Civil Rights Act, that we actually need more money to fight discrimination, which would suggest that it's been an abject failure for 50 years. You would think the numbers would be going down. But that's just me.

CHAIR LHAMON: You know, I think that not one of us on this Commission understands us to have reached the mountaintop with respect to civil rights. And I believe we are all disappointed about the volume of civil rights harm that persists in this country.

I am a strong believer that we have advanced profoundly in the 60 years that the Commission has been in existence, and certainly in my own lifetime. I am deeply grateful for my own children, and for all of the nation's children, about the progress that we have made, and at the same time, I am deeply grateful for the opportunity that each of us has to commit to helping the nation move toward actually achieving the promises that we have lived for those 60 years. Commissioner Narasaki?

COMMISSIONER NARASAKI: I share your wish that we wouldn't need this kind of enforcement effort commissioner. But the reality is, I think you also
fail to take into account that, thankfully as a country, we've actually expanded the notion of what civil rights means, since the 1960s, and there are many more vulnerable communities that we are seeking to protect, against many more different kinds of discrimination that we now recognize as pernicious, and as undermining our democracy.

CHAIR LHAMON: Commissioner Adegbile?

COMMISSIONER ADEGBILE: I would just like to speak to Commissioner Kirsanow's point as well. I think that it's not inconsistent to have achieved significant progress, which we all hold up and embrace, but also have further to go.

And my conception of the Constitution and our civil rights laws, is that they're aspirational, and that the work is intergenerational and ongoing. So even when we address problems in a certain era, sometimes we see that those problems come back in a different form and mutate. Sometimes they're satisfied and there are new areas to explore, as Commissioner Narasaki has expressed.

And so I don't think it's a dichotomous choice of having a state of complete equality, and that is the definition of success. Or having more work to do in civil rights. And I think there's
probably a fair amount of agreement on this Commission, that both things can be true. We can have addressed some things and made progress, and still need to do more. And I understand the charge of this Commission to be a steadfast guardian, and providing analysis of those very areas where we need to do more.

CHAIR LHAMON: Thank you all for the discussion. Why don't we see if we have a motion to approve the statement regarding federal civil rights enforcement efficacy.

VICE CHAIR TIMMONS-GOODSON: So moved.

COMMISSIONER ADEGBILE: Second.

CHAIR LHAMON: Terrific. Commissioner Adegbile, how do you vote?

COMMISSIONER ADEGBILE: Aye.

CHAIR LHAMON: Commissioner Heriot?

COMMISSIONER HERIOT: No.

CHAIR LHAMON: Commissioner Kirsanow?

COMMISSIONER KIRSANOW: No.

CHAIR LHAMON: Commissioner Kladney?

COMMISSIONER KLABDNEY: Yes.

CHAIR LHAMON: Commissioner Yaki?

COMMISSIONER YAKI: Aye.

CHAIR LHAMON: Vice Chair?

VICE CHAIR TIMMONS-GOODSON: Yes.
CHAIR LHAMON: And I vote yes. The motion passes. Two commissioners opposed, no commissioner abstained, all others were in favor.

COMMISSIONER HERIOT: Madam Chairman?

CHAIR LHAMON: Yes.

COMMISSIONER HERIOT: Just want to remind you that our rules require that when you issue a statement, it state that there were two dissenting commissioners.

CHAIR LHAMON: Our rules require that I state that it was a majority, and I will be happy to follow those rules.

E. DISCUSSION AND VOTE ON REVISED SCHEDULE REGARDING THE FY 2017 STATUTORY ENFORCEMENT REPORT ON MUNICIPAL FEES

CHAIR LHAMON: Next we consider a revised schedule for FY 2017 Statutory Enforcement Report. That revised schedule shifts the schedule back a week in order to allow the Commissioners sufficient to review before voting on the final report.

It will not impact the time for Commissioners to draft their statements and rebuttals, and if any, surrebuttals. Any discussion?

Okay, do I have a motion to approve the revised schedule for the FY 2017 Statutory Enforcement
COMMISSIONER NARASAKI: So moved.

COMMISSIONER KLANDENY: Second.

CHAIR LHAMON: Terrific. Commissioner Adegbile, how do you vote?

COMMISSIONER ADEGBILE: Aye.

CHAIR LHAMON: Commissioner Heriot?

COMMISSIONER HERIOT: I have to pass here.

I'm --

CHAIR LHAMON: Do you want me to come back to you, or are you abstaining?

COMMISSIONER HERIOT: I'm just trying to figure out what the schedule is now.

CHAIR LHAMON: Do you want them to go over it?

COMMISSIONER HERIOT: Yes. Could you tell me what the schedule would be here?

CHAIR LHAMON: I can. Hang on just one second. Okay, having had a motion and a second, we should go forward with the vote, but I'm told that it would be helpful if we look at the schedule for our telephonic business meeting to discuss it first. Are you all comfortable with tabling the motion?

COMMISSIONER ADEGBILE: Yes.

COMMISSIONER HERIOT: Yes.
CHAIR LHAMON: Okay, terrific.

F. DISCUSSION AND VOTE ON HOLDING A TELEPHONIC
BUSINESS MEETING ON FRIDAY, JUNE 23, 2017

CHAIR LHAMON: So we had had a plan to hold a telephonic business meeting on Friday, June 23, at 12:00 noon. I understand that there are some calendar conflicts. That telephonic business meeting would be to discuss and vote on the Statutory Enforcement Report for FY 2017, which is the Municipal Fines and Fees report.

Our agenda for today also contemplated that we would discuss the LGBT Workplace Discrimination report. But we will limit the call when we have it, to the Municipal Fines and Fees Report, in order to allow sufficient time to review the LGBT Workplace Discrimination Report before the --

COMMISSIONER HERIOT: Okay, but when does the telephonic business meeting going to be?

CHAIR LHAMON: I'll get into that.

COMMISSIONER HERIOT: Okay.

CHAIR LHAMON: So we had planned on Friday, June 23, at 12:00 noon. I understand that there are some calendar conflicts, so before voting on that, we need to vote on some alternate dates. One alternate date is Tuesday, June 27 from 12:00 to 1:00.
The other is Wednesday, June 28 from 12:00 to 1:00. Should we discuss which of those dates will work before moving to vote on one of them?

COMMISSIONER HERIOT: Yes. I mean if we're voting on a schedule, then we got to have a schedule.

CHAIR LHAMON: Thanks for that helpful suggestion. So Vice Chair, does Tuesday the 27th at noon work for you?

VICE CHAIR TIMMONS-GOODSON: No. It does not work for me.

COMMISSIONER NARASAKI: It does not work for me either.

CHAIR LHAMON: Okay. Commissioner Adegbile, it does work for you? Is that correct?

COMMISSIONER ADEGBILE: That's correct.

CHAIR LHAMON: Commissioner Heriot?

COMMISSIONER HERIOT: It works for me, yes.

CHAIR LHAMON: Commissioner Kirsanow?

COMMISSIONER KIRSANOW: No it doesn't.

CHAIR LHAMON: Okay. Commissioner Kladney?

COMMISSIONER KLADNEY: Whatever you'd like ma'am.
CHAIR LHAMON: I love that vote. Commissioner Yaki? Commissioner Yaki, if you're speaking --

COMMISSIONER YAKI: Aye.

CHAIR LHAMON: Okay, so it does work for you. So then let's look at the June 28th from 12:00 to 1:00. Vice Chair, does that time work for you?

VICE CHAIR TIMMONS-GOODSON: Yes, it works.

CHAIR LHAMON: Commissioner Adegbile?

COMMISSIONER ADEGBILE: No.

CHAIR LHAMON: Commissioner Heriot?

COMMISSIONER HERIOT: Yes.

CHAIR LHAMON: Commissioner Kirsanow?

COMMISSIONER KIRSANOW: Yes.

CHAIR LHAMON: Commissioner Kladney?

COMMISSIONER KLADNEY: I could make it work.

CHAIR LHAMON: I like the general yes for me, but okay.

COMMISSIONER KLADNEY: I mean I would prefer Tuesday, but Wednesday's fine.

CHAIR LHAMON: Thank you. Commissioner Narasaki?

COMMISSIONER NARASAKI: Yes.
CHAIR LHAMON: Commissioner Yaki?

COMMISSIONER YAKI: It doesn't.

CHAIR LHAMON: No? Okay.

COMMISSIONER YAKI: It does not.

CHAIR LHAMON: So it looks -- at the scheduling, it looks like -- with no disrespect intended to Commissioner Yaki and Commissioner Adegbile that the June 28th from 12:00 to 1:00 works for a quorum and most of us. So I will move that we will hold a telephonic business meeting on Wednesday, June 28th from 12:00 to 1:00 to discuss the FY 2017 Statutory Enforcement Report. Do I have a second?

VICE CHAIR TIMMONS-GOODSON: I'll second that motion.

CHAIR LHAMON: Okay. So Commissioner Adegbile, how do you vote?

COMMISSIONER ADEGBILE: Aye.

CHAIR LHAMON: Commissioner Heriot?

COMMISSIONER HERIOT: I just want to clarify that 3037 works for that. That's a -- okay, yes, I'm getting a nod yes from the General Counsel. With that, then yes.

CHAIR LHAMON: Okay. Commissioner Kirsanow?

COMMISSIONER KIRSANOW: Yes.
CHAIR LHAMON: Commissioner Kladney?

COMMISSIONER Kladney: Yes.

CHAIR LHAMON: Commissioner Narasaki?

COMMISSIONER NARASAKI: I'm trying to get a clarification about something.

CHAIR LHAMON: So are we waiting?

COMMISSIONER NARASAKI: So I'm voting no.

CHAIR LHAMON: Commissioner Yaki?

COMMISSIONER YAKI: No.

CHAIR LHAMON: Vice Chair?

VICE CHAIR TIMMONS-GOODSON: Yes.

CHAIR LHAMON: And I vote yes. So I think we will hold -- the motion passes. We had two no votes, so we will hold the telephonic business meeting on Wednesday, June 28 from 12:00 to 1:00 to discuss and vote on the FY 2017 report.

COMMISSIONER YAKI: I just want to -- can I say something?

CHAIR LHAMON: Sure.

COMMISSIONER YAKI: I just think it's very bad form to do a statutory report vote when two commissioners are known to not be able to attend, especially for a special meeting. I don't think that's right.

CHAIR LHAMON: Okay. Commissioner Yaki,
do you have a suggestion for another way to achieve a vote on the report in time for its completion? My understanding from the Office of Civil Rights Enforcement is that we need to vote on that report before July, to be able to complete the report timely for this fiscal year.

COMMISSIONER YAKI: Well, all I know is that we're given two different dates, two different times. I don't know what options there were, why -- I mean, it's just -- I just want to register my protest.

COMMISSIONER KLANDNEY: Madam Chair, I was wondering, if we're picking the 28th and two commissioners can't make it at the time that we've set, perhaps there is a time after business hours that we can meet, where everybody would be available that day.

CHAIR LHAMON: Why don't we do this? Although we had a motion that passed for a particular time, I hear Commissioner Yaki's concern, and I think -- I see nods, I think many of us share it. So why don't we vote on whether we could take a notational vote to try to secure a date that could work for all of us.

And if we can vote not to block a notational vote on that topic, then I think we can
move forward from here. So I move that we hold --
that we agree that --

(Off-microphone comment.)

CHAIR LHAMON: That's exactly what we're
talking about. So why don't I --

COMMISSIONER HERIOT: Can we, like figure
it out now instead, because I'm not really inclined --

CHAIR LHAMON: You don't have your
microphone on.

COMMISSIONER HERIOT: Yes, sorry. I'm not
really inclined to want to push this scheduling off.
Let's come up with a time now. Is there a different
time that day that everybody can meet? Because if you
do one of these, we could end up putting it off too
long.

COMMISSIONER NARASAKI: I know that we
have guests coming. So perhaps after they present, we
can huddle for a few minutes, see if we can find a
time, come back briefly into session, and vote on it.

CHAIR LHAMON: Okay. Or -- I think our
guests are not here yet. Why don't we take a recess,
discuss among ourselves calendars, without trying to
subject the court reporter to recording it, and then
come back. Thanks.

(Whereupon, the above-entitled matter went
off the record at 10:15 a.m. and resumed at 10:20 a.m.)

CHAIR LHAMON: So I'm ending our recess and coming back to the record. Having conferred, it looks like June 29th from noon to 1:00 may work. So I'm -- that's Eastern Time.

So I move that we will hold a telephonic business meeting on Thursday, June 29 from noon to 1:00 Eastern, to discuss and vote on the FY 2017 Statutory Enforcement Report on Municipal Fines and Fees. Do I have a second?

COMMISSIONER ADEGBILE: Second.

CHAIR LHAMON: Okay. Commissioner Adegbile, how do you vote?

COMMISSIONER ADEGBILE: Aye, and thank you for the accommodation.

CHAIR LHAMON: Commissioner Heriot?

COMMISSIONER HERIOT: Yes.

CHAIR LHAMON: Commissioner Kirsanow?

COMMISSIONER KIRSANOW: Yes.

CHAIR LHAMON: Commissioner Kladney?

COMMISSIONER KLABDNEY: Yes.

CHAIR LHAMON: Commissioner Narasaki?

COMMISSIONER NARASAKI: Yes.

CHAIR LHAMON: Commissioner Yaki?
COMMISSIONER YAKI: Aye, and thank you as well.

CHAIR LHAMON: Vice Chair?

VICE CHAIR TIMMONS-GOODSON: Yes.

CHAIR LHAMON: And I vote yes, so the motion passes unanimously.

G. DISCUSSION AND VOTE ON REVISED SCHEDULE

REGARDING THE FY 2017 STATUTORY ENFORCEMENT REPORT

ON MUNICIPAL FEES

CHAIR LHAMON: Given that motion that has superseded our previous one, we will not consider a revised schedule for the FY 2017 Statutory Enforcement Report.

And as mentioned, that schedule shifts the schedule back a week, to allow the commissioners sufficient time to review before voting, and does not impact the time for commissioners to draft their statements and rebuttals, and if invoked, any surrebuttals. So any discussion on that?

Do I have a motion to approve the revised schedule for the FY 2017 Statutory Enforcement Report?

COMMISSIONER ADEGBILE: So moved.

CHAIR LHAMON: A second?

COMMISSIONER KLANDNEY: Second.

CHAIR LHAMON: Commissioner Adegbile, how
do you vote?

COMMISSIONER ADEGBILE: Aye.

CHAIR LHAMON: Commissioner Heriot?

COMMISSIONER HERIOT: Yes.

CHAIR LHAMON: Kirsanow?

COMMISSIONER KIRSANOW: Yes.

CHAIR LHAMON: Commissioner Kladney?

COMMISSIONER Kladney: Yes.

CHAIR LHAMON: Commissioner Narasaki?

COMMISSIONER NARASAKI: Yes.

CHAIR LHAMON: Commissioner Yaki?

COMMISSIONER YAKI: Aye.

CHAIR LHAMON: Vice Chair Timmons-Goodson?

VICE CHAIR TIMMONS-GOODSON: Yes.

CHAIR LHAMON: And I vote yes. The motion passes unanimously. Okay.

H. DISCUSSION AND VOTE ON CHANGING THE NOVEMBER AND DECEMBER COMMISSION BUSINESS MEETING DATES

So at the risk of introducing more confusion, we're going to now discuss and vote on changing our November and December Commission business meeting dates. Now first, the Staff Director will provide us with the staff recommendation on when we should schedule these meetings.

STAFF DIRECTOR MORALES: Thank you Madam
Chair. In regards to changing the commissioner meetings in December and November, let me start first by addressing December first.

Given the interests of OCRE and commissioners to hold a briefing on statutory enforcement report in December, I mean -- in December, yes, conversations have occurred between Special Assistance -- representing commissioners of course -- and OCRE, to indicate the preference should be in early December. Later in the month could be problematic because of the holidays.

Having said all this, this could be subject to change if there is a Government shutdown, budget sequestration, we have to exist under a continuing resolution, or something like that. But nevertheless, I propose moving the current December meeting date from December -- from Friday, December 15th, to Friday, December 8th.

And in regards to the November date, we've secured an ornate room at the Library of Congress for holding our 60th anniversary event that we have under consideration and discussion. However, the Library of Congress can only accommodate us on Tuesday, November 14th. Anything later, Congress will be out of session, and then we'll run into the Thanksgiving
holidays.

In another week or two, and no later than July business meeting, I'll update you with the final planning for the event. I'm not prepared to do so at this time. However, I propose to move the Commission business date from November 17th -- Friday, November 17th -- to Tuesday, November 14th, and it looks like we'd be able to hold a Commission business meeting earlier that morning, and the event commemorating the 60th anniversary would be in the afternoon. Thank you Madam Chair.

CHAIR LHAMON: Thank you. Having heard from the staff -- Commissioner Heriot?

COMMISSIONER HERIOT: Yes, that's -- could you tell me again the times on the 14th? What's the --

STAFF DIRECTOR MORALES: We don't have the time, other than generally looking at them. We're kind of flexible. Kind of depends on availability of one of our speakers. But we're looking at holding a Commission business meeting in the morning, probably like from 9:30 or 10:00 to noon. We don't anticipate it being a long business meeting.

And then thereafter, potentially starting either at two or 3 o'clock for the event at the
Library of Congress. And we can only have it from I 
believe 2 o'clock to 5:00 p.m. -- have the room. And 
one of the reasons we've selected the room is because 
we have the potential of having some Library of 
Congress artifacts that pertain specifically to the 
Commission available.

And so we're working with the Library of 
Congress and the National Archives to have those 
available for the guests and folks who attend. And so 
we're looking a time frame between I believe two and 
5 o'clock, but hoping to have it -- we think it would 
probably take -- the event would take about two hours, 
so something in that range.

COMMISSIONER HERIOT: Is it possible to 
hold it earlier in the day, and hold the Commission 
meeting on Monday afternoon?

STAFF DIRECTOR MORALES: That would be 
available. We can certainly entertain that if it fits 
commissioners' schedules. I don't see a reason not -- 
I mean I don't --

COMMISSIONER HERIOT: I got a meeting --

STAFF DIRECTOR MORALES: There's nothing 
that prevents us from doing that.

COMMISSIONER HERIOT: Yes. I got to be in 
San Diego by Tuesday night, and that means last plane
is going to leave probably about 5:00. And if we could hold the Commission meeting the day before, and the celebration earlier in the day, that would work for me. Otherwise it doesn't.

STAFF DIRECTOR MORALES: It could be a challenge holding the event earlier in the day, but let me get back to you on that, and look at the feasibility of getting the room earlier. It may not be available earlier. The speaker may not be available earlier. We'd like to have maybe a couple of members of Congress come and participate as well.

COMMISSIONER HERIOT: How about flip and do the day before for the celebration?

STAFF DIRECTOR MORALES: On Monday?

COMMISSIONER HERIOT: Yes. And then the Commission meeting Tuesday morning.

STAFF DIRECTOR MORALES: Right now we know the room is available on Tuesday. I don't know if the room's available on Monday. And I don't know what commissioners' travel schedules would be, but we can certainly look that. I can get back to you on that.

COMMISSIONER HERIOT: Yes.

STAFF DIRECTOR MORALES: I can get back to you on that in an email in the next week or so, and let you know what that possibility is. I don't want
to delay the moving of the date. I mean, I think the date has to be moved either to that Tuesday or that Monday anyway, because Congress goes out of session on Thursday.

And so -- and we know the room is not available on the 15th. So we were looking originally at holding it on Wednesday the 15th, but the room that we'd like is not available. It's available -- we know for a fact it's available on Tuesday the 14th. And so that's why we picked that.

COMMISSIONER HERIOT: Yes. Well the way you have it now I can't do it.

CHAIR LHAMON: I'm not sure it's productive to proceed with a vote, given the uncertainty --

STAFF DIRECTOR MORALES: Yes, well we can hold that if -- I don't know if you want to do the vote on moving the December date, but we can revisit that.

CHAIR LHAMON: Okay.

COMMISSIONER NARASAKI: Maybe we can vote on it when we do the vote on the report.

CHAIR LHAMON: Okay.

STAFF DIRECTOR MORALES: We could add that. Certainly.
COMMISSIONER HERIOT: Does anybody object to December. I mean if not, maybe we could vote on that now. At least get that out of the way.

CHAIR LHAMON: Okay, it sounds like there's two options for votes. Why don't we have a motion to vote on the December date, and also a motion to add the discussion of the November date to the telephonic meeting that we have just voted? Do we have a motion for --

COMMISSIONER NARASAKI: I move that we vote to move the December meeting date, and that we vote to consider moving the November date, and vote at that at our telephonic meeting.

COMMISSIONER KLADNEY: I second.

CHAIR LHAMON: And just to clarify, the December meeting date would be December 8, 2017. Okay. So having had a motion and a second, Commissioner Adegbile, how do you vote?

COMMISSIONER ADEGBILE: Aye.

CHAIR LHAMON: Commissioner Heriot?

COMMISSIONER HERIOT: Aye.

CHAIR LHAMON: Commissioner Kirsanow?

COMMISSIONER KIRSANOW: Yes.

CHAIR LHAMON: Commissioner Kladney?

COMMISSIONER KLADNEY: Yes.
CHAIR LHAMON: Commissioner Narasaki?
COMMISSIONER NARASAKI: Yes.
CHAIR LHAMON: Commissioner Yaki?
COMMISSIONER YAKI: Aye.
CHAIR LHAMON: Vice Chair?
VICE CHAIR TIMMONS-GOODSON: Yes.
CHAIR LHAMON: And I vote yes. The motion passes unanimously.
COMMISSIONER KLANDNEY: Madam Chair, I was wondering if the Director could get several dates and times from the location for our discussion at our meeting, rather than trying to pick one, which I think is more difficult for eight people to agree on.
STAFF DIRECTOR MORALES: Yes, I'll do my best.
COMMISSIONER KLANDNEY: Thank you.
CHAIR LHAMON: Thank you. Okay, next we'll discuss three State Advisory Committee --
COMMISSIONER HERIOT: We actually only voted to consider the December thing. We didn't actually do it.
CHAIR LHAMON: Okay.
COMMISSIONER HERIOT: So I move that we actually do what the Staff Director asked us to do, and that is move the meeting to December whatever it
was.

CHAIR LHAMON: Eighth.

COMMISSIONER HERIOT: Eighth.

COMMISSIONER KLADNEY: I'll second that.

CHAIR LHAMON: Okay, just to be very, very clear, so we have a motion and a second. We can go through our votes again. Commissioner Adegbile, how do you vote?

COMMISSIONER ADEGBILE: Aye.

CHAIR LHAMON: Commissioner Heriot?

COMMISSIONER HERIOT: Yes.

CHAIR LHAMON: Commissioner Kirsanow?

COMMISSIONER KIRSANOW: Yes.

CHAIR LHAMON: Commissioner Kladney?

COMMISSIONER KLADNEY: Yes.

CHAIR LHAMON: Commissioner Narasaki?

COMMISSIONER NARASAKI: Yes again.

CHAIR LHAMON: Commissioner Yaki?

COMMISSIONER YAKI: Aye-aye.

CHAIR LHAMON: Vice Chair?

VICE CHAIR TIMMONS-GOODSON: Yes.

CHAIR LHAMON: And I vote yes. The motion passes unanimously, to be clear.

I. STATE ADVISORY COMMITTEES

CHAIR LHAMON: Okay, I'd like to turn to
the State Advisory Committee section of our agenda.

Before we discuss the three State Advisory Committee appointment slates to consider, I acknowledge the passing of Peter Lawler, a member of our Georgia State Advisory Committee, who recently died, and our deepest condolences extend to his family.

As we turn to the three State Advisory Committee appointment slates to consider, before we begin discussion, a brief reminder for all, that objections to these slates have been shared with all commissioners.

To the extent that anyone would like to discuss continuing objections, I ask that you not mention specific candidates by name. Each of these individuals has agreed to volunteer time and energy in the pursuit of the protection of civil rights. With that I begin with the Alabama State Advisory Committee.

1. VOTE ON APPOINTMENTS TO THE ALABAMA STATE ADVISORY COMMITTEE

CHAIR LHAMON: I move that the Commission appoints the following individuals to the Alabama State Advisory Committee, based on the recommendation of the Staff Director. Jenny Carroll, Marc Ayers, Craig Hymowitz, Michael Innis-Jimenez, Peter Jones,
Angela Lewis, Raphael Maharaj, Isabel Rubio, Martha Lynn Shearer, Maurice Shevin, Cameron Smith, David Smolin, Daiquiri Steele, and Tari Williams.

With this motion, the Commission will also appoint Jenny Carroll as Chair of the Alabama State Advisory Committee. All of these members shall serve as uncompensated government employees. If the motion passes, the Commission will authorize the Staff Director to execute the appropriate paperwork for the appointments. Do I have a second for this motion?

VICE CHAIR TIMMONS-GOODSON: I second it.

CHAIR LHAMON: Any discussion? Hearing none, Commissioner Adegbile, how do you vote?

COMMISSIONER ADEGBILE: Aye.

CHAIR LHAMON: Commissioner Heriot?

COMMISSIONER HERIOT: I vote yes on this one.

CHAIR LHAMON: Commissioner Kirsanow?

COMMISSIONER KIRSANOW: Yes.

CHAIR LHAMON: Commissioner Kladney?

COMMISSIONER KLASTNEY: Yes.

CHAIR LHAMON: Commissioner Narasaki?

COMMISSIONER NARASAKI: Yes.

CHAIR LHAMON: Commissioner Yaki?

COMMISSIONER YAKI: Aye.
CHAIR LHAMON: Vice Chair Timmons-Goodson?

VICE CHAIR TIMMONS-GOODSON: Yes.

CHAIR LHAMON: And I vote yes. The motion passes unanimously.

2. VOTE ON APPOINTMENTS TO THE MONTANA STATE ADVISORY COMMITTEE

CHAIR LHAMON: I now move that the Commission appoints the following individuals to the Montana State Advisory Committee, based on the recommendation of the Staff Director. Gwendolyn Kircher, Kiah Abbey, John Baden, Doug Betters, Norma Bixby, Joan Hoff, David Lopez, David Stanley Morales, Dale Rambur, Denise Rogers, Maylinn Smith, Dennis Taylor.

With this motion, the Commission will also appoint Gwendolyn Kircher as Chair of the Montana State Advisory Committee. All of these members will serve as uncompensated government employees. If the motion passes, the Commission will authorize the Staff Director to execute the appropriate paperwork for the appointments. Do I have a second for this motion?

COMMISSIONER ADEGBILE: Second.

CHAIR LHAMON: Thank you. Any discussion?

Hearing none, Commissioner Adegbile, how do you vote?

COMMISSIONER ADEGBILE: Aye.
CHAIR LHAMON: Commissioner Kirsanow?
COMMISSIONER KIRSANOW: No.
CHAIR LHAMON: Commissioner Heriot?
COMMISSIONER HERIOT: I'm voting yes on this one.
CHAIR LHAMON: Commissioner Kladney?
COMMISSIONER KLADNEY: Yes.
CHAIR LHAMON: Commissioner Narasaki?
COMMISSIONER NARASAKI: Yes.
CHAIR LHAMON: Commissioner Yaki?
COMMISSIONER YAKI: Aye.
CHAIR LHAMON: Vice Chair Timmons-Goodson?
VICE CHAIR TIMMONS-GOODSON: Yes.
CHAIR LHAMON: And I vote yes. The motion passes with one no vote, no abstentions, and all others in favor.

3. VOTE ON APPOINTMENTS TO THE OKLAHOMA STATE ADVISORY COMMITTEE

CHAIR LHAMON: I now move that the Commission appoints the following individuals to the Oklahoma State Advisory Committee, based on the recommendation of the Staff Director. Vicki Limas, Mary Sue Backus, Wendell Bollinger, Maria del Guadalupe Davidson, Adam Doverspike, Moises Echeverria-Ashworth, Amir Khaliq, Andy Lester, Charity
Marcus, Michael Owens, Christopher Smith, Amanda Snipes, Joseph Thai, and Donya Williams.

With this motion, the Commission will also appoint Vicki Limas as Chair of the Oklahoma State Advisory Committee. All of these members will serve as uncompensated government employees. If the motion passes, the Commission will authorize the Staff Director to execute the appropriate paperwork for the appointments. Do I have a second for this motion?

VICE CHAIR TIMMONS-GOODSON: Second.

CHAIR LHAMON: Any discussion? Hearing none, Commissioner Adegbile, how do you vote?

COMMISSIONER ADEGBILE: Aye.

CHAIR LHAMON: Commissioner Kirsanow?

COMMISSIONER KIRSANOW: No.

CHAIR LHAMON: Commissioner Heriot?

COMMISSIONER HERIOT: No, this one is not properly balanced.

CHAIR LHAMON: Commissioner Kladney?

COMMISSIONER Kladney: Yes.

CHAIR LHAMON: Commissioner Narasaki?

COMMISSIONER NARASAKI: Yes, and I'd like to thank the staff for all the hard work that they have been putting in to putting together such really strong slates.
CHAIR LHAMON: Commissioner Yaki?

COMMISSIONER YAKI: Aye.

CHAIR LHAMON: Vice Chair Timmons-Goodson?

VICE CHAIR TIMMONS-GOODSON: Yes.

CHAIR LHAMON: And I vote yes. The motion passes. There are two no votes, no abstentions, all others in favor, and I certainly wholeheartedly echo the thanks from Commissioner Narasaki, for the work to appoint these State Advisory Committees.

It's been very exciting to me to see these committees appointed at each of these meetings of late, and to witness the work that the State Advisories are doing.

I had the privilege to attend the main State Advisory Committee's briefing last Wednesday on the criminalization of the homelessness. It was incredibly moving and compelling and important, and I'm very grateful for it, and I look forward to the work that each of the State Advisory Committees that we have appointed today will do moving forward.

J. MANAGEMENT AND OPERATIONS STAFF DIRECTOR'S REPORT

CHAIR LHAMON: Next we will hear from the Staff Director for his monthly Staff Director report.

STAFF DIRECTOR MORALES: Thank you Madam
Chair. I have nothing more to add than what's already contained in the report. I would like to point out that in addition to some of the -- to the report, I sent some material to all of you regarding the livestreaming last month of the briefing. It was contained in materials sent to you.

It looks like we had -- in that report we had 13,000 views on our Facebook. And then we also had 4,000 -- I'm sorry, 425 individuals that signed on to livestream, and at some points -- some were on for only a few minutes, some were on for the full length of time, and I just really want to commend the work done by all the special assistants, all of you and staff and Brian, in terms of the outreach efforts to the public and to stakeholders, and the work we're doing. So, thank you. I have nothing more to add.

CHAIR LHAMON: All right, thank you.

COMMISSIONER KLADNEY: Madam Chair, I have a question --

CHAIR LHAMON: Commissioner Kladney.

COMMISSIONER KLADNEY: -- if I may, of the Director. I was wondering, in light of the budgetary items that you've been sending out, have we done any work, or do we have anybody working on the possibility of doing or collecting witness testimony via
videoconferencing, to the meeting, rather than bringing the witnesses here to DC? That kind of thing. Or are we going to consider that or look into that at all?

STAFF DIRECTOR MORALES: I'm not aware that we've done that, but -- excuse me, we're crossing each other here, we're much closer.

All right, I'd be open to that. I'm not sure how that would work, but anything that would provide the Commission with more testimony or information, I believe we'd be open to. So let me sit down with you and with other commissioners and special assistants to get more information as to what that might look like.

COMMISSIONER KLADNEY: Okay.

STAFF DIRECTOR MORALES: Great.

CHAIR LHAMON: I'm going to jump ahead in our agenda. Commissioner Kladney, I'll come back to your discussion on amending the public comment period, because I understand that the Chair of our Connecticut State Advisory Committee is only available until October 25. So I'm delighted that we will hear on the phone from David McGuire, the Chair of the Connecticut State Advisory Committee, who will discuss the Committee's recent Advisory Memorandum on Solitary
Confinement. David?

K. PRESENTATION BY CONNECTICUT STATE ADVISORY COMMITTEE CHAIR DAVID MCGUIRE ON ADVISORY MEMORANDUM ON SOLITARY CONFINEMENT

MR. MCGUIRE: Thank you so much for having me. I want to start by just thanking a few people briefly. Mauro Morales and Maureen Rudolph, just thank you so much for supporting our SAC and the work we've done.

Brian has also done some tremendous outreach through press, which has really helped amplify the work that we're doing here, and I'll explain how large of an impact that had on some really good policy here in Connecticut. And also Barbara de la Vieez for constantly supporting us, and kind of keeping us on track.

So what I thought might be helpful, is I can just really briefly walk through what our SAC has done over the last five or six months, and the great results that we've achieved through our work together.

Our particular SAC was appointed just almost exactly a year ago -- a year ago tomorrow. So we quickly met, and have had some really great attendance at our phone and in-person meetings from the SAC, which is great.
And we coalesce around the issue of solitary confinement -- specifically the great racial disparities -- that we have heard about in the Connecticut Supermax, for example, as well as the fact that many other protected classes are kept in solitary confinement for long periods of time.

So we started to do our due diligence, and ultimately got a tour through the Commissioner's office here, of the Supermax here in Connecticut, which is called Northern Correctional, as well as a level 2, which is the lowest level facility, and to kind of have a comparison of these different conditions.

We went on that tour in February, and it was a great experience for many of the SAC members who had never been to a correctional facility before. We had the opportunity to speak with some corrections officers, as well as prisoners at those facilities. And it really informed or perspective. We also brought a State Representative -- her name is Robin Porter, she's from New Haven -- who is seriously thinking about filing some prisoner rights legislation, specifically focusing on the overuse of solitary confinement.

She was really struck by the tour, and
also attended our briefing, which we had at the State Capitol on February 7th. We, on very short notice, were able to pull together three really solid panels, one focusing on juveniles in isolation, one featuring a lot of professors, both from legal discipline, as well as medical, on mental health issues.

And then we had the Commissioner of Corrections sit on that panel. And finally, we had a panel of survivors and family members who had spent time in Connecticut facilities and solitary. We had both females represented on that panel who were in solitary, as well as some folks that were put in solitary here at the age of 17.

So we had a really great sampling, and got to understand how this actually plays out in the facilities. That briefing was important because it kind of put a focus and spotlight on the issue, and ultimately did lead to a bill being introduced about three weeks later by that Representative, Robin Porter.

That bill started to stall out. It had a public hearing, but then started to kind of stall out. And at that point I came to Barbara and said that we were already working on making some findings and recommendations, but we were probably two or three
months away from fully flushing everything out and getting through the transcript, because we had a lengthy hearing.

So we have come up with the idea of putting out an advisory memorandum recommending legislation, or at least certain components of legislation, which we were able to with the support down in DC, put together pretty quickly. And we recommended five specific areas that should be included in legislation, having to do with putting a definition on solitary confinement, banning the use of solitary confinement in most cases on juveniles.

Also doing a similar ban on people with serious mental illness. Pawing for some data reporting so we can understand better exactly how solitary's used, and on who, because again the racial disparities are a real issue here and across the country, in this extreme form of isolation.

And then lastly, we called for some training and wellness support for corrections officers. Because after our tour, it was quite apparent that a lot of the corrections officers did not have the tools or mental health support to do this really difficult job.

So when we put that advisory memo out,
that was on May 10th, and Brian was kind enough to help get out a news release. That jump-started the bill that was in the legislature, and I'm happy to say that it passed unanimously just a couple of weeks later.

So that bill is now awaiting signature by the Governor, but has really advanced -- has made some huge advancements. And I think it's in large part due to the work that we've done as a SAC.

We -- it's three of our five recommendations made it into the bill that passed into law, and we're confident the Governor will sign it, and it will be the most stringent data reporting of any state in the country, and that will really allow us to understand whether protected classes are in fact ending up in solitary more often, and I think will give us the data we need going forward as a SAC, to further monitor this situation.

The last thing I wanted to mention, is that one of the people that we had speak on our panel -- his name is Professor Michael Mushlin -- he's a law professor, and he writes a treatise called The Rights of Prisoners.

It's in its 4th Edition, and he reached out, because he had seen some of the national
attention about the bill being passed, and he wants to include something in his next treatise about this bill, and the work that we've done.

So we've really made quite an impact, and I appreciate the support from all of you down there, and if you have any questions now, I can answer them.

CHAIR LHAMON: Thanks very much David. It's very, very exciting to hear about what the Connecticut State Advisory Committee has been able to achieve in such a short period of time, and the difference it looks like you are poised to make for residents in Connecticut, and potentially around the country.

It's incredibly impressive, and I am especially grateful to you for the degree to which you and your fellow volunteer members in the State Advisory Committee were able to move so nimbly to make such a difference following the information that you had taken in, and I look forward to your ultimate report as well.

It's very, very exciting to be able to hear about that kind of change coming from the information you've taken in. And if others -- my fellow commissioners -- have questions or comments?

Well I think we are -- oh sorry, Commissioner
Narasaki? Yes.

COMMISSIONER NARASAKI: I want to add my thanks and admiration for the great work that your SAC has done. I just have one question, you don't need to answer it --

MR. MCGUIRE: Sure.

COMMISSIONER NARASAKI: -- now, but perhaps you can discuss it with your SAC members. And I'm wondering if you have something that you would like to recommend that the Commission as a whole do. I know that you have a list of recommendations in terms of what any law should look like.

But is -- are there members of Congress, or people in the Administration, that you feel it would be helpful for us to forward this report to?

MR. MCGUIRE: Oh absolutely. So when we get together as a SAC -- on the 28th we're meeting again -- we'll certainly discuss it. I do think there's some lessons to be learned, and that we're starting to see a way of reform in this area, and I think some of the things that we got through here, and some of the testimony that we elicited at our briefing, would be helpful to share.

So I will work on that and get that information to Barbara. Thank you for that.
CHAIR LHAMON: Vice Chair.

VICE CHAIR TIMMONS-GOODSON: Yes. I too thank you for your efforts. I wanted to -- you mentioned that three of the five recommendations that your committee put forth were incorporated into the legislation -- the new proposed legislation. Can you tell us what those three were?

MR. MCGUIRE: Sure. So there is now -- once this is signed into law, it will be impermissible to put juveniles -- that's anyone under the age of 18 -- in solitary for an extended period. So that is one of the safeguards.

The other is the reporting requirements. And the reporting is quite broad. Some states have mandated reporting just on -- for example, how long people are in solitary -- but this reporting goes to race, ethnicity, gender, the reason that they're put in solitary confinement, whether they have a mental health issue -- there's a score that's assigned to each prisoner, the mental health score -- as long as -- and also how long they've been in solitary confinement.

And this will be annual reporting that will start to be collected on January 1st of next year. And then the very last is the training and
wellness support for corrections officers.

And that will task the Commissioner with coming up with training and wellness support, and the training is hopefully going to focus on some of the mental health issues. Both how corrections officers can identify mental health issues, as well as de-escalate folks' mental health crisis.

The last bit that I didn't mention in the reporting is -- and it's significant -- is every year when the Commissioner submits his report of the data, he or she will also have to submit what they've done to reduce the department's reliance on solitary confinement.

So this will be an opportunity hopefully for commissioners of corrections to show how they are being thoughtful, and finding alternate ways to deal with safety and security threats in the facility, without putting people in these conditions for extended periods of time.

VICE CHAIR TIMMONS-GOODSON: One last, small follow-up. Did you make any progress in having set forth a definition of what constituted solitary confinement in the State of Connecticut?

MR. MCGUIRE: So that was complicated, because the corrections union, which was really fairly
supportive of the bill as a whole, were very defensive about coming up with a particular number of hours, for example.

The legislation at one point had it set at 20 hours or more in cell. But there were concerns that that would tie the hands of corrections officers too much.

And candidly, our SAC is kind of having a vigorous debate as to where we should land on that. Whether we should go with the International Human Rights' definition, or some definitions other states have used.

But I do think that our SAC will continue to work on this, and come up with more recommendations and conclusions, and we may touch on that, or we'll at least highlight that this is an issue that needs to kind of be grappled with going forward.

VICE CHAIR TIMMONS-GOODSON: Again, thank you so very much Dave. This is just wonderful news.

CHAIR LHAMON: Commissioner Narasaki?

MR. MCGUIRE: Thanks for the support.

COMMISSIONER NARASAKI: Yes, sorry. I think I had one more question and observation --

MR. MCGUIRE: Sure.

COMMISSIONER NARASAKI: -- I know that
this issue is also an issue for the LGBTQ community, and I didn't see a mention in the list of recommendations. So I'm wondering if that's something that the SAC was able to address, and if not, if there's something that you might consider there?

MR. MCGUIRE: So we're absolutely mindful of that, and I know that particularly transgender prisoners who have been a difficult population for our Department of Corrections to manage. I think a lot of it comes from just a lack of awareness or sensitivity among some corrections officers.

So it is something we're definitely aware of. At one point we had thought about adding that to the vulnerable classes category. But then there was some pushback from corrections, saying that it would be very difficult to really assess whether someone was vulnerable in a certain way because of their orientation.

So it's something that we're considering and grappling with. But it's a great point, because I think that is another vulnerable class, and a protected class.

COMMISSIONER NARASAKI: Thank you.

CHAIR LHAMON: Commissioner Adegbile.

COMMISSIONER ADEGBILE: Was the
definitional issue that you just described, the recommendation that was not accepted as part of the legislation? Or was it something else? And if it was something else, can you give us some sense of why you think the other recommendation was rejected?

MR. MCGUIRE: So our recommendation in our advisory memo was just to have a clear definition of what constitutes solitary confinement. We didn't at that stage and that preliminary, really put what it should be.

And what ended up happening was, there is currently -- our state is unique in that our Department of Corrections is governed by administrative directives that, unlike other administrative agencies, does not have a public review period.

It's changed at the will of the Correction Commissioner, because of very real and sometimes immediate public safety issues. Our current Commissioner of Corrections, who testified at our briefing, is very mindful, and has greatly reduced our reliance on solitary.

The numbers in Connecticut have gone from somewhere around 200 five years ago, to under 40 now.

So we've had a large reduction. But part of the
complication is that some of the administrative
directives that are still in place are outdated, and
not actually followed by the Commissioner.

The legislature wanted to memorialize the
administrative directive definition of solitary
confinement. But advocates, including the legislator
who went on the tour with us and came to our briefing,
agreed that memorializing an outdated version of what
solitary is, or is defined as, wouldn't make sense.
It would actually tie the hands of this and future
commissioners.

So that's why ultimately it was decided
not to put any definition in statute for now. And I
do think that when our SAC comes out with the full
report, it will likely drive future advocacy and
legislative reform, and maybe even administrative
reform from the Commissioner. So we're still working
on that.

COMMISSIONER ADEGBILE: Thanks.

CHAIR LHAMON: David, I know we're
pressing to be on time. Do you have time for one more
question?

MR. MCGUIRE: Yes, absolutely. No, I have
until 11:00. Thank you.

CHAIR LHAMON: Oh, terrific. Thank you.
Okay. Commissioner Kladney?

COMMISSIONER KLADNEY: Thank you Madam Chair. And thank you for your good work in this area. My question really revolves around two things. One is the length of time that you found that people were put into solitary confinement for, and were there any recommendations regarding that?

Also, how your state handled the mental health people that they wanted to put into solitary confinement?

MR. MCGUIRE: Absolutely. So in terms of the cap on solitary, the original proposal that came out of the briefing, was to have a hard cap of six months. That after six months, someone would need to be put in alternative placement, the idea being that if solitary is not working after six months, there's really no penological benefit to keeping someone in those very harsh conditions.

Ultimately, that was stripped out of the bill, and a lot of this is because our state is in a very, very extreme financial crisis right now. And there was a sentiment that finding alternative placement, even if it's just for a dozen prisoners in our system, would be costly and difficult to come up with.
So that was a driving force. But I think that it was a general understanding that people should not be in solitary for years at a time, which there are people here that have been -- for example, in the Supermax, which opened in 1996. They had been there since it opened.

So even the Commissioner of Correction testified at our briefing that that was a problem. And then -- what was the second question? I'm sorry.

Oh, about the mental health --

COMMISSIONER KLADNEY: Did they feel that a six-month solitary confinement was an appropriate amount of time? A maximum amount of time? I mean they didn't find that out to be too long?

MR. MCGUIRE: Well yes, so that -- unfortunately, as you well know, legislature is a building of compromise. So that was a number that -- we didn't generate that number, but that's what the legislators kind of settled on as an absolute ceiling.

I think the other thing that we had in the initial bill was some real due process mechanisms, where prior to being placed in solitary, you had a hearing in the facility, but then also every thirty days, of a meaningful reevaluation, which hopefully would trigger some critical thinking as to whether
this is working or necessary.

One of the things that came out of our mental health panel that was really kind of cutting edge I thought, we had a professor named Homer Venters, who's at NYU [New York University], and he used to be a psychiatrist at Rikers Island.

He talked about dual loyalty and this idea that the Corrections' mental health folks are in a very difficult position, because they have a duty to the patient -- the prisoner -- but also to the facility, and the corrections agency that they're working in.

Here in Connecticut, under this current Commissioner, they've greatly reduced the number of people with serious mental illnesses in solitary. They have a screening process, and a pretty good mental health tool that they use.

But the concern that we had as a SAC, is that these are all relatively informal procedures. They're not memorialized in statute, which is why we did, and will continue to, push for these really good policies be memorialized in law, so that a future Commissioner can't just quickly change back and start warehousing people with mental health issues in solitary.
COMMISSIONER KLADNEY: Thank you.

MR. MCGUIRE: No problem.

CHAIR LHAMON: David, thank you so much for your time speaking with us today, and for your time advancing this issue in such an inspiring way. And thank you, and to all of your fellow volunteers, for the time and commitment you put into eliminating civil rights issues around the country.

As you know, and as we know, you are the eyes and ears on the ground for the U.S. Commission on Civil Rights, and we depend on you to advise us about civil rights issues.

MR. MCGUIRE: I will --

CHAIR LHAMON: Thank you.

MR. MCGUIRE: -- I will relay that to the SAC, and I appreciate it, and it's an honor to serve in this role. Thank you so much.

CHAIR LHAMON: Thank you. Thank you. And thank you also to our regional staff, who have been putting in hard work to put together the slates that we heard from today, and to support the work that you described today. So thanks very much David.

MR. MCGUIRE: Take care.

CHAIR LHAMON: Take care.

L. DISCUSSION AND VOTE ON PROPOSED AMENDMENT TO
EXTEND PUBLIC COMMENT PERIOD

CHAIR LHAMON: So we'll turn back, Commissioner Kladney, to our last agenda item before moving to our presentations, and that is your proposed amendment on extending the public comment period. Is there a motion?

COMMISSIONER Kladney: Yes, I'd like to make a motion to extend the public comment period on collateral consequences for 30 extra days. I don't think the OCRE has any objection to that.

CHAIR LHAMON: Okay. Is there a second for that motion?

VICE CHAIR TIMMONS-GOODSON: I'll second that.

CHAIR LHAMON: Any discussion? Hearing none, Commissioner Adegbile, how do you vote?

COMMISSIONER ADEGBILE: Aye.

CHAIR LHAMON: Commissioner Kirsanow?

COMMISSIONER KIRSANOW: Yes.

CHAIR LHAMON: Commissioner Heriot?

COMMISSIONER HERIOT: Yes.

CHAIR LHAMON: Commissioner Kladney?

COMMISSIONER Kladney: Yes.

CHAIR LHAMON: Commissioner Narasaki?

COMMISSIONER NARASAKI: Yes.
CHAIR LHAMON: Commissioner Yaki?

COMMISSIONER YAKI: Yes.

CHAIR LHAMON: Vice Chair Timmons-Goodson?

VICE CHAIR TIMMONS-GOODSON: Yes.

CHAIR LHAMON: And I vote yes. The motion passes unanimously. Thank you.

We are just a few minutes before 11:00 a.m., when we will hear our presentations from our invited speakers. So why don't we recess for those two minutes, until our speakers have a chance to come to the table.

(Whereupon, the above-entitled matter went off the record at 10:59 a.m. and resumed at 11:05 a.m.)

M. PRESENTATION ON HISTORY OF LGBTQ CIVIL RIGHTS MOVEMENT

CHAIR LHAMON: Thank you. We'll get started again now, so we're going to turn to our historical presentation that we scheduled for today, the Perspectives on the History of LGBTQ Rights in the United States.

I want to thank Commissioner Yaki, who is on the telephone, for suggesting this month's speaker topic, and also I welcome each of our speakers. We know June is commonly celebrated as Pride Month, and
today's Pride celebrations stem from a DC resident, Frank Kameny, who organized what he called an annual reminder demonstration in Philadelphia, around the 4th of July.

Yale History Professor George Chauncey has said that, quote, the annual reminder was meant to remind the nation on its birthday, of the promise of rights, liberty, and the pursuit of happiness that had been denied to gay people. End quote.

We've come a long way from 1964, when Mr. Kameny first organized his annual remembrances, and I look forward to hearing from our speakers about what that progress has looked like as a nation in that time.

Today's topic informs and permeates all of the work that we in the Commission currently investigate, because LGBT Americans participate in all of our social institutions. Just today, we voted to investigate hate crimes as a topic in the coming year, and we know painfully, that the LGBT community is, and has been, targets of hate incidents in this nation.

Last month, during our briefing about the collateral consequences of incarceration, we heard testimony and received information about the experiences of LGBT persons in prison, and through
reentry into the non-incarcerated community.

The Commission is currently working on a report about employment and employment discrimination experiences of LGBT workers, and a majority of the Commission has voted to recognize that sex discrimination necessarily includes gender identity discrimination, for purposes of compliance with Title IX, and to condemn state laws and proposals targeting members of the LGBT community for discrimination.

These are a fraction of so many ways our LGBT community members live and have lived civil rights struggles in this country. For this and all social movements, we must know our past, so we can know our future. And I am so deeply grateful to our speakers today for helping to guide us.

Our first speaker, Rea Carey, has served as the National LGBTQ Task Force Executive Director since 2008, and has advanced a vision of freedom for LGBTQ people and their families that is broad, inclusive, and progressive, grounding her work solidly in racial, economic, and social justice.

Ms. Carey counts among her many successes, winning an LGBT-inclusive federal hate crimes prevention law, defeating multiple state anti-LGBT
ballot measures, spotlighting discrimination against transgender people, winning marriage equality, and securing scores of changes in federal agencies, to attend to the needs of the LGBT community.

Our second speaker, Eliza Byard, is the Executive Director of the Gay, Lesbian and Straight Education Network, also known as GLSEN. She has led GLSEN for 16 years, first as Deputy Executive Director, and now as Executive Director.

In her tenure, GLSEN has developed winning national and international campaigns, secure core rights protections for LGBT students and young people, created teaching guides and in-school programming to prevent bullying and harassment, and support student learning success, and trained and supported youth advocates and leaders.

And our third speaker, Mara Keisling, is the Executive Director of the National Center for Transgender Equality, the nation's leading social justice advocacy organization for transgender people. Since founding NCTE in 2003, Mara has led organizational and coalition efforts that have won significant advances in transgender equality.

As one of the nation's leading voices for transgender equality, Mara is regularly quoted in
national and local print media, and now here at the Commission. So Ms. Carey, we'll hear from you first.

MS. CAREY: Thank you so much Chair Lhamon. And thank you Commissioners for inviting us in this particular month, Pride Month. It holds special meaning as you noticed -- as you noted, and I brought a picture of Frank with me, not knowing what your opening comments will be, because he is key to our history and to our movement, not just here in DC, but nationally.

I carry this with me often when I go to events, particularly in the government, and in a minute I'll talk about why, to when I go to government agencies.

Thank you so much for inviting us here, and we were asked to talk a little bit actually about our personal stories and journeys with regard to working in the movement, how we got here. So I'll be doing a little bit of that, and then some historical context. And then my friends here will pick up the rest of it.

So I -- in terms of my own personal experience, I came out as a 16-year-old in Denver, Colorado, in the mid-'80s, in the midst of the AIDS crisis, when it was just starting. In fact, my
uncle's partner died of GRID -- Gay-related Immune
Deficiency Syndrome.

And that really was formative in terms of
my advocacy of really up until now -- I'm 50 years old
now, so I've spent really my entire career, in one way
or another, working on LGBT issues, and in the
movement.

It's -- at that time my story and the
story of the movement parallel each other in that we
have had different phases, in our movement, of
development. Different issues have come to the fore,
whether it's public policy or what's facing our
community, and I've had the honor of being a part of
that.

And I guess one thing I want to say about
coming out as a teenager in the '80s, was I thought I
was exempt from getting married and having kids. I
thought that's not what happens to lesbians. Right?

Little did I know that in fact, what I was
doing was making sense for myself about things that
were not accessible to me, or expected of me. I'm now
married and have a daughter. So -- but my journey
through this, again briefly, is because at the time
when I came out, my friends were getting sick and
dying, I immediately turned to HIV and AIDS work and
activism.

And here in Washington, that took two --

kind of manifested in two ways. I was one of the

first advocates and lobbyists on HIV prevention,

particularly for high-risk and runaway youth, and I

was also an ACT-UP.

And many of us were at the time. And that

experience, and I think for our movement, has formed

for a lot of us, an understanding that there is no one

way to achieve civil rights. There is no one avenue,

one tactic, one strategy. That we really have to work

in many ways. Through legal avenues, law being

advocacy and activism.

And I spent a particular amount of time

partnering with others to create organizations

attending to the needs of our community, including

youth service organizations, anti-violence projects,

and community-based services -- particularly around

HIV and AIDS.

I want to move to the history of the

movement. I know we have limited time, and I'm happy

later to talk and answer other questions. But the

history of our movement really has been about

resilience.

I won't go back hundreds of years for our
movement. I'll just mostly talk about what's considered to be the modern LGBTQ movement. Most people frame that time as starting with the Stonewall riots in New York City in 1969.

There were some significant things that happened before then, that are in fact a through-line to your work and to our work, in terms of progress or challenges that our community has faced over the years.

Very early on -- in the ’20s and ’30s, ’40s, ’50s -- groups of what would have been identified at that time as gay and lesbian people, formed social clubs, had to have secret meetings in order to share their stories with each other.

We had a couple of organizations that were instrumental to our community gathering together. One was the Mattachine Society, which was founded by Harry Hay and Frank Kameny actually.

We also -- and I'm going to give you a few markers. There are many, but I'm just going to give you a few, because there's a through-line to some of the progress that we've made as a community. There's also the Daughters of Bilitis, which was the lesbian-focused organization.

In 1952, the American Psychiatric
Association included in its diagnostic manual, homosexuality as a sociopathic personality disturbance. And we spent 20 years before that was removed as a mental illness.

In 1973, when my organization was founded as the National Gay Task Force, our first order of business was to de-stigmatize that homosexuality -- de-stigmatize being gay, lesbian, bisexual, and we were successful in removing that from the DSM.

That was a major marker in our movement's history, and has helped us build on legal cases, on research, both physical and mental health over the years, ever since that time.

In 1957 -- there's another through-line here -- 1957, Frank Kameny was kicked out of the Federal Government. He was a public servant. He was an astronomer with the U.S. Army, and was kicked out of Federal Government.

It wasn't until a few years ago with the Obama Administration, that the Federal Government formally apologized to him for doing so, and that was a momentous occasion, after all Frank had done for our movement, to be recognized as the leader that he is, and that he should not have been kicked out of the Government, along with others.
The relationship between our community and the Federal Government, there are many, many markers, but the first-ever meeting of what were then out-gay and lesbian people, was in 1977, with the Carter Administration.

And that was the first time at the White House with the Federal Government, there had been an open conversation about the needs of our community. We have had hundreds of meetings ever since then. Frank was part of that meeting as well. And much progress has been made through the agencies in a number of administrations.

When I was first doing HIV and youth services, we made significant progress with the first Bush Administration, in making sure that we could start getting data to prove that we existed.

Excuse me. Just a couple of other things about our history, and kind of where we are now and moving forward. And then I'll turn this off to my colleagues. I mentioned earlier, our history is one of resilience. That's both personal, but it's also structural in a way.

That we have had to build from the ground up, from zero, institutions that serve our communities. In the '70s, a lot of those
organizations were social groups or community organizations, many of which turned into what are today our LGBT community service centers.

In the '90s we spent a lot of time building up anti-violence projects around the country, and the youth service infrastructure, including LGBTQ-specific youth services, because they couldn't turn anywhere else for services.

And certainly notably, we built an entire AIDS service structure, with one of the most significant health crises in our nation's and in this world's history, the community came together and built our own institutions.

Over time, we have been very methodical about gathering data, partnering with federal agencies to gather data to continue to build those services, and over time the government has funded a number of those services.

But early on, in any of those infrastructures, we were self-funded and self-created.

In terms of looking forward, and kind of the trajectory of our movement, where we are now in some ways hearkens back to the Stonewall riots. What happened that night at Stonewall, is a lot of young people, a lot of people of color, a lot of what would
be considered transgender or gender non-conforming people, and a lot of drag queens, got fed up. They got fed up of being raided by the police again and again, and they said stop.

In our movement now, when we look at the work to be done, more than ever I think is cross-movement with other movements. We are a movement now with an eye toward racial justice, economic justice. Some of the same people who were homeless and who were at Stonewall that night, would be central to the work that we are doing right now were they alive.

We have seen a lot of hope in our work over the last number of years, as we have partnered with other movements, including the immigrant rights movement, the reproductive rights movement, Muslim organizations, women's organizations, and that, when we look forward, I think is really the next phase of how we'll be working on civil rights together.

We have been doing that, but I think many more organizations are going to get involved in working across movements in addressing civil rights issues.

But also recognizing that each of us carry many identities. You can't be a bisexual woman one day, a Latino the next, and a mom the third day. You
are all of those every single day. And as a movement, and as a country, we have to attend to people as whole people. Thank you.

CHAIR LHAMON: Thanks very much. Ms. Byard.

DR. BYARD: Well first of all, thank you again Chair Lhamon and members of the Commission. It means a great deal to be here today. It is particularly moving to be here at what I believe -- at least as far as I'm aware -- is the only federal agency commemoration of the fact that it is Pride Month this year, an event that means a great deal to those of us who have spent years in a community that has largely built itself a separate infrastructure, while trying to ensure its inclusion in other institutions.

I'm going to shift my attention a bit to a more recent ark of the history of the LGBT movement, and focus a bit on the human cost behind the urgency that has driven us for so many generations, to create institutions, organizations, and manifestations of our resilience.

To do that, a bit of a personal reflection first. In June of 2009, I attended an official event at the White House for the very first time in my own
life. It was a reception to celebrate LGBT pride, held by President Obama at the very outset of his first term.

And walking through the door of the White House and being welcomed by the Marines who stood there, I cried. I come before you today as an advocate for LGBT youth and education equity, a one-time U.S. history professor, and a lesbian whose life has been shaped by my relationship to the law, and to the civilized pioneers and heroes to whom I owe so very much.

And that day at the White House, for me, represented a communion with this country's promise of equality, beyond anything I had ever dared to dream of myself.

I was accompanied that day by Conrad Honicker, a gay high-school student from Tennessee, and his parents. And as I watched Conrad looking around at the inside of the White House, in absolute awe and disbelief, I thought back to June of 1986, when I myself graduated from high school.

And that Pride Month I mostly, at that point, closeted -- to the rest of the world at least -- got a very different message from my Government about my relationship to these United
States of America, as the Supreme Court issued its decision in Bowers versus Hardwick.

As I got ready to leave the safety of my parents' home -- I was not out to them, so my home was still safe for me -- Justice Byron White said that any arguments that LGBT people were not criminals by reason of a fundamental right to privacy, were facetious.

You can imagine how that landed on the ears of a 17-year-old trying to make sense of her place in the world. My right to exist was outweighed by an amorphous body of information that Justice White referred to as simply millennia of moral teaching.

That decision remained the guiding law of the land until 2003 -- only 14 years ago -- at which time Justice Anthony Kennedy finally said, in Lawrence versus Texas, the State cannot demean the very existence of LGBT people, or control their destiny, by making their private conduct a crime.

Those words finally ended a regime which simply made me a criminal, and all the rest of my peers within the community.

What is amazing to see is how much we have -- how far we have come even just since Lawrence.

Lawrence itself was only five short years before I
stepped across the threshold and was welcomed at the White House.

And in the eight years of the Obama Administration, with engagement from the Civil Rights Enforcement infrastructure of the Federal Government, we have begun to make real progress.

LGBT students today -- students like Conrad -- just two high school generations later, have begun to get a glimpse in a world in which their lives are valued, not demeaned. And we have just begun to chip away at the psychic and physical violence that makes our country's promises of liberty and equality seem, for LGBT youth, either a cruel joke, or a distant dream.

And as we sit here today, aspects of that are being called into question. Some in Government at the state and federal level, seek to carve out reasons to allow continued discrimination against LGBT people, and to specifically undermine some of the civil rights progress that has meant so much to so many millions of Americans over the past decade.

So today I want to be really clear about the current human cost of the discrimination that we seek to end, and that our civil rights promises give us a hope of addressing.
In my professional life at GLSEN, we measure our success in terms of the health and well-being of LGBT youth, and the opportunity they have to live up to their potential. So let's think about who we're thinking about here.

In the most recent youth-risk behavior survey -- the CDC's national sort of dashboard for youth, health, and well-being in this country, the national survey asked about sexual orientation for the first time, and more than 11 percent of US students who answered the survey, identified as lesbian, gay, or not sure.

Estimates of transgender students currently in the United States range from about 125,000 to 200,000 students. So this translates to more than 6.1 million students in this country who are directly affected by these issues, and by what their Government is telling them about who they are and what their rights are, every day.

Let's also remember that LGBT people are drawn from every single community which this Commission is empowered to protect, and represent people who live in all of their identities every day. They cannot be separated out from their race, their religion, their -- whether or not they have a
disability, or their immigration status. And what they experience every day remains very troubling.

More than 85 percent of LGBT youth experience routine harassment at school. I wager that most people in this room -- most of us, thankfully -- are in a position where we do not have to leave our homes in the morning expecting to face violence during the course of the day.

Eighty-five percent of LGBT youth simply going to school, have to expect that at some point during that day they will experience some form of harassment as part of their daily routine.

Fifty-six percent of LGBT youth in this country have also experienced direct discrimination on the part of the institutions that they attend, whether that is -- those things range from not being allowed to write a paper on the topic of your choice -- students have been prohibited from writing about the Stonewall riots and other landmarks in LGBT history, as part of their high school education.

It might be being prohibited from attending the prom with the person of your choice. It might be about putting a sign up in the hallway on the same basis as other students in the school.

And in some cases, students report they
have actually been disciplined for being LGBT itself.

These students are also much more likely to experience school discipline than their peers, a disparity which rises when you're talking about LGBT students who are students or color, or have disabilities, or who are transgender or gender non-conforming.

So clearly -- and I have to tell you in the midst of this, that 85 percent is a dramatic improvement from where those numbers were when I started working with GLSEN in 2001. In 2001, more than 90 percent of LGBT youth were experiencing this kind of harassment every single day.

So we have a body of students who are experiencing things we wouldn't wish on anyone, as part of their life in school, and the consequences of that experience are concrete and dramatic.

There are consequences for their educational aspirations and life outcomes, for those who are victimized at a high rate, they are most than twice as likely as their peers, for example, to say they don't plan to graduate and go on to college. Their GPAs are lower.

In that same YRBS where they finally were able to actually identify and document the existence
of all these students across the country, this dashboard of youth well-being in America demonstrated that in every single one of the categories of risk behavior and diminished health outcomes that the CDC chooses to track, these students do more poorly -- do worse -- than their heterosexual, or gender-conforming, or cisgender, peers. Every single one.

There is some good news here, particularly in our recent history. When discrimination against LGBT students is directly addressed, and when this violence is reduced, students' lives improve. This is both in terms of the ways that reducing bias and violence can improve an individual life right away, and in terms of how systemic approaches to reducing discrimination in our society, actually have a concrete impact on the health, well-being, and life chances, of individual Americans.

For example, from 1999 to 2015, LGBT people in this country repeatedly experienced their states debating, and in many cases passing, Constitutional amendments that abrogated and limited their civil rights with respect to marriage.

A long-term study of the health effects of living in that context demonstrated that when states did not pass those measures, in those states that
rejected efforts to ban marriage equality, and in those states where marriage equality eventually was passed, there was a 14 percent reduction in suicide rates among LGBT youth in those states.

There was a concrete correlation between your understanding of your relationship to your community, your state and your government, and your willingness to live.

That’s translated for adults as well. Another study found that rates of suicide, anxiety and depression among LGBT adults in those states that had those debates, was concretely correlated with the outcomes of these civil rights debates across our country.

Most specifically, in schools, we found that in those places where we addressed the discrimination in schools, where measures are put in place to improve LGBT student experience, you see improvement.

We know what works. And with partnership, and with federal and state and local agencies to actually affect civil rights progress for all students, we have seen a 13 percent reduction across the country since 2005, in rates of bullying, harassment, and violence that students face every day.
What that translates into, is seven million students who are not experiencing or witnessing this routine violence. Seven million fewer students actually having this as part of their everyday experience in school.

So here we are today. As LGBT people, we are no longer criminals. We are no longer classified as ill. And yet, there are some in our governments, at the local, state and federal level, who seek to carve out new reasons to allow discrimination against us to continue.

This flies in the face of all of the evidence we have of what makes sense for our communities, what makes sense for our future.

Indeed, as the Seventh Circuit Court recently said in upholding their right of a student named Ashton Whitaker to use the correct bathroom, that when a school district came forward to say no, actually we need to discriminate against this student, the court responded, the harms identified by the school district in this case are all speculative, and based upon conjecture, whereas the harms to Ash, the harms to the student, are well-documented, and supported by the record.

In the larger picture, and in the arc of
our history, right now, with respect to civil rights
injustice in this country, the harms of discrimination
against the LGBT community are well documented, and
supported by the record.

The benefits of addressing that
discrimination, and alleviating the burden of
prejudice, fear and violence, are very, very clear.

And the question remains, why we won’t
simply continue. I hope that we will, and to think
about all the ways that we can. I will turn it over
to my colleague, Mara Keisling.

CHAIR LHAMON: Thank you. Ms. Keisling.

MS. KEISLING: Thank you so much Eliza and
Rea. Thank you commissioners, Chair Lhamon. I really
appreciate being here. My name is Mara Keisling. I'm
57 years old, and I represent the roughly two million
transgender people in the United States.

Before I start, I want to just take a
moment of privilege and recognize that today is the
159th anniversary of Abraham Lincoln accepting the
nomination to be a U.S. Senator from Illinois. And at
the Republican Convention where he got that, he made
his famous speech where he noted -- and I think it is
worth listening to today -- that a house divided
against itself cannot stand.
It's something we should think about more often in general, and thought I would take the opportunity to remind us of that now.

I want to start in 2001. In Pennsylvania, the -- what was becoming the LGBT community was trying to pass a hate crimes bill, and it would add sexual orientation as a category, and we wanted to add gender identity into it.

So we went to see the Senate Minority Leader this particular day. This was -- and it's important to the story. This was a liberal democrat, and we said we wanted gender identity in the bill. He said no.

Then he pulled me aside as the only trans-person in the delegation, and he said, but Mara, look at the bright side. Two years ago I would not have let you in my office.

It was 15 years or 16 years ago. Since then I've also been in the White House. Last week Rea and I were meeting with 16 United States Senators. Things have changed very dramatically in the last 15 years, and I want to note that.

Last year I was speaking at the University of Chicago Institute of Politics, and when some of the students found out that I had attended the University
of Chicago, when it was question time, they said, how was the administration on transgender issues when you were there?

And I said, I was there in 1979. And they were like, yes, well how was the administration? And I said, there weren't transgender students. And they were like, well you were there. And I'm like, whoa, no. If you had called me out as a transgender student, I would have denied it at the time.

It was not a possibility. It wasn't even that I was in the closet. It was not a possibility. There were not out-trans-people. Of course there were some, but most of us could not even imagine it would be possible to come out.

Things have changed so much. I was in a school in Mount Vernon, Virginia, last week, a secondary school that has nine out-transgender students in it. Transgender students are now in virtually every school in the country. Certainly in every school district. There are some school districts where they may not feel they are safe to come out, but they are there, and they are beginning to come out even in those schools.

I want to back up about ten years to when the Americans with Disability Act was passed, around
1980 -- during the debates of 1989 and 1990. There was no trans-voice in Washington. There were no trans-voices in public policy in the United States.

And so the Americans with Disabilities Act passed with what can only be nicely be called disrespectful language about transgender people, but was really dismissive, dangerous, and insulting.

There was nobody to speak for trans-people. As the century ended, we started coming out. We started learning about ourselves on the Internet, and learning about each other, and building community, and started understanding why it was we were discriminated against.

And one of the things we came to understand kind of conceptually, is that if I'm facing discrimination in employment, education, housing, healthcare, or anything else, it is because of my gender, or because of my sex.

Using those interchangeably as a non-attorney, I will do that, and for our purposes, they really are interchangeable. But what we understood was the discriminating -- if you discriminated against me in employment, it's because I am a woman or I'm not a woman, or you think I'm not a woman, or you think I'm not enough of a woman, it is clearly about sex.
And that was a hard thing to sell at first, because people had this idea in their head that they had had for centuries, and it is now pretty clearly understood. As one conservative attorney told me the other day, in courts it is now a foregone conclusion, that sex discrimination protects transgender people.

That has been an amazing way that we've progressed, but the truth is, while that's happening every single day in the United States, there are thousands of tragedies happening to really good people.

Just two days ago in Ithaca, New York, Josie Berrios was murdered. She was the 14th transgender woman of color this year murdered in the United States. She was murdered and then burned beyond recognition. That is also a common anti-trans-bias MO.

What we have learned in the last 15 years, as we've been doing these work -- this work as a trans-movement -- a transgender movement, as an LGBT movement, is that we have to talk about it. For the longest time, we as a community were afraid to talk about marriage. If we said what we wanted was marriage, people wouldn't like us.
As soon as we started talking about marriage, we started winning marriage equality. We were terrified in the '80s and '90s to talk about queer children, to say that there were gay children and transgender children.

We were just afraid to do it because our enemies would attack us. They would call us predators, they would call us recruiters, they would call us horrible things. When groups like GLSEN started talking about protecting our children, we started protecting our children.

Transgender people are now at the place where we are talking about bathrooms. We didn't want to talk about bathrooms. We still don't really want to talk about bathrooms. I have a friend who's trying to start a campaign called, get your head out of the toilet, to get people to stop talking about bathrooms.

But here's the truth. We are talking -- we are having a national conversation about this, and we will come out on the other side stronger. We will come out on the other side with people understanding -- if the kids Eliza was talking about, like Ash Whitaker, cannot use the correct bathroom at school, they cannot be students.

If somebody who works here at the
Commission cannot use the right bathroom, they can't have a job. They just can't work here. This is not about -- I read it again this morning in the Los Angeles Times when they were talking about another rollback at the US Department of Education OCR [Office for Civil Rights], where they said -- they talked about children using the bathroom of their choice.

It is not about that. Trans-people will tell you it is not about that. There is no choice. If there's a choice, it's, do I go in this one and get arrested, or do I get in this one and get beat up?

There is not a choice. You know which one you have to go to if you're Trans, and we have to recognize that. The bathroom conversation also leads me to one other thing I just want to tell you about that happened to me last year.

We were deeply involved in trying to get North Carolina to come to its senses, and the day that they passed HB2 last March, I was at the hearings briefing people who were testifying. I didn't testify myself, but there was this amazing 15-year-old from Greenville, North Carolina named Skye.

And Skye got up bravely in front of the State Senate Committee, and talked to them about what this meant to him. And the one thing he said that
just really stuck with me, he looked at everybody, and
even as a 15-year-old, he pointed his finger and he
said, every day I go to school, and I worry that some
kid is going to bully me.

I worry that maybe even a teacher will
bully me. And now you're telling me the State Senate
is bullying me? My Governor is bullying me? That is
not okay. And that is how it feels to these kids.
And I think that's very important to understand.

These kids now are networked. They are
learning. They are teaching. I always say that I'm
so proud of the work we do at NCTE, but I know the
most important work I've ever done as an LGBT person,
the most important work any of us as LGBT people have
ever done, is to educate people.

It's to educate our families and our
classmates, and the people we work with and the people
we go to a mosque with. I cannot tell you -- one of
the proudest moments of my life in two or three years,
was when a close relative of mine told me on Mother's
Day -- it was not my mother -- told me on Mother's Day
that he had been educating his AA meeting about
transgender people, because somebody had said
something wrong.

That is why we're moving forward. We are
moving faster than any civil rights movement has in
American history. Not because we are better, or
faster, or just -- or more -- I'm sorry -- better or
smarter or more deserving.

It is because of everybody else who has
come before us. It is about the women's rights
movement, the black civil rights movement, the farm
workers movement. These movements have created the
civil rights ability for us to advance.

They have created the structures, the
commission, the syntax. All of the enforcement
mechanisms which are now seeming incredibly fragile at
the federal level.

The other reason transgender people have
come so far, very similar to the gay rights movement,
is we are in every family. We are not segregated into
communities. We are in every family. And that is why
we are unstoppable.

When Rea and I were speaking before the
Senators last week, one of the Senators said --
referring to what is clearly a challenging moment in
federal civil rights enforcement -- the Senator said,
I hope all LGBT people can weather this storm.

And I don't know what it was about the way
she said it, but I said, Senator, we are the storm.
We are the ones who are raining down justice, and radical acceptance all over America. The people who are trying to roll back civil rights now are the dinosaurs holding a little fragile $5 umbrella.

We are moving. We are advancing. And I promised the Commission, I promised trans-people, I can't say it any other way than, we have not come this far to only come this far.

We are so thankful for the work you do here. I am so thankful for the opportunity to speak to you today. And thank you so much.

CHAIR LHAMON: Thank you. Thank you to each of you for your testimony and your presentations. And I want to open up for questions and comments from my fellow Commissioners. Commissioner Kladney?

COMMISSIONER KLADNEY: Madam Chair, thank you. And thank you all for coming and making such great presentations. I apologize because I have to leave by noon. So that's why I got here first.

I'm from probably the smallest city of anybody here, and I'm surrounded by a very rural America. And I know we have the Internet. I have very good friends who come from very rural towns, and they're LGBT.

And I was wondering, how are you reaching
out to them in terms of providing support for these high school kids, and these junior high or middle school kids? They live in very difficult communities. So I was wondering if you have any comment on that. Or if you're proceeding, or have programs or things along that line.

DR. BYARD: Thank you for the question. Absolutely. I think, as you referred to, the Internet is an absolute lifeline for students who are in rural communities, and what we see is an amazing degree of exactly what Mara was talking about, the incredible leadership of students themselves, who are creating structures like gay-straight alliance students clubs, or gender and sexuality alliances, as they're sometimes called now. And networking with each other online.

We had the opportunity to partner with the CDC [Centers for Disease Control] on a study of youth Internet use, which was largely focused on the concern about safety online, but really found for LGBT youth that this is a critical component.

For GLSEN, we work in a networked way with communities large and small across the country, and have local chapters that are actually in places like -- well in Omaha, Nebraska; Wichita, Kansas -- in
some of these communities where teachers are really
the point of contact and the point of support for the
student leadership that's there.

And what is remarkable to me, is that
across the networks of professionals working within
schools, they see what happens, they understand the
nature of the problem, and they want to take action.
And through contact with those professional networks,
there's actually a great deal happening.

I'll just note as a final point, this
is -- it is exactly those rural communities and their
isolation that is also why we are so deeply concerned
about any measures that would create permission to
discriminate, particularly on the part of youth-
serving professionals.

We have a situation now in Tennessee,
where there is a law that allow counselors to opt out
of providing support to LGBT youth on the basis of
personal/religious belief, and in many schools now,
the ratio of counselors to students is incredibly low.

One in California, in fact, it's now over
one in 700 -- 1 to 700. So it's not as if a student
being denied support can go down the hall and talk to
somebody else.

I'm pleased to say professionals provide a
base of support in many, many schools across the
country. They are a lifeline. But we need to do much
more. Thank you for your question.

CHAIR LHAMON: Ms. Carey.

MS. CAREY: I'll just briefly add to your
question. So I appreciate that perspective in
thinking about where young people get support. Many
of them have grown up in their synagogues, their
congregations, and unfortunately have been turned
away.

Over the last decade or so, we have been
partnering with people of faith, of many
denominations, many faiths, in rural communities and
cities across the country, who believe that
discrimination is immoral, and they are creating
welcoming congregations.

We now have over 4,500 welcoming
congregations across the country, who have gone
through a discernment process of explicitly exploring
and determining that their congregation will be a
welcoming place for all people, including LGBT people
and youth.

COMMISSIONER KLANDNEY: Thank you.

CHAIR LHAMON: Commissioner Narasaki.

COMMISSIONER NARASAKI: Thank you all for
heartfelt personal testimony. It's hard to tell those personal studies, I know.

Two things. One is, this morning the Commission adopted our hearing docket for the coming year.

One will be on hate crimes, and will include what the Department of Education is doing and could be doing to help improve the situation in schools, as well as looking at best practices in terms of law enforcement agencies, and what could be done to help increase the quality of reporting of hate crimes.

And I very much hope that you will be submitting testimony about what best practices are, and which police agencies you think are doing a good job, that could be held up as examples.

Another topic is the school-to-prison pipeline, and one of you mentioned the intersection between race, LGBT status, and disability. And so we would very much welcome your input on that.

My question has to do with data collection. I know when I started in DC 25 years ago, to work with the Asian-American community, the number one problem we had was, no one believed there were problems, because they weren't collecting data.

And I would ask them to collect data, and
they would ask me to prove there was a problem, in order to prove there was a need to collect data. I know that there are similar issues in terms of gaps with federal agencies, in terms of what they are collecting, in order to better serve -- provide better programming and identify issues.

And so I'm wondering where you see the gaps, and what might be being done about that?

MS. KEISLING: Well I will say the first gap is, we are sensing dramatic backsliding in the current administration, and it's backsliding from where it wasn't very good. We've made some advances in the last ten years in data collection by the Federal Government. Not enough, and actually fairly paltry.

We have to keep doing that. The data collection has to be based on science, and it has to be based on programmatic need. And by the way, also on budget restraints, and I think we're sympathetic to that. And I'm going to let Rea go next. I just want to say one really interesting gap we're having, is actually very similar to what API people have been having, which is the disaggregation and aggregation problem, whereas data is collected on Asian people, which is not as helpful of a category as it could be.
And it's the same thing with LGBT people.
Where trans-people or bi-people or other kinds of people might just be mixed into the big ball that needs to be disaggregated. Rea, if I could turn it over to you please.

MS. CAREY: And get you some water. Thank you. And thank you for asking the question. I have the exact same experience with LGBT youth. This kind of chicken-or-the-egg conversation in the '90s here.

To follow up on Mara, this has been one of -- a key focus of our community and our advocacy work in our colleague organizations as well, because if we aren't counted, we don't exist. And if we don't exist, there isn't funding flowing to support the many needs of our community.

Over the last number of years, our staff and others have been working with the Census Bureau, to look at ways that we can be counted. In addition to the hundreds of federal surveys -- the YRBS Eliza mentioned, and others that have made progress over the years -- we were successful a number of years ago in getting the Census Bureau to not manually divorce same-sex couples, which was their practice.

If I fill out a form and my wife fills out a form, we check married to a woman, we're manually
divorced. We stopped that practice, which had a residual benefit of actually counting our children.

So there has been progress. We were on track to having the American Communities survey -- part of the census -- start including questions that would get to how many LGBT people are in this country.

That has been stopped.

That progress in counting our community has now been stopped. We will continue to advocate for that. But we were very, very hopeful that we would be seen, and that our families would be seen.

Also in the last number of months, this administration has decided to stop asking questions about seniors -- LGBT seniors -- and some other areas. So just when we were making progress, there had been a number of roadblocks put up.

We will continue to advocate and partner with others, and the point has been made many times, it's not that we are just LGBT people and only want data on that. We represent many, many identities and many communities. So we'll continue to pursue that.

CHAIR LHAMON: Commissioner Adegbile.

COMMISSIONER ADEGBILE: I'm wondering if there is data about the percentage of homeless youth that identify as LGBT. And to the extent that there's
data about this particular topic, what specific interventions and work is happening around the country to address and provide supports for these young people who are finding themselves literally on the streets, in many cases because of very painful rejection, and then all of the associated risks that come with not having a place to call home.

DR. BYARD: Start on that. I think absolutely the LGBT youth are so vastly disproportionately represented in homeless populations, and in New York City, certainly there are accounts as much as 40 percent of the homeless and street-involved young people identify as LGBT.

There are, of course, very disproportionately young people of color, and transgender young people, and they become -- and they become involved with ways to make a living and make a life for themselves when they're disconnected from their families.

There are sort of two tracks of work I think that are so important for addressing the needs of these young people.

Of course, on the one side is the sort of mitigation of the current situation, working with -- I was able to serve on Mayor Michael Bloomberg's
Commission on Runaway and Homeless LGBT Youth, to try
to ensure that there were welcoming services in those
institutions set up to serve homeless youth, funding
for those places that were created separately, to the
separate institutions that Rea spoke of, and just to
ensure that these young people had affirming access to
services.

Of course, on the other end of things,
there are so many ways that we need to ensure that
these young people do not become homeless in the first
place.

While they are at home, there's a
project -- the Family Acceptance Project -- that has
found that if a family -- even if they cannot accept
their LGBT child, if they choose not to throw them out
of the house, the difference in the life outcomes for
them is unbelievably dramatic, between rates of drug
use, suicidality, and all of that.

So family acceptance to the extent of
allowing a child to stay at home, is a hugely
important first step, and something that we need to
continue to work on.

Then there are also places that other
institutions can touch. I'll just mention one that
seems so picayune, given the nature of the problem.
One of the issues that happens for LGBT young people, is when they go to college, often young people will come out to their families in their first year of college, and be cut off.

And as a result of this involuntary emancipation -- as it is known -- they don't have enough money to continue on in school. Sometimes all it is, is about having emergency federal financial aid to allow them to pay a fee to continue on at school.

So one of the things we've talked with organizations working in higher ed about, is making sure that financial aid administrators have the flexibility to award emergency financial aid to students who have been involuntarily emancipated as a result of coming out to their families, because these are also 18- and 19-year-olds who may become homeless when they can no longer be at school, and cannot return home.

So there are some very simple steps that I think -- again, it's not a large amount of money often that stands between vulnerable youth and being on the street.

MS. KEISLING: If I could note about the extent of the problem with transgender youth, our United States Trans Survey, in which we interviewed
28,000 transgender adults, showed that about 1/5th of us who have -- about 1/5th of us have been homeless at some point in our lives, and about one in 12 have been homeless in the last year.

I had a conversation with Lorri Jean, who's the Executive Director of the Los Angeles Gay and Lesbian Center, which is the largest LGBT organization in the universe, and I don't remember the exact numbers, but I'm pretty close here.

She said, in Los Angeles on any given night, there are 2,500 homeless youth. They estimate that about 40 percent of them are LGBT, and at the time I spoke to her about two years ago, there were 11 beds -- 11 known beds where they were welcome.

So the LGBT Center was creating new beds. So it's probably improved by a couple dozen beds. But it is a significant problem, with significant complex causes.

COMMISSIONER ADEGBILE: Thank you. Thank you for those responses. Those numbers in two of our nation's largest cities at 40 percent, I think was a common number, would be identified in this way speaks to a very serious problem that demands urgent attention.

And I think if there were some broader
knowledge about the extent to which being rejected in this way for your identity can lead to this pattern of homelessness, and the associated risks on our youngest people.

Many people would be forced to sort of stand up and grapple with this very serious issue in our country. So I thank each of you for your work, and for the attention that you bring to these important issues. Thank you.

CHAIR LHAMON: Commissioner Yaki, I think I heard you trying to get in a while ago on the phone. Just want to make sure you have a chance to ask a question if you do have one.

COMMISSIONER YAKI: I will. I'm okay, I'm fine right now. I may say something later when others ask questions.

CHAIR LHAMON: Okay, thanks. I understand the Staff Director, you have a question?

STAFF DIRECTOR MORALES: I do Madam Chair. Thank you very much. Prior to my appointment as the Staff Director here, at the Commission, I worked for the Director of the Office of Personnel Management, John Berry.

And he was -- besides being an outstanding leader, and later getting appointed to be Ambassador
of Australia, he loved history, and he liked to relay
a lot of stories to us. And one of the stories that
stuck with me is the story of what happened to Frank
Kameny.

And you've touched on that, and I don't
know if you can elaborate a little more. I think it's
a fascinating story of what happened to him and his
struggles, and then how it kind of came around that
folks recognized what he went through, and what he
meant to the movement. Maybe you will elaborate a
little more, it'd be great.

MS. CAREY: Sure. Frank was -- I knew
Frank. He just passed a couple of years ago. And in
fact, when I first became the Executive Director of
the Task Force, my plus one was often Frank when I
went to the White House, because he had been dismissed
from the Government.

And he quite a character. He was very
smart and determined man. And in addition to creating
community institutions -- like the Mattachine
Society -- he worked to organize with others.

So pickets in front of the White House --
again, was at the first White House meeting -- and I
think he, himself, would say that he understood both
the importance of his own story, but that he was just
one of thousands who had experienced that who, for a
variety of reasons, could not come out about being
discriminated. And very much recognized that not only
his shoulders have helped many of us, but he was
helped by many people and their shoulders.

And he was so moved by the progress of our
movement, and Mara’s exactly right, he understood the
historical context of our movement, and that in fact,
many of our forbearer’s -- Bayard Rustin among them in
the black civil rights movement, as an out-gay man --
have taught many of us.

So it has been a loss to our community,
but he passed along I think, his wisdom and passion
for advocacy, and he believed in the Government. He
believed in the Government. He so believed in the
possibility of the United States to fully take
advantage of the talents of LGBTQ people, and was
advocating that until the very end.

MS. KEISLING: Could I add something? And
I'm a huge fan of Ambassador Berry's by the way. But
I just want to point out it has been less than a year
that transgender service members were -- transgender
people were permitted to be service members in the
United States military.

People who want to serve their country.
People who are serving their country -- we believe there's about 15,000 active duty transgender people. They have only been permitted to be there for less than a year. And in fact, we're still waiting for the regulations that would permit transgender people to enlist in the military.

So I mean Frank is a real hero. Frank is also somebody I knew. And I think Frank would say it's still going on. It is -- or we're done yet. He was a super optimistic person, but he wasn't the first, and he certainly wasn't the last.

CHAIR LHAMON: Thanks. So we're coming close to our close. I would love if the three of you could close with us with some reflections on where we are now. I was so moved by the ways that each of you talked about the need for cross-identity intersectional work in the movement, and Ms. Keisling, by your reference to how we are the storm raining down justice. It's certainly vivid as an image, and we'd love to hear how it is that you anticipate that we will rain down that justice moving forward.

Obviously, the intersectional work touches the work of the Commission, because we have broad jurisdiction over all those areas, and so it's -- it would be useful to us to hear where you think we are
now.

MS. KEISLING: Well, in our survey of 20,000 trans-people, we saw that 25 percent had not --
had at one point last year not sought medical
attention when they needed it, because they were
afraid of being disrespected.

But we also saw that a third -- so even
more -- did not seek medical treatment when they
needed it because they couldn't afford it. That is
about civil rights, but it is also about the fact that
the biggest problem a transgender person may face as a
trans-person, may be poverty. It may be racism. It
may be that they're an immigrant. It may be that they
have a disability.

And one the -- I think the most amazing
things that's been happening in the last year, and
particularly this year, is the LGBT movement is really
quickly, quickly becoming an anti-racism movement, a
pro-immigrant movement, a pro-worker movement, pro-
woman movement, pro-disability rights movement,
because we are understanding we are in every family,
and we are in every circumstance, and we are in every
city, and we can no longer be a moral or effective
movement unless we understand that intersectionality,
and we do that work all together.
CHAIR LHAMON: Thank you.

MS. KEISLING: Oh, and particularly with civil rights enforcement really at risk of severe, quick, temporary degradation. When Rea said they have stopped collecting the data, I wanted to interrupt and say, they have stalled in collecting the data.

But we're all in this together. All of the parts of all of us.

CHAIR LHAMON: Thanks.

DR. BYARD: Absolutely. And I would say that from the point of view of those of us who work with LGBT youth, I was asked a number of years ago by a reporter, what is the greatest danger currently facing LGBT youth, and I said I had two answers.

One was the systematic underfunding and undermining of public education in the United States. And two, the disregard for the role of the Federal Government as civil rights oversight and enforcement.

Our lives and our progress exist in the context of all of the ways that so many different communities task, expand, and seek to live out the American dream, quote unquote, and we have to be there for it now.

I would just add that there are ways today that all of this will still move forward. I think we
cannot be erased from the data that has already been collected. Just this year I'm so pleased to say right now that the YRBS in 17 states is measuring -- is asking about trans-identity.

So those students will no longer be invisible. And they will not be invisible as trans-students, they will not be invisible as trans-students of color, they will not be invisible as trans-students who may be Muslim.

We are here, we have been counted, we continue to count, and we continue fighting.

CHAIR LHAMON: Thanks.

MS. CAREY: I think what we're seeing in moving forward, and where we go from here, and this is particularly germane to your work as a Commission, is that we are seeing so many struggles over civil rights in this country -- voting rights, many civil rights.

And in fact, what we are seeing in North Carolina, in Houston, in Arkansas, and other places, is when the public conversation is about where someone can use the bathroom, we're working across movements to make visible that these laws, these are chipping away at civil rights, and are in fact, not solely, or even primarily, about whether or not you can use the bathroom.
So I say that because as a matter of civil rights, I think we have to continue to make the connections. Our movement is running fast to do that, and partnering very closely with other organizations and movements on the ground, so that we're making the connections for people.

The law that was overturned in Houston -- human rights ordinance -- it absolutely hurt LGBT people, but it also hurt black people, it hurt Latinos, and anyone else who had been covered by that law and is no longer covered.

That's the future of our movement, and I think the future of our fight for civil rights is to see the connections.

CHAIR LHAMON: Thank you. Thank you to each of you for your presentations today, and for the work that you do. Very much appreciate your coming to illuminate and educate for us, and also want to thank Alec Deull and Marik Xavier-Brier for their assistance in collecting and putting together today's presentations, and of course all of our staff for making today's work possible.

COMMISSIONER YAKI: Madam Chair?

CHAIR LHAMON: Commissioner Yaki?

COMMISSIONER YAKI: Madam Chair?
CHAIR LHAMON: Yes?

COMMISSIONER YAKI: Yes. First, I also wanted to thank Alec for his role in doing this today. I just wanted to say I apologize to the speakers that I'm not there today. But when I hear the story of -- one of the reasons why I am here at this Commission is because my own father had to fight his way every day in school as a young boy, as a Japanese American who had just been released from internment camp while World War II was still raging.

And the debates and the discussions that we have today -- even, ironically, the issue of bathrooms when we know the Jim Crow history of how bathrooms were used in terms of denying people who they were and what their rights were -- continues today.

I'm very proud of the fact that I come from a city that has values, and cherish LGBT rights. I was part of the first group of elected officials to perform what was then groundbreaking domestic partnership ceremonies, and count that as some of the highlights of my political career in San Francisco.

But it is really due to the efforts of the people here today, and countless others and thousands who have stood up and marched, been arrested,
protested, run for office, done all the things that
make us, as a democracy, work.

But we must continue the fight. We shall
continue the fact. And I just want to really thank
our speakers today for giving us a history less that
is, in some ways, not even a lesson anymore, but a
primer on how to continue our work going forward. So
thank you very much.

CHAIR LHAMON: Thank you. So if there's
nothing further, I hereby adjourn our meeting at 12:14
Eastern Daylight Time. Thank you.

(Applause.)

(Whereupon, the above-entitled matter went
off the record at 12:14 p.m.)