BUSINESS MEETING

FRIDAY, SEPTEMBER 8, 2017

The Commission convened in Suite 1150 at 1331 Pennsylvania Avenue, Northwest, Washington, D.C., at 10:00 a.m., Catherine E. 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, Director, ERO
BARBARA DE LA VIEZ
PAMELA DUNSTON, Chief, ASCD
LATRICE FOSHEE
ALFREDA GREENE
DAVID MUSSATT, Chief, RPCU
WARREN ORR
MICHELE RAMEY
SARALE SEWELL
BRIAN WALCH
MARIK XAVIER-BRIER

COMMISSIONER ASSISTANTS PRESENT:
SHERYL COZART
ALEC DUELL
JASON LAGRIA
CARISSA MULDER
AMY ROYCE
RUKTU SINGLA
ALISON SOMIN
IRENA VIDULOVIC
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CHAIR LHAMON: Okay. This meeting of the U.S. Commission on Civil Rights comes to order at 10:00 a.m. on September 8, 2017.

The meeting takes place at the Commission's national headquarters located at 1331 Pennsylvania Avenue, Northwest, Washington, D.C.

I am Chair Catherine Lhamon. Commissioners who are present in addition to me are the Vice Chair, Patricia Timmons-Goodson; Commissioner Heriot; Commissioner Kirsanow; Commissioner Kladney; and Commissioner Narasaki. I believe we have on the phone Commissioner Adegbile and Commissioner Yaki. Could you confirm that you're on the phone? Commissioner Adegbile? Commissioner Yaki?

COMMISSIONER YAKI: Commissioner Yaki.

Commissioner Yaki is on the phone.

CHAIR LHAMON: Terrific. Thank you.

We have a quorum of the Commissioners present.

I see the Court Reporter is present. Is the Staff Director present?

STAFF DIRECTOR MORALES: Yes.

CHAIR LHAMON: Thank you. The meeting now
comes to order.

I. APPROVAL OF AGENDA

CHAIR LHAMON: So a motion to approve the agenda for this business meeting?

COMMISSIONER NARASAKI: So moved.

CHAIR LHAMON: Thank you. Is there a second?

VICE CHAIR TIMMONS-GOODSON: Second.

CHAIR LHAMON: We will look for amendments. I have a few to start us off. First, I'd like to remove the discussion and vote on Report Public Education Funding Inequality in an Era of Increasing Concentration of Poverty and Resegregation to allow time for edits and further review.

I thank the staff for finalizing the report for all of you, including very swift and thorough revisions following our first draft review, and we will place it on the agenda for our next meeting.

So, again, I'd like to amend consideration for a statement titled the U.S. Commission on Civil Rights Denounces the Pardon of Former Sheriff Joe Arpaio. Are there any other amendments?

COMMISSIONER NARASAKI: Madam Chair, I would also like to add a statement on the agenda about
the DACA entitled “The U.S. Commission on Civil Rights
Condemns Ending of Undocumented Youth Program.”

CHAIR LHAMON: Thank you. Are there any
further amendments? Hearing none, let's vote to
approve the agenda, as amended. All those in favor,
say aye.

(Chorus of ayes.)

CHAIR LHAMON: Any opposed? Any
abstentions? The motion passes unanimously.

II. BUSINESS MEETING

A. Discussion and Vote on Report: Working
for Inclusion: Time for Congress to Enact Federal
Legislation to Redress Workplace
Discrimination against Lesbian, Gay,
Bisexual, and Transgender Americans

CHAIR LHAMON: Turning to program planning,
first we will discuss and vote on the report titled
“Working for Inclusion: Time for Congress to Enact
Federal Legislation to Address Workplace
Discrimination against Lesbian, Gay, Bisexual, and
Transgender Americans.”

We will proceed with two votes on this
report; one for the report text, Chapters 1 through 3,
and a separate vote for the findings and
recommendations contained in Chapter 4.
Begin with a motion to approve the text of the report, Chapters 1 through 3, as amended in the version circulated by my special assistant on Friday, September 1st, subject to any editorial fixes deemed necessary by staff. Do I have a second?

COMMISSIONER NARASAKI: I second.

CHAIR LHAMON: Thank you. We will now have a discussion on the motion. I want to start by offering a few comments. This will be the first report from the Commission that is entirely focused on issues impacting the LGBT community. I recognize former Commissioner Roberta Achtenberg, at whose impetus the Commission took up the important issue of employment discrimination facing LGBT persons.

The report text that we vote on today presents a compelling and thorough picture of pervasive discrimination faced by LGBT individuals in the workplace, not only in the private sector but also sometimes sanctioned in federal, state, and local government levels. It presents arguments on all sides of the debate regarding a need for federal legislation to enact antidiscrimination workplace protections with the LGBT community. I thank our staff, particularly Marik Xavier-Brier and Maureen Rudolph for presenting us with this expert analysis for our consideration.
today.

Of particular note, Marik joined the Commission very recently, less than a year ago and after the briefing on this topic, and has impressively culled voluminous testimony and research material in a very short period to draft and recraft this report for our consideration, and I am deeply grateful.

Any other points for discussion on this report? Commissioner Narasaki?

COMMISSIONER NARASAKI: Thank you, Madam Chair. I also would like to acknowledge the great work of staff. I'm very proud of the report, and it is particularly timely given the debate that is currently going on in this country about these rights. And so I hope that the staff feel very proud of their work.

COMMISSIONER YAKI: Madam Chair?

CHAIR LHAMON: Commissioner Yaki?

COMMISSIONER YAKI: Thank you very much. I also want to commend the staff and also the work of my special assistant, Alec Duell, at the time that he was working for Commissioner Achtenberg. This is amazing to me when I think about how far this country has come, and this Commission has come, in the first 60 years; that this is the, actually, first real
report on the impact of discrimination and civil rights laws on the LGBTQ community.

And it's especially proud for me being from San Francisco, one of the birthplaces of LGBTQ protections that this Commission has taken up this report. And it is due in no small part to the hard work and the leadership of people in the community, especially former Commissioner Achtenberg.

So I just wanted to add my thanks to the staff and to Alec and to Roberta for her leadership on this, and commend this report, and we look forward to its passage.

CHAIR LHAMON: Thank you. Any further discussion? Hearing none, I will call the question and take a roll call vote.

Commissioner Adegbile, are you present?

No?

COMMISSIONER ADEGBILE: Present.

CHAIR LHAMON: Oh. And how do you vote?

Terrific.

COMMISSIONER ADEGBILE: Aye.

CHAIR LHAMON: Commissioner Heriot?

COMMISSIONER HERIOT: I am going to abstain on this one.

CHAIR LHAMON: Commissioner Kirsanow?
COMMISSIONER KIRSANOW: Abstain.

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; two Commissioners abstained, all others were in favor.

Now we will discuss and vote on Chapter 4 of the report, the findings and recommendations. I move these as a package, unless any Commissioner wishes us to vote them individually. I begin with a motion to approve the text of Chapter 4, the findings and recommendations, as amended in the version circulated by my special assistant on Friday, September 1, subject to any editorial fixes deemed necessary by staff. Is there a second?

COMMISSIONER Kladney: I'll second.

CHAIR LHAMON: Thank you. Any discussion?

Okay. I'll call the question and take a roll call vote.
Commissioner Adegbile, how do you vote?

COMMISSIONER ADEGBILE: Aye.

CHAIR LHAMON: Commissioner Heriot?

COMMISSIONER HERIOT: I'm a no on this one.

CHAIR LHAMON: 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 Timmons-Goodson?

VICE CHAIR TIMMONS-GOODSON: Yes.

CHAIR LHAMON: And I vote yes. The motion passes; two Commissioners opposed, all others were in favor.

We will now consider the amended business items, beginning with a statement on the pardon of Joe Arpaio. I will first read the statement, so we know what it is that we are voting on, and I note that my special assistant circulated some changes very shortly before the meeting.

The statement is titled The U.S.
Commission on Civil Rights Denounces the Pardon of Former Sheriff Joe Arpaio. The U.S. Commission on Civil Rights denounces President Donald J. Trump's pardon of former sheriff Joe Arpaio. The pardon of Mr. Arpaio, who repeatedly violated the civil rights of Latino residents of Maricopa County, Arizona, and also violated a federal court order to desist from violating those civil rights, flouts the rule of law.

Moreover, because these violations occurred while Mr. Arpaio was acting as a law enforcement officer, the pardon erodes the promise of fair administration of justice. Pardoning a person convicted of deliberately and flagrantly defying a federal court order over a sustained period of time undermines the rule of law in this country by signaling that supporters and allies of the President who violate civil rights and ignore orders from federal courts will not be held accountable as our system of justice requires.

The many court decisions filed over the course of nearly a decade of litigation against Mr. Arpaio and the Maricopa County Sheriff's Office establish a disturbing course of intentional violations of civil rights.

In 2007, litigants filed a class action
lawsuit on behalf of all Latino persons who had or would be detained in Maricopa County, Arizona, claiming that Mr. Arpaio and his office had illegally and without authorization engaged in discriminatory behavior against Latino individuals in Maricopa County.

Despite a federal court order -- excuse me. Despite a federal court ordering Mr. Arpaio and his office to stop their unlawful behavior, court records show that he made repeated public statements that he understood he was violating the court's order, including that he would "never give in to control by the Federal Government."

Even if the Supreme Court struck down an Arizona immigration law, he declared, "I am still going to do what I'm doing."

The underlying reasons for Mr. Arpaio's criminal conviction are alarming. Latino residents of Maricopa County sought justice for the violation of their civil rights only to be confronted with Mr. Arpaio's public and blatant contempt for the law after a court vindicated their claims.

The pardon functionally endorses racial profiling and abuses of authority, contrary to the work of hundreds of thousands of hard-working law
enforcement officers around the country who faithfully uphold the law.

Chair Catherine E. Lhamon said, "The President's pardon of Sheriff Arpaio damages the fabric of our nation by condoning, from law enforcement, deliberate, flagrant violation of a court order specifically to protect fundamental constitutional principles. The federal courts fulfilled their obligation to protect and uphold civil rights, and it is anathema to the fair administration of justice for the President to dismiss that judgment."

I now move to approve the statement to open the floor for discussion. Do I have a second?

COMMISSIONER KЛАDNЕY: Second.

CHAIR LHAMON: Thank you. Any discussion on the statement?

COMMISSIONER YАKИ: Madam Chair?

CHAIR LHAMON: Commissioner Yaki?

COMMISSIONER YАKИ: Thank you very much, and I want to thank the leadership of you and others on this Commission for putting this statement together. I don't really have much to add to this other than to say that to me this is the moral equivalent of pardoning someone like Bull Connor in
terms of the impact this person has had on a minority community in their jurisdiction.

It is unconscionable, and I think that if I could I would condemn the President even more so than what we have done today because this is nothing less than, to me, a conspiracy to cover up civil rights violations and aid and abet civil rights violations in this country.

Thank you.

CHAIR LHAMON: Thank you. Vice Chair?

VICE CHAIR TIMMONS-GOODSON: Madam Chair, I intend to vote for this statement. I think there is a compelling reason for us to issue it. We have laid out very clearly and succinctly why we're issuing the statement.

One thing that we don't mention, and that weighs heavily on me, to support this is that I have not seen one single word from the sheriff indicating that he is in the least bit remorseful. And normally when pardons are issued that is a consideration, and let us get the statement out.

CHAIR LHAMON: Thank you. Commissioner Narasaki?

COMMISSIONER NARASAKI: Yes. I'm particularly struck by the fact that we have two
judges who have reviewed his actions, Judge Snow, who declared that the facts of the case were particularly egregious and extraordinary; that the sheriff's office constitutional violations are broad in scope, involve its highest-ranking command staff, and flow into its management of internal affairs investigations; that they had engaged in multiple acts of misconduct, dishonesty, and bad faith; that they had demonstrated a persistent disregard for the orders of the court, as well as an intention to violate the laws and policies.

And then the criminal judge who looked at the case for criminal contempt also held that the evidence showed a flagrant disregard for Judge Snow's order, despite the knowledge of the order; that the sheriff had broadcast to the world and his subordinates that he would, and that they should, continue what he had always been doing. And I feel very strongly about issuing this statement.

CHAIR LHAMON: Thank you. Any further discussion? Okay. Call the question for a roll call vote.

Commissioner Adegbile, how do you vote?

COMMISSIONER ADEGBILE: Aye.

CHAIR LHAMON: Commissioner Heriot?

COMMISSIONER HERIOT: I, too, am very,
very troubled by the sheriff's behavior. I also agree with the Vice Chair that remorse is ordinarily a consideration. But I'm going to have to abstain on this one. I feel that like if I had had an earlier opportunity to negotiate how this is worded, I might have been able to come up with something, but I'm going to have to abstain.

CHAIR LHAMON: Okay. Commissioner Kirsanow?

COMMISSIONER KIRSANOW: I don't agree with the pardon, but I abstain.

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; two Commissioners abstained, all others were in favor.

We will now consider the statement on the DACA program. I'll turn it over to Commissioner Narasaki to read the statement, so we know what we are
voting on.

COMMISSIONER NARASAKI: Thank you, Madam Chair. The statement reads -- the title is the U.S. Commission on Civil Rights Denounces -- oh, sorry. Need to move on.

The U.S. Commission on Civil Rights Condemns the Ending of Undocumented Youth Program. The U.S. Commission on Civil Rights disapproves of President Donald J. Trump's decision to end the Deferred Action for Childhood Arrivals, otherwise known as DACA, program.

The decision is a step backward for our country, which draws its strength from the valuable social and economic contributions from all members of society. The DACA program provided temporary relief from deportation and work permits to many young undocumented immigrants known as Dreamers who were brought to the U.S. as children and are considered Americans in every way except on paper.

Over 800,000 Dreamers have benefited from the DACA program, which has allowed them to attend college, start businesses, and serve and protect our country. Repealing the program would have a significant economic impact on the nation. Approximately 700,000 jobs would be removed from the
economy, as well as hundreds of billions of dollars in lost tax revenue and economic growth over the next decade.

If the administration pursues deportation of these immigrants, the costs could run into billions of dollars. The decision is a tremendous blow to the personal dreams and ambitions that Dreamers have been working toward since the DACA program began in 2012. They now face a reality where they are at risk of being exploited in the workplace and deported and prevented from fully contributing to and supporting their families, their community, and their country.

For decades, the Commission and its State Advisory Committees have investigated and reported on the often-negative civil rights implications of our nation's immigration laws and policies. In addition, ending the program after participants have relied now, to their serious detriment, on its promises, raises serious access to justice concerns.

Although the administration has stated, absent a law enforcement interest, the Department of Homeland Security will generally not take actions to remove active DACA recipients, DACA recipients may still have their status revoked and, after their status expires, can be subject to deportation.
Undocumented people were encouraged to come forward under DACA and are now vulnerable because they took action to protect themselves and their families.

The Commission strongly urges Congress to pass legislation to protect DACA beneficiaries and to work on a compassionate and comprehensive modernization of our immigration system.

Chair Catherine E. Lhamon stated, "Branding America's social fabric to target children solely on the basis of their parents' decision offends the American values embodied in the Dreamers and their principal contributions to our nation."

CHAIR LHAMON: Thank you. We will now discuss the statement. Is there a motion, so we can open the floor for discussion?

VICE CHAIR TIMMONS-GOODSON: So moved.

CHAIR LHAMON: Is there a second?

COMMISSIONER NARASAKI: I'll second.

CHAIR LHAMON: Any discussion on the statement?

COMMISSIONER KIRSANOW: Yes, Madam Chair. I'm going to vote against this one as opposed to abstaining and have several reason for doing so. I take seriously the previous statement with respect to
Sheriff Arpaio and the mention made of his failure to abide by the rule of law, and that there are a number of people who faithfully execute the law, and that his misconduct related to that argues against the issuance of a pardon.

In the same vein, this DACA order was unconstitutional, and beyond that, violated -- even if it was arguably constitutional, it violated the Administrative Procedure Act. So if we are going to be consistent, and we should be, about our respect for the rule of law, then with respect to this particular DACA statement we should oppose the implementation of DACA.

Here DACA is not being repealed. There is a six-month lead time, so that Congress should weigh in on it. That's what should have been done in the first instance. But beyond that, there are factual errors contained in the statement, even if everything else didn't pertain.

And that is, we say here that this affects 800,000 Dreamers, and that somehow this would cause the loss of 700,000 jobs. And only two things could be plausible here on its face. One is that Dreamers have a labor force participation rate that is 88 percent, whereas the typical labor force participation
rate for most Americans is 62 percent. I doubt that it's 88 percent.

The only other way of looking at it is the 800,000 Dreamers created another 250,000 jobs to support them. If that were the case, if that were extrapolated to the rest of the United States' population, that would cause a creation of 25 to 40 million new jobs just to support the people who are currently in the workforce. That's implausible. But then again, I have only been practicing labor and employment law for 38 years, and probably don't have the insights that the boys and girls who wrote this on behalf of some advocacy organizations who came up with these studies did.

In addition to that, there is flaws with respect to the data related to the cost of this. I am very pleased that we are concerned about the fiscal consequences of the repeal or potential appeal of DACA, or maybe even deportation. But some of the absurdities relate to -- and there's copious reporting on this, but more importantly, we have government stats that show this. But we want to -- advocacy organizations to look at their stats with respect to the fiscal impact of this.

If you look at government stats, it is
true that those with advanced degrees probably are a net contributor; $420,000 to the economy over and above what they take out of the economy over their lifetimes. However, for those who don't have advanced degrees, among illegal immigrants, the net drain is $173,000 over their lifetime.

And if you put those both together, we are looking at $63,000 per illegal immigrant net drain on the economy. That doesn't influence my opinion.

But since we are talking about the fiscal impact of this, I should at least hope that we would be accurate about that.

So, at bare minimum, for those three reasons, but principally because DACA was flawed from its inception because it was unconstitutional, and if you argue that it's not unconstitutional, despite the 5th Circuit ruling on DAPA, then it at least did not -- does not satisfy the prerequisites of Section 5 of the Administrative Procedure Act.

CHAIR LHAMON: Commissioner Narasaki?

COMMISSIONER NARASAKI: Yes. A couple of things. I dispute the comparison of this to Sheriff Arpaio, who not only swore to uphold the Constitution but who knowingly was violating several judicial court orders.
I find that particularly heinous, given the important role that federal courts have played in protecting the civil rights of minorities. And in this case, that was the role they are trying to play today. And in pardoning him, that undermined that very important principle of what the court's role is.

I also dispute that it is -- that what President Obama's executive order did was unconstitutional. I agree, actually, that Congress needs to act swiftly. The reality is that the President had to act because Congress has been unable for well over a decade now to address a long-broken immigration system that does not serve our economic needs or our humanitarian values as a nation.

So I think that it's very important in this case where you have young people who were asked by the Federal Government to come forward in order to have more transparency to protect our security as a nation, to then turn on them and say, "We were just kidding, and we are now going to use that against you" I think hurts the nation's credibility in the long term.

When the Federal Government ever tries to make promises again to fix problems, people are not going to trust the Federal Government, and I think
that undermines our democracy very strongly. So that's why I think it's very important to act now, and this is not just a position held by advocates; it is a position held by many members of Congress on both sides of the aisle, many corporations, and many other moral leaders.

COMMISSIONER KIRSANOW: Madam Chair, I do think that if someone who is in a position of authority and is sworn to uphold the rule of law knowingly violates it, should be held to account, and it is particularly egregious if they do.

On at least 12 separate occasions, President Obama, the chief law enforcement officer in the country, knowingly stated that he didn't have the authority to do what DACA did. He said it on numerous occasions. It's recorded. It's on television. It's on -- in transcripts, in a number of occasions over the years, yet he went ahead and did it.

It is not the function of the President of the United States to usurp the role of Congress, simply because Congress doesn't take action on something. That's not the way our system works. Nonetheless, he took action on it.

Moreover, it is unlawful, Judge Hanen held it unlawful, not with respect to DACA but its
correlative, DAPA -- and it's abundantly clear. I mean, this is almost inarguable, and I know we'll be arguing it because of the political imperatives related to it. But this was a categorical amnesty. It was not selective prosecutorial discretion.

But, moreover, it did not -- it conferred positive benefits. It wasn't simply a declaration of amnesty or an amnesty related to certain individuals that might, arguably, constitute prosecutorial discretion.

What we have here is a conferring of positive benefits, not just declining to prosecute but going above and beyond by giving positive benefits and actual action that is only the province of Congress to do.

So with respect to the rule of law, if we're going to be saying that Judge Arpaio, and I think appropriately so, violated or knowingly violated the rule of law, DACA was a knowing violation of the rule of law, DACA is not being summarily repealed; it is being given to Congress appropriately to tackle this issue sometime in the next six months.

CHAIR LHAMON: Commissioner Narasaki?

COMMISSIONER NARASAKI: We could debate this for a long time. And as you correctly point out,
the Judge ruled on DACA, which had to do with the
parents, which is one step removed from this case and
I think distinguishable. I don't think there is any
point in us -- because we're not -- clearly, not going
to convince each other on that point.

I would note that President Obama was
actually referring to his inability to comprehensively
address immigration reform for all undocumented
immigrants through executive action, something that
advocates in fact were trying to press him to do, but
he did not. But he did spend a lot of time, and a lot
of attorneys spent a lot of time, looking at the
question of whether it fell within the prosecutorial
discretion to be able to reallocate resources.

It was not an amnesty. They were not
given permanent path to citizenship. They are only
allowed to stay, and they had to keep renewing
themselves and proving themselves worthy. There are
many limitations on it. So I think to call it a
blanket amnesty is a little bit of an overstatement.

Thank you.

CHAIR LHAMON: I want to add to that that
the current President of the United States has made
clear his own view that the President does have
executive authority to act, Tweeting on September 5th,
"Congress now has six months to legalize DACA, something the Obama administration was unable to do. If they can't, I will revisit this issue."

We will wait to see if there is any further discussion. Hearing none, I'll call the question and take a roll call vote.

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 KLDAPY: 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; two Commissioners opposed, all other Commissioners were in favor.

C. State Advisory Committees

CHAIR LHAMON: Next we will turn to our
State Advisory Committees. Today's agenda gives us three State Advisory Committee appointment slates to consider. Before we begin discussion, I remind all that objections to these slates have already been shared with all of the Commissioners.

To the extent 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 will begin with the New Jersey Advisory Committee. I move that the Commission appoint the following individual to the New Jersey Advisory Committee based on the recommendation of the Staff Director: Lawrence Lustberg, Sahara Aziz, Marcia Brown, Lora Fong, Brian Gaffney, Manuel Garcia, Erica Jednyak, Donita Judge, Pearl Park, Joan Rivitz, Saulo Santiago, Daniel Schuberth, Amol Sinha, John Stanley, Jr., William Stephney, Kristian Stout, Frank Tinari, and Carole Tonks.

With this motion, the Commission will also appoint Lawrence Lustberg as chair of the New Jersey 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 the motion?

    COMMISSIONER KLADNEY: Second.

    CHAIR LHAMON: Thank you. Any discussion?

Commissioner Narasaki?

    COMMISSIONER NARASAKI: I just would like to acknowledge the staff for doing such a great job for all of the slates and recruiting younger people from the communities that they serve, so that they could participate with their perspective. So I just want to acknowledge it because it was something that I had been asking for, and I appreciate it.

    CHAIR LHAMON: Thank you. Any further discussion? Okay. I'll call the question and take a roll call vote.

Commissioner Adegbile, how do you vote?

    COMMISSIONER ADEGBILE: Aye.

    CHAIR LHAMON: Commissioner Heriot?

    COMMISSIONER HERIOT: I vote yes.

    CHAIR LHAMON: Commissioner Kirsanow?

    COMMISSIONER KIRSANOW: No.

    CHAIR LHAMON: Commissioner Kladney?

    COMMISSIONER KладNEY: 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; one Commissioner opposed, all others were in favor.

I now move that the Commission appoints the following individuals to the North Dakota Advisory Committee based on the recommendations of the Staff Director: Eric Asa, Cesario Alvarez, Scott Beaulier, David Chapman, Yee Han Chu, Kirsten Dauphinais, Crystal Dueker, Stephanie Johnson, Cheryl Kary, Lisa Lone Fight, Michelle Rydz, and Sheryl Stradinger.

With this motion, the Commission will also appoint Eric Asa as chair of the North Dakota 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 KLADNEY: Second.

CHAIR LHAMON: Thank you. Any discussion?

Hearing none, I will call the question and take a roll call vote.
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 KLASADNY: 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.

I now move that the Commission appoint the following individuals to the Rhode Island Advisory Committee based on the recommendations of the Staff Director: Alero Akporiaye, Donald Anderson, Farid Ansari, Charles Berkley, Jr., Marcela Betancur, Langdon Clough, Ernest Grego, Margaux Morisseau, Adelita Orefice, Gary Sasse, Elena Shih, Jennifer Steinfeld, Andrew Tugan, and William Wray.

With this motion, the Commission will also
appoint Jennifer Steinfeld as chair of the Rhode Island 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 KLADNEY: Second.

CHAIR LHAMON: Thank you. Any discussion? Hearing none, I will call the question and take a roll call vote.

Commissioner Adegbile, how do you vote?

COMMISSIONER ADEGBILE: Aye.

CHAIR LHAMON: Commissioner Kirsanow?

COMMISSIONER KIRSANOW: No.

CHAIR LHAMON: Commissioner Heriot?

COMMISSIONER HERIOT: Yes.

CHAIR LHAMON: Commissioner Kladney?

COMMISSIONER KLADNEY: Yes.

CHAIR LHAMON: Commissioner Narasaki?

COMMISSIONER NARASKI: 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; one Commissioner opposed, all others were in favor.

I note that after passing these three slates we now have all 51 of our advisory committees appointed and doing their part to be the Commission's eyes and ears around the country. I am so very grateful to our regional program staff for their hard work to identify persons to nominate for these advisory committees as well as to support the advisory committee's work itself.

The state advisory committees provide crucial civil rights functions, identifying concerns in their states and recommending reforms, and I am thrilled that we now have the full slate of these committees appointed. I have had the pleasure to witness the work of our regional staff as they have moved us to this place, and I am deeply, deeply grateful.

I turn it over to the Commission's supervisory chief of our regional programs unit, David Mussatt, for a few words on that topic.

MR. MUSSATT: Thank you, Madam Chair, Madam Vice Chair, and Commissioners. I want to thank you for providing me a few moments to recognize staff who worked to not only appoint but to fulfill the
mission of these 51 advisory committees that are now appointed.

Our designated federal officers David Barreras, Ivy Dies, Barbara De La Viez, Ana Victoria Fortes, Jeff Hinton, and Melissa Wojnarowski.

We also have four support staff who have been instrumental in working together as a team to form our committees across the nation, Carolyn Allen, Evelyn Bohor, Corrine Sanders, and Angelica Trevino.

We have been further aided by the technological improvements provided to us by Dan and Michelle, so I want to thank them for the help.

It is important to recognize the work of our amazing interns who did an exceptional job searching for and identifying potential candidates, particularly Sarah Dincin, Delaney Earley, and Breanna Davidson.

In addition, without the work of Alison Somin, Sheryl Cozart, and Maureen Rudolph, who drafted a more efficient and effective administrative instruction at the direction of Staff Director Morales, it is unlikely these committees would all be appointed.

Through this new process, we have been able to constructively work through the inevitable
challenges that arise. We also have been able to work closely with all special assistants who have been incredibly helpful in identifying potential candidates. I personally want to thank them for the help and professional support.

This has really been a team effort, and it has been rewarding and beneficial to work with all of the special assistants as part of that team.

Finally, thank you to the Commissioners, who, after all, do the actual appointing of the members to our committees; and to Staff Director Morales who sets the clear goal of getting all of the committees appointed.

I realize it is impossible to fully satisfy all Commissioners with every committee, but please know any deficiencies were not out of lack of effort by the staff.

Thank you again for providing me with this opportunity.

CHAIR LHAMON: Thank you, David.

Next we will hear from Staff Director Mauro Morales for the monthly Staff Director's report.

D. Management and Operations

STAFF DIRECTOR MORALES: Thank you, Madam Chair. As always, I won't go into the details of the
report. We have an additional section we need to add to the report, from General Counsel's office I believe. If we haven't already received it, I will make sure to circulate it to everybody. It has just been a very busy month, and we had a short turnaround from the last business meeting.

In addition, Madam Chair, you had asked me to come back with Commissioners -- with a plan on the status of OCRE's ability to accomplish their mission in the future. But because of staffing challenges over the last two weeks, and a personal matter that developed for me, I have not been able to address that plan, create that plan for you, but I will do so forthwith, and I apologize. But I will address that this week and get back to you in an email or -- well, in an email to all Commissioners on that plan -- what my recommendation should be for that plan.

In addition, I will also be coming back to Commissioners with additional information on the planning for the 60th anniversary event. We have been working on it. We have been working on a few details. We have a few more left to iron out, and I will also be coming back to Commissioners in an email on the status of what that looks like at this point.

And, lastly, I circulated at the last
moment yesterday a statement on the anniversary of the 60th of the signing of the 1957 Civil Rights Act, which created the 60th -- I'm sorry, which created the U.S. Commission on Civil Rights. And so I know it was out of order, but I thought it might be worthwhile to consider.

And unless there is any strong opposition to it, I was thinking that perhaps I could issue it, if not today then perhaps on Monday. But I will defer to the collective wisdom of the Commissioners as to the timing on that. And with that, I have nothing more to add.

Thank you.

CHAIR LHAMON: Thank you. Appreciate you letting us know where you are in responding to my request. Do you have a timeline for when you will get back to us?

STAFF DIRECTOR MORALES: Within the next week.

CHAIR LHAMON: Okay. Thank you.

We can now recess until 11:00 a.m. when we will begin our historical presentation, to which I very much look forward.

Thanks.

(Whereupon, the above-entitled matter went off the
record at 10:39 a.m. and resumed at 11:01 a.m.)

CHAIR LHAMON: Okay. I'm bringing us back into session. We will turn now to our historical presentation scheduled for today, President Eisenhower's Civil Rights Legacy and the Creation of the U.S. Commission on Civil Rights.

E. Presentations on President Eisenhower's Civil Rights Legacy and the Creation of the U.S. Commission on Civil Rights

CHAIR LHAMON: On September 9, 1957, one day short of exactly 60 years ago, President Dwight D. Eisenhower signed into law the Civil Rights Act of 1957 establishing the U.S. Commission on Civil Rights.

This legislation was the first major civil rights legislation since the Reconstruction Era, creating both this Commission and the United States Department of Justice Civil Rights Division.

The law was a testament to the power of bipartisan compromise and survived the longest filibuster in Senate history. Though the legislation was hotly contested, it reflects an origin point for today's national consensus as expressed in federal legislation such as the Civil Rights Act of 1964, the Voting Rights Act of 1965, the Americans with Disabilities Act, and other critical legislation, that
there are certain civil rights that must be protected, and that the Federal Government has a powerful and necessary role in ensuring those protections.

We are so grateful to have with us today two individuals who will bring a wealth of knowledge about President Eisenhower and his work on civil rights. Our first speaker, Dawn Hammatt, is with us here in person. Ms. Hammatt was named Director of the Dwight D. Eisenhower Library, Museum, and Boyhood Home in May 2017. Ms. Hammatt has served in museums across the southeast for her entire career.

In South Carolina, she served as managing director for a local history museum, and on the governing board for the South Carolina Archival Association. In New Orleans, she was the Director of Curatorial Services for the Louisiana State Museum, a statewide museum system that maintains nine museums. She has also been active in the southeastern museums conference and currently serves as the Vice President.

Ms. Hammatt holds a Bachelor of Arts degree from Louisiana State University, a master of liberal studies from the University of Oklahoma, and is currently enrolled in a professional certificate program in nonprofit administration at the University of Montana.

His publisher, Simon & Schuster, describes it as the definitive book on Eisenhower's civil rights policies.


A native of Kansas, Dr. Nichols has his Ph.D. in history from the College of William & Mary. Dr. Nichols is the former academic dean at Southwestern College in Winfield, Kansas.

Ms. Hammatt, we will hear from you first.

Thank you.

MS. HAMMATT: Good morning, Commissioners, special guests, ladies and gentlemen. What a delight
it is to be here with you on this beautiful September
day.

We are here to observe and commemorate the
creation of the United States Commission on Civil
Rights, which was established under the Eisenhower
presidency. As the Director of the Eisenhower
Presidential Library, Museum, and Boyhood Home in
Abilene, Kansas, I was invited to share a few thoughts
with you on Eisenhower and his formative years. I am
rather new to this position, having only begun in
early June, and I still find myself learning about
this great man. So I am truly honored to be here
today representing the National Archives and Records
Administration and the Eisenhower Presidential
Library.

I do firmly believe that his childhood in
Kansas and early career in the Army supported his
belief in equality for all. Please let me share just
a few of the highlights of what I have learned.

The Eisenhower family belonged to a
religious group known as the River Brethren. This
religious movement was primarily composed of German
immigrants in Pennsylvania who were generally farmers,
hard workers, and pacifists. The Eisenhower family
moved from Pennsylvania to the Kansas plains in 1878
when Ike's father, David, was merely 15 years old.

Ike's mother, Ida Stover, was of German-Swiss Protestant heritage and was born in Virginia. Due to her mother's death, Ida lived with other family members. They believed that girls should study the Bible rather than go to school. When she was not allowed to enroll in high school, she ran away. She successfully graduated high school at the age of 19 and moved to Kansas with two of her brothers.

She was even a teacher for two years prior to enrolling in Lane University in Kansas, where she met and married fellow student, David, in 1885. David received money and land from his father when he and Ida married, but David was not interested in farming. He sold the land and bought a dry goods store in partnership with a man named Milton Good.

The store was located about 25 miles south of Abilene in Hope, Kansas. The store prospered until a drought and grasshopper invasion destroyed crops, as well as the fortunes of the local farmers. Many of these farmers shopped in David's store on credit, and they could no longer pay their bill.

The result, of course, was the closing of the store, and David moved his small family to Denison, Texas, in 1889 to work for the railroad.
There he worked as an engine wiper on the Missouri, Kansas, and Texas Railroad.

The family's third son, David Dwight Eisenhower, now known to the world as Ike, was born in Denison in 1890. He is the only one of the seven Eisenhower boys to be born outside of Kansas, but their extended family back in Kansas encouraged the young family to return home. So David moved his family to Abilene in 1892.

No matter where they lived, the family participated in religious services by holding Bible classes and hymn-singing at the home. We know that Bible teachings were very important to the family, and this followed Ike throughout his life.

The family's second home in Abilene where they moved in 1898 is the cornerstone of our campus. It is the only presidential home owned by the National Archives. In this very modest structure, Ike lived with his immediate family as well as well as his grandfather, Jacob.

The family Bible is on exhibition in the home. It is prominently displayed, and the wear is quite visible.

David worked at a local creamery as a refrigeration engineer. He received his certification
through a correspondence course, which is like the 19th century version of an online school. He earned $10 per week and averaged 80 hours working each week. Ida was in charge of all of the day-to-day activities of the household. She taught all her sons to cook and clean and take care of themselves.

I am sure you can imagine how much help she needed as she ran a family of six boys. The boys tended the animals and helped with planting and harvesting and putting up the produce from the family's half-acre garden, and that was their main source of food.

Those familiar with the Eisenhower family know that they lived on the wrong side of the tracks. They were not considered affluent at all, and Ike recalled that the boys were not aware that they were poor and wrote that the boys lived a wonderful life of hunting, fishing, helping with family chores, and playing sports.

But I can imagine, as any parent can, that Ida was protective of her boys. She shielded them from any snide remarks about their hand-me-downs or their lack. She made sure they understood to respect other people, respect a hard day's work, and an honest living. She taught them fairness, humility, and
earnestness.

Abilene during this time was not particularly diverse. But one story has been handed down that Ike, while playing football for Abilene High School, was initially the only team member willing to play directly against an African American student.

In a handwritten note now located in the Army Chief of Staff Files, Ike wrote, "I played center that day for the only time in my life. I shook hands with the chap before and after the game. The rest of the team was a bit ashamed."

Ike's willingness to step up and do the right thing by shaking hands and then agreeing to play opposite the African American student demonstrated his philosophy of equality and his early leadership skills. Without his words, his forthright actions shamed fellow teammates into joining him in the game.

There are no records that discuss his reasons, but I believe that Ida taught him to be a good man, to be kind to others, to do what is right for your team, and to do what is right for each other.

I can imagine that the Bible stories shared as a family, and hymns sung together, played a role in how Ike decided to treat this young man.

Ike's other childhood interactions with
non-whites were also on the athletic field. He joined
the local Abilene town baseball team and played
against the Cherokee Indians, which was a noted team
out of Nebraska, and against an all-African American
team.

Eisenhower also fought a boxing match
against a local African American fighter named Dirk
Tyler one summer during a break from West Point.
These early experiences, along with his personal
responsibility and respect for others instilled by his
parents, served as the foundation for his actions in
adulthood.

Ike spent his military career in a
segregated Army, but he still managed to work with
people of color in a variety of different assignments.
He was briefly the Executive Officer of the 24th
Infantry Regiment at Fort Benning in 1926. This is
one of the historic Buffalo Soldier units.

But even this modest assignment was more
than most officers ever experienced. Eisenhower also
had the advantage over his fellow officers, first with
service in Panama in the early 1920s, and later in the
Philippines from 1934 to 1939, where he worked closely
with his hosts to build an army and an air force.

His social activities in the Philippines
included bridge games with the Commonwealth's
president, Manuel Quezon. Eisenhower, in other words,
was no stranger to diverse cultures and people. But
later some historians claimed that Ike never
socialized with non-whites -- a statement which is
easily refuted by evidence in our archival holdings.

The Army's official segregation policies --
despite the Army's official segregation policies,
Eisenhower developed a close friendship with his Army
valet, Sergeant John Moaney. Moaney joined Ike's
staff in 1942 and remained with the general until
Ike's death in 1969.

Moaney's wife, Delores, also worked for
the Eisenhower's. The Moaneys were so close to Ike,
Mamie, their son John, and his children, that they
considered the Moaneys family. They still do. As a
matter of fact, just last night, one of the family
members told me two stories about the Moaneys, how
Delores already remembered that Ike would take his hat
off for her, and that was something that was very
impressive to her, that it meant a lot to her that Ike
took his hat off to her every time he saw her.

And she reminded me that John Moaney was
the only African American poll-bearer at a
presidential funeral, ever.
Eisenhower, as David Nichols will tell you, finished the integration of the military ordered by President Truman. In his final speech before the presidential election in 1952, Ike issued a 10-point statement summarizing the pledges he made during the campaign and promised to fulfill them, including serving all of the people, regardless of color, and promoting equality of opportunity.

When he entered office in 1953, Ike was determined to do everything he could in his role as President to remove social barriers for all Americans. Here is what he did, either by executive order, executive decision, or enabling legislation. He desegregated Washington, D.C., and its schools. He banned discrimination in firms receiving federal contracts. As I noted a moment ago, he completed the desegregation of the armed forces, and this included base housing and dependent schools.

He appointed desegregationist federal judges. He signed the first two civil rights bills since Reconstruction. These bills also served as the basis for the 1965 voting rights bill, according to Bill Moyers of the Johnson administration.

Those bills also established the Department of Justice Civil Rights Division and
formalized his ad hoc President's Committee on Civil Rights with the U.S. Commission on Civil Rights.

He sent federal troops to Little Rock to enforce a federal court order to integrate schools.

He appointed the first African American to executive position in the White House, E. Frederic Morrow. He had the first African American secretary, Lois Lippman, and welcomed the first African American to a cabinet meeting, J. Ernest Wilkins, as the Secretary - Assistant Secretary of Labor.

I would note that any President prior to Ike could have done any number of these things by executive order or by personal decision, and they didn't. Yet Eisenhower didn't get the credit he deserved until records released by the Eisenhower Presidential Library enabled scholars like David Nichols to put the whole story together.

Prior to the books of Mr. Nichols and other historians correcting the record, an image of Ike as a do-nothing President on civil rights prevailed among scholars. I think part of the problem can be traced to Ike's words, or lack thereof, and this particular part of the problem can be traced to his core beliefs in both leadership and the role of the chief executive.
Ike's creed is succinctly expressed in his motto. We all know Harry Truman's, "The buck stops here," right? But do we remember Ike's? It's not well-known, but here it is. "Suaviter in modo, fortiter in re," or in English, "Gentle in manner, strong in deed." I think this is reminiscent of his boyhood hero, Theodore Roosevelt's "Speak softly and carry a big stick."

The idea is that your actions are more important than your words. Ike didn't have to say that he was honest or humble or that he believed in equality. His actions spoke volumes. And while Ike's actions on civil rights were strong and enforced by the big stick of the Federal Government and the 101st Airborne Division, his rhetoric was quiet yet firm.

He did not believe it was his place to either praise or condemn the decision of the Supreme Court. Rather, he firmly believed in the constitutional separation of powers and that the executive branch, through its actions, must uphold the law.

In summary, Ike learned from a young age that right was right and wrong was wrong, and that a higher power created all men equal. He carried these beliefs to the athletic field, to the Army, and to the
Oval Office where he advanced the cause of civil
rights to the furthest in more than a generation.

All of this laid the groundwork for the
legislative achievements of his successors and
commenced the important work of the U.S. Commission on
Civil Rights.

CHAIR LHAMON: Thanks very much.

Appreciate it.

Next we will turn to Dr. Nichols.

DR. NICHOLS: Yes. I'm on?

CHAIR LHAMON: Terrific. We can hear you.

DR. NICHOLS: Okay. Great. Well, good
morning. Dawn, hi, Dawn. Thank you for a great job.

Commission members and staff, I regret
that I cannot be with you there today, but I am
honored to be with you. And as an American citizen, I
take great pride in the work of the Commission on
Civil Rights. Your existence is indeed a major legacy
of President Eisenhower's civil rights program.

For decades, Dwight Eisenhower's record
was ignored and deprecated by my profession. In 1962,
a survey of historians rated Ike 28th out of 34
Presidents. Recently, a survey of 193 historians
ranked Eisenhower 5th, only behind Lincoln,
Washington, and the two Roosevelts.
However, a decade after the publication of my book on civil rights, numerous scholars and journalists still resist the documented facts. So Dawn has given you an overview of some of those, and I will be -- sound a little bit repetitious but dig those holes just a little deeper, if possible. And then we will come back to look at the legislation particularly, and how it was passed to create the Civil Rights Commission.

But just to reemphasize what Eisenhower did in civil rights, as Dawn said, he desegregated the District of Columbia, something President Truman had not done. When Eisenhower took office, an African American visitor to downtown Washington could not buy a meal, a ticket to a movie, rent a room in a first-class hotel, or with rare exceptions, enjoy unsegregated parks, playgrounds, swimming pools, or bowling alleys.

Eisenhower personally lobbied motion picture moguls to desegregate the movie theaters. The Eisenhower’s desegregated White House events and refused to attend segregated activities in the city. By the end of 1954, in Washington, D.C., segregation was largely a thing of the past.

Again, as Dawn mentioned, Eisenhower
completed the desegregation of the armed forces, and completed it as it were. President Truman issued an executive order in 1948, but in 1953 most American combat units were still segregated.

By October 30, 1954, not a single segregated combat unit remained. During his first two years in office, Eisenhower also desegregated the Veterans Administration, military bases in the south, federally controlled schools for military dependents, and other military agencies.

And, again, as Dawn noted, Eisenhower appointed the first African American executive in the White House, E. Frederic Morrow, and he created committees on government contracts, both to eliminate discrimination in contracting and discrimination in hiring.

And, of course, our point here today is that Eisenhower proposed, fought for, and signed the civil rights -- the first -- the Civil Rights Act of 1957, the first such legislation in 82 years. In fairness, President Truman had proposed legislation, but it was unsuccessful due to the stranglehold Democratic southern segregationists had on the Senate.

Eisenhower's proposal included provision for the creation of a bipartisan Civil Rights
Commission. And that's you, folks.

We'll come back to that legislation, but let me just finish this -- the main points about Eisenhower's record. In 1953, Eisenhower nominated Earl Warren, the governor of California, as Chief Justice of the United States. The President announced that nomination on September 30, 1953, and with Congress out of town made a recess appointment.

Warren assumed his seat immediately and began to work on the Brown school desegregation case. Warren was not confirmed by the Senate until March 1, 1954. But on May 17, 1954, Warren announced the unanimous Supreme Court decision declaring segregated schools unconstitutional and striking down the court's 1896 separate but equal ruling.

A year later, Brown 2, the Eisenhower administration's Justice Department proposed that school districts be required to submit desegregation plans within 90 days, and Eisenhower personally edited that brief. However, the Supreme Court chose a less stringent requirement order desegregation "with all deliberate speed."

Thurgood Marshall said that meant slow.

When the Brown ruling was announced, Eisenhower immediately ordered the Commissioners of
the District of Columbia to develop a desegregation plan for the District's schools. He later appointed four additional justices to the Supreme Court, all strong supporters of Brown and desegregation. And Dawn I think noted also that Eisenhower refused to appoint known segregationists to the lower federal courts. His appointees to the 4th and 5th Circuits in the south were courageous defenders of Brown and desegregation.

But Ike's most dramatic civil rights action was his decision to send the 101st Airborne into Little Rock, Arkansas, on September 24, 1957.

Mob violence erupted when nine African American students attempted to desegregate central high school in response to a court order by an Eisenhower appointee, Ronald Davies.

Governor Orval Faubus deployed the Arkansas National Guard to prevent desegregation. Faubus later broke an agreement with Eisenhower to order the guard to protect the students desegregating the school, instead withdrawing the troops and allowing new violence against the students. Then Eisenhower acted, sending in the 101st.

Now, get back to what you are really waiting for is the 1957 Civil Rights Act. It is a
complicated task to explain the workings of Congress in a few minutes, but I will try.

On January 10, 1957, in his State of the Union Address, President Eisenhower proclaimed his goal of "moving closer to the goal of fair and equal treatment of citizens without regard to race or color." His four-part proposal included: one, a bipartisan civil rights commission; a civil rights division in the Justice Department; authority for the attorney general to seek federal court orders in civil rights cases; and, finally, protection of voting rights.

That third part, the new authority for the attorney general, became the great bone of contention in getting the legislation passed. Eisenhower's challenge was to break the alliance of segregationist southern Democrats with conservative Republicans that had blocked Truman's legislation; and he did it, creating a powerful civil rights coalition.

Democratic majority leader Lyndon Johnson cooperated in some regards, agreeing to conduct around-the-clock sessions to exhaust the filibustering southerners and make sure that the legislation got to the floor, bypassing Senator James Eastland's Judiciary Committee where civil rights legislation had
always gone to die.

The segregationists charged that part 3, giving the authority to the attorney general to seek court orders for desegregation, would: one, empower the President to use troops in the south to enforce the segregation; and, two, the prosecution of defendants resisting court orders before a judge, thereby depriving the defendants of a trial by jury.

These civil suits, they argued, would become criminal prosecutions if the defendant failed to comply. The segregationists, with Lyndon Johnson's support, relentlessly pushed these two strategies to take the teeth out of the legislation.

Ike's civil rights legislation easily passed the House of Representatives. Johnson was complicit in devising a sneaky strategy to bypass the Judiciary Committee. Vice President Nixon read the House bill title in a low voice. A southern Senator raised a point of order, but Nixon overruled him.

Then, the entire Senate voted to support the Vice President's ruling, taking the bill out of the Judiciary Committee and making it official legislation for the entire Senate. That set the stage for the big fight in July and August 1957.

On July 2, 1957, the prestigious Senator
Richard Russell of Georgia rose on the Senate floor to attack part 3 of the civil rights bill. That section, Russell proclaimed, would "destroy the system of separation of the races in the southern states at the point of a bayonet."

Russell doubted that the "full implications of the bill" have ever been fully explained to President Eisenhower. Russell's attack put Ike under siege. He worried to the attorney general that the language of the bill might "scare people to death." Eisenhower met with Russell and reluctantly agreed to consider amendments to the bill.

On July 16th, the Senators voted 71 to 18 to make the civil rights bill the pending business of the Senate. Eisenhower publicly supported all four parts of the bill, but heeded a compromise. At a news conference, Eisenhower proclaimed that he could not "imagine any set of circumstances that would ever induce me to send federal troops to enforce the orders of a federal court."

In fact, Ike and Attorney General Brownell had introduced legislation to provide an alternative to military action. Moreover, as you know, two months later Eisenhower sent troops into Little Rock.

But Ike could not hold out against the
agitation stirred up by Senator Russell. Lyndon Johnson met with the President and told him bluntly that he had the votes to kill the bill altogether if part 3 stayed in it. Reluctantly, Eisenhower agreed to drop the provision.

The southerners now redoubled their effort to weaken part 4, which would allow the attorney general to sue in civil court to enforce voting rights. They argued that such actions would be criminal prosecutions in disguise and should be tried by a jury. And in the south, in 1957, that meant an all-white jury, and, yes, LBJ supported that argument.

August 1st, the Senate voted 51 to 43 to require a jury trial for the prosecution of criminal contempt for voting rights violations. Eisenhower's aide said he was, "Angrier than ever before during his presidency." One senator said Ike was damned unhappy.

Eisenhower hinted he might veto the bill, but even liberal Democrats caved in and supported the weakened bill. Eisenhower scorned them. "Why have liberals put so much heat on to get a bill after abandoning all of their principles?"

Then, the Eisenhower forces made a bold gamble. They threatened to revive the hated part 3 of the bill if the jury trial provision stayed in it.
After a big fight on August 16th, the administration proposed that in voting rights cases a federal judge could act without a jury as long as the penalty did not exceed $300 or 90 days in jail.

Lyndon Johnson, still wanting a cosmetic bill to promote his presidential aspirations, finally called Ike and proposed a ceiling of $300 and 45 days in jail. Ike accepted that compromise, and on August 29th the Senate passed the final version of the civil rights bill 60 to 15.

Those 60 votes included 37 Republicans and 23 Democrats, and some scholars still haven't figured out that Lyndon Johnson could muster only 23 Democratic votes out of 49 for this weakened bill. It's the Eisenhower coalition that had carried the day.

Some advocates, especially African American leaders, urged Ike to veto the bill. However, even Martin Luther King, Jr., concluded "that the present bill is better than no bill at all."

Well, the legacy. However weakened the bill was, the provisions for the Civil Rights Commission and the Civil Rights Division in the Justice Department survived. And as you know so well, still exists, making an impact for six decades.
The new Commission at that time had two mandates; one, to investigate any deprivation of voting rights and to study the laws and policies of the Federal Government to ensure equal protection of the laws. Southerners dragged out the appointment process, especially for appointees perceived as anti-segregation.

The appointees were finally confirmed on March 5, 1958. Since the 1957 Act, the Commission has been reauthorized and reconfirmed by legislation in 1983, 1991, and 1994. I might add that all of this since the legislation is not what I am expert on, so I don't mind if you catch me in an error.

The Commission published its first report in September 1959 recommending that federal registrars assist African American voting registration. It also reported on public school desegregation in the south and the need for low-cost housing throughout the nation.

The Commission assessed voting in Montgomery, Alabama, resulted in fierce resistance from Governor George Wallace. It held hearings on the implementation of the Brown Supreme Court decision in Nashville, Tennessee, and housing discrimination in Atlanta, Chicago, and New York.
Most important, the Commission's findings provided a foundation for the Civil Rights Acts of 1960, 1964, 1965, and housing discrimination in 1968.

In 1981, I understand that President Reagan appointed a conservative African American Chairman, Clarence Pendleton, an opponent of affirmative action. And, in 1983, Reagan attempted to fire three members of the Commission, but the law stated that a president could fire a Commissioner only for "misbehavior in office."

A Senate compromise bill resulted in the current Commission makeup of eight, half appointed by the President and half by the Congress, with six-year terms that do not expire with the inauguration of a new President. And thank goodness for that.

I understand that the Commission recently voted to investigate federal civil rights enforcement under President Trump, expressing grave concerns over the administration's proposal to cut spending and staffing on civil rights efforts in multiple agencies and cutting out many positions in the Civil Rights Division in the Justice Department, the other enduring provision from Eisenhower's 1957 Civil Rights Act.

With that, I will stop. Like with our soldiers, we should thank you, the Commission, the
Civil Rights Commission members, for your service to the country.

And if this brief presentation about Ike and civil rights confuses you, I can only say the book is a lot better than me.

(Laughter.)

DR. NICHOLS: Thank you.

CHAIR LHAMON: Thank you very much, Dr. Nichols, and thank you very much, Ms. Hammatt. I enjoyed your presentations, and I invite my fellow Commissioners to ask questions if they have any. Commissioner Narasaki?

COMMISSIONER NARASAKI: I really want to thank both of the speakers. It was very eye-opening to hear the background of President Eisenhower, who is not talked about that often, and has an incredible record.

I am curious because he was so forward-thinking on the issue of race, and yet under his administration he signed an executive order that officially added sexual perversion as a ground for investigation and dismissal under the federal loyalty program, and basically allowed the denial/revocation of security clearance for people who were LGBT.

So I'm wondering if you have any
background history on -- that squares that with how forward-thinking he was on the issue of race.

DR. NICHOLS: Dawn, did you want to answer that, or shall I?

MS. HAMMATT: You can take it, David.

DR. NICHOLS: Okay. Yeah. That -- those orders are explored in my new book on Eisenhower and Joe McCarthy. And this is in the midst of the Big Red Scare, and I don't excuse Eisenhower for that. He was not progressive on that matter, and, you know, the 1950s was a tremendously homophobic period. And so just the rumor that someone was gay, let alone the fact, could cost them their federal job, including under the Eisenhower administration.

So I do not pretend that they were progressive about that. They were more progressive in some respects than the Truman administration, but there had not been any kind of awakening in that. And Eisenhower is just, frankly, not that progressive on it. He considered -- you will find, and it is explained quite a bit in my new book, he considered the employment a privilege, not a right.

And they were worried -- and this is where the weak trade agreement gets mixed with the flowers, and they really worried that gay folks could be
blackmailed by the Communists. And in the midst of that Communist Red Scare, a lot of people believed that, but that does not excuse it. It certainly doesn't excuse it for me, but they were not ready to move as progressively on that as they were on African American civil rights.

CHAIR LHAMON: Commissioner Narasaki, do you have a follow up?

COMMISSIONER NARASAKI: Yes, I have a separate question. So, my father actually served in a segregated unit during World War II, the all-Japanese American 442nd Regimental Combat Team. So I'm wondering where Eisenhower -- what caused his interest in trying to continue the desegregation of the Army and whether he ever came across -- had any comment on the 442nd?

DR. NICHOLS: I do not -- forgive me, Dawn, did you want --

MS. HAMMATT: No, go ahead.

DR. NICHOLS: Let me know. I tend to jump in on these things. I do not know of any comment about that particular troop contingent at all, but it is outlined in my book how Eisenhower campaigned to at least allow black regiments to be integrated with white regiments in the war. And he was turned down
consistently by the Department of War.

He could not carry it out. He did behind
the scenes. He didn't make any public push for it.
He did attempt to go farther than the government had
gone. Having said that, I won't claim too much for
that. He -- Ike was, in many ways, a man of his time,
but I think the important thing to remember is that he
-- Truman, for all of -- Truman always get credit in
the textbooks for desegregating the armed forces, but
Ike did most of it. And he was campaigning to do that
even before he became President.

COMMISSIONER NARASAKI: Thank you.

Vice Chair, do you have questions?

VICE CHAIR TIMMONS-GOODSON: Yes. Thank
you very much.

Ms. Hammatt and Dr. Nichols, this has
absolutely been fascinating. I am a beneficiary of
the schools that were operated for military dependent
children that I have now learned were desegregated by
President Eisenhower. I grew up thinking that not
only was he not a leader in civil rights, but all he
did was play golf. I mean, I can remember that being
said, you know, in my hearing coming up.

I began elementary -- excuse me, began
kindergarten in 1959 in Wiesbaden, Germany, in the
dependent schools. And for one with my date of birth, it's fairly uncommon for one never to have attended segregated schools, but I owe it to the efforts that I now understand President Eisenhower was directly responsible for. And so I --

DR. NICHOLS: Forgive me for interrupting, but --

VICE CHAIR TIMMONS-GOODSON: Yes.

DR. NICHOLS: -- bless you for raising that issue because Eisenhower desegregated the schools for military dependents before the Brown decision, before the Supreme Court decision.

VICE CHAIR TIMMONS-GOODSON: I was noting that --

DR. NICHOLS: It is really a very important thing.

VICE CHAIR TIMMONS-GOODSON: I was noting that because I think Brown was May of '59 -- excuse me, May of '54, and I believe you said that '53 was -- or -- anyway, '53 or --

DR. NICHOLS: Yes.

VICE CHAIR TIMMONS-GOODSON: -- was when he did this. So absolutely ahead of his time. So I thank you for the information, and I hope all of that word gets out.
Let me ask you, now, Ms. Hammatt, you said that President Eisenhower didn't see his role as one to speak out or take positions on court's opinions, yet, Dr. Nichols, you indicate that President Eisenhower strongly supposed the Supreme Court in Cooper v. Aaron. Would you say a bit more about how, in fact, he supported that opinion?

DR. NICHOLS: Are you asking me?

VICE CHAIR TIMMONS-GOODSON: Yes, sir.

DR. NICHOLS: Yeah. Well, again, that felt like -- you've read my book, haven't you?

VICE CHAIR TIMMONS-GOODSON: No. But I'll be going out to get it as quickly as I can.

DR. NICHOLS: Oh. Well, he does -- you know, I don't have the quote in front of me, but actually he -- people point that -- miss that he spoke out pretty strongly in Cooper v. Aaron, and this was having to do with Arkansas again.

And so but, you know, I wouldn't oversell that point. Eisenhower -- it's true with Joe McCarthy, too, in my new book. Ike just wasn't a bully pulpit guy. You know, and we modern people think if the President doesn't lead by using the bully pulpit they are just not leading. That's not necessarily true. Lots of things are done by
Presidents behind the scenes.

But Eisenhower did -- I don't have that quotation in front of me, but you would look up in my book the -- I did tell about how he in fact told the head of the civil -- head of the Civil Rights Division in the Justice Department, when there was a desegregation crisis in New Orleans, he threatened to send troops in again.

And so behind the scenes, he was always in favor of it, and the myth that Eisenhower didn't want to do anything but play golf is just horrendous and false and, frankly, it's the fault of my profession when it did not do its job.

VICE CHAIR TIMMONS-GOODSON: One more. Now, you give the President credit for, of course, one Earl Warren. My recollection of history is that Earl Warren had to go to President Eisenhower two or three times to remind him of the promise that he had made that he would indeed get the very next appointment to the Supreme Court of the United States, and that it took a little time and it was more Earl Warren refusing to take no or refusing to be denied that appointment than it was Ike enthusiastically putting him on the court. Would you say a word or two more about that, please?
DR. NICHOLS: Yeah. Eisenhower -- well, the important thing in that story is that Eisenhower calls Earl Warren, personally calls him. It wasn't a subordinate doing it. In November of 1952, after the election, he promised him the next opening on the Supreme Court. That is an extraordinary thing. There were no openings on the Supreme Court.

And why would Eisenhower do that? And the answer is because Ike knew that Warren was very liberal on civil rights. He knew him well, and so it's a complete myth that he didn't know him. And it's still out on the internet, alleging that Ike said that appointing Warren was the worst damned fool mistake he ever made in his presidency. That's false. It never happened, but it's still out there.

But having said that, why did Warren go back to him? I don't have in the documents much about Warren going back to him. The question about it was, should he be the Chief Justice? And when Ike had called Warren in November of 1952, he had not anticipated that the Chief Justice would die. And so he looked at it, again, to be sure he should appoint Warren Chief Justice, and he even talked to John Foster Dulles about that, and all of that.

But with Ike, you just have to look out
for what Eisenhower does in a process. He is a very deliberate decision-maker. He will try everything on for size. But look where he lands, and where he landed was on Earl Warren. And he made that recess appointment, which would be very controversial today, as you know, a recess appointment and one didn't get confirmed until March 1, 1954, but look where he landed, and I think that's the main thing.

There is an entire chapter in my book on the relationship between these two men, and there was some tension in their relationship, and I think it was primarily political. Warren had run for president three times. But anyway, I've gone longer than I should, but great question. Thank you.

VICE CHAIR TIMMONS-GOODSON: Thank you.

CHAIR LHAMON: Any other questions?

Commissioner Kirsanow?

COMMISSIONER KIRSANOW: Thanks very much for both of your presentations. I've read a few biographies on Eisenhower, and there was one event that both biographies -- there's one by Carlos D'Este. Are you familiar with that one?

DR. NICHOLS: Yes.

COMMISSIONER KIRSANOW: There is one where he indicates that in the drive toward the Saar, Patton
wanted to desegregate the rifle brigades because he
just, frankly, needed more shooters.

But the Army was formally segregated. He
went to Eisenhower to get approval -- approvals.
Eisenhower said, "Well, SHAEF can't make that
determination. I've got to take it up to George
Marshall."

George Marshall pretty much wanted to do
it, but it was taken up to the staff of FDR who said,
"They are not going to allow that to happen."

Marshall then communicated that to
Eisenhower, basically saying that you can't do it, and
Eisenhower simply said to Patton, "Do whatever you
want to do." Is that true?

DR. NICHOLS: I'm sorry. I'm not expert
on that. As far as I know, your account is accurate,
but I'm -- that's not my -- Dawn, do you know anything
on that?

MS. HAMMATT: I'm sorry. I'm not an
expert on that particular moment either, but it is
sounding familiar to me.

DR. NICHOLS: Yeah. Ike was certainly not
happy with the policy. But I can't validate that
story for sure. I'm sorry.

CHAIR LHAMON: Commissioner Heriot?
DR. NICHOLS: I should explain, I've made a point in my old age, by the way, of focusing on the Eisenhower presidency. And I'm not a war expert. I'm sorry.

COMMISSIONER HERIOT: I just have a quick comment. First, I want to thank you both for the very interesting presentation. I am particularly interested in the ins and outs of the strategies of passing the Civil Rights Act of 1957, in part because I want to make a plug for my friend and late colleague, Carl Auerbach, who is a professor of law or was a professor of law at the University of San Diego up until last year when he passed away at the age of 100.

Professor Auerbach was very closely involved in the negotiations for the Civil Rights Act of 1957. As a law professor at the University of Minnesota at the time, he was very knowledgeable about the differences between law and equity between civil and criminal -- civil and criminal contempt.

And, as a result, he was the one who came up with the legal basis for the compromise that finally got the Act through. And so I just want to mention my late colleague because I know I speak for the faculty at the University of San Diego. We all
miss him.


CHAIR LHAMON: Thank you very much. I will just end with thanks again for your presentation, for coming to join us, and we are all very, very grateful to be able to be the recipient of so much information about President Eisenhower and the origin of this Commission.

And also thank Brian Walch, Pam Dunston, Michele Yorkman-Ramey, Warren Orr, and all of our staff for their assistance in setting up today's presentations and making today's meeting run as smoothly as possible.

Thank you.

III. ADJOURN MEETING

CHAIR LHAMON: If there is no further business, I hereby adjourn our meeting at 11:50 Eastern Daylight Time.

Thank you.

(Whereupon, the above-entitled matter went off the record at 11:50 a.m.)