

## U.S. COMMISSION ON CIVIL RIGHTS

+ + + + +

## 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

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

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

RUKKU SINGLA

ALISON SOMIN

IRENA VIDULOVIC

TABLE OF CONTENTS

I.	APPROVAL OF AGENDA.....5	
	B. Removed from the discussion and vote the Public Education Funding Inequality in an Era of Increasing Concentration of Poverty and Resegregation to allow time for edits and further review	
II.	BUSINESS MEETING.....6	
	A. Discussion and Vote on Report: Working for Inclusion: Time for Congress to Enact Federal Legislation to Redress Workplace Discrimination against LGBT Americans.....6	
	B. Discussion and Vote on Report: Public Education Funding Inequality in an Era of Increasing Concentration of Poverty and Resegregation.....--	
	C. State Advisory Committees.....28	
	D. Management and Operations.....36	
	E. Presentations on President Eisenhower's Civil Rights Legacy and the Creation of the U.S. Commission Civil Rights.....39	
III.	Adjourn Meeting.....75	

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

P-R-O-C-E-E-D-I-N-G-S

(10:00 a.m.)

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

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealrgross.com](http://www.nealrgross.com)

1 comes to order.

2 **I. APPROVAL OF AGENDA**

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

5 COMMISSIONER NARASAKI: So moved.

6 CHAIR LHAMON: Thank you. Is there a  
7 second?

8 VICE CHAIR TIMMONS-GOODSON: Second.

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

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

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

24 COMMISSIONER NARASAKI: Madam Chair, I  
25 would also like to add a statement on the agenda about

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 the DACA entitled "The U.S. Commission on Civil Rights  
2 Condemns Ending of Undocumented Youth Program."

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

7 (Chorus of ayes.)

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

## 10 II. BUSINESS MEETING

### 11 A. Discussion and Vote on Report: Working 12 for Inclusion: Time for Congress to Enact Federal 13 Legislation to Redress Workplace 14 Discrimination against Lesbian, Gay, 15 Bisexual, and Transgender Americans

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

22 We will proceed with two votes on this  
23 report; one for the report text, Chapters 1 through 3,  
24 and a separate vote for the findings and  
25 recommendations contained in Chapter 4.

### NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1           Begin with a motion to approve the text of  
2 the report, Chapters 1 through 3, as amended in the  
3 version circulated by my special assistant on Friday,  
4 September 1st, subject to any editorial fixes deemed  
5 necessary by staff. Do I have a second?

6           COMMISSIONER NARASAKI: I second.

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

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

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 today.

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

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

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

15 And so I hope that the staff feel very proud of their  
16 work.

17 COMMISSIONER YAKI: Madam Chair?

18 CHAIR LHAMON: Commissioner Yaki?

19 COMMISSIONER YAKI: Thank you very much.  
20 I also want to commend the staff and also the work of  
21 my special assistant, Alec Duell, at the time that he  
22 was working for Commissioner Achtenberg. This is  
23 amazing to me when I think about how far this country  
24 has come, and this Commission has come, in the first  
25 60 years; that this is the, actually, first real

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 report on the impact of discrimination and civil  
2 rights laws on the LGBTQ community.

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

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

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

16 Commissioner Adegbile, are you present?  
17 No?

18 COMMISSIONER ADEGBILE: Present.

19 CHAIR LHAMON: Oh. And how do you vote?  
20 Terrific.

21 COMMISSIONER ADEGBILE: Aye.

22 CHAIR LHAMON: Commissioner Heriot?

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

25 CHAIR LHAMON: Commissioner Kirsanow?

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 COMMISSIONER KIRSANOW: Abstain.

2 CHAIR LHAMON: Commissioner Kladney?

3 COMMISSIONER KLADNEY: Yes.

4 CHAIR LHAMON: Commissioner Narasaki?

5 COMMISSIONER NARASAKI: Yes.

6 CHAIR LHAMON: Commissioner Yaki?

7 COMMISSIONER YAKI: Aye.

8 CHAIR LHAMON: Vice Chair Timmons-Goodson?

9 VICE CHAIR TIMMONS-GOODSON: Yes.

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

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

22 COMMISSIONER KLADNEY: I'll second.

23 CHAIR LHAMON: Thank you. Any discussion?

24 Okay. I'll call the question and take a roll call  
25 vote.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 Commissioner Adegbile, how do you vote?

2 COMMISSIONER ADEGBILE: Aye.

3 CHAIR LHAMON: Commissioner Heriot?

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

6 CHAIR LHAMON: Commissioner Kirsanow?

7 COMMISSIONER KIRSANOW: No.

8 CHAIR LHAMON: Commissioner Kladney?

9 COMMISSIONER KLADNEY: Yes.

10 CHAIR LHAMON: Commissioner Narasaki?

11 COMMISSIONER NARASAKI: Yes.

12 CHAIR LHAMON: Commissioner Yaki?

13 COMMISSIONER YAKI: Aye.

14 CHAIR LHAMON: Vice Chair Timmons-Goodson?

15 VICE CHAIR TIMMONS-GOODSON: Yes.

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

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

25 The statement is titled The U.S.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

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

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

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

25 In 2007, litigants filed a class action

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 lawsuit on behalf of all Latino persons who had or  
2 would be detained in Maricopa County, Arizona,  
3 claiming that Mr. Arpaio and his office had illegally  
4 and without authorization engaged in discriminatory  
5 behavior against Latino individuals in Maricopa  
6 County.

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

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

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

23           The pardon functionally endorses racial  
24 profiling and abuses of authority, contrary to the  
25 work of hundreds of thousands of hard-working law

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 enforcement officers around the country who faithfully  
2 uphold the law.

3 Chair Catherine E. Lhamon said, "The  
4 President's pardon of Sheriff Arpaio damages the  
5 fabric of our nation by condoning, from law  
6 enforcement, deliberate, flagrant violation of a court  
7 order specifically to protect fundamental  
8 constitutional principles.

9 The federal courts fulfilled their obligation to  
10 protect and uphold civil rights, and it is anathema to  
11 the fair administration of justice for the President  
12 to dismiss that judgment."

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

15 COMMISSIONER KLADNEY: Second.

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

18 COMMISSIONER YAKI: Madam Chair?

19 CHAIR LHAMON: Commissioner Yaki?

20 COMMISSIONER YAKI: Thank you very much,  
21 and I want to thank the leadership of you and others  
22 on this Commission for putting this statement  
23 together. I don't really have much to add to this  
24 other than to say that to me this is the moral  
25 equivalent of pardoning someone like Bull Connor in

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 terms of the impact this person has had on a minority  
2 community in their jurisdiction.

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

9 Thank you.

10 CHAIR LHAMON: Thank you. Vice Chair?

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

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

22 CHAIR LHAMON: Thank you. Commissioner  
23 Narasaki?

24 COMMISSIONER NARASAKI: Yes. I'm  
25 particularly struck by the fact that we have two

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 judges who have reviewed his actions, Judge Snow, who  
2 declared that the facts of the case were particularly  
3 egregious and extraordinary; that the sheriff's office  
4 constitutional violations are broad in scope, involve  
5 its highest-ranking command staff, and flow into its  
6 management of internal affairs investigations; that  
7 they had engaged in multiple acts of misconduct,  
8 dishonesty, and bad faith; that they had demonstrated  
9 a persistent disregard for the orders of the court, as  
10 well as an intention to violate the laws and policies.

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

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

22 Commissioner Adegbile, how do you vote?

23 COMMISSIONER ADEGBILE: Aye.

24 CHAIR LHAMON: Commissioner Heriot?

25 COMMISSIONER HERIOT: I, too, am very,

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

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

8 CHAIR LHAMON: Okay. Commissioner  
9 Kirsanow?

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

12 CHAIR LHAMON: Commissioner Kladney?

13 COMMISSIONER KLADNEY: Yes.

14 CHAIR LHAMON: Commissioner Narasaki?

15 COMMISSIONER NARASAKI: Yes.

16 CHAIR LHAMON: Commissioner Yaki?

17 COMMISSIONER YAKI: Aye.

18 CHAIR LHAMON: Vice Chair Timmons-Goodson?

19 VICE CHAIR TIMMONS-GOODSON: Yes.

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

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

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 voting on.

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

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

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

20 Over 800,000 Dreamers have benefited from  
21 the DACA program, which has allowed them to attend  
22 college, start businesses, and serve and protect our  
23 country. Repealing the program would have a  
24 significant economic impact on the nation.  
25 Approximately 700,000 jobs would be removed from the

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 economy, as well as hundreds of billions of dollars in  
2 lost tax revenue and economic growth over the next  
3 decade.

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

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

20 Although the administration has stated,  
21 absent a law enforcement interest, the Department of  
22 Homeland Security will generally not take actions to  
23 remove active DACA recipients, DACA recipients may  
24 still have their status revoked and, after their  
25 status expires, can be subject to deportation.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 Undocumented people were encouraged to  
2 come forward under DACA and are now vulnerable because  
3 they took action to protect themselves and their  
4 families.

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

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

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

17 VICE CHAIR TIMMONS-GOODSON: So moved.

18 CHAIR LHAMON: Is there a second?

19 COMMISSIONER NARASAKI: I'll second.

20 CHAIR LHAMON: Any discussion on the  
21 statement?

22 COMMISSIONER KIRSANOW: Yes, Madam Chair.

23 I'm going to vote against this one as opposed to  
24 abstaining and have several reason for doing so. I  
25 take seriously the previous statement with respect to

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 Sheriff Arpaio and the mention made of his failure to  
2 abide by the rule of law, and that there are a number  
3 of people who faithfully execute the law, and that his  
4 misconduct related to that argues against the issuance  
5 of a pardon.

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

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

20 And that is, we say here that this affects  
21 800,000 Dreamers, and that somehow this would cause  
22 the loss of 700,000 jobs. And only two things could  
23 be plausible here on its face. One is that Dreamers  
24 have a labor force participation rate that is 88  
25 percent, whereas the typical labor force participation

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 rate for most Americans is 62 percent. I doubt that  
2 it's 88 percent.

3 The only other way of looking at it is the  
4 800,000 Dreamers created another 250,000 jobs to  
5 support them. If that were the case, if that were  
6 extrapolated to the rest of the United States'  
7 population, that would cause a creation of 25 to 40  
8 million new jobs just to support the people who are  
9 currently in the workforce. That's implausible. But  
10 then again, I have only been practicing labor and  
11 employment law for 38 years, and probably don't have  
12 the insights that the boys and girls who wrote this on  
13 behalf of some advocacy organizations who came up with  
14 these studies did.

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

25 If you look at government stats, it is

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 true that those with advanced degrees probably are a  
2 net contributor; \$420,000 to the economy over and  
3 above what they take out of the economy over their  
4 lifetimes. However, for those who don't have advanced  
5 degrees, among illegal immigrants, the net drain is  
6 \$173,000 over their lifetime.

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

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

13 So, at bare minimum, for those three  
14 reasons, but principally because DACA was flawed from  
15 its inception because it was unconstitutional, and if  
16 you argue that it's not unconstitutional, despite the  
17 5th Circuit ruling on DAPA, then it at least did not -  
18 - does not satisfy the prerequisites of Section 5 of  
19 the Administrative Procedure Act.

20 CHAIR LHAMON: Commissioner Narasaki?

21 COMMISSIONER NARASAKI: Yes. A couple of  
22 things. I dispute the comparison of this to Sheriff  
23 Arpaio, who not only swore to uphold the Constitution  
24 but who knowingly was violating several judicial court  
25 orders.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 I find that particularly heinous, given  
2 the important role that federal courts have played in  
3 protecting the civil rights of minorities. And in  
4 this case, that was the role they are trying to play  
5 today. And in pardoning him, that undermined that  
6 very important principle of what the court's role is.

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

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

23 When the Federal Government ever tries to  
24 make promises again to fix problems, people are not  
25 going to trust the Federal Government, and I think

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 that undermines our democracy very strongly. So  
2 that's why I think it's very important to act now, and  
3 this is not just a position held by advocates; it is a  
4 position held by many members of Congress on both  
5 sides of the aisle, many corporations, and many other  
6 moral leaders.

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

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

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

24 Moreover, it is unlawful, Judge Hanen held  
25 it unlawful, not with respect to DACA but its

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 correlative, DAPA -- and it's abundantly clear. I  
2 mean, this is almost inarguable, and I know we'll be  
3 arguing it because of the political imperatives  
4 related to it. But this was a categorical amnesty.  
5 It was not selective prosecutorial discretion.

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

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

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

23 CHAIR LHAMON: Commissioner Narasaki?

24 COMMISSIONER NARASAKI: We could debate  
25 this for a long time. And as you correctly point out,

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 the Judge ruled on DACA, which had to do with the  
2 parents, which is one step removed from this case and  
3 I think distinguishable. I don't think there is any  
4 point in us -- because we're not -- clearly, not going  
5 to convince each other on that point.

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

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

21 Thank you.

22 CHAIR LHAMON: I want to add to that that  
23 the current President of the United States has made  
24 clear his own view that the President does have  
25 executive authority to act, Tweeting on September 5th,

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 "Congress now has six months to legalize DACA,  
2 something the Obama administration was unable to do.  
3 If they can't, I will revisit this issue."

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

7 Commissioner Adegbile, how do you vote?

8 COMMISSIONER ADEGBILE: Aye.

9 CHAIR LHAMON: Commissioner Heriot?

10 COMMISSIONER HERIOT: No.

11 CHAIR LHAMON: Commissioner Kirsanow?

12 COMMISSIONER KIRSANOW: No.

13 CHAIR LHAMON: Commissioner Kladney?

14 COMMISSIONER KLADNEY: Yes.

15 CHAIR LHAMON: Commissioner Narasaki?

16 COMMISSIONER NARASAKI: Yes.

17 CHAIR LHAMON: Commissioner Yaki?

18 COMMISSIONER YAKI: Aye.

19 CHAIR LHAMON: Vice Chair Timmons-Goodson?

20 VICE CHAIR TIMMONS-GOODSON: Yes.

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

24 **C. State Advisory Committees**

25 CHAIR LHAMON: Next we will turn to our

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 State Advisory Committees. Today's agenda gives us  
2 three State Advisory Committee appointment slates to  
3 consider. Before we begin discussion, I remind all  
4 that objections to these slates have already been  
5 shared with all of the Commissioners.

6 To the extent anyone would like to discuss  
7 continuing objections, I ask that you not mention  
8 specific candidates by name. Each of these  
9 individuals has agreed to volunteer time and energy in  
10 the pursuit of the protection of civil rights.

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

21 With this motion, the Commission will also  
22 appoint Lawrence Lustberg as chair of the New Jersey  
23 State Advisory Committee. All of these members will  
24 serve as uncompensated government employees. If the  
25 motion passes, the Commission will authorize the Staff

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 Director to execute the appropriate paperwork for the  
2 appointments. Do I have a second for the motion?

3 COMMISSIONER KLADNEY: Second.

4 CHAIR LHAMON: Thank you. Any discussion?  
5 Commissioner Narasaki?

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

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

16 Commissioner Adegbile, how do you vote?

17 COMMISSIONER ADEGBILE: Aye.

18 CHAIR LHAMON: Commissioner Heriot?

19 COMMISSIONER HERIOT: I vote yes.

20 CHAIR LHAMON: Commissioner Kirsanow?

21 COMMISSIONER KIRSANOW: No.

22 CHAIR LHAMON: Commissioner Kladney?

23 COMMISSIONER KLADNEY: Yes.

24 CHAIR LHAMON: Commissioner Narasaki?

25 COMMISSIONER NARASAKI: Yes.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 CHAIR LHAMON: Commissioner Yaki?

2 COMMISSIONER YAKI: Aye.

3 CHAIR LHAMON: Vice Chair Timmons-Goodson?

4 VICE CHAIR TIMMONS-GOODSON: Yes.

5 CHAIR LHAMON: And I vote yes. The motion  
6 passes; one Commissioner opposed, all others were in  
7 favor.

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

15 With this motion, the Commission will also  
16 appoint Eric Asa as chair of the North Dakota Advisory  
17 Committee. All of these members will serve as  
18 uncompensated government employees. If the motion  
19 passes, the Commission will authorize the Staff  
20 Director to execute the appropriate paperwork for the  
21 appointments. Do I have a second for this motion?

22 COMMISSIONER KLADNEY: Second.

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

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 Commissioner Adegbile, how do you vote?

2 COMMISSIONER ADEGBILE: Aye.

3 CHAIR LHAMON: Commissioner Kirsanow?

4 COMMISSIONER KIRSANOW: Yes.

5 CHAIR LHAMON: Commissioner Heriot?

6 COMMISSIONER HERIOT: Yes.

7 CHAIR LHAMON: Commissioner Kladney?

8 COMMISSIONER KLADNEY: Yes.

9 CHAIR LHAMON: Commissioner Narasaki?

10 COMMISSIONER NARASAKI: Yes.

11 CHAIR LHAMON: Commissioner Yaki?

12 COMMISSIONER YAKI: Aye.

13 CHAIR LHAMON: Vice Chair Timmons-Goodson?

14 VICE CHAIR TIMMONS-GOODSON: Yes.

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

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

25 With this motion, the Commission will also

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 appoint Jennifer Steinfeld as chair of the Rhode  
2 Island Advisory Committee. All of these members will  
3 serve as uncompensated government employees. If the  
4 motion passes, the Commission will authorize the Staff  
5 Director to execute the appropriate paperwork for the  
6 appointments. Do I have a second for this motion?

7 COMMISSIONER KLADNEY: Second.

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

11 Commissioner Adegbile, how do you vote?

12 COMMISSIONER ADEGBILE: Aye.

13 CHAIR LHAMON: Commissioner Kirsanow?

14 COMMISSIONER KIRSANOW: No.

15 CHAIR LHAMON: Commissioner Heriot?

16 COMMISSIONER HERIOT: Yes.

17 CHAIR LHAMON: Commissioner Kladney?

18 COMMISSIONER KLADNEY: Yes.

19 CHAIR LHAMON: Commissioner Narasaki?

20 COMMISSIONER NARASAKI: Yes.

21 CHAIR LHAMON: Commissioner Yaki?

22 COMMISSIONER YAKI: Aye.

23 CHAIR LHAMON: Vice Chair Timmons-Goodson?

24 VICE CHAIR TIMMONS-GOODSON: Yes.

25 CHAIR LHAMON: And I vote yes. The motion

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 passes; one Commissioner opposed, all others were in  
2 favor.

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

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

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

22 MR. MUSSATT: Thank you, Madam Chair,  
23 Madam Vice Chair, and Commissioners. I want to thank  
24 you for providing me a few moments to recognize staff  
25 who worked to not only appoint but to fulfill the

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 mission of these 51 advisory committees that are now  
2 appointed.

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

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

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

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

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

24 Through this new process, we have been  
25 able to constructively work through the inevitable

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 challenges that arise. We also have been able to work  
2 closely with all special assistants who have been  
3 incredibly helpful in identifying potential  
4 candidates. I personally want to thank them for the  
5 help and professional support.

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

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

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

18 Thank you again for providing me with this  
19 opportunity.

20 CHAIR LHAMON: Thank you, David.

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

#### 23 **D. Management and Operations**

24 STAFF DIRECTOR MORALES: Thank you, Madam  
25 Chair. As always, I won't go into the details of the

### **NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 report. We have an additional section we need to add  
2 to the report, from General Counsel's office I  
3 believe. If we haven't already received it, I will  
4 make sure to circulate it to everybody. It has just  
5 been a very busy month, and we had a short turnaround  
6 from the last business meeting.

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

18 In addition, I will also be coming back to  
19 Commissioners with additional information on the  
20 planning for the 60th anniversary event. We have been  
21 working on it. We have been working on a few details.

22 We have a few more left to iron out, and I will also  
23 be coming back to Commissioners in an email on the  
24 status of what that looks like at this point.

25 And, lastly, I circulated at the last

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 moment yesterday a statement on the anniversary of the  
2 60th of the signing of the 1957 Civil Rights Act,  
3 which created the 60th -- I'm sorry, which created the  
4 U.S. Commission on Civil Rights. And so I know it was  
5 out of order, but I thought it might be worthwhile to  
6 consider.

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

13 Thank you.

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

18 STAFF DIRECTOR MORALES: Within the next  
19 week.

20 CHAIR LHAMON: Okay. Thank you.

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

24 Thanks.

25 (Whereupon, the above-entitled matter went off the

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 record at 10:39 a.m. and resumed at 11:01 a.m.)

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

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

10 CHAIR LHAMON: On September 9, 1957, one  
11 day short of exactly 60 years ago, President Dwight D.  
12 Eisenhower signed into law the Civil Rights Act of  
13 1957 establishing the U.S. Commission on Civil Rights.

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

18 The law was a testament to the power of  
19 bipartisan compromise and survived the longest  
20 filibuster in Senate history. Though the legislation  
21 was hotly contested, it reflects an origin point for  
22 today's national consensus as expressed in federal  
23 legislation such as the Civil Rights Act of 1964, the  
24 Voting Rights Act of 1965, the Americans with  
25 Disabilities Act, and other critical legislation, that

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 there are certain civil rights that must be protected,  
2 and that the Federal Government has a powerful and  
3 necessary role in ensuring those protections.

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

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

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

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1                   Our second speaker, Dr. David Nichols,  
2 joins us by phone. Dr. Nichols is a presidential  
3 historian and a leading authority on the presidency of  
4 Dwight D. Eisenhower. Dr. Nichols' book on President  
5 Eisenhower and civil rights titled "A Matter of  
6 Justice: Eisenhower and the Beginning of the Civil  
7 Rights Revolution," was published in 2007.

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

11                   He also published a book on the Suez Canal  
12 Crisis entitled "Eisenhower 1956: The President's  
13 Year of Crisis -- Suez and the Brink of War." And his  
14 newest book, "Eisenhower and McCarthy: Dwight  
15 Eisenhower's Secret Campaign against Joseph McCarthy,"  
16 documents for the first time how Eisenhower destroyed  
17 Senator McCarthy's political influence.

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

22                   Ms. Hammatt, we will hear from you first.

23                   Thank you.

24                   MS. HAMMATT: Good morning, Commissioners,  
25 special guests, ladies and gentlemen. What a delight

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 it is to be here with you on this beautiful September  
2 day.

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

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

20 The Eisenhower family belonged to a  
21 religious group known as the River Brethren. This  
22 religious movement was primarily composed of German  
23 immigrants in Pennsylvania who were generally farmers,  
24 hard workers, and pacifists. The Eisenhower family  
25 moved from Pennsylvania to the Kansas plains in 1878

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 when Ike's father, David, was merely 15 years old.

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

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

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

23 The result, of course, was the closing of  
24 the store, and David moved his small family to  
25 Denison, Texas, in 1889 to work for the railroad.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 There he worked as an engine wiper on the Missouri,  
2 Kansas, and Texas Railroad.

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

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

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

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

24 David worked at a local creamery as a  
25 refrigeration engineer. He received his certification

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 through a correspondence course, which is like the  
2 19th century version of an online school. He earned  
3 \$10 per week and averaged 80 hours working each week.

4 Ida was in charge of all of the day-to-day activities  
5 of the household. She taught all her sons to cook and  
6 clean and take care of themselves.

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

13 Those familiar with the Eisenhower family  
14 know that they lived on the wrong side of the tracks.

15 They were not considered affluent at all, and Ike  
16 recalled that the boys were not aware that they were  
17 poor and wrote that the boys lived a wonderful life of  
18 hunting, fishing, helping with family chores, and  
19 playing sports.

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

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 earnestness.

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

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

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

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

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

25 Ike's other childhood interactions with

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 non-whites were also on the athletic field. He joined  
2 the local Abilene town baseball team and played  
3 against the Cherokee Indians, which was a noted team  
4 out of Nebraska, and against an all-African American  
5 team.

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

13 Ike spent his military career in a  
14 segregated Army, but he still managed to work with  
15 people of color in a variety of different assignments.

16 He was briefly the Executive Officer of the 24th  
17 Infantry Regiment at Fort Benning in 1926. This is  
18 one of the historic Buffalo Soldier units.

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

25 His social activities in the Philippines

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

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

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

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

23 And she reminded me that John Moaney was  
24 the only African American poll-bearer at a  
25 presidential funeral, ever.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1           Eisenhower, as David Nichols will tell  
2 you, finished the integration of the military ordered  
3 by President Truman. In his final speech before the  
4 presidential election in 1952, Ike issued a 10-point  
5 statement summarizing the pledges he made during the  
6 campaign and promised to fulfill them, including  
7 serving all of the people, regardless of color, and  
8 promoting equality of opportunity.

9           When he entered office in 1953, Ike was  
10 determined to do everything he could in his role as  
11 President to remove social barriers for all Americans.

12       Here is what he did, either by executive order,  
13 executive decision, or enabling legislation. He  
14 desegregated Washington, D.C., and its schools. He  
15 banned discrimination in firms receiving federal  
16 contracts. As I noted a moment ago, he completed the  
17 desegregation of the armed forces, and this included  
18 base housing and dependent schools.

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

24       Those bills also established the  
25 Department of Justice Civil Rights Division and

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 formalized his ad hoc President's Committee on Civil  
2 Rights with the U.S. Commission on Civil Rights.

3 He sent federal troops to Little Rock to  
4 enforce a federal court order to integrate schools.  
5 He appointed the first African American to executive  
6 position in the White House, E. Frederic Morrow. He  
7 had the first African American secretary, Lois  
8 Lippman, and welcomed the first African American to a  
9 cabinet meeting, J. Ernest Wilkins, as the Secretary -  
10 - Assistant Secretary of Labor.

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

18 Prior to the books of Mr. Nichols and  
19 other historians correcting the record, an image of  
20 Ike as a do-nothing President on civil rights  
21 prevailed among scholars. I think part of the problem  
22 can be traced to Ike's words, or lack thereof, and  
23 this particular part of the problem can be traced to  
24 his core beliefs in both leadership and the role of  
25 the chief executive.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1           Ike's creed is succinctly expressed in his  
2 motto. We all know Harry Truman's, "The buck stops  
3 here," right? But do we remember Ike's? It's not  
4 well-known, but here it is. "Suaviter in modo,  
5 fortiter in re," or in English, "Gentle in manner,  
6 strong in deed." I think this is reminiscent of his  
7 boyhood hero, Theodore Roosevelt's "Speak softly and  
8 carry a big stick."

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

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

22           In summary, Ike learned from a young age  
23 that right was right and wrong was wrong, and that a  
24 higher power created all men equal. He carried these  
25 beliefs to the athletic field, to the Army, and to the

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 Oval Office where he advanced the cause of civil  
2 rights to the furthest in more than a generation.

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

7 CHAIR LHAMON: Thanks very much.  
8 Appreciate it.

9 Next we will turn to Dr. Nichols.

10 DR. NICHOLS: Yes. I'm on?

11 CHAIR LHAMON: Terrific. We can hear you.

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

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

20 For decades, Dwight Eisenhower's record  
21 was ignored and deprecated by my profession. In 1962,  
22 a survey of historians rated Ike 28th out of 34  
23 Presidents. Recently, a survey of 193 historians  
24 ranked Eisenhower 5th, only behind Lincoln,  
25 Washington, and the two Roosevelts.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1                   However, a decade after the publication of  
2 my book on civil rights, numerous scholars and  
3 journalists still resist the documented facts. So  
4 Dawn has given you an overview of some of those, and I  
5 will be -- sound a little bit repetitious but dig  
6 those holes just a little deeper, if possible. And  
7 then we will come back to look at the legislation  
8 particularly, and how it was passed to create the  
9 Civil Rights Commission.

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

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

25                   Again, as Dawn mentioned, Eisenhower

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 completed the desegregation of the armed forces, and  
2 completed it as it were. President Truman issued an  
3 executive order in 1948, but in 1953 most American  
4 combat units were still segregated.

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

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

17 And, of course, our point here today is  
18 that Eisenhower proposed, fought for, and signed the  
19 civil rights -- the first -- the Civil Rights Act of  
20 1957, the first such legislation in 82 years. In  
21 fairness, President Truman had proposed legislation,  
22 but it was unsuccessful due to the stranglehold  
23 Democratic southern segregationists had on the Senate.

24 Eisenhower's proposal included provision  
25 for the creation of a bipartisan Civil Rights

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 Commission. And that's you, folks.

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

9 Warren assumed his seat immediately and  
10 began to work on the Brown school desegregation case.  
11 Warren was not confirmed by the Senate until March 1,  
12 1954. But on May 17, 1954, Warren announced the  
13 unanimous Supreme Court decision declaring segregated  
14 schools unconstitutional and striking down the court's  
15 1896 separate but equal ruling.

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

23 Thurgood Marshall said that meant slow.

24 When the Brown ruling was announced,  
25 Eisenhower immediately ordered the Commissioners of

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 the District of Columbia to develop a desegregation  
2 plan for the District's schools. He later appointed  
3 four additional justices to the Supreme Court, all  
4 strong supporters of Brown and desegregation. And  
5 Dawn I think noted also that Eisenhower refused to  
6 appoint known segregationists to the lower federal  
7 courts. His appointees to the 4th and 5th Circuits in  
8 the south were courageous defenders of Brown and  
9 desegregation.

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

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

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

24 Now, get back to what you are really  
25 waiting for is the 1957 Civil Rights Act. It is a

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 complicated task to explain the workings of Congress  
2 in a few minutes, but I will try.

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

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

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

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 always gone to die.

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

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

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

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

25 On July 2, 1957, the prestigious Senator

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

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

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

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

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

25 But Ike could not hold out against the

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 agitation stirred up by Senator Russell. Lyndon  
2 Johnson met with the President and told him bluntly  
3 that he had the votes to kill the bill altogether if  
4 part 3 stayed in it. Reluctantly, Eisenhower agreed  
5 to drop the provision.

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

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

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

23 Then, the Eisenhower forces made a bold  
24 gamble. They threatened to revive the hated part 3 of  
25 the bill if the jury trial provision stayed in it.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 After a big fight on August 16th, the administration  
2 proposed that in voting rights cases a federal judge  
3 could act without a jury as long as the penalty did  
4 not exceed \$300 or 90 days in jail.

5 Lyndon Johnson, still wanting a cosmetic  
6 bill to promote his presidential aspirations, finally  
7 called Ike and proposed a ceiling of \$300 and 45 days  
8 in jail. Ike accepted that compromise, and on August  
9 29th the Senate passed the final version of the civil  
10 rights bill 60 to 15.

11 Those 60 votes included 37 Republicans and  
12 23 Democrats, and some scholars still haven't figured  
13 out that Lyndon Johnson could muster only 23  
14 Democratic votes out of 49 for this weakened bill.  
15 It's the Eisenhower coalition that had carried the  
16 day.

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

21 Well, the legacy. However weakened the  
22 bill was, the provisions for the Civil Rights  
23 Commission and the Civil Rights Division in the  
24 Justice Department survived. And as you know so well,  
25 still exists, making an impact for six decades.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1           The new Commission at that time had two  
2 mandates; one, to investigate any deprivation of  
3 voting rights and to study the laws and policies of  
4 the Federal Government to ensure equal protection of  
5 the laws. Southerners dragged out the appointment  
6 process, especially for appointees perceived as anti-  
7 segregation.

8           The appointees were finally confirmed on  
9 March 5, 1958. Since the 1957 Act, the Commission has  
10 been reauthorized and reconfirmed by legislation in  
11 1983, 1991, and 1994. I might add that all of this  
12 since the legislation is not what I am expert on, so I  
13 don't mind if you catch me in an error.

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

20           The Commission assessed voting in  
21 Montgomery, Alabama, resulted in fierce resistance  
22 from Governor George Wallace. It held hearings on the  
23 implementation of the Brown Supreme Court decision in  
24 Nashville, Tennessee, and housing discrimination in  
25 Atlanta, Chicago, and New York.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1           Most important, the Commission's findings  
2 provided a foundation for the Civil Rights Acts of  
3 1960, 1964, 1965, and housing discrimination in 1968.

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

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

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

24           With that, I will stop. Like with our  
25 soldiers, we should thank you, the Commission, the

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 Civil Rights Commission members, for your service to  
2 the country.

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

6 (Laughter.)

7 DR. NICHOLS: Thank you.

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

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

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

25 So I'm wondering if you have any

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 background history on -- that squares that with how  
2 forward-thinking he was on the issue of race.

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

5 MS. HAMMATT: You can take it, David.

6 DR. NICHOLS: Okay. Yeah. That -- those  
7 orders are explored in my new book on Eisenhower and  
8 Joe McCarthy. And this is in the midst of the Big Red  
9 Scare, and I don't excuse Eisenhower for that. He was  
10 not progressive on that matter, and, you know, the  
11 1950s was a tremendously homophobic period. And so  
12 just the rumor that someone was gay, let alone the  
13 fact, could cost them their federal job, including  
14 under the Eisenhower administration.

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

23 And they were worried -- and this is where  
24 the weak trade agreement gets mixed with the flowers,  
25 and they really worried that gay folks could be

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 blackmailed by the Communists. And in the midst of  
2 that Communist Red Scare, a lot of people believed  
3 that, but that does not excuse it. It certainly  
4 doesn't excuse it for me, but they were not ready to  
5 move as progressively on that as they were on African  
6 American civil rights.

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

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

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

19 MS. HAMMATT: No, go ahead.

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

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 consistently by the Department of War.

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

12 COMMISSIONER NARASAKI: Thank you.

13 Vice Chair, do you have questions?

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

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

24 I began elementary -- excuse me, began  
25 kindergarten in 1959 in Wiesbaden, Germany, in the

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 dependent schools. And for one with my date of birth,  
2 it's fairly uncommon for one never to have attended  
3 segregated schools, but I owe it to the efforts that I  
4 now understand President Eisenhower was directly  
5 responsible for. And so I --

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

8 VICE CHAIR TIMMONS-GOODSON: Yes.

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

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

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

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

21 DR. NICHOLS: Yes.

22 VICE CHAIR TIMMONS-GOODSON: -- was when  
23 he did this. So absolutely ahead of his time. So I  
24 thank you for the information, and I hope all of that  
25 word gets out.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1                   Let me ask you, now, Ms. Hammatt, you said  
2 that President Eisenhower didn't see his role as one  
3 to speak out or take positions on court's opinions,  
4 yet, Dr. Nichols, you indicate that President  
5 Eisenhower strongly supposed the Supreme Court in  
6 Cooper v. Aaron. Would you say a bit more about how,  
7 in fact, he supported that opinion?

8                   DR. NICHOLS: Are you asking me?

9                   VICE CHAIR TIMMONS-GOODSON: Yes, sir.

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

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

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

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

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 Presidents behind the scenes.

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

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

14 VICE CHAIR TIMMONS-GOODSON: One more.  
15 Now, you give the President credit for, of course, one  
16 Earl Warren. My recollection of history is that Earl  
17 Warren had to go to President Eisenhower two or three  
18 times to remind him of the promise that he had made  
19 that he would indeed get the very next appointment to  
20 the Supreme Court of the United States, and that it  
21 took a little time and it was more Earl Warren  
22 refusing to take no or refusing to be denied that  
23 appointment than it was Ike enthusiastically putting  
24 him on the court. Would you say a word or two more  
25 about that, please?

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 DR. NICHOLS: Yeah. Eisenhower -- well,  
2 the important thing in that story is that Eisenhower  
3 calls Earl Warren, personally calls him. It wasn't a  
4 subordinate doing it. In November of 1952, after the  
5 election, he promised him the next opening on the  
6 Supreme Court. That is an extraordinary thing. There  
7 were no openings on the Supreme Court.

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

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

25 But with Ike, you just have to look out

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

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

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

15 VICE CHAIR TIMMONS-GOODSON: Thank you.

16 CHAIR LHAMON: Any other questions?  
17 Commissioner Kirsanow?

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

23 DR. NICHOLS: Yes.

24 COMMISSIONER KIRSANOW: There is one where  
25 he indicates that in the drive toward the Saar, Patton

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 wanted to desegregate the rifle brigades because he  
2 just, frankly, needed more shooters.

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

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

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

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

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

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

25 CHAIR LHAMON: Commissioner Heriot?

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 DR. NICHOLS: I should explain, I've made  
2 a point in my old age, by the way, of focusing on the  
3 Eisenhower presidency. And I'm not a war expert. I'm  
4 sorry.

5 COMMISSIONER HERIOT: I just have a quick  
6 comment. First, I want to thank you both for the very  
7 interesting presentation. I am particularly  
8 interested in the ins and outs of the strategies of  
9 passing the Civil Rights Act of 1957, in part because  
10 I want to make a plug for my friend and late  
11 colleague, Carl Auerbach, who is a professor of law or  
12 was a professor of law at the University of San Diego  
13 up until last year when he passed away at the age of  
14 100.

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

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

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

1 miss him.

2 DR. NICHOLS: Yeah. A great man. Thank  
3 you.

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

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

15 Thank you.

16 **III. ADJOURN MEETING**

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

20 Thank you.

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

23

24

25

**NEAL R. GROSS**  
COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.  
WASHINGTON, D.C. 20005-3701

(202) 234-4433

[www.nealgross.com](http://www.nealgross.com)