U.S. COMMISSION ON CIVIL RIGHTS

BUSINESS MEETING

FRIDAY, JULY 13, 2018

The Commission convened in Suite 1150 at 1331 Pennsylvania Avenue, Northwest, Washington, D.C. at 10:00 a.m., Catherine Lhamon, Chair, presiding.

PRESENT:

CATHERINE E. LHAMON, Chair

PATRICIA TIMMONS-GOODSON, Vice Chair

DEBO P. ADEGBILE, Commissioner

GAIL HERIOT, Commissioner

PETER N. KIRSANOW, Commissioner

DAVID Kladney, Commissioner*

KAREN K. NARASAKI, Commissioner

MICHAEL YAKI, Commissioner*

MAURO MORALES, Staff Director

MAUREEN RUDOLPH, General Counsel

* Present via telephone
STAFF PRESENT:
LASHONDRA BRENSON
KATHERINE CULLITON-GONZALEZ
BARBARA DELAVIEZ
IVY DAVIS, Director, ERO
PAMELA DUNSTON, Chief, ASCD
ALFREDA GREENE
TINA LOUISE MARTIN
DAVID MUSSATT, Director RPCU
MAYOWA OLUBAKINDE
MICHELE RAMEY
BRIAN WALCH
MARIK XAVIER-BRIER

COMMISSIONER ASSISTANTS PRESENT:
SHERYL COZART
JASON LAGRIA
CARISSA MULDER
AMY ROYCE
RUKKU SINGLA
ALISON SOMIN
IRENA VIDULOVIC
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(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 July 13th, 2018. The meeting takes place at the Commission's Headquarters located at 1331 Pennsylvania Avenue, Northwest, Washington, D.C.

I'm Chair Catherine Lhamon. And the Commissioners who are present, in addition to me at this meeting, are Vice Chair Timmons-Goodson, Commissioner Adegbile, Commissioner Heriot, Commissioner Kirsanow and Commissioner Narasaki.

And on the phone if you could confirm that you are on the line after I say you name. I believe we have Commissioner Kladney? Commissioner Kladney, are you present?

COMMISSIONER KLADNEY: Good morning.

CHAIR LHAMON: Thank you. And Commissioner Yaki?

COMMISSIONER YAKI: Here.

CHAIR LHAMON: Thank you. A quorum of the Commissioners is present. Is the court reporter present?

Thank you. Is the staff director present?

MR. MORALES: I'm here.
CHAIR LHAMON: Thank you. The meeting now comes to order. So a motion to approve the agenda for our business meeting?

I. APPROVAL OF AGENDA

COMMISSIONER ADEGBILE: So moved.

CHAIR LHAMON: Thank you. A second?

COMMISSIONER NARASAKI: I second.

CHAIR LHAMON: Thank you. I'm going to start with one amendment. I move to amend to add a presentation from our Ohio Advisory Committee Chair on the Committee's recently released advisory memorandum voting rights in Ohio. Is there a second?

VICE CHAIR TIMMONS-GOODSON: Second.

CHAIR LHAMON: Thank you. Any other amendments?

COMMISSIONER NARASAKI: Madam Chair?

CHAIR LHAMON: Commissioner Narasaki.

COMMISSIONER NARASAKI: I would like to move to add a statement on the Supreme Court's recent decision on the Muslim ban?


Let's vote to approve the agenda as amended. All those in favor say aye?

(Chorus of aye.)
CHAIR LHAMON: Any opposed? Any abstentions? The motion passes unanimously.

II. BUSINESS MEETING

First, we will discuss and vote on the nominated chair of the D.C. Advisory Committee.

A. DISCUSSION AND VOTE ON COMMISSION ADVISORY CHAIR

CHAIR LHAMON: Before we begin discussion, I remind my fellow Commissioners that the Commission has a policy not to defame, degrade or incriminate any person. Each of these individuals has agreed to volunteer time and energy in the pursuit of the protection of civil rights.

The staff director has recommended for appointment John Malcolm as Chair of the D.C. Advisory Committee. To open the floor for discussion I move that we approve this appointment, do I have a second?

COMMISSIONER HERIOT: Second.

CHAIR LHAMON: Thank you. Any discussion of this appointment? Hearing none I'll call the question, we can take a roll call vote.

Commissioner Adegbile, how do you vote?

COMMISSIONER ADEGBILE: Aye.

CHAIR LHAMON: Commissioner Heriot?

COMMISSIONER HERIOT: Aye.

CHAIR LHAMON: Commissioner Kirsanow?
COMMISSIONER KIRSANOW: Yes.

CHAIR LHAMON: Commissioner Kladney?

COMMISSIONER Kladney: No.

CHAIR LHAMON: Commissioner Narasaki?

COMMISSIONER NARASAKI: No.

CHAIR LHAMON: Commissioner Yaki?

COMMISSIONER YAKI: No.

CHAIR LHAMON: Vice Chair Timmons-Goodson?

VICE CHAIR TIMMONS-GOODSON: Madam Chair, because we pay very close attention and frequently follow the recommendations that come to us from our staff folks, I see no reason to do otherwise in this situation and I vote yes.

CHAIR LHAMON: Thank you. And I vote yes.

The motion passes. Three Commissioners opposed, no Commissioner abstained and all others were in favor.

We will now hear from our New Hampshire Advisory Committee Member, the Honorable Jacquelyne Weatherspoon on the Committee's recently released report: Voting Rights in New Hampshire.

B. PRESENTATION BY NEW HAMPSHIRE ADVISORY COMMITTEE

CHAIR ON THE COMMITTEE'S RECENTLY RELEASED REPORT:

VOTING RIGHTS IN NEW HAMPSHIRE

CHAIR LHAMON: Ms. Weatherspoon, you have ten minutes.
MS. WEATHERSPOON: Thanks. Thank you for having me.

CHAIR LHAMON: Thank you.

MS. WEATHERSPOON: I am sorry our Chair Ms. Jerri Anne Boggis could not be with you today. My name is the Honorable Jackie J. Weatherspoon. This is my second term serving on the Commission and it is such an honor.

I have served six years in New Hampshire House of Representative and as a member of the Election Law Committee.

I want to start by thanking Barbara Delaviez for her strong support to the Committee and Ms. Ivy. Ms. Ivy gave me a tour of the office upon one of my visits to Washington, D.C. and I'm in awe of what the Commission embodies close up.

I would like to highlight a few points which will give you an overview of the challenges we face in New Hampshire as we attempt to live out the rights of the 15th, 19th and 26th Amendments.

After a successful set of working on reform of the Women's Prison in New Hampshire, our staff decide to meet once again to focus on what is to be our next project. After a lengthy discussion, the Committee agreed that voters' registration needed to
be tackled as our population is aging.

The graying of New Hampshire, of which over 40 percent has, is over the age of 60. Secondly, we are experience a brain drain of young people and our population is becoming more diverse even ever so slowly.

Especially in our cities of Nashua and Manchester where over 75 languages are spoken in our public schools.

Let me highlight a few items from our report. Number one, we are the only state in the United States where voter registration in-person is mandatory.

As a subset of that --

Excuse me?

CHAIR LHAMON: I think we had some background noise, but you can go ahead. Thank you.

MS. WEATHERSPOON: Okay. As a subset, if you also move within your county you are still mandated to re-register in-person.

Let me go on. There is no required training of election officials assigned to work at the polls as clerks or any other duty on any election day that we have in our state.

There is anecdotal testimony within the
report that speaks of a voter who couldn't get accurate information from a poll worker. That person therefore left the polling station without voting.

There was confusion about, when do you give a voter an affidavit who has the right to vote and register on Election Day. The clerk did not know because the clerk did not attend any training.

Let me go on. There has been no PSA, Public Service Announcements, when to register, widespread in the state except for local newspapers. There is a website, but if you are a family that does not have a computer, you are at a severe disadvantage.

Getting accurate information is very cumbersome. Two organizations has written pamphlets and traversed the state giving local citizens training. They are the League of Women Voters and the Granite State Progress Education Fund.

Let me go on. The HAVA donated over $16.8 million to assist disabled voters. Where was the money spent?

Over 50,000 living in New Hampshire have failing vision or blindness and we have very little support to respond to their needs. There is limited wheelchair access, which is, in some cases, illegal and in other cases called discriminatory.
Most courts don't understand that you have to have wheelchair compliance even during municipal elections.

Let me go on. New laws are being passed in the legislature that says you have to prove that you will continue to be permanently domiciled in New Hampshire, in order to register to vote and to cast your ballot.

This bill is targeting young people of New Hampshire. Our Governor is sending this bill to the New Hampshire Supreme Court for a final ruling.

New Hampshire is one of those states that was reported to have voter, rampant voter fraud. The Secretary of State handed over some information, however, this process was stopped after most protest. And the group who wanted to implement this case rescinded this request.

The Committee's recommendations are as follows. One, we need to lessen the burden of voter identification, meaning we need clearer articulate messaging.

Number two, voter registration. Eliminate re-registry within our county. Voter absentee, loosening the requirement.

Next, mandatory required training of
elected officials. Greater, let me go on, greater public awareness. In other words, as well besides English.

Their media outreach is woefully insufficient.

Next, elimination of the cameras as an affidavit addition is too cumbersome. And there is very little training.

Update of our centralized system. And lastly, you should not be forced to register, and I've mentioned this twice, if you move within the county close to polling day.

Thank you for this opportunity to share our report, and if you have any questions, I will take them now.

CHAIR LHAMON: Thank you so much, Ms. Weatherspoon, I'm going to open the floor for questions from my fellow Commissioners. Commissioner Narasaki?

COMMISSIONER NARASAKI: Thank you very much for the hard work of your advisory Committee. As you know, it comes at a very important time since the Commission itself will be issuing a report on voting rights.

I note that yesterday the New Hampshire
Supreme Court, in a three to two ruling, found that New Hampshire House Bill 1264, which targets the right of college students to vote in New Hampshire, is constitutional.

I understand that the Governor has not yet signed it. And the problem is that it has significant motor vehicle fees, basically, as a condition of the right to vote.

I'm wondering what your assessment is of the likelihood that the Governor is going to sign that bill?

MS. WEATHERSPOON: I hope you're not asking for my personal opinion. I think there will be many, many more discussions around that.

And I think that we should wait for the feedback of what colleges will do to assist in that mold since a number of our students come from around the country and from around the world. And we have a number of universities that serve many, many populations.

So I'm going to withhold my personal opinion until we hear again from our young people.

I will say, in terms of young males that have to register for the draft, they do that early, at 18. They cannot receive clearances to get
So, I think we have a number of gates there that should allow college students to vote. And because if you register for the selective service, sorry, not the draft, selective service, you could be called up if we have a draft, and the Government would know how to find you.

So, I think with the selective service registration that should be enough.

CHAIR LHAMON: Thank you. I noticed really striking information in your report about disability access in the state.

In particular, the recognition at Page 16 of the report that in 2013 municipal elections, 100 percent of disabled voters were unable to vote privately and independently because none of the polling locations had accessible voting setup.

And there was other very compelling information in the report about disability access for voting. I wonder if you have suggestions and thoughts for the state about how to address those concerns?

MS. WEATHERSPOON: I think, again, if I was to say on a personal note, as we all age and as we recognize secondly our veterans who are coming home
from war, for all that they experience on PSD to all type of injuries, I think this should be an urgent call that we recognize and accept that this is something that has to be tackled right away.

And on that note, especially with our veterans, this is something that our laws in the State of New Hampshire, we are working on issues about mental disabilities. But not only that, their physical disabilities.

And our delegation has worked on our hospitals, to service our veterans. And I think that service should be extended to our voting. Accessibility for our veterans. So I'm very concerned about this as well.

CHAIR LHAMON: Thank you. And I also am remiss in not mentioning first, just how deeply grateful I am for the activity of this State Advisory Committee in particular.

It's very impressive, especially given volunteer status and our staff constraints here at the Commission. It's really exciting to me to see increased and really exciting output from this Committee. So thank you very much also.

MS. WEATHERSPOON: Thank you.

CHAIR LHAMON: Commissioner Narasaki.
COMMISSIONER NARASAKI: Yes, thank you, Madam Chair. I just had one more question. Are there any actions that your Committee would like the Commission to take with your report?

MS. WEATHERSPOON: I think more dialogue in the sense of looking at how we can really best support the Secretary of State's Office.

During our testimony, you could really understand how the Secretary of State's Office either needs more money or more training. And to really address that issue, how can we best equip them to be really good servants to make folks excited about it to how do we bring new technologies, how do we get people, the next generation, to support the Secretary of State's office. So, I really would like us to concentrate on supporting them.

COMMISSIONER NARASAKI: Thank you.

CHAIR LHAMON: Commissioner Adegbile.

COMMISSIONER ADEGBILE: Yes, good morning.

I'm wondering if you could explain to us a little bit more about how the purge of voters that's described in the report, has been affecting access to the polls?

MS. WEATHERSPOON: Well, from our report, and let me see, hopefully I can understand what you're trying to say. First of all, all the purging happens
at the local level.

And also, and then we don't know when that information goes to the Secretary of State's office. I've lived in New Hampshire long enough to remember the days where the town clerk's office really was in their home. And where the voter cards were actually in shoe boxes.

And when you want to register to vote, you actually went to the Secretary of State's House. I mean, the town clerk's home.

So, we are still marching towards what that looks like. So, for that purging, in some places it's very different. Sometimes it is ten years, but we are trying to articulate that and make sure in some cases it matches up to the census. And so therefore we even know the next census it will look very different.

There is a respect in New Hampshire, when not purging the poll, but we don't know exactly if that is a state-wide drop date.

COMMISSIONER ADEGBILE: Yes, thank you.

In particular, I was interested in the aspect of the report on Page 18, where the report reads, the purge most likely contributed to increased wait times at the polls in 2012. In 2011 there were roughly 100,000
names that were removed from that list.

So, typically what happens is, large bulks of those voters re-register then on the day of the election. It takes about 20, 25 minutes to register each person individually, which substantially added to the wait times at certain polling precincts. And then it continues from there.

So, I was just wondering if there is some system of purging that is requiring eligible voters to have to re-register on election day in a way that's impeding access?

MS. WEATHERSPOON: So, each town may or may not send a postcard. We don't know exactly when they send the postcard to verify if, one, the person is still living there, the death of a person. So those dates are not articulated across the state.

And this is why I'm asking for support and directives to the Secretary of State Office, that we centralize a number of these activities so when we do get to election day we are all on the same page across the state.

COMMISSIONER ADEGBILE: Thank you.

CHAIR LHAMON: If there are no further questions, I will thank Ms. Weatherspoon so much for your presentation and, again, for the work of the
State Advisory Committee on this topic, we really appreciate it.

MS. WEATHERSPOON: Thank you so much.

CHAIR LHAMON: We'll move on to our next item on our agenda which is -- sorry, did I cut you off, Ms. Weather spoon?

MS. WEATHERSPOON: Yes. No, I was saying thank you very much.

CHAIR LHAMON: Thank you. So, we will move to our next item, which is to hear from our Ohio Advisory Committee Chair, Diane Citrino, on the Committees recently released memorandum voting rights in Ohio.

C. PRESENTATION FROM OHIO ADVISORY COMMITTEE CHAIR ON THE COMMITTEES RECENTLY RELEASED ADVISORY MEMORANDUM VOTING RIGHTS IN OHIO

CHAIR LHAMON: Ms. Citrino, I note also this is the second time we've been able to hear from you in the year and a half that I have been on this Commission, so I also deeply, deeply thank your Commission, your Committee for its productivity in work. Really looking forward to your presentation, you have ten minutes.

MS. CITRINO: Thank you very much. Thank you, Chairman and thank all Members of the Commission
for this opportunity to speak with you today.

One of Ohio's tourism slogans is Ohio, in the Heart of It All. And with respect to voting rights, we, in Ohio, believe we are in the heart of many voting rights issues.

Indeed, as we prepare the report we just submitted, the U.S. Supreme Court was considering a challenge to how Ohio's voting rolls were purged. And after the Supreme Court decision just a few weeks ago, the headlines of the Plain Dealer, our local paper here in Cleveland, has been advising people how to make sure they can vote in the upcoming election.

The importance and timeliness of the Commission's examination of voting caused our Ohio State Advisory Committee to hold hearings and prepare an update on voting rights issues in our states, in order to assist the Commission in your important work this year.

We also reviewed testimony about voting challenges raised with our Committee where we looked at similar issues in 2006. We heard from experts on voting in our states.

And along with the state purging of voter registration rolls, some of the primary concerns raised by our Committee, many of which are shared by
our New Hampshire State Advisory colleagues, are
voting barriers for individuals with disabilities,
inconsistent or insufficient poll worker training,
irregularities in the counting and dismissal of
provisional ballots, variance in voting laws,
policies, procedures and practices in different
jurisdictions, strict limitations on early and
absentee voting, particularly in large urban areas
predominantly serving voters of color, political
gerrymandering, and in a broader context, political
partisanship.

The Committee heard significant testimony
about the detrimental effects of partisan infighting
in the U.S. election system and how that impacts voter
participation, namely that negative campaign ads and
partisan fighting can discourage voters from
participating.

We heard about election security, language
access as well as voter intimidation. Including
specific examples, like billboards warning of jail
time and large fines for voting offenses that were
placed in predominantly African American
neighborhoods.

One area in our report that I'd like to
highlight was a discussion by way of a written
question raised by one of our Committee members, about the reality and the perception of voter fraud by people who are not citizens.

Appendix F of our report has a detailed examination by Professor Daniel Tokaji, who also testified, about the disjunction between perception and reality when it comes to non-citizen voting.

The evidence, according to Professor Tokaji, shows non-citizen voting to be a very small problem in reality. But the perception of non-citizen voting is a different matter.

There is evidence that many voters falsely perceived voter fraud in general and non-citizen voting in particular, to be a significant problem.

Professor Tokaji provides an explicit recommendation in his testimony about the need for more public education on this point. He sees the Commission as being able to help ameliorate this disconnect between perception and reality about how uncommon non-citizen voting in particular and voter fraud more generally really is.

Other action, we would appreciate the Commission's help in taking our recommendations to a variety of sources. They are listed in our report.

Some of them include urging the Ohio
Governor and Legislature to remove current requirements that result in the discarding of otherwise legitimate provision absentee ballots for trivial errors. Such as writing in cursive rather than printing, expanding opportunities for early and absentee voting, revisiting state legislation, prohibiting harassment and voter intimidation at the polls and clarifying definitions of prohibited behaviors.

And in collaboration with the disability rights community, establishing alternative identification verification options for individuals with disabilities who are unable to produce matching signature verification.

We also request in our recommendations that the U.S. Commission on Civil Rights issue formal recommendations to the Ohio Office of the Secretary of State to increase public awareness and education campaigns for voters. Particularly in the areas of ID requirements, early and absentee voting opportunities and any areas of recent election law change.

And following up on the, on Chair Lhamon's question about what can be done for disability, people in the disability community, we would like to see, in conjunction with local advocates and the disability
rights community, an assessment of the voting process in Ohio to ensure that all aspects are acceptable and to effectively train all election officials and poll workers about the rights of people with disabilities and how to provide an accessible voting experience.

And we suggest, where possible, a disability liaison should be assigned to each polling location. Because we do know there are a lot of confusing laws and confusion about how to make the voting experience as accessible as possible.

We would also ask that the Commission encourage jurisdictions that have a substantial non-English speaking population to begin expanding multilingual voting materials in support. Even if they do not yet meet the federal threshold for required language accessibility.

Finally, we looked at some concerns around foreign interference with the electronic voting records. We suggested hiring a dedicated cybersecurity director advised by a bipartisan council of security experts, election officials and voter advocates to address concerns around foreign interference.

We also would like to see co-workers trained on the electronic polling machines and using a
corresponding paper trail to secure our very important right to vote.

We would like to allow boards of elections the broadest leeway possible to verify and count absentee and provisional ballots. And take steps to ensure voting officials and their staff remain non-partisan in their approach to voting rights and voting administration.

Finally, Ohio, we would like, in Ohio, felons upon release can vote. And we would appreciate if the U.S. Commission on Civil Rights could formally recommend to the Ohio Department of Rehabilitation and Correction that they provide universal and systemic notification of the right to vote, to people with felony convictions upon their release from prison.

Our report also is a little unusual because it does have the 2006 material, so I do hope that you will find our information helpful and I'd be happy to answer any questions.

CHAIR LHAMON: Thanks so much, Ms. Citrino. And I also really appreciate that your State Advisory Committee chose to follow-up, including from 2006 and into 2018 in your investigation. I thought that was impressive and I'm grateful for the depth of information in the Committee's report.
I'll open for questions from my fellow Commissioners. Vice Chair Timmons-Goodson.

VICE CHAIR TIMMONS-GOODSON: I too would like to thank you for the effort by the Ohio SAC on this issue. You mentioned in the report that Franklin County had, in response to the large number of provisional ballots that were thrown out, Franklin County had developed a form of a system of education for voters by instructing them on the items that had to be completed in order to ensure that their ballot was counted.

I was wondering, how widespread is or has that effort to educate voters been, are other counties doing it and if not, why? What can we do?

That seems to me, given the increase in the voter suppression efforts, it seems that if we could do something about the loss of these provisional ballots that would be significant.

MS. CITRINO: I completely agree. Thank you for the question. Unfortunately, we tried to get more of an understanding of, part of the issue is people are doing things differently from place to place and education is not uniform at all. And replicating what works would be ideal, but there hasn't been money, my understanding is, there hasn't
been money allocated in the state budget for education.

And in the past, even when money was allocated, at times it was not utilized. I think somewhere in our report it talks about only 14 counties actually utilize the money that was there. So I'm not sure what the answer is and how to replicate programs that work.

VICE CHAIR TIMMONS-GOODSON: Thank you.

CHAIR LHAMON: Ms. Citrino, in the report you had a couple of very recent and very distressing examples of voter intimidation taking place in Ohio. That was Page 13.

Information about 2012, intimidation of billboards, warning of jail time and large fines for voting offenses that were predominantly placed in African American neighborhoods.

And on page 14 of the report there was information from 2016 of reports of men riding around in pickup trucks at the polls threatening voters in Summit County in Ohio.

I saw in your report and I heard in your presentation the recommendation to define harassment in state law to try to address issues of intimidation of these types. In your view, are the state
protections against intimidation sufficient if that harassment were so defined or is there more that needs to be done given this information that is recent and reflects what I view as pretty old style classic discrimination with respect to the right to vote?

MS. CITRINO: I think, you know, speaking as someone who's an attorney with 36 years of experience who has worked in the field of discrimination and harassment, harassment is not, often not defined in the law. I don't know so much if we, we would like some clarity.

I believe, I think that would be helpful in Ohio. I think that was what our experts were telling us and what we ended up putting in our list.

I think enforcement is also really key in having people who are vigilant to make sure there is action taken. We have a photograph of one of the billboards that is in the appendix. I don't have the exact page number of the billboard, but it's very intimidating to see there could be a $10,000 fine if there is voter fraud.

But, how are these billboards going to be taken down?

It's really hard to put the toothpaste back in the tube. After somebody has seen a billboard
like that, it has a very chilling effect. And there
should be some strong punishment for people taking
those kinds of action.

CHAIR LHAMON: Thank you. Commissioner
Narasaki.

COMMISSIONER NARASAKI: Thank you, Madam
Chair. I want to add my thanks to the Advisory
Committee. There is so much going on in Ohio around
voting, I'm sure it's very difficult to keep up.

I've been very concerned about the
treatment of people who think they are registered to
vote but for various reasons. And even sometimes
casts a ballot but then their ballot doesn't get
counted.

So, I was looking, as the Vice Chair did,
about the purging. And the report talks about how
infrequent voters are moved to an inactive list. And
that in 2016 about 1 million people, about 13 percent
of Ohio's voter registration rolls, were deemed
inactive.

And these voters then therefore don't
receive information from the Secretary of State's
Office about vote by mail, in contrast to the other
voters. And that seems, to me, make it even more
likely that they'll end up being purged because
they're not getting the same materials about voting, that would make it easier for them to vote than others.

Is there any action being taken to try to address that particular problem?

Particularly since the next note says that the voting machine's purchase is based on the number of registered voters. So, if you cancel a large number of voters and they tend to be minority or people with disabilities then it seems like you're further burdening those voters who are registered and show up and then end up in long lines, so I'm wondering what is being done in Ohio about that.

MS. CITRINO: Yes, I think that's a very serious concern, especially because we did hear testimony that the voters flagged as inactive were disproportionately Black voters. And as you note, there's a vicious cycle.

So, I think on a local level what I have heard is that activists are very much making sure that people understand, and there has been, as I said, articles in the Plain Dealer about how to check if you are registered to vote. Many people are going to take advantage, I believe, of the voting early provision so that if you go down and find there is a, you go and
you vote ahead of time at a fixed location in your county, if there is a problem then there can be work to get, to make sure that it's cleared up and have your vote counted, because it was very confusing.

Apparently, if you go and you have been purged, you are allowed to fill out a ballot but it's not going to be counted. What it does is it just kind of gets you, it starts the re-enrollment process for the next election. So people could be very misguided as to whether or not their vote would count.

COMMISSIONER NARASAKI: Thank you. I want to follow-up with the fact that also, apparently in Ohio, absentee ballot applications may only be mailed if the legislature appropriates money.

And that disproportionately this has affected urban counties which, I assume, probably have a larger population of minority voters than other parts of the state. And so then the report goes on to say, so this has disproportionately affected the urban counties that traditionally have sent out absentee ballots to encourage early voting.

That combined with the fact that in Ohio it looks facially neutral again, but all counties are permitted to have only one location for early voting, regardless of the county's population. Which, if it's
like most states, probably has very disproportionate populations in various counties.

Again, urban areas, which likely are more likely to have the higher minority populations. I'm wondering if there is any attention being given to trying to make this more fair to the urban counties?

MS. CITRINO: We very much noted that discrepancy in our report and agree. And also create long lines in urban areas because fewer people are going to be voting ahead of time at the sole voting early locations.

So, on election day it also is going to create more congestion at the polls in those urban areas. It is a very vicious cycle that does lend itself to voter suppression.

And whether anything is going to be done in terms of opening additional early voting locations in larger urban area counties with larger populations, we did not hear any indication that that was the way things were tending to go. It sounds like it would be a good idea to me, but we didn't hear specific testimony on that.

COMMISSIONER NARASAKI: Yes, it does strike me that this is what voter discrimination looks like in 2018. My last thing is, I just wanted to
highlight because I was just so shocked by this, that in 2012 where one house race was decided by just four votes, the local board of elections threw out votes because of data entry errors by staff, even though voters had actually provided the correct information. So voters who provided the correct information, votes did not count because of mistakes made by the office. I'm very much hoping that something is being done about that particular problem. So thank you very much.

CHAIR LHAMON: Commissioner Adegbile.

MS. CITRINO: Thank you.

COMMISSIONER ADEGBILE: Good morning. I have a question. I'm trying to seek some clarification about the voter registration rules in Ohio that perhaps you can help me with.

On Page 8 of your report, there is a discussion about what an Ohioan must do to register to vote online. And the sentence says, this requirement excludes eligible voters who may not have a State ID or driver's license, such as students temporarily residing in Ohio who have not obtained a State ID, the elderly Ohioans with disabilities, individuals living in poverty, those who do not drive and others.

So, just taking one example, a student who
has a valid Ohio State University ID, is that an acceptable form of identification?

MS. CITRINO: I don't know. I know we heard testimony about what, and part of the issue is the ID requirements in Ohio have changed over time. And I have not looked much at the online registration myself and I'm not, I know we heard testimony about it but I can't answer your question if that's acceptable.

COMMISSIONER ADEGBILE: No, of course. No problem. Let me move to a different topic.

Do you have any sense, did you get any sense from the testimony, before your body, about what the usage was of the so called golden week and could you explain to us how that operated the golden week of voting in Ohio?

MS. CITRINO: Yes. There was a period of time where you could both register and vote at the central location in your county for one week.

And it was widely utilized by, in particular, African American churchgoers who would have buses taking people directly from church to go register to vote and then vote. And that golden week was removed.

So Ohio, one of the longest periods of time where you have to register 30 days ahead of the
election in order to vote. So that's, I think, the longest period allowed under law. And you no longer could register and vote the same day, you have to have registered 30 days ahead.

COMMISSIONER ADEGBILE: And what was the rationale, as you understand it, for eliminating that, in effect, same day registration approach?

MS. CITRINO: I don't, I have no idea. It seemed like a good idea to me, but I don't know what the rationale was.

COMMISSIONER ADEGBILE: Thank you. Maybe it was too much democracy.

CHAIR LHAMON: Fair enough. Not to be asked to speak for decisions you haven't made yourself, but we appreciate it, Ms. Citrino. Any other questions? Commissioner Narasaki.

COMMISSIONER NARASAKI: I just would like to note that the report, the Committee makes a number of recommendations and requests of our Commission to follow-up and would like to ask our Staff to look through the recommendations and figure out how we should best respond to those requests.

CHAIR LHAMON: Great. Thanks. So, Ms. Citrino, thank you again for your service to the Ohio State Advisory Committee and for taking the time to
speak with us today. And also for the really commendable output from your Committee too, we very much appreciate it. The next item --

MS. CITRINO: Thank you.
CHAIR LHAMON: Sorry for cutting you off.

The next item on our amended agenda is a discussion and vote on a proposed statement titled, U.S. Commission on Civil Rights decries Supreme Court decision in Muslim Ban Case, introduced by Commissioner Narasaki.

D. DISCUSSION AND VOTE ON A PROPOSED STATEMENT TITLED, U.S. COMMISSION ON CIVIL RIGHTS DECRIES SUPREME COURT DECISION IN MUSLIM BAN CASE

CHAIR LHAMON: Commissioner Narasaki, can you please read the statement for the record so that we know what it is we would discuss and then potentially vote on?

But first, oh no, first, please go ahead.

COMMISSIONER NARASAKI: Yes, thank you, Madam Chair. I should have asked my staff to make it in bigger font so I can actually see it, sorry.

(Laughter.)

COMMISSIONER NARASAKI: I'm getting old.

COMMISSIONER ADEGBILE: It's an occupational hazard.
(Laughter)

COMMISSIONER NARASAKI: Exactly. In our tradition, I will not read the footnotes because we will be here all day if I do that.

It is entitled, the U.S. Commission on Civil Rights decries Supreme Court decision in Muslim Ban Case. The U.S. Commission on Civil Rights strongly disagrees with the Supreme Court's recent five to four decision in Trump v. Hawaii upholding the Presidential Proclamation, otherwise known as the Muslim ban, restricting entry of nationals from eight countries, six of which are Muslim majority.

The Commission issued a statement last year expressing deep concern with the discriminatory implications of the executive order that proceeded the Presidential Proclamation the court eventually reviewed and agrees with Justice Sonia Sotomayor's observation that the repackaging does little to cleanse the Presidential Proclamation Number 9645 of the appearance of discrimination that the President's words have created.

It is troubling that a majority of the Supreme Court chose to ignore the extensive record of the President's hostile views and underlying intent, as well as the strong evidence of the discriminatory
application of the policy.

The President, both as a candidate and since he has been in office, has repeatedly made statements that have clearly and unmistakably expressed and perpetuated hostility, distrust, and hatred of people who adhere to the Muslim faith and has explicitly linked those statements to the Muslim ban itself.

Allowing an order so publicly rooted in religious and national origin intolerance to stand could have grave consequences.

The decision adds another regrettable chapter to our nation's history of unjustly decided cases. While we acknowledge the importance of the Supreme Court finally overturning its "gravely wrong" Korematsu decision, the Commission finds that it did so while simultaneously perpetuating the same mistake in giving too much deference to the President and ignoring the animus underlying both cases.

In doing so, the majority opinion asserts "Korematsu has nothing to do with this case," yet President Trump himself justified his plan as a candidate to ban Muslims by noting that President Roosevelt "did the same thing" during World War II with the internment of Japanese Americans.
And as a side note, my fellow Commissioners know this is very personal to me since my parents were among those interned.

As Karen Korematsu, the daughter of Fred Korematsu stated, the court repeated its shameful mistake by using the same "bad logic of the 1940s decision, by rubber stamping the Trump Administration's bald assertions that the immigration travel ban is justified by national security."

It is deeply troubling that as long as the President's actions are "facially neutral," the Court is willing to ignore the clear evidence of discriminatory intent saturating the formulation of the order.

Chair Catherine E. Lhamon states, it is horrifying enough that the President would give voice to such ugly anti-Muslim sentiment and then proceed to enshrine that same bias in national policy, the Supreme Court's decision to endorse those actions is a disturbing turn for all Americans. We all must stand against such religious intolerance as un-American.

End of statement.

CHAIR LHAMON: Thank you, Commissioner Narasaki. Do we have a motion to approve the statement to open the floor for discussion?
COMMISSIONER ADEGBILE: So moved.

CHAIR LHAMON: Do I have a second?

VICE CHAIR TIMMONS-GOODSON: I second.

CHAIR LHAMON: Great. Any discussion on this statement? I'll begin with you, Commissioner Narasaki, as sponsor of the statement.

COMMISSIONER NARASAKI: As I noted, this is particularly personal to me because both my father's family and my mother's family were sent to internment camps in Idaho and Utah.

And these are cases that I have worked on personally. I worked on the Korematsu case of Hirabayashi, which I note, unfortunately, the court did not overrule. So that, unfortunately, still stands.

And I know there's been attempts to distinguish the cases. The court tried to distinguish the case of saying Korematsu was about citizens and permanent residents, whereas this was about people who were trying to come in.

But the people who are trying to come in are people who were accepted for asylum, as refugees or to join family members in the U.S. So they are actually deeply connected.

And the fundamental principle is, do we
continue to make the mistakes of the past, the Chinese
Exclusion Act, the other kinds of bans that happen
based solely on race that were corrected by the 1964
Immigration Act or do we continue to recognize that
people should be judged as individuals and not because
of their religion or their national origin.

I feel unfortunately very sad that the
Supreme Court, although not unexpectedly, did not
choose the right path. And I hope my fellow
Commissioners will join me in this statement.

CHAIR LHAMON: Thank you, Commissioner
Narasaki. Any further discussion?

COMMISSIONER YAKI: Yes.

CHAIR LHAMON: Commissioner Yaki.

COMMISSIONER YAKI: Commissioner Yaki.

CHAIR LHAMON: Go ahead, Commissioner
Yaki.

COMMISSIONER YAKI: Yes. Thank you very
much, Madam Chair. I wanted to thank Commissioner
Narasaki for taking the mantel on this statement.

My father was also interned in the Arizona
desert during World War II because of his ancestry.
And I wanted to stress again a point that Commissioner
Narasaki had made, which is, while it is long overdue
that the case itself, the Korematsu case, be overruled
by the Supreme Court, it was, in many ways, a decision
that did not fundamentally change the key driver of
the Korematsu decision.

   Namely the granting of extreme deference
to the executive power based on a perceived inherent
national security interest. That was precisely what
the court used to justify the internment of American
citizens, of which my father was one and Commissioner
Narasaki's parents were, in camps.

   But it is also the same broad power that
was used by the administration in invoking its Muslim
tavel ban. And I just want to point out that unlike
the Korematsu cases where the national security
interests were, in many ways, underscored by
suppressed and hidden erroneous and racist facts.

   In this case, there is even no attempt to
hide the underlying anti-Muslim fervor behind the
administration's actions. And the court's
unwillingness to recognize and give sufficient weight
to the statements made, by the President, against
Muslims, is shocking.

   And even more so when you see, again, in
the papers even today, that the President is remarking
that immigration is ruining Europe and is changing the
way Europe is. And we all know what the code words
are that he is using for that.

So, again, I just wanted to thank Commission Narasaki for her great work. I know this is deeply personal to her as it is to me. And I would ask my colleagues to join in supporting the statement.

CHAIR LHAMON: Thank you, Commissioner Yaki. Vice Chair Timmons-Goodson.

VICE CHAIR TIMMONS-GOODSON: Yes, thank you very much, Madam Chair. I too thank Commissioner Narasaki for taking the lead in this. I currently of course serve here on the Commission and serve as Vice Chair.

My fellow Commissioners know that in another life I served in the judiciary of North Carolina for over 28 years, including on that state's court of last resort.

And when I was a judge, and strongly disagreed with the majority, I would respectfully express my dissent by writing or joining a dissenting opinion.

I also at that time understood very clearly that under our democratic system of government, our citizens and the media, have a right to make reasonable and fair criticism of the courts and of all officials. As a Commissioner, I
respectfully express my disagreement with the Trump versus Hawaii opinion in the form of a yes vote for this statement.

Folks, judges are human. As individuals and as a body they make mistakes. History tells us that the court, the Supreme Court, sometimes gets it wrong.

The Supreme Court got it wrong in Korematsu when it found an executive order placing Japanese Americans in internment camps was constitutional.

The Supreme Court got it wrong in Plessy versus Ferguson when it allowed state-sponsored segregation.

I believe that one day Trump versus Hawaii will go the way of Korematsu and the way of Plessy. And until then, the Commission's statement of strong disagreement I think is an appropriate response to the court's decision. And as I indicated, I will be voting yes.

CHAIR LHAMON: Thank you. I too want to express my strong support for the statement. The animus expressed by our President, repeatedly to persons of faith and to persons of a particular faith, is deeply offensive to me and I think dangerous to us
as a country.

My faith animates all of my actions and is core to me in the reason I do the work that I do, in the ways that I raise my family and in the ways I see our world. And I appreciate the respect.

I have lived for that faith and I also appreciate our constitutional protection for respect for persons of all faiths in this country. And the shocking, to me, expressions of animus against persons of Muslim's faith that have been, become our national policy in what the President himself, has repeatedly called the Muslim ban is scary, dangerous and I think profoundly inconsistent with our constitutional values.

And I am dismayed and uncomfortable that our Supreme Court decision in this instance does not so recognize that.

And I also know that we have lived times in this country with respect to animus against persons who are Muslim, persons from the Middle East that I do not want to revert to. My husband's family is from Iran, many of his family members are Muslim.

And we grew up, he grew up during the times in this country when people from Iran were vilified. And when his family lived and suffered
profound discrimination against them for who they are.
And I had hoped that was our past.
I am distressed that a version of it is
our President and I intend to vote for the statement
as well. Thank you.
If we have no further discussion I'm going
to call the question, take a roll call vote.
Commissioner Adegbile, how do you vote?
COMMISSIONER ADEGBILE: Aye.
CHAIR LHAMON: Commissioner Heriot?
COMMISSIONER HERIOT: I vote no.
CHAIR LHAMON: Commissioner Kirsanow?
COMMISSIONER KIRSANOW: No.
CHAIR LHAMON: Commissioner Kladney?
COMMISSIONER KLASTANI: Yes.
CHAIR LHAMON: Commissioner Narasaki?
COMMISSIONER NARASKI: Yes.
CHAIR LHAMON: Commissioner Yaki?
COMMISSIONER YAKI: Aye.
CHAIR LHAMON: Vice Chair Timmons-Goodson?
VICE CHAIR TIMMONS-GOODSON: Yes.
CHAIR LHAMON: And I vote yes. The motion
passes. Two Commissioners opposed, no Commissioner
abstained and all others were in favor.
We have another housekeeping item on our
agenda, but with the Staff Director's permission I will pause on that and we'll return to it because we're just in time for our historical presentation. So I'll invite our speaker, Dr. Curtis, to come to the table in front of us, if you will, and I will begin to introduce that presentation.

We're going to turn to the historical presentation about healing our divided society, investing in America 50 years after the Kerner Report.

E. PRESENTATION ON THE 50TH ANNIVERSARY OF THE KERNER COMMISSION

CHAIR LHAMON: I'll hold up the lovely book that Dr. Curtis has recently published on that topic. And while Dr. Curtis is getting settled --

In 1967, President Johnson established the National Advisory Commission on Civil Disorders known as the Kerner Commission to address unrest in Detroit and other American cities.

In its 1968 report about, which I'm sure we'll hear more shortly, the Commission stated, the Kerner Commission stated, this is our basic conclusion, our nation is moving toward two societies, one Black, one White, separate and unequal.

The report recommended programs in large scale investments to improve access to education, fair
housing, employment training and other dimensions to
tackle the vast inequities they've witnessed.

Like the Kerner Commission, our own U.S.
Commission on Civil Rights was formed when we decided,
as a nation, that we needed to address the devastating
inequalities evident in the daily experience of many
Americans. I see many similarities in what the
original Kerner Commission Report said in 1968 with
what the Commission on Civil Rights said in that same
era.

And unsurprisingly, I see many
similarities in what this 50 year updated report finds
and what we have been finding in our own
investigations here at the U.S. Commission on Civil
Rights.

A central conclusion of the Kerner
Commission was that we are a national community
responsible for each other. And that there is an
essential federal role to sustain that responsibility.

We have struggled to live up to that call
for action from the Kerner Commission. But over these
50 years, we have held fast to the fundamental
conclusions the core civil rights endure and that
there is a key federal role in enduring and ensuring
their satisfaction.
So, I'm very grateful that we have with us today Dr. Alan Curtis, who is President and CEO of the Milton S. Eisenhower Foundation. Dr. Curtis will discuss healing our divided society, the foundation's reexamination of the work still necessary to meet the goals of the current report 50 years later.

Dr. Curtis is the founding President and CEO of the foundation, which is the private sector continuation of the Kerner Commission.

Prior to his work with the foundation, Dr. Curtis was the executive director of President Carter's interagency urban and regional policy group. He served as urban policy advisor to the U.S. Secretary of Housing and Urban Development and later administered the $43 million employment and crime prevention demonstration program in public housing that was part of President Carter's national urban policy.

Earlier he was co-director of the Crime to Violence Taskforce of President Johnson's National Commission on the Causes and Prevention of Violence. He served on the executive Committee of Partners for Democratic Change which teaches democratic decision making worldwide, and was a trustee of the American Academy of Political and Social Science.
Dr. Curtis has an AB in economics from Harvard, an MSC in economics from the University of London and a PhD in urban studies and criminology from the University of Pennsylvania. Dr. Curtis, I look forward to hearing from you now.

MR. CURTIS: Thank you to Chair Lhamon and to all the Members of the Commission for this opportunity to dialogue with you this morning.

Perhaps appropriate to the times we live in, today is Friday the 13th. But tomorrow is Bastille Day so there is hope.

With your permission, I would like to share briefly some of the conclusions and recommendations of our 50 year update of the Kerner Commission, as Chair Lhamon has described, we have published earlier.

Protests in hundreds of American cities led President Lyndon Johnson to form the Kerner Commission. Its final report was leaked to Washington Post editor Ben Bradlee, in late February of 1968.

The Bantam paperback of the report became one of the best all time selling federal Commission documents. Over two million copies were sold, so it was a hot item. I think it cost $1.25 at the time.

Many, mostly moderate and mostly White
men, the members of the bipartisan panel, carried the imprimatur of the political establishment of the time. Yet, as Chair Lhamon has said, the Commission famously concluded that America was heading towards two societies, one Black, one White, separate and unequal.

It was said the Commission "time to make good the promises of American democracy to all citizens, urban and rural, White and Black, Spanish surname, American Indian and every minority group."

The essence of the original 1968 Kerner Report was that the nation had a long way to go in reducing poverty, inequality and racial injustice.

The essence of the Eisenhower Foundation's 2018 50 year update, healing our divided society, is that America still has a long way to go, but that we have built up much more evidence on what works and what doesn't work.

We now need to generate what the Kerner Commission called new will among the American people, to scale up and legislate what we know to work for the poor, for immigrants, for the working classes and the middle classes of all races in America. That's what we said in our update.

Over the 50 years since the Kerner
Commission, we have twice elected an African American President. There has been a dramatic increase in the number of African American and Latino elected officials.

The African American and Latino middle classes have expanded. We all have seen the film Black Panther, we all have seen the film Dolores, yet, as Mr. Baldwin did before him, Mr. Coates speaks truth to power.

Neo-Nazis have become emboldened in Charlottesville, Virginia and many other places. Black Lives Matter has revealed what Americans did not want to see in Ferguson, and in many other places.

Zero tolerance policing against people of color has failed. Sentencing laws remain racially biased. About 200,000 people were incarcerated in 1968. Today the American prison industrial complex holds 1.4 million. And they are disproportionately people of color.

In many ways, mass incarceration has become part of our housing policy for the poor. And that housing policy, as you know, has included conscious, purposeful, government created segregation as Richard Rothstein has eloquently documented in his new book, The Color of Law.
Public school segregation has increased since the Kerner Commission in '68. Overall child poverty has increased. Deep poverty has increased, in part because of what the late Molly Ivins accurately called the Welfare Reform of the 1990's.

Income and wealth inequality have increased and were accelerated by this supply side created great recession of 2008.

Through good times and bad, over the last 50 years, the ratio of African American to White unemployment has continued to be two to one. In comparison to all other industrialized democracies, America has the highest rates of overall child poverty, the highest rates of homicide and the highest rates of incarceration.

Now, none of this really has to be. Although there is a long, long way to go. A movement is emerging today to base policy on evidence, not ideology.

We ask that the United States Commission on Civil Rights work with us on further expanding the evidence based movement. Which, for example, encourages randomized control evaluations, or at least quasi experimental design evaluations, of public and private initiatives that further Kerner priorities.
In terms of those priorities, what are some examples of evidence based policy that works? The current Commission recommendations began with economic and education priorities.

Today, that means we need proven demand side Keynesian economic policy. The policy needs to link job training to full employment job creation and then to job placement.

The job placement needs to focus on building and rebuilding the nation's infrastructure. We need a significantly higher minimum wage, more power to labor unions, trade policy that benefits workers and single-payer health insurance for all Americans.

Among other outcomes, such policy must strive to eliminate that historic two to one, Black to White unemployment ratio.

What does evidence based policy mean in education, we need housing and therefore school integration combined with much more equitable financing of public schools and greatly improved training of public school features. As my colleague Linda Darling-Hammond has told us many, many times in different ways.

The State of Connecticut provides an
excellent model for national replication. Re-enforcing a RAND corporation evaluation of successfully integrated low-income housing in Montgomery County, Maryland, a Harvard evaluation in five other cities, found that children whose families moved from high-poverty housing projects to neighborhoods with good jobs and schools grew up to be better educated and economically successful adults.

Legislation to build on these findings is at least now being debated in Congress.

What does evidence based policy mean in criminal justice? Aware of the astronomical costs of racially biased prison building, states like California, New York and New Jersey, all have reduced their prison populations by about 25 percent in recent years, with little or no increase in crime.

How does evidence based policy embrace specific locations? That is, I'm talking about what's called place-based policy.

Well, in working in poor neighborhoods across the nation, we need genuine community policing, where specially trained officers really partner with indigenous neighborhood organizations. And where American variations on the Japanese model of neighborhood based mini stations, are replicated.
Such innovative community based policing should encourage the kind of community based banking that was so successful before the regressive federal policies of the 1980s. The community banking should encourage community economic development corporations to construct affordable and integrated housing.

The housing construction should create jobs for community residents and for returning ex-offenders who benefit from evidence based reintegration models, like the center for employment opportunities in New York.

The jobs should be framed as youth development initiatives. The youth development should scale up evidence based models like YouthBuild and Quantum Opportunities.

Such models provide mentoring, tutoring and life skills training for high school youth at risk of dropping out. Such mentoring should be continuous from high school down to middle school and elementary school. And all eligible children should receive preschool.

In other words, evidence based policy that works targets multiple solutions to multiple problems. Evidence based policy is complementary and interdependent. Evidence based policy is not separate
and unequal.

The scaling up of what works needs to be financed by the scaling down of what doesn't work. Like trickle down supply side economics. Tax breaks for the rich, prison building for the poor, zero tolerance policing, school vouchers, privatization of schools and false rhetoric on empowerment, volunteerism and self-sufficiency.

Criticized by the current Commission in 1968, the media today need to better report on what works. A good model is how the New York Times covered our Kerner 50th update this year.

There was a solid piece in the print version of the New York Times. There also was a lively and extended presentation, online, in which Times writers, with substantive knowledge, collaborated with graphics specialists to highlight solid evidence, not alternative facts.

The graphics people then neatly summarized, in a table online, what works and what doesn't work. With sufficient investment in human capital, a new Kerner strategy, based on what works, can really reduce poverty, inequality and racial injustices.

Progress in achieving these goals will
increase American soft power globally. Progress in achieving these goals will communicate to Russia, China and the rest of the world, how American values matter.

As Nobel Prize winning economist and Kerner 50th contributor Joseph Stiglitz has reminded us, America is in great need of such new soft power. Accordingly, we encourage the Commission on Civil Rights to join us in furthering Kerner priorities by keeping both domestic and foreign policy goals in mind.

With skilled guidance, it may, it just may be possible for a coalition of American leaders, on both sides of the aisle, to cooperate on a Kerner generated increase in soft power that contrasts to the continuing human rights atrocities in China and Russia.

Yet my friends knew soft power and knew evidence based policy cannot emerge without the new will that the original Kerner Commission said was necessary for progress. 50 years after the Kerner Commission, the creation of new will may be harder than ever to achieve. But we must begin.

We are back to George Bernard Shaw. Some see things as they are and say why, we must dream of
things that never were and say why not.

Reverend King asked why not when he was assassinated in 1968, about a month after the Kerner report was released. His emerging vision was a multi-racial coalition for economic justice among the poor, the working class and the middle class.

When Senator Robert Kennedy was assassinated just two months later, in 1968, he too was advocating liberalism without elitism and populism without racism.

As Dr. King, Senator Kennedy was advocating a multi-racial coalition for economic justice, the creation of that coalition needs to be the point of departure for the generation of new will today.

Reverend William Barber's National Poor People's campaign against the immorality of poverty and inequality, hopefully can help lead the way here. Both Chair Lhamon and Reverend Barber, I thank them, who were keynoters at the forum in Washington that launched our Kerner 50th earlier this year.

History has shown that successful movements in America are inclusive and opportunistic. Successful movements build constituencies and enhance alliances. That means Reverend Barber's morale
campaign needs to be joined by other constituencies.

Those Kerner constituencies potentially include the 18 million White Americans who live in poverty. Those constituencies include most of the 99 percent of us who have suffered the inequality, greed and malfeasance of Wall Street.

Those constituencies include the high school leaders from Parkland, Florida who have impressively organized the Never Again Movement against gun violence. Those constituencies include Millennials who are protesting unreasonable college loan expenses.

Those constituencies include teachers who have walked out of schools demanding higher salaries and new textbooks. Those constituencies include the leaders of new local initiatives to integrate schools that remain profoundly segregated, beginning with New York City, the nation's largest and most segregated public school system.

Those constituencies include the supporters of affirmative action. Those constituencies include the majority of Americans who either want to keep immigration levels the same or to increase immigration levels.

Those constituencies include the women's
movement and the LGBTQ movement.

Now, surely the generation of new will can be facilitated as well by the creation of a fairer more responsive American democracy. If the votes of all Americans were actually given equal rate, a new people's movement would have a better chance of reducing poverty in equality and social and racial injustice.

That is why we must continue to fight for campaign finance reform, voting rights reform, control of gerrymandering and abolition of the Electoral College.

These reforms are difficult to achieve. But, as the center for responsive politics has argued, we must continue to careful document the campaign, the finance abuses. The documentation is needed to eventually persuade Americans of good faith, on both sides of the aisle, that enough is enough.

The generation of new will, will be facilitated through more funding by American foundations to educate citizens on how to run for local, state and national office. More support is needed for organizations like Wellstone Action, Emily's List, Higher Heights, Run for Something, the Latino Victory Project and Emerge.
American foundations equally need to increase support for advocacy on media reform. In addition to more coverage of what works, the media need to more honestly recognize that the real story is in fact dog bites man.

That is the real story, is the continuing, grinding commonplace, everyday poverty, inequality and racial injustice of America. At the same time, we need to listen to George Soros when he calls for the regulation of big tech companies. They need to be regulated like public utilities.

As part of the regulation, we must take action against social media feedback loops that push users deeper and deeper into their own amen corners and their own hermetically sealed bubbles.

This then is an ambitious agenda but a vital undertaken at the present moment in American history, in American democracy.

We respectfully ask the Commission on Civil Rights to creatively partner with us in pursuing the agenda and in therefore generating new will.

New will and a new Kerner in people's alliance can only be found in a forum outside of Washington. But legislation and funding must build on good government.
Good government and President Roosevelt brought us the National Labor Relations Act and Social Security.

Good government and President Eisenhower paved the Interstate Highway System.

Good government and President Johnson legislated the Civil Rights Act, the Voting Rights Act and the Fair Housing Act.

Good government now must invest in Kerner priorities at a scale equal to the dimensions of the problem.

The Kerner and people's alliance needs to be evidence based but not elitist. We must appeal to the hearts of Americans in order to illustrate what works.

We must appeal to the hearts of Americans with stories of how real people benefit from what works. There are so many positive human narratives generated by success.

We can be both passionate and factually accurate. With that passion, we must never forget how the dream has been deferred.

What happens to a dream deferred, does it dry up like a raisin in the sun or fester like a sore and then run, does it stink like rotten meat or sugar
over, like a syrupy sweet. Perhaps that dream just
sags like a heavy load or does it just explode. Thank
you.

CHAIR LHAMON: Thank you, Dr. Curtis.

Thank you for ending with a Cathy Cohen. I'll open
the floor for questions from my fellow Commissioners.

And I'll start while people are thinking
about theirs. You emphasized the need for evidence
based reform and called on the Commission to join the
Kerner legacy in developing that evidence basis, and I
will say that taking a look at the introduction to
your healing or divided society I ache looking at the
resources that the United States devoted to the Kerner
Commission in the beginning.

I want to share it as we think about what
it takes to develop that evidence basis. In your book
you note that the Commission commenced for 20 days of
evidence gathering involving 130 witnesses and that
staff members and consultants to the Commission
conducted field surveys in 23 cities, including more
than 1,200 interviews, attitudes or opinion surveys
and other serious surveys.

That is a very impressive body of evidence
gathering that I would give my eye teeth to be able to
have resources to use now, in this Commission. So it
was with great Jealousy that I read about what it took to develop the work of the Commission and I see, in this updated report, that it has taken many serious experts, of whom I'll note one, is a State Advisory Committee Member for the U.S. Commission on Civil Rights, so a shout out to Martha Davis who issued a chapter in the book.

And I wonder what thoughts you have about the need for developing that basis now and the ways that the Commission, like ours that is substantially without resources of that type today, to be able to develop those resources like that, what it would take to be able to develop that evidence basis to move forward?

MR. CURTIS: Without resources --

CHAIR LHAMON: I think your microphone may be off.

MR. CURTIS: Oh.

CHAIR LHAMON: Thank you.

MR. CURTIS: Without resources obviously it makes it more difficult, but you certainly can get interns to do the research on --

CHAIR LHAMON: Thank you. They're sitting behind so --

(Laughter)
CHAIR LHAMON: -- I very much appreciate that.

(Laughter)

MR. CURTIS: I want to give them applause. I can see that. That is something we do as well. And they should be paid more.

CHAIR LHAMON: They should not.

(Laughter)

MR. CURTIS: But, the point is that that can be a start that is important. And it's not just assembling these complicated evaluations, randomized control trials and quasi experimental design, but it's writing them in the Queen's English and it's then communicating them.

And those I think are tasks that are possible even with minimal resources. The need to get out there in the field though I can't emphasize enough, as much as you can do to be with the real people and get the real stories.

My colleague in writing this update at the Kerner Commission, a former Senator Fred Harris, who is the last surviving member of the Kerner Commission. Fred is, I think, 83 now.

And what Fred did during the Kerner Commission days was, he just went and sat in barber
shops. I come from, I was raised in Milwaukee and
Fred went to barber shops on the north side of
Milwaukee and sat with folks two, three, four hours
and found out what was really working.

That maybe isn't a pocketful story, but it
did provide insight and passion. So, I fear I am not
being very helpful, but I would at least urge that the
Commission itself think through what it can do with
minimal resources to better focus on evidence based
policy and how that policy can actually be implemented
and replicated.

CHAIR LHAMON: Thank you. Thank you.
Vice Chair Timmons-Goodson.

VICE CHAIR TIMMONS-GOODSON: Dr. Curtis,
you have gone at lengths set out the other
constituencies that should join us in our efforts.
And my question is, how do we get them?

Many of our young have already
demonstrated that they're, for the most part, not
joiners. As many professional organizations and
community based organizations go lacking for members,
new members.

What is it that you would suggest that we
can do to get these other constituencies to join?

MR. CURTIS: That's the big question,
Commissioner.

(Laughter)

CHAIR LHAMON: We want answers.

MR. CURTIS: And I don't have, I really
don't have the answer. I can give examples.

You come from North Carolina, Reverend
Barber comes from North Carolina.

VICE CHAIR TIMMONS-GOODSON: He's one of
my great friends.

MR. CURTIS: He's my role model, he spoke
at our conference. He talked about how we provided
him facts for his advocacy.

I worry that he works too hard and he
stretches himself. But we do need people like
Reverend Barber.

The young people from Florida, as I
mentioned, whose school was attacked, did a great job
in moving the cause forward. One of the most
difficult causes of gun control.

Historically, obviously, Dr. King and his
riverside speech, and other speeches towards the end
of his life, focused on this kind of coalition. And
Dr. King had the charisma.

Robert Kennedy was able to relate to
working class White men and to African Americans. And
he stood on the car and told everyone in Indianapolis what had happened with Dr. King that horrible evening.

I really can't answer that. I can personally identify leaders who have potential, but the best I can say is that these constituencies have to try to work together more closely.

And whether or not we have one single leader who can do that or a number of leaders who work hard, I just don't know. But, more than my answering that question, I think that's my real challenge to you.

I do not know the guidelines for what you can and can't do on the Commission, but it seems to me the Commission can debate this issue and can talk about new will and can talk about the actual process by which it can be formed.

New will, those two words were mentioned by the Kerner Commission. And in 50 years we haven't made progress. And we have to just try to make progress right now.

VICE CHAIR TIMMONS-GOODSON: It occurs to me that --

CHAIR LHAMON: Your mic.

VICE CHAIR TIMMONS-GOODSON: It occurs to me that perhaps we just ought to get who we can, when
we can for as long as we can. And so the young folk
down in Parkland may not be able to, or willing to
devote their efforts and energies for a sustained period.

It might be one year, it might be two years, it might be six months, but there's no doubt
that their energy and their excitement and the enthusiasm and the heart that they bring to the gun
control issue is something that we can use.

And so might there be other groups that we should not concern ourselves with the length of their service. But service, as I said, get who we can, when we can, while we can. And make use of it and then move on to other constituencies. But anyways, just a thought.

CHAIR LHAMON: Commissioner Kirsanow.

COMMISSIONER KIRSANOW: Thank you, Madam Chair, and thank you very much Dr. Curtis for your presentation.

You mentioned resources and policies, and it occurs to me that since at least 1968, the policies with respect to education, housing, law enforcement, job training have all actually had laboratories in which to operate. And a considerable amount of resources. In fact, approximately $7 trillion have
been devoted to that effort.

And those laboratories have generally been in places like my hometown of Cleveland, Detroit, Philadelphia, New York, Saint Louis. You mention New York City being the most segregated in terms of education.

Despite all these resources being flooded into these communities, things have not gotten any better. Or at least they haven't gotten any better in terms of addressing any great disparities.

What's the last dollar that needs to be expended before these things are realized?

MR. CURTIS: Well, take education for example.

COMMISSIONER KIRSANOW: One note I would make is, 1954, City of Detroit was the wealthiest city, not in the country, but in the world. After 60's years of these policies have uninterrupted implementation in Detroit, it's what it is today.

It's better right now than it was ten years ago, but it was a hollowed out shell. I used to go up there and practice law constantly up there and it looked like Dresden.

These policies were implemented, they were laboratories of these policies. No improvement. In
fact, things got worse.

So when we talk about evidence based policies, what evidence is there that these kinds of policies actually achieve the kind of results that we're looking for?

MR. CURTIS: Well, as I was saying, in the case of education, for example, in '65 there was an education act and it focused money on public schools and on training of teachers. And the policy also was to integrate.

And there was progress for 15 or 20 years. As measured by many studies. It was just that in the 1980s that was reversed. So, I would caution you against the way you frame that because there really was progress.

If you want to go down program-by-program, there is, for employment, solid evidence that job training first programs work rather than workforce programs. For example, YouthBuild USA trains young people who have dropped out of school in rehabbing housing, which improves the housing stock in the neighborhood and it provides jobs for those people.

So, that has been scientifically evaluated in a randomized control setting.

In the case of education today, the
Quantum Opportunities Program, which we work and replicate, has been evaluated in a randomized control evaluation. So we compared young people at high risk, who are in the program, which is mentoring and tutoring, with those who are not and we find statistically significant results at .001.

And so now because of the Justice Department and the Education Departments, a seal of approval on this, on their websites, we are in the process of trying to replicate quantum on the south side of Chicago, which is about the most difficult place to work for.

In the case of housing, just go out to Montgomery County and see how they've been successful with integrated housing. The RAND corporation did a scientific evaluation that showed the young kids in the neighborhoods that were integrated, did better in school and the young people of color progressed and the White youth did not regress.

In the case of criminal justice reform, there are programs, like the one I mentioned in New York, like one in Chicago, like one in Minnesota, in which young, ex-offenders have been re-integrated and they have done better than people not in that program. It's a randomized control evaluations.
So there are many, many, many evaluations that have shown what works. There are also evaluations that have shown what doesn't work.

So, in the case of the State of Kansas, supply side economics was tried and it bankrupted the state. So the bank, they had to go back.

In the case of education policy, vouchers have been tried. In my home city of Milwaukee, it's been the biggest voucher experiment in history and there has been no proof that they work.

So, we know from scientific evaluations what works and we know from scientific evaluations what doesn't work. So, it would make sense to me, at least, that our policy should be to replicate what works to scale, finance it by scaling down what doesn't work. It's a pretty rational policy I mean.

COMMISSIONER KIRSANOW: Does the Department of Education work?

MR. CURTIS: Well, I think that's two or more if it's a question. Specific policies and programs have to be looked at one-by-one.

As I said right now, the idea of vouchers hasn't been demonstrated to work. The idea of charter schools, and perhaps 20 percent of all charter schools seem to have some positive aspects to them. So that's
a 50 percent of this and 50 percent of that not. You have to go policy-by-policy.

COMMISSIONER KIRSANOW: Department of Education, since 1979, has expended approximately $47 billion a year and there's been absolutely no change in the gap between Blacks and Whites in the national assessment of educational progress. Which policies of the Department of Education work?

MR. CURTIS: If you look at the --

COMMISSIONER KIRSANOW: $47 billion.

MR. CURTIS: If you look at the Department of Education website, they include the Quantum Opportunities Program. Which we have replicated and shown to work at a level of statistical significance, as I said, of .001.

YouthBuild USA, as I also mentioned, is not only a job training program but is an education program. That too has had its scientific evaluation.

So, what departments have to do is really look at what they've tried. And if what they have tried doesn't work then drop them. But there are so many other things that have been tried, that have been successful, that should be replicated to scale.

COMMISSIONER KIRSANOW: Dr. Curtis, I very --
CHAIR LHAMON: I'm going to move us on.

COMMISSIONER KIRSANOW: -- appreciate your presentation, it was very nice, but, Chair, I have to object. We have talked about this particular issue before.

That is having fine guests like Dr. Curtis come in to give us a historical perspective and precious little of historical perspective was presented today. No fault of Dr. Curtis.

But this is not a balance panel, it is not a historical perspective, it was predominately a list of to dos and there was no counterbalance to it.

CHAIR LHAMON: I note that this is not a panel and also that your questions were not at all historical, so it's an odd complaint. But let's move on, just given the time.

COMMISSIONER KIRSANOW: But it has --

CHAIR LHAMON: Commissioner Heriot.

COMMISSIONER KIRSANOW: -- to do with what the testimony was.

CHAIR LHAMON: Commissioner Heriot?

MR. CURTIS: I will, to just respond to that, I would be happy to continue this debate. I've made presentations at the City Club of Cleveland. Why don't we organize something at the City Club of
Cleveland and you and I can debate it.

COMMISIONER KIRSANOW: Dr. Curtis, and I'm happy to do that and I have no objection to your testimony at all, it was fine, it was informative, it was just too, we had an agreement at the Commission as to what this type of presentation was supposed to be. It has nothing to do with you and I appreciate your coming here today.

MR. CURTIS: Yes. And I would be happy to be sensitive to your concerns in your Cleveland is what I'm saying.

CHAIR LHAMON: And I'd be happy to move on. Commission Heriot.

COMMISIONER HERIOT: Okay. Well, I would like to do the same thing in the sense that I'd like to thank you for your testimony, I think I've learned some things from it. I would learn even more from it if you could give us citations to the empirical studies that you've been talking about.

And so, if you could go through what you said and, you no particular time pressure here, but it's one thing to be told there are such empirical studies, but I would like to actually see them and be able to read them. So, could you do that for me?

MR. CURTIS: Sure. All the citations are
in my report --

CHAIR LHAMON: Your microphone is not on.

COMMISSIONER HERIOT: I don't have a copy of the report though.

MR. CURTIS: We'll get you a copy.

COMMISSIONER HERIOT: That would be great.

CHAIR LHAMON: Your microphone is not on.

COMMISSIONER HERIOT: That would be great.

CHAIR LHAMON: Your microphone is not on, could you turn it on.

MR. CURTIS: Sorry. What I said is, all the citations are in the report. I'm sorry you don't have a copy, I assumed you did. We can share copies of the reports with everyone on the Commission.

COMMISSIONER HERIOT: And that would be great. Also, what you said about Fred Harris and then you said you thought it might be apocryphal, it sounds just like Fred Harris does. So I bet it was.

But, my main point, I am afraid, is to reiterate what Commissioner Kirsanow said. And this is not directed at you, but it's not just that we have an agreement, we have rules about having balanced presentations and I would have gotten even more from your testimony if I had had it balanced against people of whom I've had the different perspective.
And so I hope in the future when we have these historical presentations we stick to our rules.

CHAIR LHAMON: To be clear, our rules apply to briefings, and this is not a briefing, but let's move our time. Commissioner --

COMMISSIONER HERIOT: It's only because you've pronounced it not a briefing that it's not a briefing.

CHAIR LHAMON: I do enjoy the prerogative of the Chair. Commissioner Narasaki.

COMMISSIONER NARASAKI: So, this actually feeds into my question to you. Every hearing we have, right, it's clear to me that there is a deep divide in America.

On one side, we have many witnesses who've come before us and say, the problem is not a systemic one, right, poverty, under education, not systemic, the federal government has no business being involved, the federal government hasn't proven that it should be involved, that it's more of a morale problem, a family problem, a culture problem as opposed to a discrimination issue.

On the other side, you present sort of the progressive dream of everything you listed is, I think, sort of on the progressive menu. And I'm sure
it was a nightmare. The total opposite is a nightmare to conservatives and their views about what the problems are and what the solutions are.

So, how do we get to a place where we can engage that discussion, because I fear that so long as we are deeply divided about what the problem actually is, right, is it systemic or is it individual failures or family failures or communities failures, we're not going to be able to get to what are the solutions that make sense and whether there should be government investment at the federal level or government investment at the local level or it should just be left to churches and communities and families to survive as best they can, do you have thoughts about that?

Because, I mean, Kerner, to me, came about because people were scared because of all the riots that were happening in the cities, right?

That they were pushed to do something because they saw that if we didn't do something that our country was going up in flames. We've got to a place now where while we have episodic efforts of riots in the cities, that is not happening.

So, I don't see the urgency happening that has won a collective, enough Americans to be willing
to feel like the investment that might be needed, as Commissioner Kirsanow notes, of the scale that is really required to attack these problems, that people will be willing to make that investment.

MR. CURTIS: Again, I don't know. And the whole report is as much focused on asking questions as to providing solutions.

I get back to some of the constituencies and I get back to thinking about how they, folks need to work together more. Again, 18 million people in poverty are White.

One would think that the Kerner agenda, which is about reducing poverty, would embrace those people and those people would embrace the Kerner agenda. That's not quite the case but Robert Kennedy was able to motivate the White working class people and he also was trusted by African Americans. So he's a role model and we need more role models like that.

Beyond talking new will, I think, again, it's important to, in a very workman like day-to-day way, build up the evidence and then discuss how, in your own city, in your own neighborhood, programs that work, can benefit you.

Maybe I'm naive, but I think that objective evidence on what works can, over time, help
heal our society by showing people of all races as well as the middle class and the working class and poor can work together. It's a strategy on the new will and the evidence based level, at the same time. That's the best I can respond to at this point. And we should be creative.

I've gone to Japan and I've observed how police have mini stations called Kobans in Japan. And those police neighborhood mini stations work.

And when you get out of the subway it's raining the police will give you an umbrella. And your daughter gets into Tokyo University, the police will go door-to-door and announce to everyone this has been a great achievement.

There are international comparisons we can make though. We can bring into the discussion of new will and evidence.

CHAIR LHAMON: Commissioner Adegbile.

COMMISSIONER ADEGBILE: Yes. Thank you very much for your presentation. And I want to come to one of the core themes I think of what you shared with us and I'm happy to take the answer from a historical perspective so that my fellow Commissioners can be more comfortable with it, but I think it may be instructive.
So, in a number of areas, today, there is evidence out there. There are studies, there is data that tells us things.

One example is in the area of in-person voter fraud. There are many people that believe it happens but there are many studies that say that you're more likely to get struck by lightning than to have that occur.

You spoke about reducing prison populations in major states. High population states. There are many people that believe if you reduce prison populations you'll increase crime. But the evidence is to the contrary.

There are many people that believe the death penalty is a deterrent. I think the evidence may be to the contrary.

That immigrants present a special and unique crime risk. I think the evidence may be to the contrary.

I use those examples to set the table for what is a historical question. Can you point us to examples in history where people of differing views have come to see evidence and have it change their mind on policy issues of importance?

Because in order for evidence to have the
effect that you hope that it will, people have got to be open to digging into it and having it alter their, the prism with which they come to issues.

And so, if you could help the Commission understand where people came at an issue having some valiance on it, but in light of the evidence came to think about it in a different way that might be helpful to instruct us, with respect to the lessons of history.

MR. CURTIS: I would respectfully ask that you give me a bit of time and I can submit in writing, because it's such an important question.

There are plenty of immediate examples but they're not historical enough. You mentioned the big states reducing prison populations but the poorest state is Louisiana and they reduced their prison population as well. And that's quite an interesting story.

So, could I get back to you --

COMMISSIONER ADEGBILE: Of course.

MR. CURTIS: -- it's really important.

And I guess that's what I mean when I say that I think this Commission can ask in an ongoing way, even without all the resources in the world, salient questions that then need to be debated in our
democracy.

COMMISSIONER ADEGBILE: Thank you.

MR. CURTIS: Thank you.

CHAIR LHAMON: Dr. Curtis, thank you and I'll look forward to what you will submit as well because it will be obviously very interesting.

I also noted in the description of your book of how the Kerner Commission itself came to its consensus conclusions. They were a surprise, I think, to the President at the time.

They were a surprised to some of the members of the Commission that they actually did achieve those consensus conclusions and that they crossed ideological lines to draw the conclusion in the set of recommendations in the Commission, and I find that inspiring, I find that instructive and I hope that we, as a Commission, can see our way forward to such progress as well.

So I will stop there. I think that those are all the questions that we have, unless I hear from someone --

COMMISSIONER NARASAKI: I just wanted to add, there is one example from the Commission on history, of having segregationists on the first Commission --
CHAIR LHAMON: Yes.

COMMISSIONER NARASAKI: -- and yet, coming up with very strong recommendations that lead to the passage of the Voting Rights Act.

It's possible, the question is, is it possible now? But certainly we've achieved that historically.

CHAIR LHAMON: I'm keeping hope alive. So on that, Dr. Curtis, thank you very much for bringing your expertise today, it's a terrific presentation. I really appreciate the opportunity to hear from you and I look forward to being able to continue to hear from you.

MR. CURTIS: Well, we wish you God speed in your work.

CHAIR LHAMON: Thank you. Thank you. I'm going to thank our staff for their assistance in preparing for today's presentation and making today's meeting run as smoothly as possible.

With this, we'll take a ten minute recess and then come back. We have two more agenda items to get through before the end of this business meeting. So we'll come back at 12:06, thanks.

(Whereupon, the above-entitled matter went off the record at 11:56 a.m. and resumed at 12:07)
CHAIR LHAMON: Okay, after our break, we will come back for our remaining agenda items. Our next item is to hear from our Staff Director, Mauro Morales, for our monthly Staff Director's Report.

**F. MANAGEMENT AND OPERATIONS STAFF DIRECTOR'S REPORT**

MR. MORALES: Thank you, Madam Chair. I don't have anything further to add than what's already contained in my report. And as always, I'm available to discuss any specific issue that a Commissioner or a question they may have about an item in the report.

But having said that, I do want to mention the printing of the 2018 Statutory Enforcement Report. I've received input from several Commissioners about the printing of the 2018 report, Statutory Enforcement Report.

I've determined that a majority of the Commissioners would like the 2018 Statutory Enforcement Report to be printed. So I've approved printing of this report and I've requested that the staff prepare an estimate of costs to meet this request.

We have a minimum request of 200 copies to be printed, but we may be able to increase that if there's a cost savings for printing extra copies. We
I don't know at this moment in time. There may be a little bit more cost to this report because it includes some color, and it's a large report. So we'll get an estimate of that shortly and we'll have a better idea of how many we can print and what the final cost will be.

So thank you, Madam Chair. That's all I have at this time.

CHAIR LHAMON: Okay. Then we'll now hear from our Alaska Advisory Committee Chair, Natalie Landreth, on the Committee's recently released memorandum, Alaska Native Voting Rights.

I note that it is very early in Alaska, so we very much appreciate your getting up and also the information you'll share with us from that memorandum.

Go ahead, Ms. Landreth.

G. PRESENTATION BY ALASKA ADVISORY COMMITTEE CHAIR ON THE COMMITTEE'S RECENTLY-REleased REPORT: ALASKA NATIVE VOTING RIGHTS

MS. LANDRETH: Good morning, thank you. Can everyone hear me okay?

CHAIR LHAMON: We can, thank you.

MS. LANDRETH: Okay, excellent. Well, first of all I want to thank the members of the Commission for allowing me to present today on behalf
of the Alaska State Advisory Commission.

I would also like to thank my fellow members of the Alaska State Advisory Commission for a lot of hard work over a comparatively short period of time that has resulted in this memorandum and will be followed this calendar year by a more full report containing all the testimony and information referenced herein.

What I'm going to present today is a brief snapshot of the Advisory Memorandum we had recently completed on March 27th. On August 24th, 2017, the Alaska Advisory Committee to the US Commission on Civil Rights convened a public meeting to hear testimony regarding two aspects of Alaska Native voting rights.

Our inquiry was a two part one, number one to determine whether the State is complying with the Toyukak v. Mallott settlement and court order, and two to determine the potential impact of mail-in voting on Alaska Native voters which is being considered at this time.

Now the Toyukak case derives from a suit filed on July 19th, 2013 by Alaska Native citizens and four federally recognized tribes in Alaska. A decision was rendered by the District Court on
September 22nd, 2014 but found that the State of Alaska had failed to provide limited English proficient Alaskan Native voters with voting information substantially equivalent to what English speaking voters received.

Notably, this was the second lawsuit in less than five years filed on the exact same issue in the same jurisdiction. Our findings were as follows with respect to the Toyukak court order, and this is based largely on federal observer reports.

Number one, federal observers documented serious training deficiencies including the fact that only 46 percent had actually received poll worker training.

And there was also, according to the federal observer reports, inadequate staffing of bi-lingual poll workers suggesting that limited English proficient voters may not have received the bi-lingual assistance and translations necessary to cast their ballot.

The translated materials required under the Toyukak order were unavailable in numerous locations according to federal observers. For example, there were no translated voting materials in six of the nineteen villages they visited. So almost
one-third were not complying with the written materials requirement.

Federal observers also observed that half of the polling places, only half of the polling places had a translated sample ballot, and this was the centerpiece of the settlement and only half had it available. Those were the findings with regard to, the major findings with regard to the Toyukak enforcement order.

The second component were findings related to vote by mail, and voters had above all expressed grave concern about the hearing largely due to the fact that the mail in Alaska is very different. It can take up to two to three weeks or longer to receive one's mail given the vagaries of weather.

Another finding found that there actually had been no study on the impact of these voters. The villages lack access to broadband internet and have unreliable service meaning they would be unable to receive email information or download voter information form the internet.

There was considerable concern because rural residents often share PO Boxes meaning you are less likely to actually receive your ballots. We also received some very interesting information that one
cannot find in the book which is that often when mail
is sent from the villages, it won't actually be
postmarked there but only postmarked when it's
received in the hub of Anchorage meaning you could
literally mail your ballot on the correct date and it
won't be postmarked on the correct date, thus
resulting in your ballot being thrown out.

The last finding I want to talk about with
regard to mail-in voting was that there was a hybrid
model that consists of a vote by mail system as
favored by Alaska at the time and voting centers in
each of the 200 Alaskan Native villages.

According to experts that looked at this
issue that that may be a hybrid model as described,
mail-in voting and voting centers in over 200 villages
may be significantly preferable to implementing a
vote-by-mail system exclusively.

We made a handful of recommendations
available on Pages 10 through 12 of the report, number
one being a request that the Commission send this
Advisory Memorandum to the Department of Justice along
with a request to continue to send federal observers
to Alaska.

Number two, to require specific training
of all Alaska Postal Service employees to handle
election material and ensure prompt delivery. Number three was related to funding, additional HAVA funding to support the language assistance efforts here in Alaska, especially those required for any adaptation to vote by mail or vote centered.

A request to the Alaska legislature to provide a proper appropriations to ensure the Division of Elections has the funding it needs to continue complying with Section 203 and the court order, and recommendations to the Lieutenant Governor and Governor of the State of Alaska to implement, if they are going to change the voting system, a hybrid voting system that includes strong early voting options, in person voting, both early and absentee on election day largely due to the fact that all the testifying witnesses said in-person is how voting is done in the villages, and a vote by mail system that avoids voter disenfranchisement.

The two key pieces of recommendations were one, to extend the period of time in the Toyukak settlement order because the State is just not there yet. And the second key was a request to the Alaska Governor, Lieutenant Governor to pause plans to move forward with a vote by mail system in any census area covered by the settlement agreement unless the
Division of Elections can ensure that all of the terms of the order will be fully complied with.

And with that, Madam Chair, that concludes the opening portion of my report. I'm more than happy to take any questions from the Commissioners.

CHAIR LHAMON: Thank you very much, Ms. Landreth. We'll open for questions. Commissioner Narasaki?

COMMISSIONER NARASAKI: Thank you, Chair, Madam Chair and Chair Landreth and your advisory committee members for a very excellent report. I want to note that you're report I think has relevance to a lot of states that have rural areas, particularly Native American reservations in rural areas, although Alaska presents a very extreme example because there are many parts of Alaska where you actually can only fly because there are no roads to them.

So I thank you for that because I think this is important beyond Alaska. I wanted to ask whether the kind of change that is being proposed in terms of introducing vote by mail, would this have been the kind of change that under Section 5 would have required the state to study the impact and provide data and analysis as to whether there would be a disparate impact on Alaska Natives?
MS. LANDRETH: Thank you for the question.
And I think the answer is clearly yes. The reason you did not see a clear movement to something like this in previous years is that the pre-clearance required along with the more information requests that would inevitably have followed would have resulted in some significant time and study put in by the jurisdiction to respond to all of these questions beforehand.

And the information that the State Advisory Committee has collected and is preparing is the kind of thing that would have been necessary under the previous structure. And the situation now is if it is implemented and does harm, the burden will be on private litigants to rectify the situation.

COMMISSIONER NARASAKI: Yes, I do feel that this is an example of where Section 5 played a very important role because this is an example where a lot of states are trying to reduce the cost of the elections.

So there's not a discriminatory, necessarily a discriminatory intent but when there isn't a requirement to do a study, then that doesn't happen. And the Voting Rights Act I feel actually helped states to analyze how it was going to affect
all of their voters because as we all know, legislatures don't like to legislate money for things like this unless there somehow is incentive or requirement to do that.

So I just wanted to point that out since I think this is very important in terms of the relevance to the report that the Commission is planning to be publishing later this fall. So thank you very much.

I just want to ask the staff as with the Ohio report to review the requests that are made in the recommendations section to determine what actions, if any, our Commission should consider taking. Thank you.

CHAIR LHAMON: Thank you. Commissioner Adegbile?

COMMISSIONER ADEGBILE: Good morning, Ms. Landreth. Thank you for getting up early your time to participate with us. It was my great pleasure to travel to Alaska for purposes of attending and observing the hearing which was very, very compelling.

I'm wondering if you could help us understand at a more granular level some of the challenges associated with providing language access across Alaska.

I was particularly intrigued by the
challenges with respect to various dialects and oral
versus written languages in terms of enabling voters
to have access to voting materials and I was wondering
if you could help us understand that at a little bit
more of a granular level.

MS. LANDRETH: Well, certainly. I think
it is difficult from a lot of approaches. Number one
of course being what you identified, Commissioner, is
that Alaska still has a very robust use of its native
languages.

And so people will often grow up with
English as a second language, often lagging far
behind. So number one among the challenges is the
number of dialects. The Yupik language, for instance,
has at least eight, potentially more that I am unaware
of not being a scholar of that language.

So the translations must be affected in
those languages, those dialects of that language in
addition to the other languages such as Inupiak and
Gwich'in. So the number of languages presents one
challenge.

The second is that the literacy in Alaska,
the illiteracy rate I should say is 17 times the
national average. And so the providing of written
materials doesn't necessarily automatically equal
effective language assistance because many of the voters, as you can see by this pretty alarming literacy rate, will not be able to read them either in English or in Yupik.

And so the second major challenge is that these language access must consist of both written materials and in-person oral assistance. And the reason for that, and the way that it was structured in both settlements and the reason that it's important that there weren't bilingual poll workers in many of the villages as identified by the observers was because the role of that bilingual poll worker is often to read the native language translated ballot.

And this prevents incorrect translations, inconsistent translations, the offering of opinions. It gets a uniform, fair, consistent translation. And so both of those components are actually necessary as opposed to places where the language may be widely read so that people can read their own ballots.

And that's why the mail-in voting presents a unique challenge because the communities simply don't seem suited for it when you combine the language access with the literacy rates.

COMMISSIONER ADEGBILE: Thank you. One other question. So I think it's fair to say with
respect to the Toyukak settlement and order as well as
this issue of how mail-in may work in Alaska, history
has its eyes on you and your efforts. And so it's
going to be important to see how that all plays out.

But with specificity, could you explain to
us a little bit about what the state of affairs is
with respect to the dialogue between those of you who
are the litigators and advocates in connection with
this settlement and the State and the Secretary of
State's Office, who were present at the hearing and
seemed by my estimation to be wanting to engage and
open to thinking about best practices.

How receptive have they been to thinking
about implementation of the prerequisites of the court
order and also to addressing the challenges, the many
challenges that you've identified with respect to
mail-in voting which in the abstract seems like a good
idea but the facts on the ground, as you've described,
matter.

MS. LANDRETH: Well thank you for that
question. I think it's correct, your observation is
very astute that the State -- if I can back up one
second before I finish my sentence. I think what I
really want to point out in response to your question,
I apologize if this is a little more lengthy than you
intended.

But the reason we have the Governor and Lieutenant Governor we do now who are willing to work with and listen to the Alaskan Native community is because of the vigorous enforcement of the Voting Rights Act that resulted in larger turnout, a more activated electorate, and it showed that the Voting Rights Act was functioning as it was supposed to which was to remedy these issues.

And so the voters chose an independent Governor, and an Alaskan Native Lieutenant Governor who actually understands these issues. And so I think it's a very direct, the reason you're seeing what you saw and correctly observing is that that choice has resulted in people more responsive to their concerns including on this specific issue.

Now they have been present at every State Advisory Committee meeting, very active, prepared questions, very responsive. They are currently working on a workgroup which I believe may be entering its final stages that is examining this issue at some level.

And that's very important because had the voters chosen someone else that may not have occurred.

In the absence of Section 5, we had to rely on the
benevolence of the jurisdiction to conduct any kind of outreach or study. And of course, the State Advisory Committee also stepping into the breach to do some of that research as well.

So I think it's important to note that they have been open minded. There are improvements, although that is not a formal finding in the report. But there is some ways to go, and they have been open to having a dialogue on that issue and we hope to continue that in the future.

One thing that I would say as a final note on this is without the protection of Section 5 and without vigorous enforcement by the Department of Justice, what we are is as one testifying witness put into the record, we are one election away from seeing a lot of this reversed, presuming that the court order expires and a different Lieutenant Governor chooses not to follow this, you will see a regression back to pre-2010 or 2008 levels which was the implementation of a voting system that was basically English only.

And so that I think was a very astute comment by one of the testifying witnesses. Progress made but very, very risky without the protections of Section 5.

COMMISSIONER NARASAKI: Thank you.
CHAIR LHAMON: I'm going to ride the coattails of worry on that because your report, Ms. Landreth, the Committee's report on Page 5 I thought had especially devastating information about language access issues from Alaska, that the information in 2016's primary election there were no translated voting materials available in six of nineteen villages.

The I Voted sticker was the only material in Alaskan Native language in Marshall and Mountain Village, and the Yupik glossary was the only translated material available in Emmonak.

So that underscores the need both it sounds like in Alaska and elsewhere to make sure that we actually do have language access actually available for people who need it.

You also, picking up on Commissioner Narasaki's question about the ways that information is reported can have implications for Alaska but also for the rest of the country. One of the Committee's findings is that the US Postal Service training to handle election related materials is inadequate, that finding is at Page 9 in the report.

And I note that in June the Inspector General investigated the US Postal Service's handling
of election and political mail in preparation for the
2018 midterm elections and similarly found that at
postal service stations across the country, USPS is
inadequately prepared for the January 2018 special
elections and recommended updated trainings and
increased web presence to prepare postal workers.

And I wonder if there were particular
recommendations that the Committee received in Alaska
that you think would be useful to Alaska and also for
the rest of the country on that point?

MS. LANDRETH: Thank you, Madam Chair. I
think there were a couple of testifying witnesses who
had very specific recommendations with regard to the
mail that may not be in the final report but will be
in the transcript. And I'm sorry, it's not in the
advisory memorandum but will be in the report and the
transcript.

One is retraining of postal workers in
Alaska to prioritize election related mail. That was
one specific, it can be identified if you are using
the special return envelope provided by the Division
of Elections which you're required to do.

So to prioritize that handling, one. Two
is to provide an extra timeframe with which to accept
the postmarks given that people in villages often
literally can't get something postmarked that day and it will only receive a postmark once in Anchorage.

So that was the second. The third was potentially to move back to an earlier date the time at which you will send out the mail-in ballots. But really, the component of that given the amount of money, time, training, and personnel involved, the back stop component, the final layer of protection was to really ensure that there were enough on the ground bilingual people, with extra ballots quite frankly, that can meet the needs of people who did not receive anything, cannot fill it out, don't know how to return it.

And I would add one final thing, postage. It seems like a very small thing to people, but you know, outside of the Committee testimony, one thing that was noted to us and to me personally separately as a litigator in Alaska on voting issues is how hard it can be to get a stamp in native villages.

The post office, if there is one because there isn't one in all villages, is only open on certain days or at certain times or a limited window because it has one employee most likely. Only in very large locations, over several thousand people, will it have two or more.
And so the provision of postage will in itself disenfranchise people if they are not careful to also provide a way for those people to have stamps.

So that's one of the important pieces of information that was gathered. And we thought it very important to at least include part of this in the memorandum and certainly a more fulsome description in the full report is because there seems to be a movement towards mail-in voting as some kind of panacea.

But the impact on the Native American communities especially in Alaska is, from what we could gather, not favorable.

CHAIR LHAMON: Thank you. I understand that Commissioner Kladney also has a question.

COMMISSIONER KLADNEY: Yes, thank you, Madam Chair, and thank you very much for bringing this subject to the Commission. I was wondering, in the past how did the native corporation, the native tribes attempt to mitigate these problems because it fell upon them and not really the government? I would like to hear a little historical perspective on that.

MS. LANDRETH: Well, there are 12 --

COMMISSIONER KLADNEY: I mean, I don't think anybody understands the remoteness of these
villages. I mean, I don't know if there's any more remote places on Earth.

MS. LANDRETH: And if I can just illustrate exactly that with one comment. There was a Supreme Court, during the previous administration there was a Supreme Court brief maybe in 2008 or 2009. And the Department of Justice Attorney had reached out to us and said can you please describe for us the demographics of suburban Kaltag.

And it's an Alaskan Native village with one street and 110 residents that is only accessible by air. And so thank you for reminding me that I think it's often lost on people that we don't mean rural connected by road, we mean really rural, fly-in only sorts of situations.

So I think it's important for people to understand, there are 12 Alaskan Native corporations. They are businesses. They are State chartered corporations. They are not in any way governments. We have 229 federally recognized tribes in Alaska, 44 percent of all the tribes in the United States are in our state.

And I think what you've identified there in your question is frankly one of the issues that we first encountered when we being the Native American
Rights Fund, separately in my capacity as chair I'm also a litigator at Native American Rights Fund.

We encountered the fact that there was a great deal of self-help where corporations were expected to step into the breach, where tribes were expected to provide their own translators. And I think it's what led to a lot of the disenfranchisement.

So to answer your question more pointedly, I don't think they did do this prior to the state involvement because there was no resources, no awareness of the mandates of the state law. And in fact the way the cases began first in 2007 was a phone call in which one of the rural residents said to the litigators I was told that in order to vote you have to be fluent in English, is that the law.

And so there wasn't anything prior to that. The only accommodations really have been from the State of Alaska rising to in the current administration, the Walker Mallott Administration, to attempt to meet those obligations.

COMMISSIONER KLANDTEN: And if you could highlight for us the percentage of Native Americans who voted or did not vote in the prior years. I think that would be helpful to know the seriousness and
depth of the problem.

MS. LANDRETH: I'm afraid I would probably have to follow up to ensure that I gave you something accurate. I can tell you that we have often heard, by “we” I mean litigators at the Native American Rights Fund who work on voting will hear a statement that either Alaskan Natives or American Indians voted a higher percentage or the turnout exceeds non-native turnout.

We were unable to find any data to support that in any timeframe. So we do know that it is lower. I can't say with any specificity without checking my sources. I can say that after the implementation of the Toyukak court order, the voter turnout in some villages was 100 percent. And it did go up on average 20 points per village once language assistance was provided.

COMMISSIONER KLADEY: Thank you very much. I felt it a very important point. Thank you for making your presentation today.

CHAIR LHAMON: So I echo those thanks, Ms. Landreth, and I note that in addition to your service on the State Advisory Committee as its chair we also benefitted from your expertise when you served as a panelist at our North Carolina briefing on voting
rights. So thank you for your service on the Alaska
State Advisory Committee and for the time that you've
given the Commission.

With that we will take a moment for point
of personal privilege for Commissioner Heriot and then
for me before we adjourn the meeting. Commissioner
Heriot?

COMMISSIONER HERIOT: Thank you, Madam
Chair. I just wanted to express my thanks to the
Commissioners, staff members, and interns who
expressed condolences to me on account of the death of
my mother. And thank you so much for the flowers. It
meant a whole lot to me and to my sister, Jane, and
I'm very grateful.

CHAIR LHAMON: Very, very sorry for your
loss. Thank you. A last point of personal privilege.

We have a very distinguished audience today, as we
always do. And it is especially distinguished by the
presence today of my favorite incoming ninth grader in
the country who is also my daughter.

So I want to recognize that Danielle
Kashkooli is in our audience to spend part of her
summertime to witness civil rights protection in our
time, and I very much appreciate her presence here.

COMMISSIONER YAKI: Is she working for us?
(Laughter.)

CHAIR LHAMON: That's next, Commissioner Yaki.

PARTICIPANT: Free labor for right now.

CHAIR LHAMON: She's smiling.

VICE CHAIR TIMMONS-GOODSON: Oh, really?

The question was whether she was going to speak to mama after embarrassing her like that.

CHAIR LHAMON: And we're not going to answer that question for now. So if there's nothing further, I hereby adjourn this meeting at 12:36 Eastern time.

COMMISSIONER ADEGBILE: Madam Chair, one word since our interns got a specific shout out today. I think the new slogan should be interns, we get the job done.

III. ADJOURN MEETING

CHAIR LHAMON: And now we are adjourned.

Thank you.

(Whereupon, the above-entitled matter went off the record at 12:38 p.m.)