

U.S. COMMISSION ON CIVIL RIGHTS

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TELEPHONIC BUSINESS MEETING

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THURSDAY, MARCH 7, 2019

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The Commission convened via
teleconference 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*

DAVID KLADNEY, Commissioner*

KAREN K. NARASAKI, Commissioner*

MICHAEL YAKI, Commissioner*

MAURO MORALES, Staff Director*

MAUREEN RUDOLPH, General Counsel*

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STAFF PRESENT:

NICK BAIR*

KATHERINE CULLITON-GONZALEZ*

PAMELA DUNSTON, Chief ASCD*

ALFREDA GREENE*

TINALOUISE MARTIN, OM

LENORE OSTROWSKI

PREDRAG RAOSAVLJEVIC*

SARALE SEWELL*

BRIAN WALCH*

COMMISSIONER ASSISTANTS PRESENT:

SHERYL COZART*

JASON LAGRIA*

CARISSA MULDER*

AMY ROYCE*

RUKKU SINGLA*

ALISON SOMIN*

IRENA VIDULOVIC*

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A G E N D A

APPROVAL OF AGENDA 5

PROGRAM PLANNING
Discussion and Vote on Report:
Collateral Consequences: The Crossroads of
Punishment, Redemption, and the Effects on
Communities 6

ADJOURN MEETING 15

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P R O C E E D I N G S

10:00 a.m.

CHAIR LHAMON: This meeting of the U.S. Commission on Civil Rights comes to order at 10:00 a.m. Eastern time on March 7, 2019. The meeting takes place over the phone.

I'm Chair Catherine Lhamon. I'd like to confirm that each of the Commissioners is on the line. So I'll take a roll call here at the outset. Please say present when I say your name. Vice Chair Timmons-Goodson?

VICE CHAIR TIMMONS-GOODSON: Present.

CHAIR LHAMON: Thank you. Commissioner Adegbile? Commissioner Heriot?

COMMISSIONER HERIOT: I'm here.

CHAIR LHAMON: Thank you. Commissioner Kladney?

COMMISSIONER KLADNEY: Here.

CHAIR LHAMON: Thank you. Commissioner Narasaki?

COMMISSIONER NARASAKI: Present.

CHAIR LHAMON: Thank you. Commissioner Yaki? Thank you. Based on that, a quorum of the Commissioners is present. Is the court reporter present? Court reporter, are you on the line?

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1 COURT REPORTER: Yes, I am. Sorry. I
2 am here.

3 CHAIR LHAMON: Thank you. I understand
4 Commissioner Yaki is on hold. When he joins, we'll
5 announce him as well. Is the staff director
6 present?

7 MR. MORALES: Present.

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

10 **I. APPROVAL OF AGENDA**

11 CHAIR LHAMON: Is there a motion to
12 approve the agenda for this business meeting?

13 COMMISSIONER KLADNEY: Yes, Madam
14 Chair, I make a motion to approve the agenda.

15 CHAIR LHAMON: Thank you, Commissioner
16 Kladney. Just a reminder to say who we are on the
17 phone so that the court reporter can get it down.
18 Is there a second to Commissioner Kladney's motion?

19 COMMISSIONER ADEGBILE: Commissioner
20 Adegbile, second.

21 CHAIR LHAMON: Thank you and welcome,
22 Commissioner Adegbile. Are there any amendments to
23 the agenda for approval? Hearing none, let's vote
24 to approve the agenda. All those in favor say aye.

25 (Chorus of aye.)

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

3 **II. PROGRAM PLANNING**

4 **DISCUSSION AND VOTE ON REPORT:**

5 **COLLATERAL CONSEQUENCES: THE CROSSROADS OF**
6 **PUNISHMENT, REDEMPTION, AND THE EFFECTS ON**
7 **COMMUNITIES**

8 CHAIR LHAMON: The first item on the
9 agenda is a discussion and vote on the Commission's
10 report titled Collateral Consequences: The
11 Crossroads of Punishment, Redemption, and the
12 Effects on Communities.

13 There will be two votes. First, we
14 will consider the report. And second, we will
15 consider the findings and recommendations.

16 To open the floor up for discussion, is
17 there a motion?

18 COMMISSIONER KLADNEY: Yes, Madam
19 Chair. This is Commissioner Kladney. I move to
20 approve the report as circulated by my special
21 assistant on Monday. I understand you were going
22 to make an amendment to the text. And I accept
23 your amendment as a friendly amendment when you do
24 so.

25 CHAIR LHAMON: Thank you. Is there a

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1 second?

2 (Simultaneous speaking.)

3 COMMISSIONER NARASAKI: Commissioner
4 Narasaki, second.

5 CHAIR LHAMON: Perfect. Thank you. I
6 offer a few points to begin our discussion.

7 First, I thank Commissioner Kladney for
8 his leadership on this project. And I thank our
9 staff, particularly Sarale Sewell, Elizabeth
10 Paukstis, and Kathy Culliton-Gonzalez, as well as
11 the other members of our staff who pitched in
12 during the research and development of this
13 project.

14 Thanks to all of their efforts we today
15 consider a report that addresses what have been
16 proliferating collateral consequences of
17 incarceration that we define as sanctions,
18 restrictions, or disqualifications that stem from a
19 person's criminal history.

20 These consequences, which number more
21 than 44,000 across federal, state, and local laws
22 and regulations, range from limitations on access
23 to employment, the right to vote, occupants' aid
24 for food and housing, and federal financial aid for
25 education attainment, among many other categories.

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1 The text we vote on today details these
2 consequences as well as the particular impact on
3 communities, particularly the harms that can arise
4 when there is a disconnect between the consequences
5 inflicted and the formerly incarcerated
6 individual's crime or conviction for any public
7 safety purpose.

8 I'll now open the floor up for
9 discussion beginning with Commissioner Kladney as
10 the sponsor of the project.

11 COMMISSIONER KLADNEY: Thank you, Madam
12 Chair. First, I'd like to thank my fellow
13 Commissioners and special assistants and staff for
14 the hard work on this report.

15 I'm proud to propose the report to be
16 approved here today. The report we will vote on
17 today contextualizes many issues formerly
18 incarcerated people face when they return to their
19 communities.

20 The combination of civil laws,
21 regulations, and policies combined with our
22 criminal justice system in that harsh and lifelong
23 punishments over and above criminal sentences.
24 These consequences, though sometimes warranted,
25 often bear no rational relationship to the crimes

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1 committed by the people affected.

2 Criminal punishments themselves, as
3 this Commission has cataloged multiple times, are
4 overly burdensome, especially for communities of
5 color and other marginalized people. These
6 additional consequences make it all the harder for
7 people to rebuild their lives, support themselves
8 and their families, and avoid resorting to further
9 crimes and contribute to society.

10 Wide-ranging sanctions include, as our
11 report describes in detail, limitations on
12 employment, housing, public benefits, professional
13 licenses, and financial aid for higher education.
14 People lose their rights to civic participation
15 and they are barred from voting and jury service.

16 On top of that, people facing guilty
17 pleas have no notice of what the consequences would
18 be and great difficulty in navigating remedies such
19 as pardons and record sealing.

20 Studies do not show tracking on
21 additional consequences beyond the criminal
22 punishment has any deterrent effect at all.

23 I hope the report contributes to the
24 public and policy makers' knowledge of collateral
25 consequences. And I hope we, as a country,

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1 undertake a reevaluation of whether these
2 consequences are for the public safety, are they
3 logical, are they just, and are they in the public
4 good. Thank you.

5 CHAIR LHAMON: Thank you, Commissioner
6 Kladney. Any other discussion or amendment? I'll
7 begin with one amendment as Commissioner Kladney
8 previewed. I move to incorporate the list of edits
9 circulated by my special assistant yesterday. Do I
10 have a second?

11 (Simultaneous speaking.)

12 CHAIR LHAMON: Thank you. And welcome,
13 Commissioner Yaki. Are there any other, any
14 further amendments or discussions?

15 All right. Unless someone says there
16 is anything that we need to discuss, I'll call the
17 question and take a roll call vote. Commissioner
18 Adegbile, how do you vote?

19 COMMISSIONER ADEGBILE: Aye.

20 CHAIR LHAMON: Thank you. Commissioner
21 Heriot?

22 COMMISSIONER HERIOT: We're voting on
23 the whole report now and not on amendments?

24 CHAIR LHAMON: That's right.

25 COMMISSIONER HERIOT: Okay. I vote no.

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1 And I am authorized by Commissioner Kirsanow to say
2 that if he were here, and he could not be because
3 he is I believe in flight, he would have voted no.

4 CHAIR LHAMON: Thank you. Commissioner
5 Kladney?

6 COMMISSIONER KLADNEY: Yes.

7 CHAIR LHAMON: Commissioner Narasaki?

8 COMMISSIONER NARASAKI: Aye.

9 CHAIR LHAMON: Commissioner Yaki?

10 COMMISSIONER YAKI: I'm authorizing
11 myself to say aye.

12 CHAIR LHAMON: Thank you. Vice Chair
13 Timmons-Goodson?

14 VICE CHAIR TIMMONS-GOODSON: Yes.

15 CHAIR LHAMON: And I vote yes. The
16 motion passes. One Commissioner opposed. No
17 Commissioner abstained. And all others were in
18 favor.

19 Next we will consider the findings and
20 recommendations for the report. To open the floor
21 up for discussion, is there a motion?

22 COMMISSIONER KLADNEY: Yes, Madam
23 Chair, I move to approve the findings and
24 recommendations, including the final changes
25 circulated yesterday by my special assistant.

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1 CHAIR LHAMON: Thank you. Is there a
2 second?

3 COMMISSIONER ADEGBILE: Commissioner
4 Adegbile, second.

5 CHAIR LHAMON: Thank you. Any
6 discussions?

7 COMMISSIONER KLADNEY: Yes, Madam
8 Chair. The findings and recommendations under
9 consideration today provide a strong foundation for
10 policy makers to determine what steps we should
11 take to address collateral consequences.

12 Our examination of this topic revealed
13 a deep lack of knowledge of collateral consequences
14 among people who are about to be subject to them,
15 their attorneys, and the courts. We should provide
16 mechanisms for giving this notice so that people
17 can make informed decisions about their criminal
18 cases.

19 In the areas of employment, housing,
20 professional licenses, driver's license, public
21 benefits, and financial aid for higher education,
22 our findings and recommendations call for a better
23 evaluation of the connection between the
24 restrictions that exist and any public safety
25 interest or purpose.

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1 It is easy to say no one with a
2 criminal conviction should ever have to access any
3 benefit. But this response is not in the best
4 interest of society and is unfair to the convicted
5 person and their families.

6 We note specific collateral
7 consequences we recommend Congress will return,
8 including TANF and SNAP exclusions, the ban on jury
9 service, and access to student loans. In addition,
10 we call for guidance on best practices state and
11 local jurisdictions should consider.

12 We make findings and recommendations
13 about voting and jury service exclusions as well,
14 and noting the rationales for these broad
15 restrictions are not supported by social science.
16 And the restrictions unnecessarily exclude people
17 from community life.

18 Finally, we call for expanded
19 opportunities for expungement and record sealing
20 for people who have truly made a change.

21 These findings and recommendations
22 provide a path forward to enact policies to better
23 support people with recommendation, with criminal
24 convictions, public, protect the public and provide
25 opportunities to participate in community life.

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1 Thank you, Madam Chair. With that, I
2 ask that we approve the findings and
3 recommendations.

4 CHAIR LHAMON: Thank you, Commissioner
5 Kladney. Any further discussions? Hearing none,
6 I'll call the question and take a roll call vote.
7 Commissioner Adegbile, how do you vote?

8 COMMISSIONER ADEGBILE: Aye.

9 CHAIR LHAMON: Commissioner Heriot?

10 COMMISSIONER HERIOT: I vote no. And
11 again, I'm authorized to say that Commissioner
12 Kirsanow would have voted no.

13 CHAIR LHAMON: Thank you. Commissioner
14 Kladney?

15 COMMISSIONER KLADNEY: Aye.

16 CHAIR LHAMON: Commissioner Narasaki?

17 COMMISSIONER NARASAKI: Aye.

18 CHAIR LHAMON: Commissioner Yaki?

19 COMMISSIONER YAKI: Aye.

20 CHAIR LHAMON: Vice Chair Timmons-
21 Goodson?

22 VICE CHAIR TIMMONS-GOODSON: An
23 enthusiastic yes.

24 CHAIR LHAMON: And I enthusiastically
25 vote yes as well. The motion passes. One

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1 Commissioner opposed. No Commissioner abstained.
2 All others were in favor, some of us especially
3 enthusiastically.

4 With that, I wanted to return to
5 clarify that our first vote was on the report text
6 as circulated with the amendment that my special
7 assistant circulated and no further amendments
8 discussed today. Was that clear to everyone who
9 voted and if not -- should we vote again?

10 COMMISSIONER HERIOT: I'm sorry. I
11 couldn't understand that.

12 CHAIR LHAMON: I just wanted to make
13 clear, because you had asked a question in the
14 first vote, that the first vote that we took was on
15 the text of the report as circulated by
16 Commissioner Kladney's special assistant and with
17 the amendment circulated by my special assistant.

18 COMMISSIONER HERIOT: Yes.

19 CHAIR LHAMON: Okay. So all were clear
20 on that. No one was unclear? Hearing no
21 confusion, we can move on. Thank you.

22 I'll note that with the adoption of the
23 report and the findings and recommendations, the
24 clock begins ticking with respect to deadlines for
25 statements and rebuttals.

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