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*
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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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?
COURT REPORTER: Yes, I am. Sorry. I am here.

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

MR. MORALES: Present.

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

I. APPROVAL OF AGENDA

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

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

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

COMMISSIONER ADEGBILE: Commissioner Adegbile, second.

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

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

II. PROGRAM PLANNING

DISCUSSION AND VOTE ON REPORT:
COLLATERAL CONSEQUENCES: THE CROSSROADS OF PUNISHMENT, REDEMPTION, AND THE EFFECTS ON COMMUNITIES

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

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

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

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

CHAIR LHAMON: Thank you. Is there a
second?

(Simultaneous speaking.)

COMMISSIONER NARASAKI: Commissioner Narasaki, second.

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

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

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

These consequences, which number more than 44,000 across federal, state, and local laws and regulations, range from limitations on access to employment, the right to vote, occupants' aid for food and housing, and federal financial aid for education attainment, among many other categories.
The text we vote on today details these consequences as well as the particular impact on communities, particularly the harms that can arise when there is a disconnect between the consequences inflicted and the formerly incarcerated individual's crime or conviction for any public safety purpose.

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

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

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

The combination of civil laws, regulations, and policies combined with our criminal justice system in that harsh and lifelong punishments over and above criminal sentences. These consequences, though sometimes warranted, often bear no rational relationship to the crimes
committed by the people affected.

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

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

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

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

I hope the report contributes to the public and policy makers' knowledge of collateral consequences. And I hope we, as a country,
undertake a reevaluation of whether these consequences are for the public safety, are they logical, are they just, and are they in the public good. Thank you.

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

(Simultaneous speaking.)

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

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

COMMISSIONER ADEGBILE: Aye.

CHAIR LHAMON: Thank you. Commissioner Heriot?

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

CHAIR LHAMON: That's right.

COMMISSIONER HERIOT: Okay. I vote no.
And I am authorized by Commissioner Kirsanow to say that if he were here, and he could not be because he is I believe in flight, he would have voted no.

CHAIR LHAMON: Thank you. Commissioner Kladney?

COMMISSIONER KLADNEY: Yes.

CHAIR LHAMON: Commissioner Narasaki?

COMMISSIONER NARASAKI: Aye.

CHAIR LHAMON: Commissioner Yaki?

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

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

VICE CHAIR TIMMONS-GOODSON: Yes.

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

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

COMMISSIONER KLADNEY: Yes, Madam Chair, I move to approve the findings and recommendations, including the final changes circulated yesterday by my special assistant.
CHAIR LHAMON: Thank you. Is there a second?

COMMISSIONER ADEGBILE: Commissioner Adegbile, second.

CHAIR LHAMON: Thank you. Any discussions?

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

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

In the areas of employment, housing, professional licenses, driver's license, public benefits, and financial aid for higher education, our findings and recommendations call for a better evaluation of the connection between the restrictions that exist and any public safety interest or purpose.
It is easy to say no one with a criminal conviction should ever have to access any benefit. But this response is not in the best interest of society and is unfair to the convicted person and their families.

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

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

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

These findings and recommendations provide a path forward to enact policies to better support people with recommendation, with criminal convictions, public, protect the public and provide opportunities to participate in community life.
Thank you, Madam Chair. With that, I ask that we approve the findings and recommendations.

CHAIR LHAMON: Thank you, Commissioner Kladney. Any further discussions? Hearing none, I'll call the question and take a roll call vote.

Commissioner Adegbile, how do you vote?

COMMISSIONER ADEGBILE: Aye.

CHAIR LHAMON: Commissioner Heriot?

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

CHAIR LHAMON: Thank you. Commissioner Kladney?

COMMISSIONER KLADNEY: Aye.

CHAIR LHAMON: Commissioner Narasaki?

COMMISSIONER NARASAKI: Aye.

CHAIR LHAMON: Commissioner Yaki?

COMMISSIONER YAKI: Aye.

CHAIR LHAMON: Vice Chair Timmons-Goodson?

VICE CHAIR TIMMONS-GOODSON: An enthusiastic yes.

CHAIR LHAMON: And I enthusiastically vote yes as well. The motion passes. One
Commissioner opposed. No Commissioner abstained. All others were in favor, some of us especially enthusiastically.

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

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

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

COMMISSIONER HERIOT: Yes.

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

I'll note that with the adoption of the report and the findings and recommendations, the clock begins ticking with respect to deadlines for statements and rebuttals.
The deadline for statements will be Monday, April 8th. And the deadline for rebuttals will be Wednesday, May 8th.

If a Commissioner intends to file a surrebuttal, notice will need to be given by Wednesday, May 15. And the surrebuttal will be due on Wednesday, May 22.

III. ADJOURN MEETING

CHAIR LHAMON: If there is nothing further, I hereby adjourn the meeting at 10:12 a.m. Eastern Daylight Time. Thank you all.

(Whereupon, the above-entitled matter went off the record at 10:12 a.m.)