

U.S. COMMISSION ON CIVIL RIGHTS

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BUSINESS MEETING

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FRIDAY, JANUARY 17, 2017

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The Commission convened in Suite 1150 at
1331 Pennsylvania Avenue, Northwest, Washington, D.C.
at 3:00 p.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:**LASHONDA BRENSON****PAMELA DUNSTON, Chief, ASCD****LATRICE FOSHEE****ALFREDA GREENE****JUANDA SMITH****BRIAN WALCH****COMMISSIONER ASSISTANTS PRESENT:****SHERYL COZART****ALEC DUELL*****JASON LAGRIA****CARISSA MULDER****AMY ROYCE****RUKKU SINGLA****ALISON SOMIN****IRENA VIDULOVIC**

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P R O C E E D I N G S

(3:02 p.m.)

CHAIR LHAMON: All right, well I will get us started again moving to the business portion of our agenda.

I. BUSINESS MEETING AGENDA

A. APPROVAL OF AGENDA

CHAIR LHAMON: Before I move to approve the business meeting agenda, are there any amendments to that agenda?

COMMISSIONER YAKI: I do want to make sure that everyone on the line is supposed to be on the line.

CHAIR LHAMON: We can hear you Commissioner Yaki, thank you.

COMMISSIONER KLADNEY: I'll move to approve the agenda.

CHAIR LHAMON: Does anyone want to amend the agenda?

COMMISSIONER KLADNEY: Oh, I'd like to amend the agenda to add a statement entitled The U.S. Commission on Civil Rights Condemns Recent Hate Incidents and Calls for a Federal Action. It's been provided to all the commissioners.

CHAIR LHAMON: Is there a second?

1 VICE CHAIR TIMMONS-GOODSON: Second.

2 CHAIR LHAMON: Terrific. With that
3 amendment, let's vote to approve the agenda, as
4 amended.

5 All those in favor say aye.

6 Any opposed?

7 Any abstentions?

8 The motion passes. No commissioners
9 oppose. No commissioners abstain. It's unanimous.

10 B. PROGRAM PLANNING

11 CHAIR LHAMON: We'll now turn to program
12 planning. We have three agenda items today under
13 program planning. They are discussion and vote on the
14 Michigan State Advisory Committee letters; discussion
15 and vote on the Indiana State Advisory Committee
16 letters; and discussion and vote on the hate crimes
17 statement.

18 DISCUSSION AND VOTE ON THE
19 MICHIGAN STATE ADVISORY COMMITTEE LETTERS

20 CHAIR LHAMON: So we will first turn to
21 and vote on the Michigan State Advisory Committee
22 letters to State entities in Michigan and the
23 Department of Justice regarding the Michigan State
24 Advisory Committee report on civil asset forfeiture.

25 Is there any discussion of the SAC letter?

1 COMMISSIONER KLADNEY: I'll move for
2 adoption --

3 CHAIR LHAMON: Is there a second?

4 COMMISSIONER KLADNEY: -- that we pass.

5 COMMISSIONER NARASAKI: I second.

6 CHAIR LHAMON: Okay, Commissioner
7 Kirsanow, how do you vote?

8 COMMISSIONER KIRSANOW: Abstain.

9 CHAIR LHAMON: Okay. Commissioner Heriot?

10 COMMISSIONER HERIOT: We're on Michigan,
11 right?

12 CHAIR LHAMON: Yes.

13 COMMISSIONER HERIOT: Yes.

14 CHAIR LHAMON: Commissioner Kladney?

15 COMMISSIONER KLADNEY: Yes.

16 CHAIR LHAMON: Commissioner Narasaki?

17 COMMISSIONER NARASAKI: Yes.

18 CHAIR LHAMON: Commissioner Adegbile?

19 COMMISSIONER ADEGBILE: Yes.

20 CHAIR LHAMON: Commissioner Yaki?

21 COMMISSIONER YAKI: Aye.

22 CHAIR LHAMON: Vice Chair Timmons-Goodson?

23 VICE CHAIR TIMMONS-GOODSON: Yes.

24 CHAIR LHAMON: And I vote yes.

25 So, the motion passes. One abstention and

1 all others in favor with no opposition.

2 DISCUSSION AND VOTE ON INDIANA SAC LETTERS

3 CHAIR LHAMON: Now we'll discuss and vote
4 on the Indiana State Advisory Committee letters to
5 state entities in Indiana and the Department of
6 Justice regarding the Indiana State Advisory Committee
7 Report on School to Prison Pipeline.

8 Is there any discussion of that letter?

9 COMMISSIONER KLADNEY: I move adoption.

10 CHAIR LHAMON: Any second?

11 COMMISSIONER NARASAKI: I second.

12 CHAIR LHAMON: Terrific. Then, let's
13 vote.

14 COMMISSIONER HERIOT: Madam Chairman?

15 CHAIR LHAMON: Yes.

16 COMMISSIONER HERIOT: I just have a point
17 that actually goes along with both of these letters
18 and that is that I'm not sure it's worth the effort of
19 making these an issue at the Commission meeting that
20 if we're going to do letters that are like the Indiana
21 letter that are just you know transmittal letters, I
22 don't see why that can't come from the Staff Director
23 or the Chairman, as long as they are the way the
24 Indiana letter is, just here's a report. It seems
25 more efficient to keep them off the agenda in the

1 future.

2 CHAIR LHAMON: So is that a motion that if
3 we have letters like that responsive to any of the
4 State Advisory Committee letters that in the future we
5 not vote on them and either the --

6 COMMISSIONER HERIOT: I don't think I need
7 a motion here, do I? I'm just saying that's what I
8 think we should do.

9 CHAIR LHAMON: I think we do need a motion
10 because we have moved to approve them.

11 COMMISSIONER HERIOT: Well then let's do
12 it under -- let's vote on the Indiana letter first.

13 CHAIR LHAMON: Okay.

14 COMMISSIONER HERIOT: There's no reason
15 not to do this one.

16 CHAIR LHAMON: Okay, great. So, we had a
17 motion pending and seconded.

18 Commissioner Kirsanow, how do you vote?

19 COMMISSIONER KIRSANOW: No.

20 CHAIR LHAMON: Okay. Commissioner Heriot?

21 COMMISSIONER HERIOT: Yes.

22 CHAIR LHAMON: Commissioner Narasaki?

23 COMMISSIONER NARASAKI: Yes.

24 CHAIR LHAMON: Commissioner Kladney?

25 COMMISSIONER KLADNEY: Yes.

1 CHAIR LHAMON: Commissioner Adegbile?

2 COMMISSIONER ADEGBILE: Yes.

3 CHAIR LHAMON: Commissioner Yaki?

4 COMMISSIONER YAKI: Aye.

5 CHAIR LHAMON: Vice Chair?

6 VICE CHAIR TIMMONS-GOODSON: Yes.

7 CHAIR LHAMON: And I vote yes.

8 So with one no, all of the yeses and no
9 abstentions, the motion passes.

10 Next we will discuss and vote on --

11 COMMISSIONER HERIOT: Do you want my
12 motion now?

13 CHAIR LHAMON: Yes.

14 COMMISSIONER HERIOT: Okay, then I move
15 that in future, unless a member of the Commission
16 would like a fancier letter, if we're just going to do
17 a straight transmittal with no comment on the
18 substance, that that should be done by the Staff
19 Director of the Chairman.

20 COMMISSIONER KLADNEY: I'll second.

21 CHAIR LHAMON: Okay, Commissioner
22 Kirsanow, how do you vote?

23 COMMISSIONER KIRSANOW: Abstain.

24 CHAIR LHAMON: Commissioner Heriot?

25 COMMISSIONER HERIOT: Yes.

1 CHAIR LHAMON: Commissioner Narasaki?

2 COMMISSIONER NARASAKI: Yes.

3 CHAIR LHAMON: Commissioner Kladney?

4 COMMISSIONER KLADNEY: Yes.

5 CHAIR LHAMON: Commissioner Adegbile?

6 COMMISSIONER ADEGBILE: Yes and I just

7 want to clarify that we don't need to amend the agenda
8 to put this vote on.

9 MS. RUDOLPH: I think that's right.

10 CHAIR LHAMON: General Counsel says no.

11 So, we'll take that.

12 COMMISSIONER ADEGBILE: Okay, great. Aye.

13 CHAIR LHAMON: Commissioner Yaki?

14 COMMISSIONER YAKI: Okay.

15 COMMISSIONER KLADNEY: Can I slightly
16 amend that and just say that copies of the letters
17 should be sent to the commissioners, that's all, when
18 they're sent?

19 COMMISSIONER HERIOT: Sure, yes.

20 COMMISSIONER KLADNEY: We should just have
21 copies, the Director send us copies.

22 COMMISSIONER HERIOT: Yes, let's make that
23 retroactively a friendly amendment, unless somebody is
24 upset about it.

25 COMMISSIONER KLADNEY: Okay, thank you,

1 Commissioner Heriot.

2 COMMISSIONER ADEGBILE: That counts as aye
3 plus.

4 CHAIR LHAMON: And so does anyone who has
5 already voted want to change his or her vote?

6 Hearing no changes, the Vice Chair?

7 VICE CHAIR TIMMONS-GOODSON: I think I'm
8 an aye plus in that, as I understand Commissioner
9 Heriot's motion is that as long as these transmittal
10 letters are simply that, transmittal letters, sending
11 them of course a copy of the report. But for example,
12 in the Indiana letter, the third paragraph, in
13 response to these recommendations we advise that you
14 take the steps necessary to protect civil rights in
15 your jurisdiction. An argument can be made that that
16 second to the last statement is asking them to take
17 action consistent with the recommendation in that.

18 And so my question is whether in
19 Commissioner Heriot's mind that would constitute
20 simply a transmittal letter. I feel very comfortable
21 with this. I would like for all of them to go out
22 like this. Here are the recommendations and --
23 anyway, I just have a question about where -- what all
24 that --

25 COMMISSIONER HERIOT: I actually

1 interpreted that as neutral that like if this is
2 consistent with civil rights, then you should do it
3 but if it's not, then you shouldn't.

4 So I thought that was fairly neutral;
5 otherwise, I would have voted on the letter.

6 VICE CHAIR TIMMONS-GOODSON: Okay, so you
7 consider that neutral. Well, that's neutral enough
8 for me. All right.

9 CHAIR LHAMON: So, Vice Chair?

10 VICE CHAIR TIMMONS-GOODSON: Yes.

11 CHAIR LHAMON: Okay and I vote yes.

12 So we have one abstention and all other
13 votes are yes. So, we'll move forward with what
14 Commissioner Heriot proposes. Thank you.

15 DISCUSSION AND VOTE ON HATE CRIMES STATEMENT:

16 THE U.S. COMMISSION ON CIVIL RIGHTS CONDEMNS

17 RECENT HATE INCIDENTS AND CALLS FOR FEDERAL

18 ACTION

19 CHAIR LHAMON: So next we will discuss and
20 vote on a hate crime statement introduced by
21 Commissioner Kladney.

22 For clarity, I will read it into the
23 record so we know what it is that we're voting on.

24 The statement is titled U.S. Commission on
25 Civil Rights Condemns Recent Hate Incidents and Calls

1 for Federal Action. In recent weeks, many serious
2 hate crimes have been reported around the country.
3 The U.S. Commission on Civil Rights is deeply
4 concerned about such attacks. We call on State and
5 federal officials to respond immediately and
6 effectively to end violence based on religion,
7 national origin, race, or other identity status.

8 The Commission notes some of the heinous
9 acts, among many other reported hate incidents, are
10 alleged as follows. In Kansas, an attacker shot two
11 Indian men, killing one, after yelling at them to "get
12 out of his country." In Washington, an attacker shot
13 a Sikh man, while saying the victim should "go back"
14 to his own country.

15 Jewish Community Centers and Synagogues
16 across the country have received bomb threats and
17 Jewish cemeteries have been defiled. Arsonists have
18 set several mosques on fire.

19 In Florida, an attacker yelled homophobic
20 slurs at a gay couple riding bicycles and
21 intentionally struck one of them with his scooter.

22 Although these incidents have not yet been
23 adjudicated or proven to be motivated by bias against
24 particular groups, the reports and description of what
25 took place are more than deeply troubling. The

1 Commission has long-condemned hate incidents,
2 including as recently as December 2016. We said then,
3 law enforcement officials must remain vigilant in
4 investigating and prosecuting hate crimes. We also
5 emphasized the critical need to collect and report
6 hate crime data and called for sufficient funding for
7 the Department of Justice to accomplish this job.

8 The dire nature of reports of serious hate
9 incidents in the past few weeks compels the Commission
10 to speak again. Our role, as a federal civil rights
11 agency, is to identify attempts to marginalize and
12 intimidate members of protected groups based on their
13 status. These attacks have caused fear and serious
14 concern in many communities around the country. Hate
15 incidents run counter to the values of inclusion and
16 full participation Americans champion. These actions
17 diminish all Americans and the American way of life.

18 Once again, we condemn these attacks in
19 the strongest terms and call for a robust response
20 from all levels of government. These violent acts and
21 threats motivated by hate must be forcefully
22 discouraged. We must use our influence to prevent
23 further violence, whether it's based on national
24 origin, religion, race, gender identity, or any other
25 protected status. We call on law enforcement

1 authorities to prosecute those responsible, wherever
2 the evidence warrants.

3 We join the Leadership Conference on Civil
4 and Human Rights and 156 other civil and human rights
5 groups in calling upon the Executive Branch to respond
6 quickly and forcefully to hate-based incidents.

7 We also join all 100 members of the United
8 States Senate who specifically addressed threats of
9 antisemitism in urging the Department of Homeland
10 Security, the Department of Justice, and the Federal
11 Bureau of Investigation to use all available resources
12 in response to these threats of violence. We echo
13 their call for these agencies to ensure States report
14 hate crimes to the FBI under the Hate Crimes
15 Statistics Act. As the Senator said, hate motivated
16 threats of violence are "completely unacceptable and
17 un-American."

18 Chair Catherine E. Lhamon expressed her
19 concern, "no community should have to fear attacks
20 based on how they look, where they are from, whom they
21 love, or what they believe. We must all come together
22 to fight against such hate and intolerance, which has
23 no place in our society."

24 COMMISSIONER KLADNEY: Madam Chair, I'd
25 move adoption of that letter.

1 CHAIR LHAMON: So a second?

2 COMMISSIONER KIRSANOW: Second.

3 CHAIR LHAMON: Great.

4 Commissioner Kirsanow, how do you vote?

5 COMMISSIONER KIRSANOW: I'll abstain.

6 CHAIR LHAMON: Commissioner Heriot?

7 COMMISSIONER HERIOT: I am going to

8 abstain. I want to point out a couple of things.

9 One, footnote 8 says Attorney General Session and it
10 should say Sessions.

11 The reason I am going to abstain and I
12 think that Commissioner Kirsanow and I will do
13 something that is similar to this but not quite the
14 same, I am concerned that it talks about calling upon
15 the State and federal officials to respond
16 immediately. The problem is the Matthew Shepard and
17 James Byrd Hate Crimes Act tries to deal with
18 federalism issues by requiring DOJ essentially to
19 certify that justice hasn't been done before it can
20 intervene. And the language there I think is
21 inconsistent with the Act.

22 So, we'll do something that isn't too
23 terribly different from this so you will have
24 unanimity in that sense, of course, because we all
25 condemn incidents like this. But I'm not going to be

1 able to sign this one. So, I abstain.

2 CHAIR LHAMON: Thanks for the abstention
3 and your explanation.

4 Commissioner Adegbile?

5 COMMISSIONER ADEGBILE: Commissioner
6 Heriot, I'm wondering whether or not for your purposes
7 calling for a federal response could be opening an
8 investigation that runs parallel to the State
9 investigation and then DOJ makes a determination after
10 the process has run its course about whether or not
11 federal intervention is necessary. Because of the
12 issues of gathering evidence and monitoring facts,
13 very often, as I understand it, the DOJ begins with an
14 investigation which it takes to be a response and,
15 ultimately, makes a prosecutorial determination based
16 on its assessment of the evidence.

17 COMMISSIONER HERIOT: You know it's
18 possible that if we sat here for a couple of hours, we
19 could do this but you know I tried this back a couple
20 of days ago by suggesting the changes and they got
21 rejected.

22 So, it's probably quicker to get this
23 thing out because the Commission should be condemning
24 hate crimes. It's just that it needs to be consistent
25 with the Act and right now I don't think it is and I

1 don't think I'm going to be able to adjust it in the
2 amount of time we have.

3 COMMISSIONER ADEGBILE: I take your point.
4 My only point is that response -- it allows some play
5 in the joints for what response is, that an
6 investigation could be a response. It doesn't mean
7 supplant the role of the State authorities to take the
8 first cut. But I take your point.

9 COMMISSIONER HERIOT: Yes, I'm sure we
10 could have worked this out, but we failed to.

11 CHAIR LHAMON: Commissioner Narasaki?

12 COMMISSIONER NARASAKI: I think there's a
13 disagreement about what the law actually says. It's
14 something that I actually spent about a decade trying
15 to get passed and to fix an earlier version of the law
16 that made it much more difficult to prosecute the
17 crimes for the Department of Justice to get involved.

18 And the requirement says no prosecution of
19 any offense described in this subsection may be
20 undertaken blah, blah, blah, except under the
21 certification in writing of the Attorney General, or
22 designee, that: (A) the State does not have
23 jurisdiction; (B) the State has requested the Federal
24 Government assume jurisdiction; (C) the verdict or
25 sentence obtained pursuant to State charges left

1 demonstrably un-vindicated the federal interest in
2 eradicating bias-motivated violence; or (D) a
3 prosecution by the United States is in the public
4 interest and necessary to secure substantial justice.

5 And it says nothing in this subsection
6 shall be construed to limit the authority of federal
7 offices to investigate possible violations of this
8 section.

9 So I think, unfortunately, we just have a
10 disagreement about how the law is actually supposed to
11 work.

12 CHAIR LHAMON: Hearing no further views,
13 Commissioner Narasaki, how do you vote?

14 COMMISSIONER NARASAKI: I vote yes.

15 CHAIR LHAMON: Commissioner Kladney?

16 COMMISSIONER KLADNEY: Yes.

17 CHAIR LHAMON: Commissioner Adegbile?

18 COMMISSIONER ADEGBILE: Aye.

19 CHAIR LHAMON: Commissioner Yaki?

20 COMMISSIONER YAKI: Aye.

21 CHAIR LHAMON: Vice Chair?

22 VICE CHAIR TIMMONS-GOODSON: Yes.

23 CHAIR LHAMON: And I vote yes. So with
24 two abstentions and no oppositions, the motion passes.

25 I've been handed a note but I should

1 remember to direct staff to post the letters that we
2 just approved to our website and also to prepare a
3 press release or statement.

4 MR. MORALES: We will do so, thank you.

5 B. STATE ADVISORY COMMITTEES

6 VOTE ON APPOINTMENTS TO THE LOUISIANA STATE ADVISORY
7 COMMITTEE

8 CHAIR LHAMON: Okay, today's agenda gives
9 us four State Advisory Committee appointment slates to
10 consider.

11 I move that the Commission appoints the
12 following individuals to the Louisiana State Advisory
13 Committee, based on the recommendation of the Staff
14 Director. The individuals are Robert Lancaster,
15 Andrea Armstrong, James Baeh, Yakima Black, Randy
16 Boudreaux, Marjorie Esman, George Fowler, Robert
17 Garda, Michelle Ghetti, Enrique Hurtado, Saru
18 Matambanadzo, H. Naci Mocan, Cyndi Nguyen, Robert
19 Scott, and Gina Womack.

20 With this motion, the Commission will also
21 appoint Robert Lancaster as Chair of the Louisiana
22 State Advisory Committee.

23 All of these members will serve as
24 uncompensated government employees. If the motion
25 passes, the Commission will authorize the Staff

1 Director to execute the appropriate paperwork for the
2 appointments.

3 Do I have a second for this motion?

4 COMMISSIONER KLADNEY: Second.

5 CHAIR LHAMON: Thank you.

6 Commissioner Kirsanow, how do you vote?

7 COMMISSIONER KIRSANOW: Yes.

8 CHAIR LHAMON: Commissioner Heriot?

9 COMMISSIONER HERIOT: Yes on this one --

10 CHAIR LHAMON: I think your mike's not on.

11 COMMISSIONER HERIOT: I'm going to vote

12 yes on this one, now that it has been modified to

13 include Michelle Ghetti.

14 CHAIR LHAMON: Commissioner Narasaki?

15 COMMISSIONER NARASAKI: I vote yes.

16 CHAIR LHAMON: Commissioner Kladney?

17 COMMISSIONER KLADNEY: Yes.

18 CHAIR LHAMON: Commissioner Adegbile?

19 COMMISSIONER ADEGBILE: Aye.

20 CHAIR LHAMON: Commissioner Yaki?

21 COMMISSIONER YAKI: On this one, okay.

22 CHAIR LHAMON: Vice Chair?

23 VICE CHAIR TIMMONS-GOODSON: Yes.

24 CHAIR LHAMON: And I vote yes.

25 So the motion passes unanimously.

1 VOTE ON APPOINTMENTS TO THE FLORIDA STATE ADVISORY

2 COMMITTEE

3 CHAIR LHAMON: I now move that the
4 Commission appoint the following individuals to the
5 Florida State Advisory Committee, based on the
6 recommendation of the Staff Director. They are
7 Elizabeth Foley, Laura Blundy, Bradford Brown, Laura
8 Finley, Jennifer Glass, Wilhemina Lewis, Don Mizell,
9 Joy Moore, Matthew Oberly, Victor Romano, Nadine
10 Smith, Fernando Teson, Lourdes Villanueva, and Toufic
11 Zakharia.

12 With this motion, the Commission will also
13 appoint Elizabeth Foley as Chair of the Florida State
14 Advisory Committee.

15 All of these members will serve as
16 uncompensated government employees. If the motion
17 passes, the Commission will authorize the Staff
18 Director to execute the appropriate paperwork for the
19 appointments.

20 COMMISSIONER KLADNEY: I'll second.

21 CHAIR LHAMON: Thank you.

22 Commissioner Kirsanow, how do you vote?

23 COMMISSIONER KIRSANOW: No.

24 CHAIR LHAMON: Commissioner Heriot?

25 COMMISSIONER HERIOT: I'm voting no on

1 this one. It is unbalanced.

2 CHAIR LHAMON: Commissioner Narasaki?

3 COMMISSIONER NARASAKI: I just want to say
4 I will vote yes; although, there's no Asian American
5 on the slate that's here. I'm voting yes, though,
6 because I do appreciate the fact that staff were able
7 to recruit two people with Muslim backgrounds to the
8 Advisory Committee and I do very much appreciate that
9 fact.

10 CHAIR LHAMON: Commissioner Kladney?

11 COMMISSIONER KLADNEY: Yes.

12 CHAIR LHAMON: Commissioner Adegbile?

13 COMMISSIONER ADEGBILE: Aye.

14 CHAIR LHAMON: Commissioner Yaki?

15 COMMISSIONER YAKI: Aye.

16 CHAIR LHAMON: Vice Chair?

17 VICE CHAIR TIMMONS-GOODSON: Yes.

18 CHAIR LHAMON: And I vote yes.

19 So the motion passes. There are two no
20 votes, the others yes and no abstentions.

21 VOTE ON APPOINTMENTS TO THE NEBRASKA STATE ADVISORY

22 COMMITTEE

23 CHAIR LHAMON: I now move that the
24 Commission appoint the following individuals to the
25 Nebraska State Advisory Committee, based on the

1 recommendation of the Staff Director. They are
2 Jonathan Benjamin-Alvarado, Dwayne Ball, Michaelle
3 Baumert, Janet Eckerson, Judy Gaiashkibos, Ted Hamann,
4 Jason Hayes, Andrew Hollinsead, Nikitah Imani, Peter
5 Longo, Chad Richter, Jose Soto, Peter Szto, and
6 Kimberley Taylor-Rileyic Zakharia.

7 With this motion, the Commission will also
8 appoint Jonathan Benjamin-Alvarado as Chair of the
9 Nebraska State Advisory Committee.

10 All of these members will serve as
11 uncompensated government employees. If the --

12 COMMISSIONER KLADNEY: I'll second.

13 CHAIR LHAMON: Hang on one second but
14 thank you.

15 If the motion passes, the Commission will
16 authorize the Staff Director to execute the
17 appropriate paperwork for the appointments.

18 Commissioner Kladney?

19 COMMISSIONER KLADNEY: Now, I'll second.

20 CHAIR LHAMON: Thank you.

21 COMMISSIONER ADEGBILE: That we call an
22 anticipatory second.

23 CHAIR LHAMON: Thank you.

24 Commissioner Kirsanow, how do you vote?

25 COMMISSIONER KIRSANOW: No.

1 CHAIR LHAMON: Commissioner Heriot?

2 COMMISSIONER HERIOT: I'm going to vote no
3 on this one.

4 CHAIR LHAMON: Commissioner Narasaki?

5 COMMISSIONER NARASAKI: I'm going to vote
6 yes. I'm excited that we found an Asian American for
7 Nebraska.

8 But I do have a general comment about a
9 few of these slates, which is I didn't see anyone
10 either of the four States that was a person who
11 actually had a disability, although there were people
12 who have expertise on disability issues. And I just
13 want to say that I hope that we can work with staff.
14 I know that my staff and I reach out to some of the
15 national disability groups.

16 And also a couple of the slates didn't
17 have anybody who is a LGBT either. And it's hard for
18 me to believe that there's not one LGBT person in the
19 entire State of Texas.

20 So I want to figure out we can work better
21 with staff to make sure that we're sufficiently
22 recruiting diverse enough pools for the staff to be
23 able to put these slates together. And hopefully,
24 that's something that we can work with the Staff
25 Director on.

1 CHAIR LHAMON: Commissioner Kladney?

2 COMMISSIONER KLADNEY: I think that we
3 have a comment.

4 CHAIR LHAMON: Oh, sorry, Commissioner
5 Adegbile?

6 COMMISSIONER ADEGBILE: I quite agree that
7 outreach should be broad. I think that as we proceed,
8 we cast a broad net and then try and come up with the
9 best slate possible.

10 Our charge, as I understand it, is not to
11 find people in particular categories, per se, but to
12 understand that there is a broad representation and I
13 understand that to be a part of the undertaking. So,
14 we should continue to cast a broad net and see what we
15 can do with our SACs.

16 COMMISSIONER KLADNEY: Yes.

17 CHAIR LHAMON: Commissioner Adegbile, how
18 do you vote?

19 COMMISSIONER ADEGBILE: Aye.

20 CHAIR LHAMON: Commissioner Yaki?

21 COMMISSIONER YAKI: Aye.

22 CHAIR LHAMON: Vice Chair?

23 VICE CHAIR TIMMONS-GOODSON: Yes.

24 CHAIR LHAMON: And I vote yes.

25 So with two noes, no abstentions, the rest

1 yeeses, the motion passes.

2 VOTE ON APPOINTMENTS TO THE TEXAS STATE ADVISORY

3 COMMITTEE

4 CHAIR LHAMON: I now move that the
5 Commission appoint the following individuals to the
6 Texas State Advisory Committee, based on the
7 recommendation of the Staff Director. They are Mimi
8 Marziani, Joni Baker, Josh Blackman, Charles Burchett,
9 Eugene Calvert, Frances Carnot, Jason Casellas,
10 Cecilia Castillo, Bobby Lydia, Merrill Matthews, Feyi
11 Obamenhinti, Christina Sanders, Robert Smegberg, and
12 Barbara Walters.

13 With this motion, the Commission will also
14 appoint Mimi Marziani as Chair of the Texas State
15 Advisory Committee.

16 All of these members will serve as
17 uncompensated government employees. If the motion
18 passes, the Commission will authorize the Staff
19 Director to execute the appropriate paperwork for the
20 appointments.

21 Do I have a second?

22 COMMISSIONER KLADNEY: I'll second on
23 time.

24 CHAIR LHAMON: Thank you.

25 Commissioner Kirsanow, how do you vote?

1 COMMISSIONER KIRSANOW: No.

2 CHAIR LHAMON: Commissioner Heriot?

3 COMMISSIONER HERIOT: I vote yes.

4 CHAIR LHAMON: Commissioner Narasaki?

5 COMMISSIONER NARASAKI: I vote yes. I
6 want to appreciate the efforts of the Regional Program
7 Staff to ensure that our recommendations are being
8 considered. And I just want to find a better way to
9 make sure that if people we have recommended aren't
10 responding, that we can weigh in and help make sure
11 that we help you guys recruit people.

12 And I want to say this without taking away
13 from the great slates that I think actually a present
14 here. So I just want to appreciate that but I just
15 want to note that there is more work that we would
16 like to be able to do to help you all with your
17 process.

18 CHAIR LHAMON: Commissioner Kladney?

19 COMMISSIONER KLADNEY: Yes.

20 CHAIR LHAMON: Commissioner Adegbile?

21 COMMISSIONER ADEGBILE: Aye.

22 CHAIR LHAMON: Commissioner Yaki?

23 COMMISSIONER YAKI: Aye.

24 CHAIR LHAMON: Vice Chair?

25 VICE CHAIR TIMMONS-GOODSON: Yes.

1 CHAIR LHAMON: And I vote yes.

2 So, with that, we have one no, no
3 abstentions and the rest yeses. The motion passes.

4 PRESENTATION BY CHAIR OF KANSAS STATE ADVISORY
5 COMMITTEE ON VOTING RIGHTS IN KANSAS AND THE KANSAS
6 SECURE AND FAIR ELECTIONS ACT

7 CHAIR LHAMON: Next on our agenda is to
8 hear over the phone from the chair of the Kansas State
9 Advisory Committee, Mildred Edwards, on the
10 committee's report on voting rights and the Kansas
11 Secure and Fair Elections Act.

12 Is Ms. Edwards on the phone? We are early
13 in our agenda so she may not yet be on the phone.

14 I'm told she is. So, Ms. Edwards if you
15 are speaking, you're on mute and we can't hear you.

16 DR. EDWARDS: Okay, I am.

17 CHAIR LHAMON: Yes, now we hear you.

18 Thank you and welcome.

19 DR. EDWARDS: Thank you.

20 CHAIR LHAMON: We are prepared for your
21 presentation, Ms. Edwards.

22 DR. EDWARDS: Thank you so much. Thank
23 you to the members of the Board of the U.S. Commission
24 on Civil Rights and Chairman Lhamon for allowing us
25 the opportunity share with you just a brief overview

1 of our briefing report that was released on March the
2 14th with regard to voting rights and the Kansas
3 Secure and Fair Elections Act in our great State.

4 We are very committed to addressing the
5 civil rights views pertaining to voter rights in
6 Kansas and the Board of Commissioners worked to craft
7 a hearing to look at any of the challenges that
8 resulted specifically from our State's 2011 Secure and
9 Fair Elections Act, more specifically to determine
10 whether that Act itself was disparately discouraged or
11 denied citizens of their right to vote on the basis of
12 race, color, age, religion, national origin, or other
13 federally protected categories in local and/or federal
14 elections.

15 On January the 28th of 2015 is when we
16 voted unanimously to address this issue. And on the
17 same day, January 28th in 2016 was when our public
18 meeting was held.

19 So we worked to not only conduct a
20 tremendous amount of research in that time frame in
21 preparation for this hearing, we worked to also make
22 sure that we had a bipartisan or balanced
23 representation of individuals presenting on that day.

24 The Kansas Secure and Fair Elections Act
25 was voted in in 2011, as I stated before, and the Act

1 had three distinct voter identification requirements.
2 The first one was newly registered Kansans must prove
3 U.S. citizenship when registering to vote. The second
4 one was voters must show photographic identification
5 when casting a vote in person. And the third one was
6 that voters must have their signature verified and
7 provide full Kansas driver's license or non-driver ID
8 number when voting by mail.

9 This process then led us to our Secretary
10 State in gaining prosecutorial authority to address
11 issues that came before his office regarding voter
12 fraud. And a bifurcated voting system was
13 recommended, given that we had different requirements
14 in our State from those that were noted at the
15 national level. That was voted down in 2015 by our
16 Sedgwick County District Judge. However, in 2016, our
17 Secretary did receive approval to enact a temporary
18 regulation that sought to formalize a two-tiered voter
19 registration system.

20 And we are currently working and hearing
21 lots of testimony and lots of challenge to our
22 existing Voter Registration Act. Legislature has
23 addressed it at the committee level unsuccessfully,
24 moving that above the line in many instances. And we
25 wanted to make sure that we provided evidence of

1 existing discriminatory or disparities that may exist
2 as a result of that Act, leading up to the actual
3 testimony provided by our panel of presenters.

4 So, on January 28th, the presentation was
5 held. And just a few -- a summary of panel testimony
6 identified some key factors I want to note pretty
7 quickly and then we'll go into recommendations -- our
8 findings and recommendations.

9 Voter ID and proof of citizenship was
10 noted as a challenge, specifically looking at the
11 implementation of training and the consistency thereof
12 for voter registration processes in Kansas, voter
13 education for the voters themselves and the level of
14 burden then that the voter ID requirements placed on
15 voters, based on the SAFE Act.

16 Finally, there was other areas noted with
17 regard to individuals gaining IDs and the necessary
18 documentation when not born in Kansas and seeking to
19 vote as someone who has relocated to our State.

20 We also looked at the incidence of voter
21 participation and any impact perhaps that had occurred
22 as a result of our Act and that voter turnout was
23 noted as having decreased. And we look at the U.S.
24 Government Accountability Office report that was
25 released entitled Elections and Issues Related to

1 State Voter ID Laws, where Kansas was highlighted, and
2 they did note that Kansas was impacted to a greater
3 extent, that turnout decreased in selected -- in our
4 State specifically, when compared in addition to the
5 State of Tennessee.

6 The second category that was impacted by
7 voter participation was our suspense voters. And we
8 have had a 90-day rule that voters that registered
9 without proof of citizenship were placed on the
10 suspense list and they had 90 days to provide
11 documentation to support this citizenship or they
12 would be purged from the registration list.

13 And the third category is provisional
14 voting. And so there were some that were permitted to
15 vote during that time frame and then those votes were
16 counted ineligible if they did not prove citizenship
17 during that time frame.

18 The next category we wanted to look at was
19 civil rights and disparity impact. And so this really
20 resulted in two different categories of analysis. One
21 was improper intent. And the presenters that came
22 before us on that day spoke specifically to the fact
23 that, while the Act itself was written with the intent
24 to address fraud, that in many cases it dealt with
25 voter impersonation or illegal aliens that were

1 reportedly voting in some areas. And so they talked
2 about not only, at its face value, the impact of that
3 Voter Act but then what is some of that improper
4 intent that also was not addressed transparently that
5 they were hoping to provide some, I guess some support
6 for.

7 Disparity impacts really addressed five
8 different categories: age, sex, disability, race or
9 color, and the income or poverty levels of Kansans and
10 how each of those groups were disparately impacted by
11 the Act.

12 Finally, voter fraud. We looked at then
13 national significance of our Kansas Act and the impact
14 that it was having on other States and how other
15 States were replicating, in many ways, aspects of our
16 Voter Rights Act, along with some possible solutions
17 that we recommended. And those came from strategies
18 that could be extracted through the Pew Study, which
19 suggested that we could, number one, compare voter
20 registration lists with other data sources in lieu of
21 our current practices, we could use data-matching
22 techniques to improve accuracy or establish new ways
23 for voters to submit their data directly online to
24 minimize manual data entry and cost and error.

25 And in summary I want to talk about our

1 findings. We had ten findings that came out of our
2 hearing and five recommendations and I'll try to
3 review those really quickly.

4 The provisions of the SAFE Act allowed
5 citizens seeking ID documents free of charge in the
6 State of Kansas. There were challenges, however, for
7 individuals that either, again were not from Kansas,
8 or those individuals that when they went to secure
9 those documents were not permitted to obtain those
10 documents free, as required by the law.

11 Improper or insufficient training of the
12 poll workers. We had voters being turned away,
13 different forms of photo ID not being accepted and a
14 number of different challenges that were inconsistent
15 throughout our State at voting.

16 Transfer of registration between State
17 agencies; the level of voter education that was
18 implemented in Kansas, particularly to those disparate
19 populations. Kansas proof of citizenship and voter
20 IDs under SAFE Act were the strictest in the nation
21 and posed, particularly based on the presentations
22 provided, a higher burden on Kansas. The current
23 consensus in politic science research talked about a
24 stricter voter requirements resulting in lower voting
25 participation. And we really wanted to make certain

1 that in our district, where very small numbers really
2 impacted some of our outcomes, that this was protected
3 for, that we looked at the SAFE Act and its impact on
4 some of those districts.

5 CHAIR LHAMON: Ms. Edwards, thank you so
6 much for summarizing the report. I want to make sure
7 that we have time for questions also, if we can close
8 down the summary --

9 DR. EDWARDS: Okay.

10 CHAIR LHAMON: -- and move to discussion
11 I would appreciate it.

12 DR. EDWARDS: I am open to doing that.
13 Thank you so much.

14 CHAIR LHAMON: Thank you and thank you
15 again for joining us by phone to discuss the report.
16 And I want to open the time to my fellow commissioners
17 for questions and discussion.

18 Commissioner Narasaki?

19 COMMISSIONER NARASAKI: I just want to
20 express my appreciation to the staff and to the
21 Advisory Committee. It is really, truly, and
22 excellent report, incredible testimony and very
23 interesting to see the various perspectives that were
24 expressed here.

25 These issues are things that I have been

1 pawing for a long time, particularly the question of
2 whether it makes sense and is fair to citizens and a
3 State to have two forms of registration systems and
4 have people only be able to vote in the federal
5 elections, which Kansas has sought to do.

6 So I really want to commend all of you for
7 the findings and the recommendations that I think will
8 be very helpful as we continue to look at these
9 questions here at the Commission.

10 DR. EDWARDS: Thank you, Commissioner.

11 CHAIR LHAMON: Commissioner Adegbile.

12 COMMISSIONER ADEGBILE: Yes, I was just
13 struck by the testimony that was captured by one of
14 the persons that came before this SAC, Mr. Byington,
15 who apparently is a disability rights advocate.

16 DR. EDWARDS: Yes.

17 COMMISSIONER ADEGBILE: And it appears on
18 page 29 that he said -- he's an older gentleman, I
19 take it, and his quote was they just weren't very
20 careful about maintaining birth certificate records of
21 people of my skin tone back in the 1930s when I was
22 born. Mr. Byington reported that a particular man
23 ended up not registering to vote because he could not
24 get the birth certificate.

25 And I think it is important that we

1 recognize that these laws have a broad impact and, in
2 some instances, they have the impact of revisiting
3 exclusion of people who, in an earlier time in our
4 country, were excluded from the political process.
5 And there are lots of views about these laws but to
6 have the disenfranchising impact visited in the modern
7 day on people who are trying to exercise their
8 fundamental right to participate in our democracy
9 seems to me to not be our States or our federal system
10 at its finest.

11 I do want to ask a question about the
12 extent to which there were certain Native American
13 voters who had their IDs rejected, their tribal ID.
14 Was this an issue that was also in evidence in Kansas?

15 DR. EDWARDS: Absolutely and there was
16 testimony provided to that nature with some of the
17 poll workers in turning away Native Americans that
18 were presenting their ID. And Mr. Byington actually
19 addressed that, as well as a poll worker in that area.

20 COMMISSIONER ADEGBILE: And under the law,
21 are the Tribal IDs supposed to be accepted? Is that
22 your understanding?

23 DR. EDWARDS: That's my understanding,
24 yes.

25 COMMISSIONER ADEGBILE: Okay.

1 CHAIR LHAMON: Commissioner Narasaki?

2 COMMISSIONER NARASAKI: Yes, I just wanted
3 to add one of the testimony, I think it was a State
4 Legislator, talked how she and others have been trying
5 to help voters who, in previous elections, had been
6 told that they had to cast a provisional ballot or
7 their ballot wasn't cast. And she was trying to
8 identify them and help them make sure that they would
9 be able to vote a full ballot, a regular ballot in the
10 next elections. And yet the State, if I understand
11 the testimony correctly, the State legislature, led by
12 efforts by the Secretary of State, then moved to try
13 to block the public nature of the list of voters who
14 were not allowed to vote a regular ballot.

15 And I'm wondering if there is work being
16 done there to try to address that question because how
17 do those voters ever get a chance to be able to
18 correct their registration, where they can, so that
19 they can exercise their right to vote?

20 DR. EDWARDS: The champion for that Act,
21 Representative Mah, is now on our Kansas State Board
22 of Education and is no longer in our legislature. And
23 this issue has not come before the legislature again.
24 But indeed, it is our hope that from this report that
25 we will have some points of entry that would allow

1 other legislators to take this as a point of
2 conversation, at least bringing it back to the
3 attention of the body.

4 COMMISSIONER NARASAKI: Thank you.

5 CHAIR LHAMON: Mr. Kladney?

6 COMMISSIONER KLADNEY: I'd like to thank
7 you very much for this report and bringing it to the
8 Commission here.

9 My question is fairly simple. It's my
10 understanding that in Kansas, if I was born in Kansas,
11 I'm supposed to be able to get a birth certificate for
12 free to be able to get my identification.

13 Interestingly enough, I live in a State
14 where I was not born and I had to get my birth
15 certificate and it cost me, I believe, \$35 to get a
16 copy of it. Does the State reimburse out-of-state
17 residents when they are required to get a birth
18 certificate?

19 DR. EDWARDS: No, I'm sorry. That was one
20 of the challenges that was presented to us in the
21 testimony on that day and there were individuals that
22 had been impacted by the fact that there were varying
23 levels of cost that they were incapable of meeting,
24 trying to get their out-of-state records and they just
25 simply gave up.

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COMMISSIONER KLADNEY: Has the Secretary of State or anybody in State government addressed that issue or the cost related thereto?

DR. EDWARDS: They have not. They have not.

COMMISSIONER KLADNEY: Thank you.

CHAIR LHAMON: Ms. Edwards, this is Catherine Lhamon. I want to echo my fellow commissioners in thanking you for the work that the State Advisory Committee did to take a look at this issue to bring it to all of our attention. I also really want to commend you for the efforts clearly reflected in the report to make sure that you took in information across the political spectrum and that you gave an opportunity for people with a variety of views to share their views and that those were reflected in the report that you shared. It's very strong.

The State Advisory Committees, as you know, are the Commission's eyes and ears in all of the States and I'm very, very grateful to you and to your fellow committee members for the work you did in this report and I look forward to the work that you will continue to do. I hope you will relay our thanks to your fellow committee members.

And in addition, thanks to you for

1 participating with us by phone today.

2 DR. EDWARDS: Thank you, Chairman.

3 I just want to add that there are some
4 recommendations to the Commission that we would like
5 for you to consider and if you would take a look at
6 those when time permits, we would be most
7 appreciative.

8 CHAIR LHAMON: We certainly will. Thank
9 you very much, again.

10 DR. EDWARDS: Thank you.

11 CHAIR LHAMON: While we're in this section
12 of our conversation, I also want to be sure to thank
13 our regional staff for their hard work in putting
14 together the State Advisory Committee slates that we
15 voted on earlier today, as well as in working with the
16 State Advisory Committees on the type of report that
17 we heard today. It is incredibly meaningful for us.

18 C. MANAGEMENT AND OPERATIONS

19 STAFF DIRECTOR'S REPORT

20 CHAIR LHAMON: Next, we'll hear from our
21 Staff Director on the monthly Staff Director's Report.

22 MR. MORALES: Thank you, Madam Chair.
23 It's been a long day. I have submitted my Staff
24 Director's Report. If you have any questions, please
25 contact me.

1 You know I don't have anything further to
2 say, at this point, except that to thank all the staff
3 for their hard work. You know they corrected the
4 problem as quickly as possible this morning. So I
5 thank them.

6 And everybody's committed to the mission
7 here and I really appreciate all the work and support
8 of the commissioners and I know the staff does as
9 well.

10 So, thank you and I wish everybody safe
11 travels home.

12 CHAIR LHAMON: Thank you.

13 II. ADJOURN MEETING

14 CHAIR LHAMON: If there's nothing further
15 for today, I hereby adjourn our meeting at 3:46 p.m.
16 Eastern Daylight Time. Thank you all.

17 (Whereupon, the above-entitled matter went
18 off the record at 3:46 p.m.)
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C E R T I F I C A T E

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In the matter of: Business Meeting

Before: US Commission on Civil Rights

Date: 03-17-17

Place: Washington, DC

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Court Reporter

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