

U.S. COMMISSION ON CIVIL RIGHTS

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BUSINESS MEETING

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FRIDAY, JULY 13, 2018

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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***NEAL R. GROSS**

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

(10:00 a.m.)

CHAIR LHAMON: Okay, this meeting of the U.S. Commission on Civil Rights comes to order at 10:00 a.m. on 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 your 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.

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1 CHAIR LHAMON: Thank you. The meeting now
2 comes to order. So a motion to approve the agenda for
3 our business meeting?

4 **I. APPROVAL OF AGENDA**

5 COMMISSIONER ADEGBILE: So moved.

6 CHAIR LHAMON: Thank you. A second?

7 COMMISSIONER NARASAKI: I second.

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

13 VICE CHAIR TIMMONS-GOODSON: Second.

14 CHAIR LHAMON: Thank you. Any other
15 amendments?

16 COMMISSIONER NARASAKI: Madam Chair?

17 CHAIR LHAMON: Commissioner Narasaki.

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

21 CHAIR LHAMON: Thank you. I second. Any
22 other amendments? Hearing none.

23 Let's vote to approve the agenda as
24 amended. 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. BUSINESS MEETING

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

6 **A. DISCUSSION AND VOTE ON COMMISSION ADVISORY CHAIR**

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

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

17 COMMISSIONER HERIOT: Second.

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

21 Commissioner Adegbile, how do you vote?

22 COMMISSIONER ADEGBILE: Aye.

23 CHAIR LHAMON: Commissioner Heriot?

24 COMMISSIONER HERIOT: Aye.

25 CHAIR LHAMON: Commissioner Kirsanow?

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1 COMMISSIONER KIRSANOW: Yes.

2 CHAIR LHAMON: Commissioner Kladney?

3 COMMISSIONER KLADNEY: No.

4 CHAIR LHAMON: Commissioner Narasaki?

5 COMMISSIONER NARASAKI: No.

6 CHAIR LHAMON: Commissioner Yaki?

7 COMMISSIONER YAKI: No.

8 CHAIR LHAMON: Vice Chair Timmons-Goodson?

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

14 CHAIR LHAMON: Thank you. And I vote yes.

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

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

21 **B. PRESENTATION BY NEW HAMPSHIRE ADVISORY COMMITTEE**

22 **CHAIR ON THE COMMITTEE'S RECENTLY RELEASED REPORT:**

23 **VOTING RIGHTS IN NEW HAMPSHIRE**

24 CHAIR LHAMON: Ms. Weatherspoon, you have
25 ten minutes.

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1 MS. WEATHERSPOON: Thanks. Thank you for
2 having me.

3 CHAIR LHAMON: Thank you.

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

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

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

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

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

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1 be tackled as our population is aging.

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

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

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

14 As a subset of that --

15 Excuse me?

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

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

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

25 There is anecdotal testimony within the

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1 report that speaks of a voter who couldn't get
2 accurate information from a poll worker. That person
3 therefore left the polling station without voting.

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

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

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

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

21 Over 50,000 living in New Hampshire have
22 failing vision or blindness and we have very little
23 support to respond to their needs. There is limited
24 wheelchair access, which is, in some cases, illegal
25 and in other cases called discriminatory.

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1 Most courts don't understand that you have
2 to have wheelchair compliance even during municipal
3 elections.

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

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

12 New Hampshire is one of those states that
13 was reported to have voter, rampant voter fraud. The
14 Secretary of State handed over some information,
15 however, this process was stopped after most protest.

16 And the group who wanted to implement this case
17 rescinded this request.

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

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

25 Next, mandatory required training of

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1 elected officials. Greater, let me go on, greater
2 public awareness. In other words, as well besides
3 English.

4 Their media outreach is woefully
5 insufficient.

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

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

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

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

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

25 I note that yesterday the New Hampshire

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1 Supreme Court, in a three to two ruling, found that
2 New Hampshire House Bill 1264, which targets the right
3 of college students to vote in New Hampshire, is
4 constitutional.

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

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

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

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

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

23 I will say, in terms of young males that
24 have to register for the draft, they do that early, at
25 18. They cannot receive clearances to get

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1 scholarships unless they actually register for the
2 draft.

3 So, I think we have a number of gates
4 there that should allow college students to vote. And
5 because if you register for the selective service,
6 sorry, not the draft, selective service, you could be
7 called up if we have a draft, and the Government would
8 know how to find you.

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

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

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

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

23 MS. WEATHERSPOON: I think, again, if I
24 was to say on a personal note, as we all age and as we
25 recognize secondly our veterans who are coming home

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1 from war, for all that they experience on PSD to all
2 type of injuries, I think this should be an urgent
3 call that we recognize and accept that this is
4 something that has to be tackled right away.

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

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

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

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

24 MS. WEATHERSPOON: Thank you.

25 CHAIR LHAMON: Commissioner Narasaki.

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

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

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

17 COMMISSIONER NARASAKI: Thank you.

18 CHAIR LHAMON: Commissioner Adegbile.

19 COMMISSIONER ADEGBILE: Yes, good morning.

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

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

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1 at the local level.

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

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

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

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

21 COMMISSIONER ADEGBILE: Yes, thank you.
22 In particular, I was interested in the aspect of the
23 report on Page 18, where the report reads, the purge
24 most likely contributed to increased wait times at the
25 polls in 2012. In 2011 there were roughly 100,000

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1 names that were removed from that list.

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

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

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

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

22 COMMISSIONER ADEGBILE: Thank you.

23 CHAIR LHAMON: If there are no further
24 questions, I will thank Ms. Weatherspoon so much for
25 your presentation and, again, for the work of the

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1 State Advisory Committee on this topic, we really
2 appreciate it.

3 MS. WEATHERSPOON: Thank you so much.

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

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

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

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

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

24 MS. CITRINO: Thank you very much. Thank
25 you, Chairman and thank all Members of the Commission

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1 for this opportunity to speak with you today.

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

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

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

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

23 And along with the state purging of voter
24 registration rolls, some of the primary concerns
25 raised by our Committee, many of which are shared by

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1 our New Hampshire State Advisory colleagues, are
2 voting barriers for individuals with disabilities,
3 inconsistent or insufficient poll worker training,
4 irregularities in the counting and dismissal of
5 provisional ballots, variance in voting laws,
6 policies, procedures and practices in different
7 jurisdictions, strict limitations on early and
8 absentee voting, particularly in large urban areas
9 predominantly serving voters of color, political
10 gerrymandering, and in a broader context, political
11 partisanship.

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

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

24 One area in our report that I'd like to
25 highlight was a discussion by way of a written

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1 question raised by one of our Committee members, about
2 the reality and the perception of voter fraud by
3 people who are not citizens.

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

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

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

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

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

25 Some of them include urging the Ohio

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1 Governor and Legislature to remove current
2 requirements that result in the discarding of
3 otherwise legitimate provision absentee ballots for
4 trivial errors. Such as writing in cursive rather
5 than printing, expanding opportunities for early and
6 absentee voting, revisiting state legislation,
7 prohibiting harassment and voter intimidation at the
8 polls and clarifying definitions of prohibited
9 behaviors.

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

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

22 And following up on the, on Chair Lhamon's
23 question about what can be done for disability, people
24 in the disability community, we would like to see, in
25 conjunction with local advocates and the disability

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1 rights community, an assessment of the voting process
2 in Ohio to ensure that all aspects are acceptable and
3 to effectively train all election officials and poll
4 workers about the rights of people with disabilities
5 and how to provide an accessible voting experience.

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

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

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

24 We also would like to see co-workers
25 trained on the electronic polling machines and using a

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1 corresponding paper trail to secure our very important
2 right to vote.

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

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

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

20 CHAIR LHAMON: Thanks so much, Ms.
21 Citrino. And I also really appreciate that your State
22 Advisory Committee chose to follow-up, including from
23 2006 and into 2018 in your investigation. I thought
24 that was impressive and I'm grateful for the depth of
25 information in the Committee's report.

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1 I'll open for questions from my fellow
2 Commissioners. Vice Chair Timmons-Goodson.

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

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

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

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

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1 been money allocated in the state budget for
2 education.

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

9 VICE CHAIR TIMMONS-GOODSON: Thank you.

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

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

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

22 I saw in your report and I heard in your
23 presentation the recommendation to define harassment
24 in state law to try to address issues of intimidation
25 of these types. In your view, are the state

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1 protections against intimidation sufficient if that
2 harassment were so defined or is there more that needs
3 to be done given this information that is recent and
4 reflects what I view as pretty old style classic
5 discrimination with respect to the right to vote?

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

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

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

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

24 It's really hard to put the toothpaste
25 back in the tube. After somebody has seen a billboard

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1 like that, it has a very chilling effect. And there
2 should be some strong punishment for people taking
3 those kinds of action.

4 CHAIR LHAMON: Thank you. Commissioner
5 Narasaki.

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

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

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

21 And these voters then therefore don't
22 receive information from the Secretary of State's
23 Office about vote by mail, in contrast to the other
24 voters. And that seems, to me, make it even more
25 likely that they'll end up being purged because

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1 they're not getting the same materials about voting,
2 that would make it easier for them to vote than
3 others.

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

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

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

19 So, I think on a local level what I have
20 heard is that activists are very much making sure that
21 people understand, and there has been, as I said,
22 articles in the Plain Dealer about how to check if you
23 are registered to vote. Many people are going to take
24 advantage, I believe, of the voting early provision so
25 that if you go down and find there is a, you go and

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1 you vote ahead of time at a fixed location in your
2 county, if there is a problem then there can be work
3 to get, to make sure that it's cleared up and have
4 your vote counted, because it was very confusing.

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

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

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

22 That combined with the fact that in Ohio
23 it looks facially neutral again, but all counties are
24 permitted to have only one location for early voting,
25 regardless of the county's population. Which, if it's

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1 like most states, probably has very disproportionate
2 populations in various counties.

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

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

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

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

23 COMMISSIONER NARASAKI: Yes, it does
24 strike me that this is what voter discrimination looks
25 like in 2018. My last thing is, I just wanted to

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1 highlight because I was just so shocked by this, that
2 in 2012 where one house race was decided by just four
3 votes, the local board of elections threw out votes
4 because of data entry errors by staff, even though
5 voters had actually provided the correct information.

6 So voters who provided the correct
7 information, votes did not count because of mistakes
8 made by the office. I'm very much hoping that
9 something is being done about that particular problem.

10 So thank you very much.

11 CHAIR LHAMON: Commissioner Adegbile.

12 MS. CITRINO: Thank you.

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

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

25 So, just taking one example, a student who

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1 has a valid Ohio State University ID, is that an
2 acceptable form of identification?

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

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

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

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

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

24 So Ohio, one of the longest periods of
25 time where you have to register 30 days ahead of the

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1 election in order to vote. So that's, I think, the
2 longest period allowed under law. And you no longer
3 could register and vote the same day, you have to have
4 registered 30 days ahead.

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

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

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

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

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

23 CHAIR LHAMON: Great. Thanks. So, Ms.
24 Citrino, thank you again for your service to the Ohio
25 State Advisory Committee and for taking the time to

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1 speak with us today. And also for the really
2 commendable output from your Committee too, we very
3 much appreciate it. The next item --

4 MS. CITRINO: Thank you.

5 CHAIR LHAMON: Sorry for cutting you off.

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

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

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

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

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

22 (Laughter.)

23 COMMISSIONER NARASAKI: I'm getting old.

24 COMMISSIONER ADEGBILE: It's an
25 occupational hazard.

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1 (Laughter)

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

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

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

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

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1 application of the policy.

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

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

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

20 In doing so, the majority opinion asserts
21 "Korematsu has nothing to do with this case," yet
22 President Trump himself justified his plan as a
23 candidate to ban Muslims by noting that President
24 Roosevelt "did the same thing" during World War II
25 with the internment of Japanese Americans.

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1 And as a side note, my fellow
2 Commissioners know this is very personal to me since
3 my parents were among those interned.

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

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

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

22 End of statement.

23 CHAIR LHAMON: Thank you, Commissioner
24 Narasaki. Do we have a motion to approve the
25 statement to open the floor for discussion?

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1 COMMISSIONER ADEGBILE: So moved.

2 CHAIR LHAMON: Do I have a second?

3 VICE CHAIR TIMMONS-GOODSON: I second.

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

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

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

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

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

25 And the fundamental principle is, do we

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

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

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

13 COMMISSIONER YAKI: Yes.

14 CHAIR LHAMON: Commissioner Yaki.

15 COMMISSIONER YAKI: Commissioner Yaki.

16 CHAIR LHAMON: Go ahead, Commissioner
17 Yaki.

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

21 My father was also interned in the Arizona
22 desert during World War II because of his ancestry.
23 And I wanted to stress again a point that Commissioner
24 Narasaki had made, which is, while it is long overdue
25 that the case itself, the Korematsu case, be overruled

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1 by the Supreme Court, it was, in many ways, a decision
2 that did not fundamentally change the key driver of
3 the Korematsu decision.

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

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

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

22 And even more so when you see, again, in
23 the papers even today, that the President is remarking
24 that immigration is ruining Europe and is changing the
25 way Europe is. And we all know what the code words

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1 are that he is using for that.

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

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

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

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

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

21 I also at that time understood very
22 clearly that under our democratic system of
23 government, our citizens and the media, have a right
24 to make reasonable and fair criticism of the courts
25 and of all officials. As a Commissioner, I

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1 respectfully express my disagreement with the Trump
2 versus Hawaii opinion in the form of a yes vote for
3 this statement.

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

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

12 The Supreme Court got it wrong in Plessy
13 versus Fergusson when it allowed state-sponsored
14 segregation.

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

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

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1 as a country.

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

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

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

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

23 And we grew up, he grew up during the
24 times in this country when people from Iran were
25 vilified. And when his family lived and suffered

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1 profound discrimination against them for who they are.

2 And I had hoped that was our past.

3 I am distressed that a version of it is
4 our President and I intend to vote for the statement
5 as well. Thank you.

6 If we have no further discussion I'm going
7 to call the question, take a roll call vote.
8 Commissioner Adegbile, how do you vote?

9 COMMISSIONER ADEGBILE: Aye.

10 CHAIR LHAMON: Commissioner Heriot?

11 COMMISSIONER HERIOT: I vote no.

12 CHAIR LHAMON: Commissioner Kirsanow?

13 COMMISSIONER KIRSANOW: No.

14 CHAIR LHAMON: Commissioner Kladney?

15 COMMISSIONER KLADNEY: Yes.

16 CHAIR LHAMON: Commissioner Narasaki?

17 COMMISSIONER NARASAKI: Yes.

18 CHAIR LHAMON: Commissioner Yaki?

19 COMMISSIONER YAKI: Aye.

20 CHAIR LHAMON: Vice Chair Timmons-Goodson?

21 VICE CHAIR TIMMONS-GOODSON: Yes.

22 CHAIR LHAMON: And I vote yes. The motion
23 passes. Two Commissioners opposed, no Commissioner
24 abstained and all others were in favor.

25 We have another housekeeping item on our

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1 agenda, but with the Staff Director's permission I
2 will pause on that and we'll return to it because
3 we're just in time for our historical presentation.
4 So I'll invite our speaker, Dr. Curtis, to come to the
5 table in front of us, if you will, and I will begin to
6 introduce that presentation.

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

10 **E. PRESENTATION ON THE 50TH ANNIVERSARY OF THE KERNER**
11 **COMMISSION**

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

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

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

24 The report recommended programs in large
25 scale investments to improve access to education, fair

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1 housing, employment training and other dimensions to
2 tackle the vast inequities they've witnessed.

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

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

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

20 We have struggled to live up to that call
21 for action from the Kerner Commission. But over these
22 50 years, we have held fast to the fundamental
23 conclusions the core civil rights endure and that
24 there is a key federal role in enduring and ensuring
25 their satisfaction.

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1 So, I'm very grateful that we have with us
2 today Dr. Alan Curtis, who is President and CEO of the
3 Milton S. Eisenhower Foundation. Dr. Curtis will
4 discuss healing our divided society, the foundation's
5 reexamination of the work still necessary to meet the
6 goals of the current report 50 years later.

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

10 Prior to his work with the foundation, Dr.
11 Curtis was the executive director of President
12 Carter's interagency urban and regional policy group.

13 He served as urban policy advisor to the U.S.
14 Secretary of Housing and Urban Development and later
15 administered the \$43 million employment and crime
16 prevention demonstration program in public housing
17 that was part of President Carter's national urban
18 policy.

19 Earlier he was co-director of the Crime to
20 Violence Taskforce of President Johnson's National
21 Commission on the Causes and Prevention of Violence.
22 He served on the executive Committee of Partners for
23 Democratic Change which teaches democratic decision
24 making worldwide, and was a trustee of the American
25 Academy of Political and Social Science.

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1 Dr. Curtis has an AB in economics from
2 Harvard, an MSC in economics from the University of
3 London and a PhD in urban studies and criminology from
4 the University of Pennsylvania. Dr. Curtis, I look
5 forward to hearing from you now.

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

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

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

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

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

25 Many, mostly moderate and mostly White

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1 men, the members of the bipartisan panel, carried the
2 imprimatur of the political establishment of the time.

3 Yet, as Chair Lhamon has said, the Commission
4 famously concluded that America was heading towards
5 two societies, one Black, one White, separate and
6 unequal.

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

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

14 The essence of the Eisenhower Foundation's
15 2018 50 year update, healing our divided society, is
16 that America still has a long way to go, but that we
17 have built up much more evidence on what works and
18 what doesn't work.

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

25 Over the 50 years since the Kerner

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1 Commission, we have twice elected an African American
2 President. There has been a dramatic increase in the
3 number of African American and Latino elected
4 officials.

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

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

14 Zero tolerance policing against people of
15 color has failed. Sentencing laws remain racially
16 biased. About 200,000 people were incarcerated in
17 1968. Today the American prison industrial complex
18 holds 1.4 million. And they are disproportionately
19 people of color.

20 In many ways, mass incarceration has
21 become part of our housing policy for the poor. And
22 that housing policy, as you know, has included
23 conscious, purposeful, government created segregation
24 as Richard Rothstein has eloquently documented in his
25 new book, The Color of Law.

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1 Public school segregation has increased
2 since the Kerner Commission in '68. Overall child
3 poverty has increased. Deep poverty has increased, in
4 part because of what the late Molly Ivins accurately
5 called the Welfare Reform of the 1990's.

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

9 Through good times and bad, over the last
10 50 years, the ratio of African American to White
11 unemployment has continued to be two to one. In
12 comparison to all other industrialized democracies,
13 America has the highest rates of overall child
14 poverty, the highest rates of homicide and the highest
15 rates of incarceration.

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

20 We ask that the United States Commission
21 on Civil Rights work with us on further expanding the
22 evidence based movement. Which, for example,
23 encourages randomized control evaluations, or at least
24 quasi experimental design evaluations, of public and
25 private initiatives that further Kerner priorities.

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1 In terms of those priorities, what are
2 some examples of evidence based policy that works?
3 The current Commission recommendations began with
4 economic and education priorities.

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

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

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

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

25 The State of Connecticut provides an

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

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

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

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

20 Well, in working in poor neighborhoods
21 across the nation, we need genuine community policing,
22 where specially trained officers really partner with
23 indigenous neighborhood organizations. And where
24 American variations on the Japanese model of
25 neighborhood based mini stations, are replicated.

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1 Such innovative community based policing
2 should encourage the kind of community based banking
3 that was so successful before the regressive federal
4 policies of the 1980s. The community banking should
5 encourage community economic development corporations
6 to construct affordable and integrated housing.

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

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

16 Such models provide mentoring, tutoring
17 and life skills training for high school youth at risk
18 of dropping out. Such mentoring should be continuous
19 from high school down to middle school and elementary
20 school. And all eligible children should receive pre-
21 school.

22 In other words, evidence based policy that
23 works targets multiple solutions to multiple problems.

24 Evidence based policy is complementary and
25 interdependent. Evidence based policy is not separate

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1 and unequal.

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

9 Criticized by the current Commission in
10 1968, the media today need to better report on what
11 works. A good model is how the New York Times covered
12 our Kerner 50th update this year.

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

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

25 Progress in achieving these goals will

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

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

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

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

24 We are back to George Bernard Shaw. Some
25 see things as they are and say why, we must dream of

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1 things that never were and say why not.

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

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

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

16 Reverend William Barber's National Poor
17 People's campaign against the immorality of poverty
18 and inequality, hopefully can help lead the way here.

19 Both Chair Lhamon and Reverend Barber, I thank them,
20 who were keynoters at the forum in Washington that
21 launched our Kerner 50th earlier this year.

22 History has shown that successful
23 movements in America are inclusive and opportunistic.

24 Successful movements build constituencies and enhance
25 alliances. That means Reverend Barber's morale

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1 campaign needs to be joined by other constituencies.

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

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

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

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

25 Those constituencies include the women's

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1 movement and the LGBTQ movement.

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

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

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

19 The generation of new will, will be
20 facilitated through more funding by American
21 foundations to educate citizens on how to run for
22 local, state and national office. More support is
23 needed for organizations like Wellstone Action,
24 Emily's List, Higher Heights, Run for Something, the
25 Latino Victory Project and Emerge.

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1 American foundations equally need to
2 increase support for advocacy on media reform. In
3 addition to more coverage of what works, the media
4 need to more honestly recognize that the real story is
5 in fact dog bites man.

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

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

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

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

22 New will and a new Kerner in people's
23 alliance can only be found in a forum outside of
24 Washington. But legislation and funding must build on
25 good government.

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1 Good government and President Roosevelt
2 brought us the National Labor Relations Act and Social
3 Security.

4 Good government and President Eisenhower
5 paved the Interstate Highway System.

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

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

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

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

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

23 What happens to a dream deferred, does it
24 dry up like a raisin in the sun or fester like a sore
25 and then run, does it stink like rotten meat or sugar

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1 over, like a syrupy sweet. Perhaps that dream just
2 sags like a heavy load or does it just explode. Thank
3 you.

4 CHAIR LHAMON: Thank you, Dr. Curtis.
5 Thank you for ending with a Cathy Cohen. I'll open
6 the floor for questions from my fellow Commissioners.

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

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

23 That is a very impressive body of evidence
24 gathering that I would give my eye teeth to be able to
25 have resources to use now, in this Commission. So it

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1 was with great jealousy that I read about what it
2 took to develop the work of the Commission and I see,
3 in this updated report, that it has taken many serious
4 experts, of whom I'll note one, is a State Advisory
5 Committee Member for the U.S. Commission on Civil
6 Rights, so a shout out to Martha Davis who issued a
7 chapter in the book.

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

15 MR. CURTIS: Without resources --

16 CHAIR LHAMON: I think your microphone may
17 be off.

18 MR. CURTIS: Oh.

19 CHAIR LHAMON: Thank you.

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

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

25 (Laughter)

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1 CHAIR LHAMON: -- I very much appreciate
2 that.

3 (Laughter)

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

7 CHAIR LHAMON: They should not.

8 (Laughter)

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

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

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

24 And what Fred did during the Kerner
25 Commission days was, he just went and sat in barber

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1 shops. I come from, I was raised in Milwaukee and
2 Fred went to barber shops on the north side of
3 Milwaukee and sat with folks two, three, four hours
4 and found out what was really working.

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

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

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

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

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

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

1 Commissioner.

2 (Laughter)

3 CHAIR LHAMON: We want answers.

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

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

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

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

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

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

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

24 Robert Kennedy was able to relate to
25 working class White men and to African Americans. And

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1 he stood on the car and told everyone in Indianapolis
2 what had happened with Dr. King that horrible evening.

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

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

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

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

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

23 CHAIR LHAMON: Your mic.

24 VICE CHAIR TIMMONS-GOODSON: It occurs to
25 me that perhaps we just ought to get who we can, when

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1 we can for as long as we can. And so the young folk
2 down in Parkland may not be able to, or willing to
3 devote their efforts and energies for a sustained
4 period.

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

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

16 CHAIR LHAMON: Commissioner Kirsanow.

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

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

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1 been devoted to that effort.

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

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

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

13 MR. CURTIS: Well, take education for
14 example.

15 COMMISSIONER KIRSANOW: One note I would
16 make is, 1954, City of Detroit was the wealthiest
17 city, not in the country, but in the world. After
18 60's years of these policies have uninterrupted
19 implementation in Detroit, it's what it is today.

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

24 These policies were implemented, they were
25 laboratories of these policies. No improvement. In

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1 fact, things got worse.

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

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

11 And there was progress for 15 or 20 years.
12 As measured by many studies. It was just that in the
13 1980s that was reversed. So, I would caution you
14 against the way you frame that because there really
15 was progress.

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

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

25 In the case of education today, the

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1 Quantum Opportunities Program, which we work and
2 replicate, has been evaluated in a randomized control
3 evaluation. So we compared young people at high risk,
4 who are in the program, which is mentoring and
5 tutoring, with those who are not and we find
6 statistically significant results at .001.

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

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

20 In the case of criminal justice reform,
21 there are programs, like the one I mentioned in New
22 York, like one in Chicago, like one in Minnesota, in
23 which young, ex-offenders have been re-integrated and
24 they have done better than people not in that program.

25 It's a randomized control evaluations.

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1 So there are many, many, many evaluations
2 that have shown what works. There are also
3 evaluations that have shown what doesn't work.

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

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

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

17 COMMISSIONER KIRSANOW: Does the
18 Department of Education work?

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

22 As I said right now, the idea of vouchers
23 hasn't been demonstrated to work. The idea of charter
24 schools, and perhaps 20 percent of all charter schools
25 seem to have some positive aspects to them. So that's

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1 a 50 percent of this and 50 percent of that not. You
2 have to go policy-by-policy.

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

9 MR. CURTIS: If you look at the --

10 COMMISSIONER KIRSANOW: \$47 billion.

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

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

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

24 COMMISSIONER KIRSANOW: Dr. Curtis, I very
25 --

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1 CHAIR LHAMON: I'm going to move us on.

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

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

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

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

17 COMMISSIONER KIRSANOW: But it has --

18 CHAIR LHAMON: Commissioner Heriot.

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

21 CHAIR LHAMON: Commissioner Heriot?

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

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1 Cleveland and you and I can debate it.

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

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

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

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

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

25 MR. CURTIS: Sure. All the citations are

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1 in my report --

2 CHAIR LHAMON: Your microphone is not on.

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

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

6 COMMISSIONER HERIOT: That would be great.

7 CHAIR LHAMON: Your microphone is not on.

8 COMMISSIONER HERIOT: That would be great.

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

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

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

19 But, my main point, I am afraid, is to
20 reiterate what Commissioner Kirsanow said. And this
21 is not directed at you, but it's not just that we have
22 an agreement, we have rules about having balanced
23 presentations and I would have gotten even more from
24 your testimony if I had had it balanced against people
25 of whom I've had the different perspective.

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1 And so I hope in the future when we have
2 these historical presentations we stick to our rules.

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

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

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

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

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

23 On the other side, you present sort of the
24 progressive dream of everything you listed is, I
25 think, sort of on the progressive menu. And I'm sure

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1 it was a nightmare. The total opposite is a nightmare
2 to conservatives and their views about what the
3 problems are and what the solutions are.

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

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

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

24 So, I don't see the urgency happening that
25 has won a collective, enough Americans to be willing

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1 to feel like the investment that might be needed, as
2 Commissioner Kirsanow notes, of the scale that is
3 really required to attack these problems, that people
4 will be willing to make that investment.

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

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

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

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

24 Maybe I'm naive, but I think that
25 objective evidence on what works can, over time, help

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1 heal our society by showing people of all races as
2 well as the middle class and the working class and
3 poor can work together. It's a strategy on the new
4 will and the evidence based level, at the same time.

5 That's the best I can respond to at this
6 point. And we should be creative.

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

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

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

18 CHAIR LHAMON: Commissioner Adegbile.

19 COMMISSIONER ADEGBILE: Yes. Thank you
20 very much for your presentation. And I want to come
21 to one of the core themes I think of what you shared
22 with us and I'm happy to take the answer from a
23 historical perspective so that my fellow Commissioners
24 can be more comfortable with it, but I think it may be
25 instructive.

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1 So, in a number of areas, today, there is
2 evidence out there. There are studies, there is data
3 that tells us things.

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

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

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

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

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

25 Because in order for evidence to have the

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1 effect that you hope that it will, people have got to
2 be open to digging into it and having it alter their,
3 the prism with which they come to issues.

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

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

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

19 So, could I get back to you --

20 COMMISSIONER ADEGBILE: Of course.

21 MR. CURTIS: -- it's really important.
22 And I guess that's what I mean when I say that I think
23 this Commission can ask in an ongoing way, even
24 without all the resources in the world, salient
25 questions that then need to be debated in our

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1 democracy.

2 COMMISSIONER ADEGBILE: Thank you.

3 MR. CURTIS: Thank you.

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

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

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

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

22 COMMISSIONER NARASAKI: I just wanted to
23 add, there is one example from the Commission on
24 history, of having segregationists on the first
25 Commission --

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1 CHAIR LHAMON: Yes.

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

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

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

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

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

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

24 (Whereupon, the above-entitled matter went
25 off the record at 11:56 a.m. and resumed at 12:07

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1 p.m.)

2 CHAIR LHAMON: Okay, after our break, we
3 will come back for our remaining agenda items. Our
4 next item is to hear from our Staff Director, Mauro
5 Morales, for our monthly Staff Director's Report.

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

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

12 But having said that, I do want to mention
13 the printing of the 2018 Statutory Enforcement Report.

14 I've received input from several Commissioners about
15 the printing of the 2018 report, Statutory Enforcement
16 Report.

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

23 We have a minimum request of 200 copies to
24 be printed, but we may be able to increase that if
25 there's a cost savings for printing extra copies. We

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1 don't know at this moment in time. There may be a
2 little bit more cost to this report because it
3 includes some color, and it's a large report. So
4 we'll get an estimate of that shortly and we'll have a
5 better idea of how many we can print and what the
6 final cost will be.

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

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

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

16 Go ahead, Ms. Landreth.

17 **G. PRESENTATION BY ALASKA ADVISORY COMMITTEE CHAIR ON**
18 **THE COMMITTEE'S RECENTLY-RELEASED REPORT: ALASKA**
19 **NATIVE VOTING RIGHTS**

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

22 CHAIR LHAMON: We can, thank you.

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

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1 of the Alaska State Advisory Commission.

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

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

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

22 Now the Toyukak case derives from a suit
23 filed on July 19th, 2013 by Alaska Native citizens and
24 four federally recognized tribes in Alaska. A
25 decision was rendered by the District Court on

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1 September 22nd, 2014 but found that the State of
2 Alaska had failed to provide limited English
3 proficient Alaskan Native voters with voting
4 information substantially equivalent to what English
5 speaking voters received.

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

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

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

21 The translated materials required under
22 the Toyukak order were unavailable in numerous
23 locations according to federal observers. For
24 example, there were no translated voting materials in
25 six of the nineteen villages they visited. So almost

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1 one-third were not complying with the written
2 materials requirement.

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

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

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

22 There was considerable concern because
23 rural residents often share PO Boxes meaning you are
24 less likely to actually receive your ballots. We also
25 received some very interesting information that one

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1 cannot find in the book which is that often when mail
2 is sent from the villages, it won't actually be
3 postmarked there but only postmarked when it's
4 received in the hub of Anchorage meaning you could
5 literally mail your ballot on the correct date and it
6 won't be postmarked on the correct date, thus
7 resulting in your ballot being thrown out.

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

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

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

24 Number two, to require specific training
25 of all Alaska Postal Service employees to handle

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1 election material and ensure prompt delivery. Number
2 three was related to funding, additional HAVA funding
3 to support the language assistance efforts here in
4 Alaska, especially those required for any adaptation
5 to vote by mail or vote centered.

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

19 The two key pieces of recommendations were
20 one, to extend the period of time in the Toyukak
21 settlement order because the State is just not there
22 yet. And the second key was a request to the Alaska
23 Governor, Lieutenant Governor to pause plans to move
24 forward with a vote by mail system in any census area
25 covered by the settlement agreement unless the

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1 Division of Elections can ensure that all of the terms
2 of the order will be fully complied with.

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

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

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

18 So I thank you for that because I think
19 this is important beyond Alaska. I wanted to ask
20 whether the kind of change that is being proposed in
21 terms of introducing vote by mail, would this have
22 been the kind of change that under Section 5 would
23 have required the state to study the impact and
24 provide data and analysis as to whether there would be
25 a disparate impact on Alaska Natives?

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1 MS. LANDRETH: Thank you for the question.

2 And I think the answer is clearly yes. The reason
3 you did not see a clear movement to something like
4 this in previous years is that the pre-clearance
5 required along with the more information requests that
6 would inevitably have followed would have resulted in
7 some significant time and study put in by the
8 jurisdiction to respond to all of these questions
9 beforehand.

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

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

21 So there's not a discriminatory,
22 necessarily a discriminatory intent but when there
23 isn't a requirement to do a study, then that doesn't
24 happen. And the Voting Rights Act I feel actually
25 helped states to analyze how it was going to affect

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1 all of their voters because as we all know,
2 legislatures don't like to legislate money for things
3 like this unless there somehow is incentive or
4 requirement to do that.

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

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

14 CHAIR LHAMON: Thank you. Commissioner
15 Adegbile?

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

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

25 I was particularly intrigued by the

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

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

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

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

22 The second is that the literacy in Alaska,
23 the illiteracy rate I should say is 17 times the
24 national average. And so the providing of written
25 materials doesn't necessarily automatically equal

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1 effective language assistance because many of the
2 voters, as you can see by this pretty alarming
3 literacy rate, will not be able to read them either in
4 English or in Yupik.

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

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

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

24 COMMISSIONER ADEGBILE: Thank you. One
25 other question. So I think it's fair to say with

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1 respect to the Toyukak settlement and order as well as
2 this issue of how mail-in may work in Alaska, history
3 has its eyes on you and your efforts. And so it's
4 going to be important to see how that all plays out.

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

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

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

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1 intended.

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

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

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

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

25 In the absence of Section 5, we had to rely on the

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1 benevolence of the jurisdiction to conduct any kind of
2 outreach or study. And of course, the State Advisory
3 Committee also stepping into the breach to do some of
4 that research as well.

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

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

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

25 COMMISSIONER NARASAKI: Thank you.

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1 CHAIR LHAMON: I'm going to ride the
2 coattails of worry on that because your report, Ms.
3 Landreth, the Committee's report on Page 5 I thought
4 had especially devastating information about language
5 access issues from Alaska, that the information in
6 2016's primary election there were no translated
7 voting materials available in six of nineteen
8 villages.

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

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

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

24 And I note that in June the Inspector
25 General investigated the US Postal Service's handling

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1 of election and political mail in preparation for the
2 2018 midterm elections and similarly found that at
3 postal service stations across the country, USPS is
4 inadequately prepared for the January 2018 special
5 elections and recommended updated trainings and
6 increased web presence to prepare postal workers.

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

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

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

23 So to prioritize that handling, one. Two
24 is to provide an extra timeframe with which to accept
25 the postmarks given that people in villages often

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1 literally can't get something postmarked that day and
2 it will only receive a postmark once in Anchorage.

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

14 And I would add one final thing, postage.

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

20 The post office, if there is one because
21 there isn't one in all villages, is only open on
22 certain days or at certain times or a limited window
23 because it has one employee most likely. Only in very
24 large locations, over several thousand people, will it
25 have two or more.

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1 And so the provision of postage will in
2 itself disenfranchise people if they are not careful
3 to also provide a way for those people to have stamps.

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

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

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

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

23 MS. LANDRETH: Well, there are 12 --

24 COMMISSIONER KLADNEY: I mean, I don't
25 think anybody understands the remoteness of these

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1 villages. I mean, I don't know if there's any more
2 remote places on Earth.

3 MS. LANDRETH: And if I can just
4 illustrate exactly that with one comment. There was a
5 Supreme Court, during the previous administration
6 there was a Supreme Court brief maybe in 2008 or 2009.

7 And the Department of Justice Attorney had reached
8 out to us and said can you please describe for us the
9 demographics of suburban Kaltag.

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

16 So I think it's important for people to
17 understand, there are 12 Alaskan Native corporations.

18 They are businesses. They are State chartered
19 corporations. They are not in any way governments.
20 We have 229 federally recognized tribes in Alaska, 44
21 percent of all the tribes in the United States are in
22 our state.

23 And I think what you've identified there
24 in your question is frankly one of the issues that we
25 first encountered when we being the Native American

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1 Rights Fund, separately in my capacity as chair I'm
2 also a litigator at Native American Rights Fund.

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

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

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

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

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1 depth of the problem.

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

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

18 COMMISSIONER KLADNEY: Thank you very
19 much. I felt it a very important point. Thank you
20 for making your presentation today.

21 CHAIR LHAMON: So I echo those thanks, Ms.
22 Landreth, and I note that in addition to your service
23 on the State Advisory Committee as its chair we also
24 benefitted from your expertise when you served as a
25 panelist at our North Carolina briefing on voting

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1 rights. So thank you for your service on the Alaska
2 State Advisory Committee and for the time that you've
3 given the Commission.

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

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

15 CHAIR LHAMON: Very, very sorry for your
16 loss. Thank you. A last point of personal privilege.
17 We have a very distinguished audience today, as we
18 always do. And it is especially distinguished by the
19 presence today of my favorite incoming ninth grader in
20 the country who is also my daughter.

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

25 COMMISSIONER YAKI: Is she working for us?

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1 (Laughter.)

2 CHAIR LHAMON: That's next, Commissioner
3 Yaki.

4 PARTICIPANT: Free labor for right now.

5 CHAIR LHAMON: She's smiling.

6 VICE CHAIR TIMMONS-GOODSON: Oh, really?
7 The question was whether she was going to speak to
8 mama after embarrassing her like that.

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

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

17 **III. ADJOURN MEETING**

18 CHAIR LHAMON: And now we are adjourned.
19 Thank you.

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

22

23

24

25