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U.S. COMMISSION ON CIVIL RIGHTS

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BUSINESS MEETING

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FRIDAY, OCTOBER 20, 2023

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The Commission convened via
Video/Teleconference at 11:32 a.m. EDT, Rochelle
Garza, Chair, presiding.

PRESENT:

ROCHELLE GARZA, Chair

VICTORIA FRANCES NOURSE, Vice Chair

J. CHRISTIAN ADAMS, Commissioner

STEPHEN GILCHRIST, Commissioner

GAIL HERIOT, Commissioner

MONDAIRE JONES, Commissioner

PETER N. KIRSANOW, Commissioner

GLENN D. MAGPANTAY, Commissioner

MAURO MORALES, Staff Director

DAVID GANZ, General Counsel & Parliamentarian

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STAFF PRESENT:

TINALOUISE MARTIN - Director, OM

DAVID MCGUIRE, Chair of the Connecticut Advisory
Committee

DAVID MUSSATT, Director, RPCU

COMMISSIONER ASSISTANTS PRESENT:

NATHALIE DEMIRDJAIN-RIVEST

ALEXIS FRAGOSA

JOHN K. MASHBURN

CARISSA MULDER

THOMAS SIMUEL

IRENA VIDULOVIC

STEPHANIE WONG

YVESNER ZAMAR

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11:32 a.m.

CHAIR GARZA: Good morning, everyone, the meeting will come to order. This meeting of the U.S. Commission on Civil Rights comes to order at 11:33 a.m. Eastern time on October 20th, 2023.

This meeting is taking place at the Commission's Headquarters located at 1331 Pennsylvania Avenue, Northwest, Washington, D.C. I'm Chair Rochelle Garza. I'd like to do a roll call, so please confirm your presence when I say your name. Vice Chair Nourse?

VICE CHAIR NOURSE: Here.

CHAIR GARZA: Commissioner Adams?

COMMISSIONER ADAMS: Here.

CHAIR GARZA: Commissioner Gilchrist?

COMMISSIONER GILCHRIST: Present.

CHAIR GARZA: Commissioner Heriot?

COMMISSIONER HERIOT: I'm here.

CHAIR GARZA: Commissioner Jones?

COMMISSIONER JONES: Present.

CHAIR GARZA: Commissioner Kirsanow?

COMMISSIONER KIRSANOW: Here.

CHAIR GARZA: Commissioner Magpantay?

COMMISSIONER MAGPANTAY: Here via

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1 telephone.

2 CHAIR GARZA: Great. Well thank you all.
3 Based on that roll call a quorum of the Commissioners
4 is present. I understand the court reporter may be on
5 the phone. Are you present as well?

6 Great. Is the Staff Director present?

7 MR. MORALES: I'm here.

8 CHAIR GARZA: Okay, quorum has been
9 established. Now we're going to proceed with today's
10 agenda, as established by myself in consultation with
11 the Staff Director, and as posted on the federal
12 register today.

13 I. APPROVAL OF AGENDA

14 CHAIR GARZA: And today we're going to
15 consider first, a presentation by Connecticut State
16 Advisory Committee Chair on The Civil Rights
17 Implications of Algorithms in Connecticut, as well as
18 the Staff Director's Report. Are there any motions to
19 amend the correct agenda?

20 COMMISSIONER JONES: Yes, Madam Chair. I
21 move to amend the agenda to --

22 CHAIR GARZA: Commissioner Jones.

23 COMMISSIONER JONES: -- include -- thank
24 you for recognizing me.

25 (Laughter.)

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1 discussion that we would have if we were to pass this
2 proposal.

3 It is one that Members of Congress on a
4 bipartisan basis have worked on. And those of us on
5 this Commission know that a first draft of this
6 proposal was circulated as far back as August 24th of
7 this year. And we asked for feedback and for input.
8 And we incorporated feedback and input from both
9 Republican and Democratic Commissioners on this
10 Commission.

11 We made significant and dramatic, in fact,
12 revisions based on feedback that we received from
13 Commissioner Gilchrist, in particular, in furtherance
14 of the bipartisanship that we have been showing on
15 this topic since January of this year. I have engaged
16 in negotiations with Commissioner Gilchrist. And of
17 course have, for the entirety of that time, continue
18 to solicit feedback from my Democratic colleagues on
19 this Commission.

20 My special assistant circulated an updated
21 concept paper on Monday, October 16th that
22 incorporated Commissioner Gilchrist's latest and final
23 edits to this proposal. And I had not received any
24 feedback, any feedback from any other Republican
25 colleague on that Commission, and for that reason it

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1 was my understanding that I had Commissioner
2 Gilchrist's support on this. And still have no reason
3 to believe that he is not supportive of this proposal.

4 And for that reason would like to move
5 forward with a vote on a bipartisan basis. This is
6 not a favor that any Republican Commissioner would be
7 doing to Democratic Commissioners on this commission,
8 this is something that we met in the middle on.
9 Literally. And if we were to adopt this proposal it
10 would be an example of how this Commission could
11 function in the Year 2023, despite the chaos that we
12 are seeing a few miles away in the United States
13 Congress.

14 To not move forward with this proposal,
15 the statutory enforcement proposal would be, I think,
16 to send a very negative message to the American people
17 about how their tax dollars are being used. And it
18 would further poison the well, so to speak, with
19 respect to the kosher on this Commissioner between the
20 Democrats and the Republicans.

21 It would show that bipartisanship is
22 actually not awarded or looked favorably upon but
23 rather there would be individuals on this Commission
24 who would further exploit any given opportunity to
25 create drama and to distract from the important work

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1 of this Commission. And with that, I would yield,
2 Madam Chair.

3 COMMISSIONER GILCHRIST: Madam Chair?

4 CHAIR GARZA: Commissioner Gilchrist.

5 COMMISSIONER GILCHRIST: Thank you, Madam
6 Chair. Commissioner, let me thank you so much for the
7 opportunity to weigh in on the proposal you suggested.

8 I just want to say to my colleagues as
9 well we certainly had an opportunity to chime in on
10 how this particular important proposal has such an
11 impact on the American people. And the timeliness of
12 this, regarding what the Congress is beginning to
13 engage in is certainly a great thing.

14 I want to commend the Commissioner also
15 for recognizing the importance of bipartisanship
16 because I think bipartisanship is central to
17 everything that we do here on this Commission. I'm
18 not going to vote for this, to amend the agenda today,
19 because I think that when we discuss bipartisanship,
20 bipartisanship should also exist among everything that
21 we do. And if that's not going to be the practice of
22 this Commission, then we need to certainly remind
23 ourselves of the reason why we're here.

24 And so I'm excited about the opportunity
25 to, at some point in the very near future, have the

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1 opportunity to support this proposal. And I look
2 forward to that. As well as my other colleagues on
3 the Commission.

4 But I want to thank Commissioner Jones for
5 allowing me to weigh in on the proposal and to make
6 the edits that he accepted without reservation. And
7 I look forward to, at the appropriate time, to support
8 this proposal going forward. So, again, thank you,
9 Madam Chair, for allowing me to speak.

10 CHAIR GARZA: Okay. So I understand that
11 this is a proposal for a statutory enforcement report,
12 which we have not voted on as of yet. I would like
13 some more information from the Staff Director about
14 timing?

15 MR. MORALES: Thank you, Madam Chair. In
16 the normal course of Commission work the statutory
17 enforcement report is done preceding year. Usually
18 around June. At this time we're in the middle of
19 October, so we've exceeded the ability to do a
20 statutory report by at least three months at this
21 point.

22 Generally they have to be published by the
23 end of the fiscal year, and that would be the end of
24 September. And this is for the 2024 statutory
25 enforcement report, so we're behind several months.

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1 not something that interested me in particular, but
2 I've done reports before that didn't interest me in
3 particular. And sometimes, and it may happen this
4 time, once we get rolling I find it's really very
5 interesting. And I'm hoping that's what's going to
6 happen with Commissioner Jones'.

7 And so I'm not, not against that, but we
8 are a 4-4 Commission. We have four people who I would
9 have considered generally left of center, and four
10 people who are generally right of center. And it's
11 clear that to make things work we need to work in a
12 very bipartisan way.

13 And my impression was that we were going
14 to adopt both reports. The one proposed by
15 Commissioner Kirsanow and the one proposed by
16 Commissioner Jones. And that doesn't seem to be
17 happening.

18 And I very much would like to vote in
19 favor of both, both proposals. I consider both of
20 them to be generally moderate. And I'd like to be
21 able to adopt them.

22 I'd be happy to adopt them today. I
23 understand that some members of the Commission feel
24 they have not had a chance to look at Commissioner
25 Kirsanow's proposal, and would like some extra time to

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1 do that. And I've got no problem with that.

2 And I've got no problem with telling the
3 Staff to go ahead and start working on Commissioner
4 Jones's proposal so that we buy ourselves a few extra
5 days. The Staff can go ahead and work on it because
6 I think this is going to go through. And then we
7 would vote for Commissioner Kirsanow and Commissioner
8 Jones's proposal at the same time.

9 So you might want to ask, why is it that
10 the conservative commissioners are concerned that
11 these two proposals should be voted on at the same
12 time? It's because we've been burned in the past and
13 we don't feel that we can take the chance by allowing
14 this to go through today by itself.

15 Again, we're very happy to allow the Staff
16 to go ahead and start working on Commissioner Jones's,
17 or both, because I think, again, they're both going to
18 get through. These are generally moderate proposals.

19 But alas, we've had trouble in the past,
20 sometimes sort of overwhelming trouble, with getting
21 through the proposals even once they get adopted.
22 It's like battle, after battle, after battle to get
23 what has been proposed actually executed. So, we
24 don't feel that it is appropriate for something that
25 is not on the agenda to be added when only half of

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1 the, what should be a package, is being added here.

2 So I plan to vote against amended the
3 agenda. If the motion passes, I intend to vote
4 against Commissioner Jones's proposal. Although
5 again, I believe that it's going to get through in the
6 end when it's paired with Commissioner Kirsanow's
7 proposal.

8 Commissioner Kirsanow's proposal, as you
9 know, is simply to do a report similar to the one that
10 we did about a decade ago about the religious
11 liberties of prisoners. I know that Commissioner
12 Magpantay had concerns that it might be a proposal
13 just to study Christian religions. I can assure him
14 that that was never the intention. And if you look
15 back at the report that was done a decade or so ago.

16 In fact, non-Christian religions get more
17 attention because those are the ones where issues come
18 up. Including novel religions. Things like the
19 Church of the New Song. A special religion that was,
20 I think at the time, invited by prisoners.

21 They had things like steak and wine for
22 dinner a part of the religion and how prisons should
23 deal with that sort of thing. So I, again, believe
24 that these proposals are going to get through, but I
25 think they need to be put through as a package.

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1 CHAIR GARZA: Okay. I understand that
2 others want to be recognized.

3 COMMISSIONER ADAMS: Adams in time.

4 CHAIR GARZA: I'm sorry? Who is that?

5 COMMISSIONER ADAMS: Just Adams raises his
6 hand on the phone.

7 CHAIR GARZA: Okay, so Mr. Adams.

8 COMMISSIONER ADAMS: Thank you, Madam
9 Chair. Perhaps Madam Chair could inquire, or the
10 Staff Director could address, I'm curious, I remember
11 those ranking procedures and they seem to be useful at
12 the time.

13 And I'm also wondering if we might hear
14 from the Staff Director about the idea that
15 Commissioner Heriot had about getting the Staff going
16 because I think Commissioner Jones's proposal is an
17 extremely interesting one, and I'm going to vote for
18 it when it's the question. So what about those two
19 issues? The ranking, why didn't they happen, and what
20 about getting the Staff moving?

21 MR. MORALES: That's a really great
22 question. What happen, as you recall, the
23 Commissioners were engaged in the effort to secure the
24 nomination and the vote for the chair and the vice
25 chair. So nothing was able to be accomplished because

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1 we didn't have a chair to establish the agenda, which
2 is required under our statute and our AI.

3 So we never got to the point where we
4 could have consideration of the concept papers. And
5 so that will take place this year because we do, or
6 this coming year, in 2024, hopefully when we have a
7 full slate of Commissioners and a Chair to create the
8 agenda that was required in order to have
9 consideration.

10 Lastly I'll that, you know, during the
11 summer, because of the urgency of getting the 2024
12 statutory enforcement report, I was approached by
13 Commissioner Jones and I was approached by
14 Commissioner Gilchrist. Both of them indicated to me
15 their enthusiasm for getting the 2024 statutory
16 enforcement report based on something like what was
17 supposed to be, or supposed to be presented, through
18 the Connecticut State Advisory Committee, which was on
19 artificial intelligence.

20 And so the Office of Civil Rights
21 evaluation took the report that everybody really
22 thought highly of and revised it and presented it to
23 Commissioners for their consideration for a national
24 headquarters report for the 2024 statutory enforcement
25 report. And my understanding, hearing from

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1 Commissioner Jones, and in conversations with
2 Commissioner Gilchrist, was they were enthusiastic
3 about this becoming the 2024 statutory enforcement
4 report.

5 And they worked out some edits, and they
6 worked out some revised drafts. And now we're
7 hearing, about three weeks ago, maybe about a month
8 ago, or less than that, it was between the two, we got
9 a new report, request for a consideration of a report
10 by Commissioner Kirsanow.

11 Which we looked at and we said, you know,
12 from a legal jurisdiction point of view, this complies
13 with USCCR, you know, legal sufficiency. However,
14 there were some considerations that other
15 Commissioners had that didn't have an opportunity to
16 edit that potential report on religion.

17 So now we came today where my
18 understanding was that we were going to have
19 consideration of the report, and now we're at an
20 impasse. And so, you know, this is a matter for
21 Commissioners. But the '24, the 2024, the concept
22 paper or the idea for the 2024 statutory enforcement
23 report on artificial intelligence is ready to go.

24 So I don't know what the holdup is, but I
25 defer to Commissioners and the wisdom and what they

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1 think they need to do.

2 CHAIR GARZA: Thank you, Staff Director.
3 I believe Commissioner Nourse wants to be
4 acknowledged.

5 VICE CHAIR NOURSE: Thank you, Chair. In
6 my experience, in my short experience on this
7 Commission, I have not found that whatever was regular
8 order has become regular order. And that is because
9 there has been a long delay taken in even electing a
10 chair.

11 So I'm hoping moving forward we can
12 establish some procedures. So what has happened in
13 every meeting that I have been at does not happen
14 again.

15 And what every meeting has done is we have
16 had assurances as to X. We come in here and then
17 there is not X. Or we want a package or we want
18 something. So that is not bipartisanship.

19 To me it is not proper procedure. It
20 would not pass, you know, a smell test in a court of
21 law, and I would like us to get some procedure moving
22 forward so we do not waste our time and the American
23 public's money.

24 AI is a huge issue. It's a huge issue for
25 every American. And facial recognition is an

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1 important topic, in part because of its capacity to
2 follow us everywhere. Do we have any privacy anymore?
3 So I commend Commissioner Jones and Commissioner
4 Gilchrist for pushing this forward.

5 But my experience is that the rules that
6 I thought were there by the time I come into the
7 Committee Commission are not there. So we need to
8 work on those. And I hope we can do so moving
9 forward.

10 CHAIR GARZA: Thank you. Commissioner
11 Jones?

12 COMMISSIONER JONES: Yes. I would just
13 echo the statements of the Vice Chair, and to give
14 further definition to that.

15 In addition to this proposal itself being
16 a bipartisan proposal, one that would not have
17 necessarily been my first choice, in fact it would not
18 have been my first choice, but for a desire to reach
19 bipartisan consensus.

20 It was only within the past 72 hours,
21 approximately, that we heard from staff, confidential
22 assistants, staff assistants, and maybe one or two
23 members on the Republican side, that perhaps there
24 would be a desire to pass the personal proposal at the
25 same time as this bipartisan facial recognition

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1 proposal. That is not the collaborative spirit that
2 I think anyone on this Commission, who had already
3 planned on voting for this thing on Friday that we've
4 been working on all year would expect.

5 So I think, unless it's unclear, it's been
6 said both in private conversation, and I think
7 possibly on the record today, I don't think a single
8 one of the Democratic Commissioners has a categorical
9 objection to the idea of studying religious freedom in
10 the prison context under RLUIPA.

11 But we need to be afforded the opportunity
12 to engage in a substantive discussion about the
13 proposal. And why would the passage of that proposal
14 be a condition for passage of another proposal that is
15 bipartisan that Commissioner Gilchrist and I have been
16 working on all year, and that is recently, as a few
17 days ago, was not being objected to by other
18 Republican Commissioners in conversations with one or
19 more Democratic Commissioners on this Panel.

20 This is not a favor. Passing this AI
21 proposal is not a favor to the Democrats on this
22 Commission. The proposal itself is a compromise.

23 And so I just reject Commissioner Heriot's
24 framing of it. I know it's convenient because of the
25 position ultimately that some of the Republican

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1 Commissioners, or all of the Republican Commissioners
2 have staked out, but I do think it's important for the
3 record to be accurate that the position of the
4 Republicans on this Commission apparently is, we're
5 not going to do this bipartisan thing unless we get
6 our proposal in the current form that it's in despite
7 the fact that there has not been real engagement in
8 getting that to a bipartisan condition. Yes.

9 CHAIR GARZA: Commissioner Magpantay, I
10 understand you want to speak?

11 COMMISSIONER MAGPANTAY: Yes. Thank you,
12 Madam Chair. So I come to this Commission as an
13 appointee from the United States Senate, and the
14 Senate had recently had a very bipartisan, all 100
15 members invited to a briefing and discussion on AI,
16 and facial recognition and implications of this for
17 our country.

18 There are serious civil rights concerns
19 that are there. They're discussing it in a
20 bipartisan, or actually a total -- a tripartisan
21 because it's all members of the United States Senate.

22 We, as the Commission on Civil Rights, are
23 authorized, there's a congressional statute, to advise
24 the United States Congress on civil rights issues in
25 America. This is an issue that the United States is

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1 exploring and is interested in. I have to vote in
2 support of this proposal to fulfill our obligations,
3 both to the American people, to the Congress in our
4 mission.

5 And we'll see, I do, personally I do not
6 really understand many of the issues. I want to learn
7 like Commissioner Heriot. I do not know where we will
8 end up, but we have to work on these issues, to
9 explore these concepts and provide them to the
10 American people, to the Congress and to the Senate
11 from which I was appointed. So I support this
12 proposal very much. Thank you.

13 CHAIR GARZA: Well, thank you. Thank you
14 for that, Commissioner Magpantay. I have not opined
15 yet, I have been reserving my comments.

16 I was very, very, very excited at the
17 prospect of Commissioner Jones and Commissioner
18 Gilchrist working together. This is exactly what I
19 want to see as Chair of this Commission, bipartisan
20 work. And the fact that they were working on a
21 project that is so important, that could have such a
22 deep impact on the American people, especially around
23 facial recognition and how these technologies are
24 being used and potential discrimination involved
25 around them. In fact, we're having, we had on the

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1 agenda the Connecticut State Advisory Committee that
2 had done something similar in this vein, and I was
3 excited to hear from them, although they may not be
4 able to speak given the delay in time.

5 I do want to express my disappointment
6 that this is not something that my colleagues on the
7 other side are supportive of anymore, it appears. I
8 realize that we have -- we have specific deadlines
9 that we have to meet.

10 We owe a duty, not just to this Commission
11 but to the American public, to issue a statutory
12 report. And I have serious concerns that if we do not
13 vote on this today that there will be further delays
14 in getting this done.

15 It was already recapped how we got to this
16 point. I don't need to recap that for folks. This is
17 where we're at right now. Moving forward in the
18 future I do want to make sure that we implement the
19 process that has existed in the past, but that was
20 just impossible to do this year because my chairship
21 was delayed until later in the year.

22 So moving forward --

23 VICE CHAIR NOURSE: July.

24 CHAIR GARZA: Moving forward I would very
25 much like to continue with that process. I've had

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1 communications with all Commissioners on this issue.

2 I did not hear any aversion to this.

3 I also did not hear anything about
4 requiring this to be coupled, so I will express my
5 disappointment that I was not treated with
6 transparency when I am very much trying to move this
7 Commission along and make sure that we are
8 communicating and collaborating as much as possible
9 because I do deeply believe in bipartisanship. I'm a
10 Texan. We have to believe in bipartisanship, all
11 right.

12 I believe it in deeply, and I know that we
13 can come to compromises and we can get things done
14 because truly I care more about getting things done
15 than about being right. So with that, I am going to
16 ask if there are, if there is any, I'm willing to
17 entertain a call to question on this.

18 COMMISSIONER HERIOT: I just want to make
19 one more comment.

20 CHAIR GARZA: Commissioner Heriot.

21 COMMISSIONER HERIOT: And that is that
22 there was a time that we sought to amend the agenda to
23 talk about the crime victims report, and at that point
24 you objected to anything being amended because the
25 American people had not been notified that we were

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1 going to talk about crime victims. We're in that same
2 position right now.

3 CHAIR GARZA: I don't know --

4 COMMISSIONER HERIOT: The agenda --

5 CHAIR GARZA: -- how helpful this is.

6 COMMISSIONER HERIOT: The agenda does not
7 include a discussion of this report. And instead it
8 was sprung on us this morning. That's unusual.

9 I'm not necessarily against that sort of
10 thing, but, you know, the thing is that we're a 4-4
11 Commission and if we want this to work, you know, I've
12 said many times we're going to have to act like a 4-4
13 Commission. And that's not what I'm seeing.

14 CHAIR GARZA: I know. All right, well,
15 that's not helpful. I spoke to everyone this week
16 over the phone and this was not brought to my
17 attention about having to couple this vote with
18 another. And I am expressing my disappointment there.

19 I still am, I still believe that we can
20 continue to work together and so I very much would
21 like to see what we can get done. So let's go ahead
22 and get on with this vote. We'll call it into
23 question?

24 VICE CHAIR NOURSE: Call the question.

25 CHAIR GARZA: Okay. All right. So this

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1 is a vote on the amendment to add the statutory
2 enforcement report on AI and facial recognition that
3 has been proposed by Commissioner Jones and
4 Commissioner Gilchrist. We'll start with Vice Chair
5 Nourse?

6 VICE CHAIR NOURSE: Aye.

7 CHAIR GARZA: Commissioner Adams?

8 COMMISSIONER ADAMS: Could you circle back
9 to me please?

10 CHAIR GARZA: Sure. Commissioner
11 Gilchrist?

12 COMMISSIONER GILCHRIST: No.

13 CHAIR GARZA: Commissioner Heriot?

14 COMMISSIONER HERIOT: No.

15 CHAIR GARZA: Commissioner Jones?

16 COMMISSIONER JONES: Yes.

17 CHAIR GARZA: Commissioner Kirsanow?

18 COMMISSIONER KIRSANOW: No.

19 CHAIR GARZA: Commissioner Magpantay?

20 COMMISSIONER MAGPANTAY: Yes.

21 CHAIR GARZA: Chair votes yes. And,
22 Commissioner Adams, we're returning to you.

23 COMMISSIONER ADAMS: Thank you. No.

24 CHAIR GARZA: Okay. Motion does not pass.

25 And, well let's see if our Connecticut Advisory

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1 Committee Chair, David McGuire is still on the phone?
2 I'm aware if he is able or has the time.

3 MR. MCGUIRE: I am still here. Yes, I am
4 here, Chair.

5 CHAIR GARZA: Do you have sufficient time
6 to present? I know that you had a hard stop?

7 MR. MCGUIRE: I do. Yes, I do. I think
8 I can present in under a little ten minutes and then
9 take questions before I have to leave. If that's
10 acceptable?

11 CHAIR GARZA: Okay. I appreciate, I
12 appreciate you being here and I apologize for the
13 delay.

14 So I want to thank you for the work that
15 you're doing to address bias and artificial
16 intelligence. Lawmakers around the world are
17 discussing a myriad of solutions to govern the use of
18 such technology.

19 And I do think it is imperative that we
20 keep the civil rights concerns at the forefront. The
21 recent advances in artificial intelligence have
22 further elevated concerns with facial recognition
23 technology which has garnered, obviously national
24 attention, and has been prioritized by Congress as we
25 all have seen.

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1 We do take great interests as a Commission
2 in the Connecticut report. And as you have heard, we
3 are considering a report on this issue and how facial
4 recognition technology is developed and utilized by
5 federal agencies.

6 So I want to commend your dedication to
7 transparency, accountability and equity, and we look
8 forward to hearing from you, especially regarding the
9 unanimous bipartisan recommendations that the
10 Connecticut State Advisory Committee approved as they
11 could be key to providing a roadmap for future where
12 technology respects the civil rights of law. So,
13 Chair McGuire, the floor is yours.

14 MR. MCGUIRE: Great. Well thank you very
15 much for those kind remarks. And I appreciate both
16 your and the Commissioner's work and consideration of
17 working on this issue.

18 I also want to thank the Staff at the
19 Commission who have really helped us get a lot done
20 over the last few years that I've been Chair. Most
21 notably Barbara De La Viez and Evelyn Bohor who have
22 been really helpful.

23 This work on artificial intelligence and
24 algorithmic bias is really my, I'm most proud of, of
25 any of the work I've done with the SAC. We really

1 grapple with this issue, and did a lot to put
2 together, I think, a report that educated the
3 legislature, and hopefully the Commission, about some
4 of the potential up and downside of algorithms being
5 used by government.

6 Here our focus was on the State of
7 Connecticut. We get the benefit of a little bit of
8 work that the Yale Law School Media Freedom and
9 Information Clinic did. They did several FOI requests
10 that showed that at least three state agencies have
11 used or considering using AI for really important
12 decisions. Like employment, family unification and
13 things like that.

14 So we were understanding from the very
15 start there was a potential issue here. And really
16 dug in through a briefing that we had at our
17 legislative office building in September of 2022. And
18 then three subsequent virtual briefings where we heard
19 from really impressive people from Brookings
20 Institution, Yale Law School, as I had mentioned,
21 ACLU, Professors from Brown and University of
22 Massachusetts and others who really gave us the
23 information to understand what algorithms are and what
24 impact they can have on civil rights and civil
25 liberties.

1 Most importantly looking at the risk of
2 discrimination. And interrogating some of the issues
3 around the lack of transparency and the Government's
4 use of algorithms.

5 Like I mentioned, we heard a lot of great
6 testimony. And as we moved forward it became pretty
7 clear that we, at the SAC, had, oh, less around really
8 three main issues that impact the civil rights of
9 people in the State of Connecticut. And I posit
10 probably the country.

11 One was transparency. Just, the public
12 really understanding what algorithms are, why the
13 Government is using them and understanding how those
14 decisions impact their day-to-day lives.

15 The other was finding a way to audit and
16 validate these systems prior to being used. And we
17 did audit them for algorithmic bias as they are used.

18 And then the last was around
19 accountability. Trying to find some way for the
20 public to, you know, essentially grieve or appeal if
21 they believe that an algorithm used by the Government
22 has discriminated against them.

23 We put out in, and I believe you all had
24 a chance to look at these, an interim memo in January
25 of 2023 which went a long way in shaping a piece of

1 legislation here in Connecticut. Our legislature runs
2 from January to June in the odd years, so we got that
3 memo out and kind of stacked out some positions based
4 on our September briefing. That really did shape
5 legislation, it ultimately passed. And I'll mention
6 it briefly before I take questions.

7 We then continued to do work. And thus
8 subsequent virtual briefings were helpful to get a
9 robust universe of knowledge that we incorporated in
10 our briefing report that came out in March of 2023.
11 I think the Staff Director mentioned it.

12 What we really focused on was what
13 safeguards need to be in place to prevent the
14 Government use of AI from adversely impacting
15 protected classes. And we leaned in pretty heavy on
16 transparency and the need for some real meaningful
17 evaluation.

18 Ultimately Senate Bill 1103, which then
19 became Public Act 2316, passed both chambers of our
20 legislature unanimously and was signed promptly by the
21 governor. That's a very rare thing. We are a state
22 that has a Democratic trifecta, but it is very rare
23 for very meaningful legislation to have unanimous
24 support in both chambers. I credit the work of our
25 SAC in helping to make clear this is not a partisan

1 issue.

2 Ultimately what passed was a very, very
3 strong first start. And it's been paled as one of the
4 strongest state AI laws in the country. It does some
5 very basic things, like defining what an algorithm is.
6 And it's very broad. And that was purposely done so
7 as quickly emerging and developing technology.

8 It requires starting next year the State
9 of Connecticut to create a public inventory of
10 automated intelligent systems used by state agencies
11 and for what they're using them for. Currently the
12 Yale Law School Clinic, as well as other advocacy
13 groups, cannot really get an answer as to what
14 agencies are using them and why. So that will solve
15 a big problem, create a nice starting place for the
16 conversation to continue.

17 It also requires the new state law that
18 there be impact assessments done before algorithms are
19 developed, purchased or implemented. This is
20 important, as we know, that there are lots of third-
21 parties who are aggressively pitching AI systems to
22 state governments. And now in Connecticut for a new
23 one to come on or be developed it must first have that
24 impact assessment looking specifically at unlawful
25 discrimination and making clear that there can be no

1 disparate impact from the use of those algorithms.

2 Finally, there is a 21-person group that's
3 being convened. It's a working group that is looking
4 at, and will make more recommendations in February of
5 next year as to what next steps we need to put in
6 place for there to be guidelines to guide the use of
7 AI by the state. Really looking at transparency and
8 equity as the cornerstones of that.

9 So that my general overview. I'm sorry
10 that it was somewhat rushed. I didn't have as much
11 time as I thought I would because you are all engaged
12 in some robust conversation there, but I'm happy to
13 answer questions about what I presented or the memo
14 itself.

15 CHAIR GARZA: Thank you so much, Chair
16 McGuire. I'm going to open the floor to questions.

17 COMMISSIONER GILCHRIST: Madam Chair?

18 CHAIR GARZA: Did I hear someone on the
19 phone? Okay, Commissioner Gilchrist.

20 COMMISSIONER GILCHRIST: Thank you, Madam
21 Chair. Chairman McGuire, let me thank you and your
22 committee for the fine work that you did on the
23 Connecticut report. It was actually the tool that
24 encouraged me to consider looking at artificial
25 intelligence as it relates to the algorithmic side of

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1 this issue that in many ways can potentially
2 perpetuate discrimination, and so I want to just make
3 a comment and thank you for this.

4 As we continue as a Commission I want to
5 thank again my colleague, Commissioner Jones, for
6 allowing me to weigh in on the proposal that this
7 Commission will be presenting in short order, the
8 opportunity to really enhance that so that we can
9 begin to not only address the artificial intelligence
10 side of, and facial recognition side of artificial
11 intelligence, but also to begin looking at some of the
12 aspects of the algorithmic part of it.

13 So I just wanted to commend you. I was
14 very impressed that Connecticut moved forward in a
15 bipartisan way to enact legislation in your state. My
16 hope is that some of that can inform our work here on
17 the Commission for other states across the country.
18 So I just wanted to make a comment and thank you again
19 for the work that you guys did.

20 MR. MCGUIRE: Thank you for those kind
21 words. And I'm glad that the report is living on in
22 different ways.

23 COMMISSIONER GILCHRIST: That's all, Madam
24 Chair.

25 CHAIR GARZA: Thank you.

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1 COMMISSIONER MAGPANTAY: Madam Chair?

2 CHAIR GARZA: Commissioner Magpantay?

3 (Simultaneous speaking.)

4 COMMISSIONER MAGPANTAY: -- had my hand
5 raised. Thank you for that report. Can I just ask
6 what was the response from industry with regard to the
7 bill and the proposed, the recommendations that you
8 had made?

9 MR. MCGUIRE: That's a great question. So
10 our SAC didn't get any direct feedback from industry.
11 The senator that was the driving force behind it, and
12 ultimately I should say that when we released our
13 briefing report in March we were able to have a press
14 conference at the state legislature with both
15 Republican and Democratic leaders.

16 The Democratic that spearheaded, his name
17 is Senator James Maroney, has a track record with
18 industry, because he has done some work around privacy
19 rights and data privacy in the last couple of years.
20 So he was able to bring them to the table.

21 And ultimately I think they recognized
22 that trying to be a part of the solution, creating
23 these frameworks to make sure algorithms are used
24 fairly was the smart thing to do, so there wasn't any
25 big pushback from industry, which I think helped lead

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1 to that unanimous support in both (audio interference)
2 here. I hope that was helpful.

3 COMMISSIONER MAGPANTAY: Can I ask one
4 other question? Yes. Can I ask, may I ask one other
5 question?

6 CHAIR GARZA: Go ahead, Commissioner
7 Magpantay.

8 COMMISSIONER MAGPANTAY: I'm sorry.

9 CHAIR GARZA: Commissioner Magpantay, can
10 you hear us?

11 COMMISSIONER MAGPANTAY: Yes. Sorry, I'm
12 not sure if my mic is not working well. Can you just
13 quickly, what is Connecticut impact assessments
14 measuring?

15 MR. MCGUIRE: What are the impact
16 assessment measurements, was that the question? I'm
17 sorry, I'm having some difficulty hearing.

18 COMMISSIONER MAGPANTAY: What, I'm sorry.
19 What are you measuring in the impact assessments?

20 MR. MCGUIRE: So that 21-person body
21 that's been convened is going to work now on figuring
22 out what those tools and measurements are. The big
23 thing for us is that they are done in a way that has
24 integrity, transparency and is also independent. So
25 those factors are still being figured out. That's a

1 great question.

2 This law doesn't go into effect until next
3 year. These provisions of the law. Right now the
4 only part that is in effect is that the state is
5 required to come up with that public safety inventory
6 of AI tools being used by the Government. But the
7 assessment piece and the auditing piece has not yet
8 been solidified but will be soon. I'm happy to keep
9 the Commission apprised of that as it develops.

10 CHAIR GARZA: Wonderful.

11 COMMISSIONER MAGPANTAY: Thank you.

12 CHAIR GARZA: Well thank you so much.

13 Thank you so much, Chair McGuire. Thank you for your
14 service and your leadership.

15 I want to be respectful of your time, and
16 I know we have some other business to get to, but
17 thank you for taking the time to speak with us today.
18 It's helpful for us to see these things as a larger
19 Commission and to understand what you are seeing in
20 Connecticut --

21 MR. MCGUIRE: Yes.

22 CHAIR GARZA: -- and what you are focused
23 on so far, so thank you very much.

24 MR. MCGUIRE: Thank you for your support
25 as mentioned. Take care all.

1 CHAIR GARZA: Take care. And now we're
2 going to move on to the next agenda item. Staff
3 Director Morales, we'll hear from you for the monthly
4 Staff Director's report.

5 B. MANAGEMENT AND OPERATIONS

6 STAFF DIRECTOR'S REPORT

7 MR. MORALES: Madam Chair, Commissioners,
8 I want to apologize for not being able to circulate
9 and having Staff Director's report available in time
10 for the briefing, or for the meeting here. It was not
11 provided to me and so hopefully I'll be able to
12 provide it to all of you in the next coming days here.

13 But I would like to take a brief moment if
14 I can to acknowledge one of our staff. I want to call
15 attention to the fact that my executive assistant
16 Alfreda Greene, will retire from USCCR on October
17 31st. Alfreda has provided over 38 years of work to
18 the federal service. She started her career with the
19 U.S. Postal Service, served some time at the National
20 Labor Relations Board and then later came to USCCR.

21 She has worked in the Office of the Staff
22 Director for over ten years. And directly for me for
23 the last eight and a half years. Her service to the
24 United States has been commendable and worthy of our
25 recognition and honor. I want to thank her for her

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1 many years of service to USCCR and the federal
2 government. We wish her all the best for her
3 retirement, and as she begins a new chapter in her
4 life.

5 Unfortunately Freda could be here today,
6 but I want to make sure that we acknowledge and thank,
7 thank you Freda for all that you have done for me and
8 for USCCR. I will also let you know, and
9 Commissioners know, we have a plaque for her that we
10 will give to her in acknowledgment of her service to
11 the federal government and to USCCR.

12 So thank you, Madam Chair, I have nothing
13 further.

14 (Applause.)

15 CHAIR GARZA: Wow, that's wonderful.
16 We're going to have to send her a note from all of us.

17 MR. MORALES: Yes.

18 CHAIR GARZA: Say congratulations on
19 retiring. I know a lot of people in my life retire,
20 but they keep working.

21 (Laughter.)

22 CHAIR GARZA: Including in my family. So
23 thank you, Staff Director.

24 III. ADJOURN MEETING

25 CHAIR GARZA: That concludes the business

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meeting for today. Everything that has been on the agenda.

And if there is nothing further I hereby adjourn the meeting at 12:20 p.m. Eastern time. So thank you all so much.

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

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This is to certify that the foregoing transcript

In the matter of: Business Meeting

Before: US CCR

Date: 10-20-23

Place: teleconference

was duly recorded and accurately transcribed under my direction; further, that said transcript is a true and accurate complete record of the proceedings.



Court Reporter

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