



COMMONWEALTH of VIRGINIA

Office of the Governor

Commission to Examine Racial Inequity in the Law

MINUTES

Thursday, November 5, 2020

1-3pm

Via Webex

1. Call to Order & Roll Call

- a. Cynthia Hudson calls the meeting to order at 1:03 pm. Notes that we are able to meet electronically due to the state of emergency.

**Due to the Governor's Declared State of Emergency due to COVID-19, it is impracticable and unsafe for the Commission to assemble in a single location, so this meeting is being held electronically, pursuant to 2020 Amendments to the 2019 Appropriation Act; the purpose of the meeting is to discuss or transact the business statutorily required or necessary to continue operations of the Commission and the discharge of its lawful purposes, duties, and responsibilities. The public is welcome to use the number [stated] to attend the meeting electronically. The Commission will make available a recording or transcript of the meeting on its website in accordance with the timeframes established in Sections 2.2-3707 and 2.2-3701.1 of the Code of Virginia.*

b. Attendance & Roll Call

Members in Attendance:

- i. Carla Jackson
- ii. Andrew Block
- iii. Cynthia Hudson
- iv. Jill Hanken
- v. Jerrauld Jones
- vi. Leslie Mehta
- vii. Birdie Jamison
- viii. Henry Chambers
- ix. Michael Herring

2. **Public Comment**

No Public Comment

3. **Administrative Items**

a. Amending Agenda

Hudson asks for a motion to amend the agenda to add **Health (C4)** back.

Jackson moves for the motion to adopt, **Judge Jamison** seconds. The agenda is adopted.

b. Adopt October 22, 2020 meeting minutes

Hudson asks for a motion to adopt. **Mehta** moves for the motion to adopt, **Jackson** seconds. No discussion follows. The minutes are adopted without objection. **Herring** abstained due to not being able to attend the meeting in question.

4. **Special Session Update**

Nathan Dowdy gives an update on special session legislation.

To date the Governor has signed the following bills that were passed during the Special Session:

Omnibus Police Reform bill (SB5030; Locke):

Make up the omnibus bill on the House side:

- HB5029 Duty to Intervene (McQuinn)
- HB5045 Banning Sexual Relations between Officers and Arrestees (Delaney)
- HB5051 Decertification (Simon)
- HB5069 Prohibition of Chokeholds (Carroll-Foy)
- HB5099 Prohibition of No-Knock Search Warrants (Aird)
- HB5104 Sharing of Prior Employment History for New Hires (Price)
- HB5108 Creation of Committee on Training (Guzman)

Other Bills Signed by Governor Northam:

- HB5055 and SB5035 – Creation of Civilian Law Enforcement Review Boards (Herring and Hashmi)
- SB5014 – Crisis Intervention Training (Edwards)
- SB5018 – Conditional Release for Terminally Ill Individuals (Edwards)

Bills Amended by Governor Northam:

- SB5034 and HB5148 (Boysko and Scott) – Earned Sentencing Credits; the Governor proposed a six-month delay to give DOC time to implement the program
- HB5049 (Helmer) – Demilitarization of Police; Amended to clarify law enforcement agencies can seek a waiver to use for search and rescue missions; and
- HB5109 (Hope) – Statewide Training Curriculum; Technical amendments to align the bill with Sen. Locke’s omnibus in the Senate (SB5030); specify term - racially biased policing and psychiatric evaluations prior to the hiring of police officers
- SB5029 and HB5058 (Lucas and Hope) – Marijuana and certain traffic offenses; issuing citations, etc.; added brake light/ headlight specific designation

Bills Still Awaiting Action by the Governor:

- SB5038 and HB5043 (McPike and Bourne) – Marcus Alert System

5. **Review of Proposals (continued):**

a. Housing

- **H1:** Adopt statewide mandatory inclusionary zoning laws by expanding the Affordable Dwelling Unit (ADU) program under § 15.2-2304 to all cities.

Block, comment: As you may remember from the previous presentation, one of the main drivers and one of the main problems in housing right now is the lack of affordable housing. As we discussed in the last meeting, people of color and Black Virginians, in particular, due to decades and centuries of discrimination are more likely to have to rent housing, are less likely to receive financing for housing and so having affordable housing is incredibly important to people of color in the Commonwealth. So, these are two proposals to make more affordable housing. Proposal 1, recommends that we allow the Governor [the ability] to allow the adoption of more effective inclusionary zoning laws statewide by expanding the affordable dwelling unit program under § 15.2-2304 to all cities. Right now, because we are [a] Dillon Rule state, different cities have been added to the statute one by one. What we’re recommending is that a statute be passed that would authorize any local government to participate in this program. This is not mandatory to those localities but as opposed to doing it locality by locality it would be blanket authorization.

Hudson, comment: You’ve heard the proposal, you’ve had the opportunity to review the data that’s in the memorandum, and to hear the presentation of it last

time. So, I hope we are then prepared to take up the proposal from Andy and the assistants. To allow the adoption of more effective inclusionary zoning [statewide] in the manner that's described here.

Judge Jamison moves to adopt and Jackson seconded.

Hudson takes up the motion, the motion to adopt carries (9 yeas / 0 nays).

- **H2:** Impose state limits on exclusionary zoning in localities.

Judge Jamison moves to adopt Proposals H2-H4 as a block and Judge Jones seconds.

Hudson takes up the motion, the motion to adopt carries (9 yeas / 0 nays).

- **H3:** Add provisions to § 58.1-3965 that require locality foreclosure for tax delinquency within a set time frame on vacant or commercial properties and would automatically donate such properties to any local Community Land Bank (§§ 15.2-7500–7512) established for affordable housing.
- **H4:** Incentivize local solutions with state dollars by (1) creating a state subsidy program for affordable housing development, (2) adding more funds to the Virginia Housing Trust Fund, and/or (3) attaching state development dollars to inclusionary zoning and affordable housing actions by localities
- **H5:** Provide building space and staff grants to Richmond and other high-eviction cities to serve as a physical, community-based space for a coordinated eviction prevention program

Judge Jamison moves to adopt Proposals H5-7 and Jackson seconds.

Chambers, comment: On Proposal 7, are there specific reasons why the dates, days and months, are changed to the particular ones that they are changed to, or is it just that it seems better than what we have now?

Block, comment: So we talked to advocates about this and we got a lot of help from folks at the Virginia Poverty Law Center. The first one is to allow the opportunity for another paycheck to come in. Moving the paperwork from five to fourteen days. So that was a specific goal. The six months to thirty days recommendation is just by way of background, when a landlord obtains a writ of eviction against a tenant they can execute it anytime within the next six months, and there's some concern that it is being held over tenants' heads and can be abused in certain ways. On the other hand, landlords would say that the benefit of having an extended period to execute the writ of eviction is that it allows people to engage in payment plans. So there are people on both sides of this issue. The

General Assembly recently reduced the judgment use period from twelve months to six months, but I think there are folks who advocate for tenants who say it should be even shorter because it's so subject to abuse. I know we have a motion that Judge Jamison made which I support. Another, we could come up with some language around Proposal 7 that would not be as binding in the recommendation because there are so many different proposals here. I am happy to discuss that if people are interested or if we are happy leave it as it is.

Herring, comment: You could always make the judgment rebuttable after thirty days just to give the tenant an opportunity. Make it more like a show cause after thirty days to give the tenant an opportunity to make his or her case.

Hudson, comment: You would like to amend in that fashion?

Herring, comment: No, I didn't hear the conversation before and so I don't want to take us on a digression. But you know Hank asked the question which made perfect sense and then hearing Andy the thought occurred to me. So, I just offered for whatever value you assigned to it.

Judge Jamison, comment: If I could just weigh-in for a moment. I think these recommendations are great and there's a lot of conversation that's already taken place in reference to some of these. So I think coming from us as just our thoughts on it would still be fine because there will be a lot of drilling down on it. Andy was exactly right Delegate McQuinn actually had a bill in last time trying to increase the time just from five days to fourteen days, and that was the exact reason why. Because the people who are in need of extra funds to pay. They would need another payday or anybody that they needed. I mean the family members would also need a payday. So, just that extra time to give them the fourteen days makes a difference. So, I think they are fine the way they are because there's a lot of discussion on the details of it. I think the thought of it is to really just to start making some positive change.

Hudson, comment: I have one question and I'm just not familiar with the right of redemption [but] could you please explain?

Block, comment: The right of redemption is the opportunity for a tenant anytime during the eviction proceeding to pay the full cost of what is owed for the eviction to go away. Currently, tenants are allowed to use the right of redemption one time during a year. Again, there are pros and cons to this but I think folks who are most concerned with preventing evictions. There are so many families who are hanging on by the skin of their teeth that having more than one right of redemption would

be helpful to them staying in their house and also keeping an eviction of their record.

Jackson, comment: I would just like to add I did pro bono litigation and housing for fourteen years, and by the time these cases get to legal aid justice they've missed so many opportunities because of a lack of knowledge or because the laws have just been so harsh. So, I am full support of all the recommendations that we are making, as it relates to these evictions.

Hanken, comment: Madam Chair. Since I work at the Virginia Poverty Law Center but I am not a housing law expert. I will say this list of protections for tenants is something that advocates have been working on for quite a long time and continue to work on, and as Andy said some are more controversial than others. Or perhaps all of them are controversial but nevertheless, this is the list that tenant advocates are pursuing.

Hudson takes up the motion, the motion to adopt carries (9 yeas / 0 nays).

- **H6:** Request a cost-benefit analysis study on models for providing a right to counsel in eviction cases, from JLARC or another trusted research entity.
- **H7:** Revise Virginia's landlord-tenant laws to:
 - Increase pay-or-quit period from five to fourteen days. Decrease allowed judgment use period from 6 month to 30 days
 - Increase number of times a tenant can use the right of redemption
 - Extend the appeal bond period in eviction cases to 30 days, allow waivers for indigency like in other civil cases
 - Create stricter consequences for informal evictions
 - Seal/expunge eviction records after two years, or provide a court process for expungement like Minnesota
 - Automatic expungement for eviction cases that are dismissed
 - Treat hotel/motel residents as tenants after 30 days of stay
 - Limit what screening rules landlords may use to exclude poor tenants
 - Clarify that income requirements must be based on tenant's portion of the rent (e.g. for voucher holders)

Limits tenancy application process

- b. Health
 - **H1:** Remove discriminatory barriers to healthcare

Block, comment: Proposal 1 is a little more general and in the memo, we provided it has more specific recommendations, but one of the things that is a

primary concern is the difficulty that immigrants have in obtaining Medicaid in Virginia. There are states around the country that have lessened the forty quarter work history requirement. Working forty quarters in the Commonwealth or in a particular state before they are able to access Medicaid services. There's apparently [that] this is in the budget I have to confess I do not know rather the Governor has signed that budget yet or not. In the event, either way, this recommendation would eliminate that requirement. In addition, I should reflect in the memo, the recommendation would also include extension of Medicaid and famous postpartum coverage from sixty days to twelve months, and would create an adult dental benefit in Medicaid. Also, to give credit where credit is due in addition to Catherine's presentation last week Jill Hanken has played a role in crafting these recommendations.

Hanken, comment: Thank you, Andy. I was going to ask Nathan, my audio was messed up when he was talking, are you aware of whether or not the Governor signed the budget today?

Kelly, comment: Jill, I'm just going to hop on. One, I think the Governor's office had an internet outage so Nate and J.D. might have some trouble accessing this meeting right now. But my understanding is he has not signed the budget to date but he will be doing so shortly.

Hanken, comment: Well then that would make Proposal 1 still relevant for the commission. Proposal 1 does include a variety of health initiatives that were adopted by the General Assembly during the regular session. Modified to some degree during the special session and noted the modifications were more along the line of delaying implementation and changing the substance of those new policies. So pending approval by the Governor, it's still something we can certainly endorse and again [the] legislature has done that already twice. So we are just agreeing with some of these initial steps towards expanding some more access to health care and dental services to low-income Virginians.

Hudson, comment: Sounds on the basis described there's still some utility in taking up Proposal 1.

Hanken, comment: I would move we take both motions up together. Also, these are not enormous proposals; they're just tinkering with the system we have today to make sure things work better for people, and low-income people and immigrants. There are many other health-related ideas floating out here these are small housekeeping provisions to fix some of the gaps. It is not a major movement towards universal coverage with any of the private health insurance

issues that are pending, but it does focus on low-income families and low-income immigrant families.

Hanken moves to adopt Proposals H1-H3 and Jackson seconded.

Hudson takes up the motion, the motion to adopt carries (9 yeas / 0 nays).

- **H2:** Close the gap in healthcare access for immigrants.
- **H3:** Exercise the option to 12-month continuous coverage to Medicaid and CHIP for children.
- **H4:** Create a pipeline program to close the gap between the Black doctor to Black patient ratio and the white doctor to white patient ratio.

Block, comment: At the last meeting we shared some distressing data about the shortage in Black doctors. Certainly compared to the number of patients who are people of color and also shared information relating to study and research that has been done that suggests that all too often Black patients and people of color face different treatment by medical professionals. These are two different recommendations. We can take them one-by-one or we can look at them in a block. One is to create a pipeline, much like we do with STEM educators and people like that, to improve the recruitment and ability of Black students to make it as doctors or as teachers as we currently do. And the next is to require Virginia to incorporate into their professional licensure training implicit bias training for medical professionals.

Judge Jamison moves to adopt Proposals H4-H5 and Hanken seconds.

Mehta, comment: I would like to ask a question about Proposal 5. I want to make sure there is no federal funding aspect. I'm thinking about the president's executive order with regard to training and implicit bias training and I wanted to make sure this would not be impacted at all by that.

Hudson, comment: In terms of block federal funding because it promotes this kind of training?

Mehta, comment: Correct. I just want to make sure there's no issue with regard to that.

Block, comment: That is certainly an issue we could research. I don't know the answer to that off the top of my head.

Mehta, comment: Ok, it just occurred to me right now and I would have said something earlier, but it just occurred.

Hudson, comment: You want to amend the proposal, subject to whatever limitations are imposed by applicable federal law or regulation.

Hanken, comment: Madam Chair, I believe whatever limitation was attempted or adopted by the current administration would relate to using federal funds for such training. I believe that this Commission could endorse this concept and leave it to our state medical schools to figure out how to get it done.

Mehta, comment: I like that. Thank you.

Chambers, comment: In terms of Proposal 4, I understand where it's coming from and I certainly agree with creating a pipeline to increase the number of Black doctors. I'm just not sure that taking it to the Black doctor, Black patient, and white doctor, white patient ratio is necessary. But if folks have different ideas then I'm happy to hear them.

Hudson, comment: So, do you have a different idea? Do you think that this is just not helpful or this isn't where the need is?

Chambers, comment: Well, I think the pipeline program is great. I'm just not sure pitching it to close the gap is the deal. The same way that if we say, well the reason why we need more Black teachers is because of Black students. I'm not sure that lands quite the same way [as] simply saying we have too few Black teachers or too few Black doctors.

Hudson, comment: So, you are suggesting that rather than create a pipeline to close the gap as described, that Proposal 4 might simply be promoting programs to create a greater number of Black doctors?

Chambers, comment: Sure, of doctors from underrepresented races [and] ethnicities, what have you, or Black doctors is fine too.

Herring, comment: It's all on the assumption that when you increase representation that those physicians are going to serve neglected populations. So to me, it is equal parts about increasing representation but also where they would provide the care.

Block, comment: Well there's definitely, much, in the same way, there's a shortage of teachers. I think this is also true about medical professionals and much like there is with teachers. There's literature about the positive health benefits of people having identification with the medical people who are serving them. So, one way to think about the recommendation is you could say, create a pipeline

program to increase the number of people of color who become doctors. Then you're not comparing it to something.

Judge Jamison, comment: What about the language you have in the explanation behind the proposal. To just say create a pipeline program supporting Black college students preparation for medical school particularly in Virginia's HBCU, or you could just say Black students preparation for medical school. Cause the thing is just to have a program in place that would encourage these students and help them.

Hudson, comment: So, it sounds like you're moving that we, the Commission, adopt or recommend to the Governor that research be conducted to create a pipeline program supporting Black college students preparation for medical school?

Judge Jamison, comment: Yes.

Judge Jamison moves for a change in the proposal's language to now read, *Research be conducted to create a pipeline program supporting Black college students' preparation for medical school*

Judge Jamison moves to accept the proposal. Herring seconds.

Hudson calls the question. Without objection, the motion to adopt the new language for H4 carries.

The final version of H4's language now reads: Research be conducted to create a pipeline program supporting Black college students' preparation for medical school

Motion to adopt proposal in a block is scraped.

Hudson takes up the motion to adopt H4, the motion to adopt carries (9 yeas / 0 nays).

- **H5:** Require Virginia continuing medical training to include implicit bias training.

Hanken moves to adopt and Judge Jones seconded.

Hudson takes up the motion, the motion to adopt carries (9 yeas / 0 nays).

- **H6:** Increase mental health support in schools.

Judge Jones moves to adopt Proposals H6-H7 and Herring seconds.

Hudson takes up the motion, the motion to adopt carries (9 yeas / 0 nays).

- **H7:** Direct the Commission Studying Mental Health Services in the 21st Century to specifically address racial disparities in their work.
- c. Environmental Justice
- **EJ1:** Require the Department of Environmental Quality (DEQ) to develop measures designed to ensure meaningful public involvement from environmental justice communities.

Block, comment: One of the major concerns among advocates and activists is the lack of historical participation by members of what are called environmental justice communities. People who are living in low-income neighborhoods that are predominantly people of color. Have often been excluded from public involvement when it comes to citing sources of pollution and hazardous waste sites and things like that. So this would require the Department of Environmental Quality to develop measures to ensure that there is meaningful public involvement. Oftentimes this just means providing notice. What we also propose, in the comments which we would include in the recommendation, is that this kind of involvement be measured by actual input not just technical notice compliance.

Jackson moves to adopt and Hanen seconded.

Hudson takes up the motion, the motion to adopt carries (9 yeas / 0 nays).

- **EJ2:** Direct the Department of Conservation and Recreation to adopt a Statewide Park Equity Mapper to include demographic and health data necessary to inform equitable decision making.

Block, comment: These recommendations focus on increasing consideration of race and equity and the location of particular communities when the state does planning and thinking about creating new parks and access to public space. I should also mention that these recommendations come out of the Council on Environmental Justice, which was legislatively created last year and has provided a number of different policy recommendations.

Jackson moves to adopt Proposals E2-E3 and Judge Jamison seconds.

Hudson takes up the motions, the motion to adopt carries (9 yeas / 0 nays).

- **EJ3:** Amend Code § 10.1-200.1 to include access for environmental justice communities as a required consideration in state park master planning.
- **EJ4:** Develop strategies to target residential solar energy development toward environmental justice communities.

Jackson moves to adopt and Judge Jamison seconded.

Hudson takes up the motion, the motion to adopt carries (9 yeas / 0 nays).

- **EJ5:** Establish a Tribal Liaison within the Department of Environmental Quality.

Block, comment: One of the issues that the Council on Environmental Justice identified was a lack of connection with American Indian tribes in Virginia about land-use decisions. This would create a means to make sure that there was participation and engagement.

Jackson moves to adopt and Mehta seconded.

Hudson takes up the motion, the motion to adopt carries (9 yeas / 0 nays).

d. Agricultural Reform

- **AE1:** Modify Code § 58.1-3965 to allow an extended redemption period for tax sales involving heirs' property.

Hanken, comment: Andy, can you remind us what the legislature did last year? What was the first step taken in this arena?

Freeman, comment: Last session the General Assembly passed provisions from the uniform partition on heir's property act which just gave some extra procedural and substantive protections for the owners of heirs property in partition proceedings.

Hanken, comment: So, this would be after the partition was actually approved. There would be an additional period of time to redeem the property by paying taxes?

Freeman, comment: So this proposal is aimed specifically at tax sales because there are a number of factors that make heirs more subject to tax sales. Because it's difficult to clear the title; some people may not know they have an interest soon enough. There's a period between the notice given to the owners and the sale itself, is thirty days, and during that time the owner may redeem the property by making payment in full. The proposal would be to extend that period when there's heir's property involved.

Hanken, comment: Thank you. This is entirely separate from the partition?

Freeman, comment: Yes, I think Andy's point was the partition act was more so that this is something the General Assembly is concerned with.

Hanken moves to adopt and Judge Jamison seconded.

Hudson takes up the motion, the motion to adopt carries (9 yeas / 0 nays).

- **AE2:** Sufficiently fund Virginia Cooperative Extension services at Virginia State University.

Block, comment: These two proposals are related in that they both reflect responding to the current need of Black-owned farms and small farmers, and there's a lot of overlap between Black farmers and small farms. At our last meeting, we shared data that highlighted a bit the kind of funding disparities between Virginia Tech and the cooperative extension program at Virginia State University. In particular and we don't know the right number here but based on our conversation with stakeholders it seems like increasing the capacity of the small farms outreach program of the Virginia cooperative extension program at VSU would be helpful in meeting the needs and providing greater support to small and Black-owned farms. That is Proposal 2. Proposal 3, is another way of providing additional support to those groups of farmers.

Jackson moves to adopt Proposals AE2-AE3 and Chambers seconds.

Hudson takes up the motions, the motion to adopt carries (9 yeas/ 0 nays).

- **AE3:** Create an Office of Small Farms within the Virginia Department of Agriculture and Consumer Services (VDACS) with a duty to consider racial equity in farming.
- **AE4:** Order State Agencies and Institutions to implement a long-term goal for food procurement from minority producers.

Block, comment: This is aimed at creating more business opportunities for food producers in Virginia, in particular people of color who are food producers. There are SWAM directives and things like that for obviously a variety of different procurements across state agencies. From what we have heard, in terms of food procurement in particular minority producers are not benefiting or being reached by the program. So the recommendation is to do some more digging and do more work to make sure that some of the intended beneficiaries of the program are benefiting and the Commonwealth is benefiting by receiving their services.

Hanken moves to adopt and Jackson seconded.

Hudson takes up the motion, the motion to adopt carries (9 yeas / 0 nays).

HIV Criminalization Data

Block, comment: At our last meeting we heard public comment from a lot of individuals who were speaking to the commission about their concern that people with HIV were getting targeted by some old statutes that criminalize the transmission of HIV. So, the Chair wanted to get a little more information about this, which was appropriate. So, we are coming back just in response to the public comment and sharing some information about disparities and probably this is an issue we ought to have covered originally when we're thinking about health given the statistical disparities. In Virginia, people of color in particular Black Virginians are much more likely to be living with HIV than white Virginians. Hispanic and Latinx Virginians are much more likely to be living with HIV. Less likely than Black Virginians but more likely than white Virginians. There definitely are disparities in terms of people who are living with this condition.

In terms of criminalization, we didn't think it was appropriate at this point to weigh in on specific recommendations, but we are happy to do work on that if we ought to. But it was worth pointing out we wanted to point out to a number of our commissioners that a number of groups, including a number of leading medical groups, have taken a position opposed to the criminalization of people with HIV. Which includes opposing laws that criminalize the transmission of HIV from one person to another. We are happy to do more work on this if it's the pleasure of the members of the commission and could develop some recommendations that we could send around and then at the next point we got together we could take it up in full.

Hudson, comment: Thank you, Andy. I certainly like the idea of fuller development. It sounds as if given the number of stakeholder groups who have already weighed in on this that the collection of data we need to make informed proposals shouldn't be difficult or burdensome. And if that's the case my thinking would be to support that idea that you give us a little more information, circulate some proposals, and we take it up when we can meet again. Other discussions, other commentaries?

Hanken, comment: I agree with the Chair's comments. I would also ask in that research, as you've done with several other items, that you explain how other states have moved forward to decriminalize.

- e. Housing
- **C4:** Spending restoration after the crisis should prioritize equity initiatives first.

Hudson, comment: Before we leave, I did mention and you did allow me to amend the agenda to revisit one of the proposals that we took up the last meeting in the education area, as it related to the COVID-19 matter. A specific recommendation for spending restoration and this is a budgetary matter with respect to COVID relief funding. Spending restoration after the crisis should prioritize equity initiatives. We had a robust discussion around it and in the course of doing the minutes, it was clear that we voted on the motion but we could not find where the motion had actually been made. So it was perhaps the Chair getting ahead of procedure.

Block, comment: I do not have it in front of me. I can try to track it down.

Hudson, comment: It is all set forth in the minutes that start on page thirteen and go over to page fourteen. And as it was described then the first proposal had to do with cuts in education spending and the second follows on that. It said when spending is restored, make equity-related education spending a priority.

Block, comment: So spending restoration after the crisis should prioritize equity initiatives first, that was the recommendation.

Judge Jamison moves to adopt and Block seconded.

Hudson takes up the motion, the motion to adopt carries (9 yeas/ 0 nays).

6. Report Review

- a. Report Presentation

Block, comment: We shared a draft of the final report with everyone and you may or may not have had time to look at the draft. It essentially, kind of capturing and memorializing all the work that we have been doing this year. A lot of the language is lifted from the policy memos that were produced with the various recommendations that were adopted but written to reflect what we are now officially making those recommendations to the Governor. Also, a number of you have signed up, which we appreciate, to work with students as they craft individual sections. At a minimum, hopefully, you've had a chance to see those sections. So, I mostly wanted to share with you and get your feedback. If you feel this is going in the right direction and the tone is right and all that sort of thing. Also, to let you know that we are working with the Library of Virginia. They are starting to provide us with images. Like that sort of thing, we did with the last

report. I saw one of the things that they shared with us was a page of an old paper that listed colored people who've been disenfranchised, and I think it was called explicitly "Colored People who have been disenfranchised." So this one of our recommendations [which] relates to no longer having automatic disenfranchisement of people with felonies. Having a visual of that may be a helpful way to illustrate the point.

Hudson, comment: I certainly echo your thoughts about the volume and nature, and quality of work has gone into what will be that report on [November] 15th.

Judge Jamison, comment: I would just echo what you said. I have not read it thoroughly, but I did read through most of it. It's great, but I will also go back and take a hard look. Is there any particular area that there is that no one has volunteered to look at?

Block, comment: Well, given your experience as a general district court judge and your intimate knowledge from that experience about evictions and housing, it would be really helpful for you to have a look at the housing section.

Judge Jamison, comment: Good. I will do that.

b. Report Status Update & Review

Block, comment: The students and I are really facilitating the production of the report, but we want everybody to feel like it is everyone's report. So, the other question I have, which is kind of a substantive one, which is if you recall from the first report. We had a section on recommended next steps. Where we propose to the Governor essentially the work that we've done this last year. I think it will be about that, a bit, just to see what people's visions are. I think the Executive Order was allowed a little while longer until June of next year. So ways to think about it could be other substantive issues we want to look at and weigh in on. It could be doing more public awareness or public engagement. You know it could be a number of different things that the Commission takes on. I have no particular thoughts or ideas there but wanted everyone to have a chance to start thinking about it and talking about it.

Hudson, comment: I think that's absolutely the next order of business is where do we go from here? I think there is a lot of low-hanging fruit, but obviously, we jointly chart that course. Unless you know the Governor of the Governor's office wants to task us in some particular direction. So Grace I do solicit that kind of support of the Governor and we will act accordingly. But in addition to that or if there is nothing in specific in terms of orienting us to a particular task then indeed

all of us should be thinking about where do you think our next logical place is to direct our attention as an entity.

Judge Jones, comment: So, are you saying in the next three or four days to make this a part of the report? I know we have a November 15th deadline. Are you talking about including recommendations for the next steps in that report or are you talking about once the report is done what are we going to do until the Executive Order expires?

Block, comment: In my view, it would be optimal for us to layout some ideas for next steps in the report and our goal is to have a report to submit to the Governor by the 15th. The formatting and the production may take after the deadline. As you might remember last year when we did the big release event there was a lag time between the creation of the report and the production and distribution of the report. But certainly, our goal is to get it in and largely finished by November 15th.

Judge Jones, comment: That's fine I mean because if we're going to have some recommendations then we really need to have that conversation right now.

Hudson, comment: I'll just say and Andy mentioned that we're in a path right now where we had picked these five or six large areas to examine first. But obviously, we had other areas of examination on the list from the beginning since we started talking about this earlier this year. So that list still exists and it is also specified, as well, not just categorical areas of examination but very specific statutory schemes. That we thought might merit individual attention, like consumer protection statutes and whether they're adequate or not as it relates to disparate impacts of consumer-related practices or consumer-related bills on minority communities. Much has been done, obviously, in many areas of consumer protection like predatory lending and those kinds of things, but there is still much to be done. So this is not a start from scratch kind of process here. We did think about these other areas already. We chose the first five or six and we've got about five or six more, and it might be a matter of going back to that and prioritizing or discussing it further. Or dispensing with that all together and going with other ideas we talk about today or through email. I will say this though, the Executive Order does define what we're supposed to do. It defined what we did last year, and it defined what we are doing right now. Within that definition is kind of okay, let's look at what else we need to look at in existing law to see where it perhaps works or does not address the different treatment of minorities.

Kelly, comment: Just as a reminder of what we did this last year. So, in last year's report, we had about a page and a half of forward-looking next steps, and it

was pretty broad, and we just said that we were going to be looking at the Code and shifting away from the Acts of Assembly. So, we did that and then at the meeting that was held just after that we got a little bit more into the weeds of what we had to do. I don't think we have to decide everything right now but just kind of setting the tone for what we want to do. The other thing I would just say thinking about what we want to be working on after we submit this report. We have taken into account a little bit of what happened during the special session and what we have done to date. So, that is also a consideration we can see what happens during the 2021 General Assembly session and see what we should be focusing on based on what comes out that or doesn't and go from there.

Hudson, comment: Yes. Are there other ideas about the next steps?

Chambers, comment: Sure, well not surprisingly. I suggest we take a look at the effect that the voting statutes may have had on the 2020 election and access. I wish that the Census were going to be available on April 1st because that might also provide an opportunity for us to take a look at how new data make affect what we've already done. Although that would be too late, but if we could do something with Census stuff on the areas that Census is particularly relevant to that might be sort of helpful for rounding out what we've done so far.

Judge Jamison, comment: Also, do you think we should touch bases with Dr. Janice Underwood, the Governor's Diversity Officer, to see what challenges or opportunities she may have us to look at. We could give her some support if needed.

Hudson, comment: That is what I was thinking. We asked Grace to check with the Governor's staff about how we can support what they'd like to see us do, but I think you might get right to the top of that inquiry.

Mike Herring left at 2:26 pm

Kelly, comment: Absolutely, that is one thing. We shared some of these recommendations with Dr. Underwood, but I know in the last year of the Governor's administration. She has been working on a kind of global plan for DEI initiatives across state agencies. So there may be some connection that the Commission can make with her work and try to wrap that up by next January.

Hudson, comment: I know from speaking with Dr. Underwood from time to time. She and I have talked at length and I know I have mention before in this setting before, and I believe it is also an initiative of either the New Virginia Majority or the Legislative Black caucus. But it is this idea of publicly and very

formally, legislatively, acknowledging the idea that racism is a public health crisis. And much of what we've talked about touches on that but to it all in one place and acknowledged as a thing and to direct public policy towards eradicating it. Is also something I think worth looking at and that might be where I think Dr. Underwood would perhaps direct our thoughts to maybe contemplating it as a concept. Then filing in the recitals for instance of something that could become a resolution to effect.

Hanken, comment: Madam Chair, you mentioned consumer protection laws and also mentioned there were five to six areas we previously note but did not pursue. Can you remind us what some of the others were?

Hudson, comment: Let me go and grab those particular notes real quick.

Block, comment: While Cynthia gets the notes on the specific policy areas. It seems to while we are well equipped to do that. Are there other activities that we might want to engage in or think about?

Chambers, comment: Andy, yea and it touched the third rail for the two of us but in education will talk a lot about K-12, but do we want to talk about disparities in higher education?

Block, comment: I think that is certainly an unexplored area for us that would certainly be worth talking about. We talked a little in the K-12 about access to higher education and success in higher education when we originally shared data back in May, but we haven't done any policy work in that area. You know one other thing just as a set of activities since we now will have two reports that are educational and not just policy-focused. We could make it our business to do more public engagement and go into law schools and other institutions and share information about what we've learned. About the historic work we did about the Acts of Assembly and then the more current work. I think increasing people's knowledge in this area is also important. Not sure if it is our work to do but it is something we could take on.

Hanken, comment: I was thinking about that very thing, Andy. I know, for one, am very proud of the work that we've done in the Commission and there's just such important information to share. Then, I was like well, our task is to inform and make recommendations to the Governor, but I think it is appropriate for us to encourage the Governor to broadly distribute and market this information and include it in his travels around the Commonwealth. Your students could create a traveling forum because they've done such great work.

Hudson, comment: Certainly worth thinking about. I did find that memo and it occurs to me this memo was more of circulated between staff and me at the time. I spoke from it and present from it back in sometime this year. The additional areas that we might examine, including the ones we just explored. As well as taking a look through, and again this pings off of the hugely disparate number of African Americans in the incarcerated population versus others. We also talked about looking at title 53.1, prisons, and other methods of correction. We talked about looking at voting, but we of course put that to the side due to everything going on with respect to voting law reform in the General Assembly. Transportation, particularly Title 46.2, public transportation, Labor and unemployment, Title 40.1, professions and occupation, and any difficulties or disparities there might be with respect to licensing professional and contractor licensing schemes, and occupational licensing in Title 54.1. Welfare and social services in Title 63.2 and with report to specific statutory schemes. The list included the Virginia Human Rights Act which, of course, has now really been overhauled into the Virginia Values Act. So don't know there's much more there that the General Assembly hadn't already done in fine fashion - the Virginia Consumer Protection Act at 56.1-196 of the Code, the Virginia Debt Collection Act at 2.2-4800, and the Children's Service Act at 2.2-5200. Again, if in keeping with the express language of the Executive Order, which was to first examine those Acts of Assembly, get them repealed. The second was to examine existing laws. This would be a continuation of our examination of existing laws and expressed charge in the Executive Order. I will also circulate this memo.

Hanken, comment: I do think in the employment and labor arena. If that is where our unemployment commission rests in the Code. I know enough to be dangerous about VEC and unemployment benefits, but I do know Virginia has some of the most restrictive unemployment benefit eligibility in the whole country. So people who do find themselves unemployed very often can't qualify for assistance, and when they do the amount they get is truly a pittance. So I do think that is an area and I am not aware of the legislature taking a look at unemployment benefits, but that really has been ignored in this Commonwealth. Also, consumer protections just based off of what my colleagues, at the Virginia Poverty Law Center, say that there are still many areas within consumer protection laws that could be improved.

Hudson, comment: Yes and that was very starkly driven home for me working in the AG's office. Where the consumer protection division of the state lies and is charged with enforcing those statutes. Very often you were trying to move on a multi-state national basis against some particular offenders in terms of consumer-related matters and very often not able to effectively participate. Such as being the

lead state, for instance, in multi-state litigation because our statutes were some of the weakest. Leaving Massachusetts to lead or New York or Washington State or California, but never Virginia because our consumer protection statutes are extremely not consumer-friendly. In terms of how much they protect them and the enforcement provisions in particular. That is something that deserves attention and keeping in mind that what we have to do is draw the connection between stuff like that and disparate impact on a racial basis.

Block, comment: So what we could do for purposes of the report and kind of with the idea that Grace had in mind is we could purpose in the conclusion next steps that we continue doing some of the same kind of work that we're doing. We could say these are possible topics we might do this work in and we will narrow those down and identify areas of focus as we go along and certainly welcome public input into what we should focus on. Maybe for the purpose of the conversation we need to have now, that's sufficient and then when we get back together we could hash it out in a little more detail.

Hudson, comment: I would just like to throw out because we will just be talking in general terms level in the report as to where we turn our attention next. But some of the things we've just talked about today that were on the original list seemed, kind of, to come together under a category of the significant economic insecurity of Black Americans and other people of color. Many of these areas of legislation that we just talked about and listed contribute to or could improve this economic circumstance of people of color.

Kelly, comment: Just to add, in the [first] report we had called out a couple of areas that we didn't touch on specifically. So, if we also wanted to consider those in the next phase we could, as well. That was specifically on homeownership and financial stability. I think we've kind of touched on these in different ways, but if we wanted to revisit I think that's definitely on the table.

Hudson, comment: It seemed to me that the topics that we covered just over the past few months are foundational and existential with respect to the quality of life and being on the same playing field. Once you do that then the next level is that - we're on the field, we're healthy enough, and we're educated. How can we then improve our economic standing so that we feel like we really have a shot at getting a piece of the pie?

Kelly, comment: The only other thing, I know we went over some of the education recommendations, especially as related to COVID-19 inequities and how those were felt by students of color. That may also be an area to revisit as we get more data that's coming in. The last thing I was going to say was over this

Fall there have been some conversations about partnering with other commissions that are doing equity work in slightly different areas. That could be kind of an interesting as well with the Environmental Justice Council, that is set up as we speak, and they hopefully will be stood up in December or the beginning of January.

Judge Jones, comment: Madam Chair, I think this is where I might chime in. As to the future of this Commission and what the next step would be. You all have been talking about specific subject matter areas. My comment is a little more step back and take a look at the kind of the overall purpose of why we were convened in the first place. Having been in and around the government for a very long time. What happens is people like us, citizens, come together charged by the Governor or the legislature. We do a lot of good work, it gets reduced to writing, we make wonderful recommendations, and sometimes when the administration ends the work stops there. The group disbands and it's not really followed through. We make wonderful recommendations and you can go back five years later and it's still a great recommendation but not much progress has been achieved. So, all I guess I'm saying is I would hope that somewhere in there the next step is designed to make the purpose of this commission permanent, ongoing. Always focused on the equity impact of what the legislature and what the executive branch is doing upon the broader population. I guess what I am saying is that I do not want all of this good hard work and all this wonderful brain power brought to bear here just to expire when the current administration, which is going to happen in 2021. So, whatever we can do to kind of reinforce the ongoing and permanent nature of the work of the Commission. Obviously, other people - our terms will expire - and other people will come in and take our place and that's great, and that is what needs to happen. In other words, the Commission on Inequity and Virginia Law ought not to expire, it ought to be permanent, it ought to collaborate with other commissions, [and] it can be expanded. But it's got to have some staying power, and so I'm hoping that one of our recommendations can be whatever it will take, obviously with a budget, to keep the work going. The impact of what the legislature does, the impact of what the executive branch does, it have an impact, and they can be inequitable effects. I am frustrated because I've been doing this very thing a long time. A lot of stuff, great ideas, they just die, and I don't want to see what we've been doing to die.

Judge Jamison, comment: This is why Judge Jones always has my proxy vote. I was having the exact same thought about this and I also think we should capitalize on an education piece. I am so impressed with these students from UVA. That we should convene a summit for all the law schools in Virginia, and I think there should be some type of legal brain trust at all of the law schools where students

come together and continue to research and write about this because that's that way we implement change. That way we make it permanent because as much work as we're doing there ten times more work that could be done. As laws are enacted there's going to be, sometimes, inconsequential racial disparities that were created by things that people are not even thinking about. So, I agree with Judge Jones and I was just sitting here thinking about what we can do to make sure that we get the word out about what we have done. We share the information and that we also challenge these law students and undergraduate students to study this, and to understand what has happened in the past and what we need to do moving forward.

Judge Jones, comment: Do they still do fiscal impact statements on bills?

Hudson, comment: Absolutely and it is required and this could be required too.

Judge Jones, comment: They started doing that way back when I was a member of the legislature. It just occurs to me that, in the same way, they need to be concerned about the impact that some proposal or legislation has on the budget. They need to be as concerned about what impact it's going to have on the equity of the citizenry. So, maybe that's a way for us to maintain our existence and our viability across the administrations. So that you know this stuff is fair. Some have to be thinking about it and talking about it at the time that the legislation is proposed.

Hudson, comment: I think that is exactly right Judge and it parallels what I understand, and Grace correct me [if wrong], has been the codification of Dr. Underwood's role and created this life beyond a single administration. Same kind of idea that's executive this one should be permanency legislatively. In looking at all measures that are part before the General Assembly.

Kelly, comment: Two quick things to share. That is actually something that has been considered through the policy office in years past and it has been added this year for the 2021 legislative session, but I believe we added it to a field last year. When agencies sent us their legislative recommendations and we added it to our template. However, there was some concern when a fiscal impact statement is done it is pretty clear for DPB to say 'okay this is the ongoing program, this is the cost, and this is how many staff members we need. Some of what the difficulty you know we got as initial feedback is [that] it's kind of hard to quantify what an equity impact could be or it could be a qualitative measure. But maybe that is something we could propose how it would look. Then one other thing I just wanted to bring back after our presentation last December was [that] the folks who we did work with at the Library of Virginia were very keen to set up an

online portal or an exhibit that showcases the work that the Commission is doing and other resources and materials the Library houses. To amplify the work that our Commission is doing and the library does. Our website has kind of been an interim iteration of that. That is something if we wanted to work with the Library of Virginia and the different law schools and they could post the series and show students how to access these materials as an educational process.

Hudson, comment: All good. Other comments?

Judge Jones, comment: I heard the report Nathan made as we were starting our meeting this morning about the things that have happened in this Special Session. It sounds to me a lot of the things that have now been passed into law were recommended by this Commission. I know there are a number of our recommendations that have found their way into law. So in terms of an assessment of how effective we have been, just in the short time we have been in existence. These recommendations we made, directly or indirectly, are an important accomplishment of this Commission. So, Andy, as we're talking about this report we need to bear in mind we have already been impactful. That's the kind of focused attention we need to give these D.E.I. issues. These impacts are what we always need to be focused on and this Commission role in the future can be that and help to ensure perpetuation.

Hudson, comment: Yes, I think it is important that D.E.I. not become just another special project and a reaction of the times. That it be embedded in the fabric of who we are and what we do as a government.

Judge Jones, comment: A flavor of the moment. George Floyd and all these other people that forced the attention that has been given on racial justice. Which all of a sudden becomes a big deal here in Virginia. Well, you know next year it's not going to necessarily be that it'd be something else. We have to make sure that we don't allow some of these things to be lost.

Block, comment: I have a question Judge Jones related to that. To put a fine point on it, do you think we ought to recommend in this report that someone propose legislation, much like they did the Council of Environmental Justice, to codify this Commission? I am fine with that because I think everything you say makes a lot of sense but that would be one way to make sure we weighed in on that particular issue.

Hudson, comment: Let me just add to that question, Judge. I heard it is broader than the continued existence of a body then plus the continued existence of the

work of this nature. Such as by having this kind of examination be a component of the legislative process.

Judge Jones, comment: Yes, that is what I was attempting to say. Not in a self-aggrandizing way, I'm just concerned about what will happen is what has happened throughout all these years. That is the momentum we have built and the good work that we have done will in a year from now after the Governor's election will not be a priority for the new Governor. It is just something I felt that I needed to say as we're talking about what we think the next step for the Commission is.

Hudson, comment: Let me ask this to pull us together around what we've been talking about. Is there a motion developing and is now the time for it or is it later in our existence?

Judge Jones, comment: Is there a consensus built around the notion that we need to maintain focused attention on how the actions of the legislative and the executive branch can affect form a racially inequitable way upon the citizenry. Sometimes they're unintended consequences and unless people like us focus on it and talk about it we need to make sure it is being done in state government.

Hanken moves for a motion to, *codify the Commission as an ongoing Commission of the Commonwealth of Virginia and, secondly, to enact a process that would examine proposed legislation with an equity lens.*

Hanken moves to accept the proposal and Judge Jones seconded.

Hanken, comment: Also, we have talked at the poverty law center that some states already have such requirements and we can find some of that material.

Block, comment: I have one question, does this mean we want to include this as a legislative recommendation to the Governor in this report?

Hudson, comment: I do not want to give it short shrift by virtue of the short time you have. I think we could vote on Jill's motion today without having fully developed it for purposes of a recommendation to go out with the rest. I think the fact we approved a motion to that effect today would be important going into the report it is approved.

Judge Jones, comment: And this is the last legislative session of the executive administration that created this body. So I think the timing of that is important.

Hudson takes up the motion, the motion to adopt carries (8 yeas/ 0 nays).

The new proposal reads: Codify the Commission as an ongoing commission of the Commonwealth of Virginia and, secondly, to enact a process that would examine proposed legislation with an equity lens.

Hudson, comment: Andy do you have what you need to pull everything together for the report?

Block, comment: Yes, I think I do.

Judge Jones, comment: Andy, I can talk to you on the phone if we need to talk directly about the recommendation.

Block, comment: That would be great. Also, I have one last question, ought we to schedule a meeting for not too long after the submission of the report so that we might get our heads together about the next steps, distribution of the report, and engagement and working with people in the Administration.

Jill Hanken left at 3:05 pm

Hudson, comment: Certainly, I believe we should have another meeting to plan the next steps and not sure people may want to solicit dates today but that is something we can do offline. We do need to have a planning meeting though and I believe we would be thinking about early December.

Kelly, comment: I think that is right, and one other thing to touch on: as you know, last year, we did our presentation of the report to the Governor, and it is a little unclear as to what that will look like this year. It may be the type of event we had last year but doing it in a virtual setting, or some commissions have essentially hosted a WebEx with the Governor and his policy director to run through the proposals. So, I would expect at our next meeting this could be a portion of it.

Birdie Jamison left at 3:07 pm

Hudson, comment: It sounds then that it will be run by the Governor's schedule and we should wait on that date. Well, if there isn't any other business to come before the Commission. I will say thank you to everyone and [meeting] adjourned.

7. Adjournment – 3:08 pm