

Subject: FOIA #2022-43 Responsive Documents

Date: Monday, September 12, 2022 at 11:51:04 AM Eastern Daylight Time

From: Cody Bowler (OGC Pathways Intern)

To: FOIA

CC: David Ganz

EXTERNAL SENDER

Dear Ms. Shaw,

I am emailing you to let you know your FOIA Request, which has been assigned the number: 2022-43, has been completed and 100 responsive documents were located. The responsive documents can be accessed through this link:

<https://securisync.intermedia.net/us2/s/61sZtSS1bA3frCCnECUDxz0011ef58>

The password to access the files will be sent in a separate email following this one.

Your request returned 100 documents. The files include two (2) files that have been redacted to protect information under the Privacy Act. For example, one of the redactions was for a personal phone number.

If you wish to appeal the decision to withhold and redact these documents, you may do so electronically to the Staff Director of the Commission, however we kindly request that you confer with us prior to filing such an appeal. To electronically appeal, submit an email that sets out your appeal in full to foia@usccr.gov. Please write "Freedom of Information Act Appeal" and the assigned identifier (FOIA Request #2022-43) in the subject line. Your appeal must be electronically transmitted within 90 days of the date of this response to your request. Please include a copy of this written denial, a statement of the circumstances, and reasons or arguments in support of disclosure pursuant to 45 C.F.R. § 704.1(g).

In the meantime, please expect the email with the password.

Thank you,

Cody Bowler
OGC Pathways Intern
Office of the General Counsel
U.S. Commission on Civil Rights
1331 Pennsylvania Avenue, NW Suite 1150
Washington D.C. 20425
cbowler@usccr.gov

From: Carissa Mulder [CMulder@usccr.gov]
on behalf of John Mashburn [jmashburn@usccr.gov]
Sent: 11/15/2021 9:35:58 AM
To: carissa.mulder@gmail.com
Subject: FW: Caucus Zoom

From: John Mashburn
Sent: Monday, November 15, 2021 12:35:58 PM (UTC-05:00) Eastern Time (US & Canada)
To: Carissa Mulder
Subject: Accepted: Caucus Zoom
When: Tuesday, November 16, 2021 4:00 PM-4:30 PM.
Where:

From: John Mashburn [jmashburn@usccr.gov]
Sent: 11/4/2021 8:23:19 AM
To: Christian Adams [a@electionlawcenter.com]
Subject: Re: [EXTERNAL] RE: Can you approve this leave request TODAY (for this past Jan 5 & 6)?

Thanks

From: Christian Adams <a@electionlawcenter.com>
Date: Thursday, November 4, 2021 at 11:17 AM
To: John Mashburn <jmashburn@usccr.gov>
Subject: Re: [EXTERNAL] RE: Can you approve this leave request TODAY (for this past Jan 5 & 6)?

CAUTION: This email is from outside USCCR.

I will get to in an hour or two. inncar now.

----- Original message -----

From: John Mashburn <jmashburn@usccr.gov>
Date: 11/4/21 11:12 AM (GMT-05:00)
To: Christian Adams <a@electionlawcenter.com>
Subject: Re: [EXTERNAL] RE: Can you approve this leave request TODAY (for this past Jan 5 & 6)?

Unfortunately, you need to go into Paycheck 8 and “officially” approve it – for the auditors.

Paycheck 8 should have sent you an email regarding it – to your USCCR email that is.

From: Christian Adams <a@electionlawcenter.com>
Date: Thursday, November 4, 2021 at 10:52 AM
To: John Mashburn <jmashburn@usccr.gov>
Subject: [EXTERNAL] RE: Can you approve this leave request TODAY (for this past Jan 5 & 6)?

CAUTION: This email is from outside USCCR.

of course. approved.

----- Original message -----

From: John Mashburn <jmashburn@usccr.gov>
Date: 11/4/21 10:51 AM (GMT-05:00)
To: Christian Adams <a@electionlawcenter.com>
Subject: Can you approve this leave request TODAY (for this past Jan 5 & 6)?

Paperwork and red tape.

I will have to do this for some annual leave days in October as well, but this is the one they want approved TODAY.

From: Janice Minor <jminor@usccr.gov>
Date: Thursday, November 4, 2021 at 9:55 AM
To: John Mashburn <jmashburn@usccr.gov>
Cc: TinaLouise Martin <tmartin@usccr.gov>, "J. Christian Adams" <jadams@usccr.gov>
Subject: RE: (URGENT) Please Process Leave Request for 16hrs of Annual leave taken in PP1 (Auditors Request)

Hi John,

We need a copy of the approved annual leave request for PP1 by today. Please complete the form and submit for approval, and if you can, please notify me as soon as the leave request has been approved by your Commissioner. Thank you.

Janice

From: John Mashburn <jmashburn@usccr.gov>
Sent: Wednesday, November 3, 2021 3:09 PM
To: Janice Minor <jminor@usccr.gov>
Subject: Re: (URGENT) Please Process Leave Request for 16hrs of Annual leave taken in PP1 (Auditors Request)

Did not know I had to request it other than ask my boss for permission. In 30 years Of federal service I have never had to fill out my time and requests like this so I don't know the basics.

For this past Jan. Do I still need to fill out a request even though it is past the time?

I have almost 100 hrs beyond 240 hrs I have to take before Dec 31, so it's not like I don't have leave time accrued already.

From: Janice Minor
Sent: Wednesday, November 3, 2021 1:24:25 PM
To: John Mashburn
Cc: J. Christian Adams; TinaLouise Martin
Subject: (URGENT) Please Process Leave Request for 16hrs of Annual leave taken in PP1 (Auditors Request)

Hi John,

We noticed that you took 16 hours of annual leave in PP1 for dates 1/5 – 1/6/2021. The auditors have asked for a copy of the leave request for the 16 hrs taken. Please complete a leave request form in the paycheck8 system and have your Commissioner to approved it as soon as possible so we can provide the requested documentation to the auditors in a timely fashion. I included instructions below on how to request leave in the paycheck8 portal for your convenience. For future reference, employees are required to complete a leave request 3 days prior to taking leave, if possible or as soon as circumstances allow. If you have any questions or concerns, contact me directly. Thank you for your time and attention to this request.

Janice

Instructions on Requesting leave in the Paycheck8 portal:

In the “Other Information” column, click on “Request Leave”

Navigate to the “Leave Request Display” section and complete the information on the screen by entering your leave request detail for the 16 hours you claimed in PP1. The following information must be completed before you can submit your request.

- TC
- Start and Stop time
- Reason
- Start and Stop date
- Load Accounts

Once you have entered the data above, click the “Add” button and then click on the “Submit button”.

If you have any questions, please contact me. Thank you.

From: John Mashburn [jmashburn@usccr.gov]
Sent: 1/14/2021 10:16:51 AM
To: Carissa Mulder [carissa.mulder@gmail.com]
Subject: Re: [EXTERNAL] RE: Catherine

See you at 2 pm today

From: Carissa Mulder <carissa.mulder@gmail.com>
Date: Thursday, January 14, 2021 at 12:30 PM
To: Stephen Gilchrist <sgilchrist@usccr.gov>
Cc: Christian Adams <adams@electionlawcenter.com>, "Kirsanow, Peter" <pkirsanow@beneschlaw.com>, Gail Heriot <gheriot@me.com>, Gail Heriot <gheriot@usccr.gov>, Carissa Mulder <CMulder@usccr.gov>, Alexander Heideman <aheideman@usccr.gov>, Alexander Heideman <alexanderheideman@gmail.com>, Thomas Simuel <tsimuel@usccr.gov>, Thomas Simuel <tjsimuel32@gmail.com>, John Mashburn <jmashburn@usccr.gov>, John Mashburn <jkmash@comcast.net>
Subject: Re: [EXTERNAL] RE: Catherine

CAUTION: This email is from outside USCCR.

econvene tomorrow if necessary. Zoom details below:

Carissa Mulder is inviting you to a scheduled Zoom meeting.

Topic: Discussion of Developments
Time: Jan 14, 2021 02:00 PM Eastern Time (US and Canada)

Join Zoom Meeting

<https://us02web.zoom.us/j/84827788592?pwd=Rkk0MVdobkhVbVBvOURwTlBxZTBwZz09>

Meeting ID: 848 2778 8592

Passcode: 632939

One tap mobile

+13126266799,,84827788592# US (Chicago)

+16465588656,,84827788592# US (New York)

Dial by your location

+1 312 626 6799 US (Chicago)

+1 646 558 8656 US (New York)

+1 301 715 8592 US (Washington D.C)

+1 346 248 7799 US (Houston)

+1 669 900 6833 US (San Jose)

+1 253 215 8782 US (Tacoma)

833 548 0276 US Toll-free

833 548 0282 US Toll-free

855 880 1246 US Toll-free

877 369 0926 US Toll-free

Meeting ID: 848 2778 8592

Find your local number: <https://us02web.zoom.us/u/kcnd4oIPbE>

On Thu, Jan 14, 2021 at 12:28 PM Stephen Gilchrist <sgilchrist@usccr.gov> wrote:

I can do tomorrow full day today.

Sent from my Sprint Samsung Galaxy S10e.

----- Original message -----

From: Christian Adams <adams@electionlawcenter.com>

Date: 1/14/21 12:25 PM (GMT-05:00)

To: "'Kirsanow, Peter'" <pkirsanow@Beneschlaw.com>, 'Carissa Mulder' <carissa.mulder@gmail.com>

Cc: 'Gail Heriot' <gheriot@me.com>, Gail Heriot <gheriot@usccr.gov>, Carissa Mulder <CMulder@usccr.gov>, Stephen Gilchrist <sgilchrist@usccr.gov>, Alexander Heideman <aheideman@usccr.gov>, 'Alexander Heideman' <alexanderheideman@gmail.com>, Thomas Simuel <tsimuel@usccr.gov>, 'Thomas Simuel' <tjsimuel32@gmail.com>, John Mashburn <jmashburn@usccr.gov>, 'John Mashburn' <jkmash@comcast.net>
Subject: [EXTERNAL] RE: Catherine

CAUTION: This email is from outside USCCR.

From: Kirsanow, Peter <pkirsanow@Beneschlaw.com>

Sent: Thursday, January 14, 2021 12:19 PM

To: Carissa Mulder <carissa.mulder@gmail.com>

Cc: Gail Heriot (gheriot@me.com) <gheriot@me.com>; Gail Heriot (gheriot@usccr.gov) <gheriot@usccr.gov>; Carissa Mulder (CMulder@usccr.gov) <CMulder@usccr.gov>; Stephen Gilchrist <sgilchrist@usccr.gov>; Christian Adams <adams@electionlawcenter.com>; Alexander Heideman <aheideman@usccr.gov>; Alexander Heideman <alexanderheideman@gmail.com>; Thomas Simuel <tsimuel@usccr.gov>; Thomas Simuel <tjsimuel32@gmail.com>; John Mashburn <jmashburn@usccr.gov>; John Mashburn <jkmash@comcast.net>

Subject: RE: Catherine

All

We should have a brief conference call to discuss this. Catherine may or may not step down as Chair (when I was nominated to the NLRB I remained on the Commission. The Office of Legal Counsel advised that was permissible provided I accepted no compensation from the Commission. [I have no opinion as to the validity of that assessment, but I remained on the Commission without compensation during my NLRB tenure]).

The White House position is, obviously, a far different animal than the NLRB. We should discuss the possible contingencies that may arise in the wake of this development.

I'm free today between 2-3 EDT and tomorrow between 10--12:30 and 2--3 (I plan to watch the PLF Zoom that Gail's participating in at 3). Let us know your preferred times.

From: Carissa Mulder <carissa.mulder@gmail.com>
Sent: Thursday, January 14, 2021 12:04 PM
To: Kirsanow, Peter <pkirsanow@Beneschlaw.com>
Cc: Gail Heriot (gheriot@me.com) <gheriot@me.com>; Gail Heriot (gheriot@usccr.gov) <gheriot@usccr.gov>; Carissa Mulder (CMulder@usccr.gov) <CMulder@usccr.gov>; Stephen Gilchrist <sgilchrist@usccr.gov>; Christian Adams <adams@electionlawcenter.com>; Alexander Heideman <aheideman@usccr.gov>; Alexander Heideman <alexanderheideman@gmail.com>; Thomas Simuel <tsimuel@usccr.gov>; Thomas Simuel <tjsimuel32@gmail.com>; John Mashburn <jmashburn@usccr.gov>; John Mashburn <jkmash@comcast.net>
Subject: Re: Catherine

***** External E-Mail - Use Caution *****

Ugh.

On Thu, Jan 14, 2021 at 12:02 PM Kirsanow, Peter <pkirsanow@beneschlaw.com> wrote:

fyi

From: Max Eden <max.c.eden@gmail.com>
Sent: Thursday, January 14, 2021 11:58 AM
To: Kirsanow, Peter <pkirsanow@Beneschlaw.com>
Subject: Re: Tucker

***** External E-Mail - Use Caution *****

Lhamon as White House DPC Deputy Director for Racial Justice...

this is all shaping up about as bad as i expected

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Carissa B. Mulder

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Carissa B. Mulder

From: John Mashburn [jmashburn@usccr.gov]
Sent: 11/24/2020 5:33:39 PM
To: Christian Adams [a@electionlawcenter.com]
Subject: Re: [EXTERNAL] RE: Fw: SAC Slate for CA

CA is her address of record, but she actually spends majority of time in DC evidently. Most of the SAC work is now being done by Zoom etc. so it should not matter for quite a while. I told her you had pushed to get her on and they had reluctantly agreed - that she only had to submit her application and she would be put on the SAC.

From: Christian Adams <a@electionlawcenter.com>
Sent: Tuesday, November 24, 2020 5:05:24 PM
To: John Mashburn
Subject: RE: [EXTERNAL] RE: Fw: SAC Slate for CA

CAUTION: This email is from outside USCCR.

This makes me mad. She told me CA. Please do what you can to make this happen. We went out of a limb for her. She needs to know that. Explicitly.

From: John Mashburn <jmashburn@usccr.gov>
Sent: Tuesday, November 24, 2020 3:00 PM
To: Christian Adams <a@electionlawcenter.com>
Subject: Re: [EXTERNAL] RE: Fw: SAC Slate for CA

I will touch base with her this evening again. Just FYI she also expressed reservations because she is mostly in DC now and not California and was wondering about the logistics. Just so you know.

From: Christian Adams <a@electionlawcenter.com>
Sent: Tuesday, November 24, 2020 2:50:43 PM
To: John Mashburn
Subject: [EXTERNAL] RE: Fw: SAC Slate for CA

CAUTION: This email is from outside USCCR.

Incredible.

----- Original message -----

From: John Mashburn <jmashburn@usccr.gov>
Date: 11/24/20 2:48 PM (GMT-05:00)
To: Christian Adams <a@electionlawcenter.com>
Subject: Fw: SAC Slate for CA

Just FYI — Mauro sent me this email today at 1 pm and said Star had not submitted her application yet. Clearly they have agreed to put Star on and add an additional Democrat - if Star submits her application by COB tomorrow, in time for the California slate to be approved at the December 4 business meeting.

I called Star who said she had not submitted it because she was debating whether to do this or do the 1776 commission which she has been nominated for as well.

I told her she could do both but she needed to get the SAC application in by close of business tomorrow. She agreed, but said since she was on annual leave at present so she would ask her assistant to submit the application for her.

I asked her to have her assistant call me, which the assistant has not done yet so I am not sure if the asst is doing it or not.

Thought you should have a heads up.

From: John Mashburn
Sent: Tuesday, November 24, 2020 2:35:47 PM
To: Mauro Morales
Cc: David Mussatt; Rukku Singla
Subject: Re: SAC Slate for CA

I talked to her and says she is going to get it in by COB tomorrow.

From: Mauro Morales
Sent: Tuesday, November 24, 2020 1:09:59 PM
To: John Mashburn
Cc: David Mussatt; Rukku Singla
Subject: RE: SAC Slate for CA

John,

As of todays date, Starr Parker has not submitted an application. If you still intend to have her on the slate in time for us to add a Democrat please have her do so by COB tomorrow. We are running out of time and otherwise would have to pull the CA slate from consideration. I have included David and Rukku to assist if needed.

Mauro

From: John Mashburn <jmashburn@usccr.gov>
Sent: Wednesday, November 18, 2020 11:00 AM
To: Mauro Morales <mmorales@usccr.gov>
Subject: SAC Slate for CA

Mauro – Cmnr Adams would like Starr Parker (bio attached) added to the Republican slate for the California SAC in order to be able to support the slate. She is filling out the online application now, but I thought I should give you a heads up since another Democrat would have to be added to the slate as well to keep it even.

From: John Mashburn [jmashburn@usccr.gov]
Sent: 11/4/2021 8:12:46 AM
To: Christian Adams [a@electionlawcenter.com]
Subject: Re: [EXTERNAL] RE: Can you approve this leave request TODAY (for this past Jan 5 & 6)?

Unfortunately, you need to go into Paycheck 8 and “officially” approve it – for the auditors.

Paycheck 8 should have sent you an email regarding it – to your USCCR email that is.

From: Christian Adams <a@electionlawcenter.com>
Date: Thursday, November 4, 2021 at 10:52 AM
To: John Mashburn <jmashburn@usccr.gov>
Subject: [EXTERNAL] RE: Can you approve this leave request TODAY (for this past Jan 5 & 6)?

CAUTION: This email is from outside USCCR.

of course. approved.

----- Original message -----

From: John Mashburn <jmashburn@usccr.gov>
Date: 11/4/21 10:51 AM (GMT-05:00)
To: Christian Adams <a@electionlawcenter.com>
Subject: Can you approve this leave request TODAY (for this past Jan 5 & 6)?

Paperwork and red tape.

I will have to do this for some annual leave days in October as well, but this is the one they want approved TODAY.

From: Janice Minor <jminor@usccr.gov>
Date: Thursday, November 4, 2021 at 9:55 AM
To: John Mashburn <jmashburn@usccr.gov>
Cc: TinaLouise Martin <tmartin@usccr.gov>, "J. Christian Adams" <jadams@usccr.gov>
Subject: RE: (URGENT) Please Process Leave Request for 16hrs of Annual leave taken in PP1 (Auditors Request)

Hi John,

We need a copy of the approved annual leave request for PP1 by today. Please complete the form and submit for approval, and if you can, please notify me as soon as the leave request has been approved by your Commissioner. Thank you.

Janice

From: John Mashburn <jmashburn@usccr.gov>
Sent: Wednesday, November 3, 2021 3:09 PM
To: Janice Minor <jminor@usccr.gov>
Subject: Re: (URGENT) Please Process Leave Request for 16hrs of Annual leave taken in PP1 (Auditors Request)

Did not know I had to request it other than ask my boss for permission. In 30 years Of federal service I have never had to fill out my time and requests like this so I don't know the basics.

For this past Jan. Do I still need to fill out a request even though it is past the time?

I have almost 100 hrs beyond 240 hrs I have to take before Dec 31, so it's not like I don't have leave time accrued already.

From: Janice Minor

Sent: Wednesday, November 3, 2021 1:24:25 PM

To: John Mashburn

Cc: J. Christian Adams; TinaLouise Martin

Subject: (URGENT) Please Process Leave Request for 16hrs of Annual leave taken in PP1 (Auditors Request)

Hi John,

We noticed that you took 16 hours of annual leave in PP1 for dates 1/5 – 1/6/2021. The auditors have asked for a copy of the leave request for the 16 hrs taken. Please complete a leave request form in the paycheck8 system and have your Commissioner to approved it as soon as possible so we can provide the requested documentation to the auditors in a timely fashion. I included instructions below on how to request leave in the paycheck8 portal for your convenience. For future reference, employees are required to complete a leave request 3 days prior to taking leave, if possible or as soon as circumstances allow. If you have any questions or concerns, contact me directly. Thank you for your time and attention to this request.

Janice

Instructions on Requesting leave in the Paycheck8 portal:

In the "Other Information" column, click on "Request Leave"

Navigate to the "Leave Request Display" section and complete the information on the screen by entering your leave request detail for the 16 hours you claimed in PP1. The following information must be completed before you can submit your request.

- TC
- Start and Stop time
- Reason
- Start and Stop date
- Load Accounts

Once you have entered the data above, click the "Add" button and then click on the "Submit button".

If you have any questions, please contact me. Thank you.

From: John Mashburn [jmashburn@usccr.gov]
Sent: 12/16/2020 1:08:14 PM
To: Christian Adams [a@electionlawcenter.com]
Subject: Re: [EXTERNAL] RE: Annual Ethics Training for Commissioners - Response Required

I was going to do the written – unless you want me to do the Zoom when you do tomorrow.

From: Christian Adams <a@electionlawcenter.com>
Date: Wednesday, December 16, 2020 at 2:34 PM
To: John Mashburn <jmashburn@usccr.gov>
Subject: Re: [EXTERNAL] RE: Annual Ethics Training for Commissioners - Response Required

CAUTION: This email is from outside USCCR.

----- Original message -----

From: John Mashburn <jmashburn@usccr.gov>
Date: 12/16/20 1:52 PM (GMT-05:00)
To: Christian Adams <a@electionlawcenter.com>
Subject: Re: [EXTERNAL] RE: Annual Ethics Training for Commissioners - Response Required

She has you down for 10 am tomorrow based on her email.

From: Christian Adams <a@electionlawcenter.com>
Date: Wednesday, December 16, 2020 at 1:49 PM
To: John Mashburn <jmashburn@usccr.gov>
Subject: [EXTERNAL] RE: Annual Ethics Training for Commissioners - Response Required

CAUTION: This email is from outside USCCR.

From: John Mashburn <jmashburn@usccr.gov>
Sent: Wednesday, December 16, 2020 1:48 PM
To: Christian Adams <a@electionlawcenter.com>
Subject: FW: Annual Ethics Training for Commissioners - Response Required

She says you scheduled a time to do it.

From: Pilar McLaughlin <pmclaughlin@usccr.gov>
Date: Wednesday, December 16, 2020 at 1:46 PM

To: John Mashburn <jmashburn@usccr.gov>

Subject: RE: Annual Ethics Training for Commissioners - Response Required

Hi John:

Commissioner Adams just sent me an email saying he could do December 17th all day or December 18th between 7:00 am and 9:30 am. **I scheduled him for the group training I am holding tomorrow at 10:00 am.**

Some rules for Commissioners and Special Assistants are different, hence why I am holding them separately. For Commissioners, the training is required to be a "live" training.

From: John Mashburn <jmashburn@usccr.gov>

Sent: Wednesday, December 16, 2020 1:39 PM

To: Pilar McLaughlin <pmclaughlin@usccr.gov>

Subject: FW: Annual Ethics Training for Commissioners - Response Required

Cmnr Adams cannot do the training until Jan. 2 – is that an option?

From: "J. Christian Adams" <jadams@usccr.gov>

Date: Wednesday, December 16, 2020 at 1:06 PM

To: John Mashburn <jmashburn@usccr.gov>

Subject: Fw: Annual Ethics Training for Commissioners - Response Required

Maybe you can arrange a time in 2021 where we both can do this. I cannot do it until Jan 2.

From: Pilar McLaughlin

Sent: Wednesday, December 16, 2020 12:57 PM

To: Catherine Lhamon; Stephen Gilchrist; Debo P. Adegbile; Gail Heriot; Peter Kirsanow; David Kladney; J. Christian Adams; Michael Yaki

Cc: Mauro Morales; Sheryl Cozart; CommissionerAssistants

Subject: RE: Annual Ethics Training for Commissioners - Response Required

Dear Commissioners:

For those of you who have not yet scheduled your annual ethics training, I will be holding two Zoom training sessions over the next few days. Please let me know if you can participate in one of the following:

December 17th at 10:00 am

December 21st at 1:00 pm

If you are unable to participate in one of the trainings listed above, please email me with **three dates and times** that you are available prior to the end of the year to complete this training.

Thank you,
Pilar

From: Pilar McLaughlin

Sent: Tuesday, December 8, 2020 2:42 PM

To: Catherine Lhamon <clhamon@usccr.gov>; Stephen Gilchrist <sgilchrist@usccr.gov>; Debo P. Adegbile <dadegbile@usccr.gov>; Gail Heriot <gheriot@usccr.gov>; Peter Kirsanow <pkirsanow@usccr.gov>; David Kladney <dkladney@usccr.gov>; J. Christian Adams <jadams@usccr.gov>; Michael Yaki <MYaki@usccr.gov>

Cc: Mauro Morales <mmorales@usccr.gov>; Sheryl Cozart <sccoart@usccr.gov>

Subject: Annual Ethics Training for Commissioners - Response Required

Dear Commissioners:

I hope this email finds you safe and healthy. As 2020 comes to a close, there are some final items we need to complete for the Commission's ethics program. Per the Office of Government Ethics, 5 C.F.R. Part 2638.308, public filers such as yourselves, must complete annual ethics training by **December 31, 2020**. This training will consist of a one hour, live presentation with me over the phone where I will cover key ethics concepts and we'll discuss a series of ethics training exercises.

I plan to conduct these trainings individually or in small groups (if schedules align) **beginning on December 14th through December 31th**. Please email me with **three dates and times** you would be available for this training and the best phone number to reach you. I will schedule your training and send you a calendar invite.

I know everyone is very busy; I will try my best to accommodate preferred times.

Thank you,
Pilar

STATEMENT OF THE U.S. COMMISSION ON CIVIL RIGHTS ON
THE PASSING OF PROFESSOR DREW S. DAYS III

December 4, 2020

The United States Commission on Civil Rights mourns the passing of Professor Drew S. Days III, who among his many notable accomplishments was the first black American to serve as the Assistant Attorney General for Civil Rights at the Department of Justice, and later served as the Solicitor General of the United States.

Mr. Days was born in Atlanta, Georgia in 1941, but spent much of his early youth in Tampa, Florida, where he went to a segregated school, rode segregated buses, ate at segregated lunch counters, and watched his mother's teaching career limited by her race. His father worked at an insurance firm that was founded by Mary McLeod Bethune, a black woman who was by that time a noted educator, philanthropist, and civil rights activist. From an early age, he said, he was pointed in the direction of a career in civil rights.

After graduating cum laude from Hamilton College, he attended the Yale Law School, where he spent his second law school summer working for the noted civil rights lawyer C.B. King in Albany, Georgia. That experience set his mind to his career goal: to be a civil rights litigator. After graduation in 1966, he spent a year practicing law in Chicago, where he met Martin Luther King Jr. during fair housing negotiations, and then spent two years in the Peace Corps in Honduras before returning and joining the NAACP Legal Defense Fund in 1969. For the next 8 years he litigated on behalf of the Defense Fund until he received a call in 1977 from President Jimmy Carter's designee for Attorney General, Judge Griffin Bell.

The Washington Posted recounted how Mr. Days' initial conversation with Bell went.

"I would like to head the civil rights division," Mr. Days, who described the conversation in an [[HYPERLINK](https://digitalcommons.tourolaw.edu/cgi/viewcontent.cgi?article=2408&context=lawreview)

"<https://digitalcommons.tourolaw.edu/cgi/viewcontent.cgi?article=2408&context=lawreview>" \o "digitalcommons.tourolaw.edu"] with the Touro Law Review, recalled telling him. "I don't know about having a Black person heading the civil rights division," Bell replied, the implication being that some African Americans might take offense at the appointment of a Black official to a job whose portfolio was perceived as limited to racial matters. "Judge Bell," Mr. Days responded, "no Black person has ever headed any division in the Justice Department, so I don't think that's a major problem."

Days spent the next four years at the Justice Department, and during that time was an aggressive prosecutor for desegregation, fair housing, and police misconduct. His proudest achievement, he said, was his role working with Senators Kennedy and Hatch on the Civil Rights for Institutionalized Persons Act of 1980, creating a right of action for the Civil Rights Division of the Justice Department to investigate and intervene directly on behalf of persons in mental institutions, jails, hospitals, and juvenile facilities.

After Justice in 1981 he joined the faculty of the Yale Law School, where he remained for the next 35 years. In 1992 he became the Alfred M. Rankin Professor of Law at Yale. In 1993, he took a leave of

absence that lasted 3 years as he was named by President Clinton as the Solicitor General of the United States, only the third black man in our nation's history – after Thurgood Marshall and Wade McCree – to hold the post.

While Solicitor General, he argued 17 cases before the Supreme Court. During that time, his name was frequently mentioned as a potential Supreme Court nominee. But as his friend and colleague and former Dean of the Yale Law School (and also former Solicitor General) Harold Hongju Koh said in an interview with the New York Times

“Drew was committed to principle, not politics . . . It would have been easy for him to do the politically expedient thing to get ahead, but that was not in his DNA.”

Mr. Days returned to Yale Law and continued to teach. He also served as a trustee of Hamilton College. He also continued to practice law, leading the Supreme Court and appellate group at the law firm of Morrison and Foerster from 1997 until his retirement in 2011. He retired from Yale in 2017. He lived out the rest of his days in the New Haven area.

Mr. Days is survived by his wife, Anne Langdon-Days, who he met as students mutually indulging their passion for singing Russian at the Yale Russian Chorus; and their daughters Dr. Alison L. Days and Elizabeth J. Days; two granddaughters; and his sister, Jacquelyn D. Serwer.

Today, the United States Commission on Civil Rights honors the contributions of Professor Drew S. Days III to civil rights, as both leader and role model. His career, his life, and legacy are a testament to the power of his character, the passion of his commitment to civil rights, and his belief in the rule of law.

From: John Mashburn [jmashburn@usccr.gov]
Sent: 12/2/2020 10:37:19 AM
To: Carissa Mulder [carissa.mulder@gmail.com]
Subject: FW: Proposed USCCR Statement on the passing of Drew Days, First Black Leader of DOJ Civil Rights Division
Attachments: USCCR statement on the passing of Professor Drew S. Days III CL.docx

Should we ask for a statement on Walter Williams as well? Not sure Williams would want a statement from the USCCR however.

From: Alec Deull <adeull@usccr.gov>
Date: Wednesday, December 2, 2020 at 11:59 AM
To: Commissioners <Commissioners@usccr.gov>, "CommissionerAssistants@usccr.gov" <CommissionerAssistants@usccr.gov>, Mauro Morales <mmorales@usccr.gov>, Pilar McLaughlin <pmclaughlin@usccr.gov>, Katherine Culliton-Gonzalez <kculliton-gonzalez@usccr.gov>
Subject: Proposed USCCR Statement on the passing of Drew Days, First Black Leader of DOJ Civil Rights Division

Hello All --

On behalf of Commissioners Yaki and Adegbile, please find the attached statement on the recent passing of Professor Drew S. Days. This document is for addition to the agenda for, and consideration at, the USCCR business meeting on Friday, December 4, 2020.

Thank you.

all best, Alec

From: John Mashburn [jmashburn@usccr.gov]
Sent: 12/16/2020 10:47:49 AM
To: Christian Adams [a@electionlawcenter.com]
Subject: FW: Annual Ethics Training for Commissioners - Response Required

She says you scheduled a time to do it.

From: Pilar McLaughlin <pmclaughlin@usccr.gov>
Date: Wednesday, December 16, 2020 at 1:46 PM
To: John Mashburn <jmashburn@usccr.gov>
Subject: RE: Annual Ethics Training for Commissioners - Response Required

Hi John:

Commissioner Adams just sent me an email saying he could do December 17th all day or December 18th between 7:00 am and 9:30 am. I scheduled him for the group training I am holding tomorrow at 10:00 am.

Some rules for Commissioners and Special Assistants are different, hence why I am holding them separately. For Commissioners, the training is required to be a "live" training.

From: John Mashburn <jmashburn@usccr.gov>
Sent: Wednesday, December 16, 2020 1:39 PM
To: Pilar McLaughlin <pmclaughlin@usccr.gov>
Subject: FW: Annual Ethics Training for Commissioners - Response Required

Cmnr Adams cannot do the training until Jan. 2 – is that an option?

From: "J. Christian Adams" <jadams@usccr.gov>
Date: Wednesday, December 16, 2020 at 1:06 PM
To: John Mashburn <jmashburn@usccr.gov>
Subject: Fw: Annual Ethics Training for Commissioners - Response Required

Maybe you can arrange a time in 2021 where we both can do this. I cannot do it until Jan 2.

From: Pilar McLaughlin
Sent: Wednesday, December 16, 2020 12:57 PM
To: Catherine Lhamon; Stephen Gilchrist; Debo P. Adegbile; Gail Heriot; Peter Kirsanow; David Kladney; J. Christian Adams; Michael Yaki
Cc: Mauro Morales; Sheryl Cozart; CommissionerAssistants
Subject: RE: Annual Ethics Training for Commissioners - Response Required

Dear Commissioners:

For those of you who have not yet scheduled your annual ethics training, I will be holding two Zoom training sessions over the next few days. Please let me know if you can participate in one of the following:

December 17th at 10:00 am

December 21st at 1:00 pm

If you are unable to participate in one of the trainings listed above, please email me with **three dates and times** that you are available prior to the end of the year to complete this training.

Thank you,

Pilar

From: Pilar McLaughlin

Sent: Tuesday, December 8, 2020 2:42 PM

To: Catherine Lhamon <clhamon@usccr.gov>; Stephen Gilchrist <sgilchrist@usccr.gov>; Debo P. Adegbile <dadegbile@usccr.gov>; Gail Heriot <gheriot@usccr.gov>; Peter Kirsanow <pkirsanow@usccr.gov>; David Kladney <dkladney@usccr.gov>; J. Christian Adams <jadams@usccr.gov>; Michael Yaki <MYaki@usccr.gov>

Cc: Mauro Morales <mmorales@usccr.gov>; Sheryl Cozart <sccoziert@usccr.gov>

Subject: Annual Ethics Training for Commissioners - Response Required

Dear Commissioners:

I hope this email finds you safe and healthy. As 2020 comes to a close, there are some final items we need to complete for the Commission's ethics program. Per the Office of Government Ethics, 5 C.F.R. Part 2638.308, public filers such as yourselves, must complete annual ethics training by **December 31, 2020**. This training will consist of a one hour, live presentation with me over the phone where I will cover key ethics concepts and we'll discuss a series of ethics training exercises.

I plan to conduct these trainings individually or in small groups (if schedules align) **beginning on December 14th through December 31th**. Please email me with **three dates and times** you would be available for this training and the best phone number to reach you. I will schedule your training and send you a calendar invite.

I know everyone is very busy; I will try my best to accommodate preferred times.

Thank you,

Pilar

From: John Mashburn [jmashburn@usccr.gov]
Sent: 12/17/2020 5:39:05 AM
To: Christian Adams [a@electionlawcenter.com]
Subject: Re: [EXTERNAL] RE: Annual Ethics Training for Commissioners - Response Required

I will try to do both and let you know.

From: Christian Adams <a@electionlawcenter.com>
Sent: Thursday, December 17, 2020 8:12:52 AM
To: John Mashburn
Subject: RE: [EXTERNAL] RE: Annual Ethics Training for Commissioners - Response Required

CAUTION: This email is from outside USCCR.

Forget the zoom.

Also, I cannot make that 2pm party. If you chose to please share your accounts afterwards with me.

From: John Mashburn <jmashburn@usccr.gov>
Sent: Wednesday, December 16, 2020 4:08 PM
To: Christian Adams <a@electionlawcenter.com>
Subject: Re: [EXTERNAL] RE: Annual Ethics Training for Commissioners - Response Required

I was going to do the written – unless you want me to do the Zoom when you do tomorrow.

From: Christian Adams <a@electionlawcenter.com>
Date: Wednesday, December 16, 2020 at 2:34 PM
To: John Mashburn <jmashburn@usccr.gov>
Subject: Re: [EXTERNAL] RE: Annual Ethics Training for Commissioners - Response Required

CAUTION: This email is from outside USCCR.

----- Original message -----

From: John Mashburn <jmashburn@usccr.gov>
Date: 12/16/20 1:52 PM (GMT-05:00)
To: Christian Adams <a@electionlawcenter.com>
Subject: Re: [EXTERNAL] RE: Annual Ethics Training for Commissioners - Response Required

She has you down for 10 am tomorrow based on her email.

From: Christian Adams <a@electionlawcenter.com>
Date: Wednesday, December 16, 2020 at 1:49 PM
To: John Mashburn <jmashburn@usccr.gov>
Subject: [EXTERNAL] RE: Annual Ethics Training for Commissioners - Response Required

CAUTION: This email is from outside USCCR.

From: John Mashburn <jmashburn@usCCR.gov>
Sent: Wednesday, December 16, 2020 1:48 PM
To: Christian Adams <a@electionlawcenter.com>
Subject: FW: Annual Ethics Training for Commissioners - Response Required

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From: Pilar McLaughlin <pmclaughlin@usCCR.gov>
Date: Wednesday, December 16, 2020 at 1:46 PM
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Cc: Mauro Morales; Sheryl Cozart; Commissioner Assistants

Subject: RE: Annual Ethics Training for Commissioners - Response Required

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Thank you,

Pilar

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Sent: Tuesday, December 8, 2020 2:42 PM

To: Catherine Lhamon <clhamon@usccr.gov>; Stephen Gilchrist <sgilchrist@usccr.gov>; Debo P. Adegbile <dadegbile@usccr.gov>; Gail Heriot <gheriot@usccr.gov>; Peter Kirsanow <pkirsanow@usccr.gov>; David Kladney <dkladney@usccr.gov>; J. Christian Adams <jadams@usccr.gov>; Michael Yaki <MYaki@usccr.gov>

Cc: Mauro Morales <mmorales@usccr.gov>; Sheryl Cozart <scozart@usccr.gov>

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I plan to conduct these trainings individually or in small groups (if schedules align) **beginning on December 14th through December 31st**. Please email me with **three dates and times** you would be available for this training and the best phone number to reach you. I will schedule your training and send you a calendar invite.

I know everyone is very busy; I will try my best to accommodate preferred times.

Thank you,

Pilar

From: John Mashburn [jmashburn@usccr.gov]
Sent: 11/26/2021 3:29:10 PM
To: John Mashburn [jkmash@comcast.net]
Subject: Fw: [EXTERNAL] Transcript: All In with Chris Hayes, 11/24/21

From: Christian Adams <a@electionlawcenter.com>
Sent: Friday, November 26, 2021 12:11:36 PM
To: John Mashburn
Subject: [EXTERNAL] Transcript: All In with Chris Hayes, 11/24/21

CAUTION: This email is from outside USCCR.

<https://www.msnbc.com/transcripts/transcript-all-chris-hayes-11-24-21-n1284613>

can you do up a fact sheet on my YES votes NOT grinding things to a halt?????. Bail reform, etc etc. sooner the better as I need to respond to this.

From: John Mashburn [jmashburn@usccr.gov]
Sent: 11/10/2021 5:59:46 AM
To: Christian Adams [a@electionlawcenter.com]
Subject: Fw: [EXTERNAL] Paycheck8: JOHN KINNEY MASHBURN - Leave Request has been submitted

FYI - All these requests are because they say I have to ask by Nov 20 in order to take leave Between then and Dec 31

From: paycheck@gdcii.com <paycheck@gdcii.com>
Sent: Tuesday, November 9, 2021 4:00:10 PM
To: John Mashburn
Subject: [EXTERNAL] Paycheck8: JOHN KINNEY MASHBURN - Leave Request has been submitted

*** CAUTION: This email is from outside USCCR. ***

This message is to inform you that JOHN KINNEY MASHBURN has submitted a Leave Request from 11/12/2021 to 11/15/2021. Please log into Paycheck8 to view and take action on the Leave Request.

From: John Mashburn [jmashburn@usccr.gov]
Sent: 1/13/2021 8:03:08 AM
To: Carissa Mulder [carissa.mulder@gmail.com]; Kirsanow, Peter [pkirsanow@beneschlaw.com]; Gail Heriot [gheriot@me.com]; stephen gilchrist [thegilchristassociates@gmail.com]; Christian Adams [adams@electionlawcenter.com] [adams@electionlawcenter.com]
CC: Alexander Heideman [aheideman@usccr.gov]; Thomas Simuel [tsimuel@usccr.gov]; Carissa Mulder [CMulder@usccr.gov]; Gail Heriot [gheriot@usccr.gov]; Stephen Gilchrist [sgilchrist@usccr.gov]; Peter Kirsanow [pkirsanow@usccr.gov]; J. Christian Adams [jadams@usccr.gov]
Subject: Re: [EXTERNAL] Draft AI 5-7 (regarding removal of SAC members)

In the current climate, it is very important that any process cannot be abused in order to target folks for their political views and public policy positions -- as opposed to any actual personal misconduct on their part.

From: Carissa Mulder <carissa.mulder@gmail.com>
Date: Wednesday, January 13, 2021 at 10:51 AM
To: "Kirsanow, Peter" <pkirsanow@beneschlaw.com>, Gail Heriot <gheriot@me.com>, stephen gilchrist <thegilchristassociates@gmail.com>, "Christian Adams (adams@electionlawcenter.com)" <adams@electionlawcenter.com>
Cc: Alexander Heideman <aheideman@usccr.gov>, Thomas Simuel <tsimuel@usccr.gov>, John Mashburn <jmashburn@usccr.gov>, Carissa Mulder <CMulder@usccr.gov>, Gail Heriot <gheriot@usccr.gov>, Stephen Gilchrist <sgilchrist@usccr.gov>, Peter Kirsanow <pkirsanow@usccr.gov>, "J. Christian Adams" <jadams@usccr.gov>
Subject: [EXTERNAL] Draft AI 5-7 (regarding removal of SAC members)

CAUTION: This email is from outside USCCR.

I had a meeting with OGC, Rukku, and Irena this morning to discuss draft AI 5-7, which is about implementing a process for adjudicating allegations of misconduct by SAC members. OGC had some useful comments about the need to have benchmarks and timelines in the adjudicatory process. They had some further questions about the role of the staff director and the need to take immediate action in cases where discrimination or harassment are alleged. You can see those concerns in the comments included in the attached draft. Please take a look and let me know what you agree and disagree with, or any other suggestions you have.

I think the overall sticking point is that OGC/the progressives are mostly concerned with a process to remove bad actors, and we are mostly concerned with ensuring the process isn't abused. But that is just my two cents.

--

Carissa B. Mulder

Dear Ranking Member Grassley:

We write as four members of the U.S. Commission on Civil Rights, and not on behalf of the Commission as a whole, regarding Attorney General Merrick Garland's recent memorandum directing federal law enforcement agencies to investigate parents who protest at school board meetings.¹ The Department of Justice plans to create a task force "consisting of representatives from the department's Criminal Division, National Security Division, Civil Rights Division, the Executive Office for U.S. Attorneys, the FBI, the Community Relations Service and the Office of Justice Programs, to determine how federal enforcement tools can be used to prosecute these crimes".²

Attorney General Garland's memorandum does not cite any specific violent incidents. We believe he was responding to a letter from the National School Boards Association.³ NSBA emails recently obtained by the media indicate that NSBA leadership colluded with the White House in drafting and sending the letter to the Attorney General. In an email to NSBA board members, an NSBA official stated, "in talks over the last several weeks with White House staff, they requested additional information on some of the specific threats, so the letter also details many of the incidents that have been occurring."⁴ Even with the extra motivation of a White House request, NSBA was only able to cite one violent incident in the letter.⁵

NSBA is upset about parents protesting critical race theory. They claim,

[M]any public school officials are also facing physical threats because of propaganda purporting the false inclusion of critical race theory within classroom instruction and curricula. This propaganda continues despite the fact that critical race theory is not taught in public schools and remains a complex law school and graduate school subject well beyond the scope of a K-12 class."⁶

This is a lie.

As investigative journalist Christopher Rufo and others have reported, the fundamentals of critical race theory are taught in schools throughout the country. In the Buffalo Public Schools, "In kindergarten, teachers ask students to compare their skin color with an arrangement of crayons and watch a video that dramatizes dead black children speaking to them from beyond the

¹ Memorandum from Merrick B. Garland, Att'y Gen. of the United States (Oct. 4, 2021), [[HYPERLINK "https://www.justice.gov/ag/page/file/1438986/download"](https://www.justice.gov/ag/page/file/1438986/download)].

² Press Release, Department of Justice, Justice Department Addresses Violent Threats Against School Officials and Teachers (Oct. 4, 2021), [[HYPERLINK "https://www.justice.gov/opa/pr/justice-department-addresses-violent-threats-against-school-officials-and-teachers"](https://www.justice.gov/opa/pr/justice-department-addresses-violent-threats-against-school-officials-and-teachers)].

³ Letter from Viola M. Garcia, President, Nat'l Sch. Boards Ass'n, to Joseph R. Biden, President of the United States (Sept. 29, 2021)(hereinafter "NSBA Letter"), <https://nsba.org/-/media/NSBA/File/nsba-letter-to-president-biden-concerning-threats-to-public-schools-and-school-board-members-92921.pdf>.

⁴ Email from Chip Slavin to NSBA Board, Sept. 29, 2021, cited in Chuck Ross, "White House Knew About Letter That Compared Parents to Domestic Terrorists," WASH. FREE BEACON, Oct. 21, 2021, [[HYPERLINK "https://freebeacon.com/campus/white-house-knew-about-letter-that-compared-parents-to-domestic-terrorists/"](https://freebeacon.com/campus/white-house-knew-about-letter-that-compared-parents-to-domestic-terrorists/)].

⁵ NSBA Letter at 3.

⁶ NSBA Letter at 1.

grave about the dangers of being killed by ‘racist police and state-sanctioned violence.’”⁷ In Wake County, North Carolina (which includes Raleigh), held a teachers’ conference that included a session entitled, “Whiteness in Ed Spaces”.

Parents, according to the teachers, should be considered an impediment to social justice. When one teacher asked, “How do you deal with parent pushback?” the answer was clear: ignore parental concerns and push the ideology of antiracism directly to students. “You can’t let parents deter you from the work,” the teachers said. “White parents’ children are benefiting from the system” of whiteness and are “not learning at home about diversity (LGBTQ, race, etc.).” Therefore, teachers have an obligation to subvert parental wishes and beliefs. Any “pushback,” the teachers explained, is merely because white parents fear “that they are going to lose something” and find it “hard to let go of power [and] privilege.”⁸

One article cited by NSBA as evidence of the threats faced by school members included this anecdote from the Sarasota public school board, which is taking steps to limit public comment: “One man at a recent meeting was threatened with removal by police after he asked if all the board members had their high school diplomas.”⁹ Well. We certainly can’t have mere members of the public insulting the academic credentials of school board members. Clearly this is a matter for the FBI.

We oppose violence or threats of violence directed at school board members. However, “threats” are not necessarily limited to threats of violence. A parent may well yell at a school board member, “I am going to make sure you lose the next election!” That is indeed a threat, but it is not a threat of violence, and is well within the parent’s First Amendment rights. Unwelcome speech is not a true threat, even when directed at school board members. When true threats are made, neither NSBA nor Attorney General Garland have even attempted to explain why local law enforcement is not capable of addressing them.

Furthermore, the NSBA letter refers to a meeting in Loudoun County, Virginia, at which one man was arrested as “a school board meeting discussion distinguishing current curricula from critical race theory and regarding equity issues.”¹⁰ Further investigation (not by NSBA) revealed that the man arrested is the father of a girl who was sexually assaulted in a school bathroom by a “gender fluid” male student.¹¹ The Loudoun County school board refused to let the father speak and falsely claimed that there were no instances of transgender students sexually assaulting other

⁷ Christopher F. Rufo, “Failure Factory,” City Journal, Feb. 23, 2021, [[HYPERLINK "https://www.city-journal.org/buffalo-public-schools-critical-race-theory-curriculum?wallit_nosession=1"](https://www.city-journal.org/buffalo-public-schools-critical-race-theory-curriculum?wallit_nosession=1)].

⁸ Christopher F. Rufo, “Subversive Education,” City Journal, March 17, 2021, [[HYPERLINK "https://www.city-journal.org/critical-race-theory-in-wake-county-nc-schools?wallit_nosession=1"](https://www.city-journal.org/critical-race-theory-in-wake-county-nc-schools?wallit_nosession=1)].

⁹ Ryan McKinnon, “Sarasota school board may limit public input after some meetings get disorderly,” Sarasota Herald-Tribune, Sept. 20, 2021, [[HYPERLINK "https://www.heraldtribune.com/story/news/education/2021/09/20/sarasota-school-board-may-limit-public-input-after-meetings-gone-wild/8417784002/"](https://www.heraldtribune.com/story/news/education/2021/09/20/sarasota-school-board-may-limit-public-input-after-meetings-gone-wild/8417784002/)].

¹⁰ NSBA Letter at 4.

¹¹ Jessica Chasmar, “Loudoun County father arrested at school board event says school tried to cover up daughter’s bathroom assault,” FOX News, Oct. 13, 2021, [[HYPERLINK "https://www.foxnews.com/politics/loudoun-county-father-school-cover-up-bathroom-assault-daughter"](https://www.foxnews.com/politics/loudoun-county-father-school-cover-up-bathroom-assault-daughter)].

students in school bathrooms. It is worse than misleading for NSBA to include this as a basis for federal intervention in local schools. The young girl who was sexually assaulted and her parents are the victims here, not the school board.

Lastly, according to media reports, Attorney General Garland's son-in-law co-founded a company called Panorama Education. Panorama surveys students regarding their school's "social and emotional climate".¹² Panorama promotes what it calls "Social-Emotional Learning [SEL]".¹³

One [Panorama] workshop titled "SEL as Social Justice: Dismantling White Supremacy Withing system and Self" is designed "to explore actionable strategies for using SEL as a vehicle for social justice and advocacy in your community." The slideshow calls on activists to agree that "I affirm my intersectionality," alludes to "unconscious biases," and defines "systemic racism" as "the systematic distribution of resources, power, and opportunity in our society to the benefit of people who are white."¹⁴

This is precisely the sort of racial scapegoating that parents object to when they oppose their children's schools teaching critical race theory. If parents succeed in persuading their school boards to ban the teaching of critical race theory, Attorney General Garland's son-in-law's business will suffer. Some school districts might even cancel their contracts with Panorama.

Americans have the constitutional right to petition the government for the redress of grievances, which is precisely what these parents are doing. School boards are trying to use the power of the federal government to intimidate and silence parents. We urge you to investigate the Attorney General's issuance of this memorandum, and whether the Attorney General has a conflict of interest due to his son-in-law's financial interest in promoting critical race theory.

¹² Callie Patterson, "AG Garland's son-in-law's education company supports critical race theory," N.Y. POST, Oct. 13, 2021, [[HYPERLINK "https://nypost.com/2021/10/13/critical-race-theory-firm-linked-to-ag-garlands-kin-serves-schoolscompany-co-founded-by-ag-garlands-son-in-law-serves-over-20k-schools/"](https://nypost.com/2021/10/13/critical-race-theory-firm-linked-to-ag-garlands-kin-serves-schoolscompany-co-founded-by-ag-garlands-son-in-law-serves-over-20k-schools/)].

¹³ Jerry Dunleavy, "Critics question Garland's school board crackdown after son-in-law revealed as social justice education kingpin," WASH. EXAMINER, Oct. 7, 2021, [[HYPERLINK "https://www.washingtonexaminer.com/news/critics-question-garlands-school-board-crackdown-after-son-in-law-revealed-as-social-justice-education-kingpin"](https://www.washingtonexaminer.com/news/critics-question-garlands-school-board-crackdown-after-son-in-law-revealed-as-social-justice-education-kingpin)].

¹⁴ *Id.*

From: John Mashburn [jmashburn@usccr.gov]
Sent: 11/11/2021 3:40:42 PM
To: John Mashburn [jkmash@comcast.net]
Subject: FW: Letter to Sen. Grassley
Attachments: Letter to Grassley re Garland school board memo.docx

From: Carissa Mulder <CMulder@usccr.gov>
Date: Friday, October 22, 2021 at 12:05 PM
To: Alexander Heideman <aheideman@usccr.gov>, John Mashburn <jmashburn@usccr.gov>, Thomas Simuel <tsimuel@usccr.gov>
Subject: Letter to Sen. Grassley

Hello everyone,

Pete would like to send the attached letter to Sen. Grassley. Can you check with your bosses and see if they are interested in signing on?

Thanks!

Section 11: Advisory Committee Member Conduct Policy

1. Purpose of Section

It is the Commission's policy that its Advisory Committees shall maintain a reputation for integrity, fairness, and respectfulness; of responsibility, trust, and sound judgment. This policy applies to all advisory committee members. This policy provides guidelines for expectations of advisory committee members in general and while conducting Commission business. It also provides a process for review of reported allegations of misconduct by an advisory committee member, and referral to Commissioners for potential further action.

2. Notification to Advisory Committee Members

The Chief of the Regional Programs Coordination Unit shall be responsible for providing and explaining this policy to newly appointed advisory committee members at orientation. This policy will also be provided and explained to advisory committee members with their required yearly ethics training.

3. Conduct

a. General Member Conduct

- Members shall follow all policies and procedures established by the Commission.
- Members shall conduct themselves in a manner consistent with federal ethics laws.
- Members shall treat other committee members, Commissioners, Commission staff, members of the public, and all others involved with the Advisory Committee with courtesy, respect, and professionalism.
- Advisory Committee members shall not engage at any time in conduct that reasonably or objectively would be considered unlawful discrimination of any sort, including discrimination against any person on the basis of race, sex, color, national origin, religion, disability, age, sexual orientation, or gender identity.
- Advisory Committee members shall not engage at any time in sexual harassment or assault.
- Advisory Committee members shall not defame or degrade anyone within the meaning of the Commission's regulations (45 C.F.R. § 702.6) during the course of their official duties.

b. Conduct at Meetings

- Advisory Committee members are expected to attend and participate in Committee meetings.
- Members are expected to show up to meetings on time.
- Members shall inform the Chair, Designated Federal Officer (DFO), and

Support Specialist by email or text if they will be tardy or absent from a meeting.

- Pursuant to Section 9, a SAC member who does not participate in two consecutive advisory committee meetings and fails to respond to three contacts, written or verbal, from the DFO will be deemed to have constructively resigned.
 - Members shall conduct themselves in a professional manner at meetings. For example, advisory committee members should not yell, swear, or engage in name calling.
 - Members shall follow established rules for the Committee as communicated by the Committee Chair and the Designated Federal Officer.
- c. Violations of this Code of Conduct may result in a Member's removal if the conduct significantly adversely impacts the efficiency or effectiveness of the Commission's operations.

4. Disciplinary Process for Inappropriate Conduct Allegations

- a. An advisory committee member or member of the public may report the alleged misconduct of an advisory committee member to a Designated Federal Officer or Chief of the Regional Programs Coordination Unit. Individuals should not submit frivolous allegations of misconduct that have no sound basis in fact or law.
- b. When an advisory committee member or member of the public reports the misconduct of an advisory committee member to a Designated Federal Officer or Chief of the Regional Programs Coordination Unit, the Chief will forward the report to the Staff Director and the General Counsel.
- c. If the Staff Director determines the conduct may significantly and adversely impact the efficiency or effectiveness of the Commission's operations, the Staff Director will contact the advisory committee member and provide the information contained in the report, and ask for a response to the allegations. The advisory committee member will have 30 days to submit a response, unless provided an extension of time by the Staff Director where good cause exists. The Staff Director will compile the report, the response, and any additional documentation to establish a complete the record.
- d. The General Counsel, in consultation with the Chief of the Regional Programs Unit and the Designated Federal Official, will review the record and provide a written recommendation to the Staff Director. The General Counsel's recommendation will contain an analysis of any applicable legal standards including the First Amendment. The General Counsel's recommendation will be included with any recommendation submitted to Commissioners by the Staff Director.
- e. The Staff Director will submit a written recommendation setting forth the

Commented [PM1]: Involved parties need a resolution and timeframes under which they can expect a decision. Consider establishing some set timeframes for the process.

Add timeframes to each touchpoint, i.e. after receiving a report of misconduct, how quickly must the DFO or the Chief forward the report to the GC and the SD? How long after receiving the report must the SD take action? how long does the GC have to draft a recommendation and deliver to the SD?

Also consider establishing a total timeframe under which the entire process would occur.

Commented [SC2]: Is there a time period for reporting the alleged misconduct?

What we learned in the Federal MeToo report (finding 21/page 234) is that both federal employees and private sector employees are provided a time period to report.

Commented [SC3]: Are frivolous allegations the opposite of "conduct that may significantly and adversely impact the efficiency or effectiveness of the Commission's operations," as stated in 4c below?

Commented [PM4]: Also, is there an expectation of confidentiality as the alleged misconduct report makes its way to the Commissioners' closed session discussion? And if so, when is that made clear to the reporting member?

What we learned in the Federal MeToo report (finding 18/page 234) is that retaliation or fear of retaliation is a main reason for not reporting.

Commented [PM5]: There needs to be some type of interim relief in certain misconduct situations. The process should allow the Staff Director, in consultation with the General Counsel, the ability to issue an immediate, temporary suspension of an advisory committee member for certain allegations. This should occur without a vote of the Commission

Consider adding a provision giving the SD the authority to temporarily suspend for alleged threats to physical safety and alleged discrimination/harassment. Allegations of this type ...

Commented [PM6]: It seems like you have established this, "significantly and adversely impact," as the threshold for moving an allegation forward. I interpret this as is if the threshold is met, then the SD contacts the advisory committee member, advises them of the allegation and asks for a response. What is unclear is what happens if the SD determines that the threshold is not met. Does the allegatio ...

Commented [PM7]: The process should also allow for statements from witnesses and other supporting documentation.

Commented [SC8]: What happens if the committee member does not submit a response at all? Would a non-response be the equivalent of a constructive resignation as it is in other situations?
See 3b, bullet 4 above.

reasons for the disciplinary action to Commissioners for determination to remove, suspend, issue a private or public reprimand, and/or retain the advisory committee member. If the recommendation is based on a criminal conviction, the recommendation will include any information regarding any pending appeal. The Staff Director will only recommend removal if:

- The Staff Director has received a report that the advisory committee member has been convicted of a crime, or
- The Staff Director has found that the advisory committee member's conduct threatens the physical safety of other advisory committee members or staff.
- Include language about recommending removal for discrimination and/or harassment.

7. Discipline and Removal by the Commission

- a. Consideration and discussion of conduct by an advisory committee member that may violate this policy shall be considered in closed session in accordance with the Commission's regulations (45 C.F.R. § 702.6).
- b. Commissioners may also take any conduct allegations into account in deciding whether to reappoint an advisory committee member provided the advisory committee member was placed on notice of the conduct allegations and had an opportunity to respond.
- c. A member may be removed, suspended, or otherwise disciplined by a majority vote of Commissioners for violation of this policy.
- d. Nothing in this policy shall be construed as preventing the Commission by majority vote, from removing, suspending, or otherwise disciplining an advisory committee member for other conduct that *reasonably or objectively would be considered as* significantly and adversely impacting the efficiency or effectiveness of the Commission's operations.

Commented [PM9]: This sends the message that USCCR does not take discrimination and harassment seriously and that we do not value our volunteers.

Diminishes the role and authority of the SD as the administrative head of the agency to recommend removal of a committee member.

From: John Mashburn [jmashburn@usccr.gov]
Sent: 1/15/2021 8:51:14 AM
To: Carissa Mulder [carissa.mulder@gmail.com]
Subject: Re: [EXTERNAL] Draft AI 5-7 (regarding removal of SAC members)
Attachments: Revised draft AI 5-9 Pilar and Sheryl Edits 1.11.2021 - jm.docx

I made some tracked edits in the attachment aimed at trying prevent frivolous accusations being unfairly lodged and weaponized against SAC members. Who would want to serve on an SAC if their lives can be ruined with frivolous allegations particularly in the context of Civil Rights?

- 1) General Member Conduct, 4th Bullet: “Advisory Committee members shall not engage at any time in conduct that *reasonably or objectively would be considered* unlawful discrimination of any sort, including discrimination against any person on the basis of race, sex, color, national origin, religion, disability, age, sexual orientation, or gender identity.”
- 2) Disciplinary Process for Inappropriate Conduct Allegations:
 - a. “An advisory committee member or member of the public may report the alleged misconduct of an advisory committee member to a Designated Federal Officer or Chief of the Regional Programs Coordination Unit. Individuals should not submit frivolous allegations of misconduct *that have no sound basis in fact or law.*”
- 3) Discipline and Removal by the Commission:
 - d. Nothing in this policy shall be construed as preventing the Commission by majority vote, from removing, suspending, or otherwise disciplining an advisory committee member for other conduct that *reasonably or objectively would be considered as* significantly and adversely impacting the efficiency or effectiveness of the Commission’s operations.

From: Carissa Mulder <carissa.mulder@gmail.com>
Date: Wednesday, January 13, 2021 at 10:51 AM
To: "Kirsanow, Peter" <pkirsanow@Beneschlaw.com>, Gail Heriot <gheriot@me.com>, stephen gilchrist <thegilchristassociates@gmail.com>, "Christian Adams (adams@electionlawcenter.com)" <adams@electionlawcenter.com>
Cc: Alexander Heideman <aheideman@usccr.gov>, Thomas Simuel <tsimuel@usccr.gov>, John Mashburn <jmashburn@usccr.gov>, Carissa Mulder <CMulder@usccr.gov>, Gail Heriot <gheriot@usccr.gov>, Stephen Gilchrist <sgilchrist@usccr.gov>, Peter Kirsanow <pkirsanow@usccr.gov>, "J. Christian Adams" <jadams@usccr.gov>
Subject: [EXTERNAL] Draft AI 5-7 (regarding removal of SAC members)

CAUTION: This email is from outside USCCR.

I had a meeting with OGC, Rukku, and Irena this morning to discuss draft AI 5-7, which is about implementing a process for adjudicating allegations of misconduct by SAC members. OGC had some useful comments about the need to have benchmarks and timelines in the adjudicatory process. They had some further questions about the role of the staff director and the need to take immediate action in cases where discrimination or harassment are alleged. You can see those concerns in the comments included in the attached draft. Please take a look and let me know what you agree and disagree with, or any other suggestions you have.

I think the overall sticking point is that OGC/the progressives are mostly concerned with a process to remove bad actors, and we are mostly concerned with ensuring the process isn't abused. But that is just my two cents.

--

Carissa B. Mulder

Critical Race Theory Kills MLK's Dream

At the March on Washington in August 1963, Martin Luther King, Jr. set the nation's long-held Civil Rights imperative which most Americans agree with:

"I have a dream that my four little children will one day live in a nation where they will not be judged by the color of their skin but by the content of their character."

For 50 years, Dr. King's color-blind goal for the nation prevailed -- until the recent takeover of the Civil Rights movement by Critical Race Theory (CRT) and its so-called "anti-racism" efforts in academia, government, corporations, and entertainment. King hoped to bring us together as a nation by having us judge one another by the "content of [our] character" instead of being divided by the "color of our skin." CRT explicitly seeks the exact opposite -- to divide and separate us as a nation and as individuals into racial subgroups and thus kill Martin Luther King's dream -- even as CRT's proponents appropriate America's decades-long support for MLK's "color blind" legacy to legitimize their efforts.

As Ibram X. Kendi, one of the chief proponents of CRT, put it in his book "How to Be An Anti-Racist": "If discrimination is creating equity, then it is antiracist. If discrimination is creating inequity, then it is racist... **The only remedy to racist discrimination is antiracist discrimination.** [emphasis added] The only remedy to past discrimination is present discrimination. The only remedy to present discrimination is future discrimination... **The most threatening racist movement is not the alt right's unlikely drive for a White ethnostate but the regular American's drive for a "race-neutral" one.** [emphasis added] The construct of race neutrality actually feeds White nationalist victimhood by positing the notion that any policy protecting or advancing non-White Americans toward equity is "reverse discrimination"... **One either allows racial inequities to persevere, as a racist, or confronts racial inequities, as an anti-racist. There is no in-between safe space of 'not racist.'** [emphasis added]

Therefore, under CRT, it is not enough to not be racist, one must be affirmatively "anti-racist" because all white people are inherently racist oppressors and must therefore affirmatively work to undo their racism via mandatory indoctrination and instruction at the behest of CRT proponents and by becoming an activist in their cause. Ending "racial discrimination" is no longer enough, the goal must be "racial equity" which means achieving equal outcomes -- not equality of opportunity -- such that all racial groups achieve the same outcomes, e.g. the same percentage of homeownership, employment, incarceration, school discipline, health and well-being, etc. If the results are not equal, then government must step in and ensure the results are the same for all races ("equity") via public policy and/or the use of taxpayer funds to favor racial groups suffering the worse outcomes -- or to disadvantage or discriminate against racial groups with better results. In other words, make outcomes equal for all racial groups via Marxist government policy.

In concert with CRT's views, the Smithsonian's National Museum of African American History and Culture launched a "Talking About Race" portal for educators which includes a webpage titled "Whiteness" that says: "Whiteness and the normalization of white racial identity throughout America's history have created a culture where nonwhite persons are seen as inferior or abnormal ... Whiteness (and its accepted normality) also exist as everyday microaggressions toward people of color. Acts of microaggressions include verbal, nonverbal, and environmental slights, snubs or insults toward nonwhites ... If you are white in America, you have benefitted from the color of your skin."

Dr. King and most Americans would be shocked that a color-blind, race-neutral America supposedly reinforces and reproduces racial inequality. The Smithsonian's "Talking About Race" educators webpage links to a Kalamazoo College fact sheet that says exactly that: "... many white people believe that discrimination has been outlawed and equality has been achieved ... Central to this assumption is the belief in a color-blind society... This approach argues that we should simply treat people as human beings, rather than as racialized beings. **While many people naively embrace this view as non-racist, by ignoring the extent to which race still shapes people's life chances and opportunities, even life span, color-blindness actually reinforces and reproduces contemporary racial inequality.**" *[emphasis added]*

To any reasonable and fair-minded adult who reads what CRT and its activists propose, it should be clear that CRT and its so-called "anti-racism" efforts are the antithesis of Dr. King's dream for racial unity – the two ideas cannot coexist together. CRT's central tenet is that everything in society must be promoted or denigrated on the basis of race, and individuals must be judged as oppressors or victims based solely on their skin color. By its very nature, Critical Race Theory kills Martin Luther King's dream of a "color blind" America – where his daughters and all Americans would one day be judged by their merit and character as individuals, and not by the color of their skin.

Critical Race Theory Kills MLK's Dream

At the March on Washington in August 1963, Martin Luther King, Jr. set the nation's long-held Civil Rights imperative which the vast majority of Americans agree with:

"I have a dream that my four little children will one day live in a nation where they will not be judged by the color of their skin but by the content of their character."

For 50 years, Dr. King's color-blind goal for the nation prevailed -- until the recent takeover by the Critical Race Theory (CRT) and its so-called "anti-racism" efforts in academia, government, corporations, and entertainment. King hoped to bring us together as a nation by having us judge one another by the "content of [our] character" instead of being divided by the "color of our skin." CRT explicitly seeks the exact opposite -- to divide and separate us by the "color of [our] skin."

Thus, while Critical Race Theory (CRT) proponents appropriate Martin Luther King, Jr.'s legacy to legitimize their efforts, CRT is what actually kills MLK's "dream" for racial unity based on a "color blind" American future. CRT proponents want a future where America is divided as a nation, and as individuals, into racial subgroups.

As Ibram X. Kendi, one of the chief proponents of CRT, put it in his book "How to Be An Anti-Racist": "If discrimination is creating equity, then it is antiracist. If discrimination is creating inequity, then it is racist... The only remedy to racist discrimination is antiracist discrimination. The only remedy to past discrimination is present discrimination. The only remedy to present discrimination is future discrimination... The most threatening racist movement is not the alt right's unlikely drive for a White ethnostate but the regular American's drive for a "race-neutral" one. [emphasis added] The construct of race neutrality actually feeds White nationalist victimhood by positing the notion that any policy protecting or advancing non-White Americans toward equity is "reverse discrimination"... One either allows racial inequities to persevere, as a racist, or confronts racial inequities, as an anti-racist. There is no in-between safe space of 'not racist.' [emphasis added]

Therefore, under CRT, it is not enough to not be racist, one must be affirmatively "anti-racist" because all white people are inherently racist oppressors and must therefore affirmatively work to undo their racism via mandatory indoctrination and instruction at the behest of CRT proponents and by becoming an activist in their cause. Ending "racial discrimination" is no longer enough, the goal must be "racial equity" which means achieving equal outcomes -- not equality of opportunity -- such that all racial groups achieve the same outcomes, e.g. the same percentage of homeownership, employment, incarceration, school discipline, health and well-being, etc. If the results are not equal, then government must step in and ensure the results are the same for all races ("equity") via public policy and/or the use of taxpayer funds to favor racial groups suffering the worse outcomes -- or to disadvantage or discriminate against racial groups with better results. In other words, make outcomes equal for all racial groups via Marxist government policy.

Until recently, Encyclopedia Britannica's defined Critical Race Theory as the view that "the law and legal institutions are ... used by white people to further their economic and political interests at the expense of people of colour. According to critical race theory (CRT), racial inequality emerges from the social, economic, and legal differences that white people create between "races" to maintain elite white interests in labour markets and politics, giving rise to poverty and criminality in many minority communities."

With that idea in mind, the Biden administration reversed Trump's Executive Order prohibiting federal agencies and contractors from forcefully indoctrinating their employees with CRT precepts such as "systemic racism;" providing enhanced grants to school districts that incorporate CRT and "anti-racism" doctrine into their curriculum; officially prioritized minority applicants and discriminated against white applicants for COVID business grants from the SBA and COVID debt forgiveness for minority farmers but not white farmers from the Ag Department. Critical Race Theory has also been the basis for many colleges to racially segregate their graduation ceremonies, and students themselves on campus into segregated safe spaces and dormitories, in extracurricular activities, and even classroom attendance. California's Department of Education recently approved a statewide model curriculum to be imposed -- on almost 6 million K-12 children in its schools -- that incorporates CRT indoctrination that the U.S is a racist nation amid other CRT tenets. California and Oregon's Ed Departments are telling teachers that requiring math students to show their work and an emphasis on one correct answer is racist. The Arizona Ed Department provided teachers a toolkit that says babies as young as 3 months old show the first signs of racism since they look more at faces matching the race of their caregivers -- so kids are never too young to be indoctrinated about white racism. Such overt racial segregation and discrimination is exactly what MLK and the Civil Rights movement fought against in the 1960s to the early 2000s to bring about racial equality, but the left is now bringing such segregation back to foment racial division in America.

In concert with CRT's views, and in the immediate wake of George Floyd's death, the Smithsonian's National Museum of African American History and Culture in June 2020 launched its "Talking About Race" portal for educators and others. Its webpage titled "Whiteness," included statements that "Whiteness and the normalization of white racial identity throughout America's history have created a culture where nonwhite persons are seen as inferior or abnormal ... Whiteness (and its accepted normality) also exist as everyday microaggressions toward people of color. Acts of microaggressions include verbal, nonverbal, and environmental slights, snubs or insults toward nonwhites ... If you are white in America, you have benefitted from the color of your skin." The webpage included a chart titled "Aspects and Assumptions of Whiteness & White Culture in the United States" which listed attributes and assumptions it asserted are part of "Whiteness & White Culture" including:

- Rugged Individualism -- such as valuing individual independence and autonomy
- The Nuclear Family -- with a mother and father as the ideal social unit, and children having their own rooms
- Reliance on Scientific Methods -- such as objective rational linear thinking.,
- Focus on British, European, Greek Roman history and Judeo-Christian tradition.
- The Protestant Work Ethic -- such as hard work being the key to success and work before play.
- The Judeo-Christian tradition and belief in a single god.
- Respect for Authority -- your job is who you are, that wealth equals worth, and heavily valuing ownership of goods, space, and property.
- Planning for the Future -- delaying gratification, following rigid time schedules, viewing time as a commodity.
- Basing Justice on English Common Law -- protecting property and entitlements, and intent [of a perpetrator] counting.
- Being Competitive -- Be #1, Win at all costs, Action Orientation, must always do something about a situation, decision making, aggressiveness and extroversion, majority view should rule.

- Communication Based on “King’s English” – written tradition, being polite, not showing emotion, avoiding conflict and intimacy, not discussing personal life.

The Smithsonian Museum quickly deleted the chart after backlash that it was unfair and even condescending to black people because what most people of all races considered positive attributes is ascribed only to white people and “Whiteness.” As even Newsweek put it: “In Smithsonian Race Guidelines, Rational Thinking and Hard Work are White Values.” But while the Museum removed the chart itself, it did not delete the many other comments denigrating “Whiteness” and white people and those comments remain on the site. The website frequently links to materials by Ibram X. Kendi and Robin DiAngelo the author of “White Fragility, as well as other prominent proponents of Critical Race Theory and so-called “anti-racism” who insist that all Americans must be actively, and if necessary, involuntarily indoctrinated in CRT and “anti-racist” theory.

Dr. King and most Americans would be shocked that the Smithsonian supports the view that his “dream” of a color-blind, race-neutral America actually reinforces and reproduces racial inequality. But that is exactly what a fact sheet from Kalamazoo College declares (that the Smithsonian’s National African American Museum links to on its website for educators): “... many white people believe that discrimination has been outlawed and equality has been achieved ... Central to this assumption is the belief in a color-blind society... This approach argues that we should simply treat people as human beings, rather than as racialized beings. **While many people naively embrace this view as non-racist, by ignoring the extent to which race still shapes people’s life chances and opportunities, even life span, color-blindness actually reinforces and reproduces contemporary racial inequality.**” *[emphasis added]*

To their dismay and horror, parents all over the country in red states and blue are suddenly discovering that CRT’s tenets have, or are being, incorporated into their children’s classrooms. How does that affect America’s children day-to-day educational experience? A good example is Andrew Gutmann’s letter last month to other parents at his 4th grade daughter’s \$40,000 a year Brearley private school in New York City to explain why he was withdrawing his daughter after the school infused all of its curriculum with Critical Race Theory. He said that the obsession with race at the school meant that his daughter could not receive an education that would develop her into a “critically thinking, responsible, enlightened and civic minded adult.” He then went on to list his objections to such indoctrination that many parents of all races would likely agree with:

- *to the view that I should be judged by the color of my skin. I cannot tolerate a school that not only judges my daughter by the color of her skin, but encourages and instructs her to prejudge others by theirs. By viewing every element of education, every aspect of history, and every facet of society through the lens of skin color and race, we are desecrating the legacy of Dr. Martin Luther King Jr., and utterly violating the movement for which such civil rights leaders believed, fought, and died.*
- *to the charge of systemic racism in this country, and at our school. Systemic racism, properly understood, is segregated schools and separate lunch counters. It is the interning of Japanese and the exterminating of Jews. Systemic racism is unequivocally not a small number of isolated incidences over a period of decades.*
- *to a definition of systemic racism, apparently supported by Brearley, that any educational, professional, or societal outcome where Blacks are underrepresented is prima facie evidence of the aforementioned systemic racism, or of white supremacy and oppression.*

- *I object to the idea that Blacks are unable to succeed in this country without aid from government or from whites. Brearley, by adopting critical race theory, is advocating the abhorrent viewpoint that Blacks should forever be regarded as helpless victims, and are incapable of success regardless of their skills, talents, or hard work.*
- *I object to mandatory anti-racism training for parents.*
- *to Brearley's vacuous, inappropriate, and fanatical use of words such as "equity," "diversity" and "inclusiveness." If Brearley's administration was truly concerned about so-called "equity," it would be discussing the cessation of admissions preferences for legacies, siblings, and those families with especially deep pockets.*
- *If the administration was genuinely serious about "diversity," it would not insist on the indoctrination of its students, and their families, to a single mindset, most reminiscent of the Chinese Cultural Revolution. Instead, the school would foster an environment of intellectual openness and freedom of thought.*
- *if Brearley really cared about "inclusiveness," the school would return to the concepts encapsulated in the motto "One Brearley," instead of teaching the extraordinarily divisive idea that there are only, and always, two groups in this country: victims and oppressors.*
- *to Brearley's advocacy for groups and movements such as Black Lives Matter, a Marxist, anti family, heterophobic, anti-Asian and anti-Semitic organization that neither speaks for the majority of the Black community in this country, nor in any way, shape or form, represents their best interests.*
- *to the gutting of the history, civics, and classical literature curriculums. I object to the censorship of books that have been taught for generations because they contain dated language potentially offensive to the thin-skinned and hypersensitive (something that has already happened in my daughter's 4th grade class).*
- *to the lowering of standards for the admission of students and for the hiring of teachers. I object to the erosion of rigor in classwork and the escalation of grade inflation. Any parent with eyes open can foresee these inevitabilities should antiracism initiatives be allowed to persist.*
- *Our nation will not survive a generation of leadership even more poorly educated than we have now, nor will we survive a generation of students taught to hate its own country and despise its history.*
- *with as strong a sentiment as possible, that Brearley has begun to teach what to think, instead of how to think.*
- *that the school is now fostering an environment where our daughters, and our daughters' teachers, are afraid to speak their minds in class for fear of "consequences."*
- *that Brearley is trying to usurp the role of parents in teaching morality, and bullying parents to adopt that false morality at home.*
- *that Brearley is fostering a divisive community where families of different races, which until recently were part of the same community, are now segregated into two.*

The ever-evolving standard for what actions, words, or beliefs are supposedly "racist" make it impossible for students, teachers, administrators, public and private employees, elected officials and even members of the legal profession to know what words or actions will cause them to be canceled on

social media, and their personal information, home addresses, and employers doxed and publicly revealed so they can be protested in front of their homes, fired by their employers, or assaulted by CRT mobs on the streets or on campus. However, what is clear to everyone is that any resistance by anyone of any race or group, spoken or not, to this new “racist” dictatorship in the schools, at work, and in government offices makes them instant targets for such abuse and condemnation despite our Constitutional Rights to free speech and equal treatment under the law regardless of race, creed or national origin.

Every American is now one act or one tweet away from the type of “high tech lynching” that Supreme Court Justice Clarence Thomas endured during his confirmation hearings in 1991 based on accusations that the left and his accusers could not prove, but he was expected to disprove them. What happened to him is eerily similar to what every American 30 years later faces from false and twisted claims of racism and “White Supremacy” lobbed by the CRT mobs on campus and in the classroom at public and private schools and universities, at mandatory “anti-racism” indoctrination seminars many citizens are being forced to attend by federal, state and local governments and even private sector employers, or in the public square. As Justice Thomas stated in 1991:

“How would any member on this committee, any person in this room, or any person in this country, would like sleaze said about him or her in this fashion? Or this dirt dredged up and this gossip and these lies displayed in this manner? How would any person like it?

The Supreme Court is not worth it. No job is worth it. I am not here for that. I am here for my name, my family, my life, and my integrity. I think something is dreadfully wrong with this country when any person, any person in this free country would be subjected to this...

And from my standpoint as a black American, as far as I'm concerned, it is a high-tech lynching for uppity blacks who in any way deign to think for themselves, to do for themselves, to have different ideas, and it is a message that unless you kowtow to an old order, this is what will happen to you. You will be lynched, destroyed, caricatured by a committee of the U.S. -- U.S. Senate, rather than hung from a tree.” [*emphasis added*]

To any reasonable, objective and fair-minded adult who actually reads what CRT and its activists propose, it should be clear that CRT and its so-called “anti-racism” efforts are the exact antithesis of Dr. King’s dream for racial unity – the two ideas cannot coexist together. CRT’s central tenet is that everything in society, including individuals, must be promoted or denigrated on the basis of race instead of individual action or merit. Therefore, in order to prevail, Critical Race Theory must kill Martin Luther King’s dream of a “color blind” America – where his four daughters and all Americans would one day be judged by their merit and character as individuals, not by the color of their skin.

From: John Mashburn [jmashburn@usccr.gov]
Sent: 11/11/2021 3:42:34 PM
To: John Mashburn [jkmash@comcast.net]
Subject: FW: Opeds
Attachments: Critical Race Theory Cancels MLK-4.docx; Critical Race Theory Cancels MLK-7.docx

From: John Mashburn <jmashburn@usccr.gov>
Date: Thursday, May 27, 2021 at 12:20 PM
Subject: Opeds



October 12, 2021

The Honorable Merrick B. Garland
Attorney General of the United States
950 Pennsylvania Avenue NW
Washington, DC 20530

Dear Mr. Attorney General:

We write as _____ members of the eight-member U.S. Commission on Civil Rights, and not on behalf of the Commission as a whole. We write to express our concerns regarding a recent memorandum issued by your office.¹

On October 4, you directed the Department “to meet in the next 30 days with federal, state, Tribal, territorial and local law enforcement leaders to discuss strategies for addressing this disturbing trend” of “an increase in harassment, intimidation and threats of violence against school board members.”² The Department has indicated that it will “create specialized training and guidance for local school boards and school administrators. This training will help school board members and other potential victims understand the type of behavior that constitutes threats, how to report threatening conduct to the appropriate law enforcement agencies, and how to capture and preserve evidence of threatening conduct to aid in the investigation and prosecution of these crimes.”³ Your memorandum echoes claims made by the National School Boards Association (NSBA) in a September 29 letter addressed to President Biden in which the NSBA asks “for federal law enforcement and other assistance to deal with the growing number of threats of violence and acts of intimidation occurring across the nation.”⁴ The NSBA noted that these “acts of intimidation” “could be the equivalent to a form of domestic terrorism and hate crimes.”⁵

Your memorandum did not cite any specific examples of “harassment, intimidation and threats of violence” that would provide any basis for law enforcement action by the Department. We are concerned that much of what the NSBA calls threats and acts of intimidation—and compares to “domestic terrorism and hate crimes”—can be merely classified as political speech. For example, a parent concerned with a local schoolboard’s policy may portend an electoral challenge against an incumbent schoolboard member. Such a challenge would be well within the parent’s First

¹ Memorandum from Merrick B. Garland, Att’y Gen. of the United States (Oct. 4, 2021) (available at <https://www.justice.gov/ag/page/file/1438986/download>).

² *Id.*

³ Press Release, Off. of Pub. Aff., Dep’t of Just. (Oct. 4, 2021) (available at <https://www.justice.gov/opa/pr/justice-department-addresses-violent-threats-against-school-officials-and-teachers>).

⁴ Letter from Viola M. Garcia, President, Nat’l Sch. Boards Ass’n, to Joseph R. Biden, President of the United States (Sept. 29, 2021) (available at <https://nsba.org/-/media/NSBA/File/nsba-letter-to-president-biden-concerning-threats-to-public-schools-and-school-board-members-92921.pdf>).

⁵ *Id.*



Amendment rights and well without the Department’s purview as a federal law enforcement agency.⁶

We have combed the internet for signs that parents petitioning school boards are anything approaching a national problem. Nearly all of what we have seen so far makes us proud to be Americans: Parents care about the education of their children, and they are not willing to allow them to be indoctrinated into a radical ideology.⁷ It is always possible that a few of these parents have gotten out of hand and made threats that they should not have. If so, law enforcement is entirely appropriate. But is there evidence that state and local law enforcement is not up to the job? Why is federal intervention needed here and not in the thousands of other unrelated cases of overheated exchanges that occur regularly across the country? Why does this case call for federal intervention? Is it surprising to you that concerned parents across the country view your memorandum as an endorsement of the NSBA’s description of their protests as comparable to “domestic terrorism”?

We now ask you to provide us with specific examples of “harassment, intimidation and threats of violence” that you purport allow for law enforcement action and an explanation of why this is a situation that calls for federal intervention in particular.

We look forward to your timely response.

Most respectfully,

⁶ The U.S. Supreme Court has declared that “the First Amendment ‘has its fullest and most urgent application’ to speech uttered during a campaign for political office.” *Eu v. San Francisco Cty. Democratic Cent. Comm.*, 489 U.S. 214, 223 (1989) (quoting *Monitor Patriot Co. v. Roy*, 401 U.S. 265, 272 (1971)). Furthermore, the Court has noted that “[w]hatever differences may exist about interpretations of the First Amendment, there is practically universal agreement that a major purpose of that Amendment was to protect the free discussion of governmental affairs. This of course includes discussions of candidates, structures and forms of government, the manner in which government is operated or should be operated, and all such matters relating to political processes.” *Mills v. Alabama*, 384 U.S. 214, 218–19 (1966).

⁷ Is their understanding of the law as it applies to education issues always correct? No—most of these parents are not lawyers. But they often display more common sense than many lawyers (or for that matter, many schoolboard members).



October 12, 2021

The Honorable Merrick B. Garland
Attorney General of the United States
950 Pennsylvania Avenue NW
Washington, DC 20530

Dear Mr. Attorney General:

We write as _____ members of the eight-member U.S. Commission on Civil Rights, and not on behalf of the Commission as a whole. We write to express our concerns regarding a recent memorandum issued by your office.¹

On October 4, you directed the Department “to meet in the next 30 days with federal, state, Tribal, territorial and local law enforcement leaders to discuss strategies for addressing this disturbing trend” of “an increase in harassment, intimidation and threats of violence against school board members.”² The Department has indicated that it will “create specialized training and guidance for local school boards and school administrators. This training will help school board members and other potential victims understand the type of behavior that constitutes threats, how to report threatening conduct to the appropriate law enforcement agencies, and how to capture and preserve evidence of threatening conduct to aid in the investigation and prosecution of these crimes.”³ Your memorandum echoes claims made by the National School Boards Association (NSBA) in a September 29 letter addressed to President Biden in which the NSBA asks “for federal law enforcement and other assistance to deal with the growing number of threats of violence and acts of intimidation occurring across the nation.”⁴ The NSBA noted that these “acts of intimidation” “could be the equivalent to a form of domestic terrorism and hate crimes.”⁵

Your memorandum did not cite any specific examples of “harassment, intimidation and threats of violence” that would provide any basis for law enforcement action by the Department. We are concerned that much of what the NSBA calls threats and acts of intimidation—and compares to “domestic terrorism and hate crimes”—can be merely classified as political speech. For example,

¹ Memorandum from Merrick B. Garland, Att’y Gen. of the United States (Oct. 4, 2021) (available at [[HYPERLINK "https://www.justice.gov/ag/page/file/1438986/download" \]](https://www.justice.gov/ag/page/file/1438986/download)).

² *Id.*

³ Press Release, Off. of Pub. Aff., Dep’t of Just. (Oct. 4, 2021) (available at [[HYPERLINK "https://www.justice.gov/opa/pr/justice-department-addresses-violent-threats-against-school-officials-and-teachers" \]](https://www.justice.gov/opa/pr/justice-department-addresses-violent-threats-against-school-officials-and-teachers)).

⁴ Letter from Viola M. Garcia, President, Nat’l Sch. Boards Ass’n, to Joseph R. Biden, President of the United States (Sept. 29, 2021) (available at [[HYPERLINK "https://nsba.org/-/media/NSBA/File/nsba-letter-to-president-biden-concerning-threats-to-public-schools-and-school-board-members-92921.pdf" \]](https://nsba.org/-/media/NSBA/File/nsba-letter-to-president-biden-concerning-threats-to-public-schools-and-school-board-members-92921.pdf)).

⁵ *Id.*



a parent concerned with a local schoolboard's policy may portend an electoral challenge against an incumbent schoolboard member. Such a challenge would be well within the parent's First Amendment rights and well without the Department's purview as a federal law enforcement agency.⁶

We have combed the internet for signs that parents petitioning school boards are anything approaching a national problem. Nearly all of what we have seen so far makes us proud to be Americans: Parents care about the education of their children, and they are not willing to allow them to be indoctrinated into a radical ideology.⁷ It is always possible that a few of these parents have gotten out of hand and made threats that they should not have. If so, law enforcement is entirely appropriate. But is there evidence that state and local law enforcement is not up to the job? Why is federal intervention needed here and not in the thousands of other unrelated cases of overheated exchanges that occur regularly across the country? Why does this case call for federal intervention? Is it surprising to you that concerned parents across the country view your memorandum as an endorsement of the NSBA's description of their protests as comparable to "domestic terrorism"?

We now ask you to provide us with specific examples of "harassment, intimidation and threats of violence" that you purport allow for law enforcement action and an explanation of why this is a situation that calls for federal intervention in particular.

We look forward to your timely response.

Most respectfully,

⁶ The U.S. Supreme Court has declared that "the First Amendment 'has its fullest and most urgent application' to speech uttered during a campaign for political office." *Eu v. San Francisco Cty. Democratic Cent. Comm.*, 489 U.S. 214, 223 (1989) (quoting *Monitor Patriot Co. v. Roy*, 401 U.S. 265, 272 (1971)). Furthermore, the Court has noted that "[w]hatever differences may exist about interpretations of the First Amendment, there is practically universal agreement that a major purpose of that Amendment was to protect the free discussion of governmental affairs. This of course includes discussions of candidates, structures and forms of government, the manner in which government is operated or should be operated, and all such matters relating to political processes." *Mills v. Alabama*, 384 U.S. 214, 218-19 (1966).

⁷ Is their understanding of the law as it applies to education issues always correct? No—most of these parents are not lawyers. But they often display more common sense than many lawyers (or for that matter, many schoolboard members).

From: John Mashburn [jmashburn@usccr.gov]
Sent: 11/11/2021 3:42:11 PM
To: John Mashburn [jkmash@comcast.net]
Subject: FW: Draft Letter to AG Garland
Attachments: DOJLetter4.pdf; DOJLetter4.docx

This was the draft of the letter, no changes were

From: John Mashburn [jmashburn@usccr.gov]
Sent: 11/24/2020 12:00:09 PM
To: Christian Adams [a@electionlawcenter.com]
Subject: Re: [EXTERNAL] RE: Fw: SAC Slate for CA

I will touch base with her this evening again. Just FYI she also Expressed reservations because she is mostly in DC now and not California and was wondering about the logistics. Just so you know.

From: Christian Adams <a@electionlawcenter.com>
Sent: Tuesday, November 24, 2020 2:50:43 PM
To: John Mashburn
Subject: [EXTERNAL] RE: Fw: SAC Slate for CA

CAUTION: This email is from outside USCCR.

Incredible.

----- Original message -----

From: John Mashburn <jmashburn@usccr.gov>
Date: 11/24/20 2:48 PM (GMT-05:00)
To: Christian Adams <a@electionlawcenter.com>
Subject: Fw: SAC Slate for CA

Just FYI — Mauro sent me this email today at 1 pm and said Star had not submitted her application yet. Clearly they have agreed to put Star on and add an additional Democrat - if Star submits her application by COB tomorrow, in time for the California slate to be approved at the December 4 business meeting.

I called Star who said she had not submitted it because she was debating whether to do this or do the 1776 commission which she has been nominated for as well.

I told her she could do both but she needed to get the SAC application in by close of business tomorrow. She agreed, but said since she was on annual leave at present so she would ask her assistant to submit the application for her.

I asked her to have her assistant call me, which the assistant has not done yet so I am not sure if the asst is doing it or not.

Thought you should have a heads up.

From: John Mashburn
Sent: Tuesday, November 24, 2020 2:35:47 PM
To: Mauro Morales
Cc: David Mussatt; Rukku Singla
Subject: Re: SAC Slate for CA

I talked to her and says she is going to get it in by COB tomorrow.

From: Mauro Morales
Sent: Tuesday, November 24, 2020 1:09:59 PM

To: John Mashburn
Cc: David Mussatt; Rukku Singla
Subject: RE: SAC Slate for CA

John,

As of today's date, Starr Parker has not submitted an application. If you still intend to have her on the slate in time for us to add a Democrat please have her do so by COB tomorrow. We are running out of time and otherwise would have to pull the CA slate from consideration. I have included David and Rukku to assist if needed.

Mauro

From: John Mashburn <jmashburn@usccr.gov>
Sent: Wednesday, November 18, 2020 11:00 AM
To: Mauro Morales <mmorales@usccr.gov>
Subject: SAC Slate for CA

Mauro – Cmnr Adams would like Starr Parker (bio attached) added to the Republican slate for the California SAC in order to be able to support the slate. She is filling out the online application now, but I thought I should give you a heads up since another Democrat would have to be added to the slate as well to keep it even.

From: John Mashburn [jmashburn@usccr.gov]
Sent: 1/13/2021 8:16:21 AM
To: Christian Adams [adams@electionlawcenter.com]
Subject: Re: [EXTERNAL] Draft AI 5-7 (regarding removal of SAC members)

Will do and will discuss with Carissa personally.

From: Christian Adams <adams@electionlawcenter.com>
Date: Wednesday, January 13, 2021 at 11:14 AM
To: John Mashburn <jmashburn@usccr.gov>
Subject: RE: [EXTERNAL] Draft AI 5-7 (regarding removal of SAC members)

CAUTION: This email is from outside USCCR.

From: John Mashburn <jmashburn@usccr.gov>
Sent: Wednesday, January 13, 2021 11:03 AM
To: Carissa Mulder <carissa.mulder@gmail.com>; Kirsanow, Peter <pkirsanow@beneschlaw.com>; Gail Heriot <gheriot@me.com>; stephen gilchrist <thegilchristassociates@gmail.com>; Christian Adams (adams@electionlawcenter.com) <adams@electionlawcenter.com>
Cc: Alexander Heideman <aheideman@usccr.gov>; Thomas Simuel <tsimuel@usccr.gov>; Carissa Mulder <CMulder@usccr.gov>; Gail Heriot <gheriot@usccr.gov>; Stephen Gilchrist <sgilchrist@usccr.gov>; Peter Kirsanow <pkirsanow@usccr.gov>; J. Christian Adams <jadams@usccr.gov>
Subject: Re: [EXTERNAL] Draft AI 5-7 (regarding removal of SAC members)

In the current climate, it is very important that any process cannot be abused in order to target folks for their political views and public policy positions -- as opposed to any actual personal misconduct on their part.

From: Carissa Mulder <carissa.mulder@gmail.com>
Date: Wednesday, January 13, 2021 at 10:51 AM
To: "Kirsanow, Peter" <pkirsanow@beneschlaw.com>, Gail Heriot <gheriot@me.com>, stephen gilchrist <thegilchristassociates@gmail.com>, "Christian Adams (adams@electionlawcenter.com)" <adams@electionlawcenter.com>
Cc: Alexander Heideman <aheideman@usccr.gov>, Thomas Simuel <tsimuel@usccr.gov>, John Mashburn <jmashburn@usccr.gov>, Carissa Mulder <CMulder@usccr.gov>, Gail Heriot <gheriot@usccr.gov>, Stephen Gilchrist <sgilchrist@usccr.gov>, Peter Kirsanow <pkirsanow@usccr.gov>, "J. Christian Adams" <jadams@usccr.gov>
Subject: [EXTERNAL] Draft AI 5-7 (regarding removal of SAC members)

CAUTION: This email is from outside USCCR.

I had a meeting with OGC, Rukku, and Irena this morning to discuss draft AI 5-7, which is about implementing a process for adjudicating allegations of misconduct by SAC members. OGC had some useful comments about the need to have benchmarks and timelines in the adjudicatory process. They had some further questions about the role of the staff

director and the need to take immediate action in cases where discrimination or harassment are alleged. You can see those concerns in the comments included in the attached draft. Please take a look and let me know what you agree and disagree with, or any other suggestions you have.

I think the overall sticking point is that OGC/the progressives are mostly concerned with a process to remove bad actors, and we are mostly concerned with ensuring the process isn't abused. But that is just my two cents.

--

Carissa B. Mulder

From: John Mashburn [jmashburn@usccr.gov]
Sent: 11/19/2021 10:37:32 AM
To: Kirsanow, Peter [pkirsanow@Beneschlaw.com]
Subject: FW: CNN article

From: Alexander Heideman <aheideman@usccr.gov>
Date: Thursday, November 18, 2021 at 12:47 PM
To: Carissa Mulder <CMulder@usccr.gov>, John Mashburn <jmashburn@usccr.gov>, Thomas Simuel <tsimuel@usccr.gov>
Subject: CNN article

Here it is, for those who haven't seen it: <https://www.cnn.com/2021/11/18/politics/cleta-mitchell-election-assistance-commission-advisor/index.html>

Panel 1:

Name: Rep. Jenniffer González-Colón

Title: U.S. Congresswoman

Affiliation: House of Representatives

Rep. Jenniffer González-Colón was chosen because she represents Puerto Rico in Congress. She can provide congressional insight to various matters relating to Hurricane Maria and PR.

Name: Rep. Alexandria Ocasio-Cortez

Title: U.S. Congresswoman

Affiliation: House of Representatives

Rep. Alexandria Ocasio-Cortez was chosen because of her close connection with Puerto Rico. She can provide congressional insight to various matters relating to Hurricane Maria and PR.

Name: Pedro Pierluisi

Title: Governor

Affiliation: Governor of Puerto Rico

Gov. Pierluisi was chosen because he is the executive head of Puerto Rico. He can provide governmental insight to various matters relating to Hurricane Maria and PR.

Name: Elaine Duke

Title: Former Acting Secretary of DHS

Affiliation: Department Homeland Security

Ms. Duke was selected because of her involvement with FEMA during Hurricane Maria as Acting Secretary of Homeland Security.

Name: Manuel A. Laboy Rivera

Title: Executive Director

Affiliation: Central Office of Recovery, Reconstruction, and Resiliency (COR3)

Mr. Rivera was selected because of his collaboration with FEMA in recovery, reconstruction, and resilience efforts of the island following Maria. In 2019, COR3 took over the responsibility to review and approve federal funds from FEMA.

Name: Maricarmen Rivera Castro

Title: Administrator, Disaster Funding Management Office

Affiliation: Puerto Rico Electric Power Authority (PREPA)

Ms. Rivera Castro was selected because of her involvement disaster relief and recovery regarding Puerto Rico's energy and electrical grid. She is familiar with state and local infrastructure and utility policy and post-disaster actions.

Panel 2:

Name: Ariadna Michelle Godreau-Aubert

Title: Executive Director

Affiliation: Ayuda Legal Puerto Rico

Ms. Godreau-Aubert was chosen due to her non-profit's work on providing legal aid and support to survivors of Hurricane Maria and their ongoing work on recovery and rebuilding efforts.

Name: Charlotte Gossett Navarro

Title: Senior Director, Puerto Rico Operations

Affiliation: Hispanic Federation (Unidos)

Ms. Navarro was selected because of her organization's work with survivors of Hurricane Maria and their collaboration with local organizations, individuals, businesses, and foundations in the ongoing rebuilding efforts. Ms. Navarro has a broad range of expertise from environmental issues to governmental affairs.

Name: Carla Minet

Title: Executive Director

Affiliation: Centro de Periodismo Investigativo (Center for Investigative Journalism)

Ms. Minet was selected due to her work on reporting on issues facing survivors in Puerto Rico directly after the hurricane in 2017.

Name: Sergio Marxuach

Title: Policy Director & General Counsel

Affiliation: Centro para la Nueva Economía

Selected due to independent nonpartisan advocacy relating to reconstruction and recovery, housing, economic development, and other policies.

Name: Jose Oquendo Cruz

Title: President & CEO

Affiliation: Programa de Educación Comunal de Entrega y Servicio (PECES)

Selected because of his organization's work to promote the educational, economic, and social development of southeastern Puerto Rico. Mr. Cruz will be able to provide a perspective about the recovery efforts outside of the San Juan experience.

Name: Dr. Adi Martínez-Román

Title: Director of Operations

Affiliation: UPR Resiliency Law Center

Selected because her Center was established after Maria to ensure that disaster recovery and rebuilding efforts were fair and equitable. The Center focuses on three major components: capacity building, advocacy center, and legal services.

From: John Mashburn [jmashburn@usccr.gov]
Sent: 11/11/2021 3:39:57 PM
To: John Mashburn [jkmash@comcast.net]
Subject: FW: list of PR panelists
Attachments: FEMA Puerto Rico Site Panelists Round 1.xlsx.docx

From: Marik Xavier-Brier <mxavierbrier@usccr.gov>
Date: Thursday, October 28, 2021 at 10:55 AM
To: Commissioners <Commissioners@usccr.gov>, "CommissionerAssistants@usccr.gov" <CommissionerAssistants@usccr.gov>
Cc: Mauro Morales <mmorales@usccr.gov>, Gerald Fosten <gfosten@usccr.gov>
Subject: list of PR panelists

Good morning Commissioners,

Please find the attached document that provides a list of the "first-round" panelists picks for the PR briefing. The document provides the panelists' names, titles and organizations, and a short description on why they were selected. We have taken into account all the recommendations that were received and OCRE feels that these speakers will provide insight on the significant issues facing Puerto Rico before, during, and after Maria and will also be able to provide a balance of perspectives. We look forward to another successful briefing and will keep everyone updated on the status of these invitations. Let me know if you have any questions or concerns.

Best,
Marik

Marik Xavier-Brier, Ph.D. (he/him/his)
Director, Office of Civil Rights Evaluation
U.S. Commission on Civil Rights
mxavierbrier@usccr.gov<mailto:mxavierbrier@usccr.gov>





Panel 1:

Tricia L. Wachtendorf -- Director of the Disaster Research Center University of Delaware

Wachtendorf was chosen due to her subject matter knowledge regarding government budgeting, appropriations, and disbursements of funds for natural disasters. She is also knowledgeable on issues and challenges facing vulnerable populations and social vulnerability regarding emergency disasters.

No Testimony

Francisco Sanchez -- President - [[HYPERLINK "https://www.emat-tx.org/page-1075341"](https://www.emat-tx.org/page-1075341)]; liaison and public information officer for the Harris County Office of Homeland Security & Emergency Management (HCOHSEM).

Mr. Sanchez was chosen because of his government and interagency experience working with emergency disasters expertise and creating dialogue on the topic.

Testimony:

Early on Mr. Sanchez states that: “At all levels of government, plans and solutions for recovery were at best inadequate.” However, he then says: “With a dearth of innovation at the state and federal level, it was clear that we [on the local level] had to act.”

He then makes the following comments:

“The issues we find are almost always systemic – codified by legislation or agency procedure – and not reflective of the desire to assist others.”

“Any conversation of recovery in Texas has to begin by recognizing that federal aid available does not provide residents the ability to return to their pre-disaster level of subsistence.”

“FEMA assistance by design, does not provide enough money to completely repair a house. Assistance is designed to bring your home to a livable condition. Often this means that a survivor’s kitchen, one bathroom, and one bedroom are made livable again. Any other damage to the house is the homeowner’s responsibility.”

“A survivor can receive \$35,500 for housing assistance and \$35,500 for ONA, for a total of \$70,000. These are 2 separate pots of money – and only \$35,000 is available for repairing a house.” Does this mean that a survivor can only get a maximum of \$35K in federal assistance to repair their house – whether it is a \$100,000 home or a \$500,000 home?

“[M]any impacted communities are at greater risk to experience additional disasters and experience greater impacts from climate change due to racist housing and community development policies that have pushed vulnerable populations into riskier areas.”

“Additionally, the lack of diverse assistance options for renters often impacts some of the most vulnerable members of the community. FEMA should consider more assistance programs to benefit renters and effort should be made to review systemic barriers that adversely affect the renter population.”

“... understanding the application and aid approval processes ... is difficult to understand and, frankly, discouraging. The process needs to be simple, transparent, and completely trackable so that residents understand the qualifications, the process, and their status in that system. More than that, a single aid portal that automatically initiates consideration for all available aid from FEMA, SBA and the Department of Housing and Urban Development would make the application experience less stressful, and less repetitive, for users.”

“Based on recent data, reports and survivors' direct input, FEMA's Individual Assistance determinations and amount of assistance have demonstrated bias against people of color and disproportionately benefit white survivors over black survivors after disasters. People of color are more likely to be denied, face issues getting their application approved, and receive lower amounts of assistance.”

“The [FEMA] application states that information may be shared with other federal agencies, including Immigration and Customs Enforcement. Several of our non-profit partners reports a “freezing” effect of this language on applications. Survivors are not applying for FEMA, even if they have U.S. citizen children, for fear they will be turned into Immigration.”

“The Paycheck Protection Program (PPP) developed as part of the nation's response to COVID-19 is an excellent example of how government can partner with small businesses [after disasters.]”

Veronica Chapa Gorczynski -- President, East End District, geographic area serving approximately 16 square miles between Downtown and Port Houston.

Ms. Gorczynski's experience as former Deputy Director of the Housing & Community Development Department to assist in an organizational turnaround and deploy almost half a billion dollars of federal investment in community efforts throughout Houston. She can also speak to how funds are distributed and inequities in recovery efforts.

Testimony:

Most of her testimony recounts her experience surviving and recovering from the Harvey. However, we make some observations and suggestions:

“After a decade in government, working on recovery initiatives, I regret that we have not found better delivery solutions because those with the least resources are the most impacted, because a low-income family’s wealth is often washed away by the storm.”

“The question today is how do we create an equitable distribution of funds from FEMA into communities after a disaster?”

“First, consider a reframe of the delivery system through a poverty framework. The members of the community that need the most help probably had the fewest choices or resources to prepare for the storm.”

“Second, strive for a “housing-first” model. With an increasing number of storm events with costs at over a billion dollars, we should consider planning for the percentage of the population who will not return to their homes. We need real-time, accurate data of where housing is available and a process to access those housing units. We need to consider long-term solutions for special populations including citizens with disabilities and the elderly. We need to determine a way to provide rent, security deposits, and utility deposits earlier to help families start their recovery more quickly. Finally, we need to work with landlords on releasing families out of their leases, if the unit is not safe and sanitary; and pay landlords more quickly for those units that are ready to accept families.”

“Third, we need more partners who are authorized to work directly with FEMA and HUD. As we focus on the process of government, we create barriers for partners to join the recovery effort.”

Brittany Perrigue Gomez -- Attorney and Counselor at Law; Equal Justice Works - Texas Rio Grande Legal Aid

Ms. Perrigue-Gomez has experience in dealing with federal agencies and representing victims of natural disasters.

Testimony:

In one section she alludes to FEMA’s requirement to prove Home Ownership to receive housing disaster relief, with a focus on the difficulty of those in “underserved communities, to include individuals with low income and people of color” in providing such documentation. She notes that FEMA as a last resort may, but is not required to, “accept a written self-declarative statement” ... “from survivors with heirship properties or those who own mobile homes or travel trailers and experience challenges with obtaining traditional forms of documentation.” She characterizes this as “administrative red tape” and complains that FEMA actually limits its acceptance of such statements to “heirship” properties.

In the next section of her testimony, she says that while the Stafford Act requires FEMA to administer aid in a nonpartial and nondiscriminatory manner, FEMA’s reliance on

“unpublished rules” regarding damage in its Individuals and Households programs are so vague that it means FEMA’s employees and inspectors fail to apply them “consistently, resulting in the inequitable distribution of critical funds to disaster survivors.” Inspections thus become highly subjective, vulnerable to implicit bias, and inspectors therefore become de facto eligibility determiners.

She also states that FEMA’s denial of assistance letters are too vague and contain little detail to form the basis of an appeal of the denial. She goes on to state that after Harvey “appeals with similar facts and supporting documentation would yield different types of assistance or lack of assistance” ... that requests for case files “would take months to be received “... and FEMA’s Disaster Hotline had wait times that “could be over an hour long, subject to disconnected lines and hotline representatives who were not properly trained on FEMA’s policies.” **She never states whether that was the experience of just those from “vulnerable communities” or if it was the same for EVERYONE seeking assistance.**

She goes on to complain that assistance focused on those that rent was directed to landlords and developers, not tenants. In addition, rental properties rebuilt with disaster funds do not prioritize disaster survivors and renters who are disproportionately Black or Hispanic, the state of Texas (that administered the “Other Needs Assistance” efforts vs. FEMA administering the Housing disaster funds effort) did not provide specific CDBG disaster recovery funding for tenants -- as they did for displaced homeowners, who were more likely to be white.

John Beard Jr. -- Founder, President & CEO, Port Arthur Community Action Network (PACAN):

Mr. Beard, Jr. was chosen due to his extensive public service record in City of Port Arthur and southeast Texas.

No Testimony

Panel 2:

Chauncia Willis -- Institute for Diversity and Inclusion in Emergency Management

Ms. Willis provides expertise in disaster management and non-profit community organization involvement.

Testimony:

Her testimony focuses on “equitable” results in disaster funding.

The purpose of her Institute is “to eradicate bias and discrimination within emergency management and proactively develop data driven, equitable solutions for underserved populations before, during, and after disasters.”

“...a consistent tale unfolds – vulnerable, underserved, and/or marginalized individuals, families, and communities continue to carry the burden of disproportionate disaster impacts.”

“More alarming, approximately 40% of those applications were denied without reason while others were denied because their homes were located in flood zones, and thus were required to carry flood insurance, an unaffordable luxury for low-income residents. Subsequently, more vulnerable areas are highly impacted by floods contributing to extreme loss of property; one of the key factors to generational wealth.”

“... 45% of households with annual incomes less than \$15,000 were denied FEMA individual assistance after Hurricane Harvey while 14% of households with annual incomes more than \$45,000 were denied.”

“As a result, we saw an increase in homelessness and long-term recovery efforts favoring whiter, wealthier communities which aligns with ongoing evidence pointing toward systemic racism within federal response and recovery.”

“... the poorest homeowners received about half as much to rebuild their homes compared to higher-income homeowners...”

“[FEMA OIG audit] “key findings indicated that FEMA initiated direct housing processes without first developing the processes and controls needed by the Texas General Land Officer (TxGLO) to administer the program. [were they supposed to wait?] More specifically: a) FEMA did not have guidelines or specific roles and responsibilities needed to carry out housing assistance programs; b) FEMA did not have guidance and training to help build state capabilities to administer disaster housing assistance and available guidance did not have information on how states should implement direct housing assistance; and c) FEMA’s housing information system did not support all housing options or state-administered direct housing assistance due to a system design that did not address various housing options.”

“First, we see that systemic policy, programs, and practices create and contribute to disproportionate disaster impacts among low-income communities and people of color. Vulnerable, underserved, and/or marginalized communities are forced into high risk, high exposure living situations contributing to increased risk for loss of life and property which increases vulnerability and decreases resilience. Second, vulnerable communities suffer decreased federal assistance opportunities due to lack of access or outright denial of federal assistance through the current application system and regulations.”

“Third, when examining the Stafford Act in response and recovery, federal assistance relies heavily on the State to administer funding which creates dissonance between

communities and the federal government. This was evident in Hurricane Katrina, Hurricane Maria, and now Hurricane Harvey highlighting disconnects between lessons learned and present implementation strategies. Much of this is by the design of the Stafford Act which has seen minimal updates since enactment and plays into two binding political structures: federal government versus state government, and Democratic versus Republican parties.

“The Institute is dedicated to facilitating change by integrating equity in all aspects of emergency management supporting development and implementation of innovative strategies that operationalize equity.”

“Equity should be a commitment and embedded into our policies, programs, and practices. We must prioritize the people and focus on humanity with approaches that ensure equity in transaction. Currently, those with the most often receive the most. **We must focus on ensuring the equitable distribution of resources to vulnerable groups.**”

Kathy Payton -- President-CEO Fifth Ward Community Redevelopment Corporation

Payton was chosen due to her expertise knowledge relating to grassroots community rebuilding, revitalization and post-redevelopment issues and challenges.

Testimony:

Her testimony is mostly about her organization and what it has done to assist not only in Harvey, but the Covid-19 Pandemic, Hurricane Irma, etc. She characterizes disaster assistance as “a day late and a dollar short.”

“It almost appears that the system is designed to further beset and defeat those who need the resources and help the most. The system and process are cumbersome, restrictive, inadequate in most cases, and inequitable. Responses from beneficiaries suggest that those with less get less, and those with more, get more. The reality is that those with less actually need more.”

Julia Orduna -- Southeast Texas Regional Director, Texas Housers, focuses on housing affordability, lack of access to safe and dignified housing, and climate change in Houston and surrounding areas.

Ms. Orduna has expertise in disaster recovery and housing.

No Testimony

Dr. Shao-Chee Sim – VP for Applied Research, Episcopal Health Foundation

Dr. Sim has expertise in matters of health to vulnerable populations. Led the Foundation’s study following Harvey to draw attention to the disparities across different communities in terms of their experience of the storm/aftermath and mapping that looked at FEMA response rates to applications for aid overlaid with social vulnerability data.

Testimony:

His group compiled a mapping analysis 4 months after Harvey (Dec. 2017) showing the top zip codes in Texas that submitted FEMA applications, and then provided zip codes with the highest application approval rates. The argument from that analysis is that the highest approval rates were in rich zip codes while lowest approval rates were in poor zip codes.

However, he does not detail any specifics from the technical mapping analysis, and instead spends over 2/3s of his testimony on the results of his groups polling/survey of “counties” (by telephone presumably) taken at 3 months and then 1 year after Harvey.

This survey covered a 24-county region affected by Hurricane Harvey.

“As context, these 24 counties are home to approximately 7.95 million people, representing 94 percent of the total population in the 41 counties declared as federal disaster areas. This region is incredibly diverse in terms of race and ethnicity (40 percent White, 36 percent Hispanic, 16 percent Black, 6 percent Asian, and 2 percent others). On average, about 15 percent of the people in the affected region are officially designated as living in poverty, with wide variations in poverty across the counties.”

He, of course, testifies that lower income respondents (minorities and renters) disproportionately complained that their disaster applications were not approved and that their lives were still not “back on track.” [*This was predictable before the survey was taken.*]

He characterized the 1-year “survey” as finding:

- “Among Texas Gulf Coast residents who were affected by Hurricane Harvey, four in ten said they applied for disaster assistance from FEMA or the SBA. Of these, four in ten (39%) said their application was approved and a similar share (42%) said it was denied. While the overall share receiving aid from FEMA or SBA was small (16% of all affected residents), **most (6%)** [**SIC**, this 6% number cannot be accurate] of those who received aid said they were satisfied with the amount of money they received, though almost four in ten (37%) said they were dissatisfied.)
- “A growing share of affected residents said their lives are back on track, but three in 10 say their lives remain disrupted

- “While many feel their lives are returning to normal, four in ten affected residents said they were not getting the help they need to recover from the storm, a share that had not declined since the 3-month mark.
- “Affected residents who are Black, have lower incomes, or live in the Golden Triangle area were more likely to say their lives are still disrupted and less likely to say they are getting the help they need with recovery.
- “In the wake of Harvey, many affected residents, particularly those who are Black, Hispanic, or have lower incomes, report financial problems such as falling behind in their rent or mortgage, having problems paying for food, taking on extra work, or borrowing money from friends and relatives to make ends meet.

“The polling data consistently showed that Black and Hispanic Texans and those who have lower incomes were impacted disproportionately by the disaster at both three months and one year after Hurricane Harvey.”

Dr. Laura Stough – Prof. of Educational Psychology & Asst. Director, Center on Disability and Development, Texas A&M University

Stough investigates how environmental hazards affect individuals with disabilities and other historically marginalized populations. Her most research projects focus on Hurricane Harvey, the 2017 California Wildfires, and the effects of COVID-19 on individuals with disabilities.

No Testimony

Ben Hirsch -- Director of Strategic Partnerships, West Street Recovery, working on Harvey Recovery Efforts

Mr. Hirsch has extensive experience working with underserved communities and natural disasters.

Testimony:

Hirsch is a social justice warrior and simply states that specific allegations of racism are a “known fact” and that BIPOC groups should not be forced to provide documents (proof of ownership and damage) that are required all applicants. There is no concern regarding taxpayer funds being ripped off or being diverted via fraud.

“In general racism shapes the entire recovery process, but for the BIPOC ELMI and LMI homeowners who we primarily serve it is most acutely felt in three areas that must be addressed immediately: 1) administrative burden on families facing trauma, 2) The denial of families for “deferred maintenance” and 3) the denial of families whose homes are held in heirship. “

“Currently, FEMA applications require extended amounts of paperwork, proof of income, assets, and residence, and extensive documentation of damage. Residents we have worked with are deeply frustrated by the expectation that as their lives were falling apart they were asked to take pictures of damages, or go to the bank to collect statements. They are further angered by the fact that the governments actually hold most of these documents and could get them without burdening families. Deeds to homes are held by county clerks and proof of income is held by the IRS, yet as families move from shelters to couches to damaged homes **they are expected to go through the arduous work of collecting documents.** Because Black and Brown people are more likely to be unbanked, uninsured, have irregular employment and be disproportionately hurt by disasters, this application burden falls disproportionately on marginalized people. In helping people appeal denials we have seen countless families denied due to clerical errors. Simplifying applications would eliminate many of these denials.

“WSR has also worked with dozens of Black and Brown families who have been denied due to deferred maintenance. In effect this is punishing families for being too poor. And because race is such a strong predictor of economic outcomes in the United States, it also means disaster survivors are penalized for being BIPOC.”

“To eliminate this **FEMA assistance should help families recover to a state of housing that is safe and dignified instead of to prestorm conditions.** Prestorm conditions are actually not known and this ambiguity opens space for individual assessors racist assumptions to diminish perceptions of damages, with little recourse for survivors to respond.”

“Furthermore, many families simply do not have the resources to secure the legal assistance needed to go through probate court or create wills needed to have single person ownership [as is often required by FEMA in order to provide disaster assistance]. WSR has worked with many families who have been denied for this reason, but the families have done nothing wrong. **Instead it is FEMA that has done something wrong, they have denied families for living in a racist society which forces them to adopt strategies that would be unusual in white communities.**”

Panel 1:

Name: Tricia L. Wachtendorf



Title & Organization: (Director of the Disaster Research Center) University of Delaware

Bio:

Tricia Wachtendorf is an Associate Professor of Sociology at the University of Delaware and Director of the world-renown Disaster Research Center – the oldest center in the world focused on the social science aspects of disaster. Over the past two decades, her research has focused on multi-organizational coordination before, during and after disasters, transnational crises, and social vulnerability to disaster events. Dr. Wachtendorf has engaged in quick response field work after such events as the 2001 World Trade Center attacks, the tsunamis affecting India, Sri Lanka (2004) and Japan (2011), Hurricanes Katrina (2005) and Sandy (2012), as well as the earthquakes in China (2008) and Haiti (2010). With numerous research grants from agencies such as the National Science Foundation, she has published widely on improvisation in disasters as well as disaster convergence. Her most recent funded research projects examine the temporal nature of household and emergency management decision-making during hurricane events, investigate humanitarian logistics during disaster response, and explore stigma and the role triage in the aftermath of public health emergencies.

Reason why chosen:

Wachtendorf was chosen due to her subject matter knowledge regarding government budgeting, appropriations, and disbursements of funds for natural disasters. She is also knowledgeable on issues and challenges facing vulnerable populations and social vulnerability regarding emergency disasters; and can speak to patterns and trends that occur after disasters and recovery.

Name: Francisco Sanchez



Title & Organization: President - [[HYPERLINK "https://www.emat-tx.org/page-1075341"](https://www.emat-tx.org/page-1075341)]

Bio:

Francisco Sanchez is liaison and public information officer for the Harris County Office of Homeland Security & Emergency Management (HCOHSEM). HCOHSEM is responsible for disaster preparedness and response in the nation's third largest county.

Sanchez joined Harris County in 2004 and was lead public information officer during the local response to both Hurricanes Katrina and Rita in 2005. He led the region's Joint Information Center operations during Hurricane Ike and the highly active 2008 hurricane season. In 2013 he was appointed to the Communications Security Reliability and Interoperability Council, an advisory committee to the Federal Communications Commission offering guidance on key issues such as next generation 9-1-1 technology, alerts and warnings and cyber security.

In 2015, Sanchez was named Public Official of the Year by the University of Houston and in November 2013 he was featured as *Emergency Management Magazine's* Major Player for his work on emergency public information and proposal for a national dialogue on the topic.

Sanchez is an advocate of integrating emergency public information and Joint Information Center concepts into local emergency response efforts. He has been a featured speaker on these topics at the National Hurricane Conference, National Conference of State Legislatures, Texas Homeland Security Conference, Emergency Management Magazine Road show, the National All-Hazard Incident Management Team Training & Education Conference, Texas State Firemen's and Fire Marshal's Conference and other forums.

Sanchez is a member of the highly regarded San Jacinto Type-III All Hazards Incident Management Team, one of only 18 such teams sanctioned by the state for deployment as ordered by the Texas governor. He was a member of the Department of Homeland Security's Integrated Public Alert and Warning System (IPAWS) Practitioner Working Group, which set the groundwork for the Wireless Emergency Alerts network that improved the nation's public warning system. As a member of the Houston Area Urban Area Security Initiative Regional Collaboration Committee, he works to build consensus on a variety of measures critical to local preparedness and response capabilities. Membership organizations include the National Association of Government Communicators, International Association of Emergency Managers, Texas Municipal Information Officers and others.

Sanchez is a graduate of the University of Houston and has served on boards and leadership groups of numerous local and national organizations. Currently is serves on the boards of Houston Achievement Place and the Spay Neuter Assistance Program. Sanchez is a member of the Ponderosa Volunteer Fire Department and serves on the Houston Livestock Show and Rodeo's Ticket Services Committee. He received the President's Volunteer Service Award in 2010 and 2011 Emerging Leaders Award from Big City Emergency.

Reason why chosen:

Mr. Sanchez was chosen because of his government and interagency experience working with emergency disasters expertise and creating dialogue on the topic.

Name: Veronica Chapa Gorczynski



Title & Organization: President, East End District

Bio:

Veronica Chapa Gorczynski is the President of the East End District, a geographic area serving approximately 16 square miles between Downtown and Port Houston. The District's services include public safety programs, an award-winning graffiti abatement program, maintenance of major thoroughfares, and disposal of illegally dumped trash. The District's grant-funded capital program focuses on connecting neighborhoods and business to transit and resulted in \$31 million in improvements through 2017, with an additional \$45 million in new investments pending during her tenure.

A native of the Rio Grande Valley, educational and job opportunities have taken Veronica to live in San Antonio, New Orleans, Washington DC, Austin, and now Houston. She is formerly the Executive Director of Early Matters, a historic coalition of business, civic, education, philanthropic and non-profit organizations, working together through a collective impact approach to raise awareness about the importance of high-quality early childhood education as investment in the Greater Houston community. She has worked in government, non-profit organizations, and education efforts—always focusing on ways to help the community gain resources and investment. In 2010, she was recruited by Mayor Annise Parker to join the administration as a Deputy Director of the Housing & Community Development Department to assist in an organizational turnaround and deploy almost half a billion dollars of federal investment throughout Houston.

A respected community development professional in Houston for over a decade, Veronica is a senior fellow with the American Leadership Forum, a former board member of the Latin

Women's Initiative, a member of Leadership Houston Class 30, and a former Commissioner of the Houston Housing Authority. She is currently a board member of the Transportation Advisory Group – Houston Region, a board member of the UH Friends of Women's, Gender & Sexuality Studies, and a Board Member of the Memorial Park Conservancy. In 2019, Veronica was honored by Houston Woman Magazine as one of Houston's Top 50 influential women. In January of 2020, she was invited to join as a Board Member of the prestigious Texas Lyceum. In 2021, she was elected Chair of the Houston Galveston Area Council, Transportation Improvement Plan Subcommittee to oversee the development of a process to distribute approximately a billion dollars in transportation funds throughout the region. Most recently, she was recognized as a Top 30 Influential Woman in Houston.

She pursued her undergraduate education at Saint Mary's University and University of Texas at San Antonio and obtained both a Master of Science in Community and Regional Planning and a Master of Liberal Arts in Latin American Studies from the University of Texas at Austin. A breast cancer survivor, Veronica is passionate about politics, good wine, and Texas barbeque. When not working, she enjoys volunteering on projects aimed at improving community engagement and spending time with her husband John and young son, Diego.

Reason why chosen: Ms. Gorczynski's experience as former Deputy Director of the Housing & Community Development Department to assist in an organizational turnaround and deploy almost half a billion dollars of federal investment in community efforts throughout Houston. She can also speak to how funds are distributed and inequities in recovery efforts.

Name: Angela Blanchard



Title & Organization: President Emerita & CEO BakerRipley; Senior Fellow in International and Public Affairs, Watson Institute International & Public Affairs

Bio:

Angela Blanchard is a globally recognized expert practitioner in community development, disaster recovery and effective long-term integration of immigrants and refugees. Angela Blanchard will join the Swearer Center from Houston, Texas where she serves as the President and CEO of BakerRipley, Texas' largest community development organization. Blanchard currently is a leading expert in community development, disaster recovery and effective long-term integration for immigrants and refugees.

In September, in the midst of leading BakerRipley's long-term disaster recovery efforts following Hurricane Harvey, Blanchard was recognized as the recipient of the 2017 Heinz

Award in the Human Condition. After more than 20 years as CEO and the end of 2017, Blanchard will continue working with the BakerRipley team as President Emerita, before joining the Swearer Center for her appointment. The nonprofit currently serves more than a half-million people across 48 counties.

Angela joined the Brown community in January 2018 as a Swearer Center Social Entrepreneur in Residence. During her semester in Providence she'll teach a graduate seminar, "Disaster, Displacement and Response: A Practitioner, People-Focused Lens on Urban Policy & Practice," in the Watson Institute Master of Public Affairs (MPA) program, and serve as an advisor and convener within the social innovation community at the University.

Reason why chosen: Dr. Blanchard led BakerRipley's long-term disaster recovery efforts following Hurricane Harvey.

Name: Brittany Perrigue



Title & Organization: Attorney and Counselor at Law; Equal Justice Works - Texas Rio Grande Legal Aid

Bio:

Brittany Perrigue Gomez is a 2018 Equal Justice Works Fellow serving in the Disaster Recovery Legal Corps (DRLC).

Brittany provides legal services to residents of counties in south and west Texas directly impacted by natural disasters, with a focus on direct representation in FEMA, Small Business Association, and insurance matters arising from Hurricane Harvey. She works to build coalitions and institutional knowledge to support the program's response to future disasters and participates in larger-scale advocacy efforts, both for Harvey long-term recovery efforts as well as ongoing efforts focused on disaster preparedness and new responses.

Brittany has worked with individual disaster survivors and alongside other federal agencies to aid in multiple disaster recovery responses, most recently with the United States Small Business Administration Office of Disaster Recovery. She also has experience in criminal defense, family law, employment law, and real estate law. Brittany holds a B.A. in history and a graduate certificate in advanced international affairs from Texas A&M University. She is a 2017 graduate of St. Mary's University School of Law

Reason why chosen: Ms. Perrigue-Gomez has experience in dealing with federal agencies and representing victims of natural disasters.

Name: John Beard Jr.



Title & Organization: Founder, President & CEO, Port Arthur Community Action Network (PACAN)

Bio:

John Beard Jr. is an active member of his community, and has dedicated his life and career to serving the public. He has over thirty-two years of public service as an elected official; nine as city councilman and mayor pro-temp, with current and previous service on numerous boards and commissions with the City of Port Arthur.

He was educated in the Port Arthur, TX public school system, and attended Lamar University, with concentration in the areas of Political Science and Economics. He has worked thirty-eight years in the Petrochemical Industry, with practical training and experience specifically in Maintenance services, Process Operations, Health, Safety and Environmental issues, Emergency Management and Incident Command Systems.

Mr. Beard, Jr. is the founder, president, and executive director of the Port Arthur Community Action Network (“PA-CAN”), serving the Port Arthur/Southeast Texas area as a community advocate, focusing on environmental issues and community development.

Mr. Beard, Jr. has also served the public in the following capacities:

- Member, Neches River Basin Regional Flood Planning Group;
- Chairman of the Pleasure Island Commission, City of Port Arthur, TX (COPA);
- Chairman, City of Port Arthur Zoning Board of Adjustments; and member, of the City of Port Arthur Charter Change Committee 2019;
- Mr. Beard, Jr.’s prior service includes former Vice Chairman, Port Arthur Economic Development Cooperation;
- Member, Charter Change Committee, City of Port Arthur (served on four previous committees):
- COPA Ad Hoc Fire Service Committee;
- COPA Pipeline Committee;
- COPA Water Plant Bond Issue Committee; and
- COPA First Time Homebuyer’s Program; COPA Housing Loan Review Board; and COPA Clean Community and Beautification Committees.

Reason why chosen: Mr. Beard, Jr. was chosen due to his extensive public service record in City of Port Arthur and southeast Texas.

Panel 2:

Name: Chauncia Willis



Title & Organization: Institute for Diversity and Inclusion in Emergency Management

Bio:

Chauncia Willis is the Co-Founder and Chief Executive Officer (CEO) of the Institute for Diversity and Inclusion in Emergency Management (I-DIEM). Ms. Willis is a Certified Emergency Manager (CEM), Professional Coach, and Cultural Diversity Professional (CDP) with over 20 years of experience. Her expertise includes disaster management, national security event planning, leadership coaching, immigrant and refugee outreach, as well as diversity, equity and inclusion (DEI) training. Prior to co-founding I-DIEM, Chauncia served as the Emergency Manager in Tampa, Florida for over 14 years where she developed successful programs benefiting marginalized populations. She has led national emergency planning efforts for political conventions, National Football League (NFL) games, and international award shows. In her role as CEO for I-DIEM, she leads the effort to integrate equity into all facets of disaster policy, programs, and practice with the goal of increasing cultural competence and mitigating the harmful impacts of bias on underserved groups. Regarded as a national expert, Ms. Willis has provided witness testimony to the U.S. House of Representatives on multiple occasions on matters of diversity, equity, and inclusion, as well as policy implementation. She is the author of “Stretching: The Race towards Diversity, Equity and Inclusion in America,” published December 2020. Chauncia Willis hails from St. Petersburg, Florida and is a graduate of Loyola University New Orleans and Georgia State University, Andrew Young School of Policy Studies.

Reason why chosen:

Ms. Willis provides expertise in disaster management and non-profit community organization involvement.

Name: Kathy Payton



Title & Organization: President-CEO Fifth Ward Community Redevelopment Corporation

Bio:

Oversees the implementation of the Comprehensive Community Revitalization of Houston's Historic 5th Ward. Incorporates the vision of a diverse 15-member board of directors, the needs of pioneering and new residents, community stakeholders, and acts as catalyst in fostering the collaborative efforts of an array of community service providers with a primary goal of improving the quality of life in a traditionally underserved community. All of which are achieved thru the organizations major lines of business - Real Estate Development to include residential and commercial rehabilitation and construction, property management, financing, relocation, sales, and marketing; Individual Development offering case management, workforce development and training, credit & budget counseling, and asset building; Supportive Services which is a unique blend of planning, organizing, and consultancy provided globally to share the replicable community development model established by the organization and designed to help others help those they serve. Asset Management capitalizes on the development of the organization's and community's natural or developed resources and projects to avail needed capital to support programming and enhance the quality of life for the benefit of persons living in 5th Ward. And lastly, Resource Development a balanced strategy of earned income and philanthropic support which includes marketing the organization to funders, potential partners, grantors, government and the broader community.

Reason why chosen:

Payton was chosen due to her expertise knowledge relating to grassroots community rebuilding, revitalization and post-redevelopment issues and challenges. She also should be knowledgeable of issues and challenges facing vulnerable population demographics regarding emergency disasters.

Name: Tomas Aguilar



Title & Organization: Disaster Recovery Coordinator; Living Hope Wheelchair Association

Bio:

Tomás Aguilar is the disaster recovery coordinator at the Living Hope Wheelchair Association, where he also implements and maintains technology and data systems. He's spent the majority of the last 20 years working as a social movement technologist, organizer and communicator. He has worked on the issues of economic inequality, environmental justice, migrant justice. He's also worked as a movement technologist. He's done some of this work at United For A Fair Economy, Alternatives For Community and Environment, Colectivo Flatlander, and Progressive Technology Project. He's currently working at Living Hope Wheelchair Association where he's supporting the amazing work our community leaders.

Reason why chosen:

Mr. Aguilar has extensive experience working with the needs of individuals with disabilities and natural disasters.

Name: Dr. Shao-Chee Sim - Awaiting confirmation



Title & Organization: Vice-President for Applied Research, Episcopal Health Foundation

Bio:

Sim is known nationally as a leader in improving health for immigrant communities and vulnerable populations. Most recently, he was the chief strategy officer of the Charles B. Wang Community Health Center in New York City. Sim led the FQHC in its research and evaluation, strategic planning and disease prevention, intervention and health service projects. Through

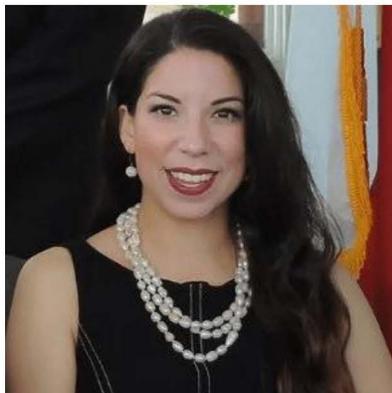
strategic collaboration, Sim helped lead advocacy on issues such as community health center funding, hepatitis B, and culturally-competent health care. His research work included studying health disparities affecting underserved populations, assessing patient care experiences, and improving the effectiveness of intervention efforts.

Along with this work with community health centers, Sim also assumed research leadership roles at several foundations and nonprofits – including The Wallace Foundation and the Asian American Federation of New York. Much of that research centered on mental health, access to health services and children’s issues for vulnerable groups.

“Shao-Chee brings such a wide and diverse range of research experience to the Foundation,” said Elena Marks, EHF’s president and CEO. “Those experiences show a clear focus on health, not just healthcare. His leadership will help EHF become concentrated on not just doing *more* health research, but *different* research projects designed to help guide improvements to community health.” Dr. Sim earned his Master’s degree in public administration from the JFK School of Government at Harvard University and a doctorate in public policy from the LBJ School of Public Affairs at the University of Texas at Austin. “I’m excited for the unique opportunity to build upon EHF’s efforts to bring long-lasting improvements to the health of millions of Texans,” Sim said. “It’s an opportunity to develop health data and research not as final projects of themselves, but as tools to use to advance the health of all in communities.”

Reason why chosen: Dr. Sim has expertise in matters of health to vulnerable populations. Led the Foundation’s study following Harvey to draw attention to the disparities across different communities in terms of their experience of the storm/aftermath and mapping that looked at FEMA response rates to applications for aid overlaid with social vulnerability data.

Name: Julia Orduna



Title & Organization: Southeast Texas Regional Director, Texas Housers

Bio:

Ms. Orduna serves as regional director focuses on housing affordability, lack of access to safe and dignified housing, and climate change in Houston and surrounding areas. Her work in the organization shines a light on current issues pertaining to disaster recovery and how to address

the housing need in a more efficient and equitable manner. She holds a B.S. in Biomedical Sciences from Texas A&M University and a Masters in Public Administration from Texas A&M International University. She likes musicals, participates in slam poetry, and enjoys spending time with her pet cat.

Reason why chosen: Ms. Orduna has expertise in disaster recovery and housing.

Name: Ben Hirsch



Title & Organization: Director of Strategic Partnerships, West Street Recovery

Bio:

Ben Hirsch is working on Harvey Recovery Efforts through the horizontal relief organization West Street Recovery. Hirsch is an organizer, educator, and policy analyst with experience working for and in low income and marginalized communities. He is a graduate of the University of Texas LBJ School of Public Affairs, and his interests are poverty and the environment and alternative structures of governance.

Reason why chosen:

Mr. Hirsch has extensive experience working with underserved communities and natural disasters.



**U.S. Commission on Civil Rights Public Briefing:
Civil Rights Implications of Disaster Relief: Hurricane Harvey in Texas
Thursday, October 21, 2021**

Expert Panels: 12:00 pm – 2:55 pm ET

AGENDA

Live-streamed: <https://www.youtube.com/user/USCCR/videos>

Introductory Remarks: 12:00 – 12:10 pm

Panel 1: 12:11 – 1:25 pm

- Francisco Sanchez, President, Emergency Management Association of Texas
- Dr. Tricia L. Wachtendorf, Director of the Disaster Research Center, University of Delaware
- Brittany Perrigue-Gomez, Attorney and Counselor at Law, Texas Rio Grande Legal Aid
- John Beard, Jr., Founder, President & CEO, Port Arthur Community Action Network
- Veronica Chapa Gorczynski, President, East End District

Break: 1:25 – 1:35 pm

Panel 2: 1:35 – 2:50 pm

- Chauncia Willis, Co-Founder & Chief Executive Officer, Institute for Diversity and Inclusion in Emergency Management
- Kathy Flanagan-Payton, President & CEO, Fifth Ward Community Redevelopment Corporation
- Julia Orduña, Southeast Texas Regional Director, Texas Housers
- Dr. Shao-Chee Sim, Vice-President for Applied Research, Episcopal Health Foundation
- Dr. Laura Stough, Professor of Educational Psychology & Asst. Director, Center on Disability and Development, Texas A&M University
- Ben Hirsch, Co-Director, West Street Recovery

Closing Remarks: 2:50 – 2:55 pm

****Public Comments will be written testimony only**

Message

From: John Mashburn [jmashburn@usccr.gov]
Sent: 11/11/2021 3:44:12 PM
To: John Mashburn [jkmash@comcast.net]
Subject: FW: Summary of Witness Testimony for Thursday
Attachments: image001.gif; image002.gif; Summary of FEMA Texas Panelists Testimony.docx; FEMA Texas Panelists_10.8.21.docx; Texas Briefing Schedule_10.21.21.pdf

From: John Mashburn <jmashburn@usccr.gov>
Date: Tuesday, October 19, 2021 at 7:30 PM
To: "J. Christian Adams" <jadams@usccr.gov>
Subject: Summary of Witness Testimony for Thursday

A couple more witness statements came in today. One witness has been changed out (Aguilar for Laura Stough). 4 of the 10 witnesses do not yet have any testimony submitted.

I also attached the document that was sent last Friday (but was not in the online folder) which has longer bios for the witnesses (and includes photos for them.)

In addition, I attached is the agenda for Thursday listing the witnesses, but I have been told this may not be the actual order in which they testify. Was also told that one witness may be added, and an existing one may yet drop out (don't which witness names in this regard.)

Call me if you need anything else.

From: "J. Christian Adams" <jadams@usccr.gov>
Date: Tuesday, October 19, 2021 at 8:01 AM
To: John Mashburn <jmashburn@usccr.gov>
Subject: Fw: Material for 10-21 Virtual Briefing

I was not able to find these files. I had an empty folder called JAdams or something substantially similar.

From: Mauro Morales
Sent: Friday, October 15, 2021 3:15 PM
To: Commissioners
Cc: Marik Xavier-Brier; CommissionerAssistants; ExecutiveStaff
Subject: Material for 10-21 Virtual Briefing

Commissioners,

Good afternoon. I attached a link as a reminder where you can find material for the virtual briefing on Thursday, October 21 from 12-3 pm ET.

The information for the briefing on "The Civil Rights Implications of the Federal Response and Impact of Hurricane Harvey in Texas" are located at this link :
<https://securisync.intermedia.net/us2/filesync?id=L2ZpbGVzew5jLONvbW1pc3Npb251cnMgYW5kIENBcy8yMDIXL0ZFTUEvVGv4YXMGQnJpZWZpbmctWF0ZXJpYXZzEwLjIx>. It is located in the Commissioners and CAS , subfolder 2021, FEMA folder Texas Briefing Materials_10.21.

If you have any issues locating the material please contact me or Marik.

Mauro Morales
Staff Director
U.S. Commission on Civil Rights
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e placed material in the Commissioner and SA's folder for the 3:30 pm ET February 26th business meeting. (Pam will send you your telephone call in numbers in a separate email shortly)

First, you must click on this link.

https://securisync.intermedia.net/us2/s/login?public_share=_XZOHVK92GU1VDGU925IM8

Second, you must insert the following password when required: [REDACTED]

Look for the 2021 subfolder designated 2.26.21 Business Meeting Material. I will advise you if additional material gets added.

Please contact me if you have any questions.

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From: John Mashburn [jmashburn@usccr.gov]
Sent: 12/1/2021 1:14:52 PM
To: John Mashburn [jkmash@comcast.net]
Subject: FW: PR FEMA Briefing UPDATE

From: Irena Vidulovic <ividulovic@usccr.gov>
Date: Wednesday, December 1, 2021 at 12:31 PM
To: Juana Silverio <jsilverio@usccr.gov>, "CommissionerAssistants@usccr.gov" <CommissionerAssistants@usccr.gov>
Cc: Marik Xavier-Brier <mxavierbrier@usccr.gov>, Gerald Fosten <gfosten@usccr.gov>
Subject: Re: PR FEMA Briefing UPDATE

Thank you Juana this is really helpful.

From: Juana Silverio
Sent: Wednesday, December 1, 2021 6:27:00 AM
To: Irena Vidulovic; CommissionerAssistants
Cc: Marik Xavier-Brier; Gerald Fosten
Subject: RE: PR FEMA Briefing UPDATE

FYI- I've visited Loiza and it is not easy to get back from. While an uber will get you there (preferred price wise), taxis cost TRIPLE if they come. It took me 90+mins to get someone to get me back to Old San Juan. I recommend advising all coming on the site visits meet at the USCCR host hotel and plan on getting there and back together.

Juana

From: Irena Vidulovic <ividulovic@usccr.gov>
Sent: Tuesday, November 30, 2021 3:47 PM
To: CommissionerAssistants <CommissionerAssistants@usccr.gov>
Cc: Marik Xavier-Brier <mxavierbrier@usccr.gov>; Gerald Fosten <gfosten@usccr.gov>
Subject: Re: PR FEMA Briefing UPDATE

Hello Everyone,

I have some updates from our Puerto Rico planning meeting today that I would like to share with everyone. I have also attached the save the date that is published on our website. Please see all the details below and let me know if you have any questions.

Thursday, December 9th Site Visit:

We will be visiting two locations for our site visit in order to see the impact of Hurricane Maria.

1. El Cano at 10am
2. Loiza at 12pm

For the folks that are staying in Candido Palm Inn transportation will be organized to and from however for folks that are staying at other locations in San Juan they will need to take a taxi (more info to come). OCRE will finalize the site visits and share them with us once they have all the relevant details.

Friday, December 10th Field Briefing Confirmed Panelist:

1. Ariadna Michelle Godreau-Aubert, Executive Director, Ayuda Legal Puerto Rico
2. Charlotte Gossett Navarro, Senior Director, Puerto Rico Operations, Hispanic Federation
3. Carla Minet, Executive Director, Centro de Periodismo Investigativo
4. Sergio Marxuach, Policy Director & General Counsel, Centro para la Nueva Economía
5. Carmen Yulin Cruz, Former Mayor of San Juan
6. Cristina Miranda, Executive Director Liga de Ciudades
7. Amaris Torres Rivera, Executive Director Fundación Fondo de Acceso a la Justicia
8. Diane Yentel, President/CEO National Low Income Housing Coalition
9. Tania Rosario Mendez, Executive Director Taller Salud
10. Ever Padilla-Ruiz, Executive Director Puerto Rico Civil Rights Commission
11. Yarimar Bonilla Ramos Center for Puerto Rican Studie
12. Ruth Santiago, Esq. Comité Dialogo Ambiental

Run of Show

**Location: Interamerican University of Puerto Rico Law School at 170 C.
San Juan, Puerto Rico
December 10, 2021**

Introductory Remarks: 9:00-9:10 am

The Chair, Commissioner Adegible and Commissioner Yaki

Panel 1 (6 panelists): 9:10 am-11 am

Break: 11 am-11:10 am

Panel 2 (6 panelists): 11:10 am-12:40 pm

Lunch Break: 12:40 pm – 1:40 pm

Public Comment Period: 1:40 pm – 5:50 pm

- **Break: 3:40-3:50 pm**

- **Speakers will sign up and be given (5 mins) minutes to testify**

- **40 slots = 3.33 hours**

Closing Remarks: 5:55-6 pm

Public Comment sign-up:

- 20 slots online (Eventbrite) – any remaining slots will be made available for the in-person sign-up
- 40 5 min slots in total w/ in-person sign up available in morning and afternoon
- Documents will be translated/Defame & Degrade will take place in this sign up area

Day Of sign-up (first come, first serve):

- 10 slots am
- 10 slots lunch

From previous in-person briefings:

- Members of the public who wish to address the Commission will have an opportunity to do so during an open [public comment session](#) that will take place between 5:00 pm and 6:30 pm. Each individual will have up to five minutes to speak, with spots allotted on a first-come, first-serve basis. Individuals will be able to register for open comment session speaking slots, both [online](#) and at the briefing (in-person).

o **Translators** (both Spanish and ASL) - questions on number and scope of need - work samples and further research required

- Spanish Closed Captioning Available on Youtube Stream
- Zoom Room will be available for people with translation needs
- Possible translation conference call line
- Transcript translation needed?

o Trauma Specialists – secured

From: Irena Vidulovic

Sent: Tuesday, November 23, 2021 12:01:24 PM

To: CommissionerAssistants

Cc: Marik Xavier-Brier; Gerald Fosten

Subject: Re: PR FEMA Briefing UPDATE

We have one more confirmation.

Please see updated panelist list below:

1. Ariadna Michelle Godreau-Aubert, Executive Director, Ayuda Legal Puerto Rico
2. Charlotte Gossett Navarro, Senior Director, Puerto Rico Operations, Hispanic Federation
3. Carla Minet, Executive Director, Centro de Periodismo Investigativo
4. Sergio Marxuach, Policy Director & General Counsel, Centro para la Nueva Economía

5. Carmen Yulin Cruz, Former Mayor of San Juan
6. Cristina Miranda, Executive Director Liga de Ciudades
7. Amaris Torres Rivera, Executive Director Fundación Fondo de Acceso a la Justicia
8. Diane Yentel, President/CEO National Low Income Housing Coalition
9. Tania Rosario Mendez, Executive Director Taller Salud
10. Ever Padilla-Ruiz, Executive Director Puerto Rico Civil Rights Commission
11. Yarimar Bonilla Ramos Center for Puerto Rican Studie
12. **Ruth Santiago, Esq. Comité Dialogo Ambiental**

From: Irena Vidulovic

Sent: Tuesday, November 23, 2021 10:01:35 AM

To: CommissionerAssistants

Cc: Marik Xavier-Brier; Gerald Fosten

Subject: Re: PR FEMA Briefing UPDATE

Good Morning Everyone,

We have three new additional panelist confirmations for our field briefing.

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10. **Ever Padilla-Ruiz, Executive Director Puerto Rico Civil Rights Commission**
11. **Yarimar Bonilla Ramos Center for Puerto Rican Studies**

From: Irena Vidulovic
Sent: Monday, November 22, 2021 10:45:33 AM
To: Commissioner Assistants
Cc: Marik Xavier-Brier; Gerald Fosten
Subject: Re: PR FEMA Briefing UPDATE

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From: Irena Vidulovic

Sent: Wednesday, November 10, 2021 3:21:38 PM

To: Commissioner Assistants

Cc: Marik Xavier-Brier; Gerald Fosten

Subject: Re: PR FEMA Briefing UPDATE

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From: Irena Vidulovic

Sent: Tuesday, November 9, 2021 10:48:37 AM

To: Commissioner Assistants

Cc: Marik Xavier-Brier; Gerald Fosten

Subject: PR FEMA Briefing UPDATE

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6. **Cristina Miranda, Executive Director Liga de Ciudades**

Irena Vidulovic

Special Assistant to Commissioner Debo P. Adegbile

U.S. Commission on Civil Rights

M: 202-591-9969

ividulovic@usccr.gov

<http://usccr.gov/>

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Washington D.C. 20425

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#USCCR

From: John Mashburn [jmashburn@usccr.gov]
Sent: 11/5/2020 12:42:19 PM
To: Carissa Mulder [carissa.mulder@gmail.com]
Subject: Re: [EXTERNAL] Maternal health briefing

Call me when you can

From: Carissa Mulder <carissa.mulder@gmail.com>
Sent: Thursday, November 5, 2020 12:46:36 PM
To: Kirsanow, Peter
Cc: Peter Kirsanow; Carissa Mulder; John Mashburn; Thomas Simuel; Alexander Heideman
Subject: [EXTERNAL] Maternal health briefing

CAUTION: This email is from outside USCCR.

From the written testimony of Shannon Dowler, one of the witnesses:

"Something harder, but incredibly urgent. We must reverse Title X edicts that do not allow our nurses to complete the all-options counseling for family planning. This change shifts the burden onto higher cost, less accessible providers which means many women go without the resource. Additionally, Title X dollars should **only** go to entities that can counsel on and offer **ALL** types of FDA approved contraceptives, not just the select ones they want to promote which is coercive in nature."

What she is talking about is getting rid of the Trump-Pence Title X "gag rule" that prohibits Title X recipients from referring women for abortions. She also wants to restore funding to Planned Parenthood. I am also pretty sure that the last sentence refers to pulling funding from crisis pregnancy centers and similar places, because many of those would not refer for IUDs that can cause early abortions (nor would they refer for Plan B or other types of emergency contraception).

Here is an explanation of Title X: <https://prh.org/what-is-title-x-an-explainer/>

(I am only copying Pete and the SAs on this because I assume the other commissioners are tied up.)

--

Carissa B. Mulder

From: John Mashburn [jmashburn@usccr.gov]
Sent: 11/23/2021 8:20:50 AM
To: Carissa Mulder [carissa.mulder@gmail.com]; Alex Heidiman [alexanderheideman@gmail.com]; Thomas Simuel [tjsimuel32@gmail.com]
Subject: FW: PR FEMA Briefing UPDATE

What is this hearing turning into, 11 folks with same liberal perspective? Would 5 or 6 have not been enough?

From: Irena Vidulovic <ividulovic@usccr.gov>
Date: Tuesday, November 23, 2021 at 10:01 AM
To: "CommissionerAssistants@usccr.gov" <CommissionerAssistants@usccr.gov>
Cc: Marik Xavier-Brier <mxavierbrier@usccr.gov>, Gerald Fosten <gfosten@usccr.gov>
Subject: Re: PR FEMA Briefing UPDATE

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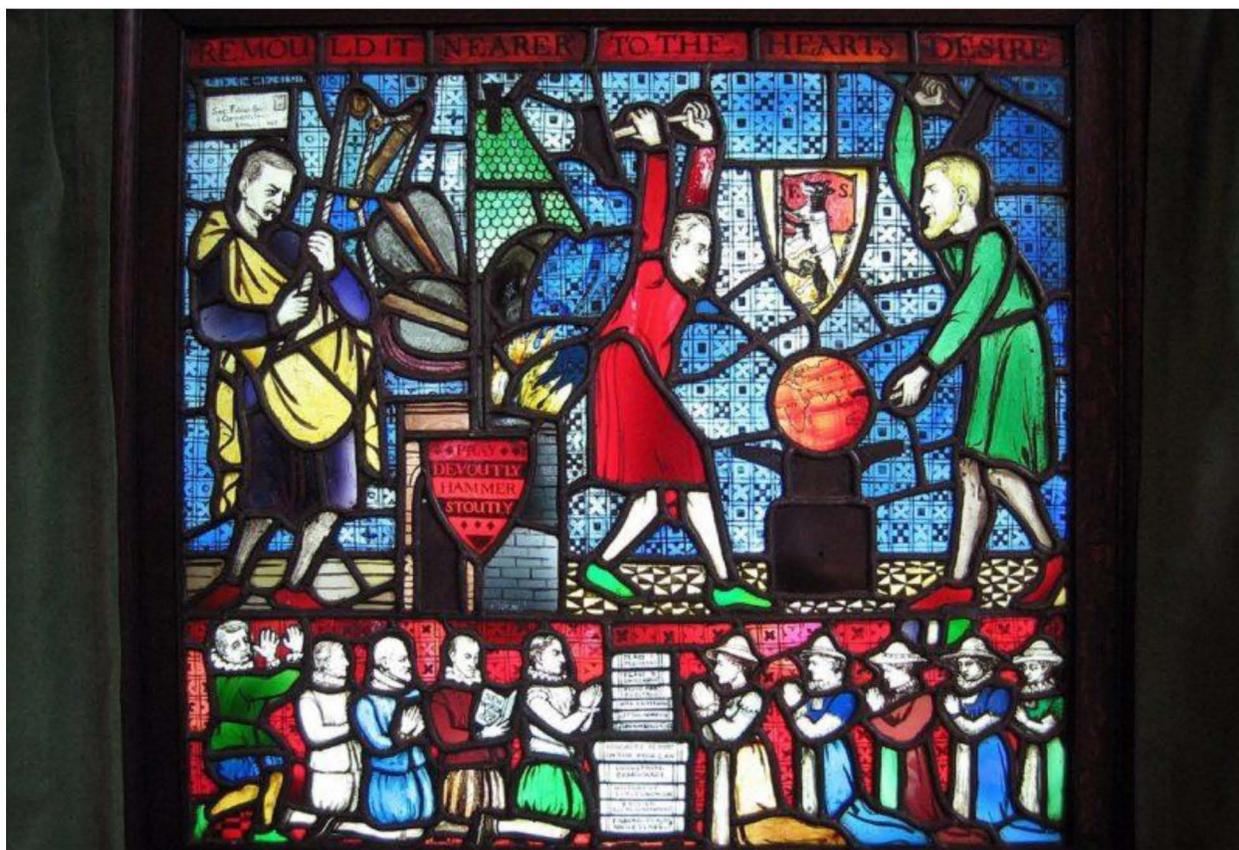


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[HYPERLINK "<https://newdiscourses.com/2020/09/first-amendment-case-freedom-from-woke-religion/>"]

A First-Amendment Case for Freedom from the Woke Religion

- [HYPERLINK "<https://newdiscourses.com/2020/09/first-amendment-case-freedom-from-woke-religion/>"]
- [HYPERLINK "<https://newdiscourses.com/author/jameslindsay/>" \o "View all posts by James Lindsay"]



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[HYPERLINK "[https://twitter.com/share?&text=A%20First-](https://twitter.com/share?&text=A%20First-Amendment%20Case%20for%20Freedom%20from%20the%20Woke%20Religion&via=NewDiscourses&url=https://newdiscourses.com/2020/09/first-amendment-case-freedom-from-woke-religion/)

[Amendment%20Case%20for%20Freedom%20from%20the%20Woke%20Religion&via=NewDiscourses&url=https://newdiscourses.com/2020/09/first-amendment-case-freedom-from-woke-religion/](https://twitter.com/share?&text=A%20First-Amendment%20Case%20for%20Freedom%20from%20the%20Woke%20Religion&via=NewDiscourses&url=https://newdiscourses.com/2020/09/first-amendment-case-freedom-from-woke-religion/)" \t "_blank"]

[R]eligion can be defined as a comprehensive belief system that addresses the fundamental questions of human existence, such as the meaning of life and death, man's role in the universe, and the nature of good and evil, and that gives rise to duties of conscience. –Ben Clements, Cornell Law Review, 1989

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Introduction

The question of whether or not the worldview and practice—for *practice* it intentionally is—going variously by the names “[[HYPERLINK "https://newdiscourses.com/tftw-social-justice/"](https://newdiscourses.com/tftw-social-justice/)],” “[[HYPERLINK "https://newdiscourses.com/2020/02/naming-enemy-critical-social-justice/"](https://newdiscourses.com/2020/02/naming-enemy-critical-social-justice/)],” or, more colloquially, “[[HYPERLINK "https://newdiscourses.com/tftw-woke-awakeness/"](https://newdiscourses.com/tftw-woke-awakeness/)]” constitutes a religion is one of some general interest that seems to be growing. Until quite recently, we maintained the luxury of not having to treat the matter more deeply than as something of a curio of sociocultural philosophy, however important the issue may be. I have contended, for example, that Critical Social Justice constitutes a religion of sorts (a *postmodern one*, as I [[HYPERLINK "https://newdiscourses.com/2020/06/postmodern-religion-faith-social-justice/"](https://newdiscourses.com/2020/06/postmodern-religion-faith-social-justice/)] at considerable length; a nominally “[[HYPERLINK "https://newdiscourses.com/tftw-antiracism/"](https://newdiscourses.com/tftw-antiracism/)]” one, as Columbia University professor John McWhorter is [[HYPERLINK "https://www.thedailybeast.com/antiracism-our-flawed-new-religion"](https://www.thedailybeast.com/antiracism-our-flawed-new-religion) \t "_blank"] it currently, at book length) and must be thought of as such, at least by everyday citizens—though not by the law. Those were simpler times.

Now things are quite different and much more serious, so a much more serious inquiry is demanded of us. This escalation arrives not so much due to the externally obvious reasons like

how profoundly parallel to religion Critical Social Justice and its practice have become—literally washing black people’s feet in the streets through tearful apologies against whiteness—but more because of its rapid and seemingly unstoppable penetration into our public institutions, including government at every level and, more importantly, our public schools.

It is nearly always a question of considerable importance and some urgency when an ideology, especially when it comprises a totalizing worldview, decides that it is to be the fundamental basis for how we organize society and educate our children, to say nothing of other legal concerns. This, to be certain, is happening now with astonishing rapidity. The overwhelming majority of our schools systems’ teacher training over the summer of 2020, to prepare teachers for the new mostly-online educational demands for the coming fall term, have been heavily, if not exclusively, about issues pertinent to Critical Social Justice. Our government agencies at all levels are taking on the basic principles and tenets of this belief system as matters of both policy and recommendation.

With astonishing speed, a shocking number of our nation’s school systems have taken up explicitly [[HYPERLINK "https://newdiscourses.com/tftw-critical/"](https://newdiscourses.com/tftw-critical/)]—as in [[HYPERLINK "https://newdiscourses.com/tftw-critical-theory/"](https://newdiscourses.com/tftw-critical-theory/)]—[[HYPERLINK "https://newdiscourses.com/tftw-critical-pedagogy/"](https://newdiscourses.com/tftw-critical-pedagogy/)] that focus on teaching [[HYPERLINK "https://newdiscourses.com/tftw-identity-politics/"](https://newdiscourses.com/tftw-identity-politics/)], “[[HYPERLINK "https://newdiscourses.com/tftw-antiracism/"](https://newdiscourses.com/tftw-antiracism/)],” and about the [[HYPERLINK "https://newdiscourses.com/tftw-power-systemic/"](https://newdiscourses.com/tftw-power-systemic/)] that the Critical Social Justice worldview [[HYPERLINK "https://newdiscourses.com/2020/01/influence-anti-racist-scholarship-activism-evergreen-college/"](https://newdiscourses.com/2020/01/influence-anti-racist-scholarship-activism-evergreen-college/)] exists in everything. States like [[HYPERLINK "https://www.seattletimes.com/education/lab/free-feminine-hygiene-products-in-schools-early-ethnic-studies-on-washington-state-legislative-wish-list-for-2020/"](https://www.seattletimes.com/education/lab/free-feminine-hygiene-products-in-schools-early-ethnic-studies-on-washington-state-legislative-wish-list-for-2020/)] [[HYPERLINK "https://edsources.org/2020/new-draft-ethnic-studies-curriculum-for-california-students-issued-after-a-year-of-study/637506/"](https://edsources.org/2020/new-draft-ethnic-studies-curriculum-for-california-students-issued-after-a-year-of-study/637506/)] [[HYPERLINK "http://www.nysed.gov/bilingual-ed/culturally-responsive-sustaining-education-framework/"](http://www.nysed.gov/bilingual-ed/culturally-responsive-sustaining-education-framework/)] are openly adopting “Ethnic Studies” programs that revamp their entire educational systems in line with Critical Social Justice so extreme that they seek to replace math with “[[HYPERLINK "https://www.edweek.org/ew/articles/2019/10/11/seattle-schools-lead-controversial-push-to-rehumanize.html/"](https://www.edweek.org/ew/articles/2019/10/11/seattle-schools-lead-controversial-push-to-rehumanize.html/)]” and history with critical “hxstory.” These changes come alongside other equally questionable practices with even more jargon-heavy descriptions, all dedicated to awakening a “[[HYPERLINK "https://newdiscourses.com/tftw-critical-consciousness/"](https://newdiscourses.com/tftw-critical-consciousness/)]” of “[[HYPERLINK "https://newdiscourses.com/tftw-antiracism/"](https://newdiscourses.com/tftw-antiracism/)]” through “cultural awareness” in our nation’s children. Our curricula, we’re told, have to be “[[HYPERLINK "https://link.springer.com/epdf/10.1007/s12129-020-09899-2?sharing_token=QkTk_96aBmLzTlpYfqE8ofe4RwlQNchNByi7wbcMAY5ccP1G-tw-JzDXMsIXpR0f0Y4rNLFgSaa0KYeeP1aaFVQ8HMjWnRTD0mHYY1gOKUcbE09-xzMpT4tIJ5mtTAbjlkhtAiPpw166JZGnaplh1paO0lxQltuZwe2Pq9L2OSk%3D/"](https://link.springer.com/epdf/10.1007/s12129-020-09899-2?sharing_token=QkTk_96aBmLzTlpYfqE8ofe4RwlQNchNByi7wbcMAY5ccP1G-tw-JzDXMsIXpR0f0Y4rNLFgSaa0KYeeP1aaFVQ8HMjWnRTD0mHYY1gOKUcbE09-xzMpT4tIJ5mtTAbjlkhtAiPpw166JZGnaplh1paO0lxQltuZwe2Pq9L2OSk%3D/)]” New curricula are explicitly based not only in [[HYPERLINK "https://newdiscourses.com/tftw-critical-theory/"](https://newdiscourses.com/tftw-critical-theory/)] of [[HYPERLINK "https://newdiscourses.com/tftw-identity-politics/"](https://newdiscourses.com/tftw-identity-politics/)], but upon the

critical historiography of the infamously [HYPERLINK "https://newdiscourses.com/2020/07/history-killers-academic-fraudulence-1619-project/"] (and Pulitzer Prize-winning) [HYPERLINK "https://newdiscourses.com/tftw-1619-project/"] and the [HYPERLINK "https://drive.google.com/drive/mobile/folders/1LGslwJwhXvpVnDgw0uC-n794l6EGzpuH" \t "_blank"] of the radical Black-power activism organization [HYPERLINK "https://blacklivesmatter.com/what-we-believe/" \t "_blank"].

Meanwhile, a veritable war is going on regarding whether or not assessment (like standardized testing) is “[HYPERLINK "https://newdiscourses.com/tftw-racism-systemic/"],” and excellence programs are being scrapped for being “[HYPERLINK "https://newdiscourses.com/tftw-equity/"].” As parents react to this (often very negatively) by seeking to pull their kids out of our public schools in favor of homeschooling them, calls to abolish homeschooling are coming to the fore of the discussion from the priestly of this new faith, insisting that it is “racist” to teach one’s own children at home because the state has a duty to teach them subjects like “Social Justice.” These changes should facilitate the elimination of objective standards that will enable an increase in the ability to execute and hide rampant problems of applying discriminatory admissions policies at elite schools and universities, all in the name of “equity,” which people are led to believe is a hallmark of *group* fairness.

Simultaneously, many of our government agencies and departments are taking on the tenets of Critical Social Justice, especially Critical Race Theory and its derivative, “anti-racism,” as a matter of mandate. These entities include state and federal “departments of” as well as myriad government contractors and state funded entities, like National Public Radio (NPR). Even NASA, which is widely regarded as synonymous with scientific rigor, hosted “anti-racist” historian Ibram X. Kendi to [HYPERLINK "https://disrn.com/news/nasa-asks-far-left-antiracism-professor-ibram-x-kendi-to-speak-to-employees" \t "_blank"] its employees on tenets of this Theoretical view of the world. This invitation is remarkable given that Kendi’s [HYPERLINK "https://www.politico.com/interactives/2019/how-to-fix-politics-in-america/inequality/pass-an-anti-racist-constitutional-amendment/" \t "_blank"] is to pass an “anti-racist” Constitutional amendment that would permanently create and empower a *de facto* fourth branch of the American government dedicated to [HYPERLINK "https://newdiscourses.com/tftw-critical/"] examining and unmaking any “racist” policy, defined as anything that ends up having certain (but not other) disparate outcomes by race. This invitation is even less alarming than the fact that Kendi’s argument is being used in support of a California initiative to remove the anti-discrimination language from its state constitution in accordance with achieving equity and “anti-racism.” Equally, if not more alarming, are that the Center for Disease Control has [HYPERLINK "https://www.cdc.gov/coronavirus/2019-ncov/community/health-equity/race-ethnicity.html" \t "_blank"] tremendous quantities of this Theory (during a pandemic, no less), even while states officially declare “systemic racism” a kind of “public health crisis” that obviates any reasonable measures for pandemic mitigation if done in the name of “racial justice.” Even large government contractors, like Sandia Laboratories, which handles extremely high-tech weaponry (including nuclear weaponry), have taken on this ideology deeply enough to have fallen into an

internal “[HYPERLINK "https://twitter.com/realchrisrufo/status/1299008750729097216" \t "_blank"]” after a brave employee blew the whistle.

The matter of understanding Critical Social Justice, as the ideology is formally called, is, in some sense, no longer a mere philosophical issue (if it ever truly was). It’s now an emergency, and as more and more people are noticing (or, it seems, hoping, as it would provide them with recourse that currently seems not to exist), it’s likely to be a *legal* emergency. Unfortunately, very little legal architecture currently exists to do anything about the problem of this imposition of one particular belief system upon society via its most susceptible demographic—children. Further, perhaps due to failures of people like myself in the past few years, there has been very little push to generate this legal architecture in what is likely to be one of its strongest and most fruitful directions: identifying the Critical Social Justice worldview as a *functionally religious* worldview. This is required to open it up to the full machinery of the First Amendment to the United States Constitution and its famous Establishment Clause, and would, at least, get it out of our school systems very quickly.

The argument, I think, needs to be opened up in earnest because we now face two incredible perils against the American ideal where it collides with the Critical Social Justice worldview, and these merit taking the issue and the risk that comes with it (legally *protecting* Critical Social Justice as a system of faith) very seriously. The first of these is the one I’ve already spent some time on pointing out: Critical Social Justice has already encroached deeply into our public education system and halls of government in the United States. In fact, this trend is accelerating to a pitch so extreme that complaints that schools are operating in the service of political indoctrination rather than as houses of a basic and liberal education, as they were initially conceived, are rapidly becoming plausible. The second is that a time may come in the not-distant future in which this totalizing and totalitarian worldview could be installed as the de facto state religion, even while it elides categorization as such. The state endorsement—or worse, enforcement—of any faith falls directly afoul of the protections the U.S. Constitution was written to ensure to individual citizens, and, in fact, to other systems of faith that would disagree with it. The question is, which totalizing worldviews that are not traditionally recognizable as faiths should be treated in the same way for the same reasons? While the answer to this question is not immediately clear, it must have to do with how they function in society and in the lives of those who believe them.

Therefore, to put it directly: It is my belief that the contents of the Critical Social Justice worldview should be protected as matters of private conscience only, and they should also be limited as such. That is, I want to contend that the Free-exercise and Establishment Clauses of the First Amendment apply to Critical Social Justice. It is therefore not merely a philosophical exercise to ask whether or not Critical Social Justice constitutes a religion but also a serious legal one that gets to the very core of what the American Experiment has *always* been about—freedom of belief and from state religion. It is my intention here to make this case as briefly as possible, which means it will still be very long.

([HYPERLINK "https://newdiscourses.com/2020/09/first-amendment-case-freedom-from-woke-religion/" \ | "TOC"])

Part I: The Philosophical Argument

Though I don't want to reinvent the wheel here and redo that which I have already done at length (again, in [HYPERLINK "https://www.thedailybeast.com/antiracism-our-flawed-new-religion" \t "_blank"] [HYPERLINK "https://www.youtube.com/watch?v=H-CR7CDEitA" \t "_blank"] [HYPERLINK "https://nymag.com/intelligencer/2018/12/andrew-sullivan-americas-new-religions.html" \t "_blank"]), I do want to take a moment to outline the key features of what makes me think that Critical Social Justice is, in fact, a religion. Readers (with a couple of hours on their hands to consider it) are encouraged to read [HYPERLINK "https://newdiscourses.com/2020/06/postmodern-religion-faith-social-justice/"] in full before proceeding, because I wish to expand upon and simplify its central arguments here. Though that essay does not focus particularly on the blatant parallels between other religions, especially like Christianity, and Critical Social Justice—for examples, that “Woke” and “born again,” “privilege” and “depravity,” “complicity” and “sin,” “cancellation” and “excommunication,” and “colonialist, imperialist, white supremacist cis-hetero-ableist patriarchy” and “the world after the Fall”—such points are made throughout that piece.

It may be worth pausing for a moment, however, to point out that the shape of the Woke faith is what some theologians refer to as “Augustinian,” as in Augustine of Hippo, better known as Saint Augustine. What this means, in brief, is that the faith is based primarily upon the notion and relevance of Original Sin and how atonement for the stain of the Fall might be found, notably relying upon a combination of inner work (meditations) and critical self-reflection (confession). Many complicated soteriological stances have been developed from Augustine's doctrines about the relevance of the Grace of God and how one is to qualify to receive or accept it. Typically, various pieties and duties of conscience are defined within a particular faith tradition by elaborating upon the role of human agency, as is said to be granted to us by God in the form of freedom of will.

All of this construction is unmistakably present in Critical Social Justice. The discovery of the full relevance of rationality and empiricism marks the moment of having eaten from the Tree of Knowledge and, by thus developing the capacity to enact systemic oppression (by virtue of being able to find out right answers about the world *systematically*), a sin was committed against the order of the world. That is, the Woke Original Sin, just like in Genesis, is the acquisition of forbidden (paths to) knowledge, and so humanity fell. The mark of that sin (as with Cain) was using the knowledge to colonize the world, both physically and intellectually, and to use it to enslave, conquer, and marginalize. We often hear the premises that slavery is America's “original sin” and, following the *New York Times Magazine's* 1619 Project (a critically revisionist historiography), its fundamental organizational principle—one that has removed it from any possibility of salvation by works and that requires a fundamental, if not millenarian, remaking of the nation.

From the sin of rigorous knowledge production follows power and thus privilege, and privilege is the depravity of wanting to sin in this way so that one's access to systemic power is maintained. The call to Woke faith is to awaken a critical consciousness—which the Theorist and black feminist bell hooks sometimes refers to as “enlightened witness”—through the study of scripture and a lifelong process of self-reflection and self-critique (meditations) in which one is to “interrogate” yourself to “do better” (confessions). Indeed, as we read from “anti-racist” historian Ibram X. Kendi, “the heartbeat of racism is denial, and the heartbeat of antiracism is confession.” Agency is afforded in a kind of critical grace to those who have awakened (become “Woke”) to the “true” nature of systemic power and its relationship to knowledge, which is to say those who have become aware of the truth of their inherently sinful nature, depravity, and need for absolution from these evils from something bigger and transcendent to themselves, be that the collective judgment of society or, as Marx might have had it, History, with a capital H.

As a general note that was central to my preceding piece, it is crucial that one understand Critical Social Justice as a [[HYPERLINK "https://amzn.to/32VUubub" \t "_blank"](https://amzn.to/32VUubub)]. As most religions that we are familiar with present in a genuinely *premodern* way by invoking literally believed spiritual forces that exist in a separate plane of reality or as imperceptible-but-causal “energies” and engage in worship and practice in ritualistic ways that are, in turn, recognizably holdovers from premodern liturgical contexts, it can be difficult to see a *postmodern* faith for what it is. In a postmodern faith, God is dead, and the forces that work in a mysterious way in the world are necessarily sociological as a result. Formalized liturgical modes have been deconstructed and replaced with something more decentralized, chaotic, and even ironic. Because the central object of interest in all postmodern thought is social power, postmodern “deities” are systems of social power and the “social” phenomena that construct them.

In the Woke faith, as in many polytheistic and pantheistic faiths, people are but the playthings of these discursive power gods. They are called by these gods to act for the cause of liberation, and to be Woke—to have a critical consciousness, or any of its subspecies of awareness, such as feminist consciousness, black (political) consciousness, and/or queer consciousness—is to be aware of the call. The power gods determine our courses, but those who are awakened in the spirit know how to discern how they might be used for righteous good rather than depraved evil. It is no longer spirits and demons on the other side of the dualistic veil but systems of power and the discourses that produce and maintain them.

It's easy to get lost in this kind of discussion, so I will mostly leave it here because there's another purpose to this essay, which is to discuss its relevance to First Amendment law in the United States. Before proceeding with the *legal* argument, however, there are a few points from my previous work I'd like to present here and expand. They are understanding religions in terms of (1) a Durkheimian sociological order equipped with liturgical forms, (2) an underlying mythology and complete metaphysics, and (3) a system of moral law, which in turn gives rise to duties of conscience. To these frames, I also want to add a fourth point about religious fundamentalism, a fifth about puritanism, and a sixth about the organization of churches and religions themselves, as these are relevant. All of this “philosophical case” should set up the more difficult argument in the “legal case.”

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Sociology

In very brief, the great sociologist Émile Durkheim sought to describe and succeeded at describing religions sociologically in a way that has not yet been, to my mind, superseded despite the century that has passed since he took up the project. For Durkheim, religions are sociological phenomena that are, at their very bottom, a particular kind of *moral community*. This means that religions are, sociologically, phenomena that organize a community around a shared sense of morality and, relatedly, purpose in life.

This view has been developed since to articulate clearly that religions are, in the most general description, moral communities that provide three basic types of psychosocial (combined psychological and social) needs for their adherents and participants: meaning-making, a sense of control, and the capacity to establish, police, and understand one's place in a community of people with shared (religious) values. While the precise definition of a religion may remain fuzzy and elusive, speaking functionally, these properties seem to form an identifiable skeleton upon which the meat of the matter is organized.

It should be almost immediately obvious that the worldview of Critical Social Justice satisfies all of these criteria. Life in the community gains meaning in the (almost cosmic) battle for “liberation” against [HYPERLINK "https://newdiscourses.com/tftw-oppression/"], and individual meaning (and agency) are defined almost entirely in terms of this struggle. The point of the struggle is obviously to achieve liberation from all systemic oppression, which can be achieved by gaining control over the machinations of society and the harms that an improperly managed society will mete out to some of its members, often the most vulnerable. A [HYPERLINK "https://newdiscourses.com/tftw-intersectionality/"] is set up by the doctrine of [HYPERLINK "https://newdiscourses.com/tftw-intersectionality/"] around this view of the world, and policing of one's status within it (as assessed under the term “[HYPERLINK "https://newdiscourses.com/tftw-position-positionality/"]”) is famously vigorous within Critical Social Justice-run communities. A volume could be written on this topic, and yet even these few sentences are enough to convey the point that “Woke” communities are moral communities to most readers even passingly familiar with the ideology.

As Durkheim's clearly hasn't been the last word on the subject, something more than just this bare-bones sociological view seems to be needed to really outline what makes a moral community *religious*. Moral psychologist Jonathan Haidt has [HYPERLINK "https://amzn.to/2YPGKdW" \t "_blank"] a significant part of this puzzle by pointing out that if one is going to live in a moral community, we need some [HYPERLINK "https://amzn.to/31Jf10f" \t "_blank"] of “psychosocial valuation,” that is, a means by which we can tell how we and others stand in relation to one another within the community.

Of course, human beings evolved to be exquisitely sensitive to social valuation of self and others, and as Haidt points out, it seems to be that it is (at least) a three-dimensional process for us. We tend to value people according to “closeness” (of kin or friendship), “reputation” (something like how famous one is), and “divinity” (which sounds overtly religious and is probably best understood as adhering to the prevailing moral framework in the relevant Durkheimian moral community in play). It is important to understand that Haidt chose this terminology to describe a psychosocial feature as it exists in the world of human interactions and behavior. It is a way that human beings understand ourselves and others, not a specifically spiritual quality (hence the scare quotes, which are used to distinguish it from the usual spiritualist meaning of the word).

This last dimension, “divinity,” sets up a particular point about religions that is essentially defining of them: religions have something inseparable to do with a recognition of the *sacred* and its being set apart from the profane. Whatever one’s view of spiritualism, functionally speaking, an individual can be evaluated positively in the “divinity” dimension by how well one keeps piety with regard to that which is considered sacred to the moral community at hand. Maybe it is keeping one’s speech clean of vulgarities and profanity; maybe it is abstaining from certain foods or sex; maybe it is undergoing ritual bathing before entering the holy place; maybe it is pronouncing declarations of faith and sinfulness; maybe it is believing all victims of certain kinds of systemic oppression about their interpretations of their own experiences in life, taking a picture of your middle finger pointed toward Trump Tower and sharing it on social media, knowing everyone’s pronouns and announcing yours, avoiding problematic words, or finding ways to disrupt “white comfort,” even as a spiritual act of making oneself, if white, “uncomfortable.” These displays of virtue, at least when organized, define the liturgical forms of a practice of faith, and performing these behaviors (at least ostensibly sincerely) credits individuals with social status in the “divinity” dimension, in the eyes of self and others.

That which is held as sacred is that which has been assigned something like infinite moral value, so that it is in nearly all circumstances inappropriate to fall afoul of sacred beliefs, teachings, or commandments. Thus, and most importantly, the sacred cannot be questioned, and it cannot be contaminated by the profane. A moral community that exists to satisfy the basic psychosocial needs for meaning-making, sense of control, and sense of community that sets certain moral precepts aside as *sacred* would be in essence a religion, as Durkheim might have it.

As I have argued before, in some sense following Aquinas, “God” is the name that “all men” give to a deified abstraction that satisfies and ontologically grounds all of these features, as well as those listed below. God is that which grounds the meaning and infinite value of the sacred, in some sense, at least in significant part, for those who believe in Him. Many, but not all, religions have deities or, in monotheistic faiths, God, and the question of what “God,” if any, Critical Social Justice has (in the sense stated here—a quasi-deified abstraction, as above) is a profoundly difficult one. I will contend that in some respects, such an abstraction exists for Critical Social Justice, and in others it does not, which is not a problem for its generally

postmodern orientation, though I will not detail what that is here, saving it rather for when it fits in each specific context.

Religions tend to do more than just define and ground religious belief and experience, however. They tend not just to hold certain beliefs and establish community around them. They tend to *practice* those beliefs as well, and they tend to *teach* them.

([HYPERLINK "<https://newdiscourses.com/2020/09/first-amendment-case-freedom-from-woke-religion/>" \ | "TOC"])

Liturgical Form

Practices and teachings will, of course, arise organically within moral communities that begin to regard certain values as sacred. When the group is small, this values structure can be maintained by mere social enforcement of the few dozen members of the group. As such communities grow or persist over a long period of time, as a matter of solving the obvious problem that might be called “herding cats,” teachings that articulate those values and practices, and their worth, tend toward being codified. Thus, the organic sense of morality that binds the community starts to become a doctrine because, without doctrine to be taught and read, it becomes too difficult to communicate the morality in play. Priests are established who understand this canon and can transmit it to others.

Put otherwise, something happens when a moral community reaches a specific size: a canon and priests become necessary to keep the whole group in tune with the emerging moral orthodoxy. Somewhere in this part of the process, a moral community can begin to transition into something resembling a religion, and one of the surest signs that this is occurring is when this need to define a community functionally grows into a doctrinal application of moral law. Because humans tend to think most naturally in stories with emotional relevance, the canon often is communicated through a mythology, which is a cohesive and totalizing set of morally resonant stories about the world, its function, and the people in it that defines how a group sees itself in relationship to the machinations of the world it inhabits. Thus, the development of a mythology that communicates the nature of the world and its inhabitants, typically in complex themes of good and evil that are personified or otherwise reified in complex ways, is another hallmark of the development of a *religion* out of a growing moral community.

The point of a mythology, besides communication of relevant themes in a totalizing way, is to provide a sense of *attribution* for various phenomena, including numinous ones, for those who accept it. That is, a mythology is core to the *meaning-making* project at the heart of religious communities. Once a mythology is devised around this new moral code to give it a (meaning-making) anchor for moral attribution—that is, a way to explain how the moral law is real and binding, not merely a loose system of values—and enough weight to give rise to purpose-conferring duties of conscience around articles of faith, it is probably fair to say that the moral

community has become a religion, speaking sociologically, and its doctrine, mythology, and liturgical forms have come to constitute a religion in the sense of being a body of beliefs and activities of a certain, identifiable type.

The question of liturgical forms—most generally, a call to commune with the sacred and to do the work that accords with its vision for the world, usually in some structured way—is what many observers would agree forms the genuine hallmark of religious practice and belief. A liturgy arises around a set of beliefs when there is an identifiable practice that “calls” people to do the work of the faith and recenters them within its mythological belief structure and doctrinal positions. Of significant importance, a liturgy, by definition, implies duties of conscience to the prevailing moral order.

In usual (premodern) faiths, liturgies take the form of various rituals, like church services, and the term tends to describe the specific structure of the services themselves (e.g., the Easter liturgy might be specific and somewhat different than the common liturgy in a particular church). In a vaguely modernist faith like Scientology, it would take the structured form of the “audits” that adherents are expected to undergo. In a postmodern faith, the liturgy may be profoundly harder to describe and identify because any clear and identifiable liturgical structure would be, by definition, subject to immediate [[HYPERLINK "https://newdiscourses.com/tftw-deconstruction/"](https://newdiscourses.com/tftw-deconstruction/)] (lest it fail to be postmodern in character). Critical Social Justice is not entirely postmodern, at least not in the purists’ sense of the term (that is, it [[HYPERLINK "https://amzn.to/32VUubub"](https://amzn.to/32VUubub)] from deconstruction certain articles that the “high deconstructionists” of the 1960s and 1970s certainly did not). Accordingly, Critical Social Justice has a mostly identifiable liturgical form, though it admits far more variation than earlier religious models and mostly lacks clearly ritualistic structure.

The liturgy of Critical Social Justice would be to “do the work” to bring about Social Justice through *critique*. This “work” would, in general, take the form of educating oneself in the doctrine then engaging in self-reflection, self-critique, and social activism to bring about “[[HYPERLINK "https://newdiscourses.com/tftw-social-justice/"](https://newdiscourses.com/tftw-social-justice/)]” rather than just individual justice. Thus, when activist-scholars like Robin DiAngelo [[HYPERLINK "https://amzn.to/3gJY9Lg"](https://amzn.to/3gJY9Lg)] for precisely these practices, they are calling for participation in the Critical Social Justice liturgy.

Each of these elements takes a specific form. Educating oneself means reading and engaging with specified doctrinally consistent media and attempting to understand it in the fashion of a critical consciousness—the spiritual mode of Critical Social Justice. Self-reflection and self-critique are described as types of “interrogation,” particularly of one’s own “[[HYPERLINK "https://newdiscourses.com/tftw-complicity/"](https://newdiscourses.com/tftw-complicity/)]” in systems of power and feelings of defensiveness that arise when confronting that. The required social activism tends to take particular forms as well, such as group confessions of racism or other bigotries in [[HYPERLINK "https://newdiscourses.com/2020/06/diversity-delusion/"](https://newdiscourses.com/2020/06/diversity-delusion/)] sessions, engaging in activist social media and petitioning campaigns (as a form of prayer to the systems of power and people who

maintain them), bowing down and apologizing to members of [HYPERLINK "https://newdiscourses.com/tftw-minoritize/"] groups, announcing one's [HYPERLINK "https://newdiscourses.com/tftw-position-positionality/"] or pronouns (or putting them in one's social media bio), acknowledging one's positionality and privilege in most or all interactions, promoting the literature of Critical Social Justice scholars (especially of members of [HYPERLINK "https://newdiscourses.com/tftw-marginalization/"] groups), engaging in certain types of symbolic performances (like twerking in front of police), and engaging in highly recognizable forms of symbolic action in protest environments.

These activities do not form a usual, formal liturgy like one would see in, say, the Catholic Church because it's a *postmodern* liturgy that derives its power from adopting certain discursive stances, performing symbolic actions, and, sometimes, approaching the issue through parodic forms. More formal Critical Social Justice liturgies are plainly apparent in meeting environments, where "points of personal privilege" are raised before speaking and land acknowledgments and other statements of penitence are made before engaging in meeting activities. Generally, the liturgy of Critical Theory takes the shape of a variety of easily recognizable calls to faith either to recognize one's privilege, to act in solidarity with the "oppressed," or to "disrupt and dismantle" some system of power. In that sense, the invocation of positional [HYPERLINK "https://newdiscourses.com/tftw-standpoint-epistemology/"] thinking, calls to solidarity, and acts of "strategic resistance" are all broad liturgical forms of Critical Social Justice belief and practice. (And in more specific Antifa-related activism, "bloccing up," which refers to donning the characteristic black clothing, masks, and helmets, and engaging in disruptive protest would constitute an "[HYPERLINK "https://newdiscourses.com/tftw-antifascism/"]" liturgy that is separate from but consistent with the general Critical Social Justice faith.)

As the Critical Social Justice worldview is centered upon a particular kind of victimhood that is alleged to arise from systemic injustice, a specific liturgical form in Critical Social Justice is—as it is already being called in some "justice"-oriented churches—a "[HYPERLINK "https://www.faithforjustice.org/blog/2020/5/8/liturgy-of-lament" \t "_blank"]." This liturgy does its work by creating a structure by which the people can connect to the sacred through appeals to the pain of systemic oppression. This pain has to be understood in its full context because not any pain—not even any oppression—will do. The pain that plays into Theory and that defines the liturgy of lament is *sacred* suffering because it taps into historic, and group-level suffering that transcends the realm of the individual. It is therefore a particular kind of suffering that members of dominant groups (like white people) can see themselves as having been complicit in by association or conferred "privilege," which reaches into an existential-level sense of guilt. Any suffering that falls out of line with Theory, on the other hand, does not operate in such a grand, metaphysical scale and therefore is trivial—or venial—suffering.

In a liturgy of lament, lamentations against the systems of power are offered by those aggrieved by the system or those seeking to speak [HYPERLINK "https://newdiscourses.com/tftw-authentic/"] upon their behalf, and this serves as a call to [HYPERLINK

<https://newdiscourses.com/tftw-engagement/>] and to act. These are common in administrative settings, particularly where offices of [HYPERLINK <https://newdiscourses.com/2020/06/diversity-delusion/>] (ironically, DEI—Latin for God) have institutional power. Land acknowledgements must be made. One’s own [HYPERLINK <https://newdiscourses.com/tftw-complicity/>] must be interrogated. The systems must be denounced, and, if possible, disrupted and [HYPERLINK <https://newdiscourses.com/tftw-dismantle/>] . Solidarity must be offered, displayed, and acted upon. Problematics must be called out. Counterstories must be told. Protests must be attended, and disruptive action must occur. Acts of “strategic resistance” must be employed. A liturgy of lament is a spiritual call to “speak [HYPERLINK <https://newdiscourses.com/tftw-truth/>] to power” about the “[HYPERLINK <https://newdiscourses.com/tftw-realities/>]” of systemic oppression, and its purpose is to awaken and reinforce a [HYPERLINK <https://newdiscourses.com/tftw-critical-consciousness/>] in those it reaches. Critical consciousness must be awakened, and this is the spiritual frame of the entire enterprise.

Again, there’s no need to belabor the point about how the Critical Social Justice worldview operates in this regard. The victim of systemic oppression or any harm mediated through or amplified by systemic power is sacred, as is their testimony, so long as it agrees with the “critical” interpretation of how power contributed to the relevant claims to harm. All that upholds or maintains systems of oppression, as the Critical Social Justice worldview defines any and all of this, is profane and utterly verboten. Nothing that upholds oppression, as they conceive of it, can be permitted to contribute to the pervasive victimhood of any of its protected classes (note that oppression by the Woke of insufficiently Woke members of “[HYPERLINK <https://newdiscourses.com/tftw-minoritize/>]” groups doesn’t count because that isn’t oppression, and it can’t be seen as systemic, by their definition of the system).

In the Woke worldview, then, even virtuous concepts like responsibility become profane because to assign any form of responsibility to a (systemic) victim in any regard whatsoever, no matter what their own contributions to their lot, is to desacralize their claim to victimhood and drag it within the spheres of the world and, more to the point, into their own agency (through a process called “[HYPERLINK <https://newdiscourses.com/tftw-responsibilize/>],” no less). This would deny that the victimhood is *systemic* and wholly the fault not of others, but of the system itself. The victim is sacred, and thus the victim must be a wholly pure victim of a world that mistreated her *in toto*, for this kind of victimhood, and this kind alone, is that which sanctifies.

As a poignant aside, the reliance upon a liturgy of lament makes more clear that a certain kind of [HYPERLINK <https://www.youtube.com/watch?v=oXShnCWQTCo&feature=youtu.be&t=335>] is a mark of “divinity” in Critical Social Justice circles. The holy, apart from the systemically oppressed, are those who care about the systemically oppressed enough and in the “right” ways. True “divinity” in the faith is derived in Gnostic form from the subjective “lived experience” of suffering systemic oppression and thus injustice, and thus identity markers combined with the right interpretations of their experiences become the marks of “divine” status, which cannot be

questioned or doubted. Working to remedy this pain in turn becomes a spiritual experience for those with the [[HYPERLINK "https://newdiscourses.com/tftw-privilege/"](https://newdiscourses.com/tftw-privilege/)] to do so. Ritualistic “feel-ins,” taking turns sharing emotional testimony (and then boarding an [[HYPERLINK "https://www.youtube.com/watch?v=IHM7SUFIE8w"](https://www.youtube.com/watch?v=IHM7SUFIE8w) \t "_blank"] in solidarity to remedy the ills that evoked it), and pledging to “do better” as [[HYPERLINK "https://newdiscourses.com/tftw-ally-allyship/"](https://newdiscourses.com/tftw-ally-allyship/)] are hallmarks of this spiritual practice, and the [[HYPERLINK "https://www.youtube.com/watch?v=ITjxym-VpfQ&feature=youtu.be&t=78"](https://www.youtube.com/watch?v=ITjxym-VpfQ&feature=youtu.be&t=78) \t "_blank"] around these activities is palpable in the rush to bring comfort to the oppressed. Therapeutic language is explicitly employed. It is, in its own way, the giving of alms, an act of virtue in a [[HYPERLINK "https://amzn.to/2EL2Eih"](https://amzn.to/2EL2Eih) \t "_blank"] faith.

Thus, the needs for meaning (and purpose) making, a sense of control, and a definable community that can be policed and that the individual can understand herself within can be established by these values. Moreover, they are given a fuzzy but identifiable liturgical form for the community of believers. The values system is clearly comprehensible: that which disrupts or dismantles systemic oppression is good, which makes activities meaningful and renders social activism as a kind of teleological fulfillment of righteous behavior. The relevant, meaning systemic, harms of society can be controlled to an exquisite degree by critiquing and cancelling anything that causes them. A community is established and maintained in service to these ideals and values, and inclusion and social standing are easily discerned by the way one talks about or regards the relevant issues of systemic importance. Lastly, people can understand themselves in this community through their [[HYPERLINK "https://newdiscourses.com/tftw-position-positionality/"](https://newdiscourses.com/tftw-position-positionality/)] with respect to the systems of power in play and the sensitivity to them—[[HYPERLINK "https://newdiscourses.com/tftw-critical-consciousness/"](https://newdiscourses.com/tftw-critical-consciousness/)]—they are able to exhibit in shows of virtue to others.

([[HYPERLINK "https://newdiscourses.com/2020/09/first-amendment-case-freedom-from-woke-religion/"](https://newdiscourses.com/2020/09/first-amendment-case-freedom-from-woke-religion/) \ | "TOC"])

Mythological Construction

A theory of sanctity and profanity like the one just described as being at the heart of Critical Social Justice is far too totalizing and simplistic to weather even cursory scrutiny from skeptical minds cognizant of anything resembling facts of the world. Therefore, such an artifice must be conveyed not through appeals to an understanding of a [[HYPERLINK "https://newdiscourses.com/tftw-reality/"](https://newdiscourses.com/tftw-reality/)] but by means of a mythological construction that simplifies it and packages it up in story and parable. That is, a worldview like this one requires being understood and communicated *mythologically*, not factually.

This approach to myth is, perhaps, most comprehensible via the philosophy of the Polish philosopher Leszek Kołakowski, notably as he developed the concept in [[HYPERLINK "https://amzn.to/2YgAdlG"](https://amzn.to/2YgAdlG)]. In shortest summary and broadest expression, Kołakowski argued that there are two modes of human thought, one totalizing and one atomizing. The totalizing line of thought is *mythological*, and the atomizing form is *technological*. His argument is that the technological process is the picking apart of propositions on their own standing, to check and see if they are true or false, and building a view of the world from what survives this process, whereas the mythological process is the opposite, true or false in total, as it is.

As an important aside, it is in this sense that postmodern faiths like Critical Social Justice and premodern faiths can both be understood as being illiberal—liberalism is, in some regard, the preference for the atomizing technological approach over the totalizing mythological one, which may or may not be wholly psychologically satisfying to our particular species of ape. The bridge we have established between these worlds, which allows totalizing worldviews to be embraced only in the confines of private conscience and volitional subscription and communion, is called “secularism,” which is ultimately the point of this essay. Faiths which are subject to secularism can be called “liberalized” faiths, in the sense of, say, American Constitutional law and thought, whereas those that have not represent something more provincial and anti-pluralistic. These latter present a significant problem because they lack any capacity to enforce themselves, often quite literally by force, over as much of society as they can grab, which is the stuff of the profoundly illiberal Inquisition.

To elaborate briefly on Kołakowski in our specific Woke context, a “technological” approach to understanding racism and whether or not, or to what degrees, it is systemic would examine various propositions, institutions, policies and their effects, and an awful lot of data that has been parsed as carefully as possible and controlling for as many confounding variables as can be identified and measured. It would then report upon this in a means that is as circumspect as it is possible to be and continually report upon the limitations of its own methodological rigor and thus conclusion-drawing power. Its goal would be to “pick racism apart” and find out exactly what racism looks like, how it arises, and how it can best be mitigated where it still remains, mostly in a data-driven fashion that is profoundly interested in real-world causes and effects.

A “mythological” approach would do no such thing. It would begin with a [[HYPERLINK "https://amzn.to/34ejppA"](https://amzn.to/34ejppA)] “racism is ordinary, not aberrational in society” and then advance a [[HYPERLINK "https://newdiscourses.com/2020/01/influence-anti-racist-scholarship-activism-evergreen-college/"](https://newdiscourses.com/2020/01/influence-anti-racist-scholarship-activism-evergreen-college/)] like “the question is not ‘did racism take place?’ but ‘how did racism manifest in this situation?’” It would then look for “evidence” that highlights the plausibility of this sweeping claim in any form that it could find without any regard for parsing variables or controlling for anything. It would, in fact, look at any inequality in society [[HYPERLINK "https://amzn.to/3g7605a"](https://amzn.to/3g7605a)] of the underlying mythological claim that racism is systemic within it and then work to explain [[HYPERLINK "https://robindiangelo.com/wp-content/uploads/2016/06/Anti-racism-handout-1-page-2016.pdf"](https://robindiangelo.com/wp-content/uploads/2016/06/Anti-racism-handout-1-page-2016.pdf)] in that situation. Real-world data and explanations would be vigorously

discounted when they contradicted the mythological narrative—say, like when a police shooting turned out to be wholly justifiable under any reasonable standard—and genuine causes and effects would be ignored. Racism would be a matter of myth, not fact, and that myth would persist even in the absence of any factual basis or in the face of countervailing evidence. Asking for evidence of racism would, in fact, be construed as proof of racism wholly on the grounds that the question itself denies the mythological narrative and the “lived realities” it allegedly contextualizes. This is, as it happens, explicitly the approach advocated by [[HYPERLINK "https://newdiscourses.com/tftw-critical-race-theory/"](https://newdiscourses.com/tftw-critical-race-theory/)], the race-oriented facet of the Critical Social Justice worldview.

Mythologies are not concerned with data. They are instead, and it is, in fact, *instead*, more [[HYPERLINK "https://newdiscourses.com/tftw-narrative/"](https://newdiscourses.com/tftw-narrative/)] and centered upon [[HYPERLINK "https://newdiscourses.com/2020/07/saying-no-critical-race-theory/"](https://newdiscourses.com/2020/07/saying-no-critical-race-theory/)]. Stories convey their point much more effectively, while testing the claims implicit or explicit within the story undermines its flow and communicative capacity. For example, facts might tell us that claims about police killings of certain people are not, in fact, always murders, nor are they very prevalent, but this, to a mythologist, would contradict *how people feel* about the issue of police violence and its intersection with racism. The realities of the issue don’t matter, but how people feel about it—which is conveyed through the mythology and its storytelling—do. In fact, disagreeing facts are not welcome in such an environment because they would undermine the basis of the narrative that’s doing the mythological work for its believers. That is, picking apart the claims of the mythologist’s story undermines their ability to convince people of its *moral*, and the mythologist is primarily, if not only, concerned with the moral of the story, for which the story itself is but a vehicle. Mythologies are meant to convey through affective imagery who is right and who is wrong—morally, not factually—and why, and they are designed to communicate the underlying metaphysics of the belief system they serve.

([[HYPERLINK "https://newdiscourses.com/2020/09/first-amendment-case-freedom-from-woke-religion/"](https://newdiscourses.com/2020/09/first-amendment-case-freedom-from-woke-religion/) \ | "TOC"])

Metaphysics of Hegemony

In the case of Critical Social Justice, that metaphysics is a bit complicated because the worldview itself is the [[HYPERLINK "https://newdiscourses.com/2020/07/complex-relationship-between-marxism-wokeness/"](https://newdiscourses.com/2020/07/complex-relationship-between-marxism-wokeness/)]: “social justice,” Critical Theory and postmodernism, none of which lend themselves to quick and clear understanding.

Put briefly, social justice is the belief that society should be made fairer on the level of identifiable social groups. This admits two difficulties right out of the gate: which social groups are meaningfully identifiable, and what is meant by fair? As a result, a wide variety of theories about social justice have been developed over the last two centuries, starting with religious approaches, finding deep development within liberal circles, and also admitting approaches via

various *critical* theories, whether deriving from Marxism, feminism, neo-Marxism (liberationism), or some combination thereof. To speak broadly, its [[HYPERLINK "https://www.researchgate.net/publication/334322590_Metaphysics_and_social_justice" \t "_blank" \]](https://www.researchgate.net/publication/334322590_Metaphysics_and_social_justice) views a fairer world with less unfair discrimination, prejudice, and disenfranchisement as possible, more moral, more desirable, and more just, importantly by investigating the meaning and relevance of various categories of identity and conceptions of fairness.

Of the remaining two, [[HYPERLINK "https://newdiscourses.com/tftw-critical-theory/" \]](https://newdiscourses.com/tftw-critical-theory/) is somewhat simpler, including where it is applied to the project of social justice (here: “[[HYPERLINK "https://newdiscourses.com/tftw-social-justice/" \]](https://newdiscourses.com/tftw-social-justice/),” capitalized). It proceeds upon a metaphysics of critique, which, in most charitable explanation, seeks to expose, unmask, question, and interrogate the underlying assumptions of which categories and circumstances are “natural,” and which are a result of entrenched political biases and ideological assumptions. To be more honest about this objective, this willingness to critique it imports from liberal analysis—which does this by definition—while taking criticism to a “ruthless” (Marx) extreme that is often cynical and openly hostile to the liberalism that it deliberately perverts.

Specifically, Critical Theory sees the world fundamentally in terms of [[HYPERLINK "https://quillette.com/2020/08/16/the-challenge-of-marxism/" \t "_blank" \]](https://quillette.com/2020/08/16/the-challenge-of-marxism/) waged across lines that position “oppressors,” who have the power, against the “oppressed,” who are oppressed by that application of power. The questions it raises about categories and their connection to natural facts of the world are therefore all brought up with this view of the world in mind. Thus, the metaphysical occupation of Critical Theory is to call into question any category, structure, belief, or understanding that enables a certain mode of social power, called “[[HYPERLINK "https://newdiscourses.com/tftw-hegemony/" \]](https://newdiscourses.com/tftw-hegemony/),” to manifest and exert itself upon society. That is, the critical metaphysical disposition is a metaphysics of hegemony, which seeks to critique the role of ideologies (roughly, coherent sets of beliefs about how society should be ordered, like conservatism, liberalism, Marxism, progressivism, or white supremacy) in shaping social, political, and thus material reality for human beings who live within it.

To this more general set of metaphysical dispositions, Critical Theory adds a moral ontology, which we will later see gives grounding to a partial conception of a God-construct for the faith. It conceives of an ethical paradigm of liberation defined in terms of the conflict it reads into all facets of the world, whereby right belief and activism can overthrow the powerful and unmake their hegemonic systems of oppression. The result of dismantling oppressive hegemonies, as they see them (in an oddly many-in-one construction under intersectionality), results in an indisputable moral good: the people who are oppressed by them might be freed from their oppression.

For the Critical Theorists, power resides in the control of the bourgeois elites of society who set the standards for culture, first high (for themselves) and then middle (to control the masses) with little regard or patience for the low culture of the “[[HYPERLINK "https://amzn.to/3aGnqEL" \t "_blank" \]](https://amzn.to/3aGnqEL)” at the bottom of the societal pile. Power is therefore ultimately *cultural* in Critical

Theory, and the purpose of the ideological program is to offer ruthless critiques of everything in society that produces, upholds, or maintains the cultural hegemonies of the elites, by which they maintain their social status, power, and privilege. Beneath this belief is that if the elites can be deposed by awakening enough of the falsely conscious masses—who are believed not understand just how bad they have it in their mostly pleasant middle-class lives—a revolution that happens to be mostly Marxist can finally be achieved, after which liberation will be permanent in the communist Utopia.

Originally, the Critical Theorists thought of the bourgeois elites in similar terms as did Marx, socioeconomically, although they disagreed with Marx that a single proletariat consciousness could be awakened and led to initiate the desired communist revolutions as he had predicted. This view of who the cultural elites were fragmented in the early school of Critical Theory and turned an eye toward various facets of cultural life, though it still saw “culture” in a largely homogeneous way, once the simple strata of high, middle, and low were accounted for. This view did not last.

After the developments of the post-War neo-Marxist Herbert Marcuse and the postcolonialist Frantz Fanon, who wrote his most [[HYPERLINK "https://amzn.to/3iWXwPY" \t "_blank" \] \[\[HYPERLINK "https://amzn.to/2YhA5ci" \t "_blank" \\] around the same time \\(1950s–1960s\\), the cultural conflict theory within Critical Theory became explicitly oriented toward \\[\\[HYPERLINK "https://newdiscourses.com/tftw-identity-politics/" \\\] . For Fanon, it was the identity of the “colonized,” which extended not only into geographic considerations but also into racial ones. Marcuse made the identity politics much more explicit however, writing in his blockbuster \\\[\\\[HYPERLINK "https://amzn.to/2Yhk2ex" \t "_blank" \\\\] that some combination of the various minorities \\\\(especially racial minorities\\\\), societal “outsiders” \\\\(presumably meaning radical activists who were often violent\\\\), and the radical intelligentsia needed to form a coalition to effect the liberationist revolution for which he agitated.\\\]\\\(https://amzn.to/2Yhk2ex\\\)\\]\\(https://newdiscourses.com/tftw-identity-politics/\\)\]\(https://amzn.to/2YhA5ci\)](https://amzn.to/3iWXwPY)

These works shifted the cultural analysis of the radical left out of mass culture and into illiberal [[HYPERLINK "https://newdiscourses.com/2020/01/identity-politics-civil-rights-movements/" \] , which \[\[HYPERLINK "https://www.racialequitytools.org/resourcefiles/mapping-margins.pdf" \t "_blank" \\] a generation of radical activists and scholars who went on to lay much of the groundwork that became Critical Social Justice. That is, the Critical metaphysics of hegemony began to see many interacting hegemonies, each existing along an axis of identity-based systemic oppression like racism, sexism, or homophobia. \\(Though very early, this multidimensional line of thinking laid the foundation upon which the “practice” of intersectionality would be built roughly a quarter century later.\\)\]\(https://www.racialequitytools.org/resourcefiles/mapping-margins.pdf\)](https://newdiscourses.com/2020/01/identity-politics-civil-rights-movements/)

([[HYPERLINK "https://newdiscourses.com/2020/09/first-amendment-case-freedom-from-woke-religion/" \l "TOC" \] \)](https://newdiscourses.com/2020/09/first-amendment-case-freedom-from-woke-religion/)

Metaphysics of Discourse

The [[HYPERLINK "https://newdiscourses.com/2020/04/french-intellectuals-ruined-west-postmodernism-impact/"](https://newdiscourses.com/2020/04/french-intellectuals-ruined-west-postmodernism-impact/)] is much harder to communicate because it is just so damn strange. Far more than Critical Theory, it describes a functional break from the entire Enlightenment worldview, which the neo-Marxists were never quite able to achieve (one might describe them as left-wing reactionaries against the Enlightenment project, instead). The metaphysics of postmodernism is a *metaphysics of discourse*, which views the chief functional substance of human existence in society—power—as being caught up in the “[[HYPERLINK "https://newdiscourses.com/tftw-discourse/"](https://newdiscourses.com/tftw-discourse/)]” of society. Discourses refer to a specific way of thinking about language: ways in which it is considered legitimate to speak about things and, in particular, what propositions are to be considered true, false, and, especially, “crazy.”

The specific view of discourses in postmodernism ultimately derives from the French structuralist school, which believed that the structures of society derive in a very profound way from the way it constructs and uses language. The starting place of the postmodern metaphysics is therefore that knowledge itself is socially constructed out of and as a conveyance of sociopolitical power that works through all of us all the time, perhaps unless we’re particularly aware of the phenomenon and take pains to resist it, mostly through a rather hopeless approach to irony, parody, and linguistic play. Where Critical Theory was concerned about something like indoctrination into false consciousness by the hegemonic ideologies of society, postmodernism focused upon how we are *socialized* into maintaining hegemonic systems of power by our all-but-necessary interactions and reliance upon the dominant discourses of society.

In fact, the metaphysics of discourse sees the discourses as almost self-contained, superhuman entities that define what does and does not have meaning within a system of language. These, in turn, shape people’s subjective “lived realities,” which postmodernism further goes on to indicate is the only legitimate “reality” that exists. This is a genuinely metaphysical claim about the (unknowable) nature of reality and ontological status of meaning-making constructs like words and sentences. Indeed, it believes that all knowledge is *socially constructed*, and that the prevailing discourses lead people to be socialized into a particular view of the world that, by the presumed universality of the dominant discourses, exerts a kind of hegemony that operates *through everybody all the time*, rather than as an imposition from the elite (who merely have unfair access to and influence on this grid-like power structure). Thus, the metaphysics of discourse is capable of subsuming the metaphysics of hegemony, as [[HYPERLINK "https://amzn.to/32VUubub"](https://amzn.to/32VUubub)] in the 1990s. It is very difficult, no matter how many examples one sees, however, to comprehend that the postmodernist worldview genuinely does consider language to have the power to structure reality almost completely.

That said, remember that meaning-making is one of the chief psychosocial reasons that leads people to be religious, and so meaning-making is one of the chief occupations of religious architectures. Here, the mythological aspects of interacting with the world obtain salience, as technology is, for all its wonders, oddly mundane and tends to be mostly divorced from some grand, or even narrow, sense of meaning. Of central importance to understanding meaning, however, is the question of how meaning is made and communicated to others (within a moral community, say) in the first place. This is what the postmodernists had a peculiar view of and

radical skepticism about, and it is upon this profound “incredulity” that the metaphysics of discourse has been built.

Jacques Derrida believed, in fact, that meaning was wholly trapped within the discourses and thus the meaning of the words we use is infinitely deferred but profoundly important. This gives language a kind of mystical quality by divorcing it from the real things it is meant to signify. Following [[HYPERLINK "https://newdiscourses.com/tftw-derridean/"](https://newdiscourses.com/tftw-derridean/)], I might tell you about a tree, but I would convey no clear meaning by doing this. The word “tree” doesn’t mean anything except in terms of how it relates to other words, like “plant” (which it is), “animal” (which, though it is alive, it is not), “oak” (which it might be), and “paper” (which it might become).

Nevertheless, argued Derrida, the relationships between words often carries with them power that defines structures of power in society. “Female” and “homosexual” only exist as words in relationship to “male” and “heterosexual,” and these hierarchical binaries in language, contended Derrida, are value-laden and favor the male and straight. (Derrida would teach under the heading of “phallogocentrism”—word-oriented thinking that overvalues the penis and the masculinist society it symbolizes.) Thus, meaning exists only in the relationships between words, and power is baked into the relationships between words, which are never adequate at conveying meaning at all and yet nevertheless transfer their power into shaping society. This is a metaphysics that applies to discourses, though, and, as it posits that meaning in language is infinitely deferred, [[HYPERLINK "https://newdiscourses.com/tftw-lived-experience/"](https://newdiscourses.com/tftw-lived-experience/)] is forwarded as a means for understanding the world more directly, as a bypass.

Michel Foucault, for his own part, believed that discourses convey meaning in another way, particularly by authenticating various statements as “true,” “false,” or “mad.” Since discourses are the legitimate ways to communicate, that which is considered “true” gains special status within the discourse ([[HYPERLINK "https://newdiscourses.com/tftw-knowledges/"](https://newdiscourses.com/tftw-knowledges/)]); that which is false is to be recognized and loses status; and that which is mad is to be excluded from the discourse.

Foucault was not very interested in truth, though, through most of his career. Instead, he was very much interested in how such designations as “true,” “false,” and “crazy” are [[HYPERLINK "https://amzn.to/31cILm3"](https://amzn.to/31cILm3) \t "_blank"], though, and [[HYPERLINK "https://amzn.to/3aRH1eB"](https://amzn.to/3aRH1eB) \t "_blank"] that the processes are not just social but intrinsically political. Power decides which statements are able to be considered true, in one way or another, and thus we ought to be radically skeptical of all truth claims. To be concerned with whether a [[HYPERLINK "https://newdiscourses.com/tftw-truth/"](https://newdiscourses.com/tftw-truth/)] is actually true is to miss the point that a political process determines its truth value, and that political process is going to be inherently [[HYPERLINK "https://newdiscourses.com/tftw-bias/"](https://newdiscourses.com/tftw-bias/)] and corrupt in favor of the powerful entities in society who have the power of knowledge authentication. Thus, knowledge and power are literally the same thing and are the true source of hegemony, and this, like everything as Foucault had it, is dangerous. Only that which we experience directly and interpreted in as

disruptive a way as possible to our [[HYPERLINK "https://newdiscourses.com/tftw-socialization/"](https://newdiscourses.com/tftw-socialization/)], can be trusted.

Under the term “biopower,” Foucault explained that the acceptance of scientific discourses as sources of truth constitutes a kind of social control, a form of power that shapes society. Further, he contended that this acceptance of both scientific claims and the power that entails tends to happen insufficiently critically of the underlying biases and advantages it produces for those whose hands are on the levers of truth (or truthiness). Thus, power—the metaphysical core of the relevant worldviews—is intrinsically bound with the prevailing discourses of the extant “truth regime” or “episteme” in operation, and so a metaphysics of discourse emerges from Foucauldian thought as well.

To draw out the relevant point, in both of these worldviews, the common element is that the object of mystical and perhaps even spiritual interest is power. In fact, “power,” whatever is meant by that, becomes in postmodernism a numinous quantity that shapes all of society and human life within it. As such, it isn’t merely the overwhelming object of interest in the resulting Critical Social Justice approach and its antecedents. It is the sole object of interest. The Critical Theorists were most concerned with the ways elite shaped culture to exert and thus maintain their own power, and this, over time and for matters of practical political utility under the guidance of revolutionaries like Marcuse, eventually sank to the bottom of the slush pool and landed on matters of [[HYPERLINK "https://newdiscourses.com/tftw-identity/"](https://newdiscourses.com/tftw-identity/)]. The postmodernists were most concerned with the ways that power and language are so closely intertwined as to be effectively the same thing, and in this sense, the postmodernists’ contribution to the Critical Social Justice metaphysics is more significant and important to understand.

In fact, this mythology even provides an approximate [[HYPERLINK "https://newdiscourses.com/2020/09/woke-creation-myth/"](https://newdiscourses.com/2020/09/woke-creation-myth/)], as described in brief very early in this essay. Systemic power, an evil of the same sort as sin, entered the world when certain human beings in a certain geographical and historical context identified rationality and empiricism, then individualism and universal humanity, as founding principles for a new system of thought and governance. That is, the Enlightenment was the Fall, and the Garden-like pre-Enlightenment world is as remote and inscrutable as the Garden of Eden in Genesis. The introduction of Enlightenment rationalism and all the rest led to long-justified conquests, colonizations, enslavement, genocides, and other horrors that asserted “Eurocentric” dominance in all spheres of life in the world, even just by changing how people think about the world and relate to one another with, say, scientific inquiry and certain among so-called Western values. Whiteness and Eurocentrism, together in lesser effect with maleness, masculinity, heteronormativity, and so on—that is, the markers of privileges—are the Marks of Cain that indicate having adopted complicity with the sin of systemic power for selfish gain. That which has been conquered, colonized, and enslaved are, against it, Abel, who was killed with a rock and left lying in the field.

([HYPERLINK "https://newdiscourses.com/2020/09/first-amendment-case-freedom-from-woke-religion/" \ | "TOC"])

Crossing the Metaphysical Streams

Critical Social Justice developed by cherry picking from all of this, mostly through the importation of Foucauldian and Derridean thought into radical [HYPERLINK "https://newdiscourses.com/2020/03/reconstructing-derrida-poetics-nonsense-rule-cool/"] (the personal is political!), then black feminism, by such luminaries of the 1990s as [HYPERLINK "https://amzn.to/3g9YXsx" \t "_blank"], [HYPERLINK "https://amzn.to/2Eh6gBh" \t "_blank"], [HYPERLINK "https://amzn.to/2QamyOY" \t "_blank"], and [HYPERLINK "https://www.racialequitytools.org/resourcefiles/mapping-margins.pdf" \t "_blank"]. They did not import these ideas in total, though, but as a kind of new and very ad hoc hodge-podge that worked to their particular activist purposes. Their Critical Theory they [HYPERLINK "https://newdiscourses.com/2020/04/disneyfication-critique/"] from various sources, including [HYPERLINK "https://amzn.to/3aJCz8i" \t "_blank"], who had [HYPERLINK "https://lithub.com/angela-davis-on-protest-1968-and-her-old-teacher-herbert-marcuse/"] from Herbert Marcuse directly, having been radicalized by him. Their postmodernism they took from their own appropriations of the relevant ideas of, especially, Foucault and Derrida, seemingly without fully understanding them (especially [HYPERLINK "https://newdiscourses.com/2020/03/reconstructing-derrida-poetics-nonsense-rule-cool/"]), as they were useful for the arguments they were making within the emerging [HYPERLINK "https://newdiscourses.com/tftw-queer-theory/"] and, in parallel, [HYPERLINK "https://newdiscourses.com/tftw-critical-race-theory/"] and their link, [HYPERLINK "https://newdiscourses.com/tftw-intersectionality/"]. By adopting a metaphysics of discourse that sets aside the lived experience of systemic oppression from the general poststructuralist “[HYPERLINK "https://newdiscourses.com/tftw-deconstruction/"]” project, which would be turned on systemic power and its cultural antecedents, Critical Social Justice was born with a *critical metaphysics of discourse*. Systemic oppression could now be taken on discursively.

This development seemed of little consequence outside of the academy until the internet came along. The internet provided people who believed in a metaphysics of discourse with a heretofore unimaginable means of interacting directly with the discourses—indeed, the internet is the playground of postmodernism. Indeed, the role of the internet plays in a world that accepts a metaphysics of discourse is profound.

Much of the behavior of Critical Social Justice believers when considered through a lens that would show it as religious is best comprehensible by understanding the how a metaphysics of discourse shapes and is shaped by social media. For example, social media activism and even making social media posts (especially when “disruptive”) can immediately be interpreted as a form of high-tech prayer by which a person can

in a very direct sense petition the discursive deities (from which the poster can expect to hear back, often in real time). This development represents a profound shift in the way the underlying psychological religious software will perform. At essentially any time, almost any person can speak directly to the deities of the discourses and, in a process of watching likes, retweets, shares, replies, and pile-ons unfold, come to understand and even shape the will of the new discursive gods. These gods are understood to have dominions over the various systems of power that they maintain, and so it is, from within the metaphysics of discourses, now almost completely believable that someone's online behavior can shape the structure of the world in a profound way.

Shaping the narrative through social media—including by “meme warfare”—therefore would be intelligible as a practice of faith to those whose mythology has adopted a metaphysics of discourse to connect it to reality, as is the case in Critical Social Justice. Prayers and petitions must be made to the discursive gods, whether in maintenance or disruption of the status quo—a phrase that seems from within the ideology to refer to the organization of the world since the epistemic fall into injustice. We see an almost fanatical obsession with social media discourses, particularly around polarizing figures like Donald Trump, and the way their interactions with the discourses are sure to create damaging, harmful, or violent actions in the real world. Little else short of genuine conspiracy could explain half-baked critical tweets receiving hundreds of thousands of direct interactions than an underlying belief that somehow such tweets have petitioned the new gods in the right ways. For those who have adopted a metaphysics of discourse, the causal line between words shared in a social media network and concrete effects in material reality is both straight and short, even when it's a total fabrication that falls well within the ranges of delusion or outright propaganda.

So, today we find Critical Social Justice with a peculiar metaphysics, in which the world is constructed of intersecting systems of power that are maintained primarily through discourses (that is, language), which render words and their meanings almost magical. These discursively produced systems of power maintain dominance and oppression, or, when appropriately critical, disrupt, dismantle, and deconstruct them in service to a Manichean moral struggle of cosmic proportions to liberate the oppressed not from their specific circumstances but from oppression as a kind of disembodied essence. These discursive systems, thus this oppression or potential for liberation, works through everyone all the time as a function of how things are spoken and thought about, and they result from socialization in systems of thought and power that people fail to critique sufficiently due to internalization of their underlying assumptions. Thus, the metaphysics of discourse implies that she who controls the language controls the systems of social production and socialization and thus orders the world, toward righteous liberation or sinful maintenance of oppression.

([HYPERLINK "https://newdiscourses.com/2020/09/first-amendment-case-freedom-from-woke-religion/" \ | "TOC"])

Moral Law

If religion, taken as a system of thought with sociological implications, had to be boiled down to a single feature that differentiates it from other philosophies, it would be that a religion provides moral law. Moral law is not the same thing as moral guidance or moral instruction, as we might find in philosophical approaches to life like Stoicism or philosophical Taoism (or even atheistic Judaism), which concern themselves with how one can live a good life. It is possible, of course, to establish a community or sect around a living philosophy like Stoicism, but once that happens, we rather readily begin to associate that sect with being cultish or religious.

This is because the role of moral *law* goes further than mere recommendation; it issues edicts and commandments. Moral law provides not only moral guidance and instruction but also moral duty and something resembling a punitive system for when those moral duties are failed. Moral law demands moral accountability, which is often expressed in terms of articles of faith (like God or History, as Marx might have had it). Religious moral law positions God as Moral Lawgiver and (Moral) Judge, and if we were to follow Aquinas again, we could say something like that there is something that gives moral law and is the ultimate judge of moral wrongdoing, and this all men call God.

In this respect, though not necessarily in others and in not all regards, Critical Social Justice quite plainly has a God-concept, and it might be called (following but extending from Marx) “the Eye at the End of History,” which is something of a metaphor for that which looks back upon all of history from its end with the capacity to judge that which was on the right side of history and that which wasn’t. The Eye at the End of History will be able to tell the abolitionists from the slavers, the colonized and decolonizers from the colonizers, and the oppressed from the oppressors. As with the ideas of Ibram Kendi’s formulation of “racism” and “anti-racism” in “policy,” which is to be known after the fact by its effects, righteousness and evil will be determinable by the omniscient Eye that can look back on all of History and see what bent its arc toward liberation and what bent it toward the maintenance of oppression.

Adherents of Critical Social Justice do not believe in such an entity literally, as do most religionists in faiths like Christianity, nor do they posit that such a supernatural omniscience exists at all. They merely act as though such a scorekeeper on the legacy of all their actions must, in some sense, be. As with deities more generally, it is something like a real idea that has been kicked out beyond “the infinity point” that defines the limits of human comprehension. That real idea is the judgment of an increasingly seeing and judgmental society, especially as it creeps ever close to a social media Panopticon. Just as the Woke judge past generations by this standard, they imagine themselves judged by future generations and their standards. Taking this idea “to infinity” results in the Eye at the End of History—the great and omniscient judge to which one is

constantly morally accountable. That imaginary judge of History, all the way at its long end, sets the context, relevance, and ontological stability of the moral law of liberationism via deconstruction of all unjust powers.

In liberal, secular societies, moral law is to be distinguished from civil law in the obvious way: moral law tells you how you *should* be, including at times how you should think, in matters of right and wrong, which should be *felt*, whereas civil law provides ordinances that are merely to be followed regardless of how you feel about them. That is, civil law cannot assign meanings such as sacred or profane to its ordinances and, instead, seeks merely to be as mundane and procedural as possible. As such, civil law cannot compel or instruct any individual in what should be left as a matter of personal conscience. You are free, if you are an American, to hate America and all that it stands for, and American civil law cannot prosecute you for that or any act consistent with such a belief short of sedition or treason, which have practical functional elements that takes them well outside the realm of mere matters of conscience. Thus, civil law cannot assign, nor can it adjudicate upon, duties of conscience. Religions can and do, and, on a functional level, exist in part to do exactly this. A particular faith does this by codifying and enforcing a system of *moral law* for those who follow it.

In particular, the moral law in religion creates moral duties—which in certain cases will be duties of conscience—that describe how adherents should act in various contexts. That is, religion is not content to give (or describe) moral law and enforce it, religions are also a *practice*. This designation is of extreme interest where Critical Social Justice is concerned for two primary reasons.

First, there is the matter that intersectionality is [[HYPERLINK "https://womeninsociology2.wordpress.com/"](https://womeninsociology2.wordpress.com/) \t "_blank"], including by its creators, not as a theory or set of ideas but as a *practice* of “interrogating” identity and its relationship to society in particular ways related to systemic social inequalities. What that practice looks like when engaged in the world would constitute the intersectional liturgy, which we have already discussed at length as taking the form both of a liturgy of (positional) lament and “doing the work.”

Intersectionality, as a practice, therefore gives rise to specific moral duties: “If we aren’t intersectional, some of us, the most vulnerable, are going to fall through the cracks,” as Kimberlé Crenshaw has it. It’s therefore a way of engaging with the world and a set of willful acts that one must train oneself in, improve at, and put into action in the world. There is a moral duty not to allow systemic oppression to continue and to harm “the most vulnerable,” as it defines them. Intersectional practice demands that we raise up the voices of marginalized scholars and activists and take a seat in situations in which we have privilege. These are clear duties of conscience for people who have adopted the Woke worldview. The judgment of History is waiting for those who fall short, and Hell is being remembered badly. (One might imagine the images from the 1960s Civil Rights Movement in which white people are seen screaming viciously at black Civil Rights Leaders; Hell is being remembered by History in such a way.)

Second, there is the matter of the obscure term “praxis,” which is the way a theory is put into practice, specifically the putting of theory into the practice of changing society. Praxis was, for Marx in particular, where the rubber met the road for theory—the birthplace of “revolutionary praxis” as laid out in his famous thesis, “Philosophers have hitherto only interpreted the world in various ways; the point is to change it.” This concept was inspirational to the communist philosopher Antonio Gramsci, appearing in his famous *Prison Notebooks*, and was also for the neo-Marxist Frankfurt School of Critical Theory, both of which recognized Marxism as “the philosophy of praxis.”

Praxis—the idea of putting theory into practice to achieve particular normative ends—also defines moral duties for adherents to Critical Social Justice. One must awaken to a critical consciousness, and then one must take up praxis in its service, including social activism to change the world. The asleep must also be awakened to their own critical consciousness through “consciousness raising,” or—as it’s more often termed now—“raising awareness.” Those with social privilege *must* always use it to interrupt any systems of oppression that are causing harm, systems of power must be disrupted and dismantled, [[HYPERLINK "https://newdiscourses.com/2020/06/white-silence-not-violence/"](https://newdiscourses.com/2020/06/white-silence-not-violence/)] in the face of oppression is complicity and violence, and people must take up “anti-racism” as a matter of spiritual self-improvement and with a “lifelong commitment” to social activism. These, too, are Critical Social Justice duties of conscience.

Religious duties of conscience tend to codify the messy shoulds and should-nots of life in society that secular societies leave outside of the reaches of civil law. Maybe there are good material reasons why the Sabbath is best observed, or why good results arise from forgiveness being granted to anyone who sincerely asks for it three times, but civil law tends not to occupy itself with such adjudications. Transgressions against moral law are typically handled in-house, inside the faith, and penance of some sort is the typical sentence. This means that making right against moral law is a spiritual matter that tends to involve both inner work and getting right with the community that upholds that particular moral law. Ultimately, this spiritual work is done against some moral standard or systemic moral force like God (of Judgment) or *karma*, which will be the ultimate source of justice for moral transgression (which only extends to the realm of civil law when it is considered a religious duty to uphold it).

This reliance upon transcendent ideas is a feature that is particularly interesting with regard to religious moral law. It is typically posited in systems of faith that the object of attribution for morality exists outside of human relations. God, or any other immanent moral fabric of the universe, is the locus of meaning for moral law and, as a result, justice. Perhaps surprisingly, given that it is simultaneously atheistic (in its specific orientation), partly morally relativist, and largely subjectivist in orientation, to say nothing of its Marxian roots, we see this trait clearly in Critical Social Justice—even beyond the Eye at the End of History construction. In Critical Social Justice, *reality* is remote and has therefore replaced by “lived realities,” which are in turn utterly under the sway of the prevailing systems of power in operation throughout society. Those systems are *wholly* independent of humans, in that the system itself is believed to be able to be racist, sexist, homophobic, white supremacist, misogynist, or any number of other sins of

systemic oppression even if no bigots or bigoted attitudes exist within it at all. The *system* is transcendent to the people who (performatively) create it, and people's orientation against this transcendent standard is what determines their moral standing.

Together, all of this means that Critical Social Justice, as an ideology, isn't content merely to consider and, to the degree it can, understand the world. Its purpose is to engage in a practice of social activism that can change the world by bringing it more in line with the Critical Social Justice worldview. The system and its harms are simply bigger than any of us, and so we have no individual choice beyond a willingness to position ourselves against their evil or to indulge in the sin of maintaining them.

As the Theory has condensed over the last decade or so and reified various aspects of its beliefs about systemic power and its relationship to discourses, these duties of conscience have come to believe education and activism aren't enough. Its duties of conscience have also turned increasingly inward. If, following Foucault, power works through us all, producing systems of socialization through our participation, thus validation, of the systems themselves, and this creates systemic harms, then we have a new duty of conscience that is almost wholly spiritual in nature. We must also be willing to look *inward* and as well as outward at the systems to discover their features and our complicity in them. That is, we have to get right with God, in a sense. Everything short of actively dismantling systemic oppression, including especially in ourselves, in this way becomes a kind of sin, and we are to interrogate ourselves and our society for any manifestation of it.

This feature of Critical Social Justice highlights another feature of religious moral law. Religious moral law doesn't just intervene on how people act in the world. It also intervenes on what they can believe and how they should feel (and act) if they believe wrongly. In all regards, this, if anything, is what must be meant by spiritual work in the individual, meditative sense. God knows the full contents of your heart, and by your alignment with His moral law will you be judged in all things. Moral transgression is therefore a spiritual concern in the religious context, and no matter how many people one may fool, you cannot fool the moral lawgiver. For this reason are adherents to the "anti-racism" dimension of the Critical Social Justice faith called to confess to their racism, even at the level of biases said to be implicit and unconscious, and to constantly work to do better. "No one," we're told, "is ever done."

Because of the totalizing nature of religious mythology, this moralization of everything extends to—well, everything. Kołakowski was clear that mythologies cannot be picked apart on this point or on that as a means of testing whether or not their various propositions are true. A moral mythology will not be satisfied with whether or not statements are true because their valence as right or wrong—defined in terms of how they impact the moral mythology and its credibility—must also be taken into account. This is a hallmark of religious thinking. Moral law must be totalizing. It must apply to every aspect of one's life and turn all such adjudications into matters, and often duties, of conscience. Thou shalt not, as we have heard, put thy God to the test.

To take the general argument further, in faiths, the moral implications *for the faith* of all ideas have to be checked against the prevailing moral law, and this evaluation is considered important (often central) to determinations of their worth. For example, conservative Christianity has been very much convinced that the biological theory of evolution is morally degenerate, even referring to it at times as “evilution.” Many Christian (and Islamic) criticisms of the theory of evolution are, in fact, moral appeals that it debases humanity, denies special creation, or will justify sin or lead people to godlessness. Any of these might be true enough, so far as they go, but they are still *moral* adjudications, not factual ones. We are all familiar with traditionally religious examples of this kind of thinking.

Less familiar is that Critical Theory was devised explicitly for this same purpose. It was first laid out in detail in 1937 by Max Horkheimer, who was concerned that “traditional theories” are only concerned with what is true, not what is right and wrong. This is an explicit admission that a “technological core,” as Kołakowski would have it, is insufficient to a moralist to weigh out the worthiness of ideas. A moral judgment, he insisted, is also needed. “[[HYPERLINK "https://newdiscourses.com/tftw-problematics/"](https://newdiscourses.com/tftw-problematics/)]” ideas, as they came to be called, have to be removed from society for being morally wrong, even if they are true. A common place within Critical Social Justice that this belief manifests is in its tendency toward total [[HYPERLINK "https://newdiscourses.com/tftw-social-constructivism/"](https://newdiscourses.com/tftw-social-constructivism/)], and many scholars, including Ibram Kendi, have explicitly said that even if there are true and fundamentally biological differences between men and women, or between the races, those ideas should not be considered acceptable.

Horkheimer and his comrades in the Frankfurt School were not so coarsely mythological as today’s Critical Social Justice adherents, of course. They believed they were offering a necessary refinement to epistemology that brought social responsibility into the evaluation, and in the shadow of fascism, from which they wrote, there’s something reasonable to this impulse. Nevertheless, they also did so with the explicit intention of marrying the thoughts of Karl Marx to those of Sigmund Freud and to the nascent fields of sociology (especially Max Weber’s), and their definitions of moral rights and moral wrongs were heavily influenced by Marxian conceptions of society and carelessly appropriated Freudian mind-reading. (Some of this moral concern for social responsibility was, again, quite reasonable in the shadow of the World Wars and what happened between them, but some of it just meant that society wasn’t Marxist yet.) Still, their injection of morality—and the perfectly unfalsifiable idea of [[HYPERLINK "https://newdiscourses.com/tftw-false-consciousness/"](https://newdiscourses.com/tftw-false-consciousness/)]—into analysis was the birthplace of a mythology that has evolved and matured over the last 80 years, and in that time it has firmly established itself as the purveyor of a totalizing moral law that cannot be challenged even in the details. Critical Social Justice would maintain that every facet of human activity must be [[HYPERLINK "https://newdiscourses.com/tftw-problematize/"](https://newdiscourses.com/tftw-problematize/)] and made consistent with Critical Theory as it exists now, for this is the command of the moral law and the duty of critical conscience.

Thus, if we think of religion as a giver and enforcer of moral law—that which reaches beyond the state’s capacity to compel in terms of how to be, think, believe, or act—it is immediately clear, yet again, that Critical Social Justice meets the minimum standard for consideration. As

mentioned previously, Critical Social Justice exists to tell people how to be, which is more or less dictated by the critical metaphysics that sees every human being entirely in terms of his or her relationship to systemic power in society and the effort to liberate those who are oppressed by it by dismantling the existing system. There is a right way to think about literally every issue of human activity that one can imagine, and there are wrong ways to think about them. Every possible circumstance or idea must be checked against the system of moral law at hand to determine if it is problematic or provisionally in line with the faith.

This is made more perilous as adherents are incentivized to continually expand their understanding of what is problematic and can obtain status by recognizing that something that had not previously been highlighted as problematic can, in fact, be argued to be so according to the growing orthodoxy. Any revelation of wrong action or even thought will lead to swift punishment—call-outs, demands to “do the work,” being cancelled and defriended, and other such social “consequences” of one’s free speech. Critical Social Justice establishes and strictly enforces a *liberationist* moral law, and it increasingly seeks to apply it to everyone in all situations (because it must—the logic of the ideology demands it because otherwise the *system* would not be sufficiently changed). It is a genuinely totalizing system of moral law that has adopted its own mythological view of history, not just reality, that might be called “the right side of history.” (Their postmodern forebears would rightly identify this as their metanarrative and recommend incredulity, not faith.)

As a last note to this section, most important in this regard is that *systemic power* and its abuses (oppression) takes on the role of the transcendent standard against which morality is to be determined. This has been mentioned in brief but requires drawing out. The [[HYPERLINK "https://newdiscourses.com/tftw-theory/"](https://newdiscourses.com/tftw-theory/)] is now quite clear about this. We find Critical Race Theory making the point that the [[HYPERLINK "https://newdiscourses.com/2020/07/nobody-systemically-racist/"](https://newdiscourses.com/2020/07/nobody-systemically-racist/)] and could be so even if there were no racist people or, even, no people with racist intentions whatsoever. Feminist philosopher Kate Manne argues explicitly in her book [[HYPERLINK "https://amzn.to/3iXrvHr"](https://amzn.to/3iXrvHr)] that the same is true of misogyny, which is to be thought of as a system that depends upon no misogynistic people, attitudes, or actions.

These claims might seem mysterious, but the metaphysics of discourse and the critical metaphysics of hegemony both allow for these stances, and they render systemic power transcendent of all human cultures. Thus, systemic power becomes the objective standard against which right and wrong are to be determined. The lived experience of systemic oppression becomes the needle of one’s moral compass, which must always point toward the lodestone of liberation to be righteous, and therefore the only [[HYPERLINK "https://newdiscourses.com/tftw-authentic/"](https://newdiscourses.com/tftw-authentic/)] of oppression is that which is described by the liberationist worldview, i.e. Critical Theory. Thus systemic power becomes the basis for the giving of a moral law that is comprehensible only through the scriptures of Critical Theory.

([HYPERLINK "<https://newdiscourses.com/2020/09/first-amendment-case-freedom-from-woke-religion/>" \ | "TOC"])

Holy and Administrative Epistles

To see that this is not merely some theoretical claim about Critical Social Justice, consider the following excerpt from a recent email sent out to the entire campus community of an American university:

Last week, we made an important announcement regarding a new approach to campus safety. Next week, we will welcome [redacted] as [our] new Vice President of Global Diversity and Inclusion. I wanted to take just a moment today to share with you my commitment that our collective work to address structural racial inequity extends well beyond either of these headlines.

In recent months, as I listened to your experiences and took time for my own learning and reflection, I have wrestled with how to authentically lead [redacted] closer to our equity aspirations. **Recognizing that systemic racism is entrenched in every aspect of life, it is important that we amplify our efforts across campus to dismantle systems that oppress Black people and other people of color and attend to the healing needed in our community.** We need to respect and appreciate indigenous cultures and address the injustices suffered by indigenous people. (emphasis added)

For many [redacted] faculty, staff and students, equity is their everyday commitment. Every action we have taken toward diversity, equity and inclusion is highly valued, but it is not enough. **Dismantling systemic racism is the responsibility of everyone in the [redacted] community.**(emphasis in original)

It must start with me, as president, and with all of the university's leaders. The executive team will be trained to apply an anti-racist lens to all decisions and we will build an interculturally fluent leadership paradigm. Across [redacted], we need to review policies and practices and work to identify and ameliorate implicit biases and racism that perpetuate oppression. Further, we need to develop policies and programs that promote equity and create a culture that supports everyone in our diverse campus community.

Aside from the rather telling confessional tone, epistolical form, and clearly liturgical language, the view that systemic racism (and other bigotries, we should assume) "is entrenched in every aspect of life" is a totalizing mythological view of the issue that springs from a clear commitment to a prevailing moral law. From it, clear duties of conscience are outlined. These duties are described as people's "everyday commitments," which are held against an exalted

standard such that “every action taken ... is not enough.” No evidence for any of these claims or mandated actions is even offered; the community being spoken to must do better by faith.

Further, these expectations are connected to duties, which can be discerned from the fact that they are repeatedly expressed as “commitments,” “needs,” and “musts”—they are not optional, and they are not negotiable. The stated objective, to reach [[HYPERLINK "https://newdiscourses.com/tftw-equity/"](https://newdiscourses.com/tftw-equity/)] (along with [[HYPERLINK "https://newdiscourses.com/tftw-diversity/"](https://newdiscourses.com/tftw-diversity/)] and [[HYPERLINK "https://newdiscourses.com/tftw-inclusion/"](https://newdiscourses.com/tftw-inclusion/)]), is one answer Critical Social Justice offers to the problem of systemic oppression. Equity holds this status by mere virtue of the way “[[HYPERLINK "https://newdiscourses.com/tftw-racism-systemic/"](https://newdiscourses.com/tftw-racism-systemic/)]” is defined. Equity is the absence of systemic racism (the spiritual evil of the world), which is to say more accurately that anywhere equity is not, systemic racism is the given cause. This understanding of equity is expressed plainly in this epistle in an explicitly transcendent way. It is explicitly described as an “aspiration,” with the implication that one can only move closer to it, not necessarily ever achieve it. Such aspirations toward godliness, which the sinner knows she will always fall short of, are a frequent hallmark of religious moral duties. Even further, a stated goal is the vague idea of “healing.” This, though, is the pseudo-therapeutic answer to the liturgy of lament which it evokes and to which it is a response.

Finally, taking upon himself the burden of moral exemplar, the university president answers his own call to faith in a symbolic show of shouldering its burdens. This leads him to say that an “anti-racist lens” will be applied “to all decisions” going forward. Again, the moral framework is totalizing; it must be the moral North Star for all actions that they might become duties of conscience for the faithful. Near the end of this letter, the president calls upon another vague concept, “change,” which has no clear meaning in reality aside from making things different but abundantly clear meaning within the faith—it means the ending of systemic oppression, as though this is the only thing “change” *could* mean, even in principle. Regarding “change,” he states, “Change must, and will, happen.” History will see; History will remember; right action is imperative.

This commandment to “change” is followed by an explicit ask to bring it into being: “I ask that the whole campus community work together to make [redacted] truly diverse, equitable, and inclusive.” In that this is a letter of encouragement and correction to the faithful in his university, this letter is, as I claimed, an *epistle*, which sets up the president as moral exemplar as *an apostle*. It’s very hard not to read this sort of plea as being anything other than religious in quality, and it is now *typical*, not aberrational, of statements being made in almost every institution one can think of in the Western world.

([[HYPERLINK "https://newdiscourses.com/2020/09/first-amendment-case-freedom-from-woke-religion/"](https://newdiscourses.com/2020/09/first-amendment-case-freedom-from-woke-religion/) \ | "TOC"])

A Note on Fundamentalism

This brings us to an important note on fundamentalism, which can be defined in two ways, and I think that the activist class and its activist-ish orbiters in Critical Social Justice meet one or both of these. The two types could be referred to as “narrow,” meaning the religious extremists we normally associate with the term “religious fundamentalists,” and “broad,” meaning something more technical and academic that defines the relationship that the relevant religionists have with their Scriptures. “Narrow” and “broad” are fitting characteristics because it is extremely likely that all religious fundamentalists in the narrow sense are also fundamentalist in the broader sense.

Obviously, religious fundamentalism doesn’t have good branding, being associated with lunatic cults and sects that kill people, harass them, or scream at them for the intolerable act of mere disagreement. They’re also rather famous for attempting to force entire societies and their governments to adopt the faith as a matter of both civil and moral law. This well-deserved terrible branding is what defines the narrow, extremist meaning for religious fundamentalism. It is nearly universally reviled outside of the specific cults who embrace it, often even among religionists who are fundamentalists by the broader of the two meanings of the term.

Little needs to be done to develop the narrower definition of fundamentalism further, which is essentially synonymous with extremism. It would view the specific and extreme interpretation of its Scriptures as fundamental to the functioning of the entire society or the meaning of life for *any* individual, and therefore it will be completely intolerant of any dissent from its views. I only want to point out that it represents a kind of, depending on how it develops, either authoritarianism or totalitarianism. (Here, by totalitarianism, I mean authoritarianism that has extended its reach further into the very mindsets and thoughts of the people it controls.) This justifies a short diversion into authoritarianism. Authoritarianism is characterized, in particular, by a handful of traits that can include urgency, submission to authorities who are perceived to be legitimate, aggression on behalf of the ideology or those perceived authorities, and a drive toward a trait known as conventionalism, which means making belief in the ideology conventional for people within it and, ultimately, universally applicable to everyone.

It may not be obvious that Critical Social Justice satisfies all of those points, but I’ll briefly elaborate. Conventionalism was just discussed in sufficient detail in the preceding sections. People are given no options but to adopt a critical consciousness and do the work of the Critical Social Justice faith or find themselves complicit in the evil of systemic oppression. “There is no neutral.” Their urgency has also become clear. Although oppression is defined pessimistically within the belief system as ordinary and almost impossible to change, that it is happening now, and that it is still happening, are perceived to be utterly intolerable (the current year is often given to stress its intolerability “*in 2020*,” as though it should have been sorted out completely at some point in the past). The critical mindset believes that all oppression is intolerable for those who suffer it, and so oppression must be unmade *now*. In fact, one of the chief forms of critical “proof” of the failure of liberal society is that all forms of oppression weren’t unmade in the very

instant liberalism began. This ridiculous notion is, to be clear, the core line of all non-literary strands of critical theoretical social thought.

Next, once one understands that the legitimate authorities that Critical Social Justice adherents defer to are the [[HYPERLINK "https://newdiscourses.com/tftw-authentic/"](https://newdiscourses.com/tftw-authentic/)] victims of systemic oppression, as defined by Critical Social Justice Theory, what the literature refers to as “authoritarian submission” and “authoritarian aggression” are immediately discernible in their program. Even the greatest thought leaders in the field, along with everyone else, needs to “shut up and listen” and “listen and believe” when Theoretically authentic victims of systemic oppression are pontificating about the oppressive features of their “lived realities.” Their testimonies, approaches, claims to truth and knowledge, demands, and even behavior have to be accepted exactly as they are without any judgment whatsoever. If you don’t, you’ll be made to (sometimes violently). Keep it up, and you’ll be [[HYPERLINK "https://newdiscourses.com/tftw-cancel-culture/"](https://newdiscourses.com/tftw-cancel-culture/)].

In this sense, Critical Social Justice in its pure form, and even in lighter variants that have been taken up by many in its radicalized orbit, constitutes a *fundamentalist* program in the scarier, narrow sense. This would imply that, if it is a religion too, at least its radical activist core constitutes a fundamentalist religion comparable to the sects of Islam who take jihad literally and Christian churches like Westboro Baptist who protest military funerals because, apparently, “God hates fags.”

The broader definition of fundamentalism is also applicable and thus worth considering, although its definition is quite technical. Religious fundamentalism in this broad sense—which many perfectly reasonable and likable religious people who would never act as extremists proudly satisfy—is a matter of what [[HYPERLINK "https://amzn.to/329q6a0"](https://amzn.to/329q6a0)] call “intratextuality.” This means that the religious text that they use as a Scripture is taken as the wholly sufficient source to answer all questions the religion touches upon (which is usually all questions, as most religions are totalizing in their perspective—God being a universal sovereign and Creator of all that exists would imply that, after all).

So, religious fundamentalism in the broader, technical sense is a kind of presuppositionalism that asserts that the Scripture itself is wholly sufficient as a reference to answer all questions or expressions of doubt. The faith itself, and its articles, are presupposed to be wholly sufficient and, in fact, necessary to proper understanding and [[HYPERLINK "https://newdiscourses.com/tftw-engagement/"](https://newdiscourses.com/tftw-engagement/)]. Obviously, Christian fundamentalists would feel this way about the Bible, and Islamic fundamentalists would feel this way about the Quran. In neither case is it guaranteed that a “fundamentalist” will also be an extremist like described above (and, in fact, it is probably relatively rare for the broad sense of fundamentalism to imply the narrow, extremist sense). You probably won’t easily change their minds about their faiths, though. There is simply no external mechanism by which to do so.

Within the scholarship of Critical Social Justice, but not necessarily within most of the laypeople who have become quite invested in and often extreme about it, the “intratextual” definition of religious fundamentalism very clearly applies. Theory must be interpreted critically, which means from within Theory.

[[HYPERLINK "https://newdiscourses.com/tftw-engagement/"](https://newdiscourses.com/tftw-engagement/)] with Critical Social Justice materials is frequently defined as only having been legitimate when it comes from a position of “[[HYPERLINK "https://newdiscourses.com/tftw-critical-consciousness/"](https://newdiscourses.com/tftw-critical-consciousness/)],” which means it already thinks in the relevant “critical” way and interprets the text according to the critical mythology. One’s [[HYPERLINK "https://newdiscourses.com/tftw-lived-experience/"](https://newdiscourses.com/tftw-lived-experience/)] is only considered [[HYPERLINK "https://newdiscourses.com/tftw-authentic/"](https://newdiscourses.com/tftw-authentic/)] and a “[[HYPERLINK "https://newdiscourses.com/tftw-ways-of-knowing/"](https://newdiscourses.com/tftw-ways-of-knowing/)]” when it matches how someone with a similar [[HYPERLINK "https://newdiscourses.com/tftw-position-positionality/"](https://newdiscourses.com/tftw-position-positionality/)] and critical consciousness would describe that lived experience. Thus, only someone coming from a perspective of Critical Social Justice—thus speaking from and back into the text—is conveying its ideas clearly. It is very difficult not to see this as a form of intratextual fundamentalism, and thus this lends credence to the argument that the worldview of Critical Social Justice is likely to be more religious than not, as this is a trait that’s so identifiably religious in nature as to be rare in other contexts (excepting [[HYPERLINK "https://newdiscourses.com/2020/06/cult-dynamics-awokeness/"](https://newdiscourses.com/2020/06/cult-dynamics-awokeness/)], which work the same way).

([[HYPERLINK "https://newdiscourses.com/2020/09/first-amendment-case-freedom-from-woke-religion/"](https://newdiscourses.com/2020/09/first-amendment-case-freedom-from-woke-religion/) \ | "TOC"])

Puritan Fragility

Puritanism was, speaking formally, a particular religious movement of the 16th and 17th centuries that derived itself from Calvinism and had a very peculiar and strict understanding of its faith. Doctrinally, it sought to “purify” the Church of England and make it more fully Protestant and less contaminated by Catholic thought and structure, explicitly calling for greater purity of worship and doctrine and thus putting low emphasis on liturgical structure and high premium on improvised and impassioned preaching and prayer. Puritanism unabashedly declared its interest in moral law—*ius divinum*—and as a result adopted what is known as the regulative principle, in which very strict guidelines and taboos (often associated with strict religious conservatism) were explicitly codified and checked.

Befitting its name, however, Puritanism was also a religious ideology that was particularly concerned with a kind of spiritual purity being a necessary condition to election—a predetermined and irresistible bestowal of God’s Grace and thus salvation. This spiritual purification is believed to take place through a process of “conversion,” often that results in the elect for whom it happens being “born again” into a “life in Christ” that symbolizes having transitioned from “spiritual death” to “spiritual life.”

The parallels within this view to becoming “Woke” aren’t just obvious; they’re almost uncanny. The idea of applying strict behavioral codes in the relevant domain—speech, as the metaphysics is ultimately of discourses—are perhaps its most famous and defining feature. To understand further, however, we can turn to the spiritual aspects of puritanical belief. As described by Francis Bremer in his book [[HYPERLINK "https://amzn.to/359hNhB" \t "_blank"](https://amzn.to/359hNhB)], conversion might be sudden (a kind of Damascus Road event) or, more commonly, would unfold in stages:

The clergyman Thomas Goodwin suggested that most men were unaware of God’s working in their souls, a troubled conscience being replaced by a sense of God’s comforting presence, bringing confidence in one’s election. Others thought the elect were customarily drawn to God through a series of discernable [sic] steps. A common schema saw the process beginning with introspection, examination of the Scriptures, and listening to the preached word, all of which would prepare the individual to recognize his sinfulness and feel contrition for his sins. Contrition was followed by humiliation when the sinner came to terms with his inability to break away from sin. The individual recognized that he owed a debt to God that could not be repaid by any amount of good works.

This description is not only virtually synonymous with the Woke approach to adopting a critical consciousness (as a member of any group that has dominant positionality), it is effectively a description of Robin DiAngelo’s best-selling book *White Fragility*, which might best be understood as a puritanical spiritual guide in the same kind of spirit as Arthur Dent’s *The Plain Man’s Path to Heaven* (1601). Consider several excerpts from DiAngelo.

First, introspection:

To say that whiteness includes a set of cultural practices that are not recognized by white people is to understand racism as a network of norms and actions that consistently create advantage for whites and disadvantage for people of color. These norms and actions include basic rights and benefits of the doubt, purportedly granted to all but which are actually only consistently afforded to white people. The dimensions of racism benefiting white people are usually invisible to whites. We are unaware of, or do not acknowledge, the meaning of race and its impact on our own lives. Thus we do not recognize or admit to white privilege and the norms that produce and maintain it. It follows that to name whiteness, much less suggest that it has meaning and grants unearned advantage, will be deeply disconcerting and destabilizing, thus triggering the protective responses of white fragility.

Then, engagement with the Scriptures and the preached word:

When white people ask me what to do about racism and white fragility, the first thing I ask is, “What has enabled you to be a full, educated, professional adult and not know what to do about racism?” It is a sincere question. How have we managed not to know, when the information is all around us? When people of color have been telling us for years? If we take that question

seriously and map out all the ways we have come to not know what to do, we will have our guide before us. For example, if my answer is that I was not educated about racism, I know that I will have to get educated. If my answer is that I don't know people of color, I will need to build relationships. If it is because there are no people of color in my environment, I will need to get out of my comfort zone and change my environment; addressing racism is not without effort.

Next, humiliation, the realization that complicity in sin is unavoidable (which is even more obvious in Barbara Applebaum's book-length development of the idea, [[HYPERLINK "https://amzn.to/2GJNR11" \t "_blank" \]](https://amzn.to/2GJNR11)), here in DiAngelo's *White Fragility*:

I could see how we are taught to think about racism only as discrete acts committed by individual people, rather than as a complex, interconnected system. And in light of so many white expressions of resentment toward people of color, I realized that we see ourselves as entitled to, and deserving of, more than people of color deserve; I saw our investment in a system that serves us. I also saw how hard we worked to deny all this and how defensive we became when these dynamics were named. In turn, I saw how our defensiveness maintained the racial status quo.

And more humiliation:

Many people of color have assured me that they will not give up on me despite my racist patterns; they expect that I will have racist behavior given the society that socialized me. What they are looking for is not perfection but the ability to talk about what happened, the ability to repair. Unfortunately, it is rare for white people to own and repair our inevitable patterns of racism. Thus, relationships with white people tend to be less authentic for people of color.

And still further humiliation:

I know that because I was socialized as white in a racism-based society, I have a racist worldview, deep racial bias, racist patterns, and investments in the racist system that has elevated me. Still, I don't feel guilty about racism. I didn't choose this socialization, and it could not be avoided. But I am responsible for my role in it. To the degree that I have done my best in each moment to interrupt my participation, I can rest with a clearer conscience. But that clear conscience is not achieved by complacency or a sense that I have arrived.

Through this process, Bremer says that the puritan will "experience justification, the infusion of God's saving Grace," which, in turn, leads toward sanctification (and eventual glorification):

Some puritans believed that most men and women could reach this stage of awareness. Salvation, however, was possible only through God's mercy, which was bestowed only on the

elect. At this point, the person would experience justification, the infusion of God's saving grace, which announced the individual's salvation and rehabilitated his or her faculties. As noted, for some this experience was a dramatic transformation, which they referred to as being, in essence, born again. The result of this change was sanctification—the progressive growth in the saint's ability to better perceive and seek God's will, and thus to lead a holy life.

Puritans were deeply skeptical that this had occurred for anyone, however, no matter how profound the religious experience of conversion, and so a great deal more introspection (and subsequent humiliations against any failures) would be necessary to claim justification. Again, then, we turn to Robin DiAngelo to see that this is precisely how she views her notion of “anti-racism”:

And while speaking up against these explicitly racist actions is critical, we must also be careful not to use them to keep ourselves on the “good” side of a false binary. I have found it much more useful to think of myself as on a continuum. Racism is so deeply woven into the fabric of our society that I do not see myself escaping from that continuum in my lifetime. But I can continually seek to move further along it. I am not in a fixed position on the continuum; my position is dictated by what I am actually doing at a given time. Conceptualizing myself on an active continuum changes the question from whether I am or am not racist to a much more constructive question: Am I actively seeking to interrupt racism in this context? And perhaps even more importantly, how do I know?

The call to continuous, lifelong introspection (and cycles of humiliation) in an ongoing process of conversion is precisely how DiAngelo views her philosophy. In fact, the demand for further introspection is typically a lifelong commitment, as God alone knows who is among the elect, and the Devil has many wiles. As Bremer observes,

The devil could possess an unwary soul and live within that person to control his every word and action. The devil could also draw individuals to his service, tempting them with promises of power and pleasure as related in the story of Dr. Faustus as told by the playwright Christopher Marlowe. Those who succumbed to the temptation were witches, to whom the devil gave the ability to harm people and their livestock. But most puritans believed that they were most likely to encounter the devil as the tempter who urged them to seek their own good rather than God's, or who injected blasphemous thoughts into their minds, sowed seeds of despair in their soul, or led them away from the moral life.

This should put us back in mind of Ibram Kendi's characterization, as quoted earlier: “the heartbeat of racism is denial, and the heartbeat of antiracism is confession.” Robin DiAngelo views “whiteness” in exactly this way, too, explicitly:

Whiteness embodies Charles Baudelaire's admonition that “the loveliest trick of the Devil is to persuade you that he does not exist.” Or, as an alter ego of the character Keyser Söze says in the

film *The Usual Suspects*, “The greatest trick the devil ever played was to convince the world that he didn’t exist.” *The Devil. Racism. Another metaphor. Same difference.*

DiAngelo also channels this spirit (downward-looking, sin-oriented faith) almost explicitly in all of her discussions of white privilege, white comfort, [[HYPERLINK "https://newdiscourses.com/tftw-white-complicity/"](https://newdiscourses.com/tftw-white-complicity/)], and in the temptations for people of color to be willing to choose to [[HYPERLINK "https://newdiscourses.com/tftw-acting-white/"](https://newdiscourses.com/tftw-acting-white/)] (as it is called) and uphold the dominant system (for their own benefit—her treatment of black men turning to comfort white women when they cry in chapter 11 of [[HYPERLINK "https://amzn.to/3k3LMM5"](https://amzn.to/3k3LMM5)] (“White Women’s Tears”) stands out—or in their possession by [[HYPERLINK "https://newdiscourses.com/tftw-internalized-oppression/"](https://newdiscourses.com/tftw-internalized-oppression/)] as a form of false consciousness). She is particularly scathing about the issue for “white progressives” like herself, however, about whom she writes:

This book is intended for us, for white progressives who so often—despite our conscious intentions—make life so difficult for people of color. I believe that white progressives cause the most daily damage to people of color. I define a white progressive as any white person who thinks he or she is not racist, or is less racist, or in the “choir,” or already “gets it.” White progressives can be the most difficult for people of color because, to the degree that we think we have arrived, we will put our energy into making sure that others see us as having arrived. None of our energy will go into what we need to be doing for the rest of our lives: engaging in ongoing self-awareness, continuing education, relationship building, and actual antiracist practice. White progressives do indeed uphold and perpetrate racism, but our defensiveness and certitude make it virtually impossible to explain to us how we do so.

It’s almost impossible *not* to understand DiAngelo’s framing of Critical Race Theory (and whiteness) as a puritanical vision, which means it’s nearly equally difficult to understand how anyone would fail to see it as religious in its basic structure and orientation. Bremer reminds us for the puritan that “the work of salvation was God’s and not man’s.” So it is for Theorists like DiAngelo as well, who are forced to recognize that the Eye at the End of History will be the determiner of their justification, sanctification, and glorification or, instead, the eternal damnation of their legacy and works for its complicity in upholding systemic oppression.

([[HYPERLINK "https://newdiscourses.com/2020/09/first-amendment-case-freedom-from-woke-religion/"](https://newdiscourses.com/2020/09/first-amendment-case-freedom-from-woke-religion/) \ | "TOC"])

A Note About Churches and Religions

Churches are messy things, admitting a very broad range of beliefs within their membership, all of which might be understood to be in one way or another adherents to that faith or for religion in general. To put it most simply, there is at one end of this spectrum the theologian, who

understands as much and as many details of the relevant theology and its competitors as he is able to comprehend. On the other end are those members or friends of the church who basically never go to services or read the Scriptures, know next to nothing of the theology, and yet remain mostly convinced that the most impressionistic features of that theology are generally true and applicable to their own lives. In between, there are many characters, including pastors, deacons, and the likes, who are very well-versed, those who engage very seriously and attend most or every service and read the Scriptures regularly on their own (and, perhaps, take notes at church), and lay congregants who have the general picture but not much more, mostly in the broad-brushed strokes of the underlying mythology and metaphysics, about which they'll be unclear in most details. Moreover, religions, even in the sense of certain broadly categorical denominations (e.g., "Baptists") will also admit much diversity from any particular subdenomination to another while still recognizing many points of theological commonality (and much interest in hashing out the differences essentially indefatigably.) What all of these people will share in common is a general acceptance of and sense of community in the prevailing religious moral law.

The reason this needs to be brought up is that the faith of Critical Social Justice is the same. There are Theorists, with a capital T, who are the equivalents of the theologians, who know the jots and tittles of Critical Social Justice and its application in extraordinary detail. There are also liberal progressives who have taken up a bit too much of the "systemic" (read: Woke) way of thinking about the world and the critical hot-take approach to analyzing it but who wouldn't have the faintest idea that Theory openly problematizes [[HYPERLINK "https://newdiscourses.com/tftw-science/"](https://newdiscourses.com/tftw-science/)], [[HYPERLINK "https://newdiscourses.com/tftw-objectivity/"](https://newdiscourses.com/tftw-objectivity/)], productivity, loyalty, reliability, civility, niceness, and many other virtues as "[[HYPERLINK "https://newdiscourses.com/tftw-white-supremacy/"](https://newdiscourses.com/tftw-white-supremacy/)]" and more, nor would they agree with it. In between are people who avow themselves as [[HYPERLINK "https://newdiscourses.com/tftw-queer/"](https://newdiscourses.com/tftw-queer/)] activists but who support marriage equality, not realizing that [[HYPERLINK "https://newdiscourses.com/tftw-queer-theory/"](https://newdiscourses.com/tftw-queer-theory/)] problematizes this huge civil rights achievement as "normalizing" LGBT statuses and thus makes them decidedly not-*queer*. Likewise, there are Theorists who focus on race, sex, gender, sexuality, disability status, body weight status, colonized status, and every other conceivable facet of allegedly stratified identity who may but don't necessarily take on all the rest. These would quite clearly disagree with one another in many details, despite the attempt by intersectionality to turn them critically on one another until they all get along as "others" to systemic power dynamics—kind of like being one faith in systemic oppression.

That is, not only is there going to be considerable spread from Critical Social Justice "denomination" to denomination, additionally roughly the same spectrum of depth of understanding and belief manifests in both traditional religions and Critical Social Justice. This fact makes it exceptionally easy to pick up examples of very lay "Wokish" people who believe themselves to be "Woke" while possessing almost no critical consciousness beyond a general and accurate concern that society is actually stratified and that this is a problem worth addressing. This allowance of casual or confused lay believers, to be clear, is a practice that is more or less acceptable, with some exceptions, in religious movements that have been subjected successfully to the ethos of secularism, which relegates their belief to a matter of private conscience and their practice to willful communities that do not have either the legal or social

power to enforce themselves on people who believe differently. It is not as reasonable with faiths in contexts that have not been subjected to secular pluralism (and this constitutes much of the controversy about criticizing Islam as a faith given the problem of radical Islamists, for example).

In such “untamed” faiths, if we will—especially when they have the capacity to become *state* faiths, either explicitly or as a matter of functional fact—the underlying theology is much more important than the typical manifestations in casual lay believers. This is because, to put it as simply as possible, *ideas have consequences*. Ideas held on faith are, more or less by definition, *not* checked by other means, such as whether or not they comport with the evidence or even reasoned argument, so they must be checked by other means to prevent the full brunt of their consequences from manifesting in a society that may not want them or that will be better off without their being fully operationalized and institutionalized.

Secularism, in a sense, is a means of checking the potential consequences of religious ideas—or, of making the religious slope less slippery. It does this by one means—relegating faith to a matter of personal conscience and willful participation in a faith community—and in two ways. First, secularism explicitly prevents such ideas from gaining state power in a direct sense and forces them to obtain it by other means and arguments in those indirect senses in which it succeeds. Christians must persuade society to enact a law against abortion, for example, for reasons other than that it might be a commandment of their faith, which isn’t a sufficient argument in a secular society. Second, secularism implicitly empowers people to understand faith-based positions as a matter of private conscience and willful community and thus to reject the imposition of their moral law into their lives. Calling an atheist a sinner, or telling a Hindu to keep Sabbath, means nothing to him and thus holds no power over him or his behavior. Because Critical Social Justice is not recognized as being as religious as it is, neither form of this sociocultural and political machinery is yet effectively operationalized for dealing with it.

The most important point here, though, is that moral movements and moral communities are cloudy things in which there is a very broad spectrum of belief and some fuzzy threshold above which someone can be understood to be a member of the faithful. This threshold is, in fact, in most cases quite low, but this changes nothing about the significance of the problems with the doctrine itself, which will have consequences of greater degree in more sincere and motivated believers. In all cases, especially those in which secular ethics haven’t been put in place as a check on the sociopolitical power of a system of faith, the theology itself has to be examined *as it is* and *taken literally at its own word* because those ideas have consequences, one of which is their overimplementation and successful imposition upon people whose personal consciences view life differently. This concern is particularly strong when there are reasons to believe we’re dealing with fundamentalist faiths, especially in the extreme sense.

([HYPERLINK "<https://newdiscourses.com/2020/09/first-amendment-case-freedom-from-woke-religion/>" \ | "TOC"])

In Summary

I think this does a thorough job of summarizing the case that Critical Social Justice, as an ideological worldview, is very similar to religion in most of the relevant ways. It forms a moral community that is designed to meet the same psychosocial needs as religions are, though it is decentralized and disorganized (I have [[HYPERLINK "https://newdiscourses.com/2020/06/postmodern-religion-faith-social-justice/"](https://newdiscourses.com/2020/06/postmodern-religion-faith-social-justice/)] called it “disorganized religion,” though “decentralized” might be nearer the mark). It provides a mythology, metaphysics, and moral law that binds the community and enables “divinity”-based psychosocial valuation of adherents and others, and this gives rise to clear “critical” duties of conscience in everyone the system can touch. It ontologically grounds its moral commandments against the long view *from* the End of History, as a kind of legacy-based moral lawgiver and adjudicator. It possesses its own epistemological framework as well—one rooted in the critical mythology of problematization and postmodern mythology of lived experience and discursive production. Since it proceeds from a mythology with its own creation myth, metaphysics, and moral law, this view is totalizing to those who adhere to it, as is typical of religious belief. This system of belief is, in fact, constructed along the same lines as how Augustine organized Christianity and Aquinas “proved” the existence of God. Finally, it gives way to fundamentalism of both types and manifests in puritanical form, which is something that, while it is not limited to religion, is very common within sects or cults that arise within religious movements and worldviews.

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Part II: The Legal Argument

That (unfortunately lengthy) background established, we can now move into the meatier legal question about whether Critical Social Justice is a religion *so far as the law is concerned*, particularly the Establishment Clause of the First Amendment. I assert that it very probably is, though I’m content to admit that the case is slightly less obviously established than the philosophical argument above. In what follows, I hope to make this case as fairly as can be done, and what follows will draw significantly on the philosophical argument above while also enriching it.

As it will pertain to law, this discussion needs to be more practical, not merely philosophical or polemic, so I want to trace the argument through a number of excerpts from [[HYPERLINK "https://scholarship.law.cornell.edu/cgi/viewcontent.cgi?article=3412&context=clr"](https://scholarship.law.cornell.edu/cgi/viewcontent.cgi?article=3412&context=clr) \t "_blank"] from 1989 in the *Cornell Law Review*: “Defining Religion in the First Amendment: A Functional Approach,” by Ben Clements. As the title indicates, this article aims to summarize Supreme Court case law in the United States to determine under what conditions a belief system qualifies as a religion, specifically in terms of falling afoul of the Establishment Clause while

maintaining the protections of the Free-exercise Clause. My intention will be to walk through the arguments of this paper roughly sequentially in light of the above philosophical case and thus try to make headway into the more difficult and specific legal case.

([HYPERLINK "<https://newdiscourses.com/2020/09/first-amendment-case-freedom-from-woke-religion/>" \ | "TOC"])

The Need for a Definition

Summarizing the need for his case in the conclusion to his paper, Clements writes,

The First Amendment’s command that the government “make no law respecting an establishment of religion, or prohibiting the free exercise thereof” requires an interpretation of religion that will allow the courts to distinguish between religious and nonreligious belief. On the other hand, the purpose of the religion clauses—to ensure religious liberty for all—requires an interpretation that will encompass the religious impulses in persons, whether these impulses are expressed in the form of a traditional religion, or in the form of a unique, unstructured, personal religion. These two goals are served by defining religion in terms of the religious function in an individual’s life—addressing the fundamental questions of human existence and providing a guide for how to conduct one’s life.

The last sentence here is, obviously, the crux of the issue. If we follow Clements’ functional definition of religion and use it to explore the question of Critical Social Justice as an ideological worldview, we need to undertake this exploration in terms of the *function* Critical Social Justice plays in individuals’ lives, particularly how it addresses the fundamental questions of human existence (if it does) and providing a guide for how to conduct one’s life (which it very plainly does). For the purposes of opening this discussion, I want to trace through Clements’ paper and comment in this regard on the various points he raises as he develops his “functional” definition, which appeared at the very top of this essay to frame its goal.

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What About God?

Clements opens his case by discussing the way the framers of the Constitution, who wrote the relevant clauses, were likely to conceive of religion and then outlining the ways this understanding needs to be considered in a world no longer located temporally in the 18th century.

Although the framers probably conceived of religion in a theistic manner, it is not at all clear that they intended the religion clauses to apply only to theistic religions. Moreover, the broad purpose of the religion clauses was not merely to assure the liberty of particular religious denominations, but rather to protect the religious impulses of man from government interference.

If Clements is right, the fact that there's no deity in Critical Social Justice is not a hindrance to defining it as a religion for First Amendment purposes, even as the framers of the Constitution would have intended. The point that the framers seemed to be making is that religion is ultimately a matter of private conscience (and willful community participation), which are decisions to be made by the individual, who must be protected from the encroachment of faith into his life, at least by the enforcement of the state. Thus anything that the state endorses that interferes with matters of individual conscience is likely to fall afoul of the intentions of the framers of the Constitution. Clements notes this explicitly and uses it to make it clear that limiting ourselves to theistic religions with a deity will not suffice for American Constitutional law.

Once we recognize that the concept of religious liberty entails protecting matters of conscience from government interference, it becomes clear that a constitutional definition of religion cannot be limited to the theistic religions recognized by the Framers, or even to a broader class of traditional religions. Such a rigid definition of religion would be inconsistent with the very concept of religious liberty. Accordingly, any proposed constitutional definition should be broad and flexible enough to include changing concepts of religion, thereby protecting new and unorthodox religious beliefs.

Notice that Clements is quite clear that the point of the First Amendment is to *protect individuals* from infringement of their religious liberty, which includes protecting them when they take up new and unorthodox religious beliefs. It is, of course, necessary that this protection work reciprocally, then, or it is meaningless. A new, unorthodox religious belief cannot be protected from encroachment by, say, Christianity, if *all* religions, as matters of private conscience, are not protected equally and in the same way. This, of course, implies that new and unorthodox beliefs cannot encroach upon individuals of other conscience either, for novelty and weirdness are not special characteristics that grant additional protections under the First Amendment.

Already we hit the need for an important point to be made about the Critical Social Justice worldview. The purpose of the First Amendment where it speaks of religion is to protect *individuals* from encroachment on their doxastic and cognitive liberty by mandates of any faith by separating the faith entirely from the civil sphere of the state. It therefore protects a value of *individualism* upon which the government shall not infringe. Critical Social Justice as an ideology is, perhaps importantly, explicitly hostile to the value of [[HYPERLINK "https://newdiscourses.com/tftw-individualism-ideology/"](https://newdiscourses.com/tftw-individualism-ideology/)], which it sees as an ideology used to enforce the hegemony of dominant groups by misleading members of oppressed groups away from collective action and critical consciousness. Indeed, the worldview of Critical Social

Justice does not even recognize the individual as an individual *at all*, but rather [[HYPERLINK "https://newdiscourses.com/tftw-identity/"](https://newdiscourses.com/tftw-identity/)] as a representative of the various socially constructed identity groups that define her intersectional positionalities with respect to systemic power. State adoption of Critical Social Justice is therefore unambiguously guaranteed to fail to protect the individual from encroachment on their own self-determination and values.

([[HYPERLINK "https://newdiscourses.com/2020/09/first-amendment-case-freedom-from-woke-religion/"](https://newdiscourses.com/2020/09/first-amendment-case-freedom-from-woke-religion/) \ | "TOC"])

A Dual Definition?

The need to protect individual determination of faith is, in fact, the given motivation that compels Clements to seek a clear definition of “religion” that can be made comprehensible under Constitutional law. This issue raises a complex issue, though, about whether or not it is appropriate to adopt one definition for the Free-exercise Clause, which protects individuals and their consciences, and another narrower definition for the Establishment Clause, which, if over-broad, could limit the state dramatically in terms of its humanitarian projects. Clements explains,

Several commentators have argued that in order to provide broad protection under the free exercise clause for the growing diversity of faiths in the United States, without subjecting all government humanitarian programs and activities to establishment clause challenge, “religion” should be defined broadly for free exercise purposes, but narrowly for establishment purposes. For example, Professor Tribe advocated such a dual approach in the first edition of his constitutional law treatise. ... [A] dual definition may provide more obscure religions and religious activities with special treatment, by protecting the free exercise of such religions, without placing any establishment clause limits on the government’s ability to promote and aid such religions.

This approach, however, produces a clear problem: special treatment. This needs to be avoided, and so Clements rejects the idea of a dual definition for the two clauses of the First Amendment and seeks a more unified, functional definition instead. He outlines the project as follows:

In light of the preceding discussion, a constitutional definition of religion should meet three main criteria, in addition to the criterion of general compatibility with approaches suggested by the Supreme Court. First, it should be specific enough to circumscribe the concept of religion, and allow courts to distinguish nonreligious from religious beliefs. Second, it should be flexible enough to embrace new and unorthodox forms of religion. Third, it should be applicable to both free exercise clause cases and establishment clause cases.

With this target in mind, Clements turns to the task of considering various aspects of Supreme Court case law and related legal commentary. These precedents he tries to use to guide him

toward a definition consistent with the above by highlighting the successes and shortcomings of previous attempts, which are instructive. In fact, for our present purposes of considering the ideology and worldview of Critical Social Justice, these points will be particularly useful.

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A Supreme Being

As we saw previously, one of the first main points needed to establish and apply a functional definition of religion is rejecting the idea that a religion must be theistic. Surprisingly, this seems to have taken until 1961 in the United States, 170 years after the framers wrote the First Amendment with whatever intentions they might have had with the term “religion” (which they did not define). The relevant case is *Torcaso v. Watkins*, and Clements describes it thusly,

In 1961, however, in *Torcaso v. Watkins*, the Supreme Court abandoned the use of a belief in God as the touchstone for religious belief, when it invalidated a Maryland law which required all public office holders to declare a belief in the existence of God. The Court stated that the government may not “aid those religions based on a belief in the existence of God as against those religions founded on different beliefs.”

Obviously, this is a key observation for the question of whether or not Critical Social Justice can be considered functionally religious for First Amendment purposes, and the Court was clear. “Those religions founded on different beliefs” than God must also be subjected to the full range of protections (to and from) as are religions rooted in a deity. Clearly, if we are to understand Critical Social Justice as a religion, there is not only an argument to be made about the framers’ intentions with the word “religion” in the First Amendment; there is also court precedent.

Much more refinement is necessary to arrive at a meaningful and applicable definition consistent with Clements’ aims, however, and so he then turns to another case, *United States v. Seeger* (1965), in which Congress’s use of the replacement, “Supreme Being,” came to the Court.

The Act defined “religious training and belief” as “an individual’s belief in a relation to a Supreme Being involving duties superior to those arising from any human relation, but [excluding] essentially political, sociological or philosophical views or a merely personal moral code.”

The pertinent question here is the meaning of “Supreme Being” in place of “God,” which pushed the question of what forms the basis of religious belief back one step from a view that is

narrowly theistic to one that is more broadly theistic. This bit of linguistic chicanery needed explication, however, which Clements provides neatly:

The Court then held that the test for “belief in a relation to a Supreme Being is whether a given belief that is sincere and meaningful occupies a place in the life of its possessor parallel to that filled by the orthodox belief in God of one who clearly qualifies for the exemption.”

This interpretation expands the notion of what constitutes the basis of religion, at least for legal First Amendment purposes in the United States, to anything that fills the role of “God” within a belief system for someone who believes in it. As I have argued at great length elsewhere ([[HYPERLINK "https://newdiscourses.com/2020/06/postmodern-religion-faith-social-justice/"](https://newdiscourses.com/2020/06/postmodern-religion-faith-social-justice/)], [[HYPERLINK "https://amzn.to/2YkLisy" \t "_blank"](https://amzn.to/2YkLisy)], [[HYPERLINK "https://www.youtube.com/watch?v=_AvyqUOKhGA" \t "_blank"](https://www.youtube.com/watch?v=_AvyqUOKhGA)], [[HYPERLINK "https://amzn.to/31bZGoy" \t "_blank"](https://amzn.to/31bZGoy)], and [[HYPERLINK "https://www.youtube.com/watch?v=6QbTRiiZmPo" \t "_blank"](https://www.youtube.com/watch?v=6QbTRiiZmPo)], not to mention above), this refers to creating a particular kind of moral community equipped with various identifiable features that meet the human psychosocial needs for meaning-making, control, and community. I have contended that the additional necessary features are the giving of a moral law that defines the relevant community and attributes its moral framework to something beyond the usual realm of human interactions, provides the same in terms of purpose in life, does this by means of a particular mythology, and, perhaps, provides a unique metaphysics and “island” or “pocket” epistemologies that make use of subjective determinations about the world in ways that are (intratextually) consistent with their Scripture (or Theory). Above, I have made the case that with regard to the ontological grounding of morality and purpose, the metaphor of the all-judging Eye at the End of History acts as such a Supreme Being, though this particular abstraction is not formally deified or credited with the creation of or maintenance of the universe itself or its operations.

That is, I think the case is abundantly made that Critical Social Justice satisfies this definition unambiguously, but Clements is right that this definition isn’t adequate.

([[HYPERLINK "https://newdiscourses.com/2020/09/first-amendment-case-freedom-from-woke-religion/"](https://newdiscourses.com/2020/09/first-amendment-case-freedom-from-woke-religion/) \ | "TOC"])

Ultimate Concern

Nuance is brought to the “Supreme Being” formulation by Clements’ description of the full interpretation and basis for the *Seeger* decision:

In *Seeger*, the Court relied on the writings of the theologian, Paul Tillach, who argues that God is, for each individual, the source of that individual’s “ultimate concern,” and “what [one] take[s]

seriously without any reservation.” One student commentator has argued that this concept of ultimate concern should be the sole criterion for religion under the free exercise clause. The Note argues that ultimate concern represents “the essence of religion.” It then explains that “‘concern’ denotes the affective or motivational aspect of human experience; the word ‘ultimate’ signifies that the concern must be of an unconditional, absolute, or unqualified character.” Under this view, whatever an individual regards as his ultimate concern, “[e]ven political and social beliefs,” is his religion.

If Clements were a less serious legal scholar, this interpretation and commentary, taken at face value, would constitute a simple basis for making an open-and-shut case that Critical Social Justice constitutes a religion, at least so far as American Constitutional law is concerned. He is more careful than this, however, and points out a number of problems with the “ultimate concern” approach. Notably, even with the description provided, it isn’t at all clear what an “ultimate concern” is, even if we might make some guesses that include frameworks for understanding life, death, and human purpose and values in the world. Critical Social Justice certainly centers [[HYPERLINK "https://onlinelibrary.wiley.com/doi/abs/10.1111/hypa.12378"](https://onlinelibrary.wiley.com/doi/abs/10.1111/hypa.12378)] and considers the ways people feel about certain issues, images, and even words to be matters of life or death, or even of [[HYPERLINK "https://newdiscourses.com/tftw-genocide/"](https://newdiscourses.com/tftw-genocide/)] for entire communities, and as this moral impulse is totalizing and an [[HYPERLINK "https://amzn.to/3iZUaMa"](https://amzn.to/3iZUaMa)] for all people, as described above, perhaps it is for them a matter of *ultimate* concern.

Still, there are problems. Clement notes that other scholars have made a persuasive case that severe drug addiction could meet the definition of something as totalizing to one’s life and behavior as an “ultimate concern” without being an ultimate concern in any way whatsoever. In this sense, the “ultimate concern” definition of religion points to something valuable to which Clements, and we, shall return, but it isn’t sufficient for the purposes of defining “religion” for application under Constitutional law.

In the case of Critical Social Justice, however, there is undoubtedly a matter of *ultimate* concern, which is that morally palpable sense of how one will be judged by the Eye at the End of History. Future generations, taken out to omniscient infinity, will know which people—or, more accurately, which groups and movements—were on the right side of History, and which were not. They will know who was an abolitionist, for abolition must continue until one of the bitter or Utopian end, and who was a slaver who was against the perpetual fight for abolition. They will know who the civil rights heroes and villains were just as clearly as they, themselves, believe they know the same about the great emancipatory struggles of (mostly recent) history. One’s standing against this backwards-judging Eye is the matter of ultimate concern to all who have a critical consciousness in the Woke faith of Critical Social Justice.

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Unfalsifiable Beliefs

Clements therefore turns to other issues that need to be considered to develop a definition, and first among these is the questions of the meaning of “ultimate concern” and of falsifiability of the relevant beliefs:

The concept of religion is often associated with questions facing mankind that are not subject to rational or scientific proof. This view of religion has led some commentators to suggest a definition of religious belief as “faith in something beyond the mundane observable world—faith that some higher or deeper reality exists than that which can be established by ordinary existence or scientific observation.” A recent *Washington Law Review* Note advocates this definition as a modified ultimate concern approach. Under this approach, religion is defined in terms of ultimate concern, which is defined in terms of “questions which science cannot objectively answer.” More specifically, the Note states that “[u]ltimate’ refers to all values and ‘knowledge’ which cannot be proven true, or even tested, by empirical evidence.”

Certainly, Critical Social Justice’s “[[HYPERLINK "https://newdiscourses.com/2020/07/nobody-systemically-racist/"](https://newdiscourses.com/2020/07/nobody-systemically-racist/)]” approach meets these criteria. In fact, it does so proudly and explicitly. Critical Social Justice takes unfalsifiability about its core questions to an extreme that is sometimes called “radical subjectivity.” This feature of the worldview is almost impossible to understand from any perspective that values objectivity or truth and can be completely bewildering to encounter.

At the simplest level, radical subjectivity as it applies in Critical Social Justice would insist that if someone claims to have experienced systemic oppression (according to the systems defined by Theory *only*), then one has experienced it. Such a claim is not debatable by anyone with greater access to or speaking from the systems of power for any reason, as that would deny the lived experience of systemic oppression which is, in turn, another form of systemic oppression (called “[[HYPERLINK "https://newdiscourses.com/tftw-epistemic-oppression/"](https://newdiscourses.com/tftw-epistemic-oppression/)]” or, sometimes, “[[HYPERLINK "https://newdiscourses.com/tftw-epistemic-violence/"](https://newdiscourses.com/tftw-epistemic-violence/)]”). The oppressed have “their truth” that cannot be challenged or in any way questioned by any person or methodology that can be associated with positional or epistemic dominance.

Taking this matter a step further, even to ask questions about or for evidence of oppression is, under Critical Social Justice, to prove that you have [[HYPERLINK "https://newdiscourses.com/tftw-internalized-dominance/"](https://newdiscourses.com/tftw-internalized-dominance/)] the dominant system and do not yourself live it (in which case you would know the oppression is there firsthand), and thus you reinforce oppression even in the asking. Raising such a question would “prove” the system is just as oppressive as Theory claims, in fact, as would raising countervailing evidence. Any evidence that contradicts the narratives of Theory has been, itself, produced by dominant methods and by investigators who have internalized the systemic power of the system, which renders them unable to see the oppression that must be there and that can only be found by means of a more

critical analysis. Any argument that disagrees [[HYPERLINK "https://newdiscourses.com/tftw-shadow-text/"](https://newdiscourses.com/tftw-shadow-text/)]. This is because the framework is religious and mythological, thus not subject to being made profane by technologizing inquiry. In this way, Critical Social Justice has fallen back upon the model of special revelation by prophets rather than the cautious inquiry of professionals, rendering it more religious than scholarly or more theological than technological.

Beyond this, claims about *systems* of oppression are themselves unfalsifiable. The systems themselves are conceived of as features of [[HYPERLINK "https://newdiscourses.com/tftw-reality/"](https://newdiscourses.com/tftw-reality/)] (whether “higher” or “deeper” applies can remain a rhetorical question) that transcend humanity entirely and yet have immanence in our world—existing everywhere and always just beneath the visible surface and thus interacting with the world in mysterious ways at all times. The system can be racist, sexist, homophobic, or misogynistic, among many other sins of problematicity. Furthermore, the systems themselves have these properties, even absent any racists, sexists, homophobes, misogynists, bigots, or even people who are not those in practice yet harbor beliefs of those kinds.

A number of consequences follow from this belief structure. First, any act of bigotry whatsoever is proof that the relevant system of oppression exists and remains a fully pervasive problem in society. The belief is that a single act of racism, for example, can only occur in a system that allows racism to occur at all, and so *anything* that can be construed as a manifestation of racism is proof not only that racism manifested but that it manifested from a totalizing system of racism in which it is but a single concrete part. Thus, the system of oppression is its own “higher” entity that exists so long as the potential for any manifestation of a relevant problematic exists, which is always.

Even the attempt to measure these issues admits no falsifiability. The measurement, beyond any concrete manifestation of the mere potential for a problematic, that proves a system of oppression exists is the existence of any discrepancy of outcomes that aligns with the way Theory conceives of oppression in the world. Discrepancies in a world of perfect social constructivism can, according to the worldview of Theory, only occur if there are systems of power that create them, and they indicate systemic oppression whenever a “historically or presently marginalized or minoritized group” lands on the bad side of any appearance of differences of outcome (when these negative discrepancies show up in groups Theorized to be dominant, that is a sign of progress, thus not oppressive, but not evidence that the system of power has been remediated, which requires much more work, always).

In fact, discrepancies don’t even have to exist to claim a system of oppression is in operation. The mere assertion of a system of power consistent with the worldview of Theory is sufficient to “prove” its existence because, as with a personal claim to having experienced oppression, such an assertion cannot be disagreed with (as that would constitute a form of epistemic oppression, which is part of a system of oppression, as claimed). If any Critical Theorists maintain that discrepancies exist or oppression exists, then it does. Unbelievably, this extreme subjectivism goes even beyond this level of unfalsifiability, for even if no one claims systemic oppression

exists and none can be detected, it might still be hidden within the system and behind the socialized false consciousness of those it silently victimizes. This, then, is yet another way in which systemic oppression is Theorized to transcend humanity entirely.

As a final point on this matter, not only can science not answer direct questions about the existence of systemic oppression objectively, it is described openly as problematic to think that it can or that it should try. Like individualism, [[HYPERLINK "https://newdiscourses.com/tftw-objectivity/"](https://newdiscourses.com/tftw-objectivity/)] is explicitly decried as being neither possible nor desirable under Critical Social Justice. Consequently, a system remains oppressive so long as you have even one person who can conceive of a way in which something might be experienced as oppressive, which is utterly unfalsifiable.

Because of its adaptation of postmodern thinking about the relationship between power and knowledge, not only is Critical Social Justice unfalsifiable; it is also positively disinterested in the concept of falsifiability at all. Falsifiability is just one tool among many that has been socially constructed by means of and in service to the systems of power that it seeks to unmask, disrupt, and dismantle so that liberation can be achieved. To ask whether or not a claim about systemic oppression is *true* in Critical Social Justice is *objectively meaningless*. It is, instead, said to be wholly subjectively determined but wherein the only subjective determinations that are considered authentic instead of false are those that exhibit critical consciousness and thus reinforce Theory.

Indeed, it must be understood that Critical Social Justice represents a complete departure from the liberal (or modernist) project. In place of using observation, hypothesis, and extending rigorously established theory to advance new ideas (positive epistemology) and falsification and defeasibility to cut down ideas that don't correspond to reality or that don't work (negative epistemology), Critical Social Justice forwards "authentic" lived experience as interpreted through Theory (positive epistemology) whittled down by whether or not claims are "problematic" (negative epistemology). That is, it doesn't just reject falsification; it has a wholly separate way of evaluating the validity of propositions that has fully departed from the liberal modernist approach. Though this may not on its own define it as a system of faith, it is certainly a trait it shares in common with many religious constructs.

Again, here, the case for seeing Critical Social Justice as a (fundamentalist) religion for First Amendment purposes seems clearly made, but Clements warns us against the ways that reliance only upon unfalsifiability might provide an over-broad definition of religion. There may well be unfalsifiable claims, such as that cloaked UFOs visit my backyard every night at 3 AM, local time, that are not at all religious in nature.

Nevertheless, there's a kernel here worth extracting, and it is the idea mentioned above that religious beliefs tend to define entire alternate ("pocket" or "island") epistemologies that function to validate their beliefs while discrediting any possible challenge to them. These are a hallmark of fundamentalist faiths, including but not limited to the kind of Gnosticism exhibited

by Critical Social Justice. The Christian apologist William Lane Craig is famous, for example, for arguing that the “internal witness of the Holy Spirit” is a properly basic belief that is, in turn, and “[[HYPERLINK "https://www.reasonablefaith.org/writings/question-answer/the-witness-of-the-spirit-as-an-intrinsic-defeater-defeater"](https://www.reasonablefaith.org/writings/question-answer/the-witness-of-the-spirit-as-an-intrinsic-defeater-defeater) \t "_blank"].” What this means is that he believes that he can detect the presence and influence of the Holy Spirit (something of a *sensus divinitatis*), and that subjective perception of the Spirit of God is more powerful than any argument against his faith. Thus, any potential “defeater” to his apologetics or belief is intrinsically defeated by his sense of the Holy Spirit.

Critical consciousness (“Wokeness”) forms a functional parallel to this within the context of Critical Theory. This idea (which operates as a kind of *sensus oppressionitatis*, if we may) refers to the ability to perceive the systems of power in society as they “really are” along with the oppression they cause, where “really” refers to as described by the relevant Critical Theory. People who have obtained this consciousness are referred to as “Woke” because they’ve been awakened from the [[HYPERLINK "https://newdiscourses.com/tftw-false-consciousness/"](https://newdiscourses.com/tftw-false-consciousness/)] of having been [[HYPERLINK "https://newdiscourses.com/tftw-socialization/"](https://newdiscourses.com/tftw-socialization/)] into accepting the dominant system. The black feminist Theorist bell hooks even calls them “enlightened witnesses,” as previously noted. Thus, *anything* that disagrees with Theory can be rejected as having failed to [[HYPERLINK "https://newdiscourses.com/tftw-engagement/"](https://newdiscourses.com/tftw-engagement/)] with its ideas from a position of critical consciousness (usually, “failed to engage critically”). This, though, is identical to William Lane Craig arguing that if one believes in God and the power of the Holy Spirit correctly, then one will immediately accept the truth of the claim that the “internal witness of the Holy Spirit” overcomes any challenge to the faith. Believe, and you will believe. Beliefs in one’s critical consciousness and the systems of power it detects in the world are, apparently, also properly basic.

([[HYPERLINK "https://newdiscourses.com/2020/09/first-amendment-case-freedom-from-woke-religion/"](https://newdiscourses.com/2020/09/first-amendment-case-freedom-from-woke-religion/) \ | "TOC"])

The Transcendent Numinous

Still not satisfied that he can establish a suitable and comprehensive definition for “religion” in the context of First Amendment law, Clements turns to other sources, raising in particular the idea of “extratemporal consequences” following the thought of Dean Choper.

In his article, *Defining “Religion” in the First Amendment*, Dean Choper offers a definition of religion that focuses on whether the allegedly religious belief involves “a belief in the phenomenon of ‘extratemporal consequences.’” Under this view, a person’s beliefs are religious, for First Amendment purposes, if “the effects of action taken pursuant or contrary to the dictates of a person’s beliefs extend in some meaningful way beyond his lifetime.”

It seems pretty obvious, at least to Clements, that Choper is referring to beliefs in the afterlife, which renders it pretty obviously a bad definition as it would exclude all religious beliefs that don't accept such a thing. Even interpreting the clause otherwise is insufficient, however, as this approach would then exclude philosophies that seek long-term goals reaching beyond one's own life, or even the notion that one's work can have a lasting legacy (which could render the Constitution itself a religious document that must be separated from the state but then couldn't be because the mandate is in the Constitution itself). Again, there's a nugget to pull from this, however, and it is *Utopianism*.

Utopianism is the belief in a perfect society, usually in the future and obtainable by right action in the present and throughout one's life. Heaven can be understood as the Christian (and Islamic) Utopia, and access to the Utopia can be achieved in various ways, usually described as either being "by Grace" or "by works." Some sects believe specifically that Heaven refers to a Godly remaking of the literal Earth, however, and they see it as a religious duty to prepare themselves and the Earth in accordance with God's commandments so that "God's Kingdom on Earth" might be established. This belief can range from a quite literal remaking of the world by God or, in some cases, as the world being remade by human hands through which God works, so thus by right action and right living might people build the Utopia of God's Kingdom here on Earth. Of course, not all Christians believe this, but some have and do.

A "liberated" Utopia in which the systems of oppressive power don't exist is *precisely* the objective of the Critical Social Justice project. They are quite explicit that they seek a [[HYPERLINK "https://newdiscourses.com/2020/03/james-lindsay-truth-critical-methods/"](https://newdiscourses.com/2020/03/james-lindsay-truth-critical-methods/)] that will unmake the current system and thereby end racism, sexism, homophobia, misogyny, and all of the other systemic oppressions. Because these systems of oppression are defined as intrinsic parts of the existing system, however, unmaking them requires a complete reordering of the existing world to remove the previous "biased" and "dominant" discourses, ways of thinking and knowing, institutions, laws, and [[HYPERLINK "https://newdiscourses.com/tftw-social-constructivism/"](https://newdiscourses.com/tftw-social-constructivism/)] and replace them with new Socially Just ones. This belief should not be mistaken for the liberal ideal of (incremental and informed) progress, which is meant to be achieved *optimally*, not *totally*, via what Kołakowski would describe as technological means. It is, instead, consonant with the Critical Social Justice mythology and envisions a complete remaking of the world once certain conditions are met (the right kind of revolution occurs), and thus has far more in common with millenarian faiths than liberalism.

This Utopian objective unambiguously constitutes an "extratemporal consequence" sought by Critical Social Justice and its adherents, more or less on every level. This belief follows because Critical Social Justice perceives (through Critical Theory) a fallen world in which systemic oppression exists and envisions a liberated world in which it has been ended finally. The proper duty of conscience of every individual is therefore to wake up to a critical consciousness and start to build the Liberated Society.

Utopianism, it should be noted, is very frequently accompanied by totalitarianism because the belief tends to imply that anyone who isn't on board with the Utopian project both is against the idea of the Utopia and thus prevents its coming to fruition. Such people clearly therefore don't deserve to be a part of the Utopia when it's realized. This kind of thinking is the seed of a genocide and therefore should not be planted or watered.

([HYPERLINK "<https://newdiscourses.com/2020/09/first-amendment-case-freedom-from-woke-religion/>" \ | "TOC"])

If It Walks Like a Church and Talks Like a Church

The line of thought that extends from a deity into something more vague that fills the same role to matters of “ultimate concerns” and “extratemporal consequences” all seem inadequate, in and of themselves, to Clements—probably rightly and for good reasons. He therefore turns to other approaches to see what can be gleaned from them with regard to making sense of a religion in a functional sense, so far as First Amendment law in the United States is concerned. This leads him to consider definitions by analogy to other religions we already understand.

In his article, *Religion as a Concept in Constitutional Law*, Professor Greenawalt rejects both the “ultimate concern” approach, and the “extratemporal consequences” approach, claiming that these and other “dictionary approach[es] are wholly inadequate to produce acceptable results in a wide range of religion clause cases.” Arguing that “any dictionary approach oversimplifies the concept of religion,” Greenawalt proposes that “religion should be determined by the closeness of analogy in the relevant respects between the disputed instance and what is indisputably religion.”

Of course, as has been alluded to and done here and elsewhere (by my hand and others), analogies between Critical Social Justice and “what is indisputably religion” are overwhelmingly clear and easily made. If nothing else, the idea that being “born again” is adopting what might be called a “Christian consciousness” and being “Woke” is adopting what is called a “critical consciousness” might on its own be sufficient as a parallel, in that each confers upon its convert a wholly new way of viewing the world that is in all ways consonant with the underlying faith that has been taken up. Once we extend the idea of religious duties and services to social (and social activism) and congregations in protest of the dominant systems of society, the analogy becomes even more clear, and this can be done without overtly dipping into the claims now being made that “[HYPERLINK "<https://newdiscourses.com/tftw-antiracism/>"]” is a spiritual matter. Still, it shouldn't escape our notice how frequently and consistently “anti-racism” is also [HYPERLINK "<https://amzn.to/3hfGJqD>" \ t "_blank"] as a “lifelong commitment to an ongoing process” and [HYPERLINK "<https://newdiscourses.com/2020/01/influence-anti-racist-scholarship-activism-evergreen-college/>"] “no one is ever done” with the demand for “self-reflection,” “self-critique” (these being inward spiritual commitments), and “social activism” (this being participation in the works of the nominally “anti-racist” faith).

Once someone adopts a “Woke” consciousness by conversion to the Critical Social Justice faith, the world and everything in it is to be viewed through the various lenses provided by its Theory, which, at a minimum, classifies Critical Social Justice as a worldview. The parallels to “what is indisputably religion” are again obvious, however, because this is exactly what Christian religionists do when they seek to find God’s Hand in everything that He Created and to give Glory to Him for the perfection of his Creation. The only difference here is that the Christian [[HYPERLINK "https://www.youtube.com/watch?v=FtNW3l1FZ5o" \t "_blank" \] to God and His perfection and Glory \(a matter of faith in Christianity\), and the Wokester looks down at systemic oppression and how imperfect and terrible it has made the ordinary, not aberrational, state of the world \(a \[\[HYPERLINK "https://amzn.to/3aG6ttM" \t "_blank" \\] in Critical Social Justice\\). In both cases, there is looking off to a transcendent reality and using that as a basis for one’s view of the world and duties of righteous belief and action that accord with it.\]\(https://amzn.to/3aG6ttM\)](https://www.youtube.com/watch?v=FtNW3l1FZ5o)

As discussed above, it is also clear that, in quasi-postmodern fashion, Wokeness has a clear set of liturgical forms across its varied churches (Antifa, social media activists, and anti-racist bureaucrats certainly call to worship differently), which is to say that it behaves in ways that are clearly religious in structure and practice. Its adherents who hold administrative positions write endless epistles as calls to faith to the communities they seek to shepherd. Ritual and symbolic behaviors follow from these letters as faith is renewed within them.

Belaboring the point about the parallels between “what is indisputably religion” and Critical Social Justice is tedious and a bit beside our point, though, because Clements rightly points out the shortcomings in such an approach to establishing a functional definition of religion for First Amendment law. It may be the case that Critical Social Justice looks like a religion, acts like a religion, talks like a religion, and to all appearances—save the obvious lack of theism—*is* a religion, but this isn’t sufficient to generate a functional definition because it is too vague on its own. Fraternal orders, political parties, and many other manner of non-religious phenomena may also in ways and at times present with the outward forms of religion without being religious in any meaningful way. It would take something like really nailing down the establishment of moral law and an underlying metaphysical conception of the world that, together, form the basis for a mythology that cannot be questioned in its particulars (only accepted in its totality) and gives rise to duties of conscience for such a case to be made, I think.

The objection Clements gives, drawing off Greenawalt, is, however, profoundly interesting and instructive. In fact, it cuts very close to the question in front of us.

The approach does not explain, for example, whether a political philosophy such as Marxism, which has some of the religious attributes set forth by Greenawalt, would qualify as a religion. Greenawalt indicates that Marxism “is usually not considered religious,” but he does not explain how one would reach this conclusion relying solely on his analogical approach.

The close cut here is obviously in the fact that while Critical Social Justice may or may not be Marxist, [[HYPERLINK "https://newdiscourses.com/2020/07/complex-relationship-between-](https://newdiscourses.com/2020/07/complex-relationship-between-)

marxism-wokeness/"] it certainly is—and this may, in practice, be a distinction without much difference. As Greenawalt elaborates, however, as noted by Clements:

Marxism does present “a comprehensive view of the world and human purposes,” it has “a particular perspective on moral obligations derived from a moral code ...” it arguably makes “use of sacred texts,” and at least in some modern manifestations, it has an “organization to facilitate the corporate aspects of [its] practices and to promote and perpetuate beliefs and practices.”

This raises the question: does Clements’ use of Marxism as a specific objection apply to Critical Social Justice just because the latter has clear Marxian elements? The answer, in light of much of the above, seems to be no. Critical Social Justice appears to be a religious faith that has grown out of certain appropriated elements of Marxism and abandoned the material and political world for a much more obvious transcendent and spiritual one. In particular, this point, to my mind, is where the “lifelong commitment” to an “ongoing process” on which “no one is ever done” gains poignancy. It is also where the concept that the systems themselves can be fully oppressive even absent anyone participating in the sins of oppression—thus a clear element of transcendence that goes beyond Marx’s ideas about superstructures and bourgeois ideologies—becomes significant.

Critical Social Justice, in having adopted the critical ethos and a wholly lived-experience-based epistemology has moved itself within the realm of revealed wisdom. By using Marxian ideas about false consciousness in a new way that focuses upon socialization and [[HYPERLINK "https://newdiscourses.com/tftw-internalized-dominance/"](https://newdiscourses.com/tftw-internalized-dominance/)] of [[HYPERLINK "https://newdiscourses.com/tftw-internalized-oppression/"](https://newdiscourses.com/tftw-internalized-oppression/)] discourses that permeate these systems of power (which, again, transcend human intention and are a feature of the entire social system itself) and characterizing these as relevant to all human interactions and processes, Critical Social Justice has taken the issue further than Marxism. Marx’s concern was with the material realities of the world—particularly alerting the working class to the (largely true in Marx’s day) point that the capitalist class was screwing them over—and thus, arguments for and against Marxism (and, indeed arguments for and against capitalism) can be made and evaluated by everyone without the need to accept any indemonstrable premises. Marxism may have generated mythologically inspired moral communities, but the plane of their fight was institutional and materialist, not mental and spiritual, and their metaphysics were, at heart, modernist and thus confined to the circles of the world. Critical Social Justice has a far more numinous and transcendent metaphysics that identifies in every possible phenomenon the vestiges of vague, unfalsifiable, systems of power that operate more like demonic influences than the machinations of powerful and tricky elites.

Maybe this goes too far, however, and maybe the shift from the material realities of the world and the people suffering in it into the unfalsifiable domains of undefinable systems of everything and the confines of the unconscious minds of the socialized isn’t sufficient to distinguish Critical Social Justice from Marxism, proper. I find it increasingly difficult to see how this can be the case, but we shouldn’t be hasty with this consideration.

Clements, wanting to be thorough about the possibility of defining religion functionally by analogy, offers another perspective on the matter that, at last, gets us closer to his goal of providing a workable definition for religion, which I also think is informative.

Another possible method of definition by analogy would be to focus on the external manifestations that are generally associated with traditional religions. For example, Judge Adams of the Third Circuit has proposed a test for religion consisting of three indicia, the third of which is the presence of “any formal, external, or surface signs that may be analogized to accepted religions.” Among the external signs that might be considered in determining whether a belief or practice is part of a religion are, “formal services, ceremonial functions, the existence of clergy, structure and organization, efforts at propagation, observation of holidays and other similar manifestations associated with the traditional religions.” The primary advantage of such an approach is that it provides more objective and tangible elements for courts to focus on in assessing whether a belief or practice is religious.

This approach Clements criticizes for being too superficial and missing the personal aspects of religious beliefs along with manifestations of non-traditional forms of religious practice. In the form of feminist spirituality, for example, these features manifest in a decidedly feminist (and, sometimes incompatibly, queer) interpretations of astrology, Wiccan magick, and various rituals to the sacred feminine (or queer). A kind of capital-B Black spirituality is often connected on the ground with “anti-racism” work, and while black churches might form a portion of this, it is in fact the transcendent capital-B Blackness that is viewed in these cases with clear spiritual reverence (and pitted in Manichean struggle against the intrinsically “[[HYPERLINK](https://newdiscourses.com/tftw-anti-blackness/) "https://newdiscourses.com/tftw-anti-blackness/"]” influence of “[[HYPERLINK](https://newdiscourses.com/tftw-whiteness/) "https://newdiscourses.com/tftw-whiteness/"],” which lures into anti-Blackness other racial minorities who are seduced by the wiles of whiteness to [[HYPERLINK](https://newdiscourses.com/tftw-acting-white/) "https://newdiscourses.com/tftw-acting-white/"] it in their own self-interest). These overtly spiritual aspects within Wokeness are not necessarily central to the Critical Social Justice project, and not all Woke people accept them, but they certainly give an indication that overt spiritualism can be a part of the kinds of identity politics that define the Woke project and, by extension, being Woke.

Here is a good time to remind the reader that “intersectionality is a practice” is an oft-repeated mantra about that particular concept, and so by examining how that practice operates in practice (or through praxis), we can get some sense of what religious practice within Critical Social Justice looks like. Aside from the self-reflection, self-interrogation, self-critique, and application of these activities to one’s friends and relations, mainline Woke rituals, services, and ceremonies almost undoubtedly take the forms of attending symbolic marches, participating in social movements, and engaging in protest against the “dominant systems” of society. These acts are the liturgy of the Critical Social Justice faith. If intersectionality is “a practice,” then intersectionality is a liturgy, and that makes it distinctly religious.

This is why we see activities like a “Women’s March” that has no particular political goal in mind except to remind the world that women exist and, ostensibly, don’t like patriarchy, [[HYPERLINK "https://newdiscourses.com/tftw-misogyny/"](https://newdiscourses.com/tftw-misogyny/)], or conservatism, which are systems so vague that many of us aren’t able to detect the need for such wide-scale symbolic marching. The endless protests against “[[HYPERLINK "https://newdiscourses.com/tftw-fascism/"](https://newdiscourses.com/tftw-fascism/)]” (thanks, [[HYPERLINK "https://newdiscourses.com/tftw-tolerance/"](https://newdiscourses.com/tftw-tolerance/)]), which one must note are not only not shut down by the allegedly fascist state but are protected as free speech and free assembly by its police, even as they engage in the destruction of property and violence, would fall within the same category. It is spiritual, not real, Womanness they march for and spiritual, not real, fascism they protest, largely through certain types of performances (like engaging in acts of performance art including posting “fuck [something]!” dance videos online and twerking in the road in front of the police protecting them) and the chanting of mantras about how fascistic and racist the society that tolerates their obnoxious gyrations must be. These are manifestations of the Critical Social Justice liturgy.

Given the wont of the Woke not to allow anyone to have too much success for too long, individual members of clergy are harder to identify—though clergy Wokeness definitely has. Certainly, there are the thought leaders—characters like [[HYPERLINK "https://newdiscourses.com/2020/06/intellectual-fraud-robin-diangelos-white-fragility/"](https://newdiscourses.com/2020/06/intellectual-fraud-robin-diangelos-white-fragility/)] and [[HYPERLINK "https://newdiscourses.com/2020/07/defining-racism-ibram-kendi-weird-definition-antiracism/"](https://newdiscourses.com/2020/07/defining-racism-ibram-kendi-weird-definition-antiracism/)] who say useful things about the magical systems of power (Kendi calls them “policy” while meaning “systems”) to be parroted, weaponized, and elaborated upon—but there’s very little sense that these people are in any way venerated or protected in the way we would usually think of clergy in relationship to their flocks. That is because they are not the clergy. They may be oracles or prophets of a kind, but they have no special status in the Woke system outside of their identity and their temporary utility.

As noted previously, the clergy of Critical Social Justice are the systemically oppressed, meaning specifically those saints of the movement who are able to express the “[[HYPERLINK "https://newdiscourses.com/tftw-realities/"](https://newdiscourses.com/tftw-realities/)]” of their systemic oppression in the officially sanctioned critical theoretical terms that indicate having awakened to the critical consciousness necessary to understand them properly. (This is part of why thought leaders like DiAngelo won’t remain clergy for long: significant success clearly complicates the credulity of the oppression narrative.) Once it is understood that anyone making a Theoretically consistent and construably plausible claim to victimhood by systemic oppression becomes clergy to the Woke, to whom even Robin DiAngelo must (and explicitly says she would) defer, the decentralized nature of the faith becomes clear—both in being decentralized and in being a faith. These clergy—or rather, prophets—in their Wokeness, are bestowed with the ability to engage in special revelation about the “realities” of systemic oppression, and they are to be believed (Marxism, I hasten to note, seems not to have any such feature). It is a [[HYPERLINK "https://newdiscourses.com/2020/07/woke-wont-debate-you-heres-why/"](https://newdiscourses.com/2020/07/woke-wont-debate-you-heres-why/)] of the highest order, in fact, to challenge or question their revelation (by comparison, institutionalized Marxism punishes Party disloyalty and anti-revolutionary sentiment in this way, but not *revelation*).

([HYPERLINK "https://newdiscourses.com/2020/09/first-amendment-case-freedom-from-woke-religion/" \ | "TOC"])

Sincerity of Belief

Whether or not Clements would be convinced is not clear, so he dives more deeply into Judge Adams’ analysis to address the issue of *sincerity* on the part of the would-be religionist.

That external manifestations should not be relied on in determining whether something is a religion does not mean they are irrelevant to First Amendment analysis. To be entitled to free exercise protection, a claimant must demonstrate the sincerity of his alleged religious beliefs. The fact that a claimant can show that he has consistently taken part in the ceremonial aspects of an organized religion will certainly be probative as to the sincerity of his beliefs. Nonetheless, the absence of any ceremonial aspects connected with a claimant’s asserted religious belief should not have any bearing on whether the belief qualifies as religious.

Clements, here, makes it clear that a decentralized religion that doesn’t offer ceremonial aspects as a means for testing sincerity of belief could still be considered religious for First Amendment purposes, so long as sincerity of belief can be established. Of course, ceremony is just one means of demonstrating such a thing, so even if we disregard showing up to protests, engaging in hashtag campaigns, taking on symbolic actions on social media that demonstrate one’s commitments to the cause of Critical Social Justice, giving money to sanctioned causes and publicly declaring that one has done so, buying and wearing signaling paraphernalia, and so on as *not-ceremonial*, they could certainly be understood as demonstrations of commitment and sincerity of belief and thus potentially indicative of underlying *religious* commitment to the worldview in question.

The functional core of such features, which the ceremony ritualizes in some sense, is what is known in the literature as “costly signaling.” Showing up to church every Sunday and participating in what amount to holy, or magic (depending on one’s perspective), rituals (like Communion, Baptism, or Wiccan covens) is one form of costly signaling. Rituals are symbolic, and to the technological, rationalist mind, silly, thus requiring some level of humility—or humbling—to participate in. They also take up time that could be spent in more productive or leisurely ways. These costs are borne because they signal to the community at large, which may in fact be religious, that one is committed to the cause and the belief system that informs it. They also signal the same to the self and thus can redouble commitment while providing what moral psychologist Jonathan Haidt [HYPERLINK "https://amzn.to/2EMPtGL" \t "_blank"] as “elevation” for the participants and surrounding community.

Obviously, I hasten to add, taking on costly signaling to a group is a perfectly normal and widespread human behavior that applies to sports teams, movements, social and professional fraternities and sororities, and even [HYPERLINK "https://newdiscourses.com/subscribe/" \ |

"support"], so it isn't nearly enough to classify something as a religion. They are, however, clear displays of sincerity of support for the underlying belief and moral community that has formed around that belief (even when they are not sincere, they are displays of sincerity). In other words, though it is far broader a matter than religious, demonstrations of the sincerity of belief of those who support Critical Social Justice—from theologian level down to casual congregant or "cafeteria" religionist—are readily identifiable features of the worldview. Even the [[HYPERLINK "https://newdiscourses.com/translations-from-the-wokish/"](https://newdiscourses.com/translations-from-the-wokish/)] is a signal of who is and who isn't part of the club, and as the language is complicated, academic, and jargon-laden, mastering it is, indeed, a costly signal of commitment to the cause.

Certain kinds of signaling and contexts in which signaling arises are clearly more religious than others. Liturgical signaling, for example, would be more religious than secular, as it is a call back to the articles of faith, not merely the principles that underlie a community. In turn, signaling that takes a liturgical form, say one of lament, falls into this category as well, because signals made in answer to a call to faith are, by definition, actions of faith. Put in the language of the law, they are identifiable as religious practices.

There is, however, an additional signal of sincerity of belief that is prominent within Critical Social Justice: the inability to conceive of alternative explanations or accept them as coming from a place of genuine difference. Like religionists who see God's hand in every rainbow or crepuscular ray, the Woke see systems of oppression in every difference of outcome that in any way (even partially) favors groups they've Theorized as having dominant social positions while disfavoring groups with relatively oppressed or marginalized positionality. Ibram Kendi and other Theorists [[HYPERLINK "https://amzn.to/3hN9Dio"](https://amzn.to/3hN9Dio)] [[HYPERLINK "https://amzn.to/2YUfGtP"](https://amzn.to/2YUfGtP)] [[HYPERLINK "https://amzn.to/2YS3t9i"](https://amzn.to/2YS3t9i)]: systemic racism is the ultimate cause of any racial disparities that work as Theory predicts, whether the result of historical racism, subtle [[HYPERLINK "https://amzn.to/2YUMuTQ"](https://amzn.to/2YUMuTQ)] of culture, [[HYPERLINK "https://amzn.to/3gMvqFt"](https://amzn.to/3gMvqFt)], actual discrimination, having been socialized to believe in one's identity-based inferiority, or being disadvantaged by being a minoritized race within a "white" system. "The question is not 'did racism take place?' but 'how did racism manifest in this situation?'" It is inconceivable that any differences between groups—including between men and women, who have clear biological differences—could be the result of *anything* but vague systems of oppression.

Moreover, when differences with Theory arise, they are discounted unless they are *critical* disagreements, which therefore may not agree with some specific detail or point within Theory but are nevertheless still Theoretical. To fail to [[HYPERLINK "https://newdiscourses.com/tftw-engagement/"](https://newdiscourses.com/tftw-engagement/)] critically, according to Critical Social Justice, is to have engaged on the wrong terms or inauthentically. It may be described as an attempt to [[HYPERLINK "https://newdiscourses.com/tftw-privilege-preserving-epistemic-pushback/"](https://newdiscourses.com/tftw-privilege-preserving-epistemic-pushback/)] or as a refusal to understand ([[HYPERLINK "https://newdiscourses.com/tftw-willful-ignorance/"](https://newdiscourses.com/tftw-willful-ignorance/)]), or it may be described as a profound [[HYPERLINK "https://newdiscourses.com/tftw-white-fragility/"](https://newdiscourses.com/tftw-white-fragility/)] born of one's [[HYPERLINK "https://newdiscourses.com/tftw-white-equilibrium/"](https://newdiscourses.com/tftw-white-equilibrium/)]

] in [[HYPERLINK "https://newdiscourses.com/tftw-white-complicity/"](https://newdiscourses.com/tftw-white-complicity/)] a privileged state. Allowing absolutely no possibility for legitimacy of disagreement, however, and no possibility of admitting one’s beliefs might be false or in error are certain signs of not just of sincerity of belief but of absolute conviction to them.

So far, however, I’m merely making a very strong case that Critical Social Justice meets the definitions of religion that aren’t *the definition* of religion in question—the ones that Clements rejects in the formulation of his own. In the end, though, I think this will show that the proper definition derived from these points will be met in full by these arguments. To bring it to the table, he has one more type of concern to address, that of “fundamental questions” about life and its meaning.

([[HYPERLINK "https://newdiscourses.com/2020/09/first-amendment-case-freedom-from-woke-religion/"](https://newdiscourses.com/2020/09/first-amendment-case-freedom-from-woke-religion/) \ | "TOC"])

Fundamental Questions

Clements then rightly circles back to the issue of how religions answer “fundamental questions” of life for their adherents. He therefore begins building the case for his own definition by treating this matter with all due consideration:

The very concept of religious liberty suggests the inappropriateness of an overly content-based definition. In order to embrace new forms of religion, religion should be defined in a flexible manner that reflects the general purposes of religious liberty rather than the specific practices or beliefs of traditional religions. An approach that focuses on the function of religion in the adherent’s life performs this task far better than an approach that focuses on the more tangible physical manifestations of religion. The Supreme Court offered the bare skeleton of such a functional approach in *United States v. Seeger*.

In *Seeger*, the Court held that to qualify for a military service exemption under a statute that required a “belief in relation to a Supreme Being,” a claimant must have a “belief that is sincere and meaningful [and] occupies a place in the life of its possessor parallel to that filled by the orthodox belief in God of one who clearly qualifies for the exemption.” This definition focuses on the function of belief in God in the life of a traditional religionist. Since the First Amendment protects religious belief rather than “belief in relation to a Supreme Being,” the focus should be on the function of religious belief, rather than the function of belief in God. Accordingly, applying the functional approach to the religion clauses, religion might be defined as a set of beliefs that occupies a place in the life of its possessor parallel to that filled by the religious beliefs of an adherent to something that would clearly qualify as a religion within the meaning of the First Amendment.

To Clements, then, a functional definition of religion that focuses primarily upon the function the worldview plays in the adherent's life, not merely its philosophical or sociological structure. Those other features clearly matter somehow too, however. He therefore supplements this "fundamental questions" perspective by considering how that role of a belief system is accomplished in the life of its believer. His conclusion is that they must be embedded in a sincerely held comprehensive belief system.

Explaining his "definition by analogy," Judge Adams has identified the role of religion in the life of the religionist, as providing a comprehensive belief system that "addresses fundamental and ultimate questions having to do with deep and imponderable matters." Such fundamental questions include "the meaning of life and death, man's role in the Universe, [and] the proper moral code of right and wrong."

The core, then, of a functional definition of religion is that it must work analogously to a "comprehensive belief system" that "addresses fundamental questions." It is implied that these fundamental questions seem to be ontological and existential in nature, so "imponderables" gain relevance, like "what is the meaning of meaning itself?" This question has much significance within the postmodernist paradigm. Derrida might tell us that it is, in language, unanswerable, thus inviting us into his phallogocentric metaphysics of discourse. Other postmodern philosophers like Jean Baudrillard would say that it is lost in the endless reproduction of images that bear decreasing resemblance to the real and that replace it with a hyperreal. Yet again, we find ourselves invited into a dissatisfying metaphysics of discourse, at which point Foucault's ideas about the ways discourses mediate power shift the matter back into focus: the meaning of meaning is caught in how the very act of meaning-making produces, transmits, and enforces social power.

Another postmodernist imponderable would derive itself from its underlying existentialist roots: "what is the meaning of a life with no ultimate purpose?" The answer arrived at by Foucault, in particular, is again, power—understanding and grasping sociocultural and, as a consequence, political power. As Theory evolved and became increasingly critical, the reduction of life's imponderables to calculi of power simplified meaning into a paradoxically singular yet multidimensional totalizing struggle for "liberation" from all "systems of dominance and oppression." As this view became increasingly concrete and confident over the last decade and a half, it finally happened upon a big answer to the imponderable questions of life and meaning in it. The Critical Social Justice answer to the existentialist's nihilistic despair is to create the Utopia by finding a way to create "group justice" for socially constructed categories of people that have transcendent relevance under neo-Marxist liberationism.

This means that Critical Social Justice does, for its adherents, offer an answer to *the* imponderable: "what is the meaning of life?", which might alternatively be phrased, "what is man's role in the universe?" It is to understand and control power so that systemic oppression can be unmade from the world and the liberated Utopia can be brought to fruition. Given a meaning to life, there is also a [[HYPERLINK "https://amzn.to/3I30J2b" \t "_blank"](https://amzn.to/3I30J2b)]. Death, as

the ideology's existentialist sinews remind us, is the final end, and so all that has lasting meaning is the legacy of one's work in the unending struggle for liberation from all systems of oppression—as will be judged by the Eye at the End of History. This view is overtly religious, though, in the sense that one's service to the transcendent reality beyond the human (systems of power and their unmaking) gives life meaning and thus makes death poignant instead of hollow. It is the shift from denial of death and transcendence of death to doing work that, itself, lives beyond the reaches of death, and the judgment of future generations awaits.

Man's role in the Critical Social Justice universe is therefore no mystery: it is to achieve the Liberationist Utopia by purifying the discourses and disrupting and dismantling all systems of oppressive power. How this is to be achieved, in that it is impossible in practice, is left unsaid and as a matter of faith, for the discourses work in mysterious ways. Less ambiguous, though, is the moral law of right and wrong, which dictates that every righteous person must be on the right side of all of this—the “right side of history,” as we always hear—while being duly penitential about every misstep that upholds systemic oppression along the way. Again, the functional hallmarks of religious faith are unmistakable. But here I risk getting ahead of myself.

Pulling back to Clements, as a final step in formulating his definition, he needs to bring the conversation back to the point that started much of his deeper inquiry: the establishment not merely of mindsets but of actions—duties of conscience that arise from the sincerity of belief in the totalizing worldview at hand.

The requirement of a comprehensive belief system addressing fundamental questions provides a good first criterion for the concept of religion. Taken alone, however, it fails to capture the generally accepted notion of religion as giving rise to duties of conscience. This notion is captured in the language of the conscientious objector statute which refers to belief “involving duties superior to those arising from any human relation.”

This particular point—“involving duties superior to those arising from any human relation”—is key. It is, to Clements' argument and, I'd agree, the crucial defining feature of a religion, given all the other architecture. It is, in fact, a point that further disqualifies Marxism in its older, narrower, Industrial-economic sense from being shaved down by the First Amendment razor, which I contend can no longer shave away the much more spiritual and much more deeply convicted successor ideology, Critical Social Justice. Still, the question of Marxism introduces an important point we need to address more clearly before continuing.

([[HYPERLINK "https://newdiscourses.com/2020/09/first-amendment-case-freedom-from-woke-religion/"](https://newdiscourses.com/2020/09/first-amendment-case-freedom-from-woke-religion/) \ | "TOC"])

The Hiccup of Marxism

Marx conceived of an ideology that is wholly rooted in human relations, particularly the bourgeoisie and their relationship to the proletariat. As Clements notes (further down, after establishing his definition),

Dean Choper also argues that “many comprehensive beliefs are not necessarily religious.” He illustrates his overinclusiveness argument by suggesting that “atheistic Marxism may be fairly described as comprehensive because it supplies answers to profound questions and denies the significance of other issues.” One might apply this overinclusiveness objection to the proposed approach, by further claiming that a philosophy such as Marxism gives rise to duties of conscience in its adherents.

Although Marxism and other comprehensive political philosophies may indeed address profound questions, it is not clear that they address fundamental questions as defined in the proposed definition. Their concerns tend to be more mundane than the fundamental questions suggested above. For example, rather than addressing “man’s role in the universe,” most political philosophies address man’s role in some political community, such as a city-state, a nation-state, or under a “dictatorship of the proletariat.” Moreover, with the possible exception of natural law theories, political philosophies do not usually address the nature of good and evil in a normative sense; they generally attempt to define “good” in a descriptive sense, and then advocate means to obtaining that good or goods. And few, if any, political philosophies, Marxism included, attempt to explain the meaning of life and death.

This, however, has now been addressed. Goodness, in a descriptive sense, in Critical Social Justice, is that which seeks permanent liberation from the systemic oppression generated by Enlightenment liberalism, which is considered a *system of oppression* that transcends any and all human relations, even though it clearly applies to them and manifests within them. Man’s role in the *universe*, rather than society, is irrelevant because the Critical Social Justice ideology takes as “the universe” the social order that wholly conditions people’s experience. Nonetheless, the Eye at the End of History—the abstract omniscience of the judgmental reflections of future generations—will know. That Critical Social Justice is a narrow and provincial faith that is only concerned about the magical effects of systemic power as generated by Enlightenment liberalism and cynical resistance to it should hardly disqualify it from due consideration of being a system of faith. Certainly, there can exist systems of faith that are wholly religious and yet limit themselves to the circles of the world and the mysterious forces believed to shape it for good and for evil.

A point that is failing to be grasped in this discussion is that we typically are only able to conceive of religions in *premodern* ways, where the spiritual forces are genuinely spiritual in a traditionally dualistic way. Critical Social Justice is a *postmodern* faith, however, though this makes it no less dualistic, as the spiritual world is that of the discourses and their relationship to power. Both premodern thinking and postmodern thinking are alike in their rejection of *modern* thinking, which is ultimately materialist and technological—and this is the key difference between Critical Social Justice, which has taken on postmodernist spiritualism and

applied it to the Marxian paradigm, and Marxism, which was firmly rooted in empirical reality, which it was merely at least partly wrong about.

It is of tremendous importance to understand the effect of the relevant strand of postmodern thinking that indicates that truth and falsity are unknowable in any absolute or universal sense because everything is culture and the power dynamics that define cultures. All that is knowable is power, and power exists and is mediated (in mysterious ways) through the discourses. That is, postmodernism localized the universe into “regimes of truth” that dictate all features of material existence with them and that can only be understood by living them. That less-mediated “lived experience” generates “lived realities” that are comprehensible only in terms of how the person living them stands in relationship to the prevailing systems of power in play. If we just called these systems of power by names like “Demeter,” “Freya,” “Śiva,” “Quetzalcoatl,” and “Lucifer” (the bringer of Enlightened knowledge), rather than “systemic” bigotries and various “phobias,” the religious nature of these relationships would be perfectly clear. (And, yes, these deities of various faith traditions represented various real-world objects, forces, and phenomena, so this is a legitimate comparison).

This makes the idea of “man’s role in the universe” comprehensible as man’s role in understanding the prevailing episteme and, once Critical Theory got involved, figuring out how that produces, maintains, legitimizes, effects, and positions the individual with respect to systemic oppression so that it might be dismantled in all regards. Utopia—a materialist’s Heaven of perfect Social Justice—lies beyond this mysterious horizon of de-Enlightened thought where Lucifer’s Promethean gift has been quenched and there are no longer any shadows because the light in which they are cast has been put out. That this ambition will bear fruit is maintained as a matter of profound and personal faith, and it gives rise to the duty of conscience that all one has to do is evangelize cynicism until everyone has a critical consciousness. Then, via the metaphysics of discourse, Social Justice can work in Mysterious Ways, and Liberated Heaven on Earth will be achieved. The Eye at the End of History will be pleased.

Perhaps this hiccup raises a genuine sticking point, however: should a principled denial that life has any intrinsic meaning whatsoever (even when this denial is, paradoxically, a source of meaning) be taken as a disqualification of being “religious” for a totalizing belief system that otherwise meets the definition in literally every other regard? I don’t claim to know. This hiccup, though—not Godlessness, not organization, not any of the usual trappings of faith—becomes the crucial question of consideration.

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Duties of Conscience

We now find ourselves very close to the heart of the matter, which is ultimately the question of whether or not a belief system plays a particular role in a person's life and what that role must look like to qualify as religious. Clements takes us through the crucial point as he approaches his own functional definition:

When we consider the second requirement of the proposed approach, that the belief system give rise to duties of conscience, strictly political philosophies are even more removed from the definition. Although political philosophies generally provide guides to action, these guides, for most people, are better characterized as prudential maxims, than duties of conscience. A duty of conscience serves as an end in itself, which cannot be compromised to serve some more mundane duty (such as the duty to obey the law). A duty arising from one's political philosophy generally serves as a means to some other end, and lacks the compelling nature of a duty of conscience. For example, persons who believe strongly in democracy may feel a duty to vote, but few would view this duty as too compelling to be outweighed by other considerations, such as a family or professional obligation that would make it impossible to vote.

For some people, however, a political philosophy does give rise to imperative duties of conscience. For example, persons advocating civil disobedience often view the duty to disobey unjust laws as a duty of conscience. Under the proposed approach, this would not necessarily make that person's political philosophy a religion. The person would also have to view their political philosophy as addressing the fundamental questions. But if a person views a certain political philosophy as providing imperative duties of conscience, perhaps even duties he would sacrifice his life for, then that person may also view the philosophy as addressing such fundamental questions as man's role in the universe, the nature of good and evil, and perhaps even the meaning of life and death. If a philosophy does play such a role in a person's life, then it should be treated as a religion with regard to that person. Similarly, if a public school were to present philosophical teachings as a comprehensive belief system addressing fundamental questions and creating duties of conscience, it might well violate the establishment clause.

(NB: "moral or patriotic views are not by themselves 'religious,' but if they are pressed as divine law or a part of a comprehensive belief-system that presents them as 'truth,' they might well rise to the religious level.")

Clearly, most of these issues have been answered thoroughly by this point, but it's worth driving the nail in just a bit deeper in light of this more specific explanation. The duties of conscience in Critical Social Justice are duties with regard to how one's conscience orients with regard to *systems of power and privilege*, which are Theorized to be ubiquitous and immanent in all human societies. Because of Manichean demands that "there is no neutral" and that "to refuse to take a side is to take the side of the oppressor," everyone is forced into a good or evil role by the Theory of Critical Social Justice. Again, these systems of oppression are viewed as ubiquitous and universally relevant, so this demand is in turn universally applicable. There are, therefore, the faithful and infidels with regard to Critical Social Justice, with no ground in between. It is the duty of all who believe to convert those who can be converted and to control those who cannot, and this is an absolute and inflexible demand that, I argue, gives rise to clear duties of conscience

that are so sincerely held that they routinely override the affective ties between friends, siblings, spouses, and even parents and their children—lest the Eye at the End of History see one’s complicity in oppression through association, even through the human frailty of affection.

These are also not mere real-world human concerns because they barely deal with human beings at all. Critical Social Justice conceives of individuals *wholly* in terms of their [[HYPERLINK "https://newdiscourses.com/tftw-identity/"](https://newdiscourses.com/tftw-identity/)], as those intersect in complicated and mysterious ways. That is, Critical Social Justice is not concerned with humans but with [[HYPERLINK "https://newdiscourses.com/tftw-social-constructivism/"](https://newdiscourses.com/tftw-social-constructivism/)] that stand in as proxies for the people Critical Social Justice claims to represent. Ask yourself: What happens to a black or gay person who disagrees with Critical Social Justice? Are they even still considered legitimately black or gay? Not always. Critical Social Justice uses doctrines of critical versus false consciousness and Wokeness versus willful ignorance to divine when someone is authentically a member of the socially constructed identity group in question. Following the liberationist metaphysics, a person’s identity is authentic when it duly observes the correct critical pieties about the relevant systems of power and those groups’ relationships to them. The practice of getting this “right,” is known as “engaging one’s positionality,” which is quite literally the intersectional means of divining one’s spiritual standing in the Critical Social Justice faith. It is the practice of intersectionality, and its declaration in writing or speech is part of the relevant liturgy of the decentralized worship of Critical Social Justice.

One will notice, of course, that this view of the individual person manifests in turn a clear *ontological* ponderance about what it means to be an identity at all, and it gives rise to a theory of agency that is no less theological than the various religious doctrines on free will. False agency is provided by dominant social groups to those who act in accordance with upholding the dominant status quo through the production and maintenance of [[HYPERLINK "https://newdiscourses.com/tftw-hegemony/"](https://newdiscourses.com/tftw-hegemony/)]; true agency is obtained by adopting a critical consciousness and, ironically, seeing the world only through a set of narrow critical lenses. One might as well be under the influence of the devil as having been socialized by the dominant discourses into [[HYPERLINK "https://newdiscourses.com/tftw-internalized-dominance/"](https://newdiscourses.com/tftw-internalized-dominance/)] or [[HYPERLINK "https://newdiscourses.com/tftw-internalized-oppression/"](https://newdiscourses.com/tftw-internalized-oppression/)], but by getting right with the Lord ([[HYPERLINK "https://newdiscourses.com/tftw-social-justice/"](https://newdiscourses.com/tftw-social-justice/)]) and adopting a critical consciousness, the scales can fall from one’s eyes, and freedom of will (agency) can be bestowed. The grace of the Eye at the End of History is accepted by turning one’s back—and fist—on all that creates and maintains unjust systems of oppression (perhaps while enforcing the “Socially Just” ones).

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A Functional Definition of Religion

At this point, at last, we can turn to Clements' functional definition of religion, and I think enough argument has been made so far that little or no elaboration afterward will be required to convince the reader that it is either met or very plausibly grounds for serious discussion about whether it is met. Clements gives the following definition (emphasis added):

Supplementing Judge Adams' idea of a comprehensive belief system that addresses fundamental questions with the notion of duties of conscience provides a workable definition of religion for purposes of the First Amendment. Taking these two ideas together, **religion can be defined as a comprehensive belief system that addresses the fundamental questions of human existence, such as the meaning of life and death, man's role in the universe, and the nature of good and evil, and that gives rise to duties of conscience.**

I am, given my background in mathematics and all I've written so far, tempted here to type only "*quod erat demonstrandum*." Clements, however, is more prudentially circumspect than that and offers a number of potential objections to his definition, some of which might bear relevance. The Objection for Marxism, discussed above, is one such argument. The one below, which in the case of Critical Social Justice I might call the Objection to Nihilism, remains:

Moreover, the proposed approach does require that the alleged religious belief play a certain role in the claimant's life: it must be part of a comprehensive belief system that addresses certain fundamental questions and gives rise to duties of conscience. Thus, the issue in a free exercise case is not simply whether the claimant sincerely believes that the belief or practice in question is a religious belief, but whether he sincerely believes that it plays the religious role in his life. The definition of that role provides a basis for the factfinder to question the nature of the belief, and to assess the claimant's sincerity, thereby reducing the likelihood of successful fraudulent claims.

It is clear that some faiths look upward to God while retaining awareness of sin, temptation, and evil, and their faithful tend to be enriched by this habit. Other faiths—particularly, puritanical ones—tend not to do this and look downward at sin that needs to be called out, temptation that must be avoided or repressed, and evil that must be destroyed. Their awareness of their God is remote and distant, a secondary feature of their faith, and they tend to see their God as a stern judge who will, in the end, adjudicate on the moral worth of their struggle against the evils of the world. Critical Social Justice is such a [HYPERLINK "<https://www.youtube.com/watch?v=FtNW3I1FZ5o>" \t "_blank"]. The Eye at the End of History will know, as will the future generations between now and then, whether they stood for liberation or oppression. In this sense, while postmodernism might have been nihilistic, Critical Social Justice has taken up only traces of this blind negativity (particularly the blindness). For them, it is not that *everything* must be destroyed, just everything that maintains systemic oppression.

([HYPERLINK "<https://newdiscourses.com/2020/09/first-amendment-case-freedom-from-woke-religion/>" \l "TOC"])

But Can It Be Believed?

This extraordinarily nonsensical set of beliefs about the world and willing embrace of self-serving double standards produces perhaps the most common difficulty I encounter when trying to tell people about Critical Social Justice: people really do believe it. It should be sufficiently clear to people, as families are literally being torn apart as a result of falling on different sides of the relevant issues, but perhaps more argument than this is needed.

The difficulty arises because to an outsider, the Theory of Critical Social Justice is simply unbelievable, if not blatantly self-contradictory, flatly ridiculous, and transparently unethical. It isn't clear how anyone could truly believe ideas like that there is no *truth*, only your "truth" and mine (communicated, no less, by smartphones equipped with GPS). Given the cartoonish conflict theory it inherited from late-stage, Marcusian neo-Marxism, which was made even more cartoonish by the identity-politicians who took it up in earnest (including black feminists like Angela Davis, radicals like the Weatherman Underground, and other Liberationist revolutionaries within the so-called New Left that emerged after *One-Dimensional Man* and the Vietnam War) and the ridiculous and unsustainable postmodernist break from truth, doubts the sincerity of Critical Social Justice advocates seem always at the heart of liberal and conservative reactions to descriptions of the worldview. *Yeah, but does anybody really believe that?*

I think the answer to this question, though, is undoubtedly in the affirmative—sincerity of belief and conviction to the faith are undeniably real—and the theologians of the movement, at the least, tell us this in the clearest possible terms. To them, [[HYPERLINK "https://newdiscourses.com/tftw-objectivity/"](https://newdiscourses.com/tftw-objectivity/)] is, as Robin DiAngelo [[HYPERLINK "https://amzn.to/2Ykg7xf"](https://amzn.to/2Ykg7xf)] "undesirable" and "an impossible goal." Thus, truth, in the objective sense that it could be shared as true by all people in all places and times regardless of their cultural milieu, does not exist (or is, at least, entirely inaccessible). Our comprehension of reality is wholly and radically subjectivist, so that reality becomes "realities," which are not comprehensible on shared terms but lived and interpreted through cultural paradigms that either align with systemic dominance or the attempt to liberate people from dominance.

This leads Critical Social Justice scholars (theologians) to compose and compile lists of tenets, which, in articulating just the "systemic racism" aspect of this belief system (while other dimensions of Theory admit other, parallel expressions), read like this example from DiAngelo, et al. One will notice that they form something of a creed:

Racism exists today in both traditional and modern forms. Racism is an institutionalized, multilayered, multilevel system that distributes unequal power and resources between white people and people of color, as socially identified, and disproportionately benefits whites. All members of society are socialized to participate in the system of racism, albeit in varied social locations. All white people benefit from racism regardless of intentions. No one chose to be socialized into racism so no one is bad, but no one is neutral. To not act against racism is to

support racism. Racism must be continually identified, analyzed and challenged. No one is ever done. The question is not “Did racism take place?” but rather “How did racism manifest in that situation?” The racial status quo is comfortable for most whites. Therefore, anything that maintains white comfort is suspect. The racially oppressed have a more intimate insight via experiential knowledge into the system of race than their racial oppressors. However, white professors will be seen as having more legitimacy, thus positionality must be intentionally engaged. Resistance is a predictable reaction to anti-racist education and must be explicitly and strategically addressed.

These are the core tenets developed by scholar-activists Heather Bruce, Robin DiAngelo, Gyda Swaney (Salish) and Amie Thurber at the [[HYPERLINK "https://vimeo.com/116986053"](https://vimeo.com/116986053) \t "_blank"] at Puget Sound University. They went on to be implemented explicitly at [[HYPERLINK "https://newdiscourses.com/2020/01/influence-anti-racist-scholarship-activism-evergreen-college/"](https://newdiscourses.com/2020/01/influence-anti-racist-scholarship-activism-evergreen-college/) \t "_blank"], presaging its [[HYPERLINK "https://newdiscourses.com/2020/01/teaching-to-transgress-rage-and-entitlement-at-evergreen-college/"](https://newdiscourses.com/2020/01/teaching-to-transgress-rage-and-entitlement-at-evergreen-college/)] in a way that bears every indication of having been implemented by true believers convinced not only of the capital-T Truth of these propositions but of their righteousness. In light of reading this creed and seeing its real-world implementation, perhaps first at Evergreen and now throughout our society, the question of whether this is, in fact, a religious creed becomes pressing. This lends considerable weight to the question of whether or not Critical Social Justice is a religion, not just by philosophical argument but also by legal argument. My case in this essay is that according to a *functional* legal argument with significant Supreme Court precedent, the answer to that question is *yes*. It is a credal faith exhibiting clear liturgical forms and epistolical writings that proceeds upon a recognizable Augustinian construct that it has cobbled together from various features of the Western canon, including progressive aspects of faith, the moral but not practical cores of liberal thought, anti-liberal Critical Theory, and anti-everything postmodernism.

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Conclusion: What Now?

Given the situation we find ourselves in, in society today, this matter demands serious debate. If this argument is correct, Critical Social Justice must be protected under the Free-exercise Clause of the First Amendment, so that any who wish to hold this religious view for themselves as a matter of personal conscience must be protected in doing so. That is their fundamental right, and it shall not be infringed. In the same turn, the rest of us have fundamental rights to our own consciences as well, and Critical Social Justice has no standing upon which it can infringe upon them, or us. The Establishment Clause should remove Critical Social Justice from our schools, our administrative state, and the halls of our government, as this faith, like any other, cannot receive state endorsement or become a state religion.

The secularist principle of our free, pluralistic society should also unbind the consciences of any individuals who, understanding Critical Social Justice as the system of faith that it is, have other conscience, morals, and mind, so that they might reject its imposition as inappropriate and unduly intrusive. Just as those who wish to hold to a faith of Critical Social Justice with its transcendent systems of power and its spiritualism of liberation from them are free to do so, the rest of us are free to say no and to believe otherwise. We should feel as confident in this as we would in rejecting the impositions of any other faith we don't believe in.

In closing, the question that needs answering is whether or not Critical Social Justice meets these criteria: "a comprehensive belief system that addresses the fundamental questions of human existence, such as the meaning of life and death, man's role in the universe, and the nature of good and evil, and that gives rise to duties of conscience." I contend that it very well may. If that is the case, it *must not* be given special status by our American government and must be stripped from public spaces, including our federal, state, and local governments and, especially, our public schools, in none of which it belongs. Wokeness is a matter of personal conscience, and it must be protected as such, just as we must be protected from state enforcement of it.

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An American-born author, mathematician, and political commentator, Dr. James Lindsay has written six books spanning a range of subjects including religion, the philosophy of science and postmodern theory. He is the founder of New Discourses and currently promoting his new book "Cynical Theories: How Activist Scholarship Made Everything about Race, Gender, and Identity—and Why This Harms Everybody."

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Sent: 1/13/2021 1:03:50 PM
To: Carissa Mulder [carissa.mulder@gmail.com]
Subject: A First-Amendment Case for Freedom from the Woke Religion
Attachments: A First-Amendment Case for Freedom from the Woke Religion.docx

One more

From: John Mashburn <jmashburn@usccr.gov>
Date: Wednesday, January 13, 2021 at 3:46 PM
To: Carissa Mulder <carissa.mulder@gmail.com>
Subject: Re: other CRT articles/docs

Forgot one

From: John Mashburn <jmashburn@usccr.gov>
Date: Wednesday, January 13, 2021 at 3:39 PM
To: Carissa Mulder <carissa.mulder@gmail.com>
Subject: other CRT articles/docs

From: John Mashburn [jmashburn@usccr.gov]
Sent: 1/11/2021 9:10:37 AM
To: Carissa Mulder [carissa.mulder@gmail.com]; Alexander Heideman [aheideman@usccr.gov]; Thomas Simuel [tsimuel@usccr.gov]
CC: Carissa Mulder [CMulder@usccr.gov]
Subject: Re: [EXTERNAL] Overview of bail reform report concerns

- I would just make one change: “Agree that discussion of opposition to *and critique of* bail reform needs to be included earlier in the draft.

From: Carissa Mulder <carissa.mulder@gmail.com>
Date: Monday, January 11, 2021 at 11:47 AM
To: Alexander Heideman <aheideman@usccr.gov>, Thomas Simuel <tsimuel@usccr.gov>, John Mashburn <jmashburn@usccr.gov>
Cc: Carissa Mulder <CMulder@usccr.gov>
Subject: [EXTERNAL] Overview of bail reform report concerns

CAUTION: This email is from outside USCCR.

I drafted a short list of our concerns/responses to the bail reform report and Rukku's suggestions. Can you take a quick look at it and let me know if it captures your bosses' concerns?

Thanks!

--

Carissa B. Mulder

Jenny E. Carroll

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ACADEMIC APPOINTMENTS

University of Alabama School of Law, Tuscaloosa AL

Professor Law: Teach Crim. Law, Crim. Procedure, Juvenile Justice and Counter Terrorism, 2016–present.

Associate Professor of Law: 2014–2016.

Seton Hall University School of Law, Newark, New Jersey

Associate Professor of Law: Taught Crim. Law, Crim. Procedure, Evidence, and Juvenile Justice. 2010–2014.

University of Cincinnati College of Law, Cincinnati, Ohio

Visiting Assistant Professor of Law: Taught Crim. Law, Crim. Procedure, Evidence, White Collar Crime, and Mental Health and Criminal Law. 2008–2010.

University of Cincinnati College of Law, Cincinnati, Ohio

Assistant Professor of Clinical Law; Academic Director of the Ohio Innocence Project/Rosenthal Institute for Justice: Designed and taught course on criminal post-conviction law and procedure, investigation and direct client representation; co-taught Criminal Defense Investigation and Trial Practice for the Indigent Defense Clinic. 2005–2008.

Georgetown University Law Center, Washington, D.C.

Prettyman Fellow, Criminal Justice Clinic: Co-taught clinical course for third-year law students and represented indigent defendants on misdemeanor and felony matters in the Superior Court of the District of Columbia. 1998–2000.

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The Jury as Open Government

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AMICUS CURIAE BRIEFS

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Kelly Mathis (Eleventh Circuit, 2015)

National Association of Criminal Defense Lawyers (NACDL) Amicus Brief, U.S. v. Keith Cooper (Third Circuit, 2013)

NACDL Amicus Brief, United States v. Andrew “Weev” Auernheimer (Third Circuit, 2013)

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Government Collection of Cellphone Data and Privacy, Op-Ed, THE RECORD, August, 2013

License, Registration, Cellphone, Op-Ed, THE RECORD, June 11, 2013

Why Process Matters in Military Commission, Truthout.org, October 12, 2012

Why Are We Turning Our Backs on the Constitution?, Truthout.org, August, 29, 2012

Is Punishment in the Webcam Case Excessive?, Op-Ed, THE RECORD, March 21, 2012

Now There’s Caylee’s Law of Good Intentions, Op-Ed, THE RECORD, July 18, 2011

ABA Juvenile Law Publication, “Practice Paper on Applications of *Apprendi* to Juvenile Transfer Proceedings,” November, 2002

Media appearances include NBC News, ESPN, BBC World News, Hollywood.com, Fox News, WMBC TV, WNBC TV, NPR, WNBC Radio, WHY-FM Radio, *Associated Press*, *Boston Globe*, *New York Times*, AL.com, *Birmingham News*, *Star Ledger*, *The Record*, *Asbury Park Press*, *Orlando Sentinel* and the *New Jersey Law Journal*

CNN Criminal Law Advisor, 2011-2014

ACTIVITIES

American Association of Law Schools, Criminal Law Section, Executive Committee Member, 2017-present.

Member of Juvenile Detention Alternative Initiative, Alabama, 2015-present

Co-Founder, Transnational Justice Project, Seton Hall University, 2010-2014

Authorized Observer to Guantanamo Military Commissions, 2010-present

NACDL Amicus Vice-Chair, Eleventh Circuit, 2014-present

NACDL Amicus Vice-Chair, Third Circuit, 2010-2014

NACDL Pretrial Justice Task Force, Member, 2011-2014

Advisor to the New York City Department of Education regarding restorative justice projects in public schools, 2013- 2015

EDUCATION

Georgetown University, Washington, D.C. LL.M. in Advocacy, 2005.

The University of Texas School of Law, Austin, Texas. J.D. with Honors, 1997.
Order of the Coif; TEXAS LAW REVIEW, Symposium Editor; TEXAS JOURNAL OF WOMEN AND THE LAW, Community Service Organizer; Thad Hutchinson Moot Court, Quarter-Finalist; Dean's Achievement Award, Highest Grade in Criminal Law; Endowed Presidential Scholarships; Texas Law Fellowships, Director; Women's Law Caucus, Director

Duke University, Durham, North Carolina. A.B., *Summa Cum Laude* with Highest Distinction in Political Science and Women's Studies, 1993.
Dean's Award for Best Undergraduate Thesis; William Griffith Award for Community Service;
Margaret Rose Knight Sanford Scholar; Anne Flexner Award for Creative Writing; John Hope Franklin Award and Julia Harper Day Awards for Documentary Studies; Co-Editor, DISTAFF MAGAZINE

LAW PRACTICE EXPERIENCE

The Defender Association, Seattle, Washington

Juvenile and Felony Staff Attorney: Represented indigent defendants in criminal and mental health matters in adult and juvenile court. 2000–2004.

Georgetown University Law Center, Washington, D.C.

Prettyman Fellow, Criminal Justice Clinic: (See "Academic Appointments," Above). 1998–2000.

Hon. William Wayne Justice, U.S. District Court, Eastern District of Texas, Tyler, Texas, and U.S. District Court, Western District of Texas, Austin, Texas

Judicial Clerk: 1997–1998.

Bredhoff & Kaiser, Washington, D.C.
Law Clerk: Summer 1997.

Allison, Yeager, and Bassett, Austin, Texas
Law Clerk: January 1997 – May 1997.

Skadden, Arps, Slate, Meagher & Flom, Washington, D.C.
Summer Associate: Summer 1996

Texas Rural Legal Aid, Edinburg, Texas
Law Student Associate: Researched remedying systemic violation of criminally accused indigents' civil rights through § 1983 litigation, including a class action suit to insure timely appointment of counsel in border counties in Texas; assisted in litigation involving civil rights, housing, consumer protection, public benefits, family law, and employment matters. 1995–1996.

Project Esperanza, Raleigh, North Carolina
Board Member: Appointed by Governor Hunt to board to secure funding for and establish North Carolina's first domestic violence support services for migrant and rural women. 1992–1994.

Farmworker's Legal Services, Newton Grove, North Carolina
Farmworker Educator and Intern: Performed outreach to migrant labor camps throughout Eastern North Carolina to provide information about immigration issues, worker's rights and other legal matters; served as legal intern to attorneys in the Newton Grove and Raleigh offices. Summer 1992.

SELECTED PRESENTATIONS

Speaker, Free Speech Forum, Charles Pazmany University, Budapest, Hungary, 2017.

Invited Speaker, Bio LawLaPaLooza, Stanford University School of Law, 2017

Invited Speaker, Alabama Juvenile Defender's Conference, 2016

Invited Speaker, Alabama Public Defender's Conference, 2016

Panelist, Moderator, and Discussion Group Organizer, SEALS, 2016

Speaker, CrimFest, 2016

Invited Presenter, Southern Regional Juvenile Defender's Conference, 2016

Invited Speaker, Université Paris – Dauphine, 2016

Invited Speaker, Université Paris-Sorbonne, 2016

Invited Speaker, Richmond College of Law, 2016

Invited Speaker, Tuscaloosa Bar Association, 2014-2016

Invited Speaker, Louis D. Brandeis School of Law, University of Louisville, 2015

Invited Speaker, National Juvenile Defender's Conference, 2015

Panelist, Law and Society Annual Conference, 2015

Panelist, Law and Society Annual Conference, 2013

Panelist, Albany New Teacher's Conference, Albany Law School, 2013

Invited Speaker, Touro Law Center, Faculty Colloquium, 2013

Invited Speaker, The Georgetown University Law Center Advanced Constitutional Law Series, 2012

Participant, Ohio Legal Scholars Workshop, 2009, 2010

"The Jury's Second Coming," University of Dayton School of Law, Faculty Workshop, 2010

Invited Speaker, ABA Juvenile Defender Leadership Summit, 2009

Invited Instructor, Indiana Juvenile Defender Training Summit, 2004-2009

Invited Instructor, Indiana Juvenile Defender Continuing Legal Education Summit, 2009

Invited Instructor, Children's Law Center Defender Training Conference, 2007

Invited Instructor, Ohio Public Defender Training Conference, 2005-2006

Invited Participant, Voices for Children Panel on Juvenile Law Reform in Ohio, 2006

Invited Participant, Ohio Panel on Discovery Reform, 2006

Invited Speaker, ABA Juvenile Defender Leadership Summit, 2002

Invited Participant in Washington (2003) and Texas (2000) assessment studies of Public and Appointed Defender Systems

BAR ADMISSIONS

District of Columbia; Ohio; Texas; Washington (inactive in all).

From: John Mashburn [jmashburn@usccr.gov]
Sent: 11/10/2021 12:40:00 PM
To: Christian Adams [a@electionlawcenter.com]
Subject: FW: Action Requested: EAC Representative Replacement for Commissioner Yaki
Attachments: Carroll-Jenny-cv.pdf

Is Riggs still worse than Carroll?

From: Alexander Heideman <aheideman@usccr.gov>
Date: Wednesday, November 10, 2021 at 2:04 PM
To: Gail Heriot <gheriot@usccr.gov>, Peter Kirsanow <pkirsanow@usccr.gov>, "J. Christian Adams" <jadams@usccr.gov>, Stephen Gilchrist <sgilchrist@usccr.gov>
Cc: Carissa Mulder <CMulder@usccr.gov>, John Mashburn <jmashburn@usccr.gov>, Thomas Simuel <tsimuel@usccr.gov>
Subject: Re: Action Requested: EAC Representative Replacement for Commissioner Yaki

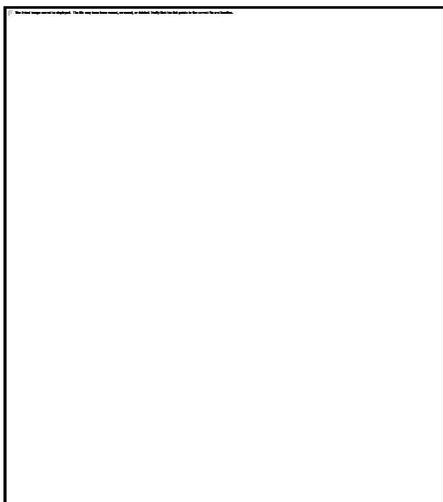
I've attached Jenny Carroll's resume to this email for everyone's reference. She's a professor of law at Alabama.

From: Norma Cantu <ncantu@usccr.gov>
Date: Wednesday, November 10, 2021 at 1:53 PM
To: Gail Heriot <gheriot@usccr.gov>, Peter Kirsanow <pkirsanow@usccr.gov>, "J. Christian Adams" <jadams@usccr.gov>, Stephen Gilchrist <sgilchrist@usccr.gov>
Cc: Alexander Heideman <aheideman@usccr.gov>, Carissa Mulder <CMulder@usccr.gov>, John Mashburn <jmashburn@usccr.gov>, Thomas Simuel <tsimuel@usccr.gov>
Subject: Action Requested: EAC Representative Replacement for Commissioner Yaki

Dear Commissioners-

In response to Commissioner Yaki recently resigning from his position on the EAC as a representative of USCCR, the Progressive Caucus is putting for 2 names for consideration. I am asking that the candidate you strike be sent to me by Monday, November 15th, 2021 by 5pm EST so that we can include the candidate's confirmation vote at our November 19th business meeting.

Allison Riggs- <https://southerncoalition.org/staff/allison-riggs/>



Allison Riggs - Southern Coalition for Social Justice

southerncoalition.org

Allison Riggs leads the voting rights program at the Southern Coalition for Social Justice, an organization she joined in 2009. In March of 2020, she also took over as Interim Executive Director of the organization. Her voting rights work over the last decade at SCSJ has been focused on fighting for fair redistricting plans, fighting against voter suppression, and advocating for electoral reforms that would expand access to voting.

Alabama SAC Chair Jenny Carroll -

<https://www.congress.gov/116/meeting/house/109456/witnesses/HHRG-116-HA08-Wstate-CarrollJ-20190513.pdf>

Per the AI voted on during the April 30th meeting (language included below), each caucus will then have 24 hours to submit caucus strikes. In this instance, I am allowing 48 business day hours given that tomorrow is a holiday. The first representative, Clela Mitchell, was already communicated to the EAC.

Please submit your strike no later than Monday, November 15th by 5pm EST.

Please let me know if you have any questions or concerns.

Norma

--

AI language:

Section 1.

.01 Any authority specifically granted the Commission on Civil Rights by statute or regulation or executive order to appoint members to serve on other federal entities such as advisory boards, task forces, other commissions, etc., shall be exercised by the Commission as a whole by majority vote.

.02 Any authority specifically granted the Staff Director of the Commission on Civil Rights by statute or regulation or executive order to appoint members to serve on other federal entities such as advisory boards, task forces, other commissions, etc., shall be exercised by the Staff Director.

.03 Any authority specifically granted the Chair of the Commission on Civil Rights by statute or regulation or executive order to appoint members to serve on other federal entities such as advisory boards, task forces, other commissions, etc., shall be exercised by the Chair.

Section 2

.02

(1) For the two (2) appointments to the U.S. Election Assistance Commission, the members appointed by Democratic authorities shall nominate two individuals who are ready, willing, and able to serve, and the members appointed by the Republican authorities shall nominate two individuals who are ready, willing, and able to serve.

(2) The members appointed by the Democratic authorities shall select one (1) of the two (2) individuals nominated by the members appointed by the Republican authorities, and the members appointed by the Republican authorities shall select one (1) of the two (2) individuals nominated by the members appointed by the Democratic authorities

(3) The members selected shall be placed in nomination and ratified in conformance with Section 1.

What You Need to Know for Travel to Puerto Rico for Field Briefing on December 10, 2021

The Office of the Staff Director has created this document to assist you in your planning for the upcoming field briefing in San Juan. Best efforts were made to ensure that this document is accurate and up to date, however it is not intended to replace or modify existing USCCR, Biden Administration, or OPM, OMB, CDC, or EEOC legal authorities and guidance regarding the Covid-19 pandemic. If any part of this document is inconsistent with the aforementioned legal authorities and guidance, please follow those authorities and guidance. If you have questions about this document, please contact Tina Louise Martin and/or David Ganz.

Vaccination and Mask Policy

Everyone traveling for the field briefing will be required to adhere to the vaccination and mask requirements set by the government of Puerto Rico. See [HYPERLINK "<https://www.discoverpuertorico.com/promise>"]. In addition, as Federal employees each of us must follow OPM and OMB regulations on government business travel during the pandemic, which are available here <https://www.saferfederalworkforce.gov/faq/travel/> and GSA travel regulations, which are available here [HYPERLINK "<https://www.gsa.gov/policy-regulations/regulations/federal-travel-regulation-fttr>"]. Puerto Rico is very restrictive about travel during the pandemic. In addition, as a Federal employee there are severe limits on official travel if unvaccinated. See [HYPERLINK "<https://www.saferfederalworkforce.gov/faq/travel/>"]. Generally, any Commission employee who is unvaccinated should not travel to Puerto Rico. If you are unvaccinated as an accommodation for a medical reason or religious beliefs and wish to travel, please contact the Office of Management. In addition, if you are unable to present a valid vaccination card, you will likely not be allowed to board a plane bound for the Island or allowed to enter once you land and go through a clearance check. Please check with airlines and the government of Puerto Rico. All restaurants, hotels, and public facilities (including the site of our field briefing) require use of masks and will require proof of vaccination or negative test before you can enter. Evidence can be provided either by a photograph of your vaccination card on your phone or by showing your actual vaccination card.

Travel Dates

The field briefing will take place on December 10th from 9:00 am until 5:00 pm at the Puerto Rico Interamerican University Law School, in San Juan, Puerto Rico. All Commissioners and their SA's should plan to arrive to Puerto Rico on Thursday, December 9th in time for the field briefing on the Friday, the 10th and depart from Puerto Rico on Saturday the 11th. Certain exceptions will be made for Commissioners facing exceptional travel challenges because of travel distance, local airport restrictions, and time zone differences. Please inform me as soon as possible if you need any of these special travel accommodations. You may bring a spouse or companion, but

you are responsible for their financial expenses. The U.S. Government cannot pay for their flight, meals, or other incidentals. They may stay with you at your hotel and attend the field briefing. If you intend to arrive before these dates or stay after these dates you are responsible for your extra hotel charges, meals, and other personal incidentals. You will not receive per diem expenses for days outside these established dates. Certain lead SA's may be permitted to arrive a day earlier if they are required to assist staff in preparation for the fielding briefing. If you are a lead SA, please contact Mauro Morales about earlier travel. Furthermore, certain staff may be required to travel earlier as well to prepare the site for the field hearing.

Unfortunately, because of IT constraints in Puerto Rico, Commissioners or Special Assistants unable to travel to the Island will not be able to participate during the briefing via phone or zoom. You will only be able to witness the briefing via Livestream.

Use of the Concur Travel System

Note: You must submit a travel authorization for your per diem and airline ticket purchase through Concur Travel. (For those of you new to the system, you will receive a separate email on how to access and use Concur for your travel.)

Airlines

You are required to purchase a roundtrip plane ticket via the Concur travel rather than directly from the airline or from a website such as Kayak.com or Orbitz.com. Commissioners can travel from their home residence and return to their residence. Special Assistants and Staff are only permitted to travel round trip from their assigned duty station to Puerto Rico and back to their duty station. If you obtain a plane ticket outside of the Concur travel system, you will be reimbursed only for the amount that a regular round trip ticket would cost through Concur.

Hotel

We have secured a block of rooms at the [[HYPERLINK "https://www.condadopalm.com/"](https://www.condadopalm.com/)] unless otherwise arranged for two nights from Thursday, December 9th until Saturday the 11th. You need only inform us of your request to reserve a room. The Commission will pay your hotel bill at the government rate.

Travel while in Puerto Rico

In addition to traditional taxi cabs, ride sharing services, such as Uber and Lyft are prevalent and convenient to use to travel around San Juan. We are also considering renting a bus to transport Commissioners and Commission staff to and from the briefing site on December 10, 2021.

Field Briefing Schedule

As we move closer to the date of the field briefing, we will provide you with a schedule or agenda for December 10, 2021.

From: John Mashburn [jmashburn@usccr.gov]
Sent: 11/9/2021 10:06:31 AM
To: Christian Adams [a@electionlawcenter.com]
Subject: Dec. 10 PR Field Hearing
Attachments: What to know PR - Final 11-9.docx

They are asking if you still intend to go?

A few items on this issue:

- Officially supposed to fly down on Thursday Dec. 9 and return on Saturday Dec. 11 with the field hearing taking place from 9am to 5pm on Friday Dec. 10 at the Puerto Rico Interamerican University Law School, in San Juan, Puerto Rico. You can add time at (your own expense for hotel/food) prior to or after the field hearing and you can take your spouse (at your own expense for flights/food) for the 3 days Dec. 9-11 of the field hearing, plus at your own/spouse's expense for any time added on to the official 3 day period.
- Per OMB Guidelines, I cannot travel if not vaccinated.
- **Kirsanow is not going** because so far all of the confirmed attendees (*see below*), are non-profit activist group reps and the Mayor of San Juan (that had the fight with Pres. Trump during early days post-Maria.)
- Carissa prefers not to go, *but will go to sub for me in order to help you if you need her to*. She is pushing USCCR staff to make a conference line possible for Kirsanow to be able to participate.
- **Cmnr Heriot with her SA Alex Heidiman are going,**
- Gilchrist is in same boat as I, but he is not subject to the OMB travel prohibition. His SA Thomas Simuel will go if Gilchrist goes. Thomas says Gilchrist is 50-50 on going/not going. Complications of going down (Covid test w/in 3 days before flying down and also 3 days of flying back, etc.) are tilting him toward not going.
- Confirmed Panelists:
 - Ariadna Michelle Godreau-Aubert, Executive Director, Ayuda Legal Puerto Rico
 - Charlotte Gossett Navarro, Senior Director, Puerto Rico Operations, Hispanic Federation
 - Carla Minet, Executive Director, Centro de Periodismo Investigativo
 - Sergio Marxuach, Policy Director & General Counsel, Centro para la Nueva Economía
 - Carmen Yulin Cruz, Former Mayor of San Juan
 - **Cristina Miranda, Executive Director Liga de Ciudades**

From: Carissa Mulder <CMulder@usccr.gov>
Date: Tuesday, November 9, 2021 at 11:07 AM
To: Alexander Heideman <aheideman@usccr.gov>, John Mashburn <jmashburn@usccr.gov>, Thomas Simuel <tsimuel@usccr.gov>
Subject: Fw: What to Know for the Field Briefing in Puerto Rico on Friday, December 10th

FYI

From: Carissa Mulder
Sent: Tuesday, November 9, 2021 11:07 AM
To: Mauro Morales
Cc: pkirsanow@beneschlaw.com; Irena Vidulovic
Subject: Re: What to Know for the Field Briefing in Puerto Rico on Friday, December 10th

Hi Mauro,

Commissioner Kirsanow will not be traveling to Puerto Rico (as a result, neither will I). He asks that staff make every effort to ensure he can participate by conference call. Commissioners have participated by conference call in at least two field briefings during his tenure on the Commission – the Stand Your Ground briefing in Orlando in 2014 and the Omaha field briefing in 2006. Whatever the cost of obtaining a phone line may be, it has to be less than an airline ticket and a hotel stay.

Thank you,

Carissa

From: Mauro Morales
Sent: Tuesday, November 9, 2021 10:50:42 AM
To: Commissioners
Cc: CommissionerAssistants; TinaLouise Martin; Zakee Martin; Pamela Dunston; Pilar McLaughlin; David Ganz; Marik Xavier-Brier; Gerald Fosten; John Ratcliffe; Michele Ramey; Angelia Rorison
Subject: What to Know for the Field Briefing in Puerto Rico on Friday, December 10th

Commissioners,

I have attached an information sheet on what you need to know about travel to Puerto Rico for the December 10th field briefing. Keep in mind some things could change as we prepare and get closer to the date. Your Special Assistants will get additional information on scheduling with Concur for flights to the island. If you have any questions please contact me.

Mauro Morales

Staff Director

U.S. Commission on Civil Rights

P: 202-376-7796 | F: 202-376-7672

Mmorales@usccr.gov

<http://usccr.gov/>

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Washington D.C. 20425

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#USCCR

From: John Mashburn [jmashburn@usccr.gov]
Sent: 1/4/2021 9:19:59 AM
To: Christian Adams [adams@electionlawcenter.com]
Subject: FW: [EXTERNAL] Paycheck8: JOHN KINNEY MASHBURN - T&A has been submitted.

Calling it to your attention since this is the last pay period for the tax year so it's important it is approved on time.

On 1/4/21, 10:45 AM, "paycheck@gdcii.com" <paycheck@gdcii.com> wrote:

*** CAUTION: This email is from outside USCCR. ***

This message is to inform you that JOHN KINNEY MASHBURN has submitted the T&A Report for Pay Period 26 and that it is now assigned to JOHN CHRISTIAN ADAMS for Review and Approval. Log into Paycheck8 so you can view and take action on the T&A.

From: John Mashburn [jmashburn@usccr.gov]
Sent: 11/12/2020 10:14:36 AM
To: John Mashburn [jkmash@comcast.net]
Subject: FW: NC and CO SAC Slates

From: John Mashburn <jmashburn@usccr.gov>
Date: Thursday, November 12, 2020 at 1:14 PM
To: Carissa Mulder <carissa.mulder@gmail.com>, Thomas Simuel <tsimuel@usccr.gov>, Alexander Heideman <aheideman@usccr.gov>
Subject: NC and CO SAC Slates

My notes said they were each 8-7 (15 folks in all) – so where the 6-6 supposed breakdown (12 folks) of the slates as Rukku stated comes from I do not know.

- Arkansas Advisory Committee – *roster is 7-7, D vs. R, proposed Chair is an R.*
- Colorado Advisory Committee – ***roster is 8-7, D vs. R, proposed Chair is a D.*** Roster is not even and there is concern with one D member’s objectivity vs. activism.

– there is no reason this SAC should not be evenly balanced 7-7 since the USCCR itself is evenly balanced 4-4.

For this reason alone, this slate should be rejected.

– Cmnr Kirsanow vetted all the Republican nominees through reliable sources.

– Cmnr Heriot officially challenged one of the D candidates as being “biased” and you should have received an email from Mauro about that challenge and the applicant’s response (the response was disingenuous e.g. claiming the concerning statement was not hers even though it was.) I have attached Mauro’s email and the original Chen article itself below with some of the concerning comments highlighted. [**See #1 below**]

- North Carolina Advisory Committee – ***roster is 8-7, D vs. R, proposed Chair is a D.*** Roster is not even and there is concern that one R member is really a D that should be replaced by an existing R applicant that had been recommended by Cmnr Kirsanow.

– there is no reason this SAC should also not be evenly balanced 7-7 since the USCCR itself is evenly balanced 4-4. **For this reason alone, this slate should be rejected.**

– one of the 7 Rs is actually more of a Democrat per folks in NC, despite her saying she was an R on her application form, and she was invited to apply by the USCCR regional director, not by any R.

– Jennifer Lechner is the Ex. Dir. of the NC Equal Access to Justice Commission (where she essentially works for the NC Sup. Ct. Chief Justice on an 6-1 Dem vs. R roster of judges). Lechner is also a member of the Executive Committee for the NC Advocates for Justice. She previously served with the Maine Justice Action Group when she was located in Maine. According to folks in NC, she and her two current groups frequently take issue with the Republican Majority in the NC State House. She does not represent NC Republicans in the main and should not be representing Republicans on the SAC for NC.

– **The quick fix:** would be to replace Lechner with Patrick Mencie, who applied and whose application is in the system, and is one of Cmnr Kirsanow’s prior recommendations – and then drop one of the acknowledged Dems to make it 7-7.

From: John Mashburn [jmashburn@usccr.gov]
Sent: 1/15/2021 9:44:07 AM
To: Carissa Mulder [carissa.mulder@gmail.com]
Subject: Re: [EXTERNAL] Draft AI 5-7 (regarding removal of SAC members)

I had thought about putting this “reasonable and objective” language into 4(c) regarding the SD being able to find that the conduct may significantly and adversely affect USCCR operations, but since the allegations themselves would have to be reasonable and objective, that would seem to require the SD to first find the allegations reasonable and objective before he could make a finding that the conduct adversely impacts USCCR operations.

From: Carissa Mulder <carissa.mulder@gmail.com>
Date: Friday, January 15, 2021 at 12:32 PM
To: John Mashburn <jmashburn@usccr.gov>, Carissa Mulder <CMulder@usccr.gov>
Subject: Re: [EXTERNAL] Draft AI 5-7 (regarding removal of SAC members)

CAUTION: This email is from outside USCCR.

On Fri, Jan 15, 2021 at 11:51 AM John Mashburn <jmashburn@usccr.gov> wrote:

I made some tracked edits in the attachment aimed at trying prevent frivolous accusations being unfairly lodged and weaponized against SAC members. Who would want to serve on an SAC if their lives can be ruined with frivolous allegations particularly in the context of Civil Rights?

1. General Member Conduct, 4th Bullet: “Advisory Committee members shall not engage at any time in conduct that *reasonably or objectively would be considered* unlawful discrimination of any sort, including discrimination against any person on the basis of race, sex, color, national origin, religion, disability, age, sexual orientation, or gender identity.”
2. Disciplinary Process for Inappropriate Conduct Allegations:
 - a. “An advisory committee member or member of the public may report the alleged misconduct of an advisory committee member to a Designated Federal Officer or Chief of the Regional Programs Coordination Unit. Individuals should not submit frivolous allegations of misconduct *that have no sound basis in fact or law.*”
3. Discipline and Removal by the Commission:
 - d. Nothing in this policy shall be construed as preventing the Commission by majority vote, from removing, suspending, or otherwise disciplining an advisory committee member for other conduct that *reasonably or objectively would be considered as* significantly and adversely impacting the efficiency or effectiveness of the Commission’s operations.

From: Carissa Mulder <carissa.mulder@gmail.com>
Date: Wednesday, January 13, 2021 at 10:51 AM
To: "Kirsanow, Peter" <pkirsanow@Beneschlaw.com>, Gail Heriot <gheriot@me.com>, stephen gilchrist

<thegilchristassociates@gmail.com>, "Christian Adams (adams@electionlawcenter.com)"
<adams@electionlawcenter.com>

Cc: Alexander Heideman <aheideman@usccr.gov>, Thomas Simuel <tsimuel@usccr.gov>, John Mashburn <jmashburn@usccr.gov>, Carissa Mulder <CMulder@usccr.gov>, Gail Heriot <gheriot@usccr.gov>, Stephen Gilchrist <sgilchrist@usccr.gov>, Peter Kirsanow <pkirsanow@usccr.gov>, "J. Christian Adams" <jadams@usccr.gov>

Subject: [EXTERNAL] Draft AI 5-7 (regarding removal of SAC members)

CAUTION: This email is from outside USCCR.

I had a meeting with OGC, Rukku, and Irena this morning to discuss draft AI 5-7, which is about implementing a process for adjudicating allegations of misconduct by SAC members. OGC had some useful comments about the need to have benchmarks and timelines in the adjudicatory process. They had some further questions about the role of the staff director and the need to take immediate action in cases where discrimination or harassment are alleged. You can see those concerns in the comments included in the attached draft. Please take a look and let me know what you agree and disagree with, or any other suggestions you have.

I think the overall sticking point is that OGC/the progressives are mostly concerned with a process to remove bad actors, and we are mostly concerned with ensuring the process isn't abused. But that is just my two cents.

--

Carissa B. Mulder

--

Carissa B. Mulder

From: John Mashburn [jmashburn@usccr.gov]
Sent: 11/15/2021 8:06:43 AM
To: Christian Adams [adams@electionlawcenter.com]; Carissa Mulder [CMulder@usccr.gov]; pkirsanow@beneschlaw.com; Gail Heriot [gheriot@me.com]; stephen gilchrist [thegilchristassociates@gmail.com]; Alexander Heideman [aheideman@usccr.gov]; Thomas Simuel [tsimuel@usccr.gov]
CC: Peter Kirsanow [pkirsanow@usccr.gov]; Gail Heriot [gheriot@usccr.gov]; Stephen Gilchrist [sgilchrist@usccr.gov]; J. Christian Adams [jadams@usccr.gov]
Subject: Re: [EXTERNAL] RE: Vote on topics on Friday

I believe it was agreed -- before the previous attempt to vote on the concept papers -- that the Conservative caucus would support Kirsanow's Crime Increase paper as the one to be traded for supporting one of the progressive concept paper ideas.

We need to be clear which one of ours has primary support on our side, and which one of theirs we want to support -- in case they try to cut a deal on the fly during Friday's business meeting after no proposal gets a majority initially.

Of course, with one vote from their side they would be able to pick which concept of ours gets majority support, just as one vote from our side would be able to provide majority support for one of their options.

- Covid-19, the Digital Divide, and Education (Cantu)
- Impact of Facial Recognition Technology on Racial Minorities (Adegbile)
- Crime Increase (Kirsanow)
- Minority Entrepreneurship (Adams)
- Section 230 and Hate Speech (Yaki)

- Maybe SBA PPP Program Implementation by Banks (Gilchrist)

From: Christian Adams <adams@electionlawcenter.com>
Date: Monday, November 15, 2021 at 10:17 AM
To: Carissa Mulder <CMulder@usccr.gov>, "pkirsanow@beneschlaw.com" <pkirsanow@beneschlaw.com>, Gail Heriot <gheriot@me.com>, stephen gilchrist <thegilchristassociates@gmail.com>, Alexander Heideman <aheideman@usccr.gov>, Thomas Simuel <tsimuel@usccr.gov>, John Mashburn <jmashburn@usccr.gov>
Cc: Peter Kirsanow <pkirsanow@usccr.gov>, Gail Heriot <gheriot@usccr.gov>, Stephen Gilchrist <sgilchrist@usccr.gov>, "J. Christian Adams" <jadams@usccr.gov>
Subject: Re: [EXTERNAL] RE: Vote on topics on Friday

CAUTION: This email is from outside USCCR.

this is insane.

agree on voting it all down. Just ridiculous.

----- Original message -----

From: Carissa Mulder <CMulder@usccr.gov>
Date: 11/15/21 10:09 AM (GMT-05:00)

To: Christian Adams <adams@electionlawcenter.com>, pkirsanow@beneschlaw.com, Gail Heriot <gheriot@me.com>, stephen gilchrist <thegilchristassociates@gmail.com>, Alexander Heideman <aheideman@usccr.gov>, Thomas Simuel <tsimuel@usccr.gov>, John Mashburn <jmashburn@usccr.gov>
Cc: Peter Kirsanow <pkirsanow@usccr.gov>, Gail Heriot <gheriot@usccr.gov>, Stephen Gilchrist <sgilchrist@usccr.gov>, "J. Christian Adams" <jadams@usccr.gov>
Subject: Re: [EXTERNAL] RE: Vote on topics on Friday

Exactly. They are refusing to vote for one of ours even though we will vote for one of theirs. Their position is that we need to only approve topics that are of bipartisan interest, even though the conservative SAs (and Pete, I can only speak for the meeting I was in with Pete and Norma) have repeatedly told the progressives that we are only interested in a "you vote for one of ours, we vote for one of yours" exchange.

In an email Yaki accidentally sent to everyone, he indicated that he was not necessarily opposed to Pete's topic. One option might be for Pete to email Yaki directly and offer to vote for his Section 230 topic if he votes for Pete's crime increase topic.

If there is no movement on their side, I think you all will have to vote down everything they want. They will also vote down everything we want, but they will see that you are serious about this and they are going to have to go along with one of our topics.

From: Christian Adams <adams@electionlawcenter.com>
Sent: Monday, November 15, 2021 10:01:37 AM
To: Carissa Mulder; pkirsanow@beneschlaw.com; Gail Heriot; stephen gilchrist; Alexander Heideman; Thomas Simuel; John Mashburn
Cc: Peter Kirsanow; Gail Heriot; Stephen Gilchrist; J. Christian Adams
Subject: [EXTERNAL] RE: Vote on topics on Friday

CAUTION: This email is from outside USCCR.

could you elaborate on this?

"The progressive commissioners seem to be holding firm on refusing to vote for one of the conservative concept papers in return for the conservatives voting for one of the progressive concept papers."

I'm confused. They are refusing to vote for one of ours even though we will vote for one of theirs?

that seems out of balance.

if so, what happens if we just blow it up and don't vote on anything they want??

----- Original message -----

From: Carissa Mulder <CMulder@usccr.gov>
Date: 11/15/21 9:38 AM (GMT-05:00)
To: pkirsanow@beneschlaw.com, Gail Heriot <gheriot@me.com>, stephen gilchrist <thegilchristassociates@gmail.com>, Christian Adams <adams@electionlawcenter.com>, Alexander Heideman <aheideman@usccr.gov>, Thomas Simuel <tsimuel@usccr.gov>, John Mashburn <jmashburn@usccr.gov>
Cc: Peter Kirsanow <pkirsanow@usccr.gov>, Gail Heriot <gheriot@usccr.gov>, Stephen Gilchrist <sgilchrist@usccr.gov>, "J. Christian Adams" <jadams@usccr.gov>

Subject: Vote on topics on Friday

Good morning, everyone,

Mauro posted the topics for next year that the Commissioners will vote on during Friday's business meeting. The chair has apparently withdrawn her PPP topic, which means that she also withdrew Commissioner Gilchrist's portion of that paper. Commissioner Gilchrist, I see no reason you can't submit your original concept paper to Mauro and tell him you would like it to be voted on on Friday, if you want to do so. The topics that will be voted on are:

- Covid-19, the Digital Divide, and Education (Cantu)
- Impact of Facial Recognition Technology on Racial Minorities (Adegbile)
- Crime Increase (Kirsanow)
- Minority Entrepreneurship (Adams)
- Section 230 and Hate Speech (Yaki)

The progressive commissioners seem to be holding firm on refusing to vote for one of the conservative concept papers in return for the conservatives voting for one of the progressive concept papers. Additionally, because the Chair withdrew her PPP paper, there is no topic here that incorporates the interests of both a conservative commissioner and a progressive commissioner.

One other consideration is that Adegbile and Yaki's terms expire next December. Unless everything with the hearing, drafting the report, and everything else goes exactly to plan, they will be off the Commission before their reports are released. (Yaki may be reappointed, but from what I have heard, Adegbile is not seeking reappointment. That could change, of course.)

From: John Mashburn [jmashburn@usccr.gov]
Sent: 12/16/2020 10:51:56 AM
To: Christian Adams [a@electionlawcenter.com]
Subject: Re: [EXTERNAL] RE: Annual Ethics Training for Commissioners - Response Required

She has you down for 10 am tomorrow based on her email.

From: Christian Adams <a@electionlawcenter.com>
Date: Wednesday, December 16, 2020 at 1:49 PM
To: John Mashburn <jmashburn@usccr.gov>
Subject: [EXTERNAL] RE: Annual Ethics Training for Commissioners - Response Required

CAUTION: This email is from outside USCCR.

From: John Mashburn <jmashburn@usccr.gov>
Sent: Wednesday, December 16, 2020 1:48 PM
To: Christian Adams <a@electionlawcenter.com>
Subject: FW: Annual Ethics Training for Commissioners - Response Required

She says you scheduled a time to do it.

From: Pilar McLaughlin <pmclaughlin@usccr.gov>
Date: Wednesday, December 16, 2020 at 1:46 PM
To: John Mashburn <jmashburn@usccr.gov>
Subject: RE: Annual Ethics Training for Commissioners - Response Required

Hi John:

Commissioner Adams just sent me an email saying he could do December 17th all day or December 18th between 7:00 am and 9:30 am. **I scheduled him for the group training I am holding tomorrow at 10:00 am.**

Some rules for Commissioners and Special Assistants are different, hence why I am holding them separately. For Commissioners, the training is required to be a "live" training.

From: John Mashburn <jmashburn@usccr.gov>
Sent: Wednesday, December 16, 2020 1:39 PM
To: Pilar McLaughlin <pmclaughlin@usccr.gov>
Subject: FW: Annual Ethics Training for Commissioners - Response Required

Cmnr Adams cannot do the training until Jan. 2 – is that an option?

From: "J. Christian Adams" <jadams@usccr.gov>
Date: Wednesday, December 16, 2020 at 1:06 PM
To: John Mashburn <jmashburn@usccr.gov>
Subject: Fw: Annual Ethics Training for Commissioners - Response Required

Maybe you can arrange a time in 2021 where we both can do this. I cannot do it until Jan 2.

From: Pilar McLaughlin

Sent: Wednesday, December 16, 2020 12:57 PM

To: Catherine Lhamon; Stephen Gilchrist; Debo P. Adegbile; Gail Heriot; Peter Kirsanow; David Kladney; J. Christian Adams; Michael Yaki

Cc: Mauro Morales; Sheryl Cozart; Commissioner Assistants

Subject: RE: Annual Ethics Training for Commissioners - Response Required

Dear Commissioners:

For those of you who have not yet scheduled your annual ethics training, I will be holding two Zoom training sessions over the next few days. Please let me know if you can participate in one of the following:

December 17th at 10:00 am

December 21st at 1:00 pm

If you are unable to participate in one of the trainings listed above, please email me with **three dates and times** that you are available prior to the end of the year to complete this training.

Thank you,

Pilar

From: Pilar McLaughlin

Sent: Tuesday, December 8, 2020 2:42 PM

To: Catherine Lhamon <clhamon@usccr.gov>; Stephen Gilchrist <sgilchrist@usccr.gov>; Debo P. Adegbile <dadegbile@usccr.gov>; Gail Heriot <gheriot@usccr.gov>; Peter Kirsanow <pkirsanow@usccr.gov>; David Kladney <dkladney@usccr.gov>; J. Christian Adams <jadams@usccr.gov>; Michael Yaki <MYaki@usccr.gov>

Cc: Mauro Morales <mmorales@usccr.gov>; Sheryl Cozart <scozart@usccr.gov>

Subject: Annual Ethics Training for Commissioners - Response Required

Dear Commissioners:

I hope this email finds you safe and healthy. As 2020 comes to a close, there are some final items we need to complete for the Commission's ethics program. Per the Office of Government Ethics, 5 C.F.R. Part 2638.308, public filers such as yourselves, must complete annual ethics training by **December 31, 2020**. This training will consist of a one hour, live presentation with me over the phone where I will cover key ethics concepts and we'll discuss a series of ethics training exercises.

I plan to conduct these trainings individually or in small groups (if schedules align) **beginning on December 14th through December 31th**. Please email me with **three dates and times** you would be available for this training and the best phone number to reach you. I will schedule your training and send you a calendar invite.

I know everyone is very busy; I will try my best to accommodate preferred times.

Thank you,

Pilar

From: John Mashburn [jmashburn@usccr.gov]
Sent: 11/12/2020 10:14:08 AM
To: Carissa Mulder [carissa.mulder@gmail.com]; Thomas Simuel [tsimuel@usccr.gov]; Alexander Heideman [aheideman@usccr.gov]
Subject: NC and CO SAC Slates

My notes said they were each 8-7 (15 folks in all) – so where the 6-6 supposed breakdown (12 folks) of the slates as Rukku stated comes from I do not know.

- Arkansas Advisory Committee – *roster is 7-7, D vs. R, proposed Chair is an R.*
- Colorado Advisory Committee – ***roster is 8-7, D vs. R, proposed Chair is a D.*** Roster is not even and there is concern with one D member’s objectivity vs. activism.

– there is no reason this SAC should not be evenly balanced 7-7 since the USCCR itself is evenly balanced 4-4.

For this reason alone, this slate should be rejected.

– Cmnr Kirsanow vetted all the Republican nominees through reliable sources.

– Cmnr Heriot officially challenged one of the D candidates as being “biased” and you should have received an email from Mauro about that challenge and the applicant’s response (the response was disingenuous e.g. claiming the concerning statement was not hers even though it was.) I have attached Mauro’s email and the original Chen article itself below with some of the concerning comments highlighted. [**See #1 below**]

- North Carolina Advisory Committee – ***roster is 8-7, D vs. R, proposed Chair is a D.*** Roster is not even and there is concern that one R member is really a D that should be replaced by an existing R applicant that had been recommended by Cmnr Kirsanow.

– there is no reason this SAC should also not be evenly balanced 7-7 since the USCCR itself is evenly balanced 4-4. **For this reason alone, this slate should be rejected.**

– one of the 7 Rs is actually more of a Democrat per folks in NC, despite her saying she was an R on her application form, and she was invited to apply by the USCCR regional director, not by any R.

– Jennifer Lechner is the Ex. Dir. of the NC Equal Access to Justice Commission (where she essentially works for the NC Sup. Ct. Chief Justice on an 6-1 Dem vs. R roster of judges). Lechner is also a member of the Executive Committee for the NC Advocates for Justice. She previously served with the Maine Justice Action Group when she was located in Maine. According to folks in NC, she and her two current groups frequently take issue with the Republican Majority in the NC State House. She does not represent NC Republicans in the main and should not be representing Republicans on the SAC for NC.

– **The quick fix:** would be to replace Lechner with Patrick Mencie, who applied and whose application is in the system, and is one of Cmnr Kirsanow’s prior recommendations – and then drop one of the acknowledged Dems to make it 7-7.



October __, 2021

Suzanne B. Goldberg
Acting Assistant Secretary for Civil Rights
U.S. Department of Education
Office for Civil Rights
400 Maryland Avenue SW
Washington, DC 20202-1100

Dear Ms. Goldberg:

We write as ____ members of the eight-member U.S. Commission on Civil Rights, and not on behalf of the Commission as a whole, to inquire into an apparent dereliction of Title IX investigation and enforcement duty at the Office of Civil Rights.

When Congress enacted Title IX of the Education Amendments of 1972 it prohibited discrimination based on sex in education programs or activities receiving federal financial assistance.¹ Today it remains both a policy and priority of our federal government that “all students should be guaranteed an educational environment free from discrimination on the basis of sex.”² In fact, you have very recently called Title IX “the strongest tool we have to protect every student’s right to equal access to educational opportunities free from sex discrimination.”³

Alas, evidence indicates that your office is failing in its responsibility to the American people to adequately investigate and address the civil-rights deprivations experienced by students at American colleges and universities. When presented with abundant documentation that discrimination is occurring on these campuses in the form of gender-specific and -restricted spaces and programs, your office refuses to investigate and enforce Title IX.

For example, in September 2021 your office dismissed a complaint detailing an award program at the University of New Mexico—called “Women in STEM”⁴—that discriminated against male applicants based on sex because the complainant failed to identify either “an express statement that the award program is awarded on the basis of sex” or “any individuals who were denied participation because of their sex.”⁵ Your office dismissed this complaint in spite of public statements by the university that the award program was “open for women faculty,” that “eligible

¹ 20 U.S.C. §§ 1681–88.

² Exec. Order on Guaranteeing an Educational Environment Free from Discrimination on the Basis of Sex, Including Sexual Orientation or Gender Identity (Mar. 8, 2021).

³ Letter from Suzanne B. Goldberg, Acting Assistant Sec’y for Civ. Rts., Dep’t of Educ., to Educators (June 23, 2021) (available at <https://www2.ed.gov/about/offices/list/ocr/correspondence/stakeholders/educator-202106-tix.pdf>).

⁴ See generally Press Release, Advance at UNM (June 16, 2021) (available at <http://news.unm.edu/news/advance-announces-2021-women-in-stem-award-winners>).

⁵ Dismissal Letter, Dep’t of Educ., Office of Civ. Rts., Case No. 08-20-2253 (on file with authors).



applicants include tenure-track and tenured women faculty members,” and that the program was “supported by an anonymous gift . . . to support research by and professorships for women faculty.”⁶ Your office dismissed this complaint—and many others⁷—even though your regulations do not require legal standing before curing facial discrimination and per se facial violations of Title IX’s prohibition of sex discrimination and do not require that a complainant identify a specific individual who has suffered an individualized injury. We understand that the underlying policy here requiring a complainant to show an express statement of discrimination and to name a specific harmed individual is a departure from a decades-old policy which allowed complaints to proceed when programs were facially discriminatory. If we’re mistaken, then please let us know.

Why require a complainant to show an express statement of discrimination when the discrimination is obvious from the title of the program? Why require a complainant to name an individual who was denied participation in a program because of their sex? We assume that your office would never refuse a Title IX investigation and enforcement of a program calling itself “Men in STEM,” merely because no woman had felt brave enough to challenge the program. Likewise, no man should have to challenge a program called “Women in STEM.”

Although the gender makeup of the average American university and college campus looks vastly different today than it did when Congress enacted Title IX in 1972,⁸ our government must still “guarantee[] an educational environment free from discrimination on the basis of sex” to all students regardless of gender. The way to stop discrimination is to stop discriminating.

We now ask you: Why has your office willfully dismissed valid complaints of sex discrimination? Why has your office deliberately failed to stop sex discrimination on university and college campuses? Why has your office purposefully ignored the law of the land? Why has your office intentionally chosen dereliction of its duty to the American people?

We look forward to your timely response.

Most respectfully,

⁶ See generally Press Release, Jessica Davis, Advance at UNM (Mar. 1, 2021) (available at <http://news.unm.edu/news/releases-20210225-6834729>).

⁷ See Mark J. Perry, *An Update on My Efforts to Challenge Title VI and Title IX Violations in Higher Education Despite New Resistance from Biden’s Office for Civil Rights*, CARPE DIEM—AM. ENTERPRISE INST. (Oct. 15, 2021), <https://www.aci.org/carpe-diem/an-update-on-my-efforts-to-challenge-title-vi-and-title-ix-violations-in-higher-education-despite-new-resistance-from-bidens-office-for-civil-rights/>.

⁸ Douglas Belkin, *A Generation of American Men Give Up on College: ‘I Just Feel Lost’*, WALL ST. J., Sept. 6, 2021, <https://www.wsj.com/articles/college-university-fall-higher-education-men-women-enrollment-admissions-back-to-school-11630948233> (“At the close of the 2020–21 academic year, women made up 59.5% of college students, an all-time high, and men 40.5%. . . . This education gap, which holds at both two- and four-year colleges, has been slowly widening for 40 years.”).



UNITED STATES COMMISSION ON CIVIL RIGHTS

1331 PENNSYLVANIA AVENUE , NW, WASHINGTON, DC 20425

www.usccr.gov

Cc:



October __, 2021

Suzanne B. Goldberg
Acting Assistant Secretary for Civil Rights
U.S. Department of Education
Office for Civil Rights
400 Maryland Avenue SW
Washington, DC 20202-1100

Dear Ms. Goldberg:

We write as _____ members of the eight-member U.S. Commission on Civil Rights, and not on behalf of the Commission as a whole, to inquire into an apparent dereliction of Title IX investigation and enforcement duty at the Office of Civil Rights.

When Congress enacted Title IX of the Education Amendments of 1972 it prohibited discrimination based on sex in education programs or activities receiving federal financial assistance.¹ Today it remains both a policy and priority of our federal government that “all students should be guaranteed an educational environment free from discrimination on the basis of sex.”² In fact, you have very recently called Title IX “the strongest tool we have to protect every student’s right to equal access to educational opportunities free from sex discrimination.”³

Alas, evidence indicates that your office is failing in its responsibility to the American people to adequately investigate and address the civil-rights deprivations experienced by students at American colleges and universities. When presented with abundant documentation that discrimination is occurring on these campuses in the form of gender-specific and -restricted spaces and programs, your office refuses to investigate and enforce Title IX.

For example, in September 2021 your office dismissed a complaint detailing an award program at the University of New Mexico—called “Women in STEM”⁴—that discriminated against male applicants based on sex because the complainant failed to identify either “an express statement that the award program is awarded on the basis of sex” or “any individuals who were denied participation because of their sex.”⁵ Your office dismissed this complaint in spite of public

¹ 20 U.S.C. §§ 1681–88.

² Exec. Order on Guaranteeing an Educational Environment Free from Discrimination on the Basis of Sex, Including Sexual Orientation or Gender Identity (Mar. 8, 2021).

³ Letter from Suzanne B. Goldberg, Acting Assistant Sec’y for Civ. Rts., Dep’t of Educ., to Educators (June 23, 2021) (available at [[HYPERLINK](#)

"<https://www2.ed.gov/about/offices/list/ocr/correspondence/stakeholders/educator-202106-tix.pdf>"]).

⁴ See generally Press Release, Advance at UNM (June 16, 2021) (available at [[HYPERLINK](#)

"<http://news.unm.edu/news/advance-announces-2021-women-in-stem-award-winners>"]).

⁵ Dismissal Letter, Dep’t of Educ., Office of Civ. Rts., Case No. 08-20-2253 (on file with authors).



statements by the university that the award program was “open for women faculty,” that “eligible applicants include tenure-track and tenured women faculty members,” and that the program was “supported by an anonymous gift . . . to support research by and professorships for women faculty.”⁶ Your office dismissed this complaint—and many others⁷—even though your regulations do not require legal standing before curing facial discrimination and per se facial violations of Title IX’s prohibition of sex discrimination and do not require that a complainant identify a specific individual who has suffered an individualized injury. We understand that the underlying policy here requiring a complainant to show an express statement of discrimination and to name a specific harmed individual is a departure from a decades-old policy which allowed complaints to proceed when programs were facially discriminatory. If we’re mistaken, then please let us know.

Why require a complainant to show an express statement of discrimination when the discrimination is obvious from the title of the program? Why require a complainant to name an individual who was denied participation in a program because of their sex? We assume that your office would never refuse a Title IX investigation and enforcement of a program calling itself “Men in STEM,” merely because no woman had felt brave enough to challenge the program. Likewise, no man should have to challenge a program called “Women in STEM.”

Although the gender makeup of the average American university and college campus looks vastly different today than it did when Congress enacted Title IX in 1972,⁸ our government must still “guarantee[] an educational environment free from discrimination on the basis of sex” to all students regardless of gender. The way to stop discrimination is to stop discriminating.

We now ask you: Why has your office willfully dismissed valid complaints of sex discrimination? Why has your office deliberately failed to stop sex discrimination on university and college campuses? Why has your office purposefully ignored the law of the land? Why has your office intentionally chosen dereliction of its duty to the American people?

We look forward to your timely response.

⁶ See generally Press Release, Jessica Davis, Advance at UNM (Mar. 1, 2021) (available at [[HYPERLINK "http://news.unm.edu/news/releases-20210225-6834729"](http://news.unm.edu/news/releases-20210225-6834729)]).

⁷ See Mark J. Perry, *An Update on My Efforts to Challenge Title VI and Title IX Violations in Higher Education Despite New Resistance from Biden’s Office for Civil Rights*, CARPE DIEM—AM. ENTERPRISE INST. (Oct. 15, 2021), [[HYPERLINK "https://www.aei.org/carpe-diem/an-update-on-my-efforts-to-challenge-title-vi-and-title-ix-violations-in-higher-education-despite-new-resistance-from-bidens-office-for-civil-rights/"](https://www.aei.org/carpe-diem/an-update-on-my-efforts-to-challenge-title-vi-and-title-ix-violations-in-higher-education-despite-new-resistance-from-bidens-office-for-civil-rights/)].

⁸ Douglas Belkin, *A Generation of American Men Give Up on College: ‘I Just Feel Lost’*, WALL ST. J., Sept. 6, 2021, [[HYPERLINK "https://www.wsj.com/articles/college-university-fall-higher-education-men-women-enrollment-admissions-back-to-school-11630948233"](https://www.wsj.com/articles/college-university-fall-higher-education-men-women-enrollment-admissions-back-to-school-11630948233)] (“At the close of the 2020–21 academic year, women made up 59.5% of college students, an all-time high, and men 40.5%. . . . This education gap, which holds at both two- and four-year colleges, has been slowly widening for 40 years.”).



UNITED STATES COMMISSION ON CIVIL RIGHTS

1331 PENNSYLVANIA AVENUE , NW, WASHINGTON, DC 20425

www.usccr.gov

Most respectfully,

Cc:

From: John Mashburn [jmashburn@usccr.gov]
Sent: 11/11/2021 3:40:25 PM
To: John Mashburn [jkmash@comcast.net]
Subject: FW: Letter to DOE
Attachments: DOELetter.pdf; DOELetter.docx

From: Alexander Heideman <aheideman@usccr.gov>
Date: Tuesday, October 26, 2021 at 1:20 PM
To: John Mashburn <jmashburn@usccr.gov>, Thomas Simuel <tsimuel@usccr.gov>, Carissa Mulder <CMulder@usccr.gov>
Subject: Letter to DOE

Hi guys,

Gail would like to send the attached letter to the Dep't of Educ. (Word & PDF attached.) You can read in detail about this issue here<<https://www.aei.org/carpe-diem/an-update-on-my-efforts-to-challenge-title-vi-and-title-ix-violations-in-higher-education-despite-new-resistance-from-bidens-office-for-civil-rights/>>. Will you please let me know if your respective bosses would like to sign?

Best,
Alex

REQUEST FOR A RELIGIOUS EXCEPTION TO THE COVID-19 VACCINATION REQUIREMENT

Government-wide policy requires all Federal employees as defined in 5 U.S.C. § 2105 to be vaccinated against COVID-19, with exceptions only as required by law. In certain circumstances, Federal law may entitle a Federal employee who has a religious objection to the COVID-19 vaccination requirement to an exception from that requirement, in which case the employee would instead comply with alternative health and safety protocols. The Federal Government is committed to respecting the important legal protections for religious liberty.

In order to request a religious exception, please fill out this form. The purpose of this form is to start the accommodation process and help your agency determine whether you may be eligible for a religious exception. You do not need to answer every question on the form to be considered for a religious exception, but we encourage you to provide as much information as possible to enable the agency to evaluate your request. Where there is an objective basis to do so, the agency may ask you for additional information as needed to determine if you are legally entitled to an exception. Objections to COVID-19 vaccinations that are based on non-religious reasons, including personal preferences or non-religious concerns about the vaccine, do not qualify for a religious exception.

Agencies may consider several factors in assessing whether a request for an exception is based on a sincerely held religious belief, including whether the employee has acted in a manner inconsistent with their professed belief. But no one factor is determinative. An individual's beliefs—or degree of adherence—may change over time and, therefore, an employee's newly adopted or inconsistently observed practices may nevertheless be based on a sincerely held religious belief. All requests for a religious exception will be evaluated on an individual basis.

Signing this form constitutes a declaration that the information you provide is, to the best of your knowledge and ability, true and correct. Any intentional misrepresentation to the Federal Government may result in legal consequences, including termination or removal from Federal Service.

QUESTIONS:

1. Please describe the nature of your objection to the COVID-19 vaccination requirement.

2. Would complying with the COVID-19 vaccination requirement substantially burden your religious exercise or conflict with your sincerely held religious beliefs, practices, or observances? If so, please explain how.

3. Please provide any additional information that you think may be helpful in reviewing your request. For example:
 - How long you have held the religious belief underlying your objection
 - Whether your religious objection is to the use of all vaccines, COVID-19 vaccines, a specific type of COVID-19 vaccine, or some other subset of vaccines
 - Whether you have received vaccines as an adult against any other diseases (such as a flu vaccine or a tetanus vaccine)

I declare to the best of my knowledge and ability that the foregoing is true and correct.

Print Name

Signature

Date

Privacy Act Statement:

The U.S. Commission on Civil Rights (USCCR) is authorized to collect this information under Title VII of the Civil Rights Act of 1964, as amended, and Executive Order 14043, Requiring Coronavirus Disease 2019 Vaccination for Federal Employees (September 9, 2021). The authority for the system of records notice (SORN) associated with this collection of information is "CCR/Internal – Reasonable Accommodations Records," 86 FR 62776 (November 12, 2021). The information provided by you will be used primarily to facilitate the processing of your request. Additional uses of the information may be to disclose information to: appropriate Federal, State or Local agencies when relevant to civil, criminal or regulatory investigations or prosecutions, when necessary to adjudicate a claim for benefits or to comply with a law governing the reporting of communicable diseases to Federal agencies in connection with a decision in hiring, retention or the granting of a security clearance; and to Federal agency, court or a party in litigation when USCCR is a party to the proceedings or is served with a subpoena. Furnishing of the information is voluntary, but failure to fully complete this form may make it impossible for the Commission to process the Request.

From: John Mashburn [jmashburn@usccr.gov]
Sent: 11/21/2021 11:07:19 AM
To: John Mashburn [jkmash@comcast.net]
Subject: FW: Religious Exemption Request
Attachments: USCCR Reasonable Accommodation- Religion 11 15 2021.docx

From: TinaLouise Martin <tmartin@usccr.gov>
Date: Monday, November 15, 2021 at 8:22 PM
To: John Mashburn <jmashburn@usccr.gov>
Subject: RE: Religious Exemption Request

Hello John,

Attached is the form to request a Religious Exemption. Please submit the form by the end of the week to comply with the November 22nd deadline.

If you have questions or need more information, please do not hesitate to contact me.

Thanks,
Tina

From: John Mashburn <jmashburn@usccr.gov>
Sent: Saturday, October 30, 2021 12:13 PM
To: TinaLouise Martin <tmartin@usccr.gov>
Subject: Re: Religious Exemption Request

OK

From: TinaLouise Martin <tmartin@usccr.gov>
Date: Friday, October 29, 2021 at 7:07 PM
To: John Mashburn <jmashburn@usccr.gov>
Subject: RE: Religious Exemption Request

Hi John,

We are still drafting our Reasonable Accommodation Form per OMB instructions; therefore you should wait to submit your request until we send you the form in the coming weeks.

Thank you,
Tina

From: John Mashburn <jmashburn@usccr.gov>
Sent: Friday, October 29, 2021 6:00 PM

To: TinaLouise Martin <tmartin@usccr.gov>

Subject: Religious Exemption Request

As per the instructions below, I am submitting the attached request for a Religious Exemption from the recent Executive Order 14043, "Requiring Coronavirus Disease 2019 Vaccination for Federal Employees."

From: David Ganz <[dganz@usccr.gov](mailto:d ganz@usccr.gov)>

Date: Friday, October 1, 2021 at 12:13 PM

To: John Mashburn <j mashburn@usccr.gov>, TinaLouise Martin <tmartin@usccr.gov>

Subject: Re: Executive Order 14043, "Requiring Coronavirus Disease 2019 Vaccination for Federal Employees"

You can communicate a reasonable accommodation request to Tina's office or Latrice Foshee. Thanks,

David

From: John Mashburn <j mashburn@usccr.gov>

Sent: Friday, October 1, 2021 12:01:00 PM

To: David Ganz <d ganz@usccr.gov>; TinaLouise Martin <tmartin@usccr.gov>

Subject: Re: Executive Order 14043, "Requiring Coronavirus Disease 2019 Vaccination for Federal Employees"

("An agency may be required to provide a reasonable accommodation to employees who communicate to the agency that they are not vaccinated against COVID-19 because of a **disability or because of a sincerely held religious belief**, practice, or observance.")

What is the process for "communicating to the agency" on this point?

From: David Ganz <d ganz@usccr.gov>

Date: Friday, September 17, 2021 at 4:36 PM

To: Commissioners <Commissioners@usccr.gov>, "CommissionerAssistants@usccr.gov" <CommissionerAssistants@usccr.gov>, USCCR AGENCYWIDE <USCCRAGENCYWIDE@usccr.gov>

Cc: Mauro Morales <mmorales@usccr.gov>, TinaLouise Martin <tmartin@usccr.gov>

Subject: Executive Order 14043, "Requiring Coronavirus Disease 2019 Vaccination for Federal Employees"

Hello all,

Please see the below important information regarding the recent Executive Order 14043, "Requiring Coronavirus Disease 2019 Vaccination for Federal Employees." Please be in touch if you have any questions.
Kind regards,

David

Pursuant to Executive Order 14043 on [Requiring Coronavirus Disease 2019 Vaccination for Federal Employees](#) ("the Order") that was signed by President Biden on September 9, 2021, as part of his [Path Out of the](#)

[Pandemic: COVID-19 Action Plan](#). Agencies are required to implement, to the extent consistent with applicable law, a program to require COVID-19 vaccination for covered Federal employees, with exceptions only as required by law. See <https://www.saferfederalworkforce.gov/faq/vaccinations/> (“An agency may be required to provide a reasonable accommodation to employees who communicate to the agency that they are not vaccinated against COVID-19 because of a disability or because of a sincerely held religious belief, practice, or observance.”)

All Federal employees covered by Executive Order 14043 and without a legally required exception must be [fully vaccinated](#) by **November 22, 2021**, regardless of where they are working. Employees who are on maximum telework or working remotely are not excused from this requirement, including because employees working offsite may interact with the public as part of their duties and agencies may need to recall employees who are on maximum telework or working remotely. See <https://www.saferfederalworkforce.gov/faq/vaccinations/>.

The agency **must require documentation from employees to prove vaccination**, even if an employee has previously attested to their vaccination status. Employees may provide a copy of the record of immunization from a health care provider or pharmacy, a copy of the COVID-19 Vaccination Record Card, a copy of medical records documenting the vaccination, a copy of immunization records from a public health or state immunization information system, or a copy of any other official documentation containing required data points. The data that must be on any official documentation are the type of vaccine administered, date(s) of administration, and the name of the health care professional(s) or clinic site(s) administering the vaccine(s). Employees must certify under penalty of perjury that the documentation they are submitting is true and correct. Employees may provide a digital copy of such records, including, for example, a digital photograph, scanned image, or PDF of such a record that clearly and legibly displays the information outlined above. See <https://www.saferfederalworkforce.gov/faq/vaccinations/>.

Employees must receive their last dose of their vaccine no later than November 8, 2021, to meet the November 22, 2021, deadline to be fully vaccinated. The timing between the first and second shots [depends on which vaccine is received](#).

If someone receives the:

- Pfizer-BioNTech COVID-19 vaccine, then that person should get their second shot 3 weeks (or 21 days) after the first. This means for Federal employees to meet the vaccination deadline, they should receive their first vaccination no later than October 18. They would not be eligible for the second dose until November 8, which is the deadline by which they need to have received both shots.
- Moderna COVID-19 vaccine, then that person should get their second shot 4 weeks (or 28 days) after their first. This means for Federal employees to meet the vaccination deadline, they should receive their first vaccination no later than October 11. They would not be eligible for the second dose until November 8, which is the deadline by which they need to have received both shots.

Since the Johnson & Johnson vaccine only has one shot, employees have until November 8 to receive that shot and still meet the November 22, 2021, deadline to be fully vaccinated.

Please submit proof of vaccination to hrd@usccr.gov no later than November 22, 2021.

If you have any questions or need further information, please do not hesitate to contact, TinaLouise Martin, Director of Management or David Ganz, General Counsel.

General Counsel, Office of the General Counsel
U.S. Commission on Civil Rights
1331 Pennsylvania Avenue, NW Suite 1150
Washington D.C. 20425
(617) 669-6413

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Established as an independent, bipartisan, fact-finding federal agency, our mission is to inform the development of national civil rights policy and enhance enforcement of federal civil rights laws. We pursue this mission by studying alleged deprivations of voting rights and alleged discrimination based on race, color, religion, sex, age, disability, or national origin, or in the administration of justice. We play a vital role in advancing civil rights through objective and comprehensive investigation, research, and analysis on issues of fundamental concern to the federal government and the public.

From: John Mashburn [jmashburn@usccr.gov]
Sent: 11/9/2020 2:40:56 PM
To: Nicholas Bair [nbair@usccr.gov]; Mauricio Leone [mleone@obriagroup.org]
CC: Katherine Culliton-Gonzalez [kculliton-gonzalez@usccr.gov]
Subject: Re: US Commission on Civil Rights Briefing on Maternal Health

What is the rationale for switching panels?

From: Nicholas Bair
Sent: Monday, November 9, 2020 2:34:52 PM
To: Mauricio Leone
Cc: John Mashburn; Katherine Culliton-Gonzalez
Subject: RE: US Commission on Civil Rights Briefing on Maternal Health

Good afternoon Mr. Leone,

You are correct, we are asking to move your testimony from panel 3 to panel 2.

Thank you for providing updated testimony. I will replace the testimony we have on file with this updated version.

Best regards,
Nick

From: Mauricio Leone <mleone@obriagroup.org>
Sent: Monday, November 9, 2020 2:23 PM
To: Nicholas Bair <nbair@usccr.gov>
Cc: John Mashburn <jmashburn@usccr.gov>
Subject: [EXTERNAL] RE: US Commission on Civil Rights Briefing on Maternal Health

CAUTION: This email is from outside USCCR.

Hello Mr. Bair,

Thank you so much again for the invitation to participate in the brief. Yes, I am available to share my testimony earlier in the day as well. Just to be clear, you will move my testimony from panel 3 to panel 2, right? or are you asking me to participate in 2 and 3? Please confirm.

Also, I made some minor modifications to my testimony. Could you use the attached testimony instead, please?

Let me know if you have any additional information or questions.

Thank you,

Mauricio Leone, MPA

Chief Operating Officer



17731 Irvine Blvd., Ste. 201B, Tustin, CA 92780

AMERICAN
OVERSIGHT

USCCR-22-0595-A-000210

Phone: 949-273-5040

Cell: 714-450-2495

mleone@obriagroup.org

obriagroup.org | obria.org

EIN#: 59-3804603

From: Nicholas Bair <nbair@usCCR.gov>
Sent: Monday, November 9, 2020 6:09 AM
To: Mauricio Leone <mleone@obriagroup.org>
Subject: RE: US Commission on Civil Rights Briefing on Maternal Health

Good morning Mr. Leone,

Thank you very much for your testimony.

We were also wondering if you would be able to testify earlier in the day – on the 2nd panel which will run from 11:15 am – 12:15 pm ET. Please let me know if this will work with your schedule.

Many thanks for your consideration.

Best regards,
Nick

From: Mauricio Leone <mleone@obriagroup.org>
Sent: Friday, November 6, 2020 4:50 PM
To: Nicholas Bair <nbair@usCCR.gov>
Cc: Katherine Culliton-Gonzalez <kculliton-gonzalez@usCCR.gov>
Subject: [EXTERNAL] RE: US Commission on Civil Rights Briefing on Maternal Health

CAUTION: This email is from outside USCCR.

Hello Mr. Blair,

Thank you again for the invitation to participate in the briefing. As per your request, I attach my statement, photo and short bio for your reference.

Please let me know if you have any questions.

Sincerely,

Mauricio Leone, MPA

Chief Operating Officer



17731 Irvine Blvd., Ste. 201B, Tustin, CA 92780



USCCR-22-0595-A-000211

Phone: 949-273-5040

Cell: 714-450-2495

mleone@obriagroup.org

obriagroup.org | obria.org

EIN#: 59-3804603

From: Nicholas Bair <nbair@usccr.gov>
Sent: Thursday, October 29, 2020 12:19 PM
To: Mauricio Leone <mleone@obriagroup.org>
Cc: Katherine Culliton-Gonzalez <kculliton-gonzalez@usccr.gov>
Subject: US Commission on Civil Rights Briefing on Maternal Health

Good afternoon Mr. Leone,

Please see the attached invitation containing specific information about the November 13th briefing on racial disparities in maternal health. As Ms. Bravo's designee, we look forward to your participation.

You are scheduled to participate in the 3rd panel of the day, which will tentatively take place between 12:25 – 1:25 pm Eastern Time. Each panelist will have 5 minutes to deliver an opening statement. Once all panelists have concluded, there will be approximately a half-hour reserved for our Commissioners to ask questions of the panelists.

We ask that each panelist submit written testimony in advance of the briefing. Your written testimony can be the same as the opening statement you will deliver the day of the briefing, but it does not have to be. If possible, please email your written statement to me on or before Friday November 6.

Please do not hesitate to let me know if you have any questions. I will be following up in the coming days with logistical information about the briefing.

Sincerely,

Nicholas Bair, Esq.
Civil Rights Analyst
U.S. Commission on Civil Rights
Office of Civil Rights Evaluation
nbair@usccr.gov
www.usccr.gov
1331 Pennsylvania Avenue, NW Suite 1150
Washington D.C. 20425

From: John Mashburn [jmashburn@usccr.gov]
Sent: 11/25/2020 1:19:28 PM
To: Christian Adams [a@electionlawcenter.com]
Subject: Re: [EXTERNAL] RE: Fw: SAC Slate for CA

They say her application has been received.

From: John Mashburn
Sent: Wednesday, November 25, 2020 8:15:15 AM
To: Christian Adams
Subject: Re: [EXTERNAL] RE: Fw: SAC Slate for CA

Checking with Mauro whether it is

From: Christian Adams <a@electionlawcenter.com>
Sent: Wednesday, November 25, 2020 7:27:46 AM
To: John Mashburn
Subject: RE: [EXTERNAL] RE: Fw: SAC Slate for CA

CAUTION: This email is from outside USCCR.

Address of record is what matters. I assume this is done?

From: John Mashburn <jmashburn@usccr.gov>
Sent: Tuesday, November 24, 2020 8:34 PM
To: Christian Adams <a@electionlawcenter.com>
Subject: Re: [EXTERNAL] RE: Fw: SAC Slate for CA

CA is her address of record, but she actually spends majority of time in DC evidently. Most of the SAC work is now being done by Zoom etc. so it should not matter for quite a while. I told her you had pushed to get her on and they had reluctantly agreed - that she only had to submit her application and she would be put on the SAC.

From: Christian Adams <a@electionlawcenter.com>
Sent: Tuesday, November 24, 2020 5:05:24 PM
To: John Mashburn
Subject: RE: [EXTERNAL] RE: Fw: SAC Slate for CA

CAUTION: This email is from outside USCCR.

This makes me mad. She told me CA. Please do what you can to make this happen. We went out of a limb for her. She needs to know that. Explicitly.

From: John Mashburn <jmashburn@usccr.gov>
Sent: Tuesday, November 24, 2020 3:00 PM
To: Christian Adams <a@electionlawcenter.com>
Subject: Re: [EXTERNAL] RE: Fw: SAC Slate for CA

I will touch base with her this evening again. Just FYI she also Expressed reservations because she is mostly in DC now and not California and was wondering about the logistics. Just so you know.

From: Christian Adams <a@electionlawcenter.com>
Sent: Tuesday, November 24, 2020 2:50:43 PM
To: John Mashburn
Subject: [EXTERNAL] RE: Fw: SAC Slate for CA

CAUTION: This email is from outside USCCR.

Incredible.

----- Original message -----

From: John Mashburn <jmashburn@usCCR.gov>
Date: 11/24/20 2:48 PM (GMT-05:00)
To: Christian Adams <a@electionlawcenter.com>
Subject: Fw: SAC Slate for CA

Just FYI — Mauro sent me this email today at 1 pm and said Star had not submitted her application yet. Clearly they have agreed to put Star on and add an additional Democrat - if Star submits her application by COB tomorrow, in time for the California slate to be approved at the December 4 business meeting.

I called Star who said she had not submitted it because she was debating whether to do this or do the 1776 commission which she has been nominated for as well.

I told her she could do both but she needed to get the SAC application in by close of business tomorrow. She agreed, but said since she was on annual leave at present so she would ask her assistant to submit the application for her.

I asked her to have her assistant call me, which the assistant has not done yet so I am not sure if the asst is doing it or not.

Thought you should have a heads up.

From: John Mashburn
Sent: Tuesday, November 24, 2020 2:35:47 PM
To: Mauro Morales
Cc: David Mussatt; Rukku Singla
Subject: Re: SAC Slate for CA

I talked to her and says she is going to get it in by COB tomorrow.

From: Mauro Morales
Sent: Tuesday, November 24, 2020 1:09:59 PM
To: John Mashburn
Cc: David Mussatt; Rukku Singla
Subject: RE: SAC Slate for CA

John,

As of today's date, Starr Parker has not submitted an application. If you still intend to have her on the slate in time for us to add a Democrat please have her do so by COB tomorrow. We are running out of time and otherwise would have to pull the CA slate from consideration. I have included David and Rukku to assist if needed.

Mauro

From: John Mashburn <jmashburn@usccr.gov>
Sent: Wednesday, November 18, 2020 11:00 AM
To: Mauro Morales <mmorales@usccr.gov>
Subject: SAC Slate for CA

Mauro – Cmnr Adams would like Starr Parker (bio attached) added to the Republican slate for the California SAC in order to be able to support the slate. She is filling out the online application now, but I thought I should give you a heads up since another Democrat would have to be added to the slate as well to keep it even.

From: John Mashburn [jmashburn@usccr.gov]
Sent: 11/24/2020 11:48:35 AM
To: Christian Adams [a@electionlawcenter.com]
Subject: Fw: SAC Slate for CA

Just FYI — Mauro sent me this email today at 1 pm and said Star had not submitted her application yet. Clearly they have agreed to put Star on and add an additional Democrat - if Star submits her application by COB tomorrow, in time for the California slate to be approved at the December 4 business meeting.

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Mauro

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Sent: Wednesday, November 18, 2020 11:00 AM
To: Mauro Morales <mmorales@usccr.gov>
Subject: SAC Slate for CA

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From: John Mashburn [jmashburn@usccr.gov]
Sent: 12/1/2020 9:01:59 AM
To: Carissa Mulder [carissa.mulder@gmail.com]
Subject: Re: [EXTERNAL] Agenda and Zoom information for tomorrow's conservative caucus retreat

Zoom link says you (host) have another meeting in progress – so not letting me in

From: Carissa Mulder <carissa.mulder@gmail.com>
Date: Monday, November 30, 2020 at 9:41 AM
To: "Kirsanow, Peter" <pkirsanow@beneschlaw.com>, Gail Heriot <gheriot@me.com>, stephen gilchrist <thegilchristassociates@gmail.com>, "Christian Adams (adams@electionlawcenter.com)" <adams@electionlawcenter.com>
Cc: Alexander Heideman <aheideman@usccr.gov>, Thomas Simuel <tsimuel@usccr.gov>, John Mashburn <jmashburn@usccr.gov>, Carissa Mulder <CMulder@usccr.gov>
Subject: [EXTERNAL] Agenda and Zoom information for tomorrow's conservative caucus retreat

CAUTION: This email is from outside USCCR.

I hope you had a nice Thanksgiving! Our conservative caucus retreat is tomorrow. Gail, Alex, and I put together a short agenda to guide our discussion. It is attached. The Zoom information is below. Let me know if you have any questions! See you tomorrow!

Carissa Mulder is inviting you to a scheduled Zoom meeting.

Topic: Carissa Mulder's Personal Meeting Room

Join Zoom Meeting

<https://us02web.zoom.us/j/3153363506>

Meeting ID: 315 336 3506

One tap mobile

+13126266799,,3153363506# US (Chicago)

+16465588656,,3153363506# US (New York)

Dial by your location

+1 312 626 6799 US (Chicago)

+1 646 558 8656 US (New York)

+1 301 715 8592 US (Washington D.C)

+1 346 248 7799 US (Houston)

+1 669 900 6833 US (San Jose)

+1 253 215 8782 US (Tacoma)

855 880 1246 US Toll-free

877 369 0926 US Toll-free

833 548 0276 US Toll-free

833 548 0282 US Toll-free

Meeting ID: 315 336 3506

Find your local number: <https://us02web.zoom.us/j/3153363506>

Join by SIP

3153363506@zoomcrc.com

Join by H.323

162.255.37.11 (US West)

162.255.36.11 (US East)

115.114.131.7 (India Mumbai)

115.114.115.7 (India Hyderabad)

213.19.144.110 (Amsterdam Netherlands)

213.244.140.110 (Germany)

103.122.166.55 (Australia)

149.137.40.110 (Singapore)

64.211.144.160 (Brazil)

69.174.57.160 (Canada)

207.226.132.110 (Japan)

Meeting ID: 315 336 3506

--

Carissa B. Mulder

From: John Mashburn [jmashburn@usccr.gov]
Sent: 11/4/2021 7:51:06 AM
To: Christian Adams [a@electionlawcenter.com]
Subject: Can you approve this leave request TODAY (for this past Jan 5 & 6)?

Paperwork and red tape.

I will have to do this for some annual leave days in October as well, but this is the one they want approved TODAY.

From: Janice Minor <jminor@usccr.gov>
Date: Thursday, November 4, 2021 at 9:55 AM
To: John Mashburn <jmashburn@usccr.gov>
Cc: TinaLouise Martin <tmartin@usccr.gov>, "J. Christian Adams" <jadams@usccr.gov>
Subject: RE: (URGENT) Please Process Leave Request for 16hrs of Annual leave taken in PP1 (Auditors Request)

Hi John,

We need a copy of the approved annual leave request for PP1 by today. Please complete the form and submit for approval, and if you can, please notify me as soon as the leave request has been approved by your Commissioner. Thank you.

Janice

From: John Mashburn <jmashburn@usccr.gov>
Sent: Wednesday, November 3, 2021 3:09 PM
To: Janice Minor <jminor@usccr.gov>
Subject: Re: (URGENT) Please Process Leave Request for 16hrs of Annual leave taken in PP1 (Auditors Request)

Did not know I had to request it other than ask my boss for permission. In 30 years Of federal service I have never had to fill out my time and requests like this so I don't know the basics.

For this past Jan. Do I still need to fill out a request even though it is past the time?

I have almost 100 hrs beyond 240 hrs I have to take before Dec 31, so it's not like I don't have leave time accrued already.

From: Janice Minor
Sent: Wednesday, November 3, 2021 1:24:25 PM
To: John Mashburn
Cc: J. Christian Adams; TinaLouise Martin
Subject: (URGENT) Please Process Leave Request for 16hrs of Annual leave taken in PP1 (Auditors Request)

Hi John,

We noticed that you took 16 hours of annual leave in PP1 for dates 1/5 – 1/6/2021. The auditors have asked for a copy of the leave request for the 16 hrs taken. Please complete a leave request form in the paycheck8 system and have your Commissioner to approved it as soon as possible so we can provide the requested documentation to the auditors in a timely fashion. I included instructions below on how to request leave in the paycheck8 portal for your convenience. For future reference, employees are required to complete a leave request 3 days prior to taking leave, if possible or as soon as circumstances allow. If you have any questions or concerns, contact me directly. Thank you for your time and attention to this request.

Janice

Instructions on Requesting leave in the Paycheck8 portal:

In the “Other Information” column, click on “Request Leave”

Navigate to the “Leave Request Display” section and complete the information on the screen by entering your leave request detail for the 16 hours you claimed in PP1. The following information must be completed before you can submit your request.

- TC
- Start and Stop time
- Reason
- Start and Stop date
- Load Accounts

Once you have entered the data above, click the “Add” button and then click on the “Submit button”.

If you have any questions, please contact me. Thank you.

From: John Mashburn [jmashburn@usccr.gov]
Sent: 11/2/2021 8:34:16 AM
To: John Mashburn [jkmash@comcast.net]
Subject: Fw: [EXTERNAL] RE: Florida SAC of the USCCR

From: Alexander Heideman
Sent: Tuesday, November 2, 2021 10:03:20 AM
To: John Mashburn; Carissa Mulder
Subject: FW: [EXTERNAL] RE: Florida SAC of the USCCR

From: Sal Nuzzo <snuzzo@jamesmadison.org>
Date: Tuesday, November 2, 2021 at 10:02 AM
To: Alexander Heideman <aheideman@usccr.gov>
Subject: [EXTERNAL] RE: Florida SAC of the USCCR

CAUTION: This email is from outside USCCR.

appointment.

decline the

Sal Nuzzo
Vice President of Policy | The James Madison Institute
snuzzo@jamesmadison.org | p. 850.386.3131 | c. 850.322.9941
Twitter: @SalNuzzo
The Columns | 100 N. Duval St. | Tallahassee, FL 32301

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From: Alexander Heideman <aheideman@usccr.gov>
Sent: Tuesday, November 2, 2021 9:32 AM
To: Sal Nuzzo <snuzzo@jamesmadison.org>
Subject: Florida SAC of the USCCR

Hi Sal,

Hope everything is going well on your end. I was forwarded some communication that indicated that you resigned from the Florida State Advisory Committee---will you please confirm?

Best,
Alex

Alexander M. Heideman
Special Assistant/Counsel to Commissioner Gail Heriot
U.S. Commission on Civil Rights

1331 Pennsylvania Avenue NW, Suite 1150
Washington, DC 20425
aheideman@usccr.gov

From: John Mashburn [jmashburn@usccr.gov]
Sent: 11/16/2020 9:25:00 AM
To: Carissa Mulder [carissa.mulder@gmail.com]
Subject: Re: [EXTERNAL] Re: NC and CO SAC Slates

Meaning I need to tell Mauro the supposed Independent in CO is considered really a D by Cmnr Adams – correct?

Or is this in relation to NC?

From: Carissa Mulder <carissa.mulder@gmail.com>
Date: Thursday, November 12, 2020 at 1:39 PM
To: Thomas Simuel <tsimuel@usccr.gov>
Cc: Alexander Heideman <aheideman@usccr.gov>, John Mashburn <jmashburn@usccr.gov>, Carissa Mulder <CMulder@usccr.gov>
Subject: Re: [EXTERNAL] Re: NC and CO SAC Slates

CAUTION: This email is from outside USCCR.

They do, because I told Mauro in our last go-around re NC that we expect a 1:1 balance. But John will need to explicitly tell them that Commissioner Adams does not consider the independent to be a true independent, and that is (part of) the hang-up.

On Thu, Nov 12, 2020 at 1:35 PM Thomas Simuel <tsimuel@usccr.gov> wrote:

Do they know our definition of "balanced"? If not, Carissa in your conversation with Rukku you may want to inform her.

Sent from my Metro By T-Mobile 4G LTE Android Device

----- Original message -----

From: Alexander Heideman <aheideman@usccr.gov>
Date: 11/12/20 1:24 PM (GMT-05:00)
To: Carissa Mulder <carissa.mulder@gmail.com>, John Mashburn <jmashburn@usccr.gov>, Carissa Mulder <CMulder@usccr.gov>
Cc: Thomas Simuel <tsimuel@usccr.gov>
Subject: Re: [EXTERNAL] Re: NC and CO SAC Slates

Yes, I was about to say the same thing. But I agree that the independent leans D, even if she doesn't expressly state so.

From: Carissa Mulder <carissa.mulder@gmail.com>
Date: Thursday, November 12, 2020 at 1:23 PM
To: John Mashburn <jmashburn@usccr.gov>, Carissa Mulder <CMulder@usccr.gov>
Cc: Thomas Simuel <tsimuel@usccr.gov>, Alexander Heideman <aheideman@usccr.gov>
Subject: [EXTERNAL] Re: NC and CO SAC Slates

I know that in CO, one person is listed as a true independent. You counted that person as a D because you thought he/she seemed to lean to the left. But that is why Rukku thought CO was balanced.

On Thu, Nov 12, 2020 at 1:14 PM John Mashburn <jmashburn@usCCR.gov> wrote:

My notes said they were each 8-7 (15 folks in all) – so where the 6-6 supposed breakdown (12 folks) of the slates as Rukku stated comes from I do not know.

- Arkansas Advisory Committee – roster is 7-7, D vs. R, proposed Chair is an R.
- Colorado Advisory Committee – **roster is 8-7, D vs. R, proposed Chair is a D.** Roster is not even and there is concern with one D member's objectivity vs. activism.
 - there is no reason this SAC should not be evenly balanced 7-7 since the USCCR itself is evenly balanced 4-4. **For this reason alone, this slate should be rejected.**
 - Cmnr Kirsanow vetted all the Republican nominees through reliable sources.
 - Cmnr Heriot officially challenged one of the D candidates as being “biased” and you should have received an email from Mauro about that challenge and the applicant's response (the response was disingenuous e.g. claiming the concerning statement was not hers even though it was.) I have attached Mauro's email and the original Chen article itself below with some of the concerning comments highlighted. [**See #1 below**]
- North Carolina Advisory Committee – **roster is 8-7, D vs. R, proposed Chair is a D.** Roster is not even and there is concern that one R member is really a D that should be replaced by an existing R applicant that had been recommended by Cmnr Kirsanow.
 - there is no reason this SAC should also not be evenly balanced 7-7 since the USCCR itself is evenly balanced 4-4. **For this reason alone, this slate should be rejected.**
 - one of the 7 Rs is actually more of a Democrat per folks in NC, despite her saying she was an R on her application form, and she was invited to apply by the USCCR regional director, not by any R.
 - Jennifer Lechner is the Ex. Dir. of the NC Equal Access to Justice Commission (where she essentially works for the NC Sup. Ct. Chief Justice on an 6-1 Dem vs. R roster of judges). Lechner is also a member of the Executive Committee for the NC Advocates for Justice. She previously served with the Maine Justice Action Group when she was located in Maine. According to folks in NC, she and her two current groups frequently take issue with the Republican Majority in the NC State House. She does not represent NC Republicans in the main and should not be representing Republicans on the SAC for NC.
 - **The quick fix:** would be to replace Lechner with Patrick Mencie, who applied and whose application is in the system, and is one of Cmnr Kirsanow's prior recommendations – and then drop one of the acknowledged Dems to make it 7-7.

--

Carissa B. Mulder

--

Carissa B. Mulder

From: John Mashburn [jmashburn@usccr.gov]
Sent: 11/25/2020 5:15:15 AM
To: Christian Adams [a@electionlawcenter.com]
Subject: Re: [EXTERNAL] RE: Fw: SAC Slate for CA

Checking with Mauro whether it is

From: Christian Adams <a@electionlawcenter.com>
Sent: Wednesday, November 25, 2020 7:27:46 AM
To: John Mashburn
Subject: RE: [EXTERNAL] RE: Fw: SAC Slate for CA

CAUTION: This email is from outside USCCR.

Address of record is what matters. I assume this is done?

From: John Mashburn <jmashburn@usccr.gov>
Sent: Tuesday, November 24, 2020 8:34 PM
To: Christian Adams <a@electionlawcenter.com>
Subject: Re: [EXTERNAL] RE: Fw: SAC Slate for CA

CA is her address of record, but she actually spends majority of time in DC evidently. Most of the SAC work is now being done by Zoom etc. so it should not matter for quite a while. I told her you had pushed to get her on and they had reluctantly agreed - that she only had to submit her application and she would be put on the SAC.

From: Christian Adams <a@electionlawcenter.com>
Sent: Tuesday, November 24, 2020 5:05:24 PM
To: John Mashburn
Subject: RE: [EXTERNAL] RE: Fw: SAC Slate for CA

CAUTION: This email is from outside USCCR.

This makes me mad. She told me CA. Please do what you can to make this happen. We went out of a limb for her. She needs to know that. Explicitly.

From: John Mashburn <jmashburn@usccr.gov>
Sent: Tuesday, November 24, 2020 3:00 PM
To: Christian Adams <a@electionlawcenter.com>
Subject: Re: [EXTERNAL] RE: Fw: SAC Slate for CA

I will touch base with her this evening again. Just FYI she also Expressed reservations because she is mostly in DC now and not California and was wondering about the logistics. Just so you know.

From: Christian Adams <a@electionlawcenter.com>
Sent: Tuesday, November 24, 2020 2:50:43 PM
To: John Mashburn
Subject: [EXTERNAL] RE: Fw: SAC Slate for CA

CAUTION: This email is from outside USCCR.

Incredible.

----- Original message -----

From: John Mashburn <jmashburn@usCCR.gov>

Date: 11/24/20 2:48 PM (GMT-05:00)

To: Christian Adams <a@electionlawcenter.com>

Subject: Fw: SAC Slate for CA

Just FYI — Mauro sent me this email today at 1 pm and said Star had not submitted her application yet. Clearly they have agreed to put Star on and add an additional Democrat - if Star submits her application by COB tomorrow, in time for the California slate to be approved at the December 4 business meeting.

I called Star who said she had not submitted it because she was debating whether to do this or do the 1776 commission which she has been nominated for as well.

I told her she could do both but she needed to get the SAC application in by close of business tomorrow. She agreed, but said since she was on annual leave at present so she would ask her assistant to submit the application for her.

I asked her to have her assistant call me, which the assistant has not done yet so I am not sure if the asst is doing it or not.

Thought you should have a heads up.

From: John Mashburn

Sent: Tuesday, November 24, 2020 2:35:47 PM

To: Mauro Morales

Cc: David Mussatt; Rukku Singla

Subject: Re: SAC Slate for CA

I talked to her and says she is going to get it in by COB tomorrow.

From: Mauro Morales

Sent: Tuesday, November 24, 2020 1:09:59 PM

To: John Mashburn

Cc: David Mussatt; Rukku Singla

Subject: RE: SAC Slate for CA

John,

As of today's date, Starr Parker has not submitted an application. If you still intend to have her on the slate in time for us to add a Democrat please have her do so by COB tomorrow. We are running out of time and otherwise would have to pull the CA slate from consideration. I have included David and Rukku to assist if needed.

Mauro

From: John Mashburn <jmashburn@usCCR.gov>

Sent: Wednesday, November 18, 2020 11:00 AM

To: Mauro Morales <mmorales@usccr.gov>

Subject: SAC Slate for CA

Mauro – Cmnr Adams would like Starr Parker (bio attached) added to the Republican slate for the California SAC in order to be able to support the slate. She is filling out the online application now, but I thought I should give you a heads up since another Democrat would have to be added to the slate as well to keep it even.

From: John Mashburn [jmashburn@usccr.gov]
Sent: 11/9/2020 10:50:41 AM
To: Thomas Simuel [tsimuel@usccr.gov]; Carissa Mulder [carissa.mulder@gmail.com]; Alexander Heideman [aheideman@usccr.gov]
CC: Carissa Mulder [CMulder@usccr.gov]
Subject: Re: [EXTERNAL] Conservative SA meeting on Thursday?

Me too

From: Thomas Simuel
Sent: Monday, November 9, 2020 12:51:05 PM
To: Carissa Mulder; Alexander Heideman
Cc: John Mashburn; Carissa Mulder
Subject: RE: [EXTERNAL] Conservative SA meeting on Thursday?

Thursday at 11am will work 4 me.

Sent from my Metro By T-Mobile 4G LTE Android Device

----- Original message -----

From: Carissa Mulder <carissa.mulder@gmail.com>
Date: 11/9/20 12:34 PM (GMT-05:00)
To: Alexander Heideman <aheideman@usccr.gov>
Cc: John Mashburn <jmashburn@usccr.gov>, Thomas Simuel <tsimuel@usccr.gov>, Carissa Mulder <CMulder@usccr.gov>
Subject: Re: [EXTERNAL] Conservative SA meeting on Thursday?

CAUTION: This email is from outside USCCR.

Actually, scratch that, I forgot that I have my annual physical at 9:30. I should be able to make it back by 11. Does that work for everyone?

On Mon, Nov 9, 2020 at 12:31 PM Alexander Heideman <aheideman@usccr.gov> wrote:

I think this would be productive!

From: Carissa Mulder <carissa.mulder@gmail.com>
Date: Monday, November 9, 2020 at 12:25 PM
To: Alexander Heideman <aheideman@usccr.gov>, John Mashburn <jmashburn@usccr.gov>, Thomas Simuel <tsimuel@usccr.gov>
Cc: Carissa Mulder <CMulder@usccr.gov>
Subject: [EXTERNAL] Conservative SA meeting on Thursday?

CAUTION: This email is from outside USCCR.

I noticed that Rukku still wants to hold an SA meeting on Thursday at noon. Do you guys want to have a Zoom call between the four of us before that so we can be sure we are on the same page? Say Thursday at 10:30?

--

Carissa B. Mulder

--

Carissa B. Mulder

[[HYPERLINK "https://newdiscourses.com/2020/10/schools-teaching-kids-social-justice/"](https://newdiscourses.com/2020/10/schools-teaching-kids-social-justice/)]

Why Schools Are Teaching Our Kids “Social Justice”

- [[HYPERLINK "https://newdiscourses.com/2020/10/schools-teaching-kids-social-justice/"](https://newdiscourses.com/2020/10/schools-teaching-kids-social-justice/)]
- [[HYPERLINK "https://newdiscourses.com/author/jameslindsay/"](https://newdiscourses.com/author/jameslindsay/) \o "View all posts by James Lindsay"]

The Woke have a very specific conception of the world and a very specific mission that has everything to do with that conception. Most of us, going about our daily lives and getting hit with Critical Social Justice — the ideology that leads one to become “woke” — don’t understand this. We mistake what is, in fact, an entire worldview for a set of fringe ideas dealing with socially important issues like racism, sexism, and transgender rights. Most of us see “Wokeness,” in other words, as something that’s probably mostly good or, at worst, well-intentioned and benign.

When it comes to our children’s schools, then, many of us will conclude that it’s necessary and important in our modern, progressive world for our children to learn about these sorts of issues, and we trust our educators to communicate important truths about them so our kids can keep doing the good work of building a better society.

This kindly liberal view, borne from a combination of good intentions and being too busy to learn otherwise, misunderstands the Critical Social Justice ideology at the most fundamental level, however. It therefore completely misses the specific mission woke people—and woke educators—have for our society and our children. The crux of that mission is hiding in plain sight in the word “woke” itself, and it has everything to do with why we should be opposed to seeing these ideas featured in our educational system.

The mission of Critical Social Justice, to use its right name, is to “awaken” people to the so-called “realities” of systemic oppression in society, as it defines it—thus, “woke.” People who are woke are people who have been trained to see systemic oppression in a particular way, which has been outlined in an otherwise obscure branch of philosophy known as Critical Theory. Speaking formally, the Woke are people who have developed a “critical consciousness” about the identity-based systems of power that are alleged to permeate and define all of society, creating profound and almost intractable injustices that must be “disrupted and dismantled” to achieve “liberation.” The goal of “anti-racist,” “culturally aware,” and “social justice” approaches to education is to awaken a critical consciousness in our children so that they will grow up not to think critically but to think in terms of Critical Theories.

To understand why this isn't just a problem but an incredibly alarming one requires understanding how the Critical Theories in Critical Social Justice see the world. That is, you have to understand what your kids will be “woke up” to in their classrooms.

To take the issue of race, Critical Race Theory begins with the assumption that racism is ordinary in our societies and present in all interactions and social and cultural phenomena, and it is up to the Critical Race Theorist—using a Woke critical consciousness—to “make it visible” and “call it out.” In Critical Race Theory, the question is not “did racism take place?” but rather, “how did racism manifest in that situation?”

Rather than learning how to do mathematics, then, your children will be taught to ask questions like how mathematics is used to maintain racial oppression—for it must, according to Critical Race Theory. This is precisely the sort of curriculum that we already see in the Ethnic Studies program in the state of Washington and its “ethnomathematics” project. Rather than focusing on the mechanics of mathematics, students will be taught to focus on the ways they can explore topics like racism and oppression through mathematics, or leaning on math as a foil that facilitates discussions on important topics—like “who it benefits” to focus on getting right answers in mathematics.

Other subjects will be similar, if not worse. A Critical Theory approach to studying American history will be dedicated to making students woke to all of the ways the United States, from its founding, has been an unjust, oppressive nation that systemically oppresses certain identity groups. This shouldn't be understood to be part of a balanced program that reckons honestly with the darker aspects of our national past as framed against the liberal promises that eventually—and painfully—have won great freedom and equality to our diverse citizenry. It will be a sustained program of teaching our children how America is a horrible nation that has never been able to or even wanted to live up to its promise of all men having been created equally, as individuals. “Whiteness is property,” they will instruct, and that property is theft—slogans we have heard repeated as justifications for race-based riots throughout this ugly summer.

Indeed, many such programs will claim that the United States was founded intentionally on genocide, slavery, and a principle of white supremacy and anti-Blackness that has never been repaired. Its legacy is white privilege and white comfort that must be challenged at every opportunity if we are ever to achieve racial equity. Already, at least in the state of California, a proposed – although rejected – curriculum would teach these lessons not as history but as “hxrstory,” where “his” has been replaced by an explicitly “non-binary” formulation of “her,” so that maleness and cisheteronormativity won't accidentally be centered in the term. (By the way, “his-story” isn't even the genuine etymology of the word history, but Critical Theory looks for oppression hidden in unlikely symbols, even when it doesn't make sense.)

Bringing Critical Social Justice into our educational systems is therefore not beneficent or benign. It is a deliberate attempt to try to program our children to think in an explicitly cynical, pessimistic, and falsely sociological way about all matters relevant to identity in every possible

subject, including our history and even science and mathematics. The goal is to make our children woke, to give them a critical consciousness with which they will, unlike their parents, know that the point of understanding society is to change it in a very narrow and increasingly divisive way.

Editor's Note: This article has been revised to clarify that a proposal to rename "history" "hxrstory" in California was rejected.

This article was originally published at [[HYPERLINK "https://www.rocanews.com/blog-posts/why-schools-are-teaching-our-kids-social-justice" \t "_blank" \]](https://www.rocanews.com/blog-posts/why-schools-are-teaching-our-kids-social-justice)].

From: John Mashburn [jmashburn@usccr.gov]
Sent: 1/13/2021 12:46:33 PM
To: Carissa Mulder [carissa.mulder@gmail.com]
Subject: Re: other CRT articles/docs
Attachments: Why Schools Are Teaching Our Kids "Social Justice".docx

Forgot one

From: John Mashburn <jmashburn@usccr.gov>
Date: Wednesday, January 13, 2021 at 3:39 PM
To: Carissa Mulder <carissa.mulder@gmail.com>
Subject: other CRT articles/docs

[HYPERLINK "<https://newdiscourses.com/2020/12/maintaining-expanding-ban-critical-race-theory/>"]

[HYPERLINK "https://newdiscourses.com/2020/11/wokeness-threatens-rule-of-law/"]

<https://townhall.com/columnists/mikeadams/2016/12/09/how-to-answer-a-false-accusation-of-racism-n2257095>

Furthermore, you need to respond to accusations of racism with questions rather than assertions. Here are the three questions you need to ask. William Wilbanks, author of *The Myth of a Racist Criminal Justice System*, inspired the first two questions. Greg Koukl, author of the book *Tactics*, inspired the third:

Top of Form

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OPINION

How to Answer a False Accusation of Racism



[HYPERLINK "https://townhall.com/columnists/mikeadams/"]

Posted: Dec 09, 2016 12:01 AM

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[HYPERLINK "https://townhall.com/columnists/byronyork/2021/01/13/a-crazy-impeachment-n2583034" \o "A Crazy Impeachment - 127"]

Yesterday, a student contacted me with a concern that is common among those taking courses in the social sciences and humanities. This particular student is enrolled in an online criminology class taught by a leftist professor. During a discussion of the Black Lives Matter movement, one of the more conservative students in her class used the phrase “all lives matter.” Predictably, the leftist professor objected. But he went even further by repeatedly accusing the student of racism. To make matters worse, the ad hominem attacks were made in front of all the students enrolled in the course. It was part of an online class “discussion.”

Although the student who contacted me was not the one attacked, she wanted to know how to confront the professor who was so clearly out of line. She was understandably reticent to express her own views after seeing a fellow student attacked in the middle of class discussion. Given the importance of the issue, I am printing my response to the student to help other students who are similarly attacked or intimidated in the classroom:

Dear Amber: The first thing to remember about responding to a false accuser is what *not* to do. Above all, you must resist the temptation to accuse the professor of harassment or of breaking the campus speech code. That is what leftists do and it is wrong. The best way to respond to bad speech is with better speech, not censorship.

Furthermore, you need to respond to accusations of racism with questions rather than assertions. Here are the three questions you need to ask. William Wilbanks, author of *The Myth of a Racist Criminal Justice System*, inspired the first two questions. Greg Koukl, author of the book *Tactics*, inspired the third:

1. What do you mean by racism? First of all, you need to realize that academic leftists rarely understand the terms they are using when they attack conservatives. Racism is a specific belief that races can be ranked according to genetically inherited characteristics. For example, when a white supremacist takes a racist view of blacks he is really saying that they are genetically inferior. This genetic inferiority allegedly manifests itself in lower intelligence, which, in turn, translates into other undesirable characteristics such as sloth and a propensity toward crime.

If the professor cannot supply the correct definition of racism after he has used the term then he makes a complete fool of himself. If he can supply the correct definition, this leads to an even bigger problem, which we will explore with the second question.

2. How does racism apply to the situation at hand? If the professor does happen to know the real definition of racism then he’s in quite a pickle here. You can ask the professor “How exactly does the assertion that ‘all lives matter’ (read: all lives have equal value) translate into the notion that certain categories of people are genetically inferior to other categories of people?”

3. Have you ever considered the following? After showing that the professor doesn't know the meaning of the words he is using and has no evidence to support his position his credibility is decimated. Now it is time to move in for the kill.

There are a lot of options here. For example, one could simply ask, "Have you ever considered that the statement 'all lives matter' is fundamentally anti-racist?" Asking, "Are you at all concerned that by opposing an anti-racist statement you align yourself with the true racists" would be a good follow-up question from which the professor could never recover.

In academia today, it is becoming increasingly difficult to distinguish the mentors from the protégés. Fortunately, exposing these incompetent professors is never more than a few well-placed questions away.

[HYPERLINK

"FILE:///PRIVATE/VAR/FOLDERS/4F/BF_HHV1S2G70KYTGMC2RWCJ00000GN/T/COM.MICROSOFT.OUTLOOK/OUTLOOK%20TEMP/EXECUTIVE%20ORDER%20ON%20COMBATING%20RACE%20AND%20SEX%20STEREOTYPING%20%7C%20THE%20WHITE%20HOUSE.HTML"]

EXECUTIVE ORDERS

Executive Order on Combating Race and Sex Stereotyping

[HYPERLINK "<https://www.whitehouse.gov/issues/law-justice/>"]

Issued on: September 22, 2020

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Federal Property and Administrative Services Act, 40 U.S.C. 101 et seq., and in order to promote economy and efficiency in Federal contracting, to promote unity in the Federal workforce, and to combat offensive and anti-American race and sex stereotyping and scapegoating, it is hereby ordered as follows:

Section 1. Purpose. From the battlefield of Gettysburg to the bus boycott in Montgomery and the Selma-to-Montgomery marches, heroic Americans have valiantly risked their lives to ensure that their children would grow up in a Nation living out its creed, expressed in the Declaration of Independence: “We hold these truths to be self-evident, that all men are created equal.” It was this belief in the inherent equality of every individual that inspired the Founding generation to risk their lives, their fortunes, and their sacred honor to establish a new Nation, unique among the countries of the world. President Abraham Lincoln understood that this belief is “the electric cord” that “links the hearts of patriotic and liberty-loving” people, no matter their race or country of origin. It is the belief that inspired the heroic black soldiers of the 54th Massachusetts Infantry Regiment to defend that same Union at great cost in the Civil War. And it is what inspired Dr. Martin Luther King, Jr., to dream that his children would one day “not be judged by the color of their skin but by the content of their character.”

Thanks to the courage and sacrifice of our forebears, America has made significant progress toward realization of our national creed, particularly in the 57 years since Dr. King shared his dream with the country.

Today, however, many people are pushing a different vision of America that is grounded in hierarchies based on collective social and political identities rather than in the inherent and equal dignity of every person as an individual. This ideology is rooted in the pernicious and false belief that America is an irredeemably racist and sexist country; that some people, simply on account of their race or sex, are oppressors; and that racial and sexual identities are more important than our common status as human beings and Americans.

This destructive ideology is grounded in misrepresentations of our country's history and its role in the world. Although presented as new and revolutionary, they resurrect the discredited notions of the nineteenth century's apologists for slavery who, like President Lincoln's rival Stephen A. Douglas, maintained that our government "was made on the white basis" "by white men, for the benefit of white men." Our Founding documents rejected these racialized views of America, which were soundly defeated on the blood-stained battlefields of the Civil War. Yet they are now being repackaged and sold as cutting-edge insights. They are designed to divide us and to prevent us from uniting as one people in pursuit of one common destiny for our great country.

Unfortunately, this malign ideology is now migrating from the fringes of American society and threatens to infect core institutions of our country. Instructors and materials teaching that men and members of certain races, as well as our most venerable institutions, are inherently sexist and racist are appearing in workplace diversity trainings across the country, even in components of the Federal Government and among Federal contractors. For example, the Department of the Treasury recently held a seminar that promoted arguments that "virtually all White people, regardless of how 'woke' they are, contribute to racism," and that instructed small group leaders to encourage employees to avoid "narratives" that Americans should "be more color-blind" or "let people's skills and personalities be what differentiates them."

Training materials from Argonne National Laboratories, a Federal entity, stated that racism "is interwoven into every fabric of America" and described statements like "color blindness" and the "meritocracy" as "actions of bias."

Materials from Sandia National Laboratories, also a Federal entity, for non-minority males stated that an emphasis on "rationality over emotionality" was a characteristic of "white male[s]," and asked those present to "acknowledge" their "privilege" to each other.

A Smithsonian Institution museum graphic recently claimed that concepts like "[o]bjective, rational linear thinking," "[h]ard work" being "the key to success," the "nuclear family," and belief in a single god are not values that unite Americans of all races but are instead "aspects and assumptions of whiteness." The museum also stated that "[f]acing your whiteness is hard and can result in feelings of guilt, sadness, confusion, defensiveness, or fear."

All of this is contrary to the fundamental premises underpinning our Republic: that all individuals are created equal and should be allowed an equal opportunity under the law to pursue happiness and prosper based on individual merit.

Executive departments and agencies (agencies), our Uniformed Services, Federal contractors, and Federal grant recipients should, of course, continue to foster environments devoid of hostility grounded in race, sex, and other federally protected characteristics. Training employees to create an inclusive workplace is appropriate and beneficial. The Federal Government is, and must always be, committed to the fair and equal treatment of all individuals before the law.

But training like that discussed above perpetuates racial stereotypes and division and can use subtle coercive pressure to ensure conformity of viewpoint. Such ideas may be fashionable in the academy, but they have no place in programs and activities supported by Federal taxpayer dollars. Research also suggests that blame-focused diversity training reinforces biases and decreases opportunities for minorities.

Our Federal civil service system is based on merit principles. These principles, codified at 5 U.S.C. 2301, call for all employees to “receive fair and equitable treatment in all aspects of personnel management without regard to” race or sex “and with proper regard for their . . . constitutional rights.” Instructing Federal employees that treating individuals on the basis of individual merit is racist or sexist directly undermines our Merit System Principles and impairs the efficiency of the Federal service. Similarly, our Uniformed Services should not teach our heroic men and women in uniform the lie that the country for which they are willing to die is fundamentally racist. Such teachings could directly threaten the cohesion and effectiveness of our Uniformed Services.

Such activities also promote division and inefficiency when carried out by Federal contractors. The Federal Government has long prohibited Federal contractors from engaging in race or sex discrimination and required contractors to take affirmative action to ensure that such discrimination does not occur. The participation of contractors’ employees in training that promotes race or sex stereotyping or scapegoating similarly undermines efficiency in Federal contracting. Such requirements promote divisiveness in the workplace and distract from the pursuit of excellence and collaborative achievements in public administration.

Therefore, it shall be the policy of the United States not to promote race or sex stereotyping or scapegoating in the Federal workforce or in the Uniformed Services, and not to allow grant funds to be used for these purposes. In addition, Federal contractors will not be permitted to inculcate such views in their employees.

Sec. 2. Definitions. For the purposes of this order, the phrase:

(a) “Divisive concepts” means the concepts that (1) one race or sex is inherently superior to another race or sex; (2) the United States is fundamentally racist or sexist; (3) an individual, by virtue of his or her race or sex, is inherently racist, sexist, or oppressive, whether consciously or unconsciously; (4) an individual should be discriminated against or receive adverse treatment solely or partly because of his or her race or sex; (5) members of one race or sex cannot and should not attempt to treat others without respect to race or sex; (6) an individual’s moral character is necessarily determined by his or her race or sex; (7) an individual, by virtue of his or her race or sex, bears responsibility for actions committed in the past by other members of the same race or sex; (8) any individual should feel discomfort, guilt, anguish, or any other form of psychological distress on account of his or her race or sex; or (9) meritocracy or traits such as a hard work ethic are racist or sexist, or were created by a particular race to oppress another race. The term “divisive concepts” also includes any other form of race or sex stereotyping or any other form of race or sex scapegoating.

(b) “Race or sex stereotyping” means ascribing character traits, values, moral and ethical codes, privileges, status, or beliefs to a race or sex, or to an individual because of his or her race or sex.

(c) “Race or sex scapegoating” means assigning fault, blame, or bias to a race or sex, or to members of a race or sex because of their race or sex. It similarly encompasses any claim that, consciously or unconsciously, and by virtue of his or her race or sex, members of any race are inherently racist or are inherently inclined to oppress others, or that members of a sex are inherently sexist or inclined to oppress others.

(d) “Senior political appointee” means an individual appointed by the President, or a non-career member of the Senior Executive Service (or agency-equivalent system).

Sec. 3. Requirements for the United States Uniformed Services. The United States Uniformed Services, including the United States Armed Forces, shall not teach, instruct, or train any member of the United States Uniformed Services, whether serving on active duty, serving on reserve duty, attending a military service academy, or attending courses conducted by a military department pursuant to a Reserve Officer Corps Training program, to believe any of the divisive concepts set forth in section 2(a) of this order. No member of the United States Uniformed Services shall face any penalty or discrimination on account of his or her refusal to support, believe, endorse, embrace, confess, act upon, or otherwise assent to these concepts.

Sec. 4. Requirements for Government Contractors. (a) Except in contracts exempted in the manner provided by section 204 of Executive Order 11246 of September 24, 1965 (Equal Employment Opportunity), as amended, all Government contracting agencies shall include in every Government contract hereafter entered into the following provisions:

“During the performance of this contract, the contractor agrees as follows:

1. The contractor shall not use any workplace training that inculcates in its employees any form of race or sex stereotyping or any form of race or sex scapegoating, including the concepts that (a) one race or sex is inherently superior to another race or sex; (b) an individual, by virtue of his or her race or sex, is inherently racist, sexist, or oppressive, whether consciously or unconsciously; (c) an individual should be discriminated against or receive adverse treatment solely or partly because of his or her race or sex; (d) members of one race or sex cannot and should not attempt to treat others without respect to race or sex; (e) an individual’s moral character is necessarily determined by his or her race or sex; (f) an individual, by virtue of his or her race or sex, bears responsibility for actions committed in the past by other members of the same race or sex; (g) any individual should feel discomfort, guilt, anguish, or any other form of psychological distress on account of his or her race or sex; or (h) meritocracy or traits such as a hard work ethic are racist or sexist, or were created by a particular race to oppress another race. The term “race or sex stereotyping” means ascribing character traits, values, moral and ethical codes, privileges, status, or beliefs to a race or sex, or to an individual because of his or her race or sex, and the term “race or sex scapegoating” means assigning fault, blame, or bias to a race or sex, or to members of a race or sex because of their race or sex.

2. The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers’ representative of the contractor’s commitments under the Executive Order of September 22, 2020, entitled Combating Race and Sex Stereotyping, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

3. In the event of the contractor’s noncompliance with the requirements of paragraphs (1), (2), and (4), or with any rules, regulations, or orders that may be promulgated in accordance with the Executive Order of September 22, 2020, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246, and such other sanctions may be imposed and remedies invoked as provided by any rules, regulations, or orders the Secretary of Labor has issued or adopted pursuant to Executive Order 11246, including subpart D of that order.

4. The contractor will include the provisions of paragraphs (1) through (4) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a

result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States.”

(b) The Department of Labor is directed, through the Office of Federal Contract Compliance Programs (OFCCP), to establish a hotline and investigate complaints received under both this order as well as Executive Order 11246 alleging that a Federal contractor is utilizing such training programs in violation of the contractor’s obligations under those orders. The Department shall take appropriate enforcement action and provide remedial relief, as appropriate.

(c) Within 30 days of the date of this order, the Director of OFCCP shall publish in the Federal Register a request for information seeking information from Federal contractors, Federal subcontractors, and employees of Federal contractors and subcontractors regarding the training, workshops, or similar programming provided to employees. The request for information should request copies of any training, workshop, or similar programming having to do with diversity and inclusion as well as information about the duration, frequency, and expense of such activities.

Sec. 5. Requirements for Federal Grants. The heads of all agencies shall review their respective grant programs and identify programs for which the agency may, as a condition of receiving such a grant, require the recipient to certify that it will not use Federal funds to promote the concepts that (a) one race or sex is inherently superior to another race or sex; (b) an individual, by virtue of his or her race or sex, is inherently racist, sexist, or oppressive, whether consciously or unconsciously; (c) an individual should be discriminated against or receive adverse treatment solely or partly because of his or her race or sex; (d) members of one race or sex cannot and should not attempt to treat others without respect to race or sex; (e) an individual’s moral character is necessarily determined by his or her race or sex; (f) an individual, by virtue of his or her race or sex, bears responsibility for actions committed in the past by other members of the same race or sex; (g) any individual should feel discomfort, guilt, anguish, or any other form of psychological distress on account of his or her race or sex; or (h) meritocracy or traits such as a hard work ethic are racist or sexist, or were created by a particular race to oppress another race. Within 60 days of the date of this order, the heads of agencies shall each submit a report to the Director of the Office of Management and Budget (OMB) that lists all grant programs so identified.

Sec. 6. Requirements for Agencies. (a) The fair and equal treatment of individuals is an inviolable principle that must be maintained in the Federal workplace. Agencies should continue all training that will foster a workplace that is respectful of all employees. Accordingly:

(i) The head of each agency shall use his or her authority under 5 U.S.C. 301, 302, and 4103 to ensure that the agency, agency employees while on duty status, and any contractors

hired by the agency to provide training, workshops, forums, or similar programming (for purposes of this section, “training”) to agency employees do not teach, advocate, act upon, or promote in any training to agency employees any of the divisive concepts listed in section 2(a) of this order. Agencies may consult with the Office of Personnel Management (OPM), pursuant to 5 U.S.C. 4116, in carrying out this provision; and

(ii) Agency diversity and inclusion efforts shall, first and foremost, encourage agency employees not to judge each other by their color, race, ethnicity, sex, or any other characteristic protected by Federal law.

(b) The Director of OPM shall propose regulations providing that agency officials with supervisory authority over a supervisor or an employee with responsibility for promoting diversity and inclusion, if such supervisor or employee either authorizes or approves training that promotes the divisive concepts set forth in section 2(a) of this order, shall take appropriate steps to pursue a performance-based adverse action proceeding against such supervisor or employee under chapter 43 or 75 of title 5, United States Code.

(c) Each agency head shall:

(i) issue an order incorporating the requirements of this order into agency operations, including by making compliance with this order a provision in all agency contracts for diversity training;

(ii) request that the agency inspector general thoroughly review and assess by the end of the calendar year, and not less than annually thereafter, agency compliance with the requirements of this order in the form of a report submitted to OMB; and

(iii) assign at least one senior political appointee responsibility for ensuring compliance with the requirements of this order.

Sec. 7. OMB and OPM Review of Agency Training. (a) Consistent with OPM’s authority under 5 U.S.C. 4115-4118, all training programs for agency employees relating to diversity or inclusion shall, before being used, be reviewed by OPM for compliance with the requirements of section 6 of this order.

(b) If a contractor provides a training for agency employees relating to diversity or inclusion that teaches, advocates, or promotes the divisive concepts set forth in section 2(a) of this order, and such action is in violation of the applicable contract, the agency that contracted for such training shall evaluate whether to pursue debarment of that contractor, consistent with applicable law and regulations, and in consultation with the Interagency Suspension and Debarment Committee.

(c) Within 90 days of the date of this order, each agency shall report to OMB all spending in Fiscal Year 2020 on Federal employee training programs relating to diversity or inclusion, whether conducted internally or by contractors. Such report shall, in addition to providing aggregate totals, delineate awards to each individual contractor.

(d) The Directors of OMB and OPM may jointly issue guidance and directives pertaining to agency obligations under, and ensuring compliance with, this order.

Sec. 8. Title VII Guidance. The Attorney General should continue to assess the extent to which workplace training that teaches the divisive concepts set forth in section 2(a) of this order may contribute to a hostile work environment and give rise to potential liability under Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e et seq. If appropriate, the Attorney General and the Equal Employment Opportunity Commission shall issue publicly available guidance to assist employers in better promoting diversity and inclusive workplaces consistent with Title VII.

Sec. 9. Effective Date. This order is effective immediately, except that the requirements of section 4 of this order shall apply to contracts entered into 60 days after the date of this order.

Sec. 10. General Provisions. (a) This order does not prevent agencies, the United States Uniformed Services, or contractors from promoting racial, cultural, or ethnic diversity or inclusiveness, provided such efforts are consistent with the requirements of this order.

(b) Nothing in this order shall be construed to prohibit discussing, as part of a larger course of academic instruction, the divisive concepts listed in section 2(a) of this order in an objective manner and without endorsement.

(c) If any provision of this order, or the application of any provision to any person or circumstance, is held to be invalid, the remainder of this order and the application of its provisions to any other persons or circumstances shall not be affected thereby.

(d) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department, agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(e) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(f) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

DONALD J. TRUMP

THE WHITE HOUSE,
September 22, 2020.

[HYPERLINK "<https://www.whitehouse.gov>"]

[[HYPERLINK "https://thoughteconomics.com/james-lindsay/"](https://thoughteconomics.com/james-lindsay/)]

On Critical Theory: A Conversation with Dr. James Lindsay, Co-Founder of New Discourses.

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[[HYPERLINK "https://newdiscourses.com/tftw-critical-theory/"](https://newdiscourses.com/tftw-critical-theory/)] have a *distinctive* aim amongst the methods by which we evaluate our society. They ostensibly wish to unmask the justifications for some form(s) of social or economic oppressions as being *ideology* and thus contribute to the *ending* of that oppression. The noble aim of critical theory therefore is to provide enlightenment about social and economic life that leads to *emancipation* – firstly by giving oppressed people the tools to understand that oppression, and secondly by giving a mechanism for activism to free those people.

As noted [[HYPERLINK "https://newdiscourses.com/"](https://newdiscourses.com/)], “*The term “Critical Theory” commonly causes confusion because it can refer to the Frankfurt School of Marxist critics, including György Lukács, Max Horkheimer, Theodor Adorno, and Herbert Marcuse (see also, neo-Marxism and New Left), or it can refer to the use of other similar—but distinct—*[[HYPERLINK "https://newdiscourses.com/tftw-critical/"](https://newdiscourses.com/tftw-critical/)] *social theories, such as those that have their roots in postmodernism, such as postcolonial Theory, [[HYPERLINK "https://newdiscourses.com/tftw-queer-theory/"](https://newdiscourses.com/tftw-queer-theory/)], [[HYPERLINK "https://newdiscourses.com/tftw-critical-race-theory/"](https://newdiscourses.com/tftw-critical-race-theory/)], [[HYPERLINK "https://newdiscourses.com/tftw-intersectionality/"](https://newdiscourses.com/tftw-intersectionality/)] *feminism, [[HYPERLINK "https://newdiscourses.com/tftw-disability-studies/"](https://newdiscourses.com/tftw-disability-studies/)], and [[HYPERLINK "https://newdiscourses.com/tftw-fat-studies/"](https://newdiscourses.com/tftw-fat-studies/)] (see also, [[HYPERLINK "https://newdiscourses.com/tftw-theory/"](https://newdiscourses.com/tftw-theory/)] and post-Marxism). Sometimes this confusion is expressed disingenuously by academics who dislike criticism of critical theories, and sometimes it is expressed sincerely by those whose fields of philosophy have not kept up with the fast development of [[HYPERLINK "https://newdiscourses.com/tftw-social-justice/"](https://newdiscourses.com/tftw-social-justice/)] scholarship. The focus on identity, [[HYPERLINK "https://newdiscourses.com/tftw-lived-experience/"](https://newdiscourses.com/tftw-lived-experience/)], and activism, rather than an attempt to find [[HYPERLINK "https://newdiscourses.com/tftw-truth/"](https://newdiscourses.com/tftw-truth/)], leads to conflict with empirical scholars and undermines public confidence in the worth of scholarship that uses this approach. Because critical theories nearly always begin with their conclusion—their own assumptions about power dynamics in society, how those are problematic, and the need for their disruption or dismantling—and then seeks to find ways to**

read them into various aspects of society (see discourse analysis and close reading), the body of scholarship that has been growing for the last fifty years has become a towering and impressive mountain with very insecure foundations.”

[[HYPERLINK "https://twitter.com/ConceptualJames"](https://twitter.com/ConceptualJames)] is an American-born author, mathematician, and political commentator. He has written six books spanning a range of subjects including religion, the philosophy of science and postmodern theory. He is the co-founder of New Discourses and has published essays in The Wall Street Journal, Los Angeles Times and Time. [[HYPERLINK "https://newdiscourses.com/books/"](https://newdiscourses.com/books/)] and [[HYPERLINK "https://newdiscourses.com/books/"](https://newdiscourses.com/books/)] have provided essential guidance to millions on how to navigate this new world of activism and in this exclusive interview, I spoke to James about how critical theories are shaping our world, the consequences, and how we can build a more resilient society.

Q: How did critical theories come to social and cultural prominence?

[James Lindsay]: The civil rights movement in the United States caused a dramatic shift in public consciousness as many white liberals were realizing that white supremacy had come to an end, and that they had been on the side of ‘evil.’ This created a movement of *white guilt*. Guilt can be manipulated, and critical ideologies are particularly good at picking those rhetorical scabs and cherry-picking history to find convincing narratives that show how the horrors of the past are defining features of history, and that the people who perpetrated those horrors did so cynically, to benefit themselves and their descendants, or their race, or gender, and so on.

Critical narratives are centered on the idea of *moral complicity* in these evils and use very sophisticated rhetorical ways to get people to feel that guilt and to *believe* in their complicity. They use very obscure language that involves a lot of double-meaning and multiple-meaning to words so that people it confronts (*particularly academics*) feel stupid thinking ‘*oh wow, I didn’t realise there was a more profound definition of racism that I’d never considered...*’ They make *you* feel like the uninformed one, and that makes you far more open to believing that you might have missed something. Those who are liberal, or more left leaning, are particularly susceptible- they are usually academic, or college educated and the idea therefore that there was some important point that they overlooked, or missed, is actually rhetorically immensely powerful. By keeping people feeling they are on the wrong side of history morally, or on the wrong side of the argument intellectually, and by doing so using rhetorical tricks, they are very effective at keeping people on the defensive and getting them to be more open minded to critical ideas than – perhaps – they should otherwise be.

Liberalism as an overarching societal philosophy, or political philosophy, has tended to be operated by people who are a bit too arrogant, and a bit too slow to be willing to listen. That unwillingness to listen is heard in the rhetoric as people say ‘*we don’t feel heard...*’ or ‘*...our voices have been marginalized*’ or ‘*we’ve been excluded...*’ It isn’t liberalism as an ideology at fault, but rather the guardians of liberalism who have been too arrogant and too sure of things

like human rationality. Liberalism also came to adopt its own style of speaking and *being*, and when you start to look at the intersections of identity and poverty (for example), it's clear that 'playing the game' is much more difficult for certain people. If there is a cultural predilection to speak a certain way, dress a certain way, or project certain things – and you show up and don't conform to that- you don't get taken as seriously as you probably deserve.

Q: Who benefits from critical theory?

[James Lindsay]: Critical theories give proposed solutions to legitimate problems that could not possibly be more open to manipulation and grift. The manipulators and grifters have filled the vacuum to the point where they're only ones who can benefit. You could say, '*oh well, critical race theory is about trying to help black people...*' but then *the second* a black person disagrees with the smallest thing? They're out... they're cancelled... their voice isn't 'authentic'... you're an 'uncle tom'....

The trainers, the book-writers, the theorists, the activists.... They are earning and benefitting out of the situation at almost everybody's expense. I don't want to accuse all of the trainers of being manipulators and grifters of course, but there are enough where it makes the *system* horrible.

Q: Is there a connection between the growth of critical theory, and the secularization of society?

[James Lindsay]: The diminishment of religious hegemony was inevitable once the enlightenment began. We weren't going to believe in God for a whole lot longer – and *even today* you still see these very vigorous bastions of resistance, especially in the United States, to Darwin's Theory of Evolution *specifically because* evolution throws a monkey wrench firmly into the Augustinian framework under which most of Christianity operates.

There is certainly a vacuum, but it would be wrong to not point out that belief systems like humanism have sort-of filled the vacuum of 'obedience to God' while social sciences and psychology have stepped-in to fill that void of what would have been [[HYPERLINK "https://en.wikipedia.org/wiki/Theology"](https://en.wikipedia.org/wiki/Theology)] "text=Theology%20is%20the%20systematic%20study,typically%20in%20universities%20and%20seminaries."], [[HYPERLINK "https://en.wikipedia.org/wiki/Soteriology"](https://en.wikipedia.org/wiki/Soteriology)] and all these other aspects within theological thought. We now have religion based not on theology but on sociology. In principle, that's not a bad thing, but when your sociology has decided that the point of studying society is to change it (*which was Marx's dictum*), you've got a problem.

You have this very activist sociology rather than a dispassionate or objective sociology informing a broadly humanist framework of caring about flourishing versus suffering. You can see the pathologies around suffering- a perversion of the nurturing mother archetype beneath all

of this. You can see how the gap was filled-in, but I think it's *incorrect* to put causation (*that religion went away, and this came in as a result*). It's pretty clear that religion was going anyway, and then- because sociology is perceived mostly (or partly) as being wholly secular and non-theological, nobody was ready to understand it – and now we have a 'new' religion that's just out of control. I phrased it recently in an essay, that there's nothing that tames this religion yet, which is what you see happening in theocracies, that they tend to set up things like inquisitions or fatwas depending on how it goes.

Q: How has technology amplified critical narratives, and what are the consequences?

[James Lindsay]: Technology presents a difficulty for our world right now. Everyone is simultaneously an individual who can have a conversation, and a broadcaster. So we're getting on social media and training ourselves to think in broadcast mode, but then we go out in public and get our wires crossed. People act in broadcast mode, imagining they're on stage (*made worse by cameras*). I don't know how many of these 'viral' incidents spiralled out of control *because* there were cameras present... that's not to say we need less transparency of course; I think police body cameras (for example) are very helpful to sort out lots of ugly problems that emerge through the gift of authority and the monopoly of power we give police. You *need* that kind of accountability. When it's possible to sit down- especially one on one, or in a small group of people to talk through issues, there is a possibility of having productive conversations that can moderate the extreme perspectives we are seeing or give alternate ways of viewing situations.

The internet has a natural pressure to bubble us up and vulcanise society, it makes it less comfortable for us to be around people who think differently, and more comfortable to be around people who think the same as us. The internet is a bit like another planet we're colonising, setting up countries around similar beliefs. It is similar (in some ways) to the warring states period of China, or Europe pre-WW2. We have to *intentionally* start to cultivate bubble-popping endeavours that get people together to work out their differences and find common ground. The technologies of the internet and social media are bent towards vulcanisation, and it will require an intentional effort to bring out the opposite.

Perhaps we need some kind of bill or constitution around this. A bill of rights for internet behaviour which could be self-enforced initially but most likely would need to be legislated to give it some enforceability. Just like we've seen many other cyber-crimes become illegal, cancel culture and these various other forms of more dangerous activism could be legislated the same way.

Q: How can we prevent critical narratives from overwhelming us?

[James Lindsay]: We have a very parasitic ideology; it operates like a virus. To stop a virus, you have to understand how it attaches to cells... you have to create an immune response via a vaccine... or by having the disease and *fighting* it.

We have to understand where our weak spots are. What are those receptor sites where critical ideas have the ability to attach to the liberal body politic before perverting and changing the machinery inside such that the institution under attack now produces more critical theorists rather than saying, '*we know what this is, we're not going to allow it to attack us...*'

We have to work to re-establish moral authority, liberal principles, equality, individualism and meritocracy, hedging us toward objectivity knowing that these concepts are all limited and imperfect. Learning *civics* is an important part of this; it teaches us how these same rhetorical manipulations, definitional manipulations and techniques have been employed before, and what the consequences are.

We are seeing this play out first-hand in our world with angry twitter mobs- cancel culture (*the ultimate form of which is to try and kill people or destroy their business and lives*). We know how to empower our law enforcement, but what we *don't* do is put moral authority back behind law and order, the net result is that law and order become a scary, fascist, fist. We have to thread this needle extremely carefully, it's valuable and important.

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Thought Economics

About the Author

Vikas S. Shah MBE is an award winning entrepreneur, strategist and educator who has built businesses in diverse sectors around the world for almost 20 years. He is also a consultant and advisor to numerous entrepreneurs, business and organisations globally.

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What Is Critical Race Theory?

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I've been asked a million times for a short introduction to Critical Race Theory that hits the high points in a quick, straightforward way. Most people will have heard of Critical Race Theory by now, but in case you haven't, it's a particular way of thinking about race and racism that developed first at Harvard Law School from the late 1970s through the early 1990s. Its stated objective is to question whether the Civil Rights Movement and Civil Rights Acts legislation improved the racial situation in Western nations, especially the United States. Its true objective is

to re-organize the social, cultural, and legal playing field in a way that claims to reverse “historical injustices” around the issue of race, allegedly without reproducing them.

To keep this short and simple, I’ll provide you with two quotes from the book [[HYPERLINK "https://amzn.to/3nZDAyG" \t "_blank" \]](https://amzn.to/3nZDAyG) (third edition) by Critical Race Theorists Richard Delgado and Jean Stefancic. These quotes summarize everything that Critical Race Theory is really about in its own words.

First, Critical Race Theory views race and racism this way: race is a political construction that was invented by white people to give themselves power while excluding all other races from it, and racism is the ordinary state of affairs in society, present in all interactions, institutions, and phenomena, and effectively permanent in society (short of a full sociocultural revolution that puts them in charge). That is, Critical Race Theory assumes that racism is present in everything under a doctrine known as “[[HYPERLINK "https://newdiscourses.com/2020/07/nobody-systemically-racist/" \]](https://newdiscourses.com/2020/07/nobody-systemically-racist/).” Quoting from Delgado and Stefancic,

What do critical race theorists believe? Probably not every member would subscribe to every tenet set out in this book, but many would agree on the following propositions. First, that racism is ordinary, not aberrational—“normal science,” the usual way society does business, the common, everyday experience of most people of color in this country. Second, most would agree that our system of white-over-color ascendancy serves important purposes, both psychic and material. The first feature, ordinariness, means that racism is difficult to cure or address. ... The second feature, sometimes called “interest convergence” or material determinism, adds a further dimension. Because racism advances the interests of both white elites (materially) and working-class people (psychically), large segments of society have little incentive to eradicate it.

As you can see, Critical Race Theorists believe that people who they claim benefit from “systemic racism,” which they declare to be the ordinary state of affairs in society, want to maintain it, which is why Critical Race Theorists say virtually everyone is racist. People who are especially skilled at finding the “systemic racism” in everything are called “Critical Race Theorists.” They proceed according to a simplified version of this first assumption of Critical Race Theory, which can be expressed in the words of Robin DiAngelo this way: “The question is not ‘Did racism take place?’ but ‘How did racism manifest in that situation?’” That is, they assume racism is present in everything and look for it “critically” until they find it. Importantly, this is assessed subjectively according to the “lived experience” of racism and does not depend upon there being any evidence of racism.

Second, Critical Race Theory does not continue the legacy of the Civil Rights Movement, as many incorrectly believe. It is against liberalism and the liberal order upon which Western societies are founded, and it rejects both equality and neutral principles of constitutional law (these were the backbone of both the abolitionist movement that ended slavery and the Civil Rights Movement). It also rejects legal reasoning and Enlightenment rationalism. This makes Critical Race Theory unreasonable, illiberal, against equality, and anti-American, by definition.

The critical race theory (CRT) movement is a collection of activists and scholars engaged in studying and transforming the relationship among race, racism, and power. The movement considers many of the same issues that conventional civil rights and ethnic studies discourses take up but places them in a broader perspective that includes economics, history, setting, group and self-interest, and emotions and the unconscious. Unlike traditional civil rights discourse, which stresses incrementalism and step-by-step progress, critical race theory questions the very foundations of the liberal order, including equality theory, legal reasoning, Enlightenment rationalism, and neutral principles of constitutional law.

Critical Race Theory believes these bedrock liberal principles upon which free societies are built are ways that discrimination can be hidden and maintained rather than overcome. As stated by Özlem Sensoy and Robin DiAngelo in their Critical Theory education manual [[HYPERLINK "https://amzn.to/3hxJBA7" \t "_blank" \]](https://amzn.to/3hxJBA7),

[Critical] movements initially advocated for a type of liberal humanism (individualism, freedom, and peace) but quickly turned to a rejection of liberal humanism. The ideal of individual autonomy that underlies liberal humanism (the idea that people are free to make independent rational decisions that determine their own fate) was viewed as a mechanism for keeping the marginalized in their place by obscuring larger structural systems of inequality. In other words, it fooled people into believing that they had more freedom and choice than societal structures actually allow.

As you can see, Critical Race Theory presents a radically different view of our society and of *us* than most of us recognize or accept. They begin with the assumption of racism and look to find it. They say everyone who doesn't do this is complicit in the problem, including just for disagreeing with Critical Race Theory. And they reject the fundamental liberal, reasonable, legal, and scientific principles upon which liberal societies operate. That is, even though they touch on real truths about race and racism in our world, they are radicals in every sense of the word, and there's almost no reason to believe they describe reality as it is and much reason to believe they get the issue almost exactly backwards.

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An American-born author, mathematician, and political commentator, Dr. James Lindsay has written six books spanning a range of subjects including religion, the philosophy of science and postmodern theory. He is the founder of New Discourses and currently promoting his new book "Cynical Theories: How Activist Scholarship Made Everything about Race, Gender, and Identity—and Why This Harms Everybody."

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Wokeness Threatens the Rule of Law

NOVEMBER 18, 2020 JAMES LINDSAY

Here are two important ideas that currently exist in fundamental opposition to one another: “Reasonableness” and “Wokeness.”

In advanced legal systems, we depend upon the concept of “reasonableness” and specifically a standard known as the “reasonable-person standard.” This simply asks: what would be reasonable in, or what would a reasonable person make of, a given situation?

On the other hand, the “applied postmodern” ideologies that we refer to as “Wokeness” or “Critical Social Justice Theory” posit a concept of radical subjectivism and socialization into

power-laden biases. In this worldview, there is no such thing as a “reasonable person,” and nothing can be considered “reasonable,” because the very application of “reason” is a mere application of whatever is accepted by the dominant power structure at hand. No one is reasonable because everyone is biased; there are only people who speak into dominant discourses or who resist them.

These ideas are wholly incompatible with one another. It is not possible to rely upon a standard of reasonableness or to defer to a hypothetical reasonable person if no such thing is believed to exist. Even worse, the reasonableness principle is wholly undermined by the further notion that any semblance of or consensus about what is reasonable is an application of the very sort of oppressive politics that our laws and courts in free countries are supposed to guard their citizens against. As these “critical constructivist” ideas, as they’re formally known, rise in prominence in our culture, they therefore present a significant threat to the very rule of law that makes liberal societies like ours possible — to say nothing of securing equal rights for all citizens.

It should be enough, then, to point out merely that the Woke ideology is both gaining significant amounts of power on nearly all levels — social, cultural, institutional, and legal — and is wholly inimical to the legal foundations of a free, liberal society filled with citizens who are equal under and before the law. In fact, just pointing this out should constitute an emergency for all classically and traditionally liberal-minded people, left, right, and center. The fact of the problem, however, raises an even darker specter that needs to be reckoned with as well: what would the Woke replace reasonableness and the reasonable-person standard with, if they gained enough means to do so?

The answer, as it always is with the Woke, is power that suits them and disenfranchises those who disagree with them. In place of reason, we would be given Critical Theories, mostly of identity, and our legal structure would have to be reorganized around these new principles. Their focus would be systems of power, as the Critical Theories of Identity, like Critical Race Theory (recently banned from the federal government by a Trump executive order, for all the right reasons), have identified them. They would begin with assumptions like that our system is white supremacist, heteronormative and homophobic, patriarchal, cisnormative and transphobic, and so on. Our entire legal landscape would be reinterpreted under the assumptions that these unjust applications of systemic power are permanent so long as the system lasts, and therefore need constant redress.

These critical principles would redefine our legal system and thus our society not only in a way that regards equality as suspect, but also in a way that deems it an explicit tool of oppression. This is the mindset we encounter when we read Ibram X. Kendi, writing as he did in his bestselling book, [[HYPERLINK "https://amzn.to/2Z8hIY2" \t "_blank"](https://amzn.to/2Z8hIY2)], “The defining question is whether the discrimination is creating equity or inequity. If discrimination is creating equity, then it is antiracist. If discrimination is creating inequity, then it is racist.” It is also the mindset behind California’s Proposition 16, which seeks to remove anti-discrimination language from its state constitution.

These critical principles would also include the idea that the only people who make any sense are those who have a credible claim upon having experienced systemic oppression, again, as the Critical Theories of Identity have identified. In place of a “reasonable person,” then, the legal system would corrupt itself around the notion of the aggrieved person, where the only authentic expressions of grievance are those that match the outdated claims of Woke Critical Theorists.

Under these assumptions, our legal system will corrupt itself into an identity politics-based replica of the worst failures of history, those in which some ruling capital-P Party becomes the basis for the law and its standards. That is, these assumptions aren’t just wholly incompatible with the idea of a free and liberal society, they are the guarantor of its replacement by a totalitarian ideology and Party designed to be favored by it. In this case, that party is the Critical Theorists of Identity, and under its rule, the madness and naked caprice of this passing summer will be but a warm-up act that presages a completely new Iron Rule of Woke Law.

I don’t know about you, but I’m voting for reason and taking the side of anyone who still supports it.

This article was originally published at [HYPERLINK "<https://www.rocanews.com/blog-posts/wokeness-threatens-the-rule-of-law>" \t "_blank"].

60

1.

[[HYPERLINK "https://newdiscourses.com/2020/12/maintaining-expanding-ban-critical-race-theory/"](https://newdiscourses.com/2020/12/maintaining-expanding-ban-critical-race-theory/)]

Maintaining and Expanding the Ban on Critical Race Theory

- [[HYPERLINK "https://newdiscourses.com/2020/12/maintaining-expanding-ban-critical-race-theory/"](https://newdiscourses.com/2020/12/maintaining-expanding-ban-critical-race-theory/)]
- [[HYPERLINK "https://newdiscourses.com/author/jameslindsay/"](https://newdiscourses.com/author/jameslindsay/) \o "View all posts by James Lindsay"]



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[[HYPERLINK "https://www.facebook.com/sharer.php?u=https://newdiscourses.com/2020/12/maintaining-expanding-ban-critical-race-theory/"](https://www.facebook.com/sharer.php?u=https://newdiscourses.com/2020/12/maintaining-expanding-ban-critical-race-theory/) \t "_blank"]

[[HYPERLINK "https://twitter.com/share?&text=Maintaining%20and%20Expanding%20the%20Ban%20on%20Critical%20Race%20Theory&via=NewDiscourses&url=https://newdiscourses.com/2020/12/maintaining-expanding-ban-critical-race-theory/"](https://twitter.com/share?&text=Maintaining%20and%20Expanding%20the%20Ban%20on%20Critical%20Race%20Theory&via=NewDiscourses&url=https://newdiscourses.com/2020/12/maintaining-expanding-ban-critical-race-theory/) \t "_blank"]

It's virtually certain that a Biden administration will not maintain President Trump's executive order that was issued in response to using Critical Race Theory in employee training circumstances in federal agencies and contractors ("[[HYPERLINK "https://www.whitehouse.gov/presidential-actions/executive-order-combating-race-sex-stereotyping/" \]](https://www.whitehouse.gov/presidential-actions/executive-order-combating-race-sex-stereotyping/)"). I think that, if anything, can be assumed with very high confidence. There are a number of important points to make about this issue, then. I want to list four important points about the order, the ideas it contains, and the environment we find ourselves in around it.

These are:

1. it offers no protection at the state level (or local), which is needed;
2. it is incomplete in one important regard—neglecting other factors of identity besides race and sex;
3. we've been systematically misled, if not lied to, about it ever since it was issued; and
4. those who wish to overturn it—including university presidents, provosts, and departments, prominent journalists, and many Democratic politicians, plausibly to include Joe Biden and his administration relatively soon—must be held to account for this desire *in the terms of the executive order itself*, not in made-up terms that don't apply to the situation.

Awareness and action are required on all four of these domains.

State-Level Protection

Whether or not the Biden administration maintains this executive order or not, its protections apply only to federal-level agencies and contractors and therefore do not apply to state agencies and contractors. Indeed, I've been asked about this *repeatedly* since the order was issued in September 2020: "I work for the state of [say, California]; does President Trump's order apply for my job?" The answer is usually "no." This is an obvious problem.

Regardless of what is happening at the federal level, our state (and city) employees need the same protection that our federal employees gained from the order, which protects from being forced into workplace [[HYPERLINK "https://newdiscourses.com/2020/06/diversity-delusion/" \] that teach a number of "divisive concepts" \(discussed below\) and the attendant abuses we're all becoming familiar with as these \[\[HYPERLINK "https://hbr.org/2016/07/why-diversity-programs-fail/" \\] trainings have become standard throughout our society. Obviously, this protection is needed even more if Biden's administration overturns the order at the federal level, both to offer it *somewhere* and to create the kind of pressure that can make the federal government think a bit harder about its top-down manipulations of employees whose salaries are paid for by taxpayers who may have \\[\\[HYPERLINK "https://newdiscourses.com/2020/11/white-fragility-training-freedom-belief/" \\\] on the relevant issues.\\]\\(https://newdiscourses.com/2020/11/white-fragility-training-freedom-belief/\\)\]\(https://hbr.org/2016/07/why-diversity-programs-fail/\)](https://newdiscourses.com/2020/06/diversity-delusion/)

Our governors (obviously, mostly Republican) and state legislatures can make up for this pair of problems quite directly—as can our mayors and city councils. Governors can issue their own executive orders mirroring the original federal order, applicable at the state level, and state legislatures can do one better and make the contents of the orders into state law, thus protecting their citizens in an important way. I call upon them directly to do so *as soon as possible*. If they do, I also recommend they read at least the next section (below) to patch a hole in the existing federal order.

Filling a Hole

The relevant federal executive order is, as will be made clear below, something of a masterpiece in the way it is written, but it presents a significant hole (that I already know is proving troublesome for people who have to deal with the encroaching [[HYPERLINK "https://newdiscourses.com/tftw-critical-theory/"](https://newdiscourses.com/tftw-critical-theory/)] ideology): race and sex aren't the only dimensions of “[[HYPERLINK "https://newdiscourses.com/tftw-identity/"](https://newdiscourses.com/tftw-identity/)]” that the Critical Theory activists make use of. That list is quite exhaustive (and exhausting—the famous [[HYPERLINK "https://newdiscourses.com/tftw-queer-theory/"](https://newdiscourses.com/tftw-queer-theory/)] Judith Butler even referred to it as “that exasperated *et cetera*” that has to be added to every list of identity factors within the intersecting ideologies of [[HYPERLINK "https://newdiscourses.com/2020/02/naming-enemy-critical-social-justice/"](https://newdiscourses.com/2020/02/naming-enemy-critical-social-justice/)] [[HYPERLINK "https://newdiscourses.com/tftw-theory/"](https://newdiscourses.com/tftw-theory/)]), but at the very least, a properly patched order *must* include [[HYPERLINK "https://newdiscourses.com/tftw-gender/"](https://newdiscourses.com/tftw-gender/)], sexuality, and disability status in addition to race and sex.

My recommendation would be that any similar orders issued should tackle the issue of “factors of identity” in a way that covers a wider gamut of possible factors than just race and sex—at the least *explicitly* naming all of gender, sexuality, and disability status—as off-limits for discrimination, stereotyping, scapegoating, or otherwise applying what the executive order refers to as “divisive concepts” in the context of a mandated workplace training or educational setting that treats the ideas as [[HYPERLINK "https://www.independent.co.uk/news/uk/politics/kemi-badenoch-black-history-month-white-privilege-black-lives-matter-b1189547.html"](https://www.independent.co.uk/news/uk/politics/kemi-badenoch-black-history-month-white-privilege-black-lives-matter-b1189547.html)] (rather than the conclusions of a particular *theoretical* approach).

We've Been Lied To

Almost every [[HYPERLINK "https://www.nytimes.com/2020/10/13/us/politics/trump-diversity-training-race.html"](https://www.nytimes.com/2020/10/13/us/politics/trump-diversity-training-race.html)] [[HYPERLINK "https://www.npr.org/2020/10/30/929165869/agencies-contractors-suspend-diversity-training-to-avoid-violating-trump-order"](https://www.npr.org/2020/10/30/929165869/agencies-contractors-suspend-diversity-training-to-avoid-violating-trump-order)] or [[HYPERLINK "https://www.usatoday.com/story/money/2020/12/17/trump-diversity-training-ban-challenged-elizabeth-warren-democrats/3932786001/"](https://www.usatoday.com/story/money/2020/12/17/trump-diversity-training-ban-challenged-elizabeth-warren-democrats/3932786001/)] that has been made about the federal executive order has been misleading in at least one significant way, and the record needs to be set straight. We hear nearly ubiquitously that President Trump issued an executive order that

bans “[HYPERLINK "https://fortune.com/2020/10/29/trump-diversity-training-executive-order-lawsuit-naacp/"]” or “[HYPERLINK "https://www.npr.org/2020/09/22/915843471/trump-expands-ban-on-racial-sensitivity-training-to-federal-contractors"].” We [HYPERLINK "https://www.universityworldnews.com/post.php?story=20201017110633690"] from [HYPERLINK "https://news.berkeley.edu/story_jump/uc-deans-defend-racism-studies-against-attack-by-trump-administration/"] that President Trump banned the teaching of Critical Race Theory, which allegedly violates academic freedom, and significant challenges against the order have been [HYPERLINK "https://www.insidehighered.com/news/2020/10/07/colleges-cancel-diversity-programs-response-trump-order"] by a large number of universities and university departments consistent with this claim against it—many openly calling to defy the order (possibly legally, as will be clarified momentarily, making this a publicity stunt).

These statements aren’t just misleading; they’re flatly wrong—they’re *lies*, at least from anyone who actually bothered to read Section 10 of the order. Since that very pertinent section seems to have been missed, I’ll quote the two relevant subsections here:

Sec. 10. General Provisions. (a) **This order does not prevent** agencies, the United States Uniformed Services, or contractors **from promoting racial, cultural, or ethnic diversity or inclusiveness**, provided such efforts are consistent with the requirements of this order.

(b) **Nothing in this order shall be construed to prohibit discussing, as part of a larger course of academic instruction**, the divisive concepts listed in section 2(a) of this order **in an objective manner and without endorsement**. (emphasis added)

It is impossible to have read this section of the order and reached the conclusion that it prohibits or bans “diversity training” or “racial sensitivity training.” It only prohibits that subset of those trainings that rely upon the “divisive concepts” outlined in Section 2(a) of the order (discussed further below). As it was recently [HYPERLINK "https://www.newsweek.com/dems-say-trumps-critical-race-theory-ban-ended-most-federal-diversity-training-1555025"] that (Democratic leaders claim that) the executive order put a stop to nearly all federal-level diversity training, the conclusion is that nearly all diversity training is not genuinely “diversity training” but instead something based in the divisive concepts that—I hope we can all agree once we actually look at them (below)—*should be banned*. We should be asking journalists and (mostly Democratic) politicians who misreported this *why* they did so, and also (as we’ll discuss in the next section) why they would want these “divisive concepts” being part of responsible diversity and inclusion training in the first place.

We can also see that the “academics” who have claimed that the order violates their academic freedom are misinformed, at best, or lying, as Section 10(b) of the order *explicitly* says that’s not the case. It is still perfectly permissible under this order to teach the various Critical Theories, including Critical Race Theory, *as academic theories*, but that must be done “in an objective manner and without endorsement,” i.e., not as though they are statements of uncontested facts or

undisputed “truths” about the world. It’s frankly shocking that our academics would be this confused about such a plain and clear statement that maintains their academic freedom, unless it’s that they just failed to do their basic due diligence in reading the order that they’re so vigorously condemning in terms that don’t even apply.

The relevant executive order—and spin-off orders issued or passed into law at the state or local level—does not limit academic freedom or the ability to conduct diversity and inclusion activities (including trainings). It has been a gross abnegation of duty on the part of our journalists, academics, and (mostly Democratic) politicians to have said, plainly and repeatedly, otherwise. They should be asked why, and they should be pressed further on why they would want to challenge the order, or ones like it, in the first place.

Proponents Must Want Division

Again, as I have read the executive order several times, I’m perplexed as to why *any* American or reasonable and decent human being living in the twenty-first century would want it overturned. Since many do, since presumably a Biden administration will as well, and since I try not to assume people are as evil as they often sound in ignorance, I have to assume the executive order has not been widely or properly read. Nevertheless, as we can see from Section 10 above, the order only prohibits applying the “divisive concepts” listed in Section 2(a) and then only in particular ways. It’s therefore important for us to look at these concepts directly from the order and evaluate them.

Before listing them, with commentary, I want to stress *why* we need to be familiar with what the executive order says. It’s very simple. *Anyone who wants to overturn this executive order or resist creating copycat orders at the state (or city) level **must** want to leave room to engage in at least one of the behaviors it prohibits.* The questions are “which ones?” and “why?”

Here is the list of prohibited “divisive concepts” given in Section 2(a) of the executive order, with my own commentary added in italics in square brackets added to most of them:

(1) one race or sex is inherently superior to another race or sex [*outright bigotry or supremacy—note that this also prohibits white supremacy, patriarchy, (homophobia, ableism, exasperated etc.)*];

(2) the United States is fundamentally racist or sexist [*i.e., “[[HYPERLINK "https://newdiscourses.com/2020/07/nobody-systemically-racist/"](https://newdiscourses.com/2020/07/nobody-systemically-racist/)]” bigotry/oppression*];

(3) an individual, by virtue of his or her race or sex, is inherently racist, sexist, or oppressive, whether consciously or unconsciously [*even by “[[HYPERLINK "https://newdiscourses.com/tftw-](https://newdiscourses.com/tftw-)*

complicity/"], ” like “[[HYPERLINK "https://newdiscourses.com/tftw-white-complicity/"](https://newdiscourses.com/tftw-white-complicity/)]” or “[[HYPERLINK "https://newdiscourses.com/tftw-brown-complicity/"](https://newdiscourses.com/tftw-brown-complicity/)]”];

(4) an individual should be discriminated against or receive adverse treatment solely or partly because of his or her race or sex;

(5) members of one race or sex cannot and should not attempt to treat others without respect to race or sex [*this is a repudiation of identity-blindness, e.g.,* [[HYPERLINK "https://newdiscourses.com/tftw-colorblind/"](https://newdiscourses.com/tftw-colorblind/)], *and seeks to make identity, like race, relevant and central to all interactions and phenomena*];

(6) an individual’s moral character is necessarily determined by his or her race or sex [*direct rejection of* [[HYPERLINK "https://newdiscourses.com/2020/01/identity-politics-civil-rights-movements/"](https://newdiscourses.com/2020/01/identity-politics-civil-rights-movements/)] “*I Have a Dream*” perspective];

(7) an individual, by virtue of his or her race or sex, bears responsibility for actions committed in the past by other members of the same race or sex [*a kind of identity-based “sins of the father” and guilt by association*];

(8) any individual should feel discomfort, guilt, anguish, or any other form of psychological distress on account of his or her race or sex [*believe it or not, this kind of thing is advocated under Critical Theories of identity (Critical Social Justice) under models like “the* [[HYPERLINK "https://newdiscourses.com/tftw-critical-pedagogy/"](https://newdiscourses.com/tftw-critical-pedagogy/)] *of discomfort”*)]; or

(9) meritocracy or traits such as a hard work ethic are racist or sexist, or were created by a particular race to oppress another race [*this ideology rejects* [[HYPERLINK "https://newdiscourses.com/tftw-meritocracy-ideology/"](https://newdiscourses.com/tftw-meritocracy-ideology/)]].

The term “divisive concepts” also includes any other form of race or sex stereotyping or any other form of race or sex scapegoating.

Anyone who is calling for this order to be overturned or who is arguing against passing it into law, both on the federal level or, hopefully, on the state levels, must be held to account on this point: *they must want to leave room to engage in at least one of the eleven things listed above.* We have to ask them which ones and why.

If you find someone who is against this order or similar, ask them what it is they disagree with. Have them be specific—which “divisive tenets” do you want to engage in and why? Ask them:

Do you want to claim that certain identities are inherently superior to others? If so, why?

Do you want to claim that the United States is fundamentally bigoted? If so, why?

Do you want to claim that certain individuals—because of who they happen to be in terms of identity factors like race, sex, (gender, sexuality, disability, exasperated etc.)—are intrinsically bigoted or complicit in bigotry? If so, why?

Do you think that people should be discriminated against or receive adverse treatment because of factors of identity? If so, why?

Do you think that people should have to treat people according to their identities instead of as equals? If so, why?

Do you believe that people's moral character is in some way determined by who they happen to be? If so, why?

Do you believe that people should be held morally responsible for things that were done by other people who happen to have the same identity factors that they do? If so, why?

Do you think that people should be made to feel uncomfortable (or in anguish!) over factors of their identity? If so, why?

Do you want to say that merit was not a significant, if not *the*, determining factor in how people came to occupy the professional positions they occupy? If so, why?

Do you wish to engage in identity-based stereotyping of some other kind? If so, why?

Do you wish to engage in identity-based scapegoating of some other kind? If so, why?

These questions must be asked *clearly and repeatedly* of anyone who condemns this executive order, calls to have it overturned, or resists attempts to bring it fully legislatively into law at the federal or, via copycat orders and legislation, state (or local) levels. They *must* want to leave room for at least one of these, and they should be able to articulate which ones and why, and they *must* be held to account on the point *every single time* it comes up. Should they only want to engage in a small number of these and repudiate the others—as they definitely should—they should be pressured to support the passage of similar or amended orders or legislation that offer

the maximal amount of protection against the mainlining of these “divisive concepts” in our taxpayer-funded workplaces.

Again, this isn’t a mere think-piece. It is a call to action. While it would be ideal that this order is maintained at the federal level until it can be passed into law by Congress (which would merely strengthen the Civil Rights Acts), these protections are needed just as explicitly at the state (and even local) level as well. Our state governors, state legislatures, and even mayors and city councils should take action on this *immediately* and should be vigorously held to account, as noted above, if they resist or refuse. When they do, they should patch the hole in the federal order by including other factors of identity, at the least including gender, sexuality, and disability status. Meanwhile, we should be holding our professionals—academics, journalists, and politicians (especially Democratic ones)—to account for why we have been and are still being misled about this order. We deserve answers about why they have got this issue so wrong (laziness or malfeasance?), and we have to start asking for them as often as necessary.

From: John Mashburn [jmashburn@usccr.gov]
Sent: 1/13/2021 12:39:07 PM
To: Carissa Mulder [carissa.mulder@gmail.com]
Subject: other CRT articles/docs
Attachments: maintaining-expanding-ban-critical-race-theory.docx; How to Answer a False Accusation of Racism.docx; Executive Order on Combating Race and Sex Stereotyping The White House.docx; How did critical theories come to social and cultural prominence.docx; What Is Critical Race Theory.docx; Wokeness Threatens the Rule of Law.docx; Maintaining and Expanding the Ban on Critical Race Theory.docx

From: John Mashburn [jmashburn@usccr.gov]
Sent: 11/10/2021 5:55:32 AM
To: Christian Adams [a@electionlawcenter.com]
Subject: Re: [EXTERNAL] RE: Dec. 10 PR Field Hearing

It'll be fixed once the federal taxpayers finish paying for Maria!!

From: Christian Adams <a@electionlawcenter.com>
Sent: Wednesday, November 10, 2021 8:47:28 AM
To: John Mashburn
Subject: RE: [EXTERNAL] RE: Dec. 10 PR Field Hearing

CAUTION: This email is from outside USCCR.

Conference lines are 55 year old technology.

From: John Mashburn <jmashburn@usccr.gov>
Sent: Wednesday, November 10, 2021 8:46 AM
To: Christian Adams <a@electionlawcenter.com>
Subject: Re: [EXTERNAL] RE: Dec. 10 PR Field Hearing

I agree from my experience that Concur is more expensive than Hotwire or the airlines. Only advantage with Concur is that you can cancel up to the last minute. Concur is also very difficult to use.

The docs specifically say you can get reimbursed if you buy tickets yourself as long as it is not more expensive than the Concur price.

The staff response to Carissa re a conference line said The IT infrastructure on the island does not offer the same capabilities we take for granted on the mainland. It is hard to believe conference line capability is not available and Carissa is pushing the issue.

From: Christian Adams <a@electionlawcenter.com>
Sent: Wednesday, November 10, 2021 7:49:50 AM
To: John Mashburn
Subject: [EXTERNAL] RE: Dec. 10 PR Field Hearing

CAUTION: This email is from outside USCCR.

1. I plan on going.
2. If Pete and Stephen aren't going, it is going to suck to be one of two people there.
3. I will most certainly NOT be riding a bus with others.
4. I have no interest in getting signed up for "the concur travel system" and my experience is that buying direct from the airline is cheaper than the federal government prices. I will be buying tickets later today so if you have views to the contrary, let me know.

From: John Mashburn <jmashburn@usccr.gov>
Sent: Tuesday, November 9, 2021 1:07 PM

To: Christian Adams <a@electionlawcenter.com>

Subject: Dec. 10 PR Field Hearing

They are asking if you still intend to go?

A few items on this issue:

? Officially supposed to fly down on Thursday Dec. 9 and return on Saturday Dec. 11 with the field hearing taking place from 9am to 5pm on Friday Dec. 10 at the Puerto Rico Interamerican University Law School, in San Juan, Puerto Rico. You can add time at (your own expense for hotel/food) prior to or after the field hearing and you can take your spouse (at your own expense for flights/food) for the 3 days Dec. 9-11 of the field hearing, plus at your own/spouse's expense for any time added on to the official 3 day period.

? Per OMB Guidelines, I cannot travel if not vaccinated.

? **Kirsanow is not going** because so far all of the confirmed attendees (*see below*), are non-profit activist group reps and the Mayor of San Juan (that had the fight with Pres. Trump during early days post-Maria.)

? Carissa prefers not to go, *but will go to sub for me in order to help you if you need her to*. She is pushing USCCR staff to make a conference line possible for Kirsanow to be able to participate.

? **Cmnr Heriot with her SA Alex Heidiman are going,**

? Gilchrist is in same boat as I, but he is not subject to the OMB travel prohibition. His SA Thomas Simuel will go if Gilchrist goes. Thomas says Gilchrist is 50-50 on going/not going. Complications of going down (Covid test w/in 3 days before flying down and also 3 days of flying back, etc.) are tilting him toward not going.

? Confirmed Panelists:

? Ariadna Michelle Godreau-Aubert, Executive Director, Ayuda Legal Puerto Rico

? Charlotte Gossett Navarro, Senior Director, Puerto Rico Operations, Hispanic Federation

? Carla Minet, Executive Director, Centro de Periodismo Investigativo

? Sergio Marxuach, Policy Director & General Counsel, Centro para la Nueva Economía

? Carmen Yulin Cruz, Former Mayor of San Juan

? **Cristina Miranda, Executive Director Liga de Ciudades**

From: Carissa Mulder <CMulder@usccr.gov>

Date: Tuesday, November 9, 2021 at 11:07 AM

To: Alexander Heideman <aheideman@usccr.gov>, John Mashburn <jmashburn@usccr.gov>, Thomas Simuel <tsimuel@usccr.gov>

Subject: Fw: What to Know for the Field Briefing in Puerto Rico on Friday, December 10th

FYI

From: Carissa Mulder

Sent: Tuesday, November 9, 2021 11:07 AM

To: Mauro Morales

Cc: pkirsanow@beneschlaw.com; Irena Vidulovic

Subject: Re: What to Know for the Field Briefing in Puerto Rico on Friday, December 10th

Hi Mauro,

Commissioner Kirsanow will not be traveling to Puerto Rico (as a result, neither will I). He asks that staff make every effort to ensure he can participate by conference call. Commissioners have participated by conference call in at least two field briefings during his tenure on the Commission – the Stand Your Ground briefing in Orlando in 2014 and the Omaha field briefing in 2006. Whatever the cost of obtaining a phone line may be, it has to be less than an airline ticket and a hotel stay.

Thank you,

Carissa

From: Mauro Morales

Sent: Tuesday, November 9, 2021 10:50:42 AM

To: Commissioners

Cc: Commissioner Assistants; Tina Louise Martin; Zakee Martin; Pamela Dunston; Pilar McLaughlin; David Ganz; Marik Xavier-Brier; Gerald Fosten; John Ratcliffe; Michele Ramey; Angelia Rorison

Subject: What to Know for the Field Briefing in Puerto Rico on Friday, December 10th

Commissioners,

I have attached an information sheet on what you need to know about travel to Puerto Rico for the December 10th field briefing. Keep in mind some things could change as we prepare and get closer to the date. Your Special Assistants will get additional information on scheduling with Concur for flights to the island. If you have any questions please contact me.

Mauro Morales

Staff Director

U.S. Commission on Civil Rights

P: 202-376-7796 | F: 202-376-7672

Mmorales@usccr.gov

<http://usccr.gov/>

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#USCCR

From: John Mashburn [jmashburn@usccr.gov]
Sent: 11/22/2021 2:47:09 PM
To: John Mashburn [jkmash@comcast.net]
Subject: Fw: Conflict of Interest

From: David Ganz
Sent: Monday, November 22, 2021 2:12:00 PM
To: John Mashburn
Subject: RE: Conflict of Interest

I think there may be a misunderstanding. I am not asking OGE for a substantive opinion, but rather I am asking them for guidance on the appropriate way to proceed. In my many years at larger agencies General Counsel's offices, I have not encountered a situation in which high ranking federal officials within one agency publicly make accusations against one another concerning ethics laws and so it is necessary to determine the proper course of action. Also, my office is not an Inspector's General Office and doesn't adjudicate adversarial ethics issues or determine the jurisdictional validity of 'allegations' or claims. I hope this clarifies things, but feel free to call my cell at 617 669 6413. Please know I understand your Commissioner's likely perspective and take these matters seriously. Thanks,

David

From: John Mashburn <jmashburn@usccr.gov>
Sent: Monday, November 22, 2021 2:01 PM
To: David Ganz <dganz@usccr.gov>
Subject: Re: Conflict of Interest

In addition, how can you ask for an opinion from OGE until you have ascertained all the facts? I don't think all the facts were conveyed on the public phone call, and even some of those were not accurate.

From: John Mashburn <jmashburn@usccr.gov>
Date: Monday, November 22, 2021 at 1:35 PM
To: David Ganz <dganz@usccr.gov>
Subject: Re: Conflict of Interest

David – I am just asking what the allegation is and what specific ethics rule, statute, or regulation is being alleged to have been violated.

I am not asking what the OGC's opinion on the matter is, just the specifics of the allegation – since the allegation was raised (but only in part) on a USCCR telephone call that was open to the public.

From: David Ganz <dganz@usccr.gov>
Date: Monday, November 22, 2021 at 12:53 PM
To: John Mashburn <jmashburn@usccr.gov>
Subject: RE: Conflict of Interest

I am conferring with the Office of Government Ethics (OGE), which administers Federal ethics law governmentwide, prior to our office issuing any ethics advice or opinions on this issue. I do not expect to hear back from them and to issue any advice or opinions, if any, prior to the Thanksgiving holiday. I'll keep you posted and have a great holiday,

From: John Mashburn <jmashburn@usccr.gov>

Sent: Monday, November 22, 2021 12:36 PM

To: David Ganz <dganz@usccr.gov>

Subject: Conflict of Interest

Based on the discussion regarding appointments to the EOC's Board of Advisors on Friday's telephonic Business Meeting, could you tell me what specific conflict of interest is being alleged as having been violated by any member of the USCCR regarding Clea Mitchell's appointment to the EOC's Board of Advisors, and what specific statute, CFR or other federal prohibition is being cited as the basis for any alleged violation?

From: John Mashburn [jmashburn@usccr.gov]
Sent: 12/1/2020 10:52:36 AM
To: Carissa Mulder [carissa.mulder@gmail.com]; Christian Adams [adams@electionlawcenter.com]
CC: Kirsanow, Peter [pkirsanow@beneschlaw.com]; Gail Heriot [gheriot@me.com]; stephen gilchrist [thegilchristassociates@gmail.com]; Alexander Heideman [aheideman@usccr.gov]; Thomas Simuel [tsimuel@usccr.gov]; Carissa Mulder [CMulder@usccr.gov]
Subject: Election Assistance Commission's Bd of Advisors supposed to be Appointed in a Bipartisan in Nature

HAVA Sec. 214 requires that appointments to the Bd of Advisors be done “in a manner” that ensures the BOA will be “bipartisan in nature.” So USCCR should not be sending two Dems as it two representatives to the BOA, but 1 Democrat and 1 Republican.

SEC. 214. MEMBERSHIP OF BOARD OF ADVISORS.

(b) MANNER OF APPOINTMENTS.—Appointments shall be made to the Board of Advisors under subsection (a) **in a manner which ensures that the Board of Advisors will be bipartisan in nature** and will reflect the various geographic regions of the United States.

From: John Mashburn [jmashburn@usccr.gov]
Sent: 11/11/2021 3:32:56 PM
To: John Mashburn [jkmash@comcast.net]
Subject: Fw: Religious Exemption Request

From: TinaLouise Martin
Sent: Friday, October 29, 2021 7:07:49 PM
To: John Mashburn
Subject: RE: Religious Exemption Request

Hi John,

We are still drafting our Reasonable Accommodation Form per OMB instructions; therefore you should wait to submit your request until we send you the form in the coming weeks.

Thank you,
Tina

From: John Mashburn <jmashburn@usccr.gov>
Sent: Friday, October 29, 2021 6:00 PM
To: TinaLouise Martin <tmartin@usccr.gov>
Subject: Religious Exemption Request

As per the instructions below, I am submitting the attached request for a Religious Exemption from the recent Executive Order 14043, "Requiring Coronavirus Disease 2019 Vaccination for Federal Employees."

From: David Ganz <dganz@usccr.gov>
Date: Friday, October 1, 2021 at 12:13 PM
To: John Mashburn <jmashburn@usccr.gov>, TinaLouise Martin <tmartin@usccr.gov>
Subject: Re: Executive Order 14043, "Requiring Coronavirus Disease 2019 Vaccination for Federal Employees"

You can communicate a reasonable accommodation request to Tina's office or Latrice Foshee. Thanks,

David

From: John Mashburn <jmashburn@usccr.gov>
Sent: Friday, October 1, 2021 12:01:00 PM
To: David Ganz <dganz@usccr.gov>; TinaLouise Martin <tmartin@usccr.gov>
Subject: Re: Executive Order 14043, "Requiring Coronavirus Disease 2019 Vaccination for Federal Employees"

("An agency may be required to provide a reasonable accommodation to employees who communicate to the agency that they are not vaccinated against COVID-19 because of a **disability or because of a sincerely held religious belief**, practice, or observance.")

What is the process for "communicating to the agency" on this point?

From: David Ganz <dganz@usccr.gov>

Date: Friday, September 17, 2021 at 4:36 PM

To: Commissioners <Commissioners@usccr.gov>, "CommissionerAssistants@usccr.gov" <CommissionerAssistants@usccr.gov>, USCCR AGENCYWIDE <USCCRAGENCYWIDE@usccr.gov>

Cc: Mauro Morales <mmorales@usccr.gov>, Tina Louise Martin <tmartin@usccr.gov>

Subject: Executive Order 14043, "Requiring Coronavirus Disease 2019 Vaccination for Federal Employees"

Hello all,

Please see the below important information regarding the recent Executive Order 14043, "Requiring Coronavirus Disease 2019 Vaccination for Federal Employees." Please be in touch if you have any questions. Kind regards,

David

Pursuant to Executive Order 14043 on [Requiring Coronavirus Disease 2019 Vaccination for Federal Employees](#) ("the Order") that was signed by President Biden on September 9, 2021, as part of his [Path Out of the Pandemic: COVID-19 Action Plan](#). Agencies are required to implement, to the extent consistent with applicable law, a program to require COVID-19 vaccination for covered Federal employees, with exceptions only as required by law. See <https://www.saferfederalworkforce.gov/faq/vaccinations/> ("An agency may be required to provide a reasonable accommodation to employees who communicate to the agency that they are not vaccinated against COVID-19 because of a disability or because of a sincerely held religious belief, practice, or observance.")

All Federal employees covered by Executive Order 14043 and without a legally required exception must be [fully vaccinated](#) by **November 22, 2021**, regardless of where they are working. Employees who are on maximum telework or working remotely are not excused from this requirement, including because employees working offsite may interact with the public as part of their duties and agencies may need to recall employees who are on maximum telework or working remotely. See <https://www.saferfederalworkforce.gov/faq/vaccinations/>.

The agency **must require documentation from employees to prove vaccination**, even if an employee has previously attested to their vaccination status. Employees may provide a copy of the record of immunization from a health care provider or pharmacy, a copy of the COVID-19 Vaccination Record Card, a copy of medical records documenting the vaccination, a copy of immunization records from a public health or state immunization information system, or a copy of any other official documentation containing required data points. The data that must be on any official documentation are the type of vaccine administered, date(s) of administration, and the name of the health care professional(s) or clinic site(s) administering the vaccine(s). Employees must certify under penalty of perjury that the documentation they are submitting is true and correct.

Employees may provide a digital copy of such records, including, for example, a digital photograph, scanned image, or PDF of such a record that clearly and legibly displays the information outlined above. See <https://www.saferfederalworkforce.gov/faq/vaccinations/>.

Employees must receive their last dose of their vaccine no later than November 8, 2021, to meet the November 22, 2021, deadline to be fully vaccinated. The timing between the first and second shots [depends on which vaccine is received](#).

If someone receives the:

? Pfizer-BioNTech COVID-19 vaccine, then that person should get their second shot 3 weeks (or 21 days) after the first. This means for Federal employees to meet the vaccination deadline, they should receive their first vaccination no later than October 18. They would not be eligible for the second dose until November 8, which is the deadline by which they need to have received both shots.

? Moderna COVID-19 vaccine, then that person should get their second shot 4 weeks (or 28 days) after their first. This means for Federal employees to meet the vaccination deadline, they should receive their first vaccination no later than October 11. They would not be eligible for the second dose until November 8, which is the deadline by which they need to have received both shots.

Since the Johnson & Johnson vaccine only has one shot, employees have until November 8 to receive that shot and still meet the November 22, 2021, deadline to be fully vaccinated.

Please submit proof of vaccination to hrd@usccr.gov no later than November 22, 2021.

If you have any questions or need further information, please do not hesitate to contact, Tina Louise Martin, Director of Management or David Ganz, General Counsel.

David Ganz
General Counsel, Office of the General Counsel
U.S. Commission on Civil Rights
1331 Pennsylvania Avenue, NW Suite 1150
Washington D.C. 20425
(617) 669-6413

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Established as an independent, bipartisan, fact-finding federal agency, our mission is to inform the development of national civil rights policy and enhance enforcement of federal civil rights laws. We pursue this mission by studying alleged deprivations of voting rights and alleged discrimination based on race, color, religion, sex, age, disability, or national origin, or in the administration of justice. We play a vital role in advancing civil rights through objective and comprehensive investigation, research, and analysis on issues of fundamental concern to the federal government and the public.

From: John Mashburn [jmashburn@usccr.gov]
Sent: 10/30/2020 8:49:05 AM
To: John Mashburn [jkmash@comcast.net]
Subject: Fw: Reminder: USCCR October Meeting - Telephonic

From: John Mashburn
Sent: Friday, October 30, 2020 10:00:15 AM
To: John Mashburn
Subject: Reminder: USCCR October Meeting - Telephonic

Event: 10/30/2020 12:00 PM-2:00 PM | 1-800-769-8182, conf ID 386-6160

Your Reminder

Greetings all, To participate via Listen Only for the Commission's telephonic business meeting on October 30th, 2020 at 12 pm EST via telephone, please follow the instructions below: 1. Dial the call-in toll free number 800-635-7637 2. When requested, provide our Conference ID code # 386-6160 and let them know you are a listen only participant on the call. 3. You will then be connected to the conference call. Please mute your phone for privacy. If you have any questions please contact Pam Dunston via email at Pdunston@usccr.gov or Luis Diaz at ldiaz@usccr.gov. Agenda can be found at: <https://www.usccr.gov/files/2020-10-16-Agenda-for-10-30-Meeting.pdf> Angelia Rorison

From: John Mashburn [jmashburn@usccr.gov]
Sent: 11/10/2021 5:45:45 AM
To: Christian Adams [a@electionlawcenter.com]
Subject: Re: [EXTERNAL] RE: Dec. 10 PR Field Hearing

I agree from my experience that Concur is more expensive than Hotwire or the airlines. Only advantage with Concur is that you can cancel up to the last minute. Concur is also very difficult to use.

The docs specifically say you can get reimbursed if you buy tickets yourself as long as it is not more expensive than the Concur price.

The staff response to Carissa re a conference line said The IT infrastructure on the island does not offer the same capabilities we take for granted on the mainland. It is hard to believe conference line capability is not available and Carissa is pushing the issue.

From: Christian Adams <a@electionlawcenter.com>
Sent: Wednesday, November 10, 2021 7:49:50 AM
To: John Mashburn
Subject: [EXTERNAL] RE: Dec. 10 PR Field Hearing

CAUTION: This email is from outside USCCR.

1. I plan on going.
2. If Pete and Stephen aren't going, it is going to suck to be one of two people there.
3. I will most certainly NOT be riding a bus with others.
4. I have no interest in getting signed up for "the concur travel system" and my experience is that buying direct from the airline is cheaper than the federal government prices. I will be buying tickets later today so if you have views to the contrary, let me know.

From: John Mashburn <jmashburn@usccr.gov>
Sent: Tuesday, November 9, 2021 1:07 PM
To: Christian Adams <a@electionlawcenter.com>
Subject: Dec. 10 PR Field Hearing

They are asking if you still intend to go?

A few items on this issue:

? Officially supposed to fly down on Thursday Dec. 9 and return on Saturday Dec. 11 with the field hearing taking place from 9am to 5pm on Friday Dec. 10 at the Puerto Rico Interamerican University Law School, in San Juan, Puerto Rico. You can add time at (your own expense for hotel/food) prior to or after the field hearing and you can take your spouse (at your own expense for flights/food) for the 3 days Dec. 9-11 of the field hearing, plus at your own/spouse's expense for any time added on to the official 3 day period.

? Per OMB Guidelines, I cannot travel if not vaccinated.

? **Kirsanow is not going** because so far all of the confirmed attendees (*see below*), are non-profit activist group reps and the Mayor of San Juan (that had the fight with Pres. Trump during early days post-Maria.)

? Carissa prefers not to go, *but will go to sub for me in order to help you if you need her to*. She is pushing USCCR staff to make a conference line possible for Kirsanow to be able to participate.

? **Cmnr Heriot with her SA Alex Heidiman are going,**

? Gilchrist is in same boat as I, but he is not subject to the OMB travel prohibition. His SA Thomas Simuel will go if Gilchrist goes. Thomas says Gilchrist is 50-50 on going/not going. Complications of going down (Covid test w/in 3 days before flying down and also 3 days of flying back, etc.) are tilting him toward not going.

? Confirmed Panelists:

? Ariadna Michelle Godreau-Aubert, Executive Director, Ayuda Legal Puerto Rico

? Charlotte Gossett Navarro, Senior Director, Puerto Rico Operations, Hispanic Federation

? Carla Minet, Executive Director, Centro de Periodismo Investigativo

? Sergio Marxuach, Policy Director & General Counsel, Centro para la Nueva Economía

? Carmen Yulin Cruz, Former Mayor of San Juan

? **Cristina Miranda, Executive Director Liga de Ciudades**

From: Carissa Mulder <CMulder@usccr.gov>

Date: Tuesday, November 9, 2021 at 11:07 AM

To: Alexander Heideman <aheideman@usccr.gov>, John Mashburn <jmashburn@usccr.gov>, Thomas Simuel <tsimuel@usccr.gov>

Subject: Fw: What to Know for the Field Briefing in Puerto Rico on Friday, December 10th

FYI

From: Carissa Mulder

Sent: Tuesday, November 9, 2021 11:07 AM

To: Mauro Morales

Cc: pkirsanow@beneschlaw.com; Irena Vidulovic

Subject: Re: What to Know for the Field Briefing in Puerto Rico on Friday, December 10th

Hi Mauro,

Commissioner Kirsanow will not be traveling to Puerto Rico (as a result, neither will I). He asks that staff make every effort to ensure he can participate by conference call. Commissioners have participated by conference call in at least two field briefings during his tenure on the Commission – the Stand Your Ground briefing in Orlando in 2014 and the Omaha field briefing in 2006.

Whatever the cost of obtaining a phone line may be, it has to be less than an airline ticket and a hotel stay.

Thank you,

Carissa

From: Mauro Morales

Sent: Tuesday, November 9, 2021 10:50:42 AM

To: Commissioners

Cc: Commissioner Assistants; Tina Louise Martin; Zakee Martin; Pamela Dunston; Pilar McLaughlin; David Ganz; Marik Xavier-Brier; Gerald Fosten; John Ratcliffe; Michele Ramey; Angelia Rorison

Subject: What to Know for the Field Briefing in Puerto Rico on Friday, December 10th

Commissioners,

I have attached an information sheet on what you need to know about travel to Puerto Rico for the December 10th field briefing. Keep in mind some things could change as we prepare and get closer to the date. Your Special Assistants will get additional information on scheduling with Concur for flights to the island. If you have any questions please contact me.

Mauro Morales

Staff Director

U.S. Commission on Civil Rights

P: 202-376-7796 | F: 202-376-7672

Mmorales@usccr.gov

<http://usccr.gov/>

1331 Pennsylvania Avenue, NW Suite 1150

Washington D.C. 20425

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#USCCR

From: John Mashburn [jmashburn@usccr.gov]
Sent: 12/18/2020 6:33:18 AM
To: Carissa Mulder [carissa.mulder@gmail.com]; Gail Heriot [gheriot@me.com]
CC: Gail Heriot [gheriot@usccr.gov]; Kirsanow, Peter [pkirsanow@beneschlaw.com]; Christian Adams (adams@electionlawcenter.com) [adams@electionlawcenter.com]; stephen gilchrist [thegilchristassociates@gmail.com]; Alexander Heideman [aheideman@usccr.gov]; Carissa Mulder [CMulder@usccr.gov]; Peter Kirsanow [pkirsanow@usccr.gov]; Thomas Simuel [tsimuel@usccr.gov]; Stephen Gilchrist [sgilchrist@usccr.gov]; J. Christian Adams [jadams@usccr.gov]
Subject: Re: [EXTERNAL] Re: Bail reform

I told Rukku and Kathie 2 months ago that the Bail Reform effort needed to include NY, Chicago and CA efforts. We then we included on our list of witnesses folks who while not necessarily critical of bail reform were critical of how those jurisdictions' bail reform implementation was not working or was worse for the accused than the cash bail system was. In CA even the ACLU is critical of the bail reform passed by the legislature since anyone arrested and then denied release under the new law has no means - not even cash bail - of getting out of jail before trial.

From: Carissa Mulder <carissa.mulder@gmail.com>
Sent: Thursday, December 17, 2020 6:39:47 PM
To: Gail Heriot
Cc: Gail Heriot; Kirsanow, Peter; Christian Adams (adams@electionlawcenter.com); stephen gilchrist; Alexander Heideman; John Mashburn; Carissa Mulder; Peter Kirsanow; Thomas Simuel; Stephen Gilchrist; J. Christian Adams
Subject: Re: [EXTERNAL] Re: Bail reform

CAUTION: This email is from outside USCCR.

I independently came up with him. I contacted him back in the spring and he said he would be willing to testify.

On Thu, Dec 17, 2020 at 6:39 PM Gail Heriot <gheriot@me.com> wrote:

I'm glad you have John Paul Wright. Did I suggest him? Or did you guys independently come up with him? He has been a useful resource in the past on policing/disciplinary issues.

Gail Heriot
Professor of Law
University of San Diego

On Dec 17, 2020, at 3:22 PM, Carissa Mulder <carissa.mulder@gmail.com> wrote:

CAUTION: This email is from outside USCCR.

We have suggested a lengthy list of witnesses. OCRE is in the process of inviting people, and we will see who accepts. If they do not invite people off our list who we think should be invited, we will need to be prepared to kick up a giant fuss. Kathy says, "Who to invite is really OCRE's call," which as we all know is NOT true - it is the Commissioners' call. OCRE is already claiming that they will have to have limited numbers of witnesses

because we are limited to three virtual panels, and of course they are going to try to mostly invite their preferred people. But I know they are inviting some of our folks, because Marik emailed me a couple days ago and asked for email addresses for some people.

As far as knowledgeable conservatives who are skeptical about this stuff - this is an area in which we are not lacking people. Rafael Mangual from the Manhattan Institute, Bill Bratton (formerly of the NYPD), Zack Smith at Heritage - we have plenty of people. I've attached our list of proposed witnesses.

On Thu, Dec 17, 2020 at 6:03 PM Gail Heriot <gheriot@usccr.gov> wrote:

Who will be testifying about all this? Are there knowledgeable conservatives who are skeptical of some of these bail innovations?

Gail Heriot
Professor of Law
University of San Diego

On Dec 17, 2020, at 2:15 PM, Carissa Mulder <carissa.mulder@gmail.com> wrote:

Hi everyone,

I am going through this remarkably terrible bail reform report, which just glosses over New York and says that maybe New York just didn't give bail reform enough time to work. I am planning to include the following paragraph in my notes to OCRE, based on what I have heard from people, unless someone objects.

I believe Commissioner Adams's special assistant has communicated this to OCRE. However, let me reiterate that New York needs to be included as one of the studied jurisdictions, along with New Jersey, etc. This report cherry-picked jurisdictions that can perhaps be represented as being successful in implementing bail reform. The failure to include New York in the final draft – by which I mean putting in just as much material as is present for Chicago, New Jersey, etc. – will result in this report being voted down.

--
Carissa B. Mulder

--
Carissa B. Mulder

<Recommended witnesses for bail reform briefing.docx>

--
Carissa B. Mulder

From: John Mashburn [jmashburn@usccr.gov]
Sent: 12/1/2020 9:03:42 AM
To: Kirsanow, Peter [pkirsanow@Beneschlaw.com]; Christian Adams [adams@electionlawcenter.com]; 'Carissa Mulder' [carissa.mulder@gmail.com]; 'Gail Heriot' [gheriot@me.com]; 'stephen gilchrist' [thegilchristassociates@gmail.com]
CC: Alexander Heideman [aheideman@usccr.gov]; Thomas Simuel [tsimuel@usccr.gov]; Carissa Mulder [CMulder@usccr.gov]
Subject: Re: [EXTERNAL] RE: Agenda and Zoom information for tomorrow's conservative caucus retreat

Me too – says host has another meeting in progress

From: "Kirsanow, Peter" <pkirsanow@Beneschlaw.com>
Date: Tuesday, December 1, 2020 at 12:03 PM
To: Christian Adams <adams@electionlawcenter.com>, 'Carissa Mulder' <carissa.mulder@gmail.com>, 'Gail Heriot' <gheriot@me.com>, 'stephen gilchrist' <thegilchristassociates@gmail.com>
Cc: Alexander Heideman <aheideman@usccr.gov>, Thomas Simuel <tsimuel@usccr.gov>, John Mashburn <jmashburn@usccr.gov>, Carissa Mulder <CMulder@usccr.gov>
Subject: [EXTERNAL] RE: Agenda and Zoom information for tomorrow's conservative caucus retreat

CAUTION: This email is from outside USCCR.

Can't get in

From: Christian Adams <adams@electionlawcenter.com>
Sent: Tuesday, December 1, 2020 12:02 PM
To: 'Carissa Mulder' <carissa.mulder@gmail.com>; Kirsanow, Peter <pkirsanow@Beneschlaw.com>; 'Gail Heriot' <gheriot@me.com>; 'stephen gilchrist' <thegilchristassociates@gmail.com>
Cc: 'Alexander Heideman' <aheideman@usccr.gov>; 'Thomas Simuel' <tsimuel@usccr.gov>; 'John Mashburn' <jmashburn@usccr.gov>; 'Carissa Mulder' <cmulder@usccr.gov>
Subject: RE: Agenda and Zoom information for tomorrow's conservative caucus retreat

***** External E-Mail - Use Caution *****

Have been trying to get in.

From: Carissa Mulder <carissa.mulder@gmail.com>
Sent: Monday, November 30, 2020 9:41 AM
To: Kirsanow, Peter <pkirsanow@beneschlaw.com>; Gail Heriot <gheriot@me.com>; stephen gilchrist <thegilchristassociates@gmail.com>; Christian Adams (<adams@electionlawcenter.com>
<adams@electionlawcenter.com>
Cc: Alexander Heideman <aheideman@usccr.gov>; Thomas Simuel <tsimuel@usccr.gov>; John Mashburn <jmashburn@usccr.gov>; Carissa Mulder <cmulder@usccr.gov>
Subject: Agenda and Zoom information for tomorrow's conservative caucus retreat

Good morning, everyone:

I hope you had a nice Thanksgiving! Our conservative caucus retreat is tomorrow. Gail, Alex, and I put together a short agenda to guide our discussion. It is attached. The Zoom information is below. Let me know if you have any questions! See you tomorrow!

Carissa Mulder is inviting you to a scheduled Zoom meeting.

Topic: Carissa Mulder's Personal Meeting Room

Join Zoom Meeting

<https://us02web.zoom.us/j/3153363506>

Meeting ID: 315 336 3506

One tap mobile

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Dial by your location

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+1 646 558 8656 US (New York)

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+1 346 248 7799 US (Houston)

+1 669 900 6833 US (San Jose)

+1 253 215 8782 US (Tacoma)

855 880 1246 US Toll-free

877 369 0926 US Toll-free

833 548 0276 US Toll-free

833 548 0282 US Toll-free

Meeting ID: 315 336 3506

Find your local number: <https://us02web.zoom.us/u/kbRPWYtJxC>

Join by SIP

3153363506@zoomcrc.com

Join by H.323

[162.255.37.11](tel:162.255.37.11) (US West)

[162.255.36.11](tel:162.255.36.11) (US East)

[115.114.131.7](tel:115.114.131.7) (India Mumbai)

[115.114.115.7](tel:115.114.115.7) (India Hyderabad)

[213.19.144.110](tel:213.19.144.110) (Amsterdam Netherlands)

[213.244.140.110](tel:213.244.140.110) (Germany)

[103.122.166.55](tel:103.122.166.55) (Australia)

[149.137.40.110](tel:149.137.40.110) (Singapore)

[64.211.144.160](tel:64.211.144.160) (Brazil)

[69.174.57.160](tel:69.174.57.160) (Canada)

[207.226.132.110](tel:207.226.132.110) (Japan)

Meeting ID: 315 336 3506

--

Carissa B. Mulder

Following the death of George Floyd in May 2020, protests against racial injustice erupted across the country. The protests were accompanied by a surge of interest in education about racial matters. Books such as Ibram X. Kendi's *How to be an Antiracist* and Robin DiAngelo's *White Fragility* rocketed up the bestseller lists.

Simultaneously, school districts and educators around the country considered how to respond to this nationwide conversation. Many school districts and educators decided to incorporate discussions and studies of racial equity (vs. equality) into their curriculum. Some school districts and schools had begun such initiatives even before the events of 2020.

These initiatives received heightened visibility due to an executive order issued by President Trump on September 22, 2020. The "Executive Order on Combating Race and Sex Stereotyping" prohibits federal agencies, federal contractors, and recipients of federal grants from engaging in training that includes certain types of racial and sexual stereotyping.¹

It is likely that the new Biden administration will revoke President Trump's executive order. However, the public discussion and debate regarding racial equity training will not disappear. The Commission should conduct a fifty-state survey of public school districts to determine how they are incorporating so-called "racial equity" principles into their staff training and student curriculum.

Studies of racial discrimination and racial equity training implicate Title VI of the Civil Rights Act of 1964, which prohibits racial discrimination by recipients of federal funds.² Schools receive federal funds through the Elementary and Secondary Education Act of 1965³ (ESEA), as amended by the Every Student Succeeds Act of 2015 (ESSA).⁴ They are therefore subject to Title VI's prohibition on racial discrimination.

As mentioned above, renewed public concern over racial injustice has led educators to reconsider whether their schools are perpetuating racial injustice. If schools have been discriminating on the basis of race, the public should be aware of that fact, particularly if the schools determine the discrimination to be so pervasive as to require remedial training for staff and students -- and whether such training includes input from all affected groups of parents. The Commission should examine this matter by gathering any studies⁵ school districts or individual schools within a studied district have commissioned to study racial discrimination (including implicit or systemic bias) within their schools. The Commission should also gather any material⁶ the school district or individual schools within the district that reflect their efforts to end racial injustice and ensure

¹ Executive Order on Combating Race and Sex Stereotyping, Sept. 22, 2020, <https://www.whitehouse.gov/presidential-actions/executive-order-combating-race-sex-stereotyping/>.

² 42 U.S.C. § 42 U.S.C. § 2000d.

³ Pub.L. 89-10, 20 U.S.C. § 6301 *et seq.*

⁴ Pub. L. 114-95.

⁵ This will include internal studies, memoranda, town halls, surveys, focus groups, and discussion groups, as well as any studies, surveys, focus groups, and discussion groups that have been conducted by contractors on behalf of the school.

⁶ This will include internal plans, memoranda, town halls, surveys, presentations by outside groups or outside individuals (for example, a presentation from the local chapter of the NAACP), training materials or lectures for educators and staff, and curriculum.

“racial equity.” This includes racial equity training, implicit or systemic bias training, and anti-racism training. It also includes any incorporation of racial equity principles, anti-racism principles, or implicit or systemic bias training into the curriculum.

The Commission staff will analyze this material for a report. Such analysis will include:

- List of school districts surveyed;
- School districts (or individual schools within a studied district) that conducted studies of racial discrimination;
- School districts (or individual schools within a studied district) that conducted racial equity, antiracism, or implicit bias trainings for staff;
- School districts (or individual schools within a studied district) that conducted racial equity, antiracism, or implicit bias trainings for students;
- The median and mean cost of district and school studies of racial discrimination;
- The median and mean cost of district and school trainings on racial equity, antiracism, or implicit bias trainings.
- The stated goals, objectives, or outcomes of such training.

School districts vary widely by socioeconomic status, urban or rural status, and racial and ethnic demographics. Therefore, in most states, more than one school district should be studied. In states such as California, Texas, New York, and Virginia, information should be gathered about at least three school districts: one urban, one suburban, and one that is rural or in a small town. The school districts selected should include at least one high-performing district. For example, in Virginia, the school districts could include Falls Church City, Newport News, and Giles County. In North Carolina, the school districts could include Alamance, Charlotte-Mecklenburg, and Mitchell County. In Arizona, the school districts could include Scottsdale, Balsz, and Page. In California, the school districts could include Las Virgenes, San Francisco, and Fresno.

Commented [CM1]: John: What school districts would you recommend for NC?

The Commission will also hold a briefing to receive testimony on this topic. Witnesses should include educators from districts that have conducted studies of racial discrimination and educators from districts that have implemented racial equity, implicit bias, or antiracism training. It should also include contractors that conduct racial discrimination studies on behalf of school districts and parents and students from affected school districts. It should also include Ibram X. Kendi and Robin DiAngelo, as the popularizers of anti-racist theory. Lastly, it should include historians and critics of anti-racist training, such as Glenn Loury, Larry Arnn, Christopher Rufo, John McWhorter, and James Lindsay.

From: John Mashburn [jmashburn@usccr.gov]
Sent: 1/13/2021 1:48:47 PM
To: Carissa Mulder [carissa.mulder@gmail.com]
Subject: Re: [EXTERNAL] Re: other CRT articles/docs
Attachments: CRT concept paper JM.docx

This is excellent. I made some edits to prevent the other side from being less than fully forthcoming by parsing words as usual (e.g. racial equity vs. racial equality; implicit vs. systemic bias).

I substituted Alamance County (Burlington NC, next to Greensboro) for Chapel Hill as a suburban district. Everyone in NC will not be surprised that Chapel Hill is doing something far left wing, or big city Charlotte for that matter, but Burlington is supposed to be a more conservative (if suburban) area.

I also added James Lindsay (who wrote the articles I just sent) to the list of possible witnesses for our side.

From: Carissa Mulder <carissa.mulder@gmail.com>
Date: Wednesday, January 13, 2021 at 3:50 PM
To: John Mashburn <jmashburn@usccr.gov>
Cc: Carissa Mulder <CMulder@usccr.gov>
Subject: [EXTERNAL] Re: other CRT articles/docs

CAUTION: This email is from outside USCCR.

On Wed, Jan 13, 2021 at 3:39 PM John Mashburn <jmashburn@usccr.gov> wrote:

--
Carissa B. Mulder

From: John Mashburn [jmashburn@usccr.gov]
Sent: 1/13/2021 11:03:37 AM
To: Carissa Mulder [carissa.mulder@gmail.com]
Subject: Re: [EXTERNAL] Draft AI 5-7 (regarding removal of SAC members)

Still researching the AI – but thought this might help on CRT concept paper as well

<https://newdiscourses.com/2020/11/wokeness-threatens-rule-of-law/>

From: Carissa Mulder <carissa.mulder@gmail.com>
Date: Wednesday, January 13, 2021 at 12:15 PM
To: "Kirsanow, Peter" <pkirsanow@beneschlaw.com>
Cc: Stephen Gilchrist <sgilchrist@usccr.gov>, John Mashburn <jmashburn@usccr.gov>, Gail Heriot <gheriot@me.com>, stephen gilchrist <thegilchristassociates@gmail.com>, "Christian Adams (adams@electionlawcenter.com)" <adams@electionlawcenter.com>, Alexander Heideman <aheideman@usccr.gov>, Thomas Simuel <tsimuel@usccr.gov>, Carissa Mulder <CMulder@usccr.gov>, Gail Heriot <gheriot@usccr.gov>, Peter Kirsanow <pkirsanow@usccr.gov>, "J. Christian Adams" <jadams@usccr.gov>
Subject: Re: [EXTERNAL] Draft AI 5-7 (regarding removal of SAC members)

CAUTION: This email is from outside USCCR.

of Vermont and Curtiss Reed and Terence Martin, and that woman who filed a complaint against them. (Every time they bring up "Well, we had a complaint filed in Vermont," I have to bite my tongue to keep from saying, "That was bogus."). Basically, they want a process for people like that to file complaints, and I want to make it difficult/impossible to remove SAC members in the Curtiss Reed/Terence Martin situation.

On Wed, Jan 13, 2021 at 12:08 PM Kirsanow, Peter <pkirsanow@beneschlaw.com> wrote:

I'm receptive to having a process, but if nobody's been removed in 20 years, I'm suspicious about the current motivation behind having a process. And it makes me incline toward making removal somewhat difficult. Sorry for being mistrustful--but you may have noticed there's an effort underway to have everyone sing from the same hymnal -- and the primary song is L'Internationale.

Can someone refresh my recollection on how this issue arose?

From: Carissa Mulder <carissa.mulder@gmail.com>
Sent: Wednesday, January 13, 2021 11:54 AM
To: Kirsanow, Peter <pkirsanow@Beneschlaw.com>
Cc: Stephen Gilchrist <sgilchrist@usccr.gov>; John Mashburn <jmashburn@usccr.gov>; Gail Heriot <gheriot@me.com>; stephen gilchrist <thegilchristassociates@gmail.com>; Christian Adams (adams@electionlawcenter.com) <adams@electionlawcenter.com>; Alexander Heideman <aheideman@usccr.gov>; Thomas Simuel <tsimuel@usccr.gov>; Carissa Mulder <CMulder@usccr.gov>; Gail Heriot <gheriot@usccr.gov>; Peter Kirsanow <pkirsanow@usccr.gov>; J. Christian Adams <jadams@usccr.gov>
Subject: Re: [EXTERNAL] Draft AI 5-7 (regarding removal of SAC members)

*** External E-Mail - Use Caution ***

None, to my knowledge.

On Wed, Jan 13, 2021 at 11:53 AM Kirsanow, Peter <pkirsanow@beneschlaw.com> wrote:

Does anyone know how many SAC members have been removed in the last 20 years?

From: Stephen Gilchrist <sgilchrist@usccr.gov>

Sent: Wednesday, January 13, 2021 11:49 AM

To: Carissa Mulder <carissa.mulder@gmail.com>; John Mashburn <jmashburn@usccr.gov>; Stephen Gilchrist <sgilchrist@usccr.gov>

Cc: Kirsanow, Peter <pkirsanow@Beneschlaw.com>; Gail Heriot <gheriot@me.com>; stephen gilchrist <thegilchristassociates@gmail.com>; Christian Adams (<adams@electionlawcenter.com>) <adams@electionlawcenter.com>; Alexander Heideman <aheideman@usccr.gov>; Thomas Simuel <tsimuel@usccr.gov>; Carissa Mulder <CMulder@usccr.gov>; Gail Heriot <gheriot@usccr.gov>; Peter Kirsanow <pkirsanow@usccr.gov>; J. Christian Adams <jadams@usccr.gov>

Subject: RE: [EXTERNAL] Draft AI 5-7 (regarding removal of SAC members)

*** External E-Mail - Use Caution ***

My main issue with the A1 5-7 statement was about how these issues are truly investigated. Since resources don't allow that to happen then ensuring that we have a process that's fair and not used a cudgel becomes even more important.

Sent from my Sprint Samsung Galaxy S10e.

----- Original message -----

From: Carissa Mulder <carissa.mulder@gmail.com>

Date: 1/13/21 11:16 AM (GMT-05:00)

To: John Mashburn <jmashburn@usccr.gov>

Cc: "Kirsanow, Peter" <pkirsanow@beneschlaw.com>, Gail Heriot <gheriot@me.com>, stephen gilchrist <thegilchristassociates@gmail.com>, "Christian Adams (<adams@electionlawcenter.com>)" <adams@electionlawcenter.com>, Alexander Heideman <aheideman@usccr.gov>, Thomas Simuel <tsimuel@usccr.gov>, Carissa Mulder <CMulder@usccr.gov>, Gail Heriot <gheriot@usccr.gov>, Stephen Gilchrist <sgilchrist@usccr.gov>, Peter Kirsanow <pkirsanow@usccr.gov>, "J. Christian Adams" <jadams@usccr.gov>

Subject: Re: [EXTERNAL] Draft AI 5-7 (regarding removal of SAC members)

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ree completely. Can you suggest some edits in the draft to try to prevent that? Irena suggested perhaps some penalty for making frivolous allegations.

On Wed, Jan 13, 2021 at 11:03 AM John Mashburn <jmashburn@usCCR.gov> wrote:

In the current climate, it is very important that any process cannot be abused in order to target folks for their political views and public policy positions -- as opposed to any actual personal misconduct on their part.

From: Carissa Mulder <carissa.mulder@gmail.com>

Date: Wednesday, January 13, 2021 at 10:51 AM

To: "Kirsanow, Peter" <pkirsanow@beneschlaw.com>, Gail Heriot <gheriot@me.com>, stephen gilchrist <thegilchristassociates@gmail.com>, "Christian Adams (adams@electionlawcenter.com)" <adams@electionlawcenter.com>

Cc: Alexander Heideman <aheideman@usCCR.gov>, Thomas Simuel <tsimuel@usCCR.gov>, John Mashburn <jmashburn@usCCR.gov>, Carissa Mulder <CMulder@usCCR.gov>, Gail Heriot <gheriot@usCCR.gov>, Stephen Gilchrist <sgilchrist@usCCR.gov>, Peter Kirsanow <pkirsanow@usCCR.gov>, "J. Christian Adams" <jadams@usCCR.gov>

Subject: [EXTERNAL] Draft AI 5-7 (regarding removal of SAC members)

CAUTION: This email is from outside USCCR.

I had a meeting with OGC, Rukku, and Irena this morning to discuss draft AI 5-7, which is about implementing a process for adjudicating allegations of misconduct by SAC members. OGC had some useful comments about the need to have benchmarks and timelines in the adjudicatory process. They had some further questions about the role of the staff director and the need to take immediate action in cases where discrimination or harassment are alleged. You can see those concerns in the comments included in the attached draft. Please take a look and let me know what you agree and disagree with, or any other suggestions you have.

I think the overall sticking point is that OGC/the progressives are mostly concerned with a process to remove bad actors, and we are mostly concerned with ensuring the process isn't abused. But that is just my two cents.

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Carissa B. Mulder

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Carissa B. Mulder

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Carissa B. Mulder

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Carissa B. Mulder

From: John Mashburn [jmashburn@usccr.gov]
Sent: 12/2/2020 1:13:38 PM
To: John Mashburn [jkmash@comcast.net]; Alexander Heideman [aheideman@usccr.gov]
Subject: Re: [EXTERNAL] Re: Proposed USCCR Statement on the passing of Walter Williams

Christian just said yes.

From: John Mashburn <jkmash@comcast.net>
Date: Wednesday, December 2, 2020 at 4:13 PM
To: Alexander Heideman <aheideman@usccr.gov>
Cc: John Mashburn <jmashburn@usccr.gov>
Subject: [EXTERNAL] Re: Proposed USCCR Statement on the passing of Walter Williams

CAUTION: This email is from outside USCCR.

From: Alexander Heideman <aheideman@usccr.gov>
Date: Wednesday, December 2, 2020 at 4:10 PM
To: John Mashburn <jkmash@comcast.net>
Cc: John Mashburn <jmashburn@usccr.gov>
Subject: FW: Proposed USCCR Statement on the passing of Walter Williams

Sorry---should've sent this to your non-gov email as well.

From: Thomas Simuel <tsimuel@usccr.gov>
Date: Wednesday, December 2, 2020 at 3:43 PM
To: Alexander Heideman <aheideman@usccr.gov>, Carissa Mulder <CMulder@usccr.gov>, John Mashburn <jmashburn@usccr.gov>
Subject: RE: Proposed USCCR Statement on the passing of Walter Williams

Commissioner Gilchrist is in agreement. Go with it!

Thomas

----- Original message -----

From: Alexander Heideman <aheideman@usccr.gov>
Date: 12/2/20 3:41 PM (GMT-05:00)
To: Carissa Mulder <CMulder@usccr.gov>, John Mashburn <jmashburn@usccr.gov>, Thomas Simuel <tsimuel@usccr.gov>
Subject: Proposed USCCR Statement on the passing of Walter Williams

Please find attached a proposed statement on Walter Williams's passing.

We'd like to add this to Friday's agenda, so please let me know if your bosses will support it. I believe that we need to move quickly here.

Best,
Alex

From: Carissa Mulder [CMulder@usccr.gov]
on behalf of John Mashburn [jmashburn@usccr.gov]
Sent: 11/17/2021 1:52:18 PM
To: carissa.mulder@gmail.com
Subject: FW: Caucus Meeting

From: John Mashburn
Sent: Wednesday, November 17, 2021 4:52:17 PM (UTC-05:00) Eastern Time (US & Canada)
To: Carissa Mulder
Subject: Accepted: Caucus Meeting
When: Thursday, November 18, 2021 11:45 AM-12:30 PM.
Where:

From: John Mashburn [jmashburn@usccr.gov]
Sent: 11/24/2020 11:49:06 AM
To: John Mashburn [jkmash@comcast.net]; John Mashburn [jmashburn@usccr.gov]
Subject: Fw: SAC Slate for CA

From: John Mashburn
Sent: Tuesday, November 24, 2020 2:48:35 PM
To: Christian Adams
Subject: Fw: SAC Slate for CA

Just FYI — Mauro sent me this email today at 1 pm and said Star had not submitted her application yet. Clearly they have agreed to put Star on and add an additional Democrat - if Star submits her application by COB tomorrow, in time for the California slate to be approved at the December 4 business meeting.

I called Star who said she had not submitted it because she was debating whether to do this or do the 1776 commission which she has been nominated for as well.

I told her she could do both but she needed to get the SAC application in by close of business tomorrow. She agreed, but said since she was on annual leave at present so she would ask her assistant to submit the application for her.

I asked her to have her assistant call me, which the assistant has not done yet so I am not sure if the asst is doing it or not.

Thought you should have a heads up.

From: John Mashburn
Sent: Tuesday, November 24, 2020 2:35:47 PM
To: Mauro Morales
Cc: David Mussatt; Rukku Singla
Subject: Re: SAC Slate for CA

I talked to her and says she is going to get it in by COB tomorrow.

From: Mauro Morales
Sent: Tuesday, November 24, 2020 1:09:59 PM
To: John Mashburn
Cc: David Mussatt; Rukku Singla
Subject: RE: SAC Slate for CA

John,

As of today's date, Starr Parker has not submitted an application. If you still intend to have her on the slate in time for us to add a Democrat please have her do so by COB tomorrow. We are running out of time and otherwise would have to pull the CA slate from consideration. I have included David and Rukku to assist if needed.

Mauro

From: John Mashburn <jmashburn@usccr.gov>
Sent: Wednesday, November 18, 2020 11:00 AM

To: Mauro Morales <mmorales@usccr.gov>

Subject: SAC Slate for CA

Mauro – Cmnr Adams would like Starr Parker (bio attached) added to the Republican slate for the California SAC in order to be able to support the slate. She is filling out the online application now, but I thought I should give you a heads up since another Democrat would have to be added to the slate as well to keep it even.

From: John Mashburn [jmashburn@usccr.gov]
Sent: 1/13/2021 9:12:14 AM
To: Carissa Mulder [carissa.mulder@gmail.com]
Subject: Re: [EXTERNAL] Draft AI 5-7 (regarding removal of SAC members)

Reviewing it now

From: Carissa Mulder <carissa.mulder@gmail.com>
Date: Wednesday, January 13, 2021 at 11:16 AM
To: John Mashburn <jmashburn@usccr.gov>
Cc: "Kirsanow, Peter" <pkirsanow@beneschlaw.com>, Gail Heriot <gheriot@me.com>, stephen gilchrist <thegilchristassociates@gmail.com>, "Christian Adams (adams@electionlawcenter.com)" <adams@electionlawcenter.com>, Alexander Heideman <aheideman@usccr.gov>, Thomas Simuel <tsimuel@usccr.gov>, Carissa Mulder <CMulder@usccr.gov>, Gail Heriot <gheriot@usccr.gov>, Stephen Gilchrist <sgilchrist@usccr.gov>, Peter Kirsanow <pkirsanow@usccr.gov>, "J. Christian Adams" <jadams@usccr.gov>
Subject: Re: [EXTERNAL] Draft AI 5-7 (regarding removal of SAC members)

CAUTION: This email is from outside USCCR.

tely. Can you suggest some edits in the draft to try to prevent that? Irena suggested perhaps some penalty for making frivolous allegations.

On Wed, Jan 13, 2021 at 11:03 AM John Mashburn <jmashburn@usccr.gov> wrote:

In the current climate, it is very important that any process cannot be abused in order to target folks for their political views and public policy positions -- as opposed to any actual personal misconduct on their part.

From: Carissa Mulder <carissa.mulder@gmail.com>
Date: Wednesday, January 13, 2021 at 10:51 AM
To: "Kirsanow, Peter" <pkirsanow@beneschlaw.com>, Gail Heriot <gheriot@me.com>, stephen gilchrist <thegilchristassociates@gmail.com>, "Christian Adams (adams@electionlawcenter.com)" <adams@electionlawcenter.com>
Cc: Alexander Heideman <aheideman@usccr.gov>, Thomas Simuel <tsimuel@usccr.gov>, John Mashburn <jmashburn@usccr.gov>, Carissa Mulder <CMulder@usccr.gov>, Gail Heriot <gheriot@usccr.gov>, Stephen Gilchrist <sgilchrist@usccr.gov>, Peter Kirsanow <pkirsanow@usccr.gov>, "J. Christian Adams" <jadams@usccr.gov>
Subject: [EXTERNAL] Draft AI 5-7 (regarding removal of SAC members)

CAUTION: This email is from outside USCCR.

I had a meeting with OGC, Rukku, and Irena this morning to discuss draft AI 5-7, which is about implementing a process for adjudicating allegations of misconduct by SAC members. OGC had some useful comments about the need to have

benchmarks and timelines in the adjudicatory process. They had some further questions about the role of the staff director and the need to take immediate action in cases where discrimination or harassment are alleged. You can see those concerns in the comments included in the attached draft. Please take a look and let me know what you agree and disagree with, or any other suggestions you have.

I think the overall sticking point is that OGC/the progressives are mostly concerned with a process to remove bad actors, and we are mostly concerned with ensuring the process isn't abused. But that is just my two cents.

--

Carissa B. Mulder

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Carissa B. Mulder

From: John Mashburn [jmashburn@usccr.gov]
Sent: 12/17/2020 6:30:34 AM
To: Christian Adams [a@electionlawcenter.com]
Subject: Fw: Today's training for Commissioners

Just FYI - Today's training will not work for meeting my ethics requirements

From: Pilar McLaughlin
Sent: Thursday, December 17, 2020 9:19:22 AM
To: Carissa Mulder; Irena Vidulovic; Thomas Simuel; John Mashburn
Subject: Today's training for Commissioners

Special Assistants:

I've gotten some questions about the training for Commissioners. Today's training will focus on ethics rules that pertain to SGEs. The rules that apply to Special Assistants, in some cases, are different. You are welcome to sit in on today's training, but you must also either participate in the training that I am holding for SAs on Friday or do the self-paced training and complete the hypotheticals.

Please let me know if you would like to sit in today and I will include you on the invite.

Best,
Pilar

From: John Mashburn [jmashburn@usccr.gov]
Sent: 1/14/2021 8:15:41 AM
To: Christian Adams [a@electionlawcenter.com]
Subject: FW: Cmn Adams Pay

This was my last communication with Tina regarding your pay.

On 10/20/20, 11:45 AM, "TinaLouise Martin" <tmartin@usccr.gov> wrote:

He was paid for 14 hours for pay period 16 in pay period 18 because it was submitted late. Pay periods 17-21 have not been submitted to Mauro for approval. Have him submit his time to Mauro for payment.

(working from home)
TinaLouise Martin
Director of Management/Human Resources
U.S. Commission on Civil Rights
1331 Pennsylvania Ave, NW, Suite 1150
Washington, DC 20425
office 202-376-2269
cell 202-494-9337

> On Oct 20, 2020, at 10:51 AM, John Mashburn <jmashburn@usccr.gov> wrote:
>
> He says he has not been paid anything since he started. What do we need to do to check on this?

From: John Mashburn [jmashburn@usccr.gov]
Sent: 11/11/2021 3:46:21 PM
To: John Mashburn [jkmash@comcast.net]
Subject: Fw: Religious Exemption Request

From: John Mashburn
Sent: Thursday, November 11, 2021 6:32:56 PM
To: John Mashburn
Subject: Fw: Religious Exemption Request

From: TinaLouise Martin
Sent: Friday, October 29, 2021 7:07:49 PM
To: John Mashburn
Subject: RE: Religious Exemption Request

Hi John,

We are still drafting our Reasonable Accommodation Form per OMB instructions; therefore you should wait to submit your request until we send you the form in the coming weeks.

Thank you,
Tina

From: John Mashburn <jmashburn@usccr.gov>
Sent: Friday, October 29, 2021 6:00 PM
To: TinaLouise Martin <tmartin@usccr.gov>
Subject: Religious Exemption Request

As per the instructions below, I am submitting the attached request for a Religious Exemption from the recent Executive Order 14043, "Requiring Coronavirus Disease 2019 Vaccination for Federal Employees."

From: David Ganz <dganz@usccr.gov>
Date: Friday, October 1, 2021 at 12:13 PM
To: John Mashburn <jmashburn@usccr.gov>, TinaLouise Martin <tmartin@usccr.gov>
Subject: Re: Executive Order 14043, "Requiring Coronavirus Disease 2019 Vaccination for Federal Employees"

You can communicate a reasonable accommodation request to Tina's office or Latrice Foshee. Thanks,

David

From: John Mashburn <jmashburn@usccr.gov>
Sent: Friday, October 1, 2021 12:01:00 PM
To: David Ganz <dganz@usccr.gov>; TinaLouise Martin <tmartin@usccr.gov>
Subject: Re: Executive Order 14043, "Requiring Coronavirus Disease 2019 Vaccination for Federal Employees"

("An agency may be required to provide a reasonable accommodation to employees who communicate to the agency that they are not vaccinated against COVID-19 because of a **disability or because of a sincerely held religious belief**, practice, or observance.")

What is the process for "communicating to the agency" on this point?

From: David Ganz <[dganz@usccr.gov](mailto:d ganz@usccr.gov)>

Date: Friday, September 17, 2021 at 4:36 PM

To: Commissioners <Commissioners@usccr.gov>, "CommissionerAssistants@usccr.gov" <CommissionerAssistants@usccr.gov>, USCCR AGENCYWIDE <USCCRAGENCYWIDE@usccr.gov>

Cc: Mauro Morales <mmorales@usccr.gov>, Tina Louise Martin <tmartin@usccr.gov>

Subject: Executive Order 14043, "Requiring Coronavirus Disease 2019 Vaccination for Federal Employees"

Hello all,

Please see the below important information regarding the recent Executive Order 14043, "Requiring Coronavirus Disease 2019 Vaccination for Federal Employees." Please be in touch if you have any questions. Kind regards,

David

Pursuant to Executive Order 14043 on [Requiring Coronavirus Disease 2019 Vaccination for Federal Employees](#) ("the Order") that was signed by President Biden on September 9, 2021, as part of his [Path Out of the Pandemic: COVID-19 Action Plan](#). Agencies are required to implement, to the extent consistent with applicable law, a program to require COVID-19 vaccination for covered Federal employees, with exceptions only as required by law. See <https://www.saferfederalworkforce.gov/faq/vaccinations/> ("**An agency may be required to provide a reasonable accommodation to employees who communicate to the agency that they are not vaccinated against COVID-19 because of a disability or because of a sincerely held religious belief, practice, or observance.**")

All Federal employees covered by Executive Order 14043 and without a legally required exception must be [fully vaccinated](#) by **November 22, 2021**, regardless of where they are working. Employees who are on maximum telework or working remotely are not excused from this requirement, including because employees working offsite may interact with the public as part of their duties and agencies may need to recall employees who are on maximum telework or working remotely. See <https://www.saferfederalworkforce.gov/faq/vaccinations/>.

The agency **must require documentation from employees to prove vaccination**, even if an employee has previously attested to their vaccination status. Employees may provide a copy of the record of immunization from a health care provider or pharmacy, a copy of the COVID-19 Vaccination Record Card, a copy of medical records documenting the vaccination, a copy of immunization records from a public health or state immunization information system, or a copy of any other official documentation containing required data points. The data that must be on any official documentation are the type of vaccine administered, date(s) of

administration, and the name of the health care professional(s) or clinic site(s) administering the vaccine(s). Employees must certify under penalty of perjury that the documentation they are submitting is true and correct. Employees may provide a digital copy of such records, including, for example, a digital photograph, scanned image, or PDF of such a record that clearly and legibly displays the information outlined above. See <https://www.saferfederalworkforce.gov/faq/vaccinations/>.

Employees must receive their last dose of their vaccine no later than November 8, 2021, to meet the November 22, 2021, deadline to be fully vaccinated. The timing between the first and second shots [depends on which vaccine is received](#).

If someone receives the:

? Pfizer-BioNTech COVID-19 vaccine, then that person should get their second shot 3 weeks (or 21 days) after the first. This means for Federal employees to meet the vaccination deadline, they should receive their first vaccination no later than October 18. They would not be eligible for the second dose until November 8, which is the deadline by which they need to have received both shots.

? Moderna COVID-19 vaccine, then that person should get their second shot 4 weeks (or 28 days) after their first. This means for Federal employees to meet the vaccination deadline, they should receive their first vaccination no later than October 11. They would not be eligible for the second dose until November 8, which is the deadline by which they need to have received both shots.

Since the Johnson & Johnson vaccine only has one shot, employees have until November 8 to receive that shot and still meet the November 22, 2021, deadline to be fully vaccinated.

Please submit proof of vaccination to hrd@usccr.gov no later than November 22, 2021.

If you have any questions or need further information, please do not hesitate to contact, Tina Louise Martin, Director of Management or David Ganz, General Counsel.

David Ganz
General Counsel, Office of the General Counsel
U.S. Commission on Civil Rights
1331 Pennsylvania Avenue, NW Suite 1150
Washington D.C. 20425
(617) 669-6413

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From: Carissa Mulder [CMulder@usccr.gov]
on behalf of John Mashburn [jmashburn@usccr.gov]
Sent: 11/15/2021 9:36:08 AM
To: carissa.mulder@gmail.com
Subject: FW: Caucus Zoom

From: John Mashburn
Sent: Monday, November 15, 2021 12:36:07 PM (UTC-05:00) Eastern Time (US & Canada)
To: Carissa Mulder
Subject: Accepted: Caucus Zoom
When: Tuesday, November 16, 2021 4:00 PM-4:30 PM.
Where:

From: John Mashburn [jmashburn@usccr.gov]
Sent: 12/17/2020 8:14:52 AM
To: Christian Adams [a@electionlawcenter.com]
Subject: Re: [EXTERNAL] RE: Today's training for Commissioners

Did you not hear, Christmas has been cancelled this year due to COVID. So, no Christmas trees allowed.

From: Christian Adams <a@electionlawcenter.com>
Date: Thursday, December 17, 2020 at 10:07 AM
To: John Mashburn <jmashburn@usccr.gov>
Subject: [EXTERNAL] RE: Today's training for Commissioners

CAUTION: This email is from outside USCCR.

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Are you going to ask about moving Christmas trees?

From: John Mashburn <jmashburn@usccr.gov>
Sent: Thursday, December 17, 2020 9:31 AM
To: Christian Adams <a@electionlawcenter.com>
Subject: Fw: Today's training for Commissioners

Just FYI - Today's training will not work for meeting my ethics requirements

From: Pilar McLaughlin
Sent: Thursday, December 17, 2020 9:19:22 AM
To: Carissa Mulder; Irena Vidulovic; Thomas Simuel; John Mashburn
Subject: Today's training for Commissioners

Special Assistants:

I've gotten some questions about the training for Commissioners. Today's training will focus on ethics rules that pertain to SGEs. The rules that apply to Special Assistants, in some cases, are different. You are welcome to sit in on today's training, but you must also either participate in the training that I am holding for SAs on Friday or do the self-paced training and complete the hypotheticals.

Please let me know if you would like to sit in today and I will include you on the invite.

Best,
Pilar

STATEMENT OF THE U.S. COMMISSION ON CIVIL RIGHTS

THE PASSING OF DR. WALTER WILLIAMS

December 4, 2020

The United States Commission on Civil Rights mourns the passing of Dr. Walter E. Williams, the John M. Olin Distinguished Professor of Economics at George Mason University.

In *Up from the Projects: An Autobiography*, Dr. Williams wrote, “While starting out poor, my life, like that of so many other Americans, both black and white, illustrates one of the many great things about our country: just because you know where a person ended up in life doesn’t mean you know with any certainty where he began.”¹

He was raised by a single mother “in a lower-middle-class, mixed, but predominantly black neighborhood . . . in West Philadelphia.”² His early life “consisted of drifting and incertitude as to what [he] wanted to do,”³ but after service in the U.S. Army—during which he campaigned against racial injustice in both the military and society at-large—and marriage to his dearest friend, Connie, Dr. Williams enrolled as a full-time student at California State College at Los Angeles in 1962. Largely influenced by W.E.B. Du Bois’s *Black Reconstruction*, he determined to study economics, and he pursued advanced degrees at the University of California, Los Angeles.

He taught at several colleges and universities before accepting a professorship at George Mason University in 1980, where he remained as a faculty member for the rest of his life. Dr. Williams was a prolific author, having written many scholarly articles and several books, including *The State Against Blacks* and *Race and Economics*. He was a frequent radio and television commentator, and he served on the advisory boards of numerous institutions. He was a Ford Foundation Fellow, a Hoover Institution National Fellow, and a recipient the 2017 Bradley Prize from the Lynde and Harry Bradley Foundation.

But above all, Dr. Williams was a teacher. His classes—which he preferred to teach early in the morning—would fill up quickly. “I love what I do,” said Dr. Williams in a 2011 interview. “A lot of people look forward to Friday. I don’t. I look forward to the classroom.”⁴

Today, the United States Commission on Civil Rights honors Dr. Williams’s very full life. The loss to his daughter, Devyn, and to his students and colleagues at George Mason University is difficult to contemplate, but his legacy as an independent thinker and courageous American will certainly live on.

¹ WALTER E. WILLIAMS, *UP FROM THE PROJECTS: AN AUTOBIOGRAPHY* x (2010).

² *Id.* at 1.

³ *Id.* at 26.

⁴ John J. Miller, *Walter Williams’s Big Classroom*, NAT’L REV., Apr. 2011.

From: John Mashburn [jmashburn@usccr.gov]
Sent: 12/2/2020 1:12:03 PM
To: Christian Adams [a@electionlawcenter.com]
Subject: FW: Proposed USCCR Statement on the passing of Walter Williams
Attachments: WalterWilliams.docx

This tribute to Walter Williams for the USCCR to approve this Friday at the Bus Mtg looks fine to me – if somewhat short. OK by you?

From: Alexander Heideman <aheideman@usccr.gov>
Date: Wednesday, December 2, 2020 at 3:41 PM
To: Carissa Mulder <CMulder@usccr.gov>, John Mashburn <jmashburn@usccr.gov>, Thomas Simuel <tsimuel@usccr.gov>
Subject: Proposed USCCR Statement on the passing of Walter Williams

Please find attached a proposed statement on Walter Williams's passing.

We'd like to add this to Friday's agenda, so please let me know if your bosses will support it. I believe that we need to move quickly here.

Best,
Alex

From: John Mashburn [jmashburn@usccr.gov]
Sent: 1/12/2021 5:36:21 AM
To: Thomas Simuel [tsimuel@usccr.gov]; Carissa Mulder [carissa.mulder@gmail.com]; Alexander Heideman [aheideman@usccr.gov]
CC: Carissa Mulder [CMulder@usccr.gov]
Subject: Re: [EXTERNAL] Interns

Sounds like Thomas and Cmnr Gilchrist might have someone in mind already — so we will share their intern with them. Thomas if that is not the case let me know.

From: Thomas Simuel
Sent: Monday, January 11, 2021 2:52:36 PM
To: Carissa Mulder; John Mashburn; Alexander Heideman
Cc: Carissa Mulder
Subject: Re: [EXTERNAL] Interns

From: Thomas Simuel
Sent: Monday, January 11, 2021 2:51 PM
To: Carissa Mulder; John Mashburn; Alexander Heideman
Cc: Carissa Mulder
Subject: Re: [EXTERNAL] Interns

Yes, that's correct.

Thomas

From: Carissa Mulder <carissa.mulder@gmail.com>
Sent: Monday, January 11, 2021 2:48:35 PM
To: Thomas Simuel; John Mashburn; Alexander Heideman
Cc: Carissa Mulder
Subject: [EXTERNAL] Interns

CAUTION: This email is from outside USCCR.

Hi guys,

I know we briefly discussed interns in the all-SA meeting last week, but I wanted to nail down what our plans are. The commissioners as a group can have five interns at any one time. In the past, what we have done is that the Chair gets one intern, and the other commissioners pair up to share interns (Gail and Pete share an intern, Kladney and Debo share an intern, etc.). Sharing interns across ideological lines doesn't really work, so commissioners need to pair up within their caucuses. Also, interns must be students.

Alex and I have started advertising for a shared intern and have received several resumes. We're going to start interviewing soon. Thomas, you said in the meeting that Commissioner Gilchrist wants an intern, correct?

Does he have someone in mind? John, what about Christian - does he want an intern?

I hope everyone's Monday is going well!

--

Carissa B. Mulder

From: John Mashburn [jmashburn@usccr.gov]
Sent: 11/18/2021 2:40:43 PM
To: stephen gilchrist [thegilchristassociates@gmail.com]; Carissa Mulder [CMulder@usccr.gov]
CC: Peter Kirsanow [pkirsanow@beneschlaw.com]; Gail Heriot [gheriot@me.com]; Christian Adams [adams@electionlawcenter.com]; Alexander Heideman [aheideman@usccr.gov]; Thomas Simuel [tsimuel@usccr.gov]; Carissa Mulder [Carissa.mulder@gmail.com]
Subject: Re: [EXTERNAL] Re: Motion to Strike Language Regarding Social Media

If neither the strike or the delay proposal get progressive support and thus both fail, then should the Conservative Caucus all vote NO on passing the strategic plan in its entirety and then we can push for changes to the plan until it comes up again at the Jan Bus mtg.

In the alternative, the Conservative Caucus could vote against adding the item to the agenda at the beginning of the meeting for lack of adequate notice. They used that excuse to not timely vote on the Walter Williams statement, etc.

From: stephen gilchrist <thegilchristassociates@gmail.com>
Date: Thursday, November 18, 2021 at 5:17 PM
To: Carissa Mulder <CMulder@usccr.gov>
Cc: Peter Kirsanow <pkirsanow@beneschlaw.com>, Gail Heriot <gheriot@me.com>, Christian Adams <adams@electionlawcenter.com>, Alexander Heideman <aheideman@usccr.gov>, John Mashburn <jmashburn@usccr.gov>, Thomas Simuel <tsimuel@usccr.gov>, Carissa Mulder <Carissa.mulder@gmail.com>
Subject: [EXTERNAL] Re: Motion to Strike Language Regarding Social Media

CAUTION: This email is from outside USCCR.

Guys...I believe we should vote to table the social media aspect of the strategic plan until such time that both caucuses can further discuss what the social media strategy should look like. We might be able to get the votes to delay instead of an elimination. I believe both caucuses need to be involved in the social media messaging with stronger input from the Commissioners. Thoughts?

On Thu, Nov 18, 2021, 3:40 PM Carissa Mulder <CMulder@usccr.gov> wrote:

Hello everyone,

Pete, here is the language for the motion to strike language from the strategic plan tomorrow. I have not heard a peep back from the progressive SAs, so I am guessing they are not going to agree to do this prior to the meeting. The progressive commissioners will probably object to this, and I expect Mauro may also be brought in to say that we should have raised this concern in the drafting stage. One response to that is that we have told the communications director and GC multiple times that Commission's tweets violate our AIs by speaking on behalf of the Commission and failing to acknowledge the existence of dissenting views, but nothing has ever happened. Our motion will probably be defeated, so then you will have to decide whether you want to approve the strategic plan with this in it.

I've attached a document with the motion language, the strategic plan, the document I put together with offensive tweets, and pasted the tweets Alex compiled in the body of this email (see below).

Thank you!

[“Today we honor George Floyd as we reflect on the anniversary of his death, reminding us the need to address police use of force continues. #Minnesota Advisory Committee to @USCCRgov 2018 report on #CivilRights & Policing Practices.”](#)

[“It's #InternationalTransDayofVisibility, @USCCRgov recognizes & celebrates our transgender communities across the US. Read the 2017 @USCCRgov report Working for Inclusion: Time for Congress to Address Workplace Discrimination \[sic\] Against LGBTQ American.”](#)

[“It's been 110 years since the #TriangleFactory fire which killed 146 underpaid workers, mostly immigrant women & girls - catalyzing reforms. Today it's a reminder policy reforms for vulnerable workers are still needed Read @USCCRgov Subminimum Wage report.”](#)

[“Today is #NationalAgricultureDay. It is an important day to not only celebrate farmers across America, but to remember that disparity still persists for Black farmers in the US. #CivilRights Read @USCCRgov 1965 Report.”](#)

[“The federal funding shortfall for #NativeAmericans is another health crisis worsened by #COVID19. See below briefing for more on why @USCCRgov ‘called for steady, equitable, non-discretionary funding directly to tribal nations to support healthcare.’ . . . In the US, Black women face #maternalhealth risks at a rate 3x higher than white mothers. See the below @USCCRgov briefing that examines “the federal role in addressing racial disparities in maternal health outcomes.” #WorldHealthDay.”](#)

From: John Mashburn [jmashburn@usccr.gov]
Sent: 12/17/2020 8:17:30 AM
To: Christian Adams [a@electionlawcenter.com]
Subject: Re: [EXTERNAL] RE: Today's training for Commissioners

OH – are Joe and Hunter going to have to take this training as well, since they evidently violated everything this training tells you is illegal for federal employees and their relatives to do.

From: John Mashburn <jmashburn@usccr.gov>
Date: Thursday, December 17, 2020 at 11:14 AM
To: Christian Adams <a@electionlawcenter.com>
Subject: Re: [EXTERNAL] RE: Today's training for Commissioners

Did you not hear, Christmas has been cancelled this year due to COVID. So, no Christmas trees allowed.

From: Christian Adams <a@electionlawcenter.com>
Date: Thursday, December 17, 2020 at 10:07 AM
To: John Mashburn <jmashburn@usccr.gov>
Subject: [EXTERNAL] RE: Today's training for Commissioners

CAUTION: This email is from outside USCCR.

”

Are you going to ask about moving Christmas trees?

From: John Mashburn <jmashburn@usccr.gov>
Sent: Thursday, December 17, 2020 9:31 AM
To: Christian Adams <a@electionlawcenter.com>
Subject: Fw: Today's training for Commissioners

Just FYI - Today's training will not work for meeting my ethics requirements

From: Pilar McLaughlin
Sent: Thursday, December 17, 2020 9:19:22 AM
To: Carissa Mulder; Irena Vidulovic; Thomas Simuel; John Mashburn
Subject: Today's training for Commissioners

Special Assistants:

I've gotten some questions about the training for Commissioners. Today's training will focus on ethics rules that pertain to SGEs. The rules that apply to Special Assistants, in some cases, are different. You are welcome to sit in on today's training, but you must also either participate in the training that I am holding for SAs on Friday or do the self-paced training and complete the hypotheticals.

Please let me know if you would like to sit in today and I will include you on the invite.

Best,

Pilar
AMERICAN
OVERSIGHT

USCCR-22-0595-A-000316