

Testimony of  
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Subcommittee on the Constitution  
Committee on the Judiciary  
U.S. House of Representatives

Oversight Hearing on the U.S. Commission on Civil Rights

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Mr. Chairman, members of the Subcommittee, thank you for holding this hearing and for inviting me to testify today. As you know, I have resigned from the commission. I did this because I became convinced that the problem with this commission is structural and unfixable. I used to believe that the problem was political or based on personalities, but it is neither of those.

Let me say a little bit about my background, I understand organizations. I've studied them for 35 years. I've written widely on them. I've managed several companies and have consulted many on organizational design. I know what it takes to produce remarkable results. Remarkable results are produced by patterns of behavior, and it's the organization's structure and processes that determine those patterns of behavior. I know if I want to change the results in a company, I need to change the structure.

In the organizational design business we use the short hand of the 3 p's: purpose, process, people. To be a high performance organization you must get all 3 right. From time to time every organization needs to be reformed, that means a new structure and new processes. In business strong organizations are built by having many satisfied customers and in business the incentive to reform comes from defecting customers.

Now let's talk about the civil rights commission. We don't have a clear purpose, we don't have clear processes, we don't have the minimal financial controls, and our structure is fatally flawed. Our structure allows us to cloak ourselves with the myth of our independence. It's lent some commissioners to believe that we don't have customers. Well if we don't have customers then we don't have any consequences for not reforming or any incentive to make those necessary changes.

**The commission has no clear purpose.** Purpose, the first of the 3 p's, is the glue that unifies and binds an organization together. An organization's purpose is what we are

willing to work hard for in order to produce remarkable results. This commission doesn't have a clear purpose. The conditions that existed in this country when the commission was put in place have changed dramatically. This structure may have been the right structure for dealing with those conditions, which were state supported institutional racism, but the structure does not work for what is needed to combat discrimination and disparities today. Congress tweaked the structure in 1983 but adopted another inappropriate model. We still have much discrimination, but the government now runs a multibillion-dollar apparatus to protect our rights. Think of all the bulwarks against discrimination in the major federal and state agencies and all the volumes of antidiscrimination laws on the books. People who are discriminated against deserve these remedies. They don't deserve the inarticulate, confused, and conflicted voice of the civil rights commission.

**The commission's processes are fatally flawed and cannot be reformed.** I do not believe that this commission will ever reform itself. The changes that need to be made are structural. The principle structural problem is the claim by some commissioners' that "independence" means that we don't have customers. Another structural problem is that commissioners are appointed by the executive branch and the congress, which leaves the political accountability splintered. The commission is composed of an even number of commissioners; this makes for gridlock. Another problem is that commissioners are part-time and staff is full-time. Given this structure there need to be clear processes that prevent a staff director from hijacking the commissioners' agenda. These processes do not exist at the civil rights commission.

**"End it, don't mend it"** I could say much more. The mismanagement, the corruption, the arrogance, the disregard of the statute, of GPRA, of OMB, and of GAO recommendations is well documented. This is an agency that considers itself above the law and above civil rights laws, just look at our EEOC record. I believed for many years that these were problems of politics and personalities, but as I said before I am completely convinced that this is a problem of structure and process. That we didn't move immediately to correct these institutional problems convinces me that we never will. I can no longer associate myself with an organization that is both a national and a personal embarrassment. To misquote a far better communicator than myself, "End it don't mend it"