ALABAMA STATE HEARING

St. Paul’s Methodist Church
Birmingham, Alabama
April 1, 2014

GUEST COMMISSIONERS
Scott Douglas, Executive Director, Greater Birmingham Ministries
Jerome Gray, retired Field Director, Alabama Democratic Conference
Lee W. Loder, Founder, Gift Corps; Attorney
Bernard Simelton, President, Alabama NAACP

PANELISTS
Catrena Norris Carter, CEO, Women of Will
Shirley Gavin Floyd, Business Manager, Civil Rights Activists Committee
Ann Gibbons, Attorney; formerly an Attorney in the Office of Judge J. Foy Guin, Jr., U.S. District Court for the Northern District of Alabama
Rev. Norman L. Gibbons
Bobby Harris, retired City Council member, Alabaster
John Harris, County Commissioner, Lee County
Eric Hutchins, Attorney, Alabama NAACP
Freddy Rimpsey, President, Alabama Voters League in Anniston, Calhoun County

PUBLIC TESTIMONY
Mildred Bennett, NAACP
Reverend Charles A. Dale
John C. Harris, former City Council candidate, Birmingham
Charles Hicks
Shirley Middleton, Town Council Member, Hapersville
Helen Revis, Alabama Coalition for Immigrant Justice
Richard Rutledge, former City Council candidate, Birmingham
Mark Threat
Virginia Volker

WRITTEN OR RECORDED TESTIMONY
Geraldine K. Jackson
Hank Sanders, Alabama State Senator

SUPPORTING ORGANIZATIONS (NOT EXHAUSTIVE)
Alabama NAACP
National Congress of Black Women
Southern Poverty Law Center
ALABAMA STATE HEARING HIGHLIGHTS

The National Commission on Voting Rights held a hearing on Tuesday, April 1, 2014, at St. Paul United Methodist Church in Birmingham, Alabama. Support from national and local partner organizations contributed to making the event a success. Approximately 65 people attended the three-hour hearing and heard from several panels of Alabama-based witnesses. Testimony topics included voter identification (ID), felony disenfranchisement, and voter dilution.

I. Vote Dilution

In his opening remarks, Guest Commissioner Jerome Gray, the former Alabama Democratic Conference field director, stated that his hometown of Evergreen, Alabama became the first jurisdiction since the Shelby County v. Holder decision to receive reinstatement of federal oversight regarding that city’s voting practices. This was made possible by Section 3 of the Voting Rights Act.1 Section 3 provides its own preclearance or “bail-in” mechanism.2 Section 3 jurisdictions must submit certain voting changes to the Department of Justice (DOJ) or to a federal court before such changes may go into effect.3 Gray stated that the local National Association for the Advancement of Colored People and Democratic Conference successfully challenged the City of Evergreen in a Section 2 lawsuit, and Evergreen will now be covered under Section 3 through the 2020 election cycle.4 The lawsuit alleged that the City of Evergreen had a record of discriminating against African-American voters, including by redrawing district lines to dilute their vote.5 As a result of the lawsuit, the City of Evergreen cannot redraw districts without prior approval under Section 3 coverage, said Gray.

II. Section 5 and the City of Alabaster, Shelby County

Hank Sanders, a long-time Alabama state senator and civil rights advocate, provided testimony via a tape-recorded interview with staff of the Lawyers’ Committee for Civil Rights Under Law on several topics relating to voting rights and the history of the struggles faced by minority voters in Alabama. Sanders testified about the impact Section 5 of the Voting Rights Act had on minority voters in Alabama. He noted that the preclearance process was not always enough to protect minority rights, citing DOJ’s approval of state and local redistricting plans that he said reduced the ability of African Americans to join with progressive whites to elect candidates of their choice. However, he noted that prior to the Shelby County v. Holder

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2 Id.
3 See, 42 U.S.C. Section 1973a(c).
5 Id.
decision, when changes were made to voting procedures at the local level, they would have to be precleared. In the aftermath of Shelby County v. Holder, however, Sanders noted that it would be impossible to file lawsuits on every single change made to voting procedures at the local level and that some changes may go unchallenged.

Bobby Lee Harris, a resident of the City of Alabaster in Shelby County, testified that the DOJ determined that from 1995 to 2000, the City of Alabaster approved ordinances which diluted the vote of African Americans in his ward, Ward One, through annexations. The DOJ found that the City of Alabaster failed to submit these changes for review, as required under Section 5 of the Voting Rights Act, and successfully sued the City. Harris testified that as a candidate for City Council in 2000, he initially lost to a white candidate due to the fact that the demographics of his district shifted when a majority-white subdivision – Weatherly – was included. Harris ended up prevailing after the DOJ found that the City of Alabaster never sought preclearance by submitting the ward changes before the election took place. Harris was later defeated in a 2004 re-election bid and since then, no minority candidate has won a City Council race in Ward One.

III. African Americans Turned Away from the Polls

Ann Gibbons, an attorney from Shelby County, testified that during the 2012 election cycle African-American voters in Vincent, Alabama were turned away from the polls for various suspicious reasons. She testified that three poll watchers observed African-American voters being told they were not on the voter rolls and not provided with provisional ballots. Gibbons reported that two African Americans “were told the town did not count provisional ballots” when they were turned away. She also testified that one polling location was closed early, before the 7 p.m. deadline and expressed concern that the polling location was closed early to dissuade African Americans from voting.

IV. Restrictive Voter ID Law in Alabama

In 2011, Alabama passed a restrictive state law requiring voters to present a photo ID in order to be allowed to cast a ballot. According to the Alabama voter ID law, an individual who does not have one of the forms of acceptable identification listed in the statute will be allowed to vote by regular ballot only if two election officials sign a sworn affidavit stating that the individual is a voter on the poll list who is eligible to vote. If an individual is unable to present one of the forms of identification listed in the statute and two election officials do not

7 Ala. Code Section 17-9-30(a).
8 Ala. Code Section 17-9-30(e).
confirm his eligibility, the individual will only be allowed to vote via provisional ballot. Voters casting absentee ballots are faced with the additional burden of being required to submit a copy of one of the forms of acceptable identification with their completed ballot unless they qualify for specific state or federal exceptions. Individuals who do not have a photo ID may obtain an Alabama photo voter ID card for free. However, Alabama’s voter ID law makes it burdensome to apply for one.

Sanders testified that the Alabama voter ID law functions as “the literacy test of the 21st century.” Sanders noted that the law was enacted in 2011, but the state avoided seeking Section 5 preclearance because it expected DOJ would object. After Shelby County, photo ID is being implemented. Commenting on the requirement that a voter have two election officials verify the voter’s eligibility if the voter lacks an acceptable form of identification at the polls, Sanders noted that in practice this will allow white people to vote without an ID, “but black folks will not qualify for th[e] provision because there’s not two people there to sign for them.” Sanders also testified that the Alabama statute makes it a felony to apply for a photo voter ID card if a voter already has one, which he said could criminalize efforts people may make to be eligible to vote.

Even before the photo ID law was enacted, Sanders testified that minority voters often had problems at the polls in Alabama. For example, Sanders testified that during an election in September 2012, his name was not on the list of registered voters at his polling place. He spoke with the poll workers and representatives of the Board of Registrars, many of whom knew him from his work as a state senator. Nevertheless, Sanders stated that he was forced to vote a challenged ballot. Sanders doubts that his vote was ever counted in that election.

Catrena Norris Carter, president and CEO of Women of Will, testified that obtaining voter ID in Alabama can be costly and burdensome. She testified that, in her opinion, requiring voter ID is similar to requiring a literacy test. Carter testified that the Alabama voter ID law dissuades the poor, young people, and the elderly from voting because they may not possess the required identification or the means to obtain acceptable identification.

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9 Ala. Code Section 17-9-30(d).
10 Ala. Code Section 17-9-30(b).
11 Ala. Code Section 17-9-30(f)-(k).
ARIZONA STATE HEARING

Arizona State University College of Law
Tempe, Arizona
January 9, 2014

NATIONAL COMMISSIONER

Patty Ferguson-Bohnee, Director, Arizona State University College of Law Indian Legal Clinic

GUEST COMMISSIONERS

Charles Fanniel, Arizona State Conference NAACP
Hon. Penny Ladell-Willrich, Associate Dean of Academic Affairs and Professor of Law, Arizona Summit Law School

John R. Lewis, Inter Tribal Council of Arizona, Inc.
Doris Marie Provine, Professor Emeritus, Arizona State University

PANELISTS

Casey Dreher, Organizing Director, Arizona Students’ Association
Judith Dworkin, Navajo Election Administration and Managing Partner, Sacks Tierney Arizona
Paul Eckstein, Attorney, Perkins Coie
Petra Falcon, Executive Director, Promise Arizona
LeNora Fulton, County Recorder, Apache County Commission, Navajo Nation
Patty Hansen, Coconino County Recorder
Leonard Gorman, Director, Native Rights
Peri Jude Radecic, Executive Director, Arizona Center for Disability Law
Alessandra Soler, Executive Director, ACLU of Arizona

Greg Jones, Election Integrity Chairperson, Maricopa County Democratic Party
Rivko Knox, Arizona League of Women Voters
Jim Maleaky, Democracy for America
Bishop Jeff Metcalfe, National Action Network
Tonya Norwood, President, National Organization for Women
Rachel Phillips, Owner, Educated Souls, LLC

PUBLIC TESTIMONY

AJ Bre’haut, U.S. Navy
Lydia Guzman, League of United Latin American Citizens
Mel Hannah, Policy Advisor to Phoenix Mayor Greg Stanton
Randall Holmes, Arizona Advocacy Network Board

Jim Maleaky, Democracy for America
Bishop Jeff Metcalfe, National Action Network
Tonya Norwood, President, National Organization for Women
Rachel Phillips, Owner, Educated Souls, LLC

Greg Jones, Election Integrity Chairperson, Maricopa County Democratic Party
Rivko Knox, Arizona League of Women Voters
Jim Maleaky, Democracy for America
Bishop Jeff Metcalfe, National Action Network
Tonya Norwood, President, National Organization for Women
Rachel Phillips, Owner, Educated Souls, LLC
Michael Powell, Executive Director, Arizona Students Association
Martin Quezada, State Representative, District 29
Vince Rabago, former Assistant Attorney General of Arizona
Amy Umaretiya, student, Arizona State University

WRITTEN TESTIMONY
Robyn Prud’homme-Bauer, President, League of Women Voters of Arizona (testimony read by Rivko Knox)

SUPPORTING ORGANIZATIONS (NOT EXHAUSTIVE)
ACLU of Arizona
Arizona Advocacy Network
Arizona Center for Disability Law
Arizona League of Women Voters
Arizona State University Indian Legal Clinic
Arizona Students’ Association
Inter Tribal Council of Arizona, Inc.
Mexican American Legal Defense and Educational Fund
NAACP
National Action Network

ARIZONA STATE HEARING HIGHLIGHTS

The second National Commission on Voting Rights hearing was held on Thursday, January 9, 2014 at the Sandra Day O’Connor College of Law in Tempe, Arizona. Approximately 70 people attended the hearing and heard from four panels of Arizona-based witnesses. Testimony topics included voting barriers for Native-American voters, Arizona’s proof of citizenship law and its impact on Latino and naturalized-citizen voters, as well as the continued need for a preclearance process in light of recent United States Department of Justice (DOJ) objections.

I. Voting Barriers for Native-American Voters

Several witnesses testified about the continued barriers faced by Native-American voters in Arizona. According to Steve Titla of Titla & Parsi PLLC, there are 22 Native-American tribes in Arizona, and a significant portion of land in Arizona is located in Indian country.1 On behalf of the Navajo Election Administration in Arizona, Judith Dworkin of Sacks Tierney testified that a significant portion of Native Americans live on reservations “where there are no paved roads, no electricity, no running water, no stores, no government facilities, no employment, no street addresses, no immediate access to the amenities that modern Americans take for granted.”2 These conditions present particular obstacles.

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1 Though the U.S. Bureau of Indian Affairs only recognizes 22 Native American tribes, see http://www.bia.gov/cs/groups/public/documents/text/1doc06989.pdf, the Arizona Commission of Indian Affairs recognizes 22, see http://azcia.gov/tribes_of_arizona.asp.

2 See also, “Ensuring Access to the Ballot for American Indians & Alaska Natives” by Tova Andrea Wang, which notes that American Indians and Alaska Natives are the racial/ethnic group with the greatest proportion of people eliving below the poverty level: http://www.demos.org/sites/default/files/publications/IHS%20Report-Demos.pdf
Additionally, per Titla, “[t]here have been widespread practices of discrimination against Native Americans in Arizona, and there have been numerous attempts to reduce the effectiveness of Native-American voting strength.” Leonard Gorman of the Navajo Nation Human Rights Commission recalled that no Native American has ever been elected to a statewide office in Arizona.

A. Standard Physical Addresses
One of the main issues discussed by several witnesses, including Gregory Mendoza, governor of the Gila River Indian Community, was the lack of standard physical addresses in Native communities. As a consequence of this, Native American voters are sometimes not included on the voter registration rolls and are turned away at the polls or made to rely on provisional ballots. Gorman also testified that in the 2008 Arizona election, the candidacy of Navajo candidates was challenged because the addresses on the signature petitions included post office boxes and not physical addresses.

B. Language Translations
Language accommodations are crucial to ensure access for minority language communities. Judith Dworkin, representing the Navajo Election Administration in Arizona, testified that “Most Native American Tribes retain their native language, many with limited or no knowledge of the English language.” While “[a]ll of the eleven counties covering the Navajo Nation [in Arizona, New Mexico and Utah] are required to provide language assistance under Section 203 of the Voting Rights Act…[l]anguage translations are not always available when early voting begins.” This failure to provide timely translations can result in the denial of access for voters with limited English proficiency.

C. Limited Early Voting
Dworkin also testified that limited early voting hours on reservations can lead more Navajo voters to vote on Election Day, which then presents additional challenges because while Arizona voters are not required to furnish identification (ID) during early voting, they are required to do so if they vote on Election Day.

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3 See, Bureau of Census, Voting Rights Act Amendments of 2006, Determinations under Section 203 http://www.census.gov/rdo/pdf/2011_26293.pdf. The 11 counties covering Navajo nation are Apache, Coconino and Navajo Counties, Arizona; Bernalillo, Cibola, McKinley, Rio Arriba, San Juan, Sandoval and Socorro Counties, New Mexico; and San Juan County, Utah.
**D. Voter ID**

In 2004, Arizona voters passed Proposition 200, a law that requires all Arizona voters to present ID at the polling place on Election Day. Titla of Titla & Parsi PLLC testified that this law “resulted in a sharp decrease in Indian voters in 2006 and disproportionately impacted Native Americans for several reasons,” including the following:

- Because of language translation issues, socioeconomic issues, and cultural reasons, Native Americans vote in person—as opposed to by mail, where voter ID is not required—in higher numbers than off-reservation voters.\(^4\)
- Additionally, the types of ID initially accepted did not take into consideration the types of documents that are easily accessible to Native-American voters. According to Titla, “some Native American voters had a very difficult time obtaining a photo identification from the Arizona Department of Transportation. One voter went to the Department several times only to be turned away because she was born at home, and the Department would not accept her Certificate of Live Birth document issued by the Bureau of Indian Affairs.”

In light of these problems, Native American voters filed a lawsuit challenging the voter ID requirement under the Voting Rights Act. As Gorman testified, a settlement agreement was reached that expanded the types of ID accepted at the polls for Native American voters.\(^5\) Unfortunately, Titla went on to testify, “Native voters still have a hard time receiving a ballot at the polls. In some instances, the voters did have sufficient ID under the Special Procedures for Native American Voters, but the poll workers did not accept it.”

**E. Redistricting**

Testimony was also presented regarding the redistricting process. Titla stated that during the 2000 redistricting cycle, “advocates were unsuccessful in advocating for the San Carlos Apache Tribe to be included in the majority-minority legislative district,” which he argued resulted in the dilution of the Native-American vote. Finally, during the most recent redistricting cycle, the San Carlos Apache Tribe was included in the majority-minority district. Titla pointed out that “Because Arizona was covered by Section 5 of the Voting Rights Act, the Commission took potential retrogression of the Native American vote into consideration and sought to maintain a robust Native American majority-minority district. Without Section 5, it is not clear that similar measures would be taken to analyze the voting strength of Native American voters in Arizona.”

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\(^5\) See, May 27, 2008 Stipulation of the Parties in Navajo Nation v. Brewer, CV 06-1575-PHX-EHC.
II. Proof of Citizenship

Nina Perales of the Mexican American Legal Defense and Educational Fund testified about the burdens imposed by Proposition 200, a law passed by voters in 2004. Proposition 200, among other things, requires documentary proof of citizenship to register to vote. According to Perales, Proposition 200 has had a broad negative impact on voter registrants across Arizona. “Following enactment of Proposition 200, over 30,000 individuals were rejected for voter registration in Arizona .... [L]ess than one-third of the rejected registrants subsequently successfully registered to vote.” Voter registration in community-based drives also decreased by 44 percent following the enactment of Proposition 200.

Perales elaborated that “[d]espite its broad effects, however, Latinos have been particularly affected by the law. The voting restrictions imposed by Arizona’s Proposition 200, ostensibly to curb registration by immigrants who are not qualified to vote, come at a time when Latinos comprise Arizona’s fastest-growing citizen voting age population and Arizona is engulfed in an often heated debate about immigrants from Mexico living in the state.”

Perales, in particular, discussed the difficulties faced by naturalized citizens. Two of the forms of proof of citizenship listed by Proposition 200 are the naturalization certificate number and a driver’s license number. However, applicants using the naturalization certificate number have been rejected because that number cannot be used to confirm citizenship. Using the driver’s license is also sometimes insufficient because only those issued after 1996 are accepted. Furthermore, if the applicant was not a citizen at the time that he obtained his driver’s license, he will be listed as a foreigner in the driver’s license database—which in turn will lead to the rejection of his voter registration application.

Lastly, Perales pointed out that “[a] federal court in Arizona found that naturalized citizens will have difficulty registering with their driver’s licenses and are subsequently faced with either purchasing a new license or registering with the naturalization certificate (often in person).” The additional and unnecessary burdens faced by naturalized citizens, Perales argued, “are predictable and systemic to Proposition 200 and its implementation by Arizona election officials.”

III. DOJ Objections

Witnesses Paul Eckstein of Perkins Coie LLP and Alessandra Soler of the American Civil Liberties Union of Arizona testified about the continued need for preclearance and discussed recent DOJ objections.

A. 2003
The most recent objection in Arizona came in 2003, when the Department of Justice under President Bush objected to proposed changes to elect board members of a joint technological education district—the Coconino Association for Vocations, Industry and Technology. The Department of Justice found that the change would have had a retrogressive effect, diminishing the opportunity for Native-American voters to elect a representative of their choice.

B. 2002
Per Soler of the ACLU, “Arizona’s past four statewide redistricting plans were rejected by the DOJ for discriminating against Latino and Native American voters.” In particular, in its objection to the 2001 state legislative redistricting plan, the DOJ found that the Arizona Independent Redistricting Commission did “not m[e]et its burden of establishing that minority voters will continue to be able to elect candidates of their choice in five districts.”

Mr. Eckstein elaborated. In his words, the 2002 objection denying preclearance to the Redistricting Commission’s 2001 legislative plan stated that the plan:

“failed to provide a sufficient number of districts that allowed Hispanic voters to elect the candidates of their choice. Specifically, [the Department of Justice] stated that the Redistricting Commission’s 2001 Final Map had a retrogressive effect on Hispanic voting strength in at least three of five legislative districts. In one of those districts, District 23, the Department of Justice found that the Redistricting Commission’s reduction of Hispanic voting strength not only violated Section 5 of the Voting Rights Act of 1965 but ‘may also have been taken, at least in part, with a retrogressive intent.’”

Per Eckstein, after this 2002 objection, a three-judge district court approved an interim map for use in the 2002 elections but ordered the redistricting commission to draw permanent legislative lines for the 2004 through 2010 elections. In redrawing the lines, Eckstein claims, the commission made the Latino voting-age population more concentrated in one district, which “packed” the district. The packing, in turn, denied Latinos the fair opportunity to elect state representatives of their choice in a second district.

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8 See also, DOJ’s May 20, 2002 determination letter: http://www.justice.gov/crt/records/vot/obj_letters/letters/AZ/L_020520.pdf
9 See also, DOJ’s May 20, 2002 determination letter: http://www.justice.gov/crt/records/vot/obj_letters/letters/AZ/L_020520.pdf
Per Soler, the following objections were also issued during the preclearance process:

1992: A 1992 redistricting plan for Yuma County, along with an associated plan for precinct and polling place changes, was rejected by the DOJ because it diluted minority voting strength.\(^\text{11}\)

1991: As Soler recalled, “[v]oter registration challenge and purge procedures were prevented from going into effect in 1991 in Coconino County, where a significant portion of the county’s 29% Native American population does not read or write English.”\(^\text{12}\)

1985: A 1985 plan to eliminate two polling places, implement a five-polling place rotation system, and reduce polling hours in western Apache County was rejected because it had a discriminatory impact on Native-American voters.\(^\text{13}\)

Notably, Soler also pointed out that “on August 29, 2013, Arizona Attorney General Tom Horne issued a memo stating that six previously enacted state statutes and policies that were submitted for preclearance but later withdrawn were effective” as of the date of the *Shelby County v. Holder* decision. Among those statutes was a 2010 law that created two additional at-large seats on the Governing Board of the Maricopa Community College District. “Because at-large districts compared to single-member districts have been shown to dilute minority voting strength and make it more difficult for minorities to elect the candidates of their choice, the Department of Justice raised questions about what prompted the changes,” Soler explained. “The law was never enforced because it failed to receive preclearance. However, in his August 29 memo, Horne announced that the state would be moving forward to fill the two new seats in the November 2014 election.”\(^\text{14}\)

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BALTIMORE REGIONAL HEARING
(Maryland, District of Columbia, and Delaware)

University Of Baltimore, John And Frances Angelos Law Center
Baltimore, Maryland
April 29, 2014

GUEST COMMISSIONERS
Gilda Daniels, Professor, University of Baltimore School of Law
J. Howard Henderson, The Urban League
Marcia Johnson-Blanco, Voting Rights Project Co-Director, Lawyers' Committee for Civil Rights Under Law

Kim Keenan, General Counsel and Secretary, NAACP
Rev. Todd Yeary, Political Action Chair, Maryland State NAACP

PANELISTS
Lennox Abrigo, President, DC Civil Rights Coalition
Daneen Banks, Deputy Elections Administrator, Prince George's County Board of Elections
Lou Ann Blake, HAVA Project Manager and Law Symposium Coordinator, Jernigan Institute, National Federation of the Blind
Nikki Charlson, Deputy Administrator, Maryland State Board of Elections
Alyssa Fieo, Director of Legal Advocacy, Maryland Disability Law Center
Elbridge James, 2nd Vice President of the Maryland State Conference of the NAACP
Timothy Male, Chair, Montgomery County Right to Vote Task Force & Takoma City Council Member

Lu Pierson, past President, League of Women Voters of Maryland; LWVMD Election Study Chair
Rev. Gloria Swieringa, Co-Chair, Communities United
Sharon Taylor, 2nd Vice President of the Prince George's County NAACP
John Willis, Professor, University of Baltimore School of Public and International Affairs & Former Secretary of the Maryland State Board of Elections
Barbara Yeomans, President, The League of Women Voters of Washington, DC

PUBLIC TESTIMONY
Rais Akbar, Fair Vote

SUPPORTING ORGANIZATIONS (NOT EXHAUSTIVE)
University of Baltimore School of Law
BALTIMORE REGIONAL HEARING HIGHLIGHTS:

On April 29, 2014, voting rights advocates and members of the public gathered for a hearing on voting rights convened by the Lawyers’ Committee for Civil Rights Under Law and co-hosted by the University of Baltimore School of Law. Approximately 40 people attended the hearing, which included testimony on various areas of election administration in Maryland and the District of Columbia.
BOSTON REGIONAL HEARING
(Massachusetts, Vermont, Maine, New Hampshire, and Rhode Island)

Suffolk University Law School
Boston, Massachusetts
March 31, 2014

NATIONAL COMMISSIONER
John Dunne, former Assistant Attorney General for Civil Rights under President George H. Bush

GUEST COMMISSIONERS
Rachael Cobb, Associate Professor and Chair, Suffolk University Government Department
Rahsaan Hall, Deputy Director, Lawyers’ Committee for Civil Rights and Economic Justice
Darnell Williams, President and CEO, Urban League of Eastern Massachusetts
Brenda Wright, Vice President of Legal Strategies, Demos

PANELISTS
Kate Bowden, Staff Attorney, Rhode Island Disability Law Center
Sara Brady, Policy Director, MassVOTE
Cheryl Clyburn Crawford, Executive Director, MassVOTE
Tyler Creighton, Assistant Director, Common Cause Massachusetts
Avi Green, Director of Civic Outreach and Development, Scholars Strategy Network
Sandra Kautz, Founder, Grassroots SW Boston
Elainy Mata, student, Suffolk University
Chris Robarge, Central Massachusetts Field Coordinator, ACLU of Massachusetts
Pam Wilmot, Executive Director, Common Cause Massachusetts
Gavi Wolfe, Legislative Counsel, ACLU of Massachusetts

PUBLIC TESTIMONY
Michael Arnott, Cambridge resident
John Businger, former Chairman, Massachusetts Joint Committee on Elections; former member, Commission on Election Laws
Karen Chen, Chinese Progressive Association
Lisa Danetz, Legal Director, Demos
Mike Ferriter, Election Defense Alliance
Wendy Joseph, Member of Highlands Coalition, Lynn, Massachusetts
Tong Kinwah, Board Member, Chinese Progressive Association
Chris Maynard, student, Suffolk University
Andy Morgan, Public Policy Assistant, Rosie’s Place
Leila Quinn, Generation Citizen
Grace Ross, Worcester resident
Jonathan Simon, Executive Director, Election Defense Alliance
Ryan Thomas, student, Suffolk University
Phi Tran, Asian American Resource Workshop
Henry Yee, Co-Chair, Chinatown Residents Association
WRITTEN TESTIMONY

Aleks Kajstura, Legal Director, Prison Policy Initiative
Ivette Luna, Organizing Director, Neighbor to Neighbor Massachusetts (read by Tony Mack, Mass Voter Table)

John Marion, Common Cause Massachusetts
Michelle K. Tassinari, Director/Legal Counsel, Secretary of the Commonwealth Elections Division

SUPPORTING ORGANIZATIONS (NOT EXHAUSTIVE)

American Civil Liberties Union of Massachusetts
Common Cause Massachusetts
Demos
League of Women Voters — Massachusetts
MassVote
MIRA Coalition

New England Area Conference of the NAACP
Progressive Massachusetts
Springfield Institute
Suffolk University Government Department
Suffolk University Law School
Urban League of Eastern Massachusetts

BOSTON REGIONAL HEARING HIGHLIGHTS

The National Commission on Voting Rights held a regional hearing in Boston on March 31, 2014, at Suffolk University Law School. The event was co-sponsored by the Lawyers’ Committee for Civil Rights Under Law of Washington, DC, the Lawyers’ Committee for Civil Rights and Economic Justice of Boston, and Access Strategies Fund of Cambridge, Massachusetts. Approximately 50 voters, activists, and voting rights advocates heard from witnesses about the voting challenges faced by voters with limited English proficiency in the Boston area as well as election administration issues in Massachusetts and Rhode Island.

Chris Robarge, Field Coordinator for the ACLU Massachusetts, and Tyler Creighton, Assistant Director of Common Cause Massachusetts, speaking on Election Protection efforts in the Boston Area.
I. Language Access

Voters with limited English proficiency face particular challenges in exercising their right to vote. Henry Yee and Karen Chen from the Chinatown Residents Association and Tong Kinwah from the Chinese Progressive Association testified about the efforts of the Chinese community in Boston over the past decade to obtain and institutionalize bilingual ballots to facilitate full participation by voters in their community. While the City of Boston is covered under Section 203 of the Voting Rights Act, such coverage requires the city to provide election services in Spanish only.¹ However, in Boston, Chinese Americans are the largest Asian-American ethnic group, totaling nearly 25,000 in the 2010 census.² Boston has provided Chinese/English ballots in the past, pursuant first to a settlement agreement with the U.S. Department of Justice and more recently because of state legislation.³ The most recent law expired in 2013.⁴ Yee testified about the benefits of bilingual ballots, expressing frustration with having to galvanize the Chinese community every three years to ensure the bilingual ballot provisions are renewed by the legislature.

Kinwah pointed out that bilingual ballots also protect voters’ privacy, as they eliminate the need for third-party assistance in the voting booth. Moreover, both witnesses highlighted the fact that new Americans can choose to take their citizenship exam in their native language, yet face obstacles exercising their right to vote when the ballot and instructions are not available in the language with which they are most comfortable.

⁴ 2010 Mass. Acts Ch. 201.
Phi Tran of the Asian American Resource Workshop echoed many of Yee’s and Kin-wah’s statements in his testimony on the need for Vietnamese/English bilingual ballots in Boston. Vietnamese Americans are the second-largest Asian-American ethnic group in the city, totaling approximately 11,000.5 According to Tran, two-thirds of the Vietnamese population in Boston has limited English proficiency, which underscores the need for and utility of bilingual ballots. Tran described bilingual ballots as a method of creating an “even playing field” for Vietnamese voters, and noted his belief, based on his own observations working with the community, that the availability of bilingual ballots contributed to increased Vietnamese voter turnout from 2010 to 2013.

See, United States Census Bureau’s American Fact Finder for Boston, Mass., available at http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?src=bkmk
CALIFORNIA STATE HEARING

University of California Hastings College of Law
San Francisco, California
January 30, 2014

NATIONAL COMMISSIONER
Dolores Huerta, Lifelong Community Activist; Social Justice Organizer; Co-Founder, United Farm Workers; President, Dolores Huerta Foundation

GUEST COMMISSIONERS
Kathay Feng, Executive Director, California Common Cause
Alice A. Huffman, President, California NAACP
Cruz Reynoso, Justice of California Supreme Court (Ret.); Professor of Law Emeritus, U.C. Davis School of Law

PANELISTS
Sean Dugar, Western Regional Field Director, NAACP
Joanna Cuevas Ingram, Attorney, Lawyers’ Committee for Civil Rights of the San Francisco Bay Area
Neal Kelley, Orange County Registrar of Voters
Deanna Kitamura, Senior Staff Attorney, Asian Americans Advancing Justice - Los Angeles
J. Morgan Kousser, Professor, California Institute of Technology
Eugene Lee, Voting Rights Project Director, Asian Americans Advancing Justice - Los Angeles
Aida S. Macedo, Election Protection Legal Committee – Fresno
Fred Nisen, Attorney, Disability Rights California
Dorsey Nunn, Executive Director, Legal Services for Prisoners with Children
Michelle Romero, Claiming Our Democracy Program Director, Greenlining Institute
Dr. Mindy Romero, California Civic Engagement Project Director, U.C. Davis Center for Regional Change
Robert Rubin, Adjunct Faculty, University of California Hastings College of the Law
Thomas A. Saenz, President and General Counsel, Mexican American Legal Defense and Educational Fund
Lori Schellenberger, Voting Rights Project Director, American Civil Liberties Union of California

PUBLIC TESTIMONY
Jerry Elison
Manuel Fontaine
Sun Fung Gao
David Gary
Perry Grossman
Arie Gutierez
David Kerry
Chris Lavin, Filipino Service Group, Los Angeles
Matthew Martini
Peter Mendoza, Community Learning Resource Center of San Francisco
Jim Sopher, CountItAsCast.org, author
Pamela Strong, All of Us or None
Lynn Tao, Self-Help for the Elderly
Brent Turner
Frank Williams
Kimberly Thoms Rapp, Executive Director of the Lawyers’ Committee for Civil Rights of the San Francisco Bay Area, provides her opening remarks at the NCVR California hearing.

On January 30, 2014, over 100 voters, activists and voting rights advocates gathered at the University of California Hastings College of the Law in San Francisco to share their experiences of the voting challenges they continue to face in California at a hearing convened by the Lawyers’ Committee for Civil Rights Under Law and the Lawyers’ Committee for Civil Rights of the San Francisco Bay Area. Witnesses testified about continued barriers to equal participation in the democratic process for voters in California, including the denial of equal representation for racial minority communities, continued barriers for voters with limited English proficiency (LEP) and the disproportionate impact of felony disenfranchisement laws on communities of color.
I. Minority Representation

Morgan Kousser, a professor at the California Institute of Technology, presented testimony on the California Voting Rights Act (“CVRA”), which was passed in 2001 to curtail vote dilution caused by racial polarization in systems that utilize at-large elections. According to Kousser, an ongoing study of K-12 school districts has found that since the passage of the CVRA, the number of school districts that have adopted district-based elections has increased, which has led to an increase in Latinos on the school boards. However, there have been attempts by jurisdictions to work around the CVRA. For example, Kousser testified that in 2002, the Department of Justice (DOJ) objected to a change from district elections to at-large elections in the Chualar Union Elementary School District in Monterey County. The change would have undermined the strength of minority voters in the county. In 2003, a recall election in Monterey County was also stopped by the courts because the polling precincts had been consolidated.

Robert Rubin, a leading voting rights attorney in California, testified that “California voters have not only benefited from Section 5’s protections, but they are harmed by their dismantlement.” Prior to Shelby County v. Holder, three counties in California were subject to Section 5 preclearance by the DOJ before making any changes to their voting laws and procedures: Yuba County, Monterey County, and Kings County. Witness Eugene Lee, of Asian Americans Advancing Justice—Los Angeles (AAAJ), elaborated that “Asian-American communities in California ... face racially polarized voting, which when coupled with certain election struc-

3 Id.
4 See also, DOJ’s list of jurisdictions covered by Section 5 pre-Shelby: http://www.justice.gov/crt/about/vot/sec_5/covered.php
tures, creates the potential for dilution of Asian-American voting strength.... If forced to rely on Section 2 alone, Asian-American communities face an uphill battle in asserting challenges to at-large election systems and unfairly drawn districts."

II. Language Access

Mindy Romero of the California Civic Engagement Project at the UC Davis Center for Regional Change and Deana Kitamura of AAAJ testified about the challenges faced by LEP voters in exercising their fundamental right to vote. According to Romero, research has shown a clear association between language access and voter participation rates (which is, in part, due to uneven access to language assistance). For Latino citizens who speak little English, Romero stated that access to Spanish-language ballots increases turnout and influences election outcomes. Furthermore, Romero testified that structural barriers, such as lack of language access, are a primary contributor to lower registration rates for naturalized citizens. Kitamura testified that comprehensive language assistance mandated by federal law has increased voter registration and turnout in Asian-American communities. For example, Kitamura testified that once San Diego County adopted a comprehensive language program, “voter registration increased by 20 percent in the Filipino-American community and increased by 40 percent in the Vietnamese-American community."

Neil Kelley, registrar of voters for Orange County, California, testified about the importance of providing language access. Orange County, he said, provides election services in eight languages, including Chinese, Hindi, Japanese, Khmer, Korean, Spanish, Tagalog, and Vietnamese. According to Kelley, Orange County’s comprehensive language access program employs procedures to ensure that language translations are accurate, updated and that they reach the target communities. Unfortunately, as reported by witnesses at the hearing, language access problems persist in parts of California. For example, in the last decade, Kitamura noted that four enforcement lawsuits under Section 203 of the Voting Rights Act were brought by the DOJ against California counties for failure to comply with language requirements: San Diego County (2004), the City of Rosemead (2005), the City of Walnut (2007) and Alameda County (2011).

Lastly, Michelle Romero, director of the Greenlining Institute’s Claiming Our Democracy Program, identified California’s English-only initiative process as a major barrier. Romero testified that California’s ballot initiative process plays a crucial role in determining policy in California and that the English-only process silences and excludes LEP voters from the process to

5 A lack of proper training or planning by election officials and limited legal protections of LEP voters can ultimately lead to the disenfranchisement of eligible citizens. See, Terin M. Barbas, Note, We Count Too! Ending the Disenfranchisement of Limited English Proficiency Voters, 37 FLA. ST. U. L. REV. 189, 201-02 (2009).

6 These multilingual election services are required by California state law (AB 817). http://www.leginfo.ca.gov/pub/13-14/bill/asm/ab_0801-0850/ab_817_cfa_20130614_131025_sen_comm.html
determine which initiatives make it on the ballot. Romero testified that the English-only process also subjects LEP voters to manipulation by paid signature gatherers. One example of this was cited by Thomas A. Saenz, president and general counsel of the Mexican American Legal Defense and Educational Fund (MALDEF). Saenz testified that MALDEF represented challengers to a recall petition that was circulated in English in a district with a large number LEP voters. According to Saenz, a number of people signed the petition after being told that they were signing in support of something else. Ultimately, said Saenz, the petition resulted in the recall of a school board member who appeared to have the support of the Latino community in that district. Romero also testified that there is some confusion about how federal language assistance provisions should be applied to initiative, referendum, and recall materials. According to Romero, this lack of clarity in the law needs to be addressed to ensure that language barriers do not hinder LEP communities from participating.

III. Disenfranchisement of Minority Californians Who Complete Felony Sentences and Have Been Discharged from Parole

In 2011, there were approximately 144,000 inmates in the California state prison system.⁷ African-American and Latino males made up a disproportionate 70 percent (approximately 98,000 inmates) of the adult-male prison population.⁸ Although California automatically restores the voting rights of persons convicted of a felony upon completion of their felony sentence and discharge from parole, Dorsey Nunn, executive director of legal services for Prisoners with Children, testified that many of these individuals who are eligible to vote are underrepresented in the California electorate due to misinformation and lack of information (i.e., they think they cannot vote because of the former felony conviction).⁹ As a result, equal access to the ballot for persons with felony conviction histories remains a serious problem in California for the minority community.

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⁷ See, California’s Changing Prison Population, Public Policy Institute of California (June 2013), http://www.ppic.org/content/pubs/jffc/JFFC_PrisonsJFFC.pdf

⁸ Id.

⁹ See also, Voting as an Ex-Offender: State by State, Nonprofit VOTE: http://www.nonprofitvote.org/voting-as-an-ex-offender/#California
COLUMBUS REGIONAL HEARING
(Indiana and Ohio)

The Vern Riffe Center for the Arts and Government
Columbus, Ohio
May 30, 2014

GUEST COMMISSIONERS
Wade C. Henderson, President and CEO, Leadership Conference on Civil and Human Rights and the Leadership Conference Education Fund
Hon. Nathaniel Jones, Attorney; ret. Judge, U.S. Court of Appeals for the Sixth Circuit
Bob Kengle, Voting Rights Project Co-Director, Lawyers’ Committee for Civil Rights Under Law
Elizabeth MacNamara, President, League of Women Voters; Chair, League of Women Voters Education Fund
Sybil McNabb, President, Ohio NAACP

PANELISTS
Bill Anthony, Franklin County Board of Elections
Barbara Bolling, Indiana NAACP
Jason Boylan, Disability Rights Ohio
Phyllis Cleveland, Councilwoman, Cleveland Fifth Ward
Gary Daniels, ACLU of Ohio
Carrie Davis, League of Women Voters of Ohio
Adle Eisner, CASE-OH
Ellis Jacobs, Advocates for Basic Legal Equality
Karen Kay Leonard, League of Women Voters of Indiana
Karla Lortz, Disability Rights Advocate
Sandy McNair, Cuyahoga County Board of Elections
Greg Moore, NAACP National Vote Fund
Deidre Reese, Ohio Voice
Norman Robbins, Northeast Ohio Voter Advocates
Tom Roberts, NAACP Political Action Center
Peg Rosenfeld, League of Women Voters of Ohio
Petee Talley, Ohio Unity Coalition
Jocelyn Travis, Election Protection Cleveland
Julia Vaughn, Common Cause of Indiana
Camille Wimbish, Ohio Vote

PUBLIC TESTIMONY
Carlos Buford
Carole DePaola
Gregory Kilcup
Royal Mayo
Jaquetta Sanders

WRITTEN TESTIMONY
Kathleen Clyde, Representative, 75th House District, Ohio
Bentley Davis
Rev. Dale B. Snyder, Sr.
Nina Turner, State Senator, 25th District, Ohio
COLUMBUS REGIONAL HEARING HIGHLIGHTS

On May 30, 2014, voters, activists, and voting rights advocates gathered at the Vern Riffe Center for the Arts and Government in Columbus, Ohio at a hearing convened by the Lawyers’ Committee for Civil Rights Under Law. Witnesses testified about continued barriers to equal participation in the democratic process for voters in Ohio and Indiana, including opportunities for minority communities to register and vote, voter suppression efforts, and the disproportionate impact of changes in early voting laws on minority communities. Julia Vaughn, representing Common Cause Indiana, noted that “voter ID is the Indiana law that has gotten all the attention, but there have been further efforts to chip away at free and accessible voting, and that is very disturbing.”

I. Registration Barriers in Ohio

Norman Robbins, representing the Northeast Ohio Voter Advocates, provided testimony on the impact of barriers to registering to vote. He calculates that 400,000 low-income Ohioans are not registered to vote. In addition, Robbins presented calculations indicating that, in Cuyahoga County, African Americans make up approximately 30 percent of the population but 61 percent of the invalid voter registrations. He pointed to several factors that he believes contributed to this disparity. First, he said that after the 2012 election, voter registrations
originating at the Ohio Department of Jobs and Family Services, the largest public assistance agency in the State, dropped and have remained about half of what they used to be. Second, people living in “the lowest income, heavily minority areas” move more frequently than other demographic groups, meaning that they will have to update their voter registration or vote by provisional ballot.

II. Reduced Early Voting in Ohio

Several witnesses provided testimony on the impact that limits on early voting will have on minority communities. According to Gary Daniels, Associate Director of the American Civil Liberties Union (ACLU) of Ohio, during the 2004 election, long lines caused “an estimated 130,000 voters to leave their polling locations without casting a ballot.” In response to this problem, Ohio expanded early voting opportunities. Robbins testified that, in the elections held with early voting, “an out-of-proportion number of African Americans used early in-person voting.” In 2014, Ohio enacted S.B. 238, which eliminated an overlap in the registration period and the early voting period known as “golden week,” as well as the final two days of early voting. Secretary of State John Husted also issued a directive banning early voting on evenings and Sundays. According to Daniels, “[t]he effect [of these measures] is to eliminate specific voting days that 157,000 Ohioans took advantage of in 2012.”

1 See also, Norman Robbins, Decreased voter registration at public assistance agencies after the 2012 Presidential election -- findings, analysis and suggestions based on Ohio’s experience, available at http://www.nova-ohio.org/DECREASED%20VOTER%20REGISTRATION%20AT%20PUBLIC%20ASSISTANCE%20AGENCIES%20REPORT%209-3-13.pdf.
early-voting period.” In addition, Daniels testified that the elimination of Sunday early voting will hinder “Souls to the Polls,” a popular initiative that brought thousands of church-going African Americans to vote. According to Tom Roberts of the National Association for the Advancement of Colored People (NAACP), in a sample Ohio county “[i]n 2008, African-American voters were 56 percent of weekend voters.”

III. Precinct Consolidations in Ohio

Ellis Jacobs, an attorney working with the Miami Valley Voter Protection Coalition in Dayton, Ohio, provided testimony on the consolidation of precincts and polling places. Reducing the number of precincts in urban areas disproportionately impacts “African-American neighborhoods, low-income neighborhoods... [because] the people that live there are much more likely not to own vehicles,” he said. He further testified that nationally, significant disparities exist in automobile ownership between white and African American households. According to one study, 19 percent of African Americans live in households that do not own a car, while only 4.6 percent of whites do. In addition, he testified that the degree of precinct consolidation in urban counties significantly outpaced other parts of the state. Jacobs testified that counties across the state have dramatically consolidated precincts. In Cuyahoga County (Cleveland), the number of precincts was reduced by 26 percent, in Hamilton County (Cinc-


6 Robbins & Salling, supra note 5, at 1.

nationally the number of precincts was reduced by 23 percent, and in Lucas County (Toledo) the number of precincts was reduced by 28 percent.8

IV. Voter Suppression in Ohio

Phyllis Cleveland, who represents Ward 5 on the Cleveland City Council in Ohio, provided testimony on voter suppression efforts in her ward. She indicated that she represents “three of the poorest communities in Cuyahoga County[;]… Central and Kinsman [which] are about 95 percent African-American [and] [the] North Broadway area, which… is now approaching 40 to 50 percent African-American.”9 Cleveland testified that her “community was targeted for voter suppression billboards [that said] ‘Voter fraud is a felony,’ and [they] listed the penalties, three and a half years, $10,000 fine.” Sixty of these billboards appeared in low-income and minority communities in Columbus and Cleveland. Cleveland testified that she heard many concerns from voters, who would often decide they were not “going to take a chance and vote and to go to prison or have to pay a large fine that I can’t afford.”

V. Early Voting in Indiana

Barbara Bolling, President of the Indiana State Conference of the NAACP, provided testimony on early voting challenges to Lake County, Indiana in 2008. Under Indiana law, early voting can only take place in a county clerk’s office, unless the county board of elections approves early voting centers elsewhere in the county.10 A lawsuit challenged the Lake County Board of

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Karen Kay Leonard, former president of the League of Women Voters of Indiana, also provided testimony on changes in early voting laws in 2012. Leonard stated that “after 2012... it became impossible... to offer early voting at satellite locations, unless there was unanimous agreement among the county elections board.”
DENVER REGIONAL HEARING
(Colorado and New Mexico)

Sturm College of Law
Denver, Colorado
March 7, 2014

GUEST COMMISSIONERS
Dr. Lonna Atkeson, University of New Mexico
Dede Feldman, former State Senator, New Mexico
Rosemary Harris Lytle, President, NAACP
Colorado Montana Wyoming State Area Conference
John Zakhem, President, Zakhem Law Firm

PANELISTS
Ariel Bickel, New Mexico Vote Matters
Judd Choate, Director of Elections, Colorado Secretary of State Office
Matt Crane, County Clerk and Recorder, Arapahoe County
Grace Lopez-Ramirez, former Colorado State Director, Mi Familia Vota
Amber McReynolds, Director of Elections, City and County of Denver
Roman Montoya, Deputy Clerk, Bernalillo County
Nadine Padilla, Native American Voters Alliance
Sheila Reiner, County Clerk and Recorder, Mesa County
Jennifer Weddle, Chair, Colorado Indian Bar Association

PUBLIC TESTIMONY
James Johnson, Chair, NAACP Colorado Montana Wyoming State Area Conference

SUPPORTING ORGANIZATIONS (NOT EXHAUSTIVE)
Colorado Common Cause
Colorado Lawyers Committee
Common Cause New Mexico
Elections Task Force of the Colorado Lawyers Committee
Sturm College of Law, University of Denver
The Legal Center for People with Disabilities and Older People
The Sweetser Law Firm, P.C.
DENVER REGIONAL HEARING HIGHLIGHTS

From left, Commissioners Rosemary Harris Lytle, President of the Colorado/Montana/Wyoming NAACP state conference; Dr. Lonna Atkeson, University of New Mexico; Chair John Zakhem, President of Zakhem Law Firm; and Dede Feldman, former state senator for New Mexico, seated during presentations at the New Mexico hearing.

On March 7, 2014, at a National Commission on Voting Rights public hearing organized by the Lawyers’ Committee for Civil Rights Under Law and partners (including the Colorado Lawyers Committee), voting rights advocates and election administrators gathered at the Sturm College of Law at the University of Denver to share their experiences with initiatives to improve elections in Colorado and New Mexico, as well as ongoing voting challenges faced by Native Americans, Latinos and disabled persons.

I. Native American Voters: Intimidation and Language Barriers

Both Nadine Padilla of Native American Voters Alliance in New Mexico and Jennifer Weddle, chair of the Colorado Indian Bar Association, spoke of Native-American voters being intimidated at the polls or given wrong information about polling locations. According to Padilla, Native-American voters in New Mexico have experienced “tow trucks going into polling locations in Native communities looking for license plates numbers of people who are behind on their
car or truck payments, and word will get around pretty quickly and that will discourage voters from going to the polls. In the last elections in 2012 there were reports of tires being slashed of everyone that was going to vote.”

In both states, Native voters have faced problems with translation of materials, lack of translators at the polls and limited access to polling locations. According to Weddle, “the diversity of languages spoken by Native voters and the physical seclusion of those who reside in Indian county exacerbate the acute disenfranchising effect of discriminatory voting and election practices.” Weddle went on to note that the closing of a polling location or implementation of a voting change that is not translated or communicated to Native voters can limit the ability of these communities to vote. Padilla testified that there are “22 Native nations, which has eight distinct language[s] with varying dialects between them,” in New Mexico alone. Therefore, Padilla said, translating voting terms into the Native language is often incredibly difficult, and translators are often not available at polling locations.
FLORIDA STATE HEARING

University of Miami School of Business Administration
Miami, Florida
March 31, 2014

NATIONAL COMMISSIONER
Leon W. Russell, Vice Chair of the National Board of Directors, NAACP

GUEST COMMISSIONERS
Hon. Dan Gelber, founding partner, Gelber, Schachter & Greenberg; former State Senator and Representative
Lisa Rodriguez-Taseff, partner, Duane Morris LLP
Dr. Daniel A. Smith, Professor, University of Florida Research Foundation

PANELISTS
Nancy Abudu, Director of Legal Operations, ACLU of Florida
Brad Ashwell, Common Cause of Florida
Maribel Balbin, President, League of Women Voters Miami-Dade
Ana Delarosa, Mi Familia Vota
Marc Dubin, Esq., Director of Advocacy, CIL South Florida
Linda Geller-Schwartz, National Council of Jewish Women
Mone Holder, Florida New Majority
Desmond Meade, Florida Rights Restoration
Katie Roberson-Young, Staff Attorney, SEIU
Beverly Rutherford, AFL-CIO; Florida Coalition for Black Civic Engagement
Mark Schneider, Voting Rights Coalition-Palm Beach
Cynthia Slater, Civic Engagement Chair, Florida NAACP
Carol Stachurski, Program Operations Manager, Disability Rights Florida
Carolyn Thompson, Florida Protection Advocate, Advancement Project

PUBLIC TESTIMONY
H. Paul Douglas, NAACP of Hernando County
Paul Edwards, President, Florida Council of the Blind
Reneta Holmes, Labor Education Advocacy
Damian Gregory
Liza McClengan, Collier County
Calvin Clarence “C.C.” Reed, Gubernatorial Candidate, State of Florida

SUPPORTING ORGANIZATIONS (NOT EXHAUSTIVE)
Advancement Project
American Civil Liberties Union of Florida
Center for Independent Living of South Florida
Common Cause
Disability Rights Florida
Florida New Majority
Florida State Conference of the NAACP
Latino Justice PRLDEF
League of Women Voters of Florida
National Council of Jewish Women
SEIU Florida
Voting Rights Coalition of Palm Beach County
FLORIDA STATE HEARING HIGHLIGHTS

On March 31, 2014, 35 voters, activists, and voting rights advocates gathered at the Storer Auditorium at the University of Miami School of Business Administration to share their experiences of the voting challenges they continue to face in Florida at a hearing convened by the Lawyers’ Committee for Civil Rights Under Law. Witnesses testified about continued barriers to equal participation in our democratic process for voters in Florida, including discriminatory election administration practices, the lack of equal representation for racial minority communities, continued barriers for voters with limited English proficiency, and the disproportionate impact of felon disenfranchisement laws on communities of color.

I. Discriminatory Election Administration Practices

Several witnesses presented testimony on election administration practices that discourage disproportionately minority voters from participating. Prior to the *Shelby County v. Holder* decision, five Florida counties were required to seek preclearance for changes to election practices and procedures under Section 5 of the Voting Rights Act ("VRA").

A. Long Lines

Maribel Balbin, President of the League of Women Voters of Miami-Dade County, presented testimony about long lines that voters faced during early voting and on Election Day. In Miami-Dade County, the most populous county in Florida, Balbin testified that voters were forced to wait in line for as long as eight hours. Linda Geller-Schwartz, representing the National Council of Jewish Women, noted that “many black and Latino voters waited nearly twice as long in voting lines as white voters.” Carolyn Thompson, the Florida Protection Advocate for the Advancement Project, presented testimony regarding a study of Florida precincts in the 2012 election which showed “an unmistakably clear disparate impact . . . on African American and Latino voters.” Through analysis of precinct demographics and closing times, the study concluded that Latino voters were confronted with the longest lines, “but generally speaking, black voters also waited slightly longer than white voters.” The Florida Democratic Party filed suit against the Secretary of State and several county election supervisors. The suit alleged that the long lines burdened the right to vote and requested a temporary restraining order as well as emergency injunctive relief to extend early voting hours. The parties agreed to a settlement that permitted voters to drop off absentee ballots through the Monday before Election Day.

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B. Provisional Ballots
Drawing from the 2012 Florida precincts study mentioned above, Thompson also provided testimony showing that Florida voters of color were "more likely than white voters to cast provisional ballots and nearly twice as likely to have their provisional ballots rejected."

C. Polling Place Locations
H. Paul Douglas, representing the NAACP, Branch 5012 of Hernando County, presented testimony on the closure of polling locations in Hernando County. On May 24, 2012, the Hernando County Board of Commissioners approved a plan that reduced the number of voting precincts from 57 to 39. Douglas testified that officials closed polling places for "precincts [in] mostly African-American communities." He also expressed concern that the closures were confusing to voters since polling places remained open for the primaries, but were later closed for the general election.

D. Voter Purge
Thompson also presented testimony on the Florida "voter purge," which initially identified 180,000 registered voters as potential non-citizens. According to Thompson, roughly 2600 voters, including naturalized citizen Karla Vanessa Arcia, received letters giving them 30 days to prove their citizenship and residency, or risk being removed from the voter rolls. Thompson testified that the majority of the voters that received these letters were Latino and 82 percent of them were voters of color. The U.S. Department of Justice ("DOJ") filed suit against the state of Florida, alleging the purge violated the National Voter Registration Act ("NVRA") and requesting a temporary restraining order. The U.S. District Court for the Northern District of Florida denied the motion, in part, because the Secretary of State voluntarily stopped the purge.

II. Minority Representation
Nancy Abudu, Director of Legal Operations for the ACLU of Florida, presented testimony on the impact of recent redistricting plans on minority representation. According to Abudu, "redistricting continues to be an important issue as several cities and counties are still undergoing the redistricting process." Despite changing demographics and increases in the minority population, Abudu testified about the lack of diversity in local government. Abudu pointed to several examples, including the Village of Miami Shores, the City of Sopchoppy, and the City of Jacksonville. According to 2010 Census data, the minority population in each of these cities was greater than 30 percent of the total population, but according to Abudu,

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election schemes such as at-large and mixed electoral systems make it difficult for minorities to secure representation in local government.

III. Language Access

Liza McClanaghan, representing the NAACP Unit 5117 PAC and a resident of Collier County, presented testimony on the County’s compliance with minority language requirements. According to McClanaghan, Collier County is one of 13 Florida counties that is covered by the minority language provisions of Section 4(f)(4) or Section 203 of the VRA.\(^7\) Despite being covered by these provisions, McClanaghan testified that Collier County election officials “forgot to publish a Spanish version or Haitian Creole version of the Voter Guide on their websites” in advance of the 2012 election. As of June 2014, the Collier County Supervisor of Elections’ website provided a “translate” function, but it did not appear to provide Spanish or Spanish-Creole versions of documents.

Katie Roberson-Young, an attorney with the Service Employees International Union, presented testimony on the lack of bilingual poll workers at many polling places. According to Roberson-Young, some Creole-speaking voters waited in lines up to eight hours only to find “they either had no translation help, or they had to wait even longer than other voters in a separate line until one of too few Creole-speaking election workers became available.” At some polling places, according to Roberson-Young, the poll workers “claim[ed] that translators could assist only a limited number of voters each day” and prevented voters “from receiving literacy or translation assistance from family or friends.” Without assistance, Roberson-Young testified that some non-English-speaking voters submitted invalid ballots that could not be counted.

IV. Disenfranchisement of Incarcerated and Formerly Incarcerated Floridians

Desmond Meade, President of the Florida Rights Restoration Coalition and State Director for the Life Lines and Healing Campaign, presented testimony on the disproportionate impact Florida’s felon disenfranchisement laws have on minorities. According to the Sentencing Project, over 1.54 million Floridians were not able to vote in 2010 due to felony convictions, including an estimated 23 percent of Florida’s voting age African Americans.\(^8\) Along the same lines, Mark Schneider, of the Voting Rights Coalition of Palm Beach County, estimated that Florida “lose[s] about 40,000 eligible voters per year to felony disenfranchisement.” At the same time, Schneider noted that the number of people who have had their voting

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\(^8\) Interactive Map: Florida, The Sentencing Project, http://www.sentencingproject.org/map/map.cfm#map
rights restored following a felony conviction has decreased in recent years.\textsuperscript{9} According to the Florida Parole Commission, the rights restoration process requires convicted persons to complete their criminal sentences and a five to seven year waiting period before they are eligible to apply for clemency.\textsuperscript{10}


GEORGIA STATE HEARING

The Martin Luther King Jr. Center for Nonviolent Social Change
Atlanta, Georgia
November 20, 2013

GUEST COMMISSIONERS

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<td>Helen Butler, Executive Director, Georgia Coalition for the Peoples’ Agenda</td>
<td>Laughlin McDonald, Special Counsel and Director Emeritus, ACLU Voting Rights Project</td>
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<td>Dr. Francys Johnson, President, Georgia NAACP</td>
<td>Ruby Moore, Executive Director, Georgia Advocacy Office</td>
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PANELISTS

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<td>Richard Barron, Fulton County Director of Elections and Registration</td>
<td>Helen Kim Ho, Executive Director, Asian American Legal Advocacy Center, Inc.</td>
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<td>Sharon Blackwood, Board Member, League of Women Voters of Georgia</td>
<td>Rev. Albert E. Love, President and CEO, The Voter Empowerment Collaborative</td>
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<td>Emmet J. Bondurant, Partner, Bondurant Mixson &amp; Elmore LLP</td>
<td>Sarita McCoy Gregory, Professor, Kennesaw State University</td>
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<td>Emma Darnell, Member, Fulton County Board of Commissioners</td>
<td>Ronnie Mosley, Morehouse student-voter</td>
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<td>Dr. Nancy Dennard, Quitman, GA</td>
<td>Melinda Sheldon, Deputy Director, Georgia Equality</td>
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<td>Rev. Henry Ficklin, Macon-Bibb, GA</td>
<td>Laura Toro, Program Manager, Georgia Association of Latino Elected Officials</td>
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PUBLIC TESTIMONY

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<td>Martha Alexander</td>
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<td>Thomas Aquell</td>
<td>John E. Jones, President, Fayette County Branch, NAACP</td>
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PARTICIPATING ORGANIZATIONS (NOT EXHAUSTIVE)

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GEORGIA STATE HEARING HIGHLIGHTS

The National Commission on Voting Rights held a hearing on November 20, 2013, at the Martin Luther King, Jr. Center for Nonviolent Social Change in Atlanta. Support from national and local partner organizations and board members contributed to making the event a success. Approximately 150 people attended the four-hour hearing and heard from diverse panels of witnesses comprised of Georgia-based advocates, litigators, elected officials, and a county elections official. Testimony topics included litigation under Section 2 of the Voting Rights Act in Latino and African-American communities, voter registration challenges (including those related to naturalized citizens and county registration technology), redistricting, voter identification (ID) (including hurdles particular to college students and the transgender community), voter education, procedures for individuals with disabilities, and more. Members of the audience also testified about their voting experiences in Georgia.

I. At-Large Elections and Latino Vote Dilution in the City of Gainesville

Laura Toro testified on behalf of the Georgia Association of Latino Elected Officials (GALEO), which was created to promote civic engagement and leadership development in the Latino community in Georgia. Toro noted the significant growth in the Latino population in the state. In fact, the number of Latino registered voters statewide increased from approximately 10,000 in 2003 to over 183,000 in 2012.1 Toro also testified about the negative impact the at-large voting process used by the City of Gainesville to elect every City Council member has on the Latino community. She expressed concern that the at-large voting process dilutes the voting power of the Latino electorate and discourages Latino candidates from running for office. She reported that only one Latino candidate has run for Gainesville’s City Council and one Latino candidate ran for mayor in 2013.2 Neither prevailed. Toro testified, “It is our contention that the current at-large process discourages people from getting involved and getting involved in the civic process: voting, running for office, being involved in their communities…”

Toro explained that the Latino population in Gainesville is largely comprised of Mexican immigrants who have come to work in the poultry industry. She noted that these immigrants have faced abusive working conditions and must deal with “persistent racial tensions against the Latino community within the city and the power structure.” Toro also pointed out that the City was the site of an anti-Latino Ku Klux Klan event in 1998 and that, “The pervasiveness of discrimination and abuse makes access to an elected official who represents the interests of the Latino community in Gainesville all the more pressing, which is why GALEO has taken on the heavy task of confronting the City regarding its at-large voting process.” At the time of the hearing, Toro testified that GALEO was considering filing a complaint under Section 2 of the Voting Rights Act against Gainesville to challenge the at-large system for city council elections. Toro said that a successful outcome in such a suit could help efforts to eliminate other at-large systems in areas with large Latino populations, including the City of Dalton and municipalities in Gwinnett County.

II. County Vote Dilution

Rep. Virgil Fludd has served in the Georgia State House for over a decade, representing parts of Fayette and Fulton counties. He testified about Fayette County’s at-large voting process and described a lawsuit filed in 2011 challenging that process as a violation of Section 2 of the Voting Rights Act. According to Fludd, Fayette County has a population of over 108,000; 20 percent are African American, six percent are Latino, and four percent are Asian. No African American has ever been elected to the County Commission or the Board of Education, said Fludd, despite the fact that more than a dozen candidates, from both major parties, have run for office.

Fludd testified that he tried more than once at the state legislature to change the system to single-member districts to allow African-American voters to elect a candidate of their choice, but the legislation was voted down along party lines. In 2011, Fludd noted that the NAACP Legal Defense and Educational Fund filed suit under Section 2 of the Voting Rights Act alleging that the County’s at-large method of election was racially discriminatory. The court ruled in favor of the plaintiff and entered judgment against the County defendants. An appeal by the County defendants is pending as of the date of this report.

III. The Quitman 10+2

Dr. Nancy Dennard testified about her experience as one of the “Quitman 10+2,” a group of 12 African Americans who were charged with voter fraud and removed from elected office because of their work electing minority candidates. Quitman is a small city located in Brooks

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3 See, United States Census Bureau’s State and County Quickfacts for Fayette County, Ga.: http://quickfacts.census.gov/qfd/states/13/13113.html

4 See, Judgment, Georgia State Conference of the NAACP et al v. Fayette County Board of Commissioners et al, No. 3:11-cv-00123-TCB (March 13, 2014).

5 See, Notices of Appeal, Georgia State Conference of the NAACP et al, supra (March 19, 2014)
County, Georgia. According to Dennard, the County’s population is about 15,500 persons and approximately 35 percent are African American.\(^6\) The School Board is elected at-large.

Dennard testified that she ran for School Board in 2006, losing a close race. In 2009, she won a special election based on a strong get-out-the-vote and voter education campaign. Between the two elections, Georgia made it easier to vote early and by absentee ballot, which Dennard stressed to the voters who ultimately elected her. The following year, a group of individuals decided to run for School Board and the County Commission. All of them were successful in the primary, and despite some questionable tactics permitted by the Superintendent of Elections, all three were elected in November. However, on election night, the initial results showed one candidate losing by 60 votes, which was then flipped to a nine-vote lead before certification. Following a recount, that candidate won—picking up two votes in the process. Dennard believed it was because the majority of votes were on paper ballots which allowed for an accurate recount.

These victories, said Dennard, sent a wave of enthusiasm through the community; they truly realized the power of their votes. However, the elation was short-lived. In December 2010, 10 individuals were arrested and charged with voter fraud, illegally assisting voters, and improper handling of absentee ballots. A year later those 10, and two others, were indicted by a special session of a grand jury. In January 2012, Dennard and other elected officials in the Quitman 10+2 were removed from their offices.

Dennard testified that during the course of the criminal proceedings, she discovered the Georgia Bureau of Investigation (GBI) used intimidation and threats of arrest to elicit untruthful statements from some of voters. Of the roughly 350 individuals interviewed by the GBI, Dennard testified that 95 percent of them were African American. The trial exposed several other suspicious irregularities, according to Dennard. For example, a postal supervisor, with no legal authorization, locked returned absentee ballots in his cash drawer for later retrieval and kept the logs at his house where no one else had access to them. Dennard also testified that the local Board of Elections claimed it mailed out absentee ballots but had not received them back. However, Dennard testified that 50 ballots were delivered by the post office the day after her first election. Dennard said she complained to the local postmaster, but got nowhere. Dennard also testified that a deputy registrar at the Board of Elections admitted she brought absentee ballots home on several occasions, a violation of Georgia law, because she claimed to have been behind with logging them in at work.

Dennard testified that this information came out in open testimony in court, but the GBI and prosecutors—who were purportedly worried about the integrity of elections—did not pass that information along to the defense or investigate those wrong-doings. The trial against the Quitman 10+2 ended in a mistrial, but Dennard fears that the authorities will attempt similar tactics in the future. In October 2012, the elected officials were reinstated and in November 2013, Dennard was reelected as School Board President.

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\(^6\) See, United States Census Bureau’s State and County Quickfacts for Brooks County, Ga.: http://quickfacts.census.gov/qfd/states/13/13027.html
IV. Non-Partisan Elections

Rev. Henry Ficklin, a Macon City Councilman and candidate for the Macon-Bibb County Board of Commissioners, discussed the consolidation of the governance of the City of Macon and Bibb County, which took place in 2013. Ficklin highlighted the fact that due to population shifts, African-American voters became the majority in Bibb County. According to Ficklin, the state legislature prohibited partisan elections for mayor and the commission as part of the consolidation process. This occurred, said Ficklin, despite Bibb County’s tradition of holding partisan elections for these posts and his observation that African-American candidates had the most success under the partisan structure. Under state law, the election date for the first elections to be held following consolidation was moved from November to July, when, according to Ficklin, African-American voters turn out in lower numbers. Ficklin testified that this switch to a July election date worked to increase the likelihood that a majority-white commission would be elected for the consolidated jurisdiction.

The switch to non-partisan elections and the changed election date were submitted for preclearance to the United States Department of Justice (DOJ) pursuant to Georgia’s obligation under Section 5 of the Voting Rights Act. In May 2013, the DOJ requested additional information citing concerns that the changes would result in a retrogression in the ability of minority voters to participate in the electoral process and elect candidates of their choice. In response to the DOJ’s request, the election, originally scheduled for July 16, 2013, was halted. While a decision on preclearance was pending, the U.S. Supreme Court issued its decision in Shelby County v. Holder, eliminating the need for federal review of the date change, even as Georgia submitted the requested follow-up information. Ultimately, a court ordered the election to be held on September 17, 2013, and four minority members were elected to the nine-member commission.

V. Consolidating and Relocating Polling Places

Sharon Blackwood, a board member of the League of Women Voters of Georgia, highlighted two proposals to relocate and consolidate polling places that would be particularly burdensome to lower-income and minority voters. Blackwood testified that in the City of Carrollton, two polling places had been recommended for consolidation. She stated that members of this community of voters had typically been able to walk to their polling location, but the proposed new location would require them to walk 2 miles across a major thoroughfare to cast a ballot. She cited a similar example in Athens, where the proposed relocation of a polling place was expected to greatly impact minority voters, including those in the Cat Wood community. To access the proposed new location, Athens voters using public transportation would face an hour and a half bus ride, with transfers, each way. Blackwood noted that there had been objections to the proposals in both cities.

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7 See also, the United States’ Census Bureau’s State and County QuickFacts for Bibb County: [http://quickfacts.census.gov/qfd/states/13/13021.html](http://quickfacts.census.gov/qfd/states/13/13021.html)
ILLINOIS STATE HEARING
Depaul University College of Law
Chicago, Illinois
June 12, 2013

GUEST COMMISSIONERS
Ben Blustein, Partner, Miner, Barnhill & Galland, P.C.
Jon Greenbaum, Chief Counsel, Lawyers’ Committee for Civil Rights Under Law
Mary Schaafsma, Executive Director, League of Women Voters, Illinois

Marissa Liebling, Staff Attorney, Chicago Lawyers’ Committee for Civil Rights Under Law

PANELISTS
Jeff Cummings, Miner, Barnhill & Galland, P.C.
Ami Gandhi, Executive Director, South Asian American Policy and Research Institute
Brian Gladstein, Director of Operations and Development, Common Cause Illinois
Lance Gough, Executive Director, Chicago Board of Elections
Ruth Greenwood, Chicago Lawyers’ Committee for Civil Rights Under Law

Maryam Judar, Community Lawyer, Citizen Advocacy Center
Andy Kang, Legal Director, Asian Americans Advancing Justice
Dan Madden, Legal Advisor to David Orr, Cook County Clerk
Melissa Picciola, Staff Attorney, Equip for Equality
Jorge Sanchez, Mexican American Legal Defense and Education Fund

PUBLIC TESTIMONY
Nana Ofori Atta, voter and Election Protection Volunteer

Marth Trawinski

WRITTEN TESTIMONY

SUPPORTING ORGANIZATIONS (NOT EXHAUSTIVE)
Chicago Lawyers’ Committee for Civil Rights Under Law
DePaul University College of Law
Kirkland and Ellis
Miner, Barnhill and Galland
ILLINOIS STATE HEARING HIGHLIGHTS

On June 12, 2013, voting rights advocates, voters, election officials and members of the public gathered at DePaul University College of Law in Chicago, Illinois for a hearing convened by the Lawyers’ Committee for Civil Rights Under Law and the Chicago Lawyers’ Committee for Civil Rights Under Law. Approximately 50 people attended the hearing, which focused mainly on issues of election administration, though it did include testimony regarding barriers faced by voters with limited English proficiency.

Several jurisdictions in Illinois are covered by Section 203 of the Voting Rights Act and are therefore required to provide election materials in certain languages other than English. Jorge Sanchez, staff attorney at the Mexican American Legal Defense and Education Fund; Ami Gandhi, executive director of the South Asian American Policy and Research Institute (SAAPRI); and Andy Kang, legal director for Asian Americans Advancing Justice, testified about this requirement. These witnesses testified that, in general, the jurisdictions in Illinois that are covered by Section 203 do provide the translated materials as required. There were problems, however. Gandhi testified that SAAPRI conducted a survey of hundreds of South-Asian voters as they came out of the polls on Election Day in 2012. The vast majority of those surveyed reported that English was not their first language, and over 20 percent reported that they understood English less than very well. Only about seven percent, however, reported using a translated ballot or receiving assistance from a bilingual poll worker. Gandhi concluded that voters were not made aware that these resources were available to them. Similarly, Kang testified that he observed several polling places where the translated materials were on a table out of view of the voters; if voters did not know to ask for the translated materials, they would not receive them.

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KANSAS CITY REGIONAL HEARING
(Iowa, Kansas, Missouri, and Nebraska)

University of Missouri-Kansas City School of Law
Kansas City, Missouri
April 21, 2014

GUEST COMMISSIONERS
Wendy Noran, Clerk, Boone County Missouri
Marty Ramirez, (ret.) Counseling Psychologist, University of Nebraska
Mary Ratliff, President, Missouri NAACP State Conference
Bill Rich, Professor of Law, Washburn University
Marsha Ternus, (ret.) Chief Justice of the Iowa Supreme Court and Attorney at Law

PANELISTS
Betty Andrews, President, NAACP Iowa-Nebraska State Conference
Keely Basset, Winnebago Nation
Gary Brunk, Executive Director, ACLU of Kansas
Kip Elliot, Attorney, Disability Rights Center of Kansas
Dolores Furtado, President, League of Women Voters of Kansas
Christie Gerken, PAVA Coordinator, Disability Rights Iowa
Louis Goseland, Sunflower Community Action
Joe Henry, State Director, LULAC of Iowa
Bonnie Pitz, President, League of Women Voters of Iowa
Adolphus Pruitt, First Vice-President & Political Action Chair, NAACP Missouri State Conference
Eva Schulte, President & CEO, Communities Creating Opportunity
Lazaro Spindola, Executive Director, Latino American Commission

PUBLIC TESTIMONY
Brad Murenz, Public Policy Specialist, Disability Rights of Nebraska
Lenora Rowe, League of Women Voters of Kansas
Marvin Robinson
Linda Smith, President, League of Women Voters of Kansas City, Jackson, Clay, & Platte Counties

WRITTEN TESTIMONY
ACLU of Iowa
Lenora Rowe, League of Women Voters of Kansas
Lena Robinson
Linda Smith, President, League of Women Voters of Kansas City, Jackson, Clay, & Platte Counties
Michael Blackwell
Adam Morefeld, Executive Director, Nebraskans for Civic Reform

SUPPORTING ORGANIZATIONS (NOT EXHAUSTIVE)
American Civil Liberties Union of Iowa
Disability Rights Center of Kansas
American Civil Liberties Union of Kansas
Disability Rights Iowa
American Civil Liberties Union of Missouri
Disability Rights Nebraska
American Civil Liberties Union of Nebraska
Iowa Citizen Action Network
KANSAS CITY REGIONAL HEARING HIGHLIGHTS

The National Commission on Voting Rights held its Kansas City Regional Hearing on April 21, 2014 at the University of Missouri-Kansas City School of Law in Kansas City, Missouri. Approximately 40 advocates and voters attended to present testimony and learn about the voting rights landscape in Iowa, Kansas, Missouri and Nebraska. Witnesses testified about a wide range of issues, including language access, disenfranchisement of individuals with criminal convictions, the closing of polling places in African-American neighborhoods and attempted voter intimidation.

I. Language Access in Kansas and Nebraska

Witnesses testified about language barriers for Spanish-speaking voters. A precinct in Wichita, Kansas that was primarily Latino had no Spanish-speaking poll workers. Although federal law does not require Spanish-speaking poll workers or voting materials in this jurisdiction, it was apparent that Spanish-language assistance was needed in order for limited English proficiency voters to enjoy equal access. Additionally, some of these Spanish-speaking voters were denied their legally protected right to bring an assistor of choice to help them cast their ballots.

Lazaro Spindola of the Nebraska Latino American Commission also testified about inadequate compliance with federal requirements to provide voting information in Spanish in Colfax, Dakota and Dawson counties, all of which are jurisdictions covered by Section 203 of the Voting Rights Act. Per Spindola, translated materials on these county websites are either incomplete or difficult to find. For example, on the Dawson County website, only the early voting form is bilingual, and even this “lacks a very important piece of information which refers to the ability of non-partisan voters to request a partisan ballot from either the Democratic or Libertarian parties to be able to vote for Senate or House of Representatives partisan candidates. All other links lead to forms in English only, and no other voter registration, election notices, or other material is available in Spanish to Dawson County residents.”

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1 See, http://www.dawsoncountyne.org/clerk.html
II. Disenfranchisement of Former Offenders in Iowa

Betty C. Andrews of the Iowa/Nebraska NAACP State Conference of Branches, Michael Blackwell of the Black Hawk County Branch of the NAACP and Rita Bettis of the American Civil Liberties Union (ACLU) of Iowa testified about the permanent disenfranchisement of individuals with felony convictions in Iowa, which affects thousands of individuals and families. Iowa is in the minority of states that prevent the automatic restoration of the right to vote to persons convicted of a crime (as of now this disenfranchisement only applies to felonies, but until April 2014, it also applied to aggravated misdemeanors2).

Although these individuals can apply for restoration of their rights, the application process is extremely difficult. Andrews testified that in 2012 over 8,000 former offenders returned to the community, however, the rights of less than 25 have been restored.3 Furthermore, in Iowa, African Americans comprise roughly 2.5 percent of the population but over 25 percent of the prison population.4 Therefore, the permanent disenfranchisement of former offenders has a greatly disparate impact on the African-American community.

III. Closing of Polling Places in Primarily African-American Areas in Nebraska

Vicky Young, president of the Omaha Branch of the NAACP in Nebraska testified that in 2012, as voter turnout was building momentum, the Douglas County election commissioner closed nearly one-third of the county’s polling places. After community protest, he reconsidered his decision and reopened 27 polling places, 15 of which were for the most part located in communities of color.5

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2 Ms. Bettis testified that “in a groundbreaking decision in which the ACLU of Iowa took part...Chiodo v. Panel, the Iowa Supreme court...held that no misdemeanors [qualified to disenfranchise voters.]” The decision, however, leaves intact the Iowa law defining infamous crime to mean all felonies. Chiodo v. Section 43.24 Panel, No. 14-0553, 2014 Iowa Sup. Ct. For the automatic restoration of voting rights, see also, “Felony Disenfranchisement Laws in the United States” by: The Sentencing Project: http://sentencingproject.org/doc/publications/fd_Felony%20Disenfranchisement%20Laws%20in%20the%20US.pdf
IV. Attempted Voter Intimidation in Iowa

Bettis also testified regarding two regulations promulgated by the Iowa secretary of state in July 2012. Both of these regulations were submitted on an emergency basis, therefore the normal notice and public comment periods were not provided. The first regulation (the voter challenger rule) would have, in Bettis’ words, “allowed challenges to voters en mass, even if made anonymously... with the effect of putting the onus on the voter to prove their qualifications to voting officials.” The second regulation (the voter removal rule) would have allowed the secretary of state to cross-reference Iowa’s voter rolls with unnamed state and federal databases to identify suspected non-citizens. Based on the results of the cross-referencing, the secretary of state would then send letters to those individuals notifying them that they had to provide proof of citizenship within 14 days or face removal from the voter rolls.

The ACLU of Iowa and the League of United Latin American Citizens of Iowa sued the secretary of state and obtained a temporary injunction against the implementation of the emergency rules. Among the allegations made by plaintiffs was that the rule would infringe on the voting rights of Iowa voters, particularly Latino citizens.

After the rules were enjoined by the court, the secretary of state rescinded the voter challenger rule, but initiated rulemaking procedures for the voter removal rule. In the rulemaking process, the secretary of state made the following changes to the initial rule: (1) named the databases that would be cross-referenced (i.e., the Department of Transportation’s list of foreign nationals, and the federal USCIS SAVE system); (2) the letters to the voter would be sent by certified mail; and (3) voters would be allowed 30 to 60 days before being removed from the rolls. The ACLU succeeded in stopping the voter removal rule, obtaining a court finding that the Secretary of State lacks the legal authority to promulgate the rule. As of July 2014, the case was on appeal to the Iowa Supreme Court.

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6 Iowa Admin. Code r. 721—21.100
7 Iowa Admin. Code r. 721—28.5
8 ACLU of Iowa v. Shultz, No. 05771 CV09331 (Iowa Dist. Court for Polk County, 2012)
LAS VEGAS REGIONAL HEARING
(Nevada and Utah)

Clark County Government Center
Las Vegas, Nevada
April 26, 2014

GUEST COMMISSIONERS
Hon. Karen Bennett-Haron, Chief Judge, Las Vegas Township Justice Court
Carmen Berkley, Director, AFL-CIO Civil Rights Division
Gregory Cendana, Executive Director, Asian Pacific American Labor Alliance
Jeanetta Williams, President, ID-NV-UT NAACP

PANELISTS
Rachel Anderson, Professor of Law, University of Nevada, Las Vegas
William S. Boyd, President, Las Vegas National Bar Association Professor of Law, University of Nevada, Las Vegas
Morgan Lyon Cotti, Program Manager, Hinckley Institute of Politics, University of Utah
Lonnie Feemster, NV State Director, NAACP National Voter Fund
Jenn Gonnolly, Co-President, League of Women Voters of Utah
Kevin E. Hooks, President & CEO, Las Vegas, Clark County Urban League
Mark Maryboy, Former San Juan County Commissioner (Utah)
Dan McCool, Professor, University of Utah
Ross Miller, Nevada Secretary of State
Andres Ramirez, Consultant, Mi Familia Vota
Donald Rust, President, League of Women Voters of Nevada

WRITTEN TESTIMONY
ACLU of Utah
Eric Swenson, Attorney

SUPPORTING ORGANIZATIONS (NOT EXHAUSTIVE)
ACLU of Utah
NACCP
Las Vegas Urban League
NAACP National Voter Fund
League of Women Voters of Nevada
Utah League of Women Voters
Mi Familia Vota

LAS VEGAS REGIONAL HEARING HIGHLIGHTS
I. Felony Disenfranchisement

Rachel Anderson, a professor of law at the William S. Boyd School of Law at the University of Nevada, highlighted the continuing problem of disenfranchisement for thousands of incarcerated and formerly incarcerated individuals in Nevada, many of whom are African American and Latino. 2010 data from the Sentencing Project shows that 21,000 African Americans, or 12.5 percent of the State’s African-American population, were disenfranchised in Nevada.1 Although Nevada does have laws that allow individuals to have their voting rights reinstated, Anderson pointed to research she conducted showing the difficulty of accessing the information needed to apply for reinstatement.2 “It took me a week to get the information, and I’m a law professor with a lot of resources at my disposal and have spent time working on these issues,” Anderson testified.

II. Language Assistance for Latino Voters in Clark County, Nevada

Andres Ramirez, representing Mi Familia Vota, pointed to the marked gains that have been made by Clark County’s Latino voters in both voter registration and turnout in the past decade, which he attributed to the county’s additional investment in language assistance.

“[Clark County] has actively recruited bilingual poll workers. They’ve provided ample information in Spanish and other languages and work with Hispanic and other community service organizations on identifying the best locations to conduct early voting.”

Andres did add, however, that the increase in the number of Latino voters has led to a need for more bilingual poll workers and registrars.

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1 See: “State Data: Louisiana” by: The Sentencing Project (http://sentencingproject.org/map/statedata.cfm?abbrev=NV&mapdata=true)
2 Nev. Rev. Stat. § 213.090
LOUISIANA STATE HEARING

Delgado Community College
New Orleans, Louisiana
April 7, 2014

GUEST COMMISSIONERS

Dr. Raphael Cassimere, Jr., Seraphia D. Leyda  
Professor-Emeritus of History, University of New Orleans
Marcia Johnson-Blanco, Co-Director, Voting Rights Project, Lawyers’ Committee for Civil Rights Under Law

Rev. Chipps Taylor, Louisiana State Conference NAACP
Erika McConduit, President & CEO, Urban League of Greater New Orleans
Tracie L. Washington, President & CEO, Louisiana Justice Institute

PANELISTS

Rev. Johnathan C. Augustine, J.D., M.Div., Adjunct Professor, Southern University Law Center
Trupania Bonner, Black Men & Boys Initiative
Jennifer Coco, Election Protection Coordinator
Cedric Floyd, Demographer
Charmel Gaulden, Attorney
Vanessa Gueringer, A Community Voice
Norris Henderson, Voice of the Ex-Offender, Executive Director

Carolina Hernandez, Puentes New Orleans
Linda Johnson, Resident, Iberville Parish
Dr. Silas Lee, Pollster & Professor of Sociology, Xavier University
Minh Thanh Nguyen, VAYLA New Orleans
Stephanie Patrick, Advocacy Center
Bruce Reilly, Voice of the Ex-Offender, Board Member
Ron Wilson, Attorney

PUBLIC TESTIMONY

Michelle DeLima, Poll Worker

SUPPORTING ORGANIZATIONS AND INDIVIDUALS (NOT EXHAUSTIVE)

ACLU of Louisiana
Kim M. Boyle, Partner, Phelps Dunbar LLP; Board of Directors, Lawyers’ Committee for Civil Rights Under Law
Advocacy Center
Jennifer Coco
Delgado Community College
Foundation for Louisiana
Gulf Coast Center for Law & Policy
Chief Justice Bernette J. Johnson, Louisiana Supreme Court
Louisiana Justice Institute
Louisiana State Conference NAACP

Jacques Morial
One Voice Louisiana
John Pierre of Southern University Law Center
Puentes New Orleans, Inc.
Bill Quigley of Loyola Law School
Hon. Gene Thibodeaux, Chief Judge, Third Circuit Court of Appeal in Louisiana and Board Member, Lawyers’ Committee for Civil Rights Under Law
Urban League of Greater New Orleans
LOUISIANA STATE HEARING HIGHLIGHTS

I. Voter Registration for New Citizens

Witnesses working with Latino and Vietnamese communities in New Orleans testified that the procedures for registering new citizens has become cumbersome and hindered their ability to run effective voter registration programs. Carolina Hernadez of Puentes New Orleans and Minh Nyguen of VAYLA New Orleans testified about the hurdles their organizations and limited English proficient communities face in registering to vote in the New Orleans area. Neither Louisiana nor New Orleans is covered under Section 203, and both witnesses touched on the difficulties this poses for Spanish- and Vietnamese speaking voters.

Nyguen testified that in 2008 his organization translated ballots into Vietnamese for voters, and that these ballots were accepted by New Orleans elections officials when accompanied by copies of citizenship documents for first-time registrants. However, Nyguen testified that starting with the 2012 election elections officials refused to accept copies of naturalization papers or passports and instead began requiring new applicants to deliver their citizenship documents by hand to City Hall in order to process their voter registration applications. Hernandez and her organization experienced the same. She testified that on one or two occasions, and at her organization’s urging, elections officials brought their own copy machines to registration events and made copies of applicants’ documents on the spot, but this has not been done regularly. Both witnesses testified that their organizations have stopped conducting registration drives as a result of this new practice of requiring voter registration applicants to submit original citizenship documentation.

II. Disfranchisement of Individuals with Felony Convictions

Under Louisiana law, individuals with felony convictions lose their right to vote during their term of imprisonment and while on probation or parole. As a result, a large number of African Americans remain disfranchised in the state while serving their sentences. According to testimony given by Bruce Reilly and Norris Henderson, Board Member and Executive Director, respectively, of Voice of the Ex-Offender (VOTE), over 110,000 people are disfranchised in Louisiana due to state law, and seventy thousand of these individuals are African American (almost 7% of the African-American Voting Age Population). Henderson further testified that, upon completion of their sentences, procedural hurdles often result in continued disfranchisement, even when individuals have regained their eligibility.

III. Voter Purging Post-Katrina

Trupania Bonner of the Black Men and Boys Initiative testified about the purging of the voter rolls that took place after Hurricane Katrina and the impact on the African American community in the metropolitan New Orleans area. Bonner testified that as a result of the country’s worst natural disaster, the New Orleans metropolitan area lost approximately 140,000 people—118,000 were African American. Bonner also testified that, on the heels of this dramatic decline in the African American population, the Secretary of State conducted voter purges before the 2008 presidential election. A well-documented voter purge also took place in 2007. According to Bonner, New Orleans lost 45,000 voters as a result of the statewide purge and was the hardest hit area of the state in that regard. As Bonner noted, the series of purges every two years prevented the City from recovering its population and locating displaced voters. Contributing to these challenges, as Reverend Jay Augustine testified, was that state legislators and advocates were unable to obtain, through a public records request and litigation, FEMA’s list of the temporary addresses of voters displaced by the storm in order to inform them about the rescheduled 2006 mayoral election that took place soon after the storm. The hurdles to communicating with displaced voters and difficulties securing their place on the voting rolls worked to disfranchise a largely African American segment of the New Orleans population. Bonner discussed the consequences of the purge and testified that, post-Katrina, New Orleans political leadership shifted from majority-minority to majority White.

IV. Minority Representation

On the issue of African American representation, Bonner and Charmel Gaulden discussed the state’s redistricting process. Both testified about the state legislature’s refusal on numerous occasions to pass legislation to draw district lines to reflect increases in the African American population demonstrated by the US Census. They referenced two pending lawsuits—one in which plaintiffs seek to redraw the district lines for the Baton Rouge City Court given that African Americans are a majority of the City’s population, but only have the ability to elect...
their chosen candidates in two of the five districts, and a second in Terrebonne Parish, which uses an at-large system to elect judges to the 32nd judicial district. In Terrebonne, African Americans comprise approximately 20% of the population, yet Bonner testified that no African American judge has ever been elected from the parish. Plaintiffs in the Terrebonne case are seeking to move from at-large to district-based elections to secure an opportunity for the African American population to elect a judge of their choice.

MICHIGAN STATE HEARING

Wayne State University Law School
Detroit, Michigan
January 9, 2014

GUEST COMMISSIONERS
Jocelyn Benson, Dean, Wayne State University School of Law
Harold Hood, retired Judge, Michigan Court of Appeals
Ellen Katz, Professor, University of Michigan Law School
Marilyn Kelly, retired Justice, Michigan Supreme Court

PANELISTS
Jan BenDor, State Coordinator, Michigan Election Reform Alliance
Jesse Buchsbaum, Chair, University of Michigan Voice your Vote
Sharon Dolente, Director, Michigan Election Coalition
Rachid Elabed, Advocacy and Civic Engagement Specialist, Arab Community Center for Economic and Social Services Michigan
Dan Korobkin, Deputy Legal Director, ACLU of Michigan
Melanie McElroy, Executive Director, Common Cause Michigan
Gloria Mills, National Action Network
Eva Packard, Voter Service Chairman, League of Women Voters Michigan
Rich Robinson, Executive Director, Michigan Campaign Finance Network
Chris Rodriguez, Director of Governmental Affairs and Media Relations, Michigan Protection and Advocacy Service
Todd Schmitz, Macomb County Deputy Clerk
Khalilah Spencer, Chair, Legal Redress Committee, Michigan NAACP
Theresa Tran, Board President, Asian and Pacific Islander American Vote Michigan

PUBLIC TESTIMONY
Anita Belle, former mayoral candidate, Detroit
Michael-David BenDor
Melissa Brown
Valerie Glenn, Michigan Democratic Party
Richard Hairston
Monique McCormick
Catherine Montgomery
Tijuana Morris, former candidate, Detroit Police Commissioner Board
Matt Robb
Jean Vortkamp, former mayoral candidate, Detroit
D. Etta Wilcoxon

WRITTEN TESTIMONY
Deborah Stewart Anderson
William Rittenberg
SUPPORTING ORGANIZATIONS (NOT EXHAUSTIVE)

APIA Vote - Michigan  Michigan Department of Civil Rights
Common Cause Michigan  Michigan Election Reform Alliance
D. Augustus Straker Bar Association  National Action Network
Jaffe Raitt Heuer & Weiss  Sierra Club Michigan
League of Women Voters of Michigan

MICHIGAN STATE HEARING HIGHLIGHTS

On January 9, 2014, approximately 75 voters, activists and voting rights advocates gathered at Wayne State University Law School in Detroit, Mich. to share their experiences of the voting challenges they continue to face in Michigan at a hearing convened by the Lawyers’ Committee for Civil Rights Under Law. Witnesses testified about numerous issues creating barriers to equal participation in the democratic process in Michigan, including the attempted closure of a Secretary of State branch office in Buena Vista Township and allegations that the city of Hamtramck failed to comply with its language assistance requirements under Section 203 of the Voting Rights Act.

I. Attempted Closure of Secretary of State Branch Office in Buena Vista Charter Township

Dan Korobkin of the American Civil Liberties Union of Michigan and Khalilah Spencer of the Michigan State Conference of the National Association for the Advancement of Colored People both testified about the attempt in 2007 to close a Secretary of State branch office in Buena Vista Township. African Americans constitute the majority in Buena Vista Township, and the municipality was required to obtain preclearance of voting changes under Section 5 of the Voting Rights Act prior to the decision in Shelby County v. Holder. The branch office provides a place where citizens register to vote and obtain a photo ID, which is required for voting in Michigan. The next closest branch office is more than 90 minutes away. After local organizations in Michigan wrote to the United States Department of Justice (DOJ) about the proposed closure of the branch office, the DOJ wrote a letter to state officials indicating that the office could not be legally closed due to the impact on minority voters.

1 See, United States Census Bureau’s State and County Quickfacts for Buena Vista, Mich.: http://quickfacts.census.gov/qfd/states/26/2611555.html and DOJ list of preclearance jurisdictions prior to Shelby: http://www.justice.gov/crt/about/vot/sec_5/covered.php
II. Language Assistance in Hamtramck

In October 2011, based on population figures from the 2010 census, the City of Hamtramck became covered by the language assistance provisions of Section 203 of Voting Rights Act. Section 203 requires that minority language voting materials be provided in communities in which greater than five percent of the voting-age population is a language minority. Hamtramck is required to provide voting materials in Bengali under Section 203. According to Theresa Tran of Asian & Pacific Islander American Vote-Michigan (APIA Vote), during the November 2012 general election, an APIA Vote investigation showed that many poll sites failed to provide Bengali ballots, make translated materials available or provide interpreters, as required by Section 203. Tran indicated that, in one case, the translated sign displayed next to the voter bill of rights had nothing to do with voter rights at all. Tran also stated that poll workers complained that voting machine scanners would not read the translated Bengali ballots because duplicated ballot numbers on the English and the Bengali ballots made it seem as though Bengali voters had already cast votes, causing significant confusion.

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4 “Final Report on Section 203 Efforts in Michigan.” APIA Vote MI
MINNEAPOLIS REGIONAL HEARING
(Minneapolis and Wisconsin)

University of Minnesota Law School
Minneapolis, Minnesota
February 25, 2014

NATIONAL COMMISSIONER
Biko Baker, Executive Director, League of Young Voters; national leader in youth civil engagement programs

GUEST COMMISSIONERS
Lawrence R. Jacobs, Professor, University of Minnesota
Mark Ritchie, Minnesota Secretary of State
Warren Spannaus, former Attorney General of Minnesota; former Partner, Dorsey and Whitney LLP
Wenda Weekes Moore, former Trustee, W. K. Kellogg Foundation; member, Kellogg Trust; Regent Emeritus, University of Minnesota

PANELISTS
Neil Albrecht, Executive Director, City of Milwaukee Election Commission
Alicia Boehme, Disability Rights Wisconsin
Analiese Eicher, Programs and Development Director, One Wisconsin Now, One Wisconsin Institute
Jerry Franck, Chair, Common Cause Minnesota
Mike Griffin, FairVote Minnesota
Mark Halvorson, Citizens for Election Integrity Minnesota
Pamela Hoopes, Legal Director and Deputy Director, Mid-Minnesota Legal Aid, Minnesota Disability Law Center
Andrea Kaminski, Executive Director, League of Women Voters of Wisconsin
Jeff Martin, St. Paul NAACP
Abdirizak Said, Community Organizer, Minneapolis Highrise Representative Council
Nolan Schmidt, Minnesota Public Interest Research Group
John Shaw, Board for People with Developmental Disabilities
Kathy Tomsich, League of Women Voters of Minnesota
Blong Yang, Minneapolis City Council member

PUBLIC TESTIMONY
Catherine Dorr, Citizens for Election Integrity of Minnesota
John Hottinger, former Minnesota State Senator
Mark Threat
Virginia Volker

WRITTEN TESTIMONY
Joshua Esmay, Criminal Records Staff Attorney, Council on Crime and Justice
Lorraine Minnite, Associate Professor of Public Policy and administration, Rutgers, the State University of New Jersey-Camden
MINNEAPOLIS REGIONAL HEARING HIGHLIGHTS

On February 25, 2014, approximately 75 voters, activists and voting rights advocates from Minnesota and Wisconsin gathered at University of Minnesota in Minneapolis, Minn. to share their experiences of the voting challenges they continue to face in Minnesota and Wisconsin at a hearing convened by the Lawyers’ Committee for Civil Rights Under Law. Witnesses testified about numerous issues creating barriers to equal participation in the democratic process, including efforts to curtail early voting in Wisconsin and several instances of voting discrimination at specific polling places in Minnesota.

I. Curtailing Early Voting in Wisconsin

Neil Albrecht of the Milwaukee Election Commission, Analiese Eicher of One Wisconsin Now and Andrea Kaminski of the League of Women Voters of Wisconsin discussed recent efforts to limit early voting in Wisconsin. Legislation passed in 2011 cut early in-person voting from three weeks and three weekends to two weeks and one weekend and prohibited city clerks’ offices from offering early voting after 5 p.m. on the Friday before the election.¹ Older legisla-
tion prohibits municipalities from having more than one early voting site. The witnesses also discussed additional legislation that was subsequently enacted into law, which prohibits early voting on weekends and limits the hours when early voting can occur.

Albrecht indicated that poor and minority citizens tend to access early in-person absentee voting at higher rates than the general population. Milwaukee, which has a high percentage of poor and minority voters, has had extensive evening and weekend early voting hours. Thus, according to Albrecht, restrictions on early voting have a significant impact on poor and minority voters in the city.

II. Alleged Polling Place Discrimination in Minnesota

Jerry Franck, of Common Cause Minnesota, testified about several instances of differential treatment of minority voters that Election Protection in Minnesota allegedly learned about in 2012. According to Franck, election judges in Golden Valley asked African-American and Latino voters for proof of citizenship, but not Caucasian voters. Franck also stated that some election judges in St. Paul denied Hmong voters language assistance and threatened to call the police on volunteers attempting to assist those voters.

2 Wis. Stat. § 6.86; Wis. Stat. § 6.855
MISSISSIPPI STATE HEARING

Mississippi College School Of Law
Jackson, Mississippi
May 29, 2014

NATIONAL COMMISSIONER:
Leon W. Russell, Vice-Chairman, NAACP Board of Directors

GUEST COMMISSIONERS:
Derrick Johnson, President, Mississippi State Conference of the NAACP
Deborah McDonald, Attorney, the Law Office of Deborah McDonald
Reilly Morse, President, Mississippi Center for Justice
Carroll Rhodes, Attorney, the Law Office of Carroll Rhodes

PANELISTS:
Senator David Blount, Mississippi State Senator
Scott Crawford, Ph.D., Disability Rights Advocate
Lexie Elmore, President, NAACP of McComb, Miss.
Lynn Evans, President, Mississippi Common Cause
Yasmin Gabriel, Founder, UpGrade Mississippi
Charles Irvin, Legal Director, ACLU Mississippi
Leroy Johnson, Executive Director, Southern Echo
Claude McInnis, Former Executive Vice-Chair, Mississippi Democratic Party
Antron McKay, President UpGrade Mississippi
Ashley McKay, Founder, Tunica Teens
Byron D. Orey, Ph.D., Professor, Jackson State University
Deidra Paine, Member, League of Women Voters of Mississippi
J. Brad Pigott, Former U.S. Attorney, U.S. Department of Justice
Mike Sayer, Co-Founder, Southern Echo
Shirley Walker, Advocate, Disability Rights Mississippi
Marcia Weaver, President, League of Women Voters of the Jackson Area

PUBLIC TESTIMONY:
Rims Barber, activist, Jackson, Mississippi
Gene Everitt, League of Women Voters of Mississippi
Georgia Feran, Director, Arts Classical
John Garner, activist, Jackson Mississippi
Leyser Hayes, International Connection Chairman, Alpha Kappa Alpha Sorority, Inc.
John Hinds, Mississippi State Representative – District 50
Mary McCaskill Young, Former Mayor, Kilmichael, Miss.; Citizens for Educational Awareness
Wayne McDaniel, Jackson NAACP
Jed Oppenheim, ACLU-Mississippi
Barbara Powell, League of Women Voters
MISSISSIPPI STATE HEARING HIGHLIGHTS

The National Commission on Voting Rights hearing for the state of Mississippi took place on May 29, 2014 at the Mississippi College School of Law in Jackson, Mississippi. Presiding Commissioner Derrick Johnson; National Commissioner Leon Russell; and Guest Commissioners Carroll Rhodes, Deborah McDonald, and Reilly Morse heard testimony from both expert and public witnesses representing a wide range of organizations with concerns about the current state of voting rights in Mississippi. Witnesses testified about barriers to voting, confusion about the newly adopted voter identification (ID) law, and misinformation about acceptable forms of identification.

I. Recent History of Voter Suppression in Mississippi

Leroy Johnson, President of Southern Echo, testified about the issues facing minority voters in the wake of the Shelby decision. Mr. Johnson testified that, “the subversion of the right to vote isn’t simply being waged with the Voter ID law.” Mr. Johnson said that in the city of Carthage, Mississippi, where the 2013 voting-age population was approximately 3,478, the mayor’s election commission threatened to purge a significant number of voters from the polls, most of whom would have been African-American. According to Mr. Johnson, “the mayor’s decision would have required preclearance pre-Shelby County. However, in a post-Shelby County environment, only the intense pushback and organization of the local

community and the threat of complex expensive litigation could serve as a barrier to this type of obvious discriminatory intent and effect.”

II. Access to Voter Identification

Attorney Brad Pigott explained how the voter identification law would affect African American and white voters unequally. According to Pigott, a far greater share of African Americans in Mississippi lack driver's licenses.

Lynn Evans, of Common Cause, outlined the discriminatory effect of the voter ID law when viewed within the scope of the issues faced by Mississippians in rural areas. She testified that “many elderly African-American Mississippians, as well as other native Mississippians born into poverty, were born at home and therefore have no birth certificate.” Additionally, she explained, “If a person does not have a driver's license, they in all likelihood do not have a car. Travelling to a county courthouse or other location during working hours will be an unnecessary hardship that can prevent a poor person . . . from obtaining an official photo ID.”

Yasmin Gabriel, of UpGrade Mississippi, offered testimony about the personal hardships she experienced acquiring the identification required to vote. Mississippi Secretary of State, Delbert Hosemann, set up an initiative to make it easier for Mississippians without the identification necessary to obtain the required ID by way of a “free ride.” However, According to Gabriel, the state-offered “free-ride,” is anything but free. Gabriel testified that the application form for voter identification is not available on the Secretary of State's website, thus an applicant is required to spend additional time at the Circuit Clerk's office when acquiring voter ID. Additionally, Gabriel explained that in order to get a “free ride,” an applicant must undergo an aggressive interview process before he or she is provided a number to set up the “free-ride.” Finally, Gabriel explained that the applicant must possess a social security card to get the “free ride” to obtain the state issued identification.

Marcia Weaver of the League of Women Voters of the Jackson Area, also testified about the general confusion about acceptable forms of voter identification in Mississippi. Weaver testified that “some uninformed about voter ID might be intimidated to vote or live in areas where voter education is limited. Remedies must be found for addressing the needs of the uninformed voter. Grassroots organizations, schools, and religious groups should continue their voter education efforts. The Secretary of State's website devotes 27 pages to explain acceptable voter ID. Some poll workers do not understand the photo ID rules as listed in the Mississippi Election Code and the current 2014 Mississippi Poll Workers Manual. The Secre-

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2 Dennis Turner, Mississippi Secretary Of State Offers Free Rides To Obtain Voter ID, WREG Memphis (Mar. 11, 2014, 4:49 PM), wreg.com/2014/03/11/free-rides-for-mississippi-voter-id/; see also VOTER ID > How do I get a MS Voter ID card, Miss. Sec’y of State, ms voterid.ms.gov/pages/VoterIDHowtoGetID.htm (last visited July 31, 2014).
The secretary of State’s website lists 10 acceptable photo IDs, including the Mississippi Voter ID Card. I hold a higher education degree and it’s confusing to me.

**III. Redistricting**

Dierdre Payne of the League of Women Voters of Mississippi called for redistricting to be “transparent and open for public participation through the whole process.” However, as the redistricting plans unfolded, Payne testified, “there was not to be the transparency that had been called for. Changes in the House districts…seemed motivated by partisan and racial gerrymandering.”

**IV. Access for the Disabled**

Scott Crawford, Ph.D., a disability rights advocate from Jackson, Mississippi, testified about accessibility issues facing disabled voters when trying to access polling places. Crawford testified, “among the problems encountered were: precincts that were totally inaccessible to people with disabilities; makeshift ramps that were unstable or unsafe; precincts too small to accommodate wheelchairs; no privacy for people using wheelchairs; no signage for ‘accessible’ entrances, or entrances that were locked; parking designated as ‘accessible’ but was not, either because it was not on an accessible route, too small, gravel, or unlevel; or an insufficient number of accessible parking spaces. In some instances, polls were relegated to a small storage building on private property.”
NASHVILLE REGIONAL HEARING  
(Arkansas, Kentucky, Oklahoma, Tennessee, and West Virginia)

Greater Bethel AME Church
Nashville, Tennessee
May 8, 2014

GUEST COMMISSIONERS
Raoul Cunningham, President, Kentucky State Conference of the NAACP
Austin Porter, Attorney
Lottie Shackleford, Black Women’s Roundtable, National Coalition of Black Civic Participation

Patricia Stokes, President, Urban League of Middle Tennessee
Monroe Woods, Bolivar-Hardeman County Branch NAACP

PANELISTS
George Barrett, Attorney, Barrett Johnston, LLC
Tom Castelli, Legal Director, ACLU of Tennessee
Eben Cathey, Communication Coordinator, Tennessee Immigrant & Refugee Rights Coalition
Atiba Ellis, Professor, University of West Virginia Law
Jillian Fisher, Policy and Advocacy Strategist, ACLU of Arkansas
Tanya Fogel, Kentuckians for the Commonwealth
Sekou Franklin, Professor, Middle State Tennessee University
Representative Brenda Gilmore, Tennessee State House of Representatives
Patricia Heim, Chair, Tennessee Registry of Election Finance Board
Brady Henderson, Legal Director, ACLU of Oklahoma

Tricia Herzfeld, Commissioner, Davidson County Election Commission
Justin Jones, Chairman, Nashville Student Organized Committee
Leslie Jones, Kentucky Protection & Advocacy
Beth Metzger, Kentucky Protection & Advocacy
Kermit Moore, Southern Region Director, A. Philip Randolph Institute
Joe Rowe, Chattanooga Hamilton County NAACP
Nancy Ward, Co-Director, National Technical Assistance Center for Voting and Cognitive Access
Angela Webster, Public Policy Advisor, Disability Law & Advocacy Center of Tennessee
Lynn Williams, League of Women Voters of Nashville

PUBLIC TESTIMONY
Flaco Aleman
Sheryl Allen
Honey Dozier
Drost Kokoye
Teddi Smith Robelard

Pastor Kevin Walker
Carol Westlake, Director, Tennessee Disability Coalition
Eleanor Woods, Chair of Housing, NAACP Local Branch
WRITTEN TESTIMONY

Adam Dickson, Washington County NAACP
West Virginia Citizen Action

SUPPORTING ORGANIZATIONS (NOT EXHAUSTIVE)

American Civil Liberties Union of Tennessee
Black Women’s Roundtable
Kentuckians For The Commonwealth
League of Women Voters of Tennessee
League of Women Voters of Nashville
Nashville Alumnae Chapter of Delta Sigma Theta
Sorority Inc.
Tennessee Citizen Action
Tennessee State Conference NAACP
Urban League of Middle Tennessee

NASHVILLE REGIONAL HEARING HIGHLIGHTS

Approximately 70 voters, advocates and experts in the voting rights field gathered to hear testimony about the voting landscape in Tennessee, Arkansas, Kentucky, Oklahoma and West Virginia. Testimony topics included: the practice of racial priming in Tennessee elections; redistricting decisions in Chattanooga that led to the loss of a majority minority municipal district; Kentucky laws and partisan practices that result in thousands of disenfranchised felons; barriers to voting created by the Arkansas voter ID law.
I. Racial Priming in Tennessee

Sekou Franklin, Ph.D., Professor of Political Science at Middle Tennessee State University, testified about the use of racial priming in Tennessee elections. Franklin defined racial priming as the use of negative messages, racial imagery, subtle racial appeals, and other direct or indirect messages to activate adverse racial predispositions among voters. He gave several examples of racial priming used as a tactic in recent Tennessee elections.

Franklin stated that in 2008, “A controversial mailer was distributed throughout the second district of Tennessee that targeted Representative Nathan Vaughn. Many political observers believed that the ‘blackbird’ mailer was used to stimulate white racial resentment in the race. Vaughn actually lost the election by less than 350 votes.” The mailer superimposed the heads of Vaughn and President Obama onto the bodies of black birds.

In the 2005 U.S. Senate Election, Franklin testified that then-Representative Harold Ford, Jr, who is African American, was seeking the seat being vacated by the retiring Sen. Bill Frist. Franklin pointed to racial priming tactics used during the campaign, such as: a racially coded pamphlet distributed in east Tennessee urging whites to, ”Vote early to preserve your way of life”; a radio commercial criticizing Ford with African drums beating in the background; and a mailer, perhaps distributed on the Internet, assigning different skin color shades to Ford.

II. Redistricting and Vote Dilution in Tennessee

Joe Rowe, Vice President of the Chattanooga-Hamilton County NAACP, testified about the failure of the City of Chattanooga and Hamilton County to create a fourth municipal majority-minority district after the 2010 Census. Rowe testified that an independent proposal confirmed that population data supported the creation of a fourth majority-minority district, but the proposal was rejected by the majority-white city council.
III. Restrictive Voter ID Law in Arkansas

Jillian Fisher, Policy and Advocacy Strategist at the ACLU of Arkansas, testified about the restrictive nature of the State’s Voter ID law, which a Pulaski County circuit judge recently ruled unconstitutional.1 Fisher testified that, “Based on national estimates, ten percent of Arkansas voters lack the necessary ID.2 The law does not provide any assistance in helping voters obtain IDs, such as transportation, payment for documents needed to obtain IDs such as birth certificates, or aid in locating such documents.”

IV. Disenfranchisement of Formerly Incarcerated Individuals in Kentucky

Kentucky has the highest African American disenfranchisement rate in the country with nearly one of every four African Americans ineligible to vote, according to the League of Women Voters in Kentucky. According to the League, this rate is nearly triple the national African American disenfranchisement rate, with more than 243,000 people having lost their right to vote due to a felony conviction, despite the fact that three-fourths of these individuals (or more than 180,000 people) have completed their full sentence. Tanya Fogel, a member of Kentuckians for the Commonwealth, testified about the lengthy process and difficulty she experienced regaining her right to vote following a felony conviction. Kentucky law restores a felon’s voting rights only through an executive pardon by the Governor. Fogel testified, “I happened to fall under two governors. My voting rights were restored by Governor Paul Patton, a Democrat who served from 1995 to 2003. But the paperwork filed missed one indictment number. So I had to go back through the process under Governor Ernie Fletcher, a Republican who was elected in 2003. The second time around the application process had changed. I was required to write an essay, provide three character references, and a pay fee.”

1 Kohls et. al. v. Martin, No. 60 CV-14 1495 (Circuit Court of Pulaski County, Arkansas, 2014)
2 See also State Court Rules Arkansas Voter ID Law Unconstitutional, ACLU: http://www.acluarkansas.org/content/state-court-rules-arkansas-voter-id-law-unconstitutional#.U8RGifdJVe8
NEW YORK CITY REGIONAL HEARING
(Connecticut, New Jersey, and New York)

Fordham University School of Law
New York, New York
April 11, 2014

NATIONAL COMMISSIONER
John Dunne, former Assistant Attorney General for Civil Rights under President George H. Bush

GUEST COMMISSIONERS
Juan Cartagena, President & General Counsel, LatinoJustice PRLDEF
Ron Chen, Acting Dean, Rutgers Law School-Newark, former New Jersey Public Advocate
Dr. Hazel Dukes, President, NAACP New York State Conference
John Feerick, Former Dean, Fordham Law School
Margaret Fung, Executive Director, AALDEF

PANELISTS
Ingrid Alvarez, Connecticut State Director, Hispanic Federation
Fred Brewington, Law Office of Frederick K. Brewington
Mary Ciccone, Managing Attorney, Disability Rights New Jersey
Kristen Clarke, Chief Civil Rights Bureau, New York Attorney General’s Office
Anthony Cureton, President, Bergen County NAACP
DeNora Getachew, Campaign Manager Legislative Counsel, Brennan Center at NYU School of Law
Joan Gibbs, General Counsel, Center for Law and Social Justice at Medgar Evers College, CUNY
Lucia Gomez, Executive Director, La Fuente
James Hong, AACCORD
Dorothy Hsu, Legal Fellow, AALDEF
Dan Kolb, New York Bar Association Special Committee on Voter Participation
Susan Lerner, Executive Director, Common Cause New York
Randolph M. McLaughlin, Professor, Pace Law School
Dr. Divine Pryor, Executive Director, Center for NuLeadership on Urban Solutions
Catherine Weiss, Chair of Public Interest, Lowenstein Center for the Public Interest & Election Protection
Jeff Wice, Fellow, Jaekcle Center SUNY Buffalo Law School

PUBLIC TESTIMONY
Hazel Scottie Coads, Chair of Civil Engagement for the NAACP New York State Conference
Julissa Gutierrez, NALEO Educational Fund
Erin Merin, Attorney, Kirkland & Ellis
Nicole Sammy, Co-Chair of the Field and Program Committee, Voting Rights Forward
Russel Semmel, Voting Rights Forward
David H. Stonehill, Attorney & Committee Co-Chair, Voting Rights Forward
Latrice Walker, Attorney, Office of Congressman Yvette Clark
NEW YORK CITY REGIONAL HEARING HIGHLIGHTS

On April 11, 2014, over 60 voters, activists and voting rights advocates gathered at Fordham University School of Law to hear about voting issues in Connecticut, New Jersey and New York at a hearing convened by the Lawyers’ Committee for Civil Rights Under Law in partnership with several New York City law firms and voting and civil rights organizations. Witnesses testified about continued barriers to equal participation in the democratic process for voters in the tri-state region, including equal representation for racial minority communities, continued barriers for voters with limited English proficiency (LEP) and the disproportionate impact of felony disenfranchisement laws on communities of color.

I. Unequal Representation of Minority Communities in Redistricting Plans

Several witnesses testified about cases challenging redistricting plans that lacked equal representation of minority voters or diluted minority voting strength, in violation of Section 2 of the Voting Rights Act. Randy McLaughlin, professor of law at Pace University, noted that two of the cases he litigated using Section 2 (United States v. Village of Port Chester and
New Rochelle Voter Defense Fund v. City of New Rochelle) to challenge redistricting plans that underrepresented African-American and Latino voters, respectively, were ultimately successful, but were incredibly costly and placed the “burden on the voting rights community and the communities themselves to bring these cases.” Since there is often no immediate remedy in such cases, McLaughlin said that the absence of preclearance requirements “would mean that millions of individuals would be losing the right to vote and losing the right to equal representation.”

Additionally, Joan Gibbs, general counsel for the Center for Law and Social Justice at Medgar Evers College, noted that in the two most recent redistricting cycles the New York state senate and congressional maps have been characterized by the overpopulation of downstate senate districts, particularly districts within the City of New York where the majority of African Americans and other people of color reside. In her testimony, Gibbs noted that, if the maps were fairly drawn, New York City would have an additional representative in the state senate, which would be a majority-minority district. This practice of overpopulating New York City state senate districts was challenged in 2002 in Rodriguez v. Pataki and is once again being challenged in Favors v. Cuomo.

Witnesses also explained how in New York Section 5 preclearance often deterred discriminatory voting practices, especially with regard to redistricting. In particular, according to testimony from James Hong of the American Community Coalition on Redistricting and Democracy, Section 5 preclearance had helped ensure that districts drawn in covered jurisdictions equally represented Asian-American voters and “yielded victories for [them].”

II. Barriers for Minority Voters and Language Access Issues

Ingrid Alvarez-DiMarzo, Connecticut state director of the Hispanic Federation, testified to issues minority voters faced in Bridgeport, Conn. during the 2010 elections. According to Alvarez-DiMarzo, Bridgeport, which is predominantly African American and Latino, reported widespread shortages of ballots at polling sites. The Bridgeport registrars of boters had ordered only 21,000 ballots in a city of 68,000 registered voters. In her testimony,

Alvarez-DiMarzo stated that “[t]housands of voters were disenfranchised, standing in lines for hours awaiting a judge’s order for extended hours at the polls and photocopied ballots. Out of confusion and frustration, many individuals left the polling places without voting.”

Representatives from Asian-American and Latino communities also spoke of the lack of bilingual poll workers in precincts with large numbers of LEP voters and voters not being notified if translators were available. According to Dorothy Hsu from the Asian American Legal Defense and Education Fund, as recently as July 2, 2013, South Asians in Queens sought interpretation services in Bengali after exit surveys revealed that there were “few interpreters at poll sites and signs identifying interpreters were often missing, relegating Bengali speaking interpreters to sit in front of Chinese interpreter and available signs.” Hsu stated that a lawsuit was filed against New York City and subsequently settled, resolving the Bengali interpretation issues in Queens.³


Kristen Clarke, Chief of Civil Rights Bureau at the New York State Attorney General’s Office, speaks on their efforts to combat minority voter suppression and discrimination.
NORTH CAROLINA STATE HEARING

Opportunities Industrialization Center Of Rocky Mount
Rocky Mount, North Carolina
March 28, 2014

GUEST COMMISSIONERS
Barbara Arnwine, President and Executive
   Director, Lawyers’ Committee for Civil Rights
   Under Law
Eva Clayton, former Congresswoman
David Harris, attorney, formerly of the U.S.
   Department of Justice
Ellie Kinnaird, former state Senator
Raymond Pierce, Partner, Nelson Mullins Riley
   and Scarborough, LLP and former Dean, North
   Carolina Central University School of Law

PANELISTS
Laila Ali, North Carolina State University
Rev. William Barber, President, North Carolina
   NAACP
Mary Bethel, Associate State Director for
   Advocacy, AARP North Carolina
Chris Brook, Legal Director, ACLU North Carolina
Juliana Cabrales, National Association of Latino
   Elected and Appointed Officials
Hon. Judge Caudill, former Director of Elections,
   Lincoln County
Anita Earls, Executive Director, Southern Coalition
   for Social Justice
George Gilbert, former Director of Elections,
   Guilford County
Bill Gilkeson, former legal staff, North Carolina
   General Assembly
Elizabeth Haddix, Staff Attorney, University of
   North Carolina Center for Civil Rights in Chapel
   Hill
Erika Hagensen, Director of Public Policy and
   Advocacy, Arc of North Carolina
Penda D. Hair, Co-Founder, Advancement Project
Bob Hall, Executive Director, Democracy North
   Carolina
Jarvis Hall, Professor of Political Science, North
   Carolina Central University
Irving L. Joyner, Professor, North Carolina Central
   University
Joseph Lofton, retired
Rep. Mickey Michaux, North Carolina General
   Assembly
Bryan Perlmutter, Director, Ignite North Carolina
   and the North Carolina Vote Defenders Project
Bob Phillips, Executive Director, Common Cause
   North Carolina
Mercedes Restucha-Klem, Attorney, Disability
   Rights North Carolina
Allison Riggs, Staff Attorney, Southern Coalition
   for Social Justice
Keith Rivers, Executive Committee Member, North
   Carolina NAACP
Estelle “Bunny” Sanders
Rep. Evelyn Terry, North Carolina General
   Assembly
Marcus Thompson
Sandra Thompson, Board Member, Lawyers’
   Committee for Civil Rights Under Law
PUBLIC TESTIMONY

Clarence Albert, Jr.  
Mark Dorosin, Orange County Commissioner  
Melanie Goff Bradley  
Jenny Catorlich, poll worker  
Rev. Curtis Gatewood, HKonJ Coalition Coordinator, North Carolina NAACP  
Madison Gimmery  
Ophelia Gould-Faison  
Evelyn Paul  
Susan Perry-Cole  
Hernando Ramirez Santos, Editor, Que Pasa  
Liamia Smith  
Nehemiah Smith, owner, Weekly Defender

SUPPORTING ORGANIZATIONS (NOT EXHAUSTIVE)

ACLU of North Carolina  
Advancement Project  
Democracy North Carolina  
Forward Together Moral Movement  
HKonJ People’s Assembly  
North Carolina NAACP  
Southern Coalition for Social Justice  
UNC Center for Civil Rights

NORTH CAROLINA STATE HEARING HIGHLIGHTS

On March 28, voters, activists, and voting rights advocates gathered at the Opportunities Industrialization Center of Rocky Mount in North Carolina, to share their experiences of the voting challenges they continue to face in North Carolina at a hearing convened by the Lawyers’ Committee for Civil Rights Under Law. Witnesses testified about continued barriers to equal participation in our democratic process for voters in North Carolina, including the disproportionate impact of recent changes in election administration practices on racial minority communities and equal representation for racial minority communities.

Prior to Shelby County, 40 of North Carolina’s 100 counties were required to seek preclearance of voting changes under Section 5 of the Voting Rights Act.1 Between 1971 and 2013, the Department of Justice (“DOJ”) interposed 67 objections against North Carolina and its subjurisdictions.2 George Gilbert, who served as Director of Elections for Guilford County for 25 years, testified that “complying with Section 5… was a relatively simple process… [and] it was very much an active part of our considerations in making the decisions at Guilford County.” Witnesses provided testimony on the impact that the Voter Information Verification Act (“VIVA”) and the absence of Section 5 preclearance will have on minority voters.

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I. H.B. 589: Voter Information Verification Act

On August 12, 2013, the Governor of North Carolina signed into law the VIVA. The law reforms many election laws, including establishing a strict photo ID requirement, eliminating same-day voter registration, expanding voter challenge opportunities (Part 20), and reducing early voting opportunities. Chris Brook, the Legal Director for the American Civil Liberties Union of North Carolina testified, “[VIVA] is going to make it harder for every North Carolinian to vote, but those burdens are going to be disproportionately borne in communities of color.” Indeed, although African Americans constitute just over 22 percent of registered voters, they represent a much larger proportion of voters who will be adversely affected by VIVA. Several lawsuits have been filed in state and federal courts challenging the VIVA: Currie v. North Carolina, No. 13-CV-001419 (Orange Cnty. Sup. Ct. filed Aug. 12, 2013); League of Women Voters of North Carolina v. Howard, No. 1:13-cv-00660 (M.D. N.C. filed Aug. 12, 2013); North Carolina NAACP v. McCrory, No. 1:13-cv-658 (M.D. N.C. filed Aug. 12, 2013); United States v. North Carolina, No. 13-CV-00861 (M.D. N.C. filed Sept. 30, 2013).

Voter ID
Under Part 2 of VIVA, voters are required to present photo ID in order to vote. According to Bob Hall, the Executive Director of Democracy North Carolina, of the voters the State Board of Elections identified as not having a valid ID, 34 percent are African-American. Penda D. Hair of the Advancement Project testified that the acceptable forms of photo ID “are difficult to obtain if you don’t have the documents that are required.” Numerous speakers testified that the ability to obtain a photo ID can be more difficult in rural areas, where there is no permanent DMV office. For example, according to Chris Brook, in Bertie County, where African Americans make up 62.5 percent of the population, the DMV is open one day a month for six hours. Gilbert commented that, in his time with the County, “I never found a compelling public interest that justified the voter ID requirements of House Bill 589.”

Early Voting
Participants also presented testimony on the impact that reducing early voting opportunities has on minority communities. Part 25 of VIVA reduced the early voting period by one week and reduced the hours county boards of elections are required to be open during this period. According to Penda Hair, 70 percent of African Americans and over half of Latinos who voted in 2012 used early voting. According to Bob Hall, “African Americans… were 36 percent of those who used the first week of early voting. They were 43 percent of those who voted on that first Sunday.”

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Reverend Dr. William Barber, the President of the North Carolina State Conference of the NAACP, testified that VIVA’s elimination of the last Sunday before Election Day from early voting will have an adverse effect on the Souls to the Polls initiative, which had been a popular voting opportunity for church-going African Americans. Joseph Lofton, former chairman of the Wake County Board of Elections, noted that “the presence of Sunday voting can be an enhancement to [voting], rather than a deterrence.”

Other Changes
Bob Phillips, the Executive Director of Common Cause, North Carolina, provided testimony on Part 20 of VIVA, which expands the ability of observers to challenge voters’ registration. Prior to VIVA, said Phillips, voters could not challenge on Election other voters unless they resided in their same precinct, and they could not challenge other voters on early voting days unless they lived in the same county. VIVA amended these limits to permit voters to challenge any voter in their county on Election Day and any voter in the state on other days. Phillips said, “I’ve seen firsthand at high-volume precincts in minority communities, outsiders come in to ask inappropriate questions of voters outside the polls [in an attempt to disqualify them].”

In Buncombe County, where Asheville is the county seat, political groups challenged 182 voters, of whom 19.2 percent were African-American. According to 2012 census data, Buncombe County’s total population is 6.5 percent African American. Bob Hall noted that the group of challengers “chose the poorest blackest precinct in Asheville to challenge voters.”

Bill Gilkeson, former legal counsel to the North Carolina General Assembly, provided testimony on Part 32 of VIVA, which eliminated straight-ticket voting. He noted that African-American voters make considerable use of straight-ticket voting.

Reverend Barber provided testimony on Part 16 of VIVA, which eliminated same-day registration. He noted that African Americans disproportionately used same-day registration: “African Americans cast 34 percent of the same-day registration ballots.”

II. Minority Representation

Several witnesses provided testimony on redistricting and electoral practices that dilute minority voting strength and prevent adequate minority representation. Bob Hall provided testimony on the state decennial redistricting plans. Hall testified that the approved redistricting

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9 See, United States Census Bureau’s State and County Quickfacts for Buncombe County, NC: http://quickfacts.census.gov/qfd/states/26/2611555.html

maps “systematically packed African Americans in fewer districts... [and] African Americans were 50 percent more likely to live in a split precinct than whites.” Reverend Barber testified that the redistricting plan was “worst voter redistricting plan since the 19th Century,” for the way it packing black voters into few senate and house districts. According to Anita Earls, the Executive Director of the Southern Coalition for Social Justice, “It was designed to minimize [not only] the influence of black voters but also progressive white voters who voted with them.”

In addition, Elizabeth Haddix, a senior staff attorney at the University of North Carolina Center for Civil Rights, provided testimony on the continued use of electoral systems that create a barrier to minority representation. Among the counties with the greatest racial disparity in representation, all used an at-large or mixed electoral system. Haddix pointed to Hyde and Jones Counties, which are each over 30 percent African-American, “but have all white Boards of County Commissioners. Both elect commissioners at large, but Hyde has residency districts.” Minority representation is further hindered by racial bloc voting, which, according to Edgecombe County resident Susan Perry-Cole, “is still in existence, still alive and well today, and it’s a part of the fabric – particularly in rural eastern North Carolina.”

### III. Language Access

Juliana Cabrales, representing the National Association of Latino Elected and Appointed Officials, presented testimony on language barriers that voters face. Although North Carolina is not covered by the Voting Rights Act’s minority language provisions, the state has a growing Latino population that would benefit from bilingual assistance at the polls. According to 2010 Census data, people of Hispanic or Latino origin make up 8.4 percent of the total population of North Carolina. Cabrales estimated that among the Latino population, 81 percent speak another language at home. “Latino participation is significantly enhanced by the access to translated materials and availability of bilingual poll workers at convenient voting locations on Election Day who are readily available to provide comprehensive in-person assistance,” she said.

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PENNSYLVANIA STATE HEARING

National Constitution Center
Philadelphia, Pennsylvania
February 6, 2014

GUEST COMMISSIONERS
Hon. Pedro A. Cortes, former Pennsylvania Secretary of State
Hon. Nelson A. Diaz, former Judge, Philadelphia Court of Common Pleas
J. “Jerry” Whyatt Mondesire, President, Pennsylvania NAACP
Regine Matellus, Senior Vice President and Chief Operations Officer, Urban League of Philadelphia

PANELISTS
Susan Carty, President, League of Women Voters of Pennsylvania
Joe Certaine, former Operations Director, Pennsylvania Voter ID Coalition
Jamaal Craig, Civil and Human Rights Technician, United Steelworkers
Benjamin Geffen, Staff Attorney, Public Interest Law Center of Philadelphia
Ellen Kaplan, Vice President and Policy Director, The Committee of Seventy
Barry Kauflman, Executive Director, Common Cause of Pennsylvania
Robert Meek, Managing Attorney, Disability Rights Network of Pennsylvania
Mary Catherine Roper, Senior Staff Attorney, ACLU of Pennsylvania
Marian Schneider, Senior Attorney, Advancement Project
Stephanie Singer, Philadelphia City Commissioner
Ana Sostre-Ramos
Chance Toland-Wilson, student, Temple University
Jerry Vattamala, Staff Attorney, Asian American Legal Defense and Education Fund

PUBLIC TESTIMONY
Rahat Babar, President, APABA Pennsylvania
Howard Bilofsky, Vice President of the Board, Pennsylvania Voting Rights Coalition
Frank Fulton, Manager of Independent Living Services, Liberty Resources, Incorporated.
Sam Hawk
Bishop Daniel Laurent, interpreter
Philip PJ Mattiacci
Charles McGowen, President, Philadelphia Society for the Advancement of the Deaf
SUPPORTING ORGANIZATIONS (NOT EXHAUSTIVE)

ACLU of Pennsylvania  Public Interest Law Center of Philadelphia
Advancement Project  Pennsylvania State Chapter of National Action
Ballard Spahr LLP  Network
Committee of Seventy  Pennsylvania State Conference of the NAACP
Common Cause PA  Pennsylvania Voice
Disability Rights Network of Pennsylvania  PennPIRG
Fox Rothschild LLP  Schnader, Harrison & Segal LLP
League of Women Voters of Pennsylvania  SeniorLAW Center
McKeever & Mitchell  The Urban League of Philadelphia
National Action Network  United Steelworkers

PENNSYLVANIA STATE HEARING HIGHLIGHTS

On February 6, 2014, at a National Commission on Voting Rights public hearing organized by the Lawyers’ Committee for Civil Rights Under Law, voters, activists, and voting rights advocates gathered at the National Constitution Center in Philadelphia to share their experiences of the voting challenges they continue to face in Pennsylvania, as well as successes and opportunities for reform in Pennsylvania’s elections. Topics included excessively long lines at polling sites in minority communities and voting discrimination under Section 2 of the Voting Rights Act in Latino and Asian communities.

I. Inadequate Polling Locations for Minority Precincts

Marian Schneider of the Advancement Project testified about problems with the Lower Oxford East precinct in Chester County. In 2008, after experiencing long lines during the presidential primary, local election officials sought to move the polling location of the Lower Oxford East precinct to Lincoln University, a historically black college. Schneider said that the polling location at the time was a small building off-campus with limited parking, and Lincoln University offered its gymnasium as a centrally located site. Nonetheless, Schneider testified that the Chester County Board of Elections voted against moving the polling location and, on Election Day in 2008, voters faced long lines due to the location’s lack of space, insuf-
icient quantities of polling place equipment (necessitated by the small space), every student’s vote being challenged, and the failure of the county to provide up-to-date poll books. According to Schneider, “some voters waited 6 to 8 hours to vote. The final voter voted around 11:30 p.m., after the presidential race had been called.” Schneider further stated that after the election, voters petitioned to have the polling place moved to Lincoln University and instead the Board of Elections moved it further away; as a result, a lawsuit was filed under Section 2 of the Voting Rights Act. The case, English v. Chester County,1 alleged that African-American students were denied the right to vote by being assigned an inadequate polling place. The case settled, and the polling location was moved to Lincoln University.

II. Language Access

Witnesses also testified about language access problems for Spanish-speaking voters and those who speak Asian languages. After a 2006 settlement agreement in U.S. v. Philadelphia,2 the City of Philadelphia agreed to provide interpreters in several Asian languages. Despite the settlement agreement, Jerry Vattamala of the Asian American Legal Defense and Education Fund testified that in subsequent elections the City consistently failed to provide interpreters in several precincts with high concentrations of voters who spoke Asian languages. During the 2012 general election, long lines were reported in South Philadelphia, where there were “Vietnamese-American voters that needed language assistance, but there was no interpreter there,” according to Vattamala. Vattamala also noted that poll workers were unaware of a city-operated language hotline to provide assistance to voters who spoke Asian languages, resulting in many voters not being able to vote. Similarly, Ana Sostre-Ramos testified that many polling places in Philadelphia County, which is required to provide language assistance under Section 203 of the Voting Rights Act,3 had no Spanish-language interpreters available for limited English proficient voters. Additionally, Sostre-Ramos testified to Latino voters not being notified about polling place changes and being turned away from the polls.

1 See, English v. Chester County, No. 10-244 (E.D. Pa. 2010).
RAPID CITY REGIONAL HEARING
(Montana, North Dakota, South Dakota, and Wyoming)

The Journey Museum
Rapid City, South Dakota
May 1, 2014

NATIONAL COMMISSIONER
Patty Ferguson-Bohnee, Director, Arizona State University College of Law Indian Legal Clinic

GUEST COMMISSIONERS
Richard Braunstein, Professor, University of South Dakota College of Arts & Sciences
Michaelynn Hawk, Director, Indian People’s Action
A. Gay Kingman, Executive Director, Great Plains Tribal Chairman’s Association

PANELISTS
Gary Collins, former Voting Rights Litigation Plaintiff and Northern Arapaho Tribal Liaison
Pat Duffy, Voting Rights Litigator
Steve Emery, Attorney and former Voting Rights Litigation Plaintiff, Cheyenne River Sioux
Julie Garreau, Cheyenne River Sioux
Bill White Head, former Voting Rights Litigation Plaintiff, Fort Peck Assiniboine and Sioux
Bret Healy, Consultant, Four Directions
Garth Massey, Sociologist, Expert Witness in Voting Rights Litigation
Jean Schroedel, Professor of Politics and Policy, Claremont Graduate University
O.J. Semans Sr., Co-Executive Director, Four Directions
Mel Siyo, Rapid City Human Relations Commission
Libby Skarin, Policy Director, ACLU of South Dakota
William “Snuffy” Main, Voting Rights Litigation Plaintiff, Gros Ventre
Mark Wandering Medicine, Voting Rights Litigation Plaintiff, Northern Cheyenne

PUBLIC TESTIMONY
Mark Lone Hill

WRITTEN TESTIMONY
Michelle DuBray, Cheyenne River Sioux
Kevin Killer, State Senator, South Dakota State Senate
Teresa Larsen, Executive Director, North Dakota Protection & Advocacy Project
Rapid City Regional Hearing Highlights

Rapid City commissioners (left) panel of witnesses (right) at the NCVR Rapid City regional hearing.

On May 1, 2014, voting rights advocates, voters and, other interested members of the public gathered at the Journey Museum in Rapid City, South Dakota, for a hearing convened by the Lawyers’ Committee for Civil Rights Under Law. The hearing covered voting rights and election administration issues in Montana, Wyoming, North Dakota, and South Dakota. Approximately 40 people attended the hearing, which included testimony on equal access to the ballot for Native Americans; language access issues; district apportionment; voting rights litigation in Wyoming, Montana, and South Dakota; and the history of discrimination against Native Americans in these states.

I. Minority Representation (South Dakota, Wyoming, Montana)

Jean Schroedel, a professor at Claremont Graduate University, presented research on the ability of Native Americans to get elected to political office in South Dakota. Historically, Schroedel testified, there was not a single Native American elected to the 105-member state
legislature prior to voting rights litigation in the 1980s; similarly, Native Americans were not elected to any of the over 300 county council seats in South Dakota prior to voting rights litigation in the 1980s. According to Schroedel, Native Americans comprise 8.9 percent of the population in South Dakota, but currently only three out of 105 members of the state legislature are Native American, and only 14 out of 322 county council seats statewide are held by Native Americans. Schroedel also testified that no Native American in South Dakota has ever been elected in an electoral district in which Native Americans did not comprise a majority of the population in that electoral district.

Gary Collins, Northern Arapaho Tribal Liaison, testified about *Large v. Fremont County (Wyoming)*, a case in which he was a plaintiff. The case involved a claim brought by members of the Eastern Shoshone and Northern Arapaho Tribes in 2009, which alleged that the at-large method of electing the county commissioners in Fremont County violated Section 2 of the Voting Rights Act. After a bench trial, the District Court issued an opinion, which stated in pertinent part, “The evidence presented to this Court reveals that discrimination [in Fremont County] is ongoing, and that the effects of historical discrimination remain palpable. The Court rejects any attempt to characterize this discrimination as being politically, rather than racially, motivated.” The District Court concluded that the at-large system for electing county commissioners diluted Native Americans’ voting strength in violation of Section 2 of the Voting Rights Act.

William “Snuffy” Main, a voting rights litigation plaintiff and member of the Gros Ventre tribe, testified about the history of discrimination against Native Americans in Montana and about *United States v. Blaine County (Montana)*, a case in which the United States Department of Justice (DOJ) alleged that Blaine County’s at-large system for electing county commission-
ers violated Section 2 of the Voting Rights Act. The District Court found in _Blaine County_ that there was a history of official discrimination against Native Americans; racially polarized voting; voting procedures that enhanced the opportunities for discrimination against Native Americans; a tenuous justification for the at-large voting system; and that under the totality of the circumstances, the at-large voting system violated Section 2.

II. Language Access (South Dakota)

Prior to the 2010 census, South Dakota had 18 counties that were covered by Section 203 of the Voting Rights Act. Such coverage required those counties to provide election materials in certain languages other than English. Steve Emery, an attorney and former voting rights plaintiff, testified that from 1975 until the last election, Dewey and Ziebach counties did not have any bilingual voting materials. Emery offered to translate, free of charge, any materials that those two counties needed to have translated, but the counties never took him up on the offer.

III. Access to the Ballot for Native Americans (South Dakota and Montana)

Julie Garreau, of the Cheyenne River Sioux Tribe, and O.J. Semans, Sr., Co-Executive Director of Four Directions, testified about efforts to create satellite offices for in-person absentee voting on Indian reservations in South Dakota and Montana. Both of these states offer in-person absentee voting in the weeks leading up to elections. However, without satellite offices on the reservations, the only place to take advantage of these additional weeks of in-person absentee voting is at the county seat. According to Garreau, limiting in-person absentee voting to the county seat makes it difficult for Native Americans to take advantage of in-person absentee voting because they often lack the time and resources required to travel great distances to the county seat, whereas other residents of the county get a month or more prior to the election to vote. At the time of the Commission hearing, the litigation known as, _Wandering Medicine v. McCullough_, was pending in the United States District Court in

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7 _See, United States v. Blaine County, 157 F. Supp. 2d 1145 (D. Mont. 2001)_


9 _See, 42 U.S.C.A. § 1973aa-1a(b)(1)_

10 In South Dakota, beginning 46 days before a Primary and General Election, and at least 15 days before any other election, any registered voter may apply in person at the office of and to the person in charge of the election for an absentee ballot during regular office hours up to 5:00 p.m. on the day before the election to cast an in-person absentee ballot. See, South Dakota Secretary of State’s “Election FAQ” webpage: https://sdsos.gov/elections-voting/election-faq.aspx. In Montana, in-person absentee voting starts as soon as ballots are available – by not later than 30 days before an election, but requires the voter to submit an absentee ballot in person at the election office or by mail to the election office by noon the day before the election. See, Montana Secretary of State’s Election Frequently Asked Questions webpage: http://sos.mt.gov/elections/FAQ/index.asp.
Montana. That case sought to establish satellite offices on Indian reservations for in-person absentee voting and was settled in June 2014.11

Some satellite offices have been established in South Dakota through the cooperative work of the county and tribes, but the first of those offices in the state were gained only through litigation (Brooks v. Gant).12

SEATTLE REGIONAL HEARING
(_Idaho, Montana, Oregon, and Washington_)

University Of Washington School Of Law
Seattle, Washington
April 28, 2014

NATIONAL COMMISSIONER
Dolores Huerta, Lifelong Community Activist, Social Justice Organizer- co-founder of the United Farm Workers, President of the Dolores Huerta Foundation

GUEST COMMISSIONERS
Rex Burkholder, Principal, Burkholder Consulting
Dean Foster, Commissioner, Washington State Redistricting Commission
Hon. Charles Johnson (ret.), NAACP

PANELISTS
Kim Able, President, League of Women Voters of Washington
Matt Barreto, Professor, University of Washington
Scott Crichton, Executive Director, ACLU of Montana
Tami Davis, Office of the Washington Secretary of State
Kappy Eaton, Coordinator, League of Women Voters of Oregon
Mary Flowers, Seattle NAACP
Emilio Garza, Engagement Coordinator, Washington Bus
Josh Goldberg, Policy Advisor, Office of the Oregon Secretary of State
Esther Harlow, Disability Rights of Oregon
Emily Jameson, Oregon Voice
Abba Khanna, Attorney, Perkins Coie, LLP
David Lord, Director of Public Policy, Disability Rights Washington
Mack Murray, Urban League of Metropolitan Seattle
David Perez, Attorney, Perkins Coie, LLP
Grace Villanueva
Art Wang, APACE
Julie Wise, Voter Services Manager, King County Department of Elections
Rhonda Whiting, Chairman, Western Native Voice

PUBLIC TESTIMONY
Mary Carpenter, National Federation of the Blind
Marjorie Easley, Former President, League of Women Voters of Oregon
Allison Eisinger, Seattle Coalition on Homelessness
Delores Gilmore, Manager, Kittitas County Elections
Sharon Maeda, Seattle Immigrant Voting Rights Task Force
Cindy Van Winkle, President, Washington Council of the Blind
Tong Kinwah, Board Member, Chinese Progressive Association
Chris Maynard, BSBA candidate, Suffolk University
Andy Morgan, Public Policy Assistant, Rosie’s Place
Leila Quinn, Generation Citizen
Grace Ross, Worcester resident

WRITTEN TESTIMONY
APACE
Laughlin McDonald

SUPPORTING ORGANIZATIONS (NOT EXHAUSTIVE)
ACLU of Montana Foundation
ACLU of Washington Foundation
APACE
Disability Rights Oregon
Disability Rights Washington
Forward Montana
League of Women Voters of Idaho
League of Women Voters of Oregon
League of Women Voters of Washington
Montana Conservation Voters
NAACP
OneAmerica
Oregon Bus Project
Oregon Voice
University of Washington School of Law
Urban League of Metropolitan Seattle
The Washington Bus
Western States Center
Win/Win Network

SEATTLE REGIONAL HEARING HIGHLIGHTS
On April 28, approximately 100 voters, activists, and voting rights advocates gathered at the University of Washington School of Law in Seattle, Wash. to share their experiences of the voting challenges they continue to face in Idaho, Montana, Oregon and Washington at a hearing convened by the Lawyers’ Committee for Civil Rights Under Law. Witnesses testified about numerous issues creating barriers to equal participation in the democratic process in the Pacific Northwest, including school district vote dilution in Montana, the prevalence of racial bloc voting in central and eastern Washington, and vote dilution in Yakima, Wash.

I. Vote Dilution in Wolf Point, Montana School District
Scott Crichton of the ACLU of Montana discussed a lawsuit against the Wolf Point School District in Montana on behalf of seven Native American voters who claimed they were being denied the equal right to representation on the school board because of improper voting districts. According to Crichton, the voting districts at the time of the lawsuit gave each

resident of the majority white voting district more say on the school board than each resident of the majority Native American voting district. Under that system, Crichton said, members of the majority white voting district had elected one board member for every 143 residents and those in the majority Native American district elected one board member for every 841 residents. The case was settled this year, with the new plan creating single-member districts with a population variance of no more than 1.54 percent.

II. Racial Bloc Voting in Central and Eastern Washington

Several panelists discussed the highly polarized voting in central and eastern Washington.

Professor Matt Barreto, of the University of Washington, discussed these racially polarized voting patterns and how the widespread use of at-large voting in the area leads to Latinos being vastly underrepresented in local government.

Graciela Villanueva discussed her personal experience falling victim to this polarization in a recent school board election in Yakima, Washington. Villanueva was running as an appointed incumbent, and her opponent dropped out of the race several months before the election, yet that opponent won election with 61 percent of the vote. According to Villanueva, many voters admitted that race was a factor in voting for her opponent.

David Perez, of Perkins Coie LLP, discussed State Supreme Court Justice Stephen Gonzalez’ reelection election campaign (he had been appointed), outlining how an opponent (Bruce Danielson) filed to run against him at the last minute, and—despite Justice Gonzalez raising the most money and securing endorsements from both parties (Danielson raised no money and did not campaign)—Danielson won many counties in central and eastern Washington by large margins (Gonzalez won reelection by racking up large margins in King County (Seattle) and several surrounding counties).

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III. Vote Dilution in Yakima, Washington

Abha Khanna, of Perkins Coie LLP, discussed a Section 2 lawsuit brought against the City of Yakima regarding its at-large council districts.⁴ According to Khanna, no Latino has ever won a seat on the seven-member city council despite Latinos constituting 41 percent of the city’s population and 22 percent of its citizen voting age population. Further, Khanna noted that the only Latino candidate who has served on the city council had been appointed to the position and lost her reelection bid despite having the advantage of incumbency.

SOUTH CAROLINA STATE HEARING

Richland County Council Chambers
Columbia, South Carolina
February 6, 2014

GUEST COMMISSIONERS
Nancy Bloodgood, Partner, Foster Law Firm
Duncan Buell, Chair of the Department of
   Computer Science and Engineering, University
   of South Carolina
Hon. Ernest A. Finney, Jr., retired Justice, South
   Carolina Supreme Court
James T. McLawhorn, Jr., President and CEO,
   Columbia Urban League
Dr. Lonnie Randolph, Jr., President, South
   Carolina NAACP

PANELISTS
Brett Bursey, Executive Director, South Carolina
   Progressive Network
Gilda Cobb-Hunter, Representative, South
   Carolina House of Representatives
Carrie Fair, Jasper County Northern Neighborhood
   Association
James Felder, South Carolina Voter Education
   Project
Maggie Knowles, Protection and Advocacy for
   Voting Access Coordinator, Protection and
   Advocacy for People with Disabilities
John Ruoff, Ruoff Group
Karen Rutherford
Susan Smith
Brenda Williams, M.D., The Family Unit
Barbara Zia, League of Women Voters of South
   Carolina

PUBLIC TESTIMONY
Saundra Carr
Susan Dunn, Legal Director, ACLU of South
   Carolina
Nikky Finney
Karen Irick
Jennifer Jenkins, President, Fairfield County
   NAACP
Kevin Myles
Joe Neal
Julie Sellers
Dori Tempio, Richland County

WRITTEN TESTIMONY
Juan E. Gilbert, Ph.D., Human-Centered
   Computing Lab, Clemson University (testimony
   read by Wanda Eugene, Ph.D)
Matthew Phillips (testimony read by Robert Kopp)
SOUTH CAROLINA STATE HEARING HIGHLIGHTS

On February 14, 2014, the National Commission on Voting Rights held a hearing at the Rich-
mond County Council Chambers in Columbia. Voters, activists, and voting rights advocates
shared their experiences of the voting challenges they continue to face. For example, Barbara
Zia, who represented the League of Women Voters of South Carolina, noted that during
the 2012 Election, South Carolina voters faced the fourth longest wait time in the country.
Witnesses also testified about the disproportionate impact of South Carolina’s photo ID and
misdemeanant/felon disenfranchisement laws on communities of color; expressed concerns
about proposed legislation; and spoke about the historical importance of Section 5 of the
Voting Rights Act in protecting minority voting rights.

I. Implementation of Photo ID Law

South Carolina residents seeking to obtain a state-provided free photo ID must comply with
the South Carolina State Election Commission’s, Attire and Appearance Guidelines. Brenda
Williams, M.D., a founder of The Family Unit, a Sumter-based 501(c)(3), testified that these
guidelines disproportionately prevent African-American women from receiving photo IDs,
thereby disenfranchising them.

The Guidelines prohibit applicants for photo ID’s from wearing caps, hats, scarves or other
head coverings, except those worn for religious or medical reasons. Even when worn for
religious or medical reasons, the Guidelines state that a head covering may not obscure the
applicant’s face. Face veils, stage make-up, disguises, masks or any other article that would
obstruct the full face front view or prominent distinguishing facial characteristics, such as
tattoos, scars, birth marks, or moles, are also not permitted. The Guidelines also state that
hair cannot obstruct eyes and facial features. Sunglasses, tinted glasses, non-prescription
glasses, and eye patches are also prohibited, except for those worn for medical reasons.

photo_id_attire_apppearance_guidelines
According to Williams, these guidelines unfairly prevent African-American women from exercising their right to vote because “African-American women oftentimes adorn ourselves in scarves and turbans. It’s a part of our culture.” She also expressed concerns about the degree of discretion afforded to individuals working at voter registration offices and the DMV, noting “the voter registration office people have the authority to stop and not take your picture if you don’t fit their attire guidelines.”

II. Disenfranchisement of Incarcerated and Formerly Incarcerated South Carolinians

In South Carolina, individuals who are convicted of any felony or a misdemeanor that involves an election law violation cannot vote until the completion of his/her sentence, including the terms of probation and parole. An individual convicted of a non-election misdemeanor loses the right to vote only for the duration of his/her incarceration. According to the ACLU, these disenfranchisement laws disproportionately affect communities of color. Indeed, although African-Americans only comprise 27 percent of the state’s voting age population, they comprise 64 percent of the state’s disenfranchised individuals.

Brett Bursey, Executive Director of the South Carolina Progressive Network, and Carrie Fair, who testified on behalf of the Jasper County Northern Neighborhood Association, expressed concerns about the manner in which these laws are being implemented. In explaining his concerns, Bursey pointed to a 2008 ACLU survey of South Carolinian election officials. The survey results included the following:

61 percent of the election officials answered incorrectly when asked about the voting eligibility of individuals with misdemeanor convictions; 43 percent answered incorrectly when asked about the voting eligibility of individuals with out-of-state felony convictions; and 41 percent answered incorrectly when asked about the voting eligibility of individuals with federal felony convictions.

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3 Id.
4 Id.
5 Id.
7 The survey also included other questions. However, these are the three questions that the ACLU identified as “slightly more complicated eligibility questions.”
Even more troubling, the election officials surveyed in Charleston County, which is the second most populous county in the state, incorrectly answered all three questions. Likewise, the election officials surveyed in Greenville County, which is the most populous county in the state, incorrectly answered when asked about the voting eligibility of individuals with misdemeanor convictions.

### III. Senate Bill 227: “South Carolina Voter Citizenship Verification Act”

Ms. Zia and Kevin Myles, the NAACP’s Southeast Regional Field Director, raised concerns about the likely discriminatory impact of Senate Bill 227 (SB 227). SB 227 was introduced during the 2013-2014 legislative session, but it never came up for a vote. SB 227 would have required any individual registering to vote for the first time in South Carolina to provide one of the following forms of identification to prove United States citizenship: (1) Driver’s license number from a South Carolina driver’s license, (2) other photo identification issued by the South Carolina Department of Motor Vehicles, (3) photo identification card issued by another state (subject to some restrictions), (4) birth certificate or certified photocopy of a birth certificate, (5) United States passport or legible photocopy of the pertinent pages, (6) United States naturalization documents or a legible photocopy of the documentation, (7) number of the certificate of naturalization, (8) any document or method of proof of citizenship accepted by the federal Immigration Reform and Control Act of 1986, or (9) Bureau of Indian Affairs card number, tribal treaty card, or tribal enrollment number.

Proof of citizenship laws, like SB 227, disproportionately impact minority, low-income, and elderly voters. As Zia explained, “minority and low income citizens … are less likely than other voters to have access to [the requisite] forms of identification.” In fact, according to a 2006 study conducted by the Brennan Center, seven percent of United States citizens do not have “ready access to U.S. passports, naturalization papers, or birth certificates.”

While the Brennan Center study also found that eight percent of white voting-age citizens did not have a valid government-issued photo ID, it determined that 25 percent of voting-age African Americans did not have one. Likewise, the study found that citizens with annual incomes of less than $35,000 were half as likely to have a valid government-issued photo ID as compared to citizens with annual incomes of $35,000 and greater. According to the study, 18 percent of United States citizens 65 years of age or older did not have a valid government-issued photo ID.

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8 South Carolina County Election Board Survey on Felony & Misdemeanor Disfranchisement, supra.
9 Id.
IV. Importance of Section 5 to Minority Voting Rights

John Ruoff, Ph.D., principal at Ruoff Policy, testified that “Section 5 preclearance require-
ments have framed nearly every change in voting practice or procedure in [South Carolina]
over the past five decades … the realistic threat of a DOJ [Department of Justice] objection
has brought [] jurisdictions to much more reasonable actions.” For example, Ruoff believes
that had it not been for the specter of preclearance, the 2012 redistricting plan for Florence
County School District 1 would not have included a majority African-American district.11 Ruoff
also submitted to the record a law review article that he co-authored, that provides a detailed
history of Section 2 and Section 5 in South Carolina between 1982 and 2006.12

11 See, Barr et al v. Florence County Voter Registration & Elections Comm’n, No. 4:12-cv-01183-RBH (D.S.C. April 25, 2013)
(consent stipulation of voluntary dismissal after plan that included a majority African-American district was precleared).
(2008).
TEXAS STATE HEARING

Texas Southern University
Houston, Texas
April 5, 2014

GUEST COMMISSIONERS

Deborah Chen, National Treasurer & Board Member, OCA-Asian Pacific American Advocates
Craig Jackson, Professor, Thurgood Marshall School of Law

Howard Jefferson, National Board Member, NAACP, Political Action Director, NAACP Texas State Conference
J. Goodwile Pierre, Vice President, National Bar Association

PANELISTS

Ann Harris Bennett, Concerned Citizen
Rogene Gee Calvert, Director, Texas Asian American Redistricting Initiative
Robin Chandler, Policy Specialist, Disability Rights Texas
Maureen Haver, Common Cause Texas
George Korbell, Attorney, League of United Latin American Citizens
Congresswoman Sheila Jackson Lee, U.S. House of Representatives

Kyle Longhofer, Fort Bend Democratic Party
Mario Salinas, Texas State Deputy Director, Mi Familia Vota
Christina Sanders, State Director, Texas League of Young Voters
Carolyn Scantlebury, Former President, NAACP Houston Branch
Cynthia Spooner, Concerned Citizen

PUBLIC TESTIMONY

Ricky Forrest
Crystal Sowemimo

WRITTEN TESTIMONY

League of Women Voters of Texas

SUPPORTING ORGANIZATIONS (NOT EXHAUSTIVE)

100 Black Men of America, Houston Metropolitan Chapter, Inc.
Austin Black Lawyers Association
Earl Carl Institute for Legal and Social Policy, Inc.
Houston Area Urban League, Inc.
J.L. Turner Legal Association
NAACP Houston Branch
NAACP Legal Defense and Educational Fund, Inc.
NAACP Region VI

National Bar Association
OCA Greater Houston Chapter
Texas Southern University - Thurgood Marshall School of Law
Texas State Conference of the NAACP
The National Commission on Voting Rights held a hearing on April 5, 2014, at the Thurgood Marshall School of Law at Texas Southern University in Houston, Texas. Support from national and local partner organizations contributed to making the event a success. Approximately 50 people attended the four-hour hearing and heard from several panels of Texas-based witnesses. Testimony topics included voter suppression and intimidation tactics, voter identification (ID), redistricting resulting in voter dilution, as well as challenges facing students, voters with disabilities, and language minorities.

I. Suppressive Voting Tactics

Maureen Haver, Common Cause Texas Board Director, testified about voter suppression tactics deployed in Harris County during the 2010 election cycle. Haver testified that certain groups, namely True the Vote, placed aggressive poll watchers solely at minority precincts to challenge voters. These poll watchers routinely challenged voters who did not have the same home address on their voter registration cards and driver's licenses, said Haver. Haver also testified that this type of challenge adversely impacts minorities and the poor because Houston has the second-highest rate of minority renters in the United States. Since it costs $25 to update an address on a driver's license, Haver said that this is an amount some voters are unable to routinely pay when they move. Ms. Carolyn Scantlebury, Former President of the Houston Branch of the National Association for the Advancement of Colored People, also testified about the intimidation of voters at the polls in Texas minority precincts and efforts that were made by poll watchers to mislead voters. Scantlebury gave one example where law enforcement had to be contacted due to intimidation tactics employed at the polls.

II. Restrictive Voter ID Law in Texas

George Korbell, an attorney for the League of United Latin American Citizens (LULAC), testified about the disproportionate impact the Texas voter ID law has on minority groups. In particular, his organization researched how difficult it is for low-income minorities, lacking driver’s licenses, to obtain free IDs. To determine this, LULAC compared the distance from the offices of Texas minority elected officials, including members of the state legislature, the U.S. Senate and the U.S. House of Representatives, to the nearest Texas Department of Public Safety office, which provides free IDs to the general public. They determined that bus travel time averaged approximately two hours each way. Korbell also testified that in 100 rural Texas counties, they were unable to locate a nearby Texas Department of Public Safety office. See, Driver License Renewal and Change of Address, Texas Department of Public Safety. https://txapps.texas.gov/tolapp/txdl/
office accessible by public transportation. Rogene Gee Calvert, Director of the Texas Asian American Redistricting Initiative, also testified about the difficulties faced by Asian Americans as a result of the Texas voter ID law. These difficulties include the fact that many Asian-American seniors lack appropriate documentation to obtain an ID, encounter language barriers, must travel significant distances to obtain an ID, and endure long wait times at Department of Public Safety offices.

III. Dilution of Minority Voting Strength through Redistricting and Racially Polarized Voting

Korbell also testified about the negative impact redistricting in Texas has had on minority voters. One example cited by Korbell was how redistricting in Tarrant County resulted in the dilution of Latino votes. Korbell also testified that, in his examination of Texas voting cases since 2010, he determined that there were instances of racially polarized voting in counties making up three-quarters of the State of Texas.
### VIRGINIA STATE HEARING

**Virginia Commonwealth University**  
**Richmond, Virginia**  
**April 29, 2014**

#### GUEST COMMISSIONERS

| Thursa Crittenden, Urban League of Hampton Roads | Jean Jensen, former Deputy and Secretary, Virginia State Board of Elections |
| Claire Guthrie Gastanaga, Executive Director, ACLU of Virginia | Carmen Taylor, President, Virginia NAACP |

#### PANELISTS

| Hope Amezquita, ACLU of Virginia | Courtney Mills, Fair Elections Legal Network |
| Robert Barnette, President, Hanover NAACP and Hanover Elections Board | Tram Nguyuen, Virginia New Majority |
| Mike Burns, Fair Elections Legal Network | Don Palmer, Secretary, Virginia State Board of Elections |
| Rebecca Green, William & Mary Law School | Anna Scholl, Progress VA |
| Merecedes Harris, Hollaback and Restore Project | Cathy Woodson, Virginia Organizing |
| Michelle Kanter Cohen, Project Vote | Dong Yoon Kim, Nat’l Korean-American Service & Education Cons. |
| Greg Lucyk, One Virginia 2021 | |

#### PUBLIC TESTIMONY

| Glen Besa, Director, Virginia chapter of the Sierra Club | Elizabeth Smith |
| Flora Crittenden | Marie Stella |
| Virginia Cowles | Lynetta Thompson |
| Kendra Glover | Mabel G. Wells |

#### WRITTEN TESTIMONY

| Micah Altman, Massachusetts Institute of Technology & Michael McDonald, George Mason University | Kelly A. Hickok, Resources for Independent Living Testimony |
SUPPORTING ORGANIZATIONS (NOT EXHAUSTIVE)

American Civil Liberties Union of Virginia
Campus Election Engagement Project
The disAbility Law Center of Virginia
Fair Elections Legal Network
Hollaback and Restore Project
One Virginia 2021
Progress VA Education Fund
Project Vote
Resources for Independent Living, Inc.
Sierra Club-Virginia Chapter
The Urban League of Hampton Roads, Inc.
Virginia New Majority
Virginia State Conference of the NAACP
Virginia AFL-CIO
Virginia Organizing
Texas Southern University - Thurgood Marshall School of Law
Texas State Conference of the NAACP

VIRGINIA STATE HEARING HIGHLIGHTS

On April 29, 2014, approximately 40 voters, activists, and voting rights advocates gathered at Virginia Commonwealth University in Richmond to share their experiences with voting challenges that persist and are anticipated in Virginia at a hearing convened by the Lawyers’ Committee for Civil Rights Under Law. Witnesses testified on a variety of topics related to obstacles to voting that continue to be faced by Virginians, including disenfranchisement of formerly incarcerated individuals, redistricting in one city that made it more difficult for voters to elect candidates of their choice, and the implementation of Virginia’s photo identification requirement.

I. Disenfranchisement of Incarcerated and Formerly Incarcerated Virginians

The Sentencing Project estimates that one in five African Americans in Virginia, or nearly 243,000 individuals, are disenfranchised due to a prior criminal conviction.¹ In the overall population, 7.3 percent of Virginians are disenfranchised for that reason.² However, Mercedes Harris, Executive Director of Hollaback and Restore Project, complained that other data and records are lacking, making it difficult to know the full scope of disenfranchisement. As a result, Harris said it is more difficult to assist those who are eligible to have their rights restored under Virginia’s new automatic restoration process.

Harris testified that after his own release from prison, he advocated for the restoration of his civil rights, and started the Hollaback and Restore Project to help others with that difficult process. The process has changed in recent years, said Harris, with different crimes and different current statuses within the criminal justice system requiring different restoration pro-

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¹ See, The Sentencing Project’s summary of Virginia’s 2012 incarceration data: http://www.sentencingproject.org/map/statedata.cfm?abbrev=VA&mapdata=true
² Id.
c procedures. Harris testified that in 2013, former Governor Bob McDonnell began a process to automatically restore the rights of formerly incarcerated individuals who had been convicted of non-violent felonies.

However, Harris testified that the word automatic is a misnomer, as individuals who have completed their sentence, probation and/or parole; paid court costs; have no outstanding fines or restitution; and have no pending felony charges, must still submit a form to the Secretary of the Commonwealth to have their civil rights—including the right to vote—restored. The Secretary of the Commonwealth requests “a copy of your sentencing order(s), proof of payment of court ordered costs, fines and/or restitution associated with your felony conviction(s), and a copy of your criminal record.”

As noted by Rebecca Green, co-director of the election law program at William & Mary Law School, these documents can be arduous to obtain, or a cost may be associated with obtaining them, making it challenging for some individuals to complete this process and have their voting rights restored. This is especially true for those with out-of-state convictions, Green said. The process can also be a lengthy one, according to Green. She testified that several individuals who submitted applications in the summer of 2013 had reportedly not received decisions by the end of April 2014, more than eight months later.

II. Redistricting

Kendra Glover, a paralegal in the national office of the NAACP, testified about redistricting in Suffolk, Va. after the 2010 census. She said that the City Council’s redistricting plan “drew the two African Americans out of their [city council and school board] districts and pitted them against other African Americans in another large African American district…. The two African-American incumbents were placed in the same district and… the two white incumbents were not pitted against each other.” This occurred even though the districts in question actually grew from the 2000 to the 2010 census and contained a larger proportion of the city’s population. In a request for more information from the city on the redistricting plan, the Department of Justice (“DOJ”) acknowledged concerns that some of the proposed district changes were “motivated, at least in part, by the desire to eliminate the ability of black voters” to elect their candidates of choice. Glover also noted that it created some confusion that the names of two of the districts—one predominantly African American and represented by an African-American City Council member and one predominantly white and represented by a white City Council member—were transposed in the new redistricting plan.