

VIRGINIA STATE HEARING

Virginia Commonwealth University
Richmond, Virginia
April 29, 2014

GUEST COMMISSIONERS

Thursa Crittenden, Urban League of Hampton
Roads

Claire Guthrie Gastanaga, Executive Director,
ACLU of Virginia

Jean Jensen, former Deputy and Secretary,
Virginia State Board of Elections

Carmen Taylor, President, Virginia NAACP

PANELISTS

Hope Amezcua, ACLU of Virginia

Robert Barnette, President, Hanover NAACP and
Hanover Elections Board

Mike Burns, Fair Elections Legal Network

Rebecca Green, William & Mary Law School

Mercedes Harris, Hollaback and Restore Project

Michelle Kanter Cohen, Project Vote

Greg Lucyk, One Virginia 2021

Courtney Mills, Fair Elections Legal Network

Tram Ngyuen, Virginia New Majority

Don Palmer, Secretary, Virginia State Board of
Elections

Anna Scholl, Progress VA

Cathy Woodson, Virginia Organizing

Dong Yoon Kim, Nat'l Korean-American Service &
Education Cons.

PUBLIC TESTIMONY

Glen Besa, Director, Virginia chapter of the Sierra
Club

Flora Crittenden

Virginia Cowles

Kendra Glover

Elizabeth Smith

Marie Stella

Lynetta Thompson

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

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.*

cedures. 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.”³ 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.⁴ 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.⁵ 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.

³ See, *Restoration of Civil Rights, Commonwealth of Virginia*. <https://commonwealth.virginia.gov/media/2598/application-for-restoration-of-rights.pdf>

⁴ See, “Shifting population challenges Suffolk’s redistricting,” *The Virginian-Pilot*, February 8, 2011: <http://hamptonroads.com/2011/02/shifting-population-challenges-suffolks-redistricting>.

⁵ See, “Justice Department approves Suffolk’s voting map,” *The Virginian-Pilot*, June 9, 2012: <http://hamptonroads.com/2012/06/justice-department-approves-suffolks-voting-map>.