

1 MS. CARROLL: Okay. So I'm going to go
2 ahead and call this meeting of the Alabama
3 Advisory Committee for the U.S. Commission on
4 Civil Rights to order. I am Jenny Carroll. I am
5 the Alabama state chair. I do have some opening
6 remarks, but I'm going to save them until after
7 our first two speakers. As I understand,
8 Secretary of State Merrill has another speaking
9 obligation, so we want to be sensitive to his time
10 constraints.

11 I also want to remind folks that Miss
12 Kaitlin Lloyd, our court reporter, is making a
13 record of this meeting. So please be mindful to
14 speak clearly and slowly and also not to interrupt
15 or speak over one another so she can make the
16 record. At this point, I would like to introduce
17 chair of the U.S. Commission on Civil Rights,
18 Catherine Lhamon. She will introduce herself, and
19 then we'll hear testimony from Secretary of State
20 Merrill.

21 MS. LHAMON: Thank you so much. Can you
22 all hear me? Is this microphone -- now can you
23 hear me?

1 MS. CARROLL: Yes.

2 MS. LHAMON: Thank you so much. I really
3 appreciate all of you coming together for this
4 briefing. I want to start by thanking each of the
5 members of the Alabama State Advisory Committee
6 for your service to your state, to the country,
7 and to civil rights. The work that you do on a
8 volunteer basis is incredibly important to all of
9 us, and I'm very, very grateful to you for coming
10 together today and for all of the meetings that
11 you will conduct and the work that you do.

12 In addition, I want to thank the Secretary
13 of State for giving his time and all of us for
14 coming together to think about what you have to --
15 to bring and expertise to bear on this issue. As
16 you know, voting rights are our core component of
17 the statutory charge of the U.S. Commission on
18 Civil Rights for 60 years, have been a core
19 component of the work that we, the Commission,
20 have done to take a look at what civil rights mean
21 for the country. So I'm deeply, deeply interested
22 in hearing what it is that you all will conclude
23 following this briefing, and I'm grateful that you

1 have taken up this topic.

2 Now, today, I really appreciate your chair
3 and each one of you for the work that you are
4 doing. I also am so grateful to see, again, the
5 Secretary of State and also Jack Park, who both
6 came to North Carolina to the U.S. Commission on
7 Civil Rights briefing with respect to voting
8 rights, and I'm interested to hear what you have
9 to say specific to Alabama as well.

10 This issue is an issue that we are hearing
11 about across the country from many of our state
12 advisory committees. We've already received
13 reports from California and from Kansas, and we
14 look forward to receiving reports from several
15 other states in addition to Alabama, including
16 Texas, Ohio, Indiana, Illinois, Arizona, Alaska.

17 So we should be hearing views about voting
18 access around the country, and we will incorporate
19 it into what the Commission itself will have to
20 say about this topic. This issue is deeply,
21 deeply important to us. I appreciate the
22 seriousness with which you take it in and I look
23 forward to today.

1 MS. CARROLL: Thank you. So without
2 further adieu, I will introduce Alabama Secretary
3 of State John Merrill. We appreciate you being
4 here. I know your schedule is busy. I will ask
5 that you, like all our speakers, limit your
6 comments to 15 minutes so that members of the
7 committee have an opportunity to ask questions.

8 To facilitate that, I have this handy
9 timer. Green will probably be within your
10 15-minute zone. At three minutes, it will turn
11 yellow. And then at one minute, it will turn red,
12 and that's when you should shut it down because
13 you don't want me to have to tell you to stop
14 talking. So with that, we welcome you and we're
15 glad to hear from you.

16 MR. MERRILL: Thank you so much. I'm
17 honored to be with you this morning. Thank you
18 for allowing me to come and share with you the
19 work that we're doing in the State of Alabama. As
20 the chair said, I had the opportunity to visit
21 with her and other members of the Commission in
22 Raleigh a couple of weeks ago. I was excited
23 about that opportunity and to be able to share

1 with them some of the things that we have done
2 here, some of the things we've experienced. And I
3 hope that you'll feel comfortable asking me
4 questions.

5 I want to make sure that you know what my
6 intentions are, what my intentions were after I
7 became Alabama's 53rd Secretary of State. One of
8 the commitments that I made to the people in the
9 State of Alabama January the 19th, 2015, which is
10 when I was sworn in, is that we want to ensure
11 that each and every eligible U.S. citizen that's a
12 resident of the State of Alabama is registered to
13 vote and has a photo ID.

14 Now, that's real important, so I'm going
15 to say it again. We want to ensure that each and
16 every eligible citizen of the United States that's
17 a resident of our state is registered to vote and
18 has a photo ID. So how do we go about
19 accomplishing that.

20 First and foremost, we reached out to all
21 140 members of the Alabama legislature. We said
22 give us three locations in your district where
23 you'd like us to go to conduct a voter

1 registration photo ID drive. We gave them an
2 example. We said we'll go to the Walmart in
3 Pelham on a Saturday between 10:00 and 4:00. Does
4 anybody gather why we might go to the Walmart in
5 Pelham on a Saturday between 10:00 and 4:00?
6 Because that's where the people are.

7 Then we said we'll go to Brown Chapel
8 Church in Selma on Sunday between 10:00 and 2:00.
9 We don't want to go to Brown Chapel Church in
10 Selma on Tuesday night between 5:00 and 7:00.
11 That's defeating the purpose. If it makes people
12 want to come out to go to the event, that's not
13 what it's all about. And then, we said don't
14 worry about setting it up. We just want to know
15 where you'd like us to go. So then we proceeded
16 from there.

17 Then we reached out to all the probate
18 judges. We said give us a can't-miss festival
19 event or activity in your community where you'd
20 like us to go to conduct a voter registration
21 photo ID drive. So we've been to Chilton County
22 Peach Festival in Clanton. We've been to the
23 Peanut Butter Festival in Brundidge down in Pike

1 County. We've been to the Peanut Festival in
2 Dothan in Houston County. We've been to the
3 Tomato Festival in Slocumb in Geneva County. I
4 was a grand marshal of that parade.

5 We've been to the Magic City Classic in
6 Birmingham where Alabama State and Alabama A&M
7 played. And we've been to the Rattlesnake Rodeo
8 in Opp down in Covington County. We want to go
9 where people are and make it easy for them so they
10 can just see that we're set up. And if they're
11 not registered or if they don't have an ID, they
12 can come where we are and then we can help take
13 care of them and meet their needs.

14 I still wasn't sure that we were reaching
15 everybody. So one of the things I did was, I said
16 how can we make sure that people are aware of what
17 we're trying to do statewide? So I called the two
18 most recognizable people in the State of Alabama
19 and I asked them if they'd help us promote voter
20 registration photo ID.

21 And in our state, those people are
22 University of Alabama head football coach Nick
23 Saban and Auburn University head football coach

1 Gus Malzahn. They both agreed, they both helped
2 us, and had a very successful effort as we moved
3 forward in 2015.

4 2016, thought we needed to go a different
5 direction. So I asked Deontay Wilder, who is a
6 heavyweight boxing champion, he's from Tuscaloosa,
7 holds the World Boxing Council title, and Charles
8 Barkley who played 16 years in the National
9 Basketball Association. He went to Auburn
10 University, he's from Leeds High School, and he's
11 in the Hall of Fame twice as a player and as a
12 member of the Dream Team for basketball.

13 They both agreed, helped us. I was
14 actually with Charles last night at the
15 Alabama-Auburn game. Unfortunately, that didn't
16 go the way I wanted it to, but it went the way
17 Charles wanted it to.

18 Then 2017, we reached out to two other
19 folks to go another direction. One was Jessica
20 Procter, who was -- the current Miss Alabama. She
21 finished seventh in Miss America this past year.
22 And the other one was Dr. Mae Jemison, who's one
23 of the first African-American astronauts, and a

1 brand new high school in Huntsville is named for
2 her. So we were excited to get them and to get
3 their support.

4 This year, we're going to be using
5 American Idol winner from season five, Taylor
6 Hicks, and the two most recognizable radio
7 personalities in the State of Alabama, Bill Bussey
8 and Rick Burgess, who, if you're from our state,
9 you know are Rick and Bubba.

10 So we're excited about that as we continue
11 to move forward. But I still wasn't sure that we
12 were reaching everybody. So one of the other
13 things that we did in January of 2016, we
14 introduced a mechanism to make it very easy to
15 register to vote.

16 If you have an iPhone or if you have an
17 Android, you can go to the app store and you can
18 download the mobile app at Vote For Alabama, and
19 you can register to vote for the very first time
20 as long as you have a valid Alabama driver's
21 license. If you don't have a driver's license,
22 you can still register the old-fashioned way by
23 filling out the paperwork.

1 But that makes it easy for people if
2 they're changing their voter registration record
3 or if they're registering for the very first time.
4 We've had more than 350,000 people that have used
5 that system today, and we're very excited about
6 that.

7 Now, with all of that being said, someone
8 may say, okay, I know that you have a board of
9 registrar office open each and every day in all 67
10 counties. I know that you visit all 67 counties
11 and promote voter registration and photo ID. This
12 is the sixth year in a row that I've done that.
13 Last year, I made 414 unique visits to the 67
14 counties in order to promote voter registration
15 photo ID.

16 Then they may say, I know you go to all
17 the festivals. I know you go to all the events
18 and all the activities. I know you go where the
19 legislators encourage you to go. But what if
20 somebody can't go to any of those places? What if
21 they don't have transportation? What if they
22 can't get out? What if they're homebound? In
23 those rare instances where that has occurred and

1 been introduced to us, we have gone to those
2 people's homes and we have given them photo IDs
3 and we have made sure they were registered to
4 vote.

5 Now, I will tell you this, no other state
6 in the Union is doing what we're doing. Nobody
7 runs multimarketing campaigns like we do. Nobody
8 goes to all the festivals, events, and activities
9 like we do. Nobody goes to people's homes like we
10 do and registers folks to vote and gives them
11 photo ID.

12 You know, somebody may ask me -- and
13 people ask me when we went to people's houses the
14 very first time, which was back in 2015. They
15 said, why are you doing that? Because if you're
16 doing that, you're setting a precedent, and you
17 have to do it for anybody that wants it.

18 And I said, you're exactly right. That's
19 why I'm doing it because I cannot, in good
20 conscience, sit here in Montgomery, Alabama and
21 tell you I'm going to do whatever it takes to
22 ensure that each and every eligible U.S. citizen
23 that's a resident of our state, is registered to

1 vote, and has a photo ID unless I'll do whatever
2 it takes to make it happen. And that's the reason
3 that I do it.

4 And frankly, I think in Alabama sometimes,
5 we have to try harder because there are people who
6 look at our state and they don't think that we've
7 done as much as we need to do in the past. And I
8 can't do anything about what's happened in the
9 past, but I can do something about where we are
10 today. And that's what I've been doing for the
11 last three years and more than a month that I've
12 been the Secretary of the State of Alabama, and
13 I'm going to continue to do that as long as I have
14 the privilege to serve in this capacity. Matter
15 of fact, it's been three years and one month and
16 three days today.

17 Now, let me say this to you, your next
18 question may be, well, what does all that really
19 mean? What has it meant to us? This is what it's
20 meant: March 1st, 2016, the last time we had a
21 statewide primary -- regular primary for
22 president, we broke every record in the history of
23 the state for voter participation. 1.25 million

1 Alabamians went to the polls and voted for their
2 candidate for president in the democratic or
3 republican primary.

4 Then, on November the 8th, 2016, the last
5 regularly scheduled general election that we had,
6 we broke every record for voter participation in
7 the history of the state. More than 2.1 million
8 Alabamians went to the polls and voted for their
9 candidate for president, breaking every record
10 that had ever been set for voter participation in
11 the history of the state. November the --
12 December the 12th, last year, we had a special
13 election for the U.S. senate, and 1.3 million
14 Alabamians went to the polls and voted for the
15 candidate of their choice and sent Senator Jones
16 to Washington to represent us, breaking every
17 record in the history of the state for a special
18 election. Not one instance has been reported
19 since we passed the voter photo ID law where an
20 individual has gone to the poll and been denied
21 access to participation. All we've tried to do is
22 to make it easy to vote and hard to cheat.

23 Now, there's another thing that you need

1 to be aware of. And that's, since I've been the
2 Secretary of State, we've had six convictions of
3 voter fraud, and we've had three elections that
4 have been overturned. Before I became Secretary
5 of State, it had been more than a decade since
6 that had occurred. We have introduced new
7 opportunities for people to be involved through
8 the mobile app, by going to folks' homes, by going
9 to those remote locations in all 67 counties. But
10 we've also tried to make it easier for people when
11 they go to the polls.

12 If this were a polling place, for example,
13 we now have the electronic poll book in place
14 where people can go and they can participate in a
15 faster environment, a faster setting, and with
16 more efficiency through the check-in procedure
17 where people are able to go and be processed a lot
18 quicker. That reduces the wait time some 60 to 75
19 percent, depending on the voter and depending on
20 the poll worker. So we're excited about that.

21 But I'm not satisfied with what we've
22 done. We got to take additional steps and do
23 other things that will allow us to be more

1 efficient, more effective, and more responsive to
2 the people in the state of Alabama. But I am
3 excited about the things that we have
4 accomplished, which is more than any other state
5 in the Union. As a matter of fact, we now have --
6 your next question should be, what has all this
7 really meant as far as numbers are concerned?

8 Since January the 19th, 2015, we've
9 registered 914,697 new voters. 914,697 new
10 voters. We now have 3,347,398 registered voters
11 in Alabama. Both those numbers are unprecedented
12 and unparalleled in the history of the state. I'm
13 really excited about that.

14 Now, I know I still have some time, but
15 I'll yield the balance of my time. If you have
16 some questions, I'd be delighted to entertain
17 them.

18 MS. CARROLL: Great. Thank you. So just
19 to remind everybody, obviously, you are encouraged
20 to ask questions. This is a fact-finding mission,
21 so we want to ask questions, and Secretary of
22 State Merrill has obviously generously allowed us
23 to do so.

1 But I would ask you to limit your
2 questions in terms of it's a question; it's not a
3 statement. And of course, the U.S. Commission and
4 our state advisory committee have a policy not to
5 defame anyone, so please be civil in your
6 questioning. I know I can count on you all for
7 that. If you have a question, just give me a
8 signal that you'd like to ask, and I'll recognize
9 you. I'm actually going to start out --

10 MR. MERRILL: Sure.

11 MS. CARROLL: -- if you don't mind,
12 Secretary of State, with a question, and then
13 we'll go around to other folks. And I have -- I
14 have several questions for you --

15 MR. MERRILL: Yes, ma'am.

16 MS. CARROLL: -- so you may hear from me
17 again. So my -- my initial question that I want
18 to ask is, I know that Alabama state law requires
19 proof of citizenship in order to vote. The
20 federal law does not. In the past, you have
21 indicated that will not enforce the state law and
22 have essentially two policies that are different
23 between federal and state elections. Is that

1 still the position in Alabama?

2 MR. MERRILL: We've not enforced that law,
3 even though in February of 2016, the Election
4 Assistance Commission had indicated that we could
5 ask that question. As a matter of fact, I got a
6 call from a secretary in another state that told
7 me before the ruling was actually made public, you
8 need to go ahead and start implementing this. And
9 I said, I don't think I'll do that. I said, we're
10 three weeks from our election, which was the SEC
11 primary, that we had passed legislation in order
12 to get to that point. And I said, I don't want to
13 cause any confusion for anybody. We're going to
14 continue to do what we've been doing, which is
15 what we have been doing, and we continue to do
16 that to this point forward. And that's where
17 we're continuing to move at this time.

18 MS. CARROLL: Great. Thank you. Do other
19 folks have questions? All right. So -- please.

20 MS. SHEARER: Hi. My name is Martha
21 Shearer. And --

22 MR. MERRILL: Yes, ma'am.

23 MS. SHEARER: -- my question is, you

1 stated that each and -- you wanted to make sure
2 that each and every citizen that is eligible?

3 MR. MERRILL: That's correct.

4 MS. SHEARER: My question is, those people
5 that have convictions --

6 MR. MERRILL: Yes, ma'am.

7 MS. SHEARER: -- and many of them are now
8 eligible citizens but do not have access, are not
9 told the process to getting their voting rights
10 restored, as well as those who have never lost
11 their right to vote.

12 MR. MERRILL: Yes, ma'am.

13 MS. SHEARER: And so those individuals are
14 not being reached.

15 MR. MERRILL: Well, let me say this -- and
16 this is something that I think is important for
17 y'all to know, and I'm not sure how you would know
18 it.

19 But one of the things that concerned me
20 when I was campaigning for this office was that I
21 would hear from people in communities throughout
22 the state that people had been denied the
23 opportunity to vote because of being convicted of

1 crimes of moral turpitude. And one of the things
2 that we discovered was that in certain parts of
3 the state, they were interpreting the moral
4 turpitude laws in different ways. And so we
5 actually brought forth legislation to ensure that
6 the moral turpitude law was only going to be
7 interpreted and enforced in one way, and that was
8 according to what statute indicated that it should
9 be.

10 And it passed the House in 2015, got in
11 the Senate. Passed the House 2016, passed the
12 Senate in a different form, passed the House out
13 of conference, died in the Senate on the last day
14 again. 2017, it passed both chambers in the same
15 form. It's now law. So there's an established
16 procedure for moral turpitude being interpreted in
17 order to make sure that only the people who have
18 been convicted of crimes of moral turpitude that
19 have lost their opportunity to vote are not
20 allowed to vote.

21 Now, another thing that we did in 2016, a
22 part of that moral turpitude legislation, was to
23 create a law for restitution and restoration of

1 voting rights. Whenever someone -- this is where
2 our law stands today. If someone has paid --
3 served all their time associated with their
4 original sentence and paid all their fees and
5 fines associated with their original sentence,
6 their voting rights are automatically restored.
7 The procedure has been expedited, it has reduced
8 the wait time that they had experienced before.
9 We have initiated in this law that when people are
10 being qualified for discharge in the location
11 where they're being held, they have to be told
12 what their rights are, they have to be provided
13 with information to register to vote, they have to
14 have the opportunity to register to vote. That's
15 a part of their packet. We want to make sure that
16 that is being communicated and that is being done.

17 Another thing that we did, we made it very
18 clear to all the sheriffs and all the other penal
19 authorities throughout the state and the
20 Department of Corrections, there are a number of
21 people in our state and other states in the Union
22 who are incarcerated but have not lost their
23 voting rights. And so if someone wants to vote

1 and they're incarcerated, then they need to have
2 the opportunity to do so.

3 So we have made sure that posters are
4 placed in all of those institutions throughout the
5 state, made sure they've got access to absentee
6 applications. Now, we're not going to let them
7 out and let them go vote and let them come back,
8 but if they want to vote absentee, they're welcome
9 to do that. And we're wanting to make that
10 opportunity happen for them.

11 So those are some of the standards that we
12 have set that we think are supposed to be set
13 because it's the right thing to do, not because
14 we're trying to give anybody any special
15 privileges.

16 MS. CARROLL: If I could just follow up
17 with this question. I understood, Martha, you
18 were asking not only about folks who are currently
19 incarcerated but also folks who, perhaps, were
20 convicted in the past under the old law.

21 MR. MERRILL: Right.

22 MS. CARROLL: What -- what are you doing
23 to get information to those --

1 MS. SHEARER: That's my question.

2 MR. MERRILL: Well, again, let -- let me
3 say this. We're not doing anything specific or
4 special for any group in the state, period, and we
5 don't intend to do so. Because I told you, my
6 goal is to ensure that each and every eligible
7 U.S. citizen that's a resident of Alabama is
8 registered to vote and has a photo ID. So we go
9 all over the state. We meet with different
10 groups. We speak to different groups.

11 I personally have been a part of four
12 different meetings. Other members of my staff, my
13 assistant director of elections, our chief legal
14 counsel have been a part of at least four others
15 that I can think of off of the top of my head, and
16 I have another one scheduled next week where we
17 have gone to visit with people who, in the past,
18 have been convicted and now have been released
19 because they've served their time to make sure
20 that they can ask questions in an environment that
21 is comfortable for them in order to ensure that if
22 they want to be registered to vote again, they
23 obviously can be. And we provided that

1 opportunity for leadership for them to be able to
2 exercise that.

3 MS. CARROLL: And I believe, Martha, you
4 have a follow-up.

5 MS. SHEARER: Yeah. Another question is,
6 I've been in several environments where the
7 Secretary of State have been there to make sure
8 that people could register to vote. But for those
9 that have been formerly incarcerated, there has
10 not been any information there to let those
11 individuals know about it. There's a form called
12 a Certificate of Eligibility to get your rights
13 restored. You guys do not provide those forms at
14 the table.

15 MR. MERRILL: No. Those are supposed to
16 be done by Pardons and Paroles because they're the
17 ones that can provide that, not us.

18 MS. SHEARER: Well, the forms are free for
19 anyone because I keep some. I even got a text
20 last night from somebody asking me what do they
21 need to do because that's the type of work that I
22 do in the community is help people to get their
23 rights restored, as well as get individuals

1 registered to vote.

2 But there is no information for people
3 like the people that you say you've contacted over
4 the years to get it out there, like Rick and Bubba
5 and Saban and all of those people. They're not
6 reaching the people that have been formerly
7 incarcerated or those individuals that have not
8 even been convicted but thought they lost their
9 rights.

10 MR. MERRILL: Well, I'll say this to you
11 about that. Okay? And this kind of reminds me of
12 something else I didn't share with y'all earlier,
13 but I will share it with you now.

14 One of the things that the NAACP Legal
15 Defense Fund -- Sherrilyn Ifill is the executive
16 director -- that she said to me when they were
17 talking to us and then they ended up suing us, was
18 that there was 188,000 Alabamians that are
19 eligible to register to vote and can't get photo
20 IDs. And this is what I said to her publicly and
21 privately and what I'll share with y'all today,
22 that's not true.

23 And this is why I know it's not true,

1 because I have challenged her to do this -- and
2 I'll tell y'all this today. If she believes that,
3 all she has to do is tell me who one of them is.
4 I don't need to know all 188,000. Just tell me
5 one.

6 Give me their name. Give me a way to
7 contact them. If you don't want to give me their
8 telephone number, that's fine. You can give me
9 their address. We will contact them, and then
10 we'll go to their house.

11 And when I get in the car to leave y'all
12 to go to Anniston so I can be there at 11:30 this
13 morning, I will call my office. And I will have
14 them contact them, and they'll go to their house
15 today and do it. So I'm kind of tired of hearing
16 things about what we're not doing or what we're
17 not willing to do.

18 And I'll tell you this too. When the
19 lawsuit went forward and the judge read my
20 deposition and he also read the other depositions
21 about what we're doing, that lawsuit, four weeks
22 ago yesterday, was summarily dismissed with
23 prejudice because he said no other state in the

1 Union is doing what we're doing. And if anybody
2 wanted to follow our model, then there wouldn't be
3 any need to challenge photo ID requirements
4 anymore because nobody is going to the same level
5 of support that we are to ensure that people are
6 able to participate.

7 MS. CARROLL: And just so the record is
8 clear though, in answer to Member Shearer's
9 question, are the CERV documents then not on the
10 tables when you're going to these -- these
11 satellite --

12 MR. MERRILL: We don't coordinate the
13 event.

14 MS. CARROLL: Okay.

15 MR. MERRILL: We just were a participant
16 in those events. And in the ones that I
17 participated in, Pardons and Paroles have provided
18 that information.

19 MS. CARROLL: Okay. Are there other
20 questions? I'm going to go down the row. And I
21 realize we're running short on time, so if you can
22 keep it to a short question.

23 DR. LEWIS: In your statement, you said

1 that not one instance has been reported of anyone
2 being denied access to participation. Can you
3 tell us how you define not being denied access to
4 participation?

5 MR. MERRILL: Yeah. If somebody wants to
6 vote and they can't, that would be denied access,
7 in my opinion.

8 DR. LEWIS: Okay. So what -- what happens
9 if for some reason they don't have a photo ID?
10 What happens in those instances?

11 MR. MERRILL: Well, part of our law -- and
12 I was in the legislature when we passed this law
13 -- is that if you don't have a photo ID, you can
14 be identified by two polling officials and you, at
15 that point, are able to vote by them signing an
16 affidavit and you signing the statement that would
17 indicate that they know who you are. So you don't
18 have to have an ID to even vote, and you could
19 vote a provisional ballot and then bring your ID
20 by that Friday after the election and have it
21 confirmed as well.

22 But very few instances of those -- I can't
23 even identify one for you that I know has

1 occurred. But very few instances of those have
2 even occurred.

3 MS. CARROLL: Tari, did you have a
4 question?

5 MS. WILLIAMS: Yes. I've recently read
6 that several states are moving to automatic
7 registration --

8 MR. MERRILL: Yes, ma'am.

9 MS. WILLIAMS: -- at 18. And I was
10 wondering if there are any future plans for
11 Alabama to do that.

12 MR. MERRILL: You know, usually my
13 question when somebody raises that point is, what
14 does automatic registration mean to you. And
15 typically, what they say is, well, when you go to
16 get your driver's license, you would be able to
17 share your information and then when you turn 18,
18 you would automatically become registered.

19 And we already have today that
20 availability when people go get their driver's
21 license. That option is already available for
22 people to register at the DMV. We made sure that
23 we were compliant. We are now compliant with all

1 aspects of the 1993 act, and that had never
2 happened before I became Secretary of State.

3 Another thing that we do and that I check
4 on frequently is to ensure that at Medicaid
5 agencies, ensure at Department of Human Resources
6 that they're offering that as an option when
7 people come in to be able to vote. So I would say
8 this, what -- what my question is when we talk
9 about automatic voter registration is the next
10 question to the individual that asked me that
11 question is, do you think there's a possibility
12 that at least one person might not want to be
13 registered to vote, at least one somewhere in the
14 67 counties.

15 And in all but one instance whenever I've
16 asked that question, people have said, yeah,
17 there's probably one. And then I said, well, if
18 there's that one, would you be in favor of giving
19 them a knock-out provision, and in all but one
20 instance, everybody has said yes, I think we
21 should have a knock-out provision where if they
22 didn't want to be registered to vote, they don't
23 have to be registered to vote.

1 That one instance, a woman said, no,
2 everybody ought to be registered and they ought to
3 be required to. Well, I don't live in her world,
4 but that was her opinion. And my next question to
5 them was, then what's the difference between that
6 and what we have today. Because now you just have
7 to opt in instead of opting out, and there's less
8 than 350,000 people in the state of Alabama that
9 are not registered to vote, period.

10 I mean, we are leading the nation per
11 capita in the number of folks that are eligible
12 and that are registered, and we're going to
13 continue to campaign as long as I serve in this
14 role.

15 MS. CARROLL: All right.

16 MR. MERRILL: Yes, ma'am.

17 MS. CARROLL: Unfortunately, we are out of
18 time. I do have two quick clarifications on the
19 record for you.

20 MR. MERRILL: Yes, ma'am.

21 MS. CARROLL: You had indicated that
22 people could register at the voter registrar's
23 office every day. In fact, those are located at

1 courthouses and libraries, correct? And those are
2 not open every day?

3 MR. MERRILL: They're open every day the
4 courthouse is open.

5 MS. CARROLL: Correct. But not every day
6 of the week, correct?

7 MR. MERRILL: Every day the courthouse is
8 open.

9 MS. CARROLL: Okay. And --

10 MR. MERRILL: Which is usually Monday
11 through Friday and usually from about 8:00 until
12 4:30 or 5:00, depending on the hours of the
13 courthouse in that county.

14 MS. CARROLL: Perfect. And the last
15 clarification that I have for you is kind of the
16 reverse of what you were --

17 MR. MERRILL: But let me share this too.

18 MS. CARROLL: Oh, please.

19 MR. MERRILL: If they have an ID, driver's
20 license, they can register anytime, 365, 24/7.

21 MS. CARROLL: On the app?

22 MR. MERRILL: Yes, ma'am.

23 MS. CARROLL: Okay. Perfect. And then my

1 other question for you real quick is kind of the
2 reverse of what you were asking Ms. Ifill. In
3 terms of -- you said the voter ID law was passed
4 originally to ensure integrity in the vote. Was
5 there actually evidence that there were folks who
6 were voting who were not who they claimed to be?

7 MR. MERRILL: When I went to the office of
8 the Secretary Of State, one of the first things I
9 asked for were the files on voter fraud. They
10 could not produce a file. They could not produce
11 an instance. Which is why we started a
12 relationship with Alabama Law Enforcement Agency
13 and the attorney general's office to create the
14 Alabama Election Fairness Project which put us in
15 a position to do what we've done, which is why I
16 told you we've had six convictions on voter fraud
17 and we've had three elections overturned and we've
18 got some indictments that are ready right now.

19 MS. CARROLL: Right. But --

20 MR. MERRILL: This is just since I've been
21 the Secretary of State, we've got indictments that
22 are ready right now if we can get the attorney
23 general's office or the local district attorney to

1 move because we've already provided enough
2 evidence to move toward an indictment.

3 MS. CARROLL: And -- and I appreciate all
4 that. My -- my question is just slightly
5 different though, and I want to make sure you have
6 an opportunity to answer that. Which is, prior to
7 the institution of the voter ID law in Alabama,
8 was there evidence that people were actually
9 showing up and not being who they claimed to be?

10 MR. MERRILL: They had no files in our
11 office to indicate that. That does not mean it
12 didn't occur.

13 MS. CARROLL: Right.

14 MR. MERRILL: Because I don't know what
15 would have happened if we hadn't established the
16 -- the plan that we've established. But I know
17 what's happening today, and I know whoever follows
18 me in this role will have information we didn't
19 have when we started. And that's real important
20 to me.

21 MS. CARROLL: All right. Well, we really
22 appreciate you being here. I know your time is
23 precious. I'm curious how you get a parking place

1 on Saturday in the Walmart parking lot, so I'm
2 impressed by that as well. But thank you for
3 joining us and best of luck driving to Anniston.

4 MR. MERRILL: Well, and let me share this
5 with you before I go. Because one of the things
6 that I do no matter where I go is I tell people my
7 cell phone number. And if y'all would like to
8 call me anytime you see something that is of
9 concern or of interest to you, please call me
10 personally, and we will have a team member that
11 will get on it.

12 That number is 334-328-2787.
13 334-328-2787. I work for you. I work for the
14 people of Alabama. And I want to make sure that
15 we're providing the highest quality service in all
16 areas that we can possibly provide. And I
17 appreciate the opportunity to come and share with
18 you today. Thank you. And thank you for what
19 you're doing.

20 MS. CARROLL: Thank you. And Secretary of
21 State, just one more thing.

22 MR. MERRILL: Yes, ma'am.

23 MS. CARROLL: The record is open for 30

1 days following this hearing.

2 MR. MERRILL: Yes, ma'am.

3 MS. CARROLL: If you'd like to file
4 additional information, you're welcome to it. I
5 also know other members did have questions they
6 didn't get to ask.

7 MR. MERRILL: Yes, ma'am.

8 MS. CARROLL: So you may get some more
9 questions from us. You're going to regret giving
10 us this cell number.

11 MR. MERRILL: And you can e-mail me, and
12 we can give you a formal response in a text
13 delivery system, whatever is best and most
14 convenient for you.

15 MS. CARROLL: Perfect. Thank you so much.

16 MR. MERRILL: Thank y'all. Appreciate it.

17 MS. CARROLL: So our next speaker is
18 Mr. Kareem Crayton. Mr. Crayton, again, is
19 joining us from the Southern Coalition For Justice
20 where he is the interim director. And when he is
21 not serving as interim director, I understand he's
22 also a law professor.

23 MR. CRAYTON: Correct.

1 MS. CARROLL: So it's a noble job, sir.
2 So welcome. And again, same reminder, 15 minutes.
3 You'll have a timer, and I hate to have to cut you
4 off because I like to be a nice person.

5 MR. CRAYTON: I'll keep it brief. Thank
6 you, members of the committee, for the invitation.
7 I'm delighted to be here. As the chair mentioned,
8 I am serving as the interim executive director of
9 the Southern Coalition For Social Justice. It's
10 located in Durham, North Carolina.

11 Our goal is to bring opportunity and tools
12 to communities that have not had as many
13 opportunities as others on issues involving
14 election law -- voting rights, that is -- criminal
15 justice reform, and youth justice, and we do it
16 across the south. I'm also obliged to tell you
17 that I'm actually from Montgomery. I grew up
18 here, was educated in this county's public school
19 system and have lived here and still vote here.
20 My residence is still here in Alabama. So I'm
21 connected to this for a number of reasons, but
22 this is -- election law and voting rights are my
23 life's work, and I'm excited to be part of a

1 process that is examining the current state of
2 voting rights in this state.

3 I'd like to, in the few minutes I have,
4 talk a bit broadly about some of the themes that
5 the Secretary of State offered and tie them into,
6 at least, my own observations as they apply to
7 Alabama. And to start, I want to just say some
8 general things about principles because I think
9 it's important for everyone to know at least how I
10 look at voting rights. They are some things that
11 overlap with what the Secretary had to say and
12 some things that are distinct, but I welcome
13 engagement on these topics. And there are three
14 general principles, as I look at it.

15 I think the way we think about regulating
16 voting ought to usually be based on evidence,
17 data. I think we all have our whims and fancies
18 about which candidate or which party should win,
19 but I think ultimately, just like who wins and who
20 loses, is dependent upon numbers. I think numbers
21 should drive at least in part the factual basis on
22 which we make a decision about how to structure an
23 election system.

1 The second thing, and it's related to the
2 first, is it ought to be transparent. You, the
3 citizen, ought to know the reasons and the facts
4 that the State uses in order to structure an
5 election system in a particular way. I should not
6 have to go behind a closed door or not hold a
7 public meeting to defend a choice that I've made.
8 In part, I think that's crucial because we expect
9 our elected officials to be accountable to us, and
10 we can't have accountability without transparency.
11 So I generally am in favor of rules that permit
12 public dialogue and presentation of evidence.

13 And the last, and this may be, again, a
14 place where I differ from others, I believe
15 democracy actually should be something that as
16 many people as possible who are eligible
17 participate in. So in this respect, I applaud the
18 Secretary of State to have so much emphasis placed
19 on registration. That is a significant part of
20 the process of participation, but it is not all
21 that there is. In fact, I think you have to take
22 account of whether people who are registered
23 actually show up to vote, and I think that the

1 State has an obligation to do all that it can to
2 encourage that. Not everyone does. I do.

3 I think part of our idea of thinking about
4 citizenship is having a right to vote. It does
5 not mean it is a privilege. There are
6 administrative tasks, of course, that one has to
7 conduct to assure that the State applies it
8 correctly, but it strikes me that citizenship, if
9 it really is going to include voting as a right,
10 does impose upon the State some obligation. And I
11 think the State should do some work to make
12 certain that as many people want to vote can vote.

13 So I will take the invitation to submit
14 written comments a bit later. But what I want to
15 do in these few moments is talk a bit about two or
16 three themes, and I welcome your questions about
17 those or any others.

18 First, I would be remiss if I didn't talk
19 about the one case that has sort of been in the
20 atmosphere so far, but I think it is worth
21 conversation because it bears on, I think, the
22 state of things currently, not just in this state
23 but the entire country. And it is a case that

1 came out of this state, Shelby County. Shelby
2 County versus Holder, a case heard by the United
3 States Supreme Court, issued a decision in 2013
4 that essentially rendered section four of the
5 Voting Rights Act null. And it essentially
6 removed a significant protection that most voters
7 in this neck of the woods, in this region of the
8 country had to assure that new laws on the books
9 did not reduce the opportunity for people to cast
10 a ballot. That had a significant effect in
11 Alabama.

12 And I just want to talk about two or three
13 of them because I think they are significant, and
14 they don't necessarily render themselves apparent,
15 I think, on first blush. The one issue that most
16 people tend to forget is how quickly the State
17 adopted laws after Shelby County was placed on the
18 books that radically changed the way that our
19 election system worked. One of things that
20 section five of the Voting Rights Act rendered,
21 for most of us, is an election system that was
22 more or less one that was predictable. Systems
23 worked pretty much in a particular order. Most

1 people understood that if it was going to
2 radically change, there would be a great deal of
3 conversation, maybe even debate, before it could
4 be adopted.

5 Now, some would argue that that process
6 was a cumbersome one. I tend to take a different
7 view, and I'll tell you why shortly. But I do
8 think the expense of having those conversations in
9 an administrative review process is different from
10 a litigation-heavy process, which is what we
11 occupy now. But I want to go to the point about
12 some of the examples that the state legislature
13 pursued that do, I think, make voting more
14 challenging, more difficult. One of them has to
15 do with the moving of precincts.

16 The Secretary of State has oversight over
17 where precincts are located. Once upon a time,
18 under section five, that had to go through a
19 thorough review process before those changes were
20 put into place. At this point now, there is no
21 federal oversight. And for that matter, the
22 Secretary of State's office does not have the same
23 level of oversight over each of the counties.

1 So essentially, the counties change
2 precincts pretty much, if not arbitrarily,
3 unexpectedly, so that if you're going to look to
4 find out where a person is eligible to vote or,
5 for that matter -- and this is the more recent
6 consideration -- where a candidate is eligible to
7 run, it may be a surprise when you show up at the
8 local registrar and find that your house which you
9 thought was in precinct A is actually in precinct
10 B and you're not eligible to run.

11 That's a real problem for another reason,
12 and that's redistricting. As you know, the State
13 of Alabama has been in the midst of a lot of
14 litigation about redistricting. The Supreme Court
15 found that districts drawn by the state
16 legislature at the state legislative level violate
17 the 14th Amendment of the Constitution, which
18 forbids racial gerrymandering. In solving that
19 problem -- in trying to solve that problem last
20 session, the legislature created a new plan that
21 organized districts in yet another way. And what
22 was not quite apparent, and still isn't apparent
23 to a lot of people, is where those lines actually

1 match up to these precincts which, again, have
2 been sort of unexpectedly changed county by
3 county.

4 That leads to a third problem, and the
5 third problem is the one I think all of us should
6 be concerned about. And that is, the ability of
7 the voter on election day to show up at a place
8 and know that the place they cast the ballot is
9 the correct place. And one of the real challenges
10 -- to go to Committee Person Lewis' comment, one
11 of the challenges is when you show up for
12 elections and you find out that either you're not
13 in the right place or that there's some confusion
14 at the polls about whether or not you are in the
15 right place or perhaps even the person in front of
16 you is in the right place.

17 So there's a difference between the
18 example of the person at the polling place telling
19 you, oh, no, I don't like you, you can't vote, and
20 the example where there's this administrative
21 confusion. The outcome in both cases though is
22 that lines are longer, and it takes a longer time
23 for the average person to cast a ballot.

1 Now, that's not the State explicitly
2 telling you, we don't like you, you can't cast a
3 ballot. But if you work an hourly job, if you
4 only have an hour available to cast a ballot, then
5 you may actually effectively be cut out of the
6 opportunity to cast a ballot, and that's of
7 concern. This leads me to take an aside to make a
8 point about one issue that the Secretary of State
9 mentioned. He put a lot of emphasis, as I said,
10 on registration, and I applaud him for it. I've
11 said that before. Registration is an important
12 part of the process. I'd be really excited, to be
13 frank about it, if this were 1966 or 1982.

14 Alabama consistently -- God love us -- we
15 find ourselves at the back of the pack in adopting
16 innovations that make voting more accessible to
17 more people. The measure that the Secretary of
18 State mentioned was registration, and, again,
19 there have been a number of people that have been
20 put on the rolls. But in terms of voting, I'm sad
21 to tell you, the State of Alabama is, at best, in
22 the middle of the pack compared to other states in
23 terms of turnout.

1 And part of the reason that is the case is
2 that we don't adopt measures that make voting more
3 accessible. So for example, just as much as the
4 State could go to Walmart on Saturday or church on
5 Sunday to register people, why is it that we don't
6 allow early voting or Sunday voting or more
7 reasonable opportunities to cast an absentee
8 ballot?

9 Those are things that other states do that
10 are farther ahead of us on turnout, and I wish we
11 would take that as a consideration of what marks
12 whether or not we, as a state, are doing well in
13 terms of voting and political opportunity for
14 people casting a ballot.

15 The point that was made earlier, and I
16 appreciate it, about people who have some
17 relationship with the correction system is another
18 example of where I think there's a difference
19 between the State saying we made something
20 available and the State taking an effort to make
21 sure that people who are citizens have their
22 entitled right to cast a ballot. It is very
23 confusing. I've only looked at it. I'm not a

1 criminal defense attorney or not really had a lot
2 of writing in the area. But on this topic, I've
3 learned a lot about the process.

4 The administrative process of just
5 corrections itself is terribly confusing to know
6 what your sentence is. To know when you're no
7 longer under supervision is itself a complex
8 process. To know when you cast a ballot is an
9 even more complicated process, that is, when you
10 are eligible once again.

11 And if the State decided, for example, to
12 make it easy to determine whether you've entered a
13 particular phase of supervision or you've ended it
14 and we actually make sure that you're
15 automatically put on the rolls, that actually
16 might make things a little bit more simple from
17 the user's perspective.

18 And on this topic, I need to get to
19 another theme, and I want to -- I don't want to
20 run out of time here. But one of the issues that
21 always comes up in the conversation, well, what
22 happens if you raise the specter of fraud. And I
23 am sensitive to the issue of fraud. Nobody wants

1 a corrupted election system. We also don't want a
2 corrupted money system. And we have,
3 unfortunately, any number of examples of people in
4 elected office using money in illegal manner.

5 And I think one of the things we have to
6 recognize is that balancing is just as important
7 on the money side of things as it is on the voting
8 side of things. We have to make sure that we're
9 not sending messages to people, particularly
10 people who are still alive, who have an experience
11 of being told, you can't vote because you fit in a
12 category. We have to be careful that we make sure
13 that the vote and the ballot box has a welcome mat
14 in front of it.

15 So how do we think about fraud? Again,
16 going back to my principle, I think it ought to be
17 data-driven. We don't have a lot of instances of
18 fraud in this state. And even when the Secretary
19 of State invested a lot of money to investigate
20 that during the December primaries -- or the
21 primaries leading to the December election last
22 year, he found that, roughly, 600 or so examples
23 that he submitted to the local county registrars,

1 and they reported back that those were
2 administrative errors.

3 Now, again, I'm not saying that it is not
4 worthy to have laws in the books and effort to put
5 in to make sure that we don't engage in fraud or
6 that others don't, but what I'm saying is at the
7 same time, if we're going to put money into that,
8 why not put money also into expanding the ways in
9 which the State puts out a welcome mat to make
10 sure that people who want to vote can.

11 Now, I've just mentioned a couple of
12 examples that we can adopt pretty easily to expand
13 opportunity. I want to mention one last to go
14 back to the point about automatic registration.
15 We don't have automatic registration in this
16 state, and we should. I can't quite understand
17 why there's not a system that allows people to opt
18 out if they want but too, just as you would get a
19 graduation diploma out of high school, also
20 automatically get your ballot, so long as you're
21 qualified to -- to cast one.

22 That doesn't really compute to me to a
23 message that you send to young people who

1 increasingly, as we all know, are facing many of
2 the challenges and responsibilities of citizenship
3 to actually also be able to enjoy one of the
4 rights associated with citizenship as well.

5 So I know I'm short on time, so let me
6 just say the last point, which to me, again, is my
7 view of the measure, not just of how our election
8 system works but how the people who are elected to
9 manage the election system work. I think we
10 should be graded on our ability to make sure that
11 more Alabamians who are eligible to vote do vote
12 and that we do everything that we can to assure
13 that we don't do so in a discriminatory manner but
14 that we set the welcome out. We were first in the
15 nation during a period of time where nobody wants
16 to go back where we kept people away from the
17 ballot. I think we ought to be first in the
18 nation to make sure that we open up the ballot box
19 and that we make sure every Alabamian who is
20 eligible to vote has an opportunity to cast a
21 ballot and that we measure ourselves by how well
22 we do in bringing them in.

23 So I'll stop there. Thank you for the

1 time, and I'm happy to welcome your questions.

2 MS. CARROLL: Great. Thank you. So,
3 again, I will start. And then if you would like
4 to ask a question to Director Crayton, please give
5 me a signal and I'll be happy to call on people.
6 And remember to pass the microphone.

7 So one question I had is you spoke of
8 other mechanisms that ensure access to vote in
9 other jurisdictions. You mentioned early voting
10 and absentee balloting. I was wondering if you
11 could speak to other types of IDs that different
12 jurisdictions might accept to support this notion
13 of access as well as registration.

14 MR. CRAYTON: Right. So I currently live
15 in North Carolina -- or I'm working in North
16 Carolina for this particular period. And prior to
17 the time of Shelby, North Carolina had actually
18 adopted a fairly open system to allow more people
19 to qualify. Once the Shelby County decision came
20 down, the legislature adopted a law that was -- as
21 the Fourth Circuit said, surgically precise at
22 identifying the people that they didn't want to
23 have access to the ballot and fenced out their

1 IDs. Among them were State-issued student IDs.

2 Now, there are questions about where the
3 person decides to reside, but I don't believe that
4 those would get in the way of allowing a state
5 agency that has issued an ID to count just as much
6 as a gun license. Yet, the State, in that
7 instance, made a distinction between the two in
8 allowing which would be eligible and which would
9 not. Student IDs are one way of doing it, and we
10 might need to do work to ensure that the student
11 IDs meet the minimum qualifications. We currently
12 use federal IDs of different types, but certain
13 states do fence out certain examples of those
14 depending on the agency at issue.

15 But it seems to me that if we establish
16 the minimum standards that open up our access for
17 any person that has an ID, that has a photo, and
18 is issued by some state agency that has some sense
19 of verification, that ought to qualify. But,
20 again, the thing that I always find remarkable is
21 passports qualify. Your passport has no
22 information at all about where you live. So if
23 I'm at the polling place, there's no means of

1 verifying where I happen to be qualified to cast a
2 ballot, and that's seen as the sort of gold
3 standard for ID.

4 So it seems to me that to the extent that
5 we're going to really try to be particular about
6 it, I think we should sort of step back and say if
7 our goal is to make more people have access, how
8 many IDs can we reasonably say fit the category?
9 And if we're going to allow passports -- which,
10 again, I'm in favor of if you're going to have an
11 ID system, then we should be more expansive than
12 that for places where we can find IDs that have
13 your photo and some indication or means of
14 verifying where you happen to live, that you're in
15 the state.

16 MS. CARROLL: Okay. Thank you. Do other
17 folks -- I'm going to start at that end. And
18 Marc, I'm going to pass you the microphone so --
19 well, that one has got a cord attached to it. So
20 I'm going to recognize Committee Member Ayers.
21 We'll let him ask a question.

22 MR. AYERS: You mentioned -- I want to
23 discuss with you your welcome mat, so I don't

1 think you had a lot of time to really kind of talk
2 about what you meant. Because -- and a lot of
3 this is trying to achieve the right balance
4 between, you know, what -- what the State should
5 do and then the obligations of the voter.
6 Obviously, these are rights, and always with
7 rights come some responsibility.

8 You can't literally drag people out. You
9 could, but that's not what we want, and make them
10 vote. What we need is -- we're trying to achieve
11 that good balance of, you know, reasonable access,
12 tear down any artificial barriers that are -- that
13 are unreasonable, obviously. You mentioned a few
14 welcome mats, not just registration. I mean, you
15 applaud the Secretary of State saying this is --
16 done a very good job to be very broad in
17 registration, but the actual voting is what we --
18 is what we want to do. I'm just curious as to
19 what other welcome mats, to use your term, you
20 would suggest to actually increase the vote
21 participation itself to, I guess, encourage the
22 vote participation itself.

23 MR. CRAYTON: Well, I can offer you a

1 couple of examples that come from other states.
2 But before I do that, let me suggest there's
3 always improvement that we can do as a state on
4 registration. And I think one of the things that
5 came up in the dialogue with the Secretary of
6 State was making registration available in
7 courthouses.

8 As we know in this state, we had a pretty
9 big debate during a budget crisis about the
10 closure of a lot of facilities that might
11 otherwise be available. And courthouses aren't
12 distributed equally around the state. So there's
13 work to be done at making registration more
14 available.

15 But as far as the question about
16 participation is concerned, I think that there are
17 things that states have done like preregistration
18 for high school students. You can identify where
19 they're located. They usually can be ID'd at some
20 point. But if you give people an informational
21 session early on about the importance of voting,
22 it strikes me that by the time they are actually
23 eligible to vote at 18, A, the State has already

1 done the work to put people on the rolls. But B,
2 you actually have encouraged them, and by giving
3 them all the reasons that it's important to vote.

4 We've been talking about a lot of
5 different ways of opening up the absentee ballot
6 process. Again, I know that there's a balance
7 between making sure that we are getting the people
8 who actually have an interest in voting and not
9 the people who are interested in doing, you know,
10 anything that would corrupt the system. But we
11 have one of the more limited opportunities in this
12 state to cast a ballot by absentee. Not everybody
13 can get to the polls on election day. And
14 frankly, it costs us more and more money to get
15 sometimes these longer lines available to us.

16 I guess the other thing I would say is,
17 you know, the legislature recently adopted a
18 statutory provision that would cut off the
19 opportunity to have a special election. And I
20 find it troubling, no matter what the outcome is,
21 where the people have fewer opportunities to vote,
22 particularly for somebody who is going to have
23 such significant effect on national policy. I

1 don't necessarily feel comfortable with leaving
2 more and more decisions to people who are
3 unelected when we have a representative body. So
4 I think those are a couple of examples. I may
5 have more later.

6 MR. AYERS: Well, just to follow up on
7 that, you mentioned the absentee -- well, I guess
8 two things. First, you mentioned an informational
9 session. Like first of all, who would -- like
10 where would that be and who would give that if
11 you're talking about the schools or whatever?

12 And then on the absentee ballot issue, you
13 mentioned that ours is limited. Could you explain
14 how it's limited? Because we actually do have a
15 pretty substantial record in this state of
16 absentee ballot issues. I mean, we've got a lot
17 of cases and so forth and elections that have been
18 overturned by absentee ballots showing up in
19 people's trunks, you know, this type of thing that
20 have been signed by multiple folks or whatever it
21 is. How do you see that as limited?

22 MR. CRAYTON: Well, I think there are
23 states out there that have -- that give

1 opportunities to people who cast an absentee
2 ballot on a regular basis. So you can be a
3 consistent absentee ballot voter. That's not
4 readily available in this state. That's just one
5 example.

6 I take your point, there are always going
7 to be considerations about making sure that people
8 are -- are who they say they are when they cast a
9 ballot, but those exist. You sign a ballot, for
10 example. There's some, you know, backchecks that
11 you can do once you take these ballots in. But to
12 me, the interest in making sure that more people
13 have access has to be taken into account. And I
14 don't think we could do as much as we could do.

15 Again, this is open for a discussion about
16 how that looks in practice, but I don't see an
17 overwhelming argument in terms of the integrity of
18 a process on its own that would argue against
19 having a more open opportunity for people to cast
20 absentee ballots.

21 By the way, there are other states that
22 have mail-in ballots entirely that do this on a
23 regular basis. I mean, if you're talking about

1 saving money, if that's a consideration, that
2 turns out to be a lot cheaper to run an election
3 system, including special elections, than having a
4 full-dress in-person ballot casting process.

5 MS. CARROLL: And I'm going to recognize
6 now Member Mike Innis-Jimenez.

7 MR. INNIS-JIMENEZ: Good morning. A
8 question -- you talked a little bit about early
9 voting, and I want to hear a little bit more about
10 that. I know part of it's absentee, you know,
11 unless there's people in the military or different
12 eligibility that can never go to the ballots, that
13 the ballots go to them. But for example, Iowa,
14 for about three or four weeks before, you can go
15 to the local mall, you can go to the student
16 center and cast your ballot. You don't have to
17 worry about what district you're in. They have
18 the polls there. What would this state need to do
19 to get there?

20 MR. CRAYTON: Well, it's a good question.
21 I think part of it is establishing what particular
22 protocol is -- is kind of the most desirable. I
23 think one of the issues that most states that have

1 adopted versions of this have found is it actually
2 makes the job of the registrar easier because you
3 can predict what your likely turnout is going to
4 be as you see sort of the buildup towards election
5 day.

6 And just as an aside, one of things that I
7 noticed in the special election was the Secretary
8 of State really underestimated what the turnout
9 would be. And part of that was it hadn't been
10 done before, but part of it also was, it was
11 really hard to get a gauge on the public
12 excitement about it.

13 My concern is that if we're not paying
14 enough attention to turnout and trying to drive it
15 out, then we've got a problem when we get, all of
16 a sudden, people who show up and cast ballots.
17 But if you had something like early voting, we
18 could see some buildup and then try to make
19 provisions for it. So what would we do? What
20 might we do?

21 One element is, there's nothing that says
22 we can't try this out in a couple of counties to
23 sort of figure out what fits best. Because it's

1 not obvious that smaller counties like, you know,
2 Hale County would work the same as a Jefferson or
3 a Madison County. But if you place them in more
4 -- more locations, right, more people who don't
5 normally have the ability to get to the
6 courthouse, for example, to cast a ballot might
7 have other opportunities to cast, and they can do
8 so on weekends where sometimes, you know, people
9 have a little bit more time to, you know, stand in
10 line if they need to. But I think one
11 establishing a general protocol of how it might
12 work, how many we would have in each given
13 election, and then perhaps also tracking how well
14 we're doing.

15 Because I think, again, if you're thinking
16 about this as a data-driven process, some of this
17 is going to require us to calibrate as we go
18 along. So I think in a, for example, midterm
19 election, we may not have as huge a turnout as we
20 might in a presidential year. And that kind of
21 adjustment, I think, is something that early
22 voting allows us to do more of. If we have a lot
23 of voting at the outset and we don't see that

1 there's going to be a lot of stuff on election
2 day, we can pull back on the time and the people
3 that we put on the -- on the job. But those are
4 at least a couple of things.

5 But as you kind of think through, you
6 know, how robust you want the system to be, one
7 can apply a lot more consideration to either
8 different forms of voting, again, the number of
9 days on which you vote. You can even -- if you
10 chose to, we have them now on election day, have
11 polling places in churches. There's nothing to
12 say we can't do that for early voting as well.

13 MS. CARROLL: If you don't have a
14 follow-up, I'm going to recognize Member Peter
15 Jones.

16 MR. JONES: Thank you again for being
17 here. So you mentioned data-driven process. And
18 coming back on Committee Member Ayers said,
19 there's a balance between protecting or being
20 against voter fraud and opening it up. Right.
21 You're trying to strike this delicate balance. So
22 what type of data sources have other states used
23 to -- to gauge both voter fraud and voter

1 participation?

2 And then a -- that third thought -- or a
3 third data source that I'm curious about is the
4 cause. Right. So are there other data sources
5 that -- we knew people collected those precinct
6 changes. Have people looked at other types of
7 things that maybe led to increases, decreases in
8 voter fraud; increases, decreases in voter
9 participation? So can you share with us any of
10 those -- any data sources getting at any of those
11 three.

12 MR. CRAYTON: Sure. Well, I think the
13 important thing to see about voter fraud, it is --
14 as you know, every study that has attempted to
15 track this, nearly infinitesimal, if not, you
16 know, negligible, zero. And part of it -- and
17 that -- I guess it depends upon the kind of fraud
18 you're speaking about. I should emphasize that.
19 In person at the polls voting fraud. I show up
20 and I'm not the person who I claim to be. That's,
21 you know, pretty low.

22 And as I've said in my classes often,
23 that's actually the most inefficient form of fraud

1 in any case. If I want to turn an election -- not
2 that I would -- but if I did, I would want to do a
3 lot of the work in the registrar's office, and
4 that kind of work can always be monitored. And I
5 think one of things that we have to do, we always
6 need to do -- and I know the Secretary of State
7 agrees with this -- that we have to have a lot of
8 safeguards in place so that polling workers and
9 registrars are monitored such that the votes, once
10 they're bundled, accurately, reflect the votes
11 that were cast. And so one of the things that we
12 do with -- auditing tries to accomplish that.

13 To get to your question about in-person
14 voting fraud, I mean, one of the things that we
15 have -- I think that one of the advocates -- one
16 of the reasons advocates support voter ID is to
17 assure that we have some check and balance to have
18 a record demonstrated to people who show up do.
19 And in this regime, and it just hasn't been
20 present here in Alabama, there are very, very few
21 instances of that. I mean, you know, you've seen
22 -- if you haven't, I may have to show you the
23 reports. A colleague of mine at Loyola in Los

1 Angeles -- it essentially concluded that you are
2 more likely to get struck by lightning than to
3 have found an instance of in-person voting fraud.

4 And so, you know, I think the existing
5 safeguards out there are enough, but I'm happy to
6 share with you that study and a couple of others
7 that I've seen that just go to look at, you know,
8 billions of ballots cast to find like less than a
9 few hundred examples of in-person voting fraud.

10 And in those cases, by the way, even from
11 those, you usually will find it's an example of a
12 mistake, which, again, if you want to take the
13 strict liability version of that, you can. But
14 even taking that, that's a pretty small number in
15 terms of regulation. And so I think a little bit
16 about the cost that goes into regulating that
17 versus the instance, the -- the prevalence of that
18 in the sort of overall body of votes that are
19 cast.

20 MS. CARROLL: So I'd recognize Member
21 Lewis.

22 DR. LEWIS: Thank you for coming. So you
23 actually got to my point. You talked about you

1 want to make sure the votes cast are actually
2 registered and tallied. And one of the things I
3 wanted to follow up with the Secretary of State is
4 the provisional ballots. He spoke that not one
5 instance where someone has been turned away
6 because of an ID. So there were two, you know,
7 ways you could participate, either from the
8 affidavit, from two coworkers, or through the
9 provisional ballots. So do know -- and I'll
10 submit this question to him -- what is the process
11 for what they do with those provisional ballots
12 after they're cast?

13 MR. CRAYTON: So it's a good question.
14 Under current law -- and, again, you should. I
15 want to let the Secretary speak for himself. My
16 understanding, in all the states that apply this
17 rule based on federal law, is that there's no
18 obligation for the State to count those
19 provisional ballots unless the outcome of the
20 election is likely swayed by the number of
21 provisional ballots that are cast.

22 So, you know, it gets -- the complexity of
23 your question earlier about what are those

1 instances when you're denied access, you may cast
2 a ballot but getting that ballot counted is
3 another affair, particularly when you get slotted
4 toward provisional ballots. And I can tell you
5 any number of examples, not just in this state,
6 where you get to the polling place and because of
7 confusion, a pollster says -- and I think with no
8 ill intent -- oh, just cast a provisional ballot.
9 You'll get your ballot counted and, you know,
10 it'll be fine. But they want to keep the line
11 moving. But that has an effect on the person who
12 casts a ballot. And usually, that person doesn't
13 know that those ballots don't get counted.

14 Now, again, I get the efficiency argument
15 about not counting the ballot, but if we're trying
16 to improve our ability to send messages to people
17 that this is a welcome process, and one in which
18 you have a full partnership, it seems to me that
19 we've got a limit. We've got to find a way of
20 lowering the number of instances where we're
21 slotting people to provisional ballots. They will
22 always be, you know, part of the process. That's
23 fine. But if we do our best to make sure that

1 people who show up and are eligible cast a ballot,
2 I think we're doing our job well.

3 MS. CARROLL: I just have a follow-up
4 question real quick, Marc, to Angela's question,
5 and then I'm happy to pass it back to you. So --
6 and this actually links in. Dr. Lewis had
7 mentioned the issue of provisional ballots. But I
8 also wanted to link it into what you raised about
9 changing precincts. What happens in Alabama if
10 someone casts a provisional ballot in the improper
11 precinct?

12 MR. CRAYTON: Well, that becomes another
13 of these problems. We don't know. Essentially,
14 what is the -- a provisional ballot can sometimes
15 be directed in an instance where the person shows
16 up and the polster doesn't -- a polling worker
17 doesn't think that they are eligible. That can be
18 one solution.

19 Another solution is that they send you to
20 another precinct, and that precinct may not be in
21 the building where you happen to show up. It may
22 be in another location entirely. So, again,
23 that's another of those, what we call in law

1 school, is constructive denial, even if it's not
2 intentionally meant to fence you out.

3 The question as to a provisional ballot in
4 the instance that you're offering though is one
5 that can be kind of complex. Going to the earlier
6 point, provisional ballots usually get counted
7 where the outcome of the election is at issue, but
8 if the provisional ballot is disputed as to which
9 precinct they belong to, the question as to
10 whether it's in doubt is itself in doubt because
11 we don't know the quantum of actual provisional
12 ballots that should apply in that particular
13 precinct. It leads to more confusion.

14 And going to what I intended to say more
15 about with respect to Shelby County, it increases
16 the amount of litigation. One of the things that
17 the Supreme Court asserted in getting rid of
18 section four, at least rendering it to a nullity,
19 was that the change wouldn't make a really huge
20 difference on the extent to which courts would get
21 backlogs of cases.

22 And the truth of the matter is, and I
23 think for goodwill, again, a lot of plaintiffs who

1 find moments like these really confusing but
2 really want to know the right answer to the
3 outcome of an election find that their only answer
4 is to go to a court, and it ends up spending a lot
5 of time and money.

6 And one of the problems of these kinds of
7 cases -- and I've good done a lot of them -- is
8 elections are always the train that runs on time.
9 That is, there will always be elected members
10 passing laws. And the unfortunate part is, if you
11 find that there has been a mistake and there needs
12 to be a change, nothing undoes the decisions that
13 have been taken of the people who were elected in
14 office. So the point that you're mentioning is
15 one among many of these confusing spaces where
16 litigation unfortunately turns out to be the only
17 strategy. And that becomes, I think, a real
18 challenge for us if we're trying to get final
19 answers about who runs government and how it ought
20 to work.

21 MS. CARROLL: I would recognize Member
22 Ayers.

23 MR. AYERS: Just very quickly. And this

1 may be something that you want to supplement if
2 you have anything. But early in your comments,
3 you mentioned about, you know, people showing up
4 and not knowing and there being confusion about
5 wait, am I supposed to be here and so forth. Are
6 you aware of any like studies or statistics that
7 can kind of give a sense for how many times that
8 happens? Or I mean, I -- you may have anything
9 like that?

10 MR. CRAYTON: Well, because it's fairly
11 recent that we've gotten into this space, at least
12 in Alabama, I don't have any current, you know,
13 what I would describe as sort of a comprehensive
14 study on that. But I can tell you, and I'm happy
15 to offer it, there have been several instances,
16 just in this election including in this county, of
17 people who want to run for office who are told
18 when they get to the -- the registrars that your
19 home is no longer in this precinct. You thought
20 it was here; it's not, and you're no longer
21 eligible.

22 And often, I'll be frank about it, what
23 they're looking at is a map that they're having to

1 eyeball. And because in our computer-driven age,
2 we sometimes divide even sides of streets so that
3 one side of the street is in a precinct and the
4 other is not, those eyeballing tactics don't
5 usually work as well and so can lead to that kind
6 of confusion.

7 But I will clearly make a note, and I'm
8 happy to argue a couple of those instances where
9 that's true. But I do think, as we get probably a
10 year or so into this, we'll have more
11 comprehensive studies of how often it happens.
12 But for voters, the same problem does exist, and
13 often it's tied to the number of provisional
14 ballots. But I think we're likely to see that too
15 because we're using a plan that will be enacted
16 for the first time in this election. And I'm a
17 little concerned about the -- what the Secretary
18 of State thinks in Montgomery are the precinct
19 lines and what each of the county registrars
20 believe the precinct lines are. And I think if we
21 don't do a lot of work to make sure that everybody
22 is operating off of the same set of facts, we may
23 have a lot more issues when the voters are at the

1 polls.

2 MS. CARROLL: And I have a quick follow-up
3 about that too. Sorry. So in terms of who
4 determines the precinct's lines and where the
5 precinct is located, that's the county
6 commissioner, you indicated?

7 MR. CRAYTON: Yes. In most of these
8 counties, the immediate authority would rest with
9 the counties. But, of course, because we have,
10 you know, an interesting relationship between
11 county and state government, the state legislature
12 could legislate. And to some degree, the
13 Secretary of State has oversight authority over
14 counties.

15 But in most of these instances, the county
16 commissions can make these decisions. And because
17 we don't have section five, there's no regular way
18 in which we know when everybody knows when there's
19 going to be a report that the lines are going to
20 change. And so unless there is a lot of
21 information sharing and not just with, you know,
22 the elected leaders but with the voters, you may
23 find out for the first time on election day.

1 MS. CARROLL: And --

2 MR. JONES: Well, you -- you stole one --
3 you stole my question.

4 MS. CARROLL: So Member Jones had a
5 follow-up question that I apparently stole, but he
6 has another one. Go ahead.

7 MR. JONES: So the Secretary of State can
8 supersede a county redistricting, for lack of a
9 better term. What type of oversight does the
10 Secretary of State have and have they exercised
11 such oversight in the past?

12 MR. CRAYTON: Again, I will say that's
13 probably a question best answered by the Secretary
14 of State.

15 MR. JONES: Okay.

16 MR. CRAYTON: To my knowledge though,
17 yeah, there is some statutory authority that
18 allows for that, but, again, the Secretary of
19 State has to know that there's a change in order
20 to supercede it.

21 MR. JONES: Okay.

22 MR. CRAYTON: And I think one of the
23 challenges is that, you know, when the lines are

1 redrawn, it may be that because the lines make it
2 more convenient for precincts to change at the
3 local level, they may make these changes and
4 either not report them or report them in a delayed
5 manner so that, you know, people haven't quite
6 caught up with what the changes are.

7 And so, you know, a lot of decisions get
8 taken informationally about, you know, what the
9 voters know based on what those lines are with
10 what the -- the elected people think that the
11 lines are. And what I would suggest, I mean, that
12 there needs to be more symmetry between those
13 choices once they're made, and people in
14 Montgomery, and, again, the voters more generally.

15 MS. CARROLL: So I have -- we've got you
16 for another three minutes, and I'm going to use
17 it.

18 MR. CRAYTON: Sure.

19 MS. CARROLL: So you and the Secretary of
20 State have both spoken in terms of opt-out versus
21 opt-in procedures. Is there any data -- and this
22 kind of goes to your point, Marc Ayers. Is there
23 any data that suggests that -- that we see higher

1 turnout rates in opt-in versus opt-out proceedings
2 or vice versa? Do we see higher turnout in opt
3 out versus opt in? And if you don't know the
4 answer off the top of your head, if you're willing
5 to file it as a written answer, I would -- I would
6 appreciate that as well.

7 MR. CRAYTON: Okay. So it's hard to give
8 you a clear answer to that problem, in part,
9 because every state that I know that has an
10 automatic registration provision essentially
11 adopts an opt-out approach. So if the question is
12 those versus the current system that we have,
13 which requires you to take some steps to register,
14 turnout, with few exceptions, is higher in the
15 opt-out states, the automatic registration states,
16 I'll call them. But I'm happy to offer some
17 information that supports that assertion.

18 MS. CARROLL: And then the other question
19 I had for you is a similar question that you've
20 alluded to, and I asked it to the Secretary of
21 State also at the end. To the extent that voter
22 ID laws are driven by this desire for voter
23 integrity, do you have any information about

1 evidence of voter fraud prior to the institution
2 of these voter ID laws? In other words, are they
3 really being driven by this desire to ensure voter
4 integrity and is that supported by data?

5 MR. CRAYTON: Well, I can tell you what
6 the United States Supreme Court said when it
7 allowed Indiana first to adopt voter ID law, and
8 that was that there was an absence of a lot of
9 evidence or any evidence but that it understood
10 that the State had the ability to take as a sort
11 of rational precautionary measure some protective
12 methods.

13 In Alabama, there weren't any instances,
14 the Secretary of State says, because there was no
15 evidence. But, you know, it could easily be just
16 because there hadn't been work, as it could be
17 that there was no work to find. There was -- that
18 is, there was no instance to find it if you had
19 done the work.

20 I think this gets me to the question about
21 sort of what's the point of criminal law
22 enforcement. And, again, people will come at this
23 from different perspectives. We can sometimes

1 give messages to would-be criminals even if we
2 haven't seen instances of crime. We don't want
3 you to do X. But usually, we do that with
4 awareness of that has a cost too.

5 And my approach to this would be to think
6 about what the costs of constructing that kind of
7 regime would be, both in terms of money --
8 because, again, that investigation that the
9 Secretary of State conducted cost a lot of money
10 -- but also, again, more important to me, anyway,
11 is the message that it sends to voters. And if
12 people are fearful of showing up at the ballot
13 box, and sometimes even wrongfully, it does have
14 an effect on, I think, the general message that
15 people understand the State is offering us. But
16 more important, it actually may sway outcomes of
17 elections if fewer people show up to vote.

18 And, again, I don't think you really have
19 to care which D or R wins. I think we as a state
20 ought to be at the forefront making sure that most
21 people in this state, if not all people who are
22 eligible, cast a ballot.

23 MS. CARROLL: Well, thank you very much

1 for your time. You are now off the hook at this
2 point. But I do remind you that the record is
3 open for 30 days, and I anticipate some folks may
4 have questions. So if we can send those to you,
5 we would appreciate it so much.

6 MR. CRAYTON: You certainly may. I'm not
7 going to give you my cell number, but I'm happy to
8 share my e-mail address, just because I don't
9 return e-mail -- voice mails as much as I should.
10 But, yeah, I can be reached at Kareem,
11 K-A-R-E-E-M, @SCSJ, Southern Coalition for Social
12 Justice, .org.

13 MS. CARROLL: Great. Thank you.

14 MR. AYERS: You don't -- you don't want to
15 improve access to your cell phone?

16 MR. CRAYTON: If you want to answer my
17 cell phone, then I would be delighted.

18 MS. CARROLL: I was going to say maybe he
19 does want to improve access but for only certain
20 folks. So thank you so much, Director Crayton.

21 MR. CRAYTON: Thank you so much. I
22 appreciate it.

23 MR. INNIS-JIMENEZ: Madam chairman?

1 MS. CARROLL: Well, we actually don't have
2 a break, but yes.

3 MR. INNIS-JIMENEZ: Can you clarify the
4 changes in the schedule?

5 MS. CARROLL: Yes. And I -- I have an
6 opening statement too that we didn't get to make,
7 and so I'm going to make it now. And then I will
8 also discuss the schedule as a component of that.
9 And that was Michael --

10 MR. BARRERAS: Madam chair?

11 MS. CARROLL: -- Innis-Jimenez, the member
12 who made that statement.

13 MR. BARRERAS: Madam chair?

14 MS. CARROLL: Yes.

15 MR. BARRERAS: While we wait for Mr. Boone
16 and Mr. Park, could the committee gather by the
17 banner so we can take a quick photo for the
18 Facebook page?

19 MS. CARROLL: I actually have on my
20 schedule right now that we're supposed to be --
21 I'm supposed to be doing my remarks right now,
22 then we have a break. Could we do it during the
23 break?

1 MR. BARRERAS: Yeah.

2 MS. CARROLL: Okay. I'm just trying to
3 run the train on time, just like an election. All
4 right. So the statement that I did not get to
5 make in the beginning -- give me one second and I
6 will locate it and then we'll talk to you about
7 the schedule and then we'll take a picture.

8 All right. So we are -- excuse me -- the
9 Alabama Advisory Committee to the U.S. Commission
10 on Civil Rights. The meeting, obviously, has
11 already come to order. My name is Jenny Carroll.
12 I'm the chair of the Alabama State Advisory
13 Committee.

14 I'd also like to introduce, going around
15 the room, other members of the state advisory
16 committee here, if you could just give a smile,
17 nod, or wave or whatever you want to do.

18 I'm going to start with you, Marc Ayers,
19 Daiquiri Steele, Michael Innis-Jimenez, Tari
20 Williams, Dr. Angela Lewis, Maurice Shevin and
21 Peter Jones and Martha Shearer. I'd also like to
22 acknowledge, as we already did, but Chair
23 Catherine Lhamon is also present. I'd like to

1 also acknowledge Dr. David Mussatt who is here
2 assisting us as well. He is regional programs
3 chief, I should say. I'll give you your title.

4 We also the ever valuable David Barreras,
5 who is our civil rights analyst who we all know
6 from telephone calls. But David is a tremendous
7 support to the committee. We also have Corrine
8 Sanders, our support specialist, who has made this
9 meeting possible.

10 We are established as an independent
11 bipartisan fact-finding federal agency. The
12 United States Commission on Civil Rights informs
13 the development of national civil rights policies
14 and enhances enforcement of federal civil rights
15 laws. The Commission pursue this mission by
16 studying alleged deprivations of voting rights,
17 alleged discrimination based on race, color,
18 religion, sex, age, disability, or national origin
19 or in the administration of justice. The
20 Commission plays a vital role in advancing the
21 civil -- in advancing civil rights through
22 objective and comprehensive investigation,
23 research, and analysis on issues of fundamental

1 concern to the federal government and the public.

2 There are, in all 50 states as well as the
3 District of Columbia, bipartisan advisory
4 committees just as ours. And, again, we are the
5 Alabama Advisory Committee. We aid the Commission
6 in its statutory obligation to serve as a national
7 clearinghouse for civil rights information. We
8 will hear testimony today regarding barriers to
9 voting in Alabama. The testimony we gather today
10 is going to be made available to the Commission
11 for its fiscal 2018 statutory report on voting
12 rights that will be submitted to the President and
13 to Congress.

14 I will remind speakers who are present as
15 well as committee members if they veer away from
16 the civil rights questions at hand or go off
17 topic, I will politely interrupt you and ask you
18 to remain on topic. You will also not receive a
19 cupcake at the end of our meeting. This meeting
20 is also being transcribed by our court reporter,
21 Kaitlin Lloyd. It's for public record. So I
22 would just remind you all again not to interrupt,
23 to speak clearly and slowly so that Miss Lloyd can

1 do her job.

2 We also -- today's hearing, rather, is the
3 first in a series of inquiries we will make into
4 the State of Alabama. We're fortunate and
5 thankful to have such a diverse and balanced group
6 of panelists to provide testimony here today, two
7 of which we've already heard from. This hearing
8 will also operate under the provisions of The
9 Federal Advisory Committee Act. The federal
10 officer designated to this committee is David
11 Barreras. He is present.

12 This is a public meeting, which means it
13 is open to the media and general public. We do
14 have a full schedule of panelists who will be
15 making presentations within the limited time
16 available. This will include a presentation by
17 each panelist that will not run more than 15
18 minutes or I'll have to interrupt them. After all
19 the panelists have concluded their statements,
20 committee members, as they already have, will have
21 an opportunity to ask questions and hopefully
22 receive answers. And, again, if you want to ask a
23 question, just indicate to me that you want to ask

1 a question so we can make sure that you get the
2 mic passed to you and you can be recognized.

3 To accommodate persons who are not on the
4 agenda but who wish to make statements, we do have
5 an open session scheduled at 4:00 p.m. today. If
6 you wish to speak, you may add your list to the
7 name [sic] at the registration table, which is
8 located at the entrance to this chamber. In
9 addition, we accept written statements that are --
10 that may be made and submitted by mail to the U.S.
11 Commission on Civil Rights at 55 West Monroe
12 Street, Suite 410, Chicago, Illinois 60603 or by
13 e-mail to dbarreras -- that's two Rs, E-R-A-S --
14 @usccr.gov. Please call (312) 353-8311 for more
15 information. I feel like a prescription ad
16 telling you all that.

17 All right. Some statements made today may
18 be controversial. I want to ensure that all
19 invited guests understand they are to keep from
20 defaming or degrading any person or organization
21 in their testimony. As the chair, I reserve the
22 privilege to cut short any statements that defame,
23 degrade, or do not pertain to the issue at hand.

1 In addition, the federal officer has the authority
2 to end these proceedings if, in his opinion, it is
3 in the public interest to do so. We don't want
4 that to happen.

5 To ensure that all aspects of the issues
6 are fairly represented, knowledgeable persons from
7 a wide variety of experiences and viewpoints have
8 been invited to share information with us here
9 today. Any person or organization may provide a
10 public response during the open comment period.
11 Alternatively, such persons or organizations who
12 may feel they have been defamed, degraded, or
13 misrepresented can file a written statement for
14 inclusion in the proceedings. The Alabama
15 Advisory Committee appreciates the willingness of
16 all participants to share their views and
17 experiences here today.

18 Finally, the rule for question and answer
19 portions of the panel are as follows: After all
20 speakers on a given panel have had an opportunity
21 to provide their prepared statements, the
22 committee, and only the committee, may ask
23 questions. Committee members must be recognized

1 by the chair before asking questions of the
2 panelists. Questions may be directed to the
3 entire panel or to individual members of the
4 panel. To ensure that all committee members get a
5 chance to address the panel, committee members
6 will be limited to one question plus a follow-up.

7 And I would just add in addendum to that,
8 as we have discussed before, the questions should
9 be to the point; they shouldn't be statements. We
10 will have plenty of time to talk about what we're
11 hearing and the concerns that we have when we
12 construct our report. This is our opportunity to
13 gather facts from the folks who are joining us
14 here today. And there are the ground rules for
15 the hearing.

16 Now I'm supposed to turn it over to the
17 next panelist, but I won't actually. But just to
18 review the schedule, as Michael Innis-Jimenez has
19 requested, obviously we moved Interim Director
20 Crayton up from panel three to speak in the place
21 of Terri Sewell's office. They were not able to
22 provide us with a representative who could be on
23 the panel. So our next panel, panel three, which

1 will begin at 10:45 and run to noon, will be John
2 Park and Brock Boone. We'll then have a lunch
3 break from noon until 1:00.

4 Panel four will then consist of Jennifer
5 Holmes, Scott Douglas, Jonathan Barry-Blocker, and
6 Charlotte Morrison in place of TBD. And panel
7 five will be Benard Simelton, Kenneth Glasglow,
8 Jaffe Pickett, and Callie Greer. We will then
9 turn to the open forum, which will be our period
10 for public comment. I will then make closing
11 remarks, and then you all will have a safe drive
12 back to your homes, I hope.

13 Are there any other questions? Hearing
14 none, we can now take a brief break. There are
15 muffins in the back that you all should
16 participate in. There's coffee, water as well.
17 We have plenty. I can put out more. And we
18 appreciate y'all being here.

19
20 (A brief recess was taken.)
21

22 MS. CARROLL: We're now at 10:45, which is
23 when we were scheduled to begin again. Our

1 panelists for this panel, which is panel three --
2 panel three but first in our hearts still -- is
3 Brock Boone, who is from the Alabama Chapter of
4 the American Civil Liberties Union and
5 John J. Park, Jr., who is counsel at Strickland,
6 Brockington, and Lewis. And that is in
7 Birmingham; is that correct?

8 MR. PARK: It's -- it's an Atlanta law
9 firm, a small Atlanta law firm.

10 MS. CARROLL: All right. I apologize.
11 Thank you. So in Atlanta, Georgia. And, again,
12 just to remind the speakers, you'll have 15
13 minutes to present comments based on the timer.
14 You'll then receive questions from the committee
15 members. So with that, I will turn it over to
16 you, Mr. Park.

17 MR. PARK: Madam chair and members of the
18 Alabama Advisory Committee, thank you for the
19 opportunity to participate in this hearing on
20 access to voting. I'm delighted to return to
21 Alabama where I spent 21 years of my adult life
22 working in Birmingham and here in Montgomery. I
23 hope that my remarks, which I will provide and

1 submit, will be helpful to the committee.

2 I'd like to start by responding to the --
3 some of what we've heard. First, with respect to
4 provisional voting, if you go to the wrong
5 precinct, one of the things you need to understand
6 is they're not going to have your ballot. They're
7 going to have the ballot for that precinct. Now,
8 there may be common races -- common elections, but
9 you'll only be able to vote -- the only votes that
10 you can conceivably count are the ones for those
11 common ones.

12 So how do you know what precinct you're
13 in? You get a postcard from the local registrars,
14 right? And if you've got a problem with that,
15 then you take it up with your local registrars.
16 The Secretary of State -- yes, under federal law,
17 the Secretary of State is the chief election
18 official officer for the state, but the Secretary
19 of State has pretty limited authority over the
20 county registrars. And the -- you know, the
21 reason -- one reason why to take it up with the
22 county registrars is you're more likely to know
23 them. You know, they're -- they're in your

1 county. They're not -- you don't have to come to
2 Montgomery and talk to somebody.

3 We've heard talk about early voting.
4 Early voting, first, is not constitutionally
5 required, but it may be a good idea. That's for
6 the political branches to decide. But there are
7 studies that say early voting does not increase
8 turnout. What it does is move turnout around. So
9 you're going to have -- you're going to get
10 turnout, but it's going to be in a different
11 pattern than all showing up on election day.

12 And I'll be happy to provide cites for
13 those studies when I submit my written remarks.
14 Early voting has another potential problem. Back,
15 I think it was 2016, out in Montana, the senate
16 race, right before the election, Greg Gianforte,
17 the republican candidate, got in a pushing match
18 with a local reporter. By the time of that
19 pushing match, a lot of votes were already in.
20 You know, some people might have wanted to revisit
21 their vote if they had cast it for Gianforte, but
22 they don't have that opportunity. If you vote
23 early, you can't respond to the last-minute

1 surprises. You know, we've had last-minute
2 surprises in frequent elections. It may be a good
3 idea, as a voter, to hold your fire.

4 Let's talk -- we talked a little bit about
5 photo ID. What photo ID does is it deters
6 in-person fraud. In-person fraud is really hard
7 to catch. In one Alabama case back in 2002,
8 someone voted in her sister's name, and we found
9 the fraud -- or the found -- the fraud was found
10 when her sister showed up to vote and was told she
11 had already voted. So that -- that's one way you
12 can find it.

13 I'm told of another case down in Mobile
14 where Hernandez Hernandez was receiving Social
15 Security benefits for someone else, and when the
16 person who should have been receiving Social
17 Security benefits went to complain, they found
18 that Hernandez Hernandez had been illegally
19 voting. Hernandez Hernandez is not a citizen. So
20 he'd been -- he'd been illegally voting. So, you
21 know, it does take some -- but what does it do?
22 It does deter in-person fraud.

23 There are a wide variety of IDs that you

1 can use, and what -- and it makes it a lot harder
2 to represent yourself to be someone else. The
3 other thing it does is helps to build confidence
4 in the system. If you think that your vote is
5 going to be counted and that the votes -- that
6 illegal votes are not going to be counted, then
7 that helps build confidence in the system. And
8 one of the things I'll submit with my written
9 remarks is there are studies which suggest wide
10 public support for photo ID. Republicans
11 typically like it a whole lot, but independents
12 like it and so do a majority of democrats,
13 according to the survey.

14 One of the points I'd like -- I'd like to
15 make a couple points, and then, if it's okay, talk
16 about -- one of the big issues is preclearance,
17 right? Since Shelby County, Alabama doesn't have
18 to submit changes in vote and the county
19 commissions don't have to submit changes in voting
20 laws for preclearance -- and I'd like to suggest
21 some things that we ought to consider that would
22 or would not, should or should not put us back
23 under a preclearance regime.

1 But first, I'd like to talk about the
2 importance of instilling confidence in the
3 electoral system. And some -- there are a number
4 of surveys that show that the American people have
5 little confidence. In August 2017, a Rasmussen
6 Report National Telephone and Online Survey found
7 that 54 percent of likely U.S. voters say voter
8 fraud is at least a somewhat serious problem, and
9 27 percent say it's a serious -- very serious
10 problem.

11 A 2016 Rasmussen poll reported that only
12 41 percent of those polled believe that American
13 elections are fair to voters. A 2016 Washington
14 Post ABC poll found that 46 percent of those
15 polled believed that voter fraud happens somewhat
16 or very often. And a 2016 Gallup poll, taken
17 before the party's national convention, found that
18 the United States ranked 90th out of 112 countries
19 -- countries in terms of their confidence in the
20 honesty of their elections.

21 Of the true electoral democracies in the
22 world, only Mexico ranked worse in that confidence
23 rating than the United States. But only 30

1 percent of those polled said they had that
2 confidence in honest elections while 69 percent
3 said they did not. So what those surveys suggest
4 is that we should find ways to shore up public
5 confidence in our electoral system.

6 One of the things that I want to mention
7 is Alabama has a pretty rich history of absentee
8 ballot problems. We -- the Secretary of State
9 said that since he's been in office, he had --
10 there's been three elections overturned, and he
11 said that there were six convictions of voter
12 fraud. I know of elections that have been
13 overturned or subject to question in Phenix City,
14 in Wetumpka, and in Guntersville because of
15 problems with voter registration or absentee
16 ballot -- voter fraud. In the November 2017
17 election for District Two of the Phenix City
18 Council down there on the Chattahoochee River
19 across from Columbus, Georgia, at least 32 voters
20 who registered used their business addresses in
21 violation of Alabama law. And they may have --
22 that may have affected the election results.

23 And significantly, the local NAACP called

1 for the voter rolls in Phenix City to be cleaned
2 up, and in that regard, the voter fraud
3 investigation in Phenix City turned up 82 voters
4 who registered using their business addresses in
5 violation of law -- state law, as well as
6 convicted felons who had not had their voting
7 rights restored, included some dead people and
8 some people from Georgia. People coming over from
9 Columbus across the river.

10 In the August 2016 election for Wetumpka
11 City Council District Two, the Circuit Court of
12 Elmore County overturned the election results
13 because 8 -- just 8 -- absentee ballots were found
14 to be fraudulent -- illegally cast. The initial
15 count declared one candidate to be the winner by a
16 count of 168 to 165. But eight absentee ballots
17 for the -- for the winner were thrown out because
18 the ballot was not properly signed or witnessed as
19 required by state law.

20 And, again, what's significant about that
21 is these are really tight races. So absentee
22 ballot fraud can have a disproportionate impact.
23 And in my written remarks, I'll submit a number of

1 other instances of absentee ballot fraud.

2 But what I'd like to talk about is just
3 the preclearance regime. Why did -- Alabama and
4 the other covered jurisdictions ended up under it
5 because when federal courts told them to do
6 something or they couldn't do something, the state
7 legislature would change the law and, say, well --
8 they'd end run the court rulings in an equally
9 discriminatory way. And so what the preclearance
10 regime did was put a stop to that. They said
11 before you can change your laws to evade federal
12 court rulings, you got to send them up to
13 Washington or go up to the -- to the -- D.C. to
14 get them precleared. So it's a pattern of evasion
15 of court orders. It was a repeated pattern, and
16 there were substantial disparities in the rates of
17 African-American voter registration and turnout
18 and white voter registration turnout.

19 In 1965, I think in the Congressional
20 Record, it was like six and a half percent of the
21 eligible African-Americans in Alabama were
22 registered to vote, and things have changed.
23 You've heard the Secretary of State say that

1 things that have changed. We know about turnout.
2 There was a great disparity in turnout in the --
3 and Alabama was covered, along with the other
4 jurisdictions, because they used illiteracy tests
5 and they had that disparity in turnout. Literacy
6 tests haven't been used since 1974, so that's off
7 the table.

8 The difference in turnout has disappeared.
9 But if you look at somebody -- states that have
10 less than 50 percent turnout, you're going to find
11 places like Delaware and Hawaii, which were never
12 covered. And my first point would be if you're
13 going to reimpose preclearance, you can't just do
14 it to the old southern jurisdictions. You've got
15 to go a little farther, and there's a serious
16 political barrier doing that.

17 If Illinois had -- if your -- one of your
18 metrics is the number of cases of section two of
19 the Voting Rights Act, lawsuits and losses.
20 Illinois was up there. But why -- why won't we
21 get Illinois in there? Look at who represents
22 Illinois in the United States Senate. They're not
23 going to -- it's far easier for Illinois to say

1 Alabama should be covered than Illinois should be
2 covered.

3 Second thing, it shouldn't be a one up.
4 Look at Katzenbach. It shouldn't be one loss in
5 federal court. It should take a number of them,
6 and it should take a pattern of disregarding
7 federal laws.

8 Third thing is, it shouldn't arise out of
9 disparate impact. Disparate treatment, treating
10 someone differently because of their race or
11 some -- some other characteristic is
12 unconstitutional. Disparate impact is a law or
13 practice that looks to be neutral on its face but
14 has a disproportionate impact on some minorities.
15 Disparate impact though is not unconstitutional,
16 and that's the nature of the attack on the Alabama
17 voter ID law. They say it has a disparate impact
18 on African-American residents of Alabama.

19 Third thing, it shouldn't arise out of
20 racial gerrymandering claims. Federal law says
21 that when you're drawing legislative districts,
22 you -- you have to take race into account. If
23 there's a compact contiguous group of minority

1 citizens that's big enough to be a majority in a
2 district, you draw a district around them. Right?
3 That's the first Gingles factor. So you have to
4 be conscious of race.

5 Race -- the problem is, that you can be
6 too conscious of it or can you be not enough
7 conscious, and you don't know that you've done
8 something wrong until a federal court tells you
9 you've done something wrong.

10 Finally, real quick, if there's going to
11 be a preclearance regime imposed, it should be the
12 wrongdoer only. So if Calera in Shelby County is
13 the problem, put Calera under the preclearance
14 regime. Don't put Shelby County under it. Shelby
15 County can't tell Calera what to do. And don't
16 put Alabama under it because Alabama can't really
17 tell either Shelby County or Calera what to do.
18 Thank you.

19 MS. CARROLL: Thank you. So as usual, we
20 will take questions from Mr. Park but not until
21 after Mr. Boone speaks. So we're going to
22 complete the panel before we field questions. So
23 Mr. Boone, you will have the same amount of time,

1 15 minutes, and then we'll go to questions for
2 both of y'all.

3 MR. BOONE: Thank you, madam commissioner,
4 and thank you to the Commission for having me
5 today. There's some barriers of access I would
6 like to cover: The voter ID law, false address
7 requirements, the moral turpitude law, fines and
8 fees that keep the poor from voting, the crossover
9 voting law, voting bureaucracy, absentee voting,
10 and inactive status. First, we are troubled by
11 the photo ID laws. Voter identification laws are
12 part of an ongoing strategy to roll back decades
13 of progress on voting rights. It reduces
14 participation and stands in direct opposition to
15 our country's trend of including more Americans in
16 the democratic process.

17 Voter ID laws are discriminatory. Voter
18 ID laws are a solution in search of a problem.
19 Not only does Alabama enact voter ID laws, but
20 then the State of Alabama made it more difficult
21 to obtain a photo ID, in particular a driver's
22 license, by closing 31 county driver's license
23 offices, including every county in which 70

1 percent or more of the population is black. A
2 federal investigation determined that these
3 closures had a disparate and adverse effect based
4 upon race.

5 The state was ordered to reopen the
6 offices, but many of the offices are reopened on a
7 very limited schedule. For example, a person in
8 Sumter County, which is a majority-black county,
9 can only visit the driver's license office on the
10 2nd and 4th Tuesday of the month from 8:00 to
11 12:00 and from 12:30 to 2:30 to get a driver's
12 license. If they arrive without the proper
13 paperwork, of course, you don't get the
14 identification. They must wait a significant
15 amount of time, if you can even get back for
16 another chance, not to mention the work
17 requirements and traveling. And if someone has
18 very low income, it's difficult to get up there.

19 As the Commission should know, in-person
20 voter fraud is virtually nonexistent across the
21 country. And in Alabama, as stated in the recent
22 case of Greater Birmingham Ministries versus
23 Merrill -- this decision just came out in January