

Barriers to Voting in Alabama



A Report by the Alabama Advisory Committee
to the United States Commission on Civil
Rights

February 2020

Advisory Committees to the U.S. Commission on Civil Rights

By law, the U.S. Commission on Civil Rights has established an advisory committee in each of the 50 states and the District of Columbia. The committees are composed of state citizens who serve without compensation. The committees advise the Commission of civil rights issues in their states that are within the Commission's jurisdiction. More specifically, they are authorized to advise the Commission in writing of any knowledge or information they have of any alleged deprivation of voting rights and alleged discrimination based on race, color, religion, sex, age, disability, national origin, or in the administration of justice; advise the Commission on matters of their state's concern in the preparation of Commission reports to the President and the Congress; receive reports, suggestions, and recommendations from individuals, public officials, and representatives of public and private organizations to committee inquiries; forward advice and recommendations to the Commission, as requested; and observe any open hearing or conference conducted by the Commission in their states.

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From: The Alabama Advisory Committee to the U.S. Commission on Civil Rights

The Alabama State Advisory Committee to the U.S. Commission on Civil Rights (hereafter “the Committee”) submits this report, “Barriers to Voting” as part of its responsibility to examine and report on civil rights issues in Alabama under the jurisdiction of the Commission. This report is the result of numerous working group sessions, extensive research, and a public hearing held in February 2018. The report was approved by the Committee on June 22, 2020 by a vote of 7 yeas, 2 nays, with no members abstaining.

The Committee chose the topic of barriers to voting as the subject of our first report as we recognize both the significance of this right to our democracy and the outsized role that Alabama has played in shaping this right, particularly in relation to the Voting Rights Act of 1965. In an effort to focus the project on current barriers, we began by identifying voting regulations instituted since the United States Supreme Court’s decision in *Shelby County, Alabama v. Holder*, 570 U.S. 529 (2013) (henceforth “*Shelby County*”). We then considered the effects of such regulations on the citizens of our state.

The Committee discovered, through research and testimony presented at a public hearing conducted by the Committee in 2018, two important phenomena that informed our report. First, while state officials identify the need to prevent election and voter fraud as the motivating animus behind the regulations we considered, there was little evidence that the type of fraud identified actually occurred in the state at an alarming rate prior to the passage of these regulations nor was there evidence that such regulations would actually serve to mitigate this fraud if it presented. Second, while the post-*Shelby County* regulations each appeared neutral on their face, their effect once implemented was anything but. In fact, the Committee concluded that such regulations create often insurmountable barriers to voting for marginal populations in Alabama.

While the Committee recognizes the importance of protecting voter and election integrity, our examination of voting regulations in Alabama raises concerns that these laudable goals are not realized through the state’s efforts. Instead, Alabama has conceived of voting as a right that the citizen must win from the state by clearing a series of qualifying and complex hurdles. This construction of voting not only serves to exclude many poor, rural and minority voters, but it is at odds with the larger concept of the right itself. Instead, the Committee believes that the right to vote is one that fundamentally and wholly belongs to the citizen, not the state. Accordingly, it is the Committee’s belief that before the state can regulate the right to vote, the state must bear the

burden of demonstrating that it has struck a proper balance in enacting a regulation is narrowly conceived to promote some collective good and in ensuring that the regulation does not overly interfere with the citizen's realization of his or her right. In the case of voting, it is the Committee's belief that Alabama has mis-struck this balance.

This report presents both an overview of current voting regulation in Alabama and offers specific recommendation to help policymakers better ensure that the voting rights of all of the residents of Alabama are appropriately protected.

Respectfully,

Jenny Carroll, *Chair*

Alabama Advisory Committee to the U.S. Commission on Civil Rights

**Alabama Advisory Committee to the
U.S. Commission on Civil Rights**

The Alabama Advisory Committee to the U.S. Commission on Civil Rights submits this report detailing civil rights concerns associated with barriers to voting in Alabama. The Committee submits this report as part of its responsibility to study and report on civil rights issues in the state of Alabama. The contents of this report are based on testimony the Committee heard during a hearing held on February 22, 2018 in Montgomery, Alabama, and subsequent interviews and correspondence with state and local officials.

This report documents civil rights concerns with respect to barriers to voting throughout the state of Alabama and discusses possible strategies for improving voter access in Alabama. Based on the findings of this study, the Committee offers to the Commission recommendations for addressing this issue of national importance. The Committee recognizes that the Commission has previously issued important studies about voting and civil rights nationwide and hopes that the information presented here aids the Commission in its continued work on this topic.

**Alabama State Advisory Committee to the
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Introduction

The U.S. Commission on Civil Rights (Commission) is an independent, bipartisan agency established by Congress and directed to study and collect information relating to discrimination or a denial of equal protection of the laws under the Constitution because of race, color, religion, sex, age, disability, national origin, or in the administration of justice. The Commission has established advisory committees in each of the 50 states and the District of Columbia. These State Advisory Committees advise the Commission of civil rights issues in their states that are within the Commission's jurisdiction.

The Alabama Advisory Committee (Committee) to the U.S. Commission on Civil Rights voted to undertake a study focused on access to voting in the State of Alabama which may have a disparate impact on voters on the basis of race, color, national origin, disability status, or religion, or those that undermine the administration of justice. The objective of the study was to determine whether any changes in Federal law or policy are necessary to guarantee protected classes of individuals the right to vote.

As one of the preclearance states under the Voting Rights Act of 1965¹, the Alabama Committee chose to examine the impact of the *Shelby County v. Holder*² decision, as well as that of any legislation passed following the *Shelby County* decision, on voter access. The Committee hopes that such information will lead to a better understanding of the current state of access to the franchise, as well as to specific recommendations for addressing identified problems. The Committee presents its findings and offers advice to the Commission which include recommendations to the Commission for federal policy and statutory changes.

This report is intended to provide testimony, findings, and recommendations to the Commission in hopes of providing a boots-on-the-ground view of the current status of access to voting in the state of Alabama.

¹ Voting Rights Act of 1965, Pub. L. No 89-110 (codified as amended at 52 U.S.C. § 10101).

² 570 U.S. 529(2013).

Background

Alabama played an outsized role in the passage of the Voting Rights Act of 1965.³ From post-Reconstruction restrictions on the ballot⁴ to efforts of Civil Rights activists in Birmingham⁵, Montgomery⁶ and Selma⁷, President Johnson noted the State's bloody history in the road to the ballot box when he signed the Voting Rights Act into law.⁸ Nearly fifty-years later, Alabama again played a critical role this time in shaping the future of the Voting Rights Act. In the 2013 decision in *Shelby County v. Holder*⁹, the Supreme Court struck down the formulation contained in Section 4 of the Voting Rights Act as unconstitutional and as such removed Section 5's preclearance obligations from Alabama.¹⁰

The decision also heralded a new wave of state election law reforms in Alabama. These laws, from photo identification requirements, to voter roll purging procedures, to closures of polling places, and others, form the subject of this report. The Alabama State Advisory Committee (hereafter the "Committee") has gathered data on the impact of such post-*Shelby County* reforms on minority

³ 52 U.S.C. § 10101 et seq.

⁴ The 1901 Constitution adopted a series of voting requirements that were designed to, and did in fact, exclude black voters. This included an education requirement or proof of eligibility under a grandfather clause which consisted of demonstrated that your grandfather could vote in 1867 (something no black voter could demonstrate as it predated black enfranchisement). See Peyton McCrary et al., *Alabama*, in QUIET REVOLUTION IN THE SOUTH: THE IMPACT OF THE VOTING RIGHTS ACT 1965-1990 (1994), pg. 44 (describing such mechanisms of disenfranchisement and their impact). Prior to the 1901 Constitution, Alabama had instituted election codes requiring proof of payment of a poll tax. See Frank B. Williams, Jr., *The Poll Tax as a Suffrage Requirement in the South, 1870-1901*, 18 THE J. OF SOUTHERN HISTORY 469 (1952). The tax requirement, which could be waived by election officials, was commonly used to exclude black voters. *Id.* An editorial in the Tuscaloosa News offered a "justification" for the poll tax, stating: "This newspaper believes in white supremacy, and it believes that the poll tax is one of the essentials for the preservation of white supremacy." See Kelly Phillips Erb, *For Election Day, a History of Poll Tax in America*, FORBES, Nov. 5, 2018, at: <https://www.forbes.com/sites/kellyphillipserb/2018/11/05/just-before-the-elections-a-history-of-the-poll-tax-in-america/#5bc78dee4e44>.

⁵ See DIANE MCWHORTNER, CARRY ME HOME: BIRMINGHAM, ALABAMA: THE CLIMATIC BATTLE OF THE CIVIL RIGHTS REVOLUTION (2013).

⁶ See JO ANN ROBINSON, THE MONTGOMERY BUS BOYCOTT AND THE WOMEN WHO STARTED IT: THE MEMOIR OF JO ANN GIBSON ROBINSON (1987).

⁷ See DAVID GARROW, PROTEST AT SELMA: MARTIN LUTHER KING, JR. AND THE VOTING RIGHTS ACT OF 1965 (2015).

⁸ Johnson, Lyndon B. "Remarks in the Capitol Rotunda at the Signing of the Voting Rights Act," 6 August 1965, in *Public Papers of the Presidents of the United States: Lyndon B. Johnson, 1965*, bk. 2, 1966.

⁹ 570 U.S. 529 (2013) (henceforth *Shelby County*).

¹⁰ The Voting Rights Act sought to correct the "blight of racial discrimination in voting" that had "infected the electoral process in parts of our country for nearly a century." *Shelby County*, 570 U.S. at 545 (quoting *South Carolina v. Katzenbach*, 383 U.S. 301, 308 (1966)). Toward that end, Section 2 of the Act barred any "standard, practice, or procedure" that "results in a denial or abridgement of the right of any citizen To vote on account of race or color." 52 U.S.C. §10301(a). Given the history of discrimination in states like Alabama, however, the Act further provided in Section 4 a "coverage formula" based on historically discriminatory practices. 52 U.S.C. §10303 (4). Jurisdictions "covered" under Section 4 were in turn subject to Section 5's requirement of that any change in voting procedures be approved, or pre-cleared, by officials in Washington, D.C. *Id.* This preclearance requirement placed the twin burdens of proof and cost of litigation on the State to demonstrate that the proposed change was not discriminatory. *Id.*

and poor populations in the State. It is the conclusion of this Committee that such post-*Shelby County* regulations, though facially neutral, raise potential concerns about access to franchise for the very populations the Voting Rights Act of 1965 was enacted to protect.

Current voting requirements may produce a disparate impact on marginal¹¹ populations in our state. To highlight this concern, this report examines several, though not all, post-*Shelby County* reforms – in their construction and implementation. While it is beyond the scope of this report, or this Committee’s capacity, to measure the effect of all such reforms, the information uncovered by this Committee paints a picture of significant challenges imposed on Alabama’s poor and racial minority populations, particularly in rural counties, as they seek to realize one of the most fundamental rights of a citizen – the right to vote. The Committee bases this conclusion on oral and written testimony received during the February 22, 2018 hearing conducted in Montgomery, Alabama, as well as the Committee’s own research.

Findings

This report proceeds in four parts. First, it examines pre-voting regulations, including those pertaining to identification requirements, registration processes, felon re-enfranchisement and voter verification and purging procedures. Second, it turns to regulations surrounding polling itself, including polling place closure, polling hours, poll worker training and redistricting. Third, the report examines alternative voting procedures, including absentee balloting, early voting, provisions for ballots cast at incorrect locations and provisional ballot procedures. The report concludes with a series of global recommendations regarding the removal of potential barriers to voting in Alabama.

Before turning to the substance of the report, it is important to note that the work of this Committee could not occur without the assistance of the citizens of our state. Individual citizens contacted the Committee to provide vital first-hand accounts of their lived experiences under Alabama’s post-*Shelby County* regime. The reality that emerged through the information they provided, and the testimony received by this Committee is a perception of the right to vote fundamentally at odds with the reality the Voting Rights Act of 1965 imagined.

Post-*Shelby County* regulations were described by state witnesses and officials as necessary to protect the vote from fraud and corruption.¹² Citizens and public interest organizations described such regulations as rendering enfranchisement an increasingly difficult right to realize for those without money, access to transportation, housing security and reliable information regarding voter

¹¹ For the purpose of this report, the consensus of the Committee agrees to the definition of marginal as “people who, for whatever reason, are denied involvement in mainstream economic, political, cultural and social activities.”

¹² See John Park, testimony, *Briefing Before the Alabama Advisory Committee to the U.S. Commission on Civil Rights, Access to Voting in Alabama*. Montgomery, AL, Feb. 22, 2018, transcript, pp 91-92. (*hereinafter Alabama Transcript*); also Merrill Testimony, *Alabama Transcript*, p. 14.

eligibility.¹³ In this, the state apparently imagines the right to vote as its own to guard against the citizen who would vote without right. And the citizen in turn imagines, through the lens of the State's regulations, the vote as a right that must be earned from the State. This conception of the vote fundamentally mischaracterizes the nature of the right.

The right to vote is not a prize to be won from the State. It is the citizen's right and mechanism to hold the State accountable.¹⁴ While the citizen clearly has an interest in protecting the right to vote from abuse or fraud, the Voting Rights Act recognized in Section 2¹⁵ that state regulation of that right must constantly be weighed against the purported benefit it brings and the access it may curtail. The findings of this Committee highlight concern that the current balance is skewed – that regulations, even those with noble goals, can create real barriers to voting for the very people whose rights the Voting Rights Act and even the regulations described below claim to protect.

Pre-Voting Regulations

Following the Court's decision in *Shelby County*, Alabama instituted a variety of statutes and administrative rules that regulate voter eligibility. These establish not only who may vote, but also govern voter registration, voter roll purging processes, and identification requirements.¹⁶ In the process, these statutes and rules control access to the ballot prior to voting itself. A citizen ineligible to vote, unable to register, purged from voter rolls, or lacking proper identification may be disenfranchised through these regulations before he or she even has the opportunity to cast a ballot. This section considers such statutes.

A. Voter Identification Requirements

Following the *Shelby County* decision, one of the first changes Alabama made to its voting laws was to institute one of the most rigorous voter identification requirements in the nation.¹⁷ This law requires all voters present one of eleven approved forms of identification or be positively identified by two election officials.¹⁸ If the voter lacks the approved identification and cannot be positively identified by two election officials, the voter may cast a provisional ballot.¹⁹ In order for that provisional ballot to be counted, the voter must present “a proper form of photo

¹³ See Douglas Testimony, *Alabama Transcript*, pp. 203-204; Pickett Testimony, *Alabama Transcript*, p280; Simelton Testimony, *Alabama Transcript*, p. 252; Holmes Testimony, *Alabama Transcript*, pp. 168-169; Blocker Testimony, *Alabama Transcript*, p.177; Crayton Testimony, *Alabama Transcript*, pp. 41, 44, 46; Boone Testimony, *Alabama Transcript*, pp.104-107; Merrill Testimony, *Alabama Transcript*, P.21; Morrison Testimony, *Alabama Transcript*, p.221.

¹⁵ Pub. L. No. 89-110 § 2.

¹⁶ See Ala. Code § 17-9-30 (2019), Ala. Code § 17-3-30.1 (2019), Ala. Code § 17-3-31 (2019), Ala. Code § 17-3-50 (2019), Ala. Code § 17-4-30 (2019), Ala. Code § 17-17-14 (2019).

¹⁷ Ala. Code § 17-9-30 *et seq.*

¹⁸ Ala. Code § 17-9-30(e).

¹⁹ Ala. Code § 17-9-30(d).

identification to the Board of Registrars no later than 5:00 p.m. on the Friday following election day.”²⁰

The Committee heard testimony that identification requirements were enacted to reduce individual voter fraud by ensuring that the person casting the ballot is in fact the eligible voter listed on the voting rolls for a given polling place.²¹ While these are clearly laudable goals, it is less clear either that this concern is significant or in the alternative that the voter identification requirement alleviates that concern to an order to justify the barrier to voting that it creates. In short, it is the conclusion of this Committee that Alabama’s voter identification requirement, while appearing neutral on its face, disproportionately impacts poor, minority and rural populations in the state and may not be justified.

i. The Scope of the Law and Challenges to Acquiring Identification

At its core, Alabama’s voter identification law requires a potential voter to either present an acceptable form of identification or to be identified before they are permitted to vote.²² While Alabama accepts eleven different forms of identification for voting, Secretary of State John Merrill testified that the most common forms of voter identification are state issued identification cards – such as a driver’s license, a nondriver identification, or an Alabama Photo Voter ID card.²³ These are procured through Motor Vehicles Division (“MVD”) offices, the County Clerk’s office or, in some counties, a library or the Secretary of State’s mobile identification unit (“mobile ID unit”). Despite the variety of identifications accepted, Alabama’s voter identification law remains one of the most restrictive in the nation. Only 19 states require some form of photo identification to vote.²⁴ In contrast, 14 states have no ID requirements and 19 states accept non-photo IDs.²⁵ This places Alabama’s photo ID law among the 19 most restrictive laws nationwide.

The impact of this law on marginalized populations becomes apparent when considering how one might acquire a form of identification the law requires. Recent efforts by the state to close or limit hours at MVD offices, courts, libraries, and other public places where voters might acquire the necessary identification to vote has rendered the photo identification law in Alabama a significant barrier for poor, minority and rural populations in the state.

Consider the case of MVD offices. In 2015, in response to a budget dispute, then Governor Robert Bentley closed 31 MVD offices in Alabama.²⁶ In 2016, the Department of Transportation (“DOT”)

²⁰ Ala. Code § 17-10-1.

²¹ Park Testimony, *Alabama Transcript*, p.92, Boone Testimony, *Alabama Transcript*, pp. 149-150.

²² Ala. Admin. Code 820-2-9-.02 (2013).

²³ Merrill Testimony, *Alabama Transcript*, pp. 28-29.

²⁴ Photo ID Laws by State. Spread the Vote. <http://www.Spreadthevote.org/voter-id-states>.

²⁵ *Id.*

²⁶ See https://www.al.com/news/montgomery/2016/12/feds_alabama_to_expand_drivers.html (noting that the DOT concluded that the closures caused a “disparate and adverse impact on the basis of race”).

conducted an investigation into these closures and concluded that they adversely affected counties with majority black and rural populations.²⁷ Statistics from the Alabama Law Enforcement Agency (“ALEA”) and census data for the state show that of the 11 counties in Alabama that have a majority or near majority black population, eight (72.7 percent) suffered closure of MVD offices in their counties as a result of Gov. Bentley’s budgetary decision, compared to 23 (41.1 percent) of the 56 majority white counties in the state.²⁸ The three counties that did not suffer such closures are located in Montgomery (the state capital), Birmingham, and Selma, the most populous cities in the state.

In response to the DOT’s findings, the state re-opened offices in some of the affected counties with limited hours. Two such counties were Wilcox and Bullock. Both are poor, predominantly black and rural counties. Wilcox County, according to the 2010 census, is 72.5 percent black and 26.8 percent white. The median family income is a little over \$22,000.²⁹ Trying to learn the hours of the Wilcox County MVD office over the past year has been an act in frustration. The single location listed online offered no website that might reveal its hours and, when the Chair of the Committee attempted to call the listed telephone number, no one answered the phone regardless of when she called. There was no recorded message to offer hours of operation. A call made by the Chair of the Committee to the Wilcox County clerk’s office produced a suggestion that she travel to another county to obtain a driver’s license.

Efforts to gather information about the MVD office in Bullock County were met with similar frustration. Like Wilcox County, Bullock County is majority-minority according to the 2010 census – 70.2 percent black and 23.0 percent white – and is poor (the median family income in Bullock County was just under \$24,000).³⁰ Efforts to learn the MVD hours for Bullock County’s one MVD office were challenging:

1. The Bullock County MVD office has no website,
2. No one answered the phone regardless of when called and there was no voice mail or recorded information,
3. A call to the Bullock County’s Clerk of Court’s office revealed that the MVD office was open one day a week, though the individual reached to did not know what day the office was open or who a person seeking an identification could speak to find out,
4. The same official in the Clerk’s office suggested that if a person wanted to obtain an identification from the MVD in Bullock County, that person should drive to the office to find out the hours of operation,
5. While the individual in Clerk of Court’s office was not aware of the MVD’s precise operation schedule, she was sure that it would not be open on the weekend.

²⁷ *Id.*

²⁸ *Id.*

²⁹ United States Census Bureau. 2010 Census. <https://www.census.gov/quickfacts/wilcoxcountyalabama>.

³⁰ United States Census Bureau. 2010 Census. <https://www.census.gov/quickfacts/bullockcountyalabama>.

It is true that the hours of operation for these MVD offices, and all MVD offices in the state, are available on the ALEA website, however this information proved of little utility for the counties in question. Efforts to reach MVD offices during the hours provided by the ALEA website proved fruitless. This suggests that either the posted hours are incorrect or that they are not consistently kept. Either possibility creates a hurdle for a voter seeking an identification from the offices in question.

For potential voters with limited windows and long distances to travel to obtain identification from such offices (and perhaps little access to the internet) it seems odd that such offices would not at a minimum offer information telephonically regarding their location and hours of operation. It also does not engender confidence that such offices are in fact operational if efforts to contact them during alleged office hours (according to the ALEA website) results in an unanswered telephone. In a May 17, 2019 letter to Chairwoman Marcia Fudge and Ranking Member Rodney Davis, of the Committee on House Administration, Subcommittee on Elections, in response to concerns about the lack of information regarding MVD office hours, Attorney General Steven Marshall, helpfully offered that a voter could rely on a statewide website (algeohub) to obtain information. Unfortunately, typing in a variety of iterations of Wilcox County or Bullock County and driver's license (or identification) office into the search bar on the webpage suggested, only produced a response that nothing matching the search criteria could be found. It did not produce any information regarding when one might expect to obtain an identification from either office.

Finally, the Attorney General's letter provided two numbers which he suggested would offer information about the hours of operation of the MVD offices in question. Use of these numbers, however, did not produce the purported result. The first number simply referred the caller back to the ALEA website for hours of operation at particular offices, and the second number went straight to voicemail, where despite leaving messages requesting information, no returned call was ever received by the Committee.

These experiences, attempting to ascertain hours of operation, locate a person in the MVD offices, or following the Attorney General's suggestions, do not alleviate the Committee's concerns that actually confirming the hours of operation at a supposedly open MVD office is a time consuming and ultimately, perhaps, futile task. Simply put, for citizens in these predominately black, predominately poor, and predominantly rural counties, like those in other similar counties, the MVD office is an illusory source of voting identification. To the extent that MVD offices continue to exist in Wilcox and Bullock Counties, they can hardly be described as easily accessible or reliable sources of a voter identification card. Obviously, this is not meant as an indictment of the men and women who work at the MVD offices, but it does highlight the challenges that poor, minority and rural citizens have in accessing the photo identification required to vote.

Compare Wilcox and Bullock Counties to two urban, predominantly white counties. According to the 2010 census, Shelby County has an 83 percent white and 10.6 percent black population. Its median family income of over \$68,000.³¹ Shelby County has three MVD offices open five days a week from 8:00 a.m. to 4:30 p.m.³² Tuscaloosa County, who according to the 2010 census had a 66.3 percent white population, a 29.6 percent black population and a median family income over \$58,000³³, has a MVD office open five days a week from 8:30 a.m. to 5:00 p.m.³⁴ Both Shelby and Tuscaloosa County's MVD offices have convenient websites that not only provide basic information such as the location of the offices and their hours of operations, but also permit an id seeker to fill out forms prior to arrival at the office and to set appointments to obtain identification. No such conveniences appear to exist in Wilcox and Bullock Counties, or if they do exist, they are not well advertised.

Offices in counties like Shelby or Tuscaloosa County provide services to larger populations and therefore must be more numerous and provide more service hours. But the fact that there are sparse populations in the counties where the MVD offices were closed or suffered curtailed hours does not mean that there is no need for an MVD office in these counties. According to ALEA statistics in 2014 (prior to the closures) the thirty-one closed MVD locations issued 3,149 drivers' licenses and over 5,000 learner's permits.³⁵ Under the new reduced hours, these offices issued less than 1,000 drivers' licenses in 2016 and 2017.³⁶

Counties such as Choctaw, Sumter, Hale, Greene, Perry, Wilcox, Lowndes, Butler, Crenshaw, Macon, and Bullock are all poor³⁷ (in fact some are some of the poorest counties in our nation), are all primarily black (some with black populations as high as 82 percent) and all lack a single full time MVD office. In the end, budget figures available on AL.gov show that closures of the 31 MVD offices saved the state an estimated \$200,000-300,000 out of a general budget that exceeded \$100 million.³⁸ The amount of money saved was small, but the impact on marginal voters was large.

Why do MVD closures and offices with limited hours matter? The MVD, after all, is not the only source of acceptable voter identification, though it is the most common source in Alabama. Clerk's offices can issue such identifications, and, as Secretary of State John Merrill testified, he has

³¹ United States Census Bureau. 2010 Census. <http://www.shelbycountyalabama>.

³² Shelby County License Offices. <http://www.shelbyal.com/581/shelby-county-license-offices>.

³³ United States Census Bureau. 2010 Census. <http://www.tuscaloosacountyalabama>.

³⁴ Tuscaloosa County License Department. <http://www.tuscco.com/government/departments/license-department>.

³⁵ See *Feds: Alabama to Expand Driver's License Office Hours After Probe*, AL.COM January 13, 2019, at: https://www.al.com/news/montgomery/2016/12/feds_alabama_to_expand_drivers.html

³⁶ *Id.*

³⁷ United States Department of Agriculture. Economic Research Service. https://data.ers.usda.gov/reports.aspx?ID=17828#P6974cfd63ce14f2aa561a56ced8b3418_3_153iT1

³⁸ See Kyle Whitmire, *As it Turns Out ... Bentley's Driver's License Closures were Racial*, After All, Al.com, March 6, 2019 at: https://www.al.com/opinion/2017/01/as_it_turns_out_bentleys_drive.html

created a mobile identification unit that will travel to potential voters to generate ID. These solutions, however, are not a panacea. Turning first to alternative identification locations such as clerk's offices. These offices, like MVD offices, are not open on weekends and are usually open only eight hours during the day, with some taking breaks for lunch. For working men and women, dependent on a job and its paycheck, standing in line during work hours to acquire identification to vote creates a financial burden.

For some in rural counties, such offices, like MVD offices are located at county seats which may be a great distance from the potential voter's home or work, creating an additional burden. This burden is compounded if the clerk's office keeps irregular and/or poorly posted hours of operation. For those with private transportation, traveling to an alternative identification location may be a lesser inconvenience; but for those without private transportation, they must depend on either someone else's willingness to transport them or near non-existent public transportation.

Finally, such alternative locations to obtain ids are closed in the midst of the COVID-19 public health crisis.³⁹ This renders MVD offices one of, if not the only source of identification necessary for voting.

To offer additional opportunities to obtain the required identification, the Secretary of State's Office has created a mobile ID unit that has travelled to a variety of locations (schedule available at: <https://www.sos.alabama.gov/alabama-votes/photo-voter-id/mobile-id-locations>). This Committee does not doubt the benefit of the mobile id unit in light of the state's requirement of photo identification to vote. And while in rural communities, the mobile ID unit may be located near the very locations where free identification are already available, such as the Registrar's Office, the courthouse or the local MVD, according to the published schedule, the mobile ID unit has provided free identification when the Board of Registrar's office may be closed either on weekends, state holidays or outside of normal business hours. This is clearly one of the advantages of the mobile ID unit, and Secretary of State Merrill has repeatedly expressed his commitment to being thoughtful about the timing as well as the location of mobile ID unit's appearances. Beyond this, the mobile ID unit is valuable not only because it signifies the willingness of the state to make good on its promise to make IDs available to all who want one, but because it actually creates an opportunity for folks to get those IDs. In short, no one contests that the mobile ID unit, and Secretary of State Merrill's commitment to making the unit available, is valuable.

This is not to say, however, that the use of the mobile ID unit does not raise concerns or should not be subject to criticism. The Committee remains concerned that the mobile ID unit is not reaching those most in need of its services because of its limited appearances in limited locations. This is particularly true now, in the midst of state wide closures as a result of the COVID-19 public

³⁹ For a list of closures see <https://www.al.com/news/2020/03/coronavirus-shutdowns-whats-open-whats-closed.html>.

health crisis, where the posted schedule reveals no available mobile-ID locations. Given closures at other state offices that might issue id outside of MVDs, access to identification required for voting in Alabama is increasingly limited. Further, as Secretary of State Merrill notes and is evident from the schedule posted by his office prior to closures as a result of the COVID-19 public health crisis, the mobile ID unit operates for only two to three hours at each location.⁴⁰ State officials often point to efforts to procure the necessary identification for particular individuals,⁴¹ such efforts are laudable, but also appear to be extraordinary, rather than the ordinary practice of Alabama's government for ordinary folks seeking to vote in Alabama. For those unable to attend the Chilton County Peach Festival, the Watermelon Festival, the National Shrimp Festival, the Magic City Bowl or any of the other events listed on the mobile ID unit's schedule for any of a variety of reasons, or unable to locate an open MVD office in their county, the question lingers: why require a photo ID to vote at all?

Secretary of State Merrill testified that Alabama passed its voter ID law to thwart individual voter fraud.⁴² The risk of voter fraud will be discussed at greater length in the next section, however it is worth noting here that the Committee is unconvinced that the evidence available to it proves that voter fraud plagued Alabama elections prior to the passage of the photo ID requirement based on Secretary of State Merrill's testimony at the February 22, 2018 hearing in Montgomery. Further, according to Merrill, since his election as Secretary of State there have been six prosecutions for voter fraud and three elections overturned.⁴³ The Alabama advisory committee does not mean to mean to minimize any concerns about the integrity of the vote; it does mean to raise concern that the possibility of voter fraud is being used by the State to justify a photo identification requirement that, for a variety of reasons disproportionately impacts poor, minority, and rural voters despite the fact that little evidence has been presented that such fraud occurs on a wide scale. In fact, studies suggest just the contrary: that it is a rare and ineffective way to disrupt an election.⁴⁴

Contrast this to the impact of the voter identification requirement on marginalized citizens in the state. On its face, the voter identification law does not appear to have a discriminatory intent or purpose. It applies uniformly to all voters and seeks to ensure a common goal – voter integrity. Likewise, the state's willingness to accept a variety of forms of identification procured from a variety of locations, as described above, speaks to an effort to include and accommodate, rather

⁴⁰ There were exceptions to this two to three-hour limit, for example on June 15 the mobile ID unit will be available at the Juneteenth Festival in Birmingham, AL from 10:00 a.m.- 2:00 p.m. and on October 5 the mobile ID unit will be available at the Face in the Window Fest in Carrollton, AL from 9:00 a.m. – 1:00 p.m.

⁴¹ Douglas Testimony, *Alabama Transcript*, p.209.

⁴² John Merrill, Testimony, *U.S. Comm'n on Civil Rights Briefing Meeting*, Feb. 2, 2018. P.155 (2018).

⁴³ Merrill, Testimony, *Alabama Transcript*, p.15.

⁴⁴ Justin Levitt, *A Comprehensive Investigation of Voter Impersonation finds 31 Credible Incidents out of One Billion Ballots Cast*, WASHINGTON POST, (Aug. 6, 2014) <https://www.washingtonpost.com/news/wonk/wp/2014/08/06/a-comprehensive-investigation-of-voter-impersonation-finds-31-credible-incidents-out-of-one-billion-ballots-cast/>.

than to exclude potential voters. Both efforts to ensure voter integrity and to create multiple locations and means by which to obtain identification necessary to vote are laudable.

Such efforts, however, obscure the effect of the law. The Alabama Advisory Committee heard testimony that suggests that the reality is that Alabama's voter identification law creates impediments for the poor, minority and rural voters who may have limited access to locations that can issue identification, may lack the underlying documentation necessary to receive such identification, or have neither the time nor transportation to gain such identification.⁴⁵ Further, the law seeks to address a problem – individual voter fraud – without any evidence that such a problem existed prior to the law's passage. In short, the law, for all its good intentions, can prevent people from realizing their right to vote for little reason other than their lack of ability to procure state sanctioned identification.

As discussed above, the mobile unit, while enjoying the benefit of being open on weekends, has made limited appearances. While Secretary of State Merrill testified that he is willing to take the mobile identification unit throughout the state⁴⁶, a noble goal to be sure, logistically this solution has limited value if locations are poorly advertised. Beyond this, such a solution assumes that potential voters have equal transportation opportunities and available free time to access the mobile unit.

In addition, the Committee heard testimony that the same underlying documents required for MVD issued identification are required for the mobile identification unit.⁴⁷ This means that even if the identification unit comes to the voter, the same impediments to acquiring the identification persists for marginal voters. Beyond this, the closures of MVD offices matter because, like the voter identification law itself, these closures send a strong message that it will be harder to qualify to vote in Alabama if you are poor and live in a rural county.

MVD closures, however, are not the only challenge to those seeking necessary identification to vote. For those in rural areas, or those that lack housing security, acquiring the necessary proof of identity to obtain a driver's license or other form of acceptable identification poses additional challenges. While the Committee recognizes (and applauds) the state's effort to ensure that free identification is available, proof of identity is not free for those who must acquire it. For those born at home, or those who do not have ready access to a copy of their birth certificates, documentation of identity must be purchased from state agencies. Depending on where a person was born the costs of acquiring a birth certificate can range from \$50 to over \$100.⁴⁸ Proof of residency may prove equally challenging. Marginalized people may not have common proof of residency such as a formal lease, a utility or cable bill, or deed to property.

⁴⁵ See *Supra* Note 12.

⁴⁶ Merrill Testimony, *Alabama Transcript*, p. 12.

⁴⁷ Douglas Testimony, *Alabama Transcript*, P. 218.

⁴⁸ Morrison Testimony, *Alabama Transcript*, p. 210.

At the polling place, a voter must present his or her identification in order to vote. Despite the Secretary of State's effort to provide a clear list of acceptable identifications, voters in recent election reported confusion among poll workers over what constituted proper identification. Identifications such as passports, student identifications, Tribal identifications, and Military identifications all met with challenges including concerns that photos were outdated and addresses were not listed on the identification.⁴⁹ While these objections to the identification are incorrect as a matter of law, they highlight yet another concern over an identification requirement, as applied, and suggest the need for more statewide training of election-administrating personnel.

A voter without proper identification who cannot be identified by election workers at the polling place must cast a provisional ballot. This provisional ballot will only be counted if the voter presents the proper identification to the Board of Registrars no later than 5:00 p.m. on the Friday following the election day.⁵⁰ Again, those without transportation, time, access to an identification location, or the requisite supporting documents to support the identification, may find themselves disenfranchised, even if they are registered to vote, because they cannot produce identification at the polling place or within the time frame permitted following the election as required under Alabama's voter identification law.

In the end, the real lived experience of the poor, minority and rural, and working people in the state is that acquiring the ID required by the state to vote poses significant logistical challenges. That it is possible in theory does not mitigate that challenge. To avoid disparate impact, the voter identification law requires a world in which all people have the ability and the means to acquire an acceptable identification. Yet for many in Alabama that world is not their reality. For these citizens, the voter identification law is an impediment as insurmountable as a sheriff in the doorway to the polling place or an archaic history test or other Jim Crow Era voting barriers. The effect is the same. For residents on the margins in Alabama, voting is long and difficult journey.

ii. The Specter of Fraud

Weigh these challenges to acquiring acceptable identification against the harm the voter identification law was implemented to prevent individual voter fraud. Secretary of State Merrill acknowledged in his testimony that prior to the passage of the voter identification law there were no reported or investigated incidents of individual voter impersonation.⁵¹ This is consistent with Prof. Justin Levitt's testimony before the North Carolina State Advisory Committee, which shows that in fourteen years there have been thirty-one credible cases of voter fraud by impersonation out

⁴⁹ Boone Testimony, *Alabama Transcript*, pp.103-104., Simelton Testimony, *Alabama Transcript*, p.253.

⁵⁰ Merrill Testimony, *Alabama Transcript*, p. 28.

⁵¹ Merrill Testimony, *Alabama Transcript*, p. 14.

of more than 1 billion ballots cast during that period.⁵² As Director Kareem Crayton testified such fraud is “infinitesimal.”⁵³ It is simply not the way elections are stolen.

Even setting aside concerns about the ability to track down employees of driver license offices or the curtailed hours of such locations or the challenges to acquire acceptable identification, the fundamental question remains: why require a photo identification in the first place? As noted above, the requirement of a photo identification to vote is not a common requirement. In fact, the majority of states have no such requirement and no federal law requires such a form of identification to vote.

The requirement of a photo identification is entirely of Alabama’s own making. Attorney General Marshall offered in his May 17th letter what he characterizes as “substantial evidence of the existence of ... fraud and more limited evidence of actual in-person fraud.” (page 7-8, FNs 11-22)⁵⁴. The evidence he presents in the letter, which is consistent with that of Secretary of State Merrill and that of John Park (who also testified at the February 22 hearing), is in fact of limited allegations of fraud and appears to this Committee inadequate to justify the voter identification requirement in light of the impediment such a requirement poses to marginalized persons in our state.

The Attorney General further notes in his May 17th letter that evidence of individual voter fraud is often hard to gather and cases are difficult to prosecute.⁵⁵ His suggestion seems to be that this accounts for a relatively small number of prosecutions in the face of a larger possibility of individual voter fraud occurring. Although this is theoretically possible, a study by Professor Justin Levitt—who has conducted extensive research into the occurrence of individual voter fraud over a fourteen-year period and is a nationally recognized expert on the topic— found 31 cases of voter fraud by impersonation out of more than 1 billion ballots cast.⁵⁶ In short, even if these cases are difficult to detect, studies designed to locate such fraud failed to find a significant concern.

To be clear, the Committee does not quibble with anyone who expresses a concern about individual voter fraud. In fact, the Committee firmly believes that the integrity of the vote is critical to a functioning democracy. What is puzzling however is the repeated assertion by state officials that individual voter fraud poses such a great risk to Alabama’s elections such that photo identification laws and curtailed absentee balloting (which will be discussed in Part III of this report) are necessary to curve this fraud.

⁵² Levitt Testimony, *U.S. Comm’n on Civil Rights Briefing Meeting*, Feb. 2, 2018. p.105.

⁵³ Crayton Testimony, *Alabama Transcript*, p.63.

⁵⁴ Marshall

⁵⁵ Marshall

⁵⁶ *Supra* note 49.

In fact, Mr. Park and Dr. Crayton both described instances of systematic fraud – in which election officials destroyed or miscounted ballots – as having a far greater effect on election outcomes given the number of ballots in question.⁵⁷ Yet this type of voting fraud remains manifestly unaddressed by an identification requirement, or, as will be discussed later, limited absentee balloting or denial of early voting.

The concern, one that remains unaddressed by the State, is that Alabama is seeking to prevent what appears to be a limited and poorly documented fraud concern and in the process is creating hurdles for legitimate voters' access to the ballot. This would seem to be an odd goal of government and a perversion of the duty of those officials charged with protecting the election process.

There is little to no evidence that the state identification law keeps our elections safe from fraud. Instead the law serves create barriers for the most marginalized of Alabama's voters. To require an identification prior to voting is one way to ensure that only those with time and resources may vote in Alabama.

iii. Recommendations

On the most basic level, the disparate impact created by the requirement of sanctioned identification to vote in Alabama supports a return to preclearance status under Section 5 of the Voting Rights Act. While the requirement of identification, like other voting regulations discussed throughout this report, appears neutral on its face, the identification requirement creates a barrier to voting that is disproportionate for Alabama's marginalized citizens – including poor, minority and rural populations. The lack of preclearance places the burden on the disenfranchised individuals to demonstrate this disparate impact. Given the economic reality of such individuals, this is a heavy burden to take on. Returning to preclearance status would flip this burden, ensuring review of laws effecting voting rights.⁵⁸

Beyond this global recommendation with regard to the Alabama's voter identification requirement, the Committee also has some specific recommendations:

1. The Committee remains unconvinced that a photo identification requirement as reflected in Alabama's current law actually accomplishes its articulated goal and that this goal – the reduction of individual voter fraud – outweighs the burden of the voter identification law on those citizens most at risk for disenfranchisement. Accordingly, the Committee's first recommendation would be a reconsideration of the state's voter identification law,

⁵⁷ Crayton Testimony, Alabama Transcript, pp. 63-64., *See also* John Park, *Oral remarks for February 2018 Hearing to access to Voting*, written testimony submitted to Alabama Advisory Committee.

⁵⁸ This will be discussed further in the Global Recommendation Section.

including but not limited to considering abolishing the requirement or increasing the types of acceptable identification.

2. If the state is disinclined to do away with the voter identification requirement, the state should increase access to locations that can produce the required identification.
3. Multiple mobile identification units would increase access to identification, though the schedules of such units must be well advertised and varied in an effort to accommodate a variety of voters in need of identification.
4. MVD offices, the location Secretary of State Merrill identified as the most likely source of an identification, must not only be open in all counties in the state, but such hours of operation must be readily accessible (and accurate) for those seeking identification. The state must also work to ensure a variety of hours of operation for all identification producing locations to ensure access for even marginal citizens in the state.
5. Finally, the State should work to reduce costs identification by broadening not only the type of identification accepted, but also the documentation necessary to obtain that identification.

B. The Registration Process

In addition to identification requirements, like most states, Alabama requires voters to register in order to vote.⁵⁹ In many ways, Alabama has done a good job of streamlining this process, offering multiple means and methods to register and minimizing documentation required for registration.⁶⁰ This streamlining, however, has not eliminated obstacles to enfranchisement created by registration requirements. Even in its streamlined form, registration is a multi-step process that requires affirmative actions by the potential voter.

While the requirement of registration is the overwhelming norm in the United States, the commonality of this requirement obscures the fundamental question of why the default position in the state is not automatic registration of all eligible citizens?⁶¹ Put another way, the state fails to offer meaningful explanations of why registration is required for citizens to realize their right to vote or why the state is impeded from adopting as system of automatic registration.

⁵⁹ Only North Dakota does not require voters to register. *See* <https://vip.sos.nd.gov/PortalListDetails.aspx?ptlhPKID=79&ptlPKID=7>. For Alabama's registration requirement, *see* Ala. Code § 17-3-50.

⁶⁰ Voter registration procedures in Alabama only require that the voter provide a copy of valid identification. *Id.*

⁶¹ Eighteen states and the District of Columbia do offer automatic voter registration.

i. Registering to Vote

Alabama offers a variety of methods of registration, however, according to the Secretary of State's testimony, the primary access to voter registration in Alabama is through driver's license acquisition at the MVD.⁶² At the time the driver's license is issued, the elector is given a card to return to voter registrar's office via mail or in person. Voters may also register in person at the Board of Registrar's office or at other state government offices.⁶³ In addition, voters may register online or download a pdf application and return it via mail or in person.⁶⁴ Those requiring help may contact the voter hotline (run by the Secretary of State's office) or seek assistance through a variety of third-party websites such as rockthevote.org, voterparticipation.org or votesmart.org, to name just a few. These multiple points of access to the voter registration process is undoubtedly an improvement over systems that offer only one form of registration. The state's commitment to maintaining these points of access is laudable, however, even this system creates challenges for marginalized voters that may prevent enfranchisement.

This reality is borne out by the fact that only 69.2 percent of Alabama's eligible population are registered to vote.⁶⁵ The Secretary of State in his testimony noted that these registration numbers are the highest in the State's history⁶⁶, however, registration among the black population in the state and in predominately black counties continue to lag behind white populations and majority white counties.⁶⁷ This Committee acknowledges that it is always hard to determine why nearly 30 percent of a population fails to do something – in this case register to vote; however, information provided by witnesses at the February 22 hearing as well as antidotal evidence provided by press coverage and citizen comment suggest some systematic impediments to registration.

First, the registration process requires the voter to produce valid identification.⁶⁸ As a result, voter registration suffers all the challenges of voter identification described above. Voters with limited access to locations that produce the necessary identification or the underlying documents necessary to procure such identification such as birth certificates, social security cards, or bills demonstrating residency may be unable to register even under an improved registration system. Accordingly, from the perspective of the voter, registration may present an insurmountable financial or temporal burden.

⁶² John Merrill, *Answers to Follow Up Questions to Feb. 22 testimony*. May 16, 2018.

⁶³ Merrill testimony, *Alabama Transcript*, pg. 10

⁶⁴ *Id.*

⁶⁵ See Barry-Blocker Testimony, *Alabama Transcript*, pp. 178-183., See also Findings of 2016 Election Administration and Voting Survey Report, https://www.eac.gov/assets/1/6/2016_EAVS_Comprehensive_Report.pdf.

⁶⁶ Merrill Testimony, *Alabama Transcript*, pg. 14.

⁶⁷ See Findings of 2016 Election Administration and Voting Survey Report, https://www.eac.gov/assets/1/6/2016_EAVS_Comprehensive_Report.pdf.

⁶⁸ Ala. Code § 17-3-52 (2019).

Consider the statewide computer failure at MVD offices prior to the 2018 mid-term elections. This failure was brief – approximately 45 minutes – but it occurred during the last week to register to vote and during the period of the failure the MVD was unable to produce any documents or identifications. For those with limited time and resources, such a failure – even a very brief one like this – may create a barrier to gaining the materials necessary to register to vote. The fact that alternative locations might exist that could provide identification or registration forms may offer little comfort to those unable to travel to alternative locations.

Even if a voter is able to appear in person at the Board of Registrar's Office, inconsistent information about registration eligibility seems to plague the process. In the 2018 mid-term election voters who attempted to register in person at the Board of Registrar's Office reported being told that they were required to bring documentation not actually required by the state to register. For example, a group of Latinx voters were told at one Registrar's Office that they could not register without proof of U.S. citizenship.⁶⁹ While Secretary of State John Merrill was responsive to this problem when alerted to it, it is unclear how often such irregularities occur without coming to official notice. The confusion created by this misinformation ironically is propagated by the very offices charged with the registration of voters. This misinformation also suggests that better training is required with regard to voter registration.

Secretary of State John Merrill has acknowledged that registration can pose challenges and, in response, has created both a registration website and a registration application that allows voters to register either online or with the app.⁷⁰ There is no question that the availability of online and app based registration tools facilitate registration and reduce travel and time burdens on citizens. These tools, however, are not panaceas and may be of limited utility for poor and rural voters.

Both require internet access – a challenge in some rural counties. In addition, the app appears to require access to a smartphone. This level of technology is not always accessible for marginalized citizens. Beyond this, lingering questions remain regarding the app. The Secretary of State's office did not respond to the State Advisory Committee's inquiries regarding the app's platform, how it processes information, who has access to this information (such as law enforcement agencies), whether the app engages in data collection, and whether or not it can be used on any smartphone or other equivalent technology. Finally, both the app and online registration platforms may only be used if a person has already acquired the requisite identification.⁷¹ This means that, for those with difficulties obtaining identification required to vote, the registration website and app will provide no assistance.

⁶⁹ While U.S. Citizenship is a prerequisite for voter registration in Alabama, proof of such citizenship is not required for registration under federal law. Secretary of State Merrill has indicated that he does not enforce the state law that conflicts with the federal law. *See* Transcript p. 17, ln. 16-23 – p. 18 ln. 1-17.

⁷⁰ See Alabama Secretary of State, Register to Vote/Update your Information, <https://www.sos.alabama.gov/alabama-votes/voter/register-to-vote>.

⁷¹ Merrill Testimony, Alabama Transcript, p.10.

Finally, the Secretary of States' Office uses the Electronic Registration Information Center ("ERIC") to send mailings to eligible but unregistered voters.⁷² The use of this resource is a positive step to ensure that voters have the information and opportunity to register to vote. These proactive policies are both positive and demonstrate a commitment to enfranchisement, however they may fail to reach those with housing insecurity and/or lack of regular access to mail.

ii. Why require registration?

Like identification requirements, the justification for registration is based on fraud prevention. As discussed above there is little evidence that individual voter fraud is significant in our State. Beyond this, states that offer automatic registration do not report increased voter fraud. This suggests that proactive registration requirements, like identification requirements, may be remedies to a non-existent problem and may present barriers to enfranchisement.

iii. Recommendations

While the requirement of registration appears neutral on its face, the voter registration process creates barriers to voting that is disproportionate for Alabama's marginalized citizens – including poor, minority and rural populations. This burden is multiplied by the lack of consistent information regarding registration requirements at state government offices and the failure of infrastructure in the registration process. Further, the Committee remains unconvinced that voter registration requirements as reflect in Alabama's current law actually accomplishes its articulated goal and that this goal – the reduction of individual voter fraud – outweighs the burden of voter registration on those citizens most at risk for disenfranchisement.

1. The Committee recommends reconsideration of the state's current voter registration process, including but not limited to considering abolishing the requirement of registration or in the alternative adopting a system of automatic registration for eligible citizens.
2. If the state is disinclined to do away with the voter registration requirement, the state should increase access to registration by allowing same day registration for elections,
3. The state of Alabama should expand locations that permit in person registration,
4. The state of Alabama should offer free and accessible access to online and app-based registration platforms with a guarantee that such platforms do not engage in data gathering or sharing beyond that necessary to maintain voter records.

⁷² Electronic Registration Information Center (ERIC), *Which States Are Members of ERIC*, <https://ericstates.org/>.

5. The Alabama Advisory Committee recommends creating consistent and accessible sources of information for citizens and those who run points of access to registration (such as MVD and Board of Registrar's Offices). The Current Election Handbook is dense, complicated and often repetitive. Recent efforts by the Secretary of State's Office to provide concise sources of relevant information is good first step towards ensuring that misinformation regarding registration is kept to a minimum. These efforts not only need to continue, but they need to be coupled with regular training and monitoring of offices.

C. Felon Disenfranchisement

According to Alabama's 1901 Constitution⁷³ (hereafter "Alabama Constitution") and Amendment XXVI for the United States Constitution⁷⁴ a person must be 18 years of age and a citizen of the United States and Alabama to vote in an election in the state. While Federal and State elections carry no residency requirement, Sections 11-46-38(b) and 11-46-109(b), governing elections in certain cities or towns having mayor-council form of government, carry a 30-day residency requirement for voting in local elections.⁷⁵

In addition, under Article VIII, Section 177 of the Alabama Constitution a person must be duly registered in Alabama and must vote in the county and voting place where they live.⁷⁶ While voting registration will be discussed at greater length in Section II of this part, it is important to note here that the general description of voter eligibility in Alabama does not appear to deviate significantly in its general construct from other state's requirements – a voter must be a requisite age and must register to vote in the jurisdiction in which he or she wishes to cast a ballot. While these general requirements appear relatively routine, restriction of eligibility to vote for those convicted of a crime while not unique to Alabama, does create particular barriers in the State.

Alabama law restricts the right to vote of those convicted of particular crimes. The Alabama Constitution permits disenfranchisement of those convicted of felonies of moral turpitude.⁷⁷ In 2016, in response in part to unequal enforcement of this constitutional provision across counties, Alabama designated specific crimes of moral turpitude that produce disenfranchisement in the Definition of Moral Turpitude Act.⁷⁸ In this sense, the Definition of Moral Turpitude Act is a post-*Shelby County* regulation that improved, rather than diminished access to the ballot.

By defining disenfranchising offenses, the Act prevented inconsistent disenfranchisement across counties and opened a path towards restoration for those previously disenfranchised. Under the

⁷³ Ala. Const. § 177.

⁷⁴ U.S. Const. amend. XXVI.

⁷⁵ Ala. Code §§ 11-46-38(b), and 11-46-109(b).

⁷⁶ Ala. Code §17-9-10.

⁷⁷ Ala. Const. § 182, (1901), see also Ala. Code § 17-3-30.1.

⁷⁸ Definition of Moral Turpitude Act, HB 282, (2017), see Ala. Code. § 17-3-30.1.

current statute, those convicted of a crime of moral turpitude, are eligible to seek restoration of their voting rights through the Alabama Board of Pardons and Paroles provided they have no pending felony charges, they have paid all fines, court ordered costs, fees and restitution ordered at the time of sentencing on disqualifying cases in full, their sentence is complete, and they have successfully completed probation or parole.⁷⁹ The existence of this process of restoration and the standardization of disenfranchising crimes, however, have created a far from certain path to the ballot box for hundreds of thousands of eligible voters in our state. This section explores barriers created by Alabama's current felon enfranchisement restrictions.

Despite this standardization (and limitation) of disenfranchising crimes, studies suggest 286,266 people or 7.62 percent of the state's voting age population remain disenfranchised.⁸⁰

i. The History

To understand the significance of Alabama's current felon disenfranchisement/restoration procedures, it is helpful to understand both the history of race-based voting regulations in the State and the relationship between such regulations and the criminal system. Alabama's history of race-based disenfranchisement is well documented. Since the Civil War, Alabama utilized violence, terror, economic intimidation, all white primaries, bans on single shot balloting in at-large elections, literacy tests, poll taxes, grandfather clauses and good character tests to exclude black voters.⁸¹ John Knox, the president of Alabama's all white 1901 Constitutional Convention, which produced the state's current Constitution, described the purpose of the Convention as to "establish white supremacy."⁸² To accomplish this end, the Convention adopted a constitution that imposed various voter qualifications designed to disenfranchise the black population of the state.⁸³ One such qualification was Section 182 of the constitution. This section disqualified

those who shall be convicted of treason, murder, arson, embezzlement, malfeasance in office, larceny, receiving stolen property, obtaining property or money under false pretenses, perjury, subornation of perjury, robbery, assault with intent to rob, burglary, forgery, bribery, assault and battery on the wife, bigamy, living in adultery, sodomy, incest, rape, miscegenation, crime against nature, or any crime punishable by imprisonment in the penitentiary, or of any infamous crime or crime involving moral turpitude, also any person who shall be convicted as a vagrant or tramp, or of selling or offering to sell his vote or the vote of another, or of buying

⁷⁹ Ala. Code. § 17-3-31.

⁸⁰ Christopher Uggen Et Al., 6 Million Lost Voters: State-Level Estimates of Felony Disenfranchisement, 2016, p. 15. <https://www.sentencingproject.org/wp-content/uploads/2016/10/6-Million-Lost-Voters.pdf>.

⁸¹ See Dillard v. Crenshaw County, 640 F. Supp. 1347, 1357 (M.D. Ala. 1986)(describing Alabama's "unrelenting historical agenda spanning from the late 1800's to the 1980's to keep its black citizens economically, socially, and politically downtrodden.").

⁸² Hunter v. Underwood, 471 U.S. 222, 229 (1985).

⁸³ *Id.*

*or offering to buy the vote of another, or of making or offering to make a false return in any election by the people or in any primary election to procure the nomination or election of any person to any office, or of suborning any witness or registrar to secure the registration of any person as an elector....*⁸⁴

While this criminal disenfranchisement provision may appear race neutral on its face, John Fielding Burns, who had introduced the provision, removed any doubt that the goal of the provision was to disenfranchise black voters. At the time he offered the proposed restriction at the convention he predicted that the “the crime of wife-beating alone would disqualify sixty percent of Negroes.”⁸⁵

That Burns could feel confident in this prediction reflected, and continues to reflect, the reality of the disproportionate impact of the criminal system on minority communities in Alabama. Knox himself had justified voter qualification provisions as grounded in the moral superiority of white citizens. Knox stated “[t]he justification for whatever manipulation of the ballot that has occurred in this State has been the menace of negro domination....These provision are justified in law and in morals, because it is said that the negro is not discriminated against on account of his race, but on account of his intellectual and moral condition.”⁸⁶ Coupled with a criminal system that was more likely to investigate, arrest and convict black citizens, Knox’s and Burns’ belief of moral superiority followed a circular logic. Black citizens should be denied the vote because they were less moral as evidenced by their high rate of conviction. Likewise, black citizens should be investigated, charged and convicted because they presented a moral threat. Whatever facial neutrality the criminal exclusion policies presented, the reality was that such policies were motivated by and furthered a system that denied access to the ballot based on race.

The criminal system became a tool to disenfranchise black voters in Alabama and a method of retaining physical and economic control over the black population. While the horrible history of convict leasing is beyond the scope of this report, it is worth noting here that the State directly profited from a criminal system that served to undermine the 13th Amendment’s prohibition on involuntary servitude by arresting black citizens for violations of “Black Codes” and petty crimes and then leasing those prisoners to private employers as forced laborers.⁸⁷ This practice was not unique to Alabama – in fact convict leasing was utilized across of the South in the period following the Civil War, however Alabama created the largest convict leasing system and was the last to outlaw the practice.⁸⁸ Leased prisoners were nearly exclusively black and in an average year during

⁸⁴ Ala. Const. § 182 (1901).

⁸⁵ See Andrew L. Shapiro, *Challenging Criminal Disenfranchisement Under the Voting Rights Act: A New Strategy*, 103 YALE L. J. 537, 541 (1993); JIMMIE F. GROSS, ALABAMA POLITICS AND THE NEGRO, 1874-1901, at 244 (1969). See also MALCOLM C. McMILLAN, CONSTITUTIONAL DEVELOPMENT IN ALABAMA, 1798-1901, at 275 n. 76 (1955) (noting that Burns, a justice of the peace, also wanted to disenfranchise “those who are bastards or loafers or who may be infected with any loathsome or contagious disease.”).

⁸⁶ John B. Cox, *Opening Address to the 1901 Constitutional Convention*, at 12 (1901).

⁸⁷ <http://digital.archives.alabama.gov/cdm/singleitem/collection/voices/id/8516/rec/171>

⁸⁸ See DOUGLAS BLACKMON, SLAVERY BY ANOTHER NAME (2008).

⁸⁸ *Id.*

this period of convict leasing 97 percent of those convicted of minor offenses in the State were black.⁸⁹

In 1973, in an effort to update the State's Constitution, a Constitutional Commission recommended limiting the criminal disenfranchisement clause of the Constitution to those convicted of a felony of moral turpitude.⁹⁰ The Commission, however, failed to offer any guidance as to what constituted a disqualifying offense under the simplified provision. Instead the Commission left the designation of crimes of moral turpitude to "constitutional interpretation or constitutional amendment."⁹¹ In addition, the Commission offered no guidance of the motivation behind either the decision to streamline Section 182 or to base that "streamlining" on the general language of "moral turpitude" found in the original 1901 draft.⁹² Whatever their motive the proposed amendment failed and Section 182 lingered as originally drafted.⁹³

In the 1980s Section 182 was challenged as intentionally racially discriminatory.⁹⁴ In finding the "moral turpitude" language unconstitutional, the Eleventh Circuit wrote "[t]he attorney general in his opinion has acknowledged that the classification of presently unaddressed offenses 'will turn upon the moral standards of the judges who decide the question. Thus does the serpent of uncertainty crawl into the Eden of trial administration.'⁹⁵ This lack of clarity surrounding which crimes "qualified" as those of "moral turpitude" and so produced disenfranchisement ultimately led the Court to conclude that the State had failed to demonstrate that the provision promoted the articulated state interest.⁹⁶ The Supreme Court affirmed the Eleventh Circuit's decision, holding that Section 182's provision surround moral turpitude was motivated by racial animus.⁹⁷

In the wake of these decisions, in 1996, Alabama adopted Amendment 579 to the Constitution which was the 1973 proposed amendment to Section 182. Amendment 579 added Section 177(b) to the Constitution providing that: "[n]o person convicted of a felony involving moral turpitude, ... shall be qualified to vote until restoration of civil and political rights or removal of disability."⁹⁸ At the time of its adoption, the sponsor of the amendment represented that the language was meant to simplifying the criminal disenfranchisement clause and would make no substantive changes to

⁸⁹ *Id.*

⁹⁰ Albert Brewer, "A Broad Initiative: Alabama's Citizens' Commission on Constitutional Reform." *Cumberland Law Review* 33 (2002-2003): 187-93.

⁹¹ See FIRST DRAFT OF PROPOSED ALABAMA CONSTITUTION at 8 (Oct. 23, 1970).

⁹² *Id.* The 1901 version of Section 182 barred voting if a person had been convicted of a series of articulated offenses "or crime involving moral turpitude."

⁹³ See William H. Stewart, *The Tortured History of Efforts to Revise the Alabama Constitution of 1901*, 53 ALA. L. REV. 295 (2001).

⁹⁴ See *Underwood v. Hunter*, 730 F.2d 614 (11th Cir. 1984). The challenged focused specifically on criminal disenfranchisement language surrounding misdemeanor convictions and crimes of moral turpitude.

⁹⁵ *Id.* At 626, n.2.

⁹⁶ *Id.* at 620. Indeed, the Eleventh Circuit expressed doubt that Section 182 was ever mean to serve the state's interest. *Id.*

⁹⁷ *Hunter*, 471 U.S. at 232.

⁹⁸ Ala. Const. § 182.

the Constitution. At the time of the amendment in 1996, roughly 70 percent of Alabama's prison population was black.⁹⁹

While Amendment 579 may have simplified the criminal disenfranchisement clause, it offered little guidance as to what constituted a crime of moral turpitude. For their part, counties were left to their own devices to determine what qualified as a disenfranchising offense. The resulting inconsistency led to the passage of the Definition of Moral Turpitude Act in 2017 (HB 282).¹⁰⁰ This Act offered an enumerated list of disenfranchising crimes. This list served not only to narrow the felonies that qualified under the criminal disenfranchisement clause, but it removed county discretion regarding that qualification. The effect was twofold. First the Act created much needed uniformity in Alabama regarding felon disenfranchisement. Second, it re-enfranchised tens of thousands of Alabamians.

There is no question that this Act, perhaps more than any other reform in the State, served at least on its face to protect the voting rights of citizens previously excluded. Before turning to the implementation of the Act, it is important to put it in context. At the time of the passage of the Definition of Moral Turpitude Act, the state prison population had nearly doubled from 1985 when *Hunter* was decided.¹⁰¹ At that time the incarceration rate was approximately 300 per 100,000 but by 2017 it was nearly 500 per 100,000.¹⁰² A 2016 study by the Sentencing Project estimated that 8 percent of the voting age population in Alabama was disenfranchised as a result of the criminal disenfranchisement clause.¹⁰³ This increased incarceration rate continued to have a disproportionate impact on the State's black population. The Sentencing Project study noted that 15 percent of the black voting age population was disenfranchised as a result of felony conviction compared to less than 5 percent of the white voting age population.¹⁰⁴

This historical context is important to any discussion of criminal disenfranchisement as a barrier to voting. First, modern felon disenfranchisement statutes in Alabama are the products of a criminal system that has historically and continues to disproportionately impact the black

⁹⁹ Anne Hull, *Chained to a New Kind of Justice*, ST. PETERSBURG TIMES, June 25, 1995, at A1. It is also significant to note that one year prior to the Amendment, Governor had reinstituted Alabama's chain gang. See Nancy A. Ozimek, *Reinstitution of the Chain Gang: A Historical and Constitutional Analysis*, 6 B.U. PUB. INT. L. J. 753, 758-59 (1997).

¹⁰⁰ *Supra* note 72.

¹⁰¹ Prison Policy Initiative, Alabama Profile, <https://www.prisonpolicy.org/profiles/AL.html>.

¹⁰² *Id.*

¹⁰³ The Sentencing Project, *6 million Lost Voters: State-Level Estimates of Felony Disenfranchisement* (2016). <https://www.sentencingproject.org/publications/6-million-lost-voters-state-level-estimates-felony-disenfranchisement-2016/>

¹⁰⁴ *Id.*

population of the state.¹⁰⁵ Black citizens are more likely to be the subject of police investigation, to be arrested, to be charged, to be convicted and to be sentence in Alabama than white citizens.¹⁰⁶

Second, the inequality of the criminal system is parlayed through the criminal disenfranchisement clause into a mechanism to exclude black voters. Simply put, a black Alabama voter is three times more likely to be disenfranchised as a result of criminal conviction than a white Alabama voter and black voters comprise one half of all individuals disenfranchised on the basis of their convictions despite the fact that they are approximately one quarter of the total voting age population.¹⁰⁷

ii. The Implementation

Under the current criminal disenfranchisement policies in Alabama only those convicted of crimes listed in the Definition of Moral Turpitude Act are disenfranchised. Those convicted of other, non-listed offenses or those adjudicated guilty under Alabama's Youthful Offender procedure do not lose their right to vote. People who have not been disenfranchised who are incarcerated may register to vote under Alabama's law and request an absentee ballot to vote by mail.¹⁰⁸ Absentee ballots must be separately requested for each eligible voter and for each election.

Those convicted of disqualifying crimes may apply to the Board of Pardons and Paroles for restoration of their voting rights or a Certification of Restoration of Eligibility to Vote (CERV) provided they have no pending felony charges, they have paid all fines, court ordered costs, fees and restitution ordered at the time of sentencing on disqualifying cases in full, their sentence is complete, and they have successfully completed probation or parole.¹⁰⁹ These requirements create significant impediments to voting.

As discussed above, there can be little question that the Definition of Moral Turpitude Act promotes consistent application of the criminal disenfranchisement clause. The Act not only limits the number of disenfranchising crimes by listing qualifying offenses, but it binds the county registrars to that list. In short, while this Act does little to address the underlying concern regarding the disparate impact of the criminal system on black citizens in the state, it does create a known list of qualifying offenses and ensures that county registrars apply a uniform standard in determining disqualification.

¹⁰⁵ Blair Bowie, Campaign Legal Center, *Challenge to Alabama's Felony Disenfranchisement Moves Toward Trial*, (2018) <https://campaignlegal.org/update/challenge-alabamas-felony-disenfranchisement-moves-toward-trial>.

¹⁰⁶ *Id.*

¹⁰⁷ *Id.*

¹⁰⁸ Merrill Testimony, *Alabama Transcript*, p. 22.

¹⁰⁹ Barry-Blocker Testimony, *Alabama Transcript*, pp. 184-188.

Despite these benefits, disparity in the implementation of the criminal disenfranchisement clause under the Definition of Moral Turpitude Act lingers. First, failure to widely publicize the crimes enumerated under the Act undermines the purported goals of the Act – to limit disqualifying offenses and to avoid improper disenfranchisement. The Act limits the vague standard of “crimes of moral turpitude” by providing a list of about forty crimes that constitute “disqualifying offense.” The problem, however, is that the list itself evades logic or intuition.¹¹⁰ The absence of a readily apparent, coherent theory to the list renders it something that must be seen to know. Included offenses are the opposite of Justice Stewart’s pornography¹¹¹, neither a convict nor a county registrar will necessarily know it when they see it. The impact of this vague standard regarding which offense are included is underscored by an alarming number of unnecessary applications for restoration by those who never lost their rights under the Act.¹¹² Despite the non-intuitive nature of the list, voter registration forms indicates only that a person must not have been convicted of a “disqualifying felony” while offering no reference as to what is a disqualifying felony or the Act.¹¹³

Second, while inclusion on the list of crimes of moral turpitude does not produce permanent disenfranchisement per se, for some offenses, the imposition of high fees on the poorest population in the state renders these offenses de facto permanent bars to restoration.¹¹⁴ Consider drug trafficking offenses – a category of offenses producing disenfranchisement under the Moral Turpitude Act.¹¹⁵ Conviction of a drug trafficking offense results in the imposition of both mandatory minimums and the highest category of fines – some as high as \$200,000.¹¹⁶ In order to be eligible for restoration under Alabama’s law, a person convicted of a drug trafficking offense must first serve the imposed sentence and must pay the imposed fine – a fine subject to a 30 percent fee for late payment (discussed below). For many, this path to restoration is an impossible one. The combined statutory minimums and heavy fines coupled with the requirement that both sentence and financial obligations be completed prior to restoration serve as de facto permanent barriers to enfranchisement. This reality is troubling on its face, but it is rendered more problematic by statistical evidence showing that convictions rates for this class of offenses in Alabama (and throughout the nation) disproportionately impact poor and minority populations. Third, while the state does provide a restoration process for those convicted of qualifying offenses, like the list of such offenses this process is far from intuitive. It requires completion of specified qualifications and application submitted to the Board of Pardons and Paroles. Given the current

¹¹⁰ The state legislature provided no rationale as to why some crimes were included in the list and others were left off. Many of the crimes are those that are ineligible for CERV. Others, which would seem to implicate morality, however, are oddly absent – such as embezzlement of public funds, abuse of office or even voter fraud. See Barry-Blocker Testimony, *Alabama Transcript*, p. 180.

¹¹¹ *Jacobellis v. Ohio*, 378 U.S. 184, 197 (1964).

¹¹² See Marc Meredith and Michael Morse, *Discretionary Disenfranchisement: The Case of Legal Financial Obligations*, 46 THE J. OF LEGAL STUDIES 309 (2017); see also Barry-Blocker Testimony, *Alabama Transcript*, p.180.

¹¹³ *Supra* note 65.

¹¹⁴ Barry-Blocker Testimony, *Alabama Transcript*, pp. 183-184.

¹¹⁵ *Supra* note 74.

¹¹⁶ *Id.*

uncertainty of the Board of Pardons and Paroles in Alabama¹¹⁷, reliance on this agency to regulate restoration is concerning. The vagrancies of the list of disqualifying crimes coupled with the procedural complexity of restoration, renders the distribution of information regarding both the enumerated offenses that produce disqualification as well as the restoration process an imperative to a voting a system that seeks to ensure that eligible citizens can restore their rights or are not improperly disenfranchised in the first place.

Yet, in Alabama it is clear that confusion and inconsistencies around disqualification and the process of restoration persists. The state's failure to widely publicize or offer education around designated crimes or the restoration process have furthered such confusion. During his testimony, Secretary of State Merrill noted that he did not assist, provide applications, or even publicize the process of restoration (known as a CERV).¹¹⁸ Instead, the Secretary of State, who regulates all other aspects of elections in Alabama and self-identifies a mission of registering all eligible voters, jettisons the distribution of information about restoration to third parties and the CERV process itself to the Board of Pardons and Paroles.

To further complicate matters, the Board of Pardons and Paroles often denies CERV's to eligible voters or fails to make re-enfranchisement applications available at the time of either conviction, sentencing, or release.¹¹⁹ Potential voters have reported challenges in acquiring such applications.¹²⁰ Further, testimony from the Alabama Voting Rights Project before the Committee on Administration, Subcommittee on Elections on May 13, 2019, revealed that citizens often believe they are not entitled to vote when they either have never lost their right to vote or in the alternative are eligible for restoration under the CERV process.¹²¹

This testimony was confirmed by a 2016 study that compared a list of all Alabamians whose voter registration had been cancelled or rejected because of a felony conviction to the Alabama Criminal Records Database (Alacourt).¹²² This study found that between 29,000 and 36,000 individuals who had been removed from voter rolls or denied registration were in fact eligible to vote under the HB 282 because they had not been convicted of disqualifying offenses.¹²³ As disturbing as this study is, it only accounts for those who were registered to vote prior to their conviction or who tried to register to vote following conviction.¹²⁴ It provides no data about the number of citizens

¹¹⁷ Times Daily, Parole Board Cancels Hearings Next Week, March 13, 2020, https://www.timesdaily.com/news/state/parole-board-cancels-hearings-next-week/article_f86a099c-7162-5caf-b537-8478f86de3a5.html

¹¹⁸ Merrill Testimony, *Alabama Transcript*, pp. 24-27.

¹¹⁹ Pickett Testimony, *Alabama Transcript*, pp.292-293.

¹²⁰ *Id.*

¹²¹ Alabama Voting Rights Project, *Testimony Before the U.S. House of Representatives Committee on Administration, Subcommittee on Elections*, May 13, 2019. https://campaignlegal.org/sites/default/files/2019-10/AVRP_percent20Testimony_percent20Subcommittee_percent20on_percent20Elections.pdf

¹²² *Supra* note 78.

¹²³ *Id.*

¹²⁴ *Id.*

who have never tried to register to vote because they mistakenly believe they are not entitled to do so. Ironically, the State holds the power to remedy this lack of information, however, to date Alabama has failed to distribute information either directly to effected citizens or to fund and facilitate registration among the convicted population.

Given the disparate impact of the criminal system on minority populations in the state, this failure to make CERV applications widely available or to educate citizens regarding their eligibility to register or the process of restoration implicates not only Alabama's long history of race based exclusion from the ballot, but it perpetuates this disparity. Further, the state is in a unique position to individually notify those convicted of either their eligibility to register to vote or in the alternative the process of restoration. Nowhere is that more evident than in the reality that for many of these citizens it was the State that first individually notified of them of their ineligibility to vote prior to the passage of the Definition of Moral Turpitude Act.¹²⁵

Beyond the failure to provide information about the Act and restoration processes, Alabama requires payment of all fines and fees attached to the original sentence of the disqualifying case as a prerequisite for restoration.¹²⁶ Alone, this places a financial barrier to restoration that disproportionately impacts low income individuals.¹²⁷ This financial burden is exasperated, however, by the requirement that individuals pay any collection fee attached to such fines and fees in order to clear the original debt.¹²⁸ This collection fee, which attaches when the debt is 90 days old and has been referred to the district attorney's office for non-payment, is 30 percent of the original debt.¹²⁹ For an individual ordered to pay \$1000 in fines, for example, the addition of the collection fee renders the total debt due \$1300. In addition, efforts to contact different counties regarding how the collection fee is calculated – a one-time fee, annually, or in some other method – produced inconsistent results.

While the payment of the collection fee itself is not required to be CERV eligible (only fines, court ordered costs, fees and restitution ordered at the time of sentencing on disqualifying cases must be paid in full), under Attorney General Opinion 2011-049 issued March 30, 2011, the collection fee may be collected first prior to the collection of any underlying debt.¹³⁰ The result is that the collection fee must be paid in order for the fines, court ordered costs, fees and restitution ordered at the time of sentencing on disqualifying cases to be paid. The individual who owes \$1000 plus the \$300 collection fee will therefore have to pay the full \$1300 before he or she may apply for CERV. Thus, while Secretary of State Merrill has indicated that payment of the collection fee is

¹²⁵ Ala. Code § 17-3-31

¹²⁶ *Id.*

¹²⁷ The Board of Pardons and Paroles may reduce or forgive such fees. In addition, those not convicted of disqualifying felony remain eligible to vote regardless of outstanding fines and fees.

¹²⁸ *Supra* note 119.

¹²⁹ Ala. Code § 45-20-82.65

¹³⁰ A.G. No. 2011-049, *Restitution Recovery*, <https://www.alabamaag.gov/Documents/opin/2011-049.pdf>.

not required to obtain CERV, for those unable to pay the entirety of the fees, costs and fines within the prescribed ninety days, the collection fee must be paid before one can even begin to address the original debt. The purported distinction between payment of this additional collection fee and payment of the original fines and fees is therefore a distinction without a difference for the poor and serves to only compound confusion and restrict access to the ballot for poor populations in our state.

The imposition of this extraordinarily high collection fee (in other contexts a 30 percent state-imposed interest rate would seem unconscionable) and the requirement that it be paid first, as opposed to last or on a pro rata basis, not only seems to defeat whatever purpose such court imposed fines and fees might serve, but also disproportionately disadvantages the poor who lack the resources to pay the imposed debt prior to the 90-day deadline. Such fines and fees are often set, mandatory amounts, unconnected in any way to the facts of the case or the harms the defendant inflicted with his or her crime.¹³¹ To link other rights to them therefore seems to serve little purpose but to ensure that those without economic resources remain ineligible to vote. This is especially troubling when one considers that poverty disproportionately impacts minority citizens in our state. This reality again raises the specter that Alabama's current CERV process propagates the same race-based policies that led to the Voting Rights Act of 1965.

This year, the Administrative Office of Courts published a form to allow felons to request that any money they pay be applied to outstanding fines, fees and costs.¹³² Prior to the creation of this form, felons could request that courts "reprioritize" the order of the application of payments made. Counties also have the option to not order the collection fee immediately or to apply payments to fines, fees and costs prior to the imposed collection fee. Despite the state's claim that such options mitigate the impact of the collection fee on felon re-enfranchisement process,¹³³ requests for information regarding how frequently these options are utilized or even inquiries into how well they are publicized have gone unanswered.

In short, there is no data that this Committee can locate to suggest that these remedies are either widely known or utilized. Beyond this, even as these remedies may offer relief for some, they impose additional procedural hurdles that felons must clear before restoration and at best serve only as an alternative to the state's endorsed norm that collection fees may be imposed and can be collected first.

In contrast to this lack of information, data regarding the impact of legal financial obligations as a requisite for restoration is plentiful. A recent study concluded that one third of CERV applications are denied due to outstanding court debt. The same study also found a statistically significant

¹³¹ Ala. Code § 13A-5-11(a).

¹³² Alabama Municipal Form MC-17, Distribution Schedule of Costs, Fees and Fines in Municipal Courts (2019) <https://eforms.alacourt.gov/media/orkbukj5/distribution-schedule-of-costs-fees-and-fines-in-municipal-courts.pdf>

¹³³ *Supra* note 51, pp.10-11.

correlation between outstanding court debt and indigency with 82.3 percent of those assigned a public defender based on an indigency assessment having an outstanding balance on imposed fines and fees compared to only 67.1 percent of those who retained private counsel. In short, the absence of an indigency consideration prior to the imposition of fines and fees following conviction disproportionately burdens poor defendants at the time the court imposes the financial obligation.¹³⁴ The burden is then aggravated for these same poor defendants through the imposition of the 30 percent late payment fee. And finally, is perpetuated as restoration procedures require payment of the originally imposed amount. In short, these financial obligations ensure that marginal populations in the state remain disenfranchised.

iii. Recommendations

On the most basic level the long history of a disparate impact as a result of the criminal disenfranchisement clause in Alabama supports a return to preclearance status under Section 5 of the Voting Rights Act. While the clause, and the subsequent Definition of Moral Turpitude Act which streamlines implementation of the clause, appear neutral on their face, the history of the clause as well as the disparate rates of incarceration for the black population in the state establishes that despite this facial neutrality the clause creates a barrier to voting that is disproportionate for black citizens. The lack of preclearance places the burden on the disenfranchised individuals to demonstrate this disparate impact. Given the economic reality of such individuals, this is a heavy burden to take on. Returning to preclearance status would flip this burden, ensuring review of laws effecting voting rights.¹³⁵

Beyond this global recommendation with regard to the criminal disenfranchisement procedures in Alabama, the Committee also has some specific recommendations:

1. The twin aims of the Definition of Moral Turpitude Act to ensure consistent application of the criminal disenfranchisement statute in Alabama and to limit “qualifying” convictions are undermined by the failure to directly communicate with those previously disenfranchised as a result of pre-Act convictions that no longer serve as qualifying. This failure to communicate directly with those effected by the change in the classification of qualifying offenses implicates a disparate impact given the disproportionate impact of the criminal disenfranchisement clause and its implementation on black potential voters. The Committee therefore recommends that the state undertake direct communication with such potential voters.

¹³⁴ While beyond the scope of this Report, it is important to note that such financial obligations serve to perpetuate cycles of poverty and are criminogenic. A 2014 TASC study found that financial burdens were borne not only by the defendant but by his/her family and entire community. In addition, many self-reported resorting to criminal activity including theft and drug distribution to raise funds to repay court imposed financial obligations. See Foster Cook, *The Burden of Criminal Justice Debt in Alabama* (2014).

¹³⁵ This will be discussed further in the Global Recommendation Section.

2. Second, the State's failure to make CERV applications widely available as part of the standard voter registration process – a process overseen by the Secretary of State and County Registrars – has not only created a barrier to restoration for eligible candidates, but by relying on an underfunded parole and pardon system has essentially pushed the burden for restoration to private actors who currently provide information about the CERV process.¹³⁶ This reliance on third party actors represents a dereliction of the state's duty to enforce statutory mandates – in this case, the restoration of voting rights to those eligible. The Committee therefore recommends that the CERV process be treated as part of the voter registration process and that the Secretary of State's Office assume some responsibility to providing both information about this process and also applications for restoration. To be clear, it is not the recommendation of the Committee that the Secretary of State's Office be charged with determining CERV eligibility, but rather that the Secretary's Office treat the CERV application consistently with other applications relating to voting eligibility. It is the belief of this Committee that centralizing information about voter eligibility on a single platform will promote voter awareness and decrease barriers to the ballot.
3. Third, this Committee recommends that the requirement of payment of all fines and fees imposed at the time of the conviction be removed as a barrier to CERV eligibility. This requirement places an undue burden on poor voters in our state.
4. Finally, it is the recommendation of the Committee that the Attorney General's Office rescind its Opinion 2011-049 issued March 30, 2011, in which the Office indicated that counties may collect the 30 percent the collection fee on unpaid court fines and fees prior to collecting any underlying debt. While an outstanding collection fee is not a barrier to CERV eligibility, permitting counties to collect the fee first creates an unnecessary hurdle for those seeking restoration of their voting rights following a disqualifying felony conviction and available alternative remedies are insufficient. Not only do such financial burdens disproportionately impact low income voters, but there is little evidence that they are designed to address particular harms created either by the initial offense or the delayed collection of the originally imposed fines and fees at conviction. With the exception of restitution, such fines and fees are imposed based on a schedule that does not account for a defendant's particular act. Likewise, the 30 percent collection fee imposed is a standard fee which does not take into account the defendant's ability to pay, his payment history or the offense for which he was convicted. In this it is clear that the original fines and fees serve as a financial sanction and the collection fee as a means to perpetuate the punishment of the poor. The Attorney General's opinion exasperates this disparity by permitting collection of the fee prior to the outstanding principle creating one more barrier to enfranchisement for Alabama's marginalized populations.

¹³⁶ Merrill Testimony, *Alabama Transcript*, p. 23.

D. Voter Roll Purging

Assuming the voter is able to register, staying registered as an active voter is another story. Once a person is registered to vote, voter roll purging policies may remove a voter. Since 2015, Alabama has removed an estimated 658,000 voters from registration lists, 340,000 in 2017 alone.¹³⁷ Such purging policies do not prevent a person entitled to vote from casting a ballot – in fact the state offers procedures to vote even if the voter’s name has been removed from the voting rolls – however, purging policies may have a chilling effect on voting as they require voters to complete additional paper work prior to voting and may be susceptible to misinformation and improper application.

In addition, those with housing insecurity or lack of regular access to the mail may suffer purges even as they remain eligible to vote in a particular precinct. Again, this policy, while facially neutral, may have a disparate impact on the state’s poor, minority and rural voters. Simply put, the Committee’s global concern is that inactive voter policies may negate many of the advances made in the area of registration. It is likewise unclear what function voter purging policies serve.

i. Details and Implementation of Purging Policies

At their most basic level, purging policies are designed to separate active voters from those who are inactive or ineligible to vote. Such policies work in conjunction with registration processes to ensure that voting lists maintained either at the state level or at the precinct level accurately reflect eligible voters in each precinct. Inactive voters are designated on separate voting lists and must update their voter registration record before being permitted to vote.¹³⁸ Such update forms are available at the polling place.¹³⁹ If the voter completes the update form, he or she may vote and may not be required to vote a provisional ballot.

While no precise motivation for such policies has been articulated to this Committee, on his website the Secretary of State indicates that the purpose of voter roll purging is efficiency. It is not clear how the presence of a non-voter on any particular voter roll effects the efficiency of state elections. Presumably such a voter would be uninterested in or unable to vote in the precinct for which they are improperly registered. This raises the question if the more accurate motive for purging policies is concern over voter fraud – the concern that inaccurate voter rolls might permit an ineligible voter to vote. While vote integrity is important in any democracy, the risk of individual voter fraud, while serving as a catchall justification for many restrictions on voting,

¹³⁷ Tim Lockette, *Purge of Voter Rolls Creates Stir in Alabama Congressional Race*, THE ANISTON STAR, Oct. 22, 2018, <https://thevotingnews.com/purge-of-voter-rolls-creates-stir-in-alabama-congressional-race-anniston-star/>

¹³⁸ Ala. Code § 17-4-9.

¹³⁹ Ala. Admin. Rule 820-2.2-.13(2).

remains an unproven proposition. In addition, in a state that requires both proactive registration and identification to vote, it is unclear what role purging plays in ensuring vote integrity.

What is clear is that since taking office, Secretary of State Merrill has engaged in an aggressive voter purging policy. In Alabama, voters are purged, or removed from polling lists for three reasons: disqualification; continuous purging; and when the voter has failed to provide address verification.¹⁴⁰

a. Disqualification

Turning first to disqualification. Disqualification occurs when the voter has died, is mentally incompetent, has been convicted of a disqualifying offense, or when the Board of Registrars has received at least one of two types of written notification that the registrant has moved outside the jurisdiction.¹⁴¹ As discussed above, a voter who has been convicted of a disqualifying offense may be restored under felon restoration procedures. Likewise, a voter disqualified because he or she left the jurisdiction, may register to vote upon returning to the jurisdiction. Whether restoration is based on a CERV or on registration itself, both processes require a voter to take actions to ensure that he or she is returned to the voter rolls. In this, voter purging procedures raise the same risk of exclusion that felon restoration and registration requirements pose as discussed above.

Disqualification based on mental incompetence in contrast, seems to suffer from fundamental misunderstandings and misinformation among election officials, judicial officials, and the disability community in Alabama regarding this basis for removal. During the 2018 election, voters with developmental delays reported being told by election officials, often at the polling place, that they could not vote because of mental incompetence.¹⁴² Likewise, a communal belief persists that those with subnormal or low IQ or who have been given accommodations under individual education plans for developmental delay are not eligible to vote under the mental incompetence provision.¹⁴³ This belief, while not necessarily promulgated by the state, is also not disputed explicitly by the state and likely effects voter registration.

Finally, judges considering guardianship applications for adults with developmental delays and low IQ frequently include a rote finding of mental incompetency that precludes voter registration. This finding is often made without any evidentiary record to support its use or without specific consideration of the long-term effect of the finding on voter eligibility. This basis of disqualification therefore raises concerns that, in its implementation, it serves to improperly exclude some voters and excludes other without any meaningful process.

¹⁴⁰ Ala. Code §§ 17-4-3 and 17-4-4.

¹⁴¹ Ala. Code § 17-4-30.

¹⁴² Persons with developmental disabilities have the right to vote and participate in the political process. *See* Americans With Disabilities Act, 42 U.S.C. § 12132. Ala. Code §§ 38-9C-4(7) and 4(5).

¹⁴³ *Id.*

b. Continuous Purging and Address Verification Processes

In January 2017, in compliance with the National Voter Registration Act, the Secretary of State's Office began contacting voters in an effort to verify or update their voter registration. This process of continuous purging consists of a two-part mailing. First, the Secretary of State's office mailed all registered voters in the state non-forwardable postcards to verify the registration information the voter provided, including his or her address.¹⁴⁴ This non-forwardable postcard asked the voter to review their registration information contained on the postcard. If the information on the postcard was accurate, the voter could retain the card. A retained card is considered a successful delivery to registrant. If this successful delivery of the non-forwardable postcard occurs within 90 days of the original mailing, it indicated valid registration information and served to verify the registrant's address.¹⁴⁵ If verification occurs, there is no change in the voter's registration status – he or she remains on the voting rolls as an active voter.

If, however, the information on the non-forwardable was inaccurate or required updating, the recipient was instructed to update the card. The voter could do so through a variety of options, in person at their board of registrar's office, by returning the card, by utilizing the Secretary of State's website or by using the voter registration app. If the voter updated their information, the confirmation process appears to begin again, though the Secretary of State's website is unclear if the updated information constitutes verification or not.

If the voter listed on the non-forwardable postcard no longer lived at the address to which the card was sent, the recipient of the card is instructed to mark the card "return to sender" and place it back in the mail. Cards marked return to sender and placed back in the mail were delivered to the local county board of registrar's office and were recorded as "returned."¹⁴⁶ When this occurred the verification had failed as the non-forwardable postcard was considered undeliverable.

At this point, a second forwardable notice was sent. This second notice indicates that the first non-forwardable mailing was returned and that the voter must either update his or her voter registration information or contact the registrar's office to have their name removed if they are no longer living in the state. The second forwardable notice provides a postage-paid confirmation card.¹⁴⁷ In addition, voters receiving this second forwardable card may update their registration information in person, through the Secretary of State's website or through the registration app.¹⁴⁸

If the second forwardable address confirmation card is returned as undeliverable, or if the voter did not return the address confirmation card within 90 days of the second mailing, the registrant's

¹⁴⁴ Ala. Code § 17-4-30(a)).

¹⁴⁵ Ala. Code § 17-4-30(b).

¹⁴⁶ Ala. Code § 17-4-30.

¹⁴⁷ Ala. Code § 17-4-30(c).

¹⁴⁸ *Id.*

name is placed on the inactive list and in a suspended file. Inactive voter registration status does not bar a voter from voting as a normal voter on election day.¹⁴⁹ An inactive voter may vote and may not be required to vote a provisional ballot, however prior to voting, he or she must update his or her voter registration information at the polling place.¹⁵⁰

Under Alabama's continuous purging procedures, voters are purged from voters rolls only if during a four-year election cycle, they fail to respond to the two part mailing process and do not participate in any election during the same four-year period.¹⁵¹ In other words, if a voter whose name is in the suspended file does not vote in an election conducted during the two consecutive federal election cycles (4 years) or does not provided updated information of his or her address, his or her name is purged from the voter rolls. His or her name will not appear on the voting rolls as a registered voter when he or she appears at the polling place to cast a ballot.

If the person's name is not on the list of registered voters or if it is listed as an inactive voter, he/she must provide proof of registration -- a certificate from the board of registrars.¹⁵² As per the Alabama Election Handbook, "the certificate issued to voters when they originally register is not collected when people change their residence or otherwise become ineligible, so it is good practice to check with board of registrars or the judge of probate if a person presents an old certificate. It is recommended that the certificate be taken up and kept with the list of registered voters so that it cannot be used twice in a single election and so that it will be available in the event of a contest."¹⁵³ Once acceptable proof is presented, the person may be added to the list of registered voters and should be allowed to vote.

Any qualified voter residing in the precinct or voting district who cannot provide proof of registration may vote a provisional ballot if their name is not on the official voter rolls.¹⁵⁴ In order for the provisional ballot to be counted, however, the voter must present proof to the Board of Registrars no later than 5:00 p.m. on the Friday following election day that he or she is an eligible voter in the precinct in question.¹⁵⁵ If the voter has not voted in the proper precinct, the provisional ballot will not be counted.¹⁵⁶

If a voter whose name appears on the inactive list appears on election day, he or she must be allowed to reidentify and vote a regular ballot.¹⁵⁷ Reidentification procedures are set by the Secretary of State and pre-date the *Shelby County* decision, i.e. they were pre-cleared by the

¹⁴⁹ Ala. Code § 17-4-30.

¹⁵⁰ Ala. Admin. Code Rule 820-2.2-.13(2).

¹⁵¹ Ala. Code § 17-4-30(c).

¹⁵² Ala. Code § 17-10-3.

¹⁵³ Alabama Election Handbook, Eighteenth Edition, p. 137 (2017-2018).

¹⁵⁴ *Supra* note 146.

¹⁵⁵ Ala. Code § 17-10-2 (a)(3).

¹⁵⁶ Ala. Code § 17-10-2 (a)(5)(c).

¹⁵⁷ Ala. Code § 17-4-9.

Department of Justice.¹⁵⁸ Official lists of qualified voters in a county are then compiled and furnished to the election manager by the judge of probate at least 55 days before the election and in the case of municipal elections at least 35 days prior to the election.¹⁵⁹

ii. The Effect of Purges

Compared to registration and identification processes, purging and address verification processes are among the most complicated regulations in Alabama's election code. This is not helped by the fact that the purging and verification policies are governed by federal and state statutes and Administrative Rules. While overseen by the Secretary of State's Office, these policies rely on local Registrar's Offices and the postal service to function. In short, this is a confusing process that only becomes more confusing if the voter is unable to receive and retain the initial non-forwardable mailer.

It is also not clear on the most basic level if the non-return of the mailer actually serves as a verification. Put another way, as a matter of logic, the fact that the mailer does not come back provides limited information and is subject to a variety of variables that may produce a false verification. To name a few, the mailer could have been misdelivered or a person could have failed to return the mailer despite the fact that the names on the mailer did not match the residents of the house. That there are spaces for failure does not render a policy *per se* irredeemable but given the apparent goals accuracy, a system prone to failure seems an odd choice particularly when the system may exclude, or disadvantage particular populations as discussed below.

a. *The Challenges of Mailings*

In addition to concerns expressed previously about disqualification, a system of purging that is dependent on mailing raises concerns for those with housing insecurity or who may not receive mail at their place of residence. Poor and rural populations may not remain at a residence for extended period of times or may pick up mail periodically at a non-residential location such as a P.O. Box. This implicates not only purging methods but address verification itself.

Voting regulations in Alabama permit voting if a voter maintains residency in a precinct even if they have moved from the original address of registration or do not receive mail at that address. A voter therefore could have moved or not receive mail and still be eligible to vote within a precinct despite having not received direct mailings to confirm residence or having voted in last two federal election cycles (statistically some elections simply do not draw large voting populations). In short, despite their compliance with Alabama's voting requirements *vis a vis* residency, their lack of

¹⁵⁸ Ala. Code §§ 17-4-9, 17-1-2(5), 17-9-15.

¹⁵⁹ Ala. Code § 17-11-5(b)).

address confirmation and active voting will render them inactive and potentially purged from election rolls.

Continuous purging methods also assumes that a voter, even one that remains at a particular address, may receive mail and be able to return a card in a designated time – a requirement not indicated in any Alabama statute as a requisite to vote. Not all eligible voters however may be able to meet this requirement. Those with housing insecurity are most likely to fail to meet this requirement, but seasonal workers or those who must travel for work may face similar challenges. The fact that these voters may undergo procedures to reinstate their voting status does not mitigate the effect of such regulations or lessen the persistent message that voting is easier for some populations than others. It also raises the more fundamental question of what precisely are voter purging processes accomplishing in a state that requires affirmative registration and identification to vote?

b. The Challenges of Reinstatement

In addition to the concerns surrounding these purging processes discussed above, the process of updating and address verification raises concern for their effect on marginalized populations. Updated forms take time to complete. Working voters often appear at polling places during limited windows – statistics suggest prior to work, lunchtimes, and after work time slots are more commonly used in Alabama. For workers casting ballots during these times, polling places are often crowded and the process of voting is time-consuming. Filling out an update form takes additional time a voter may or may not be able to sacrifice. Simply put, a voter may have to choose between completing the required form and getting to work on time or picking up a child or caring for a family member. Such a voter may cast a provisional ballot in order to avoid having to fill out the update form, but in order to have that ballot counted, he or she will have to provide the required documentation (discussed later) prior to 5:00 p.m. on the Friday following the election.¹⁶⁰ For working men and women without flexible work schedules, caregivers, or those without ready access to transportation this may be an insurmountable burden.

Given that the system of verification depends on voters receiving (or in the case of inactive voters not receiving) mailings, voters may not realize they have been purged or placed on inactive voter rolls until they actually show up to vote. For their part, polling officials do not appear to always understand regulations that permit the voter to cast a ballot as opposed to a provisional ballot.¹⁶¹ This potentially creates confusion when a voter is told he or she is not on the rolls, as well as frustration when the voter is told he or she may not vote or must vote provisionally. Further confusion seems to persist among members of the public about what happens to provisional ballots and when they are counted and when they are not. Lack of information about this process and

¹⁶⁰ Ala. Code § 17-10-2 (a)(3).

¹⁶¹ Crayton Testimony, *Alabama Transcript*, p.67.

conflicting recitations of how this process works creates not only confusion but a sense that voter purging methods are designed to disenfranchise. Even if this is not the case, the perception is significant as it erodes faith in the democratic and electoral process.

This is further complicated by the fact that errors in voter rolls appear to persist despite the two-part mailing process. In the 2017 election, the NAACP reported that properly registered voters had been improperly placed on either inactive voter or told that they had to present identification with an address that matched that on the voter roll (not actually a requirement in Alabama).¹⁶² In addition, the Equal Justice Initiative found that Alabama was not following its own purging procedure – removing voters prior to the expiration of the two federal election cycles using a third party source to establish that the voter had moved or was no longer eligible to vote.¹⁶³ Again this suggests that polling workers and the process of voter verification itself suffers from misinformation and misuse that appears to disproportionately effect those with the fewest resources and those historically disenfranchised.

Finally, construction of voter rolls themselves presents a problem in our state. Under Alabama law, the deadline to register to vote is 14 days prior to elections¹⁶⁴, but official lists of voters are furnished well in advance of this deadline (55 or 35 days depending on the election).¹⁶⁵ These different time frames – between registration deadlines and the issuance of voter rolls -- creates confusion at polling places and has the potential either to force some voters to cast provisional ballots who should not have to or to cause some voters not to vote at all – in short, a type of de facto purging. This Committee has yet to be able to track down an explanation of why these timeframes are not coordinated.

iii. Recommendations

As with other voting regulations in Alabama, it is not clear what function purging processes or address verification process serve. Setting aside for a moment the question of whether or not individual voter fraud poses a significant threat to elections sufficient to justify the chilling effect that current voting regulations produce on poor, minority and rural communities, to the extent that “accurate” voter rolls are an important state goal, it is not clear that the current system achieves these. Misinformation, inaccurate and inconsistent procedures and mechanisms of verification with error built in, to name a few, render voter rolls inaccurate despite of and perhaps because of purging and address verification policies. Further, such policies may discourage or prevent eligible

¹⁶² See <https://www.naacpldf.org/files/about-us/2017%2012%2014%20LDF%20Letter%20re%20Issues%20Concerning%20the%20Special%20Election.pdf>

¹⁶³ See <https://eji.org/news/voter-suppression-persists-through-purging/>

¹⁶⁴ Ala. Code § 17-3-50.

¹⁶⁵ See Ala. Code § 17-11-5(b).

voters from casting ballots. In addition, identification and registration requirements would seem to accomplish accuracy goals rendering address verification and purging processes unnecessary.

One possibility is to forgo purging processes altogether. To the extent that this is not possible, the state could adopt a system that relies on multiple alternative methods of notification and verification. While the current system allows verification in a variety of ways (through mailings, in person at the board of registrar's office or online), other possibilities exist and may be more accessible. In the alternative, relying on voters to provide updated information themselves may be sufficient to accomplish state goals.

Regulations Surrounding Polling

In addition to regulations relating to pre-voting processes, following the Court's decision in *Shelby County*, Alabama adopted a variety of policies that relating to polling itself. Such policies are less focused on the voter and more focused on the infrastructure of voting. Nonetheless, these policies may affect voting in a variety of ways regulating polling places, polling hours, construction of voting districts and the training poll workers receive. Like their pre-voting counterparts, these policies control access to the ballot by controlling when people can vote, where they can vote and what information a voter receives at the polling place. This section considers these policies.

A. Polling Place Closures

From 2013, following the *Shelby County* decision, to 2016, a study found that 12 counties in Alabama closed 66 polling places.¹⁶⁶ Another study put the number of closures at 72 from 2013 to 2019.¹⁶⁷ Testimony received at the February 22, 2018, hearing revealed that the closing of polling places and confusion regarding new polling locations persists in Alabama effecting ballot access.¹⁶⁸

The presence of consistent and reliable polling locations is critical to a functioning democracy, particularly among populations that may have limited windows of time to vote and limited access to transportation. The closure of a polling place can present a barrier to voting, even if notice of such closings are publicized. Unfortunately, in Alabama, polling place closures often took place without clear notice and without any effort to gain the approval from the impacted voters and other

¹⁶⁶ See The Leadership Conference Education Fund, *The Great Poll Closure*, (Nov. 2016) <http://civilrightsdocs.info/pdf/reports/2016/poll-closure-report-web.pdf>. This study relied on limited data, examining 18 total counties in Alabama with a total of 12 reporting 66 closings.

¹⁶⁷ See The Leadership Conference on Civil and Human Rights, *Democracy Diverted: Polling Place Closures and the Right to Vote*. <http://civilrightsdocs.info/pdf/reports/Democracy-Diverted.pdf>.

¹⁶⁸ Simelton Testimony, *Alabama Transcript*, p.254.

community stakeholders.¹⁶⁹ As well, voters were often not given information about how closure decisions were made or why. This lack of transparency and effort to obtain input from effected communities creates an additional potential barrier to voting by suggesting that citizen engagement was unnecessary and that state officials would determine where voters could exercise their rights. This suggestion is reinforced when state officials offer limited or pretextual explanation for polling place closures, as they did in Alabama.

Alabama officials offered five explanations for polling closures: budget constraints, compliance with the Americans with Disabilities Act (ADA), school safety concerns, limited parking and changes in voter turnout.¹⁷⁰ The most common explanations offered were that there were too many voters for the polling place to accommodate or that the polling place had to be removed from schools under state law,¹⁷¹ though no state law requires such removal.¹⁷² In addition, media inquiries regarding polling place closure often resulted in silence from state officials. This not only precludes residents from understanding why polling places were closed, but it obscures and prevents challenges to the official reason for the closure by declining to provide information about such closures. While the citizen may be able to protest the closure itself (assuming he or she realizes it has occurred), the citizen cannot protest reasons he or she does not know.

This trend is particularly troubling given its impact on poor, minority and rural communities in which most closures occurred. Rural areas may also face particular challenges as Alabama law requires the county commission to select at least one polling place for each precinct.¹⁷³ “In an effort to reduce costs for elections some counties have moved to voting centers. Voting centers combine voters from two or more precincts and allow them to vote in a centralized location.”¹⁷⁴ In practical terms this means polling places may be farther away from the very voters who have the least access to public transportation and the internet.

The decision to create voting centers, in the process closing neighborhood polling places in predominantly low-income locations and in black belt and rural areas where public transport is scarce, has created logistical challenges for voters in Alabama. Testimony from the Secretary of State, Mr. Parks, and representatives from the NAACP, ACLU, and the Equal Justice Initiative (EJI) highlight how contested the effect of such closures on voting populations are.¹⁷⁵ At a

¹⁶⁹ See Mary Sell, *In Some Counties, Alabama Voters Have Lost a Quarter of Their Polling Places Since 2010*, BIRMINGHAM WATCH (Nov. 2, 2018), <https://birminghamwatch.org/counties-alabama-voters-lost-quarter-polling-places-since-2010/>.

¹⁷⁰ *Id.*

¹⁷¹ *Supra* note 163.

¹⁷² See Donna Thornton, *Possible Changes in District 2 Polls Bring Opposition*, GADSEN MESSENGER (Sep. 6, 2013), <https://gadsdenmessenger.com/2013/09/06/possible-changes-in-district-2-polls-bring-opposition/>.

¹⁷³ Ala. Code §§ 17-6-3 and 17-6-4.

¹⁷⁴ Alabama Election Handbook, Eighteenth Edition, p.240 (2017-2018).

¹⁷⁵ Parks Testimony, *Alabama Transcript*, p.113, Holmes Testimony, *Alabama Transcript*, p.169, Crayton Testimony, *Alabama Transcript*, p.55.

minimum, the state should conduct a study to determine the effect. Our state should not accept that a promise of notice of a polling place closure will somehow render all who might seek to vote either aware of the closure or able to travel to a new location. Again, for those with limited time, resources, and transportation access, such changes may result in choosing between life's necessities and casting a ballot.

To Secretary of State Merrill's credit, up-to-date polling location information is available through the Secretary of State's website. The existence of such information permits voters to learn of polling place closures quickly and efficiently. Concerns persist that those without access to the internet may have difficulty accessing information about closures in a timely fashion, particularly when such closures occur for the first time or with short notice. In addition, any notice regarding closure will not mitigate the devastating effect of polling place closures among marginalized communities who lack transportation to new polling places or lack a means to discern when and if previous polling places have been closed.

In addition to sending a message that some voters may be undervalued by the state and creating practical barrier to voting, polling place closures also propagate confusion that can result in disenfranchisement by creating a risk that the voter may be voting in the wrong precinct. Under Alabama's voting regulations, if a person not listed on the voter rolls at a precinct seeks to vote he or she may cast a provisional ballot.¹⁷⁶ If, however, this provisional ballot is cast in the wrong polling place or precinct then it may not be counted.¹⁷⁷ Ideally, if the person is at the wrong precinct, he or she should be directed to the correct polling place. The voter must then travel to the new polling place and seek to cast a ballot within the provided poll hours.

This ideal system, however, depends on members of the Board of Registrars offices actually being able to speak to poll officials to confirm where the voter should vote and/or the voter being able to travel to a new location to vote. This may be challenging during peak voting hours or if the voter has limited time, resources, or access to transportation. It is not clear that such communication is always occurring. Reports from the 2018 mid-term elections suggested that poll officials were not always able to determine where a voter should cast a ballot.¹⁷⁸ As a result, some voters were given provisional ballots despite the fact that they were voting in the wrong precinct.¹⁷⁹ A voter's failure to appear at the correct precinct may be attributable to a variety of factors – poll location change, voter error or misinformation – but a failure to provide the voter with the correct information about the appropriate location to vote is problematic and attributable entirely to the state. Such a failure has been exasperated by the mass closure of polling places.

¹⁷⁶ Ala. Code § 17-10-2.

¹⁷⁷ Ala. Code § 17-10-3.

¹⁷⁸ Boone Testimony, Alabama Transcript, p.118.

¹⁷⁹ *Id.* at 149.

It is not clear what the precise basis for the state's decision to close polling places was or what effect such closure had on voting. Therefore, it is the recommendation of this Committee that the state seek information regarding the effect of particular populations with an eye towards notice, transportation and transparency with regards to basis for the closures.

B. Poll Hours

Just as limited access to polling locations may present a barrier to voting, so too may limited polling hours. Under Alabama laws, polls in state and county elections must remain open between the hours of 7 a.m. and 7 p.m.¹⁸⁰ Anyone within the polling place or in line to vote at the closing time who has not had an opportunity to vote must be permitted to do so.¹⁸¹ If, however, a voter leaves the line to vote, he or she may not return after the polls have closed to cast a ballot.¹⁸² After the time of closing, the voter must remain in line to vote in order to be eligible to cast a ballot. A federal or state court order may extend polling times beyond 7 p.m., but anyone who votes during the extended period must cast a provisional ballot.¹⁸³

At first glance a twelve-hour voting window appears to accommodate those who work or have caregiver obligations, but this first impression is deceiving. Given increasingly long commute times and irregular work hours, a 7-7 polling window effectively places voting within working and child-care hours. Given that peak voting times (mornings, lunch time and evenings after 5:00 p.m.) coincide with work and familial obligations and that Alabama provides no "state holiday" for voting, long lines at polling places may discourage or prevent some voters from ultimately casting a ballot. This problem is exacerbated by the closure and combining of polling places, which have increased the voting population at particular locations and/or increased the distance between the polling place and the voter's place of work or home.

Single day, limited polling hours (even ones that span for 12 hours) may be especially challenging for those without access to reliable or public transportation, those who work multiple jobs in which their salary or wage is dependent on their presence, those with childcare or elder care obligations and those who must travel long distances between their work and polling place. While Alabama limits the distances a polling place can be from the voter's residence no such limitations exist for distances between a voter's job and the polling place. For marginal voters, voting during work times may force a difficult choice between earning needed income and realizing the right to vote.

Again, it is unclear what the state's rationale is for single day voting and limited voting hours. In the past the State has argued that limited voting times promote efficiency. Even if this were true,

¹⁸⁰ Ala. Code §§ 17-9-6 and 11-46-28(a).

¹⁸¹ Ala. Code § 17-12-1.

¹⁸² *Id.*

¹⁸³ Ala. Code § 17-10-2 (4).

efficiency concerns should not unduly burden access to the ballot. This Committee recommends reconsideration of contracted voting periods to allow for voting on multiple days including on weekends. This would give voters a variety of available times to cast ballots and might actually promote efficiency by ensuring that voters were not all arriving on a single day. While it might not be feasible to offer such extended voting periods at all polling places, limited extended voting in other jurisdictions has proven both efficient and also has not demonstrated any particular susceptibility to fraud.¹⁸⁴

C. District Gerrymandering

Questions about redistricting in Alabama have long been at the forefront. Prior to the *Shelby County* decision, the Alabama Legislative Black Caucus and the Alabama Democratic Caucus challenged Alabama's 2011 legislative map.¹⁸⁵ In 2017, a three-judge panel ruled that 12 legislative districts in the 2011 legislative map were unconstitutional racial gerrymanders as a result of a policy adopted by the Alabama legislature that required that the population of majority Black districts to be kept at pre-redistricting levels under Section 5 of the VRA.¹⁸⁶ The result was that certain districts had to be significantly reshaped in order to equalize population. Alabama adopted this policy to avoid retrogression under Section 5.¹⁸⁷

A three-judge panel of the United States District Court for the Middle District of Alabama ruled on April 5, 2013 that the plaintiffs had not shown that the districts were redrawn primarily on the basis of race and rejecting other non-race-based claims.¹⁸⁸ The Alabama Legislative Black Caucus and the Alabama Democratic Caucus appealed the ruling to the Supreme Court, seeking that the decision of the United States District Court for the Middle District of Alabama be reversed and remanded.¹⁸⁹

The plaintiffs argued, among other things, that the state's fixed racial percentages for districts, which the state adopted without conducting any factual analysis, fundamentally misconstrued the requirements of Section 5 of the Voting Rights Act and imposed racial quotas that cannot be justified by any compelling state interest.¹⁹⁰ They further claimed that Section 5 requires a much more nuanced and factual analysis to ensure that the VRA is not used as pretext for diminishing or harming the political rights of minority voters.¹⁹¹

¹⁸⁴ See <https://bipartisanpolicy.org/wp-content/uploads/2019/03/Improving-The-Voter-Experience-Reducing-Polling-Place-Wait-Times-by-Measuring-Lines-and-Managing-Polling-Place-Resources.pdf> which found extending voting hours was one way to reduce voter wait times and increase voter turn out.

¹⁸⁵ Ala. Legislative Black Caucus, et al v. Alabama, 989 F. Supp. 2d 1227.

¹⁸⁶ *Id.*

¹⁸⁷ *Id.*

¹⁸⁸ *Id.*

¹⁸⁹ *Id.*

¹⁹⁰ *Id.*

¹⁹¹ *Id.*

On March 25, 2015, the Supreme Court issued its ruling in *Alabama Legislative Black Caucus v. Alabama*.¹⁹² In a 5-4 decision, the Court reversed the district court's decision, finding that it had erred in three ways: first, by failing to consider the role of race on a district by district level, instead by asking whether race predominated in the drawing of the maps as a whole; second, by accepting the need to eliminate population deviations as evidence that the map was not drawn "predominately on the basis of race;" and third, by concluding that Alabama's use of race was narrowly tailored because it had relied on a "highly mechanistic" reading of Section 5 when it decided to adopt fixed racial targets.¹⁹³ The Court remanded the case back to the district court for further proceedings.

On remand, the Eleventh Circuit panel upheld the constitutionality of all but 12 districts.¹⁹⁴ The court has ordered the legislature to adopt a remedy correcting the deficiencies in the 12 unconstitutional districts in time for the 2018 elections.¹⁹⁵

With the approach of the 2020 census redistricting discussions occurring outside of preclearance requirements are raising concern particularly among minority populations. Testimony from the NAACP and others indicated concern that given Alabama's status as a "single party" state in state government, that there will not be meaningful opportunity to challenge redistricting.¹⁹⁶ Certainly, the shift in burdens regarding proof of improper reliance on race without preclearance requirements will render any potential challenge more daunting, time consuming and costly. This will be discussed further in the conclusion of this report but is important to note here as well. Finally, this Committee recommends at a minimum true bipartisan participation and a study into the impact of redistricting on poor, minority and rural populations in the state. Access to the ballot is certainly important, however that access is limited if votes are corralled and cabined by districting policies that dilute minority and dissenting voices or confine them to limited representation that fails to reflect their actual population presence.

D. Poll Worker Training

In addition to policies that may affect the voters' polling locations, the hours they can vote and the voting district to which they are assigned, conversations with advocates and voters raised concerns about the level of training poll workers receive particularly in light of the complicated and often redundant nature of Alabama's voting statutes and administrative regulations.¹⁹⁷ Testimony received suggested that polling workers provided misinformation to voters about when provisional

¹⁹² *Id.*

¹⁹³ *Id.*

¹⁹⁴ *Ala. Legislative Black Caucus, et al. v. Alabama*, 231 F.Supp. 3d 1026 (2017).

¹⁹⁵ *Id.*

¹⁹⁶ Holmes Testimony, *Alabama Transcript*, p.

¹⁹⁷ Boone Testimony, *Alabama Transcript*, p.107.

ballots had to be cast, the significance of the provisional ballot, what type of identification was necessary to vote and where the voter's correct polling location was.¹⁹⁸ This misinformation is particularly troubling as it comes from the very officials charged with ensuring that voters are able to vote and that election integrity is maintained.¹⁹⁹

Accordingly, this Committee recommends a revised training for poll workers and magistrate judges (who oversee elections on the county level) and that election information is produced in a concise and understandable format so that both workers and voters can clearly understand what requirements exist for voting and how, where and when a voter can cast a ballot. Secretary of State Merrill has made progress in setting up a website with easily accessible information regarding voting requirements and the registration process. Likewise, he has overseen training of polling officials in an effort to ensure consistent and accurate information. These are positive steps, however, additional training, including training closer to the time of the election will further these efforts and reduce the type of misinformation that has plagued past elections. Second, this Committee recommends increasing pay to poll workers to better reflect the importance of their work and to better incentivize well qualified individuals to serve as poll workers. Finally, this Committee recommends a meaningful investigative process must exist to explore allegations of misinformation.

Barriers to Alternative Voting Procedures

Alabama has instituted limited alternative voting procedure that may also serve as an impediment for the most vulnerable voters. Such alternatives including absentee balloting, early voting or extended voting times and provisions for ballots cast at incorrect locations and provisional ballot procedures all facilitate voting for those who either have limited access to transportation or in the alternative may not be able to vote during designated times.

A. Absentee Voting

Alabama permits limited absentee balloting.²⁰⁰ A voter who will be out of country or state, has physical illness or infirmity which prevents attendance, works a 10 hour shift that coincides with polling hours, is an enrolled student outside of the county of personal residence, is a member of the armed forces or spouse or dependent of such a member, is an election official or poll worker, or is a jailed but not convicted person may vote under Alabama's absentee ballot provisions.²⁰¹ To do so, the voter must apply for an absentee ballot at least 5 days prior to election.²⁰² The voter may

¹⁹⁸ *Id.* 105-107.

¹⁹⁹ *Id.*

²⁰⁰ Ala. Code § 17-11-3.

²⁰¹ *Id.*

²⁰² *Id.* at 3(a)

apply by handwritten application, but all applications must contain sufficient information to identify the applicant as a registered voter. Each voter's application must be separate and a voter must apply for each election he or she seeks to vote absentee in.²⁰³ A voter may receive an emergency absentee ballot upon proof of emergency treatment by a licensed physician within the five-day deadline for absentee ballots.²⁰⁴

If the voter is summoned out of the county on an unforeseen business trip, he or she may apply for an emergency absentee ballot any time before the close of business the day before the election, but must sign an affidavit swearing that the voter was unaware of the trip prior to the five-day deadline.²⁰⁵ Any voter casting an absentee ballot must provide a copy of their identification with the absentee ballot.²⁰⁶ Military absentee ballots are covered by the Uniformed and Overseas Citizens Absentee Voting Act and the Military and Overseas Voter Empowerment Act, under which the voter must send an application for a local absentee ballot at least 30 days prior to election.²⁰⁷ Voters under the act are not required to produce identification prior to voting.²⁰⁸

While Alabama does offer absentee ballot provisions as described above, the state does not offer "no excuse" absentee balloting. Voters who face the logistical challenges to voting at particular locations or during particular hours may not qualify under the articulated categories for absentee ballots. Further, the requirement to provide copy of identification imposes complication and costs on voters, particularly on those without access to copying machines. Finally, despite the fact that the voter is not obligated to remain at a single address but is eligible to vote if residing in precinct, if a voter requests an absentee ballot with a different address than that on the voter list, the ballot is mailed to the address shown on the voter list as per Attorney General Opinions s2000-156 and 2000-193.²⁰⁹ This policy increases the probability that the voter may not receive the requested absentee ballot.

There is limited information regarding the state's reasons for limiting absentee balloting. The restriction appears linked, as with other restrictions, to concern that excessive absentee balloting may promote individual voter fraud. These concerns are certainly heightened by events in North Carolina during the 2018 election.²¹⁰ Despite that occurrence there is little evidence to suggest that absentee ballots are routinely manipulated, however there is good evidence to suggest that the presence of no excuse absentee voting promotes increased voter participation.

²⁰³ Ala. Code § 17-11-3.

²⁰⁴ *Id.*

²⁰⁵ Ala. Code § 17-11-3 (d).

²⁰⁶ Ala. Code § 17-11-3.

²⁰⁷ *Supra* note 199.

²⁰⁸ Ala. Code §§ 17-9-20 (d) and 17-17-28.

²⁰⁹ A.G. Opinion 2000-156, *Elections-Absentee Voting-Absentee Ballots-Residence Requirements* (2000).

<https://www.alabamaag.gov/Documents/opin/2000-156.pdf>.

²¹⁰ Associated Press, *Timeline: North Carolina's Absentee Ballot Scandal*, Feb. 27, 2019.

<https://apnews.com/7fcfea814fe3479eb5623ce9511b09f0>

Accordingly, it is the strong recommendation of this Committee that Alabama extend absentee balloting. Absentee ballots offer an opportunity for those unable to attend traditional voting poll places to vote. Such ballots serve to ensure efficient vote calculation (they can be counted early) and reduce congestion at polling places. Finally, absentee ballots can be a cost-efficient mechanism for the state to conduct elections.²¹¹ Some jurisdictions, recognizing this fact, permit no excuse absentee balloting or conduct mail-in elections in which any citizen can mail a ballot. Despite these benefits Alabama has opted to take a restrictive stance on absentee balloting. And once again, those most affected by this decision are likely to be those with the fewest resources in our community.

B. Early Voting or Extended Voting Times

As discussed in the polling hours section (above), even a twelve-hour voting window may pose challenges for particular voters including those with child or elder care obligations, inflexible work schedules and long commutes. Despite these impediments, Alabama does not currently permit early voting and requires a federal or state court order to extend polling times beyond 7 p.m. under Alabama law.²¹² As discussed above limited voting hours, coupled with a restrictive absentee ballot provision, assumes a voter will be able to cast a ballot on a particular day in a particular time window. For some voters, this is simply not the case. In contrast, allowing early voting or the option to extend voting times – either in terms of offering additional days to vote or additional hours to vote on election day – creates additional forums that accommodate voter’s schedules. As with absentee balloting, in jurisdictions in which early voting has been offered at central locations, voting efficiency has actually increased as fewer voters appear on election day at polling places reducing congestion.²¹³ Accordingly, this Committee urges the state to consider the adoption of early voting options and extended voting times.

C. Provisions for Ballots Cast at the Wrong Location

As discussed above, a provisional ballot will only be counted if a voter can demonstrate proof of identity, registration and that he or she is an eligible voter in the precinct in question to the Board of Registrars no later than 5:00 p.m. on the Friday following election day. If the voter has not voted in the proper precinct, the provisional ballot will not be counted. This timeframe places an unquestionable burden on voters, but beyond this, in the 2018 election voters reported confusion surrounding both when provisional ballots were appropriate and what the consequences of a ballot cast in an incorrect location would be (it would not be counted). This confusion is both unacceptable and obscures a larger question of why ballots cast in incorrect locations are simply

²¹¹ See Crayton Testimony, *Alabama Transcript*, pp. 58-59.

²¹² Ala. Code § 17-10-2(4).

not transported to the correct precinct. Given that voting in any precinct in Alabama cannot occur without demonstration of identity and registration as per the procedures described above, the risk of voter fraud would appear minimal. Accordingly, this Committee recommends adoption of policies to ensure that valid provisional ballots are counted in the precinct in which the voter is entitled to vote.

Recommendations

Throughout this report, this Committee has made a variety of recommendations based on testimony received and data collected. These recommendations are both broad and narrow and are as follows:

1. Return Alabama to preclearance status
2. Reconsider voter identification law, including but not limited to considering abolishing the requirement or increasing the types of acceptable identification
3. Increase access to locations that can produce the required identification.
4. Create multiple mobile identification units
5. Ensure a variety of hours of operation for all identification producing locations to ensure access for even marginal citizens in the state
6. Reduce costs identification by broadening not only the type of identification accepted, but also the documentation necessary to obtain that identification
7. Reconsider the current voter registration process, including but not limited to considering abolishing the requirement of registration or in the alternative adopting a system of automatic registration for eligible citizens
8. If the state is disinclined to do away with the voter registration requirement, increase access to registration by allowing same day registration for elections, by expanding locations that permit in person registration and by offering free and accessible access to online and app based registration platforms with a guarantee that such platforms do not engage in data gathering or sharing beyond that necessary to maintain voter records.
9. Create consistent and accessible sources of information for citizens and those who run points of access to registration (such as MVD and Board of Registrar's Offices).
10. Inform those previously disenfranchised as a result of pre-Moral Turpitude Act convictions that their convictions no longer serve as disqualifying. This communication must come from the State.
11. Make CERV applications widely available as part of the standard voter registration process. To be clear, it is not the recommendation of the Committee that the Secretary of State's Office be charged with determining CERV eligibility, but rather that the Secretary's Office treat the CERV application consistently with other applications relating to voting eligibility. It is the belief of this Committee that centralizing

information about voter eligibility on a single platform will promote voter awareness and decrease barriers to the ballot.

12. Remove the requirement of payment of all fines and fees imposed at the time of the conviction as a barrier to CERV eligibility
13. The Attorney General's Office should rescind its Opinion 2011-049 issued March 30, 2011, in which the Office indicated that counties may collect the 30 percent the collection fee on unpaid court fines and fees prior to collecting any underlying debt.
14. Forgo purging processes or to the extent that this is not possible, the state could adopt a system that relies on multiple alternative methods of notification and verification.
15. Seek information regarding the effect poll place closures of particular populations with an eye towards notice, transportation and transparency with regards to basis for the closures
16. Reconsider of contracted voting periods to allow for voting on multiple days including on weekends
17. True bipartisan participation and study into the impact of redistricting on poor, minority and rural populations in the state
18. Revise training for poll workers and magistrate judges (who oversee elections on the county level)
19. Produce election information in a concise and understandable format so that both workers and voters can clearly understand what requirements exist for voting and how, where and when a voter can cast a ballot
20. Offer increased pay to poll workers
21. Create a more robust, transparent, and easily accessible data reporting system including not just new poll locations but also a record of past poll locations, as well as number of poll workers and other relevant information
22. Extend absentee balloting to include no excuse absentee balloting and other mail-in election procedures
23. Adopt of early voting options and extended voting times
24. Adopt policies to ensure that valid provisional ballots are counted in the precinct in which the voter is entitled to vote

The reasons for these recommendations are described in this report. In addition, many of these recommendations overlap one another and may require modification based on what the state choses to implement. Each of these recommendations are designed to address a current barrier to voting in our state.

Conclusion

While Alabama has made strides toward protecting the right to vote for poor, rural and minority populations in the state, for many, voting remains hard to come by in reality. Registration and

identification requirements create barriers, as do voter-purging procedures and a complex, financially burdensome process for restoration following some convictions. Such requirements may appear neutral in their construction, but they disproportionately impact the poor, rural and minority voters in our state and so raise concern.

The state has posited that such voting regulations ensure fair elections and protect the integrity of the vote. These are laudable goals. The Committee's concern, however, is that in the name of promoting these goals, the state has created a system that denies eligible citizens the vote without demonstrating that the regulations put in place protect against fraud or indeed that such fraud is present without the regulations. This is troubling not only because it suggests a dissonance between the state's goals and the reality of voting in Alabama, but because such regulations infringe on one of the most fundamental rights of a citizen in a democracy – the right to vote.

Access to voting is critical to a successfully functioning democracy. Voting is not only a mechanism of governance, but a means of dissent and accountability. And, at its core, the right to vote is a right that belongs to the citizen. As noted in the introduction to this report, the right to vote is not a prize to be won or earned from the state. It is an inherent and fundamental individual right. One that the state may regulate it only to the extent that such regulation promotes the collective good. Regulations that stifle the citizen's right to vote without apparent benefit or nexus with appropriate state goals are both antidemocratic and unacceptable.

In Alabama, this Committee fears that the balance between efforts to “protect” the integrity of the vote and the citizen's ability to realize his or her right to vote has gone askew. In implementing a series of voting regulations in the name of vote protection, the state has created what for some are insurmountable barriers to voting with little evidence that the regulations in question address a real and present danger or that they are effective in curbing a perceived risk. Instead, these regulations render the road to the ballot box harder and longer for poor, rural and minority voters in Alabama.

Voter identification requirements, registration verification process, purging methods, restrictive absentee balloting, and limited polling locations and hours all serve to hinder voter access and exclude eligible voters in our state. Requirements of payment of collecting fees and lack of reliable information about restoration after conviction excludes still others. The pervasive confusion over everything from the hours or even existence of MVD offices in rural areas to provisional ballot or CERV procedures and beyond all create a climate in which voters may be excluded from realizing their right to vote. The fact that this Committee spent literally weeks trying to track down information – wading through complex policies and contacting multiple individuals before it could find answers (often unsuccessfully) to the most basic questions reveals a system that is difficult to navigate even for well resourced individuals. To be clear, state officials were cooperative and responsive to this Committee throughout the process. Often, however, they simply told the Committee they did not know the answer to the Committee's questions.

In the face of concerns about the impact of voting regulations raised during the Committee's hearing, Secretary of State John Merrill challenged all those who question the validity of Alabama's policies to produce voters who are unable to vote. The Committee understands the Secretary of State's efforts and is cognizant of his articulated commitment to voting. The challenge he proposed however fundamentally mischaracterizes the obligation of the government

to the citizen. Simply put, the citizen should not have to show that the process has rendered him or her unable or unwilling to vote. The citizen should not have to prove that he or she has tried to earn the right to vote from the state and failed. Rather the onus should fall to the state to prove that those we trust with the most sacred obligation to run our government in our names have taken every step to ensure that our fundamental right to vote is preserved and maintained. The burden should be on the state to show that whatever regulations they create are narrowly constructed to address a specific concern without creating unnecessary and insurmountable obstacles for the very citizens the state is obligated to serve. The state, not the citizen, should have demonstrated that it has not impeded the citizen's right without good cause.

In the end, as a result of Alabama's voting regulations, marginal citizens in our state face a peril that they will be left unable to realize their right to vote. The most marginal among us struggle to gain ID, to meet registration requirements, to make polling hours, to remain on active voting rolls, to pay collection fees and to access and complete CERV applications. The most marginal among us lose their right to vote because they cannot navigate the system and they cannot clear the hurdles the state has set. This result is untenable and must change. The Committee's recommendations are designed to facilitate that change by returning to the citizens what was theirs all along – the right to a voice in our democracy through their vote.

Alabama Advisory Committee to the U. S. Commission on Civil Rights



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Appendix 1

Access to Voting New Release with Agenda



NEWS RELEASE

February 15, 2018

Contact: David Barreras

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**Alabama Advisory Committee to the U. S. Commission on Civil Rights
Announces Public Meeting: *Access to Voting in Alabama* – February 22, 2018**

Montgomery, Alabama – **On February 22, in Montgomery**, the Alabama state Advisory Committee (SAC) to the U.S. Commission on Civil Rights will convene the first of a series of public panel discussions on access to voting in Alabama. The Committee seeks to examine barriers to voting which may have a discriminatory impact on voters based on race, color, disability status, national origin, and/or the administration of justice. The Committee will hear testimony from academics, policy makers, community groups, and civil society actors.

The meeting will take place on **Thursday, February 22, 2018, from 9:00 a.m. to 5:00 p.m. CST, at the Connecting Life Center (Old Bellinger Center), 70 West Edgemont Avenue, Montgomery, AL.** This meeting is free, open to the public, and parking is available on site.

Members of the public will be invited to speak during the open forum session, tentatively scheduled from 4:00 p.m. to 5:00 p.m. CST. The Committee will also accept written testimony submitted to dbarreras@usccr.gov by March 31, 2018.

Persons with disabilities requiring reasonable accommodations should contact our Midwest Regional office at (312) 353-8311, prior to the meeting, to make appropriate arrangements.

Advisory Committee Chair Jenny Carroll stated: “The right to vote is fundamental to our democratic process. Laws that impede that right therefore hurt us all regardless of their intent at their creation. Our Committee will gather information on the impact that voting regulation in our state has on our citizens. We invite members of the community to attend the hearing and to participate in person or in writing. The information we gather will help paint a fuller picture of the state of voting rights in Alabama. We look forward to hearing from experts and members of the public alike.”

**Access to Voting in Alabama
February 22, 2018 - Montgomery, AL
Agenda**

I. Introduction: Jenny Carroll, Chair, Alabama SAC: 9:00 a.m. – 9:05 a.m. CST

II. Speaker: 9:05 a.m. – 9:30 a.m.

- **John Merrill**, Secretary of State, Alabama

21-cv-01531
11/12/2024 Trial
Plaintiffs Exhibit 250

III. Speaker: 9:35 a.m. – 10:15 a.m.

- **The Honorable Terri Sewell**, U.S. Representative

IV. Break: 10:30 a.m. – 10:45 a.m.

V. Panel One: 10:45 a.m. – 12:00 p.m.

- **George Hawley**, Professor of Political Science, University of Alabama
- **John J. Park Jr.**, Counsel, Strickland, Brockington, Lewis LLP
- **Brock Boone**, Alabama Chapter, American Civil Liberties Union (ACLU)
- **Additional panelists to be confirmed**

VI. Lunch Break 12:00 p.m. – 1:00 p.m.

VII. Panel Two: 1:00 p.m. – 2:15 p.m.

- **Scott Douglas**, Greater Birmingham Ministries
- **Jonathan Barry-Blocker**, Southern Poverty Law Center
- **TBD**, NAACP Legal Defense Fund
- **TBD**, Equal Justice Initiative

VIII. Panel Three: 2:30 p.m. – 4:00 p.m.

- **Benard Simelton**, President, Alabama NAACP
- **Kenneth Glasglow**, The Ordinary People's Society
- **Callie Greer**, Impact Statement
- **Additional panelists to be confirmed**

IX. Open Public Comment Period: 4:00 p.m. – 5:00 p.m.

X. Closing Remarks: 5:00 p.m.

Stay abreast of updates at www.usccr.gov and on [Twitter](#) and [Facebook](#).

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The U.S. Commission on Civil Rights, established by the Civil Rights Act of 1957, is the only independent, bipartisan agency charged with advising the President and Congress on civil rights and reporting annually on federal civil rights enforcement. Our 51 state Advisory Committees offer a broad perspective on civil rights concerns at state and local levels. The Commission: in our 7th decade, a continuing legacy of influence in civil rights. For information about the Commission, please visit <http://www.usccr.gov> and follow us on [Twitter](#) and [Facebook](#).

Appendix 2

Transcript – Feb. 22, 2018 Briefing

ALABAMA ADVISORY COMMITTEE
TO THE U.S. COMMISSION ON CIVIL RIGHTS
February 22, 2018
Montgomery, Alabama

BOARD MEMBERS PRESENT:

Jenny Carroll

Marc Ayers

Michael Innis-Jimenez

Peter Jones

Martha Shearer

Maurice Shevin

Daiquiri Steele

Tari Williams

Angela Lewis

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

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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,

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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

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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

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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

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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

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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

1 -- where the Court said, "Cases of proven
2 in-person voter fraud in Alabama are extremely
3 rare." This case also states substantial numbers
4 of Alabama voters are adversely affected with
5 minority voters disproportionately so. So over
6 20,000 black registered voters in Alabama have no
7 valid photo ID that is accepted under the photo ID
8 law. So they're registered voters, but they don't
9 have the ID to vote. It's over 20,000, which,
10 obviously, can make a huge difference in an
11 election.

12 This translates, of course, into the
13 thousands of individuals adversely affected by
14 this, what we would call, an unnecessary law. So
15 instead, you know, we would request that the
16 Secretary of State maybe not -- you know, it's not
17 necessary to show up to every, you know, peach
18 festival and peanut festival. We would -- we
19 would hope that he would work to kind of get rid
20 of this voter ID law instead because it makes it
21 extremely difficult for people of color to vote,
22 as statistics show.

23 Second, we have had trouble with Mobile

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1 County. The ACLU of Alabama, my organization, set
2 up a hotline to report difficulties in voting on
3 election day for the special senate election here
4 this past December, the one where Senator Jones
5 won, and we received complaints all day on our
6 hotline. On election day in particular, we got
7 word of dozens and dozens of people prohibited
8 from voting in Mobile County because the address
9 on their driver's license does not match the
10 address on the registration rolls. That is not a
11 requirement. For example, you can use your
12 government employee ID or your university ID or
13 your passport to vote. Those don't contain
14 addresses. So why in Mobile County are they
15 requiring an address match between what's on the
16 roll and what's on the driver's license?

17 As people know, people move frequently.
18 Especially if you're of lower income, then you
19 might be renting and moving to different places.
20 As for the individuals in Mobile, we heard that
21 many just left when they were told by the election
22 officials that their address doesn't match. They
23 have to get back to work or they only had a

1 certain amount of time, not to mention the lines.
2 Some of them stayed and they were told to get into
3 the line for a provisional ballot, but that line
4 was long. For some people, it was like an hour
5 and a half up to two hours.

6 I had actually been on the phone with the
7 probate judge and, you know, I told him that, you
8 know, get some more computers down there or
9 something if you're going to force people at least
10 to go into these provisional lines. But they
11 shouldn't be checking them -- addresses exactly
12 like that anyway. So many people left that line
13 because it was taking too long. So if they didn't
14 leave the first line, they did leave the second
15 line. We have heard that this particular probate
16 judge in Mobile County has been doing this for
17 years, which is troublesome.

18 Third, a law went into effect last August
19 that now defines what a crime of moral turpitude
20 is. Moral turpitude laws were created in 1901 in
21 Alabama, effectively to disenfranchise black
22 voters. Because there was no definition of moral
23 turpitude for over 100 years, election officials

1 could broadly prevent individuals from getting the
2 right to vote, which is worrisome. A new Alabama
3 law was passed last year that finally actually
4 defined what crimes are crimes of moral turpitude.

5 Many people have asked the Secretary of
6 State if you could notify these people that
7 they're eligible to vote. Secretary Merrill
8 claimed it was not his responsibility to notify
9 those voters that they are eligible to vote again.
10 So largely, that task has been left to nonprofit
11 entities without the same resources. And also, we
12 don't have the records, but whereas, we've been
13 just trying to get people registered to vote again
14 and get their voting rights restored, entities
15 like the Legal Services of Alabama, The Ordinary
16 People Society, and the ACLU of Alabama.

17 Fourth, I should mention in the moral
18 turpitude law, the State did not repeal the
19 provision that requires fees and fines to be paid
20 off to vote again. This means that the State
21 directly discriminates against the poor. Many
22 poor people cannot vote simply because they are
23 poor.

1 Fifth, another law passed last year that
2 made crossover voting illegal, meaning that
3 someone voting in one party's primary could face
4 fines and jail time if they voted in the other
5 primary's runoff. Following the republican
6 primary runoff between front-runners Roy Moore and
7 Luther Strange, Secretary Merrill said that 674
8 people who voted in the runoff had also voted in a
9 democratic primary and recommended that they be
10 prosecuted to the full extent of the law and given
11 up to five years in prison for voting. That was
12 his suggestion. And this crossover voting law, as
13 you know, as I just mentioned, was brand new.

14 To us, it seems that it was occurring --
15 if this was occurring, if people were, you know,
16 accidentally or maybe intentionally, you know,
17 voting in the runoff, it could have easily been
18 stopped by the election officials. It seems like
19 it was probably a result of lack of training if it
20 was happening or at least instructions to the
21 election officials. They could have stopped any
22 of this from occurring. They had the voting
23 records immediately available to them. But

1 instead, the Secretary of State urged five years
2 in prison for voting.

3 Eventually, it came out that it was mostly
4 administrative error, I think as you've heard
5 today, but the damage was already done with many
6 individuals worried that maybe making a mistake
7 while voting might land them in prison. And as
8 we'll get to later, the bureaucracy of voting is
9 very complicated, so I am worried myself, am I
10 going to make a mistake, am I not going to have
11 the right person signing it over my shoulder. You
12 know, so many asked Secretary Merrill to clarify
13 that the crossover voting law does not apply to
14 the general election because there's this fear
15 that, wow, we might go to prison if we make a
16 mistake. He said, quote, That doesn't confuse me,
17 and I don't know why it would confuse anybody
18 that's a thinking person in the state, end quote.

19 Sixth, we have concerns about the
20 bureaucracy of having to vote. In order to have
21 your vote counted in an election in Alabama, you
22 need to register to vote 14 days before the
23 election, which -- which you can do online which

1 is great, but only -- you can only vote online if
2 you have an Alabama driver's license or a
3 nondriver ID. Otherwise, it has to be mailed in
4 or filed in person. If you miss the deadline,
5 you're out of luck. Can't vote.

6 Seventh, absentee voting should not be so
7 difficult. To vote absentee, you should -- you
8 should -- you need to apply for an absentee ballot
9 five days before an election, return it one day
10 before the election, unless you have a work or
11 medical emergency and then only if you have
12 verifiable proof that you can satisfy one of five
13 -- five reasons for being unable to vote during
14 normal polling hours. People in my own family
15 have interestingly not even gotten their absentee
16 ballot for the last election, so they weren't even
17 able to vote. So I'm still actually confused on
18 the absentee. And I look over the process, and it
19 confuses me almost every time. And then with the
20 fear of potentially going to prison, it's -- it's
21 worrisome that, you know, people won't be voting.

22 Eighth, I do not completely understand
23 putting active voters on the inactive voting list.

1 So I'm going to read from Alabama Code 17-4-9
2 which states, "Any voter who fails to vote for
3 four years in his or her county shall have his or
4 her name placed on an inactive voter list by the
5 local board of registrar" -- "registrars." Excuse
6 me. So that's if you're not voting for four
7 years, you get put on the list. That's what it
8 seems like to me, but we've had individuals --
9 many individuals that voted in the 2016
10 presidential election, then they could not vote in
11 the special senate election a few months later in
12 2017, in the primary or the regular election.
13 That was not four years of inactivity; they had
14 just voted less than a year ago. However, they
15 were marked as inactive.

16 Secretary Merrill -- I wasn't here for his
17 portion. I mean, he would even tell you that Mo
18 Brooks -- many members of Mo Brooks' family
19 couldn't even vote on his election day, and he was
20 on the ballot for U.S. Senator, because of the
21 inactive voter confusion. Mo Brooks was inactive
22 and so were his, I think, his son and his
23 daughter-in-law, I believe.

1 So at the ACLU of Alabama, we simply
2 believe that people should be allowed to
3 participate in democracy. It's kind of easy. We
4 want voter ID laws to be repealed. You know, we
5 -- we want there to be fairness in elections. But
6 we question some of the -- the reasons that have
7 gone into the voter ID laws that have even been
8 admitted in statements.

9 We would also suggest the implementation
10 of automatic voter registration for all eligible
11 citizens. Automatic voter registration lowers
12 costs. It reduces the potential for voter fraud,
13 which seems like a good idea, and keeps the rolls
14 updated. It keeps a very clean roll. Any time
15 anyone interacts with any government services, it
16 can be automatically corrected so their address
17 can be updated every time they move, pay a new
18 power bill, or whatever that they might be doing.

19 If for some reason reducing the potential
20 for voting fraud and saving money are not what the
21 State of Alabama would like, I mean, we just
22 simply ask that the Secretary of State's office
23 and the Alabama legislature explore many of the

1 other possible options designed to make it easier
2 for eligible citizens to register to vote and cast
3 their vote.

4 For example, same-day or election-day
5 registration, early voting, and no-excuse absentee
6 ballots are just a few examples of laws designed
7 to increase voter participation. So we sincerely
8 hope to expand voting in Alabama. Unfortunately,
9 but the Alabama Secretary of State, he admits he
10 doesn't necessarily want to make it easy to vote.
11 He was quoted as saying, quote, As long as I'm
12 Secretary of State of Alabama, you're going to
13 have to show some initiative to become a
14 registered voter in this state, end quote. That's
15 my statement.

16 MS. CARROLL: Great. Thank you. So with
17 those statements complete from the panels, we'll
18 now turn to the question portion. As always, if
19 you can indicate to me if you would like to have a
20 question. I'd like to start with you, Mr. Park.
21 So you had indicated in your discussion, I
22 believe, of the Wetumpka County case that folks --
23 and I may be wrong about that -- but that folks

1 were voting that had used business addresses; is
2 that correct?

3 MR. PARK: Yes.

4 MS. CARROLL: And so I'm curious, what
5 information -- what informational efforts were
6 made to make sure people understood which address
7 they were supposed to provide and then just to
8 give you kind of a follow-up, Mr. Boone had
9 indicated that an address requirement is not
10 necessary for -- to cast the ballot. A, is that
11 true? And B, were you speaking of an address that
12 failed to match the registration or were you
13 speaking of an address that was improperly given
14 with regard to the ID that they were provided?

15 MR. PARK: If you go back to 1994, there
16 was a highly contested election, where in Greene
17 County, there were suitcases of absentee ballots
18 delivered to the polling place on election eve.
19 And they were frequent -- those absentee ballots
20 frequently went to business addresses and to --
21 like county offices and places like that. So
22 Alabama changed its law, and you're supposed to
23 get an absentee ballot at your -- at your home.

1 For in-person, you're supposed to keep your
2 driver's license up to date. Now, I can't speak
3 to Mobile, but Mobile is only one of 67 counties
4 in Alabama. One would think that focus in Mobile
5 should be where -- where things should be.

6 MS. CARROLL: Okay. But, I guess, getting
7 back to my question though in terms of information
8 about the example that you gave.

9 MR. PARK: In Wetumpka?

10 MS. CARROLL: I believe, yeah. You had
11 indicated that the absentee ballots were
12 problematic because the voters had used a business
13 address.

14 MR. PARK: No. This was Phenix -- Phenix
15 City when they --

16 MS. CARROLL: Phenix City. I'm sorry.

17 MR. PARRK: -- reviewed -- when they
18 reviewed voter registrations.

19 MS. CARROLL: Okay. So it was the
20 registration itself. And what information is out
21 there for voters to understand which address they
22 should use?

23 MR. PARK: It's a matter of state law that

1 you -- you register at your home.

2 MS. CARROLL: I understand it's a matter
3 of state law, but I guess this is a similar
4 question to what Ms. Shearer was asking earlier to
5 the Secretary of State to the extent that we hope
6 that folks will follow state laws. And the goal
7 is to allow people to vote. It seems like we
8 would have an incentive to make sure that -- that
9 folks understood what the state law was. What
10 efforts are being made that you know of to ensure
11 that?

12 MR. PARK: I don't know of any efforts
13 that are being made specifically to ensure that,
14 but, you know, we just need to review the voter
15 rolls and -- and those people we can contact and
16 tell them we re-changed their registration.

17 MS. CARROLL: All right. So I guess as a
18 follow-up to that then too -- and I'm sorry to
19 pepper you with this, but I just want to try to
20 nail down this point. My understanding is that
21 Secretary of State Merrill has made a statement
22 that when a registrar confirms that an address is
23 valid, quote, they are not in the business of

1 confirming whether it's a residential or a
2 business address, end quote. If that's the
3 Secretary of State's position, I guess I'm a
4 little baffled by your response that you want to
5 make sure that the rolls are correct.

6 MR. PARK: That's -- that's the Secretary
7 of State's view, but the -- the local
8 jurisdictions are the ones that are responsible
9 for their voter rolls. There -- there is supposed
10 to be -- there was when I was here -- an effort to
11 some of the statewide database, but the probate
12 judges were not all on board with that.

13 MS. CARROLL: All right. And then the
14 next question I had -- and I apologize to the rest
15 of the Committee. And I will try to do all of
16 these at once, and then y'all can have your turn
17 too.

18 In terms of -- and this was the Circuit
19 Court of Elmore County decision that you
20 referenced the eight absentee ballots that were
21 illegally cast. That was Judge Sibley Reynolds'
22 ruling in the Lewis Washington case that they were
23 neither signed nor witnessed. I mean, that --

1 that suggests that they were insufficient as
2 opposed to necessarily fraudulent; is that
3 correct.

4 MR. PARK: There was some -- I have seen
5 Judge Reynolds' order, and what -- what there was
6 was proof that either the voter didn't sign the
7 application or the witness didn't sign the
8 application. Al Agricola represented the winning
9 party. Al is a lawyer here in Montgomery, and he
10 had -- he had a handwriting expert express an
11 opinion on the validity of the signatures. So
12 they passed initial muster, but they were
13 fraudulent because the wrong person signed them.
14 I mean, I can't sign an absentee -- I shouldn't
15 sign an absentee ballot for somebody else.

16 MS. CARROLL: Okay. And then, Mr. Boone,
17 I have one question for you. You spoke in terms
18 of Mobile County as your second point and the
19 hotline that the ACLU had set up. Can you -- can
20 you give us some indication of the number of folks
21 we're talking about that -- that the ACLU suspects
22 did not cast a vote that were entitled to vote?

23 MR. BOONE: We're not exactly sure on the

1 exact number because a lot of the people that were
2 contacted -- we had, you know, almost a dozen --
3 over a dozen that probably -- that called us, but
4 they were standing there basically telling us
5 everyone that's leaving in the lines.

6 So there -- so it could be -- I mean, I'm
7 worried about it could possibly -- it could be up
8 to 100 or more. I'm not sure because it was
9 happening throughout the day, and I don't know how
10 many precincts it was occurring. I don't even
11 know how many precincts in elections there are in
12 Mobile.

13 But if that was the instruction from --
14 which is what I fear is that if the instruction
15 came from the probate judge, that's basically --
16 that's the manual that the election officials are
17 looking at or if they're going off the probate
18 judge's instructions to check every address, then
19 it could be -- I have no idea however many voters
20 are in Mobile and who don't have a correct --
21 their address just happens to match that data.

22 MS. CARROLL: And did the ACLU make a
23 record of the calls that they received?

1 MR. BOONE: We kept -- we -- no. It was
2 coming in pretty -- we didn't keep every single
3 phone call. We kept a record of some of them that
4 we were able to write down. But we didn't write
5 down every single call and name, and some people
6 don't give up, you know, all of their information,
7 for example. And because we care rightly about
8 privacy, it's one of our big issues, we don't
9 necessarily ask for that information.

10 MS. CARROLL: Would it be possible for you
11 in written comments to provide us with information
12 about the number of calls that you received?

13 MR. BOONE: I think I can do that. I
14 would have to just check with my executive
15 director, but I don't think that should be a
16 problem.

17 MS. CARROLL: So I am going to go down the
18 line this way, and then I'll come back this way.
19 So I'm going to start with Member Maurie Shevin,
20 and then if you could pass to Member Angela Lewis,
21 who will be next.

22 MR. SHEVIN: Thank you. Also, Mr. Boone,
23 to your second point, I want to make sure that I

1 understand this correctly. When the address on
2 the driver's license does not match the address on
3 the voter rolls in Mobile County, those ballots
4 were being challenged or those voters were being
5 challenged; is that correct?

6 MR. BOONE: What do you -- I guess -- what
7 do you mean by challenged I guess? Question --

8 MR. SHEVIN: Well, the voter was not free
9 to cast a ballot.

10 MR. BOONE: They were, from what I've
11 heard -- you know, I wasn't there. But from what
12 I heard, they were told, oh, sorry, you -- you
13 have to have this matching address. So at that
14 point, some people would just leave and be like,
15 well, look, I don't -- I got to go, and some would
16 say, well, you -- and then if they -- if they
17 would say, I still want to vote. I mean, this is
18 me. This is my picture, which is what we believe
19 it comes down to, what's on the actual photo which
20 is what the law says, it's about the
21 identification on the photo, but other people were
22 told, well, you can go check.

23 And there's a head election official, I

1 think, at each precinct, and that person is
2 supposed to be able to either give them a
3 provisional or if they can verify -- I think it's
4 like their county of birth and stuff -- they might
5 be able to get a regular ballot. I don't know the
6 procedure exactly, but that's my understanding.
7 So then some others were gone to the provisional
8 line.

9 MR. SHEVIN: And a quick follow-up
10 question, is it a legitimate issue to be concerned
11 with a voter's address?

12 MR. BOONE: I'm not -- you know, I don't
13 -- I don't have a direct answer on that one. It's
14 not something we've talked about within our
15 organization since I'm representing them today.
16 My -- my initial thought is, you know, it just
17 seems this is -- it's one in a series of keeping
18 people from accessing the vote. I mean, if it's
19 their photo and it's that person and they're at
20 the correct precinct, which you would know from
21 the rolls, I can't imagine -- just because you
22 happened to have moved to a new apartment in the
23 next month or maybe you had to move in with a

1 parent, I can't believe you'd lose your right to
2 vote, which is so important to the Constitution
3 because of something so technical.

4 I mean, technical and -- because it's
5 technical and because something -- we want
6 everything to be fair, of course, of course. But
7 it seems like there's so many obstacles and
8 barriers put in the way. Myself, I feel like I
9 could -- you know, I do this -- I'm a staff
10 attorney for the ACLU. I feel like I could
11 potentially make a mistake. And if I feel like I
12 can make that mistake, I know that there's plenty
13 of people out there who live very busy lives and
14 it's difficult to even make time to vote much less
15 check every single box that the State of Alabama
16 requires.

17 And like I said at the end, I mean, I'm
18 just interested in people participating in
19 democracy, not being left off because of these
20 technicalities that have nothing to do with voter
21 fraud.

22 MS. CARROLL: Dr. Lewis.

23 DR. LEWIS: Thank you for coming today and

1 sharing your information with us. My first
2 question is for Mr. Park. You spoke about the
3 voter fraud in several counties -- Wetumpka,
4 Phenix City, and Guntersville. And my question
5 is, would the current Alabama photo -- photo ID
6 law that we have in place have stopped those
7 instances of fraud or those elections being
8 overturned?

9 MR. PARK: It wouldn't have stopped
10 Wetumpka because Wetumpka is absentee ballot, so
11 it's a different question. Let's see.
12 Guntersville, I think -- Guntersville was also
13 absentee ballot, so it's a different question.
14 Phenix City, the question is because people who
15 may have been registered and may be residents of
16 Georgia might have voted. You know, again,
17 that -- that would be a -- an in-person thing that
18 I would think -- I don't know that any -- any of
19 those problems -- their voters. They are problems
20 with the registration roles.

21 DR. LEWIS: So can I assume your answer to
22 my question would be no?

23 MR. PARK: The answer is no because they

1 are different problems.

2 DR. LEWIS: All right. Thank you. My --
3 my second question is, you talked about instilling
4 confidence in the electoral system and gave a lot
5 of statistics about how people feel about voting
6 in America. Is the photo ID law the only way to
7 instill public confidence in the U.S. electoral
8 system?

9 MR. PARK: No, Dr. Lewis. I don't -- I
10 don't believe it is. I think one -- one thing you
11 can do is prosecute instances of voter fraud when
12 you find them.

13 DR. LEWIS: Are there other ways besides
14 prosecuting and the photo ID?

15 MR. PARK: Well, I think those things
16 attest to the integrity of the system and then,
17 you know, every election there is a flash fire.
18 Mobile may be the flash fire. Baldwin County one
19 time was the flash fire. Tuscaloosa was the flash
20 fire.

21 There's -- they go around and you've got
22 -- what you've got to do is look past -- past the
23 fact. But otherwise, the election is going to --

1 elections run as they're supposed. And you want
2 to run the election as well as you can. That's --
3 that builds confidence in the system.

4 DR. LEWIS: A question for Mr. Boone. In
5 reference to the hotline, what -- and I know you
6 have a concern for privacy for those people who
7 called. Do you have any record or -- of the
8 number of calls or any recordings or any of those
9 individuals who called would be willing to submit
10 public testimony to -- via e-mail or whichever
11 form they see fit to make that a part of our
12 official record today?

13 MR. BOONE: I think it -- that might be
14 possible, and I can reach out to some of those
15 individuals. And the individuals I would be
16 thinking of are the individuals who kept calling
17 just to check and see. You know, they seemed like
18 they were very engaged, and then they were asking
19 their friends did you have trouble and they were
20 -- their friends were having trouble. And then
21 they were on Facebook messaging some of their
22 family members did you have trouble in your
23 precinct. Yes, I had trouble in my precinct.

1 There's some individuals that I might be
2 able to contact because I did keep some of those
3 names. Like I said, I was kind of jotting down
4 notes as they were coming in, so I don't have all
5 of it. But I'd probably be able to check back in
6 my notes, and I starred, I think, the people who
7 were calling back frequently.

8 DR. LEWIS: Thank you.

9 MS. CARROLL: And we have a question from
10 Member Daiquiri Steele.

11 MS. STEELE: Thank you. This question is
12 for Mr. Boone. You have already spoken about the
13 individuals who had trouble on election day, and
14 so, of course, you had the hotline set up, as many
15 organizations do, to gather information about
16 possible problems on election day. Does your
17 organization do any work with respect to any
18 possible problems with the voter registration
19 process itself? For instance, our Secretary of
20 State came this morning and he gave us a number of
21 about 900,000 new registered voters in the state.
22 But that number is more of a numerator, and I'd be
23 interested to know what the denominator is. So

1 of the people who actually got to register, how
2 many attempted to? Does your organization collect
3 any of that information or happen to have a
4 hotline set up to collect that information?

5 MR. BOONE: We don't when it comes to
6 voter registration. We've -- we make attempts at
7 trying to help people get registered. Recently
8 though, part of our focus has been on the
9 restoration of rights, actually, since the new law
10 was passed and because that's a whole new
11 demographic of individuals that need to be, you
12 know, educated on the somewhat complicated moral
13 turpitude law. And it's very confusing.

14 And I think someone mentioned it earlier
15 today. It's hard to even know what you were
16 charged with or if you've paid all your fines or
17 if you're still on supervision. It's very
18 complicated. So our efforts recently have been
19 into restoration of rights. So we haven't had as
20 much time for registration, and I don't know the
21 denominator. I don't know the percentages of the
22 Secretary of State. That's not the number we
23 have, but we have been focusing a little bit more

1 on the moral turpitude law.

2 MS. STEELE: Okay. And one more thing,
3 madam chair has already requested information
4 concerning some of these assets and Dr. Lewis some
5 of the information concerning --

6 THE COURT REPORTER: I'm sorry. Can you
7 speak up a little bit? I'm sorry.

8 MS. STEELE: That better? So inasmuch as
9 the information has already been requested, I
10 would just ask that to the extent -- and I know
11 you may or may not have it. But to the extent you
12 have any information also on the demographics of
13 the individuals who are -- who are calling in,
14 would you submit that as part of your testimony as
15 well?

16 MR. BOONE: Calling in the hotline on the
17 day of the election?

18 MS. STEELE: So the same information that
19 the chair has requested. If you have any
20 information on the demographics of those
21 individuals, can you just include that?

22 MR. BOONE: I will check. That's not
23 necessarily questions we were asking. We mostly

1 just have names and like precinct numbers. Yes,
2 but I'll look and see what I can do.

3 MS. CARROLL: Well, certainly, if you can
4 put people in touch with us, as Dr. Lewis
5 suggested, that might be something we could
6 inquire into as well. I love that I've also been
7 speaking out of dead mic in the meeting. So I
8 believe Member Jones has a question.

9 MR. JONES: So this question is for you,
10 Mr. Park. Again, thanks for being here. The
11 first thing you note were kind of national
12 statistics about our -- our kind of faith in
13 elections, but you noted a lot of local issues.
14 And so can you give me a sense or at least talk
15 about, you know, differences across counties or
16 how we might think about how -- or look into how
17 counties look over this process, both in
18 registration and kind of going through to voting
19 day?

20 MR. PARK: I'm not -- not -- the
21 statistics are -- are national. Instances of
22 prosecution of absentee ballot fraud are local.
23 We know that, for the most part, we don't hear

1 about problems with elections. I'm going back --
2 when I talked about Baldwin County, I think that
3 was the gubernatorial election between Siegelman
4 and Riley where the complaints were coming out of
5 Baldwin County.

6 You know, this election, they come out of
7 Mobile. You know, for the most part, it's a dog
8 that doesn't bark. And I think that should attest
9 to the efforts that local officials and local
10 election officials and county officials are making
11 because they're the ones most responsible for
12 pulling this off.

13 MR. JONES: So is there --

14 MR. PARK: Is that responsive?

15 MR. JONES: Well, can you talk a little
16 bit more about that -- how we might think about
17 those efforts, so how Madison County might differ
18 from Baldwin County and in how they run those
19 things and those efforts to prevent voter fraud
20 and also encourage voter participation?

21 MR. PARK: Well, one thing the Committee
22 might do is ask -- invite like the local registrar
23 here in Montgomery County, if you're sitting in

1 Montgomery County, to talk about the efforts that
2 they made because they're -- they're the ones on
3 the ground. You might -- if you go to Huntsville,
4 you could ask for the registrar in Madison County.
5 So those are the things that the Committee might
6 -- steps that the Committee might take that would
7 be enlightening to them, to the Committee.

8 MR. JONES: Okay. And I've got a
9 follow-up question, and as long as I have time, I
10 also have one question for Mr. Boone. But you
11 talked a little bit about disparate impact with
12 the laws, and you said something about the laws --
13 I just need you to clarify this, that as long as
14 the laws have a neutral intention, even if there
15 are disparate effects, that might not be a
16 constitutional issue. Can you clear up a little
17 bit what you -- that for me?

18 MR. PARK: Correct. Treating someone
19 differently because of their race is
20 unconstitutional. That's known as disparate
21 treatment. Federal law and the Voting Rights Act
22 as well prohibit things that not just are intended
23 to but have the result of. And in the terms of

1 the Voting Rights Act, what it talks about have
2 the result of giving minority citizens less than
3 an equal opportunity to elect the candidate of
4 their choice. So -- so it would be a neutral -- a
5 state law that has a disproportionate impact on
6 minority citizens.

7 MR. JONES: Regardless of intention of the
8 law?

9 MR. PARK: Correct.

10 MR. JONES: Is that -- okay. Thank you.

11 MR. PARK: Correct. And the Supreme Court
12 has said that disparate impact itself is not
13 unconstitutional but it's also prohibited by
14 federal statutory law.

15 MR. JONES: Okay. And if I've got time,
16 madam chair.

17 MS. CARROLL: We're great. Yeah.

18 MR. JONES: Mr. Boone, so the hotlines of
19 interest, did you take steps to intervene and also
20 kind of investigate? So -- so rather, if you
21 could describe the process. You received the
22 call. Did you send people out to the polling
23 places to see if this was happening, kind of how

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1 widespread it was? And did you also take steps to
2 intervene?

3 MR. BOONE: What we did was whenever we
4 would get a call, we would try to keep the notes
5 on which ones were of value, and sometimes we
6 didn't get all the notes down, I think. But what
7 I did mostly was if someone did call, I would -- I
8 would try to do an investigation just on the fly,
9 basically. So I would try to call. I was in
10 touch with the Secretary of State's office that
11 day, can you please call this precinct and tell
12 them to do the right thing?

13 I was on the phone -- I got -- it took a
14 while, but I got ahold of the probate judge in
15 Mobile County. I called him multiple times
16 throughout the day. You know, can you please
17 inform your election officials to go by the manual
18 and can you also -- you know, there's lines that
19 are over an hour in some places. Can you get some
20 more computers there or individuals or another
21 head election official because people are leaving
22 your lines because it's taking too long. So
23 whenever I would hear about a precinct that was, I

1 guess, in trouble or -- then I would try to let
2 him know. So I was mostly just trying to call
3 Secretary of State's office and the probate judge
4 in Mobile County.

5 And then we had instances of police
6 intimidation or individuals who felt like it was
7 police intimidation where cops are right outside
8 the voting precincts like when you come into the
9 door, which has worried us in the ACLU for over
10 100 years because, you know, that discriminates
11 against people who might have something on their
12 record or they're worried about what the police
13 might stop them and question them or if a police
14 officer is standing behind where they're giving
15 their information to -- or showing their ID.

16 So, you know, that could have a deterrence
17 on certain populations from voting. So what I
18 would do in those cases was if it was a sheriff's
19 -- if it was someone who's a deputy sheriff, I'd
20 call the local sheriff. If it was a city cop, I'd
21 talk to the police chief and say, you know, can
22 you please explain or at least tell your officer
23 not to stand right by the door or can he park his

1 car across the street if there is -- you know,
2 have there been any safety concerns? Why is there
3 an officer standing outside the door and why is he
4 there when everyone is giving their name.

5 As you know, there's a history of
6 discrimination in Alabama. So -- so usually, I
7 was just intervening on the fly and then, you
8 know, from some of the information we would take
9 down, we did speak with other groups to discuss
10 whether or not any of this information or if
11 possibly if there were to be some type of lawsuit
12 in the future, if we needed to contact these
13 individuals again or investigate the likelihood of
14 a lawsuit. And so I guess it was for that purpose
15 as well -- just, of course, with those
16 individual's permission. We're not going to
17 instigate a lawsuit unless a plaintiff was
18 completely on board. So --

19 MS. CARROLL: All right. I'm going to
20 turn on the mic. I've got a few more questions.
21 So Mr. Park, you recommended, I think, hopefully
22 that we reach out to local registrars. Would you
23 also recommend I take it reaching out to probate

1 judges? Because it sounds like they're also in
2 charge of enforcing the voting regulations.

3 MR. PARK: I think that -- that's right.

4 MS. CARROLL: All right. Another question
5 for you, Mr. Park, going back to the figures you
6 provided with regard to voter confidence, those
7 are statistics that were gathered by polling
8 places with regard to confidences opposed to
9 evidence or fraud itself, correct?

10 MR. PARK: That's correct.

11 MS. CARROLL: All right. Mr. Boone, going
12 to -- you referenced section 17-4-9 of the Alabama
13 Code with regard to inactive voter list. I think
14 this actually goes to your point about the absence
15 of clarity in some of the electoral law. I've got
16 a copy of that section in front of me now.
17 According to that -- to the Code itself -- and I
18 just want to read this for the record.

19 This portion, it deals with, Any voter who
20 fails to vote for four years in his or her county
21 shall have his or her name placed on an inactive
22 voter list by the local board of registrars. Once
23 on the inactive list, the voters shall reidentify

1 with the local board, the registrars, in order to,
2 again, have his or her name placed on the active
3 voter registration list. Notwithstanding the
4 foregoing, if a voter on the inactive list goes to
5 his or her polling place to vote on an election
6 day and identifies him or herself to the election
7 official responsible for the voter registration
8 list update. Such a voter shall be permitted to
9 vote provided the voter completes a voter
10 reidentification form.

11 My reading of the statute would suggest
12 that even for a voter who had been removed, they
13 would have been permitted to cast a regular
14 ballot, not a provisional ballot, but a regular
15 ballot under the terms of this Code. Are you
16 saying that did not happen in these cases?

17 MR. BOONE: I guess what I was saying was,
18 it's problematic because people will leave -- they
19 will leave the first table that they go to. Once
20 they're told that they're an inactive voter, they
21 might not stay around. And it's --

22 MS. CARROLL: And --

23 MR. BOONE: Yes. Sure.

1 MS. CARROLL: I'm sorry to interrupt. But
2 to your knowledge, is there any information that's
3 being given to voters that the language of this
4 statute permits them to identify and fill out a
5 reidentification card and cast a ballot -- a
6 ballot?

7 MR. BOONE: Ask that again. So --

8 MS. CARROLL: So -- so I guess this goes
9 back to your question that you were asking,
10 Ms. Shearer, about information, right? To the
11 extent that we have these laws, to the extent
12 there's some confusion and -- and possibly having
13 to change line to make the trains run on time and
14 people are trying to vote, what sorts of
15 information are being given to folks? So if I
16 show up, I'm told I'm inactive. Am I told, look,
17 all you have to do is prove where you live, that
18 you're a member of this -- this precinct entitled
19 to vote here, and you can fill out this
20 reidentification card and cast a ballot under the
21 terms of this statute? Is that information
22 provided at the polling place?

23 MR. BOONE: I have heard of it being

1 provided. I've heard of other people not hearing
2 it exactly like you read it. And I think that's
3 where I'm worried. If the training isn't there or
4 if the election officials don't have the codes or
5 the manual in front of them, I don't know what
6 they're telling. I mean, every precinct, and like
7 you've kind of heard already, every county can be
8 different. Every registrar might run their county
9 a little bit differently. And so I don't know
10 exactly what's being told to each person.

11 MS. CARROLL: And who is the state
12 official that's responsible for ensuring that
13 consistent information is given to voter from
14 precinct to precinct?

15 MR. BOONE: The Secretary of State
16 provides a manual, from my understanding, that's
17 supposed to be uniform, and every precinct is
18 supposed to do the exact same thing. Now,
19 conveniently or, you know, however you want to
20 interpret it, the Secretary of State also has the
21 ability to say, well, I can't help what the
22 registrars do in their particular county.

23 So, you know, where does -- you know, not

1 really a true liability -- but like where does the
2 liability in a figurative sense, you know, lie?
3 Is it with the Secretary of State giving the
4 manual? Was the manual correct? You know, I hope
5 it is, but then how is the training.

6 MS. CARROLL: All right. I -- I have a
7 general question for both of you. We haven't
8 talked at all at this hearing about other
9 impediments to access, things like the hours that
10 polling places are kept open, the -- you spoke a
11 little bit to the presence of law enforcement at
12 some polling places but not all polling places. I
13 mean, what's your sense of what impact do those
14 have in voter participation and access?

15 MR. BOONE: You can go ahead, Mr. Park.

16 MR. PARK: My -- my instinct is they would
17 be episodic at best. And not gentle.

18 MR. BOONE: I don't have the studies
19 offhand, but it seems that there should be -- you
20 know, to us, from our ACLU perspective, we want as
21 many people to vote as possible. I mean, I think
22 we would -- I'm personally -- I don't know if this
23 is ACLU's position, but I wish election day was a

1 holiday so individuals who are working and have
2 kids, have to pick kids up from day care,
3 practice, or whatever would be able to -- it would
4 be easier for them to vote. And then if there's
5 long lines or other types of impediments, I think
6 voting should be -- anyway, whatever the
7 statistics might show to get fuller participation
8 is where I usually land myself. I'm not sure
9 about the organization. Generally, the
10 organization is on the line of we want more people
11 participating in our democracy.

12 MS. CARROLL: And just one quick follow-up
13 question, and then I'm going to send it down to
14 Michael Innis-Jimenez who also has a question.
15 But who set the hours at these polling places? Is
16 that statewide legislative set or is it done by
17 the probate judges or county commissioners?

18 MR. BOONE: I'm under the impression that
19 it was -- it's somewhere in the state code. Do --
20 I'm not sure if --

21 MR. PARK: The polling hours are
22 established by state law so that they're common
23 across the state.

1 MS. CARROLL: Okay. Thank you. Michael
2 Innis-Jimenez.

3 MR. INNIS-JIMENEZ: I've got a question
4 for Mr. Park. You talked about early voting. The
5 goal -- I guess our goal and the goal of the
6 democratic society is to have as many people
7 participate who are -- who are legally eligible
8 to.

9 You mentioned at the very beginning that
10 early voting -- you see early voting as not really
11 helping as far as turnout. My question is, is it
12 hurting turnout at all and is there a reason to
13 not take that affirmative step to make it easier?
14 That's one. And two, some states have gone to
15 instant -- instant registration. Do you see a
16 problem with that in the state or are you
17 registering on the day of election.

18 MR. PARK: With respect to -- to early
19 voting, I can't -- I can't say that, you know, it
20 doesn't -- that it doesn't have the opposite
21 effect. But the studies show that it doesn't
22 increase turnout. It moves it around. And so
23 it's a question of do you want to spend the money

1 to make it easier for some folks who would
2 otherwise vote to vote early? And that's a --
3 that's a -- that's a matter of cost. I've -- I've
4 lost your second question.

5 MR. INNIS-JIMENEZ: It was about
6 registration, you know --

7 MR. PARK: Instant registration? I think
8 people should be able to opt out.

9 MR. INNIS-JIMENEZ: I mean, at the polling
10 place, if you --

11 MR. PARK: Same day?

12 MR. INNIS-JIMENEZ: Same-day registration.

13 MR. PARK: I would see it, as an election
14 official, as problematic.

15 MS. CARROLL: Mr. Ayers.

16 MR. AYERS: Mr. Boone, you mentioned the
17 Secretary of State's manual that gets sent out to
18 all the different polling areas. Do you have any
19 information at all that anything in that manual is
20 in any way inaccurate?

21 MR. BOONE: I don't have any information
22 was on that.

23 MR. AYERS: Okay.

1 MR. BOONE: I haven't -- I haven't --
2 actually, I asked for a copy. I don't know if the
3 Secretary of State's office might have forgotten,
4 but I didn't -- I didn't get a copy. So I wasn't
5 able to review what's -- you know, page by page
6 what's in the manual.

7 MR. AYERS: But there hasn't been anything
8 to your knowledge that like, well, the Secretary
9 of State is telling everybody to do this and it
10 turns out that's not correct under state law?

11 MR. BOONE: Not to my knowledge.

12 MR. AYERS: Because I mean, we're kind of
13 -- this is one of the overarching points is making
14 sure that it's uniform and making sure that
15 they're getting the correct guidance. You
16 mentioned that -- that, well, perhaps somebody's
17 not following his guidance perfectly and so forth.
18 And I mean, that -- that type of thing, you'd have
19 to have -- you said the word "conveniently." It
20 kind of threw me off as though there was like this
21 kind of a scheme to do this.

22 But I mean, there's always going to be
23 situations where somebody doesn't like somebody

1 that's local isn't doing exactly what they need to
2 be doing. I mean, that's going to be --
3 obviously, the goal is to try to minimize that as
4 much as possible, right?

5 MR. BOONE: Yes, sir. I think -- I think
6 the reason I used the word "conveniently" is just
7 because, you know, if once we see something that's
8 wrong, I guess it's convenient for either the
9 local authority, whether it be the registrar's
10 office or the Secretary of State's office -- it's
11 hard for us to know exactly where it went wrong,
12 right?

13 Because Secretary of State's office can
14 point toward the registrars and say that was a
15 mistake on their end. But they're saying, well,
16 we never were told that at our, you know, large
17 group meeting. So it's fingers pointing both ways
18 which makes it difficult for us to say like who
19 exactly is, you know, like liable or who -- where
20 the fix should come from. So I mean, I'm-- you
21 know, I'm just kind of at the point where do we
22 try to just fix both ends, both the local and
23 what's coming from Montgomery, from the Secretary

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1 of State's office.

2 MR. AYERS: Which, I guess, just
3 emphasizes the need to make sure that the manual
4 is accurate?

5 MR. BOONE: Correct.

6 MR. AYERS: Because that is on paper. Now
7 we don't have to rely on he said, she said at that
8 point, which might be something we need.

9 MS. CARROLL: So at this point, I would
10 recognize Mr. Jones.

11 MR. JONES: So to that point, can you -- a
12 question for either of you. You talk about the
13 process and how that manual -- so when -- when and
14 how the manual is distributed and then how the
15 information in that manual is consumed by those
16 actually doing the election process. And I note
17 this just because, as a student and someone who
18 teaches students now, sometimes they get the
19 textbook, right, but they don't ever open it. So
20 can you talk about the process of when they get
21 the manual and how -- the expectations of going
22 through the manual? And a question for either of
23 you.

1 MR. PARK: Well, I think the best way for
2 you to find that out is to talk to the --

3 MR. JONES: So -- okay. Okay.

4 MR. PARK: -- people in the Secretary of
5 State's office about their distribution schedule
6 and then talk to -- if you go visit with
7 registrars or county election officials, find out
8 how that's distributed. And my recollection is
9 that -- I believe that at least at the local
10 level, they'll do training sessions.

11 MR. JONES: Mr. Boone, do you have a
12 sense?

13 MR. BOONE: Yeah. Just off -- you know,
14 what -- I agree with Mr. Park. I would go to the
15 Secretary of State's office and ask them. I asked
16 them their exact schedule. I don't know. From
17 what I recall, I think Secretary Merrill tries to
18 release it -- or he releases one in the summer,
19 which is because if there's any new laws that
20 happened during our legislative session -- which
21 makes sense -- over the spring, once that's over,
22 he can add those new laws that have signed by the
23 governor into the manual. And I -- I think he

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1 usually puts the statute in there, but then
2 hopefully there's some type of guidance as well to
3 explain the practical effects of the law. I think
4 he releases it in the summer. I'm not 100 percent
5 sure on that.

6 MS. CARROLL: So I would recognize Member
7 Maurie Shevin.

8 MR. SHEVIN: I want to get back to this
9 question of the issue you have addressed on a
10 photo ID not being the same as where the voter
11 shows up to vote at a precinct. Recognizing that
12 there are down ballot races for city council or
13 for legislative -- you know, for the legislature,
14 is it -- in your judgment, Mr. Boone, is it
15 legitimate -- a legitimate concern for the State
16 to make sure that the voter is voting in the
17 correct -- in the precinct of his or her address?

18 MR. BOONE: I'm not -- it seems like, I
19 guess, where they live does matter in some sense.
20 I guess what confuses me is that -- is that that's
21 not what's in the Alabama statute. That's not in
22 the Code. So, I mean, there's -- you can use your
23 United States passport -- as you probably know --

1 your employee ID, your university ID. All of
2 those don't have your address on there.

3 I think what's most important is when you
4 register, you register -- I believe from what I
5 remember, you register from your home address.
6 And so you should -- as long as you're at the
7 right -- what I think I'm concerned about or what
8 we should all be concerned about is just to make
9 sure that they're at the right precinct. I don't
10 -- if the person is at the right precinct, I don't
11 understand the need to check -- I mean, be refused
12 from voting just because the address doesn't
13 match. I mean, it's -- and it's possible too -- I
14 know because I've heard from people that their --
15 their old address, the one that was on their
16 license, is still in the same precinct, and they
17 were still told, no, you can't vote. So in that
18 case, it wouldn't have really mattered.

19 So I'm not so sure exactly why -- I think
20 it's important that people vote in the correct
21 precinct. I'm not so sure how -- why we need an
22 extra technicality of checking everyone's address
23 whenever the photo ID law was there for

1 identification purposes. And also, there's
2 questions of why the photo ID law was put in place
3 in the first place, in my opinion.

4 MS. CARROLL: I would recognize Ms. -- or
5 Dr. Lewis. I'm sorry.

6 DR. LEWIS: Mr. Boone, you made a
7 statement how Secretary of State John Merrill --
8 your closing actual sentence -- do you know where
9 you received that information? Was it a newspaper
10 article? Was it a speech? And when you submit
11 your written statement, can you provide us a
12 source so that we can go back and look at the
13 entire context of that statement?

14 MR. BOONE: I will do that and I will find
15 it. I don't think -- I feel -- I'm going off -- I
16 think it's from AL.com or it's possible it's from
17 his social media. I'm trying to remember because
18 there's two different quotes I think I used.

19 DR. LEWIS: Okay. It was the very last
20 one about people have to show some initiative to
21 vote in Alabama. If you could provide us with the
22 entire source for that so we can go back and
23 review, I would appreciate it. Thank you.

1 MR. BOONE: That makes sense. I can do
2 that. Thank you.

3 MS. CARROLL: Do others have questions? I
4 have a couple more questions. I'm full of
5 questions. I apologize.

6 So I want to go back also to the Phenix
7 City case. I did a little more research on it in
8 the time we've been talking. It looks like in
9 that, there was also some questions that were
10 raised by the NAACP about whether or not the
11 election law actually required a business or a
12 residential address.

13 Do you have any information on how -- I
14 understand how it was resolved ultimately, but in
15 terms of clarification of the law itself, do you
16 know if any clarifications were made.

17 MR. PARK: I do not. I do know that the
18 local NAACP called for the voter rolls in Phenix
19 City to be cleaned up.

20 MS. CARROLL: Correct. I remember you
21 said that. All right. Great. In terms of fraud
22 -- have you found -- in terms of the statistics
23 about confidence in the vote, have you found

1 there's any difference in terms of those
2 statistics with the implementation of voter ID
3 statutes? So, for example, you gave quotes from
4 August or studies, rather, from August of 2017 as
5 well as the 2016 election. Obviously, both of
6 those were after the time Alabama had passed its
7 voter ID law and national voter ID laws in many
8 states were put into place. Have you found that
9 to have any effect in people's confidence in the
10 vote?

11 MR. PARK: These are the most recent
12 studies that I've found.

13 MS. CARROLL: Okay.

14 MR. PARK: So I -- you know, they -- it
15 would postdate a lot of the photo ID -- the
16 enactment of photo ID laws, but people are still
17 concerned about fraud in voting.

18 MS. CARROLL: All right. So even with the
19 enactment of these laws, there's still, obviously,
20 54 and 41 percent, I believe, are the numbers you
21 gave us?

22 MR. PARK: Yes.

23 MS. CARROLL: Okay.

1 MR. PARK: And that will be in my written
2 remarks.

3 MS. CARROLL: Fabulous. Thank you. And
4 if you can include in your written remarks, if you
5 can find any studies that predate the voter ID
6 laws, I think that would be helpful to give us a
7 sense of how reassuring are these voter integrity
8 laws that -- that are being passed. I would
9 appreciate that.

10 In terms of the early voting issue -- and
11 this is also for you, Mr. Park. In terms of the
12 early voting concerns you raised, one of the
13 concerns you raised was the example that people
14 may change their minds as new information becomes
15 available about candidates. We've seen that, as
16 you noted, in -- in numerous recent elections
17 where additional information is provided within a
18 month or so of when the election is designed to
19 take place. And I understand that that is an
20 issue and a concern. But isn't that also, to some
21 extent, a risk that a voter him or herself can
22 make a choice to take on as opposed to vesting the
23 decision-making process about when people have

1 access to vote entirely in the government?

2 MR. PARK: That's correct. But the
3 voter -- the voter may find that the choice they
4 made wasn't a good one and would make a
5 more-informed choice had they waited.

6 MS. CARROLL: Of course, I feel like
7 that's half the time in politics as it is,
8 regardless of when I vote. All right. In terms
9 of the cost analysis, you indicated that you
10 believe that there was a higher cost, I believe,
11 to early voting or would increase the cost. You
12 made a statement of you have to ask yourself the
13 question do you want to invest the additional
14 money in early voting. Is -- is -- do you
15 actually have data that suggests that there's an
16 increased cost incurred by early voting?

17 MR. PARK: You'd have to get the polling
18 places opened, you have to provide election
19 officials, so you are going to -- going to incur
20 costs.

21 MS. CARROLL: Now, we heard from our
22 previous individual who testified, Mr. Crayton,
23 that there were instances of early voting that was

1 possible through mail-in balloting. Is that
2 something that you believe would also increase
3 costs or is that something that does not tend to
4 have a significant cost impact?

5 MR. PARK: Mail-in voting as a general
6 practice or mail-in voting as a --

7 MS. CARROLL: Early -- early voting or
8 absentee voting by mail-in voting. So you're
9 describing early voting where you actually go to a
10 physical location --

11 MR. PARK: Correct.

12 MS. CARROLL: -- and casting a ballot?

13 MR. PARK: Correct. That's -- that's what
14 we typically understand as early voting. Your --
15 your absentee ballot may -- may be -- you know,
16 you might -- might get to pick it up early, but my
17 recollection was the -- talking about the state
18 law five days and a day.

19 MS. CARROLL: All right. And in terms of
20 the distribution of those costs, one of the
21 issues, also, that Mr. Crayton raised was that
22 early voting actually allowed for better
23 preparation with regard to voting, addressed some

1 of the issues of long lines that Mr. Boone alluded
2 to.

3 Do you have any information on how that
4 decreases the cost or increases a sense of
5 certainty about elections?

6 MR. PARK: No.

7 MS. CARROLL: All right. Does anyone else
8 have any other questions? Because otherwise, I
9 could just keep going. I'm sorry. You can
10 imagine what it's like at our supper table, the
11 four of us in the family.

12 All right. So Mr. Boone, I had some
13 additional questions for you. As I read section
14 1749, there's no differentiation between either a
15 federal or state election or a primary versus a
16 general election. Have you found any data that
17 suggests that the differentiation you were
18 describing where individuals had voted, say, in a
19 federal presidential election, then showed up to
20 vote in a state primary election and were told
21 they had been removed from the rolls despite the
22 fact that they had voted within the past four
23 years? Do you have any information that that's

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1 either included in the election manual or -- or
2 there's widespread confusion about that?

3 MR. BOONE: I don't have any --

4 MS. CARROLL: Okay.

5 MR. BOONE: -- evidence of
6 differentiations, you know, between state and
7 federal elections.

8 MS. CARROLL: All right. I think that's
9 actually all the questions that I have. And just
10 for the record, the election manual is, in fact,
11 available online through the Alabama Law
12 Institute, so that's something that we can also
13 examine as a committee if we're interested in
14 doing that. I think that Mr. Ayers' suggestion
15 that we look at that was a very good one. I
16 actually -- I -- I was deceptive. I apologize. I
17 have one more question, Mr. Boone.

18 With regard to the identifications, we've
19 heard conflicting testimony just today about what
20 sorts of identifications are permissible under
21 Alabama state law. As I understand it, as of June
22 3rd, 2014, included in what one can use is: A
23 valid driver's license; a valid nondriver's ID; a

1 valid Alabama voter -- voter ID; a valid
2 state-issued ID from Alabama or any other state; a
3 valid federal-issued ID; a valid U.S. passport; a
4 valid employee ID from the federal government,
5 State of Alabama, county government, municipality,
6 board of authority, or other entity of this state;
7 valid student or employee ID from a university or
8 college in the State of Alabama; and a valid
9 military ID.

10 Are you aware of any restrictions or do
11 you have any sort of data about restrictions that
12 are in place with regard to the use of these
13 particular IDs? In other words, are people being
14 turned away if they show up with their military
15 ID.

16 MR. BOONE: I don't have evidence of that.
17 It's something that I've heard. So I have heard
18 individuals say that, you know, the election
19 officials are like, I haven't seen one of these
20 before. And then it's kind of -- which worries me
21 because then they might have to make a call to us
22 or, you know, call the Secretary of State, and the
23 Secretary of State has to call the, you know,

1 registrar for that county. That registrar has to
2 then go to that particular precinct and say, no,
3 passports are allowed.

4 So because I've heard that makes me
5 wonder, you know, are they, again, being properly
6 trained or is -- I think what I would like is --
7 and I don't know this for a fact. I don't know if
8 it's not there or if it's there. It sounds to me
9 like it's not always there. It seems like the
10 manual should be handy if you are -- if there's
11 questions at the polls.

12 So if someone says, a passport, I'm not
13 sure about those, or, you know, that's a Georgia
14 license; this is Alabama. So, you know, can you
15 please check the manual. I think that would be my
16 -- maybe a suggestion the Commission can make.
17 And I'm not 100 percent sure on, you know, where
18 -- if the manual is even close by or if it's not.
19 So I don't have any information on that

20 MS. CARROLL: Well, I will say just
21 looking at the shear page number online, it seems
22 quite voluminous. So -- I mean, that's -- we
23 lawyers are paid, after all, by the word. So, you

1 know, I guess that that goes back to the point you
2 were making, Mr. Ayers, that the training perhaps
3 is also something that we should look into. Does
4 anyone else have any other questions?

5 DR. LEWIS: I do.

6 MS. CARROLL: Excellent. Dr. Lewis.

7 DR. LEWIS: So Mr. Park, I'm looking back
8 at your testimony. You talked about photo ID and
9 in-person fraud, and you gave one example of it
10 occurring. Do you have any statistics or evidence
11 or research that indicates that in-person fraud at
12 the polls occurs in Alabama?

13 MR. PARK: There was a conviction in 2004.
14 We also have Hernandez Hernandez down in Mobile.
15 I don't have any statistics, but it's very
16 difficult to catch if you don't have -- if -- if
17 you have a photo ID requirement, it -- it deters
18 it. But without it, it's difficult to catch. In
19 that case, somebody voted, and her sister showed
20 up and was found -- in her sister's name, and her
21 sister showed up and was found she already voted,
22 which was not the case.

23 DR. LEWIS: Okay. Maybe -- let me maybe

1 rephrase the question. Besides, I think you
2 mentioned two or three cases in Alabama, are there
3 other cases that we can refer to, to -- because of
4 one of the justifications for this law in Alabama
5 is fraud. Is there any other evidence that we can
6 look at where this was rampant in Alabama to
7 provide us with evidence for that law? Are there
8 justifications for that law besides those three
9 incidents?

10 MR. PARK: I haven't seen any
11 convictions --

12 DR. LEWIS: No.

13 MR. PARK: -- if that's what you're
14 talking about.

15 DR. LEWIS: Evidence that it occurred,
16 anything besides these instances you talk about
17 today.

18 MR. PARK: I'm not -- I can't point to
19 any, but the only way we'd find out about it is if
20 there was a conviction.

21 DR. LEWIS: Okay. Thank you.

22 MS. CARROLL: All right. So at this
23 point, there's no other questions from any

1 Committee member. We appreciate y'all's
2 information. Just as a reminder, as I indicated
3 to other speakers, the record is open for 30 days.
4 We welcome your written comments and additional
5 information, and we appreciate y'all coming in and
6 appearing in person. At this point, we will be in
7 recess for the lunch break until 1:00 p.m., at
8 which point we will resume with panel four.

9
10
11 (A lunch recess was taken.)
12

13 MS. CARROLL: So I'm calling the meeting
14 back to order. We are on panel four, and we've
15 split the panel into two different groupings of
16 panel four. So for the first iteration, we have
17 Jennifer Holmes from the NAACP Legal Defense Fund,
18 and we have Jonathan Barry-Blocker from the
19 Southern Poverty Law Center. For both of my
20 speakers, you will have 15 minutes to present your
21 comments. The timer will keep the 15 minutes.
22 When it's green, it means you're within your 15
23 minutes. At three minutes, it'll go to yellow,

1 which is telling you to wrap it up. At one
2 minute, you should pretty much finish what you're
3 saying because, otherwise, you risk getting
4 interrupted by me, and you don't want to be the
5 first panelist interrupted by me.

6 MR. BARRY-BLOCKER: So much pressure.

7 MS. HOLMES: Pressure.

8 MS. CARROLL: Yeah. I know it is. It is.
9 So with that pressure in place, after you finish
10 your comments, members of the Committee will then
11 ask questions, but we'll wait until both of you
12 all are done. So with that, I'm going to start
13 with you, Ms. Holmes.

14 MS. HOLMES: Great. Thank you. Good
15 afternoon, madam chair and members of the
16 Committee. My name is Jennifer Holmes, and I'm
17 the Eric H. Holder, Jr., Fellow at the NAACP Legal
18 Defense and Educational Fund, Inc., or LDF. Thank
19 you for the opportunity to testify on this vital
20 topic of access to voting in Alabama.

21 Since its founding in 1940 by Thurgood
22 Marshall, LDF has been a leader in the struggle to
23 secure, protect, and advance voting rights for

1 black voters and other communities of color
2 through litigation, advocacy, and education. Many
3 seminal voting rights lawsuits in which LDF has
4 been involved arose in Alabama, including Schnell
5 v. Davis which outlawed literacy tests; Dillard v.
6 Crenshaw County, which helped to integrate nearly
7 200 of Alabama's city councils, county
8 commissions, and school boards; and Shelby County
9 v. Holder in which LDF defended the
10 constitutionality of the Voting Rights Act.

11 My testimony will focus on the obstacles
12 to voting that black voters face in Alabama since
13 the Shelby County decision in 2013. We heard
14 testimony earlier this morning about section five
15 of the Voting Rights Act and the preclearance
16 process. For nearly 50 years, section five
17 required certain states, counties, cities, and
18 towns with a history of chronic racial
19 discrimination in voting to submit all proposed
20 voting changes to the U.S. Department of Justice
21 or a federal court in Washington, D.C. for
22 preapproval. This requirement was known as
23 preclearance and was considered the crown jewel of

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1 the Civil Rights Movement because it served as our
2 democracy's discrimination checkpoint by halting
3 discriminatory voting changes before they were
4 implemented. The preclearance process provided a
5 quick and an efficient way of addressing America's
6 pervasive and persistent problem of voting
7 discrimination.

8 Under that framework, communities were
9 given broad public notice about proposed voting
10 changes and the status quo was preserved until the
11 effect of those proposed changes on voters of
12 color could be fully explored. Section five
13 placed the burden of proof, time, and expense on
14 the state or locality to demonstrate that proposed
15 voting change was not discriminatory before that
16 change went into effect and could spread its harm.

17 This framework was important. Between
18 1969 and 2015, the Department of Justice objected
19 to more than 90 proposed voting changes in Alabama
20 under section five, and other proposed voting
21 changes were withdrawn or altered after DOJ
22 requested more information. Section five served
23 Alabama voters well as both a safeguard and a

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1 deterrent against voting discrimination and voter
2 suppression.

3 In 2013, the Supreme Court immobilized the
4 preclearance process in its decision in Shelby
5 County. The Court held that the formula for
6 determining which sections would be covered by
7 section five was unconstitutional, effectively
8 disabling section five and disabling the
9 preclearance process.

10 LDF continues to closely monitor how
11 Alabama and other formerly covered states and
12 localities respond in the wake of the Shelby
13 County decision and has been keeping a detailed
14 account of post Shelby County voting -- voting
15 changes in every state in our regularly updated
16 online publication, Democracy Diminished.

17 LDF attorneys also regularly engage with
18 communities of color across the nation that are
19 especially vulnerable to urge them to alert LDF of
20 any potentially discriminatory changes. In the
21 last several years, LDF attorneys have met with
22 community leaders and individuals across Alabama
23 to investigate these complaints, and LDF staff are

1 on the ground conducting poll monitoring during
2 major elections over the past three years.

3 Based on LDF's work since the Shelby
4 County decision, I will provide a sampling of the
5 obstacles to voting that black voters currently
6 face in Alabama. In the aftermath of Shelby
7 County, formerly covered jurisdictions were
8 emboldened to act. Here in Alabama, for example,
9 the legislature passed a restrictive photo voter
10 ID law, of which we've heard a lot of testimony,
11 passed in June 2011. But the State declined to
12 submit this law for preclearance for two years.

13 Indeed, the sponsor of the photo ID law
14 anticipated that if submitted for preclearance,
15 the law would result in a lengthy court battle.
16 Within days of the Shelby County decision with --
17 with the preclearance process effectively
18 scuttled, the Secretary of State's office
19 announced that it would now prepare to implement
20 the law.

21 In December 2015, LDF filed a lawsuit on
22 behalf of Greater Birmingham Ministries, the
23 Alabama NAACP, and four voters challenging

1 Alabama's photo ID law. The lawsuit alleges that
2 the law has a discriminatory effect on black and
3 Latino voters and that the legislature enacted the
4 law for the purpose of discriminating against
5 people of color. This is both a disparate
6 treatment and a disparate impact claim.

7 According to our expert in the litigation,
8 more than 118,000 registered voters lack a photo
9 ID that can be used to vote under the law, and
10 black and Latino voters are twice as likely than
11 white voters to lack such an ID. This figure
12 breaks down as 50,000 registered voters who lack
13 any acceptable ID and 68,000 registered voters
14 who, although they have an ID, have discrepancies
15 in the name on the ID or other information on the
16 ID that would prevent them from using it to vote.

17 Although the Secretary of State disputes
18 this figure, the Secretary of State's expert in
19 the litigation does acknowledge that black and
20 Latino voters are twice as likely to lack an ID as
21 white voters. Black and Latino voters without a
22 photo ID are also much more likely than their
23 white counterparts to lack access to vehicles, to

1 live in poverty, and to face other barriers to
2 obtaining an ID.

3 For example, black voters are three times
4 more likely than white voters to live more than
5 five miles from an ID-issuing office and to live
6 in a -- in a household without a vehicle. In
7 October 2015, the governor made these travel
8 burdens even worse when he took the drastic step
9 of partially closing 31 driver's license issuing
10 offices, most of which were located in -- in
11 Alabama's rural Black Belt.

12 The governor closed driver's license
13 offices in eight of the ten counties with the
14 highest proportion of black voters. These
15 important offices were opened only one day a month
16 for the entire 2016 election season, making it
17 more difficult for black voters in these poor and
18 rural communities to obtain the required photo ID.
19 The governor only agreed to reopen these offices
20 in December 2016 after the presidential election
21 and after an investigation by the U.S. Department
22 of Transportation that found that Alabama's
23 partial closure of the offices had a

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1 discriminatory effect on black voters in violation
2 of title six of the Civil Rights Act.

3 Despite this compelling evidence, in
4 January -- last month -- the district court judge
5 dismissed our lawsuit. We were surprised and
6 deeply disappointed by this ruling, but just
7 yesterday, LDF submitted our brief to the 11th
8 Circuit seeking a reversal and asking the circuit
9 court to provide relief in time to protect the
10 rights of Alabamians ahead of the November 2018
11 elections.

12 In 2014, 2016, and most recently in
13 December 2017, LDF has been on the ground for
14 Alabama's major primary and general elections to
15 assist voters. In the 2017 special election, we
16 again conducted nonpartisan poll monitoring as
17 part of our Prepared to Vote initiative. We had
18 more than 30 volunteers across five counties in
19 the state and we also operated a hotline that
20 voters could contact.

21 Unfortunately, we observed or received
22 reports of many systemic voting -- voting-related
23 problems on election day, including long lines at

1 predominantly black precincts, lack of or
2 malfunctioning voting machines, insufficient
3 numbers of ballots, and law enforcement officials
4 conducting warrant checks at polling places. In
5 particular, we heard from frustrated voters whose
6 attempts to cast a ballot were stymied by the
7 photo ID law or Alabama's inactive voter
8 procedures.

9 As mentioned before by the ACLU of
10 Alabama, poll workers in Mobile County barred
11 people from voting or improperly forced voters to
12 cast provisional ballots when they presented an ID
13 with an address that did not match the address on
14 their registration record, even though the photo
15 ID law does not require a voter to present an ID
16 with an address at all. Indeed, some of the
17 accepted IDs, such as passports, do not list an
18 address.

19 This misapplication of the voter ID -- of
20 the photo ID law is more likely to affect voters
21 who do not have an alternate form of ID or cannot
22 take additional time off from their workday to
23 contest a poll worker's decision or to retrieve an

1 alternate ID.

2 A second major frustration for voters was
3 Alabama's inactive voter procedures. In January
4 2016 -- 2017, the Secretary of State's office sent
5 postcards to all registered Alabama voters.
6 Voters whose first card was returned undeliverable
7 and who did not reply to a second card were
8 designated as inactive. This had nothing to do
9 with their voting record in the past four years.
10 This error-prone process for identifying purported
11 inactive voters resulted in widespread voter
12 confusion.

13 On election day, numerous voters were
14 alarmed to discover, at the polls, that they were
15 on this inactive list that they had never heard
16 of, despite having voted in recent elections.
17 Although inactive voters should have been
18 permitted to cast a regular ballot as long as they
19 updated their registration information at the
20 polls, LDF received many reports that poll workers
21 were turning away inactive voters or improperly
22 requiring them to cast provisional ballots or
23 answer immaterial and illegal questions, such as

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1 the county of their birth, before allowing them to
2 cast a vote.

3 Shortly after the election, LDF notified
4 the Secretary of State of these two issues in a
5 series of letters. We continue to urge Secretary
6 Merrill to investigate these problems and issue
7 public guidance about how his office intends to
8 avoid them in the future and how voters who are
9 denied the right to vote can remedy that outcome
10 in the immediate days after an election.

11 Even when applied as intended, Alabama's
12 photo ID law and its inactive voter list
13 procedures disproportionately burden poor, rural,
14 and transient voters who are often black or
15 Latino. The erroneous application of these laws
16 only magnifies this effect. As far as we know,
17 the Secretary of State has not investigated these
18 issues.

19 By contrast, the Secretary of State's
20 office did choose to investigate a young person of
21 color for voter fraud based on an off-the-cuff
22 remark he made during a newscast about people
23 coming "from different parts of the country to

1 pitch in and canvas for Doug Jones."

2 Unsurprisingly, the investigation concluded that
3 the man was a properly registered Alabama voter
4 and that the allegations of any widespread voter
5 fraud were a myth.

6 There is a belief that black voter turnout
7 in December's special election, in the election of
8 a candidate heavily supported by black voters mean
9 that Alabama's restrictions on voting did not have
10 a negative impact. This is a fallacy. First,
11 only about 40 percent of registered Alabamians
12 voted in the December 2017 election, whereas in
13 November 2016, turnout was in the mid 60s.
14 Although black voters constituted a higher
15 proportion of the electorate than usual in 2017,
16 turnout was down in the special election.

17 Second, black voters showed amazing levels
18 of commitment and fortitude in the 2017 special
19 election braving the cold, the long lines, and a
20 web of restrictive voting measures in order to
21 make their voices heard. While LDF is heartened
22 that some but not all voters were able to overcome
23 these obstacles, the Constitution and the Voting

1 Rights Act demand that such obstacles should have
2 never been erected in the first place.

3 In conclusion, the proliferation of
4 discriminatory and restrictive voting measures in
5 Alabama in the wake of the Shelby County decision
6 highlights the need for action. LDF and other
7 civil rights organizations have tried to
8 aggressively combat the attacks on voting rights
9 in the absence of section five, but we cannot do
10 it alone.

11 Congress must pass one of the multiple
12 bipartisan bills that have been introduced since
13 2013 to restore the preclearance process of the
14 Voting Rights Act. Alabama's legislature can also
15 pass its own voting rights protections. At a
16 minimum, even under the current legal framework,
17 state and local officials should promote voter
18 access through increased poll hours and locations,
19 better-trained poll workers, adequate machines and
20 ballots, and more meaningful engagement with
21 communities of color.

22 Finally, the Secretary of State must be
23 responsive to complaints from voters and reports

1 from advocates on the ground and provide clear
2 guidance when voting issues arise. We must all
3 play a role to encourage and safeguard full
4 participation in our democracy. Thank you.

5 MS. CARROLL: Thank you. And we'll hear
6 from Mr. Barry-Blocker now.

7 MR. BARRY-BLOCKER: Thank you. Good
8 afternoon, everybody. My name is Jonathan
9 Barry-Blocker. I am a staff attorney with the
10 Southern Poverty Law Center. The Southern --
11 Southern Poverty Law Center is a longtime
12 participant in support of voting rights advocacy.
13 In the 1970s and '80s, the Center filed two suits
14 to increase African-American representation in the
15 legislature in the judiciary. And currently, the
16 Center's voting rights efforts cover the deep
17 south.

18 In collaboration with the NAACP, LDF, and
19 The Sentencing Project, we filed an amicus brief
20 in the appellate court highlighting the history of
21 racial discrimination inherent in Louisiana's
22 felony disenfranchisement law. Our attorneys in
23 Florida have been canvassing and gathering

1 petitions to qualify a constitutional amendment on
2 voter restoration for the November 2018 ballot.
3 Then next week, the Center and a number of
4 grassroots organizations will submit a brief in
5 support of plaintiff's appellants challenging
6 Alabama's photo ID law.

7 Specifically, my testimony is going to
8 focus on my efforts with the restoration of the
9 formerly incarcerated. That's the work I was
10 doing while I was at Legal Services Alabama and
11 which I will continue at Southern Poverty Law
12 Center.

13 Just to give you some background on what
14 my perspective is on this problem, there is a
15 history of disparate impact in Alabama. I think
16 *Hunter v. Underwood*, 471 U.S. 222(1985) showed
17 that the registrars in Alabama denied higher
18 ratios of black citizens the right to vote based
19 on their criminal histories. It appeared to be
20 indiscriminate, whether it was a felony or a
21 misdemeanor, partially because there was no firm
22 policy at the time. That was back in the 1980s.

23 The legislature, after that provision in

1 the 1901 Constitution was struck down under Hunter
2 v. Underwood, the legislature passed an amendment
3 getting the definition of moral turpitude back in
4 as a functioning policy of the law. Currently, in
5 Thompson v. Alabama, the Campaign Legal Center has
6 filed a lawsuit challenging -- let me make sure I
7 get this correct. Yes, they are challenging the
8 moral turpitude provision and policy, and
9 currently they are actionable claims that have
10 survived dismissal, focused on intentional
11 discrimination under the 14th and 15th Amendments.

12 What a big focus of their lawsuit is, is
13 looking at court debt and whether or not it's
14 functioning as a poll tax. Even though the Court
15 has chosen to dismiss that particular claim, the
16 fact that the court debt and outstanding legal
17 obligations are functioning as a major barrier is
18 relevant for consideration.

19 Just to let you know, approximately 15.1
20 percent of Alabama's black citizens cannot vote as
21 of a 2016 report by The Sentencing Project, and
22 based on population data from the census, that was
23 about 196,808 citizens. Previously, it was 8.4

1 percent of black citizens could vote, and that was
2 in 1980.

3 Also, there's been a recent heavy
4 disenfranchisement in counties with notable black
5 populations. And when I say notable black
6 populations, I'm specifically referring to those
7 with 20 percent black or higher. So the largest
8 number of voters purged for felonies were in
9 Mobile, Montgomery, Houston, and Jefferson
10 Counties. And respectfully, Mobile had 1,245
11 people purged for felonies, Montgomery had 782,
12 Houston County had 481, and Jefferson had 453.
13 That was as of a 2016 Election Administration &
14 Voting Survey report issued by the government.

15 The largest percentage of the population
16 being purged for felonies occurred in Macon, Dale,
17 Washington, and Dallas Counties. Macon saw 31
18 percent of its voting population purged for
19 felonies, Dale saw 25 percent purged for felonies,
20 Washington County saw 20 percent, and Dallas saw
21 20 percent. All of the counties that I mentioned
22 have a black population comprising at least 20
23 percent or more of the population.

1 I now want to transition to the recent act
2 that defined moral turpitude. This was partially
3 as a response to the Campaign Legal Center's
4 lawsuit. And the acts went ahead and set forth --
5 there were about 40 crimes that were going to be
6 considered crimes of moral turpitude. Many of
7 these 40 crimes -- they are all felonies, but
8 they're not necessarily the original crimes of
9 moral turpitude set forth in the 1901
10 Constitution.

11 And in fact, what you'll notice upon
12 closer review is that most of these crimes are
13 street-level crimes, meaning crimes they expect
14 poor or black people to commit. What you will
15 find missing are ethics crimes. You will find
16 public corruption crimes missing and tax evasion.
17 Most frauds missing. Basically, your white collar
18 crimes are nowhere in there.

19 So it can be inferred that the purpose of
20 this provision is still to disenfranchise the poor
21 and the -- the nonwhite. So what is apparent
22 impact? Well, two politicians who have recently
23 been convicted of corruption and ethics charges

1 technically still have the right to vote under the
2 definition of moral turpitude present in Alabama,
3 whereas as many black citizens or poor citizens
4 cannot because of the various crimes listed.

5 What I also would like to bring attention
6 to is drug trafficking. Many of you may not be
7 aware, but drug trafficking is one of those war on
8 drugs crimes that come with stiff mandatory
9 minimum sentences, as well as stiff fines. And we
10 are talking about mandatory minimum sentences that
11 range anywhere from 3 to about 25 years, day for
12 day. And we're talking about fines that can start
13 anywhere as low as sometimes 25,000 and go up to
14 200,000.

15 The idea being that a drug trafficker,
16 someone like Pablo Escobar who had islands and
17 yachts and boats, and so the fines reflect as
18 much. However, drug trafficking crimes do not
19 take into account the intent of the offender. It
20 only takes into account the weight set by the
21 government, and these weights were in a sense set
22 arbitrarily at the height of the drug frenzy. So
23 what you have are poor people who just happened to

1 have too much of one particular drug around them
2 or within their control being charged with drug
3 trafficking.

4 So what does this mean? Once they're
5 convicted and they've served their mandatory
6 minimum sentence, they now have a stiff fine here
7 in Alabama of 25,000, 50,000, or 200,000 they must
8 pay off. In Alabama, there is a law, codified in
9 section 12-17-225.4, which allows the district
10 attorney to go after outstanding court debt. So
11 imagine, if you will, someone has served their
12 three- to ten-year minimum mandatory sentence.
13 They now have their \$25,000 fine plus whatever
14 court fees have been assessed plus whatever
15 enhancements.

16 I'll give you a case in point. I assisted
17 someone who came out. He had a minimum of \$50,000
18 fine. I think his total debt was looking at about
19 a little closer to 60. He got out of prison. He
20 was paying it consistently.

21 However, under that law I cited, if you do
22 not pay your debt within 90 days, the district
23 attorney has the authority to initiate collections

1 against you and then levy a 30 percent interest
2 rate on what your outstanding debt is. So while
3 he had started making headway, I think he knocked
4 off about 10,000, all of a sudden, that 30 percent
5 hit. Last I spoke with him, he owed closed to
6 60,000, and he had just pretty much stopped trying
7 to make major payments. He was making the minimum
8 monthly payment but no longer was he trying to
9 really make a dent because, as he said, there's no
10 way I'm going to be able to do it in my lifetime
11 with that much money. He is otherwise a
12 functioning member of society, has a very good
13 job, he does what he's supposed to do, owns a
14 home, and everything else.

15 But what he cannot do is reclaim his right
16 to vote because under the current law, you must be
17 paid up on your court debt. So what I would like
18 this Committee to bring attention to is the fact
19 that drug trafficking convictions will function as
20 a permanent bar to voting in Alabama because the
21 cost of the fine is so prohibitive and no other
22 crime under the criminal code imposes as much as a
23 financial burden as drug trafficking convictions

1 do.

2 And what you should be aware of is
3 currently, there's a fentanyl trafficking bill
4 working its way through the legislature, and they
5 have just decided to reduce the minimum wait to, I
6 think, at about -- they're looking at maybe one
7 gram triggering trafficking. Heroin, which
8 usually is blended with fentanyl, is at four
9 grams. So what they're saying is one gram of
10 fentanyl will trigger trafficking which will
11 trigger a \$25,000 minimum fine.

12 And if it's going to be your poor
13 populations or your black populations that are
14 being caught with this drug, then what we're going
15 to have is a -- a pretty high bar for restoring
16 the citizens of Alabama. So looking at that,
17 understanding that with the Act and its practical
18 application, what some of the -- the one drug
19 crime that is considered a crime of moral
20 turpitude, what are the hurdles to
21 enfranchisement.

22 Historically, the Board of Pardons and
23 Paroles was a little behind in processing

1 applications. According to The Sentencing Project
2 in their 2016 report, only 16,000 restorations
3 happened from 2005 to 2015. Now, I want you to
4 compare this number with the fact that -- they
5 estimate 250,000 citizens were disenfranchised as
6 of 2016. So there is a delay in processing
7 claims.

8 After speaking with people I was helping
9 at clinics and even prior clients who had done it
10 on their own, it is not uncommon for the pardon
11 process, which was the old process, to take
12 anywhere from five to eight years to get someone
13 restored. And that the citizen will usually have
14 to be very adamant about reclaiming their rights.

15 Alabama, next to New Mexico, has the
16 highest -- second highest percentage of voters
17 disenfranchised for felonies, approximately 10,793
18 as of 2016. That's 9.2 -- .7 percent of the total
19 purged. New Mexico is first with 48.55 percent of
20 total purges attributed to felonies. And again --
21 but their number is 10,493 citizens.

22 I spoke a little bit about court debt, and
23 court debt is critical because of new law. To

1 reclaim your rights, you'll have to go for the
2 pardon or a certificate of -- certificate of
3 eligibility to register to vote or what we will
4 call CERV. Those are your two pathways. To get a
5 pardon, you usually have to have committed murders
6 or a sex crime or some type of child exploitation
7 crime. Everything else is a CERV pathway.

8 What I can say is the Board of Pardon and
9 Paroles has been very responsive to making their
10 process more streamlined. And so they have done a
11 very good job of making sure that anyone who files
12 a CERV application is addressed within 60 days,
13 and they note the status of their ability to
14 reclaim the right to vote. If at ever they are
15 beyond the 60 days, they would tell us to call
16 them, and I would call, and the director of
17 pardons, Akisha Jones, would personally look into
18 the matter and usually resolve it within a day and
19 get some communication out. So they have been
20 very responsive.

21 They also have updated their system so
22 that someone doesn't have to fill out a mystery
23 form or put together a mystery amount of

1 information and submit it to them. As of right
2 now, the Board of Pardon and Paroles allows you to
3 submit simply by an e-mail the requisite
4 information to jump-start your CERV process. So
5 they have been great with getting -- with trying
6 to address the backlog.

7 I want to make the Committee aware that
8 there was a report done or a study called
9 Discretionary Disenfranchisement, The Case of
10 Legal Financial Obligations 46 -- volume 46 of the
11 Journal of Legal Studies starting at page 309 that
12 look at the burden of court debt on citizens
13 trying to reclaim their right to vote. They found
14 in their 2017 published study that one-third of
15 CERV applications were denied due to court debt,
16 that the median court debt for Alabama citizens is
17 \$3,956, whereas they estimate the average annual
18 income of formerly incarcerated people is about
19 \$9,000.

20 They saw that the fees -- court fees
21 compromise -- comprise about 57 percent of a
22 citizen's assessed court debt and there was strong
23 statistically significant correlation between

1 outstanding court debt and a citizen's use of the
2 public defender. So they saw that 82.3 percent of
3 public defender users have a balance -- an
4 outstanding court debt balance compared to 67.1
5 percent of those who retain private counsel.

6 Blacks and nonblacks generally -- or I'm
7 sorry. Black and nonblacks are generally assessed
8 similar amounts of court debt. However, they were
9 noticing that blacks were less able to pay back
10 due to the systemic wealth gap. However, they did
11 make note that blacks appeared more likely to
12 apply for restoration, and black women at a rate
13 that nearly doubled that of black men.

14 Something to also be aware of is
15 sentencing enhancements. I'm a former prosecutor
16 from central Florida, and I find it very
17 interesting here in Alabama there are enhancements
18 upon enhancements upon enhancements. Usually,
19 they apply additional mandatory incarceration as
20 well as additional thousands of dollars in fines.
21 So if there's a firearm involved, if it's near a
22 school, a church, whatever they've decided to make
23 an enhancement in this state, you are adding on

1 another layer of debt and, therefore, impacting
2 anyone's ability to reclaim their rights.

3 What is worth mentioning is that the Board
4 of Pardon and Parole -- even though the law is not
5 clear on it, the Board of Pardon and Parole will
6 consider any felony conviction in a federal court
7 no matter what jurisdiction, the same as a felony
8 conviction out of -- in Alabama state court, as
9 long as the language of the conviction or the
10 language of the crime -- the federal crime
11 substantially matches or tracks the crime of moral
12 turpitude under Alabama state law.

13 So when you're looking at restoration for
14 people here in -- in the state, you have to ask
15 them not only what is their conviction under state
16 law, you need to know what are their convictions
17 in federal court. So if someone was in the
18 military, if they're in Guam or protectorate,
19 Puerto Rico, U.S. Virgin Islands, you need to
20 know, did they have a conviction there. It's also
21 worth noting that the Board of Pardon and Parole
22 will take into account your convictions in other
23 jurisdictions, such as other states or native

1 American ports, only if your restoration requires
2 a pardon.

3 Now, what's the wrinkle with that?
4 They're going to say, you need to go get your
5 pardon from that other jurisdiction before you can
6 get your pardon here in Alabama. So what's
7 happening is other jurisdictions -- case in point,
8 someone had a conviction in Georgia. Georgia
9 said, well, you're not a citizen. We're not
10 really bothered about whether or not we're going
11 to pardon you so we're not going to. He had done
12 everything he needed to do in Alabama. Because he
13 could not take care of Georgia, he could not take
14 care of Alabama.

15 And lastly, before my time runs out, I
16 just want to stress, there is a lot of confusion.
17 There will need to be a lot of public education.
18 We were helping people at our clinics who were --
19 because of confusion, thought their conviction
20 solely in another state was blocking them for 40
21 years from being able to register here in the
22 State of Alabama.

23 Or someone had killed someone in

1 self-defense, served time in jail, but never
2 charged, and for 50 years never attempted to vote.
3 And he had to be dragged into the church to find
4 out that he could actually register that very day.
5 So it's a very big issue here, and I think on a
6 practical basis, we need to do a lot more public
7 education. Thank you.

8 MS. CARROLL: Great. Thank you. So we
9 will do questions for these two speakers. We do
10 need to be really cognizant of time. So we will
11 do questions for about seven or eight minutes,
12 which is much shorter than we've done so far. So
13 everybody remember questions should be concise and
14 to the point.

15 I'm going to start out. Ms. Holmes, I'm
16 going to start with you.

17 MS. HOLMES: Sure.

18 MS. CARROLL: You spoke of the --
19 dismantlement of section five of the Voting Rights
20 Act and the benefit of preclearance. Section
21 three of the Voting Rights Acts -- Act also offers
22 remedies. Can you speak to the difference in the
23 remedy that's available in terms of a restraining

1 order under section three versus the remedy that
2 you described under section five and how that can
3 impact populations?

4 MS. HOLMES: Sure. So I'm not going to be
5 able to talk about all the technicalities, but I
6 think the major thing is, is the order of
7 operations here. The beauty of section five is
8 that it comes before the actual voting change is
9 put into effect. You don't need litigation to
10 actually address it. And, you know, you can root
11 out a problematic voting practice before it
12 actually is implemented.

13 Other remedies under the Voting Rights Act
14 in section three. Section two are more of
15 after-the-fact remedies. And when we're talking
16 about elections, you know, you're on a time clock.
17 Once a -- once a voting practice goes into effect,
18 elections happen and people suffer under those --
19 under those voting changes. And even if they are
20 remedied after the fact, you've already sort of
21 lost out on people's rights in that interim.

22 So -- and we bring cases under section
23 two, and section three is also a viable vehicle.

1 But because of that delay, the -- the impact is
2 just not as -- as great because you have years
3 during which people's rights are being restricted.

4 MS. CARROLL: All right. And I have a
5 question -- thank you. I have a question also for
6 you, Mr. Barry-Blocker. And actually, I'm going
7 to go to the last thing you said, which was the
8 discussion about confusion and consistency. That
9 was a big topic with our last panel as well.

10 I mean, what is your sense of a way to --
11 I mean, we -- we talked in the last panel about
12 the fact that the Secretary of State can issue the
13 manual, but it's up to the local county
14 commissioner to actually implement or the
15 probation judges -- or the probate judges, rather,
16 to make sure that the implementation is proper and
17 correct. And as a result, you may have
18 inconsistencies. What's your recommendation to
19 try to reduce some of this inconsistency?

20 MR. BARRY-BLOCKER: From my perspective,
21 mobilize the people. I'm not -- not overly
22 focused on trying to convince government agencies,
23 because they're already overwhelmed, to make sure

1 training is happening. If enough people are
2 banging at the doors to see something happen or
3 get a clarification, people will have to do it
4 because they don't want bad press.

5 So my focus was always holding a clinic,
6 training people, and then just speaking with
7 people who need the assistance by any means
8 necessary, to get them to start asking questions,
9 to start making phone calls. And I found that if
10 you harass someone with phone calls enough, you'll
11 get some type of response.

12 MS. CARROLL: All right. I'm going to
13 open the floor -- I'm going to just go around. So
14 it's going to go Marc, Tari, and Dr. Lewis. And,
15 again, please keep in mind brief because,
16 obviously, we have a lot of folks who want to ask
17 questions.

18 MR. AYERS: Goodness. That was way too
19 close. One quick question for you, Jonathan. The
20 30 percent interest which you mentioned, did you
21 -- I may have heard that wrong. Did you say that
22 was discretionary or like the prosecutor could --

23 MR. BARRY-BLOCKER: Correct.

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1 MR. AYERS: -- attach this?

2 MR. BARRY-BLOCKER: Yes. So the
3 prosecutor has to initiate the action to assess
4 the 30 percent and then seek to collect it or have
5 it added on to the outstanding court debt on that
6 particular case. So -- but it is not automatic.
7 But they are warned, at least I've seen for the
8 Shelby County sentencing form, when an offender
9 gets their -- their paper, their sentencing, their
10 post colloquy, whatever you want to call it, it
11 does warn this is with 30 percent interest, but it
12 requires the prosecutor to start the process.

13 MR. AYERS: And quickly, for -- for Jenny,
14 you had -- I think you're the one that said this
15 -- that black and Latino voters are twice as --
16 twice as more likely to not have an ID. Is that
17 what -- is it twice as more likely to not have one
18 of the things on the voter ID list to take to the
19 polls or are we talking just about a specific ID?

20 MS. HOLMES: It's any of -- any of the IDs
21 that are acceptable at the polls under the law.
22 So it's not just -- not just a driver's license
23 but any of the acceptable forms of ID.

1 MR. AYERS: The bills or the --

2 MS. HOLMES: Well, I don't believe a bill
3 is an acceptable form of ID.

4 MS. CARROLL: That's correct. It's not.

5 MR. AYERS: Oh, okay.

6 MS. HOLMES: But -- but like passport or a
7 driver's license or an Alabama university student
8 ID, et cetera.

9 MR. AYERS: All right.

10 MS. CARROLL: All right. So now we'll go
11 to Tari Williams.

12 MS. WILLIAMS: This question is for Mr.
13 Barry-Blocker.

14 MR. AYERS: It's off. I don't know if you
15 need it.

16 MS. WILLIAMS: That's okay. It doesn't
17 matter. When the Secretary of State gave
18 testimony earlier, he stated that the availability
19 of CERV applications didn't fall within his
20 office's responsibility, that that falls within
21 Pardon and Paroles. And so my question is, do you
22 know whether or not Pardon and Paroles is actively
23 doing some type of public education or public

1 outreach to the community to make sure that those
2 applications are available? And you also stated
3 that there had been some changes recently
4 regarding that if an application takes more than
5 60 days, someone can call and then they can now do
6 it by e-mail, and I'm just -- I just want to know
7 if people are aware of that.

8 MR. BARRY-BLOCKER: All right. So to your
9 first question, is the Board of Pardons and
10 Paroles doing outreach with regards to CERV
11 applications? Initially, Board of Pardons and
12 Paroles did not even have a CERV application that
13 you could fill out. So what -- in answer to your
14 question about just knocking on the door, I went
15 ahead and created a type of worksheet and they
16 would just tell them, submit this because it will
17 have all the information in one. I guess they
18 didn't want all that, so they've since created an
19 an application.

20 As far as outreach, starting at a clinic I
21 did with the Vernon Crawford Bar Association in
22 Mobile, Director Akisha Jones did show up and
23 speak on behalf of the Board of Pardon and Parole.

1 And she did make us aware of the new online
2 application process, and she answered any
3 questions any citizen had. She also makes herself
4 available to do outreach. The last I spoke with
5 her, she had done an event in Huntsville, if I
6 recall. I know it was in the northern part of the
7 state. So she does make herself available to
8 leave Montgomery and go do outreach if invited.
9 And she's very forthright and welcoming when you
10 engage with her, so it doesn't feel strained.

11 As far as your second question, the law
12 requires that the Board of Pardon and Parole
13 address a CERV application within 60 days. So
14 that is why there's that 60-day deadline. And so
15 they do, for the most part I think, try pretty
16 good to get it going and reach it, but it -- just
17 a couple of times, it required us to make a phone
18 call to say, hey, someone hasn't heard. But I
19 haven't seen it be egregious. And so the
20 Secretary of State is right, that is the Board of
21 Pardon and Parole's responsibility, but they
22 appear to be handling it pretty well.

23 MS. CARROLL: Dr. Williams -- or Dr.

1 Lewis. I'm sorry.

2 DR. LEWIS: That's okay. This question is
3 for Ms. Holmes. Thank you for coming to give us
4 the information today. So you talked about the
5 Voting Rights Act, section five, and Mr. Park
6 talked about that a little bit earlier. And this
7 may be too big of a question for us to answer
8 today.

9 He talked about, you know, the history of
10 why we have the formula in place for section five.
11 What approach would you think we would need to
12 take to deal with this huge problem of
13 preclearance and, you know, passing a new law or
14 how can Alabama deal with this? What -- what
15 strategy as far as section five could we use to
16 deal with this? I don't know if that's too broad
17 or --

18 MS. HOLMES: No. It's -- it's a great
19 question, and it's -- it's a huge question. There
20 -- there are some bills that have been introduced
21 in Congress over the last couple of years that
22 have attempted to formulate -- create a new
23 formula for which states and what areas will be

1 covered by -- by section five. You know, section
2 five itself was not struck down. It was just the
3 formula that calculates which jurisdictions are
4 covered by section five. And often, a critique is
5 that, oh, it only covers areas in the south.

6 So some of these bills take a -- an
7 approach that -- that is relatively neutral to --
8 in terms of coverage of different areas across the
9 country. I think that's a great approach. It's
10 not only areas in the south that have voting
11 problems, and I fully acknowledge that. And I
12 think a -- a bill like that would be something
13 that -- that we support.

14 In terms of what we can do in Alabama, of
15 course, the Voting Rights Act sets only a floor.
16 So Alabama can -- the Alabama legislature is free
17 to pass any sort of voting protections that go
18 above and beyond what's required by the
19 Constitution or federal statute in its own
20 legislature. And I don't know if that would
21 involve some sort of more internal preclearance
22 process or if it would have to go through the
23 Secretary of State. I'm kind of just thinking of

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1 something off the top of my head. But you can be
2 creative and try to implement or create some sort
3 of check that will only apply to Alabama
4 elections, and you don't have to wait for the U.S.
5 Congress to act.

6 DR. LEWIS: And can I follow up, Jenny?

7 MS. CARROLL: Sure.

8 DR. LEWIS: When you submit your written
9 testimony, can you put a reference to those bills
10 that have been in Congress?

11 MS. HOLMES: Absolutely. I think there
12 are three or four and we -- I'll put in references
13 to those.

14 DR. LEWIS: Thank you.

15 MS. CARROLL: All right. Before we change
16 panels, I would ask, each of you cited some data
17 points in terms of your experience and contact.
18 If you could include those also in your written
19 comments, that would be extraordinarily helpful.

20 The other thing I want to point out is a
21 point of clarification in answer to the question
22 that Mr. Ayers raised inquiring about the 30
23 percent collection fee. I've got the statute in

1 front of me, and it actually indicates that you
2 shall assess a collection fee of 30 percent. So
3 it is not discretionary. It appears --

4 MR. BARRY-BLOCKER: Okay.

5 MS. CARROLL: -- in addition it says that
6 -- and this is interesting and I think warrants
7 noting as well that 75 percent of the collection
8 fee is distributed to the attorney's office that
9 is -- that is collecting that fee. So I'll also
10 suggest that there's a financial incentive to turn
11 over these collections. So we will also include
12 the entirety of that in our record as well.

13 Thank you all so much. I would ask that
14 you stick around in the event that we have
15 additional time for questions. I know that y'all
16 raised a lot of great points, and my guess is
17 there are additional questions. But thank you so
18 much for your testimony.

19 At this point, we will hear the second
20 half of panel four, and that will consist of
21 Charlotte Morrison from the Equal Justice
22 Initiative and Executive Director Scott Douglas of
23 the Greater Birmingham Ministries. So welcome and

1 thank you all for coming. Same advice I gave to
2 the last speakers with regard to time. The time
3 period will be marked on this clock, and I just
4 ask you to abide by it. And in the interest of
5 time, I'm going to start with you, Mr. Douglas.

6 MR. DOUGLAS: Thank you. Thank you for
7 this opportunity. I'm Scott Douglas, executive
8 director of Greater Birmingham Ministries located
9 at 2304 12th Avenue North in Birmingham. GBM, as
10 we call it, is a 49-year-old multi-faith
11 organization serving metropolitan Birmingham and
12 the State of Alabama. We have Jews, Christians,
13 and Muslims, blacks, whites, and brown united in
14 providing emergency assistance to low-income
15 families and working together over the years to
16 improve those systems manifested in private and
17 corporate practices and public policies that
18 affect the poor unjustly. Education is a system,
19 housing is a system, health care is a system,
20 transportation is a system, criminal justice is a
21 system, and certainly voting is a system.

22 For decades, GBM has conducted voter
23 registration among. 2,000 plus families we serve

1 each year in need of utility, food, housing,
2 clothing, and other emergency assistance. Since
3 2007, we have mounted, at various levels of scale,
4 voter registration drives beyond our doors, not
5 just those come to us in need, going into
6 low-income neighborhoods across our city. And for
7 GBM, it is a principle for us that just as no one
8 should be denied access to housing, access to
9 education, access to health care, access to
10 transportation, access to justice, neither should
11 be denied access to the vote if they could
12 otherwise qualify.

13 It is a principle embedded in holy text,
14 not the least clear verse of which is Proverbs 31,
15 the 31st chapter, ninth verse which proclaims,
16 "Yes, speak up for the poor and helpless and see
17 that they get justice." To the degree that access
18 to housing that is decent and affordable and
19 quality health care and transportation that is
20 reliable is the determined by public policies.

21 Access to vote for poor people is
22 fundamental in deciding who gets to make public
23 policies and how those public policies affect the

1 quality of their life and the quality of life of
2 us all. When the voices of the poor are muted or
3 silenced, public policies reflect the absence of
4 the voices of the poor with often dire
5 consequences for their quality of life.

6 In Alabama, seeking justice for the poor
7 regarding the voting franchise has always been a
8 difficult venture, especially given our current
9 state constitution. Conceived in infamy and
10 perpetrated by fraud, it was self-produced to
11 disenfranchise the black vote and seriously reduce
12 the vote of all poor people. Disenfranchisement
13 was certainly the goal in the 1901 constitutional
14 convention. As the convention president, John
15 Knox proudly proclaimed at the time of the
16 convention that what he wanted to do was, quote,
17 Establish white supremacy by law, unquote.

18 To facilitate the process -- this process
19 during the vote, on the 1901 constitution that was
20 produced by the convention, thousands upon
21 thousands of votes of black men in Alabama's Black
22 Belt that they cast against the new constitution
23 were counted by white vote counters and votes for

1 the new constitution. In fact, if those votes had
2 not been corrupted, the new constitution would
3 have been fair.

4 If you're looking for vote fraud, the vote
5 of -- on the 1901 constitution is the pinnacle or
6 rather the pits of vote fraud, and it was
7 implemented not by voters but by a conspiracy of
8 state officials. That conspiracy was so well
9 known, it was called at the time an open secret.
10 It was only decades later that the Voting Rights
11 Act, worn through the blood, the struggle,
12 persistence, and clarity of vision, shared by the
13 famous and the unnamed began to right that wrong.

14 So fast forward to Alabama's HB19 photo ID
15 law enacted in 2011 alongside HB56, the
16 anti-immigrant law that itself had a
17 voter-suppressive proof-of-citizenship clause.
18 The two together comprised a people-of-color
19 voter-suppression combo. The photo ID law was
20 written not to come to effect immediately. But by
21 that time, the -- by later -- by 2014, rather --
22 I'm sorry -- the Shelby case was decided in 2013,
23 and there was no longer a preclearance to be

1 demanded.

2 Without the protection of the guts of the
3 Voting Rights Act, preclearance, the changes in
4 Alabama's voter ID laws place a tremendous burden
5 on already economically and socially burdened
6 black and Latino families.

7 Money is obviously a burden, by
8 definition, for low-income people. Scarce funds
9 are needed not only for even -- for even free so
10 called, unquote, state-issued photo IDs. But
11 also, for the underlying documents that's needed,
12 like birth certificates to -- to get the IDs.

13 Transportation is a burden for low-income
14 people. That is not so obvious of those of us who
15 have reliable transportation. If you're poor and
16 happen to live in urban areas and there is public
17 transit, you still can't rely on public
18 transportation to get you to the polling place or
19 the DMV before work or after work on time. Now,
20 that's a preexisting burden that existed before
21 the photo ID law, but the added burden is having
22 to get to the nearest DMV office in the urban
23 areas, and in many Black Belt counties, if there

1 is a car in the family, it's being used by the
2 breadwinner who has to use the car to commute back
3 and forth to work, often in a Black Belt
4 neighboring county.

5 As for GBM direct experience with
6 low-income people burdened by Alabama's photo ID
7 laws, there's a case of Elizabeth Ware. Due to
8 Ms. Ware's fixed income, lack of reliable
9 transportation, and limited mobility, HB19
10 substantially burdens Ms. Ware's ability to vote.
11 Ms. Ware's income consists solely -- consisted
12 solely of Social Security Disability as a result
13 of a number of serious maladies, including bullet
14 fragments in her back. Ms. Ware does not drive
15 and has limited transportation options. The bus
16 stop is four to five blocks from her house and
17 walking that distance takes her over an hour and
18 causes her pain, and rides by car are unreliable
19 for Ms. Ware.

20 The nearest place to get a license where
21 Ms. Ware will go get an ID is not in walking
22 distance of her home, and a ride can cost 20 bucks
23 -- \$20, a significant amount for someone with

1 Ms. Ware's fixed income. Ms. Ware finally was
2 able to get the free voter ID card. However, she
3 was wrongly denied -- I'm sorry.

4 She -- she attempted to get the free voter
5 ID card; however, she was wrongly denied the card
6 by the -- the ID by the staff member who had been
7 improperly trained who told her that because she
8 had an ID in the past, she was now ineligible for
9 the free voter ID card now, despite her
10 circumstances.

11 Finally, after becoming a plaintiff in our
12 lawsuit, Ms. Ware's attorneys aware -- arranged
13 for the Secretary of State's office mobile unit to
14 visit her home during her deposition, and she had
15 never heard of the mobile ID unit prior to
16 litigation. The unit's process was deeply flawed
17 and faced many technical issues when attempting to
18 issue Ms. Ware an ID. Ultimately, it took over an
19 hour to issue Ms. Ware a temporary ID, and she had
20 to wait for the permanent ID to be mailed to her.
21 This process clearly cannot be replicated for the
22 thousands and thousands of other people in Alabama
23 who do not have an ID, a personal home visit by a

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1 mobile unit.

2 And now there's the -- and now there's the
3 deceased Debra Silvers who was unable to replace
4 her photo ID after a house fire destroyed both her
5 ID and the underlying documents that she would
6 need to replace it. To begin replacing the
7 documents lost in her fire, Ms. Silvers had to pay
8 for a ride to various government agencies. Each
9 trip costed her 15 to \$20. Ms. Silvers paid over
10 \$100 in cost of transportation before getting a
11 temporary nondriver ID. These costs were
12 especially substantial given that Ms. Silvers had
13 just lost everything in the fire and was in the
14 process of rebuilding her entire life.

15 Ms. Silvers was in such dire straits that
16 she had required the Red Cross to house herself
17 and her children. Once Ms. Silvers had obtained a
18 temporary nondriver ID, she attempted to vote in
19 March 2016, but she was turned away because the
20 poll worker could not see the picture on the
21 temporary ID and that old ID had expired. HB19
22 directly prohibited Ms. Silvers from participating
23 in the franchise. And finally, Alabama photo ID

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1 law is the new poll tax. But the reason for the
2 existence of the current new poll tax is the same
3 reason for the existence of the first one. Thank
4 you.

5 MS. CARROLL: Thank you. We'll now hear
6 from Ms. Charlotte Morrison.

7 MS. MORRISON: Good afternoon, my name is
8 Charlotte Morrison. I'm a senior attorney with
9 the Equal Justice Initiative here in Montgomery.
10 Alabama today has one of the nation's highest
11 disenfranchisement rates. 15 percent of
12 African-American adults and nearly a third of
13 African-American men in Alabama have lost the
14 right to vote. Alabama is one of only ten states
15 where a person with a felony conviction may lose
16 the right to vote permanently unless restoration
17 is sought and all fines are paid.

18 We wanted to take our time on this panel
19 to speak specifically about the voter restoration
20 process and why this does very little to
21 ameliorate the problem. First, the vast majority
22 of people in Alabama's prisons are serving a
23 sentence for a conviction considered by law to be

1 one of moral turpitude. These citizens are,
2 therefore, subject to permanent
3 disenfranchisement. They must go through the
4 voter restoration process, either by applying for
5 a certificate of eligibility to vote or a pardon.

6 Certificates of eligibility to vote, or
7 the CERV, will not be issued to anyone who owes
8 fines or is on parole supervision. This means
9 that the vast majority of people leaving Alabama's
10 prisons cannot apply for a CERV. They are
11 ineligible for a CERV. I just wanted to -- to
12 emphasize that most people leaving prison will
13 have to go through the pardon process in order to
14 restore their right to vote.

15 One reason that Alabama has one of the
16 highest incarceration rates in the nation, in a
17 nation that leads the world in incarceration
18 rates, is that it incarcerates people for longer
19 periods of time than almost any other state. One
20 in four people incarcerated in Alabama is serving
21 a life or a virtual life sentence. They will be
22 on parole for the rest of their lives.

23 Pardons are available to people on parole

1 supervision, but applications for voter
2 restoration through the pardon process are
3 available only to applicants who have successfully
4 served three years. So you have to serve three
5 years before you are given an application. It
6 takes the board then three additional years to
7 process your application. So pardon applicants
8 typically wait six years before they can have
9 their voting rights restored. All applicants who
10 have not paid their court fines will be denied.
11 This requirement that all fines be paid acts as a
12 permanent bar to voter restoration for tens of
13 thousands of people in Alabama.

14 We wanted to talk specifically about one
15 case that is representative of this process. Our
16 client, Stanley Washington, who is
17 African-American, who was originally sentenced to
18 life imprisonment without the possibility of
19 parole for possession of cocaine in 1995.
20 Ordinarily, this offense is punishable by a
21 mandatory minimum of three years' imprisonment.
22 However, because Mr. Washington had previously
23 pled guilty to possession of cocaine and

1 third-degree burglary, he was sentenced to a
2 mandatory death-in-prison sentence under Alabama's
3 felony offender act. He was also fined \$50,000.
4 That fine is mandatory under Alabama law.

5 Mr. Washington was one of the first
6 prisoners whose sentence was reduced after the
7 Alabama Supreme Court unanimously decided to allow
8 judges to reconsider sentences of life without
9 parole for nonviolent offenders. In 2008, Mr.
10 Washington was paroled. He was released in
11 January of 2009. After his release,
12 Mr. Washington was hired by my office as a reentry
13 coordinator in our post-release educational
14 preparation program, a full-scale residential
15 reentry program here in Montgomery.

16 We represented Mr. Washington at his --
17 we -- at his hearing to restore his voting rights
18 in 2011. His application was denied because he
19 had not paid the \$50,000 fine. It did not matter
20 that Mr. Washington was 63 years old, that he was
21 on SSI. It did not matter that he had paid his
22 parole fees, \$40 a month, consistently for six
23 years.

1 Alabama's disenfranchisement scheme and
2 moral turpitude test did not evolve in a vacuum.
3 Since emancipation in 1865, many states have tried
4 to block or restrict black people from voting.
5 After the 15th Amendment barring racial
6 discrimination in voting was adopted in 1870,
7 southern states continued to disenfranchise black
8 voters through poll taxes, literacy tests,
9 grandfather clauses, violent intimidation, killing
10 many black people who tried to vote.

11 State laws disenfranchising people
12 convicted of a felony also proliferated during
13 this period, especially in southern states as the
14 largest population of African-Americans where
15 lawmakers were explicit about the need to suppress
16 the black vote. Alabama's long -- I'm sorry. In
17 1901, Alabama amended its constitution to expand
18 disenfranchisement to all crimes involving moral
19 turpitude, which apply to misdemeanors and
20 noncriminal acts after the president of the
21 constitutional convention argued that the state
22 needed to avert the, quote, menace of negro
23 domination, unquote. Alabama's long and violent

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1 history of erecting insurmountable obstacles for
2 African-American voters and the undisputed
3 evidence that felony disenfranchisement laws have
4 a racially disparate impact should disqualify
5 Alabama from using convictions and fines as
6 mechanisms to deny the citizens -- deny citizens
7 the right to vote. Thank you.

8 MS. CARROLL: Thank you. We do have, as
9 before, a limited time for questions. So I have
10 two brief questions for each of you and then I
11 will -- I'll focus this time and work the opposite
12 way, so just let me know if you have a question.

13 Charlotte Morrison, for you, one question
14 I have is most states have some version of this
15 felon disenfranchisement -- and perhaps,
16 Mr. Blocker, you can also speak to this. What's
17 -- what's the motivation behind it? What's the
18 logic behind it? Why is it important that we
19 disenfranchise felons.

20 MS. MORRISON: No state disenfranchises --
21 has a permanent disenfranchisement -- I'm sorry --
22 most states don't have a permanent
23 disenfranchisement that is -- where the

1 restoration is triggered only after you've paid
2 your fines. So that's where Alabama is unique.
3 There's only a handful of states that -- that do
4 that.

5 MS. CARROLL: But beyond that, I mean most
6 states do have some restriction on enfranchisement
7 based on a conviction, at least during the period
8 of time you're serving or under some supervision.
9 So what is the theory behind it? Why would you do
10 that as a matter of election law or practice?

11 MS. MORRISON: I think it's rooted
12 specifically in -- in the history of our country,
13 evolving from a country of enslaved people and
14 figuring out what to do moving from three-fifths
15 to the full voting rights. And I think you'll
16 find the answer in -- in that connection.

17 MS. CARROLL: And you would concur with
18 that?

19 MR. BARRY-BLOCKER: I would concur. And
20 I'm originally from Florida, and we would -- the
21 process there is you would have to apply to the
22 Board of Clemency, which is essentially the
23 governor and some other executive members. And

1 the rules would always contract, and the process
2 would shorten when there was a democrat or a
3 moderate or liberal in office and then expand
4 ridiculously at the republican governor. So
5 currently, it went from a very short three- to
6 five-year process with Governor Charlie Crist and
7 expanded egregiously under Governor Rick Scott.
8 So I do think it's rooted in discriminatory
9 practices.

10 MS. CARROLL: All right. And I would just
11 ask you, Ms. Morrison, if you can include
12 information about Stanley Washington in the
13 written comments, that you file, that would be
14 very helpful. It's just the documentation of
15 this.

16 And then Mr. Douglas, same request,
17 information about the two individuals that you
18 provided, Ms. Ware and Ms. Silver regarding their
19 experience in attempting to obtain the free IDs
20 and the particular dilemma they faced in trying.
21 And we certainly heard testimony from the
22 Secretary of State about the mobile ID unit. Your
23 suggestion is that that -- that is simply not

1 accurate. I am now going to go -- starting on
2 this side of the room, does anyone -- I'm going to
3 pass the mic down --

4 MR. JONES: We've got one.

5 MS. CARROLL: Oh, you've got one. Okay.
6 Perfect. So I would recognize Martha Shearer.

7 MS. SHEARER: Starting with Ms. Morrison,
8 you mentioned that majority of the people that are
9 released from prison cannot vote. Is that the
10 majority of the people that were impacted by the
11 2017 definition of moral turpitude now?

12 MS. MORRISON: The people impacted by the
13 -- that list of moral turpitude offenses is a
14 minority of the people in Alabama's prisons. So I
15 think it's less than a quarter of people in
16 Alabama's prisons actually are convicted of a non
17 -- of a crime that's not crime of moral turpitude.
18 And what the -- the Act did is codified case law.
19 Case law had been interpreting the moral turpitude
20 provision, and the -- the Act expanded, in some
21 ways, the definition of moral turpitude and
22 curtailed it in some ways. It -- and the most
23 significant way in which it -- it gave people

1 relief was for possession of marijuana.

2 Possession cases -- possession -- drug possession
3 cases are no longer crimes of moral turpitude.
4 However, it was expanded to include all forms of
5 burglary, which is a significant population in
6 Alabama.

7 MS. SHEARER: Okay. Also, the three years
8 for pardons. Because the -- I checked with them
9 for a case that was -- someone submitted an
10 application in 2015, and they were just on -- no,
11 they -- yeah, in 2015. But they were just
12 starting on the 2012, and that was in 2017 when I
13 inquired. So in 2017, they were just starting on
14 2012 applications.

15 MS. MORRISON: It's three years minimum.
16 Three years -- three years is -- is the minimum
17 amount of time. And, you know, our experience
18 with the Board of Pardons and Paroles and
19 processing the pardon applications has been very
20 spotty. We've had applications that were closed
21 without any communication with us, as the attorney
22 representing the applicant, or the pardon
23 applicant. And we've had to -- and so I can't

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1 imagine what a person would go through without
2 having legal assistance going through this
3 process. I was able to reach the director, reopen
4 the case. But because your application is
5 controlled by your PO -- it's your parole officer.
6 Depending on what kind of parole officer you have,
7 they may or may not be interested in facilitating
8 you getting your voting rights back.

9 MS. SHEARER: I guess my other question is
10 that -- I'm not sure if you said it or someone
11 else said it, and maybe it was Mr. Blocker, that a
12 lot of individuals, especially when we're talking
13 about blacks and browns or Latinos or whatever, is
14 that they don't have the incentive to even apply
15 for it.

16 And so in applying for it -- I'm trying to
17 see what I'm thinking. Anyway, I was just
18 thinking. But for 2017, for them to just be
19 getting to 2012 and I know that the application is
20 not closed, I'm just wondering where you're
21 getting your information that says that there's a
22 three-year minimum.

23 MS. MORRISON: That's what we have been

1 told by the parole board is that you -- you
2 have -- and it's on the website that you have to
3 wait three years before you even obtain the
4 application, and then it takes three years to even
5 process it.

6 MS. SHEARER: Okay.

7 MS. MORRISON: A minimum of three -- of
8 three years is what they will tell you when you
9 call. And the idea that there's a lack of
10 incentive to get voting rights restored, I think,
11 I -- is completely opposite of our experience and
12 I think is -- it's a myth that is perpetuated to
13 -- perpetuate that to kind of -- discrimination
14 that we see in voting -- voting rights. And we
15 don't see -- and it -- it's -- I think that's a
16 really dangerous myth to -- that we've -- we've
17 heard some people talk about, but I'm really
18 concerned whenever I hear that.

19 MS. CARROLL: I believe -- Peter Jones.

20 MR. JONES: Yeah. Very quickly,
21 Ms. Morrison, the average fine of someone wanting
22 to submit CERV, what is that typically?

23 MS. MORRISON: The what?

1 MR. JONES: The average fine someone has
2 before they can -- that they have to pay off to be
3 able to apply for CERV.

4 MS. MORRISON: It's at least \$3,000 --

5 MR. JONES: Okay.

6 MS. MORRISON: -- is the average fine.

7 MR. JONES: Does that differ by -- I mean,
8 I assume that differs by the type of crime
9 committed?

10 MS. MORRISON: Differs by the -- yes, it
11 differs by the type of crime, the counties.

12 MR. JONES: Okay.

13 MS. MORRISON: But yes.

14 MR. JONES: And county too, so it's a
15 geographic difference?

16 MS. MORRISON: I think that it does differ
17 by county.

18 MR. JONES: Okay.

19 MS. MORRISON: I know it differs by crime.

20 MR. JONES: If you have data, that would
21 be great to submit, just to give us a sense of how
22 that varies.

23 And then, Mr. Douglas, something that has

1 come up is that there's variability across how
2 poll -- kind of the interaction of voters and poll
3 workers and how counties run these things. On
4 your end, do you do any outreach to inform people,
5 educate people to say, here's what your rights are
6 in the process, here's -- here's things to -- if a
7 poll worker asks for this, here's how to respond?
8 Or what do you all do from -- from your end to
9 kind of prevent confusion?

10 MR. DOUGLAS: When the photo ID law first
11 came into effect, not only were voters confused,
12 the implementers of our law was confused. There
13 were differences in understanding between the
14 State and the probate judges and the election
15 officials because the rollout was very, say,
16 shaky, uneven.

17 In terms of the voters themselves, we get
18 legal advice from expert lawyers like the LDF and
19 others -- The Southern Poverty Law Center -- so we
20 can break it down into legally correct but
21 community-understandable language about what you
22 need to get -- one, to get a photo ID in the first
23 place or how to get a free photo ID. And when it

1 comes to voting, how to find where your -- where
2 your polling place is currently for this election.

3 And number two, a hotline to call if you
4 have any problems voting whatsoever. We encourage
5 people, if they get suggested to go to do a
6 provisional ballot, use the hotline, you know,
7 while you're there. You know, step outside and
8 use the hotline. So we try to get some help to
9 you. But that's pretty much it.

10 MR. JONES: Thank you.

11 MR. DOUGLAS: Yeah.

12 MS. CARROLL: So Mr. Shevin.

13 MR. SHEVIN: A question for you,
14 Ms. Morrison. If Alabama law did not continue
15 disenfranchisement for the failure to pay fines,
16 would that make a material difference in the
17 number of -- of people who could -- who could
18 successfully file that application -- CERV
19 application?

20 MS. MORRISON: Yes. Well, not the -- yes.
21 It would increase CERV. CERV is very limited. A
22 very limited number of people who are eligible for
23 CERV. The bigger -- the broader process is the

1 pardon process. And so it would have to be
2 eliminated there. And, yes, then I think you
3 would -- that would be huge.

4 MS. CARROL: Ms. Williams.

5 MS. WILLIAMS: Yes. This is for
6 Ms. Morrison. You stated that Alabama was unique
7 in that it could permanently disenfranchise
8 individuals based on fines and fees. Is Alabama
9 also unique in requiring a multistep process for
10 those who are formerly incarcerated to get their
11 rights back?

12 MS. MORRISON: I don't know the -- the
13 answer to that, but Alabama does almost very, very
14 little for people leaving prison. And I do think
15 this is one area where the voting rights could be
16 impacted by requiring the Department of
17 Corrections actually issue the necessary
18 paperwork.

19 And it's one of the first things that --
20 challenges that we have in our program is people
21 are coming out without an ID. And the ID that
22 they're provided, the DOC ID, is not something
23 that you can use for almost anything. You can't

1 use it to vote. You can't use it to apply for
2 SSI. You can't use it to get your birth
3 certificate.

4 And other states ensure that when people
5 leave, they have all the paperwork that is
6 necessary. They have their birth certificate.
7 They have their -- their Social Security card.
8 And so I think if Alabama DOC was mandated to
9 provide the required documentation that is
10 necessary for voter restoration, that would also
11 be a really significant thing.

12 MS. WILLIAMS: I have one follow-up. So
13 even though the Department of Corrections ID would
14 be considered a state-issued ID, it wouldn't
15 qualify under the voter ID requirement?

16 MS. MORRISON: No, it doesn't. It
17 qualifies for very little. What they're trying to
18 ensure is that you -- if you need to take a bus
19 across the state line or airplane, you can get on
20 that. But it's -- it's not -- it's not something
21 that you can use for virtually anything else.

22 MS. CARROLL: All right. So we're right
23 up against our time limit. I've got two more

1 members that would like to ask questions, but I
2 just ask for brief indulgence. So Dr. Lewis and
3 then Marc Ayers.

4 DR. LEWIS: I'm sorry.

5 MR. AYERS: No. No. No. You go first.

6 MS. CARROLL: Yeah. I'm just going down
7 the row.

8 DR. LEWIS: Oh, okay. Hi. Thank you for
9 coming. I have a question for both Ms. Morrison
10 and the representative from the Southern Poverty
11 Law Center. You talked about the crimes of moral
12 turpitude, and we have like the -- the recent list
13 from 2017. So how does that apply, the new
14 definition, to people who may have been impacted
15 from the old definition? Are they then
16 grandfathered in under this new definition so if
17 they committed a crime that was defined as moral
18 turpitude before 2017, are they still
19 disenfranchised now or does the new law only --
20 does that make sense what I'm saying?

21 If they committed a crime in 2010 but the
22 definition was under the old law, what happens to
23 them under this new definition? Does that make

1 sense what I'm asking.

2 MS. MORRISON: My understanding is that
3 they would be barred from voting then.

4 DR. LEWIS: Even though the definition is
5 different today?

6 MS. MORRISON: Yes.

7 MR. BARRY-BLOCKER: So I disagree. Well,
8 what I observed, no. It's the -- the new current
9 list of laws, of violations, that's what applies.
10 So if a conviction from 1972 is on that list as of
11 today, then, yes, you're going to face a bar. If
12 it's not -- if your old conviction from 1985 is
13 not on the list -- let's say it's a distribution
14 of drugs, that's no longer going to be a bar.
15 That particular offense is no longer a bar.

16 So what you should -- what you're going to
17 have to be concerned with with anybody is the
18 totality of their convictions. And the scary part
19 is if you do Alacourt searches, sometimes the
20 older the conviction, it's not popping up. So
21 people are unaware. But if they apply or try to
22 proceed as if they've done everything, then BPP
23 runs their search and says, no, this 1976

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1 conviction for whatever is an issue and you
2 haven't paid your money. That's where the
3 confusion and sometimes the mistrust will arise
4 again.

5 MS. MORRISON: I don't think we're saying
6 anything different though. If you have a burglary
7 second and Macon County allows you to vote because
8 burglary was not a crime of moral turpitude under
9 case law in 2005, I don't think they would allow
10 your vote then. Burglary is on the list.

11 MR. BARRY-BLOCKER: Burglary is on the
12 list now, yes. But I --

13 MS. MORRISON: I think that was the
14 question.

15 MR. BARRY-BLOCKER: I interpreted it you
16 said differently.

17 DR. LEWIS: Well, but I think at the end
18 of the day, there's still confusion about what is
19 what, right? I think we have a consensus there
20 was some --

21 MR. BARRY-BLOCKER: There can be. There
22 can be.

23 DR. LEWIS: Okay.

1 MS. CARROLL: And so I'm going to go to
2 Marc. Do you think you can speak loudly?

3 MR. AYERS: Oh, yes. Very quickly. Just
4 one -- Mr. Douglas -- make sure I get your name
5 right -- you had mentioned in your telling -- I
6 forget the individual's name but that they --
7 there was a burden on getting the free ID because
8 you still had -- did you have things like birth
9 certificate and so forth and that may be a cost
10 there.

11 Just to clarify, I mean, I think the law
12 just says you have to have really any document
13 with your full name and -- and birthday on it, not
14 just a birth certificate, which by the way is what
15 I was -- I misspoke earlier when I was talking
16 about bills and that type of thing. I was
17 thinking of a list to get a free ID.

18 So just to -- just to clear -- I guess
19 that's just a point of clarification, I suppose,
20 not -- not anything else. But I mean, that's -- I
21 don't know if you want to speak to that as whether
22 that's still a burden because it sounds like most
23 everybody is going to have some kind of document

1 with their legal name and -- and birth date on it.

2 MR. DOUGLAS: Just briefly, yes and no.
3 Accessing certain documents are more difficult to
4 some people. The elderly people born in the Black
5 Belt, getting their birth certificate is very
6 hard. People who remarry -- remarry later with
7 different names -- got different names, that
8 requires cost of a certain kinds of documentation.
9 So I think that some things are free, but it's
10 difficult. And then for all people without
11 transportation still got to go get it, going to
12 find a way to get it.

13 MR. AYERS: Right. Right. And I guess
14 this question is pretty much for everybody because
15 everyone has kind of touched on this moral
16 turpitude issue. Just as a -- it's kind of a law
17 school question. Why don't we -- imagine this, we
18 just said, all right, all felonies -- all felonies
19 qualify. That way you don't have this, well, some
20 are on and some are off and so forth. Would that
21 -- would that answer the question?

22 MS. MORRISON: No. No. I mean, the
23 criminal justice system -- the whole system, that

1 is, has a racially disparate impact. It impacts
2 most seriously communities of color, so we would
3 still have that same problem.

4 MR. DOUGLAS: And I would agree by saying
5 that even the definition of felonies and
6 misdemeanors follow racial lines, I believe, and
7 income lines.

8 MS. CARROLL: I mean, I would just add, as
9 a criminal law person, that there's also the
10 difficulty that felonies and misdemeanors often
11 move and different states define things as
12 felonies, whereas other states define them as
13 misdemeanors. So you would still have the same
14 problem of confusion that's being described here
15 as well in addition to what they're saying. And
16 that would -- just in Alabama, we're seeing some
17 movement in terms of what former felony becomes
18 misdemeanor and vice versa.

19 MR. BARRY-BLOCKER: Yes. And then also in
20 Alabama, the particular possession for marijuana
21 is very fluid, and it leads it up to the
22 investigator, the cop, initially to determine
23 whether or not they want to try a bag of marijuana

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1 as a felony or as a misdemeanor because it depends
2 on whether or not the officer sees it as for
3 personal use or not for personal use. So saying
4 all felonies -- well, if I just want to go on
5 there to certain community members for felonies,
6 then I'm still disparately impacting one group
7 over another.

8 MR. AYERS: Although, I guess, that -- I
9 mean, if we're saying that wouldn't solve it
10 because certain officers or prosecutors may just
11 target certain people, I mean, that -- that
12 problem is always going to be there, even with the
13 -- with any list, right?

14 MS. BARRY-BLOCKER: Which is why I would
15 not be about just blocking people just on all
16 felonies because -- I think your question was
17 premised on let's just open it to all felonies can
18 block somebody, and I'm saying, no, because I
19 already believe it's going to be
20 disproportionately levied against certain segments
21 of the community.

22 MR. AYERS: It's kind of secondary?

23 MS. MORRISON: Well, we know that the --

1 we know that the criminal justice system has a
2 racial disparate impact. That evidence was
3 presented to the U.S. Supreme Court in McCleskey
4 vs. Kemp where the Court said there is no remedy
5 for that. That is the criminal justice system.
6 We should not replicate that in our voting system.

7 So hinging our vote -- right to vote on a
8 criminal justice system where we've said, can't do
9 anything about the racially disparate impact, I
10 think, you know, then we're kind of -- we're not
11 protecting the right to vote, you know.

12 MS. CARROLL: We are over our time, so I
13 want to thank the panel. Y'all have provided a
14 lot of information for us. We'll reconvene as
15 close as we can to the schedule for the fifth
16 panel, which will be 2:30. I realize the break is
17 short, but there are cupcakes in the back,
18 homemade. Enjoy.

19
20 (A brief recess was taken.)

21
22 MS. CARROLL: So at this point, we're
23 going to call panel five. We have Benard Simelton

1 from -- he's the president of the Alabama NAACP.
2 We also have Ms. Callie Greer. Ms. Callie Greer,
3 you will do our citizen impact statement, I
4 believe.

5 MS. GREER: Yes.

6 MS. CARROLL: And do we have Kenneth
7 Glasglow or Jaffe Pickett present? Okay. If they
8 come in, then we'll go from there. So welcome.
9 Same information I provided to the last speakers,
10 you'll have 15 minutes to present your statement
11 -- up to 15 minutes to present your statement.
12 And then once we've heard the statements from the
13 entire panel, then we'll go ahead and take
14 questions from members of the committee. So
15 welcome, and I'm going to start with you,
16 Ms. Greer.

17 MS. GREER: Oh, okay. Good evening. My
18 name is Callie Greer. I live in Selma, Alabama.
19 I was originally born here in Montgomery, Alabama.
20 I work with the Selma Center for Nonviolence,
21 Truth, & Reconciliation at the Healing Waters
22 Retreat Center in Selma. I also previously worked
23 for Greater Birmingham, Scott Douglas for about a

1 decade on the constitutional reform campaign, and
2 I've also worked with Mr. Simelton at NAACP. So,
3 yeah, I'm in good company.

4 That's my present life, how I'm living
5 now. My former life, I was incarcerated at the
6 Julia Tutwiler prison for distribution of a
7 controlled substance, and I served -- I was
8 sentenced three split five, and I served a partial
9 part of the third three years. And Judge Randall
10 Thomas called -- started a drug program in Julia
11 Tutwiler, and I was one of the first people that
12 went in because he was -- he sentenced me and
13 graduated that program and was immediately called
14 back in front of him. And he asked me a question,
15 which was, if we let you go, what are you going to
16 do? And my answer was I don't know because I
17 didn't know.

18 The system wasn't set up for us. This was
19 back in the late '80s. But anyway, I got out and,
20 of course, because there was no -- nothing there,
21 I just kept going back to drugs, going back to
22 drugs, going back to drugs. So I was impacted by
23 drugs over 20 years of my life in and out of jail,

1 in and out of everything. And so after the
2 incident with my son, who his name was Mercury,
3 was shot -- he died on Father's Day in '99 -- and
4 looking at my life and wanting to actually have
5 one, I went and started the process of trying to
6 become a legal citizen.

7 So the process was not one that I would
8 say -- you know, I've been listening to everybody
9 in here talking. Because I've had a different
10 life now for almost 20 years, I'm kind of
11 comfortable with it, and I know the language. So
12 I'm not, you know, intimidated and so on and so
13 forth. But if you had of said that then, I would
14 just listen to you all. I wouldn't even attempt
15 to do it. But I'm grateful that I have.

16 But to -- to put -- to put all of these
17 things on people that have not even -- that have
18 so many -- so many years of their life been called
19 abnormal, to say this, is the normal thing to do,
20 or why would you do this is an abnormal question
21 to us because we don't know what you think normal
22 is because this is the norm for us.

23 And so it was -- it was scary. It was

1 intimidating, and it was kind of a -- it was a
2 lengthy process, even back then before all these
3 new computers or laptops and all this stuff was in
4 place. So I couldn't speak for the black men that
5 have gone through. I can only speak from this.

6 When I answered the e-mail, I said on the
7 e-mail, I don't want you to think you're going to
8 get something that you ain't going to get when you
9 get me up here. You know, I ain't got no
10 statistics for you. I ain't got none of that for
11 you. I do have for you is my life statement about
12 the limits and the hindrance that this puts on
13 you.

14 Once you've been incarcerated -- and I was
15 -- and I was a user. And because I would not give
16 them information that they wanted, they charged me
17 with distribution, which is -- can be selling,
18 using, whatever. And I had -- this was my first
19 time in front of a judge, and he give me a 15-year
20 sentence, three split five. And so that came with
21 drug -- the court costs, the probation fees.

22 You got -- you ain't got no money. I
23 mean, that very month, they want a payment, and

1 you don't even have a job -- you ain't even got a
2 place to stay. So automatically when you come
3 out, I start saying, you know, they made me a
4 criminal. They made me a criminal. I didn't have
5 anywhere to go stay. The clothes I had wore in
6 there were the clothes I got back, which were not
7 fitting.

8 You know, I mean, it's just all areas were
9 an issue already. You're not thinking about
10 voting or becoming a legal citizen or any of that
11 stuff when you're straight out of prison. You
12 know, you're thinking about where I'm going to
13 sleep, where I'm going to eat, how the hell I'm
14 going to get rid of these ugly clothes. You know,
15 so that's -- that's a whole other panel. That's a
16 whole other conversation, I think, that needs to
17 be had.

18 It's why when you release these people, is
19 there something in place to keep them from having
20 to come back or to say that you tried to help them
21 not come back. But it was just -- it was just a
22 revolving door for me for a lot of years because
23 there was never a chance -- you know, how them

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1 doors revolve and you're trying to step out but
2 it's closing you in? You try to step out but it
3 closes? That's how it was for me because I never
4 had opportunity to get ahold of any these to
5 solidify me, so I was always in and out of the
6 system.

7 So once I did apply for a pardon after so
8 many -- talking so much and people pushing me
9 because I was doing positive things and this was a
10 mark on -- you know, I had to get letters of --
11 references letters. And I'm grateful to say that
12 there were people in my life then that they meant
13 something, like Judge Kennedy. He wrote me a
14 pardon -- he wrote me a letter. Scott Douglas
15 wrote me a letter. Kendall Forrester wrote me a
16 letter. So I had people of substance that wrote
17 me a letter.

18 But how many people have that? You know,
19 and then I had them back at me saying have you
20 heard, have you heard, have you heard? And then
21 well, you need to call, you need to call, you need
22 to call. How many people have that kind of
23 support? Not many.

1 So as a black woman that's been
2 incarcerated that has been given -- I won't say a
3 second chance. I've been given many chances, so
4 I'll say another chance. I'm not -- excuse me --
5 I'm not the worst they ever did. You can see that
6 now. I am a community -- I'm a people-of-color
7 community organizer in low-wealth communities.

8 I have a ministry. Of course, we lost two
9 children, Venus and Mercury. Venus is the most
10 recent to breast cancer. We -- I created this
11 women's gathering, MAVIS, Mothers Against Violence
12 in Selma where we -- we mentor to each other
13 because the -- the loss of children -- young folks
14 in Selma is so great for the small population.

15 And so I said I would -- my husband walked
16 off, but he also has a pardon too. Yeah, I
17 married my ex-felon. Anyway, we've been together
18 almost 20 years. That's our anniversary. He is
19 not the worst thing he's ever done.

20 Just giving some support, encouragement,
21 and allowed to support ourself -- opportunity to
22 support ourself. Even now, he's been between jobs
23 again. And every time he applies for a job, even

1 though he has a pardon, this pops up when they
2 look at his -- it's not just having the right to
3 vote. Yeah, give me the right to vote but also
4 give me the right to work. Let me work too.
5 Don't let this also be hindering me.

6 So what good is it if I could only have --
7 the pardon only allows me to vote and doesn't help
8 me to work? Then I won't even waste the time to
9 go and apply for a pardon when I can be looking
10 for a job because I've got to eat.

11 So it's just barrier after barrier after
12 door after door. And neither one of us has gone
13 back to prison or jail since that first time and
14 because of the support that we did have around us.
15 And I think for a lot of people with those
16 nonviolent crimes and some -- I can't speak for --
17 for the ones that have violent crimes -- that if
18 something was in place when they came out -- and I
19 know this not why y'all asked me to come here, but
20 this is my impact statement -- that if we put the
21 cart before the horse, we're going to always be
22 trying to drag the cart along because the horse is
23 going to be going the other way.

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1 And, you know, that when we -- I've asked
2 you to be mindful when we do this piece that we
3 also try to do a piece that would put some kind of
4 reentry program in place for people that will
5 qualify for certain jobs and so on and so forth,
6 that they would be able to build themselves up and
7 do something for themselves and want to be normal.
8 Most of the time when we are abnormal is because
9 trying to get away from the norm and the madness
10 that it can bring.

11 So I just want to make -- to say that. I
12 don't know if I covered what you wanted, but I
13 just want you to know that this is one door that
14 needs to be opened or took off the hinges so
15 they'll never close again. But there's always
16 some other doors that are -- that are hindering
17 people that -- citizens that are trying to become
18 normal in this society.

19 MS. CARROLL: So Ms. Greer, before we go
20 to you just for a second, we've got five minutes
21 left on your time, and we are limited in the scope
22 of what we're covering today. We're really
23 focused just on voter impact.

1 MS. GREER: Okay.

2 MS. CARROLL: So I hear what you're
3 saying, but, you know, we're focused on voter
4 impact. And I'm wondering if what you could do
5 for us is describe in a -- in a bit more detail
6 the process you went through for the pardon and
7 the time period you waited to get the pardon and
8 then what was your experience after getting that
9 pardon in terms of your --

10 MS. GREER: Voting rights?

11 MS. CARROLL: -- ability to vote. Yes,
12 ma'am.

13 MS. GREER: Well, the process -- well,
14 mentally, it took me years to even think about I
15 could even do that. But once I did apply for --
16 well, I went to my probation officer and asked for
17 -- I requested a form of pardon from him. And so
18 he told he -- because we were pretty good -- you
19 know, we've known each other for a while, he told
20 me the process and said, well, you're going to
21 have to -- when you fill this out before you bring
22 it back to me, you need these letters of
23 reference, and you need at least five. And when

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1 you get to have those letters, then you bring this
2 form and those letters back to me, and that'll
3 start the process. So I did that, and I had the
4 letters in about two weeks. And I took it down to
5 him, and he started the process.

6 Well, I mean, once I gave him the letters
7 and stuff, I just -- you know, it was done. And
8 people would ask me and I would call or whatever,
9 and he said, well, it's in the process, in the
10 process. So about two years later, I got -- they
11 mailed it to me. Because I had just like stopped.
12 I had just given up calling, you know, given up --
13 and I was living a decent, straight law-abiding
14 life.

15 And, you know, but all of my work -- all
16 the work that I was doing was nonprofit. People
17 that were trying to life folk up. And then I
18 would go in and tell them just what I told you all
19 about myself and so and so forth. And so it
20 wasn't any closets with skeletons that were going
21 to jump out or anything like that. They already
22 knew. And they thought that was part of my
23 strength to work there, not a part -- so it took

1 about two years or more because, like I said, they
2 mailed it to me.

3 And then once I got -- got that -- well,
4 let me just be honest. Can I be totally honest
5 with y'all? I was voting anyway without it. I
6 registered to vote. Nothing never flagged, and I
7 was voting without it. I was going, and I was
8 legally voting, had been called to be a juror.

9 Now, so the pardon, you know, once I --
10 and I just went and registered to vote one day,
11 and I got -- you know, because my crime obviously
12 wasn't what is this moral turpitude thing. So I
13 just registered to vote, had been voting. And I
14 tell people, just go register. If they don't flag
15 you, you vote. That's how crazy the system is.

16 So my pardon, I got about two years after
17 I -- two years or better after I applied for my
18 pardon. They mailed it to me, but I had been
19 voting long before then. I registered to vote.
20 And -- but to have the pardon made me think that
21 somehow the -- my past record wouldn't show up or
22 whatever. It don't do none of that. Just -- you
23 are still a felon -- ex-felon on your -- you know,

1 when you pull stuff up. So it's great to be able
2 to vote and get your right to vote. But if you
3 still -- if you pay your -- if you pay your fine
4 and you do your time, you still have this mark
5 saying you're an ex-felon, and they ask that
6 question on everything.

7 MS. CARROLL: All right. Thank you.
8 Mr. Simelton, I'm going to go to you.

9 MR. SIMELTON: Okay. Good afternoon,
10 committee members. My name is Benard Simelton.
11 I'm president of the Alabama State Conference of
12 The National Association For the Advancement of
13 Colored People, better known as NAACP. I want to
14 thank you all for taking time to listen to our
15 presentations concerning voting in the State of
16 Alabama and across the country.

17 The mission of the NAACP is to ensure the
18 political, educational, social, and economic equal
19 rights of all persons and to eliminate racial
20 hatred and discrimination, and this is the mission
21 since 1909 and has continued to be our mission as
22 of today.

23 While registration is good and is a thing

1 that must occur, recently the NAACP has learned
2 that it's also equally important to ensure that
3 people get out to cast their vote. Voting is one
4 of the most fundamental rights of the citizens of
5 this country. It's a right that, you know, this
6 country was founded on, essentially, because in
7 anything that we do, we take some kind of vote in.

8 In your household, you know, you and your
9 wife, spouse, you know -- and I noticed the wife
10 has the most overriding vote most of the time.
11 But the -- we -- we come to some kind of
12 agreement, some kind of vote and -- in doing
13 things. And so we should not let anyone take that
14 right away from us.

15 In 1965 when the Voting Rights Act was
16 signed, we believed that all barriers to the
17 ballot had been removed. However, we see that
18 there were still -- we still see the barriers --
19 still barriers today. And rather than making it
20 easier to vote in 2018, Alabama, like other
21 states, is making it more difficult to vote. We
22 saw that taxpayer dollars were used to create a
23 committee or a commission to investigate voter

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1 fraud last year by President Trump. And after
2 several states' Secretary of States refused to
3 turn over the data that this commission or
4 committee or whatever it was called was asking
5 for, I think it has been dissolved. I'm not for
6 sure if it has or not, but I think that's the
7 report that they are reporting.

8 So I was in Washington, D.C. in 2006 for
9 the national convention. And we, several hundred
10 of us, marched from our convention center --
11 convention site to Capitol Hill to convince our
12 senators and state -- and legislators to pass or
13 extend the Voting Rights Act of 1965 for
14 another -- a reauthorization for another 25 years.
15 Prior to that, there was hee-hawing around that,
16 you know, we are not going to support it. I don't
17 want to support it.

18 But after we left Capitol Hill, I think it
19 was the very next day or a couple of days after we
20 left -- and, of course, we don't take full credit
21 for that, but we do take some credit in convincing
22 the senators and representatives to go on and vote
23 to pass this reauthorization act. And they passed

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1 it. And the Senate voted 98 -- 98 to 3, I think
2 it was -- 98 to 0 in favor, and the House voted
3 390 to 33 in favor of the reauthorization of this
4 act.

5 Five years later after this, Alabama
6 passed a photo ID law. It's HB19 or it was
7 finally called the Act 2011-673. But the
8 implementation of this did not occur until
9 three -- two years later after the Supreme Court
10 made its ruling in the Shelby versus Holder case,
11 which essentially, in my opinion, gutted the
12 Voting Rights Act of 1965.

13 The photo ID has a disproportionately
14 [sic] impact on African-American voters because
15 African-American voters are less likely to have
16 the credentials required to obtain the photo ID,
17 such thing as the birth certificates.

18 Alabama said it wanted to provide IDs for
19 everyone and implemented a mobile system of which
20 you could get your photo ID, and this would
21 provide an opportunity for those who did not have
22 transportation to be able to get or obtain the
23 photo ID. The problem is where they located these

1 mobile systems most of the time were near or at
2 the same place you could go to register in the --
3 kind of center of town off of -- I mean, of the
4 county. Say for instance, the county seat of
5 Montgomery County is Montgomery, and they were
6 located somewhere near Montgomery. Where I live
7 in Limestone County, it came to Athens.

8 Now, that did not help the people in rural
9 areas to get closer to getting the -- getting to
10 the location where they could obtain or get the
11 photo ID. So I think that was -- it was good to
12 say that in -- in theory, but it didn't work that
13 well in practice.

14 And according to some of our information
15 that we have -- and the Secretary of State can
16 provide more of a definitive answer to this -- but
17 there's been only about five home visits where
18 they actually visit someone's home to get the
19 photo ID.

20 HB19 or the -- the 2011-673 has a racially
21 disparate impact. Expert evidence shows that
22 between 50,000 and 118,000 Alabama registered
23 voters either lack any form of the photo ID

1 required by HB19 or likely usable IDs. And if you
2 use the higher figure, that works -- comes out to
3 about 3.3 percent of white voters and 5.49 percent
4 of black voters and 6.98 percent of Latino voters
5 who likely use the ID.

6 The Alabama NAACP has received several
7 complaints from individuals who did not have the
8 photo ID and, therefore, were not able to vote.
9 One individual who went to the polls where he had
10 voted prior to the photo ID being required was
11 turned away, even though poll workers recognized
12 him. Another elderly gentleman was not able to
13 vote because he had not obtained the photo ID.
14 And another gentleman was not able to use his
15 military ID in order to vote.

16 And in 2014, the election that took place
17 there, there was a gentleman from Russell County
18 who was not able to vote because, for some reason,
19 his name was flagged with a felony conviction.
20 And after he went back and forth with the
21 registrar and finally got over to the probate
22 judge's office -- and needless to say, by the time
23 he got to work, they cleared up the matter, though

1 the voting places had closed and he was not
2 allowed to cast a vote. He was not offered a
3 provisional ballot, and we asked him did he really
4 press the issue and he said no. But you should
5 not have to press. That should be an automatic
6 thing that they offer you, is a provisional
7 ballot.

8 During the 2017 election, we received
9 several complaints by individuals whose names were
10 removed from the rolls but had voted previously in
11 the primary election in 2017. All of a sudden,
12 their names were removed from the rolls.

13 In Shelby County, we were informed of a
14 polling location that had closed, and some citizen
15 would have to drive 40 miles in order to get to
16 a -- get to the place where they were -- where
17 they were going to vote. And after several
18 complaints and inquiries from organizations like
19 the NAACP and others, the polls -- the previous
20 polling location was reinstated -- was opened
21 again.

22 We also saw Alabama close several DMV
23 offices where you would be allowed to get the --

1 the required photo ID law -- or ID. And these
2 were overwhelming in the African-American or the
3 Black Belt area where most African-Americans live
4 or a higher concentration of African-Americans
5 lives. Of course, the DMVs were eventually
6 reopened after several complaints from civil
7 rights organizations and residents and U.S. DOT.

8 The Alabama NAACP believes that if Alabama
9 wants to really increase voter turnout and become
10 a provoter state, then it needs to do same-day
11 registration, early-voter registration, and
12 automatic restoration of previously incarcerated
13 citizen voting rights and automatic registration
14 when you turn 18.

15 Alabama should follow the footsteps of
16 other provoter states, such as Virginia, that
17 makes it easier to get your voting rights restored
18 after incarceration. We should also follow in the
19 footsteps of Oregon, that makes it easier to
20 register by enacting the universal motor-voter
21 legislation where the DMV, Department of Motor
22 Vehicles, automatically registered people as they
23 apply or renew their driver's license.

1 Since the Shelby decision of 2013,
2 Congress has failed to act to ensure that the most
3 vulnerable citizens' voting rights are protected
4 under the Constitution of the United States.
5 Representative Terri Sewell, who has introduced
6 The Voting Rights Advancement Act, but those in
7 power in Congress has not brought the bill up to
8 be voted on. It should be given an up or down
9 vote. We must hold our elected officials
10 accountable and demand that they act to ensure
11 that those who marched from Selma to Montgomery
12 and were beaten and died for the right to vote, we
13 must ensure that their death, that their beatings
14 were not in vain.

15 So I want to thank the United States
16 Commission on Civil Rights for what you are doing,
17 and I thank you all for listening to the NAACP and
18 other organizations that have come before you.
19 And it is our hope and our prayer that, through
20 these meetings like this across the country, that
21 we can begin to restore the dignity of those who
22 have been affected by these things called photo ID
23 laws and other things that are preventing or

1 hindering people from exercising their right to
2 vote.

3 So thank you very much. And I'll yield
4 the remainder of my two -- of my 15 minutes back
5 to you. Thank you very much.

6 MS. CARROLL: All right. Thank you. So
7 at this point, we'll open it up to questions for
8 the panel. Do we have all the panels present?
9 Aha. So this also will be a limited questioning
10 time, as apparently we do have another panelist
11 present. So my first question -- I will start us
12 again. And I'm sorry. Can you tell me how to
13 pronounce your last name?

14 MR. SIMELTON: Simelton.

15 MS. CARROLL: Simelton.

16 MR. SIMELTON: Some say Simelton, so
17 you --

18 MS. CARROLL: Well, you get to choose how
19 it's pronounced, so I will honor that.

20 MR. SIMELTON: Some of my relatives say
21 Simelton.

22 MS. CARROLL: So welcome. And I'm sorry I
23 mispronounced your name. So I mean, my real

1 request would be that, you know, in terms of the
2 data and information that -- that you spoke of, I
3 mean, if you can provide us any of the
4 documentation of that --

5 MR. SIMELTON: Yes. Yes.

6 MS. CARROLL: -- that would be
7 tremendously helpful, and we would appreciate it.

8 MR. SIMELTON: Okay.

9 MS. CARROLL: I wanted to -- to ask you --
10 you had made mention of or made reference to the
11 home visits for identification, which the
12 Secretary of State spoke about when we began this
13 hearing this morning. And you indicated that you
14 knew of five home visits.

15 MR. SIMELTON: Okay.

16 MS. CARROLL: So talk to me a little about
17 where does that number come from.

18 MR. SIMELTON: I mean, I don't know
19 personally. I know those are the numbers that
20 were provided to us by our -- some attorneys that
21 we are working with.

22 MS. CARROLL: Okay.

23 MR. SIMELTON: So -- and they -- it's my

1 understanding that they received those numbers
2 from the Secretary of State's office.

3 MS. CARROLL: Okay.

4 MR. SIMELTON: And this was probably about
5 six months ago, so if he made visits since then,
6 they probably don't have that.

7 MS. CARROLL: Okay. And if you can either
8 get that information from those attorneys or
9 provide us a contact information for those
10 attorneys, we're happy to try to run it down just
11 because we're trying to get a sense of, you know,
12 what's working and what is not working as well as
13 we would hope --

14 MR. SIMELTON: Okay.

15 MS. CARROLL: -- within the state. Are
16 there are other folks that have questions? Okay.
17 I'm going to go to this way and go around. So
18 I'll start with Dr. Lewis.

19 DR. LEWIS: Thank you for coming and
20 providing the information. I have a question for
21 Ms. Greer. Did you ever receive information
22 directly from any state entity, official that your
23 voting rights had been taken away as a result of

1 your sentence?

2 MS. GREER: I never received anything
3 official like that. Just that under the moral
4 turpitude law -- I mean, it was just -- and all
5 you had to do was look at the moral turpitude law.
6 And it just grew -- it just -- I mean, if you look
7 up under -- if you look up under moral -- then if
8 you look up under moral turpitude law, the drugs,
9 all that -- I mean, say, nonviolent stuff was
10 under that. So just -- just knowing that if you
11 sold drugs, you know, you lost your --

12 DR. LEWIS: So when you say moral
13 turpitude law, I mean, where did you get that
14 information?

15 MS. GREER: Oh.

16 DR. LEWIS: Did anybody, during your
17 entire prior process, that was a state official
18 say --

19 MS. GREER: No. No.

20 DR. LEWIS: -- because of what happened to
21 you, you know, your term in prison and what you
22 were convicted of, did they ever say that you had
23 lost your right to vote?

1 MS. GREER: No. I got -- how I got the
2 information was like who I was connected to --
3 Greater Birmingham Ministries, Alabama Rise,
4 different places like that -- and seeking out
5 information about getting -- about getting a
6 pardon so I would get my voting rights back.
7 Because, of course, they're wanting me to have
8 that working in that capacity at the organization.
9 You would want -- you know, and that was -- and I
10 wanted it. So -- but, no, I never got that
11 information from a state entity or a person.

12 DR. LEWIS: So when you say from the time
13 that you -- you were voting before you filled out
14 the paperwork for the pardon for all -- for all
15 intents and purposes, you had never been notified
16 from --

17 MS. GREER: No.

18 DR. LEWIS: -- the State of Alabama that
19 you couldn't vote?

20 MS. GREER: No.

21 DR. LEWIS: Okay. Thank you.

22 MS. CARROLL: Ms. Williams.

23 MS. WILLIAMS: Yes. I have a question for

1 Ms. Greer and Mr. Simelton. For Ms. Greer, when
2 you mentioned that you work in low-wealth
3 communities, do you work with individuals on
4 getting their voting rights back?

5 MS. GREER: Yes.

6 MS. WILLIAMS: And can you tell us about
7 any issues or concerns you've worked with
8 individuals in the community on?

9 MS. GREER: That's a part of our -- my
10 work. Working with the vote-or-die campaign on --
11 you know, not -- because we're nonpartisan. But
12 also doing voter registration drives and -- and in
13 doing the voter registration drive, I am mindful
14 to say -- when people say, oh, I don't vote. I'm
15 not registered to vote. I would say, well, why
16 are you not registered to vote? Well, you know, I
17 got that -- I got the time. I'm like, well, have
18 you ever -- do you know if you're not able to
19 vote? They say no.

20 I said, well -- and then what I do is I
21 have a stack of pardon request papers that I have
22 them fill out, and I will mail it in for them
23 because it's just mailed to the Board of Pardon

1 and Paroles. And I said, if you haven't heard
2 anything from them in like a couple of months,
3 maybe you want to call and check to see what's
4 going on.

5 Most people -- and actually, when I was
6 doing some work with the NAACP down in -- on the
7 other side of Chambers County -- it was very
8 low-wealth area -- and it was like four guys,
9 young men, that -- that had these kind of cases
10 and wasn't registered to vote. And they filled
11 out those request forms, and then got their right
12 to vote. Four guys down there through that work
13 -- through that work with the NAACP and
14 registering people to vote and so and so forth.

15 So no, I don't -- I didn't get any
16 information from the State, but I do tell people
17 and they've -- and they'll -- they'll say some
18 stuff. I said, well, I got my pardon and my
19 husband got his pardon too and you can get your
20 pardon. You know, and with this 60-day limit that
21 they've put on there -- which is true, it is a
22 60-day limit -- and you call and you have to get
23 on it and give you some kind of information --

1 some kind of contact with you like within a week
2 or less.

3 So with that in place, that's very --
4 that's an incentive because people feel like you
5 -- oh, but they hear me. Somebody is paying
6 attention. So -- and this is really going to
7 happen. So I do do that. I do because I use
8 myself as an example that it happens. It can
9 happen. But it didn't happen like that for me
10 though, but it's happening now.

11 MS. WILLIAMS: Okay. Thank you. This
12 question if for Mr. Simelton. I just want to make
13 sure that I was understanding you correctly. When
14 you mentioned that the mobile voter ID vans would
15 come to rural counties and basically park in the
16 town square -- which I'm guessing would just be
17 walking distance from a courthouse -- so having
18 them come wasn't quite serving the purpose that it
19 was meant to serve?

20 MR. SIMELTON: Absolutely.

21 MS. WILLIAMS: Okay.

22 MR. SIMELTON: That's correct.

23 MS. CARROLL: Mr. Ayers.

1 MR. AYERS: This is for Mr. Simelton. Has
2 the Alabama NAACP proposed, or really any chapter,
3 -- excuse me -- proposed a -- any kind of
4 different forms of a voter ID, you know, some kind
5 of alternative proposal or is it just the position
6 that, by nature, such legislation is going to be
7 inherently -- going to have -- going to inherently
8 have a racially disparate impact or -- or
9 disadvantage or is -- excuse me.

10 MR. SIMELTON: Yes. And that question has
11 come up before, and our position is, you know,
12 what were you using before? What was Alabama
13 using before? They were using light bills, any
14 kind of utility bill. Anything like that that,
15 you know, could be used as a form of ID.

16 Now, it would be our position, you know,
17 if we were king for a day that, you know, you're a
18 citizen of these United States. You go to the
19 poll. Your name is on the -- on the roll, you
20 should be allowed to vote because once you voted,
21 no one else can vote in that spot because they
22 checked the name off and you can't -- no one else
23 can vote.

1 But that's what we have proposed is that
2 -- go back to what -- when that question was
3 asked, is go back to what, you know, you used
4 before. And -- and there was no voter -- I mean,
5 if there was voter fraud, it was very, very
6 miniscule, if any.

7 MS. CARROLL: Mr. Jones.

8 MR. JONES: I don't know --

9 MS. CARROLL: You can just talk as loud as
10 you want.

11 MR. JONES: Anyway, for Mr. Simelton --

12 MR. SIMELTON: Yes, sir.

13 MR. JONES: -- can you talk a little bit
14 more about the mobile ID systems? How often did
15 they -- did they come to these areas? And I know
16 we'll probably have to confirm with the Secretary
17 of State, but just -- if you could tell me what
18 that experience was like.

19 MR. SIMELTON: We only knew when the --
20 when the Secretary of State would publish that
21 they were going to be in certain areas. And I
22 think it was, you know, probably once or twice a
23 year, they may be in the same area. But they were

1 going to different counties and -- you know, from
2 year to year.

3 And so I don't have an exact figure, but,
4 you know, you would see it either pop up in the
5 paper or you call the Secretary of State's office
6 and get a reading as to when they were going to be
7 and where. But it seemed like it was maybe, you
8 know, once or twice a year at the most, you know,
9 in the same location.

10 MS. CARROLL: All right. So I see no more
11 questions for this panel. Thank you all for
12 coming. And if you can just wait while the other
13 person speaks in case someone else has questions
14 for you. That would be great too.

15 And we'll now be joined by Ms. Jaffe
16 Pickett, who is deputy director of Alabama Legal
17 Services. And just to confirm, is Kenneth
18 Glasglow here? Kenneth Glasglow? All right. So
19 it appears that Reverend Glasglow is not in
20 attendance.

21 Welcome, Ms. Pickett. We're glad you're
22 here. I don't know if you have heard what I said
23 to the other speakers, so I will tell you. You

1 have 15 minutes to present your comments. We have
2 a timer running here.

3 When you get down to three minutes, it'll
4 become yellow. That will indicate to you that you
5 should start winding the comments down. When it
6 goes to red, you have one minute left. If you
7 exceed that period, I unfortunately have to ask
8 you to stop talking, which would be a shame
9 because I haven't had to do that at all. So don't
10 be the first. After your comments, we will open
11 it up to questions from the Committee. So
12 welcome, and we look forward to hearing from you.

13 MS. PICKETT: Well, first of all, thank
14 you. My name is Jaffe Pickett. I am deputy
15 director of Legal Services Alabama. We are a
16 nonprofit statewide law firm providing free legal
17 services to poor, elderly, vulnerable throughout
18 the state. We have seven offices and one
19 statewide call center. And we serve the more than
20 900 people living below the poverty level. That
21 does not include the working poor or persons who
22 are at the poverty level.

23 When I was asked to speak, one thing I

1 thought about, we -- we help with things like
2 housing, we do consumer protection, we provide
3 public benefits to families in need, domestic
4 violence, and other family-related matters. We
5 also help elderly individuals at no charge and
6 veterans.

7 So we started initiatives last year to
8 kind of expand our services because we understand
9 that people in poverty face other life obstacles.
10 One of those obstacles are maneuvering through the
11 criminal justice system.

12 And I am speaking on a panel tonight, and
13 one of the questions involve the difference in
14 race and a person's economic status. And in
15 Alabama, there is statistical data that shows race
16 as one of the top contributing factors to people
17 being in poverty. And so when we look at things
18 like voter's restoration, voter's rights, voter's
19 registration, it does negatively impact people of
20 color. So when we started our voter restoration
21 project, it was really to let felons know that
22 they can restore their rights to vote -- right to
23 vote.

1 In 1901 -- I heard a panelist talk about
2 the crimes of moral turpitude. The Alabama
3 Constitution in 1901 did pass, saying that persons
4 who were convicted of crimes of moral turpitude
5 could not vote. And that list was -- at most, it
6 basically gave judges the right to discriminate.
7 The delegation in 1901, which is an all-white
8 delegation, had racial purposes and intent. And,
9 in fact, the president of the delegation said that
10 the point of coming together was to establish
11 white supremacy. So there were several other laws
12 from 1901, not just the moral turpitude law. But
13 that particular law was a part of that delegation.
14 And that's something that came out of it.

15 Last May, Alabama passed a law that laid
16 out the crimes of moral turpitude. And what that
17 did was it allowed prior felons to look at this
18 list and say, if I'm in X category, I can restore
19 my rights. And if I'm in this category -- and
20 it's a small category where you will not be able
21 to restore your rights, and -- even with a pardon
22 for two crimes. And then there's a category where
23 you never lost your rights.

1 And most of what we're doing across the
2 state, in educating, we found that people who have
3 never lost their rights didn't know. So they -- I
4 mean, they're -- they get out, they go through the
5 entry programs, they pay their fines, their court
6 costs if they're able. They don't vote because
7 they don't know they have the right. So it really
8 is about educating citizens.

9 What I see in impoverished communities --
10 we serve all 67 counties throughout Alabama --
11 people enter the criminal justice system through
12 the school-to-prison pipeline, and that happens so
13 early. We have a lot of our clients who never
14 vote, never feel like full citizens because they
15 never had that right. When you're looking at 70
16 percent of public schools and persons who are sent
17 to prison out of public schools are
18 African-Americans or either law enforcement is
19 called or they are somehow sent to juvenile
20 detention, they become a part of the system.

21 And once you're a part of the system --
22 and we know that although there are reentry
23 programs, and my organization does have reentry --

1 it is very difficult to then unwind yourself and
2 get out of the system. So we find that young
3 African-American males, in particular, never have
4 the right to vote, and that's a -- that's a real
5 concern.

6 Obviously, this -- we're looking at
7 persons in poverty and the focus is on people of
8 color because those are the people who are most
9 negatively impacted by what is happening. One of
10 the other things that I was working on earlier
11 this year is there is a law in Alabama -- it's
12 HB282 -- no, HB282 -- I'm sorry -- restored the
13 right to vote. This is -- let me find the
14 particular law. This is a law in Alabama before
15 -- I don't have to give you the -- I will give you
16 the particular name of it. But this is a law in
17 Alabama that automatically suspends a person's
18 driver's license. So -- and this is pre
19 Sentencing Reform Act. But before the Sentencing
20 Reform Act, there were nondriving-related
21 offenses. Right? So this is a nondriving related
22 offense, and you automatically lose your driver's
23 license. So the link is very clear.

1 So we're talking about photo ID, as you
2 heard our former panelists discuss, and then you
3 have a law in Alabama that automatically suspends
4 a driver's license for a nonvehicular offense.
5 Right? So these are drug offenses. They're all
6 drug offenses. And when I began to speak -- do
7 community presentations, no one knew this law
8 existed. And we did have a senator who was
9 willing to at least propose the bill. It didn't
10 get anywhere this legislative session, but we have
11 been aided by the Sentencing Reform Act.

12 And now, the automatic suspension refers
13 to trafficking and attempts and conspiracies and
14 solicitations of trafficking drugs and unlawful
15 possession with intent to distribute controlled
16 substances. So this was the Sentencing Reform
17 Act, section 13A-12-291, governing automatic
18 suspensions. So because of sentencing reform that
19 started in 2012 and then 2015, we have seen a
20 reduction not only in laws that unfairly impact
21 African-Americans.

22 This law across the board is -- and it's
23 only in 12 states. Alabama is one of 12 states

1 that has this law. It makes more difficult when
2 you're looking at how -- when people say, well,
3 gosh, you have a photo ID. Get a photo ID.
4 You're looking at laws in place to prevent that.

5 So you start back from the 1901
6 constitution and you see the purpose and intent of
7 this moral turpitude. You know now that the law
8 has changed, and people still don't know that they
9 have a right to get their voting -- that they have
10 a right to restore their rights to vote and then
11 there's still some persons who do not.

12 So basically, you -- as you heard the
13 former panelists talk about, you never really feel
14 like a full citizen. So when you're released, the
15 reentry programs may help you to get housing, may
16 help you to restore your credit, may help with
17 custody so that you can visit your children, and
18 these types of things, but one of the core beliefs
19 in America to becoming a full citizen is having
20 the right to vote, having the right to decide who
21 makes decisions that impact you and your family.

22 And so that is why we've expanded into
23 assisting persons who are negatively impacted.

1 And we know that laws like this automatic
2 suspension impact persons who -- who want to vote,
3 are maybe back into the system, and -- or not.
4 And if they're stopped or if there is a
5 drug-related offense, that automatic suspension
6 not only means that you lose your driver's
7 license, but oftentimes you lose your job.

8 Public transportation in Alabama is not
9 like most states. If you're in rural areas, then
10 you will not have a way to -- transportation to
11 work. And so there are so many consequences when
12 we talk about collateral consequences of not
13 having a driver's license. So we do help
14 reinstate driver's licenses for persons as well,
15 but it is an ongoing obstacle.

16 We have 45 attorneys who serve almost a
17 million poor people. Alabama is the only legal
18 aid state with a legal aid that does not receive
19 state allocations. Our sister states, Georgia,
20 Florida, Mississippi even receive state
21 allocations, and we do not have any allocations
22 for a legal aid.

23 So as much as we want to do, as many

1 programs as we have to help poor people, we
2 understand that without funding, we will all only
3 be able to touch just a small percentage of people
4 who need the help. So the education, the voter's
5 restoration, the driver's license reinstatement,
6 all the things we do, we are very limited in
7 Alabama, and I do think a lot of that is by
8 design.

9 We have -- we are nonpolitical, but our
10 legislature -- obviously, when we're helping
11 people who have been illegally evicted and you
12 have a lot of business owners and businessmen who
13 are making laws, they are not going to be
14 favorable to persons who are at the bottom of the
15 economic ladder. And this is just an
16 unfortunate -- I mean, we fight, and we continue
17 to fight. And we have people who believe in
18 helping poor persons, but it is an uphill battle.

19 So we appreciate just the opportunity to
20 be able to talk about some of the stories that we
21 hear from clients who literally feel that their
22 lives are over. They usually come to Legal
23 Services when they have hit a wall. We're usually

1 the last stop. And we kind of talk about in our
2 marketing that people come to us when they have
3 nowhere else to turn. These are not -- we were
4 not competing against the private bar. These are
5 people who cannot afford a lawyer and literally
6 they're -- they're about to be homeless.

7 Domestic violence victims who have
8 children and don't even know that there are
9 services or shelters. When you're in rural areas,
10 it is -- there are so many obstacles to serve as
11 -- there are so many obstacles to even get to
12 reentry when we're talking about people having
13 rights restored, just knowing about reentry
14 services. And most of those are in Birmingham,
15 Huntsville. And in rural areas, there are no
16 reentry services. The only clinics -- Alabama
17 partnered with ACLU, and we're doing clinics
18 across the state. But even in rural areas,
19 because of staffing, we still don't have the
20 capacity to go into every area.

21 So a lot of it is knowledge, access, and
22 we are limited. So when you're hearing from
23 people who have been in the system, we know the

1 rate of the people who reenter the system. Race
2 plays a large role in that. And just throughout
3 the south in general, we -- you find that the
4 southern states have the highest number of persons
5 in poverty -- African-Americans in poverty,
6 education -- low education rates, and lower
7 success rates in education. And I think there is
8 a correlation when you look at the poverty
9 minorities and then you look at incarceration.

10 And obviously in Alabama, we are before
11 sentencing reform in a dire state. We still are.
12 I think the Sentencing Reform Act passed because
13 of the fear of federal government coming in to
14 have to make some changes. So the hope is that
15 the laws change to allow -- laws that are on the
16 books like these that automatically suspend
17 driver's licenses that negatively impact people
18 can change because it is not easy for people to
19 get their driver's license, even with the
20 restoration process, when you're paying fees,
21 court costs, and then you have to pay for
22 reinstatement of your driver's license for a
23 person who -- even working poor -- we're not

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1 talking about the almost 1 million people below
2 the poverty line. But even working poor people,
3 that is money out of -- when the average household
4 -- when you look at the average household income,
5 it is very difficult.

6 So you say, what do I do? I take my
7 chances and drive, and if you're stopped, you're
8 going to reenter the system again. So it is a
9 cycle. It is a very ugly cycle. And what we've
10 seen in Alabama -- I've been with Legal Services
11 for 14 years. Most times, people would just
12 prefer to look the other way. So voting rights,
13 those people that have the right to vote. And
14 that's where we are.

15 MS. CARROLL: All right. Well, thank you.
16 So at this point, we'll open it up to questions
17 from the Committee. So I have a question to start
18 with. You were speaking about the financial
19 burden of getting a pardon or getting the
20 necessary paperwork in order to ensure
21 reenfranchisement.

22 Can -- I mean, can you give us a sense of
23 one -- you know, in terms of quantifying that? So

1 what sort of things would a person face? You
2 know, you spoke about stories that you had seen
3 that had gone through your system. And beyond
4 that, what are other ways to ameliorate that
5 burden that the State is already engaging in? For
6 example, free bus passes or -- the Secretary of
7 State mentioned that bringing the mobile voter ID
8 center, for example, to your house to acquisition
9 a free ID.

10 Obviously, that wouldn't apply to getting
11 yourself reinstated. But are there equivalents to
12 that that are available to low-income people or
13 people who will fall below the poverty line to
14 ensure that they actually have access to vote.

15 MS. PICKETT: There are services. I will
16 say that those services aren't readily available.
17 There have been a shortage of housing vouchers,
18 for example, for low-income families. So when
19 you're choosing between a basic necessity -- food,
20 a house, I mean, clothing, water -- you're
21 probably not going to choose to go and pay to have
22 your driver's license reinstated.

23 So we don't have -- for example, the

1 advertising a few days ago was for the Section 8
2 housing vouchers in Montgomery. You don't have
3 the same housing vouchers. Benefits have -- are
4 very temporary, meaning that even families who
5 need benefits sometimes but there are high
6 unemployment rates -- and this is, again, a trend
7 throughout the southern states when I talked about
8 poverty incarceration. Unemployment is another
9 one. It's very difficult for people to work
10 through this system.

11 The benefits that used to be there are not
12 there. TANF is temporary, food stamps are
13 temporary. When people talk about taxpayer
14 dollars, it is -- there are no permanent benefits
15 -- public benefits anymore. So it is really a
16 myth of people living on the system because that
17 doesn't happen. All benefits are temporary. And
18 then you reapply. You may be able to get those.
19 And with a conviction -- a felony conviction as
20 well, you automatically lose the right to food
21 stamps. So you're talking about children who have
22 to suffer because of the mistakes of their parent.

23 So even when you're going back through the

1 process of getting your rights restored, again,
2 you're choosing between basic necessities -- food,
3 housing, when you're talking about rent. And then
4 you get into creditors. So if I choose to,
5 instead of paying this bill, have my driver's
6 license reinstated because the right to vote is so
7 strong to me, then we have now where you can go to
8 jail for not paying some of your debts, for some
9 of your court costs, for some of your fines. So
10 then you're going to go back into the system.

11 So the choices are basically to be with my
12 children and just be a disenfranchised citizen or
13 -- those are the other options or to reenter the
14 system from debtor support.

15 MS. CARROLL: All right. Thank you. Are
16 there other people who have questions? Okay. I'm
17 going to start with Peter on this side. So Peter
18 Jones. Did you have a question, Martha? All
19 right. And then we'll go down the line.

20 MR. JONES: Just a very quick clarifying
21 question. You talked about driver's licenses
22 being suspended automatically.

23 MS. PICKETT: Automatically.

1 MR. JONES: So can you talk a little bit
2 about how that would impact a person's ability to
3 vote? And I think I'm trying to seek
4 clarification of if I try to present a suspended
5 driver's license at a poll place, that might not
6 be apparent to the poll worker I may be able to go
7 work -- or go vote versus, well, I've got a
8 suspended driver's license, that's not going to
9 work.

10 MS. PICKETT: And you're not registered.

11 MR. JONES: Yeah.

12 MS. PICKETT: Right. Because you have to
13 register. Even -- even persons when we're talking
14 about being pardoned and when we do the
15 restoration clinics, people who are not in the
16 category of moral turpitude, you still have to
17 register. You cannot do that without a valid ID.
18 So when an 18 year old is stopped and they have
19 any quantity of drugs, then they're -- with that
20 automatic suspension, that is -- you have to have
21 a -- a valid photo ID. And it's valid. So
22 that's --

23 MR. JONES: Right. But if I'm already

1 registered, could I use a suspended driver's
2 license at the poll?

3 MS. PICKETT: I'm not a poll worker. You
4 -- I would -- I would assume that most citizens
5 would think once their driver's license is
6 suspended, there's no one that thinks they can
7 take a suspended driver's license to the polls.
8 Because, again, when you're looking at recidivism,
9 most people even getting services or restoration,
10 we have to be careful who we partner with. They
11 are even afraid of going back to prison to the
12 point where reentry services that are available,
13 they don't necessarily get those because of the
14 fear of going back to prison. So I think, even
15 that brave soul who really wants to vote, is
16 probably not going to go with the suspended
17 license.

18 MS. CARROLL: Well, and just to -- to be
19 clear and I know -- the statute actually requires
20 a valid ID.

21 MS. PICKETT: Yeah. It says valid.

22 MS. CARROLL: So I think a suspended ID
23 would probably not qualify under the statute.

1 MS. PICKETT: I think this -- I think
2 their question is, could you then just override
3 that and go to the polls. But --

4 MR. JONES: Or take the risk, as you said.
5 I think you said that.

6 MS. PICKETT: I doubt it.

7 MR. JONES: But that's better than ideal.

8 MS. CARROLL: So now Dr. Lewis has a
9 question.

10 DR. LEWIS: Thank you for coming to share
11 the information with us. I have a few questions.
12 The first one is, you talked about some of the
13 people that you work with. They didn't know that
14 they didn't lose the right to vote.

15 MS. PICKETT: Right.

16 DR. LEWIS: And then you have some people
17 that said, you know, they were not going to even
18 try.

19 MS. PICKETT: Right.

20 DR. LEWIS: If you could with submission
21 of your -- your statement provide us with any
22 numbers that your organization work with about
23 vote -- like a number of people who didn't know

1 that they didn't lose their right to vote or a
2 number of people that your organization has worked
3 with to get their rights restored. That would be
4 helpful to us.

5 The second one, you mentioned juvenile
6 detention and somehow related to people losing
7 their right to vote. If you can elaborate on
8 that.

9 MS. PICKETT: Okay.

10 DR. LEWIS: And one last one. You talked
11 about the three categories after the passage of
12 the 2017 moral turpitude law and about people who
13 didn't actually lose the right to vote and people
14 who always lost the right to vote. So I'm just
15 trying to get some clarification on those three
16 categories.

17 MS. PICKETT: Right.

18 DR. LEWIS: Thanks.

19 MS. PICKETT: So I will start with the
20 clinics that we've been doing, and I think the
21 large majority of persons attending had not lost
22 their right to vote and didn't know and simply
23 just feel like once you're in the system -- as a

1 panelist talked about, it's not like Alabama sends
2 you a letter and they say, well, you know what?
3 You never lost your right to vote. Or you are not
4 one of the persons who -- you may have food needs,
5 but you qualify. This felony did not prevent you
6 from meeting your food needs. That doesn't
7 happen.

8 So literally when you go into the prison
9 system, even for five years, and you come out, the
10 world changes. You're confused, if you --
11 especially about housing. And then depending on
12 your crime, there are limitations on so many
13 things. Most people, that's the last thing they
14 think about. So by the time their lives are in --
15 stabilized and they find employment, which is a
16 whole other -- I mean, if they find employment and
17 they seek the right to vote, they absolutely don't
18 have an idea.

19 That's not something that, you know, when
20 you are trying to reenter society, that's on the
21 top of your list. You want to eat. You want to
22 find employment. You want to take care of your
23 family. And there's child support that continues

1 to roll when you're in prison, so men coming out
2 -- again, when we talked about reentry and trying
3 to keep this circular recidivism from happening,
4 there are so many obstacles to that, and it's very
5 difficult once you enter the system.

6 So that goes to your last question of when
7 I mentioned juveniles. The connection is when you
8 hear about school-to-prison pipeline, the
9 statistics are glaring once you enter the system,
10 how difficult it is to be a person who is not a
11 reoffender. Why? Because you have fees that you
12 cannot afford to pay. You have court costs that
13 you cannot afford to pay. You are very unlikely
14 to get employment if you have a felony record.
15 And we hear about check the box and these types of
16 things, but if you are a private employer, that
17 right is yours. And if I am interviewing a person
18 with a felony and without a felony and then you
19 add on the extra layer of persons of color and
20 other discrimination that we know exists
21 throughout the south, and certainly in Alabama, it
22 becomes more and more difficult to get out of the
23 system.

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1 If I can't get a job and if I can't feed
2 my family or even if I'm raising my brother and
3 sister, what is likely to happen? I am going to
4 find a way, and that way may not be legal. And so
5 it is -- the people who are making laws sometimes
6 do not understand the economic deprivation, the
7 obstacles, and the problems that people face. So
8 that is the school-to-prison pipeline is breaking
9 that cycle. Right.

10 And then with the restoration, the
11 categories, you have 50 listed crimes of moral
12 turpitude. I talked about in 1901 where it was
13 vague, and basically because the purpose -- and
14 this is a stated purpose, as I said, in 1901 was
15 to establish white supremacy that was left much
16 like the sentencing before sentencing reform.
17 That was up to a judge. And what you found was
18 very, very distinct differences in sentencing.

19 And so now we have a guideline where a
20 judge just can't say, you're in pink, you don't
21 look like me, 50 years. You in the gray suit,
22 five years. The guideline, you have to follow.
23 It's not presumptive, and initially it was and now

1 you have to follow -- the judges have to follow
2 these guidelines. And that has tremendously
3 helped the prison population in Alabama. That is
4 a positive.

5 But -- so you have the 50 crimes listed.
6 And if you have -- if you are convicted of those
7 50 crimes, then you can restore your right. If
8 you have -- are in this other category and there
9 are things like treason and impeachment that can't
10 be pardoned, but if you're in another category,
11 then your rights can't be restored. But upon a
12 pardon, you can get the rights restored. Right?
13 So that's another -- that's your red. And then
14 your yellow is I can get it restored with these 50
15 crimes of moral turpitude. And then the green is
16 I never lost them. Right? So there are those
17 three categories.

18 And actually on the ACLU website, as well
19 as Legal Services, there is a quick cheat sheet,
20 and it's red, green, yellow. This one wasn't
21 printed on my color printer. And it tells you
22 those crimes. So it's laid out. And this -- from
23 1901, if you think about the impact, in 2017, it

1 was up to judges knowing the intent. Right? And
2 so in May when Governor Ivey signed that bill, it
3 was mentioned that in 1901, the intent was clear.
4 And so now we -- we have that -- we have the new
5 law. Was that all?

6 MS. CARROLL: And if you can just provide
7 us with a link to that website when you do your
8 written comment, that would be fabulous. Now I
9 would like to recognize Ms. Williams.

10 MS. WILLIAMS: Yes. Ms. Pickett, you've
11 mentioned the 1901 Constitution and other speakers
12 have mentioned 1901 Constitution and that the root
13 of the moral turpitude language is racist in
14 its --

15 MS. PICKETT: Right.

16 MS. WILLIAMS: -- intent. Do you have any
17 notion or idea how crimes are determined to be
18 moral turpitude, like what -- is there some type
19 of -- I don't know -- yeah, criteria, like what
20 determines whether a crime -- other than we have a
21 list of 50? Like how did they pick that list of
22 50? And I guess, you know, I'm trying to
23 establish in my mind that, you know, this list of

1 50 has something very in common.

2 MS. PICKETT: Yeah. So the law
3 established the 50 crimes and the point of it is
4 just what you said. Because in 1901, there was no
5 listing, so moral turpitude for one person could
6 be a misdemeanor. And moral turpitude for you
7 could be -- although you've murdered someone, that
8 was self-defense. Right? And so because there
9 was no -- because it wasn't written, it was -- it
10 was left up to a judge to make that determination.

11 And now Pardons and Paroles, they
12 obviously work with organizations who are helping
13 with the voter's restoration, and those
14 applications are going in. I think one of the
15 complaints says, you know, there is a time. You
16 know, they're -- obviously, there are a lot of
17 people who now want to get their rights restored
18 and so there's a waiting time. Backlog with --
19 just like with everything, veterans health and all
20 the things that impact poor people. And
21 unfortunately, you know that exists.

22 But -- they are listed. And it's -- and
23 when I send it, I mean, they're in color, so you

1 see the crimes. And I think that helps a person,
2 even if you don't know -- when you're trying to
3 get information, if you Google it -- I Googled it
4 to see where the hit landed, and this is like the
5 second Google. You're going to be able to find
6 this chart.

7 And you can go through and say, gosh, I'm
8 right here with an assault, and I can actually
9 have my rights restored. So when it's in writing,
10 A, it helps people who have no idea, and then it
11 also gives guidance to people who are decision
12 makers and certainly not following that negative
13 intent from the 1901 Constitution.

14 MS. CARROLL: I would recognize Ms.
15 Steele.

16 MS. STEELE: Thank you. Ms. Pickett,
17 based on previous testimony, it appears that
18 entities like Alabama Legal Service do more with
19 respect to educating individuals on their voting
20 rights than state entities actually do.

21 MS. PICKETT: Definitely.

22 MS. STEELE: Can you -- two questions.
23 The first one is, can you describe some of these

1 education initiatives that you have and also what
2 you have found works as well as what you have
3 found not to be as effective with respect to
4 education?

5 MS. PICKETT: Right.

6 MS. STEELE: And the second question deals
7 with domestic violence. You mentioned domestic
8 violence, and you may be the first person to have
9 brought that up today. Can you also address how
10 current voter registration and voting laws
11 generally affect or can possibly affect
12 individuals who have been victims of domestic
13 violence?

14 MS. PICKETT: Okay. Well, first, as far
15 as community education, we are tasked with not
16 only providing critical legal services,
17 high-quality legal services to persons below the
18 poverty level. That's 125 percent of the poverty
19 level. We're talking about people who, like a
20 family of four, can't afford to eat.

21 And those are the people who are taken
22 advantage of. Usually, you have low literacy, low
23 understanding of the law. And if I have -- if I

1 am, for example, upgrading my apartment complex
2 and you've been there 19 years and I want you
3 gone, it is very low understanding of why I have
4 to move. And then some neighbor or someone says
5 go to Legal Services and we look at this and say
6 there is absolutely no reason in the middle of
7 your lease that you and your children should be
8 kicked out. Without legal aid, that person does
9 not know.

10 When we find that indigent persons who
11 represent themselves in court are 98 percent of
12 the time going to lose their case.

13 In consumer cases, it's even higher
14 because you have no understanding of consumer law
15 and we provide consumer protection. So on top of
16 the legal services we provide, our mission is also
17 to provide preventative -- we call it preventative
18 community education.

19 So when we go into communities, we are
20 actually giving information to prevent the
21 collateral consequences that I spoke about. A lot
22 of those consequences are intertwined with the
23 criminal justice system. So if you are a consumer

1 and you have court fees -- right now, we are
2 working under a grant with Appleseed, court costs
3 related to any type of -- I mean, debt related to
4 any type of court costs, child support, fines,
5 fees, retribution.

6 Then we are looking at those individuals
7 because Alabama is supposed to be one of states --
8 first of all, debtor support is illegal across the
9 country but we 26 states that have debtor support.
10 If you cannot pay your bill, a judge can, working
11 it through probation and patrols and law
12 enforcement, put you in jail for being poor. So
13 we're criminalizing poor people.

14 So our education is really aimed at
15 preventing the -- those collateral consequences,
16 so that you're not going to be a check-to-cash
17 place every two weeks so that you have someone for
18 the first time teaches you how to manage your
19 credit for the first time, tells you that if
20 you're living in a home with mold with your
21 babies, you do not have to stay in that lease,
22 that slumlords are real. And for most of us,
23 these are things that we encounter.

1 And when we're doing home visits and
2 seeing our clients and their children who are
3 physically sick and cannot go to school, we are
4 providing that critical education to say you don't
5 have to stay under this lease. You can give a
6 14-day notice and demand to leave. And without
7 legal aid, that is not possible.

8 So we're doing preventative education in
9 communities, and we do that in all 67 counties as
10 well. We focus on the Black Belt, where we have
11 poverty levels that are the highest in the
12 country. Winston County, for example, does
13 have -- we're talking about 30 and 40 percent
14 poverty levels in these -- in these counties. So
15 our preventative education is very, very
16 important. I'm over our communications as well.
17 And that is something that I really, really focus
18 on is providing that education in communities.

19 What works, even with the restoration
20 clinics, we found that partnering with other
21 agencies. So although we don't register
22 individuals to vote, when you have a full service
23 clinic, is what we call it, you may have someone

1 there who can talk about public benefits. You may
2 have someone there who can talk about
3 registration. We can't. You have people who help
4 with job training.

5 Women who are getting out of prisons,
6 there are initiatives to just say, here is a suit.
7 You know, we do all the training and all the other
8 things and people present and say, I'm ready. And
9 I absolutely -- after, you know, taking care of my
10 basic necessities, I'm not fit to interview.

11 And these are stories that we hear. So
12 what doesn't work a lot of times is when we're
13 partnering with faith-based organizations.

14 In certain communities, people feel
15 shamed. We had HIV/AIDS grant, for example, and
16 we were just helping individuals under HIPAA when
17 children were not allowed to come back to school.
18 In rural areas, that is still happening in
19 Alabama. I can't touch you. I don't want to be
20 infected.

21 And when we're helping with those and
22 people are in church, they necessarily don't want
23 to present in faith-based buildings, in general.

1 But outside of that, our community outreach and
2 services are critical. And people really
3 appreciate it. We do evaluations to make sure
4 that we're giving what people need.

5 MS. CARROLL: And I believe Mr. Shevin has
6 a question.

7 MR. SHEVIN: Ms. Pickett, am I correct
8 that the original red, green -- red, yellow, green
9 list of -- of crimes was put out by the Alabama
10 Secretary of State's office?

11 MS. PICKETT: That's not my understanding.

12 MR. SHEVIN: Thank you.

13 MS. PICKETT: That's not my understanding.

14 MS. CARROLL: All right. If there's no
15 further questions, thank you so much for your
16 testimony.

17 MS. PICKETT: Yes, you're very welcome.
18 Thank you all.

19 MS. CARROLL: We appreciate it. So we do
20 have the public comment section, which will begin
21 at 4:00, so 12 minutes from now. If you would
22 like to make a public comment, we welcome all
23 public comments. We hope to receive public

1 comments from folks. I would ask just that you
2 register at the registration desk when you walk
3 in; is that correct, David?

4 MR. BARRERAS: That's correct.

5 MS. CARROLL: When you walk in and then we
6 will know who would like to make public comment
7 and who would not. And again, we appreciate
8 comments. So if you would like to, we encourage
9 you to do so. So we'll have a now ten-minute
10 break and then we will at 4:00 and begin the
11 public comment portion.

12
13 (A brief recess was taken.)

14
15 MS. CARROLL: This would ordinarily be the
16 open forum component for public comment to the
17 Committee. My understanding is that there is no
18 one who wishes to make public comment. If that
19 changes or if you would prefer to comment in
20 another way, we welcome written comments. There
21 is address information as well as e-mail
22 information available. The comment period extends
23 for 30 days.

1 In terms of the Committee itself for
2 follow-up questions to panelists that we have been
3 discussing all day, the way we're going to handle
4 that will be we will have a meeting in
5 approximately two weeks, more or less, as we have
6 in the past had meetings.

7 And you all should e-mail me your
8 questions so that we can categorize and
9 consolidate the question based on speaker and
10 category so that those can then be submitted to
11 our speakers and they can have an opportunity to
12 either respond to the questions specifically or
13 incorporate those responses into the comments that
14 they're writing for us.

15 So if there's any questions about that,
16 I'm happy to answer it. We'll send that out -- I
17 will send that out as well in e-mail form once I
18 get home just so that everybody has a record,
19 including those who are not here now. All right.
20 All right.

21 If there are no other questions or open
22 issues at this point, I would conclude the hearing
23 by saying I appreciate everyone's hard work. I

1 appreciate the info that was provided to us by the
2 panelists. I look forward to the further insights
3 in receiving any comments that we might receive
4 from the public. And, again, thank you for your
5 hard work. I think we can now begin the task of
6 writing the report and discussing what we see as
7 the situation here in our state. So at this
8 point, I would adjourn the meeting.

9
10 (Meeting was adjourned at approximately
11 4:02 p.m.)
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C E R T I F I C A T E

STATE OF ALABAMA

AT LARGE

I hereby certify that the above and foregoing board meeting was taken down by me in stenotype and transcribed by means of computer-aided transcription; transcribed by me or overseen by me, and that the foregoing represents a true and correct transcript of the board meeting.

I further certify that I am neither of counsel, nor of kin to the parties to the action, nor am I in anywise interested in the result of said cause.

I further certify that I am duly licensed by the Alabama Board of Court Reporting as a Certified Court Reporter as evidenced by the ACCR number following my name found below.

So certified on this date, February 22, 2018.

/s/ Kaitlin Lloyd, CCR
Kaitlin Lloyd, CCR
ACCR #636, Expires 9/30/2018
Commissioner for the State
Of Alabama at Large
My Commission Expires 06/08/2019

Appendix 3

Alabama Photo Voter ID Guide

Alabama Photo Voter ID Guide

2nd Edition



Elections Division
Office of the Secretary of State
John H. Merrill, Secretary of State
State of Alabama



21-cv-01531

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STATE OF ALABAMA



JOHN H. MERRILL
SECRETARY OF STATE

OFFICE OF THE SECRETARY OF STATE

POST OFFICE BOX 5616
MONTGOMERY, ALABAMA 36103

Dear Voters of Alabama:

As citizens of Alabama, voting is one of our most fundamental rights. By exercising your right to vote, you have the amazing opportunity to voice your personal opinion and participate in the selection of our newest elected officials.

Beginning with the 2014 Primary Election, the State Legislature mandated that a voter present photo ID prior to voting. If a voter does not have a valid photo ID, such as a driver's license, nondriver ID card, or any other valid photo ID as listed on page 7 of this guide, the voter may receive one free of charge from his or her county Board of Registrars office or at the Secretary of State's office.

During the months of May to October of 2015, mobile units visited each of the 67 counties at least once to provide eligible voters convenient locations to apply for and obtain a free Alabama photo voter ID card. The Office of the Secretary of State will again visit each of the 67 counties during the period of May to October of 2016. To view a list of all mobile unit scheduled events, please visit www.alabamavoterid.com.

A voter who is required to present valid photo ID but who does not do so will be allowed to vote a provisional ballot as provided for by law (see page 7 for details).

In addition, a voter who does not have a valid photo ID in his or her possession at the polls will be permitted to vote a regular ballot if the individual is positively identified by two election officials as an eligible voter in their precinct.

This booklet is an educational tool to inform voters about the voter identification requirements and seeks to prevent any confusion that may be experienced on election day. Please review the standards and, if you have any questions, you may call our Elections Division at 1-800-274-8683 or 334-242-7210 or visit www.alabamavoterid.com.

May God bless you and the great State of Alabama!

Sincerely,

A handwritten signature in black ink that reads 'J. H. Merrill'.

John H. Merrill
Secretary of State

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ALABAMA PHOTO VOTER ID GUIDE 2ND EDITION

Prepared by the
Office of the Secretary of State
State of Alabama

April 2016

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HAVE QUESTIONS?

Contact the Elections Division in the office of the Secretary of State:

Physical Address:

600 Dexter Avenue, Room E-208
Montgomery, Alabama 36130

Mailing Address:

P.O. Box 5616
Montgomery, Alabama 36103-5616

Telephone: 334-242-7210 or 1-800-274-8683

World Wide Web: www.alabamavoterid.com
www.alabamavotes.gov

E-mail: alavoter@vote.alabama.gov

LEGAL DISCLAIMER

This document is not a substitute for the ***Code of Alabama, 1975***. It is provided as a guide and is not intended to be an authoritative statement of law. For further legal information, please consult the Code of Alabama, or other appropriate legal resources or your attorney.

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CHANGE IN LAW

During the 2011 Regular Legislative Session the Legislature approved House Bill 19. Governor Robert Bentley signed the bill, and it was subsequently assigned Act Number 2011-673.

Beginning with the June 3, 2014 primary election, Act 2011-673 requires an Alabama voter to have a specific type of photo identification at the polls in order to vote. If a voter does not have one of the approved forms of photo ID as stated in the law, then he or she may receive a free Alabama photo voter ID card from various locations.

This guide will explain that process and let voters know how to be prepared for the June 3, 2014 primary election. For more information, you may contact the Elections Division of the Office of the Secretary of State at 800-274-8683 or 334-242-7210.

IMPLEMENTATION PROCESS

The Secretary of State's office was tasked with writing administrative rules to direct the process of receiving free photo ID's. Those administrative rules can be viewed on the Secretary of State's website at www.sos.alabama.gov or www.alabamavotes.gov. The Secretary of State was also tasked with selecting a vendor for processing the cards. Police and Sheriff's Press, Inc. was chosen as the vendor. The Secretary of State's office set up training and provided equipment for the process to begin in all 67 counties in the State of Alabama.

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WHAT FORMS OF ID ARE VALID AT THE POLLS?

A voter can use any of the following forms of photo ID at the polls starting June 3, 2014:

- ▶ Valid Alabama Driver's License
- ▶ Valid Alabama Nondriver ID
- ▶ Valid Alabama Photo Voter ID Card
- ▶ Valid State Issued ID (Alabama or any other state)
- ▶ Valid Federal issued ID
- ▶ Valid US passport
- ▶ Valid Employee ID from Federal Government, State of Alabama, County, Municipality, Board or other entity of this state
- ▶ Valid student or employee ID from a public or private college or university in the State of Alabama (including postgraduate technical or professional schools)
- ▶ Valid student or employee ID issued by a state institution of higher learning in any other state
- ▶ Valid Military ID
- ▶ Valid Tribal ID



If a voter possesses any of these forms of ID, he/she is not eligible to receive a free Alabama photo voter ID card. The voter must bring one of these photo IDs to the polls on Election Day or place a copy of the ID in absentee ballot materials.

A voter who is required to present valid photo identification but who does not do so will be allowed to vote a provisional ballot as provided by law. The voter casting a provisional ballot will have until 5:00PM on the Friday after the election to submit valid photo identification, otherwise the ballot will not be counted.

In addition, a voter who does not have a valid photo ID in his or her possession at the polls shall be permitted to vote a regular ballot if the individual is positively identified by two election officials as a voter on the poll list who is eligible to vote and the election officials

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sign a sworn affidavit so stating.

What if I do not have any of these forms of ID?

If a voter does not have one of the valid forms of photo ID, then that voter may obtain a free Alabama photo voter ID card or a free nondriver ID for purposes of voting.

FREE NONDRIVER ID

As another option, a voter who does not have any of the acceptable forms of photo ID may obtain a free nondriver ID for purposes of voting.



Voters will have to fill out a form with the Alabama Law Enforcement Agency and sign a form attesting that they do not have one of the valid forms of photo ID.

A voter must comply with all rules set forth by the Alabama Law Enforcement Agency and adhere to those requirements in order to receive the free nondriver ID.

WHERE CAN I GET MY FREE ALABAMA PHOTO VOTER ID CARD?

A voter may obtain a free Alabama photo voter ID card at the following locations:

- ▶ **Secretary of State's office**
600 Dexter Avenue
Montgomery, Alabama 36130
- ▶ **Boards of Registrars offices**
Located in each county. Please see the appendix in this guide for addresses and phone numbers of the various county locations.
- ▶ **At a mobile location to be determined by the Secretary of State's office**
The mobile locations will be announced by various forms of advertising.



Please note that applicants are instructed not to complete the application for a free Alabama photo voter ID card if they already

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possess one of the valid forms of photo identification. Any falsification or fraud in completing the application shall constitute a Class C felony.

WHAT IS NEEDED TO OBTAIN MY FREE ALABAMA PHOTO VOTER ID CARD?

To receive a free Alabama photo voter ID card a voter must show:

- ▶ A photo ID document, except a non-photo identity document can be used if it contains your full legal name and date of birth;
- ▶ Documentation showing the voter's date of birth (can be verified by information in the statewide voter file);
- ▶ Documentation showing the person is a registered voter (can be verified by voter registration information);*
- ▶ Documentation showing the voter's name and address as reflected in the voter registration record (can be verified by voter registration information).*

***THE PROCESSING AGENTS WILL VERIFY THIS ITEM NEEDED TO RECEIVE THE FREE ALABAMA PHOTO VOTER ID CARD BY CHECKING THE VOTER'S RECORD IN THE STATEWIDE VOTER REGISTRATION SYSTEM.**



What if I'm not registered to vote?

You must be a registered voter in order to obtain a free Alabama photo voter ID card or free nondriver ID.

- ▶ The Registrar or the mobile unit worker will check the voter registration status when the voter submits the application.
- ▶ If you are in the Board of Registrars office, you may simultaneously register to vote and apply for a free Alabama photo voter ID card if there is no issue with your registration.
- ▶ If a voter is applying for a free nondriver ID card, the voter will sign the application stating he or she is an Alabama elector.

Examples of photo ID documents that can be used to obtain a free ALABAMA PHOTO VOTER ID CARD but CANNOT be used at the polls

- ▶ A student ID issued by a public or private high school.
- ▶ A student or employee ID card issued by a private university or postgraduate technical or professional school located **OUTSIDE** the state of Alabama.
- ▶ An employee ID card **NOT** issued by a branch, department, agency, or entity of the US government, the State of Alabama, or any county, municipality, board, authority, or entity of the State of Alabama.
- ▶ Hospital/nursing home ID card.
- ▶ Wholesale club or other membership card.

Examples of Non-Photo ID Documents that can be used to obtain a free ALABAMA PHOTO VOTER ID CARD

ALL MUST CONTAIN FULL LEGAL NAME AND DATE OF BIRTH

- ▶ Birth Certificate[†]
- ▶ Hospital or nursing home record
- ▶ Marriage Record[†]
- ▶ State or Federal Census Record
- ▶ Military Record
- ▶ Medicare or Medicaid document
- ▶ Social Security Administration document
- ▶ Certificate of Citizenship
- ▶ Official school record or transcript

[†]The Secretary of State's office has entered an agreement with the Alabama Department of Public Health whereby a free birth or marriage certificate will be provided to the processing or issuing agent when a voter needs one of these documents in order to obtain a free Alabama photo voter ID card. This certificate is for voting purposes only, is provided electronically, and cannot be

used for any other purpose. For more information, please call the Secretary of State's office at 1-800-274-8683.

AFTER COMPLETING THE APPLICATION AND SHOWING DOCUMENTATION, WHAT HAPPENS NEXT?

- ▶ The voter's information will be entered into the Alabama photo voter ID card issuance system and his or her photo taken.
- ▶ The person processing the application for the free Alabama photo voter ID card will give the voter a receipt, much like a temporary driver's license, which can be used to vote for 45 days after receipt.
- ▶ Voters should receive their free Alabama photo voter ID card within 14 days of processing.

IS MY FREE ALABAMA PHOTO VOTER ID CARD SECURE?

The vendor selected to produce the IDs has set many security measures within both the ID card itself and the receipt. It will be extremely difficult for someone to fake an Alabama photo voter ID card.

County-level poll workers will be trained in these security measures and will know what to look for on Election Day.



WHAT ABOUT VOTERS WHOSE POLLING PLACE IS INACCESSIBLE DUE TO AGE OR DISABILITY?

The Secretary of State's office has addressed voters who are elderly or who have a disability with an exception to the absentee ballot ID requirement when the voter's polling place is not accessible. ✦



A voter who is entitled to vote by absentee ballot pursuant to the Voting Accessibility for the Elderly and Handicapped Act or any other federal law shall not be required to produce identification when

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voting by absentee ballot.

Voters who fall within this category will be able to check a box on their absentee ballot application which states that their polling place is not accessible and that they fall under the definition of elderly (age 65 or older) or handicapped. The Absentee Election Manager will not require an ID in order for these ballots to be counted.

★ Definition of “accessible” as it relates to voters who are elderly or who have a disability

Pursuant to Section 8 of the Voting Accessibility for the Elderly and Handicapped Act (subchapter 1-F of Chapter 20 of Title 42 U.S.C) the Secretary of State has determined that the term “accessible” as applied to handicapped and elderly voters shall mean that the location of the polling place is physically accessible to handicapped and elderly voters.



If a handicapped or elderly voter is unable to access his or her assigned polling place due to a neurological, musculoskeletal, respiratory, cardiovascular, or other life-altering disorder that affects the ability to perform manual tasks, stand for any length of time, walk unassisted, see, hear, or speak, that voter’s polling place is not “accessible” to him or her.

WHAT ABOUT VOTERS WHO ARE MEMBERS OF THE MILITARY OR WHO RESIDE OVERSEAS?

An individual eligible to vote by absentee ballot pursuant to the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) is not required to provide ID prior to voting.

The term “UOCAVA voter” includes anyone who is a member of the Uniformed Services (including his or her spouse and dependents), Merchant Marines, commissioned corps of the Public Health Service, and the National Oceanic and Atmospheric Administration. It also includes anyone who is a U.S. citizen residing overseas whose last place of residency prior to moving overseas was in Alabama.

**ALABAMA BOARDS OF REGISTRARS
FREE ALABAMA PHOTO VOTER ID CARD ISSUING OFFICES**

Autauga County

218 N. Court St.
Prattville 36067
(334) 358-6740

Calhoun County

1702 Noble St Ste 113
Anniston 36201-3889
(256) 241-2930

Coffee County

6 County Complex
New Brockton 36351-9791
(334) 894-5347

Baldwin County

119 West 2nd St
Bay Minette 36507
(251) 937-0305

Chambers County

18 Alabama Ave E Rm 101
LaFayette 36862
(334) 864-4313

Colbert County

201 N Main St
Tuscumbia 35674-2095
(256) 386-8535

1100 Fairhope Ave

Fairhope 36532
(251) 928-3002 ext 2617

610 S Gilmer Ave

Lanett 36863
(334) 644-7781

Conecuh County

200 Court St Rm 224
Evergreen 36401
(251) 578-7024

201 Section Street

Foley 36535
(251) 943-5061 ext 2859

Cherokee County

260 Cedar Bluff Rd Ste 106
Centre 35960-1403
(256) 927-5336

Coosa County

9709 US Hwy 231
Rockford 35136
(256) 377-2418

Barbour County

113 Court Street
Clayton 36016
(334) 775-8579

Chilton County

500 2nd Ave N Rm 119
Clanton 35045
(205) 755-3820

Covington County

228 Hillcrest Dr
Andalusia 36420-2570
(334) 428-2685

303 E Broad St Rm 108

Eufaula 36027
(334) 687-1585

Choctaw County

117 S Mulberry Ave Ste 1
Butler 36904-0132
(205) 459-2531

Crenshaw County

29 S Glenwood Ave
Luverne 36049
(334) 335-6568 x251
(334) 335-6568 x253

Bibb County

8 Court Square W
Centreville 35042
(205) 926-3102

Clarke County

114 Court St
Grove Hill 36451
(251) 275-3062

Cullman County

500 2nd Ave SW Ste 112
Cullman 35055-4135
(256) 775-4697
(256) 775-4750

Blount County

220 Second Ave E Rm B-5
Oneonta 35121
(205) 625-4182

Clay County

25 Courthouse Square, 1st
Floor

Dale County

100 Court Square
Ozark 36360
(334) 774-9038

Bullock County

217 Prairie St N Rm 101
Union Springs 36089-1659
(334) 738-5372

Ashland 36251

(256) 354-7815

Cleburne County

120 Vickery St Rm 103
Heflin 36264-1166
(256) 463-5299

Dallas County

105 Lauderdale St Rm 122
Selma 36701
(334) 874-2534

Butler County

700 Court Sq Rm 8
Greenville 36037-2308
(334) 382-5685
(334) 382-6829

**ALABAMA BOARDS OF REGISTRARS
FREE ALABAMA PHOTO VOTER ID CARD ISSUING OFFICES**

DeKalb County

111 Grand Ave SW Ste 105
Fort Payne 35967
(256) 845-8598

Henry County

101 Court Square Ste K
Abbeville 36310-2135
(334) 585-6080

Limestone County

100 Clinton St S Ste E
Athens 35611-2665
(256) 233-6405

Elmore County

100 E Commerce St Rm 205
Wetumpka 36092-2746
(334) 567-1150
(334) 567-1197

Houston County

462 N Oates
Dothan 36303
(334) 677-4776

Lowndes County

205 Tuskeena St E Rm 101
Hayneville 36040
(334) 548-2389
(334) 548-2080

Escambia County

301 Belleville Ave Rm 204
Brewton 36426
(251) 867-0243
(251) 867-0312

Jackson County

102 E Laurel St
Scottsboro 35768
(256) 574-9339
(256) 574-9335

Macon County

101 Rosa Parks Ave Ste 100
Tuskegee 36083-1735
(334) 724-2617

Etowah County

800 Forrest Ave Ste 206
Gadsden 35901-3651
(256) 549-5384

Jefferson County

716 R Arrington Jr Blvd N
Ste A-410
Birmingham 35203-0115
(205) 325-5550

Madison County

819 Cook Ave NW, Ste 150
Huntsville 35801-5983
(256) 532-3510
(256) 532-3519

Fayette County

103 First Ave NW Ste 4
Fayette 35555-2627
(205) 932-5432

Lamar County

44690 Hwy 17
Vernon 35592
(205) 695-6348
(205) 695-9197

Marengo County

101 E Coats Ave
Linden 36748
(334) 295-2249
(334) 295-2086

Franklin County

410 Jackson Ave
Russellville 35653
(256) 332-8849

Lauderdale County

200 South Court Street
Florence 35630
(256) 760-5840
(256) 760-5841

Marion County

132 Military Street South
Hamilton 35570
(205) 921-3625

Geneva County

200 N Commerce St
Geneva 36340
(334) 684-5655

Lawrence County

14451 Market Street Ste 340
Moulton 35650
(256) 974-2460
(256) 974-2461

Marshall County

424 Blount Ave Ste 106A
Guntersville 35976-1122
(256) 571-7740

Greene County

110 Main Street
Eutaw 35443
(205) 372-9669

Lee County

215 S 9th St
Opelika 36801
(334) 737-3635

Mobile County

151 Government St Ste 165
Mobile 36602
(251) 574-8586
(251) 574-8587

Hale County

905D Centerville St
Greensboro 36744-1536
(334) 624-4672

**ALABAMA BOARDS OF REGISTRARS
FREE ALABAMA PHOTO VOTER ID CARD ISSUING OFFICES**

Monroe County

65 N. Alabama Ave.
Monroeville 36460
(251) 743-4107 x141

Shelby County

108 W College Street
Ste 100
Columbiana 35051
(205) 669-3913

Wilcox County

219 Claiborne Street
Camden 36726
(334) 682-9753

Montgomery County

100 S Lawrence St
Montgomery 36104
(334) 832-1215

St. Clair County

1815 Cogswell Ave Ste B-10
Pell City 35125
(205) 338-3954

Winston County

11 Blake Dr Rm 3
Double Springs 35553
(205) 489-3966

Morgan County

302 Lee St NE
Decatur 35601
(256) 351-4660
(256) 351-4663

Sumter County

311 S Washington St
Livingston 35470
(205) 652-7902

Perry County

300 Washington St Ste 102
Marion 36756
(334) 683-2218 x5

Talladega County

400 N Norton Ave
Sylacauga 35150-2010
(256) 249-1007
(256) 249-1014

Pickens County

155 Reform Street, Suite 303
Carrollton 35447
(205) 367-2074

1 Courthouse Square
Talladega 35160
(256) 761-2131
(256) 761-2132

Pike County

120 W Church St Rm B2
Troy 36081-1913
(334) 566-1757
(334) 566-6449

Tallapoosa County

125 N Broadnax St Rm 20
Dadeville 36853-1371
(256) 825-1081

Randolph County

14 Broad Street SE, Suite 3
Wedowee 36278
(256) 357-2138

Tuscaloosa County

2501 7th St Ste 200
Tuscaloosa 35401-1801
(205) 349-3870 x415

Russell County

1000 Broad St
Phenix City 36867
(334) 298-1443
(334) 448-1508

Walker County

1803 3rd Ave Ste 109A
Jasper 35501
(205) 384-7279

Washington County

45 Court St
Chatom 36558
(251) 847-3255

21-cv-01531
11/12/2024 Trial
Plaintiffs Exhibit 250

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21-cv-01531
11/12/2024 Trial
Plaintiffs Exhibit 250

Appendix 4

Alabama Application for Free Voter ID



OFFICE OF THE SECRETARY OF STATE
APPLICATION FOR
FREE ALABAMA PHOTO VOTER IDENTIFICATION CARD

- ▶ **CARDS WILL BE ISSUED TO ALABAMA REGISTERED VOTERS ONLY**
- ▶ **ANY FALSIFICATION OR FRAUD IN THE MAKING OF THIS APPLICATION SHALL CONSTITUTE A CLASS C FELONY**

This application must be presented in person at one of the following locations:

- 1) Your local Board of Registrars;
- 2) The Alabama Secretary of State's Office
State Capitol Building - Suite S-105
600 Dexter Avenue
Montgomery, Alabama 36103-5616; or
- 3) Mobile Locations to be provided.

Full Legal Name (print) _____

Address as reflected in voter registration record: (street address) _____
City, State and ZIP Code _____

Date of Birth (00/00/0000) _____

Eye Color _____ **Gender** _____ **Height** _____ **Weight** _____ **Application Date** _____

In order to process your application you must provide the following information:

(All of the following information can be contained in one document.)

- 1) a photo identification document or a non-photo identification document is acceptable if it contains your full legal name and date of birth;
- 2) documentation showing your date of birth;
- 3) documentation showing that you are an Alabama registered voter (can be electronically verified by the processing office);
- 4) documentation showing your name and address as reflected in your voter registration record (can be electronically verified by the processing office).

I, _____, a registered voter (or voter registration applicant if form is filed with Board of Registrars at same time voter registration application is filed) in the State of Alabama, do hereby swear or affirm that the information contained above is true and correct.

Signature of Alabama registered voter (full legal name) _____

FOR OFFICE USE ONLY

DOCUMENTATION SHOWING FULL LEGAL NAME AND DATE OF BIRTH PRESENTED WITH APPLICATION:

IF APPLICATION WAS DENIED STATE REASON:



INSTRUCTIONS FOR FREE ALABAMA PHOTO VOTER IDENTIFICATION CARD

If you are a registered voter and you are eligible for a free Alabama photo voter identification card, you can apply for the identification card at your local Board of Registrars office, a mobile services location in your county, or at the office of the Secretary of State.

If you are not already a registered voter and you are eligible for a free Alabama photo voter identification card, you can apply for the card at the same time you turn in your voter registration form. Your voter registration form and this application must be submitted in person to the Board of Registrars. If the Board of Registrars determines that you are qualified to vote in Alabama, that office can then process the card application, so long as all other requirements are met.

You can only receive a free Alabama photo voter identification card if you are registered to vote in Alabama and do not have any of the following:

- (a) a valid Alabama driver's license which was properly issued by the appropriate state or county department or agency;
- (b) a valid Alabama nondriver identification card which was properly issued by the appropriate state or county department or agency;
- (c) a valid Alabama photo voter identification card;
- (d) a valid identification card issued by a branch, department, agency, or entity of the State of Alabama, any other state, or the United States authorized by law to issue personal identification, provided that such identification card contains a photograph of the elector;
- (e) a valid U.S. passport;
- (f) a valid employee identification card containing the photograph of the elector and issued by any branch, department, agency, or entity of the U.S. government, the State of Alabama, or any county, municipality, board, authority, or other entity of this state;
- (g) a valid student or employee identification card issued by a public or private college, university, or postgraduate technical or professional school located within the State of Alabama, provided that such identification card contains a photograph of the elector;
- (h) a valid U.S. military identification card, provided that such identification card contains a photograph of the elector; or
- (i) a valid tribal identification card containing a photograph of the elector.

If you already possess one of these documents, do not complete this application.

In order to receive this card you must provide a document that contains your full legal name and date of birth. All of the information may be contained in the same document. Verification of voter registration can be electronically verified by issuing office.

Your application must be signed and sworn to under penalty of perjury pursuant to the laws of the State of Alabama. Any falsification or fraud in the making of this application shall constitute a Class C felony.

Please mail or hand-deliver your completed voter registration application to your county Board of Registrars office.

The mailing address and phone number for each county Board of Registrars office is provided on page 3 of this document.

Appendix 5

Alabama Voter Registration Form

State of Alabama Mail-In Voter Registration FormNVRA-2
2015.02.09

FOR USE BY U.S. CITIZENS ONLY ♦ FILL IN ALL BOXES ON THIS FORM ♦ PLEASE USE INK ♦ PRINT LEGIBLY

You can use this form to:

- ▶ Register to vote in Alabama.
- ▶ Update your voter registration record, if you have changed your name or address.

Deadline for submitting application:

Voter registration and updating of voter records is closed during the 14 days prior to each election in Alabama.

To register to vote in the State of Alabama, you must:

- ▶ Be a citizen of the United States.
- ▶ Reside in Alabama.
- ▶ Be at least 18 years of age on or before election day.
- ▶ Not have been convicted of a disqualifying felony, or if you have been convicted, you must have had your civil rights restored.
- ▶ Not have been declared "mentally incompetent" by a court.

ID requested: You may send with this application a copy of valid photo identification. You will be required to present valid photo identification when you vote at your polling place or by absentee ballot, unless exempted by law. For more information, go to www.AlabamaVoterID.com or call the Elections Division: 800-274-8683.

① Are you a citizen of the United States of America? ☐ Yes ☐ No **ATTENTION! If you answer "No" to either of these questions, do not complete this application.**

② Will you be 18 years of age on or before election day? ☐ Yes ☐ No

③ Print Your Name:

First Middle Last Suffix

④ Print Maiden Name / Former Name (if reporting a change of name)

First Middle Last Suffix

⑤ Date of Birth (mm/dd/yyyy) ⑥ Primary Telephone ⑦ Email Address

Addresses	Current	⑧ Address where you live: (Do not use post office box)	Home Address (include apartment or other unit number if applicable)	City	State	ZIP
		Address where you receive your mail:	Mailing Address, if different from Home Address	City	State	ZIP
	Old	Address where you were last registered to vote: (Do not use post office box)	Former Address	City	County	State

⑨ Sex (check one)
☐ Female ☐ Male
⑩ Race (check one)
☐ White ☐ Black
☐ Asian ☐ American Indian
☐ Hispanic ☐ Other
⑪ Place of Birth

City County State Country

⑫ Map / Diagram

If your home has no street number or name, please draw a map of where your house is located. Please include roads and landmarks.

⑬ Did you receive assistance?

If you are unable to sign your name, who helped you fill out this application? Give name, address, and phone number (phone number is optional).

REGISTRARS USE ONLYDATE ☐ APPROVED ☐ DENIED

(mm/dd/yyyy)

County Pct _____

City Pct _____

Board member _____

Board member _____

Board member _____

Voter Declaration - Read and Sign Under Penalty of Perjury

- | | |
|--|---|
| ▶ I am a U.S. citizen | I solemnly swear or affirm to support and defend the constitution of the United States and the State of Alabama and further disavow any belief or affiliation with any group which advocates the overthrow of the governments of the United States or the State of Alabama by unlawful means and that the information contained herein is true, so help me God. |
| ▶ I live in the State of Alabama | |
| ▶ I will be at least 18 years of age on or before election day | |
| ▶ I am not barred from voting by reason of a disqualifying felony conviction | |
| ▶ I have not been judged "mentally incompetent" in a court of law | |

YOUR SIGNATURE**DATE** (mm/dd/yyyy)

If you falsely sign this statement, you can be convicted and imprisoned for up to five years.

The decision to register to vote is yours. If you decide to register to vote, the office at which you are submitting this application will remain confidential and will be used only for voter registration purposes. If you decline to register to vote, your decision will remain confidential and will be used only for voter registration purposes.



John H. Merrill - Secretary of State

Questions? Call the Elections Division at 1-800-274-8683 or 334-242-7210

21-cv-01531

11/12/2024 Trial

Plaintiff's Exhibit 250

AUTAUGA COUNTY PO Box 680036 Prattville 36068-0036 (334) 358-6740	CHEROKEE COUNTY 260 Cedar Bluff Rd Ste 106 Centre 35960-1403 (256) 927-5336	CRENSHAW COUNTY PO Box 328 Luverne 36049-0328 (334) 335-6568 x252 (334) 335-6568 x253	GENEVA COUNTY PO Box 430 Geneva 36340-0430 (334) 684-5655	LEE COUNTY PO Box 1530 Opelika 36803-1530 (334) 737-3635	MONTGOMERY COUNTY PO Box 1667 Montgomery 36102-1667 (334) 832-1215	TALLADEGA COUNTY 400 N Norton Ave Sylacauga 35150-2010 (256) 249-1007 (256) 249-1014
BALDWIN COUNTY PO Box 1507 Bay Minette 36507-1507 (251) 937-0305	CHILTON COUNTY PO Box 640 Clanton 35046-0640 (205) 755-3820	CULLMAN COUNTY 500 2nd Ave SW Ste 112 Cullman 35055-4135 (256) 775-4697 (256) 775-4750	GREENE COUNTY PO Box 224 Eutaw 35462-0224 (205) 372-9669	LIMESTONE COUNTY 100 Clinton St S Ste E Athens 35611-2665 (256) 233-6405	MORGAN COUNTY PO Box 668 Decatur 35602-0668 (256) 351-4660 (256) 351-4663	PERRY COUNTY PO Box 555 Marion 36756-0555 (334) 683-2218 x5
BARBOUR COUNTY PO Box 402 Clayton 36016-0402 (334) 775-8579	CHOCTAW COUNTY 117 S Mulberry Ave Ste 1 Butler 36904-0132 (205) 459-2531	DALE COUNTY PO Box 1101 Ozark 36361-1101 (334) 774-9038	HALE COUNTY 905D Centerville St Greensboro 36744-1536 (334) 624-4672	LOWNDES COUNTY PO Box 311 Hayneville 36040-0311 (334) 548-2389 (334) 548-2080	PICKENS COUNTY PO Box 173 Carrollton 35447-0173 (205) 367-2074	TALLAPOOSA COUNTY 125 N Broadnax St Rm 20 Dadeville 36853-1371 (256) 825-1081
303 E Broad St Rm 108 Eufaula 36027 (334) 687-1585	CLARKE COUNTY PO Box 10 Grove Hill 36451-0010 (251) 275-3062	DALLAS COUNTY PO Box 987 Selma 36702-0987 (334) 874-2534	HENRY COUNTY 101 Court Square Ste K Abbeville 36310-2135 (334) 585-6080	MACON COUNTY 101 Rosa Parks Ave Ste 100 Tuskegee 36083-1735 (334) 724-2617	PIKE COUNTY 120 W Church St Rm B2 Troy 36081-1913 (334) 566-1757 (334) 566-6449	TUSCALOOSA COUNTY 2501 7th St Ste 200 Tuscaloosa 35401-1801 (205) 349-3870 x415
BIBB COUNTY 8 Court Square W Centreville 35042 (205) 926-3102	CLAY COUNTY PO Box 446 Ashland 36251-0446 (256) 354-7815	DEKALB COUNTY 111 Grand Ave SW Ste 105 Fort Payne 35967 (256) 845-8598	HOUSTON COUNTY PO Box 6406 Dothan 36302-6406 (334) 677-4776	MADISON COUNTY 819 Cook Avenue NW Suite 150 Huntsville 35801-5983 (256) 532-3510 (256) 532-3519	RANDOLPH COUNTY PO Box 215 Wedowee 36278-0215 (256) 357-2138	WALKER COUNTY PO Box 1472 Jasper 35502-1472 (205) 384-7279
BLOUNT COUNTY 220 Second Ave E Rm B-5 Oneonta 35121 (205) 625-4182	CLEBURNE COUNTY 120 Vickery St Rm 103 Heflin 36264-1166 (256) 463-5299	ELMORE COUNTY 100 E Commerce St Rm 205 Wetumpka 36092-2746 (334) 567-1150 (334) 567-1197	JACKSON COUNTY PO Box 548 Scottsboro 35768-0548 (256) 574-9339 (256) 574-9335	MARENGO COUNTY PO Box 480715 Linden 36748-0715 (334) 295-2249 (334) 295-2086	RUSSELL COUNTY PO Box 700 Phenix City 36868-0700 (334) 298-1443 (334) 448-1508	WASHINGTON COUNTY PO Box 1224 Chatom 36518-1224 (251) 847-3255
BULLOCK COUNTY 217 Prairie St N Rm 101 Union Springs 36089-1659 (334) 738-5372	COFFEE COUNTY 6 County Complex New Brockton 36351-9791 (334) 894-5347	ESCAMBIA COUNTY PO Box 557 Brewton 36427-0557 (251) 867-0243 (251) 867-0312	JEFFERSON COUNTY 716 R Arrington Jr Blvd N Ste A-410 Birmingham 35203-0115 (205) 325-5550	MARION COUNTY PO Box 964 Hamilton 35570-0964 (205) 921-3625	SHELBY COUNTY PO Box 1642 Columbiana 35051-1642 (205) 669-3913	WINSTON COUNTY PO Box 459 Double Springs 35553-0459 (205) 489-3966
BUTLER COUNTY 700 Court Sq Rm 8 Greenville 36037-2308 (334) 382-5685 (334) 382-6829	COLBERT COUNTY 201 N Main St Tuscumbia 35674-2095 (256) 386-8535	ETOWAH COUNTY 800 Forrest Ave Ste 206 Gadsden 35901-3651 (256) 549-5384	LAMAR COUNTY PO Box 338 Vernon 35592-0338 (205) 695-6348 (205) 695-9197	MARSHALL COUNTY 424 Blount Ave Ste 106A Guntersville 35976-1122 (256) 571-7740	ST. CLAIR COUNTY 1815 Cogswell Ave Ste B-25 Pell City 35125 (205) 338-3954	WILCOX COUNTY PO Box 661 Camden 36726-0661 (334) 682-9753
CALHOUN COUNTY 1702 Noble St Ste 113 Anniston 36201-3889 (256) 241-2930	CONECUH COUNTY 111 Court St Rm 102 Evergreen 36401 (251) 578-7024	FAYETTE COUNTY 103 First Ave NW Ste 4 Fayette 35555-2627 (205) 932-5432	LAUDERDALE COUNTY PO Box 1059 Florence 35630-1059 (256) 760-5840 (256) 760-5841	MOBILE COUNTY 151 Government St Ste 165 Mobile 36602 (251) 574-8586 (251) 574-8587	SUMTER COUNTY PO Box 783 Livingston 35470-0783 (205) 652-7902	SECRETARY OF STATE ELECTIONS DIVISION PO Box 5616 Montgomery 36103 (334) 242-7210 (800) 274-8683
CHAMBERS COUNTY 18 Alabama Ave E Rm 101 LaFayette 36862 (334) 864-4313	COOSA COUNTY PO Box 218 Rockford 35136-0218 (256) 377-2418	FRANKLIN COUNTY PO Box 70 Russellville 35653-0070 (256) 332-8849	LAWRENCE COUNTY 14451 Market Street Ste 340 Moulton 35650 (256) 974-2460 (256) 974-2461	MONROE COUNTY PO Box 972 Monroeville 36461-0972 (251) 743-4107 x141		

YOUR ADDRESS:

PUT
FIRST
CLASS
STAMP
HERE

MAIL TO:

BOARD OF REGISTRARS

Appendix 6

Alabama Crimes Involving Moral Turpitude

CRIMES INVOLVING MORAL TURPITUDE INCLUDE:

**Listed under the Felony Voter Disqualification Act Codified as Code of Alabama (1975), section 17-3-30.1
Effective August 1, 2017 per Act #2017-378**

- Murder – Section 13A-5-40 (A) 1-19
- Murder (Non-Capital, Reckless, Felony Murder, etc.) – Section 13A-6-2
- Manslaughter – Section 13A-6-3 Exceptions: 13A-6-20 (A) (5) and 13A-6-21
- Assault 1st Degree – Section 13A-6-20
- Assault 2nd Degree – Section 13A-6-21
- Kidnapping 1st Degree – Section 13A-6-43
- Kidnapping 2nd Degree – Section 13A-6-44
- Rape 1st Degree – Section 13A-6-61
- Rape 2nd Degree – Section 13A-6-62
- Sodomy 1st Degree – Section 13A-6-63
- Sodomy 2nd Degree – Section 13A-6-64
- Sexual Torture – Section 13A-6-65.1
- Sexual Abuse 1st Degree – Section 13A-6-66
- Sexual Abuse 2nd Degree – Section 13A-6-67
- Sexual Abuse of a child less than 12 years old – Section 13A-6-69.1
- Enticing a child to enter a vehicle, house, etc. for immoral purposes – Section 13A-6-69
- Facilitating solicitation of unlawful sexual conduct with a child – Section 13A-6-121
- Electronic solicitation of a child – Section 13A-6-122
- Facilitating the on-line solicitation of a child – Section 13A-6-123
- Traveling to meet a child for an unlawful sex act – Section 13A-6-124
- Facilitating the travel of a child for an unlawful sex act – Section 13A-6-125
- Human Trafficking 1st Degree – Section 13A-6-152
- Human Trafficking 2nd Degree – Section 13A-6-153
- Terrorism – Section 13A-10-152
- Soliciting or providing support for an act of terrorism – Section 13A-10-153
- Hindering prosecution of terrorism – Section 13A-10-154
- Endangering the water supply – Section 13A-10-171
- Possession, manufacture, transport, or distribution of a destructive device or bacteriological weapon, or biological weapon – Section 13A-10-193
- Selling, furnishing, giving away, delivering, or distribution of a destructive device, a bacteriological weapon, or biological weapon to a person who is less than 21 years of age – Section 13A-10-194
- Possession, manufacture, transport, or distribution of a detonator, explosive, poison, or hoax device – Section 13A-10-195
- Possession or distribution of a hoax device represented as a destructive device or weapon – Section 13A-10-196 (c)
- Attempt to commit an explosives or destructive device or bacteriological or biological weapons crime – Section 13A-10-197
- Conspiracy to commit an explosives or destructive device or bacteriological or biological weapons crime – Section 13A-10-198
- Hindrance or obstruction during detection, disarming, or destruction of a destructive device or weapon –

Section 13A-10-199

- Possession or distribution of a destructive device or weapon intended to cause injury or destruction – Section 13A-10-200
- Treason – Section 13A-11-2
- Dissemination or public display of obscene matter containing visual depiction or persons under 17 years of age involved in obscene acts – Section 13A-12-191
- Possession and possession with intent to disseminate obscene matter containing visual depiction of persons under 17 years of age involved in obscene acts – Section 13A-12-192
- Parents or guardians permitting children to engage in production of obscene matter – Section 13A-12-196
- Production of obscene matter containing visual depiction of persons under 17 years of age involved in obscene acts – Section 13A-12-197
- Distribution, possession with intent to distribute, production of obscene material, or offer or agreement to distribute or produce – Section 13A-12-200.2
- Trafficking in cannabis, cocaine, or other illegal drugs or trafficking in amphetamine and methamphetamine – Section 13A-12-231
- Bigamy – Section 13A-13-1
- Incest – Section 13A-13-3
- Torture or other willful maltreatment of a child under the age of 18 – Section 26-15-3
- Aggravated child abuse – Section 26-15-3.1
- Prohibited acts in the offer, sale, or purchase of securities – Section 8-6-17
- Burglary 1st Degree – Section 13A-7-5
- Burglary 2nd Degree – 13A-7-6
- Theft of Property 1st Degree – Section 13A-8-3
- Theft of Property 2nd Degree – Section 13A-8-4
- Theft of Lost Property 1st Degree – Section 13A-8-7
- Theft of Lost Property 2nd Degree – Section 13A-8-8
- Theft of trademarks or trade secrets – Section 13A-8-10.4
- Robbery 1st Degree – Section 13A-8-41
- Robbery 2nd Degree – Section 13A-8-42
- Robbery 3rd Degree – Section 13A-8-43
- Forgery 1st Degree – Section 13A-9-2
- Forgery 2nd Degree – Section 13A-9-3
- Any crime as defined by the laws of the United States or by the laws of another state, territory, country, or other jurisdiction, which, if committed in this state, would constitute one of the offenses listed in this subsection.

Appendix 7

Alabama Advisory Committee Member Marc Ayers Statement of Dissent

Statement of Dissent from Report of the Alabama Advisory Committee
to the United States Civil Rights Commission
on “Barriers to Voting in Alabama”

Marc James Ayers
June 22, 2020

Although I express disagreement with some of the core conclusions reached by the Committee majority, I want to express my thanks to the Committee for the hard work and thoughtfulness it put into this worthy effort. The Committee, and the witnesses who testified before the Committee, certainly raised matters worthy of further discussion concerning Alabama’s voter ID and felon voting laws.

For example, to the extent that county offices wherein citizens can obtain photo IDs are not reasonably accessible – the Report discusses potential issues in Wilcox and Bullock Counties – such situations certainly need to be evaluated by State officials. Also, there is a need to evaluate the available election law training to ensure that poll workers and other state workers understand the laws concerning what is necessary to vote and how to acquire sufficient identification. While no system will be perfect – as there will always be human error – we should strive to maintain sufficient, uniform training so that errors in this regard are kept to a minimum. These and other kinds of concrete issues can be easily evaluated and addressed, and, to the extent that problems exist, their correction should be a great help to Alabama voters, especially those in poorer and more rural areas of the state.

However, in my opinion, the main conclusions reached by the majority here do not necessarily follow from the limited evidence presented at the hearing, but are driven by certain presuppositions or worldviews with which I cannot agree. For example, during the Committee’s discussion of Alabama’s felon voting law, one of the main concerns for one witness (Ms. Charlotte Morrison from the Equal Justice Initiative) was that Alabama’s statute defining “felonies of moral turpitude” (Ala. Code 1975, § 17-3-30.1, 2019) was problematic in that it listed some felonies but not others. I suggested one solution to resolve that concern: classify all felonies to be of “moral turpitude.” Personally, as a Christian, I could certainly make the argument that any crime serious enough to be a felony involved some form of moral turpitude.

In a somewhat surprising response, Ms. Morrison stated that that would not work, because the entire United States criminal justice system was (apparently) institutionally racist, and that if all felonies were crimes of “moral turpitude,” police and prosecutors would simply choose to charge white defendants with misdemeanors and would charge minority defendants with felonies (purportedly to prevent them from voting in the future). *See* Transcript at 232-35 (stating her belief that “we know that the criminal justice system has a racial disparate impact,” and that, even if all felonies were included as crimes of “moral turpitude,” felony charges – as opposed to misdemeanor charges – are “going to be disproportionately levied against certain segments of the community”).

At the very least, Ms. Morrison’s belief concerning the US criminal justice system is highly debatable, and I do not believe that the facts support any conclusion that the criminal justice system

is systemically racist.¹ I do not believe that police or prosecutors are operating in such a reprehensible manner (although I would be happy to engage in an analysis of that issue). But if one holds this as the lens by which all issues will be examined, then any disparity in criminal justice statistics will be interpreted as proof of some kind of intentional discrimination. If that lens is defective – as I believe it is – then any conclusions based on this worldview are wrong as well.²

With regard to the issue of felon disenfranchisement, I believe that it would be more beneficial to focus on concrete solutions to ensure that (1) those who have truly “paid their debt to society” can be restored to vote, and (2) that there are no unreasonable barriers to paying that “debt.” Of particular concern for me was the testimony concerning the assessment of high (30%) fees to fines. *See* Transcript at 194-95, 201-02. Fines are, in fact, part of paying one’s “debt to society,” but they must be reasonably “payable.” In my view, it would be simply immoral to impose on newly freed convicts fines that are economically unfeasible to pay back (barring some truly extraordinary windfall). We believe in justice, but we must also believe in mercy to those truly repentant who seek to pay for their crimes and to be restored to society. This principle applies to anyone – black or white, rich or poor, male or female.

Concerning Alabama’s Voter ID law, Ala. Code 1975, § 17-9-30 (2019), in *Greater Birmingham Ministries v. Merrill*, 284 F. Supp. 3d 1253 (N.D. Ala. 2018), the United States District Court for the Northern District of Alabama held that that law is a constitutional exercise of Alabama’s duty to protect the integrity of the franchise, and did not constitute a violation of the Voting Rights Act. In its opinion, the federal district court described in detail the numerous forms of identification that can be used to allow a person to vote (in addition to the exception allowing a person to vote if two poll workers can personally identify the voter), the fact that a free compliant ID will be issued to anyone who needs one, and the extraordinary lengths that the Alabama Secretary of State has gone to help ensure that valid IDs are available (including even a “mobile ID unit” that actually drives around the State to provide IDs). *See Greater Birmingham Ministries*, 284 F. Supp. 3d at 1260-64. After analyzing the voluminous amount of evidence presented, the court concluded that it was “easy to get a photo ID in Alabama.” *Id.* at 1274; *see also id.* at 1277 (“In sum, the ‘impact’ of the law should not be measured by how many people lack a given ID at a given point in time, but by whether someone without an ID can easily get one. In Alabama, the law has no

¹ I also do not believe that there are “black crimes” and “white crimes,” as such concepts contain repugnant assumptions. There are just “crimes,” regardless of who commits them.

² Some of the language included in the Report illustrates the presence of such fundamental but unproven presuppositions. For example, throughout the Report, the majority characterizes certain matters as “discriminatory” when describing certain statistical differences. But “discriminatory” in today’s parlance carries a connotation of a malicious intent, and disparities do not prove such discrimination. For example, the fact that a majority of players on a sports team are non-white players does not necessarily mean that the owner of the team “discriminates” against white players, and, rightly, nobody today uses the term “discrimination” to apply to such a situation. There are numerous completely benign factors that could lead to such a result.

Similar is the majority’s definition of “marginal” as referring to “people who, for whatever reason, are denied involvement in mainstream economic, political, cultural and social activities.” Report at 3 n.11. I am concerned that this definition also carries certain unargued presuppositions, as it is not clear how anyone is actually “denied” – which implies some kind of affirmative barring or preclusion – “involvement” in these things today. Certainly, the fact that someone might not have the means or support to achieve their desired end – something that everyone (rich or poor, black or white, male or female) faces to one degree or another – does not necessarily mean that they have been “denied involvement.”

discriminatory impact because it does not prevent anyone from voting, not when free IDs are issued in every county, or at home, under conditions that any registered voter can meet.”).

The court also noted the numerous forms of documentation that are acceptable in order to provide citizens with IDs sufficient to vote. For example, citizens may obtain free voter photo IDs by providing any “non-photo identity document” that “includes both the person’s full legal name and date of birth” (such as a birth or marriage certificate) and almost anything “with the voter’s name and address on it, such as a utility bill or a pay stub.” *Id.* at 1275. Speaking of the “mobile ID unit” which provides IDs to citizens all over the state (and even directly to people’s homes) the court stated that:

the mobile ID unit has issued free photo voter ID cards based upon the presentation of a wide variety of documents, including voter registration forms, registration update forms, arrest records, bank documents, Birmingham Housing Authority ID cards, expired county employee IDs, court paternity documents, fishing licenses, EBT cards, pay stubs, Sam’s Club cards, and a ticket issued by a municipality.

Id. at 1275 n.8. Furthermore, “[i]f the voter does not have a copy of her birth or marriage certificate, the registrar can get a copy at no charge to the voter, due to Secretary Merrill’s contracting with the ADPH to pay for ADPH to perform the search.” *Id.* at 1275-76.

Secretary Merrill discussed many of these aspects of the Voter ID law at this Committee’s hearing, along with the impressive levels of voter registration and participation in we have achieved in Alabama. There are, of course, always possible improvements that can be made, as is the case in almost any government program. However, in my opinion, these aspects and accomplishments were often met with a “Yes, but” response that dismissed the State’s overall success in an area by focusing on a small remaining gap or scattered human errors that would then be used to argue that in fact the program was not a success at all. I do not believe that that is the proper standard. Indeed, no government requirement can possibly account for, and create exceptions for, every possible extraordinary scenario.

The question before this Committee is not whether the Voter ID law is legal. That is the role of the courts, and to date the courts have ruled that it is. Rather, this Committee is analyzing the general reasonableness and workability of Alabama’s undisputedly facially-neutral Voter ID requirement; that is, whether the Voter ID requirement is a reasonable balance of the State’s duty to maintain the integrity of the vote with the fundamental right to vote. I believe that it is, by any objective standard, and that I and the majority simply have a fundamental disagreement as to the nature of the State’s duties and obligations concerning providing access to the vote and the citizen’s role duties and obligations concerning taking the steps necessary to vote.

Only adults can vote, and therefore when attempting to strike this balance, the State knows that any requirement will be faced by an adult populace. The State can also assume that those who truly wish to vote will prioritize that desire to engage in the political process and take whatever reasonable steps are necessary to do so. (Indeed, some simply choose not to engage, as people also have the right not to vote.) In 2020, a photo ID is not some kind of unusual thing foreign to the citizenry at large. A valid photo ID is required for any number of things in everyday life for the vast majority of Alabama citizens (and citizens of other states). Viewing the requirement

objectively and as a whole, I believe that the Voter ID requirement – especially Alabama’s – is more than reasonable. Voting is limited by one’s state, county, city, precinct, age, criminal record, etc. Accordingly, requiring one to provide this baseline level of proof to protect their vote is not, in my opinion, an unreasonable burden. Therefore, I cannot agree with the majority’s conclusions that the Voter ID requirement creates an unreasonable barrier to voting, especially given the fact that, even after photo ID became a requirement, Alabama’s historic voter turnout – including minority turnout – remained high.

This conclusion is bolstered when one considers the potentially immense impact of voting on the individual rights of the citizenry. Governments can create and have created laws that send citizens to prison for certain acts – acts which were perhaps historically lawful and even common. Through the power to tax, Governments can confiscate large percentages of one’s earned income, often for programs with which many disagree or find wasteful, detrimental or even immoral. Governments can give themselves new powers and controls over an individual’s life and livelihood, the raising of one’s children, one’s right to worship, one’s right to hire and fire in one’s own business, etc.

In other words, unlike with other fundamental rights – which might affect only the person exercising them – the voting process determines which persons, and accordingly which political worldview, will hold the keys of power to make decisions that can drastically impact every citizen’s individual life, liberty and property. It follows then that a State has not only the ability but the duty to take all reasonable steps to ensure that whatever worldview governs does so only by the consent of those actually legally entitled to vote.

Further, any conclusion that requiring a voter ID is somehow not effective in deterring voter fraud is not well founded. Of course such a requirement deters voter fraud, at least to some degree. It makes it more difficult to impersonate another voter, it ensures that the person showing up to vote is actually who they say they are, and ensures that officials can determine whether that person is entitled to vote (or at least entitled to vote at that voting place).

However, the majority’s focus appears to be based on an assumption that a State must demonstrate a proven history of a substantial amount of a specific type of voter fraud within the State – here, voter fraud that is identification-related – before that State is justified in taking steps to prevent that kind of fraud. There is no such requirement, and such a requirement would in fact be quite unwise. A homeowner would not be faulted for including window bars in addition to door locks on the owners’ home to prevent break-ins, even if that homeowner had no evidence of window-based home invasions in that neighborhood.

In the end, the purported issues with the Voter ID requirement – issues surrounding travel, cost, timely access to locations wherein an ID can be procured, etc. – concern the effect on the poor (*i.e.*, those with less means to cover these matters), not on racial minorities. Many of these issues are absolutely worthy of consideration to ensure that the State’s requirements do not amount to unreasonable barriers. However, it is also a universal truth that virtually any legal requirement of any kind will impact poor people differently from those with means. The question is whether the requirement it is a reasonable balance between the ends to be achieved and the normal expectations upon any adult citizen. While I would be the first to support any reasonable

suggestions to make the system better – some of which are included in the Report – I believe that Alabama’s generous Voter ID law represents just such an acceptable balance.

However, on another, related note, I think Alabama should stay far away from any policy that would make broad assumptions about individuals – their abilities, priorities, political leanings, etc. – based on their race. Nobody on this Committee has done so, of course, and hopefully everyone would agree that minority communities – just like non-minority communities – are filled with individuals who are intelligent, sophisticated, mobile and technologically savvy. However, at times arguments against photo ID laws come dangerously close to demeaning racial minorities through assumptions or insinuations such as the idea that obtaining a photo ID creates a particular hardship simply due to racial considerations. Such a reprehensible position not only flies in the face of the core message of the Civil Rights Movement – that people should be defined as individuals made in God’s image and not as members of this or that racial classification – but also hits a particular chord with me.

To offer my own anecdote, when I was in school I saw the devastation caused to many of my minority friends by what several African American scholars have called “the soft racism of low expectations,” often at the hand of school officials who thought they were “helping” by expecting less of these students. This is precisely the opposite of what was taught by a great man who holds a firm and proud place in Alabama’s history, Booker T. Washington – a personal hero of mine and the subject of one of two non-family portraits in my office (the other being another personal hero, Frederick Douglass) – who, with great success, taught that one’s skin color or history did not limit one from achieving excellence, contrary to the disgusting views of “white supremacy” held by many at the time. Although only a powerless, pathetic few hold such disgusting views today, I fear that some arguments against photo ID requirements could be used by those few to erode the progress for which Washington and others fought. Alabama should strive to ensure that that does not happen.

Appendix 8

Alabama Advisory Committee Member Craig Hymowitz Statement of Dissent

Statement and Dissent by Member Craig Hymowitz.

I dissent from the Committee's Report as I cannot agree with its conclusions or recommendations.¹ Our election system in Alabama is not perfect, nor will it ever be, but it has achieved tremendous success in expanding Alabama's overall voter registration and turnout rates.² The Committee's Report, however, does not focus on these successes. Instead, the Majority concludes that under our current election laws, "the balance between efforts to 'protect' the integrity of the vote and the citizen's ability to realize his or her right to vote has gone askew,"³ and recommend a wholesale revision of Alabama and federal election law I cannot support.

I. Deciding How We Register and Vote Are Policy Choices

Laws governing the "who, what, where, when and how" of voting and voter registration seek to balance the competing interests between requirements that promote election certainty, prevent fraud, and protect the integrity of eligible voters versus policies that make it easier, or unnecessary, to register and provide additional/alternative times, places, and manners for one to cast their vote. As economist Thomas Sowell has said, "There are no solutions, there are only trade-offs; and you try to get the best trade-off you can get, that's all you can hope for."

In the context of voting, the trade-offs center around how to protect the votes of legally entitled voters from their vote being diluted or stolen by those who are not. Where a state strikes that balance is a policy choice that reasonable people can disagree over - including the U.S. Civil Rights Commission (the "USCCR").⁴

In seeking to justify its policy choices, the Committee's Report details the problems and obstacles it views as impediments to the remaining pool of unregistered eligible voters from registering and voting. In its rush to point out its gaps and declare the current process untenable, the Committee failed to analyze Alabama's actual voter registration and turnout rates under the current system. In that data lies the true story of voting in Alabama, and it a story of overwhelming success.⁵ Contrary to the conclusions of the Committee, Alabama has found a sweet-spot in the voting policy debate. Alabama has dismantled barriers to voting and expanded the franchise, all while simultaneously enacting efforts to protect the integrity of the ballot. As a result, in 2019, Alabama had its highest level of active voter registration in history; 86% of all potential voters were registered compared to 71% in 2010. See App. A at Table 7.⁶

The Report ignores this data and fails to discuss the impact its sweeping recommendations would have on the integrity, efficiency, and cost to the state's election process. Instead, the Committee's Report based on one-day of testimony and member's individual research purports to reach a completely different view of where the balance between ease of voting and election integrity should lie. As such, the Committee recommends wholesale revisions to Alabama (and Federal) election law based on its conclusion that Alabama's current voting laws place an undue burden on the voting rights of certain "marginal" groups based on racial, socio-economic, rural vs. urban, or convicted felon status.⁷

¹ The Committee chose to hold a single vote on the report as a whole, rather than votes on the individual proposals. As I cannot support certain of the recommendations such as those calling for returning AL to preclearance status, repeal of photo voter ID, and elimination of voter registration, I dissent from the entire report.

² To provide the USCCR and reader with the relevant current and historical voter registration and turnout efforts in Alabama, I have prepared an appendix of charts and raw data. See Appendix A: Data Sources and Charts of Alabama Voter Registration and Turnout Data 2010 – 2019 attached hereto.

³ Committee Report at p. 51

⁴ See An Assessment of Minority Voting Rights in the United States, USCCR, 2018 Statutory Report, "Summary of The Commission's Past Voting Rights Briefing Reports" at Appendix. A (hereinafter, the "2018 USCCR Report").

⁵ It is important that the USCCR and the reader understand that while individual efforts were made by Committee members to gather information for the Report, the Committee's findings are based primarily on one day of testimony from representatives of several interest groups, government officials, and individuals who submitted information.

⁶ Each citizen, of course, also has the right not to exercise their franchise. So one can assume that some choose not to register.

⁷ Committee Report at pp. 3-4, 48-53.

I have enjoyed the robust debate we have engaged in over this topic and respect the hard work put in by my colleagues, even if I disagree with their focus and conclusions. Based on the actual voter registration and turnout data evidence, however, I believe the real story about “barriers to voting” in Alabama is how they’ve been knocked down. Alabama’s achievements in expanding voter registration and increasing turnout should be praised, not criticized simply because there is still some remaining room for improvement.⁸

II. Alabama’s Success in Expanding the Voter Registration.

By any measure, the improvements in Alabama’s Voter Registration rate from 1965 to today have been tectonic. Since passage of the Voting Rights Act of 1965, the gap between White and Black/African-American voters in Alabama has been eliminated.⁹ A momentous accomplishment the USCCR recognized in its own 2008 Report. A trend that has continued to today:

Table 1: Voter Registration Rates for Whites & Blacks in Alabama: 1965 vs. 2004 vs. 2019

1965			2004			2019		
White	Black	Gap	White	Black	Gap	White	Black	Gap
69.2%	19.3%	49.9%	73.8%	72.9%	0.9%	87.1%	84.3	2.8%

Moreover, the data suggest that whatever impact the enactment of Alabama’s Voter ID law in 2014 had on voter registration, it was minimal and temporary. As shown in Table 1A and 1B, the gap between registration rates increased in 2016 and 2017, before declining back to pre-voter ID levels by 2019. The percentages of White and Black voter registration dipped in 2015, rose in 2016 (a Presidential election year), dropped again in 2017, but then increased significantly in 2018 and 2019.¹⁰

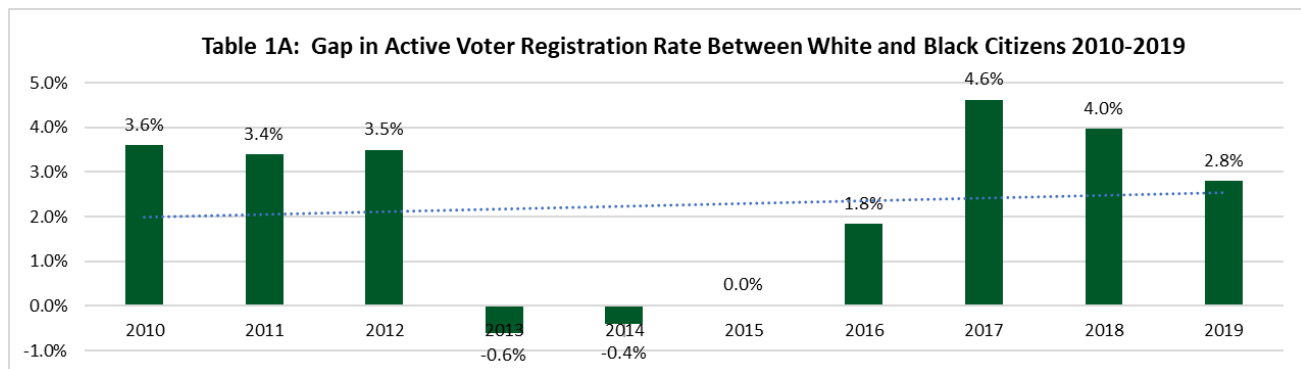


Table 1B: Percentage of Active Voter Registration Rate Between White and Black Citizens 2010 – 2019¹¹

	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
% White Active Regis. Voters	73.6%	74.6%	75.2%	79.8%	78.5%	78.0%	82.9%	80.2%	85.0%	87.1%
% Black Active Regis. Voters	70.0%	71.2%	71.7%	80.4%	78.9%	78.0%	81.1%	75.6%	81.0%	84.3%

⁸ Similarly, I think the Committee discounts too heavily the human element in some of the stories of election frustration we heard in favor of presuming a broader institutional problem. Elections occur under high stress, at most a few times a year, and often with new rules or equipment versus the last contest. To the extent that election workers give incorrect advice or make an error in processing a voter, I have seen no evidence presented that this was the result of anything but unintentional human error. I would readily support additional training, resources, and election planning to better prepare our election workers and provide increased awareness of polling place locations and DMV hours.

⁹ 2018 USCCR Report. at p.53, Table 2.

¹⁰ The number of total votes cast in Alabama increased between the 2012 and 2016 election by approximately 63,000, even though the turnout percentage dropped from 73.2% to 66.8%. See Appendix A Table 8-10A.

¹¹ See Appendix A at Table 7 for the source data for Tables 1A-B.

Alabama currently has approximately 4.9 million residents.¹² Approximately 1.1 million are under the age of eighteen, leaving a maximum pool of roughly 3.8 million residents (including citizens, legal residents, and illegal aliens) over the age of 18 (“Potential Voters”). From this pool of Potential Voters, 3.25 million were active registered voters in 2019 equating to an active voter registration rate of approximately 86%, the state’s highest rate ever.¹³ See App. A at Tables 4 & 7.

While the percentage of White and Black Alabamians over 18 has remained flat over the last decade (2010-2019), their participation rate as Active Voters increased.¹⁴ White active voter registration has gone from 73.6% in 2010 to 87.1% in 2019. Black active voter registration jumped from 70.0% in 2010 to 84.3% in 2019. See App. A at Tables 2 & 3.

Thus, it is difficult to reconcile the state’s increasing registration and turnout numbers with the Committee’s conclusion that “the state has created what for some are insurmountable barriers to voting.”¹⁵ As the Secretary of State testified at the Committee’s hearing back in February 2018, “Not one instance has been reported since we passed the voter photo ID law where an individual has gone to the poll and been denied access to participation. All we’ve tried to do is to make it easy to vote and hard to cheat.”¹⁶ As a result of the Secretary of State’s efforts, he estimated in February 2018, that out of roughly 4.85 million residents, “[t]here’s less than 350,000 people in the state of Alabama that are not registered to vote, period.”¹⁷

III. Voter Fraud, Maintaining Accurate Voter Rolls, and Voter ID

Voter ID law’s ability to prevent voter fraud versus the increased burden that could depress voter registration and voting remains uncertain. A fact the Committee initially accepted when it wrote “[t]he testimony at the Montgomery Hearing indicated voter fraud was either a serious problem, or nonexistent, depending on which panelist was speaking.”¹⁸ The same bi-polar conclusion that the venerable Carter-Baker Report found in 2005 when it stated:

There is no evidence of extensive fraud in the U.S. elections or of multiple voting, but both occur, and it could affect the outcome of a close election. The electoral system cannot inspire public confidence if no safeguards exist to deter or detect fraud or to confirm the identity of voters. . . . While the Commission is divided on the magnitude of voter fraud – with some believing the problem is widespread and others believing that it is minor – there is no doubt that it occurs.¹⁹

¹² See U.S. Census Bureau, Quick Facts, AL, <https://www.census.gov/quickfacts/fact/table/US/PST045219>, (July 1, 2019).

¹³ In addition, there were another 254,285 “inactive” registered voters in 2019. *Id.*

¹⁴ Alabama’s population of White and Black residents between 2010 and 2019 stayed very consistent. The White percentage dropping slightly from 69.9% in 2010 to 69.1% in 2019, and Black Alabamians increasing slightly from 26.1% in 2010 to 26.8% in 2019. See App. A at Table 5.

¹⁵ Committee Report at p. 52.

¹⁶ Testimony of Merrill at Transcript p. 14

¹⁷ Quoted in the Summary of Testimony, at p.15. See, Merrill Testimony at pp 15-16 (“We now have 3,347,398 registered voters in Alabama. . . [but] I’m not satisfied with what we’ve done. We got to take additional steps and do other things that will allow us to be more efficient, more effective, and more responsive to the people in the state of Alabama.”). As of May 2020, there were 3,357,082 Active Registered Voters. See <https://www.sos.alabama.gov/alabama-votes/voter/election-data>.

¹⁸ “A Summary of Testimony received by the Alabama Advisory Committee to the United States Commission on Civil Rights,” June 2018 at p.12 (hereinafter “Summary of Testimony”).

¹⁹ “*Report of the Commission on Federal Election Reform, Building Confidence in U.S. Elections*” at p. 9 (Sept. 2005) Finding that even post-HAVA, “irregularities and fraud still occur,” citing ineligible felon voting and voting by the dead....; “more than 200 cases of felons voting illegally and more than 100 people who voted twice, used fake names or false addresses, or voted in the name of a dead person. . . . The Commission made five broad recommendations “to increase voter participation and to assure the integrity of the electoral system.” *Id.* at p. 6 (Recommending improving voter registration that “produces complete, accurate, and valid lists of citizens who are eligible to vote; and voter identification, tied directly to voter registration, that enhances ballot integrity without introducing new barriers to voting”) (hereinafter “Carter-Baker Report”).

Similar sentiments were expressed at our hearing by the Secretary of State²⁰ and a representative from the Alabama Attorney General's Office.²¹ In fact, the USCCR itself recommended Voter ID, cleaning up/purging of voter registration lists, and other anti-fraud measures more than ten years ago. In 2008, the USCCR issued a report on Voter Fraud and Intimidation²² finding:

that both fraud and intimidation disenfranchise voters and weaken the overall political system. Thus, the Commission found that achieving accurate voter rolls seems to be essential in assuring civilians that elections are accurate and have full participation of the voting public. The Commission also offered recommendations that state and municipal governments improve poll worker training, and that states adopt a photo ID requirement for both registration and voting.²³

In 2009, the USCCR issued a report "urging the [Department of Justice] to: (1) combat voter fraud and initiate action to prevent illegal voting, and (2) take aggressive steps to ensure that all states comply with HAVA's requirement that each state implement an official computerized voter registration list."²⁴

Concurrent with the Carter-Baker Report, the REAL ID Act of 2005 was signed into law. It required all "states to verify each individual's full legal name, date of birth, address, Social Security number, and U.S. citizenship before the individual is issued a driver's license or personal ID card."²⁵ This is now the law in Alabama and precludes the state from issuing a driver's license or other ID without confirming the required information. While the Committee heard testimony that these requirements are overly burdensome on certain segments of the public,²⁶ it also heard testimony regarding the Secretary of State's extensive efforts to accommodate any citizen's difficulty in obtaining an ID.

There is no doubt obtaining a REAL ID/STAR ID imposes a greater burden on certain segments of the population than others. I do not believe, and there has been no evidence presented, that Congress sought to use the heightened proof requirements to intentionally impose an unfair burden on any specific group. Whatever impact it does impose, based on the state's ever-increasing voter registration numbers, the people of Alabama seem capable of overcoming it.

When it came time to write the final report, however, the Committee was no longer uncertain about what balance it wanted to strike. Despite the success of Alabama's voter registration efforts and the fact that the overwhelming majority of citizens have the necessary ID, the Committee decided it all had to go, recommending not only that the state get repeal its Voter ID requirement,²⁷ but also its entire voter registration process concluding that "the voter registration process creates barriers to voting that is disproportionate for Alabama's marginalized citizens – including poor, minority and rural populations."²⁸ A conclusion, I cannot support.

See also, The Heritage Foundation Election Fraud Database (<https://www.heritage.org/voterfraud>) chronicling over 1200 proven instances of election fraud across the country.

²⁰ See Summary of Testimony at p.12.

²¹ Id. at pp. 12-13.

²² USCCR, Voter Fraud And Voter Intimidation, 1 (2008), <http://www2.law.umaryland.edu/marshall/usccr/documents/cr12v962006.pdf>.

²³ 2018 USCCR Report, at p. 337. (internal footnotes omitted).

²⁴ Id. at 338 (internal footnotes omitted). While in the dissent, the statement of Commissioner Gail Hariot in response to the 2018 USCCR is equally applicable here:

Along with the right to the ballot is the right to have one's ballot count, which requires the exclusion of those who are not entitled to a ballot. Policies that are intended to facilitate the right to cast a ballot—like early voting and requirements that election officials take the voter's word for his or her identity—can increase the likelihood of voter fraud. . . . On the other hand, requirements that voters present an ID can exclude the occasional voter who does not have an ID and cannot get one except at great inconvenience. How do we reconcile those two competing considerations?

²⁵ Carter-Baker Report at pp. 18-19.

²⁶ See Summary of Testimony at pp. 11-12.

²⁷ Committee Report at p. 15.

²⁸ Committee Report at pp.18-19.

IV. Alabama's Success in Expanding Voter Turnout.

The Committee heard testimony that while registration numbers have gone up, voter turnout is a better metric to measure voter participation and the barriers individuals may face in attempting to vote. Even if so, the most recent data from the 2018 midterm elections put Alabama on top again. As Secretary Merrill put it: “We’ve also broken every record in the history of the state for participation in elections in the last four major elections that we’ve had.”²⁹

In the 2018 elections (where turnout is historically lower than presidential years³⁰), the gap between white and black voter turnout in Alabama was only 3.1% compared to 6.4% nationwide.³¹ The gap in Alabama’s Black and White voter turnout was smaller than in other states, including those that did not require Voter ID (“The [U.S.] census report, [released last week] . . . indicates little correlation between voter ID laws and racial parity in voting during last year’s midterms.”).³² In reaction to the report, Sec. Merrill said:

he knows of no voters turned away from the polls in Alabama last year because they did not have photo ID. “That would be zero,” he said. “Because, if there had been more than zero, you would have heard a national outcry about how Alabama is mistreating her people, about how Alabama is not allowing her people to participate at the polls. *Id.*

V. Conclusion

The Committee’s Report bases its conclusions on the testimony and individual investigations of Committee members, rather than an objective analysis of Alabama’s actual voter data. When Alabama’s voter registration and turnout data is taken into account, I see no justification for the Committee’s proposed comprehensive overhaul of Alabama election law.

As with most elements of modern society, the difficulties testified to in relation to obtaining ID and voting were predominantly correlated with socio-economic status, rural vs urban living situation, and some human error and inefficiencies in the operation of some Alabama DMV offices. These barriers, however, have successfully been navigated by Alabama voters and do not support the Committee’s conclusion that “the balance between efforts to ‘protect’ the integrity of the vote and the citizen’s ability to realize his or her right to vote has gone askew.”³³

That does not mean that improvements cannot be made, and special efforts to reach our rural and poor citizens to allow them an equal opportunity to gain the necessary ID, if they need it, register, and vote if they choose to do so. But the barriers testified to, compared to the actual results reflected in the state’s voter registration and turnout numbers do not justify the Committee’s conclusion or recommendation for a wholesale revision of Alabama voting laws.³⁴ Thus, I respectfully dissent.

²⁹ Branden Kirby, “Voter suppression? Alabama black, white citizens voted at similar rates in 2018,” [www.Fox10tv.com](https://www.fox10tv.com/news/alabama/voter-suppression-alabama-black-white-citizens-voted-at-similar-rates-in-2018/article_d1082cdc-6ad1-11e9-9d83-fbb4b61be738.html) (April 29, 2019); quoting Secretary of State Merrill (hereinafter “Kirby Article”) (https://www.fox10tv.com/news/alabama/voter-suppression-alabama-black-white-citizens-voted-at-similar-rates-in-2018/article_d1082cdc-6ad1-11e9-9d83-fbb4b61be738.html).

³⁰ See App. A at Tables 8-10 plotting overall Alabama voter turnout from 1986-2018.

³¹ Kirby, (“Alabama Secretary of State John Merrill said the numbers refute oft-repeated allegations that the state’s voter identification law and other election integrity measures suppress the African-American vote.”).

³² *Id.* Noting that the gap between black and white voters in states without Voter ID were often higher than Alabama which has a Voter ID requirement. The gap noted in states that did not require Voter ID were: Nevada (19.8%), Washington, D.C. (15.8%), Massachusetts (11.7%), California (10.8%), Minnesota (10.1%), Maryland (9.7%), New Jersey (6.4%), North Carolina (2.6%), Pennsylvania (1.9%), New York (1.6%), and Illinois (0.3%).

³³ Committee Report at p. 51

³⁴ The Report’s recommendations include a call to “restructure Section 4 of the Voting Rights Act and return Alabama to preclearance status.” How this could be accomplished is not discussed in the Committee Report. Any such effort, as the U.S. Supreme Court noted, would require legislation by Congress. That legislation would be required under *Shelby County* to emerge from a re-survey of each state in the Union. Based on Alabama’s success in increasing minority voter registration and turnout, it is unlikely that even if Congress reimposes preclearance on a subset of states rather than uniformly across the country Alabama would qualify as a state with significant enough barriers to minority voting to require preclearance.

Statement and Dissent by Member Craig Hymowitz.

Appendix A: Data Sources and Charts of Alabama Voter Registration and Turnout Data 2010 – 2019

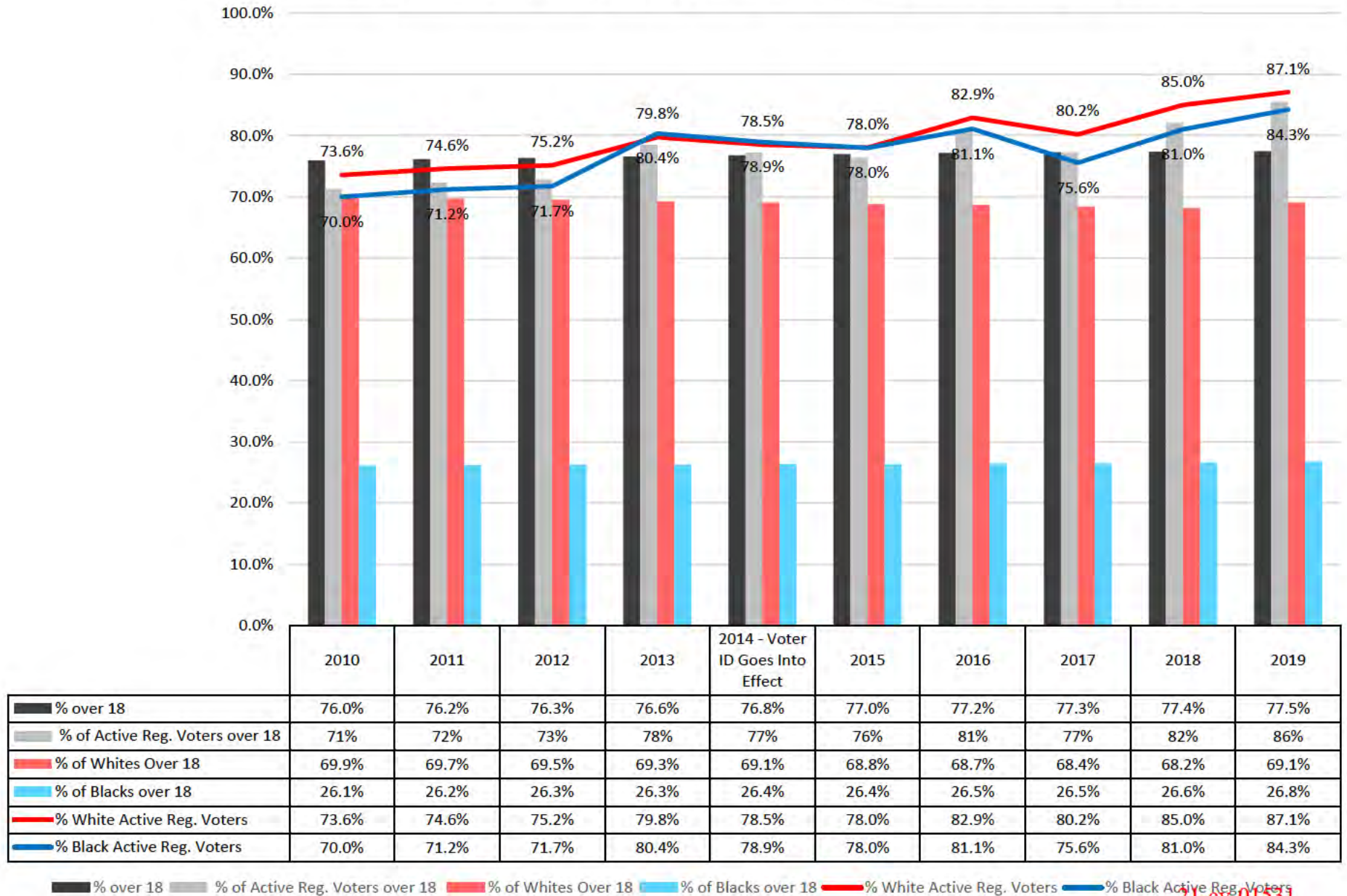
U.S. Census Data:

1. U.S. Census Bureau, Quick Facts, Alabama. As of July 1, 2019, Alabama's racial and ethnic breakdown was: White (69.1%), Black or African American (26.8), American Indian (.7%), Asian (1.5%), Native Hawaiian (.1%), and two or more races (1.7%). 4.4% of Alabamians identified themselves as Hispanic or Latino. By comparison, the United States as a whole was: White (76.5%), Black or African American (13.4%), American Indian (1.3%), Asian (5.9%), Native Hawaiian (.2%), and two or more races (2.7%). 18.3% of Americans identified themselves as Hispanic or Latino. Available at: [https://www.census.gov/quickfacts/fact/table/US/PST045219](https://www.census.gov/quickfacts/fact/table/US/PST045219;);
2. Data for Alabama's population for 2010 – 2018 over the age of 18 and by race was pulled from the U.S. Census' American Community Survey 5-Year Estimate tables available at: https://data.census.gov/cedsci/table?q=alabama%20voting%20age%20population&g=0400000US01&hidePreview=false&tid=ACSDP5Y2011.DP05&t=Age%20and%20Sex&vintage=2018&layer=VT_2018_040_00_PY_D1&cid=DP05_0001E. Data for 2019 was found at <https://www.census.gov/quickfacts/fact/table/US/PST045219>; <http://censusviewer.com/state/AL>.

Alabama Voter Registration and Turnout Data

1. Data for the number active and inactive Alabama registered voters, and their racial and ethnic makeup was derived from the annual Voter Registration Data files available at the Alabama Secretary of State's website at: <https://www.sos.alabama.gov/alabama-votes/voter/election-data>
2. Data for Alabama's overall active voter registration and turnout is excerpted from the Alabama Secretary of State, "Comprehensive Voter Turnout 1986--2020" file, available at: <https://www.sos.alabama.gov/sites/default/files/election-data/2020-05/Comprehensive%20Voter%20Turnout%201986-2020.pdf>

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Table 2: Potential Pool of Alabama Voters vs. Active Registered Voters 2010 - 2019: All, White, and Black

**Table 3: Percentage of Alabamians (White and Black) over 18 and
Percentage of Active Voter Registration (White and Black) 2010 - 2019**

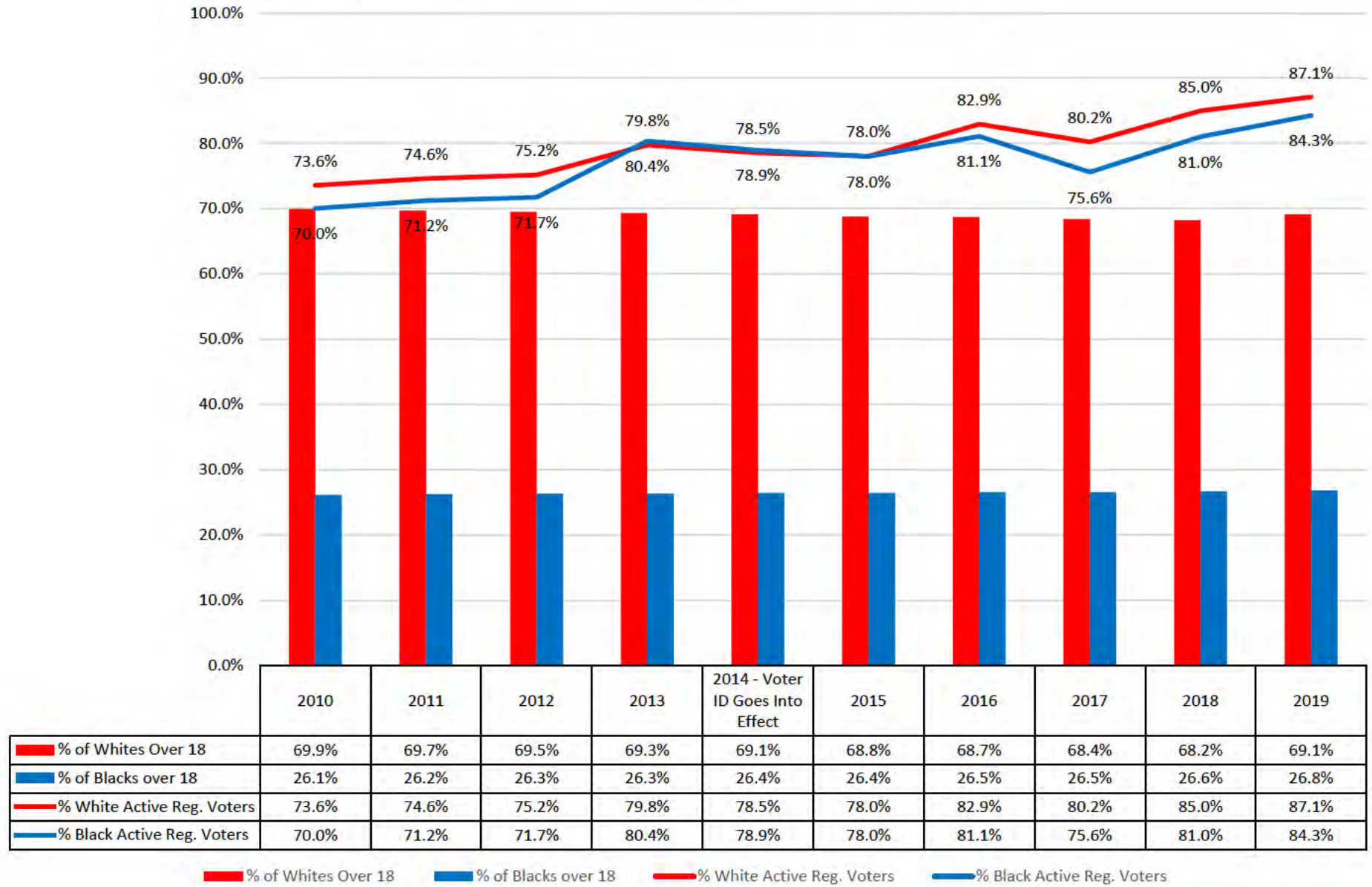


Table 4: Alabama Active and Inactive Voter Registrant Data

Year	Total Active & Inactive Registrants	Active										Inactive									
		Asian	American Indian	Black	Federally-Registered (may be of any race)	Hispanic	Korean	White	Other	Not Identified	Total Active	Asian	American Indian	Black	Federally-Registered (may be of any race)	Hispanic	Korean	White	Other	Not Identified	Total Inactive
2010	2,937,756	9,343	7,293	654,385	3,353	10,215	44	1,841,343	26,917	59	2,552,952	1,674	1,318	109,290	210	2,077	2	263,105	7,098	30	384,804
2011	2,960,142	9,984	7,872	674,667	3,219	11,203	50	1,880,458	27,750	53	2,615,256	1,578	1,192	96,389	172	1,955	1	236,997	6,572	30	344,886
2012	3,016,879	10,596	8,375	688,192	3,088	12,504	44	1,904,994	28,032	518	2,656,343	1,779	1,302	103,727	154	2,244	4	244,184	7,106	36	360,536
2013	2,951,341	13,132	9,706	776,844	2,961	16,317	44	2,031,569	31,205	3,537	2,885,315	324	318	23,848	18	523	4	39,713	1,238	40	66,026
2014	2,969,077	13,441	9,925	771,005	2,784	16,931	47	2,007,738	30,547	4,079	2,856,497	615	581	36,371	55	1,030	4	2,073	71,734	117	112,580
2015	2,997,340	13,803	10,101	765,820	2,662	17,765	46	1,996,330	29,739	4,601	2,840,867	964	884	53,137	64	1,653	8	96,294	3,229	240	156,473
2016	3,164,155	16,314	10,865	802,989	2,475	22,558	51	2,128,755	30,377	6,932	3,021,316	914	780	49,747	56	1,557	8	86,559	2,976	242	142,839
2017	3,280,898	17,365	9,744	750,720	2,040	24,801	40	2,056,161	24,297	9,852	2,895,020	2,350	1,711	120,926	234	4,072	8	249,385	5,818	1,374	385,878
2018	3,403,719	18,705	9,749	811,719	1,849	28,339	37	2,183,164	23,306	13,175	3,090,043	2,226	1,423	96,675	172	3,837	6	202,921	5,150	1,266	313,676
2019	3,502,308	20,457	9,544	857,674	1,646	32,830	36	2,286,352	22,497	16,987	3,248,023	1,972	1,141	77,190	137	3,409	5	164,803	4,477	1,151	254,285
2020	3,590,837	21,960	9,687	883,906	1,508	36,192	32	2,356,799	22,366	19,230	3,351,680	1,955	1,043	72,588	129	3,387	4	154,598	4,305	1,148	239,157
Source: Alabama Secretary of State																					
As of July for 2010 - 2019. As of April for 2020.																					
Percentages by Category: Active vs. Inactive																					
2010	100%	0.37%	0.29%	25.63%	0.13%	0.40%	0.00%	72.13%	1.05%	0.00%	100.00%	0.44%	0.34%	28.40%	0.05%	0.54%	0.00%	68.37%	1.84%	0.01%	100.00%
2011	100%	0.38%	0.30%	25.80%	0.12%	0.43%	0.00%	71.90%	1.06%	0.00%	100.00%	0.46%	0.35%	27.95%	0.05%	0.57%	0.00%	68.72%	1.91%	0.01%	100.00%
2012	100%	0.40%	0.32%	25.91%	0.12%	0.47%	0.00%	71.71%	1.06%	0.02%	100.00%	0.49%	0.36%	28.77%	0.04%	0.62%	0.00%	67.73%	1.97%	0.01%	100.00%
2013	100%	0.46%	0.34%	26.92%	0.10%	0.57%	0.00%	70.41%	1.08%	0.12%	100.00%	0.49%	0.48%	36.12%	0.03%	0.79%	0.01%	60.15%	1.88%	0.06%	100.00%
2014	100%	0.47%	0.35%	26.99%	0.10%	0.59%	0.00%	70.29%	1.07%	0.14%	100.00%	0.55%	0.52%	32.31%	0.05%	0.91%	0.00%	1.84%	63.72%	0.10%	100.00%
2015	100%	0.49%	0.36%	26.96%	0.09%	0.63%	0.00%	70.27%	1.05%	0.16%	100.00%	0.62%	0.56%	33.96%	0.04%	1.06%	0.01%	61.54%	2.06%	0.15%	100.00%
2016	100%	0.54%	0.36%	26.58%	0.08%	0.75%	0.00%	70.46%	1.01%	0.23%	100.00%	0.64%	0.55%	34.83%	0.04%	1.09%	0.01%	60.60%	2.08%	0.17%	100.00%
2017	100%	0.60%	0.34%	25.93%	0.07%	0.86%	0.00%	71.02%	0.84%	0.34%	100.00%	0.61%	0.44%	31.34%	0.06%	1.06%	0.00%	64.63%	1.51%	0.36%	100.00%
2018	100%	0.61%	0.32%	26.27%	0.06%	0.92%	0.00%	70.65%	0.75%	0.43%	100.00%	0.71%	0.45%	30.82%	0.05%	1.22%	0.00%	64.69%	1.64%	0.40%	100.00%
2019	100%	0.63%	0.29%	26.41%	0.05%	1.01%	0.00%	70.39%	0.69%	0.52%	100.00%	0.78%	0.45%	30.36%	0.05%	1.34%	0.00%	64.81%	1.76%	0.45%	100.00%
2020	100%	0.66%	0.29%	26.37%	0.04%	1.08%	0.00%	70.32%	0.67%	0.57%	100.00%	0.82%	0.44%	30.35%	0.05%	1.42%	0.00%	64.64%	1.80%	0.48%	100.00%
Source: Alabama Secretary of State																					

Table 5: U.S. Census Community Survey 5-Year Estimates 2010-2018

Alabama Total Population per U.S. Census Survey					
Year	Total AL Population	Total Population over 18	% over 18	% of Total Population = White	% of Total Population = Black
2010	4,712,651	3,580,348	76.0%	69.9%	26.1%
2011	4,747,424	3,615,219	76.2%	69.7%	26.2%
2012	4,777,326	3,647,097	76.3%	69.5%	26.3%
2013	4,799,277	3,675,910	76.6%	69.3%	26.3%
2014	4,817,678	3,699,760	76.8%	69.1%	26.4%
2015	4,830,620	3,718,646	77.0%	68.8%	26.4%
2016	4,841,164	3,735,975	77.2%	68.7%	26.5%
2017	4,850,771	3,748,089	77.3%	68.4%	26.5%
2018	4,864,680	3,765,887	77.4%	68.2%	26.6%
2019	Census Data has not been Released				
2020	Census Data has not been Released				

Source: 2010 -2018 American Community Survey 5-Year Estimates.

Table 6: Alabama Active vs Inactive Voter Registrants 2010-2020

Alabama Total Population per U.S. Census Survey						Alabama Active vs Inactive Voter Registrants		
Year	Total AL Population	Total Population over 18	% over 18	% of Total Population = White	% of Total Population = Black		% Active Registrants	% of Inactive Registrants
2010	4,712,651	3,580,348	76.0%	69.9%	26.1%	2010	86.9%	13.1%
2011	4,747,424	3,615,219	76.2%	69.7%	26.2%	2011	88.3%	11.7%
2012	4,777,326	3,647,097	76.3%	69.5%	26.3%	2012	88.0%	12.0%
2013	4,799,277	3,675,910	76.6%	69.3%	26.3%	2013	97.8%	2.2%
2014	4,817,678	3,699,760	76.8%	69.1%	26.4%	2014	96.2%	3.8%
2015	4,830,620	3,718,646	77.0%	68.8%	26.4%	2015	94.8%	5.2%
2016	4,841,164	3,735,975	77.2%	68.7%	26.5%	2016	95.5%	4.5%
2017	4,850,771	3,748,089	77.3%	68.4%	26.5%	2017	88.2%	11.8%
2018	4,864,680	3,765,887	77.4%	68.2%	26.6%	2018	90.8%	9.2%
2019	Census Data has not been Released					2019	92.7%	7.3%
2020	Census Data has not been Released					2020	93.3%	6.7%

Source: Alabama Secretary of State

Table 7: Analysis of Alabama Secretary of State Election Data 2010 – 2019

Year	Total AL Population	Total Population over 18	% over 18	% of Active Reg. Voters over 18	Total Active Reg. Voters	% of White of Total Pop.	% Black of Total Pop.	Whites Over 18	Blacks Over 18	% of Whites Over 18	% of Blacks over 18	No. of White Active Reg. Voters	No. of Black Active Reg. Voters	% White Active Reg. Voters	% Black Active Reg. Voters	Gap Btwn Active Reg. White & Black Voters
2010	4,712,651	3,580,348	76.0%	71%	2,552,952	69.9%	26.1%	2,502,663	934,471	69.9%	26.1%	1,841,343	654,385	73.6%	70.0%	3.5%
2011	4,747,424	3,615,219	76.2%	72%	2,615,256	69.7%	26.2%	2,519,808	947,187	69.7%	26.2%	1,880,458	674,667	74.6%	71.2%	3.4%
2012	4,777,326	3,647,097	76.3%	73%	2,656,343	69.5%	26.3%	2,534,732	959,187	69.5%	26.3%	1,904,994	688,192	75.2%	71.7%	3.4%
2013	4,799,277	3,675,910	76.6%	78%	2,885,315	69.3%	26.3%	2,547,406	966,764	69.3%	26.3%	2,031,569	776,844	79.8%	80.4%	-0.6%
2014 - Voter ID Goes Into Effect	4,817,678	3,699,760	76.8%	77%	2,856,497	69.1%	26.4%	2,556,534	976,737	69.1%	26.4%	2,007,738	771,005	78.5%	78.9%	-0.4%
2015	4,830,620	3,718,646	77.0%	76%	2,840,867	68.8%	26.4%	2,558,428	981,723	68.8%	26.4%	1,996,330	765,820	78.0%	78.0%	0.0%
2016	4,841,164	3,735,975	77.2%	81%	3,021,316	68.7%	26.5%	2,566,615	990,033	68.7%	26.5%	2,128,755	802,989	82.9%	81.1%	1.8%
2017	4,850,771	3,748,089	77.3%	77%	2,895,020	68.4%	26.5%	2,563,693	993,244	68.4%	26.5%	2,056,161	750,720	80.2%	75.6%	4.6%
2018	4,864,680	3,765,887	77.4%	82%	3,090,043	68.2%	26.6%	2,568,335	1,001,726	68.2%	26.6%	2,183,164	811,719	85.0%	81.0%	4.0%
2019	4,903,185	3,798,031	77.5%	86%	3,248,023	69.1%	26.8%	2,624,439	1,017,872	69.1%	26.8%	2,286,352	857,674	87.1%	84.3%	2.9%

Source: Alabama Secretary of State (<https://www.sos.alabama.gov/alabama-votes/voter/election-data>)

Table 8: AL Active Voter Registration and Turnout % 1986 - 2018

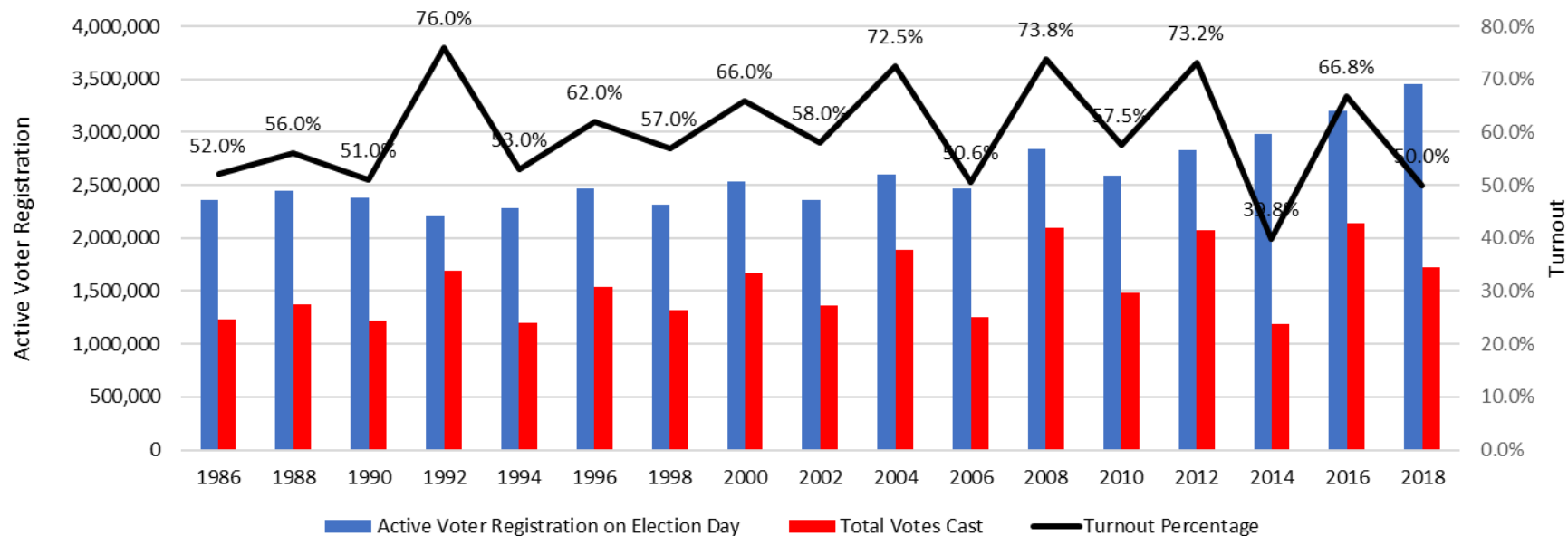
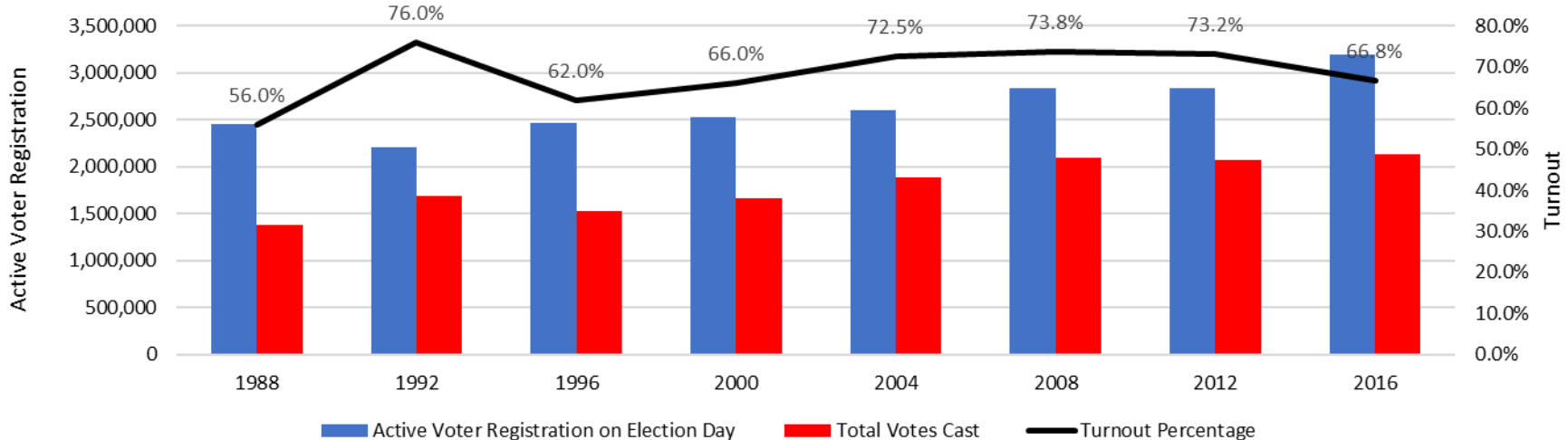


Table 9: AL Presidential Election Year Turnout 1988 - 2016



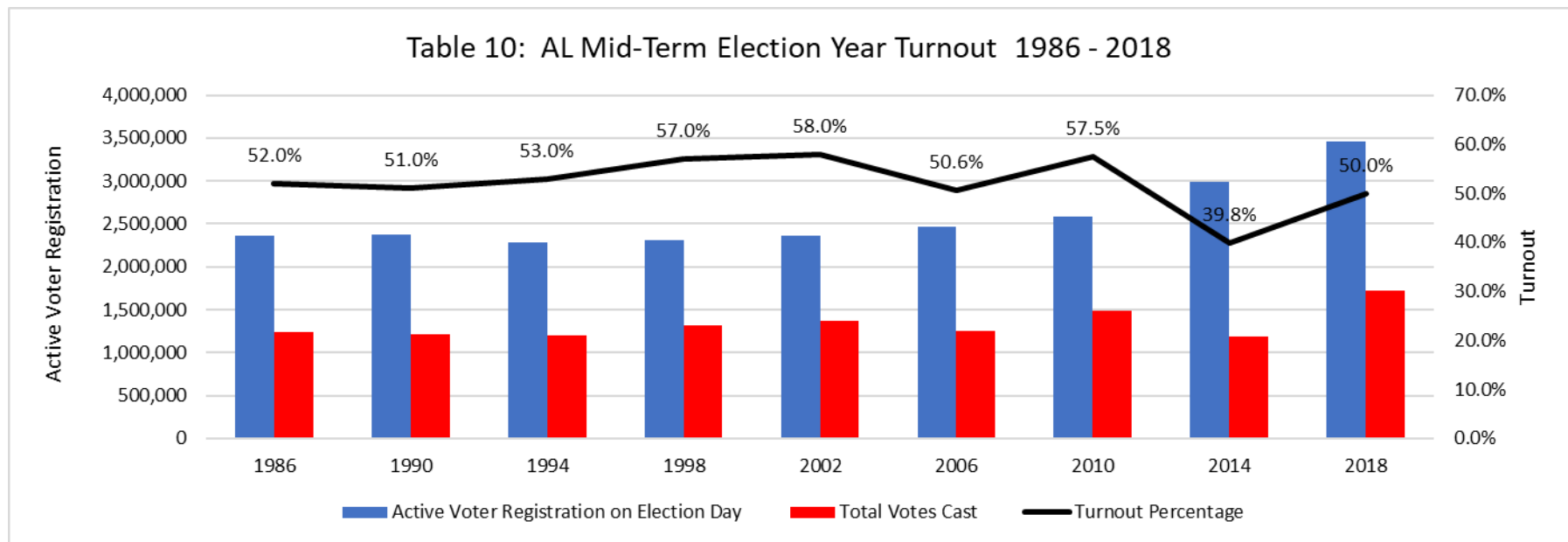


Table 8-10A: Alabama Active Voter Registration and Turnout 1986 -2018			
Year	Active Voter Registration on Election Day	Total Votes Cast	Turnout Percentage
1986	2,362,361	1,233,366	52.0%
1988	2,451,491	1,377,970	56.0%
1990	2,381,992	1,215,626	51.0%
1992	2,210,617	1,687,337	76.0%
1994	2,283,484	1,199,095	53.0%
1996	2,470,766	1,533,226	62.0%
1998	2,316,598	1,314,901	57.0%
2000	2,528,963	1,665,573	66.0%
2002	2,356,423	1,367,053	58.0%
2004	2,597,629	1,883,415	72.5%
2006	2,469,807	1,250,401	50.6%
2008	2,841,195	2,096,114	73.8%
2010	2,586,282	1,486,182	57.5%
2012	2,833,938	2,074,338	73.2%
2014	2,986,782	1,191,274	39.8%
2016	3,198,703	2,137,482	66.8%
2018	3,457,572	1,725,877	50.0%

Source: Alabama Secretary of State, "Comprehensive Voter Turnout 1986 - 2020"

<https://www.sos.alabama.gov/sites/default/files/election-data/2020-05/Comprehensive%20Voter%20Turnout%201986-2020.pdf>

Appendix 9

Alabama Advisory Committee Member Dr. Peter Jones Statement of Concurrence

I am in full support of the report drafted by the Alabama State Advisory Committee, of which I am a member, and I offer the following as a concurring statement. Specifically, I overview the published academic research regarding the consequences of voter ID laws across U.S. states.

The most recent published literature is conclusive that voter identification (ID) laws have had a “negative impact on the turnout of racial and ethnic minorities in primaries and general elections.”¹ The causal question—whether voter ID laws cause lower turnout for minority populations—is a difficult one to answer for a variety of methodological reasons, but the most recent peer-reviewed studies provide evidence that state voter ID laws produce disparities in voter turnout between whites and minorities.^{2,3} Specifically, voter turnout for minorities has either decreased or not increased at the same rate, relative to white voter turnout. These results are unsurprising two reasons. First, the lack of identification is particularly acute among the minority population, the poor, and the young.⁴ In fact, Berreto et al. (2019) found that even controlling for education and income, African Americans were five percent less likely to have an ID.⁵ Second, voter identification laws are applied unequally in that voters of a minority race are more likely to be asked for identification.^{6,7}

After the Help American Vote Act (HAVA) in 2002, states adopted a variety of new identification requirements, which varied in the stringency of their requirements.⁸ Early work examining the effects of these laws provided clear evidence that that stricter voter ID laws did decrease turnout,^{9,10,11,12} though evidence was mixed as to whether there was a disparate impact on

¹ Hajnal, Z., Lajevardi, N., & Nielson, L., *Voter Identification Laws and the Suppression of Minority Votes*, *The Journal of Politics*, 79(2), (Jan. 2017) at 363-379.

² Burden, Barry C., *Disagreement Over ID Requirements and Minority Voter Turnout*, *The Journal of Politics* 80.3 (April 2018), at 1060-1063.

³ Highton, Benjamin, *Voter Identification Laws and Turnout in the United States*, *Annual Review of Political Science* 20 (May 2017), at 149-167.

⁴ Barreto, M. A., & Sanchez, G. R., *Accepted Photo Identification and Different Subgroups in the Eligible Voter Population, State of Texas, 2014*, (2014) (Expert report submitted on behalf of plaintiffs in *Veasey v. Perry*, Case No. 2:13-cv-00193).

⁵ Barreto, M. A., Nuño, S., Sanchez, G. R., & Walker, H. L., *The Racial Implications of Voter Identification Laws in America*, *American Politics Research*, 47(2), (2019) at 238-249.

⁶ Atkeson, L. R., Kerevel, Y. P., Alvarez, R. M., & Hall, T. E., *Who Asks for Voter Identification? Explaining Poll-worker Discretion*, *The Journal of Politics*, 76(4), (Oct. 2014) at 944-957.

⁷ Atkeson, L. R., Bryant, L. A., Hall, T. E., Saunders, K., & Alvarez, M., *A New Barrier to Participation: Heterogeneous Application of Voter Identification Policies*, *Electoral Studies*, 29(1), (Mar. 2010) at 66-73.

⁸ Underhill, Wendy, *Voter Identification Requirements*, Nat'l Conference of State Legislatures, (Feb. 2, 2020) <https://www.ncsl.org/research/elections-and-campaigns/voter-id.aspx>.

⁹ Vercellotti, Timothy, and David Anderson., *Protecting the Franchise or Restricting It? The Effects of Voter Identification Requirements on Turnout*, Presented at the annual conference of the American Political Science Association, Philadelphia (2006).

¹⁰ Alvarez, Michael, Delia Bailey, and Jonathan Katz., *The Effect of Voter Identification Laws on Turnout*, (California Institute of Technology, Pasadena, CA Social Science Working Paper No. 1267R, 2008).

¹¹ Alvarez, Michael, Delia Bailey, and Jonathan Katz., *An Empirical Bayes Approach to Estimating Ordinal Treatment Effects*, *Political Analysis* 19 (1), (Winter 2011) at 20–31.

¹² Hood III, M. V., and Charles S. Bullock III, *Much Ado About Nothing? An Empirical Assessment of the Georgia Voter Identification Statute*, *State Politics & Policy Quarterly* 12.4 (Oct. 2012) at 394-414.

minorities.^{13, 14} Following this initial wave of studies, researchers considered the methodical challenges associated with modeling the causal impact of voter identification laws on turnout.¹⁵

Descriptively, researchers had observed a decrease in turnout, particularly for minority voters, but it was hard to statistically determine whether voter ID laws were the cause. In response to these challenges, more recent research has employed careful statistical techniques and observed more elections to measure the impact of voter ID laws. As such, the last decade of research is an appropriate reflection of where experts stand on whether voter ID laws suppress votes.

A few examples of this more recent research include:

1. A GAO study from 2014 that overviewed the previous decade of research and included a methodologically rigorous evaluation of voter ID laws in Kansas and Tennessee. Compared to less restrictive (at the time) states, turnout among eligible and registered voters decreased by 1.9 to 2.2 percentage points in Kansas and 2.2 to 3.2 percentage points in Tennessee. As well, turnout dropped by larger amounts for African-American registrants, compared to White, Asian-American, and Hispanic registrants.
2. Highton (2017) reviewed the theory, methodological challenges, and evidence we have so far. He summarizes the state of research as:
3. Empirically, a small number of studies have employed suitable research designs and generally find modest, if any, turnout effects of voter identification laws. This may indicate that voter identification laws have only minor effects on turnout, or it may be due to the fact that the type of voter identification law that may have the most significant effects—a strict photo identification law—is a relatively recent phenomenon.
4. Hajnal et al. (2017) provided a much more substantive evaluation of voter ID laws. Those authors used the validated voting data from the Cooperative Congressional Election Study for several recent elections, and their findings showed that strict identification laws had a “negative impact on the turnout of racial and ethnic minorities in primaries and general elections.”

It should be noted that Grimmer et al. (2018) responded to Hajnal et al. (2017) with a methodological critique.^{16, 17} This prompted a response from Hajnal et al. (2018), who pointed out that Grimmer et al. (2018) fundamentally agreed with their findings, noting that Grimmer et al.’s (2018) reanalysis “confirms the core conclusion of our 2017 article—that strict voter identification

¹³ [Lott, John R. *Evidence of Voter Fraud and the Impact That Regulations to Reduce Fraud Have on Voter Participation Rates*, Public Choice & Political Economy eJournal \(2006\), available at SSRN 925611.](#)

¹⁴ [Mycoff, J. D., Wagner, M. W., & Wilson, D. C., *The Empirical Effects of Voter-ID Laws: Present or Absent?*, PS: Political Science & Politics, 42\(1\), \(Jan. 2009\) at 121-126.](#)

¹⁵ For a review of these challenges, see Erikson, R. S., & Minnite, L. C., *Modeling Problems in the Voter Identification—Voter Turnout Debate*, Election Law Journal, 8(2), (2009) at 85-101, <http://www.columbia.edu/~rse14/erikson-minnite.pdf>

¹⁶ [Grimmer, J., Hersch, E., Meredith, M., Mummolo, J., & Nall, C., *Comment on “Voter Identification Laws and the Suppression of Minority Votes,”* Journal of Politics, 79\(2\), \(August 2017\).](#)

¹⁷ [Grimmer, J., Hersch, E., Meredith, M., Mummolo, J., & Nall, C., *Obstacles to Estimating Voter ID Laws’ Effect on Turnout*, The Journal of Politics, 80\(3\), \(April 2018\) at 1045-1051.](#)

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laws have a racially disparate impact.” Burden (2018) summarized this debate between two scholars.¹⁸ As for what they agree:

The authors appear to agree that, given the data available, the most appropriate statistical models indicate that state ID laws produce larger disparities in voter turnout between whites and Hispanics. If this disparity is the quantity of interest, then all of the authors have little to dispute.

Burden (2018) continues by explaining the main point of disagreement:

The main point of contention is whether minority turnout actually declines when ID is required—or whether it merely increases by a smaller increment than does white turnout. This is essentially a disagreement about whether minority turnout is depressed in absolute terms or relative terms.

In research, it is important to consider the evolution of a field’s analytical approach to evaluating a question. More recent studies have had additional elections to observe, and researchers were able to use more advanced statistical techniques with better data. Though there are exceptions,¹⁹ the majority of current published academic research provides exhaustive evidence that voter identification laws had a negative and disproportionate impact on the voter turnout of racial and ethnic minorities.

¹⁸ [Burden, B. C., *Disagreement Over ID Requirements and Minority Voter Turnout*, The Journal of Politics, 80\(3\), \(July 2018\) at 1060-1063.](#)

¹⁹ [Cantoni, E., & Pons, V., *Strict ID Laws Don't Stop Voters: Evidence from a US Nationwide Panel, 2008–2016* \(Nat'l Bureau of Econ. Research, Working Paper No. 25522, 2019\).](#)
<https://www.hbs.edu/faculty/Pages/item.aspx?num=55734>.