

# CONTEMPORARY CIVIL RIGHTS CHALLENGES

A VIEW FROM THE STATE ADVISORY COMMITTEE

U.S. COMMISSION ON CIVIL RIGHTS

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BRIEFING  
REPORT



NOVEMBER 2022

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- Investigate complaints alleging that citizens are being deprived of their right to vote by reason of their race, color, religion, sex, age, disability, or national origin, or by reason of fraudulent practices.
- 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, or national origin, or in the administration of justice.
- Appraise federal laws and policies with respect to discrimination or denial of equal protection of the laws because of race, color, religion, sex, age, disability, or national origin, or in the administration of justice.
- Serve as a national clearinghouse for information in respect to discrimination or denial of equal protection of the laws because of race, color, religion, sex, age, disability, or national origin.
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# **Contemporary Civil Rights Challenges: A View from the State Advisory Committees**

**2022 Survey of the State Advisory Committees  
to the U.S. Commission on Civil Rights**

November 2022  
Washington, D.C.



## UNITED STATES COMMISSION ON CIVIL RIGHTS

1331 Pennsylvania Ave., NW • Suite 1150 • Washington, DC 20425 [www.usccr.gov](http://www.usccr.gov)

### Letter of Transmittal

November 17, 2022

President Joseph R. Biden  
Vice President Kamala Harris  
Speaker of the House Nancy Pelosi

On behalf of the United States Commission on Civil Rights (“the Commission”), I transmit our report, *Contemporary Civil Rights Challenges: A View from the State Advisory Committees, 2022 Survey of the State Advisory Committees*. A majority of the Commissioners voted to accept this report on October 21, 2022. It is available on the Commission’s website at: [www.usccr.gov](http://www.usccr.gov).

Pursuant to 42 U.S.C. § 1975a(d), the Commission maintains 56 independent State Advisory Committees (SACs), with one in each state, the District of Columbia, and the five territories – Puerto Rico, the U.S. Virgin Islands, Guam, the Northern Mariana Islands and American Samoa – and comprised of appointed expert members who advise and assist the Commission with investigations at the state, local, and territory level.

This report, collected before the establishment of four of five territorial advisory committees, details the Commission’s survey of SAC members, capturing data on which civil rights issues SAC members believe should be prioritized. Some of the key conclusions in the report include that, of the eight areas of civil rights that fall within the Commission’s jurisdiction, 24.4 percent of the survey respondents rank race/color as currently the area of highest importance, followed by 23 percent who rank the administration of justice as highest, and 16.4 percent who rank education as the highest importance. High priority civil rights topics included voting rights as the lead priority, with 29 percent of respondents indicating it as the current topic with the highest importance, followed by freedom of expression, criminal justice, and civil rights violations and enforcement. The Commission has already adopted national research topics for Fiscal Year 2022-23, and the 2022 Survey is timely as we will soon be discussing and voting on topics for Fiscal Year 2023-24.

We, at the Commission look forward to incorporating these priorities into our own work, in addition to continuing to take in other pertinent information from the SACs, as they have a unique perspective to advise the Commission about civil rights issues that impact their individual states.

These survey results reflect the considered judgment of experts across the country regarding critical civil rights issues affecting Americans; we hope and expect the information in the report will be useful to you as you shape policy judgments.

For the Commission,

A handwritten signature in black ink that reads "Norma V. Cantu". The signature is written in a cursive style with a large, stylized initial "N".

Norma V. Cantu  
Chair

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Commissioners and Special Assistants Joshua Dansby, Alec Deull, John Mashburn, Carissa Mulder, Juana Silverio, Thomas Simuel, and Irena Vidulovic assisted their Commissioners in reviewing the report. The Commission's General Counsel David Ganz and Attorney-Advisors Sheryl Cozart and Pilar Velasquez McLaughlin reviewed and approved the report for legal sufficiency. The Commission's Regional Programs Unit provided valuable outreach assistance to State Advisory Committee members.

OCRE interns Aanya Schoetz (B.A. Graduate 2024, Berkley University of California), Jennifer Power (B.A. Graduate 2023, Berkley University of California), and Chloe Chen (B.A. Graduate 2024, Brown University) offered valuable research assistance.

The Commission appreciates the participation of the Advisory Committee members in responding to this survey and focus groups, as well as sharing their expertise and views.

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## Executive Summary

In 2010, the U.S. Commission on Civil Rights (Commission) conducted its first survey of its State Advisory Committees (Committees) to determine which civil rights issues the advisory members considered the most pressing and significant in their respective states. In addition, it issued a subsequent report entitled *Civil Rights Challenges of the 21<sup>st</sup> Century: A View from the States*. Eight years later, in April 2018, the Commission voted to update the 2010 report to examine how the national landscape of civil rights has evolved and identify challenges faced by the nation. Since 2018, the nation has faced a number of challenges. Most significantly, the nation (and the world) faced a global pandemic. In the United States, the COVID-19 pandemic impacted healthcare, education, jobs/employment, housing, food security, travel, immigration, and many other segments of American society. Additionally, the pandemic has resulted in the loss of over a million lives in the U.S.<sup>1</sup>

For the 2018 survey, the Commission developed and implemented a new instrument to capture the viewpoints of Advisory members on essential civil rights issues at the state and local levels to better inform the Commission's work. The 2018 survey, and subsequent report, *Contemporary Civil Rights Challenges: A View from the State Advisory Committees*,<sup>2</sup> captured data on which civil rights issues are persistent and which are emerging; which civil rights issues should be prioritized; and how perspectives on the importance of certain civil rights issues may differ among varying states across the United States. Four years later, in March 2022, the Commission voted to update the 2018 report findings in the hopes of documenting the unique and ever-evolving civil rights challenges across the country and in the U.S. territories.

The Commission is an independent, bipartisan, fact-finding federal agency.<sup>3</sup> It examines civil rights issues related to discrimination based on race, color, religion, sex, age, disability, national origin, as well as concerns related to the administration of justice and voting rights.<sup>4</sup> Additionally, per its statutory requirement, the Commission maintains an Advisory Committee in each state, the District of Columbia, and five U.S. territories.<sup>5</sup> Advisory Committees are comprised of civil rights experts who represent diverse backgrounds and perspectives that are appointed by the Commissioners. They advise the Commission on civil rights issues that impact their respective state, district, or territory. The Committees also advance civil rights through research and analysis

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<sup>1</sup> CDC, Centers for Disease Control and Prevention, COVID Data Tracker, United States at a Glance, Total Deaths. [https://covid.cdc.gov/covid-data-tracker/#trends\\_dailydeaths](https://covid.cdc.gov/covid-data-tracker/#trends_dailydeaths).

<sup>2</sup> U.S. Commission on Civil Rights, *Contemporary Civil Rights Challenges: A View from the States*, Sept. 2018, <https://www.usccr.gov/reports/2018/contemporary-civil-rights-challenges-view-states-2018-survey-state-advisory-committees>.

<sup>3</sup> U.S. Commission on Civil Rights, Our Mission, <https://www.usccr.gov/about/mission>.

<sup>4</sup> 42 U.S.C. § 1975a(a).

<sup>5</sup> 42 U.S.C. § 1975a(d) (establishing Advisory Committees in each State and the District of Columbia).

on issues concerning the federal government and the public.<sup>6</sup> The Advisory Committees are unique to the U.S. Commission on Civil Rights, as no other federal agency has committees stationed in every state and territory. These Committees allow the Commission's reports to be informed by diverse perspectives and make the Commission's contribution to the national civil rights landscape influential.

As part of this investigation, the Commission developed a survey that was distributed to all Committee members in the 50 States, the District of Columbia, and Puerto Rico.<sup>7</sup> This survey, which was distributed in March 2022 and was received back in April 2022 collected members'<sup>8</sup> geographic information, civil rights priorities, challenges, and optional demographic information. The 2022 survey results are the analysis of 214 responses which equates to a 53 percent response rate.<sup>9</sup> In terms of which civil rights topic was most important, race was ranked the highest (24.4 percent), followed by the administration of justice (23.0 percent), and education (16.4 percent). By comparison, the Puerto Rico Advisory Committee members indicated that voting rights was the most important civil rights topic (42.9 percent) in their territory.

The report process undergoes several stages. Before an investigation begins, Committee members must come to an agreement on which state civil rights issue to investigate. This process consists of a majority of the members agreeing on the topic.<sup>10</sup> The survey showed that many of the respondents indicated that they had no challenges in approving topics for investigation (50 percent). Of those who identified challenges, 20 percent reported that "time constraints" hindered the process and about 15 percent reported that not having a committee meeting was a challenge for approving civil rights topics. Of the 46 respondents who did not select one of the four categories provided,<sup>11</sup> almost half (47.8 percent) reported that political bias prevented their committees from approving civil rights topics for investigation. Once a topic has been selected and the investigation completed, but before the Committees submit their reports to the Commission, they must vote to pass the report. This requires a majority vote of the members. Over half of the participants (58 percent) reported no challenges in approving final reports. Of those who identified challenges, the highest category selected was "other" (24 percent). Of those who selected "other," 37.5 percent

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<sup>6</sup> U.S. Commission on Civil Rights, Our Mission, <https://www.usccr.gov/about/mission> (noting that the Commission plays "a vital role in advancing civil rights through objective and comprehensive investigation, research, and analysis on issues of fundamental concern to the federal government and the public.").

<sup>7</sup> See Appendix B for full list of survey questions. Four U.S. territories were not included in the qualitative report as they were not established during this period. Both the Guam Advisory Committee and the American Samoa Advisory Committee were established on March 11, 2022. U.S. Virgin Islands Advisory Committee was established at the June 24, 2022 and The Northern Mariana Islands was established on July 22, 2022.

<sup>8</sup> Following the distribution of these surveys, USCCR changed its Advisory Committee members' designation from Special Government Employees to Representatives in its GSA-filed Charters. Thus, given the above, the Paperwork Reduction Act did not apply to these surveys. See generally <https://pra.digital.gov/do-i-need-clearance/#:~:text=In%20general%2C%20the%20PRA%20applies,doesn't%20need%20PRA%20clearance.>

<sup>9</sup> See *infra* note 37.

<sup>10</sup> U.S. Commission on Civil Rights, Administrative Instruction 5-7, Dec. 15, 2006.

<sup>11</sup> These choices were: no challenges identified, having meetings, time constraints, majority consensus, or other.

indicated that they “had no reports yet,” 18.8 percent were new to their respective committee, and 18.8 percent of respondents suggested that political bias was a factor in delaying the approval of the reports in their state.

In addition to the quantitative survey, this study also analyzed the reports issued by the 51 Advisory Committees that spanned the years 2017 through 2021. This five-year timespan was selected because it includes topics that were the direct outcome of the COVID-19 pandemic as well as topics prior to the pandemic. Overall, the Advisory Committees published 97 reports<sup>12</sup> during this period:<sup>13</sup>

- Seven reports were published in 2017.<sup>14</sup>
- Twenty reports were published in 2018.
- Twenty-one were published each in 2019 and 2020.
- Twenty-eight reports were published in 2021.<sup>15</sup>

Over the five-year study period, Connecticut and Maine published the most reports.<sup>16</sup> Excluding 2019, Ohio published one report each year.<sup>17</sup> Reports, however, were not published by all 51 Advisory Committees each year. For example, three states (Iowa, Idaho, and North Carolina) published no reports,<sup>18</sup> and 18 states<sup>19</sup> plus the District of Columbia each published one report over the five years.<sup>20</sup> While the Advisory Committees examined a variety of civil rights topics over this study’s time period, the top three topics published included reports on the administration of justice (30 reports), voting rights (23 reports), and race/color discrimination (12 reports).<sup>21</sup>

Of the 97 reports, 32 received the unanimous approval of their Advisory Committee members.<sup>22</sup> There were several regional similarities, for example, Committees in the West published 22 reports, and of those, voting rights was the most published topic.<sup>23</sup> There were 21 reports published

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<sup>12</sup> In 2020, the Colorado Advisory Committee completed a memorandum on maternal mortality and fetal/infant mortality. This memorandum represented a summary of two briefings held on the subject. It, however, was not included in the count of the 97 reports as this report had no findings, made no recommendations, documented no analysis, and was not published. However, we do recognize the Committee for its submission. *See* Colorado Advisory Committee to the U.S. Commission on Civil Rights, Advisory Memorandum on Maternal Mortality and Fetal/Infant Mortality, Sept. 22, 2020, <https://www.usccr.gov/files/2020/2020-10-05-CO-Advisory-Memorandum-Maternal-Mortality-and-Fetal-Infant-Mortality.pdf>.

<sup>13</sup> *See* Table 1.

<sup>14</sup> *Ibid.*

<sup>15</sup> *Ibid.*

<sup>16</sup> *See* Table 1.

<sup>17</sup> *Ibid.*

<sup>18</sup> *See generally*, discussion Low Performing States.

<sup>19</sup> Arkansas, Delaware, Florida, Georgia, Illinois, Kansas, Kentucky, Louisiana, Minnesota, Missouri, Oklahoma, Pennsylvania, South Carolina, Utah, Virginia, Washington, Wisconsin, Wyoming.

<sup>20</sup> *See* Table 6.

<sup>21</sup> *See* Table 2.

<sup>22</sup> *See* Table 7.

<sup>23</sup> *See* Table 9.

by the Midwest Advisory Committees with voting rights being the dominant topic among these states.<sup>24</sup> The Committees in the South published 24 reports. Of these, the administration of justice was the most explored topic by this group.<sup>25</sup> Across all the regions, the Northeast produced the greatest number of reports (30 over the five years), and the administration of justice was the chief topic examined.<sup>26</sup>

As stated above, reports from the Advisory Committees aid the Commission in understanding the specific civil rights concerns at the state level, as well as offer specific recommendations within their respective states. For example, the 2017 Connecticut Advisory Committee's report on solitary confinement<sup>27</sup> recommended that any law on solitary confinement in the state include: (1) defining what constitutes solitary confinement in Connecticut; (2) banning solitary confinement for all inmates ages 21 and younger; (3) banning the use of solitary confinement for people with mental illness; (4) training correction officers on the correct application of solitary confinement; and (5) reporting the race, ethnicity, gender identity, disability status, mental illness presence, length of placement, etc., of prisoners placed into solitary confinement.<sup>28</sup>

In 2019, Maine's Advisory Committee examined the criminalization of persons with mental illnesses in the state.<sup>29</sup> The Advisory Committee recommended that the state fund, create, and expand networks of home-based and community-based care for persons with mental illnesses.<sup>30</sup> Furthermore, they recommended that the state implement and fund start-up costs for home-based and community-based services that are both evidence-based and cost-effective for persons with mental illnesses.<sup>31</sup>

In 2020, Indiana's Advisory Committee researched environmental justice and lead poisoning in the state.<sup>32</sup> The Advisory Committee put forth several recommendations. For instance, the Centers for Medicare and Medicaid Services should simplify the process for local health departments to bill Medicaid for the care of lead-poisoned children.<sup>33</sup> It also recommended that landlords

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<sup>24</sup> See Table 10.

<sup>25</sup> See Table 11.

<sup>26</sup> See Table 12.

<sup>27</sup> Connecticut Advisory Committee to the U.S. Commission on Civil Rights, Advisory Memorandum Recommending Legislation on Solitary Confinement in Connecticut, May 2, 2017, <https://www.usccr.gov/files/press/archives/correspd/05-02-17-Advisory-Memorandum.pdf> (herein Connecticut 2017 Report).

<sup>28</sup> Connecticut 2017 Report, p. 3.

<sup>29</sup> Maine Advisory Committee to the U.S. Commission on Civil Rights, The Criminalization of People with Mental Illnesses in Maine, May 2019, <https://www.usccr.gov/files/pubs/2019/07-30-Maine-Criminalization-Mental-Health.pdf> (herein Maine 2019 Report).

<sup>30</sup> Maine 2019 Report, p. 56.

<sup>31</sup> *Ibid.*, 57.

<sup>32</sup> Indiana Advisory Committee to the U.S. Commission on Civil Rights, Environmental Injustice: Lead Poisoning in Indiana, Nov. 2020, <https://www.usccr.gov/files/2020/2020-11-12-Report-Lead-Poisoning-in-Indiana.pdf> (herein Indiana 2020 Report).

<sup>33</sup> Indiana 2020 Report, p. 59.

receiving federal funds should be required to complete lead risk assessment and remediation in housing prior to occupancy.<sup>34</sup>

Many of the Advisory Committees have recommended that their reports be sent to the governor and state legislature to bring awareness and attention to the examined civil rights issue. In some instances, the respective legislature has passed legislation that coincides with the said report topic. As an example, the Connecticut Advisory Committee's report<sup>35</sup> in 2020 examined how the COVID-19 pandemic impacted adults 65 years and older in assisted care living facilities and nursing homes located in the state.<sup>36</sup> There was evidence that COVID-19 was having a disparate impact on nursing home populations, especially for residents of color.<sup>37</sup>

The Committee encouraged the Connecticut General Assembly to include the following six key components in any COVID-related legislation: (1) a clear definition of an "essential support person," which will designate individuals who can visit with the resident without obstruction by long-term care facilities; (2) a clear definition of a "person-centered plan of care" that is developed by a resident or resident representative in consultation with health professionals; (3) the establishment of a state-wide policy for visitation with a long-term care facility resident; (4) the affirmation of residents' civil rights and liberties by updating the resident bill of rights, including the right of residents to treat their rooms like their home and to use the technology of their choice in order to keep in communication with family and other essential persons to support social and emotional needs; (5) the maintenance of adequate staffing; and (6) the continued provision of personal protective equipment to residents and staff.<sup>38</sup> In Connecticut's 2021 session, the General Assembly passed Public Act 21-55,<sup>39</sup> Public Act No. 21-71,<sup>40</sup> and Public Act 21-185.<sup>41</sup> These three

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<sup>34</sup> Ibid., 60.

<sup>35</sup> U.S. Commission on Civil Rights, Memorandum of the Connecticut Advisory Committee on COVID-19 and Nursing Homes, Sept. 10, 2020, <https://www.usccr.gov/files/2020/2020-09-29-Connecticut-Nursing-Homes-and-Covid-19-Advisory-Memorandum.pdf> (herein Connecticut 2020 Advisory Memo)

<sup>36</sup> Connecticut 2020 Advisory Memo, p. 1.

<sup>37</sup> Ibid., 10.

<sup>38</sup> Connecticut Advisory Committee to the U.S. Commission on Civil Rights, Connecticut Advisory Legislative Update on Advisory Memorandum on Nursing Homes, Jul. 28, 2021, <https://www.usccr.gov/reports/2021/connecticut-advisory-legislative-update-advisory-memorandum-nursing-homes>, p. 2.

<sup>39</sup> HB No. 6634, Spec. Sess. (Conn. 2021); Public Act No. 21-55 (2021), An Act Strengthening the Bills of Rights for Long-term Care Residents and Authorizing the Use of Resident Technology for Virtual Visitation and Virtual Monitoring, <https://www.cga.ct.gov/2021/ACT/PA/PDF/2021PA-00055-R00SB-00975-PA.PDF>.

<sup>40</sup> SB No. 975, Reg. Sess., (Conn. 2021), Public Act No. 21-71 (2021), An Act Concerning Essential Support Persons and a State-Wide Visitation Policy for Residents of Long-Term Care Facilities, <https://www.cga.ct.gov/2021/ACT/PA/PDF/2021PA-00071-R00HB-06634-PA.PDF>.

<sup>41</sup> SB No. 1030, Spec. Sess. (Conn. 2021), Public Act No. 21-185 (2021), An Act Concerning Nursing Homes and Dementia Special Care Units, <https://www.cga.ct.gov/2021/ACT/PA/PDF/2021PA-00185-R00SB-01030-PA.PDF>.

Acts were signed into law by the Connecticut governor in June 2021<sup>42</sup> and July 2021.<sup>43</sup> These laws address all six components mentioned by the Advisory Committee.<sup>44</sup>

This 2022 Advisory Committee report was conducted to help shape a national conversation on current and future civil rights issues and identify civil rights priorities for the Commission, which may be helpful to policymakers, researchers, advocates, and other stakeholders. Moreover, this analysis sought to examine the breadth and depth of the qualitative landscape of work the Committees have amassed and will allow for insights on potential civil rights topics in the coming years.

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<sup>42</sup> *See supra* note 38.

<sup>43</sup> Connecticut Advisory Committee to the U.S. Commission on Civil Rights, Connecticut Advisory Legislative Update on Advisory Memorandum on Nursing Homes, Jul. 28, 2021, <https://www.usccr.gov/reports/2021/connecticut-advisory-legislative-update-advisory-memorandum-nursing-homes>.

<sup>44</sup> *Ibid.*

## Chapter 1: Introduction

### State and Territorial Advisory Committees: Composition and Function

The United States Commission on Civil Rights (Commission) is an independent, bipartisan, fact-finding federal agency that seeks to inform the development of national civil rights policy and enhance the enforcement of federal civil rights laws.<sup>45</sup> The Commission studies civil rights issues related to the deprivation of voting rights, or discrimination based on race, color, religion, sex, age, disability, national origin, or concerning the administration of justice.<sup>46</sup>

The Commission's unique statutory mandate affords it the opportunity to continue to enhance the enforcement of civil rights law and to appraise laws and policies of the federal government with respect to contemporary civil rights challenges. Per its 1957 statutory requirement, the Commission maintained 51 Advisory Committees: one Advisory Committee in each state and one in the District of Columbia.<sup>47</sup> In 2021, the Commission began to establish Advisory Committees in each of the five U.S. territories.<sup>48</sup>

Chartered under the Federal Advisory Committee Act (FACA),<sup>49</sup> as of the writing of this report, the Advisory Committees are comprised of Commission-appointed members, serving as

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<sup>45</sup> See *supra* note 3.

<sup>46</sup> See 42 U.S.C. § 1975a(1) (setting forth the jurisdiction of the Commission to “investigate allegations in writing under oath or affirmation relating to deprivations (A) because of color, race, religion, sex, age, disability, or national origin; or (B) as a result of any pattern or practice of fraud; of the right of citizens of the United States to vote and have votes counted”); see also 42 U.S.C. § 1975a(2), (mandating the Commission to “(A) study and collect information relating to; (B) make appraisals of the laws and policies of the Federal government with respect to; (C) serve as a national clearinghouse for information relating to; and (D) prepare public service announcements and advertising campaigns to discourage; discrimination or denials of equal protection of the laws under the Constitution of the United States because of color, race, religion, sex, age, disability, or national origin, or in the administration of justice.”).

<sup>47</sup> 42 U.S.C. § 1975a(d) (“The Commission shall establish at least one such [advisory] committee in each State and the District of Columbia composed of citizens of that State or District.”); see also, Section 105(c) the Civil Rights Act of 1957 notes that “[t]he Commission may constitute such advisory committees within States... as it deems advisable.” p. 3, <https://www.govinfo.gov/content/pkg/STATUTE-71/pdf/STATUTE-71-Pg634.pdf>.

<sup>48</sup> See *supra* note 5. “The territories of the United States are sub-national administrative divisions overseen by the U.S. federal government. The U.S. territories are not sovereign entities. There are five permanently inhabited, unincorporated territories, which include American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands. There are nine small islands, atolls, and reefs with no permanent population.” Wikipedia, Territories of the United States, [https://en.wikipedia.org/wiki/Territories\\_of\\_the\\_United\\_States](https://en.wikipedia.org/wiki/Territories_of_the_United_States); House Committee Report, H.R. Rep. No. 116-455, p. 138 (2020), <https://www.congress.gov/116/crpt/hrpt455/CRPT-116hrpt455.pdf> (noting that “Within the amount provided, the Committee directs the Commission to establish Advisory Committees in Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Northern Marianas Islands, as well as to provide for appropriate staffing and related costs).

<sup>49</sup> 5 U.S.C. App. §§ 1- 16. It should be noted that while the Advisory Committees were chartered under FACA, “[b]y May 1959 committees had been organized in all of the 50 States except Mississippi and South Carolina. Of the

representatives,<sup>50</sup> who advise and assist the Commission about civil rights at the state, district, and territory levels.<sup>51</sup> The Advisory Committees operate as the “eyes and ears”<sup>52</sup> of the Commission and have a unique perspective to advise the Commission about civil rights issues that impact their individual state, district, or territory.

Each Committee consists of eight to 19 members.<sup>53</sup> The Advisory Committee members meet quarterly and should provide report recommendations to the Commission at least once every two years.<sup>54</sup> These Committees play an essential role in advancing civil rights through comprehensive investigation, research, and analysis on issues of concern to the federal government and the public.<sup>55</sup> Moreover, these Committees also assist the Commission in its statutory obligation to serve as a national clearinghouse for information by publishing reports on state-related civil rights topics.<sup>56</sup>

To make processes uniform and consistent across all the Advisory Committees, the Commission has been developing a handbook. The handbook will:

- Provide information on the mission and jurisdiction of the Committees.<sup>57</sup>
- Detail the various organizations within the Committees.<sup>58</sup>
- Detail the function, purpose, and operation of the Advisory Committees.<sup>59</sup>
- Provide information on the Federal Advisory Committee Act.<sup>60</sup>

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344 citizens who have served on the Committees...” See “National Conference and the Reports of the State Advisory Committees to the U.S. Commission on Civil Rights,” 1960, p.6, <https://www2.law.umaryland.edu/marshall/usccr/documents/cr12st2959.pdf>. Additionally, prior to FACA’s enactment in 1972, in February 1962, former President Kennedy issued Executive Order (EO) 11007, which called on executive branch agencies to establish advisory committees. See <https://www.presidency.ucsb.edu/documents/executive-order-11007-prescribing-regulations-for-the-formation-and-use-advisory>. Following this EO, in May 1962, the Commission published a notice in the Federal Register that it was establishing State Advisory Committees pursuant to Section 105(c) of the above noted statute and Executive Order. Thus, the Commission’s use of state advisory committees long preceded the enactment of FACA. [on file]

<sup>50</sup> See *supra* note 8.

<sup>51</sup> 45 C.F.R. § 703.2 (explaining the functions of each Advisory Committee).

<sup>52</sup> U.S. Commission on Civil Rights, States and Territories, <https://www.usccr.gov/about/advisory-committees/applicants>.

<sup>53</sup> U.S. Commission on Civil Rights, Administrative Instructions 5-9 § 2.01 (June 27, 2016) [on file]. Advisory Committee Handbook Draft, p. 12 [on file].

<sup>54</sup> *Ibid.*, 9. [on file].

<sup>55</sup> *Ibid.*, 8.

<sup>56</sup> *Ibid.*

<sup>57</sup> *Ibid.*, 2.

<sup>58</sup> *Ibid.*

<sup>59</sup> *Ibid.*

<sup>60</sup> *Ibid.*

- Present the various processes of the Advisory Committees (i.e., the concept development stage,<sup>61</sup> the project proposal stage,<sup>62</sup> the methodology stage,<sup>63</sup> and the report writing stage<sup>64</sup>).

As required by Commission regulation, each Advisory Committee is overseen by a direct federal officer (DFO) and a support specialist (SS) who work with each respective committee on its selected topic and aids in the development of the report.<sup>65</sup> The DFO meets with each committee monthly and shepherds the members through the various stages of the report process. The end goal is to generate a report that is ready for the Advisory Committee's vote and publication.

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<sup>61</sup> Ibid., 12.

<sup>62</sup> Ibid., 13.

<sup>63</sup> Ibid.

<sup>64</sup> Ibid., 14.

<sup>65</sup> 45 CFR § 703.4.

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## Chapter 2: Advisory Committee Survey

The 2022 survey of the Advisory Committees represents the third survey conducted by the Commission. Previous surveys in 2010 and 2018 captured State Advisory Committee (SAC) members' viewpoints on which persistent civil rights issues were emerging and identified the priorities for the Commission; and how the perspective on these critical issues differs among states. Building upon history, this iteration of the Advisory Committee survey aimed to gather information and perspectives from Committee members about their state or territory for the next five years (2022-2027).

The 2022 survey utilized both closed and open-ended questions to examine all Advisory Committee members in the 50 States, the District of Columbia, and Puerto Rico. There are approximately 417 State Committee members and 14 Committee members in Puerto Rico. These Committees are composed of citizens from diverse backgrounds, skills, experiences, and perspectives and are selected for their familiarity with local and state civil rights issues. The survey asked questions regarding the members' geographic information and political affiliation, civil rights priorities, challenges in determining topic areas for investigation, challenges regarding the publication process, and an optional demographic section.

The 2022 quantitative portion of the survey aims to update the previous 2018 report: *Contemporary Civil Rights Challenges: A View from the State Advisory Committees*.<sup>66</sup> While the two surveys are not identical, they are similar enough to facilitate a comparison between the 2022 and 2018 responses to help the Commission look at indicators of ongoing critical issues from a national level. The overall aim of this report is to provide the Commission with vital information about the State and Territorial Advisory Committee members' processes and perspectives concerning selecting civil rights topics, reaching a consensus on recommendations, and approving reports.

### Methodology

The Commission invited all Advisory Committee members to complete the survey. This included approximately 431 participants.<sup>67</sup> Respondents received an introductory letter describing the study two weeks before receiving an email with a web link for the online survey.

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<sup>66</sup> U.S. Commission on Civil Rights, *Contemporary Civil Rights Challenges: A View from the State Advisory Committees*, Sept. 2018, <https://www.usccr.gov/reports/2018/contemporary-civil-rights-challenges-view-states-2018-survey-state-advisory-committees>.

<sup>67</sup> The Commission obtained the names and email addresses of approximately 417 State Advisory members and 14 Committee members in Puerto Rico. Of these, 10 members had incorrect email addresses, had no email address, were on leave from their place of business, or were no longer at the Commission.

In March 2022, the Commission administered a 28-question web-based questionnaire to approximately 407 Committee members across the 50 states and the District of Columbia; and a 17-question web-based questionnaire to the 14 Committee members in Puerto Rico. The respondents had approximately four weeks to complete the survey. The survey was divided into three sections:

- 1) Geographic Information and Committee Affiliation;
- 2) Information about the processes and perspectives concerning selecting civil rights issues to focus on; and,
- 3) Demographic information.

Respondents were required to answer questions in Sections One and Two, but Section Three was optional. The Commission requested this optional demographic information from the State and Territory Advisory Committee members for research purposes to help the Commission understand the demographics of the respondents and assess how the overall survey response data may break down into meaningful groups. All responses were kept confidential and collected in accordance with the Privacy Act and federal law.<sup>68</sup>

Any demographic data that respondents chose to provide are reported in statistical form only and the data offered in this report does not identify any specific individuals. Survey respondents were not asked to provide their names but were asked to identify which Committee they are members of, and in which city they currently reside. The information collected does not include personally identifiable information.<sup>69</sup>

Survey questions pertaining to civil rights issues and priorities were focused on four central themes:

- Committee members' views about how the civil rights areas within the Commission's statutory mandate<sup>70</sup> rank in order of importance;

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<sup>68</sup> See *System of Record Notice*, 40 Fed. Reg. 40787 (Sept. 3, 1975) (discussing authority to collect, and routine uses of, information collected in Commission and Advisory Committee projects).

<sup>69</sup> See OMB Circular A-130 defining PII as information that can be used to distinguish or trace an individual's identity, either alone or when combined with other information that is linked or linkable to a specific individual, <https://obamawhitehouse.archives.gov/sites/default/files/omb/assets/OMB/circulars/a130/a130revised.pdf>.

<sup>70</sup> As per 42 U.S.C. § 1975a(1) and 42 U.S.C. § 1975a (2) et seq., Congress charges the Commission to “investigate allegations in writing under oath or affirmation that citizens of the United States are being deprived of their right to vote and have that vote counted by reason of color, race, religion, sex, age, disability, or national origin,” and “(A) study and collect information relating to; (B) make appraisals of the laws and policies of the Federal government with respect to; (C) serve as a national clearinghouse for information relating to; and (D) prepare public service announcements and advertising campaigns to discourage discrimination or denials of equal protection of the laws under the Constitution of the United States because of color, race, religion, sex, age, disability, or national origin, or in the administration of justice.”

- A comparison of current members' views regarding the most critical civil rights issues ranked by order of importance in 2022 compared to those identified by Committee members in 2018;
- Committee members' views about what specific civil rights issues are most important (that fall within or outside of the Commission's statutory mandate) and should be prioritized by the Commission within the next year; and,
- Committee members' views about what specific civil rights issues (that fall within or outside of the Commission's statutory mandate) are emerging in importance and should be prioritized by the Commission over the next five years.

More than half of the respondents (180) completed the responses before the Commission sent the final reminder notice to the members who, at that time, did not return the questionnaire, extending the study by a week. The 2022 survey had a total of 213 responses, which equates to a 53 percent response rate.<sup>71</sup> By comparison, the 2018 survey had a 24 percent overall response rate.

## Participants

The 2022 survey differed from the 2018 iteration in many ways. For instance, the demographic snapshot in the 2022 questionnaire differed from the 2018 study. In 2018 all States had active Committees, and members from each committee participated in the questionnaire; compared to 2022, where 17 States did not participate in the survey because they were not active or had an expired Committee during the data collection period.<sup>72</sup> The optional demographic section was requested to aid the Commission in better understanding the characteristics of the Advisory Committees. In this study, respondents had a completion rate of 100 percent; however, since the survey was voluntary, respondents were able to skip questions. Therefore, aggregated percentages may not equal 100 percent.

The data revealed that 40.6 percent of the respondents categorized themselves as living in a large city. In comparison, 28 percent live in a suburb near a large city, 25 percent live in a small city or town, and 5.8 percent resided in rural areas. The respondents were almost equal in terms of gender breakdown, with women constituting 47.1 percent and men at 51.3 percent. When asked about their religious affiliation, more than half (61.3 percent) of the respondents were Christians, and

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<sup>71</sup> The data for this survey was collected from answers submitted for questions (i.e., questions in Sections 1 and 2), and the respondents submitted the survey electronically upon completion.

<sup>72</sup> 17 states: Alabama, Alaska, Colorado, Hawaii, Idaho, Louisiana, Michigan, Missouri, Montana, New Hampshire, New Jersey, North Dakota, Ohio, Oklahoma, Rhode Island, Utah, and Vermont did not have committee members. Note: The Commission omitted Puerto Rico's demographic information in the results to maintain data confidentiality.

less than one-fifth (18.3 percent) had no religious affiliation, 8.1 percent chose “other,”<sup>73</sup> 5.9 percent answered Atheist/Agnostic, 4.8 percent were Jewish, and 1.6 percent were Islamic.

Of those who answered the political affiliation question: 44.6 percent were Democrats, 21.5 percent were Republicans, and 29.0 percent reported they were Libertarian, Independent, or had no political affiliation. The political affiliation question was the most skipped item in the survey; with 8 percent of the respondents not answering the question. Similarly, a few respondents wrote “choose not to answer” or “prefer not to answer.”

Among the respondents, 13.8 percent identified themselves as having a physical, mental development, or behavioral disability. The most dominant native language was English (92.6 percent), followed by Arabic (1.6 percent), with French and French Creole (including Patois and Cajun), German, Korean, Russian, and Tagalog (including Filipino) equally represented (2.5 percent). A majority of the respondents (87.2 percent) identified themselves as heterosexual, 4.28 percent identified as gay, 2.4 percent were bisexual, and 5.4 percent preferred not to answer the question.

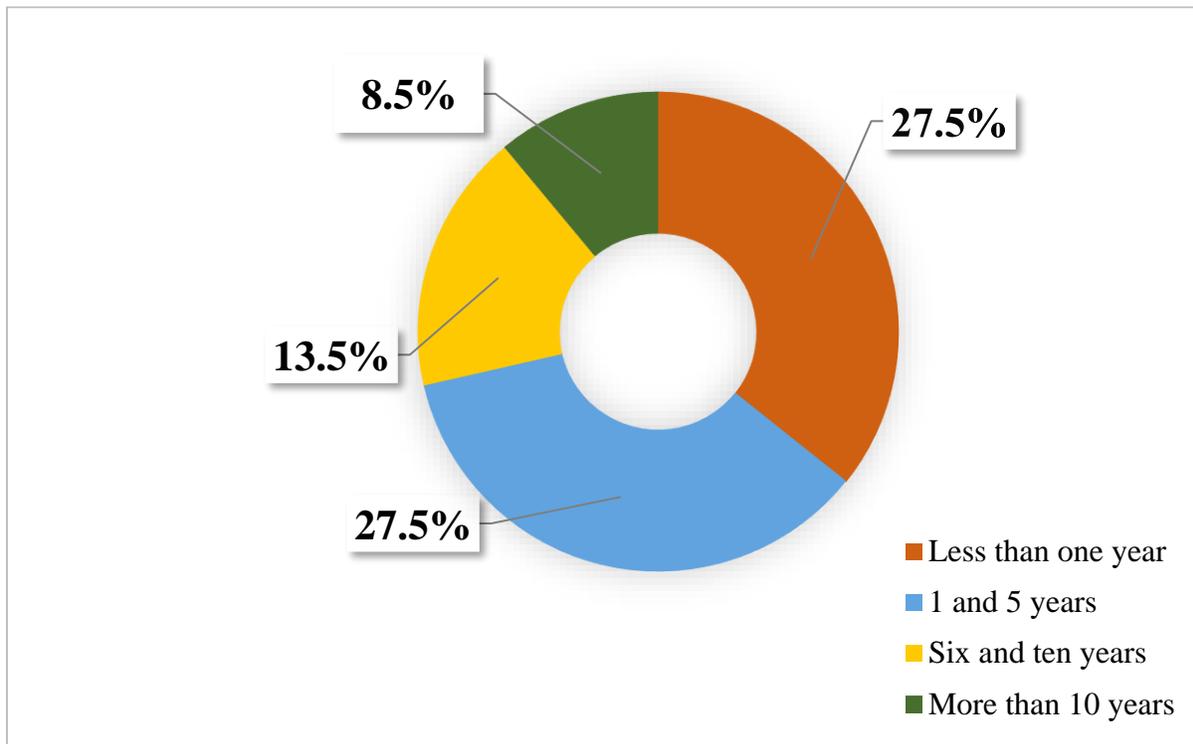
In terms of highest educational attainment, more than half (68.4 percent) of the respondents have a professional (JD, MD, DDS) or doctoral (Ph.D., EdD) degree, 27.6 percent have a bachelor’s and a master’s degree, and 4.1 percent have a high school diploma or an associate’s degree. A majority of the respondents (57.5 percent) considered themselves White or Caucasian, 20 percent were Black or African American, and five percent were Asian or Asian American. Three percent were American Indian or Alaska Native, and 14.5 percent were of two or more races. In all, 11.7 percent of the Committee respondents reported being Hispanic or Latino/Latina/Latinx. The most prominent age category was 55-64 (27.8 percent), followed closely by the 45-54 age range (22.5 percent) and the 35-44 age range, which represented 20.3 percent of the respondents.<sup>74</sup>

Respondents had different experiences with the length of time on their respective Advisory Committee. Half (50.5 percent) of the respondents have served on an Advisory Committee for “1 to 5 years,” with the next highest category being respondents with “less than one year” of service (27.5 percent), and those with “6-10 years” accounting for (13.5 percent) of the respondents. Those on a committee for more than ten years represent the smallest percentage of respondents, making up 8.5 percent. See Figure 1 below for the tenure breakdown of the survey participants.

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<sup>73</sup> These responses included members identifying themselves as Catholics and Roman Catholics, specifying particular Christian denominations, being “spiritual” but not religious, holding African ancestral beliefs, Unitarian, and Mormon.

<sup>74</sup> The data for this survey was collected from answers submitted for mandatory questions (i.e., questions in Sections 1 and 2, Section 3 was optional), and respondents submitted the survey electronically upon completion. Respondents answered (100%) of the optional questions in Section 3.

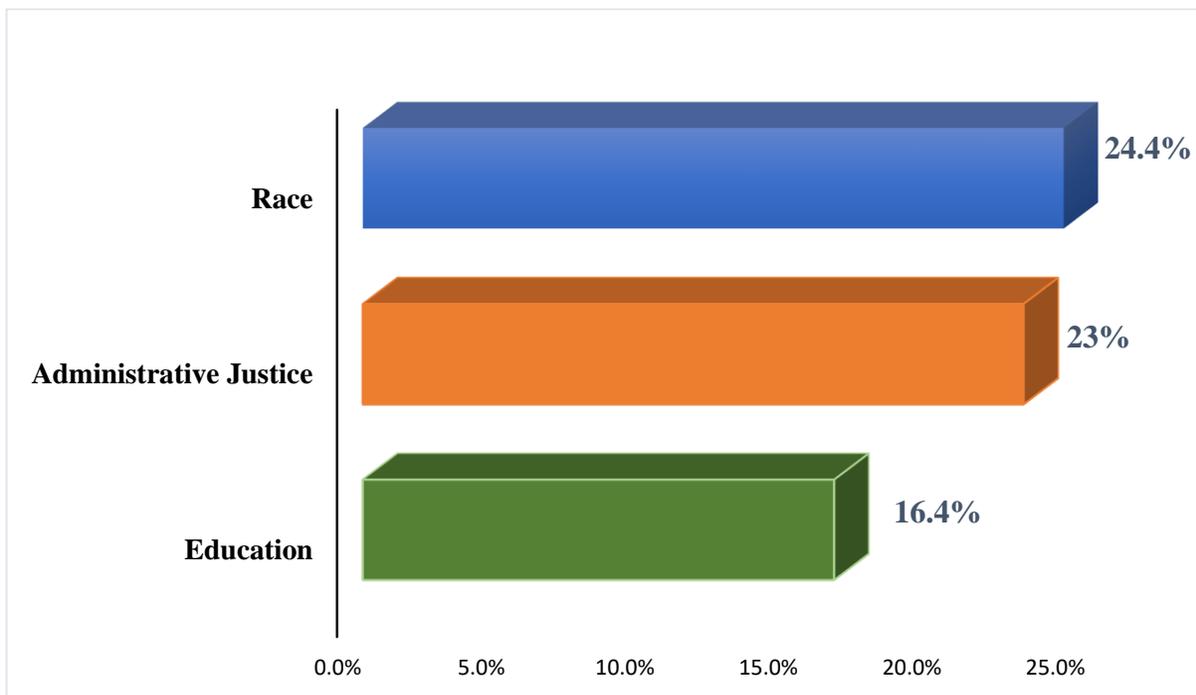
**Figure 1: Respondents' Length of Time as an Advisory Committee Member**

In the 2022 survey, the Texas Advisory Committee had the highest number of respondents (13 respondents out of 15 members) of any state, whereas Missouri topped the list with the highest number of responses (11) in the 2018 survey. Other states with a high number of respondents in 2022 were Mississippi (12), Indiana, Kansas, Minnesota, and Nebraska, with an equal number of eight respondents.

### **Current Civil Rights Priorities: A Nationwide Perspective**

As a component of the 2022 survey, the Commission requested that members rank the top three civil rights topics (within the Commission's statutory jurisdiction<sup>75</sup>) in order of current importance ("1" being the area of highest importance). State Advisory respondents indicated that race is, at this time, the area of the highest importance, followed by administration of justice, and education (24.4, 23, and 16.4 percent, respectively). See Figure 2 below for the top three State Advisory Committee civil rights areas.

<sup>75</sup> 42 U.S.C. § 1975a.

**Figure 2: Members' Ranking of Importance of Civil Rights Topics for Investigation**

The 2022 survey respondents were also asked to rank the top five civil rights topics that were identified in 2018 for the Commission to investigate, to determine if there was a shift between 2018 and 2022. The respondents identified voting rights as the lead priority, with 29 percent of respondents indicating it as the current topic with the highest importance. Followed by freedom of expression (14.7 percent), criminal justice (14.5 percent), education (13.9 percent), and civil rights and enforcement (12.2 percent).<sup>76</sup> See Table 1 below.

By comparison, in 2018 respondents selected education as the top priority (25.8 percent), along with criminal justice, voting rights, freedom of expression, and civil rights engagement. Table 1 below displays how the 2018 priorities compare to the current survey, when participants were asked the same question. Although the overall composition of the committees changed over the four years, it is likely that at least 22 percent of the respondents who have been committee members for six or more years and completed the 2022 survey, also completed the 2018 survey. In the 2022 survey, education was no longer the top priority of the SACs and was replaced with voting rights. These results show a slight shift in the national perspective on important civil rights topics in 2022 from the 2018 responses.

<sup>76</sup> The data for this survey was collected from answers submitted for mandatory questions (i.e., questions in Sections 1 and 2) and the survey was submitted electronically upon completion.

**Table 1: National State Advisory Committee Perspectives: Ranking of Priority Civil Rights Topics in 2018, Remain Priority in 2022**

	2022 <sup>77</sup>		2018 <sup>78</sup>
<b>Voting Rights</b>	<b>29.0%</b>	Education	<b>25.8%</b>
<b>Freedom of Expression</b>	<b>14.7%</b>	Criminal Justice	<b>22.5%</b>
<b>Criminal Justice</b>	<b>14.5%</b>	Voting Rights	<b>19.2%</b>
<b>Education</b>	<b>13.9%</b>	Freedom of Expression	<b>17.0%</b>
<b>Civil Rights Enforcement</b>	<b>12.2%</b>	Civil Rights Enforcement	<b>15.4%</b>

\*Due to differences in participation rates and the number of responses for each question, percentages will not equal 100%.

When the 2018 survey was distributed, the Commission had not yet established Advisory Committees in any of the U.S. territories; therefore, comparing previous priorities of Territory Advisory Committee members' responses was not possible.<sup>79</sup>

In 2018, all survey respondents were also asked to rank civil rights issues that were important to their state but did not necessarily fall under the Commission's jurisdiction. For example, respondents selected access to health care, LGBTQ rights, public employees' rights with respect to union representation, and poverty and how it hinders the exercise of civil rights. The 2022 survey replicated this question to assess if there was a shift in these priorities as well.<sup>80</sup> In the 2022 survey, education no longer was considered the highest importance for the states. In this noticeable departure from the higher-rated priorities in 2018, respondents in the 2022 survey overwhelmingly believed that the more critical topics were those of civil rights enforcement (21 percent), followed by emerging state issues (15.5 percent), which was ranked higher than freedom of expression that was previously a priority in 2018 but remains important in 2022. Some members provided qualitative responses explaining their ranking decisions, such as one member from the Massachusetts Advisory Committee who wrote:

I cannot think of a brief explanation, but accountability for civil rights violations is critical for all other issues on this list – if there are no consequences, then it signals that certain policies and practices are at a minimum tolerated.<sup>81</sup>

<sup>77</sup> The data for this survey was collected from answers submitted for mandatory questions (i.e., questions in Sections 1 and 2) and the survey was submitted electronically upon completion. Seven respondents skipped answering this question

<sup>78</sup> See U.S. Commission on Civil Rights, *Contemporary Civil Rights Challenges: A View from the State Advisory Committees*, 2018.

<sup>79</sup> The Advisory Committees for Puerto Rico, Guam, American Samoa, and the U.S. Virgin Islands were established in 2022; however, Puerto Rico was the only Advisory Committee established at the time of data collection.

<sup>80</sup> See U.S. Commission on Civil Rights, *Contemporary Civil Rights Challenges: A View from the State Advisory Committees*, 2018.

<sup>81</sup> Member of the Massachusetts Advisory Committee to the U.S. Commission on Civil Rights.

Similarly, another member from the Pennsylvania Advisory Committee explained: “I think that protecting and advancing civil rights requires greater attention to structural forces that contribute to inequities.”<sup>82</sup> Additionally, another member from Massachusetts explained their reasoning this way: “The top 10 topics are longstanding issues that this state pretends to address but always falls short on doing anything meaningful to ensure that people are experienc[ing] equality under the law.”<sup>83</sup>

Comparing the 2018 results to the 2022 results show that voting rights remain an essential and a “top-five” priority for civil rights topics in the states. In fact, the importance of the topic has increased over the past four years to Committee members, increasing from 19 percent in 2018 to 29 percent in 2022 (see Table 1). Respondents suggest that the reason that it is more crucial in 2022 is that “significant doubts remain about the integrity of the 2020 election and the use of extra-legal methods of voting.”<sup>84</sup> Another member explained their reasoning like this:

Voicing one’s opinion at the ballot box without undue constraints affects many other rights. Therefore, the right to equal access to the ballot box is paramount. Education and equal access to training opportunities for youth help ensure a wide pool of qualified candidates in the state and has an impact on crime. Employment and the right to earn a fair wage has a direct bearing on all families. Without a fair opportunity to vote, receive a solid education, and the right to earn a livable wage, people—in particular, people of color who are oftentimes disproportionately affected by policies guiding these areas, are denied opportunities which give them a chance to become productive members of society.<sup>85</sup>

A comparable pattern emerged with the respondents when they were asked to identify and rank five emerging civil rights topics of importance that should be a priority of the state in the next five years (i.e., 2022-2027).<sup>86</sup> A substantial percentage of the respondents agreed that voting rights (23 percent) was the current topic with the highest importance for the states, followed by education (14.1 percent), criminal justice (11.1 percent), education (10.6 percent), and healthcare (11.5 percent). Education appeared multiple times in the ranked choices, due to many respondents not ranking these topics; therefore, upon aggregating the responses, the topic of education became the second and fourth choice among State Committee members. Moreover, while education in fourth place had fewer responses than the fifth-place choice of healthcare, there was a higher percentage of respondents who felt that healthcare should be placed fifth (10.6 percent, 11.5 percent, respectively). See Figure 3, which displays how the civil rights areas ranked among the respondents.

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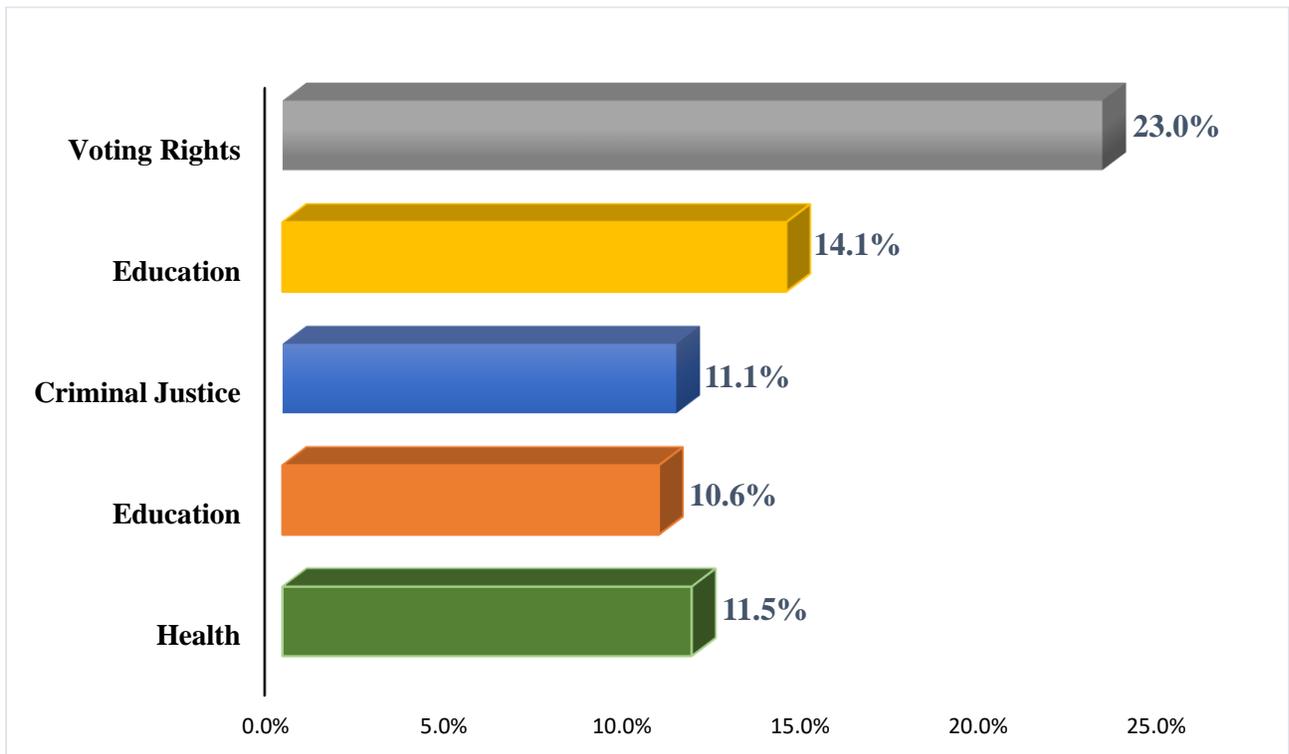
<sup>82</sup> Member of the Pennsylvania Advisory Committee to the U.S. Commission on Civil Rights.

<sup>83</sup> Member of the Massachusetts Advisory Committee to the U.S. Commission on Civil Rights.

<sup>84</sup> Member of the Florida Advisory Committee to the U.S. Commission on Civil Rights.

<sup>85</sup> Member of Mississippi Advisory Committee to the U.S. Commission on Civil Rights.

<sup>86</sup> Members were asked to list and rank topics from “1” to “5” – with 1 being the top importance.

**Figure 3: Ranking of Civil Rights Areas Within the Commission’s Statutory Mandate<sup>87</sup>**

Like the State Advisory Committee respondents’ answers, the Territorial Advisory Committee members were asked to identify and rank the top five emerging civil rights topics of importance. The respondents overwhelmingly chose voting rights as the highest priority, followed by civil rights enforcement as the second and fifth choice. Moreover, the issue of voting rights was so significant that respondents chose that topic as their first, third, and fourth choice in the order of preference.

### **Current Processes and Perspectives from the States and Territory**

In order to serve as the “eyes and ears” of the Commission and provide insight on important civil rights issues at the state, local, and territorial levels, Committees conduct their own investigations and publish reports. These reports utilize five distinctive stages (i.e., identifying concepts, proposal development, research and investigation, report writing, and vote), and if a report receives the support of the majority of the Committee members,<sup>88</sup> this results in the publication and release of

<sup>87</sup> The data for this survey was collected from answers submitted for mandatory questions (i.e., questions in Sections 1 and 2) and the survey was submitted electronically upon completion. Out of 200 respondents, 16 did not provide information on the second choice, 28 did not provide information on the third choice, 58 did not provide information on the fourth choice, and 78 did not provide information on the fifth choice. Therefore, upon aggregating the responses the topic of education became the second and fifth choice among Committee members.

<sup>88</sup> See generally, U.S. Commission on Civil Rights, Administrative Instruction 5-7, June 2020 [on file].

the report. These reports can then serve as possible recommendations regarding topics for the Commission to take up for investigation at the national level.

Therefore, as another component of this examination, the Commission looked at what mechanism or “type” of processes Committees utilize to examine, advance, and prioritize civil rights issues in their respective state or territory. The 2022 survey sought to ask questions about the report investigation and writing process to identify possible challenges within these stages as well as highlight which processes members consider successful.

### *Reaching Consensus on Investigating Topics*

When the respondents were asked “what challenges does your SAC face in approving civil rights topics to investigate in your state,”<sup>89</sup> about half of the respondents (50 percent) identified no challenges. Twenty percent of respondents reported “time constraints” and 14.5 percent reported “not having a meeting” was a challenge for approving civil rights topics. Out of the 200 respondents, 46 indicated “other” and of these, almost half (47.8 percent) wrote in that political bias prevents them from approving a civil rights topic for investigation. Analyzing the members’ qualitative responses, several believed there is “political bias amongst most SAC members.”<sup>90</sup> One member wrote: “there are such diverse opinions, it seems individual bias comes into play before we do any research.”<sup>91</sup> Additionally, another member wrote: “the increased political nature of all issues has made selecting a topic more difficult than in prior years.”<sup>92</sup>

In addition, respondents were asked what processes their State Advisory Committee has developed and used to reach an agreement on a research topic. Most of the respondents (37.5 percent) said they use democratic voting, followed by consensus (27 percent). Fifteen percent used a combination of both consensus and vote, 6.5 percent were new to their respective committee or had not gone through the process at the time of the survey, and 5.5 percent of the respondents had not used any formal process when determining a civil rights topic for investigation. Since Puerto Rico’s members had not yet gone through the report process at the time of the survey, 64.3 percent indicated that they would use a democratic vote, followed by reaching a consensus (28.6 percent), or demonstrate “equal rights under the law for Americans living in Territories” (7.1 percent).

The survey also asked members if the onset of the COVID-19 pandemic had affected their methods for reaching a consensus on civil rights topics. The overwhelming majority of the respondents (80 percent) said that the pandemic had not impacted their methods for reaching a consensus. However, some respondents (28.2 percent) said that the pandemic changed how their Committee reached a

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<sup>89</sup> Respondents were asked to choose an answer from the following options: no challenges identified, having meetings, time constraints, majority consensus, or select “other” to define their answers.

<sup>90</sup> Member of the Texas Advisory Committee to the U.S. Commission on Civil Rights.

<sup>91</sup> Member of the California Advisory Committee to the U.S. Commission on Civil Rights.

<sup>92</sup> Member of the Tennessee Advisory Committee to the U.S. Commission on Civil Rights.

consensus because no in-person meeting took place during the pandemic. Other respondents (38.4 percent) were unsure if anything had changed because they were new Committee members.

### *Processes Developed and Used in Publishing a Report*

When respondents were asked what challenges their Advisory Committee faced in approving reports in their state,<sup>93</sup> more than half the respondents (58 percent) reported: “no challenges identified.” Twenty-four percent selected the “other” option, of which 37.5 percent responded that they “had no reports yet,” 18.8 percent were new to their respective Committees, and another 18.8 percent of respondents suggested that political bias is a factor in delaying the approval of civil rights reports on their Committees. Just as important, 35 percent rated a consensus as favorable in terms of processes used by members to develop a report, followed by 25.6 percent indicating a preference for a democratic vote. By comparison, 15.5 percent indicated that no formal process has been established and 11 percent had not published a report.

### *Solutions to Overcome Disagreements*

Although 25 percent and 23.5 percent of the respondents report that their State Advisory Committees have used consensus and democratic vote to overcome disagreements and move forward with approving reports and making recommendations (respectively), a few (9 percent) said they do not have a formal process to solving disagreements. When the respondents were asked what they would change in how their committees advance civil rights issues, a significant percentage (42.7 percent) indicated that “no changes” were needed. About a fifth (20.1 percent) responded that they would expand the topic options, and the same number of respondents would streamline the process. Approximately one quarter (27.1 percent) of the respondents were concerned with other factors that influence advancing civil rights issues. The respondents’ comments are summarized in the chart below (see Table 2).<sup>94</sup>

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<sup>93</sup> Respondents were asked to choose an answer from the following options: no challenges identified, having meetings, time constraints, majority consensus, or selected “other” to write in their answers.

<sup>94</sup> The data for this survey was collected from answers submitted for mandatory questions (i.e., questions in Sections 1 and 2) and the survey was submitted electronically upon completion.

**Table 2: Respondent’s Perspectives Challenges in Advancing Civil Rights Topics<sup>95</sup>**

<b>Topic Selection Process</b>	<b>42.59%</b>
<b>Having a Meeting</b>	<b>22.22%</b>
<b>Having a New Chair</b>	<b>9.26%</b>
<b>Potential Bias</b>	<b>9.26%</b>
<b>More Civil Rights Focus</b>	<b>7.41%</b>

### Regional Perspectives

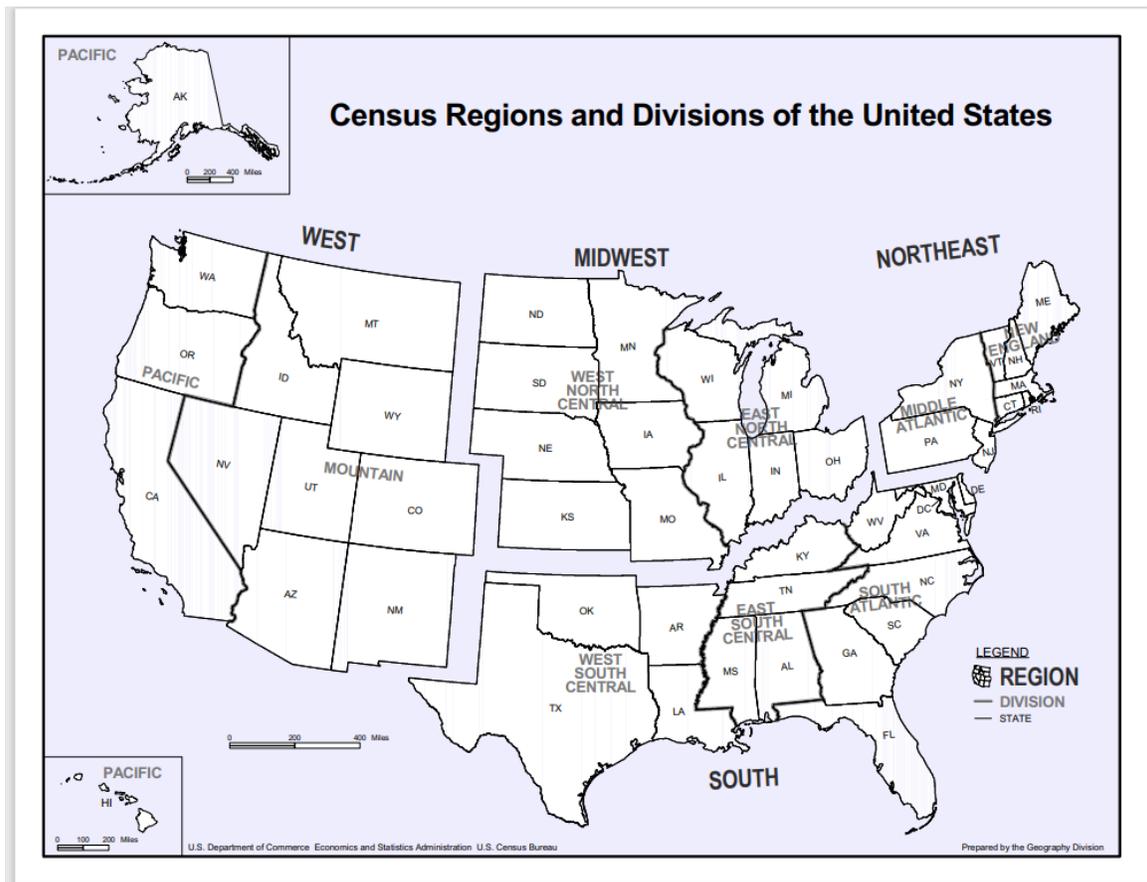
While the Advisory Committees do not collectively work together in their respective regional groups, survey data suggest that there may be some patterns or similarities across states.<sup>96</sup> These data are discussed below. In this section, the 2022 survey results are grouped by states and the District of Columbia based on the Census Bureau’s four regions: Northeast, Midwest, South, and West.<sup>97</sup>

<sup>95</sup> Out of 200 respondents, one respondent skipped the questions.

<sup>96</sup> The Commission does not group Advisory Committees by region nor is there any cross-collaboration on the selection of topics among the various Committees. The regional analysis was done to examine possible correlations across states that are located in similar geographic areas and is purely observational. The regions were selected based on U.S. Census regional categorizations, which divides the United States into four regions, which includes the West, Midwest, Northeast, and South.

<sup>97</sup> See Census, “Geographic Levels: Regions and Divisions,” Oct. 8, 2021, [https://www.census.gov/programs-surveys/economic-census/guidance-geographies/levels.html#par\\_textimage\\_34](https://www.census.gov/programs-surveys/economic-census/guidance-geographies/levels.html#par_textimage_34).

**Figure 4: Census Regions and Divisions of the United States**



Census Regions and Divisions of the United States, October 2021,

[https://www2.census.gov/geo/pdfs/maps-data/maps/reference/us\\_regdiv.pdf](https://www2.census.gov/geo/pdfs/maps-data/maps/reference/us_regdiv.pdf).

Each Committee was grouped into the following regions:

- The West includes 13 states: Alaska (AK), Arizona (AZ), California (CA), Colorado (CO), Idaho (ID), Hawaii (HI), Montana (MT), Nevada (NV), New Mexico (NM), Oregon (OR), Utah (UT), Washington (WA), and Wyoming (WY).
- The Midwest (MW) comprises 12 states: Illinois (IL), Indiana (IN), Iowa (IA), Kansas (KS), Michigan (MI), Minnesota (MN), Missouri (MO), Nebraska (NE), North Dakota (ND), Ohio (OH), South Dakota (SD), and Wisconsin (WI).
- The Northeast (NE) represents 9 states: Connecticut (CT), Maine (ME), Massachusetts (MA), New Hampshire (NH), New Jersey (NJ), New York (NY), Pennsylvania (PA), Rhode Island (RI), and Vermont (VT).
- The South includes 16 states and the District of Columbia: Alabama (AL), Arkansas (AR), Delaware (DE), District of Columbia (DC), Florida (FL), Georgia (GA), Kentucky (KY),

- Louisiana (LA), Maryland (MD), Mississippi (MS), North Carolina (NC), Oklahoma (OK), South Carolina (SC), Tennessee (TN), Texas (TX), Virginia (VA), West Virginia (WV).

The profile highlights the Committee members' perspectives and compares the differences between the states. The Commonwealth of Puerto Rico results are not part of the regional division reporting and will be reported separately. Advisory committees in 17 States<sup>98</sup> did not participate during the 2022 survey because the members were not active, or the committee expired before the data collection period (see Table 3).

**Table 3: State with SAC Members who Provided Survey Responses<sup>99</sup>**

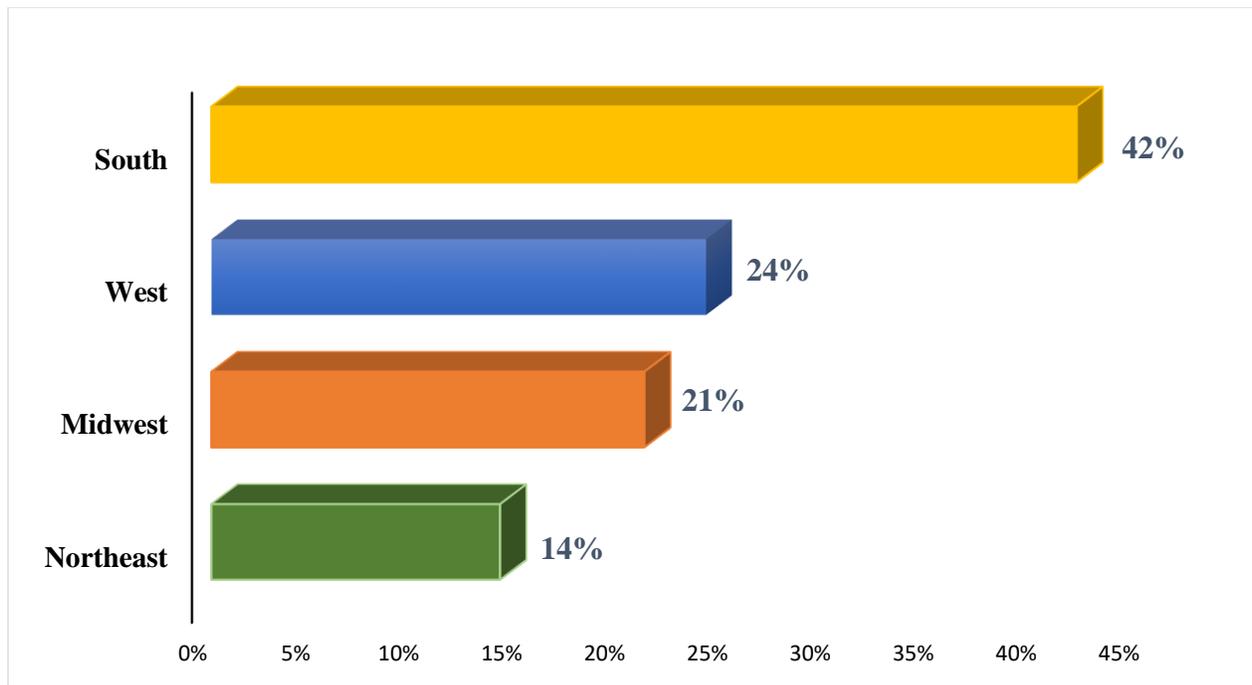
<b>*Alabama</b>	<b>Illinois</b>	<b>*Montana</b>	<b>*Rhode Island</b>
<b>*Alaska</b>	Indiana	Nebraska	South Carolina
<b>*Arizona</b>	Iowa	Nevada	South Dakota
<b>Arkansas</b>	Kansas	<b>*New Hampshire</b>	Tennessee
<b>California</b>	Kentucky	<b>*New Jersey</b>	Texas
<b>*Colorado</b>	<b>*Louisiana</b>	New Mexico	<b>*Utah</b>
<b>Connecticut</b>	Maine	New York	<b>*Vermont</b>
<b>Delaware</b>	Maryland	North Carolina	Virginia
<b>District of Columbia</b>	Massachusetts	<b>*North Dakota</b>	Washington
<b>Florida</b>	<b>*Michigan</b>	<b>*Ohio</b>	West Virginia
<b>Georgia</b>	Minnesota	<b>*Oklahoma</b>	Wisconsin
<b>*Hawaii</b>	Mississippi	Oregon	Wyoming
<b>*Idaho</b>	<b>*Missouri</b>	Pennsylvania	

\*States without committee members during the 2022 survey data collection

Figure 5 below offers a snapshot of the participation rates of the regions grouped by states and the District of Columbia.

<sup>98</sup> Alabama, Alaska, Colorado, Hawaii, Idaho, Louisiana, Michigan, Missouri, Montana, New Hampshire, New Jersey, North Dakota, Ohio, Oklahoma, Rhode Island, Utah, and Vermont.

<sup>99</sup> The data for this survey was collected from answers submitted for mandatory questions (i.e., questions in Sections 1 and 2) and the survey was submitted electronically upon completion.

**Figure 5: Number of Respondents in the 2022 Survey Results**

The South had the most sizable number of respondents in the 2022 survey (41.5 percent), followed by the West (24 percent), the Midwest (20.5 percent), and the Northeast (14 percent).

#### *Profile of States in the Northeast*

As the chart above shows, the Northeastern states had a 14 percent response rate in the 2022 survey. Nine states make up this regional group.<sup>100</sup> A broad look at the demographic breakdown, of the respondents who answered the optional questions, results show that a majority of the members are women (65.4 percent), reported that they live in a large city (53.9 percent), and 64.3 percent have been a Committee member between one and five years. Of the four regions, the Northeast had the highest number of respondents among the “45-54” or any other age group to respond in the 2022 survey at 38.5 percent.

In terms of civil rights priorities, the members in this region reported that criminal justice, civil rights enforcement, education, housing, and accessibility were the top five topics in 2018, and they remained the top five topics of importance in the 2022 survey. The members in the Northeast

<sup>100</sup> The Northeast states are Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont.

region also reported that voting rights, criminal justice and policing (tied for second), housing, and healthcare were the top five emerging topics for their states over the next five years (2022-2027).

### *Profile of States in the Midwest*

Figure 5 above shows that Midwestern states had a 20.5 percent response rate in the 2022 survey. Twelve states make up this regional group.<sup>101</sup> A broad look at the demographic breakdown, of the respondents who answered the optional questions, results show that a majority of the members are male (64.1 percent), reported that they live in a large city (35.9 percent), and 46.3 percent of the respondents have been a Committee member between one and five years.

In terms of civil rights priorities, the members in this region reported that education, civil rights enforcement, criminal justice, voting rights, and hate crimes and/or hate speech were the top five topics in 2018, and they remained the top five topics of importance in the 2022 survey. The members in the Midwest region reported that policing, voting rights, housing, civil justice and freedom of speech (equally), and hate crimes, religious rights, and voting rights (equally) were the top five emerging topics for their states over the next five years (2022-2027).

### *Profile of States in the South*

Figure 5 above shows that Southern states had a 41.5 percent response rate in the 2022 survey. Seventeen states make up this regional group.<sup>102</sup> Regarding demographics, of the respondents who answered the optional questions, results show that a majority of the members are male (53.8 percent), reported that they live in a large city and a suburb near a large city equally (35.4 percent), and 45.8 percent have been SAC members between one and five years.

In terms of civil rights priorities, the members in this region reported that criminal justice, education, civil rights enforcement, housing, and healthcare were the top five topics in 2018, and they remained the top five topics of importance in the 2022 survey. The SAC members in the South also reported that voting rights, education, civil justice, education, (equally civil rights, criminal justice, and healthcare) were the top five emerging topics for their states over the next five years (2022-2027).

### *Profile of States in the West*

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<sup>101</sup> The Midwest includes Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, and Wisconsin.

<sup>102</sup> South includes Alabama, Arkansas, Delaware, the District of Columbia, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and West Virginia.

Figure 5 above shows that Western states had a 24 percent response rate in the 2022 survey. Thirteen states make up this regional group.<sup>103</sup> Regarding demographics, of the respondents who answered the optional questions, results show that a majority of the members are female (50 percent), they live in a large city (46.5 percent), and 54.2 percent have been a Committee member between one and five years.

In terms of civil rights priorities, the members in this region reported that education, civil rights enforcement, criminal justice, voting rights, and hate crimes and/or hate speech were the top five topics in 2018, and they remained the top five topics of importance in the 2022 survey. The members in the Western region also reported that voting rights, education, (equally administrative justice, education, and healthcare), immigration rights, and religious rights were the top five emerging topics for the territory over the next five years (2022-2027).

### *Profile of Puerto Rico*

Puerto Rico was the only Advisory Committee that had each of their members participate in the 2022 survey.<sup>104</sup> In terms of the demographic breakdown of the members, results show that the majority of the members are male (78.6 percent), and they live in a large city (53.9 percent). As stated previously, the Puerto Rico Territory Advisory Committee (TAC) was newly established, therefore, all members are new to the Committee.

In terms of civil rights priorities, the members of the Puerto Rico TAC reported that education, civil rights engagement, government services, benefits, and funding, accessibility, and domestic abuse/violence were the top five topics in 2022. Some of the qualitative responses regarding currently pressing civil rights topics for Puerto Rico included the need to strengthen democracy through political inclusion, equal rights under the law, and systemic discrimination in federal benefits programs. The members also reported that voting rights, civil rights/equal treatment, voting rights (in third and fourth in the order of preference), and civil rights enforcement were the top five emerging topics for the commonwealth over the next five years (2022-2027).

### **State-by-State Perspective**

Table 4 describes how the participating states and the District of Columbia ranked the top emerging topics for the next five years, with “1” being the area of the highest importance. The 2022 survey results identified no single area of the highest importance for civil rights topics in 10 states: Illinois, Maine, Massachusetts, Mississippi, Nebraska, North Carolina, Oregon, South Dakota, Virginia,

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<sup>103</sup> The West includes Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming.

<sup>104</sup> Note: while all the members of the Puerto Rico Advisory Committee participated in the 2022 survey, three respondents skipped some questions in the mandatory sections.

and Wisconsin. The boxes below with more than one priority indicate that the respondents gave multiple answers without a clear majority ranking.

**Table 4: Top Civil Rights Emerging Topics Over the Next Five Years 2022-2027 Identified by State<sup>105</sup>**

	1 <sup>st</sup> Priority	2 <sup>nd</sup> Priority	3 <sup>rd</sup> Priority	4 <sup>th</sup> Priority	5 <sup>th</sup> Priority
<i>Arizona</i>	Voting	Criminal Justice	Civil Rights Discrimination Economics Healthcare Immigration	Native American	Healthcare
<i>Arkansas</i>	Discrimination	Civil Rights Education Religious Rights	LGBTQ	Disability	Criminal Justice
<i>California</i>	Housing	Housing	Education	Employment Healthcare Immigration LGBTQ Native American Pay Equality Racism	Admin of Justice Civil Rights Criminal Justice Education Freedom of Speech Religious Rights
<i>Connecticut</i>	Housing	Criminal Justice Education Healthcare Housing Policing Transportation	Voting	Healthcare	Civil Justice
<i>Delaware</i>	Housing	Education	Education	Housing	Civil Rights Criminal Justice
<i>District of Columbia</i>	Disability	Disability	Discrimination	Criminal Justice Economics Housing	Education LGBTQ
<i>Florida</i>	Voting Rights	Criminal Justice	Education Voting Rights	Housing LGBTQ	Civil Rights Discrimination

<sup>105</sup> The data for this survey was collected from answers submitted for mandatory questions (i.e., questions in Sections 1 and 2) and the survey was submitted electronically upon completion. Sixteen states (Alabama, Alaska, Colorado, Hawaii, Idaho, Louisiana, Michigan, Montana, New Hampshire, New Jersey, North Dakota, Ohio, Oklahoma, Rhode Island, Utah, and Vermont) did not have committee members.

	1 <sup>st</sup> Priority	2 <sup>nd</sup> Priority	3 <sup>rd</sup> Priority	4 <sup>th</sup> Priority	5 <sup>th</sup> Priority
<i>Georgia</i>	Voting Rights	Admin of Justice Civil Rights Education Housing	Criminal Justice Freedom of Speech Healthcare Housing	Environment Justice Housing	Economics
<i>*Illinois</i>	Mass Incarceration Policing Racial Discrimination	Employment Religious Rights Voting Rights	LGBTQ [3 <sup>rd</sup> & 4 <sup>th</sup> Priority]		Hate Crimes
<i>Indiana</i>	Civil Rights	Voting Rights	Housing	Civil Rights Criminal Justice Reversed Discrimination	Civil Rights Healthcare LGBTQ
<i>Iowa</i>	Voting Rights	Education	Criminal Justice	Education	Healthcare
<i>Kansas</i>	Voting Rights	Immigration Rights Voting Rights	Discrimination Economics Education Hate Crimes Healthcare Voting Rights	Civil Rights Criminal Justice Data Security Economics Housing	Civil Rights Disability Housing Religious Rights
<i>Kentucky</i>	Voting Rights	Civil Rights Criminal Justice Gender Discrimination	Criminal Justice	Admin of Justice	Civil Rights
<i>*Maine</i>	National American Civil Rights	Criminal Justice	Housing	Housing Immigration Rights Racism	Data Access Education Employment
<i>Maryland</i>	Housing	Housing	Immigration Rights	Criminal Justice Employment Hate Crimes Immigration Rights	Criminal Justice Environmental Justice Hate Crime Climate Change
<i>*Massachusetts</i>	Healthcare Housing	Healthcare	Policing	Freedom of Speech	Environmental Justice

	1 <sup>st</sup> Priority	2 <sup>nd</sup> Priority	3 <sup>rd</sup> Priority	4 <sup>th</sup> Priority	5 <sup>th</sup> Priority
<i>Minnesota</i>	Policing	Civil Rights Education	Housing	Freedom of Speech	Voting Rights
<i>*Mississippi</i>	Education Voting Rights	Criminal Justice	Education Healthcare Voting Rights	Education Healthcare	Healthcare
<i>*Nebraska</i>	Freedom of Speech Mass Incarceration Voting Rights	Criminal Justice	LGBTQ	Policing	Economics Policing
<i>Nevada</i>	Education	Disability Discrimination Education Healthcare	Civil Right Criminal Justice Healthcare Violence Against Children	Critical Race Theory Digital Redlining Immigration Rights Voting Rights	Civil Rights Disability Voting Rights
<i>New Mexico</i>	Education	Education	Admin of Justice	Criminal Justice Education Immigration Rights Religious Rights	Criminal Justice
<i>New York</i>	Mass Incarceration	Criminal Justice Hate Crimes	Hate Crimes	Mass Incarceration Policing	Criminal Justice Environmental Justice Healthcare
<i>*North Carolina</i>	Voting Rights Policing Healthcare	Criminal Justice Education Housing	Civil Rights Criminal Justice Healthcare	Employment Healthcare Immigration Rights	Criminal Justice Freedom of Speech
<i>*Oregon</i>	Admin of Justice Civil Rights Criminal Justice	Immigration Rights LGBTQ	Admin of Justice Criminal Justice Voting Rights	Criminal Justice Housing	Policing Religious Rights
<i>Pennsylvania</i>	Voting Rights [1 <sup>st</sup> and 2 <sup>nd</sup> Priority]		Criminal Justice Education	Employment Wildlife	Food Healthcare Transportation

	1 <sup>st</sup> Priority	2 <sup>nd</sup> Priority	3 <sup>rd</sup> Priority	4 <sup>th</sup> Priority	5 <sup>th</sup> Priority
<i>South Carolina</i>			Environmental Justice Healthcare	Environmental Justice Women Reproduction	
	Voting Rights	Civil Rights Education Gender Discrimination Religious Rights Voting Rights	Criminal Justice Critical Race Theory Voting Rights	Education LGBTQ Women Reproduction	Discrimination
<i>*South Dakota</i>	Education Migrant Worker Native American Rights Religious Rights	Admin of Justice Civil Rights LGBTQ Racism	Employment Women Reproduction	Criminal Justice Freedom of Speech	Immigration Rights
<i>Tennessee</i>	Freedom of Speech	Admin of Justice Civil Rights Education Gender Discrimination LGBTQ Voting Rights	Civil Rights Education Freedom of Speech Voting Rights Women Reproduction	Admin of Justice Education Racism Voting Rights	Civil Rights Discrimination Education Access to Technology
<i>Texas</i>	Voting Rights [1 <sup>st</sup> & 2 <sup>nd</sup> Priority]		Admin of Justice Education Housing LGBTQ	Data Access Education	Policing Transportation
<i>*Virginia</i>	Civil Rights Discrimination Education Immigration Rights Policing	Admin of Justice	Freedom of Speech	Education	Admin of Justice Criminal Justice Housing Policing
<i>Washington</i>	Policing	Education	Racism	Admin of Justice Data Privacy Disability Policing	Freedom of Speech Healthcare Religious Rights

	1 <sup>st</sup> Priority	2 <sup>nd</sup> Priority	3 <sup>rd</sup> Priority	4 <sup>th</sup> Priority	5 <sup>th</sup> Priority
<i>West Virginia</i>	Education	Civil Rights Climate Change Disability Education Immigration Rights	Civil Rights Criminal Justice Education Human Trafficking Voting Rights	Criminal Justice Freedom of Speech Healthcare Voting Rights	Healthcare LGBTQ Women Reproduction
<i>*Wisconsin</i>	Racial Discrimination Voting Rights	Education Housing	Employment	Freedom of Speech Pay Equality	Hate Crimes Religious Rights
<i>Wyoming</i>	Hate Crimes	Discrimination	Voting Rights	Women Reproduction	Criminal Justice

\*No single majority area of civil rights topics identified for the state.

### New Priorities Identified in the 2022 Survey

The results reported from the 2022 survey are unique compared to the 2018 survey in identifying critical trends about civil rights issues from the national perspective of the States and Territory Advisory Committee members. The results identified specific topics that are significant in reporting for the next five years (2022-2027) and demonstrate the complex and challenging nature of civil rights in the United States. The categories include health, housing, LGBTQ rights, environmental justice, policing, digital equity, protecting Title IX women's sports, and wealth inequality. The list below provides details of the grouped categories.

<p><b>Topics related to Health:</b></p> <ul style="list-style-type: none"> <li>• COVID Policies</li> <li>• Emerging Civil Rights Topics</li> <li>• Maternal Morality</li> <li>• Improving Mental Health Treatment</li> </ul>	<p><b>Topics related to Environment Justice:</b></p> <ul style="list-style-type: none"> <li>• Climate Change/Green Economy Strategy</li> <li>• Terrain Environment</li> <li>• Water Affordability</li> </ul>
<p><b>Topics related to Housing:</b></p> <ul style="list-style-type: none"> <li>• Homelessness</li> <li>• Housing Discrimination – all protected classes</li> <li>• Property Values</li> </ul>	<p><b>Topics related to Policing:</b></p> <ul style="list-style-type: none"> <li>• Racial profiling by law enforcement</li> <li>• Systemic racism in policing</li> <li>• Police Relationship with Community</li> </ul>
<p><b>Topics related to LGBTQ Rights:</b></p> <ul style="list-style-type: none"> <li>• Anti-LGBTQ+ laws at the state level</li> <li>• Gender Discrimination</li> <li>• Transgender identity/rights</li> </ul>	<p><b>Other topics:</b></p> <ul style="list-style-type: none"> <li>• Digital equality</li> <li>• Protecting Title IX Women's sports</li> <li>• Taxes/Wealth Inequality</li> </ul>

The survey results emphasize a broad range of issues within the Commission’s statutory jurisdiction and support ongoing Commission work while highlighting key areas for national focus, both within the Commission and the nation. As represented in these survey results, the State and Territory Advisory Committee members’ views provide an important window into the status of the civil rights landscape in 2022 and into members’ expert views regarding pressing civil rights concerns in and among states. The input of Advisory Committee members across the country and in Puerto Rico is crucial for the Commission to stay abreast of important civil rights topics and trends in the U.S. These views help shape and foster national attention to civil rights concerns.

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## Chapter 3: State Advisory Committee Reports

One of the roles of the Advisory Committee is to make recommendations to the Commission through the creation and publication of reports pertaining to civil rights issues that are occurring at the state level. As part of this study, a five-year examination of reports from 2017 through 2021 was conducted to identify potential themes and parallel topics within and across the states, which may suggest potential civil rights topics for the future. This five-year timeframe was chosen since all 51 Advisory Committees were appointed and active by the end of fiscal year 2017.<sup>106</sup> Furthermore, the five-year period was used to allow for the inclusion of topics that were the direct outcome of the COVID-19 pandemic and to include topics prior to the onset of the pandemic in 2020.

The Advisory Committees published 97 reports from 2017 through 2021.<sup>107</sup> Each report was assessed along the following criteria:

- a) the state/district of the Advisory Committee;
- b) the year the report was published;
- c) the title and topic of the report;
- d) the protected class category examined in the report;
- e) the vote given by the Advisory Committee (i.e., unanimous vote or majority vote);  
and
- f) the state executive and legislative recommendations.

The goal of the qualitative review was to examine the similarities and differences in report topics published across the Advisory Committees over the five-year period. The analysis and findings from these 97 reports are discussed herein.

### Overall Findings

Among the 97 reports, topics examined included the administration of justice, voting rights, human trafficking, etc., which will be discussed in more detail below. Seven reports were published in 2017 by six states, which include California, Connecticut, Maine, Nevada, Ohio, and Wisconsin. Twenty reports were published in 2018 by 19 states; 21 reports were published in 2019 and 2020 by 17 states and 20 states, respectively; and 28 reports were published in 2021 by 25 states (see Table 5 below).

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<sup>106</sup> Email correspondence from David Mussatt, Director, Regional Programs Coordination Unit, dated April 20, 2022, at 10:38am.

<sup>107</sup> The 97 reports are included in chronological order by state in Appendix A. Please see Appendix A for the report citations and links.

**Table 5: Total Published Reports by Year**

Year	Number of Reports	Number of States	Abbreviated State Names
<b>2017</b>	7	6	CA, CT, ME, NV, OH, WI
<b>2018</b>	20	19	AL, AK, AZ, CO, CT, IL, IN, LA, ME, MD, MN, NH, NM, NY, OH, RI, TN, TX, VT
<b>2019</b>	21	17	AK, CO, CT, GA, HI, KS, ME, MD, MA, MT, NV, ND, OR, RI, SD, TN, WV
<b>2020</b>	21	20	AL, AZ, AR, CT, DE, FL, IN, ME, MI, MS, MO, NE, NY, OH, UT, VT, VA, WA, WY, DC
<b>2021</b>	28	25	AZ, CA, CT, HI, KY, ME, MD, MA, MI, MS, MT, NE, NV, NH, NJ, NM, ND, OH, OK, OR, PA, RI, SC, SD, TX
<b>Total</b>	<b>97</b>		

The top three topics published by Advisory Committees include the administration of justice, voting rights, and race/color (see Table 6 below). Over the five years, there were 30 publications concerning the administration of justice. Reports regarding the administration of justice can be divided into eight subtopics, which include incarceration (10 reports), policing (six reports), criminal prosecution/sentencing (four reports), fines and fees (four reports), asset forfeiture (two reports), occupational licensing (two reports), pretrial detention (one report), and immigration enforcement (one report). This breakdown is reflected in Table 7 below.

Voting rights was the second most populous subject, representing 23 reports. There were 12 reports related to the protected class of race/color, which represented the third most popular topic among Advisory Committees. The reports on race/color consisted of multiple themes. Those themes included housing discrimination (2018), payday lending (2018), Micronesian migrant groups (2019), border town discrimination (2019), subtle forms of racism (2019), lead poisoning (2020), water affordability (2021), fair housing (2021), digital equity access (2021), Native American symbols and school mascots (2021), maternal mortality (2021), and hurricane disaster response (2021).

**Table 6. Report Topics**

<b>Topic</b>	<b>Number of Reports</b>
Administration of Justice	30
Voting Rights	23
Race/Color	12
Hate Crimes	8
Education	7
Human Trafficking	4
COVID-19	4
Disability	4
Age/Older Adults	3
Sex/Gender	1
Religion	1
<b>Total</b>	<b>97</b>

**Table 7. Administration of Justice Reports**

<b>Administration of Justice</b>	<b>Number of Reports</b>
<i>Incarceration</i>	<i>10</i>
<i>Policing</i>	<i>6</i>
<i>Criminal Prosecution/Sentencing</i>	<i>4</i>
<i>Fines and Fees</i>	<i>4</i>
<i>Asset Forfeiture</i>	<i>2</i>
<i>Occupational Licensing</i>	<i>2</i>
<i>Pretrial Detention</i>	<i>1</i>
<i>Immigration Enforcement</i>	<i>1</i>
<b>Sub Total</b>	<b>30</b>

Less frequent topics included those on hate crimes and education, which represented eight and seven reports, respectively. The seven education reports were classified into the subtopics of school discipline, education funding, and remote learning (see Table 8 below). Finally, the subject of human trafficking, COVID-19, and disability each had four reports. The least researched topic was sex/gender discrimination and discrimination based on religion, which reflected one report each.

**Table 8. Education Reports**

<b>Education</b>	<b>Number of Reports</b>
<i>School Discipline</i>	<i>3</i>
<i>Education Funding</i>	<i>3</i>
<i>Remote Learning</i>	<i>1</i>
<b>Sub Total</b>	<b>7</b>

*Report Findings by Year*

Over the five years, there were 11 areas examined by the Committees' reports. They include the administration of justice, voting rights, race/color, hate crimes, education, human trafficking, COVID-19, discrimination based on disability, age discrimination against older adults, sex/gender discrimination, and religious discrimination. Examining the reports across the five years demonstrated that the administration of justice and voting rights were the top two areas most frequently published by the Advisory Committees. The administration of justice was the number one topic among the Advisory Committee reports in 2017, 2019, and 2021 (see Table 9 below). In 2018 and 2020, voting rights superseded the administration of justice as the number one topic among the states. Additionally, the administration of justice was the second most populous topic in 2018 and 2020.

Although reports concerning race/color did not hold a primary position among the Advisory Committee reports, there were several reports on the subject in four out of the five years. For instance, race/color was the subject of two reports in 2018, three in 2019, one in 2020, and six in 2021 (see Table 9 below). In 2021, reports on race/color were the second most popular topic among the Advisory Committees. Less common topics were reports on hate crimes, which had one report in 2017, three in 2019 and 2020, and one in 2021. Unsurprisingly, reports concerning COVID-19 were not represented prior to 2020, but there were four published reports in 2021 on the subject (see Table 9 below).

**Table 9. Report Topic by Year**

<b>Year</b>	<b>Report Topic</b>	<b>Number of Reports</b>	<b>Abbreviated State Name</b>
2017	Administration of Justice <i>Incarceration (CT); Criminal Prosecution/Sentencing (ME); Fines and Fees (NV)</i>	3	CT, ME, NV
2017	Human Trafficking	2	ME, OH
2017	Hate Crimes	1	WI
2017	Voting Rights <i>Voting Integrity</i>	1	CA
	<b>Total</b>	<b>7</b>	
<b>Year</b>	<b>Report Topic</b>	<b>Number of Reports</b>	<b>Abbreviated State Name</b>
2018	Voting Rights <i>Access (AL); Indigenous Rights (AK); Barriers (AZ), Access (IL), Disparate Impacts (IN), Barriers (LA), Voter Suppression (ME), Election Laws (NH), Access (OH), Barriers (TX)</i>	10	AL, AK, AZ, IL, IN, LA, ME, NH, OH, TX

2018	Administration of Justice <i>Incarceration (CT); Criminal Prosecution/Sentencing (ME); Fines and Fees (MD); Policing (MN, NY); Asset Forfeiture (TN)</i>	6	CT, ME, MD, MN, NY, TN
2018	Race/Color <i>Housing Discrimination (VT); Payday Lending (RI)</i>	2	VT, RI
2018	Religion <i>Religious Institutions</i>	1	CO
2018	Age/Older Adults <i>Elder Abuse</i>	1	NM
	<b>Total</b>	<b>20</b>	
<b>Year</b>	<b>Report Topic</b>	<b>Number of Reports</b>	<b>Abbreviated State Name</b>
2019	Administration of Justice <i>Criminal Prosecution/Sentencing (CT); Incarceration (ME, WV); Policing (NV); Fines and Fees (TN)</i>	7	CT, ME, NV, TN (2), WV (2)
2019	Voting Rights <i>Indigenous Rights (AK); Citizenship and Naturalization (CO), Voter Id Legislation (RI)</i>	3	AK, CO, RI
2019	Hate Crimes	3	MA, ND, RI
2019	Race/Color <i>Micronesian Migrant Groups (HI); Bordertown Discrimination (MT); Subtle Racism (SD)</i>	3	HI, MT, SD
2019	Human Trafficking	2	OR, MA
2019	Education <i>Education Funding (KS); School Discipline (MD)</i>	2	KS, MD
2019	Disability <i>Disability Rights</i>	1	GA
	<b>Total</b>	<b>21</b>	
<b>Year</b>	<b>Report Topic</b>	<b>Number of Reports</b>	<b>Abbreviated State Name</b>
2020	Voting Rights <i>Barriers (AL); Disenfranchisement (FL); COVID-19 (MI, MO); Access (MI); Felony Disenfranchisement (WA)</i>	6	AL, FL, MI (2), MO, WA
2020	Administration of Justice <i>Incarceration (AR, NE, DC); Policing (DE); Criminal Prosecution/Sentencing (MS)</i>	5	AR, DE, MS, NE, DC
2020	Education <i>Education Funding (NY, OH); School Discipline (VT)</i>	3	NY, OH, VT
2020	Hate Crimes	3	ME, VA, WY
2020	Disability	1	AZ

	<i>Subminimum Wages</i>		
2020	Age/Older Adults <i>Nursing Homes</i>	1	CT
2020	Race/Color <i>Lead Poisoning</i>	1	IN
2020	Sex/Gender <i>Wage Gap</i>	1	UT
	<b>Total</b>	<b>21</b>	
<b>Year</b>	<b>Report Topic</b>	<b>Number of Reports</b>	<b>Abbreviated State Name</b>
2021	Administration of Justice <i>Immigration Enforcement (CA); Incarceration (KY, NH); Policing (MS, OK); Asset Forfeiture (NJ); Occupational Licensing (NJ, RI); Pretrial Detention (OR)</i>	9	CA, KY, MS, NH, NJ (2), OK, OR, RI
2021	Race/Color <i>Water Affordability (MA); Digital Equity Access (ME); Native American Symbols and Mascots (NE); Fair Housing (ND); Maternal Mortality (SD); Hurricane Disaster Response (TX)</i>	6	MA, ME, NE, ND, SD, TX
2021	COVID-19	4	AZ, HI, MD, OH
2021	Voting Rights <i>Territorial Rights (CT); COVID-19 (MI); Indigenous Rights (MT)</i>	3	CT, MI, MT
2021	Education <i>Remote Learning (NV); School Discipline (PA)</i>	2	NV, PA
2021	Disability <i>Subminimum Wages</i>	2	NM, SC
2021	Hate Crimes <i>Crimes against AAPI Communities</i>	1	MA
2021	Age/Older Adults <i>Nursing Homes</i>	1	CT
	<b>Total</b>	<b>28</b>	

### *Top Performing States*

Throughout the five years, Connecticut and Maine published the greatest number of reports. They each published six reports, at least one report each year. Ohio was also a top producer among the states, having published a report each year, excluding 2019. There were many similarities across these three “top performing” states regarding published reports. In 2017, both Connecticut and Maine focused on topics related to the administration of justice. Connecticut reported on the issue of incarceration, while Maine examined criminal prosecution/sentencing. Ohio’s topic focused on human trafficking in that year. In 2018, both Maine and Ohio examined topics concerning voting rights. Additionally, Connecticut and Maine reported on the administration of justice, specifically incarceration and criminal prosecution/sentencing, respectively.

In 2019, Connecticut and Maine reported on the administration of justice. Specifically, Connecticut looked at prosecutorial appointments and Maine examined incarceration. In 2020, however, each of the three states reported on differing topics. Connecticut's focus concerned nursing homes and older adults, while Maine looked at hate crimes, and Ohio examined education funding. In 2021, Connecticut published two reports on voting rights and age discrimination. The report on age discrimination examined discrimination toward older adults in nursing homes and provided a legislative update to its 2020 report. Maine reported on digital equity and internet access. By comparison, Ohio focused on COVID-19 and the delivery of medical and public services.

### *States with Fewer Published Reports*

Three states, Iowa, Idaho, and North Carolina published no reports over the five years. Eighteen states<sup>108</sup> plus the District of Columbia published only one report each over the five-year time span (see Table 10 below). Among these 19 Advisory Committees, nine published a single report in 2020. The most populous topics concerned the administration of justice (six reports) and voting rights (five reports). Among the administration of justice reports, the focus concerned policing (three reports) and incarceration (three reports). Furthermore, New Jersey and West Virginia both published reports in one out of the five years. These two states, however, each published two reports in that single year. West Virginia submitted the two reports in 2019, while New Jersey's publications occurred in 2021. Both states reported on topics concerning the administration of justice. West Virginia's reports related to incarceration, whereas New Jersey examined asset forfeiture and occupational licensing.

**Table 10. States Publishing One Report**

<b>State</b>	<b>Report Year</b>	<b>Report Topic</b>
Arkansas	2020	Administration of Justice <i>Incarceration</i>
Delaware	2020	Administration of Justice <i>Policing</i>
Florida	2020	Voting Rights <i>Disenfranchisement</i>
Georgia	2019	Disability <i>Disability Rights</i>
Illinois	2018	Voting Rights <i>Access</i>
Kansas	2019	Education <i>Education Funding</i>
Kentucky	2021	Administration of Justice <i>Incarceration</i>

<sup>108</sup> The 18 states include: Arkansas, Delaware, Florida, Georgia, Illinois, Kansas, Kentucky, Louisiana, Minnesota, Missouri, Oklahoma, Pennsylvania, South Carolina, Utah, Virginia, Washington, Wisconsin, and Wyoming.

Louisiana	2018	Voting Rights <i>Barriers</i>
Minnesota	2018	Administration of Justice <i>Policing</i>
Missouri	2020	Voting Rights <i>COVID-19</i>
Oklahoma	2021	Administration of Justice <i>Policing</i>
Pennsylvania	2021	Education <i>School Discipline</i>
South Carolina	2021	Disability <i>Subminimum Wages</i>
Utah	2020	Sex/Gender <i>Wage Gap</i>
Virginia	2020	Hate Crimes
Washington	2020	Voting Rights <i>Felony Disenfranchisement</i>
Wisconsin	2017	Hate Crimes
Wyoming	2020	Hate Crimes
District of Columbia	2020	Administration of Justice <i>Incarceration</i>

### *Report Approvals*

As part of their role on the Advisory Committee, members must reach an agreement at several stages.<sup>109</sup> The first compromise that must be reached is determining the topic(s) that will be researched.<sup>110</sup> Once the topic has been selected and voted upon by the majority of members, the investigation and report writing begins. After the report is written, members must then vote whether to approve the contents and findings of the report for it to be published.<sup>111</sup> At a minimum, there must be agreement by the majority of Committee members where a quorum has been established that are present at the time of the meeting.<sup>112</sup> Most published reports receive the approval of the majority vote of the Advisory Committee members. Reports that receive the unanimous approval of the Advisory Committee members, however, occur infrequently. Among the 97 reports, a third (32 reports) received unanimous approval (see Table 11). From 2017 through 2021, there were three in 2017, five in 2018, six in 2019, four in 2020, and 14 in 2021 that received the unanimous vote by the Advisory Committee members.

<sup>109</sup> See generally U.S. Commission on Civil Rights, Administrative Instruction 5-7, June 5, 2020 [on file].

<sup>110</sup> *Id.* at § 8.02.

<sup>111</sup> *Id.* at § 8.03.

<sup>112</sup> *Id.* at § 7.02.

**Table 11. Reports Receiving Unanimous Approval**

<b>Year</b>	<b>Unanimous Approval</b>	<b>Majority Votes</b>	<b>Suspended Reports<sup>113</sup></b>	<b>Total Reports</b>
2017	3	4	0	7
2018	5	13	2	20
2019	6	15	0	21
2020	4	17	0	21
2021	14	14	0	28
<b>Total</b>	<b>32</b>	<b>63</b>	<b>2</b>	<b>97</b>

As shown in Table 12 below, unanimously approved reports occurred in Connecticut and Maine in 2017. These topics concerned the administration of justice, specifically incarceration and criminal prosecution/sentencing. In the same year, Maine published a second report regarding human trafficking, which received unanimous approval. In 2018, the administration of justice reports also received unanimous approval from two Committees: Connecticut and Tennessee. These reports focused on incarceration and criminal prosecution/sentencing, respectively. Two reports on voting rights by Maine and New Hampshire also received its Committees' unanimous approval.

In 2019, four reports on the administration of justice again received unanimous approval from the Connecticut, Maine, Tennessee, and West Virginia Committees (see Table 12 below). The reports examined criminal prosecution/sentencing, incarceration, fines and fees, and incarceration, respectively. Massachusetts' report on human trafficking also had unanimous committee approval that same year. In 2020, Connecticut, Vermont, the District of Columbia, and Utah all published unanimously approved reports. Each Committee, however, examined a different topic, which included age discrimination (older adults in nursing homes), education (school discipline), the administration of justice (incarceration), and sex/gender discrimination (the wage gap), respectively (see Table 12).

In 2021, there were 28 reports, and half of the reports published obtained unanimous approval by the Advisory Committees. As reflected in Table 8 below, seven of the reports focused on topics related to the administration of justice: two on incarceration (New Hampshire and Kentucky), two on occupational licensing (Rhode Island and New Jersey, and one each on civil asset forfeiture

<sup>113</sup> The Maryland Advisory Committee's report on fines and fees was suspended due to the "lack of systemic and verifiable data concerning fines and fees, and the recent significant changes in the rules concerning money bail" in the state. Maryland Advisory Committee to the U.S. Commission on Civil Rights, *Fees and Fines and Bail Reform in Maryland*, Feb. 23, 2018, p. 6, <https://www.usccr.gov/files/pubs/2018/2018-02-26-Fees-Fines-MD.pdf>. The Vermont Advisory Committee's report on housing discrimination was suspended. The report stated it will consider revisiting and reopening at a later date if there are changes in circumstances. The report expressed the inability to independently investigate complaints. Vermont State Advisory Committee to the U.S. Commission on Civil Rights, *Housing Discrimination in Vermont: A Handshake and a Smile*, 2018, p. 13, <https://www.usccr.gov/files/pubs/2018/09-21-VT-Housing.pdf>.

(New Jersey), policing (Oklahoma), and pretrial detention (Oregon). A total of three reports concerned discrimination based on race/color, which were conducted by the Massachusetts, Texas, and South Dakota Committees. Two reports examined discrimination based on disability. They were conducted by South Carolina and New Mexico. Finally, Hawai'i and Massachusetts each published unanimously approved reports on COVID-19 and hate crimes, respectively.

**Table 12. Report Topics by Year Receiving Unanimous Approval**

<b>Year</b>	<b>Report Topic</b>	<b>Abbreviated State Name</b>	<b>Report Title</b>
2017	Administration of Justice <i>Incarceration</i>	CT	Advisory Memorandum in Recommending Legislation on Solitary Confinement in Connecticut
2017	Administration of Justice <i>Criminal Prosecution/Sentencing</i>	ME	Advisory Memorandum on Racial Discrimination in Criminal Prosecution and Sentencing in Maine
2017	Human Trafficking	ME	Human Trafficking in Maine
2018	Administration of Justice <i>Incarceration</i>	CT	Advisory Memorandum on Solitary Confinement in Connecticut
2018	Voting Rights <i>Voter Suppression</i>	ME	Voting Rights in Maine
2018	Voting Rights <i>Election Laws</i>	NH	Voting Rights in New Hampshire
2018	Race/Color <i>Payday Lending</i>	RI	Payday Lending in Rhode Island
2018	Administration of Justice <i>Asset Forfeiture</i>	TN	The Civil Rights Implications of Tennessee's Civil Asset Forfeiture Laws and Practices
2019	Administration of Justice <i>Criminal Prosecution/Sentencing</i>	CT	Advisory Memorandum on Pending Legislation (Prosecutorial Appointment Process and Practices)
2019	Administration of Justice <i>Incarceration</i>	ME	The Criminalization of People with Mental Illnesses in Maine
2019	Human Trafficking	MA	Human Trafficking in Massachusetts
2019	Administration of Justice <i>Fines and Fees</i>	TN	Legal Financial Obligations in the Tennessee Criminal Justice System
2019	Administration of Justice <i>Fines and Fees</i>	TN	Preliminary Advisory Memorandum on Legal Financial Obligations in Tennessee
2019	Administration of Justice <i>Incarceration</i>	WV	Civil Rights Impacts from Collateral Consequences in West Virginia
2020	Age/Older Adults <i>Nursing Homes</i>	CT	Connecticut Advisory Memorandum on Nursing Homes
2020	Sex/Gender <i>Wage Gap</i>	UT	Civil Rights and the Gender Wage Gap in Utah

2020	Education <i>School Discipline</i>	VT	School Discipline Disparities in Vermont
2020	Administration of Justice <i>Incarceration</i>	DC	Mental Health, Mental Health Courts, and the Criminal Legal System
2021	COVID-19	HI	COVID-19 and Pacific Islander Communities in Hawai'i
2021	Administration of Justice <i>Incarceration</i>	KY	Locked Up for Being Poor: The Need for Bail Reform in Kentucky
2021	Hate Crimes <i>Crimes against AAPI Communities</i>	MA	Hate Crimes Against Asian American Pacific Islander Communities in Massachusetts
2021	Race/Color <i>Water Affordability</i>	MA	Turning Off the Tap: Massachusetts' Looming Water Affordability Crisis
2021	Administration of Justice <i>Incarceration</i>	NH	Solitary Confinement in New Hampshire
2021	Administration of Justice <i>Asset Forfeiture</i>	NJ	Civil Rights Impacts of Civil and Criminal Asset Forfeitures in New Jersey
2021	Administration of Justice <i>Occupational Licensing</i>	NJ	Criminal Records: Civil Rights Impact on Access to Occupational Licenses-Employment in New Jersey
2021	Disability <i>Subminimum Wages</i>	NM	Advisory Memorandum on Wage Theft and Subminimum Wages in New Mexico
2021	Administration of Justice <i>Policing</i>	OK	Advisory Memorandum on Racial Disparities in Policing in Oklahoma
2021	Administration of Justice <i>Pretrial Detention</i>	OR	Pretrial Detention, Release, and Bail Practice in Oregon
2021	Administration of Justice <i>Occupational Licensing</i>	RI	Licensing Barriers to Employment Post-Conviction in Rhode Island
2021	Disability <i>Subminimum Wages</i>	SC	Subminimum Wages for People with Disabilities in South Carolina
2021	Race/Color <i>Maternal Mortality</i>	SD	Maternal Mortality and Health Disparities of American Indian Women in South Dakota
2021	Race/Color <i>Hurricane Disaster Response</i>	TX	Advisory Memorandum on Government Response to Hurricane Disasters in Texas

### *Regional Findings*

As in Chapter 2, the 51 Advisory Committees were divided into four regions based on their state or district.<sup>114</sup> These regions are the Northeast (comprised of 9 states), South (comprised of 16 states and DC), the Midwest (comprised of 12 states), and the West (comprised of 13 states).<sup>115</sup> Out of the four regions, the Northeast produced the greatest number of reports over the five-year period (30 reports), followed by the South (24), West (22), and Midwest (21).

<sup>114</sup> See *supra* note 96.

<sup>115</sup> See Census, "Geographic Levels: Regions and Divisions," Oct. 8, 2021, [https://www.census.gov/programs-surveys/economic-census/guidance-geographies/levels.html#par\\_textimage\\_34](https://www.census.gov/programs-surveys/economic-census/guidance-geographies/levels.html#par_textimage_34).

Advisory Committees in the West published a total of 22 reports (see Table 13). Voting rights was the most published topic among states in the West. Six reports were published on the subject by five states, which include California (2017), Alaska (2018 and 2019), Arizona (2018), Colorado (2019), and Washington (2020). There were four reports on the administration of justice published by Nevada (2017 and 2019), California (2021), and Oregon (2021). Nevada published two reports, one on fines and fees in 2017 and the other on policing in 2019. California and Oregon published reports on immigration enforcement and pretrial detention, respectively.

There were two reports published on race/color in this region. One was published by Montana (2019) and the other by Hawai'i (2019). Montana's report focused on towns in the state that border Native American reservations and the discrimination experienced by Native Americans in the areas of education, healthcare, voting, and the administration of justice in Montana.<sup>116</sup> Hawai'i's Advisory Committee focused on the issue of discrimination facing Micronesian migrants who have relocated to the state.<sup>117</sup> Specifically, the report focused on how discrimination against this group impacts their ability to acquire decent housing, obtain employment, and receive government services that they are legally entitled to receive.<sup>118</sup> Additionally, both Arizona (2020) and New Mexico (2021) published reports on the topic of subminimum wages for workers with disabilities. Both Arizona (2021) and Hawai'i (2021) published reports on the impact of COVID-19 in their state. Arizona examined the impact of the pandemic on Native American communities and Hawai'i examined the impact on Micronesian communities who migrated to the state.<sup>119</sup>

**Table 13. Report Topics by the West Region**

West		
Year	State	Report Topic
2017	California	Voting Rights <i>Voting Integrity</i>
2018	Alaska	Voting Rights <i>Indigenous Rights</i>
2018	Arizona	Voting Rights <i>Barriers</i>
2019	Alaska	Voting Rights <i>Indigenous Rights</i>
2019	Colorado	Voting Rights <i>Citizenship &amp; Naturalization</i>
2020	Washington	Voting Rights <i>Felony Disenfranchisement</i>
2017	Nevada	Administration of Justice <i>Fines and Fees</i>

<sup>116</sup> See Appendix A for the report citations and links.

<sup>117</sup> Ibid.

<sup>118</sup> Ibid.

<sup>119</sup> Ibid.

West		
Year	State	Report Topic
2019	Nevada	Administration of Justice <i>Policing</i>
2021	California	Administration of Justice <i>Immigration Enforcement</i>
2021	Oregon	Administration of Justice <i>Pretrial Detention</i>
2019	Hawai'i	Race/Color <i>Micronesian Migrant Groups</i>
2019	Montana	Race/Color <i>Bordertown Discrimination</i>
2020	Arizona	Disability <i>Subminimum Wages</i>
2021	New Mexico	Disability <i>Subminimum Wages</i>
2021	Arizona	COVID-19
2021	Hawai'i	COVID-19
2018	Colorado	Religion <i>Religious Institutions</i>
2018	New Mexico	Age/Older Adults <i>Elder Abuse</i>
2019	Oregon	Human Trafficking
2020	Utah	Sex/Gender <i>Wage Gap</i>
2020	Wyoming	Hate Crimes
2021	Nevada	Education <i>Remote Learning</i>

There were 21 reports published by Advisory Committees in the Midwest. Voting rights was the predominant topic among midwestern states. There were eight reports on voting rights, which occurred in Illinois (2018), Indiana (2018), Ohio (2018), Michigan (two reports in 2020, one report in 2021), Missouri (2020), and Montana (2021). The two reports by Michigan examined voting rights in relation to access and the impact of the COVID-19 pandemic on voting rights (see Table 14).<sup>120</sup>

The second most frequent subject among midwestern states was related to discrimination on the basis of race/color. There were five reports on this topic. South Dakota (2019) examined subtle forms of racism in the state.<sup>121</sup> Indiana (2020) looked at racism with respect to lead poisoning.

<sup>120</sup> See Appendix A.

<sup>121</sup> Ibid.

Nebraska (2021), North Dakota (2021), and South Dakota (2021) examined racism related to school mascots, fair housing, and Native American maternal mortality, respectively.<sup>122</sup>

Reports on hate crimes, the administration of justice, and education were topics that also occurred repeatedly within this region. There were two hate crimes reports from Wisconsin (2017) and North Dakota (2019), respectively. There were two reports from Minnesota (2018) and Nebraska (2020) that examined policing and incarceration, respectively. Additionally, there were two reports on educational funding from Nebraska (2020) and Kansas (2021).

**Table 14. Report Topics by the Midwest Region**

<b>Year</b>	<b>State</b>	<b>Report Topic</b>
2018	Illinois	Voting Rights <i>Access</i>
2018	Indiana	Voting Rights <i>Disparate Impacts</i>
2018	Ohio	Voting Rights <i>Access</i>
2020	Michigan	Voting Rights <i>COVID-19</i>
2020	Michigan	Voting Rights <i>Access</i>
2020	Missouri	Voting Rights <i>COVID-19</i>
2021	Michigan	Voting Rights <i>COVID-19</i>
2021	Montana	Voting Rights <i>Indigenous Rights</i>
2019	South Dakota	Race/Color <i>Subtle Racism</i>
2020	Indiana	Race/Color <i>Lead Poisoning</i>
2021	Nebraska	Race/Color <i>Native American Symbols and Mascots</i>
2021	North Dakota	Race/Color <i>Fair Housing</i>
2021	South Dakota	Race/Color <i>Maternal Mortality</i>
2017	Wisconsin	Hate Crimes

<sup>122</sup> Ibid.

<b>Year</b>	<b>State</b>	<b>Report Topic</b>
2019	North Dakota	Hate Crimes
2018	Minnesota	Administration of Justice <i>Policing</i>
2020	Nebraska	Administration of Justice <i>Incarceration</i>
2019	Kansas	Education <i>Education Funding</i>
2020	Ohio	Education <i>Education Funding</i>
2017	Ohio	Human Trafficking
2021	Ohio	COVID-19

Advisory Committees in the South had a total of 24 published reports (see Table 15). Administration of justice was the largest topic in this region as well. There were 13 reports under this category from Advisory Committees in Maryland (2018), Tennessee (2018, and two reports in 2019). West Virginia (two reports in 2019), Arkansas (2020), Delaware (2020), Mississippi (2020 and 2021), the District of Columbia (2020), Kentucky (2021), and Oklahoma (2021). Additionally, incarceration was the largest subtopic published among southern states. There were five reports on incarceration that were taken up by West Virginia (which had two reports), Arkansas, the District of Columbia, and Kentucky.

Voting rights, the second most popular topic in the South, was published by Alabama (2018 and 2020), Louisiana (2018), Florida (2020), and Texas (2018). Followed by two reports from Georgia (2019) and South Carolina (2021), which examined concerns associated with discrimination on the basis of disability.<sup>123</sup>

**Table 15. Report Topics by the South Region**

<b>Year</b>	<b>State</b>	<b>Report Topic</b>
2018	Tennessee	Administration of Justice <i>Asset Forfeiture</i>
2018	Maryland	Administration of Justice <i>Fines and Fees</i>
2019	Tennessee	Administration of Justice <i>Fines and Fees</i>
2019	Tennessee	Administration of Justice <i>Fines and Fees</i>

<sup>123</sup> See Appendix A.

<b>Year</b>	<b>State</b>	<b>Report Topic</b>
2019	West Virginia	Administration of Justice <i>Incarceration</i>
2019	West Virginia	Administration of Justice <i>Incarceration</i>
2020	Arkansas	Administration of Justice <i>Incarceration</i>
2020	District of Columbia	Administration of Justice <i>Incarceration</i>
2021	Kentucky	Administration of Justice <i>Incarceration</i>
2020	Mississippi	Administration of Justice <i>Criminal Prosecution/Sentencing</i>
2020	Delaware	Administration of Justice <i>Policing</i>
2021	Mississippi	Administration of Justice <i>Policing</i>
2021	Oklahoma	Administration of Justice <i>Policing</i>
2018	Alabama	Voting Rights <i>Access</i>
2018	Louisiana	Voting Rights <i>Barriers</i>
2018	Texas	Voting Rights <i>Barriers</i>
2020	Alabama	Voting Rights <i>Barriers</i>
2020	Florida	Voting Rights <i>Disenfranchisement</i>
2019	Georgia	Disability <i>Disability Rights</i>
2021	South Carolina	Disability <i>Subminimum Wages</i>
2019	Maryland	Education <i>School Discipline</i>
2020	Virginia	Hate Crimes
2021	Maryland	COVID-19
2021	Texas	Race/Color <i>Hurricane Disaster Response</i>

Over the past five years, Advisory Committees from the Northeast produced 30 reports. The most researched topic published by northeastern states concerned the administration of justice (see Table 16). There were 11 reports on this subject. Most of these reports occurred in 2018 and 2021 and were published by Connecticut (2017, 2018, 2019), Maine (2017, 2018, 2019), New York (2018), New Hampshire (2021), New Jersey (two reports in 2021), and Rhode Island (2021). Among administration of justice reports, four out of the 11 focused on incarceration, and three were associated with criminal prosecution/sentencing.

Advisory Committees in the Northeast also examined voting rights (four reports), hate crimes (four reports), discrimination based on race/color (four reports), and discrimination in education (three reports). Voting rights was examined by Maine (2018), New Hampshire (2018), Rhode Island (2019), and Connecticut (2021). Hate crimes was examined by Massachusetts (2019, 2021), Rhode Island (2019), and Maine (2020). Discrimination in education was documented by New York (2020), Vermont (2020), and Pennsylvania (2021). Specifically, they focused on school discipline (two reports) and education funding. Reports regarding discrimination based on race/color occurred in Rhode Island (2018), Vermont (2018), Maine (2021), and Massachusetts (2021).<sup>124</sup> The least examined topics concerned age discrimination among older adults, which was conducted by Connecticut (2020 and 2021), and human trafficking was examined by Maine (2017) and Massachusetts (2019).<sup>125</sup>

**Table 16. Report Topics by the Northeast Region**

<b>Year</b>	<b>State</b>	<b>Report Topic</b>
2017	Connecticut	Administration of Justice <i>Incarceration</i>
2018	Connecticut	Administration of Justice <i>Incarceration</i>
2019	Maine	Administration of Justice <i>Incarceration</i>
2021	New Hampshire	Administration of Justice <i>Incarceration</i>
2017	Maine	Administration of Justice <i>Criminal Prosecution/Sentencing</i>
2018	Maine	Administration of Justice <i>Criminal Prosecution/Sentencing</i>
2019	Connecticut	Administration of Justice

<sup>124</sup> See Appendix A.

<sup>125</sup> Ibid.

<b>Year</b>	<b>State</b>	<b>Report Topic</b>
		<i>Criminal Prosecution/Sentencing</i>
2018	New York	Administration of Justice <i>Policing</i>
2021	New Jersey	Administration of Justice <i>Asset Forfeitures</i>
2021	New Jersey	Administration of Justice <i>Occupational Licensing</i>
2021	Rhode Island	Administration of Justice <i>Occupational Licensing</i>
2018	Maine	Voting Rights <i>Voter Suppression</i>
2018	New Hampshire	Voting Rights <i>Election Laws</i>
2019	Rhode Island	Voting Rights <i>Voter Id Legislation</i>
2021	Connecticut	Voting Rights <i>Territorial Rights</i>
2019	Massachusetts	Hate Crimes
2019	Rhode Island	Hate Crimes
2020	Maine	Hate Crimes
2021	Massachusetts	Hate Crimes <i>Crimes against AAPI Communities</i>
2018	Rhode Island	Race/Color <i>Payday Lending</i>
2018	Vermont	Race/Color <i>Housing Discrimination</i>
2021	Maine	Race/Color <i>Digital Equity Access</i>
2021	Massachusetts	Race/Color <i>Water Affordability</i>
2020	New York	Education <i>Education Funding</i>
2020	Vermont	Education <i>School Discipline</i>
2021	Pennsylvania	Education <i>School Discipline</i>
2017	Maine	Human Trafficking
2019	Massachusetts	Human Trafficking
2020	Connecticut	Age/Older Adults <i>Nursing Homes</i>
2021	Connecticut	Age/Older Adults <i>Nursing Homes</i>

*Report Outcomes: Findings and Recommendations*

As discussed in Chapter 1, the purpose of these reports is to document the various civil rights concerns in each state. Often these reports also include corresponding recommendations for state and federal legislatures. For example, the 2017 Connecticut Advisory Committee's report on solitary confinement<sup>126</sup> recommended that any law on solitary confinement in the state include: (1) defining what constitutes solitary confinement in Connecticut; (2) banning solitary confinement for all inmates ages 21 and younger; (3) banning the use of solitary confinement for people with mental illness; and (4) training for correction officers; and (5) reporting the race, ethnicity, gender identity, disability status, mental illness presence, length of placement, etc., of the prisoner placed into solitary confinement.<sup>127</sup>

Maine's Advisory Committee's 2019 report examined the criminalization of persons with mental illnesses in the state.<sup>128</sup> The report found a lack of adequate home-based and community-based care networks in the state for people with mental illnesses,<sup>129</sup> which has deprived these individuals of adequate mental health treatment and services, as well as denied them community integration.<sup>130</sup> In response to this finding, the Advisory Committee recommended that the state fund, create, and expand networks of home-based and community-based care for persons with mental illnesses.<sup>131</sup> Another finding was there should be preventative treatment provided through in-home and community-based services, which would provide more cost-effective, higher quality of care than institutionalization.<sup>132</sup> Furthermore, they recommended that the state implement and fund start-up costs for evidence-based, cost-effective home-based, and community-based services for persons with mental illnesses.<sup>133</sup>

Indiana's Advisory Committee examined environmental justice and lead poisoning in their 2020 report.<sup>134</sup> The report concluded that there is no safe level of lead that should be present in the blood

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<sup>126</sup> Connecticut Advisory Committee to the U.S. Commission on Civil Rights, Advisory Memorandum Recommending Legislation on Solitary Confinement in Connecticut, May 2, 2017, <https://www.usccr.gov/files/press/archives/correspd/05-02-17-Advisory-Memorandum.pdf> (herein Connecticut 2017 Report).

<sup>127</sup> Connecticut 2017 Report, p. 3.

<sup>128</sup> Maine Advisory Committee to the U.S. Commission on Civil Rights, The Criminalization of People with Mental Illnesses in Maine, May 2019, <https://www.usccr.gov/files/pubs/2019/07-30-Maine-Criminalization-Mental-Health.pdf> (herein Maine 2019 Report).

<sup>129</sup> Maine 2019 Report, p. 56.

<sup>130</sup> Ibid.

<sup>131</sup> Ibid.

<sup>132</sup> Maine 2019 Report, p. 57.

<sup>133</sup> Ibid.

<sup>134</sup> Indiana Advisory Committee to the U.S. Commission on Civil Rights, Environmental Injustice: Lead Poisoning in Indiana, Nov. 2020, <https://www.usccr.gov/files/2020/2020-11-12-Report-Lead-Poisoning-in-Indiana.pdf> (herein Indiana 2020 Report).

of a child.<sup>135</sup> Moreover, lead exposure permanently impacts speech and cognition,<sup>136</sup> the ability to control one's behavior,<sup>137</sup> and the ability to avoid engaging in dangerous or risky behaviors.<sup>138</sup> Lead poisoned children are more likely to struggle in school, under-perform in the workplace, and earn less across their earning years controlling for social and economic factors.<sup>139</sup> Additionally, Black and Hispanic children have higher rates of lead poisoning than White children, even when accounting for socioeconomic status.<sup>140</sup>

The Advisory Committee put forth several recommendations. For instance, the Centers for Medicare and Medicaid Services should simplify the process for local health departments to bill Medicaid for the care of lead-poisoned children.<sup>141</sup> It recommended that landlords receiving federal funds should be required to complete lead risk assessment and remediation in housing prior to occupancy.<sup>142</sup> Also, it recommended to prohibit the continued siting of industrial hazards in nearby impacted residential communities.

### *Civil Rights Gaps*

In 2018 and 2022, State Advisory Committee survey respondents were asked to rank civil rights topics the Commission should consider examining. The 22 topics included accessibility, civil rights enforcement, criminal justice, data security and privacy rights, domestic abuse/violence, education, employment, federal contracting, freedom of expression, government services, benefits and/or funding, hate crimes and/or hate speech, health care, housing, immigration/immigrant rights, issues facing Native Americans/Alaska Natives/Native Hawai'ians, language access, LGBTQ rights, national security, public accommodations, reverse racial discrimination, technology, and voting rights. Out of the 22 areas, 11 were investigated topics in the reports examined over the 2017 through 2021 time period (see Table 17 below). Civil rights enforcement, data security and privacy rights, domestic abuse/violence, federal contracting, freedom of expression, government services, benefits and/or funding, language access, LGBTQ rights, national security, public accommodations, and reverse racial discrimination were not examined by any of the Advisory Committees over the five-year period.

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<sup>135</sup> Indiana 2020 Report, p. 53.

<sup>136</sup> Ibid.

<sup>137</sup> Ibid.

<sup>138</sup> Ibid.

<sup>139</sup> Ibid.

<sup>140</sup> Indiana 2020 Report, p. 54.

<sup>141</sup> Ibid., 59.

<sup>142</sup> Ibid., 60.

**Table 17. Advisory Committee Report Topic Gaps from 2017 through 2021**

<u>Topics Covered</u>	<u>Topics Not Covered</u>
• Accessibility	• Civil rights enforcement
• Criminal justice	• Data security and privacy rights
• Education	• Domestic abuse/violence
• Employment	• Federal contracting
• Hate crimes and/or hate speech	• Freedom of expression
• Health care	• Government services, benefits and/or funding
• Housing	• Language access
• Immigration/Immigrant rights	• LGBTQ rights
• Issues facing Native Americans/Alaska Natives/Native Hawai'ians	• National security
• Technology (access during COVID-19)	• Public accommodations
• Voting Rights	• Reverse racial discrimination

### *Comparisons between Qualitative and Quantitative Topics*

In 2018, Advisory Committee members were asked to rank in order of importance eight areas of civil rights, which fall within the statutory jurisdiction of the Commission (see Table 18).<sup>143</sup> These areas included: race/color, national origin, religion, sex/gender, age, disability, voting rights, and administration of justice. Committee members selected race/color, administration of justice, and voting rights as the top three areas of importance, respectively. Additionally, respondents were asked to rank five generalized civil rights topics from the 2010 survey that they believed were still topics of importance in 2018 and should be prioritized by the Commission over the next twelve months. In this instance, the top three areas selected were education, criminal justice, and voting rights, respectively.

<sup>143</sup> As per 42 U.S.C. § 1975a(1) and 42 U.S.C. § 1975a (2) et seq., Congress charges the Commission to “investigate allegations in writing under oath or affirmation that citizens of the United States are being deprived of their right to vote and have that vote counted by reason of color, race, religion, sex, age, disability, or national origin,” and “(A) study and collect information relating to; (B) make appraisals of the laws and policies of the Federal government with respect to; (C) serve as a national clearinghouse for information relating to; and (D) prepare public service announcements and advertising campaigns to discourage discrimination or denials of equal protection of the laws under the Constitution of the United States because of color, race, religion, sex, age, disability, or national origin, or in the administration of justice.”; see also, U.S. Commission on Civil Rights, *Contemporary Civil Rights Challenges: A View from the States*, Sept. 2018, <https://www.usccr.gov/reports/2018/contemporary-civil-rights-challenges-view-states-2018-survey-state-advisory-committees>; 42 U.S.C. §1975a.

An examination of the reports written by Advisory Committees over the 2017-2021 period demonstrates the top three published topics included administration of justice, voting rights, and race/color. These topics were consistent with the top rankings selected in 2018.

**Table 18. Comparison of Top Five Topics on Reports in 2010, 2018, and 2017-2021**

<b>Ranking of Survey Topics from 2010 That are Still Current in 2018 (Percent)*</b>	<b>2018 Civil Rights Topics (Overall Ranking Percent)</b>	<b>2017-2021 Report Topics (Number of Reports)</b>
Education (25.8)	Race/Color (35.8)	Administration of Justice (30)
Criminal Justice (22.5)	Administration of Justice (22.8)	Voting Rights (23)
Voting Rights (19.2)	Voting Rights (16.6)	Race/Color (12)
Freedom of Expression (17.0)	Religion (9.8)	Hate Crimes (8)
Civil Rights Enforcement (15.4)	National Origin (5.7)	Education (7)
	Disability (4.1)	Human Trafficking (4) COVID-19 (4) Disability (4)
	Sex/Gender (3.1)	Age/Older Adults (3)
	Age (2.1)	Religious Institutions (1) Sex/Gender (1)

\*Due to differences in participation rates and the number of responses for each question, percentages will not equal 100%.

In the 2022 survey, the Advisory Committee respondents were asked again to rank the 2010 survey topics that they feel are still topics of importance in 2022. Generally, while the top five topics remained the same, the ranking of these topics changed when comparing the 2018 survey results to the 2022 results (see Table 19).<sup>144</sup> For instance, voting rights was ranked the number one topic, whereas, in 2018, respondents indicated that education was the most important. Freedom of expression also took on more significance among the 2022 respondents, moving from the fourth position to the second.

<sup>144</sup> U.S. Commission on Civil Rights, *Contemporary Civil Rights Challenges: A View from the States - 2018 Survey of the State Advisory Committees*, Sept. 7, 2018, <https://www.usccr.gov/reports/2018/contemporary-civil-rights-challenges-view-states-2018-survey-state-advisory-committees>.

When one compares what Advisory Committee members stated was most important to the actual topics published over the five years, it shows that the administration of justice, rather than education, was the primary topic examined. Furthermore, among all the reports written, education was the fifth most popular topic among the Advisory Committees.

**Table 19. Comparison of Top Five Topics on Reports in 2018, 2022, and 2017-2021**

<b>Ranking of Survey Topics from 2010 That are Still Current in 2018 (Percent)*</b>	<b>2022 Survey Topics (Overall Ranking Percent)</b>	<b>2017-2021 Report Topics (Number of Reports)</b>
Education (25.8)	Voting Rights (29.0)	Administration of Justice (30)
Criminal Justice (22.5)	Freedom of Expression (14.7)	Voting Rights (23)
Voting Rights (19.2)	Criminal Justice (14.5)	Race/Color (12)
Freedom of Expression (17.0)	Education (13.9)	Hate Crimes (8)
Civil Rights Enforcement (15.4)	Civil Rights Enforcement (12.2)	Education (7)

\*Due to differences in participation rates and the number of responses for each question, percentages will not equal 100%.

## State Legislation

As previously stated, the Advisory Committees operate as the “eyes and ears” of the Commission. They advise the Commission about civil rights issues that impact their respective state, district, or territory. The Advisory Committees serve to inform the Commission about states’ civil rights concerns. Additionally, there are instances when reports produced by the Committees parallel with legislation taken up by their respective states. These instances demonstrate the timeliness of Advisory Committee reports. Although one cannot make any causal assertions between these reports and corresponding legislative bills, it is interesting to note when these instances occurred. For example, California, Connecticut, New Hampshire, Utah, Wyoming, Hawai’i, Alaska, and Texas are examples of states in which the state legislatures passed or attempted to pass legislation that was consistent with Advisory Committee reports.

### California

#### *California’s Report on Immigration Enforcement*

In January 2021, the California Advisory Committee published a report on *Understanding the Impact of Immigration Enforcement on California Children in K-12 Schools*.<sup>145</sup> The Advisory Committee sought to understand: 1) the impact of the U.S. Immigration and Customs Enforcement’s practices on access to public education for California K-12 students; 2) the equal protection under the law for individuals based on their perceived national origin; and 3) the extent to which due process is afforded to K-12 students and their families.<sup>146</sup>

There were several findings from the report. Most notably, immigration enforcement impacts children in many ways.<sup>147</sup> The removal of undocumented parents of children who are U.S. citizens splits families and may negatively impact the growth and stability of millions of children.<sup>148</sup> Additionally, the arrest and/or deportation of parents adversely impacts their children as does the continual fear of arrest and deportation.<sup>149</sup> California’s sanctuary laws have been a point of tension between federal, state, and local authorities.<sup>150</sup> The report found that the California Values Act of 2017 decreased immigrant arrests in the state, and reinforced the notion supported by previous

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<sup>145</sup> California Advisory Committee to the U.S. Commission on Civil Rights, *Understanding the Impact of Immigration Enforcement on California Children in K-12 Schools*, Jan. 25, 2021, <https://www.usccr.gov/reports/2021/understanding-impact-immigration-enforcement-california-children-k-12-schools> (herein California 2021 Report).

<sup>146</sup> California 2021 Report.

<sup>147</sup> California 2021 Report, p. 3.

<sup>148</sup> *Ibid.*

<sup>149</sup> *Ibid.*

<sup>150</sup> *Ibid.*

research and testimony that implementation of deportation procedures would not be as extensive if local officials declined to participate.<sup>151</sup>

Following the report's publication, the California Advisory Committee made several recommendations.<sup>152</sup> The Committee recommended that the report be sent to the California Legislature and suggested that the state legislature conduct an in-depth study on the impact of sanctuary laws and their effectiveness in obtaining their stated goal.<sup>153</sup> Furthermore, the Committee recommended that the state legislature consider examining the relationship between sanctuary laws and crime rates, reporting crime, removals, and recidivism rates.<sup>154</sup>

### *California Legislation on Immigration Enforcement*

In February 2021, the California State Assembly put forth the Voiding Inequality and Seeking Inclusion for Our Immigrant Neighbors (VISION) Act (Assembly Bill 937-Carrillo)<sup>155</sup> intended to amend the existing law of the California Values Act.<sup>156</sup> It would prohibit:

A California law enforcement agency from providing a person's release date or responding to a request for notification of a release date, unless that information is available to the public, and prohibits the transfer of an individual to immigration authorities, as specified, unless the person has been convicted of specified crimes or arrested for a serious or violent felony. The bill would prohibit any state or local agency from arresting or assisting with the arrest, confinement, detention, transfer, interrogation, or deportation of an individual for an immigration enforcement purpose, as specified. The bill would additionally prohibit state or local agencies or courts from using immigration status as a factor to deny or to recommend denial of probation or participation in any diversion, rehabilitation, mental health program, or placement in a credit-earning program or class, or to determine custodial classification level, to deny mandatory supervision, or to lengthen the portion of supervision served in custody.<sup>157</sup>

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<sup>151</sup> *Ibid.*, 5.

<sup>152</sup> *Ibid.*, 58-61.

<sup>153</sup> *Ibid.*, 60.

<sup>154</sup> *Ibid.*

<sup>155</sup> California Legislature, 2021-2022 Regular Session, AB-937 Immigration enforcement. (2021-2022), February 17, 2021, [https://leginfo.ca.gov/faces/billTextClient.xhtml?bill\\_id=202120220AB937](https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=202120220AB937).

<sup>156</sup> *Id.*; see also California Values Act, Factsheet California Values Act (SB54-Deleon), [http://www.iceoutofca.org/uploads/2/5/4/6/25464410/factsheet\\_california\\_values\\_act\\_sb\\_54-4.13.17.pdf](http://www.iceoutofca.org/uploads/2/5/4/6/25464410/factsheet_california_values_act_sb_54-4.13.17.pdf).

<sup>157</sup> California Legislature, 2021-2022 Regular Session, AB-937 Immigration enforcement. (2021-2022), February 17, 2021.

As of September 10, 2021, however, the amendment was listed as “ordered to inactive file by unanimous consent.”<sup>158</sup> As of the writing of this report, the amendment is stalled in the California Senate.

## Connecticut

### *Connecticut’s Report on Protecting the Rights of Residents in Nursing Homes and Long-Term Care Facilities*

In the *Advisory Memorandum on Nursing Homes*,<sup>159</sup> issued in September 2020, the Connecticut Advisory Committee examined how the COVID-19 pandemic impacted adults 65 years and older in assisted care living facilities and nursing homes located in the state.<sup>160</sup> The Committee found that adults 65 years and older faced high infection and mortality rates from COVID-19. There was evidence that COVID-19 was having a disparate impact on nursing home populations, especially for residents of color.<sup>161</sup> The memorandum made five assertions:

- 1) Racial disparities in COVID-19 infection and death rates remain an issue of great concern.
- 2) Appropriate nursing home staffing levels are essential to protecting residents’ civil rights.
- 3) Isolation measures designed to limit the spread of COVID-19 can have unintended consequences that disproportionately burden vulnerable older adult populations.
- 4) Weekly COVID-19 testing is a critical tool in fighting COVID-19 in nursing homes and assisted living facilities.
- 5) Continued access to adequate personal protective equipment (PPE) will limit the spread of COVID-19 in long-term care settings.<sup>162</sup>

In May 2021, the Committee also issued a press release recommending that the Connecticut General Assembly pass legislation to protect the civil rights of residents in nursing homes and long-term care facilities.<sup>163</sup> The Committee encouraged the General Assembly to include the following six key components in any such legislation: (1) a clear definition of an “essential support person,” which will designate individuals who can visit with the resident without obstruction by long-term care facilities; (2) a clear definition of a “person-centered plan of care,” developed by a resident or resident representative in consultation with health professionals; (3) the establishment

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<sup>158</sup> *Id.*

<sup>159</sup> U. S. Commission on Civil Rights, *Memorandum of the Connecticut Advisory Committee on COVID-19 and Nursing Homes*, Sept. 10, 2020, <https://www.usccr.gov/files/2020/2020-09-29-Connecticut-Nursing-Homes-and-Covid-19-Advisory-Memorandum.pdf> (herein Connecticut 2020 Advisory Memo).

<sup>160</sup> Connecticut 2020 Advisory Memo, p. 1.

<sup>161</sup> *Ibid.*, 10.

<sup>162</sup> *Ibid.*, 5-10.

<sup>163</sup> U.S. Commission on Civil Rights, *Connecticut Advisory Committee to U.S. Commission on Civil Rights Recommends Legislation to Protect the Rights of Residents in Nursing Homes and Long-Term Care Facilities*, News Release, May 25, 2021, <https://www.usccr.gov/files/2021/05-27-CT-SAC-Nursing-Homes-PR-for-Publication.pdf>.

of a state-wide policy for visitation with a long-term care facility resident; (4) the affirmation of residents' civil rights and liberties by updating the resident bill of rights, including the right of residents to treat their rooms like their home and to use the technology of their choice in order to keep in communication with family and other essential persons to support social and emotional needs; (5) the maintenance of adequate staffing; and (6) the continued provision of personal protective equipment to residents and staff.<sup>164</sup>

### *Connecticut Legislation to Protect the Rights of Residents in Nursing Homes and Long-Term Care Facilities*

In the 2021 session, the Connecticut General Assembly passed three Public Acts that align with the recommendations highlighted by the Connecticut Advisory Committee's memorandum and press release. They include Public Act 21-55, Public Act 21-71, and Public Act 21-185. These three Acts were signed into law by the Connecticut governor on June 16, 2021,<sup>165</sup> June 24, 2021,<sup>166</sup> and July 13, 2021,<sup>167</sup> respectively.

- Public Act 21-55: An Act Strengthening the Bills of Rights for Long-term Care Residents and Authorizing the Use of Resident Technology for Virtual Visitation and Virtual Monitoring strengthens the bill of rights for long-term care residents and authorizing the use of resident technology for virtual visitation and virtual monitoring. This law addresses the fourth recommendation by the Advisory Committee, which relates to the affirmation of residents' civil rights and liberties by updating the resident bill of rights.<sup>168</sup>
- Public Act 21-71: An Act Concerning Essential Support Persons and a State-Wide Visitation Policy for Residents of Long-Term Care Facilities concerns essential support persons and state-wide visitation policy for residents of long-term care facilities. This law addresses the initial three recommendations by the Advisory Committee: (1) a clear definition of an "essential support person"; (2) a clear definition of a "person-centered plan of care"; and (3) the establishment of a state-wide policy for visitation with a long-term care facility resident.<sup>169</sup>

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<sup>164</sup> Ibid.

<sup>165</sup> See *supra* note 40.

<sup>166</sup> See *supra* note 39.

<sup>167</sup> See *supra* note 41.

<sup>168</sup> SB 973.5, Reg. Sess., (Conn. 2021) (available at <https://www.cga.ct.gov/2021/ACT/PA/PDF/2021PA-00055-R00SB-00975-PA.PDF>); Connecticut State Advisory Committee to the U.S. Commission on Civil Rights, *Advisory Memorandum on Nursing Homes*, Sept. 10, 2020, <https://www.usccr.gov/files/2020-09-29-Connecticut-Nursing-Homes-and-Covid-19-Advisory-Memorandum.pdf>.

<sup>169</sup> HB 6634, Spec. Sess. (Conn. 2021) (available at <https://www.cga.ct.gov/2021/ACT/PA/PDF/2021PA-00071-R00HB-06634-PA.PDF>); Connecticut State Advisory Committee to the U.S. Commission on Civil Rights, *Advisory Memorandum on Nursing Homes*, Sept. 10, 2020, <https://www.usccr.gov/files/2020-09-29-Connecticut-Nursing-Homes-and-Covid-19-Advisory-Memorandum.pdf>.

- Public Act 21-185: An Act Concerning Nursing Homes and Dementia Special Care Units concerns nursing homes and dementia special care units. This law addresses the fifth and sixth recommendations by the Advisory Committee, which includes the maintenance of adequate staffing and the continued provision of personal protective equipment for residents and staff members, respectively.<sup>170</sup>

## New Hampshire

### *New Hampshire's Report on Solitary Confinement of Inmates*

In April 2021, the New Hampshire Advisory Committee initiated an investigation regarding the use of solitary confinement in the state.<sup>171</sup> The report found that solitary confinement tends to have significant, adverse effects on the psychological well-being of inmates.<sup>172</sup> In New Hampshire, when an inmate or a civilly committed individual<sup>173</sup> experiences a mental health crisis they are placed in solitary confinement in the state's Secure Psychiatric Unit, which resides on the same campus as the prison. This practice has been ongoing for many years, even though the Secure Psychiatric Unit is not accredited for mental health services.<sup>174</sup> The report also asserts that housing patients with mental illness in a prison "could be dehumanizing to those seeking mental health services [and] [t]his setting may not be suitable for most patients."<sup>175</sup> The Secure Psychiatric Unit has been the subject of multiple lawsuits and consent decrees.<sup>176</sup> The findings also indicated that New Hampshire practices a form of solitary confinement on psychiatric patients. The Committee maintained that this practice seriously implicates federal civil rights provisions on discrimination based on mental health disability.<sup>177</sup> One of the recommendations issued by the Advisory Committee was to adopt and pass appropriate legislation in the state to fund an acute psychiatric hospital outside of the prison campus.<sup>178</sup>

### *New Hampshire Legislation on Solitary Confinement of Inmates*

<sup>170</sup> SB 1030, Spec. Sess. (Conn. 2021) (available at <https://www.cga.ct.gov/2021/ACT/PA/PDF/2021PA-00185-R00SB-01030-PA.PDF>); Connecticut State Advisory Committee to the U.S. Commission on Civil Rights, *Advisory Memorandum on Nursing Homes*, Sept. 10, 2020, <https://www.usccr.gov/files/2020-09-29-Connecticut-Nursing-Homes-and-Covid-19-Advisory-Memorandum.pdf>.

<sup>171</sup> New Hampshire Advisory Committee to the U.S. Commission on Civil Rights, *Solitary Confinement in New Hampshire*, Apr. 26, 2021, <https://www.usccr.gov/reports/2021/solitary-confinement-new-hampshire> (herein New Hampshire 2021 Report).

<sup>172</sup> New Hampshire 2021 Report, p. 2.

<sup>173</sup> Defined as an individual who is found not guilty by reason of insanity. *See generally*, New Hampshire 2021 Report, p. 3.

<sup>174</sup> New Hampshire 2021 Report, p. 51.

<sup>175</sup> *Ibid.*, 52.

<sup>176</sup> *Ibid.*, 3.

<sup>177</sup> *Ibid.*, 6, 54.

<sup>178</sup> *Ibid.*, 8.

In January 2022, House Bill 1391, Establishing a Secure Psychiatric Hospital Advisory Committee,<sup>179</sup> was introduced by the House Committee of the New Hampshire General Assembly. The bill would give lawmakers a role in establishing a secure psychiatric hospital advisory committee that would assist the commissioner of the state's Department of Health and Human Services and the commissioner of corrections with the planning and construction of a new secure psychiatric hospital.<sup>180</sup> Mental health patients from the state prison would be transferred to the new hospital once built. The bill was killed in a vote of 20-0 finding it inexpedient to legislate.<sup>181</sup>

## Utah

### *Utah's Report on the Gender Wage Gap*

In July 2020, the Utah Advisory Committee published a report examining the gender pay gap in the state.<sup>182</sup> The report found that "Utah women make an average of 71 cents for every dollar earned by men, lagging behind the national average of 80 cents per dollar."<sup>183</sup> The report also found that

utilizing salary history to set a worker's starting salary negatively impacts subsequent raises, bonuses, and promotions that accumulate overtime. This is concerning because women are more likely to be offered lower starting salaries from previous jobs and therefore, may have less retirement security to fall back on due to lower earnings accumulated throughout their career.<sup>184</sup>

Furthermore, the report recommended the Utah Legislature consider passing legislation that "prohibits employers from relying on salary history of a prospective employee in considering the prospective employee for employment, including requiring that a prospective employee's prior wages satisfy minimum or maximum criteria as a condition of being considered for employment."<sup>185</sup>

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<sup>179</sup> H.B. 1391, 167<sup>th</sup> General Court., Reg. Sess. (N.H., 2022), [http://www.gencourt.state.nh.us/bill\\_status/billinfo.aspx?id=1765&inflect=2](http://www.gencourt.state.nh.us/bill_status/billinfo.aspx?id=1765&inflect=2).

<sup>180</sup> *Id.*

<sup>181</sup> Annmarie Timmins, "In Rejecting Bill, N.H. Lawmakers Cite Significant Progress on Secure Psychiatric Hospital," New Hampshire Public Radio, Jan. 28, 2022, <https://www.nhpr.org/nh-news/2022-01-28/in-rejecting-bill-lawmakers-cite-significant-progress-on-secure-psychiatric-hospital>.

<sup>182</sup> Utah Advisory Committee to the U.S. Commission on Civil Rights, *Civil Rights and the Gender Wage Gap in Utah*, July 2020, <https://www.usccr.gov/files/2020/2020-07-28-UT-SAC-Gender-Wage-Gap-Report.pdf> (herein Utah 2020 Report).

<sup>183</sup> Utah 2020 Report, p. 3.

<sup>184</sup> *Ibid.*, 6.

<sup>185</sup> *Ibid.*, 7.

### *Utah Legislation to Improve the Gender Wage Gap*

During the 2020 Utah General Assembly Session, House Bill 140, the Employment Selection Procedures Act Amendment, was submitted.<sup>186</sup> The bill amends the Employment Selection Procedures Act to prohibit an employer from inquiring into an applicant’s salary and compensation history.<sup>187</sup> The bill was not heard in committee. As of March 2020, per the state legislature’s website, the House “strike[s] enacting [the] clause.”<sup>188</sup> The bill was not passed.<sup>189</sup>

## Wyoming

### *Wyoming’s Report on Hate Crimes*

In 2019, the Commission issued a formative report titled *In the Name of Hate: Examining the Federal Government’s Role in Responding to Hate Crimes*.<sup>190</sup> This report addressed the federal government’s role in combating hate crimes. In the spring of 2019, the Wyoming Advisory Committee voted to examine hate crimes in the state. At the time of the 2019 report’s publication, Wyoming was one of four states that did not have a hate crime law. Since that publication, Georgia passed hate crime legislation in June 2020.<sup>191</sup> Wyoming currently remains one of three states with no hate crime law.<sup>192</sup>

In July 2020, the Wyoming Advisory Committee published *Examining Hate Crimes in the Equity State*, which documented the findings and recommendations of the Advisory Committee.<sup>193</sup> The Advisory Committee’s “inquiry consisted of examining the sufficiency of current equal protection laws in Wyoming, estimating the prevalence of alleged hate crimes and hate groups (if any) in the state, and challenges or barriers which may prevent law enforcement from addressing alleged hate crimes.”<sup>194</sup>

<sup>186</sup> H.B. 140, 2020 Leg., General Sess. (Utah 2020), <https://le.utah.gov/~2020/bills/static/HB0140.html>.

<sup>187</sup> *Id.* at line 10.

<sup>188</sup> *Id.*

<sup>189</sup> Saige Miller and Becky Jacobs, “Gender Wage Gap Bills Have Stalled in the Utah Legislature. What Can the Private Sector Do?” *The Salt Lake Tribune*, Dec. 14, 2021, <https://www.sltrib.com/news/2021/12/14/gender-wage-gap-bills/>.

<sup>190</sup> U.S. Commission on Civil Rights, *In the Name of Hate: Examining the Federal Government’s Role in Responding to Hate Crimes*, Nov. 2019, <https://www.usccr.gov/pubs/2019/11-13-In-the-Name-of-Hate.pdf>.

<sup>191</sup> Emily Borna, “Georgia’s New Hate Crimes Legislation,” *JacksonLewis*, June 30, 2020, <https://www.jacksonlewis.com/publication/georgia-s-new-hate-crimes-legislation>.

<sup>192</sup> *Ibid.*; Arkansas, South Carolina, and Wyoming do not have any hate crimes laws.

<sup>193</sup> Wyoming Advisory Committee to the U.S. Commission on Civil Rights, *Examining Hate Crimes in the Equity State: A Report of the Wyoming Advisory Committee to the U.S. Commission on Civil Rights*, July 2020, <https://www.usccr.gov/files/2020/2020-07-23-WY-SAC-Hate-Crimes-Report.pdf> (herein Wyoming 2019 Report).

<sup>194</sup> Wyoming 2019 Report, p. 4.

The report documented several findings.<sup>195</sup> First and foremost, there is a lack of information for determining the prevalence of bias-motivated incidents and hate crimes against protected groups in the state. In Wyoming, law enforcement is not required to report data to state and federal agencies, but only do so voluntarily.<sup>196</sup> Thus, it is difficult to determine the prevalence of these incidents in Wyoming.<sup>197</sup> Additionally, the report found that employment, housing, and public accommodation protections for lesbian, gay, bisexual, transgender, queer/questioning, and intersex (LGBTQI) communities are seen as an effective method to address bias-motivated incidents because hate crime legislation often includes increased penalties.<sup>198</sup> Many bias-motivated incidents can be concerning for law enforcement and community members who are balancing the need to protect free speech with concerns that such speech can result in harassment, intimidation, or actual violence.<sup>199</sup> Moreover, hate crimes committed against Indigenous communities go largely unnoticed and underreported due to the long history of prejudice and discrimination toward American Indians.<sup>200</sup>

The Advisory Committee recommended that the report be sent to the Wyoming Legislature to pass legislation that would:

- 1) study the various hate crime policies and procedures used among major law enforcement agencies;
- 2) require statewide training for all law enforcement agencies regarding identifying, responding to, and reporting a hate crime;
- 3) develop a hate crime statute that prohibits a broad range of bias-motivated criminal conduct, offers inclusive protections for victims, and includes alternative sentencing provisions;
- 4) prohibit discrimination of any person based upon his or her actual or perceived sexual orientation or gender identity in employment, housing, and public accommodations; and
- 5) establish a citizen oversight board to hold police accountable for misconduct.<sup>201</sup>

### *Wyoming Legislation to Combat Hate Crimes*

In March 2021, Representative(s) Sweeney, Barlow, Brown, Connolly, Duncan, Henderson, Newsome, Paxton, Yin and Zwonitzer and Senator(s) Furphy, Pappas, Perkins and Rothfuss of the Wyoming Legislature submitted House Bill 0218, which was an act that would address bias-

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<sup>195</sup> Ibid., 5, 23-25.

<sup>196</sup> Ibid., 24.

<sup>197</sup> Ibid.

<sup>198</sup> Ibid.

<sup>199</sup> Ibid., 25.

<sup>200</sup> Ibid., 5, 24.

<sup>201</sup> Ibid., 25-26.

motivated crimes.<sup>202</sup> It would create enhanced penalties for bias-motivated crimes; allow the court to consider whether a crime is bias-motivated during sentencing; create a civil cause of action; provide for antibias training of peace officers; and require bias-motivated crime reporting incidence reports.<sup>203</sup> The bill failed to pass and died in committee in April 2021.<sup>204</sup>

## Hawai'i

### *Hawai'i's Report on COVID-19 and Pacific Islander Communities in the State*

The Hawai'i Advisory Committee published a report in May 2021 that identified and sought to address the disparate impact of COVID-19 infection experienced by Pacific Islander communities living on the islands.<sup>205</sup> These communities had significantly higher infection rates compared to other communities on the islands.<sup>206</sup> In August 2020, researchers concluded that the infection rate for non-Hawai'ian Pacific Islanders was 10 times higher than the state's total infection rate.<sup>207</sup>

The report documented several factors contributing to the disproportionate effect of COVID-19 on Pacific Islander communities. Based on the report, there was a disparate impact in the delivery of medical and public services provided to Pacific Islanders during the pandemic in Hawai'i.<sup>208</sup> Additionally, organizations not equipped with language assistance may have denied assistance to Pacific Islander communities who speak limited English.<sup>209</sup> There was a lack of translated materials and interpreters,<sup>210</sup> as well as a lack of culturally appropriate and effective messaging to members of these communities.<sup>211</sup>

On an individual level, Compact of Free Association (COFA)<sup>212</sup> migrants from Micronesia, Marshall Islands, and Palau were ineligible to receive Medicaid due to their special immigration

<sup>202</sup> H.B. 0218, 66<sup>th</sup> Leg., General Sess., (Wyo. 2021), <https://wyoleg.gov/Legislation/2021/HB0218.1>

<sup>203</sup> *Id.*

<sup>204</sup> *Id.*

<sup>205</sup> COVID-19 and Pacific Islander Communities in Hawaii: A Report of the Hawaii Advisory Committee to the U.S. Commission on Civil Rights, May 19, 2021, <https://www.usccr.gov/files/2021/05-19-HI-SAC-COVID-19-and-Pacific-Islanders-Report.pdf> (herein Hawai'i 2021 Report).

<sup>206</sup> Hawai'i 2021 Report, p. 14.

<sup>207</sup> *Ibid.*, 9.

<sup>208</sup> *Ibid.*, 6.

<sup>209</sup> *Ibid.*

<sup>210</sup> *Ibid.*, 8.

<sup>211</sup> *Ibid.*, 7.

<sup>212</sup> "The Compacts of Free Association are a series of treaties between the U.S., the Federated States of Micronesia, the Republic of Palau, and the Republic of the Marshall Islands. These treaties were partially established as compensation for the loss of life, health, land, and resources due to the numerous nuclear weapons tests on the Marshall Islands and Bikini and Enewetak Atolls issued by the U.S. from 1946 to 1958. The Compacts allow citizens of Micronesia to live and legally work in the U.S. without a visa, as well as have access to social and health services. In return, the U.S. has sole access and substantial amount of military and veto power over these islands that are considered of strategic value." See University of Hawai'i, "Micronesians in Hawai'i: Compacts of Free Association (COFA)," <https://guides.library.manoa.hawaii.edu/c.php?g=105631&p=686651>.

status.<sup>213</sup> They were also more likely to experience significant challenges applying for unemployment benefits based on their status.<sup>214</sup> Organizationally, Pacific Islander coalitions and grassroots organizers were forced to rely on other organizations that have formal structures to act as the applicant and pass-through entity.<sup>215</sup> The pandemic magnified this existing issue and left many migrant communities without access to economic relief programs, which could have made a difference in health outcomes among these communities.<sup>216</sup>

The Advisory Committee recommended that the report be sent to the Hawai'i Legislature.<sup>217</sup> The report issued a recommendation to pass legislation that would “support resolution for diversity training for hospital staff and hire community health workers and interpreters to translate in respective languages of Chuukese, Marshallese, Yapese, Palauan, Ponapean and Kosraean.”<sup>218</sup> The report also recommended that broadband service be expanded “in remote areas of Hawai'i to expand services to communities who would benefit from telehealth services.”<sup>219</sup>

### *Hawai'i Legislation on COVID-19 and Pacific Islander Communities in the State*

At the time of the Advisory Committee's virtual briefings, COFA migrants were ineligible for Medicaid coverage.<sup>220</sup> In December 2020, House Bill 133, the Consolidated Appropriations Act, became public law and provided Medicaid coverage for citizens of freely associated states who lawfully reside in the United States.<sup>221</sup> The Hawai'i Advisory Committee estimated in their report that as many as 94,000 people nationally would benefit from the law.<sup>222</sup>

The Hawai'i Legislature introduced Senate Bill 1285 in January 2021.<sup>223</sup> This bill would require “any Hawai'i health systems corporation hospital in a county with an area greater than four thousand square miles that serves Compact of Free Association benefit recipients to establish diversity and inclusion training for all staff.”<sup>224</sup> It would require the hiring of interpreters and community health care workers to bridge the language and cultural divide with the community.”<sup>225</sup> Furthermore, it would require “the Hawai'i health systems corporation to provide oversight and

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<sup>213</sup> Hawai'i 2021 Report, p. 22.

<sup>214</sup> *Ibid.*, 8.

<sup>215</sup> *Ibid.*, 6.

<sup>216</sup> *Ibid.*

<sup>217</sup> *Ibid.*, 11.

<sup>218</sup> *Ibid.*

<sup>219</sup> *Ibid.*

<sup>220</sup> Hawai'i 2021 Report, p. 24, 61.

<sup>221</sup> Consolidated Appropriations Act, 2021, H.R. 133, 116<sup>th</sup> Congress (2020), <https://www.congress.gov/bill/116th-congress/house-bill/133>.

<sup>222</sup> Hawai'i 2021 Report, p. 8.

<sup>223</sup> S.B. 1285, 31st Leg., 1<sup>st</sup> Special Sess., (Haw., 2021)

[https://www.capitol.hawaii.gov/session2021/bills/SB1285\\_HD1\\_.pdf](https://www.capitol.hawaii.gov/session2021/bills/SB1285_HD1_.pdf), p. 1

<sup>224</sup> *Id.*

<sup>225</sup> *Id.*

enforcement,” and to “provide a report to the legislature.”<sup>226</sup> The bill died in committee in March 2021 when the Committee on Consumer Protection and Commerce recommended that the measure be deferred.<sup>227</sup>

In March 2022, the Hawai’i Legislature submitted House Resolution 83, “urging the Department of Health to employ the Team 6B contact tracing team as permanent staff and hire other members from the native Hawai’ian and Pacific Islander communities in an effort to address the health inequities that exist and create better access to culturally relevant programs for native Hawai’ians and Pacific Islanders.”<sup>228</sup> The resolution died in committee later that month.<sup>229</sup>

House Resolution 60 was also introduced in March 2022, which requested the “establishment of a telehealth and telephonic services working group to address the complexities surrounding the appropriate use of telehealth and telephonic services, by specialty care area, and coverage of these services by health insurance.”<sup>230</sup> The resolution was adopted in its final form in April 2022.<sup>231</sup>

## Alaska

### *Alaska’s Report on Alaska Native Voting Rights*

The Alaska Advisory Committee published a report in March 2018<sup>232</sup> that examined whether the state is providing access to language minority Alaska Natives in accordance with the *Toyukak v. Mallott* settlement and court order (Toyukak Order) and determined the potential impact of mail-in voting on Alaska Native voters.<sup>233</sup> The Toyukak Order requires language assistance and election materials in Yup’ik and Gwich’in in the Dillingham, Kusilvak, and Yukon-Koyukuk Census

<sup>226</sup> S.B. 1285, 31st Leg., 2021 Reg. Sess., Relating to medical facilities, (Hawaii 2021), [https://www.capitol.hawaii.gov/session2021/bills/SB1285\\_HD1\\_.pdf](https://www.capitol.hawaii.gov/session2021/bills/SB1285_HD1_.pdf), p. 2.

<sup>227</sup> S.B. 1285, 31st Leg., 2021 Reg. Sess., Relating to medical facilities, (Hawaii 2021), [https://www.capitol.hawaii.gov/Archives/measure\\_indiv\\_Archives.aspx?billtype=SB&billnumber=1285&year=2021](https://www.capitol.hawaii.gov/Archives/measure_indiv_Archives.aspx?billtype=SB&billnumber=1285&year=2021).

<sup>228</sup> H.R. 83, 31st Leg., 2022 Reg. Sess., (Haw., 2022),

[https://www.capitol.hawaii.gov/session2022/bills/HR83\\_HD1\\_.pdf](https://www.capitol.hawaii.gov/session2022/bills/HR83_HD1_.pdf), p. 1.

<sup>229</sup> *Id.*

<sup>230</sup> H.R. 60, 31st Leg., 2022 Reg. Sess., (Hawaii 2022),

[https://www.capitol.hawaii.gov/session2022/bills/HR60\\_HD2\\_.pdf](https://www.capitol.hawaii.gov/session2022/bills/HR60_HD2_.pdf), p. 1.

<sup>231</sup> H.R. 60, 31st Leg., 2022 Reg. Sess., (Hawaii 2022),

[https://www.capitol.hawaii.gov/measure\\_indiv.aspx?billtype=HR&billnumber=60&year=2022](https://www.capitol.hawaii.gov/measure_indiv.aspx?billtype=HR&billnumber=60&year=2022).

<sup>232</sup> Alaska Native Voting Rights, March 27, 2018, <https://www.usccr.gov/files/pubs/2018/05-25-AK-Voting-Rights.pdf>, (herein Alaska 2018 Report).

<sup>233</sup> *Toyukak v. Mallott*, No. 3:13CV137 (D. Alaska Sept. 8, 2015) (noting that the plaintiffs originally made constitutional claims under the Fourteenth and Fifteenth Amendments, but under the terms of the Stipulated Judgement and Court Order, the plaintiffs agreed to dismiss those claims).

Areas.<sup>234</sup> The state is also obligated to comply with Section 203 covered languages in other regions within the state.<sup>235</sup>

The report found there was inadequate staffing of bilingual poll workers in the three Census Areas. Some voters with limited English proficiency may not have received bilingual assistance and translations necessary to cast their ballot on Election Day.<sup>236</sup> Translated written materials required under the Toyukak Order were unavailable in numerous locations across the state.<sup>237</sup> Additionally, Alaska has only two full-time bilingual workers to carry out the implementation of the Toyukak Order.<sup>238</sup>

Some of the recommendations made by the Advisory Committee included sending the report to the State of Alaska Legislature.<sup>239</sup> Additionally, it was suggested that the state provide appropriations to ensure the Division of Elections has the funding to continue complying with Section 203 of the Voting Rights Act, the Toyukak Order, and Title VI of the Civil Rights Act.<sup>240</sup> The report also recommended that the state should enact legislation resembling Title VI of the Civil Rights Act to help ensure statewide access to voting materials for voters who speak an Alaska Native language.<sup>241</sup> The Advisory Committee also recommended that the state implement a hybrid voting system that includes a strong early voting option; in person voting both in early/absentee voting and on Election Day; and a vote-by-mail system to avoid voter disenfranchisement.<sup>242</sup>

### *Alaska Legislation on Alaska Native Voting Rights*

In 2021, the Alaska Representative Kreiss-Tomkins put forth House Bill 138.<sup>243</sup> Relating specifically to elections, the Act requires

a risk-limiting audit of selected election results; requiring state elections and local elections conducted by the state to be conducted by mail; requiring certain vote-by-mail ballots and election materials to be provided in certain written languages other than English; establishing an online ballot tracking and registration verification system; establishing vote centers, ballot drop boxes, and ballot tabulation centers; eliminating the use of precincts,

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<sup>234</sup> *Id.*

<sup>235</sup> *Id.*

<sup>236</sup> Alaska 2018 Report, p. 5.

<sup>237</sup> *Ibid.*

<sup>238</sup> *Ibid.*, 6.

<sup>239</sup> *Ibid.*, 11.

<sup>240</sup> *Ibid.*

<sup>241</sup> *Ibid.*

<sup>242</sup> *Ibid.*

<sup>243</sup> H.B. 138, 32nd Leg., 1<sup>st</sup> Reg. Sess. (Alaska, 2021), <http://www.akleg.gov/basis/Bill/Detail/?Root=HB%20138>.

polling places, absentee ballots, and questioned ballots in certain elections; establishing new elections offenses; and providing for an effective date.<sup>244</sup>

As of April 4, 2021, the bill was moved to the state judiciary. As of the writing of this report, there has been no further updates regarding the status of the bill.<sup>245</sup>

Another proposed legislation is House Bill 363,<sup>246</sup> which is “An Act establishing the office of broadband; creating the broadband parity adjustment fund; establishing the Statewide Broadband Advisory Board; and providing for an effective date.”<sup>247</sup> The goal of the office of broadband is “to expand broadband access and digital equity in the state...”<sup>248</sup> Furthermore, the bill’s intent is to expand broadband service to unserved areas, underserved areas, and anchor institutions. The bill was approved by both houses of the Alaska legislature in May 2022.<sup>249</sup> Per the Alaska State Legislature website, as of May 18, 2022, it is awaiting transmittal to the governor.<sup>250</sup>

## Texas

### *Texas’ Report on Voting Rights*

On March 13, 2018, the Texas Advisory Committee heard testimony concerning possible barriers to voting in the state that may have a discriminatory impact on voters based on race, color, sex, disability status, and national origin.<sup>251</sup> The findings from the report indicated there is confusion regarding the voter ID law and provisional ballot procedures.<sup>252</sup>

In the 2016 election, there was widespread confusion surrounding voter ID requirements. Voters without proper ID were not consistently informed about the “reasonable impediment” exception to the ID law, or offered provisional ballots; as a result, some were improperly turned away by misinformed poll workers. In the new version of the ID law, passed by the Texas Legislature in 2017, there are criminal sanctions associated with incorrectly executing the affidavit necessary to claim the “reasonable impediment” exception to the ID law and stakeholders are concerned that this will deter voters who in fact fall under the ID law’s exception from casting a ballot.<sup>253</sup>

<sup>244</sup> H.B. 138, 32nd Leg., 1<sup>st</sup> Reg. Sess. (Alaska, 2021).

<sup>245</sup> *Id.*

<sup>246</sup> H.B. 363, 32nd Legislature, 2<sup>nd</sup> Reg. Sess. (Alaska, 2022), <http://www.akleg.gov/basis/Bill/Detail/32?Root=HB363>, <http://www.akleg.gov/PDF/32/Bills/HB0363A.PDF>.

<sup>247</sup> *Id.*

<sup>248</sup> *Id.*

<sup>249</sup> *Id.*

<sup>250</sup> *Id.*

<sup>251</sup> Voting Rights in Texas: An Advisory Memorandum of the Texas Advisory Committee to the U.S. Commission on Civil Rights, July 2018, <https://www.usccr.gov/files/pubs/2018/07-23-TX-Voting-Rights.pdf> (herein Texas 2018 Report).

<sup>252</sup> Texas 2018 Report, p. 10.

<sup>253</sup> *Ibid.*

The Advisory Committee recommended that the report be sent to the Texas Legislature.<sup>254</sup> The Committee also issued recommendations to the Texas Legislature to implement a secure online voter registration system to make voter registration easier, more accessible, and to better comply with the National Voter Registration Act (NVRA).<sup>255</sup>

### *Texas Legislation on Voting Rights*

On April 27, 2018, the United States Court of Appeals for the Fifth Circuit upheld that Texas could implement Senate Bill 5, which requires voters to present a photo ID before casting a ballot at the polls.<sup>256</sup> This reversed the lower court's ruling that determined it discriminated against voters of color.<sup>257</sup>

In *Stringer v. Pablos*, the court ruled on March 30, 2018, that Texas was in violation of the NVRA for failing to allow Texas drivers to register to vote online while updating license information.<sup>258</sup> This ruling ordered the state to implement a system for online voter registration.<sup>259</sup> However, the ruling was overturned in 2019 by a federal appeals court due to lack of standing.<sup>260</sup> On August 28, 2020, a second order was filed when U.S. District Judge Orlando Garcia of San Antonio found that Texas continued to violate the NVRA and ordered the state to set up a “fully operable online system” by Sept 23, 2020.<sup>261</sup> As of the writing of this report, Texas has established an online voter registration whereby one can register to vote using their online system.<sup>262</sup>

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<sup>254</sup> Texas 2018 Report, p. 14.

<sup>255</sup> *Ibid.*

<sup>256</sup> *In re Abbott*, 956 F.3d 696 (5<sup>th</sup> Cir. 2020), vacated, *Planned Parenthood Center for Choice v. Abbott*, 141 S. Ct. 1261 (2021).

<sup>257</sup> *Id.*

<sup>258</sup> *Stringer v. Pablos*, 320 F. Supp. 3d 862 (W.D. Tex. 2018), *rev'd*, 942 F.3d 715 (5<sup>th</sup> Cir. 2019).

<https://texascivilrightsproject.org/wp-content/uploads/2018/04/msj-dps.pdf>.

<sup>259</sup> *Id.*; Texas Civil Rights Project, Release: In Sweeping Opinion, TCRP Wins Motor Voter Registration Case Against the State of Texas, May 11, 2018, <https://txcivilrights.org/2018/05/11/release-in-sweeping-opinion-tcrp-wins-motor-voter-registration-case-against-the-state-of-texas/>.

<sup>260</sup> *Stringer v. Whitley*, 942 F.3d 715 (5<sup>th</sup> Cir. 2019), p. 14, [www.ca5.uscourts.gov/opinions/pub/18/18-50428-CV0.pdf](http://www.ca5.uscourts.gov/opinions/pub/18/18-50428-CV0.pdf).

<sup>261</sup> *Stringer v. Hughs*, 2020 WL 6875182, at \*1 (W.D. Tex., 2020); *see also*, Texas Civil Rights Project, Texas Voters Win as Motor Voter Lawsuit is Settled, July 31, 2021, <https://txcivilrights.org/wp-content/uploads/2021/08/Stringer-Press-Release.pdf>; Alexa Ura, “For second time, federal judge finds Texas is violating voter registration law,” *The Texas Tribune*, Aug. 28, 2020, <https://www.texastribune.org/2020/08/28/texas-voter-registration-laws/>.

<sup>262</sup> VoteTexas.gov Powered by the Texas Secretary of State, <https://www.votetexas.gov/register-to-vote/update-voter-registration.html>.

## Chapter 4: Focus Groups Sessions

In order to gain further insight and perspective on the Advisory Committee's processes, the Commission conducted focus groups with three State Advisory Committees: Connecticut, Texas, and California. The following chapter contains a discussion of the prominent themes and perspectives from these members regarding the report process.

### Connecticut

On June 30, 2022, a virtual focus group was held with the Connecticut Advisory Committee (Connecticut) members to ascertain their group processes for choosing report topics, reaching consensus on reports, and determining whether to publish the completed reports.<sup>263</sup> Connecticut was selected to participate in the focus group because they were one of two Advisory Committees that had published the most reports over the 2017-2021 time period.

All of the Connecticut members were invited to participate in the session. Twelve out of the 14 members participated in the focus group, which represents an 86 percent participation rate. Half of the members have been with the group since 2020. Of the remaining members, two have been with the group since 2016, two since 2014, and two since 2011. Additionally, there was an even split of female and male members who participated in the session.

#### *Selecting Report Topics*

There was agreement among the Connecticut members that there are several components to their success in choosing topics and producing reports. These components include:

- the varying professional backgrounds and expertise of their members;
- the good organizational structure of the group;
- the ability to build group buy-in on projects;
- the ability to simultaneously work on multiple topics; and
- the alignment of their perspectives on civil rights.

Connecticut is comprised of members with varying backgrounds and a diverse breadth of expertise. The group consisted of three attorneys, two professors, two retirees, a state director, a deputy director, a law and policy fellow, a legal intern, and a senior law clerk. The members expressed that this diversity was beneficial in deciding report topics. Moreover, they told the Commission that the mixture of different professions and perspectives adds value to their

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<sup>263</sup> Connecticut Focus Group Session on June 30, 2022, via Zoom meeting (hereinafter Connecticut Focus Group).

committee and aids them in generating numerous topic ideas; and they consciously tap into the expertise of their members when generating topics for investigation. For example, Cheryl Sharp, who has been a member since 2020 stated:

I think that diversity of thought is really important too and certainly helps to make all of the projects much easier... There are a lot of different ideas and thoughts about the issues. It's not just one side or the other.<sup>264</sup>

The members' broad expertise is also translated into an overall respect that members have for each other personally and professionally, which helps the group work together to reach consensus on selecting topics for investigation. Christine Corgel, a member since 2011, explained that:

What's been, I think, really effective, in addition to the subject matter expertise we have and the knowledge of the judicial processes, is that everybody... approaches these decisions in a very collegial manner.<sup>265</sup>

The group indicated that some members of the Advisory Committee are very attuned to the needs in the state and the state's legislative process. They stated this aids the group in understanding when the reports will be the most helpful and influential for the state legislature and helps drive their timing of reports. For instance, Olivia White, a member since 2014 stated:

[W]e have to move faster than maybe another SAC would because we're really trying to get it in order to have an impact on the current legislative session. So, [we] say let's go with it, let's get it in... so that we can have more of an influence in a timely manner.<sup>266</sup>

David McGuire, the Committee's Chair, who has been on the Committee since 2014, explained that the impact of their reports work because "folks in the SAC know what our lane is, what our topics need to be tethered to, and that they should be as impactful as possible."<sup>267</sup>

While there are a wide range of civil rights topics that can be investigated, for Connecticut, there are two areas on which they often focus their resources and efforts. One area concerns issues regarding racial equity and racial discrimination in the state. The other area is segregation, discrimination, and racial profiling in the state. Michael Werner, who has been on the Committee since 2016 explained, "we had a renewed session coming in Connecticut... And part of the success was choosing topics that we knew weren't going to be overly divisive. But pursuing them in a way and humanizing the issues..."<sup>268</sup> Other members stated that the group's success is due to the

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<sup>264</sup> Connecticut Focus Group, p. 19.

<sup>265</sup> Ibid., 7.

<sup>266</sup> Ibid., 6.

<sup>267</sup> Ibid., 8.

<sup>268</sup> Ibid., 7.

openness and willingness to take up topics from all the members and not privileging one voice over another. Anthony Ciolli, member since 2020 stated that:

Dave [Connecticut Chair] and staff make it so that people are comfortable proposing topics. And every effort is made to ensure that all topics will be addressed in some way, shape, or form and in a very efficient manner that accommodates the SAC and staff schedule.<sup>269</sup>

As part of their organizational process, the members explained that they put topic choices to a vote to decide on which investigation to undertake. This process is especially important when the group faces a difficult decision regarding whether to go in one direction versus another. This democratic process has helped the group fill voids and move the process forward. One longstanding member, Susan Toliver, whose been on the Committee since 2016 described the process this way:

We had one case recently where there were two very, very worthy projects. We were somewhat split in terms of which one we pursued. But again, democracy ruled, and we took it to a vote, and we moved forward.<sup>270</sup>

Cross training is also an important component of Connecticut's organizational structure. They use it to create an atmosphere that allows newer members to reach out to more "encore" (i.e., senior) members for advice and insight when working on projects. Ingrid Alvarez DiMarzo, a member since 2020, expressed that

part of the secret sauce [of] the Connecticut SAC is the amount of time and support that returning SAC members or encore SAC members provide... outside of the meeting spaces. The cross training and support that then leads to being able to truly show up to the subcommittee working spaces and be[ing able] to contribute and produce."<sup>271</sup>

Obtaining group member "buy-in" was expressed as being paramount for Connecticut and the focus on buy-in helps to build member cohesion. It also creates an atmosphere whereby members are willing to put preferences aside and work together towards the larger interest that best serves their state. David McGuire stated that what is "helpful to our process [is] that people are willing to put their personal preference for what should be done first aside if collectively we decide to have another topic be first."<sup>272</sup> Similarly, Michael Werner explained that he thought that buy-in was

an important key when different SACs are choosing their topics. If there's a way to find a hook. Where you can say maybe this is something that needs the needle moved on. Maybe

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<sup>269</sup> Ibid.

<sup>270</sup> Ibid., 9.

<sup>271</sup> Ibid., 6.

<sup>272</sup> Ibid., 8.

there's a way we can choose it and actually successfully get unanimous passage on something. That's something that we work hard on.<sup>273</sup>

Connecticut's ability to have multiple investigations occurring simultaneously was another major aspect of their prodigious success. If they are working on one topic, they already have begun to think about and flesh out the next project. Olivia White stated that "we hit almost two topics at a time. When we have one [topic], we have another group thinking about that very next topic."<sup>274</sup> Similarly, David McGuire said that "I think one of the secrets to our success...is thinking ahead and not having large gaps in between projects."<sup>275</sup> This topic overlap avoids gaps between the end of one report and the start of the next. Additionally, they expressed that this project fluidity and continuity is also key.

The ease in Connecticut's ability to choose topics is also based on their overall concurrence on the importance of civil rights. There is consensus that the goal of the group is to move the civil rights' ball forward in their state. Thus, ideological disagreements rarely occur. Connecticut also conveyed being more ideologically aligned makes it easier to come to agreement on topics. Mark Guis, member since 2020, told the Commission that "I think actually a big reason for a lot of our success is, I'm conjecturing here, [we are] probably more ideologically similar than SACs in other states. And so that we all come with an agreement that civil rights are important."<sup>276</sup>

### *Building Topic Consensus*

Connecticut's success in publishing multiple reports over the study's five-year time period is also a function of the organizational dynamic they created. For instance, when deciding potential new topics, they break into small subcommittees, which conduct preliminary research on the subject. The subcommittees work on fleshing out the topic, gathering topic information, and presenting evidence to justify the research topic's benefit to the state. A subcommittee lead is also assigned and oversees the development of a preliminary proposal.

The subcommittee also determines the proposed timeline and the potential effectiveness given the amount of time allotted to complete said report. The subcommittee also ascertains the project's level of difficulty. For example, how difficult would it be to have experts in the field present to the group? How difficult would it be to access information for the project? This information is shared with the entire group who decide, via a vote, whether to pursue the project. For example, Susan Toliver, a member since 2016, explained that these subcommittees or "workgroups" can work together to "explore the feasibility of a particular topic, and then come back to the group. That,

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<sup>273</sup> Connecticut Focus Group, p. 7.

<sup>274</sup> Ibid., 6.

<sup>275</sup> Ibid., 5.

<sup>276</sup> Ibid., 11.

again, speaks to the democratic aspect of our process.”<sup>277</sup> One of the newer members, Venesia Hurtubise, who joined the Committee in 2020, described the process this way, “we try to include every project and then think about it in a logistical way of when [] it makes the most sense to present this information. Because typically, all of the projects are important to Connecticut.”<sup>278</sup>

The members also expressed that their success is based upon the shared goal of advancing civil rights in their state. Therefore, even when disagreements arise, they have created an environment that is both respectful and research focused. Charles Gardner, member since 2020, stated that “I would just say that the debate we did have among the group, in terms of choosing topics, was a very lively, civil, and informative debate.”<sup>279</sup>

### *The Importance of Leadership*

Another theme that emerged during the focus group was the necessity for good leadership in order to navigate the report generating process. Members expressed that it is paramount and aids their ability to generate reports; and this leadership comes from the efforts of the direct federal officer (DFO), the support specialist, and their Chair. This collaborative effort helps the group have a good foundation for doing their work. They verbalized the leadership does a good job of cheering the group on, helping them to stay on course, and keeping them focused on finishing the projects. For instance, Olivia White stated that “Barbara [the DFO] is really good about making sure the topics we bring forward have civil rights implications... She’s good about guiding us so that our topics make sense and fit.”<sup>280</sup>

Michael Werner expressed the importance of having a strong Committee Chair stating: “[we are] always being mindful of weaving throughout the conversations and the reports themselves is we are a nonpartisan body. It’s always important to remember that. David [the Chair] has done a good job of shepherding us through that.”<sup>281</sup>

### *Steps in the Report Process*

When asked about the various steps undertaken in its report process, Connecticut identified several. One of the members, Venesia Hurtubise, succinctly outlined their actions in putting forth reports.<sup>282</sup>

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<sup>277</sup> Connecticut Focus Group, p. 9.

<sup>278</sup> Ibid., 8.

<sup>279</sup> Ibid., 9.

<sup>280</sup> Ibid., 11.

<sup>281</sup> Ibid., 18.

<sup>282</sup> Connecticut Focus Group, p. 15.

- The first step is to pick our topic. And then, as was mentioned, schedule when we expect our due date to be and that helps us pick our topic.
- [Step] two would be the subcommittee breakdown. They do their own research so they can present that information to the rest of the committee and some background.
- Step three, which is crowdsourcing for experts and [gathering] more data once we have all those experts.
- [Four] we put together our panel.
- Five would be the subcommittee puts together all the information from the panel that we learned and presents it to the committee.
- Six is the committee digests all of that information and decides if we need more [information] in order to make a report or if we're satisfied with everything we learned and [are] ready to put out a report.
- Seven will either be a new panel, or [], we start drafting up our first report draft. And again, that goes to the subcommittee or whoever's in charge of that specific topic and most excited about it.
- Eight would be we present that draft to the rest of the committee. They take some time to review it, do a bunch of edits, and get it back to us.
- Nine is we vote and send it out.

Moreover, one often overlooked, but critical element is scheduling times for the members to meet, especially as all Advisory members serve on a volunteer basis. Ingrid Alvarez DiMarzo expressed this clearly, “[we] schedule so that everyone is present and can contribute to building the body of work that we’re going to produce.”<sup>283</sup> This encourages cooperation, engagement, and buy-in from the members.

There was also a concordance by the Connecticut members on the importance of the panelists, the editorial feedback provided by the total committee on the report drafts, and the work done to schedule the projects. Two long-term members, Olivia White and David McGuire who have been with Connecticut since 2014, highlighted the importance of the briefings in the report process. White stated that “I think we have really, really good panelists and briefings and then we ask good questions.”<sup>284</sup> Similarly, McGuire explained that “[t]hey send us the transcripts of the briefings that we’ve had. We’re able to all look at it and call [out] what we think is important. We’re really crafting language together.”<sup>285</sup>

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<sup>283</sup> Ibid., 12.

<sup>284</sup> Ibid., 14.

<sup>285</sup> Connecticut Focus Group, p. 12.

*Difficult and Easy Aspects of Reports*

While Connecticut has been successful in producing multiple reports during the five-year study period, the group was not without its challenges. The members shared that some of these challenges include needing to be collaborative as a group, sticking to the mandate of the Commission, finding content experts with divergent perspectives, and obtaining community input. Cheryl Sharp clearly expressed that collaboration is not always easy, but necessary. She said, “something that was really shocking to me is how much of a collaborative effort everything is. ... It shocked me in a good way.”<sup>286</sup>

As representatives of the Commission, which is a bipartisan federal agency, members are aware of the importance of having diverse ideologies and perspectives represented at briefings and in the reports. Ingrid Alvarez DiMarzo explained that one of the difficulties for the group has been “finding really great content experts with diverse perspectives. That is really challenging. Also, to have community’s input as content experts.”<sup>287</sup> Moreover, selecting topics under the Commission’s jurisdiction can also pose a challenge for members. John Tanski, member since 2011, stated:

I think there have been several times where people have had things that they’ve wanted to address that we couldn’t address because of the mandate of the USCCR, which doesn’t cover everything that everybody might consider to be a civil rights issue.<sup>288</sup>

Conversely, the members explained that meaningful and enjoyable aspects of Connecticut’s processes included working on report drafts, obtaining feedback from the panels, determining the topics, and being able to turn the work into a product that communicates their findings. For example, John Tanski, felt that one of the easy components of Connecticut’s work was “coming up with topics that we want to cover. We usually have many more than we actually could address.”<sup>289</sup>

Michael Warner expressed that what “was enjoyable as [one of the] primary authors are the initial drafts. Doing the walkthrough, going line by line, getting the feedback from everyone, even if there’s disagreement.”<sup>290</sup> Similarly, Christine Corgel stated that she enjoys “when we perform the mechanics of turning all this work into something that we’re really communicating clearly and as

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<sup>286</sup> Ibid., 19.

<sup>287</sup> Ibid., 18.

<sup>288</sup> Ibid.

<sup>289</sup> Ibid.

<sup>290</sup> Ibid., 16.

concisely as we can.”<sup>291</sup> For Venesia Hurtubise she said that “I would say actually, listening to our panelists experts that we bring in” is one of the most enjoyable and easy aspects of the report process.<sup>292</sup>

### *Unanimous Agreement and Best Practices*

As discussed above, Connecticut’s members are heavily involved in providing feedback on the reports as a group. Once they reach the stage of voting on the report, there is little dissent. In most cases over this study’s time frame, they obtained unanimous agreement to publish the report. Susan Toliver explained that this unanimity is easy because “before we get to the point where we vote, our review of the final draft document is pretty extensive. ... So that by the time we get to the point of a vote, we’ve done a pretty thorough vetting of the document.”<sup>293</sup>

Olivia White shared Toliver’s sentiment stating “by the time we get to the vote on publishing, I think it’s a formality. Because if you haven’t spoken up before then, then something’s wrong.”<sup>294</sup> Connecticut concluded that both group collaboration and the DFO’s guidance are endemic of their remarkable fecundity. For example, Venesia Hurtubise stated that “we couldn’t do this without Barbara [the DFO]. ... She is the one that really puts us in the mindset of okay, when are we going to get this report out.”<sup>295</sup>

They also recommended that other Advisory Committees put their individual desires aside and work together toward something bigger than themselves and their organizations. Toliver expressed it this way: “If I had to sum it up in a word, it would be collaboration. ... Once the topic is chosen, we all move in tandem. Whether it was our first choice or not.”<sup>296</sup>

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<sup>291</sup> Connecticut Focus Group, p. 17.

<sup>292</sup> Ibid.

<sup>293</sup> Ibid., 19.

<sup>294</sup> Ibid., 21.

<sup>295</sup> Ibid., 23.

<sup>296</sup> Ibid.

## Texas

On August 9<sup>th</sup>, 2022, an in-person focus group was held in Houston with the Texas Advisory Committee (Committee) members.<sup>297</sup> The purpose of the meeting was to learn about the groups' processes and perspectives concerning selecting civil rights topics, reaching a consensus on recommendations, and approving reports. Texas was chosen to participate in the session because it was one of two states with the highest response rate on the 2022 survey (86 percent).

All Texas Committee members were invited to participate in the session. Seven of the 12 members participated in the focus group, representing a 58 percent participation rate. Three of the members are in their first term; of the remaining attendees, one is in the second term, and two have served 12 years or longer on the Committee. Two men and four women participated in the discussion. Since the survey was anonymous, it is unclear if any members participating in the focus group discussion responded to the 2022 survey.

The focus group participants spoke on a variety of topics regarding their experiences as committee members. However, there were several qualitative themes that emerged from the session. The three general findings were:

- Investigating Topics of Unfamiliarity
- Refining the Research Process
- Organizational Training

All participants talked passionately about research topics they believe the Committee should investigate, including many topics that focused on marginalized communities or those excluded from equal social opportunities and protection under the law. The nature of the in-person focus group also facilitated an interactive discussion between the members which provided additional insight and forms the analysis of this discussion.

### *Investigating Topics of Unfamiliarity*

This focus group was conducted to allow members to elaborate on their responses from the 2022 survey and collect their thoughts about the investigation and report process which helps the Commission learn about what the members believe are the state's most pressing civil rights issues. The members indicated that voting rights was a top priority for the State of Texas, which aligned with the 2022 survey responses. For instance, Jada Andrews-Sullivan, a committee member in her first term, elaborated on the importance of the topic by stating that there is

[t]he suppression of so many voting systems. The suppression of those with disabilities being able to vote. The closing of those voting facilities within marginalized and people of

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<sup>297</sup> Texas Focus Group Session on August 9, 2022, hosted in Houston, Texas (hereinafter Texas Focus Group).

color within their communities. That’s just the major one. If you limit the voice, you limit the vote. And that doesn’t help a community, that doesn’t help any area thrive.<sup>298</sup>

Barbara J. Walters, a member since 2010, explained that when someone proposes a topic for investigating that “it may be one I’ve thought about myself, or not. It’s just been fascinating, the process that we go through and the diversity of thought, and the diversity of [] knowledge about that [topic], that has come to the fore.”<sup>299</sup> She specifically described her amazement at how the group started studying their current topic regarding the juvenile justice system and how their findings had significant implications and connections for other civil rights issues, such as the foster care system.<sup>300</sup>

Several Committee members told the Commission about other civil rights topics of interest, such as the Digital Divide, which is the gap between those with access to information and communication technologies and those who lack access or have limited access to these technologies. A seasoned member who will be referred to as “J,” explained that this topic became even more significant during the pandemic since students with no computers were at a disadvantage when their schools transitioned to online classes. J explained that if these students have siblings who are also taking classes online, they compete for minimal bandwidth. Moreover, this issue is particularly significant for students who reside in rural Texas and do not have Wi-Fi and were forced to drive to a nearby McDonald’s and park outside so they could do their homework.<sup>301</sup>

J also added that another civil rights topic worth investigating is domestic violence. They explained that it is a sociocultural generational issue in Texas that affects many marginalized communities and has broader repercussions on society; as these negative behaviors spill over into other aspects of the victim’s life, such as educational achievement and developing healthy relationships. For example, J explained that they have seen students having difficulty determining how to negotiate the parameters of what is permissible in healthy social relationships.<sup>302</sup>

Additionally, Critical Race Theory was also identified as a topic of interest in the 2022 survey and was revisited extensively in both the Texas and California (which will be discussed in more detail in the next section) focus group sessions. In Texas, Governor Greg Abbott signed House Bill 3979

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<sup>298</sup> Texas Focus Group, p. 3.

<sup>299</sup> Ibid.

<sup>300</sup> Texas Focus Group, p. 4.

<sup>301</sup> Ibid., 6.

<sup>302</sup> Ibid., 7.

(commonly called the Texas Critical Race Theory Law) on June 15, 2021, and the bill became law in September 2021, which limited how teachers discuss race and racism in the classroom.<sup>303</sup> Texas is one of several states that approved legislation restricting the teaching of Critical Race Theory.<sup>304</sup>

Committee member J told the Commission that they believe teaching Critical Race Theory at prominent state universities will essentially be discontinued. Additionally, they explained that:

Critical Race Theory basically teaches or encourages academic discussion around the issues of systemic discrimination in the United States over hundreds of years. And the state government here has decided that that's not something that should be taught in schools, at any level. And while it's, it acknowledges there has been discrimination, any reference to any systemic type of issue has been shut down... And it remains unseen what's going to happen to them [academics] if they continue to teach this in our public colleges and universities as to what the repercussions will be on their careers.<sup>305</sup>

Another member responded that "there's already been some that have been fired... there are two professors that have challenged the rules, but they've been dismissed because they opposed it."<sup>306</sup>

The Committee's Chair, Dr. Merrill Matthews, who has been with the group since 2008 also brought up another essential civil rights topic that he feels is often overlooked in the state. Matthews stated that a local television station in Dallas occasionally reports on stories about the banking and home loan divide. He asserted that the lower-income minority communities have difficulty getting approved for home loans and paying for other living essentials in the southern part of Dallas. Moreover, he explained that some people in these areas must drive outside of their communities to access resources, but when they do, they are met with disdain and told: "you don't live in our community."<sup>307</sup> Furthermore, he told the Commission that:

[I]n a similar vein, occasionally we'll have stories on food deserts in low-income areas. And food deserts are a problem... in the Dallas area, they set up a nonprofit, grocery store in the southern area in order to be able to get people in, give them the freedom to be able to get vegetables and other things of that nature.<sup>308</sup>

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<sup>303</sup> *Tex. Educ. Code* § 28.002; H.B. 3979, 87<sup>th</sup> Leg., Reg. Sess. (Tx. 2021),

<https://capitol.texas.gov/BillLookup/History.aspx?LegSess=87R&Bill=HB3979>.

<sup>304</sup> Peter Greene, "Teacher Anti-CRT Bills Coast To Coast: A State By State Guide," *Forbes*, Feb. 16, 2022, <https://www.forbes.com/sites/petergreene/2022/02/16/teacher-anti-crt-bills-coast-to-coast-a-state-by-state-guide/?sh=5604d864ff64>.

<sup>305</sup> Texas Focus Group, p. 5.

<sup>306</sup> *Ibid.*

<sup>307</sup> *Ibid.*

<sup>308</sup> *Ibid.*, 7.

Rogene Calvert, a member in her second term, reaffirmed Matthews' comments that the limited access to affordable and nutritious food is a concern in Dallas, and she emphasized that healthcare is equally an essential topic for investigation. She stated that:

In general, people cannot get health care at an affordable rate or even have access to getting it. You talk about food deserts; you have medical deserts as well. I mean, we have a safety net, but it's very, very few and far between in Texas.<sup>309</sup>

She further stated that compared to national numbers, Texas is behind in establishing federally qualified health centers to provide low-income families access to affordable and quality healthcare.<sup>310</sup>

### *Refining the Research Process*

Another theme that emerged during the discussion was the Committee's eagerness to refine the steps of the research and investigation process. At first, the Committee was allowed to study and write reports on two civil rights issues yearly but had not done so in the last six to eight years. When asked how they selected a topic, they explained that in the most recent topic selection process, several members submitted their ideas to the entire Committee, and then members defended their topic at a virtual meeting. Following these discussions, the group narrowed the selections down to pick from two leading topics and took a vote to select which topic they would begin to investigate.<sup>311</sup>

In the past, the Committee established a three-person subcommittee to work on a topic. The subject matter expert who had specialized knowledge on the topic would facilitate the investigation and report their findings to the group. However, the subcommittee no longer exists, and the entire Committee now works on the reports. The focus group participants told the Commission that it was unclear if there are any advantages or disadvantages to working with or without a subcommittee.

While the Committee successfully published a report that investigated the state's response to Hurricane Harvey in 2021, in retrospect, Barbara Walters explained that there might have been an opportunity to strengthen critical steps in the data gathering and analysis process. She admits:

I think, in some ways, maybe we could have done a better job of encouraging, not forcing, but encouraging others to do a lot more homework than they did. You know we relied on

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<sup>309</sup> Ibid., 8.

<sup>310</sup> Ibid.

<sup>311</sup> Texas Focus Group, p. 17.

those experts... and maybe [we did not do] as much as we could have, and part of it would be, I don't know, what to do. You know, give me some more direction on that particular topic.<sup>312</sup>

She explained further, that in the past, the group relied upon one knowledgeable member who was the most well-versed or enthusiastic on a particular topic to lead the investigation. For instance, in the Hurricane Harvey report, they relied on a member who was a subject matter expert on disasters, Charles Burchett, to lead the report. Instead, she suggests that for future reports, the members could benefit from giving out research "assignments" that could pull in information from multiple areas across the state to deepen their knowledge on the topic they are currently working on.<sup>313</sup> In short, Walters suggests that a better process would be participatory of all the members and not just rely on two or three people to produce a report.<sup>314</sup>

### *Organizational training*

During the focus group, the members were asked: if they could change one thing about the topic selection process, what would it be? One critical issue that emerged across the multiple focus groups in this study was the need for training. As a new Committee member, Jada Andrews-Sullivan suggested that there should be "a way to educate those who are newer to this [topic selection] process," and she also spoke about the need of being trained regarding the Commission's and the Committee's jurisdiction. She stated, "then they'll [members] be prepared" to know where to start studying and "what are those things within my area of jurisdiction that we need to focus on."<sup>315</sup>

Brandon Holt, who is in his first year with the Committee, shared a similar sentiment. He emphasized it would be good to know about the mission of the Committee and if new members should "hit the ground running or [] sit back and observe a little bit and try to figure out what's, you know, what all is happening and how all the processes are going."<sup>316</sup> He told the Commission, "I think that perhaps education could include some more participation from people who are newer, or at least [] maybe some form of training wheels."<sup>317</sup>

### *Attributes of Success*

Another subject that all the members seemed to agree on was the role of leadership. J told the Commission that they credit a large part of the Committee's success to the leadership and

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<sup>312</sup> Ibid., 10.

<sup>313</sup> Ibid., 11.

<sup>314</sup> Ibid., 23.

<sup>315</sup> Texas Focus Group, p. 18.

<sup>316</sup> Ibid., 19.

<sup>317</sup> Ibid.

assistance provided by Commission staff. J said that staff keep them on track if they are getting off subject or not making any progress on their reports, and their guidance has been “phenomenal.”<sup>318</sup>

The members at the focus group also attribute the Committee’s success to the diversity of thought coupled with the variety of backgrounds that the members bring, which adds cohesiveness to their work on the state’s civil rights issues. Three additional areas emerged in the focus group that is indicative of the Committee’s success:

- The ability to focus on the issues
- Increasing involvement among members
- Having a clear purpose and direction

### Focusing on the issues

The Committee members in the focus group told the Commission that they pride themselves on being able to focus on critical civil rights issues in Texas, as well as align themselves with the overall mission of the Commission. In their opinion, this allows them to not only highlight problems for the state legislature but also increase attention to these issues on the national level. Most recently, this can be seen with the Committee’s Hurricane Harvey report that exposed state and local level issues, but also helped inform the Commission’s fiscal year 2022 statutory enforcement report that examined the federal response to Hurricane Harvey in Texas and Hurricane María in Puerto Rico.<sup>319</sup> A focus group participant stated, however, that not all members prioritize the same issue which can cause disruptions within the Committee, especially when trying to move forward with identifying an issue for examination. For instance, one participant recalled that a long-term former member would suggest a “pet topic” every two years, and the Committee would acknowledge that it is a prominent issue. However, the Committee members would say, “let’s look for consensus around the committee,” before they would consider the personal topic.<sup>320</sup> The participant went on to explain:

So at that time voting rights was just huge. It was, it was pretty much a consensus at that time. And now, as far as our study into Hurricane Harvey, I think we met whoever was Chair of the Commission at the time, we had a zoom call with her, and she mentioned that response to disasters was on the U.S. Commission’s agenda. And so, the fact that we’ve

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<sup>318</sup> Ibid., 23.

<sup>319</sup> U.S. Commission on Civil Rights, *Civil Rights and Protections During the Federal Response to Hurricanes Harvey and María*, Sept. 21, 2022.

<sup>320</sup> Texas Focus Group, p. 11.

just gone through Harvey, it seemed very logical for us on the ground, some more than others to contribute to the overall mission of the Commission and tak[e] that up for our topic.<sup>321</sup>

Moreover, the participant also explained that they also had a different topic in mind – disparate treatment in health care, especially for older persons in rural areas – but the Committee went through a democratic process and voted and decided on a different topic instead. Thus, this ability to listen to each other’s perspectives and reach a majority vote has been a significant attribute to the Committee’s success.

### Increasing involvement

As discussed above, to be successful, these members feel like it is important to get the entire Committee to contribute to the report process, regardless of subject matter expertise. They explained that there are multiple areas where members can contribute, such as in the investigation and research stage or in the writing of the reports. The participants mentioned that they recognized that there should have been more members involved during the production of their last report. Moving forward, the group suggested that increasing involvement from the entire Committee may require that members be given specific tasks, that way the group is not solely relying on an individual to do the majority of the investigating about the chosen civil rights topic.

### A clear purpose

As a bipartisan agency, the Committee members at the focus group explained that they understand the overall mission of the Commission, and the members draw from each other’s best skills and not allow progress on reports to get stymied by arguing over political ideologies.

When it comes to the group’s political differences, Brandon Holt stated, “from my experience, so far, we’ve been very, very bipartisan.”<sup>322</sup> To that point, Chair Matthews added that the Committee conducts themselves in an “almost nonpartisan” fashion; and several of the participants agreed with his assertion. Brandon Holt continued by saying:

There are many of us that land in different, you know, places socially and politically. But my experience is that we’ve all worked together to discuss things that involve all of us. And I don’t know that there’s been any, I will say, conflict or obstacles that have been presented because of our differences politically.<sup>323</sup>

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<sup>321</sup> Ibid.

<sup>322</sup> Texas Focus Group, p. 21.

<sup>323</sup> Ibid.

There was widespread agreement among the participants regarding this assertion and other members echoed his sentiment stating that political differences had not been a hindrance to the Committee's progress. For instance, Jada Andrews-Sullivan explained that:

I'm pretty sure there are [political differences]. But when we're meeting, our focus is on that piece that we're working on. And how do we bring this together. I really haven't heard any ill will, if it was done on the conservative side, or if it was done on the fascist side or if it was done on the Democratic side. It's never been that conversation; the conversation has strictly been... driven by the dedication of wanting to see the change happen. And that this is me and look at me now.<sup>324</sup>

Committee member J agreed and added:

We are after the facts, that's it. ...we want the truth, regardless of acknowledging that people will have different truths or different perspectives. But if you come across as biased in any way, then we are not doing our job.<sup>325</sup>

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<sup>324</sup> Ibid.

<sup>325</sup> Ibid.

## California

On August 18, 2022, a third focus group was held virtually with the California Advisory Committee (Committee) members to gain a better understanding of their groups' processes and perspectives concerning selecting civil rights topics, reaching a consensus on recommendations, and approving reports.<sup>326</sup> California was chosen to participate in the focus group because it comprised of several new members (i.e., those with less than five years of experience on the Committee) who will possibly offer some distinctive perspectives to shaping national civil rights conversations.

All California Committee members were invited to participate in the session. Seven of the 15 members participated in the focus group. Both the focus group and the 2022 survey had a 47 percent participation rate. Four of the members were in their first term on the Committee. The three remaining participants have been with the group for more than five years. There were three men and four women that participated in the discussion. Since the 2022 survey was anonymous, it is unclear if the respondents also participated in the focus group. The majority of the participants at the focus group, while engaged in the conversation, chose to remain anonymous.

Three main themes emerged from the focus group's discussion which offers an insight into how this Committee works as a group and what they felt was essential for the success of the Advisory Committee as a whole:

- Selecting Report Topics
- Reaching Consensus on Investigating Topics
- Overcoming Disagreements

### *Selecting Report Topics*

The focus group participants were asked to speak about the civil rights topics they deemed critical in the State of California. In the 2022 survey, respondents expressed that housing was a vital concern among the Committee members and this issue was also echoed among the members of the focus group.<sup>327</sup> The focus group participants, however, discussed several other topics that they felt were essential in the state, which demonstrated the wide variety of civil rights concerns to this Committee. Moreover, when the participants were asked to discuss civil rights issues that impacted residents in California, it became evident that the members had a different (and sometimes

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<sup>326</sup> California Focus Group Session on August 9, 2022, via Zoom meeting (hereafter California Focus Group).

<sup>327</sup> The data for this survey was collected from answers submitted for mandatory questions (i.e., questions in Sections 1 and 2), and the survey was submitted electronically upon completion. 16 states (Alabama, Alaska, Colorado, Hawaii, Idaho, Louisiana, Michigan, Montana, New Hampshire, New Jersey, North Dakota, Ohio, Oklahoma, Rhode Island, Utah, and Vermont) did not have committee members.

contradictory) understanding of what is considered a salient civil rights matter that also aligned with the Commission's jurisdiction. For instance, one member at the focus group stated:

One thing that I'm very concerned about right now is the new Title IX rule that the Biden Administration has put forward, the effect that's going to have on professors or students who disagree with the orthodoxy on topics like sex and gender identity. [I]f someone for instance, doesn't agree with a consensus regarding transgender rights, and they have voiced a differing opinion, if that's going to be considered harassment, or discrimination? [I]f women's sports teams that oppose transgender athletes, if they voiced that concern, is that going to be harassment or discrimination?<sup>328</sup>

Another focus group participant shared a similar response and expressed that there is a growing fear among university faculty members who spoke against laws that may seem controversial, such as Title IX or the disagreement on the topic of pronouns. The member stated that professors are worried about being investigated or disciplined and ultimately ruining their careers.<sup>329</sup> Another Committee member further explained their concern regarding "cancel culture," or the practice of withdrawing support of a public figure or a company for doing something not socially acceptable.<sup>330</sup> The member stated that "cancel culture" exists not only in California, but is occurring in other states as well. For example, the Committee member stated that one of their faculty colleagues, "[r]ead Martin Luther King's letter from a Birmingham jail and students objected to terms in the letter and filled grievances against the professor."<sup>331</sup>

Another one of the Committee members mentioned that they felt that "one of the strengths of it [the Committee] is that we have people across the political spectrum and across a lot of spectrums concerning their view about civil rights."<sup>332</sup> However, with these varying backgrounds, there has also been contention among the members, because differing political ideologies can be seen as "combative" since it poses a "sort of right-left interest"<sup>333</sup> when trying to reach a consensus regarding bipartisan topics for investigation. Moreover, these differences have the potential to derail the Committee's mission to investigate and produce reports on the civil rights issues for the state. Another participant offered this explanation:

There's good and bad to having such diverse viewpoints in a committee. And we have strong opinions, really the full spectrum, which is good, and it makes for good

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<sup>328</sup> California Focus Group, p. 4.

<sup>329</sup> Ibid., 5.

<sup>330</sup> Merriam-Webster, Definition and Meaning: Cancel Culture, <https://www.merriam-webster.com/dictionary/cancel%20culture>.

<sup>331</sup> California Focus Group, p. 5.

<sup>332</sup> Ibid., 7.

<sup>333</sup> Ibid.

discussion. But it also makes it difficult to select a topic because everyone has a strong opinions about what's most important.<sup>334</sup>

In terms of the topic selection process, one of the new members recalls that the Committee starts with “general discussions about the bailiwick of the committee, and then brainstorming what issues people thought were important. And then we decided what to work on by vote.”<sup>335</sup> Other members shared the same sentiment and said that any member can forward a topic and it will be placed on the list of potential civil rights topics. Following that, each member who has proposed a topic can explain and defend their proposal to the group. Subsequently, all the topics are sent to all members to be rated. One focus group participant summed up the process this way:

[W]e were asked to rank [the topics from] one through four, [based on] our preferences. And the one we ended up with had quite a few people [] who had given it a number one ranking, and quite a few people who had given it a number four ranking. [This] would show that there was some significant kind of polarization on that scale, whereas others [topics] sort of hovered more in the middle among everyone.<sup>336</sup>

This ranking method seemed to cause some confusion for many members at the focus group, and they sought additional guidelines on how to choose topics, determine the level of importance of said topics, and how to move this process along in order to adhere to deadlines. A long-term Committee member explained the experience this way:

I felt an inordinate amount of time was spent trying to decide on what is an appropriate topic, and then at times having to go to the Commission staff and asking for legal guidance on whether the subject is within the jurisdiction of the SAC.<sup>337</sup>

### *Reaching Consensus on Investigating Topics*

Although all 15 members were not present at the focus group, the below discussion provides a glimpse of the challenges the group faces in handling conflicts in moving forward in the topic selection process. For instance, some members did not categorize the Committee's selection process the same way. Additionally, there was particular frustration concerning the selection process of their current topic, which is examining California Assembly Bill AB 5, under which workers must be designated as employees instead of contractors unless the employer can demonstrate that the individual is an independent contractor under a three part test.<sup>338</sup> The Bill was

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<sup>334</sup> Ibid., 9.

<sup>335</sup> Ibid., 7.

<sup>336</sup> Ibid., 8.

<sup>337</sup> Ibid., 9.

<sup>338</sup> A.B. 5, 2019-2020 Leg., Reg. Sess. (Ca. 2019), [https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=201920200AB5](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB5).

signed into law in September 2019, and it came into effect on January 1, 2020.<sup>339</sup> In September 2020, however, the California legislature repealed and amended some of the law, and it is now known as AB 2257.<sup>340</sup>

A member expressed there were limitations in the current approach because there were not any standards on how to reach an agreement on which topic to investigate or determine the topic's importance at the state level. The member stated:

I've always felt like a weakness in that process was not having a clearly defined understanding and a process that everybody can work within... I don't remember who it was that brought up the concept of consensus. I think that's a good one, I think we always try to get consensus, but it hasn't always been possible. And what has come to my mind was that maybe if the Committee is going to select a topic, maybe there should be a supermajority, so that it takes into account all of the varying viewpoints on the Committee [and] that there is a supermajority of people who believe this is worth studying, instead of having it split, I felt like maybe we can all benefit for some from better or more clear guidance, and maybe some parliamentary processes for deciding these important issues.<sup>341</sup>

The members told the Commission that the process was frustrating due to the extensive comments and internal disagreements between members in trying to reach a consensus. One member explained:

[W]e decided what to work on by [taking a] vote. And we selected a topic that I think many of us continue to believe is far from the most important civil rights topic in California, and has been, while interesting to learn about for sure, has been a little contentious to work on. And it saddens me that I think we had some topics that we could have had a broader consensus on their worth, or viability for [] this group.<sup>342</sup>

Another member further elaborated, "I think you may want to know that our Committee had a consensus to look at the rights of persons living in conditions of homelessness, and there was a broad consensus on that. But some people didn't think it was as important as other topics such as the one we ended up picking."<sup>343</sup>

Additionally, another participant noted, when the Committee voted to examine the topic of the rights of unhoused persons, other members were not satisfied with the topic and requested a revote

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<sup>339</sup> CAL. Labor Code § 3351 (West 20190); CAL Labor Code § 2750.3 (West 2019).

<sup>340</sup> The California legislature repealed §2750.3 of the law and enacted CAL. Labor Code § 2775-85. A.B. 2257, 2019-2020 Leg., Reg. Sess. (Ca. 2020), [https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=201920200AB2257](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB2257).

<sup>341</sup> California Focus Group, p. 9.

<sup>342</sup> Ibid., 7.

<sup>343</sup> Ibid.

which was granted. The member further explained, “so then we had the voting that measured the intensity of preference. And that’s why we know that there were some of the issues were more polarized.”<sup>344</sup>

The revote procedure, however, exposed some difficulties in the Committee’s deliberation process. For instance, some of the members who attended the first vote were unaware and absent from the meeting with the second vote. Consequently, members explained that had they been informed of the revote but were unavailable on the day or time of the second vote, they may have been able to shift any competing engagements to be present for the vote.

A new member to the Committee emphasized that she was surprised and disappointed when the Committee decided to redo the vote after the group had already reached a consensus to research the rights of unhoused persons which they thought was an important topic. This resulted in the topic being switched to investigating AB 5 based upon the results of the revote because different members were present at the revote meeting.

Another member believed that revotes should not happen and the Committee should be committed to the original vote. This member stated:

This is spilled milk and I really think we, as [the] CA Committee, have an obligation as leaders to accept the process and do the study that was decided on in a democratic process. I think there are great assumptions of what our study might find, which has me wondering what some are afraid of to allow us to complete the study.<sup>345</sup>

A couple of members agreed and stated that they did not “want to refight the battle again,”<sup>346</sup> and further expressed they were frustrated with the “changing rules that seem[ed] to be constantly renegotiated.”<sup>347</sup>

Additionally, there was added confusion regarding the expectations and the role that an Advisory Committee member served. One member explained:

I suggested that maybe some of the Committee members could work in subcommittees. But then some people thought subcommittees were inconsistent with the [Commission’s] bylaws, that it was improper to have subcommittees, because we would then be discussing issues not in the presence of the full Committee... we could meet in subcommittees and do some preliminary drafting of things, we were told that having subcommittees was improper.

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<sup>344</sup> Ibid., 11.

<sup>345</sup> California Focus Group, p.14.

<sup>346</sup> Ibid., 11.

<sup>347</sup> Ibid., 12.

So [], going forward, I'd like to know whether, from the point of view of the U.S. Commission on Civil Rights, is it okay to have subcommittees do some preliminary work, which obviously, would then have to be voted on by the full committee, but I've been somewhat dismayed by the changing rules that seem to be constantly renegotiated. And I enjoy working with my colleagues, but the process has been very frustrating.<sup>348</sup>

Another member suggested that moving forward with less polarized topics could offer a satisfactory compromise in order to reduce the frustration in the topic selection process. They stated:

[I]t may be that voting, majority voting or supermajority voting, is inevitable. I'm totally prepared to accept that. But an idea was floated early on [] that maybe it's not a good idea to pick topics on which there is such polarization. So, it certainly doesn't mean we pick a topic that only a minority of the Committee wants to work on or anything like that. But maybe something that gets very high intensity of negative votes, as well as high intensity of positive votes, isn't the best topic.<sup>349</sup>

### *Solutions to Overcoming Disagreements*

The discussion above illustrates that the California Committee members feel that the group spends an enormous amount of time trying to reach a consensus on which civil rights topics are crucial to investigate in the state. One of the meaningful insights that emerged during the discussion is that the participants identified potential causes for the breakdown in the group's organizational process. The reasons for the breakdown were associated with three main indicators:

- Committee Members' Roles and Responsibilities
- Committee Members' Attendance
- New Member Training

### Committee Member Roles and Responsibilities

Many members stated they were unclear about the Commission's statutory jurisdiction, which is fundamental to understanding the Committee members' responsibilities as advisory members. The members revealed that several of their meetings became more about the difficulty of deciding how to vote and the Committee's role in evaluating the effects or worthiness of a California law – rather than the task of investigating civil rights concerns critical to the residents of California. According to the Advisory Committee Handbook, the role of the committees is to

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<sup>348</sup> Ibid.

<sup>349</sup> California Focus Group, p. 16.

advise the Commission concerning legal developments constituting discrimination or a denial of equal protection of the laws under the Constitution because of race, color, religion, sex, national origin, age, or disability or in the administration of justice; and as to the effect of the laws and policies of the federal government with respect to equal protection of the laws.<sup>350</sup>

Moving forward, if members have a better understanding of the Advisory Committee's role and how it corresponds to the mission of the Commission, this will help ensure that members stay focused and task-oriented, as well as help remove obstacles in the decision-making process.

### Committee Members' Attendance

An area of equal concern is the attendance of the Committee members at meetings since their absence compromises the topic selection process and the subsequent voting process. Members believe that absent members from the Committee meetings could impede the bipartisanship approach of the Commission's focus. One member expressed that:

I really like it when a lot of people show up for the meetings, and the full Committee is there, and we hear from all the different people on the Committee. But I'd say probably in all three rounds [three different voting cycles] of that I've been through, there are a number of members who either rarely or almost never show up for meetings.<sup>351</sup>

Additionally, this member suggests that during the Commission's nomination process to select Committee members, an individual's time commitments should be considered. She stated:

I'm sure those people [who miss meetings] have really good reasons why they're not [present], of course, they're things that happen and go on in people's lives that keep them from participating. But [] I think when Committee members are being selected, maybe ensuring that they have the time and the ability to participate, would really, you know, it just brings a lot more to the Committee and it helps to know that we have fair votes and things like that because the whole committee is represented.<sup>352</sup>

These sentiments were echoed by an additional member who suggested:

I might even go farther and [] suggest that if someone ends up missing some percentage of our meetings that just may suggest it's not a judgement of their worth. But it may suggest that they simply don't have the time to devote to this Committee right now. And maybe

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<sup>350</sup> 45 CFR § 703.3.

<sup>351</sup> California Focus Group, p. 27.

<sup>352</sup> Ibid.

they should be replaced before their whole three year [term is over], rather than have years of people not being there.<sup>353</sup>

### New Member Training

The third theme that emerged was the need for training. On multiple occasions during the focus group, members believed that new and seasoned Committee members would benefit from a training course about their role on the Advisory Committee. One member asserted that “I think it would help if everybody, even I guess, current members or older members [who have] been on the Committee a longer time, received a little bit more training on, on what topics would fall under the Commission’s purview.”<sup>354</sup> As discussed above, there was confusion amongst the members at the focus group regarding if a topic fell under the jurisdiction of the Committee to investigate, and by extension fell under the Commission’s jurisdiction. For instance, one member explained that the Committee spent a lot of time discussing if AB 5, the subject of their current topic, is a good law or not, rather than spend the time investigating its potential civil rights outcomes.<sup>355</sup> One member explained that

there could be more done to [] train or sensitize Committee members as to what the jurisdiction is of the Civil Rights Commission. And what and what is not, so that we don’t spend so much time on things that are, not sort of, relevant to the mission of the organization and the Committee.<sup>356</sup>

Additionally, the group believes there should be guidelines provided by the Commission’s legal counsel to not only understand the jurisdiction but also help protect the integrity of the Committee’s work, which a new member emphasized is essential to her continuing as an advisory committee member.<sup>357</sup>

The essence of these participants’ comments is that relevant and consistent trainings can help improve the member’s knowledge, performance, and efficiency in their roles and responsibilities as Committee members and will undoubtedly help the Commission with its fact-finding, investigative, and information dissemination functions.

Taken together, the three focus groups with the Advisory Committee members illustrated several overlapping themes and provided insight into the successes and challenges of the Committees. Some of these themes included having strong leadership on the Committees and strong supports from Commission staff such as from the Direct Federal Officers and Support Specialists. Some of

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<sup>353</sup> Ibid., 28.

<sup>354</sup> Ibid, 10.

<sup>355</sup> Ibid., 8.

<sup>356</sup> Ibid.

<sup>357</sup> Ibid., 11-12.

these challenges included identifying a civil rights topic to investigate that fell within the Commission's jurisdiction, as well as reaching a consensus on selecting topics and getting members to be engaged throughout each step of the report writing process. Some key successes and best practices included identifying key stakeholders and experts on the subject matter to inform members about the topic, providing fellow Committee members with feedback, collaborating at multiple stages of the report writing process, and choosing to put personal wants or ideologies aside to work as a group to achieve the Commission's mission.

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## Appendix A

### Advisory Committee Reports from 2017-2021

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## Appendix B

The Commission did not ask the survey respondents their names, but they were asked to identify which State Advisory Committee they are a member and their city of residence.

### Instructions:

**Voluntary Information:** There are a series of demographic and informational questions in Section 3 of this survey that are completely voluntary. These questions were asked for research purposes, to help Commission Social Scientists and Analysts understand the demographics of the respondents and assess how the overall survey response data may break down into meaningful groups. Your answers may help the Commission understand the relationship between your personal factors as asked in the survey questions and your views on the most important civil rights issues in your State. Submission of this information is voluntary and declining to provide it will not subject you to any adverse consequences under the control of the Commission related to your SAC work or potential reappointment to the SAC. Your responses will be kept confidential, will not be disclosed to any member of the Commission's SACs, and will only be used, if at all, in accordance with the provisions of applicable federal laws, executive orders, and regulations. Your individual responses will be available to Commission staff but not subject to individual disclosure under the Freedom of Information Act (FOIA) because of FOIA exemptions allowing the withholding of personally identifiable information. Demographic data may be reported in statistical form, but if reported, data will not identify any specific individuals.

State Advisory Committee in 50 States and the District of Columbia

### Section 1: Geographic Information and SAC Affiliation

1. Which State Advisory Committee are you a member?

---

2. How many years/months have you been on your SAC?

Less than one year

Between one and five years

Between six and ten years

More than ten years

### Section 2: Information about Civil Rights Issues/Priorities

3. What processes have your SAC developed and used to reach a consensus on research topics?

---

4. What processes have your SAC developed and used to reach a consensus on publishing reports?
- 

5. As a result of the COVID-19 pandemic, have your SAC's processes for reaching consensus on topics changed?

Yes

No

If yes, please give a brief description of what type of changes have occurred

---

6. What challenges have your SAC faced in approving civil rights topics to investigate in your state? (Choose all that apply)

Having meetings

Time constraints

Majority consensus

Other (specify):

No challenges identified

7. What challenges have your SAC faced in approving reports in your state? (Choose all that apply)

Having meetings

Time constraints

Majority consensus

Other (specify):

---

No challenges identified

8. What solutions have your SAC used to overcome disagreements that has helped your committee move forward with its goal of approving reports and making recommendations?
- 

9. In the next 12 months, what would you like to change regarding how your current SAC works in advancing civil rights issues?

Expanding topic options

Streamlining the process

Forging more consensus

Other (specify):

---

10. In the next 12 months, how likely is it that your SAC will be able to come to a consensus on a research topic?

- Very Unlikely  
 Unlike  
 Neither Unlikely Nor Likely  
 Likely  
 Very Likely

Please offer a brief description of your answer

---

11. In the next 12 months, how likely is it that your SAC will be able to publish a report?

- Very Unlikely  
 Unlike  
 Neither Unlikely Nor Likely  
 Likely  
 Very Likely

Please offer a brief description of your answer

---

12. What civil rights issues and topics would you like your SAC to address? Under our jurisdictional areas, these topics can include issues related to race, color, religion, sex, age, disability, national origin, administrative justice, language, voting, etc.

- \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

13. If you could choose five civil rights topics that you believe are emerging, growing, or continuing issues and topics of importance in your state over the next five years (i.e., 2022-2027), what would those topics be? Please list each below in rank order (1 being the topic of highest priority).

- \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

14. What is the most significant challenge in reviewing civil rights issues among the advisory members? (Choose all that apply) Selection of current topics

Topics that conflict with personal beliefs and values

Reaching a consensus among committee members for a selecting a topics

Other (specify): \_\_\_\_\_

15. The following topics were identified in 2018 as important civil rights issues that the Commission should potentially consider and address, which have been generalized and fall under the various civil rights areas within (and a few outside of) the Commission's statutory mandate. From the list below, please choose the five most important civil rights topics in your state below and rank them in order of importance (1 being the topic of highest priority)

Accessibility

Civil rights enforcement

Criminal justice

Data security and privacy rights

Domestic abuse/violence

Education

Employment

Federal contracting

Freedom of expression

Government services, benefits and/or funding

Hate crimes and/or hate speech

Health care

Housing

Immigration/Immigrant rights

Issues facing Native Americans/Alaska Natives/Native Hawai'ians

Language access

LGBT rights

National security

Public accommodations

Reverse racial discrimination

Technology

Voting Rights

Other (specify): \_\_\_\_\_

16. Please provide a brief explanation of why these topics are important to you or your state.

---

17. What is the highest degree or school level you have completed?

- High school graduate, diploma, or the equivalent (for example, GED)
- Some college credit, no degree
- Trade/technical/vocational training
- Associate degree
- Bachelor's degree
- Master's degree
- Professional degree
- Doctorate degree

18. Are there survey questions we did not ask that you would like to see included in future surveys?

- Yes
  - No
- If yes, please explain
- 

### **Section 3: Demographic Information (optional)**

19. Which of these choices best describes where you live?

- Large City
- Suburb near Large City
- Small City or Town
- Rural

20. Please select the category that includes your age:

- 18-24
- 25-34
- 35-44
- 45-54
- 55-64
- 65-74
- 75-84
- 85 +

21. What is your race?

- American Indian or Alaska Native
- Asian
- Black or African American
- Native Hawai'ian or Pacific Islander
- White
- Two or more races (please specify):  
\_\_\_\_\_

Other (please specify):  
\_\_\_\_\_

22. Are you Hispanic or Latino/Latina/Latinx?

- Yes
- No

23. What is your highest level of education?

- High school graduate, diploma, or the equivalent (e.g., GED)
- Some college/university credit, no degree
- Trade/technical/vocational training
- Associate degree (e.g., AA, AS)
- Bachelor's degree (e.g., BA, BS)
- Master's degree (e.g., MA, MS, MEd)
- Professional degree (e.g., JD, MD, DDS)
- Doctorate degree (e.g., PhD, EdD)

24. What is your gender?

- Female
- Male
- Transgender male
- Transgender female
- Non-binary/more than one gender/no gender
- Other (please specify):  
\_\_\_\_\_

25. What is your sexual orientation?

- Bisexual
  - Gay
  - Heterosexual
  - Lesbian
  - Queer
  - Other (please specify):
- 

26. Is English your native language?

- Yes
- No

If English is not your native language, what language is your native language?

- Arabic
  - Chinese (including Mandarin, Cantonese, and other Chinese languages)
  - French and French Creole (including Patois and Cajun)
  - German
  - Korean
  - Russian
  - Spanish
  - Tagalog (including Filipino)
  - Vietnamese
  - Other (please specify)
- 

27. Do you identify as a person with a disability (including disabilities that are physical, mental, developmental, behavioral, etc.)?

- Yes
- No

28. What is your political affiliation?

- Democrat
  - Independent
  - Libertarian
  - Republican
  - No affiliation
  - Other (please specify):
- 

29. What is your primary religious affiliation (if any)?

- Atheist/Agnostic
  - Baha'i
  - Buddhism
  - Christianity
  - Hinduism
  - Islam
  - Judaism
  - Sikh
  - None
  - Other (please specify):
-

## Territorial Advisory Committee Survey

### Section 1: Geographic Information and SAC Affiliation

1. Which Territorial Advisory Committee (TAC) are you a member?

---

2. Does being a TAC member of a U.S. territory affect your outlook and approach to introducing and engaging with civil rights issues and topics?

Yes

No

If yes, please explain.

---

### Section 2: Information about Civil Rights Issues/Priorities

3. What current civil rights issues and topics would you like your TAC to address? Under our jurisdictional areas, these topics can include issues related to race, color, religion, sex, age, gender, disability, national origin, administrative justice, language, and voting.

[1] \_\_\_\_\_

[2] \_\_\_\_\_

[3] \_\_\_\_\_

4. In the next 12 months, what civil rights issues and topics would you like to address as a TAC member? From the list below, please choose the five most important civil rights topics in your territory below and rank them in order of importance (1 being the topic of highest priority)

Accessibility

Civil rights enforcement

Criminal justice

Data security and privacy rights

Domestic abuse/violence

Education

Employment

Federal contracting

Freedom of expression

Government services, benefits and/or funding

- Hate crimes and/or hate speech
- Health care
- Housing
- Immigration/Immigrant rights
- Issues facing Native Americans/Alaska Natives/Native Hawai'ians
- Language access
- LGBT rights
- National security
- Public accommodations
- Reverse racial discrimination
- Technology
- Voting Rights
- Other \_\_\_\_\_

5. In the next 12 months, what processes would you like to see your TAC develop and use to reach a consensus on civil rights topics and publishing reports?

Please explain

---

6. If you could choose five civil rights topics that you believe are emerging, growing, or continuing issues of importance in your territory over the next five years (i.e., 2022-2027), what would those topics be? Please list each below in rank order (1 being the topic of highest importance).

- [1] \_\_\_\_\_
- [2] \_\_\_\_\_
- [3] \_\_\_\_\_
- [4] \_\_\_\_\_
- [5] \_\_\_\_\_

7. Are there survey questions we did not ask that you would like to see included in future surveys?

- Yes
- No

If yes, please explain

---

### Section 3: Demographic Information (optional)

8. Which of these choices best describes where you live?

- Large City
- Suburb near Large City
- Small City or Town
- Rural

9. Please select the category that includes your age:

- 18-24
- 25-34
- 35-44
- 45-54
- 55-64
- 65-74
- 75-84
- 85 +

10. What is your race?

- American Indian or Alaska Native
- Asian
- Black or African American
- Native Hawai'ian or Pacific Islander
- White
- Two or more races (please specify):  
\_\_\_\_\_

Other (please specify): \_\_\_\_\_

11. Are you Hispanic or Latino/Latina/Latinx?

- Yes
- No

12. What is your highest level of education?

- High school graduate, diploma, or the equivalent (e.g., GED)
- Some college/university credit, no degree
- Trade/technical/vocational training
- Associate degree (e.g., AA, AS)
- Bachelor's degree (e.g., BA, BS)
- Master's degree (e.g., MA, MS, MEd)
- Professional degree (e.g., JD, MD, DDS)
- Doctorate degree (e.g., PhD, EdD)

13. What is your gender?

- Female
- Male
- Transgender male
- Transgender female
- Non-binary/more than one gender/no gender
- Other (please specify):

---

14. What is your sexual orientation?

- Bisexual
- Gay
- Heterosexual
- Lesbian
- Queer
- Other (please specify):

---

15. Is English your native language?

- Yes
- No

16. If English is not your native language, what language is your native language?

- Arabic
- Chinese (including Mandarin, Cantonese, and other Chinese languages)
- French and French Creole (including Patois and Cajun)
- German
- Korean
- Russian
- Spanish
- Tagalog (including Filipino)
- Vietnamese
- Other (please specify)

---

17. Do you identify as a person with a disability (including disabilities that are physical, mental, developmental, behavioral, etc.)?

Yes

No

18. What is your political affiliation?

Democrat

Independent

Libertarian

Republican

No affiliation

Other (please specify):

---

19. What is your primary religious affiliation (if any)?

Atheist/Agnostic

Baha'i

Buddhism

Christianity

Hinduism

Islam

Judaism

Sikh

None

Other (please specify):

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