

# Voting Rights and Access in Michigan



A Report of the  
Michigan Advisory Committee to the  
U.S. Commission on Civil Rights

April 2020

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

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

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

The Michigan Advisory Committee to the U.S. Commission on Civil Rights submits this report regarding voting rights in Michigan, including potential discrimination in access to voting on the basis of race, color, age, religion, or disability. The Committee examined several subtopics within voting rights, including access to voter registration and automatic voter registration, redistricting, election security, poll worker training, language access, access to polling locations, and election administration. The Committee submits this report pursuant to its responsibility to study and report on civil rights issues in the state of Michigan. The contents of this report are primarily based on testimony the Committee heard during a public hearing on April 30, 2019 in Detroit, Michigan.

This report also addresses challenges to voting facing incarcerated and formerly incarcerated people, voters with limited-English proficiency, voters with disabilities, and voters who are transgender and gender-nonconforming. Primary concerns included lack of accessibility for voters with disabilities; meaningful implementation of Proposal 3, the state's newly expanded voting rights law; prevention from future gerrymandering; the need for expanded language access for limited-English proficient communities; and the ongoing need to engage young voters. The Committee offers the Commission recommendations for addressing voting issues of national importance.

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## EXECUTIVE SUMMARY

The Voting Rights Act (VRA) was passed in 1965 to ensure that state and local governments do not deny American citizens the equal right to vote based on their race, color, or membership in a minority language group. This legislation enshrines the right of every citizen an equal opportunity to participate in American democracy and was enacted in response to voter suppression in the 1960s by state and local governments and law enforcement. After it was signed into law, Congress amended it five more times to expand its scope and offer more protections. These protections continue to be under examination to ensure that states are guaranteeing citizens the right to vote.

Addressing voting rights has been an important focus of the U.S. Commission on Civil Rights (Commission) and its state advisory committees. Most recently, in 2018 the Commission released *An Assessment of Minority Voting Rights Access in the United States*, a report examining the current and recent state of voter access and voter discrimination for communities of color, voters with disabilities, and limited-English proficient citizens. It also examines the enforcement record of the United States Department of Justice regarding the provisions of the VRA since the Act's last reauthorization in 2006, and particularly since the Supreme Court decision in *Shelby County v. Holder* in 2013.

On July 18, 2018, the Michigan Advisory Committee (Committee) to the U.S. Commission on Civil Rights voted unanimously to examine voting rights. The Committee sought to examine several subtopics within voting rights, including access to voter registration and automatic voter registration, redistricting, poll worker training, language access, access to polling locations, and election administration. The Committee also sought to examine the extent to which potential voting concerns may result in discrimination relating to voter registration or voter participation on the basis of any federally protected category, with or without discriminatory intent.

This Committee concluded, based on testimony, the following findings and developed recommendations issued to the Commission to forward to appropriate federal and state entities.

### Findings

1. Michigan has a complicated set of rules requiring city and township clerks to cancel voters' registration in certain circumstances after they have moved to new in-state jurisdictions. Those voters may then confront logistical difficulties when they attempt to vote in a subsequent election.
2. Insofar as Middle Eastern and North African (MENA) populations are not an identified category in the U.S. Census, the size and quantifiable data and characteristics of those populations are not readily discernable. In the absence of a MENA category, it is difficult to track whether voting access for this community is compromised.
3. The redistricting process after the 2010 census in Michigan has diluted minority voter effect over the course of four election cycles. As determined by a recent court ruling (since vacated on jurisdictional grounds), Michigan's 2011 congressional and state

legislative maps “represented a political gerrymander of historical proportions.” The effects of such redistricting will linger until an independent redistricting commission reshapes the redistricting maps in 2022.

4. Common barriers for citizens returning to the community from jail and prison in exercising their right to vote are: (a) the lack of affirmatively-provided information regarding the reinstatement of their voting rights after their release from incarceration (even if they are on parole); (b) the difficulty of obtaining a photo ID; (c) confusion relating to the affidavit process for voting without an ID; and (d) low literacy that may prevent them from fully participating in elections.
5. Individuals incarcerated prior to conviction or on parole are allowed to vote but are frequently unaware of their rights. They receive inadequate information to exercise the franchise.
6. Election security is under threat in that computerized ballot scanners and ballot marking devices are vulnerable to manipulation, particularly devices that have not been updated. Moreover, these devices are not operated by the State and are not thoroughly tested. While audit tools being piloted now may improve in detection of manipulation of readers, machines used to mark ballots are not being thoroughly tested or audited. Voters who rely on such markers face greater risk of vote tampering than the non-disabled.
7. Voters with disabilities encounter numerous problems at the polls. Among these are physical access to polling places and polling equipment (including appropriate parking), lack of privacy, and poor poll worker cultural competency and technical knowledge on how to address their needs.
8. Voting machine access for blind voters who use braille is particularly poor; other communications difficulties exist as well (poor braille signage, absence of privacy and information about how to protect it, poorly crafted or inaudible verbal instructions).
9. Voter registration rates reflect racial disparities. According to the latest census data for Michigan, 76 percent of white respondents, 67 percent of African American respondents, 67.9 percent of Asian respondents, and 49 percent of Hispanic respondents are registered to vote. Recently enacted Proposal 3 amended the state constitution to permit same-day voter registration, which may diminish registration hurdles underlying these figures.
10. Michigan does not have a legal mandate to preregister 16 and 17-year-old citizens to vote, which is a missed opportunity—especially since many young residents interact with the Secretary of State’s office at age 16 for a driver’s license and not again until they are 21 and receive notification about drivers’ license renewal.
11. Some precincts are understaffed and/or insufficiently resourced: some lack a sufficient number of poll workers (who might then miss breaks), some lack pens, and some lack voter-assist ballot paper for printing. Insufficient staff and resources may result in voter disenfranchisement by unduly slowing the process of voting, generally for all voters and

more substantially for those presenting non-routine situations. Long delays and lines may in turn depress voter turnout in the immediate or future elections.

12. Michigan currently has what is sometimes called a “non-strict photo ID requirement”: voters must either present a valid form of photo ID or else fill out and sign an affidavit of identity. Non-white, younger, and older voters are substantially more likely than white voters to lack appropriate photo ID when they seek to vote, so members of those demographic groups are more likely to end up having to use the affidavit process. The presumptive-photo ID requirement has suppressed voting in two ways. First, poll workers sometimes fail or refuse to offer the affidavit option to voters who lack appropriate photo ID. Second, the existence of even a presumptive-photo ID law is likely to depress turnout. The affidavit process tends to cause voting delays and long lines, especially in urban and campus areas where those demographic groups tend to vote. And some potential voters are inadequately informed of the affidavit option and thus may never attempt to vote.
13. Transgender and gender nonconforming voters—and disproportionately such voters of color—experience challenges at the polls especially when their IDs do not match their gender, name, or picture.
14. Proposal 3 requires some form of documentation to register within 14 days and on Election Day, that may still make it more difficult for non-whites, younger, and older voters to register, thus requiring them to submit challenged ballots, provisional ballots, or be disenfranchised entirely.
15. Young student voters experience numerous barriers to voting. Among these: they may lack necessary documentation; they may be unable to access transportation to polling locations and clerks’ offices to follow up on voter registration requirements; they may not understand the affidavit process; if filling out an affidavit, they may lack adequate documentation such as a utility bill to prove residency; they are particularly likely not to go where they are registered to vote, given frequent moves (and the fact that many Michiganders attend college in other states).
16. Michigan’s election system structure is largely decentralized, with 83 county clerks and 1,500 city and township clerks who have specific elections administration responsibilities. Despite strong efforts by various election administrators, the decentralized structure and budgeting responsibilities create difficulties for local clerks charged with recruiting and training poll workers to ensure that a full and well-trained staff is ready to work on Election Day. In many precincts, poll workers still lack sufficient numbers, adequate training, and election-day supervision/support to efficiently and sensitively process voters presenting non-routine issues. These staffing and training shortfalls may directly disenfranchise voters and may cause delays and long lines that may indirectly disenfranchise voters.
17. Michigan lacks translated ballots and materials for voters with limited English proficiency. Michigan has more than 270,000 people who report speaking Spanish in

their home and more than 125,000 people who report speaking Arabic in their home. But testimony indicated that election officials do not provide election materials in language to voters despite the clear need.

18. With more than 270,000 people reporting speaking Spanish in their home, and more than 125,000 people who speak Arabic in their home, Michigan lacks sufficient translated ballots and translated materials for voters with limited English proficiency. Election officials do not provide enough ballots and election materials in language to voters.
19. Communities of color face unique challenges at the polls, from being asked to prove U.S. citizenship to poll workers, to failing to locate interpreters or translators when help was needed.
20. Poll challengers, by their mere presence, behind poll workers on occasion slowed the voting process, which can be a chilling factor in predominantly Arab American and Muslim precincts.

## Recommendations

1. The U.S. Commission on Civil Rights should send this report to the U.S. Department of Justice for it to consider enforcing the Voting Rights Act, the National Voter Registration Act, and the Americans with Disabilities Act.
2. The U.S. Commission on Civil Rights should send this report and issue a recommendation to U.S. Census Bureau to disaggregate data and promote fair representation by creating a new racial/ethnic category for Middle Eastern and North Africans (MENA) in the U.S. Census.
3. The U.S. Commission on Civil Rights should send this report and issue recommendations to Michigan State Legislature to:
  - a. Provide appropriations from the Help America Vote Act fund to support language assistance efforts, voter registration efforts, and upgrade voting machines and ballot counting readers to ensure election integrity in Michigan.
  - b. Protect efforts of the independent redistricting commission to carry out its responsibility to draw fair and impartial legislative districts.
  - c. Pass legislation permitting the Secretary of State's office to collect demographic information on civic participation, including both census and non-census demographic categories (such as MENA). Capturing such information would determine levels of voter engagement among specific demographics and may aid in future voter outreach efforts.
  - d. Pass legislation supporting efforts to pre-register 16 and 17-year-old citizens.

- e. Pass legislation to codify a trans-friendly application process for changing state-issued IDs by having a gender-neutral gender marker option or removing the gender marker from state-issued IDs, and ensuring that no medical certification of gender is required.<sup>1</sup>
  - f. Pass legislation that more easily and fully accommodates mobile populations such as students, allowing them to vote either in their permanent or school residency, and that eases voting access for individuals who are homeless.
4. The U.S. Commission on Civil Rights should send this report and issue recommendations to the Michigan State Bar, Michigan Supreme Court, Michigan Federal Court, Michigan Superior Courts and respective probation offices to:
    - a. Encourage members of the judiciary to advise those sentenced in their courtroom of future voting eligibility, including reminder of automatic voting rights restoration upon completion of sentence, including prison, parole, and probation.
    - b. Encourage probation offices and their officers to advise their clients of future voting eligibility, including reminder of automatic voting rights restoration upon completion of sentence, including prison, parole and probation.
  5. The U.S. Commission on Civil Rights should send this report and issue recommendations to the Michigan Department of Corrections, local police departments, and sheriffs' offices to:
    - a. Encourage correctional staff to be knowledgeable about voting rights for individuals awaiting sentencing and incarcerated individuals.
    - b. Encourage correctional staff to educate inmates about their future voting eligibility, including reminder of automatic voting rights restoration upon completion of sentence, including prison, parole and probation.
    - c. Ensure information regarding the restoration of voting rights is available on the Michigan Department of Corrections, local police departments, and sheriffs' office websites.
  6. The U.S. Commission on Civil Rights should send this report and issue recommendations to the Michigan Secretary of State and Bureau of Elections to:
    - a. Provide appropriations from the Help America Vote Act fund to support language assistance and voter registration efforts and procure secure election equipment.

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<sup>1</sup> See National Center for Transgender Equality for "How Trans-Friendly is the Driver's License Gender Change Policy in Your State?"

<https://transequality.org/sites/default/files/docs/id/Drivers%20License%20Grades%20June%202019.pdf>.

- b. Fully comply with the Americans with Disabilities Act to ensure that clerk's offices and polling locations are accessible by voters with disabilities.
- c. Engage with low-turnout precincts and develop an actionable plan to improve civic engagement.
- d. Implement ballot-tracking tools to ensure voters understand the status of their ballot and if there is a mismatch in their signature or a missing signature, and implement a meaningful system for voters to cure such problems.
- e. Launch public education campaign regarding implementation of Proposal 3.
- f. Provide election materials at all polling locations to voters with visual disabilities such as braille and large print ballots.
- g. Establish early satellite voting location sites.
- h. Broaden education efforts among homeless populations and poll workers around the right of homeless people to vote and the prerequisites for a homeless voter at the polls to establish residency.
- i. Standardize poll worker training and create train the trainer modules that includes comprehensive understanding of the following: (i) federal and state election law; (ii) use of voter ID and affidavits, (iii) cultural competency when interacting with diverse voter groups such as voters with disabilities, transgender voters, and older voters; (iv) instructions on how to accommodate voters with disabilities including how operate accessible voting machines; and (v) why signatures may change overtime.
- j. Strengthen voter education and outreach efforts in the following areas: (i) Michigan voter ID law and the use of affidavits in place of ID; (ii) frequency of voter roll purging, and (iii) same day registration.
- k. Conduct voter registration drives to target young voters and student voters.
- l. Encourage township clerks and county clerks to work with student organizations and universities to establish on-campus satellite absentee voting locations.
- m. Conduct pre-registration for people under eighteen so that they are registered once eligible by utilizing Secretary of State offices and by working with school districts and other organizations.
- n. Collect demographic information relevant to civic participation, including MENA Americans as a demographic category.



## INTRODUCTION AND BACKGROUND

This section briefly reviews the history of the Voting Rights Act of 1965 and the National Voter Registration Act. The section then provides a summary of voter ID requirements, voter roll purging, recent improvements to Michigan election law in 2018, and access issues impacting specific voter groups.

### The United States Voting Rights Act

The right to vote is one of the most fundamental components of democracy. It is so important that the United States Constitution includes four amendments protecting it:

- Amendment XV guarantees the right to vote “regardless of race, color, or previous condition of servitude”;<sup>2</sup>
- Amendment XIX guarantees that the right to vote will not be denied “on account of sex”;<sup>3</sup>
- Amendment XXIV guarantees that the right to vote will not be denied “by any reason of failure to pay poll tax or other tax”;<sup>4</sup>
- Amendment XXVI guarantees the right to vote for all citizens aged 18 years or older.<sup>5</sup> and,
- Although it does not explicitly address such rights, the Fourteenth Amendment also protects voting rights, by granting citizenship to “all persons born or naturalized in the United States” and guaranteeing “equal protection of the laws” to all within its jurisdiction.

Despite these protections, throughout much of American history, state and local jurisdictions utilized techniques to disenfranchise people of color.<sup>6</sup> Techniques such as gerrymandering and inappropriate or unequally applied voter qualifications have been systemically used to create hurdles for voters from marginalized populations.<sup>7</sup> For example, states implemented discretionary, often inconsistently applied voting requirements such as poll taxes, literacy tests, and vouchers of “good character.”<sup>8</sup> Disqualification for “crimes of moral turpitude” was also used to suppress the African American vote.<sup>9</sup> All this was done under the guise of “preserving

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<sup>2</sup> U.S. CONST. amend. XV, § 1.

<sup>3</sup> U.S. CONST. amend. XIX.

<sup>4</sup> U.S. CONST. amend. XXIV, § 1.

<sup>5</sup> U.S. CONST. amend. XXVI, § 1.

<sup>6</sup> U.S. Department of Justice, *Before the Voting Rights Act*, <https://www.justice.gov/crt/introduction-federal-voting-rights-laws> (website last updated August 16, 2018, last accessed December 11, 2019).

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

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

<sup>9</sup> *Hunter v. Underwood*, 471 U.S. 222 (1985).

the integrity of the electoral process.”<sup>10</sup> In addition, terrorist organizations such as the Ku Klux Klan and the Knights of the White Camellia used harassment and violence to keep African American voters away from the polls and intimidate opposing political parties.<sup>11</sup>

In 1965 the United States Congress passed the Voting Rights Act (VRA)<sup>12</sup> in response to the Jim Crow laws and other restrictions of African Americans’ voting rights across the Deep South. This landmark federal legislation enforced the Fifteenth Amendment’s guarantee that no persons shall be denied the right to vote because of their race or color.<sup>13</sup> The VRA included key provisions for voter access, including banning the use of literacy tests<sup>14</sup> and giving the U.S. Attorney General the power to send federal examiners and observers to monitor elections.<sup>15</sup> Up until 2013, Section 5 of the VRA also froze new election practices or procedures in certain states until the new procedures had been reviewed by a three-judge court or by the U.S. Attorney General.<sup>16</sup> During the review, the procedures were examined for discriminatory purpose or effect, to screen out potentially negative impacts on minority voting rights.<sup>17</sup> The 1965 VRA was amended in 1975, extending to include protections against voter discrimination toward “language minority citizens,” and bringing more jurisdictions under its preclearance requirements.<sup>18</sup> In 1982, the VRA was again amended to ensure that violations of the VRA’s nondiscrimination section could be established “without having to prove discriminatory purpose.”<sup>19</sup> That is, under Section 2 of the VRA, if the voting requirements of a particular jurisdiction have a discriminatory impact, a VRA violation exists regardless of intent.<sup>20</sup>

Despite the constitutional amendments established to protect voting rights in the United States, there are still justified concerns regarding disparities in access to and participation in the country’s electoral system.<sup>21</sup> On June 25, 2013, in a historic decision, *Shelby County v. Holder*,<sup>22</sup>

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<sup>10</sup> U.S. Department of Justice, *Before the Voting Rights Act*, <https://www.justice.gov/crt/introduction-federal-voting-rights-laws> (website last updated August 16, 2018, last accessed December 11, 2019).

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

<sup>12</sup> The Voting Rights Act, Pub. L. 89-110, 52 U.S.C. 10101 & 52 U.S.C. 20701-20706 (formerly 42 U.S.C. 1971 & 1974).

<sup>13</sup> 52 U.S.C. §§ 10301.

<sup>14</sup> 52 U.S.C. §§ 10301, 10303.

<sup>15</sup> 52 U.S.C. §§ 10302, 10305.

<sup>16</sup> *See Shelby County v. Holder*, 570 U.S. 529, 534–37 (2013) (The Supreme Court held that it was unconstitutional to use the coverage formula in Section 4(b) of the VRA to determine which jurisdictions are subject to the preclearance requirements of Section 5 of the VRA).

<sup>17</sup> U.S. Dep’t of Justice, Statutes Enforced by the Voting Section, <https://www.justice.gov/crt/statutes-enforced-voting-section#vra> (last accessed on December 11, 2019).

<sup>18</sup> Voting Rights Act Amendments, Pub. L. 94-73, 89 Stat. 400 (1975).

<sup>19</sup> Voting Rights Act Amendments, Pub. L. 97-205, 96 Stat. 131 (1982).

<sup>20</sup> *Id.*

<sup>21</sup> Cohen, Andrew. “After 50 Years, the Voting Rights Act’s Biggest Threat: The Supreme Court.” *Atlantic*, Feb. 22, 2013. <https://www.theatlantic.com/national/archive/2013/02/after-50-years-the-voting-rights-acts-biggest-threat-the-supreme-court/273257/> (last accessed March 30, 2020).

the U.S. Supreme Court ruled that the formula used to determine which jurisdictions should be subjected to “preclearance” requirements under the VRA was outdated and therefore, unconstitutional.<sup>23</sup> In the majority opinion, authored by Chief Justice Roberts, the Court emphasized that the preclearance formula had been enacted at a time when states had voter requirements that prevented African Americans from voting.<sup>24</sup> It reasoned that, voter access issues appeared to have significantly improved since then and thus the formula was no longer justifiable under Congress’s limited authority.<sup>25</sup> Section 5’s preclearance requirement, a core component of the VRA, was rendered effectively inoperative unless and until Congress enacts a new coverage formula.<sup>26</sup>

Following the *Shelby County* decision, states across the country almost immediately began enacting voting laws previously barred by federal preclearance requirements. For example, within 24 hours of the ruling, Texas announced that it would implement a strict photo ID law as part of its voting requirement.<sup>27</sup> A month later, North Carolina attempted to pass a restrictive voting law that a federal appeals court struck down as an unconstitutional effort to “target African-Americans with almost surgical precision.”<sup>28</sup> Collectively, previously covered states have purged voters off their rolls at a significantly higher rate than non-covered jurisdictions and at least eight states have enacted new voting restrictions.<sup>29</sup>

## The National Voter Registration Act

In 1993, Congress enacted the National Voter Registration Act (NVRA), which was designed to protect voting rights by making it easier to for all Americans to register to vote and to maintain their registration.<sup>30</sup> The NVRA requires states to allow citizens to register to vote at the same

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<sup>22</sup> *Shelby County*, 570 U.S. 529 (2013).

<sup>23</sup> *Id.*; see also Schwartz, John. “Between the Lines of the Voting Rights Act Opinion.” *New York Times*, Jun. 25, 2019. <https://archive.nytimes.com/www.nytimes.com/interactive/2013/06/25/us/annotated-supreme-court-decision-on-voting-rights-act.html> (last accessed on December 11, 2019).

<sup>24</sup> *Shelby County*, 570 U.S. 529 (2013).

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

<sup>27</sup> Sullivan, John. “5 Years Later; the Effects of Shelby County Are Acutely Felt.” *Demos*. <https://www.demos.org/blog/5-years-later-effects-shelby-county-are-acutely-felt> (last accessed on July 30, 2019).

<sup>28</sup> Liptak, Adam and Wines, Michael. “Strict North Carolina Voter ID Law thwarted After Supreme Court Rejects Case.” *New York Times*, May 15, 2017. <https://www.nytimes.com/2017/05/15/us/politics/voter-id-laws-supreme-court-north-carolina.html> (last accessed on July 30, 2019).

<sup>29</sup> Weiser, Wendy and Feldman, Max. “The State of Voting 2018.” *Brennan Center for Justice at New York University School of Law*. [https://www.brennancenter.org/sites/default/files/publications/2018\\_06\\_StateOfVoting\\_v5%20%281%29.pdf](https://www.brennancenter.org/sites/default/files/publications/2018_06_StateOfVoting_v5%20%281%29.pdf) (last accessed on July 30, 2019).

<sup>30</sup> National Voter Registration Act of 1993, Pub. L. 103-31, 107 Stat. 77 (1993) (codified as 52 U.S.C. 20501-20511); see also U.S. Department of Justice, Civil Rights Division, “About the National Voter Registration Act,” <https://www.justice.gov/crt/about-national-voter-registration-act> (last accessed September 26, 2016).

time they apply for their drivers' licenses, or seek to renew their licenses; it also requires the state to then forward voters' completed registration applications to the appropriate election official.<sup>31</sup> In addition, the NVRA requires voter registration support for individuals with disabilities and those seeking public assistance; it requires the option for voters to register by mail; sets forth requirements for how states maintain their voter registration applications; and under certain circumstances, protects citizens' right to vote regardless of a change in address.<sup>32</sup>

## Voting in Michigan

In Michigan, voters must be U.S. citizens and residents of Michigan for at least 30 days by Election Day.<sup>33</sup> They must be at least 18 years old by Election Day, but are permitted to register when 17.5.<sup>34</sup> As of November of 2018, voters approved a ballot measure requiring the Secretary of State's office to automatically register voters when transact business regarding driver's license or personal ID cards unless they opt out.<sup>35</sup>

In 2018, a statute authorized the Secretary of State to develop an online voter registration system.<sup>36</sup> Michigan extended the voter registration deadline for all available methods of registration until 15 days before Election Day. This includes online voter registration, registration at a Secretary of State branch office (where driver's licenses are issued), registration at a county, city, or township clerk's office, registration at designated voter registration agencies, through the mail or through a voter registration drive.<sup>37</sup> However, voters can still register up to Election Day at 8:00 p.m. if a voter appears in person at their city or township clerk's office and provides proof of residency.<sup>38</sup> Michigan uses electronic pollbooks and address updates are also maintained electronically.<sup>39</sup>

Same day voter registration, which allows voters to both register to vote and to cast their ballots on Election Day, is another effort some states employ in order to maximize voter access and

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<sup>31</sup> 52 U.S.C. §§ 20501-20511.

<sup>32</sup> *Id.*

<sup>33</sup> MICH. COMP. LAWS § 168.492 (Michigan voter registration requirements).

<sup>34</sup> *Id.*; Michigan Bureau of Elections, Election Officials' Manual, Chapter 2: Voter Registration [https://www.michigan.gov/documents/sos/II\\_Voter\\_Registration\\_265983\\_7.pdf](https://www.michigan.gov/documents/sos/II_Voter_Registration_265983_7.pdf) (updated February 2019).

<sup>35</sup> MICH. COMP. LAWS § 168.493a (Automatic voter registration).

<sup>36</sup> MICH. COMP. LAWS § 168.37a, 168.37b (eff. Dec. 31, 2018); Michigan Bureau of Elections, Election Officials' Manual, Chapter 2: Voter Registration [https://www.michigan.gov/documents/sos/II\\_Voter\\_Registration\\_265983\\_7.pdf](https://www.michigan.gov/documents/sos/II_Voter_Registration_265983_7.pdf).

<sup>37</sup> MICH. COMP. LAWS § 168.497(1).

<sup>38</sup> MICH. COMP. LAWS § 168.497(2).

<sup>39</sup> Michigan Bureau of Elections, Election Officials' Manual, Chapter 2: Voter Registration [https://www.michigan.gov/documents/sos/II\\_Voter\\_Registration\\_265983\\_7.pdf](https://www.michigan.gov/documents/sos/II_Voter_Registration_265983_7.pdf).

participation.<sup>40</sup> As of June 30, 2019, a total of 21 states plus the District of Columbia have enacted same day registration.<sup>41</sup> As of the November 2018 election, Michigan now offers this option to its residents.<sup>42</sup>

Recognizing that some voters struggle to cast their ballot on weekdays due to work and family obligations, more than 35 states permit citizens to cast their ballot before Election Day.<sup>43</sup> Because of the passage of Proposal 3<sup>44</sup> in 2018, Michigan now permits all eligible and registered voters to request an absentee voter ballot without providing a reason. Absentee voter ballot requests must be submitted in writing to the city or township clerk and is not granted unless the signature on the request matches the voter registration record. Absentee ballots must be received by 8:00 p.m. on Election Day and are not counted unless the signature on the return envelope matches the signature on file. These new rights were implemented by Michigan Secretary of State's office in early 2019—in time for the May 2019 election.

### ***Voting Rights for Returning Citizens and Individuals Involved in the Criminal Justice System***

Michigan law currently prohibits registration and voting only during the period a person is convicted and serving a sentence in jail or prison.<sup>45</sup> People in jail awaiting trial or sentencing can vote via absentee ballot. Individuals who are serving a sentence outside of jail or prison, have served their sentence and been released, and those on probation or parole are permitted to register and vote.<sup>46</sup>

### ***Language Access***

The 1975 amendment to the VRA included provision Section 203, which requires certain jurisdictions to provide bilingual voting materials to groups who have experienced historical discrimination and disenfranchisement due to limited English-speaking abilities.<sup>47</sup> Section 203 requires state or political subdivisions to provide language assistance to voters if more than five percent of voting age citizens are members of a single-language minority group and do not

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<sup>40</sup> Burden, Barry C.; Cannon, David T.; Mayer, Kenneth R. and Moynihan, Donald P. “The Effects and Costs of Early Voting, Election Day Registration, and Same Day Registration in the 2008 Elections” *Pew Charitable Trusts*, Dec. 21, 2009. [https://www.pewtrusts.org/~media/legacy/uploadedfiles/pcs\\_assets/2009/uwisconsin1.pdf.pdf](https://www.pewtrusts.org/~media/legacy/uploadedfiles/pcs_assets/2009/uwisconsin1.pdf.pdf).

<sup>41</sup> “Same Day Voter Registration.” *National Conferences of State Legislatures*. <https://www.ncsl.org/research/elections-and-campaigns/same-day-registration.aspx> (last updated June 28, 2019).

<sup>42</sup> MICH. COMP. LAWS § 168.497(5), Michigan State Ballot Proposal 18-3 (2018); *see also* page 9 regarding Proposal 3.

<sup>43</sup> “Absentee and Early Voting.” National Conference of State Legislatures. <http://www.ncsl.org/research/elections-and-campaigns/absentee-and-early-voting.aspx> (last accessed on July 31, 2019).

<sup>44</sup> Michigan State Ballot Proposal 18-3 (2018); M.C.L.A. §168.497; *see also* page 9 regarding Proposal 3.

<sup>45</sup> MICH. COMP. LAWS. § 168.492a; MICH. COMP. LAWS § 168.758b.

<sup>46</sup> MICH. COMP. LAWS § 168.492a.

<sup>47</sup> 52 U.S.C. § 10503; *see also* U.S. Dep’t of Justice, Civil Rights Division, Language Minority Citizens, <https://www.justice.gov/crt/language-minority-citizens> (last accessed Aug. 3, 2018).

“speak or understand English adequately enough to participate in the electoral process” and if the rate of those citizens who have not completed the fifth grade is higher than the national rate of voting age citizens who have not completed the fifth grade.<sup>48</sup> When a state is covered for a particular language minority group, an exception is made for any political subdivision in which less than five percent of the voting age citizens are members of the minority group and are limited in English proficiency, unless the political subdivision is covered independently.<sup>49</sup> A political subdivision is also covered if more than 10,000 of the voting age citizens are members of a single-language minority group, do not “speak or understand English adequately enough to participate in the electoral process,” and the rate of those citizens who have not completed the fifth grade is higher than the national rate of voting age citizens who have not completed the fifth grade.<sup>50</sup> Section 203 requires covered jurisdictions to make voting materials and information, including ballots, available in minority languages in addition to English.<sup>51</sup> The simple goal of these accessibility efforts is to ensure that all voters have an “effective opportunity to register, learn the details of the elections, and cast a free and effective ballot.”<sup>52</sup>

Congress developed a triggering formula to determine whether a specific jurisdiction is covered under the statute and therefore required to provide language assistance to certain minority language-speaking voters.<sup>53</sup> The U.S. Census Bureau maintains a list of jurisdictions subject to Section 203 coverage based upon the most recent five years of the American Community Survey census data.<sup>54</sup> In December of 2016, the Director of the U.S. Census Bureau, in the Federal Register, released an updated list of jurisdictions that are required to provide language assistance under Section 203.<sup>55</sup> For example, in Michigan, Hamtramck City election administrators must provide election materials in Bangladeshi; and Colfax township and Fennville city administrators must provide them in Spanish.<sup>56</sup>

### ***Voters with Disabilities***

Voters with disabilities are permitted to receive assistance from another person, subject to some restrictions concerned with voter integrity (i.e. the assistant cannot be the voter's employer, agent of that employer or an officer or agent of a union to which the voter belongs).<sup>57</sup> According to the Michigan Secretary of State's website, election officials must ensure proper accessibility to polling locations is maintained and that any action or physical barrier that prevents voters with

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<sup>48</sup> 52 U.S.C. § 10503.

<sup>49</sup> *Id.*

<sup>50</sup> *Id.*

<sup>51</sup> *Id.*

<sup>52</sup> United States Department of Justice, *About Language Minority Voting Rights*, <https://www.justice.gov/crt/about-language-minority-voting-rights>, (updated March 27, 2019, last accessed on December 11, 2019).

<sup>53</sup> 52 U.S.C. § 10503(b)(2).

<sup>54</sup> *Id.* at § 10503(b)(2)(B).

<sup>55</sup> Voting Rights Act Amendments of 2006, Determinations Under Section 203, 81 F.R. 87532-87538.

<sup>56</sup> *Id.*

<sup>57</sup> 52 U.S.C. § 10508.

disabilities from casting a ballot is deemed unacceptable.<sup>58</sup> At least one voting station should allow a person to vote while seated and all persons should have access to an accessible voting machine or Voter Assist Terminal (VAT).<sup>59</sup> The VAT assists voters with disabilities in casting their ballot by featuring headphones, touch screen, braille keypad, and the option for voters to use their personal sip and puff device, stylus or footpad to mark their selections.<sup>60</sup> However, the system has been reported as challenging for at least some voters.<sup>61</sup>

### ***Voter Identification Requirements***

Michigan has a voter identification law with an affidavit alternative.<sup>62</sup> Under current law, if voters do not have a driver license or other acceptable photo identification, they can obtain a state identification card at a local Secretary of State branch office.<sup>63</sup>

Michigan law permits registered voters who do not have photo identification, or who forget to bring photo identification to the polling place, to vote if they sign an affidavit form stating they are not in possession of photo identification.<sup>64</sup> Many voters are unaware about the affidavit option. People of color are more likely to lack photo identification.<sup>65</sup> A bill to eliminate the affidavit option was approved by the Michigan House of Representatives in 2016<sup>66</sup> and a similar bill was introduced again in 2018.<sup>67</sup>

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<sup>58</sup> Michigan Secretary of State, *The Rights of Voters with Disabilities*, [https://www.michigan.gov/sos/0,4670,7-127-1633\\_8716-27710--,00.html](https://www.michigan.gov/sos/0,4670,7-127-1633_8716-27710--,00.html) (last accessed on December 11, 2019).

<sup>59</sup> Ibid.

<sup>60</sup> Ibid.

<sup>61</sup> Egan, Paul. "New voting machines a challenge for Michigan voters." *Detroit Free Press*, Aug. 6, 2018. <https://www.freep.com/story/news/local/michigan/2018/08/06/voting-machines-blind-voters-michigan/887574002/> (last accessed on December 11, 2019).

<sup>62</sup> See MICH. COMP. LAWS. § 168.523.

<sup>63</sup> Michigan Secretary of State, *A Guide to Voter Identification at the Polls*, [https://www.michigan.gov/sos/0,4670,7-127-1633\\_8716-178123--,00.html](https://www.michigan.gov/sos/0,4670,7-127-1633_8716-178123--,00.html) (last accessed on December 11, 2019).

<sup>64</sup> See MICH. COMP. LAWS § 168.523(2).

<sup>65</sup> Henninger, Phoebe, et. al. "Who Votes Without Identification? Using Affidavits from Michigan to Learn About the Potential Impact of Strict Photo Voter Identification Laws." White paper prepared for the 2018 Election Sciences, Report and Administration Conference, available at: <https://ssrn.com/abstract=3205769>.

<sup>66</sup> HB 6066 of 2015-2016 at <http://www.legislature.mi.gov/documents/2017-2018/billintroduced/house/pdf/2018-hib-6046.pdf>; Oosting, Jonathan. "Strict Voter ID law approved in Michigan House." *Detroit News*, Dec. 7, 2016. <https://www.detroitnews.com/story/news/local/2016/12/07/strict-voter-law-approved-michigan-house/95127394/> (last accessed on December 11, 2019).

<sup>67</sup> HB 6046 of 2017-2018 at <http://www.legislature.mi.gov/documents/2015-2016/billintroduced/house/pdf/2016-hib-6066.pdf>.

### ***Voter Roll Purging***

Michigan has a fraught history with respect to voter roll purging. In 2008, the ACLU sued Michigan for its voter roll purging practices that required election officials to remove voters from the rolls when their voter identification cards were returned as undeliverable by the post office.<sup>68</sup> The district court issued a preliminary injunction that ordered defendants to refrain from rejecting a voter's registration when that voter's identification card is returned to election officials as undeliverable and to reinstate the registration of all voters whose registrations have been rejected pursuant to this practice since January 1, 2006. An appellate judge upheld the preliminary injunction by denying a requested stay.<sup>69</sup> As a result, the voter registrations of 5,500 Michigan residents were restored and they were able to vote in the presidential election.<sup>70</sup>

Today, Michigan employs a purging system in which the clerk is authorized to cancel voter registrations under limited circumstances.<sup>71</sup> These circumstances include: when the clerk receives notice that a voter is deceased, written notice the voter is registered to vote in another jurisdiction, written notice signed by the voter that the voter no longer wants to be registered, or is not qualified to vote in the jurisdiction.<sup>72</sup> In those circumstances, the clerk is not required to provide a notice of cancellation.<sup>73</sup> In addition, if a city clerk's office receives reliable information that the voter has moved, the clerk sends a notice of cancellation to the last-known address; if the voter both fails to respond to the notice and does not vote in two successive federal November elections, then the voter is removed from the rolls.<sup>74</sup>

### ***Michigan Ballot Initiatives Passed in November 2018***

In November 2018, voters in Michigan took two significant steps toward election reform. First, they approved Proposal 2, a ballot measure that grants an independent redistricting commission of citizens the power to draw congressional and legislative districts for election purposes.<sup>75</sup> Prior to Proposal 2, the Michigan State Legislature was responsible for drawing district boundaries subject to governor veto. The independent redistricting commission will be required to include representatives from the Democratic and Republican parties, and members not affiliated with either major party. The new law also specifies certain criteria for drawing the districts, including ensuring "equal population sizes; geographic contiguousness; demographics

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<sup>68</sup> *U.S. Student Ass'n Found. v. Land*, 585 F. Supp. 2d 925, 951 (E.D. Mich. 2008).

<sup>69</sup> *U.S. Student Ass'n Foundation v. Land*, 546 F.3d 373 (C.A.6 (Mich.), 2008).

<sup>70</sup> *Id.* American Civil Liberties Union, ACLU of Michigan Legal Docket – 2007–2008.

<https://www.aclumich.org/sites/default/files/2007-2008-legal-docket.pdf> (last accessed on December 11, 2019).

<sup>71</sup> Michigan Bureau of Elections, Election Officials' Manual, Chapter 2: Voter Registration.

[https://www.michigan.gov/documents/sos/II\\_Voter\\_Registration\\_265983\\_7.pdf](https://www.michigan.gov/documents/sos/II_Voter_Registration_265983_7.pdf) (last accessed on December 11, 2019).

<sup>72</sup> *Ibid.*; *See e.g.*, MICH. COMP. LAWS § 168.510 (deceased elector); MICH. COMP. LAWS § 168.512 (MICH. COMP. LAWS §168.511 (cancellation due to authorization from elector); MICH. COMP. LAWS § 509dd (program to register voters or remove names).

<sup>73</sup> MICH. COMP. LAWS § 168.511.

<sup>74</sup> MICH. COMP. LAWS § 168.500e.

<sup>75</sup> *See* Michigan State Proposal 18-2 (2018), amending Articles IV, V, and VI of the Michigan State Constitution.

and communities of similar historical, cultural, or economic interests; no advantages to political parties; no advantages to incumbents; municipal boundaries; and compactness.”<sup>76</sup> This issue was particularly relevant since emails surfaced indicating that Michigan Republican legislators had previously utilized gerrymandering to maintain majority control.<sup>77</sup>

Voters also approved Proposal 3, which amended the Michigan Constitution, creating constitutional rights to certain voting policies. Proposal 3 promises to protect the right to vote a secret ballot; ensure military service members and overseas voters can obtain ballots; provide Michigan residents with the option to vote straight party; automatically register citizens to vote at the Secretary of State’s Office unless the citizen declines; allow a citizen to register to vote anytime with proof of residency; provide all registered voters access to an absentee ballot for any reason; and ensure the accuracy and integrity of elections by auditing election results.<sup>78</sup>

## SUMMARY OF PANEL TESTIMONY

### Voters with Disabilities

Testimony described several challenges for voters with disabilities. Basic access to precincts for voters who use wheelchairs<sup>79</sup> has been compromised because accessible parking was limited, there were no wheelchair ramps, and narrow doorways prevented wheelchair access.<sup>80</sup> Voters with disabilities also described the absence of private voting booths for voters who use wheelchairs and the absence of regular voting booths at wheelchair height.<sup>81</sup> Polling locations also were moved from the most densely populated areas to the least populated areas, which caused difficulties in finding the polling places. Angela Reyes, executive director for the Detroit Hispanic Development Corporation, noted that people “gave up and went home” because they could not locate precinct polling places that were behind several construction sites and heard that it was not ADA accessible.<sup>82</sup>

Testimony also indicated voters with visual impairments experienced barriers to voting. First, a panelist noted that “90 percent of people who are blind don’t know how to read braille, because

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<sup>76</sup> *Id.*

<sup>77</sup> Kurth, Joel and VanHulle, Lindsay. “Emails suggest Republicans gerrymandered Michigan to weaken ‘Dem garbage.’” *Bridge*, Jul. 25, 2018. <https://www.bridgemi.com/public-sector/emails-suggest-republicans-gerrymandered-michigan-weaken-dem-garbage> (last accessed on December 11, 2019).

<sup>78</sup> MICH. CONST. art II, § 4.

<sup>79</sup> Dessa Cosma, testimony, *Briefing Before the Michigan Advisory Committee to U.S. Commission on Civil Rights, Detroit, MI*, Apr. 30, 2019, transcript, p. 117 (hereafter cited as *Detroit Briefing*), [https://gsa-geo.my.salesforce.com/sfc/p/#t0000000Gyj0/a/t0000000IuX7/PuXUlp5edPMuEQx8EU.GPo1oMVyo\\_eJunwmpXkXxggv](https://gsa-geo.my.salesforce.com/sfc/p/#t0000000Gyj0/a/t0000000IuX7/PuXUlp5edPMuEQx8EU.GPo1oMVyo_eJunwmpXkXxggv)

<sup>80</sup> Jones Testimony, *Detroit Briefing*, p. 125.

<sup>81</sup> Spruce Testimony, *Detroit Briefing*, p. 24.

<sup>82</sup> Reyes Testimony, *Detroit Briefing*, p. 32.

most of the time they become blind as they get older”<sup>83</sup> and require assistance to fill out any election related form. Secondly, even braille-reading voters experienced issues with accessing polling locations because directional signage in braille was written incorrectly.<sup>84</sup>

In addition, panelists felt that poll workers lacked disability sensitivity, an understanding of voting laws, and knowledge of how to accommodate voters with disabilities.<sup>85</sup> Jill Gaus, a voter who is deaf and blind explained her experience voting. When her husband and service dog accompanied her to the polls, she felt her voting experience was “disappoint[ing], humiliat[ing], and embarrass[ing].”<sup>86</sup> She explained that a poll worker screamed at her for bringing her service dog into the voting booth and then another poll worker began panicking because they did not know how to accommodate her after learning that she was both deaf and blind.<sup>87</sup> She was then told that there was no room for her, her dog, and her husband (whom she did not want in the voting booth anyway because she valued her privacy).<sup>88</sup> After being scolded for “taking up too much time in the voting booth,”<sup>89</sup> she was then given an absentee ballot that she could not read because she cannot read regular print or braille. She expressed exasperation over the alternative offered to her and said, “I want[ed] to do it myself because I’m very, very independent. All I want[ed] [was] [] large print. That’s all I ask.”<sup>90</sup> Chris Swope, clerk for City of Lansing responded to Ms. Gaus’s experience and said that he trains his election workers to understand that service animals are permitted in every precinct; he also reported that those election workers should have been better trained.<sup>91</sup>

Election officials also offered their experience regarding disability access. Jocelyn Benson, Michigan Secretary of State, explained that her office plans to examine current polling precinct locations to ensure they are accessible to all citizens but explained that she understands that precincts are experiencing “significant challenges in finding places where they can host precincts.”<sup>92</sup> In addition, Mr. Swope said that his jurisdiction offers voters with disabilities instructions in braille and accessible voting machines.<sup>93</sup> He was surprised to hear that voters prefer the older accessible voting machines considering the low usage rate and high breakdown rate.<sup>94</sup> He also noted that his office used a grant provided by the Bureau of Elections to improve ADA access and that every precinct in his jurisdiction is wheelchair accessible.<sup>95</sup>

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<sup>83</sup> Spruce Testimony, *Detroit Briefing*, p. 24.

<sup>84</sup> Ibid.

<sup>85</sup> DeRose Testimony, *Detroit Briefing*, p. 121.

<sup>86</sup> Gaus Testimony, *Detroit Briefing*, p. 128.

<sup>87</sup> Ibid.

<sup>88</sup> Ibid.

<sup>89</sup> Ibid.

<sup>90</sup> Gaus Testimony, *Detroit Briefing*, p. 129.

<sup>91</sup> Swope Testimony, *Detroit Briefing*, p. 210.

<sup>92</sup> Benson Testimony, *Detroit Briefing*, p. 85.

<sup>93</sup> Swope Testimony, *Detroit Briefing*, p. 211.

<sup>94</sup> Ibid.

<sup>95</sup> Ibid., 212.

Testimony also highlighted proactive steps already attempted to address disability access challenges. For example, Tamika Spruce, a member of the People with Disabilities Voting Rights Coalition, testified that the Coalition meets monthly with the Detroit City Clerk about improving disability access.<sup>96</sup> In those meetings, the Coalition outlined several recommendations, including allowing the Coalition to visit different precincts to assess disability accommodations and provide feedback to the City Clerk's office; reviewing poll worker training curriculum to ensure there is cultural sensitivity toward voters with disabilities and; assisting with hiring individuals with disabilities to work as poll workers.<sup>97</sup> Ms. Spruce encouraged disability advocates to work with election officials to address challenges because the state will be implementing Proposal 3 soon and their suggestions may prevent potential issues at the polls.<sup>98</sup>

### ***Accessible Voting Machines***

Panelists also testified to challenges using accessible voting machines.<sup>99</sup> Voters with disabilities stated that purported accessible voting machines were consistently malfunctioning or had missing parts that lengthened the time needed to vote. For instance, a voter who wanted to use an accessible voting machine could not use it because it did not work.<sup>100</sup> After waiting 30 minutes to vote, she was asked to fill out a paper ballot without any privacy or protections.<sup>101</sup> She testified to a similar experience in both 2016 and 2018 elections.<sup>102</sup>

Another disability access concern was that poll workers did not know how to use accessible machines properly. Some did not know how to turn on the machines or adjust them to accessible settings.<sup>103</sup> One voter thought she had completed her ballot by using the accessible voting machine but later learned the machine was unplugged.<sup>104</sup> Another voter mentioned that the accessible machine took over an hour to print his ballot.<sup>105</sup> The poll worker assisting him then made multiple attempts to put the ballot through the tabulator and learned after receiving technical assistance from the Election Commission that the machine was not meant to tabulate ballots printed from accessible voting machines.<sup>106</sup> As an alternative, poll workers explained that the ballot would have to go through another process in which the votes would be tabulated in a different location without the voter being present. He did not find this alternative acceptable.<sup>107</sup> After three hours of attempting to vote, this witness stated, "I witnessed abled voters whose privacy was preserved as they voted, submitted their ballots, and witnessed their voted being

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<sup>96</sup> Spruce Testimony, *Detroit Briefing*, p. 26.

<sup>97</sup> *Ibid.*, 26-27.

<sup>98</sup> *Ibid.*, 27.

<sup>99</sup> Also known as Voter Assist Terminals.

<sup>100</sup> Spruce Testimony, *Detroit Briefing*, p. 22; Brown Testimony, *Detroit Briefing*, p. 188.

<sup>101</sup> Spruce Testimony, *Detroit Briefing*, p. 22.

<sup>102</sup> *Ibid.*, 21.

<sup>103</sup> DeRose Testimony, *Detroit Briefing*, p. 121.

<sup>104</sup> *Ibid.*

<sup>105</sup> Jones Testimony, *Detroit Briefing*, p. 126;

<sup>106</sup> *Ibid.*

<sup>107</sup> *Ibid.*, 126-27.

machine tabulated...because of my disabilities, I needed assistance to fill out the ballot, which forfeited my right to cast a secret ballot.”<sup>108</sup> Witnesses also described an absence of signage indicating that accessible voting machines were available at precincts<sup>109</sup> and incorrect directional signage in braille.<sup>110</sup>

There was also testimony indicating the unpopularity of newly procured accessible voting machines because of their poor usability. Michigan counties were given the option to choose among three different types of new voting equipment: Dominion, Election Systems & Software, or Hart InterCivic.<sup>111</sup> Dawn DeRose, a voter who is blind, noted that the design of the new machines in her county is “not very good” because the instructions are unclear.<sup>112</sup> She stated that because most low vision adults do not read braille and many cannot see color, the instructions on the new machines directing the voter to use colored arrows is unhelpful.<sup>113</sup> She also said the accessibility option is difficult to find and the ability to slow the speed or increase volume is also a challenge.<sup>114</sup> Lastly, the new machines do not have a privacy screen setting, which is unsettling for her because she has not had any “semblance of privacy” while voting previous elections.<sup>115</sup>

## Election Administration

### *Michigan Voter ID Law*

Several panelists testified about the Michigan’s photo ID law and its impact on voting rights. Sharon Dolente, voting rights strategist at the ACLU expressed the view that even though Michigan’s photo ID law allows use of an affidavit to substitute for a photo ID, it has negatively affected voting rights in two ways.<sup>116</sup> First, many voters have complained to the ACLU in every election about election officials and poll workers who violate Michigan’s photo identification laws by failing or refusing to offer the affidavit to voters who lack photo ID.<sup>117</sup> Secondly, imposition of even a somewhat lenient photo ID law creates confusion among voters that is likely to depress turnout.<sup>118</sup>

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<sup>108</sup> Jones Testimony, *Detroit Briefing*, p. 126.

<sup>109</sup> *Ibid.*, 125.

<sup>110</sup> Spruce Testimony, *Detroit Briefing*, p. 24.

<sup>111</sup> Egan, “New voting machines a challenge for Michigan voters.”

<sup>112</sup> DeRose Testimony, *Detroit Briefing*, pp. 119-20.

<sup>113</sup> *Ibid.*

<sup>114</sup> *Ibid.*, 121.

<sup>115</sup> *Ibid.*, 122.

<sup>116</sup> Sharon Dolente, Voting Rights Strategist, ACLU of Michigan, Written Statement for the Detroit Briefing before the Michigan Advisory Committee to the U.S. Commission on Civil Rights, April 30, 2019 at p. 6 (hereinafter ACLU Statement).

<sup>117</sup> *Ibid.*

<sup>118</sup> *Ibid.*

Ms. Dolente emphasized the importance of informing voters of the option to sign an affidavit given recent very close elections.<sup>119</sup> Ms. Dolente pointed out that state lawmakers introduced legislation in the 2017-2018 legislative session to tighten the photo ID law to require ID.<sup>120</sup>

In addition to concerns that a strict ID law could disenfranchise voters and affect the outcome of elections, such a law would have a disparate racial impact. Marc Meredith, associate professor and researcher at the University of Pennsylvania, studied the state's current photo ID law. He found that "non-white voters are substantially more likely than white voters to lack photo ID when they show up to vote in Michigan."<sup>121</sup> He also explained that very old and very young voters are more likely to use affidavits: "I think this fits with our general beliefs about who is least likely to have photo ID because they are not driving. Young people or old people are the least likely to have a driver's license."<sup>122</sup> More to the point, he found that people are less likely to have voted before if voting by affidavit and people are more likely to cast a vote using an affidavit if they are not white.<sup>123</sup>

Professor Meredith shared two recommendations that would allow better access to the affidavit process. He said, "there needs to be even more information provided to people so that they understand that a photo ID is requested but not necessary in order to be able to cast a ballot in Michigan."<sup>124</sup> Secondly, he recommended that election administrators place the affidavit on a separate piece of paper rather than placing it on the backside of the application to vote because the affidavit is often overlooked.<sup>125</sup>

Ensuring voters who are transgender have access to the affidavit process was also of concern. Voters who are transgender and gender nonconforming experience challenges at the polls because their IDs may not match their sex, name, or picture.<sup>126</sup> This can lead to discrimination, hostility, misgendering, and outing.<sup>127</sup> Testimony indicated these incidents occur more in communities of color<sup>128</sup> and states could benefit from modernizing state ID/driver's license gender change policies. For instance, Michigan recently (after the Committee hearing) began to

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<sup>119</sup> ACLU Statement, at 6.

<sup>120</sup> Ibid.

<sup>121</sup> Meredith Testimony, *Detroit Briefing*, p. 153.

<sup>122</sup> Ibid., 161.

<sup>123</sup> Ibid., 160.

<sup>124</sup> Ibid., 154.

<sup>125</sup> Ibid., 160.

<sup>126</sup> Baum Testimony, *Detroit Briefing*, p. 245.

<sup>127</sup> "Outing" refers to the disclosure of an individual's gender identity and/or sexual orientation.

<sup>128</sup> Jennifer Pointdexter, Victim Advocate, Equality Michigan, Written Statement for the Detroit Briefing before the Michigan Advisory Committee to the U.S. Commission on Civil Rights, April 30, 2019 at p. 1.

allow individuals to self-report their gender without requiring verification from a medical or social service provider.<sup>129</sup>

### **Proposal 3**

Panelists referenced the passage of Proposal 3 and the forthcoming changes in voter registration and election process that are expected to remove barriers to voting for Michigan residents.<sup>130</sup> The required changes will allow for same-day registration, automatic voter registration, and the right to absentee ballots among other changes.<sup>131</sup> Ms. Dolente explained that these changes to election law require a robust election administration and planning strategy among varied stakeholders.<sup>132</sup> Specifically, a public education campaign should be conducted by and with historically disenfranchised communities to ensure successful implementation of the law.<sup>133</sup> She cautions that “without targeted engagement focused on those who have been historically excluded, there is a serious risk that these new voting rights replicate the disparities in civic participation of the past.”<sup>134</sup>

Testimony indicated that while Proposal 3 takes huge steps to strengthen voting access, there may still be voting registration barriers.<sup>135</sup> Edie Goldenberg, political science and public policy professor at the University of Michigan, asserted that Michigan is one of the nation’s most “student unfriendly states” in its voting rules.<sup>136</sup> In her view, the implementation rules passed by the state legislature in the 2018 lame duck session—which especially impacts young voters—are not consistent with the intention of Proposal 3.<sup>137</sup> Professor Goldenberg, who works to increase voter registration among college students, said that students’ ballots are more likely to be treated as second-class ballots because students are less likely to have an ID card with their voting address on it.<sup>138</sup> In addition, students are frequently unable to supply alternative proof of ID such as utility bills or bank checks with their address on them.<sup>139</sup> She recommended expanding the list

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<sup>129</sup> Brad Devereaux. “Transgender people can now change gender marker on Michigan ID without surgery.” *MLive*. Jan. 19, 2019. [https://www.mlive.com/news/2016/03/transgender\\_people\\_can\\_now\\_change.html](https://www.mlive.com/news/2016/03/transgender_people_can_now_change.html) (last accessed on February 26, 2020)

<sup>130</sup> Dolente Testimony, *Detroit Briefing*, pp. 60-63; Goldenberg Testimony, *Detroit Briefing*, pp. 80-81; Benson Testimony, *Detroit Briefing*, p;

<sup>131</sup> ACLU Statement, at 3-4.

<sup>132</sup> Dolente and Goldenberg Testimonies, *Detroit Briefing*, p. 86; Issa Testimony, *Detroit Briefing*, p. 94; Vanessa Guerra, State Representative, Michigan House of Representatives, Written Statement for the Detroit Briefing before the Michigan Advisory Committee to the U.S. Commission on Civil Rights, April 30, 2019 at pp. 1-2.

<sup>133</sup> ACLU Statement, at 4.

<sup>134</sup> *Ibid.*

<sup>135</sup> Goldenberg Testimony, *Detroit Briefing*, p. 80.

<sup>136</sup> *Ibid.*

<sup>137</sup> *Ibid.*, 88.

<sup>138</sup> *Ibid.*, 84.

<sup>139</sup> *Ibid.*

of documents by which residency can be established, and she warned that hundreds of eligible college students might be disenfranchised without such a reform.<sup>140</sup>

Panelists touched on the effect of same-day registration. Mr. Bernhard, a computer science and election security expert from the University of Michigan believes that same-day registration will provide greater voting access, but he cautions that a large influx of people who want to register on Election Day may overwhelm local clerks.<sup>141</sup> Professor Goldenberg agreed that this is especially problematic in college towns with thousands of first-time student voters. She further explained that same-day registration in the clerk's office may cause an inconvenience and even disenfranchise voters because unregistered voters cannot register at the polls. Voters are able to go to the city clerk's office to register but they must have one of a limited number of proof of residency documents.<sup>142</sup> She said that city clerks should make it easy for citizens to register and vote absentee simultaneously in the clerk's office to avoid such issues.<sup>143</sup>

Other witnesses provided recommendations directed to universities and student voter engagement organizations. Rihan Issa, Michigan coordinator for the Campus Vote Project, urged that colleges should institutionalize student voter registration efforts.<sup>144</sup> Professor Goldenberg shared a "promote list," which includes a checklist of actions that universities can implement, including learning campus voter registration and turnout rates, enlisting broad support across campus, using online tools for voter registration, sending reminders, building voter registration into existing university processes, offering workshops on why students should vote and how to vote, and making registration fun by hosting events.<sup>145</sup> Secretary Benson, in agreement with registering all demographics of voters, responded that her office will conduct outreach to college campuses and will work to ensure to automatically register voters during driver's license and personal ID card transactions.<sup>146</sup> Secretary Benson convened the Michigan Collegiate Student Taskforce and the Taskforce issued its report and recommendations in December 2019.<sup>147</sup> Among their most critical recommendations directed to the Secretary of State's include: (i) providing students on-campus resources such as satellite clerk offices, on-campus polling locations, and increased use of mobile Secretary of State branch offices; (ii) providing an online interface that allows voters to request an absentee ballot electronically as the state currently does not offer this option; (iii) offering plain language ballot summaries; (vi) offering innovative ways for students to return absentee ballots such as pre-paid return postage and on campus ballot drop-

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<sup>140</sup> Goldenberg Testimony, *Detroit Briefing*, p. 85.

<sup>141</sup> *Ibid.*, 110.

<sup>142</sup> *Ibid.*

<sup>143</sup> *Ibid.*, 111.

<sup>144</sup> Issa Testimony, *Detroit Briefing*, p. 89.

<sup>145</sup> See Appendix A.

<sup>146</sup> Jocelyn Benson, Secretary of State, State of Michigan, 6/24/19 Written Statement for the Detroit Briefing before the Michigan Advisory Committee to the U.S. Commission on Civil Rights, April 30, 2019 at p. 3 (hereinafter cited at Secretary Benson Statement).

<sup>147</sup> Michigan Secretary of State, "Michigan Collegiate Student Advisory Task Force Report" Dec. 17, 2019.

[https://www.michigan.gov/documents/sos/MCSATF\\_Report\\_2019\\_674260\\_7.pdf](https://www.michigan.gov/documents/sos/MCSATF_Report_2019_674260_7.pdf)

box locations; and (v) requiring clerks' offices to keep and maintain a permanent absentee voter application list so that students can receive an absentee voter ballot application before each election.

Other recommendations for improving civic engagement include establishing satellite clerk's offices for voter registration and early voting by absentee ballot and encouraging election clerks to work with colleges to recruit students as poll workers.<sup>148</sup> Pre-registration for 16-year-olds and 17-year-olds was also of interest. Testimony indicated that because this age group is likely to be in the process of obtaining a driver's license, there is an opportunity for the State to conduct outreach.<sup>149</sup> Secretary Benson responded to this recommendation and explained that, while she agreed targeting younger voters is important, her office will need a mandate in order to pre-register 16-year-olds and 17-year-olds so that when they become eligible, they will be registered.<sup>150</sup>

### ***Voter Roll Maintenance***

Every election, the NAACP voter hotline collects accounts of voting concerns across the state. Among the reported issues is voter roll "purging."<sup>151</sup> Khalilah Spencer, legal redress chair at the NAACP, said they received many complaints from voters across the state, who may have not voted in every election, and found when they attempted to vote in a presidential election, their voter registration had been cancelled.<sup>152</sup> Mr. Swope noted that according to state and federal election law he is required to cancel a voter's registration record if he receives reliable information that a voter has moved, and then the voter fails to respond to a notice of cancellation and does not participate in either of the two next November general federal elections.<sup>153</sup>

### ***Issues at the Polls and Poll Worker Training***

Several panelists testified about poll workers and their administration of elections. Isra Daraiseh, coordinator for the Arab Community Center for Economic and Social Services (ACCESS), emphasized that because of the discretion given to poll workers and possible consequences: "[A]ll of us should feel unsettled that there are folks eligible to vote being turned away every year, sometimes for frivolous reasons and preventable reasons."<sup>154</sup> Ms. Daraiseh outlined several poll worker issues documented by her organization during the 2016 and 2018 elections.<sup>155</sup> She

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<sup>148</sup> Issa Testimony, *Detroit Briefing*, p. 95.

<sup>149</sup> Goldenberg Testimony, *Detroit Briefing*, p. 82.

<sup>150</sup> Benson Testimony, *Detroit Briefing*, p. 105.

<sup>151</sup> Spencer Testimony, *Detroit Briefing*, p. 143.

<sup>152</sup> *Ibid.*, 145.

<sup>153</sup> Swope Testimony, *Detroit Briefing*, p. 209; Michigan Bureau of Elections, *Chapter 2 Voter Registration*, [https://www.michigan.gov/documents/sos/II\\_Voter\\_Registration\\_265983\\_7.pdf](https://www.michigan.gov/documents/sos/II_Voter_Registration_265983_7.pdf) (last accessed on December 11, 2019).

<sup>154</sup> Daraiseh Testimony, *Detroit Briefing*, p. 12.

<sup>155</sup> *Ibid.*, 20.

explained that understaffing was a concern,<sup>156</sup> poll workers were often unaware of the affidavit in lieu of photo ID; appeared reluctant to assist voters with language barriers;<sup>157</sup> did not handle spoiled ballots properly; and had inconsistent knowledge about administering elections across polling locations. Poll workers also organized lines in a way that created longer wait times and were unclear about their duties.<sup>158</sup>

There was also testimony about poor treatment of voters, especially those with limited-English proficiency. Ms. Daraiseh stated that during the 2018 mid-term election, a Dearborn poll worker harassed a voter who brought a family member or friend to help him or her translate or assist with their ballot. The poll worker was reported to be aggressive and told the translator not to even touch or point at the ballot.<sup>159</sup> A similar situation occurred when a poll worker tried to prevent a voter from assisting her mother.<sup>160</sup> The voter ultimately ended up assisting her mother after she asserted her rights that she learned through a voting rights training. Ms. Daraiseh said these examples are especially concerning because there are significant limited-English proficiency populations in several areas of the state and this behavior may have had a large impact on their ability to participate.<sup>161</sup> Voting rights for voters with limited-English proficiency provide that if a ballot is unavailable in the voter's language, they have the right to request assistance from anyone they choose provided that it is not their employer, an agent of their employer, or an officer or agent of their labor union.<sup>162</sup>

A panelist described an example of misinformation provided to voters at a diverse precinct. Ms. Reyes asserted that because of increased turnout, poll workers at her precinct instructed voters to skip the nonpartisan measures on the ballot in order to move the line faster.<sup>163</sup> She corrected the poll worker and said that it was her right to complete the ballot.<sup>164</sup> She said, "I don't believe it is their intent to discriminate, but it's definitely the impact of what happens."<sup>165</sup>

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<sup>156</sup> Isra Daraiseh, Coordinator, ACCESS, Written Statement for the Detroit Briefing before the Michigan Advisory Committee to the U.S. Commission on Civil Rights, April 30, 2019.

<sup>157</sup> Daraiseh Testimony, *Detroit Briefing*, pp. 13-4.

<sup>158</sup> *Ibid.*, 19-20.

<sup>159</sup> Isra Daraiseh, Coordinator, ACCESS, Written Statement for the Detroit Briefing before the Michigan Advisory Committee to the U.S. Commission on Civil Rights, April 30, 2019 at p. 3 (hereinafter cited as Email Communication between ACLU and ACCESS).

<sup>160</sup> Daraiseh Testimony, *Detroit Briefing*, p. 18.

<sup>161</sup> Email Communication between ACLU and ACCESS, at 3.

<sup>162</sup> 52 U.S.C. §10508.

<sup>163</sup> Reyes Testimony, *Detroit Briefing*, p. 31.

<sup>164</sup> *Ibid.*, 31-32.

<sup>165</sup> *Ibid.*, 34.

Other testimony concerned poll challengers. These individuals allegedly impeded the voting process and intimidated poll workers by standing behind them as they performed their job.<sup>166</sup> Testimony also reported that poll challengers provided misinformation to poll workers and instructed them to ask for affidavits from translators and those providing assistance to voters, despite the fact that affidavits are not required. Ms. Daraiseh was especially concerned because some voters seek to avoid challenge and said “the majority of folks [] [are] not going to cause any problems and [] going to walk away and that’s troubling to me because that’s another voter loss, another voter intimidated [-] that’s another voter that doesn’t think they fit into the fabric of this country.”<sup>167</sup>

Another concern was regarding handling problematic absentee ballots. Stuart Baum, president of student government at Wayne State University and a former poll worker, said that when he volunteered to count absentee ballots, that it was “kind of scary in the sense that the voter is not there to help correct any issues.”<sup>168</sup> He reported that he was trained to not count ballots that do not match the signature in voters’ files.<sup>169</sup> He felt that this poses issues for older voters and young voters who are more likely to change their signatures over time, and that it may prevent them from having their vote counted.<sup>170</sup>

Responding to testimony concerning training and issues at the polls, election officials provided several explanations. Mr. Swope explained that election workers receive a few hours of training<sup>171</sup> and during that limited amount of time, they must cover extensive election law material. In his view, “it is unreasonable to expect them to know everything[] [and] every situation.”<sup>172</sup> More to the point, Lisa Brown, clerk for Oakland County, explained that while she makes good faith efforts to provide the necessary tools to the 50 municipal clerks to train their poll workers, sometimes she is unable to control the outcome.<sup>173</sup> For instance, she received reports regarding a poll worker who erroneously required a voter to change his shirt because it said “Black Lives Matter.”<sup>174</sup> Another poll worker, who was an avid stamp collector, delayed tabulating ballots because he was ripping off stamps from absentee ballot envelopes.<sup>175</sup> She testified that those actions were not part of their training.

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<sup>166</sup> The law allows “election challengers” and “poll watchers” to monitor the election process as a safeguard against election fraud. Challengers, appointed by political parties and qualified groups and organizations, enjoy special rights and privileges; Email Communication between ACLU and ACCESS, at 1-3.

<sup>167</sup> Daraiseh Testimony, *Detroit Briefing*, p. 18.

<sup>168</sup> Baum Testimony, *Detroit Briefing*, p. 246.

<sup>169</sup> Ibid.

<sup>170</sup> Ibid.

<sup>171</sup> Swope Testimony, *Detroit Briefing*, p. 218.

<sup>172</sup> Ibid., 220.

<sup>173</sup> Brown Testimony, *Detroit Briefing*, p. 191.

<sup>174</sup> Ibid., 230.

<sup>175</sup> Ibid., 232.

Several panelists emphasized standardized poll worker training as a solution to improve election administration and address misinformation shared with voters.<sup>176</sup> There was also a recommendation to require poll workers to take a test on their knowledge of the material, which is a standard practice in the Lansing Clerk's office.<sup>177</sup> Secretary Benson was receptive to the idea of standardized poll worker training and shared that she plans to standardize expectations and goals for poll worker training.<sup>178</sup> Similarly, she explained that her office can play a critical role in providing talent development, recruiting, and training. Her suggestion was to "professionalize the poll worker workforce" by partnering with law firms and private companies, large non-profits, and organizations who are already perform election protection work on Election Day.<sup>179</sup>

The idea that the Secretary of State's office should conduct statewide training, rather than offering guidance to local clerks' offices was floated among panelists. Election administrators expressed skepticism that this proposal would be helpful. Mr. Swope suggested that training hundreds of people would be ineffective, and that the Bureau of Elections lacks sufficient resources to conduct many trainings.<sup>180</sup> Ms. Brown agreed and added that uniform training could cause more confusion because the State works with three voting machine vendors; and training would be better if it focused on the applicable machines that operate in specific jurisdictions, which a statewide training would not.<sup>181</sup>

Finally, election administrators explained that county, city and townships clerks do not have a centralized data collection clearinghouse to report election issues or share best practices.<sup>182</sup> They explained that best practice sharing is often done through county clerk associations and municipal association of municipal clerks' meetings.<sup>183</sup> Chief election officer Secretary Benson agreed that her office can play a role in convening election administrators to share best practices and lessons learned from conducting past elections.<sup>184</sup>

## Election Security

Panelists testified to the importance of election security as a key component to voting rights. Mr. Bernhard warned that several states—including Georgia, North Carolina, Texas, and Washington—have experienced "mishap[s] or malicious manipulation" in their election systems.

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<sup>176</sup> Swope Testimony, *Detroit Briefing*, p. 223.

<sup>177</sup> *Ibid.*, 228.

<sup>178</sup> Benson Testimony, *Detroit Briefing*, p. 195; Secretary Benson Statement, at 1.

<sup>179</sup> *Ibid.*, 226.

<sup>180</sup> Swope Testimony, *Detroit Briefing*, p. 222.

<sup>181</sup> Brown Testimony, *Detroit Briefing*, p. 229.

<sup>182</sup> *Ibid.*, 240; Swope Testimony, *Detroit Briefing*, p. 240-42.

<sup>183</sup> Swope Testimony, *Detroit Briefing*, p. 241.

<sup>184</sup> Benson Testimony, *Detroit Briefing*, p. 242.

Mr. Bernhard testified that while he supports state efforts to make it easier to register to vote by allowing online registration, but he believes such efforts can also increase security vulnerabilities. Mr. Bernhard demonstrated to the Committee how online registration information may be vulnerable, using a website<sup>185</sup> that allows access to several states' drivers' license information based on only a few pieces of information: an individuals' full name, month, and day of birth.<sup>186</sup> Using this information, a hacker could access their driver's license number and use it to access voter registration records to change a voter's registration information such as their mailing address.<sup>187</sup> A change to a voter's mailing address could effectively disenfranchise the voter.<sup>188</sup> He described instances in other states where voters discovered that their registration address had been altered when they showed up to the polls to vote—even though their spouse, who they lived with, had no such change and was able to vote at the usual precinct.<sup>189</sup>

When asked by Committee members if someone with Mr. Bernhard's training could hack into a state's voter registration system, he pointed out that such hacking would violate the federal Computer Fraud and Abuse Act. But, he stated, "I would bet money that for most states, we could probably affect voter registration records."<sup>190</sup> He noted that when state election systems are hacked and there is widespread election fraud it affects voter confidence.<sup>191</sup> He said "either you become disenfranchised because the system broke, because someone broke the system, or because you don't believe the electoral system [and] the voter registration system [are] robust enough to ... preserve your right to vote."<sup>192</sup>

Moreover, Mr. Bernhard testified that voting machines are just as vulnerable as voter registration systems.<sup>193</sup> Studies have shown that computerized ballot scanners or ballot marking devices are easy to hack, especially devices that have not been updated.<sup>194</sup> These machines, he said, are not operated by the State and were not thoroughly tested.<sup>195</sup> To address potential vulnerabilities, he shared that the State is piloting a "risk limiting audit" which is a post-election audit that uses a

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<sup>185</sup> High Programmer, *Driver's License Calculator: Michigan*, [http://highprogrammer.com/cgi-bin/uniqueid/dl\\_mi](http://highprogrammer.com/cgi-bin/uniqueid/dl_mi). (last accessed on December 11, 2019).

<sup>186</sup> The website does not need the year of birth.

<sup>187</sup> Bernhard Testimony, *Detroit Briefing*, pp. 76, 109-10.

<sup>188</sup> *Ibid.*

<sup>189</sup> Bernhard Testimony, *Detroit Briefing*, p. 110.

<sup>190</sup> *Ibid.*, 97.

<sup>191</sup> *Ibid.*, 111.

<sup>192</sup> *Ibid.*, 78.

<sup>193</sup> *Ibid.*, 112-23.

<sup>194</sup> *Ibid.*; Blaze, Matt; Hursti, Harri; Macalpine, Margaret; Hanley, Mary; Moss, Jeff; Wehr, Rachel; Spencer Kendall; Ferris, Christopher. "Def Con 27 Voting Machine Hacking Village" <https://media.defcon.org/DEF%20CON%2027/voting-village-report-defcon27.pdf>;

Appel, Andrew and DeMillo, Richard and Stark, Philip B. "Ballot-Marking Devices (BMDs) Cannot Assure the Will of the Voters" Apr, 21, 2019. <http://dx.doi.org/10.2139/ssrn.3375755>.

<sup>195</sup> Bernhard Testimony, *Detroit Briefing*, p. 112.

statistical sample of ballots to check against the reported totals.<sup>196</sup> He said, “even if there is malicious code on the scanners flipping votes, [the risk limiting audit] is going to catch it.”<sup>197</sup> But such an audit would not detect security breaches to ballot marking devices, which means that voters with disabilities may be at a greater risk of having their vote tampered with than everyone else because they are more likely to use these devices.<sup>198</sup>

## Data Collection

Issues raised throughout the briefing dealt with data collection conducted by the U.S. Census Bureau.

Panelists testified about the concern that minorities could be undercounted in the next 2020 census and warned of the potential negative impact on Michigan residents. Ms. Dolente and Rima Meroueh, advocacy manager at ACCESS and Arab American, explained that the 2020 census count determines a number of things such representation in the U.S. House of Representatives.<sup>199</sup> What is especially concerning is the current classification of Middle Eastern or North African (MENA) individuals as white in the census. Michigan, particularly southeastern Michigan, is home to sizable and concentrated populations of Arab and Chaldean American communities—both of which belong to the broader MENA group.<sup>200</sup> Ms. Meroueh testified that the choice not to classify MENA individuals has significant implications for voting because “a lack of proper representation [] deprives the Arab community of access to basic services and rights such as language assistance at polling places.”<sup>201</sup> After explaining that the U.S. Census recently rejected the proposal to create a standalone MENA classification on the 2020 U.S. Census form,<sup>202</sup> which would lead to an accurate count and better recognize the community, she said,

without an accurate count of the census, it’s impossible to discern if there are achievement gaps, wage gaps, or even gaps in voter turnout between Middle Eastern and North African Americans and other racial groups in the United States, because data cannot be stratified to isolate this significant portion of the population.<sup>203</sup>

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<sup>196</sup> Ibid., 113.

<sup>197</sup> Ibid.

<sup>198</sup> Ibid.

<sup>199</sup> Meroueh Testimony, *Detroit Briefing*, p. 130-31.

<sup>200</sup> Cwiek, Sarah. “What explains Michigan’s large Arab American community?” *Michigan Radio*, Jul. 9, 2014. <https://www.michiganradio.org/post/what-explains-michigans-large-arab-american-community> (last accessed on December 11, 2019).

<sup>201</sup> Meroueh Testimony, *Detroit Briefing*, p. 130.

<sup>202</sup> Khaled A. Beydoun, *Boxed In: Reclassification of Arab Americans on the U.S. Census As Progress or Peril?* 47 LOY. U. CHI. L.J. 101 (2016). <https://www.luc.edu/media/lucedu/law/students/publications/lj/pdfs/vol47/issue3/Beydoun.pdf> (last accessed on December 11, 2019).

<sup>203</sup> Meroueh Testimony, *Detroit Briefing*, p. 131.

Again, the U.S. Census rejected inclusion of the MENA classification for the forthcoming 2020 census count. While the Bureau convened meetings from community experts and scholars, and considered the value and concerns with the proposed MENA box,<sup>204</sup> it ultimately decided that further investigation was appropriate.<sup>205</sup> The MENA classification may be reconsidered for the 2030 census, but for now, disparate groups of MENA Americans, including Michigan's large Arab and Chaldean populations, are considered white by the Census.<sup>206</sup> The result is undercounting and an inability to track and solve voting access issues.<sup>207</sup>

In a separate matter focused on data collection, Sharon Dolente spoke to the accuracy of sampling regarding voter registration and turnout conducted by the Census Bureau and highlighted the large margin of error with respect to Asian Americans and Hispanic Americans over the past few years, and the lack of information on Michigan's MENA population.<sup>208</sup> She argued that if the Census Bureau continues to undercount these communities the State should supplement demographic data collection efforts to allow for better understanding of voter participation and registration rates.<sup>209</sup>

## Voting Issues Related to Reentry

Testimony indicated that individuals with current or past involvement in the criminal justice system experience barriers to voting. Reverend Kevin Harris from Nation Outside shared three issues. First, formerly incarcerated individuals have difficulty obtaining a state issued photo ID card.<sup>210</sup> He said that many possess only a prison ID which creates a challenge for them when attempting to obtain a state issued ID because the state requires additional proof of identification that is often difficult to locate.<sup>211</sup> For individuals who are formerly incarcerated, many are unaware of their right to vote after serving their sentence and/or the affidavit process if they do not possess photo ID.<sup>212</sup> The third barrier is low literacy among some people with past criminal

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<sup>204</sup> Khaled A. Beydoun, *A Demographic Threat? Proposed Reclassification of Arab Americans on the 2020 Census*, 12 MICH. L. REV. 465 (2015). [https://repository.law.umich.edu/cgi/viewcontent.cgi?article=1166&context=mlr\\_fi](https://repository.law.umich.edu/cgi/viewcontent.cgi?article=1166&context=mlr_fi). (last accessed on December 11, 2019).

<sup>205</sup> Wang, Hansi Lo. "No Middle Eastern Or North African Category On 2020 Census, Bureau Says." *NPR*, Jan. 28, 2018. <https://www.npr.org/2018/01/29/581541111/no-middle-eastern-or-north-african-category-on-2020-census-bureau-says>. (last accessed on March 26, 2020)

<sup>206</sup> Dolente Testimony, *Detroit Briefing*, p. 61.

<sup>207</sup> *Ibid.*, 61-62; Meroueh Testimony, *Detroit Briefing*, p. 131.

<sup>208</sup> The margin of error was between 10 and 20 points for Asian Americans and Hispanics.

<sup>209</sup> Dolente Testimony, *Detroit Briefing*, p. 63.

<sup>210</sup> Harris Testimony, *Detroit Briefing*, p. 51

<sup>211</sup> *Ibid.*; see Michigan Secretary of State, *Driver's License and State ID – State ID Apply*, [https://www.michigan.gov/sos/0,4670,7-127-1627\\_8668\\_53359\\_53361-213197--,00.html](https://www.michigan.gov/sos/0,4670,7-127-1627_8668_53359_53361-213197--,00.html)

<sup>212</sup> Harris Testimony, *Detroit Briefing*, p. 51; Swope Testimony, *Detroit Briefing*, p. 207

justice involvement as it impacts their understanding of election material and ultimately election participation.<sup>213</sup>

In Michigan, individuals cannot register and vote if they are serving a sentence in jail or prison.<sup>214</sup> Election administrators informed the Committee that individuals are allowed to vote as soon as they are released from prison including if that release is on parole or probation;<sup>215</sup> however, there is little to no information to remind re-entering individuals of their voting rights.<sup>216</sup> Mr. Swope agreed there is an “information gap” in the state and advocated for “bigger education effort” on making sure returning citizens and those who are in jail awaiting their arraignment or trial are aware of their voting rights.<sup>217</sup> This message was echoed by Secretary of State Jocelyn Benson who discussed taking steps “to ensure that the criminal justice system does not unnecessarily interfere with eligible Michiganders['] ability to vote.”<sup>218</sup> She said that with the passage of Proposal 3’s automatic voter registration, her office has the opportunity to explain to returning citizens voter eligibility and how to register to vote when they receive driver’s licenses or personal ID cards upon reentry.<sup>219</sup> In addition, she plans to partner with Michigan Department of Corrections and other organizations to educate returning citizens and individuals involved in the criminal justice system about their right to vote.<sup>220</sup> The Secretary of State also intends to develop a strategy that will include ensuring returning citizens have access to information about how to obtain a photo ID from their office.<sup>221</sup> Finally, she noted that her office will work with members of the criminal justice community to ensure those awaiting sentencing know that they can still vote.<sup>222</sup>

## Gerrymandering

Panelists testified about the history of gerrymandering in Michigan, including about the impact gerrymandering has had on affected communities and about litigation. Ms. Reyes testified about problems that could not be solved by litigation. In 2008, District 12 was over 40 percent Latino, but redistricting split that large community into two separate districts—in one, constituting 17 percent of the district population and in the other, 24 percent. She and the NAACP filed a federal Voting Rights Act lawsuit<sup>223</sup> on that basis. The case was dismissed, in part, because the Latino

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<sup>213</sup> Ibid., 52.

<sup>214</sup> Mich. Election Law 168 § 758b.

<sup>215</sup> *U.S. v. Gilliam*, 778 F.Supp. 935, (E.D. Mich. 1991) (Under Michigan law, convicted felon's right to vote is automatically restored upon release from prison.).

<sup>216</sup> Ibid., 55-57.

<sup>217</sup> Swope Testimony, *Detroit Briefing*, p. 207.

<sup>218</sup> Secretary Benson Statement, at 3.

<sup>219</sup> Ibid.

<sup>220</sup> Benson Testimony, *Detroit Briefing*, p. 237.

<sup>221</sup> Ibid., 239.

<sup>222</sup> Secretary Benson Statement, at 3.

<sup>223</sup> *NAACP v. Snyder*, 879 F.Supp.2d 662 (E.D. Mich. 2012).

population prior to redistricting was not a majority;<sup>224</sup> Ms. Reyes criticized this ruling as failing to address the substantial dilution of voting influence caused by the new district lines.<sup>225</sup>

Explaining the history of gerrymandering in Michigan over the last decade, Nancy Wang, executive director and founder of Voters Not Politicians, said that in 2011 congressional and state legislative maps were drawn in a secret process that was controlled by the Republican Party.<sup>226</sup> In prior redistricting cycles, she said, Democrats had also used redistricting to gerrymander.<sup>227</sup> What was new in 2011 was that the Republican party used their redistricting authority “to their full advantage” by utilizing consultants who exploited computer software and big data “to pick and choose their voters for each district in a way that gave a severe and durable, unfair advantage to Republican candidates.”<sup>228</sup> She testified that the League of Women Voters of Michigan brought a federal lawsuit challenging the 2011 congressional and state legislative maps, and won—revealing to the public that the Republicans’ specific intent was to make Democratic votes count less, pack Democrats in southeast Michigan into as few districts as possible, and split up the remaining Democratic communities so that the Republican party would be guaranteed to win all of the other districts.<sup>229</sup> A large portion Democrats affected were African American.<sup>230</sup> In 2019, the district court found that Michigan’s 2011 congressional district maps “represent a political gerrymander of historical proportions” and that “the maps have strongly advantaged Republican and disadvantaged Democrats for eight years and across four separate election cycles.”<sup>231</sup>

Ms. Wang testified that the Michigan example was “so egregious, that the court demanded that all of our state’s 2011 district maps be redrawn immediately for use in the 2020 election, so that Michiganders do not have to endure one more rigged election.”<sup>232</sup>

Ms. Wang also testified about the Michigan ballot initiative she led, which passed on November 6, 2018.<sup>233</sup> Sixty-one percent of Michigan voters supported the Redistricting Reform Amendment to give a voters’ commission the authority to draw election district maps.<sup>234</sup> The law will create an independent citizens redistricting commission with 13 members—4 Republicans, 4

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<sup>224</sup> *Id.* at 670, 674.

<sup>225</sup> Reyes Testimony, *Detroit Briefing*, p. 34.

<sup>226</sup> Wang Testimony, *Detroit Briefing*, p. 136.

<sup>227</sup> *Ibid.*

<sup>228</sup> *Ibid.*

<sup>229</sup> *League of Women Voters of Mich. v. Benson*, 373 F. Supp. 3d 867 (E.D. Mich. 2019); Wang Testimony, *Detroit Briefing*, p. 136.

<sup>230</sup> Wang Testimony, *Detroit Briefing*, p. 136.

<sup>231</sup> *Ibid.*, 137.

<sup>232</sup> *Ibid.*, 138.

<sup>233</sup> Wang Testimony, *Detroit Briefing*, p. 134.

<sup>234</sup> *Ibid.*, 135; MI Const. art. IV, § 6.

[http://www.legislature.mi.gov/\(S\(wshihdozqnqvnjxno2e3c315\)\)/mileg.aspx?page=GetObject&objectname=mcl-Article-IV-6](http://www.legislature.mi.gov/(S(wshihdozqnqvnjxno2e3c315))/mileg.aspx?page=GetObject&objectname=mcl-Article-IV-6).

Democrats, and 5 with neither party affiliation.<sup>235</sup> Ms. Wang noted that her organization will help recruit members of the public to the commission, which will follow strict and neutral criteria when drawing maps after they host a series of public hearings that will aid to understand the boundaries of communities.<sup>236</sup> She believes that “gerrymandering has the insidious effect of eroding public trust in our democratic process,”<sup>237</sup> and hopes the new redistricting process can restore trust and set new expectations of citizen engagement and government responsiveness and transparency.

Secretary Benson responded in support of efforts put forth by Ms. Wang and Ms. Reyes and agreed that

there’s an inescapable connection between transparency and accountability in government and equal justice. And as we talk about ensuring that the ability to vote is preserved, you have to recognize the right of voters to choose their elected officials through fairly drawn state legislative and congressional districts, as well as having government that is open and transparent and ethical is critical as well.<sup>238</sup>

## FINDINGS AND RECOMMENDATIONS

Among their duties, advisory committees of the U.S. Commission on Civil Rights are authorized to advise the Commission (1) concerning matters related to discrimination or a denial of equal protection of the laws under the Constitution and the effect of the laws and policies of the Federal Government with respect to equal protection of the laws and (2) upon matters of mutual concern in the preparation of reports of the Commission to the President and the Congress.<sup>239</sup>

Below, the Committee offers to the Commission a summary of findings identified throughout the Committee’s inquiry. Following these findings, the Committee proposes for the Commission to consider several recommendations for federal and state actors.

### Findings

1. Michigan has a complicated set of rules requiring city and township clerks to cancel voters’ registration in certain circumstances after they have moved to new in-state jurisdictions. Those voters may then confront logistical difficulties when they attempt to vote in a subsequent election.

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<sup>235</sup> Wang Testimony, *Detroit Briefing*, p. 139.

<sup>236</sup> Michigan Secretary of State, *Citizens Redistricting Commission* [https://www.michigan.gov/sos/0,4670,7-127-1633\\_91141---,00.html](https://www.michigan.gov/sos/0,4670,7-127-1633_91141---,00.html).

<sup>237</sup> Wang Testimony, *Detroit Briefing*, p. 140.

<sup>238</sup> Benson Testimony, *Detroit Briefing*, p. 205.

<sup>239</sup> 45 C.F.R. § 703.2.

2. Insofar as Middle Eastern and North African (MENA) populations are not an identified category in the U.S. Census, the size and quantifiable data and characteristics of those populations are not readily discernable. In the absence of a MENA category, it is difficult to track whether voting access for this community is compromised.
3. The redistricting process after the 2010 census in Michigan has diluted minority voter effect over the course of four election cycles. As determined by a recent court ruling (since vacated on jurisdictional grounds), Michigan's 2011 congressional and state legislative maps "represented a political gerrymander of historical proportions." The effects of such redistricting will linger until an independent redistricting commission reshapes the redistricting maps in 2022.
4. Common barriers for citizens returning to the community from jail and prison in exercising their right to vote are: (a) the lack of affirmatively-provided information regarding the reinstatement of their voting rights after their release from incarceration (even if they are on parole); (b) the difficulty of obtaining a photo ID; (c) confusion relating to the affidavit process for voting without an ID; and (d) low literacy that may prevent them from fully participating in elections.
5. Individuals incarcerated prior to conviction or on parole are allowed to vote but are frequently unaware of their rights. They receive inadequate information to exercise the franchise.
6. Election security is under threat in that computerized ballot scanners and ballot marking devices are vulnerable to manipulation, particularly devices that have not been updated. Moreover, these devices are not operated by the State and are not thoroughly tested. While audit tools being piloted now may improve in detection of manipulation of readers, machines used to mark ballots are not being thoroughly tested or audited. Voters who rely on such markers face greater risk of vote tampering than the non-disabled.
7. Voters with disabilities encounter numerous problems at the polls. Among these are physical access to polling places and polling equipment (including appropriate parking), lack of privacy, and poor poll worker cultural competency and technical knowledge on how to address their needs.
8. Voting machine access for blind voters who use braille is particularly poor; other communications difficulties exist as well (poor braille signage, absence of privacy and information about how to protect it, poorly crafted or inaudible verbal instructions).
9. Voter registration rates reflect racial disparities. According to the latest census data for Michigan, 76 percent of white respondents, 67 percent of African American respondents, 67.9 percent of Asian respondents, and 49 percent of Hispanic respondents are registered to vote. Recently enacted Proposal 3 amended the state constitution to permit same-day voter registration, which may diminish registration hurdles underlying these figures.

10. Michigan does not have a legal mandate to preregister 16 and 17-year-old citizens to vote, which is a missed opportunity—especially since many young residents interact with the Secretary of State’s office at age 16 for a driver’s license and not again until they are 21 and receive notification about drivers’ license renewal.
11. Some precincts are understaffed and/or insufficiently resourced: some lack a sufficient number of poll workers (who might then miss breaks), some lack pens, and some lack voter-assist ballot paper for printing. Insufficient staff and resources may result in voter disenfranchisement by unduly slowing the process of voting, generally for all voters and more substantially for those presenting non-routine situations. Long delays and lines may in turn depress voter turnout in the immediate or future elections.
12. Michigan currently has what is sometimes called a “non-strict photo ID requirement”: voters must either present a valid form of photo ID or else fill out and sign an affidavit of identity. Non-white, younger, and older voters are substantially more likely than white voters to lack appropriate photo ID when they seek to vote, so members of those demographic groups are more likely to end up having to use the affidavit process. The presumptive-photo ID requirement has suppressed voting in two ways. First, poll workers sometimes fail or refuse to offer the affidavit option to voters who lack appropriate photo ID. Second, the existence of even a presumptive-photo ID law is likely to depress turnout. The affidavit process tends to cause voting delays and long lines, especially in urban and campus areas where those demographic groups tend to vote. And some potential voters are inadequately informed of the affidavit option and thus may never attempt to vote.
13. Transgender and gender nonconforming voters—and disproportionately such voters of color—experience challenges at the polls especially when their IDs do not match their gender, name, or picture.
14. Proposal 3 requires some form of documentation to register within 14 days and on Election Day, that may still make it more difficult for non-whites, younger, and older voters to register, thus requiring them to submit challenged ballots, provisional ballots, or be disenfranchised entirely.
15. Young student voters experience numerous barriers to voting. Among these: they may lack necessary documentation; they may be unable to access transportation to polling locations and clerks’ offices to follow up on voter registration requirements; they may not understand the affidavit process; if filling out an affidavit, they may lack adequate documentation such as a utility bill to prove residency; they are particularly likely not to go where they are registered to vote, given frequent moves (and the fact that many Michiganders attend college in other states).
16. Michigan’s election system structure is largely decentralized, with 83 county clerks and 1,500 city and township clerks who have specific elections administration responsibilities. Despite strong efforts by various election administrators, the decentralized structure and budgeting responsibilities create difficulties for local clerks

charged with recruiting and training poll workers to ensure that a full and well-trained staff is ready to work on Election Day. In many precincts, poll workers still lack sufficient numbers, adequate training, and election-day supervision/support to efficiently and sensitively process voters presenting non-routine issues. These staffing and training shortfalls may directly disenfranchise voters and may cause delays and long lines that may indirectly disenfranchise voters.

17. Michigan lacks translated ballots and materials for voters with limited English proficiency. Michigan has more than 270,000 people who report speaking Spanish in their home and more than 125,000 people who report speaking Arabic in their home. But testimony indicated that election officials do not provide election materials in language to voters despite the clear need.
18. With more than 270,000 people reporting speaking Spanish in their home, and more than 125,000 people who speak Arabic in their home, Michigan lacks sufficient translated ballots and translated materials for voters with limited English proficiency. Election officials do not provide enough ballots and election materials in language to voters.
19. Communities of color face unique challenges at the polls, from being asked to prove U.S. citizenship to poll workers, to failing to locate interpreters or translators when help was needed.
20. Poll challengers, by their mere presence, behind poll workers on occasion slowed the voting process, which can be a chilling factor in predominantly Arab American and Muslim precincts.

## Recommendations

Among their duties, advisory committees of the Commission are authorized to advise federal agencies (1) concerning matters related to discrimination or a denial of equal protection of the laws under the Constitution and the effect of the laws and policies of the Federal Government with respect to equal protection of the laws; and (2) upon matters of mutual concern in the preparation of reports of the Commission to the President and the Congress.<sup>240</sup> In keeping with these responsibilities, and in consideration of the testimony heard on this topic, the Michigan Advisory Committee respectfully submits the recommendations below to the Commission.

1. The U.S. Commission on Civil Rights should send this report to the U.S. Department of Justice for it to consider enforcing the Voting Rights Act, the National Voter Registration Act, and the Americans with Disabilities Act.

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<sup>240</sup> 45 C.F.R. § 703.2 (a).

2. The U.S. Commission on Civil Rights should send this report and issue a recommendation to U.S. Census Bureau to disaggregate data and promote fair representation by creating a new racial/ethnic category for Middle Eastern and North Africans (MENA) in the U.S. Census.
3. The U.S. Commission on Civil Rights should send this report and issue recommendations to Michigan State Legislature to:
  - a. Provide appropriations from the Help America Vote Act fund to support language assistance efforts, voter registration efforts, and upgrade voting machines and ballot counting readers to ensure election integrity in Michigan.
  - b. Protect efforts of the independent redistricting commission to carry out its responsibility to draw fair and impartial legislative districts.
  - c. Pass legislation permitting the Secretary of State's office to collect demographic information on civic participation, including both census and non-census demographic categories (such as MENA). Capturing such information would determine levels of voter engagement among specific demographics and may aid in future voter outreach efforts.
  - d. Pass legislation supporting efforts to pre-register 16 and 17-year-old citizens.
  - e. Pass legislation to codify a trans-friendly application process for changing state-issued IDs by having a gender-neutral gender marker option or removing the gender marker from state-issued IDs, and ensuring that no medical certification of gender is required.<sup>241</sup>
  - f. Pass legislation that more easily and fully accommodates mobile populations such as students, allowing them to vote either in their permanent or school residency, and that eases voting access for individuals who are homeless.
4. The U.S. Commission on Civil Rights should send this report and issue recommendations to the Michigan State Bar, Michigan Supreme Court, Michigan Federal Court, Michigan Superior Courts and respective probation offices to:
  - a. Encourage members of the judiciary to advise those sentenced in their courtroom of future voting eligibility, including reminder of automatic voting rights restoration upon completion of sentence, including prison, parole, and probation.

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<sup>241</sup> See National Center for Transgender Equality for "How Trans-Friendly is the Driver's License Gender Change Policy in Your State?"

<https://transequality.org/sites/default/files/docs/id/Drivers%20License%20Grades%20June%202019.pdf>.

- b. Encourage probation offices and their officers to advise their clients of future voting eligibility, including reminder of automatic voting rights restoration upon completion of sentence, including prison, parole and probation.
5. The U.S. Commission on Civil Rights should send this report and issue recommendations to the Michigan Department of Corrections, local police departments, and sheriffs' offices to:
  - a. Encourage correctional staff to be knowledgeable about voting rights for individuals awaiting sentencing and incarcerated individuals.
  - b. Encourage correctional staff to educate inmates about their future voting eligibility, including reminder of automatic voting rights restoration upon completion of sentence, including prison, parole and probation.
  - c. Ensure information regarding the restoration of voting rights is available on the Michigan Department of Corrections, local police departments, and sheriffs' office websites.
6. The U.S. Commission on Civil Rights should send this report and issue recommendations to the Michigan Secretary of State and Bureau of Elections to:
  - a. Provide appropriations from the Help America Vote Act fund to support language assistance and voter registration efforts and procure secure election equipment.
  - b. Fully comply with the Americans with Disabilities Act to ensure that clerk's offices and polling locations are accessible by voters with disabilities.
  - c. Engage with low-turnout precincts and develop an actionable plan to improve civic engagement.
  - d. Implement ballot-tracking tools to ensure voters understand the status of their ballot and if there is a mismatch in their signature or a missing signature, and implement a meaningful system for voters to cure such problems.
  - e. Launch public education campaign regarding implementation of Proposal 3.
  - f. Provide election materials at all polling locations to voters with visual disabilities such as braille and large print ballots.
  - g. Establish early satellite voting location sites.
  - h. Broaden education efforts among homeless populations and poll workers around the right of homeless people to vote and the prerequisites for a homeless voter at the polls to establish residency.
  - i. Standardize poll worker training and create train the trainer modules that includes comprehensive understanding of the following: (i) federal and state election law;

- (ii) use of voter ID and affidavits, (iii) cultural competency when interacting with diverse voter groups such as voters with disabilities, transgender voters, and older voters; (vi) instructions on how to accommodate voters with disabilities including how operate accessible voting machines; and (v) why signatures may change overtime.
  - j. Strengthen voter education and outreach efforts in the following areas: (i) Michigan voter ID law and the use of affidavits in place of ID; (ii) frequency of voter roll purging, and (iii) same day registration.
  - k. Conduct voter registration drives to target young voters and student voters.
  - l. Encourage township clerks and county clerks to work with student organizations and universities to establish on-campus satellite absentee voting locations.
  - m. Conduct pre-registration for people under eighteen so that they are registered once eligible by utilizing Secretary of State offices and by working with school districts and other organizations.
  - n. Collect demographic information relevant to civic participation, including MENA Americans as a demographic category.
  - o. Establish public-private partnerships with organizations to provide employees monetary incentives for working at the polls and to recruit and implement training for poll workers.
  - p. Create clearinghouse for county and township clerks to document election-related issues to assist in future training and resource needs.
  - q. Create a public awareness campaign to recruit members of the independent citizens redistricting commission.
7. The U.S. Commission on Civil Rights should send this report and issue recommendations to County Election Boards to:
- a. Provide sufficient appropriations for county clerks and township clerks to administer elections.
8. The U.S. Commission on Civil Rights should send this report and issue recommendations to County Clerks and Township Clerks to:
- a. Ensure that poll workers are trained in the following areas: (i) federal and state election law; (ii) use of voter ID and affidavits, (iii) cultural competency when interacting with diverse voter groups such as voters with disabilities, transgender voters, and older voters; (vi) instructions on how to accommodate voters with disabilities including how operate accessible voting machines; and (v) why signatures may change over time.

- b. Ensure that the voters with disabilities are involved in the procurement and testing of voter assisted terminals.
- c. Proactively seek, develop, and maintain relationships with community organizations to address disability access and language access needs.
- d. Ensure information regarding the restoration of voting rights is available on election websites and shared through voter registration efforts.
- e. Develop and maintain relationships with school districts and universities for pre-registration and voter registration purposes aimed at young voters.
- f. Display visible posters in large print and braille at every polling location informing voters with disabilities about their voting rights.

## **APPENDIX**

**April 30, 2019 Briefing Agenda & Minutes**

**April 30, 2019 Briefing Transcript**

**April 30, 2019 Presentation Slides**

**Asian American Legal Defense Education Fund Exit Poll Presentation – submitted to the Michigan Advisory Committee to the U.S. Commission on Civil Rights**

**Election Day Observations Report from 2014 and 2016 Elections Submitted by Isra Daraiseh from ACCESS**

**Isra Daraiseh, Email Communication between ACLU and ACCESS**

### **Written Testimony**

*Secretary of State Jocelyn Benson*

*Mark Bishop, Member of the Public*

*Dessa Cosma, Director, Detroit Disability Power*

*Sharon Dolente, Voting Rights Strategist, ACLU Michigan*

*Edie Goldenberg, Professor, University of Michigan, Ann Arbor*

*Representative Vanessa Guerra*

*Baba Baxter Jones, Member of the Public*

*Anthony Lewis, Member of the Public*

*Cathy McAdam, Member of the Public*

*Jeynce Pointdexter, Victim's Advocate, Equality Michigan*

*Tameka Spruce, Member, People with Disabilities Voting Rights Coalition*

*Annie Urasky, Member of the Public*

**Appendix A****April 30, 2019 Briefing Agenda & Minutes**[https://gsa-](https://gsa-geo.my.salesforce.com/sfc/p/#t0000000Gyj0/a/t0000000IuCE/DC4FEFfCcBt3GiQxdX2omffgm dGtQ4I1MYEr9q6KSUw)[geo.my.salesforce.com/sfc/p/#t0000000Gyj0/a/t0000000IuCE/DC4FEFfCcBt3GiQxdX2omffgm dGtQ4I1MYEr9q6KSUw](https://gsa-geo.my.salesforce.com/sfc/p/#t0000000Gyj0/a/t0000000IuCE/DC4FEFfCcBt3GiQxdX2omffgm dGtQ4I1MYEr9q6KSUw)**Appendix B****April 30, 2019 Briefing Transcript**[https://gsa-](https://gsa-geo.my.salesforce.com/sfc/p/#t0000000Gyj0/a/t0000000IuX7/PuXUlpq5edPMuEQx8EU.GPo1o MVyo_eIunwmpXkXxgg)[geo.my.salesforce.com/sfc/p/#t0000000Gyj0/a/t0000000IuX7/PuXUlpq5edPMuEQx8EU.GPo1o MVyo\\_eIunwmpXkXxgg](https://gsa-geo.my.salesforce.com/sfc/p/#t0000000Gyj0/a/t0000000IuX7/PuXUlpq5edPMuEQx8EU.GPo1o MVyo_eIunwmpXkXxgg)**Appendix C****April 30, 2019 Presentation Slides**[https://gsa-](https://gsa-geo.my.salesforce.com/sfc/p/#t0000000Gyj0/a/t0000000IyIf/doXmfqDomrMfEm6AffPORF06B 0Ue_DNSNsL8Dn3pmK8)[geo.my.salesforce.com/sfc/p/#t0000000Gyj0/a/t0000000IyIf/doXmfqDomrMfEm6AffPORF06B 0Ue\\_DNSNsL8Dn3pmK8](https://gsa-geo.my.salesforce.com/sfc/p/#t0000000Gyj0/a/t0000000IyIf/doXmfqDomrMfEm6AffPORF06B 0Ue_DNSNsL8Dn3pmK8)**Appendix D****Asian American Legal Defense Education Fund Exit Poll Presentation Submitted to the Michigan Advisory Committee to the U.S. Commission on Civil Rights**[https://gsa-](https://gsa-geo.my.salesforce.com/sfc/p/#t0000000Gyj0/a/t0000000IyI6/90azCBuDyVBDTLc7SZ5zPFo_u vVEMMYOghUwHVI212s)[geo.my.salesforce.com/sfc/p/#t0000000Gyj0/a/t0000000IyI6/90azCBuDyVBDTLc7SZ5zPFo\\_u vVEMMYOghUwHVI212s](https://gsa-geo.my.salesforce.com/sfc/p/#t0000000Gyj0/a/t0000000IyI6/90azCBuDyVBDTLc7SZ5zPFo_u vVEMMYOghUwHVI212s)**Appendix E****Election Day Observations Report from 2014 and 2016 Elections Submitted by Isra Daraiseh from ACCESS**[https://gsa-](https://gsa-geo.my.salesforce.com/sfc/p/#t0000000Gyj0/a/t0000000IyHw/umJi3V7Ma5NFdrTSQo.V_fmK TQO7FTEnH2cUGc5CIKc)[geo.my.salesforce.com/sfc/p/#t0000000Gyj0/a/t0000000IyHw/umJi3V7Ma5NFdrTSQo.V\\_fmK TQO7FTEnH2cUGc5CIKc](https://gsa-geo.my.salesforce.com/sfc/p/#t0000000Gyj0/a/t0000000IyHw/umJi3V7Ma5NFdrTSQo.V_fmK TQO7FTEnH2cUGc5CIKc)**Appendix F****Isra Daraiseh, Email Communication between ACLU and ACCESS**[https://gsa-](https://gsa-geo.my.salesforce.com/sfc/p/#t0000000Gyj0/a/t0000000IyI1/Zs7TtfSPvmGm7DODTNs_BgSa.s GEIkqfgI7A7hP8NfA)[geo.my.salesforce.com/sfc/p/#t0000000Gyj0/a/t0000000IyI1/Zs7TtfSPvmGm7DODTNs\\_BgSa.s GEIkqfgI7A7hP8NfA](https://gsa-geo.my.salesforce.com/sfc/p/#t0000000Gyj0/a/t0000000IyI1/Zs7TtfSPvmGm7DODTNs_BgSa.s GEIkqfgI7A7hP8NfA)**Appendix G****Written Testimony****Secretary of State Jocelyn Benson**[https://gsa-](https://gsa-geo.my.salesforce.com/sfc/p/#t0000000Gyj0/a/t0000000IyIJ/IR6yHoWeSfo74f.XdzAeyl VnyIIQSWHCa5tMvXxM_LI)[geo.my.salesforce.com/sfc/p/#t0000000Gyj0/a/t0000000IyIJ/IR6yHoWeSfo74f.XdzAeyl VnyIIQSWHCa5tMvXxM\\_LI](https://gsa-geo.my.salesforce.com/sfc/p/#t0000000Gyj0/a/t0000000IyIJ/IR6yHoWeSfo74f.XdzAeyl VnyIIQSWHCa5tMvXxM_LI)

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**Michigan Advisory Committee to the  
United States Commission on Civil Rights**



**U. S. Commission on Civil Rights**

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