

# Barriers to Voting in Louisiana



A Briefing Paper by the  
Louisiana Advisory Committee for the  
United States Commission on Civil Rights

June 2018

## **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.

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

The Louisiana Advisory Committee to the U.S. Commission on Civil Rights submits this briefing paper detailing civil rights concerns associated with barriers to voting in Louisiana. The Committee submits this report as part of its responsibility to study and report on civil rights issues in the state of Louisiana. The contents of this report are primarily based on testimony the Committee heard during hearings on November 15, 2017 in Grambling, Louisiana and December 6, 2017 in Baton Rouge, Louisiana.

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

**Louisiana State Advisory Committee to the  
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## Background

For its FY2018 statutory report<sup>1</sup>, the United States Commission on Civil Rights chose to assess voting rights obstacles in the United States and examined the U.S. Department of Justice's voting rights enforcement efforts following the 2006 reauthorization of the Voting Rights Act<sup>2</sup>, including the impact of the *Shelby County*<sup>3</sup> decision, as well as the proliferation of restrictions on voter access.<sup>4</sup>

The authorizing statute of the Commission mandates the creation of an advisory committee in each of the 50 states and the District of Columbia, including the Louisiana Advisory Committee (Committee).<sup>5</sup> The Committee is tasked to advise the Commission in writing of any knowledge of any alleged deprivation of voting rights.<sup>6</sup> The Committee is also tasked to advise the Commission upon matters of mutual concern in the preparation of reports of the Commission to the President and the Congress.<sup>7</sup>

The Louisiana Advisory Committee, through majority vote at a meeting held on September 5, 2017, found the topic of the Commission's FY2018 Statutory Report to be of mutual interest, and sought to examine barriers to voting in the state of Louisiana which may have a discriminatory impact on voters based on race, color, disability status, national origin, and/or the administration of justice.

The Committee sought to discover what obstacles to voting, if any, exist in Louisiana. Additionally, the Committee questioned the impact, if any, of the *Shelby County* decision, which held Section 4(a) of the Voting Rights Act as unconstitutional, eliminating the preclearance requirement for changing voting laws in the state of Louisiana. The Committee also sought to discover the proliferation, if any, of restrictions on voter access in the state of Louisiana.

This brief and the recommendations included within were adopted by a majority of the Committee on June 1, 2018.

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<sup>1</sup> 42 U.S.C. § 1975 (c)(1); The Commission shall submit to the President and Congress at least one report annually that monitors Federal civil rights enforcement efforts in the United States.

<sup>2</sup> Pub.L. 88-352, 78 Stat. U.S.

<sup>3</sup> 570 U.S. 2 (2013)

<sup>4</sup> U.S. Comm. on Civil Rights, News Release, June 19, 2017.

<sup>5</sup> 42 U.S.C. § 1975 (a)

<sup>6</sup> Charter for the U.S. Comm. on Civil Rights Louisiana Advisory Committee, Sec.4

<sup>7</sup> *Id.*

## EXECUTIVE SUMMARY

Congress adopted the Voting Rights Act of 1965<sup>8</sup> (VRA) to end the “blight of discrimination in voting... [which had] infected the electoral process in parts of our country for nearly a century.”<sup>9</sup> Section 5 of the VRA required certain states and localities to obtain federal approval before implementing any change in a voting practice or procedure.<sup>10</sup> To obtain approval, known as *preclearance*, covered jurisdictions had to demonstrate that a voting change neither had the purpose nor the effect of discrimination based on race, color, and/or membership in a language minority group.<sup>11</sup> Covered jurisdictions had the burden of proof in demonstrating the absence of discrimination.<sup>12</sup> Section 5 applied to nine states, including the state of Louisiana, in their entirety. Section 4(b)<sup>13</sup> of the VRA contained a coverage formula that identified which jurisdictions were subject to Section 5 preclearance.

In 2013 the United States Supreme Court in *Shelby County v. Holder*<sup>14</sup> invalidated Section 4(b) of the VRA using the rationale that the formula was outdated, therefore, an impermissible standard by which to subject any jurisdiction to the preclearance requirements of Section 5. The *Shelby County* ruling paralyzed Section 5 of the VRA until Congress revises the formula of Section 4.

Without the protections of Section 5, Louisiana voters must wait until they are aggrieved before seeking judicial intervention. Lawsuits prompted by voting restrictions, once handled administratively by the Justice Department, must now be addressed through more expensive and less efficient litigation. Once such case in Terrebonne Parrish, Louisiana, alleged the use of at-large voting as a means to maintain a racially segregated 32<sup>nd</sup> Judicial District Court.<sup>15</sup> Despite comprising 20 percent of the parish electorate, no Black candidate had ever been elected in the face of opposition in the district under the at-large system.<sup>16</sup> The District Court held the at-large voting system had discriminatory or dilutive effect, in violation of the VRA.<sup>17</sup>

This briefing paper results from the testimony provided during the November 15, 2017 hearing held on the campus of Grambling University and the December 6, 2017 meeting held in Baton Rouge, Louisiana, and related testimony submitted to the Committee during the open period of public comment.

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<sup>8</sup> Pub. L. No. 89-110, 79 Stat. 445 (codified as amended at 42 U.S.C. §§ 1971, 1973 to 1973bb-1 (2000)).

<sup>9</sup> *South Carolina v. Katzenbach*, 383 U.S. 301, 308 (1966).

<sup>10</sup> 42 U.S.C. § 1973c (2000).

<sup>11</sup> 42 U.S.C. § 1973c(a) (2012).

<sup>12</sup> *Georgia v. United States*, 411 U.S. 526 (1973); Procedures for the Administration of Section 5 of the Voting Rights Act, 28 C.F.R. § 51.52(a) (2005) (hereafter cited as “Section 5 Procedures”).

<sup>13</sup> 42 U.S.C. § 1973b(b) (2000). Transferred to 52 U.S.C. 10303.

<sup>14</sup> *Shelby County v. Holder*, 570 U.S.529, 133 S. Ct. 2612 (2013).

<sup>15</sup> *Terrebonne Parish Branch NAACP, et al. v. Edwards, et al.* 274 F.Supp. 3d 395 (2017).

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

## Introduction

The Fourteenth and Fifteenth Amendments to the Constitution guaranteed citizens the right to vote free of discrimination. There has, however, been a history of efforts to render the guarantee meaningless. An understanding of this history is relevant to an understanding of the progress of minorities in Louisiana under Federal voting laws, and the obstacles which they face in achieving full and free participation in the electoral and political process.

The Reconstruction program of 1867 took power away from the white Southern governments and gave it to the military rulers of the five military districts established.<sup>18</sup> Under the Reconstruction legislation these military rulers, within a year, registered more than 700,000 African-Americans to vote, slightly more than the number of whites then registered in the South.<sup>19</sup> The temporary suffrage arrangements in the reconstruction legislation, coupled with the lack of clarity as to the application of the 14<sup>th</sup> Amendment to the franchise, Congress proposed the 15<sup>th</sup> Amendment, which was ratified on March 30, 1870.<sup>20</sup> This Amendment contains the declaration that the right to vote “shall not be denied on account of race, color, or previous condition of servitude.”<sup>21</sup>

Despite these protections, African-American voting and political participation was hindered by harassment and intimidation and subject to exploitation. Testimony collected by a subcommittee of the U.S. House of Representatives Committee on Elections in the Louisiana contested election cases of 1868 showed that

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*over 2,000 persons were killed, wounded and otherwise injured in Louisiana within a few weeks prior to the presidential election; that half the state was overrun by violence; midnight raids, secret murders, and open riot kept the people in constant terror until the Republicans surrendered all claims, and the election was carried by the (white) democracy.*<sup>22</sup>

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The African-American’s tenuous foothold in politics in the South essentially ended with the Compromise of 1877, in which Southern Democrats helped resolve a contested presidential election by supporting Republican Rutherford B. Hayes, with the understanding that demands of white southerners would be looked upon with more favor than they had been in the past.<sup>23</sup> Democratic white supremacists quickly moved to consolidate power. The 1890 Mississippi Constitutional Convention adopted the scheme of requiring, as a requisite for registration, a “reasonable” interpretation of the Constitution to eliminate the African-American voter without

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<sup>18</sup> Act of March 2, 1867, Pub. L. 68, 14 Stat. 428; William Dunning, *Reconstruction, Political and Economic 1865-1877* (Harper Torchbook, 1962), pp. 54-59.

<sup>19</sup> John Franklin, *Reconstruction: After the Civil War* (Chicago, University of Chicago Press, 1961), p. 80.

<sup>20</sup> Franklin, *Reconstruction: After the Civil War*, pp. 83-84.

<sup>21</sup> U.S. Const. Amend. XV.

<sup>22</sup> Report of the Joint Select Committee to Inquire into the Condition of Affairs in the Late Insurrectionary States, Rep. No. 41, 42<sup>nd</sup> Congress, 2<sup>nd</sup> Session, pt. 1, at 21-22 (1872).

<sup>23</sup> Vann Woodward, *Reunion and Reaction: The Compromise of 1877 and the End of Reconstruction* (1951).

overtly violating the 15<sup>th</sup> Amendment.<sup>24</sup> This scheme, known as the Mississippi Plan, was quickly adopted in other Southern States. To avoid disenfranchising whites, many states passed a so-called grandfather clause. The effect of which was to permit certain classes of individuals, defined so as to exclude African Americans, to register permanently within a specified period without the necessity of meeting literacy or other tests.<sup>25</sup>

Between 1895 and 1910 other Southern States set up similar qualifications for voting, and new ones such as the “good character” tests, they enacted disenfranchising constitutions which required the payment of a poll tax, they set up property qualifications for registration, and they required applicants to pass literacy and “civic understanding” tests.<sup>26</sup> By 1900, the African-American vote in the South virtually had disappeared. Figures from Louisiana attest to the efficacy of the methods used to disenfranchise the minority vote. In Louisiana in 1896, there were 130,334 African-Americans registered to vote; in 1900, after adopting a new constitution with aspects of the Mississippi Plan, there were only 5,320.<sup>27</sup> In an effort to circumvent the 15<sup>th</sup> Amendment and eradicate minority participation in the political process, many states adopted the most formidable barrier of all – the white primary.<sup>28</sup>

By 1944, after more than half a century of African-American disenfranchisement, the Supreme Court voided as unconstitutional the white primary,<sup>29</sup> however when one form of voting discrimination was identified and prohibited another sprang up in its place.<sup>30</sup> Discriminatory measures such as voucher requirements, at-large voting, redistricting, poll taxes, literacy tests, and citizen tests persisted.

Eventually through legislation and Congressional action, reforms were made:

- 1957 The Civil Rights Act of 1957<sup>31</sup> authorized the U.S. Attorney General to file lawsuits on behalf of Americans denied the right to vote.
- 1960 The Civil Rights Act of 1960<sup>32</sup> made collection of state voter records mandatory and authorized the U.S. Justice Department to investigate and access the voter data and history of all states in order to carry out Civil Rights legislation.
- 1962 In *Baker v. Carr*<sup>33</sup>, the Supreme Court ruled that Constitutional protection extended beyond absolute deprivation of the franchise (re-districting falls under the equal protection clause.)
- 1964 The ratification of the 24<sup>th</sup> Amendment<sup>34</sup> outlaws poll taxes nationwide.

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<sup>24</sup> V. Wharton, *The Negro in Mississippi* (Harper Torchbook, 1965), pp. 214-215.

<sup>25</sup> U.S. Commission on Civil Rights, *Freedom to the Free*, pp. 57-58 (1963).

<sup>26</sup> V.O. Key, *Southern Politics*, pp.578-618 (1949).

<sup>27</sup> Woodward, at 85. By 1904, African American voter registration in Louisiana was a mere 1,342.

<sup>28</sup> *Id.* at 84.

<sup>29</sup> *Smith v. Allwright*, 321 U.S. 649 (1944).

<sup>30</sup> *South Carolina v. Katzenbach*, 383 U.S. 301, 311 (1966).

<sup>31</sup> Pub. L. 85-31, 71 Stat. 634, (enacted Sep. 9, 1957).

<sup>32</sup> Pub. L. 86-449, 74 Stat.89, (enacted May 6, 1960).

<sup>33</sup> 369 U.S. 186 (1962).

<sup>34</sup> U.S. Const. Amend. XXIV.

- 1964 The Civil Rights Act of 1964<sup>35</sup> made discrimination on the basis of race, national origin, gender, or religion in voting illegal.
- 1965 The Voting Rights Act of 1965<sup>36</sup> prohibited any election practice that denied the right to vote to citizens on the basis of race and forced jurisdictions with histories of voter discrimination to submit any changes to its election laws to the government for Federal approval prior to taking effect.

Despite the passage of the Voting Rights Act it became apparent that guaranteeing equal access to the polls would not eliminate other racially discriminatory voting practices such as voting dilution. These types of practices are known as second-generation barriers and they create obstacles to minority voting through racial gerrymandering and redrawing of legislative districts in an “effort to segregate the races for purposes of voting.”<sup>37</sup> Another barrier is the system of at-large voting instead of district-by-district voting in a voting district containing a large number of minority voters. At-large voting effectively eliminates the votes of the minority population and cuts down the right to vote just as effectively as denial of access to the ballot.<sup>38</sup>

In *Shelby County v. Holder*<sup>39</sup> Chief Justice Roberts, writing the opinion for the majority said “[V]oting discrimination still exists; no one doubts that.”<sup>40</sup> Despite that observation, the Supreme Court in *Shelby* declared unconstitutional the coverage formula set out in Section 4(b) of the Voting Rights Act of 1965. Without that formula, Section 5 cannot be enforced and the preclearance protections against changes to voting laws are immobilized. According to the Court, the tests and devices that blocked ballot access have been forbidden nationwide for over 40 years...yet the Act has not eased §5’s restrictions or narrowed the scope of §4’s coverage formula...”<sup>41</sup> This observation belies the fact that between 1982 and 2006, the Department of Justice blocked over 700 voting changes based on a determination that the changes were discriminatory and that the changes blocked by preclearance were “calculated decisions to keep minority voters from fully participating in the political process.”<sup>42</sup>

The effects of the *Shelby* decision were swift, just three years after the Courts decision, 14 States had new voting restrictions in place for the first time in a presidential election.<sup>43</sup> Numerous states have enacted strict Voter ID laws, and felons (who are disproportionately racial and ethnic minorities) struggle to regain the franchise.

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<sup>35</sup> Pub. L. 88-352, 78 Stat. 241, (enacted July 2, 1964).

<sup>36</sup> Pub. L. 89-110, 79 Stat. 437, (enacted Aug. 6, 1965).

<sup>37</sup> *Shaw v. Reno*, 509 U.S. 630, 640 (1993).

<sup>38</sup> *Shaw*, 509 U.S. at 640-641.

<sup>39</sup> *Shelby County v. Holder*, 570 U.S. 2 (2013).

<sup>40</sup> *Id.* at 2 (2013)

<sup>41</sup> *Id.* at 3.

<sup>42</sup> H.R. Rep. 109-478, at 21 (1965).

<sup>43</sup> Brennan Center for Justice, New Voting Restrictions, <https://www.brennancenter.org/new-voting-restrictions-america>. Last accessed September 15, 2017

On August 17, 2017, a federal court ruled that Louisiana’s use of at-large voting for electing five members to the 32<sup>nd</sup> Judicial District Court violated the Voting Rights Act of 1965 and the U.S. Constitution.

## Issues and Findings

### Polling Locations and Location Selection

In Louisiana, the Parish Board of Election Supervisors is the authority in each parish (county) that has the power to create election precincts. The same body selects the polling locations and submits the suggested locations to the Secretary of State’s office for approval.

As stated by Angie Rogers, the Commissioner of Elections for the state of Louisiana, during her testimony on December 6, 2017, “[Louisiana] law requires that every precinct is assigned a polling place.” Currently, however, there are 3,904 precincts and 2,068 polling locations in Louisiana, indicating that on average two precincts are served by one polling location.<sup>44</sup>

That there are about only half as many polling locations than there are election precincts is because the Parish Board of Election Supervisors has the authority (with the approval of the Secretary of State) to consolidate polling locations. Merging polling locations implies that a particular polling location serves more than one precinct. According to testimony of Dr. Joshua Stockley, Professor of Political Science at the University of Louisiana - Monroe, on November 15, 2017, Louisiana Parish Boards of Supervisors had eliminated 103 polling places since 2012.<sup>45</sup> This means that these 103 polling places are merged with other existing polling places, and that most voters who used to vote at these 103 now-closed polling places need to travel longer distances to the new polling places assigned to them.<sup>46</sup>

Cost considerations are a justification provided for consolidating polling locations. Kyle Ardoin, then-First Assistant to Secretary of State Tom Schedler, stated “We have budget concerns,” and “[the cost of operation is] approximately \$1,300 per polling location.”<sup>47</sup> While closing of a polling location seems to generate of \$1,300 of savings to the state<sup>48</sup>, the reduction in the number of polling locations handicaps voter participation.

This concern was highlighted by the testimony of Senator Karen Peterson, who gave the example of the Pontchartrain Park area of New Orleans, and indicated that “Today, the only polling place for the area’s precincts are (sic) located at Chef Menteur Highway at the Union Baptist Theological

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<sup>44</sup> Kyle Ardoin, testimony, *Hearing before the Louisiana Advisory Committee*, Baton Rouge, LA, Dec. 6, 2017, transcript, pp.177 (hereafter cited as BR Hearing Transcript).

<sup>45</sup> Joshua Stockley, testimony before the Louisiana Advisory Committee, hearing, Grambling, LA, November 15, 2017, transcript, p. 1 (hereafter cited as GR Hearing Transcript).

<sup>46</sup> *Id.*

<sup>47</sup> Ardoin Testimony, *BR Hearing Transcript*, pp. 192-93.

<sup>48</sup> *Id.*

Seminary. This location is not easy for many residents to get to and represents a reduction in polling places in the area.”<sup>49</sup>

This point was also emphasized by Carl Galmon, a board member of the National Voting Rights Museum and Institute, who stated that the residents in the election precinct of the Pontchartrain Park area, who have no access to transportation, now need to walk over 1.5 miles to vote because of the reduction in the number of polling locations.<sup>50</sup>

Kyle Ardoin, in his rebuttal testimony, observed that “[Secretary of State’s office] quickly did the search with the local governing authority and no one could find what she was talking about.”<sup>51</sup> He added that “But we did find another instance similar there... The precinct was moved two miles because the entity either didn’t want the polling location there anymore or the local governing authority felt like it was serving people best in that new location. And I find it hard to believe that in Orleans, the Clerk of Court, the City Council, the Mayor, would try to disenfranchise people.”<sup>52</sup>

This statement of Mr. Ardoin underlines the lack of clarity related to the decision-making process regarding the polling locations. The statement implies that the City Council and the Mayor have the authority to determine the number of, and the location of polling locations. Elsewhere during the same testimony, Mr. Ardoin explained that

*“Polling locations are selected by each Parish’s local governing authority, then submitted to the Secretary of State’s office for review to ensure compliance with state and federal laws. [The local governing authority] comprises of the Registrar of Voters, the Clerk of Court, a Republican Member, a Democratic Member, both assigned by their own Parish parties; and then the Governor gets an appointee. So there are five members. Everything happens within that unit.”*<sup>53</sup>

These conflicting statements regarding who has the authority in determining the polling locations reflect the arguably less-than fully-transparent nature of the decision-making process and may contribute to the confusion and frustration of voters.

Another important aspect of consolidating polling locations is that the added burden of traveling to a now-farther-away polling location falls disproportionately on low-income voters who have less time and fewer resources that can be devoted to traveling in order to exercise their right to vote.

Louisiana Secretary of State Tom Schedler wrote that “During the December 6<sup>th</sup> hearing, information was provided to the Commission that Louisiana’s polling locations were distributed disproportionately using race and/or income as the determining factor. Louisiana law, not demographics, mandates the number and location of Louisiana’s polling locations.”<sup>54</sup> The Secretary of State refers to the testimony of Ms. Jhacova Williams, however her testimony did not

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<sup>49</sup> Sen. Karen Peterson, Testimony, *Hearing before the Louisiana Advisory Committee*, Transcript, p. 26.

<sup>50</sup> Carl Galmon, Testimony, *Hearing before the Louisiana Advisory Committee*, telephonic hearing, April 23, 2018, p.11 (hereafter cited as *Tel Hearing Transcript*).

<sup>51</sup> Ardoin Testimony, *BR Hearing Transcript*, pp. 193.

<sup>52</sup> *Id.*

<sup>53</sup> *Id.* at 179.

<sup>54</sup> Louisiana Secretary of State Tom Schedler to Louisiana Advisory Committee, January 16, 2018 (hereafter cited as Schedler letter).

conclude that race and/or income were used as factors that determine polling locations.<sup>55</sup> Rather, it concluded that the number of polling locations in a geographical area is correlated with the socio-economic attributes of those geographical areas, such as racial composition and income.<sup>56</sup>

Put differently, although the law dictates that only the number of registered voters should be related to the number of polling locations in a geographical area such as a precinct, a census tract, or a Parish, a statistical analysis of the data from Louisiana shows that the racial make-up of an area is a predictor of the number of polling locations in that area.

The testimony of Ms. Williams as well as her subsequent analysis show shows that the number of polling locations per 1,000 registered voters in a census tract is negatively related to the number of black residents in that census tract.<sup>57</sup> This indicates that there are fewer polling locations per voter in a geographical area if that area has more black residents. This in turn implies that black residents face longer travel distances to reach a polling location.

As indicated above, the Parish Board of Election Supervisors has the authority to determine the polling locations and as well as to make the decision to close and merge existing polling locations (with the approval of the Secretary of State). Parish Board of Election Supervisors is composed of the Registrar of Voters, the Clerk of Court, a Representative of the Republican Party, a Representative of the Democratic Party and the Governor's Appointee.

The Clerk of the Court is an elected member. The Registrar of Voters, on the other hand, is appointed by the governing authority of each parish for a life-time appointment. That is, the Registrar of Voters cannot be removed from office once appointed; thus he/she has no accountability to voters. Therefore, the structure of the Board of Election Supervisors implies that three of the five of its members (The Registrar of Voters, Governor's Appointee, and the Representative of one of the major parties) may capture the decision-making process related to polling locations. This means that it is particularly important to create mechanism that would allow significantly more transparency and accountability.

## Early Voting

Louisiana statutory law provides for early voting periods prior to each election.<sup>58</sup> The early voting period is anywhere from 14 days to 7 days before each election, from 8:30a.m. to 6:00p.m., except on Sundays and legal holidays.<sup>59</sup> Any registered voter may choose to cast their vote during the

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<sup>55</sup> Jhacova Williams Testimony, *BR Hearing Transcript*, p. 9.

<sup>56</sup> *Id.* at 16.

<sup>57</sup> The analysis employs 1,124 census tracts in 64 parishes in Louisiana, adjusting for differences in per capita income, population density, and the proportion of senior citizens between census tracts, as well as accounting for unobserved between-parish differences (parish fixed-effects). A census tract is a small geographical unit determined by the U.S. Census Bureau. Thus, socio-economic information on the residents in each census tract is available from official government sources. Census tracts are designed to fall within the boundaries of a single county, and in Louisiana the average census tract includes about three election precincts.

<sup>58</sup> La. Rev. Stat. Ann. §18:1309.

<sup>59</sup> Secretary of State, Attachment 7: Early Voting, Louisiana Voters' Bill of Rights and Voting Information p.1

early voting period.<sup>60</sup> Early voting is held at each parish's Registrar of Voters and additional specifically designated polling locations in each parish.<sup>61</sup> Information on early voting locations and dates are available via the Secretary of State's [www.GeauxVote.com](http://www.GeauxVote.com) website and mobile app.

Early voting periods are integral to protecting the right to vote, by enabling flexibility, accessibility, and convenience for registered voters to exercise their franchise.<sup>62</sup> Early voting can also be helpful to registrars in preparing for an election day, by providing early indicators of likely election day turnout.<sup>63</sup> Last, early voting is helpful for clarifying eligibility issues before election day. For example, a representative from the Advocacy Center testified that a disabled early voter was not allowed to cast a ballot during the early election period, but after an opportunity to clarify her eligibility, that same person was allowed to vote on election day.<sup>64</sup>

Louisiana voters, consistent with voters nationwide, appear to be increasingly utilizing early voting options.<sup>65</sup> In 2008, early voters constituted 15% of the total votes cast.<sup>66</sup> In 2012, early voters constituted 18% of the total votes cast, increasing to 26% of total votes cast in 2016.<sup>67</sup>

The Louisiana State Advisory Committee received testimony indicating barriers to early voting across the state. These barriers included the locations available for early voting, the periods of time allocated to early voting, and the accessibility of early voting.

## Early Voting Locations

There are 92 early voting locations in Louisiana, covering 3,904 precincts within 64 parishes (counties).<sup>68</sup> The Secretary of State noted that two additional early voting locations in Bossier and LaFourche parishes will be available in Spring 2018, for a total of 94 early voting locations.<sup>69</sup> According to Senator Karen Peterson (D-New Orleans), there are four early voting locations each in the three most populated parishes of East Baton Rouge, Jefferson, and Orleans.<sup>70</sup> Caddo parish, which is the fourth most populated parish, has only one location for 260,000 residents.<sup>71</sup> The

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<sup>60</sup> Id.

<sup>61</sup> Secretary of State, "Early Voting,"

<https://www.sos.la.gov/ElectionsAndVoting/Vote/VoteEarly/Pages/default.aspx> (last accessed May 26, 2018).

<sup>62</sup> Diana Kasdan, *Early Voting: What Works*, Brennan Center for Justice at New York University School of Law, Oct. 31, 2013 available at: [https://www.brennancenter.org/sites/default/files/publications/VotingReport\\_Web.pdf](https://www.brennancenter.org/sites/default/files/publications/VotingReport_Web.pdf)

<sup>63</sup> Dr. Kareem Crayton, Testimony, *Hearing before the Alabama State Advisory Committee*, Transcript, Alabama SAC Hearing p. 60

<sup>64</sup> Susan Meyers Testimony, *BR Hearing Transcript*, p. 100

<sup>65</sup> Philip Bump, "America Keeps Voting Earlier – And It Keeps Not Affecting Turnout Very Much", The Washington Post, Dec. 29, 2016, at: [https://www.washingtonpost.com/news/the-fix/wp/2016/12/29/america-keeps-voting-earlier-and-it-keeps-not-affecting-turnout-that-much/?utm\\_term=.5bab91914610](https://www.washingtonpost.com/news/the-fix/wp/2016/12/29/america-keeps-voting-earlier-and-it-keeps-not-affecting-turnout-that-much/?utm_term=.5bab91914610)

<sup>66</sup> Ardoin Testimony, *BR Hearing Transcript*, p.100.

<sup>67</sup> Id.

<sup>68</sup> Id. at 177.

<sup>69</sup> Id. at 178.

<sup>70</sup> Sen. Peterson Testimony, *BR Hearing Transcript*, pp. 25-26.

<sup>71</sup> Id.

remaining parishes have anywhere from one to three early voting locations, serving “as many as 200,000 residents” each.<sup>72</sup>

Most of the panelists agreed that Louisiana does not have sufficient locations for early voting and that the state’s failure to secure additional early voting locations frustrates exercise of the right to vote.<sup>73</sup> Testimony indicated that the lack of early voting locations undermines the convenience of offering early voting in the first place. The distance to an early polling location can impact the elderly, the disabled, and the poor.<sup>74</sup> Even if a person can travel to an early voting location, the lack of sufficient locations can lead to long lines and wait times.<sup>75</sup> Carol Deville from the League of Women Voters testified that although the city of Lafayette is the fourth largest city in the state, Lafayette only has one early voting location.<sup>76</sup> She said “Eleven other parishes smaller in population in Lafayette, including St. Martin and St. Mary Parishes have more than one early voting station.”<sup>77</sup> The lack of sufficient early voting locations may also be correlated with minority populations in those areas.<sup>78</sup> Nationwide, studies indicate that areas with higher minority populations have fewer early polling locations.<sup>79</sup>

Kyle Ardoin testified budgetary issues prevent opening additional early voting locations.<sup>80</sup> Early voting locations, unlike election day voting locations, must have a hardwire connection to the internet to check a person’s eligibility to vote in the state’s database.<sup>81</sup> According to Ardoin, to open a new early voting site would cost approximately \$30,000-\$60,000 and approximately \$10,000 annually thereafter to maintain the site.<sup>82</sup> However, the Secretary of State is interested in pursuing technology that would enable early voting anywhere in the state, instead of requiring a person to cast their early ballot in their parish of residence. .<sup>83</sup>

## Early Voting Periods

Early voting in Louisiana ends seven days before election day and does not include Sundays or legal holidays. Where a legal holiday falls within the early voting period, an additional day is added to the beginning of the early voting period under new legislation supported by the Secretary of State.<sup>84</sup>

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<sup>72</sup> *Id.*

<sup>73</sup> This appears to be consistent with, but also distinct from, testimony indicating that the closure or “merging” of election day voting locations is a barrier to voting for certain populations.

<sup>74</sup> Sen. Peterson Testimony, *BR Hearing Transcript*, pp. 25-26.

<sup>75</sup> *Id.*

<sup>76</sup> Carol Deville Testimony, *BR Hearing Transcript*, pp. 73-75

<sup>77</sup> *Id.*

<sup>78</sup> Williams Testimony, *BR Hearing Transcript*, pp. 13 and 36.

<sup>79</sup> *Id.*

<sup>80</sup> Ardoin Testimony, *BR Hearing Transcript*, pp. 186-187.

<sup>81</sup> *Id.* at 184-185

<sup>82</sup> *Id.* at 212

<sup>83</sup> *Id.* at 177

<sup>84</sup> Ardoin Testimony, *BR Hearing Transcript*, p. 207.

There appears to be broad community support for allowing early voting on Sundays.<sup>85</sup> Senator Karen Peterson testified that many other states allow early voting on Sundays, which has provided a “successful opportunity for participation.”<sup>86</sup> The representative of Secretary of State’s office, testifying in his personal capacity, argued that allowing early voting on Sundays would deprive staff of “their day of worship,”<sup>87</sup> though he also acknowledged that different faiths may worship on different days, such as Fridays and Saturdays.<sup>88</sup>

There also appears to be support for longer early voting periods in general.<sup>89</sup> Several states provide for a continuous early voting period up until election day.<sup>90</sup> Testimony indicated that people generally don’t know when the early voting period is. If “early voting . . . just went straight up to election day, people might actually know if it’s a couple of days before voting, they could go.”<sup>91</sup> Nonprofits, like the Power Coalition, can provide support in the form of transportation or childcare with more predictable and extended early voting periods.<sup>92</sup>

The Secretary of State’s office testified that staffing and budgets prevent extending the early voting period. The office lacks sufficient staff to extend the early voting period up to election day. “[W]e’re, basically, performing two elections every election, the early voting and election day. And to mix the two would create havoc in the system,” and would require double to triple the number of employees.<sup>93</sup> Any extension of the time period for early voting would also impinge on staff time required to prepare military and overseas ballots.<sup>94</sup> The Secretary of State’s office also cited the cost of early voting. The Secretary of State is required to pay for any overtime costs incurred by the local Registrars of Voting related to early voting, as well as the daily cost of \$150/day for poll commissioners who assist the registrars.<sup>95</sup> Early voting for the 2016 Presidential election cost the state approximately \$600,000.

## Accessibility

Testimony indicated several barriers in early voting for those with disabilities.<sup>96</sup> Louisiana law provides that a physically disabled person can have the assistant of their choice in voting.<sup>97</sup>

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<sup>85</sup> Sen. Peterson Testimony, *BR Hearing Transcript*, p. 60.

<sup>86</sup> *Id.* at 25.

<sup>87</sup> Ardoin Testimony, *BR Hearing Transcript*, pp. 207-208..

<sup>88</sup> *Id.* at 207.

<sup>89</sup> Sen. Peterson Testimony, *BR Hearing Transcript*, p. 60; and Ashley Shelton Testimony, *BR Hearing Testimony*, p. 89.

<sup>90</sup> Sen. Peterson Testimony, *BR Hearing Transcript*, p. 60.

<sup>91</sup> Deville Testimony, *BR Hearing Transcript*, p. 79.

<sup>92</sup> Shelton Testimony, *BR Hearing Transcript*, p.89

<sup>93</sup> Ardoin Testimony, *BR Hearing Transcript*, p. 186

<sup>94</sup> *Id.* p. 207

<sup>95</sup> *Id.* pp. 205-206

<sup>96</sup> Peterson Testimony, *BR Hearing Transcript*, p. 23; Deville Testimony, *BR Hearing Transcript*, p.72; Meyers Testimony, *BR Hearing Transcript*, p. 94.

<sup>97</sup> Meyers Testimony, *BR Hearing Transcript*, p.68.

Early voting locations can also present difficulties for the physically disabled. Carol Deville from the League of Women Voters testified that the one available location for early voting in Lafayette, due to a large turnout and building design, required voters to use the interior evacuation stairwell to access the voting machines on the third floor.<sup>98</sup> People who were not visibly disabled or lacked disability ID were required to stand in long lines in the stairwell to vote.<sup>99</sup> The two small elevators could not handle the volume and the lobby was crowded with people in wheelchairs and with canes.<sup>100</sup> There were also “insufficient handicapped accessible parking spaces.”<sup>101</sup> Though the League of Women Voters of Lafayette is working with the city-parish authorities to address these concerns before the next gubernatorial election in 2019, all early voting locations should be assessed for their compliance with the Americans with Disabilities Act and HAVA.

## Additional Early Voting Issues

Testimony also indicated several issues, which do not appear to be limited to early voting in particular. First, Carol Deville testified that at least 31 irregularities were noted due to improperly recording of early votes in one precinct’s registry.<sup>102</sup> In addition, testimony indicated that similar to election day voting staff, early voting staff from the Registrars of Voters need additional training.<sup>103</sup>

## Same Day Voter Registration

Federal law requires that in federal elections the registrant must be registered “not later than the lesser of 30 days, or the period provided by State law, before the date of the election.”<sup>104</sup> In other words, states may allow anything from same day registration up to a thirty-registration requirement prior to federal elections. Louisiana’s current deadline for all elections is thirty days for mail-in or in-person registration, and twenty days for online registration.<sup>105</sup>

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<sup>98</sup> Deville Testimony, *BR Hearing Transcript*, p.75.

<sup>99</sup> *Id.*

<sup>100</sup> *Id.*

<sup>101</sup> *Id.*

<sup>102</sup> *Id.* at 77.

<sup>103</sup> Meyers Testimony, *BR Hearing Transcript*, p.99.

<sup>104</sup> 52 U.S.C.A. § 20507(a)(1)(A)-(D).

<sup>105</sup> La. R.S. 18:135(A)(1) (30 days for mail or in-person registration); La. R.S. 18:135(A)(3) (20 days for online registration). See also <https://www.sos.la.gov/ElectionsAndVoting/RegisterToVote/Pages/default.aspx>. Louisiana implemented online registration in 2009 and, at the time, was one of only three states to allow online registration. Testimony of Kyle Ardoin, Dec. 6, 2017 Hearing Transcript p167. See La. R.S. §18:115.1 for electronic registration details.

As of December 2017, Louisiana has 2,976,092 registered voters.<sup>106</sup> The most recent demographic breakdown (utilizing 2010 census data and 2014 registration data) shows the following percentages of eligible citizens were registered: 96.4% of eligible African American females; 97.7% of eligible white females; 81.2% of eligible white males; and 78.1% of eligible African American males.<sup>107</sup>

Testimony before the Committee identified several barriers that the registration process in Louisiana creates for voting. Senator Karen Carter Peterson noted that many states have same day registration and that the thirty-day close period is too long.<sup>108</sup> She recognized that Louisiana was at the forefront of online registration and has fraud protections for that, but in terms of the “close” of registering voters, the State is not leading as it could.<sup>109</sup>

Mr. Ron Wilson of the NAACP Legal Defense and Education Fund and Civil Liberties Union of Louisiana echoed these sentiments. He testified that the 30-day registration requirement was “one of the biggest barriers” to voting.”<sup>110</sup> He noted that this practice did not “encourage the franchise . . . and is discouraging the right to vote instead of encouraging it. The access to the poll isn’t made easy [in Louisiana], isn’t made uncomplicated here.”<sup>111</sup> Finally, Mr. Galmon, a board member of the National Voting Rights Museum and Institute, noted that the waiting period for registration prevented voting.<sup>112</sup>

Senator Peterson and Messrs. Galmon and Wilson all recommended permitting same day registration in Louisiana to encourage more voter participation.<sup>113</sup> Same day registration is the ability to register to vote and vote at the same location on the same day. Currently, there are seventeen states, plus the District of Columbia, that have some form of same-day registration.<sup>114</sup> Louisiana’s Election Code recognizes that shortening the time between the close of registration and the election “may be more convenient to voters and increase citizen participation in the electoral process” but that current technology cannot adequately protect “the integrity of the electoral process.”<sup>115</sup>

The Code provides that in the event of new technologies or advancements in practices, the Secretary of State may present a request to the Legislature and they can move the date

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<sup>106</sup> Ardoin Testimony, *BR Hearing Transcript*, p. 173.

<sup>107</sup> Ardoin Testimony, *BR Hearing Transcript*, p. 173.

<sup>108</sup> Peterson Testimony, *BR Hearing Transcript*, p. 60.; *See also* Galmon Testimony, *Tel Hearing Transcript*, pp. 12-13 (noting that many states permit same day voter registration).

<sup>109</sup> Senator Peterson also commented how the State looks to other states for areas such as gambling, smoking, and other areas but in terms of voter registration it has not. (Page 60-61)

<sup>110</sup> Ron Wilson Testimony, *Tel Hearing Transcript*, p. 20.

<sup>111</sup> *Id.*

<sup>112</sup> Galmon Testimony, *Tel Hearing Transcript*, pp. 12-13.

<sup>113</sup> Galmon Testimony, *Tel Hearing Transcript*, pp. 12-13, 24; and Peterson Testimony, *BR Hearing Transcript*, p. 60.

<sup>114</sup> National Conference of State Legislatures, *Same Day Voter Registration* (Mar. 27, 2018), available at <http://www.ncsl.org/research/elections-and-campaigns/same-day-registration.aspx>. *See also* Brennan Center, *Automatic Voter Registration and Modernization in the States* (April 11, 2018), available at <https://www.brennancenter.org/analysis/voter-registration-modernization-states> (explaining the different types of same day registration).

<sup>115</sup> La. R.S. § 18:135.1(a)

accordingly.<sup>116</sup> Mr. Galmon testified that the registration technology is currently sufficient to prevent fraud,<sup>117</sup> and state officials have repeatedly recognized that voter fraud in Louisiana is not a significant concern.<sup>118</sup>

The primary concerns with permitting same day registration are ensuring the person is properly eligible to vote and the possibility of voter fraud. To safeguard against these concerns, many states use the provisional ballot for same-day registrants, which provides a mechanism to “hold” the ballot until the verification process can be completed.<sup>119</sup> Louisiana could require provisional ballots for same-day registrants and could improve its registration fraud detection technology.<sup>120</sup>

## Other Voter Registration Issues

While the 30-day waiting period between registration and voting is the largest registration-related barrier to voting in Louisiana, other registration practices also prevent exercise of the franchise. Mr. Wilson testified that Louisiana was often not complying with the National Voter Registration Act because citizens were not given information about registration when applying for public benefits. “[T]housands and thousands of African American voters were not being provided with access to this information [which is] a barrier to access to voting.”<sup>121</sup>

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<sup>116</sup> La. R.S. § 18:135.1(a)

<sup>117</sup> Galmon Testimony, *Tel Hearing Transcript*, pp. 12-13.

<sup>118</sup> Sue Lincoln, *Voter suppression or voter depression?*, WRKF 89.3 (Aug 21, 2017) (Secretary of State Tom Schedler stated: “Do I think voter fraud occurs? Yeah. To a large degree? No. Matter of fact, the only fraud that we usually see is in small jurisdictional elections, and you know what it involves? A paper ballot.”), available at <http://wrkf.org/post/voter-suppression-or-voter-depression>; Dede Willis, *Elections Chief says no evidence of voter fraud in Louisiana*, KNOE News (Jan. 26, 2017) (Tom Schedler, announced that “Louisiana did not have any widespread irregularities or allegations of fraud” during the 2016 presidential election), available at <http://www.knoe.com/content/news/Elections-chief-says-no-evidence-of-voter-fraud-in-Louisiana-411805135.html> (Amber Phillips, *Trump’s Voting Commission was doomed from the start*, The Washington Post (Jan. 4, 2018) (Secretary of State Schedler denying that significant voter fraud exists in Louisiana), available at [https://www.washingtonpost.com/news/the-fix/wp/2018/01/04/trumps-voter-fraud-commission-was-doomed-from-the-start/?noredirect=on&utm\\_term=.b9bacaefe02d](https://www.washingtonpost.com/news/the-fix/wp/2018/01/04/trumps-voter-fraud-commission-was-doomed-from-the-start/?noredirect=on&utm_term=.b9bacaefe02d); Amber Phillips, *Why Louisiana is refusing to hand over voter registration data to Trump’s election probe*, The Washington Post (July 7, 2017) (Secretary of State Schedler denying that significant voter fraud exists in Louisiana), available at [https://www.washingtonpost.com/news/the-fix/wp/2017/07/06/why-louisiana-is-refusing-to-hand-over-voter-registration-data-to-trumps-election-probe/?utm\\_term=.7769e76d8d41](https://www.washingtonpost.com/news/the-fix/wp/2017/07/06/why-louisiana-is-refusing-to-hand-over-voter-registration-data-to-trumps-election-probe/?utm_term=.7769e76d8d41); Mark Ballard, *Louisiana refuses to provide personal information to President Trump’s voter fraud task force*, The Advocate (July 3, 2017) (“State elections officials acknowledge that occasional voter cheating slips through the protections, but point to numerous studies and audits that show fraud is not widespread.”), available at [http://www.theadvocate.com/baton\\_rouge/news/politics/elections/article\\_453c7736-601e-11e7-b7ec-9391c8cf59cd.html](http://www.theadvocate.com/baton_rouge/news/politics/elections/article_453c7736-601e-11e7-b7ec-9391c8cf59cd.html);

<sup>119</sup> <http://www.ncsl.org/research/elections-and-campaigns/same-day-registration.aspx> A chart is provided showing what each state does to ensure no fraud occurs, whether it’s “conditional voting” like California, or provisional ballots like Illinois. Additionally, some of the states that allow same-day registration only permit it at their main offices, or a permanent polling location so information can be verified.

<sup>120</sup> Peterson Testimony, *BR Hearing Transcript*, pp. 60-61.

<sup>121</sup> Wilson Testimony, *Tel Hearing Transcript*, p24. See also Marsha Shuler, *5<sup>th</sup> Circuit Rules in Motor Voter Lawsuit*, The Advocate (Dec. 2, 2014) (discussing court ruling that the Secretary of State had failed to provide appropriate registration information to people seeking public assistance), available at [http://www.theadvocate.com/baton\\_rouge/news/politics/elections/article\\_e880d5f6-fb00-5aea-9828-2fc25354959f.html](http://www.theadvocate.com/baton_rouge/news/politics/elections/article_e880d5f6-fb00-5aea-9828-2fc25354959f.html);

Furthermore, registration is also difficult for people recently released from incarceration. Ms. Weeks testified that the registration process for people recently released from prison is arduous and that many don't even know how to access the ability to register (or re-register) to vote.<sup>122</sup> She noted that many private organizations, such as campaign and non-profit voting groups, simply focus on "Get Out The Vote" campaigns rather than voter registration, especially when not in a presidential election year.<sup>123</sup>

Finally, Ms. DeVille stressed that for seniors the problems with registration as a mail-in or online system revolved around one key area - ability. Many seniors find the forms unreadable because of the size of the print, and they do not know how to access the online voting registration system.<sup>124</sup> For them, the problem of registration, or re-registration, lies in the access to methods.

Purging Voter rolls also requires re-registration. "Essentially, Louisiana routinely compares voter rolls with various databases, such as death and incarceration records. Several cards are mailed to voters suspected of having moved. If the cards bounce back, state elections officials start looking closer. That's when the voter's name is checked against the list of those who haven't voted in the past two federal elections, Schedler said. The voter who still hasn't answered state queries goes on an inactive list but can still vote. Showing up for an election removes the voter from the inactive list. For those who continue not to vote, further correspondence is sent. *If the voter is officially purged, he or she would have to re-register, though not on an election day*, to regain the ability to cast a ballot, Schedler said. "But by that point, you've received a lot of mail and communications," he added.<sup>125</sup>

## Voter Identification Requirements

Louisiana is one of thirty-four states to require voters to show some form of identification at the polls.<sup>126</sup> In order to vote in Louisiana a person must present the following identification at his or her polling location:

- (1) Louisiana driver's license
- (2) Louisiana special identification card (available for free)
- (3) or other "generally recognized picture identification card that contains the name and signature of the applicant."<sup>127</sup>

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<sup>122</sup> Reilly Testimony, *BR Hearing Transcript*, pp.103-104.

<sup>123</sup> Deville Testimony, *BR Hearing Transcript*, p. 104.

<sup>124</sup> *Id.* at 105.

<sup>125</sup> Underhill, *Voter Information*, [http://www.theadvocate.com/baton\\_rouge/news/courts/article\\_5425cb4a-ed99-11e7-ad6e-038b5a7880ec.html](http://www.theadvocate.com/baton_rouge/news/courts/article_5425cb4a-ed99-11e7-ad6e-038b5a7880ec.html)

<sup>126</sup> National Conference of State Legislatures, *Voter Identification Requirements: Voter ID Laws*, available at <http://www.ncsl.org/research/elections-and-campaigns/voter-id.aspx>.

<sup>127</sup> La. R.S. § 18:562(A)(2); Testimony of Kyle Ardoin, First Assistant to the Secretary of State, Attachment #1 to Dec. 6, 2017 Hearing p3; Information Pamphlet For Election Day Voting, pp30-31; Ardoin Testimony, *BR Hearing Transcript*, pp 173-174.

The Louisiana Legislature recently required that beginning in January of 2019 all public postsecondary education institutions issue student's identification cards that meet the voter identification requirements.<sup>128</sup> Commissioners retain sole discretion to determine whether a photo identification qualifies under the law.<sup>129</sup>

If a voter does not have proper identification, he or she “shall complete and sign an affidavit, which is supplied by the secretary of state . . . which affidavit shall include the applicant's date of birth and mother's maiden name. If the applicant is unable to read or write or is otherwise unable to complete the affidavit due to disability, the applicant may receive assistance in completing the affidavit and the commissioner shall make a notation on the affidavit. The applicant may receive the assistance of any person of his choice, including a commissioner . . .”<sup>130</sup> This affidavit alternative to a photo identification was pre-cleared by the Department of Justice in 1997.<sup>131</sup> For the 2016 Presidential election cycle, roughly 3,000 affidavits were submitted, and this number has remained constant over time.<sup>132</sup>

The office of the Secretary of State trains poll workers on voter identification requirements, and the affidavit alternative, through a uniform curriculum that includes the seventy-seven page Informational Pamphlet on Election Day Voting<sup>133</sup> as well as an Election Day commissioner training video.<sup>134</sup> The affidavit alternative is mentioned in Section VI.B. on page 2 of the “Early Voting Louisiana Voter’s Bill of Rights and Voting Information,” which is a seven page poster placed at every polling location.<sup>135</sup>

Testimony before the Committee identified several ways in which Louisiana’s voter identification requirements create barriers to voting. First, Carol DeVille, from the League of Women Voters of Lafayette, noted that her organization received a number of complaints that voters were being turned away when they did not present a photo identification and were never offered the affidavit as an alternative method of identification.<sup>136</sup> She believed this was occurring because of overcrowding, lack of poll worker training, or because the poll workers had personal beliefs that may be influencing their decisions.<sup>137</sup>

Election officials and poll workers often believe they have discretion to deny the vote to people without an identification, contrary to state law.<sup>138</sup> Ms. DeVille stressed that there needed to be additional poll worker training regarding the affidavit option and additional methods of oversight

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<sup>128</sup> La. R.S. § 17:3351(J).

<sup>129</sup> Op.Atty.Gen., No. 02-0372, October 25, 2002.

<sup>130</sup> La. R.S. § 18:562 (A)(2);

<sup>131</sup> Schedler Letter, p. 3.

<sup>132</sup> *Id.*

<sup>133</sup> *Id.* The Informational Pamphlet is Attachment #3 to the letter and Identification of Voters is covered in Section 5:03 at pp30-31. The Instructional Video is Attachment #4 to the letter.

<sup>134</sup> Schedler Letter, p3.

<sup>135</sup> *Id.* at p. 4; and Attachment #7.

<sup>136</sup> Deville Testimony, *BR Hearing Transcript*, p.78; See also Katy ReckDahl, *Few take advantage of a Louisiana law allowing them to vote without an ID*, *The New Orleans Advocate* (Nov. 21, 2015) (interviewing individuals that were not told about the affidavit alternative or provided and affidavit even when requested).

<sup>137</sup> Deville Testimony, *BR Hearing Transcript*, p. 97.

<sup>138</sup> ReckDahl, “*Few take advantage.*”

to ensure voters were not turned away due to lack of photo identification.<sup>139</sup> First Assistant to the Secretary of State, Kyle Ardoin, testified that the state had not received any verifiable complaints of voters being turned away for lack of identification.<sup>140</sup> Because there have been no formal complaints, the Secretary's office does not know of the specific problems to remedy, either in administrative or training capacities.

Second, voter identification requirements present unique barriers to certain groups of people that may have issues with their identification. For example, victims of domestic violence that may be at a shelter or moving may not have a photo identification with their permanent residence.<sup>141</sup> Another group are those that the gender/name on the ID does not match how they present at the polls or if a name has changed due to marriage or otherwise.<sup>142</sup>

Finally, the voter identification requirement dissuades many people, particularly the poor and African Americans, from even attempting to vote. Mr. Wilson of the NAACP Legal Defense and Education Fund and Civil Liberties Union of Louisiana testified that the low participation rate of voters in poor and African American communities was tied to the voter identification requirement.<sup>143</sup> He believed that the cost of the voter identification created a barrier but did not address that Louisiana provides a free identification option.

## Provisional Ballots

A provisional ballot is typically used to record a vote when there are questions about a voter's eligibility, e.g., the voter does not appear on the registration rolls or is voting in the incorrect parish or polling location. The general and guiding principle for provisional ballots is that no person seeking to vote is ever "turned away." The Help America Vote Act requires that provisional ballots be available in federal elections.<sup>144</sup> A provisional ballot is to be used whenever a voter arrives at a polling location and states they seek to vote in that election and are eligible to vote in that election.<sup>145</sup>

Louisiana allows the use of provision ballots for four categories of voters:

- 1) A voter whose name does not appear in the Precinct Register or Supplemental Precinct Register and who is not authorized to vote by an election official.
- 2) A voter who is challenged and a majority of the commissioners determine that the challenge is valid;
- 3) 3) a voter who votes in a federal election during court ordered extended poll hours;

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<sup>139</sup> Deville Testimony, BR Hearing Transcript, p. 97.

<sup>140</sup> Ardoin Testimony, BR Hearing Transcript, pp. 174, 194.

<sup>141</sup> DeVille Testimony, BR Hearing Transcript, p.91.

<sup>142</sup> DeVille Testimony, BR Hearing Transcript, p. 97.

<sup>143</sup> Wilson Testimony, *Teleconference*, p. 22-23.

<sup>144</sup> 42 U.S.C. § 15482.

<sup>145</sup> 42 U.S.C. §15482(a).

- 4) Any inactive voter who cannot affirm that they moved outside the parish less than three (3) months before the election and is not eligible to vote in the election.<sup>146</sup>

But Louisiana allows for provisional voting only in federal elections.<sup>147</sup> It is one of the few states that categorically does not permit provisional voting in non-federal elections.<sup>148</sup>

There was no testimony regarding the training poll workers received regarding provisional balloting, but provisional balloting is discussed in the Informational Pamphlet on Election Day Voting given to poll workers.<sup>149</sup> The use of provisional ballots is also mentioned in Section IV.B.2 of the “Early Voting Louisiana Voter’s Bill of Rights and Voting Information,” which is a seven-page poster placed at every polling location.<sup>150</sup>

There was testimony from several witnesses that lack of provisional voting in non-federal elections presents a barrier to voting. Senator Peterson noted that the lack of provisional voting in state elections is an obstacle to voting rights.<sup>151</sup> Ms. DeVille from the League of Women Voters and Ms. Meyers from the Advocacy Center also noted the lack of provisional voting as an obstacle to voting rights.<sup>152</sup> Ms. DeVille mentioned the “verification call” that poll workers are supposed to make to verify when a voter is not listed, is not always an option in rural areas because of lack of cell service, etc.<sup>153</sup> They also testified that because provisional ballots are permitted in federal elections but not in non-federal elections, there was significant confusion among poll workers and provisional ballots may be denied even in federal elections. They recommended better voter education and better training for poll workers.<sup>154</sup>

## Incarceration and the Vote

### The Legal Structure: Felon Disenfranchisement

The Louisiana Constitution of 1973 expressly denies the right to vote to those “under an order of imprisonment for conviction of a felony.”<sup>155</sup> Until 2018, statutory law further stated that “Under an order of imprisonment’ means a sentence of confinement, whether or not suspended, whether

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<sup>146</sup> Schedler Letter, Attachment #3; *See also* La. R.S. § 18:566(A).

<sup>147</sup> La. R.S. § 18:566(A).

<sup>148</sup> National Conference of State Legislatures, *Provisional Ballots*, available at <http://www.ncsl.org/research/elections-and-campaigns/provisional-ballots.aspx>.

<sup>149</sup> Schedler Letter, Attachment #3, Provisional voting is covered in Part 8, pp. 67-72.

<sup>150</sup> Schedler Letter Attachment #7.

<sup>151</sup> Sen. Peterson Testimony, BR Hearing Transcript, pp. 20-21.

<sup>152</sup> DeVille Testimony, BR Hearing Transcript, pp. 96-97, 102.

<sup>153</sup> *Id.* at pp. 101-02.

<sup>154</sup> *Id.* at pp. 96-97.

<sup>155</sup> La. Const. Article I, §10(A), which reads, in full: “Every citizen of the state, upon reaching eighteen years of age, shall have the right to register and vote, except that this right may be suspended while a person is interdicted and judicially declared mentally incompetent or is under an order of imprisonment for conviction of a felony.”

or not the subject of the order has been placed on probation, with or without supervision, and whether or not the subject of the order has been paroled.”<sup>156</sup>

In 2018, the Louisiana Legislature amended the law restricting voting rights to allow those who have not been incarcerated for the previous five years to regain the right to vote regardless of their probation or parole status.<sup>157</sup> Taking effect on March 1, 2019, this new law will allow anyone who has not been incarcerated at any time during the previous five years to submit a form from the Department of Corrections confirming that status to the registrar of voters<sup>158</sup>. Specifically, it restores the vote after the “person submits documentation to the registrar of voters from the appropriate correction official showing that the person has not been incarcerated pursuant to the order within the last five years.”

Prior to implementation, the new law contemplates coordination between the Department of Public Safety and Corrections and the Secretary of State to develop forms to allow those affected to meet the requirements, specifically to allow them to certify to voter registration officials that they meet the eligibility requirements.

Under the prior law still in effect until March 1, 2019, the Department of Public Safety and Corrections is obligated to provide notice of the conditions surrounding the restoration of the right to vote. Testimony before the Commission indicates that this system may not have worked as well as it could have because the individual has been required to submit proof that supervision has ended along with the voter’s registration forms.<sup>159</sup> Restoring the vote to those eligible after five years will require better coordination between the Department of Public Safety and Corrections and the Secretary of State, as well as with Registrars of Voters.

When R.S. 18:2 was enacted in 1975, only about 2000 people were denied the right to vote by virtue of supervision,<sup>160</sup> but as of December 31, 2017, 71,117 Louisianans were unable to vote despite having served all the terms of their prison confinement.<sup>161</sup> This is in addition to the 33,739 people serving prison terms on December 31, 2017.<sup>162</sup> In total, on December 31, 2017, over 100,000 Louisiana residents were unable to vote due to a felony conviction. Norris Henderson, Executive Director of VOTE, testified that 30-35% of those denied the right to vote never went to prison at all, but instead are serving sentences consisting entirely of probation.<sup>163</sup> Because the new law has yet to go into effect, there is no way to anticipate how many people will benefit from these legislative changes.

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<sup>156</sup> La. Rev. Stat. Ann. 18:2(8).; La. Rev. Stat. Ann. 18::102 (A)(1).

<sup>157</sup> HB 265, xxxth Leg, xth Sess. (La. 2018). enrolled May 18, 2018.

<sup>158</sup> The new law provides limited exceptions, for those convicted of “a felony offense of election fraud or any other election offense,” as well as for those under interdiction for mental incompetence. Those individuals do not regain their right to vote after the conclusion of five years.

<sup>159</sup> Norris Henderson Testimony, BR Hearing Transcript, pp. 147-148.

<sup>160</sup> *Id.* at p. 160.

<sup>161</sup> Louisiana Department of Corrections Briefing Book, <http://doc.louisiana.gov/briefing-book>, accessed April 20, 2018.

<sup>162</sup> *Id.*

<sup>163</sup> Henderson Testimony, BR Hearing Transcript, p. 140.

## The Consequences of Felon Disenfranchisement

Testimony before the Committee addressed some of the adverse consequences upon Louisiana residents. Dr. Joshua Stockley of the University of Louisiana at Monroe estimated that approximately 80% of the parolees/probationers currently ineligible to vote are African American, compared with about 32% of the population of the state. This disproportionate racial impact can affect communities and the very concept of proportional representation. If many members of a community are unable to vote, they are denied the opportunity to be governed by people who might best serve their interests.

Other evidence indicates that the ability to vote makes for better citizens and stronger communities. Norris Henderson testified as much when he said, after helping a returning citizen register to vote, that the “guy was, like man, I’m a citizen now.”<sup>164</sup> Hamilton-Smith and Vogel declare that “Research strongly supports the notion that ex-felons who are able to re-enters society with stable work and familial relationships are less likely to engage in criminal activity.”<sup>165</sup>

Allowing more formerly incarcerated individuals to vote at an earlier time should facilitate their re-entry into their communities. The success of this initiative will depend on the ease with which they can complete the registration process.

## Pre-trial Detention Disenfranchisement

Pre-trial detainees are those who have been arrested, are awaiting trial (usually in parish jails), and have therefore not been found guilty. While statewide numbers are not readily available, as of March 2, 2016, 90% of the population of Orleans Parish Prison (1591 people) were awaiting trial.<sup>166</sup> Pretrial detainees are entitled to the presumption of innocence, including the right to vote if they are otherwise eligible.

Because the jail is not a permanent address for those awaiting trial, meaningful access to the ballot would have to allow voting in the voter’s home precinct and not at the address of the jail – whether by absentee ballot, early voting, or other technology. In addition, because many are not registered to vote, registration would have to be available.<sup>167</sup>

Testimony of Sen. Karen Carter Peterson suggests that polling places and voting machines are not fully available in jails.<sup>168</sup> Nor is the opportunity for absentee voting. Norris Henderson testified that absentee voting can be a challenge for people in jail because the ballots must be certified by the sheriff, mailed to the Registrar of Voters on a timely basis, and many people in jail are not

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<sup>164</sup>Henderson Testimony, BR Hearing Transcript, p. 148.

<sup>165</sup> Hamilton-Smith and Vogel, *supra*, p. 414.

<sup>166</sup> Vera, “Most People in OPP Have Not Been Tried or Convicted”, <https://www.vera.org/publications/new-orleans-jail-population-quarterly-report/new-orleans-whos-in-jail-and-why/new-orleans-who-039-s-in-jail-and-why-new-orleans-whos-in-jail-and-why-most-people-in-opp-have-not-been-tried-or-convicted>, accessed April 23, 2018.

<sup>167</sup> Henderson Testimony, BR Hearing Transcript, p. 139.

<sup>168</sup> Peterson Testimony, BR Hearing Transcript, pp. 36-38.

aware of their right to vote.<sup>169</sup> In addition, the delays surrounding absentee voting may mean that by the time the ballot arrives after it was ordered, the voter may have been released from jail and not able to receive it.<sup>170</sup>

## Recommendations

### Polling Locations

1. The Office of the Secretary of State should list on its Voter Portal web site (<https://voterportal.sos.la.gov>) the names of the five members of Parish Board of Election Supervisors for each Parish. The web site should include easily-accessible information on (i) the election precincts in each parish, including a map showing the exact boundaries of the precincts, (ii) the number of residents by race in each precinct (iii) the number of registered voters by race in each precinct, (iv) the location of each polling place pertaining to each precinct (regardless of whether the polling place is inside or outside of the precinct.)
2. The information listed in (1) should be made available to the public in machine-readable form. This should include not only the current information but also past information so that an analysis of the evolution of the patterns can be made by the public.
3. Any potential decision by the Parish Board of Election Supervisors related to any alterations of precinct boundaries, including adding or merging precincts, as well as any potential decision regarding polling locations should be announced to the public through the office of the Secretary of State. The Secretary of State should also ensure that all voters who can potentially be impacted by the contemplated change are notified by mail and by electronic media.
4. A public hearing with at least a month of advanced notice about the proposed changes listed in (3) should be held to obtain public's comments on the proposed changes regarding precincts or polling locations.
5. Any decision made by the Parish Board of Election Supervisors about precincts or polling locations, following the steps listed in (3) and (4) should include a document that explains the justification of the decision, along with a statement on how each member voted on the proposed change. This information should be posted on the Secretary of State's Voter Portal site mentioned in (1) above.
6. Secretary of State who has the authority to approve or disapprove the recommendation made by the Parish Board of Election Supervisors should provide an opinion (justification) for his/her approval/rejection decision, which should be included in the same web site along with the recommendation made by the Parish Board of Election Supervisors on the matter.

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<sup>169</sup> See also Lanie Lee Cook, "Inmates awaiting trial have right to vote, but few do in Lafayette, other Louisiana parishes, officials say," *Acadiana Advocate*, November 13, 2015, [http://www.theadvocate.com/acadiana/news/politics/elections/article\\_c90053b5-1804-5110-afa7-d76c4a18f702.html](http://www.theadvocate.com/acadiana/news/politics/elections/article_c90053b5-1804-5110-afa7-d76c4a18f702.html), accessed April 23, 2018.

<sup>170</sup> Henderson Testimony, BR Hearing Transcript, p. 138.

### **Early Voting Locations**

1. The state of Louisiana should continue its efforts to make early voting accessible through new technologies and where possible, prioritize new locations for early voting in underserved areas.

### **Early Voting Periods**

1. The state of Louisiana should make early voting more predictable for voters through allowing voting on Sundays and establishing more consistent and extended early voting periods.

### **Early Voting Accessibility**

1. The state of Louisiana should affirmatively ensure that all early voting locations are ADA and HAVA compliant.

### **Additional Early Voting Recommendation**

1. The state of Louisiana should make early voting more predictable for voters through allowing voting on Sundays and establishing more consistent and extended early voting periods.

### **Same Day Voter Registration**

1. The Committee recommends that the Louisiana legislature remove the registration waiting periods in La. Rev Statute § 18:135(A) and permit same-day registration. The Committee suggests that same day registrants be required to vote with provisional ballots.

### **Voter ID Requirements**

1. The Committee recommends improved poll worker training regarding identification requirements and the affidavit alternative.

2. The Committee recommends that the poll books/election rolls include two boxes next to the registrants' name: "ID provided" or "affidavit offered/signed."

3. The Committee recommends that the Secretary of State increase its community outreach and education regarding voter identification requirements and the affidavit alternative. This could be done through increased public service announcements, clear signage at the polls, heightened prominence on the Geaux Vote app, and partnerships with community organizations to increase community awareness.

### **Implications**

There are several implications from the Committee's recommendations that merit further consideration. The first is the capacity and number of poll workers in Louisiana. Increased training of poll workers presumes that there are a sufficient number of poll workers at each location and that each actually undertakes to watch the training video and read the training manual. The second, broader implication, is the problematic nature of a photo identification-based voting system. Any such system may dissuade eligible voters from even attempting to vote. Without extensive outreach regarding the affidavit alternative, and extensive training of poll workers, this barrier is heightened.

### **Provisional Ballots**

1. The Committee recommends that the legislature amend La. Revised Statute §18:566 to permit provisional ballots in all elections and not merely federal elections.
2. The Committee recommends that the Secretary of State increase poll worker training regarding the use of provisional ballots.
3. The Committee recommends that the Secretary of State increase community outreach and education regarding the availability of provisional ballots. This could be done through increased public service announcements, clear signage at the polls, heightened prominence on the Geaux Vote app, and partnerships with community organizations to increase community awareness.

### **Implications**

The Committee's recommendations implicate concerns over the number and capacity of poll workers that merit further consideration. Increased training of poll workers presumes that there are a sufficient number of poll workers at each location and that each actually undertakes to watch the training video and read the training manual.

### **Felon Disenfranchisement**

1. The vote should be restored immediately upon release from incarceration. This will require legislative action.
2. Officials should ensure that the documentation necessary to allow voter registration of those eligible is readily available, easy to complete and process, and does not provide further obstacles to registration.
3. To facilitate voting registration, Department of Public Safety and Corrections officials should provide notification and assistance with voter registration as soon as that right becomes available.
4. A sentence that does not include incarceration should not result in the loss of voting rights. This will require legislative action.

5. Voting should be made available in all parish jails to those eligible to vote. The voters should be eligible to vote in their home precinct and not at the address of the jail.
6. Voter registration should be simplified and offered in all jail and prison facilities.

## Appendix

### Summary of Public Briefing Testimony<sup>171</sup>

The Louisiana SAC held a public forum at Grambling State University, Grambling, Louisiana, on November 15, 2017, and conducted a public hearing at the Louisiana State Capitol in Baton Rouge on December 6, 2017. The SAC heard further testimony in a public meeting on April 23, 2018.

The first panel at Grambling State University on November 15, 2017 included Lemmy Akoma, Professor of Political Science and Public Administration at Grambling State University; Devissi Muhammad, History Professor at Grambling; Cheryl Mango-Ambrose, History Professor at Grambling; and Joshua Stockley, Political Science Professor at the University of Louisiana at Monroe.

Dr. Akoma testified as to historical barriers to African-American's exercising the franchise in Louisiana. Dr. Akoma spoke about how the enactment of the 1898 Louisiana Constitution established literacy tests, requirements of property ownership, and residency requirements disenfranchised people of color and the poor. These barriers continued to exist for decades until the Voting Rights Act of 1965. Dr. Akoma spoke about continuing barriers today including residence and ID requirements and the disenfranchisement of people on probation and parole. Dr. Akoma testified that these barriers create a sense among those impacted that their vote does not count and those individuals become discouraged and cease to participate. Dr. Akoma testified to the need for programs to teach high school students the importance of voting as well as programs that make it easier for students in secondary schools to vote. Dr. Akoma acknowledged progress in changes to the law that allow university students to use their university issued ID at the polls.

Dr. Muhammad testified about the systematic disenfranchisement of African-Americans in Louisiana following the Reconstruction period. Dr. Ambrose testified to the phenomenon of young, African-American men and women not being engaged in the franchise nor understanding the importance of exercising their vote.

Dr. Stockley provided an overview of redistricting and important considerations necessary in future redistricting decisions. He also spoke about barriers that exist in early voting procedures created by the limited hours early voting locations are open. He also pointed out the barriers created by voter registration deadlines that cut off either 20 or 30 days prior to election day depending if a person is registering online or by mail. Dr. Stockley pointed out that Louisiana does not offer same-day registration although 15 states and the District of Columbia have done so successfully and, by doing so, have increased voter turnout on election day.

Dr. Stockley also testified to the issue of felony disenfranchisement noting that about 72,000 residents are denied access to the polls because they are on probation or parole and that about 80%

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<sup>171</sup> The Summary is meant to condense the testimony received by the Committee. Please see *BR Hearing Transcript*, *GR Hearing Transcript*, and *Tel Hearing Transcript* for full text.

of those residents are black. Dr. Stockley also testified to inconsistencies in the implementation of voter ID requirements where some poll workers require certain photo identification beyond what Louisiana law requires, thus, discouraging or prohibiting eligible voters from casting their ballot.

The second, and final panel, at Grambling included Representative Patrick Jefferson from District 11 of the Louisiana House of Representatives; Dr. Richard Gallot, President of Grambling State University; and Jennifer Hill from the Women's Democratic Club of Northwest Louisiana.

Representative Jefferson spoke about the need to be vigilant to any changes to voting processes that may be introduced after the Shelby County decision. Jennifer Hill testified to the efforts of the Women's Democratic Club of Northwest Louisiana to register people to vote and engage people living in poverty to participate in voting. President Gallot testified regarding current litigation in Terrebonne Parish challenging the at-large district for electing district court judges. President Gallot also testified to other barriers to voting including voter ID laws, public perspectives on the value of voting, and racial bias.

The first panel at the December 6, 2017, hearing at the Louisiana State Capitol included Jhacova Williams, a Ph.D. candidate in Economics at Louisiana State University and Karen Carter Peterson, Louisiana State Senator and Vice Chair of the Democratic National Committee for Civic Engagement and Voter Participation.

Jhacova Williams testified regarding her research into the current and historical cultural attitudes and historic events affect the political behavior and economic outcomes of blacks in the South as well as the determinants of polling locations within Louisiana communities. Ms. Williams stated that data shows there is lower voter turnout among blacks than whites in Louisiana and her research focuses on the factors that impact voter turnout of those who are already registered to vote. Ms. Williams concludes that in census tracts that have a higher percentage of black residents have fewer polling places – for every 10% increase in black resident population there is a 1.2% fewer polling places within a census tract. Comparing income disparities, Ms. Williams concludes that for every 10% increase in per capita income, there is nearly a 1% increase in the number of polling places within a census tract. Therefore, census tracts with a higher percentage of blacks have fewer polling locations and census tracts with a higher percentage of poor people have fewer polling locations.

Ms. Williams also analyzed the number of polling locations on a parish level and concluded that for every 10% increase in black residents on the parish level, there was a 7% decrease in the number of polling locations. Examining income disparity, Ms. Williams concluded that for every additional \$1,000 in income per capita, there is a 7% increase in the number of polling places. Ms. Williams also examined voting machine allocation per parish and concluded that for every 10% increase in black residents there were 9 fewer voting machines. She concluded income disparities as well in that for every \$1,000 increase in per capita income, there were about 10 more voting machines in that parish. Ms. Williams suggested that in order to ensure fair access to voting, policymakers should examine voting resource allocation in Louisiana to ensure that everyone, regardless of race or income, have sufficient number of polling locations and voting machines.

Senator Peterson focused on voting rights obstacles, impact of the decision in Shelby, and restrictions on voter access. Senator Peterson stated that Louisiana does not allow provisional ballots in state elections, restrictions on reimbursement to volunteers who give elderly and disabled voters rides to polling places, restrictions on felons, and limitations places on providing assistance in voting. Senator Peterson stated that the State's current reliance on the ABC Advantage voting machine puts the security and accuracy of elections in Louisiana in question due to proven security failures with these machines.

Senator Peterson also testified regarding the statistics of felony disenfranchisement in Louisiana in that more than 71,000 Louisiana citizens are denied the right to vote because they are on probation or parole. That number is 1 out of every 33 adults. Louisiana's rate of felony disenfranchisement is almost three times the national average and disproportionately impact African-Americans.

Senator Peterson also stated that only those who are physically disabled or illiterate can get assistance in voting. Individuals with invisible physical or mental disabilities cannot, and the paperwork and certification required for those who do qualify as disabled is intimidating and confusing.

As for early voting procedures in Louisiana, Senator Peterson testified that there are too few early voting locations in Louisiana and the window for casting an early vote is too narrow. No early voting locations are open on Sunday and all close seven to fourteen days prior to election day. As for early voting locations, Senator Peterson testified that while there are 3,904 precincts open around the state on election day, there are only 97 early voting sites serving all 64 parishes. Louisiana's three largest parishes with populations around 500,000 (Orleans, Jefferson, and East Baton Rouge) have only four early voting locations per parish. Caddo Parish, the fourth largest in population at 260,000 residents only has one early voting location. Thus, most early voters have to drive a considerable distance to cast their vote which is a deterrent for those without cars, elderly, disabled, or for those who cannot take the time off work. Those who make it to early voting locations are often faced with long lines and wait times due to insufficient number of alternative locations. This is another deterrent for those who are able to make it to the early voting location.

Senator Peterson also commented there is a lack of polling locations, particularly noting the lack of a location in Pontchartrain Park in New Orleans – the first major black subdivision in the city.

The second panel at the December 6, 2017, hearing in Baton Rouge included Susan Meyers, Director of Policy and Community Engagement at the Advocacy Center of Louisiana; Carol Deville, President of the Louisiana League of Women Voters; Nia Weeks, Director of Policy and Advocacy for Women with a Vision; and ...

Susan Meyers outlined some recent positive legislation concerning access to voting for people with disabilities including less burden on individuals needing assistance in voting. As of January 2018, voters needing assistance due to disability will now only have to sign a statement provided by a poll worker and no longer need third-party verification of disability. There has also been legislative changes so disabled individuals can serve as poll workers and e-mail voting procedures for voters with disabilities.

Ms. Meyers described reports by clients of the Advocacy Center where disabled voters not allowed voting assistants of their choice and poll workers making competency determinations on a disabled person's ability to vote at the polling location. The denial of an assistant of choice is a barrier. Ms. Meyers gave an example of someone with extreme anxiety may be unwilling to vote with a stranger assistant or someone with a communication problem being forced to use an assistant who they cannot communicate with. Furthermore, there is a prohibition in the Louisiana administrative code that bars workers at developmental centers from assisting residents of those centers in voting. Frequently, it is those employees who the residents are most comfortable with as assistants.

Another issue Ms. Meyers addressed is lack of accessibility at some polling locations. Also, Louisiana has a high rate of institutionalization of people with disabilities and those residents rely on the institution to gain access to the polls which, often, is not being facilitated.

Carol Deville reported recorded observations of members of the League of Women Voters. Ms. Deville stated there is lack of accessibility for early voting in Lafayette Parish as there is only one early voting location that has insufficient space to accommodate voters. The Lafayette early voting polling location also had inadequate elevators for the disabled as well as inadequate handicapped parking spaces.

Ms. Deville also spoke about voting irregularities that were reported by a poll worker in a New Orleans run-off election as well as problems with voting machines. Ms. Deville recommended more training for poll workers, more poll watchers available to observe the voting process, extending early voting to election day, more public information about the availability of early voting and mail-in ballots. Ms. Deville also recommended replacing all of the aging voting machines throughout the state.

Nia Weeks spoke about the work her organization does on mobilizing the vote. Ms. Weeks stated that Louisiana has almost a million African-American voters of which 56% are women. However, only about 32% of the 56% are frequent voters. Ms. Weeks stated that transportation is a barrier to voter participation and that polling locations frequently change in New Orleans from election to election. Potential voters often do not know where to go vote. Taking the time required to vote is also a barrier for many people who are employed – especially when taking the time results in losing income in a low paying job. Ms. Weeks also stated that limited early voting locations, only four in New Orleans, is a barrier to voting. Those locations are only open from 8:00am to 5:00pm.

Ms. Weeks testified about the issue some voters face when they present differently than their gender or picture on their ID. Homeless and migrant populations face barriers in registration because they lack a stable address.

The testimony in the third panel came from Bruce Really and Norris Henderson of VOTE (Voice of the Experienced) and Ashley Shelton of the Power Coalition.

Ms. Shelton (Power Coalition) testified that due to the state's failure to train and inform poll workers and registrars, Latino and Vietnamese voters face serious barriers to voting. In addition, polling places are often relocated without providing adequate notice and information to the communities they serve.

In the Latino and Vietnamese community there have been persistent problems with access to the vote and voter registration. Ms. Shelton discussed voting barriers for naturalized citizens in Louisiana. According to Ms. Shelton, a lack of training for state actors like registers exacerbate voting access for naturalized citizens. These challenges result from an 1874 law that is still on the books requiring naturalized citizens to provide citizenship documents when registering to vote. Other potential voters are not required to go to such lengths. Instead, they need only swear that they are U.S. citizens. Naturalized citizens faced a second class status for 142 years. While this law was changed in 2016, non-profits representing Asian American and Latino voters (like VAYLA) have documented how naturalized citizens are still facing discrimination at the polls. These citizens are denied the right to register to vote. Many officials do not realize the law has changed and Registrars still turn away citizens on the basis of this outdated law.

For the Vietnamese and Latino community, this is part of a larger problem related to a lack of transparency and understanding in immigrant communities when it comes to voting laws. In many ethnic communities where English is a second language, the laws related to voting rights are often poorly understood. In some circumstances, poll workers either do not know the law or lack bilingual language skills. Further, although as a matter of federal law, voters have the right to bring someone of their choice into the booth with them if they need help voting, for example in order to translate, often election officials do not know this. We provide individuals with fliers from Section 208 of the Voting Rights Act to clarify this.

These existing problems are exacerbated by the regions continued vulnerability when it comes to extreme weather. Natural disasters and climate change have impacted many communities in Louisiana. Due to flooding, polling locations are often changed or moved without providing adequate notice to the communities they are in. What complicates this challenge is that many voters are also displaced and the information they need to vote is not available to them. Many voters in areas where flooding occurred (parishes like Livingston, East Baton Rouge, and Ascension) needed support and information in order to find their polling place. Another example of this occurred in Pontchartrain Park where the polling place was changed on election day, seriously compromising the ability of voters in this community to exercise their rights to vote. Moving the polling location out of a community commons space where it has existed for generations erected barriers for those seeking the right to vote.

She also discussed streamlining elections and expanding training for poll workers.

Bruce Reilly of VOTE testified that due to a complex history of racist voting regulations and a contemporary lack of training and transparency in government, people who have criminal convictions face barriers to voting access.

In Louisiana, people who have criminal convictions, even those only on parole or probation, face major systematic barriers in their right to vote. People who have been incarcerated and even those who have only been on probation have a difficult time obtaining the right to vote after being convicted. Mr. Reilly discussed in detailed the fact that people on probation (not parole) were guaranteed a right to vote in the Constitution. The right can be suspended while under an order of imprisonment. Mr. Reilly spent some time discussing the history of what it means to be “under an

order of imprisonment” by examining the radicalized history of constitutionally protected voting rights in the state of Louisiana. Mr. Reilly highlighted how after a campaign to restore voting rights to people on parole and probation in the state of Rhode Island, he ultimately lost his right to vote by coming to Louisiana and matriculating to Tulane Law School. He discussed how he is currently the plaintiff in a voting rights case (VOTE v. Louisiana). Some of the direct barriers that individuals face in terms of voting rights related to the inefficiency of bureaucracy. Those individuals who cycle off of probation and parole are not automatically reported to the Secretary of State and the registrar. Individuals may bring their documents proving that they are no longer on probation from one government office to another. Government actors in the bureaucracy are also misinformed about the law as it related to those on probation and parole. And they often provide wrong information to those seeking confirmation of the right to vote.

Norris Henderson of VOTE provided testimony indicating that those who have been incarcerated face intractable difficulties in reinstating their voting rights. He recommends increased transparency and broad based educational initiatives to alert formerly incarcerated persons that they have a right to vote.

For 42 years the Constitution of Louisiana prohibited formerly incarcerated persons from voting. In 1976, this was defined in an expansive way to include individuals who were not on probation and parole. Since 1975, over 630,000 people have been released from corrections in the state of Louisiana and these individuals have all been disenfranchised by the current law.

Part of the problem is that there is no governmental agency that educates formerly incarcerated persons about how to restore their right to vote. There is no information on the secretary of state’s website about how to restore the right to vote. In addition, inquiries to the parish Registrar’s office yielded contradictory and incorrect information. And because the information is uncertain, formerly incarcerated persons do not want to take the risk of illegally registering to vote and being sent back to prison for it.

Another aspect of the problem lies in the failure of government bureaucracy to update its records. When a formerly incarcerated person attempts to register to vote, often their application is flagged. If they cannot produce documentation to the contrary, then they are disenfranchised.

Mr. Henderson cited some positive changes in the community including posting notice on the Registrar’s office in Orleans Parish indicating that formerly incarcerated persons have the right to vote. And VOTE has also done outreach in the community to educate formerly incarcerated persons about their potential right to vote. Another initiative involves doing voter registration in jails with the certification of the Sheriff and getting absentee ballots to people in jail who have not been convicted.

Restoring voting rights may also have other positive impacts on the community and on formerly incarcerated persons and individuals. In on Florida study on restoring the right to vote, researchers learned that of the 30,000 people whose voting rights were restored, only 10% of them engaged in recidivism and the majority of that recidivism was related to administrative sanctions.

Mr. Henderson also discussed having election day in the middle of the week on a workday. In other jurisdictions, election day is a holiday. Mr. Henderson speculated that there might be more turnout in terms of voting if election day as a holiday. He also spoke about extending early voting periods.

Kyle Ardoin, First Assistant to the Secretary of State, Tom Schedler testified in the fourth panel. Mr. Ardoin cited the passion and commitment of the state poll workers and agency staff in Louisiana, particularly in terms of providing access to the vote after Hurricane Katrina.

Louisiana has a top down system. This means that the state government works collaboratively with the Clerks of Court and appointed Registrars in the 64 parishes in the state. In his testimony, Mr. Ardoin intends to highlight the legislative and technological changes that the Secretary of State's office has made in terms of removing barriers to voting access. The Secretary of State has undertaken the following initiatives:

- In April of 2009, the State of Louisiana implemented voter registration online. The online application is a new endeavor and Louisiana is one of only three states in the nation that has adopted it.
- In July of 2010, the Secretary of State's Office launched its online clearing house for all election related information: the voter portal. Voters can input their name, last name, zip code, and date of birth then receive personalized information about registration and polling locations. There is also a mobile platform version of this tool.
- In April of 2011, the Secretary of State's Office created a social media presence to reach new demographics.
- In September of 2011, Louisiana became the first state to provide election information through an online smart phone app, GeauxVote. It permits users to check registration status, find polling places, review what is on the ballot, and view election results. It also provides information related to early voting.
- The Secretary of State's office is in the process of requesting new voting machines and equipment. The office is particularly interested in equipment that provides an audit trail. This is of course subject to finances.
- The outreach division of the Secretary of State has undertaken a campaign to reach voters. In fiscal year 2016-17, this division conducted 179 voting events with 59 of the 64 Parishes. The events hosted included educational information, private elections, voting machine demonstrations, and voter registration drives. It also conducted social media and email outreach to voters as well.

To register to vote in Louisiana, an individual must be at least 16 years old, reside in the Parish in which he or she is seeking to vote, not be under an order of imprisonment for conviction of a felony, and not be under a judgment for full interdiction for mental incompetence or partial interdictions with suspension of voting rights. Voters can register online at the Secretary of State's

website, in person at the Registrar of Voter's office or Office of Motor Vehicles, and in public assistance agencies or armed forces recruiting offices, or by mail. Applicants must have a Louisiana driver's license, a Louisiana special ID card, or Social Security number. Applicants can also be verified with a copy of current valid photo identification or a current utility bill, bank statement, government paycheck or other document. Louisiana has 2, 976, 092 registered voters. At polling places, voters are asked for a photo identification card. If a voter lacks such identification, he or she may vote by completing and signing the voter affidavit. Disabled voters and senior citizens have the opportunity to vote by mail for elections.

Louisiana's voting hours on Tuesday election days are from 6:00 a.m. to 8:00 p.m. Voting hours on Saturdays are from 7:00 a.m. until 8:00 p.m. Early voting is seen days long from 8:30 a.m. to 6:00 p.m. Louisiana's polls are open for 14 hours. Only New York State's polls are open longer.

The Committee received additional testimony on April 23, 2018 from Carl Galmon, a resident of New Orleans who is on the Board of Directors of the National Voting Rights Museum and Institute in Selma, Alabama and Ron Wilson,

Mr. Galmon testified to problems of access to polling locations of African-Americans in New Orleans. He gave the example of Pontchartrain Park in New Orleans. Pontchartrain Park is the oldest black subdivision in New Orleans and it had three voting locations prior to Hurricane Katrina – one at the golf clubhouse, one at Bethany Church, and one at the Lutheran Church. After Katrina those three locations were merged into one that is a mile and a half away at the corner of Press Drive and Chef Menteur Highway. Mr. Galmon also testified to activities of the Secretary of State's Office after Hurricane Katrina that discouraged people from voting – such as publication of notices that they had registered in another state and publication in the Times-Picayune newspaper challenging thousands of voters.

## Transcripts, Statements, and Documents

1. [Transcript of Testimony gathered at Grambling University of November 15, 2017](#)
2. [Testimony of Joshua Stokley, Grambling University, November 15, 2017](#)
3. [Transcript of Testimony gathered at Baton Rouge Hearing, December 6, 2017](#)
4. [Transcript of Testimony provided by Ron Wilson and Carl Galmon, April 23, 2018](#)
5. [Louisiana Secretary of State Submissions and Final Statement](#)

To access the files, control + click to follow the link. All files can also be found on the Federal Advisory Committee Database, found at [www.facadatabase.gov](http://www.facadatabase.gov). Follow the link for United States Commission on Civil Rights - Louisiana Advisory Committee – Meetings - Documents.

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



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