

ARIZONA ADVISORY COMMITTEE
TO THE
U.S. COMMISSION ON CIVIL RIGHTS

REPORTER'S TRANSCRIPT OF PROCEEDINGS

Phoenix, Arizona
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REPORTED BY:
PAMELA A. GRIFFIN, RPR, CRR, CRC
Certified Reporter
Certificate No. 50010

DANIELLE C. GRIFFIN, RPR
Certified Reporter
Certificate No. 50926



2398 East Camelback Road
Suite 260
Phoenix, Arizona 85016

T 602.264.2230
888.529.9990
F 602.264.2245

www.arizonacourtreporters.com

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4 Floor, Phoenix, Arizona, before PAMELA A. GRIFFIN and
5 DANIELLE C. GRIFFIN, Certified Reporters in the State of
6 Arizona.

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8 ATTENDEES:

9

Arizona Advisory Committee Members:

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Lorena C. Van Assche, Madam Chair

11

Patty A. Ferguson-Bohnee

12

Melissa S. Ho

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David D. Kim

14

Adolfo Maldonado

15

Aaron T. Martin

16

Theresa C. Rassas

17

Jonathan Rose

18

Beverly Walker

19

Eric D. Yordy

20

Staff:

21

Ana Victoria Fortes

22

Angelica Trevino

23

Hafsa Mohammed

24

Teresa Moore

25

Interpreter for John Britton

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1 (Morning session reported by Pamela A.
2 Griffin.)

3 CHAIRWOMAN VAN ASSCHE: Okay. Everyone,
4 welcome. Before we formally begin today's meeting, I would
5 like to share a few housekeeping items: The restrooms are
6 located outside to the left, and please feel free to excuse
7 yourself as needed. In the event of an emergency, the
8 emergency exits are located to the far right and far left.

9 This meeting of the Arizona Advisory
10 Committee to the U.S. Commission on Civil Rights shall come
11 to order.

12 For the benefit of those in the audience, I
13 shall introduce my colleagues and myself. My name is
14 Lorena Van Assche, and I'm the chair. And members of the
15 committee who are present today are Patty Ferguson-Bony --
16 Bohnee -- sorry -- Melissa Ho, David Kim, Adolfo Maldonado,
17 Aaron Martin, Theresa Rassas, Beverly Walker, and Eric
18 Yordy.

19 I will note that we have a quorum present.

20 Also present are U.S. Commission on Civil
21 Rights staff. We have regional program staff from the
22 Commission. We have Ana Victoria Fortes, civil rights
23 analyst; Angelica Trevino, support services specialist; and
24 Hafsa Mohommad, intern.

25 Also present are the -- sorry -- the original

1 program staff from the Commission, David Mussatt.

2 The U.S. Commission on Civil Rights is an
3 independent bipartisan agency of the federal government
4 charged with studying discrimination or denial of equal
5 protection of the laws because of race, color, religion,
6 sex, age, disability or natural origin or the
7 administration of justice. In each of the 50 states and
8 the District of Columbia, an advisory committee to the
9 Commission has been established, and they are made up of
10 bipartisan persons who serve without compensation to advise
11 the Commission on relevant information concerning their
12 respective state.

13 At today's meeting, it is our purpose to hear
14 testimony to examine potential barriers to voting in the
15 state of Arizona which may have a discriminatory impact on
16 voters based on race, color, disability, status or national
17 origin.

18 The committee will focus on the dual voter
19 registration system, access to polling locations, language
20 access, and early voting. The committee is to determine
21 the appropriate advice and recommendations to be shared
22 with the U.S. Commission on Civil Rights regarding the
23 enforcement of the Voting Rights Act and the appropriate
24 state actors.

25 Testimony heard at today's briefing will

1 result in an advisory memorandum that will be shared with
2 the U.S. Commission on Civil Rights and will be included in
3 their 2018 Statutory Enforcement Report examining voting
4 rights enforcement efforts after the 2006 Reauthorization
5 VRA, the impact of the U.S. Supreme Court Shelby County v.
6 Holder decision, enforcement of Sections 2 and 203 of the
7 Voting Rights Act, and will assess whether new or enhanced
8 federal voting protections could expand voting
9 opportunities for all Americans, including those
10 historically underrepresented at the polls because of their
11 race, color, and/or minority language group membership.

12 Please note if the speakers begin to veer
13 away from the civil rights questions at hand or go off
14 topic, I will politely interrupt and ask that you refrain
15 from doing so.

16 At the outset, I want to remind everyone that
17 this meeting is being transcribed by our court reporters
18 for the public record. I ask that you please state your
19 name when speaking.

20 Today we are fortunate and thankful to have a
21 packed schedule of four panels composed of diverse
22 panelists who will share with us their expertise at this
23 meeting, and I ask that you give them your undivided
24 attention.

25 For those of you who use social media, we

1 have two hashtags for today's event, and they are
2 #votingrights and #USCCRbriefings. And the U.S. Commission
3 on Civil Rights Twitter handle is @USCCRGov.

4 I would also like to present the ground rules
5 for today's meeting. This is a public meeting, open to the
6 media and the general public. We have a full schedule of
7 people who will be providing testimony within the limited
8 time available.

9 This will include a presentation by each
10 panelist for approximately 10 to 12 minutes unless invited
11 to speak longer. After all panelists have concluded their
12 statements, committee members will engage them in questions
13 and answers. Panelists see -- please see that I will be
14 holding up time cards to ensure you keep within your
15 allotted time limit.

16 To accommodate persons who are not on the
17 agenda that wish to make statements, we have scheduled an
18 open forum at the end of the briefing that begins at
19 4:00 o'clock and ends at 4:45. If you wish to speak,
20 please add your name to the list at the registration table
21 where you came in. In addition, written statements may be
22 submitted by mail to the U.S. Commission on Civil Rights at
23 300 North Los Angeles Street, Suite 2010, Los Angeles,
24 California 90012, or by email to AFortes@USCCR.gov 30 days
25 after the hearing. Please call (213) 894-3437 for more

1 information.

2 Though some of the statements made today may
3 be controversial, we want to ensure that all invited guests
4 do not defame or degrade any person or any organization.
5 As the Chair, I reserve the privilege to cut any statements
6 short that defame, degrade or do not pertain to the issue
7 at hand.

8 In order to ensure that all aspects of the
9 issues are represented, knowledgeable persons with a wide
10 variety of experience and viewpoints have been invited to
11 share information with us. Any person or any organization
12 that feels defamed or degraded by statements made in these
13 proceedings may provide a public response during the open
14 comment period.

15 Alternately, such persons or organizations
16 can file written statements for inclusion in the
17 proceedings. I urge all persons making presentations to be
18 judicious in their statements. The Arizona Advisory
19 Committee appreciates the willingness of all participants
20 to share their views and experiences with this committee.

21 Finally, the rules for the
22 question-and-answer portions of the panel discussions are
23 as follows: The committee may ask questions of the entire
24 panel or individual members of the panel after all
25 panelists have had the opportunity to provide their

1 prepared statements. Committee members must be recognized
2 by the Chair before asking any questions of the
3 participants.

4 In addition, in order to ensure all committee
5 members get a chance to address the panel, each committee
6 member will be limited to one question, plus a follow-up.
7 When five minutes are left in the session, I will announce
8 that the last question may be asked.

9 I would now like to begin our meeting by
10 introducing the Government and Elections Official Panel:
11 Eric Spencer, Elections Director of the State of Arizona;
12 Patty Hansen, Recorder of the Coconino County Recorder's
13 Office; Adrian Fontes, Recorder of the Maricopa County
14 Recorder's Office; and Lisa Marra, Elections Director of
15 Cochise County.

16 We will begin with prepared statements by
17 Mr. Spencer.

18 MR. SPENCER: Okay. Good morning. Sorry, my
19 voice is challenged today. My name is Eric Spencer. I
20 serve as the State Election Director in the Secretary of
21 State's Office. It's a real pleasure to be here. And on
22 behalf of Secretary of State Reagan, thank you for focusing
23 on these important topics today.

24 I'm grateful to speak with such esteemed
25 election professionals to my left here. As the State

1 Election Director, I'll try to provide more of a statewide
2 perspective on some of the topics today. But I suspect
3 there will be substantial overlap and commonality with some
4 of the statements by my counterparts.

5 I want to focus on the four categories that
6 were expressly mentioned in the January letter to my
7 office, which are language access, early voting, access to
8 polling locations, and voter registration.

9 With respect to language access, let me begin
10 with the Federal Voting Rights Act. Arizona is not a
11 covered state under the Voting Rights Act for the Spanish
12 language, although Maricopa, Pima, Yuma, and Santa Cruz
13 Counties are covered counties under the VRA.

14 But any county-to-county coverage under the
15 VRA is essentially irrelevant in Arizona because as a
16 matter of state law and policy, every county must provide
17 all electoral materials in both English and Spanish. So
18 that means ballots, election mailings, voter registration
19 materials, and voting equipment all must be printed or
20 displayed or be capable of being audibly read in both
21 English and Spanish.

22 Additionally, various counties are covered
23 under the VRA for Native American languages, Navajo and
24 Apache. Apache, Navajo, and Coconino Counties are covered
25 for the Navajo language. Whereas, Gila, Graham, and Pinal

1 Counties are covered for the Apache language. These are
2 traditionally non-written languages, therefore, our county
3 officials take special measures to make sure that oral
4 translations of voting materials are made widely available.
5 For example, our accessible voting equipment, touch screen
6 equipment are uploaded with audio clips of the relevant
7 screens in the Native language. And every two years as
8 another example, a collection of translators come together
9 and create a consensus interpretation of the statewide
10 publicity pamphlet. And Ms. Hansen, the Coconino County
11 Recorder, has extensive experience in this area, and she
12 will be well positioned to provide a lot more detail.

13 Language accessibility is a big priority for
14 the Secretary of State's Office. I want to give you two
15 recent examples when it comes to voting equipment.

16 First, in counting -- in testing county
17 voting equipment ahead of each election, the Secretary of
18 State's Office has traditionally conducted what's called a
19 logic and accuracy test, which was merely designed to
20 confirm the accuracy of the tally. But now, to the extent
21 possible, the Secretary of State's Office tries to review
22 the balance and the touch screens substantively for
23 language translation issues. Try and catch things before
24 it's too late.

25 And now under Secretary Reagan, whenever we

1 travel from county to county to do these tests, we bring a
2 Spanish speaker with us on contract on the airplane to make
3 sure that person is with us at every county. And we also
4 listen to the audio translations in Navajo and Apache to
5 make sure the audio is programmed to be functional.

6 Secondary involves the certification of
7 vendors to sell voting equipment in the state. For the
8 first time that we are aware of in any Secretary of State
9 administration, Secretary Reagan recently denied full
10 certification to a voting equipment company that did not
11 sufficiently extend Spanish translations to all parts of
12 its equipment sweep. And the Secretary also recently
13 denied another company's request to sell voting equipment
14 in non-VRA covered counties in Arizona that lacked the
15 ability to upload audio clips in native languages. And the
16 Secretary was simply unwilling to allow a patchwork
17 situation to develop in Arizona where the type of equipment
18 you get depends on the county you live in.

19 So on the basis that Secretary Reagan stands
20 on language accessibility, these companies must redesign
21 their equipment and go back to the U.S. Elections
22 Assistance Commission before they will be able to come back
23 to Arizona to try and sell their equipment. These are the
24 kind of behind-the-scenes policy decisions that affect
25 language access every day in Arizona.

1 To be sure there's more progress to make this
2 year as an election community, we're going to try to seek
3 to develop a clearer and more uniform guidance for election
4 websites, both with respect to Spanish translation and
5 making sure that election websites across the state are
6 conforming with the WCAG 2.0 web design standards. We also
7 plan to develop this year an English/Spanish translation
8 guide for common electoral terms to distribute across our
9 counties so we don't have to reinvent the wheel every time
10 and that there's a common understanding of these terms that
11 we routinely use across the state.

12 And on a related topic, we want to convene
13 our county officials this year to discuss the propriety of
14 third-party translation services like Google Translator to
15 discuss whether it is ever appropriate to use something
16 like that to translate our websites, our ballots, and our
17 election equipment. And that conversation will kick off
18 soon.

19 So in sum, Arizona takes language
20 accessibility very seriously. Our state law goes further
21 than federal law in making sure that voters are able to
22 access voting materials in their preferred language, and
23 we're continually striving to make more improvements.

24 With respect to early voting, the second
25 subject, nearly 74 percent of Arizonans according to 2016's

1 statistics vote by early ballot. Now, the State doesn't
2 officially track registrants for demographic purposes other
3 than age. So we don't have any official statistics by
4 early voters by race or gender and similar classifications,
5 so I want to address early voting on a somewhat more
6 theoretical level.

7 Arizona has allowed no excuse early voting
8 since 1981, and the practice has grown ever since. Early
9 voting's permitted during the entire 27-day period before
10 every election, and this includes the ability to be
11 automatically mailed a ballot before every election in
12 which you're eligible through the permanent early voting
13 list. It includes the ability to make a one-time early
14 ballot request for that election and includes the ability
15 to vote on site at a location established by the County
16 Recorder to vote in person during that 27-day period which
17 currently ends the Friday before election day.

18 The voter simply inserts the ballot in the
19 accompanying envelope, signs the affidavit, and drops the
20 envelope in the mail, postage prepaid. Or the voter can
21 drop the envelope off at any early voting location or any
22 polling place without ever having to wait in line, and
23 regardless of the precinct of where you live.

24 I suspect the trend towards early voting will
25 continue to increase. There's still a strong contingent of

1 voters in Arizona that prefer the traditional
2 polling place/election day model of conducting elections.
3 But there's a countervailing movement that I feel is
4 getting stronger to conduct elections exclusively by mail
5 which we call "ballot-by-mail elections" either at the
6 county level or at the state level.

7 The cost is a major factor driving this
8 debate with funds from the 2002 Help America Vote Act
9 nearly depleted. Funding for new election equipment, both
10 the state and the local level, is in scarce supply, and I
11 think that financial problem is magnified to the extent the
12 county will rely on the traditional precinct-by-precinct
13 election day model of conducting elections.

14 On the other hand, ballot-by-mail elections
15 allow counties to potentially eliminate voting equipment at
16 the polling place except for accessible voting equipment
17 for voters with disabilities, instead making more targeted
18 equipment investments in central count equipment at their
19 facilities that's capable of tabulating all the ballots in
20 one facility.

21 But morally voting in less polling places
22 surely does impact voting rights apart from the cost
23 considerations. For example, Arizona law requires proof of
24 identity when voting. And this is controversial to the
25 degree that you believe that voters lack access to that

1 necessary identification.

2 Now, when it comes to election day voting,
3 you typically prove ID by presenting a form of
4 government-issued ID traditionally, not exclusively, and,
5 hence, the controversy in acquiring that government-issued
6 ID. But when it comes to early voting, identity is proven
7 in a completely different way. It's through the signature
8 on the affidavit on the envelope, and that's merely
9 compared against the voter's signature that's in the voter
10 registration rules.

11 So you can make an argument that the
12 expansion of early voting facilitates voting rights and
13 mitigates the controversies surrounding proof of ID that
14 surrounded this state in litigation since voters passed
15 Prop 200 in 2004. And by the way, there are many election
16 officials that will tell you that proving ID through your
17 signature is much more secure and trustworthy by having
18 County Recorder paid and trained employees conduct that
19 verification as opposed to polling place workers who are
20 only temporary workers at the polling place checking ID.

21 So it could be a win-win. The corollary of
22 morally voting means less polling places. I'm going to
23 address that briefly in my next section.

24 I also want to preemptively broach the
25 subject of door-to-door ballot collection, sometimes known

1 as ballot harvesting. Given the panels that follow today,
2 I thought I would preemptively put this issue in some
3 perspective.

4 For 27 years since 1991, Arizona law has
5 prohibited another person from possessing another's
6 un-voted ballot. In 2016, the Legislature extended that
7 prohibition to voted ballots as well and included an
8 enforcement penalty for knowing violations of this law.
9 This vote followed many years of debate in the Legislature
10 about the propriety of allowing strangers to collect
11 ballots door to door or employers to collect ballots
12 cubicle to cubicle with the intended pressures of
13 potentially casting that ballot in the presence of the
14 circulator or the collector standing right in front of you.
15 And the temptations of that circulator not to return the
16 ballot given the complete lack of chain of custody when it
17 comes to early ballots.

18 Importantly, the new law provides exemptions
19 for the most common ways that voters need to return their
20 ballots. So there's an express exemption for family
21 members, regardless of how distantly related, to return
22 your ballot on your behalf. There's an express exemption
23 for household members, so a roommate unrelated to you can
24 return your ballot, and there's an exemption for
25 caregivers. Whether you live in an assisted living

1 facility or whether you receive in-home medical care, those
2 exemptions are covered.

3 But otherwise, this law assumes that because
4 you voluntarily requested to receive your ballot by mail,
5 that you have the reasonable means to return that ballot by
6 mail or return it to an early voting location during the
7 roughly month-long period that early voting takes place in
8 Arizona.

9 Now, this law is under challenge in federal
10 court. United States Supreme Court allowed this law to go
11 in effect for the 2016 General Election, and now this law
12 is being litigated on the merits in Arizona Federal
13 District Court, and we expect a decision this year,
14 followed by oral argument before the Ninth Circuit.

15 So I foresee other speakers may be bringing
16 up this topic today and focusing the Commission's attention
17 on this issue. But rest assured that all of these
18 arguments are already before the Federal District Court,
19 and I would urge the Commission to resist the temptation to
20 publicly relitigate this issue while we are waiting for a
21 decision from the judge.

22 The third subject I want to briefly address
23 is polling locations. As I telegraphed earlier, polling
24 locations have decreased in Arizona in recent years. I'm
25 aware of a study that shows that Arizona counties

1 collectively reduced polling places from 1458 in 2012 to
2 1246 in 2016 for the general election, which is a roughly
3 15 percent decrease. And to be clear, these are
4 county-by-county decisions working in conjunction with
5 their elected boards of supervisors.

6 So what explains the decrease? I think my
7 counterparts on the panel are in a much better position to
8 answer that question, but I have a few potential
9 explanations.

10 Number one, there is a need for less polling
11 places in Arizona. Arizona is a national leader in early
12 voting. And as more voters are embracing the convenience
13 of early voting, we need fewer polling places to control
14 for wait times for voting.

15 There's also cost pressures. I mentioned
16 that earlier. Voting equipment is reaching an end of life
17 across this state. There are no funds from the federal
18 government to replace that, and the counties, quite
19 frankly, face other chronic budgetary crunches as well that
20 make it difficult to fund large-scale purchases of
21 equipment. And so it is not surprising that county
22 election directors have to reconsider their footprint
23 accordingly.

24 Third, I think there are some location
25 pressures going on across Arizona. There just seem to be

1 less locations that are willing to serve as polling places.
2 And now whether that's because the venues are booked or
3 because they have security concerns or insurance concerns
4 or liability concerns, finding acceptable ADA compliant
5 polling places with the right infrastructure seems to be
6 getting a bit more difficult.

7 And, finally, vote centers. More and more
8 counties in Arizona are using vote centers. This is a
9 positive trend. With a vote center, any voter can vote in
10 any vote center in the county. This provides more options,
11 more flexibility for the voter, and it largely, although
12 not completely, but largely eliminates the provisional
13 ballot because you really can't end up in the wrong polling
14 place.

15 So I think my county counterparts to my left
16 would probably argue the following: If you carefully
17 analyze historical voter turnout and population shifts and
18 other voter patterns combined with public outreach and
19 stakeholder buy-in, you can reasonably reduce your polling
20 place footprint in favor of vote centers while maintaining
21 sufficient access to the voting experience.

22 So what was the effect from the 2016
23 reduction? For the general election, anecdotally the State
24 did not see significantly long lines. I'm not aware of any
25 significant deleterious effects across the state resulting

1 from polling place consolidation, but that's what forums
2 like this are for: To provide feedback on that very topic.

3 So overall, I think we have the right laws in
4 Arizona. The law presumes that you're going to need one
5 polling place per precinct, but allows a county to deviate
6 from that for specified reasons.

7 The law gives the counties the power to move
8 to a vote center model, but only upon approval of the board
9 of supervisors and filing that plan with the Secretary of
10 State. And I also think we have good State policies.

11 I think I have three to five minutes left.
12 Is that right?

13 CHAIRWOMAN VAN ASSCHE: Yes.

14 MR. SPENCER: Let me try and skip to the -- I
15 think the warning letter said 15 to 20 minutes to speak or
16 so. Your shortened time is news to me.

17 CHAIRWOMAN VAN ASSCHE: Mr. Spencer, you have
18 20 minutes.

19 MR. SPENCER: Oh, I do. Okay.

20 CHAIRWOMAN VAN ASSCHE: You have 20 minutes
21 total, and you have a few minutes, almost four minutes
22 left.

23 MR. SPENCER: Okay. So I'm just speaking
24 slow.

25 Well, let me quickly broach the subject of

1 voter registration. Election officials take this very
2 seriously. The Secretary of State's Office, we spent over
3 \$100,000 on voter outreach in the last two years, through
4 social print, digital media to encourage registration. We
5 joined the Electronic Registration Information Center,
6 which is a multistate compact that encourages voters to
7 register to vote. And we're going to be reaching over
8 1 million eligible but unregistered voters in this year
9 alone to try to get them to register to vote.

10 Over the next couple of months, we'll be
11 convening the counties to make significant, potentially
12 significant, changes to the State voter registration form.

13 I think the biggest news is there are going
14 to be some forthcoming changes on proof of citizenship when
15 it comes to voting. This is another very controversial
16 subject, and there are going to be some developments in
17 this area that I think are going to surprise you.

18 Because of time limitations, I can't go much
19 into details, but there are technological advances that now
20 allow citizenship to be acquired electronically given
21 access to various government databases. And so the concept
22 of providing accompanying citizenship with your voter
23 registration form is going to be reinterpreted in light of
24 technological advances to go out and find citizenship for
25 voters who don't include it with their forms.

1 This issue is in litigation, but I think some
2 folks are going to be surprised when the forthcoming
3 election procedures manual becomes law and that litigation
4 has concluded.

5 Skipped over a couple things. But in sum, I
6 want to say that the State of Arizona in 2018 is thoroughly
7 committed to full and robust voting rights for all under
8 the collective leadership of Secretary Reagan and the
9 incredibly dedicated county, city, school election
10 officials across the state. The State is most assuredly on
11 the right track.

12 Are we perfect? No. But we're committed.
13 And most important, we're receptive to change and
14 improvement.

15 I very much appreciate being invited to speak
16 to the Commission, represent the views of the Secretary of
17 State's Office, and I look forward to hearing and taking to
18 heart all the views that are going to be expressed
19 throughout the day. Thank you very much.

20 CHAIRWOMAN VAN ASSCHE: Thank you,
21 Mr. Spencer.

22 Next, our next speaker who is going to share
23 with us her prepared statement is Patty Hansen.

24 MS. HANSEN: Good morning. I want to thank
25 the Committee for allowing me to come and share some of

1 the -- my concerns with how the system is working in
2 Arizona and also to share some information with you of
3 things that we've done in Coconino County.

4 My name is, as she said, is Patty Hansen.
5 I'm the Recorder for Coconino County. I don't know if all
6 of you are aware, but Coconino County is the second largest
7 county geographically in the lower 48 states of the United
8 States. And we're home to the Navajo Nation. We have two
9 villages of the Hopi Tribe. We have a village of the
10 Havasupai at the bottom -- located at the bottom of the
11 Grand Canyon. And we also are home to a band of San Juan
12 Tribe, Paiute Tribe members.

13 The first thing I want to talk about is
14 problems with the bifurcated Arizona voter registration
15 system. And I guess I should say, as Mr. Spencer brought
16 up, that there's going to be changes coming. I was not
17 aware of that, but I'm very excited to hear that. I will
18 tell you how it's working right now.

19 It's a very complicated and confusing system.
20 And I think it's preventing many people, citizens in my
21 county, from being able to participate in voting in state
22 and local elections. The bifurcated system was implemented
23 because of the State's requirement that was included in
24 Proposition 200 to -- that voters registering for the first
25 time in a county has to prove their U.S. citizenship with

1 the State approved proof of citizenship.

2 We have two different forms because of
3 litigation that can be used to register in Arizona. And
4 the two forms: This is the State form. This is the
5 national voter registration form. Depending on which form
6 you use, which piece of paper, you're going to be treated
7 differently on your eligibility to be able to vote and
8 depending on what information you provided.

9 Currently, the national voter registration
10 form, all County Recorders are required to accept this form
11 without proof of U.S. citizenship, the State-approved proof
12 of citizenship. And if the registrant does not provide
13 that proof, then they're going to be registered as a
14 federal-only voter. These voters are only allowed to vote
15 in federal offices at federal elections.

16 The registrants that have included the last
17 four digits of their Social Security number on this form,
18 we run that form, the State does, against the Social
19 Security Administration. And if it comes back as a match,
20 they're going to be -- well, I guess I should back up.

21 There's two categories of federal-only
22 registrants. The ones that provide the last four digits,
23 it's run against Social Security Administration, and it
24 comes back as a match, are eligible to vote an early
25 ballot, because their identity has been -- requirement has

1 been met. And we code those in our system as federal only,
2 our federal-ID-only voters.

3 If they don't provide the last four digits or
4 if the last four digits does not come back as a match,
5 those voters are then in a status that we call
6 federal/no ID or citizenship, and those voters are not
7 eligible to vote in early ballot by mail. They will have
8 to vote the first time in person. So when they come in,
9 then they will show proof of identity, and they will be
10 allowed to vote the federal ballot then.

11 None of the federal-only registrants are
12 eligible to sign state or local candidate nomination
13 petitions. They can sign nomination petitions for federal
14 candidates. They're also not eligible to sign petitions,
15 local or state, initiative recall or referendums.

16 The federal-only registrants can become
17 eligible for a full ballot if prior to the voter
18 registration deadline for an election, which is 29 days
19 prior to the election, if they do come and provide the
20 appropriate proof of U.S. citizenship.

21 My office mails to our federal-only voters
22 prior to every election to inform them this is the
23 information you need to provide to be eligible to vote the
24 full ballot. If they don't, then they're only eligible for
25 the federal-only ballot. Or if it's a local or state

1 special election, they're not eligible to vote in that at
2 all.

3 In Coconino County we had 1,589 federal only
4 registrants for the 2016 General Election. The majority of
5 these registrants were out-of-state students that had come
6 to the University of Northern Arizona, and they could not
7 meet the eligibility requirements for the proof of U.S.
8 citizenship. They don't come to school with their birth
9 certificates. We cannot accept an out-of-state driver's
10 license unless it has the now-federal requirement that --
11 it indicates that they are a U.S. citizen on it. And that
12 is being expanded, but it's still not very many students.

13 A lot of them don't have passports, so they
14 just don't have the capability of meeting the requirement.
15 We currently have in our county 980 federal-only

16 registrants. Of those, 891 are ID only, and 89 are no ID.

17 I gave you some information on a study --
18 well, a report that was issued by the Citizens Committee
19 that I had in my county that looked at the future of
20 elections for us.

21 Our voting equipment is aging, and we -- as
22 Mr. Spencer mentioned, there's not federal and state funds
23 to replace it. We had received 1.3 million, I think it is,
24 funds from the Help America Vote Act, but those funds are
25 gone, and that's a huge amount of money for our county to

1 try to replace.

2 The Committee's recommendation came up with a
3 hybrid-type system, and it's basically to -- they wanted a
4 hybrid to make sure that we do not unintentionally
5 disenfranchise our rural voters and specifically our voters
6 on the Navajo Nation or the Hopi Tribe -- or the Havasupai.
7 So what we've done is they've recommended a hybrid system
8 where we would introduce vote centers in the rural -- or
9 urban areas and keep our polling place locations for the
10 rural area.

11 They wanted us to do this gradually to have
12 the citizens/voters learn about this. So currently for
13 2018 we're planning on having three vote centers: One in
14 Tuba City, which is located on the Navajo Nation, and two
15 in Flagstaff.

16 We are reducing the number of polling places
17 in Flagstaff in certain areas because of what Mr. Spencer
18 mentioned. We have a high rate of early voters, and so we
19 don't have as many people actually going to those precincts
20 or those polling places to vote.

21 I was going to talk a little bit, but I'm
22 running out of time. I do want to mention, I do support
23 ballot-by-mail elections, but I only support it with very
24 strict requirements placed upon counties that have Native
25 American populations. As Mr. Spencer mentioned, our

1 Navajo, Hopi languages are not written languages
2 traditionally, and so you can't mail an interpreter with
3 your ballot.

4 So we feel very strongly that every location
5 that we would -- that you currently have for an election
6 day polling place on the reservation needs to also be open
7 for vote-by-mail elections on election day, so those voters
8 that need the language assistance can come and get the
9 assistance they need.

10 I guess in closing, I want to stress that
11 county governments are strapped for money. And I do
12 believe a lot of the changes that are coming about are
13 being done to try to find a more cost-effective way to
14 stretch those dollars.

15 The Shelby decision that eliminated the
16 preclearance requirement has been detrimental, I think, to
17 some of the voters in our state. Election officials, we
18 use the Department of Justice as that independent set of
19 eyes to review what we were proposing. And I just know --
20 I've been doing this for 30 years and have been in Coconino
21 County since 2003. I found it very useful to have them
22 look at what we were proposing to do to make sure we were
23 not unintentionally disenfranchising any voters. It was a
24 lot of work, and I will say that on our part, but I think
25 it was very valuable.

1 I think we need to also look at when we
2 are -- the counties are looking at stretching those dollars
3 that we do not create problems for our voters that live in
4 the rural areas from having to get to a location to vote in
5 person, whether it's a replacement ballot on election day
6 or a polling place.

7 It just takes more money. It takes more
8 time. And we've got to protect those voters too. And a
9 lot of the rural voters, at least a third of them in my
10 county, are minority language voters.

11 So I want to thank you for allowing me to
12 speak and look forward to answering any questions you may
13 have later.

14 CHAIRWOMAN VAN ASSCHE: Thank you,
15 Ms. Hansen.

16 Our next speaker is Adrian Fontes.

17 MR. FONTES: Thank you very much, Madam
18 Chair, Members of the Committee. My name is Adrian Fontes.
19 I am the Maricopa County Recorder. Maricopa County is the
20 third largest voting district in the United States of
21 America encompassing a voter registration roll of
22 2.5 million voters with 2.2 on the active voter rolls. We
23 rank below LA County and Chicago Cook County. We have
24 what's easily described as a massive operation, and it
25 takes a lot of work and a lot of people.

1 From a personal perspective, I have, on
2 coming into the office about 14 months ago, endeavored on a
3 pretty vertical learning curve, working towards a CERA
4 certification, which is the highest level of election
5 official certification, equivalent to an MPA, if you will.
6 And through that I've been working with election officials
7 across the entire nation, including all the folks that are
8 here. And I've gone through the Secretary of State's
9 certification as well in this endeavor.

10 I'd like to take a moment to discuss
11 Arizona's Prop 200 proof of citizenship voter requirements.
12 Also, please note that this issue is currently the subject
13 of litigation in a case titled LULAC v. Reagan,
14 17-cv-04102-DGC in the U.S. District Court for the District
15 of Arizona.

16 Second, I'll be touching on the iniquities of
17 the requirement for providing proof of identification at
18 the polling place, but I think the argument I'm going to
19 give you is a little different than the one that you may
20 have heard.

21 Third, I'm going to be offering commentary
22 regarding the systemic misunderstanding of the voting
23 access problems on March 22nd, 2016, and that presidential
24 preference election in Maricopa County.

25 The idea first as to Prop 200 that our

1 democracy belongs in the hands of citizens alone is now
2 widely accepted as any other civic action. For the last
3 decade and a half, some will argue without any real
4 evidence for support that widespread occurrences of
5 noncitizen voting is a threat to our democracy. Many
6 states have gone to great lengths to try to solve the
7 problem with absolutely no foundation in fact.

8 Over a decade ago, Arizona voters approved a
9 measure that requires proof of citizenship in order to
10 complete the exercise of voter registration. Our practice
11 in what is now my office was to ignore the resources that
12 are on our fingertips regarding the citizenship of our
13 applicants. The practice was to oblige them to resubmit
14 actual physical documentation of their citizenship even
15 though they had already submitted the same to the State,
16 and we could quite easily have confirmed it.

17 Prior administration officials ignored their
18 own access to that Motor Vehicle Division database where
19 the State of Arizona had that citizenship information.
20 Moreover, even when instructed to check an application
21 against the database for federal form registrants and
22 knowing full well that the same check was done
23 automatically for online voter applicants, that the State
24 applications were being summarily rejected as a matter of
25 policy before I took office. And worse, the rejected forms

1 were deemed not a part of the public record and were not
2 made available for inspection under public records
3 requests. There was no possible follow-up by advocacy
4 groups, voter registration drive administrators, or anyone
5 else. 96,000 rejected voter registration forms were
6 literally stuffed away in boxes collecting dust when I
7 became the County Recorder.

8 To their credit, some of the workers in the
9 office indicated that each of the rejections were supposed
10 to have been followed up with a mailing, instructing the
11 applicant to reapply with then-required documentation. But
12 the office was not keeping any record of outgoing
13 correspondence. So there was no real way to know that any
14 of that actual correspondence took place. In short,
15 registration forms were rejected when the County Recorder
16 could have easily verified their citizenship. Rejections
17 were kept hidden from public view, public knowledge, and
18 almost no provable records were made to track the attempts
19 to help those voters.

20 Now, a small majority of those 96,000
21 potential registrants have thankfully already reapplied.
22 But we're still doing the arduous and extensive research
23 required to discover how many elections those voters were
24 denied access to after their first application in attempt
25 to register, and between that time and their subsequent

1 voter registration.

2 We're nearing the end of our research, and we
3 can confidently say that literally thousands of previously
4 rejected applicants who did not self-cure have been
5 accepted, and those citizens are now registered to vote. I
6 will hopefully be able to forward information. It will be
7 made public from our office when we're done with that
8 research. We are now performing those few key strokes
9 necessary to check to see if the applicant had previously
10 provided proof of citizenship to Arizona's Motor Vehicle
11 Division, thus the lawsuit, where we find we have
12 registered those voters up and down the Valley.

13 As a full partner in Arizona's government and
14 having normal access to this database in order to verify
15 the citizenship of any registrant or potential registrant,
16 I found it absurd that we would deny citizens the right to
17 vote under the policies promoted by my predecessor or
18 allegedly provided in law. Sadly, some folks in Arizona
19 still think that we should be denying eligible U.S.
20 citizens the right to vote even when their citizenship
21 information is literally at our fingertips.

22 My reason for discussing this first issue is
23 clear. This is not just about election day. Obviously as
24 Mr. Spencer and Ms. Hansen have discussed, and I'm sure
25 we'll be discussing momentarily, voter registration is the

1 gate point, and we have to be looking carefully at that.

2 I will move to proof of identity at the polls
3 requirements. In almost every precinct in Maricopa County,
4 we've seen growth in the number of registered voters as our
5 population expands significantly. But we also see a
6 precipitous decline in the number of voters who do not use
7 the permanent early vote list.

8 Unlike the diminishing number of non-PEVL
9 voters -- these are election day polling place voters --
10 all early voters' identities are subjected to a higher
11 level of scrutiny by our office than those who present ID
12 at the election polling places.

13 Voter ID presentment to the temporary
14 election staff is required in Arizona. But voters who
15 return an early ballot have their identities confirmed
16 through signature verification recognized by the IEEE as a
17 much more high set of scrutiny for identification purposes.

18 It is true, particularly where large numbers
19 of temporary employees are hired en masse to conduct these
20 ID document screenings, that we've got a bit of a disparity
21 between those who are mailing them in and those who vote on
22 election day. This disparity causes us to look -- to lean
23 towards the idea that in order to increase the integrity
24 and security of an election, a strict scheme of signature
25 verification is preferable over document identification

1 presentation at polling places.

2 The stark difference in requirements for
3 polling place voter and mail-in voters should not be more
4 important. To be clear, ballots sent in the mail undergo
5 signature verification process performed by staff who are
6 trained using the same methods used -- employed by the FBI.
7 The verification is also subject to realtime audit and
8 multiple levels of inspection while the verification
9 process is underway. ID at the polls, however, is a
10 one-shot glance with no possible verification by experience
11 from the staff, no constant auditing, and no opportunity
12 for additional levels of review.

13 Every envelope that we receive is signature
14 verified, and anyone who chooses on election day could also
15 subject those ballots to signature verification.

16 I'll skip through this real fast by
17 indicating that we have established a methodology in
18 Maricopa County by which every voter can have a ballot
19 printed on demand on election day, thus eliminating the
20 security problems of loose ballots around, and have an
21 accompanying affidavit envelope printed at the same time.
22 They can have their ballots then signature verified like
23 1.3 million other voters had their signatures verified in
24 the fall of 2016. Thus, all voters, whether they're at the
25 polls or by mail, will have their ballots treated exactly

1 the same way, which I think leans towards the idea of
2 administration of justice that the Chair mentioned in her
3 opening remarks.

4 Let me talk briefly about access to the March
5 2000 -- in the March 2016 Presidential Preference Election.
6 And I'll come off of my prepared remarks for a moment.

7 The big problem people are leaning towards --
8 and I think Eric mentioned this very well -- is that we're
9 looking at the metric of number of polling places. This is
10 totally wrongheaded. For anyone that knows anything about
11 elections administration, what we're talking about is the
12 robustness of the resources, access over time, and the
13 locations and the capacity of those locations to be robust.

14 In 2016, each of the 60 polling locations was
15 designed as if it was 1 of 724. There were only two
16 check-in lines. Had there been 15 or 16 at each of those
17 locations, which was what was contemplated by the folks in
18 the department, not by leadership deploying resources,
19 there would not have been this problem, and I wouldn't
20 probably be sitting here.

21 The reality is, factors like how many days
22 are these places available, what is the access in the
23 parking lots, also accessibility to mass transit if it's
24 available in those sorts of places. We in the elections
25 field understand very clearly that to look at just the

1 number of polling places and to cast aspersions based on
2 that is nonsensical.

3 Additionally, there was a communication
4 problem. The office chose not to try -- to try to not
5 confuse voters by saying -- and the reason was there was a
6 city election in Tempe the same month that the Presidential
7 Preference Election occurred. And so the office chose not
8 to inform anybody about the specifics of the Presidential
9 Preference Election because they didn't want to,
10 quote-unquote, confuse the voters. Now this I heard from
11 staff after I got there.

12 And what it basically means is that there is
13 a level of condescension and arrogance that applies among
14 folks who work in government. And we have to look at it
15 from the voter's perspective, not from the government
16 administrator's perspective. We have to meet them where
17 they are, give them straightforward instructions, and they
18 will usually follow it.

19 For example, a presidential preference
20 election in Arizona is not a primary election. In an
21 August primary in Arizona, any voter who is not registered
22 with a party can pick a party who has an open primary. If
23 you're an independent, you can pick a D or an R ballot.
24 But in a presidential preference election, that rule does
25 not apply.

1 Unfortunately, we had state level officials,
2 none present today, who were informing people on TV that
3 they could vote. And so the confusion -- imagine sitting
4 behind one of those technic stations and it takes you six
5 to eight minutes to fill out a provisional ballot, and the
6 person in front of you is insisting that they want to vote,
7 and you know it won't count.

8 You just diminished your capacity to process
9 voters through the check-in system by 50 percent. And
10 you've got to keep that line at 50 percent until someone
11 comes to the person next to you, and they've got the same
12 question and have to be given the same sort of response.

13 March 2016 wasn't about closing the polling
14 locations. It wasn't about the evils of vote centers. It
15 was about logistics and line management and data. And none
16 of those were taken into consideration when that system was
17 deployed on that day, unfortunately for the voters. Now,
18 some of those things got fixed, and some of those things
19 we've been working on. Both my colleagues over here, I'm
20 sure you will mention some of this stuff too.

21 We look at what's going on in the world, and
22 we look at where we're at as far as the behavior of the
23 voters. We've got precincts in Maricopa County who have
24 three, four, five and sixfold increase in the number of
25 registered voters. And the election day precinct turnout

1 has gone from, one example I know of, something like 2400
2 voters in 2006 to 12 voters 4 years ago.

3 We cannot ignore where the people are going.
4 We are going to meet them where they're at. And we're not
5 also not going to spend 15- to \$20,000 in a polling
6 location to serve 12 voters. That's unrealistic.

7 And so what I'm hoping for is that when we
8 make decisions and recommendations and when we make our
9 commentary moving forward, we discuss the real issues at
10 hand, the facts and the data on the ground and consider
11 that this is not simple as some people say. Elections are
12 complicated, logistical endeavors. And they are
13 surrounding a very fundamental constitutional right.

14 I do certainly appreciate the opportunity and
15 the invitation to come and discuss. Hopefully, I didn't go
16 too much over time.

17 CHAIRWOMAN VAN ASSCHE: You did not. Thank
18 you, Mr. Fontes.

19 Our next speaker is Lisa Marra.

20 MS. MARRA: Good morning, Madam Chair,
21 Members of the Committee and Guests.

22 My name is Lisa Marra. I am the Elections
23 Officer, the Director of Elections for Cochise County.
24 Unlike my colleagues, Ms. Hansen and Mr. Fontes, I am not
25 an elected official. They are elected recorders. I am

1 appointed by our board of supervisors. So I think that's
2 important for you to know.

3 I have been the Elections Director for almost
4 six months now. I do have an intimate working relationship
5 of elections as I've been with the Board of Supervisors for
6 five years, so I've been intimately involved through the
7 last few elections.

8 But thank you so much for the invitation to
9 speak with you this morning and address some of the
10 concerns that you had regarding our county as noted in the
11 November 2017 project proposal regarding voting rights in
12 Arizona.

13 While we have an enormous legal obligation to
14 our voters, frankly, we have an even greater and moral and
15 ethical responsibility to ensure that every voter who
16 wishes to vote is able to do so in the manner they choose.
17 Our elected officials and this Election Department take
18 that duty very seriously. It's so important to us. That's
19 why we accepted the invitation to come speak to you
20 directly today.

21 Cochise County, which borders the country of
22 Mexico to the south and the state of New Mexico to the
23 east, was established in 1881. We've been doing elections
24 for a very long time in Southern Arizona. We're a very
25 large, geographically speaking, county, covering slightly

1 over 6200 square miles, most of that in high mountain,
2 rugged terrain, not inhabited by a lot of residents.

3 Cochise County has lost population
4 consistently each year since 2010. Over 3,000 residents at
5 last count. As you can imagine, that's been a huge impact
6 to our economy. Much of that population loss was
7 attributed to sequestration and the Fort Huachuca Army
8 Post, which is our largest county employer.

9 Most recent statistics show our population is
10 now at 128,000. And of that, roughly 99,000 -- I rounded
11 those off just a little bit -- are at or over the voting
12 age of 18, which is what we're talking about, people that
13 can vote. Nearly 70 percent of those residents are
14 registered voters.

15 As of March 1st, we had almost 70,000 active
16 voters registered in our county. And of that number,
17 almost 60 percent are on the PEVL, the permanent early
18 voting list. We see that number, like everybody else,
19 increase every year as people move to the convenience of
20 voting by mail, taking their time to research the issues
21 and candidates and cast their vote, while at the same time
22 never missing an election they're able to participate in.
23 That's incredibly important when we look at smaller
24 elections, such as special districts and school district
25 elections.

1 One of the biggest differences, again,
2 between our county and the other two represented today, is
3 that we report directly to the Board of Supervisors. And
4 these election departments are managed under Recorders.
5 It's an important distinction in our case as our board is
6 made up of three supervisors in our three districts. That
7 being said, we have an incredibly sound, working
8 relationship with our County Recorder, and that's key.
9 Because while this office is specifically responsible for
10 certain elements under State statutes, that department's
11 office is actually responsible for specific requirements.
12 And then there are many things that we have to work
13 together jointly on. And I'd like to say we do that
14 successfully through every election cycle.

15 So I'd like to address two points that
16 specifically refer to our county as noted in your report.
17 Under the category of access to polling locations, we
18 believe we did not close 63 percent of the polling
19 locations. We actually expanded into 18 vote centers.
20 And, again, that allows eligible voters the opportunity to
21 vote a location of their choice. They're not assigned to
22 particular polling locations.

23 We did extensive research in our county
24 before we made that move with a panel of local experts. We
25 also had complete transparency during the process and the

1 evaluation process with the public. The move to vote
2 centers is not unique to our county, and it's happened
3 successfully across the nation.

4 We factored in things like location, access
5 for voters, including ADA compliance, which is huge,
6 Internet and Wi-Fi connectivity and lighting, among other
7 things. Our vote centers are strategically located
8 throughout our county and are still within a 5, plus or
9 minus, radius to the precinct polling locations we used in
10 the past. Again, our population has significantly
11 decreased, and people are voting by mail.

12 In a rural area like ours where people
13 sometimes drive well over an hour to get to work, school,
14 doctors' appointments or shopping, it makes it much easier
15 for people to vote when and where they want to cast their
16 vote. It also eliminates the problems of voters showing up
17 at the wrong polling location to cast their vote and
18 provisional ballot, which is obviously very costly and
19 time consuming for voters. As Cochise County is so spread
20 out, being able to vote where you want to is really
21 critical for our residents.

22 So the move to vote centers after months of
23 research has been incredibly well received by residents.
24 The Board of Supervisors invested approximately \$1 million
25 in 2015 -- and I'll say that again, a million dollars -- to

1 purchase a totally new end-to-end voting system for our
2 residents. This new and secure touch screen technology has
3 also been well received by our voters.

4 So while it may appear we went from 64
5 precincts to 49 precincts and now to vote centers, we've
6 actually just increased our voter's ability to cast their
7 vote in person if they choose. We're very proud of that
8 accomplishment.

9 I point this out about the money we spent,
10 because those funds came straight out of the General Fund.
11 We didn't have a replacement fee built into our election
12 schedule when we charged other people to do elections for
13 them. It's also relevant that the move to vote centers and
14 that new equipment came at that cost of a million dollars,
15 and it didn't save money to the County, certainly. That
16 move was made specifically for the convenience and the
17 ability of our voters to exercise their constitutional
18 right to vote. We don't have another million dollars
19 laying around anytime soon, and our HAVA money, like
20 everybody else, has long since disappeared.

21 The second point I'd like to clarify in your
22 report is under language access. The info in the report is
23 from 2006. That's over 12 years ago. We've since
24 instituted major changes in how the Elections Department
25 operates. It's constantly evolving.

1 The report states that almost 30 percent of
2 the residents are Spanish speaking. And while that is very
3 true, it's misleading to think that that group of people
4 only speak Spanish. According to census data, which I did
5 provide to you, population of residents over the age of 18
6 who can vote who speak English less than, at least, very
7 well is about 9,000 people. If we lower that threshold to
8 people that speak English well, it lowers it down to about
9 another 7,000 people. So these may or may not be active
10 registered voters.

11 But I will say in our county that all
12 election-related information as well as ballots is always
13 provided in English and Spanish, and every vote center has
14 at least one Spanish speaking poll worker or staff member.
15 Currently two of the three -- and I only have three people
16 in my department -- two of the three people speak English,
17 Spanish. They read, they write both languages.

18 Voters can choose to go to a vote center on
19 election day to have their option to read or listen to the
20 ballot in the language of their choice. They have the
21 option to switch back and forth between English and Spanish
22 if they so choose. We take the ability to communicate with
23 all of our residents, not just our voters, very seriously.

24 Language translation's also readily available
25 in every department in our county. We don't believe that

1 language is a barrier to voting in Cochise County.

2 So in closing, I don't know what happens in
3 other states across the nation. I can't even speak as to
4 what happens in other counties in Arizona, although I feel
5 very confident that my colleagues, and everybody else who
6 isn't here today, is -- we've made great strides in voting
7 rights here.

8 I can address how elections are handled in
9 Cochise County. And I state with personal and professional
10 confidence that I know every eligible voter who wants to
11 vote in our county is able to do so in the manner he or she
12 chooses in a safe and welcoming environment. And every
13 vote is processed and counted in accordance with federal
14 and state law. That, I'm sure of.

15 On behalf of the Cochise County Board of
16 Supervisors, I thank you for the opportunity and the honor
17 to address you this morning.

18 CHAIRWOMAN VAN ASSCHE: Thank you, Ms. Marra.

19 We will open it up to questions from the
20 committee. So if the Committee has any questions, please
21 raise your hand.

22 We'll start with Melissa Ho.

23 MS. HO: I do have a question about
24 distribution of information, in particular to those who
25 have been through our State criminal justice system. So

1 for those in Arizona convicted of a first felony, my
2 understanding is your right to vote is automatically
3 reinstated upon termination of probation after discharge.
4 That may not be the case if you've been convicted of an
5 out-of-state felony or a federal crime.

6 But my question is whether or not -- we have
7 concerns that that information is not readily available,
8 and for those who have been through really any criminal
9 justice system, whether or not they have the information
10 available to them so that they understand they may
11 automatically already be eligible to vote or need to take
12 certain relatively simple processes to get that privilege
13 reinstated?

14 MR. FONTES: I can address from Maricopa
15 County's -- this is Adria Fontes. I can address.

16 We have been looking carefully at this
17 circumstance. Because at the end of the day, the Registrar
18 of Voters has no way of knowing when someone is finally
19 discharged after the final termination of their felony
20 probation and their fines or whatever.

21 So the lack of information coming to us from
22 other divisions of government, while no excuse, really is,
23 I think, the barrier. Insofar as the point of your
24 question, the information going out to those individuals,
25 again, I don't know, nor can I speak to what the criminal

1 justice system does regarding what happens to those folks
2 after final discharge, whether or not information gets to
3 them regarding this or how they may be advised early on,
4 either at sentencing or at some stage of the processing
5 later. So we're really now looking into these
6 circumstances in our office.

7 We had a couple of community groups and the
8 ACLU come talk to us about putting together some work
9 groups and trying to figure out some solutions to that
10 problem. I don't have an answer, but we are working
11 towards figuring out some solutions if we can.

12 MR. SPENCER: Hi. This is Eric Spencer
13 again.

14 Your comment is timely, Ms. Ho. I had a
15 conversation with Sandra Solis from the ACLU yesterday, and
16 I think we reached a framework agreement on a few things.

17 Number one, that we're going to work with the
18 ACLU to create what we think is a first time in elections,
19 sort of, guidebook on what it takes to go through the
20 criminal justice system to have your voting rights
21 restored. Us as elections officials know enough about the
22 provisions in Title 13 to recite exactly what you did,
23 which is -- you know, voting rights are restored
24 automatically for the first time. They must be just
25 restored judicially for a second offense.

1 And we've got a page of new material about
2 this in our new election procedures manual. But what we
3 discussed yesterday was, there's no authoritative guide
4 issued by the government that we know of that could be
5 given to folks going through the criminal justice system or
6 have recently come out of that process that they could use
7 to understand what they need to do through the courts under
8 Title 13 and Title 12 to restore their voting rights.

9 So we're going to be working together to
10 create that. And at minimum, it would be on our Secretary
11 of State website and be distributed to our county partners.
12 But that's something we agreed to just yesterday.

13 Second, as part of the forthcoming revision
14 that we need to do to our voter registration form for
15 several reasons, one of them will be clarification of
16 automatic restoration of voting rights for felons.
17 There's -- as you may know, there's some boilerplate
18 language in the attestation on the voter registration form
19 that -- that does make an oblique reference to not being
20 able to vote if you're a felon unless your civil rights
21 have been restored. But voters need more information about
22 the automatic restoration process, and that is going to
23 appear on the next iteration of the voter registration
24 form.

25 Finally, unless something has come into my

1 e-mail in the last couple minutes, Ms. Solis agreed to help
2 draft a new provision that we will insert in the elections
3 procedure manual that is nearing completion that addresses
4 this very subject.

5 MS. HO: Thank you.

6 MS. WALKER: I have a follow-up question.
7 This is Beverly Walker. I have a follow-up question to
8 that.

9 So is there a process that someone who -- a
10 first-time convicted felon, is there a process that they
11 can go through prior to elections right now to determine
12 whether or not they're eligible to vote before they
13 actually show up at a polling place and are told that
14 they're not eligible?

15 MR. SPENCER: This is Eric again.

16 In the elections world, no election official
17 will deny your voter registration, nor dissuade you from
18 registering a vote based on your felony conviction status.
19 That is not our role.

20 So beyond educating the voter that once they
21 have served their sentence, paid their, I guess,
22 restitution or served their probation, we educate them
23 about the restoration process. But we take every voter
24 registration form that comes in. So no one would ever be
25 turned around from the polls or have their form handed back

1 to them on the basis of a felony conviction.

2 So I'm not sure what voters can do right now
3 except complete the terms that they would have been
4 sentenced.

5 MS. WALKER: So I guess a better way of
6 asking that question is how can someone in that position
7 ensure that their vote will be counted, that their vote is
8 going to be taken into consideration? How -- is there a
9 way to verify before, you know, the day of the election
10 that they are eligible to vote?

11 MR. SPENCER: I'll just answer one tiny piece
12 of that, by the way, which is, under state and federal law
13 a felony conviction triggers cancelation of the voter
14 registration, but that's the limit about what election
15 officials do. It's canceled upon election officials
16 receiving notification from a state or federal court that
17 they've been convicted of a felony. But after that
18 cancelation, then it's up to the voter to reregister
19 quickly.

20 And I'm sure Ms. Hansen and some other
21 officials will talk about the ways that voters can verify
22 whether they're registered.

23 MS. HANSEN: Well, what Mr. Spencer said is
24 correct, that in our office, what we do is we cancel the
25 registration. You're mailed a letter saying that -- why

1 the registration is being canceled. And it does include
2 that to become eligible, when you become eligible again,
3 you need to reregister. It doesn't automatically come
4 back.

5 MS. WALKER: Thank you.

6 CHAIRWOMAN VAN ASSCHE: Do we have any other
7 Committee members who have questions for the panel?

8 David Kim has a question.

9 MR. KIM: Sure. This is directed at
10 Mr. Fontes.

11 During your testimony, you alluded to the
12 fact that 96,000 voter registrations were rejected. I
13 wanted to kind of follow up on that. Were they improperly
14 rejected? And if not, what is the problem that you see?
15 Because 96,000 is a lot of people. It's one thing if they
16 were improperly rejected, but if they were properly
17 rejected, is there some follow-up concerns that you have
18 with that?

19 MR. FONTES: Thank you for the question.
20 This is Adrian Fontes.

21 The discovery was made when I was, you know,
22 trying to figure out how we actually processed things. And
23 what we realized quite immediately was, while on the one
24 hand we were -- we knew that if someone was registering
25 online, they were automatically -- their voter

1 registration, through servicearizona.com administered by
2 the Secretary of State's Office, automatically checked with
3 MVD to see if that voter registration or citizenship
4 applied.

5 There's a provision in the election manual,
6 the election procedures manual, that indicates that
7 citizenship should be checked if there's enough information
8 on the federal form. And we are instructed to do that with
9 federal form voters. And if we find that there is a valid
10 citizenship, then we would go up and down the ballot.

11 Now, looking at these two procedures and
12 looking at what the procedure was for state forms in that,
13 if there was no actual physical form attached to the
14 document, then those were to be rejected.

15 As a policy matter, I looked at that and
16 said: Why? Why in the world would we have a law or an
17 interpretation of the law, elections to be more precise,
18 that indicates that even if we have definitive proof that's
19 good enough for two different types of systems and we have
20 access to that proof, why should we be rejecting these very
21 same, otherwise eligible voters?

22 And I couldn't come up with a good reason
23 why. And so I decided as a matter of policy that we would,
24 as a subdivision of the State of Arizona, take the fact
25 that the voter -- the citizen had already provided their

1 proof to the State of Arizona and apply that with the
2 registration and go ahead and register those voters. It
3 just seemed the right thing to do as a matter of policy
4 because they have already submitted that proof of
5 citizenship to the State of Arizona, and that knowledge
6 already basically sits inside of our office.

7 And I know that there are some folks who
8 would rather it be much more difficult and arduous for
9 people to register to vote. I don't fall into that
10 category, and so that's really why.

11 Directly to that question, did I see a
12 problem with what was happening? I think there was a
13 little bit of a difference in how the law was being
14 applied. I don't think, however, that there was anything
15 of a malicious or nefarious intent behind that. I have no
16 reason to believe that.

17 MR. KIM: Thank you.

18 MS. HANSEN: Can I also just add something to
19 that? I left this out of my presentation.

20 If you use the State form, there is not proof
21 of citizenship, we are -- and it's the first time to
22 register, we're to reject the form. It's never an accepted
23 form. And the only way the registrant can get registered
24 is to fill out an additional form and submit it. It cannot
25 be cured.

1 Where with this form, if you leave it off,
2 you do get to be a federal-only voter. So it depends on
3 which piece of paper you use to register to vote.

4 MS. FERGUSON: Hi. I'm Patty Ferguson. I
5 thank you for all for being here.

6 I have -- I have -- I'll start with this one
7 question. If I have time, I'll ask the Chair if I can ask
8 another question.

9 But I think a few of you mentioned language
10 and language coverage with regards to Native Americans.
11 And it seems to me after the 2016 election that nine
12 reservations were covered, and now only two are covered
13 according to the Section 203 determinations.

14 However, it appears that there's still Native
15 language speakers who may need assistance, and there are
16 concerns about the sampling that was used to obtain the
17 data as well. And I'm wondering if there have been any
18 conversations on how outreach will continue to those Native
19 language speakers. I guess, Mr. Fontes, that would be from
20 the O'odham speakers, and I think for Ms. Hansen, Hopi is
21 the primary reservation, but I think a couple other
22 reservations were also included. And I know, Mr. Spencer,
23 you mentioned some of the languages. And now we had nine
24 tribes before, and now there are only two, although the San
25 Carlos Apache were added because they weren't covered under

1 the previous determination.

2 MR. FONTES: Briefly, the O'odham language is
3 no longer covered under Section 203. That's one of the
4 ones that fell away from mandatory coverage, but that
5 doesn't mean we're not going to provide those orders with
6 those services, and we still do, and we're happy to. And
7 we have five tribes that have some space within Maricopa
8 County.

9 And in our office, what we've done is
10 established a -- sort of a series of community engagement
11 forums where we've gone -- in the last year, twice we've
12 met with representatives and a variety of our Native
13 American peoples to discuss these issues and how we can
14 really get a little more of a robust coverage for those
15 needs. Those discussions are ongoing.

16 But we're only using the Section 203 for -- I
17 think the problem is that a lot of us look to Section 203
18 of what we're mandated to do, and we're not looking at the
19 communities and what would be the right thing to do. And
20 so that's why we have these folks.

21 And it's not just our Native American
22 communities. We have a whole host of different focus
23 groups, and focus groups is one of the really advisory
24 committees. We gather together in our offices and in
25 different places around Maricopa County to talk about the

1 issues particularly to each of these individual groups and
2 try to figure out how to overcome some of these obstacles.

3 So we're certainly working on it. I can't
4 tell you exactly what specific plans we have today. I'm
5 not prepared to discuss that. But the language is
6 certainly still provided for on our -- I want to call it
7 the Edge machine. Yes. So we -- because it is a spoken
8 ballot, we still provide those services in spite of no
9 longer being under 203.

10 MS. FERGUSON: Thank you.

11 MS. HANSEN: Patty Hansen.

12 In our county, you're correct, the Hopi
13 language is no longer covered and neither is the Yuman
14 language for the Havasupai. But as Mr. Fontes said, we
15 believe it's very important to continue working with the
16 tribes.

17 And on election day and at our Tuba City
18 early voting site, we always make sure that we have a Hopi
19 speaker there. And we have a very good relationship with
20 the Hopi election administration as well as the Navajo
21 election administration.

22 So we are not doing anything different than
23 we were doing before when we were under the coverage. And
24 we'll plan on continuing to provide those language --
25 minority language speakers with the information and tools

1 they need to be informed voters.

2 MS. BOHNEE: Thank you.

3 CHAIRWOMAN VAN ASSCHE: Did you --

4 MS. BOHNEE: I have a separate.

5 CHAIRWOMAN VAN ASSCHE: Yes. If we have
6 time, we can come back.

7 Do any of the other panelists have a question
8 they'd like to ask?

9 And that is Theresa Rassas.

10 MS. RASSAS: Okay. So assuming that crime
11 victims fit under one of the protected classes that we're
12 focusing on, which I'll point out for the benefit of
13 everyone is race, color, national origin, disability status
14 or religion, not gender. But assuming that crime victims
15 fit under the one of the protected classes we did choose to
16 look into, frequently we see that crime victims are given
17 the opportunity to get a new identity, especially domestic
18 violence crime victims, once the offender is released from
19 prison. They get the chance to get a new identity.

20 Have you seen any disparate impact in that
21 process in those people's ability to register to vote and
22 then to participate in elections?

23 MR. SPENCER: This is Eric Spencer again.

24 Well, as you may know there are two ways to
25 receive legal protection under Arizona law when it comes to

1 voting and anonymity. One is under 16-153 for law
2 enforcement, judges. But there's also a -- victims of
3 domestic violence who receive an order of protection are
4 also covered under 16-153. And as a result of that, there
5 are certain benefits, such as not having to put your name
6 on a candidate petition on one hand. Your very limited
7 amount of information could be produced by the county; you
8 know, I think just your name and one or two other items of
9 information. So your anonymity is protected that way.

10 The other way is through the Secretary of
11 State's Address Confidentiality Program, which is under
12 Title 41 for victims of domestic violence, stalking,
13 et cetera. And that's an even more fulsome program where
14 not even your precinct or your county can be disclosed at
15 all.

16 So as a matter of public records law, we and
17 the counties don't -- don't produce their names even in
18 response to public records requests. And the Secretary of
19 State's Office, we take it really seriously. Our Program
20 Director, those folks are required to register as early
21 voters and receive their ballot through the mail, not go to
22 the polling place where their signature would be captured
23 in any kind of a signature roster.

24 And we at the Secretary of State's Office
25 provide them a faux address, and all of their mail comes to

1 us. It's a -- it's a -- it's an address that exists, but
2 don't try to go there because you're not going to find any
3 human beings there. So we route all of their mail to us,
4 and then we confidentially route it back to the voter to
5 make sure they can fully participate.

6 So we do our best. And there was tragically
7 a member of the ACP program, I think, was disclosed a
8 couple years ago in a court proceeding. And all of us in
9 the election world are vigilant about these voters never
10 being exposed and yet retaining full and complete
11 unfettered access to the electoral process.

12 MR. FONTES: If I can just add -- this is
13 Adrian Fontes -- I do think, though, in that sort of
14 circumstance, while I don't have as much personal
15 experience in that world as I have in prior lives in the
16 criminal justice system, I do think that there is probably
17 room for improvement regarding the infusion of information,
18 particularly as to this population regarding the services
19 that are available through the Secretary of State's Office
20 and the various protections that we have in our scheme.

21 CHAIRWOMAN VAN ASSCHE: Yes. We have another
22 question. If you could please state your name.

23 MS. KENNEDY: I'm Dana Kennedy.

24 My question is: There's such a trend of
25 people voting by mail and the verification of signatures.

1 As people age, you know, the likelihood of getting macular
2 degeneration or Parkinson's would probably -- you might
3 question their signature. So what's the process as far as
4 if you do question a signature to be able to verify it?

5 MR. FONTES: Our signature verification
6 system includes the capturing of signatures over time, and
7 so we have a series of signatures. We can actually look
8 back, given a necessity to older signatures on different
9 forms and documents at the County Recorder's Office. So we
10 have a lot of captured data that we can use to see those
11 things.

12 It's always been a concern of ours -- and
13 that's one of the other reasons why we ask for the voters
14 to give us their phone number as well. Because there are
15 certain bits of identifying information inside the voter
16 record that we can use to actually call and check and have
17 the individual actually verify, "Yes, I did submit my
18 ballot." And, you know, everything from, "I broke my
19 wrist" to, you know, I have, you know, some kind of other
20 sort of infirmity or disability that is recently onset.
21 And so we do everything that we can to try to get those
22 signatures verified.

23 And in fact, after the fall of the 2016
24 election and during the signature verification process -- I
25 don't want to get the number wrong, but as I recall it was

1 something in the 23- or 24,000 voters that we contacted
2 to -- because we wanted to verify that something hadn't
3 changed or had happened. It's a robust process behind the
4 scenes to make sure that we get those voters -- to get
5 those ballots counted.

6 MR. SPENCER: This is Eric Spencer. I can --
7 oh, I'm sorry. Were you going to go, Pat?

8 I just want to add three quick things.

9 Number one, it's not just degeneration over
10 time. Students as well. I mean, students don't have an
11 established signature. I go through every election trial
12 that there is, and I've seen voters on the stands. And the
13 concept of matching a signature to what you signed on the
14 voter registration form assumes you have a signature, which
15 isn't the case for a lot of voters.

16 So I think counties are professionals. They
17 already know that. They take that into account, and I also
18 think the training, you know, the FBI training that
19 Mr. Fontes mentioned, incorporates that concept that a
20 signature is not a static concept. It evolves over time.

21 Lastly, I would like to mention that there's
22 been a little bit of a legal debate in the election
23 community about what signature you're allowed to consult
24 for the purpose of verifying an early ballot. And the
25 statute does say your voter registration signature.

1 But the forthcoming iteration of the new
2 procedures manual expands that concept to say that a
3 recorder has a duty to check the voter registration
4 signature, but is not limited to checking that signature.
5 Because we capture signatures whether they're on a
6 candidate petition. We've got your MVD signature. We've
7 got the signature on a signature roster at the polling
8 place. Counties collect lots of signatures beyond just the
9 one in the voter registration form, and the new manual
10 allows the county to consult that array of signatures that
11 it can make a more informed decision about whether or not
12 to count that ballot.

13 MS. HANSEN: Yeah, if I can just add -- this
14 is Patty Hansen. If I can add, in our office, and I think
15 in almost all the Recorders' office, there's levels that we
16 go through, that we don't go on just one person's
17 evaluation. So how we approach the signatures is to try to
18 look for similarities, not to look for things that you're
19 going to throw the signature out on.

20 And so we also have a tracking form. So it
21 will go to the first two people, and then a phone call is
22 attempted. If we don't get an immediate response, then we
23 will go with sending a letter. We are now trying -- we do
24 have some email addresses on registration forms, so we will
25 send e-mails, and we will also try texting because almost

1 all the calls are text -- are cell phones now.

2 CHAIRWOMAN VAN ASSCHE: Any additional
3 questions?

4 MR. ROSE: This is Jonathan Rose.

5 Years ago in Arizona, there's a practice of
6 teams of people who went to polling places to challenge
7 voters. It got a lot of publicity at one point in time,
8 and voters were intimidated. I wonder if that still goes
9 on, that advocacy or partisan groups come to polling places
10 to challenge the ability of particular individuals to vote,
11 and how that was -- how that is dealt with in the past.

12 I don't really have any information of
13 whether it occurs. I was sent once many years ago to sort
14 of watch the challenges, and I just wondered whether that
15 still goes on and how you deal with it.

16 MR. FONTES: This is Adrian Fontes.

17 Not having been around for a general cycle
18 yet, I can't speak from personal experience. But we have
19 had these discussions in our office on how to handle these
20 sorts of things as we move forward, looking at our
21 procedures and how we administer elections and how our poll
22 workers administer these elections moving forward.

23 Now, we did have a special election recently
24 in Congressional District 8 where we did experience a
25 couple of individuals outside of one of our polling places

1 who were looking for petition signatures for other
2 candidates, things of this nature. It wasn't a
3 confrontation of the character that you describe in
4 challenging voters, but it did become a nuisance. And so
5 what we did was we worked with our folks in the rest of the
6 county government, which includes the sheriff's office, and
7 we asked them to assist us in making sure that the voters
8 had open, clear, and easy access to a polling place.

9 Our judges on the ground, our marshal there
10 at the polling site was pretty vigilant and did track that
11 pretty well. So insofar as my experience, I haven't heard
12 of anything either from staff going back several election
13 cycles about this being a major issue. We did have that
14 one incident, in full disclosure. It was dealt with
15 relatively quickly, and there were no major disruptions
16 that I can speak to.

17 So I'm not -- I'm not certain that that is --
18 particularly given the ease of communication I think that
19 we have now, those sorts of things, I'm hoping, and if I
20 can -- I don't know if this is wood -- I'll do this one --
21 I hope it will be a thing of the past.

22 MS. HANSEN: This is Patty Hansen.

23 And we work with our county parties prior to
24 the elections because they're the ones that are the only
25 groups that legally can send people in to challenge voters.

1 And I'm happy to say that we have not had problems with
2 challenges. We have observers that come in from the
3 political parties, but nothing with challenges.

4 I know the Secretary of State's Office, I
5 believe, you have spoken to political parties and actually
6 have a training for observers. So . . .

7 MR. SPENCER: Yeah. This is Eric Spencer.

8 First of all, I bring in some knowledge from
9 my prior life as an election litigator. The long-time
10 existence of a consent decree governing the Republican
11 Party has had a very strong, long-lasting effect of
12 precluding challenges as a matter of policy.

13 There's always been a provision under Arizona
14 statute to challenge a voter at the polling place for
15 ineligibility. But as a matter of practice, that consent
16 decree has done a lot of good to prevent that from being
17 abused, number one.

18 Number two, in the lead-up to the 2016
19 General Election, there was a lot of fear in the election
20 community about potential violence and intimidation that
21 could have resulted at that General Election. And as a
22 result, we put out guidance that now has been formalized in
23 the new procedures manual about spotting factors that
24 ostensibly are legal and lawful in the name of challenging
25 or observing, but taken to an extreme can have the effect

1 of intimidating voters and suppressing the vote.

2 So now we have some pretty extensive guidance
3 about what are those early signs of making sure it doesn't
4 get out of control. But from my experience as State
5 Election Director, I think it's a rare event.

6 And like Ms. Hansen mentioned, this will be
7 the first election cycle where we conduct at the Secretary
8 of State's Office a training for observers of the political
9 parties. It's not a mandatory training, but at least this
10 will be a statewide resource that we offer on video, live
11 stream, and in person that will provide statewide guidance.
12 And one of the key provisions in that training will be the
13 relative obscurity of the challenge process and the
14 potential for it to be abused if it's not utilized
15 correctly. But, thank goodness, it has been rare that that
16 practice has been engaged in in my experience.

17 MR. ROSE: May I ask a follow-up question?

18 CHAIRWOMAN VAN ASSCHE: Yes.

19 MR. ROSE: When was that consent decree
20 entered, and who were the parties to the lawsuit?

21 MR. SPENCER: I think it was in the late '70s
22 in New Jersey, the Republican National Committee, and it
23 comes up for renewal every couple years. I don't know what
24 happened with the most recent renewal in the last six
25 months, whether it expired or not. But, you know, when I

1 was a brand new election litigator, it was the first thing
2 I was taught which was to never go to the polling place and
3 challenge. It's bad stuff.

4 MR. ROSE: And that New Jersey consent decree
5 applies to Arizona?

6 MR. SPENCER: I believe it governs
7 nationwide.

8 MR. ROSE: Thank you.

9 CHAIRWOMAN VAN ASSCHE: Mr. Spencer, during
10 your prepared comments, you began to speak about the
11 technological advances with proof of citizenship, and I
12 believe you ran out of time. I'd like to follow up and ask
13 what you were going to tell the panel today -- or I'm
14 sorry -- the Committee.

15 MR. SPENCER: Well, this dovetails a bit with
16 Mr. Fontes's earlier testimony.

17 And in 2004, voters passed Prop 200 which
18 required proof of ID when voting and proof of citizenship
19 when registering. In 16-166(F), it requires a voter using
20 a State voter registration form to submit accompanying
21 proof of citizenship.

22 And I think our definition of the word
23 "accompanying" has begun to evolve in light of
24 technological advances. The Secretary of State's Office
25 has a statewide voter registration database that

1 communicates with the Motor Vehicle Division and has the
2 ability to differentiate license classifications between
3 types of licenses that are issued to drivers and ID
4 cardholders that require citizenship to be proven versus a
5 narrow class called a Type F license that may be issued to
6 noncitizens. And our databases always had the ability to
7 find those.

8 We also have an agreement with the Department
9 of Homeland Security to verify citizenship against the SAVE
10 database. So through technology there are increasing ways
11 that we know whether or not someone is a citizen.

12 As Mr. Fontes mentioned, it's also in our
13 existing database under -- again, under that 2004 law
14 passed by the voters, which is voter protected. You have
15 to re-prove citizenship when you move from county to
16 county. And our outmoded existing statewide database has
17 that information in it that you proved citizenship in a
18 different Arizona county. But for technological
19 limitations, it doesn't easily allow you to import that
20 over to a new county when the voter moves within Arizona.

21 We've just completed a procurement for a
22 brand new voter registration system. And a policy decision
23 that we've made is that going forward, a voter ID number,
24 absent the two county code at the beginning, will always
25 stick with the voter. And so when you have an ID number

1 that will finally stick with the voter county to county,
2 you can transfer their voting history from county to county
3 and obviate the need to require them to reinvent the wheel
4 from a citizenship perspective when they move to a new
5 county because we've already got it in the database that
6 you've proved it in a different county.

7 Now, there are some complicated legal issues
8 here because this is kind of what the law requires. And as
9 Mr. Fontes mentioned, it's in litigation right now, so I
10 don't want to lean out over my skis. But we are looking
11 for expansive, interpretive methods to redefine what it
12 means to accompany a voter registration form with
13 citizenship. And so we're working hard, and we'll see what
14 happens in the litigation.

15 CHAIRWOMAN VAN ASSCHE: Thank you.

16 Do our Committee members have any other
17 questions?

18 We have some time, so I know
19 Ms. Ferguson-Bohnee had another question. I'll allow
20 another question.

21 MS. BOHNEE: Thank you.

22 Mr. Fontes, you mentioned ballot by mail and
23 signature match. And I want to make sure I understand what
24 you were saying.

25 You seem to indicate, and I could be wrong,

1 that it was -- that you could verify the signature better
2 than a person who appears in person on election day. And I
3 may have misunderstood what you stated, but that it was --
4 perhaps could be more verifiable through signature match
5 versus using an ID at the polls on election day.

6 MR. FONTES: Thank you. This is Adrian
7 Fontes.

8 That's exactly what I said, and that is, that
9 happens to be the case of pretty much all the security
10 literature that exists. It isn't because looking at --
11 someone looking at a document that someone hands to you and
12 them saying, "This is who I am." It is because the person
13 who's doing the checking of the ID and the multiple layers
14 that Ms. Hansen alluded to in that signature verification
15 process back at the office -- pardon me. And let me
16 explain that a little further.

17 Let's say, for example, an envelope comes
18 into our office. We end up scanning the front of the
19 envelope that has that signature on it, and that will
20 appear back at our office in front of someone who is doing
21 these signature verifications. And part of the screen will
22 show that -- the signature on the envelope before it gets
23 sent over to be tabulated. And the other part of the
24 screen will show a prior signature, the voter registration
25 signature. And that training that that individual has will

1 determine whether or not that signature is a match.
2 Somebody else in some of the pol- -- of the procedures does
3 that verification as well. And if it isn't a match, then
4 that goes and gets checked again.

5 So you have automatic, several sets of eyes
6 going towards whether or not that signature matches the
7 voter registration signature, and that is a great way to
8 check identification versus myself going out and hiring 4-
9 to 5,000 temporary workers and trying to get them not only
10 to understand which parts of -- which documents can be used
11 for voter identification. For example, if you have an APS
12 bill and a cable bill, that's sufficient voter
13 identification under Arizona law. All you got to do is
14 say, "This is me, and this is my address." Well, how
15 dependable is that?

16 And so what we're looking at is increasing
17 voter verification security and accountability across the
18 board while going towards really significant efficiencies
19 and meeting the voters where they're at because we're
20 having a significant diminution of people who are not on
21 the early vote list.

22 Even though we have -- in Maricopa County,
23 you know, like I said, we have precincts that have boomed
24 in population. But the actual in-person voting has
25 literally dropped. So this opposing correlation tells us

1 that this is where people want to vote.

2 Since we have a more secure, verifiable,
3 auditable, and accountable system, why not use it more
4 expansively? Plus, it happens to be where the voters are
5 taking us anyway.

6 And so what I am saying is, the answer to
7 your question: Yes, I have more confidence in a ballot
8 that comes to me inside of an envelope with a signature on
9 it that I can voter -- that I can signature verify at the
10 office than I do in -- with a ballot that was preprinted,
11 that was handled by one of our board workers after they do
12 their ID check, and then handled by the voter, and then put
13 into a tabulation machine.

14 And there's another little layer to that if I
15 could, Madam Chair, just momentarily.

16 When we talk about security, we're talking
17 about eliminating points of vulnerability. At a
18 precinct-based polling place with preprinted ballots, what
19 you have is a whole bunch of blank ballots. It is not
20 unusual for our poll workers to grab a ballot, hand it to
21 the voter, and the voter goes and votes the front side of
22 one ballot and the back side of another. Because of the
23 way they're printed and cut, sometimes the ballots stick
24 together. So now you've got a front side of a ballot and a
25 back side of a ballot. That has happened. It doesn't

1 happen very regularly, but it's possible.

2 It's also not possible -- it's also possible
3 sometimes for folks to bring in their early ballot, not
4 having mailed it in, and then try to get a regular ballot
5 as well. We've heard of instances of this. I don't have
6 any personal experience with it.

7 But when you have preprinted ballots, you
8 don't always have solid auditing coming in and out because
9 you have those added points of vulnerability along the
10 entire process as it gets to the voter, and then from the
11 voter into the tabulators, and then from the tabulators
12 back.

13 So going to a ballot-by-mail system versus a
14 polling place system, if you can use the ballot-by-mail
15 technique on all of the ballots, now you're only
16 administering one type of election. But where we have a
17 mandate of people going to one polling place, you're
18 limiting that, and that's not good for the voter, where
19 they have to show identification to folks. And we know
20 that that system isn't as secure and certainly not as
21 verifiable. You're limiting the capacity of what we
22 already have in the way, and you've got loose ballots that
23 have to be, again, audited and extra points of
24 vulnerability. The idea that the models that we have been
25 using for a long time in Arizona are the best models moving

1 forward is just a nonstarter for those of us that are
2 really looking at it.

3 MS. BOHNEE: So I guess my follow-up to that
4 is, are you advocating for a change in the law to change
5 the voter ID procedure to be a signature match? Are you
6 advocating for all vote by mail? I think that you were
7 saying that it's the same in person and vote by mail.

8 And then is there -- because I know you said
9 that the studies show that this is more verifiable. But is
10 there a concern in Arizona, particularly your county,
11 Maricopa County, that there is in-person voter fraud that's
12 going on, or is there evidence of that?

13 MR. FONTES: There are widespread concerns.
14 They are completely unfounded, and there is a complete
15 dearth of evidence. There is none. And that was one of
16 the things that we addressed and had addressed very early
17 on.

18 Part of the other thing that allows us to
19 administer this ballot-by-mail scheme at vote centers, for
20 example, is our ballot-on-demand technology that we've got
21 that prints an individual ballot. Now, you don't have a
22 preprinted ballot. We can -- we've got 4,000 different
23 ballot styles in Maricopa County alone. We can get any
24 voter whatever ballot style that applies to them anywhere
25 in the county. They get that envelope at the same time.

1 They can sign it right there at the polling place, and then
2 it goes into the exact same system that you or I would if
3 we vote by mail at our kitchen table.

4 And so now you've unified the system of
5 processing ballots. You've unified the system of verifying
6 ballots. And, again, it's a safer, more secure,
7 accountable system than the systems that we had.

8 Now, am I advocating for a change in the law?
9 Being an elected official, I would dodge that question and
10 say that I'm not a policy maker at this stage on these
11 things. What I want to do is make sure that the folks who
12 are making those decisions down at the Legislature and in
13 other places understand the facts on the ground, how we
14 administer elections, what the voters really want, and move
15 away from a lot of the -- sort of these other political --
16 politically motivated discussions that we tend to see in
17 this area. That's really what motivates me.

18 MS. BOHNEE: Thank you.

19 CHAIRWOMAN VAN ASSCHE: We have time for one
20 more question. And it doesn't appear we have another
21 question.

22 I'd like to thank our Government and Election
23 Officials Panel. Thank you very much for your time today,
24 and we really enjoyed having the Committee listen to you
25 today.

1 We will recess now for 10 minutes, and we
2 will resume at approximately 10:55.

3 (Recess taken, 10:45 - 11:00.)

4 CHAIRWOMAN VAN ASSCHE: Thank you, everyone.
5 We will resume our meeting.

6 I now would like to introduce the Advocacy
7 Panel. We previously had noted that Walt Opaska, the
8 co-founder and member of the Arizona Republican Lawyers
9 Association, would be present. He is not. He has -- I
10 believe he broke his foot, and he will not be joining us
11 today.

12 But we do have Renaldo Fowler, who is a
13 Senior Staff Advocate of the Arizona Center for Disability
14 Law; Joel Edman, who is the Executive Director of the
15 Arizona Advocacy Network; and Darrell Hill, an attorney
16 with the ACLU of Arizona.

17 We'd like to welcome them. And I will go
18 over briefly our rules in case you weren't here earlier.

19 Our ground rules are that this is a public
20 meeting open to the media and public -- and general public.
21 We have a full schedule, people who will be providing
22 testimony within the limited time available. This will
23 include a presentation by each panelist of approximately 10
24 to 12 minutes unless invited to speak longer.

25 After all the panelists have concluded their

1 statements, committee members will engage them in questions
2 and answers.

3 Panelists, please see that I will be holding
4 up time cards to ensure that you keep within your allotted
5 time limit.

6 So I'd now like to begin with Mr. Fowler who
7 has a prepared statement to give to the Committee.

8 MR. FOWLER: Thank you. I want to thank the
9 Commission for inviting me to speak with you today.

10 My name is Renaldo Fowler. I'm the Senior
11 Staff Advocate with the Arizona Center for Disability Law.
12 The Arizona Center for Disability Law provides free legal
13 advocacy services to persons with disabilities in Arizona
14 facing legal problems relating to their disability. ACDL
15 is part of the National Protection Advocacy System of the
16 United States.

17 Our mission at ACDL is to provide legal
18 assistance, protect the rights of people with disabilities
19 in terms of justice and equality. And our vision is to
20 society where a person with disability, you do not see
21 those disabilities.

22 And what I'm here today to talk to you about,
23 issues regarding voters with disabilities. This morning I
24 was listening to a lot of the government officials talk
25 about some of the things that they were doing to ensure

1 voting accessibility. And one of the things that I've done
2 and one of my jobs at the center is that I oversee our
3 Protection Voter Access Project, which is part of the Help
4 America Vote Act. We as a protection advocacy throughout
5 the United States, we take a look at the impact of voting
6 on voters with disabilities.

7 And one of the things I'm going to say to you
8 is I've gone to each one of our 15 counties' websites,
9 taken a look at their websites, and just looked at in terms
10 of accessibility, in terms of content. And I would
11 probably say to you, the majority of those websites were
12 really not accessible for people with disabilities, okay,
13 in terms of visual disabilities.

14 And so also I took a look at some of the
15 information in terms of content. If I was a voter with a
16 disability and I wanted to go to the website, either the
17 County Recorder's website or the Election Department
18 website, how available was that material and how useful
19 were those materials? And the majority of those websites
20 really weren't useful, very useful.

21 And so there are a couple of the counties
22 that do have real usable websites in terms of materials, in
23 terms of accessibilities. And so one of the things, if
24 you're a voter with -- a lot of times that's a gateway to
25 voting; as someone mentioned this morning, you know,

1 starting the registration process, exploring information
2 about voting. If you go to the website, you can't even
3 read the material. It's not available. That's not very
4 good, useful information.

5 And one of the things -- you know, I'm going
6 to talk about best practices today. I've got a lot of
7 things I'm going to talk about is best practices in terms
8 of voters with disabilities.

9 And at first start, I talked about the
10 websites. And one of the things we want to do is make sure
11 the websites have specific disability information in terms
12 of American with Disabilities, ADA, of the issues in terms
13 of voting with disabilities. And we talked earlier about
14 dissemination of information. And we're talking at the
15 Secretary of State's level, the county level, and local
16 elections.

17 There's a lot of information that's
18 disseminated to the public about the election process,
19 school boards, but oftentimes that information is not
20 provided in alternative formats, such as Braille, large
21 print. As you heard this morning, many people talk about
22 going to mail-in elections only. As you talk about that,
23 are you talking about making sure that your ballots are
24 accessible for people with visual impairments, people that
25 may need large print? So that's one of the things I have

1 to keep in mind.

2 In addition, there are many people with
3 disabilities who do not have the physical capability to
4 sign. Okay? So we talk about signature verification. How
5 does that happen if you're a person with a disability and
6 you don't have the dexterity to sign, to sign your voter
7 form? So those are the things in terms of what
8 accommodations are the county and the different level of
9 government bodies doing to ensure accommodations for people
10 with disabilities. Okay?

11 One of the things that we constantly see
12 is in terms of poll worker etiquette or election official
13 etiquette. One of the things we think is very important,
14 that if you're a poll worker or election official,
15 understanding the terminology of people-first language.
16 Okay? They're not handicapped people. They're people with
17 disabilities.

18 And so we're going to talk more about that
19 because there's an incident that happened during our March
20 the 22nd election where an individual was standing in line
21 and poll workers were walking down the hall saying,
22 "Handicapped people, handicapped people to the front." So
23 we want to make sure that poll worker election officials
24 understand in terms of etiquette, in terms of language.
25 And I do have some resources for you if there's any further

1 questions about people-first language in terms of
2 disability.

3 And I know we talked about -- this morning
4 about purchasing of election equipment. And I find it kind
5 of heartfelt, is that the most important thing in our
6 society is our election system, and we're talking about
7 money. And I think we should somehow get the money to make
8 it happen, because that's the basis of our democracy.

9 But on that note, if you are purchasing
10 equipment, if you're a county and you're looking at
11 purchasing equipment, one of things that you really want to
12 make sure you do is you solicit input from the community,
13 disability community, and experts in the disability
14 community prior to purchasing that equipment.

15 I know people this morning talked about
16 certification, talked about the equipment. But we want to
17 make sure that that equipment actually does what it says it
18 does and getting input from the community first. And there
19 are some national and local organizations that can provide
20 feedback prior to purchasing that equipment.

21 And one of the things -- I listened this
22 morning, and they talked about accessible voting equipment.
23 One of the problems that -- complaints I have received in
24 the office is that the poll workers, the equipment is not
25 even on when they go to the election to vote. Okay?

1 Number two, it's not on. Sometimes the poll
2 workers aren't proficient with the use of the machine. And
3 I know I have spoken with some different recorders about
4 this particular issue, and they are trying to do their very
5 best to address this particular issue. So, yes, we have
6 equipment, but if it's not on, and the person doesn't know
7 how to use it, then there's a particular problem.

8 And also, one of the things that I think is
9 really important, as the county recorders and different
10 election officials have these different positions, recruit
11 people with disabilities in terms of poll workers, in terms
12 of registering people to vote and poll marshals.

13 Also, reach out to the homeless community. A
14 lot of times we don't realize our homeless communities,
15 they do have the right to vote. And a lot of times
16 they're -- so one of the things that I think is important
17 is to reach out to the homeless community. They do have
18 the right to vote.

19 And also make sure when you're selecting the
20 polling site, they're ADA compliant. If you are -- in
21 terms of poll sites, make sure that they're clear and
22 marked. If you are a voter with a disability, there's a
23 sign that says, "If you need accommodations, you don't have
24 to wait in line. You can go directly to the front."

25 Many voters with disabilities did not get to

1 vote on March 22nd because they used public Dial-a-Ride,
2 and they will only wait so long before they leave you. So
3 that's one of the things we want to do.

4 As I mentioned, make sure the equipment's on.
5 And also, if you're a voter with a disability and there's
6 an issue, making sure each polling site have information
7 where they can talk to the poll marshal or make a phone
8 call if they're not able to have their issues addressed
9 while they're at the poll sites.

10 So that's one of the things I really want to
11 say. I know we heard a lot about some of the things that
12 the counties are doing. Some counties are doing good jobs;
13 some of the counties are moving a little slower.

14 One of the things I think is important is
15 that they take a look at their websites, train the poll
16 workers. That is real important in terms of poll worker,
17 poll worker, in terms of people-first language, in terms of
18 making sure they know how to use the equipment. And there
19 are going to be someone, I think, later on talking about
20 their experience in terms of the poll worker not having the
21 understanding of the equipment.

22 But thanks for having the opportunity to
23 speak with you.

24 CHAIRWOMAN VAN ASSCHE: Thank you,
25 Mr. Fowler.

1 We will now hear from Joel Edman.

2 MR. EDMAN: Thank you. And thank you to the
3 Committee for having me.

4 My name is Joel Edman. I'm the Executive
5 Director of Arizona Advocacy Network and Arizona Advocacy
6 Network Foundation, and together we're devoted to defending
7 and deepening Arizona's commitment to democracy.

8 Our vision is a truly representative
9 political system in which all Arizonans make their voices
10 heard, and we believe the cornerstones of such a democracy
11 are meaningful voting rights and access to the ballot,
12 political decisions driven by voters instead of money, and
13 a fair and independent judiciary.

14 And I also want to thank you all for focusing
15 this year on voting rights, what Dr. King called the Civil
16 Right No. 1 as it's the core protector of all other civil
17 rights. So thank you for focusing on this.

18 Arizona -- I'm going to speak a little more
19 generally, I think, on various and sundry election-wide
20 issues here.

21 But Arizona is often at the extremes when it
22 comes to our place compared to other states on different
23 election policies. In some places we are at the cutting
24 edge of new technology and of breaking down barriers to
25 vote. We were the first state to have online voter

1 registration.

2 If you go back to our very first election, we
3 were ahead of most states in granting women or at least
4 categories of women the right to vote back in 1912.

5 And then there are others where we are on the
6 extreme end in the wrong direction. And one of those is --
7 I'm going to read to you a bit from our State Constitution,
8 Article 7, Section 2, begins: No person shall be entitled
9 to vote at any general election, or for any office that
10 now, or hereafter may be, elective by the people. And
11 continues, thusly -- and then, you know, says unless the
12 person is a citizen and over 18 and a resident.

13 But we're the only state whose constitution
14 frames it that way. Every -- all the other 49
15 affirmatively offer a right to vote. And, of course, how
16 that plays out in practice depends on -- it is different
17 across states. But I think that's an important symbolic
18 statement that we've made as a state and, unfortunately,
19 have not corrected in our over 100-year history.

20 Again, I'm going to jump around to a few
21 different things. But I wanted to touch on a couple of
22 topics that were talked about by our wonderful panel of
23 election officials, and just to add on to them.

24 One is we talked a lot about signature
25 verification. And I agree with the comments about it being

1 a more reliable method of proving identification than, you
2 know, in person, showing some documents. I think the
3 utility bill example is a great instance of that.

4 There is one area where I think with
5 signature verification we should actually treat it a bit
6 more like in-person ID, which is that if you go to a
7 polling place and you don't have the proper ID, you now
8 vote what's called a conditional provisional ballot, and
9 you have a cure period of up to -- I think it's three or
10 five business days, depending on the type of election. I
11 believe it's five if there's a federal office on the
12 ballot. I think that's the rule.

13 The point is, you have some time, either on
14 election day or after election day, to cure your inability
15 to prove ID with documents by bringing those documents to
16 the County Elections Office.

17 That's not the case if you sent in an early
18 ballot that didn't have a signature. You at least don't
19 have a guaranteed right and statute to cure.

20 I know our county officials by and large do a
21 great job of trying to reach out to people. But there's a
22 timing problem, right? If you send your ballot in on the
23 last day to mail it in and have it arrive on time, the
24 county's unlikely to have any time to call you up, you
25 know, if it shows up the day -- you know, on election day

1 or the day before to call you up. And just the
2 practicality of being able to cure that by 7:00 o'clock on
3 election day is pretty unlikely.

4 So, you know, one way that we could equalize
5 the situation there would be to have a similar cure period
6 like we do for in-person ID for the signature. I just
7 don't see a rational basis for treating those two different
8 kinds of ID differently as far as the opportunity to cure
9 the inability to comply with those requirements at the time
10 that you're voting.

11 And then the one other piece from the panel
12 before that I just wanted to touch on, the consent decree
13 issued by New Jersey. It was lifted a couple of months ago
14 by the court there. And so we'll, of course, see if that
15 affects challenges at polling places or anything like that
16 going forward.

17 I want to spend most of the rest of my time
18 talking about felony disenfranchisement. This is also an
19 area where I think folks, even in the voting rights world,
20 don't necessarily place Arizona high up on the list of
21 states that disenfranchise a large section of our
22 population. But when you look at the numbers, we really
23 do.

24 We have some of the widest sweeping felony
25 disenfranchisement laws in the country. Those laws that

1 we've got a good discussion in the panel before. But as a
2 result of those, we disenfranchise an estimated, from
3 report in 2016, 220,000 adults in Arizona. The vast
4 majority of them are not incarcerated anymore. They're
5 still disenfranchised by state of law. That's from a
6 report by The Sentencing Project. It's called "6 Million
7 Lost Voters: State-Level Estimates of Felony
8 Disenfranchisement, 2016."

9 That adds up to 4.25 percent of our voting
10 age population, with 1 in 25 adults in Arizona don't have
11 the right to vote because of a criminal conviction. That's
12 actually the 8th highest rate of felony disenfranchisement
13 in the country. And so we do belong to be talked about in
14 the category of one of the most disenfranchising states.

15 The report also broke that out among
16 African-Americans where the rate was more than nearly three
17 times as high, 11.89 percent, the seventh highest in the
18 country. Obviously, when you look across the country,
19 these laws do disproportionately impact people of color.
20 Unfortunately, the report didn't have figures for Latinos
21 or Native Americans or other ethnic groups. But, you know,
22 we know from across the country that these laws
23 disproportionately impact people of color.

24 I was happy to hear Mr. Spencer talk about
25 the work that the Secretary's Office is doing, sounds like

1 along with the ACLU, to improve some of the election
2 officials' understanding of how the felony
3 disenfranchisement laws work. Because I know, and actually,
4 the ACLU had a good report from 10 years ago now, but they
5 surveyed county officials and gave them wildly divergent
6 understandings, and I think it was a lack of understanding
7 of how those laws work, and sort of a lack of understanding
8 that folks do have their rights automatically restored. Of
9 course, that's upon completion of probation, absolute
10 discharge, and payment of all fines and restitution.

11 Now I want to talk about fines briefly,
12 because, you know, we all saw -- it was really brought to
13 light with the Ferguson Report by DOJ, but, you know,
14 across the country we see more and more instances of good
15 reporting on this that folks who were caught up in the
16 criminal justice system often have a really difficult time
17 paying with massive amounts of fines that can be imposed.

18 In Arizona we have a set of mandatory fines,
19 depending on your criminal violation. It can be really
20 difficult for people to overcome. And, you know, I wish we
21 had great numbers on this, but you can just imagine the
22 number of people who have completed probation, completed
23 their sentence, paid any, you know, restitution, but are
24 being deprived of their right to vote solely because they
25 can't pay fines. You know, which, again, I wish I had the

1 number of people who -- and if anybody, you know, that
2 might be a good subject for the Committee to look into.
3 But we just know how big of a problem fines and fees are in
4 the criminal justice context.

5 I want to be clear. Fees are not included in
6 the statute, but fines are. And there's quite a few
7 mandatory fines for a lot of -- again, different criminal
8 sanctions. And then we do have a process, a judicial
9 process, for folks who have multiple felony convictions to
10 have their rights restored.

11 But that same sentencing project report, they
12 looked at 2010 to 2015. My understanding is they basically
13 asked all the counties for information, and they found 31
14 instances of someone having their rights restored in that
15 five-year period. I'm not sure if it was all 10 to 15.
16 Maybe it's a six-year period.

17 But anyway, I think that demonstrates -- so
18 there's a path to having your right restored, but it's not
19 super utilized. I don't know if it's because it's a
20 difficult path to walk, you know, costly, time intensive,
21 but not working for the vast majority of people who have
22 multiple felony convictions, obviously.

23 And I want to say I wanted to touch on
24 provisional ballots and just a couple of the drivers of
25 provisional ballots that end up not being counted.

1 In 2012, Maricopa County did a great report
2 looking at different categories of provisional ballots,
3 both that counted and didn't, and they really hopefully
4 broke out some of those numbers. One was a general
5 population. But also Latinos specifically, I think they
6 used Hispanic surname. But in fair, they're sort of an
7 indication of race there.

8 But they found that in the 2012 election,
9 18 percent of provisional ballots cast countywide did not
10 count for various reasons. That number was a bit higher
11 among Latinos; it was 21 percent. And the two most
12 important, or the two biggest drivers, of original ballots
13 that didn't count specifically were -- the number one was
14 voting in the wrong polling place.

15 And we talked about -- or I heard officials
16 here talk about the ability with vote centers to eliminate
17 that kind of problem, voting in the wrong polling place.

18 Another thing we could do to eliminate that
19 problem that other states have done is to say that it
20 doesn't particularly matter if you're in the wrong -- if
21 you're in a polling place that is in the same congressional
22 district, the same state, same legislative district, and
23 county, right, that all of those votes should count. And
24 there are plenty of states that have a partial counting
25 rule where you -- they either have just accountable --

1 countywide or statewide votes who will actually look and
2 see what races you're in the right district for. And, you
3 know, that would obviously take a bit of time in the count
4 and would be an extra burden on election officials. But
5 right now it's a significant burden on the right to vote
6 that we have just an absolute -- you know, that vote will
7 not count if you're in the wrong polling place; again, in a
8 precinct-based environment.

9 The second largest number of provisionals
10 cast by Latinos that didn't count were folks who weren't
11 registered to vote. I think we often -- we dive straight
12 into the weeds. We talk about voting rights barriers. The
13 simplest barrier to voting is that you have to sign up in
14 advance.

15 You don't typically have to sign up in
16 advance to exercise other constitutional rights, like
17 speech. You don't if you're going to do a big protest,
18 right? But if I just want to go stand on the street corner
19 and talk to people, I don't have to sign up with the
20 government a month in advance. But you do to cast a
21 ballot.

22 There was an interesting study and various
23 academics are trying to figure out how many people are
24 really impacted by registration deadlines. And there's an
25 interesting study, looking, again, at the 2012 election

1 nationwide. They tried to get at who wanted to register to
2 vote, but after their state's deadline. And so they used
3 Google searches for terms like "how to register to vote."
4 And I'll say it's probably too complicated for me to
5 totally understand or explain, but their estimate -- and,
6 again, just one study, but their estimate was nationally
7 about 3 to 4 million people attempted to register to vote
8 after their state's registration deadline.

9 Our deadline is, of course, 29 days out. So
10 if we have a proportionate share of that, that would be a
11 large number of people. But I think that's borne out in
12 the provisional numbers, that in Maricopa County, et al.,
13 it's been 1500 just Latino voters in particular whose
14 provisionals didn't count because they weren't registered
15 at the time, but clearly they wanted to vote.

16 We often hear that folks aren't registered
17 because they don't want to vote, but these folks clearly
18 did. So thank you for your time.

19 CHAIRWOMAN VAN ASSCHE: I apologize for that.

20 Our next speaker is Mr. Darrell Hill.

21 MR. HILL: Thank you, Committee, for inviting
22 me to testify today and then giving me the opportunity to
23 speak about these important issues.

24 My name is Darrell Hill. I'm an attorney
25 with American Civil Liberties Union Foundation of Arizona

1 with over 60,000 members. Our active list is supporters
2 statewide.

3 The ACLU of Arizona works across party,
4 racial, gender, and economic lines to advance its mission
5 of defending the principles of liberty, equality embodied
6 in our Constitution and civil rights laws.

7 The right to vote is frequently described as
8 the right that is preservative of all others. We are not
9 truly free without self-government, which it tells a
10 vibrant participatory democracy which every -- in which
11 every voice can be heard.

12 I'm going to begin -- I'm going to begin my
13 remarks talking about the National Voter Registration Act
14 and move on to various other issues with registration
15 across Arizona.

16 In 1993, Congress passed the NBRA. The NBRA,
17 through its many provisions, is designed to increase the
18 number of eligible citizens registered to vote and
19 participation in elections. The NBRA mandates that states
20 provide opportunities to register to vote in several
21 specific ways.

22 Section 5 of the NBRA, also known as the
23 Motor Voter Law, requires states to provide citizens with
24 an opportunity to register to vote where they protect
25 certain transactions at state motor vehicle divisions.

1 Section 7 requires state public assistance
2 agencies and disability agencies distribute voter
3 registration applications to clients who have completed
4 certain cover transactions, including applying for
5 benefits, renewing benefits, changing of address, and so
6 on, and so forth.

7 Section 7 agencies are also required to
8 assist clients in completing voter registration application
9 forms and accept completed voter registration application
10 forms and pass those off to their appropriate election
11 officials.

12 The ACLU of Arizona, along with ACLU National
13 Voting Rights Project, Demos, and the Lawyers' -- the
14 Lawyers' Committee For Civil Rights Under Law about -- over
15 the last year or so began to conduct an investigation to
16 see -- to understand Arizona's compliance with the NBRA.
17 Our investigation found in part that state agencies were
18 failing to offer voter registration materials as in
19 compliance with NBRA. Specifically, you know, voter
20 agencies were failing to offer registration materials when
21 clients did not decline the material in writing under NBRA.
22 You -- for a client to not have to receive voter materials,
23 they have to decline in writing. We found that various
24 state agencies were not doing that.

25 The state agencies are also required to

1 update voter registration information when a client
2 initiates a change of address online. We found that many
3 state agencies weren't doing that. When a person takes
4 advantage of these resources online, they aren't getting
5 the necessary voter assistance.

6 We also found that they are failing to
7 instruct their third-party vendors. Arizona makes a great
8 use of third-party vendors to supply persons who need
9 public assistance with services. And those third-party
10 vendors were not receiving instructions on how to register
11 people to vote. So they were providing state agency
12 functions, but not complying with the law that governs
13 state agencies.

14 Currently there's nearly 1 million eligible
15 voters in Arizona who are not registered to vote. There's
16 a substantial voter gap between low income and high income
17 Arizonans. In 2016, only 58 percent of Arizonans who earn
18 less than \$30,000 a year were registered to vote. As a
19 comparison to 76 percent of Arizonans who earn over, I
20 believe, \$60,000 a year.

21 That voter participation -- that lack of
22 registration bleeds out into voter participation as well.
23 Rates of voter participation among African-American and
24 Latino communities are less than white communities in
25 Arizona. That is, even though in 2012, which is when we

1 have our last best figures, African-American turnout across
2 the country actually outpaced the turnout of white voters
3 except for in Arizona and neighboring states. And we feel
4 that's because Arizona's failing to comply with the NBRA.

5 Just to give you guys some of the numbers,
6 from -- you know, there's been a 60 percent reduction in
7 the number of people who are being registered at public
8 assistance agencies from 1999 to 2015. In 1999, there were
9 32,137 persons registered at public assistance agencies.
10 In 2015, that number was just 13,135. This is despite a
11 50 percent increase over a similar time in the need for
12 benefits.

13 For example, at SNAP offices, in 2004 there
14 were 529,000 applications for assistance. In 2016, there
15 was 956,000 applications for assistance. So even though
16 these agencies are serving more people, they're failing to
17 register. They're registering less and less voters.

18 A couple more comments on other things that
19 have been brought up in the earlier panel.

20 The panels briefly touched on the bifurcated
21 voting system in Arizona. The bifurcated voting system is
22 really -- really has a disproportionate impact on minority
23 communities and also has a disproportionate impact on
24 women.

25 A study by the Boyer Center found that

1 48 percent of women do not have a birth certificate with
2 their name on it. 60 percent of women -- only 66 percent
3 of women have actual citizenship documents that contain
4 their name. I've personally worked with Arizona residents,
5 female women, Arizona residents who were not able to
6 register a vote as full valid voters because they cannot
7 prove they are citizens of the United States even though
8 they have a birth certificate, because their birth
9 certificate does not match their driver's license, does not
10 match their Social Security number, because they've been
11 married or they've been divorced or what have you.

12 Arizona is also kind of unique. Arizona is
13 the only state in the entire country that does not
14 accept -- that requires documentary proof of citizenship
15 for overseas military personnel. Generally, you will tell
16 the voters they can just attest -- when you're using a
17 federal form, you can just attest that you are a U.S.
18 citizen. And that's enough in the other 49 states to prove
19 you're a voter. But in Arizona you also have to provide
20 documented proof of citizenship.

21 This can be a burden on military personnel,
22 particularly military personnel who are young, who are --
23 this is their first time overseas for an extended period.
24 You don't normally bring your birth certificate off to a
25 foreign land with you.

1 And joking around a little bit more, we --
2 the earlier panel briefly talked about access to the ballot
3 and to polling locations. I think it's really important to
4 -- when we talk about access to the ballot and as more and
5 more counties move to mail-in ballots, to talk about
6 HB 2023. HB 2023 is a law recently passed, I think, in
7 2016 that basically makes it a Class 6 felony to collect
8 absentee voting ballots and collect your neighbors' or your
9 friends' absentee voting ballots and turn those into voting
10 officials.

11 This is particularly troublesome for elderly,
12 disabled, Native American voters who traditionally have
13 relied on, you know, caregivers or friends or family or
14 people in their community to collect ballots and take those
15 ballots to voting centers. You know, there was a lot of
16 testimony earlier in the day about how rural communities
17 are affected by mail-in ballots.

18 If you live in a rural community, if you
19 don't have necessarily access to transportation, you get
20 your mail-in ballot, and you want to give it to someone to
21 take it in. That's now illegal. That's now a Class 6
22 Felony.

23 This really undercuts, you know, some of our
24 partners who work -- you'll be hearing from some of those
25 people later who work on voter registration drives or work

1 on get-out-the-vote efforts, because now their workers face
2 possible, you know, criminal penalty for doing their jobs
3 or doing what we would hope a good citizen does.

4 I'd also briefly like to talk about language
5 access issues. There's a gap when we talk about language
6 access issues in Arizona. Many of the ways people --
7 specific low income people get registered to vote in
8 Arizona is through Section 5 agencies, the MVD and,
9 hopefully, through Section 7 agencies, the public
10 assistance agencies. Those agencies don't have the same
11 requirements that the local counties do to comply with
12 Section 203. So when you go to -- if you're a Spanish-only
13 speaker, and you go and try to register at the local AHCCCS
14 office in Cochise County, there might not be a person there
15 who can provide language assistance.

16 This is just a gap. I mean, for the County
17 Recorders, for the most part, aren't doing the actual work
18 of registering people to vote. It's actually happening at
19 the state level and happening at, you know, the different
20 community organizations. Those state workers aren't
21 providing language assistance, which kind of defeats the
22 purpose of, you know, providing sections -- having all
23 these Section 7 type agencies to provide voter registration
24 if they're not going to do so in a language that will
25 actually assist the voter.

1 There's a -- there's a ton more, as I'm sure
2 you can imagine. I would want to piggyback on comments
3 Joel made about the Arizona felony disenfranchisement
4 system. Just recently the ACLU did a -- sent out a public
5 records request to various County Recorders, to the
6 Secretary of State's Office, and to the different Superior
7 Courts around Arizona about how they handle felon
8 disenfranchisement.

9 Most of the counties, unfortunately, don't
10 have a great deal of information about all the
11 disenfranchisement on their websites. They don't have
12 information about how to complete the process. And the
13 process can be very difficult, particularly if you come
14 from a separate state. You know, if you come from, let's
15 say, California, and you've had a felony in California, and
16 you get a felony in Arizona, now you've got to go to both
17 states and apply to get your civil rights back. If you
18 have a felony in Florida, for instance, and Florida has
19 very strict, you know, anti-felon voting laws, you may not
20 be able to gain your right to vote in Arizona because of
21 the reason -- reason of Florida state felony laws.

22 Our research found that of the -- of the, you
23 know, people who were denied the right to restore their
24 voting rights in Maricopa County, 25 percent didn't owe any
25 fines or fees. They were simply denied because of the

1 judge's decision. There's no guidance on how judges are
2 supposed to make that decision. So we talked to a judge
3 with the Maricopa County Superior Court, and he said he
4 looks at things like the seriousness of the sentence, how
5 long since the sentence had expired, you know, whether or
6 not that person was a vibrant member of the community.
7 And, you know, this kind of arbitrary decision-making
8 process leads to kind of a discriminatory practice or a
9 discriminatory effect where people who aren't necessarily
10 able to plead their case or, you know, who may face
11 discrimination are tasked with even greater -- an greater
12 obstacle in restoring voting rights.

13 And, lastly, you know, we found people who
14 were having their voting rights -- when they were applying
15 to get their voting rights restored, they were being denied
16 for owing fines as low as \$10, \$5. Indeed, the judge we
17 spoke to said even though fees are not part of the statute,
18 the court still will deny people -- a person the right to
19 restore their voting rights for fees because the court is
20 concerned that if they restore that person's civil rights,
21 they won't actually go ahead and pay those court fees.

22 This is not how we should be deciding on who
23 can and cannot vote in Arizona, you know, based on how much
24 money is in your bank account or how well you completed
25 your case before a judge, how sophisticated you are.

1 So I'd like to thank the Committee for the
2 opportunity to speak. I have prepared some other testimony
3 that I would like to send to the Committee afterwards. And
4 I welcome all your questions. Thank you.

5 CHAIRWOMAN VAN ASSCHE: Thank you, Mr. Hill.

6 I will now turn it over to the Committee, if
7 anyone has any questions. And if you do, please speak into
8 the microphone and state your name.

9 MR. ROSE: My name is Jonathan Rose. I have
10 a question for Mr. Edman and also, perhaps, for Mr. Hill
11 about felony disenfranchisement.

12 You may be aware that the history of felony
13 disenfranchisement is ancient, goes back to the notion that
14 infamia in medieval and Roman law and the consequences of
15 committing a felony.

16 I have some sense that more recently there
17 have been attempts to maybe mitigate the consequences of
18 felony disenfranchisement by some states. I can't
19 remember, but maybe one state actually greatly liberalized
20 its law. I wondered in terms of Arizona whether mitigating
21 this problem and the descriptions you've talked about,
22 other than proceeding with individuals in individual cases,
23 whether there are ways to deal with this that involve
24 judicial approaches or whether the only solution is a
25 legislative one, which is highly unlikely to ever occur.

1 And it seems like the ACLU is focusing on
2 this. But I'm interested in particularly what may be going
3 on nationally in other states, whether there may be
4 judicial solutions to the strong limitations in Arizona
5 law.

6 MR. EDMAN: Yeah. Thank you.

7 I'm aware of some litigation going on. I
8 don't -- that's basically the extent of my awareness on
9 that.

10 I do know that in Alabama the legislature
11 recently passed a law that they basically had a
12 prohibition, saying you couldn't have your rights restored
13 if you had committed a crime of moral turpitude, and that
14 that had been interpreted in expansive and some arbitrary
15 ways. The legislature, I think, curtailed that to some
16 extent. We'll see. But my impression is that Alabama is
17 still high on the list as a disenfranchiser.

18 Florida will have a measure on the ballot
19 likely in November. There will be a significant reform to
20 its felony disenfranchisement regime, which I think it
21 would be a huge deal nationally for the movement towards
22 heading back to these laws as Florida is probably the
23 number one on that list.

24 And then I'll kick it over to Mr. Hill to
25 talk about some policy change ideas for Arizona, because I

1 know that ACLU has been thinking about that quite a bit.
2 But I did just want to touch on your point about history.
3 And you're right that there have been, you know, similar
4 sorts of concepts dating back to Roman law.

5 In the United States these laws became very
6 popular. There are a couple of different ways. But really
7 the modern era of felony disenfranchisement started in the
8 post-reconstruction era, and there was this sort of
9 attitude by the, you know, redeemer governments in the
10 southern states that, well, if we're technically not
11 allowed to bar people from voting, period, then here's one
12 way we could disenfranchise people is create a bunch of new
13 crimes and attach those crimes to disenfranchisement.

14 Do you have any ideas?

15 MR. HILL: Well, to start off with the
16 judicial process, I believe Florida -- and forgive me for
17 not knowing what level of court it was, but Florida's felon
18 disenfranchisement process was recently struck down because
19 it invested sole discretion in the hands of a -- the
20 governor to decide when to -- when to restore voting
21 rights.

22 Arizona has not -- not nearly as bad of a
23 system, but it does vest sole discretion in a judicial
24 officer to determine when to restore voting rights.
25 Whether or not there's a legal avenue, a litigation avenue,

1 to get what Arizona's done over -- Arizona law overturned
2 is still being explored, but, you know, we are exploring
3 all options.

4 On a policy level, you know, we've worked --
5 attempted -- I think Mr. Spencer alluded to it earlier, and
6 we've attempted to work with the Secretary of State's
7 Office and the various County Recorders so that they are
8 supplying better information to voters about how to restore
9 their voting rights. And one way I think we can really
10 move this issue forward is to work with the various courts
11 on themselves so that they are a little bit more
12 transparent about the process.

13 You know, depending on where you live in the
14 state, if you go to a court website, you may not find any
15 felon disenfranchisement information on their website even
16 though they are the avenue to restore your civil rights.
17 And we've begun conversations with the Maricopa County
18 Superior Court. And to their credit, they've begun to look
19 at this issue themselves about how they can kind of
20 streamline the process so that felons or persons who were
21 previously convicted can restore their voting rights and
22 really take ownership of that -- of that process.

23 There are -- there are various, you know,
24 aspects of the State law that make it difficult,
25 particularly upon absolute discharge from prison. You have

1 to wait two years before you can even apply to restore your
2 voting rights. Two years is a long time. And from my
3 experience working with the people who want to restore
4 their voting rights or who want to register to vote, they
5 wait until two days before it's time to register. And the
6 whole judicial process, you know, it could take several
7 months to go through. So working on streamlining that
8 process is a good first step that the courts can do.

9 MR. EDMAN: I think I might have one point
10 just on the automatic or restoration for a single felony
11 offense. I think the low-hanging fruit for reform to
12 remove fines is one of the things you have to have
13 completed. You know, our Arizona Supreme Courts Fair
14 Justice Task Force has done a good amount of work on fines
15 and fees generally, both educating the courts and judges.
16 And also pushing some, I think, relatively modest
17 legislative reforms, and that would seem to me to go hand
18 in hand with that.

19 So that we're -- even if -- you know, if
20 there's a view that someone should be stripped of their
21 rights while they're incarcerated or on probation which, to
22 be clear, we disagree with. But, you know, I understand
23 there are quite a few folks who will believe that. I think
24 it's a lot harder to argue that someone should have --
25 should not have the right to vote because they can't afford

1 it, could not afford to pay their fines. So that would
2 seem to be the low-hanging fruit there.

3 MR. ROSE: Has that ever been presented as a
4 specific legal challenge? I mean, there are older cases
5 where having to pay money for certain rights have been
6 struck down. Has that ever been tried in Arizona?

7 MR. HILL: I believe in 2004, the University
8 of Arizona, along with our national partners, brought a
9 lawsuit over this very issue. And what I believe the court
10 said at the time was that because the plaintiffs couldn't
11 prove that they were -- they were too poor to pay the
12 fines, that they couldn't prove that they had no choice but
13 to pay the fines. The case was dismissed on those grounds.

14 So what you would need to re-bring the case
15 is someone who was indigent who could prove that they can't
16 afford to pay fines or restitution, and that's a barrier
17 for restoring the voting rights.

18 CHAIRWOMAN VAN ASSCHE: Any other questions
19 from the Committee?

20 Mr. Yordy.

21 MR. YORDY: Thank you, Madam Chair.

22 This is a question for Mr. Fowler.

23 You brought up some good points about access,
24 website accessibility, and Braille ballots. And I
25 wondered, have you worked with the state government and the

1 county governments? Are you getting resistance from them
2 in changing their websites and providing the ability to
3 request a Braille ballot? Or is it less a policy issue as
4 it is just a logistics issue that they could work out?

5 MR. FOWLER: Well, one of the things that I
6 spoke about -- I'm not sure -- several months ago, Arizona
7 Clean Elections had a meeting and most of the either
8 Recorders or Election Directors were in the room, and I did
9 a presentation. And so what I've done is gone back to
10 different websites because I brought it to their attention,
11 and some have made some changes, some improvements to their
12 website in terms of contents, in terms of accessibility.

13 And one of the things that we're probably
14 going to do is do a more formal -- there's a technique
15 where you can look at each website and see how accessible
16 it is for a person with a disability.

17 And also, not just being -- a lot of times
18 people just talk about our website is ADA accessible, but
19 there's another level. Is it usable? Okay. So that's one
20 of the things that I'm encouraging the election officials,
21 when they look at their websites and when they look at
22 their materials, to make sure that they're accessible and
23 usable for people with disabilities.

24 And also, a lot of -- a large population of
25 people with disabilities, when you look at a lot of the

1 voter education materials that go out are very, very
2 difficult. So really getting information more for plain
3 language, I think that would be good for just the general
4 population in general about just voting and what
5 propositions are.

6 So to answer your questions, you know, I
7 haven't looked at all the websites in this last month or
8 so. I'm encouraging them to do it. I've gone back to a
9 couple of websites. They've added some information. But
10 sometimes I think what it is, is that when you go to their
11 website, the average person don't know that there's a
12 County Recorder and there's an Election Director. There's
13 multiple layers. And I've talked to them about, you know,
14 on your home page, have a drop-down, have something that
15 says information about voters with disabilities or ADA
16 right on the front so they take you directly to that
17 portal. But you can have accessible information in it, but
18 if it's difficult to find, it's the same result.

19 MR. YORDY: So as a follow-up, I guess my
20 main question is: Are you finding resistance from Arizona
21 officials to doing this, or is it just a matter of it's
22 just taking time and they just haven't gotten around to
23 doing it?

24 MR. FOWLER: I have brought it to some
25 officials' attentions, and I've gone to some websites and

1 they've started to make a change. But one of the
2 things that -- one of the county officials talked about is
3 what are the resources out there to help them with some of
4 these particular issues. So we've provided them with some
5 resources. So each County Recorder's Office is making
6 change. Some, I think, a little too slow. Some may not be
7 making some changes to their website and to their
8 platforms.

9 And so as I mentioned to you earlier,
10 especially about selecting equipment, because a lot of our
11 equipment are getting to the age now where they're getting
12 old. And really, they really want to check to make sure
13 that the purchase -- there's equip -- to purchase this
14 equipment, to be a good piece of equipment. Not the
15 cheapest, but they have the ability to expand and do some
16 different things in terms of the equipment.

17 But as I mentioned to you earlier, again, as
18 we go to mailing out materials, making sure that material
19 is accessible in terms of Braille and in terms of large
20 print, and that the information at the different sites let
21 voters with disabilities know that that information can be
22 sent to them in an alternative format if they need.

23 CHAIRWOMAN VAN ASSCHE: Yes. Beverly Walker.

24 MS. WALKER: Thank you, Madam Chairwoman.

25 Beverly Walker. I have a question for you,

1 Mr. Fowler.

2 I've often been to polling places that have
3 the signs posted that say, you know, "If you are a person
4 with disabilities or if you require additional assistance,
5 please let us know."

6 That begs the question what about people
7 whose disability is not being able -- they're visually
8 impaired. If they're not aware that they need to go to the
9 front of the line or ask for certain assistance, then the
10 sign is not going to do any good. And that kind of leads
11 to also the website issues and problems. If it's someone
12 who is visually impaired, you know, obviously Braille is
13 not available online. And then the language portion of it
14 which I often see, you know, statements on state agency
15 documents that say, you know, "This is an important
16 statement, and it will be in English and Spanish."

17 Well, you know, what about other languages?
18 What about large print?

19 So my question for you is: Although the
20 threshold seems to be met to meet legal requirements for
21 educating people and informing people that, you know, help
22 or assistance is available, what does it take to make these
23 signs, these documents, this information usable to people
24 with more than just, you know, Spanish speakers or people
25 that, you know, or the low-hanging fruit, kind of, is that,

1 you know, we target Spanish speakers and we target, you
2 know, people maybe with hearing impairments, but what about
3 others?

4 MR. FOWLER: So -- and that's one of the
5 things I noticed with a lot of the election officials this
6 morning, they talked about Spanish language.

7 There are some resources for election
8 officials. One of the things that -- when Mr. Fontes came
9 into our office, I introduced him to the Arizona Commission
10 For the Deaf and Hard of Hearing, which is a State agency
11 that can provide assistance to election officials, okay, to
12 address some of the concerns that you have.

13 Also, there is an organization called
14 Southern Arizona Association for the Visually Impaired,
15 SAAVI, which is out of Tucson but has a Phoenix office.
16 They can address a lot of issues in terms of voters with
17 visual impairments.

18 So it's a matter of those election officials
19 reaching out to those individuals that can provide them
20 assistance in terms of their websites, in terms of the
21 materials. As you mentioned earlier, one of the things
22 with websites, you have screen readers. A person who is
23 visually impaired can actually have technology that allows
24 them to read whatever information is on the screen. But
25 your website has to be accessible in terms of -- for screen

1 readers.

2 So like I said, you know, there's a National
3 Federation For the Blind who has actual -- where they take
4 a look at technology, election equipment technology, prior
5 to purchasing that equipment, and they will give you their
6 input about that piece of equipment.

7 So there's -- there's some resources out
8 there. It's just a matter of election officials knowing
9 where to go get that information. There's going to be an
10 organization, as I mentioned earlier in my testimony,
11 Southwest Institute for Families and Children. They can
12 talk about, you know, people-first language and disability
13 etiquette in terms of voters with disabilities.

14 MS. WALKER: Thank you.

15 CHAIRWOMAN VAN ASSCHE: And I will note we
16 have five minutes left, so we have time for one more
17 question, and I see a hand being raised by Theresa Rassas.

18 MS. RASSAS: Thank you, Madam Chairwoman.

19 And this question is also for Mr. Fowler,
20 although you may also have information to add.

21 I'm wondering if this movement from
22 neighborhood polling places to these vote centers, whether
23 you're seeing a negative impact on the disabled community
24 in that shift or maybe even a positive impact?

25 MR. FOWLER: Well, I think -- I think the

1 March 22nd Presidential Primary had some really significant
2 moving to polling sites. As Mr. Fontes talked about
3 earlier, more calculations should have went into it. I
4 know individually people did not vote who had disabilities
5 because of medical conditions. They couldn't stay two or
6 three hours in line, or mainly it's the transportation.
7 They use Dial-a-Ride. Dial-a-Ride will wait for you, and
8 if you're not there, they will leave you. So the answer
9 is, if it's not done correctly, it will have a significant
10 impact on voters with disabilities.

11 Now, when you move -- when you reduce polling
12 sites and when folks rely on transportation -- so, you
13 know, that's another barrier. But then again, they talk
14 about opening up polling sites longer. So these are the
15 things -- and I think Southwest later on can address the
16 issue about this particular question better than I can.
17 Thank you.

18 CHAIRWOMAN VAN ASSCHE: Do any other
19 panelists want to add to that?

20 Well, we do have three more minutes, so if
21 you have another question that can be --

22 Patty Ferguson.

23 MS. FERGUSON: Yes. Thank you very much.

24 With the trend to vote your ballot by mail,
25 I'm wondering if y'all have any intel with regard to any of

1 the organizations and the voters that you serve on any
2 negative impacts or positive impacts to voters;
3 specifically, disabled voters or voters who need language
4 assistance, and particularly those who need oral language
5 assistance. So any information you have would be helpful.

6 MR. FOWLER: As I mentioned earlier, the
7 issue with voter by mail is making sure that that
8 information is provided in alternate formats and inform the
9 voters about the process.

10 MS. BOHNEE: Could I ask a follow-up about
11 that?

12 MR. FOWLER: Please.

13 MS. BOHNEE: With regards to alternative
14 formats, how -- how does the Recorder know if someone needs
15 Braille or a larger print? Could you share that with us?

16 MR. FOWLER: They can request that. They can
17 contact the County Recorder's Office and ask that they be
18 put on the permanent, you know, mailing list to make sure
19 that the materials are sent to them and in large print or
20 Braille. So they can request that particular service.

21 My main concern is really -- is when you
22 start having school districts' elections, municipal
23 elections, so making sure those municipal governments also
24 provide -- I think Tempe just had an all mail voting. So
25 you want to make sure municipalities also do it.

1 MR. EDMAN: One issue that we do see, I
2 think, at some local elections that have consolidated to
3 August and November, it's not exactly an all mail. But
4 with more and more people moving to the permanent early
5 voting list and us getting to the point where we're
6 virtually all mail, we do have issues with registered
7 independents. If their first round of their city election
8 is consolidated with the August State Primary, they don't
9 automatically receive a ballot even if they're on the
10 permanent early voter list. They have to request either a
11 Democratic or Republican ballot. And then their city
12 offices will also be included on there, particularly being
13 nonpartisan, but dramatically reduces participation by
14 independents. And it's relative to registered partisans in
15 those elections.

16 And to the extent that there are disparities
17 across, you know, racial, ethnic and other lines across
18 parties; for example, Latinos are disproportionately likely
19 to be registered Independents in Arizona. They are going
20 to have an extra step to take to actually get a ballot in
21 those cities that have consolidated with the
22 August/November on cycle election year as compared to their
23 counterparts who were Democrats or Republicans.

24 CHAIRWOMAN VAN ASSCHE: Thank you very much
25 to our advocacy panelists.

1 And I will note that we will now break for
2 lunch. We will resume and start sharply at 1:30. And I
3 urge everyone to get here a little bit before then.

4 (End of reporting by Pamela A. Griffin.)

5 (Lunch recess taken, 12:00 - 1:27.)

6 (Afternoon session reported by Danielle
7 C. Griffin.)

8 CHAIRMAN VAN ASSCHE: Welcome, everyone,
9 back. I hope you all enjoyed your break. And for those of
10 you just joining us, welcome.

11 As I mentioned earlier, the focus of our
12 briefing today is to examine potential barriers to voting
13 in the areas of voter registration, early voting, language
14 access, and access to polling locations.

15 If you are interested in sharing public
16 comment, please see Angie in the back so that we can
17 announce your name when the open comment period begins.

18 We will continue with the agenda. And we
19 will now hear from the Election and Voting Experts Panel.

20 In this panel we will hear from Mary O'Grady,
21 a partner at Osborn Maledon; Timothy La Sota, an attorney
22 at Timothy La Sota, PLC. Travis Lane was supposed to be
23 with us, but he had an injury, so he will not be joining us
24 today. Sarah Gonski, a political law associate at Perkins
25 Coie; and Joseph Garcia, the Director of the Latino Public

1 Policy Center at Morrison Institute at ASU.

2 I will go over some of the ground rules.
3 This is a public meeting open to the media and the general
4 public. We have a full schedule of people who will be
5 providing testimony within the limited time available.
6 This will include a presentation by each panelist of
7 approximately 10 to 12 minutes unless invited to speak
8 longer. After all the panelists have concluded their
9 statements, Committee Members will engage them in questions
10 and answers.

11 Panelists, please see that we will be holding
12 up the time cards to ensure that you keep within your
13 allotted time limit.

14 So we will begin with prepared statements by
15 our first panelist, Mary O'Grady.

16 MS. O'GRADY: Thank you, Madam Chair,
17 Commissioners. It's a pleasure to be here this afternoon.

18 I wanted to go over just some high-level
19 thoughts on the election system based on my years of
20 experience. I played a lot of different roles in the
21 election process over the years. I began while working as
22 a lawyer at the State Legislature in the 1990s, which is a
23 wonderful education you can't quite get anywhere else.

24 And from there I worked in the State Attorney
25 General's Office where I served for 8 years as Solicitor

1 General, and we oversaw all of the election and campaign
2 finance litigation and enforcement. And I've been a
3 partner at Osborn Maledon here in Phoenix since 2011
4 working on a variety of election issues and other things.
5 But probably the most significant in the area of election
6 law was serving as one of the lawyers for the independent
7 redistricting commission this past decade.

8 Through my work at the Legislature, I learned
9 that I could not possibly understand the issues affecting
10 minority voters and voters with disabilities without
11 hearing from those community members. If you want to
12 understand the impact of moving a precinct line, you have
13 to know the neighborhoods. You have to know what -- where
14 they are comfortable going to vote.

15 I remember very clearly a Navajo legislator
16 explaining why it doesn't work to require a street address
17 on a nomination petition form. Because many people on the
18 reservation don't have a street address. So just looking
19 at a bill that describes that kind of change on the surface
20 may seem harmless, but people who know the unique
21 communities that make up our state understand the problems
22 seemingly innocuous changes can cause.

23 And most of my experience, because I've done
24 this a while, was before Shelby County when Arizona was
25 subject to Section 5 preclearance. And you learned in that

1 you were to make sure to ask and think about the impact to
2 minority communities whenever you had an election law bill.
3 And I think that the end of preclearance is probably the
4 most significant change in Arizona in recent years.

5 And I confess that when I first learned about
6 Section 5 many years ago, it seemed like a strange
7 limitation on the usual authority of a state. But after
8 seeing how it affected decision making, I really came to
9 appreciate and value its protections.

10 When the State was subject to Section 5,
11 every clearance requirement was really central to every
12 decision affecting voting, if you were changing a form,
13 changing a date, moving a line, rewriting a manual, you had
14 to think about whether you could meet your burden of proof
15 and persuade the Department of Justice that this change
16 would not have an adverse impact on minority voters. So it
17 guided election-related decisions at every level of
18 government.

19 You thought about the retrogression standard,
20 are minority voters going to be worse off if this change is
21 made? And you had to think about if you really wanted to
22 have this forum be something you could use.

23 So Section 5 also sort of put the brakes on a
24 legislative culture where the attitude is sometimes that
25 with 31 votes in the House and 16 votes in the Senate, you

1 can do pretty much whatever you want.

2 So without Section 5, you don't have that
3 same pressing need to think about the potential impact of a
4 change on minority voters before making changes. You don't
5 have that Section 5 burden of proof on you. And after
6 years of that Section 5 preclearance responsibility, most
7 people and everyone involved with elections in Arizona was
8 pretty thoroughly programmed to think about these issues
9 any time they made a decision.

10 It's part of their training, part of their
11 experience. But I think and I fear it's only natural that
12 as we're not subject to Section 5 over time, that's going
13 to diminish, because there's not that same pressure to
14 consider these issues up front.

15 So I think as a result it's fair to say in
16 this post Shelby County era, the focus on voting rights
17 issue is going to vary depending on the decision maker. In
18 contrast with Section 5, it forced a systemwide focus on
19 voting rights. And really the prospect of a lawsuit under
20 Section 2 does not have the same immediate pressure that
21 Section 5 had.

22 In general, although there may be cases of
23 intentional racial discrimination, I think harm resulting
24 from ignorance, neglect, and maybe what some people might
25 call implicit bias is more common.

1 And I do think there's a real problem in
2 partisanship in culture where people care about voters who
3 will support their issues or support their candidates, but
4 not others. And that may be fine for people running
5 campaigns, but it is absolutely toxic if that becomes an
6 attitude that creeps into election administration or
7 election policy making.

8 In the Section 5 era, if an election bill
9 passed out of the Legislature on a party line vote with no
10 support from minority legislators, you could pretty much
11 count on getting a call from the Department of Justice
12 during the preclearance process. It was a red flag and a
13 potential sign of trouble.

14 We saw a few years ago -- and I know you've
15 probably heard things and you're going to hear things from
16 others, you know, and the recent ballot harvesting bill is
17 an example of a post Section 5 party line vote that in the
18 Section 5 era certainty would have, you know, preclearance
19 would have been an issue there.

20 Thinking back on the rather high profile,
21 I'll say, fiasco is the presidential preference election a
22 few years ago when there weren't enough polling places.
23 You know, maybe that's a change that wouldn't have
24 pre-cleared or at least maybe it's a change that would
25 have, knowing you're confronted with Section 5, you need to

1 think about it more and maybe go back to the drawing board
2 to make sure you can make your change happen.

3 So bottom line, I'm concerned that we will
4 see changes big and small that create barriers to minority
5 voters as we get further from Section 5.

6 And the only way to avoid this is to have
7 policy makers and election administrators who are
8 passionate about protecting everyone's right to vote and
9 willing to listen to voters, and particularly minority
10 voters, voters with disabilities to make sure there is no
11 adverse impact as a result of proposed changes. So more
12 than ever there is a need for competent, nonpartisan, fair
13 election professionals because the Section 5 backstop is
14 gone.

15 So quickly, some bright spots in Arizona:
16 I've been very impressed with recent voter registration
17 efforts, particularly in the Hispanic communities. There's
18 been some really impressive work there. There's been some
19 good work done on voter education, and I know you're going
20 to -- probably have heard about some of that.

21 And the people who run the elections at the
22 counties do amazing things. And I think you've heard from
23 some of the election officials and professionals today as
24 well.

25 And even when we have disasters, horrible

1 things happened, for example, the 2016 Presidential
2 Preference Election, you know, people -- it brings some --
3 it elevates the level of scrutiny, makes people pay
4 attention, that election administration matters and it
5 costs money. And so hopefully that kind of -- unfortunate
6 that it happened, but hopefully it avoids problems in the
7 future.

8 Diversity among elected officials who are
9 policy makers and administrators is critical. I mentioned
10 my experience at the Legislature kind of learning myself,
11 how these things are going to impact communities. And so
12 you need, you know, diverse folks at the table who
13 understand the impact on community.

14 We have a lot of options for voting in
15 Arizona: Broad early voting, vote by mail, election day
16 voting. And that's wonderful, and I hope it stays that
17 way. We have independent redistricting, and I think that's
18 a good thing. We made it -- we got pre-cleared for the
19 first time in Arizona's history on both legislative and
20 congressional in our first attempt, not that we'll ever
21 have to do that again. And there were -- although we had
22 lots of litigation, there were no claims of violations of
23 the Voting Rights Act.

24 Clean Elections gives funding options for
25 some candidates. We added an election -- an initiative

1 referendum process that gives opportunities for additional
2 voices. So there's lots of good thing happening.

3 Challenges, voter participation overall,
4 particularly among minorities voters, is a concern. There
5 are laws that have a disparate impact on minority voters.
6 I think of our restoration of felons' voting rights is one
7 area that I think we can improve. Budget constraints and
8 whether we're going to have new laws that impose barriers;
9 and really, although we have lots of options for voting,
10 dealing with election day, since that's your last chance to
11 vote and making sure that works well and everyone's vote
12 gets counted.

13 And I'm looking ahead. I'm wondering what
14 our next redistricting will look like without Section 5, so
15 that will be interesting. And again, some of the positives
16 that I've mentioned from my perspective are broad on that
17 side. I want to make sure they stay there as we move
18 ahead.

19 And then the bottom line concern, you know,
20 we do live in sort of a partisan election world. And I
21 hope -- and that we can -- that it doesn't affect our
22 policy making and election administration because that is
23 harmful for minority voters, harmful for our democracy.

24 So those are the comments I wanted to share
25 today. Thank you.

1 CHAIRMAN VAN ASSCHE: Thank you, Ms. O'Grady.
2 We will now hear from our next panelist, Timothy La Sota.

3 MR. LA SOTA: Thank you, Madam Chair, and
4 Members of the Committee. I'd like to thank you for the
5 invitation to appear today and provide testimony.

6 I feel like I -- since I have a -- a someone
7 who's a common adversary to me, Ms. Gonski, sitting to my
8 left, that I should ask for some time in rebuttal since
9 she's going after me. But I will just use up my time, and
10 maybe I'll hit some of the points that I think she might
11 hit. But I think, first of all, I'll have to talk about
12 what Ms. O'Grady also spoke about.

13 But at any rate, I've been an election law
14 practitioner in this state for 17 years. I was in the
15 private practice first, and then I worked at the County
16 Attorney's Office. I did advise the Elections Department
17 some in that capacity. I've also served as general counsel
18 for the Arizona Republican Party. I've represented a
19 number of and still do members of Congress, statewide
20 elected officials, basically, running the gamut here in
21 Arizona from state, local, and federal.

22 Right now I'm in private practice, but I will
23 talk about some of my experiences that I think are
24 informative.

25 Now, I will tell you out of the box that I

1 think the shortcomings that I have found in the Arizona
2 election systems are not the types of shortcomings that
3 affect a protected class specifically.

4 I think they're more the types of
5 shortcomings that affect everyone. I think improving them
6 would obviously improve -- enhance voting for protected
7 classes, but they would also have other positive effects.

8 So I would like to talk about, first of all,
9 Shelby. I disagree strongly obviously with what
10 Ms. O'Grady said. I did view preclearance as an
11 infringement on our state and our ability to conduct
12 elections that was increasingly less justified as years
13 went on. The presidential preference election, that is the
14 first election that I can remember in Arizona that I didn't
15 vote in because I had my -- just could not wait four hours
16 in line. But that was something that I think the worst --
17 one of the worst places was 7th Avenue in Glendale here in
18 north central Phoenix right near where I live. It was
19 unfortunate, but it is characteristic of systems that are
20 run by human beings. And there are problems in those
21 systems that arise. There will always be problems. There
22 will always be improvements that can be made.

23 That was an example. But Ms. O'Grady
24 submitted that we had that Shelby backstop, and now we
25 don't have that anymore. So what's going to happen?

1 Well, I think more than what someone at the
2 Department of Justice has to say about something, I think
3 elected officials, who the people they pay most attention
4 to, are the voters. And one thing I noticed is that Helen
5 Purcell, who I thought had done a very admirable job as
6 County Recorder which included elections, she had been
7 there for decades and decades, but she lost her position.
8 And that was -- that was absolutely because of the February
9 chair of March 2016 presidential primary election.

10 So we have systems that are administered by
11 elected officials, and I think that's the ultimate
12 backstop. I think elected officials -- the thing I expect
13 out of them is I do expect them to continuously try to
14 improve our voting system to make it as easy as possible to
15 vote while protecting the integrity of the process.

16 Voting will never be completely without
17 burden, because you either have to show up and vote. You
18 have to sign up for an early ballot. You have to do
19 something. But it should be easy. I think it is easy.

20 There are areas that do cause me concern,
21 but I -- and I'll go into them a little bit. And I think
22 that this may provide, as far as I'm concerned, some clues
23 about, you know, how do we find out what are the real
24 problems?

25 I know we have a lot of critics of the

1 Arizona election system. We've had a number of lawsuits
2 filed. I think those lawsuits have not only -- well, at
3 least so far, they failed as lawsuits. But I think they've
4 also failed to seize the opportunity to do something
5 effective.

6 One of the things -- and Eric Spencer,
7 who was here briefly earlier, he testified about this. But
8 probably the most -- the thing that I've seen in my
9 experience that caused me the most pause was -- occurred in
10 the 2016 primary election here in Arizona.

11 I represented now Congressman Andy Biggs. He
12 got elected. He won the primary, and he one it by 16 votes
13 out of about 86,000 cast. So it was a very close election.
14 And his opponent, I mean, understandably so, losing by such
15 a margin, you know, really was not -- didn't really want to
16 just accept that as, you know, that's the end of it. So
17 she filed a voting challenge, or an election challenge.

18 One of the things that we found is that you
19 have mail-in ballots that encompass the vast majority of
20 ballots that are cast. That obviously should be -- that
21 probably warrants more and more focus since there's fewer
22 and fewer day-of voters. But the signature verification
23 process was, I think, at that time was flawed.

24 I think when you have a process where the law
25 essentially tells the elected official you must compare

1 this signature to the voter's voter registration signature
2 when the voter registered, perhaps, decades ago as I did,
3 then you had a system where there weren't any of these, but
4 there were enough that it's now been addressed, as we heard
5 Mr. Spencer talk about.

6 We essentially -- you know, you would have
7 some signatures in the past that had been counted on
8 mail-in ballots that looked a lot like the signature that
9 was not counted on this mail-in ballot. The judge, I
10 think, actually did admit some of those to be counted
11 because of that.

12 But, you know, you heard Eric Spencer. This
13 is absolutely a positive development that, you know, now
14 what we're going to do is we're going to compare it against
15 every signature that we have in the database because
16 signatures change over time. You know, that's something
17 that essentially, it took a close election, a razor-thin
18 election, in Arizona to really expose that as a problem.

19 And I think one of the themes here is that I
20 think that the solutions are largely best had by our
21 elected officials talking to the community, talking to the
22 people who are affected, being engaged. I mean, when you
23 talk about the old preclearance where, you know, you wanted
24 to move a precinct line, and you had to go to someone in
25 Washington, D.C., and ask them for permission. Well, you

1 know, I mean, with all due respect, they're probably not
2 going to know as much about their community as well, and
3 Adrian -- Mr. Fontes does.

4 So I put a high level of confidence in our
5 elected officials. I think if Shelby has a positive -- one
6 of the -- well, a legacy that I consider very positive is I
7 think it did sort of condition people to give thought to
8 the things they're doing.

9 And as Mary said, or Ms. O'Grady said, one of
10 the things is, you do want to think about how is this going
11 to affect someone who is not me? Because our first
12 inclination as human beings is going to say, how is this
13 going to affect me? And if it doesn't affect me, it
14 doesn't affect anyone.

15 Well, we know that's not true. We know that
16 it can have a profound effect on others. And I think
17 Shelby did condition people to appreciate that more, and
18 that is a positive.

19 I will talk briefly -- I think that, you
20 know, I mentioned I alluded to the ballot harvesting case
21 which, you know, we had that case. We had a case, I think,
22 that was mentioned about, you know, are we -- is there any
23 danger of people being challenged in the polling places
24 again?

25 And, you know, I have served on ballot --

1 ballot integrity committees. I've gone out on election
2 day. And I stopped doing it, frankly, because there was
3 almost a complete lack of anything interesting happening on
4 election day. I think it is good to have observers. There
5 were observers from both parties. Transparency is good,
6 and, yet, I did it couple of times and decided, yeah,
7 that's a great thing for someone else to do.

8 I wouldn't know how to challenge a voter if
9 someone asked me to. And I think that, you know, we do
10 have to go back. Last election this was alluded to. There
11 were, you know, horror predictions, breathless predictions
12 about what was going to happen with all kinds of
13 intimidation tactics that were meant to keep people away
14 from the polls.

15 There was a lawsuit filed that I defended
16 against. And the injunction that was requested was denied
17 by an Obama-appointed judge. But I think that the
18 ultimate -- ultimately, I heard almost nothing on what
19 happened on election day other than the actual election,
20 which is the way it should be. I heard no horror stories
21 about being people being intimidated. I heard nothing of
22 that nature.

23 In fact, I've never really heard much along
24 those lines. I think those days are happily in our past.
25 And that's another positive development. I do think it

1 is -- you know, we do have to try to separate what is
2 essentially rhetoric that may not have a -- the best effect
3 in terms of how can we improve the system to things that
4 are actual real problems.

5 So I think that -- I think that that's the
6 first thing we need to do. So I think I have one more
7 minute left.

8 I know that Eric Spencer touched on some of
9 the positives. Technology is obviously the ally in terms
10 of improving a lot of processes. And voting is no other.
11 I think it's great that we're -- you know, your voter
12 registration is going to follow you from county to county.
13 That's something that is being done. It will make it
14 easier. I don't think anyone likes to have to dig out this
15 document or that document.

16 I think there is some room for improvement on
17 the registration system. And I think that the point of
18 Prop 200 in 2004 was not an unnecessarily -- and I know
19 that the law has to be followed ultimately. But the point
20 is the someone has to be a citizen to register to vote.
21 The point is not necessarily that a particular bureaucratic
22 process has to be followed to identify that person as a
23 citizen. So I think that's an exciting new potential
24 development where there is some room for improvement.

25 So obviously, there are those areas. But in

1 terms of is there -- are there large areas that are
2 particular here in Arizona? I have to say no. We have the
3 aberrational things that happens like the presidential
4 preference election, but that's exactly what it was -- it
5 was an aberration.

6 So I think we have a good system. It allows
7 people to vote with a minimal of burdens. But we're always
8 looking for how can we decrease those burdens further, as
9 minimal as they are, without sort of compromising the
10 integrity of elections.

11 So with that, I look forward to the words
12 from the other panelists and the back and forth after that.

13 CHAIRMAN VAN ASSCHE: Thank you, Mr. La Sota.
14 We will now hear from Sarah Gonski.

15 MS. GONSKI: Thank you, Madam Chair, and
16 thank you to the rest of the panel for inviting me to speak
17 today.

18 I am going to respectfully disagree with my
19 colleague here, Mr. La Sota, as he so accurately
20 forecasted. But I wanted to say right off I think that
21 there are a lot of positive things that are happening in
22 Arizona. I'm here to talk about a few of the things that I
23 see that I think are troubling, and I think are troubling
24 in the wake of Shelby County.

25 And I agree with my colleague, Ms. O'Grady,

1 that the lack of backstop has been a problem in Arizona.
2 And it has created problems that disproportionately fall on
3 Arizona's minority voters.

4 Today my testimony will center on two recent
5 instances in which Arizona has burdened the right of
6 minority voters. House Bill 2023 from 2016, which we had
7 spoke about earlier as the ballot harvesting bill. I have
8 to call it the ballot collection bill.

9 The other thing that I will be speaking about
10 today is Arizona's rejection of out-of-precinct ballots,
11 which are -- Arizona rejects an enormous number of
12 out-of-precinct ballots. And statistics have shown that they
13 are disproportionately the votes of minority voters here in
14 Arizona.

15 The ballot collection bill was passed in 2016
16 in the wake of Shelby County. The ballot collection bill
17 is something that was aimed at -- ballot collection is a
18 practice that helps voting by mail. Voting by mail, as you
19 probably heard many times today, is an increasingly popular
20 method of voting in Arizona.

21 Voters receive the ballot via mail and must
22 return it by 7:00 p.m. on election day to have it counted.
23 Because they have to return it and not postmark it by
24 7:00 p.m. on election day, there is a time gap between
25 which voters can no longer put their ballot in the mail in

1 order to have it received on election day.

2 Over time practices evolved here in Arizona
3 in which community organization groups, and particularly
4 prevalent within the Latino community here in Phoenix and
5 Tucson as well, would engage in get-out-the-vote activities
6 by going around and helping voters, canvassing with voters
7 and helping them return their ballots after the cutoff date
8 for placing it in the mail.

9 This became an increasingly popular way to
10 vote, increasingly popular method of community engagement
11 in which volunteers from organizations who knew these
12 neighborhoods quite well and had been in contact with them,
13 helping these voters get registered, helping them
14 understand an issue, and speaking to them about the actual
15 -- excuse me -- the voting mechanisms that were available
16 to them.

17 Now, these voters would be able to hand off
18 their ballot to somebody that was a trusted volunteer, a
19 neighbor. We speak to a lot of people who were sick on
20 election day, who had a newborn on election day, who for
21 whatever reason were not able to place their ballot either
22 in the mail or to return it to the polling location
23 themselves. For these voters it was an incredibly useful
24 method of voting, a very popular method of voting to be
25 able to entrust that someone else would be able to take

1 your ballot and return it in election day.

2 The second way which ballot collection was
3 useful to minority communities is that we have heard a lot,
4 and I've spoken to dozens of folks, if not hundreds of
5 folks, who have spoken about the particular burdens on
6 Arizona's Native population who often, particularly Native
7 communities that live on rural or tribal lands, not all
8 tribal lands in Arizona are rural, but many of them are.

9 And many of them lack home mail delivery. As
10 you've no doubt heard a lot about today, addresses are not
11 always as simple as they are for many of us. And something
12 that Mr. La Sota said really rang true, which is that, I
13 think it's easy to look at the burden of a practice of
14 voting and to conclude that because it is not a burden for
15 you, that it is not a burden for others.

16 But in fact, what we've heard over and over
17 throughout legislative testimony on this bill throughout a
18 time since this bill was enacted that, in fact, the bill
19 actually has imposed burdens, a lot of burdens on Native
20 folks in Arizona who are unable to hand their ballot to a
21 trusted neighbor, a trusted friend to take to sometimes a
22 very far-flung post office box and to folks who relied
23 within -- on community organizations that were doing civic
24 engagement in order to ensure that everyone's ballot got
25 turned in.

1 I also think that there was a lot of talk
2 about this law being a fraud prevention measure. There has
3 been no evidence that has ever been presented despite many,
4 many requests for it as you can imagine that there has been
5 ballot collection fraud in Arizona, that there has ever
6 been a conviction, that there has ever been a prosecution.

7 We do not have a voter fraud problem in
8 Arizona. We have a voter turnout problem in Arizona. And
9 these voters were able to vote using a method that was
10 quite popular, and particularly it was quite popular in
11 minority communities. And it was stripped away from them
12 by this law. It was not only stripped away from them, but
13 it was made into a felony to possess someone else's ballot
14 in Arizona, not a misdemeanor, but a felony.

15 I believe that this law would not have been
16 pre-cleared if Section 5 were still in effect. Before
17 Shelby County, in fact, a prior version of this law that
18 was substantially similar in many respects was passed by
19 the Arizona Legislature in 2011. The Department of Justice
20 returned back to Arizona and said, "We will not pre-clear
21 this law, unless you answer some more questions
22 specifically as to how it impacts minority communities."

23 Arizona declined to answer the questions and
24 withdrew their preclearance application. They then
25 repealed the law in the next legislative session. So I

1 think that we have concrete evidence in this particular law
2 that I do not think this law would have been pre-cleared by
3 the Department of Justice.

4 I also want to speak about out-of-precinct
5 voting in Arizona. I have a few slides that I've put up
6 here that is a graph that actually the en banc Ninth
7 Circuit used in striking down and granting an injunction to
8 strike down the ballot collection law that -- to take it
9 out of effect in time for the November 2016 general
10 election. That opinion was summarily reversed by the
11 Supreme Court without comment.

12 However, this graph is a compilation of
13 statistics. As you can see, Arizona up at the top is far
14 and away invalidating more out-of-precinct ballots as a
15 share of ballots cast versus any other state in the union.

16 In response, Arizona has argued that it is
17 not hard to find your polling place, that it is not
18 difficult to travel to the correct one, that it is not
19 difficult to ascertain that you're in the wrong one, that
20 it should be an easy matter for voters to come to the right
21 polling place. But what we've found is that the proof is
22 in the pudding. Arizona is doing something that other
23 states aren't doing. Its voters are not, I think, more
24 confused as a group than voters in any other place. And
25 yet, as you can tell, the statistics really speak for

1 themselves.

2 Statistical evidence clearly shows that
3 minorities are far more likely to have their ballots
4 rejected than their white counterparts here in Arizona, and
5 the numbers are startling. The rate at which in-person
6 ballots were rejected and not counted because the votes
7 were cast in the wrong precinct was 130 percent higher for
8 Hispanics, 74 percent higher for African-Americans, and 39
9 percent higher for Native Americans than for white voters
10 in the last -- excuse me -- in the 2014 Presidential
11 Election.

12 I have another graph that you can see up here
13 that spans 2010, 2012 and the 2014 elections that again
14 shows the rate of disparate impact.

15 This is true for a variety of reasons. The
16 statistics show that Arizona minorities suffer in education
17 and employment opportunities and lag behind in terms of
18 educational attainment, poverty rates and unemployment.

19 They often have less access to transportation
20 and more residential transiency due to housing instability
21 and housing costs. It's not anything that we can
22 necessarily -- that we can say that anybody intended to
23 cause. But I think that the fact of the matter is that the
24 statistics speak for themselves. Arizona's policy of
25 completing rejecting ballots cast out of precinct is

1 disproportionately disenfranchising minority voters in
2 Arizona.

3 Arizona has many mitigating facts that are
4 available to it. Arizona can take measures which many,
5 many other states do of partially counting out-of-precinct
6 ballots in order to give up the most opportunity for voters
7 that show up accidentally in the wrong precinct. Arizona
8 can also at a county level heighten up poll worker
9 procedures, so that voters have an idea that they are in
10 the wrong precinct. Many, many voters that I've spoken
11 with were not told that they were in the wrong precinct
12 and, therefore, had no meaningful opportunity to cure.
13 They are shocked when they were told that their ballots
14 are, in fact, rejected in their entirety.

15 I think in summary, without Section 5, I
16 think these burdens are being imposed on minority voters in
17 Arizona. Without Section 5, the burden of enforcing
18 fundamental constitutional rights is falling to private
19 plaintiffs in litigation. Both of the issues that you
20 heard me speak about today are currently in litigation.
21 Courts will speak on them soon. But I think it underscores
22 the fact that with private plaintiffs, the burden, the cost
23 of the lawsuit, and the actual legal burden becomes the
24 prerogative of the plaintiffs instead of the defendants in
25 order to explain why their voting mechanism is not

1 burdening minority voters.

2 So, overall, I think Arizona has a lot of
3 work left to do to protect its minority voters. I think
4 Arizona needs to improve its responsiveness to minority
5 concerns. And they should not have to depend on
6 litigation. Litigation which this state vigorously
7 defends, in order to protect their rights to the franchise.
8 Thank you.

9 CHAIRMAN VAN ASSCHE: Thank you, Ms. Gonski.
10 We will now hear from our next panelist,
11 Joseph Garcia.

12 MR. GARCIA: Madam Chair, Committee Members,
13 thank you. I'm Joseph Garcia, Director of the Morrison
14 Institute of Latino Public Policy Center.

15 Since 1982 Arizona State University's
16 Morrison Institute for Public Policy has been providing
17 data and evidence-based research and analysis on the most
18 important issues facing Arizona and the region. I'm here
19 today to provide some context to Arizona's changing
20 electorate, particularly as it pertains to the state's
21 rapidly increasing number of Latino voters.

22 In recent years Morrison Institute has
23 published several reports on Arizona's changing electorate
24 including: "Who is Arizona's independent voter?" "Voters,
25 Media & Social Networks," "Gamechangers?" "Independent

1 Voters May Rewrite the Political Playbook," and "Arizona's
2 Emerging Latino Vote."

3 Presently we're working on a project with
4 Arizona's Citizens Clean Elections Commission regarding a
5 national problem that's also plaguing Arizona, the lack of
6 participation, engagement, and education related to voting
7 by its citizenry.

8 But today I'm here to talk about Arizona's
9 changing electorate which, of course, is linked to
10 Arizona's growing population. As you can see by this
11 slide, Arizona's population has been growing rapidly in
12 recent years from 749,000 people in 1950 to more than
13 7 million people today. Future years will show an
14 increased number of residents including the numbers of
15 Arizona Latinos.

16 As you can see by this slide, Arizona's
17 population is approaching one-third Latino at about
18 31 percent Hispanic Latino today. That's significantly
19 higher than the national percentage, which is rapidly
20 increasing its number of Latinos as well, but not at the
21 same level.

22 But make no mistake about it, Arizona's
23 future is Latino with our state expected to become a
24 minority-majority state by 2030. Arizona will continue to
25 see Latinos, shown here in red, becoming more and more a

1 pronounced percentage of Arizona's population.

2 The majority of Arizona's 1 million K through
3 12 children already are ethnic minorities. In fact, there
4 are more Latino schoolchildren in our K through 12 campuses
5 than non-Latino white schoolchildren. That change happened
6 about three years ago.

7 It's important to understand that Arizona
8 Latinos are largely a young population. For example,
9 non-Latino whites who are age 19 or younger make up about
10 21 percent of our population, while Latinos who are 19 or
11 younger make up 41 percent. And the median age for whites
12 is 44, while it's 25 for Latinos.

13 That doesn't mean that there are not
14 challenges facing young Latinos, including too many not
15 finishing high school and too many not going on to earn a
16 college degree. This is happening both in Arizona and
17 nationally.

18 Not surprisingly as a result a
19 disproportionate number of Arizona Latinos are living in
20 poverty. The same holds true for other people of color,
21 including American Indian, and black, African-American.

22 The reason I'm talking about age, education,
23 and poverty is because when it comes to voting, there are
24 three groups of people who traditionally don't vote in this
25 country: Young people don't vote, poor people don't vote,

1 and undereducated people don't vote.

2 That's right. Latinos fall into all three of
3 those groups that are difficult to engage and to educate
4 when it comes to voting regardless of ethnicity. So there
5 are challenges.

6 Now, remember when I mentioned that Arizona
7 is expected to become a minority-majority state by 2030,
8 about that time the percentage of Arizonans registered to
9 vote will have doubled for Latinos between 2010 and 2030.
10 And that's because virtually all Latinos, all young Latinos
11 living in Arizona were either born here or naturalized US
12 citizens, meaning that unlike, perhaps, one or both of
13 their parents, virtually all will be eligible to vote.

14 Our research showed that nearly all of
15 Arizona Latinos who were age 4 and under in 2010 will be of
16 voting age in 2030. Now, this would constitute a
17 178 percent increase in the number of Latino citizens aged
18 20 and older between 2010 and 2030. Meanwhile, the number
19 of adult non-Latino Arizona citizens is expected to
20 increase by only 42 percent. That's quite a difference.

21 Here are a few numbers to keep in mind:
22 Every month for the next two decades 50,000 Latinos in the
23 United States will be turning 18, and thereby will be
24 eligible to vote. Morrison Institute, we also look at
25 that, and we came up with a number of about 2,000 Latinos

1 in Maricopa County will turn 18 and also thereby eligible
2 to vote.

3 Morrison Institute's report "Arizona's
4 Emerging Latino Vote" shows a sea change coming to
5 Arizona's political landscape. That's because even with
6 low voter registration and low voter turnout among Latinos,
7 straight-line projections show the state's growing Latino
8 electorate regardless of party, largely vote democratic or
9 progressive.

10 Party affiliation also will go largely
11 democratic in the state, but even Latino independents,
12 their voting behaviors largely go Democratic or progressive
13 on ballot issues and candidates. And again, this is all
14 without any changes in Republican stances, such as
15 immigration and education, which are two top issues for
16 Latino families.

17 The result could be Arizona changing from a
18 red conservative state to a blue progressive state by 2030,
19 and those are conservative estimates. Now, this won't
20 happen overnight, and this is not 2030.

21 With every election season I'm asked by the
22 news media: Is this the year that Latinos will finally
23 flex their muscles at the polls? And my answer is yes and
24 no. Yes, because we'll continue to see more and more ways
25 of Latino voters affecting Arizona's elections. No,

1 because a 14-year-old Latino today isn't magically going to
2 turn 18 come this November. But four years from now, yes,
3 she'll be 18 and eligible to vote.

4 There is a maturation process to the Latino
5 voters both here and nationally. And while I'm sure you'll
6 hear plenty of more testimony today regarding Latino
7 voters, I think it's important to understand our changing
8 electorate to understand that anytime there is a shift in
9 power, and there are power struggles among vested interests
10 and there are incentives and possible explanations for
11 actions on both sides.

12 However, undeniably it can be said that
13 future Latino voters in Arizona are here, and they're now
14 and will continue to be so, because they were born here.
15 And Latinos have every right to vote, and many may argue
16 that they have a duty to vote when they do turn 18. A
17 representative democracy for opening every constitutional
18 avenue possible for these Americans to participate because
19 our state, our nation, and our collective future rely on
20 it.

21 Thank you.

22 CHAIRMAN VAN ASSCHE: Thank you very much.

23 We will now open up to questions from the
24 Committee. If you have a question, please speak into the
25 speaker and state your name for the record.

1 MR. YORDY: Thank you, Madam Chair. Eric
2 Yordy.

3 My question is for Ms. Gonski. In looking at
4 your two charts that you had up there, a couple of quick
5 questions.

6 One, in the first chart, it looks like there
7 are about six states missing. Do you have any idea how
8 they rank? Are they just so insignificant in their
9 precincts?

10 MS. GONSKI: So not all states count -- not
11 all states categorize these ballots the same way. And so
12 many states, an example, Washington is a good example.
13 There are several states that do all-mail voting, and so
14 precincts actually are not relevant.

15 MR. YORDY: And so that's why they're not in
16 it. Perfect. And do you have numbers for either of those?

17 MS. GONSKI: I do. I don't have them here
18 with me today, but I can --

19 MR. YORDY: Okay. If you could get those to
20 the Committee, that would be great.

21 MS. GONSKI: Absolutely, yes.

22 CHAIRMAN VAN ASSCHE: We do have those.

23 MR. YORDY: Thank you.

24 CHAIRMAN VAN ASSCHE: We can talk about that,
25 but you can e-mail them to Ana Fortes.

1 Ms GONSKI: Wonderful.

2 MR. YORDY: Thank you very much.

3 CHAIRMAN VAN ASSCHE: Any other questions
4 from the Committee?

5 David Kim.

6 MR. KIM: Thank you, Madam Chair.

7 This question is for Ms. O'Grady. During
8 your presentation, you emphasized the importance of
9 competent, nonpartisan, and fair election professionals.
10 I was wondering how we could get there in
11 your mind? How do we obtain those fair and nonpartisan
12 election professionals?

13 MS. O'GRADY: I think we have some very
14 strong election professionals in Arizona. I think there is
15 better training than there was in the past for election
16 leaders. I'm not as comfortable as my friend Mr. La Sota
17 is with the electorate being the protector that if a County
18 Recorder screws up an election, that you vote them out of
19 office. Because in the meantime people are
20 disenfranchised. And so that to me may be appropriate in
21 ter- -- but not the answer, because nobody should ever be
22 disenfranchised.

23 So I think availability of good training.
24 And there is good training nationally. I think some of it
25 is a culture. And I am concerned sometimes with partisan

1 elected election administrators. We have not had that
2 culture in Arizona. Some states do have that culture where
3 they in their role of election administrator hat, they
4 still have their partisan hat on. We haven't seen that in
5 Arizona. And I think it's part of our culture, and I hope
6 it stays that way.

7 But part of my message with Section 5 I think
8 helped reinforce that culture in terms of voting rights
9 issues. So I think it's training. I think it's elected
10 officials being able to control themselves once they get
11 into office and make sure that now I have a different
12 responsibility. And, you know, some voters may have
13 brought me here, but now I'm responsible to all the voters.
14 And so there is a -- you know, we've got to elect people
15 who we trust to have that mind-set, and hopefully they hire
16 and retain people who also have that mind-set, and they
17 take advantage of the training that's available so they can
18 do their jobs.

19 MR. KIM: Thank you.

20 MR. ROSE: Jonathan Rose. I'd like to ask
21 each of the panelists, if they could make one change in the
22 Arizona voting system and laws that would increase
23 participation and make it fair and more efficient, what
24 would that change be, leaving open the option to say no
25 changes are necessary if that's what you feel.

1 MS. O'GRADY: Okay. You guys want me to go
2 first?

3 Okay. Just one -- I might get rid of the
4 ballot harvesting law. I think that that -- it may not
5 be -- because I don't think that -- I think the impact --
6 the benefits to the system, if there are any, are
7 outweighed by the adverse impact on people.

8 MR. LA SOTA: Thank you for the question.

9 Most of my criticism has been, and I don't
10 always agree with what the Legislature does, but it's been
11 more in the realm of ballot measures where I think -- you
12 know, I think we've gotten some legislation, I've spoken
13 out against it publicly and on the record, that, you know,
14 has not, you know, fully respected our right to go to the
15 ballot. But I know that's why you're not all here today.

16 And I had the perfect example coming in of
17 something that needed to be fixed, and it was that mail-in
18 ballot issue. But that is being fixed, and it did -- it
19 did need to be addressed. So -- but beyond that, I don't
20 really have much that I think other than just the
21 administrative nature of elections, polling places at
22 different places.

23 I get calls from people every election,
24 "Where's my polling place?" Well, I go online and plug my
25 address in every time. Mine doesn't change, but I'm kind

1 of fortunate that the place has been there forever, and
2 they're gracious, but I know that's not true for everyone.

3 MR. ROSE: I know some of you haven't
4 experienced me asking you questions for a long time.

5 MR. LA SOTA: It brings back some memories.

6 MS. GONSKI: I would implement automatic
7 voter registration. I think in particular when I see these
8 numbers that Mr. Garcia brought up about the number of
9 voters that are turning 18, the number of voters that are
10 becoming eligible to vote, I think that registration is --
11 it can be automatic. There's no reason with the technology
12 that we have these days that we cannot. I think it would
13 be probably the single biggest thing that we could do to
14 improve voter turnout engagement in Arizona.

15 MR. ROSE: Can I follow up?

16 How would automatic registration work? I
17 mean, something has to happen other than being born or
18 having a birthday, I assume, to make it automatic.

19 MS. GONSKI: There are a number of different
20 ways in which I think other states have made it work in
21 ways that -- I think some of it would have to depend on
22 Arizona's particular system, particular system of
23 technology. I know that as an Arizona voter, I have an
24 option to -- when I move, I can go to the DMV's website,
25 and I can update all of my information from my driver's

1 license. Or my moving or when I go to the post office and
2 I need to forward my mail to a new address, or anything
3 along those lines. We have a lot of systems that are
4 integrated systems that are online. And, yet, voter
5 registration, which you can do online, which is an enormous
6 help here in Arizona, is a system that is maintained and
7 kept separately from the rest of those systems.

8 So I think as one example, one way that we
9 can do it is tie it into the DMV systems. I do not think
10 that would be perfect. I think there are a lot of people
11 that are eligible to vote that would not have driver's
12 licenses, that's the crux of a lot of voter ID laws that
13 are in currently litigation around the country, and for
14 good reason. But I do think that that would be one place
15 to start. Arizona has very good online systems, but they
16 could use better integration.

17 MR. GARCIA: Thank you. And for the record,
18 I'm not advocating any change whatsoever, so if -- we
19 cannot have advocate. But one thing I think that Arizona
20 could look at would be its primary system. Perhaps
21 consider an open primary, given that 80 percent of the
22 elections are pretty much determined in our primary and
23 very few people presently participate in primaries, because
24 they don't know the importance. Also, that would also
25 include being a little bit more inclusive towards

1 independent voters, who sometimes that's the number one
2 voting registered voters here in Arizona, and they continue
3 to grow, because many independent voters don't know they
4 can vote in primaries. But, again, that also goes with,
5 any time you talk about voter engagement, you have to talk
6 about voter education. Because I think the answer is not
7 just driving more people to the polls, but driving more
8 people to the polls with an understanding of what their
9 vote means and purposely casting for those reasons.

10 MR. ROSE: When you say "open primary," you
11 mean like the California system?

12 MR. GARCIA: Well, they do -- the vote is top
13 two. There's various ones around the country.

14 MR. ROSE: But something along those lines.

15 MR. GARCIA: But something along the lines
16 where -- the understanding, the importance of the primary
17 and then obviously opening it up for everyone being able to
18 vote, and then obviously, the candidates. It gets a little
19 bit away from the partisanship that we know. And as it
20 happens, the people that do vote in primaries are very
21 largely partisan, on the far right or the far left. And so
22 we end up with those candidates on the general, and often
23 pretty much running unopposed, are guaranteed in safe
24 districts a victory in November.

25 CHAIRMAN VAN ASSCHE: Additional questions

1 from our Committee?

2 MS. RASSAS: For the record, this is Theresa
3 Rassas. And this question is especially for Ms. O'Grady or
4 anybody else who wants to add.

5 We actually heard a little bit about the
6 harvesting ballot law this morning. And the person
7 discussing it listed exceptions. And I started writing
8 them and stopped at one point, because there were so many
9 exceptions to a good carrier ballot, which was refreshing,
10 because I had a baby at election time, and my husband did
11 deliver my ballot for me. So I'm also glad that he didn't
12 break the law when he did that.

13 But we heard the long list of exceptions and
14 so it's surprising to me that you're so concerned. And
15 I'll point out that, I mean, election integrity matters,
16 and fraud does happen.

17 So in light of that, and in light of the
18 exceptions, can you clarify us why you still have this
19 great concern about ballot harvesting restrictions?

20 MS. O'GRADY: Well, I might -- some of the
21 deep, Sarah, since you litigated, Ms. Gonski, since you
22 litigated that case can probably give you good information.
23 But it's one of those balances of, you know, is there, you
24 know, what's the benefit of this law, and what's the
25 burden? And it's one where seems like the burden far

1 outweighs the benefit, and the burden falls
2 disproportionately on the minority voters. But Sarah
3 probably has -- Ms. Gonski probably has more detail and
4 evidence there.

5 MS. GONSKI: Sure. I think it's a really
6 good question. And it's a point that's brought up
7 sometimes about the ballot collection law. I think that
8 there are a couple of big misunderstandings about the
9 exceptions, and so I think what's helpful is briefly I'll
10 talk about the exceptions and I'll talk about who they
11 don't include.

12 So the exceptions to the bill include that
13 somebody can return your ballot if they are a family
14 member. You would need to understand "family member"
15 within the context of the statutes, because it is defined
16 in a way, it's defined in a pretty broad way. But a lot of
17 folks have that I speak with have a lot of questions: Does
18 my brother-in-law count? Does my -- who counts exactly as
19 family member? We are expecting a voter to know that.

20 A caregiver, which is defined pretty formally
21 to mean -- to sound like it means an employment
22 relationship, essentially not a neighbor that comes by to
23 check on you if you're elderly. And a household member, so
24 any roommates can take in your ballot. The folks that are
25 not included in this are the folks that were typically

1 doing ballot collection in organizational ways before this
2 law was passed. So the people that cannot return your
3 ballot or that cannot even possess our ballot, let's not
4 forget this is a blunt act of the law. It is not just your
5 signed, sealed ballot. It's also possessing your ballot
6 whatsoever.

7 If I'm on vacation and somebody is
8 house-sitting at my house, and they are bringing in my
9 mail, putting it on my counter while I'm gone, then they
10 are a felon, a Class 6 felon, under Arizona law because
11 they have held my ballot. I think also the organizational
12 ballot collection that was done that was bringing out some
13 very large numbers, and primarily with the organizations
14 doing work in the Latino community, those were people that
15 would not fall under any exception to this law. There were
16 people that would not be household members, family members,
17 or caregivers.

18 And I also think that we've heard from a lot
19 of folks in the Native community who often in rural areas
20 who live quite far from a post office box, and it is the
21 practice of the community often to pool mail, sometimes
22 even sharing a P.O. box, but to pool mail back and forth
23 for whoever is going into town.

24 That doesn't apply specifically to ballots or
25 to election mail, but under this law, we would really be

1 relying on prosecutorial discretion. But anybody who has a
2 ballot in that sack of mail, that is something that is
3 prohibited by this law. So I think that if the legislation
4 wants to target specific types of behavior that they think
5 is questionable, then they can do so. I think that the
6 legal standard is that we require a means fit analysis and
7 a means fit balancing. And I think that the means of this
8 law, which is making it a felony to possess someone else's
9 ballot, does not accurately reflect any problem.

10 MS. RASSAS: And just as a follow-up, so it's
11 your testimony today that in order for somebody to be a
12 caregiver under the exception, the person whose ballot it
13 is has to employ that person?

14 MS. GONSKI: I think it's a matter of legal
15 interpretation for sure. I think that the law as written
16 certainly contemplates a formal caregiver relationship.
17 The law as written, you know, my understanding is that a
18 lot of times with this law I do not see how it could
19 encompass somebody who was checking on an elderly neighbor,
20 for example. That is not somebody that would be counted as
21 a caregiver under the exception.

22 MS. RASSAS: Thank you.

23 MR. LA SOTA: I'd like to be heard. And I
24 think that this is an example of the rhetoric and
25 Ms. Gonski's rhetoric in not being able to match that with

1 actual facts. So let's go back to what the court said
2 about their request for a preliminary injunction.

3 Quote: Given the severe burden, plaintiffs
4 allege the ballot harvesting bill will place on rural
5 voters without reliable transportation or access to secure
6 outgoing mail, it is telling that they have not produced a
7 single declaration from a voter who fits this profile.

8 So the -- frankly, that was a question that
9 the court wanted to know, and it's -- it's still gone
10 unanswered.

11 The court also said that: The constitution
12 does not prohibit Arizona from regulating the manner in
13 which early ballots may be returned simply because some
14 voters are disengaged and choose not to vote unless a
15 third-party convinces them to do so and delivers the ballot
16 for them, end quote.

17 You raise a great point about fraud. You
18 don't have to wait for a documented prosecuted cases of
19 fraud to take steps to prevent fraud from happening.

20 I mean, we have laws all the time that are
21 meant to prevent bad things from happening before they
22 happen. That's actually more ideal. And, frankly, I mean,
23 there was a lot in what Ms. Gonski said that I could take
24 issue with. But this business about someone being guilty
25 of a felony for bringing in mail for someone is ridiculous.

1 MS. FERGUSON-BOHNEE: Thank you. Patty
2 Ferguson-Bohnee. I have a question for Ms. O'Grady.

3 You mentioned that during the last
4 redistricting cycle, it was the first cycle that Arizona
5 actually was pre-cleared on the first round. And you're
6 one of the lawyers for the redistricting commission.

7 I'm wondering moving forward since Section 5
8 isn't in place, what can be done to ensure that minority
9 voting rights are protected because it's my understanding
10 that you all really looked at Section 5 and how to meet
11 Section 5 through the last redistricting cycle.

12 MS. O'GRADY: That's a good question going
13 forward. I think engagement is going to be extra important
14 with the next Commission in terms of, you know -- because
15 the Commission is a very public process. But really
16 following that process, letting testify -- giving your
17 testimony to the Commission, perhaps, working with folks
18 who -- so you can really analyze getting the sort of expert
19 assistance so that you can analyze the impact on your
20 communities and bring that information forward to the
21 Commission.

22 And also being somewhat -- and applying for
23 the Commission, being on the Commission, not just
24 participating in that way. So that there's diversity among
25 the members and just really following the process. I think

1 that's a combination of having good people on the
2 Commission is critical who care about these things, and
3 then really following that process and participating all
4 the way through. I think that's going to be real important
5 and educating them on the issues as the process goes
6 forward.

7 CHAIRMAN VAN ASSCHE: Any additional
8 questions from the Committee?

9 We do have time, so Mr. Rose.

10 MR. ROSE: Yeah, I have a general point and a
11 specific question. I think everyone agrees you should
12 protect the integrity of the election system. However, on
13 the issue of whether there is or isn't fraud, to quote
14 Kellyanne Conway, seems to me we have alternative facts and
15 assertions where each side may be somewhat guilty of making
16 statements without sufficient empirical evidence.

17 I don't know how much fraud there is in
18 elections. I mean, the President had an ill-failed
19 Commission, and the Missouri Secretary of State is an
20 ardent participant in this. But it seems to me if laws are
21 going to be justified on the basis of existing or potential
22 fraud, there has to be better empirical evidence on its
23 existence. And I don't know that evidence of unsolicited
24 complaints constitute really statistically significant.

25 So it seems to me people in this business

1 ought to try to get some social scientists or others to do
2 real studies based on the empirical actual existence of
3 fraud.

4 My second question is, otherwise we're just
5 going to have each side asserting alternative facts as we
6 have now. I may not have to ask this question of -- well,
7 maybe I do, of Ms. Gonski of dealing with the house sitter
8 who brings in the mail.

9 Does harvesting of mail, does that felony
10 have an intent requirement or is it strict liability?

11 MS. GONSKI: It has a knowing requirement.
12 So you have to know that you're possessing someone's
13 ballot. So if that --

14 MR. ROSE: And is there a question of what
15 "possessing" means? I mean, if a friend -- it's hard for
16 me to believe -- I can think of all kinds of scenarios. A
17 friend comes to your house, a family member who isn't
18 within the exception, they take your mail out of the
19 mailbox and say, "Here's your mail so you don't have to go
20 outside and get it," standing at the door.

21 It's hard -- I realize an easy answer is
22 prosecutor discretion. But it's hard for me to believe
23 that those types of momentary possession, you know, someone
24 at my house who brings in the mail so it doesn't get
25 stolen. It's hard for me to believe that those aren't

1 actually intended by the statues to be treated as felonies,
2 and I don't think it helps in attacking the harvesting
3 bills, which I personally have a lot of concern about, to
4 use that kind of an argument to attack and to focus more on
5 what the real problem is, which is the eligibility of
6 community interest in people to help their neighbors in
7 returning their ballots because they are unable to. I
8 guess those were more statements.

9 CHAIRMAN VAN ASSCHE: I was just going to
10 say, I don't think there is a question pending.

11 If the Committee has any other questions, we
12 do have time for additional questions from our panelists.

13 MS. KENNEDY: I have a question.

14 CHAIRMAN VAN ASSCHE: Yes. Go ahead.

15 MS. KENNEDY: Dana Kennedy.

16 And since I spend a lot of time working with
17 seniors and represent the 50-plus community, my question
18 is -- I'm just going to make it as simple as possible with
19 the scenario that's in my head.

20 If I'm going to go to the polls on Tuesday
21 and my neighbor who lives across street from me is sick,
22 and she calls me and says, "You know, I've got my ballot
23 here and I want to vote. My family lives in another
24 community." If I were to take her ballot to the poll with
25 me and deliver it, am I committing a felony?

1 MS. GONSKI: Yes. The exception to the law,
2 the caregiver exception, I'm sure Mr. La Sota will have
3 thoughts as well, but the caregiver exception to the law,
4 specifically, specifically contemplates that somebody would
5 be either working in an assisted living type of facility,
6 in a working facility. So I think that anybody that would
7 be a nurse or something in that type of facility, there's
8 sort of this employment obligation to take care of
9 somebody. And I also think that, if you were giving
10 services to them as somebody that was sort of a formal
11 caregiver that there was a relationship that you were going
12 over and helping your neighbor, then you would fit under
13 that exception. I think that if you are helping your
14 neighbor out of the kindness of your heart, then that is
15 not something that falls within the exception.

16 MS. KENNEDY: We do do a lot of work with
17 family care giving so I'm familiar with the term care
18 giving, which many people are not, so I believe it is --

19 MS. GONSKI: It is defined in the statute.

20 MS. KENNEDY: I definitely wouldn't consider
21 myself a caregiver for anyone.

22 MR. LA SOTA: The one thing I would add to
23 that is this a criminal statute. And criminal statutes are
24 always construed narrowly. I mean, they -- you have to
25 fall within the criminal statutes. So I mean, I think

1 we've seen a lot of hypotheticals that never mind
2 prosecutorial discretion. But you know, we've seen a lot
3 of hypotheticals that just do not match reality. And I
4 don't think anyone has ever been prosecuted under this
5 statute anyway. But it has to fall within the statute and
6 not what's contemplated by the statute is what I would say.

7 CHAIRMAN VAN ASSCHE: Mr. Yordy.

8 MR. YORDY: Thank you. Since we have time,
9 I'll throw another question out there.

10 First, I want to say thank you for being here
11 today, for sharing your expertise. I really appreciate
12 that, and I'm impressed with the different perspectives and
13 what you've brought to us today.

14 We heard you say earlier one thing that you
15 would change in Arizona law to make things better in your
16 minds. Part of what we also do is we put together a report
17 on the status of voter laws in Arizona and voter situations
18 in Arizona, but we also advise the Federal Commission and
19 can give them our thoughts on what we could do nationally.

20 And so I wonder if you had any thoughts on
21 what we might do as a nation to improve voter registration,
22 to improve ease of access to the vote?

23 MS. GONSKI: I can speak first. I would say
24 just a variation on my earlier theme. But if automatic
25 voter registration is not available, I think same day voter

1 registration to the extent that -- I realize it's not a
2 federal issue. But to the extent that same day
3 registration can be implemented where automatic voter
4 registration is not possible, I think that that is
5 probably, again, dealing with voter registration issues is
6 one of the single biggest ways we can improve voter turnout
7 in this country.

8 MR. GARCIA: Yeah, I would just add that
9 there's a huge number of people who registered to vote for
10 the November election in October thinking they were going
11 to be eligible to vote, and they're not. You can look at
12 the numbers, and they're always increased. So it just
13 seems like there's somewhat -- in Arizona there's a long
14 time period when you can register to vote for the upcoming
15 election and just seems like that, perhaps, could be
16 narrowed more to get -- when people are actually getting
17 more engaged and start following as it gets closer to the
18 election, that they actually would be allowed to vote.

19 MS. O'GRADY: One thought I had was that it's
20 been a long time since HAVA, and there was a big infusion
21 of federal money to help upgrade election equipment, and
22 whether they're -- and it seems like it's time again to
23 help give some states some more resources in that area.

24 MR. LA SOTA: I was just about to say, I
25 mean, resources do make voting easier. There's no question

1 about it. Like I, you know, complained about the 2016
2 Presidential Primary how I didn't get to vote, but I
3 guarantee a few months before -- because I'm a day-of
4 voter -- a few months before I was in an empty polling
5 place and probably complaining about what a waste of money
6 it was to have that, that polling place sitting there.

7 So, you know, you have fewer day of voters,
8 so fewer polling places because you're, you know, you're
9 saving money devoting more resources. If there are more
10 resources, you can drive more educational efforts, because
11 a lot of the problems are administrative. People don't
12 know where to find their polling place because it changes.
13 And with more money, frankly, you have more options.

14 CHAIRMAN VAN ASSCHE: Do we have any other
15 final questions?

16 I don't believe we do.

17 Thank you very much to our panel. And we
18 will recess now for ten minutes, a little bit more
19 actually. We will be back, and we will begin promptly at
20 3:00 p.m. Thank you.

21 (Recess taken, 2:38 - 2:59.)

22 CHAIRMAN VAN ASSCHE: Welcome, everyone,
23 back. Our final panel is our Voter Perspectives Panel.
24 And in this panel you will hear from Eduardo Sainz, who is
25 the Arizona State Director of Mi Familia Vota;

1 Juliana Huerena, Operations Manager of Southwestern
2 Institute for Families and Children, co-presenting with
3 John Britton, who is a member of Southwestern Institute for
4 Families and Children. And next to him is Teresa Moore who
5 will be providing translation services for Mr. Britton as
6 needed.

7 And we also have Gina Roberts, and I
8 apologize. It was out of order. Gina Roberts is the Voter
9 Education Director of the Arizona Clean Elections
10 Commission.

11 We were expecting Robyn Prud'homme-Bauer who
12 is the Co-President of League of Women Voters, but however,
13 she had a family issue and won't be able to be present with
14 us today.

15 I will for the final time go over our ground
16 rules for those of you who weren't present when I did so.
17 This is a public meeting open to the media and to the
18 general public. We have a full schedule of people who will
19 be providing testimony within the limited time available.

20 This will include a presentation by each
21 panelist of approximately 10 to 12 minutes unless invited
22 to speak longer. After all of the panelists have concluded
23 their statements, Committee Members will engage them in
24 questions and answers.

25 And, panelists, please see that Mr. Martin

1 will be holding up time cards to ensure that you keep
2 within your allotted time period.

3 So we will begin by hearing the prepared
4 statements. And we will begin with Mr. Eduardo Sainz.

5 MR. SAINZ: Hello, everybody. Thank you so
6 much for taking the time. Just to give you some
7 background. Mi Familia, well, I work with Mi Familia Vota,
8 and Mi Familia represents -- we register thousands of
9 voters across the state, usually Latino voters. We also
10 help out hundreds of voters, hundreds of legal permanent
11 residents become naturalized citizens. We guide them
12 through the process to become U.S. citizens, so they can
13 participate in democracy.

14 Saying so, there has been a lot of different
15 issues that come when naturalized U.S. citizens become
16 citizens. And due to voter ID, if naturalized citizens
17 were to register and after they go to their oath, they
18 would register to vote on the motor vehicle's website, the
19 website would not accept that voter registration. So we
20 have seen a lot of different pathways that these
21 individuals have to go to through in order to continue to
22 participate in democracy.

23 CHAIRMAN VAN ASSCHE: Is that the end of your
24 statement, or would you like to speak longer?

25 MR. SAINZ: That's it.

1 CHAIRMAN VAN ASSCHE: Thank you so much.
2 We will continue with Gina Roberts.

3 MS. ROBERTS: Madam Chair, Committee Members,
4 thank you so much for the invitation to speak today.

5 My name is Gina, and I'm the Voter Education
6 Director for the Clean Elections Commission. To give you
7 all some background on what the Commission does and why we
8 exist, we were created by voters. So we work directly for
9 voters. And I do have a presentation, so I'm not sure if
10 I'm supposed to click for this. There we go. Perfect.
11 I'm sorry about that.

12 One thing that I want to point out from the
13 Clean Elections Act, it specifically states that the
14 Commission is to encourage citizen participation in the
15 political process. So through that, we offer testimony
16 today to give you insight into the voter's perspective as
17 they navigate through the electoral process.

18 You've heard a lot today on election
19 administration, and policies and procedures, but today I
20 can offer a little bit more on how that actually impacts
21 the voter when they're navigating through the process from
22 registering to vote to getting their ballot and some
23 research that the Commission has done to see how voters
24 feel about this process.

25 So I'll jump into the research portion of

1 that end. We have shared this research with the Committee
2 Members. But one thing I want to point out is the reason
3 why we invest in research to begin with is because we need
4 to get a -- the Commission needs to get an understanding
5 about where voters are at, and establish a baseline in
6 terms of what are their voter education needs. And through
7 that we identify motivators but also barriers to
8 participation in the process. And that helps us craft our
9 education plan for the year.

10 I've provided research to the Committee going
11 back to 2015. We have conducted in research prior to that.
12 But as you can see, we have a lot here so far. So if the
13 Committee wishes, I'd be happy to provide more going back
14 even further. But for the purposes of presentation today,
15 I'll be focussing and pulling from our most recent
16 research.

17 One thing that I would like to highlight is,
18 as we talk about the process overall, the most common
19 response we get from voters that it's entirely
20 overwhelming. And so I know the Committee is specifically
21 looking at how potential barriers could impact or have a
22 disparate impact on protected classes. But I think the
23 thing to remember is the baseline that has been
24 established, is the process itself it is overwhelming for
25 all voters. So that can amplify it more when you consider,

1 potential disparate impacts that it can have on the
2 protected class.

3 One thing that we did notice as well through
4 the research is that the biggest barrier has been
5 identified by voters as education. Education in accessing
6 information, where to go to find it, filtering through all
7 of the information that is out there in election season
8 about: Is this true? Is it partisan? Is it accurate
9 information? And also understanding that information. You
10 know, is it something written by a lawyer or is it plain
11 language type of thing. So we do hear from voters that
12 education is the biggest issue that they're experiencing.

13 On this slide I wanted to share with you in
14 2015, we did some quantitative research, and we presented
15 voters with specific questions in a survey. We then
16 followed up with the same questions after the Presidential
17 Election in 2016. And we touched on things such as
18 language access. They're grouped within these categories.
19 So ways to vote. How can I get my ballot? Is early
20 voting, onsite early voting polling places. Who is
21 eligible? So are they aware that if you are using State of
22 Arizona form that you have to provide proof of citizenship,
23 that type of thing. And then we get into the voting
24 procedures, so ID at the polls, and hours and voting
25 options, so language options that are available, or the

1 accessible voting equipment that's at the polls.

2 We asked voters how they felt about their
3 knowledge on these particular levels. The information to
4 the far right in 2015, that gives you our number that we
5 established. And then we're happy to say after 2016,
6 voters indicated to us they felt more confident in these
7 areas.

8 And so in 2015 when we identified these
9 things, that helped us identify the education messages that
10 we were going to send out to voters. Do we need to do more
11 to educate voters about, your county has a polling place,
12 and this is your assigned polling place to go to? Or your
13 county has a vote center, and you can go to any one of
14 them. Or did you know that you can get your ballot in
15 another language or an alternative format? That type of
16 thing.

17 So this research helps us identify the
18 messages that we are communicating to voters, but we wanted
19 to point out that it was great to see voters felt more
20 confident after 2016 in their general voting knowledge.

21 So, overall, the research what we've looked
22 at in overcoming potential barriers are, we need to provide
23 this information in a simple easily accessible, easily
24 digestible format. And so one of the things that I want to
25 highlight -- again, you've heard a lot about election

1 administration.

2 But as from a voter's perspective, there's
3 several considerations a voter needs to make as they
4 participate in the political process. And that starts with
5 voter registration. And they have to consider: How do I
6 actually register? Am I going to use the online
7 application? Am I going to do it in paper? We have two
8 forms. We have the State of Arizona form, the federal
9 form. What do I need? What's the difference? Do I have
10 to provide ID? All of those things voters have to
11 contemplate when they're registering.

12 The second is they decide they want to vote
13 early. So do they understand that, if I vote by mail, how
14 is my identity proven? I don't have to provide ID, but
15 it's based off of my signature. So do I even need ID for
16 this process? Or how can I actually receive my ballot? Do
17 I want to go early in person if there's a location
18 available to me, things like that.

19 And then on election day itself, well, now
20 the rules have changed. You do need ID on election day.
21 What is acceptable? Does my county implement a polling
22 place or a vote center? And do I have access to the
23 equipment that I need. So if I'm a voter and I have a
24 disability and I want to utilize accessible voting
25 equipment, is that available to me?

1 So lots of considerations voters need to go
2 through just to actually participate in the first place.

3 Now, I want to highlight with our education
4 and outreach measures how this specifically impacts some
5 groups.

6 This slide is just to give you an idea
7 quickly about how the Clean Elections Commission implements
8 language options for voters through some of the tools that
9 we provide. I want to highlight our voter education guide.
10 We automatically send this out in English and Spanish. So
11 it's not, oh, Spanish is available upon request. We just
12 send it immediately. We also provide it in Navajo, and we
13 work with Sun Sounds for voters who could utilize that
14 service. And we provide it in plain text. So as many
15 different alternative formats AS we can make it available,
16 we try to do so.

17 With regards to our outreach to Native
18 American communities, our former chairman, Steve Titla, he
19 was our chairman last year, and he made a priority for the
20 Commission to work harder to reach the four corners of the
21 state with access to voter education information. And so
22 some of things that we came up with, and we learned from
23 these communities, barriers that they were experiencing,
24 transportation was one of them, whether that's
25 transportation to the polls or it's transportation to their

1 mailbox to go get their ballot.

2 ID, what is acceptable? Lots of questions on
3 what type of tribal ID can be utilized, but through the
4 entire list. Through that I'm happy to say the Commission
5 developed an online application. We have a voter ID at the
6 polls tool, which kind of takes the guesswork out of it,
7 because we do have list one, list two, and list three as
8 you know that this tool makes it easier to navigate.

9 And then, again, the access to mail in the
10 first place. Do they hold the key to their post office
11 box, or are they sending a relative to go collect the mail?
12 But through that process, they need to know the time
13 periods for early voting, so they make sure they have
14 enough time to send somebody out their to get their mail,
15 vote it in enough time to return it so it's collected in
16 time to count.

17 Students. We work with students, and we
18 attend National Voter Registration Day. This is the event
19 where -- it's practically the only event that we attend
20 where the voter registration forms that are utilized are
21 the national form. This is the one event where we go where
22 most people use the national form instead of the state
23 form.

24 And the reason why is because our students,
25 they just don't often have that immediate access to their

1 birth certificate. They don't have the State of Arizona
2 driver's license. And then, of course, they experience
3 issues with, do they have the transportation to go to a
4 polling location. And so I believe Maricopa County
5 actually recently worked with ASU students and developed a
6 precinct specifically for the Devils. And I think they're
7 working to improve access to voting locations.

8 One more. And our outreach with voters with
9 disabilities. One of the reports that you have for
10 research. We conducted in-depth interviews with advocates
11 with voters with disabilities to understand how the
12 Commission can help them navigate through the electoral
13 process. And so some of the barriers that were identified
14 by these groups, again, transportation is an issue. So
15 having access to polling locations that are near them, the
16 vote centers, and then the accessibility. So are those
17 locations, are they in a venue that is accessible, and is
18 the equipment available to them and not just available, but
19 is it actually set up when they go there? Do they have to
20 ask for it?

21 And part of that implies an emotional
22 barrier, too. Because if the voter has a negative
23 experience if they attend the polling place, and the
24 equipment that they need is not set up and they have to ask
25 for it, that can result in a negative voting experience for

1 them. And so we want to make sure that when voters are
2 actually taking the time to go out and participate, it's a
3 positive experience, so they'll continue to come back and
4 be a voter every year.

5 And then overall to the poll worker training,
6 we've heard over and over again that our poll workers need
7 to be -- well, have the training necessary. And I know our
8 counties do a really good job in implementing poll worker
9 training. But then when we come to election day itself,
10 you know, we're seeing a disconnect there sometimes. And
11 so I think it's great that some of our county recorders in
12 election offices are recruiting younger poll workers who
13 maybe aren't so afraid of the technology and can make sure
14 that they get that equipment set up.

15 And so I just want -- I know I'm running
16 short on time. So I'd like to leave you with some of the
17 tools that the Commission can provide to voters to help
18 them through the process.

19 This is the idea at the polls tool that I
20 mentioned, so it's an additional application to navigate
21 through the list. Our website is full of information to
22 help people find: Where do you go vote? How do you get
23 your ballot? What are the voting options that are
24 available to you?

25 All of this is available in their hand as

1 well through their mobile applications. And we offer
2 e-mail services so they never miss an election. And in our
3 website we do have pages that are dedicated to voters with
4 disabilities, to our military and overseas voters, to our
5 students, any voter that potentially -- every voter is
6 different, whatever their circumstances, we try to help
7 them navigate through the process.

8 And so with that, just give me one more
9 second.

10 Thank you for the opportunity.

11 CHAIRMAN VAN ASSCHE: Thank you so much.

12 We will be hearing next from Juliana Huerena.

13 MS. HUERENA: I would like to thank the
14 Commission for inviting John and I to participate on this
15 panel. And I will be sharing a couple of stories of me
16 voting for the first time and since then, and John will be
17 sharing some of his stores.

18 I've also included on everyone's table is a
19 copy of the national voters with disabilities report. And
20 it's a national report, but I do have some information
21 about what happened here in Arizona.

22 So my first time voting. So my parents felt
23 strong about voting, whether it was the local election, the
24 state election, or the federal election. It was so
25 important for them to take me to vote when I turned 18.

1 And it was such a great opportunity for me to share that
2 experience with my mom and dad.

3 So in 1988 after my mom and dad got out of
4 work, they took me to go vote. And it was such a great
5 experience. My dad voted for the last election at the age
6 of 89 before he passed away at the end of November in 2004.
7 And he was very proud of who he voted for. My sister was
8 by his hospital bedside, and she had asked him, "Who do you
9 want as your president, and he answered to her (native
10 language spoken). "They're not my president." So he knew
11 that he was not going to live long to see what was going to
12 happen with the election results.

13 All he said was that the person that he chose
14 was a good person, and that he spoke well to people.

15 Now, I want to talk about the March 2016
16 debacle that we had there. And I was part of the
17 litigation. So on August 30th, 2016, I arrived at 4:00
18 p.m. and stood in line to vote. I figured it was just to
19 vote for the president and I would be home in time for
20 dinner. I stood in line for four hours and left the
21 polling site at 8:30.

22 The registration was long because many of the
23 voters are filling out provisional ballots, maybe unaware
24 that it was a presidential preference election. I finally
25 made it to the front and for 30 minutes the poll workers

1 are trying to figure out how to use the accessible voting
2 machine, how to turn it on, how to learn how to use the
3 machine and the activation cards.

4 At the beginning when I registered, I had
5 told them I wanted to use the accessible voting machine.
6 And they said, "Okay, okay." So then they handed me a
7 paper ballot.

8 And I said, "I did tell you I wanted to use
9 the accessible voting machine."

10 And they were like, "Oh, my gosh, what do we
11 do?"

12 So they went to their supervisor and the
13 supervisor did not know what to do. So several times --
14 they spoiled two of my ballots until they finally called
15 the office to find out what they were supposed to do. So
16 it took about half an hour for them to figure out how to
17 activate the voting machine and how to allow me to finish
18 voting.

19 Because of the litigation, Maricopa County is
20 working with us now to make sure that the accessible voting
21 machines will be ready to be used once the election time
22 starts. I hope this did not happen in all the 15 counties
23 throughout Arizona and throughout the country.

24 The second time that I voted using the
25 accessible voting machine, again, it was not on. And I was

1 waiting for them to connect it and turn it on. Another
2 poll worker from the other part of the room yelled out,
3 "Hey, does she have a disability? I can help her fill out
4 the paper ballot."

5 And another poll worker said, "No, we're not
6 supposed to ask people if they have a disability or not."

7 So that was interesting.

8 So now John's going to talk about a couple of
9 his stories.

10 MR. BRITTON: (Through the Interpreter) So my
11 big one is they are not set up. And it was in front where
12 everybody can see. Another example is they sent me a
13 mail-in ballot, and I said no. We want to go. I don't
14 know what you're talking about.

15 THE INTERPRETER: That's what you're saying
16 is that you want to go for a person. Why is that so
17 important to you?

18 MR. BRITTON: (Through the Interpreter) I
19 want to get out. I want to get out in the community and
20 have an independent. And another time, another time I went
21 to a different place. And I talked, and they said they
22 were going to call the police. And they ran off.

23 THE INTERPRETER: Is that the time that you
24 went to the wrong voting place?

25 MR. BRITTON: Yes.

1 THE INTERPRETER: Why did you go there?

2 Because you thought the poll was there?

3 MR. BRITTON: Yeah.

4 THE INTERPRETER: Because it had been there.

5 It had been there five years, but they had done what?

6 MR. BRITTON: (Through the Interpreter) But
7 they had moved it.

8 THE INTERPRETER: And what is the biggest
9 message that you want people on the panel to know?

10 MR. BRITTON: (Through the Interpreter) I
11 want to be independent like other people.

12 THE INTERPRETER: Did I get that right?

13 MR. BRITTON: Yes.

14 THE INTERPRETER: Okay.

15 MR. BRITTON: Thank you.

16 MS. ROBERTS: So now I'm going to talk about
17 the same voter report that you have in front of you.

18 Extensive efforts have been made by election
19 officials and advocates across the United States to improve
20 accessibility for voters with disabilities. Voters should
21 be able to vote privately and independently according to
22 the Help America Vote Act passed in 2000. Self Advocates
23 Becoming Empowered Vote Project conducted a national survey
24 to voters with disabilities in the 2016 election to find
25 out what voters really thought about their voting

1 experience.

2 Most voters with disabilities had a positive
3 voting experience.

4 1 in 8 voters wished they were personally
5 better prepared with knowledge about candidates and issues.
6 59 percent of the voters with disabilities felt poll
7 workers treated them professionally. 47 percent felt
8 respected, and 26 felt the poll workers were patient.

9 1 in 10 voters with disabilities felt the
10 ballots were not easy to understand or use.

11 1 in 3 voters with disabilities voted by mail
12 and considered it the easiest way to vote.

13 1 in 10 voters with disabilities had problems
14 with physical accessibility, for example, accessible
15 parking, space to move their wheelchairs around, signage to
16 find the entrance and the location of the voting area,
17 ramps and elevators not working or difficult to use.

18 1 out of 10 voters with disabilities used an
19 accessible voting machine to vote. 43 percent of the
20 voters with disabilities did not know who to call if they
21 had problems voting. Voters with disabilities who
22 identified who they would call if they had any problems
23 listed their board of elections county clerks 1 in 10, 1 in
24 3 their staff and families members, 1 in 5 listed the
25 protection and advocacy organization like the Arizona

1 Center for Disability Law.

2 45 percent of the voters with disabilities
3 used the Internet to learn about candidates and issues. 45
4 percent used the television and watched TV debates. 43
5 percent asked family members, friends for information.

6 Other ways voters with disabilities learned
7 about candidates and issues was 24 percent attended
8 meetings and forums, 28 percent read information on social
9 media, and 27 percent read the newspaper and mailing
10 delivered to their homes.

11 Now, I'm going to talk about Arizona.
12 70 percent of the voters had a good experience. 60 percent
13 of the voters voted by mail or absentee ballot, 30 percent
14 at the poll site, and 10 percent at early voting sites.
15 The greatest concern said that they could not move around
16 using their wheelchair, parking, finding the entrance, and
17 using an elevator.

18 A few of the voters felt rushed, treated like
19 they were bothered, and they could not vote by themselves.
20 A few voters stated that they did not see an accessible
21 voting machine up and running. A few voters said they had
22 to get someone else to help them use the voting machine.

23 Several issues that people had when using
24 accessible voting machines were that they could not change
25 or view their selection, could not use the language they

1 preferred, and could not adjust the audio speed or the
2 volume and not able to.

3 The accessible voting machine features that
4 were used were large print audio and visual. Again, the
5 preferred method of voting is voting at home.

6 45 percent of the voters said they did not
7 know who to call if they had any problems.

8 In conclusion, the study finds that voting
9 experiences of voters with disabilities has improved, but
10 there is still work to be done. The complete report is
11 also available on the govoter.org website.

12 SWI and Self Advocates Becoming Empowered can
13 assist other state and county agencies with resources and
14 in ways to support people with disabilities to vote.
15 Hopefully, we can work with other counties in Arizona.

16 CHAIRMAN VAN ASSCHE: Thank you very much,
17 Ms. Huerena.

18 Thank you very much, Mr. Britton, and,
19 Ms. Moore, translator.

20 I will open up to the Committee to ask any
21 questions of our panelists.

22 Teresa Rassas at the end.

23 MS. RASSAS: For the record, Teresa Rassas.
24 Thank you all so much for your time.

25 I was wondering if you could tell me about

1 any concerns you have with the shift from our neighborhood
2 polling places that we saw back when I was a kid to the
3 vote center model that we're seeing, assuming that those
4 vote center models were well manned.

5 MS. MOORE: One of the things that I also do
6 is I co-direct the voter project, and there is some concern
7 about the large centers being very confusing to people when
8 they enter if there is not enough volunteers to help them
9 figure out if they are in the right location.

10 And there's also concern that many of the
11 people that we talked to that want to vote in person, they
12 use public transit, and they get dropped off. And if
13 they're not in the right place, then they have major
14 issues. And if they do get dropped off and they have a
15 planned ride, that that planned ride will come before
16 they're done. If there is any issues with the machine not
17 being set up, because that does take a while for things to
18 boot and all those kinds of issues that Juliana mentioned
19 with the access cards, and -- so that's a major concern.

20 John was mentioning that he loves to vote in
21 person. That is his passion. He always has a story to
22 tell. But our hope is that being on some of the voting
23 activities here in Arizona, and because of the lawsuit,
24 we've been able to make new connections with the county
25 officials and to help improve the situation for people.

1 And that that technology, I heard funding was
2 an issue for people, for counties. And we hope that the
3 new technology will alleviate many of the issues that
4 people are having. And Self Advocates Becoming Empowered
5 has made many comments on the machines that are being made
6 currently and as offered input on their design and how to
7 make them easier for the poll workers to set up, easier for
8 them to show people how to use them, and easier for the
9 individual to be more independent when they're voting.

10 MS. ROBERTS: May I comment as well?

11 CHAIRMAN VAN ASSCHE: Yes.

12 MS. ROBERTS: Madam Chair, and Committee
13 Members, I actually think there's a lot of benefits to vote
14 centers. We talked about voter education and how people
15 can identify, where is my polling place? Where do I
16 actually go to vote? And so with vote centers, you then
17 are opening up to everybody within that county who is
18 eligible to vote. And so it will ultimately reduce the
19 issue of having a provisional ballot because they're in the
20 wrong polling location, they're not having to count
21 out-of-precinct ballots. So I think it solves a lot of the
22 issues there and, of course, you want to hope that the
23 county is adequately staffing it and has the sufficient
24 equipment there.

25 Typically when you have a polling place

1 model, you have a polling place precinct. And so now
2 counties have to look at, okay, where is the facility that
3 meets the size and scope, the logistical needs for a vote
4 center to now handle this increased capacity and so I can,
5 therefore, have the increased staff and equipment
6 available.

7 But I think having the vote center option is
8 a benefit to voters because it reduces the confusion about
9 where I'm able to go vote. And one of the things that the
10 Clean Elections Commission does to help people find that
11 location through several of our tools, we show people where
12 the closest voting location -- or vote center is to them,
13 but we can also work with counties to show them wait times.

14 So on our applications, we can show, okay,
15 this vote center may be 5 minutes from you, it has a 20
16 minute wait time. This vote center is 10 minutes from you.
17 There's no wait at all. So we can help communicate to
18 voters on election day about where they can go to visit a
19 vote center and what the corresponding wait times is.

20 This is fairly new. We did a pilot with this
21 in 2016 with one county, and we're hoping to work with more
22 counties to get that information out.

23 MR. MARTIN: Aaron Martin, for the record.

24 I'm wondering what impact, if any, you have
25 heard from the people you work with or just voters you hear

1 from on the ballot collection law, whether they have been
2 negatively impacted or impacted in any way by not being
3 able to have someone collect their ballot.

4 MR. SAINZ: I can talk on that. Eduardo
5 Sainz with Mi Familia Vota.

6 So our group has been registering thousands
7 of voters across the state for many years. We help out
8 also naturalized citiz- -- and help permanent residents
9 become naturalized citizens. So a lot of the individuals
10 that we help, they are going through the experience of
11 voting for the first time.

12 So in prior years before HB 2023, we were
13 able to collect the voter's ballot to turn it into the
14 county recorder's office to be counted. At this point, we
15 cannot because it makes it a felony. But the folks that we
16 talk to at the doors are negatively impacted because they
17 have different issues, either transportation, disabilities,
18 they don't understand the process. And we're there to
19 guide them.

20 The people that we talk to is people that we
21 help them register to vote. We guide them through the
22 process to participate in the democracy, and then also some
23 of them we guide them through the process to naturalize
24 them and become a U.S. citizen. And after all of the
25 roadblocks of voter ID, becoming a naturalized U.S.

1 citizen, and then also not understanding or having access
2 to transportation to go to the their polling location, they
3 have trust our organization to take their ballots and enter
4 it into the county recorder's. At this point, we cannot do
5 that anymore. And we have to try to educate them. And
6 what we're trying to do is, like, giving them rides to the
7 polls to ensure that they participate. But this is
8 definitely an attack for communities of color and also
9 minorities to participate in democracy.

10 MR. MARTIN: Just one follow-up on that.

11 Have you been unable to do sort of
12 educational things or, like you said, driving people to the
13 polling place or I assume you can walk around the
14 neighborhood and inform people, "Hey, you need to mail your
15 ballot back in by such-and-such a date."

16 Have you been precluded from doing any of
17 that due to the ballot collection law?

18 MR. SAINZ: We continue doing education. So
19 making sure that people understand when is the last day to
20 mail in their ballots. But there is a point that it's very
21 difficult for folks to turn in their ballots, for example,
22 the day of the election, the day prior to the election.
23 Seven days before the election if the turn in their
24 ballots, for example, in Tucson the mail has to come up
25 here to Maricopa and then go back to Pima County because of

1 the U.S. Postal Services, and it takes additionally one to
2 two days. So even though that they would mail in the
3 ballot the last day that they're supposed to, there's a
4 chance that that ballot doesn't get counted because of the
5 extra time that it takes from Pima County to get their
6 mail.

7 So, yes, we continue educating our community
8 around the deadlines for submitting the ballot. It's a lot
9 of education that we have to do. But also when it comes
10 down to that last week of the election, it becomes, like, a
11 real issue because some of these people cannot turn in
12 their ballot, and they don't have transportation to go into
13 turning in that ballot themselves.

14 MR. MARTIN: But that's an issue for anybody
15 in Pima County, then, the mail issue you're talking about?

16 MR. SAINZ: Right.

17 MR. MARTIN: Okay.

18 MR. SAINZ: So anybody in Pima County. But
19 when I talk about communities of color and immigrant
20 communities that become naturalized citizens, for a lot of
21 them it's a first time participating democracy here in the
22 U.S. so they don't fully understand the process of sending
23 their ballot seven days before the deadline because the
24 ballot has to be turned into the County Recorder the day of
25 the election to get counted.

1 CHAIRMAN VAN ASSCHE: I have a question.
2 With these -- it sounds like you assisted and your
3 organization assisted these communities in the past.

4 Do you have a rough estimate of the amount or
5 percentage of people who rely on your organization to mail
6 in the ballots and how, I guess, now that you can't do
7 that -- well, my first question is: Do you have a rough
8 estimate of the percentage of people who your organization
9 helped?

10 MR. SAINZ: Yeah. And we can send out the
11 numbers but, for example, in 2016 we registered roughly
12 20,000 voters across the state. We helped out 500 new
13 immigrants become U.S. citizens. Out of those numbers, I
14 would say 15 to 30 percent of those individuals rely on us
15 because -- rely on us to assist them through the process to
16 participate in democracy for the first time.

17 CHAIRMAN VAN ASSCHE: Is that 15 to 30
18 percent?

19 MR. SAINZ: Yeah.

20 CHAIRMAN VAN ASSCHE: Okay. And that's of
21 the 20,000 that you registered or --

22 MR. SAINZ: 20,000 that we registered and
23 then also the 500 that we helped out become U.S. citizens.

24 There's 150,000 Latinos eligible to become
25 U.S. citizens, but they haven't done so because lack of

1 education, lack of resources to become U.S. citizens. And
2 once they become U.S. citizens, there's also different
3 roadblocks from voter ID laws. For example, so if I were
4 to become a naturalized U.S. citizen and I try to register
5 myself through the Service Arizona through the website, it
6 won't allow me. So I have to do an additional trip to
7 motor vehicle, show my naturalization certificate, then get
8 my information updated on their system for me to be able to
9 register on their portal.

10 So you see that there is additional different
11 roadblocks that communities that naturalize face when they
12 try to participate in democracy.

13 CHAIRMAN VAN ASSCHE: Thank you.

14 Any additional questions?

15 David Kim.

16 MR. KIM: Thank you, Madam Chair.

17 I have a question for Ms. Roberts.

18 So during your presentation, I went to your
19 website and looked at it. It has a lot of information. I
20 also went to Maricopa County Connections website. It also
21 has a lot of information. Both of them, I think, are
22 available in English and Spanish. So it appears to me
23 there is a wealth of information available both in English
24 and Spanish.

25 So is the problem lack of information or

1 complexity of the process in your view?

2 MS. ROBERTS: Madam Chair, Committee Members,
3 that's actually I think a great question.

4 There is a wealth of information available.
5 And one of the things we do at Clean Elections is we have
6 to tell people where to go to find that information. We
7 have to let me know this is something you should be
8 thinking about right now. The election season is here.
9 You need to be thinking about: Am I registered to vote?
10 Is my registration what I want it to be? Am I eligible to
11 participate in this election?

12 In 2016, we had four different elections.
13 The rules were different for every single election, and so
14 voters have to navigate through that, and they have to be
15 thinking about that to want to go find that information to
16 take the time to visit those websites. And is the
17 information on those sites, is it right there in their
18 face? Is it easily accessible? Can they read it and
19 understand what it means? Or is it plain statute here or
20 is it, you know, legalese?

21 So I think it's a combination of both, where
22 we have to make sure that the information that we're
23 providing, it addresses the point in that it's plain
24 language and that voters can easily identify and navigate
25 through those communication touch points what they need,

1 whether their concern is voter registration or how do I get
2 my ballot?

3 But then also a communication plan to inform
4 voters, you know, across the state and in jurisdiction:
5 This is where you go to get this information to find what
6 you need.

7 And so if I could just point out, too, some
8 of the slides that I had shows our new website that is not
9 what you probably just looked at. So within a week we'll
10 have a brand new website, but I wanted to point that out
11 since you went and looked. But I think it's a combination
12 of both. You have to let folks know the information is
13 available, this is where you go to get it. And once they
14 get there, that it's user friendly and to the point and
15 gives them what they needed.

16 MS. FERGUSON-BOHNEE: Thank you. Patty
17 Ferguson-Bohnee. I have a question with regards to -- just
18 a follow-up question with regard to access of information.

19 How do people in rural communities or areas
20 in Arizona that lack Internet, phone, electricity, how do
21 those people have access to this information and are
22 advised about all these election changes?

23 MS. ROBERTS: Madam Chair, Committee Members,
24 I think when you are developing as -- from the election
25 standpoint, whether you're the County or Clean Elections or

1 the Secretary of State, you have multiple touch points to
2 reach the voter, not just a website, not just a digital
3 communication plan. With our voter guide, that goes to
4 every household with a registered voter. We actually
5 invest in radio reads, so we work with the radio stations
6 in those rural communities, and we look at their reach, how
7 far are they able to access? And we have information put
8 out there for them.

9 We work with our on-the-ground partners who
10 were doing door-to-door grassroots outreach to give them
11 physical education materials. So whether or not it's
12 providing informational packets or leaflets to maybe some
13 chapter houses, for example, we work with partners to send
14 that information out there and to attend community
15 meetings.

16 So it's not just digital. You have to have
17 the grassroots outreach campaign to get that information to
18 the voters because, you know, some people just don't have
19 access to the Internet or maybe they prefer not to get
20 their information that way. And so if we were talking
21 maybe in a Native American community, we work to educate
22 the elders. We will work with ITC, and we work to have
23 presentations at the tribal leadership meetings.

24 So it's really, you have to have multiple
25 touch points. You can't just rely on an additional plan.

1 MS. HUERENA: And I want to make a comment
2 too. In addition to that, we did talk to the Maricopa
3 County Recorder's Office on that issue about saying that
4 people with disabilities who don't have access to
5 technology, how do they get the information right away just
6 like everybody else? And so that's one of the things that
7 I think we're going to be working on with them is to make
8 sure that all people with disabilities have access to
9 voting information, whether it be with technology, low
10 technology or no technology.

11 CHAIRMAN VAN ASSCHE: Any additional
12 questions from the Committee?

13 Adolfo Maldonado.

14 MR. MALDONADO: So, again, it got mentioned a
15 couple times where somebody went to vote, and there was
16 problems either with machine or maybe folks didn't know
17 their role. It seems like there might be an opportunity
18 for training certainly. But how would you -- what would
19 that look like? And who should be involved? And I'm -- I
20 want your guys' perspective on that.

21 THE INTERPRETER: You thought the poll
22 workers were supposed to have training?

23 MR. BRITTON: (Inaudible.)

24 THE INTERPRETER: And I think it sounds like
25 a full day of training and maybe it might not be enough

1 training on disability etiquette or just being respectful
2 of everybody and listening to the voters and finding out
3 what the voters need when they go to vote and making sure
4 that they're understood. And I think that's what you're
5 saying, we need more education on disability etiquette.

6 MR. BRITTON: (Through the Interpreter) I
7 knew how to set it up, but they wouldn't listen to me.

8 CHAIRMAN VAN ASSCHE: Any additional
9 questions?

10 Thank you very much to our panel.

11 I do want to ask if there are members of the
12 public who want to make a public comment, if I can just
13 acknowledge them?

14 And it sounds like we do.

15 So great. We will have a brief recess so we
16 can set up the podium so that our members of the public can
17 make comment.

18 Thank you very much to our panelists, and we
19 will break briefly.

20 (Recess taken, 3:46 - 4:00.)

21 CHAIRMAN VAN ASSCHE: We will now open the
22 floor for public comment. We do have a member of the
23 public who can come forward now.

24 His name is Luis Falcon, and he would like to
25 make a statement to the committee.

1 MR. FALCON: Hi. Good afternoon. I'm
2 actually coming from Congressman Raul Grijalva's office,
3 and he would just like me to make a statement to you
4 guys -- or for you guys. This statement has also been
5 e-mailed to Ana Fortes, which has agreed to e-mail the
6 statement to each of you as well.

7 As a member of Congress, I have a sworn duty
8 to represent my constituents in Arizona's 3rd Congressional
9 District. In my district there are four tribes that I
10 proudly represent. As with any government, the trust of
11 constituents is vital to a democracy, and voting is a right
12 to have your voice heard.

13 Given the proper support from the state,
14 local, and tribal governments, Native Americans have the
15 capacity to be a powerful voting demographic in national,
16 state, and local elections.

17 According to Native American voting rights
18 coalition survey research reports 65 percent of survey
19 respondents participate in non-tribal elections. Although
20 the trust in state and local governments is lower than
21 tribal governments, the participation in elections is high
22 with a voter turnout rate of 75 percent in the 2016
23 election.

24 When it comes to the state of Arizona, it is
25 important to remember that each tribe within the state has

1 a different cultural tradition and landmass. For example,
2 in my district the Tohono O'odham reservation has a land
3 base of 4,000 -- 341,000 square miles, a landmass that's
4 bigger than the state of Connecticut.

5 Now, let's imagine there was a election held
6 in the state of Connecticut with a limited number of
7 polling places and the residents had difficulty traveling
8 to the polls. This is the voting barrier tribes with large
9 landmass face when non-tribal elections occur.

10 Unfortunately, this issue is not just
11 prevalent in my district. The Navajo Nation in northern
12 Arizona has the largest tribal land base and continues to
13 face issues with transportation and voting. I would like
14 to ask the Commission to consider tribal lands when
15 considering access to polling.

16 Additionally, an update to the languages in
17 which ballots should be available is needed. As specified
18 under Section 203 of the Voting Rights Act, Arizona must
19 provide assistance in the following languages: Navajo,
20 Hopi, Apache, Havasupai and Yavapai. Although this is
21 great for these tribes, none of these translations serves
22 the tribes in my district.

23 We have 23 tribes in the state, and each of
24 them have a different language dialect than the language
25 mentions in the Voting Rights Act. The lack of ballot

1 translation in indigenous language for non-English speakers
2 should remain a priority for the Commission.

3 Native barriers around voting registration
4 must also be addressed. Voting registration include
5 issues, include problems traveling to the registration
6 centers off the reservation, rejected registration forms,
7 and county officials refusing to provide tribal members a
8 voter registration form. Denying an American citizen the
9 right to a voter regulation form is a disgrace to our
10 democracy.

11 As we have witnessed with the protests that
12 occurred on the Standing Rocks Sioux Reservation, Native
13 Americans need to be a voice that elected officials and
14 this community listens to. With the help of future studies
15 and consultation among the state, local, and tribal
16 government, the federal government should protect and
17 provide tribes across the country with the voting rights
18 they deserve. There is nothing more fundamental to our
19 nation than the right to vote.

20 The health of our democracy is directly
21 proportional to the accessibility of our elections. I will
22 continue to work in Congress to ensure that Native
23 Americans can empower their voices through the power of
24 their vote. Thank you.

25 CHAIRMAN VAN ASSCHE: Thank you.

1 Do we have any other members of the public
2 who would like to make a statement?

3 We do have additional time that we had
4 allotted for public comment.

5 So if there are any other -- I note that
6 there are some panelists who I think have remained with us
7 throughout the day. If they want to make an additional
8 comment, they are free to make them now.

9 Okay. Well, we had allotted until 4:50 to
10 maintain this in open forum. The Committee will recess
11 briefly to address how much longer we will stay here to see
12 if any additional members of the public will come, and we
13 will come back on the record to advise when we will be
14 concluding our meeting.

15 (Recess taken, 4:05 - 4:08.)

16 CHAIRMAN VAN ASSCHE: Thank you, everyone.
17 Although we had allotted additional time for public
18 comment, we don't have anybody else from the public here
19 present.

20 We want to thank all the panelists and the
21 members of the public for attending. I do want to remind
22 everyone that the transcript and other materials will be
23 available within 30 days following today's meeting. If you
24 provided your e-mail address when you signed in this
25 morning, we'll send you follow-up information regarding how

1 to access those materials. We will also notify you when
2 the committee is meeting for follow-up discussion and when
3 the report will be available.

4 The record will remain open through
5 April 9th, 2018. If anyone would like to submit written
6 comment, please send them to the U.S. Commission on Civil
7 Rights at 300 North Los Angeles Street, Suite 2010, Los
8 Angeles, California 90012, or by e-mail to
9 afortes@USCCR.gov and that is Ana Fortes, and her card is
10 available at the sign-in table.

11 Thank you everyone for your time and
12 consideration. This meeting is adjourned.

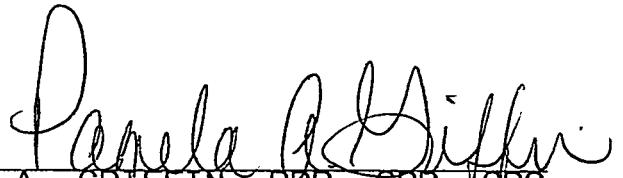
13 (Conclusion of reporting by Danielle C.
14 Griffin.)

15 (Hearing concludes at 4:09 p.m.)
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C E R T I F I C A T E

I, PAMELA A. GRIFFIN, hereby certify that the foregoing pages, numbered 2 through 119, constitute a full, true and accurate transcript of all; proceedings had in the above matter, all done to the best of my skill and ability.



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I, DANIELLE C. GRIFFIN, hereby certify that the foregoing pages, numbered 119 through 207, constitute a full, true and accurate transcript of all; proceedings had in the above matter, all done to the best of my skill and ability.



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