



**LAWYERS' COMMITTEE FOR
CIVIL RIGHTS
U N D E R L A W**

**Written Testimony of Marcia Johnson-Blanco
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House Administration Committee
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The right to vote is a fundamental right that lies at the heart of our democracy. For African Americans and other disenfranchised minority groups, voting is a particularly sacred right that for too many still feels out of reach 147 years after the ratification of the 15th amendment and more than 50 years after the passage of the Voting Rights Act. That is why it is so important that policymakers at all levels of government, and particularly members of Congress, continue to examine the ways our elections are conducted and make improvements that open the doors for all eligible citizens to participate in voting.

For more than five decades, the Lawyers' Committee for Civil Rights Under Law has worked to protect the franchise through litigation and advocacy to ensure that the constitutional and statutory protections of the right to vote are realized for racial minorities and other traditionally disenfranchised voters. While we have made progress over the years, systemic barriers to voting remain and new efforts to dismantle landmark laws like the National Voter Registration Act threaten to disenfranchise minority voters. Most concerning of all is the establishment of the so-called Presidential Advisory Commission on Election Integrity.

Born out of the President's disproven assertion that three million voters illegally cast ballots in the 2016 election, there is strong reason to believe the Commission on Election Integrity is using taxpayer dollars to promote voter suppression efforts that will make it more difficult to vote and to register to vote. On multiple occasions, the President himself has stated the Commission will seek to substantiate his baseless claims. Instead of appointing respected election experts across the ideological spectrum, President Trump appointed known vote suppressors to the Commission – individuals who have dedicated their careers to erecting new barriers to voting aimed specifically at minorities. The most notable among these individuals is the Commission's co-chairman, Kansas Secretary of State Kris .

From the Commission's very first days, its operations have been questionable. Secretary Kobach, a candidate for governor in his home State, has used his position on the Commission as fodder for his political campaign, which the Hatch Act prohibits. In an unprecedented move, Secretary

Kobach, purportedly acting on behalf of the Commission, in June issued letters to Secretaries of State seeking disclosure of personal information on voters across the country in violation of state privacy laws. This invasive request has had a chilling effect as voters in States including Arizona, Colorado and Florida asked they be removed from the rolls in order to protect their personal information. For its September meeting in New Hampshire, every one of the ten panelists invited to speak to the Commission was a white male. In every respect, the Commission has isolated African American, Latinos and other historically protected minority groups.

In July, the Lawyers' Committee for Civil Rights Under Law filed a lawsuit against the Commission for its failure to operate in a transparent manner under the Federal Advisory Committee Act (FACA). This law, passed by Congress in 1972 to provide needed oversight to presidential commissions, establishes clear structural and transparency requirements in order to ensure that commissions operate openly and with integrity. While the Commission has failed to produce materials in accordance with FACA, our suit has brought much needed sunshine to its operations. In response to our litigation, the Commission publicly released the agenda for its September meeting and sought public comment. The Commission also released records of its communications that begin to shed light on its inner operations, although there is still much information that has not yet been disclosed. We have asked the court to compel disclosure of documents and communications that have not yet been brought to light. We also filed Freedom of Information Act (FOIA) requests with the Department of Justice, Department of Homeland Security, Social Security Administration, and General Services Administration, seeking the production of all records and documents related to communications between those department and agencies and the Commission.

In 2016, Congress passed the bipartisan FOIA Improvement Act to establish a "presumption of openness" that ensures the government works for the people and not the other way around. Lawmakers from both sides of the aisle came together to support this legislation and improve the way that the Federal government reaches the people. Americans deserve that same bipartisan commitment when it comes to the administration of our elections. Members of this Committee should request that the Commission disclose all the documents that have been handled by the Commission, and request that government agencies including DOJ, the Social Security Administration and the Department of Homeland Security disclose documents relating to their respective communications with the Commission.

Our focus on the Commission is intimately connected to our concern that arbitrary and discriminatory barriers not be erected to suppress votes. The Commission's actions to date, particularly Secretary Kobach's ill-informed letter to the States raises the fear that the Commission will, under the guise of "cleaning up" the voter rolls, instead purge eligible voters – disproportionately minority voters – from the rolls. This fear is based on reality. Over the past few years, "list maintenance" has become a euphemism for purging voters. This happened in Hancock County, Georgia, where through litigation we were able to stop the purge of dozens of voters, disproportionately minority voters, from the rolls. This fall, the Supreme Court is

reviewing Ohio's process for removing voters from the rolls, triggered by a voter's failure not to vote in a single election, a scheme that disproportionately affects racial minority voters. And the Commission seems intent on creating a national data base where voters' information will be cross-checked against other, notoriously inaccurate data bases, a process bound to have similar unfortunate results.

Thus, today's hearing should be a moment when members take a hard look at the problems plaguing our electoral system and find solutions to support our democracy and increase voter participation. Roughly a quarter of the eligible electorate is not registered to vote and the focus should be on improving the system so that all eligible voters are able to participate in our democracy.

One method of increasing voter participation is automatic voter registration, a movement being led in the States that by some estimates could add up to 50 million eligible voters to the rolls at the Federal level. Ranking Member Brady introduced in June the Automatic Voter Registration Act of 2017 and stated the legislation could strengthen our democracy by "registering millions of eligible voters, improving election security, building a more representative electorate, and increasing voter turnout." Ten states and the District of Columbia have already approved automatic voter registration. Another 32 states, including Chairman Harper's home State of Mississippi, have introduced automatic registration proposals this year. Supporting automatic voter registration for all citizens is one step that Congress can take to restore faith in our democracy, while enabling citizens to more easily engage in the electoral process.

Congress must also restore the Voting Rights Act, which was gutted in 2013 by the Supreme Court's *Shelby County, Alabama v. Holder* decision. There is bipartisan legislation pending in the Congress right now that would do just that. As you study ways to strengthen our democracy, you must take into account that that public awaits action by Congress to restore the most important tool in our arsenal for combatting ongoing voter suppression and voting discrimination.

On the eve of the 15th anniversary of the Help America Vote Act, a landmark bill that was the product of this Committee's work, we cannot stand idly by while too many Americans face barriers to vote. We must work together to expand access to the franchise. Members of the Committee, the Lawyers' Committee for Civil Rights Under Law stands with you in this effort. As the leader of the national Election Protection coalition, the nation's largest non-partisan voter protection effort, the Lawyers' Committee is witnessing firsthand the kind of racially-heated rhetoric and polarizing activity that underscore the need for meaningful action to address the barriers that too many Americans face today. We urge you to consider meaningful and bipartisan solutions that will protect the integrity of our elections through increased participation and protections against discrimination.

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