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PARTNER, JONES DAY  
BEFORE THE HOUSE ADMINISTRATION COMMITTEE  
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Thank you for inviting us to testify today on the Report of the Presidential Commission on Election Administration and how States can build upon the Recommendations and Best Practices in the Report.

Two points about the Report. First, both Bob and I are proud of the work of this Commission. The President charged the Commission with making recommendations to the state and local officials who put on our elections to ease a number of problems which serve as obstacles to duly qualified citizens being able to cast their votes. We believe the Commission came up with practical solutions for state and local election administrators to make the voting experience better for all citizens. The Report passed with bipartisan and unanimous agreement.

Secondly, we are acutely aware that the actual implementation of this (or any) Report is the really hard part – especially in an area like election administration that is so decentralized in our country. Thanks to the Bipartisan Policy Center here in Washington, there is an ongoing plan to implement the Commission’s recommendations and best practices, and which I look forward to describing in a moment.

The area into which this Report delves -- elections and voting -- is one where there can be conflict between Republicans and Democrats. But it is also a subject where Republicans and Democrats can agree on the basic principle – that every legally registered voter has the right to be able to cast his or her ballot easily and without barriers.

Bob and I brought to the Commission a shared history of being on opposite sides of partisan battles for a lot of years. Our eight fellow Commissioners and Research Director (Nate Persily of Stanford University) were a remarkable combination of professional election administrators and leaders of private sector customer service companies from whom Bob and I learned a great deal and with whom we tremendously enjoyed working. Great participation by elections officials and academicians from around the country added greatly to our understanding of the subject.

From our shared history in the trenches of partisan warfare, we both recognized that there are problems with our system of voting. This Commission presented a unique opportunity for us to address a series of problems that both Republicans and Democrats know are problems about which we need to do something.

Fixing these problems should not be a partisan issue. It is trying to help get right something that very much needs to get right. In fact, it is so important to get right that it deserves doing even if it doesn’t satisfy all the issues that one party or another believes need to be fought in this area.

As for solutions, the Commission recognized at the outset that our elections are administered by approximately 8,000 different jurisdictions largely using volunteers who do not receive much training. As a result, achieving uniformity, or federal solutions that actually work, in our elections has proven challenging.

Because of that, our Report's recommendations and best practices fall into two areas. First are common sense solutions for those jurisdictions that do experience challenges in the areas detailed in the President's Executive Order. Second, we address some big picture challenges that virtually all jurisdictions either face now or will face in the not too distant future.

In terms of improving the voters' experience when they cast their ballots, let me touch on several of the Commission's specific recommendations that we believe make up a positive agenda for states and localities to adopt.

Long lines, the issue that initially launched the Commission, presents a problem we wanted to address head on. After conducting four hearings around the country and dozens of meetings with interested groups, researchers in the field and individuals, including those in charge of a number of counties in which the longest lines occurred, the Commission issued a series of recommendations and called attention to a number of on-line tools to deal with a problem that appears both identifiable and solvable.

Long lines resulted most often from a combination of administrative decisions and poor facilities. The Commission proposed a series of practical recommendations and best practices that can be implemented by any jurisdiction which had polling places with long lines. The tools, which are all publicly available at [supportthevoter.gov](http://supportthevoter.gov) and linked to their permanent site at the Cal Tech-MIT Voting Technology Project, also allow the public to see how elections officials can improve a historically bad situation.

The tools include on-line resource calculators which can help elections officials anticipate needs and manage the flow of voters at the polls; models with which to analyze the historic reasons for wait times at specific polling places and suggestions on how to develop plans to avoid them in the future, and recommendations on how to gain access to industrial engineering tools regularly employed by the private sector to manage customer service queues.

Long lines can also be ameliorated by implementing a series of no-cost or low-cost best practices the Commission saw utilized in jurisdictions around the country: improving the physical design of polling places to maximize the flow of voters; using "line walkers" to address potential problems among voters before they reach a point where they slow a line; greater availability of real-time line length information through an internet feed from polling places in a jurisdiction; the study of voter registration data combined with party/campaign turnout operations to anticipate higher than historic turnout at certain polling sites; pre-testing how long it takes voters to fill out sample ballots to help gauge the time it will take to vote; providing sample ballots to voters before they vote so they can study their choices before entering the voting booth, and being conscious of ballot length, especially in Presidential election years when turnout is historically greatest.

On-line registration -- Whether to help ensure that only duly qualified registered voters vote or to facilitate more people being able to vote more easily, the Commission found agreement and support

across the political spectrum for more accurate voter registration lists. To further that goal, the Commission made two recommendations.

First, the adoption and use of on-line registration for the ease it provides the voter, the enhanced accuracy it provides the system and the efficiencies it can provide to perpetually strained budgets. [Supportthevoter.gov](http://Supportthevoter.gov) also includes on-line tools that can be used by state and local jurisdictions and, where permitted by law, by non-government groups to register voters accurately and easily. These on-line open-source programs can be used and branded by groups and governments to facilitate accurate, convenient and efficient on-line registration.

Second, we recommend that all states join two existing and complimentary programs – the Interstate Voter-Cross Check program and the Electronic Registration and Information Center. Both allow states to share data and synchronize voter lists so they can, on their own initiative, come as close as possible to having an accurate database of all eligible voters.

Military and overseas voters -- Serving in the military or living overseas, and especially serving in the military overseas, should not be a barrier to voting. There has been improvement over the last few years, but it is still not as good as it should be. We provide a series of recommendations and best practices – including specifics on how states and counties can make their web sites better serve these voters and how to fix a simple flaw in federal registration and voting forms to reduce confusion for those serving or living overseas.

Disabled voters – Both policy and law require accessible polling places for the nation’s voters with disabilities, a population that will increase as the Baby Boom generation ages. The Report makes numerous suggestions for increasing accessibility to polling places (another reason being able to use schools as polling places is important since schools must meet basic accessibility standards) and for enhanced poll worker training to meet these needs.

Language minorities – For both the disabled and for those with language proficiency issues, we urge local officials to listen to their voters about their local polling place needs. Bilingual poll workers with increased training can make a real difference in the polling place, as can ballots and ballot materials with plain language and design.

Compliance with existing laws – throughout its deliberations, the Commission heard testimony that existing federal laws impacting voting were not being adequately followed.

For the military, it is the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) and the Military and Overseas Voter Empowerment (MOVE) Act, which despite the strides, means that many voters covered by these Acts still find difficulties registering to vote, receiving their ballot in time to be voted, or having their voted ballot reach their election office in time to be counted.

Disability rights groups noted concerns with the enforcement of the relevant provisions of the Americans with Disability Act (ADA) and Help Americans Vote Act (HAVA).

For language minorities, the Commission heard from witnesses and experts about failures to comply with Sections 203 and 208 of the Voting Rights Act, which provides assistance to voters.

The federal election statute most often ignored, according to testimony the Commission received, is the National Voter Registration Act (NVRA or “Motor Voter”) whose compliance varies widely among the states.

If a law is on the books, it should be enforced.

Early voting – The Commission’s goal was to make recommendations that would make it easier for all eligible voters to vote. A majority of states, with both Republican and Democratic state officials leading the charge, now have early voting and told us that early voting is not only here to stay but increasingly demanded by voters. The details of the number of days and hours will vary by state and county and locality, and are decisions best made there. But that early voting does reduce wait times and provide voters with choices is clear.

Data and Testing – Let me also highlight a series of recommendations from the Report that should be self-evident but are not. That is the need for more data and testing in this field. There should be regular post-election audits of machines for their accuracy and performance, and the sharing of that information between jurisdictions to spot problems or make more intelligent purchasing decisions.

We were surprised by the lack of standard data about elections. As it turns out, there is not uniform data on voting from the different jurisdictions. As our political scientist friends tell us, more data uniformly collected about results and process would lead to more and better solutions of many of the problems we have with voting today.

Let me turn to a couple of the key big picture issues.

The state of our voting equipment and technology is an impending crisis on which the Commission felt a need to shine a spotlight. The machines now being used in virtually every jurisdiction – purchased 10 years ago with HAVA funds – will become obsolete in the next 10 years. Voting equipment generally has not kept up with technological advances in our daily lives. The current equipment is expensive and unsatisfactory to virtually every election official with whom the Commission spoke. That’s heavily due to a federal certification process that is broken and must be reformed. This is a subject to which few are paying attention and which will not end well on its current path.

Adequate physical facilities in which people can vote is an issue we heard about consistently. We address the elements that go into making a smoothly functioning, accessible polling place. In most communities, those facilities are schools. The Commission strongly recommends the use of schools as polling places, but officials in an increasing number of jurisdictions are citing safety concerns as a reason for not making schools available for voting. Adequate facilities to vote and safety for our children cannot be competing interests. For that reason, the Commission felt a strong need to call attention to the problem and to recommend that to address security concerns, Election Day should be scheduled as an in-service day for students and teachers.

Implementation: As I mentioned at the outset, Bob and I and our fellow Commissioners are proud of the content of this Report. But we recognize that the key to any Report is getting its recommendations and best practices actually implemented.

The Commission officially concluded its business with the presentation of our report to the President. That is why we are particularly thankful to the Bipartisan Policy Center, which has agreed

to house a program whose goal is to get the recommendations and best practices implemented by states and localities.

Specifically, BPC has augmented its staff by bringing on two people very involved with voting issues – Tammy Patrick, a member of the Commission and a former Maricopa County, Arizona elections official, and Don Palmer, the former Virginia Secretary of State. Their job will be to look for opportunities in states to enact the recommendations Bob and I have outlined. Once identified, they will use their considerable expertise to travel to states to assist legislators and elections officials. Bob and I and the other Commissioners have pledged to similarly help states draft and enact legislation under the auspices of the BPC.

In terms of helping with specific issues, BPC will work with the MIT Voting Technology Project to use its expertise identifying the causes of long lines to implement the Commission's recommendations and best practices in polling place that have been historically problematic.

The BPC project will also work with state elections directors, states, voting machine vendors and those who must certify equipment to find a way forward from the technology crisis.

In terms of online registration, the BPC project will identify key states for passing legislation, continue to recommend adoption of the Interstate cross-check and ERIC projects and work to improve the coordination between voter registration lists and the Department of Motor Vehicles databases.

The continued and enhanced use of schools and opportunities for early voting are the other subjects upon which the BPC project will focus.

With that, let me reiterate that there is a positive agenda with which Republicans and Democrats can move forward so that all legally qualified voters can cast their ballots without barriers that all agree should not be there.

Thank you again for having us here today and letting us report to you on the recommendations and best practices of the Presidential Commission on Election Administration.