



**Michigan Secretary of State Jocelyn Benson
Testimony as prepared for delivery
U.S. Commission on Civil Rights Michigan Advisory Committee
Public Briefing on Civil Rights and Voting Rights in Michigan
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Wayne State University Law School, Detroit**

Introduction

- Thank you for holding this hearing and inviting me to testify.
- This commission meeting is convening with the state of Michigan, and the United States, having just lost a titan in the judiciary and in the struggle for civil rights. Judge Damon J. Keith, who was the reason I first came to Michigan, spent decades protecting individual liberties and battling systemic racism in corporations, municipalities and schools.
- At Wayne State University Law School, where the center for civil rights bears his name, we have recorded some of Judge Keith's best-known words: "Democracies die behind closed doors."
- As we discuss some of the legal, structural and historical barriers to equal participation in democracy, we also should remember the importance of a transparent government – one that can be held accountable when it falls short of these ideals.
- It is difficult to imagine a world without Judge Keith in it, but his legacy lives on through the people he has inspired to work in service of others and for equality and justice for all. This commission is an important part of that work, and it is fitting that we are discussing these issues in Detroit and at Wayne State.
- As a longtime proponent of equality in voting rights and Michigan's chief election officer, equality of access to the voting system is a major priority for me.
- There are significant disparities in voter turnout by race in Michigan. The U.S. Census just released its voting and registration data for the 2018 election. In Michigan, 61.1 percent of non-Hispanic white citizens reported voting, compared to 55.5 percent of black respondents, 54.1 percent of Asian respondents and 40.1 percent of Hispanic respondents.
- Although it varies some year to year, that disparity is generally consistent with what we've seen in past elections, both in Michigan across the country.
- Those disparities can of course be traced to a number of explanations, both historic and present, that prevent non-white voters from having equal access to democracy.
- Many are a continuation and part of the legacy of discrimination in our state and across the country.
- In my remarks today, I want to focus on a few barriers in particular related to Michigan's election system, how it can have disproportionate effects on non-white citizens, citizens with disabilities and others, as well as how some recent changes in law could help to ameliorate some of those disparities.

(1) Accessible hours and times for voting:

- In Michigan, our election system has required most voters to cast ballots on a Tuesday, between 7 a.m. and 8 p.m., at one specified polling place.
- For many people, the limited times and places for voting are an obstacle. For those with work and family obligations, it simply may not be possible to make it to the polls during that time.
- The limited times and places for voting are exacerbated by long lines at the polls. Even if someone is able to find time after work to get to the polls, that person might not have time to wait in a line of an hour or more to vote before getting home to their family.
- Areas that serve bigger, less-affluent population centers are more likely to have long lines at the polls; that correlates with race and other demographic factors, meaning the burden of waiting in line to vote isn't evenly distributed across the state.
- Voting in person on Election Day also may be more difficult for people with disabilities who might have a difficult time getting to the polling place.
- Proposal 3, passed by Michigan voters in November, amends the state Constitution to make changes to voting laws that could help alleviate some of these disparities.
- Under the amendment, anyone now can vote at home without giving a reason, replacing the old, excuse-based absentee voting system. This provides voters who might otherwise have trouble making it to the polls on Tuesday greater flexibility in casting ballots.
- Voters who prefer to cast their ballot in person also will have more options to do that before Election Day. You can request your ballot in person at your city or township clerk's office and return it there. Proposal 3 also requires clerks to maintain office hours during the weekend before the election; that could help some voters who want to cast their ballots before Election Day but don't want to do it by mail.

(2) Barriers to voter registration:

- Voter registration is a barrier to voting for many citizens. For example, the Census figures I discussed earlier showed a 5.6 percentage point difference in voting rate between white and black voters – 61.1 vs. 55.5. But if you just look at those who reported being registered, the disparity is smaller. Among white respondents who reported being registered, 80.6 percent voted. Among black respondents who reported being registered, 83.1 percent voted – actually a higher rate than whites. So, in that case, a big part of the disparity in voting seems traceable to the voter registration system.
- Until recently, Michigan law required voters to be registered at least 30 days prior to Election Day – among the farthest out before the election in the country.
- Registration deadlines hit hardest among demographics that have less access to transportation, less easy access to government offices, as well as those who may experience life changes, such as a changed address, which might require them to re-register. As with voting, registration rates are much higher among non-Hispanic whites than other demographics – 75.8 percent for white respondents, 66.8 for black respondents, 67.9 for Asian respondents and 48.9 for Hispanic respondents.

- Under Proposal 3, many of these barriers are removed. Voters now can register up through Election Day at city and township clerk's offices. They also can register through the 15th day before the election at any location that allows voter registration – in addition to city and township clerk's offices, you can register at county clerk's offices, secretary of state branch offices and designated state agencies and through the mail. (You soon will be able to register online, as well).
- For voters who haven't registered prior to Election Day, the ability to do so at the time of voting will be a critical lifeline to the democratic process.
- We are also in the process of implementing automatic voter registration at our secretary of state branch offices. This will replace the current motor voter system, which did a pretty good job of getting voters registered but still requires customers to separately opt in to registration, which doesn't get as many people registered to vote as automatic, opt-out voter registration.

(3) Public education and access to election information:

- The inequities in our voting system also are connected to information disparities. Individuals with higher levels of educational attainment and higher incomes are more likely to register and to vote. In Michigan, as elsewhere, these correlate to demographic factors including race and disability status.
- Without robust public education about the democratic process and elections, both through the educational system and other entities that share information with the public, it is difficult for the average Michigander to know when elections are coming up.
- Although most people have access to information about election in presidential years, the drop in turnout in mid-term elections and much steeper drop in odd-year elections such as those that are occurring around the state May 7, is a testament to the fact that many people simply don't know when elections are happening and what is being voted on.
- Even if people do know that an election is coming up, they may not know how to register, or even that they do need to register to vote.
- Although Proposal 3 will help with some of the direct barriers to voting, people still need to know the elections are happening.
- They also need to know about the new opportunities to vote, such as by voting at home without a reason.
- Election Day registration is a good example of a reform that won't reach its full potential in expanding voting access without robust public education. On Election Day you can register at your city or township clerk's office, but not at the precinct. Would-be voters need to know not to go the precinct, or they may be out of luck – especially if they get to the precinct at the end of the day or don't have the capacity to go from there to the clerk's office (which may be far away).
- Public outreach is a major priority of my administration – I have established an Office of Public engagement to help with that task. We are putting particular emphasis on engaging low-turnout areas of the state and on working with trusted messengers in diverse communities to help ensure the public is more engaged and educated on voting rules.

(4) Other remaining challenges

- As I've noted, Proposal 3 has the potential to mitigate some of the factors that prevent some Michiganders from having equal access to their democracy. However, we need to do more to ensure that law will be successful in bridging these gaps.
- In addition to the public education component, we need to look at other reforms that can bolster the effectiveness of these new voting rights. For example, more voting and ballot delivery options for voters with disabilities who prefer to cast ballots at home rather than going to the polls.
- We also need to think about more ways to engage young voters – one effective method would be pre-registering 16- and 17-year-olds to vote, so they are registered when they turn 18. We also need more registration drives and voter education opportunities in schools and on college campuses.
- We also need more hours and locations for ballot delivery before Election Day. In many places, the city or township clerk's office isn't very accessible for many voters. Some places, like Detroit, do establish additional locations where people can register and apply for absent-voter ballots, but we need to expand locations and hours to ensure equality of access.

(5) Transparency and integrity in government

- Finally, we should return to the words of Judge Keith: "Democracies die behind closed doors." He wrote those words in striking down the federal government's attempt to deny American citizens their civil liberties in secrecy, in the name of security.
- There is an inescapable connection between transparency and accountability in government and equal justice. When our leaders fail to deliver on the promise of equality, they can be held accountable only if the institutions of government are accessible to the electorate – without which there can be no public trust in our democracy.
- One pillar of that trust is the ability to vote. Another is the right of voters to choose their elected officials, not the other way around – which is why we need fairly drawn state legislative and congressional districts. But also important is a government that is open, transparent and ethical.
- So, as we discuss ways to make methods of voting more equal for all citizens, we also should be mindful of the importance of those voters to make informed decisions about their leaders, by knowing what they are doing in office and who is influencing those decisions.

I'd be happy to answer any questions you may have.