



Presidential Advisory Commission on Election Integrity

MEETING MINUTES Public Meeting of Wednesday, July 19, 2017

MEETING DETAILS

Date, Time, and Location

The Presidential Advisory Commission on Election Integrity (Commission) convened at approximately 11:38 a.m. Eastern Daylight Time on July 19, 2017. The meeting occurred at the Eisenhower Executive Office Building, Room 350, located at 1650 Pennsylvania Avenue NW, Washington, DC 20502. A video recording of the meeting is available at <https://www.youtube.com/watch?v=oZl27wB8-po&feature=youtu.be>.

Purpose

The meeting consisted of introductions and statements from Commission Members, the adoption of the Commission's by-laws, a discussion of the Commission's charge and objectives, and a discussion of next steps and related matters. A copy of the meeting agenda is available at <https://www.whitehouse.gov/sites/whitehouse.gov/files/docs/agenda-initial-meeting-07192017.pdf>.

Participants

The meeting was open to the public via livestreaming on <https://www.whitehouse.gov/live>.

Commission Members Present:

1. Vice President Michael R. Pence, *Chair*
2. Kris Kobach, Secretary of State of Kansas, *Vice Chair*
3. Bill Gardner, Secretary of State of New Hampshire
4. Connie Lawson, Secretary of State of Indiana
5. Matthew Dunlap, Secretary of State of Maine
6. Ken Blackwell, Former Secretary of State of Ohio
7. Mark Rhodes, Clerk in Wood County, West Virginia
8. Christy McCormick, Commissioner, Election Assistance Commission
9. David Dunn, Former Arkansas State Representative
10. J. Christian Adams, President and General Counsel, Public Interest Legal Foundation
11. Hans von Spakovsky, Senior Legal Fellow and Manager of Election Law Reform Initiative, The Heritage Foundation
12. Alan King, Probate Judge, Jefferson County, Alabama

Staff and others in attendance at the meeting included Andrew Kossack (Designated Federal Officer), Ron Williams, Mark Paoletta, Matt Morgan, Deniz Baykan, Stefan Passantino, Scott Gast, Sebastian Gorka, Omarosa Manigault, Veronica Schilb, Rebecca Propp, as well as other White House and federal agency staff, United States Secret Service personnel, White House interns, and members of the news media.

The President of the United States delivered remarks prior to the start of the meeting. A transcript of those remarks is available at <https://www.whitehouse.gov/the-press-office/2017/07/19/remarks-president-trump-and-vice-president-pence-presidential-advisory>.

Written statements and comments submitted by members of the public are available at <https://www.whitehouse.gov/presidential-advisory-commission-election-integrity-resources>.

MEETING PROCEEDINGS

Welcome Remarks and Commissioners' Introductions

All Members

The Vice President opened the meeting, delivered introductory remarks, and then recognized Commission Members to speak for no more than five minutes each. A transcript of the Vice President's remarks and Members' introductions is available at <https://www.whitehouse.gov/the-press-office/2017/07/19/remarks-vice-president-pence-and-elected-officials-first-meeting>.

Thereafter, the Chair noted that the Commission would recess for a brief lunch break, and that Vice Chair Kobach would preside over the rest of the meeting following the recess. The Chair recessed the meeting at 12:28 p.m.

Discussion of the Commission's Mission

All Members, led by Vice Chair Kobach

Vice Chair Kobach reconvened the meeting at 1:02 p.m. and commenced a discussion of the Commission's mission. Vice Chair Kobach reiterated the Commission's mission as described in Section 3 of Executive Order 13799, which is available at <https://www.whitehouse.gov/the-press-office/2017/05/11/presidential-executive-order-establishment-presidential-advisory>. No Member offered comments in response.

Discussion of the By-Laws and Operating Procedures

All Members, led by Vice Chair Kobach

Vice Chair Kobach presented the proposed by-laws and operating procedures to the Commission, which are available at https://www.whitehouse.gov/sites/whitehouse.gov/files/docs/pacei-bylaws_final.PDF. Mr. Blackwell moved to adopt the proposed by-laws, and Mr. Adams seconded the motion. Vice Chair Kobach called the question, and the motion passed by unanimous voice vote.

Discussion of Possible Topics for the Commission to Address

All Members, led by Vice Chair Kobach

Vice Chair Kobach then began a discussion of possible topics the Commission might address at future meetings. He shared some ideas as a starting point for discussion, which included (1) strategies and obstacles to increasing the accuracy of voter rolls, (2) the scope of and strategies to address fraudulent or improper voting, (3) voting by mail, (4) cybersecurity regarding state voter databases, and (5) voter intimidation and consequences of state efforts to increase election integrity. A copy of such possible topics, as distributed by Vice Chair Kobach at the meeting, is available at <https://www.whitehouse.gov/sites/whitehouse.gov/files/docs/PACEI-Vice-Chair-Kobach-Possible-Topics-Commission-Address.pdf>. Vice Chair Kobach opened the floor for discussion of those suggestions and any other topics the Commission should address.

Mr. Blackwell said he believed one of the more profound points to come out of the collective sharing of opening statements was the importance of one single vote. He stated it would be interesting to catalogue how many initiatives are determined by one ballot, and that driving home the importance of every single vote cast can show the consequence of one illegal, diluting ballot. He suggested taking a period of time to get a snapshot of close elections to show the importance of every vote.

Vice Chair Kobach responded that he tried to do something similar in Kansas, and the data was fascinating but not easily available. Mr. Blackwell said that he thinks the Commission can get data of a representative group.

Mr. King stated that he was surprised to learn that people are registered in more than one state and potentially vote absentee in one state while voting in-person in another. He would like to discuss a recommendation to the President that someone can only be registered in one state at a time. Vice Chair Kobach noted that the interstate crosscheck system exists to address that issue, and that although it is often quite simple to register to vote, it is surprisingly hard to deregister. Vice Chair Kobach further stated he thinks this issue is worthy of further discussion.

Mr. von Spakovsky followed up on Mr. Blackwell's suggestion about data on elections decided by few votes. He stated that Secretary of State Jon Husted of Ohio recently published such information on numerous close elections in his state, so such information is available. Mr. von Spakovsky added that he believed Mr. King raised a very important issue regarding registrations in multiple states. He said that the first step is quantifying the number of registrations in multiple states, but the second step is determining how many of those registrations are erroneous and how many actually result in illegal votes. The second step requires studying the voting history of registrants, which prior studies of the issue have not done. He noted that the Heritage Foundation's database of voter fraud convictions includes examples of individuals who were prosecuted for voting in more than one state, so it is a problem but the Commission should study how big of a problem it is and what can be done about it. Vice Chair Kobach then noted that Kansas' Crosscheck database reports possible cases of double voting to states, which then conduct additional investigation in order to eliminate false positives from those possible cases. He stated that Kansas has reached convictions in eight cases of double voting during the last two years, but noted that it is important for states to conduct additional investigation to eliminate false positives.

Ms. McCormick stated that the United States has a very low voter participation rate among democracies in the world. She suggested the Commission should study the causes for lack of voter participation and confidence in elections. Ms. McCormick also recommended studying the issue of automatic voter registration, because a number of states are either considering implementing automatic voter registration or have already implemented it. Finally, she suggested the Commission assess the processes for

identifying and prosecuting voter crimes throughout the country. She said that resources for such investigations and prosecutions are scarce and that it is difficult to identify voter fraud, but that based on her experience voter fraud is not a myth and the investigation of it should be studied further.

Ms. Lawson suggested that it would be helpful for the Commission to look at the overall cybersecurity issue, including communications from the Department of Homeland Security (DHS) to chief election officers and the cooperation between states and the Election Assistance Commission (EAC) and DHS. She said it could be helpful to gather all the information on this topic and suggest best practices for information sharing between the federal government and states. Vice Chair Kobach said his hesitation regarding discussing cybersecurity is that it may require sensitive or classified briefings, which would mean a closed session for part of a Commission meeting. Such sensitive discussions could also provide a roadmap for those who might want to improperly influence elections. Commissioner Blackwell suggested there may be times when it could be helpful for the Commission to be brought into certain conversations being had by other government entities addressing the cyber issue, and that the Commission should explore administrative procedures for receiving sensitive information. Commissioner McCormick said that the EAC is looking into these issues and working with DHS, and that she believes the Commission has a role to play, such as looking at the realities of how feasible it is for a bad actor to access voter registration systems and manipulate voter information. Mr. Blackwell cited to the 2015 breach of the Office of Personnel Management and expressed that there are real threats and vulnerabilities, so the Commission should not be limited in its ability to explore what is being done to protect the American people and the integrity of elections. He said there are real threats to the integrity of the ballot box and again suggested working with other government entities to assess those threats. Ms. Lawson added that she believes the Commission could study and make positive statements regarding this issue that would help ensure the public that systems are not vulnerable, such as the facts that the election system is decentralized, voting equipment is not online, and voting tabulations are not connected to the Internet.

Mr. King raised the topic of additional funding for voting equipment upgrades. He said it is a massive problem if people cannot vote because machines are not working, and many counties do not have the resources to have backup machines. He would like a recommendation for Congressional funding for voting machines such as what states received through the Help America Vote Act (HAVA). He further stressed how important it is for election administrators to have state of the art voting machines that work properly.

Mr. Dunlap explained that Maine does not have voting machines because it uses optical scan tabulators rather than voting machines, but tabulators have broken down occasionally. Because Maine is a paper ballot state, election clerks can always use paper ballots and wooden ballot box if necessary. He also noted that an important related issue is that of chain of custody of ballots. To illustrate the line between fraud and illegality on this matter, he shared a story of a state senate election with 25,000 total votes and a seven-vote margin of victory that resulted in a recount. The recount initially appeared to show that one town made a mistake and missed counting 21 ballots, which flipped the margin by 14 votes. The challenger wanted to check those votes against the incoming voter list, which matches the number of voters against the number of ballots cast. The 21 ballots were not accounted for on the list. A special senate committee eventually discovered that in the recount, ballot counters had inadvertently left the ballots on the table and counted them twice. This was not a case of fraud, but it shows how knowing how chains of custody work is important in allaying fears that something may have gone wrong in the election process.

Mr. von Spakovsky suggested that in addition to the voter registration and history that the Commission requested from states, the Commission could benefit from additional data, such as what databases states consult when verifying accuracy of voter registration information. For example, he proposed asking several questions of election officials, such as whether county governments are accessing county tax records. That information is relevant because it is illegal to register to vote at a commercial address. Additionally, are election officials accessing other databases such as vital records, corrections departments, and departments of motor vehicles? Are states consulting federal databases, such as the Social Security Administration's Master Death Index? If states are accessing such databases, how often? Mr. von Spakovsky said the Commission needs to know if databases are easily accessible by election administrators, or whether the federal government has made accessing such information difficult. For example, DHS has information regarding non-citizens who are legally in the United States, as well as those that are illegally in the United States. It is important to know whether states are able to access such databases, and how easily they can do so.

Mr. von Spakovsky also suggested other sources of information that may help states, including a Government Accountability Office report from more than a decade ago that listed the types of information that could help election officials with voter information lists. That report suggested checking information from courts regarding ineligible jurors on registration lists, such as those who are excused from jury duty because they are non-citizens. Mr. von Spakovsky also stressed that it is important to know if the court clerks with this data are sharing it with other government entities that can investigate or act on information about potential improper or illegal registrations. He further stressed that the Commission should assess whether U.S. Attorney offices across the country are complying with a provision in the National Voter Registration Act (NVRA) that requires U.S. Attorneys to send information about felony convictions in federal courts to state election officials so those officials are aware of such information for voter eligibility purposes. He added that DHS files include information about individuals who have applied for citizenship that indicates whether such applicants have ever registered to vote in elections. Mr. von Spakovsky stated that the Commission should have access to that DHS data and study whether DHS is sharing the information with other government agencies for appropriate action, such as investigation and possible prosecution by the Department of Justice (DOJ).

Vice Chair Kobach mentioned that the DOJ, coincidentally, recently sent a letter to states asking about state efforts to maintain the accuracy of voter rolls. Vice Chair Kobach also said he is almost certain federal courts are not sending information regarding non-citizens on jury forms to election officials. This is also a state-level issue he has observed in Kansas, where state courts were not providing state-level forms reflecting citizenship status to election officials until the state passed a statute requiring the courts to periodically share the information. Kansas election officials eventually discovered 128 noncitizens registered to vote in the state as a result of that information sharing. He further suggested, if there were no objection from the Commission, delegating to staff in the interim to start collecting whatever data already exists in possession of the federal government that may be helpful to the Commission. No Member objected.

Ms. Lawson pointed out that since 2012, the National Association of Secretaries of State (NASS) has had a resolution asking the federal government for assistance in providing data maintained by federal agencies that would assist states in keeping their voting lists up to date. NASS readopted that resolution on July 10, 2017.

Vice Chair Kobach said this Commission is a valuable opportunity to make a reality what NASS has been asking for, because based on his experience in Kansas, the federal government has been silent or not helpful in sharing information that would assist him, as Secretary of State, in maintaining accurate voter rolls in Kansas. He is hopeful the Commission can look at federal information and also recommend protocols about how the federal government could be a helpful partner in keeping elections secure going forward even after the Commission has disbanded.

Ms. McCormick noted that at least one state, North Dakota, has no voter registration process, and that it would be interesting for the Commission to hear from that state regarding how it administers and runs its elections. She also expressed a desire to study the impact of the growing number of states moving towards online voter registration in order to understand how online registration has changed the elections environment across the country.

Mr. Rhodes said that his county of Wood County, West Virginia has seen an increase of almost 4,000 voter registrations over the past year since allowing online and Department of Motor Vehicles (DMV) registrations. He explained that currently there is an opt-in for individuals obtaining drivers licenses to register to vote, but in 2019 individuals obtaining drivers licenses will have to opt-out of being registered to vote. Ms. McCormick asked whether that increase in registrations has resulted in an increased turnout. Mr. Rhodes responded that the state has not seen an increased turnout, but he does think the change has been beneficial. He shared that three years ago he registered 100 students at local high schools, but when he recently went to register students, he only registered two because the others had already registered at the DMV when obtaining drivers licenses. Mr. Rhodes stated he was unsure whether the new registration processes would result in increased voter turnout, but that it has added to the administrative workload of his office because his staff works to verify addresses and other information on registrations. After performing cross-checks, Mr. Rhodes' staff has identified some duplicate registrations, such as from voters who get married and register under a new name. Mr. Rhodes stated that these are the types of issues that his staff works through in order to ensure registrations are valid.

Mr. Gardner stated that he believed the Commission would accomplish a lot if it were to come to terms with why, for 40 years, states and the federal government have been making it easier for people to vote, yet turnout has not increased over that period. He said that despite claims from proponents of the NVRA and automatic registration, those reforms have not increased turnout, and such changes are not likely to increase turnout in the future because it is the will of the voter to participate that is key. He also said that at the time of HAVA's passing, many states decided to spend HAVA funding on state of the art voting equipment without thinking about it becoming obsolete in the future. He noted that at a polling location in New Hampshire, a voting machine patented in 1890 is still in use. He questioned whether states are expecting additional federal funding for new voting equipment every 10-12 years, and noted that some states that used HAVA funds to buy new voting machines have since reverted to the use of paper ballots, such as Maryland.

Mr. Gardner reiterated that he believes the biggest contribution the Commission can make is to answer the question of what creates the will to vote. He noted that professors across the country are increasingly discussing how important confidence in the elections process is to potential voters. If something is of value, people will go out of their way to take advantage of it, and the same principle applies to voting. Although many people see their vote as insignificant due to the large number of votes cast in elections, if voting totals are broken down to the local level, many elections are close. Mr. Gardner mentioned 11 recounts in his state that ended in ties. He cited a Gallup poll one week prior to the 2016 election that

showed 55 percent of voters believe there is voter fraud, and stated the Commission should study why that is the case. Another poll asked voters after the election whether they believed their votes were counted accurately. The 2016 election was the first Presidential election where the number of positive responses to that question dropped below 50 percent. He noted that he did not expect additional rounds of significant funding for replacement voting machines every 10-12 years going forward, and stated the Commission should study how and why states spent their HAVA funding in 2004 and 2005 in order to plan for the future.

Vice Chair Kobach asked if there were any objections to staff making efforts to obtain information regarding close elections, whether through public sources or by requesting such information from states. No Member objected.

Mr. Blackwell stated that Mr. Gardner underscored a point that Mr. Blackwell wanted to stress in his opening remarks: Mr. Blackwell believes we do not talk enough about the duty to vote, and school systems across the country are giving less attention to civics. As a consequence, people are less likely to exercise the duty to vote or to deal with any reasonable requirement to make sure legally cast votes are not diluted. Mr. Blackwell chairs an organization that conducts elections across the globe in elections such as Kenya and Liberia that strongly advocates voter identification requirements. He said our culture is accustomed to having to show proof that we are who we purport to be for reasons such as getting on airplanes, buying cigarettes, and so forth, but that part of the resistance to such requirements associated with voting is we have lost the balance between reasonable access to voting and the duty to assume a reasonable burden of proof in order to protect integrity of ballot box. Mr. Blackwell believes one of the things the Commission could do is to underscore the importance of that balance.

Mr. King said that elections are complex and that the general population does not understand the work that goes into elections prior to, during, and after elections. He said that technology will continue to rule our elections. Unless the Election Assistance Commission passes rules that voting machines have to have standards on longevity, election administrators are going to continue to need funding for new voting machines and to maintain their current voting machines.

Mr. von Spakovsky provided two other suggestions regarding the collection of data. First, the Commission should ask states to provide data on what kind of voting equipment states use, its predicted lifespan, and how far along they are into that lifespan. This information would allow the Commission to assess resource requirements going forward. Second, the staff should collect and send information to Commissioners from the U.S. Census Bureau surveys regarding voter registration and voters' reasons for not registering or voting.

Mr. Dunlap said that in his state of Maine, the Secretary of State has jurisdiction over the Bureau of Motor Vehicles. He explained the process involved in issuing a credential, which is often not a simple process, depending on the characteristics of the individual. He noted that his office spends a significant amount of time helping individuals with unique circumstances who do not have appropriate documentation to work through the process. However, once that credential process is completed, it makes the completion of voter registration easy. This underscores the need for a better understanding of election administrators' cybersecurity and financial needs. He said the Commission should focus on what its goals will be, answer the questions raised at this meeting, fully discuss those systems we do have that work well, address gaps if they exist, and ensure windows of opportunity for wrongdoing are not exploited. If such windows are not being exploited, the Commission should say that as well. He noted one example in

Maine where out-of-state college students were registered in their home state and in Maine. An investigation discovered those students were not voting in both states even though they were registered in multiple jurisdictions. Mr. Dunlap explained the registration process in Maine, which asks registrants whether they previously registered to vote elsewhere. It is then incumbent upon the registrar of voters to contact that other jurisdiction and share that the voter has relocated, but whether or not that happens is a separate question. Mr. Dunlap noted that he did not update his own address for 15 years after relocating until he was called for jury duty and had to update it. He thinks it is important to assess whether apparent risks to election integrity are, in fact, actual risks. He expressed agreement with Mr. Gardner's desire to study voter turnout, but questioned whether the Commission will be able to affect it because voters are driven to the polls for a number of different reasons.

Ms. McCormick addressed Mr. King's point about voting machine standards, noting that the EAC does set voluntary voting system guidelines, which 48 of the 50 states use in one way or another. With regard to Mr. von Spakovsky's point about collecting information regarding voting equipment, Ms. McCormick noted that the EAC already collects a significant amount of such data. She also noted that she hears concerns about voter disenfranchisement, and expressed a desire that the Commission study who is being disenfranchised from voting. She noted that she distributed copies of an EAC survey on election administration and voting, which is available on the EAC website and also at <https://www.whitehouse.gov/sites/whitehouse.gov/files/docs/PACEI-EAC-2016-Election-Administration-Voting-Survey.pdf>. The EAC's survey found that a disappointingly low number of overseas military personnel are voting. Ms. McCormick reiterated that she believes it is worthwhile for the Commission to study who is being prevented from voting and who is not voting, for whatever reason.

Vice Chair Kobach said he heard no objection to the initial five topics he raised. In addition, topics raised by the Commission included cataloging elections decided by close margins, double voting, causes of lack of participation and confidence in elections, automatic voter registration, prosecution and identification of election crimes, resources and funding for voting equipment, databases states are using to verify the accuracy of their rolls, jury duty list questions concerning eligibility, and any information the federal government has (such as conviction information from United States Attorneys, DHS forms indicating citizenship), and online and non-registration states. He said if there is no objection, there are at least a dozen topics the Commission can ask staff to group together in coherent ways so that each meeting can address related topics and the Commission can dig deeper on those related topics.

Discussion of Future Meetings

All Members, led by Vice Chair Kobach

Vice Chair Kobach raised the topic of future meetings. He said the goal is to have approximately four more public meetings in the next nine months or so, with staff collecting information in the meantime. There may be additional meetings and topics, which could come from states' responses to the letter inviting states' input. He asked the Commission for thoughts on when and where to hold future meetings, suggesting that the Commission hold its next meeting before October 1st and that it should strive to hold at least half its meetings somewhere other than Washington, D.C.

Mr. Blackwell noted that he co-chaired the 2000 U.S. Census Monitoring Board, and he was impressed with the data the Census Bureau collects on a variety of subjects. Given that the Commission will have some time between meetings, Mr. Blackwell thinks it would be useful to review that data prior to a future meeting. He also noted that he served with the HAVA committee that distributed funding for voting

machines, and suggested the Commission review that committee's study because a lot of the study is likely still relevant. He suggested holding the Commission's next meeting towards the end of August or during the second week in September, and did not have a preference on meeting locations.

Mr. Dunlap noted that Bar Harbor, Maine is always nice in September, and stated said the meeting timeline as the Vice Chair described is reasonable. He also suggested that in light of concerns about Russian involvement in the 2016 election, the Commission should include Congress in its communications and vice-versa going forward.

Vice Chair Kobach asked if the end of August or the first half of September would work for the timing of the next meeting. Ms. McCormick expressed a preference for meeting in September, and the Vice Chair agreed. No Member objected to that timing.

Vice Chair Kobach then asked about locations for future meetings. He said the Commission should anticipate additional meetings in Washington, D.C., and that one such meeting could occur in February of 2018 when NASS is holding its meeting in the area. Ms. McCormick agreed that the Commission should spread its meeting across the country geographically. Mr. von Spakovsky noted that cities with regional headquarters for the federal government could be good locations because the Commission could meet at federal buildings located there.

Vice Chair Kobach agreed with those suggestions and noted that it is important the Commission try to meet in geographically diverse locations in order to hear from the public. He noted the Commission does not need to decide all locations immediately, but recognized that the Commission appeared to agree with a meeting in the first half of September and to strive for geographic diversity in its meeting locations.

Adjournment

Vice Chair Kobach asked the Commission whether there were any additional topics for discussion. After hearing none, he invited a motion to adjourn.

Mr. Dunlap moved to adjourn. Commissioners approved the motion by unanimous voice vote. The meeting adjourned at 2:15 p.m.

CERTIFICATION¹

I hereby certify that, to the best of my knowledge, the foregoing minutes are accurate and complete.

A handwritten signature in black ink, appearing to read "Andrew J. Kossack", written over a horizontal line.

Andrew J. Kossack
Designated Federal Officer
Presidential Advisory Commission on Election Integrity

¹ The Commission's Chair has delegated to the Designated Federal Officer the authority to certify the accuracy of Commission meeting minutes on the Chair's behalf.