



Observers Report of the Trump Administration 'Election Integrity Commission'

Observers Report of the Trump Administration 'Election Integrity Commission', aka Pence-Kobach Commission, and which LWVUS has nicknamed a "Sham" commission.

Meeting date: Sept 12, 2017

Personal notes taken and summarized by Barbara Klein, LWV Rogue Valley, OR. Any mistakes are totally Klein's.

The commission meeting started at 7:00 am (PST), ending shortly after 1:30 pm (with short mid-morning break). A list of the commissioners is found at the end of report. Being a long meeting means that many facts/factoids/inaccuracies/opinions were presented. While certain highlights have made in the news, and social media, aside from people in the small room, at one point I noticed only 165 people viewing the event.

One of the most contentious conversations was among commissioners during the panel presentations. Being held at Saint Anselm College in Manchester NH, New Hampshire became the center of attention frequently. While I will not cover all exchanges in such detail, the first one is important and speaks to the possible slant of commissioners. Some background is needed.

Vice Chair, Kris Kobach (R), penned his sixth column running in Breitbart News (Aug 30) in which he criticized New Hampshire's same-day registration law, saying that the "pivotal, close election was likely changed through voter fraud."

Both Trump and Kobach have been loudly criticized for claiming widespread voter fraud in 2016 elections when neither had provided any valid evidence of such fraud. In the Kobach Aug. article, he attempts to right that (although failed). During the meeting, he attempted to explain the thinking behind his allegations. He sought support asking Dr. Andrew Smith (Univ. NH) to clarify the state's voting rules. Smith said:

"The court rulings in New Hampshire say that the requirement for voting is that you are domiciled here ...which has been interpreted to mean that you spend most of your nights in the state....It's a question that comes up routinely in election years." [The issue of "domicile" came up repeatedly during the meeting.]

In the August Kobach column he claimed that the statistics "showed there were 6,540 same-day registrants who registered to vote in New Hampshire using an out-of-state driver's license to prove their identity." He further wrote that of that group 5,313 "neither obtained a New Hampshire driver's license nor registered a vehicle in New Hampshire." He declared the group "fraudulent votes," and hinted that possibility the 'illegal voting nonresidents' swayed the vote in that state to Hilary Clinton. These claims have been refuted by editorials in both the NY Times and Washington Post. While taking a less-absolute stance of surety during the meeting, he clearly sought support for his article and position. Sticking with the idea that without further research, Kobach said, "we will never know the answer regarding the legitimacy of that particular election".

Both Maine SOS, Matthew Dunlap and New Hampshire SOS, Bill Gardner, criticized the article. Upon Kobach referencing his own writing, fellow commissioner Gardner responded:

"The problem that has occurred because of what you wrote is ... the question of whether our election as we have recorded ... is real and valid....And it is real and valid." (applause).



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Dunlap added to the criticism saying:

“Making this equation that somehow people not updating their driver’s license is an indicator of voter fraud would be almost as absurd as saying that if you have cash in your wallet, then that’s proof that you robbed a bank....I think it’s a reckless statement to make.”

Soft-spoken Gardner referred to the mission laid out by VP Pence (the commission’s chairman) saying:

“The first couple meetings that we had, the chairman of the commission (Mike Pence) made it very clear to us that we should work on a consensus, and that we work in a way that we don’t have pre-conceived, pre-ordained ideas about what the facts are going to turn out to be. We’re going to use the facts, search out the truth.”...And that is something that we all need to stay focused on.”

Wednesday’s meeting featured 3 panels and a range of speakers. Outside the meeting, the LWVUS protested and feared a ‘sham commission.’ Kristen Clarke, president and Executive director of Lawyers’ Committee for Civil Rights Under Law, said “By stacking the deck with an all-white and male cast of panelists, the Commission has created an echo chamber to support Kris Kobach’s baseless claims of voter fraud.” I believe that after watching the close to 6-hour event that there were indeed different opinions voiced than that of Mr. Kobach’s. The presence of the few poorly picked panelists has certainly taken center-stage and all the wind out of anything useful presented.

Panel 1. The theme of this panel was “Historical Election Turnout Statistics and the Effects of Election Integrity Issues on Voter Confidence.” **Dr. Andrew Smith**, Associate Prof of Political Science, Univ of New Hampshire offered a good deal of reasonable remarks about the issue of turnout and related NH statistics. He also stated “Turnout is not a one-size-fits all issue.” **Kimball Brace**, President, Election Data Services Inc. discussed the problem of different methods of reporting from state to state – especially about “in-active voters.” He said that HOW we report data changes things; variations and estimates may be just that. He stated that according to their records “homeownership” is the most reliable predictor of active voting. When he was asked about this, he surmised that it may simply represent involvement in the community. The shocking (and headline making) presentation from this panel was by **Dr. John Lott**, President, Crime Prevention Research Center and Author primarily as a gun ownership advocate. Basically, he proposed that rules and regulations from the NICS (National Instant Criminal Background Check System) registry for gun ownership be used to register voters. When Matthew Dunlap questioned him about this, since the NICS program is overseen by ATF in the Justice Department, Lott confirmed that yes, that could be the plan. Almost verbatim, he told the panel that since Democrats say they have great faith in NICS as a gun registry (quoting Chuck Schumer from NY), why should they resist the same system for voting registration. Dunlap suggested that this could indeed have “unintended consequences.” It is certainly reasonable to question HOW and WHY such a speaker was asked to partake as one of the few panelists to present.

Panel 2. Theme: Current Election Integrity Issues Affecting Public Confidence. It was during this panel that Matthew Dunlap explained the details of how concerted efforts were made in Maine to keep college students from voting. One being an email sent out that said they could lose financial aid if they vote in

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Maine. He went on to say that “Driving is a privilege. Voting is a Right.” Speaking of requirements, he said, “you should START with their *right* to vote and work backward.”

Donald Palmer, Former Secretary, Virginia State Board of Elections spoke mostly to the accuracy of voter lists, and avoiding duplicate registrants. He felt that an upgrade is needed to share between states and gave the commission a list of suggested references. He suggested using private, commercial vendors to supplement government efforts (evidently not just as machine suppliers but data keepers). **Robert Popper**, Director, Election Integrity Project, Judicial Watch says he believes there is fraud, but doesn't know the rate. He stated that Voter ID does not catch 'double voting' – that only accurate registrations forms can do that. He suggested that higher fines for double voting should be levied. Details of double voting (usually in two different states) was given. He feels that “perception matters.” Even if there is not a lot of fraud “elections should *look* clean.” **Ken Block**, President, Simpatico Software Systems, answered his own question of 'does fraud exist?' by saying “well, if you don't look for it you will not find it.” He presented numbers such as “2,200 duplicate voters in Florida” during 2016 – “4 times the number that George Bush won by.” He said that “200 of those duplicates were in Orlando.” He lamented the fact that data from states is not standardized or is poor, and that there is little transparency. He also added that our 'largest threat' is from electronic infrastructural susceptible to hacking.

The final speaker on panel 2 made more news off the panel than on. **Hans von Spakovsky**, Senior Legal Fellow, Heritage Foundation and Member, PACEI is also a commission member. It was reported that (while first denied in a request from ProPublica, and now admitted), Mr. von Spakovsky wrote the DOJ with strong objections to plans for the commission. His opposition to the plans were that it would be bipartisan; and he further objected to a formal role for any social scientists trained in data collection and dispassionate analysis. That email was forwarded to the Attorney General Sessions. During the panel he spoke of compiled lists and “978 criminal convictions...with 19 more to add” related to voter fraud. He said he believes in the “right to vote in free and fair elections” and that this included ones right not to have their vote “stolen or diluted.” Due to the memo, after the meeting, there have been calls for his resignation. After the 2nd panel, there was a disappointing demonstration of historic voting machines in use since 1892 in New Hampshire. They apparently have the mechanical ability to count the number of ballots cast. The audio was poorly transmitted, and one machine did not work.

Panel 3. Theme: Electronic Voting Systems and Election Integrity – A Primer. Sadly, as I started to view Panel 3, only 165 people were viewing nationwide. This number reached close to 200 and dipped again. This was a fascinating and terrifying segment. As a general statement, these three panelists did not concentrate on VOTER fraud, but on the possibility of ELECTION fraud and hacking. As a whole, while they made other suggestions, EACH agreed with League ideas that the best method is a 'VERIFIABLE PAPER BALLOT – read first by optical scan, and with transparent processes both for 'random audits' and for 'recounts.' That point was made repeatedly.

Dr. Andrew Appel, Professor of Computer Science, Princeton University is best known by laypeople as the person that was filmed hacking an voting machine. He admitted that certain benefits to voters, like early voting, vote centers and all-mail ballots do complicate process, canvassing, and security, but that the risk is sometimes acceptable as long as other steps are followed. Sometimes (as with Online registration) 'benefits may outweigh risks,' although they all admitted that it makes them nervous. “**Internet voting**,” he declared “would be a complete disaster.”

Dr. Ronald Rivest, Professor of Computer Science, Massachusetts Institute of Technology, set out 4 goals, 4 challenges, 4 principles, 4 myths and 4 tools. **Goals:** Improve security (even from a silent attack); Correct Outcomes; Perceived correct outcomes; Verifiably correct outcomes (credible evidence). **Challenges:** Secret ballots (distinguish voting from banking); Devising different voting systems (mentions IRV);



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Adversaries – whether box stuffing or foreign attacks ('Trust No One'); No Free Lunches (better systems may impact speed of election returns). **Principles:** Election Integrity is NONPARTISAN; 'It Takes a Thief' (we need hackers to help); Attacks [electronic] will be at weakest links; Detect and Recover (post-election audits vital). **Myths:** "Federally certified ensures security;" Logic and reasoning is effective; If we "aren't on internet – then we are secure;" "Decentralization ensures security." **Tools:** Public Verification (transparency, aside from secret ballot); Voter verification of OWN ballot (NOT DREs); Compliance Audit; Risk-levels of post-election audit, perhaps 5% (if too small could encourage hackers to 'go big'). The presentation of **Harri Hursti**, Co-Founder of Nordic Innovation Labs, and world-renowned 'hacker' was jaw-dropping and disturbing to most of the commissioners (which they stated). It was intensely technical. If checking on official transcripts when available, this testimony occurred during the last half-hour. He explained 'Fundamentals of Hacking' and that it is "very low cost" for hackers. Further, the better the hackers the less likely anyone would ever KNOW a crime happened. He clarified the many things that can cause security breaks: USB products, HDMI cables, barcodes, certain extension cords, even systems without WIFI when cell phones without security are in the area. All the panelists agreed that federal money is needed to improve the systems for all states. Also explained mathematically helpful steps of sampling ballots, offering ways that security could be improved while advancing transparency by allowing individuals to check their own ballots. Closing remarks followed.

Commission Members

- Vice President Mike Pence, Chair (did not participate in September meeting)
- Kris Kobach, Secretary of State of Kansas, Vice-Chair
- Connie Lawson, Secretary of State of Indiana
- Bill Gardner, Secretary of State of New Hampshire
- Matthew Dunlap, Secretary of State of Maine
- Ken Blackwell, Former Secretary of State of Ohio
- Christy McCormick, Commissioner, Election Assistance Commission
- David Dunn, Former Arkansas State Representative
- Mark Rhodes, Clerk of Wood County, West Virginia
- Hans von Spakovsky, Senior Legal Fellow and Manager of Election Law Reform Initiative, Edwin Meese Center for Legal & Judicial Studies, The Heritage Foundation
- J. Christian Adams, President and General Counsel, Public Interest Legal Foundation
- Alan King, Probate Judge, Jefferson County, Alabama

Submitted by Barbara Klein, LWVRV Action Chair 2017 09