

Testimony of

Ms. Natalie Landreth

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Testimony of Natalie A. Landreth
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and Author, "Voting Rights Act in Alaska 1982-2006"
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Good morning. I would like to thank the Committee for allowing me to speak today. My name is Natalie Landreth and I am a staff attorney at Native American Rights Fund in Anchorage, Alaska. I am an enrolled tribal member of the Chickasaw Nation of Oklahoma and a descendent of the Imatobby family who survived the Trail of Tears.

I am here to discuss the impact of the Voting Rights Act in Alaska and the need for reauthorization and enforcement of the Act. Alaska is subject to sections 4(f)(4) and 203 - the minority language provisions - as well as section 5, the preclearance requirement. Under the auspices of the Lawyers Committee for Civil Rights and the Native American Rights Fund, I prepared a report detailing the Alaska Native experience under the Act. The evidence gathered in preparation of the report shows that there is still a very real need for minority language assistance and federal oversight in the form of preclearance. To our surprise, however, we also discovered (1) that Alaska has been out of compliance with the VRA for thirty years and (2) that the Act has largely not been enforced in Alaska.

First, however, I must give you a picture of the Alaska Native population to enable you to understand the reality on the ground. Alaska has the single largest indigenous population in the United States at 19%. Most of these people reside in rural Alaska, which is largely inaccessible by road; all supplies must be flown in. Rural Alaska consists of about 200 small Native villages with tribal council offices, homes, a school and a church; there are no services or hotels of any kind. Only 70-75% of rural Alaska Native homes have sanitation systems. Those without sanitation pull water from wells and use what are called "honeybuckets" to haul out waste. Rural Alaska also has the slowest police response time in the western world. This population largely practices an ancient way of life called subsistence which means that they literally live off the land by fishing, hunting and berry picking. In places like this, a ballot box often has to be shared between villages or sides of a river. Places like Kasigluk move their voting machine from one side of the river to the other by way of a four-wheeler and boat; in November, this is no mean feat. On Election Day 2004, twenty four of these villages did not even have polling places.

Today, an Alaska Native is likely to be unemployed (less than half have jobs), and when he or she does get a job he or she will earn just 50-60% of what a non-Native earns. As a result, Alaska Natives are three times as likely as other Alaskans to be poor. In addition, Alaska Natives have the lowest level of education. At the time the VRA was extended to Alaska in 1975, only 2,400 Alaska Natives had graduated from high school at all. This is an incredibly important fact because these people are now the elder population that is having the most difficult time understanding the ballot and exercising their right to vote. Although education has improved now that Alaska Natives are no longer forced to choose between not having an education or going away to boarding school, they still lag far behind non-Natives. This is evidenced by the fact that 75% of all Alaska Natives have graduated from high school (compared to 90% for non-Natives). At the same time, the dropout rate is increasing; in 2004, less than half of all Alaska Native students meant to graduate actually made it to graduation. More shocking, the results of the 2005 standardized tests reveal that only 19.5% of graduating seniors were proficient in reading comprehension; that means that 80.5% percent of new Alaska Native voters may not be able to read and understand the English ballot.

This enduring but disadvantaged population still speaks about 20 different indigenous languages. The VRA, which provides for ballots and election materials in the minority languages where the population meets certain benchmarks, has had little impact in Alaska because the state simply has not complied with the minority language provisions. It is a well known fact that Alaska does not provide ballots or election materials in any languages other than English and Filipino. Yet, all of Alaska is covered by 4(f)(4) and 14 census areas are also covered by 203. The Native population still meets or exceeds the VRA's limited English proficient (LEP) and illiteracy rate benchmarks. The Census Bureau has even set forth which Native languages are covered in which area. Yet Alaska still provides nothing more than intermittent oral assistance upon request.

In addition to this clear non-compliance with the letter of the law, we know there is still a real need for language assistance. In the Bethel census area, a Yup'ik speaking region, 21% of the population is LEP and more than 10% are illiterate. There are about 17 villages in which Yup'ik is the only or primary language spoken. Yup'ik is also one of the oldest written Native languages in North America. Signs are in Yup'ik, schools are taught in Yup'ik, and in the morning, the pledge of allegiance is recited in Yup'ik. Here, Yup'ik is spoken by more than 10,000 people. Here, Yup'ik is the first language. Yet this community will be subject to an English-only election.

Not only does the statistical evidence show a need for language assistance, we now know that the English ballot is actually interfering with the exercise of the right to vote. This is evidenced by the fact that many people have stated that because they did not understand the English ballot, they voted in a way they did not intend. In 1995, 18 non English-speaking Inupiat sued the City of Barrow claiming that the absence of written materials in Inupiaq led them to ask for assistance; the poll workers allegedly offered incorrect personal explanations, advice about how to vote, and differing interpretations of the initiatives. As a result, these individuals who had intended to vote to ban alcohol in the city unintentionally voted to lift the ban on alcohol. While this was the only lawsuit brought, this has happened elsewhere as well. Ironically, it also occurred during the referendum on an "English only" constitutional amendment, and it led many Native language speakers to vote for an amendment requiring them to use only English. Thus, oral assistance is not only insufficient under the law but it is also insufficient in fact. Yet there has been no enforcement of the minority language provisions in Alaska.

Alaska is also subject to another important component of the VRA, preclearance. There has only been one objection to an election law in Alaska in the past twenty years. This one objection however is critical to the political landscape of Alaska. In the redistricting that took place after the 1990 census, the Alaska Supreme Court struck down 11 proposed districts because they violated the "compact and contiguous" requirement of the Alaska Constitution. The astute staff at the Department of Justice caught something entirely different; District 36, the DOJ noticed, showed evidence of racially polarized voting and the proposed plan actually reduced the Alaska Native voting age population from 55.7% to 50%. This district is the single largest in Alaska and it covers most of the land mass of rural Alaska. Here, what the court had not objected to was prevented by the intervention of the DOJ. Without it, Alaska may have been subject to regressive policies throughout the 1990s until the next census.

The objection that followed the 1990 redistricting continued to have a significant impact in the 2000 redistricting. It could be said that in 2000 the VRA had a deterrent or spillover effect. This time the mere existence of DOJ oversight under section 5 led to: (1) the State deliberately creating districts with the VRA and the Native population in mind; and (2) the State hiring a voting rights expert to study whether Alaska still had polarized voting (the answer was yes); and (3) the State actually placing two members of the Alaska Native community on the redistricting board.

Alaska may have been subject to only one objection, but it had a significant halo effect in that it changed the entire redistricting process in Alaska, but Alaska has also received its fair share of subtle enforcement in the form of more information request letters and withdrawals. Alaska overhauled its election laws - including absentee ballot rules, acceptable forms of identification, and polling places - right before the 2000 and 2004 elections, and with respect to the 2000 election, Alaska had to withdraw ten of its proposed changes but it did so only after the election. It is critical to note here that a simple polling place change can pose a significant hardship for voters in Alaska. Moving a ballot box one mile away or upstream to the next village can disenfranchise entire communities. This fact may merit continuing oversight in the form of preclearance. In a climate and landscape as harsh as this, such a change is not routine.

In conclusion, although Alaska finally abolished the English literacy requirement for voting in 1970, it still provides English-only elections; this is the functional equivalent of a literacy test. Yet a significant segment of Alaska's

population speaks an indigenous language and does not understand the ballot. In other words, because of Alaska's non compliance with the minority language provisions, a non English-speaking indigenous population is subject to English-only elections. Furthermore, Alaska Natives are the poorest group in Alaska, with the highest unemployment and the lowest level of education. Given the vulnerability of the population and the landscape in which they live, it is critical to continue preclearance to assure that Alaska Natives maintain their right to vote. The VRA should not only be renewed, but it also should be enforced.