



ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

**FORUM ON UNDERSERVED COMMUNITIES AND
the Regulation Process**

**Panel 6: Expanding on Efforts to Engage with
Underserved Communities**

November 29, 2021

TRANSCRIPT
(Not Reviewed for Errors)

Panelists

J. Latrice Hill, Director of Outreach and Deputy Administrator for Field Operations,
Farm Service Agency

Amit Narang, Regulatory Policy Advocate, Public Citizen

Viviana Westbrook, State and Local Advocacy Attorney, Catholic Legal Immigration
Network, Inc.

Moderator

Sidney A. Shapiro, Frank U. Fletcher Chair in Administrative Law of Professor of Law, Wake
Forest University School of Law

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Transcription of Video

Panel 6

Video Runtime: 0:59:26

1 (Beginning of Audio Recording.)

2 MR. WIENER: Well, good afternoon.

3 I'm Matt Wiener, the acting Chair and Vice

4 Chair and Executive Director of the

5 Administrative Conference United States,

6 which we just call, as many of you know, ACUS

7 and probably will do so throughout today's

8 discussion.

9 Welcome to, everyone, to the sixth and

10 final panel of our forum Underserved

11 Communities and the Regulatory Process.

12 Before beginning the program today, I'd like

13 to thank all of our moderators and panelists

14 for contributing to the success of this

15 forum.

16 I suspect that federal agencies, will

17 rely on it in evaluating the regulatory

18 processes and I know that ACUS, for its part,

19 will rely on it in its own advisory work on

20 the subject. We will soon have a transcript

21 of all the panel discussions. ACUS will

22 circulate that to our member agencies, and it

23 will also make it available on our website.

24 I'd also thank, not least, all of our

25 attendees for joining us for this important

1 conversation. One announcement, before we
2 get started. This Wednesday from 1:00 to
3 4:00 p.m. Eastern time, ACUS will hold
4 another and related forum entitled Enhancing
5 Public Participation in Agency Rulemaking.
6 Please visit our website for additional
7 information.

8 Now, today's panel titled Expanding on
9 Efforts to Engage with Underserved
10 Communities, our moderator is Professor
11 Sidney Shapiro, an esteemed public member of
12 ACUS and the Frank U. Fletcher Chair in
13 Administrative Law and Professor of Law, at
14 Wake Forest University School Law School. I
15 hope I have your title right, Sid.

16 No one possesses more expertise on our
17 subject than Professor Shapiro. He'll now,
18 introduce our panelists and begin our
19 discussion. Sid, Professor Shapiro, I'll
20 turn it over to you and enjoy the discussion.

21 MODERATOR: Good afternoon and welcome
22 everyone. Man, I don't know if you're going
23 to hang around, but do so for just a second
24 because I want to note, for those who don't
25 know, that the Administrative Law Section of

1 the American Bar Association has chosen Matt
2 as the 2021 winner of the Mary Lawton Award
3 for Outstanding Government Service. For
4 those of us involved in ACUS, this is simply
5 no surprise at all because we've been able to
6 witness Matt's wonderful and outstanding
7 contributions to government. So,
8 congratulations Matt.

9 MR. WIENER: Well, all of that very
10 unnecessary, Sid. But thank you.
11 Nonetheless, I very much appreciate it.

12 MODERATOR: You're quite welcome. As
13 you heard, this is the sixth and final panel
14 on how the government can increase the
15 opportunity for underserved communities to
16 participate in the regulatory process. The
17 most -- the two recent panels focused on past
18 and current efforts to accomplish this
19 objective.

20 Today's panel looks at how we might
21 expand those efforts. What new community
22 engagement efforts might establish a more
23 inclusive regulatory process. What else can
24 the government do to increase the
25 participation of marginalized communities?

1 What else can the government do to invite
2 input from those communities that is most
3 helpful to agencies in choosing or
4 implementing regulatory policy. Today's
5 panelists are well situated to talk about and
6 think about those challenges.

7 As you'll see when I introduce them,
8 each one is involved at the intersection of
9 public participation and policy making, and
10 each has experience in attempting to bring
11 the voices of the marginalized into policy
12 making.

13 To kick off today's discussion, I will
14 ask each of the panelists to talk for, say
15 four to six minutes, about what else the
16 government should and can be doing. We can
17 then build on those comments in a
18 conversation about the challenges I
19 mentioned. While we're doing this, people
20 watching are welcome to ask questions of the
21 panel using the question-and-answer function
22 in Zoom and we will take those up, at least,
23 in the last part of the session and if not
24 between, not before then.

25 First to offer some remarks is Latrice

1 Hill, who is the National Director of
2 Outreach for the Farm Service Agency at the
3 U.S. Department of Agriculture. She is
4 involved on a day-to-day basis in
5 collaboration work with rural farmers and
6 rural farm organizations. Latrice?

7 MS. HILL: Thanks, Sid. Good
8 afternoon, everyone. Thanks so much for that
9 introduction. And Sid, just as you said,
10 it's so very important that we identify new
11 ways that our underserved communities can
12 have that voice when it comes to our policies
13 and rulemaking.

14 The Farms Service Agency has over
15 2,124 offices. In those offices, we have an
16 outreach coordinator. And at the state
17 level, in the 51 state offices and territory
18 that we cover, we have the state outreach
19 coordinator. Those outreach coordinators are
20 responsible for working with non-profit
21 organizations, community-based organizations,
22 universities, particularly those that are
23 land grant institutions whether they're part
24 of the 1890s, 1994s or 1862 institutions of
25 higher learning. We work closely with these

1 partners to ensure that their communicating
2 with the farmers and ranchers and land owners
3 that we serve, to have a voice in policy
4 making.

5 An example would be, let's say, an
6 organization such as a policy center, there
7 is a policy center at one of the Land Grant
8 Universities, Alcorn State University located
9 in Mississippi. They have a socially
10 disadvantaged farmer and rancher policy
11 center. That is a center that came about in
12 the 2018 Farm bill. It was established
13 specifically to give underserved communities
14 a voice when it comes to policy.

15 These land-grant universities work
16 with farmers and ranchers across the country
17 through the extension service, through the
18 land grant universities to get input and
19 feedback from farmers and ranchers on some of
20 the potential programs that we roll out.
21 They provide that voice during Farm bill
22 time. And as you know, we are approaching a
23 new Farm bill year. So, it's very important
24 that farmers and ranchers provide that input.

25 Personally, what I feel could be, what

1 could be done better is to have more
2 engagement from our stakeholder
3 organizations. It's not every day that
4 farmers and ranchers just sit around and read
5 the Federal Register. And, you know, follow
6 exactly what federal agencies are going to do
7 or what they're preposing. They don't know
8 understand that.

9 Basically, all they know is that when
10 they come into our offices, they need
11 programs that work for their farming
12 operations. And when they don't get that or
13 when those programs don't work, they're not
14 really sure where to turn.

15 This is where Farm Service Agency is
16 really dedicated to working closer with more
17 stakeholder organizations. Those boots on
18 the ground that actually work with the
19 farmers and ranchers, who can explain the
20 programs as they are in a format which they
21 understand and to collect some of those
22 feedbacks and ideas and proposals of the
23 barriers that are underserved face -- the
24 challenges they face and how we can improve
25 those programs.

1 At FSA, we are looking at providing
2 more funding for our stakeholder
3 organizations. We were able to put some
4 funding forth in fiscal year 2021. But we're
5 looking forward to do more of that in this
6 fiscal year 2022 to invest in more
7 stakeholder organizations, who can provide
8 that feed back to us.

9 Especially, in a year of COVID when a
10 lot of our employees are still, you know, not
11 in the offices or not working, we're not able
12 to get on the ground and conduct that day-to-
13 day outreach as we have in the past. And
14 that's really been an obstacle for us, and
15 it's really going to be an obstacle for a lot
16 of our producers. So, we're really hoping to
17 rely on some of those stakeholder
18 organizations, Sid. And I'm really curious
19 to hear what some of the others are looking
20 to propose as well.

21 MODERATOR: Thank you Latrice.

22 MS. HILL: Uh-huh.

23 MODERATOR: Amit Narang as a policy
24 advocate at Public Citizen. And he
25 represents the interest of the thousands of

1 members of Public Citizen, and most of the
2 rest of us in fact, in regulatory issues.

3 Amit?

4 MR. NARANG: Very great. Thanks, Sid.

5 And many thanks to ACUS for shining a
6 spotlight on one of the most important areas
7 of much needed reform in the rulemaking
8 process. I've watched every one of these
9 excellent panels of the great interest in
10 this forum. And, you know, now I'm thrilled
11 and honored to be a part of the last panel
12 with such esteemed colleagues.

13 So, I want to focus my remarks on
14 Public Citizen's response to the Biden
15 administration's request for comment on how
16 to advance equity and support for underserved
17 communities through the government, including
18 in the rulemaking process.

19 This was a response -- I'm sorry, a
20 request for information that the Biden
21 Administration put out to the public and to
22 stakeholders in May. We were certainly
23 pleased to see the Biden Administration
24 signaling that they intend to enhance the
25 voice and influence of under-served community

1 and the rulemaking process in an area where
2 there is certainly broad agreement about the
3 need for significant reform but where there
4 has been little action to put in place such
5 reforms. In our comment response Public
6 Citizen made recommendations for a reform
7 that were specific, tangible, and feasible to
8 implement in the short term. Our
9 recommendations were based three principals.
10 First, advancing equity and support for
11 underserved communities should be a
12 government-wide effort involving all agencies
13 across the government. Too often in the
14 past, there's been a false perception that
15 only federal agencies that enforce civil
16 rights and antidiscrimination laws such as
17 the Employment Opportunity Commission or the
18 Department of Justice could advance equity
19 for our underserved communities.

20 In reality, many other federal
21 agencies, just heard about one example from
22 the Farm Service Agency from Latrice, also
23 take actions or issue regulations that
24 advance equity by meaningfully impacting and
25 benefiting underserved communities.

1 Second and relatedly, federal agencies
2 need to identify any and all regulations that
3 advance equity for underserved communities.
4 It is critical that federal agencies broaden
5 their view in understanding of how regulation
6 advances equity for underserved communities.

7 That's because regulations that are
8 intended to protect everyone can also advance
9 equity for underserved communities
10 specifically because those communities are
11 often more vulnerable to the harms that the
12 regulation is designed to prevent. In other
13 words, regulations that protect the public
14 also disproportionately benefit underserved
15 communities.

16 Take for example, the abundance
17 evidence that underserved communities are
18 disproportionately exposed to air and water
19 pollution, unsafe working conditions, and
20 unfair or abusive financial practices or
21 products. New regulations from the EPA, the
22 Department of Labor, and the CFPB are not
23 only key to protecting the public at large
24 but also advancing equity for underserved
25 communities.

1 Finally, the Biden Administration must
2 prioritize completion of all regulations
3 identified as advancing equity for
4 underserved communities. I don't have to
5 tell this audience how painfully slow the
6 rulemaking process can be, particularly for
7 the most important or economically
8 significant regulations.

9 So, there's little time to waste for
10 the Biden Administration to complete
11 regulations that advance equity for
12 underserved communities. Now, based on these
13 three principles, Public Citizen made the
14 following recommendations.

15 First, all agencies should request
16 evidence and data from the public to
17 determine all of its regulations that
18 advanced equity for underserved communities
19 either directly or indirectly. In
20 particular, agencies should seek out and hear
21 directly from underserved communities on
22 which regulatory protections advance equity
23 by benefiting their communities. This will
24 supplement evidence and data that agencies
25 already have showing how regulation advances

1 equity in underserved communities and will
2 allow those communities to have a voice in
3 making sure such regulations are put in
4 place.

5 Second, once agencies have determined
6 which of its regulations advance equity for
7 underserved communities, they should make
8 this information highly visible and
9 accessible to the public including through
10 use of the Unified Regulatory Agenda.
11 Specifically OMB, the Officer of Management
12 and Budgets, should create a separate
13 designation in the Unified Regulatory Agenda
14 for regulations that advance equity for
15 underserved communities.

16 Finally, once agencies have publicly
17 identified all regulations that advance
18 equity for underserved communities, they must
19 prioritize completion of these regulations by
20 meeting any deadlines for completion listed
21 in the Unified Regulatory Agenda.

22 Now, if you're familiar with the
23 Unified Regulatory Agenda, then you know that
24 the time lines that agencies list for
25 completion of proposed and final rules on the

1 agenda are often aspirational and are often
2 missed, unfortunately, by agencies. But in
3 OMB can give heat to those deadlines by
4 monitoring agency compliance with the
5 deadlines they list on the agenda and
6 prompting agencies when those deadlines are
7 missed.

8 We believe these recommendations
9 provide a good foundation for incorporating
10 and advancing equity for underserved
11 communities in the rulemaking process. But
12 it is only a start. Much more must be done
13 through reforms that build off this
14 foundation. For example, identifying and
15 designating a regulation as advancing equity
16 for underserved communities can trigger
17 specialized procedures such as proactive
18 outreach to such communities during the
19 rulemaking process and placing more weight on
20 distributional benefits for underserved
21 communities that can't be quantified.

22 Once again, I want to thank ACUS for
23 inviting me to be a part of this forum and
24 look forward to continuing the work to
25 improve the rulemaking process for

1 underserved communities. Thank you.

2 MODERATOR: Thank you, Amit. If I was
3 better coordinated, I would have jumped in
4 sooner. I couldn't get my mute off.

5 Finally, Viviana Westbrook is the
6 state and local advocacy attorney at the
7 Catholic Legal Immigration Network, where she
8 provides strategic and technical support to
9 state and local level immigrant advocates.
10 Viviana?

11 MS. WESTBROOK: Thank you so much,
12 Sid. It's my honor to be here with you today
13 and speak on this very important topic. And
14 as Sid said, I'm state and local advocacy
15 attorney at CLINIC. And that means that I'm
16 supporting clinics over 400 affiliates that
17 are spread about the 50 states, as well as
18 Washington D.C.

19 CLINIC is the largest charitable legal
20 immigration network in the nation. As part
21 of my job, I also support the various
22 catholic conferences across the country and
23 advocacy endeavors to support immigrant
24 communities in state and local endeavors.

25 But with what I see, I see some of

1 the -- with what I do, I see the challenges
2 of incorporating underserved communities from
3 two perspectives. You know, one is the
4 attorney who's gathering information and
5 figuring out the needs of, you know, what I
6 should be focusing on to advocate for at the
7 state and local level, you know, on behalf of
8 these various groups.

9 And I have to make sure that I'm
10 incorporating all the voices and that I'm not
11 just taking, you know, CLINIC'S affiliates
12 and the Catholic Conferences into
13 consideration but that I'm also inviting
14 others to the table and making sure that I am
15 getting as many voices as possible.

16 Because the fact is, I mean, just from
17 a strategic standpoint, you know, I might
18 formulate a wonderful, what I think is a
19 wonderful plan, and then after I've invested
20 all these resources into it, find out that
21 there is a gaping hole because I didn't do
22 the research and didn't just ask hey who's
23 missing from the table.

24 So, better to incorporate that early
25 on then to have to rewrite the whole thing in

1 the middle.

2 So, I would say that one of the key
3 takeaways from this is to think outside the
4 box. You know, I think often times, you
5 know, we talk about rulemaking. We look at
6 the regulatory process, and it's just like
7 okay. Well, here. Submit a comment and, you
8 know, follow these steps but that excludes so
9 many people. You know, a lot of people don't
10 have the legal education or education to read
11 the very, all the legalese. We really want
12 things in plain language that, you know, are
13 easily understood and sometimes, you know,
14 maybe that'll mean giving resources to other
15 communities.

16 I think one of the things that we saw
17 during, you know, during COVID is that
18 vaccination efforts were very much from the
19 bottom up. We know that the, you know, the
20 government, the Biden Administration,
21 provided community grants so that people
22 could be providing education and helping, you
23 know, well, especially with immigrants, you
24 know, understand some of the, you know, the
25 concerns. Some of the, I don't know, the

1 things that were preventing them from going
2 forward, you know, and actually getting
3 vaccinated.

4 And we're actually partnering then
5 with local clinics and churches and other
6 community-based organizations. And they were
7 all coming together, you know, in this
8 wonderful grassroots effort and people were
9 going out there and getting vaccinated. And
10 they were doing so, with funds, which of
11 course, is so important because when you're
12 not a big organization, you don't have
13 someone that's dedicated to doing policy,
14 you're giving up your own time.

15 And normally all these, you know,
16 especially, small, community-based
17 organizations don't have the funds, don't
18 have the time. And so, it's so, -- you know,
19 it's so, important to compensate them for
20 their time and the same goes for individuals
21 for directly impacted individuals who come
22 forward. You really need to have their
23 voices. They're going to be very honest.
24 This is what deeply affects (inaudible) what
25 they need and so, again, providing that

1 stipend, providing child care, is really
2 important to having an effort that is truly
3 (inaudible).
4 Something else I would add is that I
5 think we need to rethink how we see
6 diversity. Often times, we think we know
7 what diversity is, but we only see diversity
8 from our own standpoint, from our own
9 history. (Inaudible) I think it's really
10 important that we understand that just
11 because we get the opinion of one group that
12 doesn't mean we covered all of. That's it.
13 We could check the box. You know, it's not
14 about tokenization (inaudible). You know,
15 any group is not a (inaudible). You know,
16 identities just intersect in many different
17 ways. It's important that we understand this
18 and don't have a one size fits all approach
19 that, you know.
20 When we're doing these endeavors it,
21 that we're having formal outreach. But we're
22 also having informal gatherings that we're
23 really reaching out and meeting people where
24 they are. You know, and I think that
25 (inaudible) communicate. That you engage,

1 and that you build that trust and keep that
2 trust. You know, partnering with groups that
3 already have that trust is a really good way
4 to do that. And, you know, having follow
5 ups.

6 I think often times (inaudible) so
7 much. You know, you invest all this time and
8 effort and energy and then you don't hear
9 back about what happened. You know, what are
10 the next steps? How was my voice, you know,
11 incorporated? Or why was it left out. But I
12 think I'll leave it there. There's a lot to
13 say on this topic. But I'm very excited to
14 be here. So, thank you.

15 MODERATOR: Thank you all for getting
16 us started and even more so, for staying on
17 time it's the rare panelists that do that.
18 Very much appreciated.

19 I remind anyone who's listening and
20 viewing, you're welcome to ask questions in
21 the question-and-answer box. But for the
22 moment why don't we proceed and perhaps a
23 conversation. So, I heard a couple of ideas
24 and I wonder whether or not they have wider
25 application.

1 So, on the one hand the farm service
2 is benefited by having a ground force, so to
3 speak. And it can task that ground force as
4 we heard with outreach on policy issues to
5 get input. And that's a little bit rare, I
6 suppose, in the federal government.

7 But one question I have is since this
8 is about new ideas, thinking outside the box,
9 is that something that Congress ought to fund
10 more widely across the government. In the
11 same regard, we heard an example from Viviana
12 and Latrice of government-funded policy
13 centers which serve as intermediaries between
14 people who normally don't participate and
15 speak in the process and the government
16 itself. And is that a model that might be
17 expanded on, particularly, in the regulatory
18 space where it's -- we haven't done anything
19 like that?

20 So, let me just -- any of you jump in
21 and I'd appreciate your reflections on that.

22 MS. HILL: Well, I definitely agree.
23 Especially with what Viviana said. I really
24 liked the idea of how we took the example of
25 COVID and the pandemic and we saw that

1 grassroots approach. There were so many
2 organizations and faith-based communities
3 received funding to help with that outreach
4 and education. And I think that has worked
5 pretty well. And I think that would be a
6 great idea for policy.

7 Another -- another thing that was
8 mentioned, I think that could be maybe
9 expanded upon, are listening sessions. You
10 know, talking directly with producers in
11 which we have dabbled with that in this --
12 during this administration. We have had some
13 listening sessions to talk about what are
14 some of the barriers in our programs.

15 But taking that I step forward, I
16 think that also would be a great idea to have
17 more listening sessions with actual
18 communities. Informal conversations as you
19 mentioned, Viviana. What do you guys think?

20 MS. WESTBROOK: No, absolutely. I
21 think, you know, you get so, much information
22 when you're in a safe space. You know when
23 you're somewhere that people know.

24 MS. HILL: Uh-huh.

25 MS. WESTBROOK: One of the -- I'm not

1 trying to do a plug for CLINIC, but one of
2 the programs that we have here is called the
3 National Immigrant Empowerment Project. And
4 it's something that just started, you know, a
5 few years ago where when we launched this,
6 basically, we funded eight affiliates in
7 rural areas.

8 We identified rural areas in need of
9 support and it's a four-year project where,
10 essentially, we're paying for a community
11 organizer, you know, and they go there and
12 they are just speaking directly to the
13 community and again grassroots efforts. And,
14 you know, they're educating them on advocacy
15 and how to become their own advocates and
16 empowering them.

17 You know, and it's all about
18 education, empowerment. And then they, we
19 pay a stipend to someone directly from that
20 community. You know like for instance in
21 Iowa, we have the meat packers. And so,
22 someone who is, you know a meat packer then
23 becomes like, the liaison between the
24 organization and the actual community and
25 they get paid for their efforts. It's worth

1 their time and then they do things where they
2 sit together, and they have these listening
3 sessions where they talk about what are the
4 issues that we're seeing. You know, how is
5 policy affecting us? Hey, we saw something
6 that's coming up at the state level, federal
7 level, this is going to impact using X, Y, Z
8 ways.

9 And then, you know, they talk about
10 ways that they can be involved, you know,
11 ways they want to be involved. And then
12 sometimes, you know, they might want to do,
13 be more involved in a bigger way and they
14 might elevate that to me and then I try to,
15 you know, get them to be able to speak
16 directly but if they don't feel comfortable
17 with that then I'm the bridge to just convey
18 that message. But I think it's so,
19 important, you know, having places where
20 these conversations can take place.

21 MODERATOR: So, there's a bit of
22 tension here right. Some of the models of
23 reaching out, if you will, and educating
24 people are actually by public interest
25 groups, like, Public Citizen. Like Catholic

1 Legal Services. But the aim is advocacy at
2 the end of the day. And on the one hand, if
3 we're to scale that up, there's just not
4 enough public interest organizations with
5 enough money to fund those efforts. So, the
6 government really does have to look at
7 establishing policy centers. The model at
8 Alcorn University might be a better one
9 because it's in an academic setting. And so,
10 not so, much about advocacy. More about
11 education.

12 Back in the day, the 1980s, Amit will
13 remember this. The Reagan Administration
14 took National Legal Services out of the
15 policy advocacy business. The view of the
16 Reagan Administration is the government
17 shouldn't pay people to sue the government or
18 advocate against the government. And so,
19 Legal Services was reduced to an important
20 role but a reduced role of helping people on
21 a more localized level.

22 Amit, I don't know. Is there room for
23 this in the regulatory sphere?

24 MR. NARANG: Well, I definitely think
25 so. And certainly, some of the outside-of-

1 the-box thinking that's needed in the --
2 where doing along with others, like, Viviana
3 and Latrice on this panel. You know, it is
4 revolving around certain limited models that
5 we have in the federal government that could
6 be expanded to other agencies or across the
7 federal government.

8 So, you know, one would be a model
9 that actually was just recently instituted at
10 the independent agency, the Federal Energy
11 Regulatory Commission. In their authorizing
12 legislation they have authorities stand up
13 something called the Office of Public
14 Participation but they had not don't so for
15 over 40 years and they just recently decided
16 to use that authority to stand up the office
17 and hire their first director, I think was
18 just confirmed last week or the week before.

19 Now, this office is certainly designed
20 to, through a number of mechanisms, empower
21 voices in the rulemaking process specifically
22 related to FERC regulation, energy regulation
23 that simply are not present or active or
24 engaged enough in the rulemaking process.

25 And it gets at some of these issues

1 that those stakeholders fixed in terms of
2 resource imbalance, in terms of expertise
3 imbalance, and in terms of simply not having
4 a space in which to express their views in a
5 way that actually influences and impacts
6 policy making.

7 Now, you know, when it comes to the
8 issue of it potentially aligning with
9 advocacy interest, to that I would say that
10 there are, already within the government,
11 certain stakeholder communities that do
12 receive priority consideration. You know,
13 the one that comes to mind most is the small
14 business community, if you will, that has a
15 whole office called the Office of Advocacy
16 within Small Business Administration and a
17 framework for agencies to be taking their
18 views into consideration during the
19 rulemaking process. One could view that as a
20 form of advocacy.

21 I mean, it's in the name of the
22 office, and of course, and the Small Business
23 Administration that's designed to, you know,
24 channel their voice.

25 So, I think that these types of models

1 when it comes to engaging stakeholders that
2 are certainly not engaged enough, if at all,
3 underserved communities, this type of model,
4 the model I'm pointing to at the Office of
5 Public Participation but there are others.

6 There's, for example, the investor advocate
7 at the Securities and Exchange Commission.

8 These are models that I'm hoping the
9 Biden Administration is taking a close look
10 at and in our comment to the Biden
11 Administration, we did encourage them to
12 expand upon these models and potentially
13 implement them at other agencies in order to
14 try and enhance, you know, the voice of
15 underserved communities when it comes to
16 their regulations.

17 MODERATOR: Thanks, in particular, for
18 those examples, and there's in the states, I
19 don't know how many states. I once knew.
20 Many of the state utility regulatory boards
21 have public advocates. So, these are someone
22 appointed by the state, paid for by the
23 state, to advocate for consumer interest and
24 rate proceedings.

25 So, it's not unheard of, and as Amit

1 was reminding us, it might even be more
2 common perhaps than people think.

3 So, let me ask this question. As we
4 reach out to these organizations and do a
5 better job of it, whether it's through policy
6 centers or listening sessions, more outreach,
7 how do we obtain the information that would
8 be useful?

9 Someone posted a question to that
10 effect in the question-and-answer box. And
11 if you have more questions, please do that
12 because as Latrice was reminding us early on,
13 people are busy. They're farming. They're
14 earning a living. They're taking care of
15 their kids. And except for the kind of
16 people who are on this panel, they don't
17 reach -- read the Federal Register.

18 So, assuming we can get out and
19 involve more groups and assuming whether you
20 have public advocates or not, we still want
21 to hear from people. But we want to get them
22 focused in a way that the information we're
23 getting is actually helpful to agencies.

24 So, probably saying what do you think
25 is not going to do the trick. What can we

1 do? What else can we do besides what the
2 government might be doing already?

3 Latrice, I know you mentioned you were
4 doing that and you have people doing that.
5 What techniques are you using?

6 MS. HILL: Well, as I mentioned, the
7 stakeholder organizations. Believe it or
8 not, a lot of people don't trust the
9 government. So, when you have stakeholders
10 who are out there and are trusted in their
11 communities and they're working with those
12 farmers and ranchers every day. In our case,
13 it's going to be farmers and ranchers.
14 They're working with them every day then
15 they're more comfortable sharing their
16 feedback and suggestions with these
17 stakeholders.

18 Now, when it comes to listening
19 sessions, if it's something where the
20 leadership comes in and they want to hear
21 from farmers and ranchers, they are a little
22 leery about sharing their true feelings.
23 They would rather work with someone who's in
24 the trenches with them, which would be a
25 farming organization who really understands

1 their plight rather than just speaking to us
2 directly.

3 So, we do see that that stakeholder
4 engagement, it has been pretty successful,
5 but when it comes to underserved communities,
6 there's still a bit of a challenge because
7 finding the right organization that's
8 representative of that community is critical.
9 And farming is very diverse.

10 And so, not only are we looking at
11 underserved as far as racial, ethnic, and
12 gender make-up, we're also looking at farming
13 diversity. We want to make sure that small
14 producers or specialty crop producers, their
15 voice is heard just as loud as the row crop
16 producers.

17 So, it's a balance in trying to find
18 the exact, the right stakeholder to speak.
19 And you have organizations out there who are
20 national and regional in scope, but as
21 Viviana mentioned before, I really think the
22 success is likely going to be at the ground
23 roots level and the local counties.
24 Something that FSA has that I don't think
25 that we've really taken full advantage of are

1 county committees. These committees are made
2 up of farmers who are elected by farmers in
3 the community. They have the voice for
4 farmers and ranchers in that county.

5 However, over the years, it's been
6 hard to get farmers to even participate in
7 the committee elections. So, that's been a
8 challenge but that's something that's already
9 in place that I think really should be
10 revamped maybe revitalized. Maybe some new
11 policies around the county committee. But
12 that is one vehicle that is there that can
13 help provide feedback directly from farmers
14 as it related to our programs and even in
15 hiring.

16 You know, the county committee does
17 the hiring for that county office so, there
18 are some things in place. I just think that
19 maybe the administration should take a look
20 at changing some of the things that haven't
21 been working in the past few years.

22 MODERATOR: So, you're sort of blessed
23 with having people on the ground and you can
24 challenge them to do more and do better in
25 this process. That probably doesn't describe

1 other administrative agencies. And so, I
2 hear you that because they don't have this
3 day-to-day or at least closer contact with
4 communities, establishing trust and rapport
5 is going to be part of the challenge.

6 But moving beyond that, is there some
7 way that we ask questions of these
8 communities. Can we formulate types of
9 information that we would like to have from
10 them?

11 Amit, you mentioned that one of the
12 key things that we need to do better of, if
13 we do it at all, is ask for information of
14 the type that the agency will find useful in
15 the rulemaking processes. Someone else
16 posted a question that says, well, you know
17 it's well and good to get information but we
18 also have to build a record that survives
19 judicial review.

20 So, we need to get the information,
21 take it into account, and be able to use it
22 to justify rules that are more equitable.
23 How do we bridge that gap?

24 MR. NARANG: Yeah.

25 MODERATOR: That's a hard question but

1 I know, but I'm asking it anyway.

2 MR. NARANG: I think there is
3 attention in term -- well, let me say there
4 is the possibility that meaningful outreach
5 to underserved communities is not going to,
6 say, enhance the ability for the agency to
7 defend a rule in court. Now, will it detract
8 from the agency's ability to defend it in
9 court. I'm not convinced that would be the
10 case either.

11 Frankly I think that agencies frankly
12 are currently very acutely sensitive to
13 litigation risks when it comes to rulemaking
14 and are fashioning rules very consciously to
15 service legal challenges. Whether or not
16 that happens in the end.

17 Now, I think that that can take place
18 in parallel to some reforms for employees to,
19 you know, have some meaningful outreach for
20 the first time, frankly, to underserved
21 communities. But you are definitely putting
22 your finger on a big challenge here, which is
23 the lack of data in many instances to show
24 that what we may know, you know, true
25 antidote or other means that regulations that

1 are intended to protect the public broadly do
2 disproportionately benefit underserved
3 communities.

4 That's because we simply don't have
5 data on how -- on the impact of these
6 regulations along say racial or gender or
7 sexual orientation lines. Now, that kind of
8 data is critical, and agencies are making
9 efforts to attempt to get more of that data
10 but there are challenges that remain at
11 numerous levels, including true opposition
12 from certain stakeholders that would provide
13 this data to provide it.

14 So, I think that we need to -- I think
15 that it is not going to be easy to be able to
16 get all the evidence necessary but there are
17 lots of areas in which the evidence is
18 already there and in reams. So, you know,
19 going back to the example of the EPA and air
20 and water pollution. We know based on all of
21 the good work and the environmental justice
22 area that EPA's done over decades that there
23 are, you know, disproportionate benefits to
24 environmental regulations to certain
25 underserved communities. And we need to act

1 on those.

2 And I think that the key in terms of
3 trying to make sure that this is not just a
4 checking the box exercise, which certainly is
5 what -- would not be a good outcome for this
6 effort. You know, the key way to make sure
7 that doesn't happen is to deliver. Deliver
8 for those communities and deliver results.

9 And so, it would be great to obviously
10 set up some of the reforms that the Biden
11 Administration has signaled that I have
12 talked about in my remarks. But at the end
13 of the day, they're just a start, like I
14 said, in delivering. Delivering to these
15 underserved communities in the form of strong
16 and effective regulations that protect the
17 public broadly but particular underserved
18 communities. That's the key

19 MODERATOR: Thanks, Amit, for those
20 two great insights, which I think spoke to
21 comments we had before. First, as we all
22 know, it is true that an agency has to be
23 able to defend its rule on the public record
24 but agencies are motivated by all kinds of
25 reasons, like, the White House would like us

1 to do this that aren't part of the
2 justification but go into the motivation of
3 the agency.

4 And so, it's certainly possible that
5 agencies can get information from
6 marginalized communities that causes them to
7 look for more equitable ways, more equitable
8 rules, that are defensible on the information
9 they have to defend them, which would be a
10 good outcome.

11 I also appreciate your comment that
12 the way to build trust, if we can't have it
13 day-to-day and be out among the communities,
14 is to deliver when we talk to people and
15 across the government, they're able to see
16 some of the results.

17 Viviana, as I understood, it's sort of
18 part of your job framing and helping your
19 affiliates and people who look to you
20 understand what is after all complicated
21 regulatory policy. Are there ways you do
22 that, that obviously as a public interest
23 group that the government ought to think
24 about?

25 MS. WESTBROOK: Well, you know, I

1 think one of the ways that I go about getting
2 the information that I need is that, you
3 know, I'm always explaining like what the
4 impact will be. And again, plain language.
5 Just saying, you know, this is what this, you
6 know, proposed whatever it is it's being
7 proposed, will impact your life on a day to
8 say basis and for the longer term. You know,
9 and we talk about that, and then I talk
10 about, you know, like I want to, you know,
11 like tell me how is this going to affect you
12 because I'm hoping to take this, you know,
13 to, and then explain whatever agency I'm
14 going to engage with and, you know, just talk
15 to them about what the process looks like.
16 Be very transparent and be like this is going
17 to take, you know, a while. But ultimately
18 this is what the outcome is.

19 Like for instance, one of the
20 engagements that I had was on the protected
21 areas memo with DHS and I got to be part of a
22 stakeholder engagement there and I went to
23 our affiliates and to other, well, into
24 organizations that I knew and I talked to
25 them. And I already -- having practiced, you

1 know, and represented a lot of survivors of
2 violence, I had a good idea of some of the
3 missing areas but going to all these other
4 groups that I'm a part of and asking them you
5 know I found other ones that I was able to
6 incorporate, you know, in a document that we
7 provide to the government and then, you know,
8 we saw all this come out, you know.

9 And one of the things I asked, I was,
10 like, well. Tell me, what, where are you
11 afraid to go, you know, because of
12 enforcement actions? You know, and they were
13 very candid. They were like I'm afraid to
14 go, you know, to the bus stop. You know, I'm
15 afraid to go to a domestic violence shelter.
16 I'm afraid to go, you know, to the food
17 pantry.

18 And these are all really important
19 things but maybe if it's not something that
20 you have to engage with every day, you know
21 you don't think about. And so, it was
22 really, you know, important to get all of
23 those voices. You know, and then be able to
24 elevate that, you know, to the government and
25 now we're doing a training about, you know,

1 this is what the new policy says. What does
2 this mean for you? What are next steps? And
3 also letting them know, you know, please
4 report any violations that you see of this so
5 that we can continue our endeavors.

6 Because I think sometimes, you know,
7 there's a (inaudible) how they will benefit
8 from that. You know, let's just be honest,
9 like, people who are really busy who might be
10 working two, three jobs, you know, like they
11 don't need to be sitting there and telling
12 you about, like, oh, yes. Let me answer your
13 questions, which I really don't understand
14 why you're asking me all these questions and
15 taking up my time.

16 You know, but the fact that I can go
17 back and be like look we got these changes,
18 you know, we now protected areas cover so,
19 much more and (inaudible) communicate and
20 like even though time is passing, that they
21 know, oh we're, you know, we're going to have
22 a training on this. And then we're also
23 going to try to have another engagement with
24 DHS somewhere down the road. You know, and I
25 think that that's something that's

1 (inaudible).

2 MODERATOR: Thank you. There's
3 another great insight right. That it has to
4 be an iterative process. That if you're
5 searching for information, it's not enough to
6 ask one set of questions and then say okay
7 thanks, we're out of here. It has to be a
8 series of questions and maybe that's the way
9 organizations that don't have a ground force
10 and aren't present to talk to people and
11 follow up.

12 Maybe that's a way you can follow up
13 and again, because you come back maybe build
14 some trust. But anyway, get useful
15 information.

16 Let me end with this question, which I
17 think will last the rest of our hour. It
18 strikes me that, in a way, we're trying to
19 span two types of language here. That those
20 of us who are lawyers and policy advocates,
21 economists, speak what I would guess I would
22 call technocratic language. And the
23 rulemaking process, indeed the policy
24 process, is sort of chockful of that
25 technocratic language.

1 The people we'd like to involve, those
2 from marginalized communities and citizens in
3 general don't speak technocratic language.
4 But that doesn't mean that they don't have
5 valuable insights that would educate all of
6 us and administrative agencies in ways that
7 are useful. It's just a different language.

8 How does the government start to think
9 about spanning that gap? How does the
10 government speak, both technocratically to
11 audiences that are technocratic, like, policy
12 centers, but how does it speak about impacts
13 and considerations that's non-technocratic?
14 Does that require different people in the
15 government? Does it require different
16 expertise? Different understandings of
17 communication? What would have to happen for
18 that to happen?

19 MS. HILL: Well, I'll kick off. I
20 definitely would say that it's going to
21 involve maybe a different set of
22 communicators. Someone who can take that
23 technical legalese speak and convert it to
24 plain language. I don't think that's
25 something that's really been addressed. You

1 know, there is a plain language initiative or
2 that's supposed to be the focus of federal
3 agencies but honestly, we're not there yet.
4 There are so many things that are not in
5 plain language. If they're, I like that
6 idea. I'm just not really sure how we could
7 get there.

8 We definitely need to break it down
9 into some plain language, and we need to have
10 a way to convey more input rather than just
11 putting out a proposed rule out there asking
12 for comments. Maybe with each rule there
13 should be a plain language, Q&A, or fact
14 sheet that goes along with it that kind of
15 explains it.

16 Those that are able to have
17 stakeholders on the ground to help amplify
18 and educate that message, they could use
19 these tools but there needs to be more of an
20 opportunity to understand how the rule's
21 going to impact them.

22 And it's going to be hard to do that
23 unless there are some changes made. Not sure
24 how exactly to do that but I do agree. We've
25 got to get there.

1 MR. NARANG: I definitely fully agree
2 with Latrice that it's not going to be easy.
3 But I think that there are -- there's real
4 value in trying to confront this challenge of
5 how to, if I could put it this way, you know,
6 democratize the rulemaking process because
7 right now it's certainly not a democracy or
8 not the type of democracy that you'd want to
9 set up in a new country that doesn't have a
10 democracy right now because there are voices
11 that are louder than others, and typically
12 that has not been, you know, the underserved
13 communities that often are the ones that are
14 most directly impacted by it. Regulation or
15 lack of regulation.

16 You know at Public Citizen, that is
17 one of the big, one of our big focuses when
18 it comes to our regulatory policy work is
19 making sure that we're getting the voice of
20 our members, you know, in front of the
21 agencies and, you know, as incorporated into
22 the rulemaking process as possible. But it's
23 not easy.

24 Certainly, there is a, you know, an
25 imbalance between the expertise of average

1 members of the public and then, you know,
2 those that are, you know, whose job it is
3 basically to engage in this regulatory
4 advocacy on a day-to-day basis, and I think
5 one of the biggest challenges is just
6 convincing, I think, folks especially in the
7 regulatory policy technocratic world, right,
8 that you're talking about, Sid. That those
9 voices that don't have the technocratic
10 expertise still matter. That their opinion
11 still matters. That what they think about a
12 regulation, even if it's not as informed as,
13 you know, a 20-page comment letter from a
14 hired law firm, that still has value.

15 Because if we start giving people the
16 impression that unless they can speak the
17 same technocratic speak we do, their voice is
18 not going to matter and their opinion is not
19 going to be heard, obviously, at that point
20 then you start losing those folks. And
21 really, you know, there is a lot of promise
22 in terms of, you know, the types of reforms
23 we're talking about to incorporate
24 underserved communities.

25 But the danger is that, you know, some

1 of those reforms are put in place, but again,
2 there's not follow-through. And when folks
3 do try to, you know, engage more than they
4 have in the past they feel that their voice
5 is not heard and, you know, and they feel
6 like they -- it kind of makes it so, that
7 they're not interested and engaging in the
8 future.

9 And that's a big down side. We have
10 to build these reforms with a mind towards
11 making them permanent and again giving folks
12 real things that, you know, real deliverables
13 that matter in their lives.

14 MODERATOR: Viviana, are you
15 trilingual? Because I know you have a foot
16 in both camps as a technocrat, but also one
17 who speaks directly to many organizations
18 without a lot of technocratic ability.

19 MS. WESTBROOK: Oh, yes. I
20 (inaudible) I will say at this point
21 (inaudible) so much into plain language that
22 I'm -- I feel like I'm (inaudible) in plain
23 language. People tell me, oh, you're an
24 attorney. You -- but you don't communicate
25 like an attorney. You're very down to earth

1 and so, I always take that as a compliment,
2 you know, and that's one of the areas
3 (inaudible) people will be able to
4 understand, you know, what you're saying and
5 (inaudible) engage and feel like they
6 (inaudible).

7 I just went to this site earlier today
8 to look at some of the (inaudible) okay let's
9 look at the regs. And I was just, like, you
10 know, this whole process, like, even the
11 introduction to how to submit the comment,
12 you know, like, it just sucks. Like, yeah
13 (inaudible) you know, (inaudible) let me do
14 this. That sounds great. All of this
15 flowery language.

16 (Inaudible) you know, every step of
17 the way (inaudible) you know I think someone
18 from a previous town for this conference
19 mentioned (inaudible) not the exception. You
20 know, we need to be used to using it all the
21 time (inaudible) because, you know, otherwise
22 people just don't understand and, you know,
23 if you can't even speak the same language
24 which also (inaudible) up a point about
25 language access, you know, because you have

1 only it in English right. And of course,
2 then that means that you are excluding so,
3 many people who (inaudible) and, you know
4 (inaudible) most of the time (inaudible)
5 things just come to mind.

6 I'm Latina. I speak Spanish fluently
7 and I always get excited when I see that
8 there is Spanish, but then I'm also like but,
9 you know, there's like indigenous languages,
10 Arabic, Haitian, Creole, like, I'm just you
11 guys, you need to think about (inaudible) you
12 know, and sometimes people are like
13 (inaudible) if you have an interpreter, you
14 know, and if you have someone who speaks a
15 different language it's going to take more
16 time and res -- (inaudible).

17 I hated that we have to get
18 comfortable with yes, is it going to take
19 more time and resources. But that the only
20 way we're really going to (inaudible) And I
21 think that.

22 MODERATOR: Thank you.

23 MS. WESTBROOK: That's all.

24 MODERATOR: Thank you for reminding us
25 that it's not only a matter of two languages,

1 but often a matter of three or more for those
2 citizens who aren't -- and others in the
3 country who aren't fluent in English.

4 Another challenge for the government that
5 probably hasn't been adequately addressed.

6 Well, wow. We've come to the end of
7 the hour. Thank you so, much everyone for
8 what I thought was really interesting
9 conversation. I know I walked away with
10 several ideas that I didn't have when I
11 walked into the conversation. And hopefully
12 the people who are present in the audience
13 and who watch this later on video will come
14 away with same advantage of gaining some new
15 information.

16 This is the last panel as Matt noted
17 at the top so, I want to thank ACUS for
18 organizing these six panels on how the
19 government can better engage marginalized
20 communities and regulatory policy making.

21 To my mind, once again ACUS has
22 demonstrated why it is such an important
23 location for thinking about how to improve
24 the administrative process. Like Amit, I've
25 seen all of the panels and I don't think that

1 there's any doubt that ACUS and the panels
2 have generated new insights about the
3 challenges for engaging marginalized
4 communities and I know for a fact that ACUS
5 will build on those efforts and will remain
6 engaged in the next months and years.

7 In fact, I'll remind you again, as
8 Matt mentioned at the start of our
9 conversation, they're already going to do
10 that. Because next Wednesday December 1st
11 from 1:00 to 4:00, there will be a forum on
12 enhancing public input agency rulemaking and
13 I hope you can attend. And if not, like this
14 session, ACUS has recordings of all its
15 forums for you to view later.

16 So, once again, I thank the panelists
17 for their participation today. I thank the
18 audience for joining us and I'll say good
19 afternoon.

20 (End of Audio Recording.)

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CERTIFICATE

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I, Wendy Sawyer, do hereby certify that I was authorized to and transcribed the foregoing recorded proceedings and that the transcript is a true record, to the best of my ability.

DATED this 14th day of January, 2022.

WENDY SAWYER, CDLT