

**JIM CROW 2021: THE LATEST
ASSAULT ON THE RIGHT TO VOTE**

HEARING
BEFORE THE
COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE

ONE HUNDRED SEVENTEENTH CONGRESS

FIRST SESSION

APRIL 20, 2021

Serial No. J-117-10

Printed for the use of the Committee on the Judiciary



**COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE**

**JIM CROW 2021: THE LATEST
ASSAULT ON THE RIGHT TO VOTE**

HEARING
BEFORE THE
COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE
ONE HUNDRED SEVENTEENTH CONGRESS

FIRST SESSION

APRIL 20, 2021

Serial No. J-117-10

Printed for the use of the Committee on the Judiciary



www.judiciary.senate.gov
www.govinfo.gov

U.S. GOVERNMENT PUBLISHING OFFICE

COMMITTEE ON THE JUDICIARY

RICHARD J. DURBIN, Illinois, *Chair*

| | |
|----------------------------------|--|
| PATRICK J. LEAHY, Vermont | CHARLES E. GRASSLEY, Iowa, <i>Ranking Member</i> |
| DIANNE FEINSTEIN, California | LINDSEY O. GRAHAM, South Carolina |
| SHELDON WHITEHOUSE, Rhode Island | JOHN CORNYN, Texas |
| AMY KLOBUCHAR, Minnesota | JOHN CORNYN, Texas |
| CHRISTOPHER A. COONS, Delaware | MICHAEL S. LEE, Utah |
| RICHARD BLUMENTHAL, Connecticut | TED CRUZ, Texas |
| MAZIE K. HIRONO, Hawaii | BEN SASSE, Nebraska |
| CORY A. BOOKER, New Jersey | JOSH HAWLEY, Missouri |
| ALEX PADILLA, California | TOM COTTON, Arkansas |
| JON OSSOFF, Georgia | JOHN KENNEDY, Louisiana |
| | THOM TILLIS, North Carolina |
| | MARSHA BLACKBURN, Tennessee |

JOSEPH ZOGBY, *Chief Counsel and Staff Director*
KOLAN L. DAVIS, *Republican Chief Counsel and Staff Director*

C O N T E N T S

APRIL 20, 2021, 10:01 A.M.

STATEMENTS OF COMMITTEE MEMBERS

| | Page |
|--|------|
| Durbin, Hon. Richard J., a U.S. Senator from the State of Illinois | 1 |
| Grassley, Hon. Charles E., a U.S. Senator from the State of Iowa | 4 |
| Leahy, Hon. Patrick J., a U.S. Senator from the State of Vermont | 6 |
| Cornyn, Hon. John, a U.S. Senator from the State of Texas | 8 |

WITNESSES

| | |
|--|-----|
| Witness List | 70 |
| Opening Statement of Hon. Patrick J. Leahy, a U.S. Senator from the State of Vermont | 6 |
| Abrams, Hon. Stacey, founder, Fair Fight Action, Atlanta, Georgia | 22 |
| prepared statement | 72 |
| Anderson, Carol, Ph.D., Charles Howard Candler Professor, Emory University, Atlanta, Georgia | 16 |
| prepared statement | 76 |
| Gardner, Hon. Bill, New Hampshire Secretary of State, Concord, New Hampshire | 17 |
| prepared statement | 113 |
| Ifill, Sherrilyn, president and director-counsel, NAACP Legal Defense, Washington, DC | 18 |
| prepared statement | 79 |
| Jones, Hon. Jan, Speaker Pro Tempore, Georgia House of Representatives, Milton, Georgia | 20 |
| prepared statement | 114 |
| Owens, Hon. Burgess, a Representative in Congress from the State of Utah .. | 12 |
| Warnock, Hon. Raphael, a U.S. Senator from the State of Georgia | 10 |

QUESTIONS

| | |
|--|-----|
| Questions submitted to Stacey Abrams by: | |
| Ranking Member Grassley | 118 |
| Senator Cruz | 120 |
| Senator Cotton | 121 |

ANSWERS

| | |
|---|-----|
| Responses of Stacey Abrams to questions submitted by: | |
| Ranking Member Grassley | 122 |
| Senator Cruz | 127 |
| Senator Cotton | 129 |

MISCELLANEOUS SUBMISSIONS FOR THE RECORD

| | |
|--|-----|
| AMAC Action Letter, April 19, 2021 | 133 |
| Brad Raffensperger, Secretary of State Statement, April 20, 2021 | 176 |
| Fair Fight Action, August 16, 2021 | 215 |

IV

| | Page |
|---|------|
| FGA—Georgia Election Integrity Act of 2021 Statement | 136 |
| Georgia Election Law Letter, April 20, 2021 | 140 |
| Heritage Action For America Letter, April 20, 2021 | 157 |
| Heritage Foundation Releases Fact-Check on Georgia Election Law, April 16, 2021 | 159 |
| Hon. Kay James, President, Heritage Foundation Letter, April 20, 2021 | 163 |
| Ken Cuccinelli Statement | 170 |
| Lies the Left Tells Article (FGA) | 171 |
| Office of the Iowa Secretary of State Letter, April 19, 2021 | 168 |
| Record Submission 1 (Meet the Press—March 14, 2021) | 179 |
| Record Submission 2—CNN (Voting Rights), April 8, 2021 | 206 |
| Record Submission 3—Georgia election reform law isn't voter suppression, April 1, 2021 | 209 |
| Tea Party Patriots Action Letter, April 20, 2021 | 212 |
| Voter Turnout Charts | 173 |

JIM CROW 2021: THE LATEST ASSAULT ON THE RIGHT TO VOTE

TUESDAY, APRIL 20, 2021

UNITED STATES SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The Committee met, pursuant to notice, at 10:01 a.m., in Room 216, Hart Senate Office Building, Hon. Richard J. Durbin, Chair of the Committee, presiding.

Present: Senators Durbin [presiding], Leahy, Whitehouse, Klobuchar, Coons, Blumenthal, Hirono, Booker, Padilla, Ossoff, Grassley, Graham, Cornyn, Lee, Cruz, Hawley, Cotton, Kennedy, Tillis, and Blackburn.

OPENING STATEMENT OF HON. RICHARD J. DURBIN, A U.S. SENATOR FROM THE STATE OF ILLINOIS

Chair DURBIN. The hearing will come to order.

Today the Senate Judiciary Committee is holding its first hearing on voting rights since the Democrats last controlled the Senate. As Chair of the Constitution, Civil Rights, and Human Rights Subcommittee, I had a series of hearings about a wave of voter suppression laws then under consideration across the country. Sadly, the situation is much worse today.

I would like to start with a video showing how far the fight for democracy has come and the progress we have yet to make.

[Video shown.]

Chair DURBIN. Since our Nation's founding, there has been an intractable conflict between champions of democracy, and defenders of white supremacy. In 1890, white supremacists won a victory that would inspire a generation of legislation to deny full citizenship to Black Americans. They called it the "Mississippi Plan." Historian Carol Anderson, who is one of today's witnesses, has described it as "a dizzying array of poll taxes, literacy tests, understanding clauses, newfangled voter registration rules, good character clauses, all intentionally racially discriminatory but dressed up in the garb of bringing integrity to voting."

The president of the State Constitutional Convention that spawned the Mississippi Plan, S.S. Calhoun, announced, and I quote, "Let us tell the truth if it bursts the bottom of the universe. We came here to exclude the Negro. Nothing short of this will answer." They succeeded.

Three years later, a local newspaper reported that about 94 percent of Black men in Mississippi who were eligible to vote under the old Constitution would no longer be eligible under new rules.

In the words of one reporter, it marked “practical elimination of the majority race from the politics of the State.”

What happened in Mississippi did not stay in Mississippi. By 1910, States including South Carolina, Louisiana, North Carolina, Alabama, Virginia, Georgia, and Oklahoma had adopted statutes that sought to emulate Mississippi’s success in systematically suppressing Black voters. By the late 20th century, the Federal Government recognized these laws, passed during the Jim Crow era, amounted to a national crisis of voter disenfranchisement. Many of the most egregious voter suppression tactics were outlawed by civil rights legislation in the 1960s, but the insidious effort to suppress the right of voters of color has evolved and continued, most recently through a scourge of voter suppression laws introduced in State capitals across America.

Just this year—just this year—more than 360 bills with restrictive voting provisions have been introduced in 47 States. These new pieces of legislation may not involve literacy tests or counting the number of jelly beans in a jar like the original Jim Crow, but make no mistake. They are a deliberate effort to suppress voters of color.

This is the reality of our political landscape following the Supreme Court’s *Shelby County v. Holder* decision in 2013, which gutted the Voting Rights Act. Some of the new proposed laws require voters to show ID and cut back early voting. One Texas bill would make it a felony—a felony—for election officials to distribute absentee ballot applications. The law that has received the most attention in recent weeks is the one that Georgia’s Governor signed last month. It will make it harder for Georgians to vote early or by absentee ballot and make it a crime—a crime—to offer water to voters waiting in line.

It was not long ago that an American could be barred from voting for failing to guess the number of jelly beans in a jar. They might not be able to vote because they are stuck in a lengthy line on a hot day, and they cannot even receive a drink of water from a Good Samaritan.

Why are States like Georgia making it harder for Americans to exercise their most fundamental right? The response from proponents of these laws is that they help maintain the integrity—integrity—of the election system, another tactic taken straight from the Mississippi Plan playbook.

President Trump’s own officials—President Trump’s officials—at the Department of Homeland Security declared that the 2020 election was the “most secure election in American history.” Some of my colleagues on this Committee were on the same ballot as President Trump, and they are willing to accept the results that showed their reelections valid. If our elections are secure, these laws are not really about integrity.

What is the problem that lawmakers in Georgia want to address with the new law? The problem is obvious. Too many voters are showing up. Georgia saw historic voter turnout during the last election. Among Georgia voters who returned absentee ballots, we get an answer to our question. Sixty-five percent of those who returned absentee ballots voted for President Biden; 35 percent for Donald Trump. It seems Republican lawmakers in Georgia have

concluded that the solution to their election problems is to make it harder to vote, because the voters who did vote in the last election were not their voters. That is fundamentally un-American. In the words of Senator Warnock—and thank you for joining us today—it is democracy in reverse. In our republican—republic, politicians do not choose our voters. The voters choose us. We ought to enact legislation that makes it as easy as possible to vote while ensuring our elections are safe and secure.

There are a number of steps Congress can take to advance this goal, like the John Lewis Voting Rights Advancement Act and enshrining an affirmative right to vote in the United States Constitution.

I went back today to read the transcript and the reporting of the transcript of the January 2nd telephone conversation between President Donald Trump and Secretary of State of Georgia, Mr. Raffensperger. It was recorded. There is no doubt what was said in that conversation. The President of the United States, Donald Trump, was explicit. Here is what he said: “I just want to find 11,780 votes, which is one more than we have.” The President, who had 17 days left in his administration, hinted that Mr. Raffensperger and Ryan Germany, the chief lawyer of the Secretary of State’s office, could be prosecuted criminally if they did not do his bidding.

Here is what the President said: “You know what they did, and you are not reporting it,” he said. “You know that is a criminal—that is a criminal offense, and you know you cannot let this happen. That is a big risk to you and to Ryan, your lawyer.”

“That is a big risk,” the President of the United States said in the conversation that was recorded.

It is no surprise that this President goes on to claim not only several conspiracy theories, including debunked charges that ballots in Fulton County, Georgia, were shredded, that voting machines operated by Dominion Voting Systems were tampered with and replaced. Mr. Germany, in this conversation, can be heard telling the President that such charges are flatly untrue, even as Trump insists otherwise.

“You want to have an accurate election and you are a Republican,” Mr. Trump told Mr. Raffensperger. Mr. Raffensperger replied, “We believe that we do have an accurate election.” Trump responded, “No, no, no, you don’t, you don’t have, you don’t have, not even close. You guys are off by hundreds of thousands of votes.”

I reread that to think for a moment about this State election official, Mr. Raffensperger, in Georgia who had the foresight to tape that conversation so that history would be clear, but also made it clear that in an election where nearly 5 million votes were cast, the notion that they could find 11,790—11,780 votes, as President Trump requested, was just plain wrong. Of all the absentee votes, of all the votes in person, of all the activities that took place before and after the election, Raffensperger refused to concede that point.

I can tell you, it cost him, because when it came time to pass the new laws, the Georgia legislation signed into law by the Georgia Governor stripped the Secretary of State, Mr. Raffensperger’s position, of his power to preside over the State Election Board. He paid a heavy price for being honest and courageous in that conversation

with President Trump. The Secretary of State is also removed, under this new Georgia law, as a voting member of the State Election Board. Clearly, a majority of those who voted in the Georgia Legislature were out to send Mr. Raffensperger a message, that if you do not take the Trump line and follow it and allege that you found some votes that were not counted or were counted improperly, you will pay a price for it.

That is what we are up against here, and that is why this hearing is taking place. One of my heroes and friends and former colleagues, John Lewis, said, "The vote is precious. It is almost sacred. It is the most powerful nonviolent tool in a democracy."

Recent efforts to prevent Americans from participating in our democracy remind us how much work remains to protect this precious, almost sacred right.

I will turn to Ranking Member Grassley for his opening remarks.

**OPENING STATEMENT OF HON. CHARLES E. GRASSLEY,
A U.S. SENATOR FROM THE STATE OF IOWA**

Senator GRASSLEY. Thank you, Mr. Chairman.

We all know this is supposed to be a hearing about voting rights. Unfortunately, it is just the latest attack on one of our States for enacting election integrity laws. Pretty simple.

National Democrats and big business have colluded to bully Georgia in retaliation for its new voting laws. We would be naive to think that they will stop with the Peach State. Indeed, many of Georgia's new provisions are similar to those we have in my State of Iowa, where we have experienced record turnout recently and no instances of anyone being hindered from voting.

I object to the title of this hearing. Like others on this Committee, I am a fan of history. I try to learn from it. I do not use it to insult my opponents.

As I said, the title of this hearing is offensive. As a student of history, this title diminishes the very real challenges and unfairness that minorities endured in the Jim Crow South at the hands of Southern Democrats. The right to vote should not be political. We should all agree that participating in American democracy at the ballot box is a fundamental right. It is a right we should want to protect, and it should not become a political football.

At a time when voters on both sides of the aisle have doubts about the integrity of our elections, polarizing rhetoric that distorts history is not helpful.

I am eager to hear from Congressman Owens what he thinks about these comparisons of voter ID requirements to the evil system of legalized racial oppression in which he grew up.

There are a lot of falsehoods being peddled about the new Georgia law. When President Biden repeatedly said that Georgia ended voting "hours early," the liberal Washington Post gave him four Pinocchios in its fact-check. Their fact-checker was shocked that, after the four Pinocchios, Biden kept repeating the same false claims. It goes to show that these claims about Georgia are not about truth; they are about politics.

It goes beyond politics. The concerted efforts of liberals and their allies to mislead about Georgia's voting laws have had terrible effects on Georgia itself. There is an organized campaign started to

make big business punish the people of Georgia for their political choices. When you make political comments and it hurts people's pocketbooks, that ought to be something everybody would be offended by. Most infamously, Major League Baseball moved the All Star Game from Atlanta, a move that is likely to cost the city's economy \$100 million. That is affecting the income of Georgians and probably some jobs in Georgia.

A State Senator lost his job at a prominent law firm after political activists took a break from fleecing their donors to get him fired for his work as a citizen legislator. When partisans and companies collude to ruin the livelihoods of their opponents, there is a term for that. It is "economic terrorism."

The American people do not like this. A recent NPR poll asked whether people support or oppose professional sports using their public roles, positions, and events to influence politics: 55 percent opposed it; only 40 percent supported it.

On the other hand, the American people do like secure elections. A recent poll showed that 77 percent of Americans support voter ID laws, including 74 percent of Independents; 66 percent even support voter ID for absentee ballots; 80 percent agreed that States need to balance no-excuse voting with election integrity safeguards; 93 percent say that voter registration rolls should be accurately maintained, with 83 percent saying States should remove old registrations.

I do not get it when we hear, not just in Georgia but other States, that there is something wrong when somebody died that they ought to be removed from the voting rolls.

In 2021, I am not sure that apple pie would poll as well as common-sense election integrity. I can tell you the people of Iowa, whom I represent, like secure elections. That is why we have recently passed laws to do just that. I have a statement for the record from our Secretary of State explaining how we work to make elections law easy and honest.

This last election showed why secure elections are necessary. We will be hearing from our Democrat friends that voter fraud is so rare that we do not need to take steps to prevent it. In Iowa's 2nd District, Representative Marianne Miller-Meeks won her race last fall by just six votes. That is six. Every vote counts in Iowa, which means they better be legitimate.

In fact, during each election in Iowa, we find numerous instances of double voting. It is not a big number, but it does happen. With congressional races being decided by only six votes, it obviously matters.

At the same time, I want to be clear: There is no evidence of anyone being unable to vote in Iowa due to our voting security provisions.

All this talk about the importance of voting from Democrats is less than amusing. Just last month, Speaker Pelosi tried to use the power of her majority to throw Dr. Miller-Meeks out of the House, 2nd District in Iowa, even though her election was fully certified—it was fully certified by a committee of three elected Republicans and two elected Democrats. Her opponent did not want to admit she lost. She skipped the courts, and the Democrats' "super lawyer"—who, by the way, is facing sanctions in Texas—tried to

change the results in the House instead. When people will stop at nothing to win races, it is more important than ever that our election laws be secure.

Sadly, my friends on the other side seem to disagree. Elections and voting legislation that has been proposed in Congress will take away the ability of States to establish their own voting rules. I hope to hear from Secretary Gardner why it is so important for States—like Iowa, New Hampshire, and Georgia—to manage their own elections and why Federalized election rules are bad for election integrity and for voter participation.

I hope to hear from President Pro Tem Jones about what really happened in Georgia, not the made-for-TV headlines about Jim Crow 2021, but a sensible, fair, common-sense effort that they made to increase voter confidence in their election. Baseless claims of voter suppression are just as corrosive to our democracy as baseless claims of voter fraud. We heard too much about that from last November. We should all be committed to making elections accessible and secure to maintain the confidence of the voters.

When I hear about voter suppression and the loser in this election won by more—lost with more votes than any loser ever in the history of the country got and the winner won by more than any winner in the history of elections, and you are telling me about voter suppression the way people turn out? Give me a break.

Chair DURBIN. Thank you, Senator Grassley. We are speaking about what happened since that election in State legislatures across the country.

Since 2014, Senator Leahy has led the efforts in the Senate to restore the Voting Rights Act. Due to a conflict with an Appropriations Committee hearing this morning, he may not be able to question witnesses, but he has asked to make opening remarks, and I am going to extend the same courtesy to Senator Cornyn after Senator Leahy is finished. Senator Leahy.

**OPENING STATEMENT OF HON. PATRICK J. LEAHY,
A U.S. SENATOR FROM THE STATE OF VERMONT**

Senator LEAHY. Thank you, Mr. Chairman, and I do appreciate the courtesy.

I think it is excellent that you are holding this timely hearing. I think this is the greatest crisis facing our democracy today. Back in my own State of Vermont, where everybody can vote and is encouraged to vote, we do everything possible to vote. We elected a Republican Governor and a Democratic Lieutenant Governor. Every vote counts, and we make sure they do. People in my State look at what happened in the Georgia Legislature. They cannot understand that is happening in the 21st century.

You know, the 2020 election should be a great source of pride for our Nation. We suffered through a deadly pandemic, but even so, more Americans voted in 2020 than in any modern time in modern history, both Republicans and Democrats. Instead of celebrating that significant achievement, the former President mounted a campaign of misinformation, spreading the big lie that widespread voter fraud led to his defeat. His disinformation campaign led directly to the violent assault on the Nation's Capitol and took the lives of five Americans.

I was proud when Republicans and Democrats in Congress stood bravely together amid the broken glass and ransacked offices to reject the former President's big lie. I was proud that we crossed party lines to certify one of the most secure elections in our history. When Republicans and Democrats came together, again, days later for the Inauguration of President Biden, America sent a powerful message to the world. Neither a deadly pandemic nor a violent insurrection could defeat our American system of self-government.

That was just 90 days ago. Instead of capitalizing on measures that resulted in the highest voter turnout in over a century, dozens of States have moved forward to restrict access to the ballot. As of March, more than 360 bills have been introduced in State legislatures to make voting harder for Americans. These cynical efforts have been justified on the grounds that it should be harder to cheat, which, of course, falsely implies that voter fraud was a widespread problem.

Did we not just go through an election where there was virtually no evidence of voter fraud? It was looked at by the courts, and that is the conclusion they came to. Did we not just reject a violent attempt to overturn our election based on the utterly false claim that it was stolen through fraud?

I realize memories may be short, but this wave of voter suppression laws is premised on little bit more than the big lie with a slapdash paint job. If you rejected the big lie then, you should oppose these efforts today. We should all easily agree that when any voters in any party are disenfranchised, our democracy suffers.

Depriving Americans of the foundational right to vote also denies them representation in our democratic republic. That is exactly why the 1965 Voting Rights Act, which helps the Federal Government prevent voter disenfranchisement, has been bipartisan. Every Congress from 1965 to 2006 repeatedly reauthorized the Voting Rights Act on a bipartisan basis, including in our body, Mr. Chairman, in 2006 by a vote of 98–0.

Among those who joined me in voting yes in 2006 were Ranking Member Grassley, Senator Graham, and Senator Cornyn. The reason the Voting Rights Act has always been a bipartisan bill is that it is pro-democracy, not pro-Republican or pro-Democrat. I hope there will be increased support for the already bipartisan John Lewis Voting Rights Advancement Act. It just restores the Federal Government's powers under the Voting Rights Act.

Without Section 5 powers, which my dear and close friend John Lewis, a hero to many, called the "heart and soul" of the Voting Rights Act, no administration of either power—party has the necessary tools to prevent States from enacting changes making voting more difficult for Americans. As we watch—as we watch—almost daily States unleash a wave of ill-founded laws that restrict the precious right to vote, not protect it but restrict it.

The oversight role of the Federal Government envisioned by the 1965 Voting Rights Act is more urgently needed than ever. All of us, Republicans and Democrats, should remember what we saw and how we felt on January 6. We should all recall casting our votes in the twilight hours of January 7 in our Capitol, the seat of our Government that bore the fresh wounds of a violent attack that sought to deny the American people's will. On that day we put

aside our partisan differences in defense of something much bigger than political party: our democracy itself.

In the months ahead, Mr. Chairman, I hope we can answer that same call to defend our sacred right to vote, the right that gives democracy its name. Thank you.

Chair DURBIN. Thank you, Senator Leahy. Senator Cornyn.

**OPENING STATEMENT OF HON. JOHN CORNYN,
A U.S. SENATOR FROM THE STATE OF TEXAS**

Senator CORNYN. Thank you, Senator Durbin and Senator Grassley, for holding this important hearing today. This is an important topic, but I do not think we do justice to this topic by entitling this “Jim Crow 2021.” Unfortunately, rather than the usual oversight and fact-finding and legislating process, it looks like today’s hearing is really just performance art in order to enhance a false narrative about how far we have come in this country, thank goodness, when it comes to minority voting rights participation.

The right to cast a ballot, of course, is the cornerstone of our democracy. It is the process through which the will of the people is heard and turned into action. The very basis for the legitimacy of our laws is the consent of the governed, and they consent by electing their public officials at the ballot box.

I believe our standard should be that we should make it easier to vote legally in America, but also at the same time make it harder to vote illegally.

Sadly, the right to vote was denied to a generation of Americans based solely on their gender or race. This type of discrimination stands in stark contrast to the founding principles of our country, and I hope I can speak on behalf of everyone in this room when I say we need more Americans to participate in our democracy, not fewer.

In Texas in 2020, we had a historic turnout of registered voters: 66 percent of registered voters of all ethnicities and race. Just as Americans have a right to make their voices heard in our elections, Congress has a responsibility to make sure those elections are fair and free. If we do not have fair and free elections, we do not preserve the core constitutional right of the people to make their voices heard through the ballot box.

Expanding voter access does not have to come at the expense of common-sense guardrails and protections that preserve the integrity of the ballot. For every one person who votes who is unauthorized or is disqualified to vote, that dilutes the vote of legitimate and legal voters. Disparaging those same common-sense protections like voter identification as “Jim Crow 2021”—or, in other words, racist—is false, and I believe dangerously so.

Our Founders understood that all power ultimately resides in the hands of the people. When Government takes this power away from State legislators, it is effectively seizing power from the people of those States to hold their elected officials responsible. This is very important because our Founders gave us a road map—in other words, the Constitution—as to the power residing in the hands of the people through their ability to hold their State legislators accountable.

Article I, Section 4 explicitly gives the States the power to regulate “the times, places, and manner of holding elections.” Congress may, however, “at any time make or alter such regulations, except as to the place of choosing Senators.”

I read this to mean that the States are to chart their own course for elections subject to guardrails and, where necessary, Congress can provide additional guidance but cannot hijack the process entirely.

Nowhere in the Constitution does it empower the Federal Government to completely usurp the role of the States in holding elections. Indeed, nowhere does the Congress have the authority in one of its enumerated powers, as reflected in Article I, Section 8 of the Constitution.

In a recent gerrymandering case, Chief Justice Roberts noted that the Framers assigned the issue to the State legislators expressly checked and balanced by the Federal Congress. Yet through H.R. 1, Congress is not acting as a check. It is acting like a hijacker to take over the constitutional authority from the States and acting as the sole arbiter as to how an election is run in rural Vermont or downtown Chicago.

This past election, for example, we had the highest turnout ever in a Presidential election. According to network exit polls, the number or percentage of African Americans who cast their ballot is roughly the same as the percentage of the African American population in America. I am encouraged by this trend of more people voting and hope it continues. I agree we should have this hearing, and we should look at appropriate bipartisan solutions to improve voter access. Using charged rhetoric to describe aspects of State voting laws, like the one in Georgia, is misleading. It is not constructive, and it undermines public trust in Congress and in our election system.

In fact, as we have learned, the Georgia law comports with the existing laws of many Democrat-run States and also reflects the safeguards supported by the bipartisan Carter-Baker Commission. This is not to say that there is not more work to be done, but it is important that we temper the charged rhetoric and understand the specifics that we are actually talking about rather than jumping head first into this debate across the country in a rush to judgment. Here is just one example.

The Georgia provision requires a free ID card in order to receive an absentee ballot. That is nearly identical to the provision in the 2002 bipartisan bill supported by then-Senator Biden and the current Chairman of this Committee. Indeed, the Help America Vote Act would have required everyone voting in a Federal election to provide a copy of a photo ID, and if they do not have one, they can get one or provide a copy of a bank statement, paycheck, Government document, or utility bill. In other words, they can do it for free.

I do not think this is a radical proposition to suggest that voting identification coupled with the offering of free ID cards is a radical restriction on voting. It just does not hold up.

To the contrary, it is a basic safeguard to preserve the right of people to vote and for their vote to count equally in a free and fair

election, and this safeguard helps inspire public confidence at the same time.

The Carter-Baker Commission—Jimmy Carter, James Baker III, named for them—looked at preserving the integrity of our elections, and they reached the same conclusion. The electoral system cannot inspire public confidence if no safeguards exist to deter or detect fraud or to confirm the identity of voters. Photo IDs are currently needed to board an airplane, to enter a Federal building like this one, to operate a motor vehicle, to cash a check, to buy alcohol, and pick up “will call” tickets at the Major League Baseball games. I support efforts to expand voter access, but these efforts cannot interfere with the integrity of our elections.

Today’s hearing is an excellent opportunity to discuss that and expanding access to the ballot box for all eligible voters. I appreciate the Chairman and Ranking Member holding this hearing, not so much the title of the hearing, but I do think the subject matter is important. I am eager to hear more from today’s distinguished witnesses.

Chair DURBIN. Thanks, Senator Cornyn.

Today, we welcome two Members of Congress to testify: Senator Reverend Raphael Warnock of Georgia and Congressman Burgess Owens of the 4th District of Utah. In addition to representing the State of Georgia after his election earlier this year, Senator Warnock serves as senior pastor of the historic Ebenezer Baptist Church in Atlanta where our late colleague Congressman John Lewis was a member.

Senator Warnock, could you please proceed with your statement?

**STATEMENT OF HON. RAPHAEL WARNOCK,
A U.S. SENATOR FROM THE STATE OF GEORGIA**

Senator WARNOCK. Thank you, Chairman Durbin and Ranking Member Grassley and Members of the Committee, for inviting me here today. I am especially glad to join these distinguished witnesses.

Mr. Chairman, I have come here today to stress the critical need for the Federal Government to act urgently to protect the sacred right to vote. America is a land where possibility is born of democracy. Our vote is our voice, a chance to help determine the direction of our country and our own destiny within it.

Record numbers of Georgians used their voices and voted in the last election. In response to this swell in democratic participation, politicians in our State legislature responded not in celebration but with retaliation. They could have gotten busy having not seen the outcome that some of them wanted. They could have gotten busy changing their message or adjusting their policy. Instead, they got busy changing the rules as if the democracy belongs to them and not the people.

We have seen voter suppression bills since the election in November and January all across this country, 360 voter suppression bills in 47 States, an increase of 100 bills since I highlighted this issue on the Senate floor just a month ago. As of today, five of these bills, including in my own State of Georgia, have been signed into law.

These efforts vary in exactly how they suppress voting. Some new laws like in Georgia will make it harder to vote by mail. Some will make lines that are already too long longer, harder to cast a provisional vote. The new law also gives State politicians, some of the same politicians who still today refuse to acknowledge President Biden's lawful and decisive victory, the power to override local election officials.

We may be tempted to dissect these bills as if analyzing them piece by piece makes them more rational. That narrow analysis only obscures the larger unmistakable picture. This is a full-fledged assault on voting rights, unlike anything we have seen since the era of Jim Crow.

For all of their differences in exactly how they suppress the vote, what these bills all share is that they are predicated on the big lie that the outcome of our last elections were the result of fraud, or at least the Presidential election. I guess the Members who won their elections are okay with that outcome.

The truth is politicians in their craven lust for power are willing to sacrifice our democracy by using the big lie as a pretext for their true aim: some people do not want some people to vote.

To be sure, we have seen these kinds of voter suppression tactics before aimed at the same communities. They are part of a long and shameful history in Georgia and throughout our Nation, but that history is also filled with moments of hope and promise when our Nation has come together in recognition that preserving our democracy is absolutely essential. Voting rights are preservative of all other rights.

Just 15 years ago, the United States Congress reauthorized the Voting Rights Act of 1965 under a Republican President and with a bipartisan vote in the Senate of 98-0. At the time our colleague Senator Mitch McConnell praised its passage, declaring it a law that would make a difference for all of America. Many Members of this Committee, including the Chair and the Ranking Member, enthusiastically voted in favor of it. That was 2006. Why shouldn't voting rights legislation be just as bipartisan now in 2021 as it was in 2006? Voting rights should always be bipartisan. It is not the difference between right and left, but the difference between right and wrong.

Many argue that the United States Senate is dysfunctional and incapable of governing in a bipartisan manner. We can boldly refute these claims by coming together not as Democrats or Republicans but as supporters of democracy itself to pass the For the People Act and the John Lewis Voting Rights Advancement Act. Together these two bills would turn the tide against State-level voter suppression proposals all across our country.

These pieces of legislation would expand and protect access to the ballot for every citizen, Democrats, Republicans, and Independents, because strengthening our democracy does not benefit one party over another. Instead, democracy reform benefits all of us by ensuring that our Government is of the people, by the people, and for the people.

John Lewis was my parishioner. I was honored on many occasions to stand with him as we took people to vote after church at

Ebenezer. He understood that our democracy transcends all else, and he nearly died on the Edmund Pettus Bridge defending it.

Today our country faces the most widespread assault on voting rights since that era. The four most powerful words in a democracy are, "The people have spoken." The highest and most sacred action that the Senate can take is to protect the right of the people like it did in 1965.

As we move forward in this discussion, I have asked myself on many occasions: What would have happened had we not passed Federal legislation affirming the covenant of our democracy in 1965? Where would Georgia be? How would it prosper on the other side of the segregationist curtain? If we had not acted in 1965, what would our country look like? Surely I would not be sitting here, only the 11th Black Senator in the history of our country and the first Black Senator in Georgia. Maybe that is the point.

It concerns me that some do not hear the irony in their statement that we must protect minority rights in the Senate while refusing to protect minority rights in the society. We have got to act. History is watching us. Our children are counting on us. We must pass Federal voting rights legislation no matter what.

[The prepared statement of Senator Warnock appears as a submission for the record.]

Chair DURBIN. Thank you, Senator Warnock.

Senator Grassley, would you please introduce your guest?

Senator GRASSLEY. It is a great pleasure to introduce him, and most of you probably know him better as an outstanding NFL football player, but it is my pleasure to introduce Congressman Burgess Owens. Congressman Owens represents the great State of Utah along with our colleagues Senator Mike Lee and Senator Romney. Congressman Owens is a new addition to the House, and we are so pleased to have him here with us this morning.

**STATEMENT OF HON. BURGESS OWENS,
A REPRESENTATIVE IN CONGRESS FROM THE STATE OF UTAH**

Representative OWENS. Thank you, Chairman Durbin, Ranking Member Grassley, and Members of the Committee, for the invitation to join you today at this hearing.

My American story begins with my great-great-grandfather, Silas Burgess, who arrived in America as a child, shackled in the belly of a slave ship. Silas was sold on an auction block with his mother in Charleston, South Carolina, to the Burgess plantation. He escaped through the Underground Railroad and later became a successful entrepreneur, purchasing 102 acres of farmland, paid off in 2 years.

My grandfather, Oscar Kirby, served our country in World War I and was a respected and successful farmer, raising 12 children. All of them graduated from college.

My father, Clarence Burgess Owens, Sr., was stationed in the Philippines at the end of World War II. When he returned home to Texas, actual Jim Crow laws denied him a postgraduate education. Raised in a generation that used this as motivation, he received his Ph.D. in agronomy at Ohio State University and had a successful career as a professor, researcher, and entrepreneur.

I grew up in the era of actual legalized institutional racism. I grew up in the Deep South in Tallahassee, Florida, in the 1960s during the days of KKK, Jim Crow, and segregation. My first experience of white Americans was at 16 years old. At 18, I was the third Black athlete to receive a scholarship to play football at the University of Miami. I proudly represent Utah's 4th Congressional District in the U.S. Congress.

I sit today before you as someone who has lived the American dream, as have millions of other Americans of all races from every background. This is due to our country's mission statement that all men and women are created equal, a mission statement that every American should have the equal opportunity for life, liberty, and the pursuit of happiness.

As someone who has actually experienced Jim Crow laws, I would like to set the record straight on the myth regarding the recently passed Georgia State law and why any comparison between this law and Jim Crow is absolutely outrageous.

Here are a few examples of my own life of what Jim Crow laws actually look like. At the age of 12, my father allowed me to participate in a demonstration with college students in front of the segregated Florida State Theater, where, because of our color, we could not enter. I was the youngest participant there. Only 50 years later did I learn that my father parked across the street to watch and make sure I was safe.

In the seventh grade, my school never received new books. Instead, we received books from the all-white school across town. At service stations there were white men-only restrooms, white women-only restrooms, and a filthy restroom in the back of the station for Black Americans designated as "colored." In addition, Jim Crow laws like poll tax, property tests, literacy tests, and violence and intimidation at the polls made it nearly impossible for Black Americans to vote.

The section of the Georgia law that has brought so much outrage from the left, it simply requires any person applying for an absentee ballot to include evidence of a Government-issued ID on the application.

If a voter does not have a driver's license or ID card, that voter can use a current utility bill, bank statement, Government check, paycheck, or any other Government document that shows a name and address of this voter. If a voter somehow cannot produce one of these forms of ID, that voter can still vote and cast a vote, a provisional ballot. By the way, 97 percent of Georgia voters already have a Government-issued ID.

What I find extremely offensive is the narrative from the left that Black people are not smart enough, not educated enough, not desirous enough for education to do what every other culture and race does in this country—get an ID. True racism is this. It is the projection of the Democratic Party on my proud race. It is called the "Soft bigotry of low expectation."

President Biden said of the Georgia law, "This is Jim Crow on steroids." With all due respect, Mr. President, you know better. It is disgusting and offensive to compare the actual voter suppression and violence of that era that we grew up in with a State law that

only asks that people show their ID. This is the type of fearmongering I expect in the 1960s, not today.

By the way, literacy tests and poll tests were initiated by the Democratic Party. The intimidation of Black Americans by the KKK was initiated by the Democratic Party. Jim Crow, that I grew up in in the South of segregation, was initiated by the Democratic Party.

The soft bigotry of low expectation now projected on Black Americans—not Italians, not Asians, not Polish, not Jewish, but only Black Americans—is being done by the Democratic Party.

Where Black misery today thrives and is prevalent—lack of education, lack of jobs, high crimes, the call for defund the police—it is all done in Democratic parties. By increasing illegal votes and not giving voice to those legal Americans, Black Americans who are seeing and waking up today, is the real tragedy of this process.

We are seeing 18 percent of Black men turn away from the Democratic Party because they are seeing that their vote can count and their future can matter. We are seeing twice the percentage of Black women doing the same, a record number of Hispanics, Asians, and gay community members doing the same.

Know what all Americans very simply expect is fairness, security to walk away from the poll booth knowing that my count—my vote counted. If we did not win, we work harder next time to make sure my message, our message resonates.

To call this “Jim Crow 2021” is an insult, my friends. For those who never lived Jim Crow, we are not in Jim Crow, and for Black Americans to go out every single day and vote the way we feel we should is a right that we should have and not be demeaned by something 60 years ago in which we had no right to do any of the above.

Thank you very much.

[The prepared statement of Representative Owens appears as a submission for the record.]

Chair DURBIN. We will now turn to our panel of witnesses. We thank the Members for attending.

Today we welcome five witnesses to testify about the latest assault on the fundamental right to vote. I will introduce the majority witnesses. Then, I will ask Senator Grassley to do the same for the minority witnesses.

Our first witness is Professor Carol Anderson. She is the Charles Howard Candler Professor of African American Studies and Chair of African American Studies at Emory University in Atlanta. Professor Anderson’s research focuses on public policy and the intersection of race, justice, and equality in the United States. She is the author of multiple books, including “White Rage: The Unspoken Truth of our Racial Divide,” and “One Person, No Vote: How Voter Suppression is Destroying Our Democracy.”

Sherrilyn Ifill is well known to the Committee and others. She is the president and director-counsel of the NAACP Legal Defense and Educational Fund, a civil rights organization founded by Thurgood Marshall in 1940 that has led some of the most significant legal battles for racial justice and equality. She first joined LDF in 1988 and took over as director-counsel in 2013.

Finally, the Honorable Stacey Abrams, joining us from Atlanta. She served for 11 years in the Georgia House of Representatives, including 7 years as Democratic leader. In 2018, she became the first Black woman to be the gubernatorial nominee from a major party in the United States. After witnessing the voter suppression efforts during the 2018 election, she launched Fair Fight and Fair Fight Action to protect the voting rights of Georgians and other Americans.

Ranking Member Grassley, would you please introduce your witnesses?

Senator GRASSLEY. Yes. I am going to introduce Speaker Pro Tem Jan Jones, and then Senator Cotton is going to introduce Secretary Gardner.

It is my pleasure to introduce Ms. Jones. In her nearly 20 years in office, Speaker Jones has distinguished herself as an advocate for changing lives and increasing economic opportunity through improved public education and Government that responds to the people. She was elected by her peers to serve as the highest elected woman in the Georgia General Assembly in 2010 after serving as majority whip. She has authored various bills involving local control, transparency, and accountability. She has also done much to reform Georgia's K-12 education. Speaker Jones lives in Milton, Georgia, with her husband. She is a graduate of the University of Georgia and has an MBA from Georgia State. She is a businesswoman and a mother of four. I thank her for appearing today.

Senator Cotton.

Senator COTTON. Thank you, Senator Grassley. I am pleased to introduce New Hampshire Secretary of State Bill Gardner, the longest-serving Secretary of State in the country. Secretary Gardner was first elected to serve the people of New Hampshire in 1976, just 1 year before I was born, and Senator Grassley does not even want to know how many years before Senator Ossoff was born. He has been serving for that long because he has been serving the people of New Hampshire so well. I would point out that Secretary Gardner is a Democrat, and, of course, I am a Republican. I am sure there are probably some things we do not agree on, but I invited Secretary Gardner to appear because this is not a partisan issue—or, rather, it should not be. Free and fair elections administered by our 50 State governments are an American issue. That is what our Founders intended, and that is why there is bipartisan opposition to these bills that would Federalize our State-based system.

Secretary Gardner is well positioned to talk about these problems and how this bill would wreak havoc on our elections, but more fundamentally, he can talk about the real problem, the fact that this legislation is a complete takeover of our Federal election system. I want to thank Secretary Gardner for being willing to testify. I would suggest to all of those watching that the longest-serving Secretary of State in America and a Democrat has a lot to say that we should probably listen to before we make radical changes to our State-based election system.

Chair DURBIN. Thank you, Senator Cotton.

The procedure we will follow today, we will swear in the witnesses, and each witness will then have 5 minutes to provide open-

ing statements. There will be one round of questions, and each Senator will have 5 minutes, and I would ask them to please try to stay within their allotted time.

I would like to ask all the witnesses—and they are in remote status—to please stand in place to be sworn in. Raise your right hand. Do you affirm that the testimony you are about to give before the Committee will be the truth, the whole truth, and nothing but the truth, so help you God?

Professor ANDERSON. I do.

Secretary GARDNER. I do.

Ms. IFILL. I do.

Speaker JONES. I do.

Ms. ABRAMS. I do.

Chair DURBIN. I am going to assume that all witnesses answered in the affirmative. Thank you all.

Professor Anderson, please proceed with your opening statement.

**STATEMENT OF CAROL ANDERSON, PH.D.,
CHARLES HOWARD CANDLER PROFESSOR OF
AFRICAN AMERICAN STUDIES AND CHAIR OF AFRICAN
AMERICAN STUDIES, MORY UNIVERSITY, ATLANTA, GEORGIA**

Professor ANDERSON. Thank you for this opportunity to speak with you about the history of voting rights. I will focus on three key themes that echo powerfully in today's electoral landscape: one, the target of disfranchisement; two, the use of race-neutral language to evade the 15th Amendment; and, three, the cloaking of disfranchisement under the banner of election integrity.

In 1890, during the rise of Jim Crow, Legislator James "Big Chief" Vardaman bragged that the sole reason the Mississippi Legislature revised the State's Constitution was "To eliminate the Negro from politics."

Similarly, Virginia Representative Carter Glass, like so many others, rushed to champion a bill in the legislature that would "Inevitably cut from the existing electorate four-fifths of the Negro voters" in the State.

I call it "Bureaucratic Violence" because it is designed to attack and undermine African Americans' voting rights and other citizenship rights, while providing an aura of legitimacy that physical violence simply cannot bring. What Vardaman and Glass were advocating was an omnibus disfranchisement program, the Mississippi Plan, which was modified throughout the South, and included the poll tax, the literacy test, the grandfather clause, and other barriers to the ballot box. Not surprisingly, Black electoral participation dropped precipitously.

In 1880, for example, Black voter turnout was 81 percent in North Carolina; by 1912, a few years after the State amended its Constitution to include the poll tax, the literacy test, and the grandfather clause, Black voter turnout had dropped to just 1 percent.

The States were able to destroy Black voter participation by violating the spirit and the intent of the 15th Amendment, while adhering to the letter of the Constitution. They did so by deploying race-neutral language that used the legacies of slavery as a proxy for race. The poll tax, for example, required all voters to pay a fee

to cast a ballot. What the poll tax actually did, though, was to prey on the endemic poverty created by centuries of unpaid labor, followed by the post-Civil War Black Codes, and then sharecropping. The tax seemed innocuous on its surface, but because of the poverty, it amounted to Black farm laborers paying in 1900 the equivalent of \$239 in 2020 to vote.

Similarly, the literacy test, which required a voter to read a section of the Constitution, exploited the consequences of denying education to the enslaved for hundreds of years, and then after the Civil War, grossly underfunding Black schools.

The race-neutral ploy worked. The U.S. Supreme Court ruled in the 1898 Williams decision that the poll tax and the literacy test did not violate the 15th Amendment because they applied to everyone who wanted to vote. That decision, of course, ignored that not everyone had to deal with the legacies of having their ancestors enslaved for centuries. The result of the Court's blessing of a Jim Crow electorate was that by 1940, only 3 percent of age-eligible African Americans in the South were registered to vote.

These States justified erasing millions of American citizens from the ballot box by claiming they were fighting election fraud and protecting democracy. They knew that was not the case.

The lie of massive rampant voter fraud is serving the same function today as it did during the rise of Jim Crow. It stokes fear in a segment of the population that democracy is in peril and, thus, provides cover for laws that target Black voters with race-neutral language.

In the 21st century, as Indiana implemented the first voter ID law in the nation, Secretary of State Todd Rokita, recalled that, "Back in 2001 and 2002, election integrity was a huge issue... there was a fear of votes being stolen. Even," he added, "If the fear did not pan out to be true... the fear was still there."

In 2021, as Georgia passed S.B. 202, State Representative Alan Powell admitted that "Widespread voter fraud... was not found. It is just in a lot of people's minds that there was." That fictional "Loch Ness monster" has led Republican legislators in 47 States to propose 361 voter restriction bills to address concerns about supposed voter fraud. If left unchecked, this onslaught of bureaucratic violence will make the Mississippi Plan look tame by comparison.

Thank you.

[The prepared statement of Professor Anderson appears as a submission for the record.]

Chair DURBIN. Thank you, Dr. Anderson. Secretary of State Bill Gardner is next.

**STATEMENT OF THE HON. BILL GARDNER,
NEW HAMPSHIRE SECRETARY OF STATE,
CONCORD, NEW HAMPSHIRE**

Secretary GARDNER. Thank you, Mr. Chairman, Ranking Member, Members of the Committee. I appreciate the opportunity to speak to you today about a critically important issue that impacts all of us: the integrity of our elections, a foundation of our free society.

While I certainly support efforts of individual States to improve their own elections, the States have long been testing grounds for

innovation in enhancing and protecting the most fundamental right of the citizens in this country. That is our right to vote. With that said, I am deeply troubled and concerned about the direction some in Congress would take the States in terms of the conduct of elections. An unjustified Federal intrusion into the election processes of the individual States will damage voter confidence, diminish the importance of election day itself, and ultimately result in lower voter turnout. We only need to look at the history of the National Voter Registration Act of 1993 that was commonly called the "Motor Voter" law to see that Federal involvement in the election process does not render the promised results.

When the NVRA was enacted by Congress, it was believed that many more United States citizens would be able to vote and, thus, vote. Millions of dollars were spent by the States to comply with that act. It completely changed the voter registration process in the States.

In contrast, New Hampshire maintained an exemption to the NVRA due to having election day registration at the polling place and as a result saw its voter turnout of voting-age population surge to the top tier of voter turnout among the States and has consistently maintained its position in the top three States for the past four Presidential elections. Since the year 2000, New Hampshire has been double-digit percentage points higher than the national average, again, using voting-age population.

The attached voter turnout charts will illustrate these trends, and it will be very important to take a close look at those charts. In a one-size-fits-all Federal approach, legislation known as the "For the People Act" would trample New Hampshire's State Constitution which requires all votes to be received, counted, and the results publicly announced on the day of the election, and permits absentee ballots to be used only by voters who will be absent on election day or who have a disability preventing the voter from attending the polling place.

The election process in New Hampshire is a relatively simple one. The massive Federal legislation contemplated by Congress will overcomplicate our election system at tremendous financial cost. It would negate traditions and procedures that have served New Hampshire voters well, some for over 200 years. I believe the charts that I have provided based on facts are self-explanatory and why I believe this legislation, H.R. 1, will hurt—or S. 1 will hurt voter participation in the States, and especially in my State of New Hampshire.

Thank you.

[The prepared statement of Secretary Gardner appears as a submission for the record.]

Chair DURBIN. Thank you, Mr. Gardner. Sherrilyn Ifill is the next witness.

**STATEMENT OF SHERRILYN IFILL, PRESIDENT AND
DIRECTOR-COUNSEL, NAACP LEGAL DEFENSE AND
EDUCATIONAL FUND, INC., WASHINGTON, DC**

Ms. IFILL. Good morning, Chairman Durbin, Ranking Member Grassley, and Members of the Committee. My name is Sherrilyn Ifill, and I am the president and director-counsel of the NAACP

Legal Defense and Educational Fund, or LDF. Thank you for the opportunity to testify before you this morning.

Since its founding in 1940, LDF has been a leader in the struggle to secure, protect, and advance voting rights for Black voters. We represented Martin Luther King, Jr. and the marchers in Selma, Alabama, in 1965. We have litigated seminal cases interpreting the scope of the Voting Rights Act over decades, and we continue to litigate on behalf of and work with communities in the South to strengthen and protect the ability of Black citizens to participate in the political process free from discrimination.

Beyond litigation, we monitor primary and general elections every year through our nonpartisan Prepare to Vote and Voting Rights Defender Initiatives, and we are a founding member of the nonpartisan civil rights Election Protection Hotline, which is now administered by the Lawyers' Committee for Civil Rights Under Law.

Last year, we partnered with LeBron James and the More Than a Vote Initiative to recruit young poll workers for the 2020 election to ensure that polling places could remain open in Black communities despite the COVID-19 pandemic, and over 40,000 new poll workers were recruited as a part of that effort.

Our experience last year, outlined in detail in my submitted written testimony, makes clear that, contrary to numerous news reports, the 2020 election did not go smoothly. Instead, voters overcame a litany of barriers and obstacles with determination and resilience to produce the highest turnout ever recorded in a Presidential election, and voters did so during a nationwide pandemic.

Throughout the spring and summer of 2020, LDF was involved in numerous lawsuits and other efforts challenging the lack of safe and accessible voting options for Black and medically vulnerable voters during the COVID-19 pandemic in Texas, Louisiana, Alabama, and South Carolina. Our lawsuits resulted in changes in mail-in voting requirements, identification policies, and curbside voting access, significantly increasing voter protections and accessibility.

Nevertheless, voters stood for hours on long lines to cast a ballot during the primary and general elections, up to 9 hours in some instances. Their determination was extraordinary. One elderly African American woman who fainted while waiting hours on line to vote in the general election in Alabama refused to get into an ambulance, insisting that she would stay and cast her ballot.

Polling place closures and consolidations created confusion for voters. Robocalls targeting Black and Latino voters in Flint, Michigan and Detroit encouraged voters to vote on Wednesday rather than the Tuesday, November 3rd election. The civil rights Election Protection Hotline received over 30,000 calls from voters facing obstacles to voting in the general election, and in one of the most disturbing features of the 2020 election, voter intimidation at levels not seen for decades became an alarming feature.

For example, during early voting, numerous Floridians received emails threatening that the Proud Boys, an extremist far-right group, would come after voters who did not cast their ballots for the Republican Presidential candidate.

The efforts at voter suppression continued even after election day, stoked and encouraged by the former President. People across the country in Michigan, Arizona, Pennsylvania, and more participated in a campaign to disrupt the counting and certification of ballots cast in those States. The violent attack on the Capitol on January 6 was the result of concerted efforts to undermine faith in the election and to overturn its results. Since January 7, State lawmakers in dozens of States have unleashed a wave of restrictive voter laws.

According to the Brennan Center, as of March 24th, State legislators have introduced 361 bills with restrictive provisions in 47 States. Georgia enacted a law which, among other restrictive provisions, criminalizes the provision of water to voters standing on line. Arkansas and Florida are following suit.

A bill in South Carolina would effectively prohibit the Souls to the Polls voter participation effort favored by Black churches by outlawing early voting on Sundays—Sundays.

Litigation is the principal tool we have had available to us to challenge discriminatory voter suppression laws and practices since the Supreme Court ended the preclearance provision of the Voting Rights Act in the *Shelby County v. Holder* case in 2013. Litigation cannot fully meet the challenge we are facing. It is slow, and it is expensive. The average length of Section 2 cases is 2 to 5 years during which thousands if not millions of voters are effectively disenfranchised.

This is not a model that can be sustained in a healthy democracy. We need Congress to act. The Framers of the 14th and 15th Amendments gave Congress the explicit power to enforce the guarantee of equal protection and the protection against voting discrimination based on race. For 100 years, after the ratification of those amendments, until the passage of the Voting Rights Act in 1965, Congress abdicated its obligation to use this enforcement power as Black people were systematically disenfranchised by poll taxes, literacy tests, understanding clauses. Congress must once again use this power to fulfill the promise of full citizenship guaranteed to Black Americans by the Civil War amendments to our Constitution.

My full testimony has been submitted, and it provides greater detail and source material that I hope will aid the Committee in its deliberations.

Thank you.

[The prepared statement of Ms. Ifill appears as a submission for the record.]

Chair DURBIN. Thank you very much, Ms. Ifill.

We have President Jan Jones.

**STATEMENT OF THE HON. JAN JONES,
SPEAKER PRO TEMPORE, GEORGIA HOUSE OF
REPRESENTATIVES, MILTON, GEORGIA**

Speaker JONES. Thank you, Chairman Durbin, Ranking Member Grassley, and distinguished Members of the Senate Judiciary Committee, for inviting me to testify before today's Committee hearing. I come before you as a proud Georgian and member of the Georgia

General Assembly, where I serve as Speaker Pro Tem of the Georgia House of Representatives.

In Georgia, we are making it easier to vote and harder to cheat. We are ensuring voter accessibility, transparency, and integrity. In 2021, we held both primary and general elections utilizing a new statewide election system during the first modern worldwide pandemic, and with record turnout. All these together, along with changes in voter preferences and choices, stressed our elections system. Our obligation was to initiate a comprehensive review to assure our State's citizens have the ability to vote easily in a timely manner and with confidence.

Strengthening Georgia's elections processes is not new to 2021. In fact, from 2003 to 2020, since Republicans have had control, 59 elections-related bills were signed into law, including at least one bill each of every year. 2019 legislation addressed concerns primarily expressed by Democrats after the 2018 general election, including a process procuring provisional ballots and lengthening the period to 9 years before some inactive voters are removed from the rolls. Senate bill 202 is a forward-facing approach to elections, implementing measures to increase voter accessibility and fairness. Please allow me to break down some of the key components.

For the very first time, elections superintendents shall continue processing, counting, and tabulating ballots until such activities are completed on election day to prevent the untimely release of returns. It makes clear that the business of elections is to be run and funded by the government, not tech billionaires and their partisan allies.

Again, for the first time, Georgia law now requires two Saturdays, instead of one, and two optional Sundays of early voting. Senate bill 202 creates more uniformity of days and hours of early voting in all 159 counties. 134 of Georgia's 159 counties will offer more in-person voting hours than ever before.

I would note Georgia's total amount of 17 to 19 days of early voting is more than Delaware, the District of Columbia, New Mexico, Hawaii, Massachusetts, New York, Oregon, and Wisconsin. For the first time, start and end dates for absentee ballot applications will more logically coincide with in-person early voting and practices in other States. This change will increase the likelihood that a voter successfully casts an absentee ballot. Ninety percent of absentee ballot requests in 2020 made greater than 10 days before the election were successfully voted. In contrast, only 50 percent of requests made fewer than 10 days before the election were successfully voted. This provision increases successful voting.

Certainly, though, the legislation does not prohibit poll workers from giving water to people in line and even voters bringing their own food and water along with them, as has been the long practice. In fact, the bill does the opposite. It prohibits offering anything of value within 150 feet of a polling place, except for water offered by election officials. This is because in 2018 and 2020 activists and candidates appearing on the ballot aggressively for the first time passed out water, food, gift cards, some with logos affixed to them, at polling locations while voters stood in line. It is a practice commonly referred to as "Line Warming" and surely violates the spirit of free elections. The fact is that most States have a prohibition of

activities considered to be campaigning or electioneering within a protected space, ranging from 30 feet in Virginia to 100 feet in California to 150 feet in Oklahoma.

Finally, I would be remiss if I did not note the entirely selective outrage I have seen over the last few weeks. As Georgia makes our no-excuse absentee voting more secure, States like Connecticut, Delaware, Massachusetts, New Hampshire, and New York, among others, simply do not have any no-excuse absentee voting. The shame is theirs to bear, not Georgia's.

We also eliminated subjective signature matching for absentee ballots and ballot applications, as was criticized by Democrats and Republicans in 2020, and replaced it with objective forms of identification. Let me be clear: Georgia did not eliminate no-excuse absentee voting.

It is easy to write alarming words and give misleading sound bites that would lead people away from the facts, because the facts simply do not support what many are hearing or seeing about the mainstream, sound Georgia elections law, and it is just plain wrong.

Members of the Committee, I look forward to answering your questions and setting the record straight on how we are making it easier to vote, harder to cheat, and ensuring every legal vote counts. Thank you.

[The prepared statement of Speaker Jones appears as a submission for the record.]

Chair DURBIN. Thank you, Madam Speaker. I am sorry if I got your title wrong when I introduced you. I think I elevated you to president in that introduction. Thank you very much for your testimony.

We now have Stacey Abrams.

**STATEMENT OF THE HON. STACEY ABRAMS,
FOUNDER, FAIR FIGHT ACTION, ATLANTA, GEORGIA**

Ms. ABRAMS. Thank you, Chairman Durbin, Ranking Member Grassley, and Members of the Committee. Today's conversation regarding the John Lewis Voting Rights Advancement Act does occur against the backdrop of a resurgence of Jim Crow-style voter suppression measures sweeping across State legislatures grounded in the big lie about fraud and insecurity in the 2020 election.

As a necessary reminder, post-Reconstruction laws, known as "Jim Crow," that targeted Black voters never explicitly excluded eligible citizens by race. Then, as now, the law is surgically aimed at behaviors to limit access. With hundreds of bills pending, a significant number of the worst attacks on the right to vote are made possible by the Supreme Court's gutting of the Voting Rights Act of 1965 in the 2013 *Shelby County v. Holder* decision.

That decision that authorized States and localities with a history of voting discrimination to again impose limits, restrictions, and barriers to participation. The dramatic proliferation of State-level anti-voting laws across the country in 2021 demonstrates the need, the urgent need for Congress to bring the VRA's preclearance formula into the modern era, to reinstate Federal oversight over discriminatory voting practices, and to strengthen and protect voting rights wherever suppression occurs.

Throughout its history, Georgia has been among the worst actors, including malicious prosecution of lawful absentee ballot users in 2010 and intimidation of Black voters by deputy sheriffs in 2015. Under preclearance, the Department of Justice objected to 170 discriminatory voting changes in Georgia at the State and local level. After *Shelby* removed preclearance, analysis showed that Black voters were 20 percent more likely than white voters to not vote due to poll closures, including an estimated 54,000 to 85,000 voters being unable to cast ballots in 2018 alone after 214 such poll closures. Had the VRA been in effect, these changes would have been examined by a Federal court or the DOJ to determine whether they were discriminatory before being put into effect.

Georgia voters are now anticipating the deleterious effects on elections created by Senate bill 202 which relies on misinformation, falsehoods, and flawed analysis to restrict access for voters, primarily targeting communities of color. With dozens of attacks on voting rights embedded in the law, I will highlight only a few.

Voters of color in Georgia were more likely than white voters to vote by mail for the first time in the last two election cycles. Suddenly, S.B. 202 shortens the time period to request and return an absentee ballot application and imposes new restrictive ID requirements that will have amplified effects on disabled voters, older voters, voters of color, and Black Georgians in particular.

Voters of color in Georgia are more likely than white voters to stand in long lines, including the 8-hour debacle that occurred in June 2020. S.B. 202 criminalizes a volunteer handing a bottle of water or food to voters or their children while in line. Across the country, these State laws target voters of color by restricting access to the ballot for Black, Latino, Asian American and Pacific Islander, and Native American communities. In Texas, Arizona, and Michigan, each are considering laws to restrict voting rights by people of color.

When the fundamental right to vote is left to the political ambition and prejudices of State actors, ones who rely on suppression to maintain power, Federal intercession stands as the appropriate remedy. Simply put, the John Lewis Voting Rights Advancement Act is essential to the protection of democracy.

Protecting voting rights has been a bipartisan endeavor since the enactment of the Voting Rights Act in 1965 and through every subsequent reauthorization. While each of us may likely have declared a party loyalty, our first obligation is to the fundamental standards of democracy, which must be aggressively nonpartisan. Actions taken to restrict access, thwart participation, or discourage engagement are antithetical to our national creed and should be condemned by every patriot. Instead, we must advocate for voting rights—not to ensure the success of a single party or ideology, but to guarantee a vigorous and fair debate amongst Americans of goodwill. It is my profound hope we will honor the legacy of my late friend Congressman John Lewis and the lives of those lost in the fight for a more perfect union by enacting this critical legislation into law.

I thank you for the opportunity to take part in this important discussion, and I urge you to continue to strengthen our democracy.

[The prepared statement of Ms. Abrams appears as a submission for the record.]

Chair DURBIN. Thank you, Ms. Abrams.

Let me concede at the outset that Jim Crow at its worst was more violent than the situation we face today. I do not want to recount all of the horrors of that bigotry and racism that occurred in that era, but I think the bottom-line question which we are addressing in this hearing is whether there is a design or an intent in legislation that is being considered and passed in many States, including the State of Georgia, to limit or restrict the rights to vote of minority populations with the intent of having influence on the outcome of the election. I think that goes without saying. Clearly there is a difference in the witnesses who appear before the Committee, but I would like to ask Stacey Abrams, for example, the Speaker Pro Tem, Ms. Jones, said earlier that the new Georgia law made it easier to vote in the State. You can—You have recounted a few instances, but can you think of elements in the law that was signed by Governor Kemp which do the opposite?

Ms. ABRAMS. First is this falsity that has been proposed that this is an expansion of rights. Let us be clear. In the State of Georgia, 60 percent of Georgians live in counties that already had, for example, two Saturdays of early voting. What is changed is that now additional counties will join the ranks, and that is a good thing. At the same time that those counties will join those ranks, they have reduced mandatory dates, they have eliminated weeks of early voting during Federal runoffs—and let us be very clear that Federal runoffs in Georgia were predicated on a racist premise of eliminating access to the right to vote for African Americans. They eliminate access to a mandatory weekend voting day.

Another example is the falsity that this expands hours for voting. Yes, it codifies that you can vote between 9 to 5 as the business hours. For 78 percent of Georgians, prior to this bill, the hours for voting during early voting was 7 a.m. to 7 p.m., so this actually eliminates hours of voting and mandates only a shortened period of time. That was the misunderstanding that I think is still misunderstood by the Washington Post, because early voting hours that exceed that are now optional and not mandatory. We have 78 percent of Georgians who would experience longer voting hours, and now we will see shortened hours.

In addition, there is a narrative that says that the use of a Social Security number is allowed for returning your absentee ballot if you do not have access to the ID. Well, let us be clear. You cannot apply for an absentee ballot with your Social Security number. You must have some forms of identification that are unavailable to currently 200,000 Georgians.

Those are just a few of the issues, and I will certainly address the criminalization of the handing out of water. We have to be clear that in the State of Georgia, 8-hour lines for communities of color have become not an unusual circumstance. Usually we have seen between 4- and 8-hour lines. People do not often come prepared to stand in line for the whole of a business day. They certainly do not often bring their food with them, and this ignores the fact that the overworked poll workers who are inside the buildings do not have the time to come out and hand out refreshments since

they are busy processing so many voters who have been underserved.

I would use those as a few examples of why this bill is deleterious in its effect and malicious in its intent.

Chair DURBIN. Ms. Jones, I would like to ask you to respond to this question. There was an allegation made by the former President of the United States relating to the voting in the State of Georgia. He went so far at one point in the recorded conversation to say that 5,000 dead people had voted. Mr. Raffensperger replied that there were only two that they could find and that was two too many. I would like to ask you if you would comment on the 2020 election. Do you believe there was voter fraud in Georgia, as President Trump alleged?

Speaker JONES. You know, I am here to discuss what is in Senate bill 202, not relitigate the 2018 election in which my former colleague Stacey Abrams never conceded, nor am I here to relitigate the 2020. What I can say is that the bill does increase accessibility. Forty-seven counties had no two Saturdays of voting and will be required to now under this bill.

Additionally, not one single Georgian will have reduced hours of voting in early voting because it allows up to 7 a.m. to 7 p.m., but what it does do is mandate from 9 in the morning to 5 p.m., and we have 134 counties with less or fewer voting hours for early voting.

Chair DURBIN. Ms. Jones, if I—

Speaker JONES. The bill absolutely does increase the amount.

Chair DURBIN. If I could follow through on that, the reason for my question is this: I am trying to understand the logic behind new voting laws which would give less time to request absentee ballots, strict new ID requirements for absentee ballots, illegal for election officials to mail out absentee ballot applications and the like. In light of the 2020 election, I believe Mr. Raffensperger spoke the truth—and there certainly is no evidence to suggest otherwise—when he suggested that the election in 2020 following the old law was absent any major voting fraud and should not be questioned in terms of results.

If the election—if the premise was 2020 was sound, why the changes that restricted certain practices that created opportunities for people to vote in Georgia?

Speaker JONES. Thank you, Chairman Durbin, for the question. Since 2003, 59 elections bills have been passed by the Georgia General Assembly, at least one each and every year. After the 2018 elections, we had an elections bill that addressed some of the concerns expressed by Democrats. In this bill, after a worldwide pandemic, record turnout, a new election system, once again we are coming back to address concerns expressed by both Democrats and Republicans. The bill absolutely will reduce the long lines, and it will make clear that there has to be—it makes clear there has to be proper notice so that voters can know if a precinct is changed; it has to require notice at the old precinct location with a 4-foot-by-4-foot sign also at the new location.

There are many provisions in it, but let me just mention specifically with regard to your question about shortening absentee hour—days to request an absentee ballot. As recommended by the

Association of County Commissioners, which is a bipartisan group, and the U.S. Postal Service, our timing to request an absentee ballot allowed someone to request one the Friday before the regular election, which almost certainly meant they would have an unsuccessful vote. This moves it back to 10 days, which is more expansive, I will admit—11 days, than what the U.S. Postal Service recommended, which was 14 days, but it, I do believe, will result in more successful absentee ballots cast regardless of whether one lives anywhere in the State and whether they are a Democrat or a Republican.

Chair DURBIN. I would just say in conclusion that giving Georgia voters under the new law less time to request absentee ballots and shutting down the number of dropboxes from 94 to 23 cannot make it easier to vote or create more opportunity. I think just the opposite is the case.

Senator GRASSLEY.

Senator GRASSLEY. Speaker Jones, did you look at any other States for guidance or inspiration in the provisions of S.B. 30—202?

Speaker JONES. Yes, sir, we most certainly did. We wanted to make sure that although our voting system is more expansive than many in the country, particularly in the Northeast, we wanted to make sure that any changes we made were mainstream, common sense, and made it easier, more fair, more transparent, and secure for a voter regardless of their geography or whichever party they tended to vote for. I do believe this bill does that.

We—Like, frankly, most States in the Union, we do have a voter ID which is common-sense regulation and required to pick up a child from daycare, board a flight to go visit grandmother, it is to cash a check, and I think the bigger issue, for the 3 percent who do not currently have either a driver's license or a free—and I emphasize "Free"—voter ID, I am most concerned about their ability to participate in the 21st modern century and society as a whole, and that is perhaps where we should give our efforts to, is not undermine the security of elections for absentee ballots but, rather, help the few that do not have one to obtain one. Thank you, sir.

Senator GRASSLEY. Also to you, Speaker Jones, can you tell me what S.B. 202 does to reduce lines to vote? If it has got ten examples that you can give, give me just one or two.

Speaker JONES. Yes, sir. Thank you. Because particularly in the June primary, when we had a brand-new elections system, elections officials, poll workers were learning how to utilize the machines, we did have some long lines in some areas of the State. They were primarily in counties that are Democrat-run, but regardless of that, what we did was we have required that at any single point in time in the next general election if there is a line of 1 hour or longer, at the next following subsequent general election, the election superintendent for that county must either split the precinct, add poll workers, add machines, or all of the three.

Senator GRASSLEY. I would like to ask Senator—Secretary Gardner, Iowa and New Hampshire brag about first in the Nation, one for caucus, one for primary. In fact, H.R. 1 or its State equivalent, S. 1, is passed, if so, what effect do you think that would have on the ability of our States to preserve their first in the Nation status?

Secretary GARDNER. Senator, S. 1 would not specifically have an effect. However, I made the statement that it could put the New Hampshire primary in a perilous position, and I stand by that statement.

Senator GRASSLEY. Okay. Let me ask you one other question. Your State has voting laws that are seen as restrictive, yet as you have told us in your opening statement, it is consistent that some of the—it consistently has some of the highest turnout elections in the country. Would you agree with me that voters tend to turn out more for elections when they have more confidence that their vote will be counted appropriately? And what effect has your voter ID provision had on turnout?

Secretary GARDNER. Absolutely, the trust and confidence voters have in the process is a huge boost to turnout. New Hampshire had a voter ID law for the first—in the 2012 Presidential election. So 2020, 6 months ago, that was the third Presidential election that we had voter ID. We had in 2012 the highest turnout since 1960 in New Hampshire, over 14 percent higher than the country as a whole and higher than we had had in over half a century among our own Presidential elections in 2012. In 2016, we even went higher than that, 14.5 percent higher than the country as a whole, with the second Presidential election using voter ID. And in 2020, it was the same.

When voter ID was going through the legislature, there were people saying that 10 percent of the population was not going to be able to vote, this would hurt certain groups more than it would hurt other groups. There were polls that nonprofits like Pew, Public, came and testified in our hearings saying that it could be an 11-percent decline. In our State, it was just the absolute opposite. As I said, three Presidential elections in a row averaging—you have to go back half a century.

Those are the facts on that issue in New Hampshire.

Chair DURBIN. Thank you, Mr. Gardner.

Senator Whitehouse, remote.

Senator WHITEHOUSE. As you know, I am inclined to ask why about things, and I cannot help but wonder why, after the Trump administration's top election security official and Georgia's own election officials vouched for the integrity of the last election, as did seemingly every Republican-controlled legislative body in the country pivot as if on command to file and move voter suppression bills, 361 of them by one count. When you see group behavior, it is often interesting to look for the motivation.

You have the big lie that the election was stolen, which allows for skepticism to be brought against elections, even if it is not founded in fact. At the same time, you have unpopular policies demanded by a Republican donor elite that has every interest in building an electorate that will give the donor elite its policies rather than giving up on their policies in order to attract voters. As our friend Reverend Warnock says, limiting voters serves this, particularly when limiting voters is to make sure that some people are not voting. Of course, dark money is that donor elite's weapon of choice, and we see the conservative dark money groups have already announced \$39 million in spending campaigns to restrict voting rights at the State level and block passage of the For the Peo-

ple Act, and that number is likely going up because these very same groups spent over \$100 million in dark money during just the 2018 election cycle.

At the State level, we see two particular groups very prominent, one, the State Policy Network, and, two, the American Legislative Exchange Council, the so-called ALEC. ALEC is toxic enough that Exxon severed its ties to ALEC. When Exxon-Mobil thinks it needs to clean up its act by severing from you, that is a pretty strong signal.

ALEC has singled out Representative Jones for praise, calling her an “ALEC legislator.” ALEC is funded by Koch Industries. It has received millions of dollars from right-wing foundations like the Charles G. Koch Charitable Foundation, the Searle Freedom Trust, the Bradley Foundation, and also through the identity-laundering Donors Trust and Donors Capital Fund.

It is working now with the Heritage Foundation on a \$24 million campaign to produce model voting legislation for State legislatures like Georgia’s to adopt and even to hire lobbyists in what they call “Crucial States.” ALEC has created a secret working group on election-related matters led by Clea Mitchell, who many people will remember for her role backing Trump’s efforts to flip Georgia’s election results. ALEC has its hands all over this.

There is also the Georgia Public Policy Center, which is the local affiliate of the State Policy Network. Representative Jones has said, “I want to publicly say how much I appreciate Georgia Public Policy Foundation. We rely on Georgia Public Policy Foundation’s research and work. They have been an invaluable—invaluable resource to us.”

Guess what? ALEC is an official associate organization of the State Policy Network with the Georgia Public Policy Center, and the over group, the SPN, State Policy Network, has paid for dozens of its think tanks to become ALEC members. There is a lot of back and forth between the dark money ALEC group and the dark money State Policy Network. Like ALEC, State Policy Network is largely funded by big corporations and right-wing family foundations, including the Koch Brothers, the Waltons, the Bradley Foundation, the Rowe Foundation, the Coors Family, and, of course, the ubiquitous identity launderers Donors Trust and Donors Capital Fund.

There are lots of other familiar names moving into this space. The Heritage Foundation, the Koch-funded dark money group’s political arm, Heritage Action for America, announced plans to spend \$24 million on a 2-year effort to shape States’ voting laws and to work at the Federal level to block the For the People Act. In March, Heritage Action boasted that Heritage Action recently launched “an effort to strengthen Georgia’s election laws and restore voter confidence in the State, including a \$600,000 TV ad buy, digital advertising, and a grassroots advocacy initiative for an initial total investment of \$1 million.” That is a quote from them.

At the same time, we have the so-called Honest Elections Project, which is Leonard Leo’s new outgrowth of his vast dark money network, that has pledged tens of millions of dollars into conservative election efforts.

Honest Elections Project is an alias group that can use all of the anonymous funds given to its preexisting Judicial Education Project, which Leo used to steer Bradley Foundation grants into coordinated amicus brief efforts that I have chronicled elsewhere. His Honest Elections Project for Georgia released a string of press releases urging Georgia to investigate its 2020 results and to take up voter suppression legislation and congratulated the State for enacting S.B. 202 last month.

Last is True the Vote, a group whose main aim has been to recruit poll watchers whose task of finding suspicious activity is often focused on voters and neighborhoods of color. Like the other groups, its finances are largely opaque, coming through anonymized donations via Donors Trust as well as the Bradley Foundation and, of course, the State Policy Network.

There is this complex, interlocking network of billionaire right-wing dark money that I think tends to signal why the whole herd would have moved at once based on no actual evidence of fraud or dishonesty in the elections, and—

Chair DURBIN. Thank you, Senator.

Senator WHITEHOUSE. Is my time expired?

Chair DURBIN. I am afraid it is.

Senator WHITEHOUSE. My apologies. My clock does not run when I am remote, and I will yield back my nonexistent remaining time. Thank you, Chairman.

Chair DURBIN. Thank you, Senator. Senator Graham.

Senator GRAHAM. Thank you. To my dear friend Sheldon, I appreciate your consistency.

What would account for—the elephant herd is apparently marching in one way. H.R. 1 I believe is supported by most every liberal group in the country. Most of my Democratic colleagues support H.R. 1. Why? What motivates you?

Redistricting. Under your proposal, you would take redistricting away from State elected officials and give it to some independent commission. What has that got to do with voting? That is about trying to change the ability of red States to be able to draw new lines based on population shift.

H.R. 1 has a 6:1 match for low-dollar donations. What has that got to do with voting? Nothing. It has got to do with political power, trying to have the Federal Government subsidize campaigns favorable to you. If a 6:1 match had been in place in my recent election, South Carolina would have probably had over \$1 billion spent. I think the people of South Carolina deserve better than that. I raised 110. My opponent raised 132. If you had a 6:1 match, that would have been about \$1 billion. I think that is cruel and probably violates the Geneva Convention.

H.R. 1 is not about righting wrongs. It is about power. It is about trying to grab power, and I can understand why people want to grab it. I do not understand why people on our side would willingly sit on the sidelines. We are not. We are here today to talk about the voting process.

Mr. Gardner, you are sort of a legend in your part of the world, I think rightly so. It is my understanding that you oppose H.R. 1 and the Senate equivalent. Is that correct?

Secretary GARDNER. Yes.

Senator GRAHAM. In 30 seconds or less, why?

Secretary GARDNER. First of all, we do not have any early voting in New Hampshire, and for all the studies that show that early voting actually helps turnout, I can show you plenty of academic studies that show the opposite. That just because you make voting easier does not raise the turnout automatically. We have election day that is a day for everything in New Hampshire. It goes all the way back to the beginning. Our Constitution predated the Federal Constitution, and it ends that day. It is our tradition, because every polling place, the chief election officer has to that evening of the election read publicly the votes cast for every candidate on the ballot, and that is the end of it.

The—and our early voting—it is called “early voting”—is just not allowed under our—

Senator GRAHAM. You believe it would be a power grab when it came to New Hampshire voting—is that fair to say—by the Federal Government?

Secretary GARDNER. Yes. The same thing with no-fault absentee.

Senator GRAHAM. Okay.

Secretary GARDNER. It is the same thing.

Senator GRAHAM. Thank you very much.

The Carter-Baker Commission looked at voter fraud in voting in 2008. They found that there is no evidence of extensive fraud in U.S. elections or multiple voting, but both occur and it could affect the outcome of close elections and many other findings.

The absentee ballots remained the largest source of potential voter fraud. That is what the Carter-Baker Commission said, not me. The Carter-Baker report said—recommend—to reduce fraud, recommended prohibiting third-party organization candidates and political party activists from handling absentee ballots. I think that is related to ballot harvesting.

My question for Ms. Abrams: Do you support voter identification laws?

Ms. ABRAMS. Yes.

Senator GRAHAM. Okay. Do you support—

Ms. ABRAMS. There are 35 States in the United States that have had voter identification laws. In fact, every State requires some form of identification.

Senator GRAHAM. Right, okay.

Ms. ABRAMS. What I have objected to is restrictive voter identification laws that narrow the set of permissible materials that—

Senator GRAHAM. The answer is yes as a concept. Do you support the idea that voting should be limited to American citizens?

Ms. ABRAMS. Yes.

Senator GRAHAM. Do you support that we should have—do you support ballot harvesting? Are you familiar with that term?

Ms. ABRAMS. I am familiar with the term of art that has been promulgated to describe a variety of efforts, but, for example, on Native American reservations where they are precluded from access due to underfunding to reach in a timely fashion locations for voting, I do believe that it is appropriate for tribal elders to collect ballots and retrieve them and use a single source of delivery to provide those ballots and, thus, provide Native Americans with the opportunity to participate in elections.

Senator GRAHAM. Do you support it beyond Native American voting?

Ms. ABRAMS. As I said, I believe that it depends on the situation and that the term of art that is being used describes a variety of behaviors, and each of those behaviors should be examined for utility and for veracity. To the extent that they help voters participate in elections in a lawful manner, they should be permitted.

Senator GRAHAM. Okay. Do you believe the Republican majority in Georgia, House, Senate, when they are making the changes to your State voting laws, do you think they are motivated by trying to suppress the African American vote?

Ms. ABRAMS. I have seen it happen sometimes that they are. I have seen other bills that have been truly bipartisan in nature that have looked at and fully examined—

Senator GRAHAM. You believe that is the motivation behind—do you believe—

Ms. ABRAMS. I am sorry?

Senator GRAHAM [continuing]. That is the motivation behind these laws?

Ms. ABRAMS. I believe the motivation behind certain provisions in S.B. 202 are a direct result to the increased participation of communities of color in the 2020 and 2021 elections. I have participated for 11 years. As Speaker Pro Tem Jones pointed out, we served together, and almost every year there was a voting law. And when those voting laws were neutral not only on their face—

Senator GRAHAM. I am out of time. Do you think—

Ms. ABRAMS. [continuing] I would support it.

Senator GRAHAM. Do you think the Speaker of the House, Speaker Pro Tem, Jan Jones, is motivated by trying to limit the African American voters in Georgia? Do you think that is—

Ms. ABRAMS. I believe there is racial animus that generated those bills. I would not assume that that racial animus is shared by every person—

Senator GRAHAM. Thank you.

Ms. ABRAMS. [continuing] But the result is that racial animus exists, and if it eliminates access to the right to vote, then regardless of a certain person's heart, if the effect is deleterious to the ability of people of color to participate in elections, then that is problematic, and that is wrong, and it should be rejected by all.

Chair DURBIN. Senator Klobuchar.

Senator KLOBUCHAR. Thank you very much, Mr. Chair. Thank you to our witnesses.

I am just looking at the facts, and I think that we need to get these facts straight. In the 2020 election, more than 160 million Americans voted, more than ever before, and, in fact, the Trump administration's Homeland Security official charged with protecting elections deemed the election the "Most secure election in American history." Is that correct, Ms. Abrams?

Ms. ABRAMS. That is correct.

Senator KLOBUCHAR. Former Attorney General Barr stated that there was no evidence of widespread voter fraud that could have changed the outcome of the 2020 election. Is that right?

Ms. ABRAMS. That is also correct.

Senator KLOBUCHAR. My problem is this: Why do you think 361 bills have been introduced in 47 States that would restrict access to the polls when, in fact, the way things were running was working for the people of this country? They were voting by mail like never before. They were exercising their right to vote, and they did it safely. Why did this happen?

Ms. ABRAMS. With all due respect to Secretary of State Gardner, I would actually refer us back to Senator Sheldon Whitehouse's commentary, and that is this: We saw an increased participation from communities that are considered unfortunate or that are not favorable to Republican victories. No one is entitled to win. I am a person who is a living example that there is no entitlement to victory. We are all entitled to participation, and what these laws have done in stunning and uniform fashion is reduced entitlement to participation. They have done so by targeting behaviors that are specifically attributable to communities that voted in opposition of Republican values.

That is not to say that every person of color intends to vote Democratic. It is not to say that every young person votes Democratic. When the overwhelming majority in those communities exercised their right to vote in this last election, we have seen a raft of laws that have been targeted at their behaviors. When laws are targeted at the behaviors of communities of color, that is not only reminiscent of the Mississippi Plan and the Jim Crow laws, as Dr. Anderson has so clearly played out, those are intentionally a resurgence of voter suppression similar to Jim Crow, which is why we use that language, because we cannot leave our history behind.

Senator KLOBUCHAR. Thank you. As Reverend Warnock said earlier, maybe it just boils down to some words, and that is that some people do not want some people to vote.

Ms. Ifill, can you tell me about how rare voter fraud is? I think there was a recent editorial in a major newspaper talking about since 2000 Oregon has sent out more than 100 million mail-in ballots and documented only about a dozen cases of fraud. Rounded to the seventh decimal point, that is 0.0000001 percent of all ballots. Ms. Ifill?

Ms. IFILL. That is correct, Senator Klobuchar. You have a better chance of being struck by lightning than finding widespread voter fraud. In fact, President Carter spoke out about the report that was referenced earlier. He believes that the report was being distorted to support the provisions of S.B. 202. In fact, what the report called for was a deeper study of vote by mail. They were basing their study on 2005 to 2008. The report specifically noted that we have two States, Oregon and Washington State, that do all voting by mail, and there is no significant voter fraud in those two States.

So voter ID, you know, for absentee voting, that is actually quite unusual. There are only three, I guess now with Georgia four States that require photo ID for absentee voting, and that is what we are talking about with S.B. 202. It is actually a rare and unusual thing.

Senator KLOBUCHAR. Thank you. You know, we are going to be marking up the Senate File 1 in the Rules Committee, so I am pretty familiar with this bill. Could you explain, Ms. Ifill, why—yes, it has some very important standards for voting given what we

are seeing, the assault on voting across the country. Why given that we have not had any Federal campaign legislation passed since McCain-Feingold, which was basically dismantled by the courts, it is time to also focus on all of the dark money flooding into our politics as well as ethics rules that are necessary for all of us? That used to be a bipartisan issue.

Ms. IFILL. I think, Senator Klobuchar, it is important to see this all of a piece. This is about access to the political process. This is about ordinary people having access to the political process. We think of the right to vote as scared, the casting of the ballot, the counting of that ballot. If there are forces that neutralize the ability of that ballot to have meaning, then Congress needs to examine that also so that citizens can feel that they truly have a role in our democracy and have their voice heard. It cannot be a sham. It cannot be a shell. When activists marched and risked their lives for the right to vote during the civil rights movement, they were not just looking at the ceremonial act of casting a ballot. They truly believed that being able to participate equally in the political process would allow them to meaningfully change the condition of their lives and communities.

Everything that bears on the ability to give that vote meaning it seems to me is relevant and important for this Committee to consider.

Senator KLOBUCHAR. Thank you. With your indulgence, just one very fast question with a fast answer, Ms. Abrams. One of the things, as I prepare for this hearing that I am chairing next month, one of the arguments made is that, oh, it will be so hard for States to enact these. However, we already have 43 States with early voting, 21 States with same-day registration, 19 States with automatic voter registration, 45 States that allowed all voters to cast a ballot by mail last year. In 2018, Michigan approved many changes to its election procedures that went into effect before the November 2020 election. Would you agree that States like Georgia and others have been able to implement these changes in a correct way without a problem?

Ms. ABRAMS. Absolutely.

Senator KLOBUCHAR. Thank you.

Chair DURBIN. Senator Cornyn.

Senator CORNYN. My first question is for Ms. Abrams. Ms. Abrams, is the Georgia election law that Speaker Jones talked about, is it a racist piece of legislation?

Ms. ABRAMS. I think there are components of it that are indeed racist, because they use racial animus as a means of targeting the behaviors of certain voters to eliminate—limit their participation in elections.

Senator CORNYN. You believe that the Georgia Legislature made deliberate attempts to suppress the minority vote?

Ms. ABRAMS. Yes.

Senator CORNYN. Georgia has a no-excuse absentee voting provision in that law. As Ms. Jones I think has said, certainly in her written statement, Connecticut, Delaware, Massachusetts, New Hampshire, and New York do not have any no-excuse absentee voting. Are the voting laws in Connecticut, Delaware, Massachusetts, New Hampshire, and New York racist?

Ms. ABRAMS. I would say they are behind the eight ball and they need to be improved, and that is why I support the For the People Act voting rights provisions that would expand access to no-excuse absentee voting. As we explained earlier, it is how these behaviors are targeted. The State of Georgia targeted communities that used these resources for the first time to their benefit and, thus, after 15 years of Republican-dominated use of absentee balloting, it suddenly changed its mind about the utility, the processing, the timeliness, and—

Senator CORNYN. You do think—excuse me. We only have 5 minutes to ask questions, and so if you would respond to my question. Just to be clear, you think Connecticut, Delaware, Massachusetts, New Hampshire, and New York that have more restrictive no-excuse absentee voting, you believe those election laws are racist?

Ms. ABRAMS. Senator, I am responding to your question. Your question—

Senator CORNYN. No, you—Ms. Abrams, you are filibustering. Could you answer yes or no?

Ms. ABRAMS. I am not. Sir, I am not filibustering. I am stating very specifically, I believe that restrictive voting laws should be addressed by the For the People Act. I believe that the Georgia decision—

Senator CORNYN. Just to be clear, whether they are racist or not, you just—you think they need to be changed because you disagree with them, right?

Ms. ABRAMS. No, that is not what I have said.

Senator CORNYN. Okay.

Ms. ABRAMS. I have said that those laws that were changed in 2021 in response to an increased use by people of color, laws that were put in place by Republicans 15 years ago and they were perfectly satisfied with the utility of those laws, until they were used successfully by people of color, that the intent matters, and the intent behind these laws—

Senator CORNYN. You think—you think—

Ms. ABRAMS [continuing]. Matter in the State of Georgia.

Senator CORNYN. You think voter ID requirements are racist?

Ms. ABRAMS. No, sir. I have always said that—in fact, I wrote a book about—

Senator CORNYN. Doesn't that restrict—

Ms. ABRAMS [continuing]. I support voter identification.

Senator CORNYN. Doesn't that restrict voting, the requirement of a voter ID?

Ms. ABRAMS. I support voter identification. What I object to is restrictive forms of voter identification that limit who is permitted to use their identification and that create a narrower and narrower—

Senator CORNYN. Georgia gives—you can use a free ID or a utility bill or something like that. You do not believe that the Georgia law restricts voting because of the voter identification requirement, if I—

Ms. ABRAMS. That is not what I have said, sir. What I said is that the absentee ballot requirement that now adds voter ID in an exceptionally rare usage because it will now push almost 200,000

voters who do not have access or do not currently have those IDs out of the process—

Senator CORNYN. So voter ID—

Ms. ABRAMS. [continuing] People of color—

Senator CORNYN. Sometimes it is racist, sometimes it is not racist?

Ms. ABRAMS. The intent always matters, sir, and that is the point of this conversation. That is the point of the Jim Crow narrative, that Jim Crow did not simply look at the activity; it looked at the intent. It looked at the behaviors, and it targeted behaviors that were disproportionately used by people of color.

Senator CORNYN. Do you know that—

Ms. ABRAMS. That is the—

Senator CORNYN [continuing]. Gallup says that 69 percent of Black voters support voter ID and 75 percent of voters overall?

Ms. ABRAMS. Sir, I am among those who support voter ID. I have never objected to voter ID. I object to narrowly tailoring and narrowing the permissive ability—

Senator CORNYN. You agree with voter ID in some circumstances and not in others.

Ms. ABRAMS. That is not what I have said, sir. I—

Senator CORNYN. No, you said it is based on intent, so voter ID without malintent is okay—

Ms. ABRAMS. No, sir, that is not what I said.

Senator CORNYN. Well—

Ms. ABRAMS. Senator, I am happy to respond to your questions—

Senator CORNYN. Ms. Jones, I have a question for you in my remaining time—

Ms. ABRAMS. [continuing] But if you are going to mischaracterize my responses, that is inappropriate.

Senator CORNYN. Ms. Jones, Connecticut, Delaware, Massachusetts, New Hampshire, and New York do not have any no-excuse absentee voting. Georgia decided to permit it. Why the differences between Georgia and these other States?

Speaker JONES. Thank you, Senator Cornyn. Georgia has a long history, particularly since Republicans have been in charge since 2003, of expanding access to voting. Senate bill 202 does no differently, and the voter ID requirements that are being put in place for absentee voting are no different than the voter ID requirements for in-person or early voting. They are exactly, precisely the same.

Senator CORNYN. Mr. Chairman, can I ask one last question of Mr. Gardner?

Mr. Gardner, I think you said that there is no early voting in New Hampshire, but you do not believe that impacts turnout. Could you explain that? That seems a little counterintuitive.

Secretary GARDNER. Yes, it certainly is counterintuitive, but it is factual. If you take a look at the charts that I have submitted to the Committee, there are two important things. New Hampshire has no early voting. We have election day, and it stems back to our Constitution from a long time ago. The second one is the no-fault absentee. That is unconstitutional in New Hampshire. The chart is really important. If you look at the chart that I gave—and I am going to be very specific with it—I have been Secretary of State

during 12 Presidential election years. The first five Presidential elections, the State of Oregon had a turnout higher than New Hampshire in each of those five. Starting in 1996, after Oregon decided to go to all mail voting, we have had seven Presidential elections. Oregon has had a turnout lower than New Hampshire in all seven of those Presidential elections. That is fact.

I have lived through these years watching results that take place in certain States, and that is why I am not projecting onto the country what New Hampshire does, because other States are different than New Hampshire. What I am saying is in my State I have seen over the years what ways to make it easier to vote actually work and what ways that make it easier to vote do not work. These charts are factual. This is all factual information.

For seven Presidential elections in a row, ever since Oregon decided to get rid of election day registration at the polls and go to no-fault, everyone is mailed a ballot, there are no polling places; they have multiple days to vote, multiple locations where they can cast their ballot.

Academics say that is the easiest, it is effortless, but I know what has happened between the two States. The Secretary of State of Oregon actually tried to convince me back in the early 1990s to join with him because he thought that in 5 years the whole country would be voting by mail, if New Hampshire did it on the east coast and Oregon did it on the west coast.

This is factual, and those charts I gave to the Committee, I implore you to take a look at those charts. It ranks every State, all 50 States, starting in 1976, where they ranked. Take your own State. Take a look at it. Compare one State to another State.

It is based on voting-age population.

Chair DURBIN. Thank you, Mr. Gardner.

Secretary GARDNER. It is not—

Chair DURBIN. Thank you very much. Senator Coons.

Senator COONS. Thank you, Chairman Durbin, and thank you to our witnesses today and to this Committee for paying so much attention to the urgent issue of voting and the rights of Americans to vote.

It is so profoundly disappointing to me that in 2021, following our last election, we need to have a hearing to address a surge in voter suppression efforts around the country. In a healthy democracy, the side that loses an election then takes time to reflect on why and how and what the issues were that might have moved voters to their side. We instead see in legislatures across the country efforts to suppress the access to the ballot box and the opportunity to vote. Bills like the one that passed in Georgia I view as an affront to the legacy of John Lewis and others who risked or spilled their own blood to win the right to vote.

As Ms. Ifill knows well, I have long worked to support my colleagues' efforts, Senator Leahy's efforts and others, to pass the Voting Rights Advancement Act, now renamed the John Lewis Voting Rights Advancement Act, and I want to ask some questions about that today and about our efforts to try and plug the hole created by the Supreme Court's ill-conceived, I think, decision in Shelby County in 2013.

Ms. Ifill, if I might just start with you. As a matter of common sense, I think we all have a pretty clear idea of why some States are pursuing these laws. Under the Voting Rights Act as it currently exists, can you explain why these laws are so difficult to successfully challenge in court?

Ms. IFILL. Thank you, Senator Coons. As I said at the outset, litigation is one of the tools that we have available, and we, by the way, have challenged S.B. 202 under the Constitution. We challenged it under the First Amendment, under the 14th Amendment, under the 15th Amendment, and under the Voting Rights Act.

Litigation takes a long time. It is expensive. It can take from 2 to 5 years. I will give you an example. LDF was part of the team that successfully challenged Texas' voter ID law between 2014 and 2018. During the pendency of that litigation, there were 500 offices that were elected in Texas, Justices of the Texas Supreme Court, Attorneys General, district attorneys, lower court judges, county councilpersons, elections that proceeded despite the fact that we had demonstrated in our litigation that 600,000 Texans were likely disenfranchised by that particular voter ID law.

Litigation is a blunt instrument. What preclearance gave us was the opportunity to get out ahead of voting discrimination before it happened, to have a review of the kind that should have happened with S.B. 202, which is one of the features that has not been talked about. The way this law was rushed through, we were there. Bills were dropping at 11 p.m., and then hearings were held on them the next day at 7 a.m., as we tried to keep up with this process. This sweeping bill, this omnibus bill, was passed in this fashion that did not even give a real opportunity for study. Where is the racial impact study on these provisions and how they will affect Black voters in the State? You will not find it because it was not done.

A preclearance provision would have allowed a neutral authority, a Federal authority, to look at every single proposed voting change and to determine the effect on Black voters. That was in answer to Senator Cornyn's question about what was the motivation, what is the effect of the laws, but we did not do that because we do not have preclearance and because Georgia was hell-bent on pushing this law through as quickly as possible. So, now we are left with litigation.

Senator COONS. Thank you, Ms. Ifill.

Ms. Abrams, good to see you again. How would having the John Lewis Voting Rights Advancement Act in place operate on other similar laws in the future? Given the point you made earlier about the timing and the intent and the context of voting legislation is critical, how would preclearance analysis have impacted the enactment of Senate bill 202?

Ms. ABRAMS. Senator Coons, you frame it properly. What preclearance does is look not simply at the piece of paper before you in the form of a law, but look at the context, look at the history, and look at the effect. Those have to be taken in toto because Georgia has a different history than, let us say, Texas or New Hampshire. In each State, one would have to look at what has happened when these things occurred, not in the macro but in the very micro sense of what happened in the places where these laws are taking effect.

For example, in the State of Georgia, the closure of polling places, 214 that closed by 2018 led to between 54,000 and 85,000 voters not being able to cast their ballots because they could not get to their polling place. This is not incidental. This is the difference in elections.

We also know that the requirement of providing ID for 200,000 voters who have not been required to physically send in their identification will change how they can participate in our elections. Despite the misnomer of free ID, there is nothing free about identification when you have to pay for the paperwork to comply with the identification.

Senator COONS. Ms. Abrams, if I might ask you one quick closing question, one provision in S.B. 202 surprised me or concerned me. It strips authority over election administration from the Secretary of State and transfers it to the State legislature. Given the context of the 2020 election, how will this transfer of power affect the partisanship of future election administration? How would you read it given the recent history in Georgia?

Ms. ABRAMS. This is very, very offensive language that not only removes home rule, it actually will put into power people who have nothing to do with communities. For a body that seems to believe that those who are closest to the people should be making the decisions, giving these—number one, giving State legislatures the authority on their own motion to remove officials, elections officials, is dangerous. If that had been in place in 2020, the outcome of the 2020 election could have been vastly different. We should be deeply concerned by the aggressive and naked attempt to wrest control away for purely partisan purposes.

Senator COONS. Thank you, Ms. Abrams. Thank you for what you and Fair Fight Action are doing. Thank you, Ms. Ifill, and thank you to everyone who is participating in today's hearing.

Thank you, Mr. Chairman.

Chair DURBIN. Senator Lee.

Senator LEE. Thank you, Mr. Chairman.

I am disappointed and, frankly, shocked that the majority party and the Chairman would choose such an inflammatory title for this hearing by calling it "Jim Crow 2021." The lack of judgment in this instance not only belittles those who endured such dehumanization and indignity through the Jim Crow era, it also reminds us, reminds all of us or certainly should, of what Jim Crow was and how and when it happened and under whose leadership.

We have to remember that it was, in fact, Republicans who pushed through the 13th, 14th, and 15th Amendments to the Constitution following the Civil War—the 13th Amendment getting rid of slavery; the 14th Amendment guaranteeing all Americans, including Black Americans, including Black Americans who had been slaves and those who had not, equal protection under the laws; and including the 15th Amendment guaranteeing Black Americans the right to vote.

These had a significant effect. They were enacted with great opposition coming from the Democratic Party. We got them through. The 15th Amendment was the last of the three to be ratified. It was ratified on March 30, 1870.

1870 was a big turning point for civil rights in America, for Black Americans. It was in 1870 that we saw the very first Member of Congress, a gentleman by the name of Joseph Rainey, who was elected to the House of Representatives in 1870, the same year the first Black American was elected to the United States Senate. That is Hiram Rhodes Revels who was elected to the Senate, the U.S. Senate, from Mississippi.

All in all during the Reconstruction period, there were 16 Black Americans elected to the Congress. There were over 600 Black Americans elected to State legislatures, and there were hundreds and hundreds more elected to local positions throughout the country. All of them, every last one of them, happened to be Republican.

Jim Crow was a response to that. White Americans who did not want Black Americans coming into power and who resented their votes as Republicans, in fact, did not want them to have the right to vote at all, notwithstanding the fact that the 15th Amendment had by then been ratified, figured out a way to suppress them. Once President Rutherford Hayes through the Compromise of 1877 ordered the withdrawal of Federal troops from the South, it paved the way for Jim Crow. Jim Crow policies restricted unconstitutionally the right of Black Americans to vote, and it restricted all kinds of other behaviors put in place by Democratic governments in each of those States. It was an unfortunate era, one that lasted for roughly a century, to make sure that Black Americans could not only not vote but they could not be elected.

Michael Lancaster is the Georgia State Director of the Frederick Douglass Foundation and the descendant of people who suffered under Jim Crow. In a recent Washington Times article, Mr. Lancaster stated, "Comparing absentee ballot changes and ID requirements to banning Black people from restaurants and drinking fountains is absurd. A civil debate about voting rights is an important conversation to have, but comparing Georgia's election reform to Jim Crow is simply insulting to my Black ancestors who suffered through those dehumanizing segregation laws."

There were some others who wrote, "It has become clear that even well-intentioned critics of the Georgia law simply have no idea what the law is. It is clear that they have no idea how favorably Georgia's law compares with most other States, including President Biden's home State of Delaware. It is clear that they have no idea that a majority of Black voters across the country support key provisions attacked by critics, including the provision that is a simply requirement that voters be able to identify themselves upon voting."

Speaker Jones, as I understand it, 77 percent of Americans support voter ID requirements, and specifically 74 percent of Georgians, including 63 percent of Black voters in Georgia, and all of those numbers indicate support for the new Georgia voter ID requirements. Is that correct?

Speaker JONES. That is correct, Senator.

Senator LEE. If a potential absentee voter in Georgia does not have a driver's license, he or she could also show a State-issued voter ID card. Is that also correct?

Speaker JONES. That is correct, or one of the other forms of federally accepted forms of ID.

Senator LEE. If somebody does not have that, then that could be provided free of charge. Is that also right?

Speaker JONES. That is correct, at any Department of Motor Vehicles office or at any of the 159 elections boards. Please, if I may, Senator, the voter ID requirements are not more restrictive for absentees now than they have been widely accepted and certainly not criticized in the past for Georgia. It is precisely the same requirements to vote in person or to vote by absentee. It actually seems kind of incongruent to make rules for one form of voting but not another, but thank you, Senator.

Senator LEE. Mr. Chairman, I see my time has expired, and I suppose I will be able to submit some additional questions for the record. I would note in closing Secretary of State Raffensperger, who was, I am told, interested in testifying and willing to testify at this hearing—you have invoked his name several times. It is disappointing that the Secretary of State of that State is not here to be able to testify in response to that.

I also want to thank my friend and Utah colleague Congressman Burgess Owens. He is a man who has been alive, has existed in this country at a time when Jim Crow laws were still in effect. In some ways, he has been subjected to some of the same insults underlying Jim Crow. He has been lampooned, he has been drawn in caricatures alongside a Klansman in a brazen act of demeaning someone based on his race, demeaning him in a way that ignores the truth, the reality behind Jim Crow laws. This was a system of laws designed to help hold Black Americans back, hold them back in part because white Democrats in the South did not want them to vote and did not like the fact that they were voting as and being elected as Republicans.

Let us not compare a voter registration law, one that makes sure that dead people cannot vote, to that. We can do better than that, and we should.

Chair DURBIN. Thank you, Senator Lee.

For the record, and I will concede, the era of Jim Crow in the South was propagated primarily by Democrats, Southern Democrats and Segregationists. The political alignment changed in America starting in the late 1950s and the early 1960s, and Republicans became more dominant in those States for the most part.

What we have today is the party of Lincoln which is refusing to join us in extending the Voting Rights Act. That used to be a bipartisan exercise. Democrats support the extension of the Voting Rights Act and trying to overcome the *Shelby County* decision and making certain that we can review every State's activities as to whether or not they are fair or not fair.

I would concede the historical point, but I do not think that the Senator stuck with the proposition to the present day.

At this point we have Senator Blumenthal. Is he available by remote?

Senator LEE. Mr. Chairman, if I could respond to that for a moment.

Chair DURBIN. You may, of course.

Senator LEE. Look, so Republicans never ceased to be the party—never ceased to be the party that believes that the 13th, 14th, and 15th Amendments matter, and that the inherent dignity of the im-

mortal human soul is such that it should never be denigrated by subjecting someone based on their race to a lack of civil rights. It is not fair, it is not accurate to portray the two parties as having somehow crossed as if in the 1950s. It is just not accurate.

Chair DURBIN. Senator, my only point—

Senator LEE. Yes, some Southern Democrats later became Republicans. That is true.

Chair DURBIN. My point, Senator—

Senator LEE. That did not change the Republican Party's alignment on this issue.

Chair DURBIN. My point was the political alignment has changed. That is obvious. Second, the Voting Rights Act, which is the nature and subject of this hearing, used to be a 98–0 proposition. Now only Democrats will vote for it since Congressman Sensenbrenner is gone.

Senator LEE. You are talking about Section 5 of the Voting Rights Act, which subjects some States to preclearance. The designation of preclearance and concerns of a constitutional nature raised by the Supreme Court of the United States itself is very different than stated opposition to the Voting Rights Act itself and to the many other provisions that have done some good and that still have overwhelmingly entirely bipartisan support, and I resent that.

Chair DURBIN. I am sorry you resent it, Senator, but it is a fact that we are dealing with the Voting Rights Act which used to be universal and bipartisan and now is not. The Democrats support it; the Republicans do not.

Senator LEE. It is not accurate to say Democrats support the Voting Rights Act and Republicans do not. We are talking about a particular application of Section 5 of the Voting Rights Act, that based on its implementation and based on the failure to update findings was leaving some States unconstitutionally, in the judgment of the Supreme Court of the United States, in a different position.

Chair DURBIN. I happen to disagree with that opinion. You see it differently.

Senator Hirono by remote. Senator Hirono is not available?

Senator HIRONO. No; I am available. Mr. Chairman.

Chair DURBIN. Yes, you have 5 minutes, Senator.

Senator HIRONO. I am sorry. I thought Senator Blumenthal had been called, so thank you. I am here.

Chair DURBIN. Many are called. Please proceed.

Senator HIRONO. Some actually answer and show up.

Okay. This is for Ms. Ifill. You noted that the average length of Section 2 cases is 2 and half—2 to 5 years and it is simply not sustainable, and that is why we need to pass the John Lewis Voting Rights Act. Perhaps you can tell me how effective is the current Section 2 in protecting people's right to vote in comparison to the preclearance process that was in place under Section 5?

Ms. IFILL. Thank you very much for that question, Senator Hirono. Let me clarify also just given the last colloquy. The Supreme Court actually invited Congress to update the formula under Section 5. It did not strike down Section 5, and so I am very hopeful that Senator Lee and others are willing to participate in a process to update the formula so that we can pass a new preclearance formula under the Voting Rights Act.

The difference is that the preclearance formula allows us to stop discrimination before it happens by introducing a Federal process that allows for a neutral review, whether the Federal authority is Republican or Democrat in terms of the Attorney General or the district court in DC, to review an election law to determine what its racial impact would be. That would happen before the law would be passed. Every provision of S.B. 202 would have gone through that process before it became law. Instead, the law was rushed through. It now exists. We have filed suit along with other organizations. We will litigate that case likely for more than a year, and during that time there will be elections in Georgia.

As I said, in the Texas case, we were still litigating in 2018 a voter ID law that was enacted in 2014. If we think that that is appropriate for a healthy democracy to hold scores or hundreds of elections in which potentially hundreds of thousands if not millions of voters are affected and that law may ultimately violate the Constitution, or the Voting Rights Act, or the Americans with Disabilities Act, or any of the other reasons why voting changes have been struck down, then I think that is what this Committee has to really focus with.

As a matter of democracy, we need to deal with these matters before they become law.

Senator HIRONO. I agree with you, Ms. Ifill. In the meantime, though, the Supreme Court has before it two cases that test Section 2, and I know some of the arguments that the opponents of Section 2—they would like to very much limit the impact of Section 2. Bad enough that—the Department of Justice under the Trump administration brought how many Section 2 cases?

Ms. IFILL. I think it is zero, maybe one.

Senator HIRONO. I think one would be about it. That would be the maximum. It is hard enough under Section 2, but some of the arguments made, if the Supreme Court goes along with the arguments that were made to limit Section 2, that would make it even harder. You would have to show different impacts. You would have to show much more than what you currently have, which is hard enough to do under Section 2. Would you agree?

Ms. IFILL. It would be utterly devastating. It would be utterly devastating, a blow to our democracy, a blow to one of the finest moments in this country, which was the passage of the Voting Rights Act in 1965. When the Senate passed the Voting Rights Act in 1965, they were very clear that they meant to get only at—not only current forms of discrimination that existed in 1965, but the Senate report said it was also designed to get at ingenious forms of discrimination that might be created in the future. Congress was forward-looking. They understood that voter suppression would not go away, and to wipe out that history would be an affront to every martyr of the civil rights/voting rights movement, to Senator John Lewis, and to the many Black voters who actually feel demeaned when they are told that they cannot give water to their elderly relatives standing on line trying to vote.

Senator HIRONO. That is what I call the kind of cruelty that is exemplified too often in these kinds of cases. The *Shelby County* decision was a 5–4 decision, and Justice Ginsburg famously wrote, “Throwing out preclearance when it has worked and is continuing

to work to stop discriminatory changes is like throwing away your umbrella in a rainstorm because you are not getting wet.”

Are you concerned that this Court with these two cases before it will render possibly—probably, possibly—a 6–3 decision to further limit the Section 2 remedy?

Ms. IFILL. Senator Hirono, I sincerely hope that the United States Supreme Court has seen what has happened since 2013 when the power of Section 5 was gutted, that they will understand, that they will be humble enough to recognize that there are things perhaps they did not know or understand that are happening in this country, and that they will read the record, that they will take account of what the reality is, and that they will respect what I believe President Reagan called the “Crown Jewel of Civil Rights Legislation,” the Voting Rights Act, and ensure that it remains intact and an effective tool for combating voting discrimination.

Senator HIRONO. Ms. Ifill, I appreciate the dialogue I had with you, and I really appreciate the other—of course, Stacey Abrams and Ms. Anderson, whose books I read, and the others who have testified for the enactment of the John Lewis Act. I just want to mention one more thing, though. I have heard some comparisons to Hawaii voter laws and saying, well, Georgia is better than Hawaii—oh, give me a break. For the first time ever, Hawaii had all mail-in ballots the last election, and we had the second highest percentage of voter participation as a result. This is why mail-in voting is so important and why we need to look at what the post office was doing in the 2020 elections that made it that much harder, and the person who heads up the post office is still there. He needs to be removed. That is an editorial comment.

Thank you. I think my time is up.

Chair DURBIN. Thanks, Senator Hirono. Senator Cruz.

Senator CRUZ. Thank you, Mr. Chairman.

Ms. Abrams, it has been over 2 years, and you still refuse to concede that you lost the race for Governor in Georgia in 2018. You have said that you “Do not concede that the process was proper” and that “They stole it from the voters of Georgia.”

Yes or no, today, do you still maintain that the 2018 Georgia election was stolen?

Ms. ABRAMS. As I have always said, I acknowledged at the very beginning that I—Brian Kemp won under the rules that were in place. What I object to are rules that permitted thousands of Georgia voters to be denied their participation in this election and to have their votes cast out. I will continue to disagree with the system until it is fixed. We have seen marked progress made, and, unfortunately, it was undone in S.B. 202. I will continue to advocate for a system that permits every eligible Georgian to cast their ballot—

Senator CRUZ. Ms. Abrams, I am going to ask you to please answer the question I asked, which is, yes or no, do you still maintain the 2018 election was stolen? That is your language.

Ms. ABRAMS. My full language was that it was stolen from the voters of Georgia. We do not know what they would have done because not every eligible Georgian was permitted to participate fully in the election.

Senator CRUZ. You also told the New York Times that your loss “Was fully attributable to voter suppression.” Ms. Abrams, do you know in Georgia whether the percentage of African American Georgians who were registered to vote and who turned out to vote, is it higher or lower than the national average?

Ms. ABRAMS. It is higher than the national average because Georgia is one of the largest States with an African American population.

Senator CRUZ. That is not tied to the size of the population. The percentage of Black Georgians who were registered to vote in 2018 is 64.7 percent. That compares to 60.2 percent as the national average. The percentage of Georgians who voted in 2018, the election you claim was stolen from you, was 56.3 percent. That is higher than the national average of 48 percent.

Let me ask you this, Ms. Abrams: In 2018, do you know which demographic group in Georgia had the highest registration percentage and the highest turnout percentage?

Ms. ABRAMS. I have a guess, but I will defer to you for the answer.

Senator CRUZ. The answer is African Americans had the highest registration and the highest turnout despite your claiming that the election was stolen and there was somehow voter suppression.

Let us shift to the Georgia law in particular, which there have been mountains of lies spread by both Democratic politicians and by the press. Does the Georgia law reduce the number of early voting days? Yes or no.

Ms. ABRAMS. Yes. It does so because you have to look at it in toto. It is not simply looking at the number of days that were expanded for 40 percent of the population, which for 60 percent of the population had been the norm. It also has to look at the early voting runoff days that were indeed shortened. If you add—

Senator CRUZ. Is it correct—

Ms. ABRAMS [continuing]. Together the total number of days—

Senator CRUZ [continuing]. That the law increases the number of mandatory days of early weekend voting?

Ms. ABRAMS. It is a partial answer to say that certain days were increased in certain counties that had not participated in the use of all of those days in elections. They had been optional, and most—60 percent of Georgians had been able to vote for those full number of days. Forty percent will now join, and that is a good thing. At the exact same time this same bill eliminates weeks of early voting during runoff elections and limits—allows the elimination of weekend voting.

Senator CRUZ. Do you believe that requiring an ID to vote suppresses votes?

Ms. ABRAMS. As I have said, written, testified, and repeated today, I believe that voter identification is always appropriate. You should know who is voting. What I object to are the ways that we are narrowing and restricting who has access to the right to vote, and that has been a common and necessary complaint. As we noted in 2018, what happened to Native Americans in North Dakota who were denied the right to vote because they were required to have—they were required to have photo identification that included language and include perquisites that they were not entitled to de-

mand. When we have narrowing of opportunities without expansion of access, that is absolutely wrong, and I will stand against it in Georgia and everywhere.

Senator CRUZ. During the 2020 election, did your organization, Fair Fight, collect ballots for voters? If so, were the people collecting ballots for your organization paid?

Ms. ABRAMS. We did not collect ballots. We did not pay people to collect ballots. We sent to voters absentee ballot applications, as did the Secretary of State, as did a number of other organizations, because in the midst of a pandemic, we thought it was important for voters who may or may not have had information about what their rights were to ensure that they had the education and opportunity for engagement in our elections.

Senator CRUZ. I want to be clear about your testimony to this Committee. Your testimony is that your organization did not pay any person in the State of Georgia in 2020 to collect ballots for anybody else?

Ms. ABRAMS. No, sir.

Senator CRUZ. Okay. Thank you.

Chair DURBIN. From Georgia, Senator Ossoff.

Senator OSSOFF. Thank you, Mr. Chairman, and thank you to our panel for joining us.

Mr. Chairman, I would like to enter into the record a number of statements which may clarify for some of our colleagues the motives and circumstances that led to the passage of this infamous law in Georgia.

Chair DURBIN. Without objection.

[The information appears as a submission for the record.]

Senator OSSOFF. This is Georgia's Republican Lieutenant Governor, Republican Lieutenant Governor Geoff Duncan, who said about the law, "This is really the fallout from 10 weeks of misinformation that flew in from former President Donald Trump."

He further said, "There is solutions in search of a problem. Republicans do not need election reform to win. We need leadership." That was on "Meet the Press."

He further said in an op-ed in USA Today, "Knee-jerk reaction legislation such as not allowing the distribution of water within 150 feet of a polling station just to appease the extreme right corners of legislators' districts and to avoid primary challenges."

Ms. Abrams, in the exchange that you just shared with Senator Cruz, the question of early voting opportunities was raised. Can you please clarify for this Committee what has changed about early voting in runoff elections in Georgia under this new law and what the impact might be of those changes?

Ms. ABRAMS. Certainly. In the State of Georgia, previously the law said that elections occurred during business hours. Most counties—or, sorry, 60 percent of voters were able to vote between 7 a.m. and 7 p.m., which is the hours of operation on election day. For the majority of Georgians, the time allowed was from 7 a.m. to 7 p.m.

The law now mandates that it be 9 to 5 p.m. with the option. The challenge with an optional permission is that it is no longer a given, and we have a number of counties that have taken options as an opportunity to restrict access.

We celebrate the fact that more voters will have access to weekend voting, but it is not an expansion of a right when 60 percent of Georgians previously enjoyed that right. We know that 78 percent of Georgians were able to vote—I am sorry. The actual days and weekends, we know that 78 percent of Georgians were able to vote during those earlier voting hours, and that is what is being constricted.

We know that, for example, in the State of Georgia we have 159 counties, but some of our counties have as small a population of fewer than 2,000 persons. It is insufficient to simply look at the number of counties participating. We have to look at the populations that are participating. We know in the State of Georgia that this law is restricting access to the right to vote.

We also know that the optional notion of a Sunday vote, for example, was something that counties felt that they had the right to do, and we had a number of counties that were already using Sunday voting. Yes, to the extent that it is clarified in the law, that is one thing. To claim that it is an expansion of access to a majority of Georgians is not only untrue, it is misleading and it is false.

Senator OSSOFF. Isn't it the case, Ms. Abrams, that under this new law, where there were previously 3 weeks of mandatory early voting in runoff elections, now there is just one?

Ms. ABRAMS. Yes.

Senator OSSOFF. Ms. Abrams, Fair Fight Action, your organization, has issued an extraordinary report documenting the history of voter suppression in Georgia, which accelerated, as we have discussed in this hearing, following the *Shelby County v. Holder* decision of the Supreme Court, which ended the preclearance functions of the Voting Rights Act. Since 2013, since that Supreme Court decision, Georgia has closed hundreds of polling places, and the average distance voters have to drive to go vote has more than doubled. Not surprisingly, according to a nonpartisan analysis by the Atlanta Journal Constitution, Black and brown voters have been impacted the hardest by many of these changes and are 20 percent more likely to miss voting in an election because of the long distances they are forced to travel.

Mr. Chairman, I would like to enter this verified action report, "Georgia's Enduring Racial Discrimination in Voting and the Urgent Need to Modernize the Voting Rights Act," into the record, with your permission.

Chair DURBIN. Without objection.

[The information appears as a submission for the record.]

Senator OSSOFF. Ms. Abrams, can you explain why the closure, the changing, and the consolidation of voting locations without DOJ preclearance can be so harmful and why the John Lewis Voting Rights Advancement Act—which, again, to just remind everybody on this Committee what we are here to discuss, we are talking about restoring Section 4 and Section 5 of the Voting Rights Act so the Department of Justice Civil Rights Division will preclear changes to election procedure and law that may have disparate, disproportionate racial impact.

Ms. Abrams, why is restoration of the preclearance function so vital to ensuring harm is not done by the closure of polling locations such as those we have seen in Georgia over the last decade?

Ms. ABRAMS. Over the last decade, we have seen more than 214 polling places close. We have seen a number of consolidations and a number of shifts. We saw in Clayton County at one point an attempt—sorry, not Clayton County—in Macon, Bibb County, an attempt to move a polling place from a location that was a publicly neutral place to a police station, which was going to have a deleterious effect on the likelihood of voters of color going to vote if they had to go to a police station to cast their ballots.

We know that in the State of Georgia, under a 2019 analysis by the Atlanta Journal Constitution, that the closure of polling places, given the sheer size of Georgia and the increased distance that people have to travel without access to public transportation, led to between 54,000 to 85,000 people who were not able to cast their ballots, and Black voters were 20 percent more likely to be affected by these closures.

Taken together, the elimination or the changing of polling locations without accommodating those changes for communities that do not have access to public transportation, do not have cars, do not have the ability to drive, this changes their ability to participate in our election.

I do want to clarify something I said earlier, Senator, with your permission. It is not that State legislators can change the composition of the SEB boards on their own motion. This SEB itself, I did want to clarify that, but writ large, the way these laws are written with preclearance, instead of being able to wholesale remove access to voting locations, these voters would be protected by a process that looks at things like distance, cost of travel, access to transportation, and the ease of voting being either expanded or constricted, and it should always be our intention in the United States to increase access to the right to vote, never to restrict it.

Senator OSSOFF. Thank you, Ms. Abrams.

Mr. Chairman, I request one more minute.

Chair DURBIN. I am sorry?

Senator OSSOFF. I request just one more minute to ask a follow-up question.

Chair DURBIN. Yes.

Senator OSSOFF. Thank you.

Ms. Abrams, the closure of these polling places and the changes of polling locations at the last minute, which anybody who has run for office and anybody who has voted in Georgia knows is common, causes all kinds of confusion, leads people to show up at the wrong precinct, often through no fault of their own. Again, I want to clarify for my colleagues on the other side who have taken a genuine interest in the contents of this new law in Georgia exactly what these changes mean, and I hope that this is clarifying. Under the prior law, voters who showed up at the wrong precinct because of closures or changes could cast a provisional ballot at that precinct. Under the new law, if they arrive before 5 p.m., they are forced to go to a different precinct, to travel in some cases across town, in some of these counties to travel up to an hour to a different precinct in order to cast their vote or risk disenfranchisement.

Ms. Abrams, what does this change in the new Georgia law mean for voters who rely on public transportation to vote or have their kids with them or have a shift that they cannot miss at work?

Ms. ABRAMS. It presumes that people who vote before 5 p.m., that those people have universal access to transportation, to information, and the ability to change their behavior. Let us assume that you get into line at 1 p.m., and you get to the end of the line at 4:58 p.m. only to discover that you have used all the time you have before your 6 o'clock shift to cast your ballot, it would no longer permit you to cast a provisional ballot, which was put in place under HAVA by this very Congress to solve for this problem. Those out-of-precinct provisional ballots would be discarded, and that is inappropriate because these are not people who are making the choice not to do what is right.

During the 2020 and 2021 election, as you know, Fair Fight had volunteers standing in front of polling locations directing people to new locations because they had been given misinformation or not received information, and we know of a number of counties that changed their information. While this new law attempts to address it, we know that the law has not been tested and, thus, we do not know that voters will be protected. To penalize voters before we know the protections necessary for your benefits are in place is anti-American.

Senator OSSOFF. Thank you, Ms. Abrams.

Thank you, Mr. Chairman.

Chair DURBIN. Thank you, Senator Ossoff. Senator Hawley.

Senator HAWLEY. Thank you, Mr. Chairman. Thanks to the witnesses for being here.

Ms. Jones, can I just come to you? We have heard an extraordinary number of lies told about this law from the President of the United States all the way down, certainly including Members of this Committee, including today, and also from an unbelievable assortment of for-profit corporations. This has been one of the most incredible organized campaigns by these mega corporations in American history to try to influence legislation and ultimately to overturn it. Of course, these same corporations are now taking this effort to States across the country, no doubt soon coming to mine, to the State of Missouri, where we have our election integrity measures adopted by our voters and our legislature and also by referendum will soon, I am sure, be in their sights.

Let me just ask you about these lies that have been told over and over. The President of the United States, his big lie that this legislation cutoff the amount of time, closed the polls early, that was a lie. We have heard that water is not made available to people waiting in line. That is a lie. We have seen it told over and over and over.

I want to zero in on the corporations, their unprecedented power. Tell me, why do you think these corporations, so many of them, have been so eager to parrot lies that they know are not true? It is not like they do not have whole teams of lawyers. These are the most powerful corporations in the world. They have entire legal departments at their disposal. Why do you think they have been so eager to lie over and over about this law that your legislature adopted?

Speaker JONES. Thank you, Senator, for the question. You know, I cannot speculate precisely on their motivation, but I can say that if they do have teams of lawyers and people to analyze the bill,

their unjustified outrage is really ridiculous. I believe most of these corporations, if they read the bill and compared our voting laws to most of the rest of the State, they would know, you know, that Georgia has an expansive system of voting. We have made it more expansive. I must clarify, Senator, that Georgians always have had for decades the ability to offer early voting—or not decades. As long as we have had early voting, the hours up to 7 to 7. That continues to be the case.

What we did was counties that offered fewer than 9 to 5 early voting hours, we have required them—134 more counties will offer longer early voting. It has been disappointing to see some—and I will just say it is some in the business community—either not read the bill or feel that they would be punished somehow by some of these enormous nonprofit organizations that have placed a lot of pressure on them.

Senator HAWLEY. Let me just ask you about some of the pressure tactics that these corporations have brought to bear. We have seen in public what they have done. We have seen the statements that they have made and the lies that they have told. Tell me about the companies, what they have been doing in the legislature. I am sure they have teams, fleets of lobbyists, just like they do here in this Capitol.

Speaker JONES. Right.

Senator HAWLEY. What are the sort of tactics that they have used there in the legislature to try to influence, intimidate? I mean, just give us a sense of what has been going on?

Speaker JONES. I will say I have worked closely on the bill and participated in the writing of every word of it, and I can say I was quite surprised by a couple of the companies' outrage given that I never heard from a single one of them. If they had particularly—well, let me also say that by a couple of the chambers of commerce, the very provisions that they wanted retained in law were retained. In fact, we went further by requiring now two Saturdays of early voting; whereas, previously it was only one Saturday of early voting. We expanded the ability for voters for early voting to vote, but yet I honestly, Senator, cannot explain their reaction other than to say they must fear some of these organizations that have an unbelievable amount of money. We have seen about \$10 million spent already in Georgia inaccurately portraying this legislation. As you know, if you say something often enough, however inaccurate it is, there are those that will begin to believe it. So perhaps they have been influenced by that.

Senator HAWLEY. What you are saying is that many of these corporations that are now howling in public and are spreading active disinformation in public and lies, they actually had nothing to say earlier, but now they are out there denouncing the law, calling it "Voter Suppression," calling it "Jim Crow," and when they had the opportunity to actually shape the bill or work on the bill, they did not. They are mounting a public pressure campaign. They are saying they are going to go work in other States. They have changed their tune and are trying to ratchet up the pressure. Have I got that right?

Speaker JONES. I would just clarify by saying that the few provisions, if the chambers of commerce were representing their interest

and they were not communicating with us specifically, we retained those provisions, like 3 weeks of very expansive early voting and, in fact, expanded the number of hours available. We kept no-excuse early voting, which, I am sorry to say, Delaware in particular, the President's State, does not have, and it neither has early voting. We retained the few areas, and I supported that, those provisions.

What I mostly hear is not facts from those who are, to use your word, "Howling" about the bill but, rather, incendiary just propaganda that does not at all align with the facts of the bill.

Senator HAWLEY. Mr. Gardner, let me come just briefly to you and ask you here—thank you, first of all, for being here—and just ask you about a statement you recently released about H.R. 1. You said, and I am quoting you now, "Our State Constitution requires that a voter must be present to vote unless a voter is absent from the town or city or physically disabled. This would also be taken away with H.R. 1. Contrary to our Constitution, H.R. 1 would require no-excuse absentee voting, early voting with multiple election days, and continuing to receive and count ballots after the election."

Just give us a sense of why these provisions that are in your Constitution are so important in your view for election security in your State.

[Pause.]

Secretary GARDNER. I am sorry.

Senator HAWLEY. There you go.

Secretary GARDNER. They are important for New Hampshire because it is what has made our turnout what it has been. It is a combination of the trust in the process and the ease of the process. If you take that away from New Hampshire, then we are not going to have the turnout that we have had over the years. I mentioned earlier that the conventional view that anything that makes voting easier will increase the turnout. Those charts that I provided, you can see the facts. That is just not the case.

Many academics say that Oregon is a State that is the easiest in the country. If everybody is mailed a ballot, they have multiple days, multiple locations, and—but when Oregon went to that process, they have had a lower turnout than New Hampshire seven Presidential elections in a row. Before that, when they did not have it, they were ahead of New Hampshire five Presidential elections in a row. The States are different. The States have—integrity is important. The belief that the process is honest is important. It is a fine balance, and all the States try to attain that fine balance, trying to work with a process that keeps people trusting, because if they lose trust in it, they are not going to bother. If it is not of any value to them, it does not have anything meaningful for them anymore, they stop doing it. We are always striving to reach that sort of mid-ground that people can trust it, but it is also easy. We have had the third highest turnout four Presidential elections in a row based on voting-age population. We were fourth in Presidential elections before that. You can see in the charts that I have given you, you can look at all the States. It works for New Hampshire.

Chairman DURBIN. Thank you, Mr. Gardner.

Secretary GARDNER. If we take away—

Chair DURBIN. Thank you very much for your testimony. We appreciate that. Senator Blumenthal.

Senator BLUMENTHAL. Thanks, Mr. Chairman.

I am intrigued by the argument that corporations should have been sooner in their opposition to these restrictions on voting rights and that their social conscience was overdue or that they needed legions of lawyers to tell them that these restrictions infringed on the franchise and curtailed the voting opportunities of people in Georgia. The fact of the matter is, as has been established irrefutably and powerfully today, these restrictions will impact adversely and enduringly the rights of citizens in Georgia and other States where they are being imposed, and the positions of the corporations really are beside the point. What is important is the effect on voters and their rights.

In *Shelby County*, the Supreme Court tossed out the preclearance provision of Section 5 of the Voting Rights Act, which for decades served to protect communities of color from voter suppression. As the late Justice Ginsburg noted in her dissent, "Throwing out preclearance when it has worked and is continuing to work to stop discriminatory changes is like throwing away your umbrella in a rainstorm because you are not getting wet." What we are seeing in Georgia right now and in other States around the country in those 361 restrictive laws that have been imposed is beyond a rainstorm. It is a tsunami threatening democracy. We are here because of the Supreme Court's decision in *Shelby County* and the current torrent of voter suppression bills.

I think we must act, we should act on the John Lewis Voting Rights Act and the For the People Act, which would work in tandem. Let me ask you, Ms. Ifill, how, in fact, would they combine to protect voting rights in Georgia and other States where they are threatened?

Ms. IFILL. Thank you, Senator Blumenthal. If you look at the core provisions of H.R. 1, particularly those that relate to automatic voter registration, early voting, absentee voting, they go right to the heart of the provisions that we have been spending the morning talking about here in the Georgia bill and in many of the provisions that are being teed up in other States that will restrict access or burden access to the vote.

The Voting Rights Advancement—John Lewis Voting Rights Advancement Act would require that voting changes, that where jurisdictions want to make changes to voting, where they want to consolidate polling places or eliminate polling places, where they want to impose new voter purge regimes, where they want to impose new laws, that those laws first have to go through the scrutiny of a Federal authority.

One aspect of it in H.R. 1 would create a regime that would immediately provide for greater access to voters across the country by expanding registration, early voting, and absentee voting. The other would protect voters against discriminatory voting changes that are proposed by State or local jurisdictions. We need both of those elements to strengthen our voting system and to protect in particular minority voters.

Senator BLUMENTHAL. I think that answer is very, very important because it shows that the effects of *Shelby County* are more

than just changing the location or reducing the number of polling places. It is an effect on the entire system, on access to the ballot box.

I was very critical in the Georgia runoffs when there was—were sweeping attempts to suppress the vote through disinformation and intimidation online, particularly targeting communities of color. In fact, I wrote a letter demanding that Facebook and Twitter take stronger action to fight disinformation in those runoff elections, including fact-checking, labeling, and reducing the spread of information.

I would like to ask both Ms. Abrams and Ms. Ifill, how would you grade Facebook and Twitter for their handling of the spread of disinformation during the Georgia runoff elections?

Ms. IFILL. I will go first, very briefly. I have been in a years-long conversation with Facebook in particular to address the issue of misinformation on the platform. We believe this is yet another form of voter suppression. Facebook is used very much by African Americans, and we have had an ongoing conversation.

What we have asked Facebook to do is simply to apply their own policies. They have policies against misinformation in voting, policies against voter suppression, and we have really pressed them to have a more aggressive and clear internal infrastructure to deal with these matters when they occur.

It was not just in the special election. I recall actually something that really disturbed me—this was not on Facebook; this was on Twitter—when during the counting of ballots in Georgia, after the November election, when the former President was discrediting the process, the license plate of a ballot counter was posted on Twitter by someone who wanted to stop the count and to undermine the legitimacy of the election, something incredibly dangerous to those people who were so bravely just doing their civic duty and counting ballots.

I think there is a long way to go. I think that there were certainly improvements over the last few years on both Facebook and Twitter, but there is still a ways to go to make sure that the platform does not allow for the kind of misinformation and intimidation that we saw in 2020.

Chair DURBIN. Thank you, Senator—

Ms. ABRAMS. I would simply agree with Ms. Ifill.

Chair DURBIN. Thank you very much, Senator Blumenthal.

Senator BLUMENTHAL. Thank you. Thank you, Mr. Chairman. Still a long ways to go. Thank you.

Chair DURBIN. Thank you. Senator Cotton.

Senator COTTON. Ms. Abrams, I want to talk about your role in the decision by Major League Baseball to boycott the State of Georgia and move the All Star Game, at an estimated cost of \$100 million in economic activity and thousands of jobs for Georgia's residents.

On March 8th, when describing the Georgia election law, you called it “Jim Crow in a suit and tie.”

On March 10th, well before the Georgia election law was passed, you registered the website stopjimcrow2.com.

On March 14th, you called the Georgia election bill a “Redux of Jim Crow.”

On March 25th, the bill passed into law.

On March 31st, you wrote an op-ed in USA Today about Georgia's law, and your first two words in that op-ed were, "Boycotts work."

Two days later, on April 2nd, Major League Baseball announced its boycott of Georgia. According to media reports in the days leading up to Major League Baseball's decision to pull the All Star Game from Georgia, you spoke with baseball executives. You described the law as "Jim Crow 2.0," and you urged Major League Baseball to speak out.

After its decision to withdraw the game from Georgia, you conveniently claimed that you had strongly urged them not to boycott after the horse is out of the barn and the damage was already done.

Ms. Abrams, in sum, you publicly attacked the Georgia law as Jim Crow no fewer than ten times before Major League Baseball withdrew the game. You told corporations that boycotts work, and you told corporations that if they do not attack Georgia's law, "I cannot argue with an individual's choice to opt out for their competition."

Ms. Abrams, after all these efforts to smear Georgia as a Jim Crow State, do you regret your central role in causing Major League Baseball to withdraw the All Star Game from Georgia?

Ms. ABRAMS. First, Senator, I would not call Georgia a Jim Crow State. I would say that S.B. 202 is a law that has Jim Crow aspects, and I stand by that characterization because we have, I think to great detail and great effect, explained today why that is so.

Also in line two of that same op-ed, I acknowledged that boycotts work because, as the progeny of those who used boycotts to gain access to the very rights we are fighting to defend, I recognize the utility of boycotts. However, I took a great deal of effort to explain why I do not think a boycott in Georgia at this time is the appropriate remedy. I believe it is important to reserve all civil disobedience rights when you seek to achieve the outcome of justice and access in the United States.

Number three, I would say that my conversations with Major League Baseball were very clear about the fact that I did not think a boycott was necessary. I was very intentional about my language. I continue to be intentional about my language. While I am not the Commissioner of Baseball, I am not the head of a corporation, I am a Georgia citizen, and I have every right and responsibility to speak out against laws that will have an effect on my community. Yes, while I certainly regret the decision that MLB made to remove their game from Cobb County and the economic effect that it will have on Georgians, writ large, I support anyone who will fight to stop this type of bad behavior, this type of racial animus, this type of voter suppression from happening in Georgia or elsewhere in the country, because to me 1 day of games is not worth losing our democracy.

Senator COTTON. Thank you, Ms. Abrams. After you spent weeks condemning your legislature for passing Jim Crow laws and telling corporations boycotts work, I doubt that your words are going to be very comforting to the thousands of Georgians who will lose their

jobs, will have their livelihood affected by Major League Baseball's decision.

I want to turn now to Secretary Bill Gardner. I want to stress again that he has been in office since 1976, longer than three members of this Committee have been alive. Back in the Army, we had a term for grizzled soldiers who had been in combat repeatedly, not just Afghanistan and Iraq, but sometimes Mogadishu or Panama, or I even served with one guy that jumped into Grenada in 1983. They were called "been there and done that." If anyone has been there and done that when it comes to election laws, it is Bill Gardner.

You have repeatedly over decades reviewed election laws. You see what is before the Congress now in the For the People Act with its sweeping reforms. What do you think this Federalization of our State-based election system would do to your elections in New Hampshire, Secretary Gardner?

Secretary GARDNER. Senator, it would be harmful to our elections in New Hampshire. I go back, when the FECA, Federal Election Campaign Act, originally passed and there was a threshold, States that met the threshold were not going to be affected by it. Then within 2 years, States were completely taken out of that. We no longer could control the rules for the election of our U.S. Senators and House Members.

Then we went to the National Voter Registration Act in 1993, and that act, people of New Hampshire, the local officials, wanted voter registration to be an in-person process. The only way to maintain that in-person process was if we became exempt from the National Voter Registration Act. We passed legislation, made it retroactive to the effective date of that act. That was the only way to get exempt so that we could keep our election process the way New Hampshire wanted it. We were sued not by anyone from New Hampshire, because both parties were agreeable then, but from some organization in New York City. We ended up the Federal Government gave an exemption to us so that we no longer had to comply with NVRA. That has made all the difference.

If you look at the chart, you can see what happened in New Hampshire starting in 1996, the first time a Presidential election happened after the National Voter Registration Act. New Hampshire from that point on has been at the top of the country because we do not allow people to register by mail unless they are absent, they are out of town or out of the city, or they are disabled. We have our rules that we have applied all these years, and you can see what it has resulted in. Four Presidential elections in a row, third highest in the country. The one before that, five, we were fourth in the country. You can go back. You can see from those charts.

Then we went to the Help America Vote Act. We became exempt from parts of NVRA because—because we were exempt from NVRA, we did not have to comply with the Help America Vote Act. We do not have provisional ballots in New Hampshire. We are one of four States in the country that does not have provisional ballots.

We have gone our way that has worked for the people of New Hampshire. The proof is in the pudding, the turnout. It is the same with this. They want to—you know, if you were to pass this, you

are completely taking away a process that has developed in New Hampshire for many, many years, works in the State. Why would you want to do it when the turnout is as high as it is? You know, listening to all this, it is a pretty sad story in a way, because you have the State of Georgia. There is a New England State, Rhode Island, that actually had a lower turnout in 2020 than Georgia. States have different ways of doing it that work. That is why I said at the beginning I do not want Texas to have to be like New Hampshire or Arkansas or California. Why should we be made to be like California, in particular, or other States?

We have a way of doing it that works for the people of New Hampshire. The turnout is the proof that it works, and this kind of Federal legislation is harmful for our way of voting. I—

Chair DURBIN. Thank you, Mr. Gardner. I appreciate your testimony.

Senator COTTON. Thank you, Mr. Secretary.

Chair DURBIN. Senator Booker.

Senator BOOKER. Thank you, Mr. Chairman.

Stacey Abrams, I would like to direct some questions to you really quick. I just wanted you to continue to specify the difference between absentee ballot IDs and in-person voter participation. I think there are things that have been muddled in that, and I would really appreciate it if you gave again some clarification why the Georgia laws are limiting particular voters' access.

Ms. ABRAMS. If you think about—thank you, Mr. Senator. When you address the issue of voter identification when you are walking into a polling place, you are demonstrating who you are for the purposes of receiving a ballot, but you are not asked to surrender that proof. You are not asked to give it to a poll worker who will then be able to retain it in perpetuity. You show it to prove who you are, and then you proceed to the voting booth.

Georgia for 15 years had a similar situation with regards to voting by mail, but instead of requiring you to put identification in an envelope that would be clearly marked for anyone seeking to steal your identity, instead said you could use a signature verification process. We took exception to some provisions of the signature identification process after 2018, and in 2019 and 2020, those changes were made to make it more equitable and fair for all participants.

That was a change that was necessary, and it worked. In fact, it worked so effectively, we saw more people successfully participating in voting by mail. To now change it to an identification process where you have to surrender your identification, you have to surrender it in an envelope that is clearly marked for anyone seeking to steal your identity, that they could open that envelope and get signifying information about you, either a photocopy of your information or distinctive numbers that will allow them to steal your identity, is absolutely troublesome and should be deeply fear—should create deep fear in any person considering this. It is not an apples-to-apples comparison. There is no other form where we say that these pieces of information will sit in a box or sit in an office for no—there is no provision for how long and who can have access to it. It is a very real difference with an absolute distinction that can cause harm to voters.

In addition, signature mismatch allows for those thousands of voters who admittedly do not have the requisite identification to submit. It gave them an alternative process to use, and it has worked for 15 years. There is nothing that occurred in 2020 and 2021 to discredit that process except that it finally worked for most voters and, in particular, voters of color for the first time in Georgia's history successfully used it to actually help change the outcome of an election.

My challenge is not with whether it is a Democratic victory or a Republican victory. It is that it is a harm to voters and disproportionately will harm voters of color who are the most likely to lack the identification. We should also be deeply concerned about disabled voters and older voters who are now going to have to sacrifice their personal private information in order to participate in elections, and that should be deeply concerning to every American.

Senator BOOKER. Thank you, Ms. Abrams.

Really quickly to Sherrilyn Ifill, just in terms of the landscape of our Nation on voter ID laws and with regard to challenges to voters, how does the Georgia bill fit into that? Can you give us in my final 1 minute and 20 seconds just a vision of what the landscape looks like and why this is so concerning in terms of the changes we are seeing and the effect they are going to have on the right for franchise?

Ms. IFILL. Thank you, Senator Booker. I think people do confuse this idea of ID as though we are talking about all one thing. First of all, Georgia is now one of only four States that requires this photo ID for absentee voting. Yes, many States require voter ID, but not all States require Government-issued photo ID. There are 12 States that require ID, but it is a non-photo ID. It can be a utility bill. It can be other forms of identification that connect you to your address.

There are some States that require no ID to vote unless you are voting for the first time, and those include Maryland and Massachusetts, Minnesota, Pennsylvania, Vermont, West Virginia. Then, of course, there are the vote-by-mail States, Oregon and Washington.

It is really important to understand that when people talk about whether you are for or against ID, there is ID and there is ID. The question is: Are you requiring people to have the kind of onerous ID that you have to get by going to the Motor Vehicle Bureau, even if the ID is free, you have to pay sometimes to get your birth certificate because you may not have it. You have to travel to a Motor Vehicle Bureau. In the 21 contiguous counties in the Black Belt in Georgia, the Motor Vehicle offices are only open 2 days a week, some only open 1 day a week.

That is really the concern about the ID. It is the kind of ID that is required, and we should not presume that all States that require photo ID require Government-issued photo ID. They require some form of ID to connect you with your address.

Senator BOOKER. Thank you.

Mr. Chairman, I will not encroach upon the time and yield to the great, kind, gregarious, wise Senator from Louisiana.

Chair DURBIN. I think I am going to call on Senator Kennedy instead. Senator Kennedy.

[Laughter.]

Senator KENNEDY. Thank you, Senator Booker. You are a fine American, sir.

Ms. Abrams—can you hear me? I do not know where to look. I hate these Zoom hearings.

Ms. ABRAMS. Yes, sir.

Senator KENNEDY. In terms of voter confidence in our electoral system and perception of voter integrity and voter—and election—let me start over. I am sorry.

In terms of the confidence that Americans have in their electoral system, do you think we are better off having an election day or an election month?

Ms. ABRAMS. I think we are better off having a process that allows every single American the opportunity to participate in elections, and given that the initial notion of an election day was based on an agrarian economy that no longer exists for millions of Americans, and given the fact that we have a number of Americans who are limited in their access because in States like Georgia there is no paid time off for voting, I think we have to make every opportunity to make voting accessible to every American.

There is no other—

Senator KENNEDY. Let me stop you because I have got—Ms. Abrams, I have got a bunch of questions before you get off the subject and get me off. You are okay with us not knowing, say, weeks or months after an election who the winner is?

Ms. ABRAMS. Yes.

Senator KENNEDY. Okay. Can you tell me—

Ms. ABRAMS. We have had times in this country where we have not—

Senator KENNEDY. Talking about the Georgia bill, help me understand, and I am not interested in a 30,000-foot view. That is not meant to be a criticism. I am speaking to myself, I guess. I am not interested in platitudes. Tell me—you are against the Georgia bill, I gather. Is that right?

Ms. ABRAMS. I am against certain provisions of it, yes.

Senator KENNEDY. Okay, and I think you have called it a “Racist Bill.” Am I right?

Ms. ABRAMS. I think there are provisions of it that are racist, yes.

Senator KENNEDY. Okay. Tell me specifically, just give me a list of the provisions that you object to.

Ms. ABRAMS. I object to the provisions that remove access to the right to vote, that shorten the Federal runoff period from 9 weeks to 4 weeks, that restrict the time that a voter can request and return an absentee ballot application, that eliminate—

Senator KENNEDY. Slow down for me because our audio is not real good here.

Ms. ABRAMS. Certainly.

Senator KENNEDY. Could you start over for me?

Ms. ABRAMS. Certainly.

Senator KENNEDY. Thank you, ma’am.

Ms. ABRAMS. It shortens the Federal runoff period from 9 weeks to 4 weeks.

Senator KENNEDY. Okay.

Ms. ABRAMS. It restricts the time a voter can request and return an absentee ballot application.

Senator KENNEDY. Right.

Ms. ABRAMS. It requires the voter has a photo identification or some other form of identification that they are willing to surrender in order to participate in the absentee ballot process.

Senator KENNEDY. If I could stop you, that is where they are going to—not comparing signatures, but to voter ID?

Ms. ABRAMS. Yes, and as Ms. Ifill has pointed out, we would become only the fourth State in the Nation to require voters to put at risk their identity—

Senator KENNEDY. What else? What else?

Ms. ABRAMS. It eliminates over 300 hours of dropbox availability.

Senator KENNEDY. Okay. What else?

Ms. ABRAMS. It bans nearly all out-of-precinct votes.

Senator KENNEDY. Bans what? I am sorry.

Ms. ABRAMS. It bans nearly all out-of-precinct votes.

Senator KENNEDY. Okay.

Ms. ABRAMS. Meaning that if you get to a precinct and you are in line for 4 hours and you get to the end of the line and you are not there between 5 and 7 p.m.—

Senator KENNEDY. Okay. What else?

Ms. ABRAMS [continuing]. You have to start all over again.

Senator KENNEDY. Is that everything?

Ms. ABRAMS. No, it is not. No, sir. It restricts the hours of operation because it is now under the guise of setting a standardized timeline. It makes it optional for counties that may be—may not want to see expanded access to the right to vote. They can now limit their hours. Instead of those hours being from 7 to 7, they are now from 9 to 5, which may have an effect on voters who cannot vote during business hours during early voting. It limits the hours—

Senator KENNEDY. Okay. I get the idea. I get the idea.

Ms. ABRAMS. Yes.

Senator KENNEDY. Let me ask you—let me approach this another way. If a State decides to require a voter to prove who the voter says he is or she is, do you consider that racist?

Ms. ABRAMS. Not at all, sir. Voter identification has been a part of the American theory of democracy almost from the beginning. I support—

Senator KENNEDY. You are okay with it?

Ms. ABRAMS. I support voter identification, yes.

Senator KENNEDY. Okay. How about ballot harvesting? I heard earlier you were talking about letting the Tribal elders collect ballots. I am not talking about that. I am talking about where the parties—and, believe me, both parties will do it and probably are doing it—pay operatives to go out and help people with their ballots and collect their ballots. Are you okay with that, or are you against that?

Ms. ABRAMS. I do not think it is an either/or situation. I think it depends on what the conditions are, what the rules are. Making it easier for those who want to participate in elections to do so safely and securely I think is—

Senator KENNEDY. You are okay with ballot harvesting?

Ms. ABRAMS. No, sir, I did not say that. I said—because that is a term of art that encompasses a wide range of behaviors, and—

Senator KENNEDY. I am sorry, but I am trying to get down from the platitudes and understand what you are for and against.

Ms. ABRAMS. Sir, what I am for—

Senator KENNEDY. Help me with this. Let us suppose that the Republican Party wanted to hire people to go out and knock on doors of voters and say, “Have you voted yet with your mail ballot?” They say, “No.” Then the operatives are told to contact the voter and say, “Let me help you with your ballot if you have any questions. I can even suggest who you might want to vote for. After you vote, I will collect the ballot for you and you make it easy.” Is that okay?

Ms. ABRAMS. Sir, I am both an attorney and a former legislator, and it is not simply the words that you are saying—

Senator KENNEDY. I am an attorney and a current legislator, and I might want to trade places with you. But keep going.

Ms. ABRAMS. My point is, as you and I both know, the context, the rules, and the structure matters. In the very narrow circumstance that you have just described, if there are no controls and it turns into buying votes, of course I object to that.

Senator KENNEDY. Okay.

Ms. ABRAMS. If you look at the piecemeal components that you are describing and if we are talking about how do we make it easier for voters to participate in elections, I am not certain what that looks like. What you described in the very specific and narrow construct, it sounds like you are in violation of a number of different rules, not the least of which is buying a vote.

Senator KENNEDY. All right. Let me ask you one last question. Our Chairman has really indulged me here. Do you think it was a smart thing for President Biden to do when he called everybody who supported the Georgia bill a “Racist”?

Ms. ABRAMS. I think that this bill is grounded in racial animus. I think that the language that we are using to describe—

Senator KENNEDY. Can I ask you how you know that, Madam? I mean, it is an honest question. How do you know that?

Ms. ABRAMS. Because for 15 years the Republican Party of Georgia not only sanctioned but celebrated its vote-by-mail provisions. It was only after voters of color for the first time in 15 years successfully used those provisions in favor of the party that they disproportionately support that those rules changed. It is that for years, for more than nearly two decades, we had early voting hours that supported voters that were perfectly fine. It was only after communities of color used those provisions—

Senator KENNEDY. Why doesn't that hurt Black and white people and brown people? This is what I am—

Ms. ABRAMS. I think it hurts everyone. If you have watched me, I have fought for the right to vote for every person. No one is entitled to a victory.

Senator KENNEDY. That is a long way from the President calling people a “Racist” because they support a State bill.

Ms. ABRAMS. Sir, I am responding to the question you asked me. My point is that when your motivation is grounded in the race of those who are engaging in behaviors that you disagree with, that

is racist, particularly when it is targeted at communities of color by people in power.

Senator KENNEDY. I agree with that. I agree with that. I agree with that. The Chairman has gaveled me. I just need to ask, how do you know that is what they meant?

Ms. ABRAMS. Because we asked them not to do it because we showed them what the effect was, and they refused to answer, and they refused to abide. I worked with these people for 11 years. I do not believe that every single person who supported this bill has deep racial animus in their hearts for all purposes. For the purpose of the voting rights, when racial animus is your predicate, then, yes, you should be held accountable, and those bills should be stopped.

Senator KENNEDY. Thank you. I am sorry I went over, Mr. Chairman.

Chair DURBIN. Thank you, Senator Kennedy. Senator Padilla.

Senator KENNEDY. I am sorry, Senator.

Senator PADILLA. Thank you, Mr. Chair. I would invite my colleague, any colleague actually who would like to discuss the intricacies of election administration, I am more than happy to do so, having served as a chief elections officer for not just the most populous State in the Nation for the past 6 years but home to the largest, most diverse, and inclusive democracy of any State in the Nation, even if it takes some alligator sausage and California wine to bring us together.

Speaking of, Mr. Chair, I feel in many ways this hearing is a continuation of the quality conversation that was begun by the Rules Committee prior to the most recent State work period, of which I am a member, as is Majority Leader Schumer, Minority Leader McConnell, and other leaders on this topic. I raise that because in that hearing, some of our Republican colleagues raised the frame of working to make it easier to vote but harder to cheat, as if it is some sort of mantra or guiding value. There was a reference that that law was inspired by partisan action on election reforms after the 2000 Presidential administration. I have seen and heard firsthand a lot of Republican Secretaries of State in recent years use that mantra, easier to vote and harder to cheat, and some might attach a helpful prism, because it seems like we have done a heck of a great job on the second part, the harder to cheat. Study after study, report after report, investigation after investigation continues to document that voter fraud in America is exceedingly rare.

The easier to vote part still requires a lot of work, and I thank you, Mr. Chair, for prioritizing this topic for a hearing in this Committee today and I hope action by Congress in the very near future. The easier to vote part requires a lot of work. I will tell you what the signs are that we have a lot of work to do: the long, long lines that we see in multiple States on general election night; the movement in some States for fewer days or fewer hours or fewer locations to vote as time goes on; the shame in some States where we can debate the value added of a voter ID law, but when these laws are written in such a way that a concealed weapons permit allows you to get into the voting booth, but a State-issued State university ID does not, we know there is an agenda behind the impact of these laws, and on and on and on.

I tell you what does help: amplifying, increasing the opportunity to vote by mail for eligible voters, as was done in New Hampshire, which was a big part of their increase in participation in 2020. I can assure you it was a big part of California's record turnout in 2020 as well, offering eligible voters more days, more hours, more flexibility of where to vote in person if that is their choice. The acceptance of more vote-by-mail ballots that are postmarked on or before election day, even if they arrive after the election; the implementation of post-election audits to continue to buttress election integrity, et cetera, et cetera.

Mr. Chair, we have the playbook on how to strengthen our democracy, maintaining the security and integrity of our elections, while facilitating more participation. Sadly, the term "Voter Fraud," the potential for voter fraud, is used as a pretext to do the opposite.

Several of our colleagues have also referenced how 2020 was an election year that saw record registration in most parts of the country, probably nationally as a whole, record turnout in many, many States across the country nationally as a whole. Why are the proposals making their way through Congress necessary?

You have to ask the same question when we see the—as of March 24th, as of March 24th, 361 bills introduced in 47 States that would restrict opportunities to vote in our election. I know some of our colleagues have said, "Well, just because they are introduced does not mean these measures are going to see the light of day." Five have already been enacted; 29 have been passed by at least one Chamber, and more still under consideration.

Mr. Chair, that is a long preamble in the lead-up to my main question for our witnesses here, and I begin with saying what more people should recognize, and that is that voter suppression is rooted in white supremacy.

During the Jim Crow era, we know that racially targeted and racially motivated voter suppression was often blatant. Legislatures adopted overtly racist policies like literacy tests and poll taxes in an effort to shape the electorate. Today's voter suppression playbook is still rooted in white supremacy and motivated by the same factors as their Jim Crow predecessors, but it looks different. Overtly racist policies have been replaced by facially neutral ones like mandated in-person voting requirements, the de-commissioning of polling sites and manipulated discriminatory photo ID laws, as I have mentioned. Just because these new voter suppression tactics are facially neutral, it can be harder for people to recognize and understand the pernicious effects.

My question for Ms. Ifill, Ms. Abrams, and Professor Anderson is simply: Can you explain, can you share how these seemingly race-neutral policies nonetheless have disproportionate racial impacts?

Ms. IFILL. If I might begin, Senator Padilla, and thank you, let us talk about a provision that we have not talked about today, which is that this law, S.B. 202, provides for unlimited challenges to the legitimacy of voters. I am sure many people are aware that there are organizations who make it their business to challenge voters, to determine whether a voter, in fact, should have been able to cast a vote, organizations like True the Vote. There were 360,000

challenges after the November election in Georgia, and the Georgia Secretary of State found that there were no substantial findings that supported any widespread voter fraud through those challenges.

If that was the case, if 360,000 challenges failed to produce anything significant, why does S.B. 202 now provide that anyone can make unlimited challenges to the legitimacy of voters? This is a form of voter intimidation that can often be used to target Black and Latino voters, to target voters who are from immigrant communities. What is the predicate? What is the underlying basis for that provision of the law? Why create this untrammelled system in which anyone can engage in these unlimited challenges to voters?

We know that this will disproportionately be targeted at communities of color, and yet it is in S.B. 202. It is not connected to any evidence or predicate that it is necessary. It is not narrowly tailored. It is not designed to actually get at voter fraud. It is actually designed to create an unlimited system of voter intimidation that will be targeted at Black and brown voters.

Senator PADILLA. Ms. Abrams.

Ms. ABRAMS. I would only add that we know that of those 364,000 challenges, one of the provisions that are included in this is that the counties that were able to legally dismiss these challenges for lack of evidence and lack of basis are now going to be penalized by the State if they do not engage in sham hearings that can serve to not only terrify voters, but often push them out of the process because they are unaware of how these processes work, and they could be terrified that if they participate, it could somehow imperil their ability to participate in work or otherwise.

As Ms. Ifill pointed out, this is just one more example, in addition to the number that we have given earlier, that demonstrates just how difficult it is to behave with integrity when you are being attacked with impunity by those who use racial animus and your mere presence as a threat to democracy. I would actually like to cede the rest of this to Dr. Anderson, who I think most ably can connect the dots between Jim Crow before and Jim Crow 2.0.

Professor ANDERSON. Thank you so much, and thank you, Senator Padilla, for your question. The challenges that Ms. Ifill has described were in these Jim Crow Constitutions, such as the one in North Carolina, that allowed any voter, anybody to go up and challenge the veracity, the validity, the legitimacy of a voter. That was intimidation. That kind of engagement, that kind of harassment is what we see replicated in this bill.

I would also say that one of the things that we see is the limitation of dropboxes. The dropboxes were really designed to deal with the pandemic and designed to deal with the fact that the post office was being deliberately undercut in terms of its ability to deliver absentee ballots in a timely fashion. The rise of dropboxes provided access to voters to be able to engage in this election process.

What we saw—What we see with S.B. 202, however, is elimination—in Atlanta, where the majority of Black voters are, you see that we go from 94 dropboxes to 23. Those dropboxes are now to be housed inside, in buildings that can be closed. This is how you can limit access to the ballot box while writing race-neutral laws. These are not race-neutral. They are not as race-neutral as the poll

tax was or as the literacy test was. Neither of those said, “We do not want Black folks to vote,” but that was the underlying premise behind them, as Big Chief Vardaman made very clear, and that is what we are seeing right now with these voter suppression laws. It is in response to the massive wave of Black voter turnout that happened at the 2020 and 2021 elections.

Chair DURBIN. Thank you, Senator Padilla.

Senator PADILLA. Thank you, Mr. Chair.

Chair DURBIN. Senator Tillis.

Senator TILLIS. Thank you, Mr. Chair. Thanks to the witnesses for being here.

Speaker Pro Tem Jones, thank you for your leadership in the Georgia Legislature. I know a little bit about Georgia. Both my kids were born there. I lived in Atlanta. I have got a lot of family down in south Georgia.

Over the past several weeks, I have heard a number of reports; I have also heard several comments today. It seems to me that we are not properly characterizing many of the aspects of Senate bill 202. What would you consider to be some of the more blatant mischaracterizations that you have heard today or that you have heard reported in the press?

Speaker JONES. Thank you, Senator Tillis. It would take me quite a while to go through the ones today, but I will just go through a few of the most recent ones. No ID is surrendered to vote absentee. The exact same voter ID requirements that are in law and have been in law to vote in person are now simply going to apply to absentee voting.

Senator TILLIS. Ms. Jones, if I may, how does that work? You know, if you go to a poll location, they ask for an ID. You have a Government-issued ID or I guess other acceptable forms of identification. How does that mechanically work in an absentee process? Are they copied and submitted with the ballot? How does that work?

Speaker JONES. No, sir, if one has a pen, a ballpoint ink pen and you can take the number on your driver’s license or the number on your free voter ID, or I might add, I would like to clarify, someone said a utility bill could not be used. You could use any one—if you do not have one of those two, which 97 percent of Georgians do, you can submit a copy of a utility bill, for example, one of the federally allowed forms of ID. This is not a hardship, and—

Senator TILLIS. Ms. Jones, I just want to be clear, because I have got a lot of other questions I want to ask you.

Speaker JONES. Okay.

Senator TILLIS. When we hear people talking about an unreasonable requirement—in North Carolina, I think our driver’s license number is somewhere around eight or ten digits. You are saying provided that you have a writing instrument and you can write down 10 or 12 digits—let us say yours is a little bit longer—then you have satisfied the ID requirement on the absentee ballot?

Speaker JONES. Yes, sir, that is true.

Senator TILLIS. Okay. People said that—I think it was Ms. Abrams that said she focused on the 9 to 5 window for voting. It sounds to me like in the law that was more or less established as

a floor and that you provided the options for local boards of elections to do 12 hours, 7 to 7 voting. Is that correct?

Speaker JONES. That is correct. We had 134 States that offered fewer hours than 9 to 5, and so it is expanding the number of hours available for early voting in most counties.

Senator TILLIS. How about the assertion that was mentioned by one of the other witnesses—I cannot recall who it was—that said that providing water to your elderly parents or grandparents could get you in jail? Is that a part of this bill?

Speaker JONES. No, sir. The—Just as has been in long-time current law and is in most States and probably your State, there is a protected distance that was, frankly, being gamed and manipulated during the last two election cycles by activists and candidates handing out items of value, sometimes with their logo on it, and this simply puts—

Senator TILLIS. Right. It is another mischaracterization.

Speaker JONES. It clarifies—

Senator TILLIS. That is what I mean. All this stuff is mischaracterization. You know, I cannot—

Speaker JONES. That is right. This is mischaracterized.

Senator TILLIS. I think it is important to point out that in Georgia you have just under 4 weeks of early voting. Is that correct?

Speaker JONES. We have 3 weeks of early voting, which is quite expansive.

Senator TILLIS. Okay. That includes a Saturday and Sunday option? Is that correct?

Speaker JONES. It includes—it mandates two Saturdays in Senate Bill 202. Previously only one Saturday—

Senator TILLIS. The option for Sunday voting.

Speaker JONES. Two Sundays are absolutely available.

Senator TILLIS. Are there provisions—

Speaker JONES. May I just say, Senator, only 16 counties utilized Sunday voting in 2020. All 159 counties are able to utilize it if they so choose.

Senator TILLIS. Is the provision for dropboxes driven more by the logistics of where you can secure the dropbox to prevent tampering? The prior witness said you went—

Speaker JONES. Yes, sir.

Senator TILLIS [continuing]. From 90 to 24 in the Atlanta-Fulton County area. Was that just based on your best judgment—

Speaker JONES. The numbers are somewhat—

Senator TILLIS [continuing]. Of where you could have secure dropboxes?

Speaker JONES [continuing]. Different from that. I live in Fulton County. There would be sufficient dropboxes. We never had dropboxes before 2020.

Senator TILLIS. Yes.

Speaker JONES. They were purely put in place by the State Elections Board out of social distancing concerns. I certainly am optimistic we will not have social distancing concerns at the time of the next general election, but should we have them, the law also allows for the State Elections Board to take them back to the way they were during the pandemic, which was outside of early voting locations. For security reasons, we had dropboxes that were over-

flowing because they were not monitored. No one was watching the camera on them. This will make sure that every vote counts.

Senator TILLIS. That seems rational.

Mr. Chair, I have to associate myself with Senator Lee's comment. You know, this has been a contentious hearing, and these sorts of hearings can be. This Committee rightly has members with our differences on it. I really believe that we need to start getting the facts on some of the voting laws. I do not think setting the premise with Jim Crow 2021 is a particularly productive way to get people to talk about States like Delaware that is only currently implementing early voting. States like North Carolina, we were the first to cast ballots in the last election cycle. You could start casting your absentee ballot in September. We do allow for weekend voting. We have a lot of early voting sites. Yet when I was Speaker of the House and the gentleman that went behind me had had those bills even by members of this Committee being Jim Crow bills. The fact of the matter is we have had increased participation among the African American demographic and the minority demographic.

There does seem to be a number of States that I am sure we will never have a hearing on here. I think Ms. Abrams even said they are behind the eight ball. I think they are right. I think if we had some of the restrictions that we see in other States in Southern States, then we would be probably rightfully insulted. And yet they get a pass.

I hope that the people of Georgia and that the American people will get past some of the misinformation. The 361 bills has been referred to repeatedly in this hearing. If you look at it, I for one think cleansing voter rolls to prevent dead people from voting is not a bad idea. If you start decomposing it, the record is going to be open. I am going to provide something without objection that really breaks down these bills to say maybe some are going outside of the lanes, but not 361. These are games that are being played.

I have got an article here that, without objection, I would like to submit to where fundraising on aspects of the Georgia bill that never made its way into law—I do not even know if there was a serious amendment ever considered.

[The article appears as a submission for the record.]

Senator TILLIS. It looks like a lot of people are creating a lot of noise at the expense of identifying legitimate areas where we feel like voters do not have the right to vote. I believe in North Carolina characterizing my laws, a law that I ratified, a law that was passed by an almost 70 percent vote in a majority Democrat State—in fact, Republicans are third behind unaffiliateds. Almost 70 percent supporting voter ID laws and integrity laws. I think that the Georgia law has more to do with election integrity than voter suppression, and I hope that we can get to a point to find the real offenders, weed them out, but not necessarily have these circular discussions where I am sure fundraising emails will go out and people will be talking about protecting voter integrity, but they are not getting anything done.

Speaker Pro Tem Jones and the rest of the witnesses, thank you for being here today.

Thank you, Mr. Chair.

Speaker JONES. Thank you.

Chair DURBIN. Thank you, Senator. Thanks to everyone for participating in this. Yes, “Jim Crow 2021” is a provocative title. It certainly raised the interest level in this Committee. The participation today is an indication of that. I think this is a serious issue. I am glad that Professor Anderson was with us. Though she may not have had as many questions as others, she put it in a historic context. There was a time in our history when people were boldly stating what their intentions were with efforts at voter suppression. Not so often now. Yet we have to be honest and take a hard look—Senator Tillis stepped out—measures like a North Carolina law that required strict voter ID and limited early voting, which a Federal court found, and I quote, “Targeted African Americans with almost surgical precision” and determined that the State legislature “Enacted the law with discriminatory intent.” That is not from the 19th century nor even the 20th century. It is modern times.

Measures like a Texas law implemented mere hours after the *Shelby County* decision, a law that was ultimately determined to violate the U.S. Constitution by a Federal court because it wrongfully discriminated against the State’s Black and Latino voters.

Here is what troubled me, and I tried to say it at the outset. It appeared that the people who ran the elections in Georgia in 2020 were willing to stand up to the President of the United States when he personally called Secretary of State Raffensperger and in a veiled threat suggested he might be guilty of a crime if he did not set out to find the votes necessary to make Donald Trump the winner in Georgia. He resisted that effort.

I respected him very much for it. I think it took a lot of fortitude on his part, particularly as an elected Republican. I understand he was criticized by many Republicans in Georgia, many of the same Republicans who then went into legislative session and passed this bill and in the process stripped him of authority which he had before. He paid a price for standing up and saying that.

The troubling thing that has never been answered, asked over and over and never answered: What was the incidence of voter fraud in Georgia that caused that legislature to come in and change so many versions of the voting law after 2020 and after the special election in 2021? There was not any instance of voter fraud.

The Senator from North Carolina raised the question of dead people voting. How often does that occur? President Donald Trump said to Raffensperger, “We think there are 5,000 dead people who voted on the rolls in 2020.” Raffensperger’s reply: “There were two, Mr. President. They were wrong. They never should have done it.” Two out of nearly 5 million votes. It defies logic to think that we are in a position now where we are changing the laws of a State after it has produced record turnouts and after there is so little fraud and still the efforts are being made to make a substantial change.

Do I understand Senator Blackburn is online?

Senator BLACKBURN. Yes, Mr. Chairman. I had to leave the hearing and come back. So, yes, I am available now.

Chair DURBIN. Senator, we were just concluding the hearing, but I want to give you your chance, so take your 5 minutes, please.

Senator BLACKBURN. Thank you. I appreciate that.

I want to say thank you to our witnesses because they have been incredibly patient with us today, because this is such an important hearing from us. I am one of those that served on an election commission before I was in elective office. I did that in my county. I know how incredibly important it is to make it possible for everyone to vote.

Mr. Gardner, I appreciated your comments on how your focus is on making it easy for people to vote while still making those votes safe. I believe everybody should have their opportunity to vote.

I have a pickup truck, and for about 25 years, the license plate on that pickup truck said, "Vote," because it was a way for me to send that message to everybody registered to vote.

I will say it has been a little bit distressing to me today listening to this hearing—I got into the room for a few minutes—to hear the premise of this hearing as if there is some assault on the right to vote in this country. We know that we have had record voter turnout, and my colleagues across the aisle know that we have had record voter turnout in recent years. This is—to say that it is Jim Crow laws, in my opinion, that is not a valid premise. I find it unfortunate that there are some who have continued to push that and push it on the State of Georgia.

I think we have to look at the lead-up to this and the things that have been said. Look at the Washington Post and their comments about President Biden when he falsely claimed that Georgia's recent voting reform law, and I am quoting, "Ends voting hours early so working people cannot cast their vote after their shift is over."

President Biden went on to describe Georgia's election law as "Jim Crow in the 21st century," which appears to be the inspiration for this hearing. The problem is, as we have discussed several times, the Washington Post gave President Biden's remarks on this issue four Pinocchios. In other words, they say that was a lie.

"One of the biggest changes in the bill would expand early voting access for most counties." That is the Georgia Public Radio report on the Georgia voting laws.

"For most counties you will have an extra weekend day, and your weekday early voting hours will likely be longer." In actuality, the Georgia voting law that President Biden claimed ended early voting actually did the exact opposite. It expanded these voting opportunities.

Unfortunately, President Biden's repeating of the lie had rapid real-world consequences. You look at this with Major League Baseball. This repeated lie caused the All Star Game in Atlanta to die. I would have loved to have asked Senator Warnock, and probably will, how he will answer to his constituents for the loss of that game.

Ms. Abrams, I do have a question that I wanted to come to you on. When you have heard the comments, the repeated falsehood from the President that this is something that would hamper voting rights and the comments about the Georgia law, does this hurt or help your cause for access for voting to more individuals?

Ms. ABRAMS. With all due respect, Senator, to the Washington Post, I actually disagree with their characterization. For early in-person voting, 78 percent of counties already had more than the 8 hours of early voting. What S.B. 202 did was codify 9 to 5:00—

Senator BLACKBURN. I do not mean to interrupt, but thank you, thank you for that, because I do have another question I want to go to Ms. Jones on. As I mentioned, I have served on a voter—an election commission, and my question for Representative Jones is about the voter rolls and the updating of the voter rolls.

We took this as a very serious responsibility and worked hard at updating voter rolls. When you talk about the legislation that is being pushed, they would disallow counties to update their rolls. Therefore, mail-out ballots would go to people, as we saw in 2020, that no longer live in an area or people, individuals, that are deceased. People saw hundreds of these on social media.

Talk with me about how this process of going through and cleaning up these rolls adds and underpins the accuracy and the integrity in the elections.

Speaker JONES. Thank you, Senator. It is incredibly important to have—so that you can have integrity in elections that the voter rolls are not only cleaned up, but that there is also some security on the back end, because we did have voters receive multiple absentee ballot requests for previous occupants of their home or their apartment. That is why we also put the reasonable requirement in absentee ballots that they list their driver's license number or their free voter ID, and there are other provisions if they do not—if they are one of the 2 or 3 percent of Georgians who do not have that. The two go together so that every—we want every voter to cast a vote, and we want every legitimate vote to count.

Senator BLACKBURN. That is imperative in preserving the one-person, one-vote rule, is making certain that the rolls are correct so that only people who currently live in an area are able to vote in that State or in that county for those elections, so that you eliminate a lot of the voter fraud.

Voter laws should make the elections more secure, and they should make it more difficult to cheat. That is how we preserve the integrity in the election system. Everyone entitled to vote should be able to vote.

Secretary Gardner, I do have a question. I am going to submit—

Chair DURBIN. Senator, if you could—Senator—

Senator BLACKBURN [continuing]. this to you. I am going to submit—yes, sir?

Chair DURBIN. I am sorry.

Senator BLACKBURN. I am going to submit my question to Secretary Gardner because you have been generous with your time, and the hearing has run very long.

Senator BLACKBURN. Mr. Chairman, thank you for letting me get a couple of questions in.

Chair DURBIN. Thank you, Senator Blackburn, and Mr. Gardner will receive the question. I hope anyone who does receive a question our witnesses will respond in a timely fashion.

I want to thank the witnesses. This has been a 4-hour hearing, which is unusual in the Senate Judiciary Committee and is evidence of the interest in this issue, as we expected. It is clear that we have work to do. The question is whether we will do something in a bipartisan way to restore the Voting Rights Act. We have been

disappointed in recent years that the bipartisanship is gone. Perhaps, as hope springs eternal, we can rekindle it.

I want to thank everyone for participating, and I hope that moving forward we can stand together in defense of our democracy. I want to explore with others in this Congress how we can do our part to protect the most fundamental right as Americans.

This hearing will stand adjourned.

[Whereupon, at 2:01 p.m., the Committee was adjourned.]

[Additional material submitted for the record follows.]

Witness List
Hearing before the
Senate Committee on the Judiciary

“Jim Crow 2021: The Latest Assault on the Right to Vote”

Tuesday, April 20, 2021
Hart Senate Office Building Room 216
10:00 a.m.

Panel I

The Honorable Raphael Warnock
United States Senator
State of Georgia
Washington, D.C.

The Honorable Burgess Owens
United States Representative
State of Utah - 4th District
Washington D.C.

Panel II

The Honorable Stacey Abrams
Founder
Fair Fight Action
Atlanta, GA

Sherrilyn Ifill
President and Director-Counsel
NAACP Legal Defense and Educational Fund, Inc.
Washington, D.C.

Carol Anderson, Ph.D.
Charles Howard Candler Professor of African American Studies and Chair of African American
Studies
Emory University
Atlanta, GA

The Honorable Bill Gardner
Secretary of State
State of New Hampshire
Manchester, NH

The Honorable Jan Jones
Speaker Pro Tempore
Georgia House of Representatives
Milton, GA

Statement of Stacey Y. Abrams
Founder of Fair Fight Action

On Strengthening American Democracy
Testimony before the Senate Judiciary Committee
April 20, 2021

Thank you, Chairman Durbin, Ranking Member Grassley and members of the Committee.

Today's conversation regarding the John Lewis Voting Rights Advancement Act occurs against the backdrop of a resurgence of Jim Crow-style voter suppression measures sweeping across state legislatures grounded in the Big Lie about the 2020 election.

As a necessary reminder, unlike other race-specific prohibitions, post-Reconstruction laws targeting Black voters never explicitly targeted eligible citizens by race. Instead, the Jim Crow voting laws focused on behaviors or characteristics most likely to affect Black voters. However, the sly grandfather clause exempted any voter whose progenitors were eligible to vote before the Civil War, thereby protecting most white voters. Then, as now, while not explicitly barring participation of communities of color, it is with near surgical precision that these voters are being targeted by state legislation to limit access to the ballot.

As of March 24, the Brennan Center for Justice has tracked 361 bills in 47 states that would restrict the right to vote, a dramatic increase from 2020; many of these bills are actively making their way through state legislatures.¹ A significant number of the worst attacks on the right to vote are - to an alarming degree - made possible by the Supreme Court's gutting of the Voting Rights Act of 1965 (VRA) in the 2013 *Shelby County v. Holder* decision. That decision authorized states and localities with a history of voting discrimination to again impose limits, restrictions and barriers to participation. This, in turn, leaves voting access in previously covered jurisdictions subject to the whims of state lawmakers. However, the ignominy of voter suppression has spread beyond the states and jurisdictions previously covered by the VRA. The proliferation of state anti-voting laws across the country demonstrates the urgent need for Congress to bring the VRA's preclearance formula into the modern era, to reinstate federal oversight over discriminatory voting practices, and to strengthen and protect voting rights - wherever suppression occurs.

Throughout its history, Georgia has been among the worst actors in systematically suppressing the ability of its communities of color to exercise their fundamental right to vote. Under preclearance, the Department of Justice objected to 170 discriminatory voting changes in Georgia at the state and local level.² Post-*Shelby*, for example, the purveyors of voter suppression have implemented at-large elections that diminish the voting strength of people of color. In addition, the state's election superintendent enacted discriminatory practices such as putting voter registrations on hold when a Georgian's information did not exactly match information in another state record or cancelling voter registrations altogether when they had not voted in a recent election.

¹ <https://www.brennancenter.org/our-work/research-reports/state-voting-bills-tracker-2021>

² <https://www.justice.gov/crt/voting-determination-letters-georgia> (ultimately, DOJ objected to more than 170 voting-related changes but withdrew about twenty)

Moreover, Georgia has closed or changed polling locations across the state. According to a 2019 report by The Leadership Conference Education Fund, a staggering 214 polling locations were shut down between 2012 and 2018, with most closures occurring after 2014.³ Closing or relocating polling locations causes confusion, longer distances to travel to vote, and longer wait times. A 2019 analysis by the *Atlanta Journal-Constitution* found Black voters were twenty percent more likely than white voters to not vote because of increased travel distances to polling locations - which likely resulted in an estimated 54,000 to 85,000 voters being unable to cast ballots in 2018.⁴ Had the VRA been in full effect, these changes would have had to be examined by a federal court or the Department of Justice to determine whether they were discriminatory before being put into effect.

State-level attacks on voting rights are not a relic of a bygone era, but an ongoing tactic used by those who seek to preserve power by silencing the voices of historically marginalized communities. Whether through the specious prosecution of the Quitman 10+2 in Brooks County, the aggressive challenges to Black voters in Hancock County or the relocation of polling places to police stations, Georgia's elected leaders have been unabashed in their efforts to restrict the right to vote for Georgians of color.

Georgia voters are now anticipating the deleterious effects on elections created by Senate Bill (SB) 202,⁵ which relies on misinformation, proven falsehoods and flawed analysis to restrict access for voters, primarily targeting the behaviors of communities of color.

- Voters of color in Georgia were more likely than white voters to vote by mail for the first time in the last two election cycles.⁶ As a consequence, fifteen years after the legislature expanded vote by mail in Georgia, SB 202 now shortens the time period to request and return an absentee ballot application,⁷ severely limits drop boxes,⁸ and imposes new ID requirements⁹ that will have an amplified effect on disabled voters, older voters, voters of color, and Black Georgians, in particular.¹⁰
- Voters of color in Georgia are more likely than white voters to stand in long lines, including the 8+ hour debacle that occurred in June 2020.¹¹ To punish nonpartisan organizations that provided relief to voters, SB 202 criminalizes handing a bottle of water or food to voters or their children while in line.¹² It is highly unlikely that overworked, under-resourced poll workers will suspend the conduct of elections to provide refreshments, particularly in communities where voters of color face other challenges or hostility to their participation.

³ <http://civilrightsdocs.info/pdf/reports/Democracy-Diverted.pdf>

⁴ <https://www.ajc.com/news/state--regional-govt--politics/precinct-closures-harm-voter-turnout-georgia-ajc-analysis-finds/11sVcLyQCHuQRC8qI26IYP/>

⁵ <https://www.legis.ga.gov/legislation/59827>

⁶ <https://www.brennancenter.org/our-work/research-reports/georgias-proposed-voting-restrictions-will-harm-black-voters-most>

⁷ <https://www.legis.ga.gov/legislation/59827> (section 25, lines 927-937)

⁸ <https://www.legis.ga.gov/legislation/59827> (section 26, lines 1172-1191)

⁹ <https://www.legis.ga.gov/legislation/59827> (section 25, lines 951-954)

¹⁰ <https://www.nytimes.com/2021/03/25/us/politics/georgia-black-voters.html>

¹¹ <https://www.npr.org/2020/10/17/924527679/why-do-nonwhite-georgia-voters-have-to-wait-in-line-for-hours-too-few-polling-pl>

¹² <https://www.legis.ga.gov/legislation/59827> (section 33, lines 1873-1875, 1887-1889)

- Voters of color are more likely than white voters to cast a provisional ballot.¹³ To justify cancelling more ballots, SB 202 does not allow out-of-precinct provisional ballots before 5:00 pm on Election Day,¹⁴ although ample evidence has demonstrated the failure of state and local elections officials to provide timely and accurate information to voters.

Across the country, this resurgence of Jim Crow-style voter discrimination is targeting voters of color by restricting access to the ballot for Black, Latino, Asian American and Pacific Islander, and Native American communities. In Texas, Senate Bill 7 sets new rules for distributing polling locations that would disproportionately impact voters of color.¹⁵ It would also restrict early voting hours by prohibiting early voting between 9:00 pm and 6:00 am and ban drive-thru voting.¹⁶ In the 2020 election, it is estimated that Black and Latino Harris County voters cast more than half the ballots counted at both drive-thru sites and during extended hours.¹⁷ Moreover, SB 7 and House Bill 6 also target voters with limited English proficiency and disabilities.¹⁸ SB 7 reduces polling places in areas where a higher percentage of people with disabilities live, and imposes other burdensome requirements that apply only to them. And both bills would require voters who need assistance to attest to "the reason the assistance was necessary," which is often confidential, medically private information.

In Arizona, SB 1485 would purge the Permanent Early Voting List (PEVL).¹⁹ Voters on PEVL, who represent a majority of Arizona voters, are automatically mailed an absentee ballot for each election.²⁰ Had the law been in place in 2020, advocates estimate that it could have prevented some 126,668 voters - of whom 20 percent are Latino - from voting.²¹ And in Michigan, legislators have filed 39 voter suppression bills in the Senate. SB 296 would allow a minority of members of a county board of canvassers, in counties with populations of 200,000 or more, to block the certification of an election and thus silence the voices of voters, like Wayne County's heavily Black voters.²²

Eligible citizens of Georgia, Arizona, Michigan and Texas strongly dispute the necessity of these harsh provisions, which are based on false allegations of fraud and demonstrated opposition to voters of color. At the same time, our fellow Americans struggle to understand the continued animus towards their right to access the ballot. However, several of these changes would have

¹³ <https://www.msnbc.com/msnbc/report-minorities-more-likely-cast-provisional-ballots-msna447721>

¹⁴ <https://www.legis.ga.gov/legislation/59827> (section 34, lines 1899-1907)

¹⁵ <https://www.texastribune.org/2021/04/01/texas-voting-restrictions-legislature/>

¹⁶ <https://www.khou.com/article/news/politics/elections/texas-sb7-2021-voting-rights/285-25ce12ef-1605-4581-a2d1-517b1afeb315>

¹⁷ <https://www.khou.com/article/news/politics/elections/texas-sb7-2021-voting-rights/285-25ce12ef-1605-4581-a2d1-517b1afeb315>

¹⁸ <https://www.kvue.com/article/news/politics/texas-activist-groups-slam-sb-7-and-hb-6-as-voter-suppression-bills/269-848e65d3-2575-44a0-93e5-b40860c9bba1>

¹⁹ <https://www.nbcnews.com/politics/elections/arizona-republicans-push-new-laws-limit-mail-voting-n1261328>

²⁰ <https://www.nbcnews.com/politics/elections/arizona-republicans-push-new-laws-limit-mail-voting-n1261328>

²¹ <https://www.nbcnews.com/politics/elections/arizona-republicans-push-new-laws-limit-mail-voting-n1261328>

²² <https://www.bridgemi.com/michigan-government/michigan-gop-unveils-election-reforms-most-would-make-voting-harder>; <https://www.freep.com/story/news/politics/elections/2021/03/24/michigan-senate-gop-election-reform-laws/6963314002/>; <https://www.freep.com/story/news/local/michigan/detroit/2020/11/17/wayne-county-election-certification/6309668002/>

been subject to federal review under preclearance. When the fundamental right to vote is left to the political ambitions and prejudices of state actors, ones who rely on suppression to maintain power, federal intercession stands as the appropriate remedy. These and other states' current fights against suppressive voting laws demonstrate why the John Lewis Voting Rights Advancement Act is essential to the protection of democracy.

Protecting voting rights has been a bipartisan endeavor since the enactment of the Voting Rights Act in 1965, and through every subsequent reauthorization.²³ In 2006, the Voting Rights Act Reauthorization and Amendments Act passed Congress with almost unanimous support; and President George W. Bush signed the bill, acknowledging the importance of defending the franchise.²⁴

While each of us has likely declared a party loyalty or may do so in the privacy of casting our votes, our first obligation is the fundamental standards of democracy - which must be aggressively nonpartisan. Actions taken to restrict access, thwart participation or discourage engagement are antithetical to our national creed and should be condemned by every patriot. Instead, we must advocate for voting rights - not to ensure the success of a single party or ideology - but to guarantee a vigorous and fair debate amongst Americans of goodwill. It is my profound hope we will honor the legacy of my late friend Congressman John Lewis and the lives of those lost in the fight for a more perfect union by enacting this critical legislation into law.

I thank you for the opportunity to take part in this important discussion, and I urge you to continue to strengthen our democracy.

²³ <https://www.govinfo.gov/content/pkg/CREC-2006-07-13/html/CREC-2006-07-13-pt1-PgH5143-2.htm>

²⁴ <https://www.govinfo.gov/content/pkg/CREC-2006-07-13/html/CREC-2006-07-13-pt1-PgH5143-2.htm>
<https://georgewbush-whitehouse.archives.gov/news/releases/2006/07/20060727-1.html>

Testimony of Professor Carol Anderson
Emory University
Senate Judiciary Committee
April 20, 2021

Chairman Durbin and Members of the Senate Judiciary Committee, thank you for this opportunity to speak with you today about the history of voting rights. I will focus on three key themes that echo powerfully in today's electoral landscape. 1) The target of disfranchisement; 2) the use of race-neutral language to evade the 15th amendment; and 3) the cloaking of disfranchisement under the banner of election integrity.

In 1890, during the rise of Jim Crow, the Mississippi legislature revised the state's constitution, as explained by state legislator James "Big Chief" Vardaman, "to eliminate the n****r from politics."¹ Similarly, Virginia representative Carter Glass, like so many others, rushed to champion a bill in the legislature that would "inevitably cut from the existing electorate four-fifths of the Negro voters" in the state.² I call it bureaucratic violence, because it is designed to attack and undermine African Americans' voting rights and other citizenship rights, while providing an aura of legitimacy that physical violence simply cannot bring. What Vardaman and Glass were advocating was an omnibus disfranchisement program, the Mississippi Plan, which was modified throughout the South, and included the poll tax, the literacy test, the grandfather clause, and other barriers to the ballot box. Not surprisingly, Black electoral participation dropped precipitously. In 1880, for example, Black voter turnout was 81% in North Carolina, by 1912, a dozen years after the state amended its constitution to include the poll tax, the literacy test, and the grandfather clause, it had dropped to just one percent.³

The states were able to destroy Black voter participation by violating the spirit and intent of the 15th amendment, while adhering to the letter of the Constitution. They did so by deploying

race neutral language that used the legacies of slavery as a proxy for race. The poll tax, for example, required *all* voters to pay a fee to cast a ballot. What the poll tax actually did, though, was to prey on the endemic poverty created by centuries of unpaid labor, followed by the post-Civil War Black Codes, and then sharecropping.⁴ The tax seemed innocuous on its surface but, because of that poverty, it amounted to Black farm laborers paying in 1900 the equivalent of \$239.00 in 2020 to vote.⁵

Similarly, the literacy test, which required a voter to read a section of the Constitution, exploited the consequences of denying education to the enslaved for hundreds of years and then, after the Civil War, grossly underfunding Black schools.⁶ The race-neutral ploy worked. The U.S. Supreme Court ruled in the 1898 *Williams* decision that the poll tax and the literacy test did not violate the 15th Amendment because they applied to everyone who wanted to vote. That decision, of course, ignored that not everyone had to deal with the legacies of having their ancestors enslaved for centuries. The result of the court's blessing of a Jim Crow electorate was that by 1940, only three percent of age-eligible African Americans were registered to vote.⁷

These states justified erasing millions of American citizens from the ballot box by claiming they were fighting election fraud and protecting democracy.⁸ They knew that wasn't the case.⁹

The lie of massive rampant voter fraud is serving the same function today as it did during the rise of Jim Crow. It stokes fear in a segment of the population that democracy is in peril, and, thus, provides cover for laws that target Black voters with race-neutral language. In the 21st century, as Indiana implemented the first voter ID law in the nation, Secretary of State Todd Rokita, a Republican, recalled that "Back in 2001 and 2002, election integrity was a huge issue. . . there was a fear of votes being stolen. Even," he added, "if the fear didn't pan out to be true, . . . the fear was still there."¹⁰ In 2021, as Georgia passed SB 202, State Representative Alan Powell,

a Republican, admitted that “widespread voter fraud . . . wasn’t found. It’s just in a lot of people’s minds that there was.”¹¹ That fictional “Loch Ness monster”¹² has led Republican legislators in 47 states to propose 361 voter restriction bills to supposedly address concerns about voter fraud.¹³ If left unchecked, this onslaught of bureaucratic violence will make the Mississippi Plan look tame by comparison. Thank you.

¹ Jason Morgan Ward, *Hanging Bridge: Racial Violence and America’s Civil Rights Century* (New York: Oxford University Press, 2016), 62.

² Michael Waldman, *The Fight to Vote* (New York: Simon & Schuster, 2016), at 84-85.

³ Richard M. Velely, *The Two Reconstructions: The Struggle for Black Enfranchisement* (Chicago: University of Chicago Press, 2004), Kindle, Location 1735. The impact of the literacy test and poll tax on Black voter turnout between 1880 (pre-Mississippi Plan) and 1912 (plan implemented) in the other Southern states: Alabama (55 percent/2 percent); Arkansas (57 percent/3 percent); Florida (84 percent/2 percent); Georgia (42 percent/2 percent); Louisiana (44 percent/1 percent); Mississippi (45 percent/2 percent); South Carolina (77 percent/2 percent); Tennessee (70 percent/1 percent); Texas (59 percent/1 percent); and Virginia 59 percent/2 percent), Table 6.3 “The Extent of Black Disfranchisement.”

⁴ Jos Ohl, “Educational Test Has Failed to Bar Mississippi Negroes; Poll Tax Disfranchises Them: Georgia Plan Much Better, Says Money, Senator Frankly Admits Failure of the Educational Test in Mississippi,” *The Atlanta Constitution (1881-1945)*; *Atlanta, Ga.*, CMG Corporate Services, Inc. on behalf of itself and the Newspapers, December 24, 1905, p. 1.

⁵ Velely, *The Two Reconstructions*, Kindle, Location 1704, 1706; Measuring Worth.

<https://www.measuringworth.com/calculators/uscompare/relativevalue.php>, accessed April 18, 2021.

⁶ Ward, *The Hanging Bridge*, 62.

⁷ Waldman, *The Fight to Vote*, 142.

⁸ Michael Fellman, *In the Name of God and Country: Reconsidering Terrorism in American History* (New Haven, CT: Yale University Press, 2010), 139.

⁹ U.S. Commission on Civil Rights, “Racial and Ethnic Tensions in American Communities: Poverty, Inequality, and Discrimination—Volume VII: The Mississippi Delta Report: Chapter 3. Voting Rights and Political Representation in the Mississippi Delta.” at 10, <https://www.usccr.gov/pubs/msdelta/ch3.htm>, accessed November 27, 2020; Fellman, *In the Name of God and Country*, 139.

¹⁰ Josh Siegel, “After Voter ID Defeats, Lessons from Indiana’s Law that ‘Has Stood Test of Time,’” *Daily Signal*, August 7, 2016, <http://dailysignal.com/2016/08/07/after-voter-id-defeats-lessons-from-indianas-law-that-has-stood-test-of-time/>, accessed September 25, 2017. For Judge Richard Posner’s and Justice John Paul Stevens’s regrets for the roles they played in upholding this law, see, Richard A. Posner, *Reflections on Judging* (Cambridge, MA: Harvard University Press, 2013), Kindle, at 84–5; Robert Barnes, “Stevens says Supreme Court decision on voter ID was correct, but maybe not right,” *Washington Post*, May 15, 2016.

https://www.washingtonpost.com/politics/courts_law/stevens-says-supreme-court-decision-on-voter-id-was-correct-but-maybe-not-right/2016/05/15/9683e51c-193f-11e6-9e16-2e5a1234ac62_story.html, accessed April 19, 2021

¹¹ Amy Gardner, “State GOP lawmakers propose flurry of voting restrictions to placate Trump supporters, spurring fears of a backlash,” *Washington Post*, February 19, 2021, https://www.washingtonpost.com/politics/gop-voting-restrictions/2021/02/19/d1fab224-72ca-11eb-85fa-e0ccb3660358_story.html, accessed April 19, 2021.

¹² Benjamin L. Ginsberg, “My party is destroying itself on the altar of Trump,” *Washington Post*, November 1, 2020, <https://www.washingtonpost.com/opinions/2020/11/01/ben-ginsberg-voter-suppression-republicans/>, accessed April 19, 2021.

¹³ Heather Cox Richardson from Letters from an American, newsletter, April 18, 2021, <https://heathercoxrichardson.substack.com/p/april-18-2021?>, accessed April 19, 2021.



Written Testimony of Sherrilyn Ifill

President and Director-Counsel

NAACP Legal Defense and Educational Fund, Inc.

Before the United States Senate Committee on the Judiciary

Hearing on "Jim Crow 2021: The Latest Assault on the Right to Vote"

April 20, 2021

Good morning, Chairman Durbin, Ranking Member Grassley and members of the Committee. My name is Sherrilyn Ifill, and I am the President and Director-Counsel of the NAACP Legal Defense and Educational Fund, Inc. (“LDF”).¹ Thank you for the opportunity to testify regarding the state of voting rights in this country.

Since its founding in 1940 by Thurgood Marshall, LDF has been a leader in the struggle to secure, protect, and advance voting rights for Black voters and other communities of color. Beginning with *Smith v. Allwright*,² our successful Supreme Court case challenging the use of whites-only primary elections in 1944, LDF has fought to overcome a of myriad obstacles to ensure the full, equal, and active participation of Black voters. Despite LDF’S victory in *Brown v. Board of Education*,³ which set in motion the end of legal segregation in this country and transformed the direction of American democracy in the 20th century, Thurgood Marshall referred to *Smith v. Allwright* as his most consequential case. He held this view, he explained, because he believed that the vote, and the opportunity to access political power was critical to fulfilling the guarantee of full citizenship promised to Black people in the 14th Amendment to the Constitution. LDF has prioritized our work protecting the right of Black citizens to vote for 80 years – representing Martin Luther King and the marchers in Selma, Alabama in 1965, litigating seminal cases interpreting the scope of the Voting Rights Act, and working in communities in the South to strengthen and protect the ability of Black citizens to participate in the political process free from discrimination.

¹ LDF has been an entirely separate organization from the NAACP since 1957.

² 321 U.S. 629 (1944).

³ 347 U.S. 483 (1954).

As part of this work, LDF has monitored elections for more than a decade through our Prepared to Vote initiative (“PTV”) and, more recently, through our Voting Rights Defender (“VRD”) project. Our PTV and VRD initiatives place LDF staff and volunteers on the ground for primary and general elections every year to conduct non-partisan election protection, poll monitoring, and to support Black political participation in targeted jurisdictions- primarily in the South. Prior to election day, PTV equips voters with non-partisan educational materials answering questions about how to register to vote, what identification is needed on election day, and providing information on local voting laws and practices that may impact voters in the election process. On election day, PTV volunteers visit polling sites to ensure voters are informed of their state’s voting requirements, answer questions about how to comply with election laws, and, when necessary, engage in rapid response actions to ensure every eligible voter is able to cast a ballot. This rapid response work often includes direct communication with election officials and, where necessary, litigation. Critical to this work is connecting local community partners with national organizations, advocates, and resources to support ongoing non-partisan election protection work.

In September 2020, LDF partnered with More than a Vote (“MTAV”) to launch a non-partisan initiative to recruit poll workers for the General Election during the COVID-19 pandemic.⁴ Because polling places have traditionally been staffed by senior and elderly workers, the pandemic’s disproportionate rate of infection and death in Black communities threatened to result in a severe shortage of poll workers during early voting and on Election Day in Black

⁴ *Become a Poll Worker, Voting* at NAACP LDF (last visited April 12, 2021), <https://voting.naacpldf.org/voting-rights/become-a-poll-worker/>.

communities. Under the leadership of National Basketball Association player and leader LeBron James, the More Than a Vote initiative brought together the cultural influence of professional athletes and artists with LDF's voting rights expertise and long-standing community activism to help address poll worker shortages across the country.⁵ Our poll worker recruitment drive successfully enlisted more than 42,500 new poll worker applicants and made a significant impact on polling site operations nationwide.

LDF is also a founding member of the non-partisan civil rights Election Protection Hotline (1-866-OUR-VOTE), administered by the Lawyers' Committee for Civil Rights Under Law. The Election Protection hotline coalition works year-round to ensure that all voters have an equal opportunity to vote and have that vote count. Election Protection provides Americans from coast to coast with comprehensive information and assistance at all stages of voting—from registration to absentee and early voting, to casting a vote at the polls, to overcoming obstacles to their participation.

Assault on Voting Rights

This country's long and difficult struggle to diminish racial discrimination in voting is well documented.⁶ However, despite the guarantees of the 14th and 15th Amendments to the Constitution, the Voting Rights Act and other federal voting rights statutes, racial discrimination and suppression of the Black vote persists. Indeed, in the years since the disastrous 2013

⁵ Astead Herndon, *LeBron James's effort to attract more poll workers nets 10,000 volunteers*, New York Times (Sep. 30, 2020) <https://www.nytimes.com/2020/09/30/us/elections/lebron-james-more-than-a-vote-poll-workers.html>.

⁶ *South Carolina v. Katzenbach*, 383 U.S. 301, 310-314 (1966).

Supreme Court decision in *Shelby County v. Holder*,⁷ we have seen increases⁸ and ingenious mutations in methods of voter suppression.

In *Shelby County v. Holder*, the Supreme Court found that the formula reauthorized by Congress under Section 5 of the Voting Rights Act of 1968 (“VRA”) to bind local jurisdictions to the obligation to submit voting changes to a federal authority for “preclearance” before adoption was unconstitutional. In doing so, the Court ignored the overwhelming evidence accumulated by Congress in 2006⁹ which demonstrated that the preclearance provisions of Section 5 of the VRA were desperately needed to ensure full political participation for minority voters. The preclearance process provided an effective way of halting discriminatory voting changes *before* they were implemented thus avoiding possible harm and protecting the right to vote, which the Supreme Court has called “preservative of all rights.”¹⁰ Predictably, just hours after the Supreme Court invalidated the VRA’s preclearance provisions, jurisdictions announced their intention to implement aggressive and restrictive voting laws previously blocked by Section 5.¹¹

As the late-Justice Ruth Bader Ginsberg noted in her dissent to the *Shelby County* decision: “Throwing out preclearance when it has worked and is continuing to work to stop discriminatory changes is like throwing away your umbrella in a rainstorm because you are not getting wet.”¹² Section 5 of the VRA was not only designed to address then-existing discriminatory voting

⁷ 570 U.S. 529 (2013).

⁸ *Democracy Diminished: State and Local Threats to Voting Post-Shelby County v. Holder*, NAACP Legal Defense and Educational Fund, Inc. (Aug. 2017) https://tminstituteldf.org/wp-content/uploads/2017/08/DemocracyDiminished-State-and-Local-Voting-Changes-Post-Shelby-v.-Holder_4.pdf.

⁹ H. R. REP. NO. 109-478, at 21 (2006) <https://www.congress.gov/109/crpt/hrpt478/CRPT-109hrpt478.pdf>.

¹⁰ *Yick Wo v. Hopkins*, 118 U.S. 356, 370 (1886).

¹¹ Ed Pilkington, *Texas rushes ahead with voter ID law after Supreme Court decision*, The Guardian (June 25, 2013), <https://www.theguardian.com/world/2013/jun/25/texas-voter-idsupreme-courtdecision>

¹² *Shelby County* supra note 7.

schemes, but it also explicitly sought to prevent “ingenious methods” that might be devised to suppress votes in the future.¹³ At its pre-*Shelby County* strength, Section 5 would have prevented many of the voter suppression schemes that we have encountered over the past years.

Since the *Shelby* decision federal courts have struck down voting changes as violative of the Constitution,¹⁴ the 24th Amendment to the Constitution,¹⁵ the Voting Rights Act and the Americans with Disability Act. Indeed, there have been at least nine federal court decisions finding that states or localities intentionally discriminated against Black and other voters of color.¹⁶ LDF has litigated challenges to new restrictive voter i.d. laws, absentee voting restrictions, and discriminatory early voting restrictions. LDF challenged President Trump’s Election Integrity Commission,¹⁷ and currently remains in litigation against former President Trump and the Republican National Committee for their efforts to discredit the legitimacy of ballots cast by voters in cities with large Black populations.¹⁸ LDF also sued the United States Postal Service

¹³ U.S. Congress, House, Committee on the Judiciary Voting Rights, 89th Cong., 1st sess., 1965, Mar. 18-19, 23-25 (Apr. 1, 1965).

¹⁴ 4th Circuit Court of Appeals strikes down North Carolina omnibus voting law finding “provisions target African Americans with almost surgical precision.” Robert Barnes & Ann Marrow, *Appeals court strikes down North Carolina’s voter-ID law*, Washington Post (Jul. 29, 2016), https://www.washingtonpost.com/local/public-safety/appeals-court-strikes-down-north-carolinas-voter-id-law/2016/07/29/810b5844-4f72-11e6-aa14-e0c1087f7583_story.html.

¹⁵ *NAACP v. Billups*, 554 F.3d 1340 (2009).

¹⁶ See, e.g., *Perez v. Abbott*, 138 S. Ct. 2305 (2018); *Stout v. Jefferson County Bd. of Educ.*, 882 F.3d 988 (11th Cir. 2018); *Veasey v. Abbott*, No. 2:13-CV-193, 2017 WL 3620639 (S.D. Tex. Aug. 23, 2017); *Patino v. City of Pasadena*, 230 F. Supp. 3d 667, 730 (S.D. Tex. 2017); *Terrebonne Par. Branch NAACP v. Jindal*, 274 F.Supp.3d 395 (M.D. La. 2017); *N.C. State Conf. of NAACP v. McCrory*, 831 F.3d 204, 214 (4th Cir. 2016); *One Wisconsin Inst., Inc. v. Thomsen*, 198 F. Supp. 3d 896 (W.D. Wis. 2016); *Allen v. Evergreen*, No. 13-107, 2014 WL 12607819 (S.D. Ala. Jan. 13, 2014); *Perez v. Texas*, No. 11-CA-360, 2012 WL 13124275, at *3 (W.D. Tex. Mar. 19, 2012).

¹⁷ *LDF and Local Alabama Organization File Federal Lawsuit Challenging President’s “Election Integrity” Commission*, NAACP LDF (Jul. 18, 2017), <https://www.naacpldf.org/press-release/ldf-and-local-alabama-organization-file-federal-lawsuit-challenging-presidents-election-integrity-commission/>.

¹⁸ *LDF Files Amended Complaint in its Lawsuit Against President Trump and His Campaign’s Attempts to Overturn the Election by Disenfranchising Black Voters*, NAACP LDF (Dec. 22, 2020), <https://www.naacpldf.org/press-release/ldf-files-amended-complaint-in-its-lawsuit-against-president-trump-and-his-campaigns-attempts-to-overturn-the-election-by-disenfranchising-black-voters/>.

(“USPS”) in 2020 to ensure the timely delivery of mail-in ballots cast in the November Presidential election and January special election in Georgia.¹⁹

In addition to litigation, LDF continues to closely monitor how formerly covered states and localities respond to the *Shelby County* decision and regularly details post-*Shelby County* voting changes.²⁰ Those changes are catalogued in *Democracy Diminished*,²¹ a compendium of post-*Shelby County* voting changes, and *Democracy Defended*,²² which attempt to capture a fraction of the thousands of voting changes that would have been scrutinized by the federal government for their harm to minority voters via preclearance.

State of Voting Rights Today

Further adding to the devastating impact of *Shelby County*, over the past 4 years the Department of Justice (“DOJ”) essentially abdicated its traditional role in protecting against voting discrimination. Although the loss of Section 5 removed the DOJ’s central mechanism to block a discriminatory change *before* its implementation, the DOJ refrained from using alternatives tools available to combat voter discrimination. The Civil Rights Division of the DOJ previously played an active role in the enforcement of voting rights by bringing cases raising claims of violations of Section 2 of the VRA,²³ which authorizes private actors and the DOJ to

¹⁹ *NAACP v. U.S. Postal Service*, No 1:20-cv-02295 (D. D.C.2020).

²⁰ Ben Jealous and Ryan P. Haygood, *The Battle to Protect the Vote Voter Suppression Efforts in Five States and Their Effect on the 2014 Midterm Elections*, NAACP LDF and Center for American Progress (Nov. 2014), https://www.naacpldf.org/wp-content/uploads/The-Battle-to-Protect-the-Vote-1.pdf?_ga=2.210128989.933499795.1618246438-217316157.1616678028.

²¹ *Democracy Diminished* supra note 8.

²² *Democracy Defended: Analysis of Barriers to Voting in the 2018 Midterm Elections*, NAACP LDF Thurgood Marshall Institute (Sept. 6, 2019), https://www.naacpldf.org/wp-content/uploads/Democracy_Defended__9_6_19_final.pdf.

²³ See, *United States v. City of Eastpointe*, 378 F. Supp. 3d 589 (E.D. Mich. 2019); *United States v. North Carolina*, No. 1:13CV861 (M.D.N.C. Feb. 6, 2014); *United States v. State of Texas*, Case 5:11-cv-00360-OLG-JES-XR (W.D. Tex. Sep. 25, 2013); *United States v. State of Texas*, Case 2:13-cv-00263 (S.D. Tex. Aug. 22, 2013); *United States v. Town of*

challenge discriminatory voting practices in federal court.²⁴ The former administration filed only one Section 2 case in roughly four years.²⁵ Other federal statutes—the National Voter Registration Act, the Help America Vote Act, the Civil Rights Act of 1871 (also known as the KKK Act), and of course the United States Constitution—remained available to the DOJ in the exercise of its voting rights enforcement authority.

The lack of preclearance and the Department of Justice’s abdication of its role to protect and ensure compliance with civil rights laws compelled LDF and other civil rights organizations to increase our efforts to litigate cases, investigate violations, collect & disseminate data and provide leadership in the enforcement of the nation’s core civil rights laws. Unfortunately, voting

Lake Park, Civil Action No. 09-80570-MARRA (S.D. Fla. Oct. 26, 2009); *United States v. Euclid City School Bd.*, 632 F. Supp. 2d 740 (N.D. Ohio 2009); *United States v. Salem County and the Borough of Penns Grove*, Civil Action No. 1:08-cv-03276-JHR-AMD (D.N.J. Jul. 24, 2008); *United States v. School Board of Osceola County*, Civil Action No. 6:08-CV-582-ORL-18DAB (M.D. Fla. Apr. 23, 2008); *United States v. Georgetown County School District*, Civil Action No. 2:08-889 DCN (D.S.C. Mar. 21, 2008); *United States v. City of Philadelphia*, Case 2:06-cv-04592-PBT (E.D. Pa. Jun. 1, 2007); *United States of America v. Village of Port Chester*, No. 7:2006cv15173 - Document 124 (S.D.N.Y. 2010); *United States v. City of Euclid*, 580 F. Supp. 2d 584 (N.D. Ohio 2008); *United States v. Long County*, Case No. CV 206-040 (S.D. Ga. Feb. 10, 2006); *United States v. City of Boston*, 497 F. Supp. 2d 263 (D. Mass. 2007); *United States v. Osceola County*, Case No. 6:05-cv-1053-Orl-31DAB (M.D. Fla. Jun. 26, 2006); *United States v. Brown*, Civil Action No. 4:05CV33TSL-LRA (S.D. Miss. Aug. 27, 2007); *United States v. Berks County*, 250 F. Supp. 2d 525 (E.D. Pa. 2003); *United States v. Osceola County*, 6:02-cv-00738 (M.D. Fla. Jul. 22, 2002); *United States v. Alamosa County*, 306 F. Supp. 2d 1016 (D. Colo. 2004); *United States v. Crockett County*, No. 1-01-1129 (W.D. Tenn. 2001); *United States v. Charleston County*, 318 F. Supp. 2d 302 (D.S.C. 2002); *United States v. City of Hamtramck Michigan*, Civil Action No. 00-73541 (E.D. Mich. Jan. 29, 2004); *United States v. Upper San Gabriel Valley Mun. Water Dist.*, CV 00- 7903 AHM (BQRx) (C.D. Cal. Sep. 8, 2000); *United States v. Morgan City*, Civil Action No. 6:2000cv01541 (W.D. La. 2000); *Grieg v. City of St. Martinville*, Case 6:00-cv-00603-RFD-MEM (W.D. La. 2000); *United States v. City of Santa Paula*, CV 00-03691-GHK (SHx) (C.D. Cal. 2000); *United States v. Roosevelt County*, Civil Action No. 00-50-BLG-JDS, (D. Mont. Mar. 24, 2000); *United States v. Town of Cicero*, Civil Action No. 00C-153 (N.D. Ill. Mar. 13, 2000); *United States v. Benson County*, Civil Action No. A2-00-30 (D.N.D. 2000); *United States v. Blaine County*, Montana, 157 F. Supp. 2d 1145 (D. Mont. 2001); *United States v. Passaic City*, No. 99- 2544 (D.N.J. 1999); *United States v. Day County*, No. 99-1024 (D.S.D. June 16, 2000); *United States v. City of Lawrence*, No. 1:98-cv-12256 (D. Mass. Nov. 5, 1998); *United States v. Cibola County*, Civil Action No. 93-1134-LH/LFG (D. N.M. 1993); *United States v. Sandoval County*, No. 88-CV-1457-BRB-DJS (D. N.M. 1988).

²⁴ 52 U.S.C. § 10301.

²⁵ *Justice Department Reaches Agreement with Chamberlain School District, South Dakota, under the Voting Rights Act*, Department of Justice (May 28, 2020), <https://www.justice.gov/opa/pr/justice-department-reaches-agreement-chamberlain-school-district-south-dakota-under-voting>; *An Assessment of Minority Voting Rights Access in the United States*, U.S. Commission on Civil Rights (2018), https://www.usccr.gov/pubs/2018/Minority_Voting_Access_2018.pdf.

rights litigation is slow and expensive.²⁶ And the average length of Section 2 cases is two to five years.²⁷ In the years during the pendency of a case, thousands and, in some cases, millions of voters are effectively disenfranchised. For example, LDF challenged Texas' voter i.d. law,²⁸ which the state enacted after the *Shelby County* decision. It was widely described as the most restrictive voter i.d. law in the country.²⁹ A federal court found that the law "... creates an unconstitutional burden on the right to vote, has an impermissible discriminatory effect against Hispanics and African Americans [i.e., they comprise a disproportionate share of the more than 600,000 registered voters and one million eligible voters who lack the requisite photo ID], and was imposed with an unconstitutional discriminatory purpose," and that it "constitutes an unconstitutional poll tax."³⁰ Although LDF was ultimately successful in that litigation, in the years after the trial and while the case made its way twice to the 5th Circuit Court of Appeals and back to the trial court, Texas elected candidates to the following offices:

- In 2014 in Texas, voters voted for a U.S. Senator, all 36 members of Congress, governor, lieutenant governor, attorney general, comptrollers, commissioners, four Justices of the Texas Supreme Court.
- In 2015 there was a special election for a member of the state senate.

²⁶ *The Cost (in Time, Money, and Burden) of Section 2 of the Voting Rights Act Litigation*, NAACP LDF (Feb. 14, 2019), <https://www.naacpldf.org/wp-content/uploads/Section-2-costs02.14.19.pdf>.

²⁷ Voting Rights Act: Section 5 of the Act – History, Scope, and Purpose: Hearing Before the Subcomm. on the Constitution of the H. Comm. on the Judiciary, 109th Cong. 92 (2005).

²⁸ *Veasey v. Abbott* - 830 F.3d 216 (5th Cir. 2016).

²⁹ *Veasey v. Abbott: A Challenge to Texas' Harsh Voter ID Law*, Campaign Legal Center (May 18, 2016), <https://campaignlegal.org/sites/default/files/Veasey%20v%20Abbott%205.18.16%20One%20Pager.pdf>.

³⁰ *Veasey v. Perry*, 71 F. Supp. 3d 627, 693 (S.D. Tex. 2014).

- In 2016, the Presidential primary, 36 members of Congress, three Supreme Court justices, state boards of education, sixteen state senators, all 150 members of the state House, over 175 district judges, over 75 district attorneys.

These are all the officials elected in just one state during the pendency of litigation. This is not a model that can be sustained.

Moreover, today we find ourselves under siege from unprecedented and ingenious methods of voter suppression. 2020 was an unprecedented year in many respects. The COVID-19 pandemic tested our national spirit, our collective wellness, our economy, and our democracy. Unfortunately, some states used the circumstances of the pandemic as an opportunity to disenfranchise voters. Across the country, jurisdictions and states made it more difficult—not easier—for people to vote during a life-threatening pandemic. Where previously the federal government would have been tasked to review and evaluate the likely impact of many of the voting changes before they were implemented, instead citizens and voters across the country were left unprotected and at the mercy of partisan, political actors who saw an opportunity to advance their agenda rather than recommit themselves to their oath to uphold the specific provisions of the Constitution and more broadly the principles of democracy.

The importance of the vote cannot be overstated. Each, and every, election provides an opportunity for citizens of this country to engage with and influence policy, to elect members to our government to represent them and their concerns and to participate in the political process enshrined in the foundation of our nation. For a community that has for so long been denied the right to vote, the right to free and fair elections has an added significance. In local elections and presidential elections alike, each vote is sacred. Thus, it must be protected and any and all efforts

which may cause a suppression of the vote must be scrutinized *before* implementation to ensure that there is no harm to this sacred right.

COVID-19, Race, and Voting in 2020

In order to accurately map the scope of voter suppression in 2020, we must look at both primary and general elections, as well as special elections. We must look at national and local elections. We must look at early voting and absentee voting. And 2020 demonstrated that we must now also extend our examination to voter suppression efforts in the counting and canvassing of ballots.

The primary election in Wisconsin in retrospect was an early precursor of the challenges Black voters would face in 2020.³¹ In the beginning of the pandemic, when information about transmission and mortality rates of COVID-19 was scarce and messages from the Centers of Disease Control and Protection (“CDC”) were often contradicted by President Trump, thousands of voters literally risked their lives—waiting in line for hours, keeping as much distance as possible from fellow voters—to exercise their right to vote.³²

What was clear from the early months, however, was that the pandemic was taking a disproportionate toll on Black communities. During the week of the primary election, it was reported that although Black people constitute 28% of the population of Milwaukee, Blacks comprised 73% of the COVID-19-related deaths in the City.³³ And yet Black voters turned out at

³¹ Sherrilyn Ifill, *Never Forget Wisconsin*, Slate (Apr. 8, 2020), <https://slate.com/news-and-politics/2020/04/never-forget-wisconsin.html>.

³² Benjamin Swasey & Alana Wise, *Wisconsin Vote Ends As Trump Blames Governor For Long Lines*, National Public Radio (Apr. 7, 2020), <https://www.npr.org/2020/04/07/828835153/long-lines-masks-and-plexiglas-barriers-greet-wisconsin-voters-at-polls>.

³³ Robert Samuels, *Covid-19 is ravaging black communities. A Milwaukee neighborhood is figuring out how to fight back.*, Washington Post (Apr. 6, 2020), <https://www.washingtonpost.com/politics/covid-19-is-ravaging-black->

high rates to participate in the Wisconsin primary, standing in long lines for hours caused by the severe reduction in open polling places. Milwaukee only had five polling locations open for its April primary, instead of its usual 180.³⁴ It has been reported that at least 71 people contracted COVID-19 after voting in person or working at the polls during the Wisconsin election.³⁵ At least one study concluded that those counties with “more in-person voters per voting location had significantly higher rates of COVID19 transmission after the election than counties with lower voter density.”³⁶

Despite the warning signs of the Wisconsin April election—roughly seven months before the 2020 general election—states were still unprepared to deal with the effects of the COVID-19 pandemic on voting. The racial disparities in COVID-19 deaths and illnesses—nationwide, Black Americans are 3.4 times more likely to have died from COVID-19 than white Americans³⁷—meant communities of color were disproportionately at risk if their localities did not offer robust alternatives to voting in-person on Election Day. Given the staggering rate of transmission, infection, and death related to COVID-19 it cannot be overemphasized that voters were forced

communities-a-milwaukee-neighborhood-is-figuring-out-how-to-fight-back/2020/04/06/1ae56730-7714-11ea-ab25-4042e0259c6d_story.html

³⁴ Alison Dirr & Mary Spicuzza, *What We Know So Far About Why Milwaukee Only Had 5 Voting Sites for Tuesday's Election While Madison Had 66*, Milwaukee Journal Sentinel (Apr. 9, 2020), <https://www.jsonline.com/story/news/politics/elections/2020/04/09/wisconsin-election-milwaukee-had-5-voting-sites-while-madison-had-66/2970587001/>.

³⁵ David Wahlberg, *71 People Who Went to the Polls on April 7 Got COVID-19: Tie to Election Uncertain*, Wisconsin State Journal (May 16, 2020) https://madison.com/wsj/news/local/health-med-fit/71-people-who-went-to-the-polls-on-april-7-got-covid-19-tie-to/article_ef5ab183-8e29-579a-a52b-1de069c320c7.html.

³⁶ Chad D. Cotti, Bryan Engelhardt, et. al., *The Relationship between In-Person Voting, Consolidated Polling Locations, and Absentee Voting on COVID-19: Evidence from the Wisconsin Primary* (May 10, 2020). Available at SSRN: <https://ssrn.com/abstract=3597233>.

³⁷ *The Color of Coronavirus: COVID-19 Deaths by Race and Ethnicity in the U.S.*, APM Research Lab (last updated March 5, 2021), <https://www.apmresearchlab.org/covid/deaths-by-race>; *COVID-19 hospitalization and deaths by race/ethnicity*, Centers for Disease Control and Prevention (last updated March 12, 2021), <https://www.cdc.gov/coronavirus/2019-ncov/covid-data/investigations-discovery/hospitalization-death-by-race-ethnicity.html>.

to make a life-risking choice in elections across the country because their government would not protect them.

Throughout the spring and summer of 2020, LDF was involved in numerous lawsuits challenging the lack of safe and accessible voting options in response to the COVID-19 pandemic in Texas,³⁸ Louisiana,³⁹ Alabama⁴⁰ and South Carolina.⁴¹ Our lawsuits resulted in changes in mail-in voting requirements, identification policies, and curbside voting access—significantly increasing voter protections and accessibility. For example, in South Carolina, where Black people account for 33% of COVID-related deaths but roughly 26% of the population,⁴² LDF and civil rights partners secured the temporary suspension of the witness signature requirement for absentee ballots removing a needless barrier that required people to violate social distancing protocols to vote. The victory ensured that eligible voters could participate in the state’s June elections without the fear of endangering their health.

Voter Intimidation During Early Voting

In late August, voters in the Detroit area were targeted by robocalls claiming that voters’ personal information would be shared with law enforcement, creditors, and other databases if

³⁸ *LDF Files Emergency Amicus Brief to Protect Texas Voters at Risk Amid COVID-19 Pandemic*, NAACP LDF (May 21, 2020), <https://www.naacpldf.org/press-release/ldf-files-emergency-amicus-brief-to-protect-texas-voters-at-risk-amid-covid-19-pandemic/>.

³⁹ *Power Coalition for Equity and Justice v. Edwards*, No. 3:20-cv-00283-BAJ-EWD (M.D. La., May. 7, 2020), https://www.naacpldf.org/wp-content/uploads/FILED-COMPLAINT_Power-Coalition-v.-Edwards-20-cv00283_20200507.pdf.

⁴⁰ *LDF, SPLC, and ADAP File Federal Lawsuit Challenging Alabama’s Lack of Safe and Accessible Voting During COVID-19 Pandemic*, NAACP LDF (May 1, 2020), <https://www.naacpldf.org/press-release/ldf-splc-and-adap-file-federal-lawsuit-challenging-alabamas-lack-of-safe-and-accessible-voting-during-covid-19-pandemic/>.

⁴¹ *Thomas v. Andino*, No.: 3:20-cv-01552-JMC, (D. S.C. May. 25, 2020) https://www.naacpldf.org/wpcontent/uploads/order_-_south_carolina_pi_granted-1.pdf.

⁴² *COVID-19 Deaths by Race/Ethnicity*, Kaiser Family Foundation (updated March 31, 2021; last accessed April 13, 2021), <https://www.kff.org/other/state-indicator/covid-19-deaths-by-race-ethnicity/?currentTimeframe=0&sortModel=%7B%22colId%22:%22Location%22,%22sort%22:%22asc%22%7D>.

they voted by mail.⁴³ The calls were specifically targeted to areas with high populations of Black residents. Roughly 12,000 residents with a “313” Detroit-area code received calls. The calls warned recipients to “beware of vote by mail” which would give “private information to the man.”⁴⁴ The calls also falsely claimed that voting by mail would result in voters’ personal information being put into a database accessible to the police pursuing warrants, credit card companies collecting debts, and the Centers for Disease Control and Prevention aiming to track people for mandatory vaccines. The Michigan Attorney General is pursuing felony charges, including intimidating voters and conspiracy to commit an election law violation, against two individuals who allegedly orchestrated these suppressive robocalls.⁴⁵ An investigation found that attorneys general in New York, Pennsylvania, Ohio, and Illinois received complaints about similar phone calls being placed in cities with large minority populations.⁴⁶

On October 31, the last day of early voting in North Carolina, voters peacefully marched from a local church to Court Square, a block from their polling location.⁴⁷ On at least two separate occasions, law enforcement deployed pepper spray into the gathering of marchers which included young children, elderly individuals, and those with disabilities, with no warning or justification. One of those times was just seconds after the marchers knelt in a moment of silence for eight minutes and 46 seconds honoring the memory George Floyd who was killed by a

⁴³ Sam Gringlas, *Far-Right Activists Charged Over Robocalls That Allegedly Targeted Minority Voters*, National Public Radio (Oct. 1, 2020) <https://www.npr.org/2020/10/01/919309649/far-right-activists-charged-over-robocalls-that-allegedly-targeted-minority-vote>.

⁴⁴ *Id.*

⁴⁵ *Burkman, Wohl Heading to Wayne County Circuit Court for Voter-Suppression Robocalls*, Department of Michigan Attorney General (Nov. 5, 2020), https://www.michigan.gov/ag/0,4534,7-359-92297_47203-544415--,00.html.

⁴⁶ *Supra* note 43.

⁴⁷ Artemis Moshtaghian & Dakin Andone, *Police used pepper spray to break up a North Carolina march to a polling place*, CNN News (Nov. 1, 2020), <https://www.cnn.com/2020/10/31/us/north-carolina-police-pepper-spray-polls/index.html>.

Minneapolis police officer in May 2020.⁴⁸ LDF filed suit⁴⁹ on behalf of marchers and prospective voters in Alamance County who were attempting to vote early when they were pepper-sprayed by law enforcement officers. The lawsuit challenges the use of force and intimidation by the City of Graham and Alamance County—through their law enforcement departments—in response to peaceful marchers and voters in violation of various civil rights statutes and the U.S. Constitution.

Across the country, voters looking to exercise their fundamental rights were confronted by armed observers at polls. In Pinellas County, Florida, two people, armed and wearing security uniforms were suspected of voter intimidation.⁵⁰ The individuals first claimed to work for a private security company but later stated they were hired by the Trump campaign. The Trump campaign denied this assertion. Nevertheless, the presence of two armed security officials seemingly associated with the Trump campaign had a suppressive and intimidating effect on voters. One voter noted “I noticed his gun, that was the first thing that I noticed as a voter was that this man was carrying a weapon.”⁵¹ The experience quickly turned his early voting excitement into fear.⁵² While the Secretary of Elections stated that voter intimidation would not be tolerated, the Pinellas County Sheriff Bob Gualtieri said the two guards remained outside the 150-foot no-solicitation zone, and therefore did not violate any laws.⁵³

⁴⁸ *Id.*

⁴⁹ *LDF and Co-Counsel File Lawsuit on Behalf of Pepper-Sprayed Voters in North Carolina*, NAACP LDF (Nov. 2, 2020), <https://www.naacpldf.org/press-release/ldf-and-co-counsel-file-lawsuit-on-behalf-of-pepper-sprayed-voters-in-north-carolina/>.

⁵⁰ Lisette Lopez & Ryan Smith, *Armed security guards spark concerns of voter intimidation in St. Pete*, WFTS Tampa Bay (Oct. 22, 2020), <https://www.abcactionnews.com/news/region-pinellas/sheriffs-office-investigates-report-of-possible-voter-intimidation-at-st-pete-voting-location-pinellas-soe-says>.

⁵¹ *Id.*

⁵² *Id.*

⁵³ *Id.*

During early voting periods, LDF also took action in response multiple instances of voter intimidation at polling places. For example, LDF and partners sent a letter to the Florida Attorney General, after numerous Floridians received emails threatening that the Proud Boys, an extremist far-right group, would “come after” voters who did not cast their ballots for a particular candidate, reports of hostile and confrontational demonstrations outside of early voting locations, and reports of a Miami police officer in uniform wearing a mask bearing the logo of a political candidate at a polling location.⁵⁴ We urged the Florida Attorney General to state publicly that voter intimidation is a serious crime under federal and Florida law. No such statement was made. Exercise of the franchise has become such a partisan issue, that an attorney general would not issue a public statement condemning and discouraging voter intimidation. Instead, the former President of the United States encouraged and endorsed such actions.⁵⁵

Election Day 2020

On Election Day, the Election Protection hotline received nearly 32,000 calls.⁵⁶ Accounts from LDF’s VRD and PTV teams detailed in the LDF Thurgood Marshall Institute’s report *Democracy Defended*,⁵⁷ revealed the depth and breadth of the issues reflected in these calls.

⁵⁴ *Coalition Urges Florida Attorney General to Speak Out Against Voter Intimidation Amid Reports of Illegal Activity*, NAACP LDF (Oct. 23, 2020), <https://www.naacpldf.org/wp-content/uploads/2020.10.22-Letter-re-Voter-Intimidation-1.pdf>.

⁵⁵ Frida Gihitis, *Trump encourages voter intimidation tactics in bid to hold on to power*, CNN News (Oct. 2, 2020), <https://www.cnn.com/2020/10/02/opinions/trump-proud-boys-voter-intimidation-ghitis/index.html>.

⁵⁶ Sherrilyn Ifill, *No, This Election Did Not Go “Smoothly,”* Slate (Nov. 9, 2020), <https://slate.com/news-and-politics/2020/11/2020-election-voting-did-not-go-smoothly.html>.

⁵⁷ *Democracy Defended: Executive Summary*, NAACP LDF Thurgood Marshall Institute (Feb. 10, 2021), https://www.naacpldf.org/wp-content/uploads/LDF_02102021_DemocracyDefendedPreview-11.pdf?_ga=2.209659025.2082701624.1617629692-217316157.1616678028.

Voters also encountered a myriad of administrative hurdles. Persistent across our target states, LDF witnessed a lack of, or confusing, signage at polling locations and entrances, last-minute polling place changes, and parking problems due to overcrowded facilities. These issues confused many voters on their way to the ballot box and contributed to accessibility issues for seniors and voters with disabilities. In many instances, our volunteers created signage or stood in front of polling locations that had been changed to direct voters to the correct location.

Long voting lines can serve as a deterrent to potential voters, who may not have the time to stand in line for hours. There were numerous reports of long lines across the country on Election Day. At one polling location in York County, Pennsylvania reports indicate that a line began forming even before poll workers showed up to open the polling place. The line grew to wrap around the polling place, Grace Baptist Church, onto the road on the shoulder of the busy rural highway.⁵⁸ Long lines at polling places are not instantly indicative of high voter turnout or voter enthusiasm. Many times, long lines can be a sign of understaffing, poor poll worker training, malfunctioning machines, inaccessible voting options, or polling sites that cannot accommodate the size of the voting population.⁵⁹

⁵⁸ Mike Argento, *At the Pa. polls on Election Day 2020: Long lines, QAnon, a pit bull and a drag queen: 'I've never seen a line like this before'*, York Daily Record (Nov. 3, 2020), <https://www.ydr.com/story/news/politics/elections/2020/11/03/election-day-2020-long-lines-greet-voters-battleground-pa/6058364002/>.

⁵⁹ Hannah Klain, Kevin Morris & Rebecca Ayala, *Waiting to Vote*, Brennan Center for Justice (Jun. 3, 2020), <https://www.brennancenter.org/our-work/research-reports/waiting-vote>.

Voter Intimidation on Election Day

Notably, our reports indicated an alarming surge in voter intimidation leading up to and on Election Day.⁶⁰ Nationwide, we received reports of, and witnessed, agitated partisan crowds verbally assaulting and threatening voters.⁶¹ Armed supporters of President Trump engaged in voter intimidation, such as loitering at and circling polling sites, in multiple polling locations across all 10 states that LDF monitored.⁶² In Louisiana, police were called to a polling site when a man carrying an assault rifle and campaign poster for President Trump arrived on the premises.⁶³ The presence of assault rifles or other guns and weapons can be especially threatening for Black voters, who have endured harrowing violence at the polls throughout this country's history. Unfortunately, robust enforcement of voting rights has become so devalued that reports of guns outside polling places has become the norm.⁶⁴

Instances of improper and intimidating signs, flags, and campaign caravans were abundant on and leading up to Election Day.⁶⁵ In one instance, outside a polling location

⁶⁰ Kristen Clarke, *Voter intimidation is surging in 2020. Fight for the right that begets all other rights.*, USA Today (Oct. 27, 2020), <https://www.usatoday.com/story/opinion/2020/10/27/voter-intimidation-surging-2020-protect-minority-voters-column/6043955002/>.

⁶¹ Shaila Dewan, *Armed Observers, Chants of '4 More Years' at Polls: Is That Legal?*, New York Times (Oct. 30, 2020), <https://www.nytimes.com/2020/10/30/us/poll-watching-intimidation.html>; Jeffrey Kasky, *Poll workers signed up to help voters. Instead, we were abused by Trump supporters*, South Florida Sun Sentinel (Nov. 4, 2020), <https://www.sun-sentinel.com/opinion/commentary/fl-op-com-polling-sites-campaign-intimidation-20201104-rfr6d6npune7daohytqsogbhq-story.html>.

⁶² *Democracy Defended 2021 supra* note 57.

⁶³ Scottie Hunter, *Baker Police Dept. responds to reports of man armed with assault rifle near polling location*, WAFB 9 (Nov. 3, 2020), <https://www.wafb.com/2020/11/03/baker-police-respond-reports-man-armed-with-assault-rifle-near-polling-location/>.

⁶⁴ Time Sullivan & Adam Geller, *Increasingly normal: Guns seen outside vote-counting centers*, Associated Press (Nov. 7, 2020), <https://apnews.com/article/protests-vote-count-safety-concerns-653dc8f0787c9258524078548d518992>.

⁶⁵ Pariesa Young, *US voters face intimidation ahead of presidential election by caravans, armed militias, rallies*, The Observers (Nov. 3, 2020), <https://observers.france24.com/en/20201103-american-voters-intimidation-threats-election>.

in Hattiesburg, Mississippi, an old state flag containing the Confederate emblem was flown,⁶⁶ confronting voters with a symbol of white supremacy and racism as they sought to cast their ballots.

Multiple states reported heightened police presence at polling locations. The increased presence of police officers can have a suppressive effect on voting, especially for communities that are over-policed.⁶⁷ In Autauga County, Alabama, one of our nonpartisan poll monitoring volunteers who was evaluating polling place accessibility was pulled over by a sheriff's deputy and threatened with arrest if she returned to her rightful, legal duties.⁶⁸

In addition to these already substantial hurdles, voters endured misinformation campaigns on Election Day. In the predominantly Black city of Flint, Michigan voters received robocalls recommending that they vote the day after the election.⁶⁹ The Election Day robocalls in Flint were similar to those received in August in the Detroit area. The Michigan Attorney General is prosecuting individuals believed to be involved with the Detroit robocalls.⁷⁰

Mail in Voting in the General Election

At the beginning of the pandemic, LDF identified the essential role mail-in voting and early voting would play in the election, especially for Black and other at-risk voters seeking to limit their exposure to COVID-19. This was confirmed with the preliminary estimates which indicated

⁶⁶ *Democracy Defended* 2021 *supra* note 57.

⁶⁷ Kira Lerner, *Police at Polling Places Could Intimidate Voters, Advocates Warn*, *The Appeal* (Jul. 2, 2020), <https://theappeal.org/police-polling-places-voter-intimidation-consent-decree/>.

⁶⁸ William Thornton, *SPLC poll monitor says she was threatened with arrest, hand was slapped*, *AL.com* (Nov. 4, 2020) <https://www.al.com/news/2020/11/splc-poll-monitor-says-she-was-threatened-with-arrest-hand-was-slapped.html>.

⁶⁹ Kathleen Gray, *Michigan officials warn of robocalls meant to mislead residents in Flint.*, *New York Times* (Nov. 3, 2020), <https://www.nytimes.com/2020/11/03/us/politics/michigan-robocalls.html>.

⁷⁰ *Supra* note 43.

that the use of mail-in voting more than doubled when compared with the 2016 general election, with nearly half of all voters voting by mail.⁷¹ Despite these factors, the USPS knowingly implemented last minute changes to mail collection and prioritization that would lead to widespread disruptions in mail delivery, risking the delivery of mail-in ballots. LDF and Public Citizen joined forces to sue the USPS⁷² arguing that changes to reduce services would result in unacceptable mail delays that stood to disenfranchise voters during the November 2020 election. On the morning of Election Day, a United States District Court judge ordered the USPS to sweep 12 facilities that processed ballots for 15 different states after receiving reports that more than 300,000 ballots across the country could not be traced.⁷³ USPS leadership **defied** this court order.⁷⁴ Such an attempt to obstruct the mail system amid a pandemic and on the precipice of a pivotal election by an independent government agency was unprecedented.

In sum, the 2020 election did not, as numerous news reports suggested, “go smoothly.”⁷⁵ Voters overcame a litany of barriers and obstacles with determination and resilience. The Herculean efforts of civil rights groups, grassroots activists and civic groups proved critical to ensuring access to the polls for millions of voters.

⁷¹ *Id.*

⁷² *LDF and Public Citizen File Lawsuit on Behalf of the NAACP Against the USPS to Suspend Implementation of Postal Service Changes Ahead of the November Election*, NAACP LDF (Aug. 20, 2020), <https://www.naacpldf.org/press-release/ldf-and-public-citizen-file-lawsuit-on-behalf-of-the-naacp-against-the-usps-to-suspend-implementation-of-postal-service-changes-ahead-of-the-november-election/>.

⁷³ Jacob Bogage & Christopher Ingraham, *USPS data shows thousands of mailed ballots missed Election Day deadlines*, Washington Post (Nov. 4, 2020), <https://www.washingtonpost.com/business/2020/11/03/election-ballot-delays-usps/>.

⁷⁴ *LDF Issues Statement on USPS Court-Ordered Actions to Deliver Ballots on Time*, NAACP LDF (Nov. 3, 2020), <https://www.naacpldf.org/press-release/ldf-issues-statement-on-usps-court-ordered-actions-to-deliver-ballots-on-time/>.

⁷⁵ Sherrilyn Ifill, *No, This Election Did Not Go “Smoothly,”* Slate (Nov. 9, 2020), <https://slate.com/news-and-politics/2020/11/2020-election-voting-did-not-go-smoothly.html>.

Again, this model is not sustainable. It is unworthy of our democracy. It flies in the face of the spirit and letter of the 14th and 15th Amendments to the Constitution, and the sacrifices of the Civil Rights Movement that resulted in our most cherished civil rights statutes.

Post-Election Day Voter Suppression Efforts

The efforts at voter suppression continued beyond Election Day. Stoked and encouraged by the former President, people across the country participated in a campaign to disrupt the counting and certification of the presidential election and ultimately to overturn its results.⁷⁶ In Michigan, election officials dutifully counting votes were mobbed and harassed.⁷⁷ In Arizona, protestors attempted to infiltrate ballot counting headquarters and tamper with vote counting.⁷⁸ In Pennsylvania, the Federal Bureau of Investigations helped local police intercept and arrest two men carrying weapons suspected of involvement in a plot to interfere with ballot counting.⁷⁹ These actions have forced us to now consider voter suppression not only at the stage of registration and ballot casting but also inclusive of canvassing and counting.

The violent attack on the Capitol on January 6th was a brazen, virulent, and deadly manifestation of the concerted effort to undermine our democracy, to overthrow the

⁷⁶ Simon Romero, Shaila Dewan & Giulia McDonnell Nieto del Rio, *In a Year of Protest Cries, Now It's 'Count Every Vote!' and 'Stop the Steal!'*, New York Times (Nov. 5, 2020), <https://www.nytimes.com/2020/11/05/us/election-protests-vote-count.html>; LDF Issues Statement Condemning Breach of U.S. Capitol, Attempted Coup by Supporters of President Trump, NAACP LDF (Jan. 6, 2020), <https://www.naacpldf.org/press-release/ldf-issues-statement-condemning-breach-of-u-s-capitol-attempted-coup-by-supporters-of-president-trump/>.

⁷⁷ Bill Bostock, *Videos show Trump protesters chanting 'count those votes' and 'stop the count' outside separate ballot-counting sites in Arizona and Michigan*, Business Insider (Nov. 5, 2020), <https://www.businessinsider.com/videos-trump-protesters-michigan-arizona-vote-count-2020-11>.

⁷⁸ Jake Lahut, *Dozens of pro-Trump protesters chant 'Fox News sucks' outside major election HQ in Arizona, with several reportedly trying to get inside as votes are being counted*, Business Insider (Nov. 4, 2020), <https://www.businessinsider.com/video-fox-news-sucks-chant-crowd-outside-maricopa-election-arizona-2020-11?r=US&IR=T>.

⁷⁹ Maura Ewing et. al., *Two charged with carrying weapons near Philadelphia vote-counting site amid election tensions*, Washington Post (Nov. 6, 2020), <https://www.washingtonpost.com/nation/2020/11/06/philadelphia-attack-plot-vote-count-election/>.

government, and to negate the votes cast by our communities. What we saw on January 6th was the natural conclusion of years of rhetoric inciting and condoning racism and white supremacy,⁸⁰ expanding the proliferation of conspiracy theories,⁸¹ and flouting the rule of law. At least 138 police officers were injured—some hospitalized—and five people died as a result of the Jan. 6th attack.⁸² There were many photographs from the January 6th insurrection that were disturbing but one in particular demonstrated the historical significance of what is at stake: a picture of an insurgent inside the United States Capitol building brandishing a Confederate flag.⁸³

It has become disturbingly and abundantly clear that this country was brought to the brink of disaster by coddling and nurturing the very forces that nearly destroyed this country more than a century ago. Too many in power, from the business community to the legal profession to elected officials, did not do enough to stand up to the forces about which the civil rights community has been sounding the alarm for decades. Too many refused to forcefully condemn the rise of virulent and violent racism and yet were surprised by the debasement of our nation's capital by white supremacists. From President Trump's relentless and meritless lawsuits,⁸⁴ to

⁸⁰James Rainey & Melissa Gomez, *Asked to condemn white supremacists, Trump tells Proud Boys hate group to 'stand by'*, LA Times (Sept. 29, 2020), <https://www.latimes.com/world-nation/story/2020-09-29/asked-to-condemn-white-supremacists-trump-tells-proud-boys-hate-group-to-stand-by>.

⁸¹Shirin Ghaffary, *The long-term consequences of Trump's conspiracy theory campaign*, Vox.com (Nov. 20, 2020), <https://www.vox.com/recode/21546119/trump-conspiracy-theories-election-2020-coronavirus-voting-vote-by-mail>.

⁸²Michael S. Schmidt & Luke Broadwater, *Officers' Injuries, Including Concussions, Show Scope of Violence at Capitol Riot*, New York Times (updated Apr. 2, 2021), <https://www.nytimes.com/2021/02/11/us/politics/capitol-riot-police-officer-injuries.html>; Khadeeja Safdar, Erin Ailworth & Deepa Seetharaman, *Police Identify Five Dead After Capitol Riot*, Wall Street Journal (updated Jan. 8, 2021), <https://www.wsj.com/articles/police-identify-those-killed-in-capitol-riot-11610133560>.

⁸³Javonte Anderson, *Capitol riot images showing Confederate flag a reminder of country's darkest past*, USA Today (updated Jan. 13, 2021), <https://www.usatoday.com/story/news/2021/01/07/capitol-riot-images-confederate-flag-terror/6588104002/>.

⁸⁴William Cummings, Joey Garrison & Jim Sergent, *By the numbers: President Donald Trump's failed efforts to overturn the election*, USA News Today (updated Jan. 6, 2021), <https://www.usatoday.com/in-depth/news/politics/elections/2021/01/06/trumps-failed-efforts-overturn-election-numbers/4130307001/>.

the plot in the Department of Justice to remove the acting attorney general, too many were complicit in injustice and in the pursuit of power without consequence. Indeed, despite the repeated rejection by district courts, appellate courts, and the Supreme Court of President's Trump meritless and antidemocratic lawsuits to overturn the will of the voters, 17 Republican state attorneys general who signed on to these efforts are still free to push antidemocratic measures in their own states.⁸⁵

Whether it is through the introduction of voter suppression bills in state houses, intimidation at the ballot box, or misinformation circulated on social media, these attacks threaten the very integrity of our democracy. We witnessed, and many enabled, the most dangerous assault on American democracy in more than a century. The violent storming of the Capitol was only its most visible and ugly climax. The future of our country unequivocally depends on our ability to reform our voting and elections system. We shall be a democracy in name only if we continue to allow the voter suppression and discrimination.

Continued Voter Suppression Efforts in the States

In the wake of record turnout and voter engagement in Black communities during the 2020 election season,⁸⁶ state lawmakers have unleashed a wave of restrictive voting laws to

⁸⁵Jeremy W. Peters and Maggie Haberman, *17 Republican Attorneys General Back Trump in Far-Fetched Election Lawsuit*, New York Times (Dec. 9, 2020), <https://www.nytimes.com/2020/12/09/us/politics/trump-texas-supreme-court-lawsuit.html>.

⁸⁶Abby Budiman, *Key facts about Black eligible voters in 2020 battleground states*, Pew Charitable Trusts Research Center (Oct. 21, 2020), <https://www.pewresearch.org/fact-tank/2020/10/21/key-facts-about-black-eligible-voters-in-2020-battleground-states/>.

suppress voters of color. According to the Brennan Center, as of March 24, state legislators have introduced 361 bills with restrictive provisions in 47 states.⁸⁷

Georgia

Following the failed attempts to overturn the results of the presidential election, lawmakers in Georgia rushed to pass one of the most restrictive voting laws of recent years, Senate Bill (“S.B.”) 202. S.B. 202, which: (1) severely restricts mobile voting; (2) imposes new identification requirements for requesting and casting an absentee ballot; (3) delays and compresses the time period for requesting absentee ballots; (4) imposes new restrictions on secure drop boxes; (5) implements out-of-precinct provision ballot disqualification; (6) drastically reduces early voting in runoff elections; and (7) criminalizes the provision of food and water to voters waiting in line to cast a ballot.

S.B. 202 is a transparent and direct attack on the Black voting power realized in the 2020 general election and 2021 Senate runoff elections. Supporters of the bill are promulgating the completely unfounded myth of voter fraud⁸⁸ to justify these suppressive measures. This myth was specifically addressed by Georgia’s own election officials with Georgia Secretary of State Brad Raffensperger stating in December 2020 that “we’ve never found systemic fraud” to warrant overturning the results of an election.⁸⁹ And Gabriel Sterling, the state’s voting system

⁸⁷ *State Voting Bills Tracker 2021*, Brennan Center for Justice (Last updated Apr. 1, 2021), <https://www.brennancenter.org/our-work/research-reports/state-voting-bills-tracker-2021>.

⁸⁸ Rachel Treisman, ‘Based On A Lie’ — Georgia Voting Law Faces Wave Of Corporate Backlash, National Public Radio (Apr. 1, 2021), <https://www.npr.org/2021/04/01/983450176/based-on-a-lie-georgia-voting-law-faces-wave-of-corporate-backlash>.

⁸⁹ Quinn Scanlan, ‘We’ve never found systemic fraud, not enough to overturn the election’: Georgia Secretary of State Raffensperger says, ABC News (Dec. 6, 2020), <https://abcnews.go.com/Politics/weve-found-systemic-fraud-overturn-election-georgia-secretary/story?id=74560956>.

implementation manager, holding a press conference in January 2021⁹⁰ specifically to debunk false claims of voter fraud.

The availability of equitable voting options -which were fought for long and hard- made it possible for Georgia voters to turn out in historic numbers for the November 3, 2020 general election and January 5, 2021 runoff election.⁹¹ S.B. 202 is written to undermine the significant progress made to expand voting rights and ballot access in Georgia, especially for voters of color. S.B. 202 creates unnecessary barriers and burdens on voters and disproportionately impacts the voting rights of people of color, the elderly, people with disabilities, low-income people, rural residents, and students. Since signed into law by Governor Kemp, S.B. 202 has garnered the outrage and opposition of 72 prominent and influential Black executives in corporate America, corporations like Coca Cola, airlines like Delta,⁹² sports associations like Major League Baseball,⁹³ those in the film industry,⁹⁴ and more.

⁹⁰ Miles Parks, *Georgia Election Official: Don't Let Misinformation 'Suppress Your Own Vote'*, National Public Radio (Jan. 4, 2021), <https://www.npr.org/2021/01/04/953321408/georgia-election-official-dont-let-misinformation-suppress-your-own-vote>.

⁹¹ Brittany Gibson, *Record Turnout in Georgia, but Mostly Before Election Day*, The American Prospect (Jan. 5, 2021), <https://prospect.org/politics/record-turnout-in-georgia-but-mostly-before-electionday/>; Adam Edelman, *'It's Too Important Now': Record Turnout, Black Voters Fuel Democratic Hopes in Georgia*, NBC News (Nov. 1, 2020), <https://www.nbcnews.com/politics/2020-election/it-stoo-important-now-record-turnout-black-voters-fuel-n1245416>; *Overcoming the Unprecedented: Southern Voters' Battle Against Voter Suppression, Intimidation, and a Virus*, Southern Poverty Law Center (March 16, 2021), <https://www.splcenter.org/overcoming-unprecedented-southern-voters-battle-against-voter-suppression-intimidation-and-virus>.

⁹² Andrew Ross Sorkin & David Gelles, *Black Executives Call on Corporations to Fight Restrictive Voting Laws*, New York Times (March 31, 2021), <https://www.nytimes.com/2021/03/31/business/voting-rights-georgia-corporations.html>; David Gelles, *Delta and Coca-Cola Reverse Course on Georgia Voting Law, Stating 'Crystal Clear' Opposition*, New York Times (March 31, 2021), <https://www.nytimes.com/2021/03/31/business/delta-coca-cola-georgia-voting-law.html>; Andrew Ross Sorkin & David Gelles, *Hundreds of Companies Unite to Oppose Voting Limits, but Others Abstain*, New York Times (Apr. 14, 2021), <https://www.nytimes.com/2021/04/14/business/ceos-corporate-america-voting-rights.html?smtyp=cur&smid=tw-nytimes>.

⁹³ Kevin Draper et. al., *M.L.B. Pulls All-Star Game From Georgia in Response to Voting Law*, New York Times (Apr. 6, 2021), <https://www.nytimes.com/2021/04/02/us/politics/mlb-all-star-game-moved-atlanta-georgia.html>.

⁹⁴ Kimberly Chin, *Will Smith Movie Pulls Production Out of Georgia Over GOP Voting Law*, Wall Street Journal (Apr. 12, 2021), <https://www.wsj.com/articles/will-smith-movie-emancipation-pulls-production-out-of-georgia-over-gop-voting-law-11618257076>.

On March 18, 2021, LDF submitted testimony in opposition to S.B. 202.⁹⁵ On March 30, 2021, LDF filed suit in partnership with the American Civil Liberties Union and the Southern Poverty Law Center to challenge S.B. 202.⁹⁶ Our suit claims that S.B. 202 violates the First Amendment rights of our clients and was created to discriminate against Black voters in violation of the 14th and the 15th Amendments to the Constitution, and Section 2 of the Voting Rights Act of 1965.

Texas

In Texas, House Bill (“H.B.”) 6⁹⁷ transfers authority for the safety and integrity of elections to partisan poll watchers. Notably, the bill prevents an election judge from removing any poll watcher from a polling place for any reason other than for an offense related to election fraud, a standard which could encourage voter intimidation.⁹⁸ The discretion H.B. 6 affords partisan operatives, particularly in a state with a long and well documented history of official and unofficial discrimination against Black and Latino voters creates a substantial risk of operating to intimidate and disproportionately disenfranchise voters of color.⁹⁹ H.B. 6 also repeatedly uses the phrase “purity of the ballot box” to justify its aim of emboldening partisan watchers.¹⁰⁰

⁹⁵ LDF and SPLC Action Fund Submit Testimony Opposing Georgia’s S.B. 202, NAACP LDF (March 18, 2021), <https://www.naacpldf.org/news/ldf-and-splc-action-fund-submit-testimony-opposing-georgias-s-b-202/>.

⁹⁶ Civil Rights Groups Sue Georgia Over New Sweeping Voter Suppression Law, NAACP LDF (March 30, 2021), <https://www.naacpldf.org/press-release/civil-rights-groups-sue-georgia-over-new-sweeping-voter-suppression-law/>.

⁹⁷ H.B. 6, 87th Leg., Reg. Sess. (Tex. 2021).

⁹⁸ LDF Submits Testimony in Texas House Election Committee Expressing Opposition to House Bill 6, NAACP LDF (March 25, 2021), https://www.naacpldf.org/wp-content/uploads/20210324_LDF-Opposition-TX-H.B.-6-v02.pdf?_ga=2.239021059.2082701624.1617629692-217316157.1616678028.

⁹⁹ See Lawrence Delbert Rice, *The Negro in Texas 1874-1900* 22 (1968); *The Fort Griffin Vigilante Movement, Lynching in Texas*, <https://www.lyncingintexas.org/cashion> (last accessed April 12, 2021); *United States v. Texas*, 252 F. Supp 234 (W.D. Tex. 1966); *Nixon v. Herndon*, 273 U.S. 536 (1927).

¹⁰⁰ See, e.g., H.B. 6 § 1.02; Tex. Const. Art. VI, § 4 (“In all elections by the people, the vote shall be by ballot, and the Legislature shall provide for the numbering of tickets and make such other regulations as may be necessary to detect

Comparable language regarding the “purity of the ballot box” is found in the Texas Constitution and has deep ties to calls by white legislators’ in the state to ensure the “purity of the Anglo-Saxon race” by, among other tactics, disenfranchising Black Texans.¹⁰¹

Another bill in Texas, Senate Bill (“S.B.”) 7¹⁰² proposes to eliminate straight ticket voting, voting mega centers and drive thru voting, roll back early voting access, prohibit the distribution of early voting ballot applications, and curtail curbside voting. S.B. 7 simultaneously paves the way for pre-1965 voter intimidation by empowering poll watchers to roam freely around polling stations, checking voters’ ballots, and recording them on video. S.B. 7 severely limits how the 254 counties in Texas are able to respond to their different communities’ interests and needs by eliminating flexible early voting hours, structures and distribution methods, while imposing burdens and barriers to the ability of Black and Latino Texans in particular to participate in the political process. The misguided standardization rationale should not disguise the bill’s real purpose: to intimidate, discourage, and minimize the political power of millions of Texans, disproportionately people of color, students, those living in rural communities and individuals with disabilities. The individual and cumulative effects of S.B. 7 are not a matter of speculation; the impact of the elimination of straight ticket voting alone on Black and Latino Texans, after nearly a century of the practice because of Texas’ unusually lengthy ballots, was made clear to

and punish fraud and preserve the purity of the ballot box; and the Legislature shall provide by law for the registration of all voters.”).

¹⁰¹ Bruce A. Glasrud, *Child or Beast? White Texas’ Views of Blacks 1900-1910*, 15 E. Tex. Historical J. 38 (1977).

¹⁰² S.B. 7, 87th Leg., Reg. Sess. (Tex. 2021).

the State last year in litigation in federal court.¹⁰³ The combined provisions of S.B.7 ensure that voting will take longer and operate to discourage and frustrate in person voting.

South Carolina

LDF recently submitted testimony in opposition to three restrictive voting laws in South Carolina: S.113, S. 236,¹⁰⁴ and H.4150.¹⁰⁵

S. 113 would impose new barriers on absentee voting that will disproportionately impact Black voters and other voters of color, as well as elderly and disabled voters. South Carolina law already imposes severe restrictions on who can collect absentee ballots on behalf of a voter.¹⁰⁶ S. 113 would take these restrictions to a new extreme by banning third-party absentee ballot collection, with only a narrow exception for immediate family members. Third-party absentee ballot collection is particularly important for voters who lack easy access to polling places for in-person voting, including elderly or disabled voters. Black voters are also more likely to rely on trusted third parties, such as home health aides or nonprofit organizations, to serve as their authorized representative to collect and return their ballots.¹⁰⁷ S. 113 would also effectively codify a total ban on drop boxes by requiring completed absentee ballots to be returned to election officials during office hours. The United States Department of Homeland Security

¹⁰³ *Texas Alliance for Retired Ams. v. Hughs*, No. 5:20-CV-128, 2020 WL 5747088 (S.D. Tex. Sept. 25, 2020) (granting preliminary injunction prohibiting enforcement of House Bill 25 which eliminated straight-ticket voting); stayed on Purcell grounds by *Texas Alliance for Retired Ams. v. Hughs*, 976 F.3d 364 (5th Cir. 2020).

¹⁰⁴ LDF Testifies Against South Carolina Voter Suppression Bills, NAACP LDF (Mar. 16, 2021), <https://www.naacpldf.org/news/ldf-testifies-against-south-carolina-voter-suppression-bills/>.

¹⁰⁵ *LDF Submits Testimony to the South Carolina House Judiciary Committee Regarding Two Voting Bills*, NAACP LDF (Apr. 14, 2021),

¹⁰⁶ See *SEC Form 1050, Authorization to Return Absentee Ballot*, South Carolina Election Commission (last visited Apr. 18, 2021), <https://bit.ly/3th6lZY>.

¹⁰⁷ See *Democracy Diverted: Polling Place Closures and the Right to Vote*, The Leadership Conference Education Fund (Sept. 2019), <http://civilrightsdocs.info/pdf/reports/DemocracyDiverted.pdf>.

(“DHS”) has endorsed drop boxes as a “secure and convenient means for voters to return their mail ballot” and recommends that states provide one drop box for every 15,000 to 20,000 voters.¹⁰⁸

Under current South Carolina law, any precinct with 500 or more registered voters must have its own polling place for municipal elections and is not permitted to “pool” with other precincts into a single polling location.¹⁰⁹ S. 236 would increase that threshold by a factor of six, so that only precincts with 3,000 or more registered voters would be required to have their own polling place in municipal elections. However, S. 236 takes no steps to consider or address the increased risk of congestion at polling places that would be required to serve a dramatically expanded number of voters. Such practical impediments include, among other things, a lack of sufficient parking, a lack of poll workers, and/or a shortage of equipment or supplies, all of which could lead to longer lines and voting delays.

South Carolina is one of only six states that do not offer pre-Election Day in-person voting options for all registered voters.¹¹⁰ However, the early voting framework set forth in H.4150 would implement an unequal system of early voting, resulting in troubling racial disparities in the availability of early in-person voting. Among other issues, the framework set forth by H.4150 mandates early voting during weekdays as well as the final Saturday before the election but does not permit any voting on Sunday. This approach prohibits the “Souls to the Polls” movement,¹¹¹

¹⁰⁸ See Ballot Drop Box, Cybersecurity and Infrastructure Security Agency, <https://bit.ly/2OQGxoz>.

¹⁰⁹ See S.C. Code Ann. § 7-7-1000.

¹¹⁰ See State Laws Governing Early Voting, National Conference of State Legislatures, <https://bit.ly/3uzP2nq>.

¹¹¹ Rebecca Brenner Graham, Attacking Sunday Voting is Part of Tradition of Controlling Black Americans, Wash. Post (Mar. 4, 2021), <https://wapo.st/3uYbtv>.

which is widely known across the country as a practice in which Black voters worship together on Sunday morning and then march or share rides to vote. H. 4150 also:

- terminates absentee eligibility for voters between the ages of 65 and 75;
- bans counties from offering voters the option to return their absentee ballots to drop boxes;
- mandates that all early voting occur between 8:30 A.M. and 5:00 P.M.; prohibiting any early morning or evening voting; and
- imposes extreme and potentially discriminatory reductions to absentee ballot eligibility by eliminating many of the categories for eligibility.

Arkansas and Florida

In Florida, S.B. 90¹¹² includes a prohibition on giving “any item” to voters or “interacting or attempting to interact” with voters within 100 feet of polling places. Much like the infamous Georgia bill, S.B. 90 would effectively criminalize offering assistance or giving voters food or drink, including water, within 100 feet of polling places. Another Florida state bill, H.B. 7041,¹¹³ proposes expanding that zone to 150 feet. S.B. 90 also makes changes to canvassing and vote-by-mail processes, requires drop boxes are staffed (limiting the hours of operation and increasing costs) and increases limitations on who can collect absentee ballots.

¹¹² Jane C. Timm, *Florida Republicans considering new election bill that would effectively ban giving voters water*, NBC News (Mar. 29, 2021), <https://www.nbcnews.com/politics/elections/florida-gov-ron-desantis-calls-restrictive-new-voting-laws-n1258405>.

¹¹³ *Id.*

In Arkansas, S.B. 486, also mimics the Georgia bill by defining the provision of food or water to voters within a certain perimeter of a polling place as a crime.¹¹⁴ Supporters of the bill claim it is intended to ensure “election integrity” and prohibit electioneering; however, electioneering is already prohibited within that 100-foot perimeter in Arkansas,¹¹⁵ and voter fraud remains largely unfounded.¹¹⁶

The Need for Full Restoration of the Voting Rights Act

Evidence of widespread discrimination against Black voters is overwhelming and growing and the need for legislative action is urgent.

The Framers of the 14th and 15th Amendments gave Congress the explicit power to enforce the guarantee of equal protection and the protection against voting discrimination based on race. Section 5 of the 14th Amendment and Section 2 of the 15th Amendment are as important as the substantive provisions. They represent a recognition that the Framers expected that Congress would need to take action to ensure that the protections guaranteed in the substantive sections of the Amendment would be fulfilled. For 100 years after the ratification of those Amendments, Congress abdicated its obligation to use this enforcement as Black people were systematically disenfranchised by poll taxes, literacy tests, “understanding clauses,” threats, and lynching.¹¹⁷ The passage of the Voting Rights Act -spurred by grass roots activism,

¹¹⁴ Dianne Gallagher & Kelly Mena, *Arkansas bills that restrict voting access head to governor's desk*, CNN News (Apr. 14, 2021), <https://www.cnn.com/2021/04/14/politics/arkansas-voting-rights-bills-governor/index.html>.

¹¹⁵ *Id.*

¹¹⁶ *Debunking the Voter Fraud Myth*, Brennan Center for Justice (Jan. 31, 2017), https://www.brennancenter.org/sites/default/files/analysis/Briefing_Memo_Debunking_Voter_Fraud_Myth.pdf.

¹¹⁷ Brad Epperly, et. al., *Rule by Violence, Rule by Law: The Evolution of Voter Suppression and Lynching in the U.S. South*, (Mar.1, 2016). Available at SSRN: <https://ssrn.com/abstract=3224412> or <http://dx.doi.org/10.2139/ssrn.3224412>

the sacrifice of those beaten on the Edmund Pettus Bridge, and the martyrdom of Medgar Evers, Jimmie Lee Jackson, Viola Gregg Liuzzo, Andrew Goodman, James Cheney and Michael Schwerner and so many others,¹¹⁸ was one of the most powerful instances of Congress' use of that Enforcement Power. Congress is called on once again in this moment to use the power the Framers of the Civil War Amendments entrusted to this body to ensure the full citizenship of Black people.

The undermining of the Voting Rights Act by the *Shelby County* decision has made our democracy vulnerable and allowed for voter suppression to go unchecked. One election in which the fundamental right to vote is restricted is one election too many. It is now more critical than ever that Congress act to restore federal preclearance using provisions. While LDF continues to vigorously pursue litigation to protect voting rights under Section 2 of the VRA, the U.S. Constitution, and other laws, we know that this is not enough. The Voting Rights Act must not only be fully restored but also must be strengthened. Congress should consider what can be done to lessen the burden on plaintiffs to achieve preliminary relief against discriminatory voting laws; they should not have to wait the 2 to 5 years on average or spend the exorbitant amount of money it takes to adjudicate a Section 2 case.¹¹⁹ Congress also must work to remove obstacles to

¹¹⁸ Marty Roney, *Remembering the martyrs of Bloody Sunday*, USA Today (Mar. 7, 2015), <https://www.usatoday.com/story/news/nation/2015/03/03/bloody-sunday-martyrs/24344043/>; Deborah Barfield Berry, *'Bloody Sunday' pilgrimage to move through Miss.*, USA Today (Feb. 10, 2014), <https://www.usatoday.com/story/news/nation/2014/02/10/civil-rights-pilgrimage/5376225/>.

¹¹⁹ See *supra* note 16, *Democracy Diminished* at 5 (referencing Br. of Joaquin Avila, et al. as Amici Curiae in Supp. of Resp'ts at 22, 27, *Shelby Cnty., Ala. v. Holder*, No. 12-96 (U.S. Feb. 1, 2013).

voting in federal elections faced by the nearly 5.2 million disenfranchised citizens who have been released from prison and are still denied the right to vote.¹²⁰

Moreover, as our democracy faces new and pervasive threats, Congress must act to ensure the actual integrity of our elections. Digital platforms are actively impacting our elections as evidenced by their use to sow seeds of hate and racial division in the 2016 and 2020 election seasons.¹²¹ It is critical that Congress act to investigate and legislate these activities, reframing the intervention from the narrow consideration of privacy and data breaches to one that examines the issue within the context of the historic role of race in the public space.

Conclusion

The threats to the right to vote expose cracks and rot in the foundation of our democracy that are not the result of one single Supreme Court case, an unprecedented global pandemic or even the policy choices of a presidential administration. This series of events provided a perfect storm for the disenfranchisement that we see laid bare today. But threats to voting rights and the desire to deny the right to vote to certain subsets of the American people has been with this country since the passage of the civil rights amendments. They are part of a project to dismantle the power and protections at the heart of the Voting Rights Act, which is universally recognized as the most successful piece of legislation to emerge from the Civil Rights Movement. Since 2013,

¹²⁰ Chris Uggen, et. al., *Locked Out 2020: Estimates of People Denied Voting Rights Due to a Felony Conviction*, Sentencing Project (Oct. 30, 2020), <https://www.sentencingproject.org/publications/locked-out-2020-estimates-of-people-denied-voting-rights-due-to-a-felony-conviction/>.

¹²¹ NAACP LDF, *LDF Responds to Facebook's New Policy on False Voter Information Ahead of Election* (Oct. 16, 2018) <https://www.naacpldf.org/press-release/ldf-responds-facebooks-new-policy-false-voter-information-ahead-election/>; Ben Popken, *Digital vote suppression efforts are targeting marginalized groups, report warns*, NCB News (Sep. 2, 2020), <https://www.nbcnews.com/tech/security/digital-vote-suppression-efforts-are-targeting-marginalized-groups-report-warns-n1239133>.

there have been at least nine federal court decisions finding that states or localities *intentionally* discriminated against Black and other voters of color.¹²² There is no doubt that new and ingenious methods of voter suppression are relentlessly pursued by those invested in white supremacy. The VRA goes to the heart of challenging white supremacy and white political power. It has long been targeted simply because it is so effective. Robust enforcement of the Voting Rights Act and the promise of full citizenship for Black Americans is an enduring fight to which the federal government must fully recommit.

This election laid bare the extreme urgency with which we must undertake serious, comprehensive voting system reforms. Anything less is an unacceptable affront to all voters, particularly voters of color, who are entitled to have their voices heard, fully and unencumbered. LDF and other advocates have a responsibility to fight injustices whenever and wherever they occur. However, Congress also has an obligation to use the enforcement powers it was given in the Fourteenth and Fifteenth Amendments to the U.S. Constitution to amend the Voting Rights Act to protect minority voters from racially discriminatory voting schemes.

This nation is at a critical junction, at which it must decide if it truly is committed to democracy. The severity of this moment cannot be overstated. The equal participation of citizens is the foundation of our democracy. It is the ideal upon which this country was founded. We must not relinquish the protections and progress we have won.

¹²² See *supra* note 16.

Testimony of the Hon. Bill Gardner
Senate Judiciary Committee, April 20, 2021

To the Honorable Members of the Committee,

My name is Bill Gardner and since 1976, I have had the privilege to serve as the New Hampshire Secretary of State and its Chief Election Official. I appreciate the opportunity to speak to you today about a critically important issue that impacts all of us: the integrity of our elections is the foundation of our democracy.

I support efforts of individual states to improve their own elections. The states have long been great testing grounds for innovation in enhancing and protecting the most fundamental right of citizens in this country. The right to vote.

With that said, I am deeply troubled and concerned about the direction some in Congress would take the states in terms of the conduct of elections. An unjustified federal intrusion into the election processes of the individual states will damage voter confidence, diminish the importance of Election Day, and ultimately result in lower voter turnout. We only need to look at the history of the National Voter Registration Act of 1993, also known as "Motor Voter," to see that federal involvement in the election process does not render the promised results.

When the NVRA was enacted by Congress, it was believed that many more United States citizens would be able to vote. Millions of dollars were spent by the states to comply with the act. It completely changed the voter registration process in the states.

In contrast, New Hampshire maintained an exemption to the NVRA due to Election Day voter registration, and saw its voter turnout of voting age population surge to the top tier of voter turnout among the states and has consistently maintained its position in the top 3 states for the past 4 presidential elections. Since the year 2000, New Hampshire has been double digit percentage points higher than the national average using voting age population. The attached voter turnout charts illustrate these trends.

In a "one-size-fits-all" federal approach, legislation known as the "For the People Act" would trample New Hampshire's state constitution which requires all votes be received, counted and the results publicly announced on the day of the election, and permits absentee ballots to be used only by voters who will be absent on election day or who have a disability preventing the voter from attending the polling place. The election process in New Hampshire is relatively simple. The massive federal legislation contemplated by Congress will overcomplicate our election system at tremendous financial cost. It would negate traditions and procedures that have served New Hampshire voters well for over 200 years. I believe the charts that I have provided based on facts are self-explanatory. I would be happy to answer any questions to explain why I do not believe this legislation is necessary, and why I believe it will hurt voter participation especially in the State of New Hampshire.



House of Representatives

STATE CAPITOL, ROOM 340
ATLANTA, GEORGIA 30334
(404) 656-5072 (O)
(404) 657-0498 (FAX)

12580 HWY. 9, SUITE 600-356
MILTON, GEORGIA 30004
EMAIL: jan.jones@house.ga.gov

JAN JONES
SPEAKER PRO TEMPORE

STANDING COMMITTEES

APPROPRIATIONS
EDUCATION
ETHICS
REAPPORTIONMENT
RULES

Prepared Remarks for the U.S. Senate Judiciary Committee on April 20, 2021

Thank you, Chairman Durbin, Ranking Member Grassley, and distinguished members of the Senate Judiciary Committee for inviting me to testify before today's committee hearing. I come before you today as a proud Georgian and a proud member of the Georgia General Assembly, where I serve as Speaker Pro Tempore of the Georgia House of Representatives. You, too, can be proud of the Peach State and the forward-looking approach we have taken to the elections process in order to ensure voter accessibility, transparency, and integrity.

In Georgia, we are making it easier to vote and harder to cheat. In 2020, Georgia implemented a new statewide elections system, and in 2021, we held both primary and general elections during the first modern worldwide pandemic, both with record turnout numbers. All these together, along with changes in voter preferences and choices, stressed our elections system. As a state legislature, our task was to initiate a comprehensive review to assure our state's citizens have the ability to vote in a timely manner and with confidence in their system. This four-month review culminated in SB 202, the Georgia Election Integrity Act of 2021.

But strengthening Georgia's elections processes is not new to 2021. In fact, from 2003 to 2020, 59 elections-related bills were signed into law in Georgia, including at least one bill every single year. Still, SB 202 is a bold, forward-facing approach to elections, implementing new

measures to increase voter accessibility and fairness. So, let me break down some of the key components of SB 202 and what it does for the State of Georgia.

For the first time, elections superintendents shall continue processing, counting and tabulating ballots until such activities are completed on Election Day to prevent the untimely release of returns. It establishes new guidelines for the public tabulation of ballots by type and authorizes the Secretary of State to maintain accurate voter rolls to ensure that absentee voting is legitimate. It requires transparency in any emergency voting measures that are adopted and makes it clear that the business of elections is to be run and funded by the government, not tech billionaires and their partisan allies.

For the first time, Georgia law now requires two Saturdays, instead of one, **and** two optional Sundays of early voting. SB 202 creates more uniformity of days and hours of early voting in all 159 Georgia counties. Now, 134 of Georgia's 159 counties will offer more in-person voting hours than ever before. I would note Georgia's total amount of 17 to 19 days of early voting is more than Delaware, the District of Columbia, New Mexico, Hawaii, Massachusetts, New York, Oregon, and Wisconsin.

For the first time, start and end dates for absentee ballot applications will more logically coincide with in-person early voting and practices in other states. This change will increase the likelihood that a voter successfully casts an absentee ballot and decreases the likelihood a voter forgets he or she ordered an absentee ballot as far as 6 months out, potentially slowing down in-person voting to go through the absentee ballot request cancellation process.

Certainly, though, SB 202 does not prohibit poll workers from giving water to people in line. In fact, it does the opposite: SB 202 prohibits offering anything of value within 150 feet of a polling place, *except for water offered by election officials*. This is because in 2018 and 2020,

activists and candidates passed out water, food, and gift cards, some with logos affixed to them, at polling locations while voters stood in line. A number of candidates appearing on the ballot even did the same. It's a practice referred to as "line-warming," and while not technically illegal it surely violates the spirit of free elections. The fact is that most states have a prohibition of activities considered to be campaigning or electioneering within a protected space. The protected distance by state ranges from 30 feet in Virginia and 100 feet in California to 150 feet in Massachusetts and 300 feet in Oklahoma.

Finally, I would be remiss if I didn't note the entirely selective outrage I have seen over the last few weeks. As Georgia makes our no-excuse absentee voting more secure, states like Connecticut, Delaware, Massachusetts, New Hampshire, and New York—among others—simply don't have **any** no-excuse absentee voting. We also eliminated subjective signature matching for absentee ballots and ballot applications, but California, Connecticut, Delaware, Hawaii, Illinois, Minnesota, Rhode Island, and Vermont all have some form of absentee ballot matching—either against signatures or registration records. Instead, voters in Georgia may provide their driver's license number, last four digits of social security number and birth date or utilize a free state-issued voter ID card. All three are *objective* forms of identification. Let me be clear: Georgia did not eliminate no-excuse absentee voting. We also retained in law, and systematized, ballot drop boxes, a creative voting method invented due to the COVID-19 pandemic.

It is easy to write alarming words and misleading sound bites that would lead people away from the facts, because the facts simply don't support what many are hearing or seeing, and it is just plain wrong. Members of the Committee, I look forward to setting the record straight, answering your questions and sharing more about how Georgia is at the forefront of elections

reform, as well as all the ways we are making it easier to vote, harder to cheat, and ensure every vote will count.

Senator Chuck Grassley, Ranking Member
Questions for the Record
The Honorable Stacey Abrams

1. On March 31, 2021, you originally authored an article in USA Today, wherein you wrote:

The impassioned response to the racist, classist bill that is now the law of Georgia is to boycott in order to achieve change. Events hosted by major league baseball, world class soccer, college sports and dozens of Hollywood films hang in the balance. At the same time, activists urge Georgians to swear off of hometown products to express our outrage. Until we hear clear, unequivocal statements that show Georgia-based companies get what's at stake, *I can't argue with an individual's choice to opt for their competition.*

However, one lesson of boycotts is that the pain of deprivation must be shared to be sustainable. Otherwise, those least resilient bear the brunt of these actions; and in the aftermath, the struggle to access the victory. And boycotts are complicated affairs that require a long-term commitment to action. I have no doubt that voters of color, particularly Black voters, are willing to endure the hardships of boycotts. But I don't think that's necessary – yet.¹

Two days later, Major League Baseball announced that it was pulling the 2021 All-Star Game from Georgia and it appears that someone edited the article on April 6 (although editors of USA Today did not acknowledge the alteration until April 22, 2021) to read as follows:

The impassioned (and understandable) response to the racist, classist bill that is now the law of Georgia is to boycott in order to achieve change. *Events that can bring millions of dollars to struggling families hang in the balance. Major League Baseball pulled both its All-Star Game and its draft from Georgia, which could cost our state nearly \$100 million in lost revenue.*

Rather than accept responsibility for their craven actions, Republican leaders blame me and others who have championed voting rights (and actually read the bill). Their faux outrage is designed to hide the fact that they prioritized making it harder for people of color to vote over the economic well-being of all Georgians. To add to the injury, the failed former president is now calling for cancellation of baseball as the national pastime.

Boycotts invariably also cost jobs. To be sustainable, the pain of deprivation must be shared rather than borne by those who are least resilient . . .²

¹ https://web.archive.org/web/20210331210632if_/https://www.usatoday.com/story/opinion/2021/03/31/voter-suppression-will-corporations-redeem-themselves-column/4820354001/

² <https://www.usatoday.com/story/opinion/2021/03/31/voter-suppression-will-corporations-redeem-themselves-column/4820354001/>

On April 27 a Gannett spokesman said, "We regret the oversight in updating the Stacey Abrams column. As soon as we recognized there was no editor's note, we added it to the page to reflect her changes. We have reviewed our procedures to ensure this does not occur again."³

- a. When were you first contacted to appear before the Senate Judiciary Committee for its Voting Rights Hearing?
- b. When did you propose these changes in the content of your original March 31, 2021 USA Today op-ed?
- c. With whom, if anyone, at USA Today did you communicate in making changes to your original March 31, 2021 op-ed?

³ <https://twitter.com/JosephWulfsohn/status/1387076266008981506>

SENATOR TED CRUZ
U.S. Senate Committee on the Judiciary

Questions for the Record for Stacey Abrams, Founder of Fair Fight and Fair Fight Action

You are the Founder and leader of Fair Fight and Fair Fight Action, organizations which both actively participate in election organization efforts and lobby in favor of loosening voter integrity laws at the state and federal level. At the hearing, I asked you whether your organizations engage in the practice of collecting ballots from voters, and whether it is paid work. You assured the committee that Fair Fight groups do not harvest ballots, and then explained the ways in which the organizations are helpful to voters in providing registration information. Meanwhile, throughout the hearing, you voiced your strong support for the bill S. 1, and your organizations continue to lobby in favor of it. The bill S. 1 affirmatively authorizes ballot harvesting.

1. Please confirm the following or explain Fair Fight or Fair Fight Action's role in the following activities:
 - a. No employee, affiliate, agent, volunteer of Fair Fight or Fair Fight Action, as a part of their duties to the organizations or when acting under their guidance, engages in the practice of collecting ballots from voters.
 - b. No such individual is compensated to do so by Fair Fight or Fair Fight Action.
 - c. Neither Fair Fight nor Fair Fight Action directly funds the collection of ballots from voters, and neither indirectly funds such a practice, including by issuing grants to, partnering with, or providing fundraising support to, other organizations that engage in the practice of collecting ballots from voters.
2. Does Fair Fight or Fair Fight Action plan to participate in any of the activities listed in question 1 during future elections? If so, please explain which activities and the extent of any anticipated involvement.

Senate Judiciary Committee
Hearing Entitled, “Jim Crow 2021: The Latest Assault on the Right to Vote”
Questions for the Record
Submitted April 27, 2021

QUESTIONS FOR THE HONORABLE STACEY ABRAMS
FROM SENATOR COTTON

1. On March 31, you published an op-ed in *USA Today* about Georgia's election law, in which you wrote: “Until we hear clear, unequivocal statements that show Georgia-based companies get what’s at stake, I can’t argue with an individual’s choice to opt for their competition.”

On April 2, Major League Baseball announced that it would move the All-Star Game from Georgia in response to Georgia’s election law, at an estimated cost of \$100 million in jobs and economic benefit to the state.

On April 6, after Major League Baseball's decision, your op-ed in *USA Today* was updated to remove the line that threatened boycotts against companies that didn't condemn Georgia, and edited to include new language that condemned boycotts.

- a. After your op-ed was published on March 31, did you speak with anyone at *USA Today* about editing your op-ed?
 - b. If you spoke with anyone at *USA Today* about editing your op-ed after it was published on March 31, on what dates were those conversations?
 - c. Did you or *USA Today* first mention making edits to the op-ed after publication?
 - d. After Major League Baseball announced that it would move the All-Star Game from Georgia, did you suggest to or request that *USA Today* remove the line from your op-ed about an individual opting for the competition?
2. Do you believe that Major League Baseball's decision to remove the All Star Game from Georgia was a "clear, unequivocal statement[] that show[s] [that Major League Baseball] get[s] what's at stake" in regards to Georgia’s election law?
 3. If, as your newly updated op-ed now claims, you do not support Major League Baseball moving the All-Star Game from Georgia, what response to your original op-ed do you believe that Major League Baseball should have taken instead?

Senate Judiciary Committee
Hearing Entitled, “Jim Crow 2021: The Latest Assault on the Right to Vote”

Senator Chuck Grassley, Ranking Member
Questions for the Record
The Honorable Stacey Abrams
May 30, 2021

1. On March 31, 2021, you originally authored an article in USA Today, wherein you wrote:

The impassioned response to the racist, classist bill that is now the law of Georgia is to boycott in order to achieve change. Events hosted by major league baseball, world class soccer, college sports and dozens of Hollywood films hang in the balance. At the same time, activists urge Georgians to swear off of hometown products to express our outrage. Until we hear clear, unequivocal statements that show Georgia-based companies get what’s at stake, *I can’t argue with an individual’s choice to opt for their competition.*

However, one lesson of boycotts is that the pain of deprivation must be shared to be sustainable. Otherwise, those least resilient bear the brunt of these actions; and in the aftermath, the struggle to access the victory. And boycotts are complicated affairs that require a long-term commitment to action. I have no doubt that voters of color, particularly Black voters, are willing to endure the hardships of boycotts. But I don’t think that’s necessary – yet.

Two days later, Major League Baseball announced that it was pulling the 2021 All-Star Game from Georgia and it appears that someone edited the article on April 6 (although editors of USA Today did not acknowledge the alteration until April 22, 2021) to read as follows:

The impassioned (and understandable) response to the racist, classist bill that is now the law of Georgia is to boycott in order to achieve change. *Events that can bring millions of dollars to struggling families hang in the balance. Major League Baseball pulled both its All-Star Game and its draft from Georgia, which could cost our state nearly \$100 million in lost revenue.*

Rather than accept responsibility for their craven actions, Republican leaders blame me and others who have championed voting rights (and actually read the bill). Their faux outrage is designed to hide the fact that they prioritized making it

harder for people of color to vote over the economic well-being of all Georgians. To add to the injury, the failed former president is now calling for cancellation of baseball as the national pastime.

*Boycotts invariably also cost jobs. To be sustainable, the pain of deprivation must be shared rather than borne by those who are least resilient . . .*¹

On April 27 a Gannett spokesman said, "We regret the oversight in updating the Stacey Abrams column. As soon as we recognized there was no editor's note, we added it to the page to reflect her changes. We have reviewed our procedures to ensure this does not occur again."²

- a. When were you first contacted to appear before the Senate Judiciary Committee for its Voting Rights Hearing?

I cannot pinpoint the precise moment of initial outreach. My team and I have strong relationships and ongoing conversations with numerous Democratic Senators as well as their staff.

- b. When did you propose these changes in the content of your original March 31, 2021 USA Today op-ed?

Mr. Ranking Member, this question as well as the information compiled above reflects a misunderstanding of events and a willful misrepresentation of my clearly stated position.

Neither I nor anyone on my team "proposed... changes in the content of [the] March 31, 2021 USA Today op-ed." After the initial publication online, USA Today initiated contact and requested that I update the op-ed for the April 7 print edition. This has been confirmed by the outlet [directly](#):

"In advance of running the column in print editions, USA TODAY asked Stacey Abrams to update her piece..."

The emphasis on the following passage appears to consider this a signal to MLB, which is contrary to a plain reading of the piece:

At the same time, activists urge Georgians to **swear off of hometown products** to express our outrage. Until we hear clear, unequivocal statements that show

¹

<https://www.usatoday.com/story/opinion/2021/03/31/voter-suppression-will-corporations-redeem-themselves-column/4820354001/>

² <https://twitter.com/JosephWulfsohn/status/1387076266008981506>

Georgia-based companies get what's at stake, I can't argue with **an individual's choice** to opt for their competition.

My clear statements regarding “hometown products” and “Georgia-based companies” and “an individual choice” did not pertain to MLB, a professional sports league headquartered outside of Georgia. To suggest otherwise willfully misrepresents both the letter and spirit of what I wrote.

To wit, please consider this example: If, in response to the passage of SB 202 and its prohibition on providing water or food to an elderly person voting at a nearby precinct, an individual evaluated the public statements made by Atlanta X, (a fictive “Georgia-based compan[y]”) I would not have argued at the time if they decided to only purchase products from Alabama-based Birmingham Y (“their competition”) instead of Atlanta X (the “hometown product”).

You have pointed out that this passage about “Georgia-based companies” was not included in the April 7 print edition of my op-ed. During the period between initial publication and the April 7 print version, Coca-Cola, Delta and other “Georgia-based companies” had already issued the very “clear, unequivocal statements” that I had urged on March 31. It would have been inaccurate and unfair to assert in the April 7 print edition that these “Georgia-based companies” had not made clear statements of their posture. In recognition thereof, I acknowledged these companies’ statements.

As a matter of course, I endeavor to provide clarity and context to my statements. With regards to boycotts in Georgia, both before and after MLB’s announcement, my strong caution against doing so is well documented and - as a point of fact - served as the subject of the March 31 op-ed. This is consistent with public statements made on the record to news outlets, conversations held with individuals holding contradictory and supporting positions and my previous public statements offered in 2019. Any alternative theory intentionally ignores the following March 31 passage, which directly addressed MLB and other outside-of-Georgia business entities:

“Leaving us behind with boycotts won’t save us. **I ask you to bring your business to Georgia** and if you’re already here, stay and fight.”

This passage figures as so central to my argument that it was also the subheadline of the March 31 piece. The mischaracterization of my posture and my public statements wrongfully assigns a meaning to my writing that patently does not exist. This mischaracterization appears to be attributable to only a select few, whereas the majority of others have found no difficulty in the intent and obvious language of my position.

Forbes wrote within hours of my March 31 op-ed:

“...Abrams says companies should not boycott her home state...”

Even the right-wing *New York Post* got it right, the day after my March 31 op-ed published:

“**Abrams... made her case against a boycott** in an op-ed published Wednesday [March 31] by USA Today.”

In addition to publishing my March 31 op-ed, prior to MLB’s announcement, I also took the following actions to amplify my message:

- Released a video urging the nation, “Please, do not boycott us”
- Conveyed to the Biden Administration my opposition to MLB’s then-potential move
- Conducted media interviews reiterating my opposition to a boycott
- Held private and public conversations with Georgia’s film industry urging them to stay
- Went to Hollywood and met with executives, urging them to continue filming in my state
- Opposed a 2018 #BoycottGeorgia effort responding to voter suppression

Also, as reported by multiple credible media outlets and confirmed by official MLB sources, I strongly urged leadership within the League directly that it should not move its All-Star Game. Numerous outlets confirmed the conversation with MLB sources. As I expressed to the MLB, I believed that to do so would hurt Georgians economically and served as a premature response. MLB understood my position clearly prior to its April 2 announcement.

Mr. Ranking Member, I have participated in voting rights advocacy work for nearly thirty years. As a college student, as a young attorney selected for an international fellowship on youth civic engagement, as a legislator and as a leader. For most of that time, Georgia has served as the foundation for my efforts, and I have been proud to call the state my home. My passion for voting rights is directly tied to my dedication to improve the economic and social health and well-being of my fellow Georgians. Thus, I have been the most outspoken opponent to chasing away jobs and opportunities here. Too often, that has meant opposing legislation that has been proven to cause financial harm; and during my tenure as Minority Leader in the Georgia House of Representatives, I had to oppose Republican legislation to preserve those jobs and opportunities on multiple occasions.

I will not denounce the prerogative of Americans to organize as best they can to influence those unwilling to respond to their pleas for audience. However, I will continue to do everything in my power to mitigate the harm that Republican-led voter suppression has caused both to Georgians’ freedom to vote and to Georgians’ jobs. No one in America should be compelled to forsake one to secure the other.

I am disappointed by the apparent fixation on one wilfully misinterpreted line from an op-ed updated at the publication's request for a print edition -- and not the scourge of voter suppression across the country, including in the home states of several members of this Committee. We should be focused on the substance of these bills and their deleterious effects on the ability of voters to cast ballots, the safety and effectiveness of election workers and the ability of disgruntled lawmakers to subvert elections in part or in whole. However, there is no authentic reason to manufacture outrage when plain reading clearly indicates my intent and delivery.

- c. With whom, if anyone, at USA Today did you communicate in making changes to your original March 31, 2021 op-ed?

Mr. Ranking Member, our communications with USA Today or any publication should not be the target of discussion. Sadly, in our present age, journalists are often subjected to online and in-person harassment and threats, as became common during former President Donald Trump's tenure with his ad hominem attacks on members of the media and public incitement of violence against its membership. This troubling behavior from the nation's highest office has been reinforced and exacerbated by irresponsible members of Congress who denigrate journalists and dismiss the role of the free press in our democratic society. Similar harassment of elections officials and poll workers has occurred over the past year stemming from the Big Lie pushed by former President Trump, and, tragically, multiple minority members of the Senate Judiciary Committee. I will not expose any private citizen to harassment from the likes of those who violently seized control of the Capitol on January 6.

Thank you, Mr. Ranking Member, for the opportunity to clarify these points. Should I be able to provide any further responses or offer insights, I look forward to doing so. I encourage you to support the For the People Act and the John Lewis Voting Rights Advancement Act.

Senate Judiciary Committee
Hearing Entitled, “Jim Crow 2021: The Latest Assault on the Right to Vote”

Senator Ted Cruz
Questions for the Record
The Honorable Stacey Abrams
May 30, 2021

You are the Founder and leader of Fair Fight and Fair Fight Action, organizations which both actively participate in election organization efforts and lobby in favor of loosening voter integrity laws at the state and federal level. At the hearing, I asked you whether your organizations engage in the practice of collecting ballots from voters, and whether it is paid work. You assured the committee that Fair Fight groups do not harvest ballots, and then explained the ways in which the organizations are helpful to voters in providing registration information. Meanwhile, throughout the hearing, you voiced your strong support for the bill S. 1, and your organizations continue to lobby in favor of it. The bill S. 1 affirmatively authorizes ballot harvesting.

1. Please confirm the following or explain Fair Fight or Fair Fight Action’s role in the following activities:
 - a. No employee, affiliate, agent, volunteer of Fair Fight or Fair Fight Action, as a part of their duties to the organizations or when acting under their guidance, engages in the practice of collecting ballots from voters.

Correct.

- b. No such individual is compensated to do so by Fair Fight or Fair Fight Action.

Correct.

- c. Neither Fair Fight nor Fair Fight Action directly funds the collection of ballots from voters, and neither indirectly funds such a practice, including by issuing grants to, partnering with, or providing fundraising support to, other organizations that engage in the practice of collecting ballots from voters.

Fair Fight and Fair Fight Action have supported multiple organizations, some that, as part of larger organizing efforts, may collect sealed ballots from voters in circumstances and states in which it is legal to do so. As I explained during the hearing, so-called “ballot harvesting” is not a legal term.

The pejorative term was popularized by former President Donald Trump as part of his sustained lies about voting by mail and served as one of several precursors to the Capitol insurrection on January 6. The willful misinterpretation of a range of laws, collectively denounced using rank syllogism, undermines behaviors that have become imperative to respond to disease, distance, failed infrastructure, disability and a host of challenges facing eligible voters. This conflation of lawful actions have been used to justify making it harder to vote by mail and to limit drop boxes. In Georgia, for instance, voters will have 109 fewer days to request a mail ballot relative to last year, and in Fulton County, drop boxes are being reduced from 38 to 8, with the direct and known effect of increasing the difficulty for people of color to vote.

2. Does Fair Fight or Fair Fight Action plan to participate in any of the activities listed in question 1 during future elections? If so, please explain which activities and the extent of any anticipated involvement.

Fair Fight and Fair Fight Action will continue to support numerous organizations, including those that, as part of larger organizing efforts, may collect sealed ballots from voters in circumstances and states in which it is legal to do so.

Thank you for your questions, Senator. I would be remiss if I did not also mention that, as I write this response, anti-voter legislation is proceeding through the Texas legislature. To mitigate the harm of voter suppression to your constituents, particularly those of color who are most likely to be harmed by the proposed limits on voting hours and access and creating the ability overturn an election without evidence of actual fraud, I encourage you to support the For the People Act and the John Lewis Voting Rights Advancement Act.

Senate Judiciary Committee
Hearing Entitled, "Jim Crow 2021: The Latest Assault on the Right to Vote"

Senator Tom Cotton
Questions for the Record
The Honorable Stacey Abrams
May 30, 2021

1. On March 31, you published an op-ed in USA Today about Georgia's election law, in which you wrote: "Until we hear clear, unequivocal statements that show Georgia-based companies get what's at stake, I can't argue with an individual's choice to opt for their competition."

On April 2, Major League Baseball announced that it would move the All-Star Game from Georgia in response to Georgia's election law, at an estimated cost of \$100 million in jobs and economic benefit to the state.

On April 6, after Major League Baseball's decision, your op-ed in USA Today was updated to remove the line that threatened boycotts against companies that didn't condemn Georgia, and edited to include new language that condemned boycotts.

- a. After your op-ed was published on March 31, did you speak with anyone at USA Today about editing your op-ed?

In a conversation with my team, USA Today requested that I update the op-ed for the purposes of a print edition.

- b. If you spoke with anyone at USA Today about editing your op-ed after it was published on March 31, on what dates were those conversations?

The communications occurred between initial publication and the April 7 print edition.

- c. Did you or USA Today first mention making edits to the op-ed after publication?

USA Today initiated contact and requested that I update the op-ed for the April 7 print edition. This has been confirmed by the outlet [directly](#).

"In advance of running the column in print editions, USA TODAY asked Stacey Abrams to update her piece..."

- d. After Major League Baseball announced that it would move the All-Star Game from Georgia, did you suggest to or request that USA Today remove the line from your op-ed about an individual opting for the competition?

I did not suggest or request that USA Today make this *or any other changes* to the op-ed; rather, I agreed to a request from USA Today to update my op-ed for print purposes. The line regarding individual options had no bearing on MLB. To place the reference in context:

At the same time, activists urge Georgians to **swear off of hometown products** to express our outrage. Until we hear clear, unequivocal statements that show **Georgia-based companies** get what's at stake, I can't argue with **an individual's choice** to opt for their competition.

My full statement refers to "hometown products" and "Georgia-based companies" and "an individual choice." Therefore, it cannot pertain to MLB, a professional sports league headquartered outside of Georgia. To suggest otherwise willfully misrepresents both the letter and spirit of what I wrote.

To wit, please consider this example: If, in response to the passage of SB 202 and its prohibition on providing water or food to an elderly person voting at a nearby precinct, an individual evaluated the public statements made by Atlanta X, (a fictive "Georgia-based compan[y]") I would not have argued at the time if they decided to only purchase products from Alabama-based Birmingham Y ("their competition") instead of Atlanta X (the "hometown product").

During the period between initial publication and the April 7 print version, Coca-Cola, Delta and other "Georgia-based companies" had already issued the very "clear, unequivocal statements" that I had urged on March 31. It would have been inaccurate and unfair to assert in the April 7 print edition that these "Georgia-based companies" had not made clear statements of their posture. In recognition thereof, I acknowledged these companies' statements.

2. Do you believe that Major League Baseball's decision to remove the All Star Game from Georgia was a "clear, unequivocal statement[] that show[s] [that Major League Baseball] get[s] what's at stake" in regards to Georgia's election law?

As I explain in the previous statement, my reference focused on Georgia-based companies.

3. If, as your newly updated op-ed now claims, you do not support Major League Baseball moving the All-Star Game from Georgia, what response to your original op-ed do you believe that Major League Baseball should have taken instead?

Both before and after MLB's announcement, my strong caution against any boycott of Georgia is well documented and - as a point of fact - served as the subject of the March 31 op-ed. Any alternative theory intentionally ignores the following March 31 passage, which directly addressed MLB and other outside-of-Georgia business entities:

"Leaving us behind with boycotts won't save us. I ask you to bring your business to Georgia and if you're already here, stay and fight."

This passage figures as so central to my argument that it was also the subheadline of the March 31 piece. The mischaracterization of my posture and my public statements wrongfully assigns a meaning to my writing that patently does not exist. This mischaracterization appears to be attributable to only a select few, whereas the majority of others have found no difficulty in the intent and obvious language of my position.

Forbes wrote within hours of my March 31 op-ed:

"...Abrams says companies should not boycott her home state..."

Even the right-wing *New York Post* got it right, the day after my March 31 op-ed published:

"Abrams... made her case against a boycott in an op-ed published Wednesday [March 31] by USA Today."

In addition to publishing my March 31 op-ed, prior to MLB's announcement, I also took the following actions:

- Released a video urging the nation, "Please, do not boycott us"
- Conveyed to the Biden Administration my opposition to MLB's then-potential move
- Conducted media interviews reiterating my opposition to a boycott
- Held private and public conversations with Georgia's film industry urging them to stay
- Went to Hollywood and met with executives, urging them to continue filming in my state
- Opposed a 2018 #BoycottGeorgia effort responding to voter suppression

Also, as reported by multiple credible media outlets and confirmed by official MLB sources, I strongly urged leadership within the League directly that it should not move its All-Star Game. Numerous outlets confirmed the conversation with MLB sources. As I expressed to the MLB, I

believed that to do so would hurt Georgians economically and served as a premature response. MLB understood my position clearly prior to its April 2 announcement.

In accordance with my March 31 op-ed, I sought to have MLB hold the game in metro Atlanta (“bring your business to Georgia”); in accord with my public statements, to eschew removal of the game (“please do not boycott us”) and my direct communication to the League itself was to keep the All-Star Game in Georgia. I supported wholeheartedly a public denunciation of the restrictive anti-voting laws; however, I took great pains in multiple venues to describe a preferred course of conduct - stay and fight.

Thank you, Senator Cotton, and please feel free to reach out to me at any time should you have questions about voting rights. I encourage you to support the For the People Act and the John Lewis Voting Rights Advancement Act.



April 19, 2021

Honorable Dick Durbin
Chairman
Committee on the Judiciary
United States Senate

Honorable Chuck Grassley
Ranking Member

Dear Chairman Durbin and Ranking Member Grassley,

On behalf of over 2.3 million members of the Association of Mature American Citizens (AMAC), I am writing to express our strong opposition to S.1 and its House counterpart H.R.1, the so-called "For the People Act of 2021," which could instead be titled "For More Federal Government Control Act"

This legislation would, if enacted, effect a monstrous federal preemption and takeover of the election authorities and processes of the States and assault First Amendment rights and protections of free political speech.

The legislation is carefully written to appear sensible, but is in fact deceptive in its effort to assert federal control over voting in our respective States and to build a government record of individual American's exercise of our God-given and Constitutional right of free political speech. In short, this legislation is "a wolf in sheep's clothing."

There are numerous "egregious components" in this legislation.

First, this legislation would be in effect a federal takeover of how states conduct elections for Presidents, Senators and Representatives, thereby inherently forcing voting election procedures for state and local office to conform to bill's prescription for the election of Members of Congress.

Here is how the bill deceptively uses the Constitution and the limited prerogative it provides the Congress with respect to the election of Members of the House and Senate. Turning to the Constitution, Article, Section 4:

"The Times, Places, and Manner of holding elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such regulations, except as to the Places of choosing Senators."

The bill grabs the phrase that "...the Congress may at any time by law make or alter such Regulations or alter such Regulations..." and effectively preempts in excruciating detail how the



States should conduct the election of Members of Congress. The result is to put the States in the position of administratively having to conform to the provisions of S.1/H.R. 1, rather than face the added costs and confusion of having to maintain their pre-existing law and procedures. In effect, the legislation unconstitutionally constricts and overrides the sovereignty of the States for the conduct of elections.

Here are some examples of the legislation's proposed takeover of all elections when state and local elections coincide with the federal election:

- Undermines states' election oversight, like efforts to clean up old voter rolls.
- Fosters fraud:
 - Prohibits requiring a voter ID, such as even a driver's license, to obtain a mail-in ballot and permits individuals to simply sign a sworn statement as to their identify in lieu of an official ID.
 - Virtually eliminates any restrictions on vote-by-mail.
 - Requires states to offer online registration.
 - Requires states to allow same day registration and voting.
 - Requires "automatic" voter registration by the state of those who would otherwise be eligible to register to vote.
 - Effectively permits "voter harvesting" – picking up and delivering bundles of votes – or, rather "vote trafficking," by making it criminal to interfere with those "assisting others to vote."
- Enables partisan control of the Federal Elections Commission by reducing the Commission from 6 to 5 members, thereby effectively facilitating one party oversight of federal elections and campaign finance laws.

This legislation also assaults our First Amendment right to freedom of political speech. In its effort to go after donors to conservative organizations, it would subject citizens who contribute to nonprofit organizations to political harassment and intimidation by making their personal information available in a searchable government database. In this connection, it would also force groups to publicly identify their supporters on the face of the ads themselves.

In its effort to further curtail political free speech by Americans about legislative issues, it would expand the definition of "electioneering communications" – historically limited to large-scale TV and radio campaigns targeted to the electorate in a campaign for office – to include online advertising that bears no relation to an election. In other words, letters, websites, emails, cell texts, social media messaging, and other online commentary on legislative issues by concerned



American citizens and organizations would be redefined as “electioneering communications” – subject to some type of federal oversight.

In conclusion, this legislation must never be enacted, because it is intended both (i) to subvert the Constitution and the essential federalism of our republic to bring one-party control of our nation, and (ii) to limit freedoms as guaranteed by the Bill of Rights.

Sincerely,

A handwritten signature in blue ink that reads "Bob Carlstrom".

Bob Carlstrom

President, AMAC Action



MEMO

Georgia Election Integrity Act of 2021

On March 25, 2021, Georgia Governor Brian Kemp signed into law the "Election Integrity Act of 2021" (formerly SB 202), an election bill that aims to restore trust and integrity in the state's election process. The Foundation for Government Accountability (FGA) supports the reforms implemented in this bill and highlights the need for such reforms to close loopholes that threaten the democratic process.

The Election Integrity Act of 2021 is a commonsense approach that makes it **easy to vote and hard to cheat**. It provides fair and consistent rules for Georgia elections statewide, a duty of the Georgia legislature. These new rules include reasonable reforms such as replacing signature match with a government-issued photo identification requirement (Georgia issues free voter identification cards), better security of ballot drop boxes, and broader access to voting for all Georgians. Georgia's new law contains rational and sound policy provisions to ensure fair and free elections, and **its measures actually increase access to voting.**¹

Below are some of the key provisions of the Election Integrity Act of 2021. As a result of this law, Georgians can expect the efficiency of their elections to continue to improve and voter participation to continue to rise.

Prohibiting Gifts and Restricting Private Money

- Prohibits local officials from taking or accepting non-government funds, grants, or gifts. (GA SB 202, § 9, p. 18, ln. 430-432 (election superintendents); GA SB 202, § 14, p. 23, ln. 563-565 (board of registrars).)
- Requires the State Election Board to propose a process to distribute private donations for election administration equitably throughout the state. (GA SB 202, § 9, p. 18, ln. 433-435)
- Prohibits giving cash or gifts (including food or drinks) to voters. (GA SB 202, § 33, p. 73, ln. 1872-1875.) Note that poll officers may provide self-service water available from an unattended container. (GA SB 202, § 33, p. 74, ln. 1888-1889)

Reforming Use of Absentee Ballot Drop Boxes

- Requires constant surveillance of drop boxes by election officer, law enforcement, or security guard. (GA SB 202, § 26, p. 47, ln. 1186-1888)
- Requires team of at least 2 people to escort ballots from drop box to transfer to clerk or board and sign a ballot transfer form with date, time, location, number of ballots, and names of ballot escort. (GA SB 202, § 26, p. 48, ln. 1201-1202)
- Limits the locations of drop boxes to board of register office, absentee ballot clerk office, or advance voting location. (GA SB 202, § 26, p. 47, ln. 1180-1181)



MEMO

- Limits the number of drop boxes to one drop box per 100,000 active registered voters in county or number of advance voting locations. (GA SB 202, § 26, p. 47, ln. 1176-1778)
- Requires drop box locations to be evenly distributed across the county by population. (GA SB 202, § 26, p. 47, ln. 1178-1779)

Prohibiting Third Party Interference with Absentee Ballots

- Requires use of official Secretary of State issued absentee ballot application form. (GA SB 202, § 25, p. 38, ln. 944-945)
- Requires Secretary of State to make absentee ballot application form available for submission online securely. (GA SB 202, § 25, p. 39, ln. 954-955)
- Prohibits election officials from sending voters absentee ballot applications unless requested by the voter or voter's authorized relative. (GA SB 202, § 25, p. 39, ln. 966-970)
- Prohibits third parties from delivering absentee ballot applications to those who have already requested, received, or cast an absentee ballot. (GA SB 202, § 25, p. 41, ln. 1025-1029)
- Requires third parties to update their distribution list by removing voters who requested, received, or cast an absentee ballot. (GA SB 202, § 25, p. 41, ln. 1029-1033)
- Sets a fine of \$100 per duplicate for submitting duplicate absentee ballots to election board. (GA SB 202, § 25, p. 42, ln. 1037-1043)
- Makes it a felony to knowingly accept, without authorization, an absentee ballot for delivery or return it to board of registrars. (GA SB 202, § 47, p. 95, ln. 2442-2444)
- Makes it a felony to knowingly unseal, without authorization, an absentee ballot. (GA SB 202, § 17, p. 52, ln. 1305-1309)
- Restrict third parties requesting ballots on behalf of a voter to authorized: (1) relative of the voter; (2) assistant for voters who cannot read; and (3) assistant for voters who have a disability. (GA SB 202, § 25, p. 39, ln. 967-972)
- Makes it misdemeanor for anyone to handle an absentee ballot application who is not the voter, voter's authorized relative or disability/reading assister, mail delivery, law enforcement, or election official. (GA SB 202, § 25, p. 39, ln. 967 - p. 40, ln. 981)
- Inserts oath on absentee ballot with penalty of false swearing for voter to sign attesting no one has observed who they voted for and that voter will not permit any unauthorized person to return the ballot for them. (GA SB 202, § 27, p. 52, ln. 1322-1336)



MEMO

Ensuring Accurate Identification and Verification of Absentee Voters

- Requires voter to include Georgia drivers' license or state ID number and date of birth on absentee ballot application form. If the voter does not have a license or ID, the voter shall provide a copy of military, tribal, or government employee ID card and sign an oath. (GA SB202, § 25, p. 38, ln. 945-953. See also GA SB 202, § 25, p. 43, ln. 1061-1068 (process of verification of identification by election officials).)
- Requires voter to include Georgia drivers' license or state ID number on absentee ballot envelope. If voter does not have a GA ID, the voter shall use the last four digits of social security number. If voter does not have GA ID or Social security number, the voter shall provide a copy of military, tribal, or government employee ID card and sign an oath. If none is included, the ballot shall be a provisional ballot. (GA SB 202, § 27, p. 62, ln. 1569-1573. See also GA SB 202, § 27, p. 57, ln. 1569-1573 (process of verification of identification by election officials).)

Ensuring Ballots Are Counted Accurately, Quickly, and Transparently

- Allows superintendent to start processing but (not counting ballots) on 8:00 am on third Monday prior to the election. (GA SB 202, § 29, p. 65, ln. 1657-1669)
- Processing ballots shall be open to view of the public. (GA SB 202, § 29, p. 66, 1685-1687)
- Requires superintendents to report results as soon as possible and if not by 5pm on day after election polls close, state board can conduct a performance review. (GA SB 202, § 29, p. 70, ln. 1797-1802)
- Allows inspection and challenges of list of absentee voters up to 5:00 pm on the day before starting to process and count absentee ballots. (GA SB 202, § 29, p. 55, ln. 1385-1387)

Ensuring Legislative Oversight of Lawsuits

- Requires the State Election Board and Secretary of State to notify the House and Senate judiciary committees at least five days before settling a lawsuit or entering into a consent decree changing election laws. (GA SB 202, § 8, p. 17, ln. 406-410)

Limiting Overreach through Emergency (ex: COVID-19) Waivers

- Restricts the State Election Board's power to issue emergency rules only in the event of "imminent peril" to public health, safety, or welfare. (GA SB 202, § 8, p. 16, ln. 380-382)
- Requires State Election Board, before a meeting to decide to issue emergency rules, to notify the public, executive branch (governor and lieutenant governor), legislature (Speaker, House and Senate election committees, legislative counsel), and political parties. (GA SB 202, § 8, p. 16, ln. 384-395)



MEMO

- Requires State Election Board to certify in writing that regulations were in "strict and exact" compliance with the election law. (GA SB 202, § 8, p. 16, ln. 399-402)
- Requires current election law to supersede election rules if emergency rules conflict with current election law. (GA SB 202, § 8, p. 16, ln. 403-404)

Penalties for Abuse of Power By Local Officials

Grant the State Election Board power to:

- Conduct investigations of superintendents on its own initiative or if requested by performance review board. (GA SB 202, § 7, p. 12, ln. 286-296)
- Suspend superintendents who have three violations of election laws in last two general elections. (GA SB 202, § 7, p. 13, ln. 306-309)
- Suspend superintendents who have, in at least two elections within a two-year period, demonstrated nonfeasance, malfeasance, or gross negligence in the administration of elections. (GA SB 202, § 7, p. 13, ln. 310-312)
- Replace suspended local election officials by appointing temporary officials. (GA SB 202, § 6, p. 11, ln. 270-272)
- Sanction board of registrars for failure to comply with election rules on voter eligibility challenges. (GA SB 202, § 16, p. 28, ln. 693-694)
- Sanction superintendent for not following procedures to report verified absentee ballots promptly. (GA SB 202, § 29, p. 70, ln. 1800-1802)

Cleaning Voter Rolls

- Require the Secretary of State to regularly obtain and update voter roll information (with updates on voters who die or move) from other election officials through interstate crosscheck entities such as the Electronic Registration Information Center (ERIC). (GA SB 202, § 17, p. 28, ln. 698-702)

Verifying Results with Post-Election Audits

- Authorize the Secretary of State to audit or inspect absentee ballots at any time in 24 months after election, either state-wide or for certain counties or cities, by sampling some or reviewing all ballots. (GA SB 202, § 30, p. 71, ln. 1822-1828)

⁷ Georgia Department of Driver Services, "Voter ID," State of Georgia (2021), <https://das.georgia.gov/voter-id>

April 20, 2021

The Honorable Dick Durbin
Chairman
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

The Honorable Charles Grassley
Ranking Member
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

Dear Chairman Durbin, Ranking Member Grassley, and members of the committee:

We, the undersigned Georgia voters, write to voice our strong support for Georgia's SB202.

The law protects Georgia's votes by making it easy to vote and hard to cheat. By enacting the carefully considered reforms included in the law, trust in our election system – one of the bedrocks of our Republic – has been restored.

The reforms passed in this bill:

- Protect absentee voting by requiring voter ID, not automatically sending request forms or ballots to all registered voters, printing ballots on security paper so they can be authenticated, prohibiting ballot trafficking by political operatives, and strengthening supervision of absentee ballot drop boxes.
- Promote the integrity of the election process by prohibiting private funding of election officials and government agencies.
- Increase the accuracy of voter registration lists.
- Increase transparency by allowing election observers complete access to the election process and requiring the ballot counting to continue without pause until all votes have been tabulated.

These reforms are [popular](#) with Georgia voters and address the lack of voter confidence in the election system on [all sides of the political spectrum](#), reduce the burden on election officials by streamlining the process, and increase uniformity in voting opportunities and procedures across the state.

Sincerely,

KC S.
Milton, GA

Matthew Schwartz
Marietta, GA

Nancy Pahl
Atlanta, GA

Lydia Hallmark
Douglasville, GA

Gabriella Schwartz
Marietta, GA

Keaton Russell
Dunwoody, GA

Connie DeVaughn
Dalton, GA

Pat Daugherty
Bishop, GA

Constance Thompson
Brookhaven, GA

Jerry Kotyuk
Marietta, GA

Jacqueline Neal
Ellijay, GA

Keaton Russell
Dunwoody, GA

Jim Jess
Marietta, GA

Carolyn Garcia
Kennesaw, GA

Edward Hatfield
Norcross, GA

Jean Jess
Marietta, GA

Todd Thompson
Brookhaven, GA

Keaton Russell
Dunwoody, GA

Jane Robbins
Tucker, GA

Helen Jones
Alpharetta, GA

Dana Cross
Dacula, GA

Jeanne Seaver
Savannah, GA

Keaton Russell
Dunwoody, GA

Bill Pahl
Atlanta, GA

Joanne Minster
Marietta, GA

Sherry Gallagher
Kennesaw, GA

Anita Carter
Morrow, GA

Charles Jackson
Fayetteville, GA

John Wilborn
Bremen, GA

Ann Orowski
Dacula, GA

Laura Konkel
Sugar Hill, GA

Mona Meddock
Cumming, GA

Linda Fronk
Douglasville, GA

William Rogers
Dawsonville, GA

Thomas Scott
Griffin, GA

Jane Wilborn
Bremen, GA

Keaton Russell
Dunwoody, GA

David Pinckney
Rincon, GA

John Aiken
Lawrenceville, GA

Martha Scoggin
Dahlonega, GA

Beverly Howerton
Lawrenceville, GA

Keaton Russell
Atlanta, GA

Melany Kate Sas
Fayetteville, GA

William Pahl
Atlanta, GA

John McBrayer
Calhoun, GA

Richard Nichols
Waverly Hall, GA

Dwight Melson
Lula, GA

Keaton Russell
Atlanta, GA

Linds Liled
Cedartown, GA

Stephen Snowberger
Augusta, GA

Martha Scoggin
Dahlonega, GA

Lisa Roper
Athens, GA

Jody White
Roswell, GA

Elizabeth Danner
Macon, GA

Patricia Pahl
Atlanta, GA

Michael Rafolski
Jesup, GA

Penny Jones
Dallas, GA

Marshall Evans
Atlanta, GA

Norman Dunlap
Columbus, GA

Dianna Alourdas
Atlanta, GA

Kathleen McCollum
Milton, GA

Nancy Sellers
Atlanta, GA

Lillie Sinyard
Albany, GA

Joe Samuel Roper
Athens, GA

Mike Ashley
Acworth, GA

Kelley McManaman
Atlanta, GA

Karen Snowberger
Augusta, GA

David Coleman
La Fayette, GA

William Mitcheltree
Winterville, GA

Sherry Willoughby
Douglasville, GA

Lester Maddox
Jasper, GA

Nancy Darter
Oxford, GA

Milford Nichols
Temple, GA

Helen Gause
Atlanta, GA

Patricia Jennings
Cartersville, GA

Bobbie Beusse
Social Circle, GA

William Jones
Dallas, GA

Don Carter
Cairo, GA

Gadsden Gause
Atlanta, GA

Christine Caldwell
Savannah, GA

Barbara Gold
Atlanta, GA

Fay Key
Marietta, GA

Michael Unwin
Lakeland, GA

Weldon Johnson
Toccoa, GA

Charles Surdi
Canton, GA

Sue Richardson
Hoschton, GA

Milosz Rajchel
Atlanta, GA

Dennis Hames
McDonough, GA

Jonathan Jennings
Cartersville, GA

Charles Hixson
Flintstone, GA

Pamela Dawson
Riverdale, GA

James Durden
Ellijay, GA

John Jennings
Cartersville, GA

Dana Persons
Atlanta, GA

Chalmers Morris
Marietta, GA

Lynne Allen
Adel, GA

Richard Williamson
Lawrenceville, GA

Stephen Fabiano
Blue Ridge, GA

Marion Ralph
Midland, GA

John Jennings
Cartersville, GA

Edward Beusse
Social Circle, GA

Jean Gailey
Baldwin, GA

Thomas Perry
Cumming, GA

Brooke Jennings
Cartersville, GA

David Hooten
Newnan, GA

Thomas Prather
Marietta, GA

Chelsea Mathews
Athens, GA

George Eshun
Decatur, GA

James Richards
Marietta, GA

Joseph OBrien
Brunswick, GA

N Niehoff-Emerson
Jasper, GA

Ronnie Moore
Wadley, GA

George Bonorden
Bowdon, GA

Betty Adkins
Senoia, GA

Sharon DeBlasis
Villa Rica, GA

Kathy Dye
Elberton, GA

Dorothy OConnor
Smyrna, GA

Lori Beavers
Eatonton, GA

Penny Ashley
Acworth, GA

James T. Daniel Jr
Thomaston , GA

Linda Richards
Marietta, GA

Jennie Snipes
Marietta, GA

Zam Joseph
Norcross, GA

Sue Jamroga
Hephzibah, GA

Joanne Honeycutt
Dacula, GA

Jill Wright
Milton, GA

Daniel Kinner
Willacoochee, GA

Karee Grier
Powder Springs, GA

Sidney Adkins
Senoia, GA

Richard Palancio
Pine Lake, GA

Tiffany Flock
Jefferson, GA

Susan Carol
Savannah, GA

Debra Fuller
Jackson, GA

Jennifer Pino
Milton, GA

Carey Louthan
Sandy Springs, GA

Patricia Sprattler
Loganville, GA

Norman England
Blairsville, GA

Veda Connolly
Appling, GA

Nicholas OConnor
Smyrna, GA

Robert Peurifoy
Griffin, GA

Fred Burdick
Dalton, GA

Lawson Cox
Covington, GA

Bonnie Bray
Evans, GA

Donald Schlernitzauer
Lookout Mountain, GA

Lawrence Berman
Alpharetta, GA

Cynthia Overbye
Atlanta, GA

Steve Hawkins
Dearing, GA

Cheryl Elrod
Toccoa, GA

Merriman Colvard
Chickamauga, GA

Amber Hawkins
Dearing, GA

Carroll Tanner
Cartersville, GA

Diane Harris
Savannah, GA

Corina Wade
Dearing, GA

Brian Jennings
Acworth, GA

Patricia Albano
Roswell, GA

Mary Ann Reid
Milton, GA

Anne Peurifoy
Griffin, GA

Margaret Clay
Brookhaven, GA

Pamela Schlernitzauer
Lookout Mountain, GA

Margaret Clay
Brookhaven, GA

Steve McCormick
Valdosta, GA

Robbie Finch
Odum, GA

Wayne Whittenburg
Waleska, GA

Gayeeileen Parpart
Braselton, GA

Andrew Walters
Newnan, GA

Cheryl Carlton
Waco, GA

Shirley Bradford
Marietta, GA

John Shepherd
Gainesville, GA

Patricia Montarella
Columbus, GA

William McShane
Lawrenceville, GA

Shirley Benford
Albany, GA

Darlene Driver
Suwanee, GA

Devonta Sullivan
Atlanta, GA

Cynthia Griffith
baconton, GA

Clarence Gaul
Lithonia, GA

Kristy Swales
Acworth, GA

Terry Xander
Dallas, GA

Maggie Swartz
Waycross, GA

David Colonna
Gainesville, GA

Wayne Howerton
Lawrenceville, GA

Glenda Hutto
Sylvester, GA

Leverne M. Puskar
Thomasville, GA

Frances Turner
Portal, GA

Rose Distefano
Hampton, GA

Charlotte Mattocks
Madison, GA

Rita Casteel
Lilburn, GA

Dicky Hutto
Sylvester, GA

Marc Swales
Acworth, GA

Robert Bronecke
Cartersville, GA

Jodi Lewis
Lawrenceville, GA

Fran Adams
Atlanta, GA

Carol Hall
Leesburg, GA

Nan Palmer
Gainesville, GA

Richard Sanders
Dry Branch, GA

Jeffrey Hall
Leesburg, GA

Yesika Rodriguez
Cumming, GA

Mary Perry
Cumming, GA

Joyce Fears
Hephzibah, GA

George Turner
Portal, GA

Marilee davis
Atlanta, GA

Bill Weight
Lithia Springs, GA

Thomas E McBrayer
Sylvester, GA

James Gayton
Rome, GA

Lawrence Dorman
Guyton, GA

Ginger Lynch
Loganville, GA

James Sarratt
Jonesboro, GA

Jeffrey Meeks
Lithonia, GA

Joseph Rodriguez
Cumming, GA

Cliff Whitehead
Hoschton, GA

Rick Taylor
Lilburn, GA

B Patterson
Commerce, GA

Justin Smith
Canton, GA

Robert Meara
Marietta, GA

John Soulimiotis
Lawrenceville, GA

David White
Marietta, GA

Allen Hutchinson
Ball Ground, GA

Susan Millican
Smyrna, GA

Timothy Moore
Thomasville, GA

Danny Rickett
Roswell, GA

Harry Kierbow
Griffin, GA

Karl Nurnberg
Holly Springs, GA

Margaret Hatcher
Decatur, GA

Sandra Lee
Dawsonville, GA

Augustus Wade
Acworth, GA

Sheila Shrout
Canton, GA

Jodi D
Atlanta, GA

Ray Cason
Vienna, GA

William Burgess
Martin, GA

Zann Faust
Alpharetta, GA

Lon Cothran
Lavonia, GA

Wanda Griggs
Dalton, GA

Richard Wells
Douglas, GA

Kenneth Williamson
Lyons, GA

Steven Tambroni
Albany, GA

Janice Hadaway
Rome, GA

William Tedder
Locust Grove, GA

William Morris
Lawrenceville, GA

Connie Hutchins
Conyers, GA

Holly Lawson
Lincolnton, GA

JP Brady
Marietta, GA

Gerald Lawson
Lincolnton, GA

Augustus Wade
Acworth, GA

Virginia Malone
Cumming, GA

| | | |
|--------------------------------------|-------------------------------------|--------------------------------------|
| Tom Fortner Bremen, GA | Beverley Flohr Alpharetta, GA | Malinda Naquin Richmond Hill, GA |
| Carol Walker Bremen, GA | Nicholas Ramey Decatur, GA | Anna McCoy Canton, GA |
| Brandon Maddox Ringgold, GA | Karen Sands Roswell, GA | Regina Oeland Covington, GA |
| Nancy Vetter Brookhaven, GA | Scott Young Atlanta, GA | David Gassmann Peachtree City, GA |
| John Visalle Decatur, GA | Deborah Schaffer Evans, GA | Beth Cornelius Woodstock, GA |
| Virginia Coleman Tunnel Hill, GA | Scott Young Atlanta, GA | Amanda Kelly Fayetteville, GA |
| Jeremy Nye Dahlonega, GA | Karen Sands Roswell, GA | Ray Johnson Atlanta, GA |
| Thomas Coleman Tunnel Hill, GA | E. V. Knight Macon, GA | Deborah Haws Gainesville, GA |
| Connie Bullock Powder Springs, GA | Mike Gassmann Peachtree City, GA | Mack Mccaskill Statesboro, GA |

Larry Clifton
Roopville, GA

Jennifer Pino
Milton, GA

Rovyn Schilke
Newnan, GA

Susan Gooch
Jasper, GA

Genie Houston
McDonough, GA

Walter Campbell
Douglasville, GA

Debra Hoaks
Stone mountain, GA

G. Gilley
Fairburn, GA

James Heminger
Ball Ground, GA

Elaine Helms
Marietta, GA

Heidi Lorenz
Buford, GA

August Trupiano
Woodstock, GA

Susan Bryg
Woodstock, GA

Ric Stephenson
Marietta, GA

Kenneth Bollinger
Marietta, GA

Sheila Loy
Blairsville, GA

Lynda OBrien
Roswell, GA

Fran Bollinger
Marietta, GA

Keith Hardman
Arnoldsville, GA

Franklin A Loy
Blairsville, GA

Marnelle Lax
Lawrenceville, GA

James Houston
McDonough, GA

Lynn Eldridge
AUGUSTA, GA

Don Brock
Brookhaven, GA

James Maloney
Savannah, GA

Ric Stephenson
Marietta, GA

Amanda Trupiano
Woodstock, GA

Terry Lingerfelt
Rome, GA

Nora Hale
Rone, GA

Virginia Howell
Jekyll Island, GA

Phyllis Clark
Monroe, GA

Alison Disney
Newnan, GA

Sheri Arnold
Rome, GA

Chris Smith
Albany, GA

Katherine Pepper
Dallas, GA

Rebekah Jordan
Warner Robins, GA

Marilyn Melvin
BLAIRSVILLE, GA

Edward McLeod
Leesburg, GA

Claude Thomas
Marietta, GA

Malcolm Harbison
Savannah, GA

Russell Mayo
Chamblee, GA

Ricky Hayes
Chickamauga, GA

Terry Sullivan
Cumming, GA

Susan Stanfield
Newnan, GA

Kathryn Green
Columbus, GA

Angela Wescott
Gainesville, GA

Ted Lane
Marietta, GA

Peggy Baker
Marietta, GA

Scott Stephany
Atlanta, GA

Diann Dirks
Auburn, GA

Randy Hough
Peachtree City, GA

David Doster
Cartersville, GA

chris fluehr
ATLANTA, GA

Walter Pickens
Newborn, GA

Sarah Quinn
Bonaire, GA

Judth Meadow
Midland, GA

Erica Velez
Flowery Branch, GA

Jan Kennedy
Cumming, GA

Judy Roberts
Douglas, GA

Philana Nowak
Hoschton, GA

Richard Mcdilda
Lyons, GA

Vicki Cannon
Lawrenceville, GA

Raymond Patton
Atlanta, GA

Stephanie R Hubbard
Evans, GA

Jim Kennedy
Cumming, GA

Eileen Gluth
Auburn, GA

Robert Thomas
Chickamauga, GA

Joe Ippolito
Savannah, GA

Chester Nowak
Hoschton, GA

Hubert Davis
Brunswick, GA

Philip B Meadow
Midland, GA

Danny Henderson
Newnan, GA

Maureen Richardson
McDonough, GA

Joyce Patton
Atlanta, GA

Pat Melanson
Woodstock, GA

Ken Cannon
Lawrenceville, GA

Guy Marconi
Gainesville, GA

Karen Berry
Valdosta, GA

David Cox
Ringgold, GA

Patricia Neal
Ringgold, GA

Stanley Zaborniak
Glennville, GA

Stephen Lee
Decatur, GA

Val Holland
Madison, GA

Doug Zimmer
Sugar Hill, GA

Sharon Goldman
Roswell, GA

Alton Age
Calhoun, GA

Ronald Wiley
Marietta, GA

Richard Arena
Roswell, GA

Linda West
Byromville, GA

Dennis Lewis
Macon, GA

Joseph Davis
Millwood, GA

Dorothy Roberts
Blackshear, GA

Sandra Burchardt
Sandy Spring, GA

Patricia Hunt
Kennesaw, GA

Sarah Palmer
Marietta, GA

Mary McMahon
Cherry Log, GA

Troy Beecham
Woodstock, GA

Howard Baugher
Athens, GA

Carol Landaiche
Tyrone, GA

Michael Pruetti
Stone Mountain, GA

Ronald Riggs
Lilburn, GA

Matthew Lemieux
Marietta, GA

Brett Downing
Dawsonville, GA

John Waddell
Clayton, GA

Janet Duke
Marietta, GA

Darla Pendergast
Carrollton, GA

Brenda Tasker
Johns Creek, GA

Duane Schlereth
Gainesville, GA

Annette Cook
Jasper, GA

David Clark
Flowery Branch, GA

Carol Hansen
Dahlonega, GA

Mark Trenchard
Marietta, GA

Chelsea Bishop
Calhoun, GA

Michael Bagwell
Canton, GA

Terry Dover
Dalton, GA

Teresa Bagwell
Canton, GA

Virginia Malone
Cumming, GA

Steve Rice
Lizella, GA

Brandon Bishop
Calhoun, GA

Michael Wilson
Marietta, GA

Kathy Golden
Marietta, GA

Brian Helmick
Lawrenceville, GA

Bill Shirley
Cumming, GA

Jane Cofer
Atlanta, GA

Arlene Forsthoffer
Kennesaw, GA

Elizabeth Martin
Jefferson, GA

Pat Mock
Jackson, GA

Scott Fant
Woodstock, GA

Edwin Frizzell
Blairsville, GA

Emily Blankenship
Marietta, GA

Zeke Woodall
Waycross, GA

Paul Leslie
Winder, GA

Jeffrey Smith
Stone Mountain, GA

Sherry Schlereth
Gainesville, GA

Robert Martin
Brunswick, GA

Thomas Brannen
Canton, GA

Kelli Saxon
Statesboro, GA

Thomas M. Smith Jr.
Byron, GA

Lewis Poley
Roswell, GA

Kristi Brannen
Canton, GA

Gloria Crosby
Hazlehurst, GA

Stephanie Ulrich
Rutledge, GA

Denise Dale
Clermont, GA

Karen Schultz
Newnan, GA



April 20, 2021

The Honorable Dick Durbin
Chairman
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

The Honorable Charles Grassley
Ranking Member
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

Dear Chairman Durbin and Ranking Member Grassley,

On behalf of two million Heritage Action grassroots members, we are writing to express our strong support for the efforts states have undertaken across the country to strengthen their election systems to ensure it is easy to vote and hard to cheat. We are also deeply troubled that some have chosen to undermine the public's trust in our voting systems by falsely claiming that access to the ballot box would be harmed or reduced in any way.

Free and fair elections are the bedrock of American government. They are fundamental to our way of life and give us confidence in our representative government. Public trust in our election systems is a prerequisite for fairness. Unfortunately, last year many states chose to waive or ignore numerous election laws and rules as a part of their response to COVID-19, contributing to a loss of trust in these systems for many Americans. In response, many states have chosen to re-evaluate these policies and advance legislation to ensure these last-minute changes, which undermine our faith in the electoral process, do not happen again in the future.

State governments have a responsibility to ensure that their elections systems are secure. Ensuring that the people casting ballots are who they say they are, and that elections operations are protected from outside interference, does not disenfranchise anyone — in fact, it protects voting rights by ensuring every voter can be confident that every vote counts the same. What's more, the public overwhelmingly supports common-sense reforms that improve election integrity. Policies like voter ID, maintenance of voter registration rolls, and the prevention of same-day voter registration are all supported by a large majority of Americans regardless of demographics, including race and political affiliation. Enacting reforms will inspire more confidence in our election systems and encourage more people to vote, not less.

These legislative efforts will improve the integrity of our elections and give all voters confidence through common-sense reforms, yet some partisans have baselessly claimed they restrict access



to voting. That is simply not true. In fact, many of the provisions in these laws and proposals would actually increase voting access. In Georgia specifically, the law increases the required days of early in-person voting to 17 and doubles the number of required weekend early voting days. Additionally, any voter can request an absentee ballot without any excuse within a 67-day window and either mail it in to be counted or drop it off at a secured dropbox, which is now required in Georgia. If the goal of this legislation was to prevent legal voters from voting, it would fail spectacularly, as Georgians will now have more options to cast their ballots.

In parallel, Georgia lawmakers also sought to secure voting methods with common-sense protections that ensure a voter is who they claim to be. Contrary to the Left's claims, Georgia already required a valid photo ID to vote in person, which did not decrease voter turnout. What's more, Georgia law has several provisions to help voters secure a valid ID, including requiring the state to provide low-income voters with one free of charge. Similar laws in Rhode Island, New Hampshire, and Delaware are not examples of voter suppression, and neither is Georgia's.

The objective of the legislation that many states are working on is simple: to make it easy to vote but hard to cheat. This is a goal that everyone - Republicans, Democrats, and Independents - should support. On behalf of our two million members, Heritage Action strongly supports these efforts, and we urge members of the committee to support similar legislation in their states.

Jessica Anderson
Executive Director
Heritage Action for America

NEWS RELEASES

Heritage Foundation Releases Fact-Check on Georgia Election Reform Law

Apr 16, 2021 6 min read

WASHINGTON -- The Heritage Foundation released a fact-check Friday of some of the most egregious lies being echoed by members of Congress, the media, Hollywood, and corporate America about Georgia's new election integrity reform. These reforms are about one thing -- making it easier for American citizens to vote, while making it harder to cheat:

Myth 1: The Georgia election law discourages voting/suppresses votes.

The Truth: The Georgia bill, according to Joe Snead, executive director of the Honest Elections Project said, "Overall, the Georgia law is pretty much in the mainstream and is not regressive or restrictive. The availability of absentee ballots and early voting is a lot more progressive than what's in the blue states." The Heritage Foundation recently validated this statement by comparing Georgia's law to other states.

Despite Biden and other's false claim that the time period for voting would be restricted, it is not the case that voting must finish at 5pm. Counties can set hours anywhere between 7 a.m. and 7 p.m. (see line 1446-1447 of law).

Liberal Lies:

President Joe Biden: "What I'm worried about is how un-American this whole initiative is. It's sick. It's sick...deciding that you're going to end voting at five o'clock when working people are just getting off work."

The New York Times: "The most extensive restriction of voting access in generations and a "breathtaking assertion of partisan power in elections."

Coke: "Throughout Georgia's legislative session we provided feedback to members of both legislative chambers and political parties, opposing measures in the bills that would diminish or deter access to voting...Additionally, our focus is now on supporting federal legislation that protects voting access and addresses voter suppression across the country."

Patagonia: "Our democracy is under attack by a new wave of Jim Crow bills that seek to restrict the right to vote. It is urgent that businesses across the country take a stand — and use their brands as a force for good in support of our democracy."

Delta: “However, I need to make it crystal clear that the final bill is unacceptable and does not match Delta’s values...After having time to now fully understand all that is in the bill, coupled with discussions with leaders and employees in the Black community, it’s evident that the bill includes provisions that will make it harder for many underrepresented voters, particularly Black voters, to exercise their constitutional right to elect their representatives. That is wrong.”

Mailchimp: “SB202 undermines free and fair elections in our home state of Georgia, and will make it harder for people to exercise their right to vote, especially people of color. Georgians deserve better.”

Myth 2: The Georgia law eliminates voting opportunities in order to suppress African American votes.

The Truth: The law makes no distinctions based on race. Comparisons to Jim Crow laws which included segregation, poll taxes, grandfather clauses, and literacy tests are historically ignorant and diminish the suffering caused by such laws.

Despite the liberal lie that the law ends early voting on Sundays, the bill allows for early voting on Sundays (see beginning on line 83 of the law).

Liberal Lies:

President Joe Biden: “This makes Jim Crow look like Jim Eagle. I mean, this is gigantic what they’re trying to do, and it cannot be sustained.”

Senator Chuck Schumer: “Republicans recently passed a bill to eliminate early voting on Sunday — a day when many church-going African Americans participate in voter drives known as Souls to the Polls.”

Senator Elizabeth Warren: “The Republican who is sitting in Stacey Abrams’ chair just signed a despicable voter suppression bill into law to take Georgia back to Jim Crow.”

Democrat activist and failed gubernatorial candidate Stacey Abrams: “These are (new) laws that respond to an increase in voting by people of color by constricting, removing or otherwise harming their ability to access these perquisites. It doesn’t say brown and Black people can’t vote. It simply says we’re going to remove things that we saw you use to your benefit; we’re going to make it harder for you to access these opportunities.”

Democrat lawyer Marc Elias: “These laws are all aimed at disenfranchising Black voters and also young voters.”

Myth 3: The Georgia election law suppresses the vote with onerous voter ID requirements.

The Truth: The Georgia law's voter ID language is not onerous, and makes exceptions for people without ID to provide their social security number (line 1244 of the law). Furthermore, ID requirements do not suppress voters, as studies have shown. Claims that African Americans are unable or unwilling to obtain identification are insulting and have no factual basis.

Liberal Lies:

Facebook: "We support making voting as accessible and broad-based as possible and oppose efforts to make it harder for people to vote."

Google: "We've long created tools and resources to make it easier for people to vote. But knowing how to vote depends on people being able to vote. We're concerned about efforts to restrict voting at a local level..."

Former ESPN personality Jemele Hill: "The new election bill in Georgia is not about showing ID to vote. Republicans are salty the state went blue, and they resent that their power was taken away by black voters. They want a rigged game because they're too lazy to come up with a new vision and compete for votes."

Liberal pundit Judd Legum: "Georgia's new law imposes a new ID requirement to return an absentee ballot. There is no reason to do this other than Trump's lies."

Myth 4: The bill bans access to water for voters while waiting in line.

The Truth: The law allows for self-service water from an unattended receptacle (see line 1828 of the law). The law protects voters from political solicitation within 150 feet of a voting building (see line 1818 of the law). Voters are of course allowed to bring water with them.

Liberal Lies:

Joe Biden: "It's an atrocity...You don't need anything else to know that this is nothing but punitive design to keep people from voting.You can't provide water for people about to vote? Give me a break."

James Carville: "It is going to be illegal to give somebody that's standing in line to vote. I have never heard of water being an illegal substance in the United States."

Walter Shaub, former director of the U.S. Office of Government Ethics: "Georgia's bill would make it a crime to give free food or water to voters standing in line for hours and hours. But we know who these politicians force to stand in line all day long. I've never once stood in line for even five minutes where I get to vote. This racism is thorough."

You Might Also Like

Heritage Foundation Launches Innovative Judicial Appointment Tracker

Nov 13, 2018 About an hour read

Heritage Expert: The Trump Administration Rightly Ends 2014 Dear Colleague Letter on School Discipline

Dec 22, 2018 1 min read

April 20, 2021

The Honorable Dick Durbin
Chairman
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

The Honorable Charles Grassley
Ranking Member
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

Dear Chairman Durbin and Ranking Member Grassley,

We believe all Americans of goodwill can agree we must do everything possible to both expand access to voting and protect the integrity of our elections in order to ensure that everyone's vote counts. That is our birthright as Americans. And that is true no matter what our individual political beliefs may be.

The fight to ensure every American's right to vote has been a long and costly battle dating back long before any of us were born. The policy differences of today pale in comparison to what was overcome by the noble generations that preceded us. To compare today's policy differences with the literal life and death struggle of previous generations is to diminish those heroes' struggle, sacrifice, and enormous accomplishments. It is past time for today's generation to come together in an honest, civil, and straightforward way to protect these shared values of voter access and election integrity. It should be easy to vote and hard to cheat.

Sadly, the public discourse about Georgia's new voting reforms has not been civil, fair, nor honest. Politically motivated attacks against the new law have generated much heat, but little light.

We do not challenge the goodwill of the vast majority of the participants in this needlessly overwrought drama playing out. But we take great issue with the manner in which opponents of these reforms have operated.

It has become clear that even well-intentioned critics of the law simply have no idea what the law is. It is clear they have no idea how favorably Georgia's new law compares with most other states – including President Biden's home state of Delaware. And it is clear they have no idea that a majority of Black voters across the country support the key provision under attack by critics – the simple requirement that voters be able to identify themselves when voting. [link to

survey] This is the same simple requirement needed to pick up baseball tickets or board a plane - activities hardly as important as voting.

Instead, critics of the law have substituted passion for reason, hysteria for judgment. They have launched a despicable smear campaign against supporters of the law and economic reprisals against the state of Georgia – punishing the very people they claim to champion. They have tarred with the brush of racism people whose only sin is a desire for confidence in our elections.

It's time to end these campaigns of misinformation, division, and hate. People of goodwill must find ways to expand voter access for all Americans, strengthen the security and integrity of our election process, and do so in a way that sees civil, respectful discourse between those who disagree.

We, along with dozens of other black pastors and civic leaders in Georgia fully understand and support the state's new election integrity law – a law that will help rebuild voter confidence, and make sure every vote counts. Those who have been deceived by a political campaign to discredit the new law and punish the state of Georgia, should stop, take a step back, and understand the real agenda here.

The real agenda behind these attacks on Georgia's new election law and the smears against supporters of voter identification is to create the political environment for a sweeping new power grab by folks in Washington. Of course, all of this is being done under the guise of expanding voting access. The reality is it is an unprecedented attempt to take control of our elections, and have taxpayers pay for political campaigns. Yes, tucked into the mammoth 800-page bill HR1 is a little provision where taxpayers will be forced to subsidize the campaigns of the very politicians now supporting HR1. What a massive conflict of interest.

The effect of this takeover will be to strip states of the power to ensure the integrity of our elections through voter identification and other measures which have proven time and again to prevent or catch election fraud. You need only look at recent election fraud cases in North Carolina and New Jersey to see how serious a problem our country could face if these vital protections become outlawed.

There is no inherent conflict between making it easy to vote and hard to cheat. Those who tell you that one must be prioritized over the other are either misinformed or not being honest with voters.

The struggle to provide fair, honest elections and uncompromised voter access has lasted for generations and we respect those sincerely involved in this struggle. But we can't be naïve about

what is at stake. Political agendas that have nothing to do with enhancing election security and voter access are involved. If we sincerely hope to make it easier for all Americans to vote and harder for those who want to cheat, attacking the people of Georgia is not a solution. We believe Georgia's new election law is a proper, honest step in reforming the election process and restoring voter confidence. We welcome an honest discussion about it but reject the politics of personal destruction and division practiced by its critics. We trust the people of Georgia agree.

Hon. Kay James

President, Heritage Foundation

Hon. Ken Blackwell

Former Ambassador to the United Nations Human Rights Commission

Mr. Bob Woodson

Civil Rights Leader
President, Woodson Center

Mr. Clarence Henderson

Civil Rights Icon
Chairman, North Carolina Martin Luther King Jr. Commission

Dr. Alveda King

Civil Rights Leader
President, Alveda King Ministries

Mr. Chris Arps

President, America for Citizen Voting

Hon. Jennifer Carol

Florida's 18th Lieutenant Governor

Hon. Curtis Hill

Indiana's 43rd Attorney General

Mr. Niger Innis

National Spokesperson, Congress on Racial Equality

Bishop EW Jackson

President, S.T.A.N.D

Mr. Raynard Jackson

Founder, Black Americans for a Better Future

Mr. Diante Johnson

President, Black Conservative Federation

Hon. Vernon Jones

Former State Representative, Georgia

Mr. Michael Lancaster

Director, Frederick Douglass Foundation, Georgia

Mr. Bruce LeVell

Former Small Business Administration Advocate, Region 4

Rev. Dean Nelson

Commissioner, Frederick Douglass Bicentennial Commission

Hon. Mark Robinson

Lieutenant Governor, North Carolina

Ms. Star Parker

President

Center for Urban Renewal and Education

Bishop Aubrey Shines

Founder, Conservative Clergy of Color

Dr. Carol Swain

Former Professor of Law, Vanderbilt University

Col. Allen West

Chairman, Texas GOP

CC: Majority Leader Chuck Schumer
Minority Leader Mitch McConnell
Senator Patrick Leahy
Senator Marsha Blackburn

Senator Richard Blumenthal
Senator Corey Booker
Senator Chris Coons
Senator John Cornyn
Senator Tom Cotton
Senator Ted Cruz
Senator Dianne Feinstein
Senator Lindsey Graham
Senator Josh Hawley
Senator Mazie Hirono
Senator John Kennedy
Senator Amy Klobuchar
Senator Mike Lee
Senator Jon Ossoff
Senator Alex Padilla
Senator Ben Sasse
Senator Thom Tillis
Senator Sheldon Whitehouse

PAUL D. PATRICK
SECRETARY OF STATE



LUCAS BUILDING
DES MOINES, IOWA 50319

OFFICE OF THE IOWA SECRETARY OF STATE

April 19, 2021

Senator Charles Grassley
Ranking Member
Senate Judiciary Committee
135 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Grassley,

During my tenure as Secretary of State, Iowa has consistently broken records for voter registration and voter participation. Iowans take their voting very seriously and I firmly believe we are the best state in the nation for civic engagement. Despite the pandemic, the people of Iowa made their voices heard in record numbers in 2020, both in the June Primary and November General Election. As Iowa's Chief Election Official, I am extremely proud of the way our voters, poll workers and county election officials stepped up.

Iowa has long ranked among the top ten states for voter registration and participation. We provide voters with a wide range of options for making their voices heard. Iowa is one of 29 states to offer no-excuse absentee voting. Voters have 20 days, or 480 hours, prior to an election where they can cast their absentee ballot by mail, in person at their county auditor's office, or in person at a satellite voting station. For General Elections, Iowa has mandatory Saturday hours for in-person absentee voting, and county auditors have the discretion to open their offices on Sundays or keep them open late during the work week. Iowa offers thirteen hours of in-person voting on election day, which is the same amount of time as states like California, Delaware, Illinois, and Minnesota. We are one of 22 states that offer Election Day registration, which allows voters to register and cast a regular ballot on election day. Additionally, unlike some states such as Minnesota, if a voter is unable to provide proof of identity and residence at their polling place, they are still allowed to cast a provisional ballot and provide the required documents up until Noon the Monday following the election.

Iowans overwhelmingly support the implementation of voter identification¹, which is why our Legislature passed such a law in 2017. Following the implementation of voter identification, the Des Moines Register conducted a poll that showed that 92 percent of

¹ "A majority of Iowans say they think voters should have to present a government-issued identification card before casting a ballot ..." See Iowa Poll: Majority support mandatory voter ID, Des Moines Register, <https://www.desmoinesregister.com/story/news/politics/iowa-poll/2017/02/19/iowa-poll-majority-support-mandatory-voter-id/97889850/> (Feb. 19, 2017).

Iowans were confident they would be able to cast their ballot in the 2018 General Election.² Since the implementation of Iowa's voter identification requirement, we have seen record-breaking turnout in both the 2018 and 2020 General Elections. In Iowa, our election system is tailored to meet the needs of Iowans. We have successfully balanced accessibility with security and integrity by pairing no excuse absentee voting with voter identification, election day registration with access for bi-partisan poll watchers, and curbside voting for both absentee and election day voters with post-election audits conducted on randomly selected precincts to ensure all eligible ballots are counted accurately.

Protecting the safety and integrity of elections and ensuring the public has confidence in those elections does not have to come at the cost of accessibility. I am confident in the ability of all Iowans to learn about our elections system, determine the method of voting that works best for them, and turn out to vote. My goal as Iowa's Chief Election Official has always been to make it easy to vote, but hard to cheat and to ensure that everyone is playing by the rules. Thanks to bills passed by Iowa's Legislature, and the work of my office and local election officials to implement those laws, Iowa does not have issues with widespread election misconduct or voter suppression. We were also able to conduct two successful, high turnout elections in 2020 without making changes to how Iowans vote.

The federalization of our elections would destroy the ability of states to act as laboratories of democracy and hold elections in a way that best serves the needs of their voters. Centralizing power over elections at the federal level erases local control of elections and places our democracy at risk. Senator Grassley, I strongly urge you to uphold the will of Iowa voters and reject any attempt to federalize elections. Instead, I would ask that you and all members of Congress continue to allow states to run our own safe, secure, and accessible elections.

Sincerely,



Paul D. Pate
Iowa Secretary of State

² "The poll found 92 percent of Iowans were confident they would personally be able to cast their ballots in light of the new regulations." See Iowa Poll: Almost all Iowans confident they will be able to vote under new voter ID law, Des Moines Register, <https://www.desmoinesregister.com/story/news/politics/iowa-poll/2018/09/27/iowa-poll-voter-id-secretary-state-voting-ballot-paul-pate-deidre-defear-actu-disenfranchisement/1408912002/> (Sept. 27, 2018).

Susan B. Anthony List statement on election integrity:

“Election reform is crucial to ensure that every American vote counts – fairly and equally. Americans overwhelmingly support commonsense safeguards like voter ID to make it easy to vote and hard to cheat. We’re proud to stand with lawmakers in Iowa, Georgia, Arizona, Texas, Wisconsin and other states around the country to advance simple, but much-needed reform measures. We refuse to bend to intimidation by power-hungry leftists and their corporate allies. Big business has no place bullying state legislators, nor does Silicon Valley have any right to flood local elections with corporate cash to dilute the voice of voters.

Americans must have trust and confidence that their voice will be heard via secure, transparent, and accountable elections, or the very foundations of our representative government will continue to erode.”

Ken Cuccinelli
National Chair
Election Transparency Initiative



LIES THE LEFT TELLS

AND THE TRUTH ABOUT GEORGIA'S ELECTION INTEGRITY ACT OF 2021

MYTH #1:

Official voting hours have been restricted, discouraging or suppressing voters from voting.

The truth about Georgia's new voter protections

FACT #1:

Voting hours have not been restricted—in fact, they've been expanded for early voting. Experts say the net effect will expand opportunities for voters.

MYTH #2:

The law takes away early voting options and discourages or suppresses people who rely on it.

FACT #2:

The law expands mandatory and optional early voting access. Additional weekend days have been added to early voting and are now clearly specified by law.



WWW.THEFGA.ORG

15275 Collier Boulevard Suite 201-270, Naples, FL 34119 | (239) 244-8808



MYTH #3:

New voter ID requirements discourage or suppress certain voters.

MYTH #4:

President Biden says, under the new law, water cannot be provided for voters waiting in long lines.

MYTH #5:

The new law encourages long voting lines only to discourage or suppress people from voting.

MYTH #6:

The new law eliminates drop boxes for absentee voters.

MYTH #7:

The new law gives Republican officials unchecked control over election processes.

FACT #3:

97 percent of voters already comply with ID requirements. Anyone who does not have a Georgia ID can obtain one for free.

FACT #4:

The law allows for self-service water to be available to all Georgia voters.

FACT #5:

The law requires polling places that have problems with long lines to take action to prevent the problem in the future.

FACT #6:

Drop boxes didn't exist a year ago. Utilized in 2020 as a pandemic precaution, the law now makes ballot boxes an official part of Georgia's elections.

FACT #7:

The bipartisan election board can now hold performance reviews of local election supervisors who fail their voters with issues like long lines and unfulfilled absentee requests.

1996 - 2020 Presidential Elections Based on Vote for Highest Office Divided by Voting Age Population (VAP) AFTER National Voter Registration Act of 1993

| | 1996 | 2000 | 2004 | 2008 | 2012 | 2016 | 2020 |
|--------------------------|-------|-------|-------|-------|-------|-------|-------|
| 1. Minnesota | 85.1% | 85.1% | 85.1% | 85.1% | 85.1% | 85.1% | 85.1% |
| 2. Montana | 82.3% | 82.3% | 82.3% | 82.3% | 82.3% | 82.3% | 82.3% |
| 3. Montana | 82.3% | 82.3% | 82.3% | 82.3% | 82.3% | 82.3% | 82.3% |
| 4. South Dakota | 80.3% | 80.3% | 80.3% | 80.3% | 80.3% | 80.3% | 80.3% |
| 5. Wisconsin | 79.9% | 79.9% | 79.9% | 79.9% | 79.9% | 79.9% | 79.9% |
| 6. Vermont | 78.2% | 78.2% | 78.2% | 78.2% | 78.2% | 78.2% | 78.2% |
| 7. Iowa | 77.3% | 77.3% | 77.3% | 77.3% | 77.3% | 77.3% | 77.3% |
| 8. Idaho | 77.2% | 77.2% | 77.2% | 77.2% | 77.2% | 77.2% | 77.2% |
| 9. Alaska | 77.0% | 77.0% | 77.0% | 77.0% | 77.0% | 77.0% | 77.0% |
| 10. New Hampshire | 76.8% | 76.8% | 76.8% | 76.8% | 76.8% | 76.8% | 76.8% |
| 11. Oregon | 76.8% | 76.8% | 76.8% | 76.8% | 76.8% | 76.8% | 76.8% |
| 12. Louisiana | 76.8% | 76.8% | 76.8% | 76.8% | 76.8% | 76.8% | 76.8% |
| 13. Oregon | 76.8% | 76.8% | 76.8% | 76.8% | 76.8% | 76.8% | 76.8% |
| 14. North Dakota | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% |
| 15. Kansas | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% |
| 16. Connecticut | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% |
| 17. Nebraska | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% |
| 18. Washington | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% |
| 19. Ohio | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% |
| 20. Delaware | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% |
| 21. Michigan | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% |
| 22. Colorado | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% |
| 23. New Jersey | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% |
| 24. Rhode Island | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% |
| 25. Illinois | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% |
| 26. Oklahoma | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% |
| 27. Indiana | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% |
| 28. Pennsylvania | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% |
| 29. Delaware | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% |
| 30. Utah | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% |
| 31. Utah | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% |
| 32. Alabama | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% |
| 33. Virginia | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% |
| 34. Kentucky | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% |
| 35. Maryland | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% |
| 36. Arkansas | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% |
| 37. Tennessee | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% |
| 38. Missouri | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% |
| 39. South Carolina | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% |
| 40. New York | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% |
| 41. Mississippi | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% |
| 42. New Mexico | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% |
| 43. North Carolina | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% |
| 44. California | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% |
| 45. Georgia | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% |
| 46. District of Columbia | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% |
| 47. Arizona | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% |
| 48. Texas | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% |
| 49. Nevada | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% |
| 50. Hawaii | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% |
| 51. Nevada | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% | 76.7% |

Source: Dr. Michael P. McDonald, United States Elections Project, 1980-2018 Turnout Data Set. Data accessed Sept. 5, 2017, Jan. 12, 2021
 1978 Source: Congressional Research Service Library of Congress - Report to Congress August 11, 1992

Voter Turnout Ranking of States: 1976 - 1992 Presidential Elections, Based on Vote for Highest Office Divided by Voting Age Population (VAP) Before National Voter Registration Act of 1993

| 1976 | % | 1980 | % | 1984 | % | 1988 | % | 1992 | % | | | | | |
|------|-------------------|-------|----|-------------------|-------|------|-------------------|-------|----|-------------------|-------|----|-------------------|-------|
| 1 | Minnesota | 71.5% | 1 | Minnesota | 70.0% | 1 | Minnesota | 68.6% | 1 | Minnesota | 66.2% | 1 | Maine | 73.1% |
| 2 | Utah | 68.4% | 2 | Idaho | 67.9% | 2 | Montana | 65.8% | 2 | Montana | 63.7% | 2 | Minnesota | 71.2% |
| 3 | North Dakota | 67.2% | 3 | Wisconsin | 67.4% | 3 | Maine | 64.9% | 3 | North Dakota | 63.2% | 3 | Montana | 69.5% |
| 4 | Wisconsin | 66.5% | 4 | South Dakota | 67.3% | 4 | South Dakota | 63.8% | 4 | South Dakota | 62.9% | 4 | Wisconsin | 68.2% |
| 5 | South Dakota | 64.1% | 5 | Montana | 65.1% | 5 | Wisconsin | 63.8% | 5 | Wisconsin | 61.6% | 5 | Vermont | 67.9% |
| 6 | Maine | 63.6% | 6 | North Dakota | 64.8% | 6 | North Dakota | 63.5% | 6 | Maine | 61.5% | 6 | South Dakota | 66.1% |
| 7 | Montana | 63.3% | 7 | Utah | 64.6% | 7 | Iowa | 63.3% | 7 | Utah | 60.5% | 7 | North Dakota | 66.0% |
| 8 | Iowa | 63.1% | 8 | Maine | 64.6% | 8 | Oregon | 62.5% | 8 | Idaho | 59.9% | 8 | Oregon | 65.3% |
| 9 | Connecticut | 62.7% | 9 | Iowa | 62.9% | 9 | Utah | 61.6% | 9 | Iowa | 59.7% | 9 | Iowa | 64.5% |
| 10 | Massachusetts | 61.8% | 10 | Oregon | 61.4% | 10 | Idaho | 60.8% | 10 | Vermont | 59.2% | 10 | New Hampshire | 64.8% |
| 11 | Oregon | 61.3% | 11 | Connecticut | 61.0% | 11 | Vermont | 60.5% | 11 | Oregon | 58.5% | 11 | Connecticut | 64.1% |
| 12 | Idaho | 60.6% | 12 | Michigan | 60.0% | 12 | Connecticut | 60.3% | 12 | Nebraska | 57.8% | 12 | Idaho | 63.8% |
| 13 | Indiana | 60.1% | 13 | Massachusetts | 59.0% | 13 | Washington | 58.6% | 13 | Colorado | 57.3% | 13 | Alaska | 63.8% |
| 14 | Washington | 59.8% | 14 | Missouri | 58.8% | 14 | Alaska | 58.6% | 14 | Connecticut | 57.2% | 14 | Nebraska | 62.6% |
| 15 | Rhode Island | 59.6% | 15 | Rhode Island | 58.6% | 15 | Michigan | 58.0% | 15 | Massachusetts | 56.7% | 15 | Kansas | 62.3% |
| 16 | Illinois | 59.4% | 16 | Illinois | 57.8% | 16 | Ohio | 58.0% | 16 | Missouri | 55.5% | 16 | Utah | 61.8% |
| 17 | Colorado | 58.8% | 17 | Vermont | 57.8% | 17 | Illinois | 57.9% | 17 | New Hampshire | 55.2% | 17 | Missouri | 61.8% |
| 18 | Kansas | 58.9% | 18 | Indiana | 57.7% | 18 | Missouri | 57.8% | 18 | Wyoming | 55.1% | 18 | Michigan | 61.1% |
| 19 | Michigan | 58.8% | 19 | Washington | 57.4% | 19 | Kansas | 57.4% | 19 | Ohio | 55.0% | 19 | Wyoming | 60.6% |
| 20 | Wyoming | 58.5% | 20 | New Hampshire | 57.2% | 20 | Massachusetts | 57.0% | 20 | Kansas | 54.9% | 20 | Colorado | 60.3% |
| 21 | New Jersey | 57.7% | 21 | Alaska | 57.1% | 21 | Nebraska | 56.6% | 21 | Illinois | 54.2% | 21 | Ohio | 60.2% |
| 22 | Missouri | 57.3% | 22 | Kansas | 56.8% | 22 | New Jersey | 56.5% | 22 | Alaska | 54.2% | 22 | Washington | 59.8% |
| 23 | New Hampshire | 57.2% | 23 | Nebraska | 56.7% | 23 | Indiana | 56.4% | 23 | Louisiana | 54.2% | 23 | Massachusetts | 59.8% |
| 24 | Delaware | 57.2% | 24 | Colorado | 55.9% | 24 | Delaware | 55.9% | 24 | Michigan | 54.2% | 24 | Oklahoma | 58.8% |
| 25 | West Virginia | 57.1% | 25 | Ohio | 55.4% | 25 | Colorado | 55.7% | 25 | Washington | 53.6% | 25 | Louisiana | 58.4% |
| 26 | Nebraska | 56.2% | 26 | New Jersey | 54.9% | 26 | Louisiana | 55.6% | 26 | Indiana | 53.6% | 26 | Rhode Island | 58.2% |
| 27 | Vermont | 55.7% | 27 | Delaware | 54.7% | 27 | Rhode Island | 55.5% | 27 | New Jersey | 52.5% | 27 | Illinois | 58.1% |
| 28 | Ohio | 55.1% | 28 | Wyoming | 53.4% | 28 | Wyoming | 54.9% | 28 | Rhode Island | 52.5% | 28 | New Jersey | 55.7% |
| 29 | Oklahoma | 54.8% | 29 | Louisiana | 53.2% | 29 | Pennsylvania | 54.3% | 29 | Mississippi | 51.3% | 29 | Delaware | 55.3% |
| | United States | 54.7% | 30 | West Virginia | 52.8% | | United States | 53.3% | 30 | Delaware | 51.0% | | United States | 54.7% |
| 30 | Pennsylvania | 54.1% | | United States | 52.6% | 30 | New Hampshire | 53.1% | 31 | Oklahoma | 50.9% | 30 | Alabama | 54.5% |
| 31 | New Mexico | 53.4% | 31 | Oklahoma | 52.2% | 31 | Oklahoma | 52.9% | | United States | 50.3% | 31 | Indiana | 54.5% |
| 32 | Arkansas | 51.1% | 32 | Pennsylvania | 52.0% | 32 | Mississippi | 52.7% | 32 | Pennsylvania | 50.2% | 32 | Pennsylvania | 53.9% |
| 33 | New York | 50.6% | 33 | Mississippi | 51.9% | 33 | West Virginia | 52.5% | 33 | New Mexico | 49.8% | 33 | Maryland | 53.7% |
| 34 | California | 50.4% | 34 | Arkansas | 51.5% | 34 | Arkansas | 52.3% | 34 | Kentucky | 48.8% | 34 | Arkansas | 53.1% |
| 35 | Maryland | 49.3% | 35 | New Mexico | 50.9% | 35 | New Mexico | 51.9% | 35 | Maryland | 48.5% | 35 | Kentucky | 53.0% |
| 36 | Florida | 49.1% | 36 | Maryland | 50.0% | 36 | Kentucky | 51.2% | 36 | Arkansas | 48.2% | 36 | Virginia | 52.7% |
| 37 | Louisiana | 48.7% | 37 | Kentucky | 49.9% | 37 | Maryland | 51.1% | 37 | West Virginia | 48.1% | 37 | Mississippi | 52.2% |
| 38 | Tennessee | 48.6% | 38 | California | 48.9% | 38 | New York | 50.9% | 38 | Virginia | 47.9% | 38 | Tennessee | 52.0% |
| 39 | Alaska | 48.0% | 39 | Tennessee | 48.8% | 39 | Virginia | 50.7% | 39 | New York | 47.5% | 39 | Arizona | 51.3% |
| 40 | Mississippi | 48.0% | 40 | Alabama | 48.7% | 40 | Alabama | 50.3% | 40 | Alabama | 46.7% | 40 | New Mexico | 50.4% |
| 41 | Kentucky | 47.9% | 41 | Florida | 48.7% | 41 | Tennessee | 49.4% | 41 | California | 46.5% | 41 | New York | 50.2% |
| 42 | Virginia | 46.9% | 42 | New York | 48.0% | 42 | California | 49.3% | 42 | Texas | 46.7% | 42 | Florida | 50.2% |
| 43 | Hawaii | 46.6% | 43 | Virginia | 47.5% | 43 | Florida | 48.3% | 43 | Tennessee | 45.3% | 43 | North Carolina | 49.7% |
| 44 | Texas | 46.3% | 44 | Texas | 44.9% | 44 | Texas | 47.4% | 44 | Arizona | 44.9% | 44 | West Virginia | 49.6% |
| 45 | Alabama | 46.3% | 45 | Arizona | 44.4% | 45 | North Carolina | 47.3% | 45 | Florida | 44.6% | 45 | California | 49.3% |
| 46 | Arizona | 46.1% | 46 | Hawaii | 43.6% | 46 | Arizona | 45.3% | 46 | Hawaii | 44.1% | 46 | Nevada | 49.3% |
| 47 | Nevada | 44.1% | 47 | North Carolina | 43.4% | 47 | Hawaii | 44.7% | 47 | North Carolina | 43.5% | 47 | Texas | 48.3% |
| 48 | North Carolina | 42.9% | 48 | Georgia | 41.3% | 48 | Georgia | 41.9% | 48 | Nevada | 42.5% | 48 | Dist. of Columbia | 47.7% |
| 49 | Georgia | 42.0% | 49 | Nevada | 41.1% | 49 | Dist. of Columbia | 41.8% | 49 | South Carolina | 39.4% | 49 | Georgia | 45.9% |
| 50 | South Carolina | 40.2% | 50 | South Carolina | 40.4% | 50 | Nevada | 41.1% | 50 | Georgia | 39.1% | 50 | South Carolina | 44.8% |
| 51 | Dist. of Columbia | 32.2% | 51 | Dist. of Columbia | 35.3% | 51 | South Carolina | 40.9% | 51 | Dist. of Columbia | 38.4% | 51 | Hawaii | 43.0% |

Source: Dr. Michael P. McDonald, United States Elections Project, 1980 - 2016 Turnout Data Set, Date accessed: Sept. 5, 2017.
 1976 Source: Congressional Research Service-Library of Congress - Report to Congress August 11, 1992

New Hampshire Turnout Greater than U.S. Turnout
Votes for President as % of Voting Age Population (VAP)
1952 - 2020

| Presidential Election Year | N.H. Turnout: Highest Office/ VAP | U.S. Turnout: Highest Office/ VAP | N.H. Turnout greater than U.S. Turnout |
|---|--|--|---|
| 1952 | 78.2% | 63.8% | 14.4% |
| 1956 | 75.2% | 58.3% | 16.9% |
| 1960 | 78.7% | 62.8% | 15.9% |
| 1964 | 72.4% | 61.9% | 10.5% |
| 1968 | 69.6% | 60.8% | 8.8% |
| 1972 | 63.6% | 55.2% | 8.4% |
| 1976 | 57.3% | 53.5% | 3.7% |
| 1980 | 57.2% | 52.6% | 4.6% |
| 1984 | 53.1% | 53.3% | -0.2% |
| 1988 | 55.2% | 50.3% | 4.8% |
| 1992 | 64.5% | 54.7% | 9.8% |
| 1996 | 56.8% | 48.1% | 8.7% |
| 2000 | 60.9% | 50.0% | 10.9% |
| 2004 | 68.8% | 55.5% | 13.3% |
| 2008 | 69.6% | 56.9% | 12.7% |
| 2012 | 67.8% | 53.6% | 14.2% |
| 2016 | 69.1% | 54.7% | 14.5% |
| 2020 | 72.2% | 61.4% | 10.8% |

Sources:

United States Federal Election Commission

United States Elections Project ; Dr. Michael McDonald; Nov. 16, 2017

International Institute for Democracy and Electoral Assistance

Red Book: Manual for the General Court

United States Census Bureau - Voting Age Population (VAP)

Congressional Research Service

Election Data Services, Inc.



Office of the Secretary of State

Brad Raffensperger
SECRETARY OF STATE

April 20, 2021

Testimony Before the U.S. Senate Committee on the Judiciary

Members of the committee. Thank you for having me here today.

I am here today to sound the alarm over an all too common willingness to spread disinformation about elections and election laws for partisan gain.

Since November 3, I and members of my office had repeatedly emphasized the damage that this free for all assault on voter confidence in elections does to this most basic and fundamental democratic institution. Without confidence in the vote, our democracy will be heading down a dangerous path.

Even before the November election, I found myself defending Georgia's voting system from misinformation. In the months after November, we were lionized by media outlets and praised by individuals on the left for our willingness to stand up for truth in the face of unprecedented pressure. I myself was an early supporter of the president during the 2016 election. I am a strong believer in small government and the idea that government is best, when it gets out of the way. But there was just no credibility to the claims about widespread fraud in the November election, so we let the truth be our guide.

Because you believed me after November, I ask that you believe me again now. I told the truth then when it was politically inconvenient for me and I am telling it now, even if it may be politically inconvenient for some of you.

The attack on the integrity of our elections is doing damage that may not be undone. We've seen this firsthand in Georgia.

Though it differed in scale, many of the claims and allegations we heard in recent months echoed almost word for word those we heard from Stacey Abrams and her allies after the November 2018 election. A stolen election. Machines switching or erasing votes. Calls for major reforms after their losses. Numerous lawsuits which have devolved into nothing of substance. Abrams told her supporters Republicans were "domestic enemies" and said she was at "war." She claimed voter suppression. She had no proof or credible evidence. Only salacious allegations.

214 State Capitol • Atlanta, Georgia • 30334 • Tel: (470) 312-2808

We are seeing that spirit at play here today as well. Long before the recent election bill was passed, critics had already decided to call it Jim Crow in a suit and tie. The President referred to it as Jim Crow on steroids and condemned a part of the bill that did not exist. The Senator from Georgia who preceded me on the earlier panel sent out a fundraising email falsely claiming the new bill eliminated no-excuse absentee voting.

And these lies – and I call them lies because that is the most accurate description – are doing real damage to Georgians. As a result, the MLB pulled out of a state with large Black population and moved to a state with a miniscule Black population supposedly to help Black Americans. That is \$100 million that Georgia will never get back. The President called for it. And the Big Lie about Georgia's election bill made it possible.

Which brings us to the reason for this bill. Many have alleged that the motivation for this bill was the claims of voter fraud in Georgia. In 2019, after Stacey Abrams spread her own big lie about the 2018 election, Georgia overhauled its entire system. We went from an all-digital system to a paper-ballot one, buying new equipment for every county. Those paper-ballots proved crucial for upholding confidence in the election. The 2019 overhaul also added a cure period for absentee ballots and simplified the absentee ballot envelopes to minimize issues.

It should not be a surprise then that election legislation would follow a controversial election like the one we saw in November. Georgia saw major increases in the number of complaints about alleged election violations, a trend that continued through the January runoffs. Georgia saw an unprecedented surge in reports of electioneering near polling locations, concerns about voter fraud, and absentee ballot fraud in particular. We saw an increase in allegations of vote buying, multiple complaints about people getting more than one ballot, people complained that ballots were sent to the wrong address, and a larger number of in-person voters being told they had requested an absentee ballot when they arrived at the polls though they claimed they had never done so.

Through all this, voter confidence in the election was significantly undermined and it required action, much as it had after the November 2018 election. A January 2019 poll showed 85% of Georgia Democrats felt that obstacles to voting or problems with voting machines affected the outcome of the 2018 election. A January 2021 poll found that 76% of Georgia Republicans thought there was widespread voter fraud in the 2020 election.

The bottom line is that this bill expands access to the ballot. We increase the number of required early voting days from 16 to 17 and codify two optional Sunday voting days into law. The bill makes the standard early voting day 9pm to 5pm, with the option to increase those hours to 7am to 7pm. Previous law said early voting only had to be during business hours so small counties with part-time elections offices would often provide a smaller window for their voters to cast ballots. It cuts down on long lines by requiring counties with long waits to split up precincts or add more voting equipment. This is crucial because even under COVID-19, the vast majority of voters chose to cast their ballot in-person. In-person voting in Georgia is not going away any time soon.

The switch to photo ID numbers for absentee ballots harmonizes in-person voting with absentee ballot voting and, more importantly, moves Georgia from the subjective signature match system to an objective system. 99.9% of Georgia voters have a driver's license, valid state voter ID, or Social Security number. The remaining nine thousand can choose from other options like a utility bill or a bank statement as proof of identity.

The day before the bill passed, absentee ballot drop boxes were illegal in Georgia. They had been authorized on an emergency basis by the State Election Board to accommodate the absentee ballot voting surge in 2020, but that authorization had expired. The new formula requires every county to have a drop box, adding them to 35 counties that did not have in November.

Now all Georgians can enjoy a minimum 17 days of early voting including two required Saturdays, no-excuse absentee ballot voting, and Election Day voting. Voters in every county will have access to a drop box and will encounter shorter lines on Election Day. Voters who cast their ballot by mail don't have to worry that their signature changed over time and therefore would be rejected.

While I don't love every part of this bill, it is no return to Jim Crow by any stretch of the imagination. The comparison is insulting, morally wrong, and factually incorrect.

We saw on January 6 how lies have consequences. I urge everyone on both sides of the aisle to remember that lesson going forward.

4/20/2021

Meet the Press - March 14, 2021

BREAKING: Derek Chauvin convicted of all counts of murder and manslaughter in George Floyd's death 📢

NEWS

Meet the Press - March 14, 2021

Dr. Anthony Fauci, Stacey Abrams, Lt. Gov. Geoff Duncan, Lanhee Chen, John Heilemann, Hallie Jackson and Maria Teresa Kumar



March 14, 2021, 11:52 AM EDT

ANNOUNCER:

From NBC News in Washington, the longest-running show in television history. This is Meet the Press with Chuck Todd.

CHUCK TODD:

4/20/2021

Meet the Press - March 14, 2021

Good Sunday morning. In a few minutes we're going to take an in-depth look at Republican attempts across the country to pass a slew of new restrictive voting laws. We're going to lay out the scope of the effort, why Democrats insist these new laws are aimed at hurting their voters. We're going to talk to people on both sides of the issue. But we're going to begin with the Covid crisis. President Biden signed the \$1.9 trillion Covid relief bill on Thursday. Then gave his first nationally televised speech as president, targeting July 4th for when Americans can gather in small groups.

[BEGIN TAPE]

PRES. JOE BIDEN:

That will make this Independence Day something truly special, where we not only mark our independence as a nation but we begin to mark our independence from this virus.

[END TAPE]

CHUCK TODD:

And joining me now is the most trusted figure in the country on this subject. It's Dr. Anthony Fauci. He's the director of the National Institute of Allergy and Infectious Diseases. Dr. Fauci, welcome back to Meet the Press.

DR. ANTHONY FAUCI:

Thank you, Chuck. Good to be --

CHUCK TODD:

So --

DR. ANTHONY FAUCI:

-- with you.

CHUCK TODD:

-- a year ago, literally this date, you were out there warning us. We were all contemplating how bad this would be. But I don't think anybody, any civilian thought, "Oh we're going to be, this is

going to be a year" at the time. What would you tell yourself from a year ago of what to expect? And how shocked have you been about what this year has been like?

DR. ANTHONY FAUCI:

You know, Chuck, I knew it was going to be bad. And, you know, just a couple of days ago last year I said at a Congressional hearing that things were going to get much worse before they got any better. But even I did not fully anticipate that we would have over a half a million deaths a year later. I mean, we knew it was going to be bad, but this really has turned out to be just a historic example of what a pandemic virus can do. It's just been a terribly trying year for everybody in so many respects. Not only suffering health-wise and deaths and loss of loved ones, but what, what it has done to society, to the economy, and how it has kind of deepened some of the divisiveness that we've had in our, in our country to begin with. It's just made it even more intense. It's just been a bad time all around. We're getting around the corner. We're going in the right direction. But boy, looking back at what we've been through, this -- people are going to be writing about this and historically opining about it for a long time to come.

CHUCK TODD:

You know, when you think about, sadly, having to prepare for this again, right, and I know there are a lot of folks who think that, you know, due to climate change and due to the globalization in general, it's inevitable we're going to deal with more and more viruses like this. The biggest lesson you're going to take away to prepare for the next one?

DR. ANTHONY FAUCI:

You know, there are a couple of lessons, Chuck. There are lessons domestically. There are lessons public health-wise, scientifically. Let's take global to begin with. We have to have a better global health security network of interconnectivity, of communication, of transparency, so that we are talking to each other all the time and know what's going on. We also have to have a continued investment in the science. If you want to look, Chuck, at the success story in this terrible year, it has been the extraordinary, unprecedented advance with the vaccine -- where, you know, in January of 2020 we started the process and 11 months later, we had a highly efficacious vaccine going into the arms of individuals, which is going to be the answer to this together with public health measures. So, keep the science up, continue to support the public health infrastructure and remain global in our interactions. You know, as I've said so many times, a global pandemic requires a global response.

CHUCK TODD:

Let me go to what the president said on Thursday night and the dual promises about the month of May, with promise one on May 1 being everybody is eligible to get on the list, and by the end of May, anybody that's wanting a shot gets theirs. I know that he's not saying those goals without talking to you. Why do you feel those are achievable goals?

DR. ANTHONY FAUCI:

Well, they're achievable, Chuck, if you look just at what's happening. What the president has done -- is he's done a number of things -- but two major things is he's gotten us a much larger supply of vaccine. He negotiated with Moderna and Pfizer to get an additional 100 million doses each from the companies. We had a contract with J&J to have 100 million doses. We've negotiated yet again another contract for an additional 100 million doses. That's the supply. Then there's the issue of getting it into people's arms. And that's where we've mobilized the community vaccine centers, the community health centers, pharmacies that are going to be getting it, mobile units that are going to putting into areas that are poorly accessible. And mobilization of a lot more people who are going to be doing the vaccinations, from the military, to volunteer, retired physicians, nurses and other health care providers. So, you know, that's really a full-court press. And that's the reason why we're going to be, you know, at least a couple of months ahead of where we thought we would be.

CHUCK TODD:

What worries you that could prevent us from meeting that end of May goal. That everybody that wants a shot will get their shot.

DR. ANTHONY FAUCI:

Well, I don't think there's much that's going to prevent us from having quantitatively the number of vaccines that the president promised. That I think would only be if there is a major production glitch. Those things happen. You can't guarantee 100% that they won't. More of a concern that I have, Chuck, is that we'll have what's called variant increases, where you may have another surge. If you look at the numbers that have gone down, they've gone down so nicely in a very steep decline. But in the last couple of weeks, we've had a plateauing of infections. And the thing that concerns me, as -- because history proves that I should be concerned -- is that when you get a plateau at a level around 60,000 new infections per day, there's always the risk of another surge. And that's the thing we really want to avoid because we are going in the right direction. That's why I get so anxious when I hear pulling back completely on public health measures, like saying, "No more masks, no nothing like that." I mean, that is a risky business when you do that.

CHUCK TODD:

4/20/2021

Meet the Press - March 14, 2021

I was going to ask you on your level of concern of a new surge because you want to talk about a version of P.T.S.D. for many people. When we see Europe on the uptick, we see Italy locking down again -- that's very familiar, sadly. And every time Europe upticked, it was about two or three weeks later, and so would we. How do we make sure that doesn't, that doesn't happen again?

DR. ANTHONY FAUCI:

You know, Chuck, it's exactly what I'm saying -- that even though the decline was steep, we absolutely need to avoid the urge to say, "Oh, everything is going great," which it is going in the right direction. But once you declare victory, you know, that metaphor that people say, "If you're going for a touchdown, don't spike the ball on the five yard line. Wait until you get into the end zone." And we're not in the end zone yet. And that's one of the issues that when you plateau, there's always the risk of a surge. That's exactly what the Europeans have experienced.

CHUCK TODD:

I want to talk about vaccine hesitancy here because we're noticing something, at least in polling, that it is not the conventional wisdom about vaccine hesitancy, that you see this divide by race. We're seeing a bigger divide by politics. We talked about it earlier. For instance, among Trump voters, 47% have said that they will not be vaccinated, 30% say yes. Among Biden voters, 58%, 10%. Among Republican men, half of Republican men say they're not going to take this vaccine. You have the PSA with all the former presidents, except one, President Trump, in there. Do you think he needs to be enlisted here at all to get his voters to take this vaccine?

DR. ANTHONY FAUCI:

Chuck, I hope he does because the numbers that you gave are so disturbing. How such a large proportion of a certain group of people would not want to make -- would not want to get vaccinated merely because of political consideration. It makes absolutely no sense. And I've been saying that for so long. We've got to dissociate political persuasion from what's common sense, no-brainer public health things. The history of vaccinology has rescued us from smallpox, from polio, from measles, from all of the other diseases. What is the problem here? This is a vaccine that is going to be lifesaving for millions of people. How some groups would not want to do it for reasons that I just don't understand. I mean, I just can't comprehend what the reason for that is when you have a vaccine that's 94 to 95% effective and it is very safe. I just don't get it.

CHUCK TODD:

4/20/2021

Meet the Press - March 14, 2021

Hopefully, your words here will help out that front. Let me talk about the AstraZeneca vaccine. It is not one we've approved in this country. But there are AstraZeneca vaccines that are ready to go, that could go to other countries that have approved it. We know Europe is dying for some more vaccines. President Biden is not ready to release it yet. Why?

DR. ANTHONY FAUCI:

You know, Chuck, I think there's a misunderstanding there. There isn't this whole backlog of vaccines that are ready to go somewhere into somebody's arms, either here or overseas. I think people are getting the wrong impression about that. The president has made it clear that, obviously, the first preference, because of the extraordinary suffering that we've had with over half a million deaths thus far, that we want to make sure that people in the United States are covered. But it's very clear that he fully has the intention of getting vaccines shipped to other parts of the world that don't have the resources that we do. And we've already made the commitment for \$4 billion that will go to COVAX. So, I think people might be getting the wrong impression that we're holding back doses, which we really are not.

CHUCK TODD:

Well then, what are we going to do with these doses?

DR. ANTHONY FAUCI:

Well, there aren't a lot of them. I think people think there are a lot of doses. I mean, I don't know exactly how many, but they're not anything that's going to be major impact. There will be, but not right now.

CHUCK TODD:

Okay. And very quickly, we know President Biden said of backyard gatherings. I've got a staffer or two that wants this question asked of you, and I'm sure they're not alone, which is when can people plan an indoor wedding?

DR. ANTHONY FAUCI:

You know, that's a good question. And I think that's going to be within a reasonable period of time. You notice --

CHUCK TODD:

4/20/2021

Meet the Press - March 14, 2021

This calendar year?

DR. ANTHONY FAUCI:

--what the CDC is doing -- they gave -- excuse me? I didn't hear what you said, Chuck?

CHUCK TODD:

This calendar year?

DR. ANTHONY FAUCI:

What time of the year? You know, I, I can't give you that exact date because it's going to absolutely depend -- and this gets back to our conversation a minute or two ago -- it's going to depend on the level of infection in community. If we plateau and stay at 60,000 a day and go up with a peak, I mean, you can make no prediction. If we keep going down and get to a very, very low level, when we're there and we have a good proportion of the people vaccinated, I think you're going to see weddings in the normal way that we've seen within a reasonable period of time. But there's always the caveat that it's not going to happen, if all of a sudden you have a surge.

CHUCK TODD:

So, be careful in the next month or two for sure, anyway. Dr. Fauci, as always sir, thank you for coming on and sharing your expertise with us and viewers.

DR. ANTHONY FAUCI:

Thank you for having me, Chuck.

CHUCK TODD:

When we come back, Republican state legislators are proposing restricted new voting laws. Democrats in Washington are trying to expand voting access. The battle over our democracy is next.

CHUCK TODD:

Welcome back. We're going to take a special look this morning at the fight underway over our democracy. Republicans have proposed more than 250 laws in 45 states designed to limit mail-in,

4/20/2021

Meet the Press - March 14, 2021

early, in-person voting, and even Election Day voting. And Republicans may have the power to achieve these goals. They hold legislative majorities and the governorships, as you can see here, in 24 states. And they have proposed some restrictive election laws in 22 of them. The bills would likely have the effect of curtailing the early vote methods, used primarily this past election by Democratic voters, and shift more voting to Election Day, when recently Republican voters have dominated. All told, the bills amount to the greatest efforts to reduce ballot access, particularly for African Americans, since the Jim Crow era. Among the states considering the changes, five that Joe Biden turned blue last year: Wisconsin, Michigan, Pennsylvania, Arizona and Georgia. All have Republican legislatures, by the way. And the three large states he lost by less than five points: Texas, North Carolina, and Florida. Also Republican legislatures in there. Republicans insist they're just trying to eliminate voter fraud, inspired in part by former President Trump's false claims that somehow this last election was stolen. Democrats say it is all a cover for an effort to elect Republicans by limiting Democratic voters' access to the polls.

[BEGIN TAPE]

STATE SEN. LESTER JACKSON:

It smells like Jim Crow laws in the past. This smells like poll taxing. It smells like voter suppression.

STATE SEN. MATT BRASS:

This bill is about reviewing a process that we saw flawed.

CHUCK TODD:

In Georgia this week, the State Senate approved a measure that would eliminate no excuse absentee voting among other changes, undoing a 2005 Republican backed law. The Republican Lieutenant Governor Geoff Duncan boycotted the debate, watching it from his office.

LT. GOV. GEOFF DUNCAN:

It certainly didn't feel good to put a space between myself and my Senate colleagues. But I felt like it was the right thing to do. Sometimes, you know, leadership is lonely.

CHUCK TODD:

The Georgia House passed a sweeping bill that includes provisions that would limit early voting hours on weekends and restrict the use of dropboxes for mail-in ballots.

4/20/2021

Meet the Press - March 14, 2021

STATE SEN. GLORIA BUTLER

People died. People were flooded. People marched and fought for the right to vote. And this just takes us backwards.

CHUCK TODD:

Republican legislators across the country are proposing the greatest reduction in voting access since the late 19th century, from Arizona --

STATE SEN. SONNY BORRELLI:

If you want to get Nyquil, you've got to show an ID.

STATE SEN. MARTÍN QUEZADA:

This bill hurts people of color. This bill hurts people in my district.

CHUCK TODD:

To Iowa, where Governor Kim Reynolds signed legislation this week cutting the state's early voting period and closing the polls an hour earlier on Election Day.

STATE SEN. ROBY SMITH:

It was just a natural extension of what has happened where voters are asking for more, you know, election security.

STATE SEN. PAM JOCHUM:

That big lie has been debunked. It has been debunked more than 100 times in courts of law. In Iowa Republicans, heck, you won. You won big in 2020 here.

CHUCK TODD:

In fact, the highest profile recent example of election fraud was in 2018, in North Carolina Republican Mark Harris' Ninth District campaign.

LT. GOV. GEOFF DUNCAN:

4/20/2021

Meet the Press - March 14, 2021

If there's a single Republican Party county meeting going on where they're still talking about election fraud or conspiracy theories, they're losing ground.

SEC. MICHAEL ADAMS

There's a false narrative that you either care about access to the ballot or you care about integrity of the election. That's a false choice.

CHUCK TODD:

In Florida, where the legislature is racing to add new voting restrictions, a new poll shows more Floridians, including a majority of Republicans, want them to make voting easier. Two thirds of voters support adding more early voting days to the calendar.

MARC ELIAS:

There's nothing that, that shortening the period by which people can vote early does to combat any perceived fraud. There's nothing that closing polls earlier on Election Day does to prevent fraud. It's really just a cover for what they're really trying to do, which is to make it harder to vote.

CHUCK TODD:

In response, Democrats in the House have passed sweeping voting rights legislation. It stands little chance in the Senate under its current rules, where it would need ten Republican votes. Republicans argue it's unconstitutional, saying it shifts the responsibility for regulating elections from the states to Congress.

SEN. MIKE LEE:

Everything about this bill is rotten to the core. This is a bill as if written in hell by the devil himself.

[END TAPE]

CHUCK TODD:

Georgia is ground zero for this battle over our democracy. And joining me now are Stacey Abrams, the founder of Fair Fight, a group that promotes voting rights; and the Republican Lieutenant Governor of Abrams' home state of Georgia, it's Geoff Duncan. Welcome to both of

4/20/2021

Meet the Press - March 14, 2021

you. I want to begin with Ms. Abrams. And I want to start with the issue of HR-1. The House has passed this bill. The reality is it's not going to overcome the Senate filibuster. So I guess my question for you is do you think its -- that Democrats should pare down HR-1, focus it on voter -- all things voting rights and voter access? Or is it -- the focus should be on eliminating the filibuster?

STACEY ABRAMS:

I think the focus should be on protecting our democracy. We know that January 6th was the opening salvo in an attempt to roll us back to Jim Crow era. We are watching seven times the number of bills permeating across state legislatures than occurred in 2020 during an election year. And we know that the U.S. Senate, much like the U.S. House, has the sole responsibility under the election clause of the U.S. Constitution, to regulate the time, place and manner of elections. That is something that we have to accomplish. It would be best if it was done in concert with Republicans, as we have in times past when we had to confront our demons and do better by our people. And my deep hope is that we can get it done. But I would say that an exemption to the filibuster for the purposes of protecting our democracy is not only logical, it is fundamental to who we are.

CHUCK TODD:

Have you personally talked with Joe Manchin or Kyrsten Sinema about this specific angle of suspending the filibuster?

STACEY ABRAMS:

I have not. But I believe that these conversations are ongoing amongst a number of senators. Look, I understand wanting to protect the prerequisites of an institution. I served as minority leader for seven years. But I also understand that there were times where we had to look at the fundamentals of our processes and do what was right. And we know the Senate has done so to suspend the filibuster for the purposes of judicial appointments, for Cabinet appointments and for budget reconciliation. I would say protection of the fundamentals of our democracy, which we have seen bloodily debated through the January 6th insurrection, certainly counts. And when you look at the 253 bills moving through state legislatures, sadly 50 of them through Georgia itself, we know that now is the time for Congress to take up the role that it alone has, which is to regulate the time, place and manner of elections.

CHUCK TODD:

I want to get you to respond to something Jennifer Rubin wrote in The Washington Post specifically about HR-1. And she writes, "The legislation's only hope, and it is a slim one, rests with Democrats' willingness to pare down the measure to match the nature of the current assault on voting rights. If Democrats remove issues that will be used as a pretext for opposition, they can make this a clear up or down issue on voter suppression. Are you for or against Jim Crow laws?" And, you know, I will note you didn't directly answer my first question about HR-1 and about the decision, should it be pared down. There are some other provisions in there that, while noble and may be good ideas, are not, are not as directly about the issue of access to the ballot box by individual voters. What do you think of that solution? Do you think Democrats should be thinking about a pared down version of this bill?

STACEY ABRAMS:

I believe the Democrats should do their level best to pass laws that protect our democracy. And I'm not being evasive. What I'm telling you is that we have to pay attention to the whole of our democracy and we have to defend and protect that democracy. That means doing the work necessary to ensure that every American who is eligible to vote can do so. I am not in the U.S. Senate. I have served in a body, a legislative body, where everything is up for grabs and everything is on the table. But I'm not going to presuppose anything other than the responsibility that Congress has, because we have an a priori issue. The a priori issue is that the Senate has to believe it has the responsibility and the ability to act. And that is why my focus is on making certain that the exemption to the filibuster be the necessary front and center conversation, so we can get something done to protect our democracy.

CHUCK TODD:

If that doesn't happen, what is your next hope of trying to prevent some of these radical changes that are being proposed around the country?

STACEY ABRAMS:

I'm not going to give up hope that something will happen. But I will tell you that Fair Fight was born of a time when we knew nothing would happen at the federal level. And we were able to mitigate voter suppression across 20 states, in part by raising awareness amongst voters. As Lieutenant Governor Duncan said himself, right now these bills are trying to solve a problem that they have yet to identify. This is not about protecting the right to vote. In the state of Georgia, the secretary of state and the governor spent great amounts of time and their political reputations defending the integrity of our elections. And therefore, these bills are nothing more than a pretext for returning to Jim Crow and stopping voters that they want to hear from. And my belief is that voters across the country, when they see that their right to vote is being thwarted, will do

4/20/2021

Meet the Press - March 14, 2021

what they can to push back. But they shouldn't have to fight on their own. That's why we elected a Congress. That's why we have a Constitution. And that is why Congress should be held to account for defending our democracy.

CHUCK TODD:

If the Georgia Legislature -- if these proposals get through the legislature and it's signed into law by the governor, if these restrictions were put in place before 2020, would Democrats have carried Georgia in either the presidential or the two Senate races?

STACEY ABRAMS:

I will tell you that we would've worked just as hard to eliminate those acts of voter suppression as we did to eliminate the ones that existed in 2018. We were able to mitigate that harm in 2020 and we will continue to fight. The reality is voters, when they see that people are attacking their right to vote, we respond. And we respond with a fury that is borne of urgency. We would not have the American Rescue Plan that is going to lift 171,000 children in Georgia out of poverty, will serve millions of Americans and lift them out of poverty. That's something that would not happen, but for the right to vote. And so we -- I refuse to countenance anything other than the deepest commitment to defending our democracy through FairFight.com and the work that other organizations are doing.

CHUCK TODD:

This has become a big national fight for you. But I am curious, are you still thinking about running for governor in Georgia in 2022?

STACEY ABRAMS:

My focus is on making sure we have elections in 2022. And that means that we have to defend our democracy against all enemies, foreign and certainly the domestic enemies we see permeating and unfortunately populating our state legislatures, fighting hard to restrict access to the right to vote, trying to make certain that people of color and young people cannot participate fully in our democracy, which is the least patriotic thing I can imagine in this moment.

CHUCK TODD:

And if we do have elections in 2022?

STACEY ABRAMS:

4/26/2021

Meet the Press - March 14, 2021

Then I'll be doing my best to make sure they're fair and available.

CHUCK TODD:

Will you be on the ballot?

STACEY ABRAMS:

I'm focusing on our democracy and I'll make other decisions after we've gotten that work done.

CHUCK TODD:

Fair enough. Stacey Abrams, really appreciate you coming on, sharing your perspectives with us. Thank you.

STACEY ABRAMS:

Thanks.

CHUCK TODD:

Let me turn now --

STACEY ABRAMS:

Thank you.

CHUCK TODD:

-- to a person you just saw name checked, Georgia Lieutenant Governor Geoff Duncan. Mr. Lieutenant Governor, thank you for coming on. And you were invoked, and you've, you've -- you've yourself said, "This is a solution in search of a problem." Let me put up these -- some of these proposals in the Georgia legislature. End no-excuse absentee voting, require more ID for absentee voting, limit weekend early voting, ban offering food and drinks to folks in line for voting, restrict ballot dropboxes there. I know you're against the top one there, no-excuse absentee voting. Are you against all of these changes?

LT. GOV. GEOFF DUNCAN:

4/20/2021

Meet the Press - March 14, 2021

Well, we actually have over 80 bills in the General Assembly this year that are election-related. Twenty-one of them are actually written by Democrats. But there are some good ideas that have been put in place by Democrats and Republicans. But we actually passed four bipartisan bills, election reform bills, two weeks ago in the Senate. But look, as you mentioned a second ago, there is a lot of solutions in search of a problem. Republicans don't need election reform to win. We need leadership. I think there's millions of Republicans waking up around the country that are realizing that Donald Trump's divisive tone and strategy is unwinnable in forward-looking elections. We need real leadership. We need new focus, a GOP 2.0 that includes moderates in the middle to get us to the next election cycle.

CHUCK TODD:

Do you understand when people hear that state legislatures want to restrict weekend voting, particularly Sundays in the South, that it only seems to target African American voters? Do you understand why folks see that?

LT. GOV. GEOFF DUNCAN:

Yeah, absolutely. I'm very sensitive to that. And I'm one of those Republicans that want more people to vote. I think our ideas help people. I think an overwhelming number of Americans think that Republicans are the best to be in charge of our economy, to be in charge of keeping our communities safe, in charge of keeping our nation safe. And so with that, I hope more people vote. But we've got to have leadership in place that talks to real people and solves real problems.

CHUCK TODD:

Why do you think you're in the -- that right now in your party that that's a minority view? Or at least the perception certainly when you look across the country in these state legislatures, Republican legislature after legislature is talking about making it harder to vote. You're not, but why are you in the minority?

LT. GOV. GEOFF DUNCAN:

Yeah. Not certain. Look, I'm going to stay focused on doing the right thing. You know, this started shortly after the November elections, when all the misinformation started flying up. And quite honestly, it hurt Republicans in any sort of conversation around election reform. We lost credibility. Those were ten weeks that we can't take back. January 6th was a pivot point for this country and for this party. And, look, we've got four years to win back the White House. We're not going to do it with a divisive tone. We're not going to do it missing, you know, solving big problems for real people. I mean, if you're a single mom with three kids, working two jobs, you

4/20/2021

Meet the Press - March 14, 2021

don't care about Democrats or Republicans. You care about real solutions to your problems. That's what we need to be focused on. We're the party of solutions. And we need to make sure we stay focused on that over the next four years.

CHUCK TODD:

Are you going to urge Governor Kemp to veto these bills?

LT. GOV. GEOFF DUNCAN:

Well, you know, look, Governor Kemp and myself have been lockstep on the no-excuse absentee ballot being eliminated. We're going to work hard in the Senate. I do think there's some calmer tones coming. I think there was some real conversations. Obviously, I took a bold step not standing as the presiding officer. It was really the only way I knew to express my disapproval of it because I don't get a yes or no vote. But look, we're going to work hard. And like I said, I hope more people vote in Georgia next election than this previous one.

CHUCK TODD:

Do you think -- look, there's been some talk, I know that Stacey Abrams' group has been trying to enlist some key corporate leaders in the state of Georgia. You have the film industry there that is, can be a source of tension sometimes when it comes to some of these bills. It came up -- it came up a few years ago when it came to those religious liberty bills that folks, that some folks had objected to. Are you concerned about a backlash sort of against the state of Georgia for this perception?

LT. GOV. GEOFF DUNCAN:

I look at trying to capture voters' attention just like a competition. I want to compete for their vote. I want to compete and put big ideas forward. So certainly, I think we need to continue to work hard. And, you know, look, I love the fact that the film industry's here in Georgia. We're not always going to agree on everything. But I think we can continue to put a great foot forward. Look, Georgia continues to be the number one state in the country to do business with. Governor Kemp has done an amazing job walking us through this pandemic, balancing lives and livelihoods. We have one of the lowest unemployment rates. These are things Republicans should be talking about, not any sort of knee-jerk reaction to an election that, quite honestly, didn't work out our way.

CHUCK TODD:

4/20/2021

Meet the Press - March 14, 2021

Do you think the investigation into the possible interference by President Trump to the -- to the voting in Georgia, one, is a legitimate investigation, and two, is it something that you think should be carried through to the very end? And if the law says he committed a crime, then so be it?

LT. GOV. GEOFF DUNCAN:

Look, I was disgusted with that call when I first heard it. I mean, look, we had played for almost ten weeks with President Trump and his entire apparatus attacking us here for running a fair and legal election. Look, I'm going to stay out of the way of the law and let them do their job. And look, I think the best thing we can do is to continue to focus ahead on our jobs at hand. And district attorneys and lawyers and whatnot can do their job.

CHUCK TODD:

You sound like somebody that may be running for a different office in 2022. Are you a Senate candidate?

LT. GOV. GEOFF DUNCAN:

You know what? My family and I have talked about it and we're not going to run for the U.S. Senate seat. We're going to stay focused on being the lieutenant governor here in Georgia. And we're going to focus hard on trying to rebuild this party and refocus GOP 2.0.

CHUCK TODD:

Mr. Duncan, the lieutenant governor, Republican from Georgia, thanks for coming on and sharing your perspective with us. I appreciate it.

LT. GOV. GEOFF DUNCAN:

Thanks, Chuck.

CHUCK TODD:

When we come back, more on the battle over our democracy. Plus, President Biden stakes his political capital on defeating this pandemic. Panel is next.

CHUCK TODD:

Welcome back. The panel is with us: NBC News chief Washington correspondent Hallie Jackson; NBC News national affairs analyst and host of The Circns, John Heilemann; María Teresa Kumar, president of Voto Latino; and Lanhee Chen, a fellow at the Hoover Institution. I want to stick with our focus on voting rights here. We did some research of just the Republican controlled states that are considering voting restrictions. Eleven have placed restrictions ou mail-in voting. Nine would create new barriers to casting mail-in ballots. Nine would expand voter roll purges. Eight would limit voter registration opportunities, and eight would implement stricter voter ID laws. María Teresa Kumar, look, you, you, you run an organization about trying to get more people to the polls. Is there any of this that you see as anything other than trying to prevent people from voting? I think you're on mute. I think you're on mute there, Maria. I'll let --

MARÍA TERESA KUMAR:

Of course, I am.

CHUCK TODD:

There we go. Go ahead.

MARÍA TERESA KUMAR:

So, it's like the lieutenant governor said, that the purpose of the Republican Party and of the Democratic Party should be battling this idea, should be battling policy ideas. But instead, the Republican Party has picked up their marbles and gone home. These voter suppression laws are not new. When the Supreme Court gutted the Voting Rights Act back in 2013, 22 jurisdictions within less than three weeks, Chuck, provided more voter suppression laws. And not surprisingly, they were in the south. They were in places where we saw a growth of African Americans, young Latinos, and young people in general. So Georgia's in the battle of a lifetime, not just for the soul of Georgia, but for the soul of America. We recognize that in the last election there were 12 million more young voters than baby boomers. Two thirds of them were young people of color. We're seeing people compete for the vote in the Democratic Party, but we're not seeing that in the Republican Party. 81% of folks that voted Republican this past election were white. They're not going to be able to grow their party unless they battle ideas. But instead, they are creating restrictions in voting access. It's becoming incredibly an undemocratic process. And that's why we need to make sure that there's a presence, there's -- make sure that there is a way to solve and apply the HR-1 Act that Stacey Abrams was speaking about.

CHUCK TODD:

Lanhee Chen, is, is there, is there any way of looking at these attempts and, and, and defending them? Is the, is the entire Republican message on sort of voter integrity been essentially eviscerated by these attempts to curtail mail-in voting?

LANHEE CHEN:

Well, I think that's the problem, Chuck, is that fundamentally, if your party appears to stand against more people participating, that's probably not going to be a popular message at the end of the day. I do think this, that if you believe fundamentally the Constitution gives states the right to control their elections and their election processes, then you really ought to be focused on trying to figure out ways at the state level to make it easier for people to participate. That would obviate the need for legislation like HR-1 at the federal level, which I agree is a federal takeover. I don't think it is the right approach. But then you can't, then at the state level too, be opposed to these things. So I think Republicans have to pick their fights. I think particular things, for example, the practice of ballot harvesting has been talked about. This idea that one person can return many absentee ballots. That is one specific practice that Republicans may want to go after. But fundamentally, the message of, "Yeah, we just want to make it harder to vote," I don't think that's going to sell very well with time.

CHUCK TODD:

You know, Hallie Jackson, it was interesting to me that Stacey Abrams, she essentially wouldn't get into the details of HR-1. She wouldn't get in -- there is, there is internal Washington debate. "Is this bill too much of a press release bill and not enough focused on what can possibly get passed or not?" I found that interesting that she didn't want to engage in that. And I know some national Democrats are afraid of engaging in that for fear that some of the base won't like hearing that maybe HR-1's not the best bill to try to get passed.

HALLIE JACKSON:

I was struck by the same point, Chuck, in your interview with Stacey Abrams, who obviously has been on the forefront of a lot of this because it really is coming down to these two options. As you correctly note, HR-1 is headed towards frankly, a buzzsaw in the Senate, right? And I think people understand that. There are some Democrats that I've been talking to, some sources who point out, "Yes, we do need to push the idea of some sort of an exception to the filibuster," right? Just for this issue of voting rights, these types of laws. Congressman Clyburn has been pretty vocal about that. There is more and more discussion and speculation about that, which Stacey Abrams I think noted and said, "Hey, we don't want to even think about paring down HR-1 until we get past this filibuster issue, right? Until we see where that is." At the end of the day, though,

4/26/2021

Meet the Press - March 14, 2021

and Republicans are clear in their argument. And it's to Lanhee's point here, they believe that it is overstepping what the federal branch --

CHUCK TODD:

Right.

HALLIE JACKSON:

-- what Congress has the authority to do. But if there is not political support for it, it doesn't really go anywhere. So Democrats may have to be confronted with this kind of a hard choice. What do you take out of HR-1?

CHUCK TODD:

Yeah.

HALLIE JACKSON:

What do you leave in? And how do you try to get it over the finish line to make it more palatable, Chuck?

CHUCK TODD:

So John Heilemann, how does, you know, does Washington end up doing something before 2022 or not?

JOHN HEILEMANN:

Chuck I just, just to go back to your very first question, let's just be clear about this in this case, about these bills. 293 of them I think are at the state level right now, trying to restrict voting access.

CHUCK TODD:

And we just had an election --

JOHN HEILEMANN:

It is --

4/26/2021

Meet the Press - March 14, 2021

CHUCK TODD:

-- by the way.

JOHN HEILEMANN:

-- you know, Donald Trump, that great --

CHUCK TODD:

Yeah.

JOHN HEILEMANN:

Yes, exactly. Yes. And an election that scared Republicans because, you know, Donald Trump came out, the great political seer and truth teller Donald Trump came out and said it on the air last year. "If we continue to have a lot of people voting and voting access gets broader, Republicans will never win again." He laid it on the table. And I think that's the only motivation driving Republicans, who previously, as you know, Chuck, benefited from absentee voting, benefits from mail-in voting. But in this last election, they didn't. And now they're trying to restrict voting. What's going to happen on HR-1? I think, you know, it does come down to this question. I think there's a broader question about filibuster reform. And, as you know, Joe Manchin now kind of opened the door to the possibility of filibuster reform. You've got the pressure coming from Clyburn on this specific issue. You can see that really the question -- the answer to your question about before 2022 is where do Joe Biden and the White House come down on this because, as of right now, it seems to me that the White House right now is more reluctant to try to press on filibuster reform than even Joe Manchin is in the Senate. And it was previously seen as Joe Manchin was the lock that you had to pick. It seems like Manchin now has kind of opened the door. So the ball is now kind of back in Joe Biden's court. And we're waiting to see what the White House has to say about this.

CHUCK TODD:

Yeah. Hallie Jackson, you want to chime in here?

HALLIE JACKSON:

I was subtly indicating, yeah, because I think John's making a really important point here, Chuck. And I would say, as it relates to President Biden, I just had this conversation actually this morning with somebody, with a White House official on the idea of what is the president going to

4/20/2021

Meet the Press - March 14, 2021

do, not just about the filibuster, but about specifically more muscular support for something like HR-1? Obviously, he has come out in statements about it. I will say there is a possibility, I would say likely an expectation, that he speaks about it when he is in Georgia later on this week. It is obviously a key issue in Georgia, as you just talked and did that segment about. And I think that President Biden will be all but certain to address it in Georgia, given the political pressures around it this week.

CHUCK TODD:

Very quickly, María Teresa, Joe Biden hasn't been very loud on HR-1. Do you think that's because he's worried how it would pass?

MARÍA TERESA KUMAR:

Well, I think it's because he knows he doesn't have the votes unless there's a way to grandfather and suspend the filibuster for this. That is the point. And so he right now wants to make sure that he's putting as many points on the board that he's winning. But Chuck, let's not forget that you had 139 Republicans that voted against certifying the Electoral College, the vote, even though we saw the courts, we saw Republican secretaries of states saying that this election was not fraudulent, that it was legitimate.

CHUCK TODD:

Coming up -- I'm going to pause it here. Coming up, the flood of Democrats now calling for New York Governor Andrew Cuomo to resign. Stay with us on that one.

CHUCK TODD:

Welcome back. We want to note the passing of a very familiar face to many of us in the news business. Roger Mudd spent two decades reporting for CBS News, covering everything from Congress, to the civil rights movement, to Watergate.

[BEGIN TAPE]

ROGER MUDD:

Good evening. The Nixon presidency is virtually being overtaken by events tonight.

[END TAPE]

4/20/2021

Meet the Press - March 14, 2021

CHUCK TODD:

In a long career, he is best known for asking a question that Senator Ted Kennedy simply couldn't answer, wounding Kennedy's presidential campaign before it even started.

[BEGIN TAPE]

ROGER MUDD:

Why do you want to be president?

SENATOR TED KENNEDY:

Well, I'm --

[END TAPE]

CHUCK TODD:

And it only got worse from there. When Mudd was passed over as the replacement for Walter Cronkite at CBS, he joined us here at NBC News and briefly co-anchored NBC Nightly News with another familiar face, Tom Brokaw. And for a while, he also moderated this program, Meet the Press. Mudd finished his career at PBS and then The History Channel. Roger Mudd was 93.

CHUCK TODD:

Welcome back. Panel is back. And the number of Democrats calling for Andrew Cuomo's resignation only grows in New York. John Heilemann, Schumer and Gillibrand the latest. Basically, the only prominent Democrats not calling for the resignation outside of the state of New York, I guess, at this point are the president and the vice president. I don't know how Cuomo hangs on other than -- that doesn't mean he still won't try to hang on. How does this end?

JOHN HEILEMANN:

Oh, Chuck. Well, I think there are a lot of things that are in play here. One of them is what else is out there. And every major news organization that I know of right now has a team of people trying to push this story further. And there are a lot of hot leads out there. Let's put it, let's put it that way. I think, you know, the other thing that's true is Cuomo is totally dug in. I think the likelihood of Cuomo resigning is close to zero. And I think, you know, he is following right now, uncomfortably for a lot of Democrats, he's following what is seen now as the Trump precedent.

You know, if you are determined enough, you are shameless enough, you can hold on. And so the questions then just becomes does he actually get impeached? Does he actually get thrown out? And I think that's going to be -- a large, a large question around that is going to be what additional evidence comes out over the coming -- maybe enough now, but there's going to be a large question about what else unfolds over the next couple weeks.

CHUCK TODD:

Yeah, it does feel like he's forcing that. I want to bring up, and I'm glad you brought up Trump there a minute, John. Lanhee, I want you to respond to something Tim Miller wrote in The Bulwark. He said, "Duiking on Cuomo's demise requires admitting that the other party has standards and lays bare once again the cravenness of the excuse-making for Trump that kept the lights on for the past five years." There's a lot of conservative media acolytes and propagandists that are very excited about Cuomo's downfall. But they seem to not be very self-reflective.

LANHEE CHEN:

Yeah. Look, I think you have to call out bad behavior, regardless of whether it's perpetrated by a Republican or in this case with Cuomo, perpetrated by a Democrat. This shouldn't be a partisan issue. And I think Republicans have to acknowledge that over the last couple of years, and starting with that 2016 campaign, there were things that were done by Trump, and now in this case that are being done by Cuomo, that look very, very similar. But I think, Chuck, it speaks to a bigger problem we have in many states in this country, which is what happens when you have one party in charge for too long. It creates a toxic environment, an environment that lacks accountability. You see it in New York. By the way, it's the same sort of factors that are fueling the potential recall of Gavin Newsom here in California. It's what happens when you don't have people standing up and saying, "This is going wrong" and standing up earlier, being willing to talk about, for example, the culture of toxicity we see in Cuomo and in other states.

CHUCK TODD:

María Teresa, you know, I think plenty of Democrats are now speaking out about Cuomo. But what does it say if shame doesn't work now for Cuomo? Shame hasn't worked for Trump. Is shame not going to work for Cuomo?

MARÍA TERESA KUMAR:

Well, I think that, I mean, what John was saying was absolutely on the nose -- that Trump has basically moved the goalpost of what is proper and what isn't. And I think that unless there is a massive recall for impropriety by the New York voters, he won't step down. I think he's doubling

4/20/2021

Meet the Press - March 14, 2021

down, unless something worse comes down, down the pike. But I would encourage us to not equivocate what has been documented with Andrew Cuomo compared to what is happening and trying to grapple with, with Gavin Newsom during his recall. His recall is trying to figure out how do you actually, you know, work better under a pandemic and a disaster. Cuomo has actual allegations, not just on the nursing home front, but also personal allegations of sexual harassment, which should not be okay in any type of work environment.

CHUCK TODD:

Hallie Jackson, the White House has obviously tried to stay out of this, understandably. No White House wants to step into something on this, that they -- but at some point, you know, Schumer and Gillibrand aren't enough to get Schumer [SIC] to listen. There's going to be a point. Biden can't avoid this question forever and neither can Kamala Harris.

HALLIE JACKSON:

Well, although they might be able to avoid it until, for example, the first news conference that the president holds, right? I think it is highly unlikely that the White House, that President Biden steps into this in and of his own accord, unless he is sort of directly pressed on this and directly asked about this. I will say there is, I think, increasing talk, or at least some talk, among some national Democrats that perhaps, perhaps Governor Cuomo could take some of the political heat off himself if we were to say he would not, for example, run again in 2022 -- not that that would solve the issue, not that that would make this go away. I did have a conversation -- I was trying to understand why now, why Friday was this day that seemed to be the tipping point. And Congresswoman Grace Meng, who was one of the people who called for the governor's resignation on Friday, said she had seen what was happening on the local level, where these state lawmakers were, the increasing pressure being put on Cuomo, the dissatisfaction, the way that that impeachment inquiry seemed likely to be headed. And that for her is what made that decision. And that's when you saw the slew of lawmakers on Friday come out on that point, Chuck.

CHUCK TODD:

Well, I also wondered, John Heilemann, when, when Andrew Cuomo used the phrase "cancel culture," I thought, "Oh, really? Now you're, now you're, you're going to use, you're going to use a Fox talking point to defend yourself, and you think Democrats are going to stick by you?" It seemed like to be a really poor choice of words.

JOHN HEILEMANN:

4/20/2021

Meet the Press - March 14, 2021

Well, yeah, Chuck. I mean, again, it's another part, another page from the Trump playbook. And I think it's also -- but it's cognizant, I think, in Andrew's mind, the governor's mind, that New York is a Democratic state, but there are lots of -- there are big chunks of New York that are not, that are not as liberal as people assume New York is. And I think the, the governor knows he's lost the Congressional delegation. He's obviously lost the left. He's obviously lost -- he's now lost Gillibrand and Schumer. He's lost everybody. He's making a bid to try to go to essentially the Republican voters of the state to keep his numbers at a place where he can -- and, and the broader, kind of more moderate Democrats, to push this off and say, "Look, let's have a process here," and just try to ride this out and hope that he can survive, at least so that he can finish this term and have stayed in office as long as his father stayed in office. That's very important in the governor's mind.

CHUCK TODD:

Well, it was amazing to read today that he has no place to go. No place to live. He has no apartment. He has no house. He only has the governor's mansion. Anyway.

JOHN HEILEMANN:

Amazing.

CHUCK TODD:

You guys were terrific, a terrific panel. That's all we have for today. Thank you for watching. We'll be back next week because if it's Sunday, it's Meet the Press.

[ABOUT](#)

[CA NOTICE](#)

[CONTACT](#)

[TERMS OF SERVICE](#)

[CAREERS](#)

[NBC NEWS SITEMAP](#)

[PRIVACY POLICY](#)

[ADVERTISE](#)

[DO NOT SELL MY PERSONAL INFORMATION](#)

[AD CHOICES](#)

4/20/2021

© 2021 NBC UNIVERSAL

Meet the Press - March 14, 2021

00:00:00

00:00:00

00:00:00

4/20/2021

Geoff Duncan, Georgia's GOP lieutenant governor, says Giuliani's false fraud claims helped lead to restrictive voting law - CNNPolitics

LIVE

Minnesota attorney general speaks following the guilty verdict in the Derek Chauvin trial. Watch
CNN

VOTING RIGHTS

UNDER ATTACK


politics
LIVE TV 

Georgia's GOP lieutenant governor says Giuliani's false fraud claims helped lead to restrictive voting law

By Sara Murray and Jason Morris, CNN

Updated 12:47 AM ET, Thu April 8, 2021

(CNN) — A top Georgia Republican said Wednesday that Rudy Giuliani's false claims of election fraud -- which were presented before state lawmakers -- created momentum for a package of voting rights restrictions that recently became state law.

"This is really the fallout from the 10 weeks of misinformation that flew in from former President Donald Trump," Georgia Lt. Gov. Geoff Duncan said on CNN's "New Day." "I went back over the weekend to really look at where this really started to gain momentum in the legislature, and it was when Rudy Giuliani showed up in a couple of committee rooms and spent hours spreading misinformation and sowing doubt across, you know, hours of testimony."

MORE ON VOTING RIGHTS

- See where lawmakers have introduced bills that would make it harder to vote
- Democratic-led states expand voting rights amid GOP push to restrict access
- Big businesses side with Democrats in clash over voting rights
- **Fact check:** What the new Georgia elections law actually does

Duncan's remarks highlight the continuing aftermath from a pair of appearances Giuliani made before Georgia state lawmakers in December when he was serving on Trump's legal team. Giuliani tried, unsuccessfully, to convince legislators to convene a special session to overturn Joe Biden's victory in the state. In addition to building momentum for new voting restrictions, Giuliani's appearances have also piqued the interest of Fulton County District Attorney Fani Willis, who is investigating Trump's efforts to influence Georgia's election results.

Giuliani did not immediately respond to a request for comment in response to Duncan's remarks. But during his December testimony, Giuliani falsely claimed that thousands of dead people voted in the Georgia election, insisted that voting machines had changed people's votes and suggested thousands of others had voted illegally.

"Those machines are like Swiss cheese. You can invade them. You can get in them. You can change the vote," Giuliani incorrectly told state legislators on December 30.

Giuliani also took aim at Republican Secretary of State Brad Raffensperger -- who refused to assist Trump in his efforts to overturn the election -- saying, "your secretary of state is engaged in what I consider an unlawful cover up."

There's no evidence to support Giuliani's claims. Officials in Georgia counted the ballots three times, each time reaffirming that Biden won the state during the presidential election.

<https://www.cnn.com/2021/04/07/politics/geoff-duncan-voter-fraud-cmtv/index.html>

0/1

4/20/2021 Geoff Duncan, Georgia's GOP lieutenant governor, says Giuliani's false fraud claims helped lead to restrictive voting law - CNNPolitics

But those remarks still managed to gain traction with GOP state lawmakers, who passed a package of election reforms that imposed new voter identification requirements for absentee ballots, limited the use of ballot drop boxes and made it a crime to approach voters with food and water while they wait in line. The bill also removed the secretary of state as chairman and a voting member of the Georgia State Election Board and gave state lawmakers more control over elections.



Georgia GOP officials who helped thwart Trump's efforts to overturn Georgia's election results have supported some components of the new legislation while panning other aspects of it, particularly the efforts to rein in the secretary of

LIVE TV @

"The secretary of state did a great job. I think that was one of the parts, too, that concerned me about the final passage of the law, which ultimately was a culmination of Democratic and Republican ideas," Duncan told CNN.

Related Article: Fact check: Republicans falsely equate Georgia and Colorado election laws

"But some of the punitive, you know, responses to taking Raffensperger off that elections board was just trying to tip their hat to Donald Trump, and I just didn't think that was a necessary step."

As for Giuliani, he is likely to face additional scrutiny from the Atlanta-area district attorney. While the crux of Willis'

investigation is Trump's efforts to meddle in the state's election, she is also examining Trump allies who may have assisted him in those efforts. One area Willis is exploring: whether Giuliani may have violated the law by making false statements in front of the state legislature, according to a person familiar with the investigation.

Willis is also expected to request additional information from Duncan, who received a document preservation request from her office earlier this year. The request noted that no Georgia officials are expected to be targets of her investigation.

Search CNN...

- US
- World
- Politics
- Business
- Opinion
- Health
- Entertainment
- Tech

4/20/2021

Geoff Duncan, Georgia's GOP lieutenant governor, says Giuliani's false fraud claims helped lead to restrictive voting law - CNNPolitics

Style

Travel

Sports

Videos

Audio



LIVE TV @

Weather

More



FOLLOW CNN POLITICS



Terms of Use Privacy Policy Do Not Sell My Personal Information AdChoices About Us CNN Store Newsletters Transcripts License Footage CNN Newsource Sitemap

© 2021 Cable News Network. A Warner Media Company. All Rights Reserved. CNN Sigs™ & © 2016 Cable News Network.

4/20/2021

Georgia election reform law isn't voter suppression, but GOP must change

**VOICES | Opinion** *This piece expresses the views of its author(s), separate from those of this publication.*

Georgia's election reform law isn't voter suppression, but Republicans need to ease up

Republicans have a huge hole to climb out of because of the 2020 election. Conservatism shouldn't be confused as divisive or mean-spirited.

Geoff Duncan Opinion contributor

Published 7:01 a.m. ET Apr. 1, 2021 | Updated 10:24 a.m. ET Apr. 1, 2021

Once again, Georgia found itself in the national spotlight for yet another controversial and polarizing political topic — election reform legislation. As the lieutenant governor of Georgia I had a front row seat, literally. I stood watch inside the Georgia State Senate chamber as the presiding officer for yet another partisan debate wrapped in emotion, theater and a few facts thrown in from both Democrats and Republicans, members of my party.

Last week's divisive debate on election reform directly resulted from the months-long misinformation campaign led by former President Donald J. Trump.

The particular legislation being debated was SB202 which was, believe it or not, a much-improved version of election reform compared to several earlier attempts drafted by both the state house and state senate. The most noticeable improvements in the legislation were the removal of language to limit Sunday voting and the elimination of no-excuse absentee ballot voting, which I opposed and was happy to see removed from the final version.

The final version also included several Democratic-sponsored ideas including requirements for counties to start processing absentee ballots earlier to minimize post-election confusion and better signage at polling stations.

Let Georgia's values guide us

The two-hour debate at times became hard to listen to because of the divisive tones and undertones from both sides. In the height of the debate, I happened to glance to my left in the rostrum and caught a glimpse of the Georgia state flag and was instantly reminded of the pledge we say at the beginning of every legislative day:

<https://www.usatoday.com/story/opinion/voices/2021/04/01/georgia-election-integrity-ballot-voting-column-4820741001/>

1/4

"I pledge allegiance to the Georgia Flag and to the principles for which it stands: Wisdom, Justice, and Moderation."

The words "Wisdom, Justice, and Moderation" have been a part of our state seal since 1799 because of the time-tested value of each word. I began to imagine what the debate might look like if both sides of the aisle were truly looking through the lens of Wisdom, Justice, and Moderation. If both political sides applied the filter of those three words, they'd be required to think, act and communicate differently with regard to the present conversation around election reform and a growing list of other issues.

Georgia election integrity: *Baseless stolen election claims don't justify federal takeover with H.R. 1*

For Republicans, using that lens would have required them to immediately and unequivocally remove any and all doubt in the public that they think the November election was rigged or stolen in any way shape or form. The phrase, "former President Donald J. Trump lost fairly" would need to be said from every channel.

It would have also required elected Republicans in politically safe districts to resist the temptation to superficially support knee-jerk reaction legislation, such as not allowing the distribution of water within 150 feet of a polling station or punishing and removing oversight responsibilities from the former president's scapegoat and popularly-elected statewide official Secretary of State Brad Raffensperger, just to appease the extreme right corners of their districts and to avoid potential primary challenges.

Unfortunately, Republicans fell into the trap set by the left and allowed them to make the bill into something that it's not.

Republican ideas can win

For Democrats, viewing this debate through the lens of "Wisdom, Justice, and Moderation" would have required them to tear up the talking points that have been handed to them from national liberal organizations that are only concerned about shaping the next election outcome and not honestly evaluating proposed election reforms. It would also have also required Democrats to embrace some of the much-needed improvements and modernizations around the absentee ballot processing and verification.

Georgia secretary of state: *My family voted for Trump. He threw us under the bus anyway.*

Moving away from the archaic signature match system and simply asking for a voter to handwrite the year they were born and the last four digits of their social security number if they don't have a driver's license is not voter suppression, it's commonsense. Seeing through that principled lens would also require Democrats to use more than someone's party affiliation to assess the content of their heart.

I get it, Republicans have a huge hole to climb out of in the coming years because of the shrapnel created by the 2020 election and its fallout. As Republicans, we must change the tone we use in future elections; conservatism shouldn't be confused as divisive or mean-spirited. We need genuine empathy so we can understand and reach more voters. And we need to champion conservative causes that can win broad support and restore pillars like fiscal restraint that have crumbled as the GOP has put person over party. I call this approach GOP 2.0

While candidates running on the former president's platform may be afraid of high turnout, those following this better way forward are not. We have faith in our ideas.

Republicans don't need election reform to win back the White House, we need leadership.

Geoff Duncan is the lieutenant governor of Georgia.



Statement for the Record Submitted to the
United States Senate Committee on the Judiciary

Full Committee Hearing "Jim Crow 2.0"

Submitted by Jenny Beth Martin

Chairman, Tea Party Patriots Action

Tuesday, April 20, 2021

I am pleased to submit this statement to the Senate Committee on the Judiciary on behalf of Tea Party Patriots Action. Tea Party Patriots Action is the nation's largest grassroots tea party organization, and the organization is committed to election integrity as a means for bolstering both confidence in our elections and civic participation.

The rhetoric around the newly-passed Georgia law is highly charged and much of it is misleading. Even the title of this committee's hearing, "Jim Crow 2.0" is meant to distort the truth of the Georgia law, along with numerous other states' laws intended to enhance election integrity.

The Georgia law delivers on its two-pronged goal of making it easier for legal votes to be cast while also making it more difficult to cheat – two objectives that are foundational to fair and free elections.

The new Georgia law takes the following steps to make it easier for Georgia's registered voters to cast their ballot by:

- Expanding early voting to 22 days from former 15 days;
- Requiring two Saturday as early voting days;
- Allowing local registrars to extend early voting hours;
- Allowing election officials to direct voters to their correct precinct prior to 5:00 pm on Election Day; provisional ballots after 5:00 pm
- Requiring counties with more than 2,000 population to create additional precincts or add resources to reduce wait times on election day;
- Establishing a new hotline in the Georgia attorney general's office to report voting issues
- Providing the process for voting to eligible electors in jail or detention;



- Requiring counties to establish ballot drop boxes (number based on population) for depositing absentee ballots during early voting;
- Establishing procedures for voters to cure deficiencies in applications for absentee ballots to enable them to vote;
- Expanding types of identification that can be used for verifying voter identity to include bank statement or utility bill with name and voter address, in addition to government issued photo ID;
- Allowing hospitalized eligible voters to apply for absentee ballots after the deadline and have ballots delivered to the hospital;
- Creating a new system for notifying an absentee voter whose identifying information doesn't match, and providing the opportunity for curing;

At the same time, the law also makes it more difficult to cheat by:

- Requiring voter identification for all voting, not just in-person voting, but now with additional types of ID allowed (bank statement, utility bill, not just government photo ID);
- Requiring that drop boxes be supervised at all times by specified government officials;
- Requiring ballots to be collected daily from drop boxes, and documenting the chain of custody;
- Prohibiting ballot trafficking and harvesting by third parties to protect vulnerable and disadvantaged voters;
- Requiring regular list maintenance, specifically with the purpose of removing names of voters who have died, moved to another state, or have otherwise become ineligible to vote in Georgia;
- Requiring that ballots be printed on secure paper to prevent illegal copying of ballots;
- Requiring public notice of equipment testing prior to election;
- Prohibiting pre-filled absentee ballot applications by third parties OR election officials – all third-party absentee ballot applications must clearly state that it is NOT an official application or absentee ballot;
- Shortening the time for sending absentee ballots to eligible applicants to no more than 25 days before the election (rather than 49 days) and no sooner than 22 days (from 45 days) (except for overseas and Military ballots);
- Requiring absentee voters to sign a witnessed affidavit that affirms the voter was able to cast a secret ballot, without observation or interference by third parties;
- Establishing new procedures, and strengthening existing procedures, for opening absentee ballot envelopes, and allowing monitors to witness that process;
- Requiring the continuation of tabulating of votes once started, until completed;
- Authorizing an audit of absentee ballot applications and ballots for 24 months following an election;
- Requiring election observers to undergo poll watcher training;
- Prohibiting third parties, other than election officials, from providing any item of value to voters waiting to vote, or in exchange for their votes;



- Requiring election officials to post by 10:00 pm on Election Night the number of ballots issued in each category (in-person, absentee, provisional, overseas, etc.).

The intentional mischaracterization of the Georgia law is harmful, not only to our public discourse, but also to efforts underway in numerous states to protect the integrity of our election system while maximizing opportunities for Americans to participate in this civic institution.

Tea Party Patriots Action encourages the media and this body to discontinue the politically-charged and highly inaccurate characterization of voter integrity initiatives as racist or as a throwback to the Jim Crow era. This type of intentional misinformation may serve short-term political objectives of a few, but it undermines Americans' long-term interest in preserving fair and free elections.

The Georgia law properly addresses two serious problems in our election system – difficulties some Americans experience casting a ballot and the ease with which some have been able to cheat in elections. Georgia's law makes it easier to vote, while making it more difficult to cheat, and it is our hope that other states will follow Georgia's example of making election integrity a priority.





Georgia's Enduring Racial Discrimination in Voting and the Urgent Need to Modernize the Voting Rights Act

*Originally submitted to the United States Senate Judiciary Committee on April 20, 2021
Updated for the United States House Judiciary Committee on August 16, 2021*



Acknowledgments

This report is dedicated to the voters of Georgia, who continue to persevere in their pursuit of a just democracy and demand for full and equal access to the fundamental right to vote, despite the enduring obstacles placed in their path.

Fair Fight Action thanks the contributors to this report:

Lawrence & Bundy LLC

Jenner & Block LLP

Miller & Chevalier Chartered

Sandler Reiff Lamb Rosenstein & Birkenstock, PC

Crowell & Moring LLP

Schulte Roth & Zabel LLP

Fair Fight Action also thanks The Brennan Center for Justice for sage advice and leadership in voting rights.

Finally, Fair Fight Action is grateful to the thousands of volunteers who have spent countless hours helping us tell the stories of Georgia's voters. These stories could not be told without you and we look forward to continuing this fight together.

Table of Contents

| | |
|---|------------|
| Executive Summary | 1 |
| <hr/> | |
| Section I: Historical Background is Important to Understanding the Need for Continued Protection of Access to the Right to Vote | 6 |
| <hr/> | |
| Section II: If the Senate Adopts the House Formula, Georgia Will Again be Subject to Preclearance | 23 |
| <hr/> | |
| Section III: Georgia's Recent Elections Demonstrate that Voting Rights Violations Persist | 45 |
| <hr/> | |
| Section IV: Georgia's Recent Legislative Session Demonstrates that Attacks on Voting Rights Are Increasingly Aggressive and Persistent | 118 |
| <hr/> | |
| Section V: Congress Has the Robust Record Needed to Enact Renewed Voting Rights Legislation | 143 |
| <hr/> | |
| Table of Authorities Cited in Report | 147 |
| <hr/> | |

EXECUTIVE SUMMARY

The United States House of Representatives passed the John Lewis Voting Rights Advancement Act, H.R. 4, 116th Cong. (as passed by House, Dec. 6, 2019) (“VRAA”). Fair Fight Action, Inc. (“Fair Fight Action” or “FFA”) addresses the House-passed legislation because, as of this writing, neither the House nor the Senate has introduced the bill in the 117th Congress. Fair Fight Action presents this report because there is an urgent and overwhelming need for Congress to bring the preclearance formula found in the Voting Rights Act (“VRA”) of 1965, 52 U.S.C. §§ 10301–10314, 10501–10508, 10701–10702, into the modern era, to reinstate robust federal oversight over discriminatory voting practices, and to strengthen and protect voting rights—for all eligible voters in Georgia and nationwide.

If there ever were a time for Congress to “draft another [preclearance] formula,” that time is now.¹ Until his death, Congressman John Lewis continued his unwavering fight to empower voters of color by advocating for passage of the VRAA. Fair Fight Action lifts up Congressman Lewis’s memory and provides this report to support the record underlying renewed voting rights legislation. The report relies on recent events—from the last twenty-five years—for evidence of Georgia’s continued efforts to suppress its own citizens’ right to vote.²

This report is divided into five sections. Section I recounts the history of voter suppression in Georgia and begins with the State of Georgia’s (the “State”) earliest state constitution, ratified in 1777, with its specific exclusion of Black men from voting, and advances through Reconstruction, the Jim Crow era, and the adoption of the VRA in 1965. Then, the report describes the State’s conduct while subject to the VRA’s preclearance requirements, a phase that included DOJ’s objections to 170 discriminatory voting changes between 1968 and 1996 and also included important litigation. The report includes a discussion of the past twenty-five years, the “reach back” time under the VRAA, and describes Georgia’s recent history. That history includes repeated efforts to suppress the vote and intimidate voters of color throughout the State. Whether through the prosecution of the Quitman 10+2 in Brooks County on the Georgia/Florida border, or the challenges to Black voters in Hancock County between Atlanta and Augusta, or moving polling locations to police stations as done both in Macon-Bibb County in central Georgia and in Jonesboro in

¹ *Shelby County, Ala. v. Holder*, 570 U.S. 529, 557 (2013). The Court’s decision in *Shelby County* is, at least in part, the impetus for the VRAA.

² Much of the data FFA provides has been collected in FFA’s pending federal lawsuit *Fair Fight Action v. Raffensperger*, No. 1:18-cv-05391-SCJ, pending in the United States District Court for the Northern District of Georgia. In its 2018 lawsuit, Fair Fight Action and its co-plaintiffs, members of the faith-based community and an organization dedicated to empowering domestic workers, demonstrate how Georgia has implemented policies and procedures that suppress the right of Georgia’s voters and have a disparate impact on voters of color in violation of the Fourteenth Amendment, Fifteenth Amendment, and the Voting Rights Act. Fair Fight Action presents this evidence to support its claims in large part through declarations of Georgia voters. The voters’ individual stories help paint a comprehensive picture of one state’s tireless efforts to suppress its citizens’ right to vote.

Clayton County in metropolitan Atlanta, state actors have been unabashed in their efforts to limit access to the polls and restrict the right to vote.

The historical evidence continues in Section II, which outlines challenged voting rights violations that have occurred in the State since 1996 to demonstrate that Georgia more than meets the statewide coverage thresholds in the current version of the VRAA. Of course, Fair Fight Action recognizes these thresholds may change as the legislation moves through Congress. In this report, FFA tracks the current version for ease of demonstrating how that version could be applied. The violations discussed include DOJ's preclearance objections and voting rights litigation outcomes. Among other areas, the DOJ objections barred moving election dates to depress turnout for voters of color; adopting an earlier version of the State's notorious Exact Match policy; and implementing discriminatory redistricting plans. The report details recent litigation in which courts have determined that either the State of Georgia or its political subdivisions engaged in "voting rights violations" as that term is defined in the House version of the VRAA. While some violations involved challenges to local rules, such as moving to at-large elections that diminished the voting strength of people of color, others involved more systemic practices such as cancelling voter registrations when a would-be voter failed Exact Match. And the report highlights a pair of cases involving the rejection of absentee ballots for a voter's failure to write in the correct date of birth on an envelope. Two courts—one addressing the issue in Gwinnett County and one addressing the issue statewide—held the rejection of absentee ballots for failing to write in a date of birth or writing an incorrect date of birth likely violated the Civil Rights Act, 52 U.S.C. § 10101(a)(2)(B) and enjoined rejection of ballots solely based on a missing or erroneous date of birth. These cases are of particular interest given that the most recent voting legislation in Georgia, Senate Bill 202, 2021-2022 ("S.B. 202"), reimposes a date-of-birth requirement. The report cements Georgia's specific status as a jurisdiction meriting coverage as a jurisdiction with multiple violations over a specific period.

The report next turns to what has happened during recent elections, incorporating numerous experiences that voters have shared with Fair Fight Action. In Section III, the report addresses the suppressive features of Georgia's election system in areas where the VRAA promises increased federal oversight: Georgia's Exact Match policy, polling place changes and closures, and voter purges. The report explains further the traps in Georgia's Exact Match policy and how it impacts voters—and in particular voters of color—from registration to the polling place and focuses on polling place moves and closures, which have taken place in stunning numbers following *Shelby County*. These changes have disproportionately affected Black voters, who were twenty percent more likely to miss voting because of nothing other than increased distances to polling locations. The report examines Georgia's "list maintenance" procedures, under which Georgia's Secretary of State ("SOS") has purged—and continues to purge—thousands of voters from the rolls on the demonstrably false assumption the voters have moved away. In the second part of Section III, the report addresses additional features of Georgia elections that demonstrate the need for Congressional intervention. Here, the report highlights the outrageously long lines that have plagued myriad voting locations across the State in recent years. During the 2018 General Election, for example, the lines to vote in Fulton County (Atlanta) were among the

longest in the country, and the voters who suffered the longest wait times disproportionately were voters of color. In addition, we describe the problems with inadequate voting supplies, provisional ballots, and voter intimidation perpetrated by the State itself—by sending threatening letters to voters, in exercising the State Election Board’s (“SEB”) investigatory powers, and through advancing false claims of voter fraud.

Section IV examines Georgia’s recent legislation, S.B. 202, passed by both legislative bodies and signed into law the same day, March 25, 2021. S.B. 202 ostensibly was adopted to “restore confidence,” but instead imposes further suppressive measures on Georgia’s electorate. Inspired by false claims premised on scant evidence of fraud, S.B. 202 restructures the State’s election apparatus and eliminates or restricts popular voting options—convenient drop boxes for example—while imposing new and exacting standards for applying for and casting absentee ballots. And the legislation limits access to provisional ballots. S.B. 202 also concentrates power over election administration in the hands of the highly partisan Georgia General Assembly. Lastly, as is now notorious, the legislation criminalizes handing a bottle of water to a voter standing in a long line under the hot Georgia sun.

S.B. 202 continues Georgia’s tradition of enacting laws and adopting policies that may appear racially neutral but are discriminatory tools of voter suppression. This report demonstrates that S.B. 202 is a continuation of Georgia’s abhorrent tradition of election laws, policies, and practices that have a racially disparate impact. It does not matter whether racial discrimination is written into the letter of the law. What matters is that voters of color disproportionately bear the burdens of the law in real life.³ Section IV also addresses the pending lawsuits challenging S.B. 202, particularly, the Department of Justice’s lawsuit against the State of Georgia challenging provisions of S.B. 202 as violations of Section 2 of the VRA. And Section IV ends with a discussion of nationwide efforts at voter suppression in the aftermath of the record turnout of Black voters and other voters of color.

The final section emphasizes that the report serves as yet another layer of what is already a robust Congressional record developed in response to the Supreme Court’s directive in *Shelby County* that Congress should “start[] from scratch” in updating Section 4’s coverage formula.⁴ The final section also addresses the July 1, 2021 United States

³ See, e.g., *Thornburg v. Gingles*, 478 U.S. 30, 43–46 (1986) (recognizing Congress’s judgment that proof of discriminatory intent is not required to demonstrate discrimination in violation of the Voting Rights Act); *Village of Arlington Heights v. Metro. Hous. Dev. Corp.*, 429 U.S. 252, 266 (1977) (“Sometimes a clear pattern, unexplainable on grounds other than race, emerges from the effect of the state action even when the governing legislation appears neutral on its face.”); *Lane v. Wilson*, 307 U.S. 268, 275 (1939) (“[The Constitution] hits onerous procedural requirements which effectively handicap exercise of the franchise by the colored race although the abstract right to vote may remain unrestricted as to race.”); *Davis v. Guam*, 932 F.3d 822, 833 (9th Cir. 2019) (“[I]n addition to facial racial distinctions, classifications that are race neutral on their face but racial by design or application violate the Fifteenth Amendment.”); *Veasey v. Abbott*, 830 F.3d 216, 235–36 (5th Cir. 2016) (en banc) (“In this day and age we rarely have legislators announcing an intent to discriminate based upon race,” but in reality, “neutral reasons can and do mask racial intent”).

⁴ *Shelby County, Ala.*, 570 U.S. at 556.

Supreme Court decision in *Brnovich v. Democratic Nat'l Comm.*, a case that should incentivize Congress to act to protect the right of all Americans—particularly Black voters and other voters of color—to participate fully in our democracy.

Fair Fight Action offers this report to aid Congress as it continues to collect even more evidence—data, statistics, and reports from voters—to support a new coverage formula responsive to how voting rights have evolved, including how they have been suppressed, in recent history. Fair Fight Action appreciates the opportunity to submit this report and is grateful for your commitment to ensuring free and fair elections and protecting voting access for all eligible voters.

INTRODUCTION

It is an honor for Fair Fight Action to submit this Report and advocate for passage of the VRAA.⁵ FFA is a Section 501(c)(4) nonprofit entity with the core mission of securing Georgians' voting rights. Fair Fight Action exists because the State of Georgia's actions, in enforcing and adopting suppressive and discriminatory laws, policies, and practices demand that organizations like FFA are vigilant, proactive, and persistent in combatting the threat to the fundamental right of all Americans to cast their votes. The VRAA is vital to alleviating the burden on the right to vote that states, like Georgia, are imposing to disenfranchise their own citizens.

Georgia Congressman John Lewis dedicated his life to uplifting and empowering marginalized groups with a particular emphasis on their right to vote. Congressman Lewis's grit and determination to advance voting rights compelled him to lead what was to have been a non-violent march across the Edmund Pettus Bridge in Selma, Alabama on March 7, 1965. On that bridge, John Lewis, then a twenty-five-year-old civil rights activist, was mercilessly beaten by Alabama state troopers and sheriff's deputies. Congressman Lewis bore the scars of that day until his death last year. But those scars and the scars of countless other—often nameless—heroes led to the August 1965 passage of the Voting Rights Act. In honor and memory of Congressman Lewis, and the other brave and heroic fighters who walked with him, Fair Fight Action urges passage of the John Lewis Voting Rights Advancement Act.

In the 116th Congress, the United States House of Representatives passed the VRAA. To date, neither the House nor the Senate has introduced the bill in the 117th Congress. There is an urgent and overwhelming need for Congress to modernize the VRA's preclearance formula into the modern era, to reinstate strong federal oversight over

⁵ Fair Fight Action also supports passage of the For the People Act, H.R. 1, 117th Cong. (as passed by House, Mar. 3, 2021) ("FPA"). While the FPA does not solve all of the problems addressed in this report, the FPA coupled with the VRAA would override many of the voter suppression efforts that are underway across the country.

discriminatory voting practices, and to strengthen and protect voting rights—for all eligible voters in Georgia and nationwide.



SECTION I:
Historical Background
is Important to Understanding
the Need for Continued Protection
of Access to the Right to Vote

Source: Yoichi Okamoto/<http://www.lbjlibrary.org>

FAIR  FIGHT ACTION

SECTION I: HISTORY OF VOTER SUPPRESSION

Historical Background Is Important to Understanding the Need for Continued Protection of Access to the Right to Vote.

Georgia's record of voter suppression is as old as the State itself. The earliest version of the State's constitution, adopted in 1777, enshrined the exclusion of Black Georgians from voting.⁶ Subsequent constitutions maintained Black disenfranchisement for over eighty years.⁷ It was only after Georgia had to accept the registration of Black voters following the Civil War that Black citizens were not expressly and universally excluded from voting under the State's constitution.

During the post-Civil War Reconstruction period, the federal government tried to rebuild the South and help ensure the rights of newly freed slaves.⁸ One of the main components of Reconstruction was the military occupation of the former Confederate States. With the protection of the United States military and passage of the Civil War Amendments (the Thirteenth Amendment (1865), Fourteenth Amendment (1868), and Fifteenth Amendment (1870)), Black men were finally able to—and immediately did—participate actively in the political process. Even in Southern states, Black men exercised their right to vote and hold political office in relatively high numbers.⁹ In Louisiana, Mississippi, and South Carolina, Black voter registration surpassed white voter registration.¹⁰ In Georgia and Alabama, Black men totaled almost forty percent of all registered voters and exercised their right to vote in extraordinarily high numbers, exceeding ninety percent in many elections.¹¹

⁶ Expert Report of Dr. Adrienne Jones at 2, *Fair Fight Action, Inc. v. Raffensperger*, No. 1:18-cv-05391-SCJ (N.D. Ga. Aug. 15, 2019), ECF No. 92 ("Jones Report") (attached as Exhibit 1). Dr. Jones is an Assistant Professor of Political Science at Morehouse College. She holds a J.D. from the Univ. of Calif. Berkeley School of Law and a Ph.D. from City Univ. of New York. Fair Fight Action submitted all of the expert witness reports referenced herein in *Fair Fight Action, Inc. v. Raffensperger*, No. 1:18-cv-05391, pending in the United States District Court for the Northern District of Georgia. All of the experts have survived Defendants' *Daubert* challenges.

⁷ *Id.*

⁸ See Barbara Finlay, *The Roots of Voter Fraud in America*, HISTORYNET (Dec. 2016), <https://www.historynet.com/the-roots-of-voter-fraud-in-america.htm>, (attached as Exhibit S1). Fair Fight Action has attached as exhibits to this report publicly available documents, as well as documents that FFA has collected. For other documents, Fair Fight Action has provided a hyperlink. Documents added after the original April 2021 publication data are indicated with an "S."

⁹ *An Assessment of Minority Voting Rights Access in the United States*, U.S. COMM'N ON CIVIL RIGHTS 15-16 (2018), https://www.usccr.gov/pubs/2018/Minority_Voting_Access_2018.pdf (specific pages referenced attached as Exhibit 2).

¹⁰ *Id.* at 16.

¹¹ *Id.*

SECTION I: HISTORY OF VOTER SUPPRESSION

Yet, this period of freedom was short-lived as many white people, especially in Southern states, vehemently opposed equality. Following the election of a moderate number of Black candidates to the State legislature and ratification of the Fourteenth Amendment, Georgia was readmitted to the Union in 1868.¹² State actors, however, took numerous, often brutal, steps to maintain a white electorate.¹³ Just two months after the State was readmitted, white people forcibly excluded Black officeholders from the State legislature.¹⁴ The Ku Klux Klan organized in the State, and Georgia experienced extreme voting-related violence.¹⁵ Georgia was expelled temporarily from the Union and required to submit to military supervision.¹⁶

The Hayes-Tilden Compromise, or the Compromise of 1877, ended Reconstruction and the political progress Black people had made. The Republican Party, the party of President Abraham Lincoln, agreed to remove federal troops from the South in exchange for solidifying support for Republican candidate Rutherford B. Hayes as president over Democratic candidate Samuel Tilden.¹⁷ Southern Democrats who, as part of the compromise, committed to protect the civil rights of Black Americans quickly reneged on that promise.

The federal government's abandonment of Black people in the South resulted in Jim Crow, a period of terror lasting nearly 100 years. So-called Jim Crow laws further subjugated and oppressed Black people, despite, and in the face of, post-Civil War constitutional protections.¹⁸ Besides acts of physical intimidation and violence, Jim Crow laws caused a dramatic decline in the political participation and enfranchisement that Black people experienced during Reconstruction.¹⁹ During Jim Crow, to be Black, especially in the South, meant living in daily fear, knowing that rights and life itself could be obliterated at

¹² Ex. 1, Jones Report at 3.

¹³ *Id.* at 3, 15–16.

¹⁴ *Id.* at 3.

¹⁵ *Id.*

¹⁶ *Id.* Two years later, in 1870, the state was readmitted upon re-ratifying the Fourteenth Amendment and ratifying the Fifteenth Amendment. *Id.*

¹⁷ *Compromise of 1877*, HISTORY.COM (Nov. 27, 2019), <https://www.history.com/topics/us-presidents/compromise-of-1877>; *United States Presidential Election of 1876*, ENCYCLOPEDIA BRITANNICA (Oct. 31, 2020), <https://www.britannica.com/event/United-States-presidential-election-of-1876> (attached as Exhibit S2).

¹⁸ Ex. 2, *An Assessment of Minority Voting Rights Access in the United States* at 17.

¹⁹ *Id.* at 17–20.

SECTION I: HISTORY OF VOTER SUPPRESSION

the whim of the white “upper caste,”²⁰ and for an act as benign and innocent as an alleged whistle.²¹

Throughout Jim Crow, Georgia was a leader in voter suppression. “[N]o state was more systematic and thorough in its efforts to deny or limit voting and office holding by African Americans after the Civil War.”²² The State adopted “virtually every one” of the traditional methods used to block Black voters from exercising the franchise, including “literacy and understanding tests, the poll tax, felony disenfranchisement laws, onerous residency requirements, cumbersome registration procedures, voter challenges and purges, the abolition of elective offices, the use of discriminatory redistricting and apportionment schemes, [and] the expulsion of elected Blacks from office.”²³ Because election results in Georgia were essentially determined at the primaries, using a whites-only primary effectively excluded Black voters from participating.²⁴ And Georgia’s county-unit voting system, which assigned different voting power to urban, town, and rural counties, further devalued the Black vote.²⁵ Due to these tactics, while fifty-eight Black legislators were seated in the period from Reconstruction through 1907, no Black Georgian won another legislative seat for the next fifty-five years.²⁶

Georgia made pronounced efforts to restrict voter registration during the Jim Crow era. In 1908, Georgia enacted a statute that restricted voter registration to (1) people who served in a war on behalf of the United States or the Confederacy, or their descendants (the “grandfather clause”); (2) people of “good character” who understood the duties and obligations of citizenship; (3) people able to read and write a paragraph of the federal or state constitution; or (4) certain property owners.²⁷ In 1949, after its whites-only primary

²⁰ See generally Isabel Wilkerson, *Caste: The Origins of Our Discontents*, 37 (2020) (ebook).

²¹ American Experience, *The Murder of Emmett Till*, PBS, <https://www.pbs.org/wgbh/americanexperience/features/till-timeline/> (last visited July 21, 2021).

²² Ex. 1, Jones Report at 4 (quoting Laughlin McDonald, *A Voting Rights Odyssey: Black Enfranchisement in Georgia*, 2 (2003)).

²³ *Id.* (quoting McDonald, *A Voting Rights Odyssey* at 3).

²⁴ *Id.* at 4, 21. Even after the Supreme Court struck down a Texas whites-only primary, Georgia persisted in its use of a whites-only primary system until it was specifically struck down by a federal court. *Id.* at 22-23. See also *Smith v. Allwright*, 321 U.S. 649 (1944); *King v. Chapman*, 62 F. Supp. 639 (M.D. Ga. 1945).

²⁵ Ex. 1, Jones Report at 4. The county unit voting system was in effect from 1917 until 1963, when the Supreme Court’s interpretation of the “one person, one vote” principle required Georgia to abolish the county unit system. *Id.* at 4-5.

²⁶ Robert A. Holmes, *Georgia Legislative Black Caucus*, NEW GEORGIA ENCYCLOPEDIA (Feb. 11, 2005), <https://www.georgiaencyclopedia.org/articles/government-politics/georgia-legislative-black-caucus> (attached as Exhibit S3).

²⁷ Expert Report of Dr. Peyton McCrary at 13, *Fair Fight Action, Inc. v. Raffensperger*, No. 1:18-cv-05391-SCJ, (N.D. Ga. Aug. 15, 2019), ECF No. 339 (“McCrary Report”) (attached as Exhibit 3). Peyton McCrary is a

SECTION I: HISTORY OF VOTER SUPPRESSION

system was struck down, Georgia passed an even more restrictive re-registration law that required all voters to pass a literacy test.²⁸ And in 1957, following several years of often violent resistance to the Supreme Court's 1954 decision in *Brown v. Board of Education*, 347 U.S. 483 (1954), Georgia made passing the literacy test even harder by increasing the number of correct answers required from ten to twenty.²⁹ The tests included questions that were "difficult for even the best educated person to answer."³⁰ Because of the other racially discriminatory policies of the Jim Crow era—including the segregated schools that were the subject of *Brown*—Black voters were substantially disadvantaged. The tests were often unfairly administered by whites with little education themselves.³¹

In 1965, John Lewis was twenty-five years old and had lived under the oppressive thumb of Jim Crow. Yet, he was not deterred from his mission of advancing the opportunity for Black people to exercise their constitutional right to vote. Despite threats from state troopers and sheriff's deputies, John Lewis and 600 other people marched over the Edmund Pettus Bridge in Selma, Alabama.³² What culminated when Alabama's police force brutally attacked the peaceful protesters is now known as "Bloody Sunday." John Lewis suffered a skull fracture and at least fifty-eight people were hospitalized.³³

Yet the suffering that John Lewis and those he marched with underwent to demand equal access to the ballot was not in vain. The march on the Edmund Pettus Bridge was broadcast around the nation. White Americans in Northern and Western states, who were not familiar with—or were indifferent or even hostile to—the plight and oppression of Black people in the South, were confronted with live coverage exposing the deadly reality of Black people's daily lives. Faced with the realities of the second-class citizenship Southern Black people were forced to endure, President Lyndon B. Johnson acted swiftly on the VRA.

historian in the Civil Rights Division of the United States Department of Justice and a Professorial Lecturer in Law at George Washington University Law School. He is a leading expert on the preclearance process.

²⁸ *Id.* at 14.

²⁹ *Id.*

³⁰ *Id.* at 15.

³¹ *Id.*

³² Eyewitness: American Originals from the National Archives, *John Lewis – March from Selma to Montgomery, 'Bloody Sunday', 1965*, THE NATIONAL ARCHIVES, <https://www.archives.gov/exhibits/eyewitness/html.php?section=2> (last accessed Apr. 2, 2021) (attached as Exhibit 4).

³³ *Id.*

SECTION 1: HISTORY OF VOTER SUPPRESSION

President Johnson signed the VRA into law on August 6, 1965, only five months after Bloody Sunday,³⁴ stating “it is wrong—deadly wrong—to deny any of your fellow Americans the right to vote in this country.”³⁵ Among the many key provisions of the VRA was Section 5, which imposed a process known as “preclearance.” Under Section 5, “any change with respect to voting in a covered jurisdiction—or any political subunit within it—cannot legally be enforced unless and until the jurisdiction first obtains the requisite determination by the United States District Court for the District of Columbia or makes a submission to the Attorney General.”³⁶ To obtain approval for any voting change required the covered jurisdiction to prove “the proposed voting change does not deny or abridge the right to vote on account of race, color, or membership in a language minority group.”³⁷ “Covered jurisdictions” for Section 5 preclearance were determined by the preclearance formula. Georgia was subject to preclearance under the coverage formula for the entire time it was in effect, from 1965 until the Supreme Court’s 2013 decision in *Shelby County*, which gutted the preclearance process.

Unsurprisingly, given Georgia’s long history of state-led voter suppression, Georgia Congressional representatives vehemently opposed the VRA.³⁸ And, after the VRA was passed, Georgia initially refused to comply. Because the VRA prohibited literacy tests, Georgia state actors turned to at-large election schemes and other systemic changes to dilute Black voters’ power.³⁹ In 1966, for example, the State legislature reduced the number of illiterate voters one person could assist from ten to one.⁴⁰ Using the new VRA preclearance scheme, the United States Department of Justice (“DOJ”) objected, finding “no valid basis” for the restriction, “particularly in light of the fact that one of the effects of the Voting Rights Act [was] to increase the number of illiterate voters in” Georgia.⁴¹ That Georgia submitted the law for preclearance at all was an aberration: despite adopting hundreds of voting

³⁴ Voting Rights Act (VRA) of 1965, Pub. L. No. 89-110, 79 Stat. 437 (codified as amended at 52 U.S.C. §§ 10301–10314, 10501–10508, 10701–10702.).

³⁵ *President Johnson’s Special Message to Congress: The American Promise*, LBJ PRESIDENTIAL LIBRARY (Mar. 15, 1965), <http://www.lbjlibrary.org/lyndon-baines-johnson/speeches-films/president-johnsons-special-message-to-the-congress-the-american-promise> (attached as Exhibit S4).

³⁶ *About Section 5 of the Voting Rights Act*, U.S. DEPT JUST. (Sept. 11, 2020), <https://www.justice.gov/crt/about-section-5-voting-rights-act> (attached as Exhibit 5).

³⁷ *Id.*; see also 52 U.S.C. §§ 10301 *et seq.*

³⁸ Ex. 1, Jones Report at 5.

³⁹ *Id.* at 6.

⁴⁰ Ex. 3, McCrary Report at 17.

⁴¹ Letter from Stephen J. Pollack, Assistant Att’y Gen., Civ. Rts. Div., to Arthur K. Bolton, Att’y Gen., State of Ga. (July 11, 1968), <https://www.justice.gov/sites/default/files/crt/legacy/2014/05/30/GA-1010.pdf> (attached as Exhibit 6). Georgia attempted to make a similar change again in 1981, and DOJ again objected. Ex. 3, McCrary Report at 17-18.

SECTION I: HISTORY OF VOTER SUPPRESSION

changes between 1965 and 1968—laws and local procedural changes subject to preclearance under Section 5 of the Act—the State of Georgia and its political subdivisions submitted only one to DOJ for review.⁴²

In the years following passage of the VRA, Georgia political leaders sanctioned numerous discriminatory practices that tested the law's application. In the 1970s, courts struck down several at-large systems challenged for creating inequitable access to the franchise.⁴³ Despite these rulings, Georgia continued to exclude voters of color. Following the 1980 census, Georgia attempted to institute a redistricting plan that would maintain white majority voting strength.⁴⁴ DOJ objected, and Georgia sought to overturn that objection. The federal district court reviewing Georgia's application sided with DOJ, finding the plan had a racially discriminatory purpose.⁴⁵ The court explicitly found that one of the plan's architects was "a racist."⁴⁶ Ultimately, DOJ interposed over 150 objections to discriminatory voting changes in Georgia from 1968 through 1996.⁴⁷

By the early 2000s, Georgia had undergone a substantial realignment of its party system.⁴⁸ Georgia's demographics were also changing; between 1990 and 2016, the State's white population declined from seventy-one to sixty percent.⁴⁹ Republicans had achieved control of state government through accelerated movement of whites into the party and—in light of routine support for Democratic candidates by voters of color—had strong incentives to limit voting power for people of color.⁵⁰ It was in this context that Georgia state representatives led opposition to the 2006 reauthorization of the VRA.⁵¹ State legislators and other leaders also predictably instituted several new policies and practices that suppressed the vote of people of color.

⁴² Ex. 1, Jones Report at 6.

⁴³ *Id.* at 7.

⁴⁴ *Id.* at 8.

⁴⁵ *Id.* at 8-9.

⁴⁶ *Id.* (citing *Busbee v. Smith*, 549 F. Supp. 494, 500 (D.D.C. 1982), *aff'd mem.* 459 U.S. 1166 (1983)).

⁴⁷ Voting Determination Letters for Georgia, U.S. DEP'T JUST. (Aug. 7, 2015), <https://www.justice.gov/crt/voting-determination-letters-georgia> (attached as Exhibit 7). Ultimately, DOJ objected to more than 170 voting-related changes but withdrew about twenty. Objections lodged after 1996 are discussed further in Section II of this report.

⁴⁸ Ex. 3, McCrary Report at 28-30.

⁴⁹ *Id.*

⁵⁰ *Id.* at 8, 37-38.

⁵¹ Ex. 1, Jones Report at 9-10.

SECTION I: HISTORY OF VOTER SUPPRESSION

As one example, DOJ historian Dr. Peyton McCrary found that Georgia's current voter registration process bears a "striking resemblance" to Jim Crow policies.⁵² Georgia's "methodologically obsolete" Exact Match program⁵³ is part of the State's flawed implementation of the Help America Vote Act of 2002, 52 U.S.C. §§ 20901-21145 ("HAVA") requirement that states use electronic database matching to create a voter verification program.⁵⁴ Even though HAVA does not require states to deny voter registration to people whose information does not exactly match the information already on file in the State's databases, Georgia's implementation of the HAVA requirement does just that.⁵⁵ This regime creates a substantial obstacle to equal access to voting for people of color.⁵⁶

In 2009, when preclearance was still in effect, DOJ objected to the "Exact Match" voter verification program, finding that the "state's process does not produce accurate and reliable information and that thousands of citizens who are in fact eligible to vote under Georgia law have been flagged" as ineligible.⁵⁷ The impact of the program fell disproportionately on voters of color. Based on one metric cited by DOJ, voters of color had their registration applications rejected at rates that far exceeded the rejection rates for whites.⁵⁸

Despite the evidence of discrimination, Georgia made only modest reforms to the procedures for implementing the Exact Match policy and moved ahead with seeking preclearance from a federal court in the District of Columbia.⁵⁹ Then-Georgia Attorney General Thurbert Baker, one of only four Black Georgians ever to hold a statewide elected office, declined to sue the United States to allow Georgia to implement its Exact Match policy. As a result, then-Governor Sonny Perdue appointed a private Attorney General to

⁵² Ex. 3, McCrary Report at 7.

⁵³ Because of the impact of Georgia's Exact Match policy on Georgia's voters, particularly Georgia's voters of color, FFA discusses the policy in several sections throughout this report.

⁵⁴ Ex. 3, McCrary Report at 54.

⁵⁵ *Id.* at 56-57.

⁵⁶ *Id.* at 7, 54.

⁵⁷ *Id.* at 60 (quoting Letter from Loretta King, Acting Assistant Att'y Gen., Civ. Rts. Div., to Thurbert E. Baker, Att'y Gen., State of Ga. (May 29, 2009), https://www.justice.gov/sites/default/files/crt/legacy/2014/05/30/L_090529.pdf (attached as Exhibit 8)).

⁵⁸ *Id.* at 61-62 (citing Ex. 8, Letter from Loretta King (May 29, 2009)).

⁵⁹ *Id.* at 62-63.

SECTION I: HISTORY OF VOTER SUPPRESSION

sue.⁶⁰ Ultimately, DOJ did not pursue an objection to the revised version of the program, and it went into effect.⁶¹

Suppressive activities only increased after the federal government again abandoned voters of color. In 2013, the United States Supreme Court held in a five-to-four opinion, that the preclearance formula in the VRA was unconstitutional because “Congress did not use . . . a coverage formula grounded in current conditions.”⁶² In a scathing dissent, Justice Ruth Bader Ginsburg decried the majority’s reasoning, famously stating “[t]hrowing out preclearance when it has worked and is continuing to work to stop discriminatory changes is like throwing away your umbrella in a rainstorm because you are not getting wet.”⁶³ After *Shelby County*, Georgia implemented some of the most significant voting restrictions in the country. “The U.S. Commission on Civil Rights found that, among the states previously subject to preclearance under the VRA, Georgia was the only state that had implemented voting restrictions in every category the Commission examined: strict voter ID requirements; documentary proof of U.S. citizenship; purges of voters from registration rolls; cuts to early voting; and closed or relocated polling locations.”⁶⁴

Following the *Shelby County* decision, the Exact Match program continued essentially untouched until 2016. The Secretary of State’s Exact Match program, however, was not codified in state statute or regulation, and was never widely publicized.⁶⁵ It was only after the National Association for the Advancement of Colored People (“NAACP”) sued the State of Georgia in 2016 that the Secretary of State’s Exact Match administrative policy directive was laid bare. Ultimately, that case, which is discussed in greater detail in Section II, settled with the Secretary of State’s agreement that voter registration applications that failed the Exact Match protocol would be placed in pending, rather than cancelled, status, and that voters would be given an opportunity to cure a mismatch or confirm their identity.⁶⁶

⁶⁰ *Id.* at 62 (citing Ewa Kochanska, *Georgia Files Lawsuit Against U.S. Justice Department*, ATLANTA EXAMINER (June 23, 2010)). See also *AG again refuses to file suit over voter checks*, ASSOCIATED PRESS (Apr. 22, 2010, 3:33 PM), <https://accesswdun.com/article/2010/4/228855>.

⁶¹ *Id.* at 63; see also *Georgia v. Holder*, 748 F. Supp. 2d 16 (D.D.C. 2010).

⁶² *Shelby County*, 570 U.S. at 554.

⁶³ *Id.* at 590 (Ginsburg, J., dissenting).

⁶⁴ Allie Gottlieb, *The Struggle for Voting Rights in Georgia*, THE REGULATORY REVIEW (Jan. 4, 2021), <https://www.thereview.org/2021/01/04/gottlieb-struggle-voting-rights-georgia/> (attached as Exhibit S5) (citing Ex. 2, *An Assessment of Minority Voting Rights Access in the United States* at 369 (2018)).

⁶⁵ Ex. 3, McCrary Report at 64.

⁶⁶ See Settlement Agreement at 3, *Ga. State Conf. of NAACP et al., v. Kemp*, No. 2:16-cv-00219-WCO (N.D. Ga. Feb. 8, 2017), <http://www.projectvote.org/wp-content/uploads/Settlement-Agreement-NAACP-v.-Kemp-2.9.17-1.pdf> (attached as Exhibit S6); Stipulation of Dismissal, *Ga. State Conf. of NAACP v. Kemp*, No. 2:16-cv-00219-WCO (N.D. Ga. Mar. 28, 2017), ECF No. 60 (attached as Exhibit 9); Ex. 3, McCrary Report at 79-80.

SECTION I: HISTORY OF VOTER SUPPRESSION

Shortly after the settlement, however, the Georgia legislature adopted a new law that was integrated into the state's voter verification process and which "undermined equitable implementation of the settlement."⁶⁷ Despite knowledge of the racially discriminatory effect of Exact Match, the State left its basic procedures in place.⁶⁸ Had this program been subject to preclearance, DOJ likely would have determined the program to be objectionable.⁶⁹ Additional litigation has challenged the current version of the Exact Match program as implemented by the Secretary of State, and the judiciary has found it likely to impose severe burdens on individuals flagged and placed in pending status due to citizenship status.⁷⁰ Litigation challenging the program continues to today. As one expert explains:

The current pattern has its analogue in the system of voter registration in the Jim Crow era before 1965. The difficulty African Americans faced in dealing with the complexities of the literacy test used by Georgia between 1945 and 1965 – coupled with the continuing racial disparity in income, and education documented by the U.S. Census of 1950 and by [] recent Census data . . . – closely resembles the difficulty [] voters [of color] face in dealing with Georgia's voter verification system since 2008.⁷¹

Georgia's voter registration verification program is but one example of the many ways the State's unrelenting history of voter suppression impacts Georgia voters today. Jim Crow-esque voter intimidation tactics also are widespread. For example, Georgia counties have deployed police expressly to challenge Black electors' eligibility to vote. Over-policing of voter activities is a tried and true state-sanctioned voter intimidation tactic.⁷² In 2015, for instance, the Hancock County Board of Elections and Registration ("BOER") challenged the registrations of "more than 180 black Sparta citizens—a fifth of the city's registered voters—by dispatching deputies with summonses commanding them to appear in person to prove

⁶⁷ Ex. 3, McCrary Report at 80.

⁶⁸ *Id.* at 81.

⁶⁹ *Id.*

⁷⁰ *Id.* at 82-89; *Ga. Coal. for the People's Agenda, Inc. v. Kemp*, 347 F. Supp. 3d 1251, 1264 (N.D. Ga. 2018).

⁷¹ Ex. 3, McCrary Report at 98-99.

⁷² For example, in the 1960s, police regularly arrested Student Nonviolent Coordinating Committee ("SNCC") workers that organized with Southern, majority-Black communities around voter registration. Additionally, when SNCC organized a Freedom Day in October 1963 to encourage Black voter registration, white lawmen refused to allow people to leave the line and return. Emilye Crosby, *The Selma Voting Rights Struggle: 15 Key Points from Bottom-Up History and Why It Matters Today* 5-6, TEACHING FOR CHANGE, <https://www.teachingforchange.org/wp-content/uploads/2015/01/15-Points-The-Selma-Voting-Rights-Struggle.pdf> (attached as Exhibit S7).

SECTION I: HISTORY OF VOTER SUPPRESSION

their residence or lose their voting rights.”⁷³ No state law required that law enforcement hand-deliver the documents; rather, the BOER arranged the personal service as a “courtesy” to the white private citizen who had challenged the voters.⁷⁴ The move left the targeted electors predictably fearful, and some voters requested to be removed from the roll of registered voters.⁷⁵ To date, no other state has executed such an extreme electoral maneuver—precisely the act that, pre-*Shelby County*, would have required approval from DOJ before it could be put into effect.⁷⁶

Law enforcement and other government authorities also engage in overt voter intimidation. On the first day of early voting for Georgia’s 2018 midterm elections, Jefferson County officials blocked a bus that Black Voters Matter (“BVM”) had chartered to transport forty senior citizens from a community center to the polls.⁷⁷ County officials claimed the voter outreach event was “political activity,” which is barred at county-sponsored events. As BVM co-founder LaTosha Brown noted, however, the organization is non-partisan and none of the materials on the bus endorsed any particular candidate.⁷⁸ Ms. Brown called the incident a clear-cut case of “voter suppression, Southern style.”⁷⁹ Just over a week later, a state trooper ticketed Cordele City Commissioner Royce Reeves, Sr., a Black man, for parking his limousine on the wrong side of the road while waiting to take voters to the

⁷³ Michael Wines, *Critics See Efforts by Counties and Towns to Purge Minority Voters From Rolls*, N.Y. TIMES (July 31, 2016), <https://www.nytimes.com/2016/08/01/us/critics-see-efforts-to-purge-minorities-from-voter-rolls-in-new-elections-rules.html>.

⁷⁴ Compl. for Injunctive and Declaratory Relief ¶ 92, *Ga. State Conf. of NAACP v. Hancock Cnty. Bd. of Elections & Registration*, No. 5:15-cv-00414 (M.D. Ga. Nov. 3, 2015), ECF No. 1 (attached as Exhibit 10). The BOER extended no such courtesy to the Black private citizen who, in an effort to determine whether the BOER had taken a selective approach to voter challenges, challenged 27 mostly non-Black registered voters whom he believed to be ineligible to vote. *Id.* ¶ 9, 189.

⁷⁵ Wines, *supra* note 73.

⁷⁶ *Id.*

⁷⁷ Mark Niese, *Black Senior Citizens Ordered Off Georgia Bus Taking Them To Vote*, ATLANTA J.-CONST. (Oct. 17, 2018), <https://www.ajc.com/news/state--regional-govt--politics/black-senior-citizens-ordered-off-georgia-bus-taking-them-vote/42LzXIGOF1uFo637TEc9jP/>.

⁷⁸ Kira Lerner, *This is Live Voter Suppression: Black Voters Matter Blocked from Taking Seniors to Vote*, THINKPROGRESS (Oct. 15, 2018), <https://thinkprogress.org/georgia-black-voters-matter-bus-blocked-from-taking-seniors-to-vote-a3c3e6580c5b/>.

⁷⁹ *Id.* According to Ms. Brown, the intimidation extended to reporting on the suppression efforts as well—because the chairman of the Jefferson County Board of Commissioners owns the only local furniture store, the individuals involved in the incident feared retaliation and “not a single senior wanted to speak on the record to the media about what happened.” Anjali Enjeti, *Voter Intimidation Is a Real Threat to the 2020 Race*, ZORA (Sept. 19, 2019), <https://zora.medium.com/voter-intimidation-is-a-real-threat-to-the-2020-race-80ca56b4a108>.

SECTION I: HISTORY OF VOTER SUPPRESSION

polls.⁸⁰ Although he immediately agreed to move his car, eight more law enforcement vehicles arrived at the scene within minutes.⁸¹

Georgia counties also deploy law enforcement to intimidate voters and move polling locations to police precincts. In 2016, the Board of Elections in Macon-Bibb County tried to move a polling location whose voters were ninety percent Black to the local police precinct.⁸² Local advocates collected signatures from twenty percent of active, registered voters in the county to stop (successfully) the move.⁸³ During a 2019 municipal election, the Clayton County Board of Elections moved the sole polling location for the City of Jonesboro, where Black individuals make up sixty percent of the population, to the local police station.⁸⁴ In a letter demanding reconsideration of the decision, the Georgia ACLU wrote, “Forcing voters to cast their ballots under the steely gaze of armed law enforcement officers all but amounts to government-sponsored voter intimidation.”⁸⁵ A letter from local civil rights organizations highlighted the strained relationship between Black Jonesboro citizens and the local police department, which has faced allegations of police brutality and mistreatment for years and enforces a citywide ordinance declaring sagging pants an act of disorderly conduct.⁸⁶ As Kristen Clarke, currently on leave from her position as President and Executive Director of Lawyers’ Committee for Civil Rights Under the Law, noted, “The police department is far from the kind of neutral location where all people would feel free to vote.”⁸⁷

⁸⁰ Charles Bethea, *Are Police Targeting Get-Out-the-Vote Efforts in Georgia?*, NEW YORKER (Nov. 1, 2018), <https://www.newyorker.com/news/dispatch/are-police-targeting-get-out-the-vote-efforts-in-georgia>.

⁸¹ *Id.*

⁸² Letter from the Ga. State Conf. of the NAACP, Ga. Coal. for the Peoples’ Agenda and the Lawyers’ Comm. for Civ. Rts. Under Law to Jeanetta Watson, Macon-Bibb Cnty. Bd. of Elections Supervisor, and Reginald B. McClendon, Assistant Cnty. At’y (Apr. 13, 2016), <https://lawyerscommittee.org/wp-content/uploads/2016/04/Objection-to-Sheriffs-Office-Polling-Location.4.13.16.pdf>.

⁸³ Stanley Dunlap, *Macon-Bibb Polling Location OK’d After Sheriff’s Precinct Nixed*, THE TELEGRAPH (May 16, 2016), <http://www.macon.com/news/local/article77920442.html>.

⁸⁴ Letter from the Ga. Coal. for the Peoples’ Agenda, Ga. State Conf. of the NAACP, New Ga. Project and the Lawyers’ Comm. for Civ. Rts. Under Law to Alfred Dixon, Mayor Pro Tem of the City of Jonesboro, Shauna Dozier, Clayton Cnty. Dir. of Elections, and Members of the Jonesboro City Council and Clayton Cnty. Bd. of Elections and Registrations (Oct. 7, 2019), <https://assets.documentcloud.org/documents/6463506/Objection-to-Change-of-Poll-Location-10-7-19.pdf>.

⁸⁵ Letter from Aklima Khondoker et al., ACLU of Ga., to Shauna Dozier, Dir. of Elections, and Members of the Clayton Cnty. Bd. of Elections and Registration (Oct. 8, 2019), https://acluga.org/wp-content/uploads/2021/04/clayco_letter-2.pdf.

⁸⁶ Letter from the Ga. Coal. for the Peoples’ Agenda, *supra* note 84.

⁸⁷ Michael Harriot, *White City Council in Majority Black City Quietly Moves Only Voting Location to Police Station*, THE ROOT (Oct. 8, 2019), <https://www.theroot.com/white-city-council-in-majority-black-city-quietly-moves-1838888108> (attached as Exhibit S8).

SECTION I: HISTORY OF VOTER SUPPRESSION

In 1982, Congress revised Section 2 of the VRA in response to the Supreme Court's decision in *City of Mobile v. Bolden*,⁸⁸ in which the Court held that proof of a Section 2 violation required evidence of a discriminatory intent or purpose. The 1982 revision clarified that only discriminatory effect—and not intent or purpose—was required.⁸⁹ The Report of the Senate Judiciary Committee that accompanied the legislation listed circumstances that might indicate a Section 2 violation. These circumstances included “the extent of any history of official discrimination in the state or political subdivision that touched the right of the members of the minority group to register, to vote, or otherwise to participate in the democratic process.”⁹⁰ Another circumstance was “[t]he extent to which members of the minority group in the state or political subdivision bear the effects of discrimination in such areas as education, employment and health, which hinder their ability to participate effectively in the political process.”⁹¹ The events outlined above underscore a shameful catalogue of official discrimination, one that leads inexorably to the conclusion, explored in the next section of this Report, that the coverage formula in the VRA will reach the State of Georgia.

Georgia's pattern of state-sanctioned voter suppression is further evidenced by attempts to punish efforts to increase Black turnout with high-profile investigations and aggressive prosecutions for non-criminal behavior. In 2010 and 2011, a dozen individuals, including three elected officials, were arrested for alleged voter fraud in a Brooks County school board election, an election that saw increased Black absentee voter turnout.⁹² In a highly publicized investigation, the District Attorney brought 120 felony charges against the individuals and conducted a four-year investigation, despite a lack of evidence to support the charges and despite that the alleged conduct did not clearly violate the law. The charges did not result in any guilty verdicts.⁹³

Brooks County has a history of racial violence and resistance to racial equality. The Equal Justice Initiative found that the county had the third-highest number of lynchings in

⁸⁸ 446 U.S. 55 (1980).

⁸⁹ Voting Rights Act 1982, Amendments, Pub. L. No. 97-205, 96 Stat. 131.

⁹⁰ S. Rep. No. 97-417 at 28–29 (1982). See also *Thornburg v. Gingles*, 478 U.S. 30, 36–37 (1986).

⁹¹ S. Rep. No. 97-417 at 28–29 (1982).

⁹² Jon Ward, *How a Criminal Investigation in Georgia Set an Ominous Tone for African-American Voters*, YAHOO NEWS (Aug. 6, 2019), <https://news.yahoo.com/how-a-criminal-investigation-in-georgia-set-a-dark-tone-for-african-american-voters-090000532.html>; *A Georgia Voter Fraud Prosecution and Voter Suppression*, EQUAL JUST. INITIATIVE (Aug. 16, 2019), <https://eji.org/news/georgia-voter-fraud-prosecution-employ-suppress-black-votes/>; Ariel Hart, *Voting Case Mirrors National Struggle*, ATLANTA J.-CONST. (Dec. 13, 2014), <https://www.ajc.com/news/state--regional-govt--politics/voting-case-mirrors-national-struggle/seFGcSydGzV2lXD6DeyiVK/>; Spencer Woodman, *Top Georgia Officials Are Going After Black Leaders who Organized Voters*, VICE (July 15, 2014), <https://www.vice.com/en/article/av4nzb/the-quitman-10-2-and-voter-suppression-in-modern-georgia-715>.

⁹³ *Id.*

SECTION I: HISTORY OF VOTER SUPPRESSION

Georgia between 1877 and 1950.⁹⁴ White families in the county resisted the desegregation of schools in the 1950s, leading to many white students being sent to all-white private schools. Today, the effects of discrimination remain and are still seen in the public schools, where the students are majority Black, despite Black people being a minority in the county.⁹⁵

Over several elections between 2009 and 2010, three Black women were elected to seats on the seven-member Brooks County school board, leading to the first-ever Black majority on the board.⁹⁶ The candidates had sought to increase Black voter turnout and organized an absentee ballot effort after a 2005 law made absentee ballots more widely available.⁹⁷ The 2010 primary alone saw four times the number of absentee ballots ever voted in the county⁹⁸ and three times as many Black voters as each of the previous two midterm elections.⁹⁹

As noted above, in 2010, the State arrested twelve individuals (three elected officials and nine political allies), who became known as the “Quitman 10+2.” Almost a year later, and despite a lack of proof or any clear basis in the text or intent of the law, the District Attorney charged the individuals with 120 felonies for voter fraud, carrying at least twenty years in prison for each individual.¹⁰⁰ The Quitman 10+2 were accused of “unlawful possession of ballots” and “interfering with an elector,” although their actions were legal and the State lacked any justification for filing charges.¹⁰¹ For instance, “some voters told investigators they received assistance in filling out their ballot, but most said they were simply given help to vote the way they wanted. . . . Prosecutors also charged the defendants with taking unlawful possession of ballots when they delivered sealed ballots to the post office for others, including family members, even though the law clearly states it is legal to deliver a ballot for a family member.”¹⁰²

This investigation became widely publicized and the individuals were portrayed as criminals in local and national media. Mug shots were displayed on newspaper front pages

⁹⁴ EQUAL JUST. INITIATIVE, *supra* note 92.

⁹⁵ Ward, *supra* note 92.

⁹⁶ *Id.*

⁹⁷ EQUAL JUST. INITIATIVE, *supra* note 92.

⁹⁸ Woodman, *supra* note 92.

⁹⁹ EQUAL JUST. INITIATIVE, *supra* note 92.

¹⁰⁰ *Id.*

¹⁰¹ Ward, *supra* note 92.

¹⁰² EQUAL JUST. INITIATIVE, *supra* note 92.

SECTION 1: HISTORY OF VOTER SUPPRESSION

and broadcast on both local TV and Fox News.¹⁰³ Many were harassed, and some lost their jobs.¹⁰⁴

Only one individual, who was an active campaign volunteer and the sister of one of the elected women, was ever brought to trial. After two mistrials, she was acquitted of all nineteen counts in 2014.¹⁰⁵ Three months later, all remaining charges against the Quitman 10+2 were dropped.¹⁰⁶ Still, the State Election Board refused to close the case and indicated that it might recommend more criminal proceedings,¹⁰⁷ until the State Attorney General provided guidance clarifying that mailing absentee ballots on behalf of others was not against the law.¹⁰⁸

Years later, one of the Quitman 10+2 suggested that the incident caused members of the Black community, and particularly older people, to be so intimidated they have avoided voting since 2010.¹⁰⁹ Indeed, *Yahoo News* found a dip in Black participation rates since 2010, although voting rates overall remain higher than in pre-2010 elections.¹¹⁰

The Georgia legislature will, similarly, continue to do everything it can to stop voters of color from having a voice. In March 2021, driven by unsupported and false allegations of mass voter fraud, and over the objections of election officials, advocates, and voters, Georgia's governor signed S.B. 202 into law. S.B. 202 is a sweeping omnibus law of restrictive voting provisions, that, among other measures, provides unlimited challenges to other voters' eligibility to vote and creates criminal penalties for providing free food and water to voters standing in line.¹¹¹ Providing food and water to voters in line, or line warming, is especially important in a state where voters in counties with high numbers of

¹⁰³ *Id.*

¹⁰⁴ *Field Hearing on Voting Rights and Election Admin. in Ga. before Subcomm. on Elections of the Comm. on House Admin. of the House of Representatives*, 106th Cong. 12 (Feb. 19, 2019) (statement of Stacey Abrams, CEO and Founder, Fair Fight Action), <https://www.govinfo.gov/content/pkg/CHRG-116hhrg37653/html/CHRG-116hhrg37653.htm> (attached as Exhibit 11).

¹⁰⁵ Ward, *supra* note 92.

¹⁰⁶ *Id.*; see also Adam Floyd, 'Quitman 11' Charges Dropped, VALDOSTA DAILY TIMES (Jan. 8, 2015), https://www.valdostadailytimes.com/news/local_news/quitman-11-charges-dropped/article_951d07fe-97b0-11e4-b1c7-6f4e16c25190.html (attached as Exhibit S9).

¹⁰⁷ Ward, *supra* note 92.

¹⁰⁸ The Mere Possession of Another's Absentee Ballot Does Not Constitute Unlawful Possession of an Absentee Ballot Under Either O.C.G.A. § 21-2-385(a) or § 21-2-574, Op. Georgia Att'y Gen. 2016-2 (June 15, 2016), <https://law.georgia.gov/opinions/2016-2> (attached as Exhibit 12).

¹⁰⁹ Ward, *supra* note 92.

¹¹⁰ *Id.*

¹¹¹ 2021 Ga. Laws Act 9 ("S.B. 202") § 33 (attached as Exhibit 13).

SECTION I: HISTORY OF VOTER SUPPRESSION

people of color have had to suffer standing in lines for up to ten hours—in the sweltering heat or pouring rain—with no seating or protection from weather—to exercise their constitutionally protected right to vote.¹¹²

Similar to the removal of federal troops from the South after the Hayes-Tilden Compromise, which ended Reconstruction and ushered in 100 years of domestic terror on Southern Black people, the *Shelby County* decision's gutting of Section 5 has left voters of color in states like Georgia with weak federal protection from state-sponsored voter suppression, discrimination, and disenfranchisement. Yet one thing is clear: those suppressive and discriminatory tactics never disappeared; rather, without the oversight of the federal government, they are back in full force. Just as Jim Crow laws further subjugated and oppressed Black people, so too these new election laws overwhelmingly affect people of color. The new laws leave Georgia's voters subject to the whims of their so-called political leaders who have demonstrated they will implement no shortage of oppressive tactics to retain political power within a quickly changing demographic. "Politics is a zero-sum game,"¹¹³ and some Georgia politicians are trying to win that "game" by cheating. Rather than convincing the electorate of the merits of their policies and their ability to lead, these politicians have unconstitutionally stacked the deck against Georgia's voters of color, who, historically have not supported their politics.

And the discrimination does not stop at voting. Not all incidents of racial animus are as sensational as the criminal charges brought in Brooks County, but the incidents are compelling and serve as vivid evidence of the discrimination that Georgia must still confront. In Cobb County, for example, there have been several recent allegations of racism in the School District. As described in a piece by the local National Public Radio outlet, in March 2017, a student at North Cobb High School posted a racist rant on social media, threatening to kill Black students.¹¹⁴ In November 2017, a teacher at South Cobb High School reportedly threatened to hang Black students if they did not stop talking.¹¹⁵ Both

¹¹² Anastasia Tsioulcas, *Georgia Voters Face Hours-Long Lines At Polls On First Day Of Early Voting*, NPR (Oct. 12, 2020), <https://www.npr.org/2020/10/12/923090987/georgia-voters-face-hours-long-lines-at-polls-on-first-day-of-early-voting>; Sam Levine, *More Than 10-Hour Wait and Long Lines as Early Voting Starts in Georgia*, THE GUARDIAN (Oct. 12, 2020), <https://www.theguardian.com/us-news/2020/oct/13/more-than-10-hour-wait-and-long-lines-as-early-voting-starts-in-georgia>.

¹¹³ Jane C. Timm, *In Supreme Court, GOP Attorney Defends Voting Restrictions by Saying they Help Republicans Win*, NBC NEWS (Mar. 2, 2021, 1:21 p.m. EST), <https://www.nbcnews.com/politics/elections/supreme-court-gop-attorney-defends-voting-restrictions-saying-they-help-n1259305> (quoting Michael Carvin, counsel for Petitioners Arizona Republican Party, in oral argument before the Supreme Court of the United States in a case challenging restrictive voting laws in Arizona as violating Section 2 of the VRA. *Arizona Republican Party v. Democratic Nat'l Comm.*, No. 19-1258 (Mar. 2, 2021)).

¹¹⁴ Martha Dalton, *Group Asks Cobb School Board to Address Racism Concerns, Equity in Schools*, WABE (Sept. 3, 2019) <https://www.wabe.org/group-asks-cobb-school-board-to-address-racism-equity-in-schools/>.

¹¹⁵ *Id.*

SECTION I: HISTORY OF VOTER SUPPRESSION

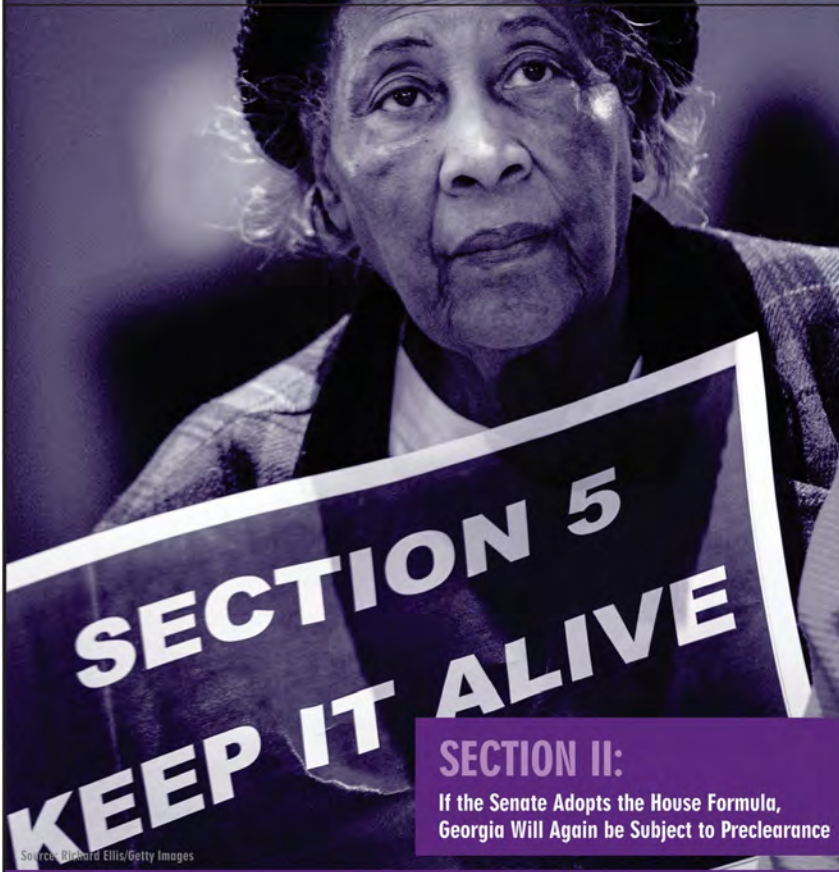
incidents prompted protests and despite parents and students calling for a dialogue on race, the Cobb County School Board failed even to pass a proposed Resolution to Condemn Racism.¹¹⁶ In another incident, reports surfaced in 2018 that Geye Hamby, the white Buford City School Board superintendent for over a decade, had been recorded making racist rants, which included statements such as: “(expletive) that (n-word). I’ll kill these (expletive)—shoot that (expletive) if they let me.”¹¹⁷ The statements attributed to Hamby were publicly released in 2018 when offered into evidence in a race discrimination lawsuit against Hamby and the school system, and Hamby resigned.¹¹⁸ In yet another example, the Douglas County Commission Chairman Tom Worthan, who had spent five years as a commissioner and an additional two years as the Chairman, had been recorded making racist comments about Black candidates and leaders. Worthan reportedly stated that governments run by Black individuals “bankrupt you,” and that if Black Sheriff’s candidate Tim Pounds were elected, “he would put a bunch of blacks in leadership positions,” and “I’d be afraid he’d put his black brothers in positions that maybe they’re not qualified to be in.”¹¹⁹

¹¹⁶ Larry Felton Johnson, *Democratic School Board Nominees Release Resolution Condemning Racism*, COBB CNTY. COURIER (Sept. 29, 2020), <https://cobbcountycourier.com/2020/09/democratic-school-board-nominees-condemning-racism/> (attached as Exhibit S10).

¹¹⁷ Bill Rankin, *Exclusive: Buford Schools Superintendent Recorded in Racist Rant, Lawsuit Says*, ATLANTA J.-CONST. (Aug. 21, 2018), <https://www.ajc.com/news/local/lawsuit-buford-schools-superintendent-recorded-racist-rant/xywRl237UbhMvGU04EBunN/>.

¹¹⁸ Isabel Hughes, *Lawsuit: Former Buford Superintendent Geye Hamby led district by ‘Fear and Intimidation’*, GWINNETT DAILY POST (Jan. 6, 2019), https://www.gwinnettdailypost.com/local/lawsuit-former-buford-superintendent-geye-hamby-led-district-by-fear-and-intimidation/article_2c295c0b-e2e8-556f-b62f-fbdfa80a3a22.html (attached as Exhibit S11); see also Complaint, *Ingram v. Buford City School District*, No. 1:18-cv-03103-ELR-WEJ, 2018 WL 7079179 (N.D. Ga. June 27, 2018), ECF No. 1 (linking to recording) (attached as Exhibit 14).


¹¹⁹ Ernie Suggs, *Douglas Leader’s Racial Comments Spark Calls that He Resign*, ATLANTA J.-CONST. (Nov. 8, 2016), <https://www.ajc.com/news/local/douglas-leader-racial-comments-spark-calls-that-resign/AVjoe8BDCXLs60BPjIHI/>.



**SECTION 5
KEEP IT ALIVE**

SECTION II:
If the Senate Adopts the House Formula,
Georgia Will Again be Subject to Preclearance

Source: Richard Ellis/Getty Images

FAIR  FIGHT ACTION

SECTION II: VOTING RIGHTS VIOLATIONS

If the Senate Adopts the House Formula, Georgia Will Again be Subject to Preclearance.

The rolling coverage formula the House passed in the 116th Congress recognizes that voters are at particular risk of disenfranchisement in jurisdictions where there have been many recent voting rights violations. It is therefore no surprise that Georgia more than meets the statewide coverage thresholds. Critically, that Fair Fight Action analyzes Georgia history against the House-passed bill unequivocally does not constitute an acknowledgement that the current version is the only acceptable coverage formula. The formula may evolve as the legislation progresses toward passage. Fair Fight Action simply uses the current version, shaped to address multiple violations over a specific period of years, as a logical framework for a preclearance structure.

The current rolling coverage formula requires statewide preclearance in two circumstances: if, in the previous twenty-five calendar years, (1) there have been at least fifteen “voting rights violations” in the state, or (2) there have been at least ten “voting rights violations” in the state and one violation was committed by the state itself.¹²⁰

The coverage formula requires reliable and recent evidence, and the VRAA is very specific about what qualifies as sufficient evidence. “Voting rights violations” arise in two circumstances: (1) the preclearance process; and (2) litigation. “Voting rights violations” are narrowly defined as (i) DOJ preclearance objections (that have not been withdrawn or overturned) or denials of declaratory judgments seeking preclearance; (ii) final judicial findings (not reversed on appeal) that the right to vote was denied or abridged “on account of race, color, or membership in a language minority group” in violation of the Fourteenth or Fifteenth Amendments or in violation of the VRA; or (iii) settlements of constitutional or VRA-based voter discrimination claims that result in a change to the challenged practice.¹²¹

A. Georgia’s Recent History Qualifies the State for Preclearance Coverage.

Georgia’s long and well-documented record of voting rights violations has not spared modern voters. In the past twenty-five years, practices that deny or abridge the right to vote because of race, color, or membership in a language minority group have been proposed or enacted at the local, county, and state levels. Federal courts, the Attorney General, and private litigants have been forced to step in to protect Georgia voters against these abuses. Despite this evidence, in 2013, when the Supreme Court in *Shelby County* invalidated the

¹²⁰ VRAA § 3(b)(1). Jurisdictions that have not engaged in discriminatory practices can file a declaratory judgment action seeking to “bail out” from coverage. *See id.* § 3(b)(2)(B); 52 U.S.C. § 10303. Of course, as the legislation proceeds toward passage, the number of years may decrease, the breadth of qualifying violations may grow, and Congress may consider different approaches. Fair Fight Action’s report chronicling Georgia’s dreadful history of preventing voters of color easy access to the polls is relevant to and supportive of any structure Congress may adopt.

¹²¹ VRAA § 3(b)(3).

SECTION II: VOTING RIGHTS VIOLATIONS

preclearance coverage formula, Chief Justice John Roberts ignored that deep racial disparities still existed and found that because preclearance was effective in reversing disenfranchisement, the country no longer needed preclearance.¹²²

A review of publicly available records and preclearance activities demonstrates that Georgia readily meets the requirements under either part of the VRAA's coverage formula, with over fifteen identifiable qualifying "voting rights violations" in the past twenty-five years, and with several violations committed by the State of Georgia itself. Since 1996, the relevant look back period under the VRAA, there have been at least twelve DOJ objections to voting changes in Georgia; at least two final judgments finding a violation of the VRA due to a discriminatory voting practice in Georgia; and at least seven settlements resulting in Georgia or one of its counties changing a discriminatory voting practice. This record more than meets the substantial thresholds in the VRAA.¹²³

- DOJ Preclearance Objections.

Even with no preclearance requests made in the eight years since the *Shelby County* decision, DOJ's objections over the preceding seventeen years alone would meet the coverage formula. In the past twenty-five years, DOJ has lodged objections to at least twelve voting changes, including two against the State. As discussed further in Section IV of this report, in June 2021 the DOJ filed a federal lawsuit against the State challenging discriminatory provisions of Georgia's newest voter suppressive legislation passed in 2021, S.B. 202.

The two recent objections interposed directly against the State of Georgia both arose in the five years preceding *Shelby County*. In both cases, DOJ found that Georgia had attempted to implement new laws that would have a retrogressive and disproportionate impact on voters of color. Most recently, in 2012, Georgia submitted for preclearance an amendment to the Georgia election code that required all nonpartisan elections for members of consolidated governments to be held in conjunction with the July primary, rather than in November. DOJ objected, finding the change would affect Augusta-Richmond County, in which Black voters had just become a majority.¹²⁴ Because Black voters were less

¹²² 570 U.S. at 551.

¹²³ This report does not endeavor to identify all settlements or unreported cases that resulted in a "voting rights violation" as defined in the House version of the legislation. It is clear, however, that Georgia's record triggers the coverage formula—despite the high number of violations required and the strict parameters for the evidence that counts. See VRAA "Voting Rights Violations" in Georgia (attached as Exhibit 15) (providing twenty-one examples of voting rights violations occurring in the State within the past twenty-five years).

¹²⁴ Letter from Thomas E. Perez, Ass't Att'y Gen., to Dennis R. Dunn, Deputy Att'y Gen., State of Ga. (Dec. 21, 2012), https://www.justice.gov/sites/default/files/crt/legacy/2014/05/30/1_121221_o.pdf (attached as Exhibit 16). After *Shelby County*, the legislature further moved the election from July to May. A group of plaintiffs sued under Section 5 of the VRA, arguing that DOJ's objection blocked changes to the election date. The court disagreed, finding that the objection was unenforceable because of *Shelby County*. See *Howard v. August-Richmond Cnty.*, 1:14-cv-00097-JRH-BKE, 2014 WL 12810317, at *3 (S.D. Ga. May 13, 2014). The

SECTION II: VOTING RIGHTS VIOLATIONS

likely to vote in July, DOJ determined the change depressed turnout for voters of color and further, the State had not sustained its burden of showing a lack of discriminatory purpose or effect.¹²⁵

Three years earlier, in 2009, DOJ lodged an objection to a version of Georgia's voter verification program, discussed in greater detail in Section II of this report. DOJ found that the "seriously flawed" program, which improperly removed voters from the rolls, disproportionately affected voters of color.¹²⁶ DOJ made this finding based on the "actual results of the state's verification process" because Georgia had violated Section 5 of the VRA by not seeking preclearance before implementing the program.¹²⁷

DOJ has also blocked county and city-level changes with a discriminatory effect, purpose, or both. In the past twenty-five years, DOJ has objected to seven redistricting plans that reduced the number of majority-minority districts or eliminated them altogether or otherwise decreased opportunity for voters of color to elect their candidates of choice.¹²⁸ For

court did not, however, overturn the objection or rule on its underlying merits. *See id.*

¹²⁵ Ex. 16, Letter from Thomas E. Perez, Ass't Att'y Gen., to Dennis R. Dunn, Deputy Att'y Gen., State of Ga. (Dec. 21, 2012), https://www.justice.gov/sites/default/files/crt/legacy/2014/05/30/l_121221_o.pdf.

¹²⁶ Ex. 8, Letter from Loretta King (May 29, 2009), https://www.justice.gov/sites/default/files/crt/legacy/2014/05/30/l_090529.pdf.

¹²⁷ *Id.*; *see also Morales v. Handel*, No. 1:08-cv-3172, 2008 WL 9401054, at *8 (N.D. Ga. Oct. 27, 2008) (finding the voter verification program was a change affecting voting and issuing an injunction because the Secretary of State had not submitted it under Section 5 of the VRA as required). After DOJ denied preclearance, Georgia brought a declaratory judgment action seeking to overturn DOJ's objection. Before the court ruled on the merits, Georgia revised the program and DOJ stated that it would not object to the revised version. *See Georgia v. Holder*, 748 F. Supp. 2d 16, 18 (D.D.C. 2010).

¹²⁸ Letter from Thomas E. Perez, Ass't Att'y Gen., to Andrew S. Johnson, Esq. & B. Jay Swindell, Esq. (Aug. 27, 2012), https://www.justice.gov/sites/default/files/crt/legacy/2014/05/30/l_120827.pdf (attached as Exhibit 17) (objecting to Long County redistricting plan); Letter from Thomas E. Perez, Ass't Att'y Gen., to Michael S. Green, Esq., Patrick O. Dollar, Esq. & Cory O. Kirby, Esq. (Apr. 13, 2012), https://www.justice.gov/sites/default/files/crt/legacy/2014/05/30/l_120413.pdf (attached as Exhibit 18) (objecting to Greene County's redistricting plan because it eliminated two districts in which voters of color had an ability to elect their candidates of choice); Letter from Thomas Perez, Ass't Att'y Gen. to Walter G. Elliot, Esq. (Nov. 30, 2009), https://www.justice.gov/sites/default/files/crt/legacy/2014/05/30/l_091130.pdf (attached as Exhibit 19) (objecting to Lowndes County redistricting plan that added two single-member districts, resulting in a change from minority voters having the ability to elect a candidate of choice in one out of three districts to one out of five districts); Letter from Ralph T. Boyd, Jr., Ass't Att'y Gen., to Wayne Jernigan, Esq., Phillip L. Hartley, Esq. & Cory O. Kirby, Esq. (Oct. 15, 2002), <https://www.justice.gov/sites/default/files/crt/legacy/2014/05/30/GA-2690.pdf> (attached as Exhibit 20) (objecting to Marion County School District plan that reduced the number of districts in which Black voters had the ability to elect candidates of choice); Letter from J. Michael Wiggins, Acting Ass't Att'y Gen., to Robert T. Prior, Esq. (Aug. 9, 2002), https://www.justice.gov/sites/default/files/crt/legacy/2014/05/30/l_020809.pdf (attached as Exhibit 21) (objecting to Putnam County redistricting plans reduced from the benchmark the number of districts with majority Black voting populations); Letter from J. Michael Wiggins, Acting Ass't Att'y Gen., to Al Grieshaber, Jr., Esq. (Sept. 23, 2002), <https://www.justice.gov/sites/default/files/crt/legacy/2014/05/30/GA-2680.pdf>

SECTION II: VOTING RIGHTS VIOLATIONS

example, in 2012, Long County submitted for preclearance a new districting plan for its boards of commissioners and education. The proposed plan decreased Black voters' overall opportunity to elect a candidate of their choice to either of the two five-member boards—although the total Black population in the county had increased from 21.6 to 25.5 percent—because the proposed plan reduced the voting power of Black persons in that district.¹²⁹

DOJ also objected to two changes to election methods that would have added numbered posts and majority vote requirements.¹³⁰ As DOJ pointed out, “[n]umbered posts frustrate single-shot voting . . . a method used by [B]lack voters to circumvent the refusal of white voters to support candidates that the minority community supports.”¹³¹ In one case, involving the City of Ashburn, DOJ relied on historical evidence because Ashburn had implemented numbered posts without seeking DOJ preclearance. DOJ observed that under the old system, by finishing in third place in a citywide election where the top three vote-getters gain office, a Black candidate would have been elected; however, under the numbered posts system, the same Black candidate lost because he was not the single top vote-getter for the specific numbered post he sought.¹³²

Finally, in a “highly unusual” case, DOJ objected to modification of a specific Black voter’s registration and candidate eligibility. The voter was the Chair of the Randolph County Board of Education. Despite a judicial ruling to the contrary, the county proposed moving that individual from a district where seventy percent of voters were Black to a

(attached as Exhibit 22) (objecting to City of Albany’s redistricting plan for the city board of commissioners, finding it forestalled the creation of a majority Black district without justification); Letter from Bill Lann Lee, Acting Ass’t Att’y Gen., Civ. Rts. Div., to James M. Skipper, Jr., Esq. (Jan. 11, 2000), <https://www.justice.gov/sites/default/files/crt/legacy/2014/05/30/GA-2630.pdf> (attached as Exhibit 23) (objecting to Webster County redistricting plan because it reduced the population of people of color in three majority Black single-member districts).

¹²⁹ Ex. 17, Letter from Thomas E. Perez (Aug. 27, 2012), https://www.justice.gov/sites/default/files/crt/legacy/2014/05/30/l_120827.pdf.

¹³⁰ Letter from Bill Lann Lee, Acting Ass’t Att’y Gen., Civ. Rts. Div., to Melvin P. Kopecky, Esq. (Mar. 17, 2000), <https://www.justice.gov/sites/default/files/crt/legacy/2014/05/30/GA-2640.pdf> (attached as Exhibit 24); Letter from Ralph F. Boyd, Jr., Ass’t Att’y Gen., Civ. Rts. Div., to Tommy Coleman, Esq. (Oct. 1, 2001), <https://www.justice.gov/sites/default/files/crt/legacy/2014/05/30/GA-2650.pdf> (attached as Exhibit 25). Numbered posts is a voting method in which a multi-winner election (for example, several open city council seats)—instead of those seats being filled by the number of candidates needed who obtain the highest number of votes—is made into single-winner elections in which each seat is “numbered,” the candidates run for a particular seat, and the voters are allowed to vote for each seat. Because Black voters are often in the minority, changing the election to numbered posts decreases the likelihood that the candidate that Black voters want can win any of the seats.

¹³¹ Ex. 25, Letter from Ralph F. Boyd, Jr., (Oct. 1, 2001), <https://www.justice.gov/sites/default/files/crt/legacy/2014/05/30/GA-2650.pdf>.

¹³² *Id.*

SECTION II: VOTING RIGHTS VIOLATIONS

district where seventy percent of voters were white.¹³³ DOJ found that the change was directed at “disturb[ing] an incumbent officeholder” and denied preclearance.¹³⁴

- Litigation Judgments and Settlements

Consistent with the substantial number of DOJ objections to Georgia’s discriminatory voting changes, the past twenty-five years have also seen a steady stream of litigation asserting voting rights violations committed by Georgia state and local actors. Courts in at least nine cases have ruled Georgia and/or its political subdivisions engaged in “voting rights violations” that meet the exacting definitions that appear in the House version of the VRAA.

Despite the high standards applied to voter discrimination claims, at least two cases have resulted in a final judgment that a practice within the State of Georgia violated the VRA. In a 2018 ruling, a federal court found that Sumter County’s redrawn school board district map, which reduced the number of single-member districts and added two new at-large districts, violated Section 2.¹³⁵ The plaintiff claimed the new map diluted the voting strength of Black voters. The court agreed, finding that the “infringement of black voters’ right to vote in Sumter County is severe.”¹³⁶ The court specifically found there was a “glaring lack of success for African American candidates running for county-wide office, both historically and recently, despite their plurality in voting-age population.”¹³⁷ And the low rate of Black turnout was attributable to the indisputable history of discrimination in Sumter County and in Georgia.¹³⁸ A court made a similar finding in 1997 after a bench trial on claims challenging the City of LaGrange’s at-large city council district plan. Noting that LaGrange and Georgia had a long history of discrimination, the court found the plan violated Section 2 of the VRA because it deprived citizens of color of the opportunity to elect candidates of their choice.¹³⁹

At least seven other lawsuits asserting discriminatory voting practices have ended with agreements that have caused the defendants to abandon or alter the challenged voting

¹³³ Letter from Wan J. Kim, Ass’t Att’y Gen., to Tommy Coleman, Esq. (Sept. 12, 2006), <https://www.justice.gov/sites/default/files/crt/legacy/2014/05/30/GA-2700.pdf> (attached as Exhibit 26).

¹³⁴ *Id.*

¹³⁵ *Wright v. Sumter Cnty. Bd. of Elections & Registration*, 301 F. Supp. 3d 1297 (M.D. Ga. 2018), *aff’d* 979 F.3d 1282 (11th Cir. 2020).

¹³⁶ Permanent Injunction Order, *Wright v. Sumter Cnty. Bd. of Elections and Registration*, No. 1:14-cv-42-WLS, 2018 WL 7365178, at *3 (M.D. Ga. Mar. 30, 2018) (attached as Exhibit 27).

¹³⁷ *Wright*, 301 F. Supp. at 1323.

¹³⁸ *Id.*

¹³⁹ *Cofield v. City of LaGrange*, 969 F. Supp. 749 (N.D. Ga. 1997).

SECTION II: VOTING RIGHTS VIOLATIONS

practice. And at least two have been against the State of Georgia itself. First, in 2016, a group of plaintiffs sued challenging the Secretary of State's administrative policy directive that required cancellation of voter registration applications due to the State's Exact Match policy. The plaintiffs alleged that the matching protocol resulted in a far higher voter registration cancellation rate for Black applicants than it did for white applicants.¹⁴⁰ Similar discriminatory effects were apparent in comparing citizen verification rates for other communities of color with those of whites.¹⁴¹ The plaintiffs moved for a preliminary injunction, but before the hearing the Secretary of State agreed to interim relief. Ultimately, the case settled with the Secretary of State's agreement that voter registration applications that failed the Exact Match protocol would be placed in pending, rather than canceled, status, and that voters would have an opportunity to cure the mismatch or confirm their identity.¹⁴²

In a 2018 case, faced with undeniable proof of discriminatory impact, the Secretary of State again agreed to settle before judgment. There, a group of plaintiffs challenged application of a Georgia state law that restricted who could be a language interpreter in state and local elections. The plaintiffs alleged that the law violated the First and Fourteenth Amendments, and Sections 2 and 208 of the VRA. The matter resolved within days, after the defendants agreed to a settlement that permanently enjoined enforcement of the law.¹⁴³

At least five additional cases involving constitutional and VRA Section 2 challenges to Georgia counties' practices have resulted in similar changes. Three involved changes to voting power for people of color through movement to at-large elections or via a discriminatory redistricting plan:

- In 1999, residents of Marion County sued challenging the at-large elections for the Marion County Commission. Black citizens made up over forty percent of the total population of the county, but had never elected a candidate of their choice to the three-member commission. After DOJ filed a similar action, the cases were consolidated, and the parties settled. The court entered a consent order finding the plaintiffs had demonstrated a likelihood of success on their claim that the plan diluted the voter strength of people of color. As part of the settlement, the parties

¹⁴⁰ Ex. 3, McCrary Report at 77-78.

¹⁴¹ *Id.*

¹⁴² Ex. S6, Settlement Agreement, *supra* note 66; Ex. 3, McCrary Report at 79-80.

¹⁴³ See Complaint, *Kwon v. Crittenden*, No. 1:18-cv-05405-TCB (N.D. Ga. Nov. 27, 2018), ECF No. 1 (attached as Exhibit 28); see also Consent Order, *Kwon*, No. 1:18-cv-05405-TCB (N.D. Ga. Nov. 29, 2018), ECF No. 7 (attached as Exhibit 29).

SECTION II: VOTING RIGHTS VIOLATIONS

agreed to a new plan that would contain three single-member districts, one of which was majority Black.¹⁴⁴

- In 2011, plaintiffs challenged Fayette County's at-large method of electing boards of commissioners and education. Each board comprised five at-large seats. Plaintiffs claimed that the at-large system effectively meant that no Black candidates would be elected to either board and violated Section 2 of the VRA.¹⁴⁵ The parties settled before trial.¹⁴⁶ The settlement discarded the five at-large seats and replaced them with four seats elected from single-member districts and one at-large seat.¹⁴⁷
- In 2016, plaintiffs challenged the Emanuel County districting plan for school board elections. Plaintiffs alleged that the plan violated Section 2 of the VRA. On December 8, 2016, the parties informed the court of their agreement to resolve the matter and that Emanuel County would be redrawing its map, including creating two majority-minority single-member districts.¹⁴⁸

Two additional cases involved improper challenges to voters' registration or ability to vote. Both cases implicated Georgia's provisions that allow citizens to call any other voter's eligibility into question.¹⁴⁹ If the Board of Registrars concludes there is probable cause for a

¹⁴⁴ *Marion County, Georgia to Change its Method of Election in an Agreement with the Justice Department*, DEP'T OF JUST. (June 6, 2000), <https://www.justice.gov/archive/opa/pr/2000/June/32ocr.htm> (describing terms of settlement) (attached as Exhibit 30).

¹⁴⁵ Complaint, *Ga. State Conf. of NAACP v. Fayette Cnty. Bd. of Comm'rs*, No. 3:11-cv-00123-TCB (N.D. Ga. Aug. 9, 2011), ECF No. 1 (attached as Exhibit S12). The District Court found a Section 2 violation on summary judgment, but the Eleventh Circuit later vacated that judgment, requiring the lower court to conduct a bench trial. See *Ga. State Conf. of NAACP v. Fayette Cnty. Bd. of Comm'rs*, 775 F.3d 1336 (11th Cir. 2015).

¹⁴⁶ Consent Order, *Ga. State Conf. of NAACP v. Fayette Cnty. Bd. of Comm'rs*, No. 3:11-cv-00123-TCB (N.D. Ga. Jan. 28, 2016), ECF No. 289 (attached as Exhibit 31); see also *Fayette Settlement Key Points*, NAACP Legal Def. and Educ. Fund, <https://naacpldf.org/document/fayette-settlement-key-points>.

¹⁴⁷ Ex. 31, Consent Order, *Ga. State Conf. of NAACP*, No. 3:11-cv-00123-TCB (N.D. Ga. Jan. 28, 2016), ECF No. 289.

¹⁴⁸ Fourth Consent Motion to Stay Proceedings, *Ga. State Conf. of NAACP v. Emanuel Cnty. Bd. of Comm'rs*, No. 6:16-cv-00021-JRH-GRS (S.D. Ga. Dec. 8, 2016), ECF No. 37 (attached as Exhibit 32); Order on Stipulation of Dismissal, *Ga. State Conf. of NAACP v. Emanuel Cnty. Bd. of Comm'rs*, No. 6:16-cv-00021-JRH-GRS (S.D. Ga. May 16, 2017), ECF No. 40 (attached as Exhibit 33).

¹⁴⁹ Two provisions of the Georgia Code provide for voter challenges: O.C.G.A. § 21-2-229 (attached as Exhibit 24¹), which permits any elector in a given county to bring a pre-election challenge to a fellow elector at any time to strike them from the rolls, and O.C.G.A. § 21-2-230 (attached as Exhibit 35), which permits any elector to challenge the right of another elector to vote in a particular election. Georgia's recent legislation provides that there is no limit on how many challenges any one individual can bring and requires a hearing on a challenge under § 21-2-229 to take place within ten days of serving notice of the challenge. See Ex. 13, 2021 Ga. Laws Act 9 (S.B. 202) §§ 15–16. In other words, "[l]awful voters targeted by indiscriminate challenges will now be forced to quickly arrange to defend their qualifications before a government board or risk

SECTION II: VOTING RIGHTS VIOLATIONS

challenge to a voter's eligibility in a particular election, the registrars notify the poll workers at the challenged voter's precinct of the voter's challenged status. When the voter arrives to cast a ballot, the poll workers will inform the voter of the voter's status and the voter will have the opportunity to prove eligibility to the Board.¹⁵⁰ This "opportunity" involves either conducting a hearing on Election Day before polls close—forcing the voter to wait to cast her ballot until the resolution of the dispute—or allowing the voter to cast a "challenged" ballot, which will be subject to invalidation if the Board concludes that the voter is ineligible.¹⁵¹

Although the challenge provisions may appear to serve a legitimate function in the abstract, the provisions have frequently been used to harass and suppress voters—particularly voters of color—and jeopardize their valid registrations. In one case, DOJ sued Long County, alleging the county forced forty-five non-white voters whose right to vote had been challenged on citizenship grounds, to attend a hearing and provide proof of eligibility to vote, even though there was no evidence calling into questions their citizenship.¹⁵² The district court ultimately entered a Consent Decree that required the county to re-train their election officials and notify the challenged voters there was no evidence to support the challenge and they could vote.¹⁵³

Abuses of the challenge process have continued apace. In 2015, the Hancock County Board of Elections and Registration relied on the challenge procedures to challenge systematically roughly twenty percent of the County's electorate. This process was ultimately blocked by litigation, but not before substantial damage was done.

According to the Complaint, then-BOER Vice Chairwoman Nancy Stephens, a white resident of the seventy-one percent Black Hancock County, filed voter challenges as a private citizen.¹⁵⁴ Using access she had as a BOER member, Stephens compared voters' registration addresses with the address on voters' drivers' licenses to identify potential mismatches.¹⁵⁵ At a BOER meeting, Stephens presented a list of the (all Black) voters she

disenfranchisement and removal from the registration rolls." *New Georgia Project v. Raffensperger*, No. 1:21-cv-01229-JPB, 2021 WL 1158043 (N.D. Ga. Mar. 25, 2021). (Exhibits that appear next to "1" refer to provisions of Georgia's Election Code that were revised by S.B. 202. These provisions of Georgia's Election Code are updated from the versions attached as exhibits in the report submitted on April 20, 2021).

¹⁵⁰ Ex. 35, O.C.G.A. § 21-2-230(c).

¹⁵¹ *Id.* § 21-2-230(h)-(i).

¹⁵² See *United States v. Long Cty., Ga.*, No. 2:06-cv-00040-AAA, 2006 WL 8458526 (S.D. Ga. Feb. 10, 2006) (attached as Exhibit 36).

¹⁵³ *Id.*

¹⁵⁴ Ex. 10, Complaint ¶¶ 45, 49, 50, *Ga. State Conf. of NAACP v. Hancock Cnty. Bd. Of Elections and Registration*, No. 5:15-cv-00414-CAR (M.D. Ga. Nov. 3, 2015) ECF No. 1.

¹⁵⁵ *Id.* ¶ 51.

SECTION II: VOTING RIGHTS VIOLATIONS

was challenging, and also presented a second list of challenged voters.¹⁵⁶ When the BOER held a special meeting to consider the sixteen challenges, Stephens made and seconded motions for probable cause on her own challenges, and voted for probable cause on all sixteen.¹⁵⁷ The BOER found probable cause for five of the challenges and scheduled a second meeting to consider canceling those five voters' registrations.¹⁵⁸ Then, after concerns were raised about the propriety of Stephens filing challenges, a private citizen, Don Bevill, took up the mantle.¹⁵⁹ While most of Bevill's challenges failed for a clear lack of substantiating evidence, he did remove thirty voters from the rolls.¹⁶⁰

The voters placed on these challenged lists were severely burdened, intimidated, and too often wrongfully purged from the voter rolls. First, the BOER partnered with the Hancock County Sheriff's office to issue summonses to challenged voters, even sending deputies to voters' homes.¹⁶¹ In a county with much higher arrest rates for Black residents than white residents, using police was an overt show of force, and Black voters perceived it as such.¹⁶² Moreover, Hancock County is one of the poorest counties in the State, with an average per capita income of \$16,704.¹⁶³ Many of the challenged voters lived outside the city and could not afford to miss work to attend the hearing, much less secure legal advice.¹⁶⁴ One challenged voter, Johnny Thornton, was a former agent of the U.S. Drug Enforcement Agency who lived on a catfish farm twenty minutes outside the town of Sparta—the address at which he worked, resided, and received his bills, and which is displayed on his driver's license.¹⁶⁵ Thornton hired an attorney, who informed the BOER that Thornton was

¹⁵⁶ *Id.* ¶¶ 49, 50.

¹⁵⁷ *Id.* ¶ 54.

¹⁵⁸ *Id.* ¶¶ 55, 56.

¹⁵⁹ Bevill's challenges bore a striking resemblance to Stephens's challenges. *Id.* at ¶ 6. Bevill brought roughly 119 challenges against registered voters, the vast majority of them Black. *Id.* at ¶ 66. At the hearings, Bevill presented little to no evidence to substantiate his suspicions that these voters were ineligible. *Id.* at ¶¶ 70, 71. Nonetheless, three BOER members voted to find probable cause in several of these challenges, over the objections of both Black BOER members. *Id.* at ¶ 81.

¹⁶⁰ *Id.* ¶¶ 81, 101, 108, 109, 110.

¹⁶¹ Neima Abdulahi, *Ga. County Under Microscope, Accused of Suppressing Black Votes*, 11 ALIVE (Aug. 5, 2016), <https://www.11alive.com/article/news/politics/elections/ga-county-under-microscope-accused-of-suppressing-black-votes/85-288453664>.

¹⁶² Wines, *supra* note 73.

¹⁶³ *QuickFacts: Hancock County, Georgia*, U.S. CENSUS BUREAU, <https://www.census.gov/quickfacts/fact/table/hancockcountygeorgia/PST040219> (last visited Apr. 8, 2021) (attached as Exhibit 37).

¹⁶⁴ Wines, *supra* note 73.

¹⁶⁵ *Id.*

SECTION II: VOTING RIGHTS VIOLATIONS

unavailable to attend the hearing. The BOER purged him from the rolls anyway.¹⁶⁶ Another challenged voter, Troy Harden, attended the hearing to ensure that he was not purged from the rolls. Once Harden insisted that he was an eligible voter, the BOER determined that the driver record the BOER used to determine probable cause to remove Harden was actually a record for an unrelated voter.¹⁶⁷ Had Harden not attended, the BOER may well have persisted in its error.

Hancock County's application of these voter challenges was by no means racially neutral. One concerned citizen, Larry Webb, who is Black, learned of Bevill's challenges and took it upon himself to raise similar challenges to white Hancock residents. Whereas the BOER had worked closely with Bevill to provide him access to voters' registration information and drivers' license addresses, and to the Election Superintendent and Hancock County Sheriff's Department, the same BOER members proved obstructionist with Webb's complaints, repeatedly adding procedural hurdles and refusing to consider his challenges.¹⁶⁸

Ultimately, a group of plaintiffs brought claims under the Fourteenth Amendment, Section 2 of the VRA, and the National Voter Registration Act ("NVRA") of 1993, 52 U.S.C. §§ 20501-20511. After years of litigation, a federal court entered a Consent Decree enjoining the BOER's actions.¹⁶⁹ The Consent Decree prohibited the BOER from engaging in discriminatory challenges and required strict adherence to specific procedures going forward.¹⁷⁰ The Consent Decree also required the BOER to submit to judicial oversight, including allowing an examiner to review the BOER's list maintenance and voter challenge processes.¹⁷¹ The court retained jurisdiction for at least five years to resolve any issues arising from the BOER's actions or the independent examiner's recommendations.¹⁷² But as one editorial noted, "[i]t shouldn't take a federal lawsuit for election officials to see it's a bad

¹⁶⁶ *Id.*

¹⁶⁷ Ex. 10, Complaint ¶ 106, *Ga. State Conf. of NAACP v. Hancock Cnty. Bd. Of Elections and Registration*, No. 5:15-cv-00414-CAR (M.D. Ga. Nov. 3, 2015) ECF No. 1.

¹⁶⁸ *Id.* ¶¶ 111, 112, 113.

¹⁶⁹ Avery Braxton, *Lawsuit Now Mandates Monitoring of Hancock County Elections*, 13WMAZ (Oct. 31, 2018), <https://www.13wmaz.com/article/news/local/lawsuit-now-mandates-monitoring-of-hancock-county-elections/93-609769958> (attached as Exhibit S13); see also Order on Joint Motion for Entry of Consent Order, *Ga. State Conf. of NAACP*, No. 5:15-cv-00414-CAR (M.D. Ga. Mar. 30, 2018), ECF No. 71 (attached as Exhibit 38).

¹⁷⁰ Ex. 38, Order on Joint Motion for Entry of Consent Order at 3-4, *Ga. State Conf. of NAACP*, No. 5:15-cv-00414-CAR (M.D. Ga. Mar. 30, 2018), ECF No. 71.

¹⁷¹ *Id.*

¹⁷² *Id.*

SECTION II: VOTING RIGHTS VIOLATIONS

idea to send sheriff's deputies knocking on doors while determining whether registered voters are eligible.¹⁷³

The problems with voter challenges did not end with Hancock County or that litigation. In the 2020 election cycle, private organizations took advantage of Georgia's voter-challenge law to harass voters—with the approval of Georgia officials. These organizations heeded President Trump's unfounded, disingenuous, and dangerous invocations of voter fraud to challenge voters en masse. After a historic Presidential Election with record voter turnout among people of color, True the Vote, a Texas-based nonprofit (and outgrowth of the Tea Party movement) that claims to combat voter fraud,¹⁷⁴ trained its sights on Georgia. In December 2020, True the Vote announced that the group had “partnered” with Georgians across all counties to challenge voters in the run-up to the January 2021 U.S. Senate runoff elections—elections that would decide which party would control the Senate.¹⁷⁵ True the Vote systematically challenged the eligibility of hundreds of thousands of Georgia voters, relying not on individualized circumstances, but rather on the U.S. Postal Service's National Change of Address (“NCOA”) registry, which is known to be inaccurate.¹⁷⁶ Not content to merely file these challenges and let the process run as intended, True the Vote also established “voter integrity” hotlines, recruited poll watchers, and established a \$1 million reward for successful reports of “election malfeasance.”¹⁷⁷ Moreover, True the Vote members threatened that “[i]f the Georgia counties refuse[d] to handle the challenges of 366,000 ineligible voters in accordance with the law,” they would “release the entire list” to the public.¹⁷⁸

True the Vote's efforts were sanctioned by high-ranking Georgia officials. In December 2020, True the Vote announced that it had partnered with the Georgia

¹⁷³ Editorial: *Voting Rights in Hancock County Still Hard-Fought*, SAVANNAH NOW (Mar. 11, 2017, 9:07 p.m.), <https://www.savannahnow.com/opinion/editorial/2017-03-11/editorial-voting-rights-hancock-county-still-hard-fought>.

¹⁷⁴ Suevon Lee, *A Reading Guide to True the Vote, the Controversial Voter Fraud Watchdog*, PROPUBLICA (Sept. 27, 2012), <https://www.propublica.org/article/a-reading-guide-to-true-the-vote-the-controversial-voter-fraud-watchdog> (attached as Exhibit S14).

¹⁷⁵ *True the Vote Partners with Georgians in Every County to Preemptively Challenge 364,541 Potentially Ineligible Voters*, TRUE THE VOTE (Dec. 18, 2020), <https://truethevote.org/news-posts/true-the-vote-partners-with-georgians-in-every-county-to-preemptively-challenge-364541-potentially-ineligible-voters/>.

¹⁷⁶ First Amended Complaint for Declaratory and Injunctive Relief ¶ 4, *Fair Fight Inc. v. True the Vote, Inc.*, No. 2:20-cv-00302-SCJ (N.D. Ga. Mar. 22, 2021), ECF No. 73 (attached as Exhibit 39).

¹⁷⁷ *Id.* ¶ 5, 6.

¹⁷⁸ *Id.* ¶ 53.

SECTION II: VOTING RIGHTS VIOLATIONS

Republican Party ahead of the runoffs.¹⁷⁹ Secretary of State Brad Raffensperger explicitly endorsed True the Vote's tactics, saying that "the Elector Challenge is a vehicle under our law to ensure voter integrity. I support any effort that builds faith in our election system that follows the proper legal procedure."¹⁸⁰ And in one county, Muscogee County, the Chair of the County Republican Party himself submitted a mass challenge against over 4,000 Muscogee voters.¹⁸¹ While many counties rejected True the Vote's mass challenges, finding that the organization's method of identifying purportedly ineligible voters was unreliable, some counties permitted the challenges to proceed.¹⁸² Ben Hill County's Board of Elections voted 2-1 to find the challenges regarding 152 voters supported by probable cause and moved the voters into "pending hearing" status, which forced them to vote provisional ballots.¹⁸³ Muscogee's Board of Elections voted 3-1 to find probable cause for the approximately 4,000 challenged voters (exempting only overseas voters).¹⁸⁴

Declarations of voters submitted in court show that many of these voters were challenged in error:

- Nakeitha Essix, a Muscogee resident, has been registered at her home since 2011.¹⁸⁵ While on a trip to Colorado, she lost her wallet. To get a replacement debit card sent to her in Colorado, Nakeitha changed her mailing address to her location in Colorado.¹⁸⁶ Because of this temporary change, she could cast only a provisional ballot, as her eligibility had been challenged.¹⁸⁷ She was told that someone would call her to cure her ballot, but as of her declaration, no one had

¹⁷⁹ Bill Bartow, *GOP Activist's Voter Challenges Raise Questions in Georgia*, ASSOCIATED PRESS (Dec. 21, 2020), <https://apnews.com/article/georgia-elections-political-organizations-voter-registration-atlanta-3a8989df44c323ce798e0a5d34eb9876> (attached as Exhibit S15).

¹⁸⁰ TRUE THE VOTE, *supra* note 175.

¹⁸¹ See Pls.' Mem. of Law in Supp. of Mot. for Temporary Restraining Order at 6, *Majority Forward v. Ben Hill Cnty. Bd. of Elections*, No. 1:20-cv-00266-LAG (M.D. Ga. Dec. 27, 2020), ECF No. 5-1 (attached as Exhibit 41).

¹⁸² *Id.*; see also Ex. 39, First Amended Complaint for Declaratory and Injunctive Relief ¶ 52, *Fair Fight, Inc. v. True the Vote, Inc.*, No. 2:20-cv-00302-SCJ (N.D. Ga. Mar. 22, 2021), ECF No. 73.

¹⁸³ Ex. 41, Pls.' Mem. of Law in Supp. of Mot. for Temporary Restraining Order at 11, *Majority Forward*, No. 1:20-cv-00266-LAG (M.D. Ga. Dec. 27, 2020), ECF No. 5-1.

¹⁸⁴ *Id.* at 11-12.

¹⁸⁵ Declaration of Nakeitha Essix, *Majority Forward*, No. 1:20-cv-00266-LAG (M.D. Ga. Dec. 27, 2020), ECF No. 5-6 (attached as Exhibit 42). Ms. Essix's Declaration, along with those of Mr. Turner and Ms. Lewis, were publicly filed in the *Majority Forward* case and are therefore provided here without redaction.

¹⁸⁶ *Id.*

¹⁸⁷ *Id.*

SECTION II: VOTING RIGHTS VIOLATIONS

contacted her with further information.¹⁸⁸ As Ms. Essix put it, “[i]t cannot be that I lose my right to vote in Georgia by simply misplacing my wallet.”¹⁸⁹

- Gamaliel Warren Turner, Sr., a Black veteran and contractor with the U.S. Navy, was dispatched to California in late 2019.¹⁹⁰ To keep receiving his mail while on temporary work assignment, he submitted a temporary change of address.¹⁹¹ He did not register to vote in California nor did he notify Georgia of any intent to change his citizenship to California.¹⁹² Mr. Turner owned his home in Columbus, Georgia, at all relevant times, continued paying utilities while in California, and retained his Georgia driver’s license.¹⁹³ He did, however, ask that his Georgia ballot be mailed to his California address.¹⁹⁴ When his ballot did not arrive, he inquired and learned that he was a challenged voter—no one provided him any information on the steps he had to take to rebut the challenge.¹⁹⁵ As of December 24, 2020, he had not yet received his absentee ballot for the January 5, 2021 Senate runoff election.¹⁹⁶
- Debra Lewis, a Ben Hill County resident has been registered in Georgia since she turned 18. In 2018 and 2019, Ms. Lewis traveled regularly between her permanent residence in Georgia and Missouri, where her boyfriend lived. In 2019, she temporarily changed her mailing address to Missouri “to save [her] friends the trouble of forwarding [her] mail while [she] was away.” She never planned to remain in Missouri and did not register to vote there or otherwise indicate a desire to change her residency. She maintained her Georgia driver’s license and continued to pay utilities at her Georgia residence. In October 2020, she changed her mailing address back to her Georgia permanent residence. When Ms. Lewis attempted to vote in person on December 28, 2020, she was told that she could not vote that day and, instead, would need to attend a hearing on election day to prove her residency. She did not have time to do so. As Ms. Lewis put it, “It seems

¹⁸⁸ *Id.*

¹⁸⁹ *Id.*

¹⁹⁰ Declaration of Gamaliel Warren Turner, Sr., *Majority Forward*, No. 1:20-cv-00266-LAG (M.D. Ga. Dec. 27, 2020), ECF No. 5-4 (attached as Exhibit 43).

¹⁹¹ *Id.*

¹⁹² *Id.*

¹⁹³ *Id.*

¹⁹⁴ *Id.*

¹⁹⁵ *Id.*

¹⁹⁶ *Id.*

SECTION II: VOTING RIGHTS VIOLATIONS

like there must have been a mistake for my name to end up on a list of challenged voters.”¹⁹⁷

These efforts not only constitute blatant partisan manipulation, but also reflect state-sanctioned voter intimidation—even when unsuccessful in actually disenfranchising voters. True the Vote publicized the challenged voters’ names and addresses in December 2020—at the very same time that supporters of President Trump were issuing death threats to Georgia election officials.¹⁹⁸ Other voters expressed fears of being targeted, threatened, or doxxed.¹⁹⁹ Voter challenges exert a severe chilling effect on voters’ willingness and ability to vote. These effects are more pronounced on voters of color, given not only their disproportionate targeting, but also their histories with police and with state-sanctioned disenfranchisement.²⁰⁰

- Additional Evidence Demonstrates that Georgia Remains Rife with Voting Rights Abuses.

Besides evidence of improper challenges, there are numerous examples of voting rights abuses that do not meet the VRAA’s narrow evidentiary standards, but nonetheless demonstrate Georgia’s extensive recent history of voting rights violations. Several recent cases have resulted in preliminary injunctions against challenged practices.²⁰¹ Although those recent cases may not have resulted in a qualifying “final judgment” or settlement agreement under the VRAA, issuing a preliminary injunction means that courts found it likely that the defendants committed a voting rights violation.²⁰² That Georgia continues to

¹⁹⁷ Declaration of Debra Lewis, *Majority Forward*, No. 1:20-cv-00266-LAG (M.D. Ga. Dec. 29, 2020), ECF No. 21 (attached as Exhibit 44).

¹⁹⁸ Amy Gardner & Keith Newell, ‘Someone’s Going to Get Killed’: GOP Election Official in Georgia Blames President Trump for Fostering Violent Threats, WASH. POST (Dec. 1, 2020), https://www.washingtonpost.com/politics/georgia-official-trump-election/2020/12/01/f1d5c962-3427-11eb-b59c-adb7153d10c2_story.html; Sean Keenan, *An Atlanta Election Worker Is in Hiding After a Claim that He Tossed a Ballot. His Boss Says the Claim Is False*, N.Y. TIMES (Nov. 6, 2020), <https://nyti.ms/3p70NDc>.

¹⁹⁹ Declaration of [Redacted], *Fair Fight, Inc. v. True the Vote, Inc.*, No. 2:20-cv-302-SCJ (N.D. Ga. Jan. 1, 2021), ECF No. 26 (attached as Exhibit 45); Declaration of [Redacted] #2, *Fair Fight, Inc. v. True the Vote, Inc.*, No. 2:20-cv-302-SCJ (N.D. Ga. Jan. 1, 2021), ECF No. 26 (attached as Exhibit 46).

²⁰⁰ See Wines, *supra* note 73.

²⁰¹ There were several examples in the 2018 election cycle alone. See, e.g., *Martin v. Kemp*, 341 F. Supp. 3d 1326 (N.D. Ga. 2018) (issuing preliminary injunction against rejection of absentee ballots without notice and an opportunity to cure); *Ga. Coal. for the People’s Agenda*, 347 F. Supp. 3d at 1251 (issuing preliminary injunction requiring individuals placed in pending registration status due to citizenship questions to vote a regular ballot by furnishing proof of citizenship); *Democratic Party of Ga., Inc. v. Crittenden*, 347 F. Supp. 3d 1324 (N.D. Ga. 2018) (issuing preliminary injunction requiring counties to count absentee ballots with incorrect birthdates).

²⁰² There also are a number of pending cases that raise constitutional and VRA claims related to statewide and systemic voting rights abuses and have yet to be decided. Among these are Fair Fight Action’s challenge to the

SECTION II: VOTING RIGHTS VIOLATIONS

engage in discriminatory voting rights practices and these practices continue to be the subject of meritorious lawsuits, further confirms that Georgia will continue to be a hotbed of voting rights violations—and that future violations will continue to feed into the rolling coverage formula for years to come.

Highlighting election officials' indifference to voting rights is a recent policy regarding absentee ballot rejections. The State initially allowed eligible voters' absentee ballots to be rejected with no way to remedy the rejection. Only after federal courts intervened to protect voters' rights did the State reform its absentee ballot procedures to provide safeguards to ensure that valid absentee ballots were counted.

Broadly speaking, Georgia used the same absentee ballot verification scheme from 2007 to 2018. One federal judge explained the verification process as involving: (1) a voter would submit an absentee ballot application through mail, fax, email, or in-person, any time between 180 days before the election and the Friday before the election; (2) the county registrar or absentee ballot clerk would determine whether the individual requesting the ballot was eligible to vote by comparing their identifying information and signature to the information and signature on record, and deny the application if there was not a match; (3) the voter would complete the absentee ballot, including signing the oath of the elector and filling in other information on the oath envelope about the voter's identity; and (4) county officials would once again review the signature and identifying information to determine whether to accept the ballot.²⁰³

This process was rife with pitfalls for voters. Voters' ballot applications or ballots could be rejected if a county official determined that the voter's signature did not match the signature on file, or if the voter forgot to write their year of birth (or mistakenly put the current year instead of their year of birth) on the absentee ballot envelope. Although a voter could request another absentee ballot or vote in person even once an absentee ballot was rejected, those "remedies" were not always possible, and voters experienced hurdles in curing their ballots. Below are just a few examples of problems voters faced in trying to vote absentee in 2018.

- In 2018, seventy-two-year-old voter Dinesh requested an absentee ballot so he would not have to stand in a long line to vote. He returned his ballot in person to a county employee and waited while the employee matched his signature against the signature on file. That employee told Dinesh he did not need to do anything more to make his ballot count. But on November 8, 2018, he learned that his

systemic maladministration of Georgia's elections, *Fair Fight Action, Inc. v. Raffensperger*, No. 1:18-cv-05391-SCJ (N.D. Ga. Aug. 15, 2019).

²⁰³ See *Martin*, 341 F. Supp. 3d at 1329-30; O.C.G.A. §§ 21-2-381 (attached as Exhibit 47[†]), 21-2-384 (attached as Exhibit 48), 21-2-386 (attached as Exhibit 49) (2018) The appended exhibits include changes adopted in 2019 via H.B. 316.

SECTION II: VOTING RIGHTS VIOLATIONS

absentee ballot had been rejected for missing his year of birth—and that nothing could be done to correct the error. He was told his vote was not counted.²⁰⁴

- Thires learned that his absentee ballot had been rejected due to writing the current year instead of year of birth on the ballot. The county never informed him of a problem with the ballot or provided a mechanism to cure the error. As Thires put it, “I am incredulous that my vote could be rejected for something as simple as a wrong birth year on an absentee ballot if all the other information and signature match my voter registration information.”²⁰⁵
- Vicki helped her eighty-seven-year-old mother, who is blind, with the absentee ballot process. Vicki’s mother is committed to voting and had never had a ballot rejected before, but was told that her ballot had been rejected for the November 2018 General Election due to signature mismatch. Vicki and her mother received inconsistent information about whether the ballot had been counted.²⁰⁶

For the November 2018 General Election, multiple voter protection groups sounded the alarm that certain counties—most notably Gwinnett County, the second-largest county in Georgia—may have been disproportionately rejecting absentee ballots, and that absentee ballot rejections appeared to be disproportionately affecting voters of color.²⁰⁷ The data supported the groups’ concerns. Per an analysis of absentee ballot rejection data across the 100 Georgia counties that reported any rejected absentee ballots, Black voters were more

²⁰⁴ Declaration of Dinesh [last name redacted] ¶ 3 (attached as Exhibit 50). Over the years, Fair Fight Action has collected thousands of declarations from people who contacted Fair Fight Action describing long lines, poorly trained poll workers, missing absentee ballots, purged voter registrations without the voter receiving notice, and inaccurate voter registration records that threatened a voter’s ability to vote. The stories express, in voters’ own words, their sadness, frustration, and anger that their home state would trample their most fundamental right. But, besides the anger, the stories also present triumph and show the lengths to which many voters have gone to vote. Fair Fight Action shares these stories so the reader can visualize how Georgia’s decisions post-*Shelby County* have had real-life effects on people’s lives and right to vote. With the exception of declarations of voters who have spoken publicly, the declarations FFA has collected and now submits with this report are redacted to protect the declarants’ privacy. Some declarations appear more than once in the report.

²⁰⁵ Declaration of Thires [last name redacted] ¶¶ 4–6 (attached as Exhibit 51).

²⁰⁶ Declaration of Vicki [last name redacted] ¶¶ 4–8 (attached as Exhibit 52).

²⁰⁷ See Curt Devine & Drew Griffin, *Georgia County Tosses Out Hundreds of Minority Absentee Ballots*, CNN POLITICS (Oct. 21, 2018), <https://www.cnn.com/2018/10/20/politics/gwinnett-county-absentee-ballots>; Mark Niesse & Tyler Estep, *High Rate of Absentee Ballots Thrown Out in Gwinnett*, ATLANTA J.-CONST. (Oct. 16, 2018), <https://www.ajc.com/news/state--regional-govt--politics/high-rate-absentee-ballots-thrown-out-gwinnett/azdOsCxX2X6mT8PTrgZlJI/>.

SECTION II: VOTING RIGHTS VIOLATIONS

likely than white voters to have their absentee ballots rejected in seventy percent of those counties.²⁰⁸

After voters and voting rights organizations sued to protest the absentee ballot rejection process, federal courts ultimately acted to ensure eligible Georgia absentee voters would have their ballots counted for the November 2018 General Election. In *Martin v. Kemp*, U.S. District Court Judge Leigh Martin May first held that the plaintiffs had established a likelihood of success on a claim that the statutory scheme described above violated constitutional due process protections given the absence of a procedure for curing a signature mismatch issue for rejected absentee ballots or applications.²⁰⁹ The State already had a structure in place for allowing voters to “cure” the validity of provisional ballots, so the burden on the State would be minimal—and the importance of allowing “all eligible voters” to vote outweighed any additional burdens on the State.²¹⁰

After Judge May’s decision addressing rejections for signature mismatch, the problems continued regarding rejection for date of birth issues. Then, on November 12, 2018, the Secretary of State issued an Official Election Bulletin to counties to the effect that Georgia law did not mandate the automatic rejection of any ballot lacking the voter’s place or date of birth, but did not instruct counties they must accept ballots with such immaterial inaccuracies or omissions.²¹¹ One State Election Board Member vigorously objected, noting that the Bulletin cited advice from the Georgia Attorney General but “completely omit[ted]” guidance from the Georgia Attorney General to the effect that federal law, in that Board Member’s words, “prohibits rejection of a ballot when the omitted information is immaterial.”²¹²

Shortly after that bulletin was issued, Judge May granted a temporary restraining order against Gwinnett County because county officials were rejecting absentee ballots

²⁰⁸ See Expert Rebuttal Report of Daniel A. Smith at 22-23, *Fair Fight Action Inc. v. Raffensperger*, No. 1:18-cv-05391-SCJ (N.D. Ga. March 4, 2020), ECF No. 259 (attached as Exhibit 53).

²⁰⁹ See *Martin*, 341 F. Supp. 3d at 1337-41 (N.D. Ga. 2018).

²¹⁰ See *id.*; see also *Martin v. Kemp*, No. 1:18-cv-4776-LMM, 2018 WL 10509482 (N.D. Ga. Oct. 25, 2018) (entering terms of preliminary injunction); *Ga. Muslim Voter Project v. Kemp*, Nos. 18-14502-GG, 18-14503-GG, 2018 WL 7822108 (11th Cir. Nov. 2, 2018) (denying stay pending appeal); *Ga. Muslim Voter Project v. Kemp*, 918 F.3d 1262 (11th Cir. 2019) (opinions related to Eleventh Circuit’s denial of stay of preliminary injunction). Judge May also issued an opinion after this opinion denying a motion for preliminary injunction on additional statewide relief relating to absentee ballots. See Order Den. Am. Mot. Prelim. Inj. at 3-5, *Martin v. Kemp*, No. 1:18-cv-04776-LMM (N.D. Ga. Nov. 2, 2018), ECF No. 41 (attached as Exhibit 54).

²¹¹ Reply Br. Supp. Pls.’ Emerg. Mot. TRO at 15-16, *Martin*, No. 1:18-cv-04776-LMM (N.D. Ga. Nov. 12, 2018), ECF No. 54 (attached as Exhibit 55) (Plaintiffs attached the Official Election Bulletin as Exhibit 16 to their Reply Brief).

²¹² See Email from David Worley to Jansen Head, et al. (Nov. 13, 2018) (attached as Exhibit 56).

SECTION II: VOTING RIGHTS VIOLATIONS

solely due to omitted or erroneous birth years.²¹³ There, the court held that the plaintiffs had established a likelihood of success on the merits of their argument that the rejection of an absentee ballot based solely on a missing or inaccurate birth year violated Section 10101(a)(2)(B) of the Civil Rights Act, which “forbids the practice of disqualifying voters because of an error or omission on any record or paper relating to any application, registration, or other act requisite to voting.”²¹⁴ The court also determined that a voter’s “ability to correctly recite his or her year of birth on the absentee ballot envelope is not material to determining said voter’s qualifications under Georgia law”—especially since county officials would have confirmed the voter’s eligibility to vote during the absentee ballot application process.²¹⁵ Judge May observed that the Georgia Supreme Court had already explicitly recognized that Georgia law “does not mandate the automatic rejection of any absentee ballot lacking the elector’s place and/or date of birth,” and that other counties did not require voters to provide their years of birth to have their ballots accepted.²¹⁶ As in the earlier *Martin* decision, Judge May recognized that “the public interest is best served by allowing qualified absentee voters to vote and have their votes counted.”²¹⁷

Despite Judge May’s order enjoining Gwinnett County from rejecting absentee ballots for missing or incorrect dates of birth (when a voter’s eligibility had already been determined), Georgia statewide officials did not immediately act to ensure that other counties did not reject ballots on similar immaterial grounds. The same State Election Board Member who had objected to the original Official Election Bulletin discussed above reiterated his concerns in the wake of Judge May’s order, asking the Secretary of State to issue new guidance based on the order that counties were required under federal law to accept ballots with immaterial errors or omissions in the date of birth.²¹⁸ The Secretary of State declined to issue that clarification, deciding “not [to] take any action until we see what the Court orders” in other pending statewide litigation.²¹⁹

In that other pending litigation, *Democratic Party of Georgia, Inc. v. Crittenden*, U.S. District Judge Steve C. Jones rectified the problem on a statewide basis for the November 2018 General Election. The court granted a preliminary injunction enjoining the Georgia Secretary of State “from certifying the State Election results until she has confirmed

²¹³ See *Martin v. Crittenden*, 347 F. Supp. 3d 1302 (N.D. Ga. 2018). This is the same case number as *Martin v. Kemp*. The name of the lead defendant changed because now-Governor Kemp resigned his office as Secretary of State following the election.

²¹⁴ *Id.* at 1308 (quoting 52 U.S.C. § 10101(a)(2)(B)).

²¹⁵ *Id.* at 1308-09.

²¹⁶ See *id.* at 1309 (quoting *Jones v. Jessup*, 279 Ga. 531, 533 n.5 (2005)).

²¹⁷ *Id.* at 1310-11.

²¹⁸ See Email from David Worley to Jansen Head, et al. (Nov. 13, 2018) (attached as Exhibit 57).

²¹⁹ See Email from Robyn Crittenden to David Worley, et al. (Nov. 14, 2018) (attached as Exhibit 58).

SECTION II: VOTING RIGHTS VIOLATIONS

that each county's returns include the counts for absentee ballots where the birthdate was omitted or incorrect."²²⁰ In the opinion, Judge Jones specifically noted the court's "concern[]" about "Secretary Crittenden's discretionary instructions to county election officials . . . concerning the verification of absentee mail-in ballots," observing that "[w]hile Gwinnett County is now under one instruction from Judge May to count absentee mail-in ballots that contain a birth year error or omission, the other 158 counties in Georgia have been given the impression that they have the complete discretion to either count such ballots or reject them entirely."²²¹ Judge Jones, following the rationale in Judge May's decision, determined the plaintiffs had shown a likelihood of success on the argument that rejecting absentee ballots for missing or incomplete dates of birth violated Section 10101(a)(2)(B) of the Civil Rights Act.²²²

Following these federal court decisions reshaping the absentee ballot verification process for the 2018 General Election, the State briefly took steps in the right direction. House Bill 316 ("H.B. 316"), which purported to enact various election "reforms" in the wake of the 2018 General Election, implemented a process by which voters could "cure" problems with their absentee ballot applications and absentee ballots.²²³ It also amended the content of the absentee ballot oath to eliminate the requirement that voters provide their year of birth.²²⁴ In addition, the Secretary of State and members of the State Election Board signed a settlement agreement in March 2020 in response to litigation brought by the Democratic Party of Georgia, the Democratic Senate Campaign Committee, and the Democratic Congressional Campaign Committee.²²⁵ As part of that agreement, the State Election Board agreed to promulgate a rule requiring prompt notifications to voters of the rejection of absentee ballots.²²⁶ The Secretary of State also agreed to issue an Official Election Bulletin directing counties to require signatures to be found to be a mismatch by at least two of three election officials before being rejected.²²⁷ Despite these additional measures to facilitate absentee voting, voters nonetheless face substantial hurdles to cure their ballots. For example, Edward is a Cobb County voter who serves as caretaker for his brother and his sister-in-law, who suffered a stroke and therefore signs documents with an X. Even though

²²⁰ *Democratic Party of Ga., Inc.*, 347 F. Supp. 3d at 1347.

²²¹ *Id.* at 1340-41.

²²² *Id.*

²²³ See Ex. 47⁺, O.C.G.A. § 21-2-381, Ex. 49, O.C.G.A. § 21-2-386 (2019).

²²⁴ See Ex. 48, O.C.G.A. § 21-2-384.

²²⁵ See Compromise Settlement Agreement and Release, *Democratic Party of Ga., Inc. v. Raffensperger*, No. 19-cv-5028-WMR (N.D. Ga. Nov. 6, 2019), ECF No. 56-1 (attached as Exhibit 59).

²²⁶ See Ga. Comp. R. & Regs. § 183-1-14-.13 (attached as Exhibit 60).

²²⁷ See Ex. 59, Compromise Settlement Agreement and Release, *Democratic Party of Ga., Inc. v. Raffensperger*, No. 19-cv-5028 (N.D. Ga. Nov. 6, 2019) at 3-4.

SECTION II: VOTING RIGHTS VIOLATIONS

Edward's sister-in-law voted absentee without a problem for the November 2020 General Election, her ballot was rejected for the subsequent runoff election. Edward had difficulty getting clear information from the county or the State about why the rejection had happened or what could be done, even when he explained that he had witnessed both signatures.²²⁸

These small but seemingly positive developments for voters in Georgia were short-lived. As discussed in more detail in Part IV, recent changes to Georgia law reimpose the date-of-birth requirement for absentee ballots and require the date of birth on the ballot to match the date on record. Further, Georgia has again changed the method of verifying the identity of voters requesting absentee ballots, shifting away from signature match entirely. These changes and other changes to the absentee ballot process will create new barriers to absentee voting more likely to affect voters of color.

The obstacles voters face in verifying absentee ballots must be considered in tandem with other problems voters face when attempting to vote absentee. During the past several elections, many voters have not received their absentee ballots with sufficient time to be assured that the voters could return those ballots by the election—or never received their ballots.²²⁹ Some of those voters went to great lengths to return their ballots in time or to vote in person.²³⁰ Other voters have had difficulty canceling their absentee ballots to vote in person—such as when they received the ballots too late or received damaged ballots—or had to vote provisionally.²³¹ Still other voters had additional difficulties, such as accessing drop

²²⁸ See Declaration of Edward [last name redacted] ¶¶ 3–15 (attached as Exhibit 61).

²²⁹ See Declaration of Aria [last name redacted] ¶¶ 7–9 (attached as Exhibit 62); Declaration of Amanda from DeKalb [last name redacted] ¶ 12 (attached as Exhibit 63); Declaration of Sharonda [last name redacted] ¶¶ 3–5 (attached as Exhibit 64); Declaration of Mykel [last name redacted] ¶¶ 3–8 (attached as Exhibit 65); Declaration of Heath [last name redacted] ¶¶ 3–7 (attached as Exhibit 66); Declaration of Alexandra [last name redacted] ¶¶ 3–13 (attached as Exhibit 67); Declaration of Madison [last name redacted] ¶¶ 4–9 (attached as Exhibit 68); Declaration of Stephanie [last name redacted] ¶¶ 3–20 (attached as Exhibit 69); Declaration of Maria [last name redacted] ¶¶ 3–7 (attached as Exhibit 70); Declaration of Tabatha [last name redacted] ¶¶ 3–16 (attached as Exhibit 71); Declaration of Mustapha [last name redacted] ¶¶ 3–13 (attached as Exhibit 72); Declaration of Sue [last name redacted] ¶¶ 3–6 (attached as Exhibit 73); Declaration of Kendall [last name redacted] ¶¶ 3–5 (attached as Exhibit 74); Declaration of Christie [last name redacted] ¶¶ 3–13 (attached as Exhibit 75); Declaration of Katrina [last name redacted] ¶¶ 3–5 (attached as Exhibit 76); Declaration of Jacqueline [last name redacted] ¶¶ 3–6 (attached as Exhibit 77); see also Declaration of LeeAnn [last name redacted] ¶ 6 (attached as Exhibit 78) (volunteer assisting with canceling absentee ballots noted that college students came to vote in person because they had not received their absentee ballots).

²³⁰ See, e.g., Declaration of Pamela from Fulton [last name redacted] ¶¶ 3–14 (attached as Exhibit 79) (“It has taken 40 emails, six Twitter messages, and ten phone calls to ensure my constitutional rights are met.”); Declaration of Annie [last name redacted] ¶¶ 6–41 (attached as Exhibit 80) (voter drove from Massachusetts to Georgia to vote in the November 2020 General Election after her ballot did not arrive in time to return it, then had to call the county office multiple times to address delays with ballot for the January 2021 Senate runoff).

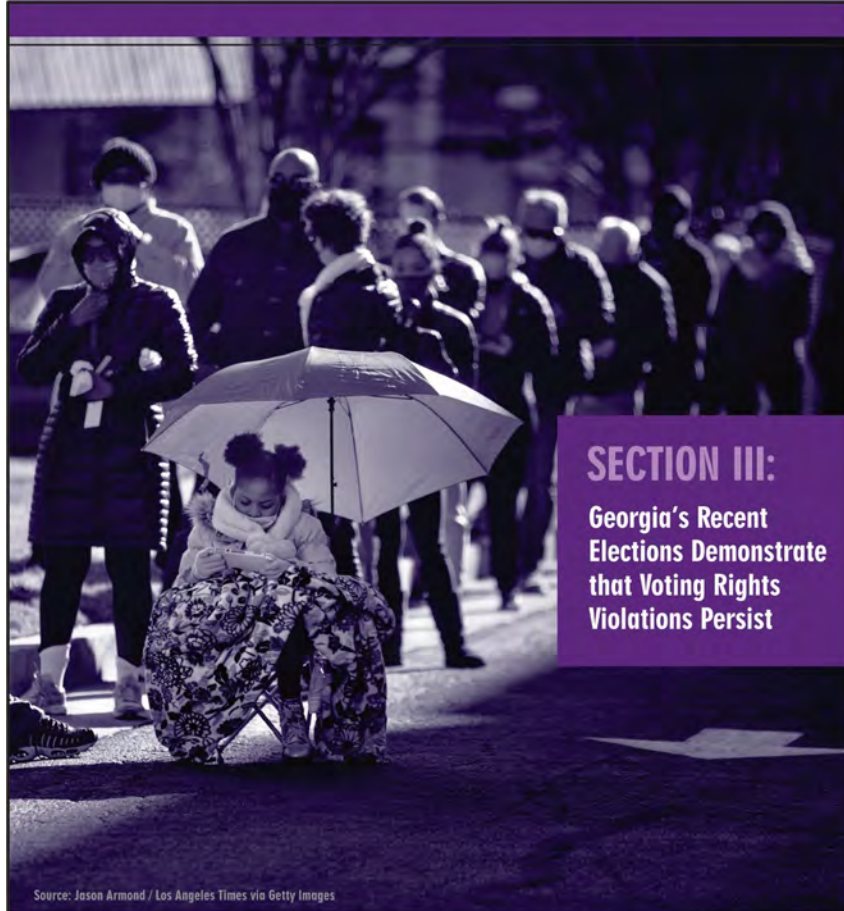
²³¹ See Declaration of Patricia from Cobb [last name redacted] ¶¶ 4–7, 10, 13 (attached as Exhibit 81); Declaration of Reuben [last name redacted] ¶ 15 (attached as Exhibit 82); Declaration of Donna from Haralson [last name redacted] ¶¶ 3–16 (attached as Exhibit 83); see also Declaration of Jane [last name redacted] ¶ 13 (attached as Exhibit 84) (describing problem witnessed as a poll worker); Declaration of Phyllis [last name

SECTION II: VOTING RIGHTS VIOLATIONS

boxes,²³² experiencing delays because they were incorrectly listed in the system as already voting absentee, or repeatedly being told in multiple elections that their registration information was not in the system for them to request absentee ballots. Of note, the intersection between communities of color and voters with physical challenges often adversely affects voters of color who are doubly hampered in their ability to vote because, as Margo details, the simple act of reaching a drop box to deposit a ballot—if a drop box is even available—can be a test.

redacted] ¶ 16 (attached as Exhibit 85) (same); Declaration of Karen [last name redacted] ¶¶ 7–11 (attached as Exhibit 86) (describing problems witnessed as a poll watcher).

²³² See Declaration of Margo [last name redacted] ¶¶ 3–10 (attached as Exhibit 87) (describing difficulty with wheelchair access to drop box); Declaration of Keosha [last name redacted] ¶¶ 3–5 (attached as Exhibit 88) (recounting experience with ballot being rejected for being late after being placed in drop box before the deadline on Election Day).



SECTION III:
Georgia's Recent
Elections Demonstrate
that Voting Rights
Violations Persist

Source: Jason Armond / Los Angeles Times via Getty Images

SECTION III: GEORGIA'S SYSTEMIC SUPPRESSION

Georgia's Recent Election History Demonstrates that Voting Rights Violations Persist.

Georgia has emerged as a key election battleground. The 2018 and 2020 statewide elections were hotly contested, with record-breaking turnout. This massive turnout is striking, given the decade-long voter suppression efforts waged in Georgia. Throughout the 2010s, the State repeatedly changed the rules for who can vote, where, and how—forcing voters to struggle to access the franchise and overcome hurdles to register, stay registered, and finally cast their ballots.

The 2018 Gubernatorial Election between former Georgia House Minority Leader Stacey Abrams and then-Secretary of State Brian Kemp was the closest gubernatorial race in Georgia in over fifty years.²³³ The contest drew nearly four million voters, with Kemp winning by roughly 55,000 votes.²³⁴ Just two years later, however, Georgia voters of color voted in historic numbers. Given the preference of voters of color for Democratic candidates, in the 2020 election, former Vice President Joe Biden won the State's sixteen Electoral College votes by roughly 11,800 votes—a 0.234 percent margin²³⁵—marking the first time a Democratic presidential candidate won the State in nearly thirty years.²³⁶ Both November Senate races—the special election between Reverend Raphael Warnock and then-Senator Kelly Loeffler, and the regularly scheduled election between Jon Ossoff and then-Senator David Perdue—required January runoff elections.²³⁷ Both Democratic challengers narrowly won.²³⁸

Faced with the growing competitiveness of statewide elections, Georgia implemented changes to State election laws and practices that hindered certain voters. For example,

²³³ Alan Blinder & Richard Fausset, *Stacey Abrams Ends Fight for Georgia Governor with Harsh Words for Her Rival*, N.Y. TIMES (Nov. 16, 2018), <https://www.nytimes.com/2018/11/16/us/elections/georgia-governor-race-kemp-abrams.html?smid=url-share>.

²³⁴ *Id.*

²³⁵ Georgia Election Results, N.Y. TIMES, <https://www.nytimes.com/interactive/2020/11/03/us/elections/results-georgia.html> (last visited Apr. 4, 2021).

²³⁶ Nate Cohn et al., *Detailed Turnout Data Shows How Georgia Turned Blue*, N.Y. TIMES: THE UPSHOT (Nov. 17, 2020), <https://www.nytimes.com/interactive/2020/11/17/upshot/georgia-precinct-shift-suburbs.html>.

²³⁷ Richard Fausset & Nick Corasaniti, *Georgia Recertifies Election Results, Affirming Biden's Victory*, N.Y. TIMES (Dec. 7, 2020), <https://www.nytimes.com/2020/12/07/us/politics/georgia-recertify-election-results.html>.

²³⁸ Alana Wise, *Jon Ossoff Wins Georgia Runoff, Handing Democrats Senate Control*, NPR (Jan. 6, 2021), <https://www.npr.org/2021/01/06/952417689/democrat-jon-ossoff-claims-victory-over-david-perdue-in-georgia-runoff>.

SECTION III: GEORGIA'S SYSTEMIC SUPPRESSION

under then-Secretary Kemp's leadership, "750,000 more names were purged between 2012 and 2016 than between 2008 and 2012,"²³⁹ and another 668,000 in 2017 before Kemp's own race for governor.²⁴⁰ Many of these voters were purged under the State's "Use It or Lose It" provision, which removed voters who had changed addresses, but often ensnared unsuspecting voters who had maintained their residences.²⁴¹ Meanwhile, the Secretary of State's office continued to employ the stringent voter verification policy of "Exact Match."²⁴² As Leader Abrams observed in late 2018, "Georgia citizens tried to exercise their constitutional rights and were still denied the ability to elect their leaders."²⁴³

As previously mentioned, Fair Fight Action took on the mission to tell the stories of Georgia residents who were denied a free and fair opportunity to vote. In the last two years, Fair Fight Action gathered thousands of compelling declarations. Some of these declarations underpin Fair Fight Action's lawsuit against ongoing voter suppression, and they all preserve a record of injustices and assure voters that their experiences and hardships matter. The hurdles voters have had to overcome are varied, and derive from official policies and unofficial practices. These include Georgia's repeated changes to the rules about what documentation voters must show to successfully register to vote and cast their ballots, the Secretary of State's aggressive approach to purging voters from the rolls based on minor inaccuracies, and its practice of holding voter registration applications in limbo for trivial typographical errors. These declarations paint a stark portrait of dysfunction in elections across the State, which this Section details.

While Georgia and its counties have enacted laws, policies, and practices making it harder to vote and easier to deny the franchise to eligible voters, the Secretary of State's office has redoubled its efforts to harass or intimidate registered voters. In December 2020, for example, the Secretary of State's office wrote to 8,000 Georgia voters who had requested absentee ballots for the January 2021 Senate runoff election and were identified as having

²³⁹ Jonathan Brater et al., *Purges: A Growing Threat to the Right to Vote*, BRENNAN CTR. FOR JUST. (July 20, 2018), https://www.brennancenter.org/sites/default/files/2019-08/Report_Purges_Growing_Threat.pdf at 4 (attached as Exhibit S16).

²⁴⁰ Khushbu Shah, *Textbook Voter Suppression: Georgia's Bitter Election a Battle Years in the Making*, THE GUARDIAN (Nov. 10, 2018), <https://www.theguardian.com/us-news/2018/nov/10/georgia-election-recount-stacey-abrams-brian-kemp>.

²⁴¹ Maya T. Prabhu & Mark Niese, *22,000 Reinstated to Voting Rolls as Georgia Attorneys Defend Purge*, ATLANTA J.-CONST. (Dec. 20, 2019), <https://www.ajc.com/news/state-regional-govt-politics/000-reinstated-voting-rolls-georgia-attorneys-defend-purge/c4fp7iGVwnVr4WEbR1uul/>.

²⁴² *Democracy Defended: Analysis of Barriers to Voting in the 2018 Midterm Elections* at 9, NAACP LEGAL DEF. AND EDUC. FUND, (Sept. 6, 2019), https://www.naacpldf.org/wp-content/uploads/Democracy_Defended__9_6_19_final.pdf (attached as Exhibit S17).

²⁴³ Blinder, *supra* note 233.

SECTION III: GEORGIA'S SYSTEMIC SUPPRESSION

filled out a change of address notice.²⁴⁴ Although it is possible for a voter to both change her mailing address and still vote in Georgia (for example, when attending an out-of-state school), the official letters warned voters of criminal penalties if they fraudulently voted.²⁴⁵ Similarly, the State Election Board has often exercised its authority to investigate voters and organizations conducting third-party voter registration efforts, rather than to investigate and rectify the maladministration of elections. The State Election Board's investigations often linger for years while failing to update the voter. Such tactics send a powerful and threatening message to voters, instilling fear and dampening turnout.

Voters also face hurdles that stem from pervasive under-resourcing and under-investment in elections, which disproportionately affect communities of color. These challenges include, but are not limited to: the mass closures of polling places, forcing more voters to cast their ballots at fewer locations; polling places equipped with too few voting machines, or with malfunctioning and broken machines; inadequate supplies of emergency paper ballots at polling locations; and poorly trained poll workers who fail to offer voters provisional ballots, and sometimes even deny eligible voters' legitimate requests for provisional ballots. These shortages all worked together in predictable ways to cause chaos and unprecedented lines at Georgia's polling places in the 2018 and 2020 elections, severely burdening those voters who waited for hours and disenfranchising those who could not make that sacrifice.

This Section recounts the pervasive obstacles voters were forced to overcome to exercise their constitutional right to vote, elevates some, though by no means all, of those voters' stories, and displays the many shortcomings of the Georgia's top election officials in permitting—or worse, actively causing—these conditions.

- A. During the 2018 Gubernatorial Election and Continuing Through the Most Recent Election Cycle, Voters in Georgia Experienced Voter Suppression in Areas "Covered" Under the VRAA.
 - 1. Exact Match—Changes in Documentation or Qualifications to Vote.

HAVA requires that each state implement a uniform voter registration list and verify the accuracy of voter registration information and directs states to do so by entering into an agreement to match the information in its voter registration database with information in the state motor vehicle authority database.²⁴⁶ HAVA does not specify what information must

²⁴⁴ Michael King, *Georgia Officials Contact 8k People Who May Have Moved Out of State but Requested Ballots for Jan. 5 Election*, 11 ALIVE (Dec. 22, 2020), <https://www.11alive.com/article/news/politics/elections/8000-contacted-who-may-have-moved-but-requested-runoff-ballots/85-a1af6cc8-7789-41db-ade5-8983c71865d1>.

²⁴⁵ *Id.*

²⁴⁶ See generally 52 U.S.C. § 21083(a).

SECTION III: GEORGIA'S SYSTEMIC SUPPRESSION

be matched between the databases or how the state should use that information to verify voter registrations.²⁴⁷

Georgia's Exact Match policy takes voter verification to an extreme. The State compares each registrant's citizenship status, first name, last name, date of birth, and either the registrant's driver's license number or the last four digits of the registrant's Social Security Number ("SSN") with information about the registrant in either Georgia's Department of Driver Services ("DDS") database, or, if the individual does not provide a state driver's license number with the registration, with information in the federal Social Security Administration ("SSA") database.²⁴⁸

Any mismatch leads to a voter's registration application being placed in limbo, requiring the applicant to take additional steps before that person may vote. "If even a single letter, number, hyphen, space, or apostrophe [does] not exactly match the [state or federal] database information"²⁴⁹ to which the voter registration is compared, the registration is flagged. A mere misspelling in the state or federal databases, difference in the way names are entered in the databases, or error in data entry from a voter registration form can prevent an eligible voter from voting.²⁵⁰ This effective disenfranchisement takes place under the guise of voter verification.

The citizenship data Georgia uses is likewise unreliable because of outdated information in the DDS database. Individuals who are lawfully present in the United States are eligible for a Georgia driver's license regardless of citizenship status, and need not update their citizenship information with DDS after becoming naturalized citizens. As a result, naturalized citizens may be listed in State DDS records as non-citizens, triggering a citizenship non-match if they register to vote using their driver's license number.²⁵¹

If a voter registration is flagged for a citizenship non-match, the registrant must present proof of citizenship before the voter may cast a ballot. The State prescribes the forms of proof allowed. If a voter registration is flagged for a non-match on any other field (i.e., an ID non-match), the registrant must present proof of identification before the voter

²⁴⁷ See *id.*

²⁴⁸ See Expert Report of Kenneth Mayer at 8-9, *Fair Fight Action, Inc. v. Raffensperger*, No. 1:18-cv-05391-SCJ, ECF No. 238 ("Mayer Report") (attached as Exhibit 89).

²⁴⁹ See Stanley Augustin, *Voting Advocates Announce a Settlement of "Exact Match" Lawsuit in Georgia*, THE LAWYERS' COMMITTEE (Feb. 10, 2017), <https://lawyerscommittee.org/voting-advocates-announce-settlement-exact-match-lawsuit-georgia>.

²⁵⁰ See Ex. 89, Mayer Report at 6.

²⁵¹ See *id.* at 11, 20-21 (explaining the high risks of inaccuracy associated with the use of driver's license files to screen for citizenship). Proof of citizenship is not required to vote but, if provided to state or county election officials, can override a citizenship non-match.

SECTION III: GEORGIA'S SYSTEMIC SUPPRESSION

may cast a ballot.²⁵² The registrant must present such proof, sometimes within a limited period of time, even if the registration was incorrectly flagged.²⁵³

Exact Match is a largely uncodified State policy. Nowhere does State or federal law dictate such a stringent match.²⁵⁴ Georgia's unwritten Exact Match policy effectively imposes voter registration and eligibility requirements far more stringent than what HAVA prescribes.²⁵⁵

Over the years, the Exact Match policy has resulted in the suspension or outright cancellation of thousands of voter registrations for reasons untethered to actual voter verification. This has remained the case even as the Exact Match policy has evolved. While legal challenges in court and advocacy in the State legislature have forced modifications to the policy over the last few years, Exact Match continues to impose a substantial and racially disproportionate burden on the right to vote.

a. *The Justice Department's Denial of Preclearance for Exact Match*

In 2009, DOJ denied preclearance to Georgia's Exact Match policy.²⁵⁶ DOJ explained that the policy did "not produce accurate and reliable information" and cited testimony "that an error as simple as transposition of one digit of a driver license number can lead to an erroneous notation of a non-match across all compared fields."²⁵⁷ In denying preclearance, DOJ observed that "[t]he impact of these errors falls disproportionately on [] voters [of color]."²⁵⁸

²⁵² See Ex. 3, McCrary Report at 79.

²⁵³ See *id.*

²⁵⁴ See Aug. 16, 2019, 30(b)(6) Deposition of Chris Harvey, Ga. Sec'y of State Elections Dir., *Fair Fight Action, Inc. v. Raffensperger*, No. 1:18-cv-05391-SCJ, ECF No. 507-1, Tr. 238:12-240:11 (attached as Exhibit 90).

²⁵⁵ 52 U.S.C. § 21083(b) (explaining that new voters who submit a voter registration application by mail, and have not previously voted in a federal election in a state, must provide a current and valid photo identification or present "a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter," when they vote for the first time). See also *Voter Registration: Recent Developments and Issues for Congress*, CONGRESSIONAL RESEARCH SERVICE (Jun. 10, 2020), <https://fas.org/sgp/crs/misc/R46406.pdf> (attached as Exhibit 91).

²⁵⁶ Ex. 8, Letter from Loretta King (May 29, 2009), https://www.justice.gov/sites/default/files/crt/legacy/2014/05/30/l_090529.pdf.

²⁵⁷ *Id.*

²⁵⁸ *Id.*

SECTION III: GEORGIA'S SYSTEMIC SUPPRESSION

In 2010, Georgia once again sought preclearance of its Exact Match policy.²⁵⁹ Its proposed procedure called for daily monitoring of the voter verification process and prompt notice to registrants who could not be verified through Exact Match.²⁶⁰ DOJ agreed to preclear the process.²⁶¹ From 2010 to 2016, however, the State failed to abide by its pledge to “carefully monitor” the Exact Match process to prevent errors in determining voter eligibility and the inaccurate suspension of voter registrations.²⁶²

b. Early Iterations of Exact Match

As Exact Match was originally conceived and implemented, registrations with any trivial mismatch, were placed in “pending” status. Registrants were then given forty days to verify their eligibility. After forty days, the pending voter registrations would be cancelled, and the individual could not vote—even if they were eligible and the mismatch was through no fault of their own.²⁶³

The notification letter sent to voters whose registrations were cancelled had multiple issues: (1) “the letter did not indicate what fields in the application failed to match, or whether data entry errors by state employees might explain the failure of information to match”;²⁶⁴ (2) the letters did not “provide any instruction to the applicants about what they should do if the information they originally provided in their voter registration applications was correct”;²⁶⁵ and (3) “the letters fail[ed] to inform applicants that they will not be able to vote in an upcoming election unless they submit a new application before the close of registration.”²⁶⁶

In September 2016, a coalition of civil and voting rights groups sued Georgia challenging Exact Match as unlawful under the VRA and the First and Fourteenth

²⁵⁹ See Ex. 3, McCrary Report at 62.

²⁶⁰ See *id.* at 63.

²⁶¹ “Georgia HAVA Verification” Presentation, Ga. Sec’y of State, State-Defendants-00114398, at State-Defendants-00114404 (attached as Exhibit 92); Ex. 3, McCrary Report at 62-63; “Georgia HAVA Verification” Presentation, Ga. Sec’y of State, State-Defendants-00131676, at State-Defendants-00131682 (attached as Exhibit 93).

²⁶² Ex. 3, McCrary Report at 69.

²⁶³ Stanley Augustin, *Voting Rights Advocates File New Federal Voting Rights Lawsuit Challenging Georgia’s Restrictive Exact-Match Voter Registration Verification Scheme*, THE LAWYERS’ COMMITTEE (Sept. 14, 2016), <https://lawyerscommittee.org/voting-rights-advocates-file-new-federal-voting-rights-lawsuit-challenging-georgias-restrictive-exact-match-voter-registration-verification-scheme>; see also Ex. 3, McCrary Report at 70.

²⁶⁴ Ex. 3, McCrary Report at 70.

²⁶⁵ *Id.* at 74.

²⁶⁶ *Id.* at 75.

SECTION III: GEORGIA'S SYSTEMIC SUPPRESSION

Amendments to the United States Constitution. The groups that challenged this early iteration of Exact Match were the Lawyers' Committee for Civil Rights Under Law, Project Vote, Campaign Legal Center, Voting Rights Institute of the Georgetown University School of Law, filing on behalf of the Georgia State Conference of the NAACP, Georgia Coalition for the Peoples' Agenda, and Asian Americans Advancing Justice – Atlanta.²⁶⁷

As the lawsuit explained, the State had cancelled voter registrations submitted by non-white applicants for verification failure at rates significantly higher than white applicants. Of the approximately 34,874 voter registration applicants whose applications were cancelled between July 2013 and July 2016 for a failure to verify, only 13.6 percent identified as white.²⁶⁸

In 2017, the State agreed to settle.²⁶⁹ Under the settlement agreement, Georgia agreed not to automatically cancel voter registration applications that failed Exact Match and instead to place them in "pending" status without an expiration date.²⁷⁰ Shortly after this settlement, in 2017, the State legislature enacted H.B. 268, which provided that a voter whose registration was not verified would have twenty-six months to verify their identification before the registration would be cancelled.²⁷¹

c. 2018 Election Cycle

Even with the 2017 changes, Exact Match continued to disproportionately burden voters of color and became a flashpoint in the 2018 Georgia Gubernatorial Election. Administration of Exact Match fell under the purview of then-Secretary of State Kemp, who was overseeing the 2018 election while running for Governor.

Before the election, the *Associated Press* reported that Secretary Kemp's office had placed 53,000 registrations in "pending" status under the Exact Match policy.²⁷² Black

²⁶⁷ *Id.* at 77-78; See also Kate Brumback, *Lawsuit: Georgia Voter Registration Process Violates the Law*, ASSOCIATED PRESS (Sept. 14, 2016), <https://apnews.com/article/5dca86cf28114b23b94e4a3891da1d64> (attached as Exhibit S18); *Voting Rights Advocates File New Federal Voting Rights Lawsuit Challenging Georgia's Restrictive Exact-Match Voter Registration Verification Scheme*, ASIAN AMERICANS ADVANCING JUSTICE, ATLANTA (Sept. 14, 2016), <https://us2.campaign-archive.com/?u=007af679cb8d889c8f33cb996&id=8612c7128e>.

²⁶⁸ ASIAN AMERICANS ADVANCING JUSTICE, ATLANTA, *supra* note 267.

²⁶⁹ Augustin, *supra* note 249.

²⁷⁰ *Id.*

²⁷¹ See O.C.G.A. § 21-2-220.1(d)(4) (attached as Exhibit 94).

²⁷² P.R. Lockhart, *Georgia Put 53,000 Voter Registrations on Hold, Fueling New Charges of Voter Suppression*, VOX (Oct. 12, 2018), <https://www.vox.com/policy-and-politics/2018/10/11/17964104/georgia-voter-registration-suppression-purges-stacey-abrams-brian-kemp>.

SECTION III: GEORGIA'S SYSTEMIC SUPPRESSION

applicants accounted for seventy percent of the voter registrations in “pending” status, despite comprising only 31.6 percent of the State’s voting-age population.²⁷³ Many of the suspended voter registrations were associated with voters in urban areas with high Black populations.²⁷⁴ In places with smaller Black populations, the percentage of Black voters whose registrations had been placed in “pending” status often exceeded the percentage of Black residents.²⁷⁵

In October 2018, civil rights groups again sued Georgia challenging the Exact Match policy as unlawful under the VRA, the NVRA, and the First and Fourteenth Amendments to the United States Constitution.²⁷⁶ As the lawsuit explained, a preliminary review of data produced by the Secretary of State in July 2018 indicated that approximately 51,111 voter registrations were in “pending” status for reasons related to Exact Match. Approximately eighty percent of the pending registrations were submitted by applicants of color; fewer than ten percent of the registrations in “pending” status were submitted by applicants who identified as white.²⁷⁷

The civil rights groups sought a preliminary injunction against the State’s enforcement of its citizenship match requirement in the November 2018 election, highlighting evidence of the policy’s disproportionate impact on communities of color:

[AAPI] applicants constitute 27.0 percent of those flagged as non-citizens even though they comprise only 2.1 percent of Georgia’s registered voter pool; Latino applicants constitute 17.0 percent of those flagged as non-citizens even though they comprise 2.8 percent of Georgia’s registered voter pool; and white applicants constitute only 13.7 percent of those flagged as non-citizens even though they comprise 54.0 percent of Georgia’s registered voter pool.²⁷⁸

²⁷³ Brentin Mock, *How Dismantling the Voting Rights Act Helped Georgia Discriminate Again*, BLOOMBERG CITYLAB (Oct. 15, 2018), <https://www.bloomberg.com/news/articles/2018-10-15/how-georgia-s-exact-match-program-was-made-possible>.

²⁷⁴ P.R. Lockhart, *Georgia, 2018’s Most Prominent Voting Rights Battleground, Explained*, VOX (Nov. 6, 2018), <https://www.vox.com/policy-and-politics/2018/10/26/18024468/georgia-voter-suppression-stacey-abrams-brian-kemp-voting-rights>.

²⁷⁵ *Id.*

²⁷⁶ Don Owens, *Civil Rights Groups Sue Georgia Secretary of State Brian Kemp to Cease Discriminatory ‘No Match, No Vote’ Registration Protocol*, THE LAWYERS’ COMMITTEE (Oct. 11, 2018), <https://lawyerscommittee.org/civil-rights-groups-sue-georgia-secretary-of-state-brian-kemp-to-cease-discriminatory-no-match-no-vote-registration-protocol>.

²⁷⁷ Complaint, *Ga. Coal. for People’s Agenda, Inc. v. Kemp*, No. 1:18-cv-04727-ELR (N.D. Ga. Oct. 11, 2018) ECF No. 1 (attached as Ex. 95).

²⁷⁸ *Ga. Coal. for People’s Agenda*, 347 F. Supp. 3d at 1263.

SECTION III: GEORGIA'S SYSTEMIC SUPPRESSION

Just four days before the election, a federal court granted the injunction, requiring the State to allow naturalized citizens to vote if they presented proof of citizenship to deputy registrars or poll managers.²⁷⁹

d. *Impact of Exact Match on Voter Registration Efforts*

The faulty mechanics of Exact Match will likely affect voters who register to vote by submitting paper forms more often than voters who register to vote at DDS. When a voter turns in a paper voter registration form, there is a greater likelihood of a mismatch between the name, date of birth, or driver's license number/SSN, than when registering to vote at DDS, since the DDS record and voter registration record are created using the same information. One reason for this is the potential for data entry errors by state and county election officials when information from paper voter registration forms is entered into the State's voter registration database.

In recent election cycles, the efforts of third-party voter registration and mobilization groups appear to have been stymied by Exact Match. Groups have sought to mobilize voters of color excluded from the electoral process by holding registration drives and helping people register to vote. But these registrations—often submitted by Black voters—are frequently placed on hold because of Exact Match. This is no accident.

In 2014, the New Georgia Project reported that it had submitted over 81,000 voter registration applications before the election—many from young voters of color—only to discover that over 40,000 of the registrants were not on the State's voter rolls.²⁸⁰ It was not clear whether these voters were suspended due to Exact Match or other registration issues; whether the voters were notified; whether these voters were restored to the rolls; or whether the voters cast even provisional ballots at the polls.

Before the 2018 Gubernatorial Election, Candice Broce, a spokesperson for then-Secretary of State Kemp, said that more Black registrants were in "pending" status than white registrants because Black voters register to vote using paper registration forms more often. According to a *Reuters* report, "Broce blamed voter registration groups such as the New Georgia Project," which holds registration drives, "for registering voters predominately

²⁷⁹ *Id.* at 1269.

²⁸⁰ See Andrew Prokop, *Did 40,000 Voter Registration Application Forms in Georgia Just Disappear?*, VOX (Oct. 31, 2014), <https://www.vox.com/2014/10/31/7132171/georgia-missing-voter-registration-applications-lawsuit>; Hansi Lo Wang, *Concern Over New-Voter Registration In Georgia Ahead of Election*, NPR (Oct. 22, 2014), <https://www.npr.org/sections/codeswitch/2014/10/22/357998924/concern-over-new-voter-registration-in-georgia-ahead-of-election>.

SECTION III: GEORGIA'S SYSTEMIC SUPPRESSION

with paper forms, and then turning in ‘incomplete, illegible, or fraudulent forms.’²⁸¹ *Reuters* reported that its own analysis of Georgia’s “pending” voter list at the time found that “[B]lack voters landed on the list at a far higher rate than white voters even though a majority of Georgia’s voters are white.”²⁸² The State was inclined to fault the people filling out the forms rather than the officials processing the forms—or the policy itself—for the errors.²⁸³

e. Voter Experiences in the 2018 Election

Individual voters’ experiences illustrate the burdensome and discriminatory effects of Exact Match. Because of canvassing that sought to encourage early voting in the November 2018 election, almost eighty-year-old Gwinnett County resident Cam Thi voted for the first time.²⁸⁴ Assisted by a Vietnamese translator and community organizer, Cam Thi discovered that her voter registration was not active. When Cam Thi contacted the Gwinnett County Board of Elections, she was informed that she had to visit the county board in person to prove her citizenship. The Board also told her that her name was not an “exact match” in the database and that her gender was incorrectly listed as male. After searching for and locating her naturalization paperwork, the voter and her translator drove to the Gwinnett County Board of Elections. There, they learned that Cam Thi’s registration was inactive because one space was missing from her name. After nearly a full day’s delay, the Board corrected that issue, and she cast a ballot.

Dr. Carlos del Rio, a DeKalb County resident and then the Chair of the Department of Global Health at the Rollins School of Public Health at Emory University, had a similar experience at the polls.²⁸⁵ In 2018, when he arrived at his polling place on Election Day, Dr. del Rio was told he was not registered to vote. After showing the poll worker the Georgia “My Voter Page” (“MVP”) showing his registration, Dr. del Rio was told that the discrepancy between his last name on his voter registration and that of his Georgia driver’s license posed a problem. After asking someone else at the polls, the poll worker told Dr. del Rio that “for this time we will allow you to vote.”²⁸⁶ This experience is striking given that Exact Match is

²⁸¹ Tim Reid & Grant Smith, *Missing Hyphens Will Make it Hard for Some People to Vote in U.S. Election*, *REUTERS* (Apr. 11, 2018), <https://www.reuters.com/article/us-usa-election-laws-insight/missing-hyphens-will-make-it-hard-for-some-people-to-vote-in-u-s-election-idUSKBN1HI1PX>.

²⁸² *Id.*

²⁸³ *Id.*

²⁸⁴ Declaration of Cam Thi [last name redacted] (attached as Exhibit 96) (describing effect of registration issues on Cam Thi’s ability to cast a ballot).

²⁸⁵ Declaration of Dr. Carlos del Rio (attached as Exhibit 97).

²⁸⁶ *Id.*

SECTION III: GEORGIA'S SYSTEMIC SUPPRESSION

not meant to be deployed at the polls, but instead should be used only for the State's registration verification process.

Gary, a Fulton County resident who served as a statewide poll watcher, reported that he "spoke with at least six voters who had been told they did not appear on the Dougherty County rolls who had hyphens or apostrophes in their names, or non-traditional spellings of their names."²⁸⁷ He informed these voters they might be found on the voter registration rolls if the poll worker checked the poll books using the first initial and last names of the voters. At least five voters agreed to try again. In each case, the poll worker eventually did locate the voter on the rolls and allowed him or her to cast a regular ballot.

Yotam Oren became a naturalized U.S. citizen in 2017.²⁸⁸ After his ceremony, he completed a Georgia voter registration form and included a copy of his naturalization certificate. He does not recall if he was ever informed by the State if he needed to update his citizenship status with DDS. Sometime later, the Fulton County voter registration office sent him a letter indicating that his voter registration was in pending status and that he would need to show proof of citizenship to vote. Mr. Oren understood from the letter, and from checking with the SOS website, that he could bring proof of citizenship to the polling station when he voted. Yet, when he went to vote early with his U.S. passport, he encountered resistance from poll workers unable to grant him "active" status. Only after an additional telephone call to the Fulton County voter registration office and another trip to the same polling place was his status changed; only then was he able to cast his first vote as a U.S. citizen.²⁸⁹ "This entire experience was unnecessarily time-consuming, confusing and frustrating," Mr. Oren said. "I imagine that many 'pending' voters would give up and not vote when faced with the same barrier I encountered when I tried to vote the first time as a United States citizen."²⁹⁰

Exact Match's broken citizenship match process has even ensnared native-born citizens. When Kia, a Henry County resident born in Virginia who had voted in Georgia for 18 years, went to vote on Election Day 2018, she was told that she was not an active registered voter because she was not a U.S. citizen.²⁹¹ Kia was never offered a provisional ballot, and, because it was late in the day, she could not cast her vote.

²⁸⁷ Declaration of Gary [last name redacted] (attached as Exhibit 98).

²⁸⁸ Ari Berman, *A Federal Court Just Ruled That Thousands of Eligible Voters in Georgia Must Be Allowed to Vote*, MOTHER JONES (Nov. 2, 2018), <https://www.motherjones.com/politics/2018/11/a-federal-court-just-ruled-that-thousands-of-eligible-voters-in-georgia-must-be-allowed-to-vote-brian-kemp-stacey-abrams/> (attached as Exhibit S19).

²⁸⁹ *Ga. Coal. for People's Agenda*, 347 F. Supp. 3d. at 1262.

²⁹⁰ Ex. S19, Berman, *supra* note 288.

²⁹¹ Declaration of Kia [last name redacted] (attached as Exhibit 99).

SECTION III: GEORGIA'S SYSTEMIC SUPPRESSION

f. Exact Match Today

In 2019, the State legislature modified its Exact Match policy as part of House Bill 316 (“H.B. 316”). H.B. 316 altered the policy only in part—by changing the label for the category in which voters flagged for an ID non-match are placed. It did not change the overly stringent matching process that Exact Match requires to verify a voter registration. And it did not change the burdens placed on voters when their registrations are placed in limbo—correctly or incorrectly—to verify their identity or citizenship.

As Exact Match operates today, if the State cannot verify a registrant’s citizenship, that registrant is placed in “pending” status. The registrant must produce proof of citizenship to state or county election officials, and the election officials must remove the “pending” flag from the voter registration before the voter may cast a ballot. The voter must produce proof of citizenship within twenty-six months of the registration being placed in “pending” status or else the voter registration is cancelled.²⁹² And when these cancelled voters show up at the polls, there is nothing to do to have their ballot count—whether the voter knew of the citizenship non-match or whether a voter is actually a citizen.

If Exact Match yields a non-match on any criterion other than citizenship, the voter registration is placed in “Missing ID Required,” or “MIDR” status. The registrant must produce proof of identification to state or county election officials, and the election officials must accept the identification and remove the MIDR flag from the voter registration before the individual may cast a ballot. As was the case before H.B. 316, a voter registration can be placed in MIDR status even for a trivial misspelling, mismatch, hyphen, or spacing difference between the way the individual’s name is listed in the two databases.²⁹³

Curing false Exact Match flags poses its own barriers. Driver’s license and state ID possession rates are lower among communities of color, both nationally and in Georgia.²⁹⁴ The cure process depends on voters knowing they must present certain types of identification or proof of citizenship at the polls to be moved from “pending” status to “active” status or to have an MIDR flag removed. But not all voters receive notice when their registrations are flagged by Exact Match.²⁹⁵ Perhaps unsurprisingly, of the 3,672 residents in

²⁹² See State Training Presentation re: Special Topics of the Month, Verification Changes due to H.B. 316 State-Defendants-0095888 at 0095898, *Fair Fight Action, Inc. v. Raffensperger*, No. 1:18-cv-05391-SCJ (N.D. Ga. Aug. 5, 2020), ECF No. 507-2 at 25 (attached as Exhibit 100) (displaying sample letter sent to voters placed in “pending” status for a citizenship non-match following H.B. 316); Ex. 94, O.C.G.A. § 21-2-220.1.

²⁹³ See Ex. 89, Mayer Report at 5-7. Dr. Mayer’s report predates the adoption of H.B. 316.

²⁹⁴ See *id.* at 13.

²⁹⁵ See, e.g., Email from G. Saleh to J. Simmons (Oct. 17, 2016), State-Defendants-00155223 (attached as Exhibit 101) (“I provided a copy of my citizenship [documents] and have not heard on the status of my registration. It has been [a] few months . . . I am at odds as to what may have gone wrong with my application.”).

SECTION III: GEORGIA'S SYSTEMIC SUPPRESSION

pending status in July 2019, only 429 (thirteen percent) had been restored to active status by January 2020.²⁹⁶

The racial disparities in the State's implementation of Exact Match are striking. Voters of color are vastly overrepresented among those affected by the policy. One expert found that voters of color were between six and ten times more likely to be in MIDR status than white registrants.²⁹⁷ The disparities between the demographic make-up of individuals in "pending" status (due to citizenship non-matches) and overall voter registration numbers are similarly stark. As of January 2020, 75.7 percent of all registrants in "pending" status were people of color. Meanwhile, thirteen percent of registrants in "pending" status identified as white, while whites make up 52.9 percent of all active registrants in Georgia.²⁹⁸

The geographic distribution of voters affected by Exact Match is similarly uneven, in a manner correlated with the racial composition of Georgia's 159 counties. Over two-thirds of registrants in MIDR status live in five counties that contain less than one-third of all registrants.²⁹⁹ The highest rate of voters in MIDR status (Fulton County) is 135 times larger than the lowest rate of voters in MIDR status (Treutlen County).³⁰⁰ With one exception, the counties with the highest rate of voters in MIDR status are majority-minority counties.³⁰¹

2. Changes that Reduce, Consolidate, or Close Voting Locations.

Since the Supreme Court's 2013 *Shelby County* decision,³⁰² Georgia has been a leader among the states in racing to close, consolidate, or relocate polling places—often in areas with significant representation of people of color. This is not a new tactic. From the start of Jim Crow until enactment of the VRA, moving polling places without notice was a favorite disenfranchisement tactic. And while the VRA required Georgia to submit proposals for preclearance, DOJ rejected proposed changes to polling places at least seven times—including as recently as the mid-1990s. In 2015, after *Shelby County*, the Georgia Secretary of State's office gave counties the green light to close their polling places.³⁰³ These closures, concentrated in a few counties, have disproportionately affected voters of color—particularly

²⁹⁶ *Id.*

²⁹⁷ See Ex. 89, Mayer Report at 19, 25.

²⁹⁸ *Id.* at 24.

²⁹⁹ *Id.* at 29.

³⁰⁰ *Id.*

³⁰¹ *Id.*

³⁰² *Shelby County*, 570 U.S. at 529.

³⁰³ *Democracy Diverted: Polling Place Closures and the Right to Vote*, LEADERSHIP CONF. ED. FUND (Sept. 2019) at 32, <http://civilrightsdocs.info/pdf/reports/Democracy-Diverted.pdf>.

SECTION III: GEORGIA'S SYSTEMIC SUPPRESSION

Black voters. These voters rarely receive notice of changed or closed polling locations, wait in long lines, navigate confusing and flawed directions, and travel farther to exercise their constitutional right to vote.

Georgia has a long history of closing or moving polling places, particularly affecting neighborhoods with more Black voters. During the Reconstruction Era, white Georgians resisted the expansion of the franchise through a variety of means. Besides using the more obvious tools of intimidation and violence, local governments also disenfranchised Black Georgians by abruptly relocating their polling places. Professor Adrienne Jones, an attorney and Assistant Professor of Political Science at Morehouse College has explained: "Polling places were established at significant distances from black communities and common modes of transportation to access polling places were destabilized at election time."³⁰⁴ Further, "[p]olling places were moved without notice."³⁰⁵

That pattern persisted into the late twentieth century. During the years the VRA required Georgia to submit any proposed changes to its election procedures to DOJ for preclearance, counties repeatedly attempted to either consolidate polling places or move them to locations hostile to Black voters. DOJ repeatedly rejected such attempts, often concluding that the change was likely to have retrogressive impacts on voters of color. In 1968, for example, Webster County attempted to consolidate four polling places into one. DOJ denied preclearance, noting that it would burden 296 voters of a total of approximately 800 voters, who voted at the polling places slated to be closed.³⁰⁶ In 1974, Jones County attempted to move one polling place; DOJ denied preclearance because it would "require[] a significant number of electors in the Davidson-Burden District to travel an additional 3 1/2 miles, in order to vote."³⁰⁷ In both 1978 and 1992, Georgia counties attempted to move polling places from municipal buildings to private clubs. In both instances, DOJ objected because the clubs had reputations as all-white clubs that did not accept Black members.³⁰⁸ And in 1995, Jenkins County proposed moving a polling place from a central urban location to a rural parcel of land in a predominantly white neighborhood, with little to no access by public transportation. DOJ again objected, finding that the county was forty-one percent Black and that the disparities in socioeconomic status—most notably the fact that thirty-

³⁰⁴ Ex. 1, Jones Report at 15.

³⁰⁵ *Id.*

³⁰⁶ Letter from Stephen J. Pollak, Ass't Att'y Gen., to Jesse Bowles, Esq. (Dec. 12, 1968), <https://www.justice.gov/sites/default/files/crt/legacy/2014/05/30/GA-1030.pdf> (attached as Exhibit 102).

³⁰⁷ Letter from J. Stanley Pottinger, Ass't Att'y Gen., to Judge George E. Crawford, Jones Cnty. (Aug. 12, 1974), <https://www.justice.gov/sites/default/files/crt/legacy/2014/05/30/GA-1380.pdf> (attached as Exhibit 103).

³⁰⁸ Letter from Drew S. Fays III, Ass't Att'y Gen., to Judge David M. Proctor, Camden Cnty. (Aug. 4, 1978), <https://www.justice.gov/sites/default/files/crt/legacy/2014/05/30/GA-1710.pdf> (attached as Exhibit 104); Letter from John R. Dunne, Ass't Att'y Gen., to Judge Charlotte Beall (Oct. 28, 1992), <https://www.justice.gov/sites/default/files/crt/legacy/2014/05/30/GA-2400.pdf> (attached as Exhibit 105).

SECTION III: GEORGIA'S SYSTEMIC SUPPRESSION

eight percent of Black households lacked a vehicle—and the county's failure to consult the Black community when analyzing the change counseled against approving the proposal.³⁰⁹

As soon as the Supreme Court invalidated the VRA's preclearance formula, Georgia counties consolidated their polling places in ways that would not have passed preclearance. The Georgia Secretary of State's office, which staunchly disclaims any authority over counties' polling place decisions, instructed counties during an early 2015 training session to "begin the plan of consolidation . . . [n]ow."³¹⁰ The training explicitly emphasized that counties were "no longer required to submit polling place changes to the Department of Justice for preclearance"—yet mentioned none of the counties' ongoing obligations to comply with the VRA.³¹¹

The counties eagerly heeded the Secretary of State's instructions. According to one national study, Georgia has closed at least 214 polling places since *Shelby County*, dividing those voters among the counties' remaining locations.³¹² These closures constituted nearly eight percent of the State's polling places, spread across fifty-three counties.³¹³ Georgia holds the dubious honor of having closed higher percentages of polling places than any other state in the study and having the top five counties nationwide in terms of the percentage of polling places closed: Lumpkin (eighty-nine percent), Stephens (eighty-eight percent), Warren (eighty-three percent), Bacon (eighty percent), and Butts (eighty percent).³¹⁴ The trend is clear; the majority of Georgia's counties had more registered voters per polling place in 2018 than in 2014.³¹⁵

Even this troubling description understates the scale of the problem. Given the uneven distribution of polling place closures across the State, certain counties were hit far harder than others. Eighteen counties closed over half of their polling places.³¹⁶ Seven counties have been left with a single polling place, including Lumpkin County (which is 284

³⁰⁹ Letter from Deval L. Patrick, Ass't Att'y Gen., to William E. Woodrum, Jenkins Cnty. Att'y (Mar. 20, 1995), <https://www.justice.gov/sites/default/files/crt/legacy/2014/05/30/GA-2610.pdf> (attached as Exhibit 106).

³¹⁰ *Democracy Diverted*, *supra* note 303.

³¹¹ *Id.* at 18.

³¹² *Id.*

³¹³ Mark Niesse & Maya T. Prabhu, *Voting Precincts Closed Across Georgia Since Election Oversight Lifted*, ATLANTA J-CONST. (Sept. 4, 2018), <https://www.ajc.com/news/state--regional-govt--politics/voting-precincts-closed-across-georgia-since-election-oversight-lifted/bBkHxptlmoGp9pKu7dfiN/>.

³¹⁴ *Democracy Diverted*, *supra* note 303.

³¹⁵ Expert Report of Michael C. Herron at 47-48, *Fair Fight Action, Inc. v. Raffensperger*, No. 1:18-cv-05391-SCJ, ECF No. 241 ("Herron Report") (attached as Exhibit 107).

³¹⁶ *Democracy Diverted*, *supra* note 303.

SECTION III: GEORGIA'S SYSTEMIC SUPPRESSION

square miles), and Lanier County (which is 200 square miles and twenty-four percent Black).³¹⁷ When Lanier County was considering closing seventy-five percent of its polling places in 2016, the county's sheriff complained about the loss of convenient polling locations for the county's residents, remarking the county's population had nearly doubled during his tenure.³¹⁸ The precise problems that DOJ repeatedly cited when denying preclearance have been borne out in Georgia's recent pattern of polling place closures over the last six years.

These numbers, while striking on their own terms, fail to capture Georgia's polling location transformation. Dr. Michael Herron, a Professor of Government at Dartmouth College, identified 459 polling places used in 2014 that did not exist in 2018.³¹⁹ This number includes both completely closed polling places and polling places that were relocated. Closing polling places imposes a more direct and obvious harm on voters: by forcing greater numbers of voters to cast their ballots at fewer locations, closures prompt longer wait times and greater confusion. But the relocation of polling places, even if the number remains fixed, can have similarly severe effects on voters. (DOJ presumably recognized this fact when it denied preclearance to simple relocations in addition to outright closures.³²⁰)

The suppressive effect of poll closures and relocation is quantifiable. A 2019 analysis by the *Atlanta Journal-Constitution* revealed that the "average Georgia voter's distance to a polling place more than doubled from 2012 to 2018."³²¹ The same study concluded these tactics "likely prevented an estimated 54,000 to 85,000 voters from casting ballots on Election Day" in 2018.³²² And the impact hit Black voters the hardest, as they were twenty percent more likely to not vote because of long distances to polling places.³²³

Kenneth, a resident of Cobb County, Georgia, was one of the many Georgia voters affected by the relocation of polling locations.³²⁴ Kenneth explained that his polling location

³¹⁷ *Id.* at 33.

³¹⁸ Terry Richards, *Lanier May Close 3 of 4 Voting Precincts*, VALDOSTA DAILY TIMES (June 28, 2016), https://www.valdostadailytimes.com/news/local_news/lanier-may-close-of-voting-precincts/article_6cf02c80-93e0-51df-86c6-3b4a692acc18.html.

³¹⁹ Ex. 107, Herron Report at 44.

³²⁰ Ex. 106, Letter from Deval L. Patrick (Mar. 20, 1995), <https://www.justice.gov/sites/default/files/crt/legacy/2014/05/30/GA-2610.pdf>.

³²¹ Mark Niese & Nick Thieme, *Precinct Closures Harm Voter Turnout in Georgia, AJC Analysis Finds*, ATLANTA J.-CONST. (Dec. 16, 2019), <https://www.ajc.com/news/state--regional-govt--politics/precinct-closures-harm-voter-turnout-georgia-ajc-analysis-finds/11sVcLyQCHuQRC8qtZ6LYP/>.

³²² *Id.*

³²³ *Id.*

³²⁴ Declaration of Kenneth [last name redacted] (attached as Exhibit 108).

SECTION III: GEORGIA'S SYSTEMIC SUPPRESSION

had been at the Turner Chapel AME Church in Marietta—the church where he was a member.³²⁵ This polling location was only a block and a half away from where he lived.³²⁶ But before the 2016 Presidential election, Kenneth discovered that his polling location had been relocated and was now six miles away.³²⁷ He explained that the new polling location was “a hindrance to get to . . . instead of my church down the road.”³²⁸ Tameche, a Cobb County voter who similarly had voted at a polling place near her home for years, was assigned to a new polling place for the June 2020 Primary Election. The new polling place was in an area she was not familiar with and the new site lacked clear signage. Tameche struggled to find the polling place on Election Day and had to repeatedly drive up and down the road as she searched.³²⁹

Carol, a Clay County voter, lives in one of the poorest counties in Georgia, in a majority-Black neighborhood. In 2018, Carol recalls, Clay County closed all but one of its polling places. She recalls that many of her neighbors, most of whom do not have cars, could walk to their previous polling place. Because of the closures, however, Carol estimates that many of her neighbors would have to travel up to fifteen miles to vote, and many people in her neighborhood simply could not afford the money for gas, even if they could find someone to give them a ride. Carol only discovered the poll closure on Election Day, when an officer informed her. Carol spent her day driving her neighbors to the new polling location and, sometimes, helping them cast their ballots. Carol worries that because of the closures, confusion, and pervasive underfunding of elections in her community, many in her community “don’t believe in voting because they believe it doesn’t matter.”³³⁰ Lottie, another Clay County voter, says her closest polling place is an hour’s drive away. Her previous polling place was on the same street as her home. After her polling place closed, Lottie recalls, many elderly neighbors simply could not make the trek to the farther polling place, as most do not have cars.³³¹

As recently as last year, Georgia voters have had their polling locations changed or closed without being notified. In Banks County, Georgia, Robbie received a new registration card with a new polling location in 2020.³³² According to his registration, he was re-assigned

³²⁵ *Id.* ¶ 3.

³²⁶ *Id.*

³²⁷ *Id.*

³²⁸ *Id.*

³²⁹ Declaration of Tameche [last name redacted] ¶ 3 (attached as Exhibit 109).

³³⁰ Declaration of Carol from Clay [last name redacted] ¶¶ 3-8 (attached as Exhibit 110).

³³¹ Declaration of Lottie [last name redacted] ¶¶ 3-6 (attached as Exhibit 111).

³³² Declaration of Robbie [last name redacted] ¶ 4 (attached as Exhibit 112).

SECTION III: GEORGIA'S SYSTEMIC SUPPRESSION

to vote at New Salem United Methodist Church in Commerce, Georgia.³³³ When Robbie went to the church to vote in the primary election, however, he quickly realized that no voting was taking place at the location.³³⁴ After driving throughout the county, he identified a small sign in “medium-high grass” directing voters to the Banks County Recreation Department in Homer, Georgia.³³⁵ After searching for the polling location and then, once he found it, waiting in line for over an hour, Robbie finally voted.³³⁶

Statewide, roughly eighteen percent of Georgians who remained at the same residence between 2014 and 2018 were registered at a new polling place for the 2018 election.³³⁷ Polling place closures and relocations do not affect all voters equally. Four Georgia counties had all new polling places in 2018, having closed all of their previous polling sites between 2014 and 2018.³³⁸ This means that every resident in those counties had to find and navigate a new polling location. Roughly twenty counties closed over half of their polling places.³³⁹ Fifty-eight counties, meanwhile, closed no polling places.³⁴⁰ These disparities were not racially neutral. Professor Herron relied on census data to identify racially homogenous neighborhoods (meaning neighborhoods 95–100 percent white or 95–100 percent Black) and observed that Black registered voters in racially homogenous neighborhoods were more likely to have their polling places changed.³⁴¹ Indeed, Black voters in 100 percent Black neighborhoods were 3 percent more likely to have to report to a new polling place than white voters in 100 percent white neighborhoods.³⁴² Professor Herron also measured the racial disparities in another way: when he identified each polling place as either majority-Black or non-majority-Black and compared the rates of closure, he found that 17.68 percent of non-majority-Black polling places closed, while 20.3 percent of majority-Black polling places closed.³⁴³

³³³ *Id.*

³³⁴ *Id.* ¶ 5.

³³⁵ *Id.* ¶ 6.

³³⁶ *Id.* ¶ 7.

³³⁷ Ex. 107, Herron Report at 60.

³³⁸ *Id.* at 44–45.

³³⁹ *Id.* at 45.

³⁴⁰ *Id.* at 44.

³⁴¹ *Id.* at 49–51.

³⁴² *Id.*

³⁴³ *Id.* at 54–55. Professor Herron then conducted the same analysis, comparing polling places with a Black supermajority (meaning 60 percent of registered voters at that polling place) to those without, and found that

SECTION III: GEORGIA'S SYSTEMIC SUPPRESSION

The patterns of the polling location closures were evidently not racially neutral. But Professor Herron's research also indicates that the effects of these closures—even had the closures been more evenly distributed—are also not racially neutral. His findings show, first, that *all* voters whose polling places changed were less likely to vote in the next election than voters whose polling places remained the same.³⁴⁴ More strikingly, his findings also show that among voters whose polling places changed, Black voters were twice as likely as white voters not to vote in the next election.³⁴⁵ Thus, the effect on Black voters is twofold: first, Black voters are more likely to be affected by the closures, and second, the turnout effects are more pronounced. Georgia's rampant closure of polling places therefore has disproportionately affected Black voter turnout.

Georgia's intentional targeting of majority-Black communities for polling location changes is evident in the recommendations of the Secretary of State's preferred election consultant, Mike Malone. In 2018, the SOS recommended counties considering consolidating polling places hire Malone, who proposed polling place closures in eleven predominantly Black neighborhoods.³⁴⁶ One county, Randolph, planned to close seven of the nine polling places serving the county's sixty percent Black voters across its 428 square miles.³⁴⁷ Randolph County is a rural agricultural community in the southwest Georgia area considered part of the "Black Belt"—a region historically known for its fertile black soil, its cotton plantations, and its violent reliance on slaves.³⁴⁸ The Randolph County proposal generated a national outcry, prompting Randolph County to fire Malone and the Board of Elections to reject the proposal.³⁴⁹ Malone's proposals, however, were implemented in ten

20.73 percent of polling place with a Black supermajority closed, as compared to 17.76 percent of those without a Black supermajority. *Id.* at 56.

³⁴⁴ *Id.* at 70.

³⁴⁵ *Id.*

³⁴⁶ Doug Richards, *Consultant Behind Plan to Close Randolph Co. Polling Places Did it Before, But Not on This Scale*, 11 ALIVE (Aug. 20, 2018), <https://www.11alive.com/article/news/local/consultant-behind-plan-to-close-randolph-co-polling-places-did-it-before-but-not-on-this-scale/85-585898906>; Matt Vasilogambros, *Polling Places Remain a Target Ahead of November Elections*, PEW RES. TRS.: STATELINE (Sept. 4, 2018), <https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2018/09/04/polling-places-remain-a-target-ahead-of-november-elections>.

³⁴⁷ Victor Blackwell et al., *Elections Board Takes Less than a Minute to Reject Proposal to Close 7 of 9 Polling Places in Majority-Black County*, CNN (Aug. 24, 2018), <https://www.cnn.com/2018/08/24/us/randolph-county-polling-closures-vote/index.html>; Johnny Kauffman, *Georgia County Votes to Keep Polling Places Open After Intense Scrutiny*, NPR (Aug. 24, 2018), <https://www.npr.org/2018/08/24/641556969/georgia-county-votes-to-keep-polling-places-open-after-intense-scrutiny>.

³⁴⁸ Kauffman, *supra* note 347.

³⁴⁹ Blackwell et al., *supra* note 347.

SECTION III: GEORGIA'S SYSTEMIC SUPPRESSION

other counties.³⁵⁰ In 2019, Randolph County successfully closed three of the nine contested precincts with little fanfare.³⁵¹

Problems caused by State and county decisions to target communities of color for polling location changes are exacerbated by the documented failure of several counties to provide adequate notice to voters about their new polling places. Counties that move or close polling places are expected to order new precinct cards for the affected voters, informing them of the change in location. Several counties, however, ordered precinct cards only for voters in “active” status, declining to order them for voters in “pending” status.³⁵² The distinction between “active” and “pending” matters because voters in pending status are still eligible to vote—as the Secretary of State’s office reminded those counties.³⁵³ The counties nevertheless declined to inform eligible voters of the change. Just as troubling, Secretary of State “IT tickets” from 2019 reflect that precinct cards sent in the 2018 election were poorly designed, causing many to be delivered to the polling places themselves (as opposed to the voters) or to be returned as undeliverable.³⁵⁴

Many voters did not receive pre-election notice of their changed location ahead of time. Several voters learned when they checked online or hear from friends.³⁵⁵ Others had even harder times:

- Dayle, a Fulton County voter, checked the State’s “My Voter Page” twice before attempting to vote in her district’s Special Election in September 2020. MVP directed

³⁵⁰ Vasilogambros, *supra* note 346.

³⁵¹ Mark Niess, *Precinct Closures in Rural Georgia Approved by County Elections Board*, ATLANTA J.-CONST. (Aug. 19, 2019), <https://www.ajc.com/news/state--regional-govt--politics/precinct-closures-rural-georgia-approved-county-elections-board/cDHVxWR6F6547qex1sYjNI/>.

³⁵² See Email from Melanie Frechette, Ga. Sec’y of State’s Office, to Ralph Jones, Fulton County (July 9, 2018), State-Defendants-00468982 (attached as Exhibit 113); Email from Leigh Combs, Ga. Sec’y of State’s Office, to Shauna Dozier, Clayton County (Sept. 11, 2019), State-Defendants-00095374 (attached as Exhibit 114).

³⁵³ Ex. 113, Email from Melanie Frechette, Ga. Sec’y of State’s Office, to Ralph Jones, Fulton County (July 9, 2018).

³⁵⁴ See, e.g., Helpdesk Request from Sherie Jeffries to Chris Harvey (Oct. 30, 2019), State-Defendants-00295594 (attached as Exhibit 115) (“Many precinct cards are being delivered to polling places instead of the voter addresses printed on the precinct cards. The number of addresses present on the precinct cards is confusing the United States Postal Service (USPS) automated mailing systems.”); Letter from Chris Harvey, Ga. Sec’y of State’s Office Elections Dir., to Jordan Fuchs, Deputy Sec’y of State, at 2 (Jan. 22, 2019), State-Defendants-00200645 (attached as Exhibit 116) (“Redesign voter precinct cards to be fully compliant with USPS standards . . .”).

³⁵⁵ See, e.g., Declaration of Brandi [last name redacted] ¶¶ 11-12 (attached as Exhibit 117) (learning from friends on Facebook); Declaration of Jonathan [last name redacted] ¶¶ 4-5 (attached as Exhibit 118) (checking MVP by chance); Declaration of Shannon W. from Fulton [last name redacted] ¶ 4 (attached as Exhibit 119) (same).

SECTION III: GEORGIA'S SYSTEMIC SUPPRESSION

her both times to the David Howard Middle School. When she arrived, however, no one was at the middle school, nor were there any signs to vote. There were signs, however, at the Senior Center across the street. When Dayle went to the Senior Center on a hunch, she learned this was in fact her correct polling place. The poll workers could not explain why MVP had told her to go to a different location.³⁵⁶

- Ryan, a Cobb County voter, checked MVP the week before the June 2020 election to confirm his polling place, writing down the address to be sure. The morning of Election Day, he attempted to confirm his polling place online, only to learn that MVP was down. He and his partner drove to the polling place they had written down. After waiting in line for three hours—during which MVP continued to be nonfunctional—Ryan was informed that he was at the wrong polling place. Ryan's partner, with whom he lives, was told he was at the right polling place. The poll worker could not explain why Ryan's polling place was changed at the last minute, or why he would be assigned to a polling place different from that of another member of his household. When the poll worker refused to give Ryan a provisional ballot, he was forced to drive to another location and try again.³⁵⁷
- Jason, a Fulton County voter, received a notice two months before the June 2020 election that his polling place had changed. When Jason arrived at the new polling place on Election Day, however, he found a sign redirecting him to another polling place across town. He drove to the new location only to be told that he had to vote at yet another polling place, where he waited for over two hours to cast his ballot.³⁵⁸
- Stephen, a Fulton County voter, arrived at his usual polling place for the 2016 General Election only to discover that it was closed. He had received no notice of its closure, nor had he been directed to another place to vote. A man sitting at the closed polling place gave Stephen a list of other polling places nearby, including a church half a mile away. But when Stephen went to the church as the man had suggested, that polling place, too, was closed. At this second location, he was directed to a reception hall back in the direction he had come from, where Stephen eventually voted. While waiting in line, Stephen learned that four precincts had been consolidated into this one polling place, causing a major bottleneck.³⁵⁹
- A poll watcher in DeKalb County, Suzanne, was stationed at a polling place that served two precincts for the 2018 General Election. The distinction between the two

³⁵⁶ Declaration of Dayle [last name redacted] ¶¶ 3-6 (attached as Exhibit 120).

³⁵⁷ Declaration of Ryan [last name redacted] ¶¶ 4-8, 12-13 (attached as Exhibit 121).

³⁵⁸ Declaration of Jason [last name redacted] ¶¶ 3-8 (attached as Exhibit 122).

³⁵⁹ Declaration of Stephen [last name redacted] ¶¶ 4-5, 8 (attached as Exhibit 123).

SECTION III: GEORGIA'S SYSTEMIC SUPPRESSION

precincts was crucial, as it affected which line the voter should wait in. But the voter registration cards for the voters at this polling place distinguished between the two precincts in a very subtle way: one precinct was designated “Mary Lin LE” and the other “Mary Lin EE.” No one had explained this distinction to the voters, however, and so the vast majority thought they were in the Mary Lin precinct, when in fact they were not. Suzanne witnessed this confusion cause many voters to wait in the wrong line for hours.³⁶⁰

- A poll watcher in DeKalb County, Carol, was sent to a longstanding polling place closed for the 2020 General Election to direct voters to their new location. On Election Day, she directed confused voters from the old polling place to the new polling place up the road. A volunteer hand-wrote the only signage to tell voters what was happening.³⁶¹
- Another poll watcher in DeKalb County, Caren, was posted at Miller Grove Middle School on Election Day for the 2020 General Election, a former polling place, directing voters to their correct polling places. During her shift, she helped several voters find their correct locations, serving as the first person to tell them that their polling place had changed. One voter, a man with mobility issues, had come on foot as he did not own a car. Because the voter did not have a phone, Caren worked with him for half an hour to help him figure out where to go and how to get there without a car.³⁶²

Failure to notify voters can have severe consequences for voters, including disenfranchisement. For the 2018 General Election, Antoinette, a resident of Chatham County, Georgia, arrived at her local polling location after leaving work, like many voters.³⁶³ By the time Antoinette arrived at her old polling location and was told of her new polling location, it was too late.³⁶⁴ She did not have enough time to travel to the new polling location before it closed and she could not vote.³⁶⁵ Inexplicably, Antoinette’s wife and daughter, who lived at the same address, voted at the polling location where Antoinette was turned away.³⁶⁶

³⁶⁰ Declaration of Suzanne [last name redacted] ¶¶ 7-9 (attached as Exhibit 124).

³⁶¹ Declaration of Carol from DeKalb [last name redacted] ¶¶ 4-5, 10-11 (attached as Exhibit 125).

³⁶² Declaration of Caren [last name redacted] ¶¶ 3-9 (attached as Exhibit 126).

³⁶³ Declaration of Antoinette [last name redacted] ¶ 3 (attached as Exhibit 127).

³⁶⁴ *Id.*

³⁶⁵ *Id.*

³⁶⁶ *Id.*

SECTION III: GEORGIA'S SYSTEMIC SUPPRESSION

Other voters had similar negative experiences:

- Shanterrie, a Fulton County voter, prides herself on always voting. Despite the pandemic, she was determined to vote in the June 2020 primary election. She took her four-year-old granddaughter to her usual polling place, riding the bus because she does not own a car. Upon arriving, however, she saw a sign on the door saying that the polling place had moved—the first Shanterrie had heard of this change. The bus that would have taken her to the new polling location, however, had been discontinued. Successfully making it to the polls would have required her and her four-year-old granddaughter to take a different bus and then walk another half hour in the June heat and rain. Shanterrie could not vote.³⁶⁷
- Joshua, a Fulton County voter, went to his polling place in August 2020 to vote in the primary runoff. Upon arriving, he was given a provisional ballot without explanation. Confused, he asked if he was in the wrong location. The poll worker informed Joshua he was in the correct location, but that the precinct had merged with another precinct, and the voters from his former precinct had not been added to the voting machines yet. Joshua was not given the opportunity to cast a standard ballot and had to vote provisionally instead.³⁶⁸
- Erika, a Fulton County voter, had to vote at a new polling place in the 2018 General Election. While waiting in a five-hour long line, Erika learned from her fellow voters that at least two other polling places had been closed and consolidated into her new polling location.³⁶⁹
- April, a Fulton County voter, waited in line at her polling place for two hours to vote in the 2018 Gubernatorial Election. She learned that part of the reason for the delay was that many voters who usually voted at the Ponce Library had been directed to her polling place instead. April found this particularly odd given that the Ponce Library had been open as an early voting site just a few days before, and remarked this was likely to be highly confusing to voters.³⁷⁰

Georgia's post-*Shelby County* history reflects rapid and concentrated poll closures and relocations. The spree of closures starkly contrasts with DOJ's repeated refusal to preclear such proposals under the VRA before 2013. The changes have been made in predominantly Black neighborhoods and have an inordinate impact on Black voters, hindering citizens' ability to cast a ballot. And Georgia's counties have been derelict in their duties to lessen the harmful effects of polling place changes, failing to disseminate prompt

³⁶⁷ Declaration of Shanterrie [last name redacted] ¶¶ 2-6 (attached as Exhibit 128).

³⁶⁸ Declaration of Joshua [last name redacted] ¶ 3-6 (attached as Exhibit 129).

³⁶⁹ Declaration of Erika [last name redacted] ¶ 3 (attached as Exhibit 130).

³⁷⁰ Declaration of April [last name redacted] ¶ 3 (attached as Exhibit 131).

SECTION III: GEORGIA'S SYSTEMIC SUPPRESSION

or accurate information, and sometimes even foregoing notice. The Secretary of State's office has provided little to no help. The failures have instead left voters with no help in tracking down their new polling places. Polling place closures have become a key tool in Georgia's attempt to suppress the votes of its citizens.

3. Voter Purges—Changes to Maintenance of Voter Registration Lists.

a. *Voter Purge Laws and Policies that Apply in Georgia*

Although federal law mandates that states maintain accurate voter registration lists, Georgia has engaged in massive voter purges—removing thousands of voters from its voter rolls with questionable justification—under the guise of maintaining the accuracy of its voter registration database. The VRAA's promise of increased federal oversight in this arena would help guard against further detrimental changes to this already broken system.

As the law stands, two federal statutes provide the key rules that states must follow in conducting voter purges: NVRA and HAVA. NVRA requires that any state purge practice must be “uniform, nondiscriminatory, and in compliance with the Voting Rights Act of 1965,”³⁷¹ and imposes limitations on election officials as to when and how registrants can be removed based on a change of address.³⁷² HAVA requires that statewide computerized voter registration databases conform to minimum standards of accuracy.³⁷³ HAVA imposes these standards to ensure voter registration records are accurate and regularly updated.³⁷⁴ Unfortunately, these laws have not stopped Georgia from engaging in voter purges that systematically disenfranchise registered voters who remain eligible to vote.

Certain voter purge processes are relatively non-controversial—for example, removing voters from the rolls when they confirm that they have moved out of state. But Georgia's process for removing voters from the rolls on the assumption they have moved is deeply flawed.

Georgia law provides a two-step process for purging voters from the rolls on the assumption they have moved. First, registered voters are moved from “active” status to “inactive” status. Second, in odd-numbered years, the voters in inactive status are moved to “cancelled” status.³⁷⁵ Once voters are moved to cancelled status (purged from the rolls), they cannot vote without submitting a brand-new voter registration application before the deadline to vote in an election. These voter registration deadlines are typically about a

³⁷¹ 52 U.S.C. § 20507(b)(1).

³⁷² *Id.* § 20507(d)(1)-(2).

³⁷³ *Id.* § 21083(a)(2)(A).

³⁷⁴ *Id.* § 21083(a)(4).

³⁷⁵ O.C.G.A. § 21-2-235 (attached as Exhibit 132).

SECTION III: GEORGIA'S SYSTEMIC SUPPRESSION

month before each election.³⁷⁶ Thus, when voters are purged without realizing it and later arrive to vote as normal, there is nothing that can be done to cast a ballot that will be counted. The only option for these purged voters is to forego voting or to cast a provisional ballot that will be rejected.³⁷⁷ This is true even for voters who can prove that they did not actually move, belying the State's unsupported justification for purging them from the voter rolls in the first place.³⁷⁸

Under Georgia law, a registered voter can be flagged for this purge process for three reasons: (1) having not voted or not had other forms of contact with election officials for a certain period, (2) having filed a National Change of Address form according to the Secretary of State's vendor,³⁷⁹ or (3) having their election mail returned to the sender.³⁸⁰ State law requires that voters in all three of those categories be mailed an address-confirmation notice and then moved to inactive status if there is no response within thirty days.³⁸¹ Then, all inactive voters who do not vote or have another form of contact with election officials during a period spanning the next two general federal elections are purged from the rolls.³⁸² In 2019, the State mailed address-confirmation notices to inactive voters

³⁷⁶ 2021 *State Elections & Voter Registration Calendar*, GA. SEC'Y OF STATE, [https://sos.ga.gov/admin/uploads/2021_State_Calendar_\(Short\).pdf](https://sos.ga.gov/admin/uploads/2021_State_Calendar_(Short).pdf) (last visited Apr. 2, 2021) (attached as Exhibit 133).

³⁷⁷ O.C.G.A. §§ 21-2-418(a) (attached as Exhibit 134¹), 419(c)(3) (attached as Exhibit 135).

³⁷⁸ Even after voters learn they have been removed from the rolls, they sometimes face great difficulty reregistering. See *generally* Declaration of Caroline [last name redacted] (attached as Exhibit 136) (describing several unsuccessful attempts to reregister to vote in time for the June 2020 election).

³⁷⁹ The Secretary of State has chosen a vendor called Total Data Technologies, located in Omaha, Nebraska, to identify which registered Georgia voters have filed an NCOA form with the U.S. Postal Service. See Suppl. Expert Report of Michael P. McDonald at 6 & n.7, *Fair Fight Action, Inc. v. Raffensperger*, No. 1:18-cv-05391-SCJ (N.D. Ga. Apr. 8, 2020), ECF No. 293 ("Supplemental McDonald Report") (attached as Exhibit 137). This vendor's results have been grossly inaccurate, flagging thousands of voters as having submitted an NCOA form when in fact they did not. See Expert Report of Michael P. McDonald at 17, *Fair Fight Action, Inc. v. Raffensperger*, No. 1:18-cv-05391-SCJ (N.D. Ga. Feb. 18, 2020), ECF No. 240 ("McDonald Report") (attached as Exhibit 138).

³⁸⁰ O.C.G.A. §§ 21-2-233 (attached as Exhibit 139), 234 (attached as Exhibit 140). Yet, sometimes voters are flagged even though, to the best of their knowledge, none of the three reasons specified in Georgia law should apply to them. See, e.g., Declaration of Melissa [last name redacted] ¶¶ 9, 13 (attached as Exhibit 141); Declaration of Joel [last name redacted] ¶¶ 8–10 (attached as Exhibit 142); Declaration of Allison [last name redacted] ¶¶ 5–7 (attached as Exhibit 143).

³⁸¹ Ex. 140, O.C.G.A. § 21-2-234(c)(2). However, voters do not always read these notices or receive them at all. See, e.g., Declaration of Carolyn [last name redacted] ¶¶ 19–20 (attached as Exhibit 144); Declaration of William [last name redacted] ¶¶ 10 (attached as Exhibit 145).

³⁸² Ex. 132, O.C.G.A. § 21-2-235(b).

SECTION III: GEORGIA'S SYSTEMIC SUPPRESSION

before executing the purge.³⁸³ But the State has never notified voters after they are deregistered. And even though the Secretary of State's Elections Director has testified that "there are a lot of people that don't check their mail," the Secretary of State's Office chooses not to use the email addresses or phone numbers it has on file to notify voters about the purge.³⁸⁴

A problematic component of this process stems from Georgia's "Use It or Lose It" law, which allows the State to move voters first to inactive status and then to cancelled status solely because of their failure to vote or have other specified forms of contact with election officials.³⁸⁵ Georgia enacted this law in the early 1990s, following the adoption of the NVRA.³⁸⁶ DOJ initially objected to the law, informing State officials "in a letter that the new law was 'directly contrary to the language and purpose of the NVRA, and is likely to have a disproportionate adverse effect on [] voters [of color] in the state.'"³⁸⁷ In the decades since, the law has authorized the removal of hundreds of thousands of voters from Georgia's rolls.

b. Georgia Has Used Voter Purges to Disenfranchise Registered Voters

The practical effect of Georgia's voter purge process has been disenfranchisement of registered voters who otherwise should have been able to vote. Three notable characteristics of Georgia's voter purge process lead to this result. First, Georgia's process does not accurately identify people who have moved; the process is error-prone when voters are purged only because of lack of contact with election officials. Second, Georgia's process does not effectively notify people when voters are removed from the rolls. Third, Georgia's process provides no recourse. Purged voters have no opportunity to cast a ballot that will count if they do not learn they were purged before trying to vote.

³⁸³ *Id.*

³⁸⁴ Transcript of Proceedings Before the Hon. Steve C. Jones at 79, *Fair Fight Action, Inc. v. Raffensperger*, No. 1:18-cv-05391-SCJ (N.D. Ga. Dec 19, 2019), ECP No. 615 (attached as Exhibit 146) (testimony of Chris Harvey).

³⁸⁵ Ex. 140, O.C.G.A. §§ 21-2-234(a), (c)(2), 235(b); see also Paul M. Smith, "Use It or Lose It": The Problem of Purges from the Registration Rolls of Voters Who Don't Vote Regularly, ABA (Feb. 10, 2020), https://www.americanbar.org/groups/crsj/publications/human_rights_magazine_home/voting-rights/-use-it-or-lose-it---the-problem-of-purges-from-the-registration.

³⁸⁶ See Angela Caputo et al., *They Didn't Vote . . . Now They Can't*, APM REPS. (Oct. 19, 2018), <https://www.apmreports.org/story/2018/10/19/georgia-voter-purge> (attached as Exhibit S20).

³⁸⁷ *Id.*; see also Letter from Deval L. Patrick, Ass't Att'y Gen. to Dennis R. Dunn, Sr., Ass't Att'y Gen. (Oct. 24, 1994) (attached as Exhibit 147).

SECTION III: GEORGIA'S SYSTEMIC SUPPRESSION

For more than a decade, these deficiencies have operated to disenfranchise countless voters in Georgia who had been properly registered and did nothing to deserve being purged from the rolls.³⁸⁸

i. 2010 to 2016

Former President Barack Obama's presidential campaign generated substantial enthusiasm and caused a surge in voter registration. From 2006 to 2008, the total number of registered voters in Georgia grew by eighteen percent.³⁸⁹ This growth was driven largely by Black registrations, which increased by thirty percent—362,000 new Black voters were added to the rolls in just two years.³⁹⁰ This period also saw a dramatic increase in the registrations of other voters of color.³⁹¹

In response to the high turnout in 2008, Georgia aggressively removed voters from the rolls. From 2010 to 2018, then-Secretary of State Kemp purged well over a million voters—often under the “Use It or Lose It” law.³⁹² While Georgia's overall population grew between November 2012 and October 2016, the number of registered voters dropped from over 5.35 million to 5.17 million.³⁹³ Georgia purged voters at a much higher rate during this period than it had previously: “Georgia purged twice as many voters—1.5 million—between the 2012 and 2016 elections as it did between 2008 and 2012.”³⁹⁴

³⁸⁸ Georgia's mismanagement of its voter rolls extends beyond the particular voter purge process described in this section: registered Georgia voters frequently encounter roadblocks to voting because of incorrect information in the State's database indicating that they are not registered at the address they provided to election officials or no longer registered at all. *See, e.g.*, Declaration of Roxahne [last name redacted] ¶ 3 (attached as Exhibit 148); Declaration of Johnny [last name redacted] ¶¶ 6–7 (attached as Exhibit 149); Declaration of Gahalam [last name redacted] ¶ 4 (attached as Exhibit 150); Declaration of Khalidah [last name redacted] ¶¶ 7–8 (attached as Exhibit 151); Declaration of Andre [last name redacted] ¶¶ 4–16 (attached as Exhibit 152); Declaration of Rashidah [last name redacted] ¶¶ 7–8 (attached as Exhibit 153).

³⁸⁹ *See* Ex. S20, Caputo, *et al.*, *supra* note 386.

³⁹⁰ *Id.*

³⁹¹ *Id.*

³⁹² *See* Mark Niesse, *Changes Coming to Georgia Purges, Vote Counts and Voting Machines*, ATLANTA J. CONST. (Mar. 19, 2019), <https://www.ajc.com/news/state--regional-govt--politics/measure-would-change-georgia-purges-vote-counts-and-voting-machines/lk1muv5jrC5SX1wt29dzN/>.

³⁹³ *See* Tony Pugh, *Georgia Secretary of State Fighting Accusations of Disenfranchising Minority Voters*, McCLATCHY DC (Oct. 7, 2016), <https://www.mcclatchydc.com/news/politics-government/article106692837.html>.

³⁹⁴ Ex. S16, Brater *et al.*, *supra* note 239; *see also* Ex. S20, Caputo *et al.*, *supra* note 386. *See* Geoff Hing *et al.*, *Georgia Purged About 107,000 People From Voter Rolls: Report*, WABE (Oct. 19, 2018), <https://www.wabe.org/georgia-purged-about-107000-people-from-voter-rolls-report/> (“In the 2010 election cycle, when Kemp first took office, nearly 379,000 people were removed in counties across the state, according

SECTION III: GEORGIA'S SYSTEMIC SUPPRESSION

The pernicious effect of the soaring number of purged voters can be seen in the increase in provisional ballots cast in Georgia. When voters appear at the polls not knowing they have been purged, their only option is to cast a provisional ballot (which ultimately will not be counted).³⁹⁵ Unsurprisingly, the rate at which provisional ballots were cast in Georgia increased in 2010 and 2014 as voter purge rates “correspondingly increased.”³⁹⁶

ii. 2017 to 2018

Following the surge in turnout for President Obama’s 2008 election, voter participation lagged nationwide; over 100 million Americans of voting age did not cast ballots in 2016.³⁹⁷ Because of the time frame set by Georgia’s Use It or Lose It law, voters who cast ballots in the high-turnout 2008 election but skipped subsequent elections—and did not otherwise contact election officials—would have been purged before 2018.

In 2017, in anticipation of the 2018 Gubernatorial Election in which then-Secretary of State Kemp would be a candidate, Georgia purged nearly 670,000 voters.³⁹⁸ One report found that “in six of every 10 counties across Georgia, [B]lack voters were canceled [sic] at a higher rate than their white peers for inactivity. And in more than a quarter of those counties [B]lack voters were removed at a rate 1.25 times their white peers.”³⁹⁹ These voters were never informed that they had been purged from the rolls. Without realizing they had been purged, many of these voters arrived to vote in 2018 only to be told they were no longer on the rolls. Their only option was to cast a provisional ballot, which ultimately would be rejected.⁴⁰⁰

to data the state reported to the U.S. Election Assistance Commission. By 2014, the number of voters canceled [sic] increased by more than 35 percent, to 517,000, according to state data.”)

³⁹⁵ See Ex. 134^r, O.C.G.A. § 21-2-418(a); Ex. 135, O.C.G.A. § 419(c)(3).

³⁹⁶ Ex. S16, Brater et al., *supra* note 239, (“[P]rovisional ballots, which are given to voters who are missing from the voter rolls, had a statistically significant relationship to purge rates in previously covered jurisdictions”).

³⁹⁷ See Ex. S20, Caputo et al., *supra* note 386.

³⁹⁸ Ben Nadler, *Voting Rights Become a Flashpoint in Georgia Governor’s Race*, AP NEWS (Oct. 9, 2018), <https://apnews.com/article/race-and-ethnicity-elections-voting-voting-rights-atlanta-fb011f39af3b40518b572e8ce6e906c> (attached as Exhibit S21).

³⁹⁹ See Ex. S20, Caputo et al., *supra* note 386.

⁴⁰⁰ See, e.g., Email from Deb Cox, Lowndes Cnty. Official, to Chris Harvey, Sec’y of State Empl. (Nov. 14, 2018), State-Defendants-00055300 (attached as Exhibit 154) (showing that one county rejected 93 ballots in the 2018 election for “NOACT2GE,” i.e., No Activity for 2 General Elections, which is code for the purge process).

SECTION III: GEORGIA'S SYSTEMIC SUPPRESSION

iii. 2019 to Present

H.B. 316, which was enacted in April 2019, modestly altered Georgia's voter purge process. Rather than moving active registrations to inactive status after a three-year gap in voting or contact with election officials, Georgia now makes this status change after a five-year period of no contact. In addition, the law now requires the State to send notice between thirty and sixty days before the purge.⁴⁰¹

Despite these changes, Georgia's voter purges have continued apace: for the December 2019 purge, 313,243 voters were placed on the State's list of voters subject to cancellation.⁴⁰² Later, faced with Fair Fight Action's legal challenge to the purge, Georgia restored to the rolls about 22,000 of those voters.⁴⁰³

But many more voters were not restored to the rolls, despite having done nothing to warrant being ensnared in a process ostensibly about deregistering people who have moved out of Georgia. Worse yet, many of these voters—who did not actually move—received no notice they would be purged. For example, Kilton of Warner Robbins, Georgia, was purged in 2019.⁴⁰⁴ Kilton had lived at the same address for over fifty years, but had not voted in recent elections.⁴⁰⁵ Due to his recent inactivity, Georgia added Kilton to the 2019 voter purge list.⁴⁰⁶ Typical of many voters, Kilton never received notice he was on the purge list despite the State-law notice requirement—rather, he first learned of his status when he was told by a representative of Fair Fight Action.⁴⁰⁷

Likewise, Clifford had lived at the same Fulton County address for over thirty years when he discovered that he was on the voter purge list.⁴⁰⁸ Clifford had not voted in recent elections, but he still wished to remain on the rolls.⁴⁰⁹ Like other Georgia residents, Clifford never received notice from the Secretary of State's office about his voter status or his

⁴⁰¹ Ex. 132, O.C.G.A. § 21-2-235(b).

⁴⁰² Ex. 138, McDonald Report at 4.

⁴⁰³ Prabhu & Niese, *supra* note 241. ("The 22,000 records that are being moved back into inactive status are people who last had contact with the voter registration system between January and May 2012," the secretary of state's office said in the press release).

⁴⁰⁴ Declaration of Kilton [last name redacted] ¶¶ 2, 5 (attached as Exhibit 155).

⁴⁰⁵ *Id.* ¶¶ 3, 4.

⁴⁰⁶ *Id.* ¶¶ 4, 5.

⁴⁰⁷ *Id.* ¶¶ 5, 6.

⁴⁰⁸ Declaration of Clifford [last name redacted] ¶¶ 3, 6 (attached as Exhibit 156).

⁴⁰⁹ *Id.* ¶¶ 4, 7.

SECTION III: GEORGIA'S SYSTEMIC SUPPRESSION

pending removal from the rolls.⁴¹⁰ Instead, Clifford first learned that he was on the voter purge list via notification from Fair Fight Action.⁴¹¹ David of Richmond County had the same experience.⁴¹² Even though he had not moved, he was purged in 2019 and did not discover his status until notification by a Fair Fight Action staff member.⁴¹³

Chryshawn's story is yet another example.⁴¹⁴ Chryshawn, who had lived at the same Fulton County address for approximately ten years, tried to vote early in October 2020, but a poll worker said that she was not registered to vote.⁴¹⁵ Chryshawn never received notice from the State about being purged, nor was Chryshawn informed that the law required a brand new registration application to be submitted before the deadline.⁴¹⁶

The expert reports prepared by Professor Michael McDonald in *Fair Fight Action v. Raffensperger* explain the flaws in Georgia's purge process that have given rise to these voters' stories. According to Professor McDonald's analysis of the 2019 voter purge, at least 59,866 of the voters purged in 2019 for their failure to have contact with election officials had *not* actually moved from their voter registration address.⁴¹⁷ On top of that, 14,732 voters flagged for the 2019 purge because they filed a NCOA form with the U.S. Postal Service had not actually filed one.⁴¹⁸ And many voters who did file a NCOA form had done so for a change of business address or a change of their P.O. Box—not a change of their residential address.⁴¹⁹ But Georgia's policy was to purge these voters from the rolls anyway.

B. Georgia Voters Experience Other Significant Roadblocks when Voting.

The VRAA—and similar legislation—is critical to mitigating Georgia's pervasive disenfranchisement of voters—and in particular Black, brown, and poor voters—and curbing the official practices of polling place closures and unjustifiable restrictions on voter registrations and eligibility. But these problems represent only some hurdles Georgians face when attempting to make their voices heard. The significance of legislation like the VRAA

⁴¹⁰ *Id.* ¶ 6.

⁴¹¹ *Id.*

⁴¹² Declaration of David [last name redacted] ¶¶ 2, 5 (attached as Exhibit 157).

⁴¹³ *Id.* ¶ 5.

⁴¹⁴ Declaration of Chryshawn [last name redacted] ¶ 4 (attached as Exhibit 158).

⁴¹⁵ *Id.* ¶ 5.

⁴¹⁶ *Id.* ¶ 6.

⁴¹⁷ Ex. 138, McDonald Report at 17.

⁴¹⁸ *Id.*

⁴¹⁹ Ex. 137, Supplemental McDonald Report at 6-8.

SECTION III: GEORGIA'S SYSTEMIC SUPPRESSION

can be understood only within the broader context of the additional obstacles eligible voters face. Although not every way a State may interfere with voting rights is directly addressed by the VRAA, the existence of additional impediments to voting drive home the need for Congress to act to provide robust federal protections.

Ultimately, Georgia voters must overcome obstacles at nearly every stage of the voting process. They must work to make sure their registrations count and are not cancelled arbitrarily. They must navigate shifting polling locations and precincts, or the unpredictable absentee ballot process. And, as this Section details through just a small selection of individual voters' stories, Georgians face substantial obstacles while—and after—they vote.

Voters must wait in sluggish, hours-long lines, exacerbated by under-resourced and under-trained poll workers. These lines are especially burdensome on elderly voters, who may not know or be told they can advance to the front, or voters who must go to work or school. Voters endure even longer waits if a polling machine malfunctions or if there are not enough machines or electronic poll books to handle the crowds attempting to vote. Once voters make it to the front of the line, they may be told there is an unexpected problem with their registration (even if they confirmed their registration status before going to vote) or that they are at the wrong polling location. Often, voters facing these circumstances are not given the opportunity to vote provisionally despite being eligible to do so. Compounding the effects of these problems, election officials have fomented a climate of suspicion toward voters, resulting in individual voters being harassed or targeted in myriad ways. Georgia's is not a healthy election system but not for the reasons that some disingenuously contend. Even with the anticipated reforms of the VRAA on the horizon, there is still significant work to be done.

1. Long Lines

Long lines and delays at polling places make it difficult for voters to cast their ballots. As the Secretary of State reports, voter registration in Georgia has been on the rise for the last two decades. The number of registered voters in Georgia has climbed from over four million in November 1998 to over 7.6 million by November 2020.⁴²⁰ Despite their eagerness to participate in the electoral process, Georgians often confront an insurmountable hurdle when they show up to vote: egregiously long lines and wait times. In the past few elections, long lines have been exacerbated by the State providing inadequate or malfunctioning voting machines, unresponsive electronic poll books, insufficient emergency paper and provisional ballots at polling places, inadequate training of poll workers, flawed registration data, and insufficient polling locations. According to an analysis of state and local records by Georgia Public Broadcasting and *ProPublica*, the average number of voters packed into polling

⁴²⁰ *Historical Voter Registration Statistics, State of Georgia, 1998 to Present*, GA. SEC'Y OF STATE, https://sos.ga.gov/admin/uploads/Voter_Registration_Statistics_03032021.pdf (last visited Apr. 11, 2021) (attached as Exhibit 159).

SECTION III: GEORGIA'S SYSTEMIC SUPPRESSION

locations in the nine metropolitan Atlanta counties increased by nearly forty percent from 2012 to 2020—from approximately 2,600 to over 3,600 voters per polling location.⁴²¹

The State has failed to take adequate measures to address these issues and prevent long lines from burdening Georgians' right to vote, particularly in communities of color.

The experiences of voters in recent presidential elections is illustrative. In the November 2016 election, countless voters faced long lines at their polling places and ultimately could not cast a ballot:

- In Fulton, Gwinnett, DeKalb, and Cobb Counties—the most populous in the state—Georgians waited over two hours to vote, and in Gwinnett County at least three people collapsed from heat exhaustion while waiting in line during early voting.⁴²²
- Gwinnett County voter Derrick arrived at his polling place at 6:55 a.m., finding between thirty and fifty people already in line. At 7:45 a.m., a poll worker emerged and reported that none of the machines were working and that a poll worker had been dispatched to obtain new cards for the machines hoping to rectify the issue. Another poll worker estimated that it would take one and a half to two hours to address the problem. Within five minutes, over seventy people in line—approximately ninety percent of those present—left the polling place. The cards finally arrived at 9:40 a.m., and Derrick cast his ballot after waiting nearly three hours to do so.⁴²³

Election Day 2018 was no better. Once again, the State failed to take adequate action to prevent intolerably long lines and wait times. Across the State, voters waited as long as four and a half hours to vote. Some voters waited in line multiple times on Election Day because they could not continue waiting the first time:

- Cobb County voter Tunnizia left her home at 6:30 a.m. on Election Day and waited for one hour at her polling place until she had to leave the line to go to work. She

⁴²¹ Stephen Fowler, *Why Do Nonwhite Georgia Voters Have to Wait in Line for Hours? Their Numbers Have Soared, and Their Polling Places Have Dwindled.*, PROPUBLICA (Oct. 17, 2020), <https://www.propublica.org/article/why-do-nonwhite-georgia-voters-have-to-wait-in-line-for-hours-their-numbers-have-soared-and-their-polling-places-have-dwindled> (explaining that "Georgia law sets a cap of 2,000 voters for a polling place that has experienced significant voter delays, but that limit is rarely if ever enforced") (attached as Exhibit S22).

⁴²² Barrett Holmes Pitner, Opinion, *Early Voting Lines Are So Long, People Are Fainting. That Harms Democracy*, THE GUARDIAN (Oct. 19, 2016), <https://www.theguardian.com/commentisfree/2016/oct/19/early-voting-lines-georgia>; see also Tony Thomas et al., *Some Wait Several Hours as Early Voting Begins in Georgia*, WSB-TV (Oct. 17, 2016), <https://www.wsbtv.com/news/politics/early-voting-begins-across-state/458139151> (explaining that for the first two weeks of early voting, Gwinnett County had only one location open during business hours).

⁴²³ Declaration of Derrick [last name redacted] ¶ 4 (attached as Exhibit 160).

SECTION III: GEORGIA'S SYSTEMIC SUPPRESSION

returned during her lunch break at 2:20 p.m. and remained in line for over three hours before finally being allowed to vote at 5:30 p.m. Because she was only allowed a one-hour lunch break, she lost two hours of pay while waiting in line to vote.⁴²⁴

- Gwinnett County voter Jeffery arrived at his polling place at 8:45 a.m., discovering at least 125 people in line to vote. No one had voted because the machines were malfunctioning, and when additional machines were brought in, those machines did not work either. The poll workers later sent for new cards for the machines. Over four hours later—at 12:49 p.m.—Jeffery finally cast his ballot.⁴²⁵
- Chatham County voter Hollie first arrived at her polling place in the morning and waited one hour and twenty minutes before having to leave for a meeting. She returned after her meeting but had to wait an additional four and a half hours in line before voting.⁴²⁶

Long lines drove many Georgians away from the polls before they could see the inside of their polling places, let alone vote:

- Chatham County voter Kevin went to vote at 9:00 a.m., but left because of the long line. He returned at 1:00 p.m. and observed about twenty people leaving the line. Kevin counted approximately 128 people in front of him. He left the line because he estimated at the pace the line was moving, it would take eight hours for him to vote because only two of the seven machines at the polling place were working. He returned to the polling place at 4:30 p.m. and voted a regular ballot after waiting for an hour and a half.⁴²⁷
- Gwinnett County voter Velma, who was wearing a boot because of a broken toe, waited in line for two hours and forty-five minutes to vote. She observed fifty people leave without voting because the line was too long.⁴²⁸
- Shannon, a poll watcher in Fulton County, observed several voters leaving because of the long wait times. Many “indicated that they would have difficulty returning,” or

⁴²⁴ Declaration of Tunnizia [last name redacted] ¶ 4 (attached as Exhibit 161).

⁴²⁵ Declaration of Jeffery [last name redacted] ¶ 3 (attached as Exhibit 162).

⁴²⁶ Declaration of Hollie [last name redacted] ¶ 4 (attached as Exhibit 163).

⁴²⁷ Declaration of Kevin from Chatham [last name redacted] ¶ 3 (attached as Exhibit 164).

⁴²⁸ Declaration of Velma [last name redacted] ¶ 3 (attached as Exhibit 165); Declaration of Patricia [last name redacted] ¶ 4 (attached as Exhibit 166) (describing a 3.5-hour wait and observing her neighbor and others leave before voting because of the long lines).

SECTION III: GEORGIA'S SYSTEMIC SUPPRESSION

had to leave because they had arrived with young children—"to expose them to voting"—who could not wait for hours.⁴²⁹

- Barbara, a poll watcher in Chatham County, saw many voters leave a line that had grown to be four hours long by 4:00 p.m. Barbara spoke with one woman who had waited for two hours by the time the clock struck 8:00 p.m. and had to leave without voting because she had to be at work at 4:00 a.m. and had to put her kids to bed.⁴³⁰
- Angel, a poll watcher in Fulton County on election day in November 2018, observed "dozens of people leave the line in frustration" because wait times averaged two to four hours throughout the day, due to "insufficient staff to assist voters and an inadequate number of operable voting machine[s] to handle the volume of the combined polling places."⁴³¹
- Sharman, a poll watcher in Cobb County, observed twenty to twenty-five voters who "got very close to the front of the line," but ultimately "had to abandon the line to pick up their children from daycare or return to work." Wait times averaged from one and a half to two and a half hours at the polling place.⁴³²

Many people did not have the option to wait in an hours-long line and thus could not vote:

- Fulton County voter Ann waited for an hour to vote but due to health issues that made it difficult for her to stand for long periods of time, including a pinched nerve, she was forced to leave without voting.⁴³³
- Fulton County voter Arnaud arrived at his polling place at noon and waited half an hour to vote; he was told it would take another hour due to the long line, but Arnaud had to return to work. He returned at 4:00 p.m. and waited half an hour but was told that the wait would be two to three hours. He left and again returned at 6:30 p.m., at which point he could not even find a parking space for his car. He was told the wait

⁴²⁹ Declaration of Shannon G. from Fulton [last name redacted] ¶¶ 6-7 (attached as Exhibit 167).

⁴³⁰ Declaration of Barbara from Chatham [last name redacted] ¶¶ 10-11 (attached as Exhibit 168).

⁴³¹ Declaration of Angel [last name redacted] ¶ 4 (attached as Exhibit 169).

⁴³² Declaration of Sharman [last name redacted] ¶¶ 6-7 (attached as Exhibit 170).

⁴³³ Declaration of Ann [last name redacted] ¶¶ 3-5 (attached as Exhibit 171).

SECTION III: GEORGIA'S SYSTEMIC SUPPRESSION

time to vote was three to four hours. Due to the long wait times and his inability to find parking, Arnaud could not vote.⁴³⁴

- When Chatham County voter Pamela arrived at her polling place at 7:00 a.m., she found that the line to vote was already so long that most of the parking lot, a nearby field, and the street were being used for the line. She waited for thirty minutes before leaving out of a concern for her safety because of how people were lined up by the gutters in the street as cars passed. She returned at 1:30 p.m. By then, approximately 200 people were lined up in the parking lot and field, many seated on the hot pavement. She waited for two hours, moving only half the distance in that time. At 2:30 p.m., she heard voters who had just voted say they had been at the polling place since 10:30 a.m. Eventually, she had to leave when it was time for her son to come home from school. She returned for the third time at 6:30 p.m. and again saw people lined up in the parking lot and the street. Unable to find a parking spot and concerned about waiting in line in the street in the dark, she went home without having the chance to cast a ballot.⁴³⁵
- Chatham County voter Noell went with her six-year-old daughter to vote at 5:00 p.m. She asked an officer at the polling place how long the wait was, and the officer told her that if she were about twenty yards ahead in line, the wait would be three hours and fifteen minutes. Noell could not wait over three hours with her six-year-old daughter, and was forced to leave before casting a ballot.⁴³⁶

Long wait times plague polling places in Georgia for several reasons, including equipment problems. In the 2018 election, the State failed to ensure polling places were given sufficient emergency paper ballots to use if voting machine malfunctions occurs. The State also failed to provide adequate instructions to poll workers on how to use emergency paper ballots to address persistently long lines.⁴³⁷ Voters waited in lines for hours without ever being offered emergency paper ballots, even when voting machines stopped working. Moreover, the State failed to provide enough provisional ballots to accommodate the increase in their usage given the polling location closures and consolidations:

- Chatham County voter Atlas had voted at his regular polling place for years. In the November 2018 election, after waiting in line from 6:40 p.m. to 9:43 p.m., he was told he was at the wrong polling place. The polling place was out of provisional

⁴³⁴ Declaration of Arnaud [last name redacted] ¶ 4 (attached as Exhibit 172).

⁴³⁵ Declaration of Pamela from Chatham [last name redacted] ¶ 4 (attached as Exhibit 173).

⁴³⁶ Declaration of Noell [last name redacted] ¶ 4 (attached as Exhibit 174).

⁴³⁷ Poll Worker Manual, Ga. Sec'y of State (2018), State-Defendants-00146399 (attached as Exhibit 175); see also Poll Worker Manual, Ga. Sec'y of State (2016), State-Defendants-00095472 (attached as Exhibit 176).

SECTION III: GEORGIA'S SYSTEMIC SUPPRESSION

ballots, and he was told he could not vote at the other polling place because its line had closed.⁴³⁸

- Margaret was a poll watcher in Fulton County. Around 4:45 p.m., the locations she was observing ran out of envelopes for provisional ballots. Envelopes were not delivered until 5:20 p.m., causing voters to wait between ten to forty additional minutes to seal their ballots on top of initially waiting to vote for at least an hour and a half.⁴³⁹
- Barbara was a poll watcher in Chatham County. When she asked the poll manager if the polling place had enough provisional ballots, he responded that they had enough because they had only eight or nine provisional voters for an election. The polling place ran out of provisional ballots by early evening. Four individuals who had been in line for four hours were forced to wait again for delivery of additional provisional ballots.⁴⁴⁰

Flawed registration data has further compounded long lines and wait times. In the 2018 election, numerous voters showed up at polling places in their counties of residence only to learn, after waiting in line for hours, that they were assigned to vote at another polling place. The result was voters forced to wait in line at multiple polling places, further exacerbating wait times across the state. These problems largely occurred due to outdated data in the State's voter registration system, and insufficient notice to voters about their assigned polling places for the 2018 election. Inadequate poll worker training made matters even worse. The State did not educate poll workers on how to manage historically long lines; as a result poll workers were not sure of how to handle voters assigned to a polling location other than the one at which they had arrived:

- Fulton County voter Dawn, who had lived in the County for fourteen years at the time of the 2018 election, waited two hours to vote before a poll worker scanned her identification and told her she was registered in Gwinnett County and would have to vote there. Dawn drove to Gwinnett County, where she had not lived for years, and waited another twenty minutes to vote.⁴⁴¹
- Gwinnett County voter Talisha had been notified of her assigned polling place in 2016 and had voted there that year. In 2018, she went to the same polling place; she did not receive a notice that the polling location had changed. She waited in line for two hours. It was not until she got to the front of the line that poll workers informed her

⁴³⁸ Declaration of Atlas [last name redacted] ¶¶ 4, 6–7 (attached as Exhibit 177).

⁴³⁹ Declaration of Margaret [last name redacted] ¶ 3 (attached as Exhibit 178).

⁴⁴⁰ Ex. 168, Declaration of Barbara from Chatham [last name redacted] ¶¶ 4, 9, 11.

⁴⁴¹ Declaration of Dawn [last name redacted] ¶ 4 (attached as Exhibit 179).

SECTION III: GEORGIA'S SYSTEMIC SUPPRESSION

she was not at her assigned polling place. Talisha explained that she could not go to the reassigned polling place because of childcare responsibilities and had to vote provisionally.⁴⁴²

- Henry County voter Blakke checked her polling place online and learned that she had to go to the courthouse to vote. She received no notice by mail that she had been assigned to a different polling place. At the courthouse, however, she was told that she was not at the correct polling place and was sent to a different location. Blakke traveled there and waited for over two hours. And yet, when she got to the front of the line, she was again told that she was not at the right place. Because Blakke had to go to work and had child care responsibilities, she could not go to a different polling place and had to vote provisionally.⁴⁴³
- Cobb County voter Jessica waited for one and a half hours with her daughter before a poll worker told her she could not vote unless she first drove to another location to void an absentee ballot she had requested but not used. After calling an election protection hotline, she learned that she had the right to vote provisionally at the polling location. Jessica returned to the polling place, asked to void the absentee ballot, and cast a provisional ballot.⁴⁴⁴
- Melanie, a poll watcher in Gwinnett County, observed “numerous occasions where no voters were voting at all while the line was held up” with poll workers searching for voters in the computers.⁴⁴⁵
- Mollye, a poll watcher in Fulton County, observed so many voters (who had waited hours) being told that they were at the wrong polling place that a bus was chartered to drive them to the correct location.⁴⁴⁶

These voters’ stories reflect a broader problem in the administration of elections in Georgia. A nationwide study of wait times at polling places in the 2018 election, conducted by researchers from the Bipartisan Policy Center and the Massachusetts Institute of Technology, found that Fulton County, Georgia, had the longest wait times of 3,119 polling places studied.⁴⁴⁷ Remarkably, the average wait time in Fulton County was two and a half

⁴⁴² Declaration of Talisha [last name redacted] ¶ 3 (attached as Exhibit 180).

⁴⁴³ Declaration of Blakke [last name redacted] ¶ 3 (attached as Exhibit 181).

⁴⁴⁴ Declaration of Jessica [last name redacted] ¶ 4 (attached as Exhibit 182).

⁴⁴⁵ Declaration of Melanie [last name redacted] ¶ 8 (attached as Exhibit 183).

⁴⁴⁶ Declaration of Mollye [last name redacted] ¶ 3 (attached as Exhibit 184).

⁴⁴⁷ Matthew Weil et al., *The 2018 Voting Experience: Polling Place Lines*, BIPARTISAN POL’Y CTR. 8, 34 (Nov. 2019), <https://bipartisanpolicy.org/wp-content/uploads/2019/11/The-2018-Votin-Experience.pdf> (the report

SECTION III: GEORGIA'S SYSTEMIC SUPPRESSION

times the national average.⁴⁴⁸ Fulton County stood out not just compared to polling places in other states in 2018, but also compared to polling places in other states with large turnout increases in 2018.⁴⁴⁹ Since other states with “equally large turnout increases saw relatively minor increases in their wait times,” the researchers concluded that states like Georgia that “experienced big wait-time increases in 2018 [had] pushed the resources at hand, mainly check-in locations and voting machines, to their capacity limits or beyond.”⁴⁵⁰

Long wait times attributable to inadequate resources and poll worker training continued in the June 2020 primary election.⁴⁵¹ Voters waited as long as seven hours to vote. Multiple postelection analyses of long lines and wait times confirmed these burdens on the franchise were disproportionately experienced by voters of color. According to an analysis by the *Atlanta Journal-Constitution*, approximately eleven percent of voting sites in Georgia closed over an hour late.⁴⁵² “Black voters bore the brunt of long lines and late closings in overcrowded, understaffed and poorly equipped polling places. Only sixty-one percent of majority Black precincts closed on time compared with eighty percent of mostly white precincts.”⁴⁵³ One expert analysis similarly concluded that “long lines . . . were disproportionately experienced by minority voters.”⁴⁵⁴ Specifically that analysis found, “[a]mong polling places where minorities made up over 90 percent of registered voters, 36 percent were forced to stay open over one hour past the specified closing time to

states that “Georgia” had the longest wait times; however, the report only analyzed data from Fulton County, confirming that these results were indeed for Fulton County).

⁴⁴⁸ *Id.*

⁴⁴⁹ *Id.* at 10, 16.

⁴⁵⁰ *Id.* at 10.

⁴⁵¹ See Stephen Fowler, *It Was Very Chaotic: Long Lines, Voting Machine Issues Plague Georgia Primary*, NPR (June 9, 2020), <https://www.npr.org/2020/06/09/873054620/long-lines-voting-machine-issues-plague-georgia-primary> (detailing the widespread problems across Georgia during the June 2020 election, including situations where “problems with voting machines . . . led officials to use backup paper provisional ballots – until those quickly ran out,” “delay[s] in opening after poll managers were not given correct access codes to set up the touchscreen ballot-marking devices that print out a paper ballot with a voter’s choices,” “reports of equipment being delivered to the wrong locations and delivered late,” and “reports of poll workers not understanding setup or how to operate voting equipment”) (attached as Exhibit S23).

⁴⁵² Mark Niesse & Nick Thieme, *Extreme Voting Lines Expose Where Georgia Primary Failed*, ATLANTA J-CONST. (July 28, 2020), <https://www.ajc.com/politics/extreme-voting-lines-expose-where-georgia-primary-failed/YQUMSTEBVFAY7CR7UQQEHSVLI>.

⁴⁵³ *Id.*

⁴⁵⁴ Expert Report of Dr. Jonathan Rodden at 2, *Anderson v. Raffensperger*, No. 1:20-cv-03263-MLB, (N.D. Ga. Sep. 1, 2020), ECF No. 93-61 (attached as Exhibit 185).

SECTION III: GEORGIA'S SYSTEMIC SUPPRESSION

accommodate long lines.”⁴⁵⁵ In contrast, “[a]mong polling places where whites made up over 90 percent of registered voters, less than 3 percent of polling places were required to stay open late in order to accommodate long lines.”⁴⁵⁶ Wait times mirrored these racial disparities: “In polling places where minorities constituted more than 90 percent of active registered voters, the average minimum wait time in the evening was 51 minutes. When whites constituted more than 90 percent of registered voters, the average was around six minutes.”⁴⁵⁷ It quickly became clear that the disparate wait times were caused by the uneven distribution of a wide variety of polling place difficulties. “[T]he prevalence of relatively serious polling place difficulties was more than three times greater in majority-minority polling places than in majority-white polling places.”⁴⁵⁸

The *Atlanta Journal-Constitution* concluded that high turnout did not “fully explain why voters in mostly Black communities experienced longer waits,” since “[m]ajority Black polling places with significant turnout – more than 400 voters – closed an average of 49 minutes later than smaller precincts,” while “similar locations with mostly white voters closed just four minutes later.”⁴⁵⁹

Once again, some voters could not wait for hours to vote and therefore had to leave before casting their ballots.

- Fulton County voter Kimberley arrived at her polling place at 6:15 p.m. and waited for over six hours—until 12:30 a.m.—to vote. When she finally reached the check-in booth, she was told she was at the wrong precinct and offered a provisional ballot. While waiting in line, she observed several people in line in front of her leave before voting.⁴⁶⁰
- Fulton County voter Lazar waited for seven hours—from 9:00 a.m. to 4:00 p.m.—to vote. While waiting, Lazar observed several cars arrive to the parking lot and immediately leave after the putative voters realized how long the line was.⁴⁶¹

⁴⁵⁵ *Id.* at 3.

⁴⁵⁶ *Id.*

⁴⁵⁷ *Id.*

⁴⁵⁸ *Id.*

⁴⁵⁹ See Niessse & Thieme, *supra* note 452.

⁴⁶⁰ Declaration of Kimberley [last name redacted] ¶¶ 6–11 (attached as Exhibit 186).

⁴⁶¹ Declaration of Lazar [last name redacted] ¶¶ 4, 6–7 (attached as Exhibit 187).

SECTION III: GEORGIA'S SYSTEMIC SUPPRESSION

- Kimberley and Lazar were not alone: numerous other voters experienced similarly long waits—lasting up to the length of a full workday—and observed people leaving lines during the full-day waits to vote.⁴⁶²
- Fulton County voter Darra drove by her polling place in the morning and saw a line longer than she had ever seen before, so she returned later with her mother. When she returned at 5:00 p.m., she was shocked to see a line that extended down the street including people waiting since 12:30 p.m. Her sixty-five-year-old mother could not stand for multiple hours and learned there would be an approximately three-hour wait until there would be a spot at which she could lean on something. There was nowhere to sit, so Darra's mother left without voting. Darra finally voted at approximately 10:00 p.m., five hours after she had arrived.⁴⁶³
- Darra's polling place, Christian City, an assisted living community south of Atlanta, was the last polling place in Georgia to close, well after midnight.⁴⁶⁴ According to the *Atlanta Journal-Constitution*, there were 642 voters throughout the day at the

⁴⁶² See Declaration of Joseph [last name redacted] ¶¶ 14, 24 (attached as Exhibit 188) (describing waiting seven hours to vote and watching numerous people leave the line before voting); Declaration of Shari [last name redacted] ¶¶ 4-17 (attached as Exhibit 189) (describing waiting seven hours to vote and casting a ballot after 10:00 p.m.); Declaration of Elizabeth [last name redacted] ¶ 4 (attached as Exhibit 190) (describing waiting more than five hours to vote and observing many other potential voters leave the line before voting, in part because of a forty-five-minute rain storm); Declaration of Catherine [last name redacted] ¶¶ 3-4, 9 (attached as Exhibit 191) (describing waiting more than five hours to vote, watching one other potential voter leave before voting, and only a few machines being used because of the slow speed of the check-in process for voters); see also Declaration of Katherine [last name redacted] ¶¶ 8-9 (attached as Exhibit 192) (describing waiting for more than six hours to vote); Declaration of Ian [last name redacted] ¶¶ 3-4 (attached as Exhibit 193) (describing waiting in line for an hour and a half in the morning before having to leave for work, and coming back at 3:30 p.m. and waiting in a line that was approximately a quarter of a mile long and took three hours); Declaration of Kimberly [last name redacted] ¶¶ 9, 18 (attached as Exhibit 194) (explaining a six-hour wait and comparing the six voting machines at the polling place to the eighteen to twenty voting machines to which she was accustomed at her usual voting place); Declaration of Kyla [last name redacted] ¶¶ 7, 9 (attached as Exhibit 195) (describing a five-hour wait to vote at a polling place in a "predominantly black area of town"); Declaration of Christina from Fulton [last name redacted] ¶¶ 6, 8 (attached as Exhibit 196) (describing a wait time of more than four hours to vote and explaining that "[i]f you were lucky enough to find a place to park, you then had to walk a long way to get to the end of the line," which made her "worried for any senior citizen that might be forced to walk for [sic] that distance to vote"); Declaration of Allison S. from Fulton [last name redacted] ¶ 3 (attached as Exhibit 197) (describing having waited four and a half hours to vote); Declaration of Thomas [last name redacted] ¶ 33 (attached as Exhibit 198) (describing a wait of more than five hours to vote); Declaration of Brianna [last name redacted] ¶¶ 5-6 (attached as Exhibit 199) (describing a four-hour wait to vote, exacerbated by a medical disability making it difficult for her to stand for extended periods of time); Declaration of Grace [last name redacted] ¶¶ 7-8 (attached as Exhibit 200) (describing her experience of waiting an hour to vote before having to leave for work); Declaration of Alli [last name redacted] ¶ 11 (attached as Exhibit 201) (documenting lines over five hours long).

⁴⁶³ Declaration of Darra [last name redacted] ¶¶ 4-7, 10, 13 (attached as Exhibit 202).

⁴⁶⁴ See Niese & Thieme, *supra* note 452.

SECTION III: GEORGIA'S SYSTEMIC SUPPRESSION

polling location, and the last voter was not checked in until 12:21 a.m.⁴⁶⁵ The polling place is within Union City, an Atlanta suburb nearly eighty-eight percent Black.⁴⁶⁶

- Fulton County voter Lucille, seventy-one years old, arrived at 9:00 am to vote before work. She had to leave for work before reaching the front of the line. She returned at 4:00 p.m., when the line was shorter; nevertheless, the line hardly moved for the following hour and Lucille had to go home because she could not wait outside due to the heat at that hour. She returned at 6:30 p.m., only to find the line longer than when she had left. She physically could not wait in the line and left, hoping to return before 9:00 p.m., when the polls closed. Lucille ultimately could not return to the poll.⁴⁶⁷
- Chatham County voter Matthew went to vote at 2:00 p.m. There were only five people in line, but only one of the four voting machines was working. When Matthew got to the machine to vote, it also stopped working. The poll worker asked the people waiting to come back later. At approximately 4:00 p.m., Matthew had to go to work and asked for a provisional ballot.⁴⁶⁸
- Fulton County voter Canute immigrated to the United States in 2012 and became a naturalized citizen in February 2019.⁴⁶⁹ Canute was eager to vote in his first election and attempted to apply for an absentee ballot three times to minimize potential exposure to the COVID-19 virus and protect his family members.⁴⁷⁰ When he received no response by June 5, 2020, he went to vote in person for the June 2020 Primary.⁴⁷¹ He found over 200 people in line when he arrived at his polling place at 3:50 p.m.⁴⁷² He waited for nearly five hours, mostly outside in the rain.⁴⁷³ Canute recalled

⁴⁶⁵ *Id.*

⁴⁶⁶ Ex. S22, Fowler, *supra* note 421.

⁴⁶⁷ Declaration of Lucille [last name redacted] ¶¶ 6, 8–9 (attached as Exhibit 203); see also Declaration of Kiplyn [last name redacted] ¶¶ 11–12, 17 (attached as Exhibit 204) (explaining that her eighty-one-year-old father waited more than three hours to vote early in the June 2020 primary election and was not offered the opportunity to advance in line or be seated during the wait outside the polling place on the basis of his age).

⁴⁶⁸ Declaration of Matthew [last name redacted] ¶¶ 3, 5 (attached as Exhibit 205).

⁴⁶⁹ Declaration of Canute [last name redacted] ¶ 3 (attached as Exhibit 206).

⁴⁷⁰ *Id.* ¶ 4.

⁴⁷¹ *Id.* ¶ 5.

⁴⁷² *Id.*

⁴⁷³ *Id.* ¶¶ 5–9.

SECTION III: GEORGIA'S SYSTEMIC SUPPRESSION

watching a gentleman who had trouble walking and standing sit on the wet ground until the next time the line moved.⁴⁷⁴

- DeKalb County voter Raye learned that his precinct voting location had been moved without notice. When he arrived at his new location, he found that three polling locations had been consolidated, though each precinct had a separate area for voting.⁴⁷⁵ Raye waited nearly an hour and a half to vote.⁴⁷⁶ He observed that the precinct lines for the two primarily white precincts were much shorter and better managed, with ten to twelve active poll workers and easy access to voting machines, whereas his precinct—which was a predominantly Black precinct—had only two intake poll workers and was much more cramped.⁴⁷⁷

Again, in 2020, voters were not consistently offered the opportunity to vote by provisional or emergency ballot when appropriate. Even where provisional ballots were offered, polling places often ran out of ballots or envelopes:

- Fulton County voter Nolan waited in line at a polling place where voting hours were extended and stayed in line to vote a provisional ballot. Nolan overheard the poll manager saying that the polling place had run out of provisional ballot envelopes, and voters were told to fold their ballots in half and place them in a bag without external envelopes. As Nolan put it: “It made me feel like I was witnessing voter suppression in action. Why were there not enough envelopes? I felt like all the ballots in that bag would not be counted. They could be tampered with. There were about 100 people behind me yet to vote.”⁴⁷⁸
- DeKalb County voter Meredith tried to vote in person after not timely receiving her absentee ballot. She had learned that she could cancel her absentee ballot at her polling place and vote in person. After waiting for two hours in line, she was told that she could not vote on the machines because she had requested an absentee ballot, and that the polling place did not have the paperwork to allow her to cancel her absentee ballot. When she asked for a provisional ballot, she was told the polling place had no provisional ballots either and that individuals could only vote on the machines. Meredith had to leave for work and could stay no longer. As Meredith

⁴⁷⁴ *Id.* ¶ 6.

⁴⁷⁵ Declaration of Raye [last name redacted] ¶¶ 4-5 (attached as Exhibit 207).

⁴⁷⁶ *Id.* ¶ 7.

⁴⁷⁷ *Id.* ¶ 10.

⁴⁷⁸ Declaration of Nolan [last name redacted] ¶¶ 3-7 (attached as Exhibit 208).

SECTION III: GEORGIA'S SYSTEMIC SUPPRESSION

explained afterward, "It was very discouraging. I think a lot of people didn't even try to vote, because it was too hard."⁴⁷⁹

And again, many of these problems were due to grossly inadequate poll worker training:

- Before the June 2020 election, Anthony of Gwinnett County was asked to be a poll manager at a polling place.⁴⁸⁰ He was "apprehensive about taking on the responsibility" because he had "zero experience," but he was assured that he "would be working with six other poll workers and that there would be experienced poll workers" at the polling place.⁴⁸¹ Anthony received "pitiful" training that "didn't make up for [his] lack of experience." As he explained,

I didn't receive, for example, any meaningful training on how to handle Election Day voters who had received, but not submitted absentee ballots. Nor did I receive any meaningful training on how to handle provisional ballots. And I received only a passing mention about what to do if a voter who showed up at the polling place wasn't listed on the voter list loaded to our Poll Pads. Managers did have a big binder they could reference on Election Day that apparently had a lot of this information in it—but it was about the size of a Webster's Dictionary and, unless you knew where to look, almost impossible to find what you needed. And more fundamentally, I never learned, during training or otherwise, how to set up a polling place or how and why we move voters from one station to the next. The closer we got to June 9th, the less prepared I felt.⁴⁸²

- Anthony explained that his polling location was supposed to receive the equipment, including the voting machines, on the Friday before Election Day, but no one showed up. No one could tell him where the machines were or when they would arrive. Late Monday night, he received an email that if his polling location had not yet received equipment, they were to use the backup emergency paper ballots, of which the location had a limited supply.⁴⁸³
- On Election Day, Anthony opened the polling place without ballot marking devices, scanners, printers, voting machines, or the backup power supply

⁴⁷⁹ Declaration of Meredith [last name redacted] ¶¶ 2, 4, 9-12 (attached as Exhibit 209).

⁴⁸⁰ Declaration of Anthony [last name redacted] ¶ 8 (attached as Exhibit 210).

⁴⁸¹ *Id.*

⁴⁸² *Id.* ¶ 9.

⁴⁸³ *Id.* ¶ 10.

SECTION III: GEORGIA'S SYSTEMIC SUPPRESSION

- needed to run this equipment. Some voters who showed up left when they learned that they would be using paper ballots. Over four hours after the polls opened, at 11:30 a.m., the polling place received all of its equipment.⁴⁸⁴
- Anthony was told there would be six other poll workers, but there were only three; likewise, he was told two Assistant Managers must be on site, but there was only one. None had any experience. Nor were any election officials available at the phone number he had been given to call if problems occurred, which number he dialed several times. As Anthony recalled, "I just wish we had more help."⁴⁸⁵
 - Less than an hour before the polls closed, the polling place was told that if the polling place had used emergency ballots during the day, the poll workers had to scan them individually into a voting machine; if the machine rejected an emergency ballot, the poll workers had to duplicate the ballots by hand and scan the duplicate. The poll workers had received no training on this process and this was the first time Anthony had heard about duplicating votes by hand. The poll workers did not feel comfortable duplicating ballots and provided any ballots that the machine did not accept to the county elections office instead of duplicating them.⁴⁸⁶
 - Anthony continued to complete the closing procedures late into the night, but was cut short when a county elections official called him around midnight and told him to "stop whatever [he] was doing, throw everything, including ballot materials, into a bag, and bring to the County elections office."⁴⁸⁷

Voters faced similar difficulties in the 2020 General Election.

- Chatham County voter Donna planned to vote early in the 2020 election. She arrived at her polling place at 8:15 a.m. on October 12, 2020, and found a line wrapped around the building.⁴⁸⁸ She estimated a thousand people were waiting in line. She

⁴⁸⁴ *Id.* ¶ 11.

⁴⁸⁵ *Id.* ¶ 12.

⁴⁸⁶ *Id.* ¶ 13.

⁴⁸⁷ *Id.* ¶ 14.

⁴⁸⁸ Declaration of Donna from Chatham [last name redacted] ¶ 4 (attached as Exhibit 211).

SECTION III: GEORGIA'S SYSTEMIC SUPPRESSION

took eight hours and thirty-five minutes to vote.⁴⁸⁹ As Donna waited, she observed the difficulties faced by the other voters in line.⁴⁹⁰

- Donna saw a mother waiting with her daughter for her daughter's first voting experience but who had to eventually leave after three hours in line to go to work.⁴⁹¹
- Donna saw an older gentleman who had waited in line for five hours pass out from the heat. Others in line offered him water and an ambulance arrived, but he declined to go in the ambulance, wanting to vote. He was eventually taken to a shorter line, with blood still on his forehead.⁴⁹²
- About four hours into waiting, Donna noticed that new people stopped joining the line after seeing long lines and fewer places to park.⁴⁹³
- When Donna reached the inside of the polling place, she noticed that the "hold-up seemed to be at the point where people had to verify their ID," and there were only six stations with poll pads for checking voters in.⁴⁹⁴ There were ten ballot marking devices and two scanners.⁴⁹⁵
- Clayton County voter Alvin went to vote early and waited approximately five and a half hours to cast a ballot.⁴⁹⁶ Alvin, sixty-six years old, went to vote with a friend, eighty-one years old, but was "not told that [they] could wait in a shorter line for elderly voters," and "[t]here was no place to sit while waiting in in line."⁴⁹⁷ Alvin

⁴⁸⁹ *Id.* ¶ 10.

⁴⁹⁰ *Id.* ¶¶ 5-8.

⁴⁹¹ *Id.* ¶ 5.

⁴⁹² *Id.* ¶ 6.

⁴⁹³ *Id.* ¶ 7.

⁴⁹⁴ *Id.* ¶ 9.

⁴⁹⁵ *Id.*

⁴⁹⁶ Declaration of Alvin [last name redacted] ¶ 4 (attached as Exhibit 212).

⁴⁹⁷ *Id.* ¶ 5.

SECTION III: GEORGIA'S SYSTEMIC SUPPRESSION

observed approximately 1,000 people in line to vote when they arrived, and he witnessed about twelve people leave the line while he was waiting.⁴⁹⁸

- Houston County voter Keli went to vote on the first day of early voting for the 2020 General Election and arrived at 7:50 a.m.⁴⁹⁹ When she arrived, “the line wrapped around the three sides of the courthouse.”⁵⁰⁰ The polls opened at 8:00 a.m.⁵⁰¹ Keli went with her two sons, who were also eligible to vote.⁵⁰² They waited in line for nearly seven hours, and Keli had to make up the missed day of work by working additional hours for three days.⁵⁰³
- Gwinnett County voter Eddie had a similar experience. He arrived at his polling place during early voting for the 2020 General Election at 7:30 a.m. and did not cast his ballot until 4:15 p.m.—nearly nine hours later.⁵⁰⁴ “By [his] estimates, roughly 90 to 95 percent of the people in line were [people of color].”⁵⁰⁵ Once he was inside the building, he took forty-five minutes to cast his vote using a ballot marking device.⁵⁰⁶ Only four of the thirteen machines were being used.⁵⁰⁷
- Clayton County voter Donna went to vote on the first day of early voting.⁵⁰⁸ She arrived at 7:23 a.m., and the polls opened at 8:00 a.m.⁵⁰⁹ She waited nearly five hours to vote, departing the polls at 12:17 p.m.⁵¹⁰ She observed that the ballot drop box was “covered in plastic” and locked when three voters attempted to turn in their ballots; that only two people could vote at once at various points because of malfunctioning

⁴⁹⁸ *Id.* ¶¶ 6-7.

⁴⁹⁹ Declaration of Keli [last name redacted] ¶ 4 (attached as Exhibit 213).

⁵⁰⁰ *Id.*

⁵⁰¹ *Id.*

⁵⁰² *Id.* ¶ 5.

⁵⁰³ *Id.* ¶¶ 6, 14.

⁵⁰⁴ Declaration of Eddie [last name redacted] ¶ 4 (attached as Exhibit 214).

⁵⁰⁵ *Id.* ¶ 5.

⁵⁰⁶ *Id.* ¶ 6.

⁵⁰⁷ *Id.* ¶ 7.

⁵⁰⁸ Declaration of Donna from Clayton [last name redacted] ¶ 4 (attached as Exhibit 215).

⁵⁰⁹ *Id.*

⁵¹⁰ *Id.* ¶ 12.

SECTION III: GEORGIA'S SYSTEMIC SUPPRESSION

voting machines, and that at least six people left the line while she was waiting.⁵¹¹ When Donna communicated with her friends who lived north of her, she heard they voted in twenty or thirty minutes, and felt her long wait time was tied to the fact that she lives and votes in a predominantly Black community.⁵¹²

- Cobb County voter Melanie arrived at 6:50 a.m. and left at 5:30 p.m.—having waited in line for over ten and a half hours to vote.⁵¹³ During the day, poll workers informed people waiting in line that cars parked in the neighborhood were being towed, which appeared to cause people to leave the line.⁵¹⁴
- Fulton County voter Jenny, sixty-seven years old, waited over three hours to vote.⁵¹⁵ Because of her medical condition, she could not walk home after standing in line for so long.⁵¹⁶ She saw another woman in line pass out and require medical attention during the wait.⁵¹⁷
- Fulton County voter Zoe waited for five hours to vote early in the 2020 General Election, finding “no written or oral instruction” for voters about how to use new voting machines.⁵¹⁸
- Fulton County voter Barbara waited over five and a half hours to vote early in the 2020 General Election, finding only four working voting machines of the ten inside the polling place and only two poll workers at the check-in desk, where the “poll workers admitted that they were understaffed [and] spread too thin.”⁵¹⁹

⁵¹¹ *Id.* ¶¶ 12-14.

⁵¹² *Id.* ¶ 14.

⁵¹³ Declaration of Melanie from Cobb [last name redacted] ¶¶ 7, 25 (attached as Exhibit 216).

⁵¹⁴ *Id.* ¶¶ 20-21.

⁵¹⁵ Declaration of Jenny [last name redacted] ¶ 8 (attached as Exhibit 217).

⁵¹⁶ *Id.* ¶ 8.

⁵¹⁷ *Id.*; see also Declaration of Regina [last name redacted] ¶ 16 (attached as Exhibit 218) (describing an eight-hour wait, after which “there were still approximately 500 people in line” and which led to “aches and pains” from which it took “three days to recover”).

⁵¹⁸ Declaration of Zoe [last name redacted] ¶ 15 (attached as Exhibit 219).

⁵¹⁹ Declaration of Barbara from Fulton [last name redacted] ¶ 5, 9 (attached as Exhibit 220); see also Declaration of RT [last name redacted] ¶¶ 5, 7 (attached as Exhibit 221) (explaining a wait of more than five hours to vote, and being told by the poll manager that “they didn’t expect this large of a turnout, the people working the poll were new, they didn’t have enough people for this poll, and that they were experiencing similar under staffing [*sic*] issues and delays at all the Clayton County polls”).

SECTION III: GEORGIA'S SYSTEMIC SUPPRESSION

- Chatham County voter Dorothy waited to vote for nearly eight hours.⁵²⁰ While waiting, she observed emergency medical technicians (“EMTs”) be called for someone inside the building. EMTs were called again for someone waiting in line who had fallen and hit his head, apparently due to dehydration; that person was taken to the hospital.⁵²¹
- Numerous other voters experienced similarly burdensome wait times and lines to vote in the 2020 General Election.⁵²²

Voters in the January 2021 Senate runoff election once again faced unacceptably long lines.⁵²³

2. Voting Machines

Despite rising voter registration numbers, the State has failed to properly supply the counties with adequate and working voting machines and electronic poll books to meet voters’ needs. This failure has contributed to long lines at polling places, delays in voting, and effective disenfranchisement.

The Secretary of State knows insufficient numbers of working voting machines could contribute to, if not outright cause, hours-long lines for voting. This is not new. During the 2016 election, the Secretary of State received numerous complaints from voters who waited hours to vote or could not vote because of a lack of working voting machines.⁵²⁴ Despite this

⁵²⁰ Declaration of Dorothy [last name redacted] ¶ 10 (attached as Exhibit 222).

⁵²¹ *Id.* ¶¶ 5-6.

⁵²² See Declaration of Bryan [last name redacted] ¶¶ 23, 27 (attached as Exhibit 223) (explaining a seven-hour wait to vote on the first day of early voting); Declaration of Varana [last name redacted] ¶¶ 3, 6 (attached as Exhibit 224) (describing a wait of more than eight hours to vote); Declaration of JoAnne [last name redacted] ¶ 5 (attached as Exhibit 225) (explaining a wait of more than four hours on the first day of early voting and describing how she had to work until 9:00 p.m. that night “to offset how long [she] had waited”); Declaration of Matt [last name redacted] ¶¶ 4, 13 (attached as Exhibit 226) (describing five-hour wait to vote); Declaration of Courtney from Cobb [last name redacted] ¶ 10 (attached as Exhibit 227) (describing a five-and-a-half-hour wait to vote); Declaration of Jamie [last name redacted] ¶ 5 (attached as Exhibit 228) (describing an eight-hour wait to vote).

⁵²³ See Declaration of Anceta [last name redacted] ¶¶ 5, 9 (attached as Exhibit 229) (describing a four and a half-hour wait to vote during early voting for the runoff election and describing how there were “only 10 ballot machines at [the] location and 2 polling locations in Coweta County with a population of approximately 150,000 people”).

⁵²⁴ See, e.g., Email to Election Complaints from R. Hancock (Nov. 9, 2016), State-Defendants-00330810 (attached as Exhibit 230) (voter complaint of two-hour wait, with only six voting machines for hundreds of people); Email to Election Complaints from C. Hatcher (Nov. 8, 2016), State-Defendants-00332339 (attached as Exhibit 231); Deposition of Chris Harvey, *Fair Fight Action, Inc. v. Raffensperger*, No. 1:18-cv-05391-SCJ (N.D. Ga. Dec. 5, 2019) Tr. 286:18-20 (attached as Exhibit 232) (confirming long lines); Ex. 215, Declaration of

SECTION III: GEORGIA'S SYSTEMIC SUPPRESSION

knowledge, the Secretary of State failed to adequately address this problem and continued the practices that led to inadequately provisioned polling locations. The Secretary of State operates a website from which county officials can order election supplies,⁵²⁵ and the Secretary of State is further responsible for sending these supplies to the counties.⁵²⁶ The Secretary of State does not always supply the counties with the requisite materials, and ultimately decides how many voting machines, printers, electronic poll books, and other related supplies the counties will receive.⁵²⁷

Though functionally responsible for voting supplies received by each county and though uniquely positioned to understand how county-by-county decisions may affect the State, the Secretary of State does not substantially aid the counties in determining how many supplies to order.⁵²⁸

The Secretary of State's failure to properly furnish the counties with voting equipment, despite its knowledge of the delays this failure could cause, resulted in hours-long lines and citizens being unable to vote.

- Chatham County voter Kevin arrived at his voting location at 9:00 a.m. on Election Day in 2018 and observed that only seven voting machines were available for use, which resulted in voters waiting over an hour to vote. This wait time increased during the day as the number of operating machines decreased.⁵²⁹
- Angel of Fulton County, a citizen observer, noted that a voting location had only three operable voting machines at the start of the day, when "[g]iven the anticipated voter volume, there should have been 10-12." While five additional machines were later brought to this voting location, Angel observed that no machines came with the proper equipment to make them operable. Angel observed dozens of voters leave the

Donna from Clayton [last name redacted] ¶ 13 (observing that only a few of the sixteen voting machines at her voting location were working properly).

⁵²⁵ Ex. 90, Aug. 16, 2019, C. Harvey 30(b)(6) Dep. 161:17-162:12.

⁵²⁶ 30(b)(6) Deposition of Chris Harvey, Ga. Sec'y of State Elections Dir., *Fair Fight Action*, No. 1:18-cv-05391-SCJ (N.D. Ga. Jan. 6, 2020) Tr. 10:3-11:12 ("Jan. 6, 2020, C. Harvey 30(b)(6) Dep.") (attached as Exhibit 233).

⁵²⁷ Ex. 90, Aug. 16, 2019, C. Harvey 30(b)(6) Dep. 170:1-20; Ex. 233, Jan. 6, 2020 C. Harvey 30(b)(6) Dep. 20:17-21:21.

⁵²⁸ Ex. 90, Aug. 16, 2019, C. Harvey 30(b)(6) Dep. 170:1-20.

⁵²⁹ Ex. 164, Declaration of Kevin from Chatham [last name redacted] ¶ 3; *see also* Declaration of Amanda from Clayton [last name redacted] ¶ 8 (attached as Exhibit 234) (noting poll workers' statements that not all of the voting machines were being used, though they were not broken).

SECTION III: GEORGIA'S SYSTEMIC SUPPRESSION

line out of frustration, and believed that hundreds of voters could not cast their votes because of the problems at this location.⁵³⁰

- Anthony, a Poll Manager for Gwinnett County during the June 2020 primary, was forced to open the voting location without voting machines, ballot marking devices, scanners, printers, or backup power supply. Though the poll location was supposed to receive this equipment the Friday before Election Day, it did not arrive until over four hours after the polls opened. Anthony observed voters leaving the polling location after being told that they would have to use a paper ballot to vote.⁵³¹

Many voters who stood in hours-long lines to vote on Election Day in November 2018 observed that their polling places had fewer voting machines than in past elections.

- Cobb County voter Tunnizia—who stood in line for hours and lost two hours of pay because of the long line to vote—observed there were only six regular voting machines and one ADA-accessible voting machine, and recalled there had been twice as many machines at their polling place in the 2016 General Election.⁵³²
- Fulton County voter Tobias arrived at the voting location around 8:30 a.m. and waited for one hour in the rain, and two additional hours inside, before voting. A regular voter since 2002, Tobias observed there were only about ten voting machines, “considerably fewer than previous elections.”⁵³³
- Cobb County voter Jennifer, a regular voter for over a decade, waited for two hours to vote. Unlike in previous elections, Jennifer observed only seven regular voting machines and one machine that was ADA-accessible, a far lower number of machines than in past elections.⁵³⁴
- Fulton County voter Sara arrived at her voting location fifteen minutes before it opened and waited six hours to vote. Though her voting location always had six

⁵³⁰ Ex. 169, Declaration of Angel [last name redacted] ¶ 4; *see also* Declaration of Scott [last name redacted] ¶¶ 8-10 (attached as Exhibit 235) (observing only one scanner available for every seventeen voting machines and voters forced to use provisional ballots); Declaration of Shana [last name redacted] ¶ 11 (attached as Exhibit 236) (observing only one scanner for seven voting machines).

⁵³¹ Ex. 210, Declaration of Anthony [last name redacted] ¶¶ 10-11; *see also* Declaration of Tyre [last name redacted] ¶ 5 (attached as Exhibit 237) (observing that poll workers were “clearly” not prepared to operate the voting machines and noting poll manager’s statement that voting machines did not arrive until the night before Election Day).

⁵³² Ex. 161, Declaration of Tunnizia [last name redacted] ¶ 4.

⁵³³ Declaration of Tobias [last name redacted] ¶ 3 (attached as Exhibit 238).

⁵³⁴ Declaration of Jennifer from Cobb [last name redacted] ¶ 3 (attached as Exhibit 239).

SECTION III: GEORGIA'S SYSTEMIC SUPPRESSION

voting machines, Sara observed only two machines in operation. One of these two machines broke down after Sara had been in line for two hours.⁵³⁵

- Fulton County voter Kimberly waited for over six hours before entering the voting center. Once finally inside, Kimberly observed that the location had only six voting machines, even though there had been eighteen to twenty machines in every prior election.⁵³⁶

Besides failing to furnish equipment, the Secretary of State failed to provide adequate training on the proper use of new voting machines. Because the Secretary of State did not timely provide a poll worker manual and new voting equipment, Fulton County had to delay its training schedule, leaving the county with just over a month to prepare for the March 2020 primary election.⁵³⁷ Similarly, with less than two months before a primary, Bulloch County had yet to receive over 180 new voting machines, and could not train its 150 poll workers without the devices.⁵³⁸ These failures led to preventable Election Day machine issues—issues about which the Secretary of State was already aware due to pilot tests conducted in November 2019.⁵³⁹ As late as June 2020, many poll workers did not know how to assemble, let alone operate, the new voting machines.⁵⁴⁰

- For example, Walter, who served as a poll manager at a Fulton County polling place during the June 2020 election, stated that his polling place “needed twice as many

⁵³⁵ Declaration of Sara [last name redacted] ¶¶ 5-6 (attached as Exhibit 240).

⁵³⁶ Ex. 194, Declaration of Kimberly [last name redacted] ¶¶ 9, 18.

⁵³⁷ Candace Wheeler, *Closer Look: Fulton Elections Director Talks 2020 Voting; Atlanta City Councilmember Responds to Tensions Between US and Iran*, WABE (Jan. 9, 2020), <https://www.wabe.org/episode/closer-look-fulton-elections-director-talks-2020-voting-city-councilmember-farokhi-responds-to-tensions-between-us-and-iran>.

⁵³⁸ Al Hackle, *So Far Just 2 New Voting Machines*, STATESBORO HERALD (Jan. 3, 2020), <https://www.statesboroherald.com/local/so-far-just-2-new-voting-machines> (attached as Exhibit S24).

⁵³⁹ Mark Niese & Alan Judd, *Election Fiasco Reveals Flaws with Georgia's New Voter System*, ATLANTA J.-CONST. (June 13, 2020), <https://www.ajc.com/news/state--regional-govt-politics/election-fiasco-reveals-flaws-with-georgia-new-voting-system/FoZjtLGPYccOrHzXHfPbDL/>; see also Declaration of Mariel [last name redacted] ¶ 20 (attached as Exhibit 241) (observing that voting machines remained down more than two hours after polls opened); Declaration of Wynne [last name redacted] ¶¶ 6-7 (attached as Exhibit 242) (observing that the poll workers did not have much guidance or information on how to troubleshoot the voting machines).

⁵⁴⁰ *Id.*; see also Declaration of Shea [last name redacted] ¶ 5 (attached as Exhibit 243) (observing, as poll watcher, that only two poll workers were present when voting opened, neither of whom had any training on the new software or knew how to set it up); Declaration of Benjamin from Fulton [last name redacted] ¶ 16 (attached as Exhibit 244) (noting poll worker's statement that they were not allowed to do a “dry run” of the voting machines before primary day); Declaration of Gail [last name redacted] ¶ 8 (attached as Exhibit 245) (observing that the voting location was understaffed and included poll workers who were “fumbling around and did not seem to know what was going on”); Declaration of Courtney from Gwinnett [last name redacted] ¶

SECTION III: GEORGIA'S SYSTEMIC SUPPRESSION

voting machines, printers and poll pads” than it had, and that “each poll should have 1-2 technicians assigned there full time to troubleshoot.”⁵⁴¹

3. Provisional Ballots

Georgia voters have also experienced significant hurdles to voting provisionally—despite provisional ballots’ critical role as a “failsafe” mechanism to ensure that eligible voters can cast a ballot when they otherwise could not do so.⁵⁴² Voter experiences make clear that poll workers are not trained adequately to do the on-the-ground work of administering provisional ballots. And eligible Georgians have lost the opportunity to vote.

a. *Background on Provisional Ballots*

The basic premise behind a provisional ballot is that if a voter’s eligibility cannot be immediately determined, that voter may cast a provisional ballot and record a vote that will be counted if election officials later determine the voter is eligible. In some jurisdictions—like Georgia, until recent legislation—provisional ballots also allow voters to vote outside their assigned precincts.

Provisional ballots are so important to protecting the vote that HAVA mandates their use nationwide.⁵⁴³ HAVA provides:

If an individual declares that such individual is a registered voter in the jurisdiction in which the individual desires to vote and that the individual is eligible to vote in an election for Federal office, but the name of the individual does not appear on the official list of eligible voters for the polling place or an election official asserts that the

6 (attached as Exhibit 246) (observing a poll worker unsuccessfully attempting to unplug and re-plug a faulty voting machine); Declaration of Christina from Chatham [last name redacted] ¶¶ 5, 7 (attached as Exhibit 247) (reporting that some fellow poll workers had not been trained on voting equipment and that poll workers were not trained on issues that may arise with voting equipment); Declaration of Amy [last name redacted] ¶ 3 (attached as Exhibit 248) (observing that poll workers did not know how to resolve issue with voting machines, with problem persisting for multiple hours); Declaration of Ramon [last name redacted] ¶ 9 (attached as Exhibit 249) (observing poll workers attempting to get help because they could not resolve issues with machines); Declaration of Andrea from Fulton [last name redacted] ¶ 8 (attached as Exhibit 250) (observing that poll workers did not know how to turn on the lights in the building, further delaying voting); Declaration of Amanda from Fulton [last name redacted] ¶¶ 10-16 (attached as Exhibit 251) (observing poll workers failing to inform voters that paper ballots need scanning).

⁵⁴¹ Declaration of Walter [last name redacted] ¶¶ 6 (attached as Exhibit 252).

⁵⁴² See, e.g., *Provisional Ballots*, NAT’L CONF. OF STATE LEGISLATURES (July 22, 2021), <https://www.ncsl.org/research/elections-and-campaigns/provisional-ballots.aspx>; *Provisional Ballots*, MIT ELECTION DATA SCI. LAB, <https://electionlab.mit.edu/research/provisional-ballots> (last visited July 23, 2021).

⁵⁴³ See, e.g., *id.*

SECTION III: GEORGIA'S SYSTEMIC SUPPRESSION

individual is not eligible to vote, such individual shall be permitted to cast a provisional ballot,

consistent with HAVA's other requirements.⁵⁴⁴ Under HAVA, "[a]n election official at the polling place shall notify the individual that the individual may cast a provisional ballot in that election."⁵⁴⁵ Further, "[a]t the time that an individual casts a provisional ballot, the appropriate State or local election official shall give the individual written information that states that any individual who casts a provisional ballot will be able to ascertain under the system established [by HAVA] whether the vote was counted, and, if the vote was not counted, the reason that the vote was not counted."⁵⁴⁶

Because provisional ballots are administered by poll workers to individual voters, effective poll worker training is critical to ensure that voters' rights are protected.⁵⁴⁷ The Election Assistance Commission (EAC) recommends "provid[ing] hands on training to poll workers on how to issue and process provisional ballots" and "[u]tiliz[ing] real Election Day scenarios so the poll workers may have an opportunity to think through the procedures and policies and actually complete the necessary paperwork prior to an actual election."⁵⁴⁸ As the EAC puts it:

A local election official knows that poll workers need access to simple, easy-to-use tools to help answer voters' questions on Election Day. When a voter's name cannot be located on the registration list, a poll worker should know to treat that individual as a potential provisional voter. Although it is always preferable for an eligible voter to cast a regular ballot that will not need further validation after he or she leaves the polls, poll workers must provide provisional ballots consistently and without hassle, when appropriate.⁵⁴⁹

Unfortunately, Georgia's processes have not ensured that poll workers provide provisional ballots "consistently and without hassle." The result is that eligible voters have to

⁵⁴⁴ 52 U.S.C. § 21082(a).

⁵⁴⁵ *Id.*

⁵⁴⁶ *Id.*

⁵⁴⁷ See *Election Management Guidelines, Chapter 16, Provisional Ballots*, U.S. ELECTION ASSISTANCE COMM'N 157, https://www.eac.gov/sites/default/files/document_library/files/Election-Management-Guidelines-Provisional-Ballots.pdf (attached as Exhibit 253) ("[P]oll workers will administer any internal elections office policies and procedures for provisional voting on Election Day.")

⁵⁴⁸ *Quick Start Management Guide: Provisional Ballots*, U.S. ELECTION ASSISTANCE COMM'N 7-8 (Oct. 2008), https://www.eac.gov/sites/default/files/document_library/files/Quick_Start-Provisional_Ballots.pdf (attached as Exhibit 254).

⁵⁴⁹ See Ex. 253, *Election Management Guidelines*, *supra* note 547 at 158.

SECTION III: GEORGIA'S SYSTEMIC SUPPRESSION

fight to get their votes counted, or, in the worst cases, are turned away without voting. While practices already in place would not be directly affected by the VRAA, they are yet another example of the need for substantial reforms to Georgia's election processes.

b. Voter Experiences with Provisional Ballots in Georgia

In Georgia, provisional ballots are governed by State law and by State Election Board rules. Georgia voters have historically been entitled by law to cast provisional ballots in several circumstances, including when: (1) voters who cannot be found on the rolls state a good faith belief they are registered in the county where they are trying to vote; (2) voters do not have the required identification (including the identification required because of the Exact Match policy); (3) voters appear to be registered in a precinct other than the one where the voters are attempting to vote and do not have time to go to the correct polling place; and (4) polling places are kept open by court order after hours.⁵⁵⁰

Critically, provisional ballots in Georgia actually work—if they are properly administered. For a variety of reasons, voters in Georgia may have issues with their voter registrations outside their control. For example, voters may register to vote at the Georgia Department of Driver Services, only to have those registrations fail to transfer to the appropriate election officials.⁵⁵¹ In certain cases, voters' information may be improperly "merged" with other voters' information or with old voter records, resulting in inaccurate information about voters' current county of residence or other identifying information.⁵⁵² Similar discrepancies may apply to voters' designated polling places.⁵⁵³

⁵⁵⁰ See Ex. 134[†], O.C.G.A. §§ 21-2-418; Ga. Comp. R. & Regs. 183-1-12-.18 (attached as Exhibit 255). As discussed in more detail in Section IV, Georgia law was recently amended to require voters to only cast ballots within their assigned precincts.

⁵⁵¹ See, e.g., Helpdesk Request from John Hallman (Jan. 22, 2018), State-Defendants-00224899 (attached as Exhibit 256) (IT ticket from SOS employee noting that one county appeared not to have received registration applications from Driver Services for voters whose last names started after the letter 'S'); Helpdesk Request from John Hallman (Feb. 19, 2018), State-Defendants-00225242 (attached as Exhibit 257) (IT ticket from SOS employee stating that some Driver Services registrations appeared not to be available in a county's system).

⁵⁵² See, e.g., Email from Rachelle Thurmond, Dawson Cnty. Official, to Melanie Frechette, Sec'y of State Empl. (June 11, 2018), State-Defendants-00468910, at State-Defendants-00468910-11 (attached as Exhibit 258) (discussing voter whose information had been "merged" with a voter in another county); Email from John Hallman, Sec'y of State Empl., to Brenda Hodges, Charlton Cnty. Official (Jan. 27, 2017), State-Defendants-00158872, at State-Defendants-00158872 (attached as Exhibit 259) ("We constantly receive calls from counties complaining that other counties have incorrectly merged records, so we thought we would encourage the registrars to work together.").

⁵⁵³ See Email from DeKalb Cnty. Voter to Elections Complaint Alerts Account (Nov. 8, 2016), State-Defendants-0023499 (attached as Exhibit 260) (complaint from voter who was repeatedly sent between multiple polling places); Email from Alpharetta Voter to SOS Contact Alerts Account (Apr. 18, 2017), State-

SECTION III: GEORGIA'S SYSTEMIC SUPPRESSION

Provisional ballot administration by poll workers requires poll workers to be trained to understand the importance of provisional ballots to remedy the above issues. It also requires them to be prepared to affirmatively offer provisional ballots—as required by HAVA—to voters who otherwise may not know they can vote provisionally. Georgia voters' experiences make clear that these messages are not being conveyed adequately to poll workers.

In 2018 and then again in 2020, voters were turned away—without being offered provisional ballots—when they did not appear on the rolls or appeared to be registered in a different county.

- Andrea was a poll watcher at a Gwinnett County polling place for the November 2018 General Election. She observed “voters who were turned away and not permitted to vote when the poll workers could not locate the voter’s registration in the Express Poll.” Such voters were not given provisional ballots unless they asked for them.⁵⁵⁴
- Delaney, a Cherokee County voter, is a disabled veteran who uses a service dog in daily life. For the November 2018 General Election, she, her husband, their eight-year-old son, and her service dog went to vote. Her husband was told that he was in the correct location and could vote. Delaney, however, was told that she was assigned to vote in a different polling location; her address on file was a different address from her husband’s address and at a location where she had never lived. She was never offered a provisional ballot and “had no idea that casting such a ballot was an option.” She and her family traveled to another polling location—and again waited in line—so she could vote.⁵⁵⁵
- Gary was a poll watcher at Sumter and Dougherty County polling locations for the November 2018 General Election. At one Dougherty County polling location, he “observed voters being turned away and told that they did not appear on the rolls.” He spoke with some of these voters after they left the polling place, and noticed that several voters he spoke to had “hyphens or apostrophes in their names, or non-traditional spellings of their names.” After he spoke with several of these voters, five voters agreed to ask the poll worker to look at the database again, and ultimately voted on voting machines. Gary also noticed problems with voters who were told they were in the incorrect precinct: “Poll workers variously, without apparent consistency, turned voters away without offering them a provisional ballot or offered a provisional

Defendants-00193941 (attached as Exhibit 261) (complaint from voter who was told that the polling place listed for her registration on the website was the incorrect location).

⁵⁵⁴ Declaration of Andrea from DeKalb [last name redacted] ¶ 6 (attached as Exhibit 262).

⁵⁵⁵ Declaration of Delaney [last name redacted] ¶¶ 2, 6–8 (attached as Exhibit 263).

SECTION III: GEORGIA'S SYSTEMIC SUPPRESSION

ballot with the verbal warning that the voter's provisional vote likely would be rejected."⁵⁵⁶

- James, a Gwinnett County voter, attempted to vote in the November 2018 election and was told he had not voted in the two previous General Election cycles and therefore was not properly registered to vote. He had voted in both 2012 and 2016. He was not offered a provisional ballot and could not vote.⁵⁵⁷
- Robin was a poll watcher at a Clayton County polling location for the November 2018 General Election. She saw voters being sent to other polling locations without being offered provisional ballots, and voters who said they had come from other locations without being offered provisional ballots at those other locations—including voters “who had come to this precinct from another location and were sent away from this location as well without ever being offered a provisional ballot.” She also saw “many people who were told that their name was not on the registration roll even though they believed they were registered to vote, had voted in the past, and had not moved or otherwise altered their voter registration status,” who similarly were not offered provisional ballots.⁵⁵⁸
- Ayesha, a Henry County voter, attempted to vote in the November 2018 General Election, having most recently voted in 2016. She was told that her name was not showing up in the system and that she needed to re-register. The poll workers appeared to have no record of her voting history in Henry County; instead, they only had a record of her address from when she lived in a different county. Ayesha was never offered a provisional ballot and ultimately could not vote.⁵⁵⁹
- Angela, a Paulding County poll watcher during the November 2018 General Election, observed various voters being sent away for being in the wrong polling place or precinct, including relatively close to poll closing. In one case, she saw a voter turned away for not being on the precinct's rolls—and who was not offered a provisional ballot—point out that the voter's roommate could vote at that same precinct. Angela was concerned that voters of color were being turned away more frequently, while white voters were being given provisional ballots.⁵⁶⁰

⁵⁵⁶ Ex. 98, Declaration of Gary [last name redacted] ¶¶ 3–7, 10.

⁵⁵⁷ Declaration of James [last name redacted] ¶¶ 2–3 (attached as Exhibit 264).

⁵⁵⁸ Declaration of Robin [last name redacted] ¶¶ 4–7, 10 (attached as Exhibit 265).

⁵⁵⁹ Declaration of Ayesha [last name redacted] ¶ 3 (attached as Exhibit 266).

⁵⁶⁰ See Declaration of Angela [last name redacted] ¶ 3 (attached as Exhibit 267).

SECTION III: GEORGIA'S SYSTEMIC SUPPRESSION

- Suzanne, a Chatham County poll watcher for the November 2018 General Election, also observed that when voters were listed on the rolls for another precinct, they were not offered provisional ballots even when it was close to closing time. One Board of Elections employee said he did not encourage provisional ballots because they were “too cumbersome and voters would not make the effort to go to the Registrar’s Office within 3 days.”⁵⁶¹
- Candace, a Glynn County voter, waited in the rain with her daughter to vote at their regular polling place for the June 2020 primary. Candace was first told there was a problem with her driver’s license and then told that her registration could not be found. Once her registration was located, she was told at 6:50 p.m. she was at the wrong polling place. It was ten minutes before the polls closed, and she would not have reached the purportedly correct polling place in time to vote. Candace’s daughter was also told that she was assigned to a different polling place, but that polling place was closer and Candace’s daughter was able to drive to that location and voted. Neither Candace nor her daughter was ever offered a provisional ballot.⁵⁶²
- Therese, an assistant poll manager in Cobb County for the November 2020 General Election, expressed concern that poll workers were instructed to tell people who were listed as registered in a different precinct “that they had to leave and vote at their former precinct and complete a change of address form there.”⁵⁶³

Other voters knew to ask for provisional ballots, but were turned away or otherwise discouraged from casting those ballots.⁵⁶⁴

- Benjamin was a poll worker at a Muscogee County polling place for the November 2018 General Election. He observed poll workers at two precincts fail to offer provisional ballots to voters in the wrong precinct, instead telling them to travel to the precincts where they were listed on the voter rolls. When Benjamin told voters

⁵⁶¹ Declaration of Suzanne from Chatham [last name redacted] ¶¶ 5–6 (attached as Exhibit 268).

⁵⁶² Declaration of Candace [last name redacted] ¶¶ 3–8 (attached as Exhibit 269).

⁵⁶³ Declaration of Therese [last name redacted] ¶¶ 3, 5–8 (attached as Exhibit 270). This same person noted that at her polling place, poll workers had to call the county registrar every time an absentee ballot had to be cancelled or a voter had an address or name problem, causing delays. *See id.* ¶ 10.

⁵⁶⁴ Some voters faced the opposite issue: they were not told that if they cast a provisional ballot in a different county than where they were registered, their ballot would not be counted for any races—including statewide races, or they were forced to vote provisionally for improper reasons. Jennifer, a Hall County poll worker, expressed concerns that the Secretary of State was instructing counties not to tell voters that their out-of-county ballots would not be counted. Declaration of Jennifer from Hall [last name redacted] ¶¶ 3–12 (attached as Exhibit 271). Relatedly, Phyllis, a Troup County poll worker for the November 2018 election, expressed concern that she was being told that people needed to vote provisional ballots even for minor spelling errors or similar issues. *See Ex. 85*, Declaration of Phyllis [last name redacted] ¶ 11–14.

SECTION III: GEORGIA'S SYSTEMIC SUPPRESSION

who had been turned away to request provisional ballots, the voters “were refused again,” on the premise that provisional ballots should be given only to voters in the wrong precinct close to closing time. He asked an election supervisor who came to one of the polling locations he observed about provisional ballots, and “[s]he indicated to [him] that the poll workers were under no obligation to inform people that they could vote a provisional ballot but agreed that if asked they should provide the ballot.”⁵⁶⁵

- Eunice, a DeKalb County voter, had voted at the same polling location for the three years she had lived in the county. When she attempted to vote there for the November 2018 General Election, she was told she was not on the voter rolls and could not vote. She knew to ask for a provisional ballot, but was told that if she used a provisional ballot, it would only be thrown out. She ultimately left without voting.⁵⁶⁶
- Frank, a Lee County voter, moved to the county in 2011 and registered to vote in 2018 at a voter registration drive after not voting for several years. When he attempted to vote in the November 2018 General Election, he was told that he was registered to vote in his prior county of residence. Despite asking for a provisional ballot, he was told that he needed to travel to his former county of residence.⁵⁶⁷
- Colleen was a poll watcher at a Fulton County polling location for the November 2018 General Election. She observed a voter stand in line for about an hour, he told she was at the wrong precinct, request a provisional ballot several times because she had to go to work, and then he denied a provisional ballot. The voter was told that she should go to the correct polling place, and Colleen heard the poll manager say that the voter had been “too lazy” to go to her polling place of record.⁵⁶⁸
- Kelly was a poll watcher at a Fulton County polling location for the November 2018 General Election. She saw many voters who were told they were in the wrong precinct, but said they had been voting at the same location for years. She also observed poll workers reject a voter’s request to vote provisionally, and spoke with another voter who said she had been turned away earlier that day. She also saw and heard from a poll worker that some voters had seen on the Secretary of State’s website or on a formal communication information indicating they were supposed to vote at the location, but the “official” database said otherwise. The poll workers

⁵⁶⁵ Declaration of Benjamin from Maryland [last name redacted] ¶¶ 5–6, 8, 10 (attached as Exhibit 272).

⁵⁶⁶ Declaration of Eunice [last name redacted] ¶¶ 2–4 (attached as Exhibit 273).

⁵⁶⁷ Declaration of Frank [last name redacted] ¶¶ 4–9 (attached as Exhibit 274).

⁵⁶⁸ Declaration of Colleen [last name redacted] ¶¶ 3(c)–(i) (attached as Exhibit 275).

SECTION III: GEORGIA'S SYSTEMIC SUPPRESSION

appeared to think there was a “Fulton County rule” that no provisional ballots could be issued before 5:00 p.m.⁵⁶⁹

- Martha, another poll watcher in Fulton County for the November 2018 General Election, observed that when voters were told they were in the incorrect precinct, some were not told about the provisional ballot option, while others were told the ballot likely would not be counted.⁵⁷⁰
- Alexis, a Fulton County voter, arrived to vote for the November 2018 General Election only to be told that she was listed as registered in a different location and with a different middle name. Alexis was informed about the option of voting a provisional ballot, but then was told by another poll worker they would not know how to process the provisional ballot because Alexis appeared to be registered in two precincts. Alexis ultimately did not vote.⁵⁷¹
- Christina, a Bryan County voter, voted in 2017, 2018, and 2019. When she attempted to vote for the June 2020 primary, she was told that her registration showed her as registered in a different county, with a different birthdate. She was told that she could cast a provisional ballot if she wanted, but because the birthdate on her registration in the voter rolls did not match her birthdate, the ballot would probably not be accepted. Christina ultimately did not vote in that election.⁵⁷²

Poll workers are supposed to tell provisional ballot voters how to check the status of their ballots,⁵⁷³ but this did not always occur.

- Shannon was a poll watcher at a Fulton County polling location for the November 2018 General Election. She witnessed no voters being told how to cure a provisional ballot, and observed voters being told that “of course” their ballots would count.⁵⁷⁴
- Chris, a Fulton County voter, confirmed registration on the Secretary of State’s website before voting in the November 2018 General Election. When Chris went to vote, poll workers said the registration address was an address from eight years prior.

⁵⁶⁹ Declaration of Kelly [last name redacted] ¶¶ 5, 9 (attached as Exhibit 276).

⁵⁷⁰ Declaration of Martha [last name redacted] ¶¶ 8–12 (attached as Exhibit 277).

⁵⁷¹ See Declaration of Alexis [last name redacted] ¶ 4 (attached as Exhibit 278).

⁵⁷² Declaration of Christina from Bryan [last name redacted] ¶¶ 2–3, 7–8, 10 (attached as Exhibit 279).

⁵⁷³ See 52 U.S.C. § 21082(a).

⁵⁷⁴ Ex. 167, Declaration of Shannon G. from Fulton [last name redacted] ¶¶ 3, 12.

SECTION III: GEORGIA'S SYSTEMIC SUPPRESSION

Chris could cast a provisional ballot, but was not given any information about how to correct any deficiency in the ballot or how to ensure that the vote was counted.⁵⁷⁵

- Allen, a Cobb County voter, and his wife both changed their voter registrations at DDS after they moved. Although Allen's wife could vote, Allen was told he was in the wrong precinct. He could cast a provisional ballot, but was not given information about whether and how to cure his provisional ballot.⁵⁷⁶
- Julia, a Cobb County voter, moved shortly before the November 2020 General Election. Even though she ensured that her new registration was accurate before the election, she was told on Election Day she was still registered in her prior county of residence. Eventually, she was told she had to vote provisionally, but Julia could not ensure that her vote was counted.⁵⁷⁷
- Dominic, a Fulton County voter, moved at the end of August 2020 and "almost immediately" registered to vote in the new location. When Dominic went to vote on September 29, 2020, poll workers could not find his registration. Not only did Dominic experience difficulty voting at the provisional ballot table as a person with cerebral palsy; he was given no privacy while filling out the ballot. Then, when he asked how to check that the ballot would be counted, he was not instructed how to do so and was told not to worry.⁵⁷⁸
- Kevin, a Fulton County voter, had become a naturalized citizen before the June 2020 primary, but was told that because of COVID-19, he was not fully in the system and would need to vote a provisional ballot. He was eventually told that his provisional ballot had not been counted because the county's records—incorrectly—indicated that he was registered in a different county or was at the wrong polling place.⁵⁷⁹

Georgia election officials have not done enough to ensure that provisional ballots do their job of serving as a failsafe to protect eligible voters' ability to cast their ballots. And the situation is about to get worse. As detailed in Section IV of this report, several voters whose stories are described above would no longer be eligible to cast provisional ballots; under Georgia's new statutory landscape, voters cannot cast a provisional ballot before 5:00 p.m. if they are listed as registered at a different precinct in the same county as the precinct where

⁵⁷⁵ Declaration of Chris [last name redacted] ¶ 3 (attached as Exhibit 280).

⁵⁷⁶ Declaration of Allen [last name redacted] ¶ 3 (attached as Exhibit 281).

⁵⁷⁷ Declaration of Julia [last name redacted] ¶¶ 3–7, 10–14 (attached as Exhibit 282).

⁵⁷⁸ Declaration of Dominic [last name redacted] ¶¶ 3–10 (attached as Exhibit 283).

⁵⁷⁹ Declaration of Kevin from Fulton [last name redacted] ¶¶ 3–16 (attached as Exhibit 284).

SECTION III: GEORGIA'S SYSTEMIC SUPPRESSION

they attempt to vote. Far from ensuring that every eligible voter can cast a vote, Georgia continues to make it more difficult.

4. Voter Intimidation

Eligible voters have immense difficulty casting their votes for a variety of reasons, whether because of barriers to registering or staying registered, waiting in line for hours to vote, asking for a provisional ballot only to be denied, or the myriad other issues described above. Rather than addressing these problems, Georgia's election officials have resorted to baseless insinuations of fraud or impropriety to further intimidate voters and voting rights organizations.

a. *Threatening Letters to Voters*

The Georgia Secretary of State's office has sent intimidating letters to voters who have requested absentee ballots, but were flagged as having filled out a NCOA form with the U.S. Postal Service. These letters from State election officials threaten voters with potential criminal penalties and can have a chilling effect on voter participation—particularly among voters from communities treated unjustly by the criminal justice system.

In December 2020, the Secretary of State's office sent threatening letters signed by Elections Director Chris Harvey to 8,000 Georgia voters who requested absentee ballots to vote in the January Senate runoff election but were flagged as having filled out a NCOA form requesting a change to an out-of-state address.⁵⁸⁰ In January and February, the office sent letters signed by Chief Investigator Frances Watson to a similar set of people—voters who had voted by absentee ballot in the November election, but were flagged as having completed a NCOA form.⁵⁸¹ These letters, warning voters they could be breaking the law by voting, are thinly-veiled attempts to deter eligible Georgia voters temporarily residing out-of-state from voting in Georgia elections, despite that every Georgia resident may vote by mail and have the ballot sent to an out-of-state address. In response to an open records request for the list of voters who received such letters, the Secretary of State's office stated that the letters are associated with “an open case and the information . . . is in regards to a pending and ongoing investigation.”⁵⁸²

⁵⁸⁰ Letter from Chris Harvey, Elections Director, to electors identified on NCOA voting list (Dec. 15, 2020) (attached as Exhibit 285).

⁵⁸¹ Letter from Frances Watson, Chief Investigator, to electors identified on NCOA voting list (Jan. 15, 2021) (attached as Exhibit 286); Letter from Frances Watson, Chief Investigator, to electors identified on NCOA voting list (Feb. 15, 2021) (attached as Exhibit 287).

⁵⁸² Email from ORR Administration to Nick [last name redacted] (Mar. 31, 2021) (attached as Exhibit 288).

SECTION III: GEORGIA'S SYSTEMIC SUPPRESSION

b. December 2020 Letters

The December 2020 letters, sent just three weeks before the runoff election, threatened voters with potential criminal penalties, reminding them they could be guilty of a felony if they cast a ballot in the runoff. The State's purported justification for sending the letters was these voters had filled out a NCOA form for an out-of-state address.⁵⁸³ However, in a letter to members of Congress refuting claims of voter fraud in the 2020 election, Secretary of State Brad Raffensperger emphasized that the NCOA data-matching used by President Trump's allies to allege that many ineligible voters cast ballots was "[k]nown to be unreliable and produce a preponderance of 'false positives.'"⁵⁸⁴ As Secretary Raffensperger acknowledged, filling out a NCOA form indicating a new out-of-state address does not establish that a person is ineligible to vote in Georgia: "There are many people who live out of state who are still completely legitimate Georgia residents, including military and overseas citizens, people in government service, college students, temporary workers on assignment somewhere else, and voters temporarily caring for family [sic] others, etc."⁵⁸⁵

Although the letters acknowledged that out-of-state voters might still be eligible to vote in Georgia and stated that "[r]eceipt of this letter does not mean that you are not deemed to be a valid Georgia resident or voter," their practical impact was to put these voters on notice that their conduct was suspect in the eyes of the Secretary of State's office.⁵⁸⁶ The SOS press release announcing the letter initiative framed it as preventing voter fraud and guarding against attempts "to undermine the integrity of the vote in Georgia."⁵⁸⁷ Referring to a vaguely defined group of voters, Secretary Raffensperger said, "[W]e will find you and we will prosecute you to the fullest extent of the law."⁵⁸⁸ Raffensperger also cited these letters in an interview with *Newsmax* in defense of his efforts to make sure "bogus residents" do not vote in Georgia.⁵⁸⁹ The Secretary of State sent these letters to all voters it

⁵⁸³ *Secretary of State Brad Raffensperger Protects Runoffs From Out Of State Voters*, GA. SEC'Y OF STATE, https://sos.ga.gov/index.php/elections/secretary_of_state_brad_raffensperger_protects_runoffs_from_out_of_state_voters (last visited July 23, 2021) (attached as Exhibit 289).

⁵⁸⁴ Letter from Brad Raffensperger, Ga. Sec'y of State, to Members of Congress at 8 (Jan. 6, 2021), [https://sos.ga.gov/admin/uploads/Letter%20to%20Congress%20from%20Secretary%20Raffensperger%20\(1-6-21\).pdf](https://sos.ga.gov/admin/uploads/Letter%20to%20Congress%20from%20Secretary%20Raffensperger%20(1-6-21).pdf) (attached as Exhibit 290).

⁵⁸⁵ *Id.* at 9.

⁵⁸⁶ Ex. 285, Dec. 15, 2020 C. Harvey Letter to electors.

⁵⁸⁷ Ex. 289, *Secretary of State Brad Raffensperger Protects Runoffs From Out Of State Voters*, *supra* note 583.

⁵⁸⁸ *Id.*

⁵⁸⁹ Eric Mack, *Brad Raffensperger to Newsmax TV: Georgia Voter ID Law a Line of Fraud Defense*, NEWSMAX (Dec. 26, 2020), <https://www.newsmax.com/newsmax-tv/georgia-brad-raffensperger-secretary-of-state-election-fraud/2020/12/26/id/1003192/>.

SECTION III: GEORGIA'S SYSTEMIC SUPPRESSION

had identified as filling out a NCOA for an out-of-state address, potentially reducing their participation in the election, despite knowing that most of these voters were eligible to vote in the runoff election. For example, one voter who received such a letter, a college professor at a Georgia university who lived temporarily in another state due to the pandemic, could have been intimidated into sitting out the election even though she maintained residency in Georgia and lawfully requested an absentee ballot for the runoff.⁵⁹⁰ These letters undoubtedly deterred voters who are already disproportionately targeted by the criminal justice system, particularly Black voters.

Georgia's NCOA match process has been plagued by serious problems. While the State has not revealed the exact NCOA matching techniques used to identify the voters for December 2020 letters, the State's past processes for conducting such matching suggests these letters were likely sent to many voters who were improperly flagged as having completed a NCOA for a change of residential address when they had not. As one expert concluded, "the Secretary of State's match process systematically casts too wide a net and does so unnecessarily."⁵⁹¹ Multiple flaws in the Secretary of State's NCOA match process can cause Georgia voters to be erroneously flagged as ineligible, including:

- Using mailing addresses instead of residential addresses;
- Using first and last names for individual matches without additional identifying criteria like birthdates that would distinguish between voters with the same name;
- Not incorporating first names into family matches and not requiring entire address fields to match for individual and family matches (which can trigger, for example, NCOA removal procedures for all "Smiths" in an apartment complex even though only one "Smith" has moved away); and
- Using business change-of-addresses rather than residential addresses.⁵⁹²

Using flawed procedures and under dubious pretenses, the Secretary of State sent letters to thousands of voters, threatening felony charges if they voted in the runoff election. The State's actions constitute voter intimidation,⁵⁹³ as the potential threat would only come to pass if these voters mailed in their ballot, and operated as a targeted effort to influence the electorate for a particular election. It is no accident this tactic was employed after

⁵⁹⁰ Email from Ellen [last name redacted] to Fair Fight Action (Dec. 31, 2020) (attached as Exhibit 291).

⁵⁹¹ Ex. 137, Supplemental McDonald Report at 5.

⁵⁹² *Id.* at 6-8.

⁵⁹³ Voter intimidation is prohibited under federal law. *See* 52 U.S.C.A. § 10101.

SECTION III: GEORGIA'S SYSTEMIC SUPPRESSION

Democrats flipped Georgia in November and when the January runoffs would decide control of the United States Senate.

c. *January and February 2021 Letters*

In January and February, the Secretary of State's office sent similar letters to voters it identified as having cast an absentee ballot in the November 2020 election and flagged as having filed a NCOA form based on NCOA matching.⁵⁹⁴ These letters had an even greater potential to intimidate voters than those sent out in December, because they included a "NCOA voter questionnaire" that asked voters to state whether they were a current resident of Georgia. If voters answered yes to the question, they were asked "to provide a brief statement as to how [they] meet the qualifications for a Georgia Voter."⁵⁹⁵ The instructions to "complete the included questionnaire and return [it] as soon as possible"⁵⁹⁶ suggest that filling out the form was required, although there is no Georgia law requiring that voters temporarily out of state justify their residency status to the Investigations Division of the Secretary of State's office.

The impact of the "NCOA voter questionnaire" on voters' registration status is unclear. Whether or how a voter answers the questionnaire could cause further investigation and the consequences of not returning the questionnaire are unspecified. The letters' lack of information and clarity exacerbates the chilling effect. This effect is even more pronounced when considering the letters are targeted at those who voted by absentee ballot in the 2020 election, an election that saw many voters, especially those from communities of color, vote by mail for the first time.

5. The State Election Board Systematically Intimidates Voters and Voter Registration Organizations.

a. *The Georgia State Election Board's Lack of Transparency Regarding Investigations is Intimidating.*

The Georgia State Election Board "is an administrative agency having authority over elections matters."⁵⁹⁷ The Secretary of State prescribes specific duties and obligations for the State Election Board (SEB),⁵⁹⁸ including the duty to "investigate, or authorize the Secretary of State to investigate, when necessary or advisable the administration of primary and

⁵⁹⁴ Ex. 286, Jan. 15, 2021 F. Watson Letter to electors; Ex. 287, Feb. 15, 2021 F. Watson Letter to electors.

⁵⁹⁵ *Id.*

⁵⁹⁶ *Id.*

⁵⁹⁷ "Election Law for Non-Lawyers, MEOC Municipal Course # 2," Presentation, Ga. Sec'y of State, State-Defendants-00107570, at State-Defendants-00107603 (attached as Exhibit 292).

⁵⁹⁸ O.C.G.A. § 21-2-31 (attached as Exhibit 293).

SECTION III: GEORGIA'S SYSTEMIC SUPPRESSION

election laws and frauds and irregularities in primaries and elections and to report violations of the primary and election laws either to the Attorney General or the appropriate district attorney who shall be responsible for further investigation and prosecution.”⁵⁹⁹ The State Election Board also promulgates rules to ensure fairness and uniformity in the practices of all local election officials.⁶⁰⁰ The Secretary of State’s investigations unit conducts the SEB’s investigations.⁶⁰¹

Notwithstanding these investigative responsibilities, there are no explicit rules, nor any publicly available guidance, about the process and timeline of the SEB’s investigations and hearings on election complaints. Deposition testimony from Secretary of State representatives gives some insight into the SEB’s investigation process: once a matter has been investigated, the investigations unit provides the investigation report, and a summary of that report, to the State Election Board for consideration.⁶⁰² At its meetings, the SEB reviews the investigation reports and determines the next steps.⁶⁰³ The SEB can vote to issue a letter of instruction to the county or individuals determined to have violated election laws or SEB rules.⁶⁰⁴ These letters of instruction may merely copy and paste a provision of Georgia law and instruct the offender “to refrain from further violations of the Georgia Elections Code and State Election Board rules and regulations.”⁶⁰⁵ The SEB is also

⁵⁹⁹ *State Election Board*, GA. SEC’Y OF STATE, sos.ga.gov/index.php/elections/state_election_board (last visited July 23, 2021) (attached as Exhibit 294).

⁶⁰⁰ *Id.*; Elections Division Transition Memo: SOS Description of Duties, Ga. Sec’y of State, State-Defendants-00149713, at State-Defendants-00149715 (attached as Exhibit 295).

⁶⁰¹ Ex. 90, Aug. 16, 2019 C. Harvey 30(b)(6) Dep. 84:3-13 (explaining that investigations that go to the SEB are investigated by the SOS investigations unit and presented to the SEB); *id.* at 115:14-116:10 (explaining that Investigation Division of the SOS handles investigations for elections); *SEB Meeting Minutes*, GA. SEC’Y OF STATE (Apr. 3, 2018), [https://sos.ga.gov/admin/files/SEB_Meeting_Minutes_April%203,%202018%20\(SIGNED\).pdf](https://sos.ga.gov/admin/files/SEB_Meeting_Minutes_April%203,%202018%20(SIGNED).pdf) (attached as Exhibit 296); *SEB Meeting Minutes*, GA. SEC’Y OF STATE (Sept. 11, 2018), http://sos.ga.gov/admin/files/SEB%20Meeting%20Minutes_September_11_2018.pdf (attached as Exhibit 297).

⁶⁰² Ex. 90, Aug. 16, 2019 C. Harvey 30(b)(6) Dep. 112:14-23.

⁶⁰³ *Id.* at 110:20-112:23.

⁶⁰⁴ See *State Election Board Meeting Transcript*, GA. SEC’Y OF STATE (Apr. 3, 2018), <https://sos.ga.gov/admin/uploads/04%2003%202018%20-%20SEB%20-%20ATLANTA,%20TRANSCRIPT.pdf> (attached as Exhibit 298); *State Election Board Meeting Transcript*, GA. SEC’Y OF STATE (Sept. 11, 2018), <https://sos.ga.gov/admin/uploads/stateelectionboard9.11.pdf> (attached as Exhibit 299).

⁶⁰⁵ See Letter of Instruction to Evie Roberts, Toombs Cnty. Bd. of Elections and Registration from Candice Broce, Ga. Sec’y of State (July 10, 2015) State-Defendants-00842626 (attached as Exhibit 300) (letter of instruction for failure to issue a provisional ballot).

SECTION III: GEORGIA'S SYSTEMIC SUPPRESSION

authorized to, and usually does, refer investigated matters to the Georgia Attorney General's office or to a district attorney for further investigation and/or criminal proceedings.⁶⁰⁶

Because of the lack of rules and formal processes, the State Election Board frequently allows cases to languish for years.⁶⁰⁷ Voters with pending cases are not told their cases may be heard years later, and they may not even receive an update from the SEB for several years.⁶⁰⁸ There is also no prescribed standard for the referral of cases to the Attorney General's office or to a district attorney. The lack of information, alone, causes intimidation and fear amongst voters.

For instance, during a meeting held in February 2021 regarding a 2016 complaint against an individual voter who mistakenly voted, not realizing that he was ineligible, the voter's ex-wife testified that when she spoke with the Secretary of State's investigator, "he never informed me that a hearing would come. He made me feel as if everything was okay, and then four [] years later, I receive[d] this information in the mail" that the case would be heard at the SEB meeting in February 2021.⁶⁰⁹ She further testified, "I called and spoke to the [SOS] trying to rectify the situation and whatever it was that we needed to do. I was then instructed that I needed to send an email . . . to remove [the respondent] from the voter registration list, and I did that. I followed all the instructions that were given. [The respondent] has never voted again."⁶¹⁰ She also testified that she was never made aware what the Attorney General's office was or of the potential outcomes if the case was referred to the Attorney General's office.⁶¹¹ And she provided testimony explaining how her ex-husband accidentally registered to vote.⁶¹² Despite her testimony, the State Election Board voted to refer the case to the Attorney General's office and to the local district attorney.⁶¹³

⁶⁰⁶ See, e.g., Ex. 293, O.C.G.A. § 21-2-31(5); *State Election Board Meeting Minutes*, GA. SEC'Y OF STATE (Aug. 21, 2019), [http://sos.ga.gov/admin/files/August%2021.%202019%20\(SIGNED\).pdf](http://sos.ga.gov/admin/files/August%2021.%202019%20(SIGNED).pdf) (attached as Exhibit 301); Ex. 299, *State Election Board Meeting Transcript*, (Sept. 11, 2018), *supra* note 604.

⁶⁰⁷ *State Election Board Meeting Minutes Transcript*, Ga. Sec'y of State (Feb. 10, 2021), http://sos.ga.gov/admin/uploads/State_Election_Board_Feb_10_2021_-_Transcript.pdf (attached as Exhibit 302); *State Election Board Meeting Minutes Transcript*, Ga. Sec'y of State (Feb. 17, 2021), https://sos.ga.gov/admin/uploads/Transcript_-_February_17,_2021.pdf (attached as Exhibit 303); *State Election Board Meeting Minutes Transcript*, Ga. Sec'y of State (Sept. 10, 2020), [https://sos.ga.gov/admin/uploads/September_10,_2020_\(SEB_Transcript\).pdf](https://sos.ga.gov/admin/uploads/September_10,_2020_(SEB_Transcript).pdf) (attached as Exhibit 304).

⁶⁰⁸ Ex. 302, *State Election Board Meeting Transcript*, (Feb. 10, 2021), *supra* note 607.

⁶⁰⁹ *Id.* at 77:6-9.

⁶¹⁰ *Id.* at 77:11-17.

⁶¹¹ *Id.* at 78:2-10.

⁶¹² *Id.* at 75:24-78:10.

⁶¹³ *Id.* at 80:10-22.

SECTION III: GEORGIA'S SYSTEMIC SUPPRESSION

Transcripts from the State Election Board's meetings in 2020 and 2021, meetings at which the SEB heard election complaints, confirm the SEB revisited dozens of cases stemming from election complaints made in 2016 and 2017.⁶¹⁴ Minutes also confirm the SEB members gave no rationale for the lag in hearing these cases, nor explained why they referred the case to the Attorney General's Office or district attorney or the significance of a referral.⁶¹⁵

b. The SEB Investigates Without Evidence to Intimidate Voters and Voter Outreach Organizations.

The SOS has used the SEB to investigate voter registration and voter outreach organizations to dissuade them from registering new voters. This intimidation tactic is not new.⁶¹⁶

In 2012, after the Asian American Legal Advocacy Center ("AALAC") published an open letter demanding that Georgia ensure new citizens could vote, then-Secretary of State Kemp informed the organization it was launching an investigation into how the AALAC registered voters.⁶¹⁷ The investigation targeted the AALAC for technical issues—such as whether canvassers had people's explicit, written consent to photocopy their registration forms before mailing the originals to the elections office—but there was no evidence of fraud.⁶¹⁸ The nearly two-and-a-half year investigation ended with a finding of no violations.⁶¹⁹

Similarly, in 2014, then-Secretary of State Kemp began a criminal investigation into the New Georgia Project alleging fraud.⁶²⁰ Prior to the SEB investigating the allegations,

⁶¹⁴ Ex. 302, *State Election Board Meeting Transcript*, (Feb. 10, 2021), *supra* note 607; Ex. 303, *State Election Board Meeting Transcript*, (Feb. 17, 2021), *supra* note 607; Ex. 304, *State Election Board Meeting Transcript*, (Sept. 10, 2020), *supra* note 607.

⁶¹⁵ *Id.*

⁶¹⁶ See Spencer Woodman, *Register Minority Voters in Georgia, Go to Jail*, THE NEW REPUBLIC (May 5, 2015), <https://newrepublic.com/article/121715/georgia-secretary-state-hammers-minority-voter-registration-efforts>. (In 2010, then-Secretary Kemp's office targeted individual get-out-the-vote activists in Quitman, Georgia. Specifically, four weeks after a primary in which the county elected its first majority-Black school board, investigators, along with officials from the Georgia Bureau of Investigation, went door-to-door making arrests of activists without a trace of evidence of actual voter fraud. The case focused on voting organizers "improperly possessing voters' materials." Four years later, all charges were either dropped or cleared.)

⁶¹⁷ *Id.*

⁶¹⁸ *Id.*

⁶¹⁹ *Id.*

⁶²⁰ *Id.*

SECTION III: GEORGIA'S SYSTEMIC SUPPRESSION

Kemp announced that “preliminary inquiry revealed . . . significant illegal activities including . . . forged vote[r] registration applications.”⁶²¹ Notably, now-Governor Kemp admitted under oath he made this statement before any adjudication of the claims against the New Georgia Project.⁶²² The SEB investigated the allegations of forged signatures and incomplete voter registration forms.⁶²³ It took nearly three years for SEB investigators to issue a formal finding of no wrongdoing by the New Georgia Project; yet, when the SEB later heard the case against the remaining respondents on September 20, 2017, it was still titled as against the “New Georgia Project” as the lead respondent.⁶²⁴ Styling the case as “New Georgia Project” was merely a smear and intimidation tactic against the organization. And despite the SEB referral of the remaining case to the Attorney General’s office for potential prosecution, the Attorney General’s office never filed charges.⁶²⁵

This intimidation tactic recurred after the 2020 General Election. On November 30, 2020—ahead of Georgia’s January 5, 2021 Senate runoff election—Secretary Raffensperger announced his office was investigating several voter registration organizations, including America Votes, Vote Forward, Operation New Voter Registration, and the New Georgia Project, alleging these organizations registered deceased individuals and submitted improper registration applications.⁶²⁶ Specifically, “[Secretary] Raffensperger accused Vote Forward of attempting to register a dead woman in Alabama as a voter in Georgia, The New Georgia Project of sending registration forms to people in New York and Operation New

⁶²¹ Kristina Torres, *Voter Registration Fraud Alleged at Democratic-Backed Group*, ATLANTA J.-CONST. (Sept. 10, 2014), <https://www.ajc.com/news/state--regional-govt--politics/voter-registration-fraud-alleged-democratic-backed-group/1oDWNijMJZQAYO2D88ZHNN/>; Deposition of Brian Kemp Jan. 8, 2020, 100:4-104:3, *Fair Fight Action, Inc. v. Raffensperger*, No. 1:18-cv-05391-SCJ, ECF No. 481-1, (attached as Exhibit 305).

⁶²² Ex. 305, Kemp Dep., *Fair Fight Action, Inc.*, No. 1:18-cv-05391-SCJ, Jan. 8, 2020, Tr. 103:23-104:3.

⁶²³ *State Election Board Meeting Transcript*, GA. SEC’Y OF STATE, 38-39 (Sept. 20, 2017), https://sos.ga.gov/admin/uploads/September_20,_2017_Transcript.pdf (attached as Exhibit 306); Kristina Torres, *Georgia AG Gets 53 Forms in Probe of Voter Registration Group*, ATLANTA J.-CONST. (Sept. 20, 2017), <https://www.ajc.com/news/state--regional-govt--politics/georgia-gets-forms-probe-voter-registration-group/MhhTWfQOh3cdkdoTVmwiYI/>; Mark Niese, *Voting Groups Call Georgia Investigations Empty Partisan Attacks*, ATLANTA J.-CONST. (Feb. 8, 2021), <https://www.ajc.com/politics/voting-groups-call-georgia-investigations-empty-partisan-attacks/OTBTDDGGJJECNBPKVDMG4A5MFQ/>.

⁶²⁴ Ex. 306, *State Election Board Meeting Transcript*, (Sept. 20, 2017), *supra* note 623; Niese, *supra* note 623.

⁶²⁵ Ex. 306, *SEB Meeting Transcript*, GA. SEC’Y OF STATE 58 (Sept. 20, 2017); Niese, *supra* note 623.

⁶²⁶ David Wickert, *Georgia Investigates Voter Registration Groups*, ATLANTA J.-CONST. (Nov. 30, 2020), <https://www.ajc.com/politics/election/georgia-investigates-voter-registration-groups/YHEWSZLOYNEWZPYSHWAPJQFNFO/>; *Secretary Raffensperger Launches Investigation Into Groups Encouraging Fraudulent Registrations*, GA. SEC’Y OF STATE, https://sos.ga.gov/index.php/elections/secretary_raffensperger_launches_investigation_into_groups_encouraging_fraudulent_registrations (last visited July 23, 2021) (attached as Exhibit 307).

SECTION III: GEORGIA'S SYSTEMIC SUPPRESSION

Voter Registration Georgia of telling college students to temporarily change their residency to Georgia.⁶²⁷ Yet, in his press release alleging these election violations, Secretary Raffensperger provided no evidence to support his claims.⁶²⁸ Over two months after launching the investigations, the only evidence made public was against the New Georgia Project, and the evidence demonstrated no wrongdoing.⁶²⁹ The supposed evidence was a tweet from a New Yorker who received a package of postcards telling Georgians how to register to vote online.⁶³⁰ The postcards were intended for a volunteer to send to Georgia residents and were delivered to the wrong address in New York. Such election mailings are normal and permissible; no illegal activity occurred.⁶³¹

To date, the State Election Board has heard only the case against the New Georgia Project, which also named now-Senator Reverend Raphael Warnock as a respondent after the SEB—astonishingly and mistakenly listed him as the organization's CEO.⁶³² Prior to the SEB meeting, no SEB investigators contacted the New Georgia Project.⁶³³ Yet, at the SEB meeting where the complaint was heard, the SEB investigator claimed that, in 2019, the New Georgia Project “violated State law by not handing in 1,268 voter registration applications within the ten days required under state rules.”⁶³⁴ After reading the investigator's findings, and without hearing from anyone from or on behalf of the New Georgia Project, the SEB referred the case to the Attorney General's office for further investigation and potential prosecution.⁶³⁵

Georgia's election officials continue to investigate baseless allegations of fraudulent activity. On April 2, 2021, Georgia election official Gabriel Sterling stated that the Secretary

⁶²⁷ Joseph Choi, *Georgia Secretary of State Opens Investigation into Voter Registration Groups*, THE HILL (Nov. 30, 2020), <https://thehill.com/homenews/state-watch/528012-georgia-secretary-of-state-opens-investigation-into-voter-registration>.

⁶²⁸ Ex. 307, *Secretary Raffensperger Launches Investigation into Groups Encouraging Fraudulent Registrations*, GA. SEC'Y OF STATE, https://sos.ga.gov/index.php/elections/secretary_raffensperger_launches_investigation_into_groups_encouraging_fraudulent_registrations (last visited July 23, 2021); Niese, *supra* note 623.

⁶²⁹ Niese, *supra* note 623.

⁶³⁰ *Id.*

⁶³¹ *Id.*

⁶³² Ex. 302, *State Election Board Meeting Transcript*, (Feb. 10, 2021), *supra* note 607; Sam Levine, *'Intimidation Tactic': Georgia Officials Investigate Groups That Mobilized Black Voters*, THE GUARDIAN (Feb. 12, 2021), <https://www.theguardian.com/us-news/2021/feb/12/georgia-voting-rights-stacey-abrams>.

⁶³³ Ex. 302, *State Election Board Meeting Transcript*, (Feb. 10, 2021), *supra* note 607; Niese, *supra* note 623.

⁶³⁴ Niese, *supra* note 623. *See also* Levine, *supra* note 632.

⁶³⁵ *Id.*; Ex. 302, *State Election Board Meeting Transcript*, (Feb. 10, 2021), *supra* note 607.

SECTION III: GEORGIA'S SYSTEMIC SUPPRESSION

of State's office intends to investigate anyone who was offered a cure for an absentee ballot that did not follow through and cure it—approximately 2,500 individuals—while admitting that only “a handful quite honestly” might actually have been attempts to vote improperly.⁶³⁶

Baseless investigations are indisputably an intimidation tactic. Such investigations force organizations to re-allocate resources intended to invest in voter registration towards lawyers and defense costs.⁶³⁷ The CEO of the New Georgia Project explained: “[e]very dollar that we have to spend to defend ourselves against the nuisance and partisan investigations is a dollar that we aren't able to put into the field to register new voters and have high-quality conversations about the power of their vote and the importance of this moment.”⁶³⁸ Generating baseless investigations attempts to deter these organizations from their mission of registering voters, especially voters of color.

6. Georgia Officials Have Created a False Narrative about Voter Fraud.

The Georgia Secretary of State's office operates a “Voter Fraud Hotline” for individuals to submit information about suspected voter fraud.⁶³⁹ The hotline dates to at least 2010,⁶⁴⁰ but has recently received increased attention: the Secretary of State's webpage prominently features the hotline (with a button labeled “REPORT FRAUD”) as part of its Secure the Vote initiative.⁶⁴¹ This webpage touts Georgia's elections as “among the most secure in the nation,” but urges the reader to “Do Your Part” and report “questionable election-related activity” to the hotline.⁶⁴²

The focus of the Secure the Vote initiative on voter fraud aligns with the Secretary of State's other recent actions to promote the voter fraud hotline. When the Secretary's office

⁶³⁶ Meidas Touch, *Unedited: Gabriel Sterling Accepts Challenge to Debate Georgia Voter Bill with MeidasTouch* at 38:55-39:25, YOUTUBE (April 2, 2021), <https://www.youtube.com/watch?v=cHvzaEAEQdU>.

⁶³⁷ Levine, *supra* note 632.

⁶³⁸ *Id.*

⁶³⁹ *Stop Voter Fraud*, GA. SEC'Y OF STATE, https://sos.ga.gov/index.php/elections/stop_voter_fraud (last visited July 23, 2021) (attached as Exhibit 308).

⁶⁴⁰ See Jim Walls, *Absentee Ballots Abused*, ATLANTA J.-CONST. (Sep. 13, 2010), <https://www.ajc.com/news/local-govt--politics/absentee-ballots-abused/EwNLkwiaQoEcl2mxKpwYJ/> (reporting that individuals may call the hotline to report possible fraud).

⁶⁴¹ Claire Simms, *Georgia Launches 'Secure the Vote' Education Campaign*, FOX 5 ATLANTA (Dec. 6, 2019), <https://www.fox5atlanta.com/news/georgia-launches-secure-the-vote-education-campaign>; *Secure the Vote*, HELP AMERICA VOTE ACT, <https://securevotega.com> (last visited July 23, 2021).

⁶⁴² *Secure the Vote, Fact Check*, HELP AMERICA VOTE ACT, <https://securevotega.com/factcheck/> (last visited July 23, 2021).

SECTION III: GEORGIA'S SYSTEMIC SUPPRESSION

announced its intent to send letters to 8,000 individuals who may have moved out-of-state but had requested an absentee ballot ahead of the January 2021 runoff election, the office urged “citizens” to use the hotline “to report questionable elections activity.”⁶⁴³ The office used the same language in a press release warning that “every single allegation of voter fraud” would be “thoroughly” investigated and that anyone who comes to Georgia intending to commit voter fraud “will be prosecuted.”⁶⁴⁴ For example, the State legislature recently passed a law that included a provision requiring the Secretary of State’s contact information to be printed on all absentee ballots, to encourage the reporting of “any unauthorized person requesting to observe the elector voting his or her ballot or the elector’s voted ballot or any unauthorized person offering to deliver or return the voted ballot to the board of registrars.”⁶⁴⁵

Continuing these efforts to stoke fear of voter fraud, and with no evidence that absentee ballot fraud was common or a serious threat to the integrity of Georgia elections, in April 2020, Secretary of State Raffensperger launched an “Absentee Ballot Fraud Task Force.”⁶⁴⁶ The task force appears to have met only once, in late May 2020, and has never published any reason to be concerned about absentee ballot fraud in Georgia.⁶⁴⁷ Although Secretary Raffensperger announced an investigation into up to 1,000 possible instances of double-voting in September 2020, Secretary of State General Counsel Ryan Germany

⁶⁴³ Ex. 289, *Secretary of State Brad Raffensperger Protects Runoffs from Out of State Voters*, *supra* note 583.

⁶⁴⁴ *Secretary Raffensperger Warning: ‘Moving’ to Georgia Temporarily in Order to Vote in Jan. 5 Runoff is Illegal and Will Be Prosecuted*, GA. SEC’Y OF STATE, https://sos.ga.gov/index.php/elections/secretary_raffensperger_warning_moving_to_georgia_temporarily_in_order_to_vote_in_jan_5_runoff_is_illegal_and_will_be_prosecuted (last visited July 23, 2021) (attached as Exhibit 309).

⁶⁴⁵ Ex. 13, 2021 Ga. Laws Act 9 (S.B. 202) § 27.

⁶⁴⁶ See Mark Niess, *Georgia Elections Chief Launches Effort Against Mail-in Voting Fraud*, ATLANTA J-CONST. (Apr. 6, 2020), <https://www.ajc.com/news/state--regional-govt--politics/georgia-elections-chief-launches-effort-against-mail-voting-fraud/uKcFoPbbLnFCoA4nXihaLI/>. The myth of pervasive voter fraud has been soundly debunked by all serious investigations into its existence. In Georgia, an independent monitor reported to the State Election Board that after 250 hours of onsite observation in Fulton County in 2020 and 2021 he did not witness any action that “involved dishonesty, fraud or intentional malfeasance.” *Raffensperger Sends More Voting Cases to Prosecutors*, GA. SEC’Y OF STATE (Feb. 18, 2021), https://sos.ga.gov/index.php/elections/raffensperger_sends_more_voting_cases_to_prosecutors (attached as Exhibit 310). In an investigation into absentee ballots in Cobb County in December 2020, the Secretary of State and investigators from the Georgia Bureau of Investigation found that election officials had a 99.99 percent accuracy rate in terms of signature verification, and after reviewing the 15,000 ballots, they identified “[n]o fraudulent absentee ballots.” Ga. Sec’y of State/ Ga. Bureau of Investigation ABM Signature Audit Report, GA. SEC’Y OF STATE INVESTIGATIONS DIV., (Dec. 29, 2020), <https://sos.ga.gov/admin/uploads/Cobb%20County%20ABM%20Audit%20Report%2020201229.pdf> (attached as Exhibit 311).

⁶⁴⁷ Email from Chris Channell, Task Force Member, Glynn Cnty., Ga. to American Oversight (Oct. 6, 2020) (attached as Exhibit 312).

SECTION III: GEORGIA'S SYSTEMIC SUPPRESSION

emailed Task Force members noting that the Secretary's office knew of "at least one" voter who voted twice intentionally, but that "[o]ther people likely voted twice inadvertently or because they were not sure if their absentee ballot had been returned on time by the mail service."⁶⁴⁸ The Secretary's public statements drew condemnation, including from former Georgia Secretary of State Cathy Cox, who said the actions sought to "sow chaos and cast doubt," and that the Secretary "seems to have already pre-judged these matters."⁶⁴⁹

Georgia's efforts to manufacture evidence of voter fraud provide critical context for the latest wave of voter-suppression legislation in Georgia as these suppressive tactics of voter fraud allegations have an outsized impact on voters of color.⁶⁵⁰ Georgia demonstrated this in its previous efforts to prosecute voter fraud, including its baseless investigations of (i) a dozen Black voting rights activists in Brooks County (who were later acquitted), (ii) the AALAC (which was cleared of wrongdoing after over two years of investigation), and (iii) the New Georgia Project (where no evidence of criminal activity was found).⁶⁵¹

⁶⁴⁸ Email from Ryan Germany, General Counsel, Ga. Sec'y of State, to Brad Rigby et al., Members of Absentee Ballot Fraud Task Force (Sept. 8, 2020) (attached as Exhibit 313).

⁶⁴⁹ Beau Evans, *Georgia Secretary of State Faces Backlash Over Double-Voting Claims*, THE AUGUSTA CHRON. (Sept. 9, 2020), <https://www.augustachronicle.com/story/news/politics/elections/state/2020/09/09/georgia-secretary-of-state-faces-backlash-over-double-voting-claims/43139411/>.

⁶⁵⁰ See Vann R. Newkirk II, *Voter Suppression is Warping Democracy*, THE ATLANTIC (July 17, 2018) <https://www.theatlantic.com/politics/archive/2018/07/poll-prri-voter-suppression/565355/> (reporting survey results that ten percent of Hispanic voters reported they or someone in their household were bothered at the polls when trying to vote). See also Alexandra Hart & Shelly Brisbin, *Analysis Finds People of Color Account for 72% of Election Fraud Cases Brought by the Texas Attorney General*, TEX. STANDARD (Mar. 25, 2021) <https://www.texasstandard.org/stories/analysis-finds-people-of-color-account-for-72-of-election-fraud-cases-brought-by-the-texas-attorney-general/> (reporting seventy-two percent of fraud investigations by the Texas Attorney General were brought against Black and Hispanic defendants, most of them women, and eighty-six percent involved alleged offenses in counties with mostly nonwhite and Hispanic populations).

⁶⁵¹ Rebekah Barber, *Is Georgia's Secretary of State Unjustly Targeting Voting Rights Activists Again?*, FACING SOUTH (Oct. 4, 2017), <https://www.facingsouth.org/2017/10/georgias-secretary-state-unjustly-targeting-voting-rights-activists-again>.



SECTION IV:
Georgia's Recent Legislative Session
Demonstrates that Attacks on
Voting Rights Are Increasingly
Aggressive and Persistent

Source: Elijah Nouvelage/Getty Images

FAIR  FIGHT ACTION

SECTION IV: S.B. 202: SUPPRESSION REVISITED

Georgia’s Recent Legislative Session Demonstrates that Attacks on Voting Rights Are Increasingly Aggressive and Persistent.

For further proof that attacks on voting are an escalating threat to the rights of Georgians of color, one need look no further than the State’s recently ended legislative session. Because of the historic turnout for the 2020 election and the 2021 Senate runoff, and fueled by the groundless allegations of voter fraud discussed above, lawmakers had renewed vigor. The Georgia General Assembly, like state legislatures across the country, worked quickly to both limit voting and consolidate power. At the end of this section, we address some of the suppressive elections laws introduced and enacted across the country.

While S.B. 202—the final result of over dozens⁶⁵² of hastily developed bills—affects all Georgia voters, it will be felt most acutely by the State’s voters of color. Provisions such as the photo ID requirement, reduced minimum early vote for runoff elections, limited access to drop boxes, and prohibition of most out-of-precinct voting will disparately impact voters of color, particularly those with limited resources and time to navigate the complex requirements.⁶⁵³

Other provisions of S.B. 202 give the State legislature outsized control of voting resources, voting-related prosecutions, and election certification.⁶⁵⁴ S.B. 202 grants the General Assembly power to appoint the majority of the State Election Board.⁶⁵⁵ By gaining control of the State Election Board, which can unilaterally fire and replace county election officials,⁶⁵⁶ the General Assembly will have new power to oversee and influence the outcome of elections.⁶⁵⁷ To be clear, the Georgia legislature has empowered itself to interfere with

⁶⁵² Christopher Alston, *There Are a Lot of Voting Bills in the Georgia General Assembly. Here’s What You Need to Know.*, WABE (Feb. 25, 2021), <https://www.wabe.org/there-are-a-lot-of-voting-bills-in-the-georgia-general-assembly-heres-what-you-need-to-know/>.

⁶⁵³ See Fredreka Schouten, *Here’s Why Voting Rights Activists Say Georgia’s New Election Law Targets Black Voters*, CNN (Mar. 26, 2021), <https://www.cnn.com/2021/03/26/politics/georgia-voting-law-black-voters/index.html> (explaining how Black voters will be disproportionately and negatively impacted by these provisions).

⁶⁵⁴ See generally Ex. 13, 2021 Ga. Laws Act 9 (S.B. 202); Zack Beauchamp, *Georgia’s Restrictive New Voting Law, Explained*, VOX (Mar. 26, 2021), <https://www.vox.com/22352112/georgia-voting-sb-202-explained>.

⁶⁵⁵ Ex. 13, 2021 Ga. Laws Act 9 (S.B. 202) § 5; O.C.G.A. § 21-2-30(a) (attached as Exhibit 314[†]).

⁶⁵⁶ Ex. 13, 2021 Ga. Laws Act 9 (S.B. 202) § 6; O.C.G.A. § 21-2-33.1(f) (attached as Exhibit 315[†]).

⁶⁵⁷ See Domingo Morel, *As Georgia’s New Law Shows, When Black People Gain Local Power, States Strip That Power Away*, WASH. POST (Apr. 1, 2021).

SECTION IV: S.B. 202: SUPPRESSION REVISITED

election results it does not like, even as the FBI continues to round up secessionists who stormed our nation's Capital and spilled blood for similarly not agreeing with the 2020 General Election results.⁶⁵⁸

Georgia lawmakers' efforts to suppress the vote and seize electoral power demonstrate the fight for voting rights is at a critical point and Federal action is urgently needed to protect voting rights. The Georgia legislature's fast-tracked, massive overhaul of elections could likely have been stopped in its tracks had Georgia remained subject to preclearance under the VRA. Meaning, many of these newly passed provisions would have required preclearance by either the Department of Justice or a federal court before becoming law. Instead, this bill was rushed through the State legislature. With only white men in the room, the legislation was signed behind closed doors and in front of a painting of a slave plantation while a Black lawmaker was arrested for knocking on the door.⁶⁵⁹

And the Georgia General Assembly is not alone in this strategy. Georgia's efforts to roll back voting rights can also be seen in state legislatures across the country.⁶⁶⁰ As the *New York Times* recently reported, "Nationwide, [] lawmakers in at least eight states . . . are angling to pry power over elections from secretaries of state, governors and nonpartisan election boards."⁶⁶¹ Despite not finding evidence of voter fraud or other abusive voting practices, state legislatures are rapidly introducing legislation designed to curb early voting practices popular during the COVID-19 pandemic and, by most accounts, practices that worked well.⁶⁶² According to the Brennan Center for Justice, in the first twelve weeks of 2021, legislators in forty-three states filed over 361 bills to make it more difficult to vote,

<https://www.washingtonpost.com/politics/2021/04/01/georgias-new-law-shows-when-black-people-gain-local-power-states-strip-that-power-away/>.

⁶⁵⁸ See, e.g., Derek Hawkins, *Ex-Officer Texted 'We Stormed the Capitol' During Jan. 6 Riot, Feds Say, and Tipsters Turned Him In*, WASH. POST (Apr. 3, 2021).

<https://www.washingtonpost.com/nation/2021/04/03/former-utah-police-capitol-riot/> (describing the recent arrest of someone who allegedly took part in the mob that breached the Capitol on January 6, 2021).

⁶⁵⁹ Rebecca Shabad, *Georgia Legislator Arrested For Protesting Voting Law Says Signing Of Bill 'Far More Serious Crime'*, NBC NEWS (Apr. 1, 2021), <https://www.nbcnews.com/politics-news/georgia-legislator-arrested-protesting-voting-law-says-signing-bill-far-n1262748>.

⁶⁶⁰ Gabby Birenbaum, *State GOPs Have Already Introduced Dozens of Bills Restricting Voting Access in 2021*, VOX (Jan. 29, 2021), <https://www.vox.com/22254482/republicans-voter-suppression-state-legislatures> (discussing efforts across the nation to roll back voting rights).

⁶⁶¹ Nick Corasaniti, *Republican Lawmakers in at Least 8 States Are Vying for More Power over How Elections Are Run*, N.Y. TIMES (Mar. 25, 2021), <https://www.nytimes.com/2021/03/25/us/republican-lawmakers-in-at-least-8-states-are-vying-for-more-power-over-how-elections-are-run.html>.

⁶⁶² See *id.* (noting that voter turnout in 2020 was at the highest level in 100 years partially because of expanded vote-by-mail).

SECTION IV: S.B. 202: SUPPRESSION REVISITED

primarily seeking limits on mail voting and imposing stricter voter ID requirements.⁶⁶³ *FiveThirtyEight* has identified at least fifty-three more bills introduced since the Brennan Center reported its findings.⁶⁶⁴ As Myrna Pérez, the director of the Brennan Center’s Voting Rights and Elections Program, observed: “[a]bsentee ballots have been largely uncontroversial when they were used by older, whiter [] Americans,” but “as soon as communities of color started [using them] . . . we’re starting to see restrictions.”⁶⁶⁵

A. There Is Scant Evidence of Fraud to Justify Georgia’s New Restrictions.

S.B. 202’s stated purpose is to address the “significant lack of confidence in Georgia election systems.”⁶⁶⁶ But State lawmakers propped up the “big lie” of voter fraud and election rigging,⁶⁶⁷ and then used the intended result that many voters are “concerned about allegations of rampant voter fraud”⁶⁶⁸ as an excuse to limit voting. As investigations into the 2020 election and the longer course of history have demonstrated, voter fraud is exceedingly rare.⁶⁶⁹

Sweeping national studies confirm that voter fraud—other than as a political talking point and new wedge issue—is not a problem in American elections.⁶⁷⁰ For instance, a much-ballyhooed Commission to investigate voter fraud, established by President Trump after the 2016 election, abruptly disbanded in 2018 after finding no significant fraud.⁶⁷¹ Likewise, in a sweeping survey of alleged voter fraud, the Brennan Center for Justice found

⁶⁶³ *State Voting Laws*, BRENNAN CTR. FOR JUST., <https://www.brennancenter.org/issues/ensure-every-american-can-vote/voting-reform/state-voting-laws> (last visited July 23, 2021) (attached as Exhibit S25).

⁶⁶⁴ Alex Samuels et al., *The States Where Efforts to Restrict Voting Are Escalating*, FIFTYTHREE (Mar. 29, 2021), <https://fivethirtyeight.com/features/the-states-where-efforts-to-restrict-voting-are-escalating/>.

⁶⁶⁵ *Id.*

⁶⁶⁶ Ex. 13, 2021 Ga. Laws Act 9 (S.B. 202) § 2.

⁶⁶⁷ Dahlia Lithwick, *Why Republicans Are Still Holding Onto the Big Lie*, SLATE (Feb. 26, 2021), <https://slate.com/news-and-politics/2021/02/republicans-epac-stolen-election-lic.html>.

⁶⁶⁸ Ex. 13, 2021 Ga. Laws Act 9 (S.B. 202) § 2.

⁶⁶⁹ See, e.g., *The Myth of Voter Fraud*, BRENNAN CTR. FOR JUST., <https://www.brennancenter.org/issues/ensure-every-american-can-vote/vote-suppression/myth-voter-fraud> (last visited July 23, 2021) (attached as Exhibit S26); Andy Sullivan & Joseph Ax, *Explainer: Despite Trump Claims, Voter Fraud is Extremely Rare. Here is How U.S. States Keep it That Way*, REUTERS (Sept. 9, 2020), <https://www.reuters.com/article/us-usa-election-voter-fraud-facts-explai/explainer-despite-trump-claims-voter-fraud-is-extremely-rare-here-is-how-u-s-states-keep-it-that-way-idUSKBN2601HG>.

⁶⁷⁰ See *id.*

⁶⁷¹ Michael Tackett & Michael Wines, *Trump Disbands Commission on Voter Fraud*, N.Y. TIMES (Jan. 3, 2018), <https://www.nytimes.com/2018/01/03/us/politics/trump-voter-fraud-commission.html>.

SECTION IV: S.B. 202: SUPPRESSION REVISITED

it was more likely an individual would be struck by lightning than impersonate another at the polls.⁶⁷² The same is true, the Brennan Center later noted, for vote-by-mail fraud.⁶⁷³ For example, in Oregon, a state that conducts its elections by mail,⁶⁷⁴ the Brennan Center found there have only been roughly a dozen instances of fraud among 100 million mail-in ballots received since 2000.⁶⁷⁵ In another national survey, this time by the Walter J. Cronkite School of Journalism and Mass Communications at Arizona State University, researchers found the rate of voter fraud from 2000 - 2012 was “infinitesimal.”⁶⁷⁶ In Georgia between 2000 and 2012, there were only twenty-seven allegations of individuals casting an ineligible vote.⁶⁷⁷ After reviewing national voter fraud allegations since 2000, Professor Lorraine Minnite found that “[v]oter fraud is a politically constructed myth” and that misinformation about voter fraud is often meant “to persuade the public about the need for more administrative burdens on the vote.”⁶⁷⁸ This tactic was on full display in the 2021 session of the Georgia General Assembly.

The specific context of this legislation is important. The widespread, multi-front attack took place immediately after the most scrutinized election in American history. The former president and his supporters lobbed unsupported (and unsupportable) accusations about the merit of votes from cities with substantial Black populations such as Philadelphia, Detroit, Milwaukee, and Atlanta⁶⁷⁹ while mounting at least forty-two legal challenges to the

⁶⁷² Justin Levitt, *The Truth About Voter Fraud*, BRENNAN CTR. FOR JUST. 3, 4, 6 (2007), https://www.brennancenter.org/sites/default/files/2019-08/Report_Truth-About-Voter-Fraud.pdf (attached as Exhibit S27).

⁶⁷³ Wendy R. Weiser, *The False Narrative of Vote-by-Mail Fraud*, BRENNAN CTR. FOR JUST. (Apr. 10, 2020), <https://www.brennancenter.org/our-work/analysis-opinion/false-narrative-vote-mail-fraud> (attached as Exhibit S28).

⁶⁷⁴ Tiffany Camhi, *How Oregon Became the First State to Vote by Mail in a Presidential Election*, OPB (Jun. 19, 2020), <https://www.opb.org/news/article/history-vote-by-mail-oregon-elections/> (attached as Exhibit S29).

⁶⁷⁵ Ex. S28, Weiser, *supra* note 673.

⁶⁷⁶ Natasha Khan & Corbin Carson, *Comprehensive Database of U.S. Voter Fraud Uncovers No Evidence that Photo ID is Needed*, NEWS21 (Aug. 12, 2012), <https://votingrights.news21.com/article/election-fraud/> (attached as Exhibit S30).

⁶⁷⁷ See *Election Fraud in America*, NEWS21 (Aug. 12, 2012), <https://votingrights.news21.com/interactive/election-fraud-database/> (attached as Exhibit S31).

⁶⁷⁸ Lorraine C. Minnite, *THE MYTH OF VOTER FRAUD* 6, 10 (Cornell Univ. Press 2010).

⁶⁷⁹ Aaron Morrison et al, *Trump Election Challenges Sound Alarm Among Voters of Color*, ABC News (Nov. 23, 2020), <https://abcnews.go.com/Politics/wireStory/trump-election-challenges-sound-alarm-voters-color-74345706>.

SECTION IV: S.B. 202: SUPPRESSION REVISITED

Presidential Election results, which all failed.⁶⁸⁰ On March 8, 2021, the Supreme Court rejected—unanimously and without comment—the last of these election appeals.⁶⁸¹ No evidence of voter fraud was ever presented.

Nowhere have these claims of voter fraud been more investigated than in Georgia. The State counted ballots cast in the Presidential Election three times and found no evidence of even minimal fraud.⁶⁸² And Georgia election officials have stood by the results after every count. For instance, three weeks after the 2020 General Election, Secretary of State Raffensperger stated that “Georgia’s voting system has never been more secure or trustworthy” and “the truth is that the people of Georgia – and across the country – should not have any remaining doubts” about who won the election.⁶⁸³ He continued to refute claims of voter fraud in a letter to Congressional representatives on January 6, 2021—the day of the insurrection against the Capitol—reaffirming that after “diligently investigating all claims of fraud or irregularities” his office found “nowhere close to sufficient evidence to put in doubt the result” of the election.⁶⁸⁴ Numerous other high-ranking Georgia election officials, such as Lieutenant Governor Geoff Duncan, Secretary of State General Counsel Ryan Germany, and Secretary of State Chief Operating Officer Gabriel Sterling also defended the integrity of Georgia’s elections against spurious claims of fraud.⁶⁸⁵

⁶⁸⁰ Jacob Shamsian & Sonam Sheth, *Trump and His Allies Filed More than 40 Lawsuits Challenging the 2020 Election Results. All of Them Failed.*, INSIDER (Feb. 22, 2021), <https://www.businessinsider.com/trump-campaign-lawsuits-election-results-2020-11>.

⁶⁸¹ Lawrence Hurley, *U.S. Supreme Court Dumps Last of Trump’s Election Appeals*, REUTERS (Mar. 8, 2021), <https://www.reuters.com/article/us-usa-court-election-idUSKBN2B01LE>.

⁶⁸² Kate Brumback, *Georgia Again Certifies Election Results Showing Biden Won*, ASSOCIATED PRESS (Dec. 7, 2020), <https://apnews.com/article/election-2020-joe-biden-donald-trump-georgia-elections-4ceea3b24f10de886bdeab6e26b680a> (attached as Exhibit S32).

⁶⁸³ Brad Raffensperger, *Opinion, Brad Raffensperger: Georgia’s Election Results Are Sound*, WASH. POST (Nov. 21, 2020), <https://www.washingtonpost.com/opinions/2020/11/21/brad-raffensperger-georgia-results-2020-election-trustworthy/>.

⁶⁸⁴ Ex. 290, Letter from Brad Raffensperger, *supra* note 584 at 1-2.

⁶⁸⁵ See Greg Bluestein, *Duncan Pushes Back on False Voter Fraud Claims: “We’re Better Than This.”* ATLANTA J.-CONST. (Dec. 1, 2020), <https://www.ajc.com/politics/politicsblog/duncan-pushes-back-on-false-voter-fraud-claims-were-better-thanthis/GSNRMVELPBBADHZ5RQ7LDTVHCE/>; Amy Gardner & Paulina Firozi, *Here’s the Full Transcript and Audio of the Call Between Trump and Raffensperger*, WASH. POST (Jan. 5, 2021), https://www.washingtonpost.com/politics/trump-raffensperger-call-transcript-georgia-vote/2021/01/03/2768e0cc-4ddd-11eb-83e3-322644d82356_story.html; Scott Pelley, *Georgia Secretary of State Describes Call Where Trump Pressured Him to Find Evidence of Voter Fraud*, CBS NEWS 60 MINUTES (Jan. 10, 2021), <https://www.cbsnews.com/news/georgia-election-brad-raffensperger-60-minutes-2021-01-10/>.

SECTION IV: S.B. 202: SUPPRESSION REVISITED

B. The Georgia General Assembly's Response to an Election that Saw Record Turnout and Withstood Intense Public Scrutiny Was to Limit Voting.

The highly scrutinized 2020 election saw unprecedented turnout in Georgia, despite a global pandemic.⁶⁸⁶ Almost 5 million Georgians voted in November.⁶⁸⁷ This was partially a result of record-setting early voting turnout, where in the forty-five days before the election 2,418,550 Georgians cast their ballots.⁶⁸⁸ It was also due to a twenty-five percent increase of Black registered voters since 2016.⁶⁸⁹ The turnout for the runoff election on January 5, 2021, was likewise unprecedented, with over 4.4 million Georgians casting their vote—more than double the previous record for a runoff in the State.⁶⁹⁰ Black voters, in particular, turned out for the runoff in significant numbers, growing from 27.8 percent of the State electorate in November to 30.9 percent in January.⁶⁹¹

Rather than celebrate this unprecedented civic engagement, members of the Georgia General Assembly immediately turned to enacting measures that would bring the turnout rate back down. On January 7, 2021, just two days after the runoff election and one day after the insurrection, Speaker David Ralston set up a Special Committee on Election Integrity to be chaired by Representative Barry Fleming, a longtime opponent of voting rights.⁶⁹² A

⁶⁸⁶ See *Georgia Presidential Results*, POLITICO (Jan. 6, 2021), <https://www.politico.com/2020-election/results/georgia/>.

⁶⁸⁷ *Id.*

⁶⁸⁸ *Georgia Breaks All-Time Voting Record*, GA. SEC'Y OF STATE, https://sos.ga.gov/index.php/elections/georgia_breaks_all-time_voting_record (last visited July 23, 2021) (attached at Exhibit 316).

⁶⁸⁹ Luis Noe-Bustamante & Abby Budiman, *Black, Latino and Asian Americans Have Been Key to Georgia's Registered Voter Growth Since 2016*, PEW RSCH. CTR. (Dec. 21, 2020), <https://www.pewresearch.org/fact-tank/2020/12/21/black-latino-and-asian-americans-have-been-key-to-georgias-registered-voter-growth-since-2016/> (attached as Exhibit S33).

⁶⁹⁰ Nathaniel Rakich et al., *How Democrats Won the Georgia Runoffs*, FIVETHIRTYEIGHT (Jan. 7, 2021), <https://fivethirtyeight.com/features/how-democrats-won-the-georgia-runoffs/> (attached as Exhibit S34).

⁶⁹¹ Ross Williams, *Record Turnout Among Black Voters Could Help Georgia Reshape the Nation*, GPB (Jan. 11, 2021), <https://www.gpb.org/news/2021/01/11/record-turnout-among-black-voters-could-help-georgia-reshape-the-nation>.

⁶⁹² Emil Moffatt, *Speaker Ralston Announces Election Integrity Committee That Will Focus on 'Moving Forward'*, WABE (Jan. 7, 2021), <https://www.wabe.org/speaker-ralston-announces-election-integrity-special-committee-that-will-focus-on-moving-forward/>; Stephen Fowler, *In Georgia County, Elections Bills Have Consequences*, NPR (Mar. 27, 2021), <https://www.npr.org/2021/03/27/981354303/in-georgia-county-elections-bills-have-consequences> (describing how Representative Fleming lost his job as an attorney for Hancock County because of his record on voter suppression legislation) (attached as Exhibit S35). See also Timothy Pratt, *The Lawyer Behind Georgia's New Anti-Voting Law*, THE NATION (Apr. 8, 2021), <https://www.thenation.com/article/politics/georgia-voting-law-barry-fleming/>.

SECTION IV: S.B. 202: SUPPRESSION REVISITED

flurry of bills grounded in baseless claims of election fraud followed.⁶⁹³ Despite Georgia persistently ranking as the worst state for COVID-19 vaccination rates,⁶⁹⁴ Georgia Senate lawmakers focused on reviving Georgia's dark past of racist voting laws, with nearly one-quarter of the bills listed for the "Crossover Day" between the chambers devoted to voter suppression legislation.⁶⁹⁵

The procedures around these "election integrity" bills were confusing and opaque. Committees met without advance notice and debated bills never made available online.⁶⁹⁶ Sometimes committee meetings were live streamed, sometimes they were not.⁶⁹⁷ Guidelines for public testimony were either not published or inconsistent.⁶⁹⁸ For example, the original version of House Bill 531 ("H.B. 531") was posted only one hour before the Special Committee's first hearing⁶⁹⁹ and less than twenty-four hours before its second hearing.⁷⁰⁰ The substantial amendments to that bill, many of which are in the final iteration S.B. 202, were also routinely published late or not at all.⁷⁰¹

⁶⁹³ See Jewel Wicker, *Here's What's Going on with Voting Legislation in Georgia and Why Opponents Say It's Clear "Voter Suppression"*, ATLANTA MAGAZINE (Mar. 11, 2021), <https://www.atlantamagazine.com/news-culture-articles/heres-whats-going-on-with-voting-legislation-in-georgia-and-why-opponents-say-its-clear-voter-suppression/>.

⁶⁹⁴ Jeff Amy, *Georgia to Vaccinate Adults Over 55, Those with Conditions*, ASSOCIATED PRESS (Mar. 10, 2021), <https://apnews.com/article/public-health-emergency-management-georgia-coronavirus-pandemic-5584d52bbb5d116c40499c2a9b0e39ce> (attached as Exhibit S36).

⁶⁹⁵ Stephen Fowler, *A Dozen Voting Bills, Citizen's Arrest Overhaul Survive 2021 Crossover Day*, GPB (Mar. 9, 2021), <https://www.gpb.org/news/2021/03/09/dozen-voting-bills-citizens-arrest-overhaul-survive-2021-crossover-day> (attached as Exhibit S37). See also Georgia Senate Rules Calendar, https://www.legis.ga.gov/api/document/docs/default-source/senate-calendars/20212022/rules-calendar-2021-legislative-day-28.pdf?sfvrsn=cac7ebff_2 (attached as Exhibit 317).

⁶⁹⁶ Complaint ¶¶ 164, 167, *Sixth District v. Kemp*, No. 1:21-cv-01284 (N.D. Ga. Mar. 29, 2021), ECF No. 1 (attached as Exhibit 318).

⁶⁹⁷ *Id.* ¶ 167.

⁶⁹⁸ *Id.* ¶ 161.

⁶⁹⁹ Nathaniel Rakich, *All the Ways Georgia Could Make It Harder to Vote*, FIVETHIRTYEIGHT (Feb. 25, 2021), <https://fivethirtyeight.com/features/all-the-ways-georgia-could-make-it-harder-to-vote/> (attached as Exhibit S38).

⁷⁰⁰ See *Special Committee On Election Integrity – Archives*, Georgia House of Representatives, <https://www.house.ga.gov/Committees/en-US/ElectionIntegrityArchives.aspx> (last visited July 23, 2021) (linking to video of meeting on Thursday, Feb. 18, the day the bill was introduced, and next meeting on Friday, Feb. 19); see also Ex. 318, Complaint ¶ 166, *Sixth District v. Kemp*, No. 1:21-cv-01284 (N.D. Ga. Mar. 29, 2021).

⁷⁰¹ Ex. 318, Complaint ¶ 166, *Sixth District v. Kemp*, No. 1:21-cv-01284 (N.D. Ga. Mar. 29, 2021).

SECTION IV: S.B. 202: SUPPRESSION REVISITED

State lawmakers rushed the legislative process around S.B. 202 at every step. On March 8, 2021, the Secretary of State's Bipartisan Task Force for Safe, Secure, and Accessible Elections made known its concern "that the legislative process is proceeding at a pace that does not allow for full examination of all factors that must be considered."⁷⁰² The General Assembly pressed on.⁷⁰³ When the public participated in some of these meetings, many raised concerns about the bill's disproportionate impact on voters of color.⁷⁰⁴ The General Assembly declined to conduct any meaningful analysis.⁷⁰⁵ When a state representative raised the prospect of analyzing the bill's fiscal impact, which experts say could be over \$19 million,⁷⁰⁶ the leaders ignored the request.⁷⁰⁷ Lieutenant Governor Duncan unilaterally ruled that no analysis of the fiscal impact of the bill needed to be done because it would not exceed \$5 million, despite providing no evidence to support his ruling.⁷⁰⁸ One State Senator said that he was "making stuff up as [he] went" because "isn't that how laws are made?"⁷⁰⁹ On March 25, 2021, S.B. 202 passed the Georgia House of Representatives, was voted on by the Senate hours later, and reached the Governor's desk by the end of the day.⁷¹⁰

⁷⁰² *Id.* ¶ 170.

⁷⁰³ *Id.* ¶ 171.

⁷⁰⁴ See, e.g., GA House Mobile Streaming, *Special Committee on Election Integrity 02.22.21*, VIMEO – LIVESTREAM (Feb. 22, 2021), <https://livestream.com/accounts/25225474/events/8729747/videos/217887713> (video of public comment on H.B. 531); see also Complaint ¶¶ 94-97, *Georgia State Conf. of NAACP v. Raffensperger*, No. 21-cv-01259 (N.D. Ga. March 28, 2021) (attached as Exhibit 319).

⁷⁰⁵ Ex. 319, Complaint ¶¶ 104-06, *Georgia State Conf. of NAACP*, No. 21-cv-01259 (N.D. Ga. March 28, 2021).

⁷⁰⁶ See *State and Local Fiscal Impact of SB 241*, Voting Rights Lab (Feb. 24, 2021), <https://votingrightslab.org/wp-content/uploads/2021/02/Fiscal-Impact-of-GA-SB-241.pdf> (attached as Exhibit S39). See also GeorgiaStateSenate, *Legislative Day 38 - 2021 Legislative Session (3/25/21)*, YOUTUBE, at 6:12:40-6:19:00 (Mar. 25, 2021), <https://www.youtube.com/watch?v=QVzKEHqNxuY>.

⁷⁰⁷ Ex. 318, Complaint ¶ 171, *Sixth District*, No. 21-cv-01284 (N.D. Ga. Mar. 29, 2021).

⁷⁰⁸ *Id.*

⁷⁰⁹ GeorgiaStateSenate, *Senate Committee on Ethics (3/3/21)*, YOUTUBE, at 86:47-49 (Mar. 3, 2021), https://www.youtube.com/watch?v=UOw2QUTIDUM&list=PLBFF_azbJKIX3zfkWmV-DCoN9mqLKHDD-&index=12; see also Complaint ¶ 99, *VoteAmerica v. Raffensperger*, No. 21-cv-01390 (N.D. Ga. Apr. 7, 2021) (attached as Exhibit 320).

⁷¹⁰ *Georgia Senate Bill 202*, LEGISCAN, <https://legiscan.com/GA/bill/SB202/2021> (last visited July 23, 2021) (attached as Exhibit S40); see also Stephen Fowler, *Georgia Governor Signs Election Overhaul, Including Changes To Absentee Voting*, NPR POLITICS (March 25, 2021), <https://www.npr.org/2021/03/25/981357583/georgia-legislature-approves-election-overhaul-including-changes-to-absentee-vote> (attached as Exhibit S41).

SECTION IV: S.B. 202: SUPPRESSION REVISITED

When Governor Kemp signed the bill into law only seventy-nine days after the historic January 2021 Senate runoff election, he did so behind closed doors and in front of a painting of an antebellum Georgia plantation.⁷¹¹ Just outside, Representative Park Cannon—who was excluded from the ceremony—was arrested for knocking on the door.⁷¹² As the Editorial Board of the *Atlanta Journal-Constitution* observed, “the world will long remember the shameful scene of a state lawmaker – a Black woman – being dragged down a Gold Dome hallway by white state troopers Thursday because she dared bang on the door of a governor who chose to lock himself away while signing this legislation and livestreaming about it.”⁷¹³

C. Provisions of S.B. 202 Make it More Difficult for Voters, Particularly Those of Color, to Cast Their Ballots in Ways that Are Convenient, Popular, and Secure.

S.B. 202 imposes new and unjustified limitations on Georgians’ voting options. People often have difficulty getting off work, arranging for childcare, securing transportation, standing in hours-long lines, or otherwise taking an unpredictable and potentially substantial time to vote, particularly when there are limited days, hours, or locations for voting. These burdens are not felt equally.⁷¹⁴ To get the best participation of the entire electorate, which should be the goal in any democracy, it is essential to offer many secure voting options. In 2020, Georgia voters used absentee voting and early voting more than ever before, which contributed to the historic turnout.⁷¹⁵

⁷¹¹ Natasha Chen & Theresa Waldrop, *Black Voter Says a Painting at Georgia Governor’s Voter Bill Signing Shows the Plantation Where Her Family Worked for Generations*, CNN (Mar. 28, 2021), <https://www.cnn.com/2021/03/28/us/georgia-callaway-plantation-painting-trnd/index.html>.

⁷¹² Rebecca Shabad, *Georgia Legislator Arrested For Protesting Voting Law Says Signing of Bill ‘Far More Serious Crime’*, NBC NEWS (Apr. 1, 2021), <https://www.nbcnews.com/politics/politics-news/georgia-legislator-arrested-protesting-voting-law-says-signing-bill-far-n1262748>.

⁷¹³ Opinion, *Our View: Marching Backward into History*, ATLANTA J.-CONST. (Mar. 26, 2021), <https://www.ajc.com/opinion/our-view-marching-backward-into-history/KERD4OAUFRNOQUZPKZNTBXF4/>.

⁷¹⁴ See Jeff Coekrell, *Why Paid Time Off for Voting Can Help Address Racial Inequities*, UCHICAGO NEWS (Aug. 4, 2020), <https://news.uchicago.edu/story/why-paid-time-voting-can-help-address-racial-inequities> (“Black and Latinx Americans are more likely to be low-wage workers, which means they are less able to afford to forgo lost wages in order to vote”); Sendhil Mullainathan, *For Racial Justice, Employees Need Paid Hours Off for Voting*, NY TIMES (Jun. 12, 2020), <https://www.nytimes.com/2020/06/12/business/for-racial-justice-employees-need-paid-hours-off-for-voting.html>.

⁷¹⁵ Mark Niese, *Early Voting Brought Record Turnout in Georgia Ahead of Election Day*, ATLANTA J.-CONST. (Oct. 31, 2020), <https://www.ajc.com/politics/early-voting-brought-record-turnout-in-georgia-ahead-of-election-day/76JRESFLMVEYBGX2J7AAGKABQ4/>.

SECTION IV: S.B. 202: SUPPRESSION REVISITED

Voting by mail, for example, is a flexible option and should be available to any eligible voter regardless of circumstances.⁷¹⁶ Voting by mail allows voters to take their time and research candidates and issues, which can be especially helpful to voters whose language facility may be limited.⁷¹⁷ And in a global pandemic—though at any time—the option to vote by mail benefits public health. With additional incentives related to COVID-19, 1.3 million 2020 voters used Georgia’s vote by mail process—a record number.⁷¹⁸ And Black voters disproportionately voted absentee in 2020 with nearly thirty percent of Black voters casting their ballot by mail, compared to only twenty-four percent of white voters.⁷¹⁹

Despite the popularity of vote-by-mail in 2020—or, arguably, because of it—S.B. 202 needlessly cuts the period to request an absentee ballot by more than half.⁷²⁰ It also restricts the ability of non-profit organizations to distribute absentee ballot applications,⁷²¹ imposing a new requirement that Georgians requesting an absentee ballot must list their date of birth along with their driver’s license or state-issued voter ID number.⁷²² If the voter has neither a Georgia driver’s license nor a Georgia state ID, the voter may use the other acceptable forms of ID,⁷²³ but the voter must include a copy of that alternative form of ID.⁷²⁴ Proponents of the legislation acknowledged that some voters did not have a driver’s license or state ID.⁷²⁵

⁷¹⁶ See Abigail Abrams, *Mail Voting Boosted Turnout for Voters with Disabilities. Will Lawmakers Let It Continue?*, TIME (Feb. 18, 2021), <https://time.com/5940397/2020-mail-voting-accessibility/>; Kim Eckart, *UW Political Science Expert on the Value of Mail-In Voting*, UW NEWS (Sept. 4, 2020), <https://www.washington.edu/news/2020/09/04/uw-political-science-expert-on-the-value-of-mail-in-voting/>.

⁷¹⁷ See Ex. 318, Complaint ¶ 13, *Sixth District*, No. 21-cv-01284 (N.D. Ga. Mar. 29, 2021).

⁷¹⁸ *Georgia Early Voting Statistics*, U.S. ELECTIONS PROJECT, <https://electproject.github.io/Early-Vote-2020G/GA.html> (last visited July 23, 2021) (attached as Exhibit S42); see also Ex. 318, Complaint ¶¶ 140-43, *Sixth District*, No. 21-cv-01284 (N.D. Ga. Mar. 29, 2021).

⁷¹⁹ *Id.*

⁷²⁰ Ex. 13, 2021 Ga. Laws Act 9 (S.B. 202) § 25; see also Ex. 47¹, O.C.G.A. § 21-2-381(a)(1)(A).

⁷²¹ See generally Ex. 320, Complaint ¶ 8, *VoteAmerica*, No. 1:32-cv-01390 (N.D. Ga. Apr. 7, 2021).

⁷²² O.C.G.A. § 21-2-385(a) (attached as Exhibit 321¹).

⁷²³ See O.C.G.A. § 21-2-417(c) (attached as Exhibit 322).

⁷²⁴ See Ex. 321¹, O.C.G.A. § 21-2-385(a).

⁷²⁵ See, e.g., GA House Mobile Streaming, *Special Committee on Election Integrity 02.19.21* at 26:40-26:52, VIMEO – LIVESTREAM (Feb. 19, 2021), <https://livestream.com/accounts/25225474/events/8729747/videos/217751717> (in a committee hearing on H.B. 531, Chairman Barry Fleming acknowledges only ninety-seven percent of Georgians have a driver’s license or state ID number); Meidas Touch, *Unedited: Gabriel Sterling Accepts Challenge to Debate Georgia Voter Bill with MeidasTouch* at 35:19-35:38, YOUTUBE (Apr. 2, 2021).

SECTION IV: S.B. 202: SUPPRESSION REVISITED

But, they claimed, that applied to only three percent of the voters.⁷²⁶ The problem with that position is, according to the SOS, there are 7,389,343 registered voters in the State.⁷²⁷ If three percent of those registered voters must submit a copy of alternative identification, that means over 221,000 people will need access to printers, scanners, or copiers. This need to access electronics presents an additional, unnecessary burden that will disproportionately affect the older voters, lower income voters, and voters of color, who are less likely to have the required ID numbers or resources—physical or electronic—to send a copy of an ID, yet who are equally eligible to vote.⁷²⁸ “To get most state-issued voter ID cards, people are still required to produce documents including birth certificates or social security cards, which can cost quite a bit to obtain. Many elderly African Americans who were born in the Jim Crow South, when hospitals often refused black patients, don’t have these otherwise common forms.”⁷²⁹

This law also limits the ability of absentee voters to utilize drop boxes.⁷³⁰ As election Official Gabriel Sterling conceded, going forward there will be fewer drop boxes and the drop boxes will be in less convenient locations.⁷³¹ While the law requires that each county have a drop box, it also inexplicably restricts their number: counties are limited to the “lesser of either one drop box for every 100,000 active registered voters in the county or the

<https://www.youtube.com/watch?v=cHvzaEAEQdU>. (Georgia elections official Gabriel Sterling states that three percent of Georgia voters do not have a driver’s license or state ID).

⁷²⁶ See *id.*; see also Mark Niese, *Georgia Moves Toward ID Numbers to Verify Absentee Voters*, ATLANTA J.-CONST. (Mar. 15, 2021), <https://www.ajc.com/politics/georgia-moves-toward-id-numbers-to-verify-absentee-voters/K3XW5WYNCJHKDJ7BWG3CLMIHIY/>.

⁷²⁷ *Voter Registration Statistics*, GA. SEC’Y OF STATE, sos.ga.gov/index.php/Elections/voter_registration_statistics (last visited July 23, 2021) (attached as Exhibit 323).

⁷²⁸ See Ex. 318, Complaint ¶ 206, *Sixth District*, No. 21-cv-01284 (N.D. Ga. Mar. 29, 2021); Ex. 319, Complaint ¶ 84, *Ga. State Conf. of NAACP*, No. 21-cv-01259 (N.D. Ga. Mar. 28, 2021); see also Sari Horwitz, *Getting a Photo ID So You Can Vote is Easy. Unless You’re Poor, Black, Latino or Elderly.*, WASH. POST (May 23, 2016), https://www.washingtonpost.com/politics/courts_law/getting-a-photo-id-so-you-can-vote-is-easy-unless-youre-poor-black-latino-or-elderly/2016/05/23/8d5474ec-20f0-11e6-8690-f14ca9dc2972_story.html (discussing how obtaining a photo ID “can be far more difficult than it looks” and that elderly, Black, Latino, and low-income residents are most likely to be impacted by voter ID laws).

⁷²⁹ Brentin Mock, *Like It or Not, Voter ID is Not Working*, BLOOMBERG CITYLAB (Mar. 3, 2016), <https://www.bloomberg.com/news/articles/2016-03-03/voter-id-laws-simply-are-not-working-in-texas-alabama-and-georgia>.

⁷³⁰ See Ex. 13, 2021 Ga. Laws Act 9 (S.B. 202) § 26; see also O.C.G.A. § 21-2-382(c)(1) (attached as Exhibit 324¹).

⁷³¹ Meidas Touch, *supra* note 725 at 8:51-9:11.

SECTION IV: S.B. 202: SUPPRESSION REVISITED

number of advance voting locations in the county.”⁷³² In 2020, there were ninety-four drop boxes across metropolitan Atlanta in Fulton, Cobb, DeKalb, and Gwinnett counties,⁷³³ where Black voters had a large impact on the election results.⁷³⁴ Now, this new law caps the number of drop boxes in those counties at twenty-three, a seventy-five percent decrease.⁷³⁵ This one-per-100,000 restriction also poses a problem for Georgia’s many rural counties that are geographically large but sparsely populated.

For the drop boxes that will be placed, the law so limits access that it renders them almost useless.⁷³⁶ The drop boxes must be at the office of the Board of Registrars or ballot clerk or inside early voting locations.⁷³⁷ They will be unavailable in the three days before the election⁷³⁸ when a mailed ballot is less likely to arrive by the 7:00 p.m. Election Day deadline—i.e., when the boxes are most useful.⁷³⁹ And the drop boxes are only accessible during the hours early voting takes place,⁷⁴⁰ making them a largely duplicative and useless resource for those with difficulty taking time out of their schedules to vote during standard business hours. The requirement that the boxes be guarded by an “an election official or his or her designee, law enforcement official, or licensed security guard”⁷⁴¹—rather than a 24/7 security camera—is a needless taxpayer burden that provides yet another opportunity for

⁷³² See Ex. 324[†], O.C.G.A. § 21-2-382(c)(1).

⁷³³ Nick Corasaniti & Reid J. Epstein, *What Georgia’s Voting Law Really Does*, N.Y. TIMES (Apr. 2, 2021), <https://www.nytimes.com/2021/04/02/us/politics/georgia-voting-law-annotated.html>.

⁷³⁴ Kat Stafford et al., *This is Proof: Biden’s Win Reveals Power of Black Voters*, ASSOCIATED PRESS (Nov. 9, 2020), <https://apnews.com/article/election-2020-joe-biden-race-and-ethnicity-virus-outbreak-georgia-7a843bbe00713cfd6c3fdb2e31eb7> (“Almost half of Biden’s gains came from the four largest counties – Fulton, DeKalb, Gwinnett and Cobb – all in the Atlanta metro area with large Black populations.”) (attached as Exhibit S43).

⁷³⁵ Corasaniti & Epstein, *supra* note 733.

⁷³⁶ See Ex. 324[†], O.C.G.A. § 21-2-382(c)(1) (providing that drop boxes “shall be closed when advance voting is not being conducted at that location”).

⁷³⁷ *Id.*

⁷³⁸ See Ex. 321[†], O.C.G.A. § 21-2-385(d).

⁷³⁹ See Astrid Galvan & Christina A. Cassidy, *Ballot Drop Boxes Seen as a Way to Bypass the Post Office*, ASSOCIATED PRESS (Aug. 18, 2020), <https://apnews.com/article/41706cd2f7b03452d0bf9efca3e76e3> (attached as Exhibit S44).

⁷⁴⁰ See Ex. 324[†], O.C.G.A. § 21-2-382(c)(1).

⁷⁴¹ *Id.*

SECTION IV: S.B. 202: SUPPRESSION REVISITED

Black voters in Georgia to be intimidated while exercising their right to vote, recalling the Jim Crow era yet again.⁷⁴²

The General Assembly imposed these new restrictions on absentee ballots despite the total absence of evidence of voter fraud in the 1.3 million ballots cast in 2020.⁷⁴³ Chairman of the Special Elections Integrity Committee Barry Fleming likened absentee ballots to the “shady part of town down near the docks” where the “chance of being shanghaied” is significant.⁷⁴⁴ But he cannot substantiate his racist rhetoric. Given the lack of a legitimate problem, there is no justification for these measures that will effectively strip thousands of Georgia voters of the ability to vote.

Some early in-person voting is also needlessly restricted. The law prohibits the use of mobile voting units except in emergencies.⁷⁴⁵ Mobile voting units, which are used as supplemental polling locations during early voting and on Election Day, increase access and counteract long lines. In 2020, Fulton County, where the population is forty-four percent Black,⁷⁴⁶ used two mobile voting units. The units “made stops at twenty-four different locations, including several Black churches, during the advance voting period ahead of the election.”⁷⁴⁷ The units provided a convenient option for voters in their neighborhoods.⁷⁴⁸ Again, the law establishes a new limitation despite no evidence of any problems, and it is difficult to imagine any motive other than limiting the number of ballots received.

The voter challenge provision of S.B. 202 risks mass disenfranchisement of Georgia voters. The legislation explicitly allows an individual to challenge an unlimited number of voters⁷⁴⁹ and sanctions counties that do not follow the procedures in the statute for dealing

⁷⁴² See Ex. 318, Complaint ¶ 214, *Sixth District*, No. 21-cv-01284 (N.D. Ga. Mar. 29, 2021).

⁷⁴³ See *id.* ¶ 143; Ex. S42, *Georgia Early Voting Statistics*, *supra* note 718.

⁷⁴⁴ Barry Fleming, *Guest Column: Republican Party Wins on Election Day, and Future is Bright*, THE AUGUSTA CHRONICLE (Nov. 15, 2020), <https://www.augustachronicle.com/story/opinion/columns/guest/2020/11/15/guest-column-republican-party-wins-on-election-day-and-future-is-bright/43155971/>.

⁷⁴⁵ O.C.G.A. § 21-2-266(b) (attached as Exhibit 325[†]).

⁷⁴⁶ *QuickFacts: Fulton County, Georgia*, U.S. CENSUS BUREAU, <https://www.census.gov/quickfacts/fultoncountygeorgia> (last visited Mar. 31, 2021) (attached as Exhibit 326).

⁷⁴⁷ Ex. 318, Complaint ¶ 175, *Sixth District*, No. 21-cv-01284 (N.D. Ga. Mar. 29, 2021), ECF No. 1; see also *Early Voting Starts Today & Fulton Mobile Voting Units Hit the Streets*, FULTON CNTY. (Oct. 12, 2020), <http://fultoncountyga.gov/news/2020/10/12/early-voting-and-fulton-mobile-voting-units-hit-the-streets>.

⁷⁴⁸ See Stella Mackler, *Mobile Voting Units Offer Convenience*, THE SOUTHERNER ONLINE (Nov. 4, 2020), <https://thesoutherneronline.com/78479/news/new-fulton-county-mobile-voting-units/>.

⁷⁴⁹ Ex. 34[†], O.C.G.A. § 21-2-229(a).

SECTION IV: S.B. 202: SUPPRESSION REVISITED

with any challenges, including mass challenges.⁷⁵⁰ As laid out above in Section II, voter challenges have historically been used to disenfranchise voters of color.⁷⁵¹ And just a few months ago, a Texas-based organization frivolously challenged the eligibility of 364,000 Georgia voters two weeks before the Senate runoff election.⁷⁵²

Voters will also be disenfranchised on Election Day because S.B. 202 requires that, before 5:00 p.m., lawful voters only may vote in the polling location to which they are assigned; any attempt to vote in another precinct – even in the same county – will be invalid.⁷⁵³ Previously, voters who went to the wrong precinct within their county could vote a provisional ballot, which would be tallied for the races in which they were eligible to vote.⁷⁵⁴ This is by far the most common reason for voting provisionally and these out-of-precinct ballots often make up the majority of the provisional ballots actually counted because they are “self-curing,” meaning no more action is required of the voter.⁷⁵⁵ Restricting this opportunity will disproportionately affect Black voters who are more likely to cast provisional ballots.⁷⁵⁶

And in part because of the law’s limitations on absentee voting, ban on mobile voting units, and other provisions, Georgia’s historically long Election Day lines will grow even longer. But the law reduces the ability of organizers to alleviate that burden through the practice known as “line warming.” S.B. 202 now makes it a crime for volunteers to hand

⁷⁵⁰ Ex. 34†, O.C.G.A. § 21-2-229(f).

⁷⁵¹ See also Zachary Roth, *The Caged Ballot: Why the GOP is Poised to Create Large-Scale Voting Chaos This Year*, THE NEW REPUBLIC (Mar. 30, 2020), <https://newrepublic.com/article/156861/republican-voter-suppression-tactics-trump-2020>.

⁷⁵² Mark Niese, *Eligibility of 364,000 Georgia Voters Challenged Before Senate Runoff*, ATLANTA J.-CONST. (Dec. 22, 2020), <https://www.ajc.com/politics/eligibility-of-364000-georgia-voters-challenged-before-senate-runoff/3UIMDOVRFVERXOJ3IBHYWZBWYI/>; Russ Bynum, *Group Says It’s Challenging Residency of 364K Georgia Voters*, NEWS4JAX (Dec. 19, 2020), <https://www.news4jax.com/news/georgia/2020/12/19/group-says-its-challenging-residency-of-364k-georgia-voters/>.

⁷⁵³ Ex. 134†, O.C.G.A. § 21-2-418(a).

⁷⁵⁴ See Corasaniti & Epstein, *supra* note 733.

⁷⁵⁵ *Id.* (noting that in Fulton County, sixty-six percent of accepted provisional ballots were from out-of-precinct voters); Provisional Ballots, GEORGIA VOTER GUIDE, <https://faq.georgiavoter.guide/en/article/provisional-ballots> (last visited July 23, 2021) (describing how a voter does not need to take any action after voting provisionally at the wrong precinct within the correct county) (attached as Exhibit S45).

⁷⁵⁶ See Zachary Roth, *Report: Minorities More Likely to Cast Provisional Ballots*, MSNBC (Oct. 30, 2014), <https://www.msnbc.com/msnbc/report-minorities-more-likely-cast-provisional-ballots-msna447721> (reporting that a Center for American Progress report found that people of color were forced to cast provisional ballots at a significantly higher rate than whites in 2012).

SECTION IV: S.B. 202: SUPPRESSION REVISITED

water or food to voters waiting in line⁷⁵⁷—despite that Georgia had the longest voting lines in the country in 2020. The line warming provision has rightfully garnered enormous public criticism since the bill was passed.⁷⁵⁸ It is easy to see why. Many individuals, non-profit organizations, and companies rally around the right to vote.⁷⁵⁹ It should be a non-partisan issue. Supporting others exercising that right by providing drinks and snacks is a feel-good, community-building practice that benefits both volunteers and voters and harms absolutely no one. One Georgia voter described “the large number of people walking around giving out water, raincoats, and snacks to people waiting in line to vote” as “[t]he one good thing about my [voting] experience.”⁷⁶⁰ Another voter, who waited almost five hours, noted that, even though everyone was understandably frustrated, “there was a camaraderie and feeling that people were looking out for each other” when neighbors brought bottled water and homemade chocolate chip cookies.⁷⁶¹ Georgia law already prohibits partisan electioneering⁷⁶²—the line warming provision is needlessly cruel and blatant voter suppression.

While S.B. 202 makes it harder to vote generally, its effect is especially pronounced during a runoff election—itsself a relic of Jim Crow designed to make it harder for Black voters’ preferred candidates to win.⁷⁶³ The law’s outsized impact on runoff elections is no coincidence, as it comes after a high-profile runoff election where Georgians—especially

⁷⁵⁷ Ex. 13, 2021 Ga. Laws Act 9 (S.B. 202) § 33.

⁷⁵⁸ See, e.g., Jane C. Timm, ‘Outrageous’: Biden Condemns New Georgia Law as a ‘Blatant Attack’ on Voting Rights, NBC NEWS (Mar. 26, 2021), <https://www.nbcnews.com/politics/elections/democrats-excoriate-new-voting-restrictions-georgia-make-it-illegal-give-n1262181>.

⁷⁵⁹ See Kate Kelly & Sapna Maheshwari, *Paid Time Off, Free Fries: How Corporate America Is Getting Out the Vote*, N.Y. TIMES (Oct. 23, 2020), <https://www.nytimes.com/2020/10/23/business/corporate-america-voting-time-off.html>; Anne Glusker, *Chefs Are Helping Hungry Voters Waiting in Line at the Polls*, SMITHSONIAN MAG. (Oct. 30, 2020), <https://www.smithsonianmag.com/smithsonian-institution/chefs-are-helping-hungry-voters-waiting-line-polls-180976179/> (describing how renowned chef José Andrés started Chefs For The Polls to bring food to those waiting at polling sites).

⁷⁶⁰ Ex. 123, Declaration of Stephen [last name redacted] ¶ 17.

⁷⁶¹ Declaration of Robert [last name redacted] ¶ 7 (attached as Exhibit 327); see also Ex. 118, Declaration of Jonathan [last name redacted] ¶ 7 (waited three hours to vote while standing in the hot sun but “[l]uckily there were some volunteers who were distributing snacks and water to the voters in line, as none of us had expected to be there as long as we were”); Declaration of Eboney [last name redacted] ¶¶ 5, 6 (attached as Exhibit 328) (waited nine hours to vote but others in line were “very congenial” and local vendors handed out pizza).

⁷⁶² See O.C.G.A. § 21-2-414 (attached as Exhibit 329[†]); Grace Panetta, *Georgia’s New Controversial Voting Law Bans Volunteers from Delivering Free Water and Snacks to Voters in Line*, INSIDER (Mar. 26, 2021), <https://www.businessinsider.com/ga-voting-law-bans-volunteers-from-delivering-food-water-to-voters-2021-3>.

⁷⁶³ Jerusalem Demsas, *Why Georgia has Runoff Elections*, VOX (Jan. 5, 2021), <https://www.vox.com/21551855/georgia-ossoff-perdue-loeffler-warnock-runoff-election-2020-results>.

SECTION IV: S.B. 202: SUPPRESSION REVISITED

Georgians of color—turned out in historic numbers.⁷⁶⁴ The General Assembly responded by slashing the runoff period from nine weeks to four, giving voters less time to mail their absentee ballots or vote early in person.⁷⁶⁵ The new law only requires that early voting be offered Monday through Friday the week before the election.⁷⁶⁶ And that week could collide with the Thanksgiving holiday, further limiting the availability of early voting.⁷⁶⁷ Of course, for many voters, weekends afford their only opportunity to vote.⁷⁶⁸

D. S.B. 202 Also Empowers the Highly Partisan State Legislature to Oversee and Influence the Outcome of Elections.

While the criminal penalties for handing voters water have captured headlines, another insidious voter suppression tactic permeates S.B. 202. In a blatant power grab, the Georgia General Assembly gave itself more power to oversee and influence the outcomes of its own elections and potentially silence the voices of its opposition, including millions of Black, brown and AAPI voters. As Rick Hansen, Professor of Law and Political Science at University of California Irvine, stated: “[o]ne of the worst aspects of the bill is the part making election administration even more partisan.”⁷⁶⁹ If the purpose of the legislation were really to address the “significant lack of confidence in Georgia election systems,”⁷⁷⁰ this power grab is precisely the wrong way to do it.

In the months following the 2020 General Election and the January 2021 runoff, Secretary of State Raffensperger defended the election results he knew to be legitimate. Now, S.B. 202 punishes the office he legitimately and appropriately used to speak out, and may prevent future officials from doing the same.⁷⁷¹ The law undemocratically strips the office of the Secretary of State of some of its powers regarding election administration and certification. For instance, it removes the Secretary of State as the chair and a voting

⁷⁶⁴ Ex. S34, Rakich et al., *supra* note 690.

⁷⁶⁵ O.C.G.A. § 21-2-501(a)(1) (attached as Exhibit 330[†]); Ex. S41, Fowler, *supra* note 710.

⁷⁶⁶ Ex. 321[†], O.C.G.A. § 21-2-385(d)(1)(B); Ex. S41, Fowler, *supra* note 710.

⁷⁶⁷ Ex. 319, Complaint ¶ 69, *Ga. State Conf. of NAACP*, No. 21-cv-01259 (N.D. Ga. Mar. 28, 2021), ECF No. 1.

⁷⁶⁸ *See, e.g.*, Declaration of Donald [last name redacted] ¶¶ 5, 6 (attached as Exhibit 331) (describing how, as a long haul truck driver, Sunday is his only day off and without Sunday voting he would have to take off work and lose income); Declaration of DanElle [last name redacted] ¶¶ 4, 7 (attached as Exhibit 332) (describing the need for weekend voting because, as a wheelchair user, she relies on others who work during the week to take get to the polls).

⁷⁶⁹ Beauchamp, *supra* note 654.

⁷⁷⁰ Ex. 13, 2021 Ga. Laws Act 9 (S.B. 202) § 2.

⁷⁷¹ Ex. 314[†], O.C.G.A. § 21-2-30(a).

SECTION IV: S.B. 202: SUPPRESSION REVISITED

member of the State Election Board.⁷⁷² Instead, the State legislature will now appoint the chair.⁷⁷³ Georgia election official Gabriel Sterling expressly told CNN he viewed the General Assembly's decision to reduce the Secretary of State's power in elections as punishment for standing up against the claims of widespread fraud.⁷⁷⁴

S.B. 202 transfers control over the State of Election Board to the State legislature, which now appoints most of its five members—one member appointed by the House, one member appointed by the Senate, and the chair elected by the entire General Assembly.⁷⁷⁵ This control over the State Election Board is significant because, under S.B. 202, it can suspend county election officials it believes are performing poorly.⁷⁷⁶ The State Election Board can then pick the replacements,⁷⁷⁷ who will have broad authority over election administration and results.⁷⁷⁸

We are now seeing the consequences of S.B. 202 as members of the General Assembly have implemented the takeover process with a focus on Fulton County, the county with the largest number of Black voters and other voters of color. Fair Fight Action and other civil and voting rights organizations have formed a task force with a mission to protect voters' rights in Georgia called the Voter Empowerment Task Force ("VETF"). The Task Force sent a letter to Secretary Raffensperger complaining about his attempts to use the false narrative that Georgia's 2020 General Election was fraudulent (a lie that Raffensperger himself publicly denounced) to indulge a partisan takeover of Fulton County.⁷⁷⁹ The letter also criticized the dangerous rhetoric used by Raffensperger that plausibly could lead to threats or actual violence against Fulton County's election officials, threats which Raffensperger and his family experienced when Raffensperger spoke out against former President Trump's "Big Lie."⁷⁸⁰ Despite the VETF's efforts, Republican state senators and representatives initiated

⁷⁷² *Id.*

⁷⁷³ *Id.*

⁷⁷⁴ CNN, *Georgia Election Official: Both Parties Treat Voters Like Children* at 6:50-7:12, YOUTUBE (March 27, 2021), <https://www.youtube.com/watch?v=BzoAVL89SPc>; see also Meidas Touch, *supra* note 725 at 32:04-32:20, 48:08-48:27.

⁷⁷⁵ Ex. 314⁺, O.C.G.A. § 21-2-30(a).

⁷⁷⁶ Ex. 315⁺, O.C.G.A. § 21-2-33.1(f).

⁷⁷⁷ *Id.*

⁷⁷⁸ See Morel, *supra* note 657.

⁷⁷⁹ Letter from Voter Empowerment Task Force to Brad Raffensperger (Jul. 26, 2021) (attached as Exhibit S46).

⁷⁸⁰ *Id.*; Amara Walker et al., *Family of Georgia's secretary of state was still getting death threats months after election, report says*, CNN POLITICS, <https://www.cnn.com/2021/06/11/politics/georgia-raffensperger-family-death-threats-election/index.html> (updated June 11, 2021, 8:46 PM EST). Threats of violence against election

SECTION IV: S.B. 202: SUPPRESSION REVISITED

the takeover process by sending a letter to the SEB requesting a performance review of Fulton County's election chief.⁷⁸¹ The "performance review" is the first step in the process outlined in O.C.G.A. § 21-2-106.

If the takeover succeeds, control of elections in the county with the largest number of voters of color would rest in the hands of a temporary superintendent appointed by the currently heavily Republican SEB. Thus politicians who have repeatedly demonstrated efforts to curtail the rights of voters of colors would control elections in Fulton County as yet another example of why federal oversight is needed to protect voters from partisan power grabs that disproportionately affect people of color.

It was once unthinkable that partisan players would refuse to certify election results for no verifiable reason, but that is not the case today. As the *Atlanta Journal-Constitution* recognized, "[s]tate takeovers of local election offices could change the outcome of future elections, especially if they're as hotly contested as last year's presidential race."⁷⁸² Agents of the General Assembly may now accept and reject mail ballots, decide on challenges to voters' eligibility, close polling places, alter early voting hours, hire their own poll workers, and even certify election results.⁷⁸³ The ability to disqualify voters is all the more concerning given the recent spate of demonstrably false allegations of voter fraud and that S.B. 202 now allows unlimited challenges to someone's voter registration.⁷⁸⁴ Given the staying power of these lies, it is more than possible they will grow louder in future elections.

officials, including Republican election officials who dared to oppose former President Trump's Big Lie, were not isolated to Georgia. For example, in Arizona, another state that helped to solidify President Biden's win over Trump, local Republican leaders in Maricopa County who opposed lies and misinformation about election integrity received threats that their families would be slaughtered. Jason Lemon, *Arizona GOP Official Says Family Threatened With Slaughter After He Defended Election's Integrity*, NEWSWEEK (Aug. 7, 2021, 12:37 PM EDT), <https://www.newsweek.com/arizona-gop-official-says-family-threatened-slaughter-after-he-defended-elections-integrity-1617208>.

⁷⁸¹ Ben Brasch, *Georgia Republicans take first step to Fulton elections takeover*, ATLANTA J.-CONST. (Jul. 28, 2021), <https://www.ajc.com/news/atlanta-news/georgia-republicans-take-first-step-to-fulton-elections-takeover/MQ7CABNYFZBINMLPRCAFJE7HAM/>. See also G. Bluestein, *Georgia GOP takeover bid of Fulton County's election system advances*, ATLANTA J.-CONST. (July 30, 2021), <https://www.ajc.com/politics/politics-blog/georgia-republicans-take-key-step-in-fulton-elections-takeover-bid/JADLJJFRMJCXFCGPHQZNLTYEQ/>.

⁷⁸² Mark Niese, *Georgia Bill Could Shift Power over Elections to GOP Appointees*, ATLANTA J.-CONST. (Mar. 24, 2021), <https://www.ajc.com/politics/georgia-bill-would-shift-power-over-elections-to-gop-appointees/VPNVO2W4TBBTFKGA7Z2GZIEQEE/>.

⁷⁸³ See *id.*

⁷⁸⁴ Ex. 34†, O.C.G.A. § 21-2-229(a).

SECTION IV: S.B. 202: SUPPRESSION REVISITED

E. The Hurried Passage of S.B. 202 Reflects a Broader Strategy Among State Legislatures that Will Only Worsen if Left Unchecked by Federal Legislation.

S.B. 202 could have been much worse. If not for intense public scrutiny, Georgia lawmakers might have burdened the rights of their constituents to an even larger extent. Provisions in other bills put forth this year would have eliminated automatic voter registration,⁷⁸⁵ no-excuse absentee voting,⁷⁸⁶ Sunday voting (which is disproportionately utilized by Black voters through events such as “souls to the polls”),⁷⁸⁷ and all drop boxes.⁷⁸⁸ But just because these provisions did not make it into S.B. 202 does not mean Georgia voters are safe from similar attacks in the future.

The sponsors of S.B. 202 contend that they aim to restore confidence in Georgia’s elections. The theme of disingenuous, unsubstantiated concern permeates the law. But as has been proven time and again, Georgia’s 2020 election was safe and secure. And because a record number of Georgians voted,⁷⁸⁹ the election results evinced a truer democratic reflection of voters’ will.

Yet state lawmakers are determined to subvert the democratic will of the people. For example, the Republican Chair of the Gwinnett Board of Registrations and Elections called for the State legislature to enact new laws to restrict voting, explaining that “they don’t have to change all of them, but they’ve got to change the major parts of them so that we at least have a shot at winning.”⁷⁹⁰ She referred to 2020 as a “terrible elections cycle,” despite record

⁷⁸⁵ Stephen Fowler, *Georgia Senate Republicans Pass Bill to End No-Excuse Absentee Voting*, NPR (Mar. 8, 2021), <https://www.npr.org/2021/03/08/974985725/georgia-senate-republicans-pass-bill-to-end-no-excuse-absentee-voting> (attached as Exhibit S47).

⁷⁸⁶ *Id.*

⁷⁸⁷ Nick Corasaniti & Jim Rutenberg, *In Georgia, Republicans Take Aim at Role of Black Churches in Elections*, N.Y. TIMES, <https://www.nytimes.com/2021/03/06/us/politics/churches-black-voters-georgia.html> (updated Mar. 25, 2021).

⁷⁸⁸ Ben Nadler, *Georgia Senate GOP Push for End to No-Excuse Absentee Voting*, ASSOCIATED PRESS (Dec. 8, 2020), <https://apnews.com/article/election-2020-joe-biden-donald-trump-legislature-georgia-d63d0d40fddd0724faffdfc8b72c0e> (attached as Exhibit S48); Christopher Alston, *Gwinnett Election Board Chair Refuses to Resign After Intense Criticism*, WABE (Jan. 21, 2021), <https://www.wabe.org/gwinnett-election-board-chair-refuses-to-resign-after-intense-criticism/>.

⁷⁸⁹ Allison McCartney, *Turnout Hits Historic Highs in Contentious Georgia Senate Races*, BLOOMBERG (Jan. 5, 2021), <https://www.bloomberg.com/graphics/2021-georgia-senate-runoff/>.

⁷⁹⁰ Curt Yeomans, *Gwinnett Elections Board’s New Chairwoman Wants Limits on No-Excuse Absentee Voting, Voter Roll Review*, GWINNETT DAILY POST (Jan. 16, 2021), https://www.gwinnettdaily.com/local/gwinnett-elections-boards-new-chairwoman-wants-limits-on-no-excuse-absentee-voting-voter-roll-review/article_7df1c274-5715-11eb-a31d-dfa23b30ee62.html (attached as Exhibit S49).

SECTION IV: S.B. 202: SUPPRESSION REVISITED

turnout and no documented problems with voter fraud in the face of heavy scrutiny.⁷⁹¹ It is remarkable that an elected official in a state where people have tirelessly fought for the right to vote would bemoan such an outcome.

Georgia lawmakers' most recent efforts to suppress the vote and seize electoral power demonstrate how critical the fight for voting rights remains. Georgia voters deserve public servants concerned with protecting the constitutional rights of their constituents—not their own power. The Georgia legislature purports to offer legislative solutions to a nonexistent problem with the true intention of effectively disenfranchising voters. S.B. 202 also restructures the State government to ensure that the administration of elections—including potentially the certification of the outcome—is even more skewed in favor of those already in power. This legislation breeds cynicism, not confidence.

While voting rights activists and concerned Georgia voters fought to eliminate some of the most extreme provisions of S.B. 202, the instinct to preserve power at the expense of voters of color remains a threat. Volunteers, donors, and organizations should not have to pour millions of dollars into combatting voter suppression legislation. It is up Congress to step in to protect the fundamental democratic principle that every citizen's vote matters and deserves to be counted.

F. The United States Department of Justice Sues the State of Georgia over S.B. 202.

Numerous parties seeking to ensure free and fair elections for Georgians have challenged S.B. 202. As of August 16, 2021, private parties have filed 7 suits against Georgia's governor, the Secretary of State, the State Election Board and its members, and various county election officials for declaratory and injunctive relief challenging various provisions of S.B. 202.⁷⁹² On June 25, 2021, the DOJ sued the State, the SEB, and the SOS, bringing the number of pending lawsuits challenging S.B. 202 to 8.⁷⁹³ The DOJ's suit challenges 7 provisions of S.B. 202 that violate Section 2 of the VRA. In particular, the suit challenges S.B. 202's:

⁷⁹¹ *Id.*

⁷⁹² The 7 suits brought by private parties are *New Georgia Project v. Raffensperger*, No. 1:21-cv-01229-JPB (N.D. Ga. Mar. 25, 2021); *Georgia State Conference of the NAACP v. Raffensperger*, No. 1:21-cv-01259-JPB (N.D. Ga. Mar. 28, 2021); *Sixth District of the African Methodist Episcopal Church v. Kemp*, No. 1:21-cv-01284-JPB (N.D. Ga. Mar. 29, 2021); *Asian Americans Advancing Justice—Atlanta v. Raffensperger*, No. 1:21-cv-01333-JPB (N.D. Ga. Apr. 1, 2021); *VoteAmerica v. Raffensperger*, No. 1:21-cv-01390-JPB (N.D. Ga. Apr. 7, 2021); *The Concerned Black Clergy of Metropolitan Atlanta, Inc. v. Raffensperger*, No. 1:21-cv-01728-JPB (N.D. Ga. Apr. 27, 2021); and *Coalition for Good Governance, v. Raffensperger*, No. 1:21-cv-02070-JPB (N.D. Ga. May 17, 2021).

⁷⁹³ Complaint, *United States v. Georgia*, No. 1:21-cv-02575-JPB (N.D. Ga. June 25, 2021), ECF No. 1 (attached as Exhibit S50).

SECTION IV: S.B. 202: SUPPRESSION REVISITED

- (a) ban on government entities mailing unsolicited absentee ballot request forms to voters (Section 25); (b) onerous fines on third party groups that distribute duplicate or follow-up absentee ballot request forms to voters (Section 25); (c) the requirement that voters without a DDS-issued ID number associated with their voter registration record photocopy another form of ID to request an absentee ballot and may not use the last four digits of their Social Security number to verify their identity for such requests (Section 25); (d) the new deadline for requesting absentee ballots 11 days before Election Day (Section 25); (e) the cutback in the number of drop boxes permitted and the prohibition on using drop boxes after hours and in the days leading up to the election (Section 26); (f) the ban on groups providing food and water in a non-partisan way to voters facing long lines at the polls (Section 33); and (g) the prohibition on counting most out-of-precinct provisional ballots (Section 34).⁷⁹⁴

In his press statement regarding the DOJ's suit, United States Attorney General Merrick Garland "expressed concern about the dramatic rise in state legislative actions that will make it harder for millions of citizens to cast a vote that counts," and stated:

We are using every method at our disposal and our enforcement efforts, but that is not enough. We urge Congress to act to provide the Department with important authorities it needs to protect the voting rights of every American.

Eight years ago today, the Supreme Court issued the decision in *Shelby County v. Holder*. Prior to that decision, the Justice Department had an invaluable tool it could use to protect voters from discrimination, Section 5 of the Voting Rights Act.

Under that section, any change with respect to voting in a covered jurisdiction could not be enforced unless the jurisdiction first proved to the Justice Department or to the United States District Court for the District of Columbia that the proposed change did not deny or abridge the right to vote on account of race, color, or membership in a language minority group.

Using that tool, the Department prevented over 175 proposed election laws across Georgia from being implemented because they failed the statutory test. If Georgia had still been covered by Section 5, it is likely that SB 202 would never have taken effect. We urge Congress to restore this invaluable tool.⁷⁹⁵

⁷⁹⁴ *Id.* ¶ 161.

⁷⁹⁵ Attorney General Merrick B. Garland Delivers Remarks Announcing Lawsuit Against the State of Georgia to Stop Racially Discriminatory Provisions of New Voting Law, U.S. DEPT. JUST. (June 25, 2021), <https://www.justice.gov/opa/speech/attorney-general-merrick-b-garland-delivers-remarks-announcing-lawsuit-against-state> (attached as Exhibit S51).

SECTION IV: S.B. 202: SUPPRESSION REVISITED

Attorney General Garland's message and plea to Congress could not have been clearer: 1) Georgia and other states have increased efforts to disenfranchise their citizens, particularly their citizens of color, with laws that would have been rejected under the VRA pre-Shelby County; 2) S.B. 202 would not have passed muster pre-Shelby County; and 3) the DOJ needs Congress to act now to restore the Department's ability to protect the voting rights of American citizens from state infringement.

Unsurprisingly, the state of Georgia has moved to dismiss the DOJ's suit challenging provisions of S.B. 202. Several third parties that claim to be advocates of election integrity have filed amicus briefs supporting the State's motion to dismiss. Two amicus submissions prominently demonstrate the racial and political polarity of S.B. 202 on both a federal and state level. One brief was submitted by the American Center for Law and Justice and fifty-seven representatives of the 117th Congress: all Republican and all white.⁷⁹⁶ Thirty-nine of the fifty-seven representatives⁷⁹⁷ also signed an amicus brief supporting *Texas v. Pennsylvania*, the case filed in the United States Supreme Court by Texas attorney general Ken Paxton to overturn the 2020 presidential results confirming President Joe Biden as the winner in Pennsylvania, Wisconsin, Michigan, and Georgia.⁷⁹⁸

The second amicus brief was submitted by attorney generals in sixteen states, again all Republican.⁷⁹⁹ The sole Black attorney general who signed the amicus brief,⁸⁰⁰ Daniel Cameron, has been criticized widely for his handling of the notorious killing of an unarmed Black woman, Breonna Taylor, in 2020 at the hands of law enforcement, a case that sparked national and international protests and outrage. More than half of the attorney generals who signed the amicus brief supported the State of Texas in the failed attempt to overthrow the 2020 presidential election.⁸⁰¹ Ken Paxton, who signed the amicus brief supporting S.B. 202 as the attorney general of Texas initiated the Supreme Court case to overthrow Georgia's

⁷⁹⁶ Br. Am. Ctr. Law Just., Members Cong., *United States*, No. 1:21-cv-02575-JPB (N.D. Ga. Aug. 2, 2021), ECF No. 43-1 (attached as Exhibit S52).

⁷⁹⁷ Marjorie Taylor Greene, who signed the amicus brief in support of S.B. 202, was not yet a sworn member of Congress when the amicus in support of the State of Texas in *Texas v. Pennsylvania* was filed. Taylor Greene is well-known for her avid support of former President Trump.

⁷⁹⁸ Mot. Leave File Br. Amicus Curiae Br. Amicus Curiae U.S. Rep. Mike Johnson and 125 Other Members U.S. House Rep. Supp. Pl.'s Mot. Leave File Bill Compl. Mot. Prelim. Inj., *Texas v. Pennsylvania*, No. 220155 (U.S. Dec. 10, 2020) (attached as Exhibit S53).

⁷⁹⁹ Br. Amici Curiae States, *United States*, No. 1:21-cv-02575-JPB (N.D. Ga. Aug. 3, 2021), ECF No. 46-1 (attached as Exhibit S54).

⁸⁰⁰ Sean Reyes, who signed the brief as Utah's attorney general, is of Native Hawaiian and Japanese descent.

⁸⁰¹ Br. State Mo. 16 Other States Amici Curiae Supp. Pl.'s Mot. Leave File Bill Compl., *Texas*, No. 220155 (U.S. Dec. 9, 2020) (attached as Exhibit S55).

SECTION IV: S.B. 202: SUPPRESSION REVISITED

2020 presidential election results.⁸⁰² Thus, politicians and lawmakers from both within and outside of the State of Georgia, all Republican and mostly white, have actively sought to disenfranchise Georgia voters in the past, and are continuing their efforts today.

G. Georgia is Not Alone in Enacting New and Suppressive Election Legislation

Unfortunately, while Georgia was an early entrant in the 2021 race to adopt new voter suppression laws, it is not alone. States across the country have adopted laws that, even if benign in language, will cause impediments that will disproportionately affect voters of color.⁸⁰³ As of this writing, Georgia is one of eighteen states that have adopted over thirty new election laws.⁸⁰⁴ Many commentators attribute the explosion in legislation that disproportionately targets voters of color to President Biden's 2020 victory over Donald Trump in which voters of color, and Black voters in particular, played a critical role.⁸⁰⁵

The Brennan Center has analyzed the legislation introduced to date and produced a report that characterizes the legislation. Some legislation, notably in twenty-five states, is decidedly pro-voter—typically by expanding access to early voting and vote by mail. These states include California, Colorado, Connecticut, Hawaii, Illinois, Indiana, Louisiana, Maryland, North Dakota, New Hampshire, New York, and Virginia.⁸⁰⁶ But the eighteen states that the Brennan Center characterizes as enacting restrictive legislation demonstrate the need for federal legislation. The eighteen states include Georgia, Texas, Alabama, and Arizona, which were subject to the preclearance requirements of the VRA.

While the strategies that state legislators opposing the restrictive laws have used generally have failed in blocking legislation, the efforts of Texas Democratic lawmakers are

⁸⁰² Mot. Leave File Bill Compl., *Texas*, No. 220155 (U.S. Dec. 7, 2020) (attached as Exhibit S56).

⁸⁰³ J. Posimato, *States were once overt in their race-based voter suppression; today, they hide it in laws that are difficult to challenge*, BALTIMORE SUN (July 22, 2021), <https://www.baltimoresun.com/opinion/op-ed/bs-ed-op-0723-voting-rights-20210722-55j2r04xsrdyllkummm6pf4ffu-story.html>. See also C. Blow, *Voter Suppression Must Be The Central Issue*, N.Y. TIMES (June 9, 2021), <https://www.nytimes.com/2021/06/09/opinion/voter-suppression-republicans.html?searchResultPosition=33> ("There has never been anything delicate or elegant about voter suppression. It is a club. But those doing the suppressing have learned ways to disguise their tactics, to no longer explicitly identify race in the language of the legislation.")

⁸⁰⁴ *Voting Laws Roundup: July 2021*, BRENNAN CTR. FOR JUST. (Jul. 22, 2021), <https://www.brennancenter.org/our-work/research-reports/voting-laws-roundup-july-2021>.

⁸⁰⁵ See, e.g., Brandon Tensley, *America's long history of Black voter suppression*, CNN POLITICS, <https://www.cnn.com/interactive/2021/05/politics/black-voting-rights-suppression-timeline/> (last visited Aug. 10, 2021).

⁸⁰⁶ *Voting Laws Roundup: July 2021*, BRENNAN CTR. FOR JUST. (Jul. 22, 2021), <https://www.brennancenter.org/our-work/research-reports/voting-laws-roundup-july-2021>.

SECTION IV: S.B. 202: SUPPRESSION REVISITED

creative—they simply left the state.⁸⁰⁷ As of this writing, the standoff continued and the Democrats remained in Washington, D.C., where they have been lobbying for the passage of federal legislation while remaining steadfast in their commitment to stay out of Texas to prevent passage of the suppressive legislation.⁸⁰⁸ These legislators have been forced to make enormous personal sacrifices, including being away from their families for an extended period of time, in order to attempt to fill the void created after *Shelby County*.

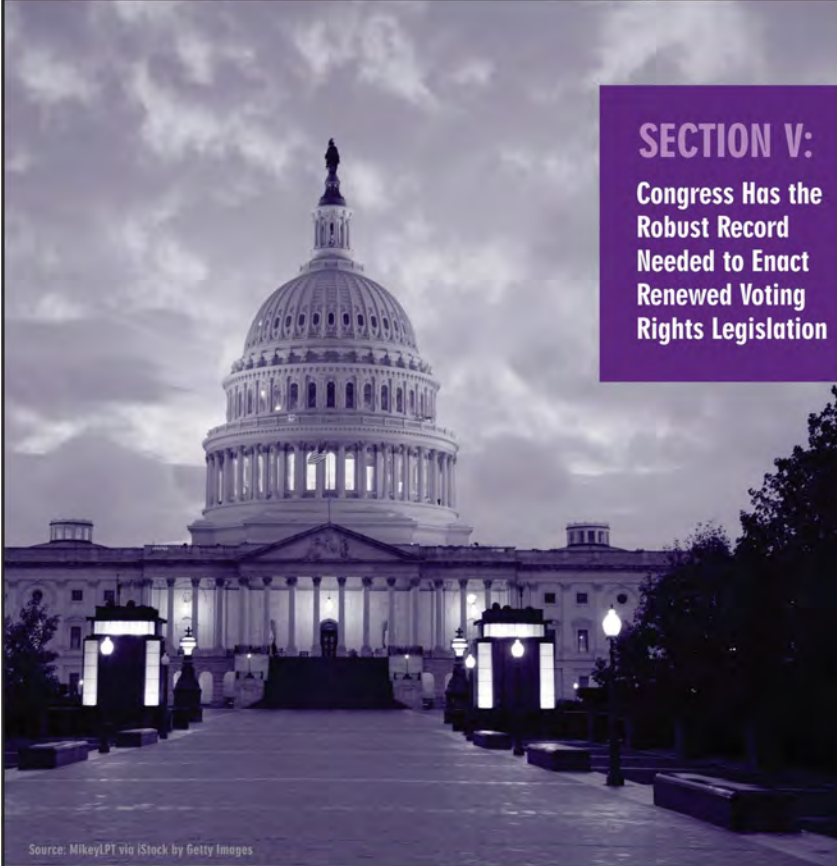
Of particular interest is that the new suppression legislation is touted as protecting “election integrity.” Yet not a single state has advanced any evidence to show the existence of any facts suggesting the need to protect elections. As Dr. Lorraine Minnite explained, “[t]he specter of voter fraud is used to scare people and justify rules that make it harder to vote for that segment of the population that already votes the least—the poor, new citizen voters, young people and, most importantly, racial minorities.”⁸⁰⁹ Instead, many of those who oppose the overtly partisan effort to suppress votes fear the result of the new legislation will be the subversion of the right to vote.⁸¹⁰

⁸⁰⁷ R. Epstein & N. Corasaniti, *Texas Democrats Flee State to Highlight G.O.P. Voting Restrictions*, N.Y. TIMES (Jul. 13, 2021), <https://www.nytimes.com/2021/07/12/us/politics/texas-democrats-voting-bill.html>.

⁸⁰⁸ *Quorum-busting Texas House Democrats still plotting next move ahead of second special session*, TX. TRIBUNE (Aug. 5, 2021), <https://www.texastribune.org/2021/08/05/texas-democrats-special-session/>.


⁸⁰⁹ Tom McLaughlin, *Is Voter Fraud a Danger or a Myth?: Interview with Dr. Lorraine Minnite*, RUTGERS TODAY (Oct. 20, 2020), <https://www.rutgers.edu/news/voter-fraud-danger-or-myth>. Dr. Minnite is one of Fair Fight Action’s litigation expert witnesses.

⁸¹⁰ See, e.g., J. Mayer, *The Big Money Behind the Big Lie*, NEW YORKER (Aug. 2, 2021), <https://www.newyorker.com/magazine/2021/08/09/the-big-money-behind-the-big-lie> (Quoting election expert Richard Hasen, “What I’m really worried about is election subversion. Election officials are being put in place who will mess with the count.”).



Source: MikeyLPT via iStock by Getty Images

SECTION V:
Congress Has the Robust Record Needed to Enact Renewed Voting Rights Legislation

FAIR  FIGHT ACTION

SECTION V: A CALL FOR BETTER LEGISLATION

Congress Has the Robust Record Needed to Enact New Voting Rights Legislation.

In 2013, the Supreme Court gutted the VRA's preclearance formula because the coverage formula on which Congress had based the most recent amendment to the VRA was "based on decades-old data and eradicated practices."⁸¹¹ The Court found the record before Congress when it passed the amendment to the VRA did not "approach[] the 'pervasive,' 'flagrant,' 'widespread,' and 'rampant' discrimination that clearly distinguished the covered jurisdictions from the rest of the Nation in 1965."⁸¹² The Court ended by instructing that, "while any racial discrimination in voting is too much, Congress must ensure that the legislation it passes to remedy that problem speaks to current conditions."⁸¹³

The Congressional response to *Shelby County*, that to date has led to the House passage of H.R. 4, is creating a robust record of pervasive, flagrant, widespread, and rampant voter suppression throughout the states. This record includes H.R. 116-317 (2019). As Secretary of Housing and Urban Development and former Congresswoman Marcia Fudge said when the House Report was released, "It is time for us to set the right example as a democracy and encourage people to vote, rather than continuing to erect barriers that seek to suppress the vote and the voices of our communities."⁸¹⁴

Through this report and in Leader Abrams's April 2021 testimony before the Senate Judiciary Committee, Fair Fight Action and Georgia voters provide Congress a multitude of "pervasive," "flagrant," "widespread," and "rampant" acts of suppression by Georgia against its own citizens; acts designed to disenfranchise and burden its citizens' fundamental right to vote.⁸¹⁵ Fair Fight Action and the citizens of Georgia who have voluntarily shared their stories present this report not simply to illustrate to members of Congress how Georgia and subdivisions within Georgia have systematically disenfranchised their citizens, particularly their citizens of color. Fair Fight Action has placed this report within Congress's stewardship to support a record that justifies passage of the VRAA based on "current conditions" and to

⁸¹¹ *Shelby County*, 570 U.S. at 551.

⁸¹² *Id.* at 532 (quoting *Katzenbach*, 383 U.S. at 308, 315, 331).

⁸¹³ *Id.* at 557.

⁸¹⁴ See H.R. REP. 116-317 (2019) at 12 (attached as Exhibit 333).

⁸¹⁵ *Shelby County*, 570 U.S. at 554.

SECTION V: A CALL FOR BETTER LEGISLATION

provide the evidence demonstrating that Georgia needs federal preclearance oversight to protect Georgia voters' right to vote.⁸¹⁶

Fair Fight Action would be remiss if it did not discuss the recent Supreme Court decision interpreting Section 2 of the VRA already used by opponents of voting equality in their attempts to uphold suppressive and discriminatory voting laws. In post-*Shelby County* voting rights litigation, Plaintiffs—both private and governmental—have turned to Section 2 of the VRA to secure and protect voting rights absent the prior preclearance requirements. On July 1, 2021, the United States Supreme Court issued its opinion in two consolidated appeals in which Plaintiffs sued the State of Arizona for Section 2 violations: *Brnovich v. Democratic National Committee* (Docket No. 19-1257) and *Arizona Republican Party v. Democratic National Committee* (Docket No. 19-1258) ("*Brnovich*").⁸¹⁷

At issue in *Brnovich* were two Arizona voting restrictions: (1) the Out-of-Precinct Policy, and (2) the Ballot Harvesting Ban. Under the Out-of-Precinct Policy, an entire ballot is discarded if cast by a voter voting in the wrong precinct. Even the votes cast for races in which the voter was otherwise eligible to vote, such as for President or state-wide offices like United States Senate or State Governor, are not counted. The Ballot Harvesting Ban makes it a felony, punishable by up to two years in prison and a \$150,000 fine, to collect and deliver another person's completed ballot (with exceptions for family members, caregivers, mail carriers and election officials).

In a 6-3 decision, the Supreme Court ruled that neither policy violates Section 2 of the VRA. The Court reversed the judgment of the en banc Ninth Circuit Court of Appeals and remanded the cases for further proceedings. The Supreme Court declined to announce a firm test for all vote-denial claims brought under Section 2 of the VRA. It did, however, "identify certain guideposts" to guide the analysis of future Section 2 claims challenging time, place, or manner restrictions to voting: (1) the magnitude of the burden; (2) how the practice compares to policies that were standard practice in 1982 and to other states' current policies and practices; (3) the size of the racial disparity, not just proportionally but also in absolute terms; (4) the disparity in opportunity in the entire election system, rather than just the challenged practice; and (5) the state's justifications for the practice.

The Court also clarified that certain of the "Senate Factors" identified in *Thornburg v. Gingles*, 478 U.S. 30 (1986), retain weight when analyzing Section 2 claims challenging time, place, or manner restrictions — particularly those that speak to the history of racial discrimination in the jurisdiction, and the persistence of that discrimination or its effects. Factors that do not tend to show present or past discrimination carry little weight within the framework in *Brnovich*, however.

⁸¹⁶ See *id.* at 557.

⁸¹⁷ *Brnovich v. Democratic Nat'l Comm.*, 141 S.Ct. 2321 (2021).

SECTION V: A CALL FOR BETTER LEGISLATION

Civil rights organizations and their lawyers are working together on strategies to ensure their facts fit the guidance the Court has provided. It is apparent, however, that in the same vein as *Shelby County*, the Supreme Court continues to issue opinions that diminish, rather than promote, the fundamental right to vote for all Americans. Congress must act to reinvigorate the VRA and provide the federal government with the tools to protect voting rights from lawmakers who seek to undermine them.

As recent attacks on Section 2 of the VRA before the Supreme Court demonstrate, people who believe they are losing power will try to retain that power by attacking the VRA and other measures meant to empower voters. Fair Fight Action and the voters that support the VRAA are not naïve: those who wish to destroy democracy also will attempt to attack and undermine the VRAA. Fair Fight Action implores Congress to be prepared for such attacks by compiling a record that supports the VRAA, and relying on that record to pass the law. As the Supreme Court expected in *Shelby County*, Congress must “start[] from scratch” to collect data and statistics that will support the “present coverage formula.”⁸¹⁸ Fair Fight Action looks forward to working with congressional members to ensure the congressional record for the VRAA is comprehensive and will survive judicial review.

CONCLUSION

Fair Fight Action hopes this report has been illustrative of how one state, Georgia, has continued to act in violation of the Constitution and the VRA, and how the voters in Georgia so desperately need Congress to act swiftly and pass the VRAA. The evidence in this report provides current data to support the congressional record in response to *Shelby County*. The United States portrays itself as a world leader in civil and human rights. Yet the evidence in this report demonstrates to Congress, citizens of this country, and the world, that governments within our country continue to disenfranchise systematically their own citizens based on race—that is not leadership behavior. This country can demonstrate global leadership by passing the VRAA and showing the world this country embodies the ideals of democracy and equality.

⁸¹⁸ *Id.* at 556.

TABLE OF AUTHORITIES CITED IN REPORT (In Order of Appearance)

[†] Exhibits that appear next to “+” refer to provisions of Georgia’s Election Code that were revised by S.B. 202.

| Description | Exhibit |
|--|---------|
| <i>Shelby County, Ala. v. Holder</i> , 570 U.S. 529 (2013) | |
| <i>Thornburg v. Gingles</i> , 478 U.S. 30 (1986) | |
| <i>Village of Arlington Heights v. Metro. Hous. Dev. Corp.</i> , 429 U.S. 252 (1977) | |
| <i>Lane v. Wilson</i> , 307 U.S. 268 (1939) | |
| <i>Davis v. Guam</i> , 932 F.3d 822 (9th Cir. 2019) | |
| <i>Veasey v. Abbott</i> , 830 F.3d 216 (5th Cir. 2016) | |
| For the People Act, H.R. 1, 117th Cong. (as passed by House, Mar. 3, 2021) | |
| Expert Report of Dr. Adrienne Jones, <i>Fair Fight Action, Inc. v. Raffensperger</i> , No. 1:18-cv-05391-SCJ (N.D. Ga. Aug. 15, 2019), ECF No. 92 | 1 |
| Barbara Finlay, <i>The Roots of Voter Fraud in America</i> , HISTORYNET (Dec. 2016), https://www.historynet.com/the-roots-of-voter-fraud-in-america.htm | S1 |
| <i>An Assessment of Minority Voting Rights Access in the United States</i> , U.S. COMM’N ON CIVIL RIGHTS (2018) | 2 |
| <i>Compromise of 1877</i> , HISTORY.COM (Nov. 27, 2019), https://www.history.com/topics/us-presidents/compromise-of-1877 | |
| <i>United States Presidential Election of 1876</i> , ENCYCLOPAEDIA BRITANNICA (Oct. 31, 2020), https://www.britannica.com/event/United-States-presidential-election-of-1876 | S2 |
| Isabel Wilkerson, <i>Caste: The Origins of Our Discontents</i> , 37 (2020) | |
| American Experience, <i>The Murder of Emmett Till</i> , PBS, https://www.pbs.org/wgbh/americanexperience/features/till-timeline/ | |
| Laughlin McDonald, <i>A Voting Rights Odyssey: Black Enfranchisement in Georgia</i> (2003) | |
| <i>Smith v. Allwright</i> , 321 U.S. 649 (1944) | |
| <i>King v. Chapman</i> , 62 F. Supp. 639 (M.D. Ga. 1945) | |
| Robert A. Holmes, <i>Georgia Legislative Black Caucus</i> , NEW GEORGIA ENCYCLOPEDIA (Feb. 11, 2005), https://www.georgiaencyclopedia.org/articles/government-politics/georgia-legislative-black-caucus | S3 |
| Expert Report of Dr. Peyton McCrary, <i>Fair Fight Action, Inc. v. Raffensperger</i> , No. 1:18-cv-05391-SCJ, (N.D. Ga. Aug. 15, 2019), ECF No. 339 | 3 |
| Eyewitness: American Originals from the National Archives, <i>John Lewis – March from Selma to Montgomery, ‘Bloody Sunday’, 1965</i> , THE NATIONAL ARCHIVES, https://www.archives.gov/exhibits/eyewitness/html.php?section=2 | 4 |
| Voting Rights Act (VRA) of 1965, Pub. L. No. 89-110, 79 Stat. 437 | |
| <i>President Johnson’s Special Message to Congress: The American Promise</i> , LBJ PRESIDENTIAL LIBRARY (Mar. 15, 1965), http://www.lbjlibrary.org/lyndon-baines-johnson/speeches-films/president-johnsons-special-message-to-the-congress-the-american-promise | S4 |
| <i>About Section 5 of the Voting Rights Act</i> , U.S. DEP’T JUST. (Sept. 11, 2020), https://www.justice.gov/crt/about-section-5-voting-rights-act | 5 |
| 52 U.S.C. §§ 10301 et seq. | |

TABLE OF AUTHORITIES CITED IN REPORT (In Order of Appearance)

[†] Exhibits that appear next to “+” refer to provisions of Georgia’s Election Code that were revised by S.B. 202.

| Description | Exhibit |
|--|---------|
| Letter from Stephen J. Pollack, Assistant Att’y Gen., Civ. Rts. Div., to Arthur K. Bolton, Att’y Gen., State of Ga. (July 11, 1968), https://www.justice.gov/sites/default/files/crt/legacy/2014/05/30/GA-1010.pdf | 6 |
| <i>Busbee v. Smith</i> , 549 F. Supp. 494 (D.D.C. 1982), aff’d mem. 459 U.S. 1166 (1983) | |
| Voting Determination Letters for Georgia, U.S. DEP’T JUST. (Aug. 7, 2015), https://www.justice.gov/crt/voting-determination-letters-georgia | 7 |
| Letter from Loretta King, Acting Assistant Att’y Gen., Civ. Rts. Div., to Thurbert E. Baker, Att’y Gen., State of Ga. (May 29, 2009), https://www.justice.gov/sites/default/files/crt/legacy/2014/05/30/L_090529.pdf | 8 |
| Ewa Kochanska, <i>Georgia Files Lawsuit Against U.S. Justice Department</i> , ATLANTA EXAMINER (June 23, 2010) | |
| <i>AG again refuses to file suit over voter checks</i> , ASSOCIATED PRESS (Apr. 22, 2010, 3:33 PM), https://accesswdun.com/article/2010/4/228855 | |
| <i>Georgia v. Holder</i> , 748 F. Supp. 2d 16 (D.D.C. 2010) | |
| Allie Gottlieb, <i>The Struggle for Voting Rights in Georgia</i> , THE REGULATORY REVIEW (Jan. 4, 2021), https://www.theregreview.org/2021/01/04/gottlieb-struggle-voting-rights-georgia/ | 85 |
| Settlement Agreement at 3, <i>Ga. State Conf. of NAACP et al., v. Kemp</i> , No. 2:16-cv-00219-WCO (N.D. Ga. Feb. 8, 2017), http://www.projectvote.org/wp-content/uploads/Settlement-Agreement-NAACP-v.-Kemp-2.9.17-1.pdf | 86 |
| Stipulation of Dismissal, <i>Ga. State Conf. of NAACP v. Kemp</i> , No. 2:16-cv-00219-WCO (N.D. Ga. Mar. 28, 2017), ECF No. 60 | 9 |
| <i>Ga. Coal. for the People’s Agenda, Inc. v. Kemp</i> , 347 F. Supp. 3d 1251 (N.D. Ga. 2018) | |
| Emilye Crosby, <i>The Selma Voting Rights Struggle: 15 Key Points from Bottom-Up History and Why It Matters Today</i> 5-6, TEACHING FOR CHANGE, https://www.teachingforchange.org/wp-content/uploads/2015/01/15-Points-The-Selma-Voting-Rights-Struggle.pdf | 87 |
| Michael Wines, <i>Critics See Efforts by Counties and Towns to Purge Minority Voters From Rolls</i> , N.Y. TIMES (July 31, 2016), https://www.nytimes.com/2016/08/01/us/critics-see-efforts-to-purge-minorities-from-voter-rolls-in-new-elections-rules.html | |
| Compl. for Injunctive and Declaratory Relief, <i>Ga. State Conf. of NAACP v. Hancock Cnty. Bd. of Elections & Registration</i> , No. 5:15-cv-00414 (M.D. Ga. Nov. 3, 2015), ECF No. 1 | 10 |
| Mark Niesse, <i>Black Senior Citizens Ordered Off Georgia Bus Taking Them To Vote</i> , ATLANTA J.-CONST. (Oct. 17, 2018), https://www.ajc.com/news/state--regional-govt-politics/black-senior-citizens-ordered-off-georgia-bus-taking-them-vote/42IzIGOF1uFo637TEc9jP/ | |
| Kira Lerner, <i>This is Live Voter Suppression: Black Voters Matter Blocked from Taking Seniors to Vote</i> , THINKPROGRESS (Oct. 15, 2018), https://thinkprogress.org/georgia-black-voters-matter-bus-blocked-from-taking-seniors-to-vote-a3c3e6580e5b/ | |

TABLE OF AUTHORITIES CITED IN REPORT (In Order of Appearance)

[†] Exhibits that appear next to “+” refer to provisions of Georgia’s Election Code that were revised by S.B. 202.

| Description | Exhibit |
|---|---------|
| Anjali Enjeti, <i>Voter Intimidation Is a Real Threat to the 2020 Race</i> , ZORA (Sept. 19, 2019), https://zora.medium.com/voter-intimidation-is-a-real-threat-to-the-2020-race-80ea56b4a108 | |
| Charles Bethca, <i>Are Police Targeting Get-Out-the-Vote Efforts in Georgia?</i> , NEW YORKER (Nov. 1, 2018), https://www.newyorker.com/news/dispatch/are-police-targeting-get-out-the-vote-efforts-in-georgia | |
| Letter from the Ga. State Conf. of the NAACP, Ga. Coal. for the Peoples’ Agenda and the Lawyers’ Comm. for Civ. Rts. Under Law to Jeanetta Watson, Macon-Bibb Cnty. Bd. of Elections Supervisor, and Reginald B. McClendon, Assistant Cnty. Att’y (Apr. 13, 2016), https://lawyerscommittee.org/wp-content/uploads/2016/04/Objection-to-Sheriffs-Office-Polling-Location.4.13.16.pdf | |
| Stanley Dunlap, <i>Macon-Bibb Polling Location OK’d After Sheriff’s Precinct Nixed</i> , THE TELEGRAPH (May 16, 2016), http://www.macon.com/news/local/article77920442.html | |
| Letter from the Ga. Coal. for the Peoples’ Agenda, Ga. State Conf. of the NAACP, New Ga. Project and the Lawyers’ Comm. for Civ. Rts. Under Law to Alfred Dixon, Mayor Pro Tem of the City of Jonesboro, Shauna Dozier, Clayton Cnty. Dir. of Elections, and Members of the Jonesboro City Council and Clayton Cnty. Bd. of Elections and Registrations (Oct. 7, 2019), https://assets.documentcloud.org/documents/6463506/Objection-to-Change-of-Poll-Location-10-7-19.pdf | |
| Letter from Aklima Khondoker et al., ACLU of Ga., to Shauna Dozier, Dir. of Elections, and Members of the Clayton Cnty. Bd. of Elections and Registration (Oct. 8, 2019), https://acluga.org/wp-content/uploads/2021/04/clayco_letter-2.pdf | |
| Michael Harriot, <i>White City Council in Majority Black City Quietly Moves Only Voting Location to Police Station</i> , THE ROOT (Oct. 8, 2019), https://www.theroot.com/white-city-council-in-majority-black-city-quietly-moves-1838888108 | 88 |
| <i>City of Mobile v. Bolden</i> , 446 U.S. 55 (1980) | |
| Voting Rights Act 1982, Amendments, Pub. L. No. 97-205, 96 Stat. 131 | |
| S. Rep. No. 97-417 (1982) | |
| Jon Ward, <i>How a Criminal Investigation in Georgia Set an Ominous Tone for African-American Voters</i> , YAHOO NEWS (Aug. 6, 2019), https://news.yahoo.com/how-a-criminal-investigation-in-georgia-set-a-dark-tone-for-african-american-voters-090000532.html | |
| <i>A Georgia Voter Fraud Prosecution and Voter Suppression</i> , EQUAL JUST. INITIATIVE (Aug. 16, 2019), https://eji.org/news/georgia-voter-fraud-prosecution-ploy-suppress-black-votes/ | |
| Ariel Hart, <i>Voting Case Mirrors National Struggle</i> , ATLANTA J.-CONST. (Dec. 13, 2014), https://www.ajc.com/news/state--regional-govt--politics/voting-case-mirrors-national-struggle/seFGcSydGzV2lxD6DeyiVK/ | |

TABLE OF AUTHORITIES CITED IN REPORT (In Order of Appearance)

[†] Exhibits that appear next to “+” refer to provisions of Georgia’s Election Code that were revised by S.B. 202.

| Description | Exhibit |
|---|---------|
| Spencer Woodman, <i>Top Georgia Officials Are Going After Black Leaders who Organized Voters</i> , VICE (July 15, 2014), https://www.vice.com/en/article/av4nzb/the-quitman-10-2-and-voter-suppression-in-modern-georgia-715 | |
| Field Hearing on Voting Rights and Election Admin. in Ga. before Subcomm. on Elections of the Comm. on House Admin. of the House of Representatives, 106th Cong. 12 (Feb. 19, 2019) (statement of Stacey Abrams, CEO and Founder, Fair Fight Action), https://www.govinfo.gov/content/pkg/CHRG-116hhrg37653/html/CHRG-116hhrg37653.htm | 11 |
| Adam Floyd, <i>Quitman 11 Charges Dropped</i> , VALDOSTA DAILY TIMES (Jan. 8, 2015), https://www.valdostadailytimes.com/news/local_news/quitman-11-charges-dropped/article_951d07fe-97bo-11e4-b1c7-6f4e16c25190.html | S9 |
| The Mere Possession of Another’s Absentee Ballot Does Not Constitute Unlawful Possession of an Absentee Ballot Under Either O.C.G.A. § 21-2-385(a) or § 21-2-574, Op. Georgia Att’y Gen. 2016-2 (June 15, 2016), https://law.georgia.gov/opinions/2016-2 | 12 |
| 2021 Ga. Laws Act 9 | 13 |
| Anastasia Tsioulcas, <i>Georgia Voters Face Hours-Long Lines At Polls On First Day Of Early Voting</i> , NPR (Oct. 12, 2020), https://www.npr.org/2020/10/12/923090987/georgia-voters-face-hours-long-lines-at-polls-on-first-day-of-early-voting | |
| Sam Levine, <i>More Than 10-Hour Wait and Long Lines as Early Voting Starts in Georgia</i> , THE GUARDIAN (Oct. 12, 2020), https://www.theguardian.com/us-news/2020/oct/13/more-than-10-hour-wait-and-long-lines-as-early-voting-starts-in-georgia | |
| Jane C. Timm, <i>In Supreme Court, GOP Attorney Defends Voting Restrictions by Saying they Help Republicans Win</i> , NBC NEWS (Mar. 2, 2021, 1:21 p.m. EST), https://www.nbcnews.com/politics/elections/supreme-court-gop-attorney-defends-voting-restrictions-saying-they-help-n1259305 | |
| <i>Arizona Republican Party v. Democratic Nat’l Comm.</i> , No. 19-1258 (Mar. 2, 2021) | |
| Martha Dalton, <i>Group Asks Cobb School Board to Address Racism Concerns, Equity in Schools</i> , WABE (Sept. 3, 2019) https://www.wabe.org/group-asks-cobb-school-board-to-address-racism-equity-in-schools/ | |
| Larry Felton Johnson, <i>Democratic School Board Nominees Release Resolution Condemning Racism</i> , COBB CNTY. COURIER (Sept. 29, 2020), https://cobbcountycourier.com/2020/09/democratic-school-board-nominees-condemning-racism/ | S10 |
| Bill Rankin, <i>Exclusive: Buford Schools Superintendent Recorded in Racist Rant, Lawsuit Says</i> , ATLANTA J.-CONST. (Aug. 21, 2018), https://www.ajc.com/news/local/lawsuit-buford-schools-superintendent-recorded-racist-rant/xywRl237UbhMvGUO4EBunN/ | |

TABLE OF AUTHORITIES CITED IN REPORT (In Order of Appearance)

[†] Exhibits that appear next to “*” refer to provisions of Georgia’s Election Code that were revised by S.B. 202.

| Description | Exhibit |
|--|---------|
| Isabel Hughes, <i>Lawsuit: Former Buford Superintendent Gege Hamby led district by ‘Fear and Intimidation’</i> , GWINNETT DAILY POST (Jan. 6, 2019), https://www.gwinnettdaily.com/local/lawsuit-former-buford-superintendent-gege-hamby-led-district-by-fear-and-intimidation/article_2c295c0b-e2e8-556f-b62f-fbdfa80a3a22.html | S11 |
| Complaint, <i>Ingram v. Buford City School District</i> , No. 1:18-cv-03103-ELR (N.D. Ga. June 27, 2018), ECF No. 1 | 14 |
| Ernie Suggs, <i>Douglas Leader’s Racial Comments Spark Calls that He Resign</i> , ATLANTA J.-CONST. (Nov. 8, 2016), https://www.ajc.com/news/local/douglas-leader-racial-comments-spark-calls-that-resign/AVjoc8BDCXLsut6OBpJHl/ | |
| VRAA § 3 | |
| VRAA “Voting Rights Violations” in Georgia | 15 |
| Letter from Thomas E. Perez, Ass’t Att’y Gen., to Dennis R. Dunn, Deputy Att’y Gen., State of Ga. (Dec. 21, 2012), https://www.justice.gov/sites/default/files/crt/legacy/2014/05/30/L_121221_0.pdf | 16 |
| <i>Howard v. August-Richmond Cnty.</i> , No. 1:14-cv-00097, 2014 WL 12810317, (S.D. Ga. May 13, 2014) | |
| <i>Morales v. Handel</i> , No. 1:08-cv-03172, 2008 WL 9401054 (N.D. Ga. Oct. 27, 2008) | |
| Letter from Thomas E. Perez, Ass’t Att’y Gen., to Andrew S. Johnson, Esq. & B. Jay Swindell, Esq. (Aug. 27, 2012), https://www.justice.gov/sites/default/files/crt/legacy/2014/05/30/L_120827.pdf | 17 |
| Letter from Thomas E. Perez, Ass’t Att’y Gen., to Michael S. Green, Esq., Patrick O. Dollar, Esq. & Cory O. Kirby, Esq. (Apr. 13, 2012), https://www.justice.gov/sites/default/files/crt/legacy/2014/05/30/L_120413.pdf | 18 |
| Letter from Thomas Perez, Ass’t Att’y Gen. to Walter G. Elliot, Esq. (Nov. 30, 2009), https://www.justice.gov/sites/default/files/crt/legacy/2014/05/30/L_091130.pdf | 19 |
| Letter from Ralph T. Boyd, Jr., Ass’t Att’y Gen., to Wayne Jernigan, Esq., Phillip L. Hartley, Esq. & Cory O. Kirby, Esq. (Oct. 15, 2002), https://www.justice.gov/sites/default/files/crt/legacy/2014/05/30/GA-2690.pdf | 20 |
| Letter from J. Michael Wiggins, Acting Ass’t Att’y Gen., to Robert T. Prior, Esq. (Aug. 9, 2002), https://www.justice.gov/sites/default/files/crt/legacy/2014/05/30/L_020809.pdf | 21 |
| Letter from J. Michael Wiggins, Acting Ass’t Att’y Gen., to Al Grieshaber, Jr., Esq. (Sept. 23, 2002), https://www.justice.gov/sites/default/files/crt/legacy/2014/05/30/GA-2680.pdf | 22 |
| Letter from Bill Lann Lee, Acting Ass’t Att’y Gen., Civ. Rts. Div., to James M. Skipper, Jr., Esq. (Jan. 11, 2000), https://www.justice.gov/sites/default/files/crt/legacy/2014/05/30/GA-2630.pdf | 23 |
| Letter from Bill Lann Lee, Acting Ass’t Att’y Gen., Civ. Rts. Div., to Melvin P. Kopecky, Esq. (Mar. 17, 2000), https://www.justice.gov/sites/default/files/crt/legacy/2014/05/30/GA-2640.pdf | 24 |
| Letter from Ralph F. Boyd, Jr., Ass’t Att’y Gen., Civ. Rts. Div., to Tommy Coleman, Esq. (Oct. 1, 2001), https://www.justice.gov/sites/default/files/crt/legacy/2014/05/30/GA-2650.pdf | 25 |

TABLE OF AUTHORITIES CITED IN REPORT (In Order of Appearance)

† Exhibits that appear next to “+” refer to provisions of Georgia’s Election Code that were revised by S.B. 202.

| Description | Exhibit |
|---|---------|
| Letter from Wan J. Kim, Ass’t Att’y Gen., to Tommy Coleman, Esq. (Sept. 12, 2006), https://www.justice.gov/sites/default/files/crt/legacy/2014/05/30/GA-2700.pdf | 26 |
| <i>Wright v. Sumter Cnty. Bd. of Elections & Registration</i> , 301 F. Supp. 3d 1297 (M.D. Ga. 2018), <i>aff’d</i> 979 F.3d 1282 (11th Cir. 2020) | |
| Permanent Injunction Order, <i>Wright v. Sumter Cnty. Bd. of Elections and Registration</i> , No. 1:14-cv-42-WLS, 2018 WL 7365178 (M.D. Ga. Mar. 30, 2018) | 27 |
| <i>Cofield v. City of LaGrange</i> , 969 F. Supp. 749 (N.D. Ga. 1997) | |
| Complaint, <i>Kwon v. Crittenden</i> , No. 1:18-cv-05405-TCB (N.D. Ga. Nov. 27, 2018), ECF No. 1 | 28 |
| Consent Order, <i>Kwon v. Crittenden</i> , No. 1:18-05405-TCB (N.D. Ga. Nov. 29, 2018), ECF No. 7 | 29 |
| <i>Marion County, Georgia to Change its Method of Election in an Agreement with the Justice Department</i> , DEP’T OF JUST. (June 6, 2000), https://www.justice.gov/archive/opa/pr/2000/June/320cr.htm | 30 |
| Complaint, <i>Ga. State Conf. of NAACP v. Fayette Cnty. Bd. of Comm’rs</i> , No. 3:11-cv-00123-TCB (N.D. Ga. Aug. 9, 2011), ECF No. 1 | S12 |
| <i>Ga. State Conf. of NAACP v. Fayette Cnty. Bd. of Comm’rs</i> , 775 F.3d 1336 (11th Cir. 2015) | |
| Consent Order, <i>Ga. State Conf. of NAACP v. Fayette Bd. of Comm’rs</i> , No. 3:11-cv-00123-TCB (N.D. Ga. Jan. 28, 2016), ECF No. 289 | 31 |
| <i>Fayette Settlement Key Points</i> , NAACP Legal Def. and Educ. Fund, https://naacpldf.org/document/fayette-settlement-key-points | |
| Fourth Consent Motion to Stay Proceedings, <i>Ga. State Conf. of NAACP v. Emanuel Cnty. Bd. of Comm’rs</i> , No. 6:16-cv-00021-JRH-GRS (S.D. Ga. Dec. 8, 2016), ECF No. 37 | 32 |
| Order on Stipulation of Dismissal, <i>Ga. State Conf. of NAACP v. Emanuel Cnty. Bd. of Comm’rs</i> , No. 6:16-cv-00021-JRH-GRS (S.D. Ga. May 16, 2017), ECF No. 40 | 33 |
| O.C.G.A. § 21-2-229 | 34† |
| O.C.G.A. § 21-2-230 | 35 |
| <i>New Georgia Project v. Raffensperger</i> , No. 1:21-cv-01229-JPB, 2021 WL 1158043 (N.D. Ga. Mar. 25, 2021) | |
| <i>United States v. Long Cnty., Ga.</i> , No. 2:06-cv-00040-AAA, 2006 WL 8458526 (S.D. Ga. Feb. 10, 2006) | 36 |
| Neima Abdulahi, <i>Ga. County Under Microscope, Accused of Suppressing Black Votes</i> , 11 ALIVE (Aug. 5, 2016), https://www.11alive.com/article/news/politics/elections/ga-county-under-microscope-accused-of-suppressing-black-votes/85-288453664 | |
| <i>QuickFacts: Hancock County, Georgia</i> , U.S. CENSUS BUREAU, https://www.census.gov/quickfacts/fact/table/hancockcountygeorgia/PST040219 | 37 |
| Avery Braxton, <i>Lawsuit Now Mandates Monitoring of Hancock County Elections</i> , 13WMAZ (Oct. 31, 2018), https://www.13wmaz.com/article/news/local/lawsuit-now-mandates-monitoring-of-hancock-county-elections/93-609769958 | S13 |

TABLE OF AUTHORITIES CITED IN REPORT (In Order of Appearance)

[†] Exhibits that appear next to “+” refer to provisions of Georgia’s Election Code that were revised by S.B. 202.

| Description | Exhibit |
|---|-----------------|
| Order on Joint Motion for Entry of Consent Order, <i>Ga. State Conf. of NAACP</i> , No. 5:15-cv-00414-CAR (M.D. Ga. Mar. 30, 2018), ECF No. 71 | 38 |
| Editorial: <i>Voting Rights in Hancock County Still Hard-Fought</i> , SAVANNAH NOW (Mar. 11, 2017, 9:07 p.m.), https://www.savannahnow.com/opinion/editorial/2017-03-11/editorial-voting-rights-hancock-county-still-hard-fought | |
| Suevon Lee, <i>A Reading Guide to True the Vote, the Controversial Voter Fraud Watchdog</i> , PROPUBLICA (Sept. 27, 2012), https://www.propublica.org/article/a-reading-guide-to-true-the-vote-the-controversial-voter-fraud-watchdog | S14 |
| <i>True the Vote Partners with Georgians in Every County to Preemptively Challenge 364,541 Potentially Ineligible Voters</i> , TRUE THE VOTE (Dec. 18, 2020), https://truethevote.org/news-posts/true-the-vote-partners-with-georgians-in-every-county-to-preemptively-challenge-364541-potentially-ineligible-voters/ | |
| First Amended Complaint for Declaratory and Injunctive Relief, <i>Fair Fight Inc. v. True the Vote, Inc.</i> , No. 2:20-cv-00302-SCJ (N.D. Ga. Mar. 22, 2021), ECF No. 73 | 39 |
| Exhibit 2, <i>Fair Fight Inc. v. True the Vote, Inc.</i> , No. 2:20-cv-00302-SCJ (N.D. Ga. Dec. 29, 2020), ECF No. 11-3 | 40 |
| Bill Barrow, <i>GOP Activist’s Voter Challenges Raise Questions in Georgia</i> , ASSOCIATED PRESS (Dec. 21, 2020), https://apnews.com/article/georgia-elections-political-organizations-voter-registration-atlanta-3a8989df44c323ce798e0a5d34eb9876 | S15 |
| Pls.’ Mem. of Law in Supp. of Mot. for Temporary Restraining Order, <i>Majority Forward v. Ben Hill Cnty. Bd. of Elections</i> , No. 1:20-cv-00266-LAG (M.D. Ga. Dec. 27, 2020), ECF No. 5-1 | 41 |
| Declaration of Nakeitha Essix, <i>Majority Forward v. Ben Hill Cnty. Bd. of Elections</i> , No. 1:20-cv-00266-LAG (M.D. Ga. Dec. 27, 2020), ECF No. 5-6 | 42 |
| Declaration of Gamaliel Warren Turner, Sr., <i>Majority Forward v. Ben Hill Cnty. Bd. of Elections</i> , No. 1:20-cv-00266-LAG (M.D. Ga. Dec. 27, 2020), ECF No. 5-4 | 43 |
| Declaration of Debra Lewis, <i>Majority Forward v. Ben Hill Cnty. Bd. of Elections</i> , No. 1:20-cv-00266 (M.D. Ga. Dec. 29, 2020), ECF No. 21 | 44 |
| Amy Gardner & Keith Newell, <i>‘Someone’s Going to Get Killed’: GOP Election Official in Georgia Blames President Trump for Fostering Violent Threats</i> , WASH. POST (Dec. 1, 2020), https://www.washingtonpost.com/politics/georgia-official-trump-election/2020/12/01/f1d5e962-3427-11eb-b59c-adb7153d10e2_story.html | |
| Sean Keenan, <i>An Atlanta Election Worker Is in Hiding After a Claim that He Tossed a Ballot. His Boss Says the Claim Is False</i> , N.Y. TIMES (Nov. 6, 2020), https://nyti.ms/3p70NDe | |
| Declaration of [Redacted], <i>Fair Fight, Inc. v. True the Vote, Inc.</i> , No. 2:20-cv-302-SCJ (N.D. Ga. Jan. 1, 2021), ECF No. 26 | 45 |
| Declaration of [Redacted] #2, <i>Fair Fight Inc. v. True the Vote, Inc.</i> , No. 2:20-cv-302-SCJ (N.D. Ga. Jan. 1, 2021), ECF No. 26 | 46 |
| <i>Martin v. Kemp</i> , 341 F. Supp. 3d 1326 (N.D. Ga. 2018) | |
| <i>Democratic Party of Ga., Inc. v. Crittenden</i> , 347 F. Supp. 3d 1324 (N.D. Ga. 2018) | |
| O.C.G.A. § 21-2-381 | 47 [†] |
| O.C.G.A. § 21-2-384 | 48 |

TABLE OF AUTHORITIES CITED IN REPORT (In Order of Appearance)

† Exhibits that appear next to “†” refer to provisions of Georgia’s Election Code that were revised by S.B. 202.

| Description | Exhibit |
|---|---------|
| O.C.G.A. § 21-2-386 | 49 |
| Declaration of Dinesh [last name redacted] | 50 |
| Declaration of Thires [last name redacted] | 51 |
| Declaration of Vicki [last name redacted] | 52 |
| Curt Devine & Drew Griffin, <i>Georgia County Tosses Out Hundreds of Minority Absentee Ballots</i> , CNN POLITICS (Oct. 21, 2018), https://www.cnn.com/2018/10/20/politics/gwinnett-county-absentee-ballots | |
| Mark Niesse & Tyler Estep, <i>High Rate of Absentee Ballots Thrown Out in Gwinnett</i> , ATLANTA J.-CONST. (Oct. 16, 2018), https://www.ajc.com/news/state-regional-govt-politics/high-rate-absentee-ballots-thrown-out-gwinnett/azdOsCxX2X6mT8PTrgZJI/ | |
| Expert Rebuttal Report of Daniel A. Smith, <i>Fair Fight Action, Inc. v. Raffensperger</i> , No. 1:18-cv-05391-SCJ (N.D. Ga. Mar. 4, 2020), ECF No. 259 | 53 |
| <i>Martin v. Kemp</i> , No. 1:18-cv-4776-LMM, 2018 WL 10509482 (N.D. Ga. Oct. 25, 2018) | |
| <i>Ga. Muslim Voter Project v. Kemp</i> , Nos. 18-14502-GG, 18-14503-GG, 2018 WL 7822108 (11th Cir. Nov. 2, 2018) | |
| <i>Ga. Muslim Voter Project v. Kemp</i> , 918 F.3d 1262 (11th Cir. 2019) | |
| Order Den. Am. Mot. Prelim. Inj., <i>Martin v. Kemp</i> , No. 1:18-cv-04776-LMM (N.D. Ga. Nov. 2, 2018), ECF No. 41 | 54 |
| Reply Br. Supp. Pls.’ Emerg. Mot. TRO, <i>Martin</i> , No. 1:18-cv-04776-LMM (N.D. Ga. Nov. 12, 2018), ECF No. 54 | 55 |
| Email from David Worley to Jansen Head, et al. (Nov. 13, 2018) | 56 |
| <i>Martin v. Crittenden</i> , 347 F. Supp. 3d 1302 (N.D. Ga. 2018) | |
| 52 U.S.C. § 10101 | |
| <i>Jones v. Jessup</i> , 279 Ga. 531 (2005) | |
| Email from David Worley to Jansen Head, et al. (Nov. 13, 2018) | 57 |
| Email from Robyn Crittenden to David Worley, et al. (Nov. 14, 2018) | 58 |
| Compromise Settlement Agreement and Release, <i>Democratic Party of Ga., Inc. v. Raffensperger</i> , No. 19-cv-5028-WMR (N.D. Ga. Nov. 6, 2019), ECF No. 56-1 | 59 |
| Ga. Comp. R. & Regs. § 183-1-14-13 | 60 |
| Declaration of Edward [last name redacted] | 61 |
| Declaration of Aria [last name redacted] | 62 |
| Declaration of Amanda from DeKalb [last name redacted] | 63 |
| Declaration of Sharonda [last name redacted] | 64 |
| Declaration of Mykel [last name redacted] | 65 |
| Declaration of Heath [last name redacted] | 66 |
| Declaration of Alexandra [last name redacted] | 67 |
| Declaration of Madison [last name redacted] | 68 |
| Declaration of Stephanie [last name redacted] | 69 |
| Declaration of Maria [last name redacted] | 70 |
| Declaration of Tabatha [last name redacted] | 71 |

TABLE OF AUTHORITIES CITED IN REPORT (In Order of Appearance)

† Exhibits that appear next to “*” refer to provisions of Georgia’s Election Code that were revised by S.B. 202.

| Description | Exhibit |
|---|---------|
| Declaration of Mustapha [last name redacted] | 72 |
| Declaration of Sue [last name redacted] | 73 |
| Declaration of Kendall [last name redacted] | 74 |
| Declaration of Christie [last name redacted] | 75 |
| Declaration of Katrina [last name redacted] | 76 |
| Declaration of Jacqueline [last name redacted] | 77 |
| Declaration of LeeAnn [last name redacted] | 78 |
| Declaration of Pamela from Fulton [last name redacted] | 79 |
| Declaration of Annie [last name redacted] | 80 |
| Declaration of Patricia from Cobb [last name redacted] | 81 |
| Declaration of Reuben [last name redacted] | 82 |
| Declaration of Donna from Haralson [last name redacted] | 83 |
| Declaration of Jane [last name redacted] | 84 |
| Declaration of Phyllis [last name redacted] | 85 |
| Declaration of Karen [last name redacted] | 86 |
| Declaration of Margo [last name redacted] | 87 |
| Declaration of Keosha [last name redacted] | 88 |
| Alan Blinder & Richard Fausset, <i>Stacey Abrams Ends Fight for Georgia Governor with Harsh Words for Her Rival</i> , N.Y. TIMES (Nov. 16, 2018), https://www.nytimes.com/2018/11/16/us/elections/georgia-governor-race-kemp-abrams.html?smid=url-share | |
| Georgia Election Results, N.Y. TIMES, https://www.nytimes.com/interactive/2020/11/03/us/elections/results-georgia.html | |
| Nate Cohn et al., <i>Detailed Turnout Data Shows How Georgia Turned Blue</i> , N.Y. TIMES; THE UPSHOT (Nov. 17, 2020), https://www.nytimes.com/interactive/2020/11/17/upshot/georgia-precinct-shift-suburbs.html | |
| Richard Fausset & Nick Corasaniti, <i>Georgia Recertifies Election Results, Affirming Biden’s Victory</i> , N.Y. TIMES (Dec. 7, 2020), https://www.nytimes.com/2020/12/07/us/politics/georgia-recertify-election-results.html | |
| Alana Wise, <i>Jon Ossoff Wins Georgia Runoff, Handing Democrats Senate Control</i> , NPR (Jan. 6, 2021), https://www.npr.org/2021/01/06/952417689/democrat-jon-ossoff-claims-victory-over-david-perdue-in-georgia-runoff | |
| Jonathan Brater et al., <i>Purges: A Growing Threat to the Right to Vote</i> , BRENNAN CTR. FOR JUST. (July 20, 2018), https://www.brennancenter.org/sites/default/files/2019-08/Report_Purges_Growing_Threat.pdf | S16 |
| Khushbu Shah, <i>‘Textbook Voter Suppression’: Georgia’s Bitter Election a Battle Years in the Making</i> , THE GUARDIAN (Nov. 10, 2018), https://www.theguardian.com/us-news/2018/nov/10/georgia-election-recount-stacey-abrams-brian-kemp | |

TABLE OF AUTHORITIES CITED IN REPORT (In Order of Appearance)

⁷ Exhibits that appear next to “*” refer to provisions of Georgia’s Election Code that were revised by S.B. 202.

| Description | Exhibit |
|---|---------|
| Maya T. Prabhu & Mark Niesse, <i>22,000 Reinstated to Voting Rolls as Georgia Attorneys Defend Purge</i> , ATLANTA J.-CONST. (Dec. 20, 2019), https://www.ajc.com/news/state--regional-govt--politics/000-reinstated-voting-rolls-georgia-attorneys-defend-purge/c4fp7iGVwnVr4WEbR1uulJ/ | |
| <i>Democracy Defended: Analysis of Barriers to Voting in the 2018 Midterm Elections</i> at 9, NAACP LEGAL DEF. AND EDUC. FUND, (Sept. 6, 2019), https://www.naacpldf.org/wp-content/uploads/Democracy_Defended_9_6_19_final.pdf | S17 |
| Michael King, <i>Georgia Officials Contact 8k People Who May Have Moved Out of State but Requested Ballots for Jan. 5 Election</i> , 11 ALIVE (Dec. 22, 2020), https://www.11alive.com/article/news/politics/elections/8000-contacted-who-may-have-moved-but-requested-runoff-ballots/85-a1af6ec8-7789-41db-ade5-8983c71865d1 | |
| 52 U.S.C. § 21083 | |
| Expert Report of Kenneth Mayer, <i>Fair Fight Action, Inc. v. Raffensperger</i> , No. 1:18-cv-05391-SCJ, (N.D. Ga. Feb. 18, 2020), ECF No. 238 | 89 |
| Stanley Augustin, <i>Voting Advocates Announce a Settlement of “Exact Match” Lawsuit in Georgia</i> , THE LAWYERS’ COMMITTEE (Feb. 10, 2017), https://lawyerscommittee.org/voting-advocates-announce-settlement-exact-match-lawsuit-georgia | |
| Aug. 16, 2019, 30(b)(6) Deposition of Chris Harvey, Ga. Sec’y of State Elections Dir., <i>Fair Fight Action, Inc. v. Raffensperger</i> , No. 1:18-cv-05391-SCJ, ECF No. 507-1 | 90 |
| <i>Voter Registration: Recent Developments and Issues for Congress</i> , CONGRESSIONAL RESEARCH SERVICE (Jun. 10, 2020), https://fas.org/sgp/crs/misc/R46406.pdf | 91 |
| “Georgia HAVA Verification” Presentation, Ga. Sec’y of State, State-Defendants-00114398 | 92 |
| “Georgia HAVA Verification” Presentation, Ga. Sec’y of State, State-Defendants-00131676 | 93 |
| Stanley Augustin, <i>Voting Rights Advocates File New Federal Voting Rights Lawsuit Challenging Georgia’s Restrictive Exact-Match Voter Registration Verification Scheme</i> , THE LAWYERS’ COMMITTEE (Sept. 14, 2016), https://lawyerscommittee.org/voting-rights-advocates-file-new-federal-voting-rights-lawsuit-challenging-georgias-restrictive-exact-match-voter-registration-verification-scheme | |
| Kate Brumback, <i>Lawsuit: Georgia Voter Registration Process Violates the Law</i> , ASSOCIATED PRESS (Sept. 14, 2016), https://apnews.com/article/5dca86cf28114b23b94e4a3891da1d64 | S18 |
| <i>Voting Rights Advocates File New Federal Voting Rights Lawsuit Challenging Georgia’s Restrictive Exact-Match Voter Registration Verification Scheme</i> , ASIAN AMERICANS ADVANCING JUSTICE, ATLANTA (Sept. 14, 2016), https://us2.campaign-archive.com/?u=co7af679cb8d889c8f33cb996&id=8612e7128e | |
| O.C.G.A. § 21-2-220.1 | 94 |

TABLE OF AUTHORITIES CITED IN REPORT (In Order of Appearance)

† Exhibits that appear next to “†” refer to provisions of Georgia’s Election Code that were revised by S.B. 202.

| Description | Exhibit |
|---|---------|
| P.R. Lockhart, <i>Georgia Put 53,000 Voter Registrations on Hold, Fueling New Charges of Voter Suppression</i> , VOX (Oct. 12, 2018), https://www.vox.com/policy-and-politics/2018/10/11/17964104/georgia-voter-registration-suppression-purges-stacey-abrams-brian-kemp | |
| Brentin Mock, <i>How Dismantling the Voting Rights Act Helped Georgia Discriminate Again</i> , BLOOMBERG CITYLAB (Oct. 15, 2018), https://www.bloomberg.com/news/articles/2018-10-15/how-georgia-s-exact-match-program-was-made-possible | |
| P.R. Lockhart, <i>Georgia, 2018’s Most Prominent Voting Rights Battleground, Explained</i> , VOX (Nov. 6, 2018), https://www.vox.com/policy-and-politics/2018/10/26/18024468/georgia-voter-suppression-stacey-abrams-brian-kemp-voting-rights | |
| Don Owens, <i>Civil Rights Groups Sue Georgia Secretary of State Brian Kemp to Cease Discriminatory ‘No Match, No Vote’ Registration Protocol</i> , THE LAWYERS’ COMMITTEE (Oct. 11, 2018), https://lawyerscommittee.org/civil-rights-groups-sue-georgia-secretary-of-state-brian-kemp-to-cease-discriminatory-no-match-no-vote-registration-protocol | |
| Complaint, <i>Ga. Coal. for People’s Agenda, Inc. v. Kemp</i> , No. 1:18-cv-04727-ELR (N.D. Ga. Oct. 11, 2018) ECF No. 1 | 95 |
| Andrew Prokop, <i>Did 40,000 Voter Registration Application Forms in Georgia Just Disappear?</i> , VOX (Oct. 31, 2014), https://www.vox.com/2014/10/31/7132171/georgia-missing-voter-registration-applications-lawsuit | |
| Hansi Lo Wang, <i>Concern Over New-Voter Registration in Georgia Ahead of Election</i> , NPR (Oct. 22, 2014), https://www.npr.org/sections/codeswitch/2014/10/22/357998924/concern-over-new-voter-registration-in-georgia-ahead-of-election | |
| Tim Reid & Grant Smith, <i>Missing Hyphens Will Make it Hard for Some People to Vote in U.S. Election</i> , REUTERS (Apr. 11, 2018), https://www.reuters.com/article/us-usa-election-laws-insight/missing-hyphens-will-make-it-hard-for-some-people-to-vote-in-u-s-election-idUSKBN1HI1PX | |
| Declaration of Cam Thi [last name redacted] | 96 |
| Declaration of Dr. Carlos del Rio | 97 |
| Declaration of Gary [last name redacted] | 98 |
| Ari Berman, <i>A Federal Court Just Ruled That Thousands of Eligible Voters in Georgia Must Be Allowed to Vote</i> , MOTHER JONES (Nov. 2, 2018), https://www.motherjones.com/politics/2018/11/a-federal-court-just-ruled-that-thousands-of-eligible-voters-in-georgia-must-be-allowed-to-vote-brian-kemp-stacey-abrams/ | S19 |
| Declaration of Kia [last name redacted] | 99 |
| State Training Presentation re: Special Topics of the Month, Verification Changes due to H.B. 316, State-Defendants-0095888, <i>Fair Fight Action, Inc. v. Raffensperger</i> , No. 1:18-cv-05391-SCJ (N.D. Ga. Aug. 5, 2020), ECF No. 507-2 | 100 |
| Email from G. Saleh to J. Simmons (Oct. 17, 2016), State-Defendants-00155223 | 101 |

TABLE OF AUTHORITIES CITED IN REPORT (In Order of Appearance)

† Exhibits that appear next to “+” refer to provisions of Georgia’s Election Code that were revised by S.B. 202.

| Description | Exhibit |
|--|---------|
| <i>Democracy Diverted: Polling Place Closures and the Right to Vote</i> , LEADERSHIP CONF. ED. FUND (Sept. 2019), http://civilrightsdocs.info/pdf/reports/Democracy-Diverted.pdf | |
| Letter from Stephen J. Pollak, Ass’t Att’y Gen., to Jesse Bowles, Esq. (Dec. 12, 1968), https://www.justice.gov/sites/default/files/crt/legacy/2014/05/30/GA-1030.pdf | 102 |
| Letter from J. Stanley Pottinger, Ass’t Att’y Gen., to Judge George E. Crawford, Jones Cnty. (Aug. 12, 1974), https://www.justice.gov/sites/default/files/crt/legacy/2014/05/30/GA-1380.pdf | 103 |
| Letter from Drew S. Fays III, Ass’t Att’y Gen., to Judge David M. Proctor, Camden Cnty. (Aug. 4, 1978), https://www.justice.gov/sites/default/files/crt/legacy/2014/05/30/GA-1710.pdf | 104 |
| Letter from John R. Dunne, Ass’t Att’y Gen., to Judge Charlotte Beall (Oct. 28, 1992), https://www.justice.gov/sites/default/files/crt/legacy/2014/05/30/GA-2400.pdf | 105 |
| Letter from Deval L. Patrick, Ass’t Att’y Gen., to William E. Woodrum, Jenkins Cnty. Att’y (Mar. 20, 1995), https://www.justice.gov/sites/default/files/crt/legacy/2014/05/30/GA-2610.pdf | 106 |
| Mark Niese & Maya T. Prabhu, <i>Voting Precincts Closed Across Georgia Since Election Oversight Lifted</i> , ATLANTA J.-CONST. (Sept. 4, 2018), https://www.ajc.com/news/state--regional-govt--politics/voting-precincts-closed-across-georgia-since-election-oversight-lifted/bBkHxptlimoGp9pKu7dfN/ | |
| Expert Report of Michael C. Herron, <i>Fair Fight Action, Inc. v. Raffensperger</i> , No. 1:18-cv-05391-SCJ (N.D. Ga. Feb. 18, 2020), ECF No. 241 | 107 |
| Terry Richards, <i>Lanier May Close 3 of 4 Voting Precincts</i> , VALDOSTA DAILY TIMES (June 28, 2016), https://www.valdostadailytimes.com/news/local_news/lanier-may-close-of-voting-precincts/article_6ef02c80-93ce-51df-86c6-3b4a692acc18.html | |
| Mark Niese & Nick Thieme, <i>Precinct Closures Harm Voter Turnout in Georgia</i> , AJC Analysis Finds, ATLANTA J.-CONST. (Dec. 16, 2019), https://www.ajc.com/news/state--regional-govt--politics/precinct-closures-harm-voter-turnout-georgia-ajc-analysis-finds/11sVcLyQCHuQRC8qtZ6IYP/ | |
| Declaration of Kenneth [last name redacted] | 108 |
| Declaration of Tameche [last name redacted] | 109 |
| Declaration of Carol from Clay [last name redacted] | 110 |
| Declaration of Lottie [last name redacted] | 111 |
| Declaration of Robbie [last name redacted] | 112 |
| Doug Richards, <i>Consultant Behind Plan to Close Randolph Co. Polling Places Did it Before, But Not on This Scale</i> , 11 ALIVE (Aug. 20, 2018), https://www.11alive.com/article/news/local/consultant-behind-plan-to-close-randolph-co-polling-places-did-it-before-but-not-on-this-scale/85-585898906 | |
| Matt Vasilogambros, <i>Polling Places Remain a Target Ahead of November Elections</i> , PEW RES. TRS.: STATELINE (Sept. 4, 2018), https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2018/09/04/polling-places-remain-a-target-ahead-of-november-elections | |

TABLE OF AUTHORITIES CITED IN REPORT (In Order of Appearance)

[†] Exhibits that appear next to “†” refer to provisions of Georgia’s Election Code that were revised by S.B. 202.

| Description | Exhibit |
|---|------------------|
| Victor Blackwell et al., <i>Elections Board Takes Less than a Minute to Reject Proposal to Close 7 of 9 Polling Places in Majority-Black County</i> , CNN (Aug. 24, 2018), https://www.cnn.com/2018/08/24/us/randolph-county-polling-closures-vote/index.html | |
| Johnny Kauffman, <i>Georgia County Votes to Keep Polling Places Open After Intense Scrutiny</i> , NPR (Aug. 24, 2018), https://www.npr.org/2018/08/24/641556969/georgia-county-votes-to-keep-polling-places-open-after-intense-scrutiny | |
| Mark Niese, <i>Precinct Closures in Rural Georgia Approved by County Elections Board</i> , ATLANTA J.-CONST. (Aug. 19, 2019), https://www.ajc.com/news/state--regional-govt--politics/precinct-closures-rural-georgia-approved-county-elections-board/cDHVxWR6F6547qexIsYjNl/ | |
| Email from Melanie Frechette, Ga. Sec’y of State’s Office, to Ralph Jones, Fulton County (July 9, 2018), State-Defendants-00468982 | 113 |
| Email from Leigh Combs, Ga. Sec’y of State’s Office, to Shauna Dozier, Clayton County (Sept. 11, 2019), State-Defendants-00095374 | 114 |
| Helpdesk Request from Sherie Jeffries to Chris Harvey, Ga. Sec’y of State’s Office Elections Dir. (Oct. 30, 2019), State-Defendants-00295594 | 115 |
| Letter from Chris Harvey, Ga. Sec’y of State’s Office Elections Dir., to Jordan Fuchs, Deputy Sec’y of State, (Jan. 22, 2019), State-Defendants-00200645 | 116 |
| Declaration of Brandi [last name redacted] | 117 |
| Declaration of Jonathan [last name redacted] | 118 |
| Declaration of Shannon W. from Fulton [last name redacted] | 119 |
| Declaration of Dayle [last name redacted] | 120 |
| Declaration of Ryan [last name redacted] | 121 |
| Declaration of Jason [last name redacted] | 122 |
| Declaration of Stephen [last name redacted] | 123 |
| Declaration of Suzanne [last name redacted] | 124 |
| Declaration of Carol from DeKalb [last name redacted] | 125 |
| Declaration of Caren [last name redacted] | 126 |
| Declaration of Antoinette [last name redacted] | 127 |
| Declaration of Shanterrie [last name redacted] | 128 |
| Declaration of Joshua [last name redacted] | 129 |
| Declaration of Erika [last name redacted] | 130 |
| Declaration of April [last name redacted] | 131 |
| 52 U.S.C. § 20507 | |
| O.C.G.A. § 21-2-235 | 132 |
| 2021 State Elections & Voter Registration Calendar, GA. SEC’Y OF STATE, https://sos.ga.gov/admin/uploads/2021_State_Calendar_(Short).pdf | 133 |
| O.C.G.A. § 21-2-418 | 134 [†] |
| O.C.G.A. § 21-2-419 | 135 |
| Declaration of Caroline [last name redacted] | 136 |

TABLE OF AUTHORITIES CITED IN REPORT (In Order of Appearance)

† Exhibits that appear next to “†” refer to provisions of Georgia’s Election Code that were revised by S.B. 202.

| Description | Exhibit |
|--|---------|
| Supplemental Expert Report of Michael P. McDonald, Fair Fight Action, Inc. v. Raffensperger, No. 1:18-cv-05391-SCJ (N.D. Ga. Apr. 8, 2020), ECF No. 293 | 137 |
| Expert Report of Michael P. McDonald, Fair Fight Action, Inc. v. Raffensperger, No. 1:18-cv-05391-SCJ (N.D. Ga. Feb. 18, 2020), ECF No. 240 | 138 |
| O.C.G.A. § 21-2-233 | 139 |
| O.C.G.A. § 21-2-234 | 140 |
| Declaration of Melissa [last name redacted] | 141 |
| Declaration of Joel [last name redacted] | 142 |
| Declaration of Allison [last name redacted] | 143 |
| Declaration of Carolyn [last name redacted] | 144 |
| Declaration of William [last name redacted] | 145 |
| Transcript of Proceedings Before the Hon. Steve C. Jones at 79, <i>Fair Fight Action, Inc. v. Raffensperger</i> , No. 1:18-cv-05391-SCJ (N.D. Ga. Dec 19, 2019), ECF No. 615 | 146 |
| Paul M. Smith, “Use It or Lose It”: <i>The Problem of Purges from the Registration Rolls of Voters Who Don’t Vote Regularly</i> , ABA (Feb. 10, 2020), https://www.americanbar.org/groups/crsj/publications/human_rights_magazine_home/voting-rights/-use-it-or-lose-it---the-problem-of-purges-from-the-registration/ | |
| Angela Caputo et al., <i>They Didn’t Vote . . . Now They Can’t</i> , APM REPS. (Oct. 19, 2018), https://www.apmreports.org/story/2018/10/19/georgia-voter-purge | S20 |
| Letter from Deval L. Patrick, Ass’t Att’y Gen. to Dennis R. Dunn, Sr., Ass’t Att’y Gen. (Oct. 24, 1994) | 147 |
| Declaration of Roxahne [last name redacted] | 148 |
| Declaration of Johnny [last name redacted] | 149 |
| Declaration of Gahalam [last name redacted] | 150 |
| Declaration of Khalidah [last name redacted] | 151 |
| Declaration of Andre [last name redacted] | 152 |
| Declaration of Rashidah [last name redacted] | 153 |
| Mark Niese, <i>Changes Coming to Georgia Purges, Vote Counts and Voting Machines</i> , ATLANTA J. CONST. (Mar. 19, 2019), https://www.ajc.com/news/state--regional-govt--politics/measure-would-change-georgia-purges-vote-counts-and-voting-machines/lk1muv5jrC5SX11wt29dzN/ | |
| Tony Pugh, <i>Georgia Secretary of State Fighting Accusations of Disenfranchising Minority Voters</i> , McCLATCHY DC (Oct. 7, 2016), https://www.mcclatchydc.com/news/politics-government/article106692837.html | |
| Geoff Hing et al., <i>Georgia Purged About 107,000 People From Voter Rolls: Report</i> , WABE (Oct. 19, 2018), https://www.wabe.org/georgia-purged-about-107000-people-from-voter-rolls-report/ | |
| Ben Nadler, <i>Voting Rights Become a Flashpoint in Georgia Governor’s Race</i> , AP NEWS (Oct. 9, 2018), https://apnews.com/article/race-and-ethnicity-elections-voting-voting-rights-atlanta-fb011f39af3b40518b572c8cc6e906c | S21 |
| Email from Deb Cox, Lowndes Cnty. Official, to Chris Harvey, Sec’y of State Empl. (Nov. 14, 2018), State-Defendants-00055300 | 154 |
| Declaration of Kilton [last name redacted] | 155 |

TABLE OF AUTHORITIES CITED IN REPORT (In Order of Appearance)

† Exhibits that appear next to “†” refer to provisions of Georgia’s Election Code that were revised by S.B. 202.

| Description | Exhibit |
|--|---------|
| Declaration of Clifford [last name redacted] | 156 |
| Declaration of David [last name redacted] | 157 |
| Declaration of Chryshawn [last name redacted] | 158 |
| <i>Historical Voter Registration Statistics, State of Georgia, 1998 to Present</i> , GA. SEC’Y OF STATE, https://sos.ga.gov/admin/uploads/Voter_Registration_Statistics_03032021.pdf | 159 |
| Stephen Fowler, <i>Why Do Nonwhite Georgia Voters Have to Wait in Line for Hours? Their Numbers Have Soared, and Their Polling Places Have Dwindled.</i> , PROPUBLICA (Oct. 17, 2020), https://www.propublica.org/article/why-do-nonwhite-georgia-voters-have-to-wait-in-line-for-hours-their-numbers-have-soared-and-their-polling-places-have-dwindled | S22 |
| Barrett Holmes Pitner, Opinion, <i>Early Voting Lines Are So Long, People Are Fainting. That Harms Democracy</i> , THE GUARDIAN (Oct. 19, 2016), https://www.theguardian.com/commentisfree/2016/oct/19/early-voting-lines-georgia | |
| Tony Thomas et al., <i>Some Wait Several Hours as Early Voting Begins in Georgia</i> , WSB-TV (Oct. 17, 2016), https://www.wsbtv.com/news/politics/early-voting-begins-across-state/458139151 | |
| Declaration of Derriek [last name redacted] | 160 |
| Declaration of Tunnizia [last name redacted] | 161 |
| Declaration of Jeffery [last name redacted] | 162 |
| Declaration of Hollie [last name redacted] | 163 |
| Declaration of Kevin from Chatham [last name redacted] | 164 |
| Declaration of Velma [last name redacted] | 165 |
| Declaration of Patricia [last name redacted] | 166 |
| Declaration of Shannon G. from Fulton [last name redacted] | 167 |
| Declaration of Barbara from Chatham [last name redacted] | 168 |
| Declaration of Angel [last name redacted] | 169 |
| Declaration of Sharman [last name redacted] | 170 |
| Declaration of Ann [last name redacted] | 171 |
| Declaration of Arnaud [last name redacted] | 172 |
| Declaration of Pamela from Chatham [last name redacted] | 173 |
| Declaration of Noell [last name redacted] | 174 |
| Poll Worker Manual, Ga. Sec’y of State (2018), State-Defendants-00146399 | 175 |
| Poll Worker Manual, Ga. Sec’y of State (2016), State-Defendants-00095472 | 176 |
| Declaration of Atlas [last name redacted] | 177 |
| Declaration of Margaret [last name redacted] | 178 |
| Declaration of Dawn [last name redacted] | 179 |
| Declaration of Talisha [last name redacted] | 180 |
| Declaration of Blakke [last name redacted] | 181 |
| Declaration of Jessica [last name redacted] | 182 |
| Declaration of Melanie [last name redacted] | 183 |

TABLE OF AUTHORITIES CITED IN REPORT (In Order of Appearance)

† Exhibits that appear next to “†” refer to provisions of Georgia’s Election Code that were revised by S.B. 202.

| Description | Exhibit |
|--|---------|
| Declaration of Mollye [last name redacted] | 184 |
| Matthew Weil et al., <i>The 2018 Voting Experience: Polling Place Lines</i> , BIPARTISAN POLYCTR. 8, 34 (Nov. 2019), https://bipartisanpolicy.org/wp-content/uploads/2019/11/The-2018-Votin-Experience.pdf | |
| Stephen Fowler, <i>‘It Was Very Chaotic’: Long Lines, Voting Machine Issues Plague Georgia Primary</i> , NPR (June 9, 2020), https://www.npr.org/2020/06/09/873054620/long-lines-voting-machine-issues-plague-georgia-primary | S23 |
| Mark Niesse & Nick Thieme, <i>Extreme Voting Lines Expose Where Georgia Primary Failed</i> , ATLANTA J-COAST. (July 28, 2020), https://www.ajc.com/politics/extreme-voting-lines-expose-where-georgia-primary-failed/YQUMSTEBVFAY7CR7UQOQEHSLI | |
| Expert Report of Dr. Jonathan Rodden, <i>Anderson v. Raffensperger</i> , No. 1:20-cv-03263-MLB (N.D. Ga. Sep. 1, 2020), ECF No. 93-61 | 185 |
| Declaration of Kimberley [last name redacted] | 186 |
| Declaration of Lazar [last name redacted] | 187 |
| Declaration of Joseph [last name redacted] | 188 |
| Declaration of Shari [last name redacted] | 189 |
| Declaration of Eilizabeth [last name redacted] | 190 |
| Declaration of Catherine [last name redacted] | 191 |
| Declaration of Katherine [last name redacted] | 192 |
| Declaration of Ian [last name redacted] | 193 |
| Declaration of Kimberly [last name redacted] | 194 |
| Declaration of Kyla [last name redacted] | 195 |
| Declaration of Christina from Fulton [last name redacted] | 196 |
| Declaration of Allison S. from Fulton [last name redacted] | 197 |
| Declaration of Thomas [last name redacted] | 198 |
| Declaration of Brianna [last name redacted] | 199 |
| Declaration of Grace [last name redacted] | 200 |
| Declaration of Alli [last name redacted] | 201 |
| Declaration of Darra [last name redacted] | 202 |
| Declaration of Lucille [last name redacted] | 203 |
| Declaration of Kiplyn [last name redacted] | 204 |
| Declaration of Matthew [last name redacted] | 205 |
| Declaration of Canute [last name redacted] | 206 |
| Declaration of Raye [last name redacted] | 207 |
| Declaration of Nolan [last name redacted] | 208 |
| Declaration of Meredith [last name redacted] | 209 |
| Declaration of Anthony [last name redacted] | 210 |
| Declaration of Donna from Chatham [last name redacted] | 211 |
| Declaration of Alvin [last name redacted] | 212 |

TABLE OF AUTHORITIES CITED IN REPORT (In Order of Appearance)

[†] Exhibits that appear next to “*” refer to provisions of Georgia’s Election Code that were revised by S.B. 202.

| Description | Exhibit |
|--|---------|
| Declaration of Keli [last name redacted] | 213 |
| Declaration of Eddie [last name redacted] | 214 |
| Declaration of Donna from Clayton [last name redacted] | 215 |
| Declaration of Melanie from Cobb [last name redacted] | 216 |
| Declaration of Jenny [last name redacted] | 217 |
| Declaration of Regina [last name redacted] | 218 |
| Declaration of Zoce [last name redacted] | 219 |
| Declaration of Barbara from Fulton [last name redacted] | 220 |
| Declaration of RT [last name redacted] | 221 |
| Declaration of Dorothy [last name redacted] | 222 |
| Declaration of Bryan [last name redacted] | 223 |
| Declaration of Varana [last name redacted] | 224 |
| Declaration of JoAnne [last name redacted] | 225 |
| Declaration of Matt [last name redacted] | 226 |
| Declaration of Courtney from Cobb [last name redacted] | 227 |
| Declaration of Jamie [last name redacted] | 228 |
| Declaration of Anceta [last name redacted] | 229 |
| Email to Election Complaints from R. Hancock (Nov. 9, 2016), State-Defendants-00330810 | 230 |
| Email to Election Complaints from C. Hatcher (Nov. 8, 2016), State-Defendants-00332339 | 231 |
| Deposition of Chris Harvey, <i>Fair Fight Action, Inc. v. Raffensperger</i> , No. 1:18-cv-05391-SCJ (N.D. Ga. Dec. 5, 2019) | 232 |
| 30(b)(6) Deposition of Chris Harvey, Ga. Sec’y of State Elections Dir., <i>Fair Fight Action</i> , No. 1:18-cv-05391-SCJ (N.D. Ga. Jan. 6, 2020) | 233 |
| Declaration of Amanda from Clayton [last name redacted] | 234 |
| Declaration of Scott [last name redacted] | 235 |
| Declaration of Shana [last name redacted] | 236 |
| Declaration of Tyre [last name redacted] | 237 |
| Declaration of Tobias [last name redacted] | 238 |
| Declaration of Jennifer from Cobb [last name redacted] | 239 |
| Declaration of Sara [last name redacted] | 240 |
| Candace Wheeler, <i>Closer Look: Fulton Elections Director Talks 2020 Voting; Atlanta City Councilmember Responds to Tensions Between US and Iran</i> , WABE (Jan. 9, 2020), https://www.wabe.org/episode/closer-look-fulton-elections-director-talks-2020-voting-city-councilmember-farokhi-responds-to-tensions-between-us-and-iran | |
| Al Hackle, <i>So Far Just 2 New Voting Machines</i> , STATESBORO HERALD (Jan. 3, 2020), https://www.statesboroherald.com/local/so-far-just-2-new-voting-machines | S24 |

TABLE OF AUTHORITIES CITED IN REPORT (In Order of Appearance)

[†] Exhibits that appear next to “*” refer to provisions of Georgia’s Election Code that were revised by S.B. 202.

| Description | Exhibit |
|--|---------|
| Mark Niesse & Alan Judd, <i>Election Fiasco Reveals Flaws with Georgia’s New Voter System</i> , ATLANTA J.-CONST. (June 13, 2020), https://www.ajc.com/news/state--regional-govt--politics/election-fiasco-reveals-flaws-with-georgia-new-voting-system/FoZjtLGPYccOrHzXHfPbDL/ | |
| Declaration of Mariel [last name redacted] | 241 |
| Declaration of Wynne [last name redacted] | 242 |
| Declaration of Shea [last name redacted] | 243 |
| Declaration of Benjamin from Fulton [last name redacted] | 244 |
| Declaration of Gail [last name redacted] | 245 |
| Declaration of Courtney from Gwinnett [last name redacted] | 246 |
| Declaration of Christina from Chatham [last name redacted] | 247 |
| Declaration of Amy [last name redacted] | 248 |
| Declaration of Ramon [last name redacted] | 249 |
| Declaration of Andrea from Fulton [last name redacted] | 250 |
| Declaration of Amanda from Fulton [last name redacted] | 251 |
| Declaration of Walter [last name redacted] | 252 |
| <i>Provisional Ballots</i> , NAT’L CONF. OF STATE LEGISLATURES (July 22, 2021), https://www.ncsl.org/research/elections-and-campaigns/provisional-ballots.aspx | |
| <i>Provisional Ballots</i> , MIT ELECTION DATA SCI. LAB, https://electionlab.mit.edu/research/provisional-ballots | |
| 52 U.S.C. § 21082 | |
| <i>Election Management Guidelines, Chapter 16, Provisional Ballots</i> , U.S. ELECTION ASSISTANCE COMM’N 157, https://www.eac.gov/sites/default/files/document_library/files/Election-Management-Guidelines-Provisional-Ballots.pdf | 253 |
| <i>Quick Start Management Guide: Provisional Ballots</i> , U.S. ELECTION ASSISTANCE COMM’N 7–8 (Oct. 2008), https://www.eac.gov/sites/default/files/document_library/files/Quick_Start-Provisional_Ballots.pdf | 254 |
| Ga. Comp. R. & Regs. 183-1-12-.18 | 255 |
| Helpdesk Request from John Hallman (Jan. 22, 2018), State-Defendants-00224899 | 256 |
| Helpdesk Request from John Hallman (Feb. 19, 2018), State-Defendants-00225242 | 257 |
| Email from Rachele Thurmond, Dawson Cnty. Official, to Melanie Frechette, Sec’y of State Empl. (June 11, 2018), State-Defendants-00468910 | 258 |
| Email from John Hallman, Sec’y of State Empl., to Brenda Hodges, Charlton Cnty. Official (Jan. 27, 2017), State-Defendants-00158872 | 259 |
| Email from DeKalb Cnty. Voter to Elections Complaint Alerts Account (Nov. 8, 2016), State-Defendants-00234997 | 260 |
| Email from Alpharetta Voter to SOS Contact Alerts Account (Apr. 18, 2017), State-Defendants-00193941 | 261 |
| Declaration of Andrea from DeKalb [last name redacted] | 262 |
| Declaration of Delaney [last name redacted] | 263 |

TABLE OF AUTHORITIES CITED IN REPORT (In Order of Appearance)

[†] Exhibits that appear next to “*” refer to provisions of Georgia’s Election Code that were revised by S.B. 202.

| Description | Exhibit |
|---|---------|
| Declaration of James [last name redacted] | 264 |
| Declaration of Robin [last name redacted] | 265 |
| Declaration of Ayesha [last name redacted] | 266 |
| Declaration of Angela [last name redacted] | 267 |
| Declaration of Suzanne from Chatham [last name redacted] | 268 |
| Declaration of Candace [last name redacted] | 269 |
| Declaration of Therese [last name redacted] | 270 |
| Declaration of Jennifer from Hall [last name redacted] | 271 |
| Declaration of Benjamin from Maryland [last name redacted] | 272 |
| Declaration of Eunice [last name redacted] | 273 |
| Declaration of Frank [last name redacted] | 274 |
| Declaration of Colleen [last name redacted] | 275 |
| Declaration of Kelly [last name redacted] | 276 |
| Declaration of Martha [last name redacted] | 277 |
| Declaration of Alexis [last name redacted] | 278 |
| Declaration of Christina from Bryan [last name redacted] | 279 |
| Declaration of Chris [last name redacted] | 280 |
| Declaration of Allen [last name redacted] | 281 |
| Declaration of Julia [last name redacted] | 282 |
| Declaration of Dominic [last name redacted] | 283 |
| Declaration of Kevin from Fulton [last name redacted] | 284 |
| Letter from Chris Harvey, Elections Director, to electors identified on NCOA voting list (Dec. 15, 2020) | 285 |
| Letter from Frances Watson, Chief Investigator, to electors identified on NCOA voting list (Jan. 15, 2021) | 286 |
| Letter from Frances Watson, Chief Investigator, to electors identified on NCOA voting list (Feb. 15, 2021) | 287 |
| Email from ORR Administration to Nick [last name redacted] (Mar. 31, 2021) | 288 |
| <i>Secretary of State Brad Raffensperger Protects Runoffs From Out Of State Voters</i> , GA. SEC’Y OF STATE, https://sos.ga.gov/index.php/elections/secretary_of_state_brad_raffensperger_protects_runoffs_from_out_of_state_voters | 289 |
| Letter from Brad Raffensperger, Ga. Sec’y of State, to Members of Congress (Jan. 6, 2021), https://sos.ga.gov/admin/uploads/Letter%20to%20Congress%20from%20Secretary%20Raffensperger%20(1-6-21).pdf | 290 |
| Eric Mack, <i>Brad Raffensperger to Newsmax TV: Georgia Voter ID Law a Line of Fraud Defense</i> , NEWSMAX (Dec. 26, 2020), https://www.newsmax.com/newsmax-tv/georgia-brad-raffensperger-secretary-of-state-election-fraud/2020/12/26/id/1003192/ | |
| Email from Ellen [last name redacted] to Fair Fight Action (Dec. 31, 2020) | 291 |
| 52 U.S.C.A. § 10101 | |

TABLE OF AUTHORITIES CITED IN REPORT (In Order of Appearance)

† Exhibits that appear next to “†” refer to provisions of Georgia’s Election Code that were revised by S.B. 202.

| Description | Exhibit |
|---|---------|
| “Election Law for Non-Lawyers, MEOC Municipal Course # 2,” Presentation, Ga. Sec’y of State, State-Defendants-00107570 | 292 |
| O.C.G.A. § 21-2-31 | 293 |
| State Election Board, GA. SEC’Y OF STATE, sos.ga.gov/index.php/elections/state_election_board | 294 |
| Elections Division Transition Memo: SOS Description of Duties, Ga. Sec’y of State, State-Defendants-00149713 | 295 |
| SEB Meeting Minutes, GA. SEC’Y OF STATE (Apr. 3, 2018), https://sos.ga.gov/admin/files/SEB_Meeting_Minutes_April%203,%202018%20(SIGNED).pdf | 296 |
| SEB Meeting Minutes, GA. SEC’Y OF STATE (Sept. 11, 2018), http://sos.ga.gov/admin/files/SEB%20Meeting%20Minutes_September_11_2018.pdf | 297 |
| State Election Board Meeting Transcript, GA. SEC’Y OF STATE (Apr. 3, 2018), https://sos.ga.gov/admin/uploads/04%2003%202018%20-%20SEB%20-%20ATLANTA.%20TRANSCRIPT.pdf | 298 |
| State Election Board Meeting Transcript, GA. SEC’Y OF STATE (Sept. 11, 2018), https://sos.ga.gov/admin/uploads/stateelectionboard9.11.pdf | 299 |
| Letter of Instruction to Evie Roberts, Toombs Cnty. Bd. of Elections and Registration from Candice Broce, Ga. Sec’y of State (July 10, 2015) State-Defendants-00842626 | 300 |
| State Election Board Meeting Minutes, GA. SEC’Y OF STATE (Aug. 21, 2019), http://sos.ga.gov/admin/files/August%2021,%202019%20(SIGNED).pdf | 301 |
| State Election Board Meeting Minutes Transcript, Ga. Sec’y of State (Feb. 10, 2021), http://sos.ga.gov/admin/uploads/State_Election_Board_Feb_10,_2021_-_Transcript.pdf | 302 |
| State Election Board Meeting Minutes Transcript, Ga. Sec’y of State (Feb. 17, 2021), https://sos.ga.gov/admin/uploads/Transcript_-_February_17,_2021.pdf | 303 |
| State Election Board Meeting Minutes Transcript, Ga. Sec’y of State (Sept. 10, 2020), https://sos.ga.gov/admin/uploads/September_10,_2020_(SEB_Transcript).pdf | 304 |
| Spencer Woodman, Register Minority Voters in Georgia, Go to Jail, THE NEW REPUBLIC (May 5, 2015), https://newrepublic.com/article/121715/georgia-secretary-state-hammers-minority-voter-registration-efforts | |
| Kristina Torres, Voter Registration Fraud Alleged at Democratic-Backed Group, ATLANTA J.-CONST. (Sept. 10, 2014), https://www.ajc.com/news/state--regional-govt-politics/voter-registration-fraud-alleged-democratic-backed-group/10DWNijMJZQAYO2D8SZHHN/ | |
| Deposition of Brian Kemp Jan. 8, 2020, Fair Fight Action, Inc. v. Raffensperger, No. 1:18-cv-05391-SCJ, ECF No. 481-1 | 305 |
| State Election Board Meeting Transcript, GA. SEC’Y OF STATE, 38-39 (Sept. 20, 2017), https://sos.ga.gov/admin/uploads/September_20,_2017_Transcript.pdf | 306 |
| Kristina Torres, Georgia AG Gets 53 Forms in Probe of Voter Registration Group, ATLANTA J.-CONST. (Sept. 20, 2017), https://www.ajc.com/news/state--regional-govt-politics/georgia-gets-forms-probe-voter-registration-group/MhhtWfqOh3edkd6TVmwYI/ | |

TABLE OF AUTHORITIES CITED IN REPORT (In Order of Appearance)

[†] Exhibits that appear next to “*” refer to provisions of Georgia’s Election Code that were revised by S.B. 202.

| Description | Exhibit |
|---|---------|
| Mark Niese, <i>Voting Groups Call Georgia Investigations Empty Partisan Attacks</i> , ATLANTA J.-CONST. (Feb. 8, 2021), https://www.ajc.com/politics/voting-groups-call-georgia-investigations-empty-partisan-attacks/OTBTDDGGJJECNBPKVDMG4A5MFQ/ | |
| David Wickert, <i>Georgia Investigates Voter Registration Groups</i> , ATLANTA J.-CONST. (Nov. 30, 2020), https://www.ajc.com/politics/election/georgia-investigates-voter-registration-groups/YHEWSZLOYNEWZPYSHWAPJQFNFQ/ | |
| <i>Secretary Raffensperger Launches Investigation Into Groups Encouraging Fraudulent Registrations</i> , GA. SEC’Y OF STATE, https://sos.ga.gov/index.php/elections/secretary_raffensperger_launches_investigation_into_groups_encouraging_fraudulent_registrations | 307 |
| Joseph Choi, <i>Georgia Secretary of State Opens Investigation into Voter Registration Groups</i> , THE HILL (Nov. 30, 2020), https://thehill.com/homenews/state-watch/528012-georgia-secretary-of-state-opens-investigation-into-voter-registration | |
| Sam Levine, <i>‘Intimidation Tactic’: Georgia Officials Investigate Groups That Mobilized Black Voters</i> , THE GUARDIAN (Feb. 12, 2021), https://www.theguardian.com/us-news/2021/feb/12/georgia-voting-rights-stacey-abrams | |
| Meidas Touch, <i>Unedited: Gabriel Sterling Accepts Challenge to Debate Georgia Voter Bill with MeidasTouch</i> at 38:55-39:25, YOUTUBE (April 2, 2021), https://www.youtube.com/watch?v=cHvzaEAEQdU | |
| <i>Stop Voter Fraud</i> , GA. SEC’Y OF STATE, https://sos.ga.gov/index.php/elections/stop_voter_fraud | 308 |
| Jim Walls, <i>Absentee Ballots Abused</i> , ATLANTA J.-CONST. (Sep. 13, 2010), https://www.ajc.com/news/local-govt--politics/absentee-ballots-abused/EwNLkw1aQoEely2mxKpwYJ/ | |
| Claire Simms, <i>Georgia Launches ‘Secure the Vote’ Education Campaign</i> , FOX 5 ATLANTA (Dec. 6, 2019), https://www.fox5atlanta.com/news/georgia-launches-secure-the-vote-education-campaign | |
| <i>Secure the Vote</i> , HELP AMERICA VOTE ACT, https://securevotega.com | |
| <i>Secure the Vote, Fact Check</i> , HELP AMERICA VOTE ACT, https://securevotega.com/factcheck/ | |
| <i>Secretary Raffensperger Warning: ‘Moving’ to Georgia Temporarily in Order to Vote in Jan. 5 Runoff is Illegal and Will Be Prosecuted</i> , GA. SEC’Y OF STATE, https://sos.ga.gov/index.php/elections/secretary_raffensperger_warning_moving_to_georgia_temporarily_in_order_to_vote_in_jan_5_runoff_is_illegal_and_will_be_prosecuted | 309 |
| Mark Niese, <i>Georgia Elections Chief Launches Effort Against Mail-in Voting Fraud</i> , ATLANTA J.-CONST. (Apr. 6, 2020), https://www.ajc.com/news/state--regional-govt--politics/georgia-elections-chief-launches-effort-against-mail-voting-fraud/uKcFoPbbLnFCoA4nXihaLI/ | |

TABLE OF AUTHORITIES CITED IN REPORT (In Order of Appearance)

† Exhibits that appear next to “+” refer to provisions of Georgia’s Election Code that were revised by S.B. 202.

| Description | Exhibit |
|--|---------|
| <i>Raffensperger Sends More Voting Cases to Prosecutors</i> , GA. SEC’Y OF STATE (Feb. 18, 2021), https://sos.ga.gov/index.php/elections/raffensperger_sends_more_voting_cases_to_prosecutors | 310 |
| Ga. Sec’y of State/ Ga. Bureau of Investigation ABM Signature Audit Report, GA. SEC’Y OF STATE INVESTIGATIONS DIV., (Dec. 29, 2020), https://sos.ga.gov/admin/uploads/Cobb%20County%20ABM%20Audit%20Report%2020201229.pdf | 311 |
| Email from Chris Channell, Task Force Member, Glynn Cnty., Ga. to American Oversight (Oct. 6, 2020) | 312 |
| Email from Ryan Germany, General Counsel, Ga. Sec’y of State, to Brad Rigby et al., Members of Absentee Ballot Fraud Task Force (Sept. 8, 2020) | 313 |
| Beau Evans, <i>Georgia Secretary of State Faces Backlash Over Double-Voting Claims</i> , THE AUGUSTA CHRON. (Sept. 9, 2020), https://www.augustachronicle.com/story/news/politics/elections/state/2020/09/09/georgia-secretary-of-state-faces-backlash-over-double-voting-claims/43139411/ | |
| Vann R. Newkirk II, <i>Voter Suppression is Warping Democracy</i> , THE ATLANTIC (July 17, 2018) https://www.theatlantic.com/politics/archive/2018/07/poll-pri-voter-suppression/565355/ | |
| Alexandra Hart & Shelly Brisbin, <i>Analysis Finds People of Color Account for 72% of Election Fraud Cases Brought by the Texas Attorney General</i> , TEX. STANDARD (Mar. 25, 2021) https://www.texasstandard.org/stories/analysis-finds-people-of-color-account-for-72-of-election-fraud-cases-brought-by-the-texas-attorney-general/ | |
| Rebekah Barber, <i>Is Georgia’s Secretary of State Unjustly Targeting Voting Rights Activists Again?</i> , FACING SOUTH (Oct. 4, 2017), https://www.facingsouth.org/2017/10/georgias-secretary-state-unjustly-targeting-voting-rights-activists-again | |
| Christopher Alston, <i>There Are a Lot of Voting Bills in the Georgia General Assembly. Here’s What You Need to Know.</i> , WABE (Feb. 25, 2021), https://www.wabe.org/there-are-a-lot-of-voting-bills-in-the-georgia-general-assembly-heres-what-you-need-to-know/ | |
| Fredreka Schouten, <i>Here’s Why Voting Rights Activists Say Georgia’s New Election Law Targets Black Voters</i> , CNN (Mar. 26, 2021), https://www.cnn.com/2021/03/26/politics/georgia-voting-law-black-voters/index.html | |
| Zack Beauchamp, <i>Georgia’s Restrictive New Voting Law, Explained</i> , VOX (Mar. 26, 2021), https://www.vox.com/22352112/georgia-voting-sb-202-explained | |
| O.C.G.A. § 21-2-30 | 314† |
| O.C.G.A. § 21-2-33.1 | 315† |
| Domingo Morel, <i>As Georgia’s New Law Shows, When Black People Gain Local Power, States Strip That Power Away</i> , WASH. POST (Apr. 1, 2021), https://www.washingtonpost.com/politics/2021/04/01/georgias-new-law-shows-when-black-people-gain-local-power-states-strip-that-power-away/ | |

TABLE OF AUTHORITIES CITED IN REPORT (In Order of Appearance)

[†] Exhibits that appear next to “S” refer to provisions of Georgia’s Election Code that were revised by S.B. 202.

| Description | Exhibit |
|---|---------|
| Derek Hawkins, <i>Ex-Officer Texted ‘We Stormed the Capitol’ During Jan. 6 Riot, Feds Say, and Tipsters Turned Him In</i> , WASH. POST (Apr. 3, 2021), https://www.washingtonpost.com/nation/2021/04/03/former-utah-police-capitol-riot/ | |
| Rebecca Shabad, <i>Georgia Legislator Arrested For Protesting Voting Law Says Signing Of Bill ‘Far More Serious Crime’</i> , NBC NEWS (Apr. 3, 2021), https://www.nbcnews.com/politics/politics-news/georgia-legislator-arrested-protesting-voting-law-says-signing-bill-far-n1262748 | |
| Gabby Birenbaum, <i>State GOPs Have Already Introduced Dozens of Bills Restricting Voting Access in 2021</i> , VOX (Jan. 29, 2021), https://www.vox.com/22254482/republicans-voter-suppression-state-legislatures | |
| Nick Corasanti, <i>Republican Lawmakers in at Least 8 States Are Vying for More Power over How Elections Are Run</i> , N.Y. TIMES (Mar. 25, 2021), https://www.nytimes.com/2021/03/25/us/republican-lawmakers-in-at-least-8-states-are-vying-for-more-power-over-how-elections-are-run.html | |
| <i>State Voting Laws</i> , BRENNAN CTR. FOR JUST., https://www.brennancenter.org/issues/ensure-every-american-can-vote/voting-reform/state-voting-laws | S25 |
| Alex Samuels et al., <i>The States Where Efforts to Restrict Voting Are Escalating</i> , FIVETHIRTYEIGHT (Mar. 29, 2021), https://fivethirtyeight.com/features/the-states-where-efforts-to-restrict-voting-are-escalating/ | |
| Dahlia Lithwick, <i>Why Republicans Are Still Holding Onto the Big Lie</i> , SLATE (Feb. 26, 2021), https://slate.com/news-and-politics/2021/02/republicans-cpac-stolen-election-lie.html | |
| <i>The Myth of Voter Fraud</i> , BRENNAN CTR. FOR JUST., https://www.brennancenter.org/issues/ensure-every-american-can-vote/vote-suppression/myth-voter-fraud | S26 |
| Andy Sullivan & Joseph Ax, <i>Explainer: Despite Trump Claims, Voter Fraud is Extremely Rare. Here is How U.S. States Keep it That Way</i> , REUTERS (Sept. 9, 2020), https://www.reuters.com/article/us-usa-election-voter-fraud-facts-explai/explainer-despite-trump-claims-voter-fraud-is-extremely-rare-here-is-how-u-s-states-keep-it-that-way-idUSKBN2601HG | |
| Michael Tackett & Michael Wines, <i>Trump Disbands Commission on Voter Fraud</i> , N.Y. TIMES (Jan. 3, 2018), https://www.nytimes.com/2018/01/03/us/politics/trump-voter-fraud-commission.html | |
| Justin Levitt, <i>The Truth About Voter Fraud</i> , BRENNAN CTR. FOR JUST. 3, 4, 6 (2007), https://www.brennancenter.org/sites/default/files/2019-08/Report_Truth-About-Voter-Fraud.pdf | S27 |
| Wendy R. Weiser, <i>The False Narrative of Vote-by-Mail Fraud</i> , BRENNAN CTR. FOR JUST. (Apr. 10, 2020), https://www.brennancenter.org/our-work/analysis-opinion/false-narrative-vote-mail-fraud | S28 |
| Tiffany Camhi, <i>How Oregon Became the First State to Vote by Mail in a Presidential Election</i> , OPB (Jun. 19, 2020), https://www.opb.org/news/article/history-vote-by-mail-oregon-elections/ | S29 |

TABLE OF AUTHORITIES CITED IN REPORT (In Order of Appearance)

† Exhibits that appear next to “+” refer to provisions of Georgia’s Election Code that were revised by S.B. 202.

| Description | Exhibit |
|--|---------|
| Natasha Khan & Corbin Carson, <i>Comprehensive Database of U.S. Voter Fraud Uncovers No Evidence that Photo ID is Needed</i> , NEWS21 (Aug. 12, 2012), https://votingrights.news21.com/article/election-fraud/ | S30 |
| <i>Election Fraud in America</i> , NEWS21 (Aug. 12, 2012), https://votingrights.news21.com/interactive/election-fraud-database/ | S31 |
| Lorraine C. Minnite, <i>THE MYTH OF VOTER FRAUD</i> (Cornell Univ. Press 2010) | |
| Aaron Morrison et al, <i>Trump Election Challenges Sound Alarm Among Voters of Color</i> , ABC NEWS (Nov. 23, 2020), https://abcnews.go.com/Politics/wireStory/trump-election-challenges-sound-alarm-voters-color-74345706 | |
| Jacob Shamsian and Sonam Sheth, <i>Trump and His Allies Filed More than 40 Lawsuits Challenging the 2020 Election Results. All of Them Failed.</i> , INSIDER (Feb. 22, 2021), https://www.businessinsider.com/trump-campaign-lawsuits-election-results-2020-11 | |
| Lawrence Hurley, <i>U.S. Supreme Court Dumps Last of Trump’s Election Appeals</i> , REUTERS (Mar. 8, 2021), https://www.reuters.com/article/us-usa-court-election-idUSKBN2B01LE | |
| Kate Brumback, <i>Georgia Again Certifies Election Results Showing Biden Won</i> , ASSOCIATED PRESS (Dec. 7, 2020), https://apnews.com/article/election-2020-joe-biden-donald-trump-georgia-elections-4ecea3b24f10de886bcdeb6c26b680a | S32 |
| Brad Raffensperger, <i>Opinion, Brad Raffensperger: Georgia’s Election Results Are Sound</i> , WASH. POST (Nov. 21, 2020), https://www.washingtonpost.com/opinions/2020/11/21/brad-raffensperger-georgia-results-2020-election-trustworthy/ | |
| Greg Bluestein, <i>Duncan Pushes Back on False Voter Fraud Claims: “We’re Better Than This.”</i> ATLANTA J.-CONST. (Dec. 1, 2020), https://www.ajc.com/politics/politicsblog/duncan-pushes-back-on-false-voter-fraud-claims-were-better-thanthis/GSNRMYLELPBBADHZ5RQ7LDTVHCE/ | |
| Amy Gardner & Paulina Firozi, <i>Here’s the Full Transcript and Audio of the Call Between Trump and Raffensperger</i> , WASH. POST (Jan. 5, 2021), https://www.washingtonpost.com/politics/trump-raffensperger-call-transcript-georgia-vote/2021/01/03/2768e0cc-4ddd-11eb-83e3-322644d82356_story.html | |
| Scott Pelley, <i>Georgia Secretary of State Describes Call Where Trump Pressured Him to Find Evidence of Voter Fraud</i> , CBS NEWS 60 MINUTES (Jan. 10, 2021), https://www.cbsnews.com/news/georgia-election-brad-raffensperger-60-minutes-2021-01-10/ | |
| <i>Georgia Presidential Results</i> , POLITICO (Jan. 6, 2021), https://www.politico.com/2020-election/results/georgia/ | |
| <i>Georgia Breaks All-Time Voting Record</i> , GA. SEC’Y OF STATE, https://sos.ga.gov/index.php/elections/georgia_breaks_all-time_voting_record | 316 |
| Luis Noe-Bustamante & Abby Budiman, <i>Black, Latino and Asian Americans Have Been Key to Georgia’s Registered Voter Growth Since 2016</i> , PEW RSCH. CTR. (Dec. 21, 2020), https://www.pewresearch.org/fact-tank/2020/12/21/black-latino-and-asian-americans-have-been-key-to-georgias-registered-voter-growth-since-2016/ | S33 |

TABLE OF AUTHORITIES CITED IN REPORT (In Order of Appearance)

[†] Exhibits that appear next to “§” refer to provisions of Georgia’s Election Code that were revised by S.B. 202.

| Description | Exhibit |
|---|---------|
| Nathaniel Rakich et al., <i>How Democrats Won the Georgia Runoffs</i> , FIVETHIRTYEIGHT (Jan. 7, 2021), https://fivethirtyeight.com/features/how-democrats-won-the-georgia-runoffs/ | §34 |
| Ross Williams, <i>Record Turnout Among Black Voters Could Help Georgia Reshape the Nation</i> , GPB (Jan. 11, 2021), https://www.gpb.org/news/2021/01/11/record-turnout-among-black-voters-could-help-georgia-reshape-the-nation | |
| Emil Moffatt, <i>Speaker Kalston Announces Election Integrity Committee That Will Focus on ‘Moving Forward’</i> , WABE (Jan. 7, 2021), https://www.wabe.org/speaker-kalston-announces-election-integrity-special-committee-that-will-focus-on-moving-forward/ | |
| Stephen Fowler, <i>In Georgia County, Elections Bills Have Consequences</i> , NPR (Mar. 27, 2021), https://www.npr.org/2021/03/27/981354303/in-georgia-county-elections-bills-have-consequences | §35 |
| Timothy Pratt, <i>The Lawyer Behind Georgia’s New Anti-Voting Law</i> , THE NATION (Apr. 8, 2021), https://www.thenation.com/article/politics/georgia-voting-law-harry-fleming/ | |
| Jewel Wicker, <i>Here’s What’s Going on with Voting Legislation in Georgia and Why Opponents Say It’s Clear ‘Voter Suppression’</i> , ATLANTA MAGAZINE (Mar. 11, 2021), https://www.atlantamagazine.com/news-culture-articles/heres-whats-going-on-with-voting-legislation-in-georgia-and-why-opponents-say-its-clear-voter-suppression/ | |
| Jeff Amy, <i>Georgia to Vaccinate Adults Over 55, Those with Conditions</i> , ASSOCIATED PRESS (Mar. 10, 2021), https://apnews.com/article/public-health-emergency-management-georgia-coronavirus-pandemic-5584d52bbb5d116c40499c2a9b0e39cc | §36 |
| Stephen Fowler, <i>A Dozen Voting Bills, Citizen’s Arrest Overhaul Survive 2021 Crossover Day</i> , GPB (Mar. 9, 2021), https://www.gpb.org/news/2021/03/09/dozen-voting-bills-citizens-arrest-overhaul-survive-2021-crossover-day | §37 |
| Georgia Senate Rules Calendar, https://www.legis.ga.gov/api/document/docs/default-source/senate-calendars/20212022/rules-calendar-2021-legislative-day-28.pdf?sfvrsn=cac7ebff_2 | 317 |
| Complaint, <i>Sixth District of African Methodist Episcopal Church v. Kemp</i> , No. 1:21-cv-01284 (N.D. Ga. Mar. 29, 2021), ECF No. 1 | 318 |
| Nathaniel Rakich, <i>All the Ways Georgia Could Make It Harder to Vote</i> , FIVETHIRTYEIGHT (Feb. 25, 2021), https://fivethirtyeight.com/features/all-the-ways-georgia-could-make-it-harder-to-vote/ | §38 |
| <i>Special Committee On Election Integrity – Archives</i> , Georgia House of Representatives, https://www.house.ga.gov/Committees/en-US/ElectionIntegrityArchives.aspx | |
| GA House Mobile Streaming, <i>Special Committee on Election Integrity 02.22.21</i> , VIMEO – LIVESTREAM (Feb. 22, 2021), https://livestream.com/accounts/25225474/events/8729747/videos/217887713 | |
| Complaint, <i>Georgia State Conf. of NAACP v. Raffensperger, et al.</i> , No. 1:21-cv-01259 (N.D. Ga. Mar. 28, 2021), ECF No. 1 | 319 |

TABLE OF AUTHORITIES CITED IN REPORT (In Order of Appearance)

[†] Exhibits that appear next to “+” refer to provisions of Georgia’s Election Code that were revised by S.B. 202.

| Description | Exhibit |
|--|------------------|
| <i>State and Local Fiscal Impact of SB 241</i> , Voting Rights Lab (Feb. 24, 2021), https://votingrightslab.org/wp-content/uploads/2021/02/Fiscal-Impact-of-GA-SB-241.pdf | S39 |
| GeorgiaStateSenate, <i>Legislative Day 38 - 2021 Legislative Session (3/25/21)</i> , YouTube (Mar. 25, 2021), https://www.youtube.com/watch?v=QVzKEHqNxuY | |
| GeorgiaStateSenate, <i>Senate Committee on Ethics (3/3/21)</i> , YouTube (Mar. 3, 2021), https://www.youtube.com/watch?v=UOw2QUTIDUM&list=PLBff_azbKlX3zfkWmV-DCoN9mqLKHDD-&index=12 | |
| Complaint, <i>VoteAmerica v. Raffensperger</i> , No. 1:21-cv-01390 (N.D. Ga. Apr. 7, 2021), ECF No. 1 | 320 |
| <i>Georgia Senate Bill 202</i> , LEGISCAN, https://legiscan.com/GA/bill/SB202/2021 | S40 |
| Stephen Fowler, <i>Georgia Governor Signs Election Overhaul, Including Changes To Absentee Voting</i> , NPR POLITICS (March 25, 2021), https://www.npr.org/2021/03/25/981357583/georgia-legislature-approves-election-overhaul-including-changes-to-absentee-vote | S41 |
| Natasha Chen & Theresa Waldrop, <i>Black Voter Says a Painting at Georgia Governor’s Voter Bill Signing Shows the Plantation Where Her Family Worked for Generations</i> , CNN (Mar. 28, 2021), https://www.cnn.com/2021/03/28/us/georgia-callaway-plantation-painting-trnd/index.html | |
| Opinion, <i>Our View: Marching Backward into History</i> , ATLANTA J.-CONST. (Mar. 26, 2021), https://www.ajc.com/opinion/our-view-marching-backward-into-history/KERD4OARNFRNOQUZPKZNTBXF4/ | |
| Jeff Cockrell, <i>Why Paid Time Off for Voting Can Help Address Racial Inequities</i> , UCHICAGO NEWS (Aug. 4, 2020), https://news.uchicago.edu/story/why-paid-time-voting-can-help-address-racial-inequities | |
| Sendhil Mullainathan, <i>For Racial Justice, Employees Need Paid Hours Off for Voting</i> , NYTIMES (Jun. 12, 2020), https://www.nytimes.com/2020/06/12/business/for-racial-justice-employees-need-paid-hours-off-for-voting.html | |
| Mark Niese, <i>Early Voting Brought Record Turnout in Georgia Ahead of Election Day</i> , ATLANTA J.-CONST. (Oct. 31, 2020), https://www.ajc.com/politics/early-voting-brought-record-turnout-in-georgia-ahead-of-election-day/76JRESFLMVEYBGX2J7AAGKABQ4/ | |
| Abigail Abrams, <i>Mail Voting Boosted Turnout for Voters with Disabilities. Will Lawmakers Let It Continue?</i> , TIME (Feb. 18, 2021), https://time.com/5940397/2020-mail-voting-accessibility/ | |
| Kim Eckart, <i>UW Political Science Expert on the Value of Mail-In Voting</i> , UW NEWS (Sept. 4, 2020), https://www.washington.edu/news/2020/09/04/uw-political-science-expert-on-the-value-of-mail-in-voting/ | |
| <i>Georgia Early Voting Statistics</i> , U.S. ELECTIONS PROJECT, https://electproject.github.io/Early-Vote-2020G/GA.html | S42 |
| O.C.G.A. § 21-2-385 | 321 [†] |
| O.C.G.A. § 21-2-417 | 322 |

TABLE OF AUTHORITIES CITED IN REPORT (In Order of Appearance)

[†] Exhibits that appear next to “+” refer to provisions of Georgia’s Election Code that were revised by S.B. 202.

| Description | Exhibit |
|---|------------------|
| GA House Mobile Streaming, <i>Special Committee on Election Integrity 02.19.21</i> , VIMEO – LIVESTREAM (Feb. 19, 2021), https://livestream.com/accounts/25225474/events/8729747/videos/217751717 | |
| Mark Niess, <i>Georgia Moves Toward ID Numbers to Verify Absentee Voters</i> , ATLANTA J.-CONST. (Mar. 15, 2021), https://www.ajc.com/politics/georgia-moves-toward-id-numbers-to-verify-absentee-voters/K3XW5WYNCJHKDJ7BWG3CLMIHIY/ | |
| <i>Voter Registration Statistics</i> , GA. SEC’y OF STATE, sos.ga.gov/index.php/Elections/voter_registration_statistics | 323 |
| Sari Horwitz, <i>Getting a Photo ID So You Can Vote is Easy. Unless You’re Poor, Black, Latino or Elderly.</i> , WASH. POST (May 23, 2016), https://www.washingtonpost.com/politics/courts_law/getting-a-photo-id-so-you-can-vote-is-easy-unless-youre-poor-black-latino-or-elderly/2016/05/23/8d5474ec-20fo-11e6-8690-f14ca9de2972_story.html | |
| Brentin Mock, <i>Like It or Not, Voter ID is Not Working</i> , BLOOMBERG CITYLAB (Mar. 3, 2016), https://www.bloomberg.com/news/articles/2016-03-03/voter-id-laws-simply-are-not-working-in-texas-alabama-and-georgia | |
| O.C.G.A. § 21-2-382 | 324 [†] |
| Nick Corasaniti & Reid J. Epstein, <i>What Georgia’s Voting Law Really Does</i> , N.Y. TIMES (Apr. 2, 2021), https://www.nytimes.com/2021/04/02/us/politics/georgia-voting-law-annotated.html | |
| Kat Stafford et al., <i>This is Proof: Biden’s Win Reveals Power of Black Voters</i> , ASSOCIATED PRESS (Nov. 9, 2020), https://apnews.com/article/election-2020-joe-biden-race-and-ethnicity-virus-outbreak-georgia-7a843bbe00713cfd6e6c3dbc2e31eb7 | S43 |
| Astrid Galvan & Christina A. Cassidy, <i>Ballot Drop Boxes Seen as a Way to Bypass the Post Office</i> , ASSOCIATED PRESS (Aug. 18, 2020), https://apnews.com/article/41706cd2f7b03452d0bf9efca3e76e3 | S44 |
| Barry Fleming, <i>Guest Column: Republican Party Wins on Election Day, and Future is Bright</i> , THE AUGUSTA CHRONICLE (Nov. 15, 2020), https://www.augustachronicle.com/story/opinion/columns/guest/2020/11/15/guest-column-republican-party-wins-on-election-day-and-future-is-bright/43155971/ | |
| O.C.G.A. § 21-2-266 | 325 [†] |
| <i>QuickFacts: Fulton County, Georgia</i> , U.S. CENSUS BUREAU, https://www.census.gov/quickfacts/fultoncountygeorgia | 326 |
| <i>Early Voting Starts Today & Fulton Mobile Voting Units Hit the Streets</i> , FULTON CNTY. (Oct. 12, 2020), http://fultoncountyga.gov/news/2020/10/12/early-voting-and-fulton-mobile-voting-units-hit-the-streets | |
| Stella Mackler, <i>Mobile Voting Units Offer Convenience</i> , THE SOUTHERNER ONLINE (Nov. 4, 2020), https://thesoutherneronline.com/78479/news/new-fulton-county-mobile-voting-units/ | |

TABLE OF AUTHORITIES CITED IN REPORT (In Order of Appearance)

† Exhibits that appear next to “†” refer to provisions of Georgia’s Election Code that were revised by S.B. 202.

| Description | Exhibit |
|--|---------|
| Zachary Roth, <i>The Caged Ballot: Why the GOP is Poised to Create Large-Scale Voting Chaos This Year</i> , THE NEW REPUBLIC (Mar. 30, 2020), https://newrepublic.com/article/156861/republican-voter-suppression-tactics-trump-2020 | |
| Mark Niese, <i>Eligibility of 364,000 Georgia Voters Challenged Before Senate Runoff</i> , ATLANTA J.-CONST. (Dec. 22, 2020), https://www.ajc.com/politics/eligibility-of-364000-georgia-voters-challenged-before-senate-runoff/3UIMDOVRFVERXOJ31BHYZBZWY1/ | |
| Russ Bynum, <i>Group Says It’s Challenging Residency of 364K Georgia Voters</i> , NEWS4JAX (Dec. 19, 2020), https://www.news4jax.com/news/georgia/2020/12/19/group-says-its-challenging-residency-of-364k-georgia-voters/ | |
| Provisional Ballots, GEORGIA VOTER GUIDE, https://faq.georgiavoter.guide/en/article/provisional-ballots | S45 |
| Zachary Roth, Report: <i>Minorities More Likely to Cast Provisional Ballots</i> , MSNBC (Oct. 30, 2014), https://www.msnbc.com/msnbc/report-minorities-more-likely-cast-provisional-ballots-msna447721 | |
| Jane C. Timm, <i>‘Outrageous’: Biden Condemns New Georgia Law as a ‘Blatant Attack’ on Voting Rights</i> , NBC NEWS (Mar. 26, 2021), https://www.nbcnews.com/politics/elections/democrats-excoriate-new-voting-restrictions-georgia-make-it-illegal-give-n1262181 | |
| Kate Kelly & Sapna Maheshwari, <i>Paid Time Off, Free Fries: How Corporate America Is Getting Out the Vote</i> , N.Y. TIMES (Oct. 23, 2020), https://www.nytimes.com/2020/10/23/business/corporate-america-voting-time-off.html | |
| Anne Glusker, <i>Chefs Are Helping Hungry Voters Waiting in Line at the Polls</i> , SMITHSONIAN MAG. (Oct. 30, 2020), https://www.smithsonianmag.com/smithsonian-institution/chefs-are-helping-hungry-voters-waiting-line-polls-180976179/ | |
| Declaration of Robert [last name redacted] | 327 |
| Declaration of Ebony [last name redacted] | 328 |
| O.C.G.A. § 21-2-414 | 329† |
| Grace Panetta, <i>Georgia’s New Controversial Voting Law Bans Volunteers from Delivering Free Water and Snacks to Voters in Line</i> , INSIDER (Mar. 26, 2021), https://www.businessinsider.com/ga-voting-law-bans-volunteers-from-delivering-food-water-to-voters-2021-3 | |
| Jerusalem Demas, <i>Why Georgia has Runoff Elections</i> , VOX (Jan. 5, 2021), https://www.vox.com/21551855/georgia-ossoff-perdue-loeffler-warnock-runoff-election-2020-results | |
| O.C.G.A. § 21-2-501 | 330† |
| Declaration of Donald [last name redacted] | 331 |
| Declaration of Dan Elle [last name redacted] | 332 |
| CNN, <i>Georgia Election Official: Both Parties Treat Voters Like Children</i> , YOUTUBE (March 27, 2021), https://www.youtube.com/watch?v=BzoAVL89SPc | |
| Letter from Voter Empowerment Task Force to Brad Raffensperger (Jul. 26, 2021) | S46 |

TABLE OF AUTHORITIES CITED IN REPORT (In Order of Appearance)

[†] Exhibits that appear next to “*” refer to provisions of Georgia’s Election Code that were revised by S.B. 202.

| Description | Exhibit |
|--|---------|
| Amara Walker et al., <i>Family of Georgia’s secretary of state was still getting death threats months after election, report says</i> , CNN POLITICS, https://www.cnn.com/2021/06/11/politics/georgia-raffensperger-family-death-threats-election/index.html | |
| Jason Lemon, <i>Arizona GOP Official Says Family Threatened With Slaughter After He Defended Election’s Integrity</i> , NEWSWEEK (Aug. 7, 2021, 12:37 PM EDT), https://www.newsweek.com/arizona-gop-official-says-family-threatened-slaughter-after-he-defended-elections-integrity-1617208 | |
| Ben Brasch, <i>Georgia Republicans take first step to Fulton elections takeover</i> , ATLANTA J.-CONST. (Jul. 28, 2021), https://www.ajc.com/news/atlanta-news/georgia-republicans-take-first-step-to-fulton-elections-takeover/MQ7CABNYFZBINMLPRCAFJE7HAM/ | |
| G. Bluestein, <i>Georgia GOP takeover bid of Fulton County’s election system advances</i> , ATLANTA J.-CONST. (July 30, 2021), https://www.ajc.com/politics/politics-blog/georgia-republicans-take-key-step-in-fulton-elections-takeover-bid/JADLJFRMJCXFCGPHQZNLTYEQ/ | |
| Mark Niese, <i>Georgia Bill Could Shift Power over Elections to GOP Appointees</i> , ATLANTA J.-CONST. (Mar. 24, 2021), https://www.ajc.com/politics/georgia-bill-would-shift-power-over-elections-to-gop-appointees/VPNVO2W4TBBTFKGA7Z2GZIEQEE/ | |
| Stephen Fowler, <i>Georgia Senate Republicans Pass Bill to End No-Excuse Absentee Voting</i> , NPR (Mar. 8, 2021), https://www.npr.org/2021/03/08/974985725/georgia-senate-republicans-pass-bill-to-end-no-excuse-absentee-voting | S47 |
| Nick Corasaniti & Jim Rutenberg, <i>In Georgia, Republicans Take Aim at Role of Black Churches in Elections</i> , N.Y. TIMES (last updated Mar. 25, 2021), https://www.nytimes.com/2021/03/06/us/politics/churches-black-voters-georgia.html | |
| Ben Nadler, <i>Georgia Senate GOP Push for End to No-Excuse Absentee Voting</i> , ASSOCIATED PRESS (Dec. 8, 2020), https://apnews.com/article/election-2020-joe-biden-donald-trump-legislature-georgia-db63d0d40fdd0724faffdfc8b72e0c | S48 |
| Christopher Alston, <i>Gwinnett Election Board Chair Refuses to Resign After Intense Criticism</i> , WABE (Jan. 21, 2021), https://www.wabe.org/gwinnett-election-board-chair-refuses-to-resign-after-intense-criticism/ | |
| Allison McCartney, <i>Turnout Hits Historic Highs in Contentious Georgia Senate Races</i> , BLOOMBERG (Jan. 5, 2021), https://www.bloomberg.com/graphics/2021-georgia-senate-runoff/ | |
| Curt Yeomans, <i>Gwinnett Elections Board’s New Chairwoman Wants Limits on No-Excuse Absentee Voting, Voter Roll Review</i> , GWINNETT DAILY POST (Jan. 16, 2021), https://www.gwinnettdailypost.com/local/gwinnett-elections-boards-new-chairwoman-wants-limits-on-no-excuse-absentee-voting-voter-roll-review/article_7df1c274-5715-11eb-a31d-dfa23b30ec62.html | S49 |
| <i>Georgia State Conference of the NAACP v. Raffensperger</i> , No. 1:21-cv-01259-JPB (N.D. Ga. Mar. 28, 2021) | |
| <i>Sixth District of the African Methodist Episcopal Church v. Kemp</i> , No. 1:21-cv-01284-JPB (N.D. Ga. Mar. 29, 2021) | |

TABLE OF AUTHORITIES CITED IN REPORT (In Order of Appearance)

[†] Exhibits that appear next to “+” refer to provisions of Georgia’s Election Code that were revised by S.B. 202.

| Description | Exhibit |
|--|---------|
| <i>Asian Americans Advancing Justice—Atlanta v. Raffensperger</i> , No. 1:21-cv-01333-JPB (N.D. Ga. Apr. 1, 2021) | |
| <i>VoteAmerica v. Raffensperger</i> , No. 1:21-cv-01390-JPB (N.D. Ga. Apr. 7, 2021) | |
| <i>The Concerned Black Clergy of Metropolitan Atlanta, Inc. v. Raffensperger</i> , No. 1:21-cv-01728-JPB (N.D. Ga. Apr. 27, 2021) | |
| <i>Coalition for Good Governance, v. Raffensperger</i> , No. 1:21-cv-02070-JPB (N.D. Ga. May 17, 2021) | |
| Complaint, <i>United States v. Georgia</i> , No. 1:21-cv-02575-JPB (N.D. Ga. June 25, 2021), ECF No. 1 | S50 |
| Attorney General Merrick B. Garland Delivers Remarks Announcing Lawsuit Against the State of Georgia to Stop Racially Discriminatory Provisions of New Voting Law, U.S. DEP’T JUST. (June 25, 2021), https://www.justice.gov/opa/speech/attorney-general-merrick-b-garland-delivers-remarks-announcing-lawsuit-against-state | S51 |
| Br. Am. Ctr. Law Just., Members Cong., <i>United States v. Georgia</i> , No. 1:21-cv-02575-JPB (N.D. Ga. Aug. 2, 2021), ECF No. 43-1 | S52 |
| Mot. Leave File Br. Amicus Curiae Br. Amicus Curiae U.S. Rep. Mike Johnson and 125 Other Members U.S. House Rep. Supp. Pl.’s Mot. Leave File Bill Compl. Mot. Prelim. Inj., <i>Texas v. Pennsylvania</i> , No. 220155 (U.S. Dec. 10, 2020) | S53 |
| Br. Amici Curiae States, <i>United States v. Georgia</i> , No. 1:21-cv-02575-JPB (N.D. Ga. Aug. 3, 2021), ECF No. 46-1 | S54 |
| Br. State Mo. 16 Other States Amici Curiae Supp. Pl.’s Mot. Leave File Bill Compl., <i>Texas v. Pennsylvania</i> , No. 220155 (U.S. Dec. 9, 2020) | S55 |
| Mot. Leave File Bill Compl., <i>Texas</i> , No. 220155 (U.S. Dec. 7, 2020) | S56 |
| J. Posimato, <i>States were once overt in their race-based voter suppression; today, they hide it in laws that are difficult to challenge</i> , BALTIMORE SUN (July 22, 2021), https://www.baltimoresun.com/opinion/op-ed/bs-ed-op-0723-voting-rights-20210722-55j2r04xsrldyllumm6pf4ffu-story.html | |
| C. Blow, <i>Voter Suppression Must Be The Central Issue</i> , N.Y. TIMES (June 9, 2021) https://www.nytimes.com/2021/06/09/opinion/voter-suppression-republicans.html?searchResultPosition=33 | |
| <i>Voting Laws Roundup: July 2021</i> , BRENNAN CTR. FOR JUST., https://www.brennancenter.org/our-work/research-reports/voting-laws-roundup-july-2021 | |
| <i>America’s long history of Black voter suppression</i> , CNN POLITICS, https://www.cnn.com/interactive/2021/05/politics/black-voting-rights-suppression-timeline/ | |
| R. Epstein & N. Corasaniti, <i>Texas Democrats Flee State to Highlight G.O.P. Voting Restrictions</i> , N.Y. TIMES (July 13, 2021) https://www.nytimes.com/2021/07/12/us/politics/texas-democrats-voting-bill.html | |
| <i>Quorum-busting Texas House Democrats still plotting next move ahead of second special session</i> , TX. TRIBUNE (Aug. 5, 2021) https://www.texastribune.org/2021/08/05/texas-democrats-special-session/ | |

TABLE OF AUTHORITIES CITED IN REPORT (In Order of Appearance)

[†] Exhibits that appear next to “f” refer to provisions of Georgia’s Election Code that were revised by S.B. 202.

| Description | Exhibit |
|---|---------|
| Tom McLaughlin, <i>Is Voter Fraud a Danger or a Myth?: Interview with Dr. Lorraine Minnite</i> , RUTGERS TODAY (Oct. 20, 2020), https://www.rutgers.edu/news/voter-fraud-danger-or-myth . Dr. Minnite is one of Fair Fight Action’s litigation expert witnesses | |
| J. Mayer, <i>The Big Money Behind the Big Lie</i> , NEW YORKER (Aug. 2, 2021), https://www.newyorker.com/magazine/2021/08/09/the-big-money-behind-the-big-lie | |
| Senator Rev. Raphael Warnock, Aug. 8, 2021, Union Chapel, Oak Bluffs, MA | |
| <i>South Carolina v. Katzenbach</i> , 383 U.S. 301 (1966) | |
| H. REP. NO. 116-317 (2019) | 333 |
| <i>Brnovich v. Democratic Nat’l Comm.</i> , 141 S.Ct. 2321 (2021) | |