



**STATEMENT OF LEIGH M. CHAPMAN, VOTING RIGHTS PROGRAM DIRECTOR, THE
LEADERSHIP CONFERENCE ON CIVIL AND HUMAN RIGHTS**

**U.S. HOUSE COMMITTEE ON OVERSIGHT AND REFORM
SUBCOMMITTEE ON CIVIL RIGHTS AND CIVIL LIBERTIES**

HEARING ON “PROTECTING THE RIGHT TO VOTE: BEST AND WORST PRACTICES”

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Chairman Raskin, Ranking Member Roy, and members of the Subcommittee: I am Leigh Chapman, Voting Rights Program Director at The Leadership Conference on Civil and Human Rights, a coalition of more than 200 national organizations working to build an America as good as its ideals. The Leadership Conference was founded in 1950 and has coordinated national advocacy efforts on behalf of every major civil rights law since 1957, including the Voting Rights Act of 1965 (VRA) and subsequent reauthorizations. Thank you for the opportunity to testify today on the best and worst practices on protecting the right to vote.

The ability to participate in civic life – to have a voice in choosing the elected officials whose decisions impact our lives, families, and communities – is at the core of what it means to be an American. It is long past time to build a 21st century democracy that is representative of and responsive to our growing, diverse nation – a democracy that welcomes and protects every person’s voice and vote to elect their representatives to their government, and a democracy that demands fairness and transparency in elections. Our democracy works best when everyone, no matter who they are, what language they speak, or their race or ethnicity, can fully participate.

It was not long ago – just in 2006 – that this body reauthorized the VRA with sweeping bipartisan support. The House of Representatives reauthorized the VRA by a 390-33 vote and the Senate passed it *unanimously*. Given the importance of the VRA, Congress undertook that reauthorization with great care and deliberation – holding 21 hearings, hearing from more than 90 witnesses, and ultimately compiling a massive record of more than 15,000 pages of evidence of ongoing racial discrimination in voting.

In 2013, in *Shelby County v. Holder*¹, five justices of the Supreme Court gutted the most powerful provision of the VRA – the Section 5 preclearance system. That system had enabled the Justice Department and federal courts for 50 years to block proposed discriminatory voting restrictions in states and localities with the most troubling histories of discrimination before these restrictions could disenfranchise voters. It ensured that, when jurisdictions changed the rules or operations of voting, that the changes were public, transparent, and studied to ensure they would not discriminate against voters

¹ *Shelby County v. Holder*, 570 U.S. 529 (2013).



because of their race or language. In *Shelby*, Chief Justice Roberts extended a very clear invitation to Congress to assess the current state of voting rights and update the law accordingly.

Since then, states and localities across the country, many of which are former Section 5-covered jurisdictions, have erected barriers to voting without any such safeguards. These barriers have made it harder for Americans to vote at every juncture, from registration, to casting ballots, to having ballots counted. Many of the tactics that have resurged since the *Shelby* decision include barriers to voter registration, cuts to early voting, purges of the voter rolls, strict photo identification requirements, and last-minute polling place closures and consolidations. In almost every instance these changes have no effective remedy because once an election is held, there is no way to hold it again. That is why safeguards like preclearance must be restored, so the myriad tactics used to make it harder for people to participate in their elections can be vetted to ensure that they don't discriminate based on their race.

Poll Closures

Polling place closures are a common and pernicious tactic for disenfranchising voters. Polling place closures can result in long lines, transportation hurdles, and mass confusion about where eligible voters may cast their ballot. For many people, particularly voters of color, older voters, rural voters, and voters with disabilities, these burdens make it harder to vote.

Prior to the *Shelby* decision, there was a process to ensure that jurisdictions known to engage in voting discrimination were not using budget cuts or voter modernization as cover to disenfranchise people of color. To be clear, there are processes that can be put in place to make sure polling place reductions do not discriminate against voters of color, including formal letters to impacted voters, approval of proposed changes from diverse cross-sections of the community, and thoughtful studies of impact on voters from all backgrounds. Before the 2013 *Shelby* decision, voting changes in covered jurisdictions were scrutinized under Section 5 of the VRA to ensure they would not be discriminatory – but *Shelby* eliminated this critical protection for voters. The bottom line is, the closure of polling places, especially without clear public notice to all impacted voters and formal input and recommendations from diverse community stakeholders, creates barriers to the ballot box that are incredibly difficult for people to overcome.

The 2016 election was the first presidential election conducted without the full safeguards of the VRA and, in advance of it, jurisdictions closed polling places on a massive scale. The Leadership Conference released a report titled *The Great Poll Closure*² in advance of the 2016 election that documented a portion of those polling place reductions in many of the jurisdictions that were once protected by Section 5 of the VRA. Polling place closure data and information that was once publicly available under Section 5 was difficult – and in some instances, impossible – to obtain in many jurisdictions. It required several months of research and analysis of data from the U.S. Election Assistance Commission (EAC) and public records requests from state and local election officials.

² The Leadership Conference Education Fund, “The Great Closure Report.” *Civilrights.org*. November 2016. <http://civilrightsdocs.info/pdf/reports/2016/poll-closure-report-web.pdf>.

In the 2016 report, we found that states and counties with documented records of discriminating against voters of color closed polling places on a massive scale. We identified 868 polling places that were closed between 2012 and 2016 in half of all counties that were once covered by Section 5.³ In the 381 counties we studied, 165 of them, or 43 percent, reduced polling places.⁴ In Arizona, almost every single county reduced polling places leading to 212 fewer voting locations across the state.⁵ In the 134 out of 254 Texas counties we analyzed, there were more than 400 polling place closures, including in counties that were illegally denying Spanish-speaking voters with language accessible materials – effectively bringing back literacy tests for countless Latino voters across the state.⁶ Out of the nine states that were formerly covered in whole by Section 5 of the VRA, we were able to include all or parts of seven states in this study – and all of them reduced polling places.

The Leadership Conference is currently expanding and updating this report to include additional formerly covered Section 5 jurisdictions and data from the 2018 election. Our preliminary research indicates that there were more than a thousand polling places closed in former Section 5 covered jurisdictions since 2012, and that number is climbing as we continue to conduct our analysis. We are finding that polling place reductions have continued unabated in places like Arizona, Texas, and Georgia in particular and that counties with clear records of voter discrimination have reduced polling places. And we know that very few of these closures and consolidations happened with notice and endorsement from voters of diverse backgrounds and from marginalized communities.

Below we describe some examples of recent best and worst practices that we have seen.

Cochise County, Arizona

Cochise County had the highest percentage of polling place reductions in our 2016 study, having shuttered 63 percent of its voting locations since *Shelby*. This border county, where nearly 30 percent of residents are Spanish-speaking, has long had problems providing ballot access to Latino voters. In the 2012 election, the EAC reported that there were 49 polling places serving the county of 130,000 residents – *in 2016, there were only 18*. Even worse, Cochise was recently under a consent decree with the Department of Justice for illegally failing to provide election materials in Spanish or to have Spanish-speaking poll workers.⁷

In response to a much-maligned administration of the 2014 election, the county came up with a plan to shutter the vast majority of its polling places and instead use centralized vote centers. According to the *Sierra Vista Herald*, when asked to explain the criteria for deciding where to locate the vote centers, the

³ Ibid. p. 7.

⁴ Ibid. p. 4.

⁵ Ibid. p. 7.

⁶ Ibid. p.12.

⁷ Consent Decree, Order and Judgment, *United States v. Cochise County*, No. 06-cv-00304 (D. Ariz. Oct. 12, 2006).

county election official cited “easy public accessibility, Internet connectivity, and the proximity to former polling places.” Ensuring access for minority voters was not included in the criteria.⁸

Georgia

For many years, Georgia’s practices for maintaining and reporting polling place data to the EAC were so inaccurate and unreliable that The Leadership Conference was not able to include Georgia in the 2016 report. Our study of their data submissions showed deeply flawed reporting with little basis in reality for the number of polling places actually open in its 159 counties.

Despite that, it is clear that the state closed polling places on a massive scale. If not for in-depth investigative journalism and committed volunteer-driven efforts from community organizations, we would know next-to-nothing about these closures. This lack of transparency is key to this disenfranchising tactic.

Reporting by the *Atlanta Journal-Constitution* found that, since *Shelby*, 214 polling places have closed in the state, and most of the counties that closed polling places had significant African-American populations.⁹ These closures happened despite heroic efforts by advocates and members of the public in counties across the state to save polling places.

One of the most egregious examples of attempted polling place closures happened before the 2018 midterm election in Randolph County, Georgia, where the Board of Elections proposed to close seven out of the nine polling places in a county whose population is 60 percent Black.¹⁰ The poll closures in Randolph County would have had the effect of requiring African-American voters in poor rural areas, many lacking transportation, to travel long distances to vote. Because of broad public outcry and advocacy from community organizations, including The Leadership Conference Education Fund and its partners, the board reversed course and kept the polling places open.

This anecdote was the exception to the rule. Most of the polling place closures throughout the state and throughout the country happen without clear notice, public input, or accountability. Once an election is over, there is no remedy for the loss of votes that were never cast because a voter’s polling place was closed.

South Carolina

⁸ Cochise County. “County Adopts 18 Voting Centers.” *Sierra Vista Herald*. Aug. 26, 2015. https://www.myheraldreview.com/county-adopts-voting-centers/article_2c8f2594-4c02-11e5-822f-1f313c861e8a.html

⁹ Niese, Mark, Prabhu, Maya T., Elias, Jacquelyn, “Voting precincts closed across Georgia since election oversight lifted.” *Atlanta Journal Constitution*. Aug. 31, 2018. <https://www.ajc.com/news/state--regional-govt--politics/voting-precincts-closed-across-georgia-since-election-oversight-lifted/bBkHxptlim0Gp9pKu7dfrN/>

¹⁰ Young, Sean, ACLU Georgia. Aug. 14, 2018. Letter to Randolph County Board of Elections and Registration regarding proposal to eliminate polling sites. *ACLU Georgia*. https://www.acluga.org/sites/default/files/field_documents/aclu-ga-ltr-re-randolph-polling-place-closures-8-14-18.pdf

South Carolina was a bright spot in our 2016 study.¹¹ When it comes to polling place closures, we found remarkably few in that state. That is because state law in South Carolina requires clear process from multiple stakeholders and transparency for all polling place changes in the state.

In South Carolina, the law requires that precincts and polling places must be “designated, fixed, and established by the General Assembly.” All changes must be approved in the capital city of Columbia before they can take effect. Furthermore, voters must be informed in writing about changes to polling places and a delegation of state legislators from a county must approve polling place changes and reductions, and a transparency law that was passed after *Shelby* required that all changes to polling places be reported to the state elections office and made public online. These modest requirements for transparency and consensus have had a positive impact on South Carolina’s voters, who have the chance to be informed of the changes that will impact them.¹²

In-Person Early Voting

Thirty-six states and the District of Columbia have in-person early voting.¹³ Early voting provides increased access and flexibility for voters, leads to shorter lines on Election Day, makes elections run more smoothly, and provides an opportunity for election administrators to remedy any registration errors or problems before Election Day. Early voting is popular among voters and election administrators and benefits marginalized voters – including working people, seniors, people with disabilities, and voters of color, many who may have less flexibility over work schedules. In 2016, more than 23 million Americans cast their ballot using in-person early voting, and in the 2018 election, more than 16 million Americans voted using in-person early voting.¹⁴

Voters of color disproportionately use in-person early voting. In African-American communities across the country, churches have organized “Souls to the Polls” programs where they visit the polls immediately after Sunday services to encourage their communities to vote. Despite the benefits, since 2010, at least seven states have cut back on early voting opportunities.¹⁵ Cutbacks in early voting, along with the reduction of polling places, has led to long lines.¹⁶

¹¹ The Leadership Conference Education Fund, “The Great Closure Report.” *Civilrights.org*. November 2016. <http://civilrightsdocs.info/pdf/reports/2016/poll-closure-report-web.pdf>. Pg.13

¹² South Carolina Code of Laws. Title 7, Elections § 7-715. <https://www.scstatehouse.gov/code/t07c007.php>

¹³ Lynch, Dylan. “Early Voting-Fewer Holdouts Remain.” *National Conference of State Legislators*. Apr. 11, 2019. <http://www.ncsl.org/blog/2019/04/11/early-voting-fewer-holdouts-remain.aspx>.

¹⁴ U.S. Commission on Civil Rights. “An Assessment of Minority Voting Rights Access in the United States.” https://www.usccr.gov/pubs/2018/Minority_Voting_Access_2018.pdf. 2018.Pg.190; United States Election Project; http://www.electproject.org/early_2018.

¹⁵ The seven states include: Florida, Indiana, Nebraska, North Carolina, Ohio, Tennessee and Wisconsin. See Lau, Tim. “Early Voting Numbers Soar as Midterms Approach.” *Brennan Center for Justice*. Oct. 29, 2018. <https://www.brennancenter.org/blog/early-voting-numbers-soar-midterm-elections-approach>.

¹⁶ U.S. Commission on Civil Rights. “An Assessment of Minority Voting Rights Access in the United States.” https://www.usccr.gov/pubs/2018/Minority_Voting_Access_2018.pdf. Pg. 203.

Even when early voting is expanded, there often is not equity in establishing polling places in communities of color. For example, when Florida expanded early voting on public college campuses before the 2018 election, Florida A&M University – the state's sole public Historically Black University – was the only major public campus without an early voting location.

In an effort to address some of the election administration challenges that often emerge during major elections, The Leadership Conference Education Fund, along with four other organizational partners, launched All Voting in Local (AVL).¹⁷ The All Voting is Local campaign works in five states – Arizona, Florida, Ohio, Pennsylvania, and Wisconsin – to eliminate needless and discriminatory barriers to voting.¹⁸ In July 2018, when a federal court struck down Florida's ban on early voting at public colleges, AVL worked to secure early vote sites on college campuses throughout the state, with a focus on students of color. AVL helped gain a critical early vote site at the predominantly Hispanic Florida International University. A post-election analysis found nearly 40,000 people voted at campus sites that AVL helped secure state-wide.

In Arizona, Native American voters on reservation land face significant barriers to absentee mail voting as most areas do not have reliable mail service. While nearly 75 percent of Arizonans vote by mail, it is estimated that only 26 percent of Native Americans in Arizona have a U.S. Postal Service address.¹⁹ Because of these barriers, in-person early voting is often the only form of early voting available for most on-reservation voters, but reservation early vote sites are limited. Before the 2018 election, AVL-Arizona worked with local tribes to increase early voting opportunities, including doubling on-reservation early voting hours in one county.

Recommendations

We offer the following recommendations to the subcommittee:

- Pass H.R. 4, the Voting Rights Advancement Act, to restore the key preclearance provision of the VRA that blocked discriminatory voting practices before their implementation.
- Require jurisdictions to provide greater transparency, public notice, and disclosure of voting changes sufficiently in advance of the election. These voting changes should also be posted online.
- Require jurisdictions that receive federal funds to conduct voter impact studies, including a racial impact analysis on poll closures and consolidations. These studies should be made in consultation with impacted communities.
- Expand in-person early voting to include at least two consecutive weeks, including weekends and Sunday voting – as passed in H.R. 1.
- Ensure early voting locations are equitably distributed, accessible among communities, and close to public transportation.

¹⁷ All Voting is Local is housed at The Leadership Conference Education Fund, in conjunction with the ACLU, the American Constitution Society, the Campaign Legal Center, and the Lawyers' Committee for Civil Rights Under Law. Learn more at <https://allvotingislocal.org/>.

¹⁸ For more information go to <https://allvotingislocal.org/>.

¹⁹ All Voting is Local, analysis of Native American Postal Addresses, March 2019.



- Ensure wait times at early voting sites and election day polling locations are no longer than 30 minutes.

Conclusion

Voting, and the ability to participate in democracy, is a racial justice issue. It is a civil rights issue. And we are overdue for a change.

Without a functional democracy in which everyone is included, heard, and represented, we cannot make real progress on other civil and human rights issues like education, justice reform, and economic security – to name just a few. When our democracy is in peril, so, too, are our civil and human rights.

Thank you for your leadership on this critical issue.