



**STATEMENT OF
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**UNITED STATES HOUSE OF REPRESENTATIVES
COMMITTEE ON HOUSE ADMINISTRATION
SUBCOMMITTEE ON ELECTIONS**

**“Voting in America: The Potential for Polling Place Quality and Restrictions on Opportunities to
Vote to Interfere with Free and Fair Access to the Ballot”**

June 11, 2021

Chair Butterfield, Ranking Member Steil, and members of the subcommittee, thank you for the opportunity to submit testimony for this crucial undertaking toward ensuring all Americans can access a polling place in their neighborhood, as it is one of many ways that we protect everyone’s right to vote freely and safely. I am privileged to represent The Leadership Conference on Civil and Human Rights and the vast civil and human rights community in appearing before you today.

The Leadership Conference is the nation’s oldest and most diverse coalition of national civil rights organizations. Founded in 1950 by Arnold Aronson, A. Philip Randolph, and Roy Wilkins, The Leadership Conference seeks to build a democracy that works for us all through legislative advocacy and public education. Our coalition consists of more than 220 national organizations committed to promoting and protecting the civil and human rights of all persons in the United States. Much of our work includes addressing the ways in which some policymakers foster racial and ethnic inequities and disparities in our country’s voting systems, which deny people of color their full right to have a voice in the key decisions like health care, infrastructure, and education. At The Leadership Conference, we aim to ensure that every voter, no matter their background or area code, can cast a vote and have it counted.

The right to vote is under attack in America today

The right to vote freely and safely has not been under this kind of heightened attack since the salvo of disenfranchisement laws that came on the heels of Reconstruction’s demise. Today’s assaults result from a conflagration of events: unmitigated disinformation, heightened polarization, politician-stoked fears, and white supremacy that made itself most visible on January 6 in an attempted coup on the federal government. This insurrection, moreover, resulted from the relentless efforts of then-President Trump and others to undermine the election, discount the votes of communities of color, and attempt to override the will of the people. They filed lawsuits — unsuccessfully — to discredit the legitimate ballots of Black and Brown voters. They demanded recounts, also largely unsuccessful, aimed at undoing an election that, [according](#) to national security agencies, was the most secure one to date. When these undemocratic —

and, in many instances, racist — efforts failed, state legislators across the country began introducing anti-voter legislation to restrict access and engineer ballot-counting for future elections.

Most Americans believe that voters get to choose our leaders; our leaders do not get to choose their voters. And yet, what we are witnessing today flies in the face of that fundamental belief. Since January of this year, [at least 14 states have enacted 22 laws](#) that roll back early and mail voting, add new hurdles for voter registration, impose burdensome and unnecessary voter identification requirements, strip power from state and local election officials to enhance voting access, and otherwise make voting more difficult. Overall, state lawmakers have introduced at least [389 anti-voter bills](#) this year.

We know that if a fully functioning Voting Rights Act had been in place, the country could have prevented many, if not most, of these attempts to silence voters' voices. When the U.S. Supreme Court eviscerated the Voting Rights Act's longstanding Section 5 preclearance formula in the 2013 *Shelby County v. Holder* decision, jurisdictions previously covered under Section 5 immediately rammed through legislation that almost certainly would have been prevented by the federal government. One such instance made national headlines, and with good reason: Just one day after the *Shelby County* decision was announced, North Carolina enacted a monster bill including, among other anti-voter measures, a damning voter ID provision. Three years — and a handful of elections — later, the U.S. Court of Appeals for the Fourth Circuit [banned](#) North Carolina's voter ID law, calling it "the most restrictive voting law North Carolina has seen since the era of Jim Crow," and saying its provisions "target African Americans with almost surgical precision."

Since *Shelby County*, courts have found evidence of *intentional* discrimination against voters in at least [10 decisions](#). But just as concerning is the fact that handfuls of cases have not been brought for the very reason that litigation under Section 2 — which prohibits voting practices that discriminate on the basis of race, color, or membership in a language minority group — is both expensive and time intensive. Filing litigation for polling place closures, as discussed in more detail below, simply does not happen precisely because of these costs. As a result, significant numbers of Americans either lose their right to vote or must expend additional time and resources to cast ballots. Even when cases *are* brought against offending jurisdictions for any number of voting violations, the time in which it takes to litigate them leaves voters without necessary protections during intervening elections. And once an election is held — and missed by the voter — there is no do-over. Worse still, we do not know the full extent of violations which have occurred since jurisdictions formerly covered under Section 5 no longer notify federal officials of changes to voting laws and practices. Without Section 5, we do not have a full and clear picture of what is happening in the country.

Since *Shelby County*, the majority of formerly covered jurisdictions have shuttered significant numbers of polling places

Voting discrimination and disenfranchisement takes many forms, but one tangible way to quash Americans' voices is to physically remove the very locations where ballots are cast and counted. While they do not garner the attention that voter purges and ID laws do, polling place closures can be just as disenfranchising. When polling places close, voters must either travel long distances or, more often, wait

in line at another nearby location inundated with voters who similarly learned (often at the last minute) their regular location had been shuttered. Think back to the 2020 primary election in Wisconsin: In Milwaukee, the make-up of which is [disproportionately](#) Black, voters were forced to [stand in line for hours](#) at one of only five polling places, after failing to have received absentee ballots in the mail just weeks after government officials [shut down 175 sites](#). Madison, a much less populous town — with a whiter population — boasted a full 66 polling sites to Milwaukee’s five. While residents in Madison easily popped in and out of polling places to vote, Black voters stood in line to vote *for hours* in Milwaukee. In previously covered jurisdictions, moreover, mass closures similarly resulted in long lines: In 2020, voters stood in line for hours in Phoenix, Arizona, and Atlanta, Georgia; Texas’ shuttering of 334 polling places — more than any other state — in majority-Latino neighborhoods forced voters to drive farther than White people from other areas. Indeed, across the country Black and Latino voters consistently reported longer wait-times than White voters. This is unacceptable, particularly when viewed against America’s persistent history of denying the right to vote to Black Americans.

Whereas covered jurisdictions had previously been required to demonstrate that closures would not have a discriminatory impact on voters — and additionally notify voters of closures when they *were* permitted to occur — post-*Shelby*, jurisdictions no longer need to notify voters of any change. Moreover, the U.S. Department of Justice is no longer required to analyze the impact of proposed changes on communities of color. To identify potentially discriminatory polling place relocations or closures and precinct changes, voters now must rely on reports from the news media, social media, or local advocates who attend city and county commission meetings or legislative sessions where these changes are made. In most cases, closures go unnoticed, unreported, and unchallenged. And there is no record of these lost votes.

Without a fully functioning Voting Rights Act, and consistent oversight by the Department of Justice in reviewing proposed changes to polling places, elections officials have unfettered discretion to shut them down without providing any valid reason. Institution of a clear process, on the other hand, would not only prevent closures for discriminatory reasons and/or effects but would also first require elections officials to work with the surrounding community in making these decisions. As it stands now, when the number of closures ramps up as turnout increases, particularly in Black and Brown neighborhoods, it is reasonable to presume ill intent on the part of jurisdictions previously covered by Section 5, given their long histories of discrimination. Officials in [Georgia](#) and [Texas](#), for example, shuttered polling places at an alarming rate in communities of color, rather than in majority-white neighborhoods (and in some instances these closures were recommended by [White](#) consultants).

In 2016, when we issued our first [report](#) on polling place closures, we learned that local officials across half of all formerly covered states closed 868 polling places (from a sample of nearly half of all jurisdictions previously covered by Section 5 of the Voting Rights Act) between 2012 and 2016. In a 2019 follow up [report](#), in which we expanded our review from 381 to 757 previously covered counties (out of a total of 800), we learned that between 2012 and 2018 a total of **1,688 polling places** had been closed, almost double the rate we identified in 2016. Moreover, in 2018 alone there were **1,173** fewer polling places than there had been in the previous 2014 midterm election. These figures, and repeat patterns, demonstrate that without oversight the problem of closures prompted by discrimination will not solve themselves on their own.

Of the 757 counties we analyzed in 2019, 298 counties, or 39 percent, reduced the number of polling places between 2012 and 2018. Polling place closures did not seem to vary to meet the different demands of each type of election; indeed, 69 percent of closures (1,173) occurred *after* the 2014 midterm election in anticipation of the presidential election, which would necessarily bring higher turnout in communities of color. This appears to be no accident: As pollsters predicted greater turnout for the 2018 midterm, counties with a history of discrimination began shutting down access to voting booths at an alarming rate. Of course, to better understand the potentially discriminatory impact — and aim — of these closures, additional analysis such as the kind the Justice Department once did under a fully functioning Voting Rights Act would have to be conducted.

All told, *Shelby County* paved the way for several previously covered states to each shut down hundreds of polling places: Texas shut down 750; Arizona shut down 320; and Georgia shut down 214. Quieter efforts to reduce the number of polling places without clear notice or justification spread throughout Louisiana (126), Mississippi (96), Alabama (72), North Carolina (29), and Alaska (6). Below we provide more detail on closings in Texas, Arizona, and Georgia.

Texas

Texas, a state where [39 percent](#) of the population is Latino and 12 percent is African American, closed 750 polling places since *Shelby County*, by far the most of any state in our 2019 study. Five of the six largest closers of polling places are in Texas. With 74 closures, Dallas County, which is 41 percent Latino and 22 percent African American, is the second largest closer of polling places in the country (though the largest for Texas), followed by Travis County, which is 34 percent Latino (–67). For the 2020 election, Dallas County shuttered [250 additional polling places](#), and Travis County shut down an additional [35 locations](#). Harris County, which is 42 percent Latino and 19 percent African American (–52), and Brazoria County, which is 13 percent African American and 30 percent Latino (–37), tied with Nueces County, which is 63 percent Latino (–37). Many, but not all, of these polling places were closed as part of a statewide effort to centralize voting into “countywide polling places.” This effort slashed the number of voting locations but allowed voters to cast ballots at any Election Day polling place. Without Section 5 of the Voting Rights Act, it is unclear¹ how the move away from polling places toward a vote center model has impacted Black and Brown voters. This is all the more reason for a fully functioning Voting Rights Act with Department of Justice oversight.

Counties converting to vote centers were not the only ones shuttering polling places. Counties such as Somervell (–80 percent), Loving (–75 percent), Stonewall (–75 percent), and Fisher (–60 percent) — all of which have large Latino populations — cut voting locations even though they did *not* transition to vote

¹ As the Texas secretary of state [outlined](#) in early 2019, the conversion program allows counties to reduce polling places by 35 percent in the first year and 50 percent in a subsequent year. While the state encourages counties to engage with voters of color in a public forum or on a committee when determining the placement and number of polling places, it does not require such involvement. Nor does it require a study of the impact of proposed changes on voters of color or provide a means to ensure they are not racially discriminatory. In the absence of Section 5, the onus is on voters and community organizations to hold counties accountable for racial discrimination when closing polling places.

centers. In fact, voters in counties that still hold precinct-style elections have 250 fewer voting locations than they did in 2012.

According to [The Guardian](#), the places in Texas where Black and Latino populations are “growing by the largest numbers have experienced the vast majority of the state’s poll site closures ... [T]he 50 counties that gained the most [B]lack and Latinx residents between 2012 and 2018 closed 542 polling sites, compared to just 34 closures in the 50 counties that have gained the fewest [B]lack and Latinx residents. This is despite the fact that the population in the former group of counties has risen by 2.5 million people, whereas in the latter category the total population has fallen by over 13,000.”

Arizona

Arizona, a state where 30 percent of the population is Latino, four percent is Native American, and four percent is African American, has the most widespread reduction (–320) in polling places. Almost every county (13 of 15 counties) closed polling places after *Shelby County* — some on a staggering scale. Maricopa County, which is 31 percent Latino, closed 171 voting locations since 2012 — the most of any county studied and more than the two next largest closers combined. Many Arizona counties shuttered significant numbers of polling places, including Mohave, which is 16 percent Latino (–34); Cochise, which is 35 percent Latino (–32); and Pima, which is 37 percent Latino (–31).

These closures occurred despite national news coverage of the adverse impact of polling place reductions in Maricopa County in the 2016 presidential preference election, which forced voters to stand in line for [five hours](#) to cast a ballot. A settlement with civil rights groups led the county to reopen polling places for the 2016 general election — albeit with fewer than it had in the pre-*Shelby County* 2012 presidential election. Two years later, in 2018, instead of responding to the clear demand for more polling places, the county *cut well over 100 voting locations*. Moreover, for the [2020 election](#), Maricopa County downsized from a total of 500 polling place locations to just 100 vote centers. Between Arizonans’ increased use of mail-in ballots and the county’s experimentation with vote centers, it is difficult to determine the full impact of polling place closures on various communities without additional analysis that the Voting Rights Act would require. Yet it is incumbent upon the county to ensure that closures do not have a racially discriminatory impact. And oversight by the Department of Justice is all the more essential to help identify which closures are valid, and which are not.

Georgia

Georgia, a state where 31 percent of the population is African American and 9 percent is Latino, had 214 fewer polling places for the 2018 election than it did before *Shelby County*.² Georgia stands out because its counties have closed higher percentages of voting locations than any other state we reviewed. The top five closers of polling places by percentage were Georgia counties: The top three counties in the state were Lumpkin (89 percent closed); Stephens (88 percent closed); and Warren, which is 61 percent African American (83 percent closed). Bacon County, which is 15 percent African American, and Butts

² Georgia is 31 percent African American, 9 percent Latino, 0.1 percent Native American, and 4 percent Asian.

County, which is 28 percent African American, tied with 80 percent closed.³ Seven counties with major polling place reductions⁴ had only one polling site in 2018 to serve hundreds of square miles.

By June 2020, in time for the presidential election, “[Georgia](#) voters had 331 fewer polling places than in November 2012, a 13% reduction. Because of added pressure from the coronavirus pandemic, metro Atlanta alone had lost 82 voting locations by the time June's primary rolled around. Nearly half of the state's 159 counties had closed at least one polling place since 2012.”

Georgia's polling place closures since *Shelby County* should also be considered in the context of the state's most recent anti-voter monster bill. In *direct backlash* to Black-led state-based organizations' effective get-out-the-vote strategies and enhanced turnout, Georgia lawmakers passed [legislation](#) that, among other things, gave counties the choice of whether to allow early voting on Sundays, thereby potentially cutting “Souls to the Polls” programs in many areas, and removing drop boxes from convenient locations near libraries and other government buildings (with all boxes being removed four days before an election), while also criminalizing the distribution of food and water to voters standing in long lines, who more often than not are disproportionately people of color. When viewed all together, it is practically impossible not to see a discriminatory anti-voter pattern.

The way forward: The power of Congress to protect every American's right to vote

Notwithstanding that [four times](#) as many voter-restrictive bills have advanced in statehouses this year than did last year at the same time, the vast majority of Americans — 80 percent, [according to polling by Lake Research and others](#) — believe the Voting Rights Act is still needed, with 70 percent favoring passage of the John Lewis Voting Rights Advancement Act. These numbers indicate that state-level attempts to impose additional barriers are *not* supported by most Americans. To counter these unpopular measures, Congress must act not only to ensure that every American can freely cast a vote, whatever their race or zip code, but also to effectively echo the will of the people.

When the Supreme Court issued the *Shelby County* decision in 2013, it misread both the people's will and the facts as they existed on the ground at the time. Indeed, we disagree with the Court's findings that “things have changed [dramatically](#)” and that, therefore, “extraordinary measures to address an extraordinary problem” are no longer needed. If anything, the events that have occurred since the ruling, culminating with a white nationalist coup on the U.S. Capitol followed by an unprecedented wave of anti-voter laws, show that we are indeed living in extraordinary times, with extraordinary problems, warranting extraordinary measures. The Voting Rights Act of 1965 was the most powerful — and effective — piece of civil rights legislation ever passed in the country. And its renewal, using an updated formula that comports with the Supreme Court's requirements laid out in *Shelby County*, is both

³ See

https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_17_5YR_B03002&prodType=table

⁴ In a February 2015 memo, the office of Brian Kemp, who was then serving as Georgia's secretary of state, encouraged counties to consolidate voting locations. He specifically spelled out twice — in bold font — that “as a result of the *Shelby vs. Holder* [sic] Supreme Court decision, [counties are] no longer required to submit polling place changes to the Department of Justice for preclearance.”

necessary and appropriate now. The John Lewis Voting Rights Advancement Act provides such a formula.

Congress has recognized authority under the 14th and 15th Amendments, plus the Elections Clause of the Constitution (Article I, section 4), to protect the voting rights of all Americans. A shining example of congressional, bipartisan unity, the Voting Rights Act was initially passed — and subsequently reauthorized four times and signed into law by Republican presidents — with the support of extensive legislative records. At each reauthorization, sizable numbers of Democrats and Republicans alike agreed that, although the VRA had made meaningful strides in preventing discriminatory practices, we had not yet achieved equal access to the ballot for communities of color. Until very recently, much of the country, through its lawmakers and representatives, recognized its ongoing need. In 2006, following an exhaustive review of evidence and testimony demonstrating the VRA's effectiveness and continued need, President George W. Bush signed the reauthorization bill into law after both the House of Representatives (390-33) and the Senate (98-0) approved the measure. Congress, just 15 years ago, had conducted more than 20 hearings, heard from more than 90 expert witnesses, and collected more than 15,000 pages of testimony documenting the continued need for, and constitutionality of, the statute. The fact is, even 40 years after the VRA was enacted, states and localities continued to attempt discriminatory practices, whether with intent or in result. The VRA, through its preclearance provision, stopped these voting changes from ever getting implemented and denying the rights of citizens to vote.

Democracy in America has always been aspirational. And perfecting our union has always been imperfect, with periods of great strides toward inclusion and periods of retrenchment. We are currently living through a vicious period of retrenchment. And it is this body that must end it. Congress has the power — bestowed by the U.S. Constitution — to fulfill once again the great promise of American democracy; to make real the promise of a democracy that truly works for us all.

The bipartisan reauthorizations of the VRA demonstrate that we can come together as a nation to uphold our most sacred right. The very heart of our democracy — affecting every American, no matter their race, wealth, or political stripe — depends on ensuring that every eligible voter can have their say. Policies may shift, the pendulum will undoubtedly swing. But our collective voices must be heard, no matter who is in power. Indeed, there is no democracy otherwise. Congress has come to the country's rescue in the past, and it must do so again now. We urge you to pass historic legislation in honor of Congressman John Lewis that would restore the full protections of the Voting Rights Act and make the promise of our democracy real at last.