



**STATEMENT OF HANNAH K. FRIED, DIRECTOR OF ALL VOTING IS LOCAL,
THE LEADERSHIP CONFERENCE EDUCATION FUND**

**COMMITTEE ON HOUSE ADMINISTRATION
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U.S. HOUSE OF REPRESENTATIVES
HEARING ON “VOTING RIGHTS AND ELECTION ADMINISTRATION IN
AMERICA”**

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Chairperson Fudge, Ranking Member Davis, and members of the Subcommittee: My name is Hannah Fried and I am the Campaign Director for All Voting is Local (AVL). Thank you for the opportunity to testify today on the current state of voting rights and election administration.

All Voting is Local launched in 2018 as a collaborative campaign housed at The Leadership Conference Education Fund, in conjunction with the American Civil Liberties Union Foundation; the American Constitution Society; the Campaign Legal Center; and the Lawyers’ Committee for Civil Rights Under Law. We fight to eliminate needless and discriminatory barriers to voting before they happen, to build a democracy that works for all of us. Since 2018, our campaign has had staff on the ground in five states with a recent history of discrimination in voting: Arizona, Florida, Ohio, Pennsylvania, and Wisconsin.¹

Our election system is broken. In 2016, problems at the polls such as long lines, voter identification laws, and registration problems prevented 1 million voters from casting a ballot.² These problems do not affect all Americans equally: time and again, their impact falls disproportionately on voters of color, young people, low-income Americans, and voters with disabilities. A study of wait times in the 2016 presidential election, released this past summer and led by economist Keith Chen of the University of California - Los Angeles, found that voters in Black neighborhoods waited longer to cast a ballot than voters in white neighborhoods, and

¹ More information is available at www.allvotingislocal.org.

² See Charles Stewart, "SPAE 2016 final report.pdf," *2016 Survey of the Performance of American Elections*, <https://doi.org/10.7910/DVN/Y38VIQ/2NJDL9>. Harvard Dataverse, V1, 2017.

were approximately 74 percent more likely to wait for more than half an hour.³ These findings, distressingly, are not unique.

In the past two decades, Congress has recognized the need for strong federal protections for the right to vote. Seventeen years ago, Congress passed -- and President George W. Bush signed -- the Help America Vote Act of 2002 (HAVA), to address systemic voting problems that reached national prominence during the 2000 election. Passed with strong bipartisan support, HAVA mandated sweeping reforms, seeking to establish uniform and nondiscriminatory election administration practices. Among HAVA's provisions are minimum standards for the maintenance of voter registration records; the authorization of federal funding for new voting equipment; and a requirement that election officials offer a voter a provisional ballot in the event of a question concerning their eligibility.

Just four years after HAVA's passage, Congress reauthorized the Voting Rights Act of 1965 (VRA) with sweeping bipartisan support, again demonstrating its recognition of an ongoing need for federal protections for the right to vote. Despite Congress's great deliberation and care in reauthorizing the VRA, in 2013, five justices of the Supreme Court gutted the Section 5 preclearance system, the most powerful provision of the VRA, in *Shelby County v. Holder*.⁴ That system had enabled the U.S. Department of Justice 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, the changes were public, transparent, and studied to ensure they would not discriminate against voters because of their race or language. In *Shelby*, the Court noted that if Congress wanted to lawfully reauthorize the VRA's preclearance system, it would need to draft a new coverage formula based on "current conditions."

Since *Shelby*, states and localities across the country -- former Section 5-covered jurisdictions and beyond -- have erected barriers to voting without adequate safeguards. Improper voter purges, polling place closures and consolidations, strict photo identification laws, and the methods by which ballots are reviewed and rejected disenfranchise voters at every juncture. Too often, the disenfranchisement of eligible American voters at the polls has no effective remedy because once an election is held, there is no way to hold it again.

³ M. Keith Chen, Kareem Haggag, Devin G. Pope, Ryne Rohla, "Racial Disparities in Voting Wait Times: Evidence from Smartphone Data", <https://arxiv.org/abs/1909.00024>, Sept. 4, 2019.

⁴ *Shelby County v. Holder*, 570 U.S. 529 (2013).

In 2018, The Leadership Conference Education Fund and partners launched the All Voting is Local campaign to monitor and remove barriers to voting, well before Election Day. The campaign started five years after the *Shelby* decision, to bolster the work of advocates who have sought to mitigate the gap in federal voting rights enforcement created by that case.

Federal protections for the right to vote are as vital today as ever. The Senate must follow the lead of this body and pass H.R. 1, the For the People Act, which would safeguard our democracy including by: requiring online, same day, and automatic voter registration; prohibiting voter purges based on non-voting in past elections; expanding opportunities to vote early in person; expanding opportunities to vote by mail and creating standards for the review and processing of mail-in ballots; and requiring that a provisional ballot be counted if it is cast by an eligible voter at the wrong polling place.

Further, the Voting Rights Act's critical safeguards like preclearance must be restored, so the myriad tactics used by jurisdictions with a history of discrimination to make it harder for people to participate in their elections can be vetted to ensure that they don't discriminate based on race. The Voting Rights Advancement Act (VRAA) would do that. It would also apply nationwide to six different types of covered practices, such as the reduction, consolidation, or relocation of polling places in jurisdictions with large percentages of language or racial minority groups, or changes in documentation or qualifications to vote.

Polling place closures, moves and changes

Changes to Election Day polling places

Polling place closures are a common and insidious tactic for disenfranchising voters. According to *Democracy Diverted*, a report released last month by The Leadership Conference Education Fund, polling place closures are often implemented under the guise of cost savings or other bureaucratic imperative, but can result in long lines, transportation hurdles, and mass confusion about where eligible voters may cast their ballot.⁵ For many people, particularly voters of color, older voters, rural voters, and voters with disabilities, these burdens make it harder -- if not impossible -- to vote.

Before the *Shelby* decision, voting changes in covered jurisdictions⁶ were scrutinized under Section 5 of the VRA to ensure they would not be discriminatory -- but *Shelby* eliminated this

⁵ The Leadership Conference Education Fund, "Democracy Diverted: Polling Place Closures and the Right to Vote," <https://civilrights.org/democracy-diverted/>. September 2019.

⁶ States and localities required to submit their voting changes for federal approval were: Alabama, Alaska, Arizona, Georgia, Louisiana, Mississippi, South Carolina, Texas, and Virginia, and counties in California, Florida, Michigan, New York, North Carolina, and South Dakota. Counties and townships in a few other states were removed from coverage through the "bailout" provision in Section 4(a) of the VRA.

critical protection for voters. Without that process in place, it is much harder to know what goes into decision-making around polling place closures. To be clear, there are processes that can be put in place -- in formerly covered jurisdictions and beyond -- to make sure polling place reductions do not discriminate against voters of color. These include thoughtful studies of the impact on voters from all backgrounds, approval of proposed changes from diverse cross-sections of the community, and outreach to impacted voters through mailed and emailed correspondence, text messages, and public service announcements on local radio. In the absence of these efforts, widespread polling place closures create barriers to the ballot box that are incredibly difficult, if not impossible, to overcome.

Too often, election officials close polling places with little notice to, or meaningful input from, the communities they serve. 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.⁷ 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 a broad public outcry and advocacy from community groups, including All Voting is Local and other organizations, the board reversed its position and kept the polling places open.⁸

Despite these events in the lead-up to the 2018 midterms, some Georgia officials have continued to close and move polling places, unabated. Just last month, on September 3, the City Council of Jonesboro, Georgia voted to move the city's only polling location to its police department⁹, without providing the public notice required by Georgia law and without taking into consideration the possible deterrent effect to voters of color.¹⁰

⁷ Letter from Sean Young, ACLU Georgia, to Randolph County Board of Elections and Registration (Aug. 14, 2018) (regarding proposal to eliminate polling sites), https://www.acluga.org/sites/default/files/field_documents/aclu-ga-ltr-re-randolph-polling-place-closures-8-14-18.pdf.

⁸ Johnny Kaufman, Georgia County Votes To Keep Polling Places Open After Intense Scrutiny, NPR, (Aug. 24, 2018, 11:59AM), <https://www.npr.org/2018/08/24/641556969/georgia-county-votes-to-keep-polling-places-open-after-intense-scrutiny>.

⁹ Mark Niese, Groups Oppose Moving Voting Precinct to Jonesboro Police Station, ATLANTA JOURNAL-CONSTITUTION, (Oct. 8, 2019), <https://www.ajc.com/news/state--regional-govt--politics/groups-oppose-moving-voting-precinct-jonesboro-police-station/rgeerwVvqS17uDWs0bp5vL/>.

¹⁰ Letter from advocates at the Lawyers' Committee for Civil Rights Under Law, Georgia State Conference of the NAACP, Georgia Coalition for the People's Agenda, and the New Georgia Project to Mayor of the City of Jonesboro, Members of the Jonesboro City Council, Members of the Clayton County Board of Elections and Registrations, and Director of Elections (Oct. 7, 2019) (on file with AVL).

The recent experiences of Georgia voters are not unique to that state. The Leadership Conference Education Fund's *Democracy Diverted* report found 1,688 polling place closures between 2012 and 2018 in states formerly covered under Section 5. Perhaps even more striking, the analysis found 1,173 fewer polling places in 2018 compared to 2014 -- despite a significant increase in voter turnout.¹¹

Widespread polling place changes and closures are not limited to states formerly covered under Section 5. The spread of voter suppression across the country demonstrates the need to increase scrutiny of such changes, which the VRAA would require under its covered practices and notice and transparency provisions.

In November 2018 in Ohio, All Voting is Local partnered with the Lawyers' Committee for Civil Rights Under Law and state partners such as the NAACP Cleveland Branch to coordinate nonpartisan Election Protection. In determining where to deploy poll observers in Cuyahoga County (Cleveland), AVL noticed that several polling locations had been consolidated and precincts had been moved. After the election, AVL determined that between 2016 and 2018, there was a reduction of 41 polling locations countywide, with 15.7 percent of all precincts experiencing a change in location.¹²

While polling places were reduced across Cuyahoga County, majority Black communities were particularly harmed. This past spring, All Voting is Local conducted an analysis of polling place changes in Cleveland in 2018. In the city of Cleveland, there are 17 total wards, and eight of them were majority African American, ranging from 98.1 percent to 72.1 percent. The other nine minority Black wards ranged from 43.6 percent to 15.5 percent.¹³ In the eight Black-majority wards, six had polling location changes, while only four of the nine Black-minority wards had changes. Throughout the city, 45 precincts had a change in their polling location, with 29 of them in Black-majority wards and 16 in Black-minority wards.

According to data from the Election Protection hotline and nonpartisan observers stationed at polling locations, Cuyahoga County had more than twice the number of reports of voters at the wrong polling location compared to two other large Ohio counties, Franklin and Hamilton. Poll observers at one Cleveland polling location that is 89.4 percent Black reported that they redirected 40 voters who were at the wrong location. The location with the next highest number of reported voters at the wrong polling location is 98.1 percent Black. Both of these locations had

¹¹ See supra note 5.

¹² All Voting is Local, analysis of polling locations in Cuyahoga County, March 2019.

¹³ The Center for Community Solutions, "Cleveland Neighborhoods and Wards Snapshot," <https://www.communitysolutions.com/resources/community-fact-sheets/cleveland-neighborhoods-and-wards/>. Last accessed April 2019.

precinct changes between 2016 and 2018.¹⁴

Access to early voting polling places

Lack of access to polling places is not limited to Election Day. Since 2010, at least seven states have reduced in-person early voting,¹⁵ which is disproportionately used by voters of color, by limiting the days and hours that sites are open and closing voting locations. In North Carolina in the lead-up to the 2016 presidential election, at least 17 counties made significant cuts to early voting days and hours.¹⁶ Statewide, early vote turnout among African-American voters declined almost nine percent compared to 2012.¹⁷

Even when early voting is expanded, state and county officials do not consistently, affirmatively ensure equal access across communities. In July 2018, when a federal court struck down Florida's ban on early voting at public colleges, AVL worked with partners to secure early voting sites on college campuses throughout the state, with a focus on students of color. In particular, AVL helped place an early voting site at the predominantly Hispanic Florida International University. A post-election analysis published by the Andrew Goodman Foundation found that nearly 60,000 voters cast early in-person ballots at campus sites that advocates, including AVL, helped to secure.¹⁸ However, Florida A&M University (FAMU) – the state's sole public Historically Black University – was the only major public campus without an early voting location.

The exclusion of FAMU cannot be attributed to anticipated low turnout. African-American voters in Florida historically have voted early at high rates.¹⁹ Indeed, in keeping with this tradition, African-American voters cast a disproportionately high number of early in-person

¹⁴ See supra note 12.

¹⁵ The seven states are: Florida, Nebraska, North Carolina, Ohio, Tennessee, Wisconsin, and West Virginia. See Tim Lau, 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 Insightus, Super-Suppressors: The 17 North Carolina Counties that are Strangling Early Voting to Death, (Oct. 28, 2019, 11:25AM), <http://www.insight-us.org/blog/super-suppressors-the-17-north-carolina-counties-that-are-strangling-early-voting-to-death/>.

¹⁷ See Zachary Roth, Black Turnout Down in North Carolina After Cuts to Early Voting, NBC NEWS (Nov. 7, 2016, 1:45PM), <https://www.nbcnews.com/storyline/2016-election-day/black-turnout-down-north-carolina-after-cuts-early-voting-n-679051>.

¹⁸ Dr. Daniel A. Smith & ElectionSmith, Inc., “On-Campus Early In-Person Voting in Florida in the 2018 General Election,” <https://andrewgoodman.org/wp-content/uploads/2019/08/On-Campus-Early-In-Person-Voting-in-Florida-in-the-2018-General-Election-FINAL-8-9.pdf>. Aug. 9, 2019.

¹⁹ United States Election Project, Voter Turnout Demographics, <http://www.electproject.org/home/voter-turnout/demographics> (last visited, Oct. 13, 2019).

ballots at the campus sites that were available in 2018.²⁰ The Andrew Goodman study, written by Professor Daniel A. Smith of the University of Florida, found high rates of campus early voting among historically disenfranchised groups, including:

- almost 30 percent of campus early vote ballots were cast by Hispanic voters, compared to just under 13 percent of early ballots cast at non-campus locations
- more than 22 percent of campus early vote ballots were cast by Black voters, compared to 18 percent of early ballots cast at non-campus locations

Vote by mail and absentee voting

Polling place closures are often justified by reference to changing methods of voting. In Arizona, for example, election officials have made significant changes to Election Day polling places -- consolidating, moving and closing sites -- alongside the increased use of vote by mail²¹ (also known as absentee voting). But access to vote by mail -- like access to polling places -- is not equitable, and restrictions on vote by mail disproportionately burden voters of color.

In 2011, the Arizona legislature passed S.B. 1421, a statute that outlawed the collection of mail-in ballots by community groups. Historically, organized ballot collection drives were conducted in Latino, African American, and Native American communities. The U.S. Department of Justice at the time refused to preclear the law without the state demonstrating first that the law would not disproportionately impact communities of color. Unable to provide such data, the legislature quickly repealed the law at the next legislative session.

The Arizona legislature passed new ballot collection restrictions in 2013. The new statute, H.B. 2305, outlawed ballot collection by parties or campaigns and required nonpartisan ballot collectors to complete and return an affidavit for every ballot collected. In response, citizen groups collected over 140,000 signatures for a citizen referendum to repeal H.B. 2305 and to require a supermajority for future legislation related to ballot collection. To prevent the referendum from moving forward, the legislature reversed itself, again, and repealed the ballot collection restrictions.

In 2016, in the wake of *Shelby*, the Arizona legislature passed H.B. 2023, a ballot collection prohibition like the law previously passed in 2011 that the U.S. Department of Justice had refused to preclear. The constitutionality of H.B. 2023 is currently on appeal in *DNC v. Reagan*²²

²⁰ See supra note 18.

²¹ Sam Radwany, 2018 Early Voting Surpasses All Votes Cast in 2014 Election in Arizona, KGUN9 (Nov. 5, 2018, 5:56PM), <https://www.kgun9.com/news/political/elections-local/early-voting-turnout-arizona>.

²² *Democratic Nat'l Comm. v. Reagan*, 904 F.3d 686, 715 (9th Cir. 2018) (vacated pending en banc review).

before an *en banc* panel of the Ninth Circuit Court of Appeals. However, as Chief Judge Sidney Thomas stated in his dissent in the three-judge panel decision in this case: “H.B. 2023, which criminalizes most ballot collection, serves no purpose aside from making voting more difficult, and keeping more African American, Hispanic, and Native American voters from the polls than white voters.”

In Arizona and across the country, the exclusion of communities of color from vote by mail is not only a consequence of outright statutory restrictions. Too often, state officials fail to consider the impact of their policies on communities of color, which further operates to the exclusion of historically disenfranchised voters.

A recent analysis by All Voting is Local of counties in our five pilot states found that voters in mostly white communities are less likely to have their mail-in ballots rejected than voters living in communities of color. Areas with higher populations of African American, Latino or Asian voters experience higher rates of mail-in ballot rejections due to signature mismatch. This trend is most pronounced for Latino voters -- a troubling pattern given that Latinos vote by mail at higher rates than other groups.²³

We further found that, in Arizona, the lack of reliable mail delivery is an additional obstacle to voting by mail that harms Native American voters. In Arizona, Native American voters on reservation land face significant barriers to by-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.²⁴ Because of these barriers, in-person early voting is often the only form of early voting available for most on-reservation voters. At the same time, reservation early vote sites are limited.

Racial disparities in the use of Arizona’s permanent vote by mail list (known as the PEVL) starkly demonstrate how vote by mail policies operate to the exclusion of Native American voters. The PEVL enables Arizonans to sign up a single time to receive mail-in ballots in every upcoming election, considerably easing the process of voting by mail. However, non-Native American voters’ use of the PEVL far outpaces that of Native American voters. An analysis by

²³ See Priscilla L. Southwell, A Panacea for Latino and Black Voters? Elevated Turnout in Vote by Mail Elections, 47 SOC. SCI. J. 819 (2010), <https://www.sciencedirect.com/science/article/abs/pii/S036233191000042X>; see also Jens Manuel Krogstad et al., “Historic Highs in 2018 Voter Turnout Extended Across Racial and Ethnic Groups,” Pew Research Center, <https://www.pewresearch.org/fact-tank/2019/05/01/historic-highs-in-2018-voter-turnout-extended-across-racial-and-ethnic-groups/>. May 1, 2019.

²⁴ All Voting is Local, analysis of Native American Postal Addresses, March 2019.

All Voting is Local found that just over 1 percent of Native American voters are on the PEVL, while approximately 80 percent of non-Native American voters are on the PEVL.²⁵

Provisional ballot usage

Provisional ballots should be used as a “last resort” for voters who encounter a problem that cannot be resolved at the time that they cast their ballot. In addition, they are less likely to be counted than regular ballots.²⁶ Problems that a voter might encounter that would prevent them from casting a regular ballot include a change to the voter’s polling location; not providing required documentation or identification at the polls; or their name not appearing on the voter list at their polling location. In some cases, election officials can resolve the problem itself after the election; in others, a voter must take additional steps to provide additional information, such as proper identification. While provisional ballots can be beneficial for voters who might otherwise be turned away, elections officials should minimize their use by adopting strong election administration procedures, effective poll worker training, and robust voter education programs. Too often, provisional ballots signal barriers to voting, or, due to their overuse, are themselves an obstacle.

A recent All Voting is Local analysis of 717 counties previously covered by Section 5 of the VRA found that voters in counties with more polling place closures are more likely to be asked to cast a provisional ballot than voters living in counties with fewer polling place closures.²⁷ The pattern is even more pronounced in Arizona where widespread reduction of polling places has occurred since 2013. The Leadership Conference’s recent report *Democracy Diverted* found that since preclearance was eradicated, 320 polling places in 13 of 15 counties have been removed. Maricopa County, which is 31 percent Latino, closed 171 voting locations since 2012 -- the most of any county studied in the report.²⁸

All Voting is Local’s analyses of provisional ballot usage in Ohio and Pennsylvania have found strong connections between race and the use of provisional ballots.

Last month, AVL released findings concerning the use of provisional ballots at Central State and Wilberforce universities, Ohio’s sole Historically Black Colleges & Universities (HBCUs). Our

²⁵ All Voting is Local, analysis of the PEVL, March 2019.

²⁶ See generally Benton Strong, RELEASE: The Racially Discriminatory Effects of Provisional Ballots, Center for American Democracy, AMERICAN PROGRESS (Oct. 29, 2014), <https://www.americanprogress.org/press/release/2014/10/29/99809/release-the-racially-discriminatory-effects-of-provisional-ballots/>.

²⁷ All Voting is Local, analysis of provisional ballots and poll closures, October 2019. The 717 counties across previously covered Section 5 areas include those for which The Leadership Conference Education Fund could obtain both poll closure data and provisional ballot data.

²⁸ See supra note 5.

campaign found that, in 2018, college voters cast a disproportionate number of provisional ballots. At Central State, 46.4 percent of all votes cast were by provisional ballot. In contrast, the overall rate in Greene County, where Central State is located, was only 1.89 percent. Even more troubling, provisional voters at the precincts serving Central State and Wilberforce were at least twice as likely to have their ballots rejected than other provisional voters in Greene County.²⁹

These issues are not limited to Ohio's two HBCUs. Franklin County, Ohio accounts for 10.93 percent of the state's electorate, and in 2018, the countywide rate of provisional ballots cast was 1.84 percent. However, our campaign's analysis found that people of color, millennials, and low-income voters were all significantly more likely to cast a provisional ballot. Of the three polling locations near Franklin County's Ohio State University campus, nearly one in 10 voters cast a provisional ballot. The county board of elections rejected nearly 65 percent of the provisional ballots cast on campus at the Ohio Union polling location.³⁰

Franklin County's rate of provisional ballot rejection is also troubling. In the 2018 general election, more than one in five rejected provisional ballots statewide came from Franklin County. While other urban counties, including Cuyahoga, Hamilton, and Summit *decreased* their rate of provisional rejections in 2018, Franklin's rate *increased*. Among the reasons ballots were rejected in Franklin County: the voter was in the wrong precinct or wrong location (38 percent of the statewide total); insufficient identification (36 percent of the statewide total); and signature mismatch (65.9 percent of statewide total).³¹

Our campaign has identified similar patterns in Pennsylvania. In that state, voters in Philadelphia County (41% Black) are more than five times as likely as voters in Allegheny County (12.7% Black) or Berks County (4% Black) to be given a provisional ballot.³²

Strict photo identification laws

According to the Brennan Center for Justice, since 2010, 15 states have passed restrictive voter identification laws that require voters to show an ID before casting a regular ballot, including six with strict photo ID laws.³³ Such laws have repeatedly been found to disproportionately burden

²⁹ All Voting is Local, "NEEDS IMPROVEMENT: Barriers to the Ballot at Ohio's Historically Black Colleges and Universities," <https://allvotingislocal.org/wp-content/uploads/2019/09/AVL-CSWU-Report-2019.pdf>. Sep. 2019.

³⁰ All Voting is Local, "REJECTED: How the Provisional Ballot System in Franklin County, Ohio Fails Voters," https://allvotingislocal.org/wp-content/uploads/2019/05/2019_AVL-OH_Franklin-Co-Provisional-Ballot-Report.pdf. May 2019.

³¹ Id.

³² All Voting is Local, analysis of Pennsylvania provisional ballot rates, October 2019.

³³ Brennan Center for Justice, "New Voting Restrictions in America," <https://www.brennancenter.org/our-work/research-reports/new-voting-restrictions-america>. Last visited Oct. 13, 2019.

low-income voters and voters of color. In striking down North Carolina’s photo identification law -- which was part of an omnibus bill that included cuts to early voting -- the Fourth Circuit Court of Appeals in July 2016 found that legislators had intentionally designed the law to discriminate against Black voters, and drafted the law in a manner that would “target African-Americans with almost surgical precision.”³⁴

In 2011, Wisconsin enacted a strict voter ID law that became the subject of a multi-year legal challenge. In the lead-up to the 2018 election, the All Voting is Local campaign assisted hundreds of Wisconsin voters through the arduous process of getting an ID, which can include providing officials with a birth certificate or passport, filling out multiple forms, and repeat trips to the DMV. A recent study conducted by the University of Wisconsin-Madison³⁵ found that 6 percent of registered voters in Dane and Milwaukee counties who did not cast a ballot in the 2016 general election were prevented from voting because they lacked the requisite identification. The study further found that 11.2 percent of registered voters who did not cast a ballot in the 2016 general election were deterred by the photo ID law. In other words, these voters either didn’t have ID, believed they didn’t have ID, or were told they didn’t have ID. But as the study found, most of the people surveyed who indicated they did not vote because they lacked ID did in fact possess the requisite form of identification.

Troubling as these findings are, they likely reflect the lower bound of the impact of Wisconsin’s strict photo ID law. As the principal investigator on the study, Professor Kenneth R. Mayer, noted following the release of the findings: “The main conclusion of the study is that thousands, and perhaps tens of thousands, of otherwise eligible people were deterred from voting by the ID law. The 11.2% figure is actually a lower bound since it does not include people who don’t even register because they lack an ID.”³⁶ Responding to assertions that the number of impacted voters would not have been enough to have changed the outcome of the 2016 election, Professor Mayer further noted: “An eligible voter who cannot vote because of the ID law is disenfranchised, and that in itself is a serious harm to the integrity to the electoral process.”³⁷

More troubling still, the impact of Wisconsin’s strict photo ID law is not felt equally by all Wisconsin voters. This same study further found that the law deterred:

³⁴ *N.C. State Conference of the NAACP v. McCrory*, 831 F.3d 204, 214 (4th Cir. 2016).

³⁵ Kenneth R. Meyer & Michael G. DeCresenzo, “Supporting Information: Estimating the Effect of Voter ID on Nonvoters in Wisconsin in the 2016 Presidential Election,” <https://elections.wisc.edu/wp-content/uploads/sites/483/2018/02/Voter-ID-Study-Supporting-Info.pdf>. Sep. 25, 2017.

³⁶ Press Release from the Elections Research Center at the University of Wisconsin-Madison, Voter ID Study Shows Turnout Effects in 2016 Wisconsin Presidential Election, <https://elections.wisc.edu/wp-content/uploads/sites/483/2018/02/Voter-ID-Study-Release.pdf> (last visited Oct. 13, 2019).

³⁷ *Id.*

- 21.1 percent of low-income registrants (household income under \$25,000) compared to 7.2 percent for those over \$25,000 and 2.7 percent of high-income registrants (over \$100,000 household income)
- 27.5 percent of African-American registrants compared to 8.3 percent of white registrants

The suppressive effects of a strict photo identification law can linger even after a court strikes it down. In Pennsylvania in 2014, a state court found unconstitutional the state's strict photo ID law.³⁸ Nevertheless, as recently as the 2018 midterm election, our partners at the nonpartisan Election Protection coalition received reports from voters about election workers improperly requiring them to show photo identification prior to casting a ballot, and turning voters away who did not have such ID.

List maintenance

Election officials at the state and local level are responsible for developing and maintaining their voter registration lists, ensuring that eligible voters are able to register and that voter registration lists are up-to-date and accurate. Yet, across the country, millions of eligible Americans encounter problems registering to vote, or are removed (or “purged”) from the voter rolls without notice -- sometimes simply for not voting. A 2018 study by the Brennan Center for Justice found that between 2012 and 2016, former-Section 5 jurisdictions had purge rates significantly higher than jurisdictions that had not been subject to preclearance.³⁹ Indeed, from 2010 to 2018, Georgia Secretary of State (now Governor) Brian Kemp purged more than 1.4 million voters from the state's voter registration rolls, many simply because they did not vote in previous elections.⁴⁰ The state's “exact match” law put into question the registration status of more than 50,000 Georgia voters, due to minor inconsistencies in their registration records.⁴¹

Voter purges disproportionately harm voters of color, low-income voters, and young people who are more likely to move and less likely to respond to correspondence from the state -- all factors that trigger removal from the voter rolls. A 2016 Reuters analysis of Ohio's voter purge -- upheld by the U.S. Supreme Court in 2018 -- found that in predominantly African-American neighborhoods around Cincinnati, 10 percent of registered voters had been removed due to

³⁸ *Applewhite v. Commonwealth*, No. 330 M.D. 2012 (Pa. Commw. Ct. filed Jan. 17, 2014).

³⁹ Jonathan Brater et al., “Purges: A Growing Threat to the Right to Vote,” https://www.brennancenter.org/sites/default/files/publications/Purges_Growing_Threat_2018.pdf. Brennan Center for Justice, 2018.

⁴⁰ Alan Judd, Georgia's Strict Laws Lead to Large Purge of Voters, ATLANTA JOURNAL-CONSTITUTION (Oct. 27, 2018), <https://www.ajc.com/news/state--regional-govt--politics/voter-purge-begs-question-what-the-matter-withgeorgia/YAFvuk3Bu95kJIMaDiDFqJ/>.

⁴¹ *Id.*

inactivity since 2012, compared to just four percent in the suburban Indian Hill.⁴² The study further found that more than 144,000 people were removed from the rolls in Ohio's three largest counties, which includes the cities of Cleveland, Cincinnati, and Columbus -- hitting hardest neighborhoods that are low-income and have a high proportion of Black voters.⁴³

Since last year, the All Voting is Local campaign has been spearheading an effort, together with in-state and national partners, to combat improper voter purges. When Ohio Secretary of State Frank LaRose recently revealed errors in the state's purge lists,⁴⁴ AVL and other advocates called on his office to halt the purge until the problems could be better understood. We and other in-state groups galvanized grassroots advocates, calling and texting more than 100,000 voters, encouraging them to re-register or update their voter registration so that they would not be removed.

Our campaign's methods of contacting voters likely to be purged are effective, and it is incumbent upon state officials determined to purge voters to make an equal commitment to efforts to contact them first. Last year, in the lead-up to the 2018 midterm elections, the All Voting is Local campaign texted 384,444 voters in the "pipeline" to be purged. Of the voters we contacted, 62,479 cast a ballot. For comparison, the Ohio Secretary of State's mailer to 264,516 voters in March 2019 resulted in just 540 voters updating their registration.⁴⁵

Problems with states' list maintenance practices are not limited to purges. In 2018, Florida voters passed a ballot measure to restore voting rights to millions of Floridians previously barred by a felony. Earlier this year, the Florida legislature took steps to roll back these new freedoms, passing S.B. 7066, which denies the right to vote to any returning citizen with outstanding court-ordered fines and fees, and is now the subject of a legal challenge.⁴⁶ Reports from some

⁴² Andy Sullivan & Grant Smith, Use It or Lose It: Occasional Ohio Voters May Be Shut Out in November, REUTERS, (Jun. 2, 2016, 7:05AM), <https://www.reuters.com/article/us-usa-votingrights-ohio-insight/use-it-or-lose-it-occasional-ohio-voters-may-be-shut-out-in-november-idUSKCN0YO19D>.

⁴³ Id.

⁴⁴ Andrew J. Tobias, Ohio Secretary of State Frank LaRose says Ohio's System of Maintaining Voter Registrations Rife with Problems, CLEVELAND.COM, (Sep. 25, 2019), <https://www.cleveland.com/open/2019/09/ohio-secretary-of-state-frank-larose-says-ohios-system-of-maintaining-voter-registrations-rife-with-problems.html>.

⁴⁵ Press Release from Frank LaRose, Ohio Secretary of State (Apr. 10, 2019), <https://www.sos.state.oh.us/media-center/press-releases/2019/2019-04-10-a/>.

⁴⁶ Brennan Center for Justice, Groups File Motion for Preliminary Injunction to Block SB7066, (Aug. 3, 2019), <https://www.brennancenter.org/our-work/analysis-opinion/groups-file-motion-preliminary-injunction-block-sb7066>.

Florida election officials⁴⁷ reveal extensive problems with the state's system for verifying information concerning returning citizens' eligibility, including that:

- there is no centralized, standardized system for determining the status of a returning citizen's criminal sentence, particularly their legal financial obligations, in order to confirm their eligibility to vote
- county supervisors of elections vary in their capacity to research and confirm state-provided lists of ineligible voters
- eligibility records are incomplete or inaccurate

In the absence of preclearance, Florida's troubling practices for determining eligibility are being put into place without any consideration or analysis of the impact on voters of color.

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, voter identification laws, list maintenance practices, and the rates of usage and rates of (and reasons for) the rejection of vote by mail and provisional ballots. These studies should be made in consultation with impacted communities.
- Require jurisdictions that receive federal funds to undertake outreach efforts to contact voters that they seek to purge -- including through mailed and emailed correspondence, by text message and by phone, and through public service announcements on local radio that encourage voters to check their registration, register, and re-register.
- Expand and modernize opportunities to register to vote, including same-day voter registration, automatic voter registration, and a fully functional system of online voter registration -- as passed in H.R. 1.

⁴⁷ See Linda So, Restoring Felon Voting Rights a 'Mess' in Battleground Florida, REUTERS (Oct. 7, 2019 7:48AM), <https://www.reuters.com/article/us-usa-election-florida-felons-insight/restoring-felon-voting-rights-a-mess-in-battleground-florida-idUSKBN1WM0YV>.

- Uniform standards for the counting of provisional ballots, including that election officials count provisional ballots cast by an eligible voter at the wrong polling place -- as passed in H.R. 1.
- Expand and modernize opportunities to vote before Election Day, including by prohibiting states from imposing restrictions on an individual voter's ability to cast a mail-in ballot, and ensuring at least 15 consecutive days of in-person early voting -- as passed in H.R. 1.
- Ensure early voting locations are equitably distributed, close to public transportation, and accessible to all communities (including historically disenfranchised communities).
- Ensure wait times at early voting sites and Election Day polling locations are fully resourced, with sufficient numbers of well-trained poll workers and adequate equipment to meet demand, so that voters wait no longer than 30 minutes.

Conclusion

Our democracy works best when every eligible voter can make their voice heard. Election administration practices can and should be used to expand access to the ballot for all eligible Americans. Yet, this is not the reality for millions of people in this country. Instead, laws, policies, and practices stand up barriers to voting and serve to disenfranchise millions of eligible Americans, particularly voters of color. Even in 2018 -- a record year for turnout -- voters across the country faced unnecessary barriers to voting ranging from problematic purges to strict photo identification laws to the overuse of provisional ballots. Any wrongfully disenfranchised voter is one too many. This is why Congress must restore and expand safeguards of the right to vote, ensuring that elections are administered fairly and equitably, so that every eligible American -- regardless of race, socioeconomic status, age, or ability -- can make their voice heard.

Thank you for your leadership on this critical issue.