



**STATEMENT OF KIRA ROMERO-CRAFT
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**U.S. HOUSE COMMITTEE ON HOUSE ADMINISTRATION,
SUBCOMMITTEE ON ELECTIONS
VOTING IN AMERICA: THE POTENTIAL FOR VOTER ID LAWS, PROOF-OF-
CITIZENSHIP LAWS, AND LACK OF MULTI-LINGUAL SUPPORT TO INTERFERE
WITH FREE AND FAIR ACCESS TO THE BALLOT.**

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I. Introduction

Chairperson Lofgren, Ranking Member Davis, and Members of the Subcommittee on Elections of the House Administration Committee of the U.S House of Representatives Committee, my name is Kira Romero-Craft, and I serve as Director of the southeast region for LatinoJustice PRLDEF, formerly known as the Puerto Rican Legal Defense and Education Fund. LatinoJustice PRLDEF led the way in ushering bilingual voting systems to the benefit of millions of language-minority voters in Latinx, Native American, and Asian-American communities. Today we use litigation and advocacy to protect those rights, to stop discriminatory purges of eligible voters, and to stem the dilution of Latino voting strength.

Thank you for the opportunity to testify before you about ongoing discrimination and challenges faced by language minority voters when they attempt to exercise their fundamental right to vote. The language access provisions provided by Voting Rights Act, and improved upon by H.R. 4, the John C. Lewis Voting Rights Advancement Act (“VRAA”), remain as necessary today as when they were first enacted in 1975.

I began directing the Cada Voto Cuenta nonpartisan election protection program and collaborating with the national Election Protection Coalition when I joined my organization’s southeast office located in Orlando, Florida in 2017. Cada Voto Cuenta is a bilingual voter protection initiative which provides bilingual civic education services and deploys poll monitors to high population Latino polling precincts in Florida, Georgia, New York, Pennsylvania and North Carolina to assist voters experiencing ballot access violations, language accessibility issues and voter intimidation or suppression activities, and other barriers to voting. In my capacity as Director of the southeast office, I have also litigated voting rights cases under Sections 2 and 4(e) of the VRA.

The focus of my testimony today will be sharing our voter protection and litigation work in two of these states, Georgia and Florida, on behalf of Spanish-language dominant voters. There is no doubt that the language access provisions currently in place under the VRA, and which may be strengthened by the VRAA under consideration, are vitally important to protecting against



attempts to suppress the votes of language minority voters. I have witnessed the disenfranchisement voters experience when being turned away from the ballot box due to limited English proficiency as well as election officials' resistance to full compliance with the language assistance requirements of Sections 203 and 4(e) of the VRA. Language access provisions and the enforcement mechanisms provided by the VRA remain as critically important today as when the law was first implemented, and language minority voters will continue to be negatively impacted when attempting to exercise their fundamental right to vote unless we continue to enforce and strengthen the VRA.,

II. Failure to provide Spanish-language Materials and Support in Liberty and Hall County, Georgia

Under the Voting Rights Act, Gwinnett county is a covered jurisdiction for Spanish language under Section 203. This represents 1 out of Georgia's 159 counties or put another way, 8.6% of Georgia's population. Since bilingual assistance is not provided in all other counties, this means that every action taken related to voting or election law changes in Georgia has an adverse consequence of disenfranchising limited English proficient voters in the state's 158 other counties. Outside of Gwinnett county, Spanish language dominant voters will not receive any information on how voting laws have changed and face additional barriers to casting an informed ballot.

Per the U.S. Census Bureau's American Community Survey (ACS) 2019 One-Year Estimate, Georgia is home to 108,719 citizens of Puerto Rican descent. For many of these Americans, English-only elections and voter registration services are barriers preventing them from exercising their fundamental right to vote. Many of these Spanish-language dominant citizens over the age of 18 are limited-English proficient. 14.4% of Puerto Ricans living in Georgia reported having limited English proficiency in the U.S. Census Bureau's American Community Survey (ACS) 2019 One-Year Estimates. Although some Americans from Puerto Rico speak English, others are unable to fill out a voter registration application or vote a complete ballot in English because they are Spanish language dominant. In fact, because citizens educated in Puerto Rico receive public schooling in Spanish, Section 4(e) of the VRA requires that they be provided with Spanish voting materials and assistance. Specifically, Section 4(e) states that:

Congress hereby declares that to secure the rights under the fourteenth amendment of persons educated in American-flag schools in which the predominant classroom language was other than English, it is necessary to prohibit the States from conditioning the right to vote of such persons on ability to read, write, understand, or interpret any matter in the English language. 52 U.S.C. § 10303(e).

Across the country, federal courts, have consistently interpreted Section 4(e) to require Spanish language ballots, election materials and bilingual poll workers to be provided in places which are home to sizable Puerto Rican populations.¹ Courts have declined to "read any numerical requirements into Section 4(e)'s plain language" and have ordered counties with as few as two

¹ See, e.g., *Rivera Madera v. Detzner*, 325 F. Supp. 3d 1269, 1279 (N.D. Fla. 2018); *Perez-Santiago v. Volusia Cty.*, No. 6:08-CV-1868, 2010 WL 917872, at *2 (M.D. Fla. Mar. 11, 2010).



dozen Puerto Rican voters to offer some bilingual assistance.² This is because “it is a ‘basic truth that even one disenfranchised voter—let alone several thousand—is too many.’”³ Moreover, “the right to vote encompasses the right to an effective vote” and English-only elections act to deny that fundamental right to the limited-English proficient Puerto Rican voters who live in Georgia.⁴

As an example, Liberty County, Georgia is home to 3,589 citizens of Puerto Rican descent (comprising 4.8% of the County’s total population)⁵. During all of 2020 and currently, the website for Liberty County, which provides extensive voter information, includes a link to polling places⁶, a link to the 2020 State Elections and Voter Registration Calendar,⁷ and a link to a public safety advisory about how to vote safely during the COVID 19 pandemic⁸ that are all English-only content. The Liberty County Board of Elections and Registration webpage⁹ only lists advance polling locations in English. In a call from our staff, to the Liberty County Office of Elections on December 8, 2020 the county stated that it does not provide Spanish-language voter guides, that online voter registration services are only available in English, was unable to confirm whether Spanish ballots will be available, and could not verify when Spanish English bilingual poll workers, early voting workers, or Liberty County Office of Elections staff would be available to translate consistently and as needed by U.S. citizens.

During a field investigation on February 12, 2020, LatinoJustice and Demos¹⁰ investigators witnessed a Puerto Rican, Spanish-language dominant resident of Liberty County attempt to register to vote at the at the Liberty County Office of Elections. The Liberty County Office of Elections did not provide any Spanish-speaking staff, translation services, Spanish-language voter registration application, or any other voter registration services in Spanish despite the resident’s requests. Our advocacy led the Board of Elections of Liberty County to provide Spanish language facsimile ballots and notify voters about translation services for the Georgia run-off elections held on January 5, 2021 and our organization continues to work with the board to ensure that it fully complies with the requirements of section 4(e) of the VRA.

² *Id.*; see also *Perez-Santiago*, 2010 WL 917872, at *2; *United States v. Salem Cty.*, No. 1:08-cv-03276, 2008 WL 11513214 (D. N.J. July 24, 2008) (ordering relief under Section 4(e) of the VRA in a city with 845 Latino-American voters, including 580 Puerto Ricans).

³ *Dem. Exec. Comm. v. Lee*, 915 F.3d 1312, 1321 (11th Cir. 2019) (citation omitted); see also *OCA Greater Houston v. Texas*, 867 F.3d 604, 614-615 (5th Cir. 2017) (ordering relief after a limited English proficient voter was denied help in violation of the VRA); *Gilmore v. Greene Cty. Dem. Party Exec. Comm.*, 435 F.2d 487, 492 & n.2 (5th Cir. 1970) (finding a violation after 75 Black illiterate voters were denied needed assistance).

⁴ *Puerto Rican Org. for Political Action v. Kusper*, 490 F.2d 575, 580 (7th Cir. 1973).

⁵ U.S. Census Bureau’s American Community Survey (ACS) 2018 Five-Year Estimate.

⁶ <http://gis.libertycountyga.com/voting/default.htm>

⁷ https://www.libertycountyga.com/egov/documents/1582389341_10008.pdf

⁸ https://www.libertycountyga.com/egov/documents/1590520016_26749.pdf

⁹ <https://www.libertycountyga.com/department/?structureid=57>

¹⁰ Demos is a civil rights organization which frequently partners with our organization to advance our shared goals. Demos uses cutting-edge policy research, inspiring litigation and deep relationships with grassroots organizations, Demos champions solutions that will create a democracy and economy rooted in racial equity. See <https://www.demos.org/about>



Another example of disproportionate obstacles facing Latino voters during the 2020 Georgia runoff elections was Hall County's decision to only reopen half of its early voting sites for the runoff election, compared to the number of early voting sites it opened for the general election. This caused substantial reductions in voter turnout and disproportionately burdened Latino voters. Hall County was among the counties with the highest turnout during the first two days of advance voting in the 2020 general election (when the County offered eight sites), but dropped to be among the counties with the lowest turnout during the first two days of advance voting in the 2021 runoff (when the County only offered four sites).¹¹ These dramatic poll closures created confusion and frustration among voters, many of whom sought to vote at the same advance voting location they used in the general election.¹² Our organization, along with partner organizations, petitioned for the early voting sites in Georgia to remain open, and in particular highlighted how the county's elimination of the Chicopee Woods Agricultural Center Activity as an early voting site disproportionately and severely limited the accessibility of advance voting options to Hall County's Latino voters. This advance voting location not only served voters in the city of Gainesville, which is over 40% Latino, but also served the voters in the city of Oakwood, which is over 30% Latino and does not have an early voting site of its own. Despite the advocacy on behalf of Latino and Black voters, the Hall County Board of Elections failed to heed the call to keep sufficient advance voting sites open to serve Latino dense precincts.

Despite the victory of advocates successfully lobbying Liberty County to provide facsimile Spanish-language ballots, the continued English-only practices at the Liberty and Hall County Offices of Elections and undoubtedly other offices of elections throughout the state, continue to deny Spanish language dominant, Puerto Rican U.S. citizens their full voting rights.

III. Denial of Georgia Identification Cards and Driver's Licenses to Puerto Rican U.S. Citizens

The state of Georgia has had other pernicious ways of denying Puerto Ricans their full voting rights as U.S. Citizens. On July 2, 2019, LatinoJustice PRLDEF and the Southern Center for Human Rights filed a lawsuit on behalf of a United States citizen born in Puerto Rico representing a putative class action in the United States District Court for the Northern District of Georgia. Our client sued the Commissioner of the Georgia Department of Driver Services (DDS) and an inspector of the Georgia DDS for discrimination based on DDS's practice of confiscating original identity documents from Puerto Rican-born applicants for Georgia drivers' licenses and denying class members equal protection of the laws and the privileges due to Puerto Rican-born U.S. citizens.

¹¹ See Voter Absentee Files, Georgia Secretary of State, <https://elections.sos.ga.gov/Elections/voterabsenteefile.do>.

The data ranked Hall County 21st out of 157 counties for voter turn out during the first two days of early voting during the 2020 general election. The data ranked Hall County 131st out of 157 counties for voter turn out during the first two days of early voting during the 2021 runoff election. Georgia has 159 counties but the Secretary of State did not have data for two counties.

¹² See Doug Ricards, *Early Voting Starts; Fewer Sites in Hall and Forsyth Counties*, 11ALIVE (Dec. 14, 2020) <https://www.11alive.com/article/news/politics/elections/early-voting-fewer-polling-locations-first-day-reaction/85-1985296f-74f6-4ec6-bb19-cc3f88f7f11e>.



It took our lawsuit on behalf of Mr. Caban Gonzalez and other Puerto Ricans who had endured a “Puerto Rican” test, an arrest and felony charges of fraud, as well as other discriminatory treatment of Puerto Rican U.S. Citizens, to access a basic right granted to other U.S citizens when applying for a driver’s license or photo ID. Our investigations found that the practice of turning away U.S. Citizens presenting Puerto Rican identity documents, confiscating their Puerto Rican birth certificates and original social security cards for “fraud” investigations, or denying them the opportunity to exchange their driver licenses for a Georgia license had been going on as far back as the 1990s and undoubtedly caused harm to U.S. Citizens who could have been automatically registered to vote had they been offered the option or been able to review the application form in Spanish and provided language assistance when requesting a drivers license or identification card. Our lawsuit ended in a settlement providing Puerto Rican, U.S. Citizens, as well as citizens from Guam, the U.S. Virgin Islands, American Samoa, and the Northern Mariana Islands, the equal right to exchange their driver’s licenses for a Georgia driver’s license. However, the harm from the unlawful state practices addressed by our lawsuit, combined with the lack of provisions of language access voting materials throughout the state, and Georgia’s voter ID laws, continue to violate Puerto Rican U.S. Citizens’ voting rights. The disenfranchising effect of these practices undoubtedly have long-range implications for newly arrived Georgians seeking permanency and hoping to call the state home.

IV. Florida’s Failure to Comply with the VRA’s Language Assistance Provisions

Under the Voting Rights Act of 1965 (VRA) and as of 2011, the State of Florida became a covered jurisdiction for the minority language of Spanish under Section 203 of the Voting Rights Act (Section 203). There are also 13 counties in Florida which are subject to minority language requirements for Spanish language under Section 203. They are Broward, DeSoto, Hardee, Hendree, Hillsborough, Lee, Miami-Dade, Orange, Osceola, Palm Beach, Pinellas, Polk and Seminole counties. Florida’s Puerto Rican voters of limited English proficiency are also entitled to the protections of the Spanish language assistance provisions of Section 4(e) of the Voting Rights Act.

Despite the direct protection of these laws, Florida’s language minority voters have continued to face discrimination at the polls and frequently do not receive adequate language assistance they critically need to be able to cast a ballot for their preferred candidates of choice or to make informed decisions when deciding how to cast their votes on ballot initiatives.

After Hurricane Maria devastated Puerto Rico in 2017, an estimated 160,000 people fled to Florida, joining over half a million people who made the exodus during the previous decade because of the island’s economic crisis. The state’s Puerto Rican population now totals over one million.¹³ Section 4(e) of the Voting Rights Act requires the provision of bilingual voting materials

¹³ David Smiley, Bianca Padro Ocasio & Alex Daugherty, Florida Puerto Ricans Say Trump Response to Hurricane Dorian Won’t Ease Maria Memories, Miami Herald, Aug. 30, 2019, <https://www.miamiherald.com/news/politics-government/state-politics/article234547237.html>



and assistance for Puerto Rican-educated, limited English proficient United States citizens, as does Section 203.

My organization, LatinoJustice, along with Demos, sent two rounds of letters about the Section 4(e) language assistance requirements to Florida's election officials and also requested a 5-minute time allotment during the Supervisors of Elections' annual conference in the spring of 2018 to discuss their obligations to provide Spanish language assistance under Section 4(e).

After the Supervisors declined our request to speak at the conference and having received no assurances that limited English proficient Puerto Rican voters would receive adequate Spanish language assistance at the polls, LatinoJustice and Demos filed a lawsuit against the Florida Secretary of State and 32 Florida counties that would have forced Spanish-speaking voters to vote in English-only elections.¹⁴

On September 10, 2018, the court granted the most significant components of the relief plaintiffs sought in our motion for a preliminary injunction.¹⁵ The court ordered the Secretary of State to issue instructions to the 32 defendant counties, requiring them to provide Spanish-language sample ballots at polling places, on county websites, and by mail to guide voters in marking their ballots, and to publicize the availability of these sample ballots and instructions on how to use them.

As a result of our continuing Cada Voto Cuenta election protection activities, we learned that polling places in counties named in the lawsuit were failing to fulfill their obligations under the court's order. We also discovered through election protection efforts that the Duval County Supervisor of Elections, Mike Hogan, had not posted nor otherwise made available Spanish language facsimile ballots at early voting polling locations despite the court's order requiring Duval County to do so.

Because of the counties' failure to comply with the law and the court's orders, we were forced to file an emergency motion for a preliminary injunction on November 4, 2018, in advance of the midterm elections. On November 5, the court granted part of our motion, directing the Secretary of State to remind County Supervisors of their required compliance with the court's previous order and to provide facsimile sample ballots in Spanish language to all voters entitled to language assistance under Section 4(e). The Court subsequently granted the Secretary of State's motion to stay the case pending a rulemaking process for statewide Spanish ballots that was initiated by the Governor as a result of the litigation.¹⁶

Incredibly, even after the court made it clear that compliance with Section 4(e) as well as the court's orders was mandatory, many County Supervisors of Election voiced objections to adopting rules to ensure language minorities received adequate language assistance at the polls, including rules that would have required reasonable efforts be made to recruit bi-lingual poll workers. Some

¹⁴ *Madera v. Detzner*, No. 1:18-cv-00152 (N.D. Fla. filed Aug. 16, 2018), Doc. 1.

¹⁵ *Madera v. Detzner*, 325 F. Supp. 3d 1269 (N.D. Fla. 2018).

¹⁶ *Madera v. Detzner*, No. 1:18-cv-00152 (N.D. Fla. ordered May 10, 2019), Doc. 131.



of the concerning comments made during a rule development workshop on May 21, 2019 at the Supervisors of Elections' annual conference included:

“...it was brought out by the large group asking for Spanish language interpreters at every polling place and all the other things that you listed here, and I’m telling you for the whole world to hear that it is a physical impossibility. We have been trying and trying and trying to recruit bilingual election workers in our county and I cannot invent them.” Supervisor Alan Hayes, Lake County;

“And yet your proposed rule is likely to inflict a lot of financial damage and a lot of inconvenience and a lot of wasted time.” – Supervisor Alan Hayes, Lake County.

Despite the opposition, we were ultimately able to enter into a settlement with 31 of 32 counties subject to the litigation earlier this year. Tellingly, the Charlotte County Supervisor of Elections declined to settle, advising that in his county, the small number of voters requesting Spanish-language ballots did not justify the cost.

Continual attempts to deny Spanish dominant voters their equal voting rights in Florida shows how voting advocates and the Department of Justice must continually enforce the language access protections of the VRA.

During the early voting period in November 2018, while LatinoJustice was conducting election protection monitoring, we received a call from a Spanish dominant voter who said he was forced to vote a blank ballot in Orange County, Florida. Both Orange County and the State are covered jurisdictions for Spanish language assistance under Section 203.

The voter relayed the experience of being shuttled to a scanning machine by a poll worker and told to cast a blank ballot, without having had the opportunity to mark his ballot in secrecy. The voter reported being a naturalized citizen who could not speak English and reported that a couple of other voters were told to do the same.

At the time of the call, the voter was incensed by the action taken by the white, male poll worker which he perceived to have been intentional. Because of our Election Protection model, we were able to contact counsel for the county and the voter was eventually able to cast a provisional ballot which was ultimately counted.

Osceola County is a jurisdiction covered for Spanish language assistance under Section 203. Despite a long history of voting rights violations, including voting rights litigation brought by DOJ in 2002, 2005 and 2008, there were reports as recently as the 2018 election regarding the complete lack of bilingual poll workers in the Buena Ventura Lakes precinct—which has over 40% Hispanic/Latino registered voters. Had federal observers been deployed to this precinct, they would have been able to investigate whether and to what extent the county was complying with the language assistance requirements of Section 203 and whether the lack of bi-lingual poll workers was preventing Spanish speaking voters from obtaining the language assistance they needed at the poll.



During the 2020 election cycle, we received calls for assistance on behalf of an elderly Latina voter who was denied her choice of assistor in Miami-Dade County, as she was not allowed to bring in the assistor of her choice, a nonpartisan poll monitor, by the poll manager. The elderly voter was scared by the amount of partisan activity at the polling location and was relieved to be able to speak to someone in Spanish, her dominant language, upon arrival at the polling location. We also received calls from a Spanish-language dominant voter in Pinellas County, who had brought her daughter to translate for her and yet her name could not be found on the voter roll, despite having registered to vote. There were also several requests for assistance during the early voting periods regarding vote-by-mail and how to request a ballot as well as tracking the ballot or requests for assistance on how to “cure” ballot issues.

These are just several instances of how minority language voters encounter obstacles that cannot be cured without in-language assistance. There are, unfortunately, many more instances of discrimination that take place inside of the polls that we never learn about through our Cada Voto Cuenta activities, since we cannot be stationed inside the polls in Georgia or Florida. The reinstatement of and expansion of the observer program to Section 203 covered jurisdictions would go a long way to ensure compliance with the language assistance provisions of the law and to deter discrimination against language minority voters at the polls.

V. The Re-Authorization of Federal Observers in the VRAA

The re-authorization of Federal Observers would be an incredibly impactful update to the Voting Rights Act because it would put non-partisan, trained observers inside polling stations to potentially deter and prevent the disenfranchisement of language minority voters needing critical language assistance at the polls. Federal observers would also play an important role in deterring and preventing other forms of discrimination against voters of color and language minority voters.

Under the VRAA, Section 203 covered jurisdictions would be added to the jurisdictions that the Attorney General would be able to certify for the assignment of federal observers. Additionally, the Attorney General would have the authority to certify jurisdictions for the assignment of observers in jurisdictions subject to preclearance, including when the Attorney General believes doing so is otherwise necessary to enforce the guarantees of the 14th or 15th Amendment, any provision of the VRA or “any other Federal law protecting the right of citizens of the United States to vote.”

In closing, our experiences in Georgia and Florida lead us to overwhelmingly support passage of the VRAA with the goal of improving language access services to language minority voters through coverage under Section 203 and Section 4(e) of the Voting Rights Act, and all other provisions of the law which support assistance to voters needing it.

Thank you very much for your time and attention and for the opportunity to speak on behalf of language minority voters today.