

Committee on House Administration Subcommittee on Elections
“Voting in America: Ensuring Free and Fair Access to the Ballot in Texas”

Written Testimony of Gary Bledsoe
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Good Afternoon Chairman Butterfield and Ranking Member Steil and all of the Honorable Members of this House Administration Subcommittee. My name is Gary Bledsoe, and I am the President of the Texas State Chapter of the NAACP. I am a practicing attorney in Austin, Texas, and I specialize in public interest, employment and civil rights law.

First, let me say that I am enthusiastic that you are convening this important hearing because I see the foundation of our democracy crumbling right before our very eyes. This is happening nationally, but for various reasons Texas is one of the lead states where it is occurring first and more quickly.

As Texas has moved from being a white majority state, just 20 years ago, to a majority minority state now, we have seen incredible actions take place that can only be explained in one way—there is an unmitigated desire to make sure that the white population is able to continue to dominate and control the affairs of our State. Like many of you, I marvel at the courage shown by those brave Ukrainian people who are fighting for democracy. Indeed, they stand as an example of what commitment to democracy looks like, because anti-democratic forces are always at work looking for an opportunity to undermine our democracy.

In the state of Texas, we are back to the Jim Crow era and I am not just saying that to make a point. Too often we must be politically correct and soft pedal what is right in front of our eyes, and my friends the desire to disenfranchise persons of color in our State is as clear today as it was in 1923 when the Texas Legislature prohibited Blacks from voting in the Democratic primary.

The recent primary election offers us just a small window into what we are dealing with in Texas. I want to highlight just a few matters regarding it, but would like to emphasize that these very serious problems we see in reference to the primary election will be greatly magnified in the fall election.

I will begin with addressing mail-in ballots. There were serious problems with the actual execution of the ballot once you went through the new hoops that are required to obtain one. The State now requires you to provide private information to obtain a mail-in ballot. In your application, for a mail-in ballot, you are required to provide either the last four numbers of your social security number or the number of your Texas driver's license, Texas identification card or election certificate card. You are required to use the same one you utilized to register and vote. This can be a problem - as we see from Pam Johnson Gaskin, a member of the Board of the Texas League of Women Voters, an outstanding nonpartisan group that is quite vigilant in trying to protect voting rights. Ms. Gaskin submitted her request for a mail-in ballot, but did not use the same one she used 46 years earlier when she first registered to vote. She wrote to me and complained about how complicated and unnecessary this process was. I am including, with my testimony, several links to articles discussing Ms. Gaskin's travails. As she noted on one of the television programs, she has a degree in English from the University of Texas so she understands the English language very well, but the process is just so unnecessarily complicated. Some of the election officials, and at least one of the political parties, are telling individuals to simply include both; however we have great concerns about identity issues if one does this even though this may be the most viable option to ensure that you obtain a mail-in ballot.

An example to recall is the Kobach Commission – where an unstructured group working with the Trump Administration sought private voting information from our Secretary of State. Along with our friends from the League of Women Voters, we sued the State over this and the Commission was ultimately disbanded, but not before information was provided to the group. When you provide information to individuals that include such private and personal information you are really putting people in harm's way. The Kobach Commission did not have any State means of providing protection or security, so we clearly have valid concerns with this, and if it were to get in the wrong hands. As we have so many military officials in Texas, one can only shudder to think what this kind of private and personal information this could provide to our enemies. Remember, that one of the States said to be successfully hacked by the Russians in 2016 was indeed the State of Texas.

The New York Times reports that about 30 percent of mail-in ballots were rejected from the recent March 1, 2022 primary election. We have assembled a few reports obtained from Ms. Gaskin, and some others to clearly illustrate the problem, where you can see the large number of ballots that were actually not counted. You can also see another number we need to talk about – I reference Exhibit A.

There are a large number of voters who started out to vote by mail-in ballot, but apparently changed their mind or gave up, and many of them did not ultimately cast a vote. Bexar County is one County that seemed to have a high number of voters who gave up. I am attaching a copy of a statement from a member of the McLennan County Early Voting Ballot Board (EVBB) Signature Verification Committee discussing problems associated with this process and they are numerous – I reference Exhibit B.

This new mail-in ballot procedure will cause great harm to elderly and minority voters around the State of Texas. As stated above, an individual must include their driver's license number or the last 4 digits of their social security number to make the request, and then they will review one's registration, signature and whether this number was the same number utilized when the voter registered. Essentially, what this means is that voters who registered many years ago, or who are elderly and may not remember what number they used, these voters will be greatly disadvantaged.

Further, if your first request is rejected you must hope that you started early enough and that you received due notice that there was a deficiency of some kind. In order to avoid this hassle, many in both political parties are saying to simply put both items down. I really worry about the sensitivity of putting such private information on these documents when I feel there is reason to be concerned that this information could be abused, provided to the wrong people, accessed by enemies or simply one's identity might be increasingly likely to get stolen. Requiring individuals to take such risks just to vote no doubt has a chilling effect on them, and impacts whether they are likely to exercise their right to receive and cast a vote. Our NAACP Units have been made aware of individuals who have been disqualified because of issues with their signatures as well – even though their signatures were genuine and valid.

Once you obtain the ballot, there are further problems with the multi-flap envelope, the small handwriting making instructions difficult to see coupled with the seemingly hidden information in the flap requiring you to once again affix private information.

Because of the mail-in voter problems and the loss of election workers, which caused poll closures around the State, we joined with the Texas Legislative Black Caucus and sent a communication to the Texas Secretary of State asking for corrective action and information – however, we have not heard back. The Secretary of State has not responded to our substantive requests for action or dialogue, but has responded to our information request as a request for public information.

Texas uses voter intimidation in the same way they did years ago with Jim Crow. They may not be beating people with billy clubs or hosing them down with powerful water hoses, but they are indicting individuals, who in my opinion, should not have been charged with crimes – or simply making many public pronouncements that they will possibly indict people if they attempt to vote or execute a reasonable impediment affidavit that has a mistake in it.

For example, I only need to mention the cases of Crystal Mason and Hervis Rogers, to name just a couple, or ask you to take a look at the public pronouncements made by the Attorney General when Judge Ramos ordered the use of reasonable impediment affidavits so that Texas could use its voter identification law in 2018. The Attorney General was not the only person making such threats. Understanding this kind of background, and how the Election Integrity of the Texas Attorney General has somehow come to prosecute mostly Black and Brown people, many election officials are reasonable when they decided that the numerous new criminal provisions in SB1 that target elected officials is a reason for them to consider not continuing as election officials.

As an aside, I must raise concerns about our justice system because we have one individual who was on parole and believed she could vote and then cast a vote that was not counted, but she nonetheless was indicted for an intentional crime. The same is true for Hervis Rogers, who thought he could vote and even gave television interviews because he was the last voter in the 2020 primary election voting at a voting site and had stood in line for something like 8 hours. It seems odd that an individual would knowingly commit a crime and then give an interview to national news outlets. However, these kinds of prosecutions strike fear into the hearts of minority voters, as they are intended to do so. I saw on the news a similar matter occurring up in Nashville where a voter was indicted for an offense of illegal voter registration even when her probation officer and state authorities had supported her application—some of which was even in writing to support her application. This is becoming a national trend as they seek to suppress minority voters.

Many election officials grow up and reside in communities where they work, and as a result, they come to know and love the people who live there. They have been vigilant in the past in protecting honest and sincere people who have been targeted by right wing extreme poll watcher groups or poll watchers. They have made it possible for people to vote despite the intimidation that many voters encounter from these groups or individuals. If you just look at the Common Cause video that was provided to the Houston Chronicle regarding a Republican Poll Watcher Training for Harris County, you can see how individuals get all wired up and are ready to go when they go to minority polling sites. The Trainers made comments about how tough people needed to be to go into those areas, and they used military terms to refer to how

they should consider their assignments if they were chosen. As a side note, one of our NAACP Units reported how Republican voters at their polling site were given favorable treatment by the local election officials.

This past election, minority election officials protected voters from Poll Watchers who did not wear masks. At least one such disagreeable Poll Watcher was removed from the precinct. It is our belief, that this incident where a Poll Watcher who refused to wear a mask, and against whom complaints had been made about his belligerence, was actually removed. This provided at least a seed or motivation for the changes in Texas law that now make them “Large and in Charge” at polling sites.

There is no doubt, given this backdrop that we have so many individuals who have decided not to participate in the election process this year. Some of the laws are designed or intended to confuse or trap election workers. One says if there is a custom, practice or procedure that is required by law and you very from it, you have committed a criminal offense. And let’s remember the Texas Attorney General, a civil department, has somehow been charged with policing this and they have a secret weapon in the Election Code—an option to take cases to a neighboring county to seek an indictment. That is what authorities did with the African-American female Sheriff of Jefferson County and the African-American voter named Hervis Rogers in Harris County. This means you can go to a neighboring Ccounty and seek an indictment. Let’s take Travis County where Austin is as an example of this. The Election Official in Travis County insisted on poll watchers not violating CDC guidelines on social distancing, and because of this she found herself being the subject of a matter brought before a grand jury in a more conservative neighboring county. Debeauvoir was not charged but she is leaving office.

Many polling sites were closed for the March 1st election, reportedly because of the inability to find people to do the work. This means fewer polling sites, or polling sites with persons hostile to those in a particular community acting as election officials. It means more travel time to vote or longer lines at the polls which will reduce voter turnout.

As Texas has moved to not just a majority minority State, but one with a fairly sizable minority population, well over 50 percent, the attacks on voting and freedom have escalated in recent years. The question for the white conservative majority is how do we maintain control in the midst of this growing minority population? The answer is that you design a system so that you are ensured of maintaining control. That was no doubt a motivation by some State Authorities in passing SB1. SB1 is designed to negatively impact the minority vote at every stage of the voting process. It is broad and comprehensive.

Step One - is to try and limit minority voter registration and/or participation. The Texas Attorney General is provided access to more data from County officials and the Department of Public Safety that will enable that office to have a focus on many Texans of color, especially immigrants. Further, with the previous prosecutions of persons such as Crystal Mason and Hervis Rogers, this can be used as an intimidating factor to further stymie registration and participation. And of course we must be concerned about purged voters. Many of our NAACP Units have reported working with individuals who have been purged for some reason or another.

Step Two – is to negatively impact participation in Early Voting and in Mail-in voting. The location of early voting sites is now limited largely by the new State law and the time which they operate has been limited. In the past, there was no limit on what hours a site was required to be open, but now there are limits and the late at night hours or in the early morning hours that have been eliminated will negatively impact minority voters. We discussed, the new quagmire of mail-in balloting, with a large percentage of our population having their absentee ballots rejected and a large percentage starting the process who did not finish. Some of them turned in their mail-in ballots and voted in-person, but most for other unexplained reasons.

Step Three – is designed to Thwart Election Turnout and Participation on Election Day. Intimidating provisions are designed not to prevent corrupt election practices, but to undermine regular and traditional community groups from effectively engaging in the electoral or political process. “Gotcha Laws” have been passed that are labelled as Vote Harvest Laws that are so broad and vague that they are intended to ensnare honest and sincere people who simply are out to help someone get elected - people that they know and like through church or some other organization. It is draconian. Also, this is where hate poll watchers are large and in charge and can now simply act on their hatred and bigotry to disrupt minority polling places, and the election officials are given the absurd remedy of getting an injunction or mandamus. How many people would be hurt by the time that might get done if the election official is even able to do this? And if that poll watcher says the official was wrong, what happens when the poll watcher goes to the neighboring county to try and indict that official.

There are so many laws that require Good Samaritans to sign forms, some that might pit them against the person they decided to help, forms for voters to sign, identification requirements that are unreasonable or many others. And we cannot forget the new order in the polling places that means poll watchers cannot only invade your space and not wear a mask, but because they have to be close enough to see or hear what the voter is doing the voter will have no dignity or privacy. Though many contend this does not give them the right to see how someone votes, I don't see how it could not provide poll watchers with private health

information or vote casting information from voters. The voter has been reduced to a “thing” without emotions or feelings. These wired up poll watchers invade our communities as if they were an occupying force. Lines will be longer and there is no guarantee that friendly people will be there to greet you or even that you can vote in reasonable proximity to your residence.

Step Four – is about the vote counting. It integrates poll watchers through most of this process and provides more opportunities to disqualify votes because of the time that ballots arrive, alleged signature issues or election identification issues. It creates a new cause of action for a lawsuit, enabling just about anyone to decide their rights involving a candidate when violated by some action in the other campaign and file an action against the candidate or others associated with the opposing campaign. It is really an outrageous law intended to discourage good and competent people from seeking public office.

Thank you, for the invitation and opportunity to present testimony. I look forward to your questions.

Supporting Exhibits/Articles for Gary Bledsoe's March 17, 2022 Testimony

<https://www.houstonchronicle.com/politics/texas/article/Texas-woman-recounts-her-mail-ballot-hassle-3-16820484.php> <https://www.msnbc.com/the-last-word/watch/-this-is-jim-crow-2-0-texas-voter-blasts-gop-voter-suppression-133352005876>

<https://www.texastribune.org/2022/03/02/texas-primary-ballot-rejections/>

<https://www.texastribune.org/2022/02/17/texas-voting-by-mail-2022-dan-patrick/>

<https://www.npr.org/2022/02/15/1080739353/high-numbers-of-mail-ballots-are-being-rejected-in-texas-after-a-new-state-law>

<https://www.sos.texas.gov/elections/voter/reqabbm.shtml>

<https://thinkwingradio.com/2022/03/09/weds-march-9-2022-11-am-ct-topics-votetexas-gov-voter-information-primary-election-was-march-1-more-audio-video-kpfthouston-90-1-hd2/>

<https://www.nytimes.com/2022/02/25/us/politics/texas-primary-ballot-rejections.html>

<https://www.cnn.com/politics/live-news/texas-primary-election-2022/index.html>

<https://www.texastribune.org/2022/03/01/Texas-election-voting-live-updates/>

<https://www.nytimes.com/2022/03/01/us/elections/texas-primary-results-when.html>