



OVERCOMING THE UNPRECEDENTED

Southern Voters' Battle Against Voter Suppression, Intimidation, and a Virus



Supporters of restoring voting rights to people with felony convictions march to an early voting precinct in Fort Lauderdale, Fla., on Oct. 24, 2020. The Florida Rights Restoration Coalition led marches to the polls in dozens of counties.

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ABOUT THE SOUTHERN POVERTY LAW CENTER

The Southern Poverty Law Center is a catalyst for racial justice in the South and beyond, working in partnership with communities to dismantle white supremacy, strengthen intersectional movements, and advance the human rights of all people.

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Executive Summary

Long before anyone in the United States had heard the term “COVID-19,” voting rights activists were gearing up for what was certain to be a tumultuous and high-profile election cycle in 2020. The stakes were high, and the vitriol and disinformation that lingered from the 2016 election had already damaged confidence in the country’s electoral infrastructure, long fraught with administrative problems and systematic efforts in many states—particularly in the South—to suppress voting by Black people and other communities targeted for disenfranchisement.

The coronavirus arrived just as the spring primary season was heating up, and no one, from election officials to voting rights groups, was prepared for elections to be held in the midst of a pandemic. Primary elections were delayed by months or held under exceedingly strained circumstances. Election officials struggled to recruit poll workers, find enough personal protective equipment (PPE), and keep up with an unanticipated flood of absentee ballots. Voting rights organizations had to scrap mobilization plans that were years in the making and adjust to a world where many of their most effective tools, such as in-person canvassing, were no longer safe.

The pandemic brought massive, unforeseen stresses to the electoral system and compounded threats that already existed. Disinformation about absentee voting and voter fraud spread rapidly on social media. Voter intimidation threats increased as white supremacist groups were emboldened by President Donald Trump’s open support and encouragement. Natural disasters—hurricanes on the Gulf Coast and wildfires in the West—brought additional stresses.

Still, despite the threat of illness and the uncertainty, voters cast ballots in record numbers. Turnout was high across the nation, even as millions navigated new methods of voting.

Proponents of voter suppression tactics have pointed to the high voter turnout to explain away the very real flaws in America’s democratic systems. How bad could voter suppression and election mismanagement be if millions of Americans found a way to vote amid a pandemic? These are bad faith arguments. American citizens

should not have to navigate an outdated system or jump through unnecessary bureaucratic hoops to exercise their most fundamental right.

America made it through the 2020 election cycle, but not unscathed.

The threats to our democratic system remain, as the nation saw on January 6 when thousands of far-right extremists—stoked by Trump’s and other elected officials’ relentless disinformation campaign about a “stolen election”—attacked the U.S. Capitol as Congress was certifying the Electoral College results.

This report describes the 2020 elections in five Southern states—Alabama, Florida, Georgia, Louisiana, and Mississippi—with a particular emphasis on election administration problems; voter suppression; the efforts of voting rights organizations to mobilize voters and protect their votes; and the actions of extremists who sought to intimidate voters and spread disinformation.

As this report shows, it is abundantly clear that our electoral system needs repair. Numerous states have erected new barriers to voting since the U.S. Supreme Court in 2013 gutted a critical component of the Voting Rights Act of 1965. Many also cling to Jim Crow-era laws, such as felony disenfranchisement, that were specifically designed to suppress the Black vote—or they refuse to enact commonsense changes that would make voting easier and accessible to all citizens. At the same time, some states maintain archaic administrative systems that are woefully inadequate to meet the needs of voters today and ensure fair elections.

Despite these massive failures—and the recalcitrance of politicians determined to retain their power by subverting the will of voters—there is hope for change. This report details the efforts of a powerful movement of grassroots organizations that are working for change in the South—with the ultimate aim of ensuring that local, state, and federal governments are responsive to the needs of their citizens. These organizations and other advocates will be critical in the effort to expose and prevent partisan and racial gerrymandering of local, state legislative and congressional districts as the redistricting process begins following the 2020 census.



On March 7, 2021—the 56th anniversary of the “Bloody Sunday” march that catalyzed congressional support for the Voting Rights Act—President Biden signed an executive order aimed at making it easier for voters to register and improve access to the ballot. But there is far more work to be done, especially at the state level, and executive orders can be reversed by future administrations.

This report provides a blueprint for reforming the electoral system. The Biden administration and Congress must act quickly to shore up the stability of the electoral process and put our democracy on a firmer footing. Passage of federal laws, including those that strengthen the Voting Rights Act, are necessary steps forward on the path to reform—toward ensuring that all Americans have easy and equal access to the ballot box.

People in Hanahan, S.C., waited about an hour and a half to cast in-person absentee ballots at the Berkeley County Library on October 30, 2020.

Election Administration

In the South, as is well documented, state and local officials have long worked to deny or limit Black Americans' access to the ballot. The tactics have changed, but the goal has remained the same since the early days of Reconstruction more than 150 years ago: to erect as many barriers to voting as possible and to prevent and discourage Black people from participating in elections.

Efforts to suppress the vote have become more brazen since the U.S. Supreme Court in 2013 gutted a key provision of the Voting Rights Act of 1965. At the same time, pro-voter reforms that are common across the nation—no-excuse absentee voting, early voting, and online voter registration—have not been fully adopted in the Deep South. In much of America, in-person voting on Election Day is no longer the most common voting method. In the Deep South, it remains the only option for millions of people.

Curtailing voters' choices about where, when, and how they vote will suppress participation in the best of times. During the 2020 election season, amid the COVID-19 pandemic, these policies made voting a potentially deadly act for voters, their families, and their communities. Without early and absentee voting options, thousands of voters would need to gather at the polls on Election Day—often in small local churches, libraries, and community centers where it is impossible to practice social distancing. The pandemic turned the most common and accessible method of voting in the Deep South into a public health threat.

Restrictive voting policies also compounded existing inequities in voting access between white and Black citizens. People of color—and Black people, in particular—have been disproportionately affected by the novel coronavirus, suffering more hospitalizations and deaths than other population groups.¹ Voting in person was a risk for everyone in 2020, but it was an even greater one for Black Americans.

Every one of the five states covered in this report—Alabama, Florida, Georgia, Louisiana and Mississippi—needed significant changes to their election processes to create a safe and accessible voting experience, though some had more work to do than others. Both Florida and

Georgia already had no-excuse absentee voting, but they needed to make the application process more accessible and to prepare for an enormous increase in absentee voting. Alabama, Mississippi, and Louisiana do not offer no-excuse absentee voting, and all three states have unnecessary, burdensome requirements that make absentee voting risky for those who do qualify. Reforms approved easily in one state sparked strong opposition in others. Alabama's secretary of state allowed voters who feared COVID-19 exposure at the polls to vote absentee using an existing excuse.² In Louisiana, Republicans in the state legislature vehemently opposed even modest expansions to absentee voting.³ Overall, every state did something, but no state did enough to ensure voters were not asked to choose between their health and their vote in 2020.

Not only was casting a ballot dangerous, election administrators faced new challenges.⁴ Election officials had to quickly evaluate and modify standard election procedures to reduce the risk of spreading COVID-19. County election offices and polling places were often not large enough to accommodate social distancing and were inappropriate to use during a pandemic. Additional funding from the CARES Act helped facilitate some of this work, but the strain on officials was still immense. In just a few months, they had to reevaluate every piece of the election system, all during one of the most high-profile elections in recent memory.

Poll worker shortages

Two years earlier, during the 2018 election, more than half of all poll workers were at least 60 years old.⁵ As officials prepared for the 2020 presidential election, many were concerned that they would not be able to recruit an adequate number of poll workers because so many regular volunteers were high risk for COVID-19.

Even before the pandemic, local officials were struggling to recruit and staff elections. In 2016, over 65% of polling precincts reported it was “very difficult” or “somewhat difficult” to recruit an adequate number of poll workers.⁶



The poll worker shortage was particularly acute during the primary elections because election officials had very little time to prepare. Several Southern states postponed their spring primaries to give themselves more time to respond, and the states that did hold elections in early spring struggled. In Florida, some polling locations had zero poll workers show up for the March primary.⁷ The states that did postpone elections still struggled to adapt. Georgia made national headlines in June because of excessively long lines during the primary.⁸ The lines were due in no small part to polling place consolidations triggered by poll worker shortages.

Election officials were better equipped for the general election. States were able to supply more personal protection equipment to election workers.⁹ Many states increased poll worker pay.¹⁰ Voting advocacy organizations also worked hard to recruit younger poll workers who could more safely volunteer. Even NBA stars got involved in poll worker recruitment.¹¹ These strategies were effective. There were far fewer issues with lines, polling place consolidations, and poll worker shortages during the November general election.

Voters in Greenville, S.C., wait in line to participate in early voting three days before the 2020 general election.

Increased absentee ballot demand, Postal Service delays, and failures to expand access

Absentee ballot demand

Despite various barriers in all five states, voters requested and returned absentee ballots in unprecedented numbers during the 2020 election cycle, creating logistical problems for unprepared officials.

In Georgia, Secretary of State Brad Raffensperger sent absentee ballot request forms to every registered voter to encourage absentee voting and reduce crowding at the polls. However, the state's decision to contract with an Arizona-based printer 1,800 miles away, coupled with nationwide Postal Service delays, created delays in delivery that affected hundreds if not thousands of ballots. Many voters received ballots too late or never at all. Raffensperger and Gwinnett County officials were also the subject of a lawsuit after failing to provide Gwinnett voters, protected by Section 203 of the Voting Rights Act, with applications in Spanish.¹²



Election workers sort through pouches containing cards with voting data for transmission at the Gwinnett County Elections Office on Nov. 6, 2020.

In Alabama, county absentee election managers were completely unprepared for the influx of in-person absentee voters. Alabama does not have early voting, but it allows eligible voters to request and cast an absentee ballot in person at their local courthouse if they qualify with a valid excuse. Typically, it is not a well-known or popular voting method in the state. But in 2020, nonprofit groups and political parties strongly promoted and encouraged the method. County election officials, though, often lacked adequate staff and resources to keep up with demand for in-person absentee voting. Voters in larger counties like Jefferson, Mobile, Montgomery, and Lee regularly waited in line for two or three hours.¹³ In Jefferson County, the absentee election manager was so overwhelmed she had to ask for increased support from the secretary of state's office, and she tried to cancel multiple days of Saturday voting.¹⁴

Postal Service delays

The increased demand for absentee ballots and the pandemic also strained the U.S. Postal Service. Unreliable and delayed service was a major concern throughout the 2020 election season as the Postal Service failed to get absentee ballots to voters and then back to election officials in a timely manner.



U.S. Postmaster General Louis DeJoy testifies during a House Oversight and Reform Committee hearing on August 24, 2020, amid criticism that changes he made led to delays in the delivery of absentee ballots.

Though some of the problems were related to the pandemic, much of the delays were the result of poor management and political interference at the Postal Service. The agency removed 711 mail-sorting machines from postal facilities in 2020, reducing its own capacity to process ballots and other mail.¹⁵ In parts of North Georgia, less than 85% of ballots were delivered on time.¹⁶ The mail delays led advocacy groups to file suit

against Postmaster General Louis DeJoy, a Trump megadonor, to challenge the policy changes—including limiting overtime and late truck trips—that were causing election mail disruptions.¹⁷ These significant policy changes came as President Trump consistently disparaged absentee voting and discouraged voters from using this option, claiming without evidence that absentee voting leads to fraud.

On Oct. 30, a federal court ordered the Postal Service to take additional steps—including “extraordinary measures” in a number of locations—to ensure more ballots would be delivered on time.¹⁸ Unfortunately, the order came only a few days before the election, after much of the damage was already done.

Though ballots were systematically arriving late, voters in many states were given no extra time to complete and return them. Advocacy groups sued to extend return deadlines in many states, with mixed success. In Georgia, this litigation was unsuccessful; an appellate court ruled that ballots had to be received by 7 p.m. on Election Day.¹⁹

Millions of absentee voters were able to overcome these significant delays, but it is impossible to know how many were unable to vote because of a ballot that arrived too late or not at all. And we do know that at least 150,000 absentee ballots were processed by the Postal Service after Election Day.²⁰

Southern states fail high-risk voters: three cases in three states

Alabama, Louisiana, and Mississippi have consistently posted some of the highest COVID-19 case rates in the nation.²¹ High rates of community spread combined with these states’ burdensome electoral systems created a dangerous situation for many voters, forcing many to choose between protecting their health and exercising their right to vote.

All three of these states require an excuse to vote by mail, and each impose additional burdensome requirements. Each state has application and witness requirements that can be difficult to complete even outside the context of a pandemic. Alabama relaxed its excuse requirement but left in place a requirement to provide a photocopy of an ID with a ballot application. Also, Alabama

Every state did something, but no state did enough to ensure voters were not asked to choose between their health and their vote in 2020.

voters still had to sign their ballot in the presence of two witnesses. The Alabama secretary of state also prohibits curbside voting in the state, though it was encouraged as a safe alternative to in-person voting during the pandemic.

For the primary election, Louisiana allowed some but not all at-risk voters to qualify for an absentee ballot based on COVID-19 concerns. And, like Alabama, the state has a witness requirement. Louisiana also had no process in place for absentee voters to be notified of and cure any deficiencies in their ballot before it could be reject-

ed—a serious concern when many voters cast an absentee ballot for the first time. In Mississippi, the excuse requirement remained unchanged, and a voter had to ensure that both the application and ballot were notarized—requiring two trips to a notary public. Further, Mississippi has an unreliable and often discriminatory “signature match” law and had no process for notifying absentee voters when their ballot was at risk of rejection prior to it being rejected.

These onerous requirements burden the right to vote in a normal election year, as demonstrated by the lack of voters using absentee ballots prior to 2020 in these states. During the pandemic, the states’ failure to waive these hurdles forced voters to either risk COVID-19 exposure or forgo their right to vote. For high-risk citizens—elderly voters, immunocompromised voters, voters with disabilities, caregivers, and many more—leaving quarantine to find two witnesses or visit a notary could cost them or a loved one their lives. And because Black Americans are disproportionately harmed by COVID-19, they are disproportionately disenfranchised when states fail to provide safe and accessible voting options.

As election officials in Alabama, Mississippi, and Louisiana failed to create safe and accessible voting, voters and voter advocacy and membership organizations stepped forward to sue state and local election officials and fight for voters’ rights in court. With co-counsel, the SPLC represented Black voters, high-risk voters, voters with disabilities, membership organizations, and voter engagement organizations to ensure that voters in Alabama, Mississippi, and Louisiana were not disenfranchised.

The litigation in Alabama, *People First of Alabama v. Merrill*, challenged the state’s witness and photo ID requirements for absentee voting and the secretary of state’s ban on curbside voting. The SPLC represented plaintiffs along with the NAACP Legal Defense and Educational Fund, Inc., Alabama Disabilities Advocacy Program (ADAP), the American Civil Liberties Union (ACLU), the ACLU of Alabama, and the law firm O’Melveny.

Alabama’s photo ID requirement for absentee voting forced people without specific technology at home to risk COVID-19 exposure to apply for an absentee ballot. The two-witness requirement then forced an additional risk when completing their ballot. Plaintiffs also challenged the secretary of state’s *de facto* ban on curbside, or “drive-through,” voting, which has been recommended as a safe, accessible alternative to voting inside a polling place during the pandemic. Plaintiffs brought challenges under the U.S. Constitution, the Voting Rights Act of 1965, and the Americans with Disabilities Act.

At the primary election stage, the district court issued a preliminary injunction against the defendants, lifting the photo ID and witness requirements in Jefferson, Mobile, and Lee counties, and enjoined the secretary of state from enforcing his ban on curbside voting, permitting any county in the state to use the process. Although the Eleventh Circuit Court of Appeals denied the state’s request for a stay of the order, the U.S. Supreme Court, with no explanation, issued an emergency stay of the district court’s decision just two weeks before the primary election. Four justices noted they would have denied the stay.

With a renewed complaint ahead of the general election, the plaintiffs presented extensive evidence during a two-week trial and were again successful, receiving a thoughtful, well-reasoned decision from U.S. District Judge Abdul Kallon.²² The district court enjoined the defendants from enforcing the witness and photo ID requirements for voters over 65 or who were at a high risk for COVID-19. The court also enjoined Secretary of State Merrill from banning curbside voting, allowing any county to implement it. The state, however, again sought an emergency stay of the decision with the Eleventh Circuit, which this time granted a stay as to the witness and photo ID requirements, leaving in place the curbside voting injunction. The state then sought emergency

relief from the Supreme Court, which, without explanation, stopped the curbside voting order as well. U.S. Justice Sonia Sotomayor drafted a written dissent to the order, highlighting the risks to the plaintiffs.²³

Though the court orders ultimately were set aside, the litigation had an impact. There was a two-week period in which the district court ruling was in place and voters could vote without the burdensome requirements. Further, many counties settled the case with plaintiffs, and several Alabama counties—whether they were named as defendants or not—added days and hours to their early in-person absentee voting processes.

The SPLC and co-counsel Fair Elections Center and Arnold & Porter LLP filed a similar case in Louisiana, *Clark v. Edwards*. On behalf of Black voters, high-risk voters, and voter advocacy and membership organizations, the lawsuit challenged Louisiana’s absentee ballot excuse requirement and its witness requirement. It also challenged the state’s practice of rejecting absentee ballots that had errors without informing voters and giving them the opportunity to correct them. Although Louisiana had adopted an emergency election plan for the primary election, it failed to protect all voters, especially many high-risk voters.

In June 2020, the plaintiffs asked the court to block the state from enforcing the excuse and witness requirements during the primary election. Unfortunately, the court instead granted the defendants’ motion to dismiss the case before the plaintiffs had a chance to present their evidence, and Louisiana voters were left with no voting method that would allow them to avoid potential exposure to COVID-19. Louisiana also failed to adopt any emergency election plan for the general elections until ordered by a federal court.²⁴ During the course of the litigation, however, Louisiana adopted a notice and cure process for absentee ballots that will extend beyond the pandemic, providing voters a chance to address errors and ensure their vote is counted.

On August 27, 2020, the SPLC and co-counsel Lawyers’ Committee for Civil Rights Under Law and Dechert LLP filed *Parham v. Watson* on behalf of Black voters, high-risk voters, caregivers, and membership organizations in Mississippi, challenging the constitutionality of Mississippi’s burdensome absentee ballot requirements and its failure to provide a notice and cure process for ballots with signature match errors. When the



Alabama Gov. Kay Ivey (second from left) waits to vote at the Cleveland Avenue YMCA in Montgomery, Ala., on Election Day.

lawsuit was filed, Mississippi ranked second in the nation per-capita for COVID-19 cases,²⁵ but it was one of only six states where voters who feared contracting COVID-19 could not vote absentee.²⁶

The plaintiffs challenged the state's lack of clarity on whether fear of contracting COVID-19 was a valid excuse to vote absentee, a notarization requirement for the absentee application and ballot, and the state's failure to provide voters notice of and an opportunity to cure signature match issues. In the context of the pandemic, these requirements burdened the plaintiffs' fundamental right to vote, and the lack of a cure process for absentee ballots further violated due process rights.

In response to the litigation, Mississippi's secretary of state implemented a new notice and cure process for signature match issues.²⁷ The state also instituted curbside voting for people who believed they had contracted or been exposed to COVID-19.²⁸ These new policies were a step forward but left many voters with no choice but to vote in person at great risk to their health.

Higher demand for early voting

Though absentee voting was the first choice of many high-risk voters, early voting could also be a safer voting method and help minimize crowds

at the polls on Election Day. Florida, Georgia, and Louisiana all offer in-person early voting in every statewide election, and Louisiana even extended the early voting period during the pandemic.

Early voting was already popular in these three states, but during the 2020 election cycle it was used even more heavily. On Georgia's first day of early voting, a record 126,876 people cast ballots.²⁹ Unfortunately, as with absentee voting, the increased turnout sometimes created delays and long lines. Excessive wait times generally eased as the early voting period progressed.

Vote Your Voice

For decades, the South has been written off and misunderstood by organizations and funders from outside the region. Despite its long history of civil rights organizing and the presence of large communities of color, the South is often seen as a monolithic lost cause, home only to rural, white communities. But that conception is disconnected from reality. A majority—54%—of Black Americans live in the South.³⁰ Of all states, Mississippi has the largest proportion of Black residents, nearly 40%.³¹ The Deep South is also home to large and diverse immigrant groups, from Vietnamese communities on the Gulf Coast to Mexican communities in the rural South. Numerous federally recognized Indigenous nations—the Poarch Band of Creeks in Alabama, the Mississippi Band of Choctaw Indians, the Seminole Tribe of Florida—still live in the South on pieces of their ancestral land.

This is not to say there are not real challenges in the Deep South. It is home to deeply entrenched systemic racism, high rates of poverty, and economic and social inequality and has been ground zero for voter suppression since the passage of the Fifteenth Amendment, ratified in 1870. But this is no reason for organizers and funders to ignore the region. In fact, it is why the South needs significant, long-term investment. Meaningful change is possible, but it requires time, effort, and investment in local organizing.

Seeing the lack of serious investment in the Deep South, the SPLC and the Community Foundation for Greater Atlanta launched the Vote Your Voice initiative. Vote Your Voice was designed to support voter registration and mobilization efforts in Alabama, Florida, Georgia, Louisiana and Mississippi in advance of the 2020 election and beyond. The program has already funded projects in all five target states and will continue to administer grants through 2022 with a total of \$30 million available.

The primary goals of Vote Your Voice are to:

- Empower communities of color by aiding them in their fight against voter suppression.
- Support Black- and Brown-led voter outreach organizations often ignored by traditional funders.

- Support and prototype effective voter engagement strategies.
- Re-enfranchise people with felony convictions despite the intentional bureaucratic challenges erected by state governments.

A full accounting of the impact of the program is still being conducted, but Vote Your Voice grantees made at least 75 million total attempts to contact voters in the 2020 election cycle through phone calls, texting, Facebook and other social media, in-person canvassing, and other strategies.

Alabama

Historically, Alabama has been at the vanguard of both voter suppression and voting rights expansion. Alabama activists during the civil rights movement helped inspire the passage of the Voting Rights Act of 1965. But the *Shelby County v. Holder* case, which gutted the Voting Rights Act in 2013, also originated in Alabama.

Before *Shelby County*, the U.S. Department of Justice blocked more than 100 proposed voting changes in Alabama alone, and many others were voluntarily withdrawn or altered after the DOJ requested more information. After *Shelby County*, Alabama promptly took advantage of its new leeway, enacting voter identification laws, closing polling places, purging voters, and creating discriminatory annexing and redistricting plans.

To help activists counter the state's burdensome voting requirements and mobilize voters in the state, in the first two rounds of Vote Your Voice grants Alabama groups received \$505,000 as well as \$500,000 for a project focused on Alabama and Georgia.

Florida

In 2016, Floridians passed Amendment 4, a ballot initiative that restored voting rights to most of Florida's citizens with disqualifying criminal convictions. In response, the state legislature quickly passed a bill that effectively nullified the amendment's impact by requiring people with convictions to pay all fines, fees, and restitution associated with their conviction before

they could regain their voting rights and register to vote. Today, Florida's felony disenfranchisement scheme bars an estimated 900,000 people with felony convictions from voting.³² Many Vote Your Voice grantees in Florida are working on this issue.

Thus far, the SPLC has provided \$2,910,000 in Vote Your Voice funding to organizations in Florida. In 2020, the SPLC focused primarily on North Florida and the Panhandle, which receives less investment than South Florida.

During the 2020 cycle, one grantee, the Florida Restoration Rights Coalition (FRRC), made 1.2 million canvass attempts, with more than 445,000 successful contacts; placed 1.7 million phone calls, of which 63,000 resulted in a conversation; and sent 12.8 million text messages, with 100,000 positive responses.

Georgia

Georgia's long history of voter disenfranchisement gained national notoriety after the state's 2018 gubernatorial race.³³ The blatant voter suppression on display spurred greater investment in the state's voting rights organizing capacity.

The Vote Your Voice program has dispersed \$2,960,000 to Georgia organizations thus far. The SPLC also funded an additional get-out-the-vote (GOTV) program in Georgia that targeted voters of color, focusing on 148,000 older, high-propensity voters who might prefer to vote by mail due to the

pandemic. The campaign invested \$1,682,868 in direct mail, digital advertising, and volunteer phone banking efforts. The SPLC also funded 25 additional absentee ballot drop boxes in Fulton County to help ensure voters had safe voting options.

One of the largest grants in Georgia went to the New Georgia Project (NGP). During the general election, NGP attempted to contact people across all 159 of Georgia's counties. In total, NGP placed 772,000 phone calls, successfully reaching 21,000, and sent 8,900 text messages.

Louisiana

For decades, Louisiana's felony disenfranchisement scheme barred citizens still on parole or probation from voting. In 2019, the SPLC worked with Voice of the Experienced (VOTE), Power Coalition for Equity and Justice and Citizen SHE United, as well as other coalition partners, to pass groundbreaking legislation that provided a path to rights restoration for people on probation and parole. Each of these organizations would become Vote Your Voice grantees in 2020.

In total, Vote Your Voice invested \$1,210,000 in Louisiana; much of this investment focused on serving people affected by the criminal legal system. Louisiana grantees also worked on projects designed to:

- Increase electoral participation in communities of color in Baton Rouge, New Orleans, and Caddo Parishes.



- Organize and engage faith communities in parishes with large Black populations.
- Register and turn out young people, immigrants with citizenship, and other groups of infrequent voters through multiple-touch GOTV programs.

Mississippi

In Mississippi's 1890 constitution, which was specifically written to re-establish white supremacy after Reconstruction, the state established a quasi-electoral college system for electing statewide offices. Candidates running for state office had to win both the popular vote *and* a majority of the state's house districts. Otherwise, the election was decided by the Mississippi House of Representatives. Because of racial gerrymandering, this rule made it nearly impossible for Black candidates to win. Though the state's population is only 56% white, 66% of House districts are majority-white.³⁴ Not since Reconstruction—prior to the poll taxes, literacy tests and other

suppression tactics implemented in the Jim Crow era—has Mississippi elected a Black candidate to a statewide office.

In 2020, Mississippi voters finally chose to end this two-tier election process for statewide offices, passing a constitutional amendment to remove the requirement. On the same ballot, Mississippi also voted to remove the Confederate battle emblem from the state flag. Jim Crow was on the November ballot in Mississippi, and in both instances, voters chose to reject the racist policies of Mississippi's past.

Thus far, Vote Your Voice has invested \$1,205,000 in Mississippi. Many of the 2020 grantees were focused on turning out the vote for the November elections and these two critical ballot initiatives. Nationally, these victories were overshadowed by higher-profile elections, but both were historic moments of progress in the state and prove that change is possible through organizing and investing in communities of color.

Felony Disenfranchisement and Rights Restoration

America has a long history of felony disenfranchisement, which has roots in the Deep South. After the Civil War, Southern white supremacists used felony disenfranchisement as a tool to reduce the political power of Black men who had been recently enfranchised by the Fifteenth Amendment.

When the Fourteenth and Fifteenth Amendments were passed, formerly enslaved Black people were a majority of the population in several Southern states and close to a majority in others. These newly enfranchised Black citizens registered to vote and found success in politics, winning local and statewide offices as well as congressional and legislative seats across the South. During Reconstruction, nearly 400 Black men held elected office in Alabama and Mississippi alone.³⁵ The success of Black candidates threatened the power of white leaders who then sought creative ways to disenfranchise Black citizens without running afoul of Civil War-era constitutional amendments. Felony disenfranchisement was one strategy. New Jim Crow laws criminalized behavior thought to be more common among Black citizens, and people convicted of these crimes were then barred from voting. Many of these racist laws are still in effect and continue to disproportionately disenfranchise Black citizens today.

The War on Drugs and mass incarceration of the 1980s and 1990s dramatically increased the number of Americans affected by felony disenfranchisement laws. In 2020, an estimated 5.2 million Americans were barred from voting because of a felony conviction, about 2.3% of the voting age population.³⁶ In Alabama and Mississippi, more than 8% of the adult population is disenfranchised due to a felony conviction.³⁷ Nationally, one in 16 Black people of voting age are disenfranchised, a rate 3.7 times greater than that of non-Black people.³⁸ And in Alabama, Florida, and Mississippi, more than one in seven Black people are disenfranchised due to felony conviction—*twice* the national average.³⁹

All five of the SPLC’s target states still have felony disenfranchisement laws on the books.

Though small changes have been made over the years, these racist, Jim Crow-era schemes continue to strip citizens of their fundamental right to vote.

Alabama

Alabama’s felony disenfranchisement law is rooted in its 1901 constitution, which is still used today. The constitution barred anyone convicted of a “crime of moral turpitude” from voting. Not all felony convictions are disqualifying. However, what constitutes a crime of moral turpitude was not defined for over 100 years.

Because moral turpitude is not defined in the Alabama constitution, for decades county registrars simply decided for themselves what offenses were crimes of moral turpitude. One county registrar could allow people with burglary convictions to vote while a registrar from the next county could decide they were disqualified. This lack of a clear standard allowed registrars to make arbitrary and often discriminatory decisions. The patchwork enforcement resulted in many being denied the right to vote, and others not even attempting to navigate such an unworkable, unjust system.

Then, in 2017, Alabama passed the Defining Moral Turpitude Act to standardize policies for felony disenfranchisement and create a uniform process for rights restoration.⁴⁰ The law created a list of convictions to be considered crimes of moral turpitude, giving registrars a clear standard and reducing arbitrary decision-making. The law also re-enfranchised many Alabamians whose convictions were not defined as involving moral turpitude. Many common convictions, such as drug possession, were not included on the list of disqualifying crimes.

The Defining Moral Turpitude Act was a step forward, but there is room for improvement. For example, Alabama does not allow individuals still on probation or parole to have their rights restored. This policy unnecessarily disenfranchises Alabamians who should have a voice in their communities. The state also requires



Rosemary McCoy advocates for Amendment 4 at an ACLU of Florida rally on October 7, 2019, prior to a vote by the legislature to enact a modern-day “poll tax” for people with felony convictions.

individuals to pay off all the fines, fees, and restitution related to the disqualifying felony before their rights can be restored, an impossible hurdle for many Alabamians, especially those who are lower-income.

Alabama’s rights restoration process is also needlessly complex. Returning citizens must complete a Certificate of Eligibility to Register to Vote before their rights can be restored.⁴¹ The application can take up to 44 days to be processed, turning the simple act of registering to vote into a lengthy process.

Unfortunately, the Defining Moral Turpitude Act did not fix all the points of confusion in Alabama’s disenfranchisement scheme. Thousands of Alabamians may still have been improperly denied the right to vote.⁴² Three years after the law was passed, it is still sometimes misinterpreted by county registrars who have not received sufficient guidance and training from the secretary of state.

For example, registrars are often unsure how to treat federal and out-of-state convictions. The Act lists specific Alabama convictions as disqualifying, but there is no corresponding list of federal and out-of-state convictions. Registrars are supposed to compare the elements of the federal or out-of-state conviction to the elements of the state’s crimes of moral turpitude to determine whether that conviction is disqualifying. But registrars are not lawyers. They are not qualified to make these determinations, and



Supporters of restoring voting rights to people with felony convictions march to an early voting precinct in Fort Lauderdale, Fla., on Oct. 24, 2020. The Florida Rights Restoration Coalition led marches to the polls in dozens of counties.

they do not have access to the charging documents for the applicant’s federal or out-of-state convictions. The lack of specificity in the law gives registrars improper and arbitrary authority in determining whether people with federal or out-of-state convictions can register to vote, the exact problem the Defining Moral Turpitude Act was designed to fix.

In 2020, the SPLC and co-counsel Campaign Legal Center began representing Angelique Harris, a woman denied her right to register to vote in Madison County, Alabama, because of a

prior federal felony conviction. Her federal conviction does not match any of the Alabama crimes of moral turpitude; thus, she should not be barred from voting. Because of the flaws in the Defining Moral Turpitude Act, and the secretary of state's failure to provide adequate guidance to registrars, however, Ms. Harris was denied her right to vote by the county registrar during the 2020 election. The SPLC has appealed her denial of registration and will continue to seek justice for Ms. Harris and those in her situation.⁴³

Florida

Florida bars more of its citizens from voting than any other state. Nearly 900,000 Floridians were unable to vote during the 2020 election because of a felony conviction.⁴⁴

It should not have been this way. In November 2018, Florida voters overwhelmingly approved Amendment 4, a landmark constitutional amendment that restored the voting rights of 1.4 million people with felony convictions.⁴⁵ It was the largest expansion of voting rights since the Voting Rights Act.

During the following legislative session, however, the Florida legislature undermined this victory with the passage of S.B. 7066. The law is a modern-day poll tax, requiring people with felony convictions to pay all the fines, fees, and restitution associated with their case before they can register to vote. It has prevented hundreds of thousands of people re-enfranchised by Amendment 4 from voting, solely because they cannot afford to pay.

S.B. 7066 has a particularly adverse impact on women of color, who are generally paid less than their male and white female counterparts. In Florida, nearly a quarter of Black women live below the poverty line. More than 43% of Black women with a felony conviction are unemployed. Many Floridians with felony convictions cannot pay their legal financial obligations, but Black women are much more likely to struggle to pay.

In July 2019, SPLC filed a federal lawsuit, *McCoy v. DeSantis*, which challenged S.B. 7066 as an unconstitutional poll tax that also contradicts the intent and plain language of Amendment 4. The litigation was consolidated with three other cases brought by sister organizations including the Campaign Legal Center, the ACLU, the ACLU of Florida, the Brennan Center for Justice, and the NAACP Legal Defense & Educational Fund Inc. After an eight-day trial and extensive presentation of evidence, the district court issued a

Nearly 900,000 Floridians were unable to vote during the 2020 election because of a felony conviction.

favorable ruling for the plaintiffs, but the decision was overturned on appeal by the Eleventh Circuit Court of Appeals.⁴⁶

S.B. 7066 includes a provision creating a sentence modification process—ostensibly allowing people unable to pay their fines and fees to convert them to community service hours. But no process has been put in place statewide to allow citizens to apply for this program. Hundreds of thousands of Floridians remain barred from voting with no feasible method of recourse.

Georgia

Georgia's felony disenfranchisement system dates to the late 19th century and, like Alabama's, declares "a felony involving moral turpitude" disqualifying. No statutory provision defines "moral turpitude," so Georgia has chosen to treat all felony convictions as disqualifying.

It is commendable that the state automatically restores voting rights, but it does so only after all probation and parole are complete. In 2020, more than 275,000 Georgians were prevented from voting because they were either incarcerated or on probation or parole.⁴⁷ This number is so high in part because Georgia imposes some of the longest probation sentences in the nation, an average of 6.3 years, almost double the national average.⁴⁸

Unlike Florida and Alabama, Georgia does not require payment of legal financial obligations, excluding fines, before restoring a person's voting rights. In September 2020, Secretary of State Brad Raffensperger clarified that a person's sentence should be considered complete even if they still owe fees or restitution.⁴⁹ This clarification was a step forward for people with convictions, but too many Georgians are still unnecessarily barred from voting because they are on probation or parole.

Louisiana

In 2019, voting rights advocates in Louisiana scored a huge victory for people with felony convictions with the passage of Louisiana Act No. 636. Before Act 636, Louisianans with felony convictions could have their voting rights restored only after they finished parole and probation. Now, people who are still on probation or parole but

have been out of prison for five years may have their voting rights restored.⁵⁰

Act 636 gave 40,000 Louisianans who were previously barred from voting a path to voting rights restoration. They still face barriers to registration, however. In October 2020, Voice of the Experience (VOTE), the organization that led the push for Act 636, issued a demand letter to Louisiana Secretary of State R. Kyle Ardoin and Commissioner of Elections Sherri Wharton Hadsky.⁵¹ They urged the state to remove administrative barriers blocking formerly incarcerated Louisianans from registering to vote. Newly enfranchised voters are currently required to jump through administrative hoops and provide unnecessary paperwork before they can register.

Louisiana should build on the progress made with Act 636 and remove these hurdles that needlessly delay the registration process for returning citizens.

Mississippi

Mississippi has a felony disenfranchisement system similar to Alabama's and also rooted in 19th century racism and white supremacy. Citizens lose their right to vote if they are convicted of one of 22 disqualifying crimes. Between 1994 and 2017, more than 50,000 Mississippians were convicted of one of these crimes, and almost no one has been able to restore their voting rights.

If convicted of a disqualifying crime in Mississippi, the only way a person can regain voting rights is to receive a pardon from the governor or have an individual suffrage bill passed through both houses of the legislature.⁵² The arcane suffrage bill process is nearly impossible for the average citizen to navigate. Only 40 people have had their rights restored via this process since 2012.

Not only is the rights restoration process functionally nonexistent, Mississippians can be permanently disenfranchised if convicted of several minor offenses, including felony bad check and timber larceny. A Mississippian who cuts down a tree on someone else's property can lose their voting rights for life.

When white politicians designed this scheme in the 1890s, their goal was to disenfranchise Black citizens and reinstitute white supremacy. More than 100 years later, the law continues to disproportionately disenfranchise its intended targets. A 2018 *Mississippi Today* analysis found that 62% of those banned from voting between

1994 and 2017 were Black, even though Black people made up only 36% of the state's voting-age population.⁵³

In March 2018, the SPLC and Simpson Thacher & Bartlett LLP filed suit against the state in *Hopkins v. Hosemann*, arguing that the lifetime voting ban violates the Eighth Amendment's prohibition on cruel and unusual punishment, the First Amendment's right to political expression and association, and the equal protection clause of the Fourteenth Amendment. The legal team presented oral arguments to the Fifth Circuit Court of Appeals in December 2019 and is still awaiting a decision from the court. Whether reform comes from the judiciary or the legislative branch, it is imperative that these laws be changed. Thousands of Mississippians have been capriciously and unnecessarily disenfranchised, and they have no reasonable path to restore their rights.

Voting while incarcerated

In both Alabama and Mississippi, if a person has not been convicted of a disqualifying crime, they can legally register and vote while incarcerated. Only two other states, Maine and Vermont, allow citizens to vote while incarcerated. Unfortunately, many incarcerated people are unaware that they have the right to vote.⁵⁴ Even if an eligible, incarcerated person does know they retain their voting rights in prison, there is no system in place in either state to assist potential voters in registering and casting a ballot while incarcerated.

To help local organizations conduct voter registration drives in Mississippi's prisons and jails, SPLC staff in 2020 helped the Mississippi Center for Justice and other local partners put together a packet for incarcerated people explaining the process of voting.

There are still many barriers to overcome before eligible voters in Mississippi's prisons can exercise their right to vote as easily as citizens who are not incarcerated, but many excellent local activists are doing the work.

2020 marks the first year Alabama allowed incarceration as a valid excuse to vote by absentee ballot. To reach those incarcerated, the SPLC worked with Aid to Inmate Mothers to provide information to those with non-disqualifying convictions. Due to Covid-19 and access restrictions, however, it was difficult to track the voting registration and absentee ballot processes.

Election Disinformation and Voter Intimidation

On January 6, 2021, hundreds of Trump supporters attacked the U.S. Capitol building—damaging public property, assaulting police officers, and looting congressional offices—in an attempt to disrupt the electoral vote count. Most of the rioters had attended a “Stop the Steal” rally on the same day. They believed, without evidence, that Trump was the true winner of the 2020 presidential election and that his victory had been stolen via a “deep state” conspiracy and rampant voter fraud. The insurrection, which led to the death of at least five people, was the result of a months-long disinformation campaign spearheaded by Trump and enabled by a diverse coalition of far-right interests, including social media activists, politicians and many white supremacist groups. It was a tragic example of the harm that disinformation and voter intimidation campaigns can cause.

The power of social media to spread disinformation more quickly and easily than ever before played a major role in the success of this effort to undermine the 2020 election and deny the legitimacy of President Joe Biden’s victory. Trump aggressively pushed election disinformation before and after the 2020 election. In fact, the president may have been the single largest source of disinformation online.⁵⁵ Major platforms such as Facebook and Twitter failed to take decisive action until after the attack, but election disinformation dropped by 73% after Twitter banned Trump from the platform.⁵⁶ Bad actors, including Trump and many elected officials in the Deep South, also used the shift toward mail-in and absentee voting to spread disinformation, sow distrust, and erode voter confidence in the electoral process.⁵⁷

In 2020, despite many attempts to sabotage the electoral system and manufacture distrust, our systems largely worked as they should, and voters were able to safely cast their ballots.

Throughout the 2020 election cycle, disinformation was used to intimidate voters and to try to suppress voter turnout. In several Midwestern and Northern states, tens of thousands of minority voters received robocalls falsely claiming that voting by mail could be dangerous. Authorities eventually traced the calls to two right-wing operatives, Jacob Wohl and Jack Burkman, who were subsequently charged with felony voter intimidation. Voters in the Southeastern states bore their fair share of intimidation and disinformation as well. Threatening emails were sent to thousands of Democratic voters in Florida. Emails that appeared to come from a far-right hate group, the Proud Boys, attempted to scare voters into sitting out the 2020 election. Federal authorities later claimed that Iran was responsible for the intimidation.⁵⁸ In Palm Beach County, fake Democratic voting guides were distributed at early polling sites. These guides endorsed far-right Republican congressional candidate Laura Loomer instead of the Democratic candidate. Voters also experienced high rates of intimidation at the polls.⁵⁹

False rumors about voter fraud also circulated widely on social media, sowing distrust in the democratic system. A Facebook post claimed that thousands of ballots were found in a California dumpster.⁶⁰ A video purported to show an election worker changing votes in Maryland.⁶¹ Conservative activists promoted a video they claimed showed a Democratic organizer teaching people without American citizenship how to circumvent the law to vote illegally.⁶² All of these claims were false, but they were still shared and seen by thousands of people on social media, people who believed these lies and came to distrust the U.S. election system.



Those working to combat this flood of disinformation struggled to outpace the false rumors themselves. At the national level, the Cybersecurity and Infrastructure Security Agency at the U.S. Department of Homeland Security set up a website to refute malicious election rumors, particularly those originating from foreign adversaries.⁶³ News organizations did their best to fact-check misinformation but were often branded as “fake news” by the audience they were trying to reach.

Role of hate groups in disinformation and voter intimidation schemes

There are more than 1,600 extremist groups operating in the United States today.⁶⁴ During the 2020 election, some of them felt entitled to “deputize themselves” as enforcers of election law and planned to show up at the polls to “fight voter fraud.”⁶⁵ White supremacist militia groups, including the Oath Keepers and Three Percenters, were open about their plans to show up at the polls to intimidate voters.⁶⁶ Trump supported and emboldened these groups with his frequent tweets and public statements, most notably at the first presidential debate when he asked the Proud Boys to “stand back and stand by.”

Groups that study far-right extremism, such as the SPLC’s Intelligence Project and the



Trump supporters storm the U.S. Capitol on Jan. 6, 2021, in an attempt to stop Congress from certifying the Electoral College votes. Members of the Oath Keepers militia group (above) were among the extremists who launched the violent insurrection that led to the deaths of five people.

Anti-Defamation League, developed briefing materials about these groups to prepare election protection organizations, poll workers, and election officials for the possible presence of white supremacists at the polls. The high level of vitriol from the far right before the election, combined with their effort to normalize militia vigilantism,

had many advocacy groups concerned about the possibility of violence at the polls. Intimidation by white nationalist and paramilitary groups seemed likely on Election Day.

In the rush to prepare for the possibility of violence or voter intimidation, many voting rights organizations were unsure of how best to respond to these incidents should they occur. Voting rights advocates typically discourage the presence of law enforcement officers at the polls, as their presence can be intimidating to voters. Advocacy organizations worked to encourage county election officials to take the threats seriously and develop action plans but to not respond by stationing police at poll sites or over-relying on law enforcement.

In recent years, voter intimidation at the polls has been rare, and despite the heated rhetoric during the 2020 election cycle, there were only a few incidents that turned violent. When and

where these incidents did occur, the public and election officials were more prepared to respond than ever before. Militias did not show up en masse at the polls, and most incidents tended to be carried out by individuals. For example, a lone but armed Trump supporter loitered outside of a polling place in Louisiana on Election Day trying to “monitor” the site.⁶⁷

Far-right extremism and paramilitary activity still pose a serious threat to our democracy, as was demonstrated at the Capitol on January 6 and in the threats local election officials continue to receive.⁶⁸ More work is needed to combat disinformation, voter intimidation, and the rampant conspiracy theories circulating online. But in 2020, despite many attempts to sabotage the electoral system and manufacture distrust, our systems largely worked as they should, and voters were able to safely cast their ballots.

Election Day 2020 and Protecting the Vote

Turnout in the 2020 election was mixed across the Deep South. The biggest percentage difference was seen in Georgia. Between 2016 and 2020, the number of active voters (those who are registered and have not been flagged as inactive by the state's list maintenance process) in Georgia increased by 1.7 million, but there was a 6.5% decrease in the number of active voters who cast a ballot. Alabama also saw a decrease in active voter turnout between 2016 and 2020, in part because the number of registered voters increased. Alabama added 500,000 active voters between 2016 and 2020, but only 200,000 more ballots were cast in the 2020 election. Overall, Alabama saw a 3.74% decrease in turnout among active voters.

Other states increased their voter turnout rates. Florida saw a 3.4% increase, the greatest among the five states in this report. Turnout increased despite an additional 1.5 million active voters being added to the rolls. Louisiana also saw an increase in turnout, but the state added only about 70,000 active voters between 2016 and 2020, the fewest of any Deep South state.

The Mississippi secretary of states does not publish registration and turnout statistics, so the percentage change in active voters in Mississippi could not be determined. However, an additional 100,000 ballots were cast in 2020, as compared to 2016.

Poll monitoring

In 2020, the SPLC partnered with the national Election Protection coalition, led by national and local branches of Common Cause and the Lawyers' Committee for Civil Rights Under Law. The coalition is the largest nonpartisan voter protection effort in the country, with more than 100 local and national partners. Nonpartisan volunteers are trained and deployed to polling locations during early voting and on Election Day, handling everything from questions about eligibility to troubleshooting machine malfunctions. A smaller subset of volunteers served as social media monitors to help combat disinformation.

This year, the tried-and-true election protection model was adapted to fit the unique elections landscape in each state and respond to the pandemic.

Alabama

Election Day in Alabama ran fairly smoothly, particularly given the additional strain that election workers were under because of the state's failure to adequately respond to the pandemic. There were sporadic issues with long lines and malfunctioning machines, but they were usually resolved within a few hours.

Poll monitors did report inappropriate law enforcement presence at many polling locations around the state. In the town of Gordon, for example, a city police officer loitered directly outside the entrance to a polling place for much of the day, a presence that was intimidating to some voters. In Pike County, there was a "Blue Lives Matter" sign posted inside a polling location. In Autauga County, poll workers called the police on a poll monitor who was assisting voters outside of a polling location. The sheriff's deputy who responded to the call was hostile to the poll monitor and clearly not familiar with basic electioneering laws. These incidents indicate that county election officials need more training to understand the proper role of law enforcement on Election Day.

Florida

The Panhandle coalition focused its efforts on 18 counties for the presidential primary, the August primary and November general election. The COVID-19 lockdown forced the coalition to monitor the March 17 primary remotely without the presence of on-the-ground poll monitors.

The coalition strategically placed poll monitors in locations where voters and community advocates raised concerns about accessibility to drop boxes and where early voting opportunities were limited. And as federal courts heard arguments related to the *Jones v. DeSantis* case, hundreds of thousands of Floridians with felony convictions



were left in a state of uncertainty regarding their eligibility to vote. Volunteers stood ready to assist returning citizens who were navigating the rights restoration landscape.

Additionally, voters and poll monitors reported a number of complaints related to voter intimidation. In one instance, a Miami officer voted in uniform while wearing a mask with a pro-Trump slogan. The presence of two armed guards at a polling location in St. Petersburg, not hired by any campaign or the local sheriff's department, led to the county sheriff placing deputies at all early voting sites.⁶⁹

Georgia

A little over 1,000 Georgians and allies volunteered throughout the 2020 election cycle, including the January 5 Senate runoff. The Georgia coalition identified 90 counties across the metro-Atlanta area, coastal and southwest Georgia. This year, poll monitors were asked to volunteer through the provisional ballot and absentee ballot cure period so that impacted voters would have the tools they needed to ensure that their ballot was counted.

Postal Service delays, poll worker shortages, and polling location closures led to a disastrous June 9 primary.

Workers scan ballots and check for discrepancies at the Georgia World Congress Center in Atlanta during Georgia's Senate runoff elections.

Voters are now required to use four separate machines to cast their ballot in person, and the overwhelming majority used the newly purchased machines for the first time in June. Polling location closures were also rampant—undoubtedly exacerbated by the pandemic—and, in some locations, volunteers were asked to spend their shift directing voters to their correct locations. In Fulton County, more than 16,000 voters were assigned to one polling location during the June primary.⁷⁰ Notably, an Albany woman was arrested after allegedly brandishing a gun at a group of non-partisan poll monitors.⁷¹

Louisiana

The most pressing issues seen by volunteer poll monitors in Louisiana involved voting machine malfunctions, long lines, and voter intimidation. Fortunately, the power outages caused by Louisiana's busy hurricane season were addressed before Election Day, in large part due to strong advocacy from local election protection advocates.

On Election Day, there were widespread reports of voting machine glitches that affected voters' choices on the ballot. The issue occurred in several parishes, including Orleans, Lafayette, Caddo, and East Baton Rouge. The malfunction caused a voter's choice for president to be deselected. If a voter did not notice this glitch, they may have submitted their ballot without voting for a presidential candidate. Louisiana's voting machines have been in use for many years, and scattered malfunctions have become common. The legislature is planning to replace these old machines during the 2021 session.

There was one serious incident of voter intimidation, in the town of Baker in East Baton Rouge Parish. Early in the afternoon, a white man waving a Trump flag and armed with an assault rifle was seen loitering outside a polling place. Law enforcement was notified, and the man left the area. However, he returned later in the afternoon, still armed. Baker is a majority-Black city; over 80% of residents identify as African American. It is likely that the presence of this armed Trump supporter intimidated voters.

Mississippi

The most serious, widespread issue reported by poll monitors during the November election in Mississippi involved machine malfunctions. Monitors reported that machines in Lafayette, Hinds, Lauderdale, Jackson, and Lowndes counties were crashing and that technicians were not being deployed to make repairs in a timely fashion. These failures led to long wait times, sometimes as long as 3.5 hours, at numerous polling places. Advocacy groups, including the SPLC, wrote to the secretary of state on Election Day urging him to address these issues and extend hours at affected polling places if necessary. However, the secretary of state's office claimed it did not have the authority to extend polling place hours.

Voters also did not seem to be taking advantage of the option to vote curbside if they had tested positive for or been exposed to COVID-19. Monitors reported seeing limited signage about the option at some polling locations, and they did not see many voters electing to vote curbside. The secretary of state's office did not widely publicize this option, so it seems likely that many voters were unaware that every polling site was offering curbside voting.

The Georgia Primary

Georgia's primary election on June 9, 2020, exposed glaring deficiencies in the absentee and in-person voting processes and in the functionality of the state's new voting machines.

The state has struggled to recruit poll workers for several years, a problem that was only exacerbated by the pandemic. In April 2020, the death of a Fulton County staff member due to COVID-19 further triggered safety concerns for potential volunteer poll workers.

In Georgia, county election officials are responsible for recruiting, training, and assigning paid poll workers at more than 2,600 polling places. Their efforts were made more challenging because the state was using new voting machines that required additional training.

Secretary of State Brad Raffensberger made several policy changes in an attempt to help counties cope with their recruitment challenges, including delaying the primary twice, distributing personal protective equipment, and providing supplies for sanitizing polling places. These efforts proved insufficient. Four days before the primary, Fulton County still had not recruited enough poll workers and was attempting to use social media to recruit 250 additional volunteers.

As a result of these problems, the state and Fulton county implemented a number of changes in preparation for the November general election:

- Secretary Raffensberger and the State Election Board (SEB) established an online absentee ballot request portal to streamline the application process.¹
- The SEB extended emergency rules that permitted the use of absentee ballot drop boxes and allowed counties to begin processing absentee ballots ahead of Election Day.²
- Fulton County election officials and Secretary Raffensberger entered into a consent order following a state investigation into the county's handling of the June primary. The consent order required the timely processing of absentee ballot request forms and led to the appointment of an election observer.³

1 Secretary of State Brad Raffensberger Unveils New Online Absentee Ballot Request Portal, Aug. 30, 2020, https://sos.ga.gov/index.php/elections/secretary_of_state_brad_raffensberger_unveils_new_online_absentee_ballot_request_portal.

2 Stephen Fowler, *Election Board OKs Continued Use Of Absentee Drop Boxes, Early Processing Of Ballots*, GPB, Aug. 12, 2020, <https://www.gpb.org/news/2020/07/01/election-board-oks-continued-use-of-absentee-drop-boxes-early-processing-of-ballots>.

3 Ben Brasch, *Fulton, state sign deal to end investigation of June 9 voting debacle*, AJC, Oct. 30, 2020, <https://www.ajc.com/news/atlanta-news/fulton-state-sign-deal-to-end-investigation-of-june-9-voting-debacle/WH256P-K6HZHIXLYSGGZFAHJSII/>.

Ballot curing

After a ballot is cast, it may still be held as challenged or rejected by election officials for a variety of reasons and may not be immediately counted. Absentee ballot rejections were particularly important during this election, because people across the country voted by absentee ballot at extraordinary rates, many for the first time. In states like Georgia, where voters historically have less experience voting by mail, absentee ballot rejections were especially common. For instance, election officials rejected 11,818 absentee ballots in Georgia’s June 2020 primary election, and voters of color were disproportionately represented among them.⁷² Nearly 20% of those ballots were rejected for a missing signature.⁷³ Another nearly 10% were tossed based on a strict Georgia rule that allows election officials to reject absentee ballots when signatures do not appear to match the voter’s signature on file.⁷⁴

As a result of lawsuits and advocacy, states including Georgia, Florida, Mississippi, and Louisiana now permit voters to “cure” their challenged or rejected ballots.⁷⁵ Ballot curing provisions generally require election officials to notify the voter that their ballot has been challenged or rejected and provide the voter an opportunity to correct the ballot within a short period following the election. In reality, such notices may never reach a voter due to mail delays or strains on county ballot processing—effectively negating the intended effect of notice and cure laws. Moreover, absentee ballot-tracking websites in Georgia and Florida are consistently unreliable, providing too-late updates of ballot rejections, which precludes a voter from taking timely corrective action.

To ensure voters received notice of their challenged or rejected ballots, the SPLC operated a call, text, and canvass program ahead of the 2020 general election and January 2021 runoff election in Georgia to provide information on how to cure their ballots.

In the general election, the SPLC Ballot Curing Program called more than 3,000 voters in Georgia and Florida and texted 481 others. In the January runoff elections in Georgia, the SPLC Ballot Curing Program called 2,611 voters, texted 1,073, and knocked on 260 doors. These efforts and those of similar groups, helped to halve the absentee ballot rejection rate in the general election and January runoff election as compared to the rejection rates in the June primary.⁷⁶

Despite the decrease in rejection rates, voters faced significant obstacles in curing their ballots. Even if a voter received notice that their ballot was cured or challenged, many county election offices required a voter to take corrective action in person. Not only did the in-person requirement present a significant burden during the COVID-19 pandemic, particularly for elderly or immune-compromised voters who may have chosen to vote absentee to avoid exposure to the virus, but this requirement was also onerous for voters with physical disabilities, those who work, and those who have unreliable access to transportation. Further exacerbating these burdens was the short cure period in both Georgia and Florida. In Georgia, voters have three days following an election and in Florida only two.⁷⁷

State curing provisions are a step in the right direction, but they must be reformed to ensure every eligible voter’s ballot is counted. States should:

- Process ballots earlier and issue notices of ballot rejections and challenges as soon as a ballot is processed.
- Establish a more reliable notice system that allows a voter to receive immediate notification of their challenged or rejected ballot, as well as information on how to cure it.
- Engage in a statewide public education campaign about ballot curing and provide voters and election officials with consistent, statewide guidance.
- Ensure voters may take corrective action via electronic submission.

Challenges to counts/recounts

While counties were still counting ballots, the Republican Party, conservative groups, and affiliated individuals began inundating courts in Georgia with frivolous claims insinuating an unfair contest. As the end of ballot-counting neared, the claims became more extravagant and the relief sought more extraordinary. Even after a hand recount, a machine recount, and the secretary of state’s certification of the election results, these groups continued to bring lawsuits seeking to decertify the election.

In all, these groups filed nine lawsuits in Georgia between November 4 and January 7, all based on scant evidence or false conspiracy theories. Georgia’s courts swiftly dismissed most cases, and the plaintiffs withdrew the rest. No court found any evidence of voter fraud, but these lawsuits served a more insidious purpose:

to perpetuate disinformation, cast doubt on the integrity of Georgia's elections, and weaken faith in our democratic institutions.

Ahead of the January runoff elections, these groups began filing litigation on the same fabricated voter fraud claims to suppress the vote in the upcoming election. For instance, the Republican National Committee brought a lawsuit seeking to reduce the availability of absentee ballot drop boxes. The SPLC joined the ACLU of Georgia in representing the African Methodist Episcopal Church, Latino Community Fund of Georgia, and the Black Alliance for Just Immigration as *amici*, opposing the RNC's attempt to limit the use of drop boxes.⁷⁸ The court ultimately dismissed the case.

Similarly, the conservative, Texas-based organization True the Vote perpetuated the unsubstantiated narrative of voter fraud by bringing voter challenges in nearly 100 counties. Relying on unsupportable data, True the Vote overwhelmed already-burdened county election officials, forcing them to entertain claims based on faulty data just three weeks before the January runoff. Most counties swiftly dismissed these challenges, and as of January 2021, fewer than 40 ballots statewide had been rejected.

Challenges to the election results and to voter eligibility constitute flagrant voter suppression and must end. We must protect voters by requiring a higher bar to challenge voters' fundamental right to cast a ballot and have it counted.



Poll workers in Doral, Florida, deposit mail-in ballots in a drop box during the primary election on Aug. 18, 2020.

Errors and Undercounts in the 2020 Census

The United States conducts the census every 10 years to compile a complete and accurate count of every person in the country. The population numbers help to ensure fairness in the distribution of government funds and political power. States use the data to redraw congressional and state legislative districts once a decade, an act that significantly affects voters and their political representation. While the public mostly understands the census as a questionnaire to be filled out, the U.S. Census Bureau counts residents in many different ways. Census operations start in January and tend to run through the summer. However, this year several deadlines were missed due to delays caused by COVID-19.

Challenges due to COVID-19

The pandemic hit the U.S. hard just as census operations were taking off, creating immense challenges for the Census Bureau and threatening the count of residents living in “group quarters” and nonresponse follow-up operations.

The Group Quarters operation is responsible for counting individuals living in group facilities, such as correctional facilities, student housing, and nursing facilities.⁷⁹ An estimated 250,000 individuals are typically counted in this operation, but the pandemic disrupted these counts.

College students, who often split time between on-campus housing and back home, are supposed to be counted wherever they primarily reside on Census Day (April 1), but in 2020, many colleges closed on-campus housing and sent students home because of COVID-19. The Census Bureau decided students should still be counted at school and required all colleges to report census data via the eResponse method, which only 54% of colleges originally opted into. Many other Group Quarters operations were able to resume in-person census-taking with field staff later in the year, but because many colleges did not reopen in 2020 this was not possible for students. Estimates via

eResponse were the only way to collect student resident data.

Non-response follow-up operation

In the nonresponse follow-up operation (NRFU), census field workers visit households that have not completed their 2020 census questionnaire. The NRFU operation is vital to a complete and accurate census and is one of the biggest operations in a census count. However, the Census Bureau struggled to find a way to safely deploy field workers during the pandemic. In mid-June, it announced NRFU would run from August 11 to October 31 and would need to visit about 56 million addresses. However, in late July, the Census Bureau announced the operation had been delayed and would start on August 6, but only in select census offices. Yet another revised plan was announced in August. This plan significantly abbreviated the NRFU operation to try to meet the Census Bureau’s statutory deadline. The Census Bureau’s rush to finish the count would require cutting short the NRFU operation, leading to a potentially massive undercount. It would be almost impossible to visit the 56 million addresses that needed follow-up on the proposed timeline.

Because of the risk of undercounting, the plan was challenged in court and the litigation went to the U.S. Supreme Court, which ruled on October 12 that it would allow the 2020 census data collection to end. On the same day, the Census Bureau announced it would end the NRFU operation in three days, on October 15.

When the Census Bureau needs to fill in gaps in data caused by undercounts in the field, it uses administrative records. Using administrative records is normal procedure, but many fear the abbreviated NRFU will lead to their over-use. Primary data from the field is the most reliable data for an accurate census count, but the census was ended before the Census Bureau could complete the process. This will undermine the

accuracy and reliability of the census data in use for the next 10 years.

Natural disasters and counting immigrants

The census count in Louisiana, already hindered by the pandemic, was further upended by a busy hurricane season. In late fall, the state dropped into last in the nation in census response. Commerce Department staff pointed to hurricanes Laura and Delta as the “primary reasons Louisiana was in last place.” Because the Census Bureau chose to cut short the NRFU operation, there was no time to recover from the delays caused by these storms and the bureau was forced to rely heavily on administrative records rather than personal contact in Louisiana.

Every region, community, and neighborhood deserves the same level of time and resource investment in their census count. With a rush to complete the count and the use of administrative data over personal enumeration, areas like Southwest Louisiana will be damaged for the next 10 years.

On July 21, 2020, the White House ordered the Census Bureau to eliminate undocumented immigrants from the apportionment count, an act that would cause states like California and Texas to lose representation in Congress. Common Cause challenged the policy in court, and the lawsuit made its way to the Supreme Court, which chose not to make a judgment. The Biden administration has now reversed the order.

Upcoming redistricting battles

The redistricting process has been one of the most effective tactics used to disenfranchise Black voters in the South. Federal and state laws require the redrawing of district lines following the release of decennial census numbers. Usually, congressional and state legislative districts take priority both in terms of completion and attention. However, local redistricting is often where communities can effectively wield their political power in a manner that has direct, positive effects on their lives. Unfortunately, redistricting has been mired in legal controversy because of efforts to gerrymander or skew political lines to maintain and consolidate power for one group—in the South usually white people. Black residents have had to combat racial gerrymandering, partisan gerrymandering, prison gerrymandering, and other sophisticated attempts to minimize their political strength. Following the historic election

of our nation’s first woman of color as vice president, Georgia’s first Black senator, and more people of color in county and local governments, the upcoming redistricting cycle will provide an opportunity to reverse those trends.

To protect the voting rights of people of color, jurisdictions should redistrict with a common set of principles that enhance transparency, public participation, and the adoption of fair districting plans. Community involvement can help ensure officials are abiding by these principles. Residents can also educate advocacy groups, elected officials, and others about the unique characteristics of their communities, the importance of keeping various neighborhoods together, and the challenges they face in achieving full representation. To serve these functions, community members need to understand the redistricting process. They need access to educational materials that explain the mechanics of the process, who the decision-makers are, and how to make their voices heard. Individuals and civic groups can then mobilize public engagement so that no redistricting plan is adopted without community knowledge and approval.

Unfortunately, as the numerous lawsuits filed during every redistricting cycle show, there continues to be a disconnect between the kinds of districts residents want to live in and the districts legislators want to run in. In a series of cases in the early 1960s, the Supreme Court confronted the reality that Black communities were being chopped up (known as “cracking”) or squeezed together (called “packing”) to minimize their voting strength, even when they constituted the numerical majority in a particular area. These dilutive strategies, and others as well, continued into the 1970s. In Alabama, the SPLC sued the state in *Nixon v. Brewer* to challenge the legislature’s at-large election scheme, which made it virtually impossible for Black voters, who comprised one-fourth of the state’s population, to elect their candidates of choice. Following that successful lawsuit, 17 Black candidates were elected to the legislature in 1974. However, despite successful legal battles, the courts were and never have been enough.

In 1982, Congress amended the Voting Rights Act to provide more guidance to legislators and courts about how to decide whether a redistricting plan is discriminatory or unlawfully dilutive. These considerations include the state or jurisdiction’s history of discrimination in voting,

2020 Census Timeline





Activists protest against gerrymandering in front of the U.S. Supreme Court on March 26, 2019, coinciding with the Court’s hearings in landmark redistricting cases out of North Carolina and Maryland.

education, employment, health care and other areas that contribute to depressed voter participation; voting practices or procedures that disproportionately affect voters of color, such as stringent qualification and registration standards; and the inability of voters to elect their preferred candidates, oftentimes minority candidates.⁸⁰ In *Thornburg v. Gingles*, the Supreme Court imposed three additional requirements: (1) that the minority community is geographically compact enough to create its own majority-minority district; (2) that the minority community is politically cohesive, i.e., tends to rally around the same or similar candidates; and (3) white voters tend to vote as bloc, rendering it extremely difficult if not impossible for voters of color to elect their candidates of choice.⁸¹

Today, however, *partisan* gerrymandering has in many ways been an effective disguise for *racial* gerrymandering. The skewed outcomes are often the same, but federal courts have been admonished to not get involved. The Supreme Court’s position became abundantly clear in two companion cases that challenged redistricting plans in North Carolina and Maryland. In these cases, both the Republicans and the Democrats drew maps that put their partisan goals ahead of their

constituents’ best interests.⁸² The Court held that “partisan gerrymandering claims present political questions beyond the reach of the federal courts,” and that federal judges must abstain from drawing corrective plans with the aim of more fairly distributing political power.⁸³ In this ruling, the Court opened the door to the full adoption of maps like those that a North Carolina state court found to have been drawn to dilute the political power of Black voters with “surgical precision.”⁸⁴

Prison populations have also been manipulated to give the appearance of equal representation, while violating those basic principles. A prime example is in Jefferson County, Florida, where the county attempted to include all 1,157 people housed in a prison in one of its districts even though those people incarcerated could not vote and only nine out of the 1,157 were residents of Jefferson County prior to their incarceration.⁸⁵ The plaintiffs argued the plan violated the principle of “one person one vote” under the Fourteenth

Amendment.⁸⁶ The court struck the plan down as unconstitutional, and the community was able to play a much more active role in the ultimate plan the county adopted.⁸⁷

One solution to these gerrymanders is to establish independent redistricting commissions. Independent commissions can alleviate the partisan influences that often shroud the redistricting process and help voters feel their interests are reflected in redistricting plans. Communities can also lobby to enshrine provisions of the Voting Rights Act that prohibit maps drawn “to favor or disfavor an incumbent or political party” or that “deny racial or language minorities the equal opportunity to participate in the political process and elect representatives

of their choice” as the Florida constitution now does after concerted advocacy.⁸⁸

Given that the Census Bureau is preparing to release its official numbers, now is the time for jurisdictions to engage their constituents to ensure as many voices are included in the redistricting process as possible. While people often focus on national and state level redistricting, more attention should be paid to work at the local level. If communities are excluded from local redistricting processes, their voices will not be adequately represented in the political process. They could become collateral damage as reforms around health care, education, criminal justice, and more get addressed in ways that further marginalize rather than uplift them.

Legislative Reform Imperative

As demonstrated by this report—and many other resources⁸⁹—the single most devastating moment for voting rights in the last decade was the 2013 Supreme Court decision in *Shelby County, Ala. v. Holder*, which demolished the heart of the Voting Rights Act of 1965. The decision rendered Section 5 unenforceable, releasing states and localities with histories of racial discrimination in voting from the requirement to receive federal approval before making any new voting changes.⁹⁰ A 5-4 majority struck down the formula used to determine which states and localities were required to submit new voting laws or procedures to the U.S. Department of Justice for federal “preclearance.” Importantly, the Court did not declare Section 5 itself unconstitutional, only the formula for determining its application. And the Court left it up to Congress to rewrite the coverage formula to restore Section 5.

In the nearly eight years since the *Shelby County* decision, Congress has failed to pass a new coverage formula.⁹¹ And the onslaught of discriminatory and burdensome voting changes that have been documented—some of which were challenged in court—not only demonstrate the errors of the *Shelby County* majority in getting rid of Section 5’s protections, but also reveal the urgency of passing a new coverage formula to protect voters from officials who seek to restrict, not protect, the vote.

Further, as highlighted by the COVID-19 pandemic, our electoral system is badly in need of repair. Efforts to suppress the political participation of voters of color, younger voters, new citizens, voters with disabilities, and voters who are low-income are widespread. Elected officials resist commonsense reforms that would make voting simple and accessible to all, including online voter registration, no-excuse absentee voting, early voting, and automatic voter registration. In the Deep South, Black, Brown, and Indigenous voters face a series of racist, systemic barriers to

voting, including long lines and closed polling places, overbroad and discriminatory purges of registered voters, and overt voter intimidation.

To protect voters and our democracy, the next Congress must prioritize legislation that will: 1) restore Section 5 of the Voting Rights Act; and 2) implement structural democracy reforms that will protect and strengthen the right of all citizens to vote and participate in our political processes.

Section 5 and *Shelby County*

Section 5 of the Voting Rights Act of 1965 (VRA) has been praised as the most effective piece of civil rights legislation in our history. It both stopped discriminatory voting practices from taking effect and allowed discriminatory laws to be challenged in court.

Between the reauthorizations of the VRA in 1982 and 2006, the DOJ blocked more than 700 proposed voting changes because of their discriminatory impact; more than 100 changes in Alabama were blocked from 1969 to 2008.⁹² More than 800 additional proposed changes were altered or withdrawn voluntarily after the DOJ requested additional information.⁹³ In the time Section 5 was in place, Black registration and participation rates in covered jurisdictions dramatically increased.⁹⁴ Section 5 was working, slowly but surely.

When a misguided majority of the Supreme Court invalidated the coverage formula for Section 5, leaving it unenforceable, the late Justice Ruth Bader Ginsburg wrote in her dissent: “The sad irony of today’s decision lies in its utter failure to grasp why the VRA has proven effective. The Court appears to believe that the VRA’s success in eliminating the specific devices extant in 1965 means that preclearance is no longer needed. With that belief, and the argument derived from it, history repeats itself.”⁹⁵

Today, without preclearance, discriminatory voting changes cannot be blocked before they are implemented. While affirmative litigation can

eliminate *some* discriminatory voting changes, litigation is no match for the glut of discriminatory laws and policies. And litigation, which is time-consuming and expensive, can only challenge a voting change *after* it has been implemented and sometimes after the discriminatory device has harmed voters.

Impact of *Shelby County*

As Justice Ginsburg predicted, history has repeated itself. In fact, much of the progress gained by enforcement of Section 5 has been rolled back.⁹⁶ Indeed, within a day of the *Shelby County* decision, Texas implemented a racially discriminatory photo ID law, and North Carolina passed a voter suppression law that a federal court later ruled targeted Black voters with “almost surgical precision.”⁹⁷ Since the decision, advocates, journalists, and voters have attempted to track the many and varied voting changes that have occurred in previously covered states and localities. In the SPLC’s five focus states, these changes range from discriminatory closures of polling places and DMV branches to illegal purges of registered voters.⁹⁸

Each of these violations would have been modified, prevented, or never attempted had Section 5 been in place. And likely hundreds more changes that have gone unnoticed to advocates would have become known publicly through submission to the DOJ. One of the most powerful tools of Section 5 was the transparency it required of covered jurisdictions. Even if a submitted change was ultimately cleared by the DOJ, there was a record of it for voters and advocates that could be reviewed for potential action.

Without the full protections of the voting rights act, democracy under threat

2020 revealed how difficult it is for many people to register to vote, cast a ballot, and have their vote count. State and local officials who find it politically advantageous to suppress the political participation of certain groups have gone relatively unchecked for nearly eight years. According to the Brennan Center for Justice, between 2010 and 2020, state lawmakers from across the country introduced hundreds of measures that would make it harder to vote.⁹⁹ Overall, 25 states have implemented voting restrictions: 15 have more restrictive voter ID laws, 12 have laws making it harder for citizens to register and stay registered, 10 made it more difficult to vote early or by absentee ballot, and three made it

harder to restore voting rights to people with past criminal convictions.¹⁰⁰

In the SPLC’s focus states, these changes include burdensome photo ID laws in Alabama and Mississippi; a discriminatory and burdensome requirement to pay off legal financial obligations before voting in Florida; and a discriminatory “signature match” law in Georgia.¹⁰¹

These restrictions target voters of color. Seven of the 11 states with the highest Black turnout in 2008 have new voting restrictions in place.¹⁰² Eight of the 12 states with the largest Hispanic population growth between 2000 and 2010 passed laws making it harder to vote. All this targeting is working. Black, Hispanic, and younger voters all report longer wait times than white and older voters.¹⁰³

Bold action required to protect fundamental right to vote and democracy itself

In September 2020, the SPLC Action Fund published its Vision for a Just Future, an urgent, transformative action agenda for a more equitable and compassionate nation.¹⁰⁴ Among its top priorities is passage of the John R. Lewis Voting Rights Advancement Act, which would restore Section 5 of the VRA. It also calls for the enactment of the For the People Act, which includes several SPLC priorities, including implementing automatic voter registration and same-day registration; restoring voting rights to people with felony convictions; making Election Day a national holiday; requiring early voting and expanding access to vote-by-mail; and redistricting reform.

The John R. Lewis Voting Rights Advancement Act

The only remedy for the harm caused by the loss of Section 5 is to restore its power and revive the federal government’s ability to block proposed voting practices that will harm voters *before* they occur. The John R. Lewis Voting Rights Advancement Act would restore Section 5 by ensuring that the new coverage formula speaks to “current conditions,” in compliance with the *Shelby County* ruling.

Any new coverage formula must respond both to the nationwide impact of voter suppression efforts and the depth and extent of recent efforts to disenfranchise voters of color and other vulnerable groups.

The John R. Lewis Voting Rights Advancement Act, which was developed after extensive hearings that found significant evidence that barriers



to voter participation persist for people of color and language-minority voters in Black, Asian American, Latinx, and Indigenous communities, accomplishes both goals.

The John R. Lewis Voting Rights Advancement Act:

- Creates a new coverage formula that requires a finding of repeated voting rights violations in the preceding 25 years.
- The 25-year period is measured on a rolling basis to keep up with “current conditions,” so only states and localities with a recent record of racial discrimination in voting are covered.
- “Repeated” is defined as either: 15 or more violations in the last 25 years or 10 or more violations in the last 25 years if one or more of the violations was committed by the state itself. An individual jurisdiction within the state will also be covered if three or more violations occurred there during the previous 25 years.
- States and localities that qualify for preclearance will be covered for 10 years, but if they establish a clean record during that period, they can be removed from coverage.
- Establishes “practice-based preclearance,” a targeted process for reviewing voting changes in jurisdictions *nationwide*. The following practices would always be required to be precleared:
 - Changes to the methods of elections (to or from at-large elections) in areas that are racially, ethnically, or linguistically diverse.
 - Reductions in language assistance.
 - Annexations changing jurisdictional boundaries in areas that are racially, ethnically, or linguistically diverse.
 - Redistricting in areas that are racially, ethnically, or linguistically diverse.
 - Reducing, consolidating, or relocating polling locations in areas that are racially, ethnically, or linguistically diverse.
 - Changes in documentation or requirements to vote or register.

The late John Lewis, a member of the U.S. House from Georgia, speaks to the media ahead of a House vote on the Voting Rights Advancement Act on December 6, 2019. The bill would restore the full strength of the Voting Rights Act following the 2013 Supreme Court decision that gutted a key provision.

- Allows a federal court to order states or jurisdictions to be covered for results-based violations, where the effect of a particular voting measure is racial discrimination in voting and denying citizens their right to vote.
- Increases transparency by requiring reasonable public notice for voting changes.
- Allows the attorney general authority to request the presence of federal observers anywhere in the country where there is a serious threat of racial discrimination in voting.
- Revises and tailors the preliminary injunction standard for voting rights actions to recognize that there will be cases where there is a need for immediate preliminary relief.

Passing the Voting Rights Advancement Act is a necessary and urgent step toward gaining back the achievements of the original Section 5 and preventing further erosion of the right to vote by elected officials determined to suppress the votes and political will of voters who do not vote for them.

On March 3, 2021, the U.S. House of Representatives passed the For the People Act. This act represents a transformative vision for our democracy that would ease access to the ballot box and protect against voter suppression.

H.R 1 would roll back discriminatory practices that have harmed voters and citizens of color for decades. Among other important changes, it would:¹⁰⁶

- Restore voting rights for people with felony convictions in federal elections, re-enfranchising approximately 4.7 million voters nationwide.¹⁰⁷ Reforming felony disenfranchisement has bipartisan support; in November 2018, 65 percent of Florida voters cast their ballots to restore the right to vote for more than 1.4 million people.
- Reform voter registration. It would modernize America’s voter registration system and improve access to the ballot box by establishing automatic voter registration (AVR), same-day

In the Deep South, Black, Brown, and Indigenous voters face a series of racist, systemic barriers to voting, including long lines and closed polling places, overbroad and discriminatory purges of registered voters, and overt voter intimidation.

The For the People Act

The COVID-19 pandemic revealed how challenging, or even impossible, it is for many people to access their fundamental right to vote, especially post-*Shelby County*. But even in the face of widespread voter suppression tactics, voters in 2018 produced record turnout and elected candidates dedicated to democracy reform. Many states have also introduced pro-voter bills. Unfortunately, pro-voter reforms have been slow in the SPLC’s focus states. In fact, Alabama and Mississippi have resisted early voting and no-excuse absentee voting, even when voters demonstrated the demand for both during the 2020 election. Post-2020, the SPLC is prepared to fight against the backlash to the efforts to expand voting access during the pandemic. In Georgia, even though there is no evidence of voter fraud, a bill has been introduced to roll back access to absentee voting that led to record turnout in the state’s presidential elections.¹⁰⁵

registration (SDR), and online registration for federal elections, and ensuring that all registration systems are inclusive and accessible for people with disabilities. These reforms are especially important in the Deep South where, for example, Mississippi has no online registration and neither Mississippi, Alabama, nor Louisiana have AVR or SDR.

- Reform redistricting. It would ensure that people choose their representatives, not the other way around, by requiring states to draw congressional districts using independent redistricting commissions that are bipartisan and reflect the demographic diversity of the region. It would establish fair redistricting criteria and ensure compliance with the VRA to safeguard voting rights for communities of color.
- End prison-based gerrymandering. It would require the U.S. Census Bureau to count people who are incarcerated at their last-known residence, not the prison where they are housed.

The current practice is to count incarcerated people as living in the communities where they are incarcerated, entitling those communities to a larger share of legislative seats and government resources. But most incarcerated people have little or no connection to the communities where they are incarcerated and typically return to their home communities upon release.

- Combat voter purges. It would overturn the Supreme Court’s troubling 2018 decision in *Husted v. A. Philip Randolph Institute*, which allowed Ohio to conduct massive purges from its voter rolls based on nonvoting. Such practices disproportionately target marginalized voters. Voting should not be a “use it or lose it” right.
- Create a federal holiday and ensure early voting and polling place notice. It would make Election Day a federal holiday. It would also require at least 15 consecutive days of early voting in federal elections. The bill would also require that voters be given a minimum of seven days’ notice if the state decides to change their polling place location. In states like Alabama and Mississippi, where there is no early voting, these provisions would provide voters crucial access to the ballot.

The For the People Act would significantly modernize federal elections around the country, especially in the Deep South, where state legislators and officials have resisted commonsense reforms like online voter registration and automatic voter registration while advancing and maintaining voter suppression policies like felony disenfranchisement, restrictive photo ID laws, massive voter purges, and polling place closures. The For the People Act represents a giant step forward in improving access to the ballot in the Deep South—the birthplace of the voting rights movement—where it is still much too hard to vote.

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AUTHORS Monica Elliott, Rachel Knowles, Nancy Abudu, Caren Short, Kayla Kane, Poy Winichakul, Safia Malin

EDITORIAL DIRECTION Nancy Abudu, Rachel Knowles

EDITOR Booth Gunter

ADDITIONAL WRITING AND EDITING Brad Bennett

SOUTHERN POVERTY LAW CENTER CREATIVE

SENIOR CREATIVE LEADS Michelle Leland, Scott Phillips, Kristina Turner

DESIGNER Sunny Paulk

DESIGN ASSOCIATES Angela Greer and Kaitlyn Eady

PHOTOGRAPHY

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