

# Voter Suppression in 2020

By William Wilder PUBLISHED AUGUST 20, 2021

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# I. Introduction

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In key respects, the 2020 elections demonstrated the strength and resilience of America’s electoral system. Voter turnout smashed records in almost every state, and despite unprecedented challenges from the pandemic, we did not suffer an election administration catastrophe.<sup>1</sup> Opponents of voting rights suggest that these successes mean that voting barriers are no longer a significant concern and that our country has moved past the era of voter suppression.<sup>2</sup> However, a closer look into turnout numbers reveals persistent and troubling racial disparities that are due in part to racial discrimination in the voting process. And in the 2020 election cycle, voter suppression was alive and well.

Overall, 70.9 percent of eligible white voters cast ballots in the 2020 elections, compared with only 58.4 percent of non-white voters.<sup>3</sup> Despite significant gains in overall voter participation, the turnout gap between white and non-white voters has gone virtually unchanged since 2014 and has in fact grown since its modern-era lows in 2008 and 2012, according to a recent Brennan Center analysis.<sup>4</sup>

During the same period, racially discriminatory voter suppression entered a new age. After the 2010 elections, for the first time since the peak of the Jim Crow era, states across the country began to enact laws making it more difficult to vote.<sup>5</sup> This wave of voter suppression was intertwined with race and the nation’s changing racial demographics and was, at least in part, a backlash against rising turnout among communities of color contributing to the election of the nation’s first Black president.<sup>6</sup> Efforts to suppress the votes of communities of color accelerated in 2013, when the Supreme Court gutted a key part of the Voting Rights Act in *Shelby County v. Holder*.<sup>7</sup> In the eight years since, and especially in 2020, these trends continued.<sup>8</sup>

Racial discrimination in voting takes many forms, ranging from blatant and open attempts to restrict access to voting among communities of color to more subtle policies that place heavier burdens on certain communities. In 2020, voters of color faced the full spectrum of racial voter suppression. This report provides an overview of the various forms of racially discriminatory voter suppression that took place in the 2020 elections and their aftermath.

The purpose of this report is to catalog instances of discriminatory voting changes and practices occurring in and since 2020 and provide context for the broader political movement behind many of these changes. In terms of voter suppression, 2020 was a banner year, and not just because of the volume of racially discriminatory changes and incidents. Increasingly, the public officials and political operatives behind these voting changes are acknowledging that the intent of their new laws and policies is to exclude certain people from the electorate and bring about particular outcomes.

For example, as Arizona legislators were debating new restrictive voting bills, State Rep. John Kavanagh stated that Arizona Republicans “don’t mind putting security measures in that won’t let everybody vote” and that he was more concerned with the “quality of votes” than with overall voter turnout.<sup>9</sup> When defending two of Arizona’s restrictive voting laws before the Supreme Court in March 2021, the attorney for the Republican National Committee admitted that the party’s interest in the laws was to avoid being at “a competitive disadvantage relative to Democrats.”<sup>10</sup> And when discussing proposals to expand access to mail voting, President Trump stated that an expansion of early and mail voting would lead to “levels of voting that if you agreed to it, you’d never have a Republican elected in this country again.”<sup>11</sup>

These statements do not represent judicial findings of intentional discrimination. But when viewed alongside the long list of instances of discrimination and racial disparities in the 2020 election cycle, these statements offer a window into discriminatory intent playing out in real time. This public rhetoric provides important context for understanding the full spectrum of discriminatory effects discussed in this report.

Examples of discriminatory voting practices — including new restrictive legislation,<sup>12</sup> discriminatory voter roll purges, long lines and closed polling places, voter intimidation and misinformation, and efforts to overthrow elections through litigation<sup>13</sup> or by invalidating ballots cast by mail<sup>14</sup> — must all be viewed in the context of these obvious statements of intent. All of these instances are evidence of the same underlying problem: the persistence and evolution of unconstitutional racial discrimination in our election system.

## II. New Restrictive Voting Laws

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Voters of color confronted a variety of barriers in the lead-up to and on November 3, 2020. The first wave of these barriers was new restrictive legislation. Several states around the country enacted restrictive voting legislation that first went into effect for a federal election in 2020. The implementation of some of these new statutes created unique problems because of the complications the Covid-19 pandemic caused for election administration. Research indicates that such restrictive voting laws can contribute to a racial turnout gap.<sup>15</sup>

And indeed, the white-Black turnout gap has grown substantially since hitting record lows in the 2012 election, before the *Shelby County v. Holder* decision allowed a new wave of restrictive voting laws.<sup>16</sup> In 2020, 70.9 percent of white voters cast ballots, but only 58.4 percent of non-white voters did.<sup>17</sup> The discriminatory impact of new legislation on the 2020 election could have been even worse were it not for state courts blocking some new measures. And in the immediate aftermath of the 2020 general election, legislators in states across the country proposed new restrictive voting legislation for future election cycles. The statutes discussed below are not an exhaustive list.

### A. New Restrictive Legislation Enacted or Implemented in 2020

**Florida:** Florida rolled back a rights restoration ballot initiative in a manner that disproportionately disenfranchised Black voters. Lawmakers enacted a law in 2019 that took effect for the 2020 elections and dramatically scaled back the impact of Amendment 4 — an amendment to the state constitution that would have restored voting rights to 1.4 million Floridians with criminal convictions.<sup>18</sup> The Legislature conditioned voting rights restoration on payment of a wide range of fees and fines imposed by the criminal justice system. Evidence in the case challenging this law demonstrated that, among the more than 774,000 people disenfranchised due to outstanding legal financial obligations, Black Floridians are both more likely to owe money and more likely to owe larger amounts than their white counterparts.<sup>19</sup>

**Iowa:** Iowa passed a new voter ID restriction that could have a discriminatory effect on voters of color. Legislators inserted a provision into a spending bill requiring voters to present a voter ID when voting early in-person, even as more Iowa voters chose to vote early and government offices shut their doors in response to the Covid-19

pandemic.<sup>20</sup> Extensive research has demonstrated that voter ID laws have a discriminatory effect on voters of color.<sup>21</sup> A study in Texas found that voters who had to file a “reasonable impediment declaration” (RID) to vote without ID were disproportionately Latino and Black and that “for more than 33% of RID-filers, the impediment appeared to be an enduring hardship.”<sup>22</sup> Another study found that non-white Americans are disenfranchised more often due to voter ID laws, as they are less likely to possess an ID and face more barriers to accessing one than white Americans do.<sup>23</sup>

**Kentucky:** Kentucky passed a new voter ID restriction that could have a discriminatory effect on voters of color. Kentucky legislators overrode a gubernatorial veto to enact a voter ID law that went into effect before the 2020 general election.<sup>24</sup>

**Oklahoma:** Oklahoma tightened restrictions on mail voting in multiple ways. As President Trump spread false conspiracy theories about mail ballot collection,<sup>25</sup> Oklahoma enacted new restrictions on mail voting options.<sup>26</sup> The same month, the Oklahoma Supreme Court struck down an existing requirement in Oklahoma law that all mail ballots be notarized.<sup>27</sup> Undeterred, Oklahoma responded swiftly by enacting legislation that required voters to either get their mail ballots notarized or include a photocopy of their identification card with their mail ballot, notwithstanding the additional burden imposed by this requirement during a global pandemic.<sup>28</sup>

### B. New Legislation Blocked by Courts in 2020

**Montana:** Montana attempted to implement a restriction on mail voting that a court found violated the rights of Native American voters. Montana voters enacted a law in 2018, via ballot initiative, that would have prevented civic groups and individuals (with certain exceptions) from helping others cast absentee votes by collecting and delivering their voted ballots.<sup>29</sup> In 2020, a state court struck

down the law, finding that it violated Native Americans' right to vote and due process rights.<sup>30</sup> And shortly afterwards, in the 2021 legislative session, the Montana State Legislature joined a national trend of legislative attacks on state court independence by advancing a number of bills that could have increased political and partisan influence over the state court system.<sup>31</sup>

**North Carolina:** North Carolina attempted to implement a voter ID law that a court found was enacted with discriminatory intent. The state enacted, over the governor's veto, a new voter ID requirement in 2018,<sup>32</sup> but the law was enjoined for the 2020 election by state and federal courts. The courts found that the law would have had a "negative impact on African American voters because they lack acceptable IDs at a rate greater than white voters" and that the sequence of events leading to the bill's enactment "suggest[ed] an underlying motive of discriminatory intent."<sup>33</sup> The Fourth Circuit has since reversed the federal injunction, but the state court opinion enjoining the law remains in place.<sup>34</sup>

**Tennessee:** Tennessee attempted to implement a voter registration restriction that a court found violated federal law. The state enacted wide-ranging new restrictions on voter registration drives in 2019.<sup>35</sup> These restrictions followed the efforts of a group called the Tennessee Black Voter Project to register tens of thousands of voters in advance of the 2018 election.<sup>36</sup> A federal court enjoined the law, however, and it was subsequently repealed.<sup>37</sup>

## C. Postelection Legislation

**Multiple States:** States across the country responded to rising voter turnout among communities of color by introducing and enacting new restrictions on the right to vote in the weeks and months after the 2020 election.<sup>38</sup> This trend was no surprise; historically, increased turnout among voters of color is often met with false allegations of fraud and new attempts to suppress the vote through legislation.<sup>39</sup> As mentioned earlier, skyrocketing turnout among communities of color in 2008 and 2010 eventually led to a national wave of voter suppression legislation in 2011.<sup>40</sup> The 2020 election cycle again saw historic turnout among communities of color.<sup>41</sup> In response, in the final weeks of 2020 and in 2021, state legislators across the country prefiled or introduced more than 400 bills with provisions that would restrict voting access.<sup>42</sup> This was more than four times the number of bills filed over a similar period in 2019 and 2020. As of July 14, 2021, 18 of these states had enacted a total of 30 new laws that restrict access to the vote.<sup>43</sup>

### III. Discriminatory Voter Roll Purges

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Racial discrimination has been ingrained in the voter registration system throughout American history.<sup>44</sup> This legacy continued in 2020, when new problems created by the Covid-19 pandemic compounded the discriminatory effects of voter roll purges. Voter roll purge rates have surged since the *Shelby County* decision, particularly in jurisdictions with a history of racial discrimination in voting that were required to preclear their purge practices with the Department of Justice prior to *Shelby County*, and are problematic in an increasingly vote-by-mail world.<sup>45</sup>

Further, voter roll purges obviously have a more significant impact if voters are unable to re-register before the next election. And in the first half of 2020, voters of color faced a significant barrier to voter registration. According to *FiveThirtyEight*, voter registration rates fell in March and April 2020 as Covid-19 shuttered government offices and brought community voter registration drives to a halt.<sup>46</sup> The impact of these shutdowns fell most heavily on people of color, who disproportionately rely on in-person voter registration opportunities and voter registration drives.<sup>47</sup>

**Georgia:** Election officials continued a troubling historical pattern of aggressive voter purges that disproportionately harm voters of color. In 2017, Georgia reportedly purged 560,000 names from its registration rolls in one day, the largest single voter roll purge in American history.<sup>48</sup> The *Atlanta Journal-Constitution* found that Black, Latino, and Asian voters accounted for a disproportionate share of the voters wrongfully removed in that purge. Georgia continued its aggressive purge practices during the 2020 election cycle, removing more than 313,000 names from its rolls in an October 2019 purge.<sup>49</sup> Ahead of the January 2021 U.S. Senate runoff elections, a coalition of anti-voter activists led by True the Vote sought to have an additional 364,000 names removed from Georgia's voter rolls.<sup>50</sup> The activists' attempts were unsuccessful; however, new legislation in Georgia could make such mass voter challenges easier in the future by codifying the right of any voter to submit an unlimited number of challenges.<sup>51</sup>

**Ohio:** Ohio purged thousands of names from its voter rolls in a manner that may have disproportionately harmed Black voters. Following a three-year hiatus due to pending litigation, Ohio resumed its aggressive purge practices and reportedly removed about 182,000 names from its voter rolls in September 2019 alone.<sup>52</sup> Ohio's "bottom up" voter records system, where each individual county reports names for voter purges to the secretary of state, is prone to errors because of inconsistent record-keeping at the county level and glitches in voter registration software.<sup>53</sup> One analysis by the Center for Public Integrity found that more than one in six voters on the September 2019 purge list had been flagged by mistake.<sup>54</sup>

A data set compiled by *USA Today* indicated that the purges disproportionately harmed young voters in the 2020 election cycle.<sup>55</sup> Because race is not included in Ohio voter registration rolls, analyses of whether the purges disproportionately harmed Black voters vary. However, according to one report, voter turnout among Black and Latino communities in Cuyahoga County was significantly lower than white turnout in the April 2020 primary, which was conducted entirely by mail and was the first major election since the September 2019 purge.<sup>56</sup> And because Ohio's "use it or lose it" rule allows removal of voters who miss two federal elections in a row, the report authors estimated that the low turnout in the April 2020 primary would exacerbate the disparate racial impact of any future voter roll purge.

**Texas:** A court blocked Texas from wrongfully purging thousands of voters of color from its voter rolls based on false stories of noncitizen voting. In January 2019, Texas Secretary of State David Whitley announced that he had identified more than 95,000 noncitizens who had applied for drivers' licenses with matching records in the Texas voter rolls.<sup>57</sup> President Trump immediately seized on the story, tweeting that it represented "the tip of the iceberg" for noncitizen voting nationwide.<sup>58</sup> The plan to purge these names from the voter rolls had two glaring and racially discriminatory flaws. First, the records it relied on did not take into account that many people on the list had in fact become naturalized citizens, instead assuming that all individuals who were at one time not citizens still were not citizens.<sup>59</sup> Second, the purge list was created using a "weak match" comparison between the list of noncitizens and the list of registered voters.<sup>60</sup> Census data shows that non-white people are more likely to have common shared names, making them potentially more vulnerable to "weak match" voter roll comparisons.<sup>61</sup> A coalition of civil rights groups sued, alleging that the planned purge would discriminate against Latino voters and violate the National Voter Registration Act.<sup>62</sup> A federal judge ordered Texas to halt the purge in February 2019, and the civil rights coalition ultimately obtained a settlement several months later.<sup>63</sup> Secretary Whitley resigned in the wake of the incident.<sup>64</sup> As Texas began debating new voting restric-

tions during its 2021 legislative cycle, state officials continued to use similarly coded rhetoric about widespread fraud among communities of color and electoral outcomes. In a call about federal voting rights legislation, Texas Senator Ted Cruz stated to his Senate colleagues that democracy reform bills were just an attempt to expand voting rights to “illegal aliens” and “child molesters” and that Texas Republicans would not win elections again for generations if federal voting rights reform passed.<sup>65</sup>

## IV. Attempts to Suppress Mail Voting

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Voters turned to mail voting in record numbers during the 2020 election, primarily in response to the Covid-19 crisis, and faced racial disparities throughout the process.<sup>66</sup> Inequitable access to vote by mail was not a red state, blue state, or purple state problem last year; voters of color faced barriers in many different states across the country. These barriers came at every step of the mail voting process, and voters of color faced disparities in mail delivery itself.<sup>67</sup> This section highlights a few important examples.

### A. Disparities in Mail Delivery

**Multiple States:** A crisis at the U.S. Postal Service disproportionately burdened many voters of color who attempted to vote by mail. The first and most publicized mail voting issue in 2020 was problems with mail delivery itself. More people choosing to vote by mail necessarily meant more reliance on the U.S. Postal Service to deliver ballots. The Trump Administration responded to the rise in usage of mail voting by exacerbating a crisis at the U.S. Postal Service beginning in June.<sup>68</sup> To reduce costs during the Covid-19 pandemic, Trump-appointed Postmaster General Louis DeJoy eliminated the use of overtime for extra delivery shifts, dismantled and removed high-speed mail sorting machines, and removed collection boxes from streets in some cities.<sup>69</sup> The effect of these policies was tangible: according to a report by the U.S. Senate Homeland Security and Governmental Affairs Committee, “by the second week of August 2020, on-time delivery of First-Class mail nationwide had fallen nearly 10 percentage points compared to the week preceding the changes.”<sup>70</sup> Civil rights groups and several state governments alleged that these efforts were not about reducing costs but about hurting the reliability of mail voting ahead of the election.<sup>71</sup> DeJoy’s policies likely had a strong disproportionate impact on communities of color. A study by the Union of Concerned Scientists comparing FOIA records regarding mail delay complaints with Census Bureau demographic data found that the number of complaints filed per 1,000 residents was 49.44 percent higher than the national average in predominantly Black, Latino, Asian, and Native American zip codes throughout 2020.<sup>72</sup>

### B. Disparities in Mail Ballot Eligibility Policies

**Mississippi:** Mississippi has the highest percentage of Black residents in the nation and was the only state that

did not offer either no-excuse mail voting or in-person early voting in 2020.<sup>73</sup> In addition to strictly limiting the categories of voters eligible to vote by mail, Mississippi also required both mail ballots and ballot requests to be notarized.<sup>74</sup> The state successfully petitioned the Mississippi Supreme Court to reverse a trial court decision that would have required the state to offer mail ballots to people with certain health conditions that make them vulnerable to Covid-19.<sup>75</sup> Mississippi legislators advanced bipartisan legislation to temporarily waive the notary requirement due to Covid-19, but the bill ultimately failed.<sup>76</sup> An Associated Press analysis suggested that notary and witness requirements in general disproportionately affect Black voters.<sup>77</sup> Civil rights advocates made similar arguments, alleging that the notary requirement made it difficult for many older Black voters to safely cast a mail ballot.<sup>78</sup>

**Texas:** Texas similarly failed to offer a no-excuse mail voting option and did not have any online tool for requesting mail ballots.<sup>79</sup> In response to the limited options for requesting a mail ballot, Harris County — home to Houston and one of the most diverse counties in the country — sought to send a mail ballot application directly to every registered voter.<sup>80</sup> The state intervened and sued, ultimately forcing Harris County to halt the program.<sup>81</sup>

### C. Disparities in Opportunities to Return Mail Ballots

**California:** Some Native American voters faced disparities in access to ballot drop-off locations. California did relatively well in providing equitable access to mail voting at the statewide level. However, there were some notable racial disparities at the local level. For example, several Native American reservations in Riverside County had no early vote centers or ballot drop-off locations at all.<sup>82</sup>

**Louisiana:** Louisiana attempted to restrict local governments in diverse communities from providing multiple ballot drop boxes. The New Orleans City Council sought to increase the number of curbside drop-off locations in the city, but Secretary of State Kyle Ardoin claimed that a Louisiana statute required ballots to be dropped off at a registrar’s office. As a result, the city was not allowed to add additional curbside drop-off locations beyond those associated with a registrar’s office. The New Orleans City Council eventually sued the Louisiana secretary of state for what it called an “unreasonable interpretation” of Louisiana law and was granted a temporary restraining order.<sup>83</sup> The Council later dropped its request for preliminary injunctive relief after the secretary of state conceded that his interpretation of Louisiana law was incorrect, and the temporary restraining order remained in place through the election.<sup>84</sup> The secretary’s policy would have caused a racial disparity in drop-off location access. New Orleans’s total population is 59.5 percent Black, compared with a statewide population that is only 32.8 percent Black.<sup>85</sup> By limiting the number of drop-off locations, the policy would have forced Black Louisianans to bear the brunt of limited drop-off location access.

**Texas:** Texas created a disparate burden on voters of color by limiting the availability of ballot drop-off locations. Governor Greg Abbott restricted ballot drop-offs by issuing an emergency proclamation to bar counties from providing more than one drop-off location for mail ballots during early voting.<sup>86</sup> This policy disproportionately affected communities of color in Texas’s large, diverse urban counties.<sup>87</sup> Harris County, one of the largest and most diverse counties in the country, was limited to a single drop-off location for more than 2.3 million registered voters.<sup>88</sup> Smaller, predominantly white counties such as Rains County (84 percent white, with about 8,000 registered voters)<sup>89</sup> and Somervell County (77 percent white, with about 6,500 registered voters)<sup>90</sup> remained well within the Election Assistance Commission guidelines of one drop-off location for every 15,000 voters, but large counties such as Harris County could not meet their voters’ needs under the law.<sup>91</sup> For example, because of the policy, voters in majority-white neighborhoods like Braeswood Place or West University Place were a short walk from Harris County’s lone drop-off location at NRG Arena, while voters in predominantly Latino Baytown or predominantly Black Acres Homes had to travel up to 30 miles by car.<sup>92</sup> In a county with existing public transportation and vehicle access disparities even before Covid-19, the drop box policy imposed a disparate burden on communities of color.<sup>93</sup>

## D. Disparities in Mail Ballot Processing

**Florida:** Florida rejected mail ballots in a manner that had a disparate racial impact. Election officials flagged for rejection the ballots of Asian, Black, and Latino voters for errors such as missing or mismatched signatures at a higher rate than the ballots of white voters.<sup>94</sup> The rejection rate in several large, diverse Florida counties including Broward, Palm Beach, and Miami–Dade in 2020 was reportedly almost twice as high for Black voters and more than twice as high for Latino voters as it was for white voters. Young voters were also disproportionately impacted by inconsistent ballot acceptance practices.<sup>95</sup> While Florida’s ballot cure process ensured that many of these voters were ultimately able to have their votes counted, the cure process was not administered evenly across the state.<sup>96</sup>

**Georgia:** Georgia rejected mail ballots of Asian and Latino voters at twice the rate of white voters during Georgia’s presidential primary, according to a Brennan Center investigation.<sup>97</sup> Georgia’s State Election Board found that absentee voters in Fulton County — home to a large share of Georgia’s Black voters — were most likely to experience ballot processing delays during the presidential primary.<sup>98</sup> Georgia’s attorney general is currently investigating whether election laws were violated.<sup>99</sup>

**North Carolina:** In some parts of the state, a historical trend of flagging and rejecting Black voters’ ballots continued in 2020. In 2018, mail ballots from Black voters were more than twice as likely to be rejected in North Carolina as mail ballots from white voters, according to an analysis by ProPublica.<sup>100</sup> This pattern continued in 2020. At one point in September 2020, Black voters’ mail ballots were reportedly being rejected at more than four times the rate of white voters’ mail ballots statewide.<sup>101</sup> The state attempted to mitigate the problem in 2020 by issuing uniform notice and cure guidelines and had significant success in some parts of the state.<sup>102</sup> However, ProPublica found that racial disparities in rejection rates remained the starkest in rural, disproportionately Black counties in the northeastern part of the state such as Northampton and Vance.<sup>103</sup> A Sightline Institute analysis determined that 21 of the 25 most populous counties in North Carolina rejected Black voters’ mail ballots at a rate greater than 1.8 times the rate at which those counties rejected white voters’ mail ballots.<sup>104</sup>

## V. Racial Discrimination at the Polling Place

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**A**s the Brennan Center and others have extensively documented, long wait times and polling place closures disproportionately affect Black and Latino voters.<sup>105</sup> This was true before Covid-19. Indeed, one study found that increased distance to polling places, which is a common result of polling place closures, “contributes to between 11 and 13 percent of the participation gap between low- and high-minority areas during non-presidential elections.”<sup>106</sup>

Another study revealed that, during the 2016 presidential election, “residents of entirely Black neighborhoods waited 29 percent longer to vote and were 74 percent more likely to spend more than 30 minutes at their polling place” relative to residents of entirely white neighborhoods.<sup>107</sup> Similar racial disparities were observed during the 2018 midterm elections. A Brennan Center report found that “Latino voters waited almost 46 percent longer than white voters, and Black voters waited 45 percent longer on average.”<sup>108</sup> This may mean that a greater percentage of Black voters are subjected to long lines, as the Pew Research Center found in November 2020 that only 38 percent of Black voters “say they voted by mail, compared with 45% of white voters.”<sup>109</sup>

The pandemic only exacerbated the problem, leading to long wait times in many communities of color due to polling place closures.<sup>110</sup> For example, the Pascua Yaqui Tribe in Arizona sued the county recorder over the decision to close the only in-person early voting site on the Pascua Yaqui Pueblo Reservation, alleging that tribe members had unequal access to early voting sites as compared with nonminority communities, in violation of the Voting Rights Act.<sup>111</sup> Disproportionate polling place closures were found in one of Iowa’s most racially diverse counties. An analysis by the Center for Public Integrity, Stateline, and NPR showed that “census tracts with more people of color lost a larger share of polling places than whiter census tracts.”<sup>112</sup> In addition to long lines, voters in some states faced obstacles in finding their correct polling places because of confusing and inefficient state policies. This section will discuss just a few of the many examples of racial discrimination and general mismanagement at polling places last year.

### A. Primaries

**California:** California had extremely long lines during its primary on March 3, which disproportionately impacted Latinos.<sup>113</sup> Due to technical breakdowns and rule changes, voters in some neighborhoods in Los Angeles were reportedly forced to wait several hours to vote.<sup>114</sup> The

League of United Latin American Citizens, noting these harms disproportionately affected Latino voters, denounced the long lines and breakdowns in California as an assault on Latino voters.<sup>115</sup>

**Georgia:** Georgia had a number of well-documented polling place closures and long lines during the primaries that were reported to be particularly acute in predominantly Black neighborhoods.<sup>116</sup> In Fulton County, more than 16,000 voters were assigned to a single polling place.<sup>117</sup>

**Kentucky:** Kentucky had long lines on the day of its primary, due primarily to polling place closures. Local media reported that Kentucky had roughly only 200 polling places statewide during its primary, including only one in all of Jefferson County, home to Louisville and the largest Black population in the state.<sup>118</sup>

**Texas:** In the Texas presidential primary on March 3, voters in predominantly Black and Latino neighborhoods reportedly faced extraordinary wait times.<sup>119</sup> The problem was compounded by the fact that it was the first election for several counties transitioning to a countywide polling system model, whereby voters can cast ballots at any polling center.<sup>120</sup> Voters at historically Black Texas Southern University in Houston reportedly waited up to six hours after their polling place closed.<sup>121</sup>

**Wisconsin:** The Wisconsin presidential primary in March was an egregious example of long lines causing a disproportionate impact on Black voters during the primaries. Voters in Milwaukee faced extremely long lines due to broken voting machines, polling place consolidations, and shortages of critical supplies like paper ballots.<sup>122</sup> While Milwaukee typically has around 180 polling locations, it had only five open during the presidential primary.<sup>123</sup> A Brennan Center investigation found that polling place consolidations disproportionately harmed Black voters and depressed turnout in Milwaukee.<sup>124</sup> Indeed, “polling place consolidation reduced overall turnout by about 8.7 points and reduced turnout among the Black population in the city by about 10 points.”<sup>125</sup>

## B. Early Voting

**Alabama:** Alabama election officials were not prepared for a surge in in-person absentee voters due to the Covid-19 pandemic, leading to extremely long lines in some communities of color. Because of a lack of staffing capacity and electoral resources, voters in large, diverse counties such as Jefferson County, Montgomery County, and Mobile County waited up to three hours to cast their ballots when attempting to vote in-person absentee.<sup>126</sup>

**Georgia:** Georgia's historical pattern of dwindling polling places in diverse areas continued throughout early voting, with some voters reportedly waiting up to 10 hours to vote in the first days of early voting.<sup>127</sup> Since *Shelby County v. Holder*, Black voters in Georgia have faced disproportionately long lines because of fewer polling places.<sup>128</sup> The average number of voters per polling place has grown 40 percent in the diverse Atlanta metro area since 2012, and voters in predominantly Black neighborhoods waited nearly 10 times as long on average after polling places closed as voters in predominantly white neighborhoods in the June 9 primary.

**Texas:** Texas closed polling places in a manner that disproportionately harmed Black and Latino voters. Some counties reportedly saw lines of three hours or more during early voting, coinciding with polling place closures.<sup>129</sup> The burden of long lines and polling place closures in Texas in the post-*Shelby County* era has often fallen disproportionately on Black and Latino voters. According to an analysis by *The Guardian*, of the approximately 750 polling sites Texas has closed since *Shelby County v. Holder*, 542 were in the 50 counties with the fastest-growing Black and Latino populations.<sup>130</sup> While some have claimed that the lower number of polling places is due solely to Texas's transition to a "vote center" model in many counties, one peer-reviewed analysis of voter registration data showed that the consolidation of precinct polling places into vote centers had a disproportionate impact on Latino voter turnout as compared to other voters.<sup>131</sup> And in Waller County, an area with a notorious history of voter suppression, election officials refused to expand early voting opportunities at predominantly Black Prairie View A&M University while providing more options in predominantly white areas of the county.<sup>132</sup> A poll of Texas voters conducted after the 2020 election underscored the disparity non-white voters faced when casting their ballots: only 48 percent of Black voters and 55 percent of Latino voters in the state found it very easy to vote, in comparison with 65 percent of their white counterparts.<sup>133</sup>

## C. Election Day

**Alabama:** Voters in communities of color across the state saw long lines on Election Day. These lines were reported to have been particularly acute in Black neighborhoods in Birmingham and Montgomery.<sup>134</sup>

**New Jersey:** In Newark, the state's most populous city, where the majority of residents are Black (50.1 percent), three polling places opened late, which "led to long lines and reports of at least some people leaving without voting because they had to go to work."<sup>135</sup>

**North Carolina:** Polling place closures made voting difficult for voters of color in some areas.<sup>136</sup> Poor access to transportation compounded the problems of polling place closures in several rural, majority-Black jurisdictions that were previously covered by Section 5 of the Voting Rights Act.<sup>137</sup>

**North Dakota:** Polling place closures disproportionately affected Native American voters. North Dakota closed 58 percent of its polling places due to Covid-19 and a shift to vote-by-mail, forcing some Native American voters to travel up to 50 miles to vote.<sup>138</sup>

**Pennsylvania:** Equipment malfunctions led to long lines early in the day across the state, particularly in Philadelphia, the state's largest city and home to the state's largest Black population.<sup>139</sup>

**South Carolina:** Long lines were particularly acute in some majority-Black communities.<sup>140</sup> Voters in Richland County, which has a plurality of Black residents (48.7 percent) and is South Carolina's second-largest county, reportedly faced long lines due to technical problems and wireless internet connection issues,<sup>141</sup> while voters in nearby Lexington County, which is predominantly white, reported no waits or short waits.<sup>142</sup>

## D. Difficulties in Finding the Right Polling Place

**Arizona:** Arizona's polling place siting policies and a policy of wholly rejecting out-of-precinct ballots made it difficult for some Native American voters to locate the correct polling place and have their votes counted. Arizona has historically rejected more provisional ballots than other state, often for being cast out-of-precinct.<sup>143</sup> The lack of formal addresses on Native American reservations compounds this problem for Native American voters.<sup>144</sup> Arizona has made some strides in recent years in promoting voter turnout and reducing out-of-precinct voting, most notably by expanding voting by mail and

offering vote centers in more counties.<sup>145</sup> However, these policy solutions have not resolved the problem for some Native American voters in rural areas such as Apache County in northeastern Arizona. Arizona policy mandates out-of-precinct rejections but defers to individual counties the decision of whether to implement vote centers.<sup>146</sup> Apache County, which is majority–Native American and home to large portions of the Navajo Nation, has been unable to implement vote centers because of weak internet service at many polling sites. According to documents the Brennan Center received through public records law requests, the out-of-precinct policy was a source of concern in Apache County. One percent of all votes cast in Apache County were rejected for being cast in the wrong precinct — a rate more than six times higher than that of any other county. Arizona’s out-of-precinct rejection policy, lack of internet connection in some rural areas, and longstanding issues with mail service and communication contributed to the ongoing challenges Native Americans face in exercising their right to vote.

**Mississippi:** Mississippi’s technology problems, poor notice procedures, and lack of early and mail voting options led to some voters being unable to locate the correct polling place, including in areas with large Black populations. Mississippi, the only state in the nation without either an early voting option or a no-excuse mail voting option during the Covid-19 pandemic, reportedly had historically long lines on Election Day.<sup>147</sup> These lines were in part due to a series of decisions and policies from the secretary of state that led to many voters showing up at the wrong polling place on Election Day. Roughly 65,000 voters in 55 precincts across the state were forced to vote at a polling place in the November 2020 election different from the one where they voted in the March primaries just months before.<sup>148</sup> Many of these changes, which are made locally, were not posted on the secretary of state’s website due to counties failing to upload them. According to a report from the *Jackson Free Press*, the secretary of state’s polling place locator tool provided incorrect polling place information for some voters in Hinds County, which has a total population that is 73 percent Black and is the largest county in the state, resulting in voters going to the wrong polling place on Election Day.<sup>149</sup> The confusion was predictable: while election officials changed the locations of at least 55 precincts, Secretary of State Michael Watson announced just 17 precinct changes in the weeks before Election Day.<sup>150</sup>

**Ohio:** Ohio’s provisional ballot rules may have disenfranchised many Black voters in 2020. In 2020, as in years past, counties with large Black populations saw significantly higher provisional ballot usage than predominantly white counties.<sup>151</sup> In the past, some have explained this disparity as resulting from the fact that fewer Black voters voted by mail; however, this trend continued in 2020, despite the fact that a higher percentage of Black voters chose to vote by mail, suggesting underlying structural problems in Ohio policies, perhaps related to polling place siting or voter ID.<sup>152</sup>

## VI. Voter Intimidation

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Intimidation has been a part of racially discriminatory voter suppression throughout our country's history,<sup>153</sup> and it persists to this day, at a time when hate crimes are at their highest levels in more than a decade.<sup>154</sup> Historically, voter intimidation by law enforcement and other state actors has been a significant part of the voter suppression story. Indeed, police interference with voter registration was one animating factor in the fight to pass the Voting Rights Act of 1965.<sup>155</sup> This historical trend continued in 2020. Media reports of voter intimidation by private groups and individuals were on the rise as well.<sup>156</sup>

The nonpartisan Election Protection hotline received 246,000 calls in the weeks leading up to the election, commonly with reports of voter intimidation.<sup>157</sup> Some analysts link this surge in part to President Trump openly urging his supporters to “go into the polls and watch very carefully.”<sup>158</sup> Voters have a clear and unambiguous right to cast their votes without being intimidated — yet voter intimidation was rampant in 2020, and addressing it is critical for ensuring the future strength of our democracy.<sup>159</sup> This section provides a non-exhaustive list of particularly concerning examples of voter intimidation in 2020, with a particular focus on examples of intimidation that seemed aimed at voters of color.

### A. Voter Intimidation by State Actors

**Alabama:** The *Montgomery Advertiser* reported that a sheriff's deputy pursued and detained a Latina Election Protection volunteer who was inspecting polling places for ADA compliance in Autauga County.<sup>160</sup>

**Arizona:** Local media reported possible intimidation of Black and Native American voters at several polling places. The *Arizona Republic* reported seeing a poll worker wrongfully turn away several Black voters who had been in line to vote before the polls closed.<sup>161</sup> The poll worker called the police, who arrived and threatened to arrest the voters. *Vice* reported that Native American voters in Pima and Yuma Counties felt intimidated because of the presence of armed police in tactical gear at polling places.<sup>162</sup>

**Georgia:** Law enforcement arrested a Black elected official at a polling place. Local police arrested Douglas City Commissioner and voting rights activist Olivia Pearson for legally assisting voters during early voting in Coffee County.<sup>163</sup>

**Louisiana:** Inconsistent enforcement of a regulation intended to reduce wait times may have led to poll workers' harassment of voters at polling places, particularly in communities of color. A secretary of state regulation required voters to spend no more than three minutes in privacy booths.<sup>164</sup> Several voters told the *Louisiana Weekly* that the regulation led to poll workers harassing voters in Orleans Parish, whose population is nearly 70 percent non-white.<sup>165</sup>

**North Carolina:** Law enforcement attacked a group of Black voters during early voting. Police used pepper spray on a group of primarily Black voters leading a peaceful march to the polls on the last day of the early voting period.<sup>166</sup> The marchers harmed included children as young as three years old, a number of older voters, and a woman with a disability who suffered a seizure. The NAACP Legal Defense Fund filed a lawsuit against Alamance County under the Ku Klux Klan Act after the attack.<sup>167</sup>

### B. Voter Intimidation by Private Individuals and Outside Groups

**Colorado:** A Colorado landlord threatened his tenants about the results of the election. The landlord of a trailer park in a town that is nearly half Latino sent letters to his tenants threatening to double their rent if President Biden won the election.<sup>168</sup>

**Florida:** Florida saw examples of voter intimidation targeting voters of color across the state. Local and national press reported dozens of examples of voter intimidation and polling place disruption, and the Department of Homeland Security uncovered a plot to intimidate voters through email.<sup>169</sup> The *New York Times* and *Wash-*

*ington Post* reported several incidents at polling places in Pinellas County, where armed men falsely claiming to have been hired by the Trump campaign were seen outside a polling place.<sup>170</sup> In an ostensible attempt to ward off such intimidation, the Pinellas County sheriff called for stationing deputies at all early voting locations in the county, prompting objections from a coalition of civil rights groups, who emphasized that “Black and Brown Floridians may have an especially heightened sensitivity to police presence due to the unjust killings of people of color at the hands of law enforcement.”<sup>171</sup> The state attorney and sheriff of Palm Beach County put out an official statement after incidents of voter intimidation during early voting.<sup>172</sup> Florida voters also received threatening emails from Iranian agents claiming to be from the white supremacist Proud Boys hate group.<sup>173</sup>

**Michigan:** Right-wing political operatives used robocalls to intimidate Black voters about mail voting. Michigan charged two right-wing operatives with voter intimidation because of robocalls that “target[ed] voters in areas with significant Black populations[, sought] to exploit racially charged stereotypes[, and were] intended to dissuade recipients from voting.”<sup>174</sup> The calls, which purported to be from “a civil rights organization,” falsely warned that the names of mail-in voters would be placed in a public database used for arrest warrants and debt collection.<sup>175</sup> In addition to the criminal charges, the National Coalition on Black Civil Participation successfully sued the perpetrators in federal court in New York to enjoin further calls.<sup>176</sup>

**Minnesota:** Civil rights groups went to court to prevent a private mercenary contractor from deploying armed agents to polling places near the site of Black Lives Matter protests. In one of the more extreme examples of voter intimidation by armed groups this cycle, a private mercenary contractor called Atlas Aegis announced plans to send armed individuals to polling places in Minneapolis.<sup>177</sup> According to an opinion issued by a federal judge in Minnesota, a representative from Atlas Aegis publicly announced that the armed, highly trained agents were being deployed in response to the Black Lives Matter protests that occurred in the wake of George Floyd’s murder in Minneapolis. Civil rights groups were able to obtain a preliminary injunction barring the group from carrying out its plan.<sup>178</sup>

**Pennsylvania:** The Trump campaign attempted to intimidate voters in Philadelphia choosing to vote by mail. The campaign was caught trying to videotape voters using ballot drop boxes in Philadelphia.<sup>179</sup> The campaign had previously filed a lawsuit urging Pennsylvania to halt the use of drop boxes entirely, relying on a misleading video of several Black voters using a Philadelphia drop box as evidence.<sup>180</sup>

**Texas:** Civil rights advocates reported incidents of voter intimidation at polling places across the state. The Texas Civil Rights Project and the nonpartisan Election Protection coalition reported 267 incidents of voter intimidation across the state during the 2020 general election.<sup>181</sup> These incidents included a convoy of military-style vehicles displaying a coffin outside a polling place in Fort Bend County, men with visible firearms speaking with voters waiting in line in Hidalgo County, and men with bullet-proof vests and rifles standing near a polling place in Tarrant County.<sup>182</sup>

## VII. Voter Suppression After Election Day

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**A**ttempts to suppress the vote in communities of color did not stop on Election Day. In the hours, days, and weeks after the polls closed, racist voter suppression tactics evolved in a variety of shocking ways. These efforts began in the immediate hours after the polls closed, with protesters alleging fraud outside vote-counting facilities in cities with large minority populations, such as Philadelphia, Atlanta, and Phoenix.<sup>183</sup> This voter fraud protest movement quickly escalated into racially targeted litigation seeking to invalidate votes and threats against election officials.

Much of this litigation was aimed at jurisdictions with large Black and Latino populations.<sup>184</sup> Some of the lawyers involved in this litigation were formally sanctioned by federal courts.<sup>185</sup> Underlying these efforts was a thinly veiled assumption that increased voter turnout from people of color equates to rampant voter fraud.<sup>186</sup>

These efforts evolved in the weeks and months after the 2020 election. When bill pre-filing and filing opened for 2020 state legislative sessions, legislators invested in voter suppression and lies about voter fraud got to work. By February 2021, legislators in 33 states had introduced, prefiled, or carried over 165 bills to restrict access to voting.<sup>187</sup> By July this number had risen to more than 400 bills in 49 states, and at least 18 states had enacted 30 laws to restrict access to voting.<sup>188</sup> Among other things, some of the new restrictive bills sought to limit access to mail voting, impose stricter ID requirements, limit the impact of successful pro-voter registration policies, enable more aggressive voter roll purges, impose criminal penalties for providing free food and water to people waiting in line to vote, and even allow the state legislature to override the will of the voters in selecting presidential electors.<sup>189</sup> This legislative push was shocking in its scope but not surprising in its substance: rising political participation by communities of color is often met with attempts to restrict the right to vote legislatively.<sup>190</sup> Many of the bills that have passed so far target the right to vote and political participation by communities of color in a variety of ways, both broad and surgical. A number of these laws are being challenged in court, and the Department of Justice has alleged in a lawsuit that at least one of them was enacted with discriminatory intent.

This section outlines a selection of the lawsuits, threats, and new legislation that emerged in the days, weeks, and months after the 2020 election. These efforts took different forms but were all related to the same underlying lies about voter fraud and political participation by communities of color.

### A. Attempts to Overturn the Election Through Litigation

**Arizona:** Voting rights opponents filed four separate lawsuits<sup>191</sup> seeking to invalidate Arizona's presidential election results on the basis of false claims of voter fraud and election irregularities, focusing their allegations on Maricopa County, home to majority-non-white Phoenix.<sup>192</sup> One of the cases was voluntarily withdrawn, and the other three failed, variously, in state court, federal district court, the Arizona Supreme Court, and the U.S. Supreme Court.<sup>193</sup>

**Georgia:** Voting rights opponents filed no fewer than eight federal and state lawsuits seeking to invalidate the results of Georgia's election, most often targeting racially diverse areas and votes cast by mail.<sup>194</sup> For example, four plaintiffs sued Governor Brian Kemp, Secretary of State Brad Raffensperger, and officials of eight counties with large Black populations to exclude those counties' results from certification. The eight counties — Chatham, DeKalb, Fulton, Clayton, Gwinnett, Cobb, Augusta-Richmond, and Henry — account for 43 percent of Georgia's total population but 70 percent of the state's non-white population.<sup>195</sup> The plaintiffs argued that they would provide evidence "that sufficient illegal ballots were included in the results to change or place in doubt the November 3 presidential-election results." Less than a week later, apparently lacking such evidence, the plaintiffs voluntarily dismissed the case.

**Michigan:** The Trump campaign and its supporters filed a total of nine baseless lawsuits, six of which asked courts to invalidate election results. The lawsuits focused largely on Detroit, which is more than 85 percent non-white.<sup>196</sup> In one such suit, the Trump campaign asked a federal court to effectively exclude votes cast in Wayne County through a series of remedies that would have significantly delayed the counting process and placed large burdens

on the county.<sup>197</sup> Wayne County comprises 17.5 percent of the state's total population but nearly half of its Black population. Another suit sought to invalidate<sup>198</sup> the results in two counties, Wayne and Washtenaw, home to the University of Michigan and its nearly 47,000 students.<sup>199</sup> The Michigan Welfare Rights Organization responded to these postelection efforts to suppress votes by filing a suit against President Trump and his campaign under Section 11(b) of the Voting Rights Act.<sup>200</sup> The suit alleged that pressure on state and local officials not to certify the results constituted illegal intimidation intended to disenfranchise Black voters.<sup>201</sup>

**Pennsylvania:** Voting rights opponents filed 19 lawsuits in Pennsylvania seeking to invalidate votes and force election administrators to allow poll watchers unfettered access to ballot-counting sites, with several suits targeting Philadelphia, which is racially diverse.<sup>202</sup> The allegations centered largely on false conspiracy theories about fraud. The Trump campaign alone filed seven lawsuits directed exclusively at Philadelphia, whose population is 66 percent non-white.<sup>203</sup> All of the suits fell flat, but Trump pursued them all the way to the U.S. Supreme Court.<sup>204</sup>

**Wisconsin:** The Trump campaign paid \$3 million for recounts in diverse Milwaukee County and in Dane County, home to a large student population, but did not request recounts in the rest of the state, which is largely white.<sup>205</sup> Dane County is home to Madison — which has many college-age voters — while Milwaukee County has Wisconsin's largest Black population.<sup>206</sup> Together, the two counties have almost 75 percent of the state's Black population.<sup>207</sup> Three individual voters also sued in federal court on November 12, seeking to exclude results from Menominee (82 percent Native American),<sup>208</sup> Milwaukee, and Dane Counties on the grounds that absentee voting produced extensive fraud. Black leaders in Wisconsin expressed growing outrage at the targeted lawsuits, comparing them to Reconstruction-era voter intimidation.<sup>209</sup>

## B. Attempts to Overturn the Election by Threatening Election Officials

**Georgia:** In a particularly disturbing — and likely illegal — incident, President Trump called Georgia Secretary of State Brad Raffensperger and pressured him to throw out votes and reverse the results of the election, while making thinly veiled racist remarks about Black local election officials.<sup>210</sup> President Trump also made a phone call to the chief elections investigator in the secretary of state's office, urging her to uncover “dishonesty.”<sup>211</sup> Trump's calls

followed similar efforts by Senator Lindsey Graham, who also called Secretary Raffensperger.<sup>212</sup> Georgia prosecutors have opened a criminal investigation into the calls.<sup>213</sup>

**Michigan:** President Trump pressured Republican members of the Michigan State Board of Canvassers and the board of canvassers for Wayne County, where Detroit is located, to refuse to certify Michigan's election results.<sup>214</sup> The two Republican members of the Wayne County Board of County Canvassers initially voted not to certify the results, claiming that many Detroit precincts' numbers of voters who signed in to polling places did not align with numbers of ballots present.<sup>215</sup> Notably, while the Republican members objected to certifying the results in majority-Black Detroit, they did not object to the results in other, overwhelmingly white cities in Wayne County, such as Livonia.<sup>216</sup> The two Republican members later voted to certify after significant criticism and accusations of disenfranchising Black voters. Additionally, armed protesters and credible threats of violence forced a government office in Detroit to close temporarily.<sup>217</sup> The Michigan Welfare Rights Organization lawsuit described above also included allegations that President Trump and the Trump campaign intimidated, threatened, and coerced state and local officials during the vote counting and certification process, in violation of the Voting Rights Act.<sup>218</sup>

## C. New Restrictive Voting Legislation

**Arizona:** Arizona enacted a series of new laws that could have a disparate impact on voters of color while also engaging in a questionable audit process based on false and racist narratives about fraud. Arizona passed three new laws to restrict voting access. Together, these laws make it more difficult to remain on Arizona's absentee voter list, impose stricter ID requirements for voting by mail, and expand the use of voter roll purges based on questionable data.<sup>219</sup> These three bills come against the backdrop of Arizona's controversial “audit” of the election results in Maricopa County, Arizona's largest county and home to a substantial portion of its voters of color.<sup>220</sup> At the same time that her chamber was advancing restrictive voting bills, Arizona State Senate President Karen Fann was hiring a firm run by conspiracy theorists with a long history of trafficking in racist lies about voter fraud to review the results in Maricopa County, even though two substantive audits had already found no discrepancies.<sup>221</sup> Unfortunately, Arizona's simultaneous efforts to advance restrictive voting bills while engaging in questionable audit practices seem to have started a trend, as at least four other states have begun similar audit efforts, in some cases targeting areas with large communities of color.<sup>222</sup>

**Florida:** Florida enacted an omnibus elections bill that restricts access to voting in several ways that will disproportionately harm communities of color. In 2020, more than twice as many Black voters voted by mail in Florida as in 2016.<sup>223</sup> Legislators responded with Senate Bill 90, which adds new and burdensome identification requirements for voters requesting mail ballots, limits the use of mail ballot drop boxes, and makes it more difficult to return a friend's or neighbor's mail ballot for them.<sup>224</sup> The bill also creates a new vague and broad criminal offense for certain activity within 150 feet of polling places, including providing water or snacks to voters.<sup>225</sup> This provision will be particularly harmful to Black and Latino voters, who are more likely to experience long lines at polling places.<sup>226</sup> Hours after the legislature passed the bill, Florida Governor Ron DeSantis appeared on a Fox News town hall to declare that the notion of ongoing or systemic racism in the United States was “a bunch of horse manure.”<sup>227</sup>

**Georgia:** Georgia enacted an omnibus elections bill that restricts access to voting in several ways that seem aimed at communities of color. Georgia's law, S.B. 202, incorporates elements of at least 16 other bills that Georgia legislators had previously introduced.<sup>228</sup> The bill tightens mail voting ID requirements, shortens the window to apply for a mail ballot, restricts the use of mail ballot drop boxes, effectively reduces early voting in many counties, affirmatively sanctions mass challenges to voter eligibility, ends out-of-precinct voting, allows the removal of local election officials, and criminalizes the act of giving snacks or water to voters waiting in line.<sup>229</sup> Many of these provisions, such as the limitations on out-of-precinct voting and drop boxes, seem particularly aimed at communities of color in Georgia's largest and most diverse counties.<sup>230</sup>

Georgia enacted this bill amidst a backdrop of racially inflammatory statements about the 2020 presidential election and the 2021 U.S. Senate runoffs. In the months before the election, Georgia House Speaker David Ralston warned that expanded mail voting would be “extremely devastating to Republicans and conservatives.”<sup>231</sup> These statements became more direct after the election. For instance, after Election Day, Senator Lindsey Graham asked Georgia Secretary of State Brad Raffensperger if he could discard *all* mail ballots in counties with high rates of signature mismatch, an issue that disproportionately impacts people of color.<sup>232</sup> Senator Graham had previously stated that if “Republicans don't challenge and change the U.S. election system, there will never be another Republican president elected again.”<sup>233</sup> Even more explicitly, Trump campaign attorney Rudy Giuliani compared a Black Fulton County election worker, Shaye Moss, and her mother, Ruby Freeman, who had worked on the election as a temp, to drug dealers, calling for them to be questioned and their workplaces and homes to be searched.<sup>234</sup> President Trump mentioned Freeman's name 18 times during a call with Raffensperger, during which he pressured the secretary of state to alter the Georgia election results, falsely claiming that she had scanned the same set of ballots three times.<sup>235</sup> And Trump's sons Eric and Donald Jr. amplified a video on social media of Lawrence Sloan, a Black temporary election worker in Fulton County, that falsely accused him of throwing away a mail-in ballot.<sup>236</sup>

In June 2021, the Department of Justice determined that S.B. 202 was likely enacted with discriminatory intent and filed a lawsuit alleging that several provisions of the bill were adopted with the purpose of infringing on the right to vote on account of race and that Georgia lawmakers knew of the cumulative and discriminatory effect of the laws when voting to adopt them.<sup>237</sup>

## VIII. Conclusion

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In the weeks and months after the 2020 election was finally resolved, American democracy continued to face new threats. As Congress met to certify the Electoral College results on January 6, 2021, President Trump gave a speech to a predominantly white mob in front of the White House that then stormed the Capitol, resulting in five deaths, injuries to more than 100 Capitol Police officers, and hundreds of arrests.

And as state legislatures began to convene in January and February, legislators embarked on an aggressive effort to shrink the electorate with new restrictive voting legislation. Many of these new state voting laws will disproportionately harm communities of color.<sup>238</sup>

These efforts to overturn the election results through violence and to alter the law to restrict access to the vote must be seen as logical next steps in a long campaign to spread lies about voter fraud and suppress the votes of people of color. Voter suppression in the 2020 election, the

attempt to overthrow our democracy on January 6, and the new wave of voter suppression legislation across the country in 2021 all stem from the same big lie: that when communities of color effectively make their voices heard at the ballot box, there must be some kind of underlying fraud.

This same pernicious lie has animated voter suppression efforts ever since Reconstruction. Swift federal action is necessary for our country to defeat this anti-democratic and racist myth and ensure the Constitution's guarantee of the franchise to all eligible Americans.

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The Brennan Center’s Democracy Program encourages broad citizen participation by promoting voting and campaign finance reform. We work to secure fair courts and to advance a First Amendment jurisprudence that puts the rights of citizens — not special interests — at the center of our democracy. We collaborate with grassroots groups, advocacy organizations, and government officials to eliminate the obstacles to an effective democracy.

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