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DEMOCRACY DEFENDED



Voters wait in line outside their Philadelphia, Pennsylvania polling place on Election Day 2020. Volunteer photo



An election worker tires to explain to election challengers that the Detroit Department of Elections Central Counting Board Voting at TCF Center is at capacity for challengers, Wednesday, Nov. 4, 2020 in Detroit, MI. Kent Nishimura / Los Angeles Times via Getty Images

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COVER IMAGES: (top) A group of voters lining up outside the 3rd May 1966 polling station, a Sugar Shack small store, in Peachtree, Alabama, after the Voting Rights Act was passed the previous year, . Photo by MPI/Getty Images (bottom) People wait in line to participate in early voting on October 31, 2020 in Greenville, South Carolina. Photo by Sean Rayford/Getty Images

DEMOCRACY WAS ON THE BALLOT IN 2020.

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Protesters gather on the second day of pro-Trump events fueled by President Donald Trump's continued claims of election fraud in an attempt to overturn the results before Congress finalizes them in a joint session of the 117th Congress on Wednesday, Jan. 6, 2021 in Washington, DC. Kent Nishimura / Los Angeles Times via Getty Images

EXECUTIVE SUMMARY

DEMOCRACY DEFENDED

EXECUTIVE SUMMARY

Democracy was on the ballot in 2020. Voters of every race, creed, and color turned out in record numbers despite a life-threatening pandemic, hurricanes in several states, and threats of violence at the polls.¹ The President of the United States, Donald Trump, repeatedly told voters that the election was rigged and that our elections systems were not to be trusted.² Still, voters engaged and elected the first female Vice-President of the United States, who is also the first Vice-President of African and Asian descent.³ The State of Georgia elected its first Black and first Jewish U.S. Senators.⁴ The news media, politicians, and local elections officials rushed to laud the elections as smooth running. But they failed to adequately recognize the Herculean efforts and billions of dollars required to ensure the elections were secure and to counter widespread efforts to disenfranchise voters of color, the young, and persons with disabilities.

¹ See, *2020 November General Election Turnout Rates*, U.S. Election Project, <http://www.electproject.org/2020g> (last updated Dec. 7, 2020).

² Hayley Miller, *Trump Claimed Election 'Rigged' Or 'Stolen' Over 100 Times Ahead Of Capitol Riot*, HuffPost (Feb. 8, 2021), https://www.huffpost.com/entry/trump-rigged-stolen-capitol-riot_n_602188e2c5b6173dd2f88c4f; For similar earlier assertions, see Nate Cohn & Toni Monkovic, *Trump Strategy: Win 3 Key States, and Warn About 'Rigged' Election*, N.Y. Times (Aug. 3, 2016), <https://www.nytimes.com/2016/08/04/upshot/trump-strategy-win-3-key-states-and-warn-about-rigged-election.html?searchResultPosition=2>.

³ Lauren Camera, *Kamala Harris Makes History as First Female Vice President*, U.S. News & World Report (Jan. 20, 2021), <https://www.usnews.com/news/elections/articles/2021-01-20/kamala-harris-becomes-first-female-vice-president>.

⁴ Greg Bluestein, *Democrats sweep Georgia's runoff, flip control of U.S. Senate*, Atlanta J.-Const. (Jan. 6, 2021), <https://www.ajc.com/politics/democrats-sweep-georgias-runoffs-flip-control-of-us-senate/CMV-2J37IMBBOHAUG2QOO4YP45M/>.

While President Trump aggressively pursued his false narrative that the election had been stolen, leading members of his Administration were declaring that the election had been secure and there was no election fraud of any consequence. These Administration officials included the Attorney General and the Department of Homeland Security's cybersecurity expert.⁵ Courts throughout the land rejected 63 lawsuits that were mostly based on specious claims of fraud and procedural malfeasance.⁶

We witnessed coordinated efforts to disenfranchise millions of voters of color that began months, even years, before the election. These actions escalated in ways that were appalling and shocking but not new in the course of U.S. history. Election 2020 and its aftermath made it obvious that democracy in the United States is teetering on a razor's edge.

The efforts to deny the democratic exercise of political power by Black voters took many forms.

⁵ Mary Louise Kelly, *Barr Says No Election Fraud Has Been Found By Federal Authorities*, NPR (Dec. 1, 2020), <https://www.npr.org/2020/12/01/940819896/barr-says-no-election-fraud-has-been-found-by-federal-authorities>; Press Release, Joint Statement from Elections Infrastructure Government Coordinating Council & the Election Infrastructure Sector Coordinating Executive Committees, Cybersecurity & Infrastructure Sec. Agency (Nov. 12, 2020), <https://www.cisa.gov/news/2020/11/12/joint-statement-elections-infrastructure-government-coordinating-council-election>.

⁶ Amy Sherman & Miriam Valverde, *Joe Biden is right that more than 60 of Trump's election lawsuits lacked merit*, PolitiFact, Poynter Inst. (Jan. 8, 2021), <https://www.politifact.com/factchecks/2021/jan/08/joe-biden/joe-biden-right-more-60-trumps-election-lawsuits-1/>; see also *Voting Rights Litigation 2020, Court Case Tracker*, Brennan Ctr for Just. (July 28, 2020, updated Jul. 8, 2021), <https://www.brennancenter.org/our-work/court-cases/voting-rights-litigation-2020>.

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They included spurious allegations of widespread voter fraud in mostly urban locations with large Black populations;⁷ demands for expensive, unwarranted recounts;⁸ attempts to decertify thousands of valid ballots cast by people of color;⁹ requests by a sitting President to “find” the votes to overturn the election results;¹⁰ a violent attempted coup at the U.S. Capitol by rioters adorned with Trump flags, racist symbols, and attire of white supremacist organizations¹¹ (encouraged and egged on by the then-President) in which five people died;¹² 147 Republican members of the Congress voting not to certify the election results;¹³ and the

7 Mark Niquette & Gregory Korte, *Trump Challenge to Election Results Hits Hardest at Black Voters*, Bloomberg (Nov. 21, 2020), <https://www.bloomberg.com/news/articles/2020-11-21/trump-challenge-to-election-results-hits-hardest-at-black-voters>; Kristine Phillips, ‘Damaging to our democracy’: Trump election lawsuits targeted areas with large Black, Latino populations, USA Today (Dec. 1, 2020), <https://www.usatoday.com/story/news/politics/2020/12/01/trump-voter-fraud-claims-target-counties-more-black-latino-votes/6391908002/>.

8 Stephen Fowler, *Trump Requests Georgia Recount, Meaning 5 Million Votes Will Be Tabulated A 3rd Time*, NPR (Nov. 22, 2020), <https://www.npr.org/sections/biden-transition-updates/2020/11/22/937739336/trump-requests-georgia-recount-meaning-5-million-votes-will-be-tabulated-a-3rd-t>; Mayra Monroy & Rebecca Klopff, *Trump campaign officially requests recount in two Wisconsin counties*, WTMJ-TV MILWAUKEE (Nov. 18, 2020), <https://www.tmj4.com/news/election-2020/trump-campaign-officially-requests-recounts-in-two-wisconsin-counties>; Toluse Olorunnipa & Michelle Ye Hee Lee, *Trump’s election fraud falsehoods have cost taxpayers \$519 million — and counting*, Wash. Post (Feb. 6, 2021), <https://www.washingtonpost.com/politics/interactive/2021/cost-trump-election-fraud/>.

9 Niquette & Korte, *supra* note 7; Phillips, *supra* note 7.

10 Amy Gardner, ‘I just want to find 11,780 votes’: In extraordinary hour-long call, Trump pressures Georgia secretary of state to recalculate the vote in his favor, Wash. Post (Jan. 3, 2021), https://www.washingtonpost.com/politics/trump-raffensperger-call-georgia-vote/2021/01/03/d45acb92-4dc4-11eb-bda4-615aefd0555_story.html.

11 Lauren Leatherby et al., *How a Presidential Rally Turned Into a Capitol Rampage*, N.Y. Times (Jan. 12, 2021), <https://www.nytimes.com/interactive/2021/01/12/us/capitol-mob-timeline.html>.

12 Eric Levenson et al., *What we know about the 5 deaths in the pro-Trump mob that stormed the Capitol*, CNN (Jan. 8, 2021), <https://www.cnn.com/2021/01/07/us/capitol-mob-deaths/index.html>; Cristina Marcos, *Second police officer dies by suicide after Capitol attack*, Hill (Jan. 27, 2021), <https://thehill.com/homenews/house/536189-second-police-officer-dies-by-suicide-after-capitol-attack>.

13 Karen Yourish et al., *The 147 Republicans Who Voted to Overturn Election Results*, N.Y. Times (Jan. 7, 2021), <https://www.nytimes.com/interactive/2021/01/07/us/elections/electoral-college-biden-objectors.html>

impeachment but acquittal of the then-President for inciting an insurrection to stop the peaceful transfer of power¹⁴ (a fundamental tenet of U.S. democracy).

As we are publishing this report, we are seeing a massive effort by lawmakers across the nation to stop people from voting – particularly people of color. These efforts are fueled by the false narrative of voter fraud. As of May 14, 2021, state legislators in 48 states had introduced 389 bills with provisions that restrict voting access and at least 22 restrictive bills have already been enacted.¹⁵ The potential for devastating impact was illustrated on March 25, 2021, when Georgia’s legislature hurriedly passed voter suppression legislation that Governor Brian Kemp immediately signed into law. This provision places new restrictions on absentee/mail-in voting and drop-box submissions, bars the use of mobile voting vans, allows for limitless challenges to voter registration and eligibility, and makes it illegal for organizations to provide food and water to individuals waiting in line to vote.¹⁶ These restrictions will disproportionately disenfranchise voters of color.

(right, top) Election challengers demand to enter to observe the absentee ballots counting but were denied after the room reached capacity during the 2020 general election in Detroit, Michigan on Wednesday, Nov. 4, 2020. Photo by Salwan Georges/The Washington Post via Getty Images (right, bottom) Election workers process a final stretch of absentee ballot counting at the Detroit Department of Elections Central Counting Board of Voting absentee ballot counting center at TCF Center, Wednesday, Nov. 4, 2020 in Detroit, MI. Kent Nishimura / Los Angeles Times via Getty Images

14 See Impeachment of Donald Trump, 2021, Ballotpedia, https://ballotpedia.org/Impeachment_of_Donald_Trump,_2021.

15 State Voting Bills Tracker 2021, Brennan Ctr for Just. (published Feb. 24, 2021, last updated May. 28, 2021) <https://www.brennancenter.org/our-work/research-reports/state-voting-bills-tracker-2021>.

16 Amy Gardner & Amy B Wang, *Georgia governor signs into law sweeping voting bill that curtails the use of drop boxes and imposes new ID requirements for mail voting*, Wash. Post (Mar. 25, 2021), https://www.washingtonpost.com/politics/georgia-voting-restrictions/2021/03/25/91009e72-8da1-11eb-9423-04079921c915_story.html; Nick Corasaniti & Reid J. Epstein, *Georgia G.O.P. Fires Opening Shot in Fight to Limit Voting*, N.Y. Times (Mar. 26, 2021), <https://www.nytimes.com/2021/03/26/us/politics/voting-rights-laws-georgia.html?searchResultPosition=1>.



Voting Rights for Black Citizens Leading the Way to Democracy in the U.S.

Securing, advancing, and protecting the right to vote for African Americans, other communities of color, and women has been a cornerstone of the fight to build a true democracy in the United States. The NAACP Legal Defense and Educational Fund (LDF) has been a leader in this fight since its founding in 1940 by Thurgood Marshall. LDF's defense of democracy includes the successful challenge to whites-only primaries in *Smith v. Allwright* in 1944.¹⁷ That case helped increase the abysmally low number of Black people registered to vote. Black registration had been driven down to virtually zero by disenfranchising southern state constitutions and violence in response to high levels of Black voter registration and political participation during and after Reconstruction.¹⁸ Despite *Allwright*, however, the number of Black registered voters in the South remained shockingly low until the passage of the Voting Rights Act of 1965.¹⁹ The Act, which enabled huge advances in Black voter registration, was the culmination of the bravery of civil rights protesters in 1965 who were attacked on “Bloody

17 *Smith v. Allwright, Election Judge, et al.*, 321 U.S. 649 (1944).

18 John Lewis & Archie E. Allen, *Black Voter Registration Efforts in the South*, 48 *Notre Dame L. Rev.* 105, 108–09 (1972), <http://scholarship.law.nd.edu/ndlr/vol48/iss1/6>; Bernard Grofman, Lisa Handley, & Richard Niemi, *Minority Representation and the Quest for Voting Equality* (1992); Leon F. Litwack, *Been in the Storm So Long: The Aftermath of Slavery* 545–56 (Alfred A. Knopf 1979); Richard H. Pildes, *Democracy, Anti-Democracy, and the Canon*, 17 *Const. Comment.* 295, 299–301 (2000), <https://scholarship.law.umn.edu/concomm/893>; see also *id.* at 296 n. 3; Landmark: *Smith v. Allwright* | Political Participation, LDF, <https://www.naacpldf.org/case-issue/landmark-smith-v-allwright> (last visited May 13, 2021).

19 See e.g., Richard H. Pildes, *The Politics of Race*, 108 *Harv. L. Rev.* 1359, 1360, 1360 n. 10 (1995) (a book review of *Quiet Revolution in the South: The Impact of The Voting Rights Act, 1965-1990*, (Chandler Davidson & Bernard Grofman, eds., 1994) (“The most dramatic example of the immediate effectiveness of the Act [came] from Mississippi, where the Black registration rate soared from 6.7% to 59.4% within three years of the Act’s passage.”).

Sunday” as they marched across the Edmund Pettus Bridge outside Selma, Alabama and who marched from Selma to Montgomery to demand full voting rights with legal representation provided by LDF attorneys.²⁰

After the Voting Rights Act was adopted, the Department of Justice litigated critical voting rights cases such as *South Carolina v. Katzenbach* (preclearance provisions of the Act were constitutional)²¹ and *Katzenbach v. Morgan* (Congress had the power to adopt the language provisions of the Act)²² in the U.S. Supreme Court to establish and ground the Act with the strong imprimatur of the Supreme Court. Over the years, LDF also litigated many critical voting rights cases, including the landmark case *Thornburg v. Gingles* (1982 amendments to Section 2 of the Act were enforceable),²³ to give meaningful interpretations to the application of the Act.

In 2013, LDF’s democracy work gained a particular urgency after the U.S. Supreme Court decision in *Shelby County v. Holder* (*Shelby County*)²⁴ dealt a devastating blow to the Voting Rights Act. Section 5 of the Act had required those states with long histories of voting discrimination — largely the former Confederate states — to

20 Tom Wicker, *Johnson Urges at Joint Session to Pass Law Insuring Negro Vote*, *N.Y. Times*, Mar. 16, 1965, at p. 1, <https://static01.nyt.com/images/blogs/learning/pdf/2015/03161965johnsonspeechLN.pdf>; David J. Garrow, 3. *Selma and the Voting Rights Act: Crisis and Denouement, in Protest at Selma: Martin Luther King, Jr., and the Voting Rights Act of 1965* 78-132 (1978); Christopher Klein, *How Selma’s ‘Bloody Sunday’ Became a Turning Point in the Civil Rights Movement: The assault on civil rights marchers in Selma, Alabama helped lead to the Voting Rights Act*, *Hist. Channel* (Mar. 6, 2015, updated July 18, 2020), <https://www.history.com/news/selma-bloody-sunday-attack-civil-rights-movement>.

21 *South Carolina v. Katzenbach*, 383 U.S. 301 (1966).

22 *Katzenbach v. Morgan*, 384 U.S. 641 (1966).

23 *Thornburg v. Gingles*, 478 U.S. 30 (1986).

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

obtain preclearance by the Department of Justice before implementing new voting laws. It had been critical to preventing countless voter suppression measures over many decades. In the *Shelby County* case, the Supreme Court invalidated the formula that determined which states would be covered by Section 5, effectively ending preclearance.

The elimination of Section 5 preclearance resulted in states immediately — indeed within hours of the *Shelby County* decision — imposing previously barred measures to restrict access to the ballot for Black and Latinx voters.²⁵ Since the *Shelby County* decision, at least 19 states have implemented restrictive voter identification laws and/or shortened early voting periods.²⁶ Polling place closures nationwide also grew, with closures in jurisdictions previously subject to Section 5 showing an alarming tendency to have a disproportionately negative impact on communities of color.²⁷ These measures and more lead to long lines at the polls, especially in communities of color, and narrow the opportunities for safe and easy voting, which are key means by which voter suppression occurs.

With each election cycle since 2013, voter suppression activity has increased dramatically.²⁸

25 Michael Cooper, *After Ruling, States Rush to Enact Voting Laws*, *N.Y. Times* (July 5, 2013), <https://nyti.ms/12rWFZb> [<https://perma.cc/95NQ-8D38>].

26 Naomi Lim, *Democrats push to regulate voting rules in 11 states under new Voting Rights Act*, *Wash. Examiner* (Feb. 26, 2019), <https://www.washingtonexaminer.com/news/democrats-push-to-regulate-voting-rules-in-11-states-under-new-voting-rights-act>.

27 Leadership Conference Educ. Fund, *Democracy Diverted: Polling Place Closures and the Right to Vote* (2019), <http://civilrightsdocs.info/pdf/reports/Democracy-Diverted.pdf>; see also Carrie Levine, Pratheek Rebala & Matt Vasilogambros, *National Data Release Sheds Light on Past Polling Place Changes*, *Ctr for Pub. Integrity* (Sept. 29, 2020), <https://publicintegrity.org/politics/elections/data-release-sheds-light-on-past-polling-place-changes/>.

28 LDF, *Democracy Defended: Analysis Of Barriers To Voting In The 2018 Midterm Elections*, <https://naacpldf.org/wp-content/uploads/Democracy-Defended-9-6-19-final.pdf>; Thurgood Marshall Institute | LDF, *Democracy Diminished: State and Local Threats to Voting Post-Shelby County, Alabama v. Holder 1* (2016), <https://www.naacpldf.org/wp-content/uploads/Democracy-Diminished-State-and-Local-Threats-to-Voting-Post-Shelby-County-Alabama-v-Holder.pdf>.

“
With each election cycle since 2013, voter suppression activity has increased dramatically.”

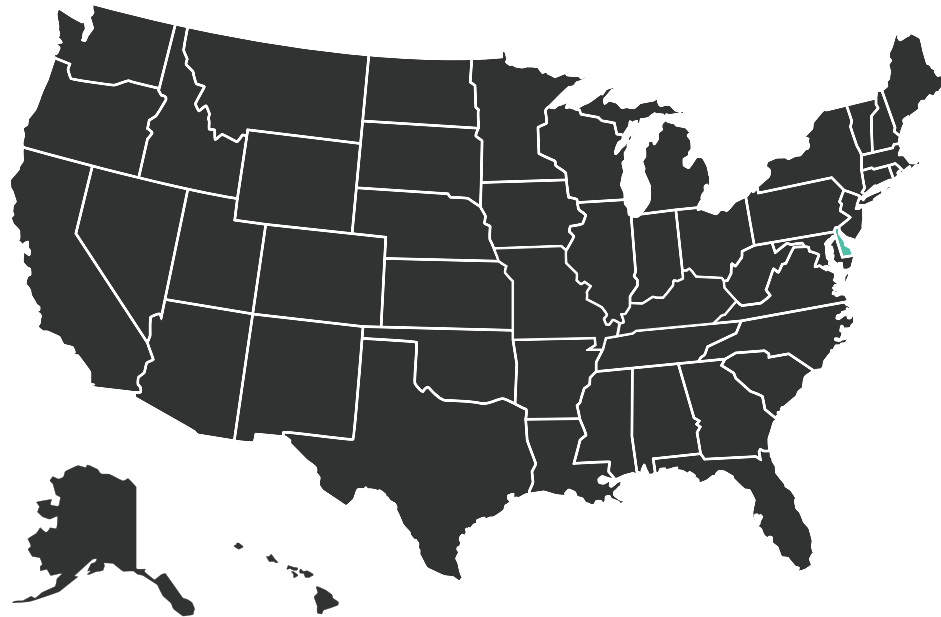
Voter Suppression since 2013 *Shelby County* decision

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Far from being measured reactions to discernible problems, recent voter suppression efforts are rooted in the worst traditions of the nation and are a reprise of earlier days. Throughout our history, expansions of political participation by Black citizens have been followed by reactionary measures designed to negate that hard-won progress.²⁹ Without the full protection of the Voting Rights Act, the nation has lost the critical

role of the federal government (through the Department of Justice oversight mechanism) in stopping these dangerous rollbacks of voting rights and fundamental threats to democracy. It fell to nonprofit organizations such as LDF and thousands of individuals to fill the void.

IN 2021 ALONE, 400+ VOTER SUPPRESSION BILLS HAVE BEEN INTRODUCED IN 49 STATES.



SOURCE: BRENNAN CENTER FOR JUSTICE AT THE NEW YORK UNIVERSITY SCHOOL OF LAW

²⁹ Ben Jealous & Ryan Haygood, *The Battle to Protect the Vote: Voter Suppression Efforts in Five States and Their Effect on the 2014 Midterm Elections*, Ctr for Am. Progress, et al. 18 (2014), <https://www.naacpldf.org/wp-content/uploads/The-Battle-to-Protect-the-Vote-1.pdf>.

(top to bottom) Voters waiting in long lines outside Alabama polling locations on Election Day 2020. Volunteer photos



LDF's 2020 Nonpartisan Election Engagement

The 2020 elections may have *appeared* to run smoothly in large part due to the efforts of legions of nonprofit organizations, advocates, volunteers, law firms, corporations, donors, honest elections officials, and determined voters. At LDF, we prepared for months to challenge systemic barriers to voting that serve to disenfranchise large numbers of Black voters. We also prepared the largest voter education and advocacy campaign in our history.

This report describes LDF's Election 2020 operations to address voter suppression and protect voters. Our operations had components with national scope but focused primarily on 10 states — Alabama, Florida, Georgia, Kentucky, Louisiana, Michigan, Mississippi, Pennsylvania, South Carolina, and Texas — most of which were subject to Section 5 Voting Rights Act oversight before *Shelby County*. We also engaged on a more limited basis in Arkansas, District of Columbia, Connecticut, Maryland, Missouri, New York, North Carolina, Virginia, and Wisconsin. We worked in partnership with many national, state, and local voting rights organizations. Internally, our 2020 election operation required the joint efforts of LDF's Litigation, Policy, Communications, Development, IT, and Finance departments, as well as the Thurgood Marshall Institute (TMI)—LDF's multi-disciplinary center for research, public education, and advocacy—which shepherded non-litigation state advocacy, voter education, and election protection work for the 2020 primaries and general election.

LDF has monitored elections for decades and is a founding member of the Election Protection Coalition (1-866-OUR-VOTE) operated by the

Lawyers Committee for Civil Rights Under Law. Our non-litigation voter protection program — *Prepared to Vote* (PTV) — is a nonpartisan voter education and advocacy program that LDF has operated since 2008. Historically, PTV has seen a majority of LDF staff, along with state and local volunteers, operate on-the-ground shortly in advance of elections and on Election Day. They ensured voters had the information to help them overcome common barriers to voting, such as how to register, ID requirements, polling place locations and times of operation, how to track and cure a ballot, or address a wrongful purge. LDF staff and our PTV volunteers also engaged state and local elections officials to address both generic and voter-specific actions during elections that suppress the vote and disenfranchise voters.

In late 2019, LDF's Thurgood Marshall Institute launched the *Voting Rights Defender* (VRD) project to significantly augment the PTV program with the ability to identify voter suppression efforts year-round and to take prompt, responsive action to eliminate them. Our goal was to step in where the significant footprint of the Justice Department's Section 5 voting rights work had disappeared after the *Shelby County* decision. While we alone could never come close to replacing the Department of Justice, we believed we could make a difference. We sought out the resources to stand up an operation with nine new staff members and to partner with others to engage in this work.

As a result of critical partnerships — especially with the [Poor People's Campaign](#) (PPC), [Forward Justice](#) (FJ), the [Election Protection Coalition](#) run by the [Lawyers' Committee for Civil Rights Under Law](#), [More Than a Vote](#), state and local partner organizations, and many others — our PTV/VRD 2020 campaign had significant reach. These efforts greatly increased our number of



Hattiesburg, Mississippi, Election Day 2020. Volunteer photo

LDF ELECTION ADVOCACY

1300+

VOLUNTEER POLL MONITORS

42,500

POLL WORKERS RECRUITED

LDF LITIGATION

NAACP v. USPS

People First of Alabama v. Merrill

Power Coalition v. Edwards

Michigan Welfare Rights Organization v. Donald J. Trump and Republican National Committee

Mays v. Thurston

Harding v. Edwards

Thomas v. Andino

Allen v. Graham

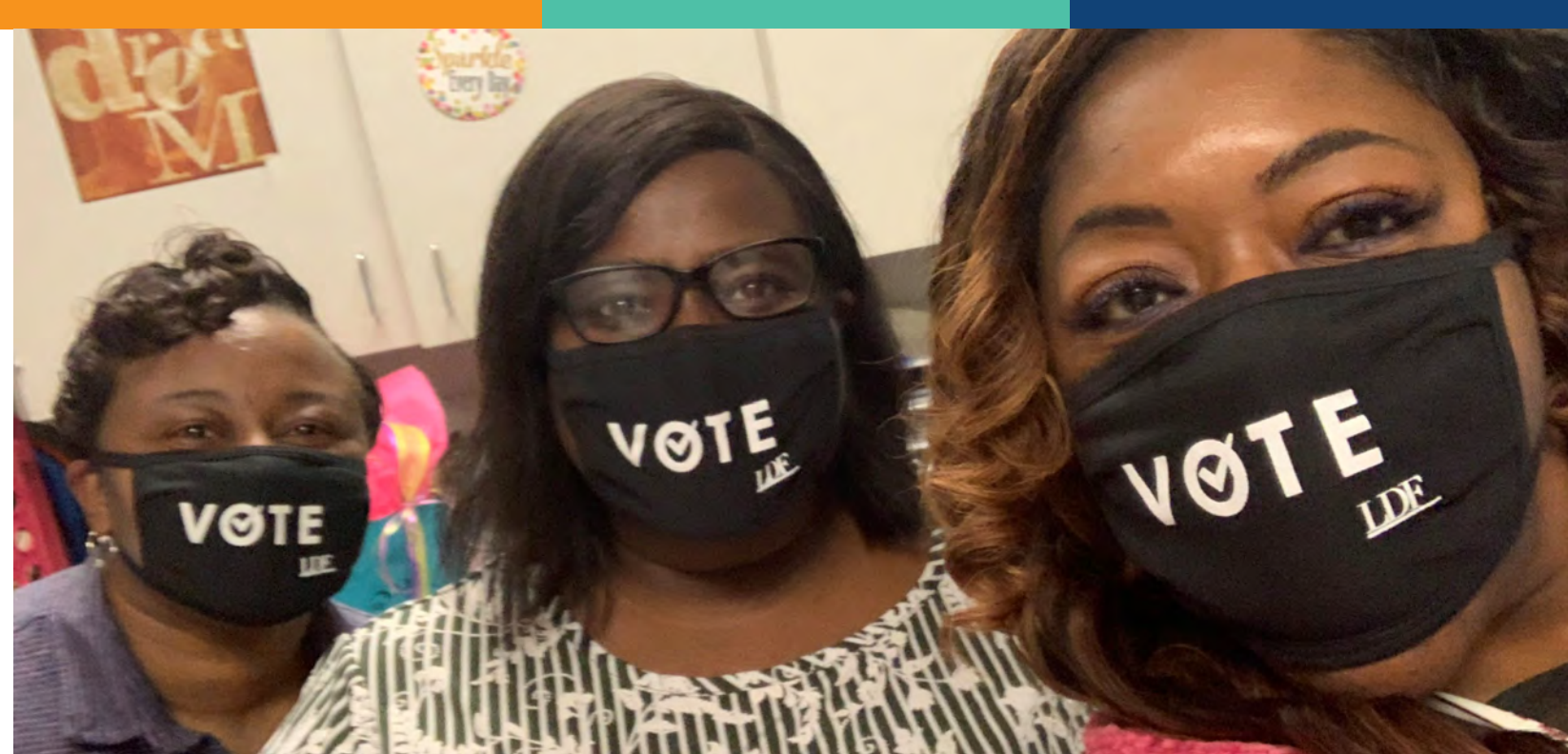
volunteer poll monitors to over 1,300 and enabled the recruitment of over 42,500 poll workers. In addition, we had hundreds of law firm volunteers to animate our remote monitoring of voter suppression activity.

LDF staff worked on integrated state teams with PPC/FJ staff to provide training and remote support for partner organizations and volunteers. We focused on states where LDF litigation and advocacy have successfully opened opportunities for greater participation for Black voters and other voters of color. In 2020, we also added nonpartisan get-out-the-vote campaigns that allowed us to send our nonpartisan voter education materials directly to millions of voters in our target states. We also provided personal protective equipment (PPE) to one million voters. In 2020, the VRD team identified barriers to voting in our core states and took action to remove those barriers *before* the election.

After we learned of the extensive foreign interference in the 2016 elections, particularly that aimed at Black voters, LDF’s Policy staff worked to ensure that states were able to adopt and implement ballot security measures. Our efforts were successful after Congress appropriated additional funding to support the 2020 elections. Specifically, \$425 million in new Help America Vote Act (HAVA) Election Security Funds, was authorized and subsequently approved to cover state election security expenditures necessitated by the pandemic.³⁰ Additionally, as part of the Coronavirus Aid, Relief, and Economic Security (CARES) Act, \$400 million was appropriated specifically for COVID-19-related election expenses.³¹

30 Consolidated Appropriations Act, Pub. L. No. 116-93, 133 Stat 2317 (2019).

31 Coronavirus Aid, Relief, & Economic Security Act (CARES Act), Pub. L. No. 116-136, 134 Stat 281, 530 (2020).



Nonpartisan poll monitors in Hattiesburg, Mississippi for the 2020 general election. Volunteer photo

In addition, throughout the 116th Congress, LDF worked for passage of the Voting Rights Advancement Act of 2019 (H.R. 4 and S. 561), later renamed the John R. Lewis Voting Rights Advancement Act, which would restore the Voting Rights Act preclearance formula in accordance with the *Shelby County* decision. We also worked to secure passage of the For the People Act of 2019 (H.R.1 and S.1), which would expand access to the voting box, increase penalties for voter intimidation, and advance major campaign finance reform. The work to advance these critical voting rights bills has continued in the 117th Congress.

LDF’s litigators filed numerous lawsuits in our target states in the runup to the 2020 elections challenging onerous voter ID laws, limited access or burdensome requirements for mail ballots during a pandemic, attempts to deny the franchise to returning citizens, and other systemic barriers to voter access. In a significant number of cases, we got some relief from the most restrictive measures, but we faced a hostile U.S. Supreme Court that repeatedly refused to protect the right to

vote.³² Justice Sotomayor described the Supreme Court’s decisions as a “trend of condoning disenfranchisement.”³³

We had tremendous success in a legal challenge to the attempt at widespread suppression by an intentional slowdown at the United States Postal Service (USPS) that threatened the timely delivery of absentee and vote-by-mail ballots nationwide.³⁴ Shortly after Louis DeJoy was appointed

32 Wendy Weiser & Daniel Weiner, Opinion-Editorial, *The Supreme Court’s “Breathtakingly Radical” New Approach to Election Law*, Politico (Nov. 22, 2020), <https://www.politico.com/news/magazine/2020/11/22/supreme-court-election-law-voting-rights-438844>; Emmett Witkovsky-Eldred & Nina Totenberg, *As Concerns About Voting Build, The Supreme Court Refuses To Step In*, NPR (July 25, 2020), <https://www.npr.org/2020/07/25/895185355/as-concerns-about-voting-build-the-supreme-court-refuses-to-step-in>.

33 *Raysor v. DeSantis*, 591 U.S. ____ (2020), July 16, 2020, https://www.supremecourt.gov/opinions/19pdf/19a1071_4h25.pdf (Sotomayor, J. dissenting).

34 Jason Bogue, *Postal Service memos detail ‘difficult’ changes, including slower mail delivery*, Wash. Post (July 14, 2020), <https://www.washingtonpost.com/business/2020/07/14/postal-service-trump-dejoy-de-lay-mail/>; Jason Bogue & Christopher Ingraham, *Swing-state voters face major mail delays in returning ballots on time, USPS data shows*, Wash. Post (Oct. 30, 2020), <https://www.washingtonpost.com/business/2020/10/30/postal-service-absentee-ballots-2020-election/>; Complaint for Declaratory and Injunctive Relief, *NAACP v. USPS*, No. 20-2295 (D.D.C. Aug. 20, 2020), ECF No. 1, <https://www.naacpldf.org/wp-content/uploads/1-Complaint.pdf>.

Postmaster General in May of 2020,³⁵ the USPS imposed changes in its mail delivery policies,³⁶ bypassing legally required procedures to ensure accountability and an opportunity for public comment. These changes led to widespread delays in mail delivery across the nation when it mattered most: during a global pandemic when people were relying on the mail for medications, stimulus checks, voting, and more.

LDF filed suit to reverse the policies that led to widespread delays and to ensure that mail-in ballots would be delivered on time to be counted.³⁷ Although the court granted a preliminary injunction in our favor,³⁸ the USPS did not immediately comply. Substantial mail delays persisted, and we sought an order to enforce the injunction. This led to multiple court orders requiring USPS to implement measures to ensure that ballots were delivered in a timely manner and to provide the court with data about the status of its efforts.³⁹

Voter intimidation was also a significant factor in our work for the 2020 election. Not only did our VRD/PTV teams monitor voter intimidation

throughout the election season and reach out to elections officials when we learned about voter intimidation efforts, LDF's Litigation team also engaged to challenge voter intimidation by government officials.

On the eve of the election, 200 peaceful marchers and prospective voters were walking from a local church to a nearby poll site on October 31, the last day of early voting in Alamance County, North Carolina. Without provocation or warning, the law enforcement departments of the City of Graham and Alamance County repeatedly deployed pepper spray into the crowd—among them young children, elderly individuals, and those with disabilities—just seconds after they had knelt in silence for eight minutes and 46 seconds in remembrance of the police killing of George Floyd. Instead of voting as they had planned, the marchers were forced to flee the area to protect themselves and their families. Fearful of returning to the area that day, some prospective voters were unable to register to vote by the 3 p.m. deadline and therefore could not vote on Election Day. LDF and co-counsel filed a lawsuit against the City of Graham and Alamance County challenging this unwarranted use of force and intimidation of prospective voters.⁴⁰

Shortly after the election, we filed suit against President Trump and his campaign challenging their coordinated efforts to disenfranchise Black voters in Michigan by intimidating, threatening, and coercing state and local elections officials in an effort to pressure them not to certify or

³⁵ Press Release, USPS, Board of Governors Announces Selection of Louis DeJoy to Serve as Nation's 75th Postmaster General, (May 6, 2020), <https://about.usps.com/newsroom/national-releases/2020/0506-bog-announces-selection-of-louis-dejoy-to-serve-as-nations-75th-postmaster-general.htm>.

³⁶ See, e.g., *Mandatory Stand-Up Talk: All Employees, Pivoting For Our Future*, Memorandum from USPS to Staff (July 10, 2020) (on file with Federal News Network), <https://federalnewsnetwork.com/wp-content/uploads/2020/07/071020-stand-up-talk.pdf>.

³⁷ Complaint for Declaratory and Injunctive Relief, *NAACP v. USPS*, No. 20-2295 (D.D.C. Aug. 20, 2020), ECF No. 1, <https://www.naacpldf.org/wp-content/uploads/1-Complaint.pdf>.

³⁸ Memorandum in Support of Plaintiff's Motion for a Preliminary Injunction, *NAACP v. USPS*, No. 20-2295 (D.D.C. Sept. 1, 2020), ECF No. 8-1, <https://www.naacpldf.org/wp-content/uploads/8-1-Memo-in-Support.pdf>.

³⁹ *NAACP v. USPS*, Public Citizen, <https://www.citizen.org/litigation/naacp-v-united-states-postal-service/> (last visited May 14, 2021) (LDF co-counsel) case history).

⁴⁰ Complaint, *Allen et al v. City of Graham et al*, No. 20-997 (Nov. 2, 2020), ECF No. 1, <https://www.naacpldf.org/wp-content/uploads/North-Carolina-Voter-Intimidation-Filed-Complaint.pdf>, see also Isaac Groves, *Lawsuits accuse Alamance County sheriff, Graham police with suppressing right to vote*, (Burlington) Times-News (Nov. 9, 2020), https://greensboro.com/news/local_news/lawsuits-accuse-alamance-county-sheriff-graham-police-with-suppressing-right-to-vote/article_f2a13822-229d-11eb-ba21-7b86a8d269b6.html.

VOTER INTIMIDATION

On the eve of the election, 200 peaceful marchers and prospective voters were walking from a local church to a nearby poll site on October 31, the last day of early voting in Alamance County, North Carolina. Without provocation or warning, the law enforcement departments of the City of Graham and Alamance County repeatedly deployed pepper spray into the crowd—among them young children, elderly individuals, and those with disabilities—just seconds after they had knelt in silence for eight minutes and 46 seconds in remembrance of the police killing of George Floyd.

Instead of voting as they had planned, the marchers were forced to flee the area to protect themselves and their families. Fearful of returning to the area that day, some prospective voters were unable to register to vote by the 3 p.m. deadline and therefore could not vote on Election Day.

count votes cast in Detroit.⁴¹ We later filed an amended complaint challenging similar conduct in other states and adding the Republican National Committee as a defendant.



Detroit activists from 12 local organizations marched through the city on Nov. 7, 2020 to call for the protection of Detroit's votes over concerns of Donald Trump's baseless claims that Democrats stole the election, as an effort to steal a fair election for himself. Photo by Adam J. Dewey/NurPhoto via Getty Images

41 *Complaint for Declarative and Injunctive Relief, Mich. Welfare Rights Org. v. Trump*, No. 20-3388 (D.D.C. Nov. 20, 2020), ECF No. 1, <https://www.naacpldf.org/wp-content/uploads/Trump-Campaign-Complaint.pdf>.

KENTUCKY ARE YOU PREPARED TO VOTE?

ALABAMA ARE YOU PREPARED TO VOTE?

TEXAS ARE YOU PREPARED TO VOTE?

GEORGIA ARE YOU PREPARED TO VOTE?

FLORIDA ARE YOU PREPARED TO VOTE?

WHAT IDS ARE ACCEPTABLE?

ELECTION DAY CHECKLIST

GENERAL ELECTION

EARLY VOTING BEGINS

EARLY VOTING ENDS

ELECTION DAY

CONFIRM YOUR REGISTRATION STATUS

LOOK UP YOUR POLLING SITE

PACK YOUR ID

PACK YOUR PPE!

WEAR A MASK, STAY SAFE.

NAACP LEGAL DEFENSE FUND

Key Findings

In addition to the more specific findings detailed below, the overarching conclusion from our work on the 2020 election and thereafter is that our democracy is extremely fragile and at high risk. This is true from virtually every perspective from which we engage, whether it be from our observations of the tone and state of our public discourse, activities at the polling sites, the actions of local, state, and national legislative bodies and officials, or the decisions of our courts.⁴²

SPECIFIC FINDINGS

1 Mail-in voting is a critical option for all communities, but especially for Black voters.

At the beginning of the pandemic, LDF identified the essential role mail-in voting would play in this election, especially for Black and other at-risk communities seeking to limit their exposure to COVID-19. Gross racial disparities in COVID-19 illness and deaths meant communities of color would shoulder this burden and be disproportionately affected.⁴³

⁴² See generally Michael J. Klarman, *The Supreme Court 2019 Term, Forward: The Degradation of American Democracy and the Court*, 134 Harv. L. Rev. 1 (2020).

⁴³ *Deaths involving coronavirus disease 2019 (COVID-19) by race and Hispanic origin group and age, by state*, CDC, <https://data.cdc.gov/NCHS/Deaths-involving-coronavirus-disease-2019-COVID-19/ks3g-spdg> (last updated May 12, 2021).

Throughout the spring and summer of 2020, LDF filed lawsuits in Alabama,⁴⁴ Louisiana,⁴⁵ and South Carolina,⁴⁶ challenging the lack of safe and accessible voting options, including restrictive vote-by-mail policies and insufficient access to curbside voting. We filed an action against the USPS to ensure that ballots were delivered on time. Our VRD team engaged in advocacy to elections officials to increase access to drop-boxes, in terms of the number and location of such boxes as well as the hours of access. Our lawsuits and advocacy efforts resulted in changes in mail-in voting requirements, ID policies, curbside voting access, and drop-box accessibility —increasing voter protections and accessibility and shortening long lines and wait times during early voting and on Election Day. Significantly, voting by mail not only provided a less risky method of voting during the pandemic, it also provided a means for voters of color to avoid the threats of violence and voter intimidation that surrounded the 2020 election.

Even in advance of the 2020 election, preliminary data indicated that the use of mail-in voting was increasingly popular and had more than doubled

⁴⁴ Press Release, LDF, LDF, SPLC, and ADAP File Federal Lawsuit Challenging Alabama’s Lack of Safe and Accessible Voting During COVID-19 Pandemic (May 1, 2020), <https://www.naacpldf.org/press-release/ldf-splc-and-adap-file-federal-lawsuit-challenging-alabamas-lack-of-safe-and-accessible-voting-during-covid-19-pandemic/>.

⁴⁵ Press Release, LDF, LDF Files Federal Lawsuit Challenging Louisiana’s Voting Requirements for November and December Elections, (Aug. 3, 2020), <https://www.naacpldf.org/press-release/ldf-files-federal-lawsuit-challenging-louisianas-voting-requirements-for-november-and-december-elections/>.

⁴⁶ Press Release, LDF, LDF and ACLU File Federal Lawsuit Challenging South Carolina Requirements That Put Voters at Risk During COVID-19 Pandemic, (Apr. 22, 2020), <https://www.naacpldf.org/press-release/ldf-and-aclu-file-federal-lawsuit-challenging-south-carolina-requirements-that-put-voters-at-risk-during-covid-19-pandemic/>.

DEMOCRACY DEFENDED

KEY FINDINGS

1

Mail-in voting is a critical option for all communities, but especially for Black voters.

2

Early voting is an essential feature of ensuring fair access to the polls, especially for Black voters.

3

Election administration mismanagement disproportionately burdens voters of color.

4

Our democracy continues to require an outsized proportion of non-government resources to protect the right to vote.

5

Threats of violence and voter intimidation against voters of color were widespread.



Felicia Bottom casts her mail-in voting ballot at the C. Blythe Andrews, Jr. Public Library during the NAACP Hillsborough County Branch Souls to the Polls voter drive on Nov. 1, 2020 in Tampa, Florida. The Souls to the Polls event is geared to push for a stronger African-American turnout. Photo by Octavio Jones/Getty Images

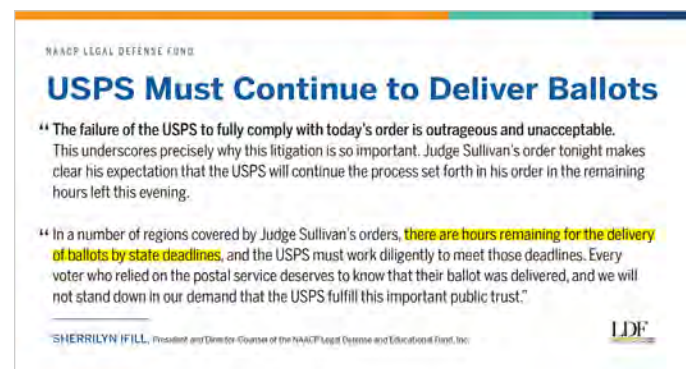
since the 2016 presidential election.⁴⁷ A July 2020 study found that nearly half of the people of color surveyed were likely to vote by mail in the general election.⁴⁸ Post-election survey data indicates that voters casting ballots by mail in the 2020 election more than doubled from 2016 to 46% of all voters and that the share of voters casting ballots in person on Election Day in 2020 fell to 28% from 60% in 2016.⁴⁹

47 Pew Res. Ctr., *In the U.S., absentee/mail voting surged in the 2020 primaries*, (Oct. 12, 2020), <https://www.pewresearch.org/fact-tank/2020/10/13/mail-in-voting-became-much-more-common-in-2020-primaries-as-covid-19-spread/> ft_20-09-29_absenteevoting_1/.

48 Press Release, Human Rights Campaign, *Human Rights Campaign Foundation & HIT Strategies Release Research on Voters of Color & Vote By Mail*, (2020), <https://www.hrc.org/news/hrc-foundation-hit-strategies-release-research-on-voters-of-color-and-vote>.

49 Charles Stewart III, *How We Voted in 2020: A Topical Look at the Survey of the Performance of American Elections*, MIT Election Data + Science Lab iii, 6 (2021), <https://electionlab.mit.edu/sites/default/files/2021-03/HowWeVotedIn2020-March2021.pdf>.

Concerns about the USPS led elections officials and voters to seek alternatives. They turned to ways to return ballots in person at drop-boxes, election offices, and polling places. In 2020, nearly half of mail-in ballots were returned in person while submissions of mail-in ballots via USPS declined from 67% in 2016 to 53% in 2020.⁵⁰



50 *Id.* at 11.

2 Early voting is an essential feature of ensuring fair access to the polls, especially for Black voters.

Early voting continued to play a key role in reducing polling site lines on Election Day and providing a safer option for voters anticipating intimidation and threats of violence at their polling sites and for those who wanted to decrease the risk of COVID-19 exposure when voting in-person.

Mississippi and Alabama had no early voting. We observed that voting lines were especially long in those states. In Louisiana, LDF challenged restrictive voting requirements amid the COVID-19 pandemic and a federal court ordered the state to extend early voting by three days and provide voters with highest risk of COVID-19 a mechanism to vote by mail.⁵¹

Overall, roughly a quarter of voters used early in-person voting options to cast their ballots, considerably relieving Election Day operations.⁵²

3 Election administration mismanagement disproportionately burdens voters of color.

Forty-seven percent of Americans do not wait in line to vote and the average wait time is less than seven minutes. Yet in 2018, an estimated three million voters—those residing in less wealthy communities and, disproportionately, people of color—waited more than 30 minutes in line and too many waited up to several

51 Amended Order, *Harding v. Edwards*, No. 20-495 (M.D. Ala. Sept. 21, 2020), ECF No. 93, <https://healthyelections-case-tracker.stanford.edu/file?id=158>; see also Press Release, LDF, *Federal Court Rules in Favor of Louisiana Voters Amid COVID-19 Pandemic* (Sept. 16, 2020), <https://www.naacpldf.org/press-release/federal-court-rules-in-favor-of-louisiana-voters-amid-covid-19-pandemic/>.

52 Stewart III, *supra* note 49, at 6.

hours.⁵³ In 2020, wait times were longer in the primary elections than on Election Day, but still many people (especially people of color) were forced to wait in long lines.⁵⁴ We observed very long lines on Election Day in Alabama and Mississippi, which do not have early voting and also have highly restrictive vote-by-mail options for voters. This would be attributable, however, to voter suppression instead of administration mismanagement.

Many voters confronted with long lines at their assigned poll site are forced to leave without voting because they lack the resources to overcome issues related to health, transportation, childcare, and work-schedules that long lines can cause. In addition to overt voter suppression measures that cause these long waits, election administration shortcomings that include malfunctioning voting equipment, inadequate numbers of voting machines and/or understaffing at sites with predictably heavy in-person voting, unexpectedly closed sites, and weather-related power outages are frequent, and avoidable, causes of long lines.⁵⁵ Many voters of color are forced to cast provisional ballots and some states do not provide an opportunity to cure your ballot if there are questions, such as when a signature does not match.⁵⁶

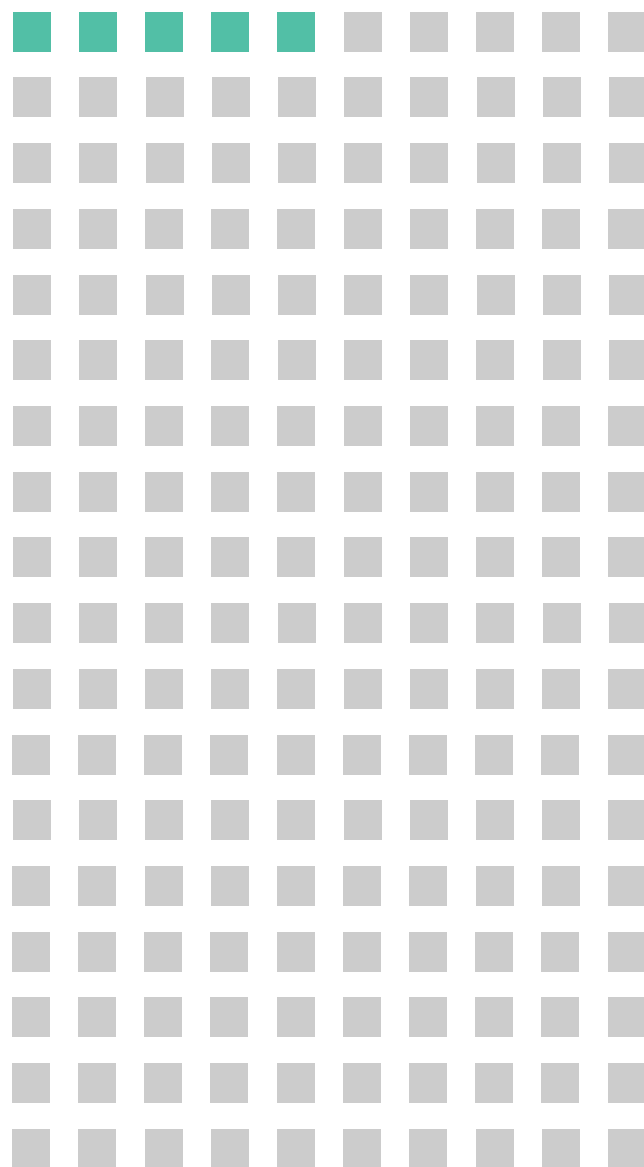
53 Hannah Klain, Kevin Morris, Max Feldman & Rebecca Ayala, *Waiting to Vote: Racial Disparities in Election Day Experiences*, Brennan Ctr. for Justice at NYU School of Law (2020), https://www.brennan-center.org/sites/default/files/2020-06/6_02_WaitingtoVote_FINAL.pdf; Matthew Weil, Charles Stewart III, Tim Harper & Christopher Thomas, *The 2018 Voting Experience: Polling Place Lines*, Bipartisan Pol'y Ctr., <https://bipartisanpolicy.org/wp-content/uploads/2019/11/The-2018-Votin-Experience.pdf>.

54 Kevin Quealy & Alicia Parlapiano, *Election Day Voting in 2020 Took Longer in America's Poorest Neighborhoods*, N.Y. Times (Jan. 4, 2021), <https://www.nytimes.com/interactive/2021/01/04/upshot/voting-wait-times.html>.

55 Klain et al., *supra* note 53, at 9-13; see, e.g., Charles Stewart III & Stephen Ansolabehere, *Waiting in Line to Vote, July 28, 2013*, U.S. Election Assistance Comm'n (2017), <https://www.eac.gov/documents/2017/02/24/waiting-in-line-to-vote-white-paper-stewart-ansolabehere>.

56 Ballot Curing Rules, Vote America, <https://www.voteamerica.com/ballot-curing/> (last updated Jan. 23, 2021).

Milwaukee, which is nearly 40% Black, only had five polling locations open for its April primary, instead of its usual 180.



By monitoring wait times during the 2020 primaries and advocating with elections officials to find solutions, LDF sought to improve wait times during the general election. Using existing technology, local elections officials could easily do the same, and develop contingency planning to cover such events as COVID-19 and the USPS mail slowdowns that inevitably worsen the problem.

In addition, across the country, polling site locations, for early and Election Day voting, have been shrinking by alarming numbers. Elections officials frequently cite a lack of poll workers for these significant closures, and COVID-19 only exacerbated an already dire situation. In 2020, Milwaukee, which is nearly 40% Black,⁵⁷ only had five polling sites open for its April primary, instead of the usual 180.⁵⁸ To mitigate this nationwide shortage, LDF partnered with the More Than a Vote campaign to recruit poll workers through a powerful TV ad.⁵⁹ Together we worked with the robust online platform provided by Power the Polls to enlist more than 42,500 poll worker applicants. Overall, Power the Polls enlisted over 700,000 poll worker applicants, which made a significant impact on polling site operations nationwide.⁶⁰

Another recurring administrative issue LDF saw was a lack of signage to indicate a polling location. This created confusion for voters on their way to the ballot box. In many instances, our volunteers created signage or stood in front of polling

57 U.S. Census Bureau, *QuickFacts: Milwaukee city, Wisconsin; Milwaukee County, Wisconsin*, <https://www.census.gov/quickfacts/fact/table/milwaukee-city-wisconsin,milwaukee-county-wisconsin/RHI225219#RHI225219>.

58 *Wisconsin Primary Recap: Voters Forced to Choose Between Their Health and Their Civic Duty*, N.Y. Times (Apr. 7, 2020), <https://www.nytimes.com/2020/04/07/us/politics/wisconsin-primary-election.html>; see also Brianna Schubert, *There's a Poll Worker Shortage in Milwaukee – But You Can Help*, Brianna Schubert, Milwaukee Mag. (Oct. 6, 2020), <https://www.milwaukeeimag.com/theres-a-poll-worker-shortage-in-milwaukee-but-you-can-help/>.

59 More Than A Vote, *Protect Our Power and Become A Poll Worker | WE GOT NEXT*, YouTube (Sept. 17, 2020), <https://www.youtube.com/watch?v=LmSI2Z1REdw>.

60 Help Staff Your Local Polling Place, Power The Polls, <https://www.powerthepolls.org/> (last visited May 14, 2021).

locations that had been changed to direct voters to the correct location. There were also numerous issues with polling location accessibility for persons with disabilities and seniors.

4 Our democracy continues to require an outsized proportion of non-government resources to protect the right to vote.

Many voters were forced to choose between their health and safety and their right to vote because state and local governments failed to provide them with access to safe voting options. Rulings by the U.S. Supreme Court on 2020 elections issues also generally failed to protect voters. We had volunteers working on-the-ground as nonpartisan poll monitors and volunteers working remotely online to monitor the election. We responded to reports from the field and through the Election Protection Hotline regarding last-minute polling site changes, blatant disinformation tactics to confuse or mislead voters,⁶¹ insufficient numbers of drop-boxes for mail-in ballots, inaccessible polling locations, and wait times – some as long as 10 hours.⁶²

61 In late August, voters in the Detroit area with high populations of Black residents were targeted by robocalls that warned recipients to “beware of vote by mail” which would give “private information to the man” and falsely claimed that voting by mail would result in voters’ personal information being put into a database accessible to the police pursuing warrants, credit card companies collecting debts, and the Centers for Disease Control and Prevention aiming to track people for mandatory vaccines. See Sam Gringlas, *Far-Right Activists Charged Over Robocalls That Allegedly Targeted Minority Voters*, National Public Radio (Oct. 1, 2020) <https://www.npr.org/2020/10/01/919309649/far-right-activists-charged-over-robocalls-that-allegedly-targeted-minority-vote>; Press Release, Michigan Department of Attorney General, *Burkman, Wohl Heading to Wayne County Circuit Court for Voter-Suppression Robocalls*, Department of Michigan Attorney General (Nov. 5, 2020), https://www.michigan.gov/ag/0,4534,7-359-92297_47203-544415--,00.html; Similar schemes allegedly targeted 85,000 people living in black neighborhoods of Illinois, Ohio, New York and Pennsylvania. Stephen Rex Brown, *Judge orders conservative tricksters who made robocalls targeting black voters to call back, admit election interference*, N.Y. Daily News (Oct. 28, 2020), <https://www.nydailynews.com/new-york/ny-wohl-burkman-robocalls-20201028-ltx2m2df3rdihfofxpdfzz-65bq-story.html>.

62 Sam Levine et al., *More than 10-hour wait and long lines as early voting starts in Georgia*, Guardian (Oct. 12, 2020), <https://www.theguardian.com/us-news/2020/oct/13/more-than-10-hour-wait-and-long-lines-as-early-voting-starts-in-georgia>.

In the weeks before the election, LDF and our partners disseminated essential, state-specific voter education information such as how to register, how to find out whether you’ve been purged, when to vote, how to find your polling location, ID requirements to vote, elections officials contact information, when and how to vote using a provisional ballot, and how to cure that ballot, if necessary.

When machine malfunctions or facilities problems closed polls for significant amounts of time, our team fought to keep those polls open after the official closing time. When long lines slowed down the voting process, we advocated for everyone in line before the deadline to be allowed to vote, no matter how long it took to clear the line. The need for such advocacy would be greatly reduced by implementing common sense contingency protocols covering the automatic extension of poll hours when technical delays and long lines at closing time thwart those who come to the polls ready to vote.

5 Threats of violence and voter intimidation against voters of color were widespread.

The 2020 election season saw historic voter turnouts that included a record 18,922,000 Black voters nationwide—12.2% of the 154,628,000 who voted.⁶³ At the same time, LDF witnessed an alarming surge in voter intimidation tactics — both passive and aggressive. Volunteers in multiple states and news media reported heightened police presence at polling sites, agitated partisan crowds verbally assaulting voters, and trucks and other

63 Current Population Survey’s November 2020. U.S. Census Bureau, *Voting and Registration in the Election of November 2020*, Tbl 2: Reported Voting and Registration, by Race, Hispanic Origin, Sex, and Age: November 2020, <https://www.census.gov/data/tables/time-series/demo/voting-and-registration/p20-585.html> (last updated Apr. 21, 2021).



Truck with confederate flag parked outside Starkville, Mississippi polling location. Volunteer photo

large vehicles, including military-style tanks,⁶⁴ carrying huge flags that had become synonymous with voter intimidation and racism at polling places. There were also reports of armed Trump supporters at polling sites in predominantly Black communities, including in Louisiana, North

Carolina, and Texas.⁶⁵ Leading up to Georgia's January 2021 runoff election, where Black voters proved their political power against challenging odds, at least 10 Georgia counties reported threats of violence at polling sites, including bomb threats.⁶⁶

These significant threats of violence made the options of voting by mail and early voting all the more essential to the fair exercise of the right to vote.

64 Scottie Hunter, *Baker Police Dept. responds to reports of man armed with assault rifle near polling location*, WAFB9 News Report (Nov. 3, 2020, updated Nov. 4, 2020), <https://www.wafb.com/2020/11/03/baker-police-respond-reports-man-armed-with-assault-rifle-near-polling-location/>; Adriana Gallardo, Maryam Jameel & Ryan McCarthy, *Pistols, a Hearse and Trucks Playing Chicken: Why Some Voters Felt Harassed and Intimidated at the Polls*, ProPublica (Dec. 4, 2020), <https://www.propublica.org/article/pistols-a-hearse-and-trucks-playing-chicken-why-some-voters-felt-harassed-and-intimidated-at-the-polls>; Voters in predominately Black Stop 6 neighborhood of Fort Worth reported to be leaving lines after harassment by Trump supporters, some wielding long guns. Reportedly has occurred twice in last week. Brendajurgens (@Brendajurgens3), Twitter (Oct. 30, 2020, 7:23 PM) <https://twitter.com/Brendajurgens3/status/1322318288106475520>.

65 Wayne Ford, *Bomb threats target polling places in Northeast Georgia*, Athens Banner-Herald (Jan. 5, 2021), <https://www.onlineathens.com/story/news/2021/01/05/bomb-threats-target-polling-places-northeast-georgia/6551059002/>; Denise Dillon, *Threats of violence on polling locations in 10 Georgia counties*, Fox5 Atlanta (Jan. 4, 2021), <https://www.fox5atlanta.com/news/threats-of-violence-on-polling-locations-in-10-georgia-counties>.

64 City News Service, *Pro-Trump Caravan Blocks Voting Center in Temecula*, Spectrum News 1 (Nov. 2, 2020), <https://spectrumnews1.com/ca/la-west/politics/2020/11/02/pro-trump-caravan-blocks-voting-center-in-temecula>; Nick Corasaniti & Stephanie Saul, *Trump Supporters Disrupt Early Voting in Virginia*, N.Y. Times (Sept. 19, 2020, updated Oct. 15, 2020), <https://www.nytimes.com/2020/09/19/us/politics/trump-supporters-early-voting-virginia.html?searchResultPosition=1>; Judy Bao, *Voter Intimidation in Texas During the 2020 General Election*, Tex. C.R. Project (2021), <https://txcivilrights.org/wp-content/uploads/2021/02/Voter-Intimidation-report.pdf>; Bryan Rolli, *TikTok shows Trump supporter waving sword at Biden supporter near polling place*, Daily Dot (Oct. 28, 2020), <https://www.dailydot.com/debug/tiktok-trump-supporter-sword-voter-suppression>.

WE MAKE THE FOLLOWING CALLS TO ACTION

For the members of the 117th Congress

Pass the For the People Act of 2021 (H.R. 1 passed the House on March 3, 2021, and was introduced in the Senate (S.1) on March 17, 2021),⁶⁷ which would expand Americans' access to the ballot box. Some of the key provisions would expand early and absentee voting, establish automatic voter registration, limit efforts to purge voter rolls, prohibit disinformation about elections, increase penalties for voter intimidation, replace partisan gerrymandering with nonpartisan commissions to draw electoral districts, restore voting rights of formerly incarcerated individuals, and introduce new campaign finance reforms.⁶⁸

Pass the John Lewis Voting Rights Advancement Act (passed by the House on August 24, 2021),⁶⁹ which would restore the Voting Rights Act preclearance provision with an updated formula and require certain jurisdictions to secure federal approval before enacting voting law changes.

Pass the Washington, D.C. Admission Act (H.R. 51 passed the House on April 22, 2021 and was introduced in the Senate (S.51), on January 26,

67 H.R. 1, 117th Cong. (2021), <https://www.congress.gov/bill/117th-congress/house-bill/1> (Introduced January 4, 2021, Passed March 3, 2021, 220 Yeas/210 Nays.).

68 S. 1, 117th Cong. (2021), <https://www.congress.gov/bill/117th-congress/senate-bill/1/titles?q=%7B%22search%22%3A%5B%22s.1%22%5D%7D&r=1&s=3> (A bill to expand Americans' access to the ballot box. Introduced 3/17/2021.); *SECTION-BY-SECTION: S1, THE FOR THE PEOPLE ACT OF 2021*, Democracy Reform Task Force press release, Rep. John Sarbanes, Chair, https://www.democrats.senate.gov/imo/media/doc/SIMPLE-SECTION-BY-SECTION_S.-11.pdf

69 Eugene Scott, *House passes bill to strengthen Voting Rights Act in face of new restrictions in GOP-led states*, Wash. Post (Aug. 24, 2021), https://www.washingtonpost.com/powerpost/voting-rights-house-john-lewis/2021/08/24/44745b2e-04e4-11ec-a654-900a78538242_story.html.

EXECUTIVE SUMMARY

2021), which would provide for the admission into the United States of the state of Washington, Douglass Commonwealth.⁷⁰

For state legislatures nationwide

Enact voting laws that ensure the franchise is available to every citizen equally and laws that facilitate voter participation in elections by offering the widest range of options, including online and same-day registration, vote-by-mail, and early voting. Repeal discriminatory voting laws that adversely impact the ability of people of color to register and to vote.

Enact state-level Voting Rights Acts that provide communities of color the needed tools to fight voter suppression, vote dilution, and voter intimidation, require certain jurisdictions to secure state approval before implementing retrogressive changes to voting rules, and empower state courts to approve a wider range of locally tailored remedies that better enfranchise communities of color.

For Individuals

Engage fully and knowledgeably in all elections, including state and local elections and elections for judges, prosecutors, law enforcement officials, school board members, and ballot initiatives.

The right to vote is the cornerstone of our democracy. Please join us as we continue our quest to preserve and to protect that right for all Americans.

70 Meagan Flynn, *House Democrats pass D.C. statehood, launching bill into uncharted territory*, Wash. Post (Apr. 22, 2021), https://www.washingtonpost.com/local/dc-politics/dc-statehood-house-vote/2021/04/22/935a1ece-a1fa-11eb-a7ee-949c574a09ac_story.html

INTRODUCTION

This report captures and analyzes election related activities undertaken by LDF during the 2020 election season, including our *Prepared to Vote* and *Voting Rights Defender* programs (PTV/VRD) run by LDF's Thurgood Marshall Institute. It provides documentation of barriers faced by Black voters in PTV/VRD focus states and solutions for policy makers, election administrators, and community members to implement to ensure fair access to the vote in future elections.

The report starts with an important contextual framing of the history of racial discrimination and voting in the United States and describes its connection to what occurred in the 2020 election. While the 2020 election and its aftermath were historic in many ways, to understand it fully one must see that the attempts to suppress the votes of people of color, the young, and those with disabilities, are unfortunately just the latest chapter in a long history of voter suppression in the United States that runs directly counter to our commitment to democracy as a nation.

The next chapter outlines the overall approach and actions LDF took as an organization, from Litigation to Policy to PTV/VRD. While PTV/VRD was most focused on seven states throughout the year, that program, along with the Litigation and Policy departments of LDF, undertook important national initiatives as well. This section

also gives an overview of the specific activities, partnerships, and tools that the PTV/VRD program implemented to provide robust support to voters, especially Black voters, throughout the 2020 election season. All of our activities were nonpartisan.

The chapter following contains state specific sections. Each state section documents pre-election barriers to voting; state specific litigation; detailed information on voter issues reported by our trained nonpartisan poll monitors and remote monitors; state and county specific advocacy PTV/VRD teams undertook to counteract the barriers and issues identified; and data related to direct voter education. This chapter includes the seven full focus states — Alabama, Florida, Georgia, Louisiana, Mississippi, South Carolina, and Texas — and the limited geographic focus state of Kentucky. Each state also has specific recommendations to improve election access and fairness in future elections. After these state sections, there is additional information for Michigan and Pennsylvania, where PTV/VRD addressed issues identified by poll monitors on Election Day.

The final chapter includes recommendations of actions Congress must take on a national basis to ensure future elections guarantee the right to vote to all. The recommendations also include actions

for state policy makers and actions that individual voters should take to ensure their vote counts.

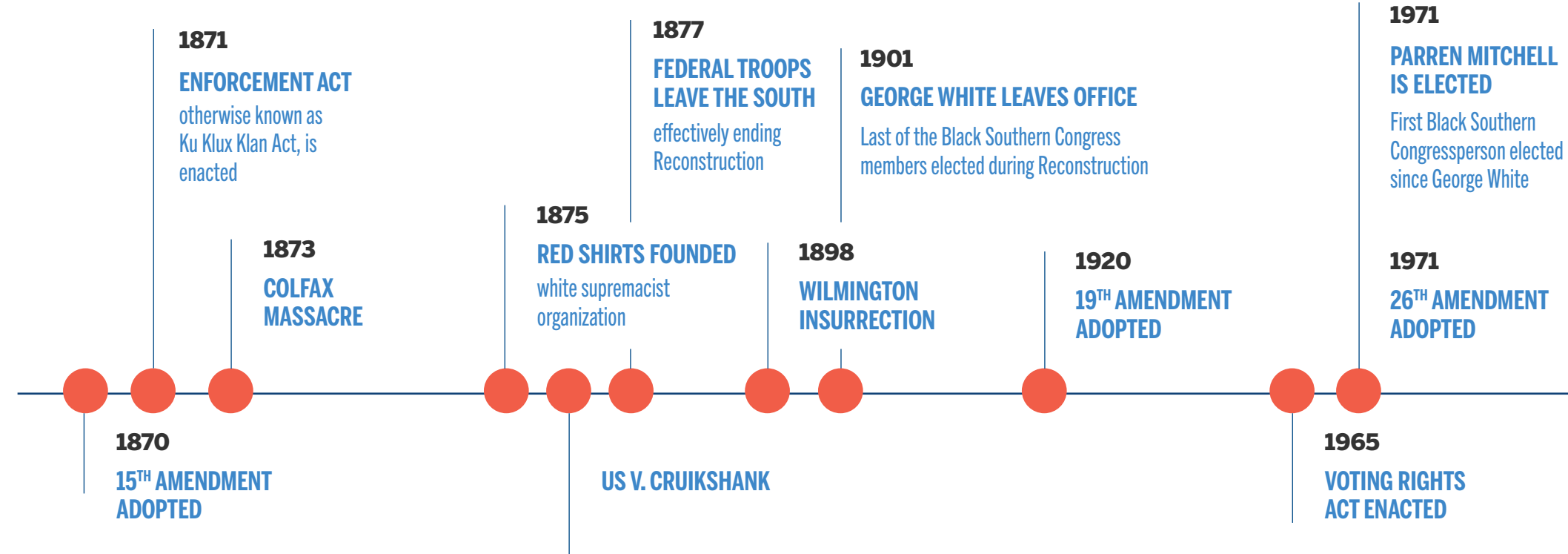
The content of this report bears witness to persistent and unrelenting attempts to suppress the Black vote, and widespread acts of intimidation of Black voters at the polls. The report is representative, not exhaustive. It contains only a

snapshot of issues and activities in our focus states. Readers should not infer that significant acts of voter suppression and intimidation occur only in the states addressed in this report.

THE CONTENT OF THIS REPORT BEARS WITNESS TO PERSISTENT AND UNRELENTING ATTEMPTS TO SUPPRESS THE BLACK VOTE.

VOTING IN THE UNITED STATES

A Long History of Voter Suppression and Violent Insurrection



Parallels to the Post-Reconstruction period of the 1870s and Beyond

We are in a period with strong historical parallels of virulent backlash by white supremacists following the exercise of Black political power. These regressions have taken the form of laws that suppress or dilute the Black vote, acts of violence and intimidation, and efforts to confuse with mis- or disinformation. The nexus between the Black vote and white supremacist voter suppression and violence is as strong as it has ever been—proof that race remains the Achilles heel of American Democracy.

While the right to vote is fundamental to democracy and “preservative of all rights,”⁷¹ the U.S. Constitution does not explicitly enshrine the right. Rather, it falls to the states to establish voter eligibility within the limits set by the 15th Amendment (the right to vote cannot be denied based on race, enacted in 1870), the 19th

Amendment (the right to vote shall not be denied based on sex, enacted in 1920), and the 26th Amendment (the right to vote shall not be denied on the basis of age for citizens of at least 18 years of age, enacted in 1971).

After adoption of the 15th Amendment, Black male voters immediately began electing scores of representatives to local, state, and national office, including helping to re-elect Ulysses Grant as President. Black men were elected as members of Congress from Alabama, Florida, Georgia, Louisiana, Maryland, Mississippi, North Carolina, South Carolina, and Virginia.⁷² At the state level, too, significant numbers of Black men were elected to office. In Georgia, for example, 33 Black men became members of the state legislature in 1868,

but they were almost immediately forced out.⁷³ White supremacists, especially those in Southern states with large Black populations, began using violence systematically to disenfranchise Black voters. Paramilitary groups—such as the White Man’s League⁷⁴ and the Red Shirts, a white supremacist organization founded in Mississippi in 1875⁷⁵—and secret terrorist groups—such as the Ku Klux Klan and the Knights of the White Camelia⁷⁶—used extraordinary violence and killings to intimidate Black citizens and suppress their exercise of the franchise.

Between the end of Reconstruction and 1908, all 11 former Confederate states had passed constitutions or amendments creating poll taxes, literacy tests, grandfather clauses, residency requirements and other devices that effectively contravened the 15th Amendment and disenfranchised hundreds of thousands of Black voters.⁷⁷ Black citizens who could not vote were ineligible to run for office at the local, state, and federal levels, and could not serve on juries. They were effectively erased from political life. Unable to participate in government at any level, their interests were disregarded. The last Black member of Congress from the South in the period after the Civil War, George White of North Carolina, left in 1901.⁷⁸ There would not be another Black member of Congress from the South until Parren Mitchell was elected from Maryland in 1971.⁷⁹

72 Black-Americans Members by Congress, 1870–Present, History, Art & Archives, U.S. House of Representatives, <https://history.house.gov/Exhibitions-and-Publications/BAIC/Historical-Data/Black-American-Representatives-and-Senators-by-Congress/> (last visited May 14, 2021).

73 Ciara Torres-Spelliscy, *Georgia’s Unique and Bloody History With Voter Disenfranchisement*, TPM (Apr. 6, 2021), <https://talkingpointsmemo.com/cafe/georgia-unique-bloody-history-voter-disenfranchisement>.

74 *Louisiana and the Rule of Terror*, Harper’s Wkly. (Oct. 3, 1874), reprinted in *Elevator* (Oct. 10, 1874), https://cdnc.ucr.edu/cgi-bin/cdnc?a=d&d=EL18741010.2.9&e=_____en-20-1-txt-txIN-__1 (image of article and transcription at California Digital Newspaper Collection).

75 E. Merton Coulter, *The South During Reconstruction* 358 (E. Merton Coulter & Wendell Holmes Stephenson eds., 1947).

76 Knights of the White Camelia | American secret society, Encyclopedia Britannica, <https://www.britannica.com/topic/Knights-of-the-White-Camelia> (last updated Apr. 13, 2021).

77 Michael Perman, *Struggle for Mastery: Disfranchisement in the South 1888-1908* (2001).

78 Black-American Members by Congress, 1870–Present, *supra* note 72.

79 *Id.*

71 *Yick v. Hopkins*, 118 U.S. 356, 370 (1886).

 **VOTER SUPPRESSION AND VIOLENT INSURRECTION**

In addition to laws to evade the 15th Amendment and shut down Black political participation, violent insurrections to overturn lawfully decided elections have powerful historical precedents. One of the most notorious involved the hotly contested 1872 Louisiana elections. In Colfax, Louisiana, the county seat of Grant Parish, after state authorities made ambiguous rulings that left the Black Republicans and White Democrats both claiming victory, a federal judge declared the duly elected formerly enslaved men would take local offices. On Easter Sunday, April 13, 1873, the elected Black men and an all-Black militia received word that White Democrats organized by the Knights of the White Camelia and the Ku Klux Klan were planning to take the courthouse. They rushed to occupy the building before that could happen. A mob of White Democrats, heavily armed with rifles and a cannon, attacked. The Black men quickly ran out of ammunition and surrendered when cannon fire set the courthouse ablaze.⁸⁰ After surrendering, the freedmen were lined up outside the courthouse, and each was killed — by being shot, hanged, or having his throat cut. It is estimated that between 62 to 165 Black people were murdered during the conflict or executed afterward. Three Whites died.⁸¹

Federal troops sent into Colfax apprehended some of the massacre’s perpetrators. Ninety-seven were indicted under the Enforcement Acts of 1870 and 1871, adopted pursuant to the 14th and 15th

Amendments.⁸² The Acts provided the mechanism to ensure states gave Black voters equal protection under the laws. They banned the use of terror, force, or bribery to prevent anyone from voting because of their race. Most importantly, they empowered the President to use federal troops to enforce their provisions and made the race-based acts of state officials to suppress the vote federal crimes subject to fines and prison sentences.⁸³

The Enforcement Act of 1871, known formally as “[a]n Act to enforce the provisions of the Fourteenth Amendment to the Constitution of the United States,” and colloquially as the Ku Klux Klan Act,⁸⁴ made the Klan’s terrorist actions against Black voters criminal offenses, prosecutable in federal court, and required that no Klan members serve on juries in those prosecutions.⁸⁵ Of the three Enforcement Acts, this was the only one that led to trials. As a result, hundreds of Klan members were arrested and successfully prosecuted.⁸⁶

From the Colfax, Louisiana massacre, nine stood trial, and three were convicted. On appeal, however, the U.S. Supreme Court in *United States v. Cruikshank* (1876) ruled that the protections of the 14th Amendment only applied to the actions

82 U.S. Const. amend. XV, § 2, <https://constitution.congress.gov/constitution/amendment-15/>.

83 The Enforcement Act of 1870, 41st Cong., Sess. 2, ch. 114, 16 Stat. 140 (1870); The Enforcement Act of 1871, 42nd Cong. ch. 22, 17. Stat. 13 (1871); see also U.S. Senate: *The Enforcement Acts of 1870 and 1871*, <https://www.cop.senate.gov/artandhistory/history/common/generic/EnforcementActs.htm> (last visited May 14, 2021).

84 *Historical Highlights: The Ku Klux Klan Act of 1871*, History, Art & Archives, U.S. House of Representatives (Apr. 20, 1871), https://history.house.gov/Historical-Highlights/1851-1900/hh_1871_04_20_KKK_Act/

85 See 42 Cong. 1st Sess. 22, 17. Stat. 13 (1871), <https://www.loc.gov/law/help/statutes-at-large/42nd-congress/session-1/c42s1ch22.pdf>.

86 See, Stephen Cresswell, *Enforcing the Enforcement Acts: The Department of Justice in Northern Mississippi, 1870-1890*, 53 J. S. Hist. 421-40 (1987).

80 Lawrence Goldstone, *Unpunished Murder: Massacre at Colfax and the Quest for Justice*, pp. xvii-xxi, xix, 134-140. 2018); LeeAnna Keith, *Battle of the Colfax Courthouse in The Colfax Massacre: The Untold Story of Black Power, White Terror, and the Death of Reconstruction*, pp. 86-87, Chapter 7 (2008).

81 Danny Lewis, *The 1873 Colfax Massacre Crippled the Reconstruction Era*, Smithsonian Mag. (Apr. 13, 2016), <https://www.smithsonian-mag.com/smart-news/1873-colfax-massacre-crippled-reconstruction-180958746/>.



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1898 INSURRECTION

A similar insurrection in response to the successful exercise of the franchise by Blacks occurred in 1898 in Wilmington, North Carolina. There, progressive Black and White citizens elected a multi-racial slate of candidates. White Southern Democrats, seeing this as a threat to white supremacy, led a horde of some 2,000 insurrectionists who overthrew the democratically elected government and instead installed unelected White men. The rioters destroyed property and businesses, decimating Wilmington's thriving Black community.

As many as 90, and perhaps more, people were killed.

Image credit: Cover of "Le Petit Journal", 7 October, 1906. Depicting the race riots in Atlanta, Georgia. "The Lynchings in the United States: The Massacre of Negroes in Atlanta." Wikimedia Commons

✓ VOTER SUPPRESSION AND VIOLENT INSURRECTION

of state officials and did not apply to actions of individuals.⁸⁷ This restricted the reach of the Enforcement Acts and meant that they could no longer be used to prosecute the actions of paramilitary terrorist groups for almost 100 years. The federal government's efforts to ensure Black male voters' equal access to the ballot box ended in 1877 when federal troops were withdrawn from the South, effectively ending Reconstruction.⁸⁸

A similar insurrection in response to the successful exercise of the franchise by Blacks occurred in 1898 in Wilmington, North Carolina. There, progressive Black and White citizens elected a multi-racial slate of candidates. White Southern Democrats, seeing this as a threat to white supremacy, led a horde of some 2,000 insurrectionists who overthrew the democratically elected government and instead installed unelected White men. The rioters destroyed property and businesses, decimating Wilmington's thriving Black community. As many as 90, and perhaps more, people were killed.⁸⁹

Black voter registration and political participation stayed low in the Southern states until after

passage of the Voting Rights Act of 1965.⁹⁰ The Act provided an unprecedented and effective level of voter protection both through Section 5's preclearance provision and through direct enforcement by the federal government⁹¹ and non-governmental actors like LDF. Although abated, systemic suppression and voter intimidation persisted after the adoption of the Voting Rights Act, including the harmful effects of discriminatory measures that pre-dated the Voting Rights Act, such as at-large voting schemes and runoff measures.

A Black President is Elected

In 2008, record numbers of Black voters turned out to help elect the nation's first African American president, Barack Obama. The predictable backlash came immediately with the quick rise of the Tea Party movement in 2009, distinguished largely by its extreme right-wing positions on social and racial issues, anti-government stance, and combative political engagement that resonated with paramilitary militia movements.⁹² This led to gridlock in Congress.⁹³ When the 2010 elections

⁸⁷ *United States v. Cruikshank*, 92 U.S. 542 (1876); Pildes, *supra* note 19, at 301.

⁸⁸ See *U.S. Senate: The Enforcement Acts of 1870 and 1871*, *supra* note 83.

⁸⁹ LeRae Umfleet, *November 10: "Hell Jolted Loose in 1898 Wilmington Race Riot Commission Report: 1898 Wilmington Race Riot Commission*, State Archives N.C. 5 (2006), <https://digital.ncdcr.gov/digital/collection/p249901coll22/id/5842>; see also *How The Only Coup D'Etat In U.S. History Unfolded*, NPR (Aug. 17, 2008), <https://www.npr.org/templates/story/story.php?storyId=93615391>; Ranjani Chakraborty, *When White Supremacists Overthrew a Government*, Vox (Jan. 20, 2019), <https://www.vox.com/2019/6/20/18693018/white-supremacists-over-threw-government-north-carolina>; see also Vox, *When White Supremacists Overthrew a Government*, YouTube (Jun 20, 2019), <https://www.youtube.com/watch?v=LVQomlXMeek>.

⁹⁰ Lewis & Allen, *supra* note 18, at 112-13; German Lopez, *How the Voting Rights Act transformed black voting rights in the South, in one chart*, Vox (Aug. 6, 2015), <https://www.vox.com/2015/3/6/8163229/voting-rights-act-1965>.

⁹¹ Lopez, *supra* note 90; Sophie Schuit & Jon C. Rogowski, *Race, Representation, and the Voting Rights Act*, 61 Am. J. Pol. Sci. 513, 515 (2017), https://scholar.harvard.edu/files/rogowski/files/schuit_rogowski_2017.pdf.

⁹² Robb Willer, Matthew Feinberg & Rachel Wetts, *Threats to Racial Status Promote Tea Party Support Among White Americans*, (Stanford Graduate Sch. of Bus., Working Paper No. 3422 2016), <https://www.gsb.stanford.edu/faculty-research/working-papers/threats-racial-status-promote-tea-party-support-among-white>; Michael Ray, *Tea Party movement*, Encyclopedia Britannica (Mar. 24, 2010, updated Dec. 6, 2020) <https://www.britannica.com/topic/Tea-Party-movement> (last visited June 8, 2021).

⁹³ Andy Barr, *The GOP's no-compromise pledge*, Politico (Oct. 28, 2010), <https://www.politico.com/story/2010/10/the-gops-no-compromise-pledge-044311>.

AFTER SHELBY

Just one day after *Shelby County, Texas* began enforcing an onerous voter ID requirement that had been enacted in 2011 but never enforced because it was unable to pass preclearance.

came, right-wing candidates swept the field and drove rampant racial and political gerrymandering of elections districts that granted extreme right-wing conservatism a powerful, driving role in the political power of the U.S.⁹⁴

Then, in 2013, at the start of President Obama's second term, by a vote of 5-4, the U. S. Supreme Court decided the *Shelby County* case.⁹⁵ The decision found Section 4 of the Voting Rights Act – the formula by which Section 5 preclearance operated – unconstitutional, leaving Section 5's preclearance provision inoperable. This left states with long histories of voting discrimination that previously were subject to Section 5 – most of the southern U.S. where the majority of Black voters reside⁹⁶ — free to implement new election laws without seeking federal pre-clearance.

Shelby County was a game changer. Freed of the preclearance requirement, states and local jurisdictions immediately began to enact laws that were racially discriminatory or harmful to language minorities. Just one day after *Shelby County*, for instance, Texas began enforcing an onerous voter ID requirement that had been enacted in 2011 but never enforced because it was unable to pass preclearance.⁹⁷ Other jurisdictions like

94 See Peter Roff, Opinion, *Measuring the Size of Election 2010's Republican Sweep*, U.S. News & World Report (Nov. 5, 2010), <https://www.usnews.com/opinion/blogs/peter-roff/2010/11/05/measuring-the-size-of-election-2010s-republican-sweep>; see also Theresa Riley, *In 2010, Republicans 'Weaponized' Gerrymandering. Here's How They Did It*, Moyers on Democracy (May 11, 2020), <https://billmoyers.com/story/in-2010-republicans-weaponized-gerrymandering-heres-how-they-did-it/>.

95 570 U.S. 529.

96 See, e.g., Press Release, U.S. Census Bureau, *2010 Census Shows Black Population has Highest Concentration in the South: People Who Reported as Both Black and White More than Doubled*, (Sept. 29, 2011), https://www.census.gov/newsroom/releases/archives/2010_census/cb11-cn185.html.

97 The Effects of *Shelby County v. Holder*, Brennan Ctr for Justice (Aug. 6, 2018), <https://www.brennancenter.org/our-work/policy-solutions/effects-shelby-county-v-holder> (last visited May 14, 2021).

North Carolina, Alabama, and Mississippi quickly followed suit.⁹⁸ The trend toward voter suppression laws has now metastasized to states not historically covered by the Voting Rights Act, with states like Indiana, Kansas, and Wisconsin among those adopting strict voter ID laws.⁹⁹

Identification required for registration or voting is often limited to forms that are less likely to be possessed by Black voters than White voters.¹⁰⁰ A Black voter born in 1940 Jim Crow America, for example, may not have a birth certificate because hospitals may not have allowed a Black mother access to the hospital and its birth registry. Proof of citizenship, stringent residency documentation, voting procedure disinformation, wealth-based registration requirements for returning citizens, voter caging (challenges to legitimate registrations), purges of voting rolls, and limiting access to early and absentee voting are all modes of modern suppression that became increasingly popular after the *Shelby County* decision.¹⁰¹ Challengers of discriminatory laws now bear the cost and burden of proof and are less likely to be able to stop the damage before it is done.

The widespread voter fraud that modern suppression measures claim to address simply does not exist.¹⁰² There is clear evidence, however, that race has become the weapon of choice in the attack on democracy. This did not go unnoticed by hostile forces external to the U.S. The 2016

98 *Id.*

99 *Voter ID Requirements | Voter ID Laws*, Nat'l Conference of State Legislatures (Aug. 25, 2020), <https://www.ncsl.org/research/elections-and-campaigns/voter-id.aspx>.

100 Keesha Gaskins & Sundeep Iyer, *The Challenge of Obtaining Voter Identification*, Brennan Ctr for Justice at N.Y. Univ. Sch. of Law 2, 2 n.12 (2012), https://www.brennancenter.org/sites/default/files/2019-08/Report_Challenge_of_Obtaining_Voter_ID.pdf.

101 Nancy Abudu, *Seven years after Shelby County vs. Holder, voter suppression permeates the South*, Southern Poverty Law Ctr (June 25, 2020), <https://www.splcenter.org/news/2020/06/25/seven-years-after-shelby-county-vs-holder-voter-suppression-permeates-south>.

102 See A Sampling of Recent Election Fraud Cases from Across the United States, Election Fraud Database, Heritage Found., <https://www.heritage.org/voterfraud>.

presidential election was marred by widespread efforts by Russian actors focused on manipulating Black voters and sowing internal racial division and strife.¹⁰³ The 2016 Trump campaign also used social media tech data and platforms such as Facebook to target Black voters for “deterrence,” to depress the Black vote.¹⁰⁴

2020 Election

Viewed through the lens of history, the 2020 Election was a chilling reminder of the flaws and fragility of American democracy. Even before the January 6, 2021, insurrection, it was an election cycle marked by extraordinary events.

The coronavirus outbreak took hold in the winter of 2020, making plain the dramatic racial differences in who lived and who died. Black, Latinx, and Native American people were suffering and dying at grossly disproportionate rates relative to Whites. This was in part due to longstanding disparities in access to quality healthcare for many persons of color.¹⁰⁵ Then-President Trump downplayed and politicized the virus while failing

103 Scott Shane & Sheera Frenkel, *Russian 2016 Influence Operation Targeted African-Americans on Social Media*, N.Y. Times (Dec. 17, 2018), <https://www.nytimes.com/2018/12/17/us/politics/russia-2016-influence-campaign.html>; Renee DiResta et al., *The Tactics & Tropes of the Internet Research Agency*, New Knowledge, Columbia University, Canfield Research Whitepaper commissioned by the Senate Intelligence Committee (Dec. 17, 2018), <https://www.dropbox.com/s/f3jav3mfd87g4pq/Whitepaper%20final.pdf?dl=0>; Sherrilyn Ifill, *Opinion, It's time to face the facts: Racism is a national security issue*, Wash. Post (Dec. 18, 2018), https://www.washingtonpost.com/opinions/its-time-to-face-the-facts-racism-is-a-national-security-issue/2018/12/18/f9746466-02e8-11e9-b5df-5d3874f1ac36_story.html.

104 Channel 4 News Investigation Team, *Revealed: Trump campaign strategy to deter millions of Black Americans from voting in 2016*, Channel 4 News (Sept. 28, 2020), <https://www.channel4.com/news/revealed-trump-campaign-strategy-to-deter-millions-of-black-americans-from-voting-in-2016>; David Graham, *Russian Trolls and the Trump Campaign Both Tried to Depress Black Turnout*, The Atlantic (Dec. 17, 2018), <https://www.theatlantic.com/politics/archive/2018/12/shared-russia-trump-focus-depressing-black-votes/578302/>.

105 COVID-19 Racial and Ethnic Health Disparities, CDC, <https://www.cdc.gov/coronavirus/2019-ncov/community/health-equity/racial-ethnic-disparities/index.html> (last updated December 10, 2020).



Utah County Election workers unload ballots that were picked up at a United States Postal Service office on Oct. 26, 2020 in Provo, Utah. Utah is one of several states that has recently moved to mail-in ballots for presidential elections. Photo by George Frey/Getty Images

People wait in line to participate in early voting on Oct. 31, 2020 in Greenville, South Carolina. Election Day is Nov. 3. Photo by Sean Rayford/Getty Images

to take necessary steps to control it.¹⁰⁶ The U.S. Supreme Court failed to protect voters' health and safety while they voted.¹⁰⁷ Still, the people voted.

In the spring and summer of 2020, compelled by increasing instances of egregious murders

of unarmed Black men and women by law enforcement, African Americans along with progressive Whites and others took to the streets in unprecedented largely peaceful protests nationwide¹⁰⁸ — indeed worldwide.¹⁰⁹ And they voted.

After toxic and threatening rhetoric from the President of the United States alleged the entire electoral process was rigged and the results would be invalidated,¹¹⁰ record numbers of Americans

voted by mail, early, or after waiting in long lines for hours.¹¹¹

Pictures in the media showing long lines and bushels of mailed-in ballots documented the historic numbers, but a vital piece of the story remains unseen. It took months of planning and work by hundreds of nonprofit organizations with the help of thousands of volunteers. They produced reams of printed materials, texts, social media posts, advertisements, and held thousands of meetings and phone calls in advance of the elections to educate and prepare voters to successfully navigate their local voting processes.

VOTING DURING A PANDEMIC

The U.S. Supreme Court failed to protect voters' health and safety while they voted. Still, the people voted.

106 Grace Segers & Kathryn Watson, Trump admitted to Woodward he downplayed coronavirus threat in early days of outbreak, CBS News (Sept. 10, 2020), <https://www.cbsnews.com/news/trump-woodward-book-claims-downplayed-covid-19-threat/>; Lloyd Doggett, *Timeline of Trumps Coronavirus Responses*, U.S. Congressman Lloyd Doggett, 35th District:Blog (Apr. 6, 2021), <https://doggett.house.gov/media-center/blog-posts/timeline-trump-s-coronavirus-responses>.

107 See, e.g., *Republican Nat'l Comm. v. Democratic Nat'l Comm.*, 589 U.S. ____ (2020) (per curiam), https://www.supremecourt.gov/opinions/19pdf/19a1016_o759.pdf (where the Court refused to extend the deadline for absentee ballots in Wisconsin in the middle of the pandemic.); *Tex. Democratic Party v. Abbott*, 591 U.S. ____ (2020), https://www.supremecourt.gov/opinions/19pdf/19a1055_32q3.pdf (where the Court rejected a bid by state Democrats to expand voting by mail to all Texas voters during the coronavirus pandemic.); and *Merrill v. People First of Ala.*, 592 U.S. ____ (2020), https://www.supremecourt.gov/opinions/20pdf/20a67_3e04.pdf (which allowed the Alabama secretary of state to ban curbside voting despite the ongoing COVID-19 crisis and the willingness of certain Alabama counties to assist voters with disabilities to vote curbside.).

108 Harmeet Kaur, *About 93% of racial justice protests in the US have been peaceful, a new report finds*, CNN (Sept. 4, 2020) <https://www.cnn.com/2020/09/04/us/blm-protests-peaceful-report-trnd/index.html>

109 Peter Aitken, *George Floyd, BLM protests take place on 3 continents*, Fox News (June 6, 2020) <https://www.foxnews.com/world/george-floyd-blm-protests-take-place-on-3-continents>.

110 Hayley Miller, *Trump Claimed Election 'Rigged' Or 'Stolen' Over 100 Times Ahead of Capitol Riot*, HuffPost (Feb. 8, 2021, updated Feb. 9, 2021), https://www.huffpost.com/entry/trump-rigged-stolen-capitol-riot_n_602188e2c5b6173dd2f88c4f.

111 Zachary Scherer, *What Methods Did People Use to Vote in the 2020 Election?: Majority of Voters Used Nontraditional Methods to Cast Ballots in 2020*, U.S. Census Bureau (Apr. 29, 2021), <https://www.census.gov/library/stories/2021/04/what-methods-did-people-use-to-vote-in-2020-election.html>; Kevin Quealy & Alicia Parlapiano, *Election Day Voting in 2020 Took Longer in America's Poorest Neighborhoods*, N.Y. Times (Jan. 4, 2021), <https://www.nytimes.com/interactive/2021/01/04/upshot/voting-wait-times.html>;

2020 VOTER TURNOUT

159.7M

BALLOTS COUNTED

66.8%

OF AMERICA'S VOTING-ELIGIBLE POPULATION VOTED

101.5M

EARLY BALLOTS CAST

65.5M

EARLY MAIL-IN BALLOTS

It took advocate challenges and litigation to mitigate the negative impacts that increased state and local voter suppression efforts had on communities of color. It took legions of individuals (volunteering their time) on the ground at polls to report, resolve, or mitigate machine malfunctions, poor or nonexistent signage, explicit or covert voter suppression, and vicious attempts to threaten or intimidate voters. Without these, Election Day 2020 would likely have been a disaster.

Voters turned out in impressive numbers. In all, 159.7 million ballots were counted, the highest number of voters in American history — representing just over 66.8% of America’s voting-eligible population¹¹²— and the highest voter turnout percentage in over a century. This included a record 101.5 million early ballots (35.8 million in-person and 65.6 million mail-in ballots).¹¹³

A record number of African Americans voted. Unfortunately, too many had to overcome incredible obstacles erected by state and local authorities and emboldened private actors that were intent on preventing them from doing so. The election was history making with the first female Vice President elected, who was also a person of African and Asian descent,¹¹⁴ and the first Black and first Jewish U.S. Senators from the State of Georgia.¹¹⁵

As the 117th Congress met on January 6, 2021, to certify the historic 2020 Presidential election, a mob largely comprised of white supremacists

112. See *supra* note 1.

113 2020 General Election Early Vote Statistics, U.S. Elections Project, <https://electproject.github.io/Early-Vote-2020G/index.html> (last updated Nov. 23, 2020).

114 Camera, *supra* note 3.

115 Bluestein, *supra* note 4.

of the “Proud Boys” ilk, stormed the Capitol. They were hell bent on overthrowing a free and fair election and installing then-President Trump as the winner. As members of Congress and their staff took cover under desks and behind locked doors, violent insurgents attacked and overwhelmed Capitol police. Once inside, they destroyed property, rifled desks, and stole computers and documents from members’ offices. The unsuccessful coup left five people dead.¹¹⁶

Four years of President Trump’s racist, Islamophobic, and anti-immigration rhetoric had invigorated a white nationalist movement many believed had been sidelined. His hateful speeches and tweets made it socially acceptable to be openly racist. This was an insurrection replete with racist regalia and instruments of violence, including the presence of the Confederate battle flag inside the U.S. Capitol,¹¹⁷ a noose,¹¹⁸ and branded clothing identifying many of the rioters as members of the Proud Boys,¹¹⁹ a neo-fascist, white supremacist group that advocates political violence.¹²⁰

Rioters wore anti-Semitic symbols promoting

116 Azi Paybara & Brent Lewis, Stunning Images as a Mob Storms the U.S. Capitol, N.Y. Times (Jan. 6, 2021), <https://www.nytimes.com/2021/01/06/us/politics/trump-riot-dc-capitol-photos.html?searchResultPosition=7>; Chris Cameron, Prosecutors Mull Theft Charges After Laptops, Documents Are Stolen from Capitol, N.Y. Times (Jan. 10, 2021), <https://www.nytimes.com/2021/01/10/us/politics/stolen-items-prosecutors-charges.html?searchResultPosition=1>; Levenson, et al., *supra* note 12.

117 Jordan Brasher, The Confederate battle flag, which rioters flew inside the US Capitol, has long been a symbol of white insurrection, MSN (Jan. 14, 2021), <https://www.msn.com/en-us/news/us/the-confederate-battle-flag-which-rioters-flew-inside-the-us-capitol-has-long-been-a-symbol-of-white-insurrection/ar-BB1cKBJV>.

118 Thomas Levinson, Washington, DC protests in pictures: Shocking photos of the chaos, N.Y. Post (Jan. 6, 2021), <https://nypost.com/2021/01/06/stunning-photos-show-us-capitol-overrun-by-trump-supporters/>.

119 Staff, Identifying far-right symbols that appeared at the U.S. Capitol riot, Wash. Post (Jan. 15, 2021), <https://www.washingtonpost.com/nation/interactive/2021/far-right-symbols-capitol-riot/>.

120 Proud Boys, Anti-Defamation League, <https://www.adl.org/proud-boys> (last visited May 17, 2021); Neil MacFarquhar, Alan Feuer, Mike Baker, & Sheera Frenkel, Far-Right Group That Trades in Political Violence Gets a Boost, N.Y. Times (Sept. 30, 2020, updated Mar. 5, 2021) <https://www.nytimes.com/2020/09/30/us/proud-boys-trump.html>.

the Holocaust and Auschwitz¹²¹ — a Nazi death camp. Dominant throughout the crowd was the oversized Trump flag, which has emerged as the new symbol of the racism spewed by President Trump. Many in the mob did not hide their identity, a surprising number posted their activities on social media. The insurrectionists hailed from all corners of the United States, and from all levels of society,¹²² including a significant number with law enforcement and military backgrounds,¹²³ to defend the view of America that Donald Trump had promoted — a nation divided by race. Shockingly few insurgents were arrested at the Capitol, nearly all were allowed to leave and return to their homes.¹²⁴ As of this writing, prosecutions of the insurgents have begun.¹²⁵

121 Phil West, Man wearing pro-Holocaust sweatshirt amid Capitol rioters, Daily Dot (Jan. 6, 2021), <https://www.dailydot.com/debug/camp-auschwitz-sweatshirt-neo-nazis-capitol-riot/>; Barbara Corbellini Duarte, et al., The clothing and symbols that Capitol rioters wore reveal a deeper story about possible future threats, Insider (Jan. 17, 2021) <https://www.insider.com/capitol-rioters-clothes-revealed-deeper-story-about-possible-future-threats-2021-1>.

122 Robert A. Pape & Keven Ruby, THE FACE OF AMERICAN INSURRECTION: Right-Wing Organizations Evolving into a Violent Mass Movement, Chi. Project on Security & Threats, U. Chi. Div. Soc. Sci. (Jan. 28, 2021) https://d3qi0qp55mx5f5.cloudfront.net/cpost/i/docs/americas_insurrectionists_online_2021_01_29.pdf?time=1611966204.

123 *Id.*; see also, Staff, The Capitol Siege: The Arrested And Their Stories, NPR (Feb. 9, 2021, updated Apr. 9, 2021) <https://www.npr.org/2021/02/09/965472049/the-capitol-siege-the-arrested-and-their-stories>.

124 For a list of all those arrested or charged as of April 13, 2021 see: Rachel Axon et al., Capitol riot arrests: See who’s been charged across the U.S., U.S. Today, (May 17, 2021, with periodic updates) <https://www.usatoday.com/storytelling/capitol-riot-mob-arrests/>.

125 Katelyn Palantz, Capitol riot defendant flips to help prosecutors against Proud Boys, CNN (Apr. 7, 2021) <https://www.cnn.com/2021/04/07/politics/capitol-riot-flip-proud-boys/index.html>; Marshall Cohen & Evan Perez, Capitol riot prosecutors may charge more than 400 people and plea deals may come within a few weeks, CNN (Mar. 12, 2021), <https://www.cnn.com/2021/03/12/politics/us-capitol-riot-investigation-plea-deal/index.html>; Spencer S. Hsu & Devlin Barrett, Justice Dept. prepares to engage in plea talks with many Capitol riot defendants, Wash. Post (Mar. 22, 2021), https://www.washingtonpost.com/national-security/capitol-riot-investigation-plea-deals/2021/03/19/161221bc-88ca-11eb-8a8b-5cf82c3dffe4_story.html.

Security forces respond with tear gas after the U.S. President Donald Trump's supporters breached the U.S. Capitol security. Pro-Trump rioters stormed the US Capitol as lawmakers were set to sign off Wednesday on President-elect Joe Biden's electoral victory in what was supposed to be a routine process headed to Inauguration Day. Photo by Probal Rashid/LightRocket via Getty Images



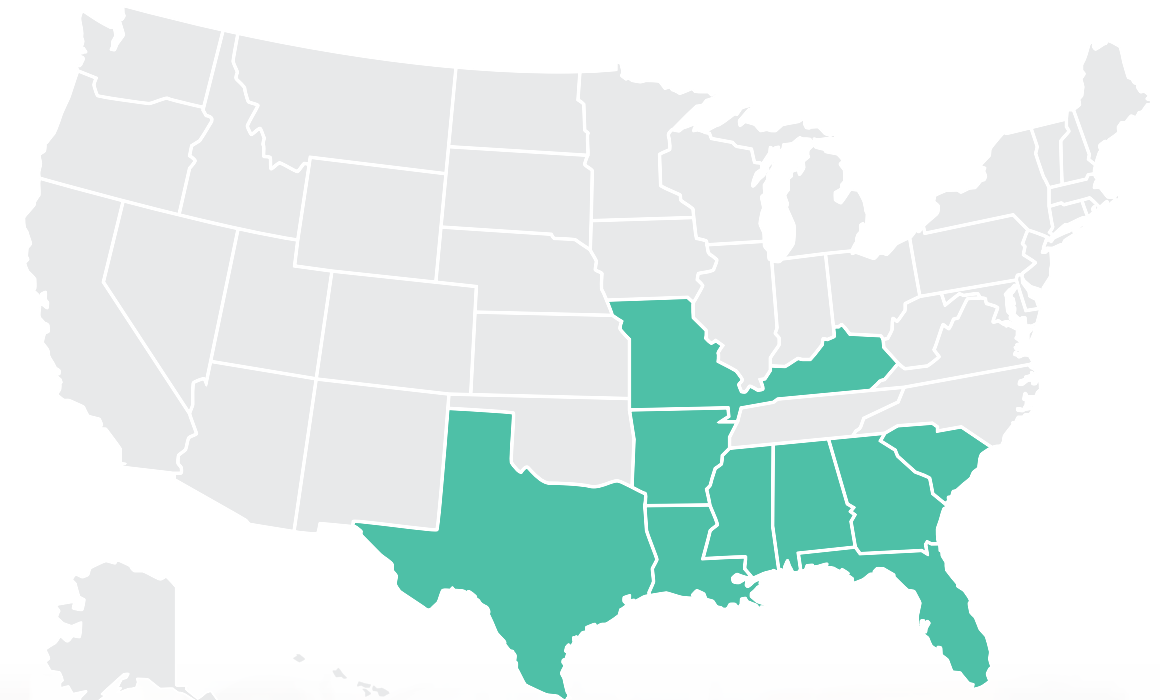
OUR APPROACH

In 2020, LDF continued our longstanding efforts to ensure that voters in targeted states with a long history of voter suppression and intimidation have essential information to enable them to vote safely and securely. These included our well-established election protection work through our *Prepared to Vote* (PTV) project and our new *Voting Rights Defender* (VRD) project, which allowed us to initiate early challenges to voter suppression activity before it was too late and the election was upon us. We also utilized innovative technology enabling large-scale collection of data to aid in recording, monitoring, and responding to acts of voter suppression and intimidation, and partnerships with national, state, and local organizations that share our dedication to protecting and promoting every citizen's right to vote. LDF's 2020 election protection activities engaged nearly every department in the organization including the Policy, Litigation, Development, Communications, Finance, and IT departments. In addition, the Thurgood Marshall Institute (TMI) coordinated the two major components of the 2020 program— our PTV and VRD campaigns.

Voting Rights Defender/ Prepared to Vote 2020

VRD/PTV 2020 operations began with seven targeted states where we conducted field monitoring programs during the presidential preference primary elections starting in late February. To improve the volunteer experience and make rapid response efforts more efficient, the team developed and launched a mobile app that volunteers could use in the field at polling sites to access resources, conduct standardized poll site monitoring, and directly report issues to us. Prior to the COVID-19 stay-at-home orders, the VRD/PTV team launched in-person monitoring and response efforts in four states: Alabama, Mississippi, South Carolina, and Texas.

After stay-at-home orders were announced, the team rapidly adjusted to launch remote monitoring of primary elections in Florida and implement modified monitoring efforts in additional states, including Arkansas and Wisconsin. These remote efforts included all-day tracking of online information sources and regional media and outreach to local contacts. We ran similar operations in Georgia and Louisiana, which had postponed primary elections from



Sherrilyn Ifill (middle), LDF President and Director-Counsel, and Janai S. Nelson (left), LDF Associate Director-Counsel, with LDF staff at the Edmund Pettus Bridge, Selma, AL on March 1, 2020.

OUR APPROACH

early spring to late spring or summer. Work during these primary elections had the benefit of trained local poll monitors, most of whom were roving and remained in their vehicles, utilizing the app to report issues. Applying both traditional and new organizing models, the growing team expanded voter education and mobilization efforts and advanced new voter protection and election security efforts in anticipation of the November elections. We also used social media to notify voters of critical dates and other information.

LDF's Election 2020 voter protection plan differed from previous PTV campaigns in two major ways. First, the pandemic forced most of the voter education programs to be conducted online, via direct mail, and by trained local poll monitors. Second, TMI stood up its new program, VRD, to combat voter suppression year-round through non-litigation voting rights advocacy. Importantly, the information VRD collects provides ongoing evidence that restoration of Section 5 preclearance under the Voting Rights Act and other measures to ensure open and fair access and protection of the right to vote are necessary.

For the primary season overall, the VRD/PTV team actively monitored primary elections and runoffs and engaged in advocacy with elections officials in Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, South Carolina, and Texas, along with more limited monitoring and advocacy for primary elections in North Carolina, New York, Virginia, and Wisconsin. The team conducted voter education primarily via social media and issued advocacy letters to officials in New York, District of Columbia, Baltimore, and Connecticut raising concerns about their election processes and requesting action for the primary or prior to the November elections. Throughout the primary season during the pandemic, VRD/PTV focused on gathering information and lessons on how to

best conduct voter education, election monitoring, and rapid response work remotely.

After the primaries, the VRD/PTV team conducted state audits and identified the key barriers to voting in our seven full focus target states plus Kentucky, which was a full focus, limited geography state. We identified key contacts and resources in each state, and drafted state specific plans containing responsive strategies to address identified barriers to voting in advance of the general election. For Arkansas and Missouri, we prepared and distributed nonpartisan voter education materials – palm cards.

VRD/PTV stood up database platforms to facilitate the collection and analysis of incoming data on the states to better triage responsive actions. We also piloted a remote monitoring program that included active social listening and roving poll monitors operating at polling locations. As the election neared, we partnered with the Poor Peoples Campaign and Forward Justice (PPC/FJ) to recruit a large number of volunteers in our targeted states. In Michigan, North Carolina, and Pennsylvania, VRD/PTV committed to providing support to PPC/FJ in these states as well. The remote monitoring program helped to anticipate locations and issues that would be most challenging on Election Day and allowed resources to be deployed with the greatest efficacy.

Personnel

LDF devoted a considerable amount of staff resources to achieve the success of Election 2020. In addition to the nine staff fully dedicated to PTV/VRD, LDF also contributed thousands of staff hours from lawyers, organizers, policy experts, and Communications and Development staff.

Policy

Since the devastating *Shelby County* decision, LDF's Policy team has worked with a coalition of partners and numerous congressional offices to advance legislation which would restore the Voting Rights Act of 1965 (VRA). The proliferation of state anti-voting laws across the country¹²⁶ demonstrates the urgent need for Congress to swiftly restore the VRA to its full strength, provide a federal standard for voting access, and protect voting rights more broadly.

Throughout the 116th Congress our policy team engaged in efforts to support the passage of the For the People Act 2019 (H.R.1 and S.1), which expands access to the ballot box, increases penalties for voter intimidation, and advances major campaign finance reform. The Policy team also urged passage of the Voting Rights Advancement Act of 2019 (H.R. 4 and S. 561), later renamed the John R. Lewis Voting Rights Advancement Act, which would redefine the VRA preclearance formula in accordance with the *Shelby County* decision.

Additionally, LDF's Policy department worked to ensure that states were able to adopt and implement ballot security measures after we learned of the extensive foreign interference in the 2016 elections, particularly that aimed at Black voters. When primary elections across the country revealed the threat of disenfranchisement that COVID-19 posed, our Policy team advocated for Congress to pass legislation that would address the dire need for safe and secure voting options during the pandemic and provide the required funding to enable states to comply.¹²⁷

¹²⁶ State Voting Bills Tracker 2021, *supra* note 15.

¹²⁷ In addition, in June of 2020, LDF President and Director Counsel Sherrilyn Ifill testified before the House Administration's Subcommittee on Elections about COVID-19's impact on voting rights and election administration. LDF, *Sherrilyn Ifill Testifies Before the House Administration Committee*, Vimeo (June 11, 2020), <https://vimeo.com/428317316>.

LDF POLICY OUTCOMES

\$425M

HELP AMERICA VOTE ACT (HAVA)
ELECTION SECURITY FUNDS

\$400M

CARES ACT FUNDS FOR COVID-19-
RELATED ELECTION EXPENSES

Congress appropriated additional funding to support the 2020 elections. Specifically, \$425 million in new Help America Vote Act (HAVA) Election Security Funds was authorized and subsequently approved to cover states' election security expenditures necessitated by the pandemic.¹²⁸ Additionally, as part of the Coronavirus Aid, Relief, and Economic Security (CARES) Act, \$400 million was appropriated specifically for COVID-19-related election expenses.¹²⁹

In the 117th Congressional session, LDF's Policy team has continued its work to advance critical federal voting rights legislation. The For the People Act (H.R. 1) passed the House in March 2021 and awaits action by the Senate. The John Lewis Voting Rights Advancement Act (H.R. 4) passed by the House on August 24, 2021.¹³⁰ Our

¹²⁸ CARES Act, Pub. L. No. 116-136, 134 Stat 281 (2020).

¹²⁹ Consolidated Appropriations Act, Pub. L. No. 116-93, § 5001, 133 Stat 2317 (2019).

¹³⁰ Eugene Scott, *House passes bill to strengthen Voting Rights Act in face of new restrictions in GOP-led states*, Wash. Post (Aug. 24, 2021), House passes bill to strengthen Voting Rights Act in face of new restrictions in GOP-led states.

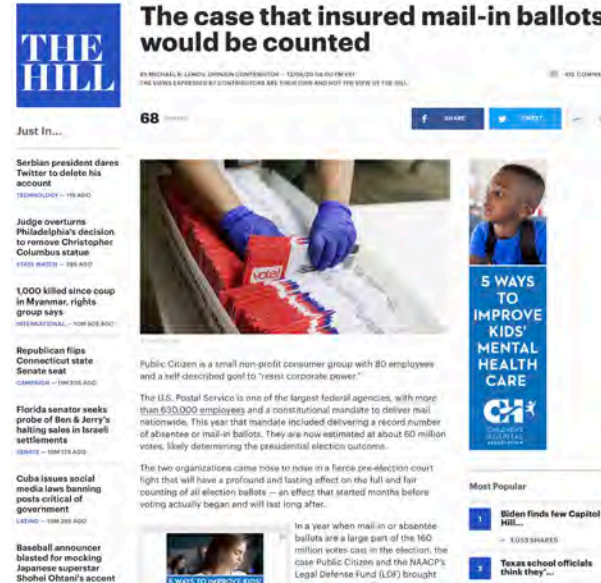
 OUR APPROACH

efforts in this new Congressional session have also expanded to include support for the advancement of the Washington, D.C. Admission Act (H.R. 51), which would provide for the admission into the United States of the state of Washington, Douglass Commonwealth.

Litigation

LDF’s Litigation department was a critical voting rights advocate in the 2020 election season, filing cases to ensure unrestricted access to safe and secure voting during the pandemic, including efforts to expand vote-by-mail and early voting and limit burdensome procedural requirements that suppress the vote. The department also challenged discriminatory voter ID laws and attempts to dilute the voting power of communities of color. The individual state sections in this report describe specific litigation conducted in each state.

Two cases, however, had a national reach. One case in particular had significant impact on the 2020 election. This was the suit LDF and co-counsel filed in August of 2020 against the United States Postal Service (USPS).¹³¹ It was filed in response to the July 10 internal memo issued by the USPS¹³² describing systems changes that, by USPS’s own admission, would lead to widespread disruptions in mail delivery nationwide. The changes were implemented without notice and in violation of federal law.¹³³ As the complaint asserted, the acknowledged disruptions would risk timely delivery of mail-in ballots for the November 2020 elections, resulting in voter disenfranchisement. The feared delays proved



“
 The fairness and accessibility of voting was protected by the availability of absentee and mail-in ballots to millions of American voters. That was the result, in part, of the unsung actions of a couple of determined public interest attorneys and one tough federal judge.
 ”

MICHAEL R. LEMOV
 THE HILL

¹³¹ Complaint for Declarative and Injunctive Relief, *supra* note 37.

¹³² *Mandatory Stand-Up Talk: All Employees, Pivoting For Our Future*, *supra* note 36

¹³³ 39 U.S.C. § 3661.

true.¹³⁴ The court agreed there was a risk of disenfranchisement and ordered a suspension of the proposed changes until after the election.¹³⁵ Despite this order, however, the plaintiffs had to return to court four times¹³⁶ (including on Election Day) for emergency orders to compel the USPS to comply and prioritize delivery of mail-in ballots. LDF also helped to negotiate an agreement requiring the USPS to implement key measures to prioritize and expedite the delivery of ballots for the January 5, 2021, Georgia Runoff Election.¹³⁷

A second critical case, which is ongoing, relates to what happened after Election Day 2020. In the days and weeks following the November election, President Trump and his campaign and supporters falsely claimed that there had been widespread voter fraud in major urban centers and demanded in recounts a number of polling districts with large Black populations.¹³⁸ This was a far-reaching attempt to delegitimize and disenfranchise Black voters. On November 20, 2020, LDF and co-counsel filed a lawsuit against President Trump and his campaign, in the U.S. District Court for the District of Columbia alleging these actions violated the Voting Rights Act prohibition on attempts to coerce or intimidate state and local officials to not count or certify voters and violated 42 U.S.C. § 1985(3) (The Ku Klux Klan Act), which prohibits conspiracies that interfere with civil rights.¹³⁹ The suit alleges that the defendants targeted communities of color with baseless

¹³⁴ Jason Bogage & Christopher Ingraham, *USPS data shows thousands of mailed ballots missed Election Day deadlines*, Wash. Post (Nov. 4, 2020), <https://www.washingtonpost.com/business/2020/11/03/election-ballot-delays-usps/>.

¹³⁵ Case: NAACP v. USPS | Political Participation, LDF (Aug. 20, 2020), <https://www.naacpldf.org/case-issue/naACP-v-usps/>.

¹³⁶ *NAACP v. USPS*, *supra* note 34.

¹³⁷ Jacob Bogage, *USPS and civil rights groups reach deal to fast-track ballots in Georgia runoff elections*, Wash. Post (Dec. 24, 2020), <https://www.washingtonpost.com/business/2020/12/24/usps-ballots-georgia-runoff-naACP/>.

¹³⁸ See Niquette & Korte, *supra* note 7; Phillips, *supra* note 7.

¹³⁹ Complaint for Declarative and Injunctive Relief, *supra* note 41.

NAACP v. USPS

Despite this order, however, the plaintiffs had to return to court four times (including on Election Day) for emergency orders to compel the USPS to comply and prioritize delivery of mail-in ballots.

claims of voter fraud and coordinated actions to pressure state and local officials in key states to discard votes cast in cities with large Black populations, such as Detroit, and sought to have state legislatures override the will of the voters by installing President Trump’s slate of electors.

A month later, the complaint was amended to add the Republican National Committee as a co-defendant.¹⁴⁰ The amended complaint also alleges the Trump Administration’s post-election claims of voter fraud were a distortion of known issues surrounding when vote-by-mail ballots were to be counted in some jurisdictions. It was clear before the election that counting the increased number of mail-in ballots that the pandemic engendered would take more time than usual.¹⁴¹ These expected delays were used to support baseless challenges, which not only significantly delayed

¹⁴⁰ Amended Complaint for Declarative and Injunctive Relief, *Mich. Welfare Rights Org. v. Trump*, No. 20-3388 (D.D.C. Dec. 12, 2020), ECF No. 8 <https://www.naacpldf.org/wp-content/uploads/2020.12.21-MWRO-v.-Trump-et-al.-Amended-Complaint-Dkt.-No.-8-2.pdf>.

¹⁴¹ See Nat’l Conference of State Legislatures, *Voting Outside the Polling Place: Absentee, All-Mail and other Voting at Home Options*, Policy Decision Points (Sept. 24, 2020), <https://www.ncsl.org/research/elections-and-campaigns/absentee-and-early-voting.aspx>; and Nat’l Conference of State Legislatures, *VOPP Table 16: When Absentee/Mail Ballot Processing and Counting Can Begin* (Oct. 1, 2020), <https://www.ncsl.org/research/elections-and-campaigns/vopp-table-16-when-absentee-mail-ballot-processing-and-counting-can-begin.aspx>.

✓ OUR APPROACH

final tallies of votes in multiple states but also caused some election workers to feel threatened by members of the public who had been spurred into committing acts of intimidation. In the days following the election, ballot counters were assailed by death threats, their reputations were sullied, and in some cases their personal information

was posted online.¹⁴² All of this was to dissuade them from fulfilling their duty to count every vote. Ballots cast by Black voters in large urban centers in Michigan, Wisconsin, Pennsylvania, and Georgia, were the frequent targets of the most vociferous challenges.¹⁴³



(left) A worker with the Detroit Department of Elections takes a break after sorting absentee ballots at the Central Counting Board in the TCF Center on Nov. 4, 2020 in Detroit, Michigan. Photo by Elaine Cromie/Getty Images

(right) A man carries an AR-15 assault rifle and a flag as protesters gather near the Indiana State house for a #StoptheSteal rally and to protest Joe Biden's election victory over Donald J. Trump. Photo by Jeremy Hogan/SOPA Images/LightRocket via Getty Images



142 Sean Keenan, *An Atlanta election worker is in hiding after a claim that he tossed a ballot. His boss says the claim is false.*, N.Y. Times (Nov. 6, 2020), <https://www.nytimes.com/2020/11/06/us/politics/an-atlanta-election-worker-is-in-hiding-after-a-claim-that-he-tossed-a-ballot-his-boss-says-the-claim-is-false.html>; Michael Wines, *Here are the Threats Terrorizing Election Workers*, N.Y. Times (Dec. 3, 2020), <https://www.nytimes.com/2020/12/03/us/election-officials-threats-trump.html>; Bill Whittaker, *"It Is Not Cheating, It Is Democracy": A First-Hand Look at Ballot Counting in Pennsylvania*, 60 Minutes, CBS (Nov. 9, 2020), <https://www.cbsnews.com/news/pennsylvania-ballot-counting-2020-election-60-minutes/>.

143 Amended Complaint for Declarative and Injunctive Relief, *supra* note 140, at 7-26.



Florida nonpartisan poll monitors on Election Day 2020. Volunteer photo

Partnerships

LDF had the privilege of working with a vast and impressive array of individuals and organizations who share a dedication to preserving the right of every American citizen to vote in safe and secure elections. On July 1, 2020, the Thurgood Marshall Institute conducted an online Lab, *Protecting and Advancing Voting Rights During the Pandemic*, that was designed to help local, state, and national voting advocacy organizations strategize about ways to maximize voter participation and combat voter suppression during the challenging COVID-19 pandemic. Our state and local partners are described in the state sections of this report.

Nonpartisan Poll Monitors

LDF's partnership with PPC/FJ was critical to engaging over a thousand nonpartisan volunteer poll monitors in our target states. These volunteers, trained in the voting rights provisions of their states, were able to intervene and ensure that registered voters could successfully exercise their right during early voting and on Election Day. Volunteers using our mobile app submitted reports that were uploaded into our database, allowing real-time tracking and quick resolution of voting issues; with PPC/FJ we responded to and resolved incoming reports and requests for assistance in our database and from the Election Protection Hotline (866-OUR-VOTE). In Florida, LDF partnered with Common Cause to oversee volunteer poll monitors and participated in the Election Protection network to respond to and resolve issues from the 866-OUR-VOTE hotline.

 OUR APPROACH



LET US VOTE

BECOME A VOTING RIGHTS AMBASSADOR!

We are seeking BIPOC student and community leaders across campuses in Texas, Georgia, Florida, South Carolina, Mississippi, Louisiana, and Alabama who are passionate about **voting rights** to amplify LDF's efforts to provide non-partisan voter education and **recruit, educate, and activate** voters across their campuses and communities.

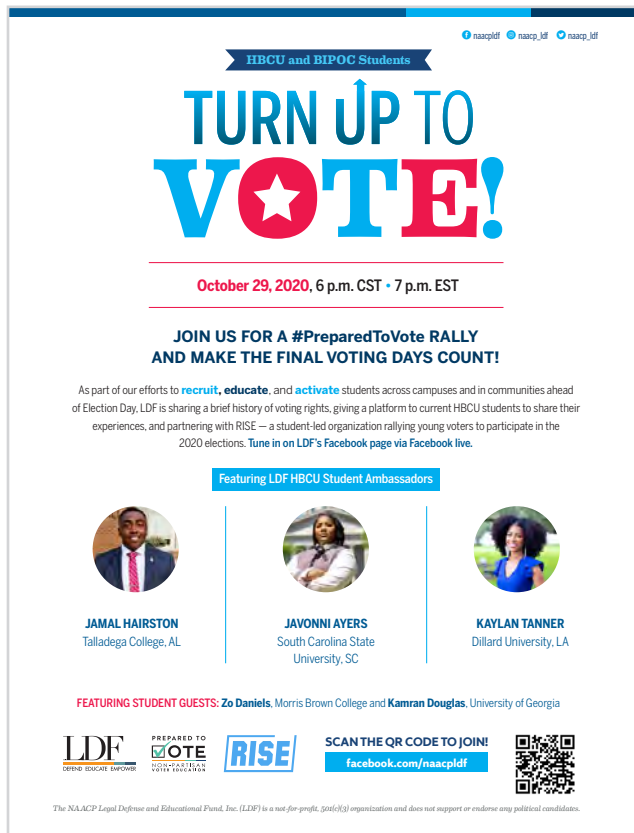
- RECRUIT** We are recruiting BIPOC students to serve as voting rights ambassadors for Let Us Vote outreach.
- EDUCATE** We will equip you with the necessary tools to educate your peers on campus and in your communities about voting rights and the November election.
- ACTIVATE** We need BIPOC students to help protect the vote, sign up as poll workers, create a plan to vote, disseminate voting information on campus and in your community, and prepare for the November election.

LDF THURGOOD MARSHALL INSTITUTE

SIGN UP HERE NOW
bit.ly/LetUsVote2020

If you have questions or would like to nominate someone please contact:
Celia Avila cavila@naacpldf.org
Emily Sheel eshell@naacpldf.org

The NAACP Legal Defense and Educational Fund, Inc. (LDF) is a not-for-profit, 501(c)(3) organization and does not support or endorse any political candidates.



HBCU and BIPOC Students

TURN UP TO VOTE!

October 29, 2020, 6 p.m. CST • 7 p.m. EST

JOIN US FOR A #PreparedToVote RALLY AND MAKE THE FINAL VOTING DAYS COUNT!

As part of our efforts to **recruit, educate, and activate** students across campuses and in communities ahead of Election Day, LDF is sharing a brief history of voting rights, giving a platform to current HBCU students to share their experiences, and partnering with RISE – a student-led organization rallying young voters to participate in the 2020 elections. **Tune in on LDF's Facebook page via Facebook live.**

Featuring LDF HBCU Student Ambassadors

- JAMAL HAIRSTON**
Talladega College, AL
- JAVONNI AYERS**
South Carolina State University, SC
- KAYLAN TANNER**
Dillard University, LA

FEATURING STUDENT GUESTS: Zo Daniels, Morris Brown College and **Kamran Douglas**, University of Georgia

LDF THURGOOD MARSHALL INSTITUTE

PREPARED TO VOTE

RISE

SCAN THE QR CODE TO JOIN!
facebook.com/naacpldf

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Engagement of Historically Black Colleges and Universities (HBCUs)

The VRD/PTV team partnered with HBCUs and Black-led student organizations to provide voting rights training. More than 400 students were trained to recruit, educate, and activate students at their schools and home communities in a campaign called “Let Us Vote.”¹⁴⁴ Through this campaign, HBCU students distributed thousands of LDF’s voter information palm cards and PPE to fellow students to support safe and secure voting. A National Voter Registration Day event held on Facebook Live¹⁴⁵ and a “Turn up to Vote” rally featuring prominent HBCU student leaders across the South both reached over 1,000 viewers.

Poll Worker Recruitment

By summer, it was clear that COVID-19 fears were exacerbating existing nationwide shortages of poll workers. In 2016, 24% of poll workers were 71 or older and another 32% were between the ages of 61 and 70,¹⁴⁶ a population that is especially vulnerable to COVID-19.¹⁴⁷ During the Wisconsin primary only five polling sites out of the usual 180 were open in Milwaukee,¹⁴⁸ due to poll workers’ fears about pandemic exposure. LDF and other nonprofits worked to recruit more poll workers

144 Poster, *Let Us Vote*, LDF, <https://nitter.tedomum.net/pic/media%2FEihgfOZXYAMII40.jpg%3Fname%3Dorig>.

145 National Voter Registration Day, Facebook, <https://www.facebook.com/NatVoterRegDay/> (last visited May 17, 2021).

146 U.S. Election Assistance Commission, *The Election Administration And Voting Survey: 2016 Comprehensive Report* 14 (2017), https://www.eac.gov/sites/default/files/eac_assets/1/6/2016_EAVS_Comprehensive_Report.pdf.

147 Older Adults and COVID-19, CDC, <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/older-adults.html> (updated May 14, 2021).

148 Alison Dirr, *Milwaukee has just 5 polling places for Tuesday’s election. Here’s where they are*, Milwaukee J. Sentinel, 4/3/2020; <https://www.jsonline.com/story/news/politics/elections/2020/04/03/coronavirus-milwaukee-election-officials-announce-5-voting-centers/2942990001/>.



from younger age groups for the general election. Partnering with More Than a Vote (MTAV),¹⁴⁹ an organization of athletes and artists that was co-founded by LeBron James,¹⁵⁰ the VRD team launched a powerful poll worker recruitment ad¹⁵¹ that was aired during the NBA finals¹⁵² and in many media markets across the nation, and was retweeted by former President Barack Obama.¹⁵³ Actress, writer, and producer Issa Rae created a recruitment video for our partnership with MTAV that was released in early October.¹⁵⁴ Partnering

149 Astead W. Herndon, *LeBron James and a Multimillion-Dollar Push for More Poll Workers*, N.Y. Times (Aug. 24, 2020), <https://www.nytimes.com/2020/08/24/us/politics/lebron-james-poll-workers.html>.

150 Open Letter, MTAV, <https://www.morethanavote.org/open-letter/> (last visited May 17, 2021).

151 More Than A Vote, *supra* note 59.

152 Jeff Beer, *LeBron James’s More Than a Vote and NAACP launch recruitment ad for election poll workers*, Fast Co. (Sept. 12, 2020), <https://www.fastcompany.com/90551682/lebron-james-more-than-a-vote-and-naacp-launch-recruitment-ad-for-election-poll-workers>; *We Got Next, More Than a Vote Campaign*, <https://www.morethanavote.org/we-got-next/> (last visited May 18, 2021).

153 Barack Obama (@BarackObama) Twitter (Sept. 18, 2020, 3:00 PM), <https://twitter.com/BarackObama/status/1307031800909385733?s=09>.

154 Power the Polls TV Commercial, “The Next Hero Is You” Featuring Issa Rae, iSpot.tv, <https://www.ispot.tv/ad/tLDh/power-the-polls-the-next-hero-is-you-featuring-issa-rae>; Eric O. Butler, *Issa Rae Poll Worker Campaign*, Vimeo (Jan. 22, 2021), <https://vimeo.com/503676452>.

with Power the Polls, LDF and MTAV recruited over 42,500 poll worker applicants. LDF’s collaboration with We the Action yielded over 100 poll worker signups from law students and attorneys.¹⁵⁵ The success of the recruitment led to an article published by Global Citizen, *5 Reasons You Should Sign Up to Be A Poll Worker for the 2020 Election*.¹⁵⁶ Due to the poll worker recruitment efforts of LDF and many others, Milwaukee was able to staff 173 polling locations in November.¹⁵⁷ Power the Polls reported total recruitment at over 700,000.¹⁵⁸ Many jurisdictions that had been short of workers reported having more than they needed, while others were still in need shortly before the election.¹⁵⁹

155 LDF, *More Than a Vote & LDF: Become a Poll Worker*, We The Action (Sept. 20, 2020), <https://wetheaction.org/projects/854-more-than-a-vote-ldf-become-a-poll-worker>.

156 Joe McCarthy, *5 Reasons You Should Sign Up to Be a Poll Worker for the 2020 Election*, Global Citizen (Oct. 7, 2020), <https://www.globalcitizen.org/en/content/why-you-should-be-a-poll-worker/>.

157 *Election Workers!*, City of Milwaukee, <https://city.milwaukee.gov/election/Helpmilwaukeevote> (last visited May 18, 2021).

158 *Help Staff Your Local Polling Place*, *supra* note 60.

159 Lucy Perkins, *Despite Surge in Volunteers, Some Swing States Still Need Poll Workers*, NPR (Oct. 10, 2020), <https://www.npr.org/2020/10/10/921583854/despite-surge-in-volunteers-some-swing-states-still-need-poll-workers>.

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Voter Outreach and Get Out the Vote

Partnering with Genius marketing,¹⁶⁰ LDF's Communications department and the VRD/PTV team spearheaded a digital ad campaign to inform targeted demographics about voting and the census. Genius amplified LDF's messages with a commitment of \$1 million in pro-bono digital advertising.¹⁶¹ Also, with Election Day quickly approaching, LDF teamed up with Genius for a special episode of For The Record to highlight how citizens can make a difference with their ballots.¹⁶²

LDF's Lady Gaga Instagram takeover¹⁶³ involved a day-long digital takeover of the singer/actress's Instagram feed with VRD/PTV and LDF's

Justice in Public Safety Project materials that helped target millions with messages about the importance of voting and encouraged youth to apply to become poll workers.

The VRD/PTV team and LDF's Development and Communications departments in collaboration with a private donor developed a campaign to promote voter turnout. The project incorporated original artwork by BIPOC (Black, Indigenous, and People of Color) artists honoring the victims of police violence. Images of George Floyd, Trayvon Martin, Eric Garner, Sandra Bland, Breonna Taylor, and others became a powerful video ad entitled They Can't. We Can¹⁶⁴ that was used in social media posts.



160 Genius and The NAACP Legal Defense And Educational Fund, Inc. Launch Digital Media Partnership, Genius (Aug. 28, 2020), <https://genius.com/a/genius-and-the-naacp-legal-defense-and-educational-fund-inc-launch-digital-media-partnership>.

161 *Id.*

162 Rahel Gabreyes, *For the Record: How is Hip-Hop Responding to the 2020 Election?*, Genius (Oct. 23, 2020), <https://genius.com/a/for-the-record-how-is-hip-hop-responding-to-the-2020-election>.

163 Katie Rosseinsky, *Lady Gaga hands over Instagram account to social justice charities fighting racism*, Evening Standard, (June 5, 2020), <https://www.standard.co.uk/showbiz/celebrity-news/lady-gaga-instagram-takeover-anti-racism-charities-black-lives-matter-a4460836.html>.

164 LDF, *They can't. We can.* YouTube (Oct. 14, 2020), <https://www.youtube.com/watch?v=7AUUZswX2z8>; Partners with BIPOC Artists to Launch "They Can't. We Can." Voting Campaign Honoring Victims of Police Violence, Press Release issued 10/14/2020, <https://naacpldf.org/wp-content/uploads/They-Cant.-We-Can.-launch-10.14.20-FINAL.pdf>

Election Day Advocacy

LDF was a founding partner in the Election Protection civil rights coalition, which includes dozens of national, state, and local partners.¹⁶⁵ The [National Lawyers' Committee for Civil Rights Under Law](#) oversees a national election hotline 866-OUR-VOTE, which is staffed by partner organizations and volunteer attorneys from around the country. Other Election Protection partner organizations such as [NALEO Educational Fund](#) and [Asian Americans Advancing Justice/AAJC](#) oversaw national election hotlines in languages beyond English. As described more fully in each state's section, VRD/PTV partnered with state and local organizations to provide voting rights expertise and support ways to expand the capacity of grassroots organizations conducting nonpartisan voting rights work.

165 Partners, Election Protection, <https://866ourvote.org/partners/> (last visited May 15, 2021).

Project Management

The Marshall Institute relied heavily on an in-kind contribution of project management support from a major corporation that was invaluable to the success of our 2020 VRD/PTV operations. This contribution included a full-time certified project manager, who helped to create structure around the new VRD/PTV program, and two part-time consultants, one with deep expertise in the technology used by VRD/PTV and a second with extensive volunteer management skills.

Technology

The pandemic required us to radically change our operational plans. By mid-spring of 2020, we assumed we had to change from an on-the-ground operation to an all-remote virtual operation. After Milwaukee voters made it clear that despite the risk many voters would be doing so in person, we confirmed that we had to plan fully for all voting options. Standing up new technology to help in-person and remote staff and voters became a critical part of VRD/PTV 2020. Major elements of the team's technology strategy included:

 **OUR APPROACH**

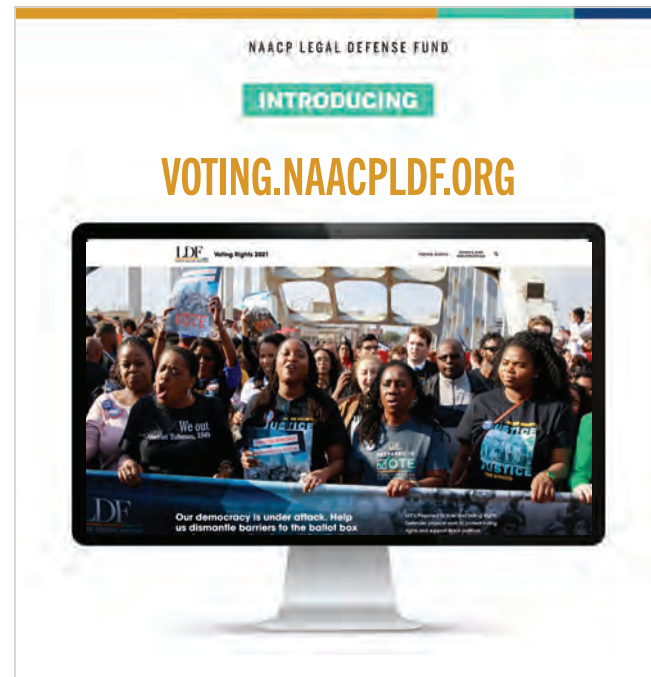
Voting microsite: In August, the team launched a comprehensive, multi-feature voting rights microsite – voting.naacpldf.org — that became the central point of reference for LDF’s voting work across the board –TMI’s operation of VRD/PTV plus the work of our Litigation and Policy departments. The site became both a resource for voters and a repository for critical election data. We posted specific voter information for each of our target states, including PDFs of the state palm cards, which could be downloaded, shared and/or printed, in both English and Spanish.

The microsite also featured current information on voting rights laws and election administration processes and incorporated an intake portal where community members could share information about voting rights issues in their communities and report voter suppression efforts in advance of Election Day.

Database and information gathering platforms: VRD/PTV worked with several software vendors to use existing software to create branded technological tools that gave us the ability to do unprecedented data collection, processing, and analysis in real time. These tools allowed us to communicate and coordinate with volunteers, state and local partners, and national partner organizations. While some of these tools were planned, others were a direct result of changes necessitated by the pandemic and allowed LDF staff and partners to communicate immediately by chat, video conference, or audio conference to overcome the obstacle of working in remote locations.

Pre-Election Remote Monitoring

The VRD/PTV team conducted remote pre-election and Election Day monitoring for the 2020 primaries and general elections with the support of multiple major law firms, including



— Arent Fox, O’Melveny & Myers, Paul Weiss, and ReedSmith. We trained over 300 staff members from the firms who remotely monitored traditional, social, and national media sources to identify pre-election issues such as misinformation (false information spread, regardless of intent to mislead), disinformation (information created to be deliberately deceptive), voter intimidation activity, and voter suppression tactics in our target states. Volunteers were trained to report and/or correct misinformation and disinformation on social media platforms. Other issues identified by the firm volunteers were used by the VRD team for our response team advocacy.

Direct Mail and Electronic Messaging

With the help of our donors, LDF was able to reach out directly to voters in ways that it has never been able to do before. LDF’s Development team secured funding for significant voter education efforts and worked with the VRD/PTV team to conduct a direct mail campaign to more

than two million Black voters and local partner organizations in our target states.

The first mailing contained a nonpartisan outreach letter from LeBron James and LDF and nonpartisan voter education materials in the form of state-specific palm cards. Recipients were also reminded to complete the Census. A second direct mailing contained an outreach letter from the athletes and actors in More Than A Vote and LDF along with nonpartisan, state-specific voter education materials and a PPE care package with gloves, mask, and hand sanitizing wipes. We also sent PPE to our state and local partners for nonpartisan distribution along with voter education literature. At the request of one local Georgia partner, 25% of the door knocker literature provided was in Spanish.

Our last mailing was planned to reach 1.3 million voters shortly before Election Day. We had to stop it midway when a COVID-19 outbreak at the printing facility and USPS mail delays made timely delivery unreliable. We rapidly transitioned from mailing to sending text messages to voters.

Text messaging: Prior to and on Election Day, the VRD/PTV team sent out hundreds of thousands of text messages to Black voters in targeted states. These texts included specific messages such as links to key voting information, information about polling site changes, instructions to stay in line when poll hours were extended due to long lines, and information about how to obtain, track, and cure a provisional ballot. We continued these targeted messages throughout the election season, including during early voting for the Georgia runoff election in December 2020.

Blogs: TMI published two generalized voting rights blogs. The first, [Online Voter Registration: Good for States, Good for Voters](#), promoted the safety, utility, and importance of online registration generally and particularly during the COVID-19 pandemic. The blog encouraged the 10 remaining states without online voter registration to move

GENERAL ELECTION

- October 19 (Mon)** Deadline to register to vote
- October 29 (Thurs)** Deadline to request an absentee ballot. We recommend that voters request their ballot by **October 15** and return it promptly.
- November 2 (Mon)** Deadline to hand-deliver or postmark an absentee ballot: 5 p.m.
- November 3 (Tues)** **ELECTION DAY**
Polls open 7 a.m. to 7 p.m.
Mailed absentee ballots are due by noon

ELECTION DAY CHECKLIST

- Confirm your registration status bit.ly/ALvoterinfo
- Look up your polling site bit.ly/ALvoterinfo
- See what is on your ballot bit.ly/BallotView
- Pack your ID
- Pack your PPE! Wear a mask, stay safe.

WHAT IDs ARE ACCEPTABLE?

ALABAMA	FEDERAL/STATE	PHOTO REQUIRED
AL Driver's License/Nondriver ID	Federally Issued ID - US Passport or Military ID	AL Dept of Corrections Release Temporary ID
AL Law Enforcement Agency Digital Driver's License/Nondriver ID	Employee ID from Federal, State (AL), or Local Government	AL Movement/Booking Sheet from Prison/Jail
AL Photo Voter ID Card	Tribal ID	Pistol Permit
AL Public or private college or university student or employee ID	State-Issued ID of any state	ID Issued by a higher learning institution in any other state

***ID must be valid, except AL Driver License/Nondriver ID may be expired up to 60 days.**

No photo ID at the polling place? A voter can still cast a regular ballot if two poll workers agree to sign an affidavit that "positively identifies" them. Otherwise, a voter has until 5:00 pm on the first Friday (November 6, 2020) following the election to submit a valid form of photo ID to their county's Board of Registrars. If proper ID is submitted by this deadline, the ballot will be counted as long as the other requirements are met.

Name not on the poll list? The provisional ballot will be counted only if the County Board of Registrars is able to confirm that the person casting the ballot is a duly qualified elector of the polling place where the ballot was cast.

OUR APPROACH

immediately to implement it. The second blog, [Safe and Secure Voting: In-Person or Absentee/Mail Ballot](#), discussed the advantages and disadvantages of in-person compared to absentee/mail voting to help voters make an informed choice about their method of voting. The Marshall Institute also issued a series of blogs on Census response rates in our targeted states with significant Black populations. A second blog series addressed the status of COVID-19 in our target states, specifically noting its impact on Black people in each state. We promoted this information through social media.

Pre-Election Day Advocacy to State and Local Elections Officials

Vote-by-mail, early voting, ballot drop-boxes, and tracking and curing ballots were important options for those concerned about COVID-19 exposure or voter intimidation and the team spent a fair amount of time advocating for and educating voters about their availability. The VRD/PTV team sent advocacy letters to election officials in jurisdictions with significant mail-in ballot problems and long lines at polling sites during the primaries in order to avoid similar issues during the general election.

The number of ballot drop-boxes and where they were located became important with the USPS delays and uncertainty. The team urged elections officials to ensure fair distribution in their jurisdictions.

State specific primary and general election monitoring and advocacy is described in the state section below.

Election Day Advocacy

In addition to the core VRD/PTV team, many additional LDF staff joined in the Election Day voter education and response and election protection activities in 11 states. This was a huge undertaking involving over 55 LDF staff members in total, responding to thousands of issues on Election Day directly with elections officials and voters. We worked on teams directly with staff from PPC/FJ in our targeted states and in states targeted by PPC/FJ. In Florida we teamed with Common Cause.

The team's pre-election advocacy successfully anticipated and resolved a considerable number of barriers Black voters encountered before the election and on Election Day. However, there were thousands of issues (some old, many new) at the polls on Nov. 3. During early voting and on Election Day, VRD/PTV poll monitors uploaded reports of intimidation that included persons in partisan apparel displaying guns, trucks displaying intimidating flags and posters circling polling locations, tents erected within feet of long lines that had formed at polling sites, and loud music or booming diatribes emanating from speakers posted on private properties abutting poll sites. Emails and text messages threatening voters who supported certain parties made national news.¹⁶⁶ LDF staff and trained volunteers in each state helped thousands of voters overcome barriers and issues at polling sites on Election Day.

The next section contains reports from the VRD state teams.

¹⁶⁶ Sasha Ingber, *Fake Emails, Robocalls and Texts Target Voters Ahead of Election Day*, Newsy (Oct. 29, 2020), <https://www.newsy.com/stories/fake-emails-and-texts-attempt-to-fool-voters/>; Donovan Slack & Alessandro Marazzi Sassoon, *Feds investigating scam emails threatening voters if they don't vote for Trump*, USA TODAY, (Oct. 21, 2020), <https://www.msn.com/en-us/news/politics/feds-investigating-scam-emails-threatening-voters-if-they-don-t-vote-for-trump/ar-BB1agpCb>.

NAACP LEGAL DEFENSE FUND // PREPARED TO VOTE

MY VOTING PLAN

AM I REGISTERED TO VOTE?

DO I NEED AN ID? IF SO, WHAT KIND?

WHERE IS MY POLLING LOCATION?

WHAT ARE THE HOURS I CAN VOTE?

DO I NEED A RIDE?

DO I NEED TO TAKE OFF WORK OR SECURE CHILDCARE?

BRING TO POLLING SITE:

- YOUR ID IF REQUIRED
- PEN
- YOUR PPE: MASK / HAND SANITIZER

Sample ballots are available at ballotpedia.org and at state government websites.

NAACP LEGAL DEFENSE FUND // PREPARED TO VOTE

VOTER INTIMIDATION IS ILLEGAL.

If you feel that you have been a target of voter intimidation, please report it immediately. Voters should not be deterred by these efforts. When LDF receives reports of voter intimidation, we contact state and federal law enforcement officials to investigate.

HOW TO REPORT VOTER INTIMIDATION

Report to LDF by web form: [SWIPE UP](http://SWIPEUP.org) or email: vote@naacpldf.org

Or call Election Protection: **866-OUR-VOTE**

NAACP LEGAL DEFENSE FUND // PREPARED TO VOTE

STAY IN LINE

If you are in line when the polls close, you are eligible to vote! If you have trouble voting, stay in line and call Election Protection: **866-OUR-VOTE**

Spanish: 888-VE-Y-VOTA (888-839-8682)

Asian Language: 888-API-VOTE (888-274-8683)

Arabic: 844-YALLA-USL (844-925-5287)

ELECTION PROTECTION

NAACP LEGAL DEFENSE FUND // PREPARED TO VOTE

BE ON THE LOOKOUT FOR VOTER SUPPRESSION

CHANGES TO POLLING LOCATION WITHOUT NOTICE	LONG LINES
REJECTION OF PHOTO IDS	INADEQUATE PARKING OR SIGNAGE
INADEQUATE ADA ACCOMMODATIONS	MALFUNCTIONING MACHINES
ELECTIONEERING OR IMPROPER PARTISAN ACTIVITIES	LACK OF MACHINES, BALLOTS, OR OTHER SUPPLIES
UNDERSTAFFING AND/OR UNDERTRAINED WORKERS	CHALLENGES TO VOTER ELIGIBILITY
POLLS NOT OPEN ON TIME OR CLOSED EARLY	VOTERS IN LINE TURNED AWAY AT CLOSING TIME

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NAACP LEGAL DEFENSE FUND // PREPARED TO VOTE

RECOMMENDATIONS FOR VOTING IN PERSON DURING A PANDEMIC

Stay safe. #BePreparedToVote

- Wash your hands before entering and after leaving the polling location.
- Use alcohol-based hand sanitizer containing at least 60% alcohol after touching surfaces, such as door handles or voting machines.
- Cover coughs and sneezes with a tissue or the inside of your elbow. Throw used tissues in lined trash cans. Wash your hands or use an alcohol-based hand sanitizer.
- Wear a mask. Children under 2 and anyone who has trouble breathing, is incapacitated or otherwise unable to remove the mask without assistance should not wear a mask.
- Maintain at least 6 feet of distance from others. It is important to continue social distancing even when you and others are wearing masks.

SOURCE: www.cdc.gov/media/releases/2019/s191103-community-election-polling-to-issues.html

NAACP LEGAL DEFENSE FUND // PREPARED TO VOTE

VOTER INTIMIDATION IS ILLEGAL.

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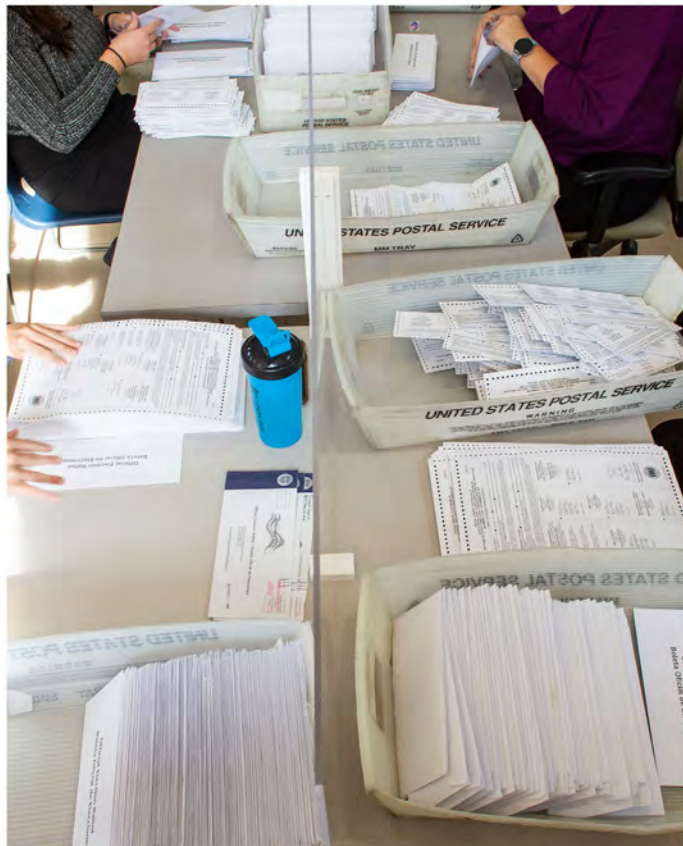
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Report to LDF by web form: bit.ly/ReportSuppression or email: vote@naacpldf.org

Or call Election Protection: **866-OUR-VOTE**

Spanish: 888-VE-Y-VOTA
Asian Language: 888-API-VOTE
Arabic: 844-YALLA-USL

LDF PREPARED TO VOTE

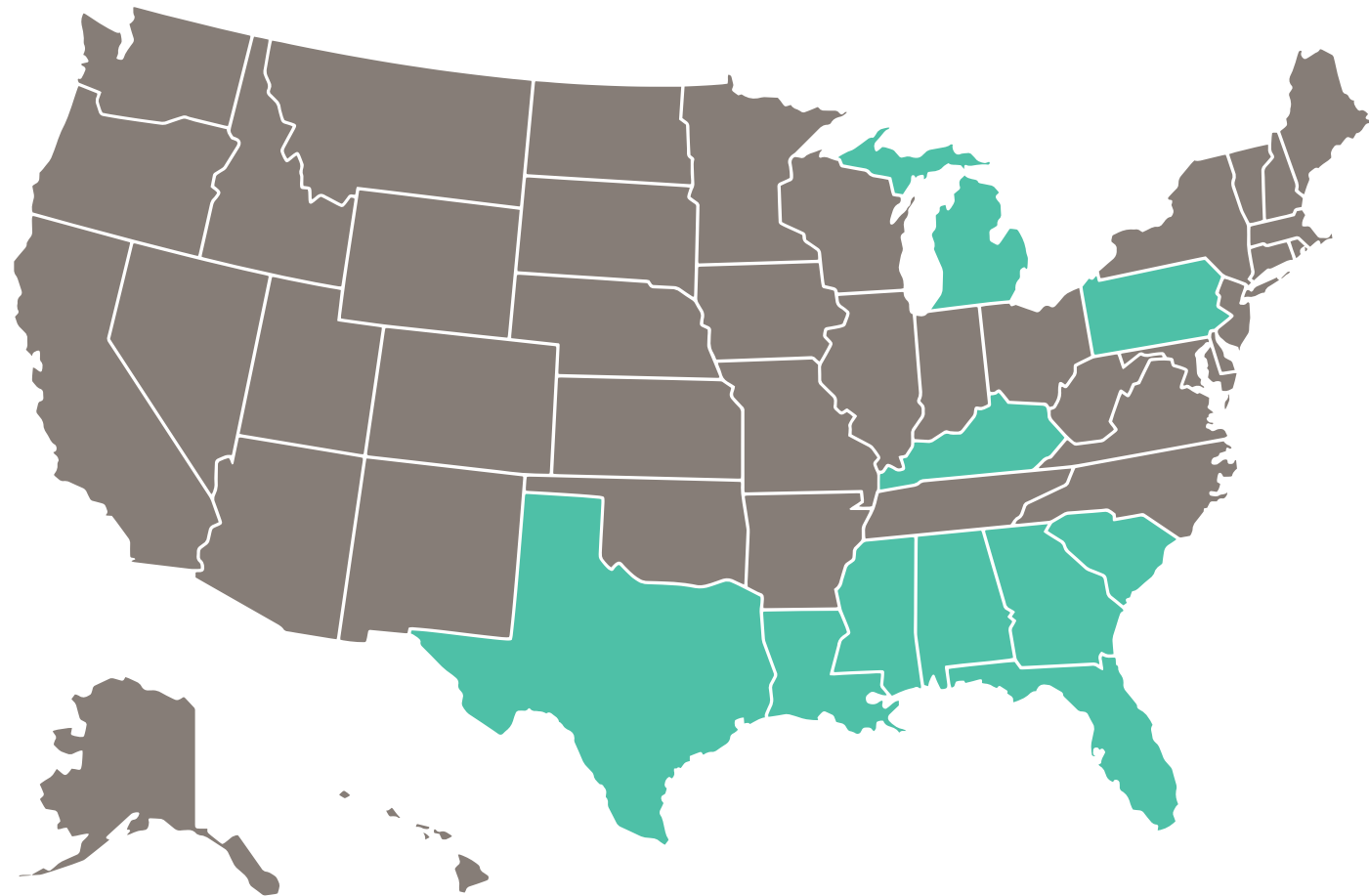


This combination of pictures created on Nov. 4, 2020 shows (from top to bottom, left to right column) a man drops off his mail-in-ballot at a dropbox in Salt Lake City, Utah, on Oct. 29, 2020; ballots are seen before counting at Northampton County Courthouse on Nov. 3, 2020 in Easton, Pennsylvania; an electoral worker processes ballots at Northampton County Courthouse on Nov. 3, 2020 in Easton, Pennsylvania; sorted vote-by-mail ballots at the King County Elections office in Renton, Washington on Nov. 3, 2020; ballots being processed at Northampton County Courthouse on Nov. 3, 2020 in Easton, Pennsylvania; election workers count absentee ballots for the 2020 general election at the TCF Center on Nov. 4, 2020 in Detroit, Michigan; a police officer stands guard as election workers count absentee ballots for the 2020 general election in Detroit, Michigan; and an election worker processes mail-in ballots at the election office in Salt Lake City, Utah on Oct. 29, 2020. (Photo by AFP) (Photo by GEORGE FREY, KENA BETANCUR, JASON REDMOND, JEFF KOWALSKY/AFP via Getty Images)

STATE REPORTS

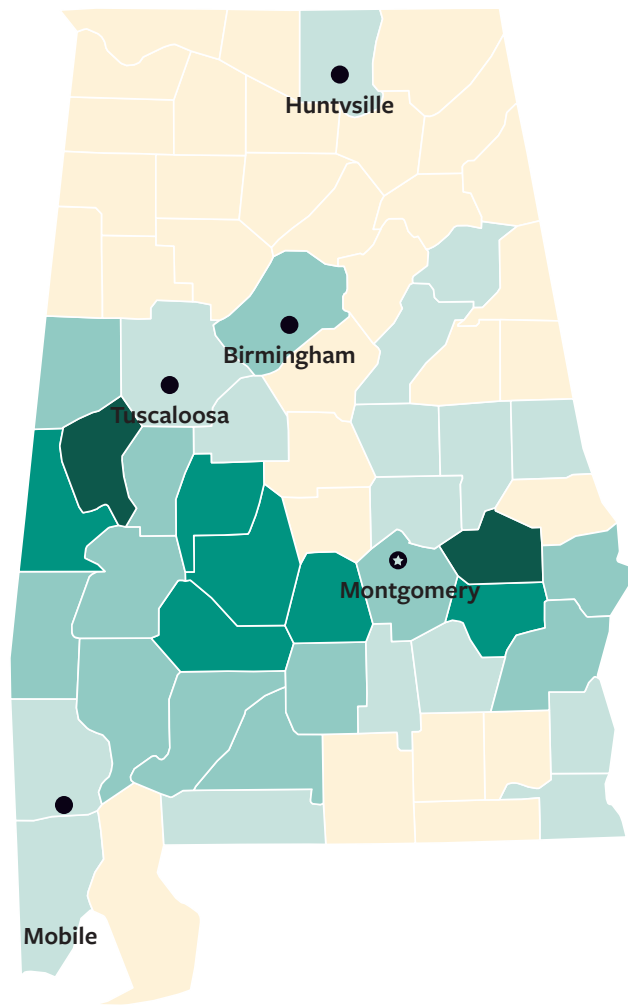
This section provides reports on the states that LDF targeted for the 2020 election season.

- Alabama
- Florida
- Georgia
- Louisiana
- Mississippi
- South Carolina
- Texas
- Kentucky
- Michigan
- Pennsylvania



Volunteers document long lines throughout Alabama on Election Day 2020. *Volunteer photos*

ALABAMA



PRE-ELECTION — MAJOR BARRIERS TO VOTING

- No early in-person voting
- Burdensome voter ID requirement for in-person voting
- No curbside voting for persons with disabilities*
- Limited vote-by-mail/absentee voting *
 - » Excuse required *
 - » Two witnesses or notary required *
 - » Photocopy of ID required *
- Heightened risk of voter intimidation
- Barriers to restoration of voting rights for persons convicted of certain criminal offenses

 * laws/rules changed due to the pandemic

ALABAMA CITIZEN VOTING AGE POPULATION



SOURCE: Citizen Voting Age Population by Race and Ethnicity (CVAP), U.S. Census Bureau



Alabama Troopers give a "Two-Minute Warning" to John Lewis and other Demonstrators on "Bloody Sunday," March 7, 1965.

Alabama continues to impose significant restrictions on the right to vote despite being known as the birthplace of voting rights arising from "Bloody Sunday" — the attack on Black demonstrators who marched across the Edmund Pettis Bridge in 1965 for voting rights — and the march from Selma to Montgomery for voting rights leading to passage of the Voting Rights Act of 1965.¹⁶⁴ Alabama was one of the states previously covered by the Section 5 preclearance provision of the Voting Rights Act prior to the *Shelby County* decision in 2013.¹⁶⁵ In 2020, the

combination of Alabama's broad restrictive voting procedures designed to suppress Black voting power, a raging pandemic, and major power outages caused by storms created immense barriers for voters. VRD conducted state level advocacy, but also engaged in advocacy focused on specific counties. We worked with regional voting rights partners, local community organizations, and volunteer poll monitors. The map included below in this section illustrates where we focused most intensely geographically in Alabama in efforts to clear barriers to voting and assist voters.

COVID-19 Voting Related Litigation

On May 1, 2020, LDF and co-counsel filed a federal lawsuit against Governor Kay Ivey, Secretary of State (SOS) John Merrill, and others on behalf of People First of Alabama, the Alabama NAACP, Greater Birmingham Ministries, and

¹⁶⁴ *Alabama*, U.S. CIVIL RIGHTS TRAIL, <https://civilrightstrail.com/state/alabama/> (last visited June 9, 2021); Rich McKay, *Birthplace of U.S. civil rights movement elects first black mayor*, REUTERS, <https://www.reuters.com/article/us-alabama-mayor/birthplace-of-u-s-civil-rights-movement-elects-first-black-mayor-idUSKBN1W00EY> (last visited June 9, 2021).

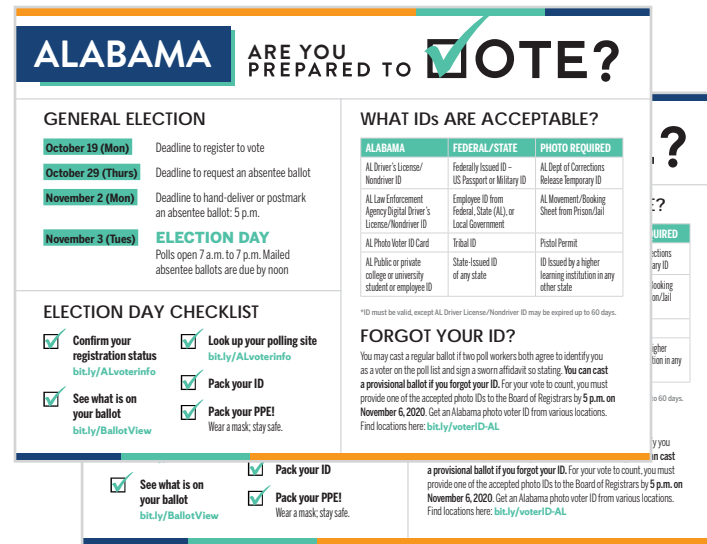
¹⁶⁵ U.S. DEP'T of JUST., *Jurisdictions Previously Covered by Section 5*, <https://www.justice.gov/crt/jurisdictions-previously-covered-section-5> (Sept. 11, 2020).

several individual voters. The lawsuit challenged Alabama’s burdensome absentee voting process and ban on curbside voting, which made voting amid the COVID-19 pandemic unsafe and inaccessible. The lawsuit sought elimination of the requirements of a photo ID and two witness signatures for voters at high risk of complications from COVID-19. On July 6, we amended the complaint to challenge the lack of no-excuse absentee voting during the pandemic.

On July 17, the Alabama SOS announced that the COVID-19 emergency had been extended and that people could use fear of COVID-19 as an excuse to vote absentee for the November 3 elections by checking the box that says they have an illness that prevents their attendance at the polls.¹⁶⁶ On September 30, after a two-week trial, the District Court ruled for Plaintiffs and issued an injunction against three burdensome provisions, requiring state and local election officials to permit high risk voters to submit absentee ballot applications without a photocopy of ID and witness signatures; and to vote curbside if a county chose to provide the service.¹⁶⁷ The injunction was in place for two weeks, during which time Alabama absentee voters were able to apply for absentee ballots without photo ID and submit absentee ballots without two witness signatures or a notary stamp. Although the U.S. Court of Appeals for the Eleventh Circuit stayed the injunction on the photo ID and witness requirement, it left in place the order enjoining the SOS’s curbside voting ban.¹⁶⁸ Although the Eleventh Circuit

ruling stayed the injunction, during the two week-period when the injunction was in effect and before the Eleventh Circuit ruling, absentee ballot applications were accepted without the ID and witness restrictions.¹⁶⁹

As a result of the litigation and the response from the Alabama SOS allowing people to use fear of COVID-19 as an excuse for absentee voting, Alabama essentially got early voting for the November general election. The state let anyone use the illness excuse during the pandemic and election officials opened their offices to let people vote “absentee” in person (and in some places curbside). As a part of our settlements with several counties they also offered multiple locations and extended evening and weekend hours.



ALABAMA ARE YOU PREPARED TO VOTE?

GENERAL ELECTION

October 19 (Mon)	Deadline to register to vote
October 29 (Thurs)	Deadline to request an absentee ballot
November 2 (Mon)	Deadline to hand-deliver or postmark an absentee ballot: 5 p.m.
November 3 (Tues)	ELECTION DAY Polls open 7 a.m. to 7 p.m. Mailed absentee ballots are due by noon

WHAT IDs ARE ACCEPTABLE?

ALABAMA	FEDERAL/STATE	PHOTO REQUIRED
AL Driver's License/Nondriver ID	Federally issued ID - US Passport or Military ID	All Dept. of Corrections Release Temporary ID
All Law Enforcement Agency Digital Driver's License/Nondriver ID	Employee ID from Federal, State (AL), or Local Government	All Movement/Booking Sheet from Prison/Jail
AL Photo Voter ID Card	Tribal ID	Postal Permit
All Public or private college or university student or employee ID	State-issued ID of any state	ID issued by a higher learning institution in any other state

ELECTION DAY CHECKLIST

- Confirm your registration status bit.ly/ALvoterinfo
- Look up your polling site bit.ly/ALvoterinfo
- See what is on your ballot bit.ly/BallotView
- Pack your ID
- Pack your PPE! Wear a mask; stay safe.

FORGOT YOUR ID?

You may cast a regular ballot if two poll workers both agree to identify you as a voter on the poll list and sign a sworn affidavit so stating. You can cast a provisional ballot if you forget your ID. For your vote to count, you must provide one of the accepted photo IDs to the Board of Registrars by 5 p.m. on November 6, 2020. Get an Alabama photo voter ID from various locations. Find locations here: bit.ly/voterID-AL

See what is on your ballot bit.ly/BallotView

Pack your ID

Pack your PPE! Wear a mask; stay safe.

166 Absentee Voting During State of Emergency—General Election 2020, ALA. SEC’Y OF STATE, (July 17, 2020), <https://www.sos.alabama.gov/sites/default/files/proposedRules/820-2-3-.06-.04ER.pdf>.

167 *People First of Alabama v. Merrill*, 467 F. Supp. 3d 1179 (N.D. Ala. 2020).

168 *People First of Ala. v. Sec’y of State for Ala.*, 815 Fed. App’x 505 (11th Cir. 2020);

169 *Some Alabama absentee ballots could be invalidated by timing of court ruling*, AL.com (Oct. 29, 2020), <https://www.al.com/news/2020/10/timing-of-court-rulings-could-invalidate-some-alabama-absentee-ballots.html>.



Voters wait outside their Montgomery, AL polling location on Election Day 2020. Volunteer photo

Pre-General Election Engagement

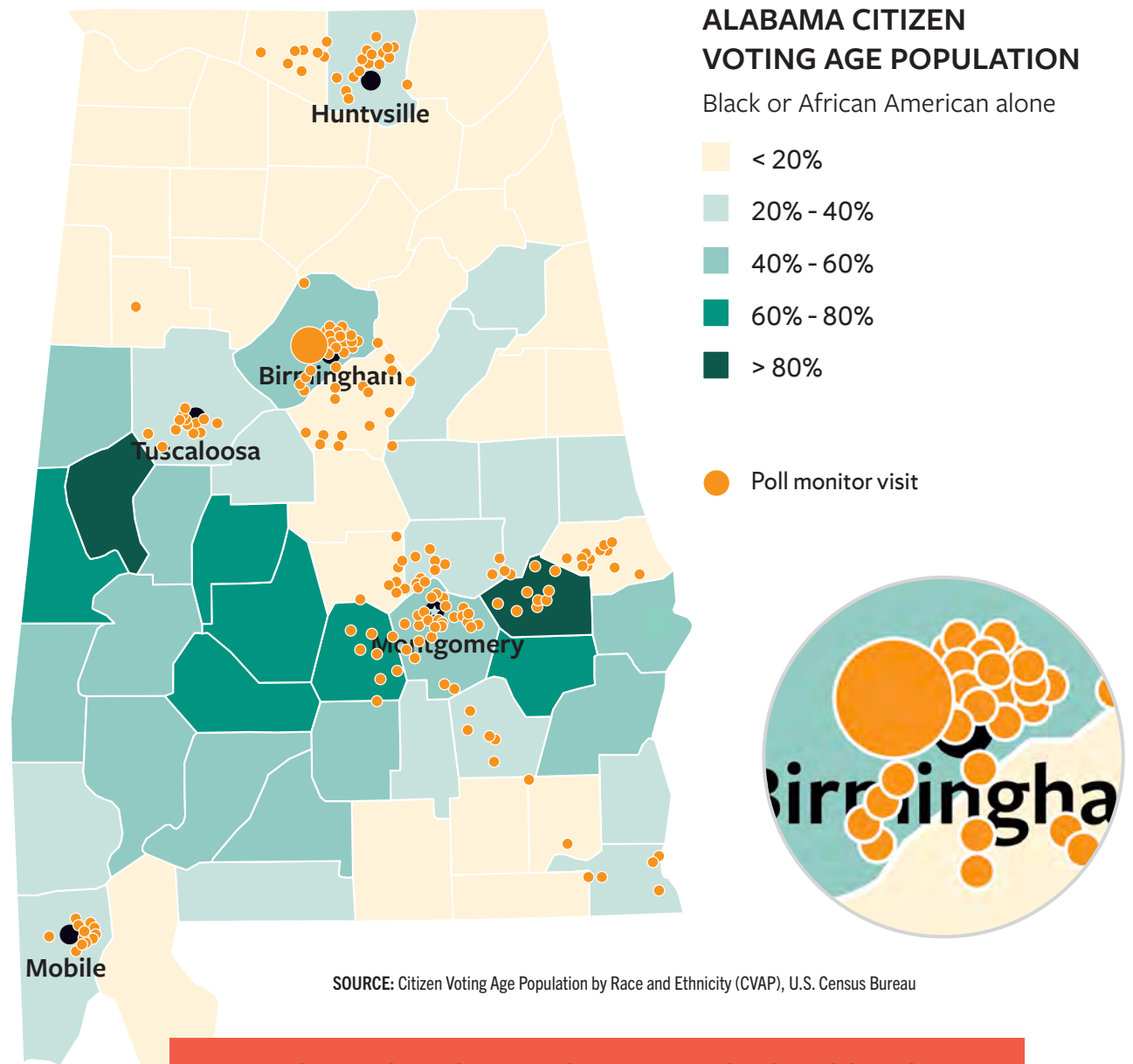
- Through our partnership with More Than A Vote, we recruited **2,485 Alabama residents** to become poll workers.
- In partnership with Forward Justice and Poor Peoples Campaign, we recruited and trained **141 volunteers** to be nonpartisan poll monitors.
- Voter education materials mailed to **177,741 potential voters**.
- PPE and voter education mailed to **58,023 voters**.
- Provided voter education via text messaging to **249,675 voters**.
- Supplied over **1,000 sets of PPE** and **3,000 sets of voter education materials** to local partners.¹⁷⁰

170 The data reported here is solely from LDF’s internal data sources.

Advocating for Elections Contingency Planning

During October, Alabama ranked fourth in the nation in number of confirmed COVID-19 cases per 100,000.¹⁷¹ In addition, we knew that there were potential weather emergencies during the election, such as hurricanes in the Gulf Coast or tornadoes, high risk of voter intimidation activity, and risks of foreign hackers disrupting the machinery of the election. Any of these could result in the closure of polling places, the loss of critical staff, or simply wreak havoc on the machinery of the election. We believed it was important for election officials to prepare an election contingency plan for known risks. On October 22, 2020, our VRD/PTV staff, joined by the Lawyers’ Committee for Civil Rights Under Law, Lift Our Vote, Greater Birmingham Ministries, and the Southern Poverty Law Center, sent a letter to over 100 Alabama County Commissioners across 67 counties urging them to work with election officials in their counties to prepare a contingency plan for identifiable risks, including the hurricane season, that could adversely affect voting on Election Day.

171 CDC, *U.S. COVID-19 Cases, Deaths, and Lab’y Testing (NAATs) by State, Territory, and Jurisdiction*, https://covid.cdc.gov/covid-data-tracker/#cases_casesper100k (last visited Oct. 5, 2020).



SOURCE: Citizen Voting Age Population by Race and Ethnicity (CVAP), U.S. Census Bureau

POLL MONITOR REPORTED ELECTION ISSUES



SOURCE: Data reported in this chart is solely from LDF's internal volunteer monitor reports and does not include data captured in Our Vote Live (866-Our-Vote), a record system for the Election Protection coalition.

Election Day Issues – November 2020

Our team — LDF and PPC/FJ staff working remotely — supported by rooted and roving volunteers, nonpartisan poll monitors on the ground, local partner organizations, the Election Protection coalition, and remote volunteers monitoring the election — resolved hundreds of issues in Alabama on Election Day. Lengthy wait times, COVID-19 precautions, and accessibility issues were ubiquitous. Our volunteers on the ground encountered a considerable amount of hostility from poll workers and law enforcement alike. We learned throughout the day that this was in part due to the failure to train poll workers about the rules regarding nonpartisan poll monitors.

On November 3, Alabama was still grappling with the impact of Hurricane Zeta, which made landfall on October 28, only six days before the election. Alabama Power reported nearly 500,000 power outages on October 29 — five days before Election Day. On Election Day there were still power outages across the state. As a result of the power outages, some DMV offices were closed. This could have barred some voters from getting a photo ID, which is necessary to vote in Alabama. To ensure voters could get a valid ID, we sent text messages to 110,000 eligible voters alerting them to alternative sites to obtain a photo ID.

Voter ID in Mobile

Delays in voting occurred due to voter ID issues. Poll workers in Mobile, AL sent voters who had different addresses on their license and their voter registration to a separate line and were unresponsive to voter questions about this action. Poll workers referred to those with matching addresses as “regular voters” while others were sent to the “wrong address” line. One voter was told his new address did not exist. Local partner,

ACLU Alabama, responded to the person’s tweet, notifying them that addresses are not required to match.

Voter and Volunteer Stories

At the Southcrest Baptist Church in Bessemer, AL there were traffic issues, long lines and accessibility problems. “Volunteers attempted to get the Sheriff to help direct traffic in the roads near the polling place. [] Additionally, voters were seen carrying relatives into polling places due to accessibility issues. We contacted the probate judge, who came to the location. They have poll workers directing traffic, ADA access cleared, and the [] signs are now visible.” — Kim, Bessemer

POLL MONITOR STORIES

“ Additionally, voters were seen carrying relatives into polling places due to accessibility issues.”

Poll Monitor Detained

“I was serving as a volunteer poll monitor on Election Day, as I have done for the last three years, and was detained by a sheriff’s deputy. At the Marbury Middle School polling site, in Marbury, Alabama, I introduced myself as a poll monitor and was wearing a bright green shirt that identified me as a nonpartisan poll monitor. The poll official said that what I was doing was illegal and insisted that I could not be there. To not cause conflict, I decided to leave the polling location. As I was driving away, I noticed the sheriff’s car from the precinct behind me. I didn’t think anything of it, until the lights came on. I pulled my car over and immediately called the volunteer coordinator for VRD Team Alabama, who stayed on the phone with me during the stop and I texted attorneys at SPLC, my employer, in the hopes one might be in the area and could come help me. The sheriff’s deputy walked up to my car and said that I was “harassing” voters. He threatened me with arrest and prosecution for “disturbing the peace.” I informed him that volunteering as a poll monitor was not illegal and that I had done nothing wrong. My goal was to make sure that every voter had a safe and accessible voting experience there. As a nonpartisan poll monitor, I knew I had a right to be at that precinct. The deputy insisted I did not and informed me he would be calling his supervisor. The LDF team stayed on the phone with me. The deputy’s supervisor eventually came to the scene and I was detained for 20-30 minutes while I and the attorneys tried to explain that what I was doing was not illegal. As the attorneys were explaining, the deputy’s supervisor got really upset and at that point he reached over for my phone. He basically slapped my hand to get my phone. I did not give it to him. He tried to lunge at me again after I yelled. I said, ‘Sir, did you just try to snatch my phone from my hand?’ I told him that

attorneys were on the line. The deputy’s supervisor eventually gave me a warning but told me that I could face possible charges. He told me if I showed up and tried to monitor at any of the other polling locations, I would be arrested. The attorneys at LDF and SPLC called the local Probate Judge, Sheriff’s office, and the City Attorney. The Sheriff did end up apologizing and told the attorneys that he would make sure to instruct his deputies that poll monitors should not be bothered for the rest of the day. I hate that happened to me but I’m glad to know that other poll monitors would not be harassed for observing the voting process.”

—*Vivianna, Autauga*

Volunteer story

“I was at a polling location in Opelika, Alabama. At 6:55 p.m. the sheriff moved his SUV to in front of the main door of the polling place and the poll worker was no longer outside. At 6:58 p.m. a Black man walked up, and the sheriff turned him away and said they’re closed, and the man went back to his car. At that time, I told the sheriff I only had 6:58 and a person from inside came out and he said “...something with the machines” and I said, “oh is there a problem with the machines?” And he didn’t really respond and then someone from inside (poll worker or monitor) said “he can still vote” at which time he strobed his flashlight at the man, driving away, and then gestured him to come back up. The man then successfully voted, and I confirmed this story of events with the man after he left the polling place. But without both of our interferences he would not have been able to vote. And the sheriff’s parking decision made the place look even more closed which contributed.”

— *Steph, Opelika*



Long lines and chaotic parking in Bessemer, AL on Election Day 2020. Volunteer photo

Polling Place Issues

Long Lines, Parking, and Signage

In various counties across the state, there were voters at polling locations with lines that exceeded 30 minutes. In Baldwin County at 3 Circle Church, in Fairhope, Alabama, there was a two and a half hour wait in a line that wrapped all the way around the front of the church. Similarly, in Jefferson County at the Bethel Baptist Church in Pleasant Grove, Alabama, there was an hour-plus wait to vote. At George Washington Middle School in Pike Place, AL there were 90-minute waits to vote and a 100-minute wait at Girls Inc, in Birmingham, AL. These polling locations also had insufficient signage and inadequate parking. Specifically at Bethel Baptist Church, many voters had to park at a nearby school and cross a busy road on foot to get to the church. In Lee County, LDF made several calls, which were ignored over the course of the day, to both the County Clerk

and the Probate Judge. To address the issues of limited parking, long lines, and lack of signage, we reached out to local media and used social media to spread the word about site changes and difficulties. At the Opelika Learning Center, parking spots were taken by people attending football practice. At Providence Baptist Church, there was an hour and a half wait, not enough poll workers, and at one point voting stopped for at least 30 minutes to address machine issues. We spoke to a representative from the SOS’s office and attempted to contact the probate judge and others. No one responded to those phone calls. At Southcrest Baptist Church in Bessemer, AL there was poor signage and both the entrance and exit were bottlenecked. As a result, long lines continued. Volunteers attempted to get the Sheriff to help direct traffic in the roads near the polling place.

Polling Place Changes

Voters across Alabama experienced polling place changes without notice. Many voters who came to the First Baptist Church in Pleasant Grove were sent to Bethel Baptist Church. The Board of Registrars was contacted and said that voters were notified. The Board agreed to inform poll workers of the confusion. LDF sent volunteers to put signs up and make announcements about the change. In Huntsville, AL, the voting location was changed from the Friendship Center to the school gym. It was reported that voters were not notified and there was no adequate signage to direct them to the new polling location. LDF contacted volunteers to put signage up at the Friendship Center. We also followed up with the probate judge who committed to putting up signs. The Troy Adams Armory polling site was changed to Collegedale Church of Christ, approximately 0.2 miles down the road, which had less parking.

Americans with Disabilities Act (ADA) Compliance Issues

LDF identified numerous accessibility issues in Limestone County and contacted the probate judge about them. At Clements Baptist Church, volunteers flagged issues with accessible parking being located long distances from the polling place. Inaccessible entrances were blocked with cones, but there were no signs pointing to the proper entrance. At Round Island Baptist Church, the polling place was behind the church, and there was no accessible parking. As a result of our outreach, the probate judge sent someone to investigate. In Huntsville, AL, accessible parking was on a hill with no ramp to the sidewalk and no directional signs for the accessible route. Volunteers noted other polling sites throughout the state with ADA compliance issues as well. At the Meeksville Volunteer Fire Department in Troy, AL, monitors reported that it was incredibly inaccessible. They reported a tiny area for parking, no ramp, uneven

plot around the door, and no accessible parking spots marked. The only restroom available was a single Port-a-Potty. The probate judge was contacted and agreed that this was a terrible location. He went to the location to make sure proper signage would be put up. In Shelby County, voters were seen carrying relatives into polling places due to accessibility issues. We contacted the probate judge, who came to the location and instructed poll workers to direct traffic and clear access for ADA compliance.

Provisional Ballots

On Election Day, we worked to ensure that voters were aware of the curing process for provisional ballots. We sent text messages to over 135,000 Alabama voters to inform them of the steps they needed to take to ensure their provisional ballot issue was resolved and their vote was counted.

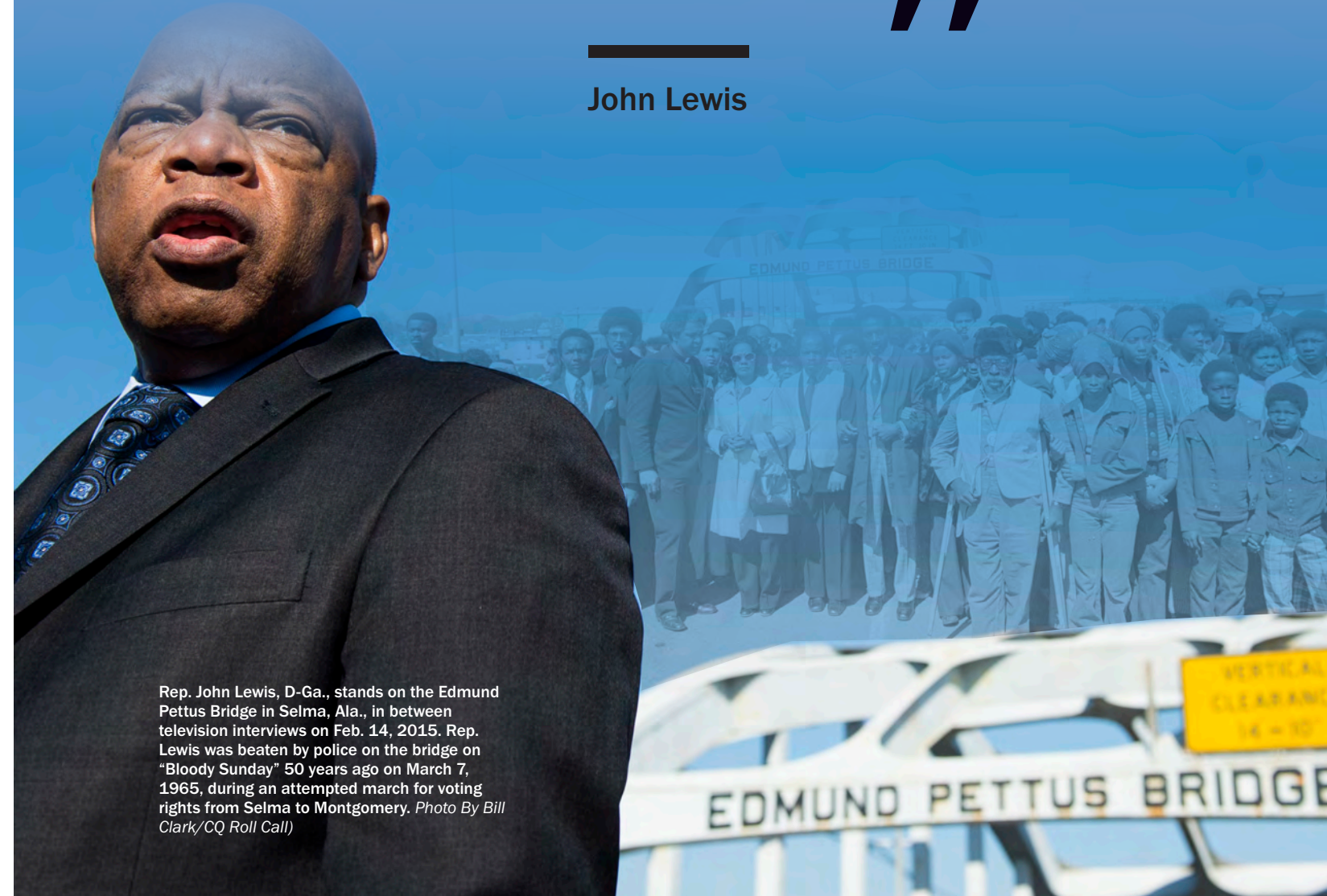
Next Steps and Future Advocacy

There are numerous issues for future advocacy including:

- No-excuse voting by mail.
- Broad acceptable IDs for voting in person and by mail.
- Early voting.
- ADA compliance at polling locations.
- Poll worker training on the differences between poll monitors and poll watchers, and who can be present at polling places.
- Adequate signage at polling places.
- Restoration of voting rights for formerly incarcerated persons.

“ I gave a little blood on that bridge in Selma, Alabama for the right to vote... The vote is the most powerful nonviolent tool we have. ”

John Lewis

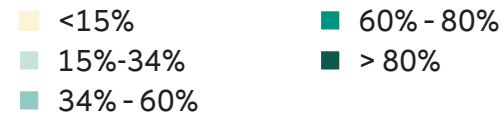


Rep. John Lewis, D-Ga., stands on the Edmund Pettus Bridge in Selma, Ala., in between television interviews on Feb. 14, 2015. Rep. Lewis was beaten by police on the bridge on “Bloody Sunday” 50 years ago on March 7, 1965, during an attempted march for voting rights from Selma to Montgomery. Photo By Bill Clark/CQ Roll Call

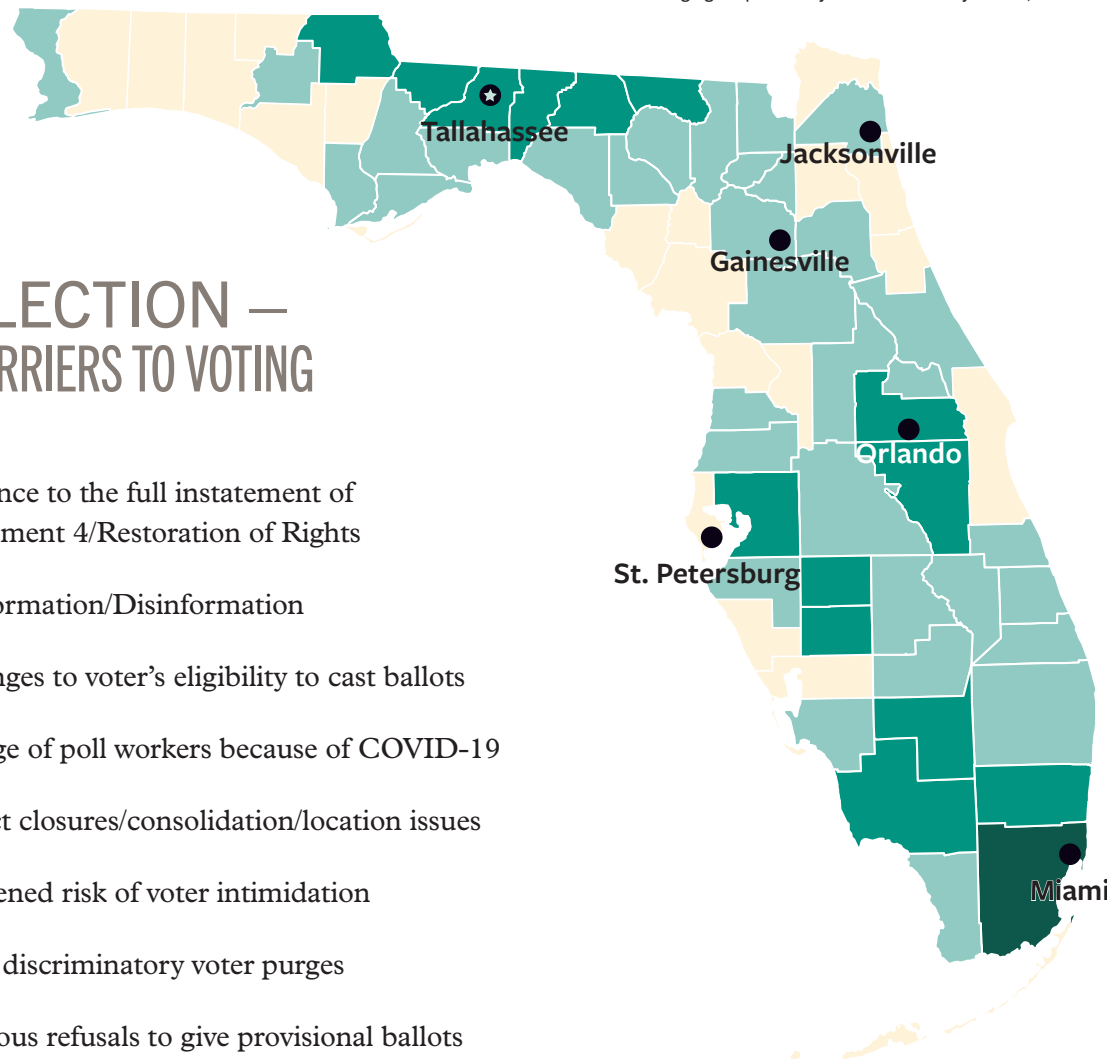
FLORIDA

FLORIDA CITIZEN VOTING AGE POPULATION

Black/African American and Latinx alone



SOURCE: Citizen Voting Age Population by Race and Ethnicity (CVAP), U.S. Census Bureau



PRE-ELECTION — MAJOR BARRIERS TO VOTING

- Resistance to the full instatement of Amendment 4/Restoration of Rights
- Misinformation/Disinformation
- Challenges to voter’s eligibility to cast ballots
- Shortage of poll workers because of COVID-19
- Precinct closures/consolidation/location issues
- Heightened risk of voter intimidation
- Risk of discriminatory voter purges
- Erroneous refusals to give provisional ballots

VRD conducted state level advocacy, but also engaged in advocacy focused on specific counties in the Florida panhandle. We worked with regional voting rights partners, local community organizations, and volunteer poll monitors. The map included below in this section illustrates where we focused most intensely geographically in Florida in efforts to clear barriers to voting and assist voters.

Legal Fight for Restoration of Voting Rights of Returning Citizens

In the 2018 election, a supermajority of Florida voters approved Amendment 4 to the Florida Constitution (“Amendment 4”), which restored voting rights for people with felony convictions who had completed any term of incarceration, probation, and parole.¹⁷² Shortly thereafter, the Florida Legislature enacted a law that requires all legal financial obligations (fines, fees, court costs, and restitution) to be paid before a person with a felony conviction can vote.¹⁷³ LDF, the ACLU, the ACLU of Florida, and the Brennan Center for Justice filed a lawsuit on behalf of returning citizens challenging these provisions. Following an eight-day trial, the court struck portions of the law, holding that it violated the U.S. Constitution. Specifically, it violated the 24th Amendment’s prohibition on poll taxes and other taxes linked to voting and violated the 14th Amendment as a form of wealth-based discrimination when applied to voters who were unable to pay. The court also held that the voter registration form violated the National Voter Registration Act.¹⁷⁴

Unfortunately, on September 11, 2020, the U.S. Court of Appeals for the Eleventh Circuit

overturned the lower court’s decision,¹⁷⁵ resulting in uncertainty for voters, including as many as 85,000 persons who had already registered to vote pursuant to Amendment 4. LDF and our partner organizations engaged in extensive advocacy to ensure that as many of these 85,000 persons as possible would be able to vote, as well as any others who had successfully paid off their fines and fees. We worked closely with partners and on-the-ground organizations to help returning citizens determine their outstanding fines and fees and connect with organizations offering financial support to enable them ultimately to cast ballots.¹⁷⁶

Pre-Election Engagement

- Through our partnership with More Than A Vote, recruited poll workers and approximately **900** Florida residents applied to become poll workers for the general election.
- Through our partnership with Common Cause, VRD/PTV worked with **63 volunteers** trained to conduct local poll monitoring and voter education.
- Voter education and information sent via text to **50,000 voters**.
- Voter education materials and PPE mailed to **9,200 voters**.
- Voter education materials mailed to **109,136 voters**.
- Over **6,000 sets of PPE and voter education materials** provided to local partners for distribution to voters.

¹⁷² *Jones v. DeSantis*, 462 F. Supp. 3d 1196, 1205 (N.D. Fla.), rev’d and vacated sub nom. *Jones v. Governor of Fla.*, 975 F.3d 1016 (11th Cir. 2020).

¹⁷³ *Id.* at 1206.

¹⁷⁴ *Id.* at 1250.

¹⁷⁵ *Jones v. Governor of Florida*, 975 F.3d 1016 (11th Cir. 2020).

¹⁷⁶ Lawrence Mower and Langston Taylor, *Celebrities Spent Millions So Florida Felons Could Vote. Will It Make a Difference?*, PROPUBLICA: ELECTIONLAND (Dec. 4, 2020, 5:00 AM), <https://www.propublica.org/article/bloomberg-lebron-james-fines-fees-florida-felons>.

Ballot drop-boxes and polling location advocacy:

Our VRD team and our local partners observed that many Florida counties failed to provide enough early voting locations and drop-boxes, and many Black communities and other communities of color lacked access to these important options. We also observed that many counties also lacked adequate public information on the location of polling places, early voting sites, and drop-boxes. VRD/PTV did intensive advocacy work to address the shortages in the polling places, early voting sites, and drop box locations in Black communities across the Panhandle region.

Escambia County Advocacy:

Escambia County initially designated only nine early voting locations and drop boxes, leaving several of Escambia’s significant Black communities without easy access to an early voting site or a drop box.

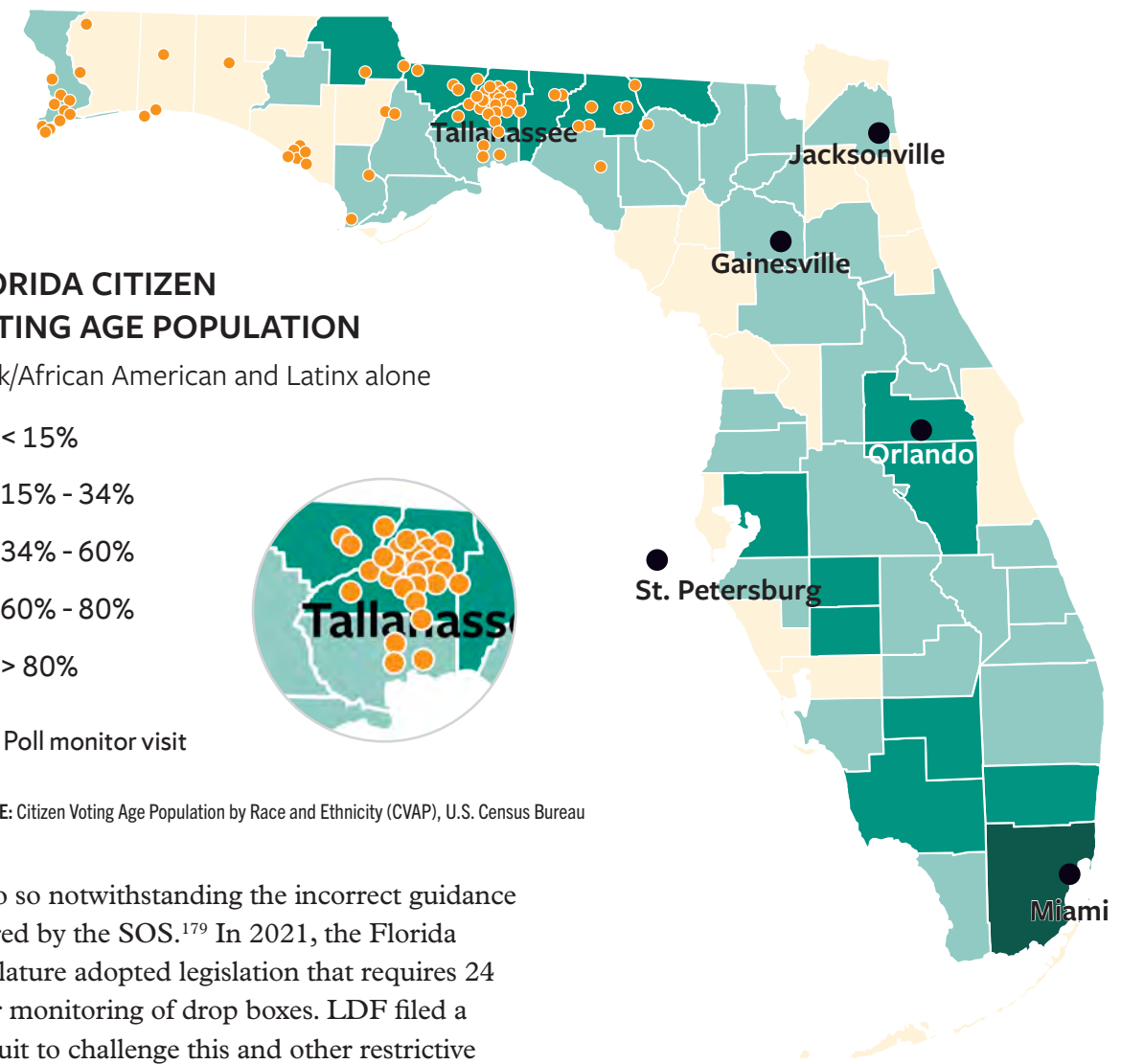
After weeks of unsuccessful advocacy, VRD, along with partner organizations, sent a letter to the Escambia County Supervisor of Elections detailing the racial disparities in the placement of early voting locations and drop boxes. In response, Escambia County agreed to add a new early voting and drop box location in Century, a predominantly Black town located in the northern portion of Escambia County. Prior to this agreement, voters in Century would have had to drive over 20 miles to reach the closest early voting location or drop box. Ultimately, over a thousand Escambia County voters were able to cast their ballot using these new convenient options – the new drop box and polling site.

The coronavirus was dangerous for all voters and especially so for Black and Latinx persons, who died from the virus at the highest rates.¹⁷⁷ Drop boxes specifically provide a safer voting option, making the decision to limit the availability of drop boxes extremely dangerous in Black and Latinx communities. We sent a letter to elections officials in all 67 Florida counties urging them to place drop boxes outside wherever possible, in accessible and convenient locations for communities of color, with at least one drop box per 15,000 to 20,000 voters. We also pushed counties to adopt 24-hour drop boxes available on weekends and evenings. This advocacy was especially important because drop boxes were the best and safest option for many voters. Numerous counties across the state installed 24-hour drop boxes and took substantial steps to ensure wide availability of drop boxes for voters.

In October 2020, the Secretary of State (SOS) issued incorrect guidance to the Supervisors of Elections (SOEs) stating that drop boxes must be staffed full time.¹⁷⁸ This was not a requirement under state law at the time and would have effectively required counties to close their 24-hour drop-boxes. Following advocacy from VRD and other voting rights organizations, as well as statements from the Florida State Association of Supervisors of Elections criticizing the SOS’s incorrect guidance, most counties that were planning to offer 24-hour drop boxes continued

¹⁷⁷ The COVID Racial Data Tracker, <https://covidtracking.com/race> (last visited Aug. 12, 2021); Algernon Austin, *Florida COVID-19 Update for African Americans*: November 9, 2020, LDF | T. Marshall Inst.: Medium (Nov. 12, 2020), <https://tminstitute.medium.com/florida-covid-19-update-for-african-americans-november-9-2020-31cd6ee6565d>.

¹⁷⁸ Dara Kam, *Guard ballot drop boxes, DeSantis tells Florida elections officials in last-minute memo before early voting starts*, SOUTH FLORIDA SUN SENTINEL (Oct. 17, 2020, 12:55 PM), <https://www.sun-sentinel.com/news/politics/elections/fl-ne-early-voting-drop-box-guards-20201017-mrd4zdpqnh2ve2jpxpc4v73ku-story.html>.



FLORIDA CITIZEN VOTING AGE POPULATION

Black/African American and Latinx alone

- < 15%
- 15% - 34%
- 34% - 60%
- 60% - 80%
- > 80%
- Poll monitor visit

SOURCE: Citizen Voting Age Population by Race and Ethnicity (CVAP), U.S. Census Bureau

to do so notwithstanding the incorrect guidance offered by the SOS.¹⁷⁹ In 2021, the Florida legislature adopted legislation that requires 24 hour monitoring of drop boxes. LDF filed a lawsuit to challenge this and other restrictive measures passed in by the Florida legislature.¹⁸⁰

Drop-box lines. Florida state law does not specify whether a vote-by-mail ballot is timely if a voter is in line at 7 p.m. but has not placed it in the drop box.¹⁸¹ This was an especially concerning issue. We saw lines of voters waiting to deposit

their vote-by-mail ballot in drop boxes across the state — often the “lines” were of voters waiting in cars to drive up to drive-through drop box lanes. Following VRD advocacy, the SOS issued guidance that anyone in line to cast a ballot at a drop box at 7 p.m. would be able to do so.¹⁸²

Mail ballot assistance. County election officials also issued incorrect and harmful guidance on vote-by-mail ballots. In Bay County, the SOE was incorrectly instructing organizations that volunteers were only permitted to pick up and

¹⁷⁹ Allison Ross, *Late guidance from Florida’s elections chief could affect counties’ plans for mail ballot drop boxes*, TAMPA BAY TIMES (Oct. 16, 2020), <https://www.tampabay.com/news/florida-politics/elections/2020/10/16/late-guidance-from-floridas-elections-chief-could-limit-use-of-mail-ballot-drop-boxes/>.

¹⁸⁰ Press Release, NAACP Legal Def. and Educ. Fund, Inc., LDF Files Lawsuit Against the State of Florida Over Suppressive Voting Law (May 6, 2021), <https://www.naacpldf.org/press-release/ldf-files-lawsuit-against-the-state-of-florida-over-suppressive-voting-law/>.

¹⁸¹ Fla. Stat. § 101.69 (2020). http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0100-0199/0101/Sections/0101.69.html.

¹⁸² Letter from Brad McVay, General Counsel to Governor of Florida, to Florida State Supervisors of Elections, (Oct. 24, 2020) (on file with NAACP Legal Def. and Educ. Fund, Inc. Thurgood Marshall Inst.).

deliver two completed vote-by-mail ballots on behalf of other voters. Florida law allows volunteers to pick up any number of ballots and deliver them on behalf of voters. VRD provided support to our local partners that enabled them to convince the Bay County SOE to reverse and provide correct guidance to organizations in Bay County. Similarly, Bay County’s election officials were also incorrectly treating voters who inadvertently sent in vote-by-mail envelopes that were missing the ballots as voters who had cast their ballot. With VRD’s support, our partners convinced election officials to change this procedure, so voters who inadvertently mailed in their vote-by-mail envelope without including the ballot would still have an opportunity to vote.

Many voters across the panhandle region received absentee ballots with return envelopes that were pre-sealed due to weather or condensation in the region. VRD worked with SOEs in eight counties and secured commitments that voters would be permitted to cut open the pre-sealed envelope and tape it closed, and those votes would not be thrown out. VRD also persuaded those SOEs to post guidance on their website for voters who received pre-sealed return envelopes.

Voter intimidation and police presence were another theme of the Florida 2020 election. Emails and text messages threatening voters who supported certain parties made national news.¹⁸³ VRD proactively sent letters to the Florida Department of State requesting that protocols for addressing voter intimidation activity be sent to the elections offices in advance of the election.

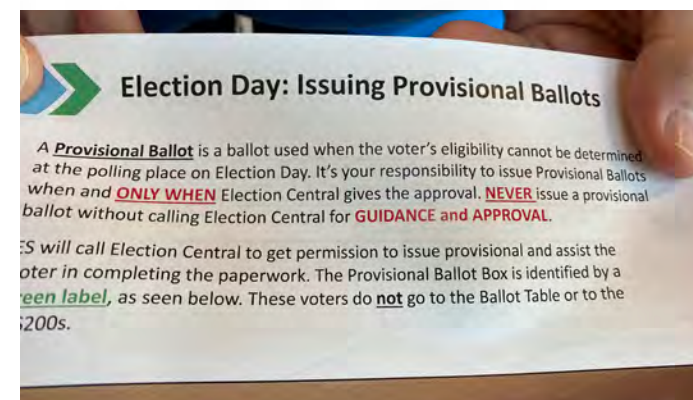
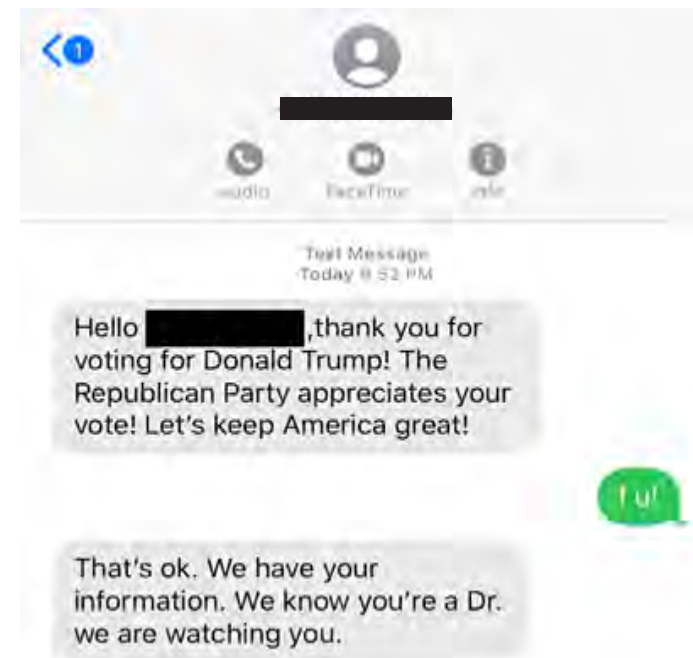
183 Melissa Quinn, Stefan Becket & Graham Kates, *Emails threatening Florida voters to “vote for Trump or else!” linked to overseas servers*, CBS NEWS (Oct. 21, 2020, 5:39 PM), <https://www.cbsnews.com/news/florida-emails-proud-boys-vote-trump-linked-overseas-servers/>.

Remote Monitoring: Our remote monitors were able to track and notify our advocacy team and partners about reports of voter intimidation, insufficient signage, voting machine issues, and other problems that came up during the election season. Working with the SOE offices, VRD was able to address misinformation on county websites identified by our remote monitors and inform the public about the changes.

Just days before the general election, the critical ability of voters to determine their polling place locations and check the status of their ballots was hampered when the SOS shut down the voter information lookup tool on their website. The SOS made this change without providing notice to the public or providing an effective alternative. VRD led the advocacy to push the SOS to restore the lookup tool, which they asserted they had taken down due to security concerns. Although the SOS did not restore the tool, we were able to persuade them to quickly make major modifications to their website to make it easier for voters to find their polling place locations.

Early Voting & Election Day

Weather related emergencies. On October 28, Hurricane Zeta struck the Florida coast. As a result, three counties—Escambia, Santa Rosa, and Okaloosa—shortened their early voting hours. VRD advocated for an extension of hours to make up for the lost time and sent text messages to over 50,000 voters in those counties informing them of the change in hours and providing them with resources on how and when to vote. On Election Day, there was a 30-minute power outage likely related to Hurricane Zeta at the Damascus Road Missionary Baptist Church in Escambia County. Voters were incorrectly told to wait, rather than being provided with emergency ballots. We sent a volunteer to ensure that the voters who were present during the outage were able to cast ballots and worked



with our local partners to ensure emergency ballot protocol was followed in case of another outage.

COVID-19 Closure. During early voting, the SOE Office in Okaloosa County was closed due to a COVID-19 outbreak. We maintained phone contact with the Okaloosa SOE’s external counsel on an almost daily basis following the closure. Although the elections office refused to reopen, they did commit to take several steps to mitigate the harm, including agreeing to station an employee at the closed office to redirect voters to open offices, accepting vote-by-mail ballots at the closed office in a drop box, and sending additional employees to the open offices to handle any increase in traffic.

Voter Intimidation. Several reports were made of a disturbing presence of trucks, tents, and loud music promoting candidates. Some of these incidents could not be addressed because they occurred on private property next to a polling site. There were multiple instances of vehicles blocking polling site entrances on Election Day. In Pinellas County, two armed persons stationed themselves at a polling site during early voting claiming they worked for the Trump campaign.¹⁸⁴ VRD and our partners sent a letter to the county’s Sheriff and Florida State Attorney bringing their attention to the situation and urging an investigation into the incident of voter intimidation. The letter also requested a public announcement of an investigation to discourage other acts of intimidation, especially on Election Day.

Volunteers remotely monitoring social media uploaded a post reporting a man with a gun at a Coral Gables poll site. Authorities were notified.

Our in-person and remote volunteers reported a concerning police presence at numerous polling

184 Trump spokesperson says armed guards outside St. Pete polling place were not hired by campaign, WFLA NEWS CHANNEL 8 (Oct. 21, 2020, 9:02 PM), <https://www.wfla.com/news/pinellas-county/armed-guards-at-st-pete-early-voting-site-told-deputies-they-were-hired-by-trump-campaign-election-officials-say/>.

sites in Florida. These included an armed officer with partisan apparel inside a polling location in Miami and an officer in Washington County openly brandishing a weapon and police apparel that visibly made voters uncomfortable.¹⁸⁵ The police presence in a Black community in Leon County is detailed further below. Advocates balanced the arduous tasks of not amplifying the fear the intimidators sought to produce while simultaneously collaborating with state officials and elections offices to evaluate and remove threatening presences at voting locations.

At George Mullen Activity Center (Manatee County), a truck was slowly driving around inside the 150 foot boundary. The passengers were aggressively yelling at voters.

Voters received text messages indicating a vote for a particular party and then were told they were “being watched.”

Poll monitor intimidation. A polling place employee told an Election Protection volunteer at Brownsville Community Center in Escambia County to leave. There was no legal basis for this direction. We contacted the county attorney’s office who responded with a written commitment explaining that volunteers can continue to serve.

Leon County:

At Aquilina Howell Community Center, an officer was stationed outside a polling place near a large Black community the entire day. Two other officers also came and went in their marked vehicles. Our partner at All Voting Is Local Florida contacted

¹⁸⁵ Joel Shannon, *Called out for ‘voter intimidation,’ Florida officer faces discipline for wearing ‘Trump 2020’ mask at polling place*, USA TODAY (Oct. 20, 2020, 10:48 PM), <https://www.usatoday.com/story/news/politics/elections/2020/10/20/miami-police-officer-trump-2020-mask-poll-discipline/6001128002/>; Letter from Prepared to Vote/Voting Rights Defender (PTV/VRD) Florida Team (Nov. 3, 2020) (on file with author).

VOTER INTIMIDATION

Voters received text messages indicating a vote for a particular party and then were told they were “being watched.”

the SOE who was unaware of the police presence and after investigation notified us that an officer must be stationed as part of an agreement with the owner of the community center in exchange for using the facility as a polling site. Other polling sites did not have this condition, yet the location in a Black community did. Given the history of discriminatory policing and the discomfort expressed by a Black student who notified us of the police presence, this was a cause for concern. Along with our partners, we reached out to media and a Tallahassee city council member to urge local law enforcement to remove the officer or take steps to ensure their presence was less visible and intrusive. However, the officer remained the entire day. LDF and our partners in Florida are continuing to pursue the issue of police presence at polling sites in Black communities.

Voter and Volunteer Stories

Our in-person volunteers were trained by Common Cause and LDF. We collaborated with many organizations in the Panhandle region, and all issues identified by any organization or through the 866-OUR-VOTE hotline were escalated through the LDF-run command center. We worked with approximately 63 volunteers in some capacity during this election cycle. They were all incredibly flexible and dedicated to the work – one 76-year-old man covered five counties between early voting and Election Day. In Florida, we used technology provided by Common Cause and do not have data to present the most frequent types of complaints as provided for other states. We received 224 Volunteer Poll Visit Reports.

“I was at the polling place in Clearview, FL. An older man appeared at the polling place. He had not been able to vote before because of a felony conviction. Even under the new law he did not think he would be able to vote. Just a day or two before the election a policy clarification was issued that would allow him to vote. He learned about it in the newspaper and came to the polling place in Clearview. This was not the place he usually votes but, without transportation, he had been unable to get to his regular polling place in the time since the policy clarification. I worked with him and confirmed that he was in fact allowed to vote. We then found out his correct polling place and a member of the local NAACP picked him up and drove him there.” — *M.A.*

“An in-person volunteer reached out to me about an elderly Black woman she knows who is bed-ridden and never received her vote-by mail ballot. The Florida team sent her a proxy-ballot form, and I called her back and explained how to complete the form. The woman’s daughter was able to go to the Leon County Supervisor of Elections Office with the proxy form and pick up a ballot for her mother. The woman called me back happy to say her daughter dropped off the completed ballot in time for it to be counted.” — *Brielle*

“Early rising on Election Day allowed me and my riding partner to witness the power of the democratic process in action. All day to dawn, the excitement in the spirit of the people we observed as we moved from site to site stirred new hope for a renewed society and a dream for a new day a coming. The experience was joyful; a reminder of days passed when people power was recognized as a tool for true organizing. I was pleased to be part of the great work you and your counterparts did. Thanks for the opportunity.” — *Miaisha*

Next Steps and Future Advocacy:

There are numerous issues for future advocacy including:

- Removing the requirement that returning citizens pay fines and fees in order to vote.
 - » Addressing the absence of accessible information on outstanding fines and fees.
- Improving regulations for operating election sites, drop boxes, and curing ballots.
- Addressing voter intimidation.
- Removing unnecessary police presence at polling sites.
- Providing adequate training of poll workers about the difference between poll watchers and poll monitors and about the importance of allowing nonpartisan poll monitors to conduct their volunteer work.

A tour bus, sponsored by the Florida Rights Restoration Coalition, pulls up to a Miami-Dade County courthouse ahead of a special court hearing aimed at restoring the right to vote under Florida's Amendment 4 in a Miami-Dade County courtroom on Nov. 8, 2019, in Miami, Florida. - Eighteen former felons saw their right to vote restored, allowing them to cast their ballot in the 2020 election. Photo by Zak BENNETT / AFP



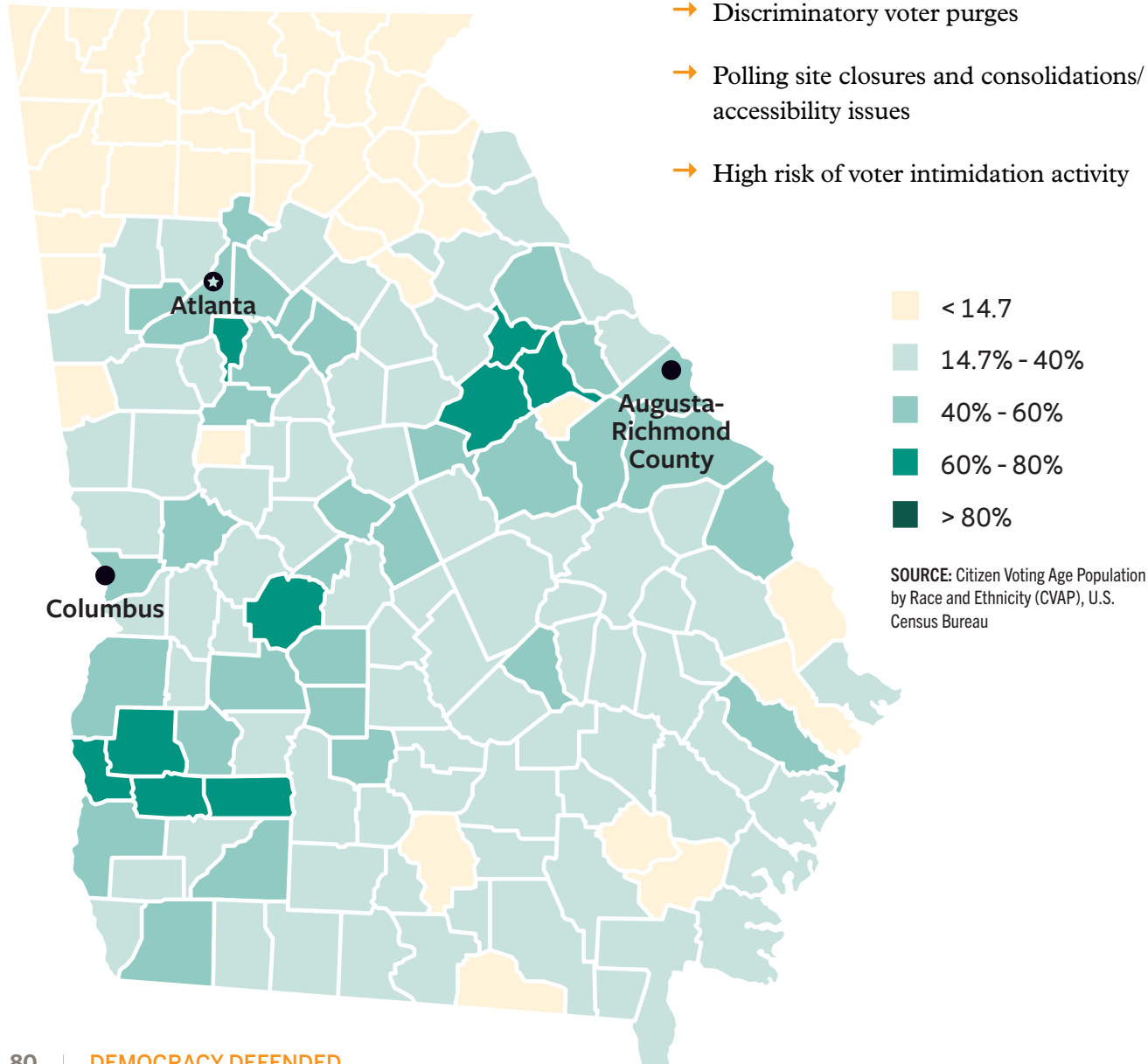
GEORGIA

PRE-ELECTION — MAJOR BARRIERS TO VOTING

GEORGIA CITIZEN VOTING AGE POPULATION

Black or African American alone

- Stringent voter ID laws
- Poor election administration
 - » Inadequate poll worker training
 - » Machine malfunctions
- Discriminatory voter purges
- Polling site closures and consolidations/ accessibility issues
- High risk of voter intimidation activity



Georgia has long suffered from the plague of voter suppression that disproportionately harms Black voters and other communities of color, and is a state formerly covered in full by the Voting Rights Act preclearance requirements before the *Shelby County* decision.¹⁸⁶ As with many states, the Georgia elections were significantly impacted by the COVID-19 pandemic. The Georgia Presidential Preference Primary, originally scheduled for March, was rescheduled for June 9th, and combined with the Statewide Primary. In addition to Election Day, November 3, 2020, Georgia held run-off elections on January 5, 2021, for two U.S. Senate seats and a Public Service Commission (PSC) (regulator of rates for public utilities) seat. We briefly address here Georgia’s adoption of a new law post the January 5th election that is designed to suppress the votes of persons of color, youth, and persons with disabilities.

LDF conducted statewide advocacy, but also engaged in advocacy focused on specific counties in southwest Georgia. We worked with regional voting rights partners, local community organizations, and volunteer poll monitors. The map included below in this section illustrates polling site locations where our nonpartisan poll monitor volunteers conducted site visits and assisted voters during the general election. At the invitation of Georgia voting rights partner organizations, we engaged in targeted local and statewide advocacy during the runoff election

Primary Election

Just as states grappled with pandemic driven changes, our VRD/PTV team also had to adjust its plans. For the June 2020 Georgia primary, we had to move from our in-person election protection operation to a wholly remote election monitoring program.

As with many states, a large number of Georgia’s poll workers were not available due to COVID-19

and this limited the number of open polling sites.¹⁸⁷ Problems and issues were evident at the start of the day. In the four most populated counties serving a high percentage of Black voters there were long lines and hours-long waits. These issues were caused in part by the miscalculation by state and local elections officials of the support needed for the rollout of new voting machines, even after they had three additional months to prepare. The issues included inadequate training for poll workers, equipment shortages, machine malfunctions, and limited IT support, which left thousands of voters waiting extremely long hours in line, with reports of waits of up to five hours. In some cases, voters were unable to stay long enough to cast a ballot.¹⁸⁸ Thousands of voters did not receive their absentee ballot in the mail, which resulted in voters having to vote in person.

Absentee Voting

In response to the pandemic, the Secretary of State (SOS) sent every active voter an absentee ballot request form at their residential address. Approximately 323,000 absentee ballot request forms were re-sent to voters who may not have received them because their residential address differed from their mailing address. About 60,000 voters received absentee ballot request forms with the wrong pre-printed return mailing or email addresses.¹⁸⁹ Counties were inundated by the dramatic increase in absentee ballot requests and did not have the capacity to process them.

¹⁸⁷ Mark Niesse, *Election depends on hiring many new poll workers across Georgia*, ATLANTA J.-CONST. (Aug. 26, 2020), <https://www.ajc.com/news/state--regional-govt--politics/polls-open-and-voters-line-for-georgia-primary/RDkUA0eKfng6xuWT3YwiI/>.

¹⁸⁸ Mark Niesse et al., *Metro Atlanta polling places now closed*, ATLANTA J.-CONST. (June 9, 2020), <https://www.ajc.com/news/state--regional-govt--politics/polls-open-and-voters-line-for-georgia-primary/RDkUA0eKfng6xuWT3YwiI/?p>.

¹⁸⁹ Mark Niesse, *Some Georgia absentee ballot request forms list wrong return address*, ATLANTA J.-CONST. (Apr. 9, 2020), <https://www.ajc.com/news/state--regional-govt--politics/some-georgia-absentee-ballot-request-forms-list-wrong-return-address/YH11y0tXOVsbPEW-ZhLZ0XI/>.

¹⁸⁶ See Section 5 Jurisdictions, *Supra* note 165

In Fulton County, election administrators processed over 127,000 applications for the 2020 primary compared to 947 absentee ballot applications for the 2016 general primary.¹⁹⁰

After the June primary, the State Election Board proposed a rule, subject to notice and comment procedures, that would clarify instructions provided to absentee voters. The proposal, however, did not resolve the sources of confusion that we had identified in the primary.¹⁹¹ We submitted comments and proposed new language to help clarify the instructions. The Board did not make any changes in response to our comments, citing the short amount of time before the election. One commissioner acknowledged that the comment letter made important points for consideration in future elections.

Technical Problems & Machine Malfunctions

Even after the state had additional time to prepare for the primaries, election officials did not adequately provide training to poll workers and some received training only hours before Election Day.¹⁹² Consequently, poll workers had issues with voter access cards and the wrong cords for voting machines. In some counties, polls opened late because voting machines had not been delivered or the machines were not functioning properly.

¹⁹⁰ Tim Perry, *Stacey Abrams' voting rights group to track absentee ballot problems in Georgia*, CBS NEWS (May 28, 2020, 12:00 PM), <https://www.cbsnews.com/news/stacey-abrams-voting-rights-group-to-track-absentee-ballot-problems/>.

¹⁹¹ Absentee Voting, Rules of State Election Board, (proposed Aug. 11, 2020), [https://sos.ga.gov/admin/files/SEB%20Rule%20183-1-14-.06\(3\)%20-%20To%20Post%20For%20Public%20Comment.pdf](https://sos.ga.gov/admin/files/SEB%20Rule%20183-1-14-.06(3)%20-%20To%20Post%20For%20Public%20Comment.pdf) (to be codified at GA. COMP R. & REGS. 183-1-14.6).

¹⁹² GOVERNMENTAL AFF. COMM., PRIMARY ELECTIONS INVESTIGATION PUBLIC TESTIMONY, H. 155, 2nd Sess., (Ga. 2020), <https://www.house.ga.gov/Documents/CommitteeDocuments/2020/GovernmentalAffairs/GovernmentalAffairs-PrimaryElectionsInvestigation-PublicTestimony-June2020.pdf>; Emil Moffatt, *Election Workers Detail The Good And Bad From Georgia's Primaries*, WABE (June 19, 2020), <https://www.wabe.org/georgia-house-committee-hears-testimony-from-those-who-worked-june-9th-primaries/>.

The new online voter check-in also delayed the voting process. Some voters were asked to fill out provisional paper ballots. However, there were not enough provisional paper ballots available in many counties, particularly in the four most populated counties. There were printing issues where voters had to fill out provisional ballots and the ink bled through the ballot, preventing proper scanning and machine processing.¹⁹³

These primaries were generally negative experiences for voters as they not only faced hours-long waits at the polls but also had to risk their lives to vote in person in the middle of a public health crisis.

Primary Voter's account

A Cobb County voter waited over 5 ½ hours at the polls. She did not leave the line. While waiting in line, she recalls, “[l]ong lines, difficulty social distancing especially as day wore on due to heat and intermittent rain, lack of space within the parking lot, [...] voting machines were not working when the polls opened and there were several of the machines that went down several times during the time I was in line waiting. We were not provided with any other method of voting. This was unlike anything that I had ever experienced before. I’ve had wait times before, but this was completely ridiculous. There was little communication as [to] what was being done to rectify the wait times or being able to cast a ballot in a timely manner.”

Voter account: “I went to precinct 156 in Gwinnett. Waited 2 [hours] but was able to cast my ballot. They had various power issues and claimed that they could not use an extension cord unless it was provided by the electoral authorities.

¹⁹³ *Election live updates: Miller, Whitby head to runoff for Macon mayor*, (June 10, 2020, 10:17 AM), <https://www.macon.com/news/politics-government/election/article243396926.html>.

By 10 a.m. they had only had 70 people vote even though there had been a line since the morning. They also called the cops on a voter that was arguing because they would not let her vote.”

Voter account: “I headed to the polls today and made it at 6:40 a.m. It was possibly 40 people ahead of us in line. The poll workers came out and made an announcement at 7:20 a.m. stating the machines were not working. Around 8:15 a.m. they said we would have to do paper ballots. We did not vote until 9:15-9:30 a.m. My polling location is the Sandtown Recreational Center on Campbellton Road in Southwest Atlanta. I will volunteer and do whatever I can to ensure this does not happen again and that they are prepared on August 11th.”

PARTNER TESTIMONIAL

“ Thank you for the personal protection supplies. They are just in time and will be used in our Free Rides to the Polls across 43 counties in Middle and South Georgia sponsored by the New Georgia Project, the Albany Community Builders, and the South Georgia Voters’ League.”

— Mr. Bobby Fuse
South Georgia Voters’ League

Pre-General Election Engagement

- Through our work with More Than A Vote to recruit poll workers, over **700 Georgians** applied to become poll workers for the general election.
- In partnership with Forward Justice and Poor Peoples Campaign, we recruited and trained **55 volunteers** to conduct local poll monitoring and voter education.
- Direct text campaign in Lowndes County to recruit poll workers resulted in **45 applicants**.
- Voter education and information via text messages were sent to over **60,000 voters**.
- Voter education and PPE mailed to **18,818 voters**.
- Voter education materials mailed to **81,426 voters**.
- Provided partners at South Georgia Voters’ League (SGVL), ProGeorgia Coalition, and the Georgia NAACP almost **18,000 door knocker** style nonpartisan voter literature cards. Partners, including Black Voters Matter, were also sent **48,900 sets of PPE** to distribute to safeguard voters at the polls from COVID-19. We provided SGVL **1,350 nonpartisan palm cards** in Spanish to distribute to voters.

Absentee Voting, Ballot Drop Boxes, & COVID-19 Response

Inactive Voter Status. In mid-August, only a few days after the runoffs from the Georgia primary, SOS Raffensperger planned to move voters from “active” to “inactive” status if the absentee ballot application that was mailed to all voters in the spring had been returned as undeliverable.¹⁹⁴ In response, we prepared a letter to the SOS that was co-signed by our partner organizations urging that voters not be transferred to inactive status before the election. Mr. Raffensperger did not respond to our letter. In our voter education palm cards, we informed registered voters they were entitled to cast a regular ballot even if they had been placed on the “inactive” voter list.

Ballot Drop Boxes. While counties could provide drop boxes to voters, the SOS did not require counties to make them available and did not provide implementation support for counties. We were a primary signatory on a sign-on letter by All Voting Is Local Georgia (AVIL Georgia) to the SOS urging an expansion in the number of drop boxes. In response to our advocacy and that of local partner organizations related to drop boxes, most counties ultimately offered drop boxes to voters.

Misinformation/Language Access. In early October, we received reports that voters in Cherokee County were unable to submit their absentee ballots in person at the elections office because the return address on the absentee ballot was incorrect. Voters reported that they

encountered a sign, printed only in English, stating that the office had moved. In response to an email from a concerned Cherokee County voter, State Elections Director Chris Harvey acknowledged that the office failed to update the information to [the] mail vendor so absentee ballot envelopes were printed with the incorrect return address. We joined SPLC’s efforts on a letter to elections officials in Cherokee County urging them to place a 24-hour accessible drop box at the location of the former office to mitigate voter confusion caused by incorrect return addresses on the absentee ballot envelopes. Cherokee County installed a drop box at the location requested in our letter.

Contingency Planning. With rising cases of COVID-19, several election workers were diagnosed with the virus. In response to potential COVID-19 scares, LDF, AVIL Georgia, and Fair Fight sent a letter to the county commissioners in all 159 Georgia counties urging them to prepare election contingency plans for the general election.

Increased Absentee Ballot Cancellation Requests. We prepared a letter, joined by AVIL Georgia and SPLC, that we sent to all 159 county election supervisors in Georgia urging them to immediately create a plan for the likelihood that a substantial number of voters who had requested absentee ballots would seek to vote in person.

Spread of Misinformation & Threats of Voter Intimidation. In response to online threats of voter intimidation, LDF, the GA NAACP, and the Giffords Law Center to Prevent Gun Violence sent a letter in late October to the Georgia Attorney General urging him to issue a public statement reminding Georgia residents ahead of the elections that voter intimidation is a serious crime under federal and Georgia law. We did not receive a response to this request, nor are we aware of any responsive action.

Additionally, during the early voting period in Georgia, there were reports from local partners that some counties were wrongly refusing to

allow members of the public to offer free food or beverages and life-saving PPE near polling places. We sent letters to the Supervisor of Elections for both Macon-Bibb and Gwinnett County, calling for the prompt issuance of public guidance stating that individuals could legally provide food and/or beverages, as well as PPE, to people at or near polling places. Neither county provided a helpful response and both indicated that providing food or water could be a violation of state law.

Weather. During the early voting period, Georgia voters faced yet another challenge as Hurricane Zeta hit in Louisiana and touched certain regions in Georgia as a subtropical storm. In response, we sent a letter to the County Elections Supervisors for all 159 counties in Georgia urging them to extend early voting hours for their county if they were impacted by Zeta.

Remote Monitoring

Our VRD/PTV team trained law firm volunteers to conduct remote monitoring and active social listening. These volunteers provided information to the Georgia VRD/PTV team that enabled us to resolve incorrect information regarding early voting locations listed on websites of election officials and on social media, incorrect information regarding voter registration and voting ID requirements listed on an official election website, and incorrect information about the absentee ballot deadline on a traditional media site. The volunteers also reported dis- and misinformation directly to social media platforms and requested removal or correction.

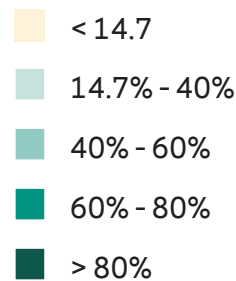
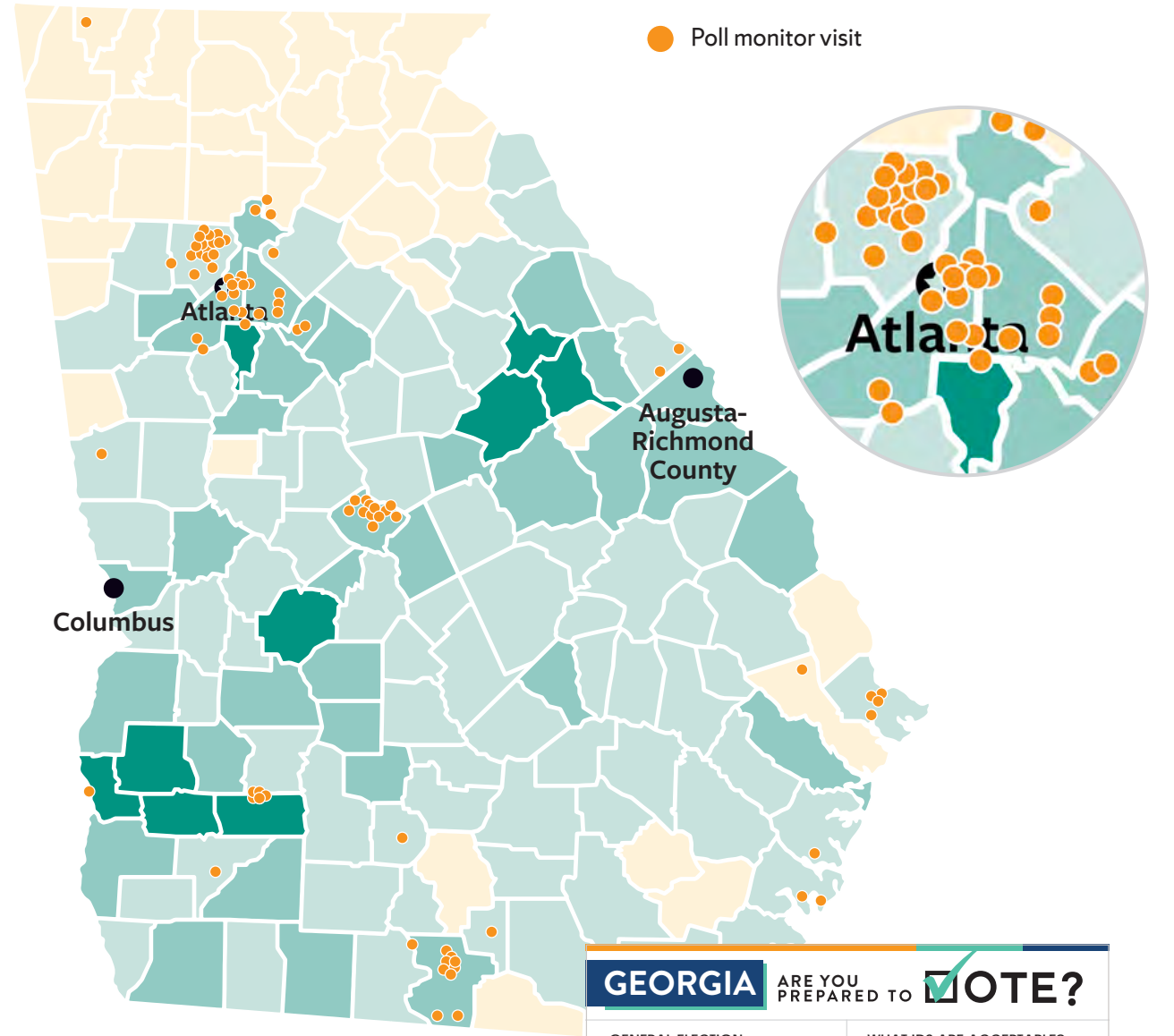
Nonpartisan poll monitors outside Georgia polling locations on Election Day 2020. Volunteer photos




¹⁹⁴ Mark Niese, *Georgia voters to be made ‘inactive’ after absentee mail undeliverable*, ATLANTA J.-CONST. (Aug. 18, 2020), <https://www.ajc.com/politics/georgia-voters-to-be-made-inactive-after-absentee-mail-undeliverable/D7K5RATLZVGDHYZXZJE6EUSC6Y/>.

GEORGIA CITIZEN VOTING AGE POPULATION

Black or African American alone



SOURCE: Citizen Voting Age Population by Race and Ethnicity (CVAP), U.S. Census Bureau

GEORGIA ARE YOU PREPARED TO  **VOTE?**

GENERAL ELECTION		WHAT IDS ARE ACCEPTABLE?	
October 5 (Mon)	Deadline to register	GA Driver's License	Federally Issued ID - including US Passport or Military Photo ID
October 12 (Mon)	EARLY VOTING BEGINS (dates vary by county)	Free ID Card issued by County Registrar or GA Department of Driver Services	Employee photo ID from any branch, department, agency or entity of the Federal, Georgia, or local government.
October 24 (Fri)	Mandatory Saturday voting in all counties (polls open from 9 a.m. to 4 p.m.)	Any State or Federal Government issued Photo ID	Tribal Photo ID
October 30 (Fri)	EARLY VOTING ENDS	Identification must be valid, except a Georgia driver's license may be expired.	
October 30 (Fri)	Deadline to request an absentee ballot, we recommend that voters submit their request by October 15 and return their ballot promptly	ELECTION DAY CHECKLIST	
November 3 (Tues)	ELECTION DAY Polls open 7 a.m. to 7 p.m.	<input checked="" type="checkbox"/> Confirm your registration status bit.ly/GaVotersInfo	<input checked="" type="checkbox"/> Look up your polling site bit.ly/GaVotersInfo
		<input checked="" type="checkbox"/> See what is on your ballot bit.ly/BallotView	<input checked="" type="checkbox"/> Pack your ID
		<input checked="" type="checkbox"/> Pack your PPEI Wear a mask; stay safe.	<input checked="" type="checkbox"/> Pack your PPEI Wear a mask; stay safe.

Election Day Issues – November 2020

On Election Day, in partnership with the Poor People's Campaign and Forward Justice, we sent approximately 50 volunteers to serve as nonpartisan poll monitors in Georgia. As part of the Georgia Election Protection Coalition, we responded to and resolved 866-OUR-VOTE hotline reported voter issues. In comparison to the June primaries, Georgia voters did not experience the same state-wide systemic issues, but efforts to suppress the vote remained.

Machine Malfunctions

Around 8:00 a.m. the Georgia SOS's Facebook page noted that voters reported machine malfunctions and issues with voter check-in devices in Spalding County due to power outages throughout the County. All Spalding County precincts were closed. By approximately 10:30 a.m., it was reported that all machines were up and running. Our EP Coalition partners advocated with the local election officials for an extension of voting hours. Per a court order issued by Superior Court Judge W. Fletcher Sames, operating hours for all Spalding County precincts were extended to 9 p.m.¹⁹⁵ The County subsequently provided additional time and extended the hours until 11 p.m.¹⁹⁶

Due to improper training, poll workers in Fulton County mistakenly provided voters with provisional ballots rather than paper ballots when voting machines malfunctioned. These provisional ballots were properly counted as regular ballots. This issue was remedied at the Morris Brandon Primary School precinct, but the EP Coalition addressed the issue more broadly as it occurred in other counties.

A precinct in Houston County extended their

¹⁹⁵ Fox 5 Digital Team, *Polls in Spalding County open late due to technical problems with voting machines*, FOX 5 ATLANTA (Nov. 4, 2020), <https://www.fox5atlanta.com/news/computer-problems-bring-down-voting-machines-in-spalding-county>.

¹⁹⁶ *Id.*

POLL MONITOR REPORTED ELECTION ISSUES

9

POLLING LOCATION change

8

reports of PARKING or ACCESSIBILITY ISSUES

17

Lack of MASK/DISTANCING

10

reports of INADEQUATE/CONFUSING SIGNAGE

24

reports of LAW ENFORCEMENT PRESENCE

SOURCE: Data reported in this chart is solely from LDF's internal volunteer monitor reports and does not include data captured in Our Vote Live (866-Our-Vote), a record system for the Election Protection coalition.

poll hours by an additional 40 minutes as election administrators had difficulty getting their poll pads set up to program access cards for voters.¹⁹⁷ This had caused a 40-minute delay for voters.

Morgan County experienced problems with poll pads not encoding the voter cards, which resulted in long lines.¹⁹⁸ They provided paper ballots to voters. This happened in other counties and the EP Coalition contacted the SOS's office about the issue.

Absentee Voting

There were reports from multiple counties that voters were being given incorrect information about voting in-person after requesting an absentee ballot. Some voters were told that they must have their absentee ballots with them in order to cancel them and vote in person, while others were incorrectly told that they had already voted. In advance of Election Day, we had sent a letter to all county Supervisors of Elections urging them to address this issue. On Election Day, LDF, AVIL Ga, SPLC, and BVM sent a letter to the SOS requesting that he reinforce guidance to counties on canceling ballots for voters who choose to vote in person.

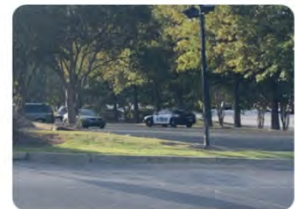
Late Poll Openings

There were reports of delayed openings in precincts in Cherokee, DeKalb, Fulton, Gwinnett, Houston, and Richmond counties, where polling hours were extended past 7:00 p.m.

Law Enforcement Presence

We received 24 reports from our on-the-ground poll monitors indicating law enforcement presence in Bibb, Dougherty, DeKalb, Fulton, and Cobb counties. This law enforcement presence was not in response to any reports of misconduct. One county official said that the week prior to the election the Sheriff's Association in Georgia asked that all 159 counties have law enforcement present at polling sites.

 Curt Yeomans
@CYeomansGDP
There is a @CityofLville police car parked discretely at the polling site located at First United Methodist Church of Lawrenceville this morning #Gwinnett #GAPol #Election2020 #ElectionDay



8:21am · 3 Nov 2020 · Twitter for iPhone



St. Matthew Baptist Church – Bibb County (CVAP 59.8% - Black or African American)



Birney Elementary School – Cobb County (CVAP 35.31% - Black or African American)

¹⁹⁷ Peyton Lewis, *Houston County Annex Building extends voting time due to late set up*, 41NBC/WMG (Nov. 3, 2020), <https://41nbc.com/2020/11/03/houston-county-voting/>.

¹⁹⁸ *Voting machine error causing delays in Morgan County*, FOX 5 ATLANTA (Nov. 3, 2020), <https://www.fox5atlanta.com/news/voting-machine-error-causing-delays-in-morgan-county>.

January 2021 Runoffs — Pre-Election Engagement

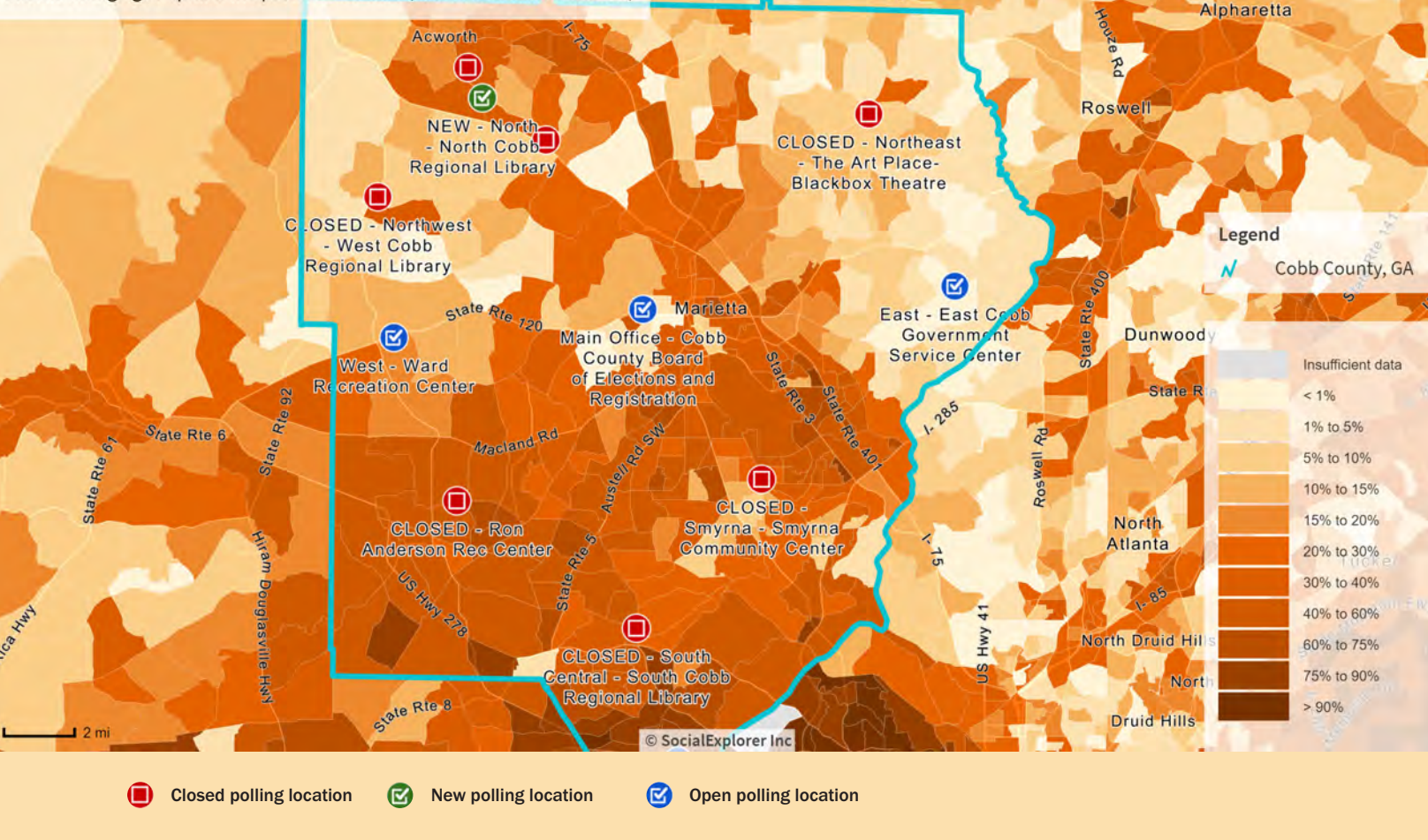
- Voter education and information sent via text messages to approximately 7,200 Black and Latinx voters in Macon-Bibb County.
- Led advocacy efforts in Cobb and Hall counties to open closed early voting locations.
- Voter education and information sent via text messages to Black and Latinx voters in Cobb and Hall counties.
- Monitored and conducted advocacy regarding the voter challenges across all 159 counties in Georgia.
- Provided partners at Black Voters Matter, South Georgia Voters' League (SGVL), and the Georgia NAACP 56,050 nonpartisan voter literature cards. Provided partners 11,000 sets of PPE to distribute to safeguard voters at the polls from COVID-19. Provided SGVL 1,350 nonpartisan palm cards in Spanish to distribute to voters.

January 2021 Runoffs

Following the general election, the nation elected Joseph R. Biden and Kamala D. Harris to serve as the next President and Vice-President of the United States. Then-President Donald Trump challenged the election results, raising unsupported claims of voter fraud and targeting Georgia as one of the challenged states. He also challenged the Dominion voting machines used by Georgia and other states.¹⁹⁹ To undermine the electoral college vote, President Trump encouraged

¹⁹⁹ Ali Swenson & Amanda Seitz, *AP FACT CHECK: Trump tweets a tall tale of 'deleted' votes*, AP News (Nov. 12, 2020), <https://apnews.com/article/fact-check-trump-tweets-tall-tale-votes-13c104367924b8192b-4fcec334f7806>.





Map of proposed early voting location closures in Cobb County and the surrounding Black population.

his supporters to challenge votes and contacted the Georgia SOS and urged him to “find” votes to overturn the election. After several recounts and the SOS’s confirmation that the election results were valid, the SOS and his staff were roundly criticized by the President and received death threats, which continued throughout the runoffs.²⁰⁰

In preparation for the runoffs and mindful of the false statements about the integrity of the elections, LDF issued advocacy letters, remotely monitored social media and government official sites, and provided nonpartisan voter literature to

partners along with PPE to ensure Georgia voters were able to cast a ballot safely and securely.

Early Voting Location Closures

Multiple Georgia counties closed early voting locations for the runoff. Cobb County, for example, announced a plan to close over half of its early voting locations, moving from 11 locations in the general election to just five in the runoff.²⁰¹ The planned closures would have a severe impact on the Black community in Cobb County.

200 Report: Georgia secretary of state feeling pressured by GOP over absentee ballots, 11ALIVE NEWS (Nov. 16, 2020, 7:44 PM), <https://www.11alive.com/article/news/nation-world/brad-raffensperger-republican-absentee-ballot-pressure/507-cf-6c699d-fb52-4666-b252-f430e3bea83b>.

201 Vanessa Williams, Voting rights groups alarmed after Cobb County cuts half of its early-voting sites for Ga. Senate runoffs, WASH. POST (Dec. 7, 2020, 7:04 PM), <https://www.washingtonpost.com/politics/2020/12/07/voting-rights-groups-alarmed-after-cobb-county-reduced-early-voting-sites-ga-senate-runoffs/>.

True the Vote (TTV) orchestrated a massive, statewide voter suppression effort to disqualify more than

360,000

registered voters residing in all 159 counties.

At first, Cobb County refused to take any steps to address these closures, despite urgent requests from numerous organizations. Only after LDF indicated an intent to pursue litigation did Cobb County agree to open some of the locations it had planned to shutter. Other counties with dramatic cuts to early voting locations—like Hall County, which cut half of its early voting locations—refused to take any steps to accommodate voters. LDF and other organizations worked to educate voters about these changes. Our VRD/PTV team texted Black and Latinx voters in Cobb and Hall counties to alert them of the early voting location change. Still, counties that cut early voting locations, like Cobb and Hall, suffered from lower turnout during the early voting period.²⁰²

Voter Challenges

Almost a week into early voting, a right-wing group, True the Vote (TTV), orchestrated a massive, statewide voter suppression effort to disqualify more than 360,000 registered voters residing in all 159 counties. TTV partnered with Georgia residents to challenge these voters’ voting eligibility based on their residency. The primary evidence used to support the first set of mass challenges was a comparison of voter registration data to National Change of Address

202 Letter from Kira Romero-Craft et al., Managing Attorney, Latino Justice PRLDEF, to Hall County Board of Commissioners et al. (Dec. 16, 2020), <https://www.naacpldf.org/wp-content/uploads/December-16-2020-Letter-Re-Closure-of-Early-Vote-Sites-in-Hall-County.pdf>.

(NCOA) data.²⁰³ These types of comparisons are notoriously inaccurate and unreliable as a means to determine voter eligibility. A voter may change their mailing address without impacting their voting eligibility. For example, someone who temporarily moved to care for family during the coronavirus pandemic or who is a member of the armed services stationed out of state and wished to receive their mail temporarily at a location other than their permanent registration address could submit a change of address while remaining a state resident. NCOA data may also be inaccurate in other ways—for example, a change of address filed by one member of a household has been shown, on occasion, to appear in the NCOA database as a change of address for all members of the household.

In response to these voter challenges, LDF and partner organizations, wrote to officials in all 159 counties, urging them to reject these challenges and outlining why the challenges were baseless, untimely, and may be discriminatory under federal and state law. If a hearing was held, we coordinated with partners to attend hearings in person, provide information to board members who had questions, and assist with public comments and testimony. Through these efforts, we engaged county officials in the more than 50 counties that held hearings.

203 Jonathan Raymond, Cobb County election board denies hearing for challenges against thousands of voters, 11ALIVE, <https://www.11alive.com/article/news/politics/elections/cobb-county-voter-challenge-details/85-3d7ff8c2-5e76-423d-8a65-3bb78ce10d82> (Dec. 18, 2020, 6:55 PM).

Our VRD/PTV team also learned that several counties received second and even third waves of these mass challenges. Because of our advocacy and that of community partners, we were able to quickly respond to these repackaged baseless challenges to ensure counties continued to reject them.

Although almost every county that received these meritless mass voter challenges rejected them, a few counties accepted these challenges and forced voters to provide residency verification. In these counties, we worked with partners to obtain the challenged voters list to ensure voters were contacted either by phone or text. These outreach efforts were critical to ensure voters were aware of the challenge and had the necessary information to overcome them either on Election Day or afterwards.

Overall, our efforts played a significant role by ensuring voters were not disenfranchised and that county officials understood why failing to reject these challenges could violate federal and state laws. Moreover, the advocacy played a critical role in raising awareness and ensuring community members were prepared with proper information. This broad-scale attempt to divert county resources away from elections activities and suppress Georgia voters underscored how Georgia's voter-challenge laws, which are rooted in a history of race-based voter suppression,²⁰⁴ are dangerous relics of an earlier era that need to be eliminated.

203 Laughlin McDonald, *A Voting Rights Odyssey: Black Enfranchisement in Georgia 48-55 (2003)*; see also Nicolas Riley, *Voter Challenges 7-10 (2012)*, https://www.brennancenter.org/sites/default/files/2019-08/Report_Voter_Challengers.pdf.

Election Administration Advocacy

LDF, AVIL Georgia, and SPLC, along with six other co-signing organizations, sent a letter to the SOS urging him to take several steps in advance of the January 5 runoff elections, including requests that he mandate specific weekend early voting dates, address widespread technological and training issues with poll pads, clarify confusing absentee ballot status information on the My Voter Page and BallotTrax websites, and mandate at least one drop box for every 15,000 to 20,000 voters.

LDF, SPLC, and AVIL sent a letter to election supervisors in each of Georgia's 159 counties concerning preparations for the runoff elections. We urged them to expand early voting and increase the availability of drop boxes, widely publicize the voting options, expand language access, and adopt and publicize guidance on the rights of students and returning citizens to register to vote.

Voter Education

In mid-December, the Macon-Bibb County Board of Elections voted to extend early voting hours on Saturday, December 19. With only a two-day notice for voters in the county, our VRD/PTV team shared the extended early voting hours on social media and sent texts about the added December 19 early voting day to 7,200 Black and Latinx voters in Macon-Bibb County.

With partners at Black Voters Matter, South Georgia Voters' League, and the Georgia NAACP we disseminated 57,000 nonpartisan palm cards across multiple counties in the State. We also provided 11,000 sets of PPE to partners at South Georgia Voters' League and the New Georgia Project for nonpartisan distribution to voters.

January 2021 Runoffs — Election Day

In partnership with the Georgia Election Protection coalition and partners on the ground, our VRD/PTV team monitored and responded to issues in the January runoffs from the time the polls opened to the time they closed and prepared and disseminated nonpartisan palm cards for the runoffs. The Georgia January 2021 runoff saw historic voter turnout, as a record 4.4 million Georgians turned out to vote.²⁰⁵

Voter Intimidation & Harassment

Voters were forced to overcome troubling intimidation and harassment, as described more fully below. Prior to the runoff election, ten counties received threats of violence at polling places, resulting in an increased law enforcement presence.²⁰⁶ The Georgia Bureau of Investigation and the Federal Bureau of Investigation are investigating the issue.²⁰⁷

The 866-OUR-VOTE Hotline received reports of people taking photographs of voters in their cars at the Botanical Garden site in Chatham. EP Coalition members contacted election officials to try to resolve these issues. Reports came in of a heated voter intimidation incident at New Life Presbyterian Church in Fulton County. A deputy was called to the scene and the incident was resolved within 15-20 minutes. Our on-the-ground partners do not believe any voters left without voting.

We received a report first through a partner organization and then through the EP Coalition that the American Woodmark Corporation Plant

205 Bernard L. Fraga, Zachary Peskowitz & James Szewczyk, *New Georgia runoffs data finds that more Black voters than usual came out. Trump voters stayed home*, WASH. POST: MONKEY CAGE (Jan. 29, 2021, 6:00 AM), <https://www.washingtonpost.com/politics/2021/01/29/new-georgia-runoffs-data-finds-that-more-black-voters-than-usual-came-out-trump-voters-stayed-home/>.

206 Denise Dillon, *Threats of violence on polling locations in 10 Georgia counties*, FOX 5 ATLANTA (Jan. 4, 2021), <https://www.fox5atlanta.com/news/threats-of-violence-on-polling-locations-in-10-georgia-counties>.

207 GBI, *local law enforcement investigating threats ahead of Tuesday's election* (Jan. 4, 2021, 11:16 PM), <https://www.wsbtv.com/news/local/gbi-local-law-enforcement-investigating-threats-ahead-tuesdays-election/DVCB2X2BFNDYRJLAQBVADCM3T4/>.

in Jackson was prohibiting workers from taking time off from work (up to two hours) to vote, which is allowed under Georgia law. Instead, workers reported being told that they must work until 7:00 p.m. The reports also indicated that “the workers at the location are predominately African American.” We contacted company officials and the employees were ultimately allowed to leave at 4:00 p.m. to vote.

Chatham County Board of Elections Member, Antwan Lang, reported that he had a poll watcher removed from the Islands Christian Church polling site in Savannah. Lang posted the following statement on [Instagram](#): “She disregarded the rules as a poll watcher and yelled at poll workers and voters... If you are a poll watcher and you disrespect my staff or our voters I will call the sheriff deputies myself!”

Late Openings Due to Technical Issues

A site in Gilmer County opened late. We contacted Gilmer County officials and confirmed that they had a 32-minute delay due to a poll pad malfunction. A voter reported that emergency ballots were not provided. In Floyd County, a voter reported a 45-minute delay that resulted in some voters leaving the polling place. The League of Women Voters contacted Floyd County officials regarding an extension of poll hours but were informed that the county was unlikely to extend hours without a court order.

Other Equipment Problems

Augusta and Columbia counties reported technical issues early in the day which led them to switch to paper ballots.²⁰⁸ DeKalb County (56.77% Black voting age population²⁰⁹) and Floyd County both experienced several non-working machines in the morning and worked to

208 Gabriel Sterling (@GabrielSterling), TWITTER (Jan. 5, 2021, 8:28 AM), <https://twitter.com/GabrielSterling/status/1346448612637683712>.

209 *US Citizens 18 Years and Over: Not Hispanic or Latino: Black or African American Alone*, SOC. EXPLORER, <https://www.socialexplorer.com/ba9f4eaa1d/view> (last visited June 1, 2021).

fix them ahead of the afternoon wave. Gwinnett County issued paper ballots at a polling site in the morning due to issues with scanners.²¹⁰ These equipment issues led to long lines. In Fulton County, a polling station moved voters inside the polling station to wait due to the cold weather. This led to some COVID-19 concerns. None of the equipment problems resulted in delays at the close of the polls or ballot shortages and did not warrant intervention by the EP Coalition to extend polling hours.

Long Wait Times

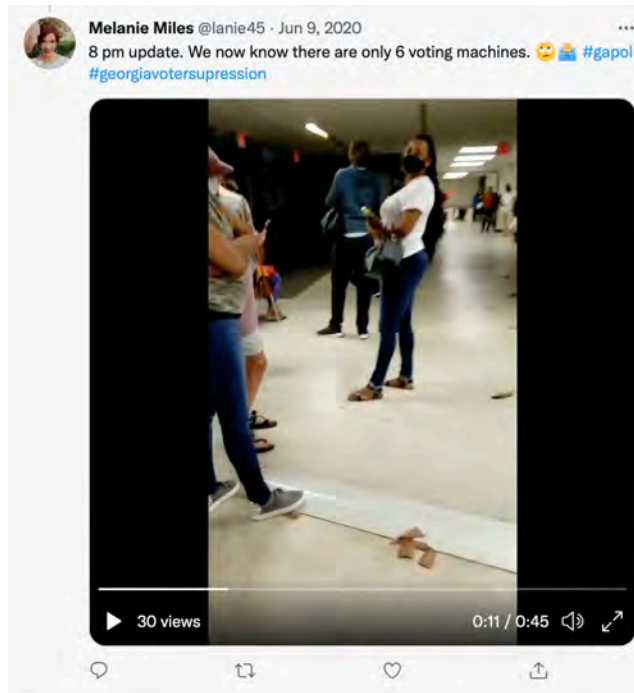
Opening poll site reports noted one-hour wait times at three sites in Fulton County (Ponce Library, Ponce Baptist Church, and Morningside Baptist) and five sites in Cobb County (Northstar Church in Acworth, Milford Baptist in Marietta, and Paces Foundation, Smyrna Community Center, and Teasley Elementary in Smyrna). Wait times shortened as the morning continued but remained long at Cobb County's Smyrna Community Center and American Legion locations. Ponce Baptist, Northstar Church, Milford Baptist, Paces Foundation, Smyrna Community Center, and Teasley Elementary all have Black voter populations of over 20%.

Poll Closures and Relocations

DeKalb County moved a polling site due to construction-related concerns. We confirmed that they placed signage and personnel at the old site and that notice of the change had been sent to voters prior to Election Day.

Voter Challenge Notices

The SOS mailed notices to voters who were flagged on the NCOA list to "make them aware of the residency requirement to vote in Georgia



GEORGIA ¿LISTOS PARA VOTAR? VOTE?

ELECCIONES GENERALES

5 de octubre (lun.) Fecha límite para registrarse

12 de octubre (lun.) Se abre el periodo de votación anticipada (las fechas varían según el condado)

24 de octubre (sáb.) Votación obligatoria los sábados en todos los condados (las urnas están abiertas de 9 a.m. a 4 p.m.)

30 de octubre (mier.) Termina el periodo de votación anticipada

October 30 (Fri) Fecha límite para solicitar una boleta de voto en ausencia; recomendamos a los votantes presentar sus solicitudes antes del **15 de octubre** y entregar sus boletas cuanto antes.

3 de noviembre (mart.) **DÍA DE LAS ELECCIONES** Las urnas abren de 7 a.m. a 7 p.m.

REGISTRARSE PARA VOTAR U OBTENER MÁS INFORMACIÓN

Visite bit.ly/GaVotersInfo o llame al 404-656-2871. O llame gratis al 844-753-7825

BOLETA DE VOTO POR CORREO

Cualquier votante puede solicitar una boleta de voto por correo. No se necesita ninguna excusa. Simplemente rellene la solicitud para pedir una boleta oficial de voto por correo. Luego, envíe por correo o entregue la solicitud a la oficina de registro de su condado. Le instamos a solicitar su boleta de voto por correo y devolverla a la oficina de registro de su condado lo antes posible.

VOTACIÓN ANTICIPADA

Las fechas de votación anticipada y la disponibilidad de las urnas para recolectar boletas de voto en ausencia varían según el condado. Por favor, visite bit.ly/GaVotersInfo para verificar la información de su condado antes del día de las elecciones.

Según la ley federal, usted tiene derecho a:

- Votar sin ser intimidado
- Emitir un voto común incluso si usted se encuentra en una "lista de electores inactivos", ya que usted es un votante registrado
- Emitir un voto provisional si hay incertidumbre sobre su estado de registro o elegibilidad
- Recibir asistencia para votar si no puede hacerlo por sí mismo debido a ceguera, discapacidad, analfabetismo o no puede leer inglés, y el derecho a elegir quien le ayude, siempre y cuando no sea su empleador o representante sindical

Según la ley de Georgia, usted tiene derecho a:

- Votar si está en la fila para el momento en que cierren las urnas.

¿Tiene dificultades?

¿Hay largas filas? ¿Cambiaron el lugar de votación? ¿El lugar de votación no está bien señalado? ¿Eliminaron su nombre de la lista de votantes? ¿Acaso se intimidó a los votantes? ¿Hay información errónea sobre los requisitos de votación o el lugar de votación? ¿Hay problemas con la máquina de votación u otros problemas tecnológicos?

¿Qué pasa si no tengo una de las seis formas aceptables de identificación con foto?

El Estado de Georgia ofrece una tarjeta de identificación gratuita. La tarjeta de identificación puede ser emitida en cualquier oficina de registro del condado de forma gratuita. Visite bit.ly/GAVoterIDInfo para conocer más sobre la tarjeta de identificación gratuita.

Denuncie los problemas: voters@naacpldf.org o llame a la Protección Electoral al **866-OUR-VOTE (866-687-8683)**. Español: 888-VE-Y-VOTA (888-839-8682). Idiomas asistidos: 888-API-VOTE (888-274-8683). Árabe: 844-YALLA-US (844-925-5287).

¿Desea más información? Escanee este código QR abriendo la aplicación de la cámara en un teléfono inteligente. Sostenga el teléfono y deje que la cámara enfoque el cuadrado QR. Esto lo llevará al sitio web de LDF para obtener más información. voting.naacpldf.org

GEORGIA RUNOFF

TOMORROW IS THE LAST DAY TO VOTE IN THE

GEORGIA RUNOFF

VOTE

Election day is **JANUARY 5, 2021**

Polles are open 7am-7pm

VOTE HERE

GEORGIA ARE YOU PREPARED TO VOTE?

U.S. SENATE AND PUBLIC SERVICE COMMISSION RUNOFF ELECTION

Georgia's two senate elections and its race for statewide Public Service Commission will each go to a runoff election on **January 5, 2021**.

November 18 (Wed) Earliest day for a registrar to mail an absentee ballot

We urge you to request your absentee ballot by **December 17** and get it back to your county registrar's office as soon as possible.

December 7 (Mon) Deadline to register

If you will be 18 years old by January 5, 2021, you are eligible to register and vote. If you were convicted of a felony and have served your entire sentence, including probation or parole, your right to vote was restored once the sentence was complete.

December 14 (Mon) **EARLY VOTING BEGINS** (dates and times may vary by county)

January 5 (Tues) **ELECTION DAY**

Polles open 7 a.m. to 7 p.m.
Absentee ballots must be received by 7 p.m.

WHAT IS A RUNOFF ELECTION?

A runoff election is a second election held to determine a winner when no candidate in the first election met the required threshold for victory. Under Georgia law, candidates must receive a majority of the vote to win an election. If none of the candidates receives more than 50% of the votes, the two candidates who received the most votes face off again in a runoff election to determine the winner.

ELECTION DAY CHECKLIST

- Confirm your registration status bit.ly/GaVotersInfo
- See what is on your ballot bit.ly/BallotView
- Look up your polling site bit.ly/GaVotersInfo
- Bring your ID
- Pack your PPE! Wear a mask, stay safe.

WHAT IDs ARE ACCEPTABLE?

GA Driver's License	Federally Issued ID – including US Passport or Military Photo ID.
Free ID Card issued by County Registrar or GA Department of Driver Services.	Employee photo ID from any branch, department, agency, or entity of the Federal, Georgia, or local government.
Any State or Federal Government-Issued Photo ID, including from certain Georgia public colleges, universities and technical colleges.	Tribal Photo ID

Identification must be valid, except a Georgia driver's license may be expired.

into problems? Lines? Polling location changed? Location not well marked? Removed from voter roll? Voter datation? Misinformation about vote centers or polling location? Voting line or other technology issues?

CONTACT ISSUES TO: [@naacpldf.org](https://naacpldf.org) or call Election Protection at **866-OUR-VOTE (866-687-8683)**. Spanish: 888-VE-Y-VOTA (888-839-8682). Language: 888-API-VOTE (888-274-8683). Arabic: 844-YALLA-US (844-925-5287)

to vote: [/GaVotersInfo](https://GaVotersInfo)

your polling place: [/GaVotersInfo](https://GaVotersInfo)

request an absentee ballot: [/GaAbsenteeRequest](https://GaAbsenteeRequest)

your ballot: [/GABallotTracker](https://GABallotTracker)

by opening your camera app on a smart phone. Hold the phone up and let the camera focus on the QR square. This will take you to LDF's website for more information. voting.naacpldf.org

Disclaimer: The information here is a resource and not legal advice. It is provided for informational purposes only and not as a substitute for or supplement to the legal advice necessary to address the specific concerns of any individual. Georgia may revise its laws after this is published. It is your responsibility to determine how all applicable laws concerning voter registration, voting, and the restoration of voting rights in Georgia affect you.

210 Kyung Lah (@KyungLahCNN), Twitter (Jan 5, 2021, 9:06 AM), <https://twitter.com/KyungLahCNN/status/1346458036408356864>.

94 | DEMOCRACY DEFENDED

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✓ GEORGIA

elections and that voting when you know you do not possess the qualifications to vote in Georgia is a felony.” We received a copy dated December 15, 2020, from a DeKalb County voter. It had not arrived until early January, shortly before the runoff election, likely due to USPS delays. This left the voter confused—about his eligibility. We confirmed that DeKalb County had not received any additional voter challenges and all challenge lists considered before Election Day had been dismissed for lack of probable cause. The voter said he was contacted by the Georgia Bureau of Investigation on the morning of Election Day to inform him that he was eligible to vote.

Next Steps and Future Advocacy

- Ensure measures to address voter intimidation at the polls.
- Ensure measures to address misinformation/disinformation in-person and on-line.
- Require proper poll site signage.
- Ensure accurate and timely information on-line regarding poll hours and location changes.
- Ensure broad voter ID acceptance and address ongoing voter ID issues.
- Ensure access to absentee ballots and effective absentee ballot management.
- Eliminate improper voter roll purges.
- Ensure adequate polling locations.
- Address the impacts of recently adopted voter suppression measures.

Adequate poll worker training and recruitment.

Fair and accessible voting options have been critical to ensuring Georgia voters can safely, securely, and freely participate in our democracy. Those voting options, and expansions to them during the COVID-19 pandemic, made it possible for Georgia voters to turn out in historic numbers for the November 3, 2020, general election and January 5, 2021, runoff elections, despite many voters, especially voters of color, still having to overcome significant barriers to the ballot box. For these reasons, our mandate moving forward following recent elections is to continue preserving and expanding fair and accessible voting options.

On March 25, 2021, however, following a rushed and non-transparent legislative process, the Georgia legislature passed S.B. 202. This 98-page omnibus bill undermines the progress in voter participation seen in the general and runoff elections by erecting barriers and burdens to voting rights and ballot access in Georgia, especially for Black voters and other voters of color. S.B. 202 was one of more than 50 pieces of legislation that were introduced in the state legislature in 2021 designed to restrict access to voting in Georgia. S.B. 202 drastically changes Georgia’s election laws.

The new law criminalizes giving or “offering” food or water to individuals waiting in line to vote, imposes new restrictive ID requirements for requesting and casting absentee ballots, severely limits secure drop box access, restricts the use of mobile voting units, shortens and compresses the time frame for requesting absentee ballots, reduces the advance voting periods for runoffs from three weeks to one week with no mandatory weekend voting days, including Sunday voting, and significantly changes the composition and power of the State Election Board.

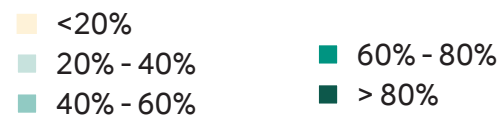


Voter and his daughter outside a Georgia polling location on Election Day 2020. Volunteer photo

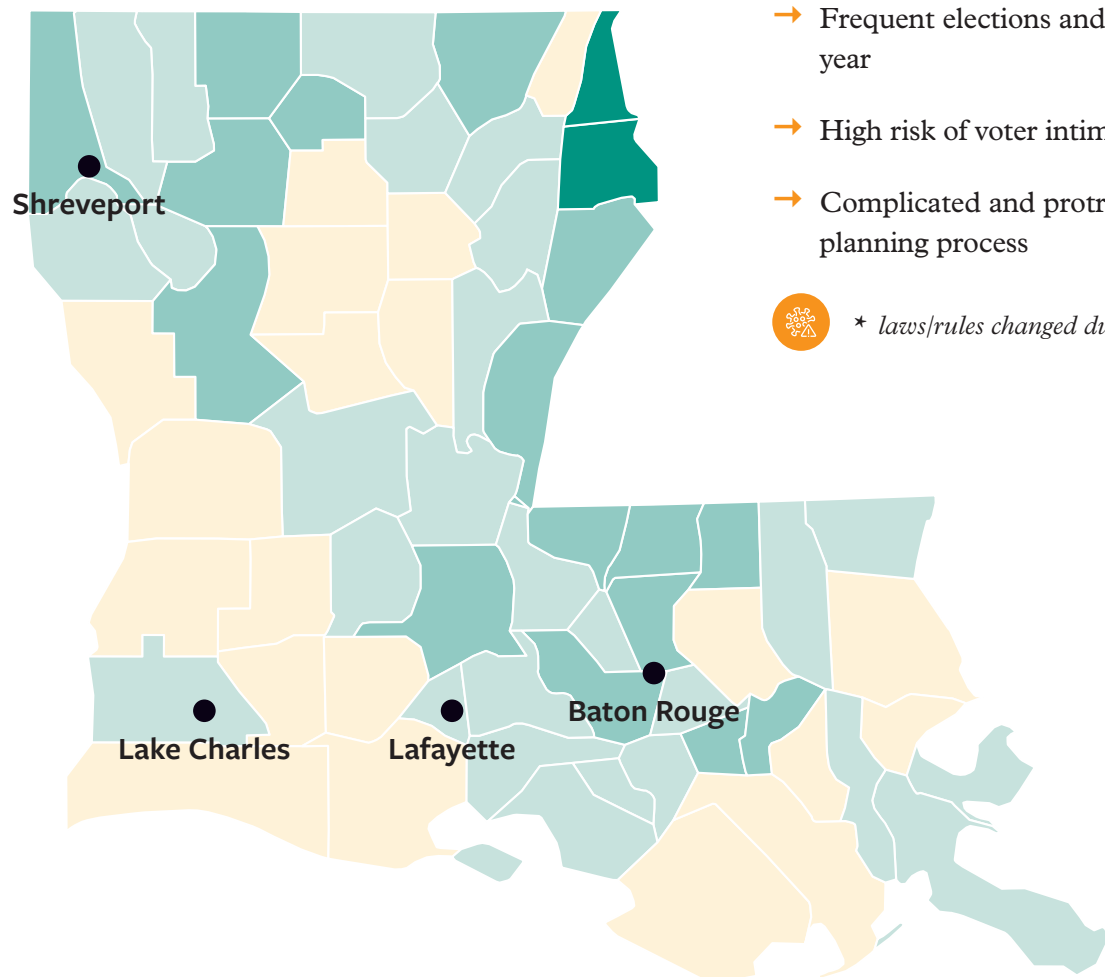
LOUISIANA

LOUISIANA CITIZEN VOTING AGE POPULATION

Black or African American alone



SOURCE: Citizen Voting Age Population by Race and Ethnicity (CVAP), U.S. Census Bureau



PRE-ELECTION — MAJOR BARRIERS TO VOTING

- Limited early voting days*
- Limited vote by mail
 - » Excuse required for absentee ballot*
 - » Witness requirement
 - » Limitations on who can sign and hand-deliver ballots
 - » No drop boxes (hand delivery is to registrar’s office), though onsite outdoor drop-off locations may be available
- Outdated voting machines/malfunctions
- Frequent elections and runoffs throughout the year
- High risk of voter intimidation
- Complicated and protracted contingency planning process

 * laws/rules changed due to the pandemic

Louisiana has an extensive history of voter suppression as a state formerly covered in full by the Voting Rights Act Section 5 preclearance requirements prior to the *Shelby County* decision.²¹¹ The state is also exceptional for its frequent election cycles, governed by a unique set of voting laws and bureaucratic emergency planning requirements. In 2020, Louisiana voters faced multiple interlacing emergencies requiring unprecedented election accommodations and planning. Along with our partner state and local voting rights advocates, LDF pursued multi-tactic efforts—in the legislature, courts, and local communities—to pave the way for historic participation in all the elections.²¹² The map included below in this section illustrates where we focused most intensely geographically in Louisiana in efforts to clear barriers to voting and assist voters.

As with the rest of the country, the COVID-19 pandemic presented new challenges to election administration in Louisiana. Additionally, multiple hurricanes made landfall and impacted polling sites and voter safety. Addressing these crises required navigating a set of complex regulations requiring intergovernmental coordination, protracted deliberation, and, ultimately, court intervention.

Louisiana’s open primary election system requires runoff elections in most contests when primary candidates fail to receive over 50% of the vote. This led to multiple elections on four separate dates in 2020. Each election was complicated by the COVID-19 crisis, starting with multiple postponements of the primary elections, initially scheduled for April 4, and ultimately held July 11. The state’s final election on December 5 ended an

211 Section 5 Jurisdictions, *supra* note 165.

212 Bobbi-Jeanne Misick & Tegan Wendland, *Voting Closes In Louisiana With Big Turnout, Smaller-Than-Fearful Lines*, WWNO – NEW ORLEANS PUBLIC RADIO (Nov. 3, 2020), <https://www.wwno.org/politics/2020-11-03/voting-closes-in-louisiana-with-big-turnout-smaller-than-feared-lines>.

historic election year.

COVID-19 Related Litigation

When the coronavirus pandemic escalated in February and March of 2020, LDF and partner civil rights organizations in Louisiana called for expanded access to safe voting options, including extended early voting and universal mail-in voting opportunities, as well as safety and cleaning protocols at polling sites.²¹³

In March, Louisiana Governor Edwards issued executive orders postponing the April primaries.²¹⁴ Post-Katrina laws necessitated that, upon declaration of an emergency, the Secretary of State (SOS) develop an emergency election plan subject to legislative committee review, a vote by the legislature, and the Governor’s signature or veto.²¹⁵ Failure to obtain approval at any step of this process would negate the plan.

In April, a legislative committee rejected a plan by the SOS to nearly double early voting days and expand absentee-by-mail qualifications for all voters concerned about exposure to COVID-19 during the July and August elections.²¹⁶ On behalf of individual plaintiffs and core local partners, Power Coalition for Equity and Justice (Power Coalition) and the NAACP Louisiana State Conference (Louisiana NAACP), LDF and co-counsel Covington & Burling LLP sued the state

213 Press Release, NAACP Legal Def. and Educ. Fund, Inc., Civil Rights Organizations Urge Congress and State Election Officials to Safeguard the 2020 Election from COVID-19 Threat (Mar. 16, 2020), <https://www.naacpldf.org/press-release/civil-rights-organizations-urge-congress-and-state-election-officials-to-safeguard-the-2020-election-from-covid-19-threat/>; Press Release, Power Coalition for Equity and Justice, Advocacy Groups Release Comprehensive Roadmap to an Equitable COVID-19 Response and Recovery (Apr. 13, 2020), <https://powercoalition.org/advocacy-groups-release-comprehensive-roadmap-to-an-equitable-covid-19-response-and-recovery/>.

214 Proclamation No. 28 JBE 2020, STATE OF LA. EXEC. DEP’T (Mar. 13, 2020), <https://gov.louisiana.gov/assets/Proclamations/2020/modified/28-JBE-2020-Special-Elections-COVID19-Postponement.pdf>.

215 La. R.S. 18:401.3.

216 Press Release, Power Coalition for Equity and Justice, Senate Committee Kills Emergency Election Plan (Apr. 16, 2020), <https://powercoalition.org/senate-committee-kills-emergency-election-plan/>.

to further expand early voting opportunities and qualifications to vote absentee-by-mail, as well as remove the requirement for absentee ballots to be signed by a witness.²¹⁷ Other civil rights organizations also filed cases against the state to address these issues.²¹⁸

Louisiana’s July and August 2020 elections were ultimately conducted under a revised emergency plan that provided 13 days of early voting and five COVID-19 emergency absentee voting qualifications, among other provisions.²¹⁹ Despite shortcomings, the Governor signed the plan, evading court intervention.²²⁰ LDF and local partners focused efforts to educate voters on the availability and nature of these accommodations in advance of the July/August elections. LDF’s VRD/PTV team also conducted robust remote and in-person nonpartisan poll monitoring during these July and August 2020 elections.

Our volunteer poll monitors documented

217 Press Release, NAACP Legal Def. and Educ. Fund, Inc., LDF Files Federal Lawsuit Challenging Louisiana Voting Requirements That Put Voters at Risk Amid COVID-19 Pandemic (May 7, 2020), <https://www.naacpldf.org/press-release/ldf-files-federal-lawsuit-challenging-louisiana-voting-requirements-that-put-voters-at-risk-amid-covid-19-pandemic/>; Press Release, NAACP Legal Def. and Educ. Fund, Inc., LDF Files Federal Lawsuit Challenging Louisiana’s Voting Requirements for November and December Elections (Aug. 3, 2020), <https://www.naacpldf.org/press-release/ldf-files-federal-lawsuit-challenging-louisianas-voting-requirements-for-november-and-december-elections/>.

218 Press Release, Southern Poverty Law Center, SPLC lawsuit challenges Louisiana vote-by-mail restrictions during pandemic (June 22, 2020), <https://www.splcenter.org/news/2020/06/22/splc-lawsuit-challenges-louisiana-vote-mail-restrictions-during-pandemic>.

219 Secretary of State Emergency Election Plan for the July 11, 2020 Presidential Preference Primary and August 15, 2020 Municipal General Elections in the State of Louisiana (Apr. 20, 2020); State of Louisiana Official Absentee Ballot Application: COVID-19 Emergency Application, LOUISIANA HOUSE OF REPRESENTATIVES, [https://house.louisiana.gov/Agendas_2020/Apr_2020/COVID-19%20Absentee%20by%20Mail%20Application%20\(Rov.%204-20\)%20Ver.%209.pdf](https://house.louisiana.gov/Agendas_2020/Apr_2020/COVID-19%20Absentee%20by%20Mail%20Application%20(Rov.%204-20)%20Ver.%209.pdf); *supra* note 215.

220 Melinda DeSlatte, *Lawsuits challenging Louisiana virus election plan dismissed*, THE ADVOCATE (June 23, 2020), https://www.theadvocate.com/baton_rouge/news/politics/elections/article_02e15914-b58f-11ea-97a7-83184b759d6f.html.

COVID-19 concerns during the primaries and runoffs. In August, a volunteer reported from Austerlitz Baptist Church in Orleans Parish that “poll workers all had masks on, but a few were wearing them improperly, below the nose and one had theirs under their chin.” Another volunteer reported that when she went to cast her own ballot, she was not offered a finger sleeve like she had been in the July election. She noted that a poll worker wiped screens in between voters but wore his mask below his nose. Another poll worker ate her lunch inside the polling site, inherently maskless. The inconsistencies and unreliability of safety precautions and adequate distancing at polling sites observed in July and August emphasized the need for expanded early voting and vote-by-mail opportunities.

As the pandemic showed signs of escalating before the November/December elections, LDF and partners again called for Louisiana to extend and expand election protections.²²¹ Instead, the SOS proposed a narrower emergency plan, providing no COVID-19 absentee voting excuses and fewer days of early voting. The legislature approved the plan, but the Governor vetoed it.²²²

On behalf of the Power Coalition, the Louisiana NAACP, and two individual plaintiffs, LDF again sued the state. In the case, *Harding v. Edwards*, plaintiffs successfully obtained a preliminary injunction requiring the state to employ the emergency absentee-by-mail qualifications used

221 Press Release, Power Coalition for Equity and Justice, Advocates Reach Out to Sec. of State Ardoin About Emergency Election Plan for the Fall (July 28, 2020), <https://powercoalition.org/advocates-reach-out-to-sec-of-state-ardoin-about-emergency-election-plan-for-the-fall/>.

222 Sam Karlan & Mark Ballard, *John Bel Edwards calls election plan ‘woefully inadequate,’ says he won’t sign it*, THE ADVOCATE, https://www.theadvocate.com/baton_rouge/news/politics/legislature/article_6067902e-e197-11ea-8d64-27d09a688c5f.html (Aug. 18, 2020, 5:54 PM).

in the summer elections and to extend the early voting period to a total of 10 days in advance of the November 3, 2020 elections.²²³ The court relied in part on evidence from our July/August volunteer poll monitor, partner, and plaintiff reports to issue the injunctive order expanding early and mail-in voting opportunities.²²⁴

The potential for overcrowding at the polls and accompanying health threat was ameliorated in a meaningful way by the hundreds of thousands of voters who were able to avoid Election Day poll sites due to the alternative voting methods through mail and early voting made available under state law and the relief granted in *Harding v. Edwards*.

Harding v. Edwards

On behalf of the Power Coalition, the Louisiana NAACP, and individuals

LDF successfully obtained a preliminary injunction requiring the state to **employ the emergency absentee-by-mail** qualifications used in the summer elections and **to extend the early voting period to a total of 10 days** in advance of the November 3, 2020 elections.

223 *Harding v. Edwards*, 487 F. Supp. 3d 498, 528 (M.D. La. 2020).

224 *Id.* at 507.

Pre-Election Advocacy

- Through our partnership with More Than A Vote, almost **200 Louisiana residents** applied to become poll workers for the general election.
- Through our local partnerships and with the Poor People’s Campaign/Forward Justice, VRD/PTV trained **136 volunteers** to conduct local nonpartisan poll monitoring and voter education.
- Voter education and information via text messages sent to **221,329 voters**.
- Voter education and PPE mailed to **47,045 voters**.
- Voter education materials mailed to **147,774 voters**.
- Approximately **30 law firm volunteers** trained to conduct remote monitoring.
- Provided partners at Power Coalition for Equity and Justice (Power Coalition), V.O.T.E. (Voice of the Experienced), Engaging New Voices and Voters, BRVotes, Roll to the Polls, and NAACP Louisiana State Conference **34,000 door knocker** style voter literature cards. Partners were also provided **6,020 sets of PPE** to safeguard volunteers and voters from COVID-19.





Due to limited machines and locations, lines lasted for hours in Jefferson Parish, La. during the early voting period. Volunteer photo

Voter Intimidation

Our VRD/PTV team worked closely with partners, particularly the Anti-Defamation League (ADL), to coordinate rapid response capability in case of militant voter intimidation. Along with our state and local partners in Louisiana, we tracked multiple instances of intimidating symbols and events in the 2020 elections. For example, in August, volunteers at Parkway High School at Bossier Parish saw at least three large confederate flags flying from trucks parked next to the polling location. We reported this incident to the Bossier Clerk of Court and cited it and similar events in a letter to all 64 Louisiana parish registrars and clerks of court. The letter implored local election officials to take proactive steps to deter and address voter intimidation at and near polling sites in advance of the remaining November and December elections.

Early Voting Sites

Advocacy by LDF and our state and local partners regarding the locations of early voting sites was particularly critical in 2020 due to the increased days of early voting and the expected surge of voter participation in the November elections. The League of Women Voters in Lafayette effectively advocated for an extra voting site at

the MLK Center in Lafayette, providing a more accessible site to nearby predominantly Black neighborhoods.²²⁵ In contrast, Caddo Parish election officials rejected calls for an additional early voting location, leading to reports of multi-hour lines during the October early voting period.²²⁶ We also supported partners including the ADL, Engaging New Voices and Voters, the Lawyers' Committee for Civil Rights Under Law and others in effectively advocating for the Smoothie King Center in New Orleans to be used as a voting location.²²⁷ On early voting days, volunteers witnessed and many Orleans Parish voters reported swift voting lines at the Center, while voters in neighboring Jefferson Parish stood in multi-hour lines where no additional locations were added.

²²⁵ Lafayette MLK Center to become early voting site, KLFY NEWS 10 (Aug. 5, 2020, 9:20 PM) <https://www.klfy.com/local/lafayette-mlk-center-to-become-early-voting-site/>.

²²⁶ Caddo Commissioners fail to approve new early voting location, KTAL, <https://www.arklatexhomepage.com/news/election/your-local-election-hq/caddo-commissioners-fail-to-approve-new-early-voting-location/> (Aug. 25, 2020, 9:13 PM).

²²⁷ The Saints and Pelicans organizations made admirable efforts to promote voter engagement, as athletes from initiatives nationwide stepped up to inspire civic engagement. As in other core states, VRD partnered with MTAV to send multiple mailers to voters in Louisiana, including Census and GOTV information cards accompanying a letter signed by LeBron James.

Weather Emergencies

Louisiana weather is notoriously intense and unpredictable, especially in the hurricane season spanning June through November. In the hot summer months, temperatures average in the 90s.²²⁸ The primary elections scheduled for April 4, 2020, and the following runoffs would have evaded peak heat and hurricane months. Instead, postponements pushed Louisiana's primaries and runoffs to July and August. On July 11, voters braved heat indexes over 110 degrees in multiple regions.²²⁹ The heat effects were particularly grueling for voters who were forced to wait in lines outside or vote in polling sites without air conditioning—an added challenge for poll workers charged with working the full voting day.

Hurricane Laura on August 27 and Hurricane Delta on October 9, devastated Calcasieu Parish and the broader Lake Charles region. Nearly 70% of the 123 voting precincts in the Lake Charles region were moved to new locations, and residents from 85 voting precincts were directed to three consolidated “mega-sites” to vote during early voting and for the November 3rd election.²³⁰ Some sites were restored to their original location for December runoffs.²³¹

Mere days before the November election, Hurricane Zeta reached New Orleans as the

²²⁸ Louisiana Climate Information, WORLD CLIMATE.COM, <http://www.worldclimate.com/climate/us/louisiana> (last visited June 16, 2021).

²²⁹ Kyle Whitfield, Excessive heat warning issued for south Louisiana; dangerous heat indexes might reach 120, NOLA.COM (Jul. 11, 2020, updated Jul. 1, 2020), https://www.nola.com/news/weather/article_d639ffb0-c3e9-11ea-9531-c37f8fa00ce9.html.

²³⁰ Maria Clark, ‘One, two, three punch’: Back-to-back hurricanes and COVID-19 complicate voting in Lake Charles, THE TENNESSEAN (Oct. 28, 2020, 7:38 AM), <https://www.tennessean.com/story/news/american-south/2020/10/28/hurricanes-delta-laura-covid-19-complicate-voting-lake-charles/6022359002/>.

²³¹ Staff, Some Calcasieu voting sites still relocated due to hurricane damage, KATC NEWS, (Nov. 12, 2020) <https://www.katc.com/news/election-2020/some-calcasieu-voting-sites-still-relocated-due-to-hurricane-damage>; Caroline Habetz, Run-off races for Calcasieu Parish take place December 5, KPLC (Dec. 4, 2020), <https://www.kplctv.com/2020/12/04/run-off-races-calcasieu-parish-take-place-december/>.

strongest storm on record to directly hit the city.²³² Hundreds of thousands of Louisianans were left without power.²³³ As Zeta made landfall on October 29, the eve of the deadline to request an absentee-by-mail ballot, LDF, Power Coalition, and the ADL quickly drafted and sent a letter to the Governor and SOS calling for an extension of the deadline for requesting and returning absentee ballots for voters impacted by the hurricane.²³⁴ We received no direct response, but the SOS was quoted in the media stating that extensions were impossible given the statutory requirements vesting emergency response power in the legislature.²³⁵ Voters displaced from their parish due to Zeta would have qualified to vote absentee by mail, but the deadlines made it impracticable for these voters to timely request, receive, and return a ballot under the state's laws.

Our coalition successfully advocated with the local power provider to ensure all voting sites had power restored by Election Day. LDF provided polling site locations to power company contacts to facilitate grid restoration at impacted sites. After tremendous efforts, power was restored for all Orleans Parish polling sites to function on grid power.²³⁶ The disastrous risk of massive polling site

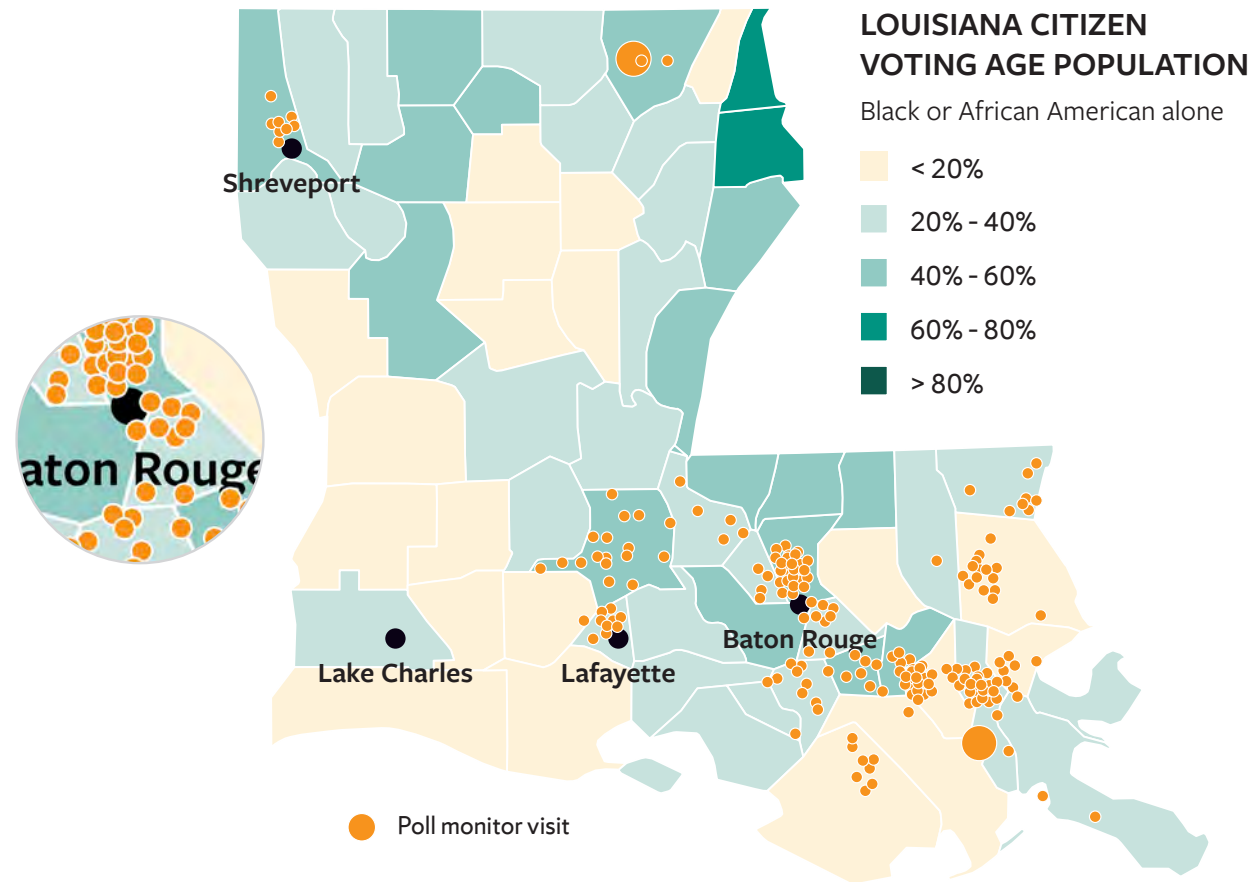
²³² Nicholas Reimann, Zeta Was Strongest Hurricane To Ever Hit New Orleans—And Could Cause An Election Day Mess, FORBES (Oct. 29, 2020), <https://www.forbes.com/sites/nicholasreimann/2020/10/29/zeta-was-strongest-hurricane-to-ever-hit-new-orleans-and-could-cause-an-election-day-mess/?sh=31c25e198a6d>.

²³³ Ashley White & Victoria Dodge, Hurricane Zeta Thursday: Hundreds of thousands left without power across Louisiana, DAILY ADVERTISER (Oct. 29, 2020), <https://www.theadvertiser.com/story/news/2020/10/29/hurricane-zeta-live-updates-damage-louisiana-after-math-new-orleans/3753531001/>.

²³⁴ Press Release, Power Coalition for Equity and Justice, In Wake of Hurricane Zeta, Power Coalition, NAACP LDF, ADL ask Sec. of State Ardoin to Extend Absentee Voting Deadlines (Oct. 30, 2020), <https://powercoalition.org/in-wake-of-hurricane-zeta-power-coalition-naacp-ldf-adl-ask-sec-of-state-ardoin-to-extend-absentee-voting-deadlines/>.

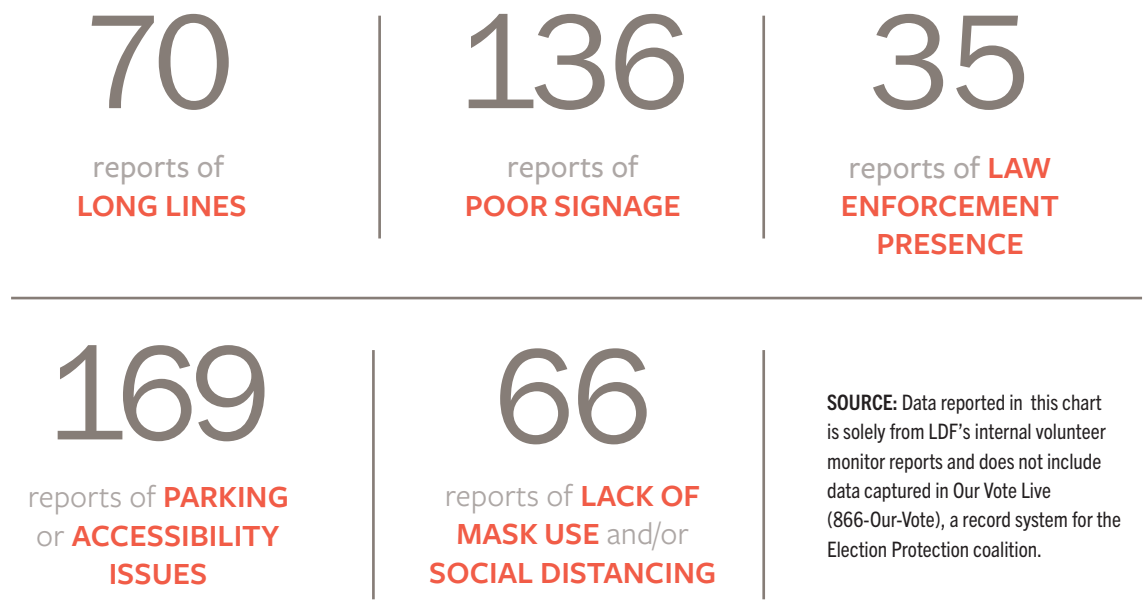
²³⁵ Destinee Patterson, Louisiana rejects bid to delay absentee voting deadline, KSLA NEWS 12 (Nov. 2, 2020), <https://www.ksla.com/2020/11/02/louisiana-rejects-bid-delay-absentee-voting-deadline/>.

²³⁶ Travis Lux, Power Restored To Every Polling Place, New Orleans Has A Smooth Start To Election Day, WWNO 89.9 (Nov. 3, 2020), <https://www.wwno.org/post/power-restored-every-polling-place-new-orleans-has-smooth-start-election-day>.



SOURCE: Citizen Voting Age Population by Race and Ethnicity (CVAP), U.S. Census Bureau

POLL MONITOR REPORTED ELECTION ISSUES



closures due to the late-season hurricane became a successful advocacy story. Statewide, few polling sites were closed due to Zeta.²³⁷

Remote monitoring

Leading up to the November elections, our VRD/PTV team conducted robust pre-Election Day monitoring of social media, traditional media, and official election websites in each region of the state. These efforts allowed the team to identify patterns of issues locally and systemically. In multiple instances, volunteers were able to identify incorrect or outdated election information on official and third-party sites and advocate for corrections before the elections.

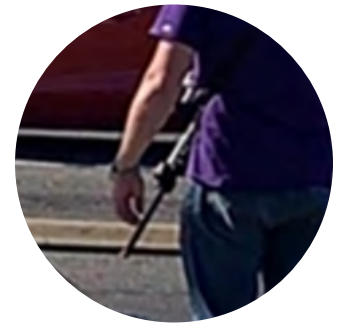
Election Day Issues

Voter Intimidation. On Election Day, VRD/PTV received a serious report out of the City of Baker in East Baton Rouge Parish, where a White man with a gun wielded a Trump flag and “Blue Lives Matter” flag near a polling site. Roughly 84% of residents of Baker identify as Black.²³⁸ Media reports initially indicated that local law enforcement intervened and the man left the area.²³⁹ Poll monitor volunteers dispatched to the area observed from a safe distance and documented that the man was still present, though stationed slightly down the street beyond the immediate proximity of the poll site. Law enforcement officials told partners in some accounts that they did not intervene to

237 Staff, *Only 2 polling location changes expected after Hurricane Zeta*, WWL (Oct. 31, 2020, updated Nov. 3, 2020), <https://www.wwlv.com/article/news/politics/only-2-polling-location-changes-expected-louisiana-after-hurricane-zeta/289-7cf07d27-0fca-4b62-8888-783d05cda94f>.

238 U.S. CENSUS BUREAU, *QuickFacts: Baker City, Louisiana*, <https://www.census.gov/quickfacts/fact/table/bakercitylouisiana/PST120219> (last visited July 1, 2019).

239 WBRZ, *Man carrying rifle prompts police response near Baker polling location* (Nov. 3, 2020), <https://www.wbrz.com/news/man-carrying-rifle-prompts-police-response-near-baker-polling-location/> (article posted at 1:44 PM CST indicating the man had left; partners dispatched to the scene were on site observing the man for several more hours).



In Baker, La. a man openly carried a firearm and flags on display for voters going to a nearby poll site. Volunteer photo

avoid escalating tensions, and in other instances said that it was because the man was not doing anything illegal. According to media reports, the man had received advance approval from the police department to openly carry his firearm at a distance from the polling site.²⁴⁰ In Louisiana, it is unlawful to “carry or possess a firearm while present in a polling place.”²⁴¹ Voter intimidation, more broadly, is outlawed under both state and federal law.²⁴²

Poll monitor volunteers reported that news outlets were present and covering the issue, drawing more people, some carrying guns in apparent opposition to the man. Within less than an hour of the volunteers’ arrival and several hours since the first reports of the man’s presence were received, he left the area. While the incident was deescalated and worse outcomes avoided, it is unknown if

240 Scottie Hunter, *Baker Police Dept. responds to reports of man armed with assault rifle near polling location*, WAFB (Nov. 3, 2020), <https://www.wafb.com/2020/11/03/baker-police-respond-reports-man-armed-with-assault-rifle-near-polling-location/>.

241 La. Stat. Ann. §18:1461.7(C)(3).

242 See 52 U.S.C. § 10101(b), 10307(b); La. Stat. Ann. §18:1461.4(A)(1)-(A)(4).

any voters who drove by and witnessed the open display of weaponry were deterred from continuing to the polling site.

Polling Sites. Polling sites close to military, police, or jail facilities or vehicles raised concerns in multiple locations. For example, a volunteer poll monitor reported in July that National Guard members were stationed outside of the F.G. Clark Activity Center at Southern University A&M, an HBCU in Baton Rouge, and that they were requiring voters to disclose their reason for being there. The National Guard has a permanent station at this location. In July, a volunteer visited the Israel Augustine Justice Center, a criminal court and police facility in New Orleans—a polling site where volunteers encountered several issues in 2019, when the site was undergoing construction. Our local partners discovered that the construction observed taking place in 2019 resulted in tall walls covered in barbed wire for the adjacent jail. In August 2020, a voter, who was also one of our volunteer poll monitors, explained that the parking lot is restricted for “Criminal Court Employees,” and voters must go through metal scanning by uniformed guards to enter and then walk through long austere cement hallways with law enforcement signs and a parking garage before reaching the polling areas. As the voter described, “it is a very intimidating site.”

During multiple elections, police vehicles were also spotted at the DPW Traffic Engineering Building polling site in East Baton Rouge, where it appeared the vehicles were being serviced. Police were observed near or entering polling sites in uniform or in their vehicles in several discrete incidents in multiple parishes.

Law Enforcement. Under Louisiana law, police are prohibited from polling sites on Election Days unless called to respond to an issue or if regularly stationed at polling places,²⁴³ but this prohibition does not apply to early voting sites.²⁴⁴ Poll monitor volunteers at multiple early voting locations noted the intimidating presence of police or private armed guards. The presence of police at polling sites was particularly concerning, especially as the nation experienced a summer of social justice demonstrations and elevated national understanding of police violence against Black people. Accordingly, LDF worked with partners, particularly the ADL, to liaise with police leadership to ensure officers were aware of legal restrictions on their presence at polling sites and that they followed state law.

Poll Workers. Under Louisiana law, “a voter shall not remain in a voting machine longer than three minutes,”²⁴⁵ although voters qualified to receive assistance may take 20 minutes.²⁴⁶ If a voter fails to leave the voting machine promptly after being notified by a poll commissioner that three minutes has expired, “commissioners shall

243 La. Stat. Ann §18:428 (A), (E). (“Law enforcement officers shall not be stationed at polling places on election day, but the commissioners . . . may summon law enforcement officers to assist them in preserving order, enforcing the election laws, or protecting election officials from interference with the performance of their duties. Law enforcement officers shall not be eligible to serve as commissioners-in-charge, commissioners, alternate commissioners, or watchers. . . . Notwithstanding any provision of this Section to the contrary, law enforcement officers may be stationed at polling places if in the regular course and scope of their duties such law enforcement officers provide security for the public building in which the polling place is located and for the personnel working in such building. Law enforcement officers stationed at a polling place pursuant to the provisions of this Subsection shall not interfere with the conduct of the election, the voters, or the election officials.”).

244 La. Stat. Ann. §18:1309(A)(3) (“A law enforcement officer shall not interfere with the conduct of the election, the voters, or the election officials. However, a registrar may use law enforcement officers to maintain order at any location where early voting is conducted.”).

245 La. Stat. Ann. §18:563 (C)(1).

246 *Id.* § (C)(2).



Top left: Israel Augustine Justice Center, New Orleans, 2019, Top right: 2020, Bottom row: Israel Augustine Justice Center, New Orleans, 2020 from different angles. Volunteer photos

order the voter to complete voting and leave the voting machine.”²⁴⁷ This law caused particular problems in November 2020 because the long ballots included multiple federal races, state constitutional amendments, and other items to consider and complete. The three-minute voting law was enforced inconsistently throughout the 2020 election cycle. In some voting locations, poll workers did not impose time limits, while in others, signs were posted informing voters of the rule. At multiple polling locations, poll workers aggressively enforced the rule—banging on voting booths or otherwise loudly reprimanding or ejecting voters who took more time. Our VRD/PTV team and partners received reports from new voters, who were particularly intimidated by poll workers’ harsh actions. To help voters manage this problem, we sent text messages to encourage

247 *Id.* § (C)(1).

voters to make a plan for their ballot selections prior to entering the voting booth and worked with partners to distribute the message broadly on Election Day.

POLL MONITORS

“ Poll monitor volunteers at multiple early voting locations noted the intimidating presence of police or private armed guards.



Social distancing signs and cones were used at some polling sites to promote COVID-19 precautions on Nov. 3, 2020. Volunteer photo

Accessibility, Parking, and Signage

Volunteers statewide reported many instances of inaccessible polling places, including addresses not matching entrances to the polling places, no ramps, or few or non-accessible parking spaces. Volunteers also frequently reported that there was not adequate signage directing voters to the entrances of the polling sites and entrances were difficult to find.

In late November 2020, our VRD/PTV team supported Power Coalition in compiling

accounts of inadequate signage and parking, and accessibility compliance in major metropolitan areas from the November 3 elections. We used this information to urge parish election officials to make improvements prior to the December 2020 runoff elections.

Future work is necessary to ensure that voters are not intimidated by public employees at polling sites. After successful policy advocacy during the 2021 legislative session to ensure voters have adequate time to complete their ballots, education efforts will be necessary to

ensure voters know their rights and poll workers employ non-intimidating enforcement practices. Similarly, adjustments are required to ensure that the location of voting facilities does not cause inherent interaction with law enforcement and that prohibitions on law enforcement activity at polling sites are standardized across the early voting period and enforced on all occasions.

Despite rapid response successes, the issues raised by the 2020 hurricane season present concerns about future natural disasters threatening voter access. This is especially concerning given the heightened risks of volatile hurricanes due to climate change. Because the state's current emergency election protocols require input from multiple legislative committees, a full legislative vote, and the governor's sign-off, it is nearly impossible for the state to act rapidly to protect voting in the wake of a last-minute storm or other emergency event. These protocols will require reevaluation as the state will predictably endure continued weather threats.

In 2021, the state will recommence efforts to vet and purchase new voting machines. Earlier efforts to secure new technology were derailed prior to the 2020 elections.²⁴⁸ Our VRD/PTV team will monitor the machine procurement process to ensure accessible, accurate, and secure voting machines are obtained.

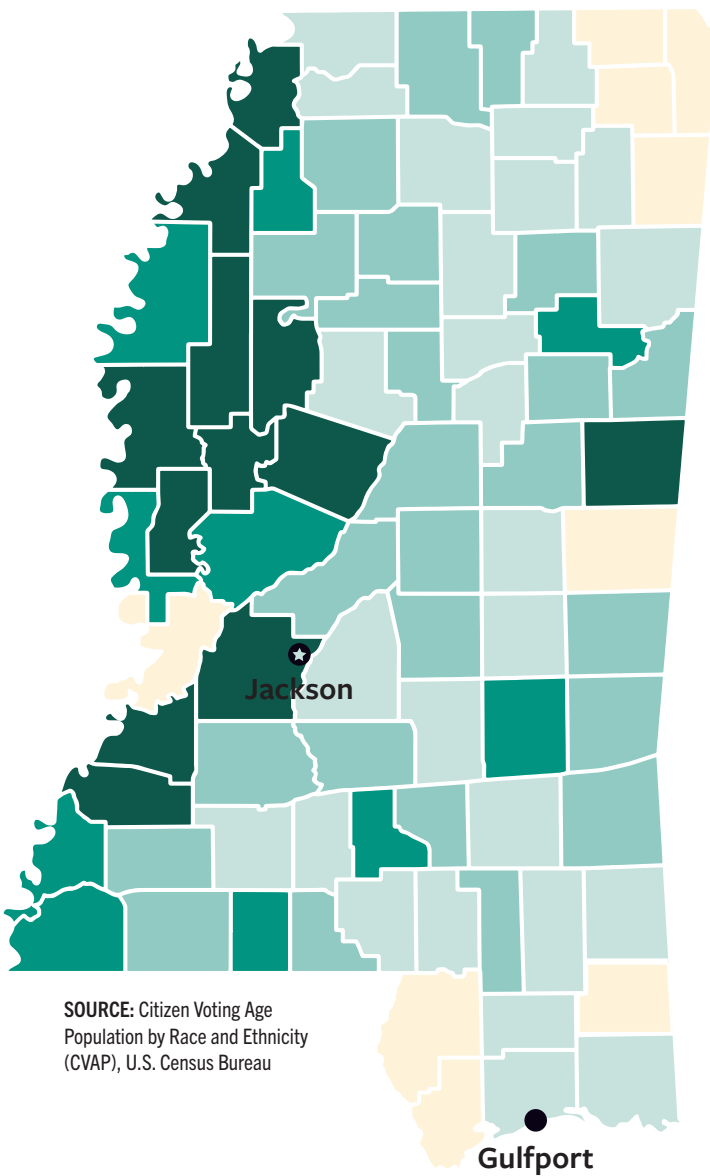
Finally, as with all states, 2021 will be defined by critical reapportionment and redistricting processes. While delays with the release of Census data create new ambiguities in the process, LDF and partners will be poised to advocate for fair maps, ensuring just representation for Louisiana voters.

²⁴⁸ Sam Karlan, *Amid election fears, Louisiana is one of the last states to use aging machines in 2020*, Advocate (Feb. 8, 2020), https://www.theadvocate.com/baton_rouge/news/politics/elections/article_1c79fb70-492d-11ea-8175-9f79c1cc4d65.html.

Next Steps and Future Advocacy

- Advocacy for increased and accessible early voting and Election Day polling sites, with adequate parking and signage.
- Voter education on recent legislation to expand time allowed at voting machine to cast a ballot (more than three minutes).
- Voter education on permanent extension of early voting period during presidential election cycles.
- Contingency planning for weather events and other potential election disruptions.
- Advocacy for successful procurement of new and improved voting machines.
- Exploration of alignment of election dates or other solutions to overcome election fatigue and excessive costs from constant elections and low turnout runoffs.
- Track procurement process for new voting machines.
- Engagement in redistricting process to ensure fair districts.

MISSISSIPPI



MISSISSIPPI CITIZEN VOTING AGE POPULATION

Black or African American alone

- < 14.7
- 14.42% - 34.57%
- 34.57% - 51.99%
- 51.99% - 72%
- > 72%

Mississippi has the largest percentage of Black people of any state in the nation. It has not elected a Black person to statewide office in 130 years.²⁴⁹ It also has some of the nation’s most restrictive voting laws and has a long history of suppressing the Black vote. It does not offer early voting and has extremely limited absentee/vote-by-mail options for voters. Mississippi is one of the states formerly covered in full by the Voting Rights Act Section 5 preclearance requirement prior to the

SOURCE: Citizen Voting Age Population by Race and Ethnicity (CVAP), U.S. Census Bureau

²⁴⁹Tim Sullivan, *Long after murders, Black voting is still troubled in Miss.*, AP News (Oct. 22, 2020), <https://apnews.com/article/election-2020-race-and-ethnicity-mississippi-voting-rights-meridian-5128c7cd5d0f01b1bc39144452b2730c>.

“

One day, I know the struggle will change. There’s got to be a change – not only for Mississippi, not only for the people in the United States, but people all over the world.”

FANNIE LOU HAMER

Shelby County decision in 2013.²⁵⁰ In 2020, as the COVID-19 global pandemic swept the nation and impacted millions of people, most states implemented policies to make it safer to vote.²⁵¹ Mississippi is one of only a handful of states not to have taken meaningful and substantial steps to make it safer to vote during the pandemic. Given Mississippi’s refusal to take steps to make voting safer, its history of voter suppression, and the need to ensure that all Black Mississippians who were eligible to vote could cast their vote, we worked

²⁵⁰ *Section 5 Jurisdictions*, *supra* note 165.

²⁵¹ Benjamin Swasey, *Map: Mail-In Voting Rules By State — And The Deadlines You Need*, NPR (Oct. 3, 2020), <https://www.npr.org/2020/09/14/909338758/map-mail-in-voting-rules-by-state>.

PRE-ELECTION — MAJOR BARRIERS TO VOTING

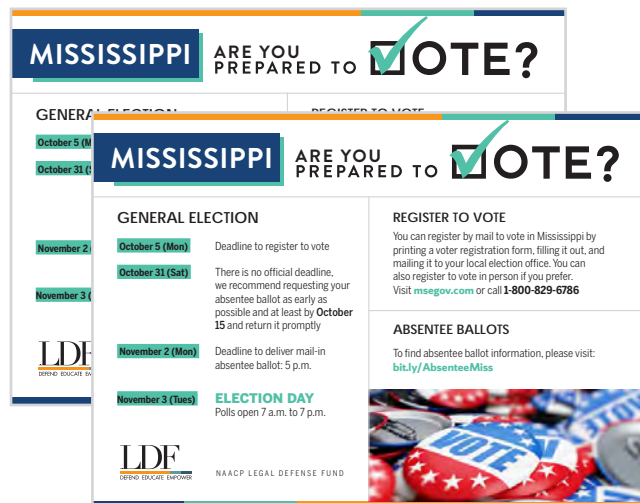
- No online registration for new voters
- No early voting
- Strict limits on voting by mail/absentee voting
 - » Excuse required – *COVID-19 accepted as an excuse for absentee voting only if you are under a doctor’s quarantine order or caring for a dependent that is under a physician-imposed quarantine due to COVID-19
 - » Burdensome witness and notary requirements for absentee by mail
- Broad disenfranchisement for criminal convictions (22 disenfranchising crimes)
- Strict voter ID requirements
- Strict curbside voting measures during the pandemic – available only for those with physical disabilities or those who tested positive for COVID-19
- High risk of voter intimidation activity
- Poll location changes without adequate notice to voters
- Broad voter purges

 * laws/rules changed due to the pandemic

with multiple local and national partners and volunteers to cover over 115 polling locations in targeted counties and worked to assist voters and resolve issues, which is reflected in the map below in this section.

Pre-Election Day Voter Engagement

- Through our partnership with More Than A Vote, almost **800 Mississippi residents** applied to become poll workers for the general election.
- Through our partnership with Forward Justice and Poor Peoples Campaign, we recruited and trained over **50 volunteers** to conduct local poll monitoring and voter education.
- Voter education and information sent via text to over **177,000 registered voters**.
- Voter education and PPE mailed to **20,874 voters**.
- Voter education materials mailed to **155,649 voters**.



Advocacy

Pandemic Advocacy - Mask Mandate

Mississippi did not have a state-wide mask mandate. In fact, Governor Tate Reeves was the first governor to rescind a state-wide mask mandate. Prior to Election Day, Mississippi had over 117,000 confirmed cases of COVID-19 and over 3,000 deaths. Black people accounted for over 35,000 of the confirmed cases. Additionally, 46.1% of the COVID-19 deaths in the state were Black residents, which was 8.3% higher than the Black share of Mississippi’s population.²⁵² A week before Election Day, public health and crisis experts ranked Mississippi’s COVID-19 Exit Strategy as “uncontrollable spread,” which was the worst category for a state. Without statewide guidance on mask usage at voting sites, Mississippi risked increased virus transmission that threatened the health and lives of all voters and poll workers, with particularly high risk for Black voters and poll workers.²⁵³

As a result, our VRD team urged both the Governor and Secretary of State (SOS) to introduce a mask mandate for polling locations in Mississippi and to provide guidance on how election officials should respond to voters arriving at polling places without masks. Furthermore, we texted thousands of eligible Black voters in the state and urged them to call the Governor’s office and ask for a mask mandate for Election Day. However, we received no response from either office, and masks were not required on Election Day.

²⁵² Algernon Austin, *Mississippi COVID-19 Update for African Americans*: October 6, 2020, LDF | T. Marshall Inst.: Medium (Oct. 9, 2020), <https://medium.com/@tminstitute/mississippi-covid-19-update-for-african-americans-october-6-2020-ef0ca1c4ca6c>.

²⁵³ *Tracking Our Covid-19 Response: Each state’s progress towards a new normal*, <https://www.covidexitstrategy.org/> (last visited Oct. 28, 2020).

Voter Purge Practices

As a result of COVID-19, Governor Reeves invoked his emergency powers and declared, “the provisions of state statues, rules, regulations or orders may be temporarily suspended or modified if compliance with such provision would prevent, hinder, or delay action necessary to cope with this outbreak.”²⁵⁴ Mississippi’s election administration process prior to COVID-19 would likely “prevent, hinder, or delay action necessary to cope with this outbreak” and negatively impact functions related to the voting and registration process during the pandemic. Therefore, on June 25, 2020, LDF sent a letter to SOS Michael Watson recommending safe, sensible voter-registration practices for Mississippi voters, especially considering COVID-19.²⁵⁵

In our June 25 letter, we urged SOS Watson to revise the administration of the Statewide Elections Management System (SEMS) so that physical and electronic poll books downloaded from SEMS include both active and inactive voters. A voter on “inactive” status remains registered and enjoys the same fundamental right to vote as a voter on “active” status – the only functional difference is that a voter on the inactive list must vote by affidavit. However, according to Mississippi guidelines, “[t]he name of an inactive voter will not appear on the pollbook printed from SEMS.”²⁵⁶ This policy has the potential to cause confusion, delays, and crowding at polling places for Mississippi voters, which has the tendency to suppress the vote. In addition, the

²⁵⁴ Tate Reeves, Governor, State of Mississippi, Proclamation (Mar. 14, 2020), https://www.sos.ms.gov/Content/documents/about_us/WhatsNew/GovernorProclamationPublicHealth.pdf (citing Miss. Code § 33-15-11(c)(1)).

²⁵⁵ Letter from NAACP Legal Def. and Educ. Fund, Inc. (LDF), Miss. Ctr. for Justice, One Voice, and Demos to Michael Watson, Miss. Sec’y of State (June 25, 2020) (on file with LDF | Thurgood Marshall Inst.).

²⁵⁶ Miss. Sec’y of State, *Guidelines for Voter Roll Maintenance*, <https://www.sos.ms.gov/links/elections/home/tab5/voterrollmaintenance09.pdf>.

potential for crowded polling places would impede social-distancing measures and could exacerbate public-health issues during the pandemic. We also highlighted a recent court ruling indicating that failing to include inactive voters in printed poll books may violate the 1st and 14th Amendments. Prior to COVID-19, Mississippi required that voters on inactive status should be included in the physical poll books available at polling locations. During the pandemic, the urgency of taking this step to prevent crowding and long lines for in-person voters was crucial.

We also recommended that SOS Watson instruct all county election commissioners to suspend the use of the confirmation-card process for voter roll maintenance for the duration of the declared state of emergency. This is the process by which voters who are suspected of moving out of the county, or out of the state, are placed on inactive status and subsequently purged if they fail to vote in two federal elections.²⁵⁷ The confirmation-card process was particularly unsuited for the circumstances of the pandemic. As a result of COVID-19, many Mississippians were temporarily away from the home address where they were registered to vote; including voters who were hospitalized, voters who temporarily relocated for economic reasons or for the safety of themselves or others, voters who had been affected by the resumption of eviction proceedings in Mississippi courts, and student voters displaced by the closure of their college or university campuses and dorms. The confirmation-card process may have led to discriminatory and unjust results for these voters, and particularly for Black voters in the state who historically have been victims of voter purges and other voter suppression tactics. Unfortunately, SOS Watson did not take any action on these issues.

²⁵⁷ *Id.*

Voter Intimidation

As we neared Election Day, LDF in partnership with the Anti-Defamation League, South Central, the Mississippi Center for Justice, and the Southern Poverty Law Center sent a letter to Mississippi Attorney General Lynn Fitch urging her to issue a public statement reminding Mississippi residents that voter intimidation is a serious crime under federal and state law. Given widespread media reports and statements from public officials that indicated organized efforts to intimidate and harass voters at polls, we believed the issuance of a public statement about voter intimidation by her office was critically important this year. We did not hear back from the attorney general’s office.

No Early Voting/Limited Vote-By-Mail

Mississippi does not provide an early, in-person voting period.

Mississippi also has significant limits on voting by mail/absentee voting. The Mississippi Voter Information Guide covering the 2020 elections provides that “[m]ost absentee voters must appear before the Circuit Clerk or Municipal Clerk and absentee vote in person. A few categories of absentee voters may request a mailed ballot.”²⁵⁸ Furthermore, Mississippi generally requires voters to have an excuse to vote absentee and requires ballot applications to be notarized, which is extremely burdensome to voters.²⁵⁹

Mississippi narrowly increased absentee ballot eligibility to include voters under a physician-

imposed quarantine in 2020.²⁶⁰ These restrictive policies exacerbated the existing need for more polling places across the state since the vast majority of Mississippi voters would be forced to vote in-person on Election Day. In light of evidence from absentee ballot requests and early voter turnout in other nearby states, it was clear that Mississippi was likely to have high voter turnout and a heightened risk for long lines on Election Day. Our team, via letter, reached out to over 80 county clerks across the state urging them to add additional polling locations, expand capacity at existing polling places, and to ensure that polling places do not have choke points, like single check-in desks, on Election Day. Polling site capacity limitations were a concern given limited alternatives to in person voting on Election Day.

Election Day Issues

Polling Site Issues

Our volunteers in Mississippi covered approximately seven counties. On Election Day, voters experienced a variety of issues at many polling sites, such as hours-long wait times and confusion regarding voting eligibility and where to vote. Furthermore, absent, unclear, or incorrect signage were issues for voters across the state. As a result of polling site changes, including one that moved thousands of Black and Brown voters from one larger location to a smaller one, there were backups with parking, delayed voting, and safety concerns with voters being required in some instances to cross a highway to vote. Though curbside voting was available for people who tested positive for COVID-19 and for seniors, polling

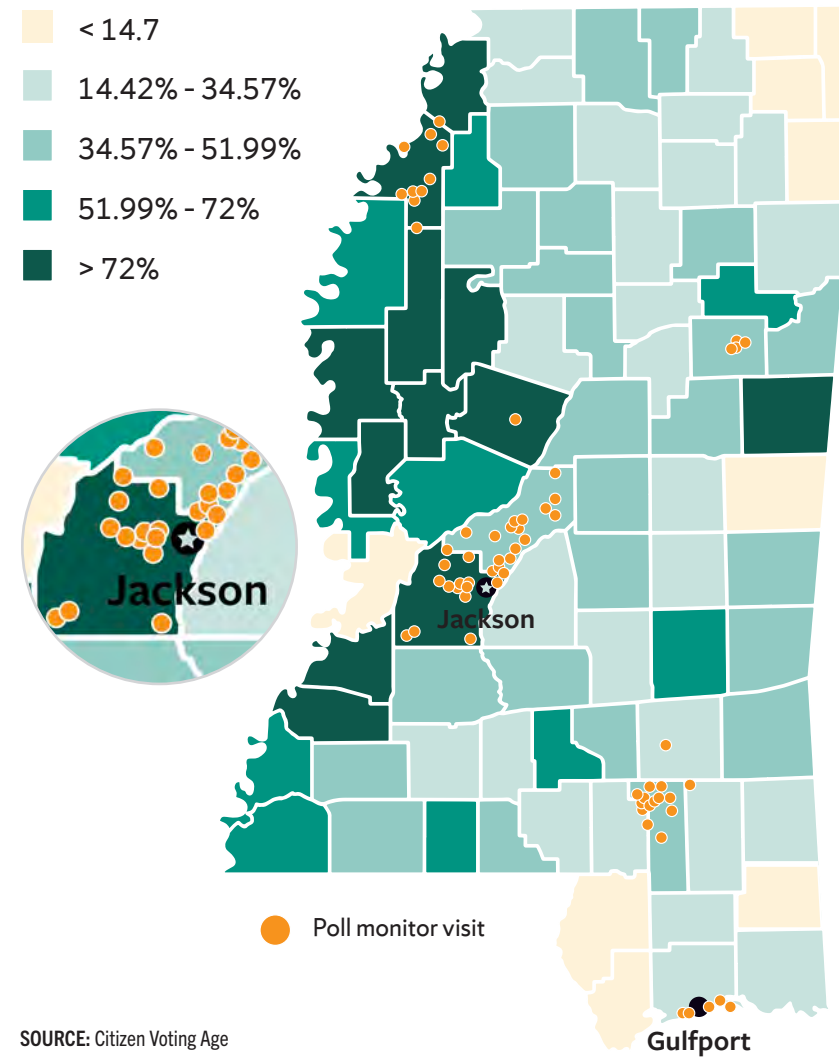
²⁵⁸ Miss. Sec’y of State, *Mississippi Voter Information Guide: Know your voting rights and responsibilities* (2020), <https://www.sos.ms.gov/content/documents/elections/VoterInformationGuide.pdf>.

²⁵⁹ *Id.*

²⁶⁰ Lici Beveridge & Jimmie E Gates, *Mississippi judge rules those with underlying health conditions may vote absentee amid COVID-19*, Clarion Ledger (Sept. 3, 2020, 4:55PM), <https://www.clarionledger.com/story/news/local/2020/09/03/mississippi-judge-rules-some-vulnerable-covid-19-may-vote-absentee/5701155002/>.

MISSISSIPPI CITIZEN VOTING AGE POPULATION

Black or African American alone



SOURCE: Citizen Voting Age Population by Race and Ethnicity (CVAP), U.S. Census Bureau

sites were not adequately prepared for curbside voting, and we received reports that some sites stopped inside voting to focus on curbside voters, creating longer lines.

POLL MONITOR REPORTED ELECTION ISSUES

39

reports of **LONG LINES**

48

reports of **PARKING** or **ACCESSIBILITY ISSUES**

38

Lack of **MASK/DISTANCING**

41

reports of **INADEQUATE/CONFUSING SIGNAGE**

5

reports of **VOTER INTIMIDATION**

SOURCE: Data reported in this chart is solely from LDF’s internal volunteer monitor reports and does not include data captured in Our Vote Live (866-Our-Vote), a record system for the Election Protection coalition.

Voter Intimidation

There were multiple reports of law enforcement activity around polling sites. A polling location in Hattiesburg flew the old Mississippi State flag, which contains the Confederate Battle Flag, although by law that flag should have been removed following the July 2020 vote of the Mississippi Legislature banning the old flag.²⁶¹ VRD/PTV staff and volunteers urged elections officials to remove the flag. There was a large pick-up truck with a Confederate Flag and a Trump flag, which had become synonymous with symbols of racial hatred and violence and was intimidating to many voters, parked outside a Starkville polling location. In Rankin County, two White voters wearing Black Lives Matter shirts were taken aside and told by a White poll worker to wait to see if they would be allowed to vote due to their “political” shirts.

Location Misinformation

Mississippi does not require counties to make timely reports of polling site changes to the SOS. As a result, not all polling sites changes are reflected on the poll locator tool for voters on the SOS’s website, and Mississippi does not have a central reliable source of current polling location information readily available for its voters.²⁶²

Misinformation about voting locations and changes caused problems on Election Day, and there were numerous reports on this issue on social media. Even our best effort to communicate

²⁶¹ Rick Rojas, *Mississippi Lawmakers Vote to Retire State Flag Rooted in the Confederacy*, N.Y. Times (June 28, 2020); Rick Rojas, *Mississippi Governor Signs Law to Remove Flag With Confederate Emblem*, N.Y. Times (June 30, 2020), <https://www.nytimes.com/2020/06/30/us/mississippi-flag.html>.

²⁶² See Ashton Pittman, *Mississippi Officials Moved Three Times More Polling Places Than Reported for 65,000 Voters*, Mississippi Free Press (Oct. 31, 2020), <https://www.mississippifreepress.org/6577/mississippi-officials-moved-three-times-more-polling-places-than-reported-for-65000-voters/>.

updated polling location information to voters was challenged by the lack of a reliable source. When we learned of inaccuracies in the information we had provided, we sent text messages to voters to inform them and outlined the process to get the most accurate information, but that process was quite burdensome. Additionally, we advocated for the SOS to update the information on the state’s website.

Health Concerns/Safety Concerns/ADA Compliance

We received reports from polling locations of lack of social distancing due to long lines, people refusing to wear masks, and small or underprepared polling locations. Our volunteers distributed PPE to voters at multiple locations. Curbside voting was available for those most at risk for COVID-19, but polling places were not sufficiently prepared to provide this service. This led to traffic and parking issues as well as longer lines for locations with fewer poll workers. We received many reports of locations that were not ADA compliant, including polling sites in the towns of Hattiesburg, Clarksdale, Clinton, Canton, Starkville, and Petal. In addition, long lines caused voters to queue up alongside busy roads and highways with no sidewalks, which presented another safety issue. Many voters and news outlets commented via social media and to our volunteers, on the danger of being so close to traffic.

Voting Machine Malfunctions

We received reports of voting machine malfunctions in four locations. At two locations, Grove Park and McLeod, the team reviewed reports and made calls. Technicians were sent out and the issues were resolved, but many voters reported long lines as a result of machine malfunctions. LDF and local civil rights

organizations sent a letter to the SOS urging an extension of voting hours to offset the periods when people were unable to vote. We also urged voters to call the SOS and ask that the voting hours be extended. After receiving dozens of calls, the SOS’s office finally responded and told us that extending polling time was out of their hands.

Voter and Volunteer Stories

“They are parked across the street wearing [political] gear and they seem to be monitoring the poll. The man wearing the MAGA sweatshirt tried to intimidate Susan and myself. He demanded to see our credentials to be poll workers. We of course continued walking and didn’t respond to which he looked around and said “boy they didn’t like that did they!”
—Brandilynn, Hattiesburg

There is no parking [lot] and people are parked on the side of a very narrow road. And a very steep hill to polling place. When we arrive[d] a woman with a cane was struggling to get up the hill to get in line. We were able to get her assistance.
—Brandilynn, Hattiesburg

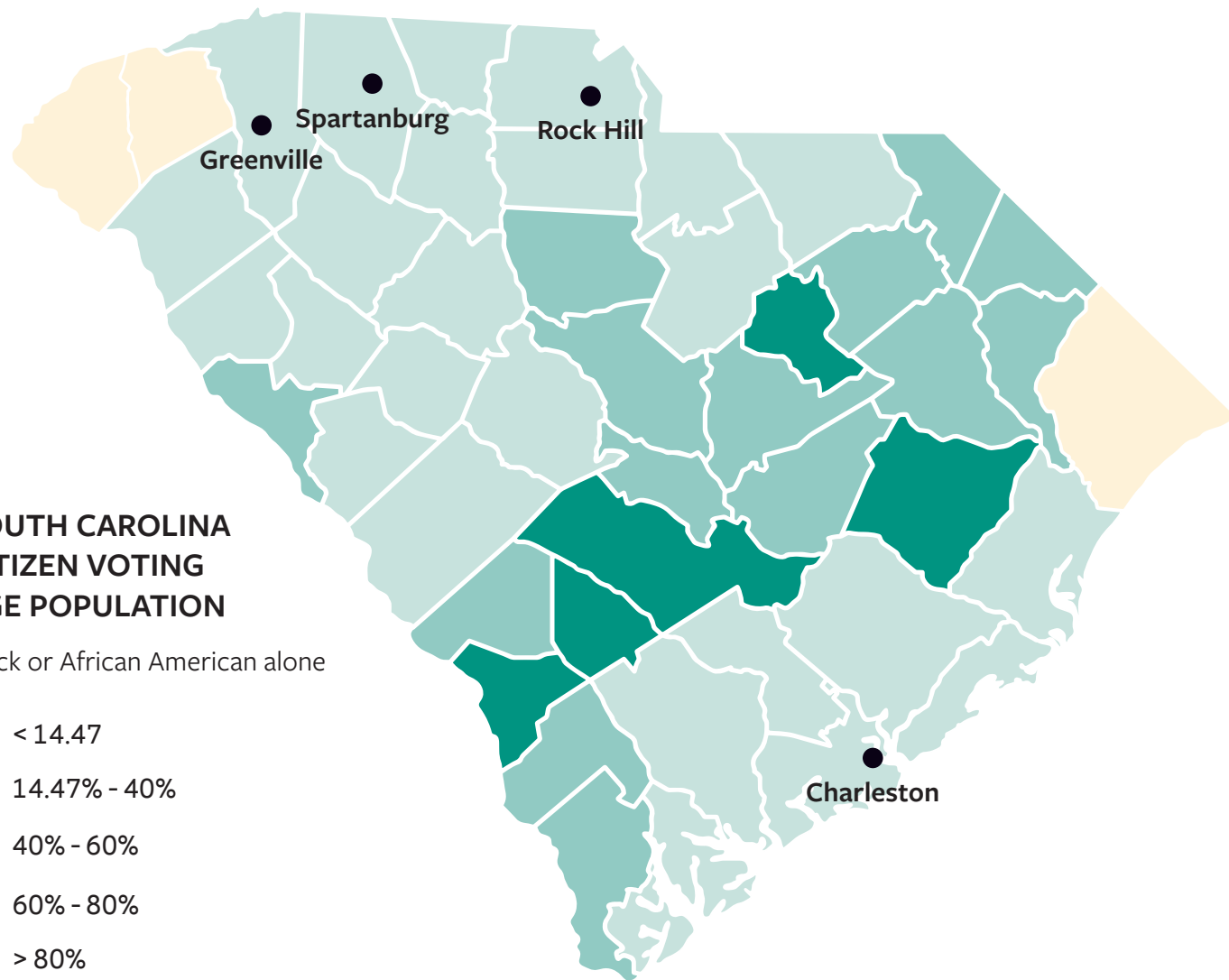
Next Steps and Future Advocacy

- Addressing disenfranchisement for criminal convictions.
- Expand voting beyond Election Day with early voting and vote-by-mail.
- Require counties to timely report polling location changes to the state so voters have access to accurate polling location information.
- Expand curbside voting measures to include additional voters, such as seniors and other vulnerable populations.
- Establish a tracking process for affidavit ballots.
- Create online registration for new voters.

Voters forced to wait on the side of a busy road on Election Day 2020 in Starkville, Mississippi. Volunteer photo



SOUTH CAROLINA



SOURCE: Citizen Voting Age Population by Race and Ethnicity (CVAP), U.S. Census Bureau

PRE-ELECTION — MAJOR BARRIERS TO VOTING

- No Early voting *
- Strict Voter ID Requirements
- Excuse Required for Absentee Ballot *



* laws/rules changed due to the pandemic

South Carolina has a well-documented history of limited suffrage and voter suppression, especially targeting Black voters. South Carolina was one of the states covered in its entirety by the Voting Rights Act Section 5 preclearance requirement prior to the *Shelby County* decision in 2013.²⁶³ Most recently, the legislature has advanced voter ID laws that disproportionately disenfranchise Black voters. LDF found that County Election Boards used an electronic poll book that omitted registered voters, failed to properly train poll workers about curbside access, and did not properly train poll workers in general. In addition to the noted systemic issues, increased voter intimidation and the COVID-19 pandemic created a challenging voting environment in 2020. In ordinary times, South Carolina has restrictive voting options, with restricted availability of absentee ballots, burdensome witness requirements for absentee ballots, and no early voting. The pandemic in the 2020 election season exacerbated South Carolina’s significant burdens to voting.

²⁶³ *Section 5 Jurisdictions*, *supra* note 165.

VRD conducted state level advocacy, but also engaged in advocacy focused on specific counties in South Carolina. We worked with regional voting rights partners, local community organizations, and volunteer poll monitors. The map included below in this section illustrates where we focused most intensely geographically in South Carolina in efforts to clear barriers to voting and assist voters.

COVID-19 Related Litigation

In response to the COVID-19 pandemic, LDF worked with American Civil Liberties Union of South Carolina (ACLU of South Carolina), the South Carolina NAACP State Conference (SC NAACP Conference), and Family Unit to bring an action against members of the South Carolina Election Commission. The action, *Thomas v. Andino*, challenged South Carolina’s witness requirement for absentee ballots.²⁶⁴ We argued that people who did not live with a competent witness would have to potentially expose themselves to COVID-19 to satisfy South Carolina’s witness-signature requirement for absentee ballots. On May 25, the trial court issued an injunction that barred use of the witness requirement for the June Primaries.²⁶⁵

Unfortunately, on October 5, 2020, the U.S. Supreme Court granted a request from the South Carolina Republican Party to reinstate the state’s witness-signature requirement on absentee ballots pending appeal of the trial court’s decision.²⁶⁶ That order did require the state to process ballots that were submitted without the witness signature before and two days after the order was issued.

²⁶⁴ *Thomas v. Andino*, No. 3:20-CV-01552-JMC, 2020 WL 2617329 (D.S.C. May 25, 2020).

²⁶⁵ *Id.* at *30.

²⁶⁶ *Andino v. Middleton*, 141 S.Ct. 9 (Mem), 208 L.Ed.2d 7 (2020).

Pre-Election Day Engagement

- Through our partnership with More Than A Vote, **over 800 South Carolinians** applied to become poll workers for the general election.
- Through our partnership with Forward Justice and Poor Peoples Campaign, we jointly recruited and trained **65 volunteers** to conduct local poll monitoring and voter education.
- Voter education and information provided via text messages to over **150,000 voters**.
- Voter education and PPE mailed to **53,483 voters**.
- Voter education materials mailed to **117,669 voters**.²⁶⁷

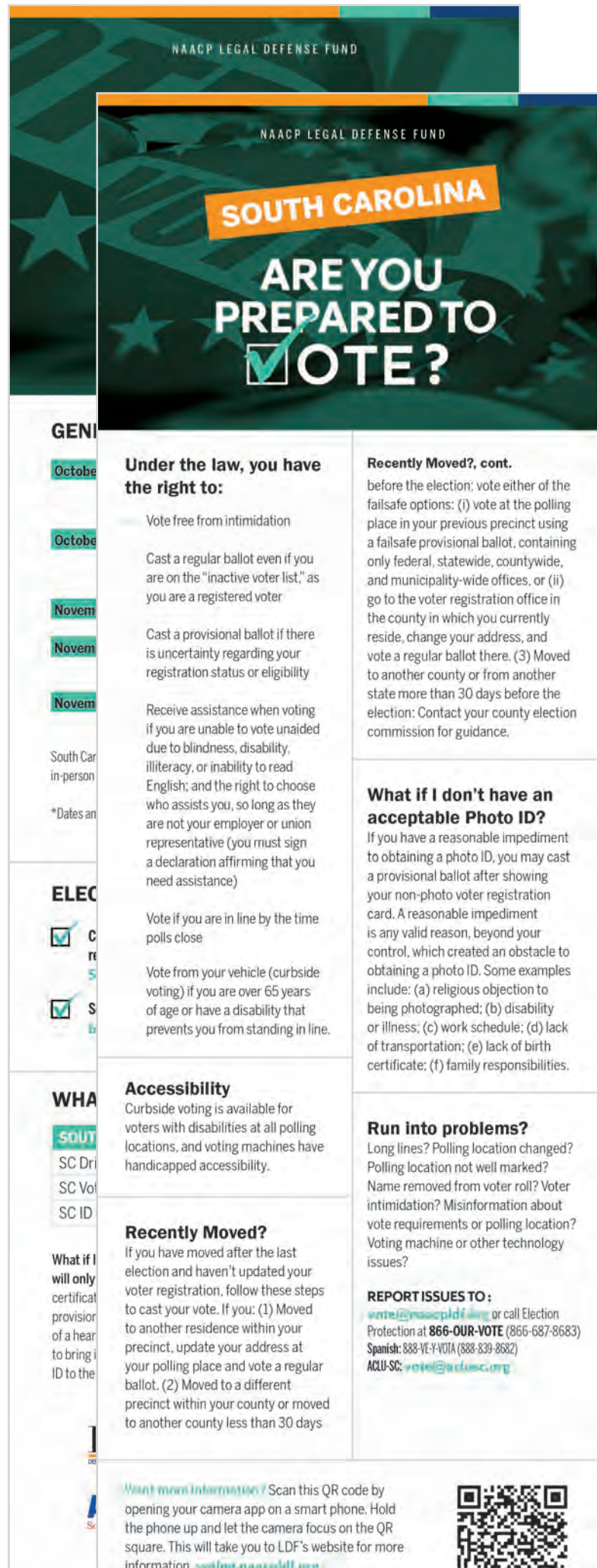
In 2018, South Carolina voters who had moved and re-registered were not allowed to vote.²⁶⁸ In August 2020, LDF sent a letter to election officials inquiring about this issue and seeking to determine how to prevent these voters from being disqualified for the 2020 elections. We updated our nonpartisan voter education materials to provide voters with clear step-by-step instructions on how to address this issue.

Polling Location Change

During the summer of 2020, the Dorchester County Board of Elections announced a decision to move the Delemars community polling location

²⁶⁷The data reported here is solely from LDF's internal data sources.

²⁶⁸LDF & LDF, Thurgood Marshall Inst., *Democracy Defended: Analysis Of Barriers To Voting In The 2018 Midterm Elections 23* (2019), https://www.naacpldf.org/wp-content/uploads/Democracy_Defended_9_6_19_final.pdf.



NAACP LEGAL DEFENSE FUND

SOUTH CAROLINA

ARE YOU PREPARED TO VOTE?

Under the law, you have the right to:

- Vote free from intimidation
- Cast a regular ballot even if you are on the "inactive voter list," as you are a registered voter
- Cast a provisional ballot if there is uncertainty regarding your registration status or eligibility
- Receive assistance when voting if you are unable to vote unaided due to blindness, disability, illiteracy, or inability to read English; and the right to choose who assists you, so long as they are not your employer or union representative (you must sign a declaration affirming that you need assistance)
- Vote if you are in line by the time polls close
- Vote from your vehicle (curbside voting) if you are over 65 years of age or have a disability that prevents you from standing in line.

Recently Moved?, cont.

before the election: vote either of the failsafe options: (i) vote at the polling place in your previous precinct using a failsafe provisional ballot, containing only federal, statewide, countywide, and municipality-wide offices, or (ii) go to the voter registration office in the county in which you currently reside, change your address, and vote a regular ballot there. (3) Moved to another county or from another state more than 30 days before the election: Contact your county election commission for guidance.

What if I don't have an acceptable Photo ID?

If you have a reasonable impediment to obtaining a photo ID, you may cast a provisional ballot after showing your non-photo voter registration card. A reasonable impediment is any valid reason, beyond your control, which created an obstacle to obtaining a photo ID. Some examples include: (a) religious objection to being photographed; (b) disability or illness; (c) work schedule; (d) lack of transportation; (e) lack of birth certificate; (f) family responsibilities.

Run into problems?

Long lines? Polling location changed? Polling location not well marked? Name removed from voter roll? Voter intimidation? Misinformation about vote requirements or polling location? Voting machine or other technology issues?

REPORT ISSUES TO:

voter@naacpldf.org or call Election Protection at **866-OUR-VOTE** (866-687-8683)
 Spanish: 888-VE-Y-VOTA (888-839-8682)
 ACLU-SC: voter@aclusc.org

Accessibility

Curbside voting is available for voters with disabilities at all polling locations, and voting machines have handicapped accessibility.

Recently Moved?

If you have moved after the last election and haven't updated your voter registration, follow these steps to cast your vote. If you: (1) Moved to another residence within your precinct, update your address at your polling place and vote a regular ballot, (2) Moved to a different precinct within your county or moved to another county less than 30 days

Want more information? Scan this QR code by opening your camera app on a smart phone. Hold the phone up and let the camera focus on the QR square. This will take you to LDF's website for more information. www.naacpldf.org

from Sand Hill United Methodist Church to Sand Hill Elementary School, 6.5 miles away. The new location is far from the community that the original location had been serving for decades. Community members submitted petitions and requests to the Board to restore Sand Hill UMC as the Delemars polling location. These requests included a letter submitted on August 20, 2020. LDF and the SC NAACP Conference also sent an August 2020 letter to the Board of Elections requesting this change. The Board, however, declined to take any action.

Voter Intimidation

Officials of the Florence County NAACP Branch received a series of complaints involving voter intimidation, election interference, and improper behavior by the Florence County Board of Voter Registration and Elections. One complaint included the following: In June 2020, a Florence resident who came to cast her vote overheard Florence County Elections Director Alford angrily yelling on a phone call—in the public lobby of the voting office—that he would not “allow them to vote. I don’t care. Period.” The voter was concerned that Alford’s statement may have meant that he intended to prevent Black voters from casting their ballots. [See Election Day incident below.] On October 30, 2020, LDF partners SC NAACP Conference wrote to the Florence County Board of Voter Registration & Elections about these complaints. LDF and other civil rights organizations sent a letter to all 46 county boards urging them to prepare their workers to take appropriate steps to address voter intimidation and to implement proper COVID-19 protocols.

Poll manager Sheila Tyson sanitizes a voting booth on Election Day on Nov. 3, 2020 in Orangeburg, South Carolina. Photo by Michael Ciaglo/Getty Images

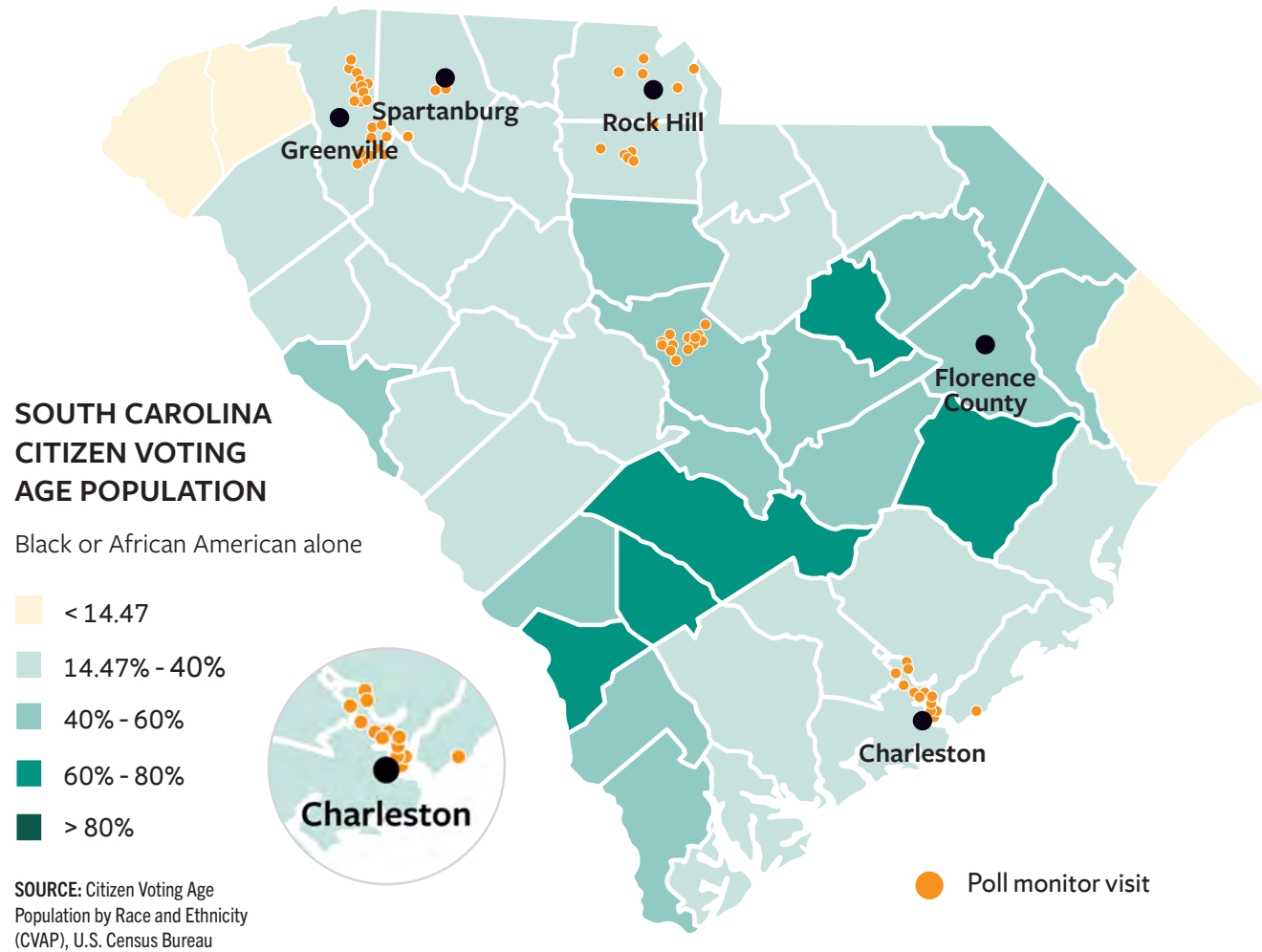
Early Voting

Long lines were a persistent issue throughout the early voting period. In Rock Hill, South Carolina, there was no plan to manage lines or to ensure social distancing. People waited over an hour to vote.

Amanda of Rock Hills tweeted out her experience with voting during a Pandemic: “Rock Hill, South Carolina had no plan to manage lines to ensure social distancing could be maintained today while waiting over an hour to vote. We voted, but not without risks.”



 SOUTH CAROLINA



Election Day Issues

Curbside Voting

In Greenville County there were concerns about the processing of curbside ballots particularly at the Tigersville Elementary School polling place. There was poor signage for curbside voting and our volunteer on the ground twice notified poll workers that there was a voter waiting to vote curbside. To address the issue, our volunteer poll monitor remained at the polling site and notified the poll workers when a voter needed curbside voting. He also confirmed that a sign that had previously fallen was again in place.

On November 3, 2020, Election Day, Florence County Elections Director Alford [see pre-election Florence advocacy above] reportedly accosted voters attempting to vote curbside. Voters who are over the age of 65 or who have a disability are entitled to cast their ballots through curbside voting. Poll managers are supposed to help them. But when voters—each of whom was eligible to vote curbside—arrived to vote at their Florence

County precinct, Director Alford reportedly approached their car, prevented them from voting curbside and, using a hostile tone, regularly accused voters of being fit enough to vote inside. The voters were able to cast their ballot curbside only after the Board’s Deputy Director intervened.

“There is limited knowledge regarding how curbside voting works. The signage is here, and so far I have been able to direct voters to the curbside. One asked me about it, and another I saw was struggling to get out of the car. I informed them that curbside voting was an option. The poll workers are not keeping watch of the curb regularly, so I have been alerting them when cars pull up to the curbside.” —*Wes, Volunteer Poll Monitor, Greenville County*

Voter Intimidation

In Richland County, there was an instance of voter intimidation at the Adult Activity Center polling site. Two men were in and out of the polling place taking pictures of voters. One of the men had visited the polling site days prior to Election Day and engaged in similar behavior, which made the poll workers and the facility staff uncomfortable. When poll workers became aware the man had returned with a companion and was filming and harassing people in line to vote on Election Day, the police were called. The police found that the men were within their rights to take photos and film at the polling site. The men left of their own accord shortly thereafter.

A curbside voting machine stands in a parking lot at Seacoast Church West Ashley on Oct. 30, 2020 in Charleston, South Carolina. Voters 65 and older and people who are unable to stand in line to vote due to a disability are allowed to vote from their vehicle. Photo by Michael Ciaglo/Getty Images



POLL MONITOR REPORTED ELECTION ISSUES

23

reports of **LONG LINES**

25

reports of **POOR SIGNAGE**

4

reports of **VOTER INTIMIDATION**

26

reports of **PARKING** or **ACCESSIBILITY ISSUES**

34

reports of **LACK OF MASK USE** and/or **SOCIAL DISTANCING**

SOURCE: Data reported in this chart is solely from LDF’s internal volunteer monitor reports and does not include data captured in Our Vote Live (866-Our-Vote), a record system for the Election Protection coalition.



People line up to cast their in-person absentee ballots at the Berkeley County Library on October 30, 2020 in Hanahan, South Carolina. Voters waited about an hour and a half to cast their ballots. Photo by Michael Ciaglo/Getty Images

✓ SOUTH CAROLINA

Signage

At the Woodland Heights Recreation Center polling location in Spartanburg County, there were no signs identifying the disabled parking. The team sent out a mass text via the VRD/PTV volunteer poll monitor app encouraging volunteers to ask poll workers to put up additional signage or to make their own. There was also confusion about the Fairforest Middle School polling location. There is an old school site and a newer one. Voting was taking place at the old site, which was not clear on the county's website. Our volunteer poll monitors were dispatched to place signage directing people to the right location.

Machine Issues

At the Double Spring Baptist Church polling location in Greenville County, a volunteer on site informed us that the polling site opened late because only two of the four check-in machines were operational. The volunteer was able to confirm that there was a technician on the scene and updated us when the third machine was fully functional and when the fourth machine was partially functional, around 8:30 a.m. The polls were scheduled to open at 7:00 a.m.

In Greenville County, more than 80% of reports related to long lines, which were mostly attributable to delays caused by problems with voting machines.

Poll Worker Training

In Sumter County, 36 voters at the Morris College precinct had to cast emergency paper ballots, and some were initially told incorrectly to use pencil. We conducted outreach to the poll clerk, as well as through our local contact, to confirm that pencils had been given for the issued emergency ballots. Our VRD/PTV team then followed up with local officials to ensure that these ballots would be properly counted. We followed up with our local contact to confirm the ballots were properly scanned and counted appropriately.

Next Steps and Future Advocacy


With our local partners we have identified several issues for future advocacy to improve access to the ballot in South Carolina:

- Eliminate the excuse requirement for absentee voting/mail-in voting.
- Expand early voting.
- Eliminate witness requirements for absentee ballots.
- Ensure adequate polling place signage.
- Ensure adequate poll worker training related to curbside voting availability.
- Provide sufficient polling locations to eliminate long lines.
- Ensure accessibility/ADA compliance at polling locations.

TEXAS






PRE-ELECTION — MAJOR BARRIERS TO VOTING

- No online voter registration
- Excuse required for mail ballot
- Short early voting period *
- Stringent Voter ID laws and barriers to obtaining ID alternatives
- Polling site closures/consolidation/location accessibility issues
- Rejection of mail-in ballots with no cure process (e.g. signature match issue)

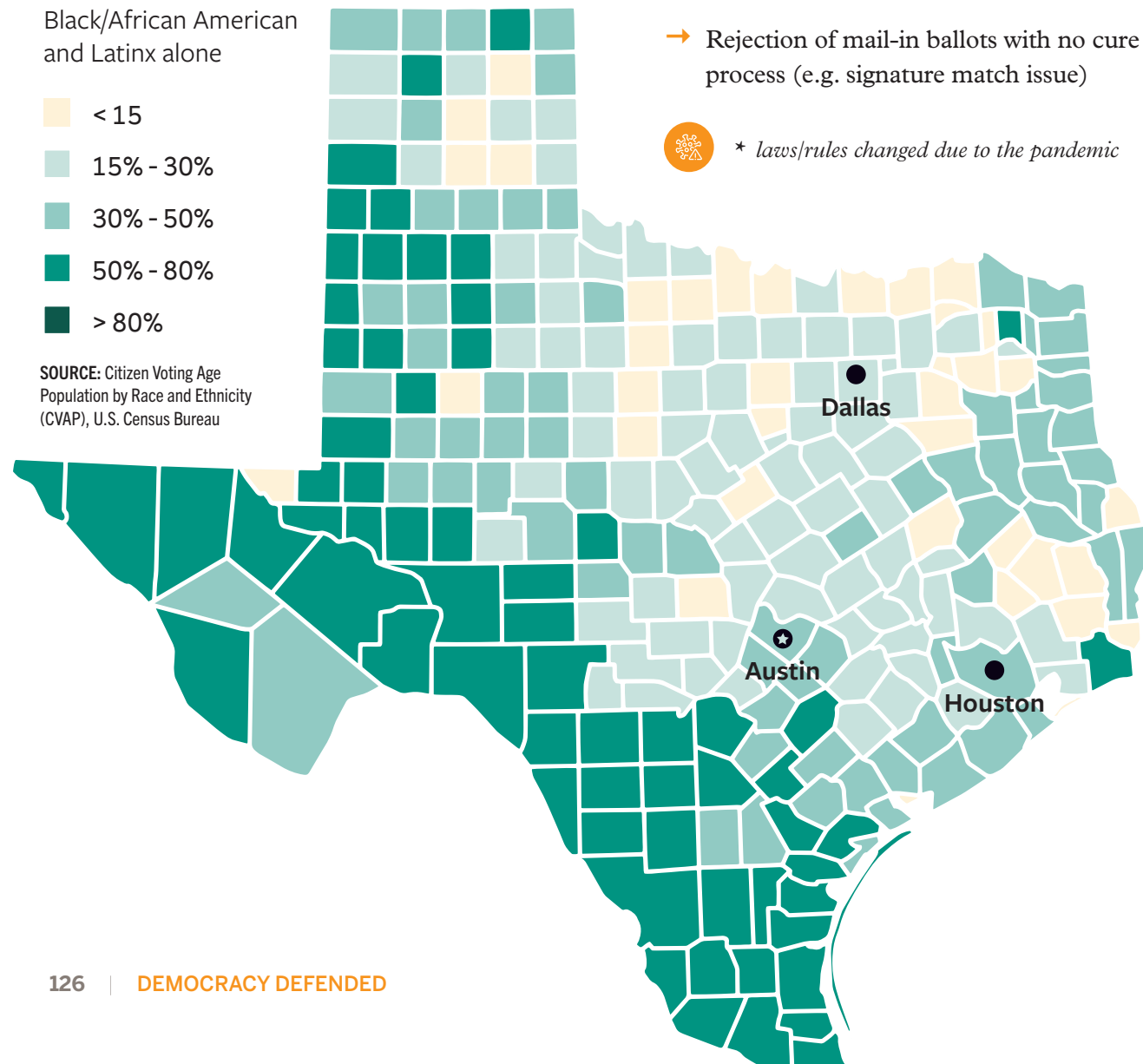
 * laws/rules changed due to the pandemic

TEXAS CITIZEN VOTING AGE POPULATION

Black/African American and Latinx alone

-  < 15
-  15% - 30%
-  30% - 50%
-  50% - 80%
-  > 80%

SOURCE: Citizen Voting Age Population by Race and Ethnicity (CVAP), U.S. Census Bureau



Before the *Shelby County* decision in 2013, Texas was one of the states required to get federal approval for voting changes under Section 5 of the VRA.²⁶⁹ With this loss of pre-clearance, the state government immediately placed new suppressive voting policies that continue its long history of limiting full political participation for Black, Latinx, and Asian citizens. Resistance to expanding ballot access by Texas officials manifested in many ways resulting in disastrous wait times in certain counties during the March 2020 primaries.²⁷⁰ The COVID-19 pandemic both aggravated the problem of limited voter registration and voting options and provided a push to change critical elements of the current election system.

Pre-Election Engagement

- Through our partnership with More Than A Vote, almost **8,000 Texans** applied to become poll workers.
- Through our partnership with Forward Justice and Poor Peoples Campaign, we jointly recruited and trained **62 volunteers** to conduct local poll monitoring and voter education.
- Voter education information sent via text messages to almost **67,000 voters**.
- Voter education and PPE mailed to **29,353 voters**.
- Voter education materials mailed to **73,340 voters**.
- Over **55 law firm volunteers** trained to conduct remote monitoring.

²⁶⁹ Section 5 Jurisdictions, *supra* note 165.

²⁷⁰ Paul Debenedetto et al., *Super Tuesday Plagued By Hours-Long Wait Times In Parts Of Harris County*, *Hous. Pub. Media* (Mar. 3, 2020), <https://www.houstonpublicmedia.org/articles/news/politics/election-2020/2020/03/03/362534/super-tuesday-plagued-by-hours-long-wait-times-in-parts-of-harris-county/>.

- Provided Young Black Lawyers Organizing Coalition and 47 other groups palm cards and **191,500 PPE sets** (gloves, masks, and sanitizing wipes) for nonpartisan distribution to voters and poll monitors to mitigate the dangers posed by the pandemic.²⁷¹

Because Texas is an exceptionally large state geographically and in population, the VRD/PTV team partnered with a large coalition of Election Protection organizations. While we participated in state-wide advocacy, we focused our efforts on 23 counties in East Texas for the July and November elections. We worked with regional voting rights partners, local community organizations, and volunteer poll monitors. The map included below in this section illustrates where we focused most intensely geographically in Texas in efforts to clear barriers to voting and assist voters. We prioritized publicizing the existing registration, absentee, and early voting options to voters, with an emphasis on under-resourced communities.

Litigation

Along with co-counsel, LDF continued to litigate a case arising out of our 2018 PTV activities. The case challenged Waller County's refusal to offer early voting locations on the Prairie View A&M campus, an HBCU.²⁷² Waller County had provided early voting locations in communities with heavily White populations. In July of 2020, the County sought a summary ruling in their favor, but the court denied their motion. Unfortunately, for the 2020 elections, the county still resisted placing a site on campus and offered early voting off campus at a community center in the City of Prairie View. The county relied on a 2019 amendment to the

²⁷¹ Data reported in this chart is solely from LDF's internal volunteer monitor reports. Additional data from Election Day is captured in Our Vote Live, a record system for the Election Protection coalition program/866-Our-Vote. This chart does not include team responses to Election Protection hotline issues.

²⁷² *Allen v. Waller Cnty.*, 472 F. Supp. 3d 351 (S.D. Tex. 2020).



Texas Elections law that requires all early voting locations in a county to have roughly the same hours, to argue that they could not afford to have a location on campus.²⁷³

Voter Registration

Online voter registration is an important and cost-effective means of making voting more accessible. It allows voters to safely complete registration from home, and it allows for easy administrative changes such as address changes.²⁷⁴ Texas, however, does not provide its voters an option to register online. The Texas Civil Rights Project filed two cases -- *Stringer v. Hughs I* and *II* -- against the Texas Department of Public Safety (DPS) and the Secretary of State (SOS) challenging the State's failure to offer voter registration to two million Texans who changed their address or renewed their driver's license online. *Stringer v. Hughs II* was successful, and the court ordered the DPS to implement a limited online registration system for people updating their licenses just 11 days before the October 2020 voter registration deadline.²⁷⁵ DPS reported at an Election Committee hearing on March 4, 2021, that 500,000 people have used the online voter registration option since the program's start date.²⁷⁶ The case is ongoing and has the potential to expand online voter registration options for Texans.

Voter Identification

Texas fought to make ID requirements even more onerous after *Shelby County*, including implementing

273 See *Tex. Elec. Code Ann.* § 85.064(b)

274 Peter Martin, *Online Voter Registration: Good For States, Good For Voters*, LDF: Blog (Aug. 11, 2020), <https://www.naacpldf.org/naacp-publications/ldf-blog/online-voter-registration-good-for-states-good-for-voters/>.

275 *Stringer v. Whitley*, 942 F.3d 715 (5th Cir. 2019).

276 @MOVE_texas, Twitter (Mar. 4, 2021, 9:34 AM), https://twitter.com/MOVE_texas/status/1367483630013059089.

a strict photo ID law a day after the decision.²⁷⁷ For Texans without photo IDs, there are seven ID alternatives that allow them to vote in person. Unfortunately, one of these alternatives, Election Identification Certificates (EIC), became difficult to come by in 2020 due to technical difficulties at Texas Department of Motor Vehicle locations.²⁷⁸ LDF and our partners sent a letter to Governor Abbott, SOS Hughs, and DPS Director McCraw urging them to expand the ability to schedule appointments to obtain EICs.

Absentee Ballot Access and Right to Cure

Access to absentee or vote by mail ballots is extremely limited in Texas. Vote by mail is only available to those 65 or older or persons who have proof of disability or sickness. Electronic absentee ballots are only counted if a hard copy is received no later than the day after Election Day. Emergency absentee ballots, for people who realize after the passage of the absentee ballot deadline that they cannot vote in person, require a doctor's note according to Texas Election Code § 102.002.²⁷⁹ This is an unnecessary invasion of privacy and a barrier to voting, especially with the COVID-19 pandemic. In addition, Texas prohibits a person from voting in person if they requested an absentee ballot but were unable to turn it in. LDF submitted an amicus brief to the U.S. Fifth Circuit Court of Appeals in *Texas Democratic Party v. Abbott* supporting a district court ruling on the expansion of absentee voting to all Texans during the pandemic. Unfortunately, despite the pandemic, the Court of Appeals declined to allow

277 Staff, *The Effects of Shelby County v. Holder*, Brennan Ctr. Just. (Aug. 6, 2018), <https://www.brennancenter.org/our-work/policy-solutions/effects-shelby-county-v-holder>.

278 Letter from NAACP Legal Def. and Educ. Fund, Inc. (LDF) et al. to Greg Abbott, Governor of Tex. et al. (Oct. 21, 2020) (on file with LDF | Thurgood Marshall Inst.)

279 Tex. Elec. Code Ann. §§ 102.001-002.

the expansion of absentee ballots for Texas voters.²⁸⁰

Texas SOS, Ruth Hughs, also refused to provide a process to cure an absentee ballot. A federal judge had ordered the state to provide voters with notice and an opportunity to resolve signature issues to allow their ballots to be counted.²⁸¹ The Court of Appeals for the Fifth Circuit, however, allowed Texas to continue rejecting mail-in ballots without notifying voters that their ballots would not be counted. Texas counties can voluntarily provide voters notification of errors in ballots or give an opportunity to verify signatures. The Court of Appeals noted that Texas law required that voters be notified within 10 days of the election that their ballot was rejected, but Texas is not required to give voters an opportunity to challenge the rejection.²⁸² Texas law provides no standards for signature review, which is conducted by local elections officials.²⁸³ Our partners at MOVE Texas and League of Women Voters Texas, among others, filed *Richardson v. Hughs* to challenge the arbitrary purging without notice or a process to cure mail-in ballots.²⁸⁴

Absentee Ballot Drop Box

Texas Governor, Gregory Abbott, issued an order on October 1, 2020, limiting counties to only one drop-box, regardless of geographic size or population.²⁸⁵ This drastically limited voters' options for submitting vote-by-mail ballots and was especially concerning given that the USPS had significant delays such

280 *Tex. Democratic Party v. Abbott*, 961 F.3d 389, 393 (5th Cir. 2020).

281 *Richardson v. Tex. Sec'y of State*, 485 F. Supp. 3d 744 (W.D. Tex. 2020).

282 *Richardson v. Tex. Sec'y of State*, 978 F.3d 220, 226 (5th Cir. 2020).

283 Karen Brooks Harper, *Texas can reject mail-in ballots over mismatched signatures without giving voters a chance to appeal, court rules*, TEXAS TRIB. (Oct. 19, 2020), <https://www.texastribune.org/2020/10/19/texas-mail-in-ballots-signatures/>.

284 *Richardson*, 978 F.3d 220.

285 Jolie McCullough, *Texas counties will be allowed only one drop-off location for mail-in ballots, state Supreme Court rules*, TEX. TRIB. (Oct. 27, 2020), <https://www.texastribune.org/2020/10/27/texas-voting-elections-mail-in-drop-off/>.

that ballots were not ensured to arrive in time by mail.²⁸⁶ Some Texas counties have millions of voters and are larger, geographically, than entire states such as Delaware and Connecticut. Many of the larger counties, (both in population numbers and physical area) such as Harris, Tarrant, and Dallas, have sizeable Black, Latinx, and Asian populations that were disproportionately burdened by this order. Governor Abbott's drop box limitation also adversely impacted elderly voters and voters with disabilities who rely heavily on absentee options and are the primary groups eligible for absentee ballots

286 Cassandra Pollock, *USPS warns Texas that some mail-in ballots may be delayed in November*, TEX. TRIB. (Aug. 14, 2020), <https://www.texastribune.org/2020/08/14/texas-mail-in-ballots-usps/>.

TEXAS ARE YOU PREPARED TO VOTE?

GENERAL ELECTION

- October 5 (Mon)** Deadline to register to vote
- October 13 (Tues)** EARLY VOTING period begins
- October 23 (Fri)** Deadline to request an absentee ballot. We recommend voters request by October 15 and return the absentee ballot promptly.
- October 30 (Fri)** EARLY VOTING period ends
- November 3 (Tues)** Deadline to postmark absentee ballots (ballots must be received by November 4)
- November 3 (Tues)** ELECTION DAY. Polls open 7 a.m. to 7 p.m.

WHAT IDs ARE ACCEPTABLE?

TEXAS	FEDERAL
TX Driver's License or Personal ID Card or Election ID Certificate	Federally issued ID - including US Passport or Military Photo ID
TX License to carry a handgun	US Citizenship certificate containing your photo

You can use an ID if it has been expired less than 4 years. If you are 10+, you may use an otherwise valid, expired ID (if it is listed above).

Don't have one of these IDs? If you have a reasonable impediment to obtaining one, register a ballot if you present the following:

- A government document with your name and an address; OR provide any following document: current utility bill; bank statement; government check; passport; certified domestic birth certificate (if it shows your name and address and you sign a document stating you have a reasonable impediment).

If you don't bring your ID, you may vote provisionally. You have 6 days to present an acceptable photo ID to the county voter registrar.

Make: An election officer may not refuse an alternative ID solely because the ID address doesn't match the address on the registered voter's list.

ELECTION DAY CHECKLIST

- Confirm your registration status. VoteTexas.gov
- See what is on your ballot. bit.ly/BallotView
- Look up your polling site. VoteTexas.gov
- Pack your ID
- Pack your PPE! Wear a mask, stay safe!

Under federal law, you have the right to:

- Vote free from intimidation
- Cast a provisional ballot if there is uncertainty regarding your registration status or eligibility
- Receive assistance when voting if you are unable to vote unaided due to blindness, disability, illiteracy, or inability to read English; and the right to choose who assists you, so long as they are not your employer or union representative

Under Texas law, you have the right to:

- Curbside Voting:** If a voter is physically unable to enter the polling place, they may ask that an election officer bring a ballot to the entrance of the polling place or to a car parked at the curbside. After the voter marks the ballot, they will give it to the election officer, who will put it in the ballot box. At the voter's request, a companion may hand the voter a ballot, the voter marks the ballot and the companion may deposit it.
- Receive up to two more ballots if you make a mistake while marking the ballot.
- Vote if you are in line by the time polls close
- Voter on "inactive" or "suspense" status is eligible to vote provided they complete a Statement of Residence either when voting by mail or at the polls prior to voting (within the same county) or (if voter has moved to a new county) completes a Limited Ballot application during Early Voting at main early voting location.

Run into problems?

Long lines? Polling location changed? Polling location not well marked? Name removed from voter roll? Voter intimidation? Misinformation about vote requirements or polling location? Voting machines or other technology issues?

REPORT ISSUES TO:
vote@naacpldf.org or call Election Protection at **866-OUR-VOTE** (866-687-8683)
Spanish: 888-VE-VOTA (888-839-8682)

Want more information?
 Scan this QR code by opening your camera app on a smart phone. Hold the phone up and let the camera focus on the QR square. This will take you to LDF's website for more information. www.naacpldf.org

Disclaimer: The information here is a resource and legal advice. It is provided for informational purposes only and not as a substitute for or replacement to the legal advice necessary to address the specific concerns of any individual. Texas may revise its laws after this is published. It is your responsibility to determine how all applicable laws concerning voter registration, voting, and the restoration of voting rights in Texas affect you.

We worked in coalition with Texas civil rights organizations to issue letters to elected officials to address measures to suppress the vote. These included letters to the Governor requesting that he expand eligibility for mail-in voting, extend the receive-by date for absentee ballots, and rescind his decision to close ballot drop-boxes.

Early Voting Period

One of the most significant victories of this difficult election cycle in Texas was the addition of six days of early voting. With this expansion, advocated for by the Texas Election Protection coalition, Texas saw a historic turnout of early voters, which represented approximately 57% of registered voters and 107% of the total 2016 election turnout.²⁸⁷

Voter Intimidation

There were significant concerns about people carrying firearms at polling sites during the election. LDF and Giffords Law Center to Prevent Gun Violence sent a letter to Texas Attorney General Paxton urging him to make a statement and take action to prevent voter intimidation at the polls. Unfortunately, during the election season, pro-Trump caravans toured polling locations to intimidate voters in Texas communities of color.²⁸⁸ While we worked to avoid actions that might amplify the efforts to intimidate, the Voters Committee and Texas Civil Rights Project (TCRP) gave people alternative polling locations where there were no intimidators or long lines. TCRP, LDF, and Protect Democracy sent a letter to the Tarrant County

287 Mandi Cai, *At least 9.7 million Texans — 57% of registered voters — voted early*, TEX. TRIB. (Nov. 17, 2020) <https://apps.texastribune.org/features/2020/texas-early-voting-numbers/>.

288 Staff, *Texas police accused of escorting Trump caravan to polling station in minority neighborhood*, KWTW 10 (Nov. 2, 2020), <https://www.kwtw.com/2020/11/02/texas-police-accused-of-escorting-trump-caravan-to-polling-station-in-minority-neighborhood/>.



Sheriffs posted at Waller County Community Center, the early voting location closest to Prairie View A&M University in Prairie View, Texas. Volunteer photo

VOTER INTIMIDATION

“ On Election Day, law firm volunteers uploaded social media posts reporting a vehicle resembling an armored tank in Fort Bend County and an armed person at a polling site in Travis County.

and Fort Worth Police agencies regarding two of these caravan incidents in which officers escorted the intimidators rather than making them leave. Fort Worth’s Police Department responded with a statement to LDF via the County Council. The statement from the police department was dismissive of the concern, but said they took the incident seriously. There were no further reported incidents.

On Election Day, law firm volunteers uploaded social media posts reporting a vehicle resembling an armored tank in Fort Bend County and an armed person at a polling site in Travis County.²⁸⁹ Each was monitored by LDF attorneys. In another social media post, voters in the predominately Black Stop 6 neighborhood of Fort Worth were reported to be leaving lines after harassment by Trump supporters, some wielding long guns.²⁹⁰

Voter intimidation also appeared in the form of police presence in Black communities – similar to what was seen in other states like Florida and Louisiana. Two sheriff vehicles were parked in front of the only early voting location near Prairie View A&M, mentioned above in *Waller County* lawsuit, potentially deterring and suppressing student voters from the HBCU. LDF contacted attorneys for the County to inquire about the purpose of the sheriff presence and to inquire whether this was done in other communities. According to Waller County’s attorneys, the police officers were present in response to an incident of voter intimidation involving a Black officer who has made previous allegations himself of racial discrimination by his fellow officers. The attorneys also maintained that officer presence at other locations were in response to incidents but represented that the County would not continue

289 @brendanespi, Twitter (Nov. 3, 2020, 3:56 PM) <https://twitter.com/brendanespi/status/1323730751519600640>.

290 @Brendajurgens3, Twitter (Oct 30, 2020 7:23 PM), <https://twitter.com/Brendajurgens3/status/1322318288106475520>.

stationing officers the following days nor on Election Day. A Texas civil rights attorney helped monitor to ensure the County stuck to its word and did not station officers on those subsequent dates.

Remote Monitoring

VRD/PTV trained 55 volunteers at the ReedSmith law firm to conduct remote monitoring of official election websites, traditional media, and social media in advance of Election Day. These volunteers were invaluable in flagging issues, such as inaccurate county polling location information, that we could then quickly work to correct. The volunteers also flagged disinformation and misinformation on social media to be reviewed and removed by the platform. We also remotely monitored the state’s March 3 primary and July 14 primary runoff elections.

Harris County

During the March primaries, Harris County had disastrously long wait times - especially in Black communities and other communities of color. This occurred because of limited polling locations and a decision by election officials to distribute voting machines by political party, which in certain jurisdictions predictably created extensive wait-times for one party in comparison to the other.²⁹¹ LDF sent a letter describing the problems, sharing voter stories, and requesting changes be made for the general election. Due to the shortcomings of the primary, Harris County increased its election budget, implemented 24-hour polling locations, and offered

291 Some counties in Texas allocated voting machines based on party. Miscalculations in that allocation contributed to long lines when there were not enough machines at certain locations. Alex Ura, *After messy primaries, local officials aim to up their game for November*, Tex. Trib. (Mar. 11, 2020), <https://www.texastribune.org/2020/03/11/texas-election-officials-learning-botched-primaries-avoid-mistakes/>.

drive-through voting.²⁹² According to our local partners, these changes were extremely successful and received public support.

A partisan faction filed two lawsuits, one in state court and one in federal court, seeking to invalidate the 127,000 votes cast at drive-through polls in Harris County, which includes Houston and was projected to include a significant number of Black and Latinx voters and voters with disabilities. On October 31, 2020, the State Supreme Court rejected the suit, as did the federal court on November 2, 2020.²⁹³ The plaintiffs appealed but the U.S. Court of Appeals for the Fifth Circuit denied the appeal.²⁹⁴

From CNN’s Aditi Sangal

Protesters gathered outside Houston courthouse to fight against the purging of 127,000 ballots cast through drive-through voting.

McLennan County

The McLennan County Election Administration demonstrated bias in their interactions and treatment of election judges. On two separate occasions, the administration threatened to terminate or reassign the only Black election judge, Anita Phillips, for unjust cause and without legal basis. The judge, with over a decade of experience, had her capabilities and authority questioned in communications by the administration. According to our local partners, a White judge in the county previously had multiple accusations of refusing to serve voters impartially, but this was not addressed until advocates pressed

292 Karen Brooks Harper & Emma Platoff, *Harris County tried to make voting easier during the pandemic. Texas Republicans fought every step of the way.*, (Oct. 15, 2020), <https://www.texastribune.org/2020/10/15/harris-county-texas-voting/>.

293 Jolie McCullough, *Nearly 127,000 Harris County drive-thru votes appear safe after federal judge rejects GOP-led Texas lawsuit*, *Tex. Trib.* (Nov. 2, 2020), <https://www.texastribune.org/2020/11/02/texas-drive-thru-votes-harris-county/>.

294 *Id.*

the issue back in 2018. LDF sent a letter in 2018 regarding these complaints and referenced that issue in our subsequent letter noting the inappropriate and likely discriminatory behavior of the County Election Administration towards Judge Phillips. Ultimately, Judge Phillips was able to continue serving in her position.

Early Voting and Election Day

Our Texas volunteers were trained to submit issues to the Election Protection hotline, 866-OUR-VOTE. We handled 219 tickets from the hotline in our 23 focus counties.

As noted above, many complaints were related to long lines and intimidation that occurred during the early voting periods, which were not monitored by our volunteer poll monitors.

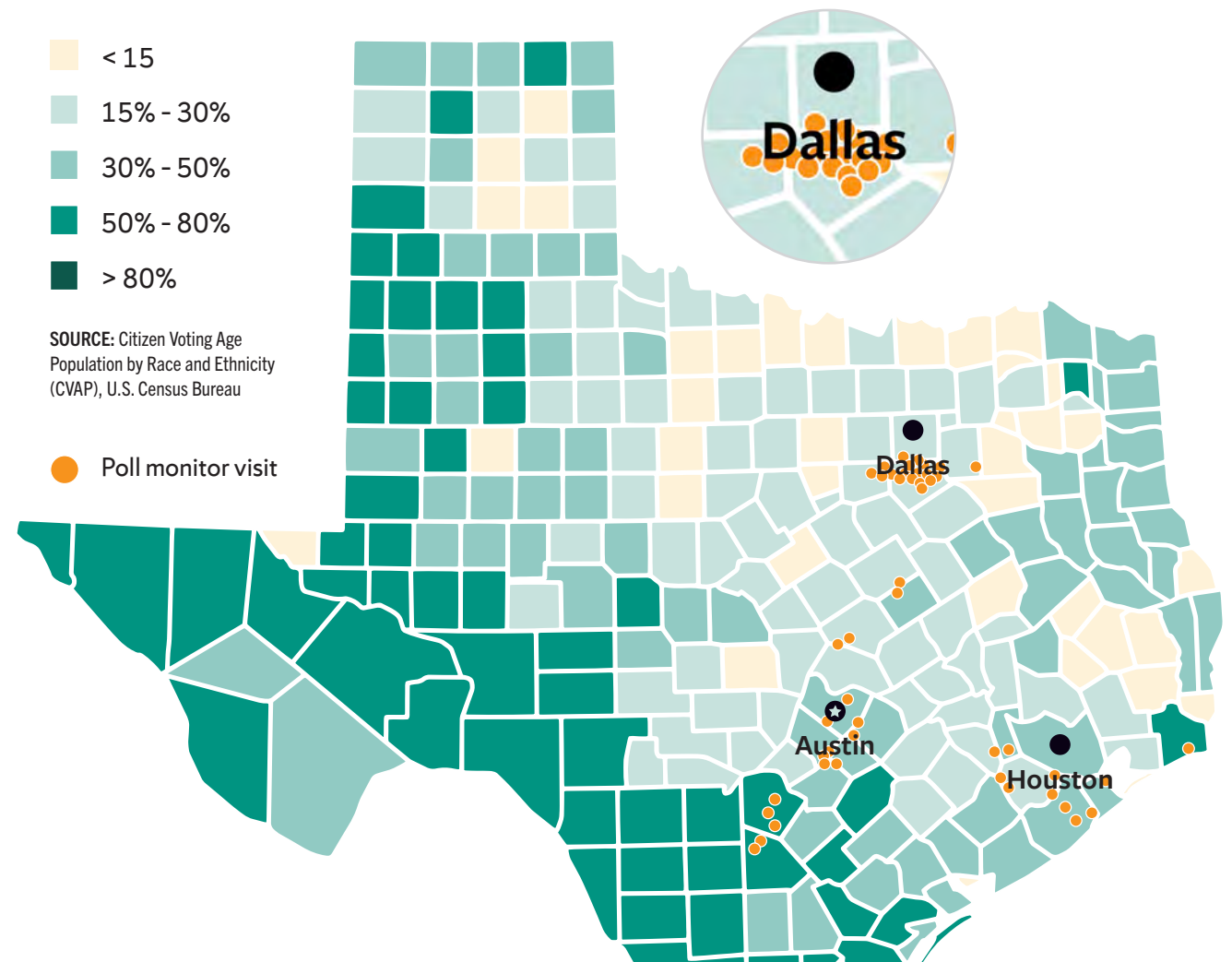
Voter and Volunteer Stories

“Our hotline received a call from a voter’s wife reporting that her husband wanted to vote but was unable to physically go to the polls on Election Day because he was in the hospital. We contacted the voter’s wife to describe the process for applying for, receiving, and returning an emergency ballot. She did not have access to a printer, so she had to drive to the election administrator’s office, request an application for an emergency ballot, drive the application to her husband at the hospital to fill out and sign, have his doctor certify that he was [] unable to physically go to the polls, drive back to the election administrator’s office to submit the application and receive the emergency ballot. She then drove the emergency ballot back to her husband to have him complete it and returned the completed emergency ballot to the election administrator. By 4 p.m. CST, we received word that the voter’s emergency ballot was completed and returned to the election administrator office.”

— *Allen*

TEXAS CITIZEN VOTING AGE POPULATION

Black/African American and Latinx alone



POLL MONITOR REPORTED ELECTION ISSUES

23

reports of **LONG LINES**

11

reports of **LAW ENFORCEMENT PRESENCE**

5

reports of **PARKING or ACCESSIBILITY ISSUES**

6

reports of **VOTER INTIMIDATION**

SOURCE: Data reported in this chart is solely from LDF’s internal volunteer monitor reports and does not include data captured in Our Vote Live (866-Our-Vote), a record system for the Election Protection coalition.

“Unfortunately, the voter I spent the most time with was never able to vote—she was a 93-year-old Black woman who had recently survived COVID-19 but had forgotten to include a change-of-address form with her absentee ballot. Despite the best efforts of her goddaughter and granddaughter, both of whom I spoke to several times throughout the day about our progress—and the sympathy of her local county clerk—the legal director of the SOS’s elections division ultimately denied this voter the opportunity to cure her ballot over the phone. The legal director claimed that it was illegal to allow voters the opportunity to correct their ballots. In reality, no Texas law forbids curing opportunities, and some counties exercise their discretion to allow voters to do so. It was a frustrating and vivid reminder of the ways that state officials go out of their way to prevent people from voting. However, I did have a more productive interaction—a voter in Houston had been forced to cast a provisional ballot on Election Day because of a poll worker’s error. (The poll worker had mistakenly checked in a completely different person as this voter during early voting; they had the same name but different birthdates and addresses.) The voter was concerned that she would never know whether her provisional ballot had been counted. I explained that her county was required to send her notice in writing explaining whether her provisional ballot had been rejected or accepted, and the reasons why. She was relieved to hear that.” —Steven

(Top) Signage in front of a Texas polling location on Election Day. Volunteer photo

(Middle) Sheriff vehicle and truck with flags parked outside a Texas polling location. Volunteer photo

(Bottom) Voters wait in line at a polling location on Election Day, Nov. 3, 2020, in Austin, Texas. Photo by Sergio Flores / AFP



“A voter in McLennan County was unable to vote after receiving a denial letter just a day before the election stating that their mail-in ballot was rejected and flagged. This voter along with his wife were told they were not eligible to vote by mail – despite confirming they were registered. Since the ballots were not returned to them, they were faced with trying to go into their polling location without the ballots and vote in person. After much back and forth, with poll workers telling him he was unable to vote this election, and calling the county election board, this voter was contacted by election officials who confirmed he would be able to vote and cast a regular ballot. While we never ascertained the reasoning for this confusion, we were successful in getting election officials’ attention on this matter and it was resolved. This was great news for this voter, his wife, and other[s] in his community who also received similar notices.” —Anthony

Next Steps and Future Advocacy

With Texas having some of the most restrictive voting policies in the U.S., the progress made during the 2020 election cycle was historic as the turnout demonstrated. In retaliation for this progress, state legislators made it a mission to push an abundance of voter suppression bills, some even drawing national attention for racist language and ridiculous demands.²⁹⁵ These included bills that would allow election judges to carry guns, increased criminal penalties for making ballots more accessible, and “purity of the ballot” language that reflects white supremacist rhetoric

dating back to the late 1800s.²⁹⁶ Understanding the state’s opposition to pro-vote laws and certain officials’ complicity in the voter fraud narrative that supported the January insurrection, organizers have been going on the offensive for pro-voting policies on the local level, replicating some of the success seen in Harris County. Texas organizers plan to expand online voter registration, drive-through voting, and the role of counties in election policies. Many lawsuits from the election season are still on-going and include a case addressing voter purging and creating a ballot curing process.²⁹⁷ Despite pushback, progress can be made in Texas; we have already seen the beginnings of a more democratic, accessible, and open Texas election system, if it is able to survive.

LDF will continue to work with state and local partners to expand access to the ballot. Several of the issues we have identified for future focus include the following:

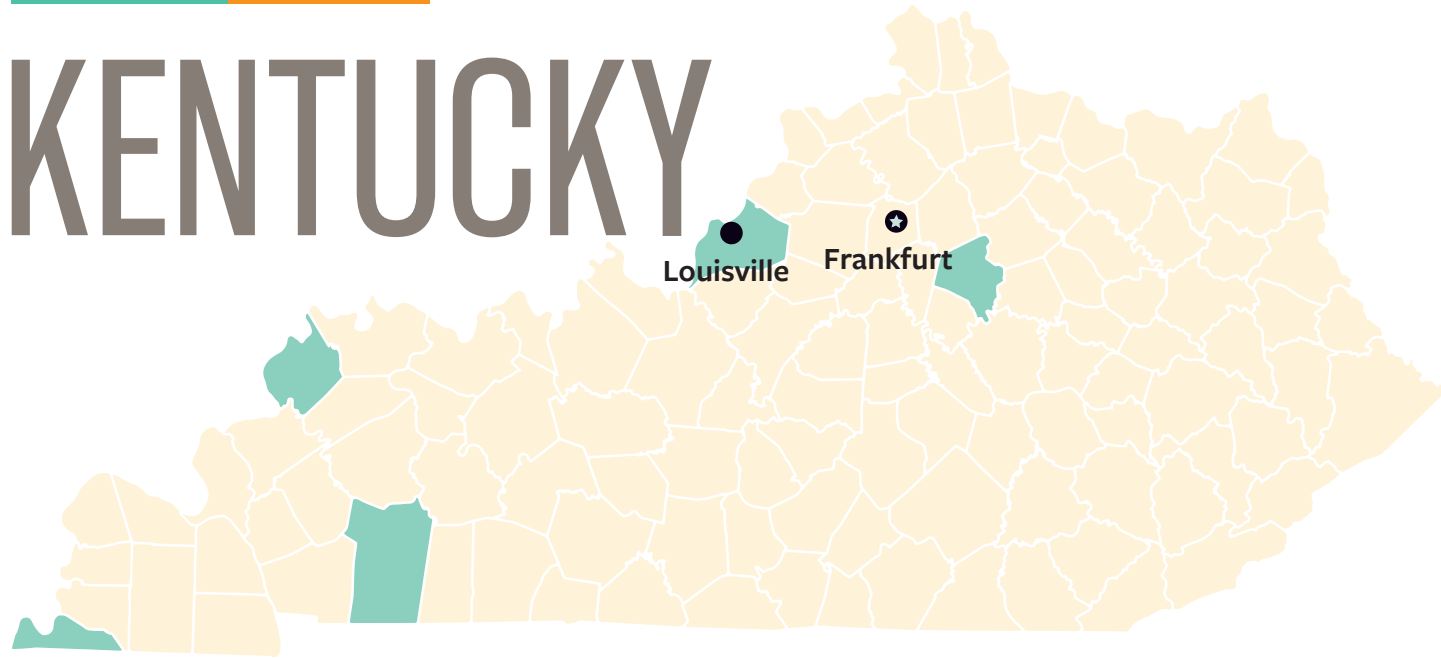
- Expand voter registration options including online registration.
- Expand vote by mail to all Texans.
- Expand 24-hour and curbside voting across the state.
- Regulate and establish a ballot curing process
- Combat partisan distribution of voting machines, polling places etc.
- Advocate for measures to prohibit the presence of armed individuals at or near polling places.

²⁹⁶ Kelly Mena, *Texas House approves bill allowing election judges to carry a gun in most polling places*, CNN Politics (April 21, 2021); Dave Montgomery and Nick Corasaniti, *Exchange Over ‘Purity’ of Vote Puts Texas G.O.P. Firebrand in Spotlight*, The New York Times (May 12, 2021).

²⁹⁷ Richardson, 978 F.3d 220.

SOURCE: Citizen Voting Age Population by Race and Ethnicity (CVAP), U.S. Census Bureau

KENTUCKY



KENTUCKY CITIZEN VOTING AGE POPULATION

BLACK OR AFRICAN AMERICAN ALONE	■ 12% - 42%	■ 42% - 75%	■ > 75%
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Voter Suppression in Kentucky

In a typical election year, Kentucky offers limited options and hours for voting. In April of 2020, Kentucky also implemented a more restrictive photo identification requirement for voters, which was passed by the legislature over the Governor’s veto. In response to the pandemic, the Governor and Secretary of State (SOS) reached a bi-partisan agreement for the primary election.²⁹⁸ The primary was delayed from May 19 to June 23, and all registered voters were eligible to

²⁹⁸ Ben Tobin & Phillip M. Bailey, *Louisville Courier Journal*: “Kentucky to allow mail-in ballots for every registered voter in June 23 primary,” *Courier J.* (Apr. 24, 2020), <https://www.courier-journal.com/story/news/2020/04/24/coronavirus-kentucky-mail-voting-allowed-2020-primaries/3019216001/>.

PRE-ELECTION VOTING BARRIERS

- No Early Voting *
- Strict Voter ID Law
- Limited Vote-by-Mail *
- Photo ID required for Mail Ballot
- Shortage of Poll Workers/Closing large number of Polling Locations

 * laws/rules changed due to the pandemic

receive mail ballots, and early voting (“absentee in person”) was implemented. Early voting was limited to the hours of 8:30 a.m. – 4:30 p.m. from Monday through Friday, beginning eight days before the election, in Jefferson County. The Kentucky Board of Elections also allowed counties to set up absentee ballot drop boxes at county courthouses.²⁹⁹

June Primary Election

For the primary election in June, our team conducted remote monitoring focused on Jefferson County (Louisville) and coordinated with partners such as the NAACP, the Kentucky NAACP, the Lawyers’ Committee for Civil Rights, and members of the National Bar Association.

During the primary, Jefferson County moved from over 200 in-person polling locations to one, the Kentucky Expo Center, which led to serious concerns about the impact on voter turnout, especially for Black and Latinx voters.³⁰⁰ While Kentucky’s primary was widely heralded as a success after the issues seen in primaries in Wisconsin, Georgia, Maryland and other locations, there were a few notable issues. Over 70% of the million-plus primary voters cast their ballot by mail, leading to the highest turnout for a Kentucky primary in over a decade.³⁰¹

- While the Kentucky Expo Center provided adequate spacing for social distancing, many vulnerable voters who had to travel to the site using shuttles or public transportation remained concerned about potential COVID-19 exposure. Volunteers organized

²⁹⁹ *Id.*

³⁰⁰ Stephen Goin, *Lawmakers demand more polling locations in Jefferson Co. for November election*, WAVE 3 News (Sept. 18, 2020), <https://www.wave3.com/2020/09/18/lawmakers-demand-more-polling-locations-jefferson-co-november-election/>.

³⁰¹ Ryland Barton, *Ky. Secretary of State Doesn’t Want Universal Mail-In Voting In November*, 89.3 WFPL (July 28, 2020) <https://wfpl.org/ky-secretary-of-state-doesnt-want-universal-mail-in-voting-in-november/>.

by non-profit organizations such as Black Voters Matter, the Kentucky NAACP, and the Louisville Urban League provided voters with safe rides to the site.³⁰²

- Fayette County (Lexington) had 40 voting machines available, resulting in wait times of approximately two hours. By contrast, Jefferson County (Louisville) had 135 machines and no long lines for most of the day. By mid-day, Fayette County had ordered additional scanners and personnel and the wait times had been reduced. LDF joined a letter from the Lawyers’ Committee to the Fayette County Board of Elections to request an extension of poll hours given the long wait times. The county did not extend polling hours.
- Because there were widespread reports of voters not receiving their requested absentee ballots, the SOS signed an order the morning of the election assuring voters that they could vote in person on Election Day even if they had requested an absentee ballot and that it would count.
- As the 6 p.m. time for the polls to close in Louisville drew near, there was a major traffic jam of vehicles waiting to enter the parking lot of the Kentucky Expo Center. Election Day was the only day where voting was available after 4:30 p.m., leaving it as the only option for many working voters. The lack of parking

³⁰² “Simply put: increasing the absolute distance between precinct voting locations and vote centers decreases the probability of voting.” Jeronimo Cortina & Brandon Rottinghaus, *The Quiet Revolution: Convenience Voting, Vote Centers, and Turnout in Texas Elections*, University of Houston. (2019), <https://cpb-us-w2.wpmucdn.com/web.sas.upenn.edu/dist/7/538/files/2019/06/Cortina-and-Rottinghaus-ES-RA-2019-Paper.pdf>.

and traffic control³⁰³ and the wait to enter the Expo parking lot resulted in voters rushing for the doors. It was reported that the doors were closed at 5:58 p.m. LDF attempted to reach county election staff but were told that all election officials were in a meeting. A local candidate for office filed an emergency pleading requesting that voters who were waiting in line at 6 p.m. be allowed to vote. A judge ordered that voters who were on the pavement at 6 p.m. were entitled to vote and those voters were allowed to enter and vote at approximately 6:30 p.m. The voters who had been caught in the traffic jam and waiting in vehicles to enter the parking lot could not vote.

General Election

Pre-Election Engagement

- Election Protection advocates filed a lawsuit in May to require Kentucky to extend the primary voting COVID-19 related changes to the general election. As a result of advocacy, Kentucky expanded its early voting period to three weeks, including on Saturdays. Any registered voter concerned about contracting COVID-19 was eligible to request an absentee ballot.
- Through our partnership with More Than A Vote, approximately **100 Kentucky residents** applied to become poll workers for the general election.

³⁰³The issues with parking and traffic control in the Kentucky primary informed advocacy through our MTAV partnership. As the NBA and owners made their facilities available as polling locations, arrangements were also made for logistics such as parking and traffic to ensure that future arena locations did not experience the problems seen in Louisville in June; Nick Martin (@lancnick), TWITTER (June 23, 2020, 4:57 PM), <https://twitter.com/lancnick/status/1275557033522102273>.

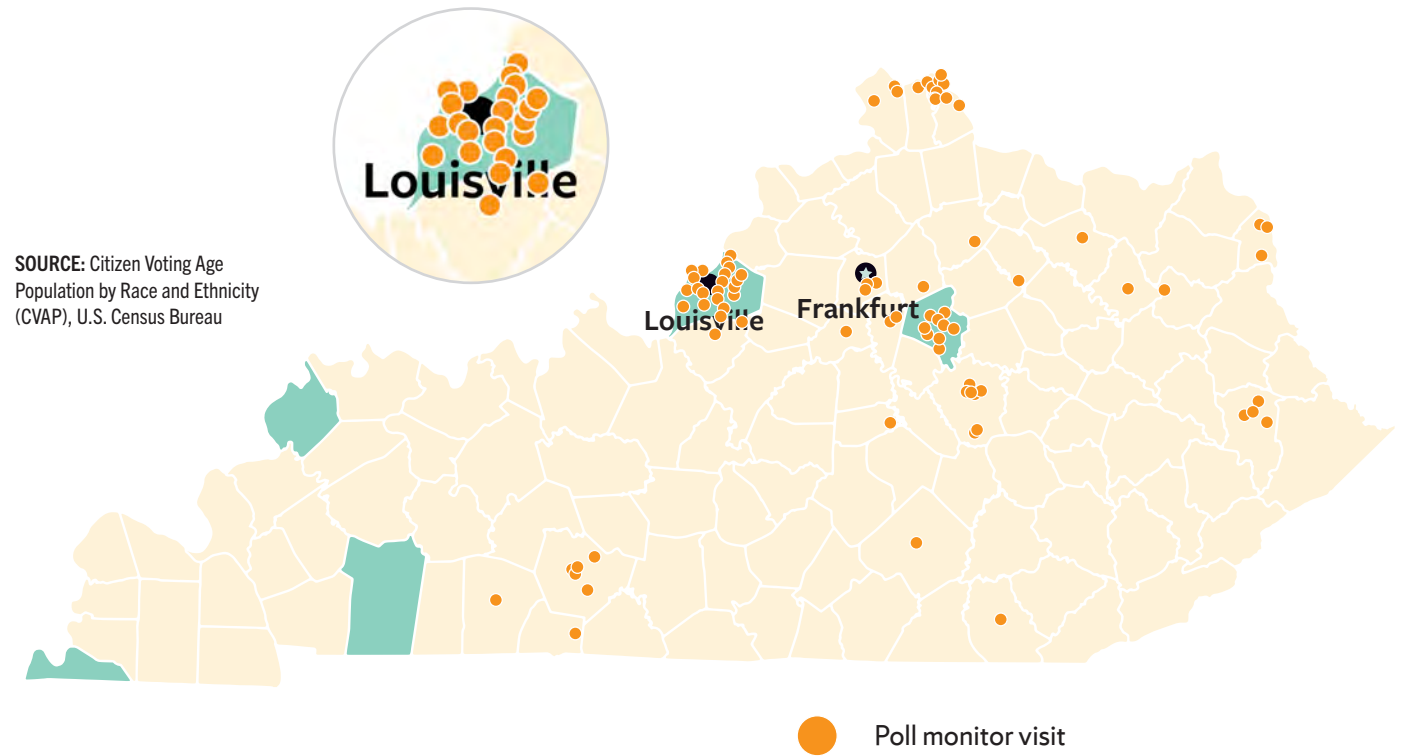
- Through our partnership with Forward Justice and Poor Peoples Campaign, we jointly trained **284 volunteers** to conduct local poll monitoring and voter education.
- Voter education and information via text sent to **3,317 voters**.
- Voter education and PPE mailed to **10,395 voters**.
- Voter education materials mailed to **25,397 voters**.

Early Voting and Election Day

Although LDF’s primary focus for the election was Jefferson County, volunteers were trained throughout the state. In these additional counties, volunteers reported issues to the Election Protection 866-OUR-VOTE hotline. During early voting and on Election Day, LDF and Forward Justice received almost 400 volunteer reports into our database. The team, and in some cases our volunteers on the ground, were able to resolve issues immediately in 79 of those instances.

POLL MONITOR STORIES

“Voter had not received her absentee ballot and the poll workers turned her away. We told the voter to ask the poll worker to cancel her absentee ballot or request a provisional ballot. She did, and was able to vote, but said the poll worker “was not happy about it.”



KENTUCKY CITIZEN VOTING AGE POPULATION

BLACK OR AFRICAN AMERICAN ALONE	12% - 42%	42% - 75%	> 75%
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POLL MONITOR REPORTED ELECTION ISSUES





Election officials clap and cheer for a first-time voter in the polling area in the Kentucky Center for African American Heritage on Nov. 3, 2020 in Louisville, Kentucky. Photo by Jon Cherry/Getty Images

Voter and Volunteer Stories

“Voter had not received her absentee ballot and the poll workers turned her away. We encouraged the voter to ask the poll worker to cancel her absentee ballot or request a provisional ballot. She did, and was able to vote, but said the poll worker “was not happy about it.” It took about 20 minutes from the time we encouraged her to try again to the time she was able to actually vote.”

—Laura – Warren County

We went to the County Clerk’s office; the office was listed on all of the government websites as the location for mail in ballot drop off. [Election officials] suddenly changed this at the last minute and closed that location. They even locked the doors to the office. The websites all still listed this address so there was no way for people to know where they should go. We were there from 2 p.m. until the polls were closed at 6 p.m. During that

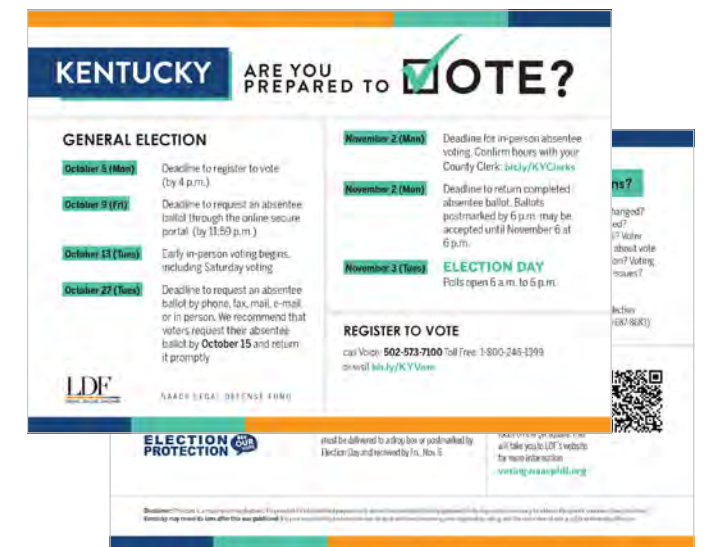
time 104 people showed up for drop off and wouldn’t have known where to go if we hadn’t been there to redirect them to another location. One woman who had showed up was angry and knocked on the doors until someone responded. She asked to speak to the county clerk. The county clerk came out and started yelling at the woman. It was very disturbing. She said it was not her responsibility that the government websites still had that location listed for drop off and would not give a clear reason regarding why they had closed it except that they didn’t have an officer to watch the drop off. I am sure they could have had one if they had wanted to.

To me, this whole incident seemed to be very strange and like voter suppression. To be clear, this was not a location for normal voting as [it] was only supposed to be for mail in ballot drop off.

—Moksha – Warren County

Next Steps and Future Advocacy

- Because so many of the issues identified included signage and poll worker education, election administration advocacy to Kentucky counties may result in improved operations in the future.
- There are legislative changes that impact voting access in Kentucky.
 - » In February of 2021, the Kentucky legislature passed legislation that prohibits the governor from changing the “manner” of an election during a declared emergency.³⁰⁴ This legislation would bar the measures that the Governor and SOS agreed to, in a bipartisan manner, to address the pandemic emergency. In future emergencies, the Governor and SOS would not be able to agree to provide early voting, super-site voting, or no excuse absentee ballot voting. For future elections, the authority to make such changes will be held by the legislature.
- » In April, the Kentucky Governor signed into law HB 574, which provides official approval for voting centers, an online portal for absentee ballot registration and three days of early voting. It will also require drop boxes, creates official recount procedures, allows for tax dollars to advocate for or against ballot questions, and mandates all voting machines to generate a paper trail for votes cast.³⁰⁵
- Because Kentucky has some of the shortest polling hours in the country, work with local partners to expand the polling closure time of 6 p.m. will be important.



304 See Ky. Rev. Stat. Ann. §39AA.100(1), amended by 2021 Kentucky Laws Ch. 197 (HB 574) (2021).

305 Alec Synder, *Kentucky Gov. Beshear signs into law bipartisan elections bill expanding voting access*, CNN (Apr. 8, 2021), <https://www.cnn.com/2021/04/07/politics/kentucky-voting-bill-signed-beshear/index.html>.

MICHIGAN + PENNSYLVANIA



A view of voting rights signs as people gather during the Count Every Vote Rally In Philadelphia at Independence Hall on Nov. 7, 2020 in Philadelphia, Pennsylvania. Photo by Bryan Bedder/Getty Images for MoveOn

Through LDF's partnership with Forward Justice and the Poor People's Campaign, we trained large numbers of volunteers who lived in Michigan and Pennsylvania to be nonpartisan poll monitors for the 2020 general election. We coordinated with Election Protection partners in both states to support the response to and resolution of issues flagged by volunteers or through the 866-OUR-VOTE hotline. As with all the states where VRD/

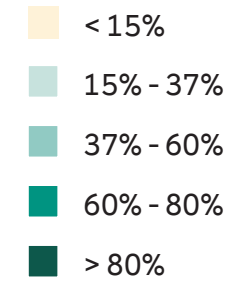
PTV worked, the poll monitors provided on the ground assistance to voters experiencing issues and resolved signage, accessibility, and other issues on the spot.

Although Michigan and Pennsylvania voters did not receive mailings from LDF, we were able to send text messages with important nonpartisan voter information and links to 179,631 voters in Michigan and 230,722 voters in Pennsylvania.

Michigan Election

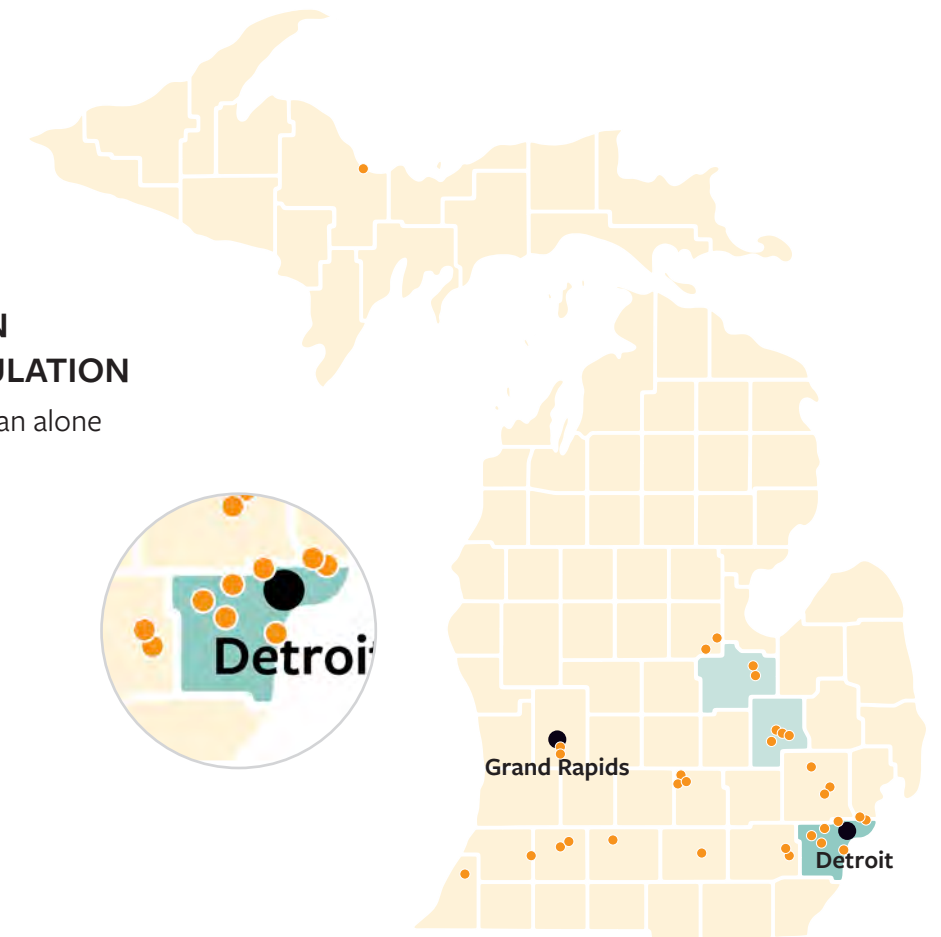
MICHIGAN CITIZEN VOTING AGE POPULATION

Black or African American alone



Poll monitor visit

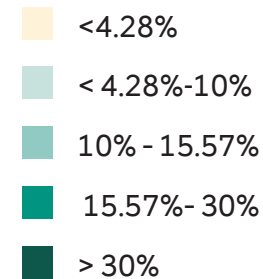
SOURCE: Citizen Voting Age Population by Race and Ethnicity (CVAP), U.S. Census Bureau



Pennsylvania Election

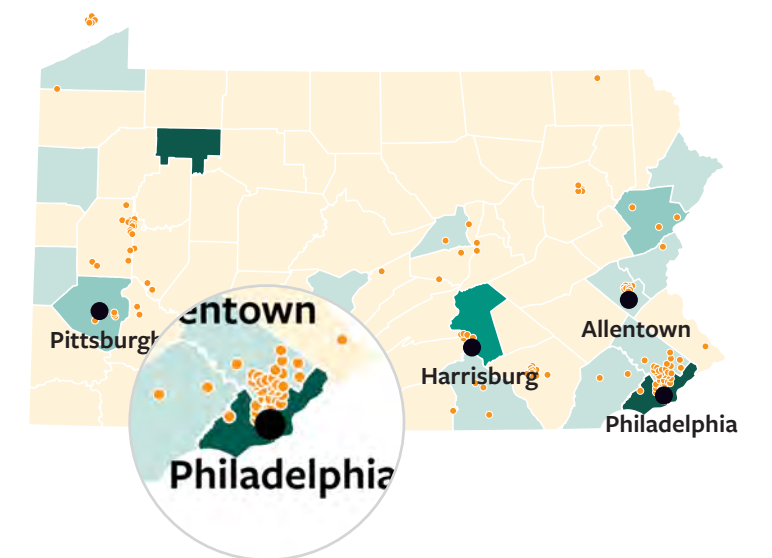
PENNSYLVANIA CITIZEN VOTING AGE POPULATION

Black or African American alone



Poll monitor visit

SOURCE: Citizen Voting Age Population by Race and Ethnicity (CVAP), U.S. Census Bureau



RECOMMENDATIONS



Volunteers help a woman find her correct polling place after being unable to locate her voter registration on Election Day at Church of Jesus Christ of latter-day Saints on Nov. 3, 2020 in Fayetteville, North Carolina. Photo by Melissa Sue Gerrits/Getty Images

As documented in this report, our democracy is fragile. It requires work. It requires people to be vigilant. To preserve American democracy, it is imperative that every citizen's right to vote becomes unassailable and that barriers to voting are eliminated. Recent events have shown how large groups of voters have become vulnerable to misinformation and disinformation, foreign manipulation, governmental suppression, and individual animus. The targets of these suppression machinations are overwhelmingly voters of color, especially Black voters. And, after the 2020 election, we have seen very disturbing activity to allow manipulation of the mechanism of counting and certifying elections in several states, raising the specter of outright election rigging in future elections.

The solution to this vulnerability is ensuring the right to vote to all, equally, and making it simple and easy to register and to vote. This necessitates implementing a variety of mechanisms to meet the needs of all citizens where we find them. Where voting eligibility rules and election resource deployment have an adverse impact on groups of individuals within the electorate, this must be addressed legislatively and administratively. This means, for example, that ID requirements must not create an impediment to registering and voting, and that polling stations must be located equitably and take account of voters' ability to access their nearest polls. A polling site located five miles from a community whose voters rely heavily on public transportation may not be equitable if that polling site is not on a bus line. With increased

voter intimidation, including the presence of armed partisans at the polls, it is imperative to provide all voters the option to vote by mail from the safety of their homes.

Federal Policy & Legislation

Congress must enact the For the People Act of 2021 (H.R. 1 passed the House on March 3, 2021 and was introduced in the Senate (S. 1) on March 17, 2021),³⁰⁶ to increase Americans' access to the ballot box by expanding early and absentee voting, establishing automatic voter registration, limiting efforts to purge voter rolls, prohibiting disinformation about elections, increasing penalties for voter intimidation, replacing partisan gerrymandering with nonpartisan commissions to draw electoral districts, restoring voting rights of formerly incarcerated individuals, and introducing new campaign finance reforms.³⁰⁷

In addition, Congress must enact the John Lewis Voting Rights Advancement Act (H.R. 4 passed by the House on August 24, 2021) to restore the Voting Rights Act preclearance provision with an updated formula and require jurisdictions with a recent record of discrimination to secure federal approval before

306 H.R. 1, 117th Cong. (2021), <https://www.congress.gov/bill/117th-congress/house-bill/1> (Introduced January 4, 2021, Passed March 3, 2021, 220 Yeas/210 Nays.). S. 1, 117th Cong. (2021), <https://www.congress.gov/bill/117th-congress/senate-bill/1/titles?q=%7B%22search%22%3A%5B%22s.1%22%5D%7D&r=1&s=3> (A bill to expand Americans' access to the ballot box, Introduced 3/17/2021.); SECTION-BY-SECTION: S1, THE FOR THE PEOPLE ACT OF 2021, Democracy Reform Task Force press release, Rep. John Sarbanes, Chair, https://www.democrats.senate.gov/imo/media/doc/SIMPLE-SECTION-BY-SECTION_S.-11.pdf

307 S. 1, 117th Cong. (2021), <https://www.congress.gov/bill/117th-congress/senate-bill/1/titles?q=%7B%22search%22%3A%5B%22s.1%22%5D%7D&r=1&s=3> (A bill to expand Americans' access to the ballot box, Introduced 3/17/2021.); SECTION-BY-SECTION: S1, THE FOR THE PEOPLE ACT OF 2021, Democracy Reform Task Force press release, Rep. John Sarbanes, Chair, https://www.democrats.senate.gov/imo/media/doc/SIMPLE-SECTION-BY-SECTION_S.-11.pdf

enacting voting law changes.³⁰⁸ In view of the growing tendency toward suppressive laws, particularly stricter ID requirements, Congress should review all state laws to determine which jurisdictions should be covered by preclearance, even if they have not been in the past.

Congress must also continue to authorize funding to support States' ability to modernize their voting equipment and recruit and fully train poll workers. States should also be required to meet minimal elections administration standards and have adequate contingency plans in place that allow voting to continue despite weather, power outages, or unforeseen events such as the coronavirus pandemic.

State Policy & Legislation

Even if legislation is enacted protecting elections when federal offices are on the ballot, state legislation may govern elections that are only focused on state and local offices. Guided by the principle that one citizen is guaranteed one vote, all states must enact state-level Voting Rights Acts to ensure the franchise is available to every citizen equally and to facilitate voter participation in elections by offering the widest range of options, including online and same-day registration, vote-by-mail, and early voting. States must also repeal discriminatory voting laws that adversely impact the ability of people of color to register and to vote.

State and local officials must utilize available federal funding to implement changes in local laws and policies that improve election administration

308 Eugene Scott, *House passes bill to strengthen Voting Rights Act in face of new restrictions in GOP-led states*, Wash. Post (Aug. 24, 2021), https://www.washingtonpost.com/powerpost/voting-rights-house-john-lewis/2021/08/24/44745b2e-04e4-11ec-a654-900a78538242_story.html.

procedures, ensuring that the voting process is as accessible and burden free as possible for all voters and to provide election security in the voting process.

Individual Voter Participation

Individual voters are the heart and backbone of our democracy. Voters have the right to demand participation in every facet of our nation's political and economic activity. African American voters, particularly, must be vigilant to ensure their right to vote is not denied, suppressed, or manipulated. This starts with engaging fully and knowledgeably in all elections, including state and local elections and elections for judges, prosecutors, law enforcement officials, school board members, all public decisions makers and ballot initiatives. Recent elections have shown the power that voters, especially African American voters, have in determining the future of our communities and our country. Voting must be a priority. Politicians need to hear the concerns of the African American community, and they must be held accountable to address those concerns. Find voting rights advocates and organizations in your area who will keep you informed, or for whom you can volunteer to ensure your community's interests are not ignored. Find candidates who reflect your concerns and values to support.

The rapid proposal of new legislation restricting voting access in states around the country and allowing partisan control of the mechanisms of elections highlights the importance of voter participation in state elections.³⁰⁹ Some statewide

and local elections occur when there are no federal elections. Voter participation rates for those elections routinely are 10 to 20% below voter participation in presidential or congressional elections.

Exercise your right to vote at every opportunity. Check to see when there will be local elections for your community and when state elections will be held. [Ballotpedia.org](https://ballotpedia.org), 866-OUR-VOTE and voting.naacpldf.org are great places to start gathering information. Long before Election Day, make sure you are registered. Make sure you have not been struck from the voting rolls. If you have been, find out why and reregister, if necessary. Contact your local elections board to determine the ID needed to register and to vote. Find out what alternatives you have if you do not have the required ID, alternative ways to confirm your identity must be made available. If voting by mail is available to you, find out how to receive a ballot and return it. If early voting is available to you, find out when and where you can cast your ballot. If voting in person, know the date of the election and the location and hours of operation of your polling place. This information can often be found on your county's or election board's website. Arm yourself with phone numbers of officials or organizations that can help you find alternatives if there is a problem voting at your designated polling site.

Then vote.

Finally, make sure your vote is counted by tracking your ballot and curing any issues that may disqualify your ballot, such as a signature mismatch.



**INDIVIDUAL
VOTERS ARE THE
HEART AND
BACKBONE
OF OUR
DEMOCRACY.**

309 State Voting Bills Tracker 2021, Brennan Ctr for Just. (published Feb. 24, 2021, last updated May. 28, 2021) <https://www.brennancenter.org/our-work/research-reports/state-voting-bills-tracker-2021>.

Individual Resident Redistricting Participation

During the redistricting process, political lines must be redrawn so that the population in each district is roughly equal in size and maps do not dilute the voting power of communities of color. Vote dilution can occur in a process called racial gerrymandering where lines are drawn in ways that split communities of color into parts that can be outvoted by other communities or pack them into as few districts as possible. Maps drawn in the upcoming redistricting cycle will determine the allocation of political power and representation at every level of government across the nation for at least the next 10 years. Where district lines are drawn may determine where you vote, whom you can vote for, and even whether your representative will listen to and understand your needs. Learn more about redistricting at voting.naacpldf.org and find clear, specific, and actionable steps that members of Black, Latino, Native American, and Asian American communities can take to protect against unfair and discriminatory redistricting plans.³¹⁰ Look for the next opportunity to attend one of our upcoming trainings. We can't wait to work with you to ensure fairer maps and a more just democracy for all.

³¹⁰ NAACP Legal Defense and Educational Fund, Inc., *Voting Rights 2021 — Redistricting*, VOTING.NAACPLDF.ORG, <https://voting.naacpldf.org/census-and-redistricting/redistricting/> (last visited Aug. 24, 2021)



Shenita Binns (L) and her daughter Ysrael Binns (2nd L) of Atlanta, Georgia, participate in a “Freedom Friday March” protest at Martin Luther King, Jr. Memorial Aug. 6, 2021 in Washington, DC. Activists continued to demonstrate for voting rights on the 56th anniversary of the signing of the Voting Rights Act and urged the US Senate “to end the filibuster so we can pass legislation to solve the urgent crises confronting our nation, voting rights, DC statehood, and reparations.” Photo by Alex Wong/Getty Images

THIS REPORT IS JUST A SNAPSHOT OF THE BARRIERS AND IMPEDIMENTS THAT GOVERNMENT AND PRIVATE ACTORS HAVE PLACED ON THE RIGHT TO VOTE AND THE HERCULEAN EFFORTS OF SO MANY THAT WERE NECESSARY TO PROTECT AND SECURE OUR DEMOCRACY IN THE 2020 ELECTIONS.



DEMOCRACY DEFENDED

CONCLUSION

As Americans, we pride ourselves on our democracy, on the promise of “one person, one vote” and that we each count equally in our political system. Although the United States has often failed to live up to this promise, it is fundamental to our democracy and a value that should be shared and pursued by all Americans. In voter turnout, the United States ranks 30th out of its peer group of 35 highly developed democratic countries.³¹¹ In a country as affluent and revered for its democracy, it is unconscionable that voters face hours long waits, limited options to mail ballots, limited options to register to vote online, burdensome ID requirements, no early voting options in some states, inaccessible voting locations, and voter intimidation and threats.

This report is just a snapshot of the barriers and impediments that government and private actors have placed on the right to vote and the Herculean efforts of so many that were necessary to protect and secure our democracy in the 2020 elections. Our recommendations identify measures to provide fair, secure, and accessible voting for all. With the 15th, 19th, and 26th Amendments, we changed the provisions of our Constitution that limited the right to vote for Black, Indigenous, female, and young persons, but we have a long way to go to ensure that all people can freely and fairly participate in the political process. It is time to realize the promise of our Constitution and truly ensure the right to vote for all.

ACKNOWLEDGEMENTS

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311 Drew DeSilver, *In past elections, U.S. trailed most developed countries in voter turnout*, Pew Res. Ctr. (Nov. 3, 2020), <https://www.pewresearch.org/fact-tank/2020/11/03/in-past-elections-u-s-trailed-most-developed-countries-in-voter-turnout/>.



Rally attendees hold signs outside of Union Station in Washington as the Poor Peoples Campaign and the Unite union hold a rally and march to protest voter suppression laws on Monday, Aug. 2, 2021. Photo by Bill Clark/CQ-Roll Call, Inc via Getty Images

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—THURGOOD MARSHALL, LDF FOUNDER

The NAACP Legal Defense and Educational Fund, Inc. is America's premier legal organization fighting for racial justice.

Through litigation, advocacy, and public education, LDF seeks structural changes to expand democracy, eliminate disparities, and achieve racial justice in a society that fulfills the promise of equality for all Americans. LDF also defends the gains and protections won over the past 80 years of civil rights struggle and works to improve the quality and diversity of judicial and executive appointments. LDF is a 501(c)(3) nonprofit organization.

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