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U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON THE JUDICIARY
SUBCOMMITTEE ON THE CONSTITUTION, CIVIL RIGHTS AND CIVIL LIBERTIES

HEARING ON
"THE NEED TO ENHANCE THE VOTING RIGHTS ACT: PRELIMINARY INJUNCTIONS,
BAIL-IN COVERAGE, ELECTION OBSERVERS, AND NOTICE"

JUNE 29, 2021

I. Introduction

Subcommittee Chairman Cohen, Vice Chair Ross, Ranking Member Johnson, and Members of the Subcommittee, my name is Helen Butler and I am the Executive Director of the Georgia Coalition for the People's Agenda ("PEOPLE'S AGENDA").

The PEOPLE'S AGENDA is a non-partisan, non-profit organization founded by the late Reverend Dr. Joseph E. Lowery and it is comprised of a coalition of representatives from civil rights, human rights, peace and justice organizations, and concerned citizens of the State of Georgia. The PEOPLE'S AGENDA is based in the greater Atlanta metro area, but we have members located throughout the entire State of Georgia who help to advance our mission and achieve our organizational goals. Our mission seeks to improve the quality of governance in Georgia, create a more informed and active electorate, and ensure responsive and accountable elected officials. A significant focus of our work is on voter empowerment and ensuring equal access to the ballot for eligible Georgians of color and under-represented communities. Our voter empowerment work includes providing voter registration assistance with a focus on education and mobilization, at Historically Black Colleges and Universities (HBCUs), high schools, naturalization ceremonies, and community events, conducting town hall meetings and candidate forums to provide opportunities to learn about candidate positions and engage in dialogues, operating a "Get Out the Vote" campaign in central locations throughout the state to encourage voter turnout, running our Election Protection Project which informs voters of their rights and provides immediate relief for problems encountered on or before Election Day, and managing our "Vote Connection Center" which provides training and technical assistance to nonprofit organizations and individuals through effective issue campaign organizing and civic engagement.

The PEOPLE'S AGENDA has always been dedicated to fighting for the voting rights of Georgia's citizens through public education, training, advocacy, and litigation. We have been forced to spend even more time and resources fighting discriminatory voting laws, policies, and practices at the state and local levels in the wake of the Supreme Court's 2013 decision in *Shelby County v. Holder* due to the lack of the preclearance process and consequent loss of advance notice of voting changes that discriminate against Black voters and other voters of color.

Today, I will provide you with some examples of barriers to the ballot faced by voters of color in Georgia since the Shelby County decision and the loss of Section 5 preclearance, demonstrate how my organization and others have been forced to divert significant time and resources to monitoring and responding to voting changes which deny Black Georgians and other Georgians of color an equal opportunity to participate in the political process, and explain why we need to restore the full protections of the Voting Rights Act, including its preclearance provisions, by enacting the John Lewis Voting Rights Advancement Act.

II. Georgia Senate Bill 202 (Enacted on March 25, 2021)

In the last two decades, the Georgia electorate has undergone significant demographic changes, with the percentage of Black voters and other voters of color increasing. As demonstrated by election analyses, Black voters and voters of color usually provide strong support to Democratic candidates in Georgia. These demographic changes and voting patterns

have resulted in corresponding political changes in the state, including during the 2020 election cycle when Georgia elected its first Democratic presidential candidate since 1996, Joseph R. Biden, and its first Black United States Senator, Reverend Raphael Warnock.

Instead of welcoming the increasing diversity of Georgia's electorate and respecting the votes cast by Black voters and other voters of color, Georgia's conservative legislators' immediate response was to introduce a host of voter suppression bills in both the Georgia House and Senate during the 2021 legislative session.

The bills were rushed through committees, often with little or no time for members of the committees - much less the general public - to review the final versions of the bills before they were voted upon. In fact, in some of the committee hearings, the chair would announce proposed revisions to bills without circulating the amendments in writing for the public and other legislators to be able to evaluate how proposed changes modified the existing language of the bills. This process, with virtually no real transparency nor bipartisan support, culminated in the passage of an omnibus voter suppression bill, Senate Bill 202, the "Election Integrity Act of 2021" ("SB 202"), on March 25, 2021.¹

This bill started out in the Senate Ethics Committee as a two-page stand-alone bill placing restrictions on the sending of absentee ballot applications to voters which blew up to 98 pages after it crossed over to the House. The very same day the General Assembly passed SB 202, Governor Brian Kemp swiftly signed the bill into law in the presence of six White men² in front of a painting of the Callaway Plantation - the site of a former cotton plantation where over one hundred enslaved Black people served its owners.³ Park Cannon, a Black member of the Georgia House of Representatives, was arrested, handcuffed, and removed from the Capitol by police after knocking on the door to the room where Governor Kemp signed SB 202 into law, in an effort to witness the bill signing. Although she was initially charged with two felonies, the Fulton County District Attorney later declined to prosecute Representative Cannon for any alleged crimes.⁴

¹ Georgia SB 202 as passed on March 25, 2021 (online at <https://www.legis.ga.gov/api/legislation/document/20212022/201498>).

² Stephen Fowler, *Kemp Signs 98-Page Omnibus Elections Bill*, Georgia Public Broadcasting, March 25, 2021. (online at <https://www.gpb.org/news/2021/03/25/kemp-signs-98-page-omnibus-elections-bill>).

³ Will Bunch, *Georgia governor signed a voter suppression law under a painting of a slave plantation*, Philadelphia Inquirer, March 26, 2021. (online at <https://www.inquirer.com/opinion/georgia-governor-brian-kemp-painting-slave-plantation-20210326.html>).

⁴ Blayne Alexander and Dareh Gregorian, *Ga. lawmaker Cannon won't face prosecution for knocking on gov's door during bill signing*, NBC News, April 7, 2021. (online at <https://www.nbcnews.com/politics/elections/ga-lawmaker-cannon-won-t-face-prosecution-knocking-gov-s-n1263338>).

In an apparent nod to the efforts of former President Trump and his allies to falsely claim the presidential election was “stolen” from him in Georgia as a result of massive voter fraud, the preamble to SB 202 asserts, among other things, that the overhaul of Georgia’s election procedures was necessary due to a significant lack of confidence in Georgia’s election systems, with many electors concerned about allegations of rampant voter suppression and allegations of “rampant voter fraud.”⁵ The preamble also asserts the law was designed to “address the lack of elector confidence in the election system,” reduce the burden on election officials, and streamline the process of conducting elections by promoting uniformity in voting.⁶ The law does nothing of the kind.

Instead, with almost surgical precision, SB 202 targets the methods of voting increasingly being used by Black voters and voters of color with arbitrary and unnecessarily burdensome requirements that will disenfranchise voters and potentially expose non-profit civic engagement organizations, such as the PEOPLE’S AGENDA, to large fines and criminal penalties for providing assistance to voters who will now need to navigate the law’s complicated procedures. SB 202’s discriminatory changes include:

(1) Onerous and arbitrary absentee ballot application and ballot ID requirements that weigh more heavily on Black voters, other votes of color, and lower income voters who do not have a Georgia driver’s license or state ID number. If a voter does not have a Georgia driver’s license or state ID number to put onto their absentee ballot applications, they must include a copy of another form of acceptable ID with the absentee ballot application and, if they do not have a Social Security number, they must include a copy of the ID when returning the voted ballot.⁷ T must be done for each election in an election cycle, including each primary, general, special, and runoff election.

Since voters cannot use an identification number from the so-called “free” voter ID card that Georgia voters may apply for if they do not have a Georgia driver’s license or state ID card when applying for an absentee ballot or returning the ballot under the new law, voters would need to submit copies of the “free” voter ID under the law when applying for an absentee ballot or when returning their voted ballot.

Black voters and other voters of color are proportionately less likely to have computers in their homes and suffer from significantly higher rates of poverty than White voters. Without the technology to scan, print, fax, or email these multiple copies of ID documents in the home, these voters will face undue and disparate burdens on their ability to vote by mail. This burden is amplified because the law also criminalizes the “handling” of absentee ballot applications by third parties with few exceptions for those who assist voters in navigating these new requirements, including if they help the voter scan or copy the completed application and ID

⁵ SB 202, Section 2.

⁶ *Id.*

⁷ *See* SB 202, Sections 25, 27 and 28.

documents or try to help them fax or email the application and ID documents to election officials.⁸

If voters without a Georgia driver's license or state ID card do not include copies of alternative ID documents with their absentee ballot applications, the applications will be rejected. If voters fail to provide the copies of the ID documents when they return the voted ballot, they will be required to produce a form of acceptable ID to the county registrar within three days of the election in order for their absentee ballot to count.⁹

(2) Prohibiting public agencies and public employees from sending unsolicited absentee ballot applications to voters - something that the Georgia Secretary of State did when he sent unsolicited absentee ballot applications to all of Georgia's active voters ahead of the June 2020 primary elections - and which a number of County Registrars offices did in previous election cycles to encourage absentee voting and voter turnout.¹⁰

(3) Criminalizing the "handling" of any completed absentee ballot application by anyone other than the voter (with a few exceptions), which would even prevent a voter who does not have access to a fax machine or scanner from receiving help from the PEOPLE'S AGENDA or other non-profit civic engagement groups in faxing or scanning the completed application so that it can be submitted electronically to election officials unless we are providing assistance to a disabled voter.¹¹

(4) Subjecting private individuals and non-public entities, including the PEOPLE'S AGENDA and other non-profit civic engagement organizations attempting to assist voters with absentee voting, to potentially large fines for sending absentee ballot applications to voters unless we check the Secretary of State's data files in advance to determine whether a voter has already requested an absentee ballot application, returned the application or voted an absentee ballot.¹²

Even if the voter requested an absentee ballot application from their county registrar and it was never received or the voter submitted an application and never received their ballot, PEOPLE'S AGENDA and other non-profit civic engagement organizations would run the risk of being fined if we sent another application to that voter. The law also requires the PEOPLE'S AGENDA and other groups and individuals to use the official absentee ballot applications from the Secretary of State's office when sending ballot applications to voters, but we must provide a

⁸ *Id.*

⁹ *Id.*

¹⁰ *See* SB 202, Section 25.

¹¹ *Id.*

¹² *Id.*

confusing disclaimer that the application was not being sent by a public entity or public official.¹³

(5) Prohibiting persons other than the voter from touching or handling a completed absentee ballot applications unless the voter is disabled, which would even preclude a voter asking the PEOPLE'S AGENDA, a friend, neighbor or other non-profit civic engagement organizations to fax their application to the registrar's office because they do not have access to a fax machine and limits the return of ballot applications, as well as absentee ballots, to close relatives, housemates or, in the case of disabled voters, a caretaker.¹⁴

(6) Delaying and compressing the time during which a voter can request or submit an absentee ballot and shortening the time when a runoff election takes place to 28 days after the original election which will consequently and substantially shorten the voter registration period and early voting period for runoff elections.¹⁵

(7) Giving county registrars unfettered discretion to limit early voting hours from 9 a.m. to 5 p.m. and to entirely eliminate Sunday early voting,¹⁶ thereby making it difficult for voters who work, go to school or have other obligations during the work day to be able to access early voting and leading to the elimination of Sunday early voting in some counties despite its popularity with Black voters and other voters of color who conduct "Souls to the Polls" get out the vote campaigns involving Black Churches and other faith organizations following Sunday services.¹⁷

(8) Severely restricting the number of, and access to, absentee ballot drop boxes, which were heavily used by Georgians in the 2020 election cycle and were a more secure and reliable method of returning absentee by mail ballots than through the U.S.P.S mail boxes. Under the new law, drop boxes must be inside early voting locations and will be available only during the days and hours when early voting is taking place, thereby making them unavailable to voters who cannot vote during early voting hours due to work, school, or other obligations during the day. Additionally, counties are limited to having one drop box per 100,000 registered voters, which substantially limits the total number of drop boxes for each county.¹⁸

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *See* SB 202, Section 42.

¹⁶ *See* SB 202, Section 28.

¹⁷ In 2018, conservatives in the legislature attempted to eliminate Sunday early voting in House Bill 363. However HB 363 died in the wake of negative media attention and advocacy by the PEOPLE'S AGENDA and other civic engagement and civil rights organizations. *See* Kira Lerner, UPDATED: Georgia bill that would eliminate Sunday voting and suppress black turnout fails, Think Progress, March 16, 2018. (online at <https://thinkprogress.org/georgia-sunday-voting-cut-9c1c2ffafd18/>).

¹⁸ *See* SB 202, Section 26.

(9) Disenfranchising out-of-precinct voters by arbitrarily prohibiting any out-of-precinct voting before 5:00 p.m. on Election Day and allowing only limited out-of-precinct voting after 5:00 p.m. for voters who go to the incorrect polling place in the county where they are registered to vote and swear out an affidavit that they cannot get to their correct polling location before the close of the polls at 7:00 p.m.¹⁹ This change penalizes voters who do not receive timely or adequate notification of their polling locations and ignores the fact that Black voters and other voters of color have been disproportionately impacted by polling place closures and change in the wake of the Shelby County decision that often result in voters going to the wrong polling place on Election Day.²⁰

(10) Targeting jurisdictions with large populations of Black voters and other voters of color by stripping the Secretary of State of his vote on the State Election Board, replacing the Secretary of State with a voting member appointed by the General Assembly, and granting the State Election Board the power to effectively take over county Boards of Election.²¹

(11) Encouraging “unlimited” voter challenges on the eve of elections by other electors in the same county as the challenged voters.²² True the Vote, along with Republican party operatives, led a campaign in numerous Georgia counties to challenge more than 364,000 registered Georgia voters for alleged address changes ahead of the January 2021 U.S. Senate runoff elections with little to no evidence showing the voters were not eligible to vote, substantially burdening election officials who were in the midst of preparing for and administering the elections.²³ SB 202 now codifies these types of mass voter challenges into Georgia law, regardless if there is any evidence supporting them and forces elections officials to conduct hearings within ten days of every challenge, with only three days’ notice by mail of the hearings to challenged voters.

(12) Criminalizing the act of providing water and food to persons within 150 feet of a polling place or within 25 feet of any voters waiting in line waiting in line to vote,²⁴ despite Georgia’s history of forcing voters to wait in hours’ long lines at polling locations

¹⁹ See SB 202, Section 34.

²⁰ Stephen Fowler, *Why Do Nonwhite Georgia Voters Have To Wait In Line For Hours? Too Few Polling Places*, Georgia Public Broadcasting, October 17, 2020. (online at <https://www.npr.org/2020/10/17/924527679/why-do-nonwhite-georgia-voters-have-to-wait-in-line-for-hours-too-few-polling-pl>).

²¹ See SB 202, Sections 3, 5-7, 12.

²² See SB 202, Section 15.

²³ Mark Niese, *Eligibility of 364,000 Georgia voters challenged before Senate runoff*, Atlanta Journal-Constitution, December 22, 2020. (online at <https://www.ajc.com/politics/eligibility-of-364000-georgia-voters-challenged-before-senate-runoff/3UIMDOVRFVERXOJ3IBHYWZBWYI/>).

²⁴ See SB 202, Section 33.

- particularly in areas serving Black voters and voters of color which have been disproportionately impacted by polling place closures.²⁵

(13) Prohibiting the use of mobile voting units,²⁶ such as the two mobile units purchased by Fulton County for \$750,000 and deployed to alleviate overcrowded polling places and long lines, unless the Governor declares an emergency and they are used to supplement the capacity of the polling place where the emergency circumstance occurred.²⁷

This massive voter suppression law fully goes into effect on July 1, 2021. The first elections scheduled to take place under the new law occur on July 13, 2021. As of June 25, 2021, the Georgia State Election Board has not notified the public about the start of any official rulemaking process to adopt rules necessary for the implementation of all these voting changes. There have also been no scheduled Election Board meetings on the calendar since April 28, 2021.

This law is a prime example of why we need to restore the full protections of the Voting Rights Act, including the John Lewis Voting Rights Advancement Act, to ensure voters of color are not subjected to discriminatory, arbitrary and unreasonably burdensome barriers to the ballot box before these laws go into effect.

III. Legislative Reconstitution of County Boards of Election and the Removal of Black Board Members

During the 2021 legislative session, conservative members of the General Assembly also waged war against selected counties' Boards of Elections in an effort to purge Black board members. Morgan County, where I served as a member of the Board of Elections since 2010 and was a staunch advocate for voting rights and fair elections, is one of the Boards of Election that conservatives reconstituted by giving control over all appointments to the Republican controlled Board of County Commissioners. This resulted in my recent removal as a Board Member, along with a second Black Board Member, Avery Jackson.²⁸ See HB 162.²⁹

The General Assembly also targeted the Troup County Board of Elections, which was reconstituted with the enactment of HB 684.³⁰ As a result of this bill, long-time Black Board

²⁵ Stephen Fowler, *Why Do Nonwhite Georgia Voters Have To Wait In Line For Hours? Too Few Polling Places*, Georgia Public Broadcasting, *supra*.

²⁶ See SB 202, Section 20.

²⁷ Ben Brasch, *Want to vote in Fulton's fancy new mobile voting bus? See the schedule*, (online at <https://www.ajc.com/news/atlanta-news/want-to-vote-in-fultons-fancy-new-mobile-voting-bus-see-the-schedule/OXPVK4Y3ENAIKROMYA43673ZLM/>), Atlanta Journal-Constitution, October 19, 2020.

²⁸ Nick Corasaniti and Reid J. Epstein, *How Republican States Are Expanding Their Power Over Elections*, New York Times, June 19, 2021. (online at <https://www.nytimes.com/2021/06/19/us/politics/republican-states.html>).

²⁹ Georgia House Bill 165. (online at <https://www.legis.ga.gov/api/legislation/document/20212022/197812>).

³⁰ Georgia House Bill 684 (2021). (online at <https://www.legis.ga.gov/api/legislation/document/20212022/200601>).

Member, Lonnie Hollis will be ousted. Ms. Hollis advocated for Sunday voting as well as a new precinct location at a Black church in a nearby town.³¹

The Spalding County Board of Elections was also targeted in the 2021 legislative session. The Board was reconstituting with the enactment of HB 769.³² The fifth member of the Board of Elections will be replaced with a candidate chosen by a majority of the Spalding County Superior Court Judges.³³ Formerly, the fifth member was chosen in a bipartisan manner by the two Republican and two Democratic members of the Board of Elections.³⁴ Currently, all of the Spalding County Superior Court Judges are White males. It is likely that at least one of the two Black Spalding County Board Members will lose their seat and that the new Board will terminate the County's Black election supervisor, Marcia Ridley.

The PEOPLE'S AGENDA is continuing to investigate the reasons why several other Boards of Elections were reconstituted in the past legislative session, including Carroll, Lincoln, Pickens, and Stephens and whether these changes were racially motivated.

IV. Redistricting

The 2021 redistricting cycle in Georgia will be the first redistricting cycle after the release of decennial Census data in the state in many years that will take place without the full protections of Section 5 of the Voting Rights Act.

The PEOPLE'S AGENDA fully expects that conservatives in the Georgia legislature will continue engaging in a secretive, backdoor map drawing process that provides little to no transparency. While the Joint Committee on Legislative and Congressional Reapportionment scheduled a series of Town Hall meetings for the public to submit comments prior to the release of the legacy and final Census data, the Joint Committee does not intend to respond to any questions from the public and there are no current plans to provide any meaningful opportunities for the public to participate in the fair drawing of districts after the release of the legacy and final Census data.

In fact, Representative Bonnie Rich, one of the Co-Chairs of the Committee, said during a June 15th Town Hall that the Committee was not sure whether they would even continue to hold public meetings after the final Census data is released,³⁵ which will prevent members of the

³¹ *How Republican States Are Expanding Their Power Over Elections, supra.*

³² Georgia House Bill 769 (2021) (online at <https://www.legis.ga.gov/api/legislation/document/20212022/201683>).

³³ *Id.*

³⁴ See Code of Spalding County, Section 5.102, Georgia House Bill 657, § 1, 2-28-03) (online at https://library.municode.com/ga/spalding_county/codes/code_of_ordinances?nodeId=DIVILALOAP_PTVBOCOA_U_CH6BOEL_S5.102ME).

³⁵ YouTube Video Recording of the June 15, 2021 Joint Committee on Legislative and Congressional Redistricting. (online at <https://www.youtube.com/watch?v=Pk-fJxgYeUk>).

public and their advocates, including the PEOPLE’S AGENDA, from reviewing and commenting on the legislature’s proposed maps before they are adopted and signed into law. This is unacceptable and raises serious concerns that the delays in the release of the Census data will be used as a pretext to deny members of the public an opportunity to advocate against racially gerrymandered maps and plans that dilute the voting strength of Black voters and other voters of color.

Following the Shelby County decision, conservatives in the Georgia legislature introduced two mid-decade redistricting bills which sought to reduce the percentage of the Black population in Republican held districts that were starting to become more competitive. For example, during the 2015 legislative session, the conservative-led General Assembly passed House Bill 566, which included redistricting plans for House Districts 105 and 111, when the racial demographics of those districts were changing with increasing percentages of minority population. Governor Deal signed the redistricting plans into law on May 12, 2015.³⁶ The Georgia State Conference of the NAACP, along with individual voters in Districts 105 and 111, filed a lawsuit challenging those redistricting plans as unconstitutional racial gerrymanders.³⁷ The Plaintiffs filed a motion for preliminary injunction to enjoin elections under the gerrymandered plans.

Although the three-judge panel assigned to the case denied the Plaintiffs’ motion, finding that it fell short of meeting the high threshold for obtaining preliminary injunctive relief, the majority of the three-judge District Court panel found the Plaintiffs’ evidence that race predominated the redistricting process to be “compelling” and noted that the whole idea of redistricting House Districts 105 and 111 arose amidst talk about the changing demographics in Gwinnett and Henry Counties.³⁸ The District Court’s majority panel decision also highlighted an email noting that the redistricting plan reduced the percentage of Black population in House District 105 by two percentage points, which the stakeholders considered to mean they had accomplished their goal.³⁹

Only two years later, and in the wake of Hillary Clinton winning eight of ten counties in the Metro Atlanta area in the 2016 presidential contest, conservative members of the Georgia House of Representatives introduced HB 515⁴⁰ during the 2017 legislative session which sought to strengthen two Republican Metro Atlanta districts, including House District 105 which had already been subject to mid-decade redistricting in 2015. The proposed plans involved decreasing the Black population in those districts to make them more competitive for Republicans. After this effort to racially gerrymander these House districts received significant

³⁶ See, legislative history of Georgia HB 566 (2015) on the Georgia General Assembly’s website. (online at <https://www.legis.ga.gov/legislation/44463>).

³⁷ See, *Georgia State Conf. of NAACP v. Georgia*, 312 F. Supp. 3d 1357 (N.D. Ga. 2018).

³⁸ *Georgia State Conf. of NAACP*, *supra* at 312 F. Supp. 3d 1364-65.

³⁹ *Id.* at 312 F. Supp. 3d 1365.

⁴⁰ Georgia House Bill 515 (2017) (online at <https://www.legis.ga.gov/api/legislation/document/20172018/169340>).

negative local and national media attention⁴¹ and staunch opposition from individual voters, the PEOPLE’S AGENDA, other civic engagement groups and voting rights experts, the proposed redistricting of the two House districts in HB 515 was eventually withdrawn.

Given the history of unconstitutional racial gerrymandering and efforts to dilute the voting strength of Black voters and other voters of color by white conservatives in the Georgia General Assembly, the PEOPLE’S AGENDA is very concerned about the potential for a repeat of these tactics during the 2021-2022 redistricting cycle in Georgia - particularly in the absence of preclearance of the redistricting plans by the Department of Justice.

V. Voter Purges at the State and Local Levels in Georgia

Georgia Secretary of State, Brad Raffensperger, recently announced that his office identified over 100,000 Georgia registered voters who have been targeted for removal from the official voter registration list because of alleged address changes, mail returned to election offices and inactivity on the part of the voter.⁴²

In a 2018 report, the Brennan Center for Justice found that states previously covered by Section 5 of the Voting Rights Act had shown significant increases in the numbers of voters purged from the voter registration rolls post-Shelby. In fact, the report found that Georgia purged approximately twice as many voters (1.5 million) between 2012 and 2016 than the state purged between 2008 and 2012. While many of these purges are attributable to the state’s “use it or lose it” law that targets voters for removal after a period of inactivity, local county boards of election have also played an active, and sometimes unlawful and discriminatory role, in the purging of voters of color from the from the registration rolls to suppress the vote.

One of the most notorious post-Shelby purge cases at the local level in Georgia involved the removal of Black voters from the voter registration rolls by the majority white Hancock County Board of Elections and Registration during the summer and fall of 2015 before a hotly contested municipal election in the City of Sparta in which white candidates challenged long-term Black incumbents. All but two of the challenged voters were Black. The challenge proceedings resulted in the removal of 53 voters from the voter registration list. Many more eligible voters were threatened with removal from the rolls even though they were properly registered to vote in the county.

After time-consuming and expensive litigation, the parties eventually agreed to resolve the case with a consent order in which illegally purged voters were restored to the registration rolls, the board agreed to implement reforms to its purge processes, an independent “examiner”

⁴¹ See, e.g., Mark Joseph Stern, *Georgia Republicans Pass Racial Gerrymander to Kick Black Voters Out of GOP Districts*, Slate, March 7, 2017; Kristina Torres, *House Republicans back off redrawing some district lines in Georgia*, Atlanta Journal Constitution, March 24, 2017. (online at <https://www.ajc.com/news/state--regional-govt--politics/house-republicans-back-off-redrawing-some-district-lines-georgia/v0mnaGrqeuZlH0t0WZXIN/>).

⁴² Brad Raffensperger, *Secretary Raffensperger Takes Action To Uphold Ballot Integrity With Major List Maintenance Effort*, Georgia Secretary of State’s website. (online at https://sos.ga.gov/index.php/elections/secretary_raffensperger_takes_action_to_uphold_ballot_integrity_with_major_list_maintenance_effort).

was appointed by the Court to monitor the board’s compliance with the consent order, and the Court retained jurisdiction over the matter for a period of five years.

Since the Hancock County matter, the PEOPLE’S AGENDA has learned about other efforts made to purge voters improperly from the voter registration rolls in Laurens and DeKalb Counties. The PEOPLE’S AGENDA has been forced to divert time and resources to the investigation of these purges and the DeKalb County matter is currently in litigation.⁴³

VI. Polling Place Closures and Changes

In the aftermath of the Shelby County decision in 2013, many of Georgia’s county boards of election proposed or took action to close, consolidate or move polling locations—oftentimes in areas primarily serving voters of color and in underrepresented communities.

In fact, while Georgia added almost 2 million voters to its voter registration rolls since 2013, the total amount of polling places statewide decreased by 10 percent according to a joint report by Georgia Public Broadcasting, National Public Radio and ProPublica.⁴⁴ By June 2020, the report found “Georgia voters had 331 fewer polling places than in November 2012, a 13% reduction.”⁴⁵ This report also found stark racial disparities in the decrease in polling locations in Black neighborhoods which have translated into long lines and delays at the polls. The report found that approximately two-thirds of the polls that had to stay open past the 7:00 p.m. poll closing time in the June 9, 2020 primary were in majority Black neighborhoods.⁴⁶

The PEOPLE’S AGENDA anticipates that the efforts to close and change polling locations is likely to continue, especially in light of the campaign by the legislature in 2021 to reconstitute county Boards of Election and remove Black Board members.

In fact, a recent Albany Herald article reported that as early as June 28, 2021, the Dougherty County Board of Elections could consider a proposal to close 10 of the county’s 28 polling locations, purportedly due to low turnout in last November’s general election⁴⁷ - ignoring the impact of the COVID-19 pandemic on in-person voting, with many voters choosing to vote by mail in the 2020 election cycle, and the likely increase in long lines and delays at the polls due to the burdensome changes to absentee by mail and early voting as a result of the enactment of SB 202.

⁴³ Georgia State Conf. of Natl. Assn. for Advancement of Colored People v. DeKalb County Bd. of Registration and Elections, 484 F. Supp. 3d 1308 (N.D. Ga. 2020).

⁴⁴ *Why Do Nonwhite Georgia Voters Have to Wait in Line for Hours? Too Few Polling Places*, Georgia Public Broadcasting, *supra*.

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ Tim Wesselman, *Local precinct closings considered*, Albany Herald, June 19, 2021. (online at https://www.albanyherald.com/opinion/tim-wesselman-local-precinct-closings-considered/article_32ebe7c4-d121-11eb-ac14-33aa22a50d98.html).

The Albany Herald article states that:

The 10 precincts Stubbs said the board could consider closing received 60 percent of the Dougherty County votes cast for then-Democratic presidential challenger Joe Biden (who later thanked African Americans for their strong support) in 2020, according to elections records. There are 12 precincts that had more than 500 election-day voters that should not be consolidated, Stubbs said. Records show these 12 stations received more than 75 percent of the county's votes for then incumbent Republican President Trump in 2020.⁴⁸

Since the Shelby County decision, PEOPLE'S AGENDA and other civic engagement organizations have been forced to devote a significant amount of time and resources to monitoring proposals to close, consolidate or move polling locations across the state's 159 counties. Our work dealing with these polling place changes has included issuing public records requests for county boards of election minutes and agendas, sending staff and coalition members to observe and make comments at boards of election meetings, submitting written objections to proposals to close or change polling locations, and organizing rapid response actions with community members who are impacted by these changes.

In the aftermath of the Shelby County decision and in the absence of preclearance, we often have little or no reasonable advance notice of these polling place changes, there has been a lack of transparency in the stated rationales for these changes in minority communities, and we are often forced to turn our attention toward organizing a rapid response in an attempt to stop or ameliorate these changes while juggling our other important organizational initiatives and priorities.

The PEOPLE'S AGENDA discovered the proposed plan to close 10 of 28 polling locations through the aforementioned Albany Herald article. Notably, the Dougherty County Board of Elections does not publish its minutes or agendas on its website, making it difficult for the public to learn about plans to close polls or other changes in advance of the changes becoming final.

Prior to the Shelby County decision, county boards of election were required to submit polling place and voting precinct changes to the Department of Justice ("DOJ") for preclearance to ensure that the changes did not retrogress the ability of minority voters to elect candidates of their choice. The preclearance process prevented many of these changes from taking effect and acted as a deterrent to the adoption of such changes.

While the PEOPLE'S AGENDA and our state partners have achieved some success in stopping or ameliorating the scope of some polling place changes post-Shelby, we have been unable to prevent them all from taking effect. Some of the additional post-Shelby efforts to close, consolidate or move poll locations by county boards of elections in Georgia have included, but are not limited to:

⁴⁸ *Id.*

- A proposal to close all but two polling places in Randolph County, which would have disproportionately impacted voters of color and suppressed the minority vote in this economically challenged, rural county, was tabled after the PEOPLE'S AGENDA and other advocacy groups organized community opposition to the plan;
- A proposal to eliminate all but one of the City of Fairburn polling places, even though the number of polling places had been increased in recent years because of long lines on Election Day, was rescinded following advocacy efforts by the PEOPLE'S AGENDA and other groups;
- A proposal to eliminate all but one of Elbert County precincts and polling locations to the detriment of voters of color in a rural county with no robust public transit service was rescinded after opposition by advocacy groups and voters;
- The PEOPLE'S AGENDA and other groups have led advocacy efforts to oppose polling place and precinct changes in Fulton County in the wake of Shelby with some success;
- A proposal to close 2 of 7 precincts and polling places in Morgan County after the county previously reduced the number of polling locations from 11 to 7 in 2012, was rejected after the board considered opposition to the plan by the PEOPLE'S AGENDA.
- A proposal to reduce the number of precincts and polling locations from 36 to 19 in Fayette County was tabled in the face of opposition by the PEOPLE'S AGENDA, other civic engagement groups and voters;
- A proposal to consolidate all polling locations to a single location in Hancock County, a majority-Black, economically challenged, rural county with no regularly scheduled public transit, was tabled after the PEOPLE'S AGENDA, other civic engagement groups and voters organized against the proposal;
- A proposal to eliminate 20 of 40 precincts and polling locations in majority-Black and economically challenged neighborhoods in Macon-Bibb County was scaled back as a result of advocacy efforts by the PEOPLE'S AGENDA and other civic engagement groups; and,
- A proposal by the Macon-Bibb County Board of Elections to move a polling location in a majority-Black precinct from a public gymnasium to a Sheriff's Office was defeated only after 20% of the registered voters in the precinct signed a petition opposing the move.

Consequently, we often have to devote even more time and resources to assist voters impacted by these changes. Since polling place closures and relocations are not always widely publicized by county boards of election, voters often show up to vote on Election Day at their

former polling place and are surprised to learn that the poll has moved. In light of the changes made to out-of-precinct voting by SB 202, voters who show up to the incorrect polling location on Election Day before 5 p.m. will be disenfranchised if they cannot vote at their correct polling location before it closes. Voters who arrive after 5 p.m. will have to sign a sworn statement that they cannot get to their correct poll by close of the poll or will be required to go to their correct poll to cast their ballot.

Voters who are used to walking to their polling place and learn on Election Day that the poll has been moved several miles away may be unable to travel to the new poll that day, especially if there is no accessible public transit. Some voters may have other commitments with their jobs, childcare or other responsibilities which prevent them from spending more time traveling to the new polling location and, as a result, it is foreseeable that eligible voters will be disenfranchised by poll closures, such as those being proposed by the Dougherty County Board of Elections.

Therefore, it is critically important that Congress restore the preclearance provisions of the Voting Rights Act to ensure that the increasingly partisan Boards of Election are not allowed to close and change polling locations to disenfranchise votes in order to achieve a partisan result.

VII. Georgia's Flawed Voter Registration Citizenship Match

The PEOPLE'S AGENDA, voters and advocates were forced to litigate multiple lawsuits over the past eleven years challenging various iterations of the state's "exact match" voter registration process that was demonstrated to prevent Georgia's eligible people of color from completing the voter registration process.⁴⁹ In fact, just prior to the 2018 mid-term election, the Associated Press reported that there were more than 53,000 voter registration applications on hold because of Georgia's "exact match" process—the vast majority of which had been submitted by Georgians of color.⁵⁰

While the legislature and Governor Kemp finally abandoned the exact identity match requirement, which prevented applicants from completing the registration process unless there was an exact match of their name, date of birth, Georgia driver's license or Social Security number listed on their voter registration form with the state's Department of Driver's Services or Social Security records, they have done nothing to remedy the routine flagging of Georgia's United States citizens as potential non-citizens because of the state's continued use of outdated citizenship records in the voter registration process. The PEOPLE'S AGENDA and other civic engagement organizations believe that the state's refusal to reform the deficient citizenship match process has more to do with the current anti-immigrant mood within certain segments of Georgia's state government and legislature than with any legitimate rationale that this process is

⁴⁹ See *Morales v. Handel*, Civil Action No. 1:08-CV-3172, 2008 WL 9401054 (N.D.Ga. 2008); *Georgia State Conference of the NAACP v. Kemp*, Civil Action No. 2:16-cv-00219-WCO (N.D.Ga. 2016); *Georgia Coalition for the People's Agenda v. Kemp*, 1:18-CV-04727-ELR (N.D. Ga. 2018).

⁵⁰ Ben Nadler, Voting rights become a flashpoint in Georgia governor's race, AP, October 9, 2018. (online at <https://www.apnews.com/fb011f39af3b40518b572c8cce6e906c>.)

warranted to prevent non-citizens from registering to vote—particularly when the process relies on outdated citizenship data that does not reflect current information about the citizenship of the applicants.

As a result, the deficient and discriminatory citizenship match process has been allowed to continue, delaying or preventing Georgians who are United States citizens from completing the voter registration process. The PEOPLE’S AGENDA will be forced to continue to divert time and resources to the litigation challenging this process for the foreseeable future in the absence of preclearance.

VIII. Conclusion

Despite the assault on minority voting rights in Georgia by conservatives in the Georgia General Assembly and by statewide office holders, the PEOPLE’S AGENDA and our sister organizations will continue our important work to protect the vote, eliminate barriers to the ballot box, and to ensure equal participation in the political process for Georgians of color and underrepresented communities. However, we are extremely concerned about the voting landscape in Georgia following the enactment of the omnibus voter suppression law, SB 202, the ongoing efforts to politicize Georgia’s County Boards of Election, efforts to close polling locations serving majority minority communities and the upcoming redistricting cycle without the full protection of the Voting Rights Act and hope that Congress will pass legislation to ensure that all eligible Georgia citizens who wish to cast a ballot will be able to do so and that their ballots will be counted.

APPENDIX I

Biography of Helen Butler



Helen serves as Executive Director of the Georgia Coalition for the Peoples' Agenda, a non-profit, non-partisan organization comprised of representatives from the human rights, civil rights, environmental, labor, women, young professionals, youth, elected officials, peace and justice groups throughout the State of Georgia and other southeastern states, founded by the late Dr. Joseph E. Lowery, that advocates for voting rights and justice issues. She was recruited to join the Coalition for the Peoples' Agenda in 2003 as the State Director by Rev. James Orange (Leader) and was able to increase the membership of the organization to over sixty statewide and local organizations as well as, promote collaborative issue campaign organizing activities throughout Georgia, nationally and in the southeastern region. In keeping with the People's Agenda commitment to quality education, criminal and juvenile justice reform, protecting the right to vote, economic justice and development, and other social justice issues, she has formed strategic alliances to improve quality of life for communities of color.

She serves as the Convener of the Black Women's Roundtable of Georgia as an affiliate of the National Coalition on Black Civic Participation to promote health and wellness, economic security, education and global empowerment of Black women.

Prior to joining the non-profit world, she served as Vice President of Human Resources for retail and wholesale grocery businesses for over 20 years, as well as, an Accountant for General Motors Corporation in Doraville and the Central Office in Warren, Michigan. While in the Graduate Public Administration studies at the University of Georgia, she served as Administrative Assistant for Athens-Clarke County Community Coordinated Child Care (4-C) where she developed and implemented a functional budgeting system.

She serves on the Morgan County Board of Elections since 2010 and served as a past member of the State of Georgia Help America Vote Act Advisory Committee (HAVA). In 2013, she was appointed to serve on the U. S. Commission on Civil Rights as a member of the Georgia Advisory Committee. She serves on the Board of Directors for ProGeorgia, the State Voices Civic Engagement Table. She has served on the Board of Directors for Women's Actions for New Directions (WAND), Board of Directors for Colonial Stores' Employees' Credit Union, Board of Directors for YES! Atlanta (Youth Program), Charter member of the Zeta Psi Chapter of Delta Sigma Theta Sorority at the University of Georgia, Advisory Board of Big Brothers/Big Sisters, Center Manager for Junior Achievement, Life Member of the

Biography of Helen Butler

NAACP, Vice President of Metro Atlanta Personnel Society, Society for Human Resources Management, and Industrial Relations Research Association.

She served on the Fulton County Complete Count Committee and the Georgia Complete Count Committee for the 2010 Census that targeted the African, African American, Afro-Latino and Caribbean communities. The “I Matter I Count – Count Me Black” theme for the 2010 Census highlighted the need to get immigrant communities to check the box “Black” on the questionnaire so that counts for their neighborhoods would be accurate and would impact funding and representation. She served on the City of Atlanta’s 2020 Complete Count Committee and the State Civic Engagement Table’s Complete Count Committee.

Her most recent recognition has been from the State of Georgia’s Martin Luther King Jr Advisory Council where she received the Joseph E. Lowery Civil Rights Award and the AFL-CIO’s Dr. Martin Luther King Jr. Defender of the Dream Award, January 2021; the Love Award from the Voter Empowerment Collaborative; She has received recognition by the Atlanta Business League as one of Atlanta’s Top 100 Black Women of Influence 2018, 2019, 2020; for the 2019 Community Engagement Award from National Action Network, 2019 Dr. C.T. Vivian Courage Award by Let Us Make Man; Georgia Gem of the Year 2018 by Women of Distinction; 2016 Frank R. Parker Client Award by Lawyer’s Committee for Civil Rights Under Law; Activism from the Apex Museum (2016); Delta Sigma Theta Sorority Southern Region 2016 Public Policy Change Agent; the 2015 Chairman’s Award of the Democratic Party of Georgia; 2015 Terrell County Branch NAACP Social Justice Award; the highest recognition for community member of the City of Atlanta -- 2014 Phoenix Award; 2013 Community Service Champion for Civic Engagement by the Urban League of Greater Atlanta, 2013 Epic Women Leadership in Government, National Coalition on Black Civic Participation’s Black Women’s Roundtable Voting Rights and Social Justice Leadership Award (2013), recognition by the City Council of the City of Atlanta, The President of Atlanta City Council’s Community Service Award (2012), Gospel Hip Hop Woman Warrior Award (2012), 2009 Outstanding Georgia Citizen by Secretary of State, 2009 Unsung Shero Award by Concerned Black Clergy of Atlanta, 2010 Rainbow/PUSH Fannie Lou Hammer Award, Delta Sigma Theta’s Atlanta Alumnae Chapter (2008), 2008 Douglass-Debs Award, Georgia Stand Up 2006 Policy Institute for Civic Leadership, Georgia Human Rights Union, Who’s Who Among African Americans, 1976; Outstanding Young Women of America, 1983; and 2002 National Association of Secretaries of State Award for Voter Education.

Helen is a native of Morgan County, Georgia. Graduated with honors from Pearl High School in Madison, GA in 1966 as Salutatorian and National Merit Scholar. As one of the first 50 African American students to attend the University of Georgia after the integration of the school by Charlene Hunter - Gault and Hamilton Holmes, she received a Bachelor of Business Administration from the University of Georgia with a major in Accounting. She also studied and served as a Recruiter for the Masters of Public Administration program at the University of Georgia. She was certified as an Issue Campaign Organizer by the Midwest Training Academy in 2000. She is a member of the Mt. Zion Missionary Baptist Church.