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FIELD HEARING ON VOTING RIGHTS AND ELECTION ADMINISTRATION IN GEORGIA

HEARING

BEFORE THE

SUBCOMMITTEE ON ELECTIONS

OF THE

COMMITTEE ON HOUSE ADMINISTRATION

HOUSE OF REPRESENTATIVES

ONE HUNDRED SIXTEENTH CONGRESS

FIRST SESSION

FEBRUARY 19, 2019

Printed for the use of the Committee on House Administration



Available on the Internet:
https://govinfo.gov/committee/house-administration

U.S. GOVERNMENT PUBLISHING OFFICE
37–653 WASHINGTON : 2019

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FIELD HEARING ON VOTING RIGHTS AND ELECTION ADMINISTRATION IN GEORGIA

TUESDAY, FEBRUARY 19, 2019

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON ELECTIONS,
COMMITTEE ON HOUSE ADMINISTRATION,
Washington, DC.

The Subcommittee met, pursuant to call, at 9:38 a.m., at The Carter Center, 453 John Lewis Freedom Parkway NE, Atlanta, Georgia, 30307, Hon. Marcia L. Fudge [Chair of the Subcommittee] presiding.

Present: Representatives Fudge and Aguilar.

Also Present: Representatives Lewis, Johnson of Georgia, Richmond, Sewell, and Bishop of Georgia.

Staff Present: Eddie Flaherty, Director of Operations; Sean Jones, Legislative Clerk; David Tucker, Parliamentarian; Khalil Abboud, Deputy Staff Director; Elizabeth Hira, Elections Counsel; Peter Whippy, Communications Director; Veleter Mazyck, Chief of Staff, Office of Representative Fudge; Evan Dorner, Office of Representative Aguilar; and Courtney Parella, Minority Communications Director.

Chairwoman FUDGE. The Subcommittee on Elections of the Committee on House Administration will come to order. On behalf of our Chairperson, Rep. Zoe Lofgren, I would like to thank the Members of the Subcommittee, Pete Aguilar, and my colleagues from the House who are here with us today, as well as our witnesses and all those in the audience, for being here this morning.

I ask unanimous consent that all Members have five legislative days to revise and extend their remarks and that written statements be made a part of the record.

Mr. AGUILAR. So moved.

Chairwoman FUDGE. Thank you.

Hearing no objection, so ordered.

My name is Marcia Fudge, and I am the Subcommittee Chairwoman on Elections. I want to thank my colleagues, our witnesses, and the people of Georgia for joining us here today.

I also want to thank my distinguished colleague who is going to be here shortly, Rep. John Lewis, a living hero of the Civil Rights movement, for welcoming us so warmly to his district as we continue this important work.

I cannot think of a better place to continue our discussion on why all sections of the Voting Rights Act are still essential to ensuring all Americans can exercise their Constitutional right to vote than in this State, the State of Georgia.

After the Supreme Court's decision in *Shelby County* v. *Holder*, Georgia moved quickly and aggressively to roll back voting rights. Between 2012 and 2016, 750,000 more names were purged from the voter rolls. Then, from 2008 to 2012, of the 159 counties in the State, 156 reported increased removal rates, including in the State's most populous counties.

Just last year, the State attempted to close seven out of nine polling places in majority black Randolph County. Georgia has closed more than 200 polling places statewide since 2012.

We have with us today Georgians who are right in the middle of the fight for justice:

Stacey Abrams, whose activism and campaigns have brought national attention to Georgia.

Stacey Hopkins, who will be joining us on the next panel, an active voter who was illegally purged from the rolls.

Sean Young, a litigator from the ACLU who has represented disfranchised voters all over the State.

Cliff Albright, cofounder of Black Voters Matter, whose group speaks up for the vulnerable and marginalized Black communities.

Lastly, Gilda Daniels of the Advancement Project, who fights for us all over the country, including Georgia.

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Chairwoman Marcia L. Fudge
Subcommittee on Elections
Opening Statement
February 19, 2019

I want to thank my colleagues, our witnesses, and the people of Georgia for joining us here today. And I want to thank my distinguished colleague, Congressman John Lewis, a living hero of the Civil Rights Movement, for welcoming us so warmly to his district as we continue this important work.

I cannot think of a better place to have this discussion than the State of Georgia. After the Shelby County decision, Georgia moved quickly and aggressively to roll back voting rights. Between 2012 and 2016, 750,000 more names were purged than between 2008 and 2012. Of the 159 counties in the State, 156 reported increased removal rates, including in the State's most populous counties. Just last year, the State attempted to close 7 out of 9 polling places in majority-black Randolph County. Georgia has closed more than 200 polling places state-wide since 2012.

We have with us today Georgians who are right in the middle of the fight for justice. Stacey Abrams, whose activism and campaigns have brought national attention to Georgia's voter suppression. Stacey Hopkins, an active voter who was illegally purged from the rolls. Sean Young, a litigator from the ACLU who has represented disenfranchised voters all over the State. Cliff Albright, co-Founder of Black Voters Matter, whose group speaks up for vulnerable and marginalized black communities. And Gilda Daniels of the Advancement Project, who pursues justice across the country including here in Georgia.

I look forward to all your testimonies and thank each of you for your tireless efforts on behalf of the people of Georgia.

I look forward to your testimony, and I thank you on behalf of the people of the United States.

Ms. Abrams, welcome. The floor is yours.

STATEMENT OF STACEY ABRAMS, CEO AND FOUNDER, FAIR FIGHT ACTION, AND FORMER HOUSE DEMOCRATIC LEADER, GEORGIA HOUSE OF REPRESENTATIVES

Ms. ABRAMS. Thank you, Chairwoman Fudge and Committee Members. I appreciate the opportunity to address this hearing today.

I hold the right to vote to be the most fundamental privilege of a citizen. My parents, who were active in the civil rights movement, instilled in their six children a reverence for the franchise and an obligation to protect it.

I do not view this responsibility as partisan. When credible nonpartisan issues on voting arise, I have worked with all comers to identify the most effective means to guarantee access. Likewise, when legislators and others sought to unfairly restrict the right to vote, I worked hard to defeat it.

In addition to standing as a candidate for governor in 2018, I served in the role of minority leader for 7 years, where I had a broad view of the challenges facing voters across the State.

Moreover, as the founder of the New Georgia Project, one of the State's largest third-party voter registration organizations, I have firsthand experience with the obstacles embedded in the registration process, as managed by the prior secretary of state, Brian Kemp.

Moreover, as a longtime advocate for voting rights, I am deeply concerned about the impact on our democracy if action is not taken immediately to support access to voting rights for all eligible citizens.

On November 6, 2018, Georgia experienced unprecedented turnout in its midterm election. Communities long isolated from the electoral process cast their ballots, including increases in voting across racial and ethnic groups and age groups. Most fairly, this surge should be attributed to those grassroots organizations that work hard not only during election cycles but year-round to build civic engagement and to broaden participation in the polity of Georgia.

While this dramatic increase in voter participation should be celebrated, the rise in turnout cannot be allowed to mask a more troubling trend. Voters, many of whom were first-time voters, experienced numerous issues with being located on the voting rolls, receiving and returning absentee ballots, and were given a disturbing number of provisional ballots rather than being allowed to vote unhindered.

In some areas, the elections officials refused to provide provisional ballots, citing a shortage of paper. In counties, polling locations ran out of provisional ballots and backup paper ballots.

Frustrated voters received inaccurate information regarding their rights, and thousands of voters were forced to vote using provisional ballots due to long lines.

An untold number simply gave up, unable to bear the financial cost of waiting in line, because Georgia does not guarantee paid time off to vote.

Across the State, voters faced obstacles that shook their confidence in the electoral process, leading to more than 50,000 calls to a local voter protection hotline in the 10-day period immediately following the election. From issues with registration, to ballot access, to the counting of votes, Georgians faced a systemic breakdown in its electoral process.

In response, on November 16, while I acknowledged the outcome of the election, I also called upon my fellow Georgians to join me in pursuing a fair and equitable system that operated effectively, efficiently, and equally through the entity Fair Fight Action. I did so in full awareness of a decade of actions that had undermined the election system, often misappropriating existing laws or operating in ways that faced legal challenge.

While several of these Federal lawsuits worked, the secretary of state and others pushed through local laws to restore obstacles to voting.

Yet, we must recognize that Georgia's experience, while singular, is not unique. In 2013, with the effective neutering of the 1965 Voting Rights Act, States and localities raced to restore or manufacture new blocks on voting. Unfortunately, Georgia has been a leader in this endeavor.

However, this attack on voting rights is not new. Though the speed of constraints quickened in the years after the Shelby decision, for Georgians voter ID laws came first, followed by an increase in closed or consolidated precincts, assault on third-party registrations, database challenges that spoiled legitimate registrations, vulnerable or inadequate equipment, and lax oversight of county application of State laws, leading to disparate treatment based on county lines.

Incompetence and malfeasance operate in tandem, and the sheer complexity of the State's voting apparatus smooths voter suppression into a nearly seamless system that targets voter registration, ballot access, and ballot counting.

Madam Chairwoman, I know that my time is about to expire, but I would like to extend my remarks, if possible.

Chairwoman FUDGE. Please go forward.

Ms. ABRAMS. Thank you.

Over again, these hurdles have had their desired effect. In Georgia, the then secretary of state purged more than 1 million voters, oversaw local closures of more than 200 precincts, held the registrations of 53,000 using the flawed process of exact match, and presided over what some report as the longest voting lines for Black voters in the Nation. Naturalized citizens had to sue for their newly secured rights, and organizations continue to fight for ballots in multiple languages.

Unfortunately, Georgia also neglected its elections infrastructure, resulting in vulnerable, sometimes inoperable machines that were inadequately distributed to communities. Multiple times the lines drawn for districts have been misapplied or miscommunicated, forcing do-over elections or disqualifying otherwise eligible candidates.

In isolation, each example is troubling, as it represents a voter who could not fully participate in the body politic. Combined, they represent the disenfranchisement of Georgia voters in general and targeted communities of color or low-income neighborhoods in particular.

Our goal is to reform Georgia's election management system by ensuring that voters who are duly eligible to register are not unfairly blocked or unfairly thrown off the rolls. Georgia must maintain an accurate, functioning voter registration list.

In Georgia and around the country, the closure or consolidation of precincts unfairly punishes those who have challenges with transportation or who have other issues, including physical disability. Voters should be able to fully participate in lawful processes, such as absentee ballots. However, many reported failure to receive duly applied-for ballots.

Counting duly cast votes is also an uncertainty in Georgia. A disturbing number of absentee ballots were rejected in 2018. And previously, the former secretary of state used the lawful right to absentee voting to target and prosecute citizens.

In addition, Georgia has a provisional ballot system that is inconsistently applied. Administrative issues plague the process, including allowing different standards for the administration of elections in each of Georgia's 159 counties.

In addition, Georgia should be compelled to replace insecure and unreliable voting machines with paper ballots and to do so with a procurement process that does not unduly enrich any allies of the leaders of the State.

We would also benefit from a true statewide election supervisor who applies uniform standards and adequate resources for training and election administration.

Georgia is the cradle of the Civil Rights movement and we are capable of conducting free and fair elections with record turnout. Yet, on Election Day, voters faced extremely long lines; registered voters were missing from the rolls; insecure, inadequate, and malfunctioning voting machines; insufficient provisional ballots; and election staff who were ill-equipped to meet voters' needs. These are all issues that can be solved by people of goodwill who recognize that no electoral process is perfect, but that perfection should be the goal.

I am fighting for fair elections with the deepest recognition that improving our system will not change the outcome of November 6, 2018. However, as a citizen of Georgia and as an American who believes in our system of representative democracy, I am obliged to do all in my power to advocate for an end to voter suppression in all its forms and in all its spaces.

On behalf of millions of Georgians, I express our gratitude to this Committee for your willingness to investigate and understand the threats embedded in our State's electoral apparatus. Together, we can press forward for an electoral system that truly represents and listens to its people.

Thank you.

[Applause.]

[The Statement of Ms. Abrams follows:]

FIELD HEARING ON ELECTION INTEGRITY IN GEORGIA

FAIR FIGHT TESTIMONY

Delivered February 18, 2019

Chairman Fudge, Committee members, I appreciate the opportunity to address this hearing today. I hold the right to vote to be the most fundamental privilege of a citizen. My parents, who were active in the civil rights movement, instilled in their six children a reverence for the franchise – and obligation to protect it. I do not view this responsibility as partisan. When credible, nonpartisan issues on voting arise, I have worked with all comers to identify the most effective means to guarantee access. Likewise, when legislators and others sought to unfairly restrict the right to vote, I worked hard to defeat it.

In addition to standing as a candidate for Governor in 2018, I served in the role of Minority Leader for seven years, where I had a broad view of the challenges facing voters across our state. Moreover, as the founder of the New Georgia Project, one of the state's largest third party voter registration organizations, I have firsthand experience with the obstacles embedded in the registration process as managed by the prior Secretary of State, Brian Kemp. Moreover, as a long-time advocate for voting rights, I am deeply concerned about the impact on our democracy if action is not taken immediately to support access to voting rights for all eligible citizens.

On November 6, 2018, Georgia experienced unprecedented turnout in its midterm election. Communities long isolated from the electoral process cast their ballots, including increases in voting across racial and ethnic groups and age groups. Most fairly, this surge should be attributed to those grassroots organizations that work hard not only during election cycles but year-round to build civic engagement and to broaden participation in the polity of Georgia. While this dramatic increase in voter participation should be celebrated, the rise in turnout cannot be allowed to mask a more troubling trend.

Voters, many of whom were first time voters, experienced numerous issues with being located on the voting rolls, receiving and returning absentee ballots, and were given a disturbing number of provisional ballots rather than being allowed to vote unhindered. In some areas, elections officials refused to provide provisional ballots, citing a shortage of paper. In counties, polling locations ran out of provisional and back-up paper ballots. Frustrated voters received inaccurate information regarding their rights; and thousands of voters were forced to vote using provisional ballots due to long lines. An untold number simply gave up, unable to bear the financial cost of waiting in line because Georgia does not guarantee paid time off to vote.

Across the state, voters faced obstacles that shook their confidence in the electoral process, leading to more than 50,000 calls to a local voter protection hotline in the 10-day period immediately following the election. From issues with registration to ballot access to the counting of votes, Georgians faced a systemic breakdown of its electoral process.

In response, on November 16, while I acknowledged the outcome of the election, I also called upon my fellow Georgians to join me in pursuing a fair and equitable system that operated effectively, efficiently and equally through the entity Fair Fight Action. I did so in full awareness of a decade of actions that had undermined the elections system, often misappropriating existing laws or operating in ways that faced legal challenge. While several of these federal lawsuits worked, the Secretary of State and others pushed through local laws to restore the obstacles to voting. Yet, we must recognize that Georgia's experience, while singular, is not unique.

In 2013, with the effective neutering of the 1965 Voting Rights Act, states and localities raced to restore or manufacture new blocks on voting; and unfortunately, Georgia has been a leader in this endeavor. However, this attack on voting rights in not new, although the speed of constraints quickened in the years after the *Shelby* decision. For Georgians, voter ID laws came first, followed by an increase in closed or consolidated precincts, assaults on 3rd party registration, database challenges that spoiled legitimate registrations, vulnerable or inadequate

equipment, and lax oversight of county application of state laws, leading to disparate treatment based on county lines. Incompetence and malfeasance operate in tandem, and the sheer complexity of the state's voting apparatus smooths voter suppression into a nearly seamless system that targets voter registration, ballot access and ballot counting.

Over and over again, these hurdles have had their desired effect. In Georgia, the Secretary of State purged more than 1 million voters, oversaw local closure of more than 200 precincts, held the registrations of 53,000 using the flawed process of exact match and presided over the what some reports as the longest voting lines for black voters in the nation. Naturalized citizens had to sue for their newly secured rights, and organizations continue to fight for ballots in multiple languages. Unfortunately, Georgia also neglected its elections infrastructure, resulting in vulnerable, sometimes inoperable machines that were inadequately distributed to communities. Multiple times, the lines drawn for districts have been misapplied or miscommunicated, forcing do-over elections or disqualifying otherwise eligible candidates.

In isolation, each example is troubling, as it represents a voter who could not fully participate in the body politic. Combined, they represent the disenfranchisement of Georgia voters in general, and targeted communities of color or low-income neighborhoods in particular. Our goal is to reform to Georgia's election management system by ensuring that voters who are duly eligible to register are not unfairly blocked or are unfairly thrown off the rolls. Georgia must maintain an accurate, functioning voter registration list.

In Georgia, and around the country, the closure or consolidation of precincts unfairly punishes those who have challenges with transportation or who have other issues, including physical disability. Voters should also be able to fully participate in lawful processes such as absentee ballots; however, a number of voters reported failure to receive duly applied for ballots.

Counting duly cast votes is also an uncertainty in Georgia. A disturbing number of absentee ballots were rejected in 2018, and previously, the former Secretary of State used the lawful

right to absentee voting to target and prosecute citizens. In addition, Georgia a provisional ballots system that is inconsistently applied. Administrative issues plagued the process, including allowing different standards for the administration of elections in each of 159 counties.

In addition, Georgia should be compelled to replace insecure and unreliable voting machines with paper ballots, and to do so with a procurement process that does not unduly enrich any allies of the leaders of the state. We would also benefit from a true statewide elections supervisor who applies uniform standards and adequate resources for training & election administration.

Georgia is the cradle of the civil rights movement, and we are capable of conducting free and fair elections, with record turnout. Yet, on Election Day, voters faced extremely long lines; registered voters missing from the rolls; insecure, inadequate, and malfunctioning voting machines; insufficient provisional ballots, and election staff who were ill-equipped to meet voters' needs. Yet, these are all issues that can be solved by people of good will, who recognize that no electoral process is perfect – but that perfection should be the goal.

I am fighting for fair elections with the deepest recognition that improving our system will not change the outcome of November 6, 2018. However, as a citizen of Georgia and as an American who believes in our system of representative democracy, I am obliged to do all in my power to advocate for an end to voter suppression – in all its forms and in all its spaces. On behalf of millions of Georgians, I express our gratitude to this committee for your willingness to investigate and understand the threats embedded in our state's electoral apparatus. Together, we can press forward for an electoral system that truly represents and listens to its people.

Chairwoman FUDGE. Thank you very, very much.

First off, thank you for your time. I know it was a little difficult with some of the shifts we were making, so we appreciate it.

Let me just say to you that, on behalf of us all, and especially the work that is going to be done by Representative Sewell and Representative Lewis with their bill and the work we are doing, we are here because of what happened in 2016. We are here because we are going to make it right. At some point, we are going to make it right. You know, as they say at home, we are going to fix it, I promise you we will.

I wonder, if you just have a few minutes, I will allow just a quick question from each one of our Members. Do you have time for that?

Ms. ABRAMS. Absolutely.

Chairwoman FUDGE. We will start with my colleague on the Committee, Representative Pete Aguilar of California.

Mr. AGUILAR. Thank you, Ms. Abrams. We appreciate your testimony.

I wanted to ask you about the chilling effect—I know you have so much history and knowledge on voter registration efforts. Can you talk about the chilling effect for ongoing voter registration efforts that exact matches and all these signature issues play in, and ongoing effects that that is going to have on voter registration efforts?

Ms. ABRAMS. Absolutely. Thank you, Congressman, for the question.

As the founder of the New Georgia Project, I am proud of the work we have done to register more than 200,000 new Georgians during my tenure as the leader of the organization. Since that time, I believe another hundred thousand-plus have been added to the rolls.

However, what we experienced through the exact match system necessitated that our organization keep paper records of all applications and this is despite the fact Georgia offers online registration.

The challenge with online registration is that there is no adequate way to monitor and maintain that voters who apply are processed.

Therefore, we maintain paper copies, which the Secretary of State, then Secretary of State Kemp disparaged, but which is the only reason we were able to in 2016 file suit to discover his illegal, what we would say is unlawful use of the exact match system.

It unfairly captures people of color and women, it has a disproportionate effect on people of color, and it has a chilling effect, because these are communities that are least likely to register but for third-party registrations.

We have to add to that the fact that under Secretary of State Kemp two organizations of color were raided by his office, challenged for their very active registering of these new voters.

So what I would say is, yes, there is a chilling effect because of exact match, but also because of the hostility demonstrated by the then Secretary of State towards the active registration. Unless you did it his way and the right people were registered, he displayed a disparaging and I think deeply disturbing response to registration.

He would argue that he increased registrations, and I would certainly point out that registrations increased despite his behavior, not because of it.

Mr. AGUILAR. Thank you.

Chairwoman FUDGE. Mr. Bishop of Georgia.

Mr. BISHOP. Thank you very much.

Ms. Abrams, you have had a long history of fighting and working for the expansion of voter participation and registration. Of course, the work that you did with the New Georgia Project was extraordinary.

Early on, you experienced some pushback from the then Secretary of State, and a number of those 200,000 were disqualified. You also discovered that Georgia's system of allowing the Motor Vehicle Bureau, when a person applies for a driver's license, to have their information sent automatically for voter registration, I believe during the course of that you discovered that that information was not being transferred to the Secretary of State's office, and if it was it was not being recorded.

I think you also discovered that there were some cases of prosecution of individuals who availed themselves of the lawful absentee voter process in Brooks County, for example, which resulted in a SWAT team descending on the county after the election where school board members, a majority of the school board was elected by minorities, and held the school board.

Subsequently, shortly after they took office, they were indicted. And, of course, there was a 2-year waiting period between the time of the indictment and the time they finally went to trial and were acquitted, which had the effect of a 2-year chilling effect.

Could you discuss that and perhaps even some of the irregularities in Early County, similar circumstances?

Ms. ABRAMS. I think what is important to articulate in this process is that these are not isolated incidents, that the behavior that was evidenced over the course of a decade by the then Secretary of State demonstrated a deep disregard for the voting rights of all Georgia citizens.

What you described is often referred to colloquially as the Quitman 10: 10 people who during the process of trying to stand up for their children and their community successfully advocated for voter turnout levels that allowed African Americans to sit on the school board at numbers previously unseen.

In response, they were arrested. They were harassed and many lost their jobs. Several were never able to reclaim their good names. One person, I believe, was permanently disenfranchised despite the fact not a single case was found—not a single person was found to be guilty during the process of the litigation.

Similarly, in Hancock County, when too many African Americans showed up to vote in 2014, the current Chair of the Judiciary Committee in the Georgia House of Representatives, Barry Fleming, who is also the purveyor of legislation that will further, I think, extend disenfranchisement, he authorized the following home of African American voters to investigate whether they were lawful voters in Hancock County and this investigation was conducted sometimes by the sheriffs.

It is not simply a chilling effect; it is an intimidation effect and what we have to understand is these are Georgians, these are American citizens whose lawful right to cast a ballot has been constrained by his behavior.

I know that others who will be testifying can provide deeper information, but I will say this: We must understand that voter suppression is not simply a momentary act. It is a system of disconnecting our citizens from the policies that govern their lives. If we want communities to stand up for more, they must be allowed to speak up when they stand up.

Mr. BISHOP. Can I just get you to follow up and talk about the inability to monitor the actual counting of votes, because the system does not have a paper trail?

Ms. ABRAMS. I will say that at 3 p.m. today, the State legislature will be considering legislation that has been put forward that would trade our currently inoperable, vulnerable, and hackable system for a further hackable system at a higher price tag that will then actually benefit colleagues of the current Governor.

But here is the point: We do not have an auditable trail in Georgia. We cannot audit our elections. We cannot prove that the votes cast are the votes counted. And when you have no faith in the system, you have no reason to participate in the system. And that chilling effect should be worrisome to us all.

Chairwoman FUDGE. Thank you very much.

Mr. Johnson of Georgia.

Mr. JOHNSON. Thank you, Madam Chairwoman. And thank the people who are here on this very important issue.

Thank you, Senator Abrams, for—I am sorry, Governor Abrams. I don't know, whatever the decision might be. I know that there is going to be a prefix in front of that name.

I very much appreciate the work that you are doing with Fair Fight. I don't know if you have spoken about that yet this morning, but if you could give us a few words about that. But I also want you to educate the panel on the undercount, the drastic undercount that took place in the Lieutenant Governor's race and tell us what your organization is doing in that regard.

Ms. ABRAMS. Certainly.

Fair Fight is a nonpartisan voting rights advocacy organization. I am proud to serve as our founder and chair. The CEO is Lauren Groh-Wargo.

What we attempt to do in all parts of the State is to lift up the issue of fair voting, making certain that there is equitable, efficient, and truly equal access to the right to vote in the State of Georgia.

It is also about connecting the right to vote to the very policies that the right to vote undergirds. We know that, for example, in the 2018 election, in the lieutenant governor election, there was statistically significant drop-off and undercount that almost specifically affected African Americans. It was a statistically significant drop-off because it did not occur in any other race other than the Lieutenant Governor's race.

Now, the reason for that could be numerous. The challenge is, to Congressman Bishop's point, there is no way to find out what the problem was, because Georgia has machines that do not provide an

audit trail. Unfortunately, the current machines under suggestion have similar flaws.

We must have a system that allows for paper ballots and for hand counting of these elections, because machines are insufficient to guarantee access to the right to vote in the State of Georgia.

Chairwoman FUDGE. Thank you very much.

Mr. Richmond of Louisiana.

Mr. RICHMOND. Thank you, Madam Chairwoman. It is always good to be back in my second home. I went to Morehouse, and it is great to always talk to my Spelman sister.

In your experience, let me just ask a very pointed question, because we are here without the protections of the Voting Rights Act, more particularly Section 4(b) and 5.

My first question would be, when that was designed and enacted, the formula was all about jurisdictions that had tests and devices to keep people from voting. So fast forward to today. We have to talk about the new conditions and where we are now.

My question would be, one, in your experience, does Section 2 provide an adequate remedy when you see a problem being acted before the consequences are too dire? And the follow-up of that would be, instead of poll tests and other things, what are, if you could just—in your testimony you say it—but if you could just specifically and quickly articulate what has now become the new test and barriers, it would be very helpful.

Ms. ABRAMS. Certainly. I certainly know there are additional lawyers who will speak to this more specifically but here is what I would say.

Section 2 essentially says that a bad action can be used as a predicate to argue that a new bad action cannot be taken. The challenge there is that you have to have someone disenfranchised before you can fight to make certain that someone else isn't disenfranchised but that means that someone lost their right to vote. That means that communities were disallowed from having a voice in their community.

The beauty of Section 5 said that before you commit harm, you had to be held to a higher standard. Section 2 says once harm has been committed you have the ability to argue that it shouldn't be repeated, and, therefore, it is an insufficient standard for a Nation that is grounded in the notion of democracy. Representative democracy is the way to push forward our thoughts and ideas as citizens.

The poll tax issue is this. In the State of Georgia, for example, you do not receive paid time off to vote. You cannot be fired from your job for going to vote, but you do not receive paid time off.

On its own, that seems potentially sufficient, but Georgia has a disproportionately high number of service workers, meaning those who are very much paycheck-to-paycheck workers. In the State of Georgia, if you are African American, you are more likely to face long lines, sometimes to the level of 4 hours. That is half a day's pay.

For families living paycheck to paycheck, losing an entire day or half a day's pay—and that doesn't take into account the time it takes you to get to your polling place and the time to get back to your job—that is an economic cost that is quantifiable and, therefore, I believe should be allocated as a poll tax, which we have said

under the 15th Amendment should be unlawful in the United States of America.

Chairwoman FUDGE. Thank you.

Representative Sewell of Alabama.

Ms. SEWELL. First, a point of personal privilege. I just want to say to Leader Abrams that you did all of us proud in your campaign, in your run for Governor, and I wish you much success in all your future endeavors. All I can say is black girl magic.

[Applause.]

Ms. SEWELL. As a daughter of Selma, I have to say that, when Congress enacted the Voting Rights Act of 1965, it had a dramatic effect on allowing African Americans and people of color, those who were the minorities in their communities, to have access to the ballot box and, thus, a voice. In fact, the number of folks that registered increased exponentially. In places like Marion, Alabama, Perry County, where only 6 percent of African Americans were registered, it went to something like 80 percent.

In your position as leader, minority leader in the Georgia State Legislature, after the *Shelby* v. *Holder* decision did you see a dramatic increase in activity by the State legislature to add further restrictions on voting, such that it made it harder for folks to vote?

The Supreme Court said in its Shelby decision that our formula was outdated and that really there was no cause for us to discriminate against certain States for prior actions.

So I would love to know your thoughts as a legislator, a State legislator, whether or not the decision had a chilling effect or did it allow a lot of State laws to be imposed that were discriminatory. That would go to the heart of whether we need to, as a Congress, put back in place a formula and put the teeth back into Section 4.

Ms. ABRAMS. So here is how I would frame it. In the State of Georgia, the *Shelby* decision did have a very insidious effect. But what we need to remember is that it not only governed the actions of State legislatures, it governed the actions of appointed folks or other elected officials, including secretaries of state and county officials.

What is so pervasive in the State of Georgia with regards to diminishing the right to vote was that it was the Secretary of State who had almost unilateral authority to, I would say, manipulate existing State law, but then impose his own policies that were not subject to public review or to judicial review or the judiciary review of the Department of Justice. And, therefore, without passing a single new law, he took existing laws and used those laws as weapons against their own people.

During my tenure as leader, we had a very effective relationship with the majority party, and I was able to forestall, working in cooperation with members of both my party and the other party, to forestall more deleterious legislation, unlike legislation that passed in North Carolina and Texas and in your home State of Alabama.

We did see in 2017 probably the most perverse expansion of this power, which is that a Federal judge said that exact match had a disproportionate effect on people of color and women, and the secretary of state agreed not to use the system for approximately a couple of months. He then came to the legislature and said: "Please

put into law that which I consented not to use." There was no judicial review.

So I think it is important for us to restore Section 5 because we have a complicated system in our country. Representative democracy doesn't simply happen at the Congressional or State legislative level, it happens at every level of elected and appointed government.

Ms. SEWELL. Does that rise to the level of needing Federal oversight?

Ms. ABRAMS. Absolutely, because that Federal oversight—and this goes to Congressman Richmond's question—that oversight allows us to cure problems before harm is caused.

Under the current system, harm must exist, and that harm has deeply deleterious, longstanding. and deep-reaching effects.

Going to Congressman Bishop's question, the effect on the Quitman 10 did not simply harm those folks. It diminished participation in the elections plus it limited and had a chilling effect on voters and it hurt children who deserve to have voices at the table looking out for their best interest. That is fundamentally what democracy is about, speaking for the people.

Ms. SEWELL. Thank you, Madam Chairwoman. Thank you.

Chairwoman FUDGE. Thank you.

Ms. Abrams, we want to thank you not just for being here today, but for the work you have done for many years, for your dedication and your commitment to the people of Georgia and this Nation.

We will be back in touch with you. We want to go across the country. We have many more of these hearings to have in other States. We are going to ensure by the time we get to 2020 we will not be dealing with the same issues that we are dealing with today.

[Applause.]

Chairwoman FUDGE. I just want to—there is a young man sitting in the audience that I met this morning. He came and introduced himself to me. His name is Niles. He is in the 11th grade. I don't even know why he is not in school.

You have learned a lot already this morning, Niles. Keep up what you are doing and keep being involved.

He starts to talk to me about the ACLU case in Ohio. I am looking at him like, where did you come from?

But it is people like you, young people like you that are the next Stacey Abrams. So keep doing what you are doing, young man.

Again, I thank you so much.

It is time for our next panel.

Thank you very much, Ms. Abrams.

Ms. ABRAMS. Thank you, Madam Chairwoman.

[Applause.]

Chairwoman FUDGE. Next panel.

We are pleased to begin our second panel. Again, I would like to introduce our witnesses. They are Stacey Hopkins, an active voter who was illegally purged from the rolls; Sean Young, a litigator from the ACLU who has represented disenfranchised voters all over the State of Georgia; Cliff Albright, cofounder of Black Voters Matter, whose group speaks for the vulnerable and marginalized Black communities; and Gilda Daniels of the Advancement Project.

Welcome all. Each of you will have five minutes to give your testimony. We will hear all the testimony, and then we will open it to the panel for questions.

You will see the light system. Green means go; yellow means prepare to close; red means close as quickly as you can.

Thank you very much.

We would begin today with Ms. Hopkins.

You don't want to start?

I will start down here. All right. All right. Let us start with Ms. Daniels.

STATEMENTS OF GILDA DANIELS, DIRECTOR OF LITIGATION, ADVANCEMENT PROJECT; SEAN J. YOUNG, LEGAL DIRECTOR, GEORGIA ACLU; STACEY HOPKINS, FULTON COUNTY VOTER; AND CLIFF ALBRIGHT, COFOUNDER, BLACK VOTERS MATTER

STATEMENT OF GILDA DANIELS

Ms. DANIELS. Good morning. Thank you for the opportunity to provide remarks on voting rights and election administration in Georgia. My name is Gilda Daniels. I am the litigation director for the Advancement Project's National Office.

Advancement Project is a national racial justice organization that partners with grassroots organizations on the ground to inspire, empower, and develop community-based solutions. The premise for this approach is based on the strategies and courage that produced the landmark civil rights victories of earlier eras that utilize the tools of social activism to create meaningful change.

Here in Georgia, Advancement Project is proud to partner with the New Georgia Project to advance voting rights. In addition to my work at the Advancement Project, I am a tenured professor at the University of Baltimore School of Law. Also, most importantly, I am a former deputy chief in the United States Department of Justice, Civil Rights Division, Voting Section during the Clinton and Bush administrations.

I have been a voting rights attorney for more than two decades. I am a member of the State Bar of Georgia and have been involved in monitoring voting issues in Georgia, including during the 2018 general elections.

Accordingly, I have watched the cycles of voting rights ebb and flow, from the expansion of voter registration opportunities under the National Voter Registration Act to the proliferation of disenfranchising tools, such as voter ID and proof of citizenship laws, that are prevalent today.

Through these twists and turns, the primary tool for ensuring the free and nondiscriminatory access to the right to vote has been the Voting Rights Act of 1965. The Voting Rights Act has two -- or had two primary provisions: Section 2, which is essentially the litigation arm of the Voting Rights Act, and Section 5, which provided Federal oversight in its covered jurisdictions, and those jurisdictions were determined by a formula within the Voting Rights Act.

That was found unconstitutional in the 2013 case *Shelby County* v. *Holder*. That is where the United States Supreme Court found

the coverage formula contained in Section 4 of the act outdated and, therefore, unconstitutional. This was significant, because Section 4 determined jurisdictions that were required to make submissions to the Federal Government under Section 5 of the act, meaning any voting change had to be submitted to either the Attorney General for the United States or the United States District Court for the District of Columbia, to ensure that it did not place minority voters in a worse position, that it was not retrogressive, that it did not go back.

Jurisdictions like the State of Georgia and many States in the South—Georgia, Alabama, Louisiana, Texas, parts of Florida, parts of North Carolina, Virginia—were all covered jurisdictions. Removing the requirement that these jurisdictions submit these voting changes certainly eliminated a key weapon in the voting rights arsenal.

Section 5 served as a safeguard for discriminatory voting changes. It was an important prophylactic that prevented jurisdictions from implementing laws that harmed minority voters. It provided important oversight for voting changes and practices. It prevented jurisdictions from implementing laws without providing notice to minority communities.

Without Section 5, jurisdictions are free to pass and put laws into place without considering the impact on its citizens. These laws go into practice and civil rights groups are burdened with the responsibility of learning of these changes that were once routinely submitted to the Federal Government. More importantly, these legal changes happen after the changes have occurred, not before, as under Section 5.

After the *Shelby* decision, we saw new restrictions on voting have been implemented in Southern States that were previously covered by the Voting Rights Act's preclearance provisions.

Georgia, in particular, instituted a number of retrogressive and arguably discriminatory practices, such as voter identification and proof of citizenship requirements, cuts to early voting, closed hundreds of polling places in communities of color, and undertook massive voter purges.

Leading into the 2018 general elections, as Ms. Abrams described, Georgia placed more than 50,000 voter registrations on hold, provided inoperable voting machines and untrained poll workers for its elections. It also designated eligible voters as noncitizens and then required them to prove otherwise in a precarious and opaque system.

Prior to the dismantling of the Voting Rights Act in the *Shelby* decision, Section 5 would have required Georgia and its sub jurisdictions to seek preclearance prior to implementing these changes. If Georgia had been subject to Section 5, many, if not all, of these practices would have never been introduced. It would have had the burden of demonstrating that the proposed practice did not impede the right to vote. The years of litigation and frustration would have been avoided had the protections of the Voting Rights Act remained in place.

Without Section 5, civil rights groups and individuals face the costly task of litigating voting practices after they have adversely affected communities of color. I saw some of these problems mani-

fest firsthand while monitoring voting in Georgia during the November 2018 midterm elections.

Quickly, I again want to thank the Subcommittee for having this hearing. It is imperative that we develop a Federal solution that eliminates discriminatory barriers to the ballot box. Ideally, Congress should restore Federal oversight over voting changes. I would also add that we also need an affirmative and explicit right to vote in the United States Constitution.

I want to thank Chairwoman Fudge and the Subcommittee on Elections for holding this field hearing. It is time for Congress to act to reinstate the protections of the Voting Rights Act.

[The statement of Ms. Daniels follows:]



Remarks by Professor Gilda R. Daniels
Litigation Director, Advancement Project National Office
Assistant Professor, University of Baltimore School of Law

Committee on House Administration, Elections Subcommittee
Field Hearing on Voting Rights and Election Administration in Georgia
Tuesday, February 19, 2019
The Carter Presidential Center
Atlanta, Georgia

Thank you for the opportunity to provide remarks on voting rights and election administration in Georgia. My name is Gilda R. Daniels. I am the Litigation Director for the Advancement Project's National Office. Advancement Project is a national racial justice organization that partners with grassroots organizations on the ground to inspire, empower, and develop community-based solutions. The premise for this approach is based on the strategies and courage that produced the landmark civil rights victories of earlier eras that utilized the tools of social activism to create meaningful community change. Here in Georgia, Advancement Project is proud to partner with New Georgia Project to advance voting rights. In addition to my work at Advancement Project, I am also an Assistant Professor at the University of Baltimore School of Law, where my teaching and scholarship focuses on the intersections of race, law and democracy. Prior to becoming a law professor, I served as a Deputy Chief in the United States Department of Justice, Civil Rights Division, Voting Section during the Clinton and George W. Bush administrations. I have been a voting rights attorney for more than two decades. I am a member of the state bar of Georgia and have been involved in monitoring voting issues in Georgia, including during the 2018 General Elections. Accordingly, I have watched the cycles of voting rights ebb and flow from the expansion of voter registration opportunities under the National Voter Registration Act (NVRA) to the proliferation of disenfranchising tools, such as voter ID and proof of citizenship laws that are prevalent today. Through these twists and turns, the primary tool for ensuring the free and nondiscriminatory access to the right to vote has been the Voting Rights Act of 1965.

Protecting the Right to Vote

It is important to note the history of voting in America. In the beginning, the vote was reserved for white men and property owners. The passage of the Civil Rights Amendments expanded the electorate in miraculous ways, providing the right to vote to a previously enslaved

people devoid of any rights of citizenship. Shortly after passage of these freedom-based amendments, white supremacists' groups, particularly throughout the South, including Georgia, used vigilante tactics of violence and terror to destroy the impact and gains that were made in the short period of reconstruction. States across the south followed suit with new voting laws that resulted in dramatic reductions in voting for previously eligible voters, with ten of the eleven southern states passing constitutional amendments to enshrine new voting restrictions. Between 1890 and 1910, African Americans were removed from the voter registration rolls in large numbers and denied the right to vote It would take almost 100 years before this nation would recognize the necessity of passing legislation to would secure the right to vote to its citizens.

Voting Rights Act. The Voting Rights Act is considered one of the most effective pieces of Congressional legislation. It removed the vestiges of slavery and Jim Crow from the voting process. It provided federal observers and registrars to ensure that African Americans could register and vote particularly in places where they were historically forbidden to do so. The Act contained two primary provisions. Section 2 of the Act included a permanent, nationwide prohibition against discrimination in voting. Section 5 was the administrative and temporary portion of the Act that required designated jurisdictions to submit any and all voting changes to either the United States Attorney General or the United States District Court for the District of Columbia for approval or preclearance prior to implementation. The Act designated preclearance for jurisdictions that Congress found had engaged in racially discriminatory voting practices. These "covered jurisdictions" included most of the Old South, e.g., Georgia, Alabama, Louisiana, South Carolina, Texas, parts of North Carolina and Florida, because of their historic and contemporaneous racially discriminatory voting practices.

Section 5 was one of the most important, but temporary, provisions that was subject to Congressional reauthorization. Nonetheless, at each point, Congress overwhelmingly voted to extend the temporary provisions to ensure the continued federal oversight of state and local voting changes and practices. In fact, in 1982 as President Ronald Reagan signed the extension of the Voting Rights Act's temporary provisions, he stated, "[T]he right to vote is the crown jewel of American liberties, and we will not see its luster diminished."[1] In 2007, Congress again overwhelmingly voted to extend the protections in the temporary provisions, finding "[t]he Voting Rights Act of 1965 was enacted to remedy 95 years of pervasive racial discrimination in voting, which resulted in the almost complete disenfranchisement of minorities in certain areas of the country. The Act is rightly lauded as the crown jewel of our civil rights laws because it has enabled racial minorities to participate in the political life of the nation. We recognize the great strides that have been made in the treatment of racial minorities over the last forty years, but extending the expiring provisions of the Voting Rights Act is still necessary to continue to fulfill its purpose."[2]

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[1] "Ronald Reagan, Pres. of the U.S., Remarks on Signing H.R. 3112 Into Law (June 29, 1982), in 18 WKLY.COMPILATION PRESIDENTIAL DOCUMENTS 846, 847 (1982)

[2] see also S. REP. NO. 109-295, at 1 (2006) ((emphasis added) (citation omitted))

Whether the jurisdiction chose to submit the change to the Attorney General or the United States District Court for the District of Columbia, it was required to demonstrate that the submitted change "neither [had] the purpose nor will have the effect of denying or abridging the right to vote on account of race or color, or [language minority group]."[3] Section 5's preclearance requirement was preemptive because it mandated that a covered jurisdiction demonstrate, *prior* to the implementation of legislation, that the proposed change was free from any discriminatory purpose or effect. The VRA sought to prohibit race discrimination in voting and served as an effective response to the violence and other barriers that Southern obstructionists placed in the way of the right to vote. Indeed, Section 5 blocked more than 1,500 discriminatory voting laws from going into effect until the Supreme Court's 2013 decision in *Shelby v. Holder* effectively shackled its use.

Challenging Section 5. Legal challenges to the Act began almost at its onset. In *South Carolina v. Katzenbach,* petitioners argued that Congress lacked the authority to pass this impactful legislation. The United States Supreme Court found that Congress was well within its authority pursuant to the Fourteenth and Fifteenth Amendments of the United States Constitution and held the extraordinary requirements of Section 5 necessary to ensure that the right to vote was free of discrimination. The Supreme Court continued to affirm that the Voting Rights Act was within Congress's authority in subsequent challenges.[4] For almost 50 years, the Voting Rights Act increased voter access and the number of minority elected officials. Voter registration, turnout, and representation in communities of color thrived after the VRA.

In 2013, in *Shelby County v. Holder,*[5] the United States Supreme Court found the coverage formula contained in Section 4 of the Act outdated and therefore, unconstitutional. This was significant because Section 4 determined the jurisdictions that were required to make submissions to the federal government under Section 5 of the Act. Without Section 4, Section could not be applied. Consequently, those jurisdictions that were covered under Section 5 almost immediately began to implement laws and practices that in some instances had been previously determined racially discriminatory. For example, in Texas, within hours of the *Shelby* decision, then Attorney General Abbot declared that the state would implement its restrictive voter ID law. Notwithstanding, that a federal court had ruled that the same Texas law could not receive preclearance due to its retrogressive effects on voters of color. Courts have subsequently found the Texas voter ID law intentionally discriminatory. Citing its discriminatory impact on African American and Latino voters – the court found that over 600,000 people lacked the ID needed to vote. Weeks after the *Shelby* ruling, North Carolina – where the DOJ had objected to more than 150 voting practices under the pre-*Shelby* provisions of the Voting Rights Act – passed the nation's most wide-sweeping voter suppression law, eliminating positive measures responsible

[3] 42 U.S.C. § 1973c(a).
[4] *See, e.g., Allen v. State Board of Elections,* 393 U.S. 544 (1969); *Georgia v. United States,* 411 U.S. 526 (1973); *Perkins v. Matthews,* 400 U.S. 379 (1971).
[5] *Shelby County v. Holder*, 570 U.S. 529 (2013)

for expanding access to voters of color.[6] In a legal challenge to that law brought by Advancement Project and others, a federal appeals court also found North Carolina's omnibus legislation intentionally discriminatory, finding that North Carolina had acted "with almost surgical precision" to eliminate voters of color.[7]

Clearly, the Court's decision in *Shelby* eliminated a key weapon in the voting rights arsenal. Section 5 served as a safeguard for discriminatory voting changes.[8] It was an important prophylactic that prevented jurisdictions from implementing laws that harmed minority voters. It provided important oversight for voting changes and practices. It prevented jurisdictions from implementing laws without providing notice to minority communities. Without Section 5, jurisdictions are free to pass and put laws into place without considering the impact on its citizens. These laws go into practice and civil rights groups are burdened with the responsibility of learning of these changes that were once routinely submitted to the federal government. More importantly, these legal challenges happen after the changes have occurred not before as under Section 5.

Tools in the Toolbox

While the VRA sought to eliminate the tools of disenfranchisement, such as the poll tax and literacy tests, new mechanisms, such as voter ID and "exact match" voter purges, developed. Restrictive voter identification, voter registration, proof of citizenship laws, and felon disenfranchisement laws have affected voter confidence. In this new millennium, we have witnessed constant attacks on the right to vote. Citizens throughout our country are subjected to suppressive voter activity that consists of challenges to their right to vote, deceptive tactics, e.g., "Republicans Vote on Tuesday, Democrats Vote on Wednesday" or misinformation on the ability to "tweet your vote." Draconian registration procedures, illegal purges, difficult to understand voter registration and Identification laws, felon disenfranchisement, lack of language services, all add up the disenfranchisement of particularly people of color. The cumulative effect of these measures illustrate the need for federal oversight.

After *Shelby*, new restrictions on voting have been implemented in Southern states that were previously covered by the VRA's preclearance provisions. Georgia, in particular instituted a number of retrogressive and arguably discriminatory practices, such as voter identification and proof of citizenship requirements, cuts to early voting, closed hundreds of polling places in communities of color and undertook massive voter purges. Leading into the 2018 General Elections, it placed more than 50,000 voter registrations on hold, provided inoperable voting machines and untrained poll workers for its elections. It also designated eligible voters as noncitizens and required them to prove otherwise in a precarious and opaque system. It

[6] HB589 (NC 2013), http://www.ncleg.net/Sessions/2013/Bills/House/PDF/H589v8.pdf. The law eliminated a week of early voting, a practice used by 70 percent of the state's African American voters, imposed a photo ID requirement and eliminated same day registration, out of precinct voting, straight ticket voting and even preregistration of 16 and 17-year olds.

[7] *North Carolina State Conference of the NAACP v. McCrory*, 831 F.3d 204 (2016)

[8] Daniels, Gilda, Unfinished Business: Protecting Voting Rights in the Twenty-First Century (August 7, 2013). Available at SSRN: https://ssrn.com/abstract=2405974 or http://dx.doi.org/10.2139/ssrn.2405974

instituted restrictive voter ID and proof of citizenship laws. In an effort to capture voters of color, Georgia held 53,000 voter registrations, due to lacking an "exact match" in name, Social Security number and other minor discrepancies, e.g., an extra space, a missing hyphen or other typographical errors in the spelling or spacing of their names. While Georgia's population is 32 percent Black, African American voters made up more 70 percent of the names on that list, and 80 percent of applicants on that list were Black, Asian or Latino. Secretary of State Kemp's office also purged approximately 1.5 million registered voters between 2012 and 2016. The state closed nearly 214 polling places during the same period. Many of those voting precincts were located in communities of color and disadvantaged areas. Between 2016 – 2018, Georgia purged more than 10 percent of its voters, – nearly 670,000 registrations were cancelled in 2017 alone.

Prior to the dismantling of the VRA in the *Shelby* decision, Section 5 would have required Georgia and its sub-jurisdictions to seek preclearance prior to implementing these changes. If Georgia had been subject to Section 5 many, if not all of these practices, would have never been introduced. It would have had the burden of demonstrating that the proposed practice did not impede the right to vote. The years of litigation and frustration would have been avoided had the protections of the Voting Rights Act remained in place. Without Section 5, civil rights groups and individuals face the costly task of litigating voting practices after they have adversely affected communities of color.

I saw some of these problems manifest first hand while monitoring voting in Georgia during the November 2018 midterm elections. We received a number of calls from persons who requested absentee ballots but did not receive them. Long lines were also a problem. For example, at the Pittman Park voting station, we received calls lines that were reportedly 300 people deep with a wait time of 3.5 hours. Long lines and broken or inoperable voting machines also led to people getting turned away or given provisional ballots. Ultimately, I was involved in advocacy and litigation to extend the hours of several polling locations in Fulton County, Georgia, that particularly impacted Atlanta University Center students at Morehouse, Spelman, and Clark Atlanta University at the Booker T. Washington High School polling place locations.

The Road Ahead.

It is imperative that we develop a federal solution that eliminates discriminatory barriers to the ballot box. Ideally, Congress should restore federal oversight over voting changes. This may require an expansion of the number of covered jurisdictions beyond the previously covered states and sub jurisdictions. Additionally, we need an explicit affirmative right to vote in the Constitution. While we have more amendments that address the right to vote more than any other right, post-*Shelby* shenanigans illuminate that the right to vote is not absolute. States and municipalities routinely place restrictions on registration and access to the ballot. More restrictions, in fact, than we currently have, for example, with the right to bear arms.

The federal constitution needs an affirmative right to vote. It is the right upon which all other rights are built. Yet, state and local lawmakers have the ability to change the laws and

make it harder to access the ballot box. We need to elevate the right to vote over the right to bear arms. A right to vote amendment is needed which instead of including a list of thou shall nots provides the citizens of these United States the ability to participate in the democracy. Let us reverse course and make the right to vote free and fair.

Thanks to Chairwoman Marcia Fudge and the Subcommittee on Elections, Committee on House Administration for holding this field hearing. It is time for Congress to act by reinstating the pre-clearance provisions of the Voting Rights Act to restore protections for voters of color. Moreover, we must enshrine an explicit right to vote at the federal level. The right to vote protects all other rights. Legal protection for voting is needed now more than ever, both to safeguard hard-fought progress and to defeat persistent and ongoing attempts to narrow the franchise.

Thank you.

Chairwoman Fudge. Thank you very much.
[Applause.]
Chairwoman Fudge. Mr. Richmond.
I now recognize Mr. Young.

STATEMENT OF SEAN J. YOUNG

Mr. YOUNG. Good morning. My name is Sean Young, and I am the legal director of the ACLU of Georgia.

Today, I am going to highlight three areas in which the *Shelby County* decision has made it more difficult for people of color to exercise their right to vote in Georgia, as well as the strenuous efforts required to beat back these measures without preclearance. I am speaking based on my personal knowledge as a voting rights lawyer in Georgia.

I am going to focus on three areas: redistricting, polling place closures, and early voting cutbacks.

First, discriminatory redistricting. The ACLU of Georgia's litigation in Sumter County perfectly illustrates the damage that the *Shelby* decision has caused. In 2011, 67 percent of the Sumter County Board of Education was African American.

Then, the General Assembly proposed a plan that would reduce that percentage to 28 percent. The DOJ did not preclear the plan, but then the Shelby County decision was handed down, and that discriminatory plan was put into effect immediately.

The ACLU filed a voting rights lawsuit under Section 2. Last summer, after 5 years of litigation, the Federal District Court issued a ruling finding that the plan was discriminatory and violated the Voting Rights Act.

That is five years of time-consuming litigation, hundreds if not thousands of attorney hours, and thousands of dollars in expert fees. That is five years of discriminatory elections taking place over and over again in Sumter County and that is five years in which African American school children and their parents did not have their interests adequately represented in the board. We are two years away from another round of redistricting, in which all of this can happen again.

If the preclearance requirement were in place, none of this would have happened and that plan wouldn't have seen the light of day.

Second, I am going to talk about discriminatory polling place closures. In the last two years, the ACLU of Georgia has had to beat back polling place closures in three counties: Randolph, Fulton, and Irwin.

Last August, as Chairwoman Fudge mentioned, in Randolph County the Board of Elections tried to close seven out of nine polling places in a county that is 60 percent black on the eve of the State's general elections in 2018.

The ACLU of Georgia wrote a letter threatening to sue if they moved forward with the plan. And then my Executive Director, Andrea Young, and I testified at two public hearings that the board held. Then our partners had to mobilize massive community opposition to show up at these hearings and express their opposition. Our media strategy ensured wall-to-wall media coverage. We quickly put together a lawsuit that could be ready to go as soon as this

plan went into effect and all of that happened in less than two weeks.

All that had to happen before the board finally relented and withdrew their proposal. Then we learned it was a consultant handpicked by the Secretary of State that had recommended these discriminatory polling place closures, and he bragged about having closed polling places in 10 different other counties in rural Georgia. Nine of those 10 are disproportionately black.

In Fulton County, the Board of Elections voted to close polling places in neighborhoods that were over 80 percent African American, affecting over 14,000 voters. Within days, the ACLU of Georgia filed a lawsuit over the board's violation of the State's public notice law which nullified that decision.

The fight wasn't over. Our partners had to quickly recruit dozens of paid neighborhood canvassers to go out in the community to draw opposition to this plan in less than a month. It was only after those efforts that the plan was defeated.

In Irwin County, the Board of Elections tried to close the only polling place that existed in the only Black neighborhood in the county, contrary to the recommendations of a nonpartisan association of county commissioners. The board alleged that it wanted to save money, yet their plan kept open a polling place at the edge of the county at Jefferson Davis Memorial Park, in a neighborhood that was 99 percent white.

It was only after the ACLU of Georgia threatened litigation that they backed down. And those are only three counties. Georgia has 159. As we all know, over 200 have closed since Shelby County.

Playing whack-a-mole is not a sustainable strategy to fight against voting discrimination.

[Applause.]

Mr. YOUNG. Last—and I will wrap up quickly—discriminatory cutbacks to early voting. I have some personal experience with this leading ACLU's litigation in Ohio to fight against their discriminatory early voting cutbacks.

It seems like every year since *Shelby County* legislators have been trying to attack early voting, especially early voting on Sundays, which everyone knows is when African American churches organize Souls to the Polls.

In 2014, a State representative criticized his county for allowing Sunday voting, and he wasn't shy about why. He said, quote: "This location is dominated by African American shoppers and it is near several large African American mega churches," unquote. In his view, he said he would, quote, "prefer more educated voters."

As these examples illustrate, discriminatory voting changes have forced lawyers and community activists to scramble to stop every discriminatory change that pops up, and that is to the extent that we hear about them. We don't and can't stop all of them, and that is why we need a new preclearance provision. Thank you.

[The statement of Mr. Young follows:]

Field Hearing on Voting Rights and Election Administration in Georgia
Carter Presidential Center
February 19, 2019

Written Testimony of

Sean J. Young
Legal Director
ACLU of Georgia

To the Subcommittee on Elections of the Committee on House Administration

Good morning. My name is Sean Young, and I am the Legal Director of the ACLU of Georgia. Our organization is dedicated to the fight for voters' rights in the state of Georgia. Since the United States Supreme Court handed down its shameful 2013 decision in *Shelby County v Holder*, we have been in overdrive, fighting the continuous onslaught of racially discriminatory voting policies and practices throughout the state of Georgia. The *Shelby* decision eliminated the requirement for Georgia and other jurisdictions with a history of racial discrimination to obtain approval from a federal court or the U.S. Department of Justice before implementing changes to voting regulations.

Today I'm going to highlight three areas the *Shelby* decision has negatively impacted the ability of people of color in Georgia to exercise their sacred, constitutional right to vote: redistricting, polling place closures, and early voting cutbacks.

Discriminatory Redistricting

First, discriminatory redistricting. The ACLU of Georgia's litigation in Sumter County perfectly illustrates the damage that *Shelby County* has caused.

In 2011, 67% of Sumter County's Board of Education was African American (6 out of 9). Then the General Assembly proposed a redistricting plan that would reduce the percentage of African Americans on the Board to 28% (2 out of 7) and submitted the plan to the US Department of Justice for preclearance. DOJ did not preclear the plan, but when the Supreme Court decided *Shelby County* in 2013, the board was able to immediately implement its discriminatory plan to reduce the number of African Americans on the local board of education.

The ACLU along with co-counsel Bryan Sells, a former DOJ voting rights attorney, brought a Voting Rights lawsuit soon thereafter. And just last summer, a federal court ruled that the plan was discriminatory and violated the Voting Rights Act. *See* Exhibit 1 (copy of rulings). But that ruling was issued in 2018—*five years* after the discriminatory plan went into effect. That is *five years* of expensive, time-consuming litigation consisting of hundreds if not thousands of

attorney hours and thousands of dollars in expert fees; *five years* of Board of Education elections under a discriminatory and illegal electoral system; and *five years* during which African American schoolchildren and their parents were unable to have their interests adequately represented in the unrepresentative school board. If the preclearance requirement of the Voting Rights Act had remained in place, none of this would have happened to the kids of Sumter County, who deserve a non-discriminatory school board that is responsive to their needs.

Discriminatory Polling Place Closures

Second, discriminatory polling place closures. In the last two years alone, the ACLU of Georgia and coalition partners have expended significant time and resources to beat back discriminatory polling place closures in three counties: Randolph, Fulton, and Irwin.

Last August, in Randolph County, the Board of Elections tried to close 7 out of 9 polling places in a county whose population is 60% Black, affecting thousands of voters on the eve of the state's high-profile 2018 general election. *See* Exhibit 2 (ACLU of Georgia demand letter to Randolph County outlining discriminatory impact). Located in the southwest corner of the state, Randolph County is part of what is known as the Black Belt. Our client read the small notice that the county board placed in the legal section of a local weekly paper and reached out for our help. With less than two weeks to protect the voter rights of the Randolph county citizens, the ACLU of Georgia immediately implemented a three-pronged strategy that incorporated legal, media, and on-the-ground community organizing.

Our executive director, Andrea Young, and I testified at the two public meetings that the board held. The coalition work packed the public meetings with local residents who rose up in opposition to the proposed closures. Our media strategy ensured wall-to-wall local, state, and national media attention. We spent dozens of hours hastily putting together a lawsuit that would be ready to go in case the board voted to shutter 75% of the county's polling places. Again, all of this occurred in less than 2 weeks.

Only after the ACLU of Georgia threatened to sue coupled with the overwhelming local opposition and the immense negative media coverage did the two-member board of elections vote unanimously to keep open the polling places.

In the course of that advocacy, however, we learned that the board had hired a consultant handpicked by the Secretary of State who had been recommending polling place closures in counties that were almost all disproportionately Black.

In Fulton County, the Board of Elections violated state law that required proper public notice in its attempt to close polling places in neighborhoods that were over 80% African-American, affecting over 14,000 voters. *See* Exhibit 3 (proposed polling place changes and number of voters of each race affected). Just to put this into perspective, that was the same year that Atlanta had a high-profile mayoral election that was decided by less than 1,000 votes.

Even after the ACLU of Georgia testified about the discriminatory impact, the board voted to close the polls. The ACLU of Georgia then filed a successful lawsuit over the board's violation of the state's public notice law—which we had to put together within days, to nullify the decision. After the ACLU of Georgia nullified the decision through the courts, a coalition of community organizers had to quickly recruit dozens of neighborhood canvassers who worked tirelessly over several days to organize overwhelming opposition. It was only after this furious amount of activity compressed in less than a one-month timeframe that the local board of elections unanimously reversed its prior decision.

In Irwin County, the Board of Elections tried to close the only polling place that existed in the only Black neighborhood of the county, affecting thousands of voters, contrary to the recommendations of the non-partisan Association of County Commissioners of Georgia. *See* Exhibit 4 (ACLU of Georgia demand letter to Irwin County outlining discriminatory impact). The board alleged that it wanted to close this polling place to save costs, all while keeping open a polling place located at the Jefferson Davis Memorial Park in a neighborhood that was 99% white. After the ACLU of Georgia threatened litigation, the board rejected this discriminatory proposal. The ACLU of Georgia only learned about these proposed closures in this rural Georgia county because one of its members just happened to live in the area and alert us to it.

While these are stories in three counties, Georgia has 159 counties, and over 200 polling places have closed since *Shelby County*. No organization has eyes and ears everywhere in the state. Playing whack-a-mole is not a sustainable strategy to guarantee Georgians unfettered ability to exercise their sacred, constitutional right to vote.

Discriminatory Cutbacks to Early Voting

Third, discriminatory cutbacks to early voting. It seems like every year since *Shelby County*, officials are trying to eliminate early voting on Sundays, which everyone knows is when many African American churches organize Souls to the Polls initiatives.

Politicians haven't been shy about why they hate Sunday voting so much. In 2014, a state representative criticized his county elections officials for allowing Sunday voting at a convenient location, because, "this location is dominated by African American shoppers and it is near several large African American mega churches," and that he would "prefer more educated voters." *See* Exhibit5 (news article reporting on statements). If there is no clearer evidence of racially discriminatory intent, I don't know what is.

Even after that embarrassing—but revealing—episode, state legislators have repeatedly introduced legislation preventing counties from having early voting on Sundays. It has taken an overwhelming amount of resources and advocacy from all our partners to defeat these bills year after year without preclearance.

Conclusion

People of color are becoming a greater percentage of the population in Georgia year by year. Since 2013, five counties have become majority people of color. Ever since African Americans won the right to vote in 1865, states have stopped at nothing to make it harder for them to vote, and the last five years since *Shelby County* have been no exception here in Georgia. As these examples illustrate, these changes have forced lawyers and community activists to expend scarce resources we do not have to scramble and stop every discriminatory change that pops up—even in high-profile heavily populated places like Fulton County. This exhausting expenditure of resources is exactly what preclearance was designed to prevent, not to mention the discriminatory voting measures themselves. The ACLU of Georgia urges the passage of a preclearance provision for the Voting Rights Act.

EXHIBIT 1

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
ALBANY DIVISION

MATHIS KEARSE WRIGHT, JR.,	:	
	:	
Plaintiff,	:	
	:	CASE NO.: 1:14-CV-42 (WLS)
v.	:	
	:	
SUMTER COUNTY BOARD OF ELECTIONS AND REGISTRATION,	:	
	:	
Defendant.	:	
	:	

ORDER

On November 20, 2017, the Court issued an order memorializing the pretrial conference in this action. The order directed the parties to "submit their views on the procedure required for an order implementing a redistricting plan in this action were Plaintiff to prevail . . . ." (Doc. 134.) Plaintiff Mathis Kearse Wright, Jr. submitted his views first. (Doc. 140.) He argued the Court should give elected officials the first opportunity to remedy an unlawful plan, but that timing or other factors may make doing so impracticable. (*Id.* at 3.) Any new plan put in place, he noted, must not violate Section 2 of the Voting Rights Act. (*Id.* at 4.) Defendant Sumter County Board of Elections and Registration agreed that the legislature should have the first opportunity to remedy an unlawful plan. (Doc. 141 at 3.) If the legislature failed to do so, it noted, the Court would have to put a plan in place which would approximate the plan the legislature would have put in place. (*Id.* at 4.)

The Court then held a bench trial in this matter on December 11–14, 2017. (Docs. 144–146; 147.) Following the trial, the Court ordered the parties to submit a series of post-trial briefs, including proposed remedial plans. (Doc. 147.)

Wright filed his proposed remedial plans on January 22, 2018. (Doc. 174.) Sumter County filed a response on February 5, 2018, (Doc. 176), and Wright then filed a reply on February 14, 2018. (Doc. 180.) In the midst of that briefing, the Court filed an order

explaining that a series of motions filed and hearings requested by the parties would prevent it from determining liability and implementing a remedial plan prior to the scheduled May 2018 elections. (Doc. 179.) It ordered the parties to files brief no later than February 23, 2018, and no longer than five pages, addressing whether the Court should allow the upcoming election to proceed as planned with the current districts or enjoin the election. (Doc. 179.)

Wright responded that, in the event the Court found the current plan to violate Section 2, the election should be enjoined. (Doc. 181 at 1.) He suggested the election be moved to the general election on Tuesday, November 6, 2018. (*Id.* at 3.) Sumter County disagreed. (Doc. 182.) It suggested that, even if the Court ruled in Wright's favor on the merits, the elections should go forward as scheduled. (*Id.* at 1.) The Court held a status conference on February 28, 2018. Wright suggested the following timeline for a general election:

- July 23, 2018: Deadline for new district boundaries to be set.
- August 6–10, 2018: Candidate qualifying period.
- August 8, 2018: Approximate time ballots begin being created.
- September 21, 2018: Deadline for ballots to be made available.
- November 6, 2018: General election.

(Doc. 189.) The Court noted that those dates were reasonable in the event the election was enjoined. (*Id.*)

On March 17, 2018, the Court found that the current school board districts violate Section 2 of the Voting Rights Act. (Doc. 198.) The Court noted that the Georgia General Assembly would be in session through at least Thursday, March 29, 2018. S.R. 631, 154th Gen. Assemb., Reg. Sess. (Ga. 2018). It ordered Sumter County "to confer with Sumter County's legislative delegation and inform th[e] Court no later than Monday, March 26, 2018 whether the General Assembly is inclined to enact a remedial plan before adjourning sine die or, if not, a timeline for when it believes a remedial plan could be adopted." (Doc. 198 at 37.) Sumter County filed a status report on March, 26, 2018. (Doc. 201.) It spoke with Senator Freddie Powell Sims, the representative for Georgia Senate

District 12, who informed counsel that the Assembly would not be able to change the school board districts before it returned to session in January 2019. (*Id.*)

Also on March 26, 2018, the parties filed supplemental briefs regarding remedy proposals. Wright argued that, if the General Assembly failed to enact a remedial plan before adjourning, the Court should enact a remedial plan as an interim remedy and move the election date to November 6, 2018. (Doc. 199 at 1.) Again, Sumter County disagreed. (Doc. 200.) It suggested the Court leave the May 2018 election in place and permit the Assembly to enact a plan in 2019. (*Id.* at 29.) Further, it requested the Court issue a partial final judgment in accordance with Federal Rule of Civil Procedure 54(b) and reserve jurisdiction over remedial issues until after the Assembly has an opportunity to act. (*Id.* at 30.)

On March 30, 2018, Wright filed an Emergency Motion for a Temporary Restraining Order and Preliminary Injunction. (Doc. 202.) He informs the Court that, in the absence of an injunction, absentee ballots may begin being distributed on April 3, 2018. (*Id.* at 4.) The ballots for the election have already been printed and cannot be changed. (Doc. 202-1.) Wright requests that Sumter County: "(a) redact the names of school-board candidates by means of a sticker or permanent marker; (b) include a notice with the ballots that the school-board election has been cancelled; or (c) both. Alternatively, the Court could enjoin the defendant from distributing any ballots for a few days while the parties attempt to agree on a suitable procedure for cancelling the election." (Doc. 202 at 8 (citation omitted).)

Later the same day, Sumter County filed a Notice Regarding Briefing. (Doc. 203.) It notes that Wright's motion was filed the morning of Good Friday and seeks nearly-immediate Court action without response from the County. (*Id.*) It requests until Wednesday, April 4, 2018 to file a response. (*Id.*)

DISCUSSION

At the outset, the Court notes that under the totality of the circumstances, including its resolving of dispositive motions, a bench trial, post-trial hearings, and extensive and ongoing briefing by the parties, it has an adequate record before it to consider injunctive relief consistent with its duty to protect the right at issue. Further, Sumter County—as will

be further explained—will be provided an opportunity to respond to this order consistent with the local rules.

Before delving into the appropriate remedy, the Court reviews the different forms of injunctive relief available in federal court. "[T]here are basically three types of injunctions that can be issued by a federal court[:] . . . the temporary-restraining order, the preliminary injunction, and the permanent injunction." 11A Charles Alan Wright & Arthur R. Miller, *Federal Practice and Procedure* § 2941 (3d ed.).

- A temporary-restraining order typically is sought and issued on an ex parte basis and operates to prevent immediate irreparable injury until a hearing can be held to determine the need for a preliminary injunction.
- A preliminary injunction is effective until a decision has been reached at a trial on the merits.
- A permanent injunction will issue only after a right thereto has been established at a trial on the merits.

Id. (formatting altered). Because the Court has already decided the merits of this action in Wright's favor, neither a temporary restraining order nor a preliminary injunction are appropriate. Rather, the Court must decide whether to issue a permanent injunction, the standards for which vary slightly from those cited by Wright. "[T]o obtain a permanent injunction, a party must show: (1) that he has prevailed in establishing the violation of the right asserted in his complaint; (2) there is no adequate remedy at law for the violation of this right; and (3) irreparable harm will result if the court does not order injunctive relief." *Alabama v. U.S. Army Corps of Engineers*, 424 F.3d 1117, 1128 (11th Cir. 2005).

To begin with, the Court agrees with the parties "that redistricting and reapportioning legislative bodies is a legislative task which the federal courts should make every effort not to pre-empt." *Wise v. Lipscomb*, 437 U.S. 535, 539 (1978). The Georgia General Assembly should have the first opportunity to craft a remedial plan when doing so is "practicable." *Id.* at 540. Here, it is clearly not practicable to defer to the Assembly for the 2018 election. Both the Georgia Senate and the Georgia House of Representatives have now adjourned sine die, and the senator representing Sumter County has informed the Court through Sumter County that the Assembly will not act on this issue until 2019.

"[O]nce a State's[—or here, school board's—]legislative apportionment scheme has been found to be unconstitutional, it would be the unusual case in which a court would be justified in not taking appropriate action to insure that no further elections are conducted under the invalid plan." *Reynolds v. Sims*, 377 U.S. 533, 585 (1964). Unsurprisingly, then, the Court finds that all three requirements for a permanent injunction have been met. First, Wright has prevailed in his claim. (Doc. 198). Second, there is no adequate remedy at law for a violation of Section 2 of the Voting Rights Act. *See Dillard v. Crenshaw Cty.*, 640 F. Supp. 1347, 1363 (M.D. Ala. 1986) ("it is simply not possible to pay someone for having been denied a right of this importance"). Likewise, and third, the loss of a meaningful right to vote creates an irreparable harm. *Id.*

Once the Court decides the standards for a permanent injunction are met, it "must undertake an 'equitable weighing process' to select a fitting remedy for the legal violations it has identified . . . ." *North Carolina v. Covington*, 137 S. Ct. 1624, 1625 (2017) (citation omitted). The Court must consider "a special blend of what is necessary, what is fair, and what is workable." *New York v. Cathedral Acad.*, 434 U.S. 125, 129 (1977) (quoting *Lemon v. Kurtzman*, 411 U.S. 192, 200 (1973)); *see Covington*, 137 S. Ct. at 1625 (applying *New York* to the voting rights context). Relief is not automatic. A district court may permit an election to proceed even after a finding that the districts are unlawful when "an impending election is imminent and a State's election machinery is already in progress." *Id.* There is no shortage of courts that have done so. *See, e.g.*, Order at 162–163, *Covington v. North Carolina*, No. 1:15-cv-399 (M.D.N.C. August 11, 2016).

The Supreme Court recently noted, in the context of a district court setting a special election to remedy a racial gerrymander, a non-exhaustive list of factors district courts may consider in deciding a proper equitable remedy. They include "the severity and nature of the particular constitutional violation, the extent of the likely disruption to the ordinary processes of governance if early elections are imposed, and the need to act with proper judicial restraint when intruding on state sovereignty." *North Carolina v. Covington*, 137 S. Ct. 1624, 1626 (2017).

Here, the infringement of black voters' right to vote in Sumter County is severe. Despite African Americans constituting 49.5% of the voting age population in Sumter County, they are only able to elect their candidates of choice to 29% of the school board seats. (Doc. 198 at 2.) Were the Court to allow the election to proceed, this vastly disproportionate representation would continue for another two years. Second, the Court finds that enjoining this election and moving it to November would cause minimal disruptions to the ordinary processes of governance. New school board members do not begin their term until the January following the election, so moving the election date from May to November will not interfere with the regular terms of board members. (Doc. 153-85); *cf. Covington*, 137 S. Ct. at 1625 (vacating injunction which would have shortened legislators' terms from two years to one). The Court acknowledges that voters may be confused by the changed election date. However, the school board held elections in November as recently as 2010. (Doc. 153-61.) A November school board election will not be an unusual sight for Sumter County voters. Moreover, Wright is not proposing to move the election to an unusual, specially set election date. *Cf Covington*, 137 S. Ct. at 1625 (setting special primary and general elections for the fall of 2017). Voters are used to elections taking place on the first Tuesday after the first Monday in November of even-numbered years. A number of races will already be on the ballot, and the addition of a school board election is unlikely to disrupt the election process.

Finally, the Court is acting with proper judicial restraint. It attempted to defer to the General Assembly to craft a remedy for the 2018 elections. (Docs. 198; 201.) It is only after learning that the Assembly would be unable to act that the Court considered an injunction. Any injunction and specially set election will be for the 2018 election only. The Court will again defer to the Assembly when it returns to session in 2019.

CONCLUSION

Accordingly, the Court finds that the balance of equities weighs toward enjoining the May 2018 election as to the Board of Education. The Court construes Wright's Emergency Motion for a Temporary Restraining Order and Preliminary Injunction (Doc. 202) as a motion for a permanent injunction. Pursuant to Middle District of Georgia Local Rule 7.7,

the Court finds that the extensive briefing on this issue, as outlined above, has allowed it to determine "the relative legal positions of the parties so as to obviate the need for the filing of opposition thereto." The Court will entertain any objections to this order filed **no later than Friday, April 6, 2018**. Wright's motion for a permanent injunction (Doc. 202) is **GRANTED**. TheSumter County Board of Education election scheduled for May 22, 2018 is **ENJOINED** and **RESET** for November 6, 2018. Defendant Sumter County Board of Elections and Registration is hereby **ORDERED** to redact the names of school-board candidates by means of a sticker or permanent marker on all ballots distributed for the May 22, 2018 election, include a notice with all ballots for the May 22, 2018 election that the school-board election has been cancelled, or petition the Court prior to distributing any ballots for the May22, 2018 election of another method by which it intends to inform voters in the May 22, 2018 election that the races for the Sumter County Board of Education has been enjoined.[1] Defendant Sumter County Board of Elections and Registration is **ENJOINED** from tabulating the votes cast in the May 22, 2018 election for any position on the Sumter County Board of Education.

The Court will enter an order **no later than July 23, 2018** setting interim boundaries for the new Sumter County Board of Education districts. The election for all Sumter County Board of Education seats set for May 22, 2018 will instead take place on **November 6, 2018**. The candidate qualifying period for that election will begin **August 6, 2018** and end **August 10, 2018**. The parties should inform the Court as soon as practicable if any of these deadlines are unworkable or if additional deadlines need to be set by Court order.

SO ORDERED, this 30th day of March 2018.

/s/ W. Louis Sands
W. LOUIS SANDS, SR. JUDGE
UNITED STATES DISTRICT COURT

[1] The Court notes thatSumter County does not believe it has sufficient time to print and prepare notices for each absentee ballot orto redact all of the Board of Education candidates' names from the ballots. (Doc. 203 at 2.) The Court intends to be flexible with this requirement. In the event so many absentee ballots are to be distributed on April 3,2018, that the County is unable to redact them all, the Court is not expecting Defendant's counsel to "cancel[] their plans to be with their families this holiday weekend." (*Id.*) Rather, Sumter County shouldformulate a reasonable plan to inform voters that the election has been enjoined and present it to the Courtas soon as possible.

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
ALBANY DIVISION

MATHIS KEARSE WRIGHT, JR.,	:	
	:	
Plaintiff,	:	
	:	CASE NO.: 1:14-CV-42 (WLS)
v.	:	
	:	
SUMTER COUNTY BOARD OF ELECTIONS AND REGISTRATION,	:	
	:	
Defendant.	:	

ORDER

The Court held a bench trial in the instant action on December 11–14, 2017, to determine whether the method of electing members to the Board of Education in Sumter County, Georgia violated Section 2 of the Voting Rights Act. (Docs. 144–146; 147.) Following the trial, the Court ordered the parties to submit a series of post-trial briefs, including proposed remedial plans. (Doc. 147.) Plaintiff Mathis Kearse Wright, Jr. filed his proposed remedial plans on January 22, 2018. (Doc. 174.) Defendant Sumter County Board of Elections and Registration filed a response on February 5, 2018, (Doc. 176), and Wright then filed a reply on February 14, 2018. (Doc. 180.) In the midst of that briefing, the Court filed an order explaining that a series of motions filed and hearings requested by the parties would prevent it from determining liability and implementing a remedial plan before the scheduled May 2018 elections. (Doc. 179.) It ordered the parties to files briefs no later than February 23, 2018, and no longer than five pages, addressing whether the Court should allow the upcoming election to proceed as planned with the current districts or enjoin the election. (Doc. 179.)

On March 17, 2018, the Court found that the method of elections did indeed violate the Voting Rights Act. (Doc. 198.) On March 26, 2018, the parties filed supplemental briefs regarding remedy proposals. Wright argued that, if the General Assembly failed to enact a

remedial plan before adjourning, the Court should enact a remedial plan as an interim remedy and move the election date to November 6, 2018. (Doc. 199 at 1.) Sumter County suggested the Court leave the May 2018 election in place and permit the Assembly to enact a plan in 2019. (*Id.* at 29.)

On March 30, 2018, Wright filed an Emergency Motion for a Temporary Restraining Order and Preliminary Injunction. (Doc. 202.) He informed the Court that, in the absence of an injunction, absentee ballots might begin being distributed on April 3, 2018. (*Id.* at 4.) The Court construed the filing as one for a permanent injunction. (Doc. 204 at 4.) It granted the motion as follows:

> The Sumter County Board of Education election scheduled for May 22, 2018 is **ENJOINED** and **RESET** for November 6, 2018. Defendant Sumter County Board of Elections and Registration is hereby **ORDERED** to redact the names of school-board candidates by means of a sticker or permanent marker on all ballots distributed for the May 22, 2018 election, include a notice with all ballots for the May 22, 2018 election that the school-board election has been cancelled, or petition the Court prior to distributing any ballots for the May 22, 2018 election of another method by which it intends to inform voters in the May 22, 2018 election that the races for the Sumter County Board of Education ha[ve] been enjoined. Defendant Sumter County Board of Elections and Registration is **ENJOINED** from tabulating the votes cast in the May 22, 2018 election for any position on the Sumter County Board of Education.

(*Id.* at 204 (footnote omitted).) The Court indicated that it would "enter an order no later than July 23, 2018 setting interim boundaries for the new Sumter County Board of Education districts." (*Id* (emphasis removed).) In accordance with the local rules, Sumter County then filed objections to the order. (Doc. 205.) The Court overruled the objections but did clarify that it only intended to enter an ordering concerning the parties' remedial proposals by July 23, 2018. (Doc. 206 at 6.) "The Court is not suggesting it has determined one of Wright's proposed remedial plans will, in fact, be implemented." (*Id.*)

On April 11, 2018, Sumter County filed a notice of appeal as to the Court's injunction, "and all orders forming the basis of or relating to that injunction, including without limitation the Court's order regarding liability." (Doc. 207 (citation omitted).) Two days later, Sumter County moved to expedite the appeal so that the United States Court of

Appeals for the Eleventh Circuit could issue an order before the end of July 2018. Motion to Expedite Appeal, *Wright v. Sumter Cty. Bd. of Elections & Registration*, No. 18-11510 (11th Cir. April 13, 2018). It expressed concern that, if the court did not do so, the November election would take place with whatever plan this Court decided to implement. *Id.* at 14–15. Wright responded to the motion, and in the same response, moved to dismiss the appeal. Wright implied that the County was using the injunction as an impermissible bootstrap to challenge the underlying finding of liability prior to the Court entering judgment, and that the challenge to the injunction was moot. Response in Opposition to the Defendant-Appellant's Motion to Expedite Appeal and Motion to Dismiss, *Wright v. Sumter Cty. Bd. of Elections & Registration*, No. 18-11510 (11th Cir. April 18, 2018). As to the request to expedite, Wright stated:

> The district court has indicated that it intends to issue at least one further remedial order before July 23. (ECF 204 at 7.) The district court has not asked for further briefing, and that order could come at any time. If that order comes down before this appeal is resolved, then additional briefing and perhaps re-argument could become necessary. That is just a waste of resources.

Id. at 13.

The Eleventh Circuit first denied the motion to expedite, "without prejudice to the right of either party to seek a stay and/or expedited review upon the district court issuing an order setting interim boundaries for the Sumter County Board of Election districts." (Doc. 212.) The court then summarily denied the motion to dismiss. (Doc. 213.) The appeal remains pending. Wright's brief is due on July 5, 2018.

DISCUSSION

The Court issues this order to inform the parties that it does not intend to adopt any remedial district boundaries while the instant appeal remains pending. Despite the parties' and the Eleventh Circuit's assumptions to the contrary, the Court finds that it lacks jurisdiction to enter any such order.

"The filing of a notice of appeal is an event of jurisdictional significance—it confers jurisdiction on the court of appeals and divests the district court of its control over those aspects of the case involved in the appeal." *Griggs v. Provident Consumer Disc. Co.*, 459 U.S. 56,

58 (1982). However, the divestment is not absolute. Federal Rule of Civil Procedure 62(c) permits the district court to "suspend, modify, restore, or grant an injunction on terms for bond or other terms that secure the opposing party's rights" while an appeal to the injunction is pending. There is little case law in the Eleventh Circuit interpreting Rule 62(c), but other circuits have been unanimous in narrowly construing it to "grant only such relief as may be necessary to preserve the status quo pending an appeal where the consent of the court of appeals has not been obtained." *Int'l Ass'n of Machinists & Aerospace Workers, AFL-CIO v. E. Air Lines, Inc.*, 847 F.2d 1014, 1018 (2d Cir. 1988); *see Coastal Corp. v. Texas E. Corp.*, 869 F.2d 817, 819 (5th Cir. 1989) ("Several circuits have held, or at least strongly implied, that the district court may not alter the injunction once an appeal has been filed except to maintain the status quo of the parties pending the appeal."); *Dillard v. City of Foley*, 926 F. Supp. 1053, 1075 (M.D. Ala. 1995) ("The purpose of Rule 62(c) is to allow district courts to retain jurisdiction over a case to maintain the status quo where equity requires it while the case is on appeal."). "The appellate court is entitled to review a fixed, rather than a mobile, record. Additional findings that move the target are disfavored." *Fed. Trade Comm'n v. Enforma Nat. Prod., Inc.*, 362 F.3d 1204, 1216 n.11 (9th Cir. 2004) (quotations and citations omitted).

Adhering to those principles, one district court recently refused to consider a request to enjoin one section of an executive order when another section of that same order had already been enjoined and was on appeal. *Int'l Refugee Assistance Project v. Trump*, No. CV TDC-17-0361, 2017 WL 1315538, at *2 (D. Md. Apr. 10, 2017). Likewise, over two decades earlier, a district court in our circuit addressed the same issue. *See Dillard*, 926 F. Supp. 1053.[1] The court had approved a consent decree directing a city to adopt a specified annexation procedure for surrounding areas because its previous practice had been steeped in racial animus. A notice of appeal was filed, and while pending, a motion was filed to exclude white-majority areas from the new annexation procedure. *Id.* at 1075. The court found that it

[1] For reasons not clear to the Court, Westlaw includes the order approving the consent decree, the consent decree itself, and the order denying modification in a single document. The Court refers only to the order denying modification, dated February 13, 1996. To assist the parties in finding the case, if they are so inclined, the Court cites the combined document rather than to the less readily accessible docket from a less technologically advanced time.

lacked the authority to issue any such order, in part because it "would not maintain the status quo; it would permit the implementation of annexation procedures only in majority African–American Areas and would delay the implementation in majority white Areas for an undetermined period." *Id.* Rule 62(c), the court found, did not permit any such modification. *Id.*

Here, the Court finds that imposing new district boundaries for Sumter County is clearly "involved" with the appeal in this case. The Eleventh Circuit is considering both the Court's underlying liability order and its decision to move the May election to November. A decision on whether to and how to establish the boundaries for the next election is "involved" with those underlying decisions. As Wright admits, the boundaries are so connected to the underlying orders that any subsequent order by the Court would require "additional briefing and perhaps re-argument" in front of the Court of Appeals.

Further, the Court finds that any modification of the injunction to include boundaries for the November election is not permitted by Rule 62(c). The status quo is the boundaries as they currently exist. Any subsequent order has the potential to disrupt that. The Eleventh Circuit has declined to move expeditiously on the appeal and has declined to return jurisdiction to this Court. It is thus owed "a fixed, rather than a mobile, record." *Enforma*, 362 F.3d at 1216 n.11. By Wright's admission, any further order by the Court while the appeal is pending risks wasting the Eleventh Circuit's judicial resources. The Court finds no justification for doing so.[2]

Accordingly, the Court's March 30, 2018 order is **MODIFIED** to remove its self-imposed July 23, 2018 deadline for considering interim boundaries. A series of reset deadlines will be ordered upon remand from the Court of Appeals, if appropriate. Compliance with the Court's March 30, 2018 injunction requires only that the Sumter

[2] Rule 62.1(a) permits the Court to defer, deny, or seek remand from the Court of Appeals to consider "a timely motion . . . made for relief that the court lacks authority to grant because of an appeal . . . ." The Court does not believe its own stated intention to consider further injunctive relief can be construed as a "timely motion." However, to the extent it can—and to preempt any unnecessary request from Wright—the Court chooses to defer any such motion. The Court of Appeals was aware that this Court intended to issue an order by July 23, 2018, and chose not to return jurisdiction to the Court by that date. The Court finds no reason to disrupt that decision.

County Board of Education elections previously scheduled for May 22, 2018 be held on November 6, 2018.

SO ORDERED, this 21st day of June 2018.

/s/ W. Louis Sands
W. LOUIS SANDS, SR. JUDGE
UNITED STATES DISTRICT COURT

EXHIBIT 2

ACLU
Georgia

P.O. Box 77208, Atlanta, GA 30357
770.303.8111 | syoung@acluga.org

August 14, 2018

Randolph County Board of Elections and Registration
P.O. Box 532
Cuthbert, GA 39840
tblack.randolphcounty@gmail.com

CC: Randolph County Board of Commissioners
P.O. Box 221
Cuthbert, GA 39840
randolphclerkga@gmail.com

Via Certified Mail and E-mail

To the Members of the Randolph County Board of Elections and Registration,

The ACLU of Georgia writes to express grave concern about your discriminatory proposal to eliminate over 75% of polling places (7 out of 9) on the eve of the November elections. These polling place closures will virtually guarantee lower voter turnout in a Black Belt county that is predominantly African-American (60%),[1] and will completely prevent rural voters without transportation (again, disproportionately African-American) from voting in-person on Election Day.

The timing of your proposal is also suspicious and calls to question your true motives behind this proposal. These are the exact same polling places used in the primary and primary run-off earlier this year. It makes no sense to suddenly *reduce* the number of polling places for this November's election, which will see far higher voter turnout than in the primaries or the primary run-off. Your proposal has also been plagued by procedural irregularities that cast further doubt about the real motivation behind these proposals.

Making it disproportionately harder for African American voters to cast a ballot—especially when done so deliberately—is a violation of Section 2 of the Voting Rights Act, 52 U.S.C. § 10301, and the Fourteenth and Fifteenth Amendments to the United States Constitution. We demand that you reject this proposal or you will face potential legal liability.

[1] Attached as Exhibit A is the map showing the two precincts that would remain after the proposed consolidation. According to your public notice, all the polling places designated in all capital letters will be eliminated except "CUTHBERT/COURTHOUSE" and "SHELLMAN".

I. Suddenly eliminating 7 out of 9 polling places in a predominantly African-American county is discriminatory and unjustifiable

As you are aware, Randolph County is in the Black Belt and is predominantly African-American. According to the latest Census figures, its proportion of African Americans is over 61.4%, which is twice the proportion of African Americans in the entire state (32.2%). *See* Exhibit B. Making it harder for Randolph County voters to cast a ballot means making it disproportionately harder for African Americans in the State of Georgia to cast a ballot in this November's elections. Indeed, the eliminated polling place with the highest registered voter population, Cuthbert Middle School, serves a *96.7%* Black population (330 registered voters out of 341 registered voters assigned to the polling place).

Furthermore, your elimination of polling places surrounding Cuthbert and Shellman will completely prevent rural voters without transportation from voting in-person on Election Day. There is about a 10-mile distance from each of the eliminated polling places to one of the two polling places that would remain. *See* Exhibit A. For a voter with a car, that adds about 10 to 20 minutes of driving to reach the new polling place; for a voter without a car, that is a *3.5 hour walk*. And there is no public transportation from these outlying areas into Cuthbert and Shellman.

These transportation burdens will also fall disproportionately on African Americans. Randolph County, which is disproportionately African-American, has over *three times* as many people without vehicles as compared to the state of Georgia—22.3% of Randolph County households lack vehicles, as compared to 6.9% of all Georgia households. *See* Exhibit C; *see also* https://bit.ly/2MiUQ2n (racially disparate vehicle ownership statistics nationwide). The poverty rate of Randolph County is also nearly twice that of the state (30.5% compared to 16.0%), and its median income is 40% lower than the rest of the state ($30,358 compared to $51,037). *See* Exhibit B.

When polling place configurations or closures have such a starkly disproportionate impact on racial minorities or lower-income rural voters without transportation, such closures almost certainly constitute a violation of the Voting Rights Act or the United States Constitution. Several federal courts have struck down these kinds of plans on this basis. *See, e.g., Common Cause Indiana v. Marion Cnty. Election Bd.*, 311 F. Supp. 3d 949 (S.D. Ind. 2018) (shutdown of early voting locations likely unconstitutional because of "its disparate impact on voters who lack the financial means or flexible schedules (i.e., those with little power over their own conditions of work, study, or travel) to surmount the obstacles of time and expense imposed [by the closures]"); *Sanchez v. Cegavske*, 214 F. Supp.3d 961, 974 (D. Nevada Oct. 7, 2016) (likely violation of Voting Rights Act where "the distance [one] must travel [to polling location] are a material limitation that bears more heavily on members of [the Native American tribe]" compared to white voters, "especially given their relative difficulty in accessing transportation [and] affording travel"); *Spirit Lake Tribe v. Benson Cnty.*, No. 2:10-cv-095, 2010 WL 4226614, at *3-*4 (D.N.D. Oct. 21, 2010) (closure of polling place on Native American reservation likely violated Voting Rights Act, where Natives have "markedly lower socioeconomic status compared to the white population"); *Operation Push v. Allain*, 674 F. Supp. 1245, 1262-68 (N.D. Miss. 1987) (prohibition on satellite registration offices in disproportionately minority areas

violated Voting Rights Act where there were "vast socio-economic disparities between blacks and whites in Mississippi"); *Brown v. Dean*, 555 F. Supp. 502, 504-05 (D.R.I. 1982) ("the use of polling places at locations remote from black communities, or at places calculated to intimidate blacks from entering (when alternatives were available)" violates Voting Rights Act).

II. There is evidence that your proposal is motivated by discriminatory intent

There is also evidence that your proposal is motivated by discriminatory intent. Restrictions on voting motivated by discriminatory intent violate the Voting Rights Act and are unconstitutional. "Subjects of proper inquiry in determining whether racially discriminatory intent exist[s] include: the racial impact of the official action; the historical background of the decision; the specific sequence of events leading up to the challenged law; departures from substantive and procedural norms; and legislative or administrative history." *Lewis v. Governor of Alabama*, --- F.3d ----, 2018 WL 3552408 (11th Cir. July 25, 2018) (quoting *Arlington Heights v. Metropolitan Housing Dev. Corp.*, 429 U.S. 252, 266-68 (1977) (quotation marks omitted)).

As noted above, the racial impact of eliminating over 75% of polling places in a Black Belt county on the eve of an election is obvious. The timing of your decision is also suspicious. These are the exact same polling places used in the primaries and primary run-off earlier this year. It makes no sense to suddenly *reduce* the number of polling places for this November's high-turnout general election, which will see far higher voter turnout than in the primaries or the primary run-off.

As experienced elections officials, you are further aware that suddenly changing polling locations midstream is likely to cause voter confusion, especially for those who voted earlier this year. This, combined with the fact that this race involves a first-time African-American nominee for governor, further casts doubts about your motives.

Odd procedural irregularities also plague this decision-making process. On August 9, 2018, you simultaneously took out two separate notices in the local paper with conflicting and confusing information about these polling place closures. *See* Exhibits D, E. In the first notice, you say that the Randolph County Board of Elections & Registration will be holding two public meetings on the subject: one on August 16 and one on August 17, at the two polling locations that would remain under the plan. *See* Exhibit D. This notice suggests that a final decision will be made on August 17. This, of course, would be illegal, because state law requires you to provide notice for two consecutive weeks before any polling place changes. *See* O.C.G.A. § 21-2-265(a). In the second notice, you say that the Randolph County Board of Elections & Registration will be holding a meeting on this proposal on August 24, without specifying a time or location for this meeting. *See* Exhibit E.

In addition to these procedural irregularities, we submitted an Open Records Request to your office on Thursday, August 9, 2018, *see* Exhibit F, requesting information related to these proposed closures, which would include the "full investigation of the facts" that you are required to perform before any precinct changes occur. O.C.G.A. § 21-2-262(a). However, you did not

respond within three business days (Tuesday, August 14, 2018) as required by state law. *See* O.C.G.A. § 50-18-71(b)(1)(A). It is now the end of the business day and we have yet to receive a response. We can only assume that you have not performed the full investigation or analysis you are statutorily required to perform, that you have no factual basis for this proposal, that you are reluctant to reveal the bases or non-bases for this proposal, or some other explanation. Regardless, your violation of state law is further evidence of discriminatory motive.

In combination with the clear impact on African American voters, these circumstances leave a reasonable observer to wonder whether the real motive behind these closures is indeed to make it harder for African Americans to cast a ballot.

* * *

The mere availability of absentee voting-by-mail and advance voting does not justify the closure of polling locations on Election Day under your proposal. Several federal courts have found that voting by mail is not an adequate substitute for in-person voting:

> [Though mail-in voting] represents an important bridge for many who would otherwise have difficulty appearing in person, . . . it is not the equivalent of in-person voting for those who are able and want to vote in person. Mail-in voting involves a complex procedure that cannot be done at the last minute. It also deprives voters of the help they would normally receive in filling out ballots at the polls . . . . Elderly [voters] may also face difficulties getting to their mailboxes . . . , the increased risk of fraud because of people who harvest mail-in ballots from the elderly, [and] with mail-in voting, voters lose the ability to account for last-minute developments, like candidates dropping out of a primary race, or targeted mailers and other information disseminated right before an election.

Veasey v. Abbott, 830 F.3d 216, 255-56 (5th Cir. 2016) (en banc); *see also Ohio NAACP v. Husted*, 768 F.3d 524, 542 (6th Cir. 2014) ("associated costs and more complex mechanics of voting by mail" do not make voting by mail a "suitable alternative for many voters," especially "African Americans, lower income individuals, and the homeless"); *League of Women Voters of N.C. v. N.C.*, 769 F.3d 224, 243 (4th Cir. 2014) (rejecting argument that restrictions on voting mitigated by the option of voting by mail).

Nor does advance voting provide an adequate alternative for the many voters who do not vote before Election Day, because late-breaking events or new information may cause them to change their mind. Media attention and campaign activity also increases in the days leading up to Election Day, galvanizing voters just before that date.

Furthermore, as discussed above, many lower-income voters from the rural parts of Randolph County may not be able to get to Cuthbert or Spellman to take advantage of advance voting without unreasonable effort. The advance voting period is also almost entirely limited to weekday business hours, O.C.G.A. § 21-2-385(d), but "[l]ower-income individuals face

difficulties in voting during the day because they are more likely to work in hourly-wage jobs with little flexibility." *Ohio NAACP*, 768 F.3d at 556. Thus, Election Day hours, which extend from 7 a.m. to 7 p.m. beyond regular business hours, O.C.G.A. § 21-2-403, may be the only time such voters can casta ballot, so it is especially important that polling sites be reasonably accessible that day.

To avoid continuing legal exposure, you must reject the proposal to shut down over 75% of the polling locations in Randolph County.

Sincerely,



Sean J. Young
Legal Director
ACLU of Georgia

EXHIBIT A

Proposed Randolph County Voting Precincts
BLUFFTON
OLNEAD START
COLEMAN
CARNEGIE
FOUNTAIN BRIDGE
SHELLMAN
4TH DISTRICT
HEROD-DOVER
MORGAN
SPRINGDALE
FAIRBANKS COURTHOUSE
GRAVES
PARROTT

EXHIBIT B

Search

QuickFacts

Georgia; Randolph County, Georgia

QuickFacts provides statistics for all states and counties, and for cities and towns with a ***population of 5,000 or more.***

Table

All Topics	Georgia	Randolph County, Georgia
Population estimates, July 1, 2017, (V2017)	**10,429,379**	**7,075**
PEOPLE		
Population		
Population estimates, July 1, 2017, (V2017)	**10,429,379**	**7,075**
Population estimates base, April 1, 2010, (V2017)	9,688,690	7,719
Population, percent change - April 1, 2010 (estimates base) to July 1, 2017, (V2017)	7.6%	-8.3%
Population, Census, April 1, 2010	9,687,653	7,719
Age and Sex		
Persons under 5 years, percent	▲ 6.3%	▲ 5.6%
Persons under 18 years, percent	▲ 24.1%	▲ 19.8%
Persons 65 years and over, percent	▲ 13.5%	▲ 23.2%
Female persons, percent	▲ 51.3%	▲ 54.0%
Race and Hispanic Origin		
White alone, percent (a)	▲ 60.8%	▲ 37.1%
Black or African American alone, percent (a)	▲ 32.2%	▲ 61.4%
American Indian and Alaska Native alone, percent (a)	▲ 0.5%	▲ 0.1%
Asian alone, percent (a)	▲ 4.2%	▲ 0.6%
Native Hawaiian and Other Pacific Islander alone, percent (a)	▲ 0.1%	▲ 0.1%
Two or More Races, percent	▲ 2.1%	▲ 0.7%
Hispanic or Latino, percent (b)	▲ 9.6%	▲ 2.5%
White alone, not Hispanic or Latino, percent	▲ 52.8%	▲ 35.4%
Population Characteristics		
Veterans, 2012-2016	662,333	403
Foreign born persons, percent, 2012-2016	9.8%	2.4%
Housing		
Housing units, July 1, 2017, (V2017)	4,282,106	4,105
Owner-occupied housing unit rate, 2012-2016	62.8%	57.6%
	$152,400	$71,600

Is this page helpful? X
Yes No

Median value of owner-occupied housing units, 2012-2016		
Median selected monthly owner costs -with a mortgage, 2012-2016	$1,339	$931
Median selected monthly owner costs -without a mortgage, 2012-2016	$395	$326
Median gross rent, 2012-2016	$897	$588
Building permits, 2017	51,240	4
Families & Living Arrangements		
Households, 2012-2016	3,611,706	2,819
Persons per household, 2012-2016	2.72	2.50
Living in same house 1 year ago, percent of persons age 1 year+, 2012-2016	84.0%	84.4%
Language other than English spoken at home, percent of persons age 5 years+, 2012-2016	13.7%	3.1%
Education		
High school graduate or higher, percent of persons age 25 years+, 2012-2016	85.8%	70.7%
Bachelor's degree or higher, percent of persons age 25 years+, 2012-2016	29.4%	13.4%
Health		
With a disability, under age 65 years, percent, 2012-2016	8.8%	11.2%
Persons without health insurance, under age 65 years, percent	▲ 14.8%	▲ 14.6%
Economy		
In civilian labor force, total, percent of population age 16 years+, 2012-2016	62.3%	51.2%
In civilian labor force, female, percent of population age 16 years+, 2012-2016	57.9%	46.7%
Total accommodation and food services sales, 2012 ($1,000) (c)	18,976,611	2,652
Total health care and social assistance receipts/revenue, 2012 ($1,000) (c)	51,800,643	D
Total manufacturers shipments, 2012 ($1,000) (c)	155,836,792	D
Total merchant wholesaler sales, 2012 ($1,000) (c)	143,645,290	70,790
Total retail sales, 2012 ($1,000) (c)	119,601,495	47,645
Total retail sales per capita, 2012 (c)	$12,077	$6,503
Transportation		
Mean travel time to work (minutes), workers age 16 years+, 2012-2016	27.7	18.7
Income & Poverty		
Median household income (in 2016 dollars), 2012-2016	$51,037	$30,358
Per capita income in past 12 months (in 2016 dollars), 2012-2016	$26,678	$26,198
Persons in poverty, percent	▲ 16.0%	▲ 30.5%

BUSINESSES

Businesses		
Total employer establishments, 2016	228,330[1]	130
Total employment, 2016	3,804,433[1]	1,393
Total annual payroll, 2016 ($1,000)	182,911,144[1]	45,113
Total employment, percent change, 2015-2016	3.0%[1]	3.0%
Total nonemployer establishments, 2016	877,908	408

Is this page helpful? ×
Yes No

All firms, 2012	929,864	497
Men-owned firms, 2012	480,578	262
Women-owned firms, 2012	376,506	183
Minority-owned firms, 2012	371,588	204
Nonminority-owned firms, 2012	538,893	270
Veteran-owned firms, 2012	96,787	57
Nonveteran-owned firms, 2012	800,585	415

GEOGRAPHY

Geography		
Population per square mile, 2010	168.4	18.0
Land area in square miles, 2010	57,513.49	428.24
FIPS Code	13	13243

Is this page helpful? X
Yes No

Value Notes

1. Includes data not distributed by county.

⚠ Estimates are not comparable to other geographic levels due to methodology differences that may exist between different data sources.

Some estimates presented here come from sample data, and thus have sampling errors that may render some apparent differences between geographies statistically indistinguishable. Click the Quick Info ⓘ icon to the left of each row in TABLE view to learn about sampling error.

The vintage year (e.g., V2017) refers to the final year of the series (2010 thru 2017). *Different vintage years of estimates are not comparable.*

Fact Notes

- **(a)** Includes persons reporting only one race
- **(b)** Hispanics may be of any race, so also are included in applicable race categories
- **(c)** Economic Census - Puerto Rico data are not comparable to U.S. Economic Census data

Value Flags

- **D** Suppressed to avoid disclosure of confidential information
- **F** Fewer than 25 firms
- **FN** Footnote on this item in place of data
- **NA** Not available
- **S** Suppressed; does not meet publication standards
- **X** Not applicable
- **Z** Value greater than zero but less than half unit of measure shown
- **-** Either no or too few sample observations were available to compute an estimate, or a ratio of medians cannot be calculated because one or both of the median estimates falls in the lowest or upper interval of an open ended distribution.

QuickFacts data are derived from: Population Estimates, American Community Survey, Census of Population and Housing, Current Population Survey, Small Area Health Insurance Estimates, Small Area Income and Poverty Estimates, State and County Housing Unit Estimates, County Business Patterns, Nonemployer Statistics, Economic Census, Survey of Business Owners, Building Permits.

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Survey of Business Owners

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Yes No

EXHIBIT C

B08201

HOUSEHOLD SIZE BY VEHICLES AVAILABLE
Universe: Households
2011-2015 American Community Survey 5-Year Estimates

Tell us what you think. Provide feedback to help make American Community Survey data more useful for you.

Although the American Community Survey (ACS) produces population, demographic and housing unit estimates, it is the Census Bureau's Population Estimates Program that produces and disseminates the official estimates of the population for the nation, states, counties, cities and towns and estimates of housing units for states and counties.

Supporting documentation on code lists, subject definitions, data accuracy, and statistical testing can be found on the American Community Survey website in the Data and Documentation section.

Sample size and data quality measures (including coverage rates, allocation rates, and response rates) can be found on the American Community Survey website in the Methodology section.

Versions of this table are available for the following years:

2016
2015
2014
2013
2012
2011
2010

	Georgia		Randolph County, Georgia	
	Estimate	Margin of Error	Estimate	Margin of Error
Total:	3,574,362	+/-9,977	2,794	+/-217
No vehicle available	246,172	+/-4,178	623	+/-196
1 vehicle available	1,218,616	+/-6,994	854	+/-181
2 vehicles available	1,373,011	+/-8,305	803	+/-200
3 vehicles available	520,340	+/-5,537	290	+/-117
4 or more vehicles available	216,223	+/-3,512	224	+/-96
1-person household:	956,577	+/-6,570	762	+/-203
No vehicle available	133,835	+/-2,739	334	+/-138
1 vehicle available	649,406	+/-5,523	310	+/-126
2 vehicles available	140,013	+/-2,787	93	+/-61
3 vehicles available	24,076	+/-1,218	25	+/-33
4 or more vehicles available	9,247	+/-756	0	+/-18
2-person household:	1,170,992	+/-6,331	1,274	+/-265
No vehicle available	52,793	+/-1,691	162	+/-85
1 vehicle available	278,735	+/-3,979	292	+/-137
2 vehicles available	621,947	+/-5,639	487	+/-160
3 vehicles available	168,895	+/-2,741	207	+/-99
4 or more vehicles available	48,622	+/-1,533	126	+/-85
3-person household:	598,492	+/-6,351	257	+/-123
No vehicle available	27,089	+/-1,200	0	+/-18
1 vehicle available	139,385	+/-3,430	103	+/-79
2 vehicles available	241,731	+/-3,594	123	+/-97
3 vehicles available	144,880	+/-3,093	12	+/-20
4 or more vehicles available	45,407	+/-1,558	19	+/-20
4-or-more-person household:	848,301	+/-5,463	501	+/-121
No vehicle available	32,455	+/-1,588	127	+/-94
1 vehicle available	151,090	+/-3,203	149	+/-93
2 vehicles available	369,320	+/-4,294	100	+/-59

	Georgia		Randolph County, Georgia	
	Estimate	Margin of Error	Estimate	Margin of Error
3 vehicles available	182,489	+/-3,806	46	+/-39
4 or more vehicles available	112,947	+/-2,331	79	+/-55

Source: U.S. Census Bureau, 2011-2015 American Community Survey 5-Year Estimates

Explanation of Symbols:
An '**' entry in the margin of error column indicates that either no sample observations or too few sample observations were available to compute a standard error and thus the margin of error. A statistical test is not appropriate.
An '-' entry in the estimate column indicates that either no sample observations or too few sample observations were available to compute an estimate, or a ratio of medians cannot be calculated because one or both of the median estimates falls in the lowest interval or upper interval of an open-ended distribution.
An '-' following a median estimate means the median falls in the lowest interval of an open-ended distribution.
An '+' following a median estimate means the median falls in the upper interval of an open-ended distribution.
An '***' entry in the margin of error column indicates that the median falls in the lowest interval or upper interval of an open-ended distribution. A statistical test is not appropriate.
An '*****' entry in the margin of error column indicates that the estimate is controlled. A statistical test for sampling variability is not appropriate.
An 'N' entry in the estimate and margin of error columns indicates that data for this geographic area cannot be displayed because the number of sample cases is too small.
An '(X)' means that the estimate is not applicable or not available.

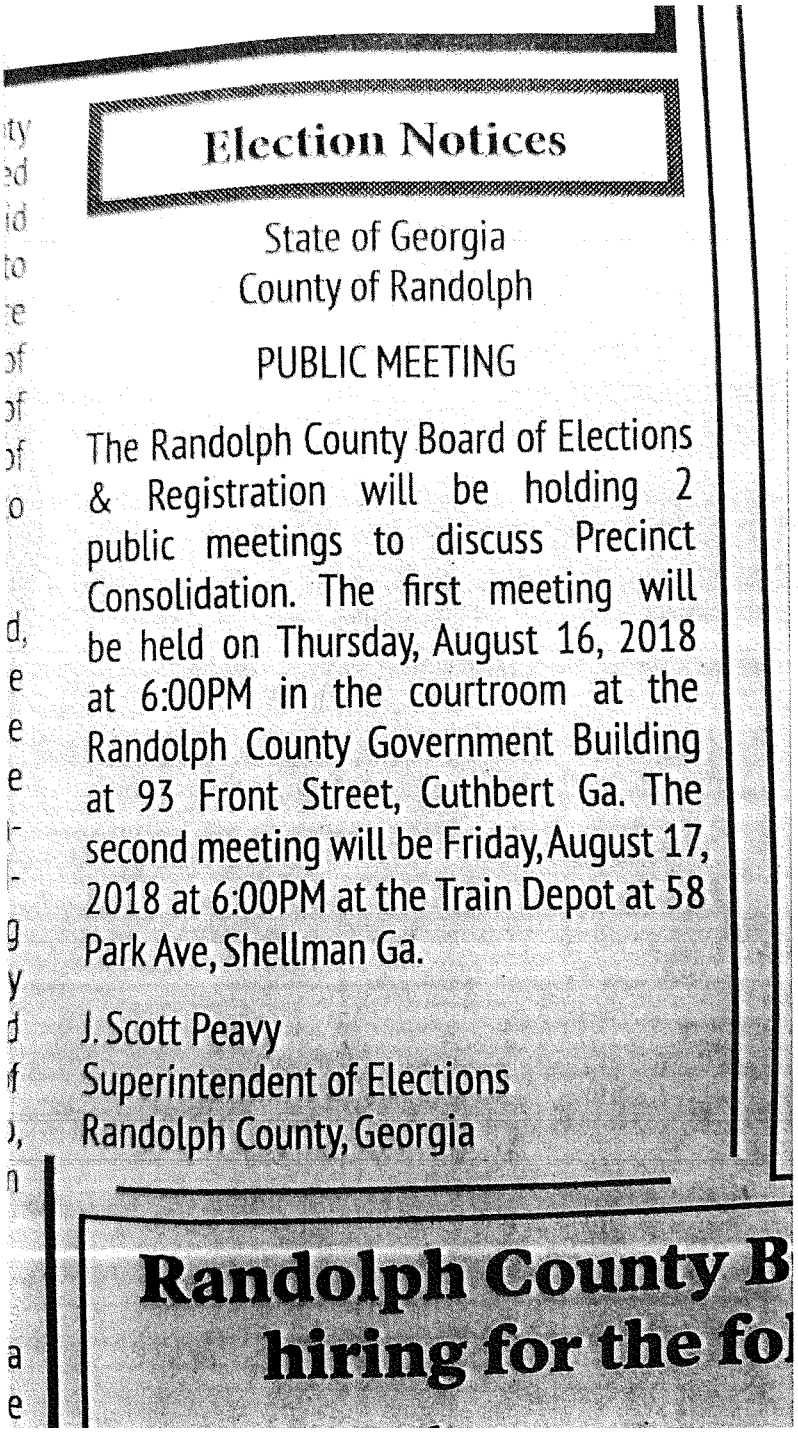
Data are based on a sample and are subject to sampling variability. The degree of uncertainty for an estimate arising from sampling variability is represented through the use of a margin of error. The value shown here is the 90 percent margin of error. The margin of error can be interpreted roughly as providing a 90 percent probability that the interval defined by the estimate minus the margin of error and the estimate plus the margin of error (the lower and upper confidence bounds) contains the true value. In addition to sampling variability, the ACS estimates are subject to nonsampling error (for a discussion of nonsampling variability, see Accuracy of the Data). The effect of nonsampling error is not represented in these tables.

Workers include members of the Armed Forces and civilians who were at work last week.

While the 2011-2015 American Community Survey (ACS) data generally reflect the February 2013 Office of Management and Budget (OMB) definitions of metropolitan and micropolitan statistical areas; in certain instances the names, codes, and boundaries of the principal cities shown in ACS tables may differ from the OMB definitions due to differences in the effective dates of the geographic entities.

Estimates of urban and rural population, housing units, and characteristics reflect boundaries of urban areas defined based on Census 2010 data. As a result, data for urban and rural areas from the ACS do not necessarily reflect the results of ongoing urbanization.

EXHIBIT D



Election Notices

State of Georgia
County of Randolph

PUBLIC MEETING

The Randolph County Board of Elections & Registration will be holding 2 public meetings to discuss Precinct Consolidation. The first meeting will be held on Thursday, August 16, 2018 at 6:00PM in the courtroom at the Randolph County Government Building at 93 Front Street, Cuthbert Ga. The second meeting will be Friday, August 17, 2018 at 6:00PM at the Train Depot at 58 Park Ave, Shellman Ga.

J. Scott Peavy
Superintendent of Elections
Randolph County, Georgia

Randolph County B
hiring for the fo

EXHIBIT E

Deadline to submit application:
September 5, 2018

NOTICE OF CONSOLIDATION OF VOTING PRECINTS

Notice is given that the Randolph County Board of Elections and Registration, acting as Election Superintendent for Randolph County, proposes to consolidate the following precincts into a single precinct with a polling place located at the Cuthbert Courthouse, 93 Front St, Cuthbert, GA 39840: Springvale, Coleman, Carnegie, Cuthbert Middle School and current Cuthbert Courthouse. Additionally, all voters who currently reside in the Benevolence precinct and reside west of the gas line that is marked with a red line on the map on file in the Elections Office shall also be included in the consolidated precinct.

The Randolph County Board of Elections and Registration further proposes to consolidate the following precincts into a single precinct with the current Shellman precinct: Fountain Bridge, Shellman and Fourth District. Additionally, all voters who currently reside in the Benevolence precinct and reside east of the gas line that is marked with a redline on the map on file in the Elections Office shall also be included in the consolidated precinct. The polling place for these precincts shall be located at the Shellman Train Depot, 58 Park Avenue, Shellman, Georgia 39886.

The Randolph County Board of Elections will hold a meeting on August 24, 2018 to consider this proposal. Any objection to this proposal must be filed with the Board of Elections prior to that time. A copy of a map of the proposed consolidated precincts is available for inspection at the Randolph County Board of Elections. This change shall become effective for all elections held on or after the 24th day of August 2018.

RANDOLPH COUNTY BOARD OF
ELECTIONS AND REGISTRATION,
ACTING AS ELECTION SUPERINTENDENT FOR RANDOLPH COUNTY, GEORGIA.

EXHIBIT F

Sean J Young

From: Sean J Young
Sent: Friday, August 10, 2018 11:24 AM
To: 'tblack.randolphcounty@gmail.com'
Subject: RE: Open Records Request: August 9, 2018

Thank you confirming yesterday over the phone that you received this request. We will expect a response by Tuesday, August 14, which is three business days from our request. Please let me know if you have any questions.

Sean

Sean J. Young
Legal Director
American Civil Liberties Union of Georgia
PO Box 77208, Atlanta, GA 30357
SYoung@acluga.org | Phone 678-981-5295 | Fax 770-303-0060
WE THE PEOPLE | acluga.org
Pronouns: he/him/his
ACLU
Georgia

This message may contain information that is confidential or legally privileged. If you are not the intended recipient, please immediately advise the sender by reply email that this message has been inadvertently transmitted to you and delete this email from your system.

From: Sean J Young
Sent: Thursday, August 9, 2018 2:18 PM
To: 'tblack.randolphcounty@gmail.com' <tblack.randolphcounty@gmail.com>
Subject: Open Records Request: August 9, 2018

Dear Randolph County Board of Elections & Registration,

Pursuant to the Open Records Act, I am requesting copies of the following documents:

- All e-mails, documents, and communications, whether exchanged through personal email addresses or work email addresses, concerning the proposed precinct consolidations to be discussed in upcoming meetings on August 16, August 17, and/or August 24, 2018.

I expect a response within three business days pursuant to the Open Records Act. Please give me a call if you have any questions.

Sean

Sean J. Young
Legal Director
American Civil Liberties Union of Georgia
PO Box 77208, Atlanta, GA 30357
SYoung@acluga.org | Phone 678-981-5295 | Fax 770-303-0060
WE THE PEOPLE | acluga.org
Pronouns: he/him/his

ACLU
Georgia

"What makes an American is not the name or the blood or even the place of birth, but the belief in the principles of freedom and equality that this country stands for." - Antonin Scalia

This message may contain information that is confidential or legally privileged. If you are not the intended recipient, please immediately advise the sender by reply email that this message has been inadvertently transmitted to you and delete this email from your system.

EXHIBIT 3

Proposal NO. 39/17 10E. 10P. SC14.

Precinct Boundary Line and Name Change

	CD	SS	SH	CC	ED	MU	COMBO
10E	5	38	53	4	5	10	866
10P	5	38	53	4	6	10	866
SC14	5	38	61	6	4		784

EXISTING POLLING PLACE — REGISTERED VOTERS as of 7/3/2017

Precinct	Polling Place	White	Black	Other	Total
10E	Harper Archer Middle School 3399 Collier Drive	13	735	122	870
10P	Towns Elementary School 760 Bolton Road	12	1087	143	1242
SC14	Aviation Community Culture Center 3900 Aviation Circle, NW	28	235	112	375

PROBLEM: With the advent of in-person early voting, the number of citizens electing to cast ballots at their polling facility on Election Day has steadily declined. Precincts 10E and 10P also share the same political district values.

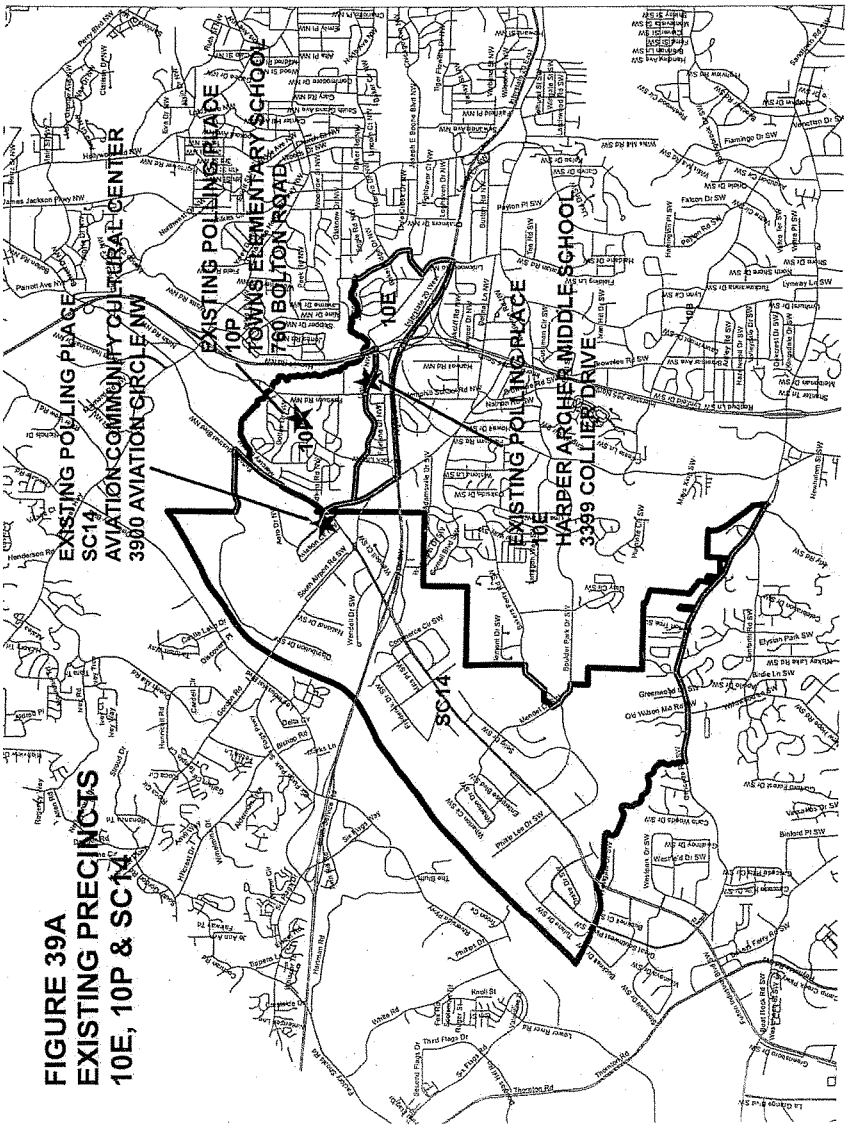
PROPOSAL: It is proposed the precinct boundary lines for precincts 10E and 10P be combined and designated as precinct 10E and precinct designator 10P be deleted. It is also proposed poll 10E be moved to the Aviation Cultural Center and co-located with poll SC14 to create split polls 10E and SC14. The proposed polling facility is handicap accessible and is located approximately 1.3 and 1.5 miles respectively from the former poll facilities (see exhibits 39A and 39B). All voters impacted by this proposed action will be notified no later than 30 days prior to the next scheduled election.

	CD	SS	SH	CC	ED	MU	COMBO
10E	5	38	53	4	5	10	866
SC14	5	38	61	6	4		784
10P							

PROPOSED POLLING PLACE — REGISTERED VOTERS as of 7/3/2017

Precinct	Polling Place	White	Black	Other	Total
10E	Aviation Community Cultural Center 3900 Aviation Circle, NW	25	1822	265	2112
SC14	Aviation Community Cultural Center 3900 Aviation Circle, NW	28	235	112	375
10P	Deleted	0	0	0	0

APPROVED BY BOARD OF R&E July 13, 2017


FIGURE 39A
EXISTING PRECINCTS
10E, 10P & SC14
EXISTING POLLING PLACE
SC14
AVIATION COMMUNITY CULTURAL CENTER
3900 AVIATION CIRCLE NW
EXISTING POLLING PLACE
10P
TOWNS ELEMENTARY SCHOOL
760 BOLTON ROAD
10E
EXISTING POLLING PLACE
10E
HARPER ARCHER MIDDLE SCHOOL
3399 COLLIER DRIVE
SC14

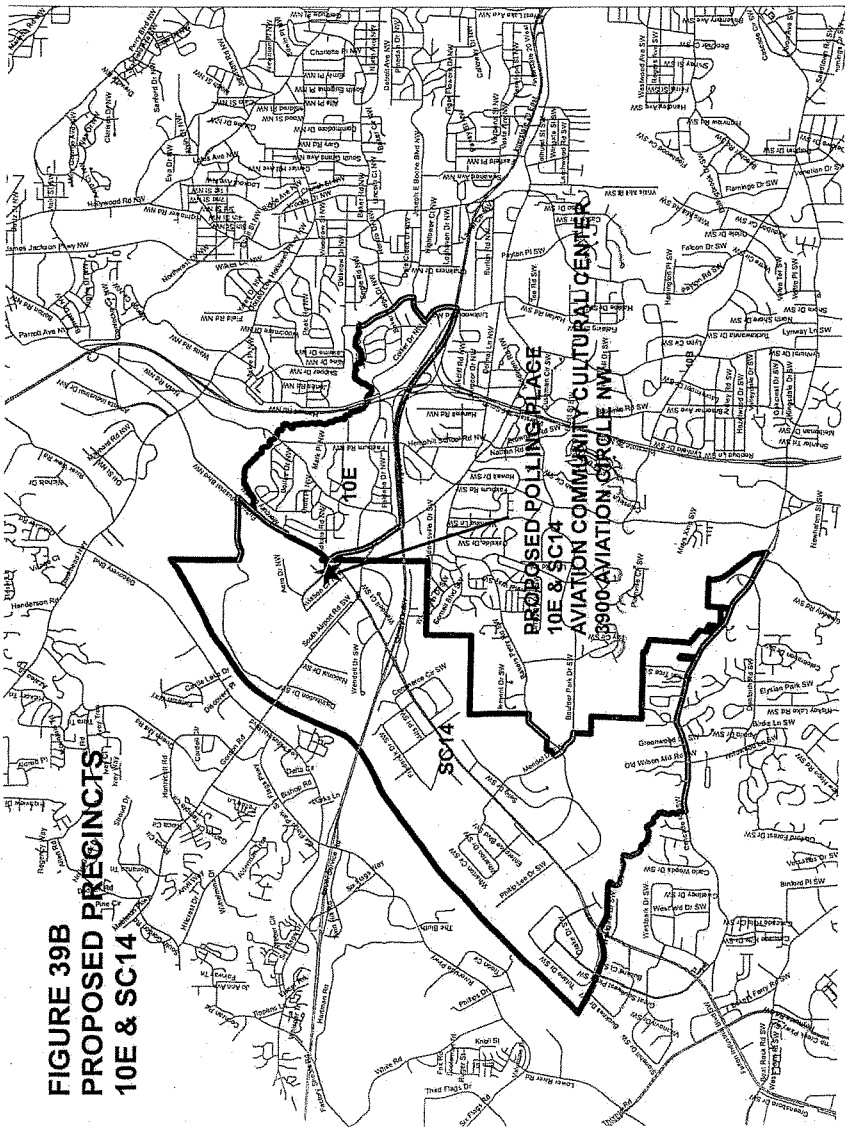


FIGURE 39B
PROPOSED PRECINCTS
10E & SC14

Proposal NO. 41/17 12F, 12S.

Permanent Polling Place Location Change

	CD	SS	SH	CC	ED	MU	COMBO
12F	5	36	59	5	6	12	882
12S	5	36	58	5	6	12	531

EXISTING POLLING PLACE — REGISTERED VOTERS as of 7/3/2017

Precinct	Polling Place	White	Black	Other	Total
12F	John Birdine Neighborhood Facility 215 Lakewood Way, SW	44	668	140	852
12S	Southeast Library 1463 Pryor Road, SW	42	1314	204	1560

PROBLEM: With the advent of in-person early voting, the number of citizens electing to cast ballots in their polling facility on Election Day has steadily declined.

PROPOSAL: It is proposed the polling facilities for precinct 12F be moved and consolidated with polling facility 12S to create split polls 12F and 12S at Fulton County's Southeast Library. The polling facility remains handicap accessible and is located approximately 1.8 miles from the proposed polling location (see exhibits 41A and 41B). All voters impacted by this proposed action will be notified no later than 30 days prior to the next scheduled election.

	CD	SS	SH	CC	ED	MU	COMBO
12F	5	36	59	5	6	12	882
12S	5	36	58	5	6	12	531

PROPOSED POLLING PLACE — REGISTERED VOTERS as of 7/3/2017

Precinct	Polling Place	White	Black	Other	Total
12F	Southeast Library 1463 Pryor Road, SW	44	668	140	852
12S	Southeast Library 1463 Pryor Road, SW	42	1314	204	1560

APPROVED BY BOARD OF R&E July 13, 2017

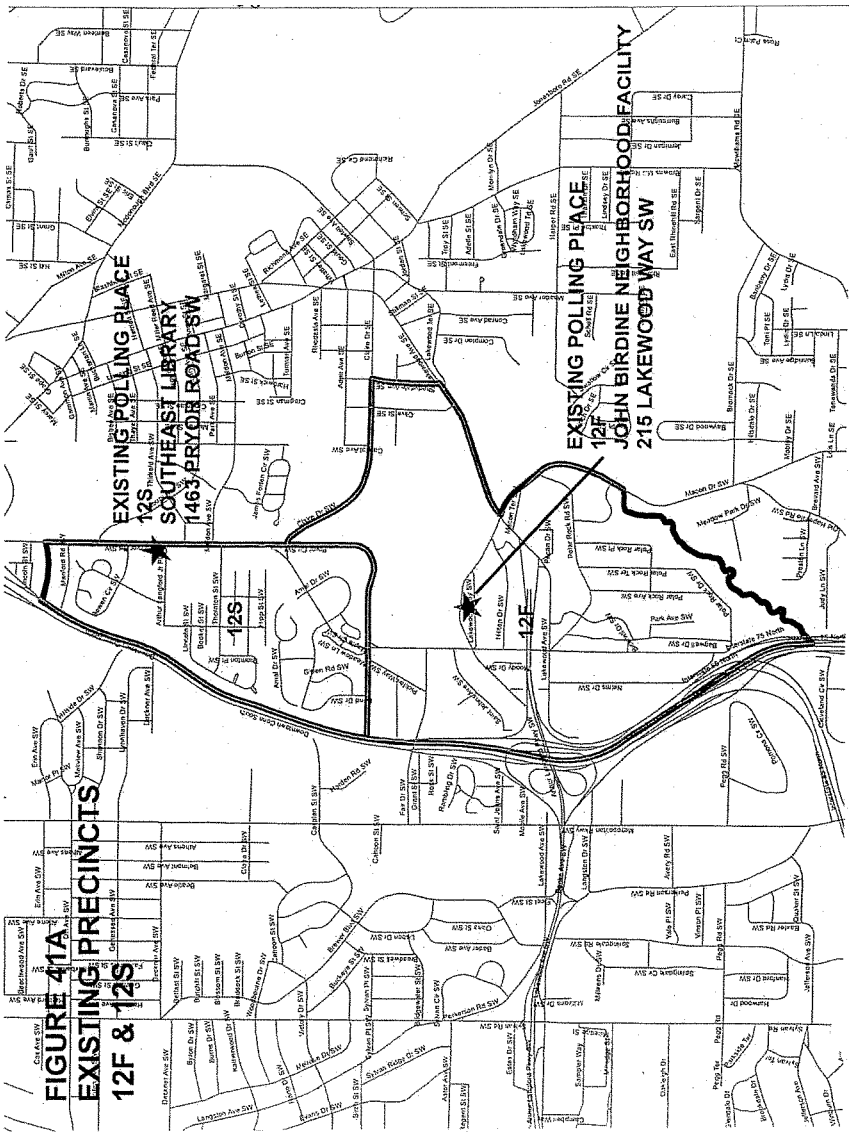
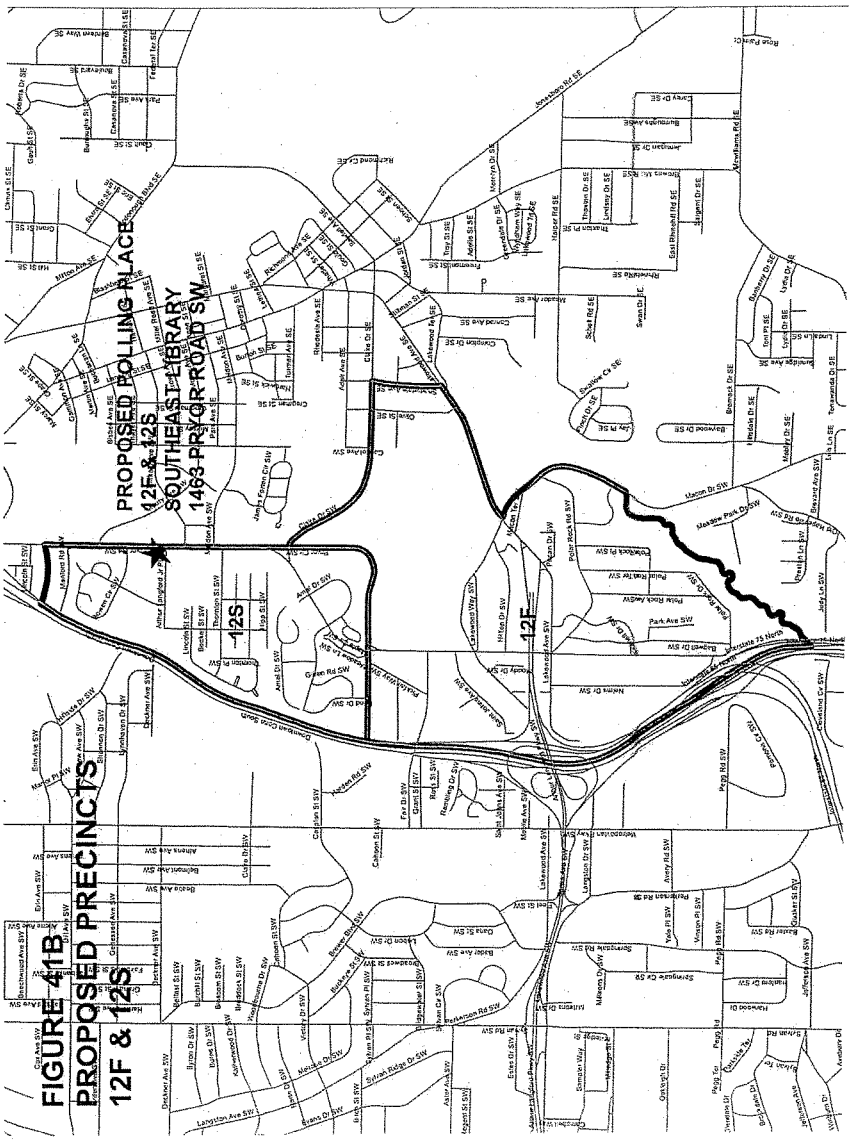


FIGURE 41A
EXISTING PRECINCTS
12F & 12S


PROPOSED POLLING PLACE
12F & 12S
SOUTHEAST LIBRARY
1463 PRYOR ROAD SW
12F
12S
FIGURE 41B
PROPOSED PRECINCTS
12F & 12S

Proposal NO. 42/17 11C. SC02.

Permanent Polling Place Location Change

	CD	SS	SH	CC	ED	MU	COMBO
11C	5	38	55	6	6	11	874
SC02	5	38	55	6	4	1	1004

EXISTING POLLING PLACE REGISTERED VOTERS as of 7/3/2017

Precinct	Polling Place	White	Black	Other	Total
11C	Fickett Elementary School 3935 Rux Road	32	2270	315	2617
SC02	Southwest Art Center 915 New Hope Road	7	742	94	843

PROBLEM: The existing poll facility (Fickett Elementary School) for precinct 11C is co-located within the precinct boundaries for precinct 11B (Bunche Middle School). There is no suitable facility within the officially designated 11C precinct boundary. This situation creates mass confusion among a significant number of voters as they past poll 11C to travel to their assigned polling facility for precinct 11B.

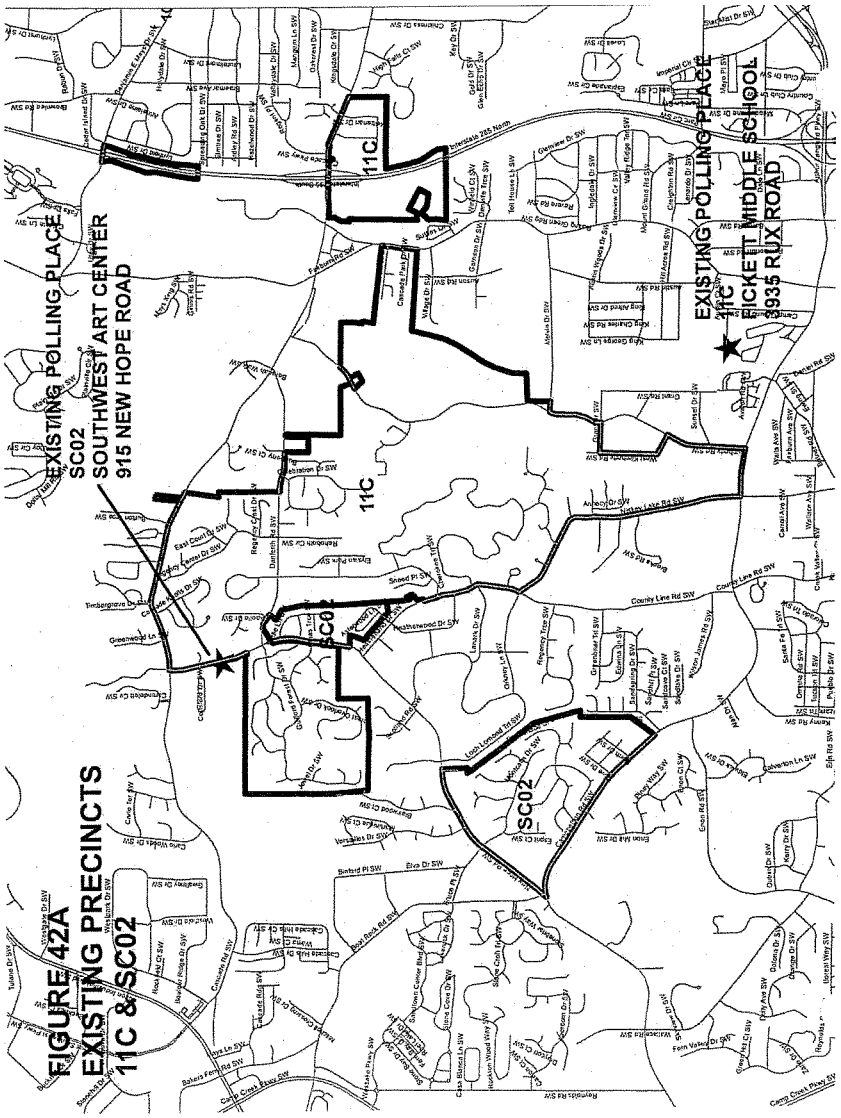
PROPOSAL: It is proposed that the polling facility for precinct 11C (Fickett Elementary School) be moved and co-located with polling facility SC02 to create split polls 11C and SC02. The proposed location is approximately 4.2 miles from the existing facility (see exhibits 42A and 42B). The facility is handicap accessible and all voters impacted will be notified of this change in location not less than 30 days prior to the next scheduled election.

	CD	SS	SH	CC	ED	MU	COMBO
11C	5	38	55	6	6	11	874
SC02	5	38	55	6	4	1	1004

PROPOSED POLLING PLACE REGISTERED VOTERS as of 7/3/2017

Precinct	Polling Place	White	Black	Other	Total
11C	Southwest Art Center 915 New Hope Road, SW	32	2270	315	2617
SC02	Southwest Art Center 915 New Hope Road, SW	7	742	94	843

APPROVED BY BOARD OF R&E July 13, 2017


EXISTING POLLING PLACE
SC02
SOUTHWEST ART CENTER
915 NEW HOPE ROAD
EXISTING POLLING PLACE
11C
FICKETT MIDDLE SCHOOL
3935 RUX ROAD
11C
11C
SC02
SC02
FIGURE 42A
EXISTING PRECINCTS
11C & SC02

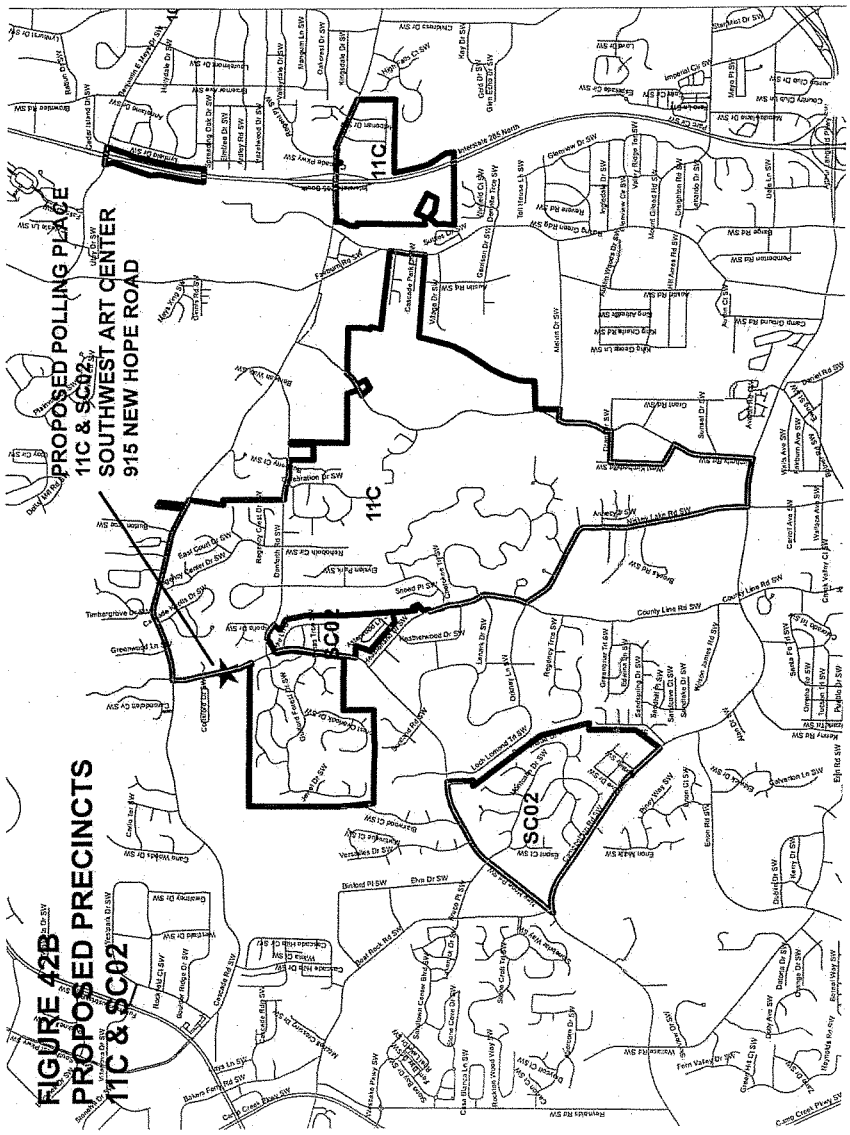


FIGURE 42B
PROPOSED PRECINCTS
11C & SC02

Proposal NO. 45/17 10H1. 10H2. 10G.

FULTON COUNTY

Permanent Polling Place Location Change

	CD	SS	SH	CC	ED	MU	COMBO
10H1	5	38	53	6	5	10	873
10H2	5	38	55	6	5	10	865
10G	5	38	56	6	5	10	867

EXISTING POLLING PLACE REGISTERED VOTERS as of 7/3/2017

Precinct	Polling Place	White	Black	Other	Total
10H1	Peyton Forest School 301 Peyton Road	6	305	50	361
10H2	Peyton Forest School 301 Peyton Road	23	1729	246	1998
10G	St. Paul's Episcopal Church 306 Peyton Road	9	1026	118	1153

PROBLEM: With the advent of in-person early voting, the number of citizens electing to cast ballots in their Election Day polling facility has steadily declined.

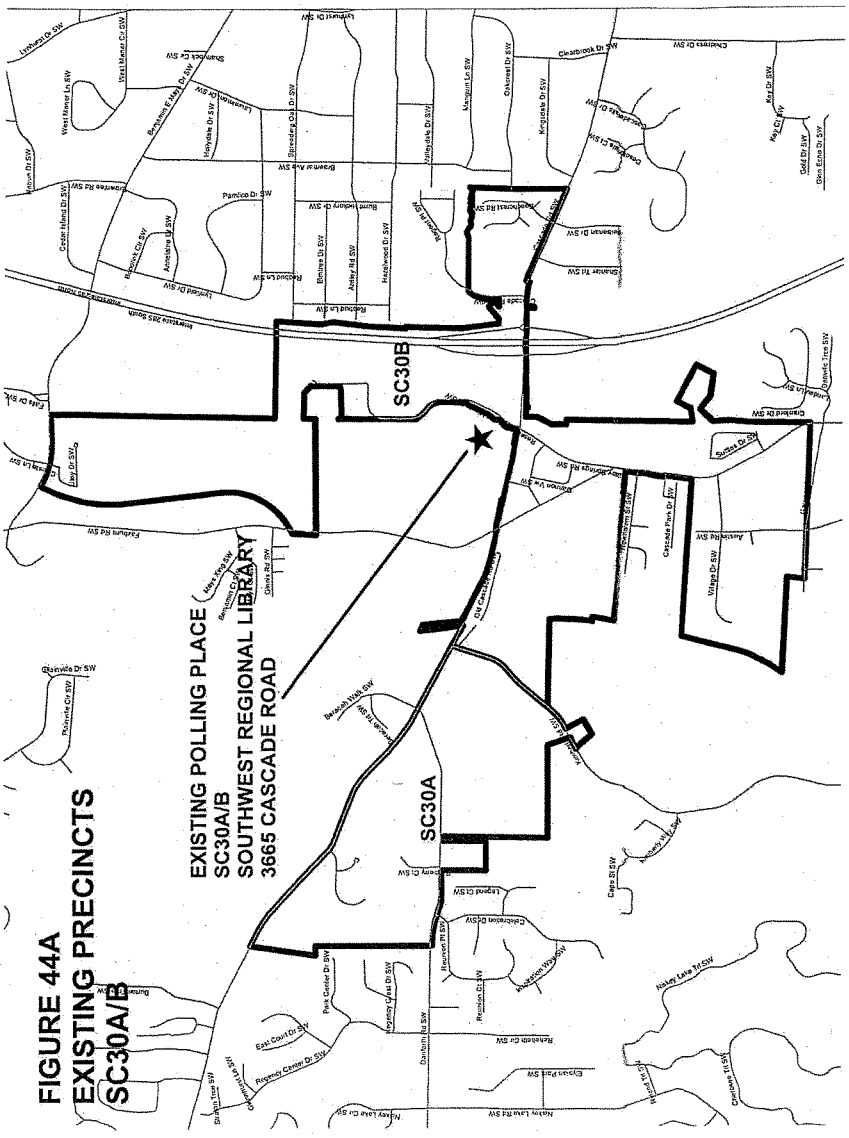
PROPOSAL: It is proposed the polling facilities for split precincts 10H1 AND 10H2 be moved and consolidated with polling facility 10G to create split polls 10G, 10H1 and 10H2 at St. Paul Episcopal Church. The polling remains handicap accessible and is located less than one mile from the proposed polling location (see figures 45A and 45B). All voters impacted by this proposed action will be notified no later than 30 days prior to the next scheduled election.

	CD	SS	SH	CC	ED	MU	COMBO
10H1	5	38	53	6	5	10	873
10H2	5	38	55	6	5	10	865
10G	5	38	56	6	5	10	867

PROPOSED POLLING PLACE REGISTERED VOTERS as of 7/3/2017

Precinct	Polling Place	White	Black	Other	Total
10H1	St. Paul's Espicopal Church 306 Peyton Road	6	305	50	361
10H2	St. Paul's Episcopal Church 306 Peyton Road	23	1729	246	1998
10G	St. Paul's Episcopal Church 306 Peyton Road	9	1026	118	1153

APPROVED BY BOARD OF R&E July 13, 2017


FIGURE 44A
EXISTING PRECINCTS
SC30A/B
EXISTING POLLING PLACE
SC30A/B
SOUTHWEST REGIONAL LIBRARY
3665 CASCADE ROAD
SC30A
SC30B

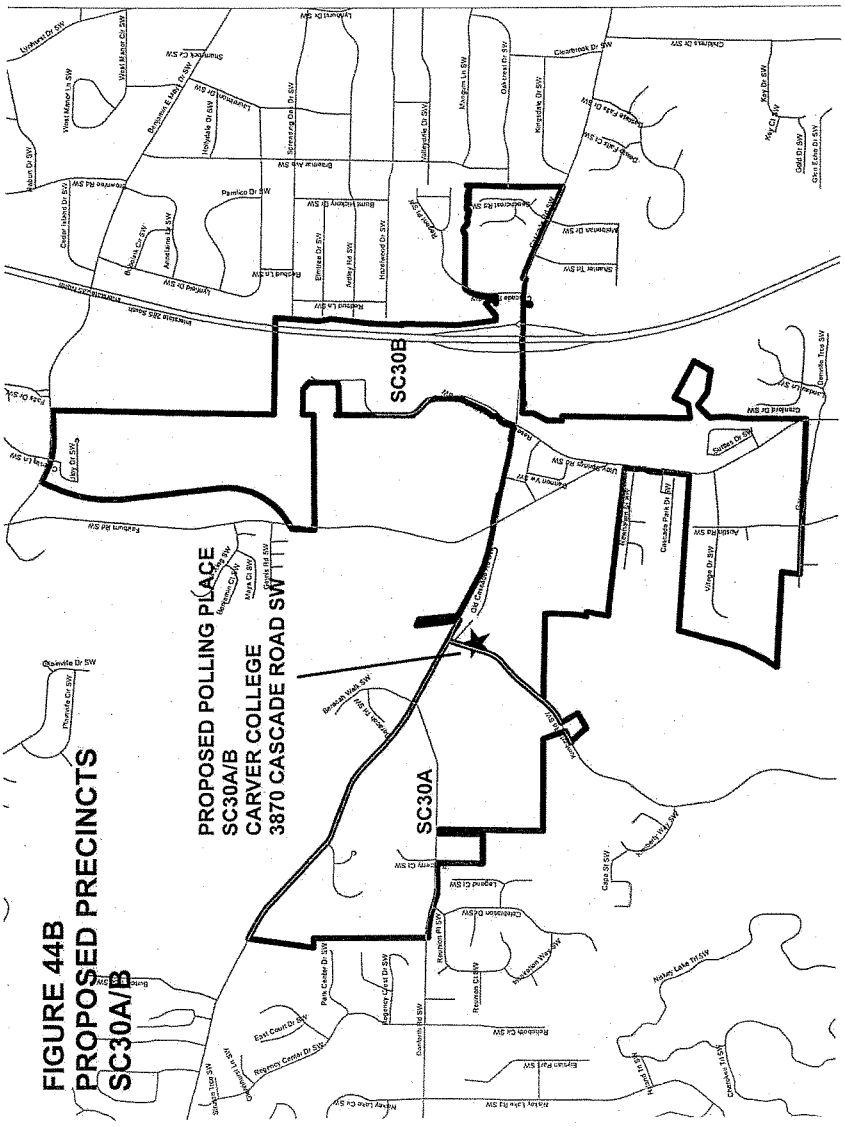
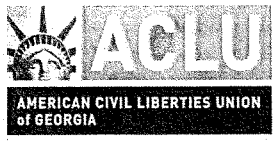


FIGURE 44B
PROPOSED PRECINCTS
SC30A/B

EXHIBIT 4



P.O. Box 77208 Atlanta, Georgia 30557 | 770-303-8111 | info@acluga.org

April 21, 2017

Irwin County Board of Elections & Registration
207 South Irwin Ave.
Ocilla, GA 31774

Via Fed Ex

Dear Irwin County Board of Elections & Registration,

The American Civil Liberties Union of Georgia ("ACLU") writes to express grave concern with two recent proposals by the Irwin County Board of Elections & Registration (the "Elections Board"), or certain of its members or staff, to close polling places across Irwin County, potentially eliminating polling places located where African American voters are most concentrated. *See Citizens fight to keep voting precincts*, The Ocilla Star, Feb. 15, 2017, at 1; *Elections Board talks possible lawsuits, precincts*, The Ocilla Star, Mar. 8, 2017, at 3 (copies of the articles are attached as Exhibit A).

These measures—which deviate from the recommendations of a December 7, 2016 report issued by the nonpartisan Association of County Commissioners of Georgia, *A Financial and Management Analysis for Irwin County* ("ACCG Report")—appear to directly target African American voters and would make it significantly more difficult for African American or lower-income voters to cast a ballot, without adequate justification. As such, these proposals potentially violate Section 2 of the Voting Rights Act, 52 U.S.C. § 10301, and the Fourteenth and Fifteenth Amendments to the United States Constitution as well. They must be rejected.

I. The proposal to eliminate polling places in Ocilla, which is predominantly African-American, is discriminatory and unjustifiable

As we understand it, the first proposal seeks to reduce the number of polling places by 75% (from 8 to 2), which includes the elimination of the polling place in the heart of Ocilla. Ocilla, however, has the highest concentration of African Americans in the county, as illustrated in the map attached as Exhibit B. Moreover:

- 83% of the ballots cast by African Americans on Election Day in the November 2016 elections were cast in Ocilla, while only 22% of the ballots cast by white voters on Election Day were cast in Ocilla, according to public voting records;
- Ocilla's population is 57% African-American;[1] and
- African Americans disproportionately make up 44% of the registered voters in Ocilla.

[1] *See* CensusViewer, http://censusviewer.com/city/GA/Ocilla.

The only 2 remaining polling places left open would be in or near Irwinville and in a location in or near Holt, located on the east side of Irwin County. Both these areas are disproportionately white. Irwinville, which is the site of the Jefferson Davis Memorial Historic Site, is 96% white,[2] and white voters make up 95% of its registered voters. The east side of Irwin County is also largely white. *See* Exhibit B.

Thus, under this plan, racial minorities in Irwin County would potentially have to travel *twice* the distance of white voters just to cast a ballot on Election Day. These transportation burdens are further exacerbated by the fact that African Americans and other voters in Ocilla have lower incomes and are far less likely to own vehicles. According to survey estimates from the Census:

- The median income of African Americans in Irwin County ($22,332) hovers at the poverty line and is *half* the median income of white residents ($42,619);
- Geographically, the median income of residents living in the Ocilla area ($19,000 to $21,000) are *less than half* of those in the outer areas ($37,000 to $47,000), *see* Exhibit C; and
- The percentage of Ocilla voters without a vehicle (12-22%) is *ten to twenty times higher* than the percentage of vehicle non-ownership around Irwinville (0-1%), and also significantly higher than the percentage of vehicle non-ownership in east Irwin County (6%), *see* Exhibit D.

And Ocilla voters without vehicles *are completely prevented* from voting on Election Day, since there is no public transportation out of Ocilla at all.

When polling place configurations or closures have such a starkly disproportionate impact on racial minorities, such closures almost certainly constitute a violation of the Voting Rights Act. Several federal courts have struck down these kinds of plans on this basis. *See, e.g.*, *Sanchez v. Cegavske*, --- F. Supp.3d ----, 2016 WL 5936918, at *7-*11 (D. Nevada Oct. 7, 2016) (likely violation of Voting Rights Act where "the distance [one] must travel [to polling location] are a material limitation that bears more heavily on members of [the Native American tribe]" compared to white voters, "especially given their relative difficulty in accessing transportation [and] affording travel"); *Spirit Lake Tribe v. Benson Cnty.*, No. 2:10-cv-095, 2010 WL 4226614, at *3-*4 (D.N.D. Oct. 21, 2010) (closure of polling place on Native American reservation likely violated Voting Rights Act, where Natives have "markedly lower socioeconomic status compared to the white population"); *Operation Push v. Allain*, 674 F. Supp. 1245, 1262-68 (N.D. Miss. 1987) (prohibition on satellite registration offices in disproportionately minority areas violated Voting Rights Act where there were "vast socio-economic disparities between blacks and whites in Mississippi"); *Brown v. Dean*, 555 F. Supp. 502, 504-05 (D.R.I. 1982) ("the use of polling places at locations remote from black communities, or at places calculated to intimidate blacks from entering (when alternatives were available)" violates Voting Rights Act).

To the extent that this proposal was purposely designed, even in part, to target African American voters, it would obviously violate the Fourteenth and Fifteenth Amendments as well.

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[2] *See* City-Data.com, http://www.city-data.com/city/Irwinville-Georgia.html.

This proposal certainly cannot be defended on the basis of voting demand, since about one-third (33%) of the ballots cast on Election Day were cast in Ocilla (575 ballots out of approx. 1725), according to public voting records. *See Vill. of Arlington Heights v. Metropolitan Housing Development Corp.*, 429 U.S. 252, 267 (1977) ("Substantive departures . . . may be relevant [to a finding of discriminatory intent], particularly if the factors usually considered important by the decisionmaker strongly favor a decision contrary to the one reached.").

Nor can this proposal be meaningfully defended as a necessary cost-saving measure. It is both telling and troubling that this proposal directly conflicts with the ACCG Report. The ACCG Report, published by a nonpartisan entity for the express purpose of making cost savings recommendations for the county, simply does not recommend closing as many polling places—and definitely does not recommend closing all polling places in Ocilla.[3] Rather, the ACCG Report recommends reducing the number of polling places from 8 to 3, leaving one "*in or near Ocilla*, Irwinville, and one somewhere in the eastern portion of the county," placing "every, or nearly every, voter not more than 7-8 miles distant from a polling station." ACCG Report at 48 (emphasis added). More importantly, the ACCG Report (page 49) correctly warns that

> county officials still have an obligation under the . . . Voting Rights Act of 1965, and under the 14th and 15th Amendments to the U.S. Constitution, to ensure that election practices are non-discriminatory, not denying or limiting a citizen's right to vote based upon their race or color. Thus, if the county decides to reduce the number of polling stations, it should ensure that voting rights are not abridged by the action.

We are unaware of any analysis that the Elections Board has done to ensure that its proposals do not violate the Voting Rights Act or the Constitution. It is also our understanding that the Irwin County Board of Commissioners, the entity ultimately responsible for the county's budget, has also endorsed the ACCG Report's recommendation to leave 3 polling places open. Contrary to the recommendations of both the ACCG and the Irwin County Board of Commissioners—the entities presumably most familiar with the county's financial situation—the Elections Board proposal ignores these recommendations and strikes Ocilla out of the picture with "almost surgical precision," raising serious questions about the actual purpose of this measure. *North Carolina State Conf. of NAACP v. McCrory*, 831 F.3d 204, 214 (4th Cir. 2016) (targeted nature of voting restrictions "bears the mark of intentional discrimination" based on race).

By targeting Ocilla—which has the highest concentration of African Americans anywhere in Irwin County—out of the 3 polling places that the ACCG Report suggests should be left open, the first proposal has the effect, if not the intent, of making it disproportionately harder for African Americans to exercise their fundamental right to vote. Thus, this measure likely violates Section 2 of the Voting Rights Act and potentially the Fourteenth and Fifteenth Amendments to the U.S. Constitution as well. It must be rejected.

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[3] The ACLU of Georgia does not endorse the recommendations in the ACCG Report, or suggest that it is in anyway immune from judicial scrutiny, especially since it is not even purposed to provide legal advice.

II. The proposal to have only a single polling location in all of Irwin County located in Ocilla will unreasonably burden rural voters on the outskirts of Irwin County

The second proposal, as we understand it, takes the recommendation of the ACCG Report to an extreme, and eliminates *all* but one polling place, to be located in Ocilla. *See* Exhibit A. This proposal has the potential to impose a serious, undue burden on lower-income voters of all races who reside in the rural edges of Irwin County, because, as we understand it, no public transportation exists in or out of Ocilla. Many lower-income voters may not have vehicles or may otherwise face significant economic barriers in travelling to Ocilla to cast a ballot on Election Day.

According to Census survey estimates, the poverty rate of Irwin County (26.0%) is one-and-a-half times higher than that of Georgia as a whole (18.4%), and the median income ($34,156) is in Irwin County is significantly lower than those of Georgia as a whole ($49,620). It is a violation of the Fourteenth Amendment to impose such burdens—even if those burdens fall solely on a disadvantaged subset of the population—without a sufficiently compelling justification. *See Anderson v. Celebrezze*, 460 U.S. 780 (1983); *Burdick v. Takushi*, 504 U.S. 428 (1992); *see, e.g., Ohio State Conf. of NAACP v. Husted*, 768 F.3d 524, 544-45 (6th Cir. 2014), *vacated on other grounds*, 2014 WL 10384647 (Oct. 1, 2014) (unconstitutional to eliminate early voting opportunities which primarily affect lower-income voters). And even if there is a sufficiently adequate justification for a voting restriction generally, individual voters who face unreasonable burdens to voting are *still* entitled to relief under the Fourteenth Amendment. *See Frank v. Walker*, 835 F.3d 649, 651 (7th Cir. 2016) (en banc). That is because "[t]he right to vote is personal and is not defeated by the fact that 99% of other people [may be able to vote] easily." *Id.* (quoting *Frank v. Walker*, 819 F.3d 384, 386 (7th Cir. 2016)).

Even if all the voters on the outskirts of Irwin County can travel to Ocilla without unreasonable difficulty, the elimination of all but one polling place may also dramatically increase the amount of voting congestion on Election Day. This can outright disenfranchise lower-income voters who cannot afford to take time off of work to stand in long lines as easily as their wealthier counterparts, especially if they are from rural areas. Voting congestion increases the frustration of hardworking poll workers and voters alike, leading to more chaos and, ultimately, a *greater* administrative burden on elections officials than having multiple polling places.

If this proposal were to be implemented, it will encourage greater scrutiny from poll watchers, and evidence that voters are disenfranchised or unreasonably burdened as a result of congestion will significantly increase the likelihood of litigation.

* * *

The mere availability of absentee voting-by-mail and advance voting does not justify the closure of polling locations on Election Day under either proposal. Even if these alternatives are equally available to voters of all races, they do not eliminate the *discriminatory* treatment towards African Americans with respect to in-person voting on Election Day. *See* 52 U.S.C. § 10301(b) (violation of section 2 if the political processes are not "equally open to participation

by members of a [protected] class"). Furthermore, several federal courts have found that voting by mail is not an adequate substitute for in-person voting:

> [Though mail-in voting] represents an important bridge for many who would otherwise have difficulty appearing in person, . . . it is not the equivalent of in-person voting for those who are able and want to vote in person. Mail-in voting involves a complex procedure that cannot be done at the last minute. It also deprives voters of the help they would normally receive in filling out ballots at the polls . . . . Elderly [voters] may also face difficulties getting to their mailboxes . . . , the increased risk of fraud because of people who harvest mail-in ballots from the elderly, [and] with mail-in voting, voters lose the ability to account for last-minute developments, like candidates dropping out of a primary race, or targeted mailers and other information disseminated right before an election.

Veasey v. Abbott, 830 F.3d 216, 255-56 (5th Cir. 2016) (en banc); *see also Ohio NAACP*, 768 F.3d at 542 ("associated costs and more complex mechanics of voting by mail" do not make voting by mail a "suitable alternative for many voters," especially "African Americans, lower-income individuals, and the homeless"); *League of Women Voters of N.C. v. N.C.*, 769 F.3d 224, 243 (4th Cir. 2014) (rejecting argument that restrictions on voting mitigated by the option of voting by mail).

Nor does advance voting provide an adequate alternative for the many voters who do not vote before Election Day, because late-breaking events or new information may cause them to change their mind. Media attention and campaign activity also increases in the days leading up to Election Day, galvanizing voters just before that date. Forcing African American voters in Ocilla to rely on advance voting, a separate but potentially unequal procedure, while allowing white voters the luxury of voting on Election Day in a nearby precinct, is both discriminatory and unjustifiable. It will also cause confusion, leading many voters in Ocilla to believe that a polling place in Ocilla will be open on Election Day since it was also available during the advance voting period.

Furthermore, as discussed above, many lower-income voters from the rural parts of Irwin County may not be able to get to Ocilla to take advantage of advance voting without unreasonable effort. The advance voting period is almost entirely limited to weekday business hours, Ga. Code § 21-2-385(d), but "[l]ower-income individuals face difficulties in voting during the day because they are more likely to work in hourly-wage jobs with little flexibility." *See, e.g.*, *Ohio NAACP*, 768 F.3d at 556. The only other available time for advance voting is on the second Saturday prior to the election, Ga. Code § 21-2-385(d), which for general elections always falls on the annual Ocilla Sweet Potato Festival, when traffic is especially congested and the only advance voting site in Ocilla may be virtually inaccessible. Thus, Election Day hours, which extend from 7 a.m. to 7 p.m. beyond regular business hours, Ga. Code § 21-2-403, may be the only time such voters can cast a ballot, so it is especially important that polling sites be reasonably accessible that day.

The ACLU is happy to speak with you further to discuss these concerns, as well as other

ways in which we can work together to ensure that voters in Irwin County can have equal and reasonable access to the franchise.

Sincerely yours,

Sean J. Young
Legal Director
ACLU of Georgia

EXHIBIT A

BOE hires new Irwin principal

Irwin County High School will have a new principal next school year.

Current Principal Kerry Billingsley has planned for months to be promoted to assistant superintendent to take the place of the retiring Dr. Emethel Mizell. The Irwin County Board of Education officially offered to hire Scott Haskins as the new principal at its regular meeting Monday night.

Haskins is the principal of the Northeast Campus of Tift County High School, which is the separate campus housing Tift's ninth grade.

The BOE held a called meeting Feb. 6, almost all of which was spent in a closed-door executive session interviewing the final three candidates for the principal's job. The three candidates were Haskins, Jodie Knight, and Dr. Eric Holland. Knight works in Lee County after several years as a coach and assistant principal in Irwin. Holland is the assistant principal and head basketball coach at Tift County High School.

After the interviews, Knight was the first choice of the BOE. Superintendent Dr. Thad Clayton said Knight was very popular in Irwin County and had a good reputation, but he refused the job. Clayton said that after prayer and consideration Knight decided accepting the job was not in the best interest of his family.

Haskins verbally accepted the job offer Feb. 6. Clayton said he is in talks with the superintendent of Tift County schools to allow Haskins to come to Irwin early to get him comfortable in the new system.

Clayton said there was a strong pool of candidates for principal. No local candidates applied for the principal's job.

Billingsley, who is also the former Irwin County Middle School principal,

(Continued on Page 8)

Citizens fight to keep voting precincts

Many residents of Ocilla and Irwinville do not want to see their voting precincts closed, and they expressed their feelings at a meeting last week.

The Irwin County Board of Elections and Registration held a meeting Thursday at the Irwin County Courthouse to hear from the public on options to consolidate voting precincts. Last month, the Board announced a plan to close all the eight precincts except Mystic and Holt. The idea behind the plan was to close Ocilla, since Ocilla voters have 16 days of early voting within the city limits, and leaving Mystic and Holt open would minimize the length of travel as no one would need to drive more than 15 miles.

About 50 people attended the meeting Thursday, and most of them represented Ocilla and Irwinville, the two largest population centers in the county. None of those who spoke seemed pleased with the prospect of their precinct closing.

A complication arose with Mystic since the announcement, however, as Mystic Baptist Church, the home of the Mystic voting precinct, said it did not want to be part of the plan due to the heavy traffic the plan might cause at the church. Registrar Cindi Dunlap said the county is looking at an alternative site in Mystic, but she did not name it.

Speakers such as former poll worker Tuffy Hudson and Ocilla City Councilwoman Patrice Williams wanted the Board to reconsider closing Ocilla. Ruth Burch said the majority of voters are in the city, so the voting precinct should remain there.

The distance of travel was often cited as a difficulty caused by closing precincts, especially for the elderly. The Board pointed out that voters have 45

(Continued on Page 8)





* Voting precincts

(Continued from Page 1)

days of early voting, including mailing in ballots. A man said he would not depend on the mail service to deliver a ballot to him or to deliver his completed ballot to the county. Dunlap admitted there are some problems with the mail delivery, but she noted that last year, elections officials sent multiple ballots to board members them when someone had trouble receiving one through the mail.

Kay Braziel of Irwinville spoke about the recent improvements at the Irwinville Community Building, which is the site of the voting precinct. She said the area was spacious and could handle a big crowd and would soon be handicap accessible. She said people who do not like to drive would not vote if the current plan is passed.

Elections Board Chairman Steve Hamby said, "We have not made any decisions."

The Elections Board is autonomous, so the decision on the voting precincts rests with the Board, not the Irwin County commissioners. The commissioners appoint the members of the Board, however.

Dunlap explained that the elections staff looked at closing all but three voting precincts, but then looked at a plan to close all but Mystic and Holt. She said Irwinville is not handicap accessible, which is a requirement, and *requires the county to rent portapotties if Irwinville is used as a precinct. She said if Mystic, Ocilla* and *Holt were left open, the county would have three precincts within 1 mile of each other. She said there are no perfect solutions or answers.*

The Board hopes to save the county money by consolidating precincts. Dunlap said the state will probably switch to new voting machines soon, too, which would likely increase the cost of maintaining eight precincts. She said keeping eight precincts is not viable. She said the people needed to come together to find a solution for the whole county, not individual community solutions.



People, including County Chairman Joey Whitley, await the beginning of a meeting of the Irwin County Board of Elections and Registration last week.

"We all like convenience," she said. "We all like the old way. We can't afford that."

Board member James Curtis broke away from the rest of the three-member Board and said he was not in support of closing Irwin's largest precinct, Ocilla. He said he favored keeping three precincts open.

"Ocilla needs to stay," he said, and his statement was echoed by a chorus of "Amen" from the crowd.

Samuel Cobb said the people pay for the county, so the people *should decide.*

Ocilla City Councilman Reginald Miller said that he would not support closing the *precinct in Ocilla*, even if he had to go to federal court.

Although Ocilla voters would have 16 days of early voting in the city, Arlinda Murrell said most people want to vote on the day of the election. She said a lot of voters do not feel comfortable early voting. Dunlap said the early voting process is improved with a new system in place, and she said many people said it was fast and they would never go back.

Jerry Wiggins asked if anyone had figured how much consolidation would save. Dunlap said that with two precincts, the county should save at least $4,310 per election. On a presidential election year, the county will hold at least three elections and more will be held if there are run-offs or special elections.

Susan Paulk was the only person from the crowd to directly speak in support of the Elections Board. She said that none of the board members wanted to hurt anyone. She said the public should trust them to make a decision for the best of the county.

She said there were no perfect decisions, but Hudson then said there was a perfect decision, if the Board let the public vote on the issue.

Paulk said she did not believe the voters had all the information. For instance, she said early voting is awesome, and she said she had elderly family members who mail in ballots.

Maurice Lake said that if Ocilla is closed, the government will close more aspects of the city.

Walter Hudson said people drive to Ocilla to buy tags and pay taxes. He said there should be one voting precinct, Ocilla. He said consolidating to one would be better financially than consolidating to three.

Hamby said that counties with far more registered voters have consolidated to one precinct. He said Irwin keeps too many polls open.

"I love being in a small town," Hamby said. "But folks, we've got small money."

Dr. Neal McIntyre said he was adamantly against the idea of two precincts, and he said one precinct was an "absurd idea." He said that a recent report by the Association County Commissioners of Georgia specified that a county should maintain a minimum of three precincts, and listed Ocilla, Irwinville and somewhere on the east side as locations. McIntyre said the county officials were doing everything in their power not to follow the ACCG's suggestions. The ACCG report did not actually specify what the county should do or make recommendations, but it did give the three precinct plan as an option for the county leaders to consider.

McIntyre said that research has consistently shown that consolidation causes vote count to suffer and voter turnout to reduce. He said the problems disproportionately affect minority populations.

He said that a county-owned facility would be ideal, and he suggested the Jefferson Davis Memorial Historic Site museum near Irwinville as a handicap accessible, county-maintained option for voting.

"They're going to raise our taxes like, now, our vote away from us," McIntyre said.

He said that county officials "don't know what a budget is and can't follow a budget." He noted a large increase in the elections budget from 2015 to 2016.

"We're questioning pennies but throwing away $100 bills," he said.

He said the county was setting itself up for federal lawsuits by closing Ocilla or Irwinville. Walter Hudson later commented that Bacon County closed all but one precinct without any lawsuits.

Dunlap disputed some of McIntyre's assertions, and she gave reasons for the increases, including that 2016 was an election year. 2014 was also her first full year, and she purchased new equipment and started doing some things that were legally required that were previously not done. She said the county was looking at some very serious infractions, and she said she is very diligent to go through the elections budget with a fine-toothed comb."

Hamby also defended the job Dunlap does as registrar, and Curtis later spoke about the good job the elections staff does.

Marty Bustin, a poll worker at the Fletcher voting precinct, talked about the unusually high voter turnout at her precinct. In November, seven precincts had less than 50 percent of their voters show up on election day, including a county-low 24.6 percent in Ocilla. More than 69 percent of Fletcher voters voted on election day. Bustin said many Fletcher voters pass by the precinct on their way to work on election day and are reminded to vote. She said someone try-

ing to somehow split the west side between the Fletcher, Irwinville and Mystic precincts.

Jackie Smith said keeping Ocilla open was critical for the community and critical for people without transportation.

Curtis said that he thought three precincts could cost only about $800 more per election. He said that the west side of the county needs to get together and decide what the people there want to do about the west side.

Board member Jeff Bfease said none of the Board members have made a decision, but the two-precinct plan was a place to start.

Hamby said that whatever decision the Board makes, it will not be made in secret. The Board meets at 4:45 p.m. on the second Thursday of each month at the Irwin County Courthouse Annex. Before voting to change the precincts, the Board must advertise the fact that it will vote on the subject at least 30 days ahead of time in *The Ocilla Star*. During those 30 days, citizens can make objections in writing to the county. They can also ask to be on the agenda of the next meeting.

* Principal

(Continued from Page 1)

will move to the board office in June or July. He will concentrate on student achievement and instructional practices, areas in which Clayton said he has made excellent progress. Clayton said he thinks Billingsley will do well for the whole system in his new role.

Elections Board talks possible lawsuits, precincts

After the threat of lawsuits, the Irwin County Board of Elections and Registration is waiting on legal advice before making a decision on closing voting precincts.

State officials recommended the Board get the recommendation of the county attorney after several threats of lawsuits were made in calls to the office of State Rep. Clay Pirkle, the office of State Sen. Tyler Harper and other state offices. At a meeting of the Board Thursday, the three members decided to seek legal advice either from County Attorney Warren Mixon or another attorney if he does not have time.

Registrar Cindi Dunlap said she talked to state officials and she cannot find anything that would legally stand in the way of the consolidation plans.

The Board also discussed where the members are leaning in regard to consolidation. Each favors a different plan.

Jeff Blease favors one precinct, which would be Ocilla. Steve Hamby favors two precincts, which would be Mystic and Holt, although he said he would be OK with one precinct. James Curtis favors three precincts, Irwinville, Ocilla and Holt, but he also said he would be OK with one, too.

Hamby said the Minnie and Osierfield precincts cannot stay where they are due to new rules about the distance of voting machines from entrances, because the sites are too small.

Curtis said he favored three precincts because he thought Irwinville would best serve the west side of the county. He also said he thought it would withstand any legal challenge.

Mystic Baptist Church, the current Mystic precinct, does not want to host a precinct if the traffic increases because of the two-precinct plan. The Board members talked about other Mystic locations, such as Grace Christian Academy's former site, but it would require work by the county. Curtis said that although Irwinville's site is not yet compliant with disability requirements, the people in Irwinville are willing to put in the work to make it compliant themselves.

Blease asked how many people lived close enough to their precinct that they would not need to travel. He said the only reason they want to consolidate is to save money, and one precinct is the most savings.

Dunlap said that with two precincts, people in Ocilla would only drive 5 miles while with one precinct, people on the outer edge of the county will travel more than 14 miles.

Curtis said that on election day, Ocilla has the largest group of voters. Dunlap said the people in Ocilla are in Ocilla during advance voting, which is held in the city limits, while people on the county line are not in Ocilla during that time. She said one precinct would make her job easy, but she was looking out for everyone.

"If you're passionate about your vote, it won't matter," said Blease.

Curtis said some like to vote on election day. Hamby said that in November, 2/3 of Ocilla voted early. Curtis again said Ocilla was the largest group of voters on election day.

Curtis and Blease said disenfranchising someone somewhere was unavoidable. Hamby said they were talking sentiment.

"We can't do this based on sentiment and emotion," he said.

Dunlap asked Curtis where he would draw the line at with three precincts. The two-precinct plan she favors divides the county in half along Highway 129. She said with three precincts, some people will have to vote in either Ocilla or Irwinville based on what side of the road they live on.

Curtis said he thought Dunlap could work that out. He said he did not believe it would be a difficult problem.

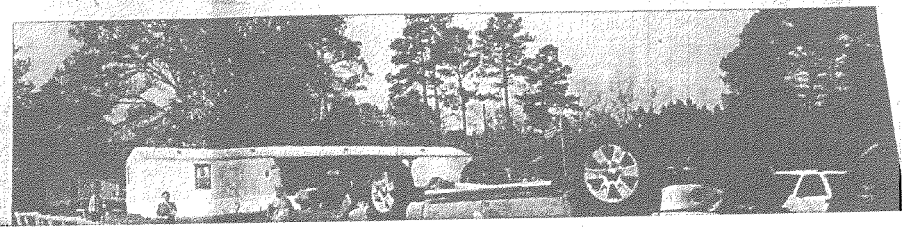
"It's called compromise and we all have to do it," said Blease.

Dunlap determined that each additional precinct over one would cost the county about $800 per election.

Hamby asked Dunlap to find out how Wilcox County handles its voting precincts.

The Board also met in executive session to discuss personnel.

Gun fired, elderly man charged



An 80-year-old Ocilla man was charged with aggravated assault last week after a woman al- [illegible] time, Rogers moved to the porch area. She stood in the doorway holding the knife and demanding her phone back, she said. He

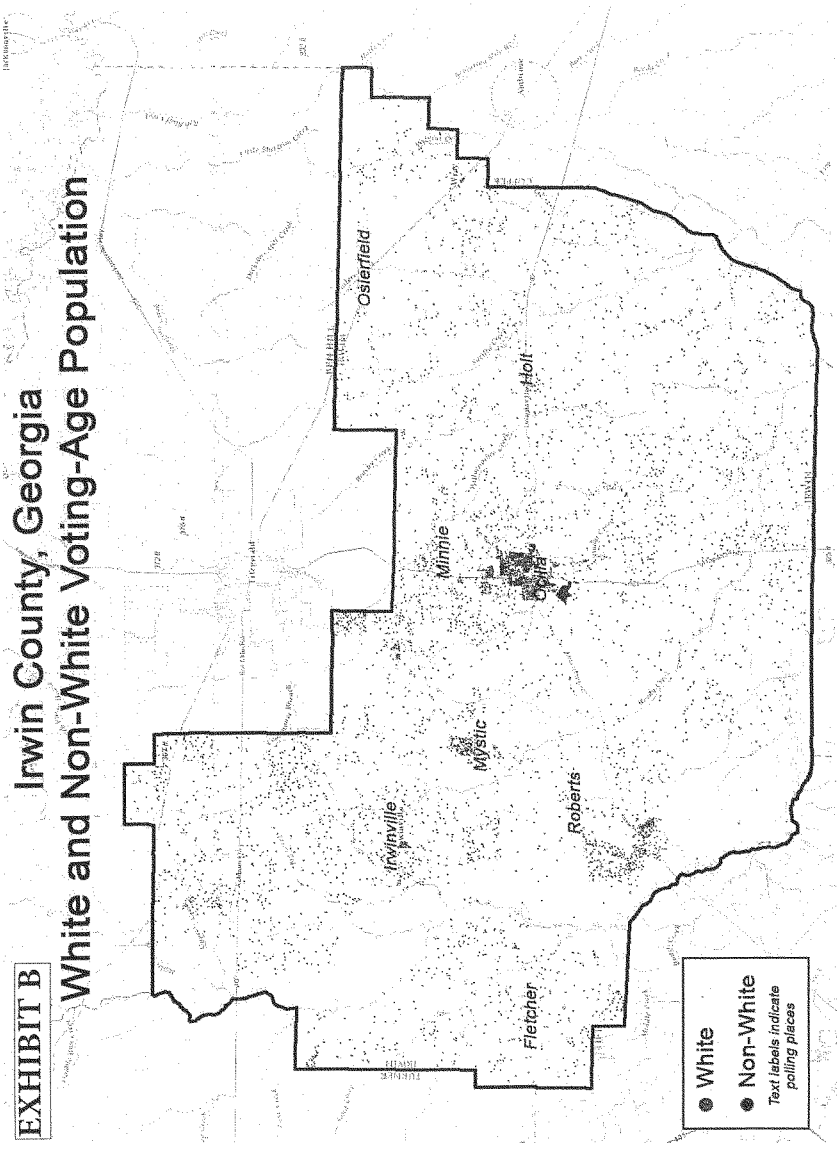

EXHIBIT B
Irwin County, Georgia
White and Non-White Voting-Age Population
Osierfield
Holt
Minnie
Ocilla
Mystic
Irwinville
Roberts
Fletcher
White
Non-White
Text labels indicate polling places

EXHIBIT C

Irwin County, Georgia
Median Household Income

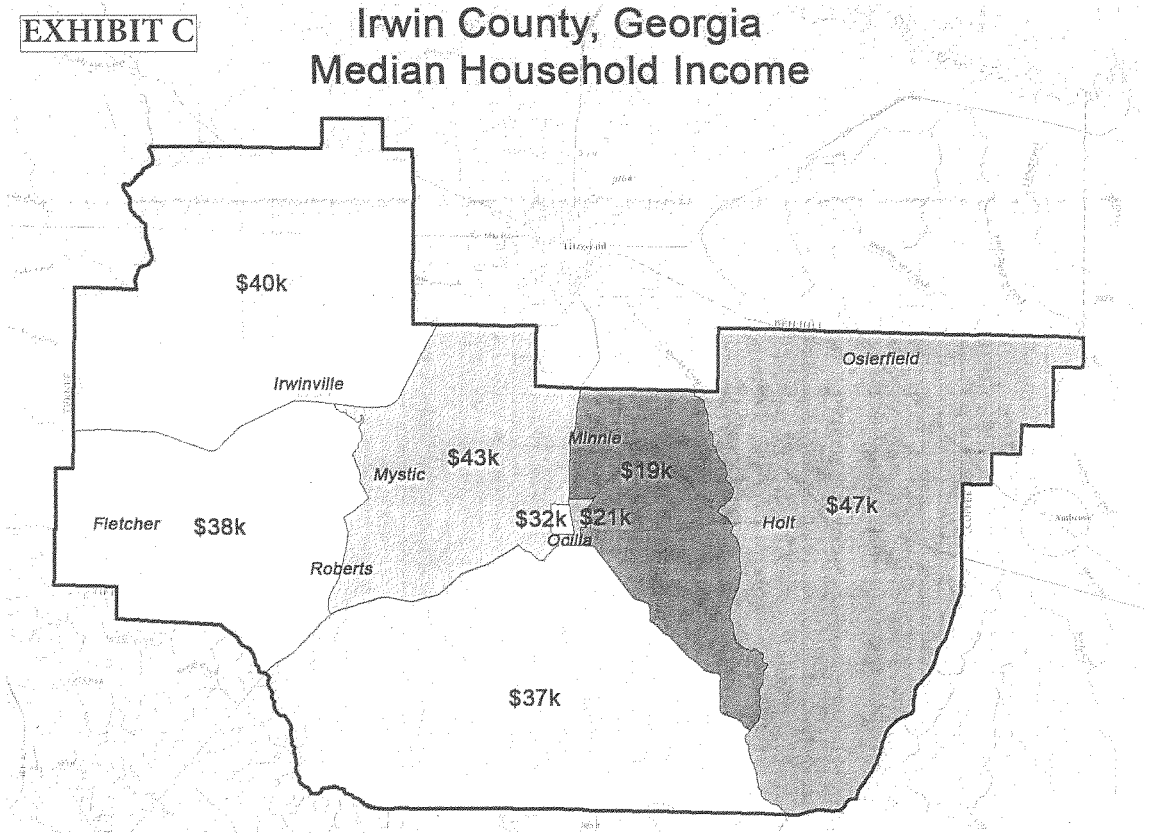


EXHIBIT D

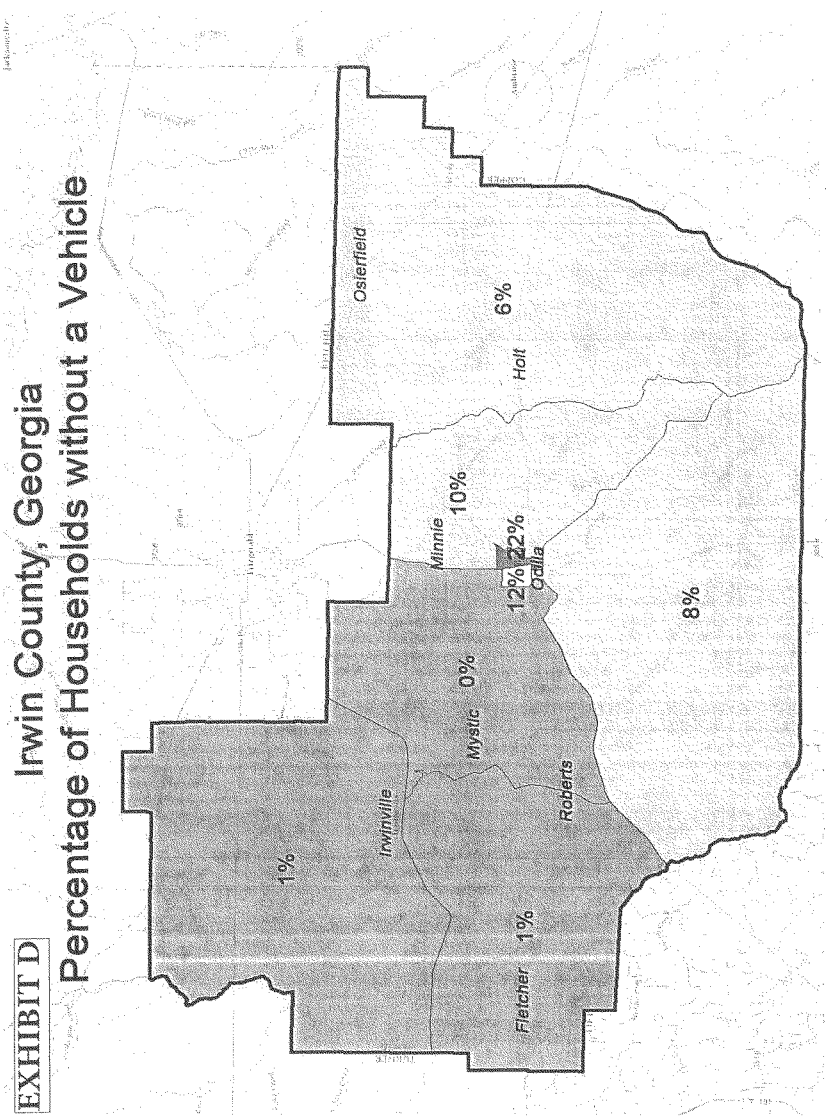
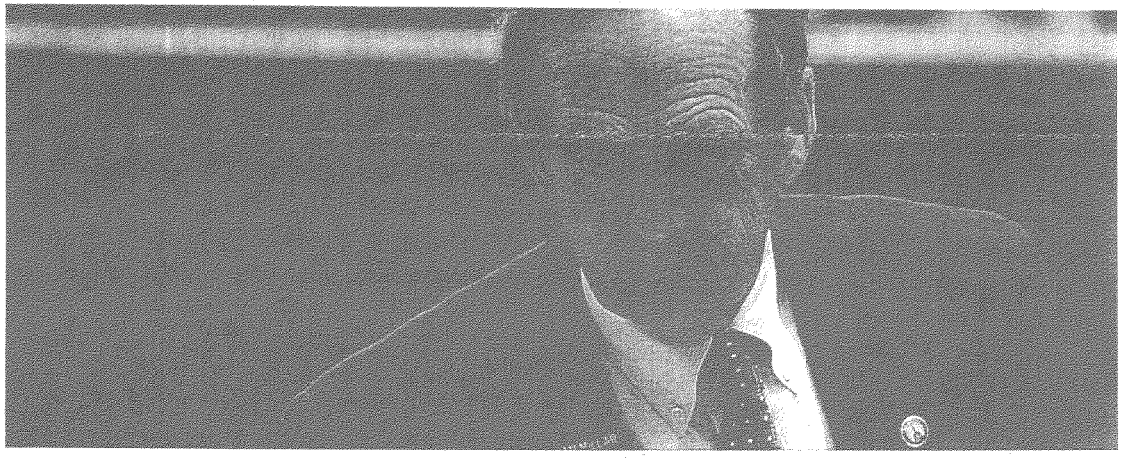

Irwin County, Georgia
Percentage of Households without a Vehicle
Osierfield
Holt
6%
Minnie
10%
12%
22%
Odilla
8%
Mystic
0%
Irwinville
Roberts
1%
Fletcher
1%
1%

EXHIBIT 5

MSNBC

Elections / Republicans



Sen. Fran Millar, R-Atlanta is seen on the Senate floor during the legislative session, March 10, 2014, in Atlanta. **Photo by Dave Tulis/AP**

GOPer opposes early voting because it will boost black turnout

09/10/14 12:15 PM – UPDATED 09/10/14 02:21 PM

By Zachary Roth

A Republican lawmaker in Georgia has sparked outrage by suggesting he opposes new Sunday voting hours because they'll primarily benefit African-Americans – then explaining that he simply "would prefer more educated voters."

But take away the overt racism, and state Rep. Fran Millar was only giving the official Republican position on the issue.

After a visit to Atlanta by Michelle Obama to register black voters in advance of Georgia's closely-fought U.S. Senate race, Millar took to Facebook to criticize a county official for green-lighting Sunday voting at a local mall.

"Michelle Obama comes to town and Chicago politics comes to DeKalb," Millar wrote. "Per Jim Galloway of the [*Atlanta Journal Constitution*], this location is dominated by African American shoppers and it is near several large African American mega churches such as New Birth Missionary Baptist."

He added: "Is it possible church buses will be used to transport people directly to the mall since the poll will open when the mall opens? If this happens, so much for the accepted principle of separation of church and state."

After some angry responses, Millar tried to explain himself. "I never claimed to be non-partisan," he wrote. "I would prefer more educated voters than a greater increase in the number of voters."

"Trying to place the race card on me is ludicrous."

REP. FRAN MILLAR

In a phone interview, Millar told msnbc that his problem is with putting selective early voting sites in Democratic areas. "They're trying to gin up the vote, get it out there for the Dem candidate," he said. "It's a political ploy."

And he said he was "irritated" by comments on Facebook calling him a racist.

"I'm sitting here as a Republican who actually has an award from the NAACP, the Thurgood Marshall Award," Millar said. "Trying to place the race card on me is ludicrous."

As for the idea that it's more important to have more educated voters rather than simply more voters, Millar said: "That's just my opinion – that's all that is. That doesn't make it racist."

In fact, it's also something close to the official Republican line on early voting – which, as Millar and his party understand, is used disproportionately by minority voters.

Your video is Loading

Earlier this year, a bipartisan panel of experts appointed by President Obama in response to the massive lines on Election Day 2012 released a report on how to make the voting process more efficient. Among its recommendations: expanded early voting.

POLITICSNATION WITH AL SHARPTON, 9/9/14, 6:28 PM ET

Gotcha: GA GOP Voting Gaffe

The idea was a non-starter for the Republican National Lawyers Association (RNLA), the leading organization of GOP election lawyers – for reasons that Millar would agree with. "Part of the voting process requires a voter to educate himself or herself on the issues facing the community, state or country," the group wrote in a report. "When a voter in an early voting state casts his or her ballot weeks before Election Day, they're putting convenience over thoughtful deliberation."

It's not just the RNLA.

"Early voting means stubborn voters will make uninformed decisions prematurely," Christian Adams, a former Bush Justice Department lawyer and a supporter of restrictive voting laws, wrote in response to the Obama panel's report. "Voting even one week early produces less-informed voters and dumbs down the electorate."

The *Washington Post* columnist George Will, a key shaper of conservative opinion, has called early voting "deplorable."

"Instead of a community deliberation culminating in a shared day of decision, an election like the one here is diffuse and inferior," Will wrote last year in reference to a Florida special election that allowed early voting.

As the election law scholar Rick Hasen has argued, this isn't only about raw partisanship.

"Conservatives see voting as about choosing the 'best' candidate or 'best' policies (meaning limits on who can vote, when, and how might make the most sense), and liberals see it as about the allocation of power among political equals," Hasen wrote on *Slate* earlier this year, in a story headlined "The New Conservative Assault on Early Voting." "Cutting back on early voting fits with the conservative idea of choosing the 'best' candidate by restraining voters from making supposed rash decisions, rather than relying on them to make choices consistent with their interests."

But that shouldn't obscure the basic reality: When Millar says having more educated voters is preferable to having more numerous voters, he's only toeing the party line.

Explore: Early Voting, Elections, Georgia, Republicans and Voting Rights

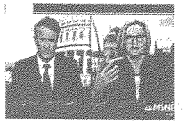
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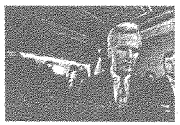
One year after Parkland: New gun restrictions on the state level



The need for Dems to appeal to heartland voters



Why gun reform laws are personal for one representative



Behind closed doors, Kevin McCarthy explains the GOP's 2018 defeats

Chairwoman FUDGE. Thank you very much.
Ms. Hopkins, are you prepared?

STATEMENT OF STACEY HOPKINS

Ms. HOPKINS. I am going to try to do this under five minutes. It is going to try not to sound like speed reading.

Chairperson Lofgren, Chairwoman Fudge, Ranking Member Rodney Davis, and Members of the Committee, I would like to sincerely express my thanks to this body to allow me to testify today about my experience as a victim of voter suppression.

I need to clarify, I was not purged from the voting rolls. Thanks to my attorney, Sean Young, and Andrea Young and the ACLU, we were able to push back, because no one is ever coming to take something that was so hardly fought from me or anyone else in Georgia. They will never take my right to vote.

[Applause.]

Ms. HOPKINS. It is a position I also never found myself in my wildest dreams that I would be here in 2019 fighting the same issues my ancestors have waged since arriving on these shores of this country in 1619. We were led to believe that the promise of America, of liberty and justice and freedom, are extended to us all. In 1965, we were led to believe that we had a win contained in the passage of the Civil Rights Act of 1964.

Sadly, I am here to say that the fight in opposition to that has never ended, not in this State, and it has manifested itself in disturbing ways in Georgia. For black people and for people of color, we are still viewed as holding second class citizenship in this State.

The state of our elections and voting rights is a dire emergency and a crisis of voter confidence. We have sent out the warning signs for years. I am asking Congress to intervene to answer this call to protect and defend what was so hard-fought for and many of us thought won.

I was born in 1963. I am a child of the Civil Rights movement. And as an adult, I found myself living in Atlanta, part of the mighty Fifth District, represented by the Honorable John Lewis. I had always heard about his stories about his heroic stance on that day, Bloody Sunday, in Selma, Alabama.

In that same year, a Supreme Court decision was argued and decided, *Gray* v. *Sanders*, and it was initiated by a citizen of the same county I now reside in, by a Mr. James Sanders, who successfully challenged the use of a statewide election system found to be a form of voter suppression, in violation of the 14th Amendment's guarantee of equal protection, the county unit system. This system undercut and diluted the strength of the individual voter and violated the constitutional principle of one person, one vote.

In 2017, I found myself a Fulton County voter challenging the legality of my State and county for beginning the process of illegally targeting myself, three of my adult children, and over 380,000 voters in one action in one year. We were part of the 1.4 million Georgia voters that were removed since 2012 by the Georgia Secretary of State's office headed by now Governor Brian Kemp.

We were to be classified as inactive voters and designated to be purged off the voting rolls, using a method known as the postcard trick. I brought one of those postcards in so that people can see

how innocent they look. This is what it looked like. This is what I received in the mail. [Indicating.]

I can't really explain all the ranges of emotions that I felt when I saw this notice. I can only best describe it as an abbreviated version of the stages of grief, except the one thing that I would never do is accept this. It put in me a desire and motivation to stand up and fight back against what can only be called as massive and systemic voter disenfranchisement that has gone on virtually unchecked from the days of Reconstruction in Jim Crow to the erosion of the Voting Rights Act by the Supreme Court in its *Shelby* v. *Holder* decision.

The problem in my case, and there is a fundamental question that I must ask that cannot be answered: What list was I on? Because, in my case, I moved intercounty, from one county to another. According to the remedies that are contained in the National Voter Registration Act of 1993, there was nothing for me to do other than to update my address with the U.S. Postal Service, which I did.

The second problem with me receiving one of those notices is that it said that I would be deemed an inactive voter. I could not have been deemed an inactive voter if myself and my children had just voted that same year in the elections that we were eligible in.

To this date, I was not on crosscheck. I was not on any list other than the U.S. Postal Service list. If that had been followed and in accordance with the law, I would have never received those notices.

I still ask the question: What list were we on? To date, no one on the State or county level can answer us or have even attempted to do so.

What was done was done on the orders of the Secretary of State, now Georgia Governor Brian Kemp, my county Election Board, headed by Director Richard Barron, by utilizing a list of selected voters to receive the mailers, but we still don't know its source. The actual notice indicated that I had moved and should have been the first clue of a violation of a voting statute, but we did not hear that.

Long story short, on the eve of our case being heard in court, I was contacted about a settlement, and I agreed to it because there was an election upcoming where it was important that the statuses be reinstated for these voters.

However, we still saw massive and damaging acts of voter suppression and disenfranchisement from watching poll locations being closed, by watching people not finding their names on poll books who have voted for over 50 years. We saw so many actions that went on.

This is a plea to you, to Congress, to please come in. There are things that you can do, and the first is repairing, strengthening the Voting Rights Act.

[The statement of Ms. Hopkins follows:]

Chairperson Zoe Lofgren, Chairwoman Marcia Fudge, Ranking Minority Member Rodney Davis and members of the Committee:

I would like to sincerely express my thanks to this body to allow me to testify today about my experience as a victim of the voter suppression efforts of the state of Georgia in 2017. It is a position I never imagined in my wildest dreams that I would find myself fighting in 2019 the same issues as my ancestors have waged since arriving on the shores of this country in 1619 – we ask that the promise of America of liberty, justice and freedom are extended to us all and in 1965, we were led to believe that we had a win contained in the passage of the Civil Rights Act. Sadly, I am here to say that fight in opposition to it has never ended and has manifested itself in disturbing ways in the state of Georgia.

I was born in 1963 – a child of the Civil Rights Movement – and as an adult, I found myself living in Atlanta, part of the mighty 5th Congressional District, represented by a legend of whom I had read about extensively and been told the stories of his heroic stance on Bloody Sunday in Selma, Alabama - Rep. John Lewis. In that same year of my birth, a Supreme Court decision was argued and decided - Gray v. Sanders - that initiated by a citizen of the same county I now reside in by Mr. James Sanders (Fulton County) that successfully challenged the use of a statewide election system in use found to be a form of voter suppression and violation of the 14th Amendment's guarantee of equal protection – the county unit system – that undercut and diluted the strength of the individual voter and violated the constitutional principle of "one person, one vote." And in 2017 I found myself, a Fulton County voter, challenging the legality of my state and county for beginning the process of illegally targeting myself, three of my adult children and over 380,000 voters in one action in a singular year (and part of the 1.4 million Georgia voters removed since 2012 by Georgia's Sec. of State office) to be classified as inactive voters and designated to be purged off the voter rolls using a method known as the "postcard trick."

I remember clearly the fateful day the notices arrived. Ironically, we received them on July 3rd, 2017, the day before Independence Day and they were a slap to the face once I realized just what we were looking at. At first, the notices appeared to be like junk advertising mailers with the exception ours Because of my work doing voter registration in Georgia, I instantly knew what I was looking at and it made my blood run cold as the realization and understanding hit me that STILL, we were seen as lesser beings not worthy of full citizenship despite being a natural citizen of the US. I can't fully impart to all of you the range of emotions I felt – I can only best describe it as an abbreviated version of the stages of grief except in this case, acceptance was never going to be one of those emotions I would ever feel. In its place, I felt motivation to stand up and fight back against what can only be called as mass disenfranchisement.

The problem is that when we moved from College Park, which is in Fulton County, to Atlanta? Atlanta is also in Fulton County and I did what was required of me as a citizen and voter. I simply filed a change-of-address form with the USPS and all my county election board had to do in accordance with federal law quoted in the Voter Registration Act of 1993 was to simply update our registration address and mail out new cards indicating our new voting precincts. What was done was that on orders from then Sec. of State and now Georgia Governor, Brian Kemp, my county election board - headed by Director Richard Barron - used a list of voters culled from what is still an unknown source to mail out these notices to

voters in the county, even though the actual notice itself referenced there was indication I had moved and should have been the first clue of a violation of federal voting statute. Had anyone taken the time to examine the USPS list, they would have immediately known that the move was *intra-county* and **no** action should be initiated towards voters like myself in the same circumstance. There was also a secondary problem and larger issue at play. We *couldn't* have been legally deemed as inactive, as myself and my children had *just voted that same year in the last election, we were eligible to vote in*. Despite pointing both facts out to the state and county, both entities insisted the action was correct, led to a series of finger pointing between the two entities when I tried to ask who was responsible for the mailers and finally forced me to seek legal relief, of which the ACLU of Georgia answered the call and provided representation in bringing forth my suit to enjoin both.

As we approached the eve of the case being heard in court, I was contacted by the ACLU about a settlement offer that would allow the reinstatement status of over 159,000 prior to the Atlanta mayoral election whose status was questionable and while it wasn't the remedy I wanted or outcome, as Mr. Kemp was readying to run for higher office while being the referee in his own election, I would have hoped the purges would stop. We are only now discovery of strange anomaly of missing Black votes from unreliable and unauditable voting machines that the state has been silent on that has been used in conjunction with suppressive methods as purges and more that only serve to prove that Black votes really DO matter. If they didn't matter, why so much effort placed in making sure they are never counted?

It is my hope and fervent desire that this committee along with your colleagues in the US Congress will begin the work of repairing, strengthening and preserving voting rights and election integrity around the nation and reverse the extreme injustices and perversions of our democratic processes of voting and elections.

Thank you and may God bless us all.

Chairwoman FUDGE. Thank you very, very much.

Ms. SEWELL. Madam Chairwoman, can we also have a copy of her postcard for the record?

Chairwoman FUDGE. Yes. We will pick up the rest of your testimony as we get to questions.

Ms. HOPKINS. Okay. Thank you.

Chairwoman FUDGE. You were very good. I don't know why you were so nervous. [Applause.]

Chairwoman FUDGE. Last, Mr. Albright.

STATEMENT OF CLIFF ALBRIGHT

Mr. ALBRIGHT. Chairwoman Fudge, all Committee Members, thank you for the opportunity to speak today. I am the cofounder of Black Voters Matter, along with LaTosha Brown. Our mission is to build power in predominantly Black communities, and we view elections as one way of doing so.

During 2018, we traveled throughout seven States, seeking to mobilize Black voters and supporting over 120 community-based partner groups. These seven States were Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, and Tennessee, with honorable mentions of Texas, where we spent just a few days in Harris County.

Collectively, these States form the bulk of the old Confederacy—the old failed Confederacy—an historical fact which is very much related to the topic of this hearing. While each of these States has its own examples of voter suppression during the recent midterms, the epicenter of voter suppression was arguably right here in Georgia.

By now, the Committee is familiar with the headlines and we have talked about some of them: a gubernatorial candidate refusing to step down as chief election official, instead presiding over and picking voters in his own election; purging of 1.5 million voters; holding onto 53,000 voter registrations, most of which from black voters; inadequate supply of machines, which themselves are highly problematic; thousands of provisional ballots not counted; thousands of absentee ballots either lost or simply not counted; and, of course, what we have talked about, the closing of polling places throughout the State.

Which brings me to the events of October 15, 2018, in Jefferson County, Georgia. We began our day of the voter mobilization rally at a senior center. We shared our message of love and power with dozens of seniors who were excited to participate.

In fact, the group was so excited that the rally moved into the parking lot, where we added some music and had a good old-fashioned dance party as the seniors sang along with James Brown: "Say it loud. I am black and I am proud."

The group then asked if they could ride our bus, the blackest bus in America, to go early vote at the polling place just down the street. Before we could depart, the center's director received a call from the county administrator stating that the seniors could not ride the bus to go vote.

In the interest of time, I will spare the Committee the administrator's inadequate and racist response, but will gladly discuss during Q&A.

Ours wasn't the only vehicle to be blocked from providing rides to the polls. In Cordele, Georgia, one of our partners was providing rides to the polls when he was given a parking ticket by a state trooper. I repeat, a state trooper gave him a parking ticket and then proceeded to call for backup, resulting in a total of seven patrol cars, five of which were state troopers.

What we have seen is a pattern of intimidation, and one of the most aggressive entities has been the Secretary of State's office itself. The office has an investigative unit which has pursued several high-profile yet frivolous cases against effective voting rights organizations. We mentioned one earlier, in terms of the New Georgia Project.

Moreover, these armed investigators often conduct home visits to individual voters or activists, knowing that their pointless visits can have a chilling effect on civic engagement. In fact, just a few days ago, just a few days before this hearing, one of these investigators visited the community organizer who had invited us to Jefferson County. She is here with us today.

The intimidation doesn't stop on Election Day. On November 13, a week after the election, in the rotunda of the Georgia Capitol building, 15 peaceful protesters were arrested simply for making the very basic demand that the State should count every vote.

Oddly enough, one of those arrested was a State senator, Senator Nikema Williams in spite of Georgia law which forbids the arrest of legislators while the assembly is in session.

Now, some may hear this story and think to themselves that that was after the election, what does that have to do with voter suppression?

My answer is very simple: It has everything to do with voter suppression, because those arrests, just like the Secretary of State investigations and just like the seven patrol cars for the rides to the polls, those arrests were meant to intimidate and silence. It was meant to send a message to those arrested as well as to those watching that if you participate in these activities, if you organize and educate voters, if you demand that your vote be counted, you, too, can be arrested.

Fanny Lou Hamer once asked the question in a hearing not unlike this one. She asked: Is this America? Now, 55 years later, with the weakened Voting Rights Act, evidently the answer is yes, this is America. This is Georgia.

I am here today to say the same thing we said all throughout 2018. Every time one of our voters were suppressed, every time one of our canvassers were harassed, and every time our bus was threatened, I am here to say today: Can't stop, won't stop.

Madam Chairwoman, again, I thank you for this opportunity. I look forward to answering questions from the Committee.

[The statement of Mr. Albright follows:]

WRITTEN TESTIMONY OF CLIFF ALBRIGHT, BLACK VOTERS MATTER

TO

THE U.S. HOUSE SUBCOMMITTEE ON ELECTIONS

OF

THE COMMITTEE ON HOUSE ADMINISTRATION

2/19/19

Chairwoman Fudge and All Committee Members,

Thank you for the opportunity to speak today. I am the cofounder of Black Voters Matter, along with LaTosha Brown (formally known as BVM Capacity Building Institute). Our mission is to build power in predominantly Black communities, and we view elections as one way of doing so.

During 2018, we traveled throughout 7 states seeking to mobilize Black voters and supporting over 120 community-based partner groups. These seven states were Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina and Tennessee, with honorable mention to Texas, where we spent just a few days in Harris County.

Collectively these states form the bulk of the old confederacy – the old, ***failed***, confederacy – a historical fact which is very much related to the topic of this hearing. And while each of these states has its own examples of voter suppression during the recent midterms, the epicenter of voter suppression was arguably right here in Georgia.

Georgia Voter Suppression

By now, I'm sure most of the committee is familiar with the headlines:

- A gubernatorial candidate refusing to step down as chief election official –instead, presiding over, and picking voters, in his own election;
- Purging of 1.5 million voters;
- Holding on to 53,000 voter registrations, most of which from Black voters;
- Inadequate supply of machines, which themselves are highly problematic;
- Thousands of provisional ballots not counted;
- Thousands of absentee ballots either lost or simply not counted; and
- The closing polling places, including in Randolph County, where there was an attempt to close 7 out of 9 polling places, including precincts where over 90% of voters were Black. The suggested closings were based on advice from a consultant recommended by Brian Kemp's office. In Randolph County, these suppression efforts were defeated thanks to organizing efforts of several organizations, including the NAACP, the ACLU, Georgia Coalition for the People's Agenda, New Georgia Project and others.
    - However, other counties haven't been so lucky. The Atlanta-Journal Constitution reported that over the past 6 years, 214 of the state's precincts have been closed. That's 8% of Georgia's polling places that have been closed.
    - This doesn't fully take into account the reduction in early voting locations. In one very rural county, early voting locations were reduced to 2 polling places, and rather than spreading the two across the rural county, they put both locations in the same building!

Jefferson County

Which brings me to the events of October 15, 2018 in Jefferson County, Georgia. We began our day with a voter mobilization rally at a Senior Center. We shared our message of love and power with dozens of seniors who were excited to participate. In fact, the group was so excited that the rally moved into the parking lot where we added some music and had a good old dance party as the Seniors sang along with James Brown, "Say it loud, I'm Black and I'm proud!" The group then asked if they could ride our bus—the Blackest Bus in America—to go early vote at the polling place just down the street. But before we could depart, the center's director received a call from the county administrator stating that the seniors could not ride the bus to go vote. In the interest of time, I will spare the committee the administrator's inadequate and racist response, but will gladly discuss during Q&A.

State Troopers

Ours wasn't the only vehicle to be blocked from providing rides to the polls. In Cordele, Georgia, one of our partners was providing rides to the polls when he was given a parking ticket by a state trooper. I repeat, a *state trooper* gave him a parking ticket, and then proceeded to call for backup, resulting in a total of 7 patrol cars, 5 of which were state troopers.

Investigations

What we've seen is a pattern of intimidation, and one of the most aggressive entities has been the Secretary of State's office itself. The office has an investigative unit, which has pursued several high profile and yet frivolous cases against effective voting rights organizations. Moreover, these armed investigators often conduct home visits to individual voters or activists, knowing that their pointless visits can have a chilling effect on civic engagement. In fact, just a few days ago, one of these investigators visited the community organizer who had invited us to Jefferson County.

Intimidation Doesn't Stop on Election Day

The intimidation doesn't stop on election day. On November 13, a week after the election, in the rotunda of the Georgia Capitol building, 15 peaceful protestors were arrested simply for making the very basic demand that this state should count every vote. Oddly enough, one of those arrested was a state senator, Senator Nikema Williams, in spite of Georgia law which forbids the arrest of legislators while the Assembly is in session.

Now some may hear this story and think to themselves, "that was after the election; what does that have to do with voter suppression?" And my answer is very simple. It has EVERYTHING to do with voter suppression, because those arrests—just like the secretary of state investigations, and just like the 7 patrol cars for rides to the polls—those arrests were meant to intimidate and silence.

It was meant to send a message, to those arrested as well as to those watching, that:

- if you participate in these activities,
- if you organize and educate voters,
- if you demand that your vote be counted

You too can be arrested.

Fannie Lou Hamer once asked the question, in a hearing not unlike this, she asked "Is this America?" And now, 55 years later, with a weakened Voting Rights Act, evidently the answer is "yes". This is America. This is Georgia.

But I am here today to say the same thing we said all throughout 2018, every time our voters were suppressed, every time our canvassers were harassed and every time our bus was threatened. I'm here to say today: can't stop, won't stop.

Madame Chair, again I thank you for this opportunity, and I look forward to answering questions from the committee.

Chairwoman FUDGE. I thank you all so much for your testimony.

We will begin with the panel, and we will start with Representative Aguilar.

You are recognized for five minutes.

Mr. AGUILAR. Thank you, Madam Chairwoman. Thank you all for the testimony.

My first question: Mr. Young, we have so many issues here at play, and your testimony highlighted quite a few. And then our panel expanded on the balance: redistricting exact match, signature match, polling place closures, voter ID, early voting changes. But one I wanted to bring your attention to was specifically about access to language assistance.

What requirements exist within Gwinnett and the other 158 counties within Georgia?

Mr. YOUNG. Section 203 of the Voting Rights Act says that if a jurisdiction has at least 5 percent, or 10,000 people who are of a language minority, and they have depressed literacy rates, and the Census so designates them as such, that county or local jurisdiction must provide ballots and registration materials in that language.

In Georgia, only one county so far has been designated as such, and that is Gwinnett County, which is one of our fastest growing, in terms of communities of color, counties in the State.

That is the more familiar provision of the Voting Rights Act. But there is a lesser—well, it is not lesser. There is a portion of the Voting Rights Act that is less familiar to folks, and that is Section 4(e). Section 4(e) says that United States citizens from Puerto Rico are entitled to a Spanish language ballot. That applies even if their jurisdiction was not under that 5 percent rule.

About a year—ago to this date, I testified in Hall County, which has a rapidly growing Latino population. I explained to the Board that they were unobligated under Section 4(e) to provide to Spanish language materials to U.S. citizens from Puerto Rico and the Board refused. This is the kind of barriers that we are dealing with in terms of fighting for the rights of language minority citizens.

Mr. AGUILAR. Just to follow up. So outside of Gwinnett County, what types of language assistance? Is it zero? Do you have to petition? What remedies are available for individuals when it comes specific to language assistance outside of Gwinnett?

Mr. YOUNG. Outside of Gwinnett, it is zero. So we are trying to find every way we can to get counties to voluntarily adopt language minority assistance, for example, invoking Section 4(e), which was unsuccessful in Hall County. But all the counties are also obligated under Section 2 of the Voting Rights Act to provide language assistance.

We can't—as we have all started to learn, we cannot count on the Census and the Commerce Department to equitably designate counties that must fall under Section 203. So we are trying to fight everywhere we can.

Mr. AGUILAR. Thank you, Mr. Young.

Ms. Hopkins, thank you so much for your testimony.

Can you talk to the panel a little bit about—just kind of the broader intimidation and voter suppression efforts and what that means in your community?

When your neighbors and friends also received those postcards, how does that make you feel about the process, and how does that make you feel about, you know, what we need to do? I appreciate more specifically your call to action on us to do more up here as well.

Ms. HOPKINS. I think—what I witnessed, I—you know, this is just one form. It is not really one particular form. It comes in various manifestations. You have heard the testimony of the precinct closures, the—what we call the postcard trick. We see quite a few of what we call whack-a-mole, which, on Election Day, they will change the precincts, sending people to wrong precincts to vote.

It is a constant drive to meet those barriers that are put before us. As one who has done voter registration for years in the State, it actually—the apathy started to hit me after this. You know, after the last election, it was heartbreaking to see what happened in November. And a lot of it comes down to those voting machines, which is a big part of this.

We are now just finding out that these machines are systemically moving votes from black precincts. Not just any precinct, black precincts. So if black votes don't matter, obviously they do, because someone is going through quite a bit of work to make sure that they don't.

[Applause.]

Ms. HOPKINS. What it does is that it wears one down. As Ms. Abrams, the other Stacey, spoke about earlier, you do get apathetic. It does work to psychologically depress the right to vote.

I think that for us in Georgia, for me in particular, and for my neighbors, it does not matter what barriers are put before us. It does not matter what obstacles we face. We will continue to rise up. We get tired and weary but when you think about the blood that has been on the ground for us to have this vote—and I say this quite a bit—black people, we have only had one win in this country. That was the Civil Rights Act and for me, it is a part of my DNA. I can no longer turn away from that fight anywhere than I can turn away from my children. I will be here, old, tired, a little beaten up, but I will be here in that fight in any manifestation I can be.

Mr. AGUILAR. Thank you for your answer.

Thank you, Madam Chairwoman.

Chairwoman FUDGE. Thank you.

Let me just pause one second and introduce our colleague and friend and the icon I talked to about earlier. Representative John Lewis has joined us this morning.

[Applause.]

Chairwoman FUDGE. Mr. Bishop, you are recognized for five minutes.

Mr. BISHOP. Thank you very much. Let me thank all the panelists for your very informative and riveting testimony, especially Ms. Hopkins. I appreciate that very much.

Each of you has identified various items that have resulted in voter suppression. Could you help us, as we prepare to repair this process, provide, with respect to each of the impediments that you have encountered, a prescription for fixing it.

Ms. Hopkins, when it gets to you, would you talk about—you are in Fulton County, one of the most diverse counties in the State—about the precinct administration, the elections administration on the county level with regard to diversity and poll workers, and who was actually implementing these policies that affected you?

Mr. YOUNG. Thank you.

Well, preclearance is the answer for all of them, because without preclearance, these local elections officials can just get away doing whatever they want under the radar, knowing that no one can monitor all 159 counties.

Specifically and briefly, for polling place closures, polling places need to be frozen in place, and no changes can be made unless the county has done a thorough and public study of its racially discriminatory effects of their polling place closures. They need to do it not two weeks in advance of their vote, but months in advance so that the entire public and the media can fully assess whether these closures are legitimate.

For early voting cutbacks, again, those must be frozen in place. We would argue all counties should have the same early voting hours. They should just have the same expanded early voting hours, evening and weekends.

As for the redistricting measures. Again, that is very hard to catch. I know there is now a bill that would allow State legislators to have veto power over any redistricting decision that is made at the local level but those decisions also have to be made public. The maps that are being proposed most be public and the algorithms that people are using to draw these maps, right now they are proprietary and trade secrets or whatnot, those have to be made public so the public fully understands how these computer algorithms are drawing these lines, how the politicians are manipulating the algorithms to benefit their own party, and for the public to fully understand it, so that people can be held accountable in the democratic process.

Ms. DANIELS. Congressman Bishop, we need to treat the active voting as a fundamental right. It is easier to get a gun in Georgia than it is to register to vote.

It is important that we restore the Federal oversight that was lost with Section 5. And in the first challenge to the Voting Rights Act, in *South Carolina* v. *Katzenbach*, Attorney General Katzenbach said that we needed to have this type of oversight to ensure that we don't have to endure piecemeal litigation, which is what we are seeing now that we no longer have Section 5.

Instead of requiring jurisdictions like Georgia to submit voting changes to the Federal Government to determine whether—to approve those changes, we are now seeing them just implemented and then trying to first get notice of those changes after they have been implemented. And then having organizations like the Advancement Project, the ACLU and others, to challenge them under Section 2 of the Voting Rights Act.

Section 2 is not enough. It is the piecemeal litigation that Katzenbach warned us about more than 50 years ago that needs—and we need restoration.

Again, finally, you know, and—and so we can avoid this piecemeal litigation. You asked this question. It can't be answered in

two minutes. But certainly the most important thing is to restore the Federal oversight.

Mr. ALBRIGHT. Just quickly, I would say, definitely restoring oversight is a start. As was said, investment in the process, right? Investment and access to the vote. You know, investment so that there can be more polling places, so that there could be better education. Changing some aspects of expanding in a sense of, you know, why aren't 18-year-olds automatically registered to vote?

So there are so many ways where, with greater investment, and investment in election protection, to take some of the burden off of the community groups that are currently doing it, but to actually invest in Department of Justice's ability to actually provide election protection, and to deal with some of the intimidation issues that aren't really fully captured by preclearance, right? None of the intimidation gets precleared.

So, there has got to be a framework to deal with that, and that requires investment in resources in order to provide oversight on the ground, particularly in counties that are so often in isolation where a lot of these activities take place, and then they grow like bacteria and spread throughout the rest of the State.

Chairwoman FUDGE. Thank you very, very much.

Mr. Lewis.

Mr. LEWIS. Good morning. You are a good-looking group.

Let me just take a moment to thank each one of my colleagues for being here, and thank you for being here in the heart of my Congressional district. Welcome.

I said on many occasions that the vote is the most powerful nonviolent instrument or tool that we have in a democratic society. We should make it easy and simple for everyone to be able to cast that vote.

Some of you know, many years ago there was a young guy from Georgia by the name of Jose Williams, and this young Congresswoman Terri Sewell, that in her district, her hometown, it was almost impossible for people of color to register to vote. Only 2.1 percent of blacks of voting age are registered to vote in 1965.

There was one county in Alabama, Lowndes County, between Selma and Montgomery, the county with more than 80 percent African Americans, there was not a single registered African American voter in the county.

We may not be having that problem today, but there are forces in our region trying to take us back to another time and another period. You are bearing witness that we must not go back. We must go forward and open the political process and let everybody come in.

I think President Carter said on one occasion, "Being able to register to vote should be as simple as getting a glass of water."

Let's make it happen. Let's make it happen.

Madam Chairwoman, thank you for your leadership and for your vision. I want to thank all my colleagues again. We have a fight on our hand, and we must win it. We cannot afford to lose it.

Thank you very much.

[Applause.]

Chairwoman FUDGE. Thank you very, very much.

Mr. Johnson of Georgia.

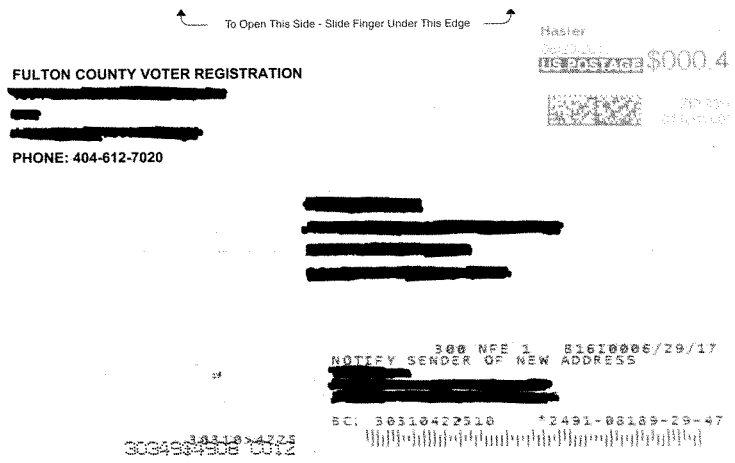
Mr. JOHNSON. Thank you, Madam Chairwoman. I want to thank the witnesses for their appearance today and for their work protecting the rights of Americans to vote.

I have a unanimous consent request that the postcard that—that a copy of the postcard, or the postcard, be included in the record of this proceeding.

Chairwoman FUDGE. Yes, it has been a—request for a unanimous consent that your postcard be entered into the record. I am going to make it with you since I am on the Committee of jurisdiction.

Hearing no opposition, so ordered.

[The information follows:]



THANK YOU IN ADVANCE
FOR TAKING TIME TO
GIVE YOUR BOARD OF REGISTRARS
THIS IMPORTANT INFORMATION

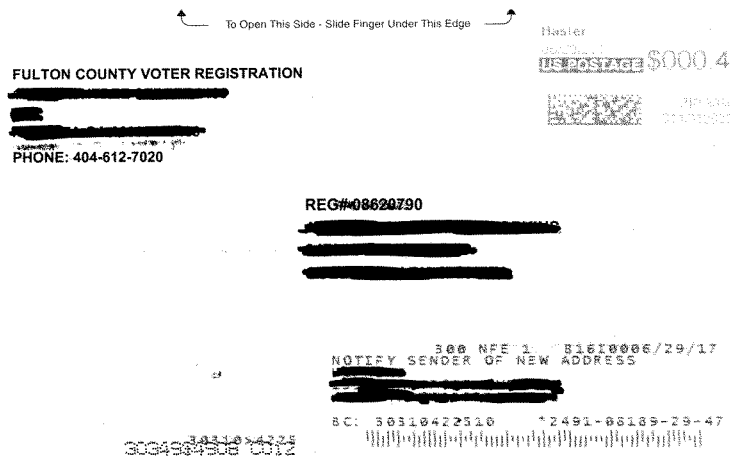
REMEMBER THIS RESPONSE IS POSTAGE-PAID
YOU DO NOT NEED TO PLACE A STAMP ON IT.

REG# 08620790 NCOA
ALEXANDER JOSHUA HOPKINS FULTON

NO POSTAGE NECESSARY IF MAILED IN THE UNITED STATES

BUSINESS REPLY MAIL
FIRST-CLASS MAIL PERMIT NO. 19242 ATLANTA GA
POSTAGE WILL BE PAID BY ADDRESSEE

HON. BRIAN P. KEMP
SECRETARY OF STATE
PO BOX 105325
ATLANTA GA 30348-9562



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REMOVE THIS STUB BEFORE RETURNING

DEAR VOTER:

YOUR COUNTY BOARD OF REGISTRARS IS UPDATING ITS VOTER REGISTRATION LIST

The attached confirmation notice has been sent in response to one of the following:

1) You have filed a change of address form with the U.S. Postal Service;
2) You have not voted or updated your voter registration in at least 3 years; or
3) Official election mail has been returned when sent to the address on your voter registration record.

PLEASE NOTE: This confirmation notice was sent to the current mailing address on your voter registration record. **The county you are currently registered in is shown in both the mailer portion of this notice and return portion of this notice.**

(1) If you still live at the same address as shown on the current voter registration file, complete the attached card and return within 30 days.

(2) If you have moved to an address within the county that is different from the address currently on file, complete the attached card and return within 30 days. A new precinct card will be mailed showing your new voting location.

(3) If you have moved from the county in which you are currently registered to an address outside such county, please complete and return the form below within 30 days. If your new residence address is within Georgia but outside the county where you are currently registered, your voter registration file shall be transferred to the county of your new address. If your residence address is outside the State of Georgia, your name will be removed from the list of electors.

(4) If you do not return the attached card within 30 days, you will be moved to an inactive status. Your voter registration will be canceled if you DO NOT update your voter registration or vote in an election up to and including the second November General Election held after you are placed on the inactive list.

If you have questions, please contact your County Board of Registrars at the address shown on the outside of this mailer or the Secretary of State's office at 404-656-2871. Visit our website at www.sos.ga.gov/elections for information on elections and voter registration.

If you have moved out of state, please visit www.eac.gov/voter_resources/contact_your_state.aspx to find out how to register to vote in your new state.

To confirm or update your voter registration information, please fill out the card below in ink.

Fold and seal as instructed. No postage necessary.

RETURN WITHIN 30 DAYS!

TO RETURN: 1) REMOVE TOP 1/2" STUB, 2) FOLD TOP PANEL DOWN, 3) MOISTEN AREAS BELOW AS INSTRUCTED, 4) FOLD BOTTOM PANEL UP, THEN 5) APPLY PRESSURE AT THE GLUE AREAS TO SEAL.

For Android

From the Secretary of State website, www.sos.ga.gov, a registered voter with a valid Georgia driver's license or identification card issued by the GA Department of Driver Services may change his or her name or address using Online Voter Registration. You may also access Online Voter Registration by downloading the GA SOS app.

Visit our website @ www.mvp.sos.ga.gov/MVP, download the GA SOS app or contact your local registrar's office.

For Apple

IN ORDER TO MAINTAIN YOUR PRIVACY, DO NOT SEPARATE THE CARD BELOW FROM THIS SECTION!

CONF17 - NCOA

(FILL IN ALL BOXES ON THIS FORM. USE INK ONLY! (DO NOT USE PENCIL!)

>>> Do not separate this card from the section above! See instructions above. <<<

Please update / confirm my voter registration within current county of registration:

Your Name (as appears on this mailer):			Valid GA. Driver's License or GA. I.D. No.: Required	
Present Name (if different from name on this mailer):			Last 4 Digits of Social Security Number: Optional (If no GA Driver's License or I.D. Card No., the last 4 digits of your social security number are required.)	
Date of Birth:	Phone (Optional):	Residence County:	Inside City Limits: Yes ☐ No ☐	
Residence Street Address: See Instruction #3 above re. moving outside current county of registration.	Apt #	City	State	Zip Code
Mailing Address (If different from residence) :	Apt #	City	State	Zip Code
Military or Overseas Yes ☐ No ☐				

X _____ Signature: _____ Date: _____

MOISTEN THIS AREA

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Present Name (if different from name on this mailer):			Last 4 Digits of Social Security Number: Optional (If no GA Driver's License or I.D. Card No., the last 4 digits of your social security number are required.)		
Date of Birth:	Phone (Optional):	Residence County:	Inside City Limits: Yes ☐ No ☐		
Residence Street Address: See instruction #3 above re: moving outside current county of registration		Apt #	City	State	Zip Code
Mailing Address (If different from residence) :		Apt #	City	State	Zip Code
Military or Overseas	Yes ☐ No ☐				

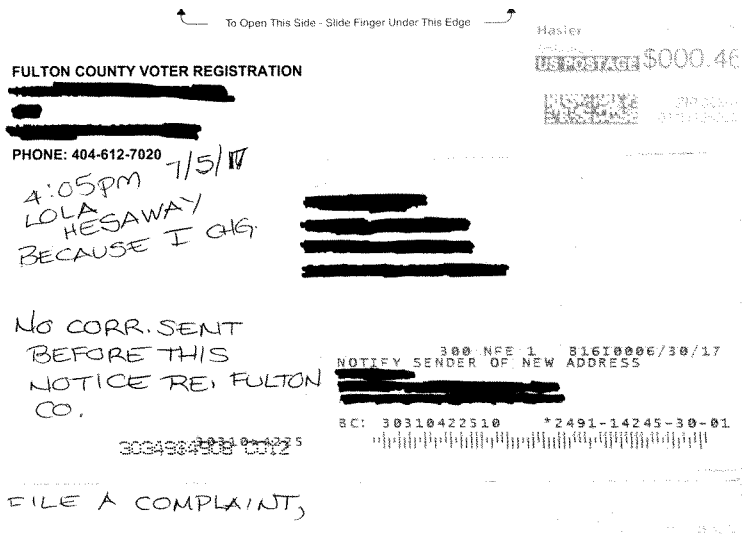
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Date: _____

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To Open This Side - Slide Finger Under This Edge

FULTON COUNTY VOTER REGISTRATION
[redacted]
PHONE: 404-612-7020

7/5/17
4:05PM
LOLA HESAWAY
BECAUSE I CHG.

[redacted]

NO CORR. SENT BEFORE THIS NOTICE RE: FULTON CO.

300 NFE 1 816I0006/30/17
NOTIFY SENDER OF NEW ADDRESS
[redacted]
BC: 30310422510 *2491-14245-30-01

FILE A COMPLAINT,

THANK YOU IN ADVANCE
FOR TAKING TIME TO
GIVE YOUR BOARD OF REGISTRARS
THIS IMPORTANT INFORMATION

REMEMBER THIS RESPONSE IS POSTAGE-PAID
YOU DO NOT NEED TO PLACE A STAMP ON IT.

[redacted] NCOA
FULTON

NO POSTAGE NECESSARY IF MAILED IN THE UNITED STATES

BUSINESS REPLY MAIL
FIRST-CLASS MAIL PERMIT NO. 19242 ATLANTA GA
POSTAGE WILL BE PAID BY ADDRESSEE

HON. BRIAN P. KEMP
SECRETARY OF STATE
PO BOX 105325
ATLANTA GA 30348-9562

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FULTON COUNTY VOTER REGISTRATION
[redacted]
PHONE: 404-612-7020

4:05PM 7/5/17
LOLA HESAWAY
BECAUSE I CHG

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NO CORR. SENT BEFORE THIS NOTICE RE: FULTON CO.

300 NFE 1 B16I0006/30/17
NOTIFY SENDER OF NEW ADDRESS
[redacted]
BC: 30310422510 *2491-14245-30-01

FILE A COMPLAINT,

THANK YOU IN ADVANCE
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REMEMBER THIS RESPONSE IS POSTAGE-PAID
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POSTAGE WILL BE PAID BY ADDRESSEE

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SECRETARY OF STATE
PO BOX 105325
ATLANTA GA 30348-9562

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Master

US POSTAGE $000.4

FULTON COUNTY VOTER REGISTRATION
130 PEACHTREE STREET 2186
SW
ATLANTA GA 30303 - 3460
PHONE: 404-612-7020

[redacted]

300 NFE 1 81610006/29/17
NOTIFY SENDER OF NEW ADDRESS
HOPKINS
1310 HARTFORD AVE SW
ATLANTA GA 30310-4225

SC: 30310421510 *2491-05926-29-47

30310-4225
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THANK YOU IN ADVANCE
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GIVE YOUR BOARD OF REGISTRARS
THIS IMPORTANT INFORMATION

REMEMBER THIS RESPONSE IS POSTAGE-PAID
YOU DO NOT NEED TO PLACE A STAMP ON IT.

[redacted] NCOA FULTON

NO POSTAGE NECESSARY IF MAILED IN THE UNITED STATES

BUSINESS REPLY MAIL
FIRST-CLASS MAIL PERMIT NO. 19242 ATLANTA GA
POSTAGE WILL BE PAID BY ADDRESSEE

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HON. BRIAN P. KEMP
SECRETARY OF STATE
PO BOX 105325
ATLANTA GA 30348-9562

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US POSTAGE $000.4

FULTON COUNTY VOTER REGISTRATION
130 PEACHTREE STREET 2186
SW
ATLANTA GA 30303 - 3460
PHONE: 404-612-7020

[redacted]

300 NFE 1 B1R1P006729/17
NOTIFY SENDER OF NEW ADDRESS
HOPKINS
1310 HARTFORD AVE SW
ATLANTA GA 30310-4225

BC: 30510422510 *2491-03928-29-47

30349384908 0012

THANK YOU IN ADVANCE
FOR TAKING TIME TO
GIVE YOUR BOARD OF REGISTRARS
THIS IMPORTANT INFORMATION

REMEMBER THIS RESPONSE IS POSTAGE-PAID
YOU DO NOT NEED TO PLACE A STAMP ON IT.

REG# 10460826 NCOA
ALYSSA NICOLE HOPKINS FULTON

NO POSTAGE NECESSARY IF MAILED IN THE UNITED STATES

BUSINESS REPLY MAIL
FIRST-CLASS MAIL PERMIT NO. 19242 ATLANTA GA
POSTAGE WILL BE PAID BY ADDRESSEE

HON. BRIAN P. KEMP
SECRETARY OF STATE
PO BOX 105325
ATLANTA GA 30348-9562

REMOVE THIS STUB BEFORE RETURNING

DEAR VOTER:

YOUR COUNTY BOARD OF REGISTRARS IS UPDATING ITS VOTER REGISTRATION LIST

The attached confirmation notice has been sent in response to one of the following:

1) You have filed a change of address form with the U.S. Postal Service;
2) You have not voted or updated your voter registration in at least 3 years; or
3) Official election mail has been returned when sent to the address on your voter registration record.

PLEASE NOTE: This confirmation notice was sent to the current mailing address on your voter registration record. **The county you are currently registered in is shown in both the mailer portion of this notice and return portion of this notice.**

(1) If you still live at the same address as shown on the current voter registration file, complete the attached card and return within 30 days.

(2) If you have moved to an address within the county that is different from the address currently on file, complete the attached card and return within 30 days. A new precinct card will be mailed showing your new voting location.

(3) If you have moved from the county in which you are currently registered to an address outside such county, please complete and return the form below within 30 days. If your new residence address is within Georgia but outside the county where you are currently registered, your voter registration file shall be transferred to the county of your new address. If your residence address is outside the State of Georgia, your name will be removed from the list of electors.

(4) If you do not return the attached card within 30 days, you will be moved to an inactive status. Your voter registration will be canceled if you DO NOT update your voter registration or vote in an election up to and including the second November General Election held after you are placed on the inactive list.

If you have questions, please contact your County Board of Registrars at the address shown on the outside of this mailer or the Secretary of State's office at 404-656-2871. Visit our website at www.sos.ga.gov/elections for information on elections and voter registration.

If you have moved out of state, please visit www.eac.gov/voter_resources/contact_your_state.aspx to find out how to register to vote in your new state.

To confirm or update your voter registration information, please fill out the card below in ink.

Fold and seal as instructed. No postage necessary.

RETURN WITHIN 30 DAYS!

TO RETURN: 1) REMOVE TOP 1/2" STUB, 2) FOLD TOP PANEL DOWN, 3) MOISTEN AREAS BELOW AS INSTRUCTED, 4) FOLD BOTTOM PANEL UP, THEN 5) APPLY PRESSURE AT THE GLUE AREAS TO SEAL.

For Android

From the Secretary of State website, www.sos.ga.gov, a registered voter with a valid Georgia driver's license or identification card issued by the GA Department of Driver Services may change his or her name or address using Online Voter Registration. You may also access Online Voter Registration by downloading the GA SOS app.
Visit our website @ www.mvp.sos.ga.gov/MVP, download the GA SOS app or contact your local registrar's office.

For Apple

IN ORDER TO MAINTAIN YOUR PRIVACY, DO NOT SEPARATE THE CARD BELOW FROM THIS SECTION!

CONF17 - NCOA

(FILL IN ALL BOXES ON THIS FORM. USE INK ONLY! (DO NOT USE PENCIL!)

>>> Do not separate this card from the section above! See instructions above. <<<

Please update / confirm my voter registration within current county of registration:

Your Name (as appears on this mailer):			Valid GA. Driver's License or GA. I.D. No.: Required	
Present Name (if different from name on this mailer):			Last 4 Digits of Social Security Number: Optional (If no GA Driver's License or I.D. Card No., the last 4 digits of your social security number are required.)	
Date of Birth:	Phone (Optional):	Residence County:	Inside City Limits: Yes ☐ No ☐	
Residence Street Address: See instruction #3 above re: moving outside current county of registration	Apt #	City	State	Zip Code
Mailing Address (If different from residence) :	Apt #	City	State	Zip Code
Military or Overseas Yes ☐ No ☐				

MOISTEN THIS SPOT

MOISTEN THIS SPOT

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Signature:

Date:

MOISTEN THIS AREA

Mr. JOHNSON. Thank you, Madam Chairwoman.

I would note that 160,000 Georgians, approximately, over the last four years, received such requests to update their addresses when they had simply moved from one location to another in the same polling location, the same polling district.

The ACLU filed a lawsuit that would compel the Secretary of State to follow the law and update their voter registration files automatically. I want to thank Mr. Young, Attorney Young, for the work of the ACLU in bringing about that settlement.

What I would like to find out is whether or not there has been compiled a laundry list of each and every effort undertaken by the Secretary of State in his, at least four-year crusade and campaign, to win the governorship with respect to making it more difficult for people, mostly African Americans and other minorities, to vote.

Is there such a laundry list that has been compiled? If so, would you tell us each bullet point that reflects what took place? I want it for the record, though.

Mr. YOUNG. I can't produce that laundry list on command right now. But I can tell you that over a dozen lawsuits were filed last November, including one brought by the ACLU challenging various actions by the secretary of state and State legislators that have passed discriminatory voting measures.

I know that Leader Abrams mentioned quite a few. There were absentee ballots that were rejected because signatures didn't match, which was a violation of procedural due process, as the Court found; there was exact match that disproportionately hurt people of color; there were absentee ballots illegally thrown out because they didn't have the right birth date or the birth date blank was not filled out. It is a confusing absentee ballot form.

We had a lot of last-minute litigation challenging polling places suddenly closing, or absentee ballots not even being processed. There were thousands of absentee ballots that were just sitting there because we didn't have enough election staff or oversight of the Secretary of State's office to make sure that those applications and ballots were processed within 24 hours.

I personally know someone who was disenfranchised because his absentee ballot arrived too late in the mail, even though he applied for one a week in advance of Election Day. So we can help put together such a list, but those are just a few off the top of my head.

Mr. JOHNSON. If you would, submit it for the record for this proceeding.

Yes, ma'am.

Ms. DANIELS. Congressman Johnson, may I also add, that it is not only what former Secretary of State Kemp did, but also what each and every jurisdiction within the State of Georgia did in regards to making—in regards to moving—closing polling places, moving polling places, redistricting, and other things that occurred after 2013 that would have been required—would have necessitated a Federal approval before they were implemented.

So a laundry list of just what Secretary Kemp—the changes that Secretary Kemp made would quell in comparison to what——

Mr. JOHNSON. With respect to the local and State boards of elections did.

Ms. DANIELS. Right. Absolutely. Every voting change.

So when I was in the Department of Justice, of course, we received every voting change prior to its implementation. And so, that would be a list of hundreds, if not thousands, or tens of thousands of changes.

Mr. JOHNSON. Last but not least, I would just note for the record that the 7th Congressional District race, which was won by the incumbent Republican, was lost by the Democrat by about 400 votes. There were 1,500 or so absentee ballots that were not counted, that were discarded for various reasons. And I will just simply state that for the record.

And with that I will yield back.

Chairwoman FUDGE. Thank you very much, Mr. Johnson.

Mr. Richmond, you are recognized for five minutes.

Mr. RICHMOND. Thank you, Madam Chairwoman.

Let me just quickly ask Mr. Young, if you could, your testimony has been entered into the record, but your exhibits have not. So if you could provide us with those exhibits, because they are actually the cases in evidence we will need when any future voting rights we know is passed. And that would be the redistricting fight in Sumter, Randolph County, the polling places, Fulton County, proper public notice; Irwin County, closing voting poles, and early voting cutbacks. So if you can get those, it would be very helpful.

To the panel, when you know of specific cases, and, Ms. Hopkins, let me just tell you, I am so in awe of your fortitude, your courage. You resemble not the struggle, but the strength and courage to overcome the obstacles. When we see you, we applaud you. We are very proud of you.

If you know anybody that didn't have the courage that you have, or who may have been beaten down too much to continue to fight, Mr. Albright, you would know, and, Ms. Daniels, you would know, if you know those people, if we can get their stories, it becomes very important for us to build a record as to why what we have now doesn't work.

I am from Louisiana. Fighting after the harm is done is too late. The other point, and Mr. Young, you may be able to elaborate on this, but we keep talking about deliberate actions that I think we can prove. We also have to talk about willful ignorance and willful incompetence.

You know if you don't provide enough voting machines or you don't send in enough paper, if you don't know—if you don't do those things and do your job properly, you know what the effect will be, and that is creating another barrier for minorities to vote.

As we talk about the deliberate actions, which I think we are covering very well, we still talk about the effects when we can't prove it is intentional, but we can prove the effects of the incompetence, whether willful or not, is creating a barrier.

Mr. YOUNG. That is right. I will just say two things in response to that. Number one, intentional discrimination is not easy to catch, as we all know. Even decades ago, courts have routinely said it is hard to catch. People are a lot more savvy now.

Even where there is not that specific racist intent, there is a—from my experience, there is a culture of indifference, and I will come short of saying incompetence, but indifference among many

election officials that don't realize how precious is the right to vote. They treat it like it is another bureaucracy.

Anyone in this room who has dealt with government bureaucracy knows how frustrating it can be, no offense to the legislators. When they deal with the voting system, that is the same kind of attitude. It is up to, actually, both the Secretary of State and the county commissioners to take the right to vote seriously, and to provide adequate staffing and training so that people know that they are dealing with nuclear material. I mean, this is really precious.

So, I agree that there is a kind of persistent culture of indifference, even sometimes disdain, when people bring up the discriminatory impact that their actions may have.

Mr. RICHMOND. I guess with Ms. Daniels, anybody wants to comment, but also in the holding of *Shelby*, they talked about the fact that African American turnout had gone up significantly. That is not the standard. I mean, we also have better access to transportation. We have a whole bunch of things. But the standard is not that turnout has gone up; the standard should be that turnout is what it is supposed to be in terms of everybody who wants to vote can vote, not that we are doing better than we did in 1963.

So if you want to comment on that before my time runs out.

And with that answer, Madam Chairwoman, I will just yield back the balance of my time before she starts.

Ms. DANIELS. Congressman Richmond, I also want to let you know, I am a daughter of the South. I am from Winnfield, Louisiana, by the way.

In regard to effects and the *Shelby County* decision, it is certainly important to note that the Supreme Court acknowledged that racism still exists in active voting. However, it did not consider it enough to continue the protections of the voting—of Section 5 of the Voting Rights Act.

The *Shelby County* decision has been compared to *Plessy* v. *Ferguson* to having the same level of impact in that regard when talking about the effects that it has had, particularly on communities of color, in denying access, and certainly in making sure that there is a disparate impact.

We have seen in these cases throughout the South, particularly in Texas and North Carolina, in North Carolina where the Advancing Project was certainly working in that case where the court said that the State of North Carolina—that the legislators of North Carolina acted with precision, surgical precision, to essentially carve out African American communities and other communities of color to ensure that they diluted their right to vote.

The impact is vast. Unfortunately, the courts are not recognizing it. We don't need to prove intentional discrimination. We need to prove that these practices and procedures discriminate certainly against people of color. That is in using Section 2.

But the bar is so high, and it is so expensive. As Mr. Young has mentioned, the case that he was involved in lasted 5 years. Section 2 cases last an average of three years, and cost more than $1 million, where, as compared to Section 5, where it is administrative, where the jurisdictions submitted the changes through the mail.

The Department of Justice then reviewed them and had 60 days to do so. In a 60-day period, the change was either approved or de-

nied as compared—and then implemented as compared to the process that we currently have, which needs to be fixed.

Chairwoman FUDGE. Thank you very much. Thank you, Mr. Richmond.

Ms. Sewell is recognized for five minutes.

Ms. SEWELL. Thank you, Madam Chairwoman.

I would like to introduce to the record this lovely prepared statement that my staff so eloquently prepared. I would just like to submit it for the record.

[The information follows:]

Field Hearing on Voting Rights & Election Administration in Georgia
Rep. Sewell – Opening Remarks

Good morning, I want to thank today's panelists for participating in this important field hearing today. I'd also like to thank all my colleagues, including Congresswoman Marcia Fudge for her leadership on this critical issue as Chairwoman of the Subcommittee on Elections.

Nothing is more fundamental to the future of our democracy than our right to vote. I grew up in Selma, where families fought, bled, and died for the enactment of the Voting Rights Act of 1965.

Without the right to vote, our ability to impact policy is diminished. If we want more resources for our public schools, or we want our governors to expand Medicaid, or we want better public transportation, we must vote. So voter suppression is an effective tool for those who don't want to see those policies enacted.

Generations of Americans have fought for our right to have a fair voice in our elections – but last year's findings by the United States Commission on Civil Rights show that our voting rights are under attack.

And as we saw play out here in Georgia during last year's election, states across the country are enacting new voter suppression tactics, and new barriers to casting a ballot. These tactics make it harder for minority communities, disabled Americans, and multilingual Americans to vote.

Georgia had 40% longer lines for black people than any state in the country during the midterms. The Republican candidate for governor used his powers as secretary of state to put 53,000 voter registrations on hold, nearly 70 percent of which belonged to black voters. That is why the location for today's hearing is so important. And we know that since *Shelby V. Holder*, Georgia has enacted some of the most insidious election rules in the country.

Now I'm delighted that we are joined by Stacey Abrams today. She knows well that in the face of ongoing discrimination, enforcement of voting rights under current law is slow, inadequate, and costly.

We are confronted with the reality that our opponents are using the *laws as they exist* to undermine the policies that we want and deserve. Many aren't breaking the law. So it's incumbent upon us to ensure that we change the law.

The voter suppression we saw in this past year's election makes it clear just how urgent it is that we restore voting rights. We need protections that stop discriminatory voter laws before they go into place and swing an election.

This is why I'll be reintroducing the Voting Rights Advancement Act to restore the VRA next week before we go to Selma to celebrate the 54th Anniversary of the Selma to Montgomery March. My bill takes into account what the Supreme Court ruled and updates the VRA pre-clearance provision to focus on states with a recent history of discrimination.

The new Democratic majority has made passage of the Voting Rights Advancement Act a top legislative priority. And our field hearings are going to be critical to underscoring why the updated formula is so important and why we must pass the Voting Rights Advancement Act later this year.

Ms. SEWELL. This is very personal for me. It is personal because so many of us know that we stand on the shoulders of folks like Rep. John Lewis. It is not enough that we keep saying we are standing on the shoulders. We must do something about it. All of us have the ability and the wherewithal wherever we sit, be it a Member of Congress, be it in your capacity as lawyers or as activists or community, you are a citizen of this United States, and you have a right to vote. Your vote is your voice. So we have to use it.

So I am going to use my time to talk about the Supreme Court case and the challenge that was issued by the majority opinion that Chief Justice Roberts entered.

Chief Justice Roberts said, and I am just going to quote him, "There is no denying that the conditions that originally justified these measures no longer characterize voting in the covered jurisdictions."

What he was saying is that we are picking on States like Alabama and Georgia and Louisiana. What is your retort, as experts in this field, as to why it is—because I get this all of the time. My colleagues do, too. Why are we having to pick on certain States?

If it were up to me, I would say in response to my Republican colleagues, we should be preclearing every change in voting rights in every State and political subdivision. The reality is that we would have to have a whole division called preclearance in order to do that, and we would not be making that investment. We should be making that investment. We can't. So we have to figure out ways to figure out the egregious actors.

So I would love to know from our two lawyers here, what you think the response should be to Chief Justice Roberts? How would you help us, as lawmakers, having to come up with that formula, articulate that?

Mr. YOUNG. I will have two quick responses. Number one, as we have seen in the testimony today, racism is absolutely not over in Georgia or in the South. And anyone who has eyes and ears will tell you that. As we have seen in the testimony today, we desperately need preclearance in the South.

But the second point, I completely agree with you, Congresswoman, that we need to have preclearance in other places as well, the North and the West and these other places that haven't had that acute visible history of racial discrimination. They think they can get away with it because they are not the South.

Before I came to Georgia, I litigated in early voting cutbacks in Ohio that were discriminatory where they surgically tried to target Souls to the Polls and eliminate Golden Week. That was after *Shelby County*.

Then I also litigated in Wisconin. Wisconsin was not under preclearance, and they passed a discriminatory voter ID law. That litigation is still pending to this day.

So absolutely we need to look at other States.

Ms. SEWELL. Now, Ms. Daniels, the other thing that Chief Justice Roberts said, "The question is whether the Act's extraordinarily measures, including its disparate treatment of the States, continue to satisfy constitutional requirements."

He wants to know whether or not we have the right to supersede the 10th Amendment, which gives States their powers that are not enumerated in the Constitution.

So can you help me articulate how we in Congress can come up with a formula that actually would do that, aside from the fact that we have a formula that would look back, not 1964, 1968, and 1972, which he specifically said, we would look—25-year lookback, 1994 going forward.

But surely, there are other things we need to articulate in that formula.

Ms. DANIELS. Congress clearly has the authroity to, under the 14th and 15th Amendments, to address these issues. It could also do it under the Elections Clause, which it used for the passage of th NVRA. The Supreme Court certainly issued the challenge to Congress to act in saying that Congress could change the formula so that it would not be considered outdated and unconstitutional.

We do have contemporary examples of vote discrimination that I think—that it is important that Congress saw and used in the 2006 reauthorization, which was overwhelmingly——

Ms. SEWELL. Yes. But it is 15,000 pages—I am going to reclaim my time and close this out.

There are 15,000 pages that were submitted back in 2006 when we overwhelmingly—Congress passed a 25-year authorization.

I just want to end by saying that all of us here today have the power of our own opinions, our own voices to help articulate. Do know that we plan on filing a bill to replace Section 4, and we need you all to use Twitter and every social media to get the stories, as Congressman Richmond said, about voter suppression that is alive and well.

We need a steady drumbeat as we prove to America that we can restore the Voting Rights Act of 1965. But we must do so now. Not later, but now. Standing on the shoulders of people like Rep. John Lewis is not enough. What are we doing about paying it forward for the next generation.

Thank you.

[Applause.]

Chairwoman FUDGE. Thank you. Thank you all so much.

Mr. Young, I am from Ohio. I live in Cuyahoga County, where we have about a million and a half residents, and we have one early voting site. One. But they say it is fair because every other county only has one, those counties that have 500 people. Our county has over a million.

For those who would talk about States' rights, we do realize that there are some things that clearly are within the purview of the States. But I want to remind people that States' rights is why we had slavery as long as we did. So I think it is important that we recognize what States' rights really means.

I want to thank all the witnesses for your testimony. I want to thank my colleagues, our recording studio who has been live-streaming this as we speak, all of those who have made this happen, all the staff that does all of this. I just come and sit down and talk. They do the work, and I want to thank them for that, my colleagues. I want to thank the Carter Center.

I want to close by just saying these things: This is the democracy upon which all democracies are measured. And if we are falling short the way we are, we have to do something. We are talking about a democracy in Venezuela and we can't get people to vote in the United States.

[Applause.]

Chairwoman FUDGE. There was a French historian by the name of Alexis de Tocqueville who, some 200-plus years ago, came to this country to determine why we are great. One of things he said was that this country is great because we have always had the ability to repair our faults. We need to repair our faults. But he also determined that America is great because Americans are good.

So it is time for good people to ensure that every American has the unfettered and unabridged right to vote in this country. It is time that people in Congress who sit with me have the courage to say to the President, or whoever else is trying to be an impediment, we are going to walk past you. We are going to make sure that all the people we represent know that we represent them, not just the ones we like, not just the ones who agree with us, but all Americans.

So we are going to be here. We are going to keep this fight going. If something like this is still happening in 2020, I am going to be a mad sister, I promise you.

[Applause.]

Chairwoman FUDGE. Without objection, this Subcommittee stands adjourned.

[Whereupon, at 11:14 a.m., the Subcommittee was adjourned.]



LEAGUE OF WOMEN VOTERS®
OF GEORGIA

From: Tracy Adkison, President
Re: Testimony to the U.S. House Investigatory Committee
Location: Atlanta, Georgia
Date: February 19, 2019

Thank you for the opportunity to share with this committee how much Georgians need the Voting Rights Act fully restored from the perspective of the League of Women Voters Georgia.

The League of Women Voters was founded nearly 100 years ago by very the women who fought for women's right to vote. Since 1920 after women earned the right to vote, the League continue to defend our democracy by working to ensure that everyone has the right, the desire, the knowledge and the confidence to participate.

As we approach the 100th anniversary of the 19th Amendment, it is critically important that recognize that amending the U.S. Constitution did not guarantee the right to vote all women in the United States and particularly in the State of Georgia. The 1965 Voting Rights Act, particularly Sections 4 and 5 of that Act, made full voting rights for all women in Georgia a reality.

Fast forward to 2018, nearly 4 million Georgia voters went to the polls. Many of those voters were racial or language minorities and new citizens. The Voting Rights Act gave those citizens a voice in their government. And even with years of progress behind us, voters in Gwinnett and Atlanta precincts were faced with obstacles to the ballot box, with some waiting at least 4 hours to cast their vote.

Over the last 15 years, Georgia has gone from leading the way to make elections free, fair and accessible to every eligible voter to leading way to erect needless barriers to voting.

Despite a dismal history of discrimination at the polls, Georgia was one of the first states to implement the National Voter Registration Act and the Help America Vote Act. This is entirely attributable to the Voting Rights Act.

That once promising approach has changed as Georgia was among the first states to implement restrictive voter photo ID requirements --before the *Shelby v. Holder* decision and , despite being subject to preclearance by the Department of Justice.

These are the reasons that the League of Women Voters of Georgia strongly believes that the Voting Rights Act must be fully restored. The overall benefits of preclearance vastly outweigh occasional political missteps.

The 2018 Election offers a perfect illustration of why federal oversight is still needed in Georgia. Since the *Shelby* decision, Georgia has enacted laws requiring documentary proof of citizenship and exact match of voter registration applications with often-flawed state and federal databases. In the last election, exact match requirements left thousands of voters stranded on "suspended" lists requiring voters to clear yet another hurdle before casting a lawful ballot.

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Suite B
Atlanta, GA 30342



LEAGUE OF WOMEN VOTERS®
OF GEORGIA

In addition, issues arose with improper purging of voter registration lists, absentee ballots were improperly rejected, and precincts and polling places were eliminated or consolidated.

Without oversight, it is left to organizations like the League, along with our voting rights partners, to inform and protect voters affected by these policies and practices. Without a fully functioning Voting Rights Act, the State is able to shirk its duty to justify the changes.

And there is no question that these barriers unduly impact minorities, the communities that the Voting Rights Act was expressly designed to protect.

It is the duty of our government to protect the rights of voters and to encourage participation in our political system, not create barriers that prevent involvement. As it has for nearly 100 years, the League looks forward to holding our elected leaders accountable for protecting and upholding their responsibility to ensure voters have the unobstructed ability to exercise their right to vote.

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Suite B
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