

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND REFORM

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MEMORANDUM

February 25, 2020

To: Members of the Committee on Oversight and Reform

Fr: Majority Staff

Re: Hearing on “Voter Suppression in Minority Communities: Learning from the Past to Protect Our Future”

On Wednesday, February 26, 2020, at 11:00 a.m., in room 2154 of the Rayburn House Office Building, the Committee will hold a hearing to examine lessons from the civil rights movement on combating efforts to suppress the right to vote, particularly in minority communities, and how many of these lessons are particularly urgent in the face of similar voter suppression efforts today. The hearing will also address the Committee’s investigation of voter suppression allegations in Georgia, Texas, and Kansas. Protecting the right to vote is an issue that former Chairman Elijah E. Cummings cared deeply about, and this hearing will precede a ceremony on Thursday at 4:00 p.m. to rename the Committee hearing room in his honor.

I. SUMMARY

The hearing will address the following key points:

1. Many states are attacking the right to vote using tactics similar to those that civil rights pioneers battled more than 50 years ago.
2. Senate Majority Leader Mitch McConnell is refusing to allow votes on two critical voting rights bills passed by the House.
3. Communities across America need to mobilize now to protect the right to vote in the upcoming election.

After the Civil War and Reconstruction Era, many states erected barriers to prevent Black Americans from voting. These barriers included restrictions on who could register to vote and efforts to discourage Black Americans from casting their votes. Many of these barriers were eliminated as a result of the work of civil rights pioneers and the passage of the Voting Rights Act of 1965.

However, modern-day schemes to block voting—including by moving or closing polling locations, restricting access to the polls, requiring additional proof of identity, and purging voter rolls—echo past tactics used to deny Black Americans their constitutional rights. Many of these new restrictions have been enacted since 2013, when the Supreme Court invalidated a lynchpin of the Voting Rights Act in *Shelby County v. Holder*.

In March 2019, under the leadership of Chairman Cummings, the Committee launched an investigation of voter suppression allegations in Georgia, Texas, and Kansas. Despite unacceptable stonewalling from some of these states, the Committee has gathered new information confirming that state and local officials took steps to add barriers to individuals seeking to exercise their right to vote.

The House has passed critical legislation to make it easier for Americans to register to vote, to cast votes, and to restore and modernize the Voting Rights Act in order to prevent future voter suppression. However, Senate Majority Leader Mitch McConnell has refused to permit the Senate to vote on these crucial reforms. Some states have taken action to protect voting rights, but federal legislation is essential to protect Americans across the United States.

In order to ensure that their voices are heard in the 2020 election, Americans in communities across the country should mobilize now to confirm that they are registered to vote, identify their polling places, and make plans to cast their ballots.

II. VOTER SUPPRESSION TODAY ECHOES PAST DISCRIMINATION

A. History of Voter Suppression in America

Following the passage of the Fifteenth Amendment in 1870, many states blocked Black Americans from voting. Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Texas, and Virginia implemented poll taxes, disenfranchising many Black voters. An editorial from Alabama's *Tuscaloosa News* in 1939 declared, "This newspaper believes in white supremacy, and it believes that the poll tax is one of the essentials for the preservation of white supremacy."¹

These laws contributed to a dramatic decrease in Southern Black voter registration—just 6% of Black Mississippians and 1% of Black Louisianans registered to vote after 1890. Poll taxes remained in place in several states through the 1960s, even after the passage of the Twenty-Fourth Amendment banning them in 1962.²

¹ *For Election Day, A History of the Poll Tax in America*, Forbes (Nov. 5, 2018) (online at www.forbes.com/sites/kellyphillipsrb/2018/11/05/just-before-the-elections-a-history-of-the-poll-tax-in-america/#7bc30ae94e44). See, e.g., *Poll Tax Receipts*, Jacksonville Public Library (online at www.jaxpubliclibrary.org/poll-tax-receipts).

² In Mississippi, fewer than 9,000 of the state's 147,000 Black Americans were registered to vote after 1890. In Louisiana, 1,342 of the state's 130,000 Black Americans were registered in 1904. *For Election Day, A History of The Poll Tax in America*, Forbes (Nov. 5, 2018) (online at www.forbes.com/sites/kellyphillipsrb/2018/11/05/just-before-the-elections-a-history-of-the-poll-tax-in-america/#7bc30ae94e44).

Facing challenges to poll taxes, literacy tests, and other voting barriers, some state and local officials began purging voter rolls to suppress the votes of Black Americans. In an infamous example in 1959, the Citizens Council, a white supremacist group, conspired with the local government in Washington Parish, Louisiana, to purge 85% of Black voters—citing fears of illegal registration and fraud. Although the purge was later declared unconstitutional, similar pretexts were used to purge voter rolls in other states.³

Violence and intimidation were often employed to prevent Black Americans from exercising their right to vote. For example, on November 2, 1920, in Ocoee, Florida, Black voters who had registered and paid their poll taxes were systematically denied the ability to vote by local elections officials. That same day, a mob lynched July Perry—a Black voter registration organizer—before razing the Black area of town and killing many residents.⁴

B. Current Voter Suppression Tactics

Like their post-Civil War predecessors, modern-day barriers to voting often are race-neutral on their face, but place disproportionate burdens on Black and minority Americans seeking to exercise their right to vote.

Many states have made it more difficult for certain populations to access polling sites by reducing early voting and closing, moving, or consolidating polling places.⁵ For example, in North Carolina, the number of early voting sites was reduced in 2018 by 20% compared to 2014, resulting in some counties losing nearly half of their early voting sites.⁶ The Texas State University’s early polling location was open for only three days, while most other locations in the state were open for two weeks.⁷ The Florida Secretary of State attempted to prevent public universities from holding early voting on college campuses.⁸ A recent report estimated that

³ See *Voter Purges*, Brennan Center for Justice (2008) (online at www.brennancenter.org/sites/default/files/legacy/publications/Voter.Purges.no%20app.pdf).

⁴ *The Ocoee Massacre of 1920: Woman Says African-Americans Were Murdered for Exercising Right to Vote*, Fox 51 (Feb. 12, 2020) (online at www.wogx.com/news/the-ocoe-massacre-of-1920-woman-says-african-americans-were-murdered-for-exercising-right-to-vote); *Historical Marker Memorializes Victim of 1920 Ocoee Massacre*, Orange Observer (June 26, 2019) (online at www.orangeobserver.com/article/historical-marker-memorializes-victim-of-1920-ocoe-massacre).

⁵ *Closed Voting Sites Hit Minority Counties Harder for Busy Midterm Elections*, USA Today (Oct. 30, 2018) (online at www.usatoday.com/story/news/2018/10/30/midterm-elections-closed-voting-sites-impact-minority-voter-turnout/1774221002/).

⁶ *Bipartisan Furor as North Carolina Election Law Shrinks Early Voting Locations by Almost 20 Percent*, ProPublica (Sept. 24, 2018) (online at www.propublica.org/article/bipartisan-furor-as-north-carolina-election-law-shrinks-early-voting-locations-by-almost-20-percent); *Some Counties Cut Early Voting Sites Because of New Requirements*, WFAE 90.7 (Oct. 8, 2018) (online at www.wfae.org/post/some-counties-cut-early-voting-sites-because-new-requirements#stream/0).

⁷ *Texas State Students Claim Voter Suppression During Early Voting*, KXAN (Oct. 26, 2018) (online at www.kxan.com/news/local/hays/texas-state-students-say-limited-chances-to-vote-on-campus-is-voter-suppression/1550365721).

⁸ *In Searing Ruling, Judge Says Florida Can’t Block Campus Early Voting*, Huffington Post (July 25, 2018) (online at www.huffpost.com/entry/florida-early-voting_n_5b58ea93e4b0b15aba94cb4c).

southern states have closed nearly 1,200 polling sites since the Supreme Court’s ruling in *Shelby County v. Holder*.⁹

Voter purges and restrictive voter identification laws—similar to the grandfather clauses and literacy tests used decades ago—disproportionately affect Black and minority communities. Voter purges are often premised on debunked myths of “voter fraud,” and these purges may lead to thousands of properly registered Americans being dropped from the voter rolls. As discussed below, Georgia purged more than 500,000 voters from the rolls prior to the 2018 elections, and most of the voters purged were people of color.¹⁰

Other states have implemented similar voter roll purges. Wisconsin is currently attempting to purge more than 200,000 people from its voter rolls under the guise that those voters have moved out of state. The state recently asked the Wisconsin Supreme Court to overrule a lower court’s order to halt the purge.¹¹

States like North Carolina, Wisconsin, and North Dakota have also instituted stricter voter identification requirements. Although they have claimed these laws combat voter fraud, their impact is often to restrict minority voting.

In 2013, North Carolina passed a restrictive voter ID law that excluded government IDs that Black residents disproportionately used. The Fourth Circuit ruled that the law’s provisions “target African Americans with almost surgical precision.”¹²

North Dakota passed a law that required identification with a voter’s current residential street address in order to vote—a requirement that excluded Native American communities on reservations that often do not have street addresses. The law affected tens of thousands of Native Americans in North Dakota in an election year in which Republican Senator Kevin Cramer won by 35,344 votes.¹³

⁹ *Southern U.S. States Have Closed 1,200 Polling Places in Recent Years: Rights Group*, Reuters (Sept. 10, 2019) (online at www.reuters.com/article/us-usa-election-locations/southern-us-states-have-closed-1200-polling-places-in-recent-years-rights-group-idUSKCN1VV09J).

¹⁰ *After the Purge: How a Massive Voter Purge in Georgia Affected the 2018 Election*, APM Reports (Oct. 29, 2019) (online at www.apmreports.org/story/2019/10/29/georgia-voting-registration-records-removed).

¹¹ *Wisconsin Voter Purge Ruling Appealed to State Supreme Court*, Wisconsin State Journal (Jan. 22, 2020) (online at https://madison.com/wsj/news/local/govt-and-politics/wisconsin-voter-purge-ruling-appealed-to-state-supreme-court/article_2065eb7d-6aa8-54e8-b36d-555eee4cef2d.html).

¹² *N.C. State Conf. of the NAACP v. McCrory*, 831 F.3d 204 (4th Cir.2016); *Federal Judge Blocks North Carolina’s Voter ID Law, Citing Its Discriminatory Intent*, The Guardian (Jan. 1, 2020) (online at www.theguardian.com/us-news/2020/jan/01/north-carolina-voter-id-law-blocked-discriminatory).

¹³ *Judge Rules Native Americans in North Dakota Must Comply with Voter ID Law*, National Public Radio (Nov. 2, 2018) (online at www.npr.org/2018/11/02/663417341/judge-rules-native-americans-in-north-dakota-must-comply-with-voter-id-law); *North Dakota U.S. Senate Election Results*, New York Times (Jan. 28, 2019) (online at www.nytimes.com/elections/results/north-dakota-senate); *Many Native IDs Won’t Be Accepted at North Dakota Polling Places*, National Public Radio (Oct. 13, 2018) (online at www.npr.org/2018/10/13/657125819/many-native-ids-wont-be-accepted-at-north-dakota-polling-places).

III. COMMITTEE INVESTIGATION OF VOTER SUPPRESSION ALLEGATIONS

A. Georgia

On March 6, 2019, the Committee launched an investigation into reports of serious problems impacting people’s ability to register and vote in Georgia. The Committee requested documents from Georgia Governor Brian Kemp and Georgia Secretary of State Brad Raffensperger related to the state’s cancellation of voter registrations, the closing of polling sites, then-Secretary of State Kemp’s conflicts of interest while running for Governor, and Mr. Kemp’s unfounded claim that the Democratic Party attempted to hack state voter registration systems.¹⁴

Although the Committee received thousands of pages of documents from the Secretary of State’s Office, the Governor’s Office, and Governor Kemp, approximately 99% of these documents were court filings, news clippings, and other already publicly available documents. The Secretary of State and Governor’s Office have acknowledged that they are withholding more than 1,400 responsive documents from the Committee—including emails involving Mr. Kemp.

Despite this stonewalling, the Committee has learned new, concerning information about voter suppression in Georgia.

Voter Roll Purges

- In September 2017, then-Secretary of State Kemp emailed with campaign advisors about a media report discussing efforts to correct a “string of problems” with county officials’ attempts to challenge the registration of hundreds of voters. The report concluded that “the errors may have violated federal law.” Mr. Kemp responded by congratulating his campaign team, writing, “Good work, this story is so complex folks will not make it all the way through it.” A top campaign staffer, David Dove, agreed that the article “won’t help draw eyeballs.”¹⁵
- In October 2017, after purging more than 500,000 voters from rolls, Mr. Kemp and Mr. Dove emailed on their personal accounts mocking a press release from a Democratic candidate warning that Georgia “is systematically deleting voters who have done nothing wrong” and that “Georgia is trying to make it harder to vote.”

¹⁴ Letter from Chairman Elijah E. Cummings, Committee on Oversight and Reform, and Chairman Jamie Raskin, Subcommittee on Civil Rights and Civil Liberties, to Brian P. Kemp, Governor, State of Georgia (Mar. 6, 2019) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2019-03-06.EEC%20Raskin%20to%20Kemp-GA%20Governor.pdf>); Letter from Chairman Elijah E. Cummings, Committee on Oversight and Reform, and Chairman Jamie Raskin, Subcommittee on Civil Rights and Civil Liberties, to Brad Raffensperger, Secretary of State, State of Georgia (Mar. 6, 2019) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2019-03-06.EEC%20Raskin%20to%20Raffensperger-GA%20SOS.pdf>).

¹⁵ Email from David Dove, Kemp for Governor Campaign, to Brian P. Kemp, Secretary of State, State of Georgia, et al. (Sept. 23, 2017) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/Email%20from%20David%20Dove%20to%20Brian%20Kemp%2C%20et.%20al.%20%28Sept.%2023%2C%202017%29.pdf>).

Mr. Dove forwarded the press release to Mr. Kemp, writing “us” with laughing emojis. Mr. Kemp replied, “us” with a smiling emoji.¹⁶

Blocking New Registrations

- Emails produced to the Committee show that state officials repeatedly defended their decision to place holds on voter registrations under the state’s “exact match” law. In one March 2018 email, a senior official in the Secretary of State’s Office acknowledged that voters with “pending” voter registrations under exact match policies were disproportionately Black voters, but blamed “the use of paper forms” by these voters and “sloppy” registration efforts while denying any “discriminatory impact.”¹⁷ Despite these assertions, courts have twice ordered the state to halt its use of exact match as part of lawsuits alleging discriminatory impact.¹⁸ The state withheld from the Committee internal email conversations on this topic, including several involving Mr. Kemp.

Poll Closures

- Documents produced to the Committee show that state election officials claimed in public to lack authority over polling locations, while behind the scenes they were advising counties on closing, moving, and consolidating polling sites. For example, in response to a March 2018 email from a concerned citizen about polling site closures in Greene County, Georgia, an official in the Secretary of State’s Office replied, “The county Board of Elections has the authority to make changes, and our office does not have the authority to intervene.”¹⁹
- However, emails show that state officials routinely advised county officials on requirements for closing, moving, or consolidating polling sites—without mentioning the negative impact to voters that would result from these actions or

¹⁶ Email from Brian P. Kemp, Secretary of State, State of Georgia, to David Dove, Kemp for Governor Campaign (Oct. 8, 2017) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/Email%20from%20Brian%20Kemp%20to%20David%20Dove%20%28Oct.%208%2C%202017%29.pdf>).

¹⁷ Email from Candice Broce, Office of the Georgia Secretary of State, to Timothy J. Reid, Thompson Reuters (Mar. 6, 2018) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/Email%20from%20Candice%20Broce%20to%20Timothy%20Reid%20%28Mar.%206%2C%202018%29%20Redacted.pdf>).

¹⁸ *Judge Rules Against Brian Kemp Over Georgia Voting Restrictions Days Before Gubernatorial Election*, Washington Post (Nov. 2, 2018) (online at <https://washingtonpost.com/politics/2018/11/03/judge-rules-against-brian-kemp-over-georgia-voting-restrictions-days-before-gubernatorial-election/>); *How Exact Match 2.0 Happened—But the Real Question Is Why*, Atlanta Journal-Constitution (Oct. 16, 2018) (online at <https://ajc.com/blog/politics/exact-match-becomes-part-highly-litigious-election-season/RgSoVk5q3hTlbKhDrixA0I/>).

¹⁹ Email from Chris Harvey, Elections Director, Office of the Georgia Secretary of State (Mar. 12, 2018) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/Email%20from%20Chris%20Harvey%20to%20OGA%20resident%20%28Sept.%2017%2C%202018%29.pdf>).

proposing alternatives. In fact, just one month before receiving the complaint from the resident of Greene County, the Secretary of State’s Office had provided guidance to that county to help execute its plan to “combine 3 whole precincts with existing precincts and move their polling locations.”²⁰

Unfounded Accusations of Democratic Hack

- Emails from the Secretary of State’s office show discussions between state officials about Mr. Kemp’s announcement, just three days before the November 2018 election, that his office was investigating the state Democratic party for an alleged failed hacking attempt.²¹ When a reporter questioned the timing of this announcement, a state official provided a statement saying their office “immediately contacted law enforcement” based on “this event the weekend before the November election” and that the state turned over “evidence and additional information, including digital fingerprints,” to other state authorities.²² However, the state did not produce any “evidence” to the Committee in response to its requests, and the state withheld multiple internal emails on this topic.

President Trump’s “Voter Fraud Task Force”

- In February 2017, Deputy White House Counsel Stefan Passantino contacted Mr. Kemp to connect him to another White House staffer regarding the President’s proposed “Voter Fraud Task Force.” Mr. Passantino stated, “Brian has been one of the leaders on the front lines combating voter fraud.”²³
- Three days later, Mr. Kemp emailed Kansas Secretary of State Kris Kobach—using their personal email addresses—to discuss a draft resolution for the National Association of Secretaries of State in support of the proposed task force. The resolution, which ultimately was not adopted, called on states to “implement basic ballot security measures such as voter verification, voter identification, and

²⁰ Email from John Hallman, Office of the Georgia Secretary of State, to Robin Kiefer, Deputy Elections Supervisor, Greene County Board of Elections (Feb. 8, 2018) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/Email%20from%20John%20Hallman%20to%20Robin%20Kiefer%20%28Feb.%208%2C%202018%29.pdf>).

²¹ See Georgia Secretary of State, *After Failed Hacking Attempt, SOS Launches Investigation into Georgia Democratic Party* (Nov. 3, 2018) (online at sos.ga.gov/index.php/general/after_failed_hacking_attempt_sos_launches_investigation_into_georgia_democratic_party_).

²² Email from Candice Broce, Office of the Georgia Secretary of State, to Alan Judd, Atlanta Journal-Constitution (Dec. 14, 2018) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/Email%20from%20Candice%20Broce%20to%20Alan%20Judd%20%28Dec.%2014%2C%202018%29%20Redacted.pdf>).

²³ Email from Stefan Passantino, Deputy Counsel to the President, to Brian Kemp, Secretary of State, State of Georgia (Feb. 13, 2017) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/Email%20from%20Stefan%20Passantino%20to%20Brian%20Kemp%20%28Feb.13%2C%202017%29.pdf>).

regular voter list maintenance” to “prevent in-person voter fraud and false verification.”²⁴

- In January 2018, President Trump disbanded the voter fraud task force after it failed to find evidence of widespread voter fraud.²⁵ Matthew Dunlap, the Secretary of State of Maine and a member of the task force, concluded that the task force’s records “do not contain evidence of widespread voter fraud” and that claims of voter fraud by the White House and others were “false.”²⁶

B. Texas

On March 28, 2019, the Committee wrote to Texas Attorney General Ken Paxton and Texas Acting Secretary of State David Whitley requesting communications relating to a January 2019 advisory from Mr. Whitley claiming that 95,000 registered voters in Texas may not be U.S. citizens and that 58,000 of these individuals may have “voted in one or more Texas elections.” The advisory warned that the Secretary of State had referred these individuals to the state Attorney General for criminal prosecution.²⁷

In response to the Committee’s request, the state agencies withheld most responsive documents, citing inapplicable state public records laws and ongoing litigation, and claiming erroneously that the Committee lacks jurisdiction to investigate voter suppression in Texas.²⁸

²⁴ Email from Brian Kemp, Secretary of State, State of Georgia, to Kris Kobach, Secretary of State, State of Kansas (Feb. 17, 2017) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/Email%20from%20Brian%20Kemp%20to%20Kris%20Kobach%20%28Feb.%2017%2C%202017%29.pdf>).

²⁵ *‘The Most Bizarre Thing I’ve Ever Been a Part of’: Trump Panel Found no Widespread Voter Fraud, Ex-Member Says*, Washington Post (Aug. 3, 2018) (online at www.washingtonpost.com/news/politics/wp/2018/08/03/the-most-bizarre-thing-ive-ever-been-a-part-of-trump-panel-found-no-voter-fraud-ex-member-says/); *see also Trump Disbands Commission on Voter Fraud*, New York Times (Jan. 3, 2019) (online at www.nytimes.com/2018/01/03/us/politics/trump-voter-fraud-commission.html).

²⁶ Letter from Mathew Dunlap, Secretary of State, State of Maine, to Vice President Mike Pence and Kris Kobach, Secretary of State, State of Kansas (Aug. 3, 2019) (online at <http://paceidocs.sosonline.org/PDF/Dunlap%20PACEI%20Docs%20Findings%20letter%20-%20FINAL.080318.pdf>).

²⁷ Letter from Chairman Elijah E. Cummings, Committee on Oversight and Reform, and Chairman Jamie Raskin, Subcommittee on Civil Rights and Civil Liberties, to Attorney General Ken Paxton, State of Texas (Mar. 28, 2019) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2019-03-28.EEC%20Raskin%20to%20Paxton-TX%20AG%20re%20Voter%20Rolls.pdf>); Letter from Chairman Elijah E. Cummings, Committee on Oversight and Reform, and Chairman Jamie Raskin, Subcommittee on Civil Rights and Civil Liberties, to David Whitley, Acting Secretary of State, State of Texas (Mar. 28, 2019) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2019-03-28.EEC%20Raskin%20to%20Whitley-TX%20SoS%20re%20Voter%20Rolls.pdf>).

²⁸ Letter from Jeffrey C. Mateer, First Assistant Attorney General, Office of the Texas Attorney General, to Chairman Elijah E. Cummings, Committee on Oversight and Reform, and Chairman Jamie Raskin, Subcommittee on Civil Rights and Civil Liberties (Apr. 11, 2019) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/4-11-2019%20Texas%20AG%20Response%20Letter%20to%20EEC-Raskin.pdf>); Letter from Adam Bitter, General Counsel, Office of the Texas Secretary of State, to Chairman Elijah E. Cummings, Committee on Oversight and

On April 29, 2019, the Committee again wrote to the two state agencies, demanding full compliance. The Committee wrote:

The right to vote is guaranteed by the U.S. Constitution, and Congress has clear authority under the Constitution to investigate any conduct at any level of government that may infringe on this fundamental right.²⁹

The Committee explained that because its authority derives from the Constitution, it is not limited by state public records laws or separate litigation. The Committee’s letter provided numerous examples of the Committee, under both Republican and Democratic Chairmen, obtaining documents from state governments as part of its investigations.³⁰

The Texas Attorney General responded on May 13, 2019, with the remarkable—and inaccurate—claim that Texas is not subject to oversight by Congress because Texas “does not draw its authority from the United States or the United States Constitution.”³¹

Contrary to this assertion, the Fifteenth Amendment to the U.S. Constitution enshrines the right to vote and grants Congress the authority to legislate to protect that right. The Elections Clause in Article I, Section 4, expressly grants Congress the power to regulate federal elections. More than a century ago, Congress considered—and rejected—attempts to amend the Elections Clause that would have reduced federal authority over elections.³²

Reform, and Chairman Jamie Raskin, Subcommittee on Civil Rights and Civil Liberties (Apr. 11, 2019) (online at oversight.house.gov/sites/democrats.oversight.house.gov/files/4-11-2019%20Letter%20from%20Texas%20SOS%20to%20Requestors%20%28with%20enclosures%29.pdf); Letter from Adam Bitter, General Counsel, Office of the Texas Secretary of State, to the Office of the Texas Attorney General, Open Records Division (Apr. 11, 2019) (online at oversight.house.gov/sites/democrats.oversight.house.gov/files/4-11-2019%20Letter%20from%20Texas%20SOS%20to%20Requestors%20%28with%20enclosures%29.pdf).

²⁹ Letter from Chairman Elijah E. Cummings, Committee on Oversight and Reform, and Chairman Jamie Raskin, Subcommittee on Civil Rights and Civil Liberties, to Attorney General Ken Paxton, State of Texas (Apr. 29, 2019) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2019-04-29.EEC%20Raskin%20to%20Paxton-TX%20AG.pdf>); Letter from Chairman Elijah E. Cummings, Committee on Oversight and Reform, and Chairman Jamie Raskin, Subcommittee on Civil Rights and Civil Liberties, to David Whitley, Acting Secretary of State, State of Texas (Apr. 29, 2019) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2019-04-29.EEC%20Raskin%20to%20Whitley-TX%20SOS.pdf>).

³⁰ *Id.*

³¹ Letter from Jeffrey C. Mateer, First Assistant Attorney General, State of Texas, to Chairman Elijah E. Cummings, Committee on Oversight and Reform, and Chairman Jamie Raskin, Subcommittee on Civil Rights and Civil Liberties (May 13, 2019) (online at [www.texasattorneygeneral.gov/sites/default/files/images/admin/2019/Press/image2019-05-13-155511%20\(002\).pdf](http://www.texasattorneygeneral.gov/sites/default/files/images/admin/2019/Press/image2019-05-13-155511%20(002).pdf)).

³² See David Schleicher, *The Seventeenth Amendment and Federalism in an Age of National Political Parties*, 65 *Hastings L. J.* 1043 (2014) (online at https://digitalcommons.law.yale.edu/cgi/viewcontent.cgi?article=5958&context=fss_papers). See also *Episode 6 of the Constitutional Podcast: ‘Senate and States,’* Washington Post (Sept. 11, 2017) (online at www.washingtonpost.com/news/on-leadership/wp/2017/09/11/episode-6-of-the-constitutional-podcast-senate-and-states/).

Despite stonewalling from Texas officials, the Committee has learned new information that confirms that the state government threatened U.S. citizens with prosecution simply for exercising their constitutional right to vote. Shortly after the advisory's release, county officials emailed state officials highlighting that many U.S. citizens had been sent letters incorrectly questioning their eligibility to vote:

- On January 29, 2019, four days after the advisory went out, an official in Fannin County, Texas, wrote to an official in the Secretary of State's office. Noting that some people included on the advisory already may have been verified as citizens, she explained that she had been told to "send out a letter advising them to ignore the first letter that it was sent in error and that they do not have to provide proof of citizenship."³³
- On February 7, 2019, an attorney for Williamson County, Texas, wrote to the Secretary of State's office explaining that the county had already confirmed the legal eligibility to vote of more than 1,000 of the 2,000 people from the county listed in the advisory. The attorney wrote that for the other individuals, "we do not believe it is prudent or reasonable to send out correspondence demanding those remaining on the list prove their eligibility to vote until such time as we confirm those that are in fact not eligible to vote." The county attorney continued:

The Williamson County Attorney's Office is committed to enforcing the laws of this State and to protecting against those who violate the laws. However, there is a question as to how we protect those who are entitled to other protections from being unjustifiably questioned and challenged on their legal status to vote. This has become an issue of great concern given the cursory review of your list being that over 50 percent of the people on that list are lawful voters.³⁴

The Committee's investigation has shown that the state government failed to coordinate with county officials before launching this public attack on voters, causing chaos after the advisory was issued. On January 25, 2019, an official from Williamson County emailed a state official stating that an hours-long delay in notifying county offices after the release of the advisory "caught lots of us flat-footed with our local (and statewide) media today." The state official replied, "I am sorry you were ambushed."³⁵

³³ Email from Jill Flowers, Deputy Voter Registrar, Fannin County, Texas, to Tammy Biggar, Office of the Texas Secretary of State (Jan. 29, 2019) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/Email%20from%20Jill%20Flowers%20to%20Tammy%20Biggar%20%28Jan.%2029%2C%202019%29.pdf>).

³⁴ Letter from Shannon C. Francis, Civil Division Chief, Williamson County Attorney's Office, to Keith Ingram, Director of Elections, Office of the Texas Secretary of State (Feb. 7, 2019) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/Letter%20from%20Shannon%20C.%20Francis%20to%20Keith%20Ingram%20%28Feb.%207%2C%202019%29.pdf>).

³⁵ Email from Keith Ingram, Director of Elections, Office of the Texas Secretary of State, to Chris Davis, Elections Administrator, Williamson County, Texas (Jan. 26, 2019) (online at

Following the Committee’s inquiry, a massive public outcry, and legal challenges, the Texas Secretary of State was forced to rescind the advisory. On February 27, 2019, a federal court issued a temporary injunction stopping counties from removing Texans from the voter rolls based on the January 2019 advisory. The judge wrote, “The evidence has shown in a hearing before this Court that there is no widespread voter fraud.”³⁶ On April 26, 2019, the state formally rescinded the advisory and agreed to change voter roll maintenance procedures to ensure that no voter registrations were improperly cancelled.³⁷

C. Kansas

On March 28, 2019, the Committee launched an investigation into the decision to move the only polling site in Dodge City, Kansas outside the city limits—and more than a mile from the nearest bus station—prior to the 2018 election. Dodge City is one of the few cities in Kansas with a majority Latino population, and Latinos’ historical support for Democratic candidates was expected to be a factor in the tight race for Governor in 2018.³⁸

The Committee requested and received communications from Kansas Secretary of State Scott Schwab and Ford County Clerk Debbie Cox, who reportedly made the decision to move the polling site.³⁹ Committee staff also interviewed Ms. Cox by phone.

The Committee’s investigation has revealed that the polling site was moved without conducting appropriate due diligence, without consulting with the local community, and without taking simple steps to reduce the impact of the move on thousands of voters until after a public outcry forced them to take action:

<https://oversight.house.gov/sites/democrats.oversight.house.gov/files/Email%20from%20Keith%20Ingram%20to%20Chris%20Davis%2028Jan.%2026%2C%202019%29%20%28redacted%29.pdf>). See also “*Someone Did Not Do Their Due Diligence*”: *How an Attempt to Review Texas’ Voter Rolls Turned Into a Debacle*, Texas Tribune (Feb. 1, 2019) (online at texastribune.org/2019/02/01/texas-citizenship-voter-roll-review-how-it-turned-boondoggle).

³⁶ *Texas LULAC v. Whitley*, 5:19-cv-00074-FB (W.D. Tex. Feb. 27, 2019).

³⁷ *Texas Will Rescind Its ‘Noncitizen Voter’ Advisory, Pay \$450K in Fees to Settle Case*, Dallas Morning News (Apr. 26, 2019) (online at www.dallasnews.com/news/politics/2019/04/26/texas-will-rescind-its-noncitizen-voter-advisory-pay-450k-in-fees-to-settle-case/).

³⁸ See, e.g., *Iconic Dodge City Moves Its Only Polling Place Outside Town*, Associated Press (Oct. 18, 2018) (online at www.apnews.com/78f02d14245043aab005046ef4063c10); *Dodge City Voters Fight Government for Better Voting Access*, The Rachel Maddow Show (Oct. 31, 2018) (online at www.msnbc.com/rachel-maddow/watch/dodge-city-voters-fight-government-for-better-voting-access-1358782019717).

³⁹ Letter from Chairman Elijah E. Cummings, Committee on Oversight and Reform, and Chairman Jamie Raskin, Subcommittee on Civil Rights and Civil Liberties, to Scott Schwab, Secretary of State, State of Kansas (Mar. 28, 2019) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2019-03-28.EEC%20Raskin%20to%20Schwab-KS%20SoS.pdf>); Letter from Chairman Elijah E. Cummings, Committee on Oversight and Reform, and Chairman Jamie Raskin, Subcommittee on Civil Rights and Civil Liberties, to Debbie Cox, Ford County Clerk (Mar. 28, 2019) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/2019-03-28.EEC%20Raskin%20to%20Cox-Ford%20County%20Clerk.pdf>).

- In August 2019, a local official informed Ms. Cox that construction was expected to begin at the city’s current polling site, the Civic Center, in October 2018. She replied, “This will give me something to think about.”⁴⁰
- In September 2018, Ms. Cox emailed a former county clerk as she considered whether to move the polling site from the Civic Center to a site outside the city. She stated, “I know either way I will have complaints” and “I know I will be damned if I do and damned if I don’t.” In follow up emails, Ms. Cox noted that the move “has been a big mess,” and the former clerk advised her, “People just need to get over themselves, they can drive to anything else they want to or they have someone take them, why is this different.” Ms. Cox responded, “The ones complaining do not even live here in Ford Co or some in Kansas.”⁴¹
- During her interview, Ms. Cox acknowledged that she did not consult with community groups or other residents about their concerns with a new polling site even though she was aware that residents likely would be upset with moving to a new location.⁴²
- When Committee staff asked why Ms. Cox did not seek this input about the decision to move the polling site, she stated, “That is solely my responsibility.”⁴³
- Ms. Cox acknowledged in the interview that she did not take several steps to remedy the impact of the move until after a public outcry. For example, Ms. Cox stated that she did not plan to station people at the original voting location to provide directions to the new location outside the city until the point “when all this blew up.”⁴⁴
- Ms. Cox also stated that she did not consider accessibility of the new site by public transportation before deciding to move the polling place, and that she did not view arranging transportation to the polls as her responsibility.⁴⁵

⁴⁰ Email from Debbie Cox, Ford County Clerk, to William Hammond, Ford County Board of Education (Aug. 29, 2018) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/Email%20from%20Debbie%20Cox%20to%20William%20Hammond%20%28Aug.%2029%2C%202018%29.pdf>).

⁴¹ Email from Debbie Cox, Ford County Clerk, to Sharon Seibel (Oct. 15, 2018) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/Email%20from%20Debbie%20Cox%20to%20Sharon%20Seibel%20%28Oct.%2015%2C%202018%29.pdf>).

⁴² Committee on Oversight and Reform, Interview of Debbie Cox, Ford County Clerk (Oct. 3, 2019).

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ *Id.*

- Ms. Cox conceded that after she decided to move the polling place, newly registered voters received voter confirmation notices that had the wrong voting location printed on them.⁴⁶
- Ms. Cox told Committee staff that she sought advice on closing the polling site from officials in the Kansas Secretary of State’s office, but she asserted that she received no guidance beyond basic information on compliance with notice requirements and the Americans with Disabilities Act.⁴⁷

In 2019, Ford County settled a lawsuit challenging the polling location and agreed to open additional polling sites in Dodge City for future elections.⁴⁸

VI. CONGRESS AND STATES MUST ACT TO PROTECT THE RIGHT TO VOTE

A. The Senate Refuses to Allow Votes on Critical Legislation

The House of Representatives has passed two key pieces of legislation aimed at restoring the right to vote and reinstating the protections of the Voting Rights Act of 1965. However, Senate Majority Leader Mitch McConnell refuses to allow the Senate to vote on these bills or on any other voting rights legislation.

H.R. 1, the For the People Act of 2019, was the first piece of legislation introduced in the 116th Congress. H.R. 1 reaffirms the fundamental right to vote and expands the role of the federal government in protecting this right. The bill would establish automatic voter registration, promote online registration, codify same-day voter registration, expand early and absentee voting, require that states offer voting by mail, place limits on voter roll purges, and prohibit interference with voter registration.

H.R. 4, the Voting Rights Advancement Act of 2019, would reinstate and enhance the protections codified in the Voting Rights Act of 1965. The bill would require preclearance of all changes affecting voting in states that have a record of racial discrimination in voting over the last 25 years. The bill also would require any states seeking to adopt or change certain voting procedures that historically have been used to restrict minorities’ voting rights to receive approval from the federal government before such changes go into effect.

After the House passed H.R. 1, Senator McConnell called the bill “offensive to average voters” and said it “will not get any floor time in the Senate.” He reiterated false claims about voter fraud and suggested that voter suppression was not a problem, asserting that people were “flooding to the polls.” In a moment of candor, he revealed his true concern about the voter protections in H.R. 1, conceding that the reforms would “make it more likely Democrats will win

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ *Dodge City Plans 2 New Polling Sites as Legal Fees Mount*, Wichita Eagle (Jan. 15, 2019) (online at www.kansas.com/news/politics-government/article224589015.html).

more often.”⁴⁹

B. Some States are Expanding Voting Rights

Even as some states have tried to restrict voting rights, others have moved in the opposite direction by adding opportunities for early voting, easing voter registration, and restoring voting rights for those formerly incarcerated.

- **Early Voting:** 39 states and the District of Columbia now offer some form of early voting prior to Election Day.⁵⁰
- **Automatic Voter Registration (AVR):** 16 states and the District of Columbia have enacted AVR policies in which eligible individuals who interact with government agencies are automatically registered to vote unless they opt out.⁵¹ This change has significantly increased voter registration in several states. Registration went up in California by 27%, in Rhode Island by 47%, and in Vermont by 60%. In Georgia, despite state officials’ efforts to purge voter rolls, the state’s adoption of AVR in 2016 increased registrations by 94%.⁵²
- **Same-Day Registration (SDR):** 21 states and the District of Columbia have adopted same-day registration laws permitting eligible voters to register and vote on election day, including during early voting.⁵³ Many voters believe they are registered, but discover on Election Day that they were purged from the rolls or that their registration was rejected. Same-day registration provides a remedy to ensure that voters do not miss the opportunity to participate in any given election. The National Conference of State Legislatures concluded that SDR increases the number of voters between 3% and 7%.⁵⁴
- **Restoring Voting Rights:** Several states have restored voting rights to millions of Americans with felony convictions. In December 2019, Kentucky restored voting rights to 140,000 people who completed their sentences for nonviolent

⁴⁹ Senate Republican Conference, *Leader McConnell Briefs the Press on H.R. 1* (Mar. 6, 2019) (online at www.republican.senate.gov/public/index.cfm/videos?ID=67012171-0F70-41E7-BF5D-34EB6E0C7E09).

⁵⁰ National Conference of State Legislatures, *Absentee and Early Voting* (online at www.ncsl.org/research/elections-and-campaigns/absentee-and-early-voting.aspx) (accessed Feb. 19, 2020).

⁵¹ *History of AVR & Implementation Dates*, Brennan Center for Justice (Jan. 17, 2020) (online at www.brennancenter.org/our-work/research-reports/history-avr-implementation-dates) (states include Alaska, California, Colorado, Georgia, Illinois, Maine, Maryland, Michigan, Nevada, Massachusetts, New Jersey, Oregon, Rhode Island, Vermont, Washington, and West Virginia).

⁵² *Id.*

⁵³ National Conference of State of State Legislatures, *Same Day Voter Registration* (June 28, 2019) (online at www.ncsl.org/research/elections-and-campaigns/same-day-registration.aspx#_Toc522006760) (states include California, Colorado, Connecticut, Hawaii, Idaho, Illinois, Iowa, Maine, Maryland, Michigan, Minnesota, Montana, Nevada, New Hampshire, New Mexico, North Carolina, Utah, Vermont, Washington, Wisconsin, and Wyoming).

⁵⁴ *Id.*

felonies.⁵⁵ Nevada recently restored voting rights for nearly 77,000 people with felony convictions following their release from prison.⁵⁶ Voters in Florida overwhelmingly supported restoring voting rights, but the state has imposed new barriers in an unconstitutional effort to block this change. To date, 37 states and the District of Columbia have passed measures to automatically restore the right to vote to formerly incarcerated individuals upon release or completion of probation or parole.⁵⁷

V. COMMUNITIES NEED TO MOBILIZE TO PROTECT THE RIGHT TO VOTE

In addition to demanding action from Congress and states to protect voting rights, there are steps all Americans can take now to ensure they are registered to vote and have a meaningful opportunity to cast their ballots in the upcoming 2020 elections:

- **Register Before State Deadlines:** Every state except North Dakota requires citizens to register if they want to become voters. In some states, the registration deadline is up to a month before an election.⁵⁸ Eligible voters can register in person with their state or local election office or by mail. In 39 states and the District of Columbia, they also may register online.⁵⁹ To determine how to register in their states, eligible voters can visit the federal government's official voter registration portal at <https://vote.gov/>.
- **Confirm Voter Registration is Active:** Voters can confirm their registration status through online resources such as the non-partisan, non-profit Vote.org.⁶⁰ Voters should not assume that their registrations remain active, particularly if they have not voted in one or more recent election cycles. Some states, including Georgia, have cancelled registrations of inactive voters.⁶¹
- **Vote Early or Absentee if Needed:** Registered voters should be aware of

⁵⁵ *Kentucky Gives Voting Rights to Some 140,000 Former Felons*, New York Times (Dec. 12, 2019) (online at <https://nytimes.com/2019/12/12/us/kentucky-felons-voting-rights.html?auth=login-email&login=email>).

⁵⁶ *Ex-Prisoners in Nevada Look Forward to Something New: Voting in 2020*, NBC News (Oct. 8, 2019) (online at www.nbcnews.com/news/us-news/ex-prisoners-nevada-look-forward-something-new-voting-2020-n1061896).

⁵⁷ National Conference of State Legislatures, *Felon Voting Rights* (Oct. 14, 2019) (online at www.ncsl.org/research/elections-and-campaigns/felon-voting-rights.aspx).

⁵⁸ USA.gov, *How to Register to Vote* (online at www.usa.gov/register-to-vote) (accessed Feb. 19, 2020).

⁵⁹ National Conference of State Legislatures, *Online Voter Registration* (online at www.ncsl.org/research/elections-and-campaigns/electronic-or-online-voter-registration.aspx#Table%20of%20states%20w/ovr) (accessed Feb. 19, 2020).

⁶⁰ Vote.org, *Check Your Voter Registration Status* (online at www.vote.org/am-i-registered-to-vote/) (accessed Feb. 19, 2020).

⁶¹ See, e.g., *About 300,000 Voter Registrations Could Be Removed from Georgia Voter Lists*, Atlanta Journal-Constitution (Oct. 29, 2019) (online at www.wsbtv.com/news/politics/purge-of-about-300-000-voter-registrations-planned-in-georgia/1002745450/).

options to cast ballots before Election Day. Early voting is available in 39 states and the District of Columbia, and all states permit absentee voting. Five states—Colorado, Hawaii, Oregon, Utah and Washington—conduct their elections by mail.⁶² Voters can determine the absentee ballot rules for their state by visiting resources like Vote.org.⁶³ For detailed information on early voting laws by state, voters can visit the National Conference of State Legislatures website.⁶⁴

- **Know Polling Locations:** Voters can locate their polling places by visiting their state elections agency websites.⁶⁵ Polling places may change, so voters should confirm their polling places before they vote.

VI. WITNESSES

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⁶² National Conference of State Legislatures, *Absentee and Early Voting* (online at www.ncsl.org/research/elections-and-campaigns/absentee-and-early-voting.aspx) (accessed Feb. 19, 2020).

⁶³ Vote.org, *Absentee Ballot Rules* (online at www.vote.org/absentee-voting-rules/) (accessed Feb. 19, 2020).

⁶⁴ National Conference of State Legislatures, *State Laws Governing Early Voting* (online at <https://ncsl.org/research/elections-and-campaigns/early-voting-in-state-elections.aspx>) (accessed Feb. 19, 2020).

⁶⁵ See, e.g., Vote.org, *Polling Place by State* (online at www.vote.org/polling-place-locator/) (accessed Feb. 19, 2020).