

VOTING RIGHTS AND ELECTION ADMINISTRATION IN TEXAS

A LISTENING SESSION BEFORE THE COMMITTEE ON HOUSE ADMINISTRATION HOUSE OF REPRESENTATIVES ONE HUNDRED SIXTEENTH CONGRESS FIRST SESSION

FEBRUARY 4, 2019

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MONDAY, FEBRUARY 4, 2019

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

The Committee met, pursuant to call, at 9:00 a.m., at Cameron County Courthouse Commissioners Court, Hon. Marcia L. Fudge presiding.

Present: Chairwoman Fudge.

Also Present: Representatives Luján, Thompson, Vela, Eddie Bernice Johnson, Jackson Lee, Cuellar, and Veasey.

Staff Present: Khalil Abboud, Deputy Staff Director; David Tucker, Senior Counsel and Parliamentarian; Eddie Flaherty, Chief Clerk; Peter Whippy, Communications Director; Veleter Mazyck, Chief of Staff to Ms. Fudge; Elizabeth Hira, Elections Counsel; Courtney Parella, Minority Communications Director; Jesse Roberts, Minority Counsel; and Cole Felder, Minority General Counsel.

Chairwoman FUDGE. Good morning. This listening session of the Committee on House Administration of the U.S. House of Representatives will come to order.

My name is Marcia Fudge, and I'm the Subcommittee Chair, and I want to thank all of you and all of my colleagues for joining us today.

I especially want to thank Congressman Vela for welcoming us to this district of his in a very, very warm way. We thank you, sir.

I want to thank the staff, the Chairperson of this Committee, Representative Zoe Lofgren, and the Speaker of the House for having the insight to allow us to go across this country to determine what is really going on as it relates to voting rights.

I also want to thank our distinguished group of experts for being here today, and for the statements that you will provide. We are excited to hear from you. It is critical to have your input, and we are excited to hear it.

We are here to talk about the Voting Rights Act. More specifically, we are here to talk about why we still need its protections and why it is so critical that Congress pass a new coverage formula so that we can make Section 5 work again to ensure all eligible voters have access to the ballot.

When the Supreme Court ruled in *Shelby County v. Holder*, they struck down more than just a formula. They struck down the idea that all eligible Americans should have the right to vote. They allowed states to implement restrictive laws that denied the most vulnerable among us. They took away their voice. They enabled

bad actors to deny Americans their fundamental rights, and they allowed elected officials to pick their voters.

The record we compile today and in the coming months will prove beyond a shadow of a doubt that we still need the Voting Rights Act. It will prove that while we've come so far, we have so far to go.

Someone asked me why Texas and why Brownsville. I will say it in the words of Dr. King. We are here because injustice is here. It is our first step in making right the wrongs that have disenfranchised too many for far too long.

I look forward to the valuable insight that will be provided today and working with all the stakeholders that have done so much good work around this issue.

I would now ask that our Members have a few words of welcome. I would start with Chairman Bennie Thompson of the Homeland Security Committee of the U.S. House of Representatives.

Mr. THOMPSON. Thank you very much, Madam Chairwoman.

Let me welcome my colleagues who are on the dais with me as well as the panel of witnesses today. I look forward to your testimony.

And you wonder what would a Homeland Security guy have anything to do with elections. As some of you might know, our system of elections has been declared critical infrastructure, and so it's in our best interest to protect that infrastructure, which is also meant that we have to protect how we elect our officials. But in any democracy, you have to be fair and impartial. That's the real hallmark of any democracy. So I look forward to the testimony.

My personal testimony is a long time ago, Bennie Thompson ran for office, and the only reason he was able to win was because of the Voting Rights Act protections. We couldn't even register people to vote in my little community unless they were federally registered. The local registrar wouldn't even register them. So there are a lot of things that I have a real commitment to, and—and this is one.

So the other thing is we produce the report—task force report on our Committee talking about elections in this country. It's not just the person down the street. The Russians, the Chinese, North Koreans, other people would want to compromise our systems also for election. So my mission is election security.

So I'm happy to be here, Madam Chairwoman, and I look forward to the testimony and the questions to follow.

Chairwoman FUDGE. Thank you very, very much.

We now move to Chairwoman Eddie Bernice Johnson of the Science and Technology Committee, and a Texan.

Ms. EDDIE BERNICE JOHNSON. Thank you very much, Madam Chairwoman.

And let me acknowledge our host, Mr. Vela, and my other colleagues who are here, and—and to the distinguished panelists, as well as the audience.

I'm a native Texan, and that says it all in terms of voting rights. I'm delighted that this Committee has chosen this as the first stop. I think it was the correct stop to make.

We have just been accused of allowing noncitizens in the thousands to vote, which I think will be proven not to be accurate. But

we know that we must watch voters and voting of minorities for protection very closely in Texas and in the United States. But Texas is one of those states that's very important to the fairness and justice of all voters, especially minorities.

I'm delighted that the leadership of this Congress has made this a priority, and I look forward to seeing the results of all the hearings throughout the nation.

I don't see too many faces that are foreign, and I think it's because those people who are interested in voting rights will always show up when we need them. So thanks to all of you.

We are especially pleased to be the guests of Congressman Vela, who is well known in this area with his mother having been mayor of the city and his father having been a federal judge. He has to stand up straight because he's from good blood. Thank you very much.

Chairwoman FUDGE. Thank you.

Now we will hear from the Assistant Speaker and my classmate, Ben Ray Luján.

Mr. LUJÁN. I thank the Chairwoman. I want to recognize her leadership. I'm so grateful for the work that she's doing across America on behalf of the American people.

I too want to join our two chairs, Mr. Thompson and Ms. Eddie Bernice Johnson, in thanking our host today, Congressman Filemon Vela, for inviting us to his congressional district for this important conversation.

We have a lot of work to do here given the damage that has been done over the last few years and continues today free from constraints by the Supreme Court's conservative majority. In cases like *Shelby County* and *Citizens United*, bad actors have seized every opportunity to rig the rules of our democracy in their favor.

We've seen the diminishing and suppressing of voters. In many states across America in recent years, we saw polling places get closed, the shortening of voting hours. We saw the implementation of burdensome ID laws. And then those same very actors made it more difficult to obtain the required IDs. They purged registered voters from the polls, made registration more onerous, and gerrymandered districts for political gain across America.

So we're here because we need answers to these injustices with reforms that restore and protect the voice of the American people and our democracy. And I hope that our colleagues on the other side of the aisle will come to the table and help us restore power to the American people.

Here's something to remember. Presidents Richard Nixon, Gerald Ford, Ronald Reagan, George H.W. Bush, and George W. Bush all renewed and strengthened the Voting Rights Act. The late Republican Senator John McCain joined with progressive Senator Russ Feingold to pass the Bipartisan Campaign Reform Act, the most significant update of our campaign finance law since Watergate.

In response to the lobbying scandals of the mid 2000s, 411 bipartisan members of the House and 83 bipartisan Senators passed an ethics reform bill that President George W. Bush signed into law. But make no mistake. If our Republican-led Senate and the President choose not to help fix our democracy, we'll look to the Amer-

ican people. I thank you very much for your time today and very much look forward to the testimony.

Chairwoman FUDGE. Thank you.

We will now hear from our host Representative, Filemon Vela.

Mr. VELA. Thank you, Chairwoman Fudge, and I thank all of my colleagues for joining us here in South Texas today.

I think this is probably one of the first—it's not officially a congressional hearing because some of our committees have not yet formed, but our first listening session in this new session of Congress. And I think the idea that our leader in this effort, Chairwoman Fudge, would be willing to host this in my home county is—it's a great honor to have you and everybody else here.

You know, I was born two years before the passage of the Voting Rights Act, which occurred in 1965. And I'm in a building that I practically grew up in, because my father had a law practice directly across the street. As a state trial judge, he was in these buildings for about five years.

But like many good politicians, his political career began in defeat. And that was back in 1962 when he had to confront the poll tax. And so I remember over the years how my father would—you know, he, of course, blamed his defeat on the poll tax. It's difficult to tell whether that was the reason or not. But those of us who came of age after the Voting Rights Act, were raised in a different world.

And so the idea that we're at a place in this country where there are people that think we should make it more difficult to vote when we should be doing the exact opposite is just striking, and it's unfortunate.

And I—with our new leadership in the House, with Speaker Pelosi in charge, I am hoping that we can move forward and do the right thing for the citizens of this country who face obstacles in exercising the right to vote and that we can break that wide open.

And thanks to all of our witnesses for being here as well today. And finally, thanks to our hosts, the Cameron County Commissioners Court, Judge Eddie Trevino, and our county administrator David Garcia for allowing us to use this beautiful space, and to our former county judge Gilberto Hinojosa for being here as well.

Chairwoman FUDGE. Thank you.

Another Texan, my friend from Houston, Congresswoman Sheila Jackson Lee.

Ms. JACKSON LEE. Let me thank the Chairwoman for her astuteness of making this the first place to hold this very crucial hearing and listening session.

I want to acknowledge the Chairperson of the House Administration Committee Zoe Lofgren, and Speaker Nancy Pelosi for recognizing the crucialness of voting for—there will be many hearings thereafter. And Congressman Vela, thank you so very much for being a host.

I'm delighted to be here with my colleagues Congressman Green and Chairwoman Johnson, Chairman Thompson, and the Assistant Speaker, as well as my colleague Mr. Cuellar.

I can say to you that the crucialness of this Committee cannot be spoken enough of. As a senior member of the Judiciary Com-

mittee, a senior member, the work that we will do will be in collaboration with the important work of this great Committee.

I cannot speak without acknowledging the warriors that you have selected, the experts Rolando Rios and George Korbel, as well as Mr. Bledsoe, who was not able to be here, Mr. Dunn, and certainly our representative from the ACLU who is present. All of these gentlemen I have had the opportunity to work with. And Ms. Marziani, we thank you as well for the leadership that will be given to this hearing.

Very briefly, we are at the epicenter of voting discrimination here in the State of Texas. And just two points, many more to be offered, but certainly, those of us in the United States Congress are the beneficiaries of the Voting Rights Act, particularly Section 5 preclearance. We're in voting rights districts. Many of us are in voting rights districts.

The district that I am in now is a court-ordered district, done so out of a long-standing discrimination that we had to fight from the very time I came to the United States Congress. I've never been totally in a district drawn by the state legislature. I only survived, this district only came about, Barbara Jordan was only elected because of the 1965 Voting Rights Act.

So two points: Isn't it interesting that the Department of Justice has now indicated that the State of Texas should be withdrawn from any Section 5 preclearance; and, number two, that the Mexican-American Legal Defense Fund has to file suit because the State of Texas decided this discriminatory voter ID law which has seen the closing of polling places, but now that they are holding up individuals whose driver's license may have indicated that they were not a citizen, but, in fact, they are a citizen. You get a driver's license in this state no matter who you are, but you then process into citizenship.

If we want to believe in one person, one vote, government of and by and for the people, then we must guard, protect, hold, and fight for voting rights, including Section 5.

So thank you so very much. I close by acknowledging our Chairman, a very active gentleman, Mr. Hinojosa. We're very grateful for your leadership, and Ms. Velt, who is here. We're very grateful for her service.

So thank you very much, Madam Chairwoman, and I yield back. Chairwoman FUDGE. Thank you very much.

The Texan at the end of the dais, my friend Henry Cuellar. Sir.

Mr. CUELLAR. Thank you, Madam Chairwoman. Thank you so much for having this hearing—this field hearing here in South Texas. And I certainly want to say welcome to you and the other members who are present here today that have come to visit Texas and how special South Texas and the border is.

I certainly want to thank my good friend Filemon Vela for being our host. Mr. Vela has been an outstanding Member of Congress. As you know, he's part of the team that—if you look at South Texas, you have Congressman Vela, Congressman Gonzalez, and myself, three of us in South Texas, and we work together as a team. So thank you, Mr. Vela, for hosting this and for the great job that you're doing in DC.

And certainly, what I want to say is the—start off with the—with the witnesses. I know some of these witnesses. We worked for many years. In fact, a couple of them are my redistricting attorneys, and if there's anybody that knows the redistricting law, it's certainly Rolando Rios, who's been working on it, I guess, since the '80s or so. And then you've got George Korbel, my other friend there, who's been working on this, I guess, since 1971, if I'm correct. So if—if there's anybody that knows redistricting or—or—the Voting Rights Act, it's those two gentlemen.

But also, we have our experts from the ACLU. Thank you so much for being here. Mr. Dunn, again, you worked for a good friend of mine, Rodney Ellis—Senator Ellis and Donna Dukes and other friends that I worked with in the State legislature, so I certainly want to thank you. Gary Bledsoe is not here, but he's another good friend that knows it very well. And I certainly want to thank the witnesses.

Before I go into the two—to the judge and the former county judge, let me just say the attorneys that are here were the ones who were involved in another issue that was very important, the citizenship question on the census. And they won this first step. And I hope we can win it, because if there's anything that's going to cost the State of Texas not only Members of Congress or other areas, it's going to be the billions of dollars that the State of Texas and other states are going to lose.

And this is why it should be a no-brainer that we shouldn't be doing that, but unfortunately, sometimes people will put politics in front of what's right for the community. So I certainly want to say congratulations for winning this extremely important case itself also.

Certainly, the county judge, thank you so much, Judge Trevino, for—hosting us here, and send my best to the County commissioners. And thank you for—everything you do.

Former County Judge Hinojosa, we've known each other for a long time. And thank you for what you do also for the State of Texas. And—and certainly, they know—you know, these are the folks that know South Texas very well.

So again, I want to hear from the witnesses. All I want to say, Madam Chairwoman, thank you so much for hosting us here and to your staff that's been working very hard to make sure that we have this field hearing here in the State of Texas.

And, it's important to come down here to the border, because, you know, Chairwoman, yesterday, I hosted as part of the conferees three other folks. And, you know, they keep talking about the wall, the wall, the wall, which we don't want. This is the type of hearing we should have at the border, so thank you so much.

Chairwoman FUDGE. Thank you very much.

And last, and certainly not least, my other friend from Texas sitting at the end of the dais, Representative Al Green.

Mr. GREEN. Thank you, Madam Chairwoman. I thank you for your leadership. I thank you for your courage. And most importantly, I thank you for just being a good decent person, someone who has the ability to see wrong and to challenge it consistently. So I thank you.

I thank all of my honorable colleagues. And I'm honored to be here for this historic occasion. Proud to be a part of it.

I'm here because Dr. King was imminently correct. "The arc of the moral universe is long, but it bends towards justice," but it doesn't do it on its own volition. It does it because people of good will will take up the cause of justice.

I'm here with my colleagues to help bend the arc of the moral universe towards justice. I believe that preclearance paved the way for political inclusion. Without preclearance, the face of Congress would be decidedly different. We have benefitted greatly. And it's a shame that we find ourselves now having to refight the fights that we won, but it's our duty to do so.

Briefly this: No more than 24 hours after the decision was made in *Shelby*, Texas immediately announced its intention to implement a strict voter ID law. Mississippi and Alabama followed quickly. And then, of course, two months later, we had North Carolina.

We have a duty, a responsibility, and an obligation to the people who made it possible for us to have these positions to take up this cause of justice. And I promise you, I'm honored to be here, but I'm honored to also be a part of the fight.

I yield back.

Chairwoman FUDGE. Thank you very much.

As you can see, we have a distinguished group of Members here who are very interested and concerned about what is happening in this country today as it relates to voting rights. I would now ask—at least introduce all of the panel.

You know your role. You've got five minutes each. You know the light system. Green. When it goes to yellow, that means you have one minute left. When it turns red, that means it's time to wrap up.

Mr. Rolando Rios, who has concentrated his entire career principally in—in federal and state election law, equal protection, redistricting, and governmental affairs, we thank you, sir, for being here. You will be first to testify.

Mr. George Korb, who is a veteran civil rights attorney who has fought for the minority voting rights of Texas for more than four decades.

Mr. Matthew McCarthy from the ACLU Foundation of Texas. We welcome you as well, sir.

And last to testify will be Chad Dunn, Chad Dunn has handled numerous trials and appellate matters related to voting and civil rights.

Mr. Rios.

Mr. RIOS. Thank you, Chairwoman Fudge and Subcommittee Members. It's an honor to present testimony today in support of amending and strengthening the Federal Voting Rights Act.

My name is Rolando Rios. I am a voting rights attorney in private practice here in Texas. My practice in voting rights started immediately after graduating from Georgetown Law. I have been doing voting litigation for the past 35 years mostly as a private practitioner working with the NAACP, MALDEF, Southwest Voters, Legal Aid, and other public interest groups.

My office has been involved in over 250 voting rights cases in Texas. The list of cases is attached to my testimony along with a map identifying where that litigation occurred.

I hasten to add that we had a 95 percent success rate because of the Voting Rights Act. The great success was not because we're such great lawyers but because of the effectiveness of the Voting Rights Act. The Act eliminated at-large voting in Dallas, Houston, Fort Worth, San Antonio, Waco, Lubbock, Midland, and Odessa, just to name a few cities in Texas.

After the 2013 *Shelby* case, the success rate dropped dramatically and turned the dogs loose, so to speak, on the minority community by enabling the passage of some of the most repressive state voting laws. We need immediate action from Congress to combat the adverse effects of the *Shelby* case.

There is now a continued all-out assault on the right to vote by the State of Texas against Latinos and African-Americans. This all-out assault started in 1994 after the effects of Ronald Reagan's immigration bill that allowed millions of Latinos to become citizens. After the 1994 elections, the Republican Party realized that 70 to 80 percent of the new Latino citizens were voting for Democrats. At that point, the Republicans declared "We have an immigration problem." As the Republicans took over Congress for the first time in 30 years, there has been a continued drumbeat of "We have an immigration problem."

No, we don't. We do not have an immigration problem. The problem is that the Republican Party refuses to address the issues of importance to the minority community and instead have decided to pursue a sinister and illegal strategy of denying minorities the right to vote. This is why we need congressional action.

Since the *Shelby* decision, the assault on the right to vote in Texas has intensified as follows, for example, the City of Odessa, whom we sued in 1985 challenging at-large elections and won in federal court, ordered the creation of single member districts. This year, as the minority community became stronger and minority control was looming, the city passed a charter amendment reinstating at-large voting. This would never have happened before *Shelby*.

The voter ID law was passed after *Shelby*, and after years of litigation, was declared unconstitutional by the federal courts. This law would never have been passed in the first place by Texas before *Shelby*.

Last, this—this—this past week, the Secretary of State of Texas sent letters questioning the voter registration of 95,000 mostly Latino naturalized voters.

Texas went back to 1996 to identify naturalized voters. These are individuals that were in this country legally and obtained driver's licenses before they became naturalized. After they naturalized, they registered to vote and have been voting consistently.

With no substantive facts or factual basis, now Texas wants them to produce naturalization papers. This is clearly an intent to intimidate and harass Latino voters. I predict that this strategy against naturalized citizens voters will continue throughout the country.

Also, judicial findings of intentional discrimination have increased since *Shelby*. A court declaring a state action as intent to discriminate was a rare occurrence in this country. Courts usually attempt to resolve voting litigation without getting into Constitutional findings.

For example, in 2011, Texas congressional redistricting plan split the African-American and Hispanic communities in the Dallas-Fort Worth area into seven different Anglo-controlled congressional districts. I have a map here just to illustrate the point that the area in the—outlined in the dark line is the minority area in the Dallas area. This minority area was split into one, two, three, four, five, six, seven different districts so they would get controlled by Anglo districts.

This area here, the court called it a lightening bolt that went down here and picked up the Latinos from Tarrant County and put them up in Denton so that they couldn't have a right to vote.

In Congressional District 30—and we're familiar with Congressional District 30—was already 81 percent Latino and—and African-American, and they increased it to 85 percent, basically eviscerating the minority community. This is the kind of outward and aggressive action that—that is—is continuing to occur.

Finally, in the *Perez* case, which is the congressional redistricting case, the court found that the map drawers acted with an impermissible intent to dilute minority voting strength. The court found intentional packing and cracking against minorities.

Every decade since 1970—

Chairwoman FUDGE. It's time, please wrap it up.

Mr. RIOS. Okay. All right. And I—I'll submit the rest of my testimony.

Chairwoman FUDGE. Thank you.

Mr. RIOS. We were—we had been told that it was going to be ten minutes. That's why I went over. No problem. Thank you.

Chairwoman FUDGE. Thank you very much.

I think we are saying a total of ten, but it would be five minutes of testimony and five minutes of questioning.

Mr. RIOS. Okay. No problem.

Chairwoman FUDGE. Mr. Korbel.

Mr. KORBEL. My name is George Korbel. I had the distinct pleasure of being involved in the—putting the case together to extend the Voting Rights Act to cover Texas back in 1975.

And I want to do two things here. I want to discuss what we were facing in 1975, what the obstacles were, and then I want to demonstrate that those obstacles are almost exactly the same, that there's very little change.

I've had—also had the opportunity of preparing several of you for testimony in various hearings, and I've handled—*White v. Regester*, I was the lead counsel for the Hispanics in *White v. Regester*, and I handled litigation for single member districts in the City of Houston, the City of San Antonio, the City of Waco, and several dozen other cities in the state.

The last time this Committee came to Texas was in 1982 for the reauthorization of the Voting Rights Act in 1982, and I sat at a table like this in Austin, and sitting right here to my left was the head of elections in Texas under—under our first Republican gov-

ernor since reconstruction, Doug Caddy. And Doug and I—Doug Caddy and I came from a meeting with the Governor earlier in the day, and the Governor said, “Absolutely. We’re in favor of continuing the Voting Rights Act.” Doug Caddy was one of the founders of The Federalist Society. He was a consummate Republican conservative, but he believed that everybody ought to have the right to vote.

There are several attachments that I have. One I want to point out is that in 1975 when we put the pitch together for Congress, we dealt with eight cases—eight cases or six cases, depending on how you analyzed it, but at the most, eight cases, and they had—and then another area, which was discouraging people to vote.

Texas had—now I’ve attached to the statement a 350-page list of cases. We now have more than 400 cases in which either we have administrative findings of discrimination—voting discrimination or judicial findings of voting discrimination. And I urge you to take a look at a little bit of it. The first 85 pages deal with the previous 20 years in Texas, and it adds about 110—110 of these cases. And when we looked at—when we prepared the extension in 1975—in 1975, we looked at the 20-year period before.

The next thing that I’ve attached is—deals with in fact, I used—part of the document that I used back in 1975, the question was Texas is not part of the South. Texas is very different. And that’s what the argument went.

Well, I’ve got a short list of all of the cases. Texas was exactly the same as all the other jurisdictions in the South, except we didn’t have a grandfather clause. We didn’t have those sorts of things because we had a statute that said blacks couldn’t vote. And that was litigated up through the 1950s. That issue was litigated up through the ’50s.

The other thing I want to point out in the time that I’ve got is that the other issue that we were dealing with was discouraging people to vote, and there were two areas in that. One was a complete purge. Texas had passed a complete purge of all the registered voters which was going to take place in 1975. We stopped that. The same purge is going on now, exactly the same thing. And I want you to take a look at the charts that I put in.

In 1975 when we dealt with this the first time, Anglos, as we call white people in Texas, Anglos, were two-thirds of the population. Blacks and Hispanics made up a third. Today, blacks and Hispanics are almost two-thirds of the population, and Anglos are less than that.

And—let me make one more point. In 1975 when we dealt with this before, there were four congressional districts in which Hispanics had the power to elect, four congressional districts out of 24. That’s 16 percent. Today, there are six out of 36. That’s 16 percent. Exactly the same. It hasn’t changed. And the reason for that is because of the gerrymanders.

Now, Rolando talked about—the congressional districts in Dallas and Fort Worth were split in eight ways. The only district that’s contained wholly within the district is the Congressman’s district in Dallas County. Otherwise, they go all over the state, so—yes.

Chairwoman FUDGE. Thank you very much.

I just want to make you aware that we are going to keep the record open for at least two weeks. So if there's other information that you want to submit to us, you'll have two weeks to do that, but I do want to make sure that we can have questions, because there's so many questions I want to ask.

Mr. McCarthy.

Mr. MCCARTHY. Yes. Good morning. My name is Matthew McCarthy, and I'm here on behalf of the American—on behalf of the American Civil Liberties Foundation of Texas.

The ACLU of Texas thanks you for the opportunity to testify today on this very important issue and applauds the reinstatement of this Subcommittee, given the importance of combating voter suppression and encouraging electoral reform efforts that are directed at protecting the right to vote and also making it easier for citizens to register to vote and to cast their ballot.

Voting is the cornerstone of our democracy, and it is the fundamental right upon which all of our civil liberties rest. Through litigation and advocacy, the ACLU of Texas has fought and continues to fight back against attempts to curtail the right to vote. Despite our best efforts and those of other organizations and attorneys represented here today, politicians in Texas and across the country continue to pass laws that suppress the right to vote by imposing obstacles onto registration, cutbacks on early voting, and strict voter identification requirements, among other impediments.

I'd like to focus today on two examples of the way in which the right to vote in Texas is being curtailed; and I'll start with the voter identification laws that have already been mentioned. The voter ID laws in Texas were introduced immediately following the Supreme Court's decision in *Shelby County* be hold up, and they require voters to present one of seven approved forms of government-issued identification before being allowed to vote. If a voter doesn't have one of the approved forms of identification, he or she can sign a declaration attesting under penalty of perjury that there is a reasonable impediment to having one of those forms of approved IDs.

The voter ID laws were the subject of extensive litigation and were found by three district courts to have disproportionately burdened voters of color, and that was because of evidence that minorities are generally less likely to have one of the forms of approved ID and also less able to obtain one of those forms of approved ID, given the cost in terms of time and money in getting one; however, the current form of the ID law was ultimately approved by the Fifth Circuit Court of Appeals and was in place in time for the midterm elections last year.

Now, the ACLU of Texas together with the Texas Civil Rights Project and other organizations worked as part of a coalition during the election last year to protect the right of Texans to vote. As part of that coalition, we had call centers staffed by trained volunteer attorneys taking calls from around the state, and we also had a number of field volunteers working at polling locations assisting voters with queries.

What we found through that process was a significant amount of confusion and misinformation about the voter ID requirements. To give some examples, we heard reports of voters attending polling locations in rural Texas where election officials posted a sign say-

ing, “Must have driver’s license to vote.” Other reports in some of our large metro areas were of poll workers telling folks who were lining up to vote that you needed to have photo ID or you wouldn’t be permitted to vote.

This is plainly incorrect under the law. And while we were able to address it, you do wonder how many voters saw that sign or were given that information and simply turned away and didn’t exercise their right to vote. And that’s a particular concern in polling locations where there are long lines. People aren’t going to line up and vote if they think their vote won’t be counted.

Similarly, a voter in Houston called to tell us that she presented her United States passport only to be told that this was not a valid form of ID. Again, plainly incorrect.

We also received reports from voters who didn’t have an approved form of ID and asked to make a reasonable impediment declaration only to be challenged by election workers, sometimes aggressively, about the reasons why they didn’t have an approved form of ID.

What these examples demonstrate is the difficulty voters face in navigating the voter ID laws and the magnification of those difficulties which arises when election officials are poorly trained or in some circumstances see their role as questioning and intimidating voters who don’t have one of the approved forms of government ID. Not only does this place a real burden on voters, particularly minority voters, but we fear that in many cases, voters will simply accept what they’re being told and will turn away and won’t cast their ballots.

The second issue I wanted to touch on briefly is the voter purge exercise that’s been announced and has been discussed briefly already. On January 25, 2019 the Texas Secretary of State issued an advisory to all election officials around the state informing them that his office had been working with the Texas Department of Public Safety to identify potential noncitizens who are registered to vote.

The Secretary said that his office had identified 95,000 such individuals, 58,000 of whom had cast a ballot at some point in the last 20 years. The Secretary generated his list by using information provided by the Department of Public Safety about individuals who at the time of applying for a Texas driver’s license had given indication indicating they were a noncitizen.

When those individuals were located on the voter rolls, counties were told they should investigate whether those individuals were eligible to vote by sending a notice of examination requiring them to provide documentary proof of their citizenship, and if they didn’t respond within 30 days, their registration would be cancelled. Of course, their biggest flaw in this exercise is that no attempt was made to identify people who became citizens and registered to vote after they applied for their Texas driver’s license.

I see the time, so I’ll conclude my remarks there.

Chairwoman FUDGE. Thank you very much.

Mr. Dunn.

Mr. DUNN. Thank you. It’s my honor to be here today, and I’m honored to be at this table with these gentlemen and invited here with this lady who I consider to be heroes of my state.

I have been a civil rights lawyer here in Texas for almost 20 years. I currently also serve as an adjunct lecturer at UCLA and a co-director of its voting rights project.

I have represented the state Democratic Party as my honor since 2003. And its current chairman; Gilberto Hinojosa, and I have been in the middle of many of these election fights that you've heard of and some more that you—that you'll hear of today and elsewhere.

I was asked to come here today and talk to you about the material effects of the *Shelby County* decision, and so I'm going to tell you a story from my perspective. I happened to have been in the Supreme Court chamber when the U.S. Supreme Court issued the *Shelby County* decision. And there was a majority, if not a quorum, of American civil rights heroes in the courtroom. And as the clerk announced that Chief Justice Roberts has the opinion, you could here the weeps in the chamber, and you knew what was coming next. And although I can't be sure, I thought I saw tears on some Supreme Court justices.

Some of these gentlemen and others that I was there with knew immediately what the effects would be, and unfortunately, they were so. As I stepped outside of the courthouse and retrieved my phone—the Supreme Court doesn't allow you to take your phone in there—turned it on, the first thing I learned, Congressman Green, was then Attorney General Abbott's tweet that voter ID laws would be in effect in Texas, despite the fact that a three-judge court in Washington, D.C., had found the law to be discriminatory. And that court was made up of judges appointed by diverse presidents.

This state decided to move forward, because as it saw it, *Shelby County* opened the gates. Over the course of the next 36 hours, I drafted a lawsuit on behalf of Congressman Veasey and others, filed a lawsuit here in Texas. We were joined by many other soldiers of the civil rights community. And over a period of years, we were able to beat back part of the voter right—voter ID law in Texas, but, nevertheless, there remains a process of separate but unequal voting for people who don't have the means to have a photo ID, which are estimated to be approximately 950,000 registered voters in Texas.

But there were other effects that don't get as much attention as redistricting or voter ID, and those are the—those are the events that I'd like to speak with you a bit about. I had been involved in a case, when *Shelby County* came down, in Beaumont, Texas, the Beaumont School District. And it would take quite some time to lay out the sordid events in Beaumont, so I'll—I'll grossly oversimplify it.

But essentially, the district has been majority black in its voting population since the 1980s, but it wasn't integrated—an integrated school district until 1985 under *Brown v. Board of Education*. And it ultimately took a series of court decisions until the 1990s to give blacks legitimate right to vote for their school board.

A majority of blacks served on that school board before *Shelby County* came down, but white citizens had managed to get a ballot initiative to force at-large voting in the school district. And the state courts had ordered the school district to go to partial at-large voting. This would have had the results of putting the whites in charge of the school district despite it being majority black.

A federal court in Washington, D.C., under Section 5 of the Voting Rights Act, a case I was involved in, enjoined that change. It made the school district stay as it had been ordered by previous federal courts. After *Shelby County*, all that was undone. And as we sit here today, the school board in Beaumont still does not have, in my opinion, a—an elected board that represents its community.

Also, as I stepped outside of the courthouse, I received a phone call from a friend of mine in Galveston where we had obtained an injunction under Section 5 of the Voting Rights Act to prevent the elimination of justice of the peace and constable districts that has historically elected African-American and Latino candidates of choice.

The county had decided on a budgetary matter to reduce the number of districts. And despite the fact that most growth in the county were black and Hispanic, it was those districts they chose to eliminate. We had stopped that under Section 5. When *Shelby County* was issued, the county immediately implemented it. Those offices do not exist now. And although there's a Section 2 lawsuit pending, it's been pending for five-plus years, and there's not yet a resolution in sight.

Finally, I want to talk about Jasper, Texas, where James Byrd was gruesomely dragged to his death in a hate crime in the 1990s. Every time I drive through Jasper, I see his grave. And it has to have extraordinary security mechanisms, because even to this day, it's vandalized by white citizens in that community. In Jasper, the community decide to vote at-large to remove a district office. So imagine, for example, all citizens of the United States could vote to remove one of you.

And they were successful because the city was majority white. A black city council person was removed. Because the Voting Rights Act has been so harmed by the Supreme Court and other judicial decisions, there was nothing we were able to do with that. This person—this city council person was removed.

So there's redistricting. There's voter registration. There's countless polling place changes. And it's scary to think, but there are scores of other changes we don't even know about that can't be done or dealt with because of the injury to Section 5. So I appreciate the important—your work you're doing, and I thank you very much for allowing me to present to you.

Chairwoman FUDGE. I thank all of you. This has been some of the best testimony I have heard in some time, and I thank you for that.

We're going to open it up for questions. And I'm just going to let—in the same order that they spoke, if they have a question, we'll just go in that order.

I do want to ask one question just off the top since my colleagues continue to talk about voter fraud. Do you see a lot of voter fraud?

Mr. KORBEL. Almost none.

Chairwoman FUDGE. Okay. I just want to be sure, because that's the narrative. It's not violations of the Voting Rights Act. It's voter fraud, is the narrative coming out from my colleagues in Washington.

Mr. MCCARTHY. I think that's right. I mean, I think all of the available evidence shows that in-person voter fraud in particular is

exceptionally rare. And notwithstanding that, you know, we're currently seeing attempts to provide additional funding to the Texas Attorney General's so-called voter fraud units. So there is that narrative that's out there, but it's just not reflected in—in the actual evidence.

Chairwoman FUDGE. Thank you.

Mr. Thompson.

Mr. THOMPSON. Well, I think the testimony has been quite revealing in the sense that Texas is trying to act like Mississippi in voter suppression and other things. The question that I think we are tasked to address is, you know, we have to get the record. That—that voluminous document that you presented, we absolutely need all of that, because one of the reasons we got to where we are today is the Court said, for whatever reason, in *Shelby* there—there wasn't enough of a record to—to justify the position, which some of us obviously disagree with.

The question is—we're on a short time frame. I think we're tasked to be by—by June to have these sessions over with. And just as a comment, if you have any idea of what's going on out here around the country, let us know, because we want to make sure the record is perfected to the point that no stones are unturned.

The challenge for a lot of us is the notion of packing and stacking in terms of redistricting, the uniqueness of voter suppression that's going on in areas. My state just reduced—attempted to reduce the number of days that a person can clear up a question of residency from five days to two. And you have to clear it up in person. You can't do it electronically or anything. So I might have to go take another day off work to just prove who I am and where I reside.

Some ask, well, what's wrong with that? Well, in my district, we don't have public transportation. So I'm going to have to, in addition to take off work, go to an additional expense of trying to prove that I'm a registered voter. So those challenges, how small they might seem, tamp down participation.

And so I—I guess to—to Mr. Korb, you've been out here a long time. So are you seeing purges taking place in communities now? You know, in the Voting Rights Act, sometimes you were federally registered. They used to say you had—they couldn't take you off the roll.

Mr. KORBEL. Well, in some senses, the voter ID law is a purge, because what we're doing is we're—we're doing—essentially doing away with voter registration and changing it to driver's licenses or Texas IDs.

Now, it doesn't sound like that's a big deal, but an awful lot of people have parking tickets or minor violations. They don't want to go anywhere near the DPS because they're going to get arrested and they're going to spend time in jail. And so we were essentially purging our rolls.

And there's also talk in the legislature about another whole purge, like was being proposed when we got the Voting Rights Act in '75. There—I think there were 7 million letters stamped ready to go out when the court issued the injunction—the first injunction under Section 5 to stop that purge.

Mr. THOMPSON. So the other point I want to make, and I'll ask real quick, are you aware of any of this so-called voter fraud taking

place? Do y'all have any—because some of what we are being told is we're doing these things to protect the integrity of elections and all of that. So are you all aware of that taking place for a majority of the people we're talking about?

Mr. RIOS. I'm not aware of any voter fraud. There may be an election contest here or there where they can prove somebody might have taken somebody's ballot and brought it in absentee, something like that, but none—no widespread voter fraud whatsoever.

Mr. MCCARTHY. I mean, there are some isolated instances that we've seen where the Texas Attorney General has taken action against people for voter fraud and has secured some convictions, but generally speaking, the circumstances of those cases are mistaken understanding about when you can vote, for example, when you're coming off a felony conviction, people just misunderstanding the requirements and not purposely intending to commit voter fraud.

Mr. DUNN. And I would just add I agree with that assessment. There is some limited in-person voter fraud. And the laws are significant and adequate to deal with them, and it—and it does deal with them.

Where there is some legitimate voter fraud is mail-in ballots, but the perception here in Texas is that white citizens—the political perception here in Texas is that white citizens avail themselves of the mail-in ballot more than do other citizens of color, so our legislature has at least thus far chosen to not do anything about that type of voter fraud and instead has, you know, chased the boogeyman under the bed, so to speak, on these limited circumstances of in-person voter fraud.

Mr. THOMPSON. Thank you.

Chairwoman FUDGE. Ms. Johnson.

Ms. JOHNSON. Thank you very much. And let me thank all of you for being here.

In 1992 when I went to Congress, there were 30 members of the delegation, 21 were Democrats. Less than a decade, this reversed, and it continues to be reversed, even though the minority population has grown tremendously since then. And we now have 36 seats, but the ratio is about the same as it changed the first big court type of redistricting in the midterm—mid census. And we're still electing statewide elected officials of the party that's not the party of choice of its minorities.

Do you think it's voter suppression in the state that influences that, or are there pockets in our rural areas that are not performing because of not having more contact perhaps with persons of their voting choice?

Mr. DUNN. I definitely think that's a lot of the reason. I mean, there's been decades' worth of efforts to suppress the vote, and they've been effective. So a lot of people have gotten the message, unfortunately, I'm not wanted at the polling place, so I don't go. So there's a lot of that, unfortunately, which the Voting Rights Act was helping to repair.

Other problems, of course, is a lack of competitive elections. The districts are so badly gerrymandered that there are very few places

where there is a competitive election. And that further discourages people from turning out.

And we saw consistent, and across the state, incredible growth in turnout this last electoral cycle when we had a marquee race for the U.S. Senate here in Texas. And so it goes to show that when you have legitimate competitive elections, you can overcome some of the voter apathy that we see, but the decades of voter suppression are going to have to be dealt with.

Ms. JOHNSON. Do you think that where the voting place is located has any influence? It's been a while ago, but one of my former House colleagues came to Dallas from East Texas and said they had placed the polling place at the jail and that the minorities just stopped voting.

Is there a reason to—is there any protection for that kind of thing? I know with the absence of the Voting Rights Act you don't have to get clearance when changes are made now, but do we document that? Does that make a difference in the courts?

Mr. KORBEL. Let me answer the—let me answer the question this way. One of the advantages of Section 5 was that we got notice that all this stuff was going on. The Department of Justice would publish a notice, I think, weekly of all the submissions they had gotten so we could look and see where these polling place changes were made.

Now none of that's taking place, and you know how big Texas is. There's no way that we can be in every one of our 254 counties and—except under Section 5 when we got this early notice. And the result of that is we have 254 counties. There are 60 counties that have more than a third minority population that don't have a minority county commissioner. And those are all because of a gerrymander.

In 1975, of course, there were no black county commissioners. And I think probably every one of the 30 black commissioners we have now I can show you the lawsuit that put them in there.

Ms. JOHNSON. Yes. It is interesting that the precision on which this gerrymandering has been done has come since the use of computers. So has that worked for us or against us?

Mr. KORBEL. Well, the other side has a lot more money and a lot more time and a lot more people, and it really works against us.

Ms. JOHNSON. Thank you very much, Madam Chairwoman.

Chairwoman FUDGE. Thank you.

Mr. Cuellar is going to have to leave us. He is having a little thing like whether we need a wall on the border, so he's going to leave us shortly.

So, Mr. Cuellar.

Mr. CUELLAR. Thank you, Madam Chairwoman.

And again, I just want to, first of all, thank all the Members here and Mr. Vela for hosting us here.

Let me first say, what Mr. Korbelt said, the first time since 1982 that the Committee has been here, so I just want to thank you for providing that leadership.

Three quick points that have been brought up. Number one, the last time we had a redistricting, Texas grew by 4.3 million individuals. 65 percent were Hispanics. You add the African-Americans and other minorities, 90 percent of the growth that we had were

minorities. And as you know, the legislature wanted to do it the other way. They wanted four-zero and none for the minorities. And again, because of these attorneys, we were able to at least get two and two.

So if you all can mention how many congressional Hispanics are—Hispanics have grown since the last 50 years. I think it was 14 percent and 16, but if I can just—just bring up two more questions.

The voter ID—things don't just happen in Texas by accident. I mean, there is a plan to do redistricting, voter ID, everything else. If—if you remember the way they did the voter ID, this card would have not allowed me to vote. This is a U.S. House of Representative ID card. This would have rejected me, would have not allowed me to vote. I would have to get a Texas driver's license.

The problem was, in some areas, there were some—there's some counties out of the 254 that have no DPS office. And if they had to travel, they had to travel miles and miles and miles. So if you all can comment. I know it's been adjusted a bit.

The other thing is let me give you my perspective. I was a Texas Secretary of State, and I want to address the point about voter fraud. When I was there as the Texas Secretary of State, the issue of voter fraud was brought up. Maybe you have a case or other, and they blow it up and make it sound that there's rampant voter fraud.

As the Texas Secretary of State when I was there, we didn't have that type of situation. It was just they take one case, they take a politiquera, they take a mailman, and they make it sound like everybody has committed voter fraud here. So those are the points, and I would be happy if you can talk about those three points.

Mr. THOMPSON. Then we have a North Carolina situation.

Mr. CUELLAR. Yes, we've got the North Carolina situation now.

Mr. KORBEL. In 1975, we had 24 congressmen. Had Texas—had the minority population in Texas grown at the same rate as the Anglo population, today we would have 23 congressmen. We would have lost a congressman. Instead, we've picked up 16 congressmen, and it's all as the result of minority growth.

And I told you that there were 16 percent in '75, and there's 16 percent today. That—the only reason we got the 16 percent is because we had to litigate to get Congressman Veasey's district in Dallas and Fort Worth. Had we not gotten that, we wouldn't even be at 16. So it's a—

Chairwoman FUDGE. Thank you.

Mr. MCCARTHY. If I could just make a couple of very brief comments about your other points. On the question of acceptable forms of ID, I think I've seen some statistics that say that around 11 percent of Texans don't have one of the approved forms of ID, and that 11 percent of the population is overwhelmingly made up of minority communities.

And I think I've also seen some data that shows that the cost of getting an approved form of ID can be anywhere between \$75 or \$175, which is a significant amount of money for many people.

The other thing I wanted to mention is in relation to your comment about there being a plan. We're seeing that right now with the voter purge exercise that's going on with the Texas Secretary

of State. That exercise coincides with bills being introduced into the current legislative session in Texas that are requiring documentary proof of citizenship for voter registration. So it's all part of a plan that's leading towards that legislative change.

Chairwoman FUDGE. Thank you.

You know, in my community, we would call what you talk about a poll tax. And what you were talking about, Mr. Korbel, we used to say, "The more things change, the more they stay the same."

Mr. Luján.

Mr. LUJÁN. Thank you, Madam Chair.

Each of you touched on and described actions that are taking place now, the same actions that were taking place, whether it was in the '70s or prior. But I want to zero in on post-*Shelby*. If you could shed some light on specific actions in some detail.

And I'll start, Chad, with you, Mr. Dunn, post-*Shelby* that are taking place now that are getting in the way, that are hurting people, that are discriminatory in practice, that clearly should be a violation of the Voting Rights Act.

Mr. DUNN. Sure. Thank you. I mean, and, obviously, I don't want to waste the Committee's time or—but the Beaumont situation is really one of the worst environments I have ever been in.

When you go to a school board meeting in Beaumont today, all the white citizens sit on one side of the room, and all the black and Latino citizens sit on the other side of the room. Now, it's not forced by any authority, but that's how the community still operates. And the constables who are black and Hispanic stay on the white side of the room, and the white constables stay on the minority side of the room.

And I made the mistake at one meeting of sitting down with a friend of mine who's an African-American citizen there. I was working on the school board issue. And, I mean, I had white citizens shout me down, "You're sitting in the wrong spot," and say all kinds of nasty things to me about where—this is today. I mean, you know, this is within the last five years. You go to a Beaumont ISD school board meeting today, and it will look like this.

So, you know, the—what happened in Beaumont, Galveston, and Jasper I just described to you would not have happened had *Shelby County* not been issued. There have been scores of polling place changes, some, you know, that we know of. I'm sure there's been hundreds that we don't know of that have material effects on people being able to get out to vote.

There are a number of school districts and counties, more than I can, you know, list for you now, that are either going to at-large elections, which is a cornerstone method of discrimination in voting, is you elect at-large instead of districts. And some of them have done so, and I believe many more will follow.

I have heard—I don't have direct evidence of it, but I have heard that after *Shelby County*, the State sent message to communities to take their time making changes, to roll it out slowly as a way to—to sort of hide the effects of it. And it looks to me like that's happened.

But it doesn't change the—the very real injury that started the afternoon of—what was it—June 26, 2013, when *Shelby County* was issued and continues every day since.

Mr. RIOS. I would also add that this issue of questioning the right to vote of people that have become naturalized citizens, starting to send letters to them, you know, "We have a question about when you became a citizen," "Do you have proof," and all that, I think that's going to have an adverse effect on—on many voters who might—might be scared. "What? Are they going to come after me? Maybe I— maybe I made a mistake on the application," whatever. I think it's going to have an impact in—in chilling the—the person's right to vote.

Mr. KORBEL. Maybe I can say a little bit more about Section 5. The Texas Education Agency has the right to seize school districts and displace elected officials, take over school districts if they—if they feel that there's a problem.

Now, under Section 5, we almost completely prevented that from happening. Since the doing away with Section 5, the TEA has been seizing these school districts, and Beaumont was one of them. They seized the school districts, and you end up—Beaumont had a black superintendent, black board members, and now it's controlled by the whites. It's—

Mr. DUNN. And that's something you would have had to preclear before—

Mr. KORBEL. Yes.

Mr. DUNN [continuing]. But you don't.

Mr. LUJÁN. And Mr. McCarthy, as time has run out here, what I'd ask is just if these instances, whether it's in Texas or with your experience in other parts of the country, if you could please submit those in writing to the Chair. Thank you very much.

Chairwoman FUDGE. Certainly those are the unintended consequences.

Ms. Jackson—oh, I'm sorry. Mr. Vela.

Mr. VELA. Thank you.

I'm struck by a few things. The fact that this is the first hearing on this issue since 1982 in the State of Texas makes you realize and it makes you appreciate Congresswoman Fudge's effort to bring this hearing to South Texas and shed light on this very important issue.

Number two, I've heard of many of you over my last three terms in Congress, but—except for Mr. Rios, had not had the opportunity to meet you individually. And I must say now I get it. Your—your testimony has been so compelling and shed so much light on the battle that you consistently wage to protect the very people for which the Voting Rights Act was passed. It is something that we we—we owe a great deal for that.

I must say the other thing that strikes me is that I just began my fourth year in Congress. And believe it or not, to just give you an idea of the depth of experience that is visiting us here today, I am the junior member in this congressional delegation. And—and so again, I thank all my colleagues for that as well.

Mr. Korbelt—I have two questions real quick. I think, Mr. Rios, earlier, when we were in the back, you wanted to shed some light on the issue of the census question and the status of that litigation as well.

Mr. RIOS. Yes. Real quickly, we did win a case in New York. I represented Hidalgo and Cameron County where the judge struck

the citizenship question from the census form. And it was a great victory. It was a 277-page opinion.

One of the looming facts was three of the scientist experts in the Census Bureau had told Secretary Ross, "You can't do it this way. Normally, we test the question for a year, two years to make sure that it's effective and that it doesn't compromise accuracy. What you're doing here is going to compromise accuracy. Instead of having a 3 percent, perhaps, undercount in certain areas, we could have a 15 percent undercount, which means we're not doing an actual census." And that opinion was a great victory.

Right now, the Trump Administration is trying to appeal directly to the Supreme Court because they don't have enough time to get it reversed by the Second Circuit because the census forms have to start printing in June.

Here's where you, the Congress, could get involved, because you have a direct responsibility with the Census Bureau. You can tell them, "Look, forget about printing the form." The office of Budget and Management also, they have to put up the expense. There's hearings on that going on right now. So I hope that helps.

Mr. VELA. Yeah. And maybe, Mr. Dunn, you can answer—elaborate on this. I mean, just for the general public, why is this issue of the census question so important?

Mr. DUNN. Well, so what's interesting is the American system was set up of large states and little states, as we all know from our history. And now we have this unique circumstance where you have a state like Texas that is actively working with the Census Bureau and folks to add a census question that will have the effect of reducing its political power, would result in fewer Congress people or districts being assigned to the state, fewer electoral votes, and importantly, billions of fewer dollars would flow into the state as a result of an incorrect count.

And what that shows is how out of sorts our political alignment in this country has become. No longer are we rural states and urban states and big states and small states, which our Constitution was set up. States are willing to sacrifice their own political power to do harm to minority voting rights. And that's what the census question is all about is—is robbing from our citizens, our school districts, our roads, money so that there's not more Congress people from Texas that are elected from Latino and African-American citizens.

Mr. VELA. One last question, Mr. Korb. So as we wage this effort to protect voter rights, you sometimes hear, "Well, all you're doing is really trying to allow noncitizens to get a right to vote." How do we confront that question?

Mr. KORBEL. Well, I—I think it's very uncommon for a noncitizen to try and vote, because what will happen is if they get caught, they'll be deported immediately. So they—there's just no incentive to do that. And there's also no incentive to turn out—people to turn out a lot of undocumented people to vote.

The closest election we've had in—in 20 years is the one we just had for the Senate, and that was almost a quarter of a million votes' difference. Do you realize the size of fraud you'd have to do to deal with a quarter of million votes? That would be an enormous

fraud. I mean, maybe 50 votes you could change, but you couldn't change a quarter of a million.

Mr. VELA. Thank you. I yield.

Chairwoman FUDGE. Thank you.

Representative Jackson Lee.

Ms. JACKSON LEE. Madam Chairwoman, thank you.

And again, let me emphasize the historic nature of this hearing. And to our host, Congressman Vela, again, as we hold this hearing in South Texas, it is really because of the experts that we have before us really telling the history and story of the entire state of Texas.

Let me again emphasize that the Honorable Barbara Jordan who represented this district would not have been elected had it not been for the 1965 Voting Rights Act. She went first to the—to the State Senate on a district-lined Senate and then off to the United States Congress.

But let me pose questions based upon my being on the House Judiciary Committee when the panic went out that the Voting Rights Act was getting ready to end and we had to create 15,000 pages that brought about the bill signed by President George W. Bush, obviously a Republican, and—and to try to track this questioning of state action and how vile that is, and maybe the word should go out that we're under attack again, and let the horrors of those who bombarded my office and the United States Congress phone saying, "Don't let the Voting Rights Act go out," I think the message needs to go out we need them now.

And so I want to pursue this line of questioning very quickly. Each of you will be a yes or no answer.

Do you consider Texas one of the major epicenters of voter suppression? I'm going one by one. I just need——

Mr. RIOS. Absolutely.

Mr. KORBEL. Yes.

Mr. MCCARTHY. Very much so.

Mr. DUNN. Yes.

Ms. JACKSON LEE. Do you believe that state action is clearly part of that voter suppression?

Mr. RIOS. Absolutely.

Mr. KORBEL. Yes.

Mr. MCCARTHY. Yes.

Mr. DUNN. Absolutely. In fact, I'd say they're on the cutting edge of it here in this state.

Ms. JACKSON LEE. Based on the stories that you've been telling, let me go to this point. One, we know in the voter ID case, we had the Department of Justice documenting and supporting the position that Texas discriminated, discriminated in redistricting. The voter ID law was discriminatory.

You now know that we have a new announcement saying that the DOJ will flip and now support the State of Texas where there's no intentional discrimination, which was found, and will indicate that we are no longer subject to preclearance Section 5, which obviously we've got to fix.

It may take a little bit longer, but I—I'd appreciate——

Mr. RIOS. Within two hours——

Ms. JACKSON LEE. Mr. Rios, yes.

Mr. RIOS. Within two hours of the President's swearing in, there was a notice filed in the court—federal court on the voter ID claiming that they were going to realign themselves, within two hours.

Ms. JACKSON LEE. What impact is that when—when the—when the people's lawyer, the federal law firm that was the instrument of change in the civil rights movement flips?

Mr. RIOS. It has a tremendous impact, because now you have the federal government weighing in on important questions of law, and it has an impact on federal judges and the public at large too.

Ms. JACKSON LEE. Mr. Dunn, is there any basis for that flip? Is there any legal—is there any fact basis that should generate a flip to go against us in terms of saying no discrimination in Texas sufficient for preclearance?

Mr. DUNN. None whatsoever.

And—and I would point out that the Department of Justice, the only federal department named after an idea, has fought for voting rights since it was given the charge in the 1965 Civil Rights Act—Voting Rights Act. And even during other Republican administrations, although they would take actions that I wouldn't necessarily agree with, were consistent in enforcing voting rights, pursuing individual cases in communities. We've not seen any of that from the current administration.

Ms. JACKSON LEE. I want to make the point that the bulk of the members on this panel—I think my numbers are correct—are voting rights districts. And so two questions that you can take them and—what impact is demise and ending of voting rights on the idea of one person, one vote, which is what we're supposed to be adhering to, number one?

Number two, given the *Shelby* decision, what type of record do you think needs to be built that could pressure the Supreme Court in its present configuration that Section 5 preclearance is an absolute necessity to ensure one person, one vote, and to eliminate the intimidation that has come about through closing polling places, short hours, and, of course, purging?

Mr. DUNN. Well—

Mr. RIOS. Document the record. It's very important, just what you're doing.

Mr. DUNN. The ability to influence and dilute others' votes is caustic to our democracy. And in the cut and thrust of politics where sort of anything goes, as you know as well as you do in running for re-election in the various races you've had to face, it's hard for other candidates to not use a tool that's available to them.

And the message that we are delivering lately is that diminishing the right to vote of people that don't support you as a candidate is a proper campaign method. And it's going to continue to increase until Congress, the Supreme Court, and government in general can do something about it. And so this is an important first step.

It's my honor to be here.

Ms. JACKSON LEE. Thank you.

Chairwoman FUDGE. Thank you, Mr. Green.

Mr. GREEN. Thank you, Madam Chairwoman.

Madam Chairwoman, if I may compliment you on your commentary with reference to the poll tax. Indeed, Texas has a poll tax. That's what it is.

The question is how do we acquire and present the empirical evidence to support our contention in a court of law the poll tax exists. Texas will say—and I'm looking at the Department of Public Safety's Web site. They indicate on the Web site that you may acquire an EIC at no charge. That's an election identification certificate, at no charge.

But, Mr. McCarthy, you've indicated that there is a charge associated with it, and I think we need to have you give some greater clarity as to what the charges are, for the record. This will be of benefit to us at a later time.

Mr. MCCARTHY. Yeah. So what I was alluding to in that answer earlier was that—and I think other panel members have indicated that not every county in Texas has a Department of Public Safety branch. And in some instances, people have to travel long distances to get to a DPS office. They need to take time off work. They need to travel long distances. And they need to wait in line sometimes for hours and hours to get their election identification certificate.

And so there may not be a financial cost in terms of acquiring the ID, but there's a significant cost for some people in terms of getting to an office, taking the time off work, waiting for—waiting in line and—and, you know, the—the costs involved in that travel and wait time.

Mr. GREEN. Because time is of the essence, let me ask you quickly. Do you not have to have a birth certificate to acquire this ID?

Mr. MCCARTHY. I don't believe you do.

Mr. DUNN. You have to have a birth certificate or—to get one of the IDs. There's some—there's some substitutes for that, but the—by and large, most people get a birth certificate.

Mr. GREEN. By and large a birth certificate.

As you know, a good many people who live in Texas weren't born in Texas. The notion that the ID is at no cost is promulgated and promoted by Texas in that it will accord you your birth certificate if you're indigent, so they try to get around it.

I tested the system myself. Here's how the system fails us and becomes a poll tax. I'm from Louisiana. Because I'm from Louisiana, when I went to vote, and I chose not to use my proper ID—could use my congressional ID, but I chose not to use the proper ID—I had to send to Louisiana to get my birth certificate.

Texas doesn't cover the cost of a birth certificate from Louisiana. At that point, it becomes a tax, because Texas has tried to eliminate the cost of the birth certificate when, in fact, I had to pay for the birth certificate to get my ID. The five-day period that the Honorable Bennie Thompson mentioned, not enough time to get an ID from Louisiana and bring it back to Texas to get the free ID card.

The 24th Amendment, when it speaks to this notion of a poll tax, it not only talks about poll tax in those explicit terms, it also mentions something else, and this is where I think we have a great argument.

It indicates shall not pay—a failure to pay a poll tax, but then other tax, not just the word “poll tax,” but any other tax. The tax to buy your birth certificate is something that I think is onerous

to the 24th Amendment to the Constitution. And at some point, I think we have to hone in on these nuances such as this.

My friend, Mr. Dunn, your thoughts.

Mr. DUNN. Well, two things about that. In the lawsuit, we actually brought a 24th Amendment claim. The district court ruled that it was, in fact, a poll tax, and then the Fifth Circuit overruled that part of the ruling. And we did ultimately prevail on other—on other theories, and that's why there's the reasonable impediment declaration that allows you to get around it.

But there's a ton of people in—in your situation. I'd like to talk to you just a second about a gentleman named Floyd Carrier, an African-American Korean War Veteran who was born in a hospital on a county line in East Texas. And they didn't register his birth, so he can't get a birth certificate. It doesn't exist for him. And when the voter ID law went into effect immediately after *Shelby County*, he drove his tractor down to the polling location, because he can't drive. He doesn't have a driver's license.

And he goes down there where everybody knows him. "Hey, Mr. Carrier, how are you doing?"

And they—and he says, "Can I vote?" And they said, "Well, we need your ID." And he says, "I don't have an ID."

And they said, "Well, Mr. Carrier, we know who you are, but we're not allowed to let you vote anymore."

A veteran of the armed forces in the Korean War was—was excluded from voting because of some mistake made at his birth in paperwork. And now he has to go through the reasonable impediment declaration process, which, as I mentioned earlier, is separate but unequal in its own burdensome process. It's an improvement, but it's certainly no repair.

So, yes, it's very much true that the that—that there continues to be a poll tax. It's not just that on birth certificates. Another example, we put people on buses in Houston, for example, and had them go get their birth certificate from certain addresses. And they'd stand in line. And, sure enough, you'd be missing a document, and they'd have to go home. Some of them, it ended up taking them four or five days would be off work. These were people we had, you know, got to do this.

And then a different bus to the DPS station. Well, in Houston, the DPS location where you get your driver's license is not in the urban core. And for several people, it was three different bus routes and transfers, an all day process.

And sure enough, you'd get to DPS, you wait in line your hour and a half, and you're missing one thing that wasn't on the Web site. So there's a whole lot of hassle both financial, time, money, lost time with family that—that these kind of laws and that's what they're designed to do, make it hard so the people won't do it.

Mr. GREEN. Thank you, Madam Chairwoman.

Mr. Vela, thank you again for helping us to have this historic occasion:

Chairwoman FUDGE. Thank you.

As I wrap up, let me just say a few things. One, of course, is your testimony has been enlightening, it has been at times disturbing, and at times just egregious. It is something that I think every single citizen of this country needs to hear.

I represent one of the poorest districts in America with a fairly large minority population. And what I know is that most people who are poor or who are of color, the only protection we have is the law. It is the courts. And so if you had an opportunity to say today to the Supreme Court why we need to reinstate fully the Voting Rights Act, each one of you just please tell me what that is.

And we'll start with you, Mr. Rios.

Mr. RIOS. I think as the minority community becomes more politically active, the power structure will make it more difficult for them to participate in the political process and continually violate the Constitution.

Chairwoman FUDGE. So you're basically saying if we allow people to their own devices, they will do things that are not right. Okay.

Mr. Korbel.

Mr. KORBEL. Well, Congresswoman, I think it's really this chart showing how small the Anglo population is getting and how big the minority population is getting.

The—the other side is simply afraid that they're going to lose control of the state. This is very disturbing to them.

Chairwoman FUDGE. And we'd like to also have a copy of your map in addition to that, because that is happening literally all over the United States.

Mr. McCarthy.

Mr. MCCARTHY. Yes. I said before that voting is the cornerstone on which all of our other civil liberties rest. And what we've heard today is ample evidence that—that people's right to vote is being curtailed in this state. People are having their votes suppressed. And so something really needs to be done to stop that.

Mr. DUNN. Chief Justice Roberts said in the *Shelby County* opinion that nobody denies that there's racial discrimination in voting, and one circumstance is too many. But times have changed. And we certainly can't deny that. Times have changed for the better, sometimes for the worst.

What I would say to the U.S. Supreme Court is in all due respect, open your eyes and look at least what has happened since you made that choice. I believe these are people of integrity. And perhaps they live in different communities than I do and have different experiences, but open your eyes, because you have unleashed something that is hard to put back in the bottle.

Chairwoman FUDGE. I thank you all so very much for your testimony. I thank my colleagues for their participation.

We do have another panel, and I think we are right on time, so thank you very, very much.

Mr. RIOS. Thank you, Congresswoman. (Brief recess)

Chairwoman FUDGE. I'm happy to, at this point, introduce Mimi Marziani, who is the chair of the Texas Advisory Committee to the U.S. Commission on Civil Rights.

Mimi, the floor is yours.

Ms. MIMI MARZIANI. Wonderful. Can you hear me okay? Okay. There we go. Wonderful.

Well, good morning, everybody. It is a great honor to be here, so thank you for having me. My name is Mimi Marziani. As mentioned, I am the Chairwoman of the Texas Advisory Committee to the U.S. Commission on Civil Rights. In addition, I'm the President

of the Texas Civil Rights Project. And on top of that, I'm an attorney. I am a professor of election law and voting rights. I'm a community leader. And maybe most importantly, I'm a mom of two young daughters. I believe deeply that Texas can be better than what it is, and I care about the future of this state.

I have two goals this morning for you. First, I want to highlight the significant ways in which continued discrimination against voters of color in Texas is undermining the promise imbedded in our Constitution of equality and human dignity.

My second goal in doing that is to give voice to some of the voters in Texas who have been affected and describe for each of you what that's really felt like for them and what that's looked like on the ground. I'm going to attempt to be concise, and—but, of course, I am happy to answer any questions you have.

So first, discrimination in voter registration is persistent. And, in fact, and sadly, it appears to be getting worse. We've heard quite a bit this morning about the unlawful purge of new citizens from the rolls, so I won't spend any more time on that except for—except to share two points with you. This morning, the Texas Civil Rights Project joined with the Texas ACLU and other organizations filed suit against the State of Texas and several counties over this unlawful purge. We have a 50-page complaint that outlines a number of ways in which the state has violated the Constitution. Happy to answer questions about that litigation.

The other point I wanted to make about the purge is maybe even more important. Last night, I had the pleasure of speaking with a woman named Sylvia. She's a naturalized citizen here in Texas, and she was interested in joining our lawsuit. She declined to do so, however. And the reason she declined is because she's scared. She's terrified in this sort of environment in this state that by speaking out, putting herself on the line that she could face retaliation from the government. And—and I share that to describe the type of environment in which voters are operating.

So a couple other examples of discrimination in voter registration. Since at least 2011, Texas has worked to eliminate grass roots voter registration drives. I heard a number of you talk about voting rights in the '60s and '70s and '80s, and so you know that voter registration drives have been a really incredibly important way to bring new people into the electorate, particularly young people and persons of color.

Sadly, in Texas, it's a crime to register your neighbor to vote unless you've jumped through a lot of hoops and have gotten deputized by the state. The very predictable result of this regime has been the elimination of this sort of grass roots effort. And, unfortunately, that has led to ridiculous situations, such as, for example, in 2016 in the City of San Antonio, a city with a population of more than 1.5 million, there were under 1,000 people eligible to register somebody else to vote.

The third failing of voter registration that I wanted to highlight was the Secretary of State's persistent failure to enforce a state law requiring that high schools register to vote young people. And this has been something the state has refused to enforce in recent years despite public outcry, despite the fact that 72 percent of our high school students in Texas are persons of color themselves, and de-

spite the fact that the state's inaction is causing literally hundreds of thousands of young people every year to go unregistered and, therefore, not be able to participate in our democracy.

Finally, I wanted to highlight that Texas has been refusing, in addition, to comply with federal voter registration law, namely the Motor Voter Act. By not complying with the National Voter Registration Act when people go online to update their driver's license, 1.5 million Texas—Texans annually are missing an opportunity to register to vote. This, quite frankly, hits the entire population, but it hits frequent movers even harder, because it means that as they move, they are no longer registered at their current address. Frequent movers tend to be poorer and younger, and, therefore, in Texas, they are much more likely to be people of color.

The culmination of all of this discrimination in voter registration has had significant consequences. First, we know that there are millions of people in Texas who are eligible to be registered to vote, but they are not, meaning that they just cannot participate. They are just shut out of the process. In addition, the people who are on the rolls don't represent us. The people on the rolls in Texas are older and whiter than the citizen voting age population as a whole, and so it has skewed the entire political process.

I see I'm out of time.

Chairwoman FUDGE. Just wrap up.

Ms. MARZIANI. Okay. So one note on the Motor Voter piece. I did want to share the story of a woman named Tatsia Watkins. She's a black mother of two from Irving, Texas, in the Dallas area, and she worked very hard to move herself to a new neighborhood with better schools. She dutifully went online to try to update her driver's license and register herself to vote. When she showed up at the polls in 2014 to try to cast her first ever vote in a midterm election, she wasn't able to cast a ballot that counts. And this happened in front of her daughters. And she honestly cannot talk about it without tearing up.

So again, that is what this sort of discrimination looks like on the ground. And as some of the other panelists mentioned, when that sort of thing happens to a person, they are much less likely to go and try to vote again.

In my written testimony, I also talk about a medley of problems that happen once folks actually show up at the polling—at the polling place and try to vote, including long lines, changed polling places, mismanagement, and good old-fashioned voter intimidation. I'm happy to talk about that further during the question period, but I'll stop my opening.

Chairwoman FUDGE. Thank you very, very much.

We've been joined by our colleague Mr. Veasey. Thank you so much. We are glad that you made it, Marc.

Mr. VEASEY. Thank you.

Chairwoman FUDGE. Why don't we begin the questioning as we've gone the same way that we went before. We will start with Mr. Thompson.

Mr. THOMPSON. Thank you very much.

One of the challenges we've had with the Motor Voter Act is there's no requirement that if I'm registered at a state agency, there's no timeline for me to transfer that data to a local registrar.

And so that has compounded the problem, because some people went to get driver's license, registered to vote, but that information didn't get transferred to the local registrar.

And so when they go vote they're told, "You're not registered." So that's one of the things that we're trying to look at also to see should we put a time limit on the agency to transfer that registration data.

Have you run into that?

Ms. MARZIANI. So, in fact, there is a time limit in the existing National Voter Registration Act. That already exists. Unfortunately, what you're highlighting is that there is rampant non-compliance. And one thing that has been really unfortunate in recent years is the Department of Justice has completely stopped enforcing the National Voter Registration Act, and then you see a lot of states that are not in compliance.

Mr. THOMPSON. Well, when we approached my state, Mississippi, they talked about the capacity issue and the ability to do it, but I'm happy to know that.

The other part of that question is have you found a—that when officials are trained to conduct elections, most states don't have standards? You know, if you're somebody's friend, they pick you to work the election. How is it in Texas, to your knowledge?

Ms. MARZIANI. Yes. So in Texas, poll workers are usually appointed by the local political party. And to your point, there are very few standards on who is able to be a poll worker. They're paid very little. The training is haphazard. And the result of that is pretty gross mismanagement of the polling locations. And I've included this in my testimony.

But one very blatant example, during the 2018 election, so just a couple of months ago, in Harris County, home to Houston, there were at least nine polling locations that opened more than an hour late, all of them located in communities of color. And when we called the local county clerk and said, you know, action needs to be taken, we were told that, "No, no. We shouldn't worry about it. These sort of problems are typical for election day," even though countless folks were just—you know, they—they couldn't stand in line for hours and hours.

And ultimately, we sued representing a community organizing group here in Texas, and we were able to get the polls opened for another hour. But that's one example of the—and, you know, people slept in. They didn't know how to turn on the machines. They were really basic things, but it—it comes from having folks who are—who are not professionals, who are not properly being trained, they're not properly being supervised, they're not properly being paid.

Mr. THOMPSON. So you would recommend some standardization of a training regimen for election workers?

Ms. MARZIANI. Absolutely. And not just me. In 2012, you might recall President Obama saying that we need to do something about long lines. And there was a bipartisan commission that he convened, and they issued a report. And one of the things in that report, as, you know, unsexy as it sounds, was exactly around poll workers and looking at how many problems are caused at the polls

by the lack of professional poll workers. And then there's a whole list of things in that report that we could do.

Mr. THOMPSON. Thank you. I yield back.

Chairwoman FUDGE. Ms. Johnson.

Ms. JOHNSON. Have you had an opportunity to look at the different applications for driver's license in any one state—any more—more than one state?

Ms. MARZIANI. Yes.

Ms. JOHNSON. Like Texas versus any other state?

Ms. MARZIANI. With regards to the Motor Voter Law you mean?

Ms. JOHNSON. Yes. Because the voter—the driver's license now in Texas focus more on voting rights than they do on driving. And I just wondered if we could compare that to any other state.

Ms. MARZIANI. Well, so one thing I will say in Texas that the Department of Public Safety, which is in charge of driver's license, they have been extraordinarily hostile to the notion that they need to comply with the Motor Voter Law or that they need to issue voter IDs to people. And so I'm not sure how that compares to other states, but that has been a significant problem.

With regards to what I spoke about the failure to offer voter registration when folks go online and update their driver's license, as 1.5 million Texans do every single year, that problem, you do see it in some other states, but it is much less of an impact in other states because many other states have online voter registration.

In Texas, we have taken no steps to modernize voter registration, so you don't have any online voter registration. And in addition, when people go online to update their driver's license, they're not getting the benefit of the rights under the National Voter Registration Act. So there's this—this double whammy.

Ms. JOHNSON. Thank you very much.

Chairwoman FUDGE. Mr. Luján.

Mr. LUJÁN. Thank you so much for being with us today.

I was intrigued by the aspects of your testimony regarding young voters in the State of Texas. Can you expand on that and again remind us of the percentage of people of color currently in high school. I think you said 72 percent, but exactly what this means in making it harder for young people to get registered or—to participate in voting in the state of Texas.

Ms. MARZIANI. Absolutely. So as I mentioned in my testimony, I think there's a really important background fact for the panel to consider is that race, age, and class closely correspond here in Texas. And so one statistic, when you look at Texans under 40, it's almost 60 percent black or Latinates and 35 percent Anglo.

When you go over 40, that flips. You—you're about 56 percent Anglo, 38 percent black or Latinates. And so by definition, when you're talking about young people in Texas, you're talking about a population that is majority minority; Similarly, as we saw in the voter ID litigation, poorer folks in Texas are more likely to be people of color. So all these things correspond very closely.

When you get even younger, so under 20, the statistics are even more pronounced. And as I mentioned before, 72 percent of high school students in Texas are persons of color. And—and that's one of the many reasons that we are so concerned by the state's per-

sistent failure to enforce our very own Texas law requiring that Texas high schools offer voter registration twice a year.

Mr. LUJÁN. I appreciate that. Thank you very much.

Madam Chairwoman, I yield back.

Chairwoman FUDGE. Mr. Vela.

Mr. VELA. Mr. Veasey, I'm no longer the junior member in this delegation.

Mr. Veasey, Mr. Joaquin Castro, and Beto O'Rourke, and I were all elected at the same time. And Mr. Veasey was one of the first people out front on the issue of voting rights.

And given our—our time constraints, what I'd like to do is go ahead and yield my five minutes to—to Mr. Veasey so he can take his full ten.

Chairwoman FUDGE. Mr. Veasey, you're recognized.

Mr. VEASEY. Fil, thank you very much.

Madam Chairwoman, thank you.

This is really appropriate that we're holding this hearing in Texas. As you know, from the time of reconstruction until the Voting Rights Act was passed, Texas had as oppressive voting laws as any state in the union, including the—the three deep southern states that are—that are often mentioned when it comes to voter suppression.

But something happened after the Voting Rights Act passed to where Texas became one of the leaders in the expansion of voter rights. I mean, you look at, for instance, straight-ticket voting, being able to vote anywhere in your county during the early voting period, just making it so easy for voters to be able to—to cast their ballot.

And then, of course, over the last decade or so, we've regressed. We have now become one of the very worst states, including this voter ID bill that has been talked about, and then a lot of other things that have happened that people are—aren't quite sure about yet, especially outside of the state.

One is that we ended straight-ticket voting. And the amazing thing about us ending straight-ticket voting is that when I was in the State legislature, the Republican and Democratic activists and organizations, they came to testify before Austin begging us to not end straight-ticket voting. And, of course, the Lieutenant Governor's son lost an election in Harris County in Houston, and they get rid of straight-ticket voting, which was so easy and convenient for—for so many people. And, of course, a lot of people think that that's meant to hurt people in the African-American community.

We also had a—things that people—again, because luckily they didn't become law, but in the House, when I was in the House, actually passed a piece of legislation that said that you could only register to vote if you had a passport or a birth certificate. I don't know how many voter registration drives would be successful if you had to have one of those two on you. I doubt very many people have their passport or birth certificate on them in this room right now.

And my question specifically to you is what steps do you think, or what areas do you see Democrats and Republicans in the Texas Legislature being able to work together to maybe perhaps, do some good common sense legislation that would actually increase con-

fidence that people, especially elected officials in the state, care about people being able to cast their ballot and the right to vote?

Ms. MARZIANI. Absolutely. It's a fantastic question. Two things I would point to that I think are very much common sense reforms. One is allowing online voter registration. There is—there's scores of evidence from across the country. Right now, more than—I think it's 42 other states have online voter registration. It saves money. It makes the polls more accurate. It transfers power to the voter themselves, because they can check the accuracy of their records and update them. And it increases security. So—that is one thing that, you know, you look at other states, it's very much been a bipartisan effort.

I think a second thing that I—I would really hope we could find bipartisan agreement would be around professionalizing the polling place. And so I do think that includes poll worker training, but it also includes updating our voting technology. The—most of the voting machines here in Texas are—were purchased in 2002. I will admit in 2002, I was not a lawyer. I didn't—you know, none of us had iPhones. You know, just think about what you were doing in 2002 and how far back we were. And so no surprise they're on their last legs.

And that's why our voting machines are doing things like flipping people's votes entirely. And that was confirmed in the 2018 election that people pulling straight-ticket Democrat, it was flipping to straight-ticket Republican and vice versa.

So those are two places where I would really hope we could see some bipartisan agreement.

Mr. VEASEY. Speaking of professionalizing the polling place, could you explain to everybody here why it would be a bad idea to allow people to remain anonymous when they report as poll workers.

We had an organization several years ago known as the King Street Patriots, this right-wing conservative organization that was trying to get a bill passed that said that poll—that people that are coming to observe, the poll watchers, need not show any identification or fill out any forms, that they should just be able to show up and anonymously be poll watchers. Can you explain to everybody why that's a bad idea?

Ms. MARZIANI. Yes. I will give two examples, in fact. One involves a member of the King Street Patriots, Alan Vera, who in 2018—August 2018, so just a couple of months ago, actually submitted to the Harris County voter registrar's office 4,000 challenges of registered voters in Houston. And he based it not on personal knowledge, as the law required, but on his own assumptions built into the addresses people had provided.

And we are still actually examining all of those addresses for patterns, but I can tell you a lot of them come from communities of color, and a lot of them are folks who are very, very poor who are living in churches, homeless shelters, places like that. And they had submitted those addresses, as you are allowed to.

And one of the reasons that he did this blanket challenge is because he didn't actually have to stand up and say that he had personal knowledge for every single one. And so I think that is the type of thing you could expect if you allow things to be anonymous.

Secondly, you know, I think that it is just contrary to notions of justice and—and due process, and, quite frankly, the type of political dialogue that we should have. There's a great case from a couple of years ago where people were trying to shield their identity when they were signing controversial ballot initiatives. And Justice Scalia actually said that hiding your identity in these type of situations hardly resembles the land of the brave.

And—I think that that's the other piece of it, that it's not fair, and it can't actually promote the type of political dialogue that all of us would want.

Chairwoman FUDGE. Ms. Jackson Lee.

Ms. JACKSON LEE. Thank you very much.

And welcome, Mr. Veasey. We thank you for your leadership on the voter ID legislation that obviously is one of the centerpieces of dealing with voter equality, which I'd like to call. Let me thank you very much for your leadership.

And I might refer to some points that you made in your testimony. I'd just like to refer to them again that your testimony here today is to highlight the continued discrimination in Texas against voters of color, which you believe undermines equality and human dignity. So I ask you the question do you believe that Texas is one of the major epicenters of voter suppression?

Ms. MARZIANI. Not only do I believe that, it is the number one reason that I transferred my legal career from New York to Texas.

Ms. JACKSON LEE. Thank you.

And do you believe that part of that suppression or all of it or much of it is state action driven?

Ms. MARZIANI. Yes.

Ms. JACKSON LEE. And your other point made here—and I'm going to follow a line of questioning—is you talk about the fact that race, age, and socioeconomic status are closely correlated in Texas. And here's your exact language.

African-Americans and Hispanics are more likely than Anglos to be living in poverty because they continue to bear the socioeconomic effects caused by decades of racial discrimination. Do you agree with that?

Ms. MARZIANI. That's actually the court's language in *Veasey v. Perry*. So, yes, absolutely.

Ms. JACKSON LEE. And with that in mind, they bear the brunt—and I think it's important to note Hispanics and African-Americans as a group, and, therefore, it is important for that coalition around these issues to be strong. But you believe that that is ongoing at this point?

Ms. MARZIANI. Absolutely. And I would add there's also pretty rampant discrimination against the Asian-American community as well.

Ms. JACKSON LEE. So let me raise these questions. One, you gave some history, but I remember in the voter ID law that we were experiencing the panic in rural areas of DPS offices closing up or not being available. Number one, if you will comment on that.

In the recent 2018 election, you may realize in the early vote, which we pride in Texas, Hispanics and African-Americans in particular have jobs that really don't release them or they don't get off until 5:00, 6:00, or so. And their normal thinking about elections

are the polls are open until 7:00. Our local officials closed the polls at 4:00 p.m. You might comment on how horrific that is in terms of people's mindset.

Also, the issue of humiliation, I've experienced that. And I think you had in your testimony the question of a Latino person who was told to get after they confiscated her passport, which in the context of ID, it was a legitimate form of ID. Just if you can just answer those three, and I have a follow-up question.

Ms. MARZIANI. Absolutely. First, yes, DPS offices are often located at very great distances for citizens, which makes it extraordinarily hard for them to get the ID that they need. So—so you're absolutely correct.

Early voting is a very important way for people to have the flexibility to be able to get to the polls, especially if they have young children, if they work job that are inflexible, for all sorts of other reasons, I'll note that we were very concerned in 2018, even though there was advanced warning that this was going to be a high turnout election in Texas, and it was, that because of the mismanagement of polling places; we saw long lines even during early voting. I have this in my testimony, you know, people waiting an hour in San Antonio, an hour in Burnet, an hour in La Porte; two hours in Austin, two and a half hours in Houston, three hours in Corpus Christi. And so that still—those are significant problems during early voting.

Finally, on pages 6 and 7 of my testimony, I include some pretty horrific stories that voters experienced when they were seeking to vote, many of them at the hands of election workers. One I'll highlight. A brown-skinned voter in Kingwood gave her driver's license to a poll worker who asked her how long she had been in the U.S. She responded that she was a naturalized citizen from Canada. The poll worker said, "Welcome to America."

He then asked the same question of the voter's mom but then did not ask that question of any of the light-skinned people standing in line.

Ms. JACKSON LEE. Let me conclude, Madam Chairwoman, if you'll let me get this last question in. This is an editorial by The Houston Chronicle that indicates the governor owes an apology for his ham-fisted try at voter suppression.

It reads "The Secretary of State should probably resign after issuing an advisory on January 25th flagging 95,000 of the state's registered voters as potential noncitizens. At least 58,000 of those people have voted at least once since 1996 he said."

But my question is given—tying this in, and given the fact that only 68 percent of Texans are registered to vote because of suppression and intimidation, given the *Shelby* decision, your experience, what type of record do we need to continue to build to ensure that the Supreme Court, no matter its configuration, more Republican appointees, realizes that Section 5 needs to be reinstituted?

Ms. MARZIANI. Well, I—I think it's an excellent question. I—I worked in the testimony to try to provide as many contemporaneous examples as possible.

I will say that in addition to what's in the testimony that resubmitted around voter registration and polling access, the report that the Texas State Advisory Committee issued and presented to the

U.S. Commission on Civil Rights last year, our report also has, I think, ten pages of findings. And that was a bipartisan group that concluded at the end of the day that, you know, Texas—to put it simply, that Texas is not a red state or a blue state. Texas is a non-voting state. And the reason we're a nonvoting state is because of these systemic barriers that have been put in front of the voters.

Ms. JACKSON LEE. Thank you,
Chairwoman FUDGE. Thank you.

Mr. Green.

Mr. GREEN. Thank you, Madam Chairwoman.

And I thank the witness for appearing. Your testimony has been invaluable.

I'm a son of the segregated South. I know what it's like to be suspect because of your appearance. I know what invidious discrimination looks like. I've seen the Klan with the robe in my community. I know what it smells like. I was forced to go to filthy colored waiting rooms at restaurants and various other places. And I know what it sounds like. I've been called ugly names. So I understand what being a suspect just by virtue of who you are is like.

And what I see happening to the Latino community is very painful, because the Latino community now is being suspect. What's happening at the southern border, asylees being called terrorists. The whole notion that Latinos somehow are illegal by virtue of the titles that are being accorded them by public officials. When you call people illegal, you then say something can happen to them because of their status. The notion that you can purge the rolls by coordinating your effort with the Department of Public Safety.

And if a person happened to have registered to acquire a license as a potential citizen, not a citizen at the time, permanent resident, there's no law that requires you to later on go back and acknowledge that you're now a citizen, so you become suspect by simply having acquired a driver's license as a permanent resident.

This type of behavior from public officials—we're not talking about just lay people, but from public officials has to have an impact on the way people participate in a participatory democracy. And that's what we have.

So the question for you is given all of these things that are being used as tools against the Latino community, does—does this in and of itself create a form of suppression in terms of a willingness to register, a willingness to go to the polls and vote? Does this behavior from public officials have an invidious—insidious, if you will, impact upon Latino voters?

Ms. MARZIANI. Absolutely. Two comments. One, thank you for sharing that. I'm also a child of the South, and that's why I know that racial discrimination is alive and well.

Secondly, yes, you're absolutely right. And—and I'm actually going to point to something that is—might be—might seem on its face to be outside of the voting rights sphere, but the SB4 law that was passed by the legislature in 2017. Now, as I see a lot of nods. SB4 is a sanctuary city and show me your papers bill. And that is indeed what it does.

But in addition, SB4 seeks to sow fear in Latino communities. And in that litigation, the Texas Civil Rights Project represents a number of community organizing groups. And what they

shared with us is that because of SB4, they had members who suddenly were afraid to go into the public sphere and speak out. They were afraid to go to rallies. They're afraid to register other people to vote.

And so, yes, I agree with you absolutely. And I think that it's not just the photo ID bill or these unlawful purges. It's also things like SB4 that are contributing to this environment of fear and suppression that is just poisonous for our democracy.

Mr. GREEN. Final point, and I have very little time, but the tone and tenor of the political debate often emanates from the top. The President has said some ugly things. How has that tone and tenor trickled down to the people who have the right to exercise the vote?

Ms. MARZIANI. Well, one thing we can look at is the rampant misinformation. For instance, the claim that voter fraud is some sort of systemic problem, which we've discussed has no factual basis.

I'll point to a very recent example. We've noted that the Texas Secretary of State in sending out this advisory that 95,000 people are suspect, to use your word, although that was not rooted in sound data, well, almost immediately after that went out 11 days ago on January 25th, the President of the United States tweeted that there were 60,000 people who had voted illegally in Texas. It is just without factual basis.

But I find it hard to believe that that couldn't—you know, I mean, people—people trust their elected officials. And so surely that has led many people to believe that there is, in fact, these—these rampant problems, when, in fact, there's no basis at all.

Mr. GREEN. Thank you, Madam Chairwoman.

Chairwoman FUDGE. Thank you.

Ms. JACKSON LEE. Madam Chairwoman, can I put something in the record?

Chairwoman FUDGE. Yes.

Ms. JACKSON LEE. And I won't ask her for an answer to it, but I just want to put it on the record.

The witness, Ms. Marziani, indicated Asian voters, and that speaks clearly as much as Hispanics to the—the language question. And more of it has come because of lack of Section 5.

But I want to add to the record that Texas changed its voting process that had been in use for decades straight ticket. And, of course, people will view that as partisan or political, but it was used by Republicans and Democrats. And it was put in—when I say “straight ticket,” the elimination of straight-ticket voting, it's used by Republicans and Democrats. But more importantly, it is a tool that sometimes illiterate voters are able to use or—or disabled voters are able to use.

And so we had no Section 5 preclearance on the elimination of the straight ticket, which I believe will disenfranchise maybe hundreds of thousands and maybe a million voters plus because it impacts individuals who may be illiterate, who have a language issue, and as well may be disabled. And I just wanted to put that on the record.

Chairwoman FUDGE. Thank you.

Ms. JACKSON LEE. Thank you.

Chairwoman FUDGE. As we prepare to close, I have one question, and then I'll wrap up. Is there something that you—or—or could you briefly just tell us what your protection program really is and how it functions.

Ms. MARZIANI. Yes. So the Texas Civil Rights Project is really proud to spearhead a statewide nonpartisan election protection effort, and we've been doing so since 2016. That entails dozens of organizations, most of us here in Texas, but also with some help from some national counterparts.

And we put volunteers outside of polling locations to answer questions and collect problems. We run a hotline available in a number of different languages for voters to call us and ask questions and report problems. And then we train and deploy a group of attorneys who are ready to do things like—like sue a county, the example I gave, to keep polls open later on election day.

I have a number of examples in my testimony of some of the calls we received, what voters told us. We received over 4,200 calls in 2018. And we forthcoming have a report that will document in greater detail what we heard from the voters in 2018. We—we compiled a similar report after the 2016 election that is linked in my testimony.

Chairwoman FUDGE. Thank you very much. That is great work.

As we close, let me just say a couple of things. One is, as you talked about, young people. In my district, we have a morning where students come to vote in early vote. I meet those buses. I ask them how they feel when they go in, and I ask them how they feel when they come out. There's a great sense of pride when young people go and vote. And so I am hopeful that we will continue to deal with that situation.

Lastly, I would say to those who are listening as well as to those who would continue to try to stop us from voting that this is still the land of the free and the home of the brave. We're still the country that decides what democracies we recognize. We're still the country that wants to spread democracy all over the world.

So I would say to Chief Justice Roberts, give us the ballot, because it is a shame that the country that calls itself the light on the hill would treat its own citizens this way,

I would close and say thank you all so very much. Without objection, this session of the Committee on House Administration is adjourned.

(Listening session concluded.)

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ROLANDO L. RIOS & ASSOCIATES PLLC 

TESTIMONY OF ROLANDO L. RIOS BEFORE THE UNITED STATES
CONGRESSIONAL COMMITTEE ON HOUSE ADMINISTRATION

February 4, 2019 Brownsville Texas

Thank you Chairwoman Fudge; it is an honor to present testimony today in support of amending and strengthening the Federal Voting Rights Act.

My name is Rolando L. Rios; I am a voting rights attorney in private practice here in Texas; my practice in voting right started immediately after graduating from Georgetown Law; I have been doing voting litigation for the past 35 years mostly as a private practitioner working with the NAACP, MALDEF, SW Voters, Legal Aid and other public interest groups. My office has been involved in over 200 voting rights cases in Texas. (the list of cases is attached to my testimony along with a map that identifies where the litigation occurred)

I hasten to add that we had an over 95% success rate because of the Voting Rights Act; The great successes was not because we were such great lawyers but because of the effectiveness of the Federal Voting Rights Act; the Act eliminated at-large voting in Dallas, Houston, Ft. Worth, San Antonio, Waco, Lubbock, Midland, and Odessa just to name a few of our major cities.

After the 2013 *Shelby* Case the success rate dropped dramatically and ‘turned the dogs loose’, so to speak, on minority voters by enabling the passage of some of the most repressive state voting laws.

We need immediate action from congress to combat the adverse effects of the *Shelby* Case; there is now a continued all-out assault on the right to vote by the State of Texas against the Latino and African American community.

This all-out assault started in 1994 after the effects of President Regan’s immigration bill that allowed millions of Latinos to become citizens. After the 1994 election the Republican Party realized that 70% to 80% of the new Latino citizens were consistently voting for Democrats. At that point, the Republicans declared “we have an immigration problem”. As the Republicans took over congress for the first time in 30 years, there has

be a continued drum beat of “we have an immigration problem”. No we don’t! We do not have an immigration problem! The problem is that the Republican Party refuses to address the issues of importance to the minority community and instead have pursued a sinister and illegal strategy of denying minorities the right to vote. This is why we need congressional action.

Since the 2013 *Shelby* decision the assault on the right to vote in Texas has intensified immensely as follows:

1. Local jurisdictions like the City of Odessa whom we sued in 1985 challenging at large elections and won with the federal court ordering the creation of single member districts. This year as the minority community was becoming stronger and minority control was looming, the city passed a charter amendment reinstating at large voting – this would never have been allowed before *Shelby*.
2. The Texas voter ID law was passed after *Shelby* and after years of litigation declared unconstitutional by the federal courts; this law would never have been passed in the first place by Texas prior to *Shelby*.
3. Last week the Texas Secretary of State sent letters questioning the voter registration status of 95,000 mostly Latino naturalized voters; Texas went back to 1996 to identify naturalized voters; these are individuals that were in this country legally and obtained a driver’s license before they became naturalized. After naturalization they registered to vote and have been voting. With no substantive basis now Texas wants them to produce naturalization papers; this is clearly intended to intimidate and harass Latino voters.
I predict you see this strategy against naturalized citizen voters will be used in other parts of the country by other state actors.

FINDING OF INTENTIONAL DISCRIMINATION:

A court declaring that a state actor acted with “intent” to discriminate was a rare occurrence in this country; Courts usually attempt to resolve voting litigation without getting into constitutional findings. However, since *Shelby*, the bad actors have become more aggressive. Because of that aggression, intent findings have been more common across the country: in Texas alone, three recent decisions involving 7 different

federal judges (Democratic and Republican appointees) unanimously found “intentional” discrimination by Texas against minorities.

For example, the 2011 Texas Congressional redistricting plan split the African-American and Hispanic communities of the Dallas-Fort Worth Area into seven separate Anglo-controlled Congressional districts. (point to map) The dark line captures the minority community; as you can see, the area is split into seven different congressional districts.

The “lightning-bolt” shape of District 26 illustrates a particularly egregious configuration, it captures much of the Hispanic population of Tarrant County and merges that population to primarily Anglo Denton County.

Moreover, to prevent the emergence of a new minority district, the State packed the combined black and Hispanic voting-age population of District 30 from an already minority concentration of 81.1% up to a remarkable 85.9%. The Court found the Congressional districts configuration in the Dallas-Fort Worth area can only be explained by a clear intent to discriminatory — the court further said there was more evidence of intent to discriminate but had neither “space, [n]or time, to address.”

In the Texas voter ID case the Court again found that SB 14 was passed [by Texas] with a **discriminatory purpose** in violation of Section 2 of the Voting Rights Act.

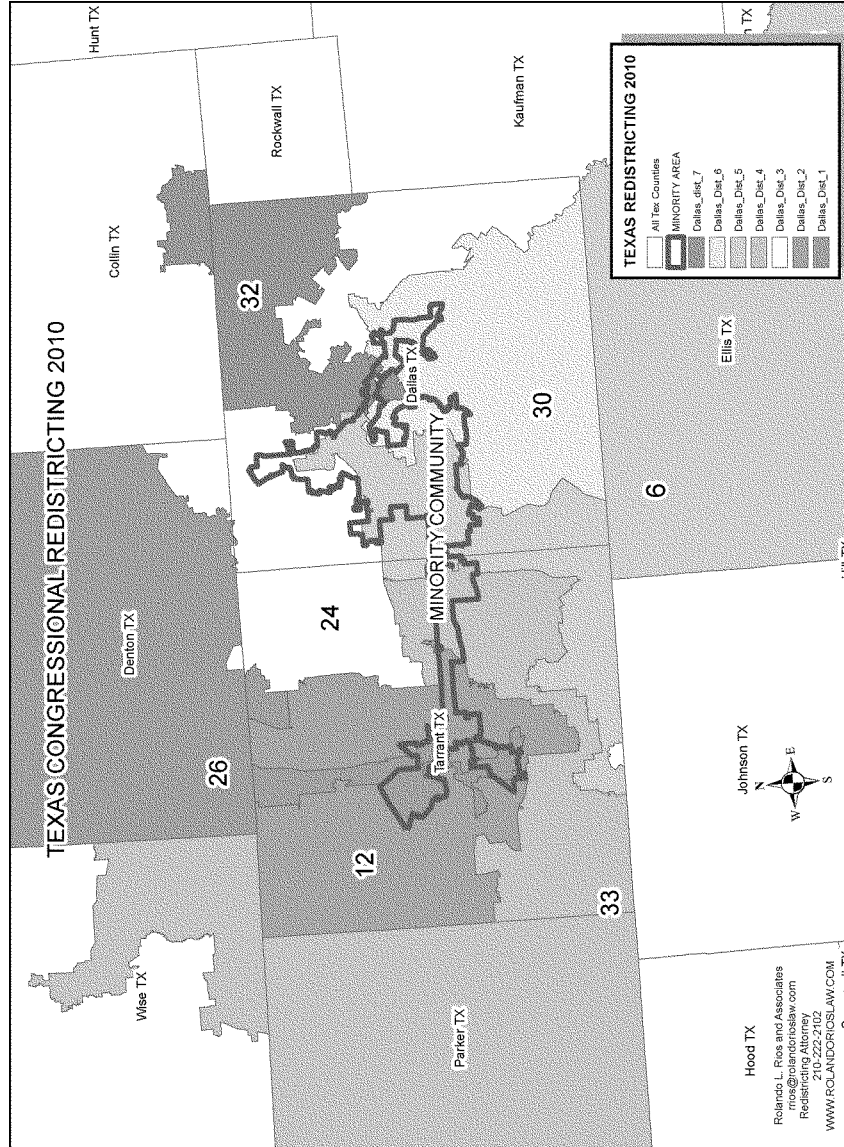
And finally in the *Perez* Case, another 3 Judge court found that the map drawers acted with an **impermissible intent** to dilute minority voting strength; the Court found intentional “**packing and cracking**” against minorities.

Every decade, starting in 1970 federal courts have found that the State of Texas’ redistricting plans violate the voting rights of the minority community – they are batting 100%; this is unlikely to change as the minority community becomes more engaged in the political process; moreover, it highlights the need for congressional action to protect the right to vote of minorities.

One final point: Here in the fifth circuit there is an effort to **identify racially polarized voting as simply partisan voting** and that federal courts should not get involved in politics. The reality is that in Texas partisan voting is racially polarized voting and a basis for declaring a voting procedure illegal under the Voting Rights Act and the equal protection clause.

This issue of partisan voting should also be cleared up by this congress as it amends the Federal Voting Rights Act; it is a matter of great urgency; we need you to act on our behalf.

Thank you for your time and attention, RR



Cases Litigated by Rolando L. Rios & Associates, PLLC

<https://www.rolandorioslaw.com/single-post/2018/06/18/Voting-Rights-Cases-Litigated-by-Rolando-L-Rios-Associates-PLLC>

Supreme Court Cases:

1. *League of United Latin American Citizens (LULAC) v. Perry*, 126 S. Ct. 2594 (2006) This case successfully challenged the legality of the so called "Tom DeLay Plan" the did a midterm redistricting of the Texas Congressional Districts. The United States Supreme Court ruled on favor of LULAC and ordered the redrawing of five congressional districts in South Texas to remedy the violation of the voting rights of the Latino community. The Rios Firm represented LULAC.
2. *League of United Latin American Citizens (LULAC) v. Midland Independent School District*, 648 F. Supp. 596 (W.D. Tex. 1986). This case successfully challenged the use of the at large election system to elect the Midland Independent School District Board of Trustees. The federal court ordered the creation of single member districts for the election of Trustees and resulted in the election of the first minorities to sit on the Midland Independent School Districts Board of Trustees.
3. *Campos v. City of Baytown*, 840 F. 2d 1240 (5th Cir.1988); This case successfully challenged the use of the at large election system to elect City of Baytown City Council. The federal court ordered the creation of single member districts for the election of Council Members and resulted in the election of the first minorities to sit on the Baytown City Council.
4. *LULAC v. Clements*, 999 F.2d 831 (5th Cir. 1993); *Houston Lawyers' Association v. Attorney General of Texas*, 115 L. Ed. 2d 379 (1991). This case involved the election of Texas State District Judges and was the seminal case in which the United States Supreme Court held that the election of judicial officer were elections that were covered by the Federal Voting Rights Act. The Supreme Court holding reversed an en banc decision from the 5th Circuit Federal Court of Appeals.
5. *NORTHWEST AUSTIN MUNICIPAL UTILITY DISTRICT NUMBER ONE v. HOLDER, ATTORNEY GENERAL, ET AL*, ____ S. Ct. ____ (2008). This case was not litigated by the Law Offices of Rolando L. Rios, however, Mr. Rios did testify at the trial level as an expert providing testimony on the cost associated with the preparation of Section 5 Voting Rights Act Submissions.

Unreported District Court Cases:

Parties	Location	Cause Num.	Date Filed	Claims/Res.
1. Americo Gamez vs. Deaf Smith Co.	Deaf Smith Co., Tx	CA2-78-103	August 11, 1978	'2 and 14th Amend REAPP.
2. Rev. Roy Jones vs. City of Lubbock	Lubbock, TX.	CA5-76-34	1979	'2 6-1 PLAN
3. Alejandro Ybarra vs. R. Work	Crosby Co., TX	CA5-79-126	September 29, 1979	14th Amend REAPP.
4. Tomas D. Gomez vs. Pratt	Dawson Co., TX	CA5-79-128	November 1, 1979	14th Amend REAPP.
5. Mary Helen Lamb vs. M. Burk	Lynn Co., TX	CA5-79-129	November 1, 1979	14th Amend REAPP.
6. Pedro Rodriguez vs. P. Hartman	San Patricio Co.	C-79-149	December 3, 1979	14th Amend REAPP.
7. Marlene Berume vs. Katie Kusenburg	Pima Co., AZ	CA80-221-TUC -RUM	August 5, 1980	14th Amend REAPP.
8. Saturnino Rendon vs. R.L. Bowman	Hockley Co., TX	5-8-157	September 21, 1981	14th Amend REAPP.
9. Frank Sanchez vs. Bruce King	New Mexico	C82-678	January 22, 1982	'2 and 14th Amend REAPP.
10. Victor Sorola vs. Lamesa ISD	Lamesa ISD	CA5-82-168	November 12, 1982	'2 7-0 PLAN
11. Victor Sorola vs. City of Lamesa	Lamesa, Tx	CA5-82-168	November 12, 1982	'2 5-1 PLAN
12. LULAC #4375 vs. City of Big Spring	Big Sprig, Tx	CA-1-82-100W	November 15, 1982	'2 6-1 PLAN
13. LULAC #4375 vs. Big Spring ISD	Big Spring ISD	CA-1-82-100W	November 15, 1982	'2
14. LULAC #4375 vs. Howard Co. College	Howard College	Ca-1-82-100W	November 15, 1982	'2 4-3 PLAN
15. Johnny Chavez vs. Clovis Mun. Dist.	Clovis Mun. Dist.	CA-83-1494C	September 23, 1983	'2

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16. Seferino Montano vs. City of Portales	Portales, NM	CA-83-1626JB	October 21, 1983	'2 and 14th Amend
17. Bidal Aguero vs. Lubbock ISD	Lubbock ISD	CA-5-84-61	April 30, 1984	'2 and '5 5-2 PLAN
18. LULAC vs City of Midland	Midland, Tx	MO-84-CA-106	May 31, 1984	'2 4-3 PLAN
19. Raul Rodrigues vs. Carlsbad Mun. Dist.	Carlsbad Mun. Dist. NM	CIV84-1512M	October 11, 1984	'2
20. Elizabeth E. Brinkerhoff vs. City of Alvin	Alvin, Tx	G-84-436	November 30, 1984	'2 5-2-1 PLAN
21. LULAC vs. Midland ISD	Midland ISD	MO-85-CA-1	January 3, 1985	'2 7-0 PLAN
22. Midland ISD Appellants vs. LULAC Appellants 648 F.2d Supp. 596 (W.D. Tex 1986), aff'd, 812 F.2d 1494 (5th Cir.), <u>modified on other grounds</u> , 829 F.2d 546 (5th Cir. 1987) (en banc)	Midland ISD	Appeal #86-1710 5th Cir.		7-0 PLAN
23. Dr. Gloria Romero vs. City of Pomona	Pomona, CA	85-3359-JMI	May 20, 1985	'2 DISMISSED
24. Candelario Davila vs. Brownfield ISD	Brownfield ISD	CA-5-85-141	July 10, 1985	'2
25. Dr. Ramond R. Leal vs. San Antonio River Authority	SARA	SA-85-2988	November 1, 1985	'2 4-8 PLAN

26. Tony Compos vs. City of Baytown 840 F.2d 1240 (5th Cir. 1988) <u>cert.denied</u> , 492 U.S. 905 (1989)	Baytown, Tx	H-85-1021	1986	'2 5-3-1 PLAN
27. Carlos Rodriguez vs.Hondo ISD	Hondo, Tx	SA-85-CA-82	January 21, 1987	'2 5-2 PLAN
28. LULAC vs.Ward County	Ward Co.	87-CA-37	November 25, 1987	14th Amend REAPP.
29. LULAC et al. vs. W. Clements et al. 914 F.2d 620 (5th Cir. 1990); 999 F.2d 831 (5th Cir. 1993)(en banc) <u>rev'd</u> , 115 L.Ed.2d 348 (1989)510 U.S.1071 (1994)	State of Texas	MO-88-CA-154	July 11, 1988	'2
30. LULAC #4456 vs.Colorado ISD	Colorado ISD	CA-1-89-21-W	January 30, 1989	'2 7-0 PLAN
31. Bidal Aguero vs. Lubbock Co. Comm.	Lubbock Co.	5-89-52-C	February 15, 1989	'2 REAPP.
32. LULAC #4429 vs.City of Monahans	Monahans, Tx	MO-89-CA-44	February 23, 1989	'2 5-1 PLAN
33. LULAC #4429 vs.Monahans-W-P ISD	Monahans-W-P ISD	MO-89-CA-45	February 23, 1989	'2 5-1 PLAN
34. Vidal Aguero & Steve C. vs.Lubbock Water & Dist. 1	Lubbock, Tx	CA-89-77W	March 31, 1989	'2 4-1 PLAN
35. Alberto Daniel and Juan C. Chavez vs.City of Muleshoe	Muleshoe, Tx	89-219-C	October 4, 1989	'2 4-1 PLAN

36. LULAC #4456 vs. City of Colorado	Colorado, Tx	CA-1-89-164	December 4, 1989	'2 6-1 PLAN
37. Geraldine Sam vs. City of LaMarque	LaMarque, Tx	G-90-177	July 7, 1990	'2 4-1 PLAN
38. MABA(Statewide) vs. The State of Texas	State of Texas	MO-90-CA-171	October 26, 1990	'2
39. Joel Williams vs. East Central ISD	East Central ISD	SA-91-CA-167	February 14, 1991	'2 4-3 PLAN
40. Angelica & Santiago Carrasco vs. City of Tulia	Tulia, Tx	CA-2-91-53	March 11, 1991	'2 4-1 PLAN
41. Angelica & Santiago Carrasco vs. Tulia ISD	Tulia ISD	CA-2-91-67	March 29, 1991	'2 5-2 PLAN
42. Epifano Marquez et al. vs. City of Freeport	Freeport, Tx	G-91-82	March 18, 1991	'2 4-1 PLAN
43. LULAC & Gene Collins vs. Ector Co. ISD	Ector Co. ISD	MO-91-CA-48	April 16, 1991	'2 7-0 PLAN
44. Nordela Almager vs. Seminole ISD	Seminole ISD	5-91-CA-134	May 6, 1991	'2 4-3 PLAN
45. Irene Conejo vs. City of Seagraves	Seagraves, Tx	5-91-140-C	May 10, 1991	'2 5-0 PLAN
46. Anastacio Zuniga vs. McCamey ISD	McCamey ISD	MO-91-CA-67	May 16, 1991	'2 7-0 PLAN
47. Lazaro Arredondo vs. City of Lamesa	Lamesa, Tx	CA-5-91-153-C	May 28, 1991	'2 5-1 PLAN
48. LULAC #445 vs. Crane ISD	Crane ISD	MO-91-CA-48	June 5, 1991	'2 5-2 PLAN

49. Henry Cogger vs. Hitchcock ISD	Hitchcock ISD	G-91-218	June 10, 1991	'2 7-0 PLAN
50. Allen Alexander vs. Texas City ISD	Texas City ISD	G-91-226	June 17, 1991	'2 6-1 PLAN
51. Marcos Prieto vs. City of Kermit	Kermit, Tx	P-91-CA-17	July 1, 1991	'2 5-1 PLAN
52. Oscar Woods vs. Dickinson ISD	Dickinson ISD	CA-6-91-288	August 13, 1991	'2 7-0 PLAN
53. LULAC #4375 vs. City of Big Spring	Big Spring, Tx	CA-1-97-87	August 21, 1991	'2 6-1 PLAN
54. LULAC #188 vs. City of Rosenberg	Rosenburg, Tx	H-91-2776	September 19, 1991	'2 4-2-1 PLAN
55. Estevan Ruiz vs. Slaton ISD	Slaton ISD	CA-6-90-202-C	October 11, 1991	'2 5-1 PLAN
56. Julio T. Garcia vs. City of Clute	Clute, Tx	G-91-399	November 7, 1991	'2 5-1 PLAN
57. Rachel A. Vargas vs. City of Yorktown ISD	Yorktown, Tx	V-91-53	November 25, 1991	'2 CUMULATIVE
58. Rachel A. Vargas vs. Yorktown ISD	Yorktown ISD	V-92-6	December 2, 1991	'2 CUMULATIVE
59. Lorene Amerson vs. South San Antonio ISD	South San Antonio ISD	SA-92-CA-81	January 24, 1992	14th Amend 7-0 PLAN
60. American G.I. Forum vs. San Marcos CISD	San Marcos ISD	A-92-CA64	January 30, 1992	'2 5-2 PLAN
61. Alejandro M. Rojas vs. City of Victoria	Victoria, Tx	V-92-6	February 13, 1992	'2 4-2-1 PLAN
62. Joel Williams vs. EUWD	EUWD	SA-92-CA-144	February 12, 1992	'2 and 14th Amend 12-0 PLAN

63. MAPAC vs. Calhoun Co.	Calhoun Co., Tx	V-92-13	April 1, 1992	'5 REAPP.
64. Nordela Almager vs. Gaines	Gaines Co., Tx	5-92-CV-66-W	April 8, 1992	'5 REAPP.
65. Trini Gamez vs. Deaf Smith Co.	Deaf Smith Co., Tx	CA-2-92-115	April 14, 1992	'5 REAPP.
66. Rafel Lopez Jr. vs. Hale Co.	Hale Co., Tx	5-92-CV-78-C	April 23, 1992	'5 REAPP.
67. Emily Perez vs. Terry Co.	Terry Co., Tx	5-92-CV-77-C	April 23, 1992	'5 REAPP.
68. Alejandro M. Rojas vs. Victoria College Dist.	Victoria, Tx	V-92-20	May 20, 1992	'2 6-1 PLAN
69. Nordela Almaguer vs. Seminole Hosp. Dist.	Gaines, Tx	5-92-CV-103-C	May 18, 1992	'2 4-3 PLAN
70. Amelia Romero & Charles Hall vs. Yoakum ISD	Yoakum ISD	V-92-21	May 21, 1992	'2 CUMULATIVE
71. Charles Hall & A. Romero vs. City of Yoakum	Yoakum, Tx	V-92-24	June 1, 1992	'2 REFERENDUM
72. LULAC #4386 vs. Midland College Dist.	Midland, Tx	MO-92-CA-77	June 10, 1992	'2 REFERENDUM
73. LULAC #636 vs. Brazosport ISD	Brazosport ISD	g-92-262	June 10, 1992	'2 7-0 PLAN
74. Rev. Harvey M. Stewart vs. City of China	China, Tx	1-92-CV-246	June 18, 1992	'2 3-2-1 PLAN
75. Tele Gonzales, Jr. vs. Lamesa ISD	Lamesa ISD	5-92-CV-162-C	July 20, 1992	'2 5-2 PLAN
76. Olivia Casares vs. Cochran Co.	Cochran Co., Tx	5-92-CV-184-C	August 13, 1992	'5 REAPP.
77. Joe S. Perez vs. Lockney ISD	Lockney ISD	5-92-CV-188-C	August 21, 1992	'2 5-2 PLAN

78. Joe S. Perez vs. City of Lockney	Lockney, Tx	5-92-CV-207-C	September 4, 1992	'2 5-1 PLAN
79. Andrew Herrera vs. Victoria ISD	Victoria ISD	V-92-054	October 27, 1992	'2 5-2-0 PLAN
80. Willie J. Rollins & Irvin D. Grice vs. Fort Bend ISD	Fort Bend ISD	H-92-3399	November 4, 1992	'2 7-0 PLAN
81. Carmen Torres, Domingo & Gloria Herrera vs. Comal ISD	Comal ISD	SA-93-ca-36	January 8, 1993	'2 7-0 PLAN
82. LULAC #4409 vs. Comfort ISD	Comfort ISD	SA-93-CA-70	January 22, 1993	'2 7-0 PLAN
83. LULAC, Dist 5 vs. Andrews ISD	Andrews ISD	SA-93-CA-44	March 4, 1993	'2 CUMULATIVE
84. LULAC, Dist 5 vs. Eden ISD	Eden ISD	6-93-CV-96-C	April 12, 1993	'2 7-0 PLAN
85. LULAC (Statewide) vs. Plains ISD	Plains ISD	5-93-CV-96-C	April 16, 1993	'2 5-2 PLAN
86. LULAC, Dist 5 vs. City of Andrews	Andrews, Tx	MO-93-CA-75	March 4, 1993	'2 CUMULATIVE
87. LULAC, Dist 5 vs. Winters ISD	Winters ISD	6-93-CV-32-C	May 12, 1993	'2 5-2 PLAN
88. LULAC (Statewide) vs. City of Friona	Friona, Tx	2-93-CV-141	June 4, 1993	'2 CUMULATIVE
89. Suzanne Vera Cruz, Gilberto Vera Cruz, & Adela De Hoyas vs. City of Sterling City	Sterling City, Tx	6-93-CV-42-C	June 7, 1993	'2 5-1 PLAN
90. LULAC (Statewide) vs. Hale Center ISD	Hale Center ISD	5-93-cv-145-c	June 10, 1993	'2 CUMULATIVE
91. LULAC (Statewide) v. City of Hale Center	Hale Center, Tx	5-93-CV-146-C	June 10, 1993	'2 CUMULATIVE

92. Suzanne Vera Cruz, Gilberto Vera Cruz, & Adela De Hoyas vs. SterlingCity ISD	Sterling City ISD	6-93-CV-35-C	May 21, 1993	'2 7-0 PLAN
93. LULAC (Statewide) vs. Friona ISD et al.	Friona ISD	2-93-CV-35-C	May 28, 1993	'2 CUMULATIVE
94. LULAC (Statewide) vs. Bovina ISD	Bovina ISD	2-93-CV-0143	June 10, 1993	'2 CUMULATIVE
95. LULAC (Statewide) vs. City of Bovina	Bovina, Tx	2-93-CV-145	June 10, 1993	'2 DISMISSED
96. LULAC, Dist 5 vs. City of Big Lake	Big Lake, Tx	6-93-CV-46	June 11, 1993	'2 4-1 PLAN
97. LULAC, Dist 5 vs. Reagan County ISD	Reagan Co. ISD	6-93-CV-45	June 11, 1993	'2 7-0 PLAN
98. LULAC #4500 vs. Medina Valley ISD	Medina Valley ISD	SA-93-CA-454	June 11, 1993	'2 5-2 PLAN
99. LULAC(Statewide) vs. City of Castroville	Castroville, Tx	SA-93-CA-455	June 11, 1993	'2 5-1 PLAN
100. LULAC (Statewide) vs. City of Morton ISD	Morton, Tx	5-93-CV-148-C	June 14, 1993	'2 CUMULATIVE
101. LULAC(Statewide) vs. Morton ISD	Morton ISD	2-93-CV-149	June 14, 1993	'2 CUMULATIVE
102 Orlando DeHoyos vs. Crockett Common CISD	Crockett Common CISD	6-93-CV-47-C	June 17, 1993	'2 5-2 PLAN
103. Robert M. Scott vs. Navarro Co.	Navarro Co., Tx	3-93-CV-1213-D	June 21, 1993	'2 and '5 REAPP.
104. LULAC(Statewide) vs. Dumas ISD	Dumas ISD	2-93-CV-154	June 23, 1993	'2 CUMULATIVE
105. LULAC(Statewide) & Dr. Harold Jones vs. North East ISD	North East ISD	SA-93-CA-483	June 23, 1993	'2 UNDECIDED

106. LULAC (Statewide) vs. Denver City ISD	Denver City ISD	5-93-CV-163-C	June 25, 1993	'2 CUMULATIVE
107. LULAC (Statewide) vs. Lorenzo ISD	Lorenzo ISD	5-93-CV-165-C	June 28, 1993	'2 5-2 PLAN
108. LULAC, Dist 1 vs. Spur ISD	Spur ISD	5-93-CV-173-3	June 28, 1993	'2 5-2 PLAN
109. Edia Hernandez & Dora Zepeda vs. The State of Texas	State of Texas	MO-93-CA-178	August 6, 1993	'5
110. Salvador Carrasco vs. Crosbyton ISD	Crosbyton ISD	5-93-CV-260-C	October 7, 1993	'2 5-2 PLAN
111. Salvador Carrasco vs. City of Crosbyton	Crosbyton, Tx	5-93-CV-273-C	October 18, 1993	'2 5-1 PLAN
112. LULAC, Dist 1 vs. Abernathy ISD	Abernathy ISD	5-93-CV-277-C	October 21, 1993	'2 CUMULATIVE
113. Manuel Moya vs. Tahoka ISD	Tahoka ISD	5-93-CV-290-C	November 8, 1993	'2 5-2 PLAN
114. Manuel Moya vs. City of Tahoka	Tahoka, Tx	5-93-CV-293-C	November 10, 1993	'2 4-1-1 PLAN
115. Reymundo B. Lopez vs. City of Lorenzo	Lorenzo, Tx	5-93-CV-296-C	November 15, 1993	'2 5-1 PLAN
116. Catarino Garza vs. O'Donnell ISD	O'Donnell ISD	5-93-CV-173-C	November 29, 1993	'2 CUMULATIVE
117. Salamon Torres vs. Stamford ISD	Stamford ISD	1-93-CV-178-C	December 6, 1993	'2 CUMULATIVE
118. LULAC, Dist 5 vs. Haskell ISD	Haskell ISD	1-93-CV-178-C	December 10, 1993	'2 5-2 PLAN
119. Mike Pena Lopez vs. Hamlin ISD	Hamlin ISD	1-93-CV-179-C	December 13, 1993	'2 CUMULATIVE

120. Joe Dominguez Rodriguez vs. Anson ISD	Anson ISD	1-93-CV-183-C	December 17, 1993	'2 CUMULATIVE
121. LULAC, Dist 5 vs. City of Haskell	Haskell, Tx	1-93-CV-188-C	December 27, 1993	'2 DISMISSED
122. Salamon Torres vs. City of Stamford	Stamford, Tx	1-94-CV-2-C	January 5, 1994	'2 5-1 PLAN
123. Robert M. Scott vs. Navarro College	Navarro, Tx	3-94-CV-156-T	January 26, 1994	'2 4-3 PLAN
124. LULAC, Dist 5 vs. Rotan ISD	Rotan ISD	1-94-CV-31-C	January 27, 1994	'2 CUMULATIVE
125. Dario Rendon vs. Anton ISD	Anton ISD	5-94-CV-28-C	January 31, 1994	'2 CUMULATIVE
126. LULAC, Dist 5 vs. City of Rotan	Rotan, Tx	1-94-CV-42-C	March 7, 1994	'2 CUMULATIVE
127. Dario Rendon vs. City of Anton	Anton, Tx	5-94-CV-66-C	March 14, 1994	'2 CUMULATIVE
128. Catarino Garza vs. City of O'Donnell	O'Donnell, Tx	5-94-CV-65-C	March 14, 1994	'2 CUMULATIVE
129. LULAC (Statewide) vs. City of Abernathy	Abernathy, Tx	5-94-CV-83-C	March 28, 1994	'2 CUMULATIVE
130. Emilia Davila vs. Sudan ISD	Sudan ISD	5-94-CV-82-C	March 24, 1994	'2 CUMULATIVE WITHDRAW
131. Castaneda & Salas vs. Sundown ISD	Sundown ISD	5-94-Cv-81-C	March 24, 1994	'2 CUMULATIVE
132. Victoria B. Posada vs. SpringLake-Earth ISD	SpringLake-Earth ISD	5-94-CV-88-C	April 1, 1994	'2 CUMULATIVE
133. Victoria B. Posada vs. City of Earth	Earth, Tx	5-94-CV-101-C	April 15, 1994	'2 CUMULATIVE
134. LULAC (Statewide) vs. City of Hale Center	Hale Center, Tx	5-93-CV-146-C		'2 CUMULATIVE

135. Hernandez & Zepeda vs. State of TX	Texas	MO-93-CA-178	August 8, 1993	'2 DISMISSED
136. Williams & Perez vs. EUWD	EUWD	SA-92-CA-144	February 12, 1994	'2 12-0 PLAN
137. Eniz Ortiz vs. Shallowater ISD	Shallowater, Tx	5-94-CV-115-C	May 3, 1994	'2 DISMISSED
138. Adelita Esquivel Hines vs. Amherst ISD	Amherst ISD	5-94-CV-120-C	May 6, 1994	'2 CUMULATIVE
139. Linda Garz McClatchy vs. City of Olton	Olton, Tx	5-94-CV-121-C	May 6, 1994	'2 CUMULATIVE
140. J.R. Bustamonte vs. Wilson ISD	Wilson ISD	5-94-CV-137-C	May 23, 1994	'2 CUMULATIVE
141. Domingo Gomez vs. Petersburg ISD	Petersburg ISD	5-94-CV-145-C	May 27, 1994	'2 CUMULATIVE
142. Ernesto Diaz Perez vs. Ropes ISD	Ropes ISD	5-94-CV-146-C	May 27, 1994	'2 CUMULATIVE
143. Sandra Ann Singletery vs. City of Stanton	Stanton, Tx	MO-94-CA-89	June 4, 1994	'2 5-1 PLAN
144. Linda Garza McClatchy vs. Olton ISD	Olton ISD	5-94-CV-119-C	June 5, 1994	'2 CUMULATIVE
145. LULAC #4552 vs. Roscoe ISD	Roscoe ISD	1-94-CV-104-C	June 22, 1994	'2
146. Antonio B. Cabrera vs. Kress ISD	Kress ISD	2-94-CV-186	July 11, 1994	'2 5-2 PLAN
147. Milwaukee Branch of AACP & Ramon Valdez vs. Governor Tommy Thompson	Milwaukee County Wisconsin	94-C-1245	December 2, 1994	'2/5
148. LULAC #4552 vs. City of Roscoe	Roscoe, Tx	195-CV-0006-C	January 9, 1995	'2 CUMULATIVE
149. Felix Ramos vs. City of Eldorado	Eldorado, Tx	6-95-CV-007-C	January 30, 1994	'2

150. LULAC #4501 vs. SARA	San Antonio, Tx	SA-95-CA-0106	February 1, 1995	'2
151. Trini Gamez vs. Hereford ISD	Hereford ISD	2-95-CV-028	February 13, 1995	'2
152. LULAC, Dist 5 vs. Ballinger ISD	Ballinger ISD	6-95-CV-016-C	February 24, 1995	'2 7-0 PLAN
153. LULAC, Dist 5 vs. City of Ballinger	Ballinger, Tx	6-95-CV-18-C	February 24, 1995	'2 4-1 PLAN
154. LULAC, Statewide vs. City of Karnes City	Karnes City, Tx	SA-95-CA-203	March 6, 1995	'2/5 5-1 PLAN
155. LULAC, Statewide vs. Karnes City ISD	Karnes City ISD	SA-95-CA-204	March 6, 1995	'2 7-0 PLAN
156. LULAC, Statewide vs. Kenedy ISD	Kenedy ISD	SA-95-CA-219	March 13, 1995	'2 7-0 PLAN
157. LULAC, Statewide vs. Runge ISD	Runge ISD	SA-95-CA-220	March 13, 1995	'2 7-0 PLAN
158. LULAC, Dist 19 vs. Menard ISD	Menard ISD	6-95-CV-24-C	March 20, 1995	'2 7-0 PLAN
159. LULAC, Statewide vs. Mason ISD	Mason ISD	A-95-CV-169-JN	March 24, 1995	'2 7-0 PLAN
160. LULAC, Statewide vs. Lytle ISD	Lytle ISD	SA-95-CA-267	March 24, 1995	'2 7-0 PLAN
161. LULAC, Dist 19 vs. Kerrville ISD	Kerrville ISD	SA-95-CA-268	March 24, 1995	'2
162. Jose V. Sanchez vs. Lynn County Hospital Dist.	Lynn County	5-95-CV-62-C	April 10, 1995	'2
163. LULAC, Statewide vs. Dawson ISD	Dawson ISD	5-95-CV-63-C	April 10, 1995	'2 7-0 PLAN
164. Adela Marmolejo vs. Midland County		MO-95-CA-79	April 14, 1995	'2/5 REAPP.

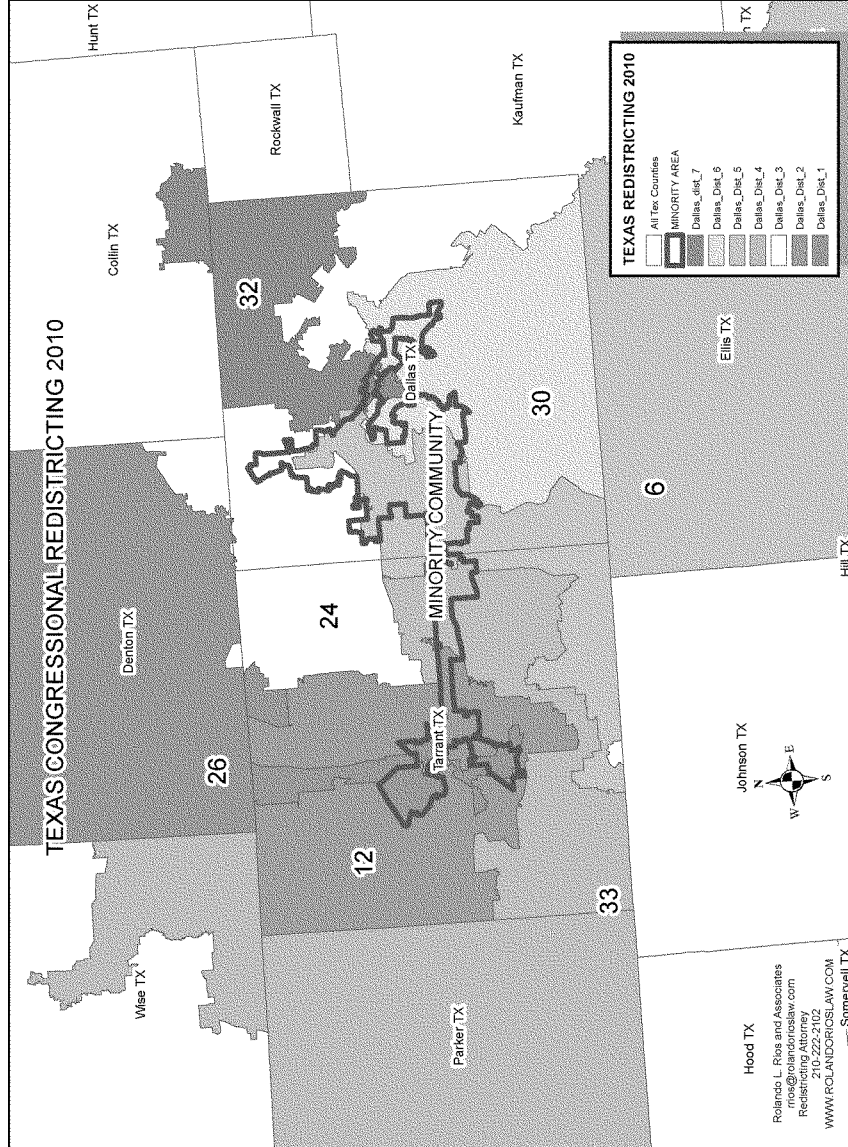
165. Domingo F. Herrera vs. New Braunfels City	New Braunfels, Tx	SA-95-CA-390	April 24, 1995	'2
166. LULAC vs. City of Kenedy	Kenedy, Tx	SA-95-CA-417	May 4, 1995	'2 5-1 PLAN
167. LULAC, Statewide vs. Jouranton ISD	Jouranton ISD	SA-95-CA-0490	June 2, 1995	'2
168. LULAC, Statewide vs. Miles ISD	Miles ISD	6-95-CV-43-C	June 6, 1995	'2
169. LULAC, Statewide vs. Stockdale ISD	Stockdale ISD	SA-95-CA-0508	June 9, 1995	'2
170. LULAC, Statewide vs. Poth ISD	Poth ISD	SA-95-CA-0523	June 15, 1995	'2
171. LULAC, Statewide vs. D'Hanis ISD	D'Hanis ISD	SA-95-CA-0524	June 15, 1995	'2
171. LULAC, Statewide vs. D'Hanis ISD	D'Hanis ISD	SA-95-CA-0524	June 15, 1995	'2
172. LULAC, Statewide vs. Luling ISD	Luling ISD	A-95-CA-459-JN	August 3, 1995	'2
173. LULAC, Statewide vs. Ft. Davis ISD	Ft. Davis ISD	P-95-CA-49	July 25, 1998	'2
174. LULAC, Statewide vs. City of Poth	Poth Tx.	SA-95-CA-0690	August 2, 1995	'2 CUMULATIVE
175. LULAC, Statewide vs. City of Stockdale	Stockdale, Tx	SA-95-CA-0691	August 2, 1995	'2 5-0 PLAN
176. LULAC, Statewide vs. Elgin ISD	Elgin ISD	A-95-CV-458-JN	August 3, 1995	'2
177. LULAC, vs. Goliad ISD	Goliad ISD.	V-95-58	July 13, 1995	'2 CUMULATIVE
178. LULAC, Statewide vs. City of Lytle, Tx.	Lytle, Tx.	SA-95-CA-857	September 15, 1998	'2
179. LULAC, Statewide vs. Irion Co. ISD	Irion Co. ISD	6-95-CV-079-C	October 10, 1995	'2 CUMULATIVE

180. LULAC, Statewide vs. Nueces Canyon CISD	Nueces Canyon CISD	DR-95-CA-64	September 27, 1995	'2
181. LULAC, Statewide vs. Pettus ISD.	Pettus ISD.	C-95-545	October 24, 1995	'2
182. LULAC, Statewide vs. George West ISD.	George West ISD.	SA-95-CA-546	October 24, 1995	'2
183. LULAC, Statewide vs. City of Devine.	Devine, TX.	SA-95-CA-1158	November 21, 1998	'2
184. LULAC, Statewide vs. City of Jourdanton, TX	Jourdanton, TX.	SA-95-CA-1113	November 6, 1998	'2
186. LULAC, Statewide vs. Navarro ISD	Navarro ISD	SA-95-CA-1235	December 14, 1995	'2
187. LULAC, Statewide vs. Devine ISD	Devine ISD	SA-95-CA-1236	December 14, 1995	'2
188. LULAC, Statewide vs. City of Menard	Menard, TX.	6-96-CV-003C	January 18, 1996	'2
189. LULAC, #4552 vs. Roscoe ISD	Roscoe ISD	194-CV-0104C	June 22, 1994	'2
190. LULAC, Statewide vs. Flaitonia ISD	Flaitonia ISD	H-96-197	January 23, 1996	'2
191. Raphael Lopez vs. City of Plainview	Plainview, TX	5-96-cv-0018-c	January 24, 1996	'2
192. LULAC, Statewide vs. Natalia ISD	Natalia ISD	SA-95-CA-0074	January 24, 1996	'2
193. Riviera			February 5, 1996	
194. Pat De Anda and Gloria Mendez vs. Howard Co. J.P	Howard Co. J.P.	196-CV-0066 c	March 11, 1996	'2
195. LULAC, #4585 vs. Post ISD	Post ISD	5-96-CV-80-c	April 17, 1996	'2

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196. Irene Morales vs. Hale Co.	Hale Co.	5-96-cv-79-c	April 17, 1996	'2 REAPP
197. Alfredo Valero vs. City of Kerrville	City of Kerrville.	SA-96-CA-413	April 19, 1996	'2
198. LULAC, #4585 vs. Garza Co. Hospital Dist.	Garza Co.	5-96-cv-87-c	April 19, 1996	'2
199. LULAC Vs. Rankin, Texas	Rankin, Texas			
201. LULAC Vs. Rankin ISD	Rankin ISD			
202. LULAC vs Sharryland	Sharryland, Tx	M-96-132	June 28, 1996	'2
203. LULAC Vs Eden City	Eden, City		November 1997	'2
204. LULAC Vs Amarillo ISD	Amarillo ISD			'2 Cumulative: largest jurisdiction in the Country with Cumulative voting system
LULAC 205. LULAC Vs Texas	State of Texas	113 F. 3d 53 (5 th Cir. 1997)		
206. V. AMAFCA				
207. East Central ISD				'2; single member districts
208. Balderas, et al. Vs State of Texas		01-CV-158		

209. Jepsen, et al. vs Vigil, et al. (State of New Mexico)		D-0101-CV-2001-02177		'2 and 14 th Amendment – Redrawing districts
210. Sanchez et al. Vs Vigil, et al. (PRC)		D-0101-CV-2001-02233		'2 – Single member districts
211. Lopez, et al vs City of Santa Fe		NO-01-1312		'2 – Single member districts
212. TANCO Vs Evergreen Underwater		SA-01-CA-1191-EP		§ 5 – had to submit and preclear – injunction granted
213. Reyna, et al. vs East Central ISD		SA-02-0257-OG		§ 5
214. KOCH Vs Rothe		02-05-160001-CV		Election contest – had to preclear
215. LULAC v Perry 126 S. Ct. 2594 (2006)	Texas Statewide			§ 5 and § 2- Sup ct found Sec. 2 Violation
216. LULAC v Amarillo College District				§ 5 and § 2 Cumulative Voting
217. Reyes, et al. v. City of Farmers Branch	Dallas County	5 th Cir – No. 08-11106		Lost on <i>Gingles</i> I; § 2 – Will refile after 2010 Census
218. Garcia et al v. City of Hondo	Medina County	SA09-CA-0394FB		§ 5 – had to submit and preclear – injunction granted
219.				



Statement by George Korbel
Concerning Voting Rights in Texas
Brownsville, Texas
February 4, 2019

Thank you for the chance to testify today. Although my notice of these hearings was limited, I have prepared this statement which I will try to summarize for the record. I hope to be able to supplement this testimony as the process of hearings progresses.

I had the honor and opportunity to testify in support of the expansion and extension of the Voting rights Act of 1965 to include Texas and several other “language” jurisdictions.^{1/} In putting together the case for the expansion and

^{1/}I was the lead counsel on behalf of Hispanics in *White v. Regester* and have handled voting litigation involving city councils, school board and special purpose district against Houston, San Antonio and Waco as well as dozens of other smaller jurisdictions in Texas. I have also testified as an expert witness in both federal and state court in 26 cases on the issues of the history of election discrimination in Texas, the differing educational/socio-economic positions by race and ethnicity, racially polarized voting, gerrymandering, drawing of election

extension of the Act in 1975 we built that pitch on essentially six which were either recently decided or under then current litigation. Each showed election discrimination in Texas which was limiting minority participation in the political process and making that process less democratic with a small d. This is important because in 1975 the Democratic Party was the problem. The Republican Party was interested in expanding minority participation. In fact in the 1982 reauthorization of the Voting Rights Act, the Texas Director of Elections under Bill Clements our first Republican Governor since the end of reconstruction hailed it on behalf of Governor Clements and urged Congress to continue it. Indeed Governor Clements, the first Republican Governor of Texas also added his support as the process continued. Then Comptroller Bob Bullock was the only one of the Democrats who made up the balance of our statewide elected officials who supported the 1975 inclusion of Texas and the 1982 extension of that coverage.

In 1975 our first burden was to show that Texas belonged among those states singled out for Section 5 coverage when it was originally passed in 1965. I don't think that is still a question but to make sure, I include Exhibit A which is a

districts and matters related to electoral fraud.

brief summary of racial and ethnic discrimination in Texas which parallels that in the states covered in 1965.

But I want to say something on this to remind you that discrimination in Texas was more complicated because it was tripartite. For example, there were Black schools established by law and there were Hispanic schools established by tradition. And there were Black schools where the Hispanics were sent. Just prior to *Brown v Board*, the Texas Courts attempted to eliminate formal segregation. Even today in some of the more rural parts of Texas you can see the old Mexican School (usually used as a storage facility) across the street from the regular school.

Then I want to remind the committee that in the first year after overage in 1975, there were more voting Objections in Texas than the total for the previous 10 years in any of the states that had originally been covered in 1965.

A Thing of Present Day

I want to address the argument in *Shelby* that election discrimination is a thing of the past. I have a list that I work on from time to time that includes judicial and administrative findings of election discrimination in Texas since

1975. The list currently involves upwards of 300 cases or administrative findings including excerpts from the decisions describing the discrimination in the words of the fact finders. The most current draft of it is in excess of 300 pages long. To put this in context, in 1975 we relied essentially on 6 cases which essentially fit into two general areas to demonstrate election discrimination that had taken place in Texas in the preceding 20 years. Today the list includes more than a hundred findings in the past 20 years.

The 6 cases or series of cases we used in 1975 can be described as following:

1. Litigation involving the poll tax and a series of related cases attacking the voter registration procedures that replaced it extending from the mid 1960s through the early 1970s culminating in the elimination of the poll tax which was then replaced by a series of voter registration processes that the Federal Courts said were more discriminatory than the poll tax had been. Finally a workable voter registration process was set up. But Then the state decided to start over and passed a law which in 1975 would have again abolished voter registration through a total purge requiring all of our then 10 million or so registered voters to re-register. Almost as soon as Section 5 became effective we filed a suit to force the state to preclear

the purge and it was objected to. Then the state attempted to proceed anyway and it required an injunction to prevent the sending of the notices to all registered voters.

Section 5 put an end to this sort of problem because it required preclearance.

In 1982 there was a computer match done of registered voters with a list of persons that the State believed were felons. Again we used Section 5 to stop this and were able to show that the list was 98% inaccurate.

Then the state tried the intimidation process attempting to pass a voter id law in the early years of the 21st century. As I recall in the 2011 session the State House passed Voter ID overwhelmingly and was sent over to the State Senate. Texas had a long standing practice in the rules of the Senate that required a vote of two thirds of the senators to take up consideration of a bill. It was brought to the floor and stopped only when Senator Gallegos from Houston who had only days before had a liver transplant, was flown in by air ambulance to cast the vote to kill Voter ID. This after the Lt. Governor had given his word that he would not bring the bill up while Senator Gallegos was absent.

The next session of the legislature the rules of the senate were changed and

Voter ID passed. Once again we were saved by Section 5. And then came *Shelby*. Only hours after the Supreme Court decided *Shelby* the Texas Attorney General issued an opinion that the Voter ID statute was in effect. It took litigation two trials and three decisions by the Fifth Circuit and a trip the Supreme Court to water down the Voter ID statute. This is a good example of why Section 5 is important. When it was in effect the State had the burden of proving that it did not discriminate. Sure we made numerous trips to Washington to make our case but it could be done spending only a few thousand dollars. No Longer the Case today. Consider *Veasey v. Abbott*.

The litigation took place over a period of 5 years. Plaintiffs expended upwards of a quarter of a million dollars just to try the case. The petition for fees in due later this month. I suspect that the attorney hours alone will merit well over a million dollars.

Just last week on January 25, 2019 the Secretary of State and Attorney General held a press conference to announce that they had done a year long study and had determined that Texas had upwards of 100,000 non citizens who were registered to vote and as many as 50,000 non citizens were voting.

On Friday January 25 Attorney General Ken Paxton made a press release that the Secretary of State's office discovered that about 95,000 individuals

identified by the Department of Public Safety as non-U.S. citizens have a matching voter registration record in Texas, and roughly 58,000 of them have voted in one or more Texas elections. It is almost funny to quote from their press release:

Every single instance of illegal voting threatens democracy in our state and deprives individual Texans of their voice. We're honored to have partnered with the Texas Secretary of State's office in the past on voter initiatives and we will spare no effort in assisting with these troubling cases. My Election Fraud Unit stands ready to investigate and prosecute crimes against the democratic process when needed.

Nothing is more vital to preserving our Constitution than the integrity of our voting process, and my office will do everything within its abilities to solidify trust in every election in the state of Texas. I applaud Secretary of State Whitley for his proactive work in safeguarding our elections."

Texas law allows lawfully present non citizens to obtain driver's licenses by showing proof of lawful presence to DPS. However, only citizens are eligible to vote. And Texas law currently does not require verification of a voter's statement that they are a citizen. The Texas Secretary of State provided the information to the Office of the Attorney General this week, which has concurrent jurisdiction to prosecute election crimes.

It was top of the fold story in all Texas newspapers on Saturday morning. People were very upset. Then Luis Vera, General Counsel who is undergoing chemotherapy drew up pleadings over the weekend for LULAC and filed a lawsuit first thing Monday morning pointing out the methodological flaws in the year long study. After reading the LULAC complaint, the State sent out a notice to all

counties to not send out statements to voters, But of course some counties had already done so. By Thursday afternoon January 31, several counties began checking and were finding that the list was highly inaccurate. McLennan County (Waco) has now completed the review process and determined that not a single one of the 22,000 names they were sent were non citizens.

While it is correct that this adventure by our attorney general and secretary of state has been frustrated by the truth and the litigation, the intended effect has not been. Any time you make a big deal out of electoral problems as this did you discourage voting. For the people who received who received the notice that they have to come down to the Court house and prove that they are citizens or their registration will be cancelled. The news clips and press releases trumpeted the intent of the Attorney General to prosecute. This is what the voters received

My office has received information concerning your registration to vote. Your registration status is being investigated because there is reason to believe you may not be a United States citizen. This information may have been provided by clerks of the court regarding individuals who were excused or disqualified from jury duty because they are not U.S. citizens and/or the Department of Public Safety ("DPS") for individuals possessing a Driver License or Personal Identification Card who DPS has identified are not citizens of the United States and/or other information derived through lawful means. You are now required to confirm your eligibility for registration by providing proof of citizenship to maintain your registration status. Proof of citizenship must be in a certified form of birth certificate, passport, or citizenship papers. If you fail to provide this proof of

citizenship within 30 days from the date of this letter, your voter registration will be cancelled.

The tendency on the part of the state to unlawfully restrict voting which had been frustrated since 1975 by the existence of Section 5 has picked up continues unabated. In this legislature a myriad of bills have been filed or are proposed to restrict voting by making it more difficult. With Section 5 this could not have happened because the entire process would have required preclearance.

Another problem statute that would not have existed if Section 5 was still with us is the ban on straight ticket voting which takes effect this year. Texas ballots are long particularly in the urban areas. For example in Harris County there are 118 judicial elections alone (80 District/County Judges and 36 appellate judges). While judges are not all elected every 2 years, some years the ballot will likely approach 80 positions to vote on. This will create an almost inconceivable line waiting to vote. Most Texans use the straight party voting option. It takes only a few minutes. When that is removed if they attempt to vote on each election it would take much longer to cast each vote--up to half an hour. We have voting equipment that causes lines with straight ticket voting. I expect our lines to vote will be at least four times longer. You particularly know the most discouraging factor to someone who is trying to vote is a line that circles the polling place. The

second most discouraging thing is standing in a line that you are in that moves at a snails pace. People will become frustrated and not continue all the way down ballot.

You might wonder why the state is going to such lengths to limit voting. I think the tale is told in a chart showing the population growth in Texas. In 1975 the Anglo or White population was two thirds. In 1970 the white population was far less than half and in 2020 it will be almost a mirror image of 1975. Minority Texans are almost two thirds of the population.

Let me put it in another contest. In 1875 we had 24 Congressional Districts. Four of these had sufficient minority population to say that the choice of minority was a determining factor. The District represented by Congressman Kika de la Garza, The District in San Antonio that elected Henry B Gonzalez, the El Paso District and the District centered on Webb County and the South side of San Antonio represented by Abraham Chick Kazen. In other words 16% (4 out of 24). In the Current Congressional plan there are 6 Districts where the Hispanic population is the determining factor. We have 36 Districts. Still 16% (6 out of 36).

This in spite of the fact that In the period between 1975 and 2010 Hispanics and to a lesser extent African Americans provided virtually all of the growth of

Texas. In fact my analysis indicates that if Texas had grown at the same rate as the Anglo community then Texas would have lost a Congressional District rather than picking up 12 districts over that period.

In order to put that in context consider the fact that in 2020 there will be more Hispanics in Texas than all but 4 states. If you combine the African American, Asian and Hispanic population you approach the population of New York state.

The second area of our evidence in 1975 was a series of cases involving at large elections or restrictions on how votes could be cast. With racially polarized voting, at large elections don't function for minority voters. Few are elected. In the intervening time since 1975 hundreds of lawsuits have been filed and won changing at large elections into single member district elections. In virtually every case this has resulted in election of additional minority citizens. Many of these cases are mentioned in the list which I have attached.

After Shelby, jurisdictions are beginning to return to at large elections.

The third area of our proof was the significant differences in the socio and economic positions of minorities and Anglo/White population. I include a series of charts which demonstrate that the differential is hardly changed since 1975.

The fourth area of our proof in 1975 included the fact that few minority persons were being elected to office—what I call the proof of the pudding argument. While the numbers have improved most if not virtually every additional minority candidate who has been elected can be traced to litigation such as that in the list I attach which forced it. Consider for example the position of County Commissioner which I consider to be the pivotal position in Texas politics. I am currently working on a study of minority success in running for County Commissioner. Each of our 254 Counties elects four Commissioners by district. Blacks who make up between 11 and 12 percent of our population but only 4% of the Commissioners. Hispanics make up over 40% of the population but far less than 20% of the Commissioners. In fact I looked at the 2010 Census and determined that upwards of 60 Counties have a minority population of over 33.3% and have no minority commissioner. There are another 25 or so counties with between 25% and 33.3% of the population which also have no minority commissioner. My experience is that each of this second tier of Counties will be in the 33.3% range when the census is taken next year. This severe limitation on minority elected officials on the County level plays out in every position. Outside of the almost totally Hispanic counties in South Texas or the vast urban concentration s in our largest metropolitan counties minority elected officials on

the County level are few and far between.

The final thing I want to say is that since the application of Section 5 in 1975, no apportionment by the State of Texas had withstood judicial challenge. In fact in some years the reapportionments were invalidated in both State and Federal Courts and sometimes the remedies that Texas has passed to replace the invalidated redistrictings have themselves been found to discriminate.

Attachments:

1. List of cases.
2. Power point presentation on the socio-economic and educational status of Texas by race and ethnicity.
3. Power point chart showing the population growth from 1975 through projected 2020. It continues through projected 2050. These projections are the result of a joint project between the Census and the Texas State Data Center.
4. A brief analysis of racial and ethnic discrimination which led up to the extension of the Voting Rights Act to include Texas.

Examples of general racial and ethnic discrimination in Tx

A Brief History of Racial and Ethnic Discrimination in Texas

Texas has a long history of racial discrimination, which is consistent with the problems facing minorities in the other states that were covered by the Voting Rights Act. See generally *Beal v. Holcombe*, 1951, 193 F.2d 384 (holding that a city ordinance setting aside public parks for the exclusive use of Negroes and reserving all other public parks for the exclusive use of white people was unconstitutional); *Tippins v. State*, 1920, 86 Tex.Cr.R. 205, 217 S.W. 380 (holding that a complaint charging delinquency need not allege that a child is white or black because under the Texas Code of Criminal Procedure a separate place of confinement is provided for Negro delinquents); *Strauss v. State*, 1915, 76 Tex.Cr.R. 132, 173 S.W. 663 (upholding the constitutionality of a city ordinance making it unlawful for a white person and any Negro to have sexual intercourse with each other within the city limits); *In Re Gomez*, Tex.Civ.App.1967, 424 S.W.2d 656 (declaring unconstitutional a statute prohibiting the adoption of a white child by a Negro person or of a Negro child by a white person); *Harvey v. Morgan*, Tex.Civ.App.1954, 272 S.W.2d 621 (declaring unconstitutional a criminal provision prohibiting any fistic combat, match, boxing, sparring, or wrestling contest or exhibition between any person of the white race and any person of the Negro race); *O'Connor v. Dallas Cotton Exchange*, Tex.Civ.App.1941, 153 S.W.2d 266 (holding that plaintiff alleged a cause of action when his wife was wrongfully excluded from a passenger elevator set apart for whites and compelled to ride in an elevator set aside for Negroes).

Other minorities faced grand jury issues throughout the 1970s, which mirrored those against Blacks. See, for example, *Juarez v. State*, 102 Tex.Cr.R. 297, 277 S.W. 1091 (prohibiting the systematic exclusion of Roman Catholics from juries on Fourteenth Amendment grounds). See also *Hernandez v. Texas*, 347 U.S. 475 (1954) and *Castaneda v. Partida*, 430 U.S. 482 (1972), discussed in greater detail later.

Many jurisdictions instituted restrictive covenants against Hispanics. See *Clifton v. Puente* [Tex.Civ.App.] 218 S.W.2d 272 (outlawing restrictive covenants prohibiting the sale of land to persons of Mexican descent). Essentially, discrimination against Hispanics mirrored discrimination against African-Americans.

And then there was school desegregation.

School Desegregation

Texas had a Constitutional provision that required the segregation of African-American students. There was no similar provision for Hispanics. However, many school districts maintained so-called "Mexican Schools." See, e.g., *Independent School District v. Salvatierra*, 33 S.W.2d 790 (Tex. Civ. App. 1930), *appeal dismissed for want of jurisdiction and cert. denied*, 284 U.S. 580 (1931) (enjoining Del Rio Independent School District from constructing an addition to a Mexican School). On a later appeal, *Salvatierra* was reversed by the Texas Court of Appeals and the Supreme Court denied cert. [need citation]

In some other districts where there were few Hispanic students, those students attended Black schools or, in areas where there were few Blacks, they were assigned to the Mexican Schools. This sort of segregation continued through the 1950s when the school districts in Travis, Hays, Bastrop, Caldwell, and Colorado Counties were enjoined from such segregation.

See, e.g., *Delgado v. Bastrop ISD*, 388 Civil (June 15, 1948 W.D. Tex) (“The Defendant LA Woods, as state Superintendent of Public Instruction is hereby permanently restrained and enjoined from in any manner participating in the custom, usage or practice of segregating pupils of Mexican or other Latin American descent in separate schools or classes.”).

The effect of *Delgado* on school integration was limited by resistance on the part of the state educational complex. In what Allsup (1979) described as “White obstinacy,” school districts throughout Texas failed to comply with the *Delgado* decision. This was encouraged by the State Board of Education, which created a complex bureaucratic system of grievances and redress that abetted noncompliance with the *Delgado* ruling (San Miguel, 1987).¹ See also *Hernandez v. Driscoll Consolidated Independent School District*, 1957 U.S. Dist. LEXIS 4784 (S.D. Tex. 1957); *Perez v. Sonora Independent School District*, C.A. 6-224 (N.D. Tex. 1969); *Cisneros v. Corpus Christi Independent School District*, 324 F.Supp. 599 (S.D. Tex. 1970), *affirmed in part and modified in part*, 467 F.2d 142 (5th Cir. 1971). Judge Seals stated in *Cisneros*:

[I]t is clear to this court that these people for whom we have used the word Mexican-Americans to describe their class, group, or segment of our population, are an identifiable ethnic-minority in the United States, and especially so in the South-west [and] in Texas. . . . This is not surprising; we can notice and identify their physical characteristics, their language, their predominant religion, their distinct culture, and, of course, their Spanish surnames. And if there were any doubt in this court's mind, this court could take notice, which it does, of the

¹ Allsup, C. (1977). Education is Our Freedom: The American G.I. Forum and the Mexican American School Segregation in Texas, 1948–1957. *Aztlán*, 8, 27–50; San Miguel, G., Jr. (1987). “Let All of Them Take Heed”: Mexican Americans and the Campaign for Educational Equality in Texas, 1910–1981. Austin, TX: University of Texas Press; Valencia, Richard (Columbia University Teachers College Record Volume 107, Number 3, March 2005), The Mexican American Struggle for Equal Educational Opportunity.

congressional enactments, governmental studies and commissions on this problem.

324 F. Supp. at 607-08 (footnotes omitted).

In the late 1970s, Texas attempted to exclude undocumented persons from free public education. This was stricken in *Plyler v. Doe*, 457 U.S. 202 (1982), in which the Court stated:

There is simply no support for appellants' suggestion that "due process" is somehow of greater stature than "equal protection" and therefore available to a larger class of persons. To the contrary, each aspect of the Fourteenth Amendment reflects an elementary limitation on state power. To permit a State to employ the phrase "within its jurisdiction" in order to identify subclasses of persons whom it would define as beyond its jurisdiction, thereby relieving itself of the obligation to assure that its laws are designed and applied equally to those persons, would undermine the principal purpose for which the Equal Protection Clause was incorporated in the Fourteenth Amendment. The Equal Protection Clause was intended to work nothing less than the abolition of all caste-based and invidious class-based legislation. That objective is fundamentally at odds with the power the State asserts here to classify persons subject to its laws as nonetheless excepted from its protection.

457 U.S. at 213.

In the initial Texas desegregation decisions following *Brown v Bd. of Education*, Texas school districts had attempted to minimize the extent of Black integration by following up on the *Delgado* case, which had essentially found that Hispanics were not Black and therefore were not covered by the Texas constitutional prohibition against school integration. So Texas districts engaged in desegregation mainly between Blacks and Hispanics, and only minimally with Whites. A series of cases in the Fifth Circuit decided in the early- to mid-1970s made it clear that this was not integration.

However, school districts throughout the state continued to fight against desegregation. There were battles over the Houston ISD, the Corpus Christi ISD, The Waco ISD, the Austin ISD, and virtually all of the other school districts in the state. Virtually all of Texas's school districts were subject to school desegregation orders. In the larger cities these lawsuits were

mammoth. A case in point: the desegregation of the Dallas ISD, which was an almost fifty-year odyssey.

Within days after the decision in **Brown v. Bd. of Education**, a desegregation case was filed against the Dallas ISD, which was promptly dismissed by a federal district court. The Fifth Circuit had to reverse the district court's dismissal. **Brown v. Rippy**, 233 F.2d 796 (5th Cir. 1956), *cert. denied* 352 U.S. 878 (1956). After a remand, the Fifth Circuit was forced to reverse the District Court again in **Borders v. Rippy**, 247 F.2d 268 (5th Cir. 1957) (reversing an order of the district court dismissing the suit for failure of the plaintiffs to exhaust their state administrative remedies). Later in the year, the Fifth Circuit set aside another district court order because "that court had rather petulantly directed immediate massive desegregation of the DISD without holding hearings, making findings, and directing submission of a plan." **Rippy v. Borders**, 250 F.2d 690 (5th Cir 1957). *See also* **Boson v. Rippy**, 275 F.2d 850 (5th Cir. 1960) (directing the District Court to hold hearings and requiring that the DISD submit a desegregation plan); **Boson v. Rippy**, 285 F.2d 43 (5th Cir. 1960) (ordering the district court to require the DISD to adopt a "stair-step" plan of desegregation under which one grade per year would be removed from the dual educational structure and administered in a unitary fashion).

In 1965, the Fifth Circuit twice ordered the Dallas ISD to immediately desegregate the twelfth grade. **Britton v. Folsom**, 348 F.2d 158 (5th Cir. 1965); **Britton v. Folsom**, 350 F.2d 1022 (5th Cir 1965).

In spite of all of the litigation in the 1950s that required schools to be desegregated, the Fifth Circuit pointed out that no actual integration had yet taken place:

- (a) 71 of the DISD's 180 schools were 90% or greater white.
- (b) 40 of the DISD's schools were 90% or greater black.

- (c) 49 of the DISD's schools' student populations were 90% or greater of minority races (i.e., black and Mexican-American combined).
- (d) 91.7% of all black students in the DISD attended schools in which the student body was composed of 90% or greater minority racial makeup.
- (e) Less than 3% of all black students in the DISD attended elementary or secondary schools in which the majority of the student body was white.
- (f) Only 2% of black elementary students in the DISD attended schools in which the majority of the student body was white.
- (g) Of the 37 new schools constructed, or those to which additions had been made, between 1965 and 1970, 34 had student enrollments 90% or greater black, 90% or greater minority (black and Mexican-American), or 90% or greater white.

Tasby v. Estes, 517 F.2d 92, 96 (5th Cir. 1975).

With the help of the Texas Education Agency, the district court in *Tasby* came up with a novel way to avoid bussing:

I am opposed to and do not believe in massive cross-town bussing of students for the sole purpose of mixing bodies. I doubt that there is a Federal Judge anywhere that would advocate that type of integration as distinguished from desegregation. There are many many other tools at the command of the School Board and I would direct its attention to part of one of the plans suggested by TEDTAC (Texas Education Desegregation Technical Assistance Center) which proposed the use of television in the elementary grades and the transfer of classes on occasion by bus during school hours in order to enable the different ethnic groups to communicate. How better could lines of communication be established than by saying, "I saw you on TV yesterday," and, besides that, a television is much cheaper than bussing and a lot faster and safer.

517 F. 2d at 97, citing *Tasby v Estes*, 342 F.Supp. 945 (S.D. Tex.1971).

The final order of the District Court adopted a version of the television integration along with a weekly field trip to Anglo schools:

C. To establish elementary class schedules and courses of study so as to provide each elementary student with a daily minimum of one hour of contact with students of another race. Such contact shall be a simultaneous two-way oral and visual communication via television cable between two or more schools; classrooms of each such elementary school shall be identifiably paired in such a manner so that approximately two Anglo classrooms are paired with one minority classroom for the entire academic year. It is contemplated that from two to seven studio classrooms will be established at each elementary school.

Tasby, 517 F.2d at 99.

The Fifth Circuit also found that the Dallas school district was discriminating against Hispanic students. “Sufficient statistical evidence is available in the record,” the court said, “to establish the isolation of Mexican-American students in the DISD from white students and the DISD’s practice of ‘integrating’ its Mexican-American students with black students.” *Tasby v. Estes*, 517 F.2d 92, 106 (5th Cir. 1975), *cert denied* 423 U.S. 939 (1975). The court reiterated its position from *United States v. Texas Education Agency*, 467 F.2d 848 (5th Cir. 1972) that, “at least in the State of Texas, segregation of Mexican-Americans in the public schools constitutes a deprivation of the equal protection of the laws in violation of the Fourteenth Amendment to the United States Constitution.” *Estes*, 517 F.2d at 107.

This litigation remained ongoing into the 1980s. *See Tasby v. Estes*, 572 F.2d 1010 (5th Cir. 1978), *cert dismissed as improvidently granted sub nom. Estes v. Metropolitan Branches of Dallas NAACP*, 444 U.S. 437 (1980); *Tasby v. Estes*, 651 F.2d 287, 288 (5th Cir. 1981), *rev’ing and remanding Tasby v. Estes*, 498 F.Supp. 1130 (N.D.Tex.1980) (reversing the district court’s denial of fee application on behalf of James Nabritt of the NAACP Legal Defense Fund); *Tasby v. Wright*, 585 F. Supp. 453 (N.D. Tex. 1984); *Tasby v. Wright*, 520 F.Supp. 683, 741 (N.D. Tex. 1981).

The district court finally moved the school district to a three-year monitoring period in 1994, the first letup in over twenty years:

The skepticism of the Black School Board trustees and some in the Black community toward the Board’s commitment to desegregation is understandable in light of the history of this case. For many years the DISD refused to recognize the Supreme Court’s 1954-55 command to desegregate. However, the desegregation achievements of recent years lead the Court to believe that such intransigence no longer exists. The desegregation shortcomings pointed out in this Opinion are due

primarily, and perhaps solely, to failures by a few district personnel to follow through in the implementation of established desegregation policies.

From time to time the Court has expressed its impatience at the apparent lack of motivation and good management responsible for these problems. The three year monitoring period which now commences affords the District ample time to remedy the relatively few problems mentioned in this Opinion. During the three year period the District will continue to report to the Court and the Auditor will continue to monitor the operations of the District. After three years, if the District has continued to substantially comply with the Judgment and other desegregation decrees of the Court, and has met the requirements of this Opinion, the Court will hold a hearing at which Plaintiffs and Intervenor will have opportunity to show cause why the case should not be dismissed. Unless good cause is shown, the Court will then relinquish jurisdiction and dismiss the case by appropriate decree.

Tasby v. Woolery, 869 F. Supp. 454, 477-78 (N.D. Tex. 1994).

In 2003, the district court dismissed the case. Only after more than thirty years had Dallas ISD's intransigence finally given way to compliance:

With today's ruling the Court ends the lawsuit filed in 1970 by the courageous African American Plaintiff, Sam Tasby. In the 33 years since the suit was filed the Dallas Independent School District has accomplished much. Although in past years it has seemed that the School District lacked determination to comply with Constitutional requirements and Court orders, that is no longer the case. The segregation prohibited by the United States Constitution, the United States Supreme Court, and federal statutes no longer exists in the DISD.

Tasby v. Moses, 265 F. Supp. 2d 757, 780-81 (N.D. Tex. 2003).

While the case of Dallas is illustrative, it is by no means unique. The Houston ISD desegregation process was as complicated as that in Dallas, and did not end until the 1980s:

In 1956, two years after the Supreme Court decided *Brown v. Topeka Board of Education*, . . . a group of parents of black children enrolled in the Houston Independent School District (HISD) filed this suit to desegregate its schools. After twenty-five years of court proceedings and twelve years of operation under a court-ordered desegregation plan, the district court has now decided that the school district has eliminated all vestiges of de jure segregation and has become unitary. The vestiges of all discriminatory practices have been eliminated in every aspect of school operations, but efforts at integration have failed in one aspect alone: the district has not achieved integrated student attendance. The district court found, however, that the homogeneous student composition of the schools

does not stem from the unconstitutional segregation practiced in the past but from population changes that have occurred since this litigation commenced, and that the geography of the school district, traffic conditions, and population patterns make further efforts to eliminate all one-race schools impractical.

Ross v Houston ISD, 699 F.2d 218 (5th Cir. 1983)

The efforts to prevent desegregation were not limited to individual school districts. The state of Texas itself engaged in discrimination. In what is certainly the largest school desegregation case at the time, the federal government sued the state of Texas. The case resulted in a desegregation order that applied to over two million students in more than 1,000 school districts. ***United States v. Texas Education Agency***, 321 F. Supp. 1043 (E.D. Tex 1970), *aff'd*, 447 F.2d 441 (5th Cir. 1971). The district court noted that the state of Texas encouraged school discrimination:

In its Memorandum Opinion of December 4, 1970, the Court stated that “the policies and practices of TEA in administering the public school system in Texas have frequently — whether inadvertently or by design — encouraged or resulted in the continuation of vestiges of racially segregated public education within the State.” 321 F.Supp. 1043 (E.D.Tex. 1970). The impetus for the scope of this portion of the Order, therefore, came largely from the Court’s belief that the all-black school districts involved in this case could not have operated without state support . . .

United States v. Texas Education Agency, 330 F.Supp. 235, 241-42 (E.D. Tex. 1971); *see also*

United States v. Tyler Indep. Sch. Dist. Civil Action No. 5176 (E.D. Tex. July 8, 1971),

available at [http://tarlton.law.utexas.edu/exhibits/www_justice/documents_2/Tyler_order](http://tarlton.law.utexas.edu/exhibits/www_justice/documents_2/Tyler_order_1_1971.pdf)

[_1_1971.pdf](http://tarlton.law.utexas.edu/exhibits/www_justice/documents_2/Tyler_order_1_1971.pdf) (noting that the level of segregation is demonstrated by “[t]he mere fact that a

dispute arising out of a cheerleader election [involving separate elections for 2 black and 4 white cheerleaders] has been brought before the Federal Courts”).

Housing Discrimination

Texas authorities engaged in housing discrimination that extended into the early 1990s. See *Young, v Pierce*, 544 F. Supp. 1010 (E.D. Tex. 1982); *Young v Pierce*, 628 F. Supp. 1037 (E.D. Tex. 1985) (“HUD has intentionally and knowingly continued to promote purposefully segregated housing in the class action counties. It is beyond dispute that the Constitution prohibits the government from funding racial discrimination.”).

The *Young* case began in 1980 and involved over seventy housing authorities in thirty-six East Texas counties. The named plaintiffs, Lucille Young, Virginia Wyatt, and Helen Ruth Jackson, had applied for low-income housing operated by the Clarksville and Pittsburg Public Housing Authorities. The plaintiffs alleged that tenants were assigned on the basis of race, that black and white residents of the same complex were placed into segregated areas, and that sites for new construction had the effect of maintaining black housing in primarily black neighborhoods and white housing in primarily white neighborhoods. A federal district court agreed with the plaintiffs, holding that the county housing authorities had engaged in racial discrimination:

The record in this case clearly makes out defendant's violation of the Fifth Amendment to the United States Constitution. HUD has consistently supported and funded each project instituted under its aegis. HUD's inactivity has been limited to those aspects of its affirmative action responsibilities which might have an actual impact in desegregating federally funded housing. It has actively employed race-conscious policies which result in segregation. In the area covered by this action, those who have administered these projects have done so in a way clearly animated by racial prejudice. HUD has a duty to know how its money is spent, and in fact has known that it is supporting segregated housing in East Texas. Notwithstanding, it has continued to actively support the system in perhaps the most effective possible way—by paying for it. HUD has thus played a crucial and continuing role in creating and maintaining a large system of publicly funded segregated housing.

Young v. Pierce, 628 F. Supp. at 1056-57.

The *Young* case was not ultimately resolved until the entry of a settlement agreement and the payment of attorneys' fees in the mid-1990s. See *Young v Cisneros*, Civil Action No. P-80-8-CA (E.D. Tex. 1995), *aff'd*, 74 F.3d 1237 (5th Cir. 1995).

Dallas public housing was little better than in the East Texas counties involved in *Young*:

The history of public housing in Dallas is a sordid tale of overt and covert racial discrimination and segregation. . . . Virtually all non-elderly public housing units were constructed in minority areas of Dallas. No new public housing units were built between 1955 and 1989 at least in part for fear that they might be located in white areas. Tenant selection and assignment procedures for public housing units were crafted and administered to maintain racially segregated projects. DHA's Section 8 housing programs were operated to discourage blacks from moving into white areas of metropolitan Dallas. . . . Blacks were purposefully segregated for decades into either Section 8 housing in minority areas of Dallas or predominantly black housing projects in minority areas of Dallas.

Walker v. City of Mesquite, 169 F.3d 973 (1999) (citations and footnotes omitted).

The extended litigation against Dallas to remedy this discrimination was not ultimately disposed of until 2005:

The long saga of this case began in 1985 with a lawsuit filed on behalf of African-American plaintiffs against DHA. It alleged, inter alia, that DHA engaged in systematic racial segregation through its construction and maintenance of public housing in Dallas. In order to settle the claim that it consciously failed to locate public housing in predominantly white neighborhoods, DHA agreed to a 1987 consent decree integrating Dallas public housing. In 1994, after repeated breaches of the consent decree, DHA and the plaintiffs in that case negotiated a remedial order which was then imposed by the district court.

Walker v. City of Mesquite, 402 F.3d 532 (5th Cir. 2005) (footnote omitted); see *Walker v. City of Mesquite*, 313 F.3d 246 (5th Cir 2002).

School Finance Litigation

The now almost 45-year struggle for equalizing school finance in Texas continues to this day. See generally *San Antonio Indep. Sch. Dist. v. Rodriguez*, 411 U.S. 1 (1973). The Texas Supreme Court itself has noted the uneven financing of schools throughout the state:

There are glaring disparities in the abilities of the various school districts to raise revenues from property taxes because taxable property wealth varies greatly from district to district. The wealthiest district has over \$14,000,000 of property wealth per student, while the poorest has approximately \$20,000; this disparity reflects a 700 to 1 ratio. The 300,000 students in the lowest-wealth schools have less than 3% of the state's property wealth to support their education while the 300,000 students in the highest-wealth schools have over 25% of the state's property wealth; thus the 300,000 students in the wealthiest districts have more than eight times the property value to support their education as the 300,000 students in the poorest districts. The average property wealth in the 100 wealthiest districts is more than twenty times greater than the average property wealth in the 100 poorest districts. Edgewood I.S.D. has \$38,854 in property wealth per student; Alamo Heights I.S.D., in the same county, has \$570,109 in property wealth per student.

Edgewood v. Kirby, 777 S.W.2d 391, 392 (Tex.1989).

The need for equality in school finance is underlined by the studies which set out examples of the continuing poor performance of minority students. As a recent example, see ***Texas Taxpayer and Student Fairness Coalition v Williams***. Cause No. D-1-GN-11-003130 (200th State District Court, February 4, 2013), *available at* <https://www.tasb.org/Legislative/Issue-Based-Resources/School-Finance/documents/ruling.aspx>, in which a state judge ruled that the system Texas uses to fund public schools violates the state's constitution by not providing enough money to school districts and failing to distribute the money fairly. "This was the sixth case of its kind since 1984." Will Weissert, *Texas School System Finance Plan Unconstitutional, Judge Rules*, Huffington Post (Feb. 4, 2013, 7:14 PM), http://www.huffingtonpost.com/2013/02/05/texas-school-system-finance_n_2622002.html. That case continues to this very day. See Joshua Fechter, *Judge Refuses to Recuse Self, Despite Claims of Coaching Attorneys*, San Antonio Express News, June 3, 2014, at 1. Judge Dietz had previously ruled that the school finance system was unconstitutional after the Texas Legislature cut roughly \$5.4 billion out of Texas public schools in 2011. He reopened

the trial earlier this year to weigh how restoration of some of those funds and new testing standards approved by state lawmakers will impact the system. *Id.*

Discrimination in the Provision of Higher Education

The school finance litigation spawned an effort to increase university availability in the heavily Hispanic Rio Grande Valley. Plaintiffs brought a class action suit alleging that the almost totally Hispanic area along the Rio Grande River in South Texas was discriminated against in the provision of higher education. See *Clements v LULAC*, 800 S.W.2d 948 (1990) (ruling on standing). The courts found that there were significant funding disparities between the heavily Hispanic border area and other parts of the state, and that these disparities occurred in the shadow of discrimination:

Although the case was tried to a jury, at the close of evidence the trial court granted plaintiffs' motions for instructed verdict and for uncontroverted fact findings on certain statistical matters. Among these were the following: (1) about 20% of all Texans live in the border area, yet only about 10% of the State funds spent for public universities are spent on public universities in that region; (2) about 54% of the public university students in the border area are Hispanic, as compared to 7% in the rest of Texas; (3) the average public college or university student in the rest of Texas must travel 45 miles from his or her home county to the nearest public university offering a broad range of masters and doctoral programs, but the average border area student must travel 225 miles; (4) only three of the approximately 590 doctoral programs in Texas are at border area universities; (5) about 15% of the Hispanic students from the border area who attend a Texas public university are at a school with a broad range of masters and doctoral programs, as compared to 61% of public university students in the rest of Texas; (6) the physical plant value per capita and number of library volumes per capita for public universities in the border area are approximately one-half of the comparable figures for non-border universities; and (7) these disparities exist against a history of discriminatory treatment of Mexican Americans in the border area (with regard to education and otherwise), and against a present climate of economic disadvantage for border area residents.

Richards v. LULAC, 868 S.W.2d 306 (Tex. 1993).

The *LULAC* suit ultimately led to legislative action to remedy this history of discrimination. The legislature created a program to increase higher education opportunities for

Hispanics, which was referred to as “The South Texas/Border Initiative.” See Teri Flack, *Presentation on South Texas Border Initiatives*, Presentation Before the House Border and International Affairs Comm. of the Texas House of Representatives, March 6, 2003, available at <http://www.thecb.state.tx.us/reports/PDF/0592.PDF>.

The Poll Tax to Voter ID: An Effort to Make It More Difficult to Qualify to Vote

The struggle for voting rights has stretched over the past century and a half. After Reconstruction ended, Texas maintained the same sorts of discriminatory statutes that marked the other Confederate States.

In the early 1900s Texas adopted the Poll Tax. See Tex. Rev. Civ. Stat. Ann. § 2959 (1925). This was in addition to a provision that prohibited Black voting in the only election that mattered: the Democratic primary. See Tex. Rev. Civ. Stat. Ann. § 3107 (1925) (“[I]n no event shall a Negro be eligible to participate in a Democratic party primary election . . . in the State of Texas.”). In 1926 the voting exclusion was struck down by the Supreme Court in *Nixon v. Herndon*, 273 U.S. 536 (1926).

Quite literally before the ink was dry on the *Herndon* case, the legislature passed a statute which provided that political parties could make their own rules relating to membership.²

² “Texas was the only State where the white primary was required by law. All other states that had the white primary did so as a matter of party rules or custom rather than law. . . . Finally, violence and intimidation were also used in Texas to discourage African-Americans and, at times, Hispanics from voting. The use of these techniques against Hispanics also set Texas apart from other southern states.” Ken Collier, Steven Galatas, & Julie Harrelson-Stephens, *Lonestar Politics: Tradition and Transformation in Texas* 246-47 (3d ed. 2013), available at

Promptly after the announcement of that decision, the Legislature of Texas enacted a new statute . . . repealing the article condemned by this Court; declaring that the effect of the decision was to create an emergency with a need for immediate action; and substituting for the article so repealed another bearing the same number. By the article thus substituted, "every political party in this State through its State Executive Committee shall have the power to prescribe the qualifications of its own members and shall in its own way determine who shall be qualified to vote or otherwise participate in such political party; provided that no person shall ever be denied the right to participate in a primary in this State because of former political views or affiliations or because of membership or nonmembership in organizations other than the political party."

Nixon v Condon 286 U.S. 73, 81-82 (1932) (citation omitted).

Under the aegis of this statute, the Harris County Democratic party adopted a resolution providing that "all white democrats who are qualified under the constitution and laws of Texas and who subscribe to the statutory pledge provided in Article 3110, Revised Civil Statutes of Texas, and none other, be allowed to participate in the primary elections." This was initially affirmed by the Federal Courts in *Grigsby v Harris*, 27 F.2d 942, 943 (1928), and later in *Nixon v. Herndon*, 34 F.2d 464 (W.D. Tex. 1929), *aff'd* 49 F.2d 1012 (5th Cir. 1931).

The Fourteenth Amendment is expressly directed against prohibitions and restraints imposed by the states, and the Fifteenth protects the right to vote against denial or abridgment by any state or by the United States; neither operates against private individuals or voluntary associations. *United States v. Cruikshank*, 92 U.S. 542, 23 L. Ed. 588; *Virginia v. Rives*, 100 U.S. 313, 25 L. Ed. 667; *James v. Bowman*, 190 U.S. 127, 23 S. Ct. 678, 47 L. Ed. 979. A political party is a voluntary association, and as such has the inherent power to prescribe the qualifications of its members. The act of 1927 was not needed to confer such power; it merely recognized a power that already existed.

Nixon v Condon, 49 F.2D 1012, 1013-1014 (5th Cir. 1931)

[Texas] say[s] that the legislative intent to make the test of Democratic party affiliation a matter of state rather than party action is evidenced by the enactment in May, 1923, at the second called session of the Thirty-Eighth Legislature of a law then designated article 3093a, reading as follows: "Article 3093a. All qualified voters under the laws and Constitution of the state of Texas, who are bona fide members of the Democratic party, shall be eligible to participate in any

http://www.cqpress.com/docs/college/Collier_Lone%20Star%203e%20CH9.pdf.

Democratic party primary election, provided such voter complies with all laws and rules governing party primary elections; however, in no event shall a negro be eligible to participate in a Democratic party primary election held in the state of Texas, and should a negro vote in a Democratic primary election, such ballot shall be void and election officials are herein directed to throw out such ballot and not count the same" — and later by the enactment in June, 1927, of an act repealing same and enacting new article 3107, reading as follows: "Article 3107. Every political party in this state through the state executive committee shall have the power to prescribe the qualifications of its own members and shall in its own way determine who shall be qualified to vote or otherwise participate in such political party: Provided that no person shall ever be denied the right to participate in a primary in this state because of former political views or affiliations or because of membership or nonmembership in organizations other than the political party."

Nixon v Condon, 286 U.S. 73 (1932).

The Supreme Court would have none of this, and called the new law what it was: discrimination.

Delegates of the state's power have discharged their official functions in such a way as to discriminate invidiously between white citizens and black. . . . The Fourteenth Amendment, adopted as it was with special solicitude for the equal protection of members of the Negro race, lays a duty upon the court to level by its judgment these barriers of color.

Nixon v Condon, 286 U.S. 73, 89 (1932) (citations omitted).

Shortly after *Condon*, Texas abandoned all responsibility for primaries, handing over power to the political parties. The Democratic Party immediately adopted the same exclusionary language that had been stricken in *Condon*. The Court, illogically, found this arrangement to be acceptable: "We are not prepared to hold that in Texas the state convention of a party has become a mere instrumentality or agency for expressing the voice or will of the state." *Grovey v Townsend*, 295 U.S. 45 (1935).

The exclusion of African-Americans from voting in Texas continued through the Second World War. In 1944, the issue again came to the U.S. Supreme Court. *Grovey* was specifically overruled with the recognition that

[t]he United States is a constitutional democracy. Its organic law grants to all citizens a right to participate in the choice of elected officials without restriction by any state because of race. This grant to the people of the opportunity for choice is not to be nullified by a state through casting its electoral process in a form which permits a private organization to practice racial discrimination in the election.

Smith v. Allwright, 321 U.S. 649, 664 (1944).

Defeated in its use of the white primary, the State continued its effort to exclude minorities from the process. This time, Texas used the so-called Jaybird technique: a pre-primary in which only whites were allowed to participate. The Supreme Court struck this new method down in *Terry v. Adams*, 345 U.S. 461 (1953).³ A method similar to the Jaybird techniques was then used by all-white groups to slate candidates for another two decades. Although sometimes an African-American or Hispanic was slated, it was only because of action by the white-dominated slating group. A three-judge court, and then the Supreme Court, found this practice to be unconstitutional:

[T]he facts clearly show that the Negro community in Dallas County participates in the selection of the Democratic primary candidates only in the recruiting process. But it is hardly adequate, for purposes of claiming effective participation, to say that the black community is consulted with respect to the sole black candidate placed on the [Dallas Committee for Responsible Government] slate. The requirement of effective participation can be answered only by showing that the interests of the black ghetto, like those of the white areas, are taken into consideration in the formulation of the entire slate. It is clear from the evidence in this case that such consideration never occurs. **In essence, we find that the plaintiffs have shown that Negroes in Dallas County are permitted to enter the political process in any meaningful manner only through the benevolence of the dominant white majority. If participation is to be labeled "effective" then it certainly must be a matter of right, and not a function of grace.**

³ The District Court held that the Jaybird racial discriminations were invalid, and entered judgment accordingly. *Terry v Adams*, 90 F. Supp. 595 (S.D. Tex. 1950). The Court of Appeals reversed, holding that there was no constitutional or congressional bar to the admitted discriminatory exclusion of Negroes because the Jaybird primaries were not to any extent state-controlled. *Adams v Terry*, 193 F.2d 600 (5th Cir. 1952).

Graves v Barnes, 343 F.Supp. 704, 726 (W.D. Tx 1972) (three-judge court), *aff'd sub nom.*

White v Regester, 412 U.S. 755 (1973) (emphasis added).

Slating groups such as this were also common in at-large municipal and school board elections. In San Antonio, until at-large elections were judicially eliminated in the late 1970s, an organization known as the Good Government League controlled the elections to the City Council. *See generally* Leslie Bargsley & Leslie Friedlander, *Chapter One – San Antonio*, in 2 *Local Government Election Systems*, at 3 (Special Project Report, Lyndon B Johnson School of Public Affairs, University of Texas at Austin, 1984) (“Under the at-large system, most agreed that only those minorities anointed by the GGL were given the chance to serve.”). In Dallas, city elections were controlled by the Citizens Charter Association (CCA). *See* Claire Brewer & Jim Witcher, *Chapter Five – Dallas*, in *Local Government Elections Systems, supra*, at 45 (“From the late 1920s until the early 1970s, the CCA was unbeatable. The CCA candidates for the 11 at-large seats did not campaign individually, but were promoted as a team. The CCA was able to retain control of the city council through carefully chosen slates of candidates and money.”).

When minorities were finally allowed to vote in the Democratic primary, they faced the poll tax—which had been found constitutional in *Breedlove v. Suttles*, 302 U.S. 277 (1937). The poll tax was not repealed until 1964, with the adoption of the 24th Amendment.⁴ Even then, the Southern States continued to enforce a poll tax in state elections until the Supreme Court

⁴ As an aside, Texas was one of the few states that failed to ratify the 24th amendment prior to its passage in 1966. Texas’s ratification came forty-three years later, in 2009, as a result of House Joint Resolution 39. The resolution was offered by Rep. Alma Allen, an African-American congresswoman from Dallas. After it passed the House, Senator Rodney Ellis, an African-American from Houston, rose in the Senate: “I move passage, better late than never.” One of the members of the Capitol press corps coined the joke of the Session: “Welcome to the 1960s, Texas.” Lee Nichols, *Texas Just Abolished Poll Taxes!*, *Austin Chronicle* (May. 22, 2009, 4:15 PM), <http://www.austinchronicle.com/daily/news/2009-05-22/785067/>.

overruled *Breedlove* in 1966. The Texas poll tax remained in effect until it was invalidated in 1966. *United States v. Texas*, 252 F. Supp. 234 (W.D. Tex. 1966), *aff'd Texas v. United States*, 384 U.S. 155 (1966).

In response, the Texas Legislature immediately enacted an annual voter registration requirement, which was not removed until 1971. *Beare v. Smith*, 321 F. Supp. 1100 (W.D. Tex. 1971) (three-judge court), *aff'd sub nom. Beare v. Briscoe*, 498 F.2d 244 (5th Cir. 1974). The court in *Smith* recognized that this was just the old discrimination in a new form:

It is beyond doubt that the present Texas voter registration procedures tend to disenfranchise multitudes of Texas citizens otherwise qualified to vote. The present system, being a direct descendant of the poll tax, . . . has all of the features which the poll tax system had except the payment of an annual fee. The closing of registration so far in advance of the general election, in the years one is held, perpetuates the obstacles the twenty-fourth amendment prohibits. The evidence presented in this case shows that if the annual registration obstacle were removed over one million Texans would be eligible to vote that would not have been eligible with that requirement. Without annual registration, the number of persons who would actually vote would be increased by about the same number. Similarly, if registration were open until a month before the general election and had been open for the preceding eight months, voter registration would increase by over one million. In short, the present system closes the election hall door to a million citizens.

321 F. Supp. at 1103-04.

The district court allowed the Texas Legislature to try to correct its discriminatory laws. “In an effort to correct the objectionable features of the law, the Legislature thereafter enacted a temporary statute inaugurating permanent voter registration, with provisions for the automatic re-registration of those voting within a succeeding three-year period, and extended the time period for registration beyond the former cutoff date of January 31.” *Briscoe*, 498 F.2d at 246. However, the Fifth Circuit determined that this supposed fix was no fix at all. Texas did not have

a compelling state interest that would allow it to deprive a large portion of its citizens of the right to register to vote. *Id.* at 247.

In 1975, in apparent response to **Beare**, the legislature passed a statute which required a complete purge of all registrants and a total re-registration of every voter in Texas. All this was to be accomplished before the 1976 general election.

By this time, Congress had expanded Section 5 coverage to include Texas. In fact, the first Section 5 objection issued in Texas was in response to this complete purge. The state had more than four million stamped envelopes ready to be sent out, informing voters that they had been purged and that, if they wanted to vote, they had to re-register. Instead of complying with the requirement for preclearance of the purge, the state filed suit in the District Court for the District of Columbia seeking a declaratory judgment that Texas was not covered. They promptly lost the case. See *Briscoe v. Bell*, 432 U.S. 404, 410 (1977), *vacating and remanding sub nom. Briscoe v. Levi*, 535 F.2d 1259 (D.D.C. 1976) (holding that preclearance determinations by the Attorney General are not subject to judicial review, because withholding review “implements Congress’ intention to eradicate the blight of voting discrimination with all possible speed”).

Since the state refused to make any effort to comply with the requirement to preclear the purge, black and Hispanic plaintiffs filed a Section 5 injunctive action to stop the sending out of the notice. The state took the position that the purge was not a change involving voting and that, even if it were a change in voting, merely sending letters informing people that they were purged and had to re-register was not in itself an action affecting voting.

The plaintiffs filed a class action suit and served process on the state and every one of the 254 voter registrars in Texas. Quite literally in the days before the mailing, a three-judge federal court enjoined the mailing, because the purge and re registration had not been precleared.

Even then, Texas continued to attempt to send the notices out, along with a second notice that the issue was on appeal. *See generally Flowers v Wiley*, 675 F. 2d 704 (5th Cir. 1982). This was denied and, after further efforts to convince the court that it should be allowed to send out the notices, the state finally complied with the voting rights objection.

After the injunctive relief was granted, the state submitted the purge to the Department of Justice, and DOJ issued an objection to the purge. *See* Section 5 Objection Letter from J. Stanley Pottinger, Assistant Attorney General of the United States, to Mark White, Texas Secretary of State (April 8, 1975). The Justice Department noted that such a purge would be discriminatory:

[A] study of the historical voting problems of blacks and Mexican Americans and a review of statistical data, including that related to literacy disclose that a total voter registration purge under existing circumstances may have a discriminatory effect on their voting rights. Comments from interested parties as well as our own investigation, indicates that a substantial number of minority registrants may be confused, unable to comply with the statutory registration requirements...or only able to comply with substantial difficulty. Moreover, representations have been made to this office that a requirement that everyone register anew on the heels of registration difficulties experienced in the past could cause significant frustration and result in creating voter apathy among minority citizens, thus erasing the gains already accomplished in registering minority voters.

Id.

In 1981, the Texas Secretary of State took a new tack: he claimed that there were too many felons voting. Although there was no evidence that this was happening, the state announced that it had compiled a felons list and sent it to the voter registrars in every county in Texas. This was again done without any effort to obtain Section 5 preclearance. This list was compiled for the Secretary of State by the Texas Department of Public Safety from the National Crime Information Center (NCIC). In fact, Texas law at the time required notice and an opportunity to be heard before any person could be removed from the voter rolls. As a result, some voter registrars began to complain that they could not legally purge anyone. A suit was

filed and, upon limited discovery, it was established that the Texas Department of Safety did a sample of the felons list and found that 90% of the people on the list were not felons. The use of the felons list was enjoined and eventually the court directed that all of the lists be destroyed.

See *Vota v. Dean*.

However, in Dallas County—which had just flipped to the Republican party⁶—a group of elected state district judges got together and, on Election Day, went to African-American polling places. They identified themselves and told the election officials that they were required to post a large sign, prepared by the Judges, giving a warning from the Sheriff of Dallas County that it was a felony to vote if one has been convicted of a felony. This was an obvious attempt to discourage African-Americans from voting.⁷

Although the state complained that Section 5 was not necessary, there were more total Voting Rights Act objections to Texas jurisdictions within a year after the extension of the Act to Texas than there were to any of the other covered states—which by that time had been covered for eleven years. This is discussed later in this appendix.

⁶ I identify them as Republican district judges because that is what they were. It was clear that the general election was going to be close, and they were trying to discourage persons who they believed would vote for Democrats. Hence the signs were taken only to the black polling places. In the election, Governor Clements, a Republican, was narrowly defeated by Mark White. Although Mark White had led the effort to prevent the Section 5 coverage of Texas, he had modified his position and was supported by most African-Americans and Hispanics.

⁷ I drove to Dallas on the day following the election and found a copy of this sign. I gave it to David Richards and a copy of it is in his book on Texas politics. [citation would be helpful] These district judges claimed that they were not aware of the injunction against posting signs that we had obtained against the Texas Secretary of State. Depositions from the Texas Secretary of State's office established that at least one of the judges and the sheriff under whose authority the signs claimed to be issued had been told of the injunction. These judges went on to have careers that included appointment to federal and state appellate courts. Significantly, one of these judges was subsequently appointed to and retains a federal judgeship today.

After the turn of the twenty-first century, Texas began a series of attempts to discourage voting using one form or another of voter ID legislation. When S.B. 14 finally passed in 2011, a three-judge district court for the District of Columbia found it to be in violation of federal law. The state had appealed the case to the United States Supreme Court when the Court invalidated Section 4 of the Voting Rights Act.

Mere hours after the Supreme Court decision in *Shelby County v. Holder*, 133 S. Ct. 2612 (2013), the Texas Attorney General announced that he would begin enforcing the Voter ID law. See Maria Recio, *Texas to Immediately Enforce Voter ID Bill*, Fort Worth Star-Telegram (June 25, 2013), <http://www.star-telegram.com/2013/06/25/4963135/texas-to-immediately-enact-voter.html?rh=1>.

To me, the significance of the voter ID case is this broader context. Initially, the state prohibited minority voting in its elections. Then, when the Supreme Court put an end to that blatant practice, the state began to pass other restrictive barriers to minority voting. The voter ID law at issue in this case is just another chapter in this ongoing saga.



**Testimony Submitted by Mimi Marziani, Esq. to the
U.S. House Committee on House Administration for the
Listening Session on Voting Rights and Elections**

**FEBRUARY 4, 2019
BROWNSVILLE, TEXAS**

It is a great honor to testify before such a distinguished Committee about ongoing discrimination in voting, a critical topic for my state of Texas and for our country. Thank you for inviting me.

For my testimony this morning, I draw from my work as President of the Texas Civil Rights Project (“TCRP”)¹ and Chairwoman of the Texas State Advisory Committee (“Texas SAC”) to the U.S. Commission on Civil Rights,² as well as the expertise I have developed during my decade-long career in voting rights and election reform. A list of the primary sources consulted in drafting this testimony is included at the end of this document.

My goal is to highlight significant ways in which continued discrimination in Texas against voters of color undermines the promise of equality and human dignity embedded in our U.S. Constitution, demanding legislative action. I intentionally included stories told to our team by voters themselves, to give voice to the countless Texans still suffering.

Before we begin, consider one important fact: Race, age and socioeconomic status are closely correlated in Texas. Indeed, the population of Texans under 40 is 35.5% Anglo (meaning, non-Hispanic Caucasian) and 58% Black or Latinx; over 40, those numbers flip to 56.5% Anglo and 38% Black or Latinx. Moreover, the extensive record in the Texas photo ID litigation confirmed that, “African-Americans and Hispanics are more likely than Anglos to be living in poverty because they continue to bear the socioeconomic effects caused by decades of racial discrimination.”³ Accordingly, in Texas, voting changes that disparately impact young people or poor people necessarily also disparately impact people of color.

¹ We are Texas lawyers for Texas communities, serving the rising movement for equality and justice. Our Voting Rights Program tackles the systemic issues that suppress democratic participation in Texas—from voter registration to the moment when an individual casts their ballot. Through litigation and advocacy, TCRP fights to turn the tide on the Texas’ abysmal voting rights record by removing barriers to voter registration and participation, supporting grassroots voter mobilization efforts and opposing new attempts to suppress voting. Learn more at texascivilrightsproject.org.

² Our committee conducted a study of voting rights in Texas in 2018, including an all-day public hearing in Houston in March 2018. Our findings were published in a report entitled *Voting Rights in Texas* available at <https://www.usccr.gov/pubs/2018/07-23-TX-Voting-Rights.pdf>.

³ *Veasey v. Perry*, 71 F. Supp. 3d 627, 664 (S.D. Tex. 2014).



Discrimination in Voter Registration

In Texas, being registered to vote is the first step to casting a ballot that counts. It's no secret that Texas consistently boasts some of the lowest voter registration rates in the country, with millions of eligible voters excluded from the rolls. But even worse is that the current electorate does not adequately represent us. Asian-American and Latino voters are significantly less likely to be registered than their Anglo peers, and young voters are woefully underrepresented,⁴ translating to an electorate that is older and whiter than Texas' citizen voting-age population. Disparate registration rates are at least partially due to state laws and policies that create systemic barriers to voter registration for people of color, young people and poor people.

UNLAWFUL VOTER PURGES

In Texas, as everywhere, election officials have an obligation to remove voters from the rolls who have moved, died or are otherwise ineligible, based upon a careful, uniform, reliable process. But on Friday, January 25 of this year, the Texas Secretary of State issued an explosive advisory claiming that there are 95,000 people on the voter rolls who indicated that they were not citizens in paperwork submitted to the department of motor vehicles, and that 58,000 of these individuals had voted in at least one election. The Secretary sent lists of "fraudulent" voters to Texas counties for investigation and created a media firestorm, fanned by instant cries of "voter fraud" on social media by the President of the United States, Texas' Governor, Texas' Attorney General, and others. Notably, the majority of non-citizens in Texas—55.1%—are from Mexico.

This situation is ongoing as of the date of this writing, with one civil rights lawsuit already filed and more to come. But, by Tuesday, at least 21% of the list had already been proven inaccurate. In McLennan County, home to Waco, *every single one* of the 366 names on the "Purge List" were confirmed to be citizens. The list has continued to shrink as counties examine the names the Secretary directed them to investigate. Several counties have declined to act on the advisory until the accuracy of the lists is verified, but at least five counties have already acted on the information, demanding additional information from targeted individuals or threatening that they will be kicked off of the voter rolls.

ELIMINATION OF VOTER REGISTRATION DRIVES

Since the 1960s, voter registration drives have played a central role in increasing registration and participation rates, particularly among communities of color and young voters. For instance, in the

⁴ For the 2016 general election, only 48% of Texans ages 18 to 24 were registered to vote, while 78% of Texans over the age of 65 were registered. This is 7 percentage points lower than the national average rate for eligible voters ages 18-24.



November 2016 election, Black and Latino voters were nearly twice as likely as Anglo voters to have registered through a voter registration drive than through other means, nationally. That year, more than 10% of all young American voters registered to vote at school, resulting (almost certainly) from voter registration drives on college campuses.

In Texas, however, it's a crime to register your neighbor to vote without first being "deputized" by the state every two years—a time-intensive, onerous process that, in too many counties, effectively shuts out those with limited English language skills and anyone who lacks the means and flexibility to attend a once-a-month downtown training in the middle of the work week. The rules require that you be separately certified by each of one Texas' 254 counties before conducting voter registration in that county, making large-scale organizing effectively impossible. Once designated as a "Volunteer Deputy Registrar," your conduct is heavily regulated by the State. One wrong move can lead to criminal penalties, including jail time.

The predictable result of this complex regime, which was largely put into place in 2011, has been the systemic elimination of grassroots voter registration activity. One young community organizer, Sean Rivera, testified before the Texas SAC that, prior to the 2016 election, just 1,000 people were eligible to register voters in San Antonio, the seventh largest city in America, with a population over 1.4 million. In his words,

These restrictions . . . are specifically poised to attack organized voter registration efforts, which impede volunteer registrars from mobilizing to bring in large numbers of voters. . . . There has been a pattern of targeting and investigating organizations with success in registering minority voters, and . . . many voter registration groups have left Texas, concluding that they cannot effectively register voters without the risk of prosecution.

FAILURE TO ENFORCE HIGH SCHOOL VOTER REGISTRATION LAWS

Longstanding Texas law mandates that all high schools, both public and private, offer voter registration to eligible students at least twice a year. But extensive research by TCRP, as well as repeated testimony before the Texas SAC, shows that this law is not being enforced by the Secretary of State's office and thus not being implemented in a uniform manner. Indeed, between October 2016 and February 2018, the State's own records showed that just 28% of schools were in compliance, meaning that 183,421 high school students were not offered the registration guaranteed to them by law.



Notably, 71.7% of all high school students in Texas are people of color. Hillary Shah, the high schooler who founded the Frisco Student Activist Union, called the lack of participation in this program “a statewide pandemic,” and urged “every Texas public high school... to play an active part in this, because that’s the law, that’s their responsibility.” But, despite considerable advocacy by TCRP and our allies, Texas officials refuse to take common sense steps to ensure the law is followed.

NON-COMPLIANCE WITH THE NATIONAL VOTER REGISTRATION ACT

Texas also refuses to comply with the “motor voter” mandates of the National Voter Registration Act (NVRA), affecting millions of Texas voters. Specifically, Texas does not offer simultaneous voter registration, as required by the NVRA, to the 1.5 million Texans who update their driver’s licenses online each year. This failure makes registering to vote and ensuring up-to-date registration more difficult for everyone, but places a heavier burden upon frequent movers, who tend to be poorer and younger than the general population (and therefore include more people of color). In a lawsuit brought by TCRP, *Stringer v. Pablos*, a federal district court ruled that this practice violated the NVRA and Equal Protection Clause in May 2018; the State is currently fighting that decision on appeal and the parties will argue before the Fifth Circuit Court of Appeals tomorrow, February 5, 2019.

The experience of one Black mother of two from Irving is illustrative. After moving to a new neighborhood, Totysa Watkins went online to update her driver’s license and checked “yes” in response to a question in the online form asking whether she wanted to register to vote. She did not learn that, in fact, her attempt at registration would not count under the State’s policies until she showed up at the polling place in 2014, children in tow. Ms. Watkins told us, “I felt that my voice was taken away from me when my vote wasn’t counted. Voting has always been something I value and is a right I have instilled in my children. Texas should not be able to take that away.”

Discrimination in Ballot Access

One key initiative of TCRP’s Voting Rights Program is leading the Texas Election Protection Coalition, working hand-in-hand with grassroots and national partners to provide education and direct support to Texas voters. This work gives us a unique, firsthand view into the struggles that Texas voters too often face when they seek to exercise their fundamental right. Indeed, since 2016, we have logged and analyzed over 8,500 incidents, ranging from simple questions to serious allegations of widespread disenfranchisement that required litigation to resolve. These reports, combined with the testimony provided to the Texas SAC in March 2018, reveal several areas where, sadly, racial discrimination continues to systemically impede access to the polls.



RAMPANT POLLING PLACES CLOSURES AND CHANGES

When Texas was still subject to the preclearance provisions of the Voting Rights Act, all counties had to seek advance permission before making any voting law changes, including shutting down or moving polling places. Since the Supreme Court's decision in *Shelby County*, however, Texas counties have made significant reductions in polling places. Indeed, testimony before the Texas SAC, and research by policy experts, confirmed that hundreds of polling places were closed before the 2016 presidential election, significantly more in both raw number and percentage than any other state. One particularly egregious example: Galveston closed 16% of its polling locations in 2016, according to a plan that had been rejected by the Department of Justice because it discriminated against black and brown voters.

In addition, numerous voters in 2016 and 2018 reported problems with last-minute polling place changes to our hotline. In fact, reports of polling location issues increased from 19% of calls in 2012 to 57% of calls from voters in 2016 and 46% of calls in 2018. Several reports of changed locations came from predominantly Black areas of Houston. In some instances, the only notice was a piece of paper posted on a wall or a tree stating that the station was closed without offering any other information. One Election Protection volunteer, for example, was assigned to visit Cypress Falls High School in Harris County first thing in the morning on November 8, 2016. This location was listed as an Election Day polling location as of the last week of October 2016. When he arrived, there was no sign of election workers, but also no sign directing voters elsewhere. Our team, not the government, ultimately provided notice to the voters.

LATE OPENINGS AND LONG LINES

Long lines and late openings are, unfortunately, such a common feature of Texas elections that they are deemed "typical" by election officials. Despite advance indicators that 2018 would be a high turnout election in Texas (and it was), significant polling place mismanagement and machine failures were still commonly reported across Texas, particularly in communities of color, causing late openings and long lines. Indeed, of the 1,390 calls we received from self-identified voters of color in 2018, 757 of them were about polling place mismanagement.

Numerous polling places in Harris County, home to Houston, opened more than an hour late on Election Day. When pressed to fix these problems, the County was nonchalant, insisting that late openings were "typical of start-up issues on Election Day." In order to ensure that polling places were open for the 12 hours guaranteed by Texas law, TCRP had to sue Harris County on behalf of the Texas Organizing Project, a grassroots community organizing group. Michelle Tremillo, the group's executive director, summarized the situation: "While it may not have been the county's



intention, the impact of their failure is, in effect, a form of voter suppression. . . . These nine polling locations predominantly serve communities of color. If even one person lost their chance to vote, it is one person too many.” With our partners, and over the County’s objections, we succeeded in keeping polls open until 8:00 p.m.

Long lines were also rampant in 2018. During early voting, for instance, our Election Protection team got reports from voters waiting for 40 minutes to an hour in San Antonio, an hour in Burnet, an hour in LaPorte, two hours in Austin, two and a half hours in Houston, and three hours in Corpus Christi. On Election Day, we saw waits of 40 minutes in San Antonio, 45 minutes in Arlington, an hour in Dallas, an hour in Waco, and an hour and 15 minutes in Austin. Research confirms common sense: Long lines disproportionately disenfranchise working-class adults, low-income parents and people of color generally because the cost of waiting tends to be more burdensome for these populations. Unsurprisingly, these communities, especially communities of color, have longer wait times at their polling stations nationally, with voters of color across the country waiting up to twice as long as white voters just to cast a ballot.

VOTER INTIMIDATION

We continue to hear stories of blatant acts of intimidation and disparate treatment against voters of color. Tragically, 137 of our calls in 2016 and 207 of our calls in 2018 were of this type, and at least three witnesses confirmed this reality before our Texas SAC. Moreover, in August 2018, months before Election Day, we learned that an Anglo man in Harris County named Alan Vera attempted to disenfranchise over 4,000 of his fellows Houstonians by delivering thousands of challenges to the voter registrar’s office (which is of questionable legality due to Vera’s apparent lack of personal knowledge of the voters challenged). Many of the challenges involved poor people living in shelters; our analysis of the addresses involved indicates that many of the challenges targeted communities of color. Mr. Vera was not punished in any way.

What follows are just some of the heart-breaking stories we heard in 2018:

- A brown-skinned voter in Kingwood gave her TX driver’s license to a poll worker, who asked her “how long she’d been in the US.” She responded that she was a naturalized citizen from Canada. The poll worker responded, “Welcome to America.” He asked the same question of the voter’s mom when she checked in to vote, but not of the white-skinned voters in line before and after them. There was nothing that would have indicated the voter’s naturalized status other than her skin color.



- A Latina voter in Houston tried to vote using a passport that was expired by one year, which is allowed by the Texas Election Code. The poll workers refused to give her a ballot and confiscated her passport, causing the voter to take her passport out of the poll worker's hand. The poll worker then pushed the voter and told her to "git." She left the polling place distraught and our volunteers had to convince her to return.
- A group of Anglo men and women in their twenties positioned themselves between the parking lot and the polling place in Spring and yelled insults at voters in line, including calling several voters "El Chapo."
- A Latino voter in Baytown was turned away from a polling place because the poll worker said "only Republicans were allowed to vote there."
- Two different men at the same polling place in Richardson harassed people of color as they went to vote; one wore a T-shirt reading "whites only."

To paraphrase the author William Faulkner, racial discrimination in voting is not dead in Texas. It's not even past.

Each barrier to voting highlighted above has a profound and detrimental effect on communities of color and is caused by a current Texas law or policy of some stripe—be that malicious decisions to purge voters of color from the rolls, criminalize grassroots registration drives and close polling places; or the unjustified refusal to follow the clear mandates of the NVRA and state voter registration law; or the (at best) grossly negligent approach to poll worker training and technology. There is, unfortunately, no real indication that state elected officials will fix these problems; if anything, the ongoing attempt to unlawfully purge new citizens from the rolls indicates that state officials may be accelerating tactics that suppress minority voting rights. Federal legislative action will be necessary, and I applaud this Committee for beginning the fact-finding process necessary to inform the lawmaking process.

This testimony will be supplemented by additional materials in the coming weeks, in hopes of providing this Committee with as much helpful information as possible. I am also, of course, happy to answer any immediate questions this Committee might have.



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