

Testimony of

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Hearing on Voting in America: The Potential for Polling Place Quality and Restrictions  
on Opportunities to Vote to Interfere with Free and Fair Access to the Ballot

Before the Committee on House Administration,  
Subcommittee on Elections

In the United States House of Representatives

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Thank you for the opportunity to testify in support of strengthening the Voting Rights Act (“VRA”), a law that has played a critical role in safeguarding American democracy against pernicious, persistent threats of discrimination in the election system. The Brennan Center for Justice at NYU School of Law strongly supports this Committee’s efforts to restore and revitalize the VRA, through the John Lewis Voting Rights Advancement Act (“VRAA”).

In the nearly 8 years since the coverage formula of the VRA was struck down in the *Shelby County v. Holder* decision,<sup>2</sup> access to the ballot box has become more challenging for racial and ethnic minorities. The *Shelby County* decision opened the door for many discriminatory practices, such as strict voter ID laws. This testimony focuses in particular on three ways in which polling place issues increase the cost of casting a ballot for racial and ethnic minorities.

1. Voters of color face much longer lines than white voters across the country. Counties with fewer electoral resources per voter—including fewer polling places—have seen the longest lines. These counties with the fewest resources also grew less white over

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<sup>1</sup> The Brennan Center for Justice at New York University School of Law is a nonpartisan public policy and law institute that works to reform, revitalize, and defend our country’s system of democracy and justice. I am a quantitative researcher in the Voting Rights and Elections Program. I have authored numerous nationally recognized reports and articles on voting rights and elections. My work has been featured in numerous media outlets across the country, including the *New York Times*, the *Washington Post*, and the *Los Angeles Times*. My research has been published in such academic journals as the American Political Science Association’s flagship *American Political Science Review*. My testimony does not purport to convey the views, if any, of the New York University School of Law.

<sup>2</sup> *Shelby County v. Holder*, 570 U.S. 529, 556-57 (2013).

- approximately the last decade.<sup>3</sup> Trends in population growth indicate that resource allocation will exacerbate—not mitigate—these wait time disparities. Worse still, state laws are ineffective at ensuring minimum resource requirements.
2. Polling place closures are especially harmful to turnout, and especially the turnout of racial and ethnic minorities. This was made clear during the Covid-19 pandemic, when Milwaukee, Wisconsin, closed the overwhelming majority of their polling places for the 2020 presidential primary. This caused a major decline in turnout—a decline that was even larger for Black voters.<sup>4</sup>
  3. These problems have likely been compounded by changes in voter purge practices attributable to the *Shelby County* decision. Following the invalidation of the VRA’s coverage formula, formerly covered jurisdictions began purging their voters at significantly higher rates. Within these jurisdictions, increased purge rates were associated with higher numbers of provisional ballots<sup>5</sup>—causing potential slowdowns for *all* voters in a given polling place, even if they were not personally removed due to a wrongful purge.<sup>6</sup>

The need for the VRAA has only increased in the aftermath of the 2020 election. The current atmosphere makes clear just how urgent the task of restoring the VRA is. In recent months, legislatures across the country have moved to enact the most sweeping restrictions on voting rights since Reconstruction ended.<sup>7</sup> The result then was a century of Jim Crow rule.<sup>8</sup> Now more than ever, a strong Voting Rights Act is necessary.

## Disparities in Election Day Experiences

Over the past decade, scholars have consistently noted that racial minorities wait longer to cast their ballots on election day than white voters. The Brennan Center showed that voters of color waited in longer lines in 2018 by leveraging self-reported wait time in national survey data,<sup>9</sup> and these disparities have also been demonstrated in past elections using other surveys,<sup>10</sup>

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<sup>3</sup> Hannah Klain et al., *Waiting to Vote: Racial Disparities in Election Day Experiences*, Brennan Center for Justice (2020), 10-11, [https://www.brennancenter.org/sites/default/files/2020-06/6\\_02\\_WaitingtoVote\\_FINAL.pdf](https://www.brennancenter.org/sites/default/files/2020-06/6_02_WaitingtoVote_FINAL.pdf).

<sup>4</sup> Kevin Morris and Peter Miller, “Voting in a Pandemic: COVID-19 and Primary Turnout in Milwaukee, Wisconsin,” *Urban Affairs Review*, (April 2021); Kevin Morris, *Did Consolidating Polling Places in Milwaukee Depress Turnout?*, Brennan Center for Justice (2020), <https://www.brennancenter.org/our-work/research-reports/did-consolidating-polling-places-milwaukee-depress-turnout>.

<sup>5</sup> Brater et al., *Purges*, 26-27.

<sup>6</sup> Lawrence Norden, *How to Fix Long Lines*, Brennan Center for Justice, (2013),

[https://www.brennancenter.org/sites/default/files/2019-08/Report\\_How\\_to\\_Fix\\_Long\\_Lines.pdf](https://www.brennancenter.org/sites/default/files/2019-08/Report_How_to_Fix_Long_Lines.pdf).

<sup>7</sup> Amy Gardner, Kate Rabinowitz, and Harry Stevens, “How GOP-Backed Voting Measures Could Create Hurdles for Tens of Millions of Voters,” *Washington Post*, March 11, 2021, <https://www.washingtonpost.com/politics/interactive/2021/voting-restrictions-republicans-states/>.

<sup>8</sup> Alex Cohen and Wilfred U. Codrington III, *The Promise and Pitfalls of the 15<sup>th</sup> Amendment Over 150 Years*, Brennan Center for Justice (Feb. 3, 2020), <https://www.brennancenter.org/our-work/analysis-opinion/promise-and-pitfalls-15th-amendment-over-150-years>.

<sup>9</sup> Klain et al., *Waiting to Vote*, 6.

<sup>10</sup> Charles Stewart III, “Waiting to Vote in 2012,” *Journal of Law and Politics* 28, no. 4 (Summer 2014): 457-58.

cell-phone data,<sup>11</sup> and administrative data.<sup>12</sup> These gaps cannot be explained solely by differences in income, age, or education, and these gaps are large: our report showed that in 2018, Black and Latino voters were more than one-and-a-half times as likely to wait 30 or more minutes as white voters.<sup>13</sup> Importantly, recent work indicates that the consequences of long lines are further-reaching than just inconvenience on Election Day: work from Stephen Pettigrew indicates that each hour spent waiting to vote reduces turnout in subsequent elections by around 1% and that non-white voters are seven times more likely to wait more than an hour to vote than white voters.<sup>14</sup>

In our recent report, we demonstrated that across the country, how election administrators allocate resources on Election Day is significantly related to voters' experiences.<sup>15</sup> Using resource data collected by the U.S. Election Assistance Commission's Election Administration and Voting Survey and wait time data reported to the Cooperative Congressional Election Study, we demonstrated that jurisdictions with fewer resources per voter—including polling places, poll workers, and voting machines—saw longer lines on Election Day in 2018. Voters who lived in counties with the most overburdened polling places reported waiting, on average, more than twice as long as voters who lived in counties with the fewest voters per polling place—even after controlling for relevant sociodemographic characteristics.<sup>16</sup> Our study, which was national in scope, joined other studies that found that polling place resources are important determinants of wait times at lower geographic scales.<sup>17</sup> (I attach our report as Appendix A.)

Although voters of color continued to report longer wait times than white voters in 2018, they were not concentrated in counties with fewer polling places, poll workers, and voting machines per voter than white voters.<sup>18</sup> Equalizing the *distribution* of polling place resources, in other words, is insufficient to equalize voters' experience on Election Day. To ensure equitable Election Day experiences and end the excessive lines and wait times faced by minority voters, administrators need to distribute relatively more and higher-quality resources in neighborhoods of color. This dynamic plays out especially clearly when it comes to language assistance. Our

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<sup>11</sup> M. Keith Chen et al., "Racial Disparities in Voting Wait Times: Evidence from Smartphone Data," *Review of Economics and Statistics* (Dec. 11, 2020): 1–27.

<sup>12</sup> Christopher Famighetti, Amanda Melillo, and Myrna Pérez, *Election Day Long Lines: Resource Allocation*, Brennan Center for Justice (2014), 5-8, [https://www.brennancenter.org/sites/default/files/2019-08/Report\\_ElectionDayLongLines-ResourceAllocation.pdf](https://www.brennancenter.org/sites/default/files/2019-08/Report_ElectionDayLongLines-ResourceAllocation.pdf); David Cottrell, Michael C. Herron, and Daniel A. Smith, "Voting Lines, Equal Treatment, and Early Voting Check-In Times in Florida," *State Politics & Policy Quarterly* (August 2020).

<sup>13</sup> Klain et al., *Waiting to Vote*, 8.

<sup>14</sup> Stephen Pettigrew, "The Downstream Consequences of Long Waits: How Lines at the Precinct Depress Future Turnout," *Electoral Studies* 71 (June 2021): 1–17.

<sup>15</sup> Klain et al., *Waiting to Vote*, 10-13.

<sup>16</sup> Klain et al., *Waiting to Vote*, 4, 17.

<sup>17</sup> Michael C. Herron and Daniel A. Smith, "Precinct Resources and Voter Wait Times," *Electoral Studies* 42 (June 2016): 249–63.

<sup>18</sup> Using county-level measures can mask considerable differences in the *quality* of these resources: work from Barreto and colleagues shows that polling places in minority neighborhoods in Los Angeles in 2004 were lower quality, even if they were not fewer in number. Matt A. Barreto, Mara Cohen-Marks, and Nathan D. Woods, "Are All Precincts Created Equal?: The Prevalence of Low-Quality Precincts in Low-Income and Minority Communities," *Political Research Quarterly* 62, no. 3 (Sept. 2009): 445–58.

research at the Brennan Center indicates that counties that have significant and growing populations of voters whose first language is not English, but have not met the threshold to provide language assistance under Section 203 of the VRA, usually provide little-to-no language assistance, leaving some communities under-resourced.<sup>19</sup> Voters whose poll workers do not speak their language are at a serious disadvantage, even if their polling places are staffed with the same number of workers. Similarly, voters navigating ballots that are not written in their primary language may take longer to vote, leading to longer lines. Other research has demonstrated the importance of language access, showing that Section 203 coverage can increase turnout among citizens who speak little English.<sup>20</sup>

It is important to note that while voters of color in 2018 did not live in jurisdictions with fewer resources per voter, the population growth of voters of color over the preceding decade was concentrated in jurisdictions where there were fewer resources. A ten-percentage point decrease in the share of a jurisdiction that was non-Hispanic white between 2009 and 2018 was associated with more than 100 additional votes cast per polling place on Election Day in 2018.<sup>21</sup> The implications of these findings are stark: although voters of color already face the longest lines, on average, they make up a growing share of the jurisdictions with the fewest electoral resources. We also found that there were fewer resources available per voter in 2018 in areas where real incomes shrank or grew slowly, relative to areas with faster income growth.<sup>22</sup> For example, our study shows that counties where real incomes grew had 470 voters per polling place on Election Day in 2018, compared to 590 for counties where real incomes declined.<sup>23</sup>

There are two reasons why federal action is needed. First, although more than half of all states have statutes detailing minimum standards for the number of polling places and over a dozen have statutes setting minimum numbers of voting machines or poll workers per voter,<sup>24</sup> many states simply do not comply with their own laws. For example, my team uncovered evidence that more than 40% of precincts in Illinois had more registered voters assigned than allowed under state law, as did nearly a quarter of precincts in Michigan. According to our analysis, 31 out of South Carolina's 46 counties had more voters per machine than allowed under state law.<sup>25</sup> Even where county-level averages are in compliance, individual polling places can miss the minimum standards. For instance, although the *average* number of voters per machine in Hall County, Georgia, in 2018 did not exceed state maximums, the maximum was exceeded in 1 out of 3 precincts in that county. In short, states are not effective enforcers of their own resource requirements, and voters of color consistently pay the price in long lines.

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<sup>19</sup> Klain et al., *Waiting to Vote*, 9

<sup>20</sup> Daniel J. Hopkins, "Translating into Votes: The Electoral Impacts of Spanish-Language Ballots," *American Journal of Political Science* 55, no. 4 (2011): 814–30.; Bernard L. Fraga and Julie Lee Merseth, "Examining the Causal Impact of the Voting Rights Act Language Minority Provisions," *Journal of Race, Ethnicity, and Politics* 1, no. 1 (March 2016): 31–59.

<sup>21</sup> Klain et al., *Waiting to Vote*, 24.

<sup>22</sup> Klain et al., *Waiting to Vote*, 10.

<sup>23</sup> Klain et al., *Waiting to Vote*, 10–11.

<sup>24</sup> Klain et al., *Waiting to Vote*, 11.

<sup>25</sup> Klain et al., *Waiting to Vote*, 11.

The second reason is that state legislatures seem poised to take steps to exacerbate the problem. Around the country, the 2021 legislative session has been marked by a number of bills that threaten to reduce the number of polling places and undermine how they are resourced. Bills have been enacted in Iowa and Montana that will result in reduced polling place availability;<sup>26</sup> a bill that has already passed the House in Michigan would significantly increase the number of voters that can be assigned to one precinct;<sup>27</sup> and bills have passed in Georgia and Iowa that reduce early voting days or complicate absentee voting,<sup>28</sup> leading to more voters—and longer lines—on Election Day. Given our findings that fewer resources are linked with longer wait times,<sup>29</sup> this pattern is deeply troubling. Moreover, the new Georgia law will make waiting in these lines more uncomfortable by outlawing the provision of snacks and water to those waiting in line at a polling place to cast their ballot.<sup>30</sup>

The implications of these bills are clear: voters of color in various states across the country will likely have to wait in even longer lines than in the past. A reinvigorated Voting Rights Act is necessary to address this issue.

### **Polling place consolidation also hurts turnout—especially for voters of color**

Nowhere are the participatory consequences of election administration clearer than in the consolidation of polling places. There are few topics on which there is near-unanimity among political scientists, but the negative turnout effect of closing polling places is one of them.<sup>31</sup> Advocates have similarly made the point that some communities, such as those who are part of a minority language group or who have difficulty marking their own ballots, face unique costs from closed polling places.<sup>32</sup>

The lack of federal preclearance due to the *Shelby County* decision has allowed formerly covered jurisdictions to close polling places without federal oversight. And these jurisdictions did just that, closing some 1,700 polling places between 2012 and 2018, according to a study examining approximately 90% of the formerly covered jurisdictions.<sup>33</sup> Although some of these closures coincided with expansive voting reforms such as vote-center models, in which voters

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<sup>26</sup> S.F. 413, 89th Gen. Assemb. (Iowa 2021); S.B. 196, 67th Leg. (Mont. 2021).

<sup>27</sup> H.B. 4134, 2021 Sess. (Mich. 2021).

<sup>28</sup> S.B. 202, 2021 Gen. Assemb. (Ga. 2021); S.F. 413, 89th Gen. Assemb. (Iowa 2021);

<sup>29</sup> Klain et al., *Waiting to Vote*, 10-13.

<sup>30</sup> S.B. 202, 2021 Gen. Assemb. (Ga. 2021).

<sup>31</sup> Henry E. Brady and John E. McNulty, “Turning Out to Vote: The Costs of Finding and Getting to the Polling Place,” *American Political Science Review* 105, no. 1 (2011): 115–34; Enrico Cantoni, “A Precinct Too Far: Turnout and Voting Costs,” *American Economic Journal: Applied Economics* 12, no. 1 (January 2020): 61–85; Martha E. Kropf and David C. Kimball. *Helping America Vote: The Limits of Election Reform*. New York: Routledge, 2012); John McNulty, Conor Dowling, and Margaret Ariotti. “Driving Saints to Sin: How Increasing the Difficulty of Voting Dissuades Even the Most Motivated Voters,” *Political Analysis* 17, no. 4 (2009): 435–55; Moshe Haspel, and H. Gibbs Knotts. “Location, Location, Location: Precinct Placement and the Costs of Voting,” *Journal of Politics* 67, no. 2 (2005): 560–73.

<sup>32</sup> Raúl Macías and Myrna Pérez, “Voters Need Safe and Sanitary In-Person Voting Options,” Brennan Center for Justice (March 31, 2020), <https://www.brennancenter.org/our-work/research-reports/voters-need-safe-and-sanitary-person-voting-options>.

<sup>33</sup> “Democracy Diverted: Polling Place Closures and the Right to Vote,” Leadership Conference on Civil and Human Rights, September 2019, <http://civilrightsdocs.info/pdf/reports/Democracy-Diverted.pdf>.

can cast a ballot at any polling place in their county, the closures should have been subject to federal oversight given these jurisdictions' checkered histories. Indeed, there is some evidence that these closures may have had racially disparate impacts: a survey by the Native American Voting Rights Coalition found that nearly 1 in 3 Native Americans in South Dakota—where 30% of Native Americans live in counties formerly covered under Section 4(b) of the VRA<sup>34</sup>—said that the distance needed to travel to the polls affected their decision to cast a ballot.<sup>35</sup>

As our peer-reviewed research demonstrates, the disenfranchising potential of polling place consolidation was thrown into stark relief in the 2020 presidential primary when Milwaukee, Wisconsin, shuttered the overwhelming majority of their polling places.<sup>36</sup> The weeks leading up to the presidential primary in Wisconsin were marked by extreme confusion due to the coronavirus pandemic. Ultimately, the City of Milwaukee only opened 5 polling places for the presidential primary, compared with more than 180 on Election Day during recent elections, due to a severe shortage of poll workers. Local reporting made clear that the April 8 primary was plagued with very long lines in the city.<sup>37</sup> By contrast, the surrounding municipalities saw much less consolidation.<sup>38</sup> These surrounding municipalities, it should be noted, are far less Black than Milwaukee City: according to 2019 5-year ACS estimates, Milwaukee City is 38% Black, compared with just 5.6% of the rest of Milwaukee County.<sup>39</sup>

To test the effects of the polling place consolidation on turnout, we compared the 2020 primary turnout of Milwaukee voters to the 2020 primary turnout of voters who were demographically very similar and lived just outside of the City's border—in other words, who lived in a municipality with substantially fewer closed polling places. Despite a surge in absentee voting, these closures still reduced turnout by nearly 9 percentage points.<sup>40</sup> As I show in Figure 1, this is not due to a different underlying propensity to vote: we selected suburban controls with identical turnout to the Milwaukee voters in the 2016 presidential and 2018 federal primaries. The turnout gap in 2020, we argue, is directly attributable to the consolidation of polling places. Even more troubling, the effects of these closures were larger for Black residents of

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<sup>34</sup> U.S. Census Bureau. (2019). *2015-2019 American Community Survey 5-Year Estimates*, Table B03002, retrieved using the Census Bureau API.

<sup>35</sup> "Voting Barriers Encountered by Native Americans in Arizona, New Mexico, Nevada and South Dakota," The Native American Voting Rights Coalition, January 2018, <https://www.narf.org/wordpress/wp-content/uploads/2018/01/2017NAVRCsurvey-results.pdf>; Peter Dunphy, "The State of Native American Voting Rights," Brennan Center for Justice (March 13, 2019), <https://www.brennancenter.org/our-work/analysis-opinion/state-native-american-voting-rights>.

<sup>36</sup> Morris and Miller, "Voting in a Pandemic"; Morris, *Did Consolidating Polling Places in Milwaukee Depress Turnout?*

<sup>37</sup> Mary Spicuzza. "A Very Sad Situation for Voters': Milwaukeeans Brave Wait Times as Long as 2 1/2 Hours, Top Election Official Says," *Milwaukee Journal Sentinel*, April 7, 2020, <https://www.jsonline.com/story/news/politics/elections/2020/04/07/wisconsin-election-milwaukee-voters-brave-long-wait-lines-polls/2962228001/>.

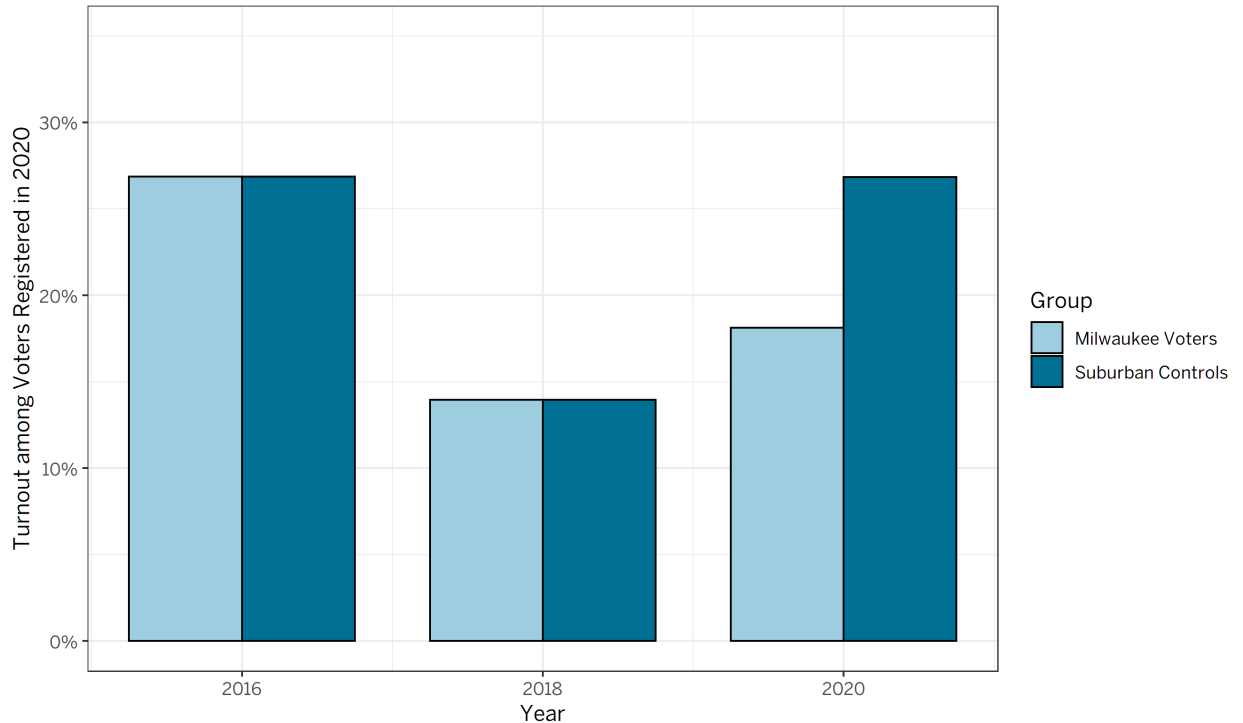
<sup>38</sup> Morris and Miller, "Voting in a Pandemic."

<sup>39</sup> U.S. Census Bureau. (2019). *2015-2019 American Community Survey 5-Year Estimates*, Table B03002, retrieved using the Census Bureau API.

<sup>40</sup> Morris and Miller, "Voting in a Pandemic."

Milwaukee.<sup>41</sup> This joins other research showing that polling place closures decrease turnout,<sup>42</sup> especially for voters of color.<sup>43</sup> (I attach our study as Appendix B.)

Figure 1: Turnout in Primary Elections  
Milwaukee Voters and Their Suburban Controls



Polling place accessibility in neighborhoods of color has come under attack from legislatures around the country this year—especially in states that were formerly covered under Section 4(b) of the Voting Rights Act. Georgia ultimately abandoned a plan to shutter polling places on Sundays, a day disproportionately popular among Black voters,<sup>44</sup> and Texas legislators attempted to pass a bill that would ban Sunday morning voting. Although the Texas bill has been temporarily defeated, the Governor has promised a special session for the purpose of passing restrictive voting legislation.<sup>45</sup> Texas similarly floated another provision, as part of the same omnibus election bill, which would have resulted in the relocation of polling places in urban counties away from minority neighborhoods and into whiter ones.<sup>46</sup> These Texas proposals join

<sup>41</sup> Morris and Miller, “Voting in a Pandemic.”

<sup>42</sup> Brady and McNulty, “Turning Out to Vote.”

<sup>43</sup> Cantoni, “A Precinct Too Far.”

<sup>44</sup> Kevin Morris. “Georgia’s Proposed Voting Restrictions Will Harm Black Voters Most,” Brennan Center for Justice, March 6, 2021, <https://www.brennancenter.org/our-work/research-reports/georgias-proposed-voting-restrictions-will-harm-black-voters-most>; Daniel Dale and Dianne Gallagher, “Fact check: What the new Georgia elections law actually does,” CNN (March 31, 2021), <https://www.cnn.com/2021/03/31/politics/fact-check-georgia-voting-bill-law-elections-explained/index.html>.

<sup>45</sup> Nick Corasaniti, “Texas Democrats Stymie G.O.P. Voting Bill, for Now,” *New York Times* (May 31, 2021), <https://www.nytimes.com/2021/05/31/us/politics/texas-voting-bill.html>.

<sup>46</sup> Alexa Ura, Chris Essig, and Madison Dong, “Polling Places for Urban Voters of Color Would Be Cut under Texas Senate’s Version of Voting Bill Being Negotiated with House,” *The Texas Tribune*, May 23, 2021, <https://www.texastribune.org/2021/05/23/texas-voting-polling-restrictions/>.

policies that were in place for the 2020 election, when each county was limited to a single drop box, regardless of population. According to one academic study, this disproportionately increased travel times for voters of color in Harris and Travis Counties.<sup>47</sup>

### **Voter Purges in the Wake of *Shelby County***

Increases in voter purges attributable to the *Shelby County* decision have also led to a deterioration in polling place quality in formerly covered jurisdictions. Before the coverage formula in Section 4(b) of the VRA was struck down, covered and uncovered jurisdictions removed—or “purged”—voters from their rolls at roughly comparable rates. For the two-year election cycles ending in 2014 and 2016, however—which includes the election cycle in which *Shelby County* was decided—there was a significant uptick in purge rates among jurisdictions formerly covered by the VRA’s preclearance condition.<sup>48</sup> This gap in purge rates continued through the 2018 election cycle.<sup>49</sup> Put differently, this means that the end of the preclearance condition did not result in a one-time “catch up” of voter list maintenance, but rather ushered in a new era in which the voter list maintenance practices of formerly covered jurisdictions were substantially more aggressive than other demographically-similar jurisdictions that were not covered under the VRA. Figure 2 makes this trend clear: as late as 2018, the median purge rate in formerly covered jurisdictions was 40% higher than in jurisdictions not covered at the time of the *Shelby County* decision. Simply put, *Shelby County* allowed and effected increased voter purges in counties with demonstrated histories of racially discriminatory voting rules. (I attach these studies in Appendix C.)

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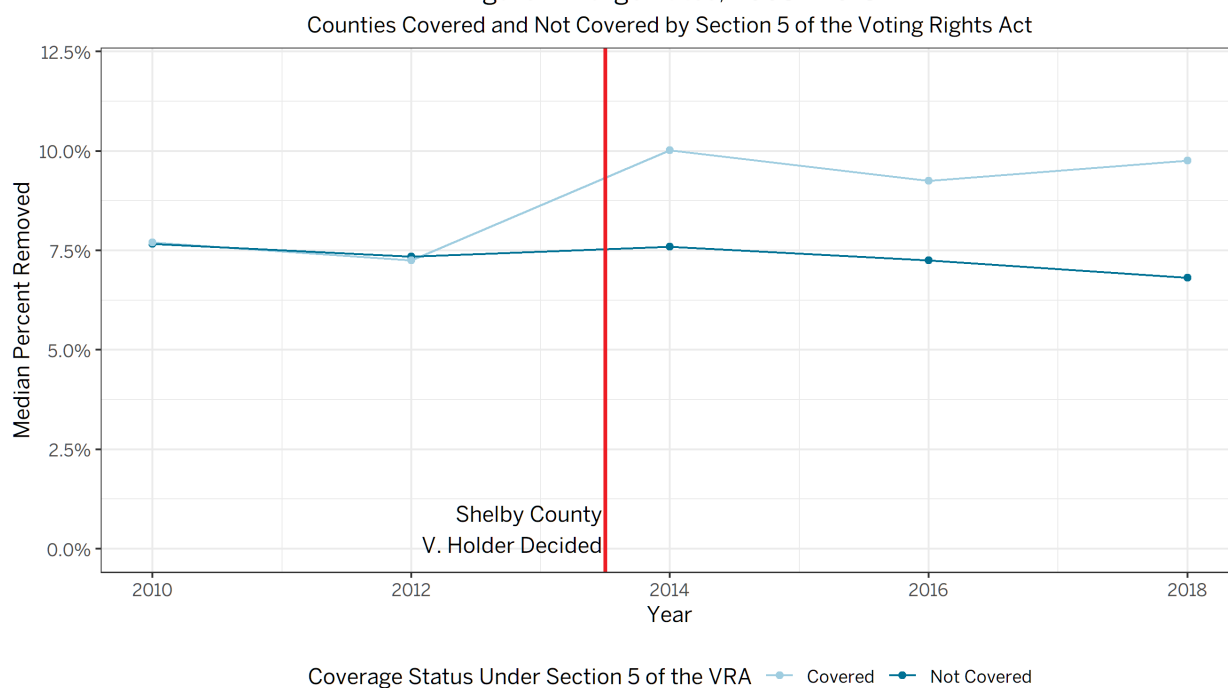
<sup>47</sup> Alex Karner and Dana Rowangould, “Access to Secure Ballot Drop-off Locations in Texas,” *Findings* (May 2021), <https://findingspress.org/article/24080-access-to-secure-ballot-drop-off-locations-in-texas>.

<sup>48</sup> Brater et al., *Purges*, 3-4.

<sup>49</sup> Kevin Morris, *Voter Purge Rates Remain High, Analysis Finds*, Brennan Center for Justice (Aug. 21, 2019), <https://www.brennancenter.org/our-work/analysis-opinion/voter-purge-rates-remain-high-analysis-finds>.



Figure 2: Purge Rates, 2008 - 2018



Source: EAVS

Notes: Shows data for counties reporting in each period. Each point corresponds to 2-year election cycle ending with that year's federal election.

While voter purges are problematic for the eligible citizens who are wrongly removed from the rolls and are often thus prevented from participating, their inaccurate removals also cause ripples in their communities. When voters who show up at their polling place are not on the rolls, poll workers may spend additional time trying to locate the voter's record, causing delays for others in line. Moreover, purged voters are often required to cast provisional ballots if the poll worker cannot confirm their eligibility to vote. Indeed, we found that among formerly covered jurisdictions, provisional ballot rates were higher where the purge rate was higher.<sup>50</sup> Because voters who cast provisional ballots can take twice as long to cast their ballot as traditional voters,<sup>51</sup> these purges can create cascading delays for all voters in a given polling place.<sup>52</sup>

The increased voter purge rates attributable to *Shelby County*, then, affect both the individuals incorrectly removed and their neighbors. It bears repeating that the jurisdictions that saw their purge rates increase after *Shelby County* were covered under Section 4(b) of the VRA because they had a history of discrimination in voting practices. While our national analysis found that *overall* purge rates increased in formerly covered jurisdictions, there is some evidence

<sup>50</sup> Brater et al., *Purges*.

<sup>51</sup> Douglas M. Spencer and Zachary S. Markovits, "Long Lines at Polling Stations? Observations from an Election Day Field Study," *Election Law Journal: Rules, Politics, and Policy* 9, no. 1 (March 2010): 3–17; Norden, *How to Fix Long Lines*.

<sup>52</sup> Norden, *How to Fix Long Lines*, 2.

of racialized voter purges at the individual level in specific jurisdictions. For example, in North Carolina, we found that voters of color were overrepresented among voters purged between September 2016 and May 2018 in 90 of the state’s 100 counties.<sup>53</sup> (I attach this study in Appendix C.) Similarly, recent research by Huber et al. on voter purges in Wisconsin also finds that voters of color are particularly vulnerable to inaccurate removals.<sup>54</sup>

## Conclusion

The Voting Rights Act was dealt a severe blow in the Supreme Court’s 2013 decision in *Shelby County v. Holder*.<sup>55</sup> For the past 8 years, racial and ethnic minorities have lacked the full protections of the Voting Rights Act meant to ensure that states make good on the central promise of our democracy: that each citizen be given a voice in her government. The nullification of the preclearance formula has left racial minorities unprotected even as they face longer lines on Election Day and are seeing their population swell in under-resourced counties; it has allowed election administrators to unilaterally consolidate polling places, resulting in turnout declines that are especially acute among communities of color; and increased purge rates in formerly covered jurisdictions have led to more time-consuming provisional ballots being cast. In the aftermath of the 2020 election, the stakes are higher than ever before, as hundreds of regressive bills have been introduced in statehouses across the country, with at least 22 bills enacted into law.<sup>56</sup> The John Lewis Voting Rights Advancement Act is needed to ensure that racial and ethnic minorities can participate fully and equally in the American democratic project.

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<sup>53</sup> Kevin Morris and Myrna Pérez, *Florida, Georgia, North Carolina Still Purging Voters at High Rates*, Brennan Center for Justice (October 1, 2018), <https://www.brennancenter.org/our-work/analysis-opinion/florida-georgia-north-carolina-still-purging-voters-high-rates>.

<sup>54</sup> Gregory A., Huber et al., “The Racial Burden of Voter List Maintenance Errors: Evidence from Wisconsin’s Supplemental Movers Poll Books,” *Science Advances* 7, no. 8 (February 17, 2021): 7-8.

<sup>55</sup> *Shelby County*, 570 U.S. at 556-57.

<sup>56</sup> *Voting Laws Roundup: May 2021*, Brennan Center for Justice (May 28, 2021), <https://www.brennancenter.org/our-work/research-reports/voting-laws-roundup-may-2021>.