The Leadership Conference Education Fund

Warning Signs: The Potential Impact of *Shelby County v. Holder* on the 2016 General Election

Races for President, Senate and Governorships at Risk with an Eviscerated Voting Rights Act

June 2016

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Executive Summary

In the three years since the U.S. Supreme Court handed down its ruling in *Shelby County v. Holder*, voters who were once protected by Section 5 of the Voting Rights Act have been subjected to racial discrimination at every juncture of the electoral process.

Voters and advocates have fought many of these proposals tooth and nail, in courthouses, statehouses and city council chambers nationwide, frequently resorting to expensive and protracted litigation. Despite this massive undertaking, countless voting laws have changed without public notice or scrutiny because *Shelby* removed federal oversight and transparency requirements from states previously covered by Section 5.

Backstory: What Is Section 5?
Under Section 5 of the Voting Rights Act, jurisdictions with a demonstrated record of racial discrimination in voting are required to submit all proposed voting changes to the U.S. Department of Justice or the U.S. District Court in D.C. for "preclearance" in advance of implementation. Preclearance was a crucial element of the Voting Rights Act because it ensured that no new voting law or practice, such as closing or moving a polling place, would be implemented in a place with a history of racial discrimination in voting unless that law was first determined not to discriminate against minority voters.

However, in *Shelby*, the Supreme Court invalidated the formula that determined which states and jurisdictions are covered by Section 5 of the VRA and thus are required to undergo preclearance. Without that determination, the preclearance provision essentially became inoperable.

In his *Shelby* opinion, Chief Justice Roberts invited Congress to address the gaps in enforcement created by the decision. Since then, two bipartisan bills – the Voting Rights Amendment Act and the Voting Rights Advancement Act – have been proposed to do just that, and several members of Congress from both parties have signed on to co-sponsor these bills. Despite this, Congress has yet to advance either bill. Because of this failure, millions of minority voters will be subject to new restrictions and barriers to their right to vote this November.

Unless Congress acts quickly, 2016 will be the first presidential election in 50 years without the full protections of the Voting Rights Act. It is also an election that could be won or lost in just a few key states—states where minority voters could determine the outcome.

In recent weeks, a number of civil rights and voting rights organizations have issued reports outlining the impact of the *Shelby* decision on minority voters. This report offers an analysis of that work. The disenfranchisement of a single eligible voter is unacceptable, but as this report highlights, the absence of a strong Voting Rights Act has impacted minority voters in several states that could play critical roles in deciding the outcomes of the 2016 election.

Shelby Ushered in a Renaissance of Voter Discrimination in Formerly Covered Jurisdictions

Advocates have documented a resurgence in voting discrimination throughout formerly covered jurisdictions, including:

- More than half of the states once covered by Section 5 will have new statewide voting restrictions in place for the first time in a presidential election in 2016, according to a collection of reports from the Brennan Center for Justice.

- Scores of historically discriminatory changes have been attempted or implemented in formerly covered states.[1]
- More than 850,000 Latino voters will be subject to voter ID requirements in the 2016 election.[2]
- One proposed discriminatory change in the method of election in Fayette County, Georgia, threatened to impact more than 100,000 people.[3]

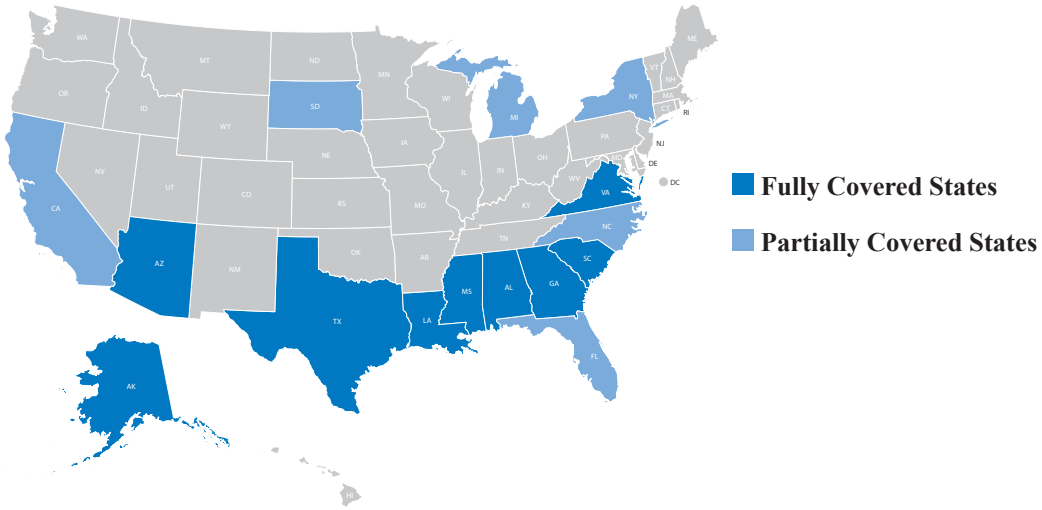
Voter Suppression Made Possible by *Shelby* Could Determine the 2016 Election

Five states that no longer fall under federal oversight—Arizona, Florida, Georgia, North Carolina and Virginia—are holding competitive presidential, Senate or gubernatorial elections in 2016. Taken collectively, these states represent 84 electoral votes and could decide the presidential election, control of the Senate, and a number of governorships this November.

Now that these states are no longer subject to oversight or accountability, each has enacted its own set of voting laws that harm voters of color:

- **North Carolina** has become one of the nation's leaders in suppressing voters, passing a wide-ranging omnibus voter suppression law in the aftermath of *Shelby*, alongside a host of local polling place closures in Black neighborhoods, redistricting efforts, and other local changes. The state is host to a close governor's race in 2016, with a 0.2 percentage point margin between the two leading candidates and a tight presidential race with only 1 percent separating Donald Trump and Hillary Clinton for the state's 15 electoral votes.
- **Florida** has continued a push to enact voter purges targeting naturalized immigrants, in addition to its track record of last minute polling place changes and conversions to English-only elections. The state is once again taking center stage in the presidential race, with 2 percentage points separating Clinton and Trump. The competitive race for its open Senate seat is routinely cited as a race that could determine control of the Senate.
- **Virginia** has enacted many of the most common practices used to disenfranchise voters of color, including a demanding restrictive voter ID law, restrictions on community-based registration drives, and overly aggressive purges of immigrant voters. These changes could make the difference in a state where recent polling showed Trump and Clinton tied at 38 percent each.
- **Arizona** has a dismal record of including its growing and diverse communities of voters in the election process since *Shelby*. This growing diversity has also made the state more competitive in 2016 than at any time in recent history, with polls showing statistical ties in its Senate and presidential elections. Without Section 5 accountability, the state has made at least two voting law changes that had previously been rejected by the Department of Justice because they discriminated against minority voters.
- **Georgia** has become a prime example of the dangers of a weakened VRA. A rapidly growing and diversifying electorate combined with the lack of protections and accountability previously provided by Section 5 has created a perfect storm for voter discrimination. Polls consistently show Trump and Clinton in a statistical dead heat as a revival of voting discrimination has taken place throughout the state.

FORMERLY COVERED JURISDICTIONS



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North Carolina - 15 Electoral Votes

North Carolina continues its trend as a politically competitive state with a growing and diverse electorate. Population growth of racial minorities in the state has been rapidly outpacing that of Whites and more than 50 percent of North Carolina millennials are non-White.

Three of the four statewide federal elections held in the state since 2008 (two presidential and two senatorial) have been decided by a margin of 2 percent or less.[4] In the 2008 election, with more than 4 million ballots cast, President Obama won North Carolina by only 14,177 votes—less than 1/3 of 1 percent of the vote.[5]

The 2016 governor's race has incumbent Governor Pat McCrory consistently polling even with his challenger, Attorney General Roy Cooper. The RealClearPolitics average of polls taken between February 15 and May 23 shows the two separated by only 0.2 percent.[6]

The state's 15 electoral votes are also up for grabs in 2016, with only a 1 percent margin between Donald Trump and Hillary Clinton.[7]

Since *Shelby,* North Carolina has Become a National Leader in Voter Suppression

Prior to *Shelby*, 40 counties in North Carolina fell under Section 5 preclearance, including population centers like Greensboro and Fayetteville. This meant that voting changes within these counties were subject to preclearance, as were all statewide voting changes that impacted these counties. Since 1980, Section 5 blocked more than 50 discriminatory voting changes from taking effect in the state.[8]

The day after the *Shelby* decision, the Speaker of the North Carolina House introduced H.B. 589, one of the most restrictive pieces of election legislation in the country, which came to be known by local advocates as the "monster bill."

COMPETITIVE RACES

President – 1% Difference Between Candidates
- Trump – 43.8%
- Clinton – 42.8%

Source: RealClearPolitics Average of Polls from 2/14 to 5/23.

Governor – 0.2% Difference Between Candidates
- McCrory – 43.0%
- Cooper – 42.8%

Source: RealClearPolitics Average of Polls from 2/15 to 5/23.

One state senator articulated the move perfectly: In light of the Court's decision in *Shelby* and the elimination of the "headache" that was Section 5, the legislature was free to "go with the full bill." That full bill included a strict ID requirement as well as a slew of additional voting restrictions, including significantly shortening the early voting period, eliminating same-day registration, prohibiting the counting of out-of-precinct provisional ballots, eliminating a pre-registration program for 16- and 17-year olds, and making challenging voters easier. In the 2012 presidential election, nearly 900,000 votes were cast during the seven days of the early voting period that have now been eliminated; over 90,000 voters used same-day registration; and more than 7,000 voters cast their ballots out-of-precinct. In the four years that North Carolina had pre-registration of 16- and 17-year-olds, more than 150,000 teenagers used it to register to vote.

The Department of Justice and voting rights advocates—including the ACLU, the Advancement Project, and the Southern Coalition for Social Justice–sued the state, arguing that H.B. 589 violated the Constitution and remaining sections of the Voting Rights Act because it had the purpose and effect of discriminating against minority voters. Evidence presented at trial established

that the restrictions in the bill disproportionately impact African Americans, Latinos, students, seniors, and low-income or working voters. For example, African-American voters disproportionately make use of same-day registration and in 2012 utilized provisional ballots at twice the rate of white voters—both methods of voting that are eliminated or heavily scaled back under H.B. 589.

As the litigation challenging H.B. 589 continues, the law remains in place, imposing discriminatory restrictions on minority communities in North Carolina. While proponents of the bill argued that these new restrictions are justified in an effort to combat voter fraud, just before the vote on the bill, the State Board of Elections provided legislators with evidence that in-person voter fraud is not a problem in North Carolina. In fact, according to the Board's data, over the last 10 years, in-person voter impersonation has accounted for fewer than one in 100,000 votes cast.[9]

And the "monster law," as bad as it is, is not the whole story of post-*Shelby* North Carolina. In a recent report, *Democracy Diminished: State and Local Threats to Voting Post-Shelby County, Alabama v. Holder*, the NAACP Legal Defense and Educational Fund (LDF) has tracked eight other voting changes in the state that raise questions of racial discrimination in places like Rockingham County, Pasquotank County, and Greensboro (in Guilford County), that include the relocation of polling places, changes to candidate qualifications, and redistricting.[10] According to a 2015 analysis referenced in LDF's report, "State officials moved almost one-third of the state's early voting polling sites in 2014, which will increase the distance that Black voters would have to travel to vote early, while leaving white voters largely unaffected."

These changes, large and small, add up to a significant harm to the political voice of minority voters in North Carolina. Given the state's history of deciding elections by some of the smallest margins in the country, this harm is one with an undeniable national impact.

Affected Voter Spotlight

Dale Hicks, an African-American man who served in the Marine Corps for five years, including one year in Afghanistan, has been an active voter for close to 20 years[11]. After being honorably discharged and transitioning to the IT field, he moved to Raleigh in June 2014. He had started hearing about the negative impacts of House Bill 589 around his community and decided to check his registration to ensure his address was up to date before voting in November. At his local precinct, he was informed that his registration information contained his old Jacksonville, N.C., address. Hicks assumed that, worst-case scenario, he'd just have to drive two hours to Jacksonville to vote. But he was told that because of the discrepancy in his address, he would not be able to vote at all because of the suspension of same-day registration. Stories like Hicks' are likely all too common among veterans, who change addresses often because of the nature of their service. "You know, you finish serving your country and you come back and to be told no, you can't, your voice will not be heard because your address says 9th street and you live on 7th street," Hicks said. "It's not right."

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Florida - 29 Electoral Votes

Florida, with its 29 electoral votes, has been a pivotal state in every national election in the 21st century. This reputation was firmly established in 2000, when a controversy over disputed ballots took the election all the way to the Supreme Court in *Bush v. Gore*. Since then, no presidential candidate has won without Florida. The changes made possible by *Shelby* could make this the second Florida election decided by the Court.

Florida is also competitive at the state level; in both 2000 and 2014, Rick Scott edged out both his opponents for governor by just 1 percent.

The 2016 election looks to be similarly competitive, with state polls currently showing a close race between Donald Trump and Hillary Clinton. RealClearPolitics presidential polling shows a 2.3 percent margin between the two candidates.[12] The open Senate race also shows national interest and is routinely cited as winnable for either party and potentially determinative of control of the Senate.

Florida is also extremely diverse, and getting more so every day. It is the third most populous state, with more than 20 million residents, with fast growing African-American, Latino, and Asian populations. Latinos make up 25 percent of Florida's population, compared to 18 percent of the nation as a whole.[13] African Americans comprise 18 percent of Florida's population, compared to 12 percent of the nation as a whole.[14]

How have post-*Shelby County* voting changes impacted Florida?

Prior to *Shelby*, five counties in Florida fell under Section 5 preclearance: Collier, Hardee, Hendry, Hillsborough and Monroe. Hillsborough is the state's fourth largest county and includes the city of Tampa. All of these counties were brought under preclearance in 1975 because, despite a significant Spanish-speaking population, ballots were printed only in English.[15] This meant that, until the *Shelby* decision, voting changes within these counties were subject to preclearance, as were all statewide voting changes that impacted these counties.

COMPETITIVE RACES

President – 2.3% Difference Between Candidates
- Clinton – 44.3%
- Trump – 42.0%

Source: RealClearPolitics Average of Polls from 4/27 to 6/2.

Open Senate Seat—An expected open seat Senate race in Florida has drawn national attention from both parties. The primary is scheduled for August 30.

In the immediate aftermath of *Shelby*, Monroe County acted swiftly to convert to English-only elections. Its October 1, 2013, election was conducted without Spanish language ballots or election materials.[16]

In 2013 and 2014, the state planned a purge of voter rolls that was rebuffed by local election officials.[17] The program was similar to a 2012 voter purge that was opposed by groups like the League of Women Voters, the ACLU, the NAACP LDF, and the Advancement Project. That program was blocked in a case involving two naturalized citizens who were wrongly scrubbed from the rolls. The governor claimed that the purge was intended to remove 180,000 illegally appearing names; ultimately, only 85 were removed.[18]

At the local level, LDF has documented closed or changed polling places in at least two areas in the state with high concentrations of African-American voters. This is significant given that poll closures in minority communities would only aggravate the state's ongoing struggle with long lines at the polls, particularly in minority communities.

Additionally, starting before and continuing after the *Shelby* decision, Florida remains the epicenter of the most effective voter suppression measure in the country; lifetime disenfranchisement of more than 1.5 million formerly incarcerated individuals who have completed the terms of their sentence but are denied the right to vote.

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Virginia - 13 Electoral Votes

Rapidly growing Virginia, which accounts for 13 Electoral College votes, has become one of the most competitive election battleground states in the country. The 2014 Senate election was decided by just over 17,000 votes and the 2013 governor's race was decided by a two-percent margin.[19]

Current polls reinforce that trend, with a recent poll from the Roanoke College Institute for Public Opinion Research showing Donald Trump and Hillary Clinton tied at 38 percent of the vote.[20] A RealClearPolitics average of polls from March 23 to May 24 shows a four-percent gap between the two.[21]

Virginia is becoming more diverse and is now home to more Asian Americans and African Americans than the national average. Latinos are the fastest growing minority population.[22]

How has *Shelby v. Holder* impacted Virginia?
Prior to *Shelby*, the Commonwealth of Virginia was required to have all changes precleared under Section 5. Since 1982, Section 5 blocked 15 discriminatory voting changes from taking effect there. Once released, the commonwealth engaged in many of the most common practices used to disenfranchise people of color, including demanding restrictive voter ID laws and overly aggressive purges of immigrant voters.

In 2013, the Virginia state legislature modified an existing ID law to significantly reduce the number of forms of identification that voters could present in order to cast their ballots. According to the Brennan Center, S.B. 1256 invalidated all non-photo identification, eliminating use of voter registration cards, Social Security cards, handgun permits, utility bills, bank statements, government checks, and paychecks.[23]

Also in 2013, Virginia adopted a suite of new restrictions on community-based voter registration drives. These include a requirement that any organization receiving more than 25 registration forms from the state must register itself with elections authorities, a prohibition on creating pre-populated registration forms, and a shortened deadline for returning completed forms to elections authorities. According to a report by the National Association of Latino Elected and Appointed Officials Educational Fund, restricting these community-driven efforts is likely to have a disproportionate impact on Latinos, who often register through a community organization.[24]

COMPETITIVE RACES

President – Polls Show a Tie or Both Candidates within the Margin of Error
Source: Roanoke College Institute for Public Opinion Research Poll from May 23

- Trump - 38%
- Clinton - 38%

Source: RealClearPolitics Average of Polls from 3/23 to 5/24.

- Clinton – 42.3%
- Trump – 38.0%

LDF determined that, as of October 2014, shortly after the new ID law went into effect in June 2014, about 197,000 registered voters in the state lacked acceptable ID to vote.[25] As in North Carolina, a disproportionate number of voters without required IDs are minority voters. Approximately 45,600 eligible Latino voters in Virginia will find voting more difficult in 2016 than in 2012 because they lack the most commonly used forms of voter ID.

The Virginia legislature adopted a flawed practice of using a Department of Homeland Security (DHS) database to verify the eligibility of voters in 2013. DHS has acknowledged that this database was not meant to be used to verify voter eligibility. According to NALEO's recent

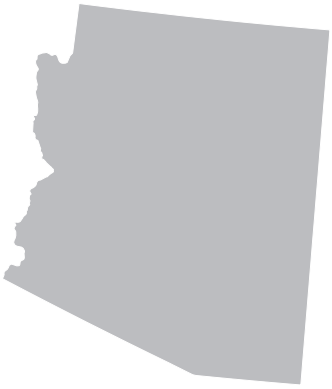
report, this database contains inaccuracies: in one recent test by the Government Accountability Office (GAO), a sample of records had a 12 percent error rate.[26]

Because this effort impacts naturalized citizens disproportionately, the result is an unnecessary barrier to voters, with a disproportionate effect on minority voters. Virginia is also the only state to have citizenship cross-checks as a statutory requirement, meaning that Virginia will be continuously placing voters of color at greater risk of being wrongly removed from the rolls.[27]

Affected Voter Spotlight

Karen Stallings had to overcome unbelievable obstacles when attempting to help her blind, elderly father vote. Stallings moved her 84-year-old father from Arizona to her home in Virginia, where she would become his primary caretaker.[28] Months before the election in November 2014, she noticed that her father's driver's license was not only expired, but from Arizona, which would not be accepted under Virginia's strict voter ID law. She took her father to the DMV to obtain a valid ID so he would be able to cast a ballot in the upcoming election. Unfortunately, her father suffered from poor health and the grueling, three-hour trip to the DMV landed him in the hospital. Stallings said, "Dad has vertigo, so he can't sit or stand very long. By the time we finally got him up to the window, he was so sick, he fell. He was in the hospital the next day." Stallings' father was ultimately able to use an absentee ballot to vote, but his story highlights the unnecessary difficulty that this legislation poses to many people in the state, especially those with disabilities and serious health issues.

Arizona - 11 Electoral Votes



Arizona is a rapidly growing state that is now 30 percent Latino, making it the state with the fourth largest proportion of Hispanics in the country. It is also home to several Native American tribes and reservations, making it the state with the 6th greatest proportion of Native Americans.

This growing diversity has made the state more competitive in 2016 than at any time in recent history. Recent presidential polls have shown only a one percent margin between Clinton and Trump.[29] Arizona's Senate race is also extremely competitive, with incumbent John McCain in a dead heat with challenger Congresswoman Ann Kirkpatrick.[30]

How *Shelby* opened the door for voter discrimination in Arizona

Prior to *Shelby*, all of Arizona was covered under Section 5 preclearance because of the state's long history of discriminating against both Latino and Native American voters. Since 1975, Section 5 blocked 22 voting changes from taking effect in the state.

Arizona's 2016 presidential primary became one the year's defining examples of the dangers of removing the accountability of preclearance. In advance of that election, Maricopa County, the largest county in the state, reduced the number of polling places by 70 percent, opening only 60 polling places in 2016 compared to over 200 in 2012.[31]

The Lawyers' Committee for Civil Rights Under Law sent letters to state and local election officials noting that on primary day, some voters waited more than five hours to vote, some polling places closed after midnight, and areas with high Latino population were disproportionally affected.[32] In June, The Lawyers' Committee even filed a lawsuit seeking to place Maricopa elections under court supervision for the next four years.[33]

COMPETITIVE RACES

President – 1% Difference Between Candidates
- Clinton – 40.3%
- Trump – 39.3%

Source: RealClearPolitics Average of Polls from 3/7 to 5/15.

Senate – Polls Show a Statistical Tie at 42% between Incumbent John McCain and Challenger Ann Kirkpatrick
- McCain – 42%
- Kirkpatrick – 42%

Source: Behavior Research Center's Rocky Mountain Poll 4/15.

- McCain – 41.7%
- Kirkpatrick – 39.3%

Source: RealClearPolitics Average of Polls from 3/7 to 5/15.

In the first year after the *Shelby* decision, Arizona attempted or implemented at least two changes to their elections involving voter purges and third-party voter registration that disproportionately impact voters of color.[34]

Arizona also sought to implement new documentary proof of citizenship requirements and brought a challenge in partnership with Kansas to seek modifications to the federal voter registration form, risking creating a dual registration system.[35] Dual registration systems such as the one Arizona proposed have a deep historical connection to racial discrimination, and a similar two-tiered system in Mississippi was blocked by Section 5 in the mid-1990s. Arizona and Kansas's request was denied by an appeals court in 2014.

On the local level, the Maricopa County Community College Board, a five-member council elected by district, attempted to change its method of election by adding two at-large seats. Historically, shifting to at-large elections has been used to dilute the political

voice of communities of color and has been blocked by Section 5. This change, which was in place for the 2014 election, is on hold pending the outcome of a legal challenge.[36]

Affected Voter Spotlight

Aracely Calderon, a 56-year-old woman, was the last voter to cast her vote in Arizona's most populous county, Maricopa. Calderon, who gained citizenship in 2012, is originally from Guatemala. She had to wait in a 700-person line that spanned more than four blocks because Maricopa County officials cut the number of polling places by 70 percent—from 200 in 2012 to just 60, leaving each polling place in the county to serve 21,000 voters, compared to the U.S. average of 1,700.37 Among the polling stations that weren't cut, a disproportionately high number were in white neighborhoods, while Hispanic, black and other minority neighborhoods received fewer polling places. After waiting for hours, Calderon was able to cast her ballot, but many others were discouraged by the lines or unable to stay because of their work schedules and were not able to vote. From 1977 to 2013, the Justice Department had rejected 22 of Arizona's proposed voting changes because they would have violated the rights of minority voters, but the decision in *Shelby* left Arizona voters like Calderon with no protection against this kind of voting discrimination.

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Georgia - 16 Electoral Votes

The rapidly diversifying state of Georgia is almost 50 percent people of color. In addition to an established and growing African-American presence, it is also home to growing Latino and Asian American communities.

Recent polling has shown that Trump and Clinton are statistically tied in the state, with polls from Fox 5 Atlanta,[38] the Atlanta Journal Constitution,[39] and WSB-TV40 all showing Trump with a narrow lead of one to four percent.

Georgia is a clear example of the need to restore the Voting Rights Act

The sheer number of discriminatory electoral changes Georgia has attempted to implement provides a strong case for a restored Voting Rights Act. According to LDF, Georgia has attempted or implemented nearly 20 discriminatory changes in the last three years.[41] The same report lists six counties, including Georgia's most populous county, attempting to or having implemented redistricting plans often used to dilute the power of African-American voters.[42]

Between August and October 2015, the majority-White Hancock County Board of Elections conducted voter challenge and purge hearings in which approximately 20 percent of the registered voters in the City of Sparta were challenged. Fifty-three voters, almost all African Americans, were removed from the voter registration rolls.[43] Voting rights advocates and voters filed a lawsuit on the purge, which resulted in a federal court order to reinstate many of the voters to the registration rolls.

One of these counties, Greene, has already gone forward with redistricting using a plan that was under preclearance review when the *Shelby* decision came down. This wasn't Greene County's first attempt; its 2012 redistricting plan failed to pass preclearance review the previous year. The 2013 version, implemented over the objection of a Black County Commissioner, reduced the number of African-American voters in all five of its County Commission districts to less than 51 percent.[44]

COMPETITIVE RACES

President – Three Recent Polls Show Trump and Clinton within the Margin of Error

- Trump – 42%
- Clinton – 41%
- Difference – 1%
- Margin of Error – 4.1%

Source: WSB-TV Poll from 5/6

- Trump – 45%
- Clinton – 41%
- Difference – 4%
- Margin of Error – 4.3%

Source: Atlanta Journal-Constitution Poll from 5/14

- Trump – 44%
- Clinton – 41%
- Difference – 3%
- Margin of Error – 4%

Source: Fox 5 Atlanta Poll from 5/16

Georgia has also attempted to make voting harder by introducing cuts to early voting, closing polling places, and, in at least two cases, moving the early voting locations into police stations.[45] According to LDF, a city council member in Morgan County, which closed more than a third of its polling places in 2013, believed that "the closures would disfranchise low-income voters and voters of color, many of whom lack cars and would have difficulty reaching the reassigned polling sites."[46]

At the state level, Georgia is currently involved in battles over alleged purges of African-American voters from voter rolls and attempts to impose proof of citizenship requirements similar to those in Arizona.[47]

Affected Voter Spotlight

In March of this year, James Williams, a retired police officer who is African American, decided to run as a Democrat against Gerald Greene, a white Republican, to represent the heavily rural, majority-black District 151. District 151 is Georgia's only "minority-dominated" district represented by a Republican. However, Greene challenged Williams' residency in District 151, even though Williams had been voting in the district for 18 years. Williams qualified for residency, but weeks later, district lines were quietly redrawn, pushing him out of the district. Georgia's Republican Secretary of State, Brian Kemp, who had previously been accused of suppressing minorities' voting rights, would not allow Williams to challenge Greene nor reopen qualifying to give Democrats an opportunity to find another candidate.

Conclusion

In 2012, the year before the *Shelby* decision, the Department of Justice received 18,146 submissions of voting changes for preclearance review to ensure that each change, if adopted, would not discriminate against minority voters. Today, without Section 5, no one knows how many changes are taking place and how many minority communities may be affected by discrimination.

What we do know is that discrimination is rampant, and not just in the states profiled in this report. Discriminatory changes have gone into effect nationwide, in states like Ohio and Wisconsin, which will play key roles in electing our next President, as well as in states like New York, Texas, and Alabama. As of the publication of this report, there are five months until the November 2016 election, which is more than enough time for states and local jurisdictions to implement additional barriers to voting.

The Voting Rights Advancement Act would not only restore preclearance protections to voters in states with the worst histories of discrimination, it would have a national impact, requiring preclearance for any proposed electoral change historically associated with discrimination.

As we approach the first presidential election in 50 years without the full protections of the Voting Rights Act, we're seeing the perfect storm of a diversifying electorate and a set of states and localities responding by implementing a broad array of voter discrimination tactics.

In 2016, it is entirely possible that the presidency, control of the Senate, and a number of governorships could be determined by the voter discrimination made possible by *Shelby*.

Endnotes

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Notes

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