

Good morning, Congresswoman Ross, and members of the Committee. My name is Janai Nelson, and I am Associate Director Counsel at the NAACP Legal Defense and Educational Fund. Since our founding in 1940 by Thurgood Marshall, LDF has led the fight to secure, protect, and advance the rights of Black voters.

Despite the guarantees of the 14th and 15th Amendments, the Voting Rights Act and other federal statutes, racial discrimination and targeted suppression of the Black vote persists. In the years since the infamous 2013 Supreme Court decision in *Shelby County v. Holder*, methods of voter suppression have metastasized across the country. By disabling Section 5 of the Voting Rights Act, the *Shelby* decision unleashed devastating attacks on the voting rights of racial and language minorities. But, in that decision, Chief Justice John Roberts expressly invited Congress to update the Act to respond to these modern conditions. However, in the eight years since, Congress has failed to do so, leaving voters of color—and our democracy—woefully unprotected.

Our report, “Democracy Diminished: State and Local Threats to Voting post-*Shelby County, Alabama v. Holder*,” which we have entered into the record, tracks, monitors, and publishes a record of discriminatory voting changes in jurisdictions formerly protected by Section 5 and which Section 5 likely would have prevented.

For example, in 2013, LDF sued to the State of Texas to stop implementation of its stringent voter ID law, SB 14—the same law previously blocked by Section 5 in 2012 and that Texas revived within hours of the *Shelby* decision. The litigation produced multiple federal court findings that Texas’s voter ID law violated Section 2 of the VRA, including a finding of intentional racial discrimination against Black and Latinx Texans. Although LDF and our partners succeeded at improving that law, by the time the case concluded in 2018, thousands of Texas voters had been disenfranchised in hundreds of local, state and federal elections.

In 2016, the largely white City of Gardendale, Alabama attempted to secede from the more racially diverse Jefferson County School Board. Gardendale’s secession would have transferred Black voters from the County School Board’s election system—in which Black voters have some representation—to Gardendale city council’s at-large election system in which Black voters have no representation at all. The Eleventh Circuit blocked the secession in 2018 after LDF successfully proved Gardendale was motivated by racial discrimination.

Also in 2018, LDF filed suit on behalf of students at Prairie View A&M University, a historically Black university in the majority-Black city of Prairie View in Waller County, Texas. The city refused to provide any early voting location on PVAMU’s campus during the first week of voting, even though it provided this opportunity to other voters. This denied PVAMU students an equal and adequate opportunity to vote. That litigation is ongoing.

Finally, in 2019, LDF and other civil rights groups sued to stop Florida from overriding the will of its voters enshrined in Amendment 4, by mandating that people with past felony convictions pay all their civil or other fees before registering to vote. However, the en banc Eleventh Circuit reversed the district court’s favorable ruling, effectively denying voting rights of thousands of people with past felony convictions.

Each of the discriminatory voting laws or changes in this representative sample would have been subject to preclearance. Instead, civil rights groups were forced to try to vindicate the rights of voters through protracted litigation. Litigation, while powerful, is a blunt instrument. And elections occurring under conditions later found to be racially discriminatory have consequences that existing methods of defense cannot combat. The inability of courts to retroactively correct these wrongs means that thousands if not millions of voters are disenfranchised during the pendency of litigation.

We urgently need prophylactic legislation that allows federal authorities to stop discrimination *before* it infringes on the right to vote.

It's unacceptable that in 2021—56 years after passage of the Voting Rights Act—by a bi-partisan super-majority: 77-19 in the Senate and 333-85 in the House--the right to vote remains under threat and under-protected.

It is the obligation of this generation of lawmakers to respond to the call of the majority of Americans who support new legislation to protect the vote. Congress must once again use the power enshrined in the Constitution, and entrusted to this body, to ensure the franchise for all citizens and create a 21st century democracy that is representative of, and responsive to, our increasingly diverse nation. It is the obligation of this Congress to guard our democracy—and to continue the work of perfecting our union by protecting the right to vote.