



Supplementary Material for the Record

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“Voting in America: Access to the Ballot in Florida”

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Chairman Butterfield, Ranking member Steil, and members of the Committee on House Administration – Subcommittee on Elections, thank you for the opportunity to testify on behalf of the Southern Poverty Law Center (SPLC) Action Fund about the persistent voting challenges facing Floridians during the “Voting in America: Access to the Ballot in Florida” hearing. In response to several questions posed during the hearing, I provided abbreviated answers considering the time constraints of the proceedings. Given the critical state of voting rights, I offer supplemental material for the record to provide additional context. This statement expounds upon: (1) cybersecurity threats to democracy, (2) photo identification requirements to vote, affecting those without transportation, often in rural areas (3) imprecise messaging of increased voter turnout in the 2020 Election and 2022 primaries, and (4) the criminalization of voting.

Cybersecurity Threats to Democracy

The SPLC Action Fund supports efforts to ensure voters have free and fair access to the ballot, and measures that increase participation without unnecessary, costly, and onerous requirements to exercise the right to vote. End user behavior has created increasing cybersecurity threats to civic engagement. The spread of misinformation, disinformation, and targeting of people of color on social media platforms threatens our democracy and stokes division. According to Forbes, “... it came as quite a surprise to see the opposite: the Internet and social media, in particular, being used to divide us one against another.¹

Individual devices, corporate and noncommercial entities, supply chains, public utility systems, connected healthcare devices, and our system of elections have all been affected by both foreign and domestic actors interested in disrupting critical infrastructure and crippling essential services. Further still, election interference with intentional dissemination of false and misleading information, designed to deliver certain electoral outcomes has become one of the most serious threats facing our nation. Sue Gordan, former deputy Director of National Intelligence stated: “Disinformation is incredibly powerful, the ability to overwhelm airwaves with any sort of messaging.”² Individuals involved in a House Homeland Security panel indicated that Russia is the biggest (or most frequent) practitioner with China, Iran and North Korea learning fast.³ The Russian government’s interference in the 2016 U.S. elections singled out African Americans.⁴

White supremacy, racism and bigotry have invaded the cybersecurity space, targeting people of color especially during major election years and hotly contested elections. Social media has created a vastly larger audience for extremist propaganda and accelerated the radicalization process. People who become radicalized adopt these views at a younger age than in the past

¹ Sam Curry, “We the People: Cyber and Democracy,” <https://www.forbes.com/sites/samcurry/2019/03/13/we-the-people-cyber-and-democracy/?sh=7c95b53c1f18>, Forbes, March 13, 2019.

² Patrick B. Pexton, “Cybersecurity Issues Are a Threat to U.S. Democracy, Experts Say,” <https://www.govtech.com/security/cybersecurity-issues-are-a-threat-to-us-democracy-experts-say.html>, Government Technology, February 17, 2021.

³ Ibid.

⁴ Tim Mak, “Senate Report: Russians Used Social Media Mostly to Target Race In 2016,” <https://www.npr.org/2019/10/08/768319934/senate-report-russians-used-social-media-mostly-to-target-race-in-2016>, NPR, October 8, 2019.

because social media makes it easy to encounter extremist material and network with the likeminded.⁵ However, the threat is not only abroad, but in the US as well.

Given the growing role of digital and social media in society, active online involvement among extremists is a growing realm of research and concern. The SPLC Action Fund encourages funding, research, and full enforcement authority to address cybersecurity threats and attacks, and disinformation campaigns targeting voters, particularly voters of color. Effective methods can be employed without increasing difficulties to cast a ballot. There must be increased government oversight of social media platforms to help mitigate the cybersecurity threats to our democracy. As mentioned in my testimony, improvement of election administration funding to states for information technology upgrades, and cyber & physical security is not only warranted, but necessary.

Photo ID Requirements to Vote

A study by the U.S. Government Accountability Office found that strict photo ID laws reduce turnout by two to three percentage points.⁶ Strict photo ID laws deprive many Americans of their right to vote when one considers the cost, underlying documentation necessary for applying for proper ID, travel to designated locations responsible for issuing ID, and the overall unnecessary burden.⁷ Studies have indicated that the prevalence of voter fraud is near zero, with incidence rates ranging between 0.0003 and 0.0025 percent nationally.⁸

Currently, voters in Florida must present one of 12 valid forms of ID that shows a photo and signature to vote. If the ID does not contain a signature, then a voter needs another ID that contains a signature. However, Florida's new election law, which requires ID to vote by mail, continues to raise concerns over misuse and ballot rejection. Governor Ron DeSantis signed the bill in April which makes significant changes after a record number of Floridians voted by mail in the 2020 election.⁹ Only two states had ID requirements in 2020 for voters requesting a mailed ballot. Weaponizing misinformation about the 2020 Election, state-level elected officials

⁵ Testimony of Christopher A. Wray, Director, Federal Bureau of Investigation, Senate Committee on Homeland Security and Governmental Affairs, "Threats to the Homeland: Evaluating the Landscape 20 Years After 9/11," <https://www.hsgac.senate.gov/imo/media/doc/Testimony-Wray-2021-09-21-REVISED.pdf>, September 21, 2021, and Testimony of Alejandro N. Mayorkas, Secretary U.S. Department of Homeland Security Senate Committee on Homeland Security and Governmental Affairs, "Threats to the Homeland: Evaluating the Landscape 20 Years After 9/11,"

<https://www.hsgac.senate.gov/imo/media/doc/Testimony-Mayorkas-2021-09-21.pdf>, September 21, 2021.

⁶ Government Accountability Office, "Issues Related to State Voter Identification Laws [Reissued on February 27, 2015]," <https://www.gao.gov/products/gao-14-634>, Sept. 19, 2014.

⁷ ACLU, "Fact Sheet on Voter ID Laws," https://www.aclu.org/sites/default/files/field_document/aclu_voter_id_fact_sheet - final 1.pdf, August 2021.

⁸ Brennan Center for Justice, "Debunking the Voter Fraud Myth," <https://www.brennancenter.org/our-work/research-reports/debunking-voter-fraud-myth>, January 31, 2017.

⁹ CBSMiami.com Team, "New Voter ID Rules in Florida, Other States, Raise Concerns of Fraud & Ballot Rejection," <https://miami.cbslocal.com/2021/05/22/new-voter-id-rules-concerns-fraud-ballot-rejection/>, CBS Miami, May 22, 2021.

across the country targeted mail voting and enacted new limits on a process that exploded in popularity during the coronavirus pandemic.¹⁰

In nearby Alabama, and at the same time Alabama was moving to implement their photo ID law, the state was making it harder for Black Alabamians to obtain a valid photo ID. Soon after the photo ID law went into effect, then-Alabama Governor Robert Bentley announced the closure of 34 DMV offices, with the closures concentrated in the counties with the highest percentage of Black residents.¹¹ Such constitutionally questionable actions underscore the underlying motivation for the enactment of stricter ID laws – voter suppression.

Voting should never become burdensome and efforts to ensure validity should not deter individuals from exercising their right to vote.

Imprecise Messaging of Increased Voter Turnout

Increases in voter turnout do not negate the fact that voter suppressive laws have been passed in many states and continue to disproportionately affect people of color, the elderly, and those with disabilities, thereby making voting more difficult. Moreover, American history reveals the struggles of communities of color to exercise the right to vote, and how many risked their lives and the lives of their families, jobs, and private property to exercise their rights; suppressive measures have never ended the fierce determination to vote. However, even if communities of color overcome the barriers set before them and vote, it is still wrong to force these communities to undertake extra effort to exercise their fundamental right.

Given that there is bipartisan agreement that the 2020 Election was safe, fair, and secure, voter suppressive laws enacted weeks after the 2020 Election are unnecessary and conflicts with the spirit of the Voting Rights Act and the Constitution. As mentioned often during the May 25, 2022 hearing: The 2020 Election was safe and demonstrated high turnout, and the 2022 primaries, particularly Georgia, have been experiencing significant turnout despite recently passed legislation. Detailing high turnout after 2020 fails to recognize that the early recorded turnout numbers are aggregate and do not account for race/ethnicity, area, candidate popularity, intraparty competition, or qualitative studies of those who could not vote due to the newly passed legislation.

Additionally, increased turnout does not suggest the absence of undue barriers to voting. These new anti-voter laws have made voting more difficult by increasing pressure coupled with significant fines and criminalization of organizations, community groups and activists trying to educate and register voters. These efforts are further hampered given recent bans on third party funding for election administration and insufficient election administration funding.

¹⁰Christina A. Cassidy, “New voter ID rules raise concerns of fraud, ballot rejection,” <https://www.klfy.com/national/new-voter-id-rules-raise-concerns-of-fraud-ballot-rejection/>, KLFY.com, May 22, 2021

¹¹ Kyle Whitmire, “As it turns out . . . Bentley’s driver’s license closures were racial, after all,” https://www.al.com/opinion/2017/01/as_it_turns_out_bentleys_drive.html, (“[T]he Black Belt has always suffered the worst from Alabama’s sins, leaving its citizens with the least means the farthest distance from basic necessities, be it a job, simple trip to the grocery store, utilities like broadband internet. And now a place to get a driver’s license.”), AL.COM, January 5, 2017.

For those suggesting that increased turnout in 2020 primaries negates voter suppression, robust quantitative and qualitative research methods should be employed to determine actual turnout in communities of color, low-income areas, elderly group quarters, and among those with disabilities, added with truth-telling stories of those denied this fundamental right.

Criminalization of Voting

We cannot ignore efforts to criminalize voters. Lawmakers in several southern states have passed legislation creating new criminal and civil penalties for voter error and proposed multi-million-dollar budgets for specialized law enforcement task forces to investigate elections, like the Florida Office of Election Crimes and Security within the Department of State, created by Senate Bill 524. As mentioned in my testimony, the Office lacks guardrails, will lead to the politicization of election security and spurs false and malicious accusations and investigations that will unnecessarily increase law enforcement presence in communities of color, leading to voter suppression, intimidation, unwarranted arrests, and possible convictions.

In most states, criminal penalties for voter fraud already exist and prosecutions for violations of these crimes are rare. After 2020, a host of new bills in the south increased criminal penalties from misdemeanors to felonies for simple voter error. The goal was to criminalize voters from Black, Brown, and minority communities and disrupt voter organization and mobilization. Across the country, election administrators are grappling with fear among poll workers and election officials after the 2020 Election.¹² These individuals were targeted with harassment, intimidation, and threats by disgruntled persons angry over election outcomes, and were often the subject of investigations themselves. The criminalization of voters and election officials is the New Jim Crow. This politically motivated election interference is designed to intimidate election officials, poll workers, and voters when the results do not suit the current party in power.

Conclusion

Words matter, especially from our leaders. In addition to the policy recommendations offered in my original testimony, I propose the following to address items discussed in this supplemental testimony:

- Hold tech/social media companies accountable,
- Fund resilience and digital literacy initiatives, and government and academic research on best evidenced-based prevention programs to address cybersecurity threats and disinformation,
- Raise cybersecurity, disinformation, and truth-telling awareness across all levels of government,

¹² Linda So, Jason Szep, "Two election workers break silence after enduring Trump backers' threats," <https://www.reuters.com/world/us/exclusive-two-election-workers-break-silence-after-enduring-trump-backers-2021-12-10/>, Reuters, December 10, 2021.

- Enact robust enforcement of President Biden's Promoting Access to Voting Executive Order and Executive Order on Advancing Racial Equity and Support for Underserved Communities Through the Federal Government.

Disenfranchisement is serious. The spread of maligned information through social media and by elected officials, laws that create barriers to voting, and increased criminal and civil penalties are voter intimidation and voter suppression, leading to greater distrust by everyday citizens, and increasing disinterest in our electoral process. Efforts to suppress minority voting will eventually penetrate other communities, returning Americans back to the days of low and dismal turnout in a leading industrialized nation. Throughout history, states have administered their elections successfully with necessary federal action. Voting matters. Congress and states must now move swiftly to make democracy work for everyone.