

TESTIMONY OF

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**HEARING ON VOTING RIGHTS AND ELECTION ADMINISTRATION IN AMERICA**  
**THE COMMITTEE ON HOUSE ADMINISTRATION**  
**U.S. HOUSE OF REPRESENTATIVES**

**SUBCOMMITTEE ON ELECTIONS**

**OCTOBER 17, 2019**

One year before ballots are cast in November 2020, our election systems are under extraordinary stress. The research conducted by the Brennan Center, bolstered by our experience in the fight for voting rights in states across the country, confirms that there is strong reason for concern.

The right to vote is at the heart of democracy. Yet over the past decade, 25 states have put in place new laws making it harder to vote, for the first time since the Jim Crow era.<sup>2</sup> Many states continue to disenfranchise people living and working in our communities because they have a past felony conviction.<sup>3</sup> Voter roll purges have surged, particularly in states previously covered by the pre-clearance provisions of the Voting Rights Act.<sup>4</sup> All these obstacles to the ballot hit hardest communities of color, the poor, young, and elderly. Voter suppression remains a potent threat to American democracy, and a bitter challenge to the ideals of equality.

And there is a new and unnerving challenge: foreign interference threatens to disrupt and degrade the 2020 election. We all know that Russia intervened in 2016. Progress has been made since then. But next year, several states will still require voters to cast ballots on hackable

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<sup>1</sup> The Brennan Center for Justice at NYU 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 have led the Center since 2005. I have authored books on government, the presidency, and the law, including *The Fight to Vote* (Simon & Schuster, 2016), a history of the struggle to win voting rights for all citizens. I previously served as director of speechwriting for President Bill Clinton from 1995 to 1999, and as special assistant to the president for policy coordination from 1993 to 1995. During my government service, I was the senior administration policy aide on political reform. My testimony does not purport to convey the views, if any, of the New York University School of Law. Thank you to Max Feldman and Harold Ekeh for their work on this testimony.

<sup>2</sup> Brennan Center for Justice, *New Voting Restrictions in America*, last accessed Oct. 14, 2019, <https://www.brennancenter.org/our-work/research-reports/new-voting-restrictions-america>.

<sup>3</sup> Brennan Center for Justice, *Criminal Disenfranchisement Laws Across the United States*, last accessed Oct. 14, 2019, <https://www.brennancenter.org/criminal-disenfranchisement-laws-across-united-states>.

<sup>4</sup> Jonathan Brater et al., *Purges: A Growing Threat to the Right to Vote* (Brennan Center for Justice 2018), [https://www.brennancenter.org/sites/default/files/2019-08/Report\\_Purges\\_Growing\\_Threat.pdf](https://www.brennancenter.org/sites/default/files/2019-08/Report_Purges_Growing_Threat.pdf).

electronic voting machines that do not leave a paper trail. Others will conduct no post-election audits to verify an accurate vote count.<sup>5</sup>

How can we ensure that the 2020 election will be free, fair, and secure? And going forward, how can we modernize our elections so they fully and accurately reflect the voices of Americans? We believe strongly that the best response to attacks on our democracy is to strengthen our democracy.

So we strongly urge Congress to enact bold reform. Here, there is reason for optimism. Earlier this year, this House passed H.R. 1—the For the People Act of 2019. That legislation is the most sweeping democracy reform bill the Congress has taken up since 1965. We encourage the Senate to follow the House and pass this bill now. We also urge the House to pass a revitalized Voting Rights Act, as it committed to doing in H.R. 1. In addition, we urge the Senate to match this House’s proposed \$600 million appropriation to the states for election security.

Americans are hungry for positive solutions. Despite new barriers to participation, turnout surged from a 72-year low in 2014 to a hundred-year high in 2018.<sup>6</sup> Voters in states across the country passed ballot measures for voting rights and redistricting reform.<sup>7</sup> Citizens are energized and engaged, a true democracy movement. Congress should act with the same urgency as its constituents and undertake bold reform to revitalize our election systems.

## I. SIGNIFICANT THREATS TO ELECTION INTEGRITY IN 2020

The Brennan Center monitors challenges to our elections nationwide. Our attorneys, social scientists, and researchers have worked with election officials and citizens in dozens of states.<sup>8</sup> Here are the principal areas of concern for the 2020 election.<sup>9</sup>

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<sup>5</sup> Andrea Córdova McCadney et al., *Voting Machine Security: Where We Stand a Few Months Before the New Hampshire Primary*, Brennan Center for Justice, Aug. 13, 2019, <https://www.brennancenter.org/our-work/analysis-opinion/voting-machine-security-where-we-stand-few-months-new-hampshire-primary>.

<sup>6</sup> Jose A. DelReal, *Voter Turnout in 2014 Was the Lowest Since WWII*, Washington Post, Nov. 10, 2014, <https://www.washingtonpost.com/news/post-politics/wp/2014/11/10/voter-turnout-in-2014-was-the-lowest-since-wwii/>; Ed Kilgore, *2018 Turnout Was the Highest of Any Midterm in More Than a Century*, New York Magazine, Nov. 13, 2018, <http://nymag.com/intelligencer/2018/11/2018-turnout-was-the-highest-of-any-midterm-since-1914.html>.

<sup>7</sup> See, e.g., Lee Drutman, “One Big Winner Last Night: Political Reform,” Vox, Nov. 7, 2018, <https://www.vox.com/polyarchy/2018/11/7/18072204/2018-midterms-political-reform-winner>.

<sup>8</sup> In the past year, for example, we have successfully sued Georgia over the security of its voter data, leading to the enactment of new state laws; successfully challenged purge practices in Indiana; and currently are suing to overturn the new Florida law that aims to roll back Amendment 4’s restoration of voting rights to as many as 1.4 million Floridians. We are engaged in advocacy in numerous state legislatures, especially in support of enactment of automatic voter registration, rights restoration for people with felony convictions in their past, election security upgrades, and redistricting reform. And we produce cutting-edge research that gives lawmakers and advocates the tools they need to make voting more accessible and secure.

<sup>9</sup> This analysis draws on testimony given by Wendy Weiser, *Hearing on H.R. 1, The For the People Act, Before the Comm. on House Administration*, 116th Cong. (Feb. 14, 2019); Myrna Pérez, *Hearing on Protecting the Right to Vote: Best and Worst Practices, Before the Comm. on House Judiciary*, 116th Cong. (Sept. 10, 2019); and Lawrence Norden, *Election Security Hearing, Before the Comm. on House Administration*, 116th Cong. (May 8, 2019).

**a. VOTER PURGES AND VOTER LIST MANIPULATION**

Voter purges refer to the process when election officials attempt to remove from registration lists the names of those ineligible to vote. Done right, purges ensure that the rolls are accurate and up-to-date. When done improperly, however, they disenfranchise legitimate voters. Often, that happens too close to an election to correct the error. Bad purges cause confusion and delay at the polls.<sup>10</sup>

The Brennan Center has documented an alarming surge in voter purges—a surge that began after the U.S. Supreme Court gutted Section 5 of the Voting Rights Act in *Shelby County v. Holder*.<sup>11</sup>

Between 2016 and 2018, officials purged at least 17 million voters nationwide. The median purge rate was 40 percent higher, however, in jurisdictions previously covered by Section 5 of the Voting Rights Act than it was elsewhere. Had purge rates in those jurisdictions been consistent with those in the rest of the country, as many as 1.1 million fewer individuals would have been removed from the rolls.<sup>12</sup>

This continues the trend we documented in a major study last year. Between 2014 and 2016, states removed almost 16 million voters from the rolls—nearly 4 million more than they removed between 2006 and 2008.<sup>13</sup> This reflects a one third increase in the number of removed voters, far outstripping growth in registered voters (18 percent) or population (six percent). This increase was driven by states that had previously been covered by Section 5—that is, states with a history of voting discrimination. The Brennan Center has calculated that two million fewer voters would have been purged between 2012 and 2016 if previously covered jurisdictions had purged at the same rate as other jurisdictions.<sup>14</sup>

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<sup>10</sup> Myrna Pérez, *Voter Purges* 1-3, (Brennan Center for Justice 2008), <https://www.brennancenter.org/sites/default/files/legacy/publications/Voter.Purges.f.pdf>.

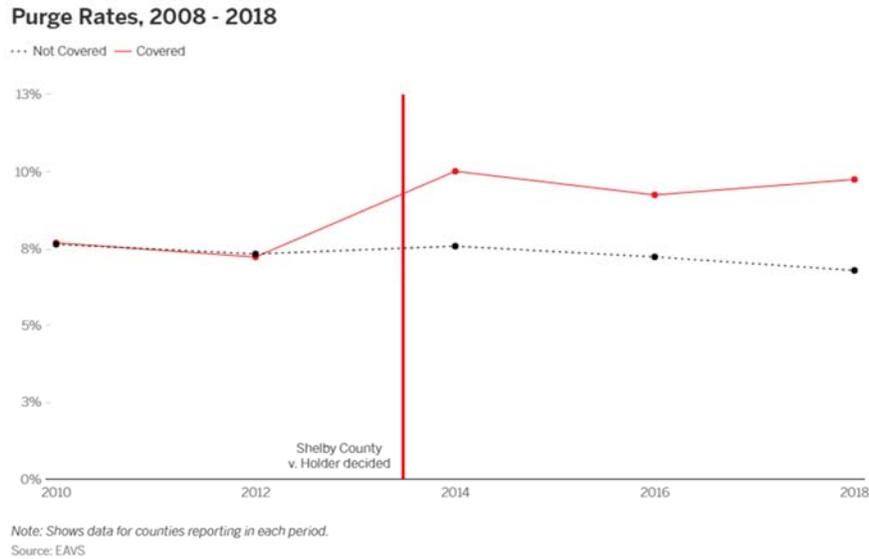
<sup>11</sup> Brater et al., *Voter Purges: A Growing Threat*, 1.

<sup>12</sup> Kevin Morris, *Voter Purge Rates Remain High, Analysis Finds*, Brennan Center for Justice, Aug. 1, 2019, <https://www.brennancenter.org/our-work/analysis-opinion/voter-purge-rates-remain-high-analysis-finds>.

<sup>13</sup> Brater et al., *Voter Purges: A Growing Threat*, 3-5.

<sup>14</sup> *Id.* at 4; see also Kevin Morris and Myrna Pérez, *Florida, Georgia, North Carolina Still Purging Voters at High Rates*, Brennan Center for Justice, Oct. 1, 2018, <https://www.brennancenter.org/our-work/analysis-opinion/florida-georgia-north-carolina-still-purging-voters-high-rates>.

The apparent impact of *Shelby County* is evident in this chart:



Improper purges, and attempts at improper purges, litter our recent history. Earlier this year, for example, the Texas Secretary of State sent lists of approximately 95,000 alleged non-citizens to county officials for purging—but within days, the state was forced to retreat, once it became clear that the lists were rife with inaccuracies.<sup>15</sup> In 2016, New York officials erroneously deleted hundreds of thousands from the rolls, with no public warning and little notice to those who had been purged.<sup>16</sup> The same year, thousands of Arkansans were purged because of supposed felony convictions—but the lists used were highly inaccurate, and included many who had never committed a felony, or who had had their voting rights restored.<sup>17</sup>

In her dissent in *Shelby County*, Justice Ruth Bader Ginsburg warned that “throwing out preclearance when it has worked and is continuing to work to stop discriminatory changes is like throwing away your umbrella in a rainstorm because you are not getting wet.”<sup>18</sup> As millions of purged voters can attest, her warning was all too prescient.

H.R. 1 contains new protections to prevent improper purges, including new guardrails on the use of inter-state databases that purport to identify voters that have re-registered in a new state, but that have been proven to produce deeply flawed data. It also includes provisions for automatic voter registration and same day registration—policies that ameliorate the impact of improper purges. We urge the Committee to continue to press for these important reforms.

<sup>15</sup> Sean Morales-Doyle and Rebecca Ayala, *There’s Good Reason to Question Texas’ Voter Fraud Claims*, Brennan Center for Justice, Jan. 29, 2019, <https://www.brennancenter.org/our-work/analysis-opinion/theres-good-reason-question-texas-voter-fraud-claims>.

<sup>16</sup> Brater et al., *Voter Purges: A Growing Threat*, 5-6.

<sup>17</sup> *Id.* at 5.

<sup>18</sup> *Shelby County, Ala. v. Holder*, 570 U.S. 529, 590 (2013) (Ginsburg, J., dissenting).

## b. ELECTION SECURITY

Foreign interference and inadequate election security represent a second significant threat in 2020. As the Mueller Report concluded, Russia waged a campaign to interfere in our election “in sweeping and systematic fashion.”<sup>19</sup> Moscow did more than hack DNC and campaign emails. In addition to a massive effort on social media, the Russians targeted state and local election officials, breached two state registration databases and extracted data from one, and used spear phishing attacks to gain access to and infect computers of a voting technology company and at least one Florida county.<sup>20</sup>

There is every reason to think these threats continue, especially now that the whole world knows how vulnerable we are. Before the midterm election the Director of National Intelligence testified that the “lights are blinking red.”<sup>21</sup> Robert Mueller, in his July congressional testimony, warned, “Many more countries are developing the capability to replicate what the Russians have done.” He added, the Russian effort “wasn’t a single attempt. They’re doing it as we sit here. And they expect to do it during the next campaign.”<sup>22</sup>

Indeed, the nation may face even more serious threats in 2020 and beyond. Russia seems to have started its attacks against our election infrastructure in June 2016, late in the day compared to other aspects of their campaign. By 2020, Russia will have had four years to leverage knowledge gained in 2016. Chris Krebs, head of the Cybersecurity and Infrastructure Security Agency at the Department of Homeland Security, has warned that the 2020 election is “the big game” for adversaries looking to attack American democracy.<sup>23</sup> More, we ought not assume we are at risk just from Russia. National security agencies have warned of potential attacks from China, North Korea, and Iran, as well as non-state actors.<sup>24</sup> (Since 2016, there have been reports of alleged Chinese election-related attacks against Indonesia’s voter database as well as against Australia’s major political parties.)<sup>25</sup>

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<sup>19</sup> Robert S. Mueller III, *Report on the Investigation into Russian Interference in the 2016 Presidential Election 1*, (U.S. Department of Justice 2019), <https://www.justice.gov/storage/report.pdf>.

<sup>20</sup> *Ibid.* at 51.

<sup>21</sup> Julian E. Barnes, “‘Warning Lights Are Blinking Red,’ Top Intelligence Officer Says of Russian Attacks,” *The New York Times*, July 18, 2018, <https://www.nytimes.com/2018/07/13/us/politics/dan-coats-intelligence-russia-cyber-warning.html>.

<sup>22</sup> *Hearing on Oversight of the Report on the Investigation into Russian Interference in the 2016 Presidential Election: Former Special Counsel Robert S. Mueller, III, Before the Comm. on the Judiciary*, 116th Congress (July 24, 2018) (statement of Robert S. Mueller, III, former special counsel)

<sup>23</sup> Colleen Long and Michael Balsamo, *Cybersecurity officials start focusing on the 2020 elections*, Associated Press, Nov. 8, 2018, <https://www.apnews.com/cfaa16f6a86349bebc16e0633d6214dd>.

<sup>24</sup> See, e.g., Daniel R. Coats, Director of National Intelligence, *Statement for the Record: Worldwide Threat Assessment of the US Intelligence Community 6-7* (2019), <https://www.dni.gov/files/ODNI/documents/2019-ATA-SFR---SSCI.pdf>; Jordan Fabian, *US warns of 'ongoing' election interference by Russia, China, Iran*, The Hill, October 19, 2018, <https://thehill.com/policy/nationalsecurity/412292-us-warns-of-ongoing-election-interference-by-russia-china-iran>.

<sup>25</sup> Viriya Singgih, Arys Aditya, and Karlis Salna, *Indonesia Says Election Under Attack From Chinese, Russian Hackers*, Bloomberg, March 13, 2019, <https://www.bloomberg.com/news/articles/2019-03-12/indonesia-says-pollunder-attack-from-chinese-russian-hackers>; Dean Pennington, *Australia's major parties targeted in 'sophisticated' cyber attack ahead of election*, TechSpot, February 18, 2019, <https://www.techspot.com/news/78802-australia-major-parties-targeted-ophisticated-cyberattack-ahead.html>.

The country undoubtedly has made progress in protecting our elections. In 2016, 20 percent of votes were cast on machines with no paper backup. By next year, we estimate that number will drop to 12 percent.<sup>26</sup> Several states are replacing outdated voting equipment. But major challenges remain.

At least 26 states, for example, totaling 243 electoral votes, are not currently on track to require post-election audits prior to certification of the election. Traditional post-election audits, which generally require manual inspection of paper ballots cast in randomly selected precincts or on randomly selected voting machines, can provide assurance that individual voting machines accurately tabulated votes.<sup>27</sup>

### c. DISENFRANCHISEMENT LAWS

Disenfranchisement laws—a relic of the Jim Crow era that continues to haunt our elections—represent a third significant threat to voters in 2020. Across the country, state laws deny millions of citizens the right to vote because of a criminal conviction, including at least three million who are no longer incarcerated.

These laws vary dramatically from state to state. They range from permanent disenfranchisement for everyone convicted of a felony in Iowa and Kentucky, to no deprivation of voting rights at all in Vermont and Maine. Between these extremes, some states distinguish between different types of felonies, others treat repeat offenders differently, and some have varying rules on what parts of a sentence must be completed before rights are restored. Navigating this patchwork of laws can confuse election officials and prospective voters about who is eligible to participate. The result is large-scale *de facto* disenfranchisement of voters who are eligible but do not know it.<sup>28</sup>

A particularly important fight for fairness is unfolding in Florida right now. The state had the country's harshest law, permanently disenfranchising 1.4 million people. One in four black men in Florida was ineligible to vote. Last November, nearly 65 percent of voters approved Amendment 4, which automatically restored voting rights to Floridians who had completed the terms of their sentence. In the months that followed, Amendment 4 began to fulfil its promise—rapidly restoring voting rights to Floridians who had paid their debt to society. Our research found that nearly 100 times more formerly incarcerated Floridians registered in the first three months of 2019 than in previous comparable years. And more than 44 percent of the formerly incarcerated Floridians who registered to vote between January and March of 2019 identified themselves in their voter registration forms as Black (whereas Black voters comprise 13 percent of Florida's overall voter population).<sup>29</sup> The racial justice implications were profound.

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<sup>26</sup> McCadney et al., *Voting Machine Security*.

<sup>27</sup> Lawrence Norden, *How to Secure Elections for 2020 and Beyond*, Brennan Center for Justice, Oct. 2, 2019, <https://www.brennancenter.org/our-work/research-reports/how-secure-elections-2020-and-beyond>.

<sup>28</sup> Brennan Center for Justice, *Criminal Disenfranchisement Laws Across the United States*, last accessed October 14, 2019, [https://www.brennancenter.org/sites/default/files/legal-work/2019.5.31\\_Criminal\\_Disenfranchisement\\_Map.pdf](https://www.brennancenter.org/sites/default/files/legal-work/2019.5.31_Criminal_Disenfranchisement_Map.pdf).

<sup>29</sup> Kevin Morris, *Thwarting Amendment 4* (Brennan Center for Justice 2019), [https://www.brennancenter.org/sites/default/files/analysis/2019\\_05\\_FloridaAmendment\\_FINAL-3.pdf](https://www.brennancenter.org/sites/default/files/analysis/2019_05_FloridaAmendment_FINAL-3.pdf).

Then, the Florida Legislature stepped in to roll back this important reform. In June, Governor DeSantis signed a law, which prohibits returning citizens from registering to vote unless they pay off all legal financial obligations (“LFOs”) imposed by a court pursuant to a felony conviction, even if they cannot afford to pay. That same day, several civil rights groups, including the Brennan Center, filed a federal lawsuit challenging the new law. A federal district court recently held a hearing on our motion to temporarily enjoin the law, pending a trial. If it is allowed to stand, this modern-day poll tax will have a severe impact.<sup>30</sup>

#### d. ADDITIONAL CHALLENGES

We face, of course, numerous other challenges to election integrity in 2020. For example, attempts to suppress votes through deception and intimidation remain all too widespread. This is not a new problem, but now social media platforms make the mass dissemination of misleading information easy and allow for perpetrators to target particular audiences with precision. In a recent analysis for the Brennan Center, University of Wisconsin Professor Young Mie Kim documented hundreds of messages on Facebook and Twitter designed to discourage or prevent people from voting in the 2018 election.<sup>31</sup>

Inadequate election day resources and long lines may also deter voters in 2020, particularly voters of color. A Brennan Center study found that, in the 2012 election, voters in precincts with more minorities experienced longer waits and tended to have fewer voting machines.<sup>32</sup> A more recent academic paper using cellphone data found that, in the 2016 election, voters in Black neighborhoods were significantly more likely to wait in long lines than voters in white neighborhoods.<sup>33</sup> The Brennan Center continues to research election resource allocation, and we plan to release a report on this issue early next year.

In addition, state legislatures continue to add new obstacles to the ballot box. This year, at least five states have enacted new laws restricting voting access.<sup>34</sup> These laws continue a decade-long turn toward placing direct burdens on people’s right to vote.

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<sup>30</sup> Brennan Center for Justice, *Gruver v. Barton (consolidated with Jones v. DeSantis)*, last accessed Oct. 14, 2019, <https://www.brennancenter.org/our-work/court-cases/gruver-v-barton-consolidated-jones-v-desantis>.

<sup>31</sup> Young Mie Kim, *Voter Suppression Has Gone Digital*, Nov. 20, 2018, <https://www.brennancenter.org/our-work/analysis-opinion/voter-suppression-has-gone-digital>.

<sup>32</sup> Christopher Famighetti et al., *Election Day Long Lines: Resource Allocation 1-2* (Brennan Center for Justice 2014), [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).

<sup>33</sup> Daniel Garisto, *Smartphone Data Show Voters in Black Neighborhoods Wait Longer*, Scientific American, Oct. 1, 2019, <https://www.scientificamerican.com/article/smartphone-data-show-voters-in-black-neighborhoods-wait-longer1/>.

<sup>34</sup> Brennan Center for Justice, *Voting Laws Roundup 2019*, last modified July 10, 2019, <https://www.brennancenter.org/analysis/voting-laws-roundup-2019>.

## II. BOLD REFORM IS NEEDED TO ADDRESS THESE THREATS

Our elections face urgent threats, and we must respond with equal urgency. And we should take this moment of public engagement to press for long-needed changes to ensure free, fair, and accurate elections every year going forward. We encourage Congress to pass H.R. 1, to restore the Voting Rights Act, and to appropriate necessary funds for election security.

### a. H.R. 1—A BREAKTHROUGH FOR VOTING ACCESS

H.R. 1 comprises reforms to revitalize every aspect of American democracy. Among the most important of H.R. 1's reforms is automatic voter registration ("AVR"). AVR is a simple but transformative policy that could bring millions into the electoral process. Under AVR, every eligible citizen who interacts with designated government agencies is automatically registered to vote, unless they decline registration. Fully implemented nationwide, it would add fifty million to the rolls, cost less, and improve accuracy and security.<sup>35</sup>

AVR shifts registration from an "opt-in" to an "opt-out" approach. When eligible citizens give information to the government—for example, to get a driver's license, receive Social Security benefits, apply for public services, register for classes at a public university, or become naturalized citizens—they are automatically signed up to vote unless they decline.<sup>36</sup> Registration information is electronically transferred to election officials, avoiding paper forms and snail mail. This significantly increases the accuracy of the rolls and drives down the costs of maintaining them.<sup>37</sup>

AVR works. In the past five years, 16 states and the District of Columbia have adopted AVR (though several are still implementing the policy). A Brennan Center study found that AVR dramatically boosted the number of registrants everywhere it has been implemented, with increases ranging from 9 to 94 percent.<sup>38</sup> FiveThirtyEight recently supplemented our findings. It reported that the eight jurisdictions that implemented AVR by the 2018 registration deadline automatically registered about 2.2 million new voters.<sup>39</sup>

H.R. 1 includes myriad other important measures to expand voting rights and strengthen democracy. Among these, it incorporates the Democracy Restoration Act, which would restore federal voting rights to citizens with past criminal convictions living in our communities.

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<sup>35</sup> Brennan Center for Justice, *The Case for Automatic Voter Registration* (2016), [https://www.brennancenter.org/sites/default/files/publications/Case\\_for\\_Automatic\\_Voter\\_Registration.pdf](https://www.brennancenter.org/sites/default/files/publications/Case_for_Automatic_Voter_Registration.pdf).

<sup>36</sup> *Id.* 6-7.

<sup>37</sup> *Id.* 11.

<sup>38</sup> Kevin Morris and Peter Dunphy, *AVR Impact on State Voter Registration*, (Brennan Center for Justice 2019), [https://www.brennancenter.org/sites/default/files/2019-08/Report\\_AVR\\_Impact\\_State\\_Voter\\_Registration.pdf](https://www.brennancenter.org/sites/default/files/2019-08/Report_AVR_Impact_State_Voter_Registration.pdf).

<sup>39</sup> Nathaniel Rakich, *What Happened When 2.2 Million People Were Automatically Registered to Vote*, FiveThirtyEight, Oct. 10, 2019, <https://fivethirtyeight.com/features/what-happened-when-2-2-million-people-were-automatically-registered-to-vote/>.

## **b. REVITALIZE THE VOTING RIGHTS ACT**

The Voting Rights Act of 1965 (“VRA”) was the nation’s most effective civil rights law. In 2013, however, the Supreme Court struck down the “coverage formula” that determined which jurisdictions were subject to pre-clearance.<sup>40</sup> This decision effectively blocked the pre-clearance system from operation. The years since have demonstrated the urgent need to revitalize the law. State and local jurisdictions have continued to implement discriminatory voting rules, disenfranchising voters of color in election after election.<sup>41</sup> Over the course of several months, this Committee has held a series of field hearings in states across the country, documenting serious challenges to voting accessibility and fair election administration.

These ongoing problems demand a strong, but thoughtful response. When the Supreme Court gutted preclearance, it stated explicitly that Congress could fix the VRA, using current data and taking a wider perspective.<sup>42</sup> Moreover, the VRA has long been a bipartisan congressional priority—the reauthorization in 2006 passed the House overwhelmingly and the Senate 98-0—and it should be once again.<sup>43</sup>

For its part, H.R. 1 also contains a strong commitment to revitalizing the VRA. The Voting Rights Advancement Act (H.R. 4), currently under consideration in this House, contains an updated coverage formula and other vital protections carefully tailored to current conditions. We encourage Congress to follow through on its commitment in H.R. 1 and to act expeditiously to restore the VRA to its full strength.

## **c. STRENGTHEN ELECTION SECURITY**

First and foremost, election security in 2020 requires funding. The Brennan Center has long supported both a complete, nationwide transition to paper ballot voting machines and the implementation of risk limiting audits (“RLAs”), an effective check on election results, to ensure security and confidence in electoral results. But these and other critical reforms require money, and states are running out of time to put new machines and systems in place for 2020. We enthusiastically applaud the House for proposing to appropriate \$600 million for election

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<sup>40</sup> *Shelby County*, 570 U.S. at 557.

<sup>41</sup> See, e.g., Wendy Weiser and Zachary Roth, *This Is the Worst Voter Suppression We’ve Seen in the Modern Era*, Brennan Center for Justice, Nov. 2, 2018, [https://www.brennancenter.org/our-work/analysis-opinion/worst-voter-suppression-weve-seen-modern-era?utm\\_source=facebook&utm\\_medium=socialmedia](https://www.brennancenter.org/our-work/analysis-opinion/worst-voter-suppression-weve-seen-modern-era?utm_source=facebook&utm_medium=socialmedia).; Rebecca Ayala, *Voting Problems 2018*, Brennan Center for Justice, Nov. 5, 2018, <https://www.brennancenter.org/our-work/analysis-opinion/voting-problems-2018>.; Makeda Yohannes, *New Hampshire’s New Voting Law Threatens Student Voters*, Brennan Center for Justice, July 18, 2018, <https://www.brennancenter.org/blog/new-hampshires-new-voting-lawthreatens-student-voters>; Rebecca Ayala and Jonathan Brater, *What’s the Matter with Georgia?*, Brennan Center for Justice, Oct. 12, 2018, <https://www.brennancenter.org/our-work/analysis-opinion/whats-matter-georgia>.

<sup>42</sup> *Shelby County*, 570 U.S. at 557.

<sup>43</sup> U.S. Senate, *H.R.9 Vote Summary*, July 20, 2006, [https://www.senate.gov/legislative/LIS/roll\\_call\\_lists/roll\\_call\\_vote\\_cfm.cfm?congress=109&session=2&vote=002](https://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=109&session=2&vote=002); U.S. House of Representatives, *Final Vote Results for Roll Call 374*, July 13, 2006, <http://clerk.house.gov/evs/2006/roll374.xml>.

security in the appropriations bill voted on in June.<sup>44</sup> This represents a robust down payment on our overall election security needs—which the Brennan Center estimates will cost approximately \$2.2 billion over the next five years.<sup>45</sup> We are encouraged that the Senate has agreed to appropriate \$250 million for election security on a bipartisan basis.<sup>46</sup> But we believe it is critical that the final spending bill reflect the House’s proposed appropriation, as well as its provisions to ensure that the funds are used for election security rather than unrelated activities.

Funding is an important first step toward securing our elections, but Congress can and should do more. At present, for example, there is almost no federal oversight of the private vendors who design, build, and maintain our election systems. That should change. We recommend that Congress adopt a mandatory reporting system for all cyber security incidents for election vendors and consider additional reforms, such as vendor employee background checks. In addition, Congress should make permanent the Department of Homeland Security’s designation of elections systems as “critical infrastructure.”<sup>47</sup> A permanent designation will help to guarantee that states are provided with priority access to tools and resources available from DHS and greater access to information on cyber vulnerabilities on a voluntary basis.

### III. CONCLUSION

Much work remains to be done to ensure that the 2020 election is free, fair, and secure. I thank this Committee for holding this important hearing and urge Congress to take quick and forceful action to reform our election systems.

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<sup>44</sup> Press Release, House Comm. on Appropriations, Appropriations Committee Releases Fiscal Year 2020 Financial Services and General Government Funding Bill, June 2, 2019, <https://appropriations.house.gov/news/press-releases/appropriations-committee-releases-fiscal-year-2020-financial-services-and>.

<sup>45</sup> Lawrence Norden and Edgardo Cortés, *What Does Election Security Cost?*, Brennan Center for Justice, Aug. 15, 2019, <https://www.brennancenter.org/our-work/analysis-opinion/what-does-election-security-cost>

<sup>46</sup> Carl Hulse, *After Resisting, McConnell and Senate G.O.P. Back Election Security Funding*, N.Y. Times, Sept. 19, 2019, <https://www.nytimes.com/2019/09/19/us/politics/mcconnell-election-security.html?module=inline>.

<sup>47</sup> Press Release, U.S. Department of Homeland Security, Statement by Secretary Jeh Johnson on the Designation of Election Infrastructure as a Critical Infrastructure Subsector, Jan. 6, 2017, <https://www.dhs.gov/news/2017/01/06/statement-secretary-johnson-designation-election-infrastructure-critical>.