



AMERICAN CIVIL LIBERTIES UNION
FOUNDATION

Texas

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To Members of the Texas Advisory Committee to the U.S.
Commission on Civil Rights:

I submit this testimony on behalf of the American Civil Liberties Union of Texas, and its thousands of members and supporters around the state, to address the barriers to voting for vulnerable communities in Texas. Voting is the cornerstone of our democracy and the fundamental right upon which all our civil liberties rest. The ACLU of Texas works to protect and expand Americans' freedom to vote.

Through litigation and advocacy, the ACLU continues to fight back against attempts to curtail this essential right. Despite our efforts, politicians across the country continue to engage in voter suppression, efforts that include additional obstacles to registration, cutbacks on early voting, and strict voter identification requirements. In Texas, there remain a number of significant obstacles to the free and fair exercise of the right to vote, which have been the subject of litigation:

- Redistricting is a major issue, with the Supreme Court recently agreeing to hear a case (*Abbott v. Perez*) involving the drawing of electoral districts in Texas which were found by the U.S. District Court to have been drawn with racially discriminatory intent, to dilute the strength of minority votes.
- Texas's voter identification laws, which have been described as the strictest photo ID laws in the nation, have been found by three federal courts to have disproportionately burdened voters of color in violation of the Voting Rights Act (*Veasey v. Abbott*). Notwithstanding those findings, the laws remain in place pending further litigation and appeals.
- Federal courts have also found Texas to be in violation of the Voting Rights Act because of a provision of the State's Election Code which imposes limitations on a language-

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minority voter's ability to have an interpreter of their choice to assist them in the voting process (*Organization for Chinese Americans Greater Houston v. Texas*).

On a local level, municipalities across the state are constantly threatening the free and fair exercise of the right to vote. Just this past May, my hometown of Pasadena, Texas held citywide and school district elections that raised a significant number of issues, based on information provided to the ACLU, spanning voter intimidation, language access problems, and the provision of inadequate or misleading information to voters about polling locations, all of which had a disparate impact on the Latino community. For example, a Latino candidate who was on the ballot running for a school board position reported having been left off the voter rolls in his own precinct and given excuses for why he had to vote elsewhere during early voting, until he was finally allowed to vote more than 15 minutes later. The candidate knew enough to be persistent about his right to vote and demanded that poll workers call the county officials to verify his information; however, Latino voters in other precincts in Pasadena got frustrated and left without voting. Meanwhile, white voters reportedly took less than five minutes at polling locations going in and out to cast their votes. Observers at the Pasadena elections noted the egregiousness of voter intimidation tactics, with one anonymous U.S. Department of Justice monitor commenting that the DOJ had not seen anything close to this level since the 1950s and 60s. The ACLU is still investigating these incidents and others throughout the state.

It is no surprise that my hometown has had its share of racial issues, considering it served for many years as the state headquarters for the KKK. Pasadena's discriminatory past lingers in its political infrastructure and manifests in its election system. Recently, the U.S. District Court for the Southern District of Texas found that Pasadena's change in its districting plan from eight single-member districts to a hybrid map with six single-member districts and two at-large districts was motivated by discriminatory intent and violated the Voting Rights Act. Pasadena did not challenge the ruling on appeal and chose to settle instead, effectively leaving intact its single-member district system.

One of the main threats to the voting rights of vulnerable communities in Texas is voter intimidation in all its forms. This may include, but is not limited to, aggressively questioning voters about their citizenship, criminal record, or other qualifications to vote, in a manner intended to interfere with the voters' rights; falsely presenting oneself as an elections official; spreading false information about voter requirements such as an ability to speak English; or the need to present certain types of photo identification; displaying false or misleading signs about voter fraud and the related criminal penalties; harassment toward non-English speakers, voters with disabilities, and voters of color; and changes of polling locations to inconvenient or threatening areas.

Another threat to voting rights in Texas is the effort to make mail-in voting more burdensome. For example, the Texas legislature continues to introduce legislation which affects the ability of Texas residents to exercise the right to vote, including legislation which criminalizes the inadvertent marking of any part of a ballot paper and any conduct which could be interpreted as influencing the vote of another, in the presence of a mail-in ballot paper.

Furthermore, on a macro level, the voting systems in Texas generally do not allow voters to

verify their votes by paper. While Texas law does not “prohibit” providing a voting receipt, otherwise known as a voter verified paper audit trail (VVPAT), the pertinent sections of the Election Code do not require voting systems to provide such receipt. The lack of a voter verifiable paper means that post-election audits in most counties in Texas are limited, unreliable or cannot occur at all. In order to audit election results properly, administrators need access to paper ballots or voter verifiable records. Further, if the statewide voting system is not replaced or regularly maintained, the likelihood of machine failures increases. As errors become more common, public trust in the election process will decline and voter apathy will rise.

The obstacles identified above, together with other existing and proposed provisions to the election laws in Texas, illustrate the need for ongoing vigilance and action to defend and protect the voting rights of all people in Texas from legislative overreach. The ACLU of Texas is committed to continuing its vigilance and taking legal action where possible to protect the voting rights of all Texans. We look forward to continuing this dialogue and being a resource to you in the Lone Star State.

Sincerely,



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