

May 4, 2021

The Hon. Matt Cartwright, Chair
Commerce, Justice, Science Subcommittee
House Appropriations Committee
H-310, Capitol Building
Washington, DC 20515

The Hon. Robert Aderholt, Ranking Member
Commerce, Justice, Science Subcommittee
House Appropriations Committee
1036 Longworth Office Building
Washington, DC 20515

Dear Chairman Cartwright, Ranking Member Aderholt, and Members of the Subcommittee:

The undersigned organizations write to strongly urge you to designate increased funding for DOJ's Civil Rights Division for the addition of positions in the Voting Section to enforce the Voting Rights Act's protections against discrimination in elections. As advocates for full and equal participation in American democracy, we are alarmed by the accelerating adoption of state and local policies that make voting disproportionately more difficult for members of communities that have historically been the subject of blatant and targeted disenfranchisement efforts. There is no other entity that can as ably represent the interests of voters of color and voters from language minority communities with the authority, expertise, and deep resources available to DOJ, and so we call on Members of Congress to ensure that the agency has what it needs to rise to the present challenge and preserve the broad access to the ballot that our foundational civil rights laws promise.

Before, during, and after the 2020 Presidential Election, disinformation about threats to election security and integrity spread widely, and in significant part due to some public figures' repeated critiques of procedures that are normal and familiar, such as mail voting, and of extraordinary measures undertaken to avoid COVID-19-related perils, including proactive mailing of mail ballot applications and expansion of early voting hours and periods. Election administrators, federal and international experts at agencies like the Department of Homeland Security's Cybersecurity and Infrastructure Security Agency, and independent audits of paper records of votes cast have all affirmed that election results were valid and no significant or widespread fraud or irregularities occurred. Nonetheless, according to the Brennan Center for Justice, as of April 1, 2021, state lawmakers had introduced 361 bills that would restrict access to the ballot in 47 states' 2021 legislative sessions.

These measures take direct aim at aspects of the voting process that disproportionately affect voters of color and language minority voters, and preserving equal access to elections in 2021 and beyond will depend upon the strength and readiness of the most capable and expert voting rights prosecutor in the nation, the Civil Rights Division's Voting Section. For example, Georgia recently signed into law a bill that expands voter identification requirements, which Black, Latino, Native American, and other voters of color are disproportionately likely to be unable to meet and to perceive as a barrier to voting; the bill also makes it a crime to approach voters waiting in line to give them food or water, and restricts the use of ballot drop boxes for mail voters. Iowa enacted a bill that shortens the state's early voting period and polling place hours, and restricts the use of satellite voting sites, all flexibilities that have proven particularly important to the state's growing population of young Latino voters, according to LULAC Iowa Political Director Joe Henry. Utah adopted a change that streamlines the process for cancelling

voter registration records based on a voter's apparent death, opening the door to striking living people who share names with deceased individuals from voter rolls without notice. Such a policy is very likely to harm historically marginalized voters, who are statistically more likely to share the same surnames, and to be mistakenly removed from registration lists, than are white voters.

DOJ's Voting Section requires expanded capacity to respond to the states and localities that already have and are poised to follow suit, as well as to monitor, evaluate, and enforce anti-discrimination standards in the post-2020 Census redistricting process that will soon begin in virtually every state and municipality in the nation. As you know, the redistricting cycle that approaches will be the first to occur in the absence of the protective mechanisms of the Voting Rights Act's fully-functional preclearance process. As a result, the Voting Section will not receive explanation and analysis of new district maps from jurisdictions with long histories of acting deliberately to limit marginalized voters' opportunity to elect representatives of their choice, and will instead have to exponentially increase its own original review of as many as hundreds, or thousands, of new plans. It cannot afford to reduce its efforts to identify and challenge discriminatory redistricting, knowing that the process of redrawing districts has uniformly been infected with intentional bias and produced inequitable results when left to its own devices. In the last two cycles of redistricting during which the Voting Rights Act was in full effect alone, DOJ objected at least 42 times to implementation of redistricting plans that would have disproportionately diminished the influence of voters of color and language minority voters.

As we consider the work before the Voting Section, we are also mindful of the need for more capacity to ensure the effective implementation of Section 203 of the Voting Rights Act after new coverage determinations are published in calendar year 2021. In light of the continued growth of language minority communities, we anticipate the extension of obligations to conduct elections in multiple languages to additional jurisdictions, and along with it, an increase in demand for DOJ's technical assistance and oversight. In our experience, newly-covered municipalities in particular often struggle to understand and comply with requirements such as recruitment and training of multilingual pollworkers, education of monolingual pollworkers about the rights of voters who are not fully fluent in English, and customized translation of not only ballots and instructions but also key assets such as websites and polling place signage. The volume of the Voting Section's historical language assistance enforcement actions also attests to the frequency with which election administrators and elected officials experience challenges and require added assistance or pressure, or both, to provide the materials and interpretation that the law requires.

Taking into consideration these acute needs, we urge you to provide at least \$5 million in additional funding for General Legal Activities at DOJ, and to designate the increase for the purpose of adding positions in the Voting Section dedicated to Voting Rights Act enforcement. We also ask that you adopt the following explanatory report language:

DOJ – Salaries and Expenses, General Legal Activities: “VOTING RIGHTS ACT ENFORCEMENT.—The Committee is concerned that multiple factors including the effects of the Supreme Court's decision in *Shelby County v. Holder*; the increasing proposal and adoption of

discriminatory restrictive State and local voting policies following the 2020 Presidential Election; and ongoing need for negotiation of agreements that ensure compliance with Section 203 of the Voting Rights Act (VRA) will require the Voting Section of the Civil Rights Division to undertake an increased caseload of resource-intensive litigation to meet its responsibility under the Voting Rights Act to ensure equal access to elections regardless of race, ethnicity, and linguistic ability. The Committee recommends an increase of not less than \$5,000,000 for additional expenses relating to the enforcement of Sections 2, 4(e), 5, 10, 11, 203, and 208 of the VRA (52 U.S.C. §§ 10301-10311; 10503-10505; 10508).”

We appreciate your consideration of these recommendations, and encourage you to contact Erin Hustings at ehustings@adl.org and 202-316-3086 if we may provide any additional information.

Sincerely,

Anti-Defamation League

Asian American Legal Defense and Education Fund (AALDEF)

The Brennan Center for Justice at NYU School of Law

Center for Common Ground

Coalition on Human Needs

Common Cause

Congregation of Our Lady of Charity of the Good Shepherd, U.S. Provinces

Democracy North Carolina

Demos

End Citizens United / Let America Vote Action Fund

Fair Elections Center

Faith in Public Life

Lawyers for Good Government (L4GG)

Leadership Conference of Women Religious

League of Women Voters of the United States

National Advocacy Center of the Sisters of the Good Shepherd

NALEO Educational Fund

National Council of Jewish Women

National Council on Independent Living

NETWORK Lobby for Catholic Social Justice

People for the American Way

SPLC Action Fund

UFCW International Union

Union for Reform Judaism

Unitarian Universalists for Social Justice