

Wang, Annie (Warnock)

From: Wang, Annie (Warnock)
Sent: Friday, June 25, 2021 1:34 PM
To: Greenfeld, Helaine A. (OLA)
Cc: Schaumburg, Sara (Ossoff)
Subject: United States v. Georgia re: SB 202

?

Hi Helaine,

I saw the news about the DOJ suit against Georgia re: SB 202, and our offices were a little caught off guard. It would be very helpful to get additional background and context on this and to speak with the relevant folks involved since it centers on our state and is an issue my boss prioritizes. Happy to work around your team's schedule to find some time to discuss.

Thanks,
Annie

Annie Wang
Counsel
Office of Senator Reverend Raphael Warnock

From: Payton, Rayshon (OLA)
Sent: Friday, June 25, 2021 6:08 PM
To: Ka'ai, Krystal (CAPAC)
Cc: Greenfeld, Helaine A. (OLA); Desai, Sonali; Assim, Anisah
Subject: RE: CAPAC Follow-Up re Request to Meet with AG Garland

Hey Krystal,

Thank you for the note, we appreciate your kind works. Congratulations on your last accomplishment!! Given your professionalism and steadfast drive to better the community around you, its no surprise President Biden selected you for that position. We at the Department look forward to working with you in that capacity.

Thank you for sending the date information along, Helaine has sent up the chain, we will make sure to correspond with Sonali and Anisah as we get closer to the nailing down the meeting date and time.

Thank you again and keep in touch.

Best,
Rayshon

Rayshon Payton
Attorney Advisor
Office of Legislative Affairs
Department of Justice
C (b) (6)

From: Ka'ai, Krystal (CAPAC (b) (6))
Sent: Friday, June 25, 2021 2:30 PM
To: Payton, Rayshon (OL (b) (6))
Cc: Greenfeld, Helaine A. (OLA (b) (6)); Desai, Sonal (b) (6); Assim, Anisa (b) (6)
Subject: CAPAC Follow-Up re Request to Meet with AG Garland

Hi Rayshon and Helaine,

Hope you are well. Thanks for passing this important announcement along. We truly appreciate the work DOJ is doing to prevent voter suppression efforts in Georgia that are meant to suppress voter turnout from communities of color, including AAPIs

I wanted to follow-up with you again on our outstanding CAPAC meeting request to meet with Attorney General Holder. I know I have mentioned this in the past, but it is a priority meeting for the caucus and one the members would like to schedule before the August recess if possible.

CAPAC currently has a standing caucus meeting slot open on Wednesday, July 28th from 4:00pm-5:00pm EST. All of our meetings are still being conducted virtually through zoomgov, and we would love to work with you to lock this meeting down. If that date does not work, please let us know other options that will work for the Attorney General as this

meeting request has been pending for months and our CAPAC members are eager to speak with DOJ regarding the implementation of the COVID-19 Hate Crimes Act.

Also, this is my last week on the Hill before I start with the Administration in July as the new executive director of the WH Initiative on Asian Americans, Native Hawaiians, and Pacific Islanders. I am therefore looping my colleagues, Sonali and Anisah, who will coordinate with you moving forward regarding this request.

Thank you,
Krystal

From: Payton, Rayshon (OLA (b) (6) [REDACTED]) >
Sent: Friday, June 25, 2021 1:13 PM
To: Payton, Rayshon (OLA (b) (6) [REDACTED])
Cc: Greenfeld, Helaine A. (OLA (b) (6) [REDACTED])
Subject: Justice Department Files Lawsuit Against the State of Georgia to Stop Racially Discriminatory Provisions of New Voting Law

Department of Justice
Office of Public Affairs

FOR IMMEDIATE RELEASE
Friday, June 25, 2021

Justice Department Files Lawsuit Against the State of Georgia to Stop Racially Discriminatory Provisions of New Voting Law

The U.S. Justice Department announced today that it filed a lawsuit against the State of Georgia, the Georgia Secretary of State, and the Georgia State Election Board over recent voting procedures adopted by Georgia Senate Bill 202, which was signed into law in March 2021. The United States' complaint challenges provisions of Senate Bill 202 under Section 2 of the Voting Rights Act.

"The right of all eligible citizens to vote is the central pillar of our democracy, the right from which all other rights ultimately flow," said Attorney General Merrick B. Garland. "This lawsuit is the first step of many we are taking to ensure that all eligible voters can cast a vote; that all lawful votes are counted; and that every voter has access to accurate information."

"The right to vote is one of the most central rights in our democracy and protecting the right to vote for all Americans is at the core of the Civil Rights Division's mission," said Assistant Attorney General Kristen Clarke for Justice Department's Civil Rights Division. "The Department of Justice will use all the tools it has available to ensure that each eligible citizen can register, cast a ballot, and have that ballot counted free from racial discrimination. Laws adopted with a racially motivated purpose, like Georgia Senate Bill 202, simply have no place in democracy today."

"One of the fundamental rights of our democracy is the right to vote. That right should be protected for every citizen of our district, regardless of race," said Acting U.S. Attorney Kurt R. Erskine for the Northern District of Georgia. "The United States Attorney's Office for the Northern District of Georgia is committed to protecting the rights of all Americans to vote."

The United States' complaint contends that several provisions of Senate Bill 202 were adopted with the purpose of denying or abridging the right to vote on account of race. The Justice Department's lawsuit alleges that the cumulative and discriminatory effect of these laws—particularly on Black voters—was known to lawmakers and that lawmakers adopted the law despite this.

The United States' complaint challenges several provisions of Senate Bill 202, including a provision banning government entities from distributing unsolicited absentee ballot applications; the imposition of costly and onerous fines on civic organizations, churches and advocacy groups that distribute follow-up absentee ballot applications; the shortening of the deadline to request absentee ballots to 11 days before Election Day; the requirement that voters who do not have identification issued by the Georgia Department of Driver Services photocopy another form of identification in order to

request an absentee ballot without allowing for use of the last four digits of a social security number for such applications; significant limitations on counties' use of absentee ballot drop boxes; the prohibition on efforts by churches and civic groups to provide food or water to persons waiting in long lines to vote; and the prohibition on counting out-of-precinct provisional ballots cast before 5 p.m. on Election Day. The complaint asks the court to prohibit Georgia from enforcing these requirements.

Deputy Attorney General Lisa O. Monaco also issued a memo to United States Attorneys and FBI Field Offices today on investigating and prosecuting threats to election officials. To assist with this important effort the department will also establish an intra-Departmental task force to address the rising threats.

Today's announcements follow Attorney General Garland's recent commitment to expand the Justice Department's efforts to safeguard voting rights.

More information about the Voting Rights Act and other federal voting laws is available on the Department of Justice's website at www.justice.gov/crt/about/vot. Complaints about discriminatory voting practices may be reported to the Voting Section of the Justice Department's Civil Rights Division at 1-800-253-3931.

For a list of the department's actions to protect voting rights, click [here](#).

Rayshon Payton

Attorney Advisor
Office of Legislative Affairs
Department of Justice

BOB GIBBS
7TH DISTRICT, OHIO

2217 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
(202) 225-6265

110 COTTAGE STREET
ASHLAND, OH 44805
(419) 207-0650

110 CENTRAL PLAZA SOUTH
CANTON, OH 44702
(330) 737-1631

Congress of the United States
House of Representatives
Washington, DC 20515-3507

TRANSPORTATION AND
INFRASTRUCTURE COMMITTEE
SUBCOMMITTEES
RANKING MEMBER,
COAST GUARD AND MARITIME TRANSPORTATION
HIGHWAYS AND TRANSIT
OVERSIGHT AND REFORM COMMITTEE
SUBCOMMITTEES
ENVIRONMENT
NATIONAL SECURITY

July 14, 2021

The Honorable Merrick Garland
Attorney General
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Attorney General Garland,

We are writing to express grave concerns regarding the recent lawsuit filed by the Department of Justice on June 25, 2021, against the State of Georgia, the Georgia Secretary of State, and the Georgia State Election Board over recent procedures adopted by Georgia's Senate Bill 202. With this lawsuit, the Department of Justice is at risk of becoming further politicized and credibly accused of pursuing a political agenda.

In the complaint filed by the Department, you allege Senate Bill 202 was adopted with the purpose of denying or abridging the right to vote on account of race, and that lawmakers adopted these provisions knowing there would be cumulative and discriminatory effects on Black voters. We agree with you that "the right of all eligible citizens to vote is the central pillar of our democracy, the right from which all other rights ultimately flow," but we do not believe as Assistant Attorney General Kristen Clarke stated that the Georgia legislators "intended to deny or abridge the right of Black Georgians to vote."¹

The Department's complaint challenges several provisions of Senate Bill 202 that have governed elections in other states across the country for years, including many states led by Democrats, but curiously only Georgia has been sued.

One such provision is the requirement for voters to list their driver's license or state ID number on their application for an absentee ballot, extending existing ID requirements to vote in person in Georgia. Previously, election workers would verify absentee ballots by signature matching, a process far more subjective. In the Department's complaint, you allege this requirement would have a discriminatory effect on Black voters, ignoring a study conducted by researchers at

¹ "Justice Department Files Lawsuit Against the State of Georgia to Stop Racially Discriminatory Provisions of New Voting Law," The United States Department of Justice Office of Public Affairs, June 25, 2021, <https://www.justice.gov/opa/pr/justice-department-files-lawsuit-against-state-georgia-stop-racially-discriminatory>.

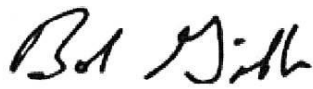
Stanford, Yale, and the University of Pennsylvania finding there was no evidence in the analyzed data that voter ID laws have a statistically significant impact on voter turnout.²

You challenge Senate Bill 202's changing of the deadline to request absentee ballots to 11 days before Election Day and ask the court to prohibit Georgia from enforcing this requirement. What you fail to mention is in July 2020, the U.S. Postal Service recommended "strongly" that states change their deadline for voters to request an absentee ballot, with the optimal deadline being at least 15 days before Election Day "to account for [USPS] delivery standards."³ This change allows more time to ensure voters receive and are able to cast their votes prior to the election deadline.

It is also worth mentioning Georgia left intact the state's no-excuse absentee voting rules, which is more permissive than the vote-by-mail rules in 16 other states including the President's home state of Delaware. Although Delaware, Connecticut, and New York currently do not offer no-excuse absentee voting, the Department of Justice and the Biden Administration have expressed no concerns about voting rights being infringed upon in these Democratically controlled states.

The Department of Justice must stop participating in partisan politics and vilifying states working to ensure free, fair, secure elections. These actions serve only to further divide and politicize the Justice Department and erode trust in the U.S. government. We encourage you to end the litigation against Georgia, and instead work to address many of the other issues facing our country.

Sincerely,



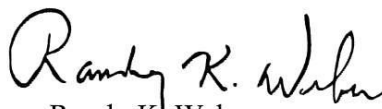
Bob Gibbs
Member of Congress



Buddy Carter
Member of Congress



Jeff Duncan
Member of Congress



Randy K. Weber
Member of Congress



Andy Biggs
Member of Congress



Diana Harshbarger
Member of Congress

² Grimmer, Hersh, et al., Comment on "Voter Identification Laws and the Suppression of Minority Votes," August 7, 2017, http://stanford.edu/~jgrimmer/comment_final.pdf.

³ Cox, Viebeck, et al., "Postal Service warns 46 states their voters could be disenfranchised by delayed mail-in ballots," *Washington Post*, August 14, 2020, https://www.washingtonpost.com/local/md-politics/usps-states-delayed-mail-in-ballots/2020/08/14/64bf3c3c-dcc7-11ea-8051-d5f887d73381_story.html



Tom McClintock
Member of Congress



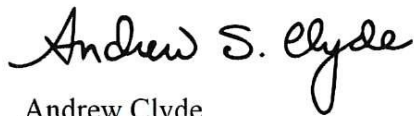
Ted Budd
Member of Congress



Jodey C. Arrington
Member of Congress



Warren Davidson
Member of Congress



Andrew Clyde
Member of Congress



W. Gregory Steube
Member of Congress



Dan Bishop
Member of Congress

Greenfeld, Helaine A. (OLA)

From: Greenfeld, Helaine A. (OLA)
Sent: Tuesday, October 5, 2021 4:30 PM
To: Schaumburg, Sara (Ossoff)
Subject: RE: [EXTERNAL] Re: This week's Hearing

Sorry didn't realize he hadn't answered.

From: Schaumburg, Sara (Ossoff (b) (6))
Sent: Tuesday, October 5, 2021 4:25 PM
To: Greenfeld, Helaine A. (OLA (b) (6))
Subject: Re: [EXTERNAL] Re: This week's Hearing

Hi Helaine,

Any word from Rayshon? Just want to confirm the AAG is comfortable with the VRAA line of questioning, particularly that she would express support for the election worker protection bill and would be able to say that preclearance could have helped block the GA law.

Thanks!

--

Sara Schaumburg | General Counsel
Office of Senator Jon Ossoff (D-GA)
455 Russell Senate Office Building
(o (b) (6)) (b) (6)



From: "Greenfeld, Helaine A. (OLA)" (b) (6)
Date: Monday, October 4, 2021 at 6:46 PM
To: Sara Schaumburg (b) (6)
Cc: "Adams, Stan (Ossoff)" (b) (6)
Subject: Re: [EXTERNAL] Re: This week's Hearing

Thanks so much. I'll check with Rayshon again in the VRAA question.

Sent from my iPhone

On Oct 4, 2021, at 6:43 PM, Schaumburg, Sara (Ossoff (b) (6)) wrote:

Hi Helaine just touching base to see if you had any feedback on the VRAA questions.

I also wanted to share the questions we've drafted for tomorrow's VAWA hearing, which I think

are very straightforward:

- How has VAWA helped bring justice to American Indian and Alaska Native women, and what enhancements are needed to strengthen protections and build on the success of the VAWA 2013 reauthorization for implementing tribes?
- Can you explain how the housing grants and protections authorized by VAWA could help ensure that all individuals who seek help get the housing and other supports and services they need?

Thanks!

--

Sara Schaumburg | General Counsel

Office of Senator Jon Ossoff (D-GA)

455 Russell Senate Office Building

(o (b) (6) (b) (6)

[<image001.gif>](#)

[<image002.gif>](#)

[<image003.png>](#)

From: Sara Schaumburg (b) (6)
Date: Sunday, October 3, 2021 at 6:50 PM
To: "Greenfeld, Helaine A. (OLA)" (b) (6)
Cc: "Adams, Stan (Ossoff)" (b) (6) >
Subject: Re: This week's Hearing

Hi Helaine -

Yes, he's planning to attend all three!

On Voting Rights, I shared one possible question with Rayshon but copying that and another possible line of questioning below. The first question has to do with voter intimidation and helping to lay the groundwork for Title II of the bill, which amends § 245 and expands protections for election workers and polling places. This is language that was incorporated at DOJ's request and we are dropping a standalone bill on it tomorrow (the Election Worker and Polling Place Protection Act). The second line of questioning goes through specific aspects of SB 202 and asks whether the VRAA might have helped block those off at the pass. Please let me know if you think AAG Clarke would have any trouble answering those (as in, whether it'd be hard for her to give a straight "yes" to those and I can redirect them to someone on the second panel.)

On VAWA, I think he's likely to focus on the need for expanding protections for Native American women, but I haven't drafted those yet.

He's currently planning to attend the panel with Kanter, as well. My colleague, Stan, is point on that one. Looping him here.

##

Question to AAG Clarke re: Need for JLVRAA

Wind-up: Mitch McConnell says the John Lewis voting rights bill is quote “unnecessary.” According to him, it’s already illegal to discriminate in voting based on race, so no one’s voting rights are threatened. [See TAB F]

Yet Georgia just recently passed a law restricting voting access that particularly targets voting by mail. These restrictions were adopted right after the November 2020 election, where, incidentally, voters of color relied on absentee ballots at unprecedented levels and in the case of Black and Asian voters - at higher rates than White voters.

Questions:

- That law, for example, drastically reduces the availability of ballot dropboxes, which voters of color relied on heavily as a safe and convenient way to return ballots. **Could the John Lewis bill have kept Georgia from drastically limiting dropbox availability?**
- The Georgia law also makes it harder for voters to get absentee ballots by making it illegal for election officials to mail out absentee ballot applications to all voters. **Could the John Lewis bill have kept Georgia from making it harder for voters to get absentee ballots?**
- **Assistant Attorney General Clarke, is Senator McConnell right? If it’s already illegal to discriminate in voting, is this whole bill “unnecessary”?**

###

Question to AAG Clarke re: Election Worker and Polling Place Protection Act

Wind up: Fueled by the Big Lie, threats against election workers skyrocketed during the 2020 election. In Georgia, election workers and their families were harassed and targeted by death threats. Polling places around the state received bomb threats from Atlanta, to Jackson and Franklin counties in the Northeast, to Floyd in the northwest, and Bulloch in the south.

Election workers are vital to free and fair elections. That is why, earlier this week, I introduced legislation to expand and strengthen protections for election workers, as well polling places and other election infrastructure, which is included in the John Lewis bill.

Question: Do you expect these threats to continue to grow and why is it important to expand current protections in the law?

[**Expected answer:** It’s critical that the law protects the full complement of people involved in ensuring elections are run smoothly. That means expanding current protections for election officials to make sure they law also protects their families, volunteer election workers, and the people who set up and maintain voting equipment. It also means protecting polling places and other infrastructure involved in voting, like tabulation centers. That’s why inclusion of your legislation a critical part of the John Lewis bill.]

--

Sara Schaumburg | General Counsel

Office of Senator Jon Ossoff (D-GA)
455 Russell Senate Office Building

(o (b) (6) (b) (6)

<<https://www.ossoff.senate.gov/>> <<https://www.facebook.com/SenOssoff>>
<<https://twitter.com/SenOssoff>>

On 10/3/21, 3:39 PM, "Greenfeld, Helaine A. (OLA) (b) (6)" wrote:

Sara,

Just checking in to see if you know if your boss is planning to come to the three SJC hearings with DOJ witnesses this week: VAWA, Antitrust nominee, and Voting Rights, and what questions he might ask if he does come. We'd appreciate any intel you might have.

Thanks so much,

Helaine

Helaine Greenfeld
Deputy Assistant Attorney General
Office of Legislative Affairs

(b) (6)

Sent from my iPhone

Schaumburg, Sara (Ossoff)

From: Schaumburg, Sara (Ossoff)
Sent: Monday, October 25, 2021 6:27 PM
To: Greenfeld, Helaine A. (OLA)
Subject: [EXTERNAL] Hearing Qs

Hi Helaine,

Wanted to share some draft questions that Sen. Ossoff may (or may not) raise at Wednesday's hearing. We'll all find out in real time...

He obviously won't get to all of these but sharing the full draft universe just in case. Please let me know if anything causes heartburn. I'm particularly curious if you think the phrasing of the second Voting Rights wind-up/question could be unhelpful in any way. Always happy to hop on the phone. Cell (b) (6).

Best,
Sara

PRISON REFORM AND OVERSIGHT

Question to Attorney General re: prison security cameras

Wind up: Last week, the Senate passed legislation that I introduced along with Ranking Member Grassley and Chairman Durbin the *Prison Camera Reform Act* to reduce violence and civil rights abuses in prisons by requiring an overhaul of federal prisons' security camera system. As the Justice Department's Inspector General recognized in its report on this issue, outdated and unreliable cameras threaten the safety and wellbeing of incarcerated people as well as employees and the general public.

Question: Do you agree that reforming the federal prisons' security camera systems is a critically important safety and civil rights issue?

Follow-up: Will you commit to adhering to the requirements laid out in this bill and to prioritizing its implementation should it become law?

###

Question to Attorney General Garland re: BOP staffing shortages

Wind up: The Federal Bureau of Prisons is responsible for the custody and care of more than 130,000 incarcerated people. Yet chronic staffing shortages undermine the agency's ability to ensure their safety, as well as that of the prison staff and the general public.

Staffing shortages also pose a major obstacle to implementing a range of much needed prison reform initiatives. Congress can require good security camera systems, but you need staff to monitor those cameras and respond. Congress can as has - passed laws requiring critically important programming and

activities to help reduce recidivism, but you need the teachers and staff to run those programs.

Earlier this year, the Government Accountability Office a nonpartisan, independent government watchdog concluded that BOP lacks a reliable method for calculating staffing levels and assessing the impact of staffing shortages, as well as the use of overtime and augmentation, on employees and incarcerated people. This impedes the agency's -- and Congress's - ability to assess the problem and address workforce gaps.

BOP agreed with this assessment and hired a contractor to assist the agency in revising its approach.

Question: Can you provide this committee a brief update on the status of this effort?

Follow-up: Will you commit to prioritizing the implementation of these recommendations and working with my office to ensure adequate staffing that is vital to a safe prison environment and the success of prison reform efforts?

###

VOTING RIGHTS

Question to Attorney General Garland re: *Right to Vote Act*

Question: Do you agree that voters should be able to challenge laws that restrict or diminish voting access in cases when the state fails to provide a legitimate justification for such a restriction?

Follow up: I introduced the *Right to Vote Act*, which establishes the first-ever affirmative right to vote in federal statute. It then allows voters to enforce that right by challenging laws that substantially impair or diminish voting access. Is it fair to say that you support passage of such a bill?

###

Question to Attorney General Garland re: *Voting Rights Act*

Wind up: The Justice Department's primary tool for challenging discriminatory voting laws is to bring a lawsuit under Section 2 of the Voting Rights Act. That's exactly what it did in Georgia earlier this year when it sued the state over its implementation of a voting law, SB 202, that discriminated against Black and Brown voters. Yet the Supreme Court recently undermined that law in its *Brnovich* decision, making it extraordinarily difficult to establish that a violation has occurred.

Question: What should Congress do to restore Section 2 and ensure that it is able to fulfill the Constitution's guarantee that the right to vote shall not be denied or abridged based on race?

###

SURVEILLANCE

Question to Attorney General Garland re: Notice of Electronic Surveillance

Wind up: Federal law requires the department of justice to provide notice to individuals who are wiretapped or for whose bank accounts records the DOJ issues subpoenas. The law permits the government to delay notice until doing so will not disrupt an investigation, but eventually Americans must be told. In contrast, federal law does not require that DOJ tell people if it spies on their emails, their private photos, or tracks their location through electronic records.

Question: Would you support a requirement that the government eventually notify the targets of these other forms of digital surveillance, and do agree that notice of surveillance is a constitutional requirement of any surveillance statute?

###

Question to Attorney General Garland re: Use of Facial Recognition Tools for Investigations

Wind up: GAO reports that DOJ uses Clearview AI for law enforcement purposes,¹ but the National Institute for Standards and Technology has shown that the majority of facial recognition systems exhibit a higher rate of false positives, in which they make an incorrect match, for certain demographics, especially Black women.²

Question: Has the DOJ or any other federal agency analyzed the Clearview tool for accuracy, bias, or discriminatory outcomes? (Expected answer: no)

Follow up: Does the Department have specific procurement policies relating to its acquisition of new and emerging technologies?

Follow up: Several popular websites demanded that Clearview stop using web scraping to obtain images from their sites, asserting that this activity violated their terms of service.³ Does the Department have a position on the ethics or legality of using data scraped from websites in violation of their terms of service?

###

Question to Attorney General Garland re: use of commercial data for investigations

Wind up: In 2018, the Supreme Court said in *Carpenter v. United States* that government agents must obtain a warrant before collecting cell phone data that showed the location of a device over a seven day period.

Question: To your knowledge, do any federal agencies currently purchase data or contract for services providing device location data from commercial vendors and if so, is this data used in investigations or prosecutions?

Follow up [if location data is still purchased/used]: Given the Court's ruling in *Carpenter*, how do you justify the constitutionality of the purchase of location data for law enforcement purposes?

###

FREEDOM OF THE PRESS

Question to Attorney General Garland re: freedom of the press

Wind up: Mr. Attorney General, you issued a memo in July prohibiting the Department from using subpoenas, court orders, or warrants to obtain information on reporters and their confidential sources. While this policy change is appreciated, there has been a disturbing rise in the frequency of harassment and violence toward journalists at protests.

Question: What actions will you take as Attorney General to protect the First Amendment rights of peaceful protesters and the journalists who cover protest activity?

--

Sara Schaumburg | General Counsel

Office of Senator Jon Ossoff (D-GA)

455 Russell Senate Office Building

(o (b) (6) (b) (6)





Congress of the United States
House of Representatives
Washington, DC 20515-4333
April 16, 2021

Office of the Attorney General
950 Pennsylvania Avenue Northwest
Washington, D.C. 20530

Dear Attorney General Garland:

We write as Co-Chairs of the Congressional Voting Rights Caucus to request information regarding the Department of Justice's efforts to protect the voting rights of people across America, especially those who live in states that are proposing legislation designed to restrict the right to vote and make it more difficult for communities of color to vote.¹

During the 2020 election, Americans across the country risked their lives to vote during a deadly pandemic to ensure their voice was heard at the ballot box. The 2020 election had the highest voter participation in a century while maintaining election security and accuracy. Despite the successful administration of the 2020 election, we are seeing a dangerous trend occurring in states across the country, in which state lawmakers are introducing dangerous Jim Crow-style voter suppression laws that will silence the voices of Black, Indigenous, people of color, as well as people with disabilities.² According to the Brennan Center for Justice, state lawmakers have introduced 361 bills with restrictive voting provisions in 47 states.³

These bills, if passed, aim to specifically suppress minority voter turnout and will make voting harder for the general public. They would undermine the ability of local election officials to encourage voter participation and will create new barriers for voters.

In light of this attack on voting rights, we respectfully request a written response to the following questions by April 30, 2021:

1. What action, if any, is being taken by the Department of Justice to review/challenge SB202 in the state of Georgia? This bill, amongst other provisions, criminalizes "line

¹ *Georgia's new GOP election law draws criticism, lawsuits*, Associated Press (March 29, 2021).

² *Texas Republicans begin pursuing new voting restrictions as they work to protect their hold on power*, The Texas Tribune (March 22, 2021).

³ *State Voting Laws*. Brennan Center for Justice. Retrieved April 6, 2021, from <https://www.brennancenter.org/issues/ensure-every-american-can-vote/voting-reform/state-voting-laws> (March 24, 2021).

- warming” at a time when the state of Georgia has systematically closed polling places in predominantly black precincts resulting in voters waiting in long lines for several hours?
2. Is the Department monitoring similar bills that have been introduced in Texas, Florida, and other states across the country? Will the Justice Department commit to setting aside funds to challenge discriminatory laws that violate section 2 of the Voting Rights Act?
 3. Please describe any other current measures the Justice Department is taking to prevent voter suppression.

Thank you for your prompt attention to this important matter. Should you have any questions about this request, please contact Luke Dube at (b) (6) or (b) (6).

Sincerely,



Marc A. Veasey
Member of Congress



Terri Sewell
Member of Congress



Robert C. "Bobby" Scott
Member of Congress

ONE HUNDRED SEVENTEENTH CONGRESS

Congress of the United States
House of Representatives

COMMITTEE ON THE JUDICIARY

2138 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6216

(202) 225-3951
judiciary.house.gov

August 12, 2021

The Honorable Merrick B. Garland
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Attorney General Garland:

On July 28, 2021, on behalf of the Department of Justice (DOJ), you issued new guidance regarding state efforts to remove temporary, emergency voting procedures implemented last year during the unprecedented COVID-19 pandemic.¹ The Biden Administration's new guidance bizarrely suggests that states may not return to voting laws and procedures that existed prior to the pandemic, saying those laws and procedures may not be "presumptively lawful."² We have serious concerns about the Department's radical attempt to politicize enforcement of the Voting Rights Act of 1965 (VRA).

The Election Clause of the U.S. Constitution gives state legislatures the authority to prescribe "[t]he Times, Places and Manner of holding Elections" within their jurisdictions.³ Article II of the U.S. Constitution grants state legislatures the power to determine the manner of appointing presidential electors.⁴ Thus, in our system of government, state legislatures "bear primary responsibility for setting election rules,"⁵ and this responsibility extends to federal elections.⁶

In 2020, state and local governments were tasked with administering elections in a safe manner during a once-in-a-lifetime pandemic. Many states adopted temporary voting procedures to reduce public health risks, despite prominent public health officials saying that in-person voting was safe.⁷ Recognizing the temporary nature of these voting procedure changes, Attorney General William Barr directed the Civil Rights Division to adopt an enforcement policy that

¹ Press Release, U.S. Dep't of Justice, Justice Department Issues Guidance on Federal Statutes Regarding Voting Methods and Post-election "Audits" (Jul. 28, 2021).

² U.S. DEP'T OF JUSTICE, GUIDANCE CONCERNING FEDERAL STATUTES AFFECTING METHODS OF VOTING 1 (2021).

³ U.S. CONST. art I § 4, cl. 1.

⁴ U.S. CONST. art. II, § 1, cl. 2.

⁵ *Democratic Nat'l Comm. v. Wisconsin State Legislature*, 141 U.S. 28, 29 (2020) (Gorsuch, J., concurring).

⁶ See U.S. CONST. art I § 4, cl. 1; U.S. CONST. art. II, § 1, cl. 2.

⁷ Nsikan Akpan, *What Fauci says the U.S. really needs to reopen safely*, NAT'L GEOGRAPHIC (Aug. 13, 2020).

would “presume[] lawful” a state’s re-adoption of prior election laws or procedures.⁸ Attorney General Barr explained:

Both the Constitution and federal statutory law recognize that state and local jurisdictions can and will address changing circumstances, sometimes-unique local issues, and different policy preferences related to voting, and that their voting-related laws and processes will change from time to time.

* * *

This care [to respect state and local authority] is particularly important when a state or local jurisdiction maintains a voting-related procedure that is lawful, then changes to another lawful procedure, then changes back to the original procedure. The Department of Justice will presume that enactment of a state or local voting-related procedure that reverts back to or adopts a state or local jurisdiction’s prior lawful voting procedures complies with federal law.⁹

On February 3, 2021, then-Acting Attorney General Monty Wilkinson abruptly rescinded Attorney General Barr’s guidance.¹⁰ Then, on July 28, you issued a new guidance that upended the constitutional balance between state and federal governments with respect to voting-related laws. You wrote:

The Department’s enforcement policy does not consider a jurisdiction’s re-adoption of prior voting laws or procedures to be presumptively lawful; instead, the Department will review a jurisdiction’s changes in voting laws or procedures for compliance with all federal laws regarding elections, as the facts and circumstances warrant.¹¹

The new guidance is misguided and contrary to Congressional intent. Many of the changes that state and local governments made to voting procedures in 2020 were temporary, emergency changes to “promote both the safety of their citizens and robust democratic participation” during the pandemic.¹² These jurisdictions should be allowed to evaluate the changing circumstances and their experiences in 2020 and make appropriate lawful changes, without the threat of litigation from the federal government. With your new guidance, the Department instead takes the position that these temporary, emergency measures are the new

⁸ Memorandum from Hon. William P. Barr, Atty Gen., U.S. Dep’t of Justice to Assistant Atty Gen. of the Civil Rights Division (Dec. 22, 2020).

⁹ *Id.* at 2-3.

¹⁰ Memorandum from Hon. Monty Wilkinson, Acting Atty Gen., U.S. Dep’t of Justice, to U.S. Attys (Feb. 3, 2021).

¹¹ U.S. DEP’T OF JUSTICE, GUIDANCE CONCERNING FEDERAL STATUTES AFFECTING METHODS OF VOTING 1 (2021).

¹² *Id.*

baseline from which to judge compliance with the VRA—contrary to Congress’s intention in passing the legislation.¹³

Whether wittingly or not, your new guidance makes you complicit in a broader effort by elected Democrats to politicize federal voting rights laws. Democrats allege that recent lawful state voter integrity measures, such as Georgia’s S.B. 202 and proposed Texas legislation, constitutes “Jim Crow 2.0” and “voter suppression.”¹⁴ In reality, these states are enacting commonsense voter integrity measures, many of which *increase* voting access beyond what is available in Democrat-run states. For example, Georgia’s new law provides 17 days of early voting while President Biden’s home state of Delaware will only have ten days beginning in 2022.¹⁵ New York only provides ten days of early voting.¹⁶ In addition, the pending Texas legislation would prohibit drive-through and 24-hour voting, which local jurisdictions implemented temporarily due to the pandemic and the practices were not implemented by the whole state.¹⁷ Both Delaware and New York currently do not allow drive-through or 24-hour voting.¹⁸

Although it is easier to vote in Georgia than some Democrat-run states, the Department filed suit against the state to enjoin several provisions of S.B. 202.¹⁹ Notably, the Department did not file suit against Delaware or New York. These facts make it appear that you are attempting to enforce the VRA based on partisan considerations rather than blindly applying the facts to the law. One commentator rightly noted that your complaint against Georgia read “more like a press release from the Democratic National Committee than a serious lawsuit by an apolitical Justice Department.”²⁰

You and the Justice Department are sadly playing into the hands of the baseless and partisan Democrat opposition to state voting reform efforts by politicizing VRA enforcement and making it the policy that any change from temporary, emergency COVID-19 voting methods is presumed to be evidence of voter suppression.²¹ At a time when Congressional Democrats are considering unprecedented and brazen attempts to federalize our nation’s election processes, we strongly urge you to rescind the July 28, 2021 guidance and to reimplement Attorney General Barr’s thoughtful guidance. In addition, we request that you provide the following information:

¹³ See generally S. REP. NO. 109-295, at 2 (2006).

¹⁴ See Karl Rove, *Biden’s election-reform deception*, WALL ST. J. (Mar. 31, 2021); Chandelis Duster, *Abrams on GOP efforts to target voting: “It is a redux of Jim Crow in a suit and tie”*, CNN (Mar. 14, 2021); Kathryn Watson, *Biden denounces “21st century Jim Crow assault” on voting access*, CBS NEWS (Jul. 13, 2021).

¹⁵ S.B. 202, 2021 Gen. Assemb., Reg. Sess. (Ga. 2021). See also Nat’l Conference of State Legislatures, *State Laws Governing Early Voting*, <https://www.ncsl.org/research/elections-and-campaigns/early-voting-in-state-elections.aspx> (last visited Jul. 29, 2021).

¹⁶ *Id.*

¹⁷ ‘No constitutional right to have 24-hour voting,’ *Gov. Abbott speaks to KHOU II about voting rights, results of 2020 election*, KHOU-11 (Jul. 14, 2021).

¹⁸ Karl Rove, *Texas Democrats Suppress the Vote*, WALL ST. J. (Jul. 14, 2021).

¹⁹ Erin Doherty, *Justice Department sues Georgia over GOP voting restrictions*, AXIOS (Jun. 25, 2021).

²⁰ Hans A. von Spakovsky & Zack Smith, *In the feds versus Georgia’s voting law, bet on Georgia*, Heritage Found. (Jul. 6, 2021).

²¹ See generally Editorial Board, *Biden Justice Plays Election Politics*, WALL ST. J. (Jun. 27, 2021).

The Honorable Merrick B. Garland

August 12, 2021

Page 4

1. All documents and communications referring or relating to the memorandum entitled “Guidance Concerning Federal Statutes Affecting Methods of Voting” and dated July 28, 2021;
2. All documents and communications referring or relating to the complaint filed by the Department of Justice against the State of Georgia in the Northern District of Georgia on June 25, 2021; and
3. All documents and communications between or among the Department of Justice and the Executive Office of the President referring or relating to state reforms to voting laws.

Please provide this information immediately but no later than 5:00 p.m. on August 23, 2021.

Americans deserve free, fair, and accurate elections—and ones in which all Americans have confidence in the results. To achieve this ideal, enforcement of the VRA and other federal statutes protecting the right to vote must be apolitical. Thank you for your attention to this serious matter.

Sincerely,



Jim Jordan
Ranking Member



Mike Johnson
Ranking Member Subcommittee on Constitution,
Civil Rights, and Civil Liberties

cc: The Honorable Jerrold Nadler, Chairman

The Honorable Steve Cohen, Chairman, Subcommittee on Constitution, Civil Rights, and Civil Liberties