Current Conditions of Voting Discrimination in North Carolina

Prepared by Forward Justice

North Carolina has a long, shameful history of voting discrimination which persists in relentless form today. Black North Carolinians' hard-fought gains for the right to vote consistently have been met by extreme measures, violence, and other state or local actions to limit and deny those rights and gains.

** In 1835, North Carolina's General Assembly first enacted disenfranchisement legislation by inserting "white" as a required qualification to vote.

** Under the original Voting Rights Act of 1965, 40 of North Carolina's 100 counties were covered by Section 5, based on continued use of literacy tests and low voter registration, and had to submit proposed voting changes to the U.S. Department of Justice for preclearance.

** From 1982 to 2013, DOJ issued almost 50 objection letters to North Carolina, which prevented and deterred implementation to voting changes would be make it harder for Black voters to participate and elect candidates of their choice.

** In the seminal 1986 ruling in *Thornburg v. Gingles*, the Supreme Court found that "North Carolina had officially discriminated against its Black citizens with respect to the exercise of the voting franchise from approximately 1900 to 1970 by employing at different times a poll tax, a literacy test, a prohibition against bullet (single-shot) voting, and designated seat plans for multimember districts."

** While North Carolina reached historic levels of participation in the 2020 election despite a global pandemic, white voters' participation was still substantially greater than Black participation—79% white to 68% Black. Latinx voters lagged significantly behind at roughly 59% participation.

After the Supreme Court's 2013 decision in *Shelby County*, which nullified the preclearance requirement of Section 5, the North Carolina General Assembly and local elections officials unleashed an avalanche of discriminatory practices and procedures. Below are a few of the most egregious acts of discrimination. A full accounting of North Carolina's actions can be found in the North Carolina report.

TARGETING BLACK VOTERS WITH "ALMOST SURGICAL PRECISION": After *Shelby County,* the North Carolina legislature immediately engaged in a targeted counterattack to African Americans' growing electoral achievements by passing what is known as "monster voter suppression law." Among other restrictions, the law imposed onerous photo ID requirements, eliminated the first seven days of early voting, eliminated same-day registration during early voting, and eliminated the safeguard of out-of-precinct voting. In 2016, the Fourth Circuit struck down the law, finding that North Carolina illegally and intentionally violated the right to vote of African Americans "with almost surgical precision."

NORTH CAROLINA'S VOTER SUPPRESSION IS RELENTLESS: After North Carolina's photo ID law was declared unconstitutional in 2018, the General Assembly enacted another version to accomplish the same purpose. In September 2021, a North Carolina state court struck down this version, stating that the law "was motivated in part by an unconstitutional intent to target African American voters."

DRAWING DISTRICTS TO DILUTE POWER OF VOTERS OF COLOR: North Carolina's racially discriminatory redistricting represents some of the most egregious gerrymandering violations in the country to dilute the

voting strength of voters of color. A federal three-judge panel ruled that in manipulating its state legislative districts, North Carolina manufactured one of the "largest racial gerrymanders ever encountered by a federal court," a ruling affirmed by the U.S. Supreme Court. And when presented with the opportunity to remedy the violation, the General Assembly doubled down and drew districts substantially similar to the constitutionally infirm districts. The Supreme Court also struck down the General Assembly's construction of two Congressional districts as unconstitutional racial gerrymanders, writing that it used a "racial target that subordinated other districting criteria and produced boundaries amplifying divisions between Blacks and whites."

NORTH CAROLINA'S VOTING DISCRIMINATION IS ADAPTIVE: North Carolina even changes its voting rules to target the type of electoral participation used by Black voters. Following increased use of mail-in absentee ballots by Black voters in the 2020 election cycle, the General Assembly introduced restrictive measures targeting voting by mail. Although current law allowed a three-day receipt window for absentee ballots, the legislature proposed to require all absentee ballots to be received by 7:30 on Election Day, which would have excluded 11,000 legal ballots counted in 2020.

HARASSMENT AND VOTER INTIDIMATION ON THE RISE: North Carolina has experienced continued racial appeals in campaigning, and incidents of harassment and voter intimidation by third-party groups and partisan actors heightened in the 2020 election cycle. One shocking incident took place on the last day of early voting on October 21, 2020, when a peaceful "Souls to the Polls" march in Graham, North Carolina, organized by Black clergy, ended with those gathered, including the elderly and children, being pepper-sprayed and prevented from completing their walk to the early voting site.