



SYLVIA R. GARCIA

STATE SENATOR

DISTRICT 6

The Honorable Patrick J. Leahy
Chairman
United States Senate
Committee on the Judiciary
Washington, D.C. 20510

The Honorable Chuck Grassley
Ranking Member
United States Senate
Committee on the Judiciary
Washington, D.C. 20510

Dear Chairman Leahy and Ranking Member Grassley:

Thank you for the opportunity to submit this testimony concerning the continuation of discrimination in voting in Texas, and the critical importance, for my constituents, Texans, and voters around the country, of modernizing federal voting rights protections.

My name is Sylvia Garcia. Currently, I represent District 6 in the Texas State Senate, which includes parts of Houston, Pasadena, Baytown, Jacinto City, Galena Park, and northern and eastern Harris County. I have also served as Presiding Judge of the Houston Municipal Courts, Houston City Controller, and Commissioner of the Harris County Commissioner's Court. I am the current Vice Chair of the Texas Senate Hispanic Caucus, as well as the past President and a current member of the Board of Directors of the National Association of Latino Elected and Appointed Officials (NALEO).

I am a Texas native, from the South Texas farming community of Palito Blanco. As a social worker, attorney, and now a public official, my career has revolved around ensuring that every Texan has an opportunity to be heard. The needs and desires my clients and constituents have shared with me in the course of many years of public service have reinforced values I have always held close and tried to live out in my work: to make sure that no one is forgotten; that precious resources are used wisely; and that community decision-makers do so openly and transparently, and maintain accountability to those affected by their decisions.

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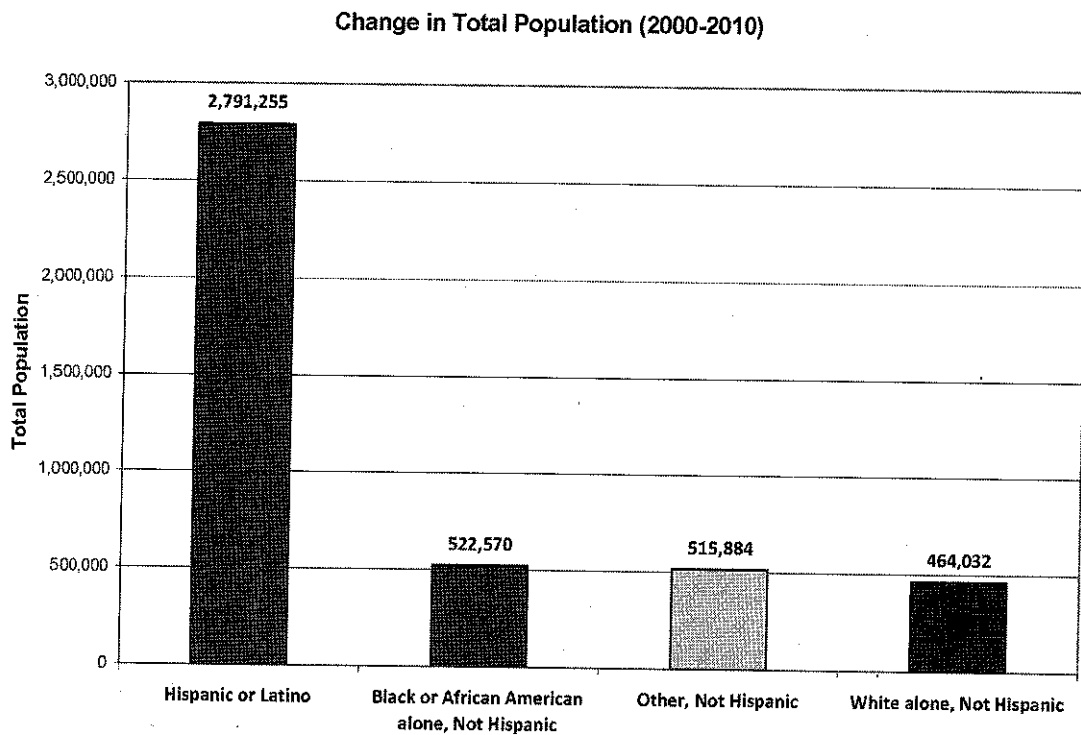
These same values that have guided my work for so many years motivate me to speak out on behalf of the millions of Texans whose opportunities to cast a ballot and to have a meaningful influence on elections remain under threat. A democracy offers empty promises if the citizens the government is intended to serve are not treated equally, regardless of race, ethnicity, or linguistic ability, and if citizens are prevented or dissuaded from participating in civic affairs. Unfortunately, we have too many such instances occurring in my home state today. For the sake of the integrity of our elections and our democracy, Texas urgently needs a modernized fully functioning Voting Rights Act (VRA).

The Rapid Growth of Historically Underrepresented Communities Makes Ensuring Equal Access to the Ballot Particularly Critical for the Health of Democracy

My District, as well as Texas more broadly, illustrates why defending and promoting equal access to the ballot box for voters of all races, ethnicities, and linguistic abilities is particularly critical. In my District and throughout the state, a disproportionate number of residents are members of communities that have historically suffered the brunt of discrimination in voting, education, employment, and other domains. I represent a population that is about 70% Hispanic and about 12% African American. These two groups along with other ethnic or language minority populations constitute significant shares of Texas' population overall. Today 37.6% of Texans now report Hispanic ethnicity. About 12% of Texans are African American, and about 4% are of Asian American, Native Hawaiian or Pacific Islander descent. My constituents and Texans are linguistically diverse as well. Though a majority also speaks English, nearly two-thirds of District 6 residents, and more than one-third of Texans statewide, who are 5 years old or older speak a language other than English at home. The Census Bureau calculates that 7% of all Texans eligible to vote are not fully fluent in English and need language assistance to cast an informed ballot, compared to 4.5% of all eligible voters nationwide.

These minority populations, vulnerable to discrimination in voting, are becoming an increasingly large segment of the electorate. Between the 2000 and 2010 decennial Censuses, Texas' Latino population increased by nearly 2.8 million people, accounting for 65% of statewide population expansion, as illustrated in the chart below. Minorities overall accounted for 89% of Texas growth in the past decade. During the same period, Latinos accounted for a similar, outsized 55.5% of all population growth nationwide. In the year 2000, 31.2% of Texas residents

reported speaking a language other than English at home; according to the most recent Census Bureau figures, this share has increased to 34.6%. Likewise, the percentage of United States residents speaking a language other than English at home grew from 18% in 2000 to 20.5% at most recent count.



Data Sources: Census 2000 Redistricting Data (Public Law 94-171) Summary File PL002 Table; 2010 Census Redistricting Data (Public Law 94-171) Summary File P2 Table

Texas, and our nation as a whole, is growing increasingly diverse and we must do a good job of engaging these communities as voters and candidates. Instead, voting discrimination based on race, ethnicity, and language ability continues in our state, and is alienating communities of color from participating in elections.

Discrimination in Voting in Texas Continues

As Congress considers legislation that would modernize VRA protections, both houses must acknowledge and address the fact that discrimination in voting has deep roots and continues, even today.

Texas has a long record of troubling and pointed attempts to exclude Latino, African American, and other historically underrepresented groups from full

participation in politics and governance. As early as the first half of the 19th century, delegates to Texas's constitutional convention who were preparing for U.S. statehood attempted to preclude the territory's Mexican Americans from the franchise. A second attempt originated in Texas in the 1890s to prohibit people of Mexican heritage from becoming naturalized American citizens and gaining the right to vote. In the first half of the 20th century, Texas jurisdictions developed evolving tactics to limit minority electoral participation and influence. A poll tax was added to the Texas Constitution in 1902, and remained in effect until the state was forced to repeal it in 1966. A 1923 state law barred African Americans from voting in Democratic primary elections, and in the following years numerous jurisdictions prohibited Latino and other voters from participating in white-only primary elections.

The enactment of the VRA in 1965, and its extension in 1975 to provide comprehensive protection to Latino and other language minority voters, ended the use of some of these well-known discriminatory techniques. However, Texas and its sub-jurisdictions have continued to adopt voting policies that impair and prevent minority citizens from casting ballots. Between 1982 and 2005, for example, Texas earned 107 Section 5 objections to voting policies, second only in number to Mississippi. Among them, 97 concerned local laws and affected about 30% of Texas counties home to a disproportionate share – nearly 72% – of the state's non-white voting age population. During this same period, aggrieved voters and candidates brought at least 206 successful lawsuits under Section 2 of the VRA against the state of Texas and Texas municipalities and counties.

In the years immediately preceding the Supreme Court's decision in *Shelby County v. Holder*, Texas and political subdivisions within the state adopted more policies that ran afoul of the VRA's preclearance protections than any other state. In the most recent 15 years, Texas has also amassed more violations of other VRA provisions – Sections 2, 203, and 208 – than any other state. Sadly, the number of discriminatory incidents, prompting litigation, has accelerated in the last five years. These troubling laws aimed at restricting access to the ballot box and voter influence of historically underrepresented voters will only exacerbate Texas' lagging and racially-disparate levels of voter turnout and registration. According to Census Bureau data on the 2012 Presidential election, for example, just 39% of Latino Texans eligible to vote cast a ballot, compared to 48% of Latinos nationwide, 61% of white Texans, and 64% of white Americans. In my own district, the fabric of the community has changed, and unfortunately not everyone

is embracing that change. For instance, two local colleges resisted alterations to their board compositions from at-large districts to single-member districts, and there are plenty of other examples of resistance to progress for voters across Texas.

There is New and Heightened Danger to Latino and Underrepresented Texans' Voting Rights in the Wake of *Shelby County*

In the year since *Shelby County* was decided and preclearance obligations in Texas lifted, policymakers in our state demonstrated an alarming eagerness to move forward both with new voting changes highly likely to impair underrepresented communities' civic participation, and to revisit old proposals already found to be discriminatory, but that were placed on hold. Preclearance coverage was effective in halting the use of many of these provisions *before* they could negatively affect minority voters in Texas. Currently-pending cases under the remaining sections of the VRA are proceeding slowly, and so far have not stopped troubling practices from taking effect, to the detriment of many of my constituents, as well as millions of Texans.

2013 – City of Pasadena

Recent developments in the city of Pasadena are particularly familiar to me, and of particular concern, because many of its residents are also my constituents. In Pasadena, the voting-eligible Latino population has grown exponentially in recent years. Today, just over one-third of Pasadena's potential electorate, and just over half of its adult population, is Latino. Given this increasing Latino presence, it is not surprising that Latinos have been elected to fill two of the eight single-member seats on the Pasadena City Council. The increasingly Latino face of Pasadena residents and governance has, however, sparked some apparent tensions. Facing a Latino majority, Pasadena's mayor Johnny Isbell unilaterally pushed a vote on a controversial plan to convert the city's method of election from eight single-member districts to six single-member districts and two at-large seats. The proposed change from eight to six single-member districts will reduce Latino voting strength in City Council elections. In describing the city, Mr. Isbell was quoted by the *Wall Street Journal* as stating, "The town's identity is plant workers . . . western It's a heritage that we are proud of." (See Attachment A).

The proposal had been discussed in Pasadena, but never implemented until, as the city's mayor said of conditions post-*Shelby County*, "The Justice Department can

no longer tell us what to do.” (See Attachment B). The mayor pursued the change, despite receiving significant expressions of concern from residents in public hearings and in spite of a contrary recommendation by a Review Committee commissioned to study the proposal. The measure was approved by a very slim margin. In the course of public debate, the mayor reportedly expressed racially-themed concerns about the future makeup of a single-member city council. He also argued –without any support or factual validation—that the purported reason more Latino candidates were not elected to municipal positions was because 75% of Latinos in Pasadena were “illegal aliens.”

Elections have not yet been held under the new hybrid election system, but there are ongoing community concerns about the new scheme. Four of the current city council districts contain Hispanic citizen-voting age population majorities. At least one incumbent Latino city councilmember may face a difficult re-election campaign in a reconstituted district, which is also home to a neighboring incumbent councilmember. The mayor recognized that Latino candidates of choice were on the cusp of becoming an effective majority of the council in Pasadena and as a way to dilute Latino political power he ramrodded this hybrid redistricting plan. Given racially polarized voting in Pasadena, it is unlikely that a candidate of the Latino community’s choice would win a race for an at-large seat. The most likely consequence of the change – a reduction in Latino citizens’ influence on elections and presence on governing bodies – combined with its timing and the racial element in related public debate make this a quintessential case for preclearance. (See Attachment C). In the absence of a fully functioning Voting Rights Act, this suspect change will proceed in the next year, with city council elections slated for May 2015.

2013 – Galveston County

In August 2013, Galveston County followed the state’s lead in ceasing upon the *Shelby County* decision to move a controversial election change. The *Houston Chronicle* observed that Galveston County was, “the first Houston area government to take advantage of the June 25 U.S. Supreme Court decision to change an election law that otherwise might have been blocked by the Justice Department.” (See Attachment D). County Commissioners moved quickly after *Shelby County* to adopt an initiative to reduce the number of justice of the peace and constable districts in the county from eight to four, similar to another change recently rejected for being discriminatory. No public hearings were held on the

topic. Both the rejected and enacted plans reduced the number of districts containing African American and Latino voter majorities. Incumbent officials and a resident challenging the move allege that the measure was adopted to intentionally limit African American and Hispanic voters', noting that the county went ahead with the change with full knowledge of its discriminatory effects.

2013 – Statewide Re-Implementation of Voter ID and Intentionally Discriminatory Redistricting Plan

On June 25, 2013, the Supreme Court announced the *Shelby County* decision, our state proclaimed its newfound ability to put into use the voter ID requirement and redistricting plan that had each been determined by a federal court to be discriminatory. On that very same day, our Attorney General celebrated, in tweets, that, “Eric Holder can no longer deny #VoterID in #Texas after today's #SCOTUS decision. #txlege #tcot #txgop” and “Texas #VoterID law should go into effect immediately b/c #SCOTUS struck down section 4 of VRA today. #txlege #tcot #txgop.” The Attorney General also stated that day that, “Redistricting maps passed by the Legislature,” meaning those rejected by the federal court in 2012 as intentionally discriminatory in part, “may also take effect without approval from the federal government.”

While the Texas legislature ultimately adopted a new set of district plans, based on interim court-created maps that had replaced the intentionally discriminatory redistricting scheme, the state moved forward with its voter ID requirement that was found to be retrogressive in federal court. Mismatches between information in voter registration records and that appearing on IDs have been widely reported, and *The Dallas Morning News* concluded that use of provisional ballots skyrocketed in most of Texas's largest counties in November of 2013 when voter ID was first mandated at polling places. (See Attachment E). The full impact of the law on minority voter communities will become more apparent as Congressional and Presidential elections occur: the best available data on voter registration and turnout by race and ethnicity, from the Census Bureau's Current Population Survey, are collected only on these occasions, once every two years.

The following case examples are a non-exhaustive illustration of the forms in which Texans, including my constituents, have confronted voting discrimination in the immediate past.

Texas Statewide Violations

2001 – Statewide Redistricting

Following a significant increase in Texas's Latino population between 1990 and 2000, a redistricting plan was proposed for the state House of Representatives that would have caused a net loss of districts in which Latinos constituted a majority of registered voters, and in which registered Latino voters enjoyed a realistic opportunity to elect the candidates of their choice. This redistricting plan failed to win approval under the VRA because of its pointed, prospective negative impact on Texas minority voters.

2004 – Statewide Redistricting

Following rejection of discriminatory redistricting plans, the Texas Legislature was ultimately unable to agree on Congressional and statewide district maps post-2000 Census. The state moved forward with court-created maps; nonetheless, in 2004 the Legislature adopted yet another set of new maps to replace the court plan. As Supreme Court Justice Anthony Kennedy observed, "the State took away the Latinos' opportunity because Latinos were about [to] exercise it. This bears the mark of intentional discrimination" The Court required changes to be made to the state's new maps in order to eliminate the discriminatory impact on Latino voters.

2007 – Statewide Candidate Qualifications for Fresh Water Supply District Supervisors

The Texas Legislature adopted a change to qualifications required of candidates for fresh water supply district supervisor positions, mandating land ownership. The state failed to provide complete demographic information about affected districts and supervisors in the course of the preclearance process, but investigators determined that every incumbent supervisor who would have been prevented by the law from running for re-election because of lack of land ownership was Latino. Moreover, there were significant disparities throughout the state between Anglo and minority rates of land ownership that supported the conclusion that the rule was discriminatory and could not go into effect.

2011 – Statewide Congressional and Legislative Redistricting

In 2011, as our state undertook redistricting for Congressional and state legislative seats, the rapid Latino population growth described above had resulted in Texas gaining four additional seats in Congress. Yet the new district map ultimately approved by the Texas Legislature failed to create even one new district in which Hispanic or other minority voters were likely to have the opportunity to elect the candidate of their choice. A federal district court reviewing the plan found clear evidence that the maps had been enacted with intent to racially discriminate against Latinos and African Americans, pointing to email messages between legislative staff that revealed plotting to move important landmarks and actively voting minority communities from districts in which minority voters were previously able to exert notable influence. For as long as they remained in effect, preclearance procedures prevented use of district maps intended to diminish Latino and other voters' voices.

2011 – Statewide Voter ID

Texas recently adopted a particularly restrictive version of a requirement that voters provide one of a limited number of documents to prove their identity before voting. The law excludes some government-issued documents, such as student IDs, from the list of acceptable forms of proof. It also mandates “substantial” similarity between a voter’s name as it appears on voter registration records and ID, a rule that has already caused complications and difficulties in voting for married and divorced women who have used various last names, and for Latino voters who alternately use one or both of their parents’ last names. Moreover, reviewers found in 2012 that Latino and African American voters in Texas were not only less likely than others to possess the documentation they would need to vote under the law, but were more likely to face significant hurdles to obtaining ID. Latino Texan households, for example, are nearly twice as likely as white Texan households to lack access to a car, which is often needed to reach an ID-issuing location. As in the case of Texas’s most recent statewide redistricting, preclearance procedures prevented this voter ID law from taking effect when they were in place.

Texas Political Subdivision Violations

2002 – City of Freeport

In the 1990s, a near-unbroken history of losses by Hispanic-preferred candidates and successful litigation resulted in Freeport's adoption of single-member city council districts. Under this new system, Hispanic-preferred candidates experienced increased electoral success, but a mere ten years later, the city tried to revert back to use of the at-large system that had put the city's minority voters at distinct disadvantage. Upon review, it was determined that racially-polarized voting persisted in Freeport, and would likely cause minority-preferred candidates to uniformly lose at-large elections. This change was rejected, and today Freeport has a Latina mayor and additional Latino representation on its city council.

2002 – City of Seguin

In 1978, Latino plaintiffs sued the city of Seguin for failing to redistrict after the 1970 Census. At the time, the city elected eight council members from four multi-member wards, and the city was 40% Mexican American and 15% African American, yet there had never been more than two minority candidates elected at once to the Seguin City Council. After protracted litigation the U.S. Court of Appeals for the Fifth Circuit required the redistricting plan to be precleared. Nevertheless, Seguin failed to redistrict after the 1980 and 1990 Censuses. By 1993, 60% of the city was minority, but only three of nine City Council members were Latino. Again, Latino plaintiffs won a settlement in 1994 resulting in the creation of eight single-member districts. Yet, following the 2000 Census, Seguin enacted a redistricting plan that fractured the city's Latino population across the districts to maintain a majority of Anglos on the City Council. Seguin amended the plan, following Department of Justice (DOJ) objection, but proceeded to close its candidate filing period so that the Anglo incumbent would run for office unopposed. Latino plaintiffs sued and secured an injunction under Section 5 of the VRA. A new election date was set as part of a settlement agreement, and today, a Latino majority serves on the Seguin City Council. The persistence of the opposition to minority voting power in Seguin presents powerful evidence that the equality principles protected by the VRA would not be vindicated in Texas absent vigilant enforcement of a fully functioning Voting Rights Act.

2006 – North Harris Montgomery Community College District

Officials proposed significant changes to the conduct of elections for seats on the North Harris Montgomery Community College District, located in The

Woodlands, Texas. The changes would have drastically reduced the number of polling places, and created a bifurcation of the community college district and school board elections that would have required voters to make two different trips to vote for candidates for the leadership of both bodies. Emblematic of the disproportionate negative effect these changes would have had on minority voters was the finding by reviewers that, “the [polling] site with the smallest proportion of minority voters will serve 6,500 voters, while the most heavily minority site (79.2 % black and Hispanic) will serve over 67,000 voters.” The preclearance process stopped these changes from being implemented.

2007 – Waller County

Waller County is home to Prairie View A&M, a historically black university whose student population accounts for a considerable portion of the county’s voting age population. Many of these students typically registered to vote with the assistance of designated volunteer deputy registrars. In 2007, the county changed its criteria for acceptance of registration applications submitted by volunteer deputy registrars, adding several conditions to the list of factors that would result in rejection. The county refused to seek preclearance, despite its obligation to do so. These changes threatened to impair registration of predominantly African American Prairie View A&M students. In settlement of a Section 5 action, the County agreed to stop applying its new criteria for rejection, and to register those applicants who were wrongfully rejected.

2008-09 – Gonzales County

Today, approximately 15% of the adult population in Gonzales County is estimated to be not fully fluent in English, according to the Census Bureau. The County adopted bilingual election procedures in 1976, but attempted to gut them in 2008 and again in 2009. In attempting to gain approval of a plan to reduce assignment of bilingual pollworkers and to use a computer program such as Google Translator to produce bilingual materials, the county election official was quoted in local press as wildly speculating that, “language minority voters are not citizens if they do not speak English.” The proposed reductions in language assistance were stopped because of preclearance procedures.

2010 – Runnels County

Like Gonzales County, Runnels County, Texas abruptly changed its long-standing Spanish-language election procedures for the November 2008 general and November 2009 statewide constitutional amendment elections, despite 38% of Hispanic voting-age citizens speaking English less than very well. DOJ interposed an objection to the county's 2008 and 2009 oral assistance procedures. Specifically, half the county voting precincts did not have a bilingual poll worker in 2008 and no precincts had one in 2009, and the county only had one on-call bilingual assistor available by phone that received no calls for assistance in years. The county did not test the Spanish-language proficiency of its bilingual poll workers or provide training for the assistors. Runnels County failed to provide data to demonstrate that the reduction in quality and quantity of oral assistance procedures did not have a retrogressive effect, or even dispute the changes were not motivated, in part, by discriminatory purpose. But for a fully functioning Voting Rights Act, Runnels County would have abandoned its obligation to Latino voters needing language assistance at the polls.

2011 – Nueces County

Nueces County has experienced notable growth in its Latino population and decline in its white population over the past 20 years. Shifting demographics resulted in a Commissioner's Court that for some time had a majority of Hispanic candidates of choice. However, just before post-2010 Census redistricting was to occur, close contests resulted in the election of a majority of Commissioners favored by white voters. These Commissioners were responsible for a 2011 redistricting plan that was determined to "have been undertaken to have an adverse impact on Hispanic voters," according to the DOJ, and to preserve the new majority on the Commissioner's Court, preferred by a majority of white voters. County officials failed to offer reasonable non-discriminatory justification for their district boundary-drawing decisions, and the Commissioner's Court redistricting plan was rejected.

2011 – City of Galveston

Galveston moved to alter the method by which it elects candidates for municipal offices multiple times. In 1993 the city agreed to adopt single-member districts, but just five years later, in 1998, it attempted to revert back to a hybrid single-

member/at-large system that had previously been rejected as discriminatory. Once again in 2011 the city sought to eliminate some single-member districts of the city council, but was stopped because reviewers concluded that the proposed new district plan would have eliminated minority voters' opportunity to exert meaningful influence on elections for at least one seat. The city did not provide any justification for its repeated attempts to eliminate single-member districts, and was adjudged to have failed to prove that its actions were not motivated by discriminatory intent.

2011 – Galveston County

In the same year the city of Galveston pursued at-large elections, Galveston County adopted a redistricting plan for County Commissioner's Court precincts, and a proposed reduction in the number of constable and justice of the peace seats in the county. Unlike in previous years, the County avoided adopting criteria to guide the redistricting process; the Commissioner's Court also specifically avoided notifying its one minority member in advance that a map that would significantly reduce the minority population in that member's precinct would be considered and voted upon. In addition, the proposed elimination of constable and justice of the peace positions would have reduced the number of seats to which minority voters could elect candidates of choice from three to one. The timing of the change – virtually as soon as a previous court order requiring expansion of opportunities for minority voters expired – was not lost on reviewers who noted, "A stated justification for the proposed consolidation was to save money, yet, according to the county judge's statements, the county conducted no analysis of the financial impact of this decision." Both proposed changes failed to pass muster as having been adopted without discriminatory purpose.

2011-13 – Beaumont Independent School District

The African American population of the city of Beaumont is slightly larger, but votes in slightly smaller numbers, than its white population. In 2011, citizens of Beaumont approved along racially polarized lines an initiative to convert from electing seven members of its school board from single-member districts to a "5-2" plan in which two of the seven seats would be elected at-large, by the entire electorate of the city. It was determined that this change would be discriminatory, and the "5-2" plan was blocked through the preclearance process. Soon after this occurred, the three sitting African American members of the school board, who

were not up for re-election until 2015, were challenged pursuant to proposed changes to terms of office, election date, and candidate qualification procedures. These changes would have resulted in the effective and seemingly targeted removal of all three African American school board members, who received no advance notice that an election would be held in their districts, or of requirements for qualifying for re-election. Accordingly, they were prevented from taking effect.

Texans Need a Modernized Fully Functioning Voting Rights Act

The Voting Rights Act provisions that remain in effect today are not enough to meet the significant task of enforcing equal voting rights in Texas. As the numerous examples presented in this testimony demonstrate, municipalities and state officials in Texas continue to adopt laws and policies that selectively impose challenges for minority voters, and disproportionately reduce the value of their votes. Texas has surpassed and continues to outpace every other state in enacting discriminatory voting policies, and must be subject to the strongest protections we can devise.

For nearly fifty years, preclearance procedures did the best job possible of subverting gamesmanship and evolving tactics that denied and limited the minority vote. Preclearance was uniquely effective in preventing discrimination from becoming standard practice and from further diminishing minority voters' opportunities and participation rates in the places – like Texas – with the most egregious patterns of treating voters differently based on their race, ethnicity, and linguistic ability. For instance, Texas withdrew far more requests for approval of proposed voting changes after being asked for further clarifying information than any other jurisdiction between 1982 and 2005. These withdrawals included at least fifty-four instances in which the State canceled discriminatory voting changes after it became evident they would not be precleared. I fear the state legislature will follow with similar actions that could have a discriminatory impact on minority voters, in the absence of the deterrent effect of Section 5 of the VRA. Previous legislation has included residency requirements for voter registration, proof of citizenship for voter registration, reduced early-voting periods, and restrictions on third party voter registration efforts.¹

¹ See generally Tex. H.B. 148, 83d Leg., R.S. (2013); Tex. H.B. 927, 83d Leg., R.S. (2013); Tex. H.B. 966, 83d Leg., R.S. (2013); Tex. H.B. 3074, 83d Leg., R.S. (2013); Tex. H.B. 174, 82d Leg., R.S. (2011); Tex. H.B. 47, 81st Leg., R.S. (2009); Tex. H.B. 157, 81st Leg., R.S. (2009); Tex. H.B. 208, 81st Leg., R.S. (2009); Tex. S.B. 268, 81st

The Voting Rights Act without preclearance cannot meet the needs to combat the vestiges of discrimination in a state like Texas. Section 5 is the most efficient means of alternative dispute resolution of contested voting changes. The revival of several discriminatory initiatives in Texas post-*Shelby County* conclusively establishes the fact that in the absence of a fully functioning Voting Rights Act problematic laws will slip through cracks. We are left with protracted and expensive litigation as the only remaining method of attack against a discriminatory voting change. Litigation imposes a greater burden on everyone concerned, including plaintiffs, defendants, and affected voters and candidates whose fate hangs in the balance, than does administrative review under the preclearance process.

The Voting Rights Amendment Act, S. 1945, proposes solutions to the present gaps in voter protection that are well-tailored to Texas voters' needs. In addition to preclearance coverage, this legislation would increase transparency around election policymaking, redressing the pointed secrecy that has often been used in Texas to limit minority communities' input and obscure suspect changes. By expanding opportunities to send neutral federal observers to monitor compliance with obligations to provide bilingual assistance at the polls, the Voting Rights Amendment Act would reveal those shortcomings that have impaired and frustrated thousands of Latino and other language minority voters. This has been the case in at least ten Texas jurisdictions that have settled charges of violating language assistance requirements in the past 15 years. Additional provisions would give federal courts more discretion to apply pre-emptive protections where warranted. In sum, the Voting Rights Amendment Act would provide effective checks against the kinds of rampant discriminatory actions described herein, and I implore you to take action to restore teeth to and modernize the Voting Rights Act and advance this legislation.

I will conclude by quoting the words of President Lyndon B. Johnson in his Voting Rights Act address before a joint session of Congress on March 15, 1965:

Leg., R.S. (2009); Tex. S.B. 363, 81st Leg., R.S. (2009); Tex. S.B. 391, 81st Leg., R.S. (2009); Tex. H.B. 1143, 81st Leg., R.S. (2009); Tex. H.B. 101, 80th Leg., R.S. (2007); Tex. H.B. 600, 80th Leg., R.S. (2007); Tex. H.B. 626, 80th Leg., R.S. (2007); Tex. H.B. 979, 80th Leg., R.S. (2007); Tex. H.B. 1146, 80th Leg., R.S. (2007); Tex. H.B. 1462, 80th Leg., R.S. (2007); Tex. H.B. 1463, 80th Leg., R.S. (2007).

Testimony of The Honorable Sylvia R. Garcia
June 25, 2014


“Experience has clearly shown that the existing process of law cannot overcome systematic and ingenious discrimination. No law that we now have on the books—and I have helped to put three of them there—can ensure the right to vote when local officials are determined to deny it.

In such a case our duty must be clear to all of us. The Constitution says that no person shall be kept from voting because of his race or his color. We have all sworn an oath before God to support and to defend that Constitution.

We must now act in obedience to that oath.”

Thank you for the opportunity to testify today.

Respectfully Submitted,


The Honorable Sylvia R. Garcia
Texas State Senate, District 6

Enclosed Attachments (5):

- A. Voting-Rights Fights Crop Up, *Wall Street Journal*, Nov. 1, 2013.
- B. All in With Chris Hayes, *MSNBC*, Nov. 8, 2013, pages 6-9.
- C. Plans to Redistrict Pasadena City Council, *Houston Chronicle*, Aug. 15, 2013.
- D. Suit Blasts Galveston Judge Plan as Biased County Commissioners Are Trying to Cut Number of Justice of Peace Courts, *Houston Chronicle*, Aug. 27, 2013.
- E. Voter ID Woes Could Soar in Higher-Turnout Elections, Officials Fear, *Dallas Morning News*, Nov. 24, 2013.

Attachment A

Voting-Rights Fights Crop Up; Court Ruling Opens Door for Redistricting by Cities and Suits by Minorities

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Body

PASADENA, Texas—When *JohnnyIsbell* first became mayor here in the early 1980s, Hispanics were a minority in this refinery town, famous as the setting for the movie “Urban Cowboy.”

Now the Houston suburb is more than 60% Hispanic and Mexican ballads are sung here as often as “Lookin’ for Love” from the 1980 film. Gilley’s honkytonk bar here burned down more than 20 years ago.

Mr. Isbell, again the mayor, believes it is high time for voters to eliminate two of the city’s eight City Council districts, all of which were created to help ensure that Hispanics had a voice in politics, and replace them with two council seats elected citywide. He said the move, on the ballot here Tuesday, would result in more local leaders focused on the good of all of Pasadena.

“They don’t care about citywide issues,” said the 75-year-old Mr. Isbell of council members chosen to represent sectors of the city.

Until recently, Mr. Isbell’s proposal would have required approval from the U.S. Department of Justice under the Voting Rights Act. The department screened revisions to local political districts in mostly Southern regions where discrimination historically had taken place, to ensure that minorities weren’t disenfranchised.

But the U.S. Supreme Court ruled this summer that such oversight is no longer necessary, because minorities have made strides since passage of the 1965 law. That opened the door to change in cities such as Pasadena—and spurred new debates about what constitutes fair political representation.

In southeast Texas alone, legal challenges to redrawn voting maps in Galveston County and Beaumont have been complicated by the Supreme Court’s ruling, which stemmed from a case involving Shelby County, Ala. The moves are being challenged by minority residents, who claim they would decrease the number of minority officeholders.

Other election changes have taken place in the South following the court decision, ranging from measures by counties to move polling locations in places with large minority populations to statewide laws, like one recently passed in North Carolina, that impose stricter identification requirements for voters.

“Before Shelby County, Galveston had the burden of showing what they were doing was not discriminatory,” said Chad Dunn, a lawyer representing minority residents who filed a suit in federal court to block the county’s redistricting proposal. “Now, we have the burden.”

Joseph Nixon, a lawyer who represents Galveston County in the suit, said the maps were redrawn to eliminate certain unnecessary judicial positions and wouldn’t dilute minority voting power.

Voting-Rights Fights Crop Up; Court Ruling Opens Door for Redistricting by Cities—and Suits by Minorities

Voting-rights experts expect the disputes to continue, especially in municipalities that previously were subject to federal oversight under the Voting Rights Act.

In Arizona after the ruling, state Attorney General Tom Horne, a Republican, gave the go-ahead to a redistricting plan for the Maricopa County Community College District that previously had been subject to federal review. Critics of the plan to add two at-large seats to the district's board say it could lead some parts of the region to end up with more representatives than others.

"The likelihood is very much there that it will work against minority representation," said Ben Miranda, one of five existing board members. Mr. Horne's office declined to comment.

In Pasadena, which has a population of roughly 150,000, some residents say special election protections for minorities are no longer necessary due to the city's Hispanic majority. But others say the changes in the city's racial composition haven't yet changed politics due to a lack of voter participation by Hispanics.

More than 55% of Pasadena's *voting*-age population is *Hispanic*, but people with a Spanish surname, a proxy for those of *Hispanic* origin, represent only around 35% of the registered *voters*, according to city data.

"It doesn't punch its weight," said Walter Wilson, a political-science professor at University of Texas, San Antonio, of the minority electorate in general.

Pasadena elected all City Council members citywide in 1981, when Mr. Isbell, who has been elected to a total of five four-year terms, first became mayor. A decade later, local activists sued the city, seeking council districts to ensure representation for the growing Hispanic community. The tension was defused a year later, when city leaders moved to create council seats by geographic region.

The proposal before voters on Tuesday would turn two of the eight council seats back into citywide positions, and redraw the remaining six geographic districts to represent regions of the city.

Supporters say the change would unify the council and focus its attention on economic opportunities around Pasadena, including a new cruise-ship terminal and an entertainment district that could include a new version of Gilley's, the rollicking bar that put Pasadena on the map in "Urban Cowboy," starring John Travolta as a refinery worker.

"The town's identity is plant workers...western," said Mr. Isbell, as he swayed on a rocking chair in his office. "It's a heritage that we are proud of."

Opponents say the change would dilute Hispanics' voting power and make it harder for them to voice their needs, such as sprucing up the city's faded, heavily Hispanic north side.

"This city is no longer a Gilley's town," said Councilman Orinaldo Ybarra, 34, who keeps a bobble-head doll of President Barack Obama on his desk.

Mexican flags fly alongside American flags nowadays at Pasadena's car lots, and Hispanic businesses have taken over entire strip malls, including one that houses Cinema Latino, which mostly shows movies subtitled in Spanish and serves tamarind and hibiscus drinks along with Coke.

In a tiny storefront next door to the theater, Jorge Armando, a 32-year-old from the Mexican state of Puebla, sells CDs with music spanning his native country. He said that when people like him can vote—Mr. Armando is a permanent resident seeking citizenship—"things will be very different" for Hispanics in the U.S.

In the meantime, Cody Wheeler, a recently elected council member whose family hails from Mexico, is knocking door to door to urge those who are eligible to vote against the mayor's proposal on Tuesday. Overall turnout in Pasadena is regularly less than 10%.

"We're doing everything in our power to engage the electorate," said Mr. Wheeler, who won his seat last May by 33 votes.

Voting-Rights Fights Crop Up; Court Ruling Opens Door for Redistricting by Cities-and Suits by Minorities

He hadn't convinced Iris Gutierrez, 18, a college student, who could legally vote, but chose not to register because she feared she would be called for jury duty.

"I don't have much interest in it," she said of Tuesday's election.

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ALL IN WITH CHRIS HAYES for November 8, 2013

MSNBC ALL IN with CHRIS HAYES 8:00 PM EST
November 8, 2013 Friday

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Guests: Bill Carter, Eric Boehlert, Steven Reiner, Julie Fernandes, Mike Pesca, Emily Bazelon, Roman Oben, Barbara Buono

Highlight: CBS News is retracting, apologizing for and plans to correct a story it broadcasts on "60 Minutes" about the attack on the U.S. consulate in Benghazi, Libya, that killed four Americans last year. The city of Pasadena, Texas, is attracting attention for one thing related to their government, their effort to suppress the Latino vote.

Body

CHRIS HAYES, MSNBC HOST: Good evening from New York. I'm Chris Hayes.

We begin with a story that has refused to go away and not because of the facts involved, but because of the concerted effort on the right to stoke scandal at any cost.

Tonight, CBS News is retracting, apologizing for and plans to correct a story it broadcasts on its crown jewel program "60 Minutes" about the attack on the U.S. consulate in Benghazi, Libya, that killed four Americans last year -- a story it broadcasts using a government contractor who claimed to be an eyewitness to the attack, but who it appears was not in fact where he said he was on the night in question. The so-called eyewitness did not apparently see the events he claimed to describe.

On "CBS This Morning", "60 Minutes" correspondent Lara Logan acknowledged the mistake.

(BEGIN VIDEO CLIP)

LARA LOGAN, "60 MINUTES" CORRESPONDENT: You know, the most important thing to every person at "60 Minutes" is the truth. And today, the truth is that we made a mistake. And that's very disappointing for any journalist. It's very disappointing for me.

Nobody likes to admit they made a mistake, but if you do, you have to stand up and take responsibility, and you have to say that you were wrong. And in this case, we were wrong.

(END VIDEO CLIP)

HAYES: The explosive charge in Logan's original report was that there was an eyewitness account from a British security contractor named Dylan Davies who used the pseudonym Morgan Jones, who claimed the U.S. could have sent back-up to the besieged facility because he himself was able to go enter it and do battle with the bad guys.

(BEGIN VIDEO CLIP)

LOGAN (voice-over): Morgan Jones scaled the 12-foot high wall of the compound still overrun with al-Qaeda fighters.

MORGAN JONES, CONTRACTOR: One guy saw me. He just shouted, I couldn't believe that it's him because it's so dark. He started walking towards me.

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LOGAN: And as he was coming closer --

JONES: I just hit him with the butt of the rifle in the face.

LOGAN: And no one saw you do it?

JONES: No.

LOGAN: Or heard it?

JONES: No, there was too much noise.

(END VIDEO CLIP)

HAYES: To a Benghazi scandal fire that was finally in its dying embers, the "60 Minutes" report was a gallon of gasoline.

The next morning, the FOX News tour began featuring Steve Doocy and Senator Lindsey Graham.

(BEGIN VIDEO CLIP)

STEVE DOOCY, FOX NEWS: CBS did this story on Benghazi and I see criticism from the left where they go, you guys are covering a phony scandal. "60 Minutes" doesn't cover phony scandals.

SEN. LINDSEY GRAHAM (R), SOUTH CAROLINA: If we don't have a joint select committee to get out of this stove-piping problem, we're never going to get the truth. And where are the survivors? Fourteen months later, Steve, the survivors, the people who survived the attack in Benghazi, have not been made able to the U.S. Congress for oversight purposes.

So I'm going to block every appointment in the United States Senate until the survivors are being made available to Congress. I'm tired of hearing from people on TV and reading about stuff and books.

(END VIDEO CLIP)

HAYES: Because of the "60 Minutes" segment, Senator Lindsey Graham was going to block every appointment made by the president.

But even then, that day, even on that Monday, it was apparent that the so-called eyewitness may have had some pretty questionable motives. Media Matters founder David Brock on our show that night disclosed that even FOX News itself was evidently weary of using Dylan Davies as a source.

(BEGIN VIDEO CLIP)

DAVID BROCK, MEDIA MATTERS: And the other witness appears to be some type of British mercenary who apparently in conversations with FOX News, asked for money to talk and so, you know, FOX News even drew a line there, but it was good enough for CBS.

(END VIDEO CLIP)

HAYES: It turns out, CBS was also publishing Davies book, through its company Simon & Shuster, the connection "60 Minutes" did not disclose during that original report.

As for Davies, while FOX News may have shied away from him because he asked for money, it didn't stop the very same FOX News from running more than 13 segments over 11 different shows inspired by the CBS report. The right's delight at mainstream validation of their own pet obsession was even comically evident at a campaign rally for the now defeated Virginia gubernatorial candidate, Ken Cuccinelli, a week before Tuesday's election.

Cuccinelli's warm-up act for stoking the crowd in Benghazi, including Congressman Frank Wolf.

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(BEGIN VIDEO CLIP)

UNIDENTIFIED MALE: The man who was going to get to the bottom of what's going to happen in Benghazi.

Thank you, Jeremiah. I appreciate that introduction, and we are going to get to the bottom.

(CHEERS)

And if anyone watched "60 Minutes" last night, you can see why we need a --

(END VIDEO CLIP)

HAYES: Then, last Thursday, "The Washington Post" reported that Davies account to "60 Minutes" and the story in his book were different from an incident report he himself filed with his employer, but Blue Mountain Security.

But CBS News stood by their story, continued to defend it, despite multiple queries. CBS News chairman and "60 Minutes" executive producer Jeff Fager said he was proud of the program's reporting on Benghazi and, quote, "confident the source told accurate versions of what happened that night.

But the bottom fell out yesterday when "The New York Times" reporter that Mr. Davies told the FBI he was not in fact on scene until the morning after the attack.

(BEGIN VIDEO CLIP)

LOGAN: What we now know is that he told the FBI a different story and that was the moment for us, when we realized that we no longer had confidence in our source and that we were wrong to put him on air and we apologized to our viewers. We will apologize to our viewers and we will correct the record on our broadcast on Sunday night.

(END VIDEO CLIP)

HAYES: Joining me now is Bill Carter, a reporter for "The New York Times", who covers the television industry. He wrote "The Times" story on this today.

Bill, my head's spinning. How did this happen?

BILL CARTER, THE NEW YORK TIMES: Well, I think it happened because CBS was looking to get a new angle on the story. They got a book and in the book, this security man claimed that he was there and went through what they considered a betting process and decided he was credible and put him on the air. I think they needed a new angle because I don't think they had a lot of other new material in that report.

So, they really needed this guy to be truthful and they were in the middle of this situation where you know, he was saying one thing to his boss and a different thing to them, but it was a credible reason for that, because he had left his villa when he was supposed to not go to the scene, and what he told was a dramatic story and that added a lot of drama to what CBS wanted to report.

HAYES: What's interesting to me is that even when the issues start to be raised about his credibility, Media Matters is raising issues, then on Thursday, there's a "Washington Post" report, you know, it follows this kind of classic cycle, which is ignore, deny, double down, and then eat crow.

CARTER: Yes. And I spoke to Lara Logan before it blew up and she was very adamant about how credible this guy was.

HAYES: She was adamant about how credible he is to you when you talked to her?

CARTER: Yes, she said she believed in what he said and she didn't think he had given two versions and the FBI report would prove that. That he gave the same report to the FBI that he gave to CBS. And so, that became really the critical aspect of, with the FBI report corroborates it.

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HAYES: So, you got two versions of the event, you got the diversion of event, the incident report, I stayed in my villa, I wasn't there the night I said I saw these dramatic things. You have what he told the CBS cameras and the audience of "60 Minutes", and the tiebreaker was what did he tell FBI, and the tiebreaker goes to he was not there.

CARTER: And it turns out he gave three interviews to the FBI. They interviewed him three separate times. And, you know, each occasion, he told the story the way it came out in the incident report. He stayed at the villa, he didn't go to the scene.

I spoke to CBS about that last night and they were obviously taken aback by that. They then spent the next couple of hours themselves checking with their FBI sources and by this morning, they had gotten the same report we had, which is that the FBI version was not their version.

HAYES: I want to bring in Eric Boehlert, senior fellow at Media Matters for America, Steven Reiner, former producer for "60 Minutes" and CBS, now director of broadcast and digital journalism at Stony Brook University.

Eric, well, you guys -- I mean, in some ways, this is not to be uncharitable here, but I'll tell the truth. This is a little over-determined in the case of Media Matters, like you guys are a liberal group. You fact check conservatives, conservatives obsessed with Benghazi, people might say maybe people like to say, well, Media Matters stopped clock being right, you know, twice a day.

But, you guys were right about this.

ERIC BOEHLERT, MEDIA MATTERS: No, we have been right about Benghazi for 13 months. I mean, we have been fact checking the story to death, and when CBS decided we want to piece of that pie, we want a piece of that right wing media narrative, there are lingering questions when there are none, when this story has been exhaustively researched by Congress. Military have talked about what the reinforcement responsible was.

When they decided to sort of key into that buzz machine, you talked about you know, FOX News the next day for an hour, the senator talking about it. What's the number one way to know you hit a home run? The next day, a senator's talking about your story.

They knew it was all predetermined. They couldn't resist it. The story didn't add up. There were no lingering questions.

The conflicts of interest should have stopped them. The discrepancies in the narrative should have stopped them. They should have apologized a week ago.

This whole thing is a train wreck, conception, execution, denial.

HAYES: I want to make clear here, Steven, I don't want to like put a dagger in "60 Minutes." I have tremendous admiration for "60 Minutes". I really do. It's incredible franchise. It's incredible they do the journalism they do. That they get the ratings they do. That they produce the profit they do.

In some ways it's like a miracle it exists in television journalism, which I think is why all of us take it so seriously. What is it like in that building today?

STEVEN REINER, FORMER CBS "60 MINUTES" PRODUCER: It's obviously a very, very difficult day for everyone there, but my question is how much real self-examination is being done there. I watched Lara this morning on CBS this morning and even though there was an apology, and even though it was borderline mistakes were made, I don't believe there was still an adequate explanation of just what kind of vetting really was done, at the end of the day.

Journalism 101, you have a single source.

HAYES: Yes, exactly.

REINER: And you have --

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HAYES: The most dangerous thing in the universe.

REINER: And you have a single source who is a self-interested source because the source is trying to sell books. Then, you have a story, which is a political hot potato, which can be red meat to certainly one side of the argument and it seems to me that raises the bar and makes it more crucial that you do your due diligence.

And I didn't hear anything in the explanation of what we did to vet that leads credibility to can be red meat to certainly one side of the argument we were fooled. You shouldn't have been fooled.

HAYES: So, the Boehlert piece is here, right, is that this was basically, you see this story, you think this is going to light up the right.

BOEHLERT: It did.

HAYES: And it did and it's also like a box for us to check the next time we're accused of liberal media. Remember, we did that Benghazi story.

Just so folks understand the universe this is coming out, Threshold is the imprint of Simon and Shuster, that was publishing the book, although it has now been recalled. Being pulled out of -- we're trying to get video of them packing up the books. That would be a good --

CARTER: By the way, that's a CBS decision.

HAYES: Right, that's a CBS decision, its' getting pulled from the top.

Now, Threshold is a conservative imprint that publishes books by Glenn Beck, Sarah Palin, the book, "Censorship: The Threat to Silence Talk Radio", Mark Levin. I mean, that's the world this story is coming out of. Those are some red flags.

BOEHLERT: Yes. You know, they wants to key into it, like I said, there's an automatic audience there. But when you're going to wade into that, you have to be careful. You cannot stain your reputation just because you want to sort of fuel this.

One other quick point, after the National Guard story, you know, 2004, "60 Minutes," their last real huge embarrassment, they appointed a panel. Came outside, did lots of interviews, hired lots of lawyers and looked at this. I don't see, if they did that for that, how do they don't --

HAYES: I want to talk about that. Mary Mapes, who is famously Dan Rather's producer on the story of the National Guard documents, which were forged documents about President George W. Bush's record in the National Guard, famous Rather-gate scandal.

Mary Mapes had this to say, "My concern is the story is done very pointedly to appeal to more conservative audience's beliefs about what happened at Benghazi. They appear to have done the story to appeal specifically to political conservative audience obsessed with Benghazi, believes that Benghazi is much more than a tragedy".

You can't avoid the parallels here, Bill.

CARTER: Well, you can't avoid them because everybody's going to think of it.

I mean, I do think -- to me, this is a far lesser scandal because I don't see this as people aren't doing this sort of in a presidential election, trying to influence voting, et cetera. I think, I may be wrong, but I think people have to step back and say, look, there's a lot of agendas that were being played out here.

You're saying CBS wanted to court the right or whatever.

HAYES: Well, I was saying, I call it the Boehlert piece.

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CARTER: OK, that's (INAUDIBLE).

But my sense is they were wanting to do something on Benghazi, spent a lot of time doing it and didn't have a lot. And then this guy's book showed up. That's what I think. That's my guess.

REINER: It was a mini perfect storm. They needed to inject a big B12 shot into that Benghazi story.

(CROSSTALK)

REINER: One of the things we try to tell some of our students is how to watch television and be aware this that fellow's story, had nothing. I mean, in essence, had nothing to do with the same old story they were telling in the rest of the piece. This was a little bit of smoke and mirror -- let's inject a dramatic, heroic story, and somehow we'll give the rest of it deeper meaning.

CARTER: I want to say one thing. Getting involved in this, you then see the impact, because the State Department didn't like this at all. They didn't like this at all. And they kind of went after this guy. They wanted to go after.

And so, reporting on this is a minefield. It's a minefield.

HAYES: Right. And what I don't want to happen is to, well, if something is an ideological minefield, let's not step into it.

What does have to happen --

(CROSSTALK)

BOEHLERT: How about debunking it?

HAYES: Or just do diligence and put up what appears to be a fabricator and put the credibility of the crown jewel of CBS News on the line.

Bill Carter from "The New York Times", Eric Boehlert from Media Matters, Steven Reiner from Stony Brook University -- thank you all really.

Coming up, this is the city of Pasadena's Web site. See here where it says we have the kind of community, culture and responsiveness that are attracting attention. They are attracting attention for one thing related to their government. Their effort to suppress the Latino vote.

Why a Texas ballot initiative was the most important election of the week you haven't heard about, coming up.

HAYES: Later on the show, we're going to talk about Jonathan Martin, a Miami Dolphins offensive lineman who was allegedly bullied so mercilessly, he left the team. Sadly, Martin's experience is not unique. Extreme locker room hazing is pretty uncommon.

So, on a more sober note, tonight, I want to know, what questions would you ask someone who spent a lot of time in an NFL locker room? Tweet your answers @allinwithchris, or post to Facebook.com/allwithchris. I'll share a couple later in the show when we talk to someone who was in an NFL locker room for 12 years.

Stay tuned. We'll be right back.

HAYES: Earlier this year, the Supreme Court dealt the Voting Rights Act its most devastating blow in the 48 years since its enactment, when by a 5-4 vote, it suspended the important enforcement of the crucial section five of the act. It got a very core of the law and it meant that nine states would be free the change their election laws without getting preclearance approval from the federal government.

We've been talking for months about the potential and likely ramification of this decision and this week, we saw it play out in dramatic fashion on Election Day in one city in Texas.

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(BEGIN VIDEOTAPE)

HAYES (voice-over): Pasadena, Texas, a suburb of Houston, sometimes called Stinkadina from the smell of its chemical plants and oil refineries, home of 150,000 people, and the setting, the iconic film, "Urban Cowboy".

UNIDENTIFIED MALE: Cowboy?

UNIDENTIFIED MALE: Depends on what you think a real cowboy is.

HAYES: But like a lot of Texas towns, Pasadena has changed radically since the days when John Travolta walked the streets in a 10 gallon hat.

UNIDENTIFIED FEMALE: Pasadena not longer a small town, but a not so small city.

HAYES: The changes come in the last ten years thanks to growth in the Hispanic population, which has risen from 48 percent to 62 percent, making white people a minority in the new Pasadena.

Luckily for them, they are still a majority of the *voting* population. While the *Hispanic* population accounts for a majority of Pasadena residents, Hispanics make up only 32 percent of the city's voters, but the people who are running Pasadena see the writing on the wall. They know there are only a few voter registration drives and maybe a comprehensive immigration reform bill away from being relegated to minority status.

So, this summer, Pasadena Mayor *Johnny Isbell* came up with a plan. Right now, the city is run by maybe and eight council members. Each member is elected from one of eight districts each representing a section of the city.

And for the first time in the city's history, there are now two Hispanics on the council. One is Cody Ray Wheeler.

CODY RAY WHEELER, PASADENA CITY COUNCIL MEMBER: We kind of came in there, looking to bring change, reform, to really engage in the community and we've called the mayor out on a lot of things we thought weren't very honest.

HAYES: In August, Isbell started pushing a plan to shrink the number of districts from eight to six, and replace those two with at large seats to be voted on by everyone in Pasadena, and by everyone, we mean the town's white voting majority.

WHEELER: He decided to make a full power grab and he didn't care who you'd have to step over to get it.

HAYES: To the community, the goal of the plan was pretty clear.

PATRICIA GONZALES, PASADENA RESIDENT: I think what he's trying to do is trying to stop us from being able to get the things we need and be able to be the majority. He doesn't like it.

HAYES: Dilute the power of the *Hispanic vote* and hand two council seats to the majority white voting population. Ensuring the citywide, majority white population could band together and retain their power.

WHEELER: What this effectively does is give the south part of town the majority of council.

HAYES: It turns out this is precisely the sort of thing section five of the Voting Rights Act was designed to block. In fact, Supreme Court Justice Ruth Bader Ginsburg cited this precise type of discrimination from a pre-section five world when a Voting Rights Act came before the court earlier this year.

RUTH BADER GINSBURG, SUPREME COURT JUSTICE: These second generation barriers included racial gerrymandering, switching from district voting to at large voting.

HAYES: Did you hear that? At large voting -- it's the oldest trick in the book and it's so immediately recognizable that when a neighboring Texas town of Beaumont cooked up a similar at large plan, it was blocked by the Justice Department in December of 2012.

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But then, the Supreme Court killed section five of the Voting Rights Act in their 5-4 decision in *Shelby v. Holder*. And the mayor of Pasadena, Johnny Isbell made his move.

WHEELER: He blatantly said at the first meeting we had, now that the preclearance from the Voting Rights Act is gone, we're going to redistrict the city.

HAYES: In the mayor's own words --

MAYOR JOHNNY ISBELL, PASADENA: The Justice Department can no longer tell us what to do.

HAYES: So, this summer, Isbell arguing that certain council members don't care about citywide issues, moved to put his own at large plan on the ballot.

WHEELER: The mayor's quite aware of what this does, but he just seems to not care.

HAYES: On Tuesday, the folks of Pasadena went to vote on proposition one and the majority won by a margin of 87 votes. Now, that section five is dead, there are thousands of potential Pasadenas all across the South.

(END VIDEOTAPE)

HAYES: We should note that Patricia Gonzalez who we spoke to in that report is a resident of Pasadena, also community activist with the Texas Organizing Project.

Joining me now is Julie Fernandes, former deputy assistant attorney general in the civil rights division of the Department of Justice, now, a senior policy analyst at the Open Society Foundations.

All right. You used to work at a desk, getting applications from places that wanted to do changes like this. How common or anomalous is the story of Pasadena?

JULIE FERNANDES, OPEN SOCIETY FOUNDATIONS: Well, I think changes to the method of election are actually the second most common type of voting change, that drew objections during the days of section five, so they were ones that often got a lot of scrutiny because you always have to ask the question why and assess the impact in the way your piece described.

HAYES: I think what's interesting about this story, (a), if I'm not mistaken, the Shelby County case that came before the court that initiated the court striking down was not dissimilar case. It was actually a change to the gerrymandering of a district of a relatively small town.

And what I think is interesting is we talk about voter ID and stuff happening at the state level. There is a lot of stuff that happens at the municipal level where these fights can get really nasty, and when the stakes are high -- property taxes, school equity, things like that that we don't necessarily see from the national level.

FERNANDES: That's part of what we lost here when we lost section five, is we lost the ability to know about this stuff. Everybody's going to know about statewide redistricting, everybody is going to know about statewide law changes. But places like Pasadena, Texas, or little towns, Clara, Alabama, Shelby County, all over the country, they're going to be doing things to manipulate the system, things that sort of define who the electorate is for their advantage, that has a significant minority impact and we're just not going to know about it because we don't have section five.

HAYES: Just so people can see in that map, these are the entire states that were formerly subject to preclearance which (INAUDIBLE). They range from Alabama, Alaska, Arizona, Georgia, Louisiana, Mississippi, South Carolina, Texas and Virginia.

Talk to me about the case of Beaumont because that was a case in which you had basically a very similar set of facts and precisely the sort of thing the Justice Department said no way.

FERNANDES: Right. Just in December of 2012 is the perfect analogy, just in December of 2012, the Beaumont ISD made a change, I think it was from seven single member districts to five single member and two at large.

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HAYES: Sounds familiar.

FERNANDES: Yes, very similar story and the same region of the state. And DOJ determined that was going to have an impact. In this case, I think from your piece, it's also clear that there's a concern about there being a discriminatory purpose as well, which is a constitutional violation.

And I think, you know, in fact, we see in Texas, a similar thing in Galveston, Texas, twice. I think once fairly reasonably, one in the late '90s. This is not an unusual technique and the situation where the minority population is growing, you have districts and there's an attempt to say how do you stop that growth from impacting the outcome of the election. It's classic.

HAYES: So, what is the recourse now that section five isn't there, preclearance is gone, the vote happened on Tuesday. The people who want to change, the mayor got his way. That's the change -- I think the city's constitution essentially, the charter.

So, what can people do?

FERNANDES: I think the resource is and I think there are people looking at whether or not there's a way to challenge in under section two of the Voting Rights Act, the part of the act still there, that you can use to bring a lawsuit to say this action was purposely discriminatory or had discriminatory effect. But those lawsuits take forever, Chris, they take a long time, they're expensive.

If the plaintiffs have such a case and if they prevail, we're looking at two years or more before we're going to have a resolution. That's two years with this -- a council elected this system, which is an arguably discriminatory system, setting the policy for that town.

HAYES: Right. Two careers in which we have these two at large districts, which we may lose all Hispanic representation in this town that is majority Hispanic, what could be past in the interim, which is the whole entire reason section five and four of Voting Rights Act, the preclearance was there.

Julie Fernandes from the Open Society Foundation, thank you so much.

FERNANDES: Thanks.

HAYES: Coming up --

(BEGIN VIDEO CLIP)

BARBARA BUONO (D-NJ), GUBERNATORIAL CANDIDATE: New Jersey represents the last vestiges of the old boy machine politics that used to dominate states across the nation. And unless more people are willing to challenge it, New Jersey's national reputation will suffer.

(END VIDEO CLIP)

HAYES: That was Democratic candidate for governor of New Jersey, Barbara Buono, in her speech following loss to Governor Chris Christie. She has a lot to say about the race and the governor and her fellow Democrats, and she will be my guest right here, next.

(BEGIN VIDEO CLIP)

BARBARA BUONO, (D) NEW JERSEY GUBERNATORIAL CANDIDATE: The democratic political bosses, some elected and some not, made a deal with this governor despite him representing everything they are supposed to be against. They did not do it to help the state. They did it out of a desire to help themselves politically and financially.

(END VIDEO CLIP)

HAYES: That was former democratic New Jersey State Senator, Barbara Buono, on Tuesday, following her --

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SEN. BUONO: Hey, I am still a senator.

(LAUGHING)

HAYES: Still senator -- good point, following her blowout loss to Chris Christie in the governor's race in a speech in which she also thanked her supporters for withstanding, quote, the onslaught of betrayal from our own political party. It is a victory speech/announcement for his 2016 presidential run that night. Christie suggested, he is the one guy who is figured out how to bring people together in a time of political polarization.

(BEGIN VIDEO CLIP

CHRIS CHRISTIE, (R) NEW JERSEY NEWLY ELECTED GOVERNOR: I know that tonight a dispirited America angry with their dysfunctional government in Washington -- looks to New Jersey to say, "Is what I think happening really happening?" Are people really coming together? Are we really working African-Americans and Hispanics, suburbanites and city dwellers, farmers and teachers? Are we really all working together?

Let me give the answer to everyone who is watching tonight, under this government, our first job is to get the job done and as long as I am governor, that job will always, always be finished.

(END VIDEO CLIP)

HAYES: There is a lot more to the story of how Chris Christie brought people together in New Jersey and the governor wants to tell you and there is no one better to tell that tale than current state Senator, Barbara Buono of New Jersey. Senator, thank you so much for being here.

BUONO: Great to be here.

HAYES: You use this word, betrayal, in your concession speech.

BUONO: Yes.

HAYES: It is a strong word. Why did you use that word?

BUONO: Well, I just thought it would be important to be honest. You know, I struck a positive note as well because I think that this is an election first woman to run for governor of the state of New Jersey in a Democratic Party, definitely a ground breaking event.

And I want to make sure that all the young women and young men for that matter and minorities knew that it can be done, even in the face of insurmountable odds. That said, the Democratic Party unfortunately cut deals with Chris Christie and we really never had a chance in terms of gaining the financial support and institutional support that we really needed.

HAYES: You were outfund raised, I think of 6-1, if I am not mistaken --

SEN. BUON: That is academic at this point.

HAYES: Well, the question -- I mean what do you mean by cut deals? I think the story - here is the story that the national media is saying about Chris Christie. In these polarized times, here is the guy who hugs President Obama after Sandy, who is in a Obama state that went Obama by 17 points, democratic state, won by a whopping, you know, whatever was 30 points on Tuesday night, you know? And, is bringing people together. What about the bringing people together, do people outside of New Jersey politics not understand?

BUONO: Well, I can tell you in New Jersey, he ha not brought people together. People are -- you know, we have the highest unemployment in the region for the last four years. People are struggling. But, what this governor has done, people's eyes glaze over when he tells jokes on late night T.V. and he talks about Sandy, Sandy, Sandy, and the fact of the matter is, you know, the Democratic Party bosses and Chris Christie struck a deal.

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HAYES: What does it mean? What strike a deal mean?

BUONO: Well, you know? It can mean different things for different people. You know, for those in South Jersey that meant that Chris Christie would not mount an offensive against their senators and assembly people in that district.

It could mean different things in the Northern end of the state depending on what your political interests are and what your business interests are. And, the fact to the matter is, I think that people of New Jersey deserves someone to represent them and not someone's narrow political and business interests.

HAYES: So, there is a kind of nonaggression pact, essentially, that is struck between members of your party in the state senate, George Norcross is one of them in South Jersey, right? Yes?

BUONO: Yes.

HAYES: That basically, they are not going to go after Christie because it is in their own interest to be able to work with him to deliver whatever goods they need for their district.

BUONO: Look, Chris Christie -- nobody is more enamored with Chris Christie than himself. And, he said, he is a straight talker; but, let me just tell you this. You put a political boss in front of him and say this is what you need to do to get elected in the next election and you will see him fold like a cheap suit.

HAYES: You say Christie?

BUONO: Yes.

HAYES: What do you mean by that?

BUONO: Well, you know he really does not -- he said it himself when he was in Boston a few months ago. He said if you want someone who stands for anything, or ideology or conviction, then I am not your guy because I am in it to win it. And, honestly, I do not care that he is running for president. It is how he is running for president.

HAYES: But, then what is wrong with this mono. I mean when you look at Washington, right, the thing that everyone is talking about warning for are the days of transactional deal making politics.

BUONO: They are?

HAYES: Well, people, when people look at the shutdown, they say, "Well, if we had things like earmarks, if there are ways to have kind of these transactional deals, that things would work."

BUONO: There is a big difference between having a deal that benefits the people of New Jersey or the people of the nation or any state and a deal that is solely to benefit the political or business interests of someone. That is the big difference. Compromise and transactional politics, I think, are two very different things and I have a very different impact on the people and the democracy.

HAYES: What is work going to be for you like as a member of the senate caucus in the state of New Jersey after saying the things you said, after being abandoned and betrayed by your fellow democrats?

BUONO: Look. I have always run against the bosses. Back in 1994, when I first transfer the assembly, I ran against the political bosses' candidate and I won. And, then again when I ran in the senate, they said I could not win, and I did.

And, I became the first woman majority leader, first woman budget chair because there were all these deals that were being made. You know I am always going to be the person I am. I have been there and I will continue to be there for the people of New Jersey and that is it. Very simple.

HAYES: All right. State Senator, Barbara Buono, thank you so much for your time.

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BUONO: Thanks for having me.

HAYES: Coming up, the story everyone is talking about this week: NFL bullying. My guest will include a former NFL player, who says fans have demanded total access and immersion in the game and then complain about the culture in the same breath. Stay with us.

HAYES: Earlier in the show, we asked you what questions you would ask someone who spent years in an NFL locker room. We got a ton of answers on Twitter and Facebook. Here is just a few, Sean from Twitter asked, "Was there any discussion about harassment laws and your rights when you were hired by the NFL?"

Stevie wonders, "If you saw this happening, would you intervene. I was choke it in the first place." And, Cindy wants to know, "Who sets the code of conduct in a locker room? How is that person chosen and is the code of conduct condoned by the coaches?" Those are great questions. Thanks to HBO's series "Hard Knocks," we can actually take a look inside a real NFL locker room. Here is what was happening last year with the Miami Dolphins.

(BEGIN VIDEO CLIP)

RICHIE INCOGNITO, MIAMI DOLPHINE GUARD: You check your Facebook lately? Maybe you should not use your (EXPLICIT WORD) number for your iPad password, bud. 8484.

UNIDENTIFIED MALE SPEAKER (1): I used it.

INCOGNITO: Weird.

UNIDENTIFIED MALE SPEAKER (2): Got him.

INCOGNITO: It is a good guess. You might want to check your Facebook, bud.

UNIDENTIFIED MALE SPEAKER (1): What does it say? (EXPLICIT WORD)

INCOGNITO: I was going to put something up there rude, but then I saw the picture of your girlfriend, I felt bad.

(END VIDEO CLIP)

HAYES: He seems, nice, right? Charming Facebook (inaudible) that clip Dolphins Lineman, Richie Incognito is at the center of a bullying harassment hazing scandal that is rocking the NFL this week. In just a few short minutes I will be joined right here in the studio by a former player who said this week that you only get bullied in an NFL locker room if you allow it to happen.

HAYES: It is the bullying scandal that has shaken a multibillion dollar business to its foundation. The story is absolutely thrown into disarray. The organization Forbes calls the most lucrative sports league in the world. The \$9 billion industry that is, The National Football League.

Well, it began last week when reports emerged that Miami Dolphins Jonathan Martin had left the team after a prank his teammates pulled on him in the cafeteria. A prank Martin apparently did not find funny. He says that in a reporting he got frustrated and smashed his tray on the floor and left the facility.

Initially, the story out of Miami was that Martin left the team because he needed quote, "Assistance for emotional issues." In the days since, new allegations have emerged indicating that Martin was the victim of intense sadistic and persistent bullying and hazing in the locker room.

And, according to reports, the chief instigator of that bullying was his team Richie Incognito. Incognito for his part has quite a story. In 2003, he was suspended by his college coach of Nebraska. A year later convicted a misdemeanor assault, same year suspended indefinitely by Nebraska and he was dismissed from Oregon's program after only a week with the team then after a few years in the NFL in 2009, he was voted the league's dirtiest player in a poll of fellow players.

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Fellow teammate Cam Cleeland remembers Incognito as and I am quoting directly, "An immature unrealistic scumbag with no personality and locker room cancer who just wanted to fight everybody all the time." Earlier this week, Incognito jumped on Twitter to defend himself and challenge a reporter from ESPN tweeting, "If you or any of the agents you sound off for have problem with me, you know where to find me. #bringit."

Which the reporter did by tweeting some of the messages Incognito allegedly left on Martin's phone like, "Hey, what's up, you half N-word piece of expletive." On Sunday, the dolphins announced Incognito had been suspended for conduct detrimental of the team. Now, the NFL is investigating just yesterday. Martin's camp released this statement. Jonathan Martin's toughness is not an issue. He endured harassment that went far beyond the traditional locker room hazing.

Jonathan looks forward to getting back to playing football. In the meantime, he will cooperate fully with the NFL investigation. The scandal has just ripped back the curtain in the part of the football world we do not get to see every week, when we tune in to watch what is essentially managed to televise violence, which also happens to be the most successful form of entertainment in America today.

Joining me now is Mike Pesca, Sports Correspondent for NPR. Emily Bazelon, Senior Editor of legal affairs, writer for "Slate." Also author of a great book, "Sticks And Stones: Defeating The Culture of Bullying and Rediscovering the Power of Character and Empathy.

Mike I want to begin with you. This has blown up. I mean, it is kind of remarkable to me what a fire storm this has created. And, I think the entry point into why it is, is you see Jonathan Martin, who is just a massive human being, who does one of the most physically demanding, intimidating, strenuous jobs in America probably and you think, how could this guy be bullied. Right? That is the core of it.

MIKE PESCA, NPR SPORTS CORRESPONDENT: Right. And, it is the job of so many Americans, so many armchair quarterbacks that they say -- you to them, it speaks to toughness and it speaks like this lost ideal of whatever their version of masculinity is.

And, this is why when it came out, you did not need a lot of information. In fact people did not have a lot of information. The first day when people were debating it, they did not even know about the death threats that he got from Incognito and some of the slurs that you read.

But, you know, the debate was, how do you not stand up for yourself? How do you not punch the other guy in the nose? And, that came from players, former players, the GM of his team, just everyone.

HAYES: From the GM of his team. Former players, coming out like Ricky Williams, who I like and respect.

PESCA: Yes. I am a football fan of Jeff.

HAYES: He is a really thoughtful guy. Emily, as someone who wrote about and studied bullying, I am really curious to hear your reaction to the kind of disbelief that is being expressed both in the league and I think people watching that someone of that size could be bullied. And, I want you to talk about that right after we take this break.

HAYES: We are back. I am here with Mike Pesca and Emily Bazelon. And, joining us now is Roman Oben a former NFL player, who is a left tackle, now a football analyst for MSG and MY9 News. He is wearing a super bowl ring. I never held a super bowl ring in person. It is massive.

All right, Emily, I want to go to you on this -- This bullying question. What was your reaction to someone who wrote a whole book on bullying to the reaction of so many people, how could this massive individual be bullied?

EMILY BAZELON, WRITER FOR SLATE: Look, Jonathan Martin is a big guy in a locker room with a lot of other big guys. And, I think what matters here is the context. He is the new player. Richie Incognito is the veteran, who is in a leadership position and you can be socially excluded and made to feel harassed and terrible about yourself by other people. You can go through that kind of psychological torment and bullying, no matter how big you are.

HAYES: Yes. I think the psychological component of this is key. But Roman, you are someone -- you have been tweeting basically being like -- what a lot of other players have said, which is, "Look, if you can't take the heat, get out of the kitchen," I guess? I mean how are you reacting to this?

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ROMAN OBEN, FORMER NFL PLAYER: Well, I think given this incident, there is different levels between what is a rookie responsibility, or getting the donuts and doing all those things and what Richie Incognito did to Jonathan Martin. And, as these ten levels have saw in between there and I think -- At those cases, someone should have said hey, lay off this kid. I'm a man first. Deal with it in the parking lot.

And, obviously in regular society, in bullying in the bigger picture, you can't deal with it that way, but talking about a football environment because I played football in the locker, I mean that is how you deal with it. So, you deal with the locker room with locker room issues and unfortunately, this story has become so huge that you have Ph.Ds and people in education and if this is the workplace, you would not have to buy lunch for everyone everyday. You would not be in the hazing. But, unfortunately, this has come out, a lot of things I have seen throughout my whole career and college.

HAYES: OK. So, what I think we need to do here is distinguish between a few different categories and things.

OBEN: Right.

HAYES: So, there is hazing, which is like "Hey, rookie, pick up my pads," which I think is a kind of -- I guess kind of a jerk move; but, like that is okay. That is not the worst thing in the universe.

OBEN: No. Not at all.

HAYES: And, there is a rookie dinner, where we run up a \$15,000 tab and you have to pay for it. Well, that sucks, I mean -- but -- OK that is not violent. Then, there is physical violence. I want to hear the story because this Incognito guy seems to me, just diagnosing like something of a psychopath.

This is a former player Cam Cleeland, who was clubbed in the face by a sock filled with coins that free-agent linebacker Andre Royal had spent all day collecting from teammates -- Incognito. It shattered Cleeland's eye socket and nearly cost him his eye, which now provides him only with partial vision. That is not hazing. That is assault. Right? Am I wrong about that? Or does that happen in locker rooms all the time.

OBEN: It is assault and when we read it, it is awful, but in the football environment, we always tow that line between what is a passionate head coach and what is the appropriate. What is motivation? What is getting in a guy's face and what is inappropriate? What's getting a rookie tougher, seeing what a guy is made of and what's a racist comment and I think Richie Incognito absolutely went too far. We have all acknowledged that. But, there is an unwritten rule, and this has not been discussed this week. If you cannot deal with the Richie Incognito, and I do not feel this way, but if you can't deal with Richie Incognitos of the world, what are you going to do on third and ten against Jared Allen?

HAYES: That is -- I am sorry. That is crap.

OBEN: Hey! Look. Why do these teams scrutinize these rookies when they come out of college? Why does the general manager for the Miami, Dolphins asked Ded Bryant, was your mother a prostitute? This is the same organization.

HAYES: OK. So, there is two ways to go by responding to that. And, I want to get Emily's response to that question. But, here is my response to that is that first of all, you are making me feel like, "A. I got to think the psychological make-up that allows you the stand tough and strong under conditions of third and ten and in these sort of relentless, sadistic mental games are different, but may be they are not.

But, if they are not, then what you make me feel is that like football is just a game of sadism and violence and kind of a mall of horror that we all gaze upon and clap for. Like if you are telling me there is not that much difference than playing this game and being hounded this way in a locker room, I am like, "Oh, football is even more messed up than I thought."

OBEN: But, the fans want it, though. They want Hard Knocks. They want to go in the locker room. They want to see this stuff. And, when this happens, "It is oh! I can't believe these guys behave this." Well, it is football. It is not a fourth grade at recess.

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HAYES: Right. But, it is also -- Mike. --

PESCA: But, It is not football. I mean so many teams have come out and said that sort of behavior would never happen in our locker room and I think what is troubling is that you are here saying rightly so, there is a fine line. There is a gray area. This is way over the line, but you ask the Dolphins. The Dolphins, all are sticking up for Incognito.

HAYES: Right.

PESCA: They are all saying, "Well, this is not the situation that you understand it." And, the rest of the league is kind of 50/50 on its Incognito was right. But the Dolphins all stick together. That shows me a sort of group mentality.

HAYES: Yes.

PESCA: Very troubling.

HAYES: That is my question for you, Emily, which is I think everyone now says, "Yeah, this was over the line."

OBEN: 100%.

HAYES: And, we have heard the voice mails that are just like, "I am threatening to kill you." Like you can't threaten to kill people or rape their loved ones, which is also happening.

BAZELON: Right. Right.

HAYES: So, why do not people intervene even when -- even when they know it is wrong and over the line?

BAZELON: You know, sometimes, it is easier to side with the dominating bully and it is harder to side with the person who in this case is being accused of breaking the code by going public. And, so I think this is a real test for the NFL.

I mean think about the message that this is sending to high school kids and their coaches about the kinds of team behavior we should be evaluating. If it is Richie Incognito who emerges from this as the one who has all the defenders in the sports world, then what does that say about kids who are being hazed and harassed on their team and who come forward and ask for help.

HAYES: If you are in that locker room, when you play that in your head, do you think you would have said something? You would have done something?

OBEN: 100% because I said from the rookie responsibility to where it led, you say, "Hey, Richie, lay off this kid. He is going to have to help us when he is a second round pick. Let's try something else."

HAYES: Have you ever done that, actually? Have you been in those situations?

OBEN: 100%. And, I have been in both sides of it. I have been in there when they are taping rookies, and a guy stripped down to his jock strap, and they are Icey -- I mean all these stuff -- all right, guys, that is enough, guys. That is enough. And, that is why people said, "Oh, this would not happen in the Steelers' locker room. The Giants or Patriots or teams have sustained, leadership sustained. A long head coach. This would happen in a Miami, Dolphins where they are trying to reestablish their identity.

HAYES: Emily Bazelon from Slate Mike Pesco for NPR and former NFL player, Roman Oben. I really wish we had an hour to talk about this. May be we will have you all back, really. Thank you so much. That is "All In" for this evening. The "Rachel Maddow" Show starts right now. Good evening, Rachel.

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Attachment C

Plans to redistrict Pasadena City Council

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
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After former House Majority Leader **Tom DeLay's** fall from grace, we thought that Texas politicians would know better than pursue mid-decade redistricting. Not so in Pasadena, where Mayor **Johnny Isbell** is trying to change Pasadena's city council districts.

Isbell proposed last month to replace two of Pasadena's single-member districts with two at-large seats. The **Bond/Charter Review Committee** recommended against moving forward with the changes, at least for the upcoming election. But the proposal alone is distressing enough. Historically, replacing districts with at-large seats has been used to discriminatory ends, and such moves are often blocked by the **Department of Justice**. Only a few months ago, that would have been the case here. Not anymore. For decades, the Voting Rights Act has been a useful speed bump in Texas. Due to our history of discrimination, any alteration to voting laws or processes had to be approved by the Department of Justice. When the **Supreme Court** struck down the part of the VRA that based preclearance requirements on past discrimination, it busted open a hole in that wall, and Texas politicians have wasted no time to climb through.

This newfound lack of federal oversight allows local politicians to implement maps that threaten to discriminate against minority voters. The current individual districts in Pasadena allow large, compact and politically cohesive minority populations to elect the representatives of their choice. Replacing these districts with at-large seats could dilute minority voting power, submerging the voting-bloc in a sea of majority voters.

As our Founding Fathers wrote in the Federalist Papers, our republic cannot function if the full spectrum of our nation's diverse interests do not have representation in government. Decades of discrimination kept vast segments of society away from the table, and only now do we start to see representation rising to the ideals our nation was founded upon. That progress is brought to a halt when cities such as Pasadena make it more difficult for a growing Hispanic population to take part in the democratic process.

Even with the removal of direct barriers to voter registration, historic discrimination in education, housing, employment and health services hinders minority ability to participate effectively in the political process and elect representatives of their choice. Pasadena's city government makes this point painfully clear - Hispanics comprise a majority of the voting-age population, and a majority of a voting-age population in six of the eight city council districts, but have yet to turn that into electoral success.

Anyone who cares about functioning government should be troubled by such a disconnect between population and representation.

Attachment D

NewsRoom

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August 27, 2013

Section: B

Suit blasts Galveston judge plan as biased County commissioners are trying to cut number of justice of peace courts

Harvey Rice

GALVESTON - A Galveston County plan slashing the number of justice-of-the-peace districts from eight to four intentionally discriminates against minority voters and should be blocked, according to a federal lawsuit filed Monday.

The lawsuit comes exactly one week after Galveston County commissioners approved a redistricting plan for justices of the peace similar to one rejected last year by the U.S. Justice Department. The department opposed the plan because it reduced the number of districts with black and Hispanic majorities from two to one, as does the one adopted last week.

Galveston County was the first Houston-area government to take advantage of the June 25 U.S. Supreme Court decision to change an election law that otherwise might have been blocked by the Justice Department. The decision in *Shelby County v. Holder* effectively ended a requirement that Texas governments receive Justice Department approval before making any changes affecting voting. Since then Pasadena has asked voters to approve a redistricting plan that previously was blocked by the Justice Department, and the city of Galveston is considering doing so.

By cutting the number of justice of the peace districts in half, Galveston commissioners reduced the number of judges from nine to four. Although the county has eight districts, there are nine justices of the peace because two are elected from a single precinct, an unusual arrangement arrived at under a 1992 consent judgment in a discrimination lawsuit.

'They did it anyway'

Attorney Joe Nixon, whose firm was hired by the county to redraw the justice-of-the-peace districts, said the plan is in compliance with the 1965 Voting Rights Act. "It's hard to say there was race involved when of the five seats lost one was a minority and four were non-minorities," Nixon said. He said the proportion of minority districts is the same as in the plan the Justice Department approved for commissioner's districts.

Attorney Chad Dunn, who filed the lawsuit, said the new plan is both intentionally discriminatory and has a discriminatory effect. "The county was already told by the Department of Justice that this plan was discriminatory," Dunn said. "The county knew the plan was discriminatory, and they did it anyway."

Seeking injunction

Commissioners said the number of districts needed to be reduced to improve efficiency and save money. They argued that the change would save \$1 million annually, noting that two of the existing justices of the peace accounted for only 2 percent of the county caseload.

The lawsuit by two black justices of the peace, two black constables, a Hispanic constable and a black Galveston County resident asks the court for an injunction halting the use of the new districts in November elections.

The lawsuit also asks the court to declare that the new plan dilutes the voting strength of minority voters in violation of the Voting Rights Act and it amounts to unconstitutional gerrymandering. It also asks the court to reinstate the requirement for Justice Department approval of changes to election policies.

'Like Pearl Harbor'

The president of the city of Galveston chapter of the National Association for the Advancement of Colored People, David Miller, said he was upset that the lone minority commissioner on the court, Stephen Holmes, who is black, was not consulted about the change and that it was made without public hearings. "That was like Pearl Harbor. That was a sneak attack," Miller said.

The failure to consult Holmes was a reason cited last year by the Justice Department for blocking a plan to redistrict commissioner's districts and is another reason for asking the court to halt the latest redistricting plan, Dunn said.

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---- Index References ----

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Voter ID woes could soar in higher-turnout elections, officials fear

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AUSTIN — Delays at the polls this month due to glitches with voters' identifications could signal a bigger problem to come next year, when many more turn out for state and county elections.

Thousands of voters had to sign affidavits or cast provisional ballots on Nov. 5 — the first statewide election held under the state's new voter identification law — because their name on the voter rolls did not exactly match the name on their photo ID.

It took most only a short time, but election officials are concerned that a few minutes per voter to carefully check names and photos against voter registration cards, and then to have voters sign affidavits or fill out provisional paperwork, could snowball into longer waits and more frustration.

A review by *The Dallas Morning News* found that 1,365 provisional ballots were filed in the state's 10 largest counties. In most of them, the number of provisional ballots cast more than doubled from 2011, the last similar election, to 2013.

Officials had no exact count for how many voters had to sign affidavits, but estimates are high. Among those who had to sign affidavits were the leading candidates for governor next year, Republican Greg Abbott and Democrat Wendy Davis.

"If it made any kind of a line in an election with 6 percent [voter] turnout, you can definitely imagine with a 58 percent," said Dallas County elections administrator Toni Pippins-Poole.

In Dallas County, 13,903 people signed affidavits affirming their identity.

The statewide election included nine proposed constitutional amendments, along with various local city and school board offices and propositions. It was the first to take place under Texas' 2011 law requiring that voters present a government-issued photo ID when they vote.

Name-match issues might surface for women who recently married or divorced and changed their identification but not their voter registration. For others, a shortened version of a name might appear on one document, while the full name is on the other.

Signing the affidavit didn't interfere with their ballot counting in the election, and election workers were instructed to give the voter the benefit of the doubt on a name-match issue.

Alicia Pierce, a spokeswoman for the secretary of state's office, which oversees elections, said officials worked to make the affidavit process as simple as possible. To sign the affidavit, voters need to initial after their signature on the poll's sign-in sheet.

Voters are also given the option to update their voter registration information at the polls. Pierce said officials hope that shortcut, along with continued voter education campaigns, will cut down on the number of affidavits and provisional ballots needed next time.

Those without the proper ID or who refused to sign an affidavit could fill out a provisional ballot. Such ballots are not counted unless

the voter presented the proper identification to elections officials within six days.

Harris County, the state's largest, had 704 voters fill out provisional ballots. Of those, 105 were cast because the voter failed to show an acceptable photo ID.

Constitutional-amendment elections tend to draw a much lower turnout than elections for the governor, other statewide officials, countywide officials and members of Congress. Voter ID critics fear that means many voters who didn't cast ballots this year will have trouble in March, when the Republican and Democratic parties hold primaries, or next November's general election.

State Rep. Trey Martinez Fischer, D-San Antonio, said longer lines could deter working voters, voters with children and others from voting.

"Voter ID is a solution looking for a problem," said Martinez Fischer, who has worked to defeat the law. "There's not a voter identification problem in the state of Texas."

The law, which the Legislature enacted in 2011, was delayed by the U.S. Justice Department's objection but took effect earlier this year, when the Supreme Court struck down federal oversight of elections in Texas and other states.

Now, Democrats and civil rights groups, along with the Justice Department, are suing to try to overturn the law, arguing that it has a disproportionate effect on minorities. U.S. District Judge Nelva Gonzales Ramos will hold a trial in September in Corpus Christi.

Republicans say requiring ID is a necessary step to eliminating the possibility of fraud in elections.

A *Dallas Morning News* analysis in September found that just four cases of voter irregularity pursued by Abbott, the state attorney general, since 2004 could have been prevented by the photo ID requirement.

Follow Brittney Martin on Twitter at @beedotmartin.

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