U.S. DEPARTMENT OF JUSTICE'S ENFORCEMENT OF THE VOTING RIGHTS ACT

Thomas Perez[*]

Thank you for the introduction. I'm happy to be here this afternoon to talk about the Justice Department's voting rights efforts in 2012.

Recently, I had the opportunity to travel with Attorney General Eric Holder to Austin, Texas, where he delivered an address on voting rights at the LBJ Library. I had a chance to reflect on LBJ's legacy. The Attorney General often calls the Civil Rights Division one of the crown jewels of the Department of Justice. The crown jewels are actually the laws that we enforce, and Lyndon B. Johnson was the person who brought us so many of these jewels.

Before I talk about what's happening today, I want to start with some context for the critical voting rights laws we now enforce. In the summer of 1964, Congress passed and President Johnson signed the Civil Rights Act of 1964,[1] which he considered one of the most important laws in United States history – it expanded opportunities across huge areas of American life, from employment, to education, to public accommodations.

In December of that year, Dr. Martin Luther King, Jr. traveled to Norway to accept the Nobel Peace Prize, which he received in part because of his efforts that led to the passage of the Civil Rights Act of 1964. And the next month, January 1965, the President invited Dr. King to the White House.

The President thought they were just having a social call—a congratulatory meeting—but Dr. King wanted to talk about voting rights. Because as important as the Civil Rights Act of 1964 was, and as much as it accomplished, it didn't address the pervasive and entrenched racial discrimination in voting.

The President's first reaction was to tell Dr. King to wait. He said the country was a little tired of civil rights; that a lot had been accomplished recently; and that he needed to slow down. A voting rights law could wait. We know what happened next—Dr. King

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1. 42 U.S.C. §§ 2000a to 2000h-6 (2006).

refused to wait; a few months later, in March of 1965, several hundred civil rights marchers were beaten on the Edmund Pettus Bridge, during a march from Selma to Montgomery. And just eight days after Bloody Sunday, President Johnson asked for the opportunity to address a joint session of Congress, and announced that he was sending a voting rights bill to Congress that week. And in making that announcement, he said:

> Many of the issues of civil rights are very complex and most difficult. But about this there can and should be no argument. Every American citizen must have an equal right to vote. There is no reason which can excuse the denial of that right. There is no duty which weighs more heavily on us than the duty we have to ensure that right.[2]

Less than five months after that speech, the Voting Rights Act of 1965 had been passed by Congress and signed into law.

Against that background, I want to stress what the Attorney General has himself recently and repeatedly emphasized: at the Department of Justice ("DOJ"), our commitment to enforcing this law, to expanding access to voting opportunities, and to preventing discrimination in our election systems, has never been stronger. My colleagues and I, in the Civil Rights Division at DOJ, have both the privilege and the tremendous responsibility to preserve and protect these rights, and I'm happy to discuss with you today the full range of current efforts to do just that, in a manner that is vigorous, fair, and even handed.

It is an unfortunate reality that unlawful discrimination in voting persists, just as it does in the workplace, in schools, and in so many other parts of our lives. That is why our Voting Section is as busy as it has ever been – we handled more new cases in the last fiscal year than in every single year going back to 1977, which is the earliest year for which we could construct the records; save for one, 1994, which it tied. We are halfway through the 2012 fiscal year, and we already have almost as many new cases as last year's record year. Voting rights enforcement is indeed an all-hands-on-deck enterprise.

Our approach to voting rights enforcement is rooted in three core objectives. One is a process objective while two are substantive objectives. On the process front, we have committed ourselves to ensuring the integrity and independence of our decision-making processes. In particular, we have taken steps to re-establish the critically important role of our career staff. The dedicated and experienced career personnel play a critical role in ensuring the integrity of our review process. A guiding principle of our work is to give every person working on a matter the opportunity to express his or her views, because I believe that a robust and honest exchange of

2. Special Message to the Congress: The American Promise, 1 PUB. PAPERS 281, 282 (Mar. 15, 1965).

ideas is critical to effective decision making.

This had been the longstanding tradition in the Voting Section in both Republican and Democratic administrations for decades until it was changed in 2005 to exclude career attorneys and analysts from full participation in the process. Career staff, for example, were directed to no longer put their recommendations in writing, and decision making suffered.

This was wrong. We enforce the Voting Rights Act. It is not the Republican Party Empowerment Act or the Democratic Party Empowerment Act, and we do a profound disservice to the nation, and to the bipartisan group of lawmakers that overwhelmingly passed the Voting Rights Act and reauthorized it multiple times, when the Voting Rights Act is allowed to be subverted for partisan purposes.

So we have restored the integrity of the decision-making process, and will continue to ensure that every voice is heard and every opinion valued, no matter the ultimate outcome in a given case.

Substantively, we are pursuing an enforcement program that seeks to ensure access to democratic participation for all legally qualified voters, and ensures equal opportunity to participate in the democratic process free from discrimination. And we are pursuing those goals of ensuring access and guaranteeing nondiscrimination through a comprehensive effort to enforce, among other statutes:

- Section 5 of the Voting Rights Act, and its critical preclearance provision;[3]
- The National Voter Registration Act, which was passed by Congress to increase the number of eligible citizens who register to vote and to ensure accurate and current registration lists;[4]
- The language minority protections of the Voting Rights Act, to ensure that language barriers do not exclude citizens from the electoral process;[5]
- The Uniformed and Overseas Citizens Absentee Voting Act ("UOCAVA") and the Military and Overseas Voter Empowerment Act ("MOVE Act"), protecting the right to vote for members of the armed services, their families, and overseas citizens;[6] and
- Section 2 of the Voting Rights Act, and its protections against

3. 42 U.S.C. § 1973c(a) (2006).

4. *Id.* § 1973gg(b).

5. *Id.* § 1973b(e).

6. Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. § 1973ff (2006); Military and Overseas Voter Empowerment Act, Pub. L. No. 111-84, §§ 575-89, 123 Stat. 2190 (2010).

vote denial and vote dilution.[7]

Our comprehensive approach towards these and other critical voting rights protections involves not simply litigation, but all the tools at our disposal, including guidance, public education, and outreach with a diverse array of stakeholders.

Let me start with a discussion of section 5 of the Voting Rights Act. As many of you know, section 5 of the Voting Rights Act is one of the most critical tools to combat discrimination in voting.

Section 5 was originally put in place because of the well-documented history of government-sponsored discrimination in voting in specific parts of the country. Jurisdictions covered by section 5 are required to obtain permission—"preclearance"—for every change they make to their voting procedures and practices, and to demonstrate both that the change has no discriminatory purpose and that it has no discriminatory or retrogressive effect.[8]

Changes ranging from moving a polling location to a different place,[9] to the enactment of a statewide redistricting plan,[10] must be precleared before they can go into effect. A jurisdiction can obtain preclearance by either filing administratively with the Civil Rights Division, or by filing a lawsuit in front of a three-judge panel in the District of Columbia. Under either scenario, the Civil Rights Division is involved. If the jurisdiction chooses to file administratively with the Division—and most jurisdictions take this route because it is faster and cheaper—then the Division acts as a quasi-judicial body in reviewing this submission. In these circumstances, if the Department determines that the jurisdiction has met its burden of proof, then the proposed change is precleared. And if the Department determines that the jurisdiction can't meet its burden of proof, then we will object to the change, and it can't be implemented.[11]

Because section 5 requires preclearance of proposed voting changes in parts or all of sixteen states,[12] it continues to be a critical tool in the protection of voting rights. In 2006, it was reauthorized with near-unanimous support in Congress, before being signed by President Bush.[13] However, despite the long history of support for

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7. 42 U.S.C. § 1973.

8. *Id.* § 1973c(a).

9. *See* Perkins v. Matthews, 400 U.S. 379, 387 (1971) (holding that efforts to move a polling location must be precleared).

10. *See* McDaniel v. Sanchez, 452 U.S. 130, 137 (1981) (holding that state redistricting plans must be precleared).

11. *See* 42 U.S.C. § 1973c(a).

12. *See Section 5 Covered Jurisdictions*, U.S. DEP'T OF JUSTICE, http://www.justice.gov/crt/about/vot/sec_5/covered.php (last visited Sept. 5, 2012).

13. *President Bush Signs Voting Rights Act Reauthorization and Amendments Act of 2006*, THE WHITE HOUSE (July 27, 2006, 9:34 AM), http://georgewbush-whitehouse.archives.gov/news/releases/2006/07/20060727.html.

section 5, this keystone of our voting rights laws is now being challenged as unconstitutional by several jurisdictions. Each of these lawsuits claims that we have attained a new era of electoral equality; that America in 2012 has moved beyond the challenges of 1965; and that section 5 is no longer necessary.[14]

I wish this were the case. Unfortunately, in jurisdictions across the country, both overt and subtle forms of discrimination remain. And for those who believe that the country has eradicated voting discrimination in the forty-seven years since enactment of section 5, the Justice Department's ongoing work under section 5 is among the best possible demonstrations that it remains critically necessary.

In just the last few months, since October, the Department has objected to ten different voting changes around the country—either in administrative submissions or in litigation—on the ground that those changes were discriminatory. These are changes that we concluded either had a discriminatory effect, or were adopted with an intentionally discriminatory purpose—and that would have automatically gone into effect if section 5 had not suspended their implementation pending review by the Justice Department or a court.

In Texas, for example, where the state asked a federal court to review its statewide redistricting plans, we opposed the state legislature's maps for both the State House and the Texas delegation to the United States Congress because it was our view that the state had not met its burden under section 5—the evidence showed, in our view, both that the maps had a retrogressive effect, and that they were enacted with an intentionally discriminatory purpose. With regard to the congressional map, for example, Texas was allocated four new congressional seats because of population growth, and although most of that increase was caused by a growth in the Hispanic population, the state proposed adding zero additional seats as Hispanic ability-to-elect districts.[15]

And in both the State House and congressional maps, there was evidence that the map-drawers intentionally manipulated the map lines based on their knowledge of low Hispanic turnout in some areas to draw districts that would give the appearance of minority control, but that were actually designed to minimize minority electoral strength. We completed a full trial on the merits in that case two months ago, and we are waiting for a written opinion from the court.

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14. *See* Robert Barnes, *States Line Up to Challenge Stringent Section 5 Voting Rights Provision*, THE WASH. POST, Feb. 9, 2012, http://www.washingtonpost.com/politics/states-line-up-to-challenge-stringent-section-5-voting-rights-provision/2012/02/01/gIQA5aYE1Q_story.html.

15. *See* April Castro, *DOJ: Texas Redistricting Maps Discriminatory*, WFAA.COM (Oct. 27, 2011, 4:31 PM), http://www.wfaa.com/news/texas-news/DOJ-Texas-redistricting-maps-discriminatory--132740508.html.

We are also involved in a number of section 5 matters arising out of recently enacted state laws relating to voter identification requirements, voter registration requirements, and changes to early voting procedures. In December, we interposed an objection to South Carolina's voter identification law. In March, we objected to a photo ID requirement from Texas on the ground that the law would have a retrogressive effect on Hispanic registered voters. The disparity between the percentage of Hispanics and non-Hispanics who lack these IDs ranges from 46.5% to 120%—a Hispanic registered voter is at least 46.5%, and potentially 120%, more likely than a non-Hispanic registered voter to lack the required identification.[16]

And also last month, we filed a notice in court taking the position that several of Florida's recent election law changes—including changes to the early voting period, changes to the procedures for third-party voter registration organizations, and changes that affect people who move between counties and want to update their address on election day—did not meet the section 5 standard and should not be precleared.

All of these matters remain ongoing in litigation, and while I cannot go into more detail on our review of ongoing matters, I can assure you that our review will continue to be thorough, fair, and fact-based. States covered by section 5 bear the burden of showing that proposed changes are not intentionally discriminatory and will not have a retrogressive effect.[17] As the Attorney General has emphasized, where they meet this burden, we will preclear the changes; where they do not meet this burden, we will object.

These are just a few examples that illustrate why the Department must—and will—continue to vigorously defend section 5 against challenges to its constitutionality. And so far, the courts have agreed with us. A few months ago, a federal district court judge here in D.C. rejected two different constitutional challenges to section 5 of the Voting Rights Act, and correctly noted that Congress determined in 2006 that "[forty] years has not been a sufficient amount of time to eliminate the vestiges of discrimination following nearly 100 years of disregard for the dictates of the 15th amendment."[18] Those cases are now continuing on appeal, and although the litigation may be far from over, we are firmly committed to vigorously defending section 5's constitutionality.

We are also committed to executing Congress's intent that voting changes in covered jurisdictions be scrutinized for discriminatory

16. Letter from Thomas E. Perez, Assistant Attorney General, to Keith Ingram, Dir. of Elections (Mar. 12, 2012), *available at* http://www.justice.gov/crt/about/vot/sec_5/ltr/l_031212.php.

17. Georgia v. United States, 411 U.S. 526, 538-39 (1973).

18. Shelby Cnty. v. Holder, 811 F.Supp.2d. 424, 435 (D.D.C. 2011).

purpose and effect, in order to—as the Supreme Court put it—"banish the blight of racial discrimination in voting."[19]

I have said that we are pursuing a multifaceted approach to ensuring access and guaranteeing nondiscrimination, and section 5 of the Voting Rights Act is not the only part of this approach. Among the matters that we have prioritized is vigorous enforcement of the National Voter Registration Act ("NVRA") – the "Motor Voter" law.[20] Congress passed the NVRA to "establish procedures that will increase the number of eligible citizens who register to vote" and to ensure accurate and current registration rolls in federal elections.[21]

States covered by the NVRA must follow its requirements to make voter registration available to applicants at all driver's license offices,[22] at all public assistance offices and disability offices,[23] and through the mail.[24]

States must also follow the requirements of section 6 of the NVRA to ensure that eligible voters who submit a timely application are timely added to the voter registration list,[25] to conduct a general program of list maintenance that removes voters who are ineligible,[26] and to ensure that voters not be removed from the list for moves without following all of the protections in the NVRA, including the notice and timing requirements.[27]

Congress has tasked DOJ with the critical responsibility of ensuring that these mandates are met,[28] and we will continue to devote significant resources to promoting access to voter registration and the accuracy of the rolls through comprehensive enforcement of the NVRA.

For example—in the last year, the Department has brought its first two new lawsuits under section 7 of the NVRA in eight years. Section 7 requires that voter registration opportunities be made available at, among other places, state offices providing public assistance or disability services.[29] Congress specifically designed this provision to increase the registration of the poor and persons with disabilities who do not have drivers' licenses and therefore won't come into contact with the other principal places where voter registration is made available.

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19. South Carolina v. Katzenbach, 383 U.S. 301, 308 (1966).
20. 42 U.S.C. §§ 1973gg to gg-10 (2006).
21. *Id.* § 1973gg-(b)(1), (b)(4).
22. *Id.* § 1973gg-3(a)(1), (c)(1).
23. *Id.* § 1973gg-5(a)(2).
24. *Id.* § 1973gg-4(a).
25. *Id.* § 1973gg-6(a)(1).
26. *Id.* § 1973gg-6(a)(4).
27. *Id.* § 1973gg-6(d).
28. *Id.* § 1973gg-9.
29. *Id.* § 1973gg-5(a)(2).

One of our lawsuits involved Rhode Island while the other involved Louisiana. The Louisiana case is still being litigated. But in the Rhode Island case, we reached an immediate settlement with the state so that it is now offering registration opportunities to all applicants for public assistance and disability services, and is also implementing a range of training, auditing, monitoring, and reporting requirements.

The impact of these changes has been remarkable. More voters were registered in the first month after the settlement than in the entire previous two-year reporting period. Let me give you some other specific numbers. In the two-year reporting period before the lawsuit, 457 voter registration forms were submitted by the four affected Rhode Island social services agencies. In the first month after the agreement, 1038 forms were received. In the second month, 1346 forms were received. In the ensuing two months, a total of 1787 additional forms were received. That is a total of 4171 newly registered voters in the four months after the settlement, as opposed to 457 in the two year reporting period before the settlement.

These are remarkable differences, and they illustrate the critical importance of section 7. And these aren't just statistics—these are actual people: the working poor, people with disabilities, people who don't regularly come into contact with DMVs and other common places to register to vote. These are citizens in Rhode Island who were unable previously to participate in our elections, and now they are.

Our comprehensive NVRA effort is not restricted to section 7. In the past nine months, the Division has filed five amicus briefs in district courts and federal courts of appeals on critical NVRA questions that arise under sections 6, 7, and 8 of the law. We also continue to carefully review data from the Election Assistance Commission on section 8 compliance and have sent a number of letters to states that are based on our review of that data.

Consistent with our dedication to using all possible tools available to us, our work to promote greater compliance with the NVRA is not limited to litigation to vindicate the right to vote. Two years ago, for the first time ever, the Department published on its website a document providing comprehensive guidance to state and local officials, as well as the public, regarding implementation of all of the requirements of the NVRA.[30] We've received feedback that this guidance has been of significant value to state and local officials as well as to the public. And we will continue to work with federal agencies that have been designated to provide voter registration

30. *See Questions and Answers to the National Voter Registration Act*, U.S. DEP'T OF JUSTICE, http://www.justice.gov/crt/about/vot/nvra/nvra_faq.php (last visited Sept. 5, 2012).

services.

Our program to ensure access and guarantee nondiscrimination also includes enforcement of a number of important protections for language minorities, so that eligible citizens are not precluded from full and equal participation in the electoral process based on their language ability. These protections require covered jurisdictions to provide the very same information that is provided in English regarding the electoral process in the language of the members of the covered language minority group. Congress has repeatedly found that language minorities continue to face significant voting discrimination, and the Civil Rights Division is determined to ensure that language barriers do not restrict access to voting for any of these eligible citizens.

The Voting Section enforces the language minority provisions of the NVRA by developing investigations across the country that concern limited English proficient Hispanic, Puerto Rican, Asian, and Native American citizens.

We are working aggressively to enforce all of these language minority protections, including the new determinations under section 203 of the Voting Rights Act that were announced in October by the Director of the Census.[31] Under these new determinations, considerably more voting-age citizens are entitled to section 203 protection than under the previous determinations. There are now 19.2 million voting-age citizens from language minority groups that reside in covered jurisdictions.

In the past two years, the Department has successfully resolved violations of the language minority requirements to protect limited English proficient citizens all around the country:[32]

We've resolved separate lawsuits to protect Spanish-speaking voters in Cuyahoga County, Ohio, and Lorain County, Ohio (Cuyahoga is the Cleveland metro area, it's the largest county in the state; and Lorain is just to the west—part of the greater Cleveland area).

A few months ago we reached a settlement with Alameda County, California—the East Bay area, including Oakland and Berkeley—to protect the voting rights of Spanish-speaking and Chinese-speaking citizens.

We also reached an innovative settlement with Shannon County, South Dakota, which was the Justice Department's first new case in more than a decade to protect Native American voters with limited English proficiency. Shannon County is within the Pine Ridge

31. *See* Notice of Determinations, 76 Fed. Reg. 63602 (Oct. 13, 2011).

32. *See Recent Activities of the Voting Rights Section*, U.S. DEP'T OF JUSTICE, http://www.justice.gov/crt/about/vot/whatsnew.php (last visited Sept. 5, 2012) (providing summaries of the Department's most recent cases).

Reservation of the Oglala Sioux Tribe, and includes part of the Badlands National Park. It has the largest Native American population in the state. It's also among the poorest counties in the entire country, so resolving concerns about language access in election administration presented unique challenges. We were ultimately able to achieve a great result in this case, in part by identifying available state funds, and with innovative remedies that include a Lakota-language audio ballot for voters who need one.

We had two other important cases recently regarding Native American voters, one in Cibola County, New Mexico, and one in neighboring Sandoval County, New Mexico. In both counties we negotiated extensions to earlier settlement agreements to ensure that all phases of the election process were as accessible to Native American populations as they are to the remainder of the counties' populations. These cases involved a number of different Native American languages, including Keresan, Navajo, and Towa, which are all traditionally unwritten languages; and so our remedy also required oral instructions or assistance where necessary.

And just a few weeks ago, a court approved a settlement agreement to resolve a lawsuit we filed against Colfax County, Nebraska, to protect Spanish-speaking voters in that county.

Colfax County is a great example of the importance of strong enforcement of the language minority provisions of the Voting Rights Act. The Hispanic population in Colfax has increased from about 26% of the county population ten years ago to about 41% of the county population today.

And a significant portion of those citizens are limited English proficient—which, for purposes of the Voting Rights Act, means "unable to speak or understand English adequately enough to participate in the electoral process."[33] This is a perfect example of the importance of our voting rights laws—nearly half of the Colfax County population is Hispanic, and a significant portion of those Hispanic citizen voters would be unable to participate meaningfully in elections without bilingual ballots, polling place notices, and other election materials.

And as I have said, our efforts to secure compliance with voting rights laws are not limited only to litigation. We currently are engaged in outreach to every jurisdiction covered by the minority language requirements and are working with them to explain their obligations and bring them into compliance.

So when we talk about ensuring access to the ballot and guaranteeing nondiscrimination in election administration, the language minority provisions are a critical aspect of the Justice Department's enforcement efforts. We'll continue to enforce these

33. *See* 42 U.S.C. § 1973aa-1a(b)(3)(B).

provisions around the country—from the Bay Area to the Badlands, from Cleveland down to Colfax County, Nebraska.

Our commitment to ensuring access and guaranteeing nondiscrimination also includes our aggressive efforts to protect access to voting for servicemembers and overseas voters, using our authority under the UOCAVA and the MOVE Act. Under these laws, states are required to provide military and overseas voters with their absentee ballots so that they have at least forty-five days to receive, mark, and return their ballots.[34]

During the 2010 election cycle, the Division obtained court orders, court-approved consent decrees, or out-of-court agreements in fourteen jurisdictions, ensuring that those jurisdictions either met the forty-five-day deadline or that they used expedited mailing or other procedures to allow voters a sufficient opportunity to return ballots by the jurisdiction's ballot receipt deadline. Our work to enforce these protections in 2010 ensured that thousands of military and overseas voters had the opportunity to vote and to have that vote counted. It was all hands on deck, and we continue to be aggressive.

And our MOVE Act monitoring and enforcement effort for the 2012 federal election cycle is now in full swing. The statute applies not only to the general election, but also to primary, runoff, and special elections;[35] so we've been monitoring compliance with this law all around the country since several months before the 2012 primaries began.

And to give you some examples, in just the past two months, we have taken key steps to protect the voting rights of servicemembers and overseas citizens in no fewer than four states: Alabama, New York, Illinois, and Texas. Let me describe just two of those developments for you.

In February, we filed a lawsuit against Alabama for failure to comply with the MOVE Act for its primary election, which was held on March 13.[36] The Secretary of State recently notified military and overseas voters that the state missed the forty-five-day deadline for some of its absentee ballots, in some cases by a week or more. Because of this failure to comply with the MOVE Act's requirements, we filed a lawsuit and also sought a temporary restraining order ("TRO") to get a full survey of the scope of the violation. The judge agreed with us and granted a TRO and then a preliminary injunction; and we're in the middle of further proceedings now.

Alabama is unfortunately a repeat violator as far as failing to comply with its absentee-ballot obligations to servicemembers and

34. *Id.* § 1973ff; MOVE Act, Pub. L. No. 111-84, § 579, 123 Stat. 2190, 2322 (2010).

35. MOVE Act § 579.

36. United States v. Alabama, No. 2:12CV179-MHT, 2012 WL 787580, at *1 (M.D. Ala. Mar. 12, 2012).

overseas citizens is concerned;[37] we hope the state will choose to cooperate with further efforts in our current case, and we're prepared to continue litigating if not.

We also recently won a significant victory in an earlier lawsuit against New York. The remedy we received is likely to affect those of you in the audience who are registered New York voters. The Justice Department filed a lawsuit against New York in 2010 after the state missed its deadline for sending absentee ballots to thousands of military and overseas voters.[38]

In addition to an earlier settlement agreement that provided relief to voters in the 2010 election, we recently achieved a significant victory regarding future elections. In January, the district court agreed with our request to advance New York's federal primary election date, starting with the 2012 election, to a date sufficiently early to provide enough time for absentee ballots to be prepared and mailed in compliance with the MOVE Act. New York will now have a June primary for federal elections.

In addition, based on our experience enforcing UOCAVA and including the lessons we learned in 2010, we have identified a number of ways in which the law could be strengthened to uphold the voting rights of military and overseas voters, which the Administration recently sent to Congress as part of a package of Civil Rights Division legislative proposals. So we'll continue our hard work, both in and out of court, to make sure that overseas citizens and servicemembers who are sacrificing for our country are able to have their voices heard in our democratic process.

I've talked about expanding access and preventing discrimination through the enforcement of section 5, the Motor Voter Law, and the language minority protections. Our comprehensive program to protect the right to vote also includes section 2 of the Voting Rights Act, which prohibits racially discriminatory practices that amount to either vote denial or vote dilution.[39]

We've successfully resolved two section 2 lawsuits in the past two years, against Lake Park, Florida, and Port Chester, New York—and we also filed several statements of interest in the pending section 2 challenge to Texas's state house and congressional redistricting plans, as well as amicus briefs in the district court and court of appeals in a collateral challenge to section 2 settlement plan in Irving, Texas.

We are currently in the course of a comprehensive review of potential section 2 matters following the release of the 2010 Census

37. *Id.* at *5.

38. United States v. New York, No. 1:10-CV-1214 GLS/RFT, 2012 WL 254263, at *1 (N.D.N.Y. Jan. 27, 2012).

39. 42 U.S.C. § 1973.

data. Based on those data, we have opened more than 100 new section 2 investigations in the past year; the total number of new investigations exceeds the number of new investigations opened in any fiscal year during the last twenty-five years.

Some of our section 2 investigative work also arises out of our section 5 function.[40] A preclearance determination under section 5 is not a seal of approval under other voting rights laws, including section 2. A redistricting map that complies with section 5, for example, could still raise concerns under section 2 of the VRA, and some of our section 2 investigations involve exactly this context.

And we do not measure section 2 success simply by the number of cases we bring; in some cases, our review prompts the resolution of vote dilution concerns without litigation. We've also had success in encouraging voluntary improvements and compliance.

I hope you have gotten a better sense of the breadth and depth of our work to protect the sacred right to vote. We are having a spirited debate in this country about the direction of our nation. It is passionate. The stakes are high. This is the essence of democracy. Let's continue to have that debate, and let's make sure we do everything in our power to ensure that every single eligible voter can cast his or her ballot. Let's break down barriers for military voters; let's ensure that every eligible person entering a social service office can register to vote.

Let's work to prevent fraud; let's not erect new, unnecessary requirements that have a discriminatory impact. Let's win the debate on the merits, and let's not do so by making it harder for your perceived opponents to vote.

As the Attorney General has said, against the backdrop of overwhelming bipartisan support for these critical voting rights, we have to ask ourselves some searching questions about the current state of our public discourse. As concerns about the protection of the right to vote and the integrity of our election systems become an increasingly prominent part of our national dialogue, it is time to ask: what kind of nation—and what kind of people—do we want to be? Are we willing to allow this era—our era—to be remembered as the age when our nation's proud tradition of expanding the franchise ended? Are we willing to allow this time—our time—to be recorded in history as the age when the long-held belief that, in this country, every citizen has the chance—and the right—to help shape their government, became a relic of our past, instead of a guidepost for our future?

For me—and for our nation's Department of Justice—the answers are clear. We need election systems that are free from fraud, discrimination, and partisan influence—and that are more, not less,

40. *See id.* § 1973c.

accessible to the citizens of this country.

Those were the Attorney General's words, and I agree wholeheartedly with his vision.

We know that our authority and responsibility to enforce the federal voting rights laws—which were enacted with overwhelming bipartisan support—is a sacred trust. We will continue to review all of the matters that come within our authority—from state and local redistricting plans, to absentee ballot procedures for servicemembers and overseas citizens, to state laws governing voter identification and registration—to make sure that all eligible citizens are being protected and are included in our democratic processes.

Thank you for the opportunity to speak with you today. I look forward to your questions.