

# A Brief History of **Voter Suppression** in North Carolina



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**DEMOCRACY NC**

# Why We ‘Protect the Vote’: A brief history of voter suppression in North Carolina

## Introduction

Democracy in the United States was built on the promise that voting can be a tool for change. However, who can cast a ballot and if that ballot will count has been, and continues to be, a battle.

The combination of restrictive laws, insincere state officials, and uninformed residents have created an environment that chills and undermines the votes, voices, and representation of Black, Latiné, Asian American, Pacific Islander, and Indigenous people who have been historically marginalized for being non-white or poor.

Voter suppression is that combination of laws, policies, and community and individual practices that undermine, prevent, and restrict specific groups of people from voting. Dating back to 1778, when only land-owning white men could vote — and now seen in 2020 with discriminatory voter ID laws — voter suppression manifests in many ways.

Central to voter suppression is white supremacy and preventing the rise of political, economic, and social power for Black communities. When we learn about our history and name voter suppression tactics and policies, together, we can advocate for, protect, and transform the right to vote for all.

## Voter Suppression and White Supremacy in North Carolina

### Racial laws and practices form the basis of our government

- When the U.S. Constitution was ratified, only white landowners were “routinely permitted to vote” or hold state office, ultimately creating a democracy dominated by white men and their political priorities.<sup>1</sup>
- Before the Civil War, North Carolina lawmakers were required to own a minimum of 100-300 acres of land to serve in the General Assembly. The overwhelming majority of legislators holding office were slave owners.<sup>2</sup>
- North Carolina amended its constitution in 1875, stripping people with felony records of the right to vote. Due to the passage of the 14th and 15th Amendments, this was done specifically to disproportionately impact Black voters.<sup>3</sup>

1. “The Founders and the Vote.” Elections, Library of Congress, 26 Apr. 2021, <https://www.loc.gov/classroom-materials/elections/right-to-vote/the-founders-and-the-vote/>.

2. Korstad, Robert, and James Leloudis. *Fragile Democracy: The Struggle over Race and Voting Rights in North Carolina*. The University of North Carolina Press, 2020, pp.6.

3. Brown, Mitchell. “Restore Voting Rights to Those with Felony Records”, 2021, p. 19, <https://www.southernstudies.org/sites/default/files/Blueprint%20NC%20Democracy.pdf>.

## Jim Crow-era laws

After the Civil War, Black Americans had access to political power in new ways. This led to growing solidarity between Black and white North Carolinians who lacked financial and community resources. In response, the General Assembly passed voting laws designed to prevent these groups from gaining political power and ultimately having access to resources like quality education, healthcare, jobs, and transportation.

During the Jim Crow-era, laws were written to appear as if they applied to everyone, but their intent and impact were to burden and prevent Black and Brown North Carolinians from accessing the ballot box. Election officials became gatekeepers for those who could and couldn't vote, and in the process continued to uphold white supremacy.

Lawmakers created a series of laws and practices to entrench their power by targeting Black people's ability to vote in the form of literacy tests, poll taxes, and use of police violence.

- **Literacy test.** To vote, North Carolinians had to prove to election officials that they could read and write. In 1900, nearly half of Black and non-white North Carolinians were illiterate. Men who were eligible to vote or descendants of those eligible to vote before 1867 were exempted from the rule through the "grandfather clause". This exemption did not include any Black voters, so the literacy test denied most Black people the opportunity to vote.<sup>4</sup>
- **Poll tax.** North Carolinians also had to pay a tax before casting their ballot, a clear barrier to exercising the right to vote, particularly in the Black community. Even if low-wealth people could afford to pay the tax, the time to pay was during the planting season when Black sharecroppers often did not have cash.<sup>5</sup>
- **Police violence.** Police were known for shutting down voter registration drives and hanging around polling places in communities across the South, serving as a form of voter intimidation.<sup>6</sup>

## Modern voter suppression laws & tactics

The legacy of the Jim Crow era is still present in North Carolina. Although the literacy test and poll tax are no longer enforced, there are still laws, policies, and practices that uphold the discriminatory effect on voters of color. These voting and election laws intersect with other oppressive practices to compound the lived experiences that restrict, deny, or undermine Black voter participation.

4. "Literacy from 1870 to 1979." National Assessment of Adult Literacy (NAAL), Institute of Education Sciences, 2002, [https://nces.ed.gov/naal/lit\\_history.asp](https://nces.ed.gov/naal/lit_history.asp).

5. Korstad, Robert, and James Leloudis. *Fragile Democracy: The Struggle over Race and Voting Rights in North Carolina*. The University of North Carolina Press, 2020, pp. 23.

6. Police presence at the polls can still be a form of voter intimidation today. See Lerner, Kira. "Police at Polling Places Could Intimidate Voters this November Advocates Warn." *The Appeal*, 2. July, 2020.

## Gerrymandering

- Every 10 years, the North Carolina General Assembly and local governing bodies (i.e. County Commissioners, City Councils, and School Boards) adjust district lines where voters live based on population changes from the U.S. Census. This process is called **redistricting**.
- **Gerrymandering** occurs when a party in power draws districts that politically favor or disfavor a particular race or party. The goal of gerrymandering is to entrench one party's power by "packing" voters into as few districts as possible or "cracking" voters by separating them into different districts, thus diluting the voter's power.<sup>7</sup>
- In North Carolina, gerrymandering is often used to dilute or minimize the voting power of Black and Latiné people. In 2011, the General Assembly used redistricting to give Republicans a supermajority in future elections. Those maps were heavily litigated over the next decade. Certain districts were deemed racially gerrymandered and struck down by the U.S. Supreme Court in 2017.<sup>8</sup> In 2019, a three-judge trial court once again struck down the redrawn districts, but this time on partisan grounds.<sup>9</sup>

## Felony disenfranchisement

- In 1875, felony disenfranchisement laws were added to the North Carolina Constitution shortly after adopting the 14th and 15th Amendments to the U.S. Constitution, which provided the right to vote for Black men.<sup>10</sup>
- North Carolinians who are serving a felony sentence are barred from voting.<sup>11</sup> This includes many people who have been released from prison but are still on parole, probation, or post-release supervision.<sup>12</sup>
- Black and Latiné communities are the primary targets of the prison industrial complex in the United States, leading to their disproportionate disenfranchisement. The Sentencing Project estimates that almost half of the 83,000 North Carolinians who cannot vote due to a felony conviction are Black; yet, only 20% of North Carolinians are Black.<sup>13</sup>

7. Newkirk II, Vann R. "The Supreme Court Finds North Carolina's Racial Gerrymandering Unconstitutional." The Atlantic, May 2017, <https://www.theatlantic.com/politics/archive/2017/05/north-carolina-gerrymandering/527592/>.

8. See *Covington v. North Carolina* [https://www.brennancenter.org/sites/default/files/legal-work/Covington\\_PerCuriamOpinion\\_06.05.17.pdf](https://www.brennancenter.org/sites/default/files/legal-work/Covington_PerCuriamOpinion_06.05.17.pdf)

9. See *Common Cause v. Lewis* <https://www.brennancenter.org/sites/default/files/2019-10/2019-10-28-Common%20Cause%20v.%20Lewis-Order%20on%20Remedial%20Maps.pdf>

10. Brown, Mitchell. "Restore Voting Rights to those with Felony Records." Blueprint for a Stronger Democracy, 2021, p. 19, <https://www.southernstudies.org/sites/default/files/Blueprint%20NC%20Democracy.pdf>.

11. Due to ongoing litigation, the legal ruling in *Community Success Initiative v. Moore* (No. 19-cvs-15941, Wake County Superior Court) remains in flux as of this writing.

12. Forward Justice. The History of Felony Disenfranchisement in NC. <https://forwardjustice.org/felony-disenfranchisement-history/>.

13. What is the PIC? What is abolition? Critical Resistance, <http://criticalresistance.org/about/not-so-common-language/>

14. "Unlock Our Vote Campaign." Forward Justice, 2020, <https://forwardjustice.org/campaign/unlock-our-vote-campaign/>.

## Voter Identification

- Voter ID laws require voters to present a specific type of identification when voting. Voter ID disproportionately affects senior citizens, young people, people of color, people with disabilities, and low-wealth individuals who are more likely to lack the required forms of IDs.<sup>15, 16</sup>
- While Black people make up 23% of registered voters in North Carolina, they account for 34% of those with no photo ID.<sup>17</sup> Socio-economic factors such as transportation, education, healthcare, and occupation also impact the ability to get an ID to vote, even an ID that is labeled as “free” – which doesn’t account for the time spent and wages lost to acquire the ID.
- Voter ID was not a requirement for voting in North Carolina before 2013. Since then, the North Carolina General Assembly has attempted to enact a voter ID law multiple times even though the Fourth Circuit Court of Appeals found North Carolina’s voter ID was passed with racially discriminatory intent and also had a racially discriminatory impact.<sup>18</sup>
- In 2018, North Carolinians voted to amend the constitution to require voter ID, but the General Assembly did not provide voters with information on how this law would be enacted or what types of ID would be required. The law enacting the constitutional amendment was also racially discriminatory, and voters were not required to present voter ID in the 2020 election.<sup>19</sup> Challenges to voter ID continue as we approach the 2022 elections.<sup>20</sup>

## Voter intimidation and violence

- Voter intimidation is the use of force, threats, or coercion to interfere with a person’s right to vote. Although federal and North Carolina laws protect voters from some forms of voter intimidation, it does not take into account the history and lived experiences of Black and Latiné voters.<sup>21</sup>

15. Herron, Michael C., and Daniel A. Smith. “Race, Shelby County, and the Voter Information Verification Act in North Carolina.” *Florida State University Law Review*, vol. 43, no. 2, Winter 2016, pp. 465–506.

16. Citizens Without Proof. Brennan Center for Justice, Nov. 2006, p. 3, <https://www.brennancenter.org/our-work/research-reports/citizens-without-proof>.

17. Korstad, Robert, and James Leloudis. *Fragile Democracy: The Struggle over Race and Voting Rights in North Carolina*. The University of North Carolina Press, 2020, pp. 120.

18. Blythe, Anne. “4th US Circuit Judges Overturn North Carolina’s Voter ID Law.” *The News & Observer*, 30 July 2016, <https://www.newsobserver.com/news/politics-government/state-politics/article92593512.html>.

19. Boughton, Melissa. “NC Court of Appeals Throws Out Voter ID for Now, Says Law Likely Passed with Discriminatory Intent.” *NC Policy Watch*, 18 Feb. 2020, <http://pulse.ncpolicywatch.org/2020/02/18/nc-court-of-appeals-throws-out-voter-photo-id-for-now-says-law-likely-passed-with-discriminatory-intent/#sthash.1yzOvM7G.dpbs>.

20. The Associated Press. “N.C. Judges Strike Down A Voter ID Law They Say Discriminates Against Black Voters.” *National Public Radio*, 17 Sep. 2021, <https://www.npr.org/2021/09/17/1038354159/n-c-judges-strike-down-a-voter-id-law-they-say-discriminates-against-black-voter>

21. Schoenbach, Sabine, and Katelin Kaiser. “Address Voter Intimidation.” *Blueprint for a Stronger Democracy*, 2021, p. 23, <https://www.southernstudies.org/sites/default/files/Blueprint%20NC%20Democracy.pdf>.



- In 1898, white supremacists in the thriving, majority-Black city of Wilmington murdered between 60 to 300 Black residents, burned Black businesses, drove the recently elected Black board of aldermen out of office, and forced Black families to flee from the city.<sup>22</sup> This armed siege was carried out explicitly to re-install white rule in the city and is considered the only successful coup d'etat in the nation's history because it was the only case where the newly installed government was reelected in the next election.<sup>23</sup>
- The 2020 Election saw a spike in reports of voter intimidation in North Carolina and across the United States. Police officers in Alamance County pepper-sprayed voters and their families during a march to the polls. On Election Day in Mecklenburg County, an armed supporter of President Trump posted up at a polling site, was ordered to leave following reports of intimidating voters, and still returned to continue his intimidation.<sup>24</sup>

### Disinformation

- Disinformation refers to any information circulated with the intent to mislead potential voters about their electoral rights or an upcoming election.
- One of North Carolina's most famous disinformation campaigns occurred in 1990 when U.S. Senator Jesse Helms sent postcards to 100,000 Black North Carolinians with incorrect voting information as well as threatening jail time during his reelection campaign.<sup>25</sup>
- Disinformation today can also be unintentional or passive due to the nature of social media algorithms and amplification. Reposting and trending topic features on social media dictated election coverage in 2016 and 2020. As social media continues to grow more quickly than it is regulated, such disinformation will likely pervade future elections.<sup>26</sup>

### Election Methods

- Across the South, there is a history of changing election administration methods and logistics to suppress Black voters and limit Black political power.<sup>27</sup>

22. Korstad, Robert, and James Leloudis. *Fragile Democracy: The Struggle over Race and Voting Rights in North Carolina*. The University of North Carolina Press, 2020, pp. 21-22.

23. Everett, Christopher. *Wilmington on Fire*. Speller Street Films, 2015, <http://wilmingtononfire.com/>.

24. WCNC Staff. "CMPD: Armed man arrested for trespassing at polling place." WCNC, 3 Nov. 2021, <https://www.wcnc.com/article/news/politics/elections/cmpd-armed-man-arrested-for-trespassing-at-polling-place/275-15df44d2-2d12-4877-9451-8c8527b7a1ca>.

25. Hebert, J. Gerald. "Rattling the Vote Cage - Part II." *Campaign Legal Center*, 14 Aug. 2008, <https://campaignlegal.org/update/rattling-vote-cage-part-ii>.

26. Parks, Miles. "Trump Is No Longer Tweeting, But Online Disinformation Isn't Going Away." *Untangling Disinformation*, 4, National Public Radio, 5 Mar. 2021, <https://www.npr.org/2021/03/05/971767967/trump-is-no-longer-tweeting-but-online-disinformation-isnt-going-away>.

27. UNC School of Government. "District vs. At-large Elections." UNC School of Government, [https://www.sog.unc.edu/sites/www.sog.unc.edu/files/doc\\_warehouse/effects-districts%20v%20atlarge.doc](https://www.sog.unc.edu/sites/www.sog.unc.edu/files/doc_warehouse/effects-districts%20v%20atlarge.doc).

- At-large elections are when all voters in a city or county vote for the candidates of their choice running for all offices that will represent the entire city or county. This is different from single-member districts, also known as district elections, when only voters who live in a particular district located in the city or county vote for candidates running to represent that particular district.
- In North Carolina, the selection of at-large or district elections may have a discriminatory impact on Black communities because they cannot elect their candidate of choice. Therefore, it is essential to look at the city or county's history and voting patterns before determining if the election method suppresses or reduces Black political power. For example, in Jones County, at-large elections prevented Black voters from electing a Black commissioner for 23 years from 1994-2017, even though Black people make up one-third of the voting-age population. After a lawsuit filed by the Lawyer's Committee for Civil Rights, two seats were added to the board, and elections were held in single-member districts.<sup>28</sup> Currently, two commissioners on the board are Black.<sup>29</sup>

#### List Maintenance Practices

- List maintenance is the process states use to maintain accurate and current voter registration lists or "voter rolls." Accurate list maintenance ensures voters are only removed when they become ineligible due to relocation, death, or felony conviction. List maintenance that is too aggressive or based on false information can result in the removal of eligible voters.<sup>30</sup>
- In North Carolina, list maintenance disproportionately impacts registered Black voters in comparison to white voters, especially in the Eastern part of the state. In 2021, Black voters were 7.21% overrepresented among voters who were removed compared to their share of the electorate.<sup>31</sup>
- Inaccurate and faulty list maintenance practices can be used to suppress voters of color, and there have been attempts through policy to publicize their information which could be used for vigilante attacks to intimidate people not to vote.

28. Augustin, Stanley. "Lawyers' Committee Announces Settlement of Major Voting Rights Lawsuit in North Carolina." *Lawyers' Committee for Civil Rights Under Law*, 24 Aug. 2017, <https://www.lawyerscommittee.org/lawyers-committee-announces-settlement-major-voting-rights-lawsuit-north-carolina/>.

29. "Meet Our Board of Commissioners." Jones County, <https://www.jonescountync.gov/index.asp?SEC=BC8C271B-663E-4EA8-A26E-E4BF585B6889>. Accessed 9 Mar. 2021.

30. Klein, Hilary. "Understanding Voter Registration List Maintenance: How Do Voters Get Removed from the Voter Rolls?" *Southern Coalition for Social Justice*, 3 March 2021, [https://southerncoalition.org/wp-content/uploads/2021/03/Understanding-Voter-Registration-List-Maintenance\\_Final.pdf](https://southerncoalition.org/wp-content/uploads/2021/03/Understanding-Voter-Registration-List-Maintenance_Final.pdf).

31. Klein, Hilary. "Understanding Voter Registration List Maintenance: How Do Voters Get Removed from the Voter Rolls?" *Southern Coalition for Social Justice*, 3 March 2021, pp 5-6, [https://southerncoalition.org/wp-content/uploads/2021/03/Understanding-Voter-Registration-List-Maintenance\\_Final.pdf](https://southerncoalition.org/wp-content/uploads/2021/03/Understanding-Voter-Registration-List-Maintenance_Final.pdf).

## The Voting Rights Act of 1965

The Voting Rights Act was passed in 1965 to give the federal government power to intervene in states where voter suppression was rampant — including North Carolina. This law required places with a history of racial discrimination to gain approval from the federal government before making changes to their voting laws.

Nearly half of North Carolina counties were required to secure this “preclearance” from the federal government from 1965 to 2013. In these 40 counties, Black voter registration rose 14 percentage points in 10 years — from 38% in 1966 to 54% in 1976, and Black voter participation also increased.<sup>33</sup>

In 2013, the US Supreme Court removed the preclearance requirement of the Voting Rights Act in the case *Shelby v. Holder*. Hours after this decision, lawmakers in North Carolina announced their intent to pass one of the most expansive voter suppression laws in U.S. history. Since 2013, the battle for voting rights in North Carolina has been non-stop as state and local politicians once again have the space to suppress Black and Latiné voters without federal oversight.

32. Forward Justice. *The History of Felony Disenfranchisement in NC*. <https://forwardjustice.org/felony-disenfranchisement-history/>.

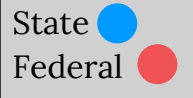
33. Thompson, Joel A. “The Voting Rights Act in North Carolina: An Evaluation.” *Publius*, vol. 16, no. 4, Autumn 1986, pp. 139–53.



# Timeline: Jim Crow Era Voting and Race in NC

Understanding the intersection between North Carolina's history of racism, oppressive systems, and voting practices are essential to creating a democracy that is reflective and responsive to all forms of voter suppression.

Although many Jim Crow laws have been outlawed, its legacy is still ever-present due to policies and community practices embedded within our society. Court decisions that have struck down laws and voting maps on the basis of racial discrimination, and the lived experiences of Black and Latiné voters reveal underlying patterns that create barriers to undermine Black voices and votes.



## Pre-Civil War:

Only wealthy white men can vote or run for most offices

## 1866:

Black Codes enacted, preventing free Black men from voting

## 1868:

NC government passes new state constitution guaranteeing universal male suffrage

## 1870:

15th amendment passed prohibiting disenfranchisement based on race, color, or previous condition of servitude

## 1898:

Wilmington Massacre.

Aimed at re-installing white rule, white supremacists in the majority-Black city murdered Black residents, burned Black businesses, drove recently elected Black aldermen out of office, and forced Black families to flee the city

## 1920:

19th Amendment passed, giving all women the right to vote. Yet, many Black and Brown women continued to be disenfranchised

## 1965:

Voting Rights Act of 1965 was passed by President Lyndon Johnson. Literacy tests were outlawed after being in place in North Carolina for 66 years

## 1863-1865:

End of Civil War and collapse of Confederacy

## 1867:

Black men were temporarily allowed to vote through Military Reconstruction Act

## 1869-1870:

Klu Klux Klan violence and intimidation peaks as white supremacists injure and kill Black and sympathetic white voters and politicians

## 1877:

KNC constitutional amendment prohibits people with felony convictions from voting<sup>32</sup>

## 1899:

NC state assembly adds literacy test, grandfather clause, and poll tax to the NC constitution. The assembly also enacts legislation with criminal penalties for individuals convicted of a felony for voting, even if they mistakenly believe they are eligible to vote

## 1899-1965:

Jim Crow rules in North Carolina. Though many individuals fight for the right to vote and run for office, they are faced with disenfranchisement and violence until federal action is finally taken in response to the Civil Rights movement

## 1971:

The War on Drugs is initiated to replace Jim Crow with mass incarceration to control and disenfranchise Black and Brown populations