PRESS RELEASE

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SUPREME COURT SUSPENDS KEY TOOL FOR ENFORCING VOTING RIGHTS

CAREFUL SCRUTINY OF NEW VOTER IDENTIFICATION LAWS IS CRITICAL TO PROTECT VOTING RIGHTS OF VULNERABLE POPULATIONS

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Today, a deeply divided (5-4) Supreme Court voted to strike down Section 4 of the Voting Rights Act, the coverage formula for Section 5 preclearance. In doing so, it has suspended an important and effective tool that has been available to justice officials since 1965 in their efforts to eradicate voter discrimination in the United States. As Justice Ginsburg noted in her dissent: "Throwing out preclearance when it has worked and is continuing to work to stop discriminatory changes is like throwing away your umbrella in a rainstorm because you are not getting wet."

Charles J. Ogletree, Jr., the Executive Director of the Charles Hamilton Houston Institute for Race and Justice and Jesse Climenko Professor of Law at Harvard Law School, said: "This disappointing decision either misreads, or ignores, escalating efforts across the country to deny access to the voting booth to people of color, poor people, the young and the elderly. We need to expand, not cut back, on the protections provided to voters in this country. Unfortunately, as a rapidly growing number of states impose new restrictions on voting, we can see that voter suppression against poor people of color and other vulnerable populations is alive and well. I encourage Congress to move swiftly to update the formula so that important voting protections can once again be enforced by government officials."

In light of this decision, it is more important than ever that courts carefully scrutinize both the intent and impact of photo identification requirements that have passed in 21 state legislatures since 2003. Ostensibly designed to prevent in-person "voter fraud," these laws make it harder for minority group members, the young, the poor, women, the elderly or anyone who does not possess a government-issued photo identification card to vote. Thus far, state court challenges have halted, delayed or loosened four of the new laws, and two have been held up for preclearance review before today's decision was issued. In 2008, the Supreme Court, in *Crawford v. Marion County*, upheld the constitutionality of an Indiana voter ID law, but still it cautioned that an "as applied" challenge could be mounted if plaintiffs could demonstrate that the new requirements kept citizens, particularly minorities, from voting. Today's decision in *Shelby* makes such an "as applied" challenge all but inevitable.

The fundamental question at the heart of such a challenge is whether photo voter ID requirements abridge the right to vote. The Houston Institute's soon-to-be-released report, titled *The High Cost of 'Free' Photo Voter Identification Cards*, provides evidence that they do. The report calculates the actual costs incurred by individuals in their efforts to obtain "free" voter identification cards in three states—South Carolina, Texas and Pennsylvania. The analysis found that these individuals had to pay between $75 and $368 for documentation, travel, and waiting time—much more after factoring in legal fees. Adjusted for inflation, these figures represent between seven and 136 times the $1.50 poll tax outlawed by the 24th amendment in 1964.

The report concludes: "In sum, voter IDs are expensive, often prohibitively so. And they have the constitutionally impermissible effect of denying an individual the right to vote." The analysis also identifies how voter ID laws impose significant costs on the budgets of cash-strapped states that enact them: not the least of which are the millions of dollars spent defending these laws against challenges in federal and state courts.

The Executive Summary of the report is attached, along with a table of states that have passed voter identification laws since 2003. The full report will be released shortly by the Charles Hamilton Houston Institute for Race and Justice at Harvard Law School (www.charleshamiltonhouston.org).