

THE 2012 ELECTION PROTECTION REPORT

OUR BROKEN VOTING SYSTEM AND HOW TO REPAIR IT

FULL REPORT

PRESENTED BY

ELECTION
PROTECTION YOU
HAVE THE
RIGHT TO
VOTE



ELECTION PROTECTION

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NOTE: This report reflects the views of the Lawyers' Committee for Civil Rights Under Law and does not necessarily reflect the views of any other Election Protection partner or supporter.

About

ELECTION PROTECTION

The nonpartisan Election Protection coalition—led by the Lawyers' Committee for Civil Rights Under Law—was formed to ensure that all voters have an equal opportunity to participate in the political process. Made up of more than 100 local, state and national partners, this year's coalition was the largest voter protection and education effort in the nation's history.

Through our state of the art hotlines (1-866-OUR-VOTE, administered by the Lawyers' Committee for Civil Rights Under Law, and 1-888-Ve-Y-Vota, administered by the National Association of Latino Elected and Appointed Officials Educational Fund); interactive website (www.866OurVote.org); and voter protection field programs across the country, we provide Americans from coast to coast with comprehensive voter information and advice on how they can make sure their vote is counted.

THANK YOU'S

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Election Protection and the Lawyers' Committee for Civil Rights Under Law would like to thank the national, state and local partners who led the program in their communities. The success of the program is owed to their experience, relationships and leadership.

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On Election Day, Americans were stunned to see images on television of long, winding lines of voters waiting to cast their ballots. From Florida to Virginia to South Carolina, stories of people waiting up to seven hours to vote continued through the evening. Many voters left in frustration while others, especially the elderly and people with disabilities, simply did not have the physical capability to stand for so many hours. By the time the Presidential race had been called late Tuesday night, people were still waiting in line to cast their ballots. Americans were rightfully alarmed by what they saw:

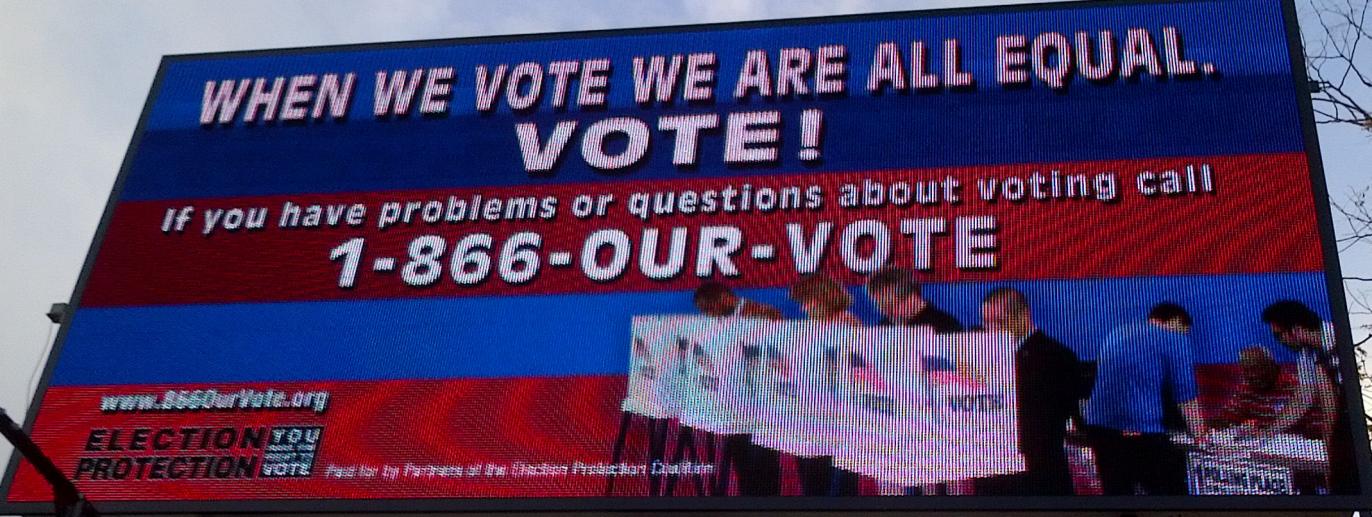
**THIS IS NOT WHAT OUR
DEMOCRACY LOOKS LIKE—
OR IS IT?**

EXECUTIVE SUMMARY

This Election Protection report provides a snapshot of the endemic problems that continue to plague American elections and sets the stage for federal and state legislators, state executives, and election officials to finally address the enduring difficulties that infect the voting process of this country. Though long lines were the story of the day, the problems run deeper than what appeared in the news media; the lines were a visible symptom of institutional problems afflicting our system of elections. Every year, countless Americans across the country are blocked from voting—many having done everything they were supposed to do to exercise their civic right. For these eligible and qualified voters—who show up at the polls on Election Day to make their voices heard only to be turned away because they inexplicably do not appear on the voter rolls or encounter a poorly trained poll worker not following voting rules—our democracy is broken.

The tragedy is that these problems are not new. The deficiencies in our election system became painfully obvious following the 2000 Presidential election, when Americans witnessed in Florida how administrative blunders can undermine voting rights and have such consequential implications. In 2004 in Ohio, mismanagement of the election was so severe that a federal court found tens of thousands of Ohio voters had been disenfranchised as a result. In 2008, it was clear that our system of voter registration was in desperate need of modernizing when, according to the 2008 Survey of the Performance of American Elections, a joint report issued by CalTech and the Massachusetts Institute of Technology, approximately 2.2 million votes were lost because of registration problems.

The complications for voters in 2012 were not different in form from previous elections. Intractable problems with access to the ballot and ineffective planning for and



implementation of elections reinforced for many voters a lack of confidence in the integrity of the voting process. These problems, which are recurrent and systemic, include:

- » Voter registration errors
- » Ineffective planning
- » Misallocation of resources and voting equipment
- » Undertrained poll workers misapplying rules and not following proper procedures
- » Understaffed polling places
- » Malfunctioning voting machines
- » Problems with absentee ballots
- » Mismanaged polling locations
- » Deceptive election practices

Election Protection
counters intimidating
billboards in OH & WI

One voter from Florida stood in line for three hours only to be told that her name was not on the voter roll despite her certainty that she registered at the Department of Motor Vehicles. At an early voting site in Georgia, a voter reported waiting in line for eight hours even though half of the voting machines at that site were not being used, because there were only two poll workers checking in voters, which clogged the line. In Cleveland, hundreds of voters who had requested absentee ballots did not receive them because they were erroneously marked as "not registered." In Michigan, several hundred absentee ballots were lost in the mail and, despite being aware of the problem, the local clerk did not attempt to

notify the voters about their lost ballots or resend them. In Detroit, there was chaos and hours of delay at polling places with multiple precincts assigned to them because voters did not know which line to stand in and no poll worker was directing voters to their correct precinct line. Voters essentially had to guess which line to stand in at the risk of waiting for hours in the wrong line.

Yet, despite these chronic problems already experienced by voters, in 2011 and 2012 state lawmakers flooded legislatures across the country with new voting rules, all of which seemed to have the same effect on voting: creating more barriers and decreased access. These legislators prioritized restrictive photo identification laws—forms of identification less likely to be possessed by the elderly, African-Americans, veterans, Latinos, students, people with disabilities, and lower income voters. Cuts to early voting opportunities were also on lawmakers' agenda as were new restrictions on voter registration. These laws were passed in the name of protecting election integrity, yet the real problems that burden voters were completely ignored.

In fact, the new voting changes exacerbated existing pitfalls in the voting process. The rapid pace of the voting law changes, combined with the lack of preparation for responsible implementation, increased the confusion and problems voters experienced on Election Day. Reduced early voting opportunities intensified polling place congestion. New

voter identification laws caused a great deal of voter confusion and were widely misapplied by poll workers who were confused about what was acceptable identification, which added to wait times and forced too many eligible voters to vote provisionally.

The rapid pace of the voting law changes, combined with the lack of preparation for responsible implementation, increased the confusion and problems voters experienced on Election Day.

The assault on voters did not end in state legislatures. State election officials in Florida, Colorado, and Texas undertook statewide programs to purge voters from the voter rolls based on faulty data matches that incorrectly ensnared eligible American citizens. In one case, a World War II veteran received wide public attention after his county election supervisor sent him a letter incorrectly telling him that he was not a U.S. citizen. Voters were also subject

to mass challenges by individuals affiliated with a Tea Party group called "True the Vote" who, in states like North Carolina and Ohio, frivolously challenged voters' eligibility prior to Election Day by using faulty software developed by the organization. Though many of the challenges were unsupported and dismissed, some voters were compelled to attend hearings to defend their eligibility to vote against baseless accusations. These additional

**MAP OF SHAME:
VOTE SUPPRESSION LEGISLATION BY STATE**



encumbrances added unnecessary strain to under-resourced local election officials and were a distraction from the real tasks required to run elections.

In addition to state actors, anonymous groups began efforts earlier than ever to deceive and intimidate voters. Voters in numerous states received robocalls giving them wrong polling place information. In Florida and Virginia voters received calls incorrectly informing them that they could vote by phone. In Ohio and Wisconsin, billboards were erected in predominantly minority communities warning of criminal penalties associated with voter fraud.

Despite these setbacks, the 2012 election demonstrated yet again that Americans will continue to overcome barriers to exercise their right to vote, and they were not without assistance. After witnessing the challenges of the 2000 presidential election, civil rights organizations and the legal community mobilized to create Election Protection, which today is the nation's largest non-partisan voter protection coalition. The coalition consists of more than 100 organizations and thousands of attorney volunteers dedicated to ensuring that every eligible American who wants to vote is able to cast a ballot. The 2012 elections marked the third Presidential election that Election Protection played a vital role supporting and protecting voters.

The centerpiece of the program incorporates three national Election Protection Hotlines: the English language 1-866-OUR-VOTE, administered by the Lawyers' Committee for Civil

**Lawyers' Committee
President & Executive
Director Barbara
Arnwine unveils "Map
of Shame"**



**Hotline volunteer
assisting a voter
at the National
Command Center on
Election Day**

Rights Under Law; the Spanish language 1-888-VE-Y-VOTA, administered by National Association of Latino Elected and Appointed Officials Educational Fund; and this year's pilot Asian language hotline 1-888-API-VOTE, administered by Asian American Justice Center and APIA Vote. Voters around the country call the Hotlines for live assistance from trained volunteers who provide information and help to resolve voting problems.

In addition to the Hotlines, in 2012 Election Protection organized on-the-ground legal field monitoring operations in 22 states: Arizona, California, Colorado, Florida, Georgia, Illinois, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Mexico, New York, Nevada, North Carolina, Ohio, Pennsylvania, South Carolina, Texas, Virginia, and Wisconsin. Through a partnership with Common Cause, the National Coalition on Black Civic Participation, and the Conference of National Black Churches, the program supplemented its legal field program with grassroots volunteers which expanded polling monitoring coverage across the country. By working collaboratively with local election officials, Election Protection was able to bring attention to voting issues as they arose and troubleshoot to resolve voting problems.

Litigation was also exceptionally important to combating many of the new state laws that would have otherwise burdened or disenfranchised voters. Federal voting laws, such as Section 5 of the Voting Rights Act and the National Voter Registration Act, proved indispensable in states such as South Carolina, Florida, and Texas, where successful litigation mitigated the effects of the suppressive laws.

Over the course of 10 years, Election Protection has collected hundreds of thousands of reports from voters in all 50 states that paint the true picture of American elections. With this one-of-a-kind data, we are able to identify the causes of endemic voting problems and develop solutions to deal with them effectively. First and foremost, modern American elections require an overhaul of our voter registration system, which is woefully out-of-date and continues to be the biggest and most persistent cause of Election Day problems, including the overuse of provisional ballots, long lines, and outright disenfranchisement. A modern voter registration system will make our elections more convenient, inexpensive, and efficient and will allow communities to reinvest resources now absorbed by voter registration in other critical functions. No less critical, it is imperative that election officials plan effectively. Proper resource allocation, poll worker recruitment and training, polling place management, and contingency planning are critical to running fair elections and must be thoughtfully planned out in advance of Election Day. Additionally, increased access to voting such as expanded early voting opportunities and no-excuse absentee voting can help alleviate Election Day congestion. Finally, deceptive election practices must be criminalized to protect voters against those who intentionally spread false election information for the purpose of disenfranchising voters. These and other policy proposals are discussed fully in this report.

The assault on voting rights was a stark reminder that some Americans have had to continually fight against barriers to attain and exercise their right to vote. Although the time in our history has passed when certain Americans were excluded by force of law from electoral participation, endemic yet solvable problems continue to plague our system of elections and prevent too many eligible voters from fully participating in our democracy. Barriers continue to exist through state laws designed by politicians to make it difficult for certain Americans to vote and administrative deficiencies that impair voting rights. These perennial institutional barriers to the vote must be addressed for they are the cause of the long lines that were rampant throughout the election cycle. The 2012 elections was a clarion call for change and it is urgent that lawmakers answer this call and finally tackle these issues in a meaningful way.

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The Election Protection 2012 report begins with a brief overview of the national Election Protection program and how we mobilize to protect and assist voters around the country. Next, the report provides a summary of the voting battles fought around the country in 2011 and 2012 in the lead up to Election Day—including the coordinated effort to suppress voting and the national response by Election Protection and its partners. We then highlight the critical role voting rights litigation played in 2012 with courts striking down several restrictive state laws in places like Texas, Pennsylvania, Ohio, Michigan, and Wisconsin. Then we present what actually transpired—as documented by Election Protection—on and before Election Day through the lens of the recurring issues that continue

to plague our electoral process and prevent millions of eligible Americans from exercising their right to vote. Finally, we propose needed reforms to “fix that” as President Obama decreed in his acceptance speech on Election night and spotlighted in his Inaugural Address.

Section 1

BACKGROUND ON ELECTION PROTECTION

Since its inception in 2001, Election Protection has evolved into the largest non-partisan voter protection program in the country. In 2004, its first major presidential election cycle assisting voters, Election Protection recruited over 25,000 legal and grassroots volunteers. In 2006, Election Protection evolved into a year-round program, becoming a one-stop shop for voter support, information, and assistance. By 2008, the program had become a staple of the election cycle, providing valuable support to voters during the major primary elections in addition to the general election. That year, the 1-866-OUR-VOTE Hotline joined with 1-888-VE-Y-VOTA, administered by the National Association of Latino Elected and Appointed Officials Educational Fund, to provide identical assistance to Spanish-speaking voters and also launched the www.866ourvote.org website to serve as an interactive clearinghouse of information of state and national voting rules, news, and election topics. The 2010 elections marked a decade of Election Protection and fully cemented the program as a national service during elections. Today, the Coalition organizes voter protection programs every year, and the 1-866-OUR-VOTE Hotline continues to be available 365 days a year.

BY THE NUMBERS

- Over **37,000** calls on November 5 and nearly **90,000** calls on November 6 from all 50 states and the District of Columbia
- Election Protection hosted **38** call centers across the country on Election Day
- More than **5,300** trained legal volunteers and **2,300** grassroots volunteers in **22** states and over **80** voting jurisdictions

The Election Protection Hotlines, 1-866-OUR-VOTE and 1-888-VE-Y-VOTA, are the centerpieces of the program. Voters call to seek information, ask questions, and report problems – no matter how simple or complex – and receive assistance in both English and Spanish from highly trained volunteers. In 2012, the Hotline expanded its language capacity with a pilot Asian language hotline, 1-888-API-VOTE, with coalition partners APIA Vote and the Asian American Justice Center.



**Election Protection
volunteers in New
York City.**

The legal program is the foundation of Election Protection. In every major election, thousands of attorneys around the country volunteer to answer Hotline calls, monitor polling locations, meet with election officials, develop legal materials and educational pamphlets, and litigate when necessary. In 2012, through a partnership with Common Cause, the National Coalition of Black Civic Participation, and the Conference of National Black Churches, the grassroots program returned as a key component of Election Protection. These additional volunteers and leaders allowed the reach of Election Protection to expand and cover more jurisdictions and serve communities affected by recent changes to election law. Both the legal and grassroots volunteers worked collaboratively to answer questions and aid voters at the polls on Election Day.

Since 2004, the reports made to Election Protection are collected in an online database of voting inquiries and problems made to Election Protection. Because of the information in this online database, Our Vote Live, we are able to tell the story of the systemic problems Americans face while registering to vote and at the ballot box. Using this data we have developed concrete election reform policy proposals at the local, state, and federal levels that address the true problems voters face, as well as support high-impact litigation to ensure our elections are free, fair, and accessible to all eligible voters.

Section 2

2012 ELECTION OVERCOMING BARRIERS TO THE BALLOT

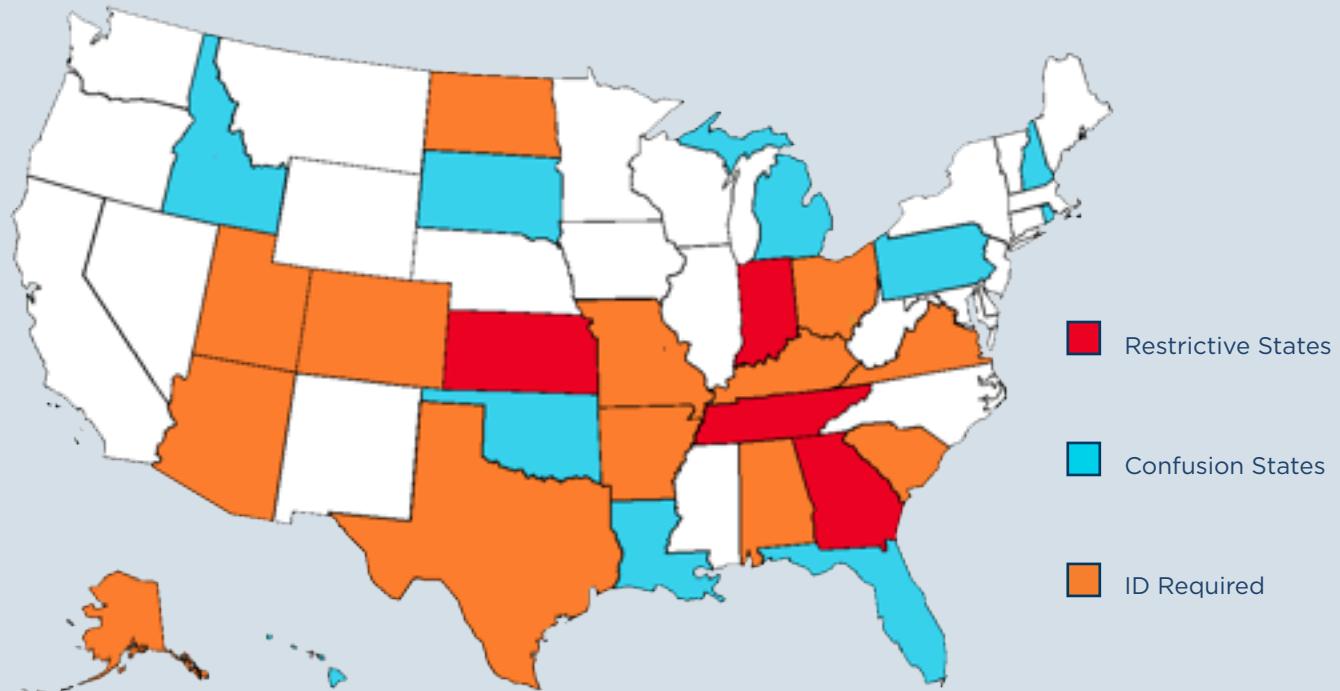
The 2012 election proved that past is prologue, as persistent barriers to voting continued to confront voters nationwide. Each election cycle, pundits devote substantial energy, airtime, and column inches speculating about new major election problems – that cycle’s “hanging chad” – that may arise. The 2012 cycle was no different. As it turned out the problems that plagued this year’s election were predictable: chronic problems with our antiquated voter registration system that resulted in registered voters missing from the rolls; woefully undertrained poll workers misapplying voter identification and provisional ballot laws; mismanaged and chaotic polling sites; last minute changes to polling locations that resulted in voter confusion over where to vote; problems with absentee voting; long lines; failing voting machines; and deceptive and intimidating election practices. Though our elected leaders had opportunities to fix these problems, too many of them chose another path that only exacerbated the situation.

Despite these known systemic problems with the election process, in early 2011 politicians in states across the country embarked on a coordinated strategy – not to pursue remediating legislation for the genuine problems – but instead to require unnecessary and restrictive forms of voter identification, and other suspect voting procedures and requirements, which according to a study by the Brennan Center for Justice, put the votes of up to 25 million Americans at risk. This broad-based attempt to suppress voter turnout was documented on the widely-cited “Map of Shame” created and maintained by the Lawyers’ Committee (www.MapofShame.org). The Map of Shame provides a state-by-state portrait of restrictive voting laws introduced and passed, as well as laws that have been overturned due to the efforts of voting rights advocates.

FEATURED FACTS

- Voter identification and other suspect voting requirements put the votes of up to 25 million Americans at risk.
- Restrictive voting measures were defeated in 25 states.

MAP OF SHAME



The state of suppressive laws on Election Day. Read more at MapofShame.org.

The civil rights community responded forcefully to the assault on voting rights. The Strikeforce – an ad hoc coalition of national, state, and local non-partisan organizations – mobilized to coordinate efforts against restrictive voting measures across the country. For example, in a number of states, community groups did not wait for the legislative and legal process to run its course and began helping voters acquire photo identification that would comply with proposed laws. The Lawyers' Committee, along with Common Cause, Demos, and the Fair Elections Legal Network, released a best practices guide in April 2012 to provide voters the resources they needed: *Got ID? Helping Americans Get Voter Identification* (<http://GotID.lawyerscommittee.org>).

The efforts of the voting rights community to combat and shed light on the disenfranchising effect of these obstructive election laws yielded significant results. Restrictive voting measures were defeated in 25 states. Governors in five states (Minnesota, Missouri, Montana, North Carolina, and New Hampshire) vetoed restrictive photo identification laws. A federal court in the District of Columbia found Texas's photo identification law and Florida's restrictions on early voting discriminatory under Section 5 of the Voting Rights Act. A federal court in Florida also blocked Florida's restrictions on community-based voter registration, holding that it denied free speech rights under the First Amendment and violated the National Voter Registration Act. South Carolina was required to substantially

modify its photo identification law in order to obtain necessary approval from the D.C. federal court under the Voting Rights Act, and the state was not permitted to implement the law for the 2012 election. State courts also prevented restrictive photo identification laws from taking effect in 2012: Wisconsin courts blocked that state's law; a Pennsylvania court ruled that poll workers could request but not require voters to show photo identification in the 2012 election; and a Missouri court prevented a proposed state constitutional amendment, which would have permitted a restrictive photo identification law to pass state constitutional muster, from being placed on the ballot. On Election Day, Minnesota voters defeated a state constitutional amendment to require photo identification. Mississippi and Alabama did not submit their photo identification laws for preclearance under Section 5 of the Voting Rights Act in time to determine whether they could be implemented during the November elections. In the end only two states, Tennessee and Kansas, successfully implemented new government-issued photo identification requirements for the first time in 2012.

The attempts to limit the ability of certain Americans to vote were not limited to restrictive legislation. Officials in Florida, Colorado, and Texas attempted to purge voters from the voting rolls based on faulty data matches that incorrectly labeled eligible American citizens as non-citizens. For example, Bill Internicola, a World War II veteran, received widespread attention after his county election supervisor sent him a letter, based upon a faulty citizenship-verification program later disavowed by the Florida Secretary of State, incorrectly telling him that he was not a U.S. citizen. Additionally, private citizens and third-party groups challenged the eligibility of voters across the country, sparking concern that "voter bullies" could dissuade eligible Americans from voting. Organizations like True the Vote and other Tea Party-aligned groups filed error-riddled voter registration challenges in several states that were almost entirely deemed illegitimate by local and state officials. These groups announced their intention to recruit "one million poll watchers," who would be stationed outside of polling places to root out what studies show to be virtually non-existent in-person voter fraud. Despite their public statements to the contrary, evidence emerged from places like Pittsburgh, Pennsylvania that these groups intended to target predominantly minority precincts. Again, the civil rights and voting rights communities fought back and sent letters to election officials requesting that they ensure these challenges did not result in eligible voters being removed from voter rolls. As a result of our work, these "voter bully" groups had a minimal impact on Election Day.

The efforts of the voting rights community to combat and shed light on the disenfranchising effect of these obstructive election laws yielded significant results. Restrictive voting measures were defeated in 25 states.



An anonymously-financed billboard in Ohio.

As the summer turned into fall, attempts to intimidate and deceive voters surfaced earlier than usual. By mid-October voters in Florida, North Carolina, and Virginia were reporting that they received live phone calls falsely telling them that they could vote over the phone. Misleading information about straight-ticket voting made the rounds on email and through Twitter and Facebook in several states, including Michigan, North Carolina, Pennsylvania, and Texas. At the same time, dozens of anonymously-financed billboards appeared in predominantly African-American neighborhoods in Wisconsin and Ohio,

bearing a picture of a judge's gavel and stating that "VOTER FRAUD IS A FELONY! Up to 3 ½ YRS & \$10,000 Fine." While true, the placement of these billboards in African-American communities falsely stigmatized these communities by suggesting that their voters were likely to commit voter fraud. It was a clear, racially targeted voter intimidation tactic that attempted to instill fear and dissuade eligible Americans from voting. The Election Protection Coalition quickly sprang into action and, under pressure from national and local partners, the billboards were removed. To counter these negative effects, the Coalition put up its own billboards in the same neighborhoods with empowering messages that promoted the 1-866-OUR-VOTE Hotline.

Although voter suppression battles occupied most of the public attention during the run-up to the 2012 election, deficiencies in election infrastructure and planning, and an unexpected "superstorm," also jeopardized many citizens' right to vote. Superstorm Sandy was a prime example of why every local election jurisdiction must have a comprehensive election administration plan and expanded early voting opportunities. Officials in the two states that bore the worst of the storm – New York and New Jersey – took heroic steps to put on an election a week later, but these measures were not enough as mass chaos ensued on Election Day. Voters would have benefited greatly if New York and New Jersey had more robust early and absentee voting rules. Nearly all voters in both states had yet to vote when the storm hit (see the sidebar for more on Superstorm Sandy).

Despite all of these challenges leading up to Election Day, there were many success stories. The majority of Americans had no problems voting. According to the preliminary results

from the Survey of the Performance of American Elections by Charles Stewart III, a professor at the Massachusetts Institute of Technology (MIT), 78 percent of voters said their polling place was run “very well.” Turnout was particularly high in states that have taken steps to reform voter registration. According to a study by Professor Michael McDonald, “2012 General Election Turnout Rates,” four of the five states with the highest turnout (Minnesota, Wisconsin, New Hampshire, and Iowa) allowed voters to register or update their registration on Election Day. Voters in states that have robust early voting programs, like North Carolina and Nevada, reported far fewer problems to Election Protection on Election Day than states with less early voting opportunities.

As cited above, 78 percent of voters said their polling place was run “very well.” But it is a significant problem that 22 percent of American voters who responded to the survey did not have that response. Leading up to and on Election Day there was more of the same registration and polling place problems that too many policymakers and election administrators in this country have failed to address. Election Protection recorded and addressed a wide range of problems – problems that recur each election cycle – that can be summarized into eight categories: 1) voter registration; 2) absentee and early voting issues; 3) problems at the polling place; 4) accessibility for people with disabilities; 5) providing language assistance to limited English proficiency voters; 6) voter identification; 7) challengers at the polls; and 8) deceptive election practices and voter intimidation.

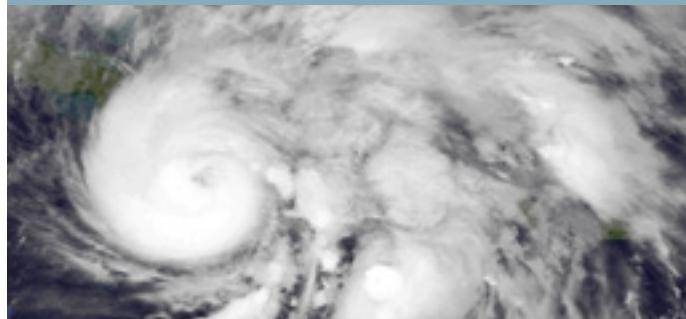
SUPERSTORM SANDY

One week before Election Day, Superstorm Sandy struck the East Coast, causing immense destruction and disrupting the ability for millions to vote.

In the two states most affected by the storm, New Jersey and New York, voters suffered in part due to limited absentee and early vote opportunities and a lack of emergency planning. Voters faced confusion with many polling locations under water and endured long lines due to consolidated polling locations. Election officials battled with crashed email servers and fax machines overloaded with ballot requests plus shortages of paper ballots at some precincts. Over 8,000 first responders, including military personnel and power company crews, were forced to choose between returning home to vote and remaining in storm-affected areas to continue relief efforts.

Election Protection, in spite of its own operational setbacks, organized rapid and widespread responses to these election problems. For instance, County Clerks in New Jersey opened their offices to serve as early voting sites in response to a letter sent by the Coalition. Other affected states extended voting deadlines and early voting hours, and Election Protection served as an invaluable resource in keeping voters up to speed on election changes and updated polling places.

Superstorm Sandy illuminated the need for contingency planning by election officials and expansive voting opportunities to ensure accessible and fair elections.



Section 3

LITIGATION BEFORE ELECTION DAY

Although Election Protection aims to resolve problems

voters are likely to encounter by working directly with election officials, litigation is sometimes required to overcome barriers to voting. In 2012, Election Protection Coalition partners filed several lawsuits that ensured voters were able to register, remain on the rolls, and vote a ballot that counted. These cases involved voter identification laws, voter roll purges, restrictions on early voting, and the counting of provisional ballots.

Voting Rights Act Strikes Down Suppressive Laws

Enacted in 1965, the Voting Rights Act (“VRA”) ensures that all eligible voters can vote free from discrimination. Section 5, one of the most vital provisions of the VRA, requires certain states and local jurisdictions with a history of voting discrimination to submit voting law changes for federal approval before they can be implemented. Three of the states

that passed restrictive laws in 2011 and 2012 – Texas, South Carolina, and Florida – are covered by Section 5. Election Protection Coalition partners successfully litigated cases to prevent several of these laws from going into effect.

FEATURED FACTS

- Section 5 prevented restrictive laws passed in Florida, Texas, and South Carolina from going into effect in 2012.
- Due to NVRA litigation, over 1.8 million additional low-income Americans have submitted voter registration applications at public assistance agencies in 13 states.

Texas passed one of the most restrictive voter identification laws in the country in 2011. Under the law, voters were required to show limited and selective forms of government-issued photo identification to be able to vote. For example, while concealed carry permits satisfied the identification requirement, student identification did not. Since Texas is subject to Section 5 it was required to submit the new law for review to



either the U.S. Attorney General or a three-judge panel of the U.S. District Court for the District of Columbia before implementation. Texas first submitted the law for review to the Attorney General. The Attorney General denied preclearance, finding that hundreds of thousands of registered voters lacked the photo identification that would be needed to vote under the new law. As is its right, Texas then submitted the law for review to the U.S. District Court for the District of Columbia. The Lawyers' Committee, Brennan Center for Justice, and NAACP intervened in the case representing the Texas State Conference of the NAACP and the Mexican American Legislative Caucus of the Texas House of Representatives. On August 30, 2012, in *Texas v. Holder*, 1:12-cv-128 (D.D.C.), the court found that Texas's photo identification requirement was one of the most stringent in the country and imposed "unforgiving burdens" on the poor and racial minorities. Accordingly, the court refused to preclear the law and prohibited Texas from implementing it. Instead, voters were able to use a variety of documents as identification at the polls, including non-photo identification.

President Johnson shakes the hand of Martin Luther King, Jr. after signing the Voting Rights Act of 1965 into law.

South Carolina also passed a restrictive photo identification law in 2011, requiring that voters show one of only five forms of photo identification unless the voter lacked acceptable identification because of a "reasonable impediment." South Carolina, also subject to Section 5 of the Voting Rights Act, first submitted its photo identification law for federal approval to the Attorney General. The Attorney General objected to South Carolina's photo identification law finding that it would unduly burden nonwhite voters and that the "reasonable impediment" requirement had no clear standard that could be applied. South Carolina then sought review in the D.C. federal district court. The Lawyers' Committee

and Brennan Center for Justice intervened in the case, representing the League of Women Voters of South Carolina and an individual voter. On October 10, 2012, the court in *South Carolina v. United States*, 1:12-cv-203, (D.D.C.), found that there was inadequate time for South Carolina to implement its photo identification law without it having a discriminatory effect. The court also determined that voters who need to rely on the reasonable impediment exception could, in future elections, cast a ballot after signing an affidavit at the polling place and giving a reason for not having the required photo identification. As a result of the lawsuit, the law was not in effect for the November election, and voters were able to use their voter registration card as identification at the polls. And because of the affidavit option, implementation of the law in future elections is not expected to preclude any registered voter from casting a ballot.

In 2011, Florida passed HB 1355, a package of voting laws that among other things reduced early voting days from 12 to eight, gave counties the discretion to set early voting hours, created additional registration requirements for voters who moved, and created onerous new rules for individuals or organizations that registered voters.

Florida, which has five counties covered by Section 5, was required to submit its voting changes for preclearance. After first seeking preclearance from the Attorney General, Florida withdrew its submission and instead sought approval from the D.C. federal district

court. On August 16, 2012, in *Florida v. Holder*, 1:11-cv-1428 (D.D.C.), the D.C. court precleared the state's proposed procedures that required voters who moved to a new county to update their registration or vote a provisional ballot when they went to vote. Additionally, a federal court in Florida found the restrictions on community-based voter registration unconstitutional. *League of Women Voters of Florida v. Detzner*, 4:11-cv-00628, (N.D. Fla.). At the same time, the court also denied Florida's request for preclearance of its early voting changes. The court offered an escape hatch to the state on its early voting

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Lawyers' Committee @LawyersComm

Victory for voting rights! Federal court blocks part of Florida's early voting changes, due to impact on black voters. ow.ly/d2IJl

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Federal Court Reinstates Early Voting Days In Parts Of Florida : NPR

A federal court has rejected part of Florida's new election law that would have restricted the number of early voting days. The ruling, affecting five counties, is a win for groups who say the new...

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changes, however, saying that Florida could meet its burden of demonstrating the plan did not make it more difficult for communities of color to vote if the state ensured that the counties subject to Section 5 offered the maximum number of early voting hours permitted under the new law. The state and counties agreed, and the Attorney General authorized the change without further court involvement.

In May of 2012, Florida claimed that there were 180,000 non-citizens registered to vote, which it discovered by comparing the state's registered voter list with the state driver's license database. The Secretary of State initially sent over 2,600 of the names to county supervisors of elections to begin the notice and removal process. This entailed sending a notice to voters that their eligibility to vote was in question and asking them to provide proof that they were indeed eligible to vote. Voters who did not respond to this notice would be removed from the rolls. When it became clear that a large number of those on the list were in fact citizens, Election Protection Coalition partners and county election supervisors sought to end the removal process. The Lawyers' Committee and the ACLU of Florida filed an enforcement action under Section 5 in the U.S. District Court for the Middle District of Florida, because Florida did not seek federal approval of its new voter purge program. In *Mi Familia Vota Education Fund v. Detzner*, 8:12-cv-1294 (M.D. Fla.), the court rejected the Florida Secretary of State's argument that the case should be dismissed because the entire state is not covered by Section 5. Election Protection partners Advancement Project and Project Vote and the Department of Justice also filed lawsuits to stop the purge claiming violations of the National Voter Registration Act and Section 2 of the Voting Rights Act. After the errors on the list came to light, the majority of Florida Supervisors of Elections refused to continue

VOTING RIGHTS ACT REAUTHORIZATION

The Voting Rights Act was enacted in 1965 to prevent and remedy racial discrimination in voting, and Congress has renewed the law four times (1970, 1975, 1982, and 2006).

Section 5 of the Act has proved itself to be one of the important provisions in this landmark civil rights law. Section 5 requires that certain states and local jurisdictions, located mainly in the South and Southwest, obtain federal preclearance before implementing any change in a voting practice or procedure (such as redistricting plans). Congress initially provided that Section 5 was to terminate after five years, however, Congress repeatedly has renewed Section 5, finding a continuing need for its protections.

During the 2006 reauthorization process, Congress engaged in an exhaustive fact-finding mission. It held twenty-one hearings and compiled more than 15,000 pages of record. This record revealed extensive contemporary discrimination in the areas subject to Section 5 review, including more than 600 objections by the Attorney General. This contemporary discrimination reflects an unbroken pattern of discrimination in the covered jurisdictions that both existed prior to the enactment of Section 5 and continued from 1965 through 1982.



the purge. The Secretary of State declared the original list obsolete, though he claimed to continue to find ineligible voters by comparing the voter rolls with the Systematic Alien Verification for Entitlements System, known as SAVE – a federal system used to check an individual's eligibility for federal benefits. The Secretary of State claimed to identify 207 potential non-citizens. The case to determine whether this match procedure needs preclearance under Section 5 is pending.

State Law Challenges to Stop Suppressive Legislation

In 2011, Wisconsin also attempted to change the state's voter identification law to require that voters can only show photo identification to vote. Two separate cases were filed in state court against the identification requirements: *Milwaukee Branch of the NAACP v. Walker*, 11-cv-5492, Dane County, Wisconsin, Circuit Court (Madison), and *League of Women Voters of Wisconsin v. Walker*, 11-cv-4669, . In March, the courts in both lawsuits issued injunctions under the state's constitution preventing Wisconsin from enforcing the requirements after finding that hundreds of thousands of voters did not have the required identification. While the state appealed the injunctions to the Wisconsin Court of Appeals, it asked the Wisconsin Supreme Court to hear the case prior to the action by the appeals court so the law could be in effect for the November election even though the time frame to educate voters and poll workers was short. The Wisconsin Supreme Court denied the appeals, and the photo identification law was not in effect for the November election.

In early 2012, the Commonwealth of Pennsylvania passed a voter identification law that required Pennsylvania voters to show an unexpired government-issued photo identification to vote. The ACLU of Pennsylvania, Advancement Project, and Public Interest Law Center of Philadelphia (a Lawyers' Committee affiliate) challenged the law on behalf of individual voters, the League of Women Voters of Pennsylvania, and the Homeless Advocacy Project.

#VOTINGRIGHTS

 **Advancement Project** 
@adv_project

BREAKING NEWS- PA Ruling: NO IDs needed to vote in November! Read the Preliminary Injunction here: bit.ly/QKEoFQ

The suit, *Applewhite v. Commonwealth of Pennsylvania*, 330 M.D. 2012, claimed that the identification requirements and the haste with which it would need to be implemented would disfranchise a large number of voters and disproportionately affect people of color. The Commonwealth Court upheld the law and determined that the state had sufficient time to

implement the law. The plaintiffs immediately appealed to the Supreme Court of Pennsylvania which remanded the case back to the lower courts and expressed concern about the difficulties that eligible voters who needed the necessary identification faced in obtaining it. In early October 2012, the lower court enjoined Pennsylvania's photo identification requirement for the November elections on the grounds that the haste to implement the law – which was enacted only eight months before the election – would disenfranchise large numbers of voters. The decision stopped short of enjoining the law entirely, and permitted the state to go forward with its public education campaign about the photo identification requirement under the expectation that the law would be in place in future elections. On Election Day, poll workers were instructed to request, but not require, photo identification from all voters. Predictably, this, along with the state's misleading and confusing advertisements, led to significant confusion among both poll workers and voters on Election Day. Election Protection received reports that voters without photo identification were wrongly turned away or were only offered provisional ballots. The litigation against the Pennsylvania's photo identification law continues.

Election Protection received reports that voters without photo identification were wrongly turned away or were only offered provisional ballots.

Which Provisional Ballots Count in Ohio?

According to the Election Assistance Commission 2008 Election Administration and Voting Survey, Ohio had the highest rate of provisional ballots cast of any state and the second highest number of provisional ballots cast after California. In 2008 alone, Ohio voters cast more than 200,000 provisional ballots out of 5.7 million votes. Ohio's provisional ballot rules have been the subject of continuous litigation because of their complexity and convolution.

Labor and other groups filed suit in the District Court for the Southern District of Ohio challenging Ohio's rules on counting provisional ballots. The plaintiffs in the case, *SEIU v. Husted*, 12-4264 (6th Cir.), made two primary claims: first, they challenged a provision that disqualified provisional ballots cast in the correct polling location, but in the wrong precinct – the so-called “right church, wrong pew” rule. Second, they challenged a provision requiring the disqualification of provisional ballots where the ballot envelope contains certain technical deficiencies. Both claims were brought under the Fourteenth Amendment Equal Protection and Due Process clauses of the U.S. Constitution. The plaintiffs sought an injunction requiring that, for the November 2012 election, provisional ballots cast in the wrong precinct due to poll worker error, or cast with technically deficient ballot envelopes, still be counted, unless the poll worker affirmed that the mistakes were not the result of poll-

worker error. The district court found in favor of the plaintiffs on both the Equal Protection and Due Process claims and granted the injunction. The Ohio Secretary of State appealed to the Sixth Circuit.

On appeal, the Lawyers' Committee for Civil Rights Under Law, Brennan Center for Justice, Professor Dan Tokaji of Ohio State University Moritz College of Law, and co-counsel Arnold & Porter participated in an amicus brief on behalf of the League of Women Voters of Ohio and Common Cause in support of the plaintiffs. The brief highlighted the district court's underlying evidence showing that Ohio's provisional voting system resulted in the denial of the right to vote due to poll worker error and focused on the injury to the voting rights of thousands of Ohio voters whose votes had been rejected due to the mistake of an election official. The brief also noted that the remedy adopted by the district court was narrowly crafted to fix the constitutional problem, while reducing the risk of extensive post-election disputes. The Sixth Circuit ultimately affirmed the district court's wrong-precinct remedy and reversed the deficient affirmation remedy.

Challenging Michigan's Citizenship Checkbox

In September 2012, coalition members SEIU and ACLU of Michigan filed a federal court challenge to Michigan Secretary of State Ruth Johnson's requirement that a checkbox be included on in-person and absentee ballots asking that voters verify their citizenship. Plaintiffs in *Bryanton v. Johnson*, 2:12-cv-14114 (E.D. Mich.), challenged the constitutionality of the checkbox under the Fourteenth Amendment's Equal Protection Clause and sought injunctive and declaratory relief from the implementation of a citizenship checkbox on applications to vote. Plaintiffs also made additional state law claims that Johnson exceeded her authority as Secretary of State and did not follow Michigan's Administrative Procedures Act in adopting the new procedure. Because the court found a likelihood that plaintiffs would succeed on the merits of the Equal Protection claim, the court enjoined use of the checkbox finding that the inconsistent administration of the citizenship checkbox would violate the Equal Protection Clause. In granting the injunction, the judge cited written and testimonial evidence showing multiple incidents of polling place confusion in the August 7, 2012 primary election and noted the millions of voters who would vote on November 6. The court relied in part on the holding in *League of Women Voters v. Brunner*, 3:05-cv-7309 (6th Cir.) that factual allegations showing "non-uniform rules, standards, and procedures that result in massive disenfranchisement and unreasonable dilution of the vote" may support an Equal Protection Clause claim.



Ensuring Registrations Under the National Voter Registration Act

The Lawyers' Committee and Election Protection partners, Dēmos and Project Vote, have worked to increase access to voter registration among low-income populations by ensuring that states provide voter registration services to persons applying for public assistance benefits as required by Section 7 of the National Voter Registration Act of 1993 (NVRA). The law requires government agencies that administer programs such as Food Stamps, WIC, Medicaid, and TANF to provide voter registration assistance during everyday transactions with their clients.

The NVRA was enacted to make voter registration more accessible to eligible voters in federal elections.

Because of this litigation, as of September 2012, over 1.8 million additional low-income Americans have submitted voter registration applications at public assistance agencies in 13 states – California, Colorado, Georgia, Illinois, Indiana, Mississippi, Missouri, New Jersey, New Mexico, North Carolina, Ohio, Virginia, and Washington.

In 2012, NVRA enforcement litigation resulted in a series of additional successes requiring state agencies to improve policies and procedures for distributing, tracking, and providing assistance with voter registration forms. Most recently, in Massachusetts, an interim agreement reached in July 2012, required the state to mail pre-addressed, postage paid voter registration applications to over 478,000 public assistance recipients who may have improperly been denied the right to register. In Alabama, the state mailed registration applications to over 300,000 public assistance clients in early October as a result of the litigation. Also in 2012, court-approved agreements were reached in Georgia, Massachusetts and Pennsylvania, and a negotiated agreement was secured in Michigan. Litigation and negotiations are ongoing in additional states, including Nevada, Alabama, and Arkansas.

Section 4

THE ENDEMIC PROBLEMS THAT CONTINUE TO PLAGUE OUR ELECTORAL PROCESS

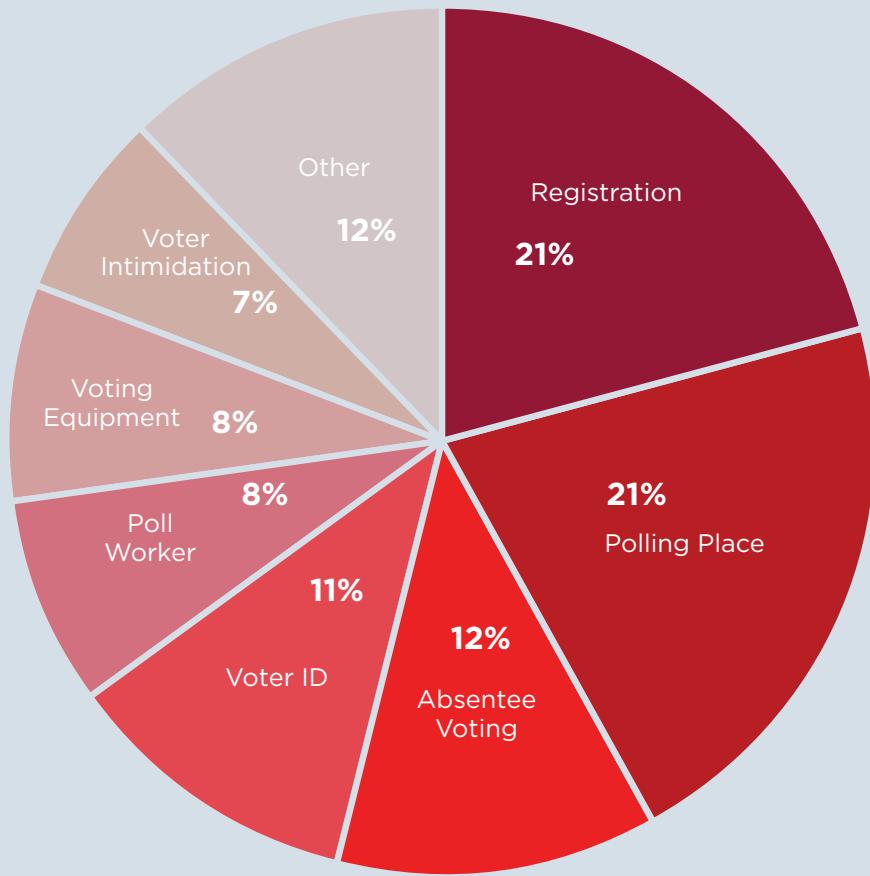
The 2012 elections were marred by an unprecedented effort to enact unnecessary and restrictive voting laws. These changes not only inflicted new harms, they exacerbated existing institutional pitfalls that lawmakers and election officials continually fail to address. The recurrent and systemic problems for voters in 2012 were not different in form from previous elections and included:

- » Problems with our antiquated system of voter registration;
- » Absentee voting or in-person early voting problems;
- » Disorganization, long lines, and other problems at the polling place;
- » Lack of accessibility for people with disabilities;
- » Failure to provide proper assistance for limited English proficiency voters;
- » Confusion created by, and the misapplication of, voter identification laws;
- » Improper pre-election and Election Day challengers; and
- » Deceptive practices and voter intimidation.



The sections below use reports documented by Election Protection to illustrate the difficulties these problems create for voters, poll workers, and election officials. Most of the reports were logged into the Our Vote Live database (www.OurVoteLive.org) through calls made to the Election Protection Hotlines or by Election Protection volunteers in the field. The reports are by no means inclusive of every problem that occurred within that category during the 2012 elections. Most examples are of circumstances that impacted multiple voters and were often repeated in states across the country.

2012 VOTING PROBLEMS



Persistent Voter Registration Problems

Our nation's reliance on paper-based voter registration systems continues to divert election officials' resources – both money and time – making it more challenging to properly prepare for and administer elections. Voter registration problems and inquiries accounted for nearly one-third of all reports made to Election Protection in 2012. A look at state-level data illustrates just how widespread the problem was in 2012. Voter registration problems were the most common issue (other than a request for information) reported to Election Protection in 24 states. Only one of those states, Iowa, has a system of same-day registration meaning that the vast majority of those Americans who reported a problem with their registration likely had no other recourse and were unable to vote a ballot that would ultimately count. Not surprisingly, of the nine states with same-day registration, seven had a lower rate

Voter registration problems and inquiries accounted for nearly one-third of all reports made to Election Protection in 2012.

of registration problems than the national average (Montana and Wyoming did not have enough data for comparison). Our system of voter registration is cumbersome, error-prone, and confusing for many voters. Nearly a quarter of all reports logged by Election Protection were from Americans simply trying to verify their voter registration status.

Sorry, You Are Not Registered

Many of the registration problems reported to Election Protection involved voters who believed they had done everything right, only to show up on Election Day and discover their government had not fulfilled its responsibility to ensure they were on the voter rolls. Election Protection worked closely with these voters and, in some cases, would verify voters as properly registered even though they were not on the rolls at their polling place.

In Michigan, Election Protection received reports from voters across the state who did not appear on the voter rolls at their polling place. One voter from Flint reported standing in line for two and a half hours only to be told she was not registered, even though an Election Protection volunteer verified that she was properly registered and at the correct polling location. Another voter from Washtenaw County was turned away after she was told she was not registered anywhere even though she had voted in previous elections. A voter from Davison reported that the poll workers could not find him on the rolls and told him he had not been registered in the last 10 years, even though he voted in 2008. The worker did

not offer a provisional ballot. Similar stories of poll workers refusing to issue provisional ballots after voters had been waiting in line for hours were reported from voters in Flint and Detroit. In Alabama, a disabled service member found that although he had registered well before the state's primary election deadline, he was not on the voter rolls and was told that he had been registered for next year. Again, the voter was not offered a provisional ballot. A Pennsylvania voter, who said he had voted in the same precinct for the past 26 years, reported his name missing from the poll books on Election Day.

A Pennsylvania voter, who said he had voted in the same precinct for the past 26 years, reported his name missing from the poll books on Election Day.

These registration problems were often compounded by the fact that many poll workers who tried to call election officials' offices to verify voters' registration statuses could not get through jammed phone lines. Election Protection worked with voters who reported these problems by trying to verify their registration status and giving them their correct precinct information. Many voters who were told they were not on the rolls at the polling place were found when cross-referenced against their state's online voter registration system or by contacting their county board of elections offices. The Election Protection

Smartphone App also proved to be a crucial resource on Election Day. Using the App, Election Protection volunteers and voters pulled up their registration information to show poll workers that these voters were, in fact, registered and at the right polling place.

Registrations at State Agencies Not Shared with Election Officials

The National Voter Registration Act of 1993 requires, among other things, departments of motor vehicles and social service agencies to provide voter registration services to their clients (For more information, see National Voter Registration Act section in Litigation). This is a tremendous reform that led to a significant increase in the rate of registration across the country.

Unfortunately, many states do not process registration at these agencies properly, and this can disenfranchise eligible American voters. Election Protection received numerous reports from voters who registered through their motor vehicles or social service agency but did not appear on the voting rolls on Election Day. In North Carolina, for instance, callers reported having registered months in advance of Election Day, but their names were not appearing on the voter rolls. One caller had moved to Buncombe County after living in Jackson County and registered when she received her new driver's license in January 2012. She was told by election officials in Buncombe County that she was not on the voter rolls and would not be able to vote a regular ballot. Election Protection volunteers advised her to vote provisionally and to write on the back side of the ballot that she registered through the motor vehicles department. In Illinois, Election Protection received a number of calls from voters who registered or updated their registration information at motor vehicles offices but whose registrations were not processed. One Cook County voter reported that he updated his voter registration information in June 2011 when he renewed his license, but when he showed up to vote was told by a poll worker he was not registered and could not vote by regular ballot. Another caller from McHenry County who was previously registered under her maiden name at her parents' address also reported updating her voter registration information when she renewed her driver's license. On Election Day, she could not be found

SMARTPHONE APP

To meet the needs of the digital age, the Coalition deployed the first ever Election Protection Smartphone Application. The Election Protection App enabled civic volunteers to go into their communities to register people to vote, verify registration status, educate their neighbors about voting laws, and call the Hotline to ask questions or report problems.

The App proved to be a groundbreaking empowerment tool for voters across the country. For example, field volunteers on Election Day in Pennsylvania reported voters were using it to show poll workers that they were registered to vote when they did not appear on the polling place voter rolls.



To find your voting information, please enter your name and home address where you believe you are registered.

First	Last	
Street Address		
City	State	Zip Code



on the voter rolls at all. A similar scenario occurred in DuPage County through an online transaction: a voter reported that she had renewed her driver's license and simultaneously registered to vote online, but the motor vehicles department did not update her records.

Incomplete Poll Books

Every election cycle, Election Protection receives reports of problems with paper and electronic poll books. During high-interest elections the vast majority of voter registration activity is concentrated close to the voter registration deadline. This often puts a tremendous strain on the ability of election officials to ensure all registered voters properly appear on the rolls when they arrive at their polling place on Election Day. Several states rely on supplemental poll books that contain the names of later registrants.

Election Protection received reports from multiple states about poll workers not checking or not being able to locate supplemental poll books. This problem was of particular concern in Pennsylvania. For example, in one Philadelphia precinct, a Judge of Elections acknowledged that she had asked many voters to fill out provisional ballots without checking the supplemental list. In numerous districts across the state, the supplemental pages were altogether missing from poll books. One voter at Harrity Elementary School in Philadelphia was told she was not on the rolls and was not offered a provisional ballot. She returned to the polling place to request that the poll workers check the supplemental pages only to find that the polling place did not have them on hand.

Many jurisdictions across the country have moved to electronic poll books to save money and improve efficiencies. But mistakes in the setup of these poll books can lead to major problems for voters. On Election Day, the Hotline received a number of reports from our coalition partners in Fulton County, Georgia, indicating major failures related to the use

**The number of provisional
ballots issued in Fulton County
was so high that several polling
places ran out of provisional
ballots, and voters reported
being turned away without being
able to cast any type of ballot.**

of electronic poll books. These failures led to long lines, frustration, and thousands of eligible voters having to vote provisionally. In fact, the number of provisional ballots issued in Fulton County was so high that several polling places ran out of provisional ballots, and voters reported being turned away without being able to cast any type of ballot. At one polling place on the campus of Morehouse College, a historically black college in Atlanta, reports to Election Protection indicated that students stood in line for up to seven hours due to this problem.

Poll Worker Error

In Virginia, there were widespread problems of voters being told that they were not registered to vote. The Hotline received a call from a voter sharing the experience of her brother who was registered in Herndon. The caller's brother was told he was not on the rolls after standing in line for two hours. He asked the poll worker to check the hard copy of the poll book for his name. The poll worker refused, said they did not have time to look, and said that his computer contained the most up to date information. The voter remained and argued. When the poll worker did check the book, he said the voter's name was not there. However, the voter could see his name listed. That voter was finally allowed to vote after he physically took the book and showed the worker his name. The poll worker then apologized and gave the voter a regular ballot. This report also demonstrates how tenacious eligible voters must be to ensure they can cast a ballot.

Administrative Mistakes Hamper Voting

When early voting began in Texas, first-time Harris County voters faced significant problems regarding their registration status. Numerous voters arrived at early voting sites only to find that they were not on the registration rolls or were told their registration was not active until Election Day, November 6. These voters had all properly registered to vote close to the registration deadline and received voter registration cards. On the first day of early voting, a voter was told her registration was not active until November 6, but she was leaving the country the next day so had no other time to vote. Election Protection repeatedly called the county clerk to advocate on her behalf. The county finally agreed to allow the woman to vote a regular ballot on that first day of early voting.

Online voter registration is a forward thinking reform that has made it easier for Americans to register and saved election officials money, time, and resources. Unfortunately, in Colorado, problems with the Secretary of State's website undermined the promise of this reform. A software glitch in the mobile phone-optimized website prevented close to 800 people from registering between September 14 and September 24. The Secretary of State admitted that the site required more testing before roll out. There were efforts made to publicize this problem, although it is hard to determine how many people from this group of potential new registrants received word of the error and attempted to re-register. Emergency rules were put into place that permitted these voters to register to vote up to and on Election Day by

During high-interest elections the vast majority of voter registration activity is concentrated close to the voter registration deadline.



Hotline volunteers from Lowenstein Sandler PC help voters on Election Day.

using an emergency registration application or by voting a provisional ballot. In addition to this problem, the voter registration website was at times overloaded and not accessible to those attempting to register. Voters visiting the website would receive an error message, instead of being allowed to complete and verify their registrations.

A registration mistake for students at Warren Wilson College in Buncombe County, North Carolina, resulted in at least 44 students voting in the wrong district during the early voting period. In 2012, as in past years, the students and other campus residents registered using the college's main mailing address instead of the physical location of dormitories or houses. However, recent redistricting split the campus between House Districts 114 and 115 and County Commissioner Districts 1 and 2, but many students still registered at the campus main mailing address. The mistake was discovered after over a week of early voting had passed. The students who had voted in the incorrect location were contacted and asked to vote provisionally in the proper district. While the college administration and the Buncombe County Board of Elections worked to ensure that as many students as possible had their votes counted, such confusion was concerning, because students at many other North Carolina universities register at a central mailing address rather than at their dorms. The County Commissioner race in District 2 was very close, and there was a recount, which brought the issue of Warren Wilson students' provisional ballots to the forefront. The validity of their provisional ballots was challenged during the recount process, but the challenge

was denied. Election Protection volunteers followed up on this issue with the Buncombe County Board of Elections, as well as the North Carolina Board of Elections.

Problems and Delays Regarding Absentee and Early Voting

Two major improvements to our electoral process, no-reason absentee and in-person early voting, have increased opportunities for eligible Americans to vote. Absentee voting allows someone who may be unable to cast a ballot in person on Election Day to mail in their ballot, while early voting keeps up with modern society by providing opportunities for Americans to vote in-person before Election Day when it is convenient for them. Problems with absentee or early voting, however, accounted for 12 percent of all problems reported to Election Protection, making it the fourth most common problem reported in 2012. It is important that states continue to provide eligible Americans with the flexibility of voting early by mail or in person, but the continued problems voters experience with early and absentee voting shows that election administrators must do a better job implementing these policies.

FEATURED FACTS

- Voters in 32 states and the District of Columbia can vote early in-person*
- In 21 states, voters are required to provide an excuse to vote absentee.

*Source: National Conference of State Legislatures

Absentee Voting Setbacks

Although all states permit absentee ballot voting, state requirements about who may request and cast an absentee ballot widely vary—21 states require a voter to provide a reason why they will not be able to get to the polls on Election Day. In many states, such as Ohio, Texas, and Virginia, Election Protection received numerous reports from voters who did not receive their requested ballots at all or in a timely fashion. Voters who never requested an absentee ballot also reported being marked as having done so at their polling place which forced them to vote provisionally. Among the absentee ballot problems that arose in 2012 were improper or faulty processing of the applications to vote absentee, ballots being lost in the mail or otherwise not getting to voters, and improper printing of ballots.

Faulty Processing of Absentee Ballot Applications

A data matching error caused major problems with absentee voting in Ohio. An investigation by local Election Protection partner Northeast Ohio Voter Advocates in Cuyahoga and Franklin Counties discovered that erroneous procedures used to match absentee ballot applicants

Rather than reach out to the pool of affected voters, election officials waited for voters who did not receive their requested ballots to contact them before issuing a replacement ballot.

to the voter registration rolls caused several hundred absentee ballot applications to be wrongly rejected as “not registered,” when the applicants were in fact properly registered. Cuyahoga County followed up with the voters and immediately corrected the error. However, similar inadequate data matching methods were likely being employed for absentee ballot applications by Ohio’s other 87 counties. Voter advocates alerted the Secretary of State about the erroneous search methods being used by counties and proposed a more reliable and accurate voter list search protocol that would reduce the error rate of rejected absentee ballot applications. After several attempts to work with the Secretary of State’s office to institute improved search protocols, the Secretary

of State issued a bulletin on October 31 advising boards of elections on improved criteria for properly identifying registered voters on the voter list. However, because the improved search methods were issued in an email bulletin and not in the form of a binding Directive, with the exception of Cuyahoga County, it is unknown how many counties utilized the instructions.

Absentee Ballots Lost in the Mail

Astonishingly, in Auburn Hills, Michigan, over 800 absentee ballots were discovered to be lost in the mail before reaching the voters who requested them. Rather than reach out to the pool of affected voters, election officials waited for voters who did not receive their requested ballots to contact them before issuing a replacement ballot. Similarly, over 100 ballots sent to voters were lost in Roseville, Michigan. The lack of an affirmative effort to replace the lost ballots had a significant impact on the voters who did not receive them, particularly individuals with disabilities, military voters, and elderly voters for whom it may have been difficult or impossible to get to the polling place.

Absentee Ballot Printing Errors

In Palm Beach, Florida, a printing error forced the county to hand copy 35,000 completed and returned absentee ballots to properly printed ballots so they could be counted. When county officials realized the problem, they halted sending out remaining absentee ballots but failed to notify voters who were waiting to receive them. In Stark County, Ohio, voters were sent absentee ballots on regular copy paper, rather than ballot paper. One voter called the Election Protection Hotline believing she had received a fraudulent absentee ballot, describing her ballot as “photocopied.” When Election Protection called Stark County election officials to inquire about the photocopied ballot, they informed us that the ballots

were not sent out on standard ballot paper because of a change in wording of a ballot issue which required them to reprint the ballot. Because of the reprint, they ran out of ballot paper stock and used copy paper stock which led to this confusion.

Absentee Ballots Not Received

In Broward County, Florida, Election Protection received numerous reports of voters who did not receive the absentee ballots they had requested. One voter said when she called the county, the county official told her that it was a good thing she called; otherwise, she never would have received a ballot. Voters across Texas requested absentee ballots and never received them. Texas has no way for voters to track their absentee ballot requests, and many voters did not realize they would not receive their ballot until it was too late to submit their vote. On Election Day, a member of the military, stationed in Florida but registered to vote in San Antonio, Texas, called the Hotline because he had not received his absentee ballot despite two requests. He called the county and was told they had no record of his request. Unfortunately, this voter, who needed an absentee ballot because he was serving his country, was unable to vote due to this administrative blunder. In California, a 99-year old voter had to be taken to the polling place in a wheelchair because her absentee ballot never arrived. Voters across New York called Election Protection to report that they never received requested absentee ballots. This problem was compounded by the fact that Superstorm Sandy disrupted mail service a week before the election. In Pennsylvania and Virginia, there were numerous reports of voters not receiving their absentee ballots in time to complete and return them before the deadline.

Texas has no way for voters to track their absentee ballot requests, and many voters did not realize they would not receive their ballot until it was too late to submit their vote.

Absentee Voting Mistakes Sow Confusion on Election Day

Problems with absentee voting were compounded on Election Day when voters went to their polling place after not having received the requested absentee ballots or were unaware that they had mistakenly requested an absentee ballot or were improperly marked as requesting an absentee ballot. Many voters in Virginia reported poll workers turning away voters who had received, but not cast, absentee ballots and then appeared at their polling place. Under Virginia law, these voters should have been permitted to cast provisional ballots, which would have been counted if supported by evidence that the absentee ballot was never cast. One military voter in Virginia who had been medically discharged only two weeks before the election reported being turned away because poll workers said his absentee ballot had already been mailed to him. A similar problem was reported across California, including in



**Military families
and overseas voters
depend on absentee
voting to exercise
their right to vote.**

Riverside, Malibu, and San Mateo Counties. A poll worker from San Mateo County reported that approximately 20 out of 150 voters that he had helped at this precinct stated that they requested, but did not receive, absentee ballots.

There were many reports of voters who claimed they did not request absentee ballots but were marked as having done so when they tried to vote in person on Election Day. In California, for example, Election Protection received reports from a polling place in Sacramento where about 20 voters had to vote provisionally because they were on the absentee list even though they claimed they had not requested an absentee ballot. In Maricopa County, Arizona, thousands of voters showed up to the polls on Election Day only to be told they were on the absentee voting list; therefore, they had to vote using provisional ballots. A lot of this stemmed not from administrative blunders but from confusion about the process. A large number of the voters had not realized that they had elected to vote absentee or, because of news reports, requested to vote absentee but then decided to show up to vote in person for fear their absentee ballot would not count. The problem was compounded by the fact that a civic engagement organization checked the box for voters they registered to become absentee voters without their knowledge.

Absentee Ballots Rejected

Absentee voting provides great flexibility for voters, but this flexibility is undermined when state procedures reject ballots improperly. Nowhere was this problem more prevalent than in Florida, a state where voters' signatures on their absentee ballots must match the signatures on file with their voter registration in order to count. If it does not match, the ballot will be rejected. The state's procedure for matching signatures were so exacting that

the ballots of voters whose absentee ballots had been counted in past years were rejected. In order to avoid this result, Election Protection had worked with state partners to educate voters on the signature match and to urge voters to update their signature. Despite our efforts, we received numerous calls from voters who received letters that their absentee ballot was rejected. It is estimated that one to three percent of absentee ballots were rejected in Florida.

Difficulties Encountered with Early Voting

The problems encountered during early voting serve as an early warning system for the problems that voters are likely to encounter on Election Day. Insufficient resources at the polling place and problems with registrations that were not processed in a timely manner were two key issues that arose during the early voting period.

In 2011, a new Florida law reduced early voting from 14 to eight days and eliminated voting on the Sunday before Election Day. As a result, voters across Florida faced incredibly long lines during this period. Compounding the problem, Florida law limits early voting sites to public libraries, city halls, and county election supervisor offices, but these locations often did not have adequate staffing, proper allocation of voting machines, space for additional election equipment, room for voters with disabilities and the elderly to sit down, or sufficient parking. Throughout early voting, Election Protection urged the counties with particularly long lines to add ballot printers, privacy booths, poll workers, and other resources to help shorten the lines. Election officials in Miami-Dade County were able to add more printers but were limited by the available space at voting sites. Despite repeated calls for Governor Rick Scott to extend early voting to include the Sunday before Election Day, he refused. On the last day of early voting, voters at one problematic North Miami site waited until 1:00 a.m. to vote. Miami-Dade County attempted to help the problem by allowing Floridians to cast absentee ballots in person on Sunday. However, shortly after voting began, the Supervisor of Elections shut down the location after being overwhelmed by the number of voters. After hundreds of voters waiting outside protested, the Supervisor reopened the office for voting.

In Harris County, Texas, voters who registered to vote close to the registration deadline and attempted to vote on the first days of early voting found that their names were not on the rolls and were told to return to vote on Election Day. Election Protection reached out to the county clerk to request that they update poll books for the remaining

FEATURED FACTS

- Florida reduced early voting from 14 to eight days and eliminated voting on the Sunday before Election Day.
- 41% of North Carolina registered voters cast ballots early either in-person or by mail.

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Rashad Drakeford

@RDrakeford



The ppl I'm mtg here on the ground are just so inspiring. Met an elderly couple who stood in line for 6 hrs @ Miami City Hall to early vote!

days of early voting so that all properly registered voters who wanted to vote during this period could do so. In Moore County, North Carolina, voters were prevented from utilizing same-day registration when election officials were erroneously asking voters for two forms of identification and insisting that one of them had to be photo identification.

Election Protection received multiple reports from Virginia voters who were misinformed about in-person absentee voting requirements. Although Virginia requires voters to provide an excuse to cast an absentee ballot in person before the election, voters who asked about options to vote early were not told about this option and were at times turned away. In both Chesapeake County and Prince William County, voters reported seeking more information about voting early only to be told it did not exist in Virginia, without explanation that the in-person absentee option existed.

North Carolina has an effective system that couples early voting with same-day voter registration. In 2012, forty-one percent of registered voters in North Carolina cast ballots early either in-person or through the mail. Unfortunately, there were reports of campaign supporters electioneering within the area prohibited at the early voting sites, and voters were falsely being told that they could vote by phone or online. These activities caused problems for some North Carolina early voters. The problems were significant enough that the Executive Director of the State Board of Elections issued a memo to county election officials to try and maintain order at early voting locations.

The reports of absentee and early voting complications that Election Protection documented in 2012 reveal problems, not with the programs themselves, but with the manner in which they are carried out. Improper implementation of absentee and early voting programs stemmed from administrative errors, the reduction of early voting days and times, and limitations on early voting sites. In fact, inadequate election administration planning and implementation led to many of the problems we saw at the polling place on Election Day.

Polling Place Problems

Polling place problems take many forms on Election Day, including inadequately trained poll workers, insufficient and poorly allocated resources, machine breakdowns, and a lack of required assistance. In 2012, polling place problems accounted for 21 percent of all problems reported to the Election Protection Hotline, and they were the most frequently reported type of problem in 23 states, including important battleground states like Florida, Michigan, Ohio, and Wisconsin. Together, these issues contributed to long lines and a significant number of voters casting provisional ballots. In many states, where provisional ballots count only if cast in the correct precinct, these polling place problems served to disenfranchise voters.

Lack of Proper Poll Worker Training

Poll workers are among the hardest working people on Election Day. Yet with constantly changing election laws – including the spate of new laws implemented across the country since the 2010 elections – not all poll workers were properly trained on new policies and procedures. Because poll workers are the gatekeepers for voter access to the ballot, any error made by poll workers can mean the difference between an individual being able to vote or not.

In Virginia, for example, there were reports of poll workers turning away voters before the polls were closed. Election Protection received a report from a voter in Fairfax, Virginia, who went to vote at 12:30 p.m., but the line was too long, with a wait of approximately two hours. Knowing that the polls closed at 7 p.m., she returned to her polling place at 6:45 p.m., but a poll worker turned her away and said that they were closing early. Even worse was a report from Blackstone, Virginia, where voters were turned away from the polling place at approximately 5 p.m. – two hours before polls closed. The voter who reported this was told that she would need to vote at the Municipal Building, but upon arrival, she was told that she needed to go to the Police Precinct polling location. Before leaving the Municipal Building, she overheard a conversation that the Police Precinct polling place was understaffed and turning away voters. She waited in line again and ultimately left (as did others) when it became clear that they were not admitting anyone else to vote. She did not get to vote in this election.

Poor poll worker training often serves to exacerbate existing barriers to the ballot box. For instance, in states with new voter identification requirements, misapplication of the law led to mass confusion and, at times, disenfranchisement. In the Hampton Roads area

Because poll workers are the gatekeepers for voter access to the ballot, any error made by poll workers can mean the difference between an individual being able to vote or not.

of Virginia, voters reported a poll worker moving up and down the lines, improperly telling those waiting that they would need photo identification in order to vote. When Election Protection volunteers informed county officials of the problem, they responded that they were aware of the issue, but that the particular poll worker was always a problem and that there was not much they could do.

Similar poll worker training issues arose in Florida, where a change in state law required voters who moved to a new county but did not update their registration to cast provisional ballots. Although voters who moved within their county were unaffected by this change, there were reports across the state from voters who had moved within the same county and were forced to cast a provisional ballot as a result.

Insufficient Resources, Misallocation, and Disorganization

In the current economic climate, states and counties working to administer elections have had budgetary restrictions with many unable to marshal the full resources necessary for a smooth Election Day. As a result, administrators have to make tough decisions about how to spend their limited budgets and where to allocate resources. Unfortunately, these decisions have a significant impact on voters, particularly when shortages and miscalculations lead to long lines and disorganization.

In Virginia, the shortage of personnel and equipment was felt acutely. In one Virginia Beach precinct at Salem High School, voters reported six-hour waits, because there were only two poll workers on hand to check voter identification. Hampton University, in Hampton, had arranged for a bus to take students to the polls. When they arrived, there was only one functional voting machine and a growing line. Prince William County in Northern Virginia also experienced significant lines, and the problem appeared to be disproportionately concentrated in certain polling places. One polling place in Woodbridge had only six voting machines available and long lines, while a nearby polling place had 12 machines and much shorter wait times. In Minnesota, more than 17 percent of voters register to vote when they show up to cast a ballot through the state's same-day registration program. The lack of personnel meant that poll workers were unable to distribute registration cards to voters that they could complete while waiting in line, which caused delays when voters finally reached the registration table.

The lack of resources also led to confusion at the polling place as municipalities attempted to save money by combining multiple precincts in one location. Montgomery County, Ohio, for example, undertook a far-reaching precinct consolidation after the 2008 Presidential election. As a result, voters experienced significant lines across the county, though they had waited for only a few minutes in 2008. Polling locations housing multiple precincts also caused confusion among voters about which line they needed to be in for their particular precinct. In Hillsborough County, Florida, three precincts were combined at one polling place, leaving many voters at a loss as to which line they should stand in with little direction from poll workers or other resources to direct them to the right one. At another Florida polling place, a young voter accompanied by his grandparents went to his polling location but saw a sign directing him to a different polling location. When the family arrived at the new polling location, they did not appear on the registration rolls and were given provisional ballots. When he left the polling location, he spoke to an Election Protection volunteer who used the Election Protection App to find that the original polling location he went to was the correct site. The sign was unclear and was only supposed to direct certain voters from one precinct in the original polling location to the new polling location. The voter reported that at least 10 other people had encountered the same problem. Michiganders experienced the same problem, with many expressing frustration at the lack of signage directing them to the correct line.

Additionally, improper planning and lack of resources all too often led to ballot shortages on Election Day. For example, in Racine, Wisconsin, numerous polling locations ran out of ballots towards the end of the day causing lines to grow. Racine election officials were able to deliver more ballots. However, Election Protection received reports of voters leaving without voting due to the long lines and confusion.

Malfunctioning Voting Machines

The breakdown and malfunctioning of voting machines continue to cause problems for voters at the polls. After the Help America Vote Act of 2002 established standards for voting equipment and provided funding for new machines, many municipalities invested in new systems. A decade later, aging machines are beginning to show signs of wear, causing long lines, and eroding public confidence in the way we record votes.

In Ohio, voting machine failures were a systemic problem on Election Day. In Cuyahoga County alone, at least 10 polling locations were reported to have malfunctioning machines,

In one Virginia Beach precinct at Salem High School, voters reported six-hour waits, because there were only two poll workers on hand to check voter identification.

and though county officials were responsive to machine issues as they arose, they struggled to keep pace. In one Canton precinct located in Stark County, Ohio, a voter reported only three of seven machines working properly. Michigan experienced similar problems. At the Vineyard Church polling place in East Lansing, voters reported a paper jam in the ballot counter. In response, poll workers unlocked the ballot box to place ballots inside for safekeeping until the machine was fixed, but many voters were concerned their ballots would not be retrieved and later counted. Multiple voters also reported voting machines registering error messages after feeding in their ballots and vote counters not moving after ballots had been cast.

Although virtually all types of voting equipment pose their own set of problems, many voters reported issues with “touchscreen” direct-electronic machines (“DRE”) in particular. In Pennsylvania, Alleghany, Butler, Carbon, Montgomery, Northumberland, Philadelphia, Venango, Westmoreland, and York County voters reported issues with malfunctioning machines that would not allow them to select the candidate of their choice. A YouTube video that went viral on Election Day demonstrated how a voter’s repeated selection of one candidate for president kept registering as a selection for the other candidate.

There were also significant problems with voting equipment in Virginia. Machine problems were exacerbated by a law that prohibits cities and counties that use DRE machines from replacing them with newer versions as they break down or as additional machines are needed to keep pace with expansion of the voter population. This was particularly problematic in Prince William County, where Supervisors decided in 2003 to use DRE machines exclusively. In the nine years since, population growth has required increasing the number of voting precincts and many of the original machines went out of service. These two factors created a situation on Election Day where the existing supply of machines could not adequately

service the number of voters.

While election officials wanted to provide paper ballots to voters waiting in long lines for a free machine, they were unable to do so because state law generally prohibits the use of paper ballots if there are any functioning DRE machines in a precinct. (There is an exception to this rule for curbside and provisional voters.)

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Some people have hanging Chads, some folks have a miscalibrated iVotronic (ES&S) voting machine. fb.me/ZeQkdngY



Accessibility for Voters with Disabilities

Voters with disabilities faced particular hurdles on Election Day, often as a consequence of the lack of polling place resources and long wait times. In South Carolina, polling places are required to provide curbside voting or other reasonable accommodations for voters with disabilities. Election Protection received multiple reports of voters being ignored or denied a curbside ballot due to understaffing. And in Florida, a diabetic voter who recently underwent foot-surgery was forced to stand in line to vote for three and a half hours after being told that there was nowhere she could sit to wait. Additionally, at the Bladensburg Community Center in Prince George's County, Maryland, some voters were asked to provide proof of their disability, in contravention of federal law.

Voters with disabilities can be disenfranchised if election officials do not plan properly.

Other problems arose as a result of the complexity in the law regarding providing assistance to voters with disabilities. A Pennsylvania woman went to vote at the Hershey Christian School in Dauphin County with her son who has autism and needed assistance voting. Both were registered voters, but they were new to the state and were never informed about a state law that requires voters with disabilities to obtain a special designation on their voter registration card in order to receive assistance at the polls. As a result, the son's registration card did not have the designation. Poll workers initially refused to let the mother assist her son. Under Pennsylvania law, however, when a voter requests assistance voting but does not have a disability designation on his or her registration card, poll workers should present the voter with a form that once completed, allows the voter to vote with the assistant of his or her choice. Ultimately, the Judge of Elections who is responsible for the operation of the voting location and for enforcing Election Day rules and regulations was able to correct the poll worker's error by providing the son with the necessary paperwork. The son was eventually able to cast a regular ballot with the assistance of his mother, but the experience

still disturbed the family. “We felt singled-out,” the woman told Election Protection. “We felt uncomfortable.”

Unnecessarily Long Lines

Long lines and the resulting exorbitant wait times were major consequences of these different polling place problems. Election Day provided powerful examples of how poor planning and training that often created these long lines, resulted in voters being unable to vote or only able to do so through their own dogged persistence.

Extraordinary lines were well-documented in Florida. In Orlando, many voters were still in line to vote at 9:30 p.m. after polls closed at 7:00 p.m., and in Miami-Dade County, some incredibly dedicated voters were forced to wait in line until 1:00 a.m. to cast a ballot. Broward County experienced some of the longest lines in the country, with people waiting in line until at least 10:00 p.m. in Tarmac and Weston. To make matters worse, some Florida precincts began to run out of ballots and left voters waiting even longer for additional ballots to arrive.

Virginia also had issues with long lines, with voters waiting six or seven hours in parts of the Hampton Roads region of the state. One voter reported being in line from 8:45 a.m. until after 3:00 p.m. when she finally got to cast her ballot. Calls also poured into the Hotline from the Lee Hill Community Center in Fredericksburg, Virginia, where a malfunction caused all of the voting machines to fail soon after the polling place opened. As voting officials worked to replace all of the machines, voters were told that they could wait in the mounting lines, come back at another time, or cast an emergency ballot. After supplies of emergency ballots ran low and lines reached several hours long, many voters were forced to leave without voting.

**Broward County
experienced some of
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Tarmac and Weston.**

In South Carolina, long lines created significant issues in many counties, including Spartanburg, Greenville, Charleston, Horry, Berkley, Kershaw, and Sumter. Voters waited in lines up to six or seven hours long as a result of insufficient voting machines in some parts of Richland County. For example, in Columbia, at the Joseph Keels Elementary School, lines lasted for as long as six hours when only five voting machines were available, and at the Summit Parkway Middle School, voters waited up to seven hours to cast a ballot.

That so many Americans were willing to wait in such long lines across the country is a testament to their civic commitment, and Election Protection volunteers across the country

did extraordinary work providing voters with water, snacks, and reassurance that they would get to cast a ballot. However, as President Barack Obama noted in his acceptance speech that night, “We have to fix that.” The lines are, of course, only a symptom of the underlying problems noted above that creates bottlenecks and backlogs. Looking ahead to reform, resolutions to these problems will ultimately lead to improvement.

Overuse of Provisional Ballots

Another consequence of confusion and chaos at polling places was the increased numbers of voters unduly casting provisional ballots. At times, voters who should have received regular ballots were forced to vote provisionally, while at others, voters who had the right to a provisional ballot were denied one and disenfranchised completely. The Help America Vote Act requires all voters, whose eligibility to vote is questioned, the ability to cast a provisional ballot. Election officials are also required to count the provisional ballot if they are able to verify that the person is properly registered and eligible to vote. States, however, have a lot of leeway in determining the parameters of what those eligibility requirements are, resulting in variation between states. Some states have very strict laws in place regarding the counting of provisional ballots, meaning that even the smallest mistakes by poll workers or voters could lead to voters having their vote invalidated unnecessarily. But rather than providing provisional ballots as a last resort and helping voters through the steps to cast a regular ballot that will be counted, too many poll workers issue provisional ballots indiscriminately. Even more troubling is that voters are not notified of the steps needed to ensure their provisional ballot is counted or given the reason why it was rejected so they can correct the problem before the next election.

Poor poll worker training on registration and voter identification issues in Pennsylvania resulted in roughly twice as many voters casting provisional ballots in Allegheny (Pittsburgh) and Philadelphia Counties compared to 2008. In Philadelphia alone, more than 27,000 provisional ballots were cast on Election Day. Likewise, in Fulton County, Georgia, registration problems led to 11,000 provisional ballots being cast – more than double the amount cast in any previous election.

In California, Election Protection volunteers throughout the state witnessed poll workers giving voters provisional ballots without first verifying their correct polling location or informing voters that if they surrendered an absentee ballot they had requested, they would be able to cast a regular ballot rather than a provisional one. Conversely, Election Protection also received reports of poll workers not providing provisional ballots when they had an obligation to. One Sacramento voter reported a poll worker denying her request for a

One poll worker stated, “It’s not going to count anyways, so why bother?”

provisional ballot after an error caused the voter’s name to be missing from the poll book. The poll worker stated, “It’s not going to count anyways, so why bother?”

In Cuyahoga County Ohio, the amount of provisional ballots cast in the 2012 election increased from 2008, accounting for 4.9 percent of the ballots cast versus 4.2 percent in 2008. Many factors may have contributed to the rise of provisional ballots in states like Ohio and Pennsylvania, ranging from poorly trained poll workers to misapplication of voter identification laws to incomplete poll books.

Many of the problems that occurred at the polls on Election Day could have been avoided with proper pre-Election Day planning—one of the goals of Election Protection is to work with election officials in the lead up to the election to address and remedy these recurring problems. Officials often shift blame and complain of operating under shoestring budgets, but for many of the issues, such as in the case of language access addressed below, guidelines exist to help election officials with their planning.

Lack of Language Assistance

Voters with limited English proficiency (LEP voters) face challenges during every election, despite the important protections they are specifically afforded by the Voting Rights Act. Sections 203, 4(f), 4(e), and 208 of the VRA ensure that LEP voters are given meaningful access to participate in the electoral process. These sections require that covered jurisdictions provide all voting information (such as registration or voting notices, forms, instructions, assistance, and ballots) in English and in the applicable minority-group language; prohibit any jurisdiction from denying the right to vote to LEP voters, who were educated in American-flag schools in any state, territory, the District of Columbia, and Puerto Rico, in a language other than English; and entitle LEP voters in any jurisdiction to bring an assistor of choice into the voting booth to help them vote. Sections 4(e) and 208 apply to all jurisdictions in the United States.

As in past elections, some LEP voters were denied the rights afforded by the VRA because of a lack of resources in their language, improper planning by election officials, or insufficient training of poll workers. Prior to Election Day, voters sometimes face challenges in the registration process and in accessing accurate information about the electoral process. For example, prior to Election Day two Spanish-language documents with the wrong election date were distributed to voters in Maricopa County, Arizona. The first was on the perforated

document that surrounds the voter registration cards that are requested in person, and the county estimated that 21 to 70 of these documents were distributed with the erroneous date. About 2,000 copies of the second document, a bookmark, were distributed to community organizations and at community outreach events. Election Protection leaders communicated their concerns about these documents to Maricopa County officials, who undertook a media campaign to inform Spanish-speaking voters of the correct election date.

The two most commonly reported problems for LEP voters on Election Day throughout the nation were the denial of their right to obtain assistance from a person of choice and the availability of bilingual poll workers. In one instance, at the Riverhead Senior Citizens Center in Suffolk County, New York, poll workers incorrectly told a Spanish-speaking first time voter that he could not obtain assistance from a person of his choice because he did not have a disability. Instead, they offered the assistance of poll workers inside the booth. While the voter was able to cast a ballot, he was unsure that she had voted for her candidates and propositions of choice.

Another poll worker (at the Mary Queen of Vietnam Church polling place in New Orleans, Louisiana) was under the erroneous impression that only LEP voters whose language was covered by Section 203 would be able to obtain assistance in voting. Because Vietnamese was not “on the books,” the poll worker incorrectly informed the LEP voters that they were not entitled to assistance. The denial of assistance to these voters was a violation of Section 208, which allows all LEP voters throughout the U.S. to obtain assistance in voting from a person of their choice (so long as this person is not the voter’s employer, or an agent of the employer or of the voter’s union), regardless of the voters’ language or the jurisdiction’s obligations under Section 203. In Saint Paul, Minnesota, LEP voters also faced obstacles in obtaining assistance. Election Protection volunteers at the Boys and Girls Club who wanted to provide language assistance were only allowed to help three voters before poll workers stopped them. Section 208, however, places no limitation on the number of voters who can obtain assistance in voting. And, in Kansas City,



Election Protection volunteers outside of a Maryland polling place.

Missouri (at the polling place located at 1669 Dorchester Avenue), a poll worker asked a voter's interpreter to leave the premises and threatened the interpreter with arrest.

Because Vietnamese was not “on the books,” the poll worker incorrectly informed the LEP voters that they were not entitled to assistance.

In some jurisdictions covered by Section 203, voters and volunteers also reported the absence of bilingual poll workers, sometimes despite a high turnout of LEP voters. For example, a polling place in Worcester, Massachusetts, had many Spanish-speaking voters but only one interpreter, resulting in delays. At a polling place in Panorama City, California, the headset intended by the county to provide Spanish translation (in lieu of a bilingual poll worker) was non-functional. Not being able to obtain help, some Spanish-speaking voters became frustrated and left the polls without casting a ballot.

In Springfield, Massachusetts, a bilingual police officer volunteered to provide assistance to the voters because the polling place was not appropriately staffed with bilingual workers. In another polling place in Los Angeles, California, only the poll judge was bilingual, therefore the wait for Spanish-speaking voters was long. When the poll judge went on a lunch break, Spanish-speaking voters were left without any assistance.

At times the bilingual assistance and resources that were available were not properly communicated to the voters. For example, in Hamtramck, Michigan, a Section 203 covered jurisdiction, the poll workers refused to inform voters of the availability of Bengali ballots, claiming that this would amount to racial profiling. While bilingual poll workers were also available, they wore no badges to identify themselves as being bilingual. It was only after requests by volunteers that the poll workers agreed to put up a sign letting voters know that assistance was available in Bengali. Volunteers also observed that the Bengali ballots were being rejected by the scanning machine.

In other jurisdictions, such as a polling place in St. Paul, Minnesota, Election Protection learned that LEP voters were asked to provide identification, even though the state lacked a voter identification requirement. The volunteers reported that poll workers claimed they could not understand certain voters when they pronounced their names; therefore, it was easier to look at the name on the identification. This request created a false impression that identification was required. Similarly, at a polling place in Philadelphia, Pennsylvania, poll workers asked the LEP voters to write their name on a piece of paper, creating a separate list of the Spanish-speaking voters who requested a ballot. The requests for identification and the creation of a separate list would not have been necessary if the polling places had poll workers who spoke the covered language.

The problems faced by LEP voters are persistent and consequential. In adding the language provisions to the Voting Rights Act, Congress recognized that a history of discrimination and unequal access to the polls resulted in continued discrimination. However, true access to the electoral process for language minorities can only be achieved by proper implementation of the VRA protections.

Confusing and Misapplied Voter Identification Requirements

Americans who had problems with voter identification laws and rules accounted for 11 percent of all problems reported to Election Protection in 2012, the third most reported problem to Election Protection and an eight percentage point increase over 2008. One reason for this increase was the confusion sparked by the debate over restrictive photo identification laws that played out in statehouses and through the media across the country, most notably in Pennsylvania, where 27 percent of all problems reported to Election Protection were related to that state's law.

Problems were not by any means confined to states that had hotly debated, blocked, or newly implemented photo identification laws. Voters in states that had no changes to their requirements, such as Florida, Illinois, Michigan, New York, and Ohio also experienced problems in 2012, with the biggest relating to the misapplication of voter identification laws by poll workers.

Requiring Photo Identification When Not Required

Election Protection always receives calls to the 1-866-OUR-VOTE Hotline reporting that poll workers are demanding voters show photo identification in states with no such requirement. Election Protection was concerned throughout 2012 that the national debate around these laws could increase this problem for voters. The Coalition took extra steps, through public education campaigns and advocacy with election officials, to try and reduce this confusion. However, Election Protection still received reports from across the country of poll workers demanding photo identification when it was not required.

Voters from precincts across California, including Corona, Escondido, Fresno, Los Angeles, and Riverside, reported poll workers improperly asking for photo identification and, in some locations, actually turning voters without it away. In Minnesota, Election Protection received reports that the identification laws were being applied and misapplied inconsistently (an unfortunate but not uncommon problem that has been reported in several states). For

FEATURED FACTS

- Voter ID accounted for 11% of all problems reported to Election Protection in 2012, the third most reported problem.
- 27% of all problems reported by Pennsylvania voters were related to voter ID requirements.

example, in one polling place some elderly Hmong voters were asked to provide identification, while a white person, in line directly behind the Hmong voters, who was getting out identification was told not to worry about providing it.

Additionally, there were reports of poll workers who enforced a stricter identification requirement than required by law. One voter in Erie County, Pennsylvania, was turned away for lack of photo identification and told that “some places may not require identification, but this one does.”

The misapplication of Michigan’s voter identification law has been a long-running problem in the state, and 2012 was no different. Michigan requires voters to present a government-issued photo identification in order to vote but allows voters without it to still cast a regular ballot if they sign an affidavit. Election Protection received reports from voters who were being turned away because they did not have photo identification or who were not initially offered an affidavit and had to press poll workers before being allowed to sign one and vote. This problem was reported in Detroit, Oakland County, Macomb County, Benton Harbor, Grand Rapids, Dearborn, Warren, and Waterford. In Royal Oak, Michigan, a voter reported that while she was waiting in a long line at the Emanuel Bethel Church polling location, a woman was standing outside shouting at the people in line, “Don’t forget you need your identification to vote.” When the voter questioned a poll worker on the validity of this statement, the poll worker stated that it was true. However, when the voter persisted, the poll worker finally admitted no identification was required.

Improper Address Verification

Voter identification laws are meant to verify identity, not residence. Therefore, many states do not require that a voter’s identification match his or her registration address. Yet, every election cycle Election Protection receives reports from voters who have their identification wrongly rejected for mismatching addresses or a lack of an address.

Voters across Ohio consistently experienced this problem in past elections. In Ohio, voters are required to present identification from a list of photo and non-photo identification to cast a regular ballot. State law permits acceptance of photo identification such as a drivers’ licenses with outdated addresses as long as the voter is properly registered at their current

address. Non-photo identification, on the other hand, must have an address that matches the voter's registration address. Election Protection received reports from voters across the state who, because their photo identification address did not match, were improperly forced to vote a provisional ballot or to produce additional identification that was not required by law or were improperly turned away. For example, an Election Protection volunteer overheard a poll worker turning voters away for photo identification address mismatches while waiting to vote. When questioned, the poll workers and poll judge were confident that they were applying the rules properly, even pulling out the training notebook. Only when pressed did the poll judge discover that she had been relying on only part of the page and had in fact missed the section where it properly explained the procedure.

Confusion over Recent Identification Law Changes

Last minute changes to identification laws also contributed to confusion and the misapplication of the requirements. Election Protection received numerous reports of confusion and problems in four states that had recent voter identification law changes – Pennsylvania, Texas, Virginia, and Tennessee.

No state was more illustrative of this problem than Pennsylvania. Twenty-seven percent of all problems reported to Election Protection by Pennsylvania voters were related to voter identification requirements. As a result of a court injunction in early October 2012, poll workers were required to request government-issued photo identification from voters, but voters who did not have photo identification could, under most circumstances, cast a regular ballot. Confusion over this ruling was exacerbated by ads produced by the Department of State, which stated, "If you have it, SHOW IT." In addition, it also sent a mailing the week before the election that read, "If you want to vote, SHOW IT....Under a new law, voters are supposed to show a form of ID." Neither the ads nor the mailer contained any mention that while identification would be requested, voters without the identification could still vote a regular ballot on Election Day. Polling places did little to alleviate this problem by posting misinformation about photo identification requirements. Voters in polling places in Dauphin County, for example, were greeted with misleading signs stating that voters must show an approved form of photo identification to vote. Even more troubling, poll workers in some Pennsylvania precincts insisted that voters show photo identification in order to get a ballot.

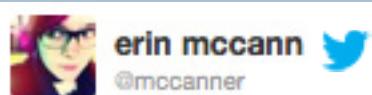
One voter in Erie County, Pennsylvania, was turned away for lack of photo identification and told that “some places may not require identification, but this one does.”

Many informed voters, however, asserted their rights, declining to show identification when asked. In some instances, these voters reported poll workers becoming defensive and hostile, asking why they would not cooperate and accusing them of being “difficult.” For example, one voter in the Pittsburgh neighborhood of Highland Park was told that photo identification was required to vote; however, since she was not a first time voter and

the new voter identification law was not in effect, this requirement did not apply to her. She remained steadfast in asserting her right to vote without showing photo identification, resulting in another poll worker approaching her and agreeing that she did not need photo identification to vote.



#VOTINGRIGHTS



The PA voter ID signs my dad (and his beard) took down pic.twitter.com/rjvJJyGc

Reply Retweet Favorite More



Throughout Election Day, hundreds of Election Protection volunteers were at the polls, informing voters of their rights and providing them correct information about the law. They were integral in getting misleading signs taken down and relaying problems with poll workers to Election Protection command centers in Philadelphia, Harrisburg, and Pittsburgh so that Election Protection leadership could talk to local officials, and in some instances, go to court to obtain resolution.

In addition to Pennsylvania, there was confusion in Texas over the state’s voter identification laws. In 2011, Texas passed one of the most restrictive photo identification laws in the country. In August 2012, a federal court in Washington, D.C., denied preclearance of the law under Section 5 of the Voting Rights Act. Despite this victory, voters and poll workers were unclear about what identification was required. Election Protection received reports of voters who were told they needed to present photo identification. For example, in San Antonio, two voters called the Hotline to report that poll workers were making voters, who presented unsigned voter registration certificates, sign and then present an identification to compare signatures. Another voter in San Antonio was told she needed to present a

driver's license. The voter asked to speak to an election judge who told her the same. The voter protested but eventually showed her license and voted a regular ballot. Election Protection asked the county clerk to inform the poll workers of the law.

Last minute changes to identification requirements in Virginia also caused problems. Prior to the 2012 elections, Virginia's legislature eliminated the provision that allowed voters to prove their identity at the polls by signing an affidavit. This was replaced with a requirement that voters provide one of several specified forms photo and non-photo identification in order to receive a ballot. Election Protection worked tirelessly to ensure that voters received information about the new requirement. Nevertheless, there were still problems come Election Day. Election Protection received reports across the state of poll workers allowing only photo identification or demanding multiple forms of identification. For example, at the Cuffee Center in Chesapeake, Virginia, voters reported being asked for multiple forms of identification, even after presenting a voter registration card that should have been sufficient. A voter in Centreville reported waiting in line for an hour and a half, only to be asked to show photo identification. He knew that a non-photo form was acceptable but showed his driver's license nonetheless.

Tennessee voters were required to show government-issued photo identification in order to vote in 2012 for the first time. However, a late October 2012 court ruling stated that municipalities, such as Memphis, were agents of the state and deemed that city library cards with photos would be acceptable for the purposes of voting. In response to this victory, many Memphis voters went to the polls during early voting to cast ballots using their library card as identification. At the same time, however, Tennessee Secretary of State Tre Hargett directed Shelby County (where Memphis is located) election officials not to accept the library cards pending his appeal of the decision to the Tennessee Supreme Court. As a result, voters who went to the polls and presented their library cards – including a Tennessee state judge in Memphis – were told that they would have to cast a provisional ballot, which under the law would not be counted unless an acceptable identification was provided before November 8. On November 1, the Tennessee Supreme Court weighed in, declining to block use of library cards, stating that the "right to vote has profound constitutional significance." In response, Election Protection sponsored automated telephone calls to targeted groups in Shelby County to get out the word that voters could use their Memphis library card. Although the Memphis library card dispute ended with a victory for voting rights advocates,

At the Cuffee Center in Chesapeake, Virginia, voters reported being asked for multiple forms of identification, even after presenting a voter registration card that should have been sufficient.

Election Day confusion and problems surrounding voter identification persisted. Notably, voters reported poll workers requiring them to show both a form of photo identification and their voter registration card, though the photo identification alone should have been acceptable for the majority of voters. Election Protection also took calls from voters across Tennessee with questions about what was needed when they went to the polls.

Challenges to Voter Eligibility

A potentially drastic increase in the practice of challenging the eligibility of voters was of great concern to Election Protection in the months before the November 2012 election. Voter challengers refer to individuals from political parties or those acting as private citizens who lodge challenges to the eligibility of people presenting themselves to vote either before or on Election Day. State laws vary greatly as to who can lodge a challenge and what is required in terms of evidence and standing. However, it is important to distinguish between the routine presence of non-disruptive challengers and the actions of challengers who are either not sanctioned to be in the polling place or are abusing their opportunity to be there. Eligible voters should be given the opportunity to vote in an atmosphere free from unlawful intimidation and discrimination.

Pre-Election Day Challenges

There was also a large uptick in pre-election day challenges of registered voters in some states, including Ohio, due in large part to the Ohio Voter Integrity Project. In Hamilton County, a single person representing the Ohio Voter Integrity Project challenged 380 voters at once. However, over 90 percent of the challenges were dismissed outright by the Hamilton County Board of Elections because the voter challenges were based on limited evidence and non-qualifying grounds, such as a missing dormitory or apartment unit numbers. Cuyahoga County dismissed all 241 challenges submitted to the Board, while Lucas County dismissed the 131 challenges lodged there, and Franklin County dismissed all 308. According to the Ohio Voter Integrity Project itself, challenges were also submitted in Montgomery, Butler, Franklin, Delaware, Fairfield, Lorain, Lake, Portage, Stark, and Wayne Counties.

In North Carolina, during the early half of 2012, an individual associated with the North Carolina-based Voter Integrity Project filed 550 voter challengers in Wake County, based on an analysis of jury ineligibility lists. The vast majority of these challenges were dismissed outright, while the Wake County Board of Elections agreed to further investigate 18 of them. These types of en-masse challenges can place a significant burden on local election systems and deter eligible Americans from voting.

Challenges to Voter Eligibility

Election Protection received reports that organized voter challenger campaigns were being planned in preparation for the November 2012 Election. A new national organization, True the Vote, was said to be recruiting one million volunteers to challenge voters across the country. Election Protection distributed challenger protocols to its field volunteers, instructing them on how to identify challengers who were acting in a disruptive manner and how to help to resolve such situations in a non-confrontational manner.

In addition, Election Protection sent an open letter to state and county election officials across the country, expressing concerns about improper and aggressive challenge tactics that might infringe upon the rights of voters. Election officials were asked to emphasize the vital role of poll workers as gatekeepers in preventing illegal voter intimidation and suppression, as well as to develop plans to ensure that lawful challenges did not result in long lines or otherwise disrupt the voting process.

Despite the substantial speculation about and reported plans for mass Election Day challengers, there were thankfully fewer reports of challenger activities than anticipated, both during early voting and on Election Day. However, in certain states, such as Ohio, Pennsylvania, and California, there were significant challenger issues that warrant consideration for future elections.

In Ohio, True the Vote attempted to place election observers at some polling locations, seemingly in violation of the law in some cases. The day before Election Day, the Franklin County Board of Elections determined that True the Vote had likely falsified the forms submitted for its challengers to serve as general election observers, despite the clear warning on the forms that read “election falsification is a 5th degree felony.” The forms were unanimously rejected by all members of the County Board, and the True the Vote challengers were not permitted inside Franklin County polling locations to observe.

Pennsylvania also had questionable challengers. On the eve of the election, Election Protection Coalition partner SEIU obtained information suggesting that Election Day poll watchers were being assigned disproportionately to majority African-American precincts in Allegheny County, which includes the city of Pittsburgh. From a partial list of targeted precincts distributed at a poll watcher training

It is unknown how many eligible Americans were deterred from showing up to vote because of the threat of intimidation posed by potential challengers.



**Election Protection
volunteers at the
National Command
Center on Election
Day.**

conducted by a non-governmental entity, Election Protection learned that 111 precincts out of a total of 1,319 in the county were being targeted. These precincts did not have a history of voter fraud and were predominantly, and disproportionately, African-American. Specifically, the targeted precincts were over 79 percent African-American, whereas the non-targeted precincts contained, on average, fewer than 11 percent African-Americans. And although the targeted precincts included only three percent of the total number of voters in Allegheny County, they contained 18.5 percent of the registered African-American voters. In response to this apparent targeting of minority precincts, the Lawyers' Committee for Civil Rights Under Law joined with SEIU and other prominent national and Pennsylvania state civil rights organizations to submit a letter to U.S. Assistant Attorney General Thomas Perez requesting that U.S. Department of Justice monitors make every effort to ensure that voters at the targeted precincts were able to cast their votes freely and fairly on Election Day. Fortunately, there were no complaints of voters at any of these precincts or others being impeded by unfair challenges on Election Day.

There were also challengers in California. At the Orange Cove polling location in Fresno County, there were multiple poll observers, all of whom were part of the "Election Integrity Project," an organization affiliated with True the Vote. There were four to seven of these observers present in the parking lot and polling room for most of the morning on Election Day. Voters reported feeling intimidated by this significant number of observers. After requests to limit the number of observers, an Election Protection volunteer was threatened with imprisonment and fines. In Southern California, there were widespread instances of improper voter identification requests and hostility toward Election Protection volunteers. In Orange County at the Country Villa Plaza Precinct, Election Integrity Project observers positioned themselves right over voters and watched how the voters were marking their ballots, creating an intimidating atmosphere.

Requests for Voter Purges

Organizations also attempted to remove voters from the rolls using the National Voter Registration Act. In late July 2012, True the Vote and Judicial Watch sent a notice of intent to sue letter under the NVRA to 160 counties in 15 states, including over 20 counties in Illinois and 15 in Michigan. The letter alleged that the number of registered voters exceeded the number of eligible voters in each county and concluded that counties were thereby violating the NVRA mandate to conduct periodic list maintenance programs, so they demanded that the clerks purge their voter rolls of ineligible voters or face a lawsuit. However, under the NVRA, states are also prohibited from conducting a systematic list maintenance purge within 90 days of a general or primary election for federal office – the “quiet period” – otherwise, eligible voters could be purged from the rolls with no recourse on Election Day. In response to the letters, Election Protection partners sent a letter, advising clerks of the 90-day “quiet period.” Clerks responded to Election Protection’s letter, assuring that voters would not be purged during the prohibited period.

Improper Training of Poll Workers

Misinformation provided by third-party groups to poll workers is problematic and can exacerbate polling place problems on Election Day. Election Protection partners uncovered a number of instances where third party groups provided incorrect information to poll workers.

In Ohio, it was reported that True the Vote volunteers were recruiting and placing poll workers inside polling locations and providing unauthorized third-party training to their poll workers in major urban counties, such as Hamilton and Franklin, with a focus on placement in African-American districts. The League of Women Voters of Ohio notified and expressed concern to Ohio Secretary of State Jon Husted about the outside trainings being conducted, but received no response. It is unclear what, if any, corrective steps the Secretary’s office took in response.

True the Vote in New Mexico released a poll challenger training video that told challengers-in-training that they could ask for identification from voters in various situations. However, under New Mexico law, poll challengers cannot demand to see a voter’s identification. In a separate, secret video released by Progress Now New Mexico, the vice chair of the Sandoval County Republican Party was seen telling prospective poll challengers to demand photo identification, and if voters did not have photo identification, to tell them that they would need to vote provisionally. Again, this runs counter to current New Mexico law.

While the threat of challengers was not as great as expected, there were reports into Election Protection that voter challenges did create unnecessary confusion, delays, and uncertainty at the polls. It is also unknown how many eligible Americans were deterred from showing up to vote because of the threat of intimidation posed by potential challengers.

Deceptive Election Practices and Voter Intimidation

Nearly 50 years after the enactment of the Voting Rights Act, deceptive election practices and voter intimidation continue to be an all too common part of our nation's elections. Deceptive practices are the dissemination of false or misleading information about elections and the voting process in order to alter the outcome of the election and to prevent eligible Americans from casting their ballots. These tactics are not new and often target traditionally disenfranchised communities – including communities of color, persons with low income, seniors, and young people. Often, deceptive practices take the form of flyers or robocalls giving false information to voters about the time, place, and manner of elections or penalties associated with voting. As we enter the digital age we begin to see more sophisticated and nuanced tactics to spread misinformation like using text messages, emails, Facebook posts, and messages on Twitter.

Like many of the other recurring problems encountered in 2012, the tactics to disseminate misinformation or the types of messages in many cases did not change—in fact the same message to confuse voters on straight-ticket voting resurfaced and spread to a number of states, including Michigan, North Carolina, Pennsylvania, and Texas. But deceptive practices and voter intimidation started earlier than usual with misleading robocalls, live phone calls, and websites popping up in early September, two months many before voters went to the polls. In states with heavy turnout during the early vote period like Ohio, intimidating billboards surfaced in early October.

In the summer of 2012, the Lawyers' Committee for Civil Rights Under Law and Common Cause released a report, *Deceptive Election Practices and Voter Intimidation: The Need for Voter Protection* (<http://DReport.lawyerscommittee.org>), illustrating the continuous attempts to misinform voters and the challenges in addressing the problem.

Deceptive Phone Calls

In early September, Election Protection learned about a deceptive robocall targeting voters in Indiana from an organization identifying itself as Vote USA. The suspicious phone call incorrectly informed voters of the ability to vote early and over the phone, due to

the possibility of long lines at the polls on Election Day. When Indiana Secretary of State Connie Lawson learned about the robocalls she quickly advised Hoosiers to ignore phone calls offering over-the-phone voting.

In October, Election Protection received reports of similar calls from an unidentified source making its way through Florida and Virginia telling recipients they could vote by phone, but this time the calls were live, not automated messages. In Florida, the callers said "the Supervisor of Elections authorized us to take your vote by phone." The callers had the voters' names, addresses, and party affiliations and said they only needed a few more pieces of information to accept the recipients' votes. Like Indiana officials, the Virginia State Board of Elections advised Virginians to ignore phone calls offering over-the-phone voting.

Arizona voters called the 1-866-OUR-VOTE Hotline in late October to report robocalls from Congressman Jeff Flake's campaign for U.S. Senate that was giving recipients wrong polling place information. The calls were not isolated to one specific area with reports coming from all over the state. Flake's campaign denied that the incorrect information was sent intentionally and stated that the majority of the calls actually gave correct information. Local partners issued a press release warning voters that they may have received incorrect information and to call the 1-866-OUR-VOTE or 1-888-VE-Y-VOTA Hotlines to clarify their polling location.

Fake Websites, Emails, and Social Media

In late September, Election Protection learned of a website described by the Louisiana Secretary of State as a "fraudulent registration website." The site, www.registertovote.org, claimed to be able to register citizens to vote but collected more information than many states required to register and, as was stated in its privacy policy, distributed voter information to third parties for marketing and advertising purposes. This

 [Election Protection](#) shared a link.
October 16, 2012

If you have received a deceptive phone call explaining that you can vote over the phone, please call 1-866-OUR-VOTE. No state allows over the phone voting.

Spread the word!



[Deceptive Calls Received in Florida and Virginia | News | Election Protection](#)
www.866ourvote.org

The Election Protection hotline has received reports of voters in Florida

Like · Comment · Share  14  36

Election Protection puts the word out on Facebook about deceptive phone calls.

website was linked to on such pages as Yahoo Questions, Ask.com, Facebook, the online classifieds website Craigslist, and the news aggregator website Reddit. The Louisiana Secretary of State and Election Protection urged voters to obtain registration materials only through their state or local election officials or other reliable sources with strong privacy policies.

Election Protection also came across emails being circulated to voters regarding straight-ticket voting rules, with some claiming that voters must take certain actions to ensure that their votes will count. These emails were circulated to voters in several states including Florida, Michigan, North Carolina, and Texas, and claimed to have been “verified” through Snopes.com or other websites but left out critical information, causing confusion for voters on how to straight-ticket vote in their states and potentially invalidating parts of their ballot if they followed the email’s advice.

In monitoring and responding to voter questions on Facebook and Twitter, Election Protection received dozens of questions on Election Day about a fast-circulating rumor that if a voter took a picture of their ballot and posted it on Facebook or other social media, their vote would not count. Although many states have laws in place prohibiting phones, cameras, and similar devices in polling places, enforcing this law (or invalidating a voter’s already-cast ballot) would be difficult, if not impossible.

DIGITAL IMPACT

- From August to Election Day, over **242,000** people visited www.866OurVote.org
- Over **10,000** people downloaded the Election Protection Smartphone App
- The most popular tweet by @866OurVote on Election Day reached over **3.4 million** people

Other rumors that spread through social media were not quite so harmless. The perennial rumor that, due to high turnout, voters from a certain party would vote the following day, made the rounds, as did rumors that unpaid parking tickets or other minor violations would invalidate one’s vote or lead to arrest. These rumors are not only completely false, but they are also invidious in that they seek to trick otherwise eligible voters into not voting.

Internet and social media can be used to reach a wide audience and disseminate valuable, timely information—Election Protection used both the www.866OurVote.org website and the @866OurVote Twitter account to correct misleading and false information. But at their worst, they can be vehicles for unverified rumors and harmful half-truths to spread quickly.

Misleading or incorrect flyers and letters

One of the most common forms of deceptive practice are flyers or letter printed on official looking letterhead with incorrect information about the voting process. One example of this deceptive practice during the 2012 election happened in Florida. In mid-October, misleading letters, purporting to be from the Supervisor of Elections, were sent to predominantly Republican voters in Florida. The letter questioned the voter's citizenship status and informed the voter that failure to take the measures described in the letter within 15 days will make him or her ineligible to vote. Florida Secretary of State Ken Detzner advised any voter who received the letter to contact their county elections office to report the potential case of fraud. One of the indicators that the letter was fraudulent was the lack of a the signature by the county's Supervisor of Elections, and the requirement of a 15 day limit to provide original documentation in person.

Voter Intimidation

Seven percent of the problems reported to Election Protection in 2012 were directly categorized as voter intimidation. While the callers that reported these incidents stood up to the intimidating tactics and were able to cast a ballot, it is unknown how many American voters were deterred by these nefarious tactics.

Throughout California, Election Protection field volunteers reported witnessing voter intimidation in predominately Latino precincts. In a precinct in San Diego County, a Latino voter was called a racial slur by a poll worker who heard his Spanish surname. Although another poll worker was able to assist this voter and provide him a ballot, invidious and discriminatory racial slurs of this kind can intimidate voters and dissuade them from casting a vote or returning for future elections.

In San Bernardino, California, the polling place supervisor ordered two Latino Election Protection volunteers to be removed from the premises, stating that he did not want anyone who did not speak his language there. The supervisor then stated that if the volunteers wanted to do anything about it "he had a shotgun." And in Fresno, voters reported feeling very uncomfortable with comments made by the polling place supervisor, who was primarily targeting Latino voters and telling them, "I hope you are voting for the right person." In both instances, Election Protection contacted the County Registrars, who addressed the problems.

Menacing billboards that appeared in predominantly African-American and Latino neighborhoods in Ohio and Wisconsin in the middle of October were another form of voter intimidation. While the statement on the billboards, “VOTER FRAUD IS A FELONY! Up to 3 ½ YRS & \$10,000 Fine” was technically true, the fact that these billboards were only placed in communities of color implied that these voters were more likely to commit voter fraud, and members of the community felt they were being unfairly targeted. Under pressure from the Election Protection Coalition and local partners, the billboards were removed. To counter the effect of those billboards, new billboards with empowering messages that promoted the 1-866-OUR-VOTE Hotline were posted by Election Protection in the same neighborhoods.

Deceptive election practices and voter intimidation are unfortunate and ugly realities in our electoral system. In order to effectively combat these acts of bullying and the other recurring problems that threaten our democracy, we need stronger laws to address them.

Section 5

A WAY FORWARD POLICY RECOMMENDATIONS FOR IMPROVED ELECTIONS

This report has documented that the 2012 elections in many ways featured more of the same breakdowns with our system of elections that ultimately led to too many Americans unable to vote despite doing all they could to cast a ballot. There were widespread efforts to pass restrictive photo identification laws and other measures that made it difficult or impossible for certain Americans to vote. However, many of the problems voters encountered in 2012 mirrored those of past years: voters turned away or being forced to cast a provisional ballot due to problems with our antiquated voter registration system; inadequately trained poll workers misapplying voter identification laws or mismanaging polling sites; confusion over polling locations, problems with absentee voting, long lines; and deceptive and intimidating practices.

The American public deserves better, and the time is long overdue for our elected leaders to put partisan differences and personal political expedience aside and create a voting system that lives up to the ideals of our democracy. Although the Constitution grants primary responsibility for elections to the states, the solutions to our nation's voting problems are not confined to state houses. Federal and state governments have an important and substantial role to play in enacting uniform standards and laws that ensure that all eligible voters, no matter their state, are able to vote free from bureaucratic errors, long lines, or intimidation.

America's electoral system is in desperate need of substantial updating and overhaul and this requires a long-term strategy.

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Today's America is a technologically advanced society with a diverse and mobile voting population which deserves an equally advanced electoral system. The recommendations below are part of a multifaceted approach toward achieving this goal.¹

Creating a Modern Voter Registration System

For the second consecutive presidential election cycle, one-third of all reports made to Election Protection were related to our antiquated system of voter registration. In 2012, Election Protection once again documented too many cases of Americans standing in long lines only to be told they were not on the voting rolls. Registration errors diverted resources away from other priorities like recruiting and training poll workers and processing absentee ballot requests, increased the use and misuse of provisional ballots, and led to confusion that exacerbated long lines at many polling places. These and other recurring voter registration problems that voters encountered in past elections and continued in 2012 further illustrate that state legislatures and Congress need to create a modern system of voter registration that requires states to share the responsibility to register eligible voters so that these voters are not prevented from voting.

A modern voter registration system – as outlined below – is one that is: convenient, using new technology to register voters online or automatically when they give their consent while interacting with the government; portable, moving with voters when they move; and provides a failsafe so all eligible Americans who responsibly take steps to register are not turned away on Election Day.

Making Registration Convenient

The voter registration rate in this country is a problem. A report released by the Pew Center on the States in 2012 found that one out of every four eligible Americans is not registered to vote. By modernizing our registration system we can add up to 50 million new voters to the rolls while saving state and local governments' money in the long-term. Our elected officials must enact policies that apply new technology to make voter registration more convenient. This can be achieved by using government databases to register eligible citizens who opt in when they interact with a government agency, providing Americans with the choice to register online and allowing 16 year olds the ability to pre-register.

Every state is currently required, by the National Voter Registration Act of 1993, to provide the opportunity to register to vote to eligible citizens during transactions at motor vehicle

¹ NOTE: The policy prescriptions contained in this section reflect the policy priorities for the Lawyers' Committee for Civil Rights Under Law and are not indicative of an endorsement by the Election Protection Coalition as a whole.

department offices and social services agencies. Additionally, every state is required to digitize its voter rolls under the Help American Vote Act. But, in most states voters must fill out a piece of paper that is processed by government officials to get on the digital voter rolls. States and the federal government should enact policies that require all government agencies to provide voter registration services to all eligible citizens who affirmatively wish to register or update their registration information and automatically process those registrations through online databases so registrations are processed accurately and efficiently. The technology clearly exists. According to the National Conference on State Legislatures (NCSL), at least 22 states have taken steps to automate the registration process at department of motor vehicles offices. All government offices should be incorporated into these programs and it needs to be expanded to all 50 states so every American has equal access to this important reform.

Fifteen states allow voters who wish to do so to register to vote and update their registration online, as reported by NCSL. The majority of modern transactions have moved online and the option to register to vote should be no different. States that have implemented online voter registration have shown that the reform is highly popular, efficient, and cost-saving. For example, the Arizona Secretary of State reported that over 70 percent of all voter registrations in that state are now performed online.

Our nation's school systems provide an excellent opportunity to register voters and enhance our young peoples' understanding of their civic right. That opportunity could be greatly expanded if all states allowed citizens under the age of 16 the ability to pre-register. Citizens between the ages of 16 and 18 would not be able to vote, but could be put on conditional voter rolls and have their records automatically activated when they turn 18.

Portable Registration

A person's voter registration should move with them rather than the current system where voters are required to update their voter registration when they move across the city or across the country. The National Voter Registration Act allows states to begin the process of removing voters from voter rolls when they change their address. Why should jurisdictions not use the same process to keep voters on the rolls properly? During these tough economic times American society is becoming more mobile as more people move around to find jobs. Making voter registration portable is a common sense reform that will ensure that no responsibly registered voter is unable to vote. States and the federal

By modernizing our registration system we can add up to 50 million new voters to the rolls while saving state and local governments' money in the long-term.

government should enact policies that allow voters to affirmatively update their registration information when they move through national change of address and other means.

Same-Day Registration

One of the most difficult calls Election Protection volunteers have to take are from eligible Americans who did everything right, but were told they are not on the rolls when they went to their polling place, and have no recourse under state law that will allow them to cast a ballot that will ultimately count. Every state should have a failsafe so that any eligible American is able to register to vote or update their registration at the polling place on Election Day. According to NCSL, eleven states have taken the responsibility to provide same-day registration to their eligible citizens in a secure and efficient manner. Any proposal to create a modern voter registration system must provide this important fail safe.

This concept of a modern voter registration system, described above, is a comprehensive approach to overhauling the primary way in which voters register, maintain, and update their registration. Taken together, the reverberating effects of such a change are momentous. If implemented correctly, these basic changes could help to correct the following problems almost immediately: under-registration of traditionally disenfranchised communities, including people of color, low income, students, elderly, people with disabilities and more; error-riddled and inaccurate voter registration lists; challenges to registration status and the misuse and overuse of provisional ballots because of clerical errors; and the ever growing costs associated with our current paper-based voter registration system.

Early and Absentee Voting

In 2008, nearly eight million Americans voted early in Florida, Georgia, and Ohio. An estimated one million to two million of these voters voted on days eliminated by recent legislation cutting back on early voting. The unnecessary barriers and confusion in the 2012 elections created as a result of these limitations is the exact opposite of what should be encountered in the world's leading democracy. Furthermore, as this report highlights, the problems created by a natural disaster (like Superstorm Sandy) can be multiplied when the majority of its citizens vote on a single day.

The right to vote is one our nation's most fundamental rights. Voting should be accessible, without having to stand in several hour-long lines, and states should invest in a responsible system of early voting so that every eligible American citizen, including working parents and Americans with disabilities, has the opportunity to vote when it is convenient. Election Protection's experience in this and past elections has shown that states that provide



expanded and innovative ways to vote early – like North Carolina and Nevada – experience less problems on Election Day. Conversely, states that limited their early voting opportunities – like Florida and Ohio – experienced long lines and increased confusion and problems.

Every state should provide uniform opportunities for its citizens to vote early in person. In-person voting should provide adequate opportunities to vote in the evening and on weekends. Standards must be put in place so early voting locations must, to the greatest extent practicable, be accessible by public transportation, equitably dispersed throughout the voting jurisdiction, have adequate parking and voting machines, and be accessible to people with disabilities. Additionally, states should expand existing absentee voting procedures to allow all registered voters, regardless of reason, the ability to vote absentee.

First responders were forced to choose between returning home to vote and continuing relief efforts after Superstorm Sandy.

Uniform Standards

The problems described throughout this report can be alleviated to a great degree by the adoption of uniform standards both at the state and federal level. Throughout the lifetime of the Election Protection program, there have been proposals to create uniform standards to protect the rights of voters. Given the constant problems that arise every election cycle, it is more important than ever that uniform standards are considered and adopted. Standards could address a wide range of problems that plague voters: absentee/early voting; resource allocation, use and counting of provisional ballots, accessibility and assistance, contingency planning, and communicating with the public.

These uniform standards can be implemented through the adoption of Election Administration Plans (EAPs). EAPs are a simple, straightforward, and workable concept

that provides a mechanism for election officials to effectively plan for all aspects of the election process. They are a written plan that covers the major components of running a successful election. It is a proven model that can fundamentally improve elections and thus protect voters. There is a model to assess how EAPs can work. The settlement resulting from litigation against the state of Ohio, *League of Women Voters v. Brunner*, requires that all 88 Ohio counties produce Election Administration Plans prior to every federal primary and general election. The EAPs in Ohio must address the following areas: resource allocation; security; Election Day communication; materials; Election Day contingencies; poll worker recruitment, training, and accountability; voter registration; absentee ballots; and the production of a master calendar.

Coupling the requirement that jurisdictions complete an EAP with uniform standards can have a powerful impact on the problems that voters consistently experience. For example, the long lines that have come to symbolize the problems with our elections can be addressed in significant ways by creating standards regarding the allocation of resources and the training of poll workers. Over 20 percent of the problems reported to the Hotline were documented as “polling place” problems. This could include a variety of issues, including improper information about polling place locations, limited resources such as machines, paper ballots, and more.

Unquestionably, some of these wait times could have been drastically shortened had the poll workers been properly trained.

While expanded early voting options provide increased voting opportunities and can reduce lines on Election Day, it is not the only solution. Disorganization, particularly at multi-precinct polling sites combined with malfunctioning machines, and poorly trained poll workers can be a recipe for chaos and voter frustration. For example, in Detroit, Michigan, the failure of poll workers to properly inform voters of whether they were waiting in the correct line led many voters to leave, frustrated at the prospect of waiting in the wrong line for hours. Unquestionably, some of these wait times could have been drastically shortened had the poll workers been properly trained. Standards that

address the number of electronic poll books at locations, supplementing the number of voting machines based on voting trends and population assessment, improving the way curbside voting is conducted, and authorizing the use of paper ballots as an alternative to machines when lines reach a critical mass can significantly improve elections. These standards included in the creation and implementation of an EAP can have a dramatic impact that makes long lines an anomaly, not the frequent factor they have become in our elections.

Current proposals in Congress that seek to alleviate long lines by incentivizing states and counties to adopt innovative strategies can be made stronger when coupled with minimum standards and a requirement that jurisdictions create EAPs.

Deceptive Practices and Voter Intimidation

Nearly 50 years after the passage of the Voting Rights Act too many Americans – particularly communities of color and young people – continue to be victimized by deceptive election practices and voter intimidation meant to prevent them from voting or tricking them into voting improperly. As was highlighted in the Recurring Problems section of this report, voters received deceptive live phone calls, robocalls, flyers, and online messages in states across the country in 2012. These nefarious tactics will continue until Congress and the states pass laws that provide counties and states with the tools necessary to stop dirty tricks and voter intimidation.

Deceptive election practices include the creation and distribution of resources listing the wrong date or time for the election, giving inaccurate information about voter ineligibility, or promoting false endorsements of candidates. Current law is clearly deficient in protecting voters' rights against these onerous practices. There needs to be a clear civil action to provide an additional deterrent and give more resources for enforcement officials to go after perpetrators of voter deception. Of course, once the false information has been disseminated, the damage has been done. A mechanism must be put in place to ensure the government quickly and widely publicizes corrective information so voters are not fooled by this activity.

Legislative Proposals

Currently, the primary federal vehicle that includes a version of such a comprehensive policy prescription is the Voter Empowerment Act (VEA), introduced by Congressman John Lewis (D-GA). This bill includes many of the major reforms just highlighted, including modernizing the voter registration system, same-day registration, online voter registration, and the criminalization of deceptive practices and voter caging. Congress should enact such policies that will lead to the long-term structural change of our electoral process. States should not wait for Congress to act, however. There are simple steps states can take now through executive action and administrative and legislative reform that can put in place part or all of the policies described above.



President Obama takes advantage of early voting.

Additionally, there are more narrowly focused bills that both the U.S. Congress and state legislators can pass to help alleviate a great number of the challenges voters faced during the election process. For example, on December 14, 2011, Senators Ben Cardin (D-MD) and Charles Schumer (D-NY) introduced a bill, *Deceptive Practices and Voter Intimidation Prevention Act of 2011*, to create tough criminal and civil penalties for those who use voter deception tactics. This bill will clarify the definition of deceptive practices for law enforcement officials, making it easier for these officials to prosecute perpetrators of deceptive practices. Moreover, the bill's criminal provisions create deterrence measures to prevent future acts intended to intimidate and mislead voters, and also ensure that perpetrators face real consequences when they mislead voters. Finally, the bill will also require the federal government to investigate allegations of deceptive practices. This is necessary so that it can take an active role in protecting voters against false information by immediately taking action and publicizing corrective information if it receives credible reports of deceptive voting practices. The immediate dissemination of this information will mitigate the potentially disenfranchising confusion perpetrators of these actions are trying to sow. Again, states should not wait for Congress to act. Three states – Connecticut, Minnesota, and Virginia – have already passed versions of a deceptive practices prevention law and other should follow suit.

Lastly, states and the federal government should pass legislation that would stop individuals or organizations from targeting particular groups of voters through the practice of “voter caging.” This particular form of intimidation and voter suppression occurs when an individual or group sends out a non-forwardable mass mailing, challenging voters whose mailings are returned. Legislation such as that introduced by Senator Sheldon Whitehouse (D-RI) in the 112th Congress would institute criminal penalties for individuals engaging in voter caging, protecting voters from disenfranchisement on Election Day should be enacted.

Section 6

CONCLUSION

For over 10 years, Election Protection has educated, empowered, and assisted voters so that they can cast a ballot that counts. Throughout those 10 years, voters have encountered the same problems that we can no longer continue to ignore. Only by modernizing our voter registration system, having clear laws to address deceptive practices and intimidation, and adopting uniform standards that are implemented with the use of well thought out election administration plans, can we hope to have a elections system worthy of our democracy.

STATE REPORTS

ALABAMA

PROGRAM

Alabama Election Protection organized a dispatch program in Birmingham, which was supported by the 1-866-OUR-VOTE Hotline. The dispatch program consisted of attorneys who were on call to investigate problems reported at precincts in the city.

Voters in Alabama encountered provisional ballot problems, attempted voter challenges, and confusion over the restoration of voting rights after felony convictions.

BEFORE ELECTION DAY

Attempted Challenger Activity

Election Protection became aware of a challenge to the right of the students of Oakwood University to vote in the county where they attend university. Oakwood University is a historically black university in Huntsville. It was reported to Election Protection that a representative from True the Vote had requested information about registered Oakwood students living on campus. Alabama state law affirms that students are entitled to register and vote as residents of the college community where they reside and are attending school. Oakwood University refused to respond to True the Vote's request for student information.

ELECTION DAY

Voter Registration

Through the 1-866-OUR-VOTE Hotline, Election Protection received a significant number of calls indicating that due to some failure in the registration process, eligible voters were erroneously provided provisional ballots in situations in which they should have received regular ballots. In some cases, eligible voters were not allowed to vote at all. One instance in particular involved a service member from Scottsboro who had registered during primary elections. When he went to vote, he was informed that he was not on the voter rolls. The voter was not provided the opportunity to vote a regular ballot, nor was he provided a provisional ballot. He was told that he would be registered for the next election.

2012 VOTING PROBLEMS IN ALABAMA



Felony Disenfranchisement

Confusion over the restoration of one's voting rights after a felony conviction was also a prominent problem in Alabama. A caller believed that his rights had been restored, but he did not have the certificate indicating that this was the case. Therefore, he could only vote a provisional ballot.

ARIZONA

PROGRAM

The Election Protection program in Arizona focused on Phoenix and Tucson, with volunteers stationed at 196 precincts.

Election Protection received reports from Arizona voters of voter registration problems, absentee voting concerns, provisional ballot complications, and broken voting machines.

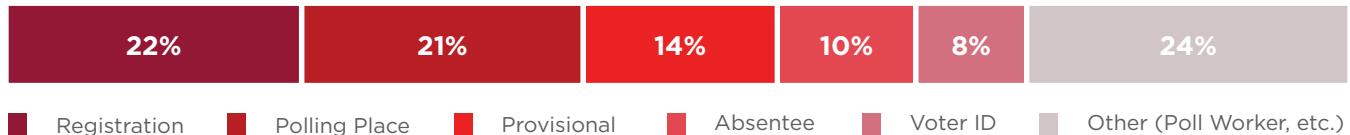
BEFORE ELECTION DAY

Prior to Election Day, most of the calls to the Election Protection Hotline from Arizona dealt with questions regarding voter identification requirements, voter registration, polling place location, and registration problems. Additionally, Election Protection volunteers assisted voters by informing them of their assigned polling place, registration requirements and deadlines, and the documents that would satisfy the voter identification requirements.

Registration by Mail

In Maricopa County, first time registrants who registered by mail using the Federal Mail-in Voter Registration Form were placed on a “suspense” list instead of the regular registration list if they failed to provide the last four numbers of their Social Security Number or other acceptable identification as required by the Help America Vote Act. As a result of being on the suspense list, these voters were not placed on the voter rolls used by poll workers to verify registration status on Election Day, nor were they sent early vote-by-mail ballots, even if they requested them by opting into the Permanent Early Voter List (“PEVL”). About 1,300 voters were affected in Maricopa County. The county sent these voters “Recorders Certificates,” which, if presented on Election Day along with the proper identification, would have allowed the voters to vote a regular ballot; however, poll workers were not trained on the process of accepting the certificates and local partners reported that many voters did not receive such certificates.

2012 VOTING PROBLEMS IN ARIZONA



Incorrect Spanish Language Materials

Prior to the election, the Maricopa County Recorder's office distributed some Spanish language materials with the incorrect election date. The county estimated that between 21 and 70 copies of the perforated document that surrounds the voter registration cards were distributed with the erroneous date. Also, approximately 2,000 copies of a bookmark with an incorrect election date were distributed to community organizations and at community outreach events. Election Protection leaders communicated their concerns about these documents to the county officials, who undertook a media campaign to inform Spanish-speaking voters of the correct date.

Litigation: Arizona v. Inter Tribal Council of Arizona, Inc.

Since 2006, the Lawyers' Committee, along with co-counsel, has engaged in litigation against the documentary proof of citizenship requirement when registering to vote in *Arizona v. Inter Tribal Council of Arizona, Inc.*, No. 12-71, a case presently before the United States Supreme Court. Plaintiffs are the Inter Tribal Council of Arizona, the Arizona Advocacy Network, LULAC, the League of Women Voters of Arizona, and Steve Gallardo. The case was filed against the state challenging a provision of Proposition 200, passed by the voters in 2004 in response to alleged concerns regarding undocumented immigration in the state. Among other obligations, Proposition 200 requires voters to present valid identification at the polls, and it institutes an additional requirement to show documentary proof of citizenship when registering to vote. The voter identification requirement has been upheld, but respondents were successful in challenging the proof of citizenship requirement at the Ninth Circuit Court of Appeals. The Ninth Circuit held that when a registrant applied by using the Federal Mail-in Voter Registration Form (as opposed to the state form created by Arizona), the only proof of citizenship he or she must provide is the attestation of citizenship requested by the federal form, meaning that the registrant must check a box and sign an attestation, swearing to U.S. citizenship under penalty of perjury. On March 18, 2013, the Supreme Court will hear oral argument in the case on the question of whether Arizona's application of its documentary proof of citizenship requirement to the Federal

Mail-in Registration Form violates the National Voter Registration Act. During the 2012 Election, the voter identification requirement was in effect, but, as a result of the ongoing litigation, the documentary proof of citizenship requirement was not applied to individuals who registered using the Federal Mail-in Voter Registration Form. Nonetheless, voters did face some problems with registration, as summarized below.

ELECTION DAY

Provisional Ballots

The widespread use of provisional ballots was the most pronounced problem in Arizona during the 2012 general election. The high number of provisional ballots, in combination with the hundreds of thousands of early ballots cast by mail, resulted in a two-week delay in the processing and tabulation of ballots. In Maricopa, the most populous county in the state, the number of provisional ballots cast exceeded 122,000, out of which approximately 22,000 did not count. One of the most common reasons why voters had to cast provisional ballots was that, according to Arizona law, voters who sign up to be on the "Permanent Early Voter List" (which allows voters to cast ballots by mail) must cast provisional ballots if they choose to vote in person on Election Day. In fact, approximately half of the provisional ballots cast in Maricopa County were from voters who were on the PEVL list, but voted in person instead of submitting their ballot by mail. However, many of these voters claimed that they were showing up to vote in person because they had not signed up for the PEVL, or because they had not received their ballots in the mail. Election Protection also received reports from voters who, according to the Secretary of State's website, were properly registered and went to the correct precinct, but were nevertheless not on the voter rolls.

Poll worker handling of provisional ballots was also a problem. Volunteers and voters reported that, far too often, poll workers issued provisional ballots before verifying that voters were at the correct precinct. Because only the provisional ballots cast at the correct precinct are counted in Arizona, the verification step is crucial. Some voters did not receive an explanation of how their provisional ballots would be processed, some were not given receipts to verify the status of their ballots, and some were not told the importance of being at the correct precinct. In one instance (at the Calvary Chapel polling place located at 14201 North 32nd Street, Phoenix) one voter's provisional ballot was placed in another voter's provisional ballot envelope. When the voter alerted the poll worker of the mistake, the poll worker incorrectly informed the voter that the mistake was inconsequential and that his vote would be counted under the other voter's name. After being notified by Election Protection leaders, County officials were able to isolate the two envelopes and ensure that

the valid vote was actually counted (one of the votes did not count because the voter had registered after the deadline). Election Protection volunteers also explained the provisional ballot process to voters and spoke to poll workers when they appeared to be misinformed about the proper use of provisional ballots.

Inadequate Parking and Signage

On Election Day, Election Protection became aware of polling places that lacked adequate parking (Heritage polling place), which resulted in voters driving away without voting, and polling places that lacked proper signage (Living Faith Christian Center at 4108 E. North Street, Phoenix; Kleiman polling place; 2107 W Broadway Rd., Mesa) and were extremely difficult to find. Election Protection leaders worked with Maricopa County officials to resolve these problems by displaying adequate signage to identify a polling place and sending troubleshooters when a polling place was running out of, or mishandling, provisional ballot envelopes.

Machine Problems

Throughout Yuma County, voters experienced long lines as a result of broken machines and dysfunctional printers. Voters reported that poll workers were instructing voters to go to another polling place, but after having waited in line at the initial polling place, voters became frustrated and went home. Voters in Yuma County could cast a ballot in any of its 11 “voting centers.” However, voters reported that the centers had insufficient supplies of paper ballots, and voters stood in long lines for the electronic machines. For example, at the Church of the Nazarene polling place on 1900 South Avenue, Yuma, voters had to wait approximately 90 minutes to vote at 7:00 a.m., even though there were only about 50 voters at the location. Although the polling place had four touch screen machines, only three were operable. The polling place also had a manual voting machine option, but the ballot printer was malfunctioning, therefore rendering it inoperable. Another voter reported similar problems at the polling place located at 6480 East Highway 95 in Yuma, where voters were being told to go elsewhere after having waited in line. Yuma County also reportedly posted on its Facebook page that there were technical problems at the 2200 West 28th Street polling location in Yuma. Election Protection leaders reported the problems to Election Officials in Yuma County, but did not receive a response.

CALIFORNIA

PROGRAM

In California, Election Protection organized field monitoring programs in San Francisco, Fresno, Los Angeles, Orange, Riverside, San Bernardino, and San Diego Counties. Additionally, Election Protection ran three local call centers in Los Angeles, which received calls from Los Angeles and Southern California, and two national call centers in San Francisco, which received calls from Central and Northern California, as well as from seven other states.

Major Election Protection reports in California included problems with provisional ballots, poll worker training, improper requests for voter identification, access to the polls, and voter intimidation.

BEFORE ELECTION DAY

Establishing Lines of Communication

In response to the inquiries and concerns expressed via the Election Protection Hotline and field programs, volunteers assisted voters by informing them of registration deadlines and requirements, looking up the location of their assigned polling place, and advising them how to check the status of absentee ballots. Prior to Election Day, local Election Protection leaders also met with county officials to voice concerns regarding the threat of intimidation by voter challengers, and Election Protection leaders were successful in working with the Secretary of State's office to clarify a conflict between California Elections Code section 14249 and the Help America Vote Act of 2002 ("HAVA") section 302(a)(2). Pursuant to the California Elections Code, a voter whose eligibility is challenged would have to take an oath prior to receiving a provisional ballot. Under HAVA, however, the only requirement for a challenged voter to obtain a provisional ballot is to execute a written affirmation in compliance with section 303(a)(2). In response to advocacy by Election Protection leaders, the Secretary of State's office issued a statement clarifying that the written affirmation prescribed by HAVA is the only requirement necessary in order for challenged voters to cast provisional ballots.

2012 VOTING PROBLEMS IN CALIFORNIA



ELECTION DAY

Provisional Ballots

When voting began, one of the most prominent problems reported to Election Protection in California was the overuse of provisional ballots. Election Protection field volunteers throughout the state observed poll workers issuing provisional ballots without first letting the voter know what was needed to cast a regular ballot. Some poll workers failed to inform the voter of their correct polling location or notify the voter that surrendering their “vote-by-mail” (absentee) ballot, if they had requested one, would allow them to vote a regular ballot instead of a provisional one. In East Palo Alto, voters were provided with provisional ballots at such a rate that the Hotline began receiving reports that the entire City Hall polling location had run out of provisional ballot envelopes before 10:00am. A poll worker in Los Angeles claimed not to understand the difference between a regular and provisional ballot, thinking that they were “pretty much identical.” Voters also widely reported that poll workers failed to explain the process by which provisional ballots are verified, therefore leaving voters confused about whether their vote would count. Election Protection volunteers informed voters of their right to cast provisional ballots and explained the process by which these are verified and counted. Election Protection also became aware that some poll workers turned voters away without allowing them to vote a provisional ballot. A voter in Sacramento reported to the same polling place where she voted during the last federal election, only to be told that she was not registered. The poll worker then denied the voter’s request for a provisional ballot, stating, “It’s not going to count anyways, so why bother?” Unfortunately, this voter was not able to return to the polling place before closing to request a ballot.

Voter Registration

Election Protection already received complaints from many voters who registered before the registration deadline, reporting that their names were not on the voter rolls, that they did not receive vote-by-mail ballots despite requesting them by the deadline, or that they were placed on the vote-by-mail list without having request such a change. A voter in Oakland,

who registered online in September, well before the registration deadline, contacted the County Registrar of Voters just before the election and was informed that he was not on the voter rolls. He was told that if he were to cast a provisional ballot it would likely not be accepted.

The problem with faulty voter rolls also affected those individuals who had voted in past elections. A voter in Ventura County (at the polling place located at 2520 Madera Circle, Port Hueneme, CA) who registered and voted in 2008, was not on the rolls in 2012 and was turned away without the opportunity to cast a provisional ballot. Similarly, a voter in San Mateo County (in Half Moon Bay) was told her name was not on the registration rolls, despite having registered and voted in 2010. A voter in Monterey Bay, who voted absentee in 2008 and 2010, did not receive his absentee ballot in 2012, and upon reporting to his polling place, he was told that his name was not on the voter roll. Likewise, a voter in Sonoma County (Camp Meeker) was not found on the voter roll at her usual polling place (Anderson Hall). In some California counties, polling places for certain precincts were closed by the counties, and voters had no option but to vote by mail or by provisional ballot at another precinct. This situation created confusion among voters.

Vote-by-Mail (Absentee Voting)

Although California allows any voter to register to vote by mail, voters encountered problems in the implementation of the vote-by-mail, or absentee voting process. A voter in Sacramento reported that about 20 voters at her polling place had to vote provisional ballots because they were told that they were on the absentee voter list, even though these voters did not request or receive absentee ballots. Similarly, a poll worker in San Mateo County (Redwood City, at McKinley Institute of Technology polling place) reported that approximately 20 out of 150 people from his precinct stated that they requested, but did not receive, absentee ballots. There were similar reports from voters in Riverside, Malibu, and other jurisdictions throughout the state. A California voter who was in Florida on Election Day was unable to return his ballot in time because he did not receive it in a timely fashion. A 99-year-old voter, committed to exercising her right to vote, had to be taken to the polling place in a wheel chair because her absentee ballot never arrived. The failure to provide absentee ballots in a timely fashion presented significant barriers and resulted in the disenfranchisement of out-of-state voters, voters with disabilities, and elderly voters.

Voters and volunteers also reported instances of poll worker misconduct and intimidation, as well as intimidation by third parties. In precincts throughout the state, including in Corona, Escondido (1130 Jackson Place), Fresno (2221 Kern Street), Los Angeles (3925 West 79th Street, 90045, and Wilshire Presbyterian Church Community Center), and Riverside, poll

workers improperly asked for voter identification before issuing ballots, even though the state has no such requirement. In some instances, voters were actually turned away for lack of identification (e.g. Our Lady of Victory Church polling place in Compton).

Voter Intimidation

In a polling location in San Diego County (728 Pepper Drive, El Cajon, CA), a Latino voter was called a racial slur by a poll worker who heard his Spanish surname. Another poll worker assisted this voter and provided him with a ballot. It is unknown if other voters were subjected to intimidating and discriminatory racial slurs that dissuaded them from casting a vote or returning for future elections. In San Bernardino (18021 Kenwood Avenue polling place), the polling place supervisor ordered two Latino Election Protection volunteers out of the premises, stating that he did not want anyone who did not speak his language there. The supervisor then stated that if the volunteers wanted to do anything about it, he "had a shotgun." In Fresno (North Side Christian Church polling place), voters reported feeling very uncomfortable with comments made by the polling place supervisor, who was primarily targeting Latino voters and telling them, "I hope you are voting for the right person." In both instances, Election Protection contacted the County registrars, who addressed the problems.

Also in Fresno County (at the Orange Cove polling place), challengers with Election Integrity, a Tea Party-affiliated group known for targeting minority voters with intimidation practices, stood approximately five feet from the ballot box and registration table and took notes as each voter announced his/her name and address to the poll worker. Voters reported feeling intimidated, but the poll workers refused to remove the challengers or limit the number of them allowed in the polling place. Instead, the poll workers accused the Election Protection volunteer of being union-affiliated and engaging in electioneering. They threatened the volunteer with arrest and imprisonment. However, the Election Integrity challengers were allowed to remain inside the polling place.

COLORADO

PROGRAM

In Colorado, Election Protection coordinated a 1-866-OUR-VOTE call center in Denver, which fielded calls from across the state. The Colorado Election Protection field program covered Adams, Arapahoe, Boulder, Denver, El Paso, Jefferson, La Plata, Larimer, Mesa, Montrose, Morgan, Pueblo, and Weld counties.

During the 2012 election season, Colorado voters were confronted with absentee voting problems, voter intimidation concerns, long lines, and registration problems, among other issues.

BEFORE ELECTION DAY

Proof of Citizenship Letters

Colorado Secretary of State Scott Gessler alleged that potentially 11,000 noncitizens in Colorado had registered to vote, and that 4,000 may have cast ballots in previous elections. The Secretary of State's office sent nearly 4,000 letters to individual registrants asking them to prove their citizenship or withdraw as registered voters. After the Secretary of State ran names through the federal Systematic Alien Verification for Entitlements (SAVE) database, it was determined that 141 noncitizens had registered to vote and that 35 may have cast ballots. If this was the case, these registrations represented .001% of Colorado's 3.5 million registered voters.

Further investigation revealed that it was unclear how accurate and current the information in the database was, and how many eligible citizens were identified incorrectly as noncitizens. While the Secretary of State's efforts did not reveal the number of noncitizens he had alleged, it did create an atmosphere in which some communities feared registering to vote or thought their registration might be invalidated. In order to alleviate concerns by the communities targeted by these letters, the Colorado Election Administration Work Group, a coalition of groups working on election reform and voting rights issues, reached out to the recipients to inform them that they were still eligible to vote.

2012 VOTING PROBLEMS IN COLORADO



■ Absentee ■ Registration ■ Intimidation ■ Polling Place ■ Voter ID ■ Other (Poll Worker, Language, etc.)

Online Registration

In Colorado, voters can register online through the state website, which includes a mobile-optimized version. However, there were problems with the state's website that complicated the registration process. A software glitch in the mobile site prevented approximately 800 people from registering between September 14 and September 24. Voters would receive an error message and were not allowed to complete and verify their registrations. Additionally, two calls were received by the Denver 1-866-OUR-VOTE call center from voters who had registered online but did not appear on the rolls. Luckily, these voters had printouts confirming their registration and were therefore able to vote a regular ballot. The call center did receive one report from a voter who claimed to have registered online but did not have any supporting documents and voted a provisional ballot. Secretary of State Gessler admitted that the site required more testing before its roll-out. The state made attempts to publicize that there was a problem with the site, although it is unknown how many of the new registrants were aware of the error and tried to re-register before the election. Emergency rules were put into place that permitted voters in this group to register to vote up to and on Election Day through the use of emergency registration or by voting a provisional ballot.

ELECTION DAY

On Election Day, the Hotline received reports from Colorado about long lines, machine breakdowns, and understaffing.

Long Lines and Voting by Mail

In Arapahoe County, there were reports of long lines almost as soon as the polls opened. Several factors accounted for the long lines. Some of the polling locations were understaffed and unprepared for the volume. In some cases, it could take an hour to reach the check-in desk of a polling location, and then another hour if a voter had to cast a provisional ballot. It appeared that a large number of voters on the vote-by-mail list showed up to vote in person and had to vote a provisional ballot, which further lengthened the lines. These

provisional ballots were matched with the mail-in ballot request list to ensure that a voter could not vote twice. In addition, Arapahoe County printed out ballots on demand instead of keeping printed ballots in stock on location. This led to a slowdown not experienced in other Colorado counties that kept printed ballots on hand.

As the number of individuals voting by mail continues to increase, it will remain imperative that Colorado counties, while considering efficiencies of fewer people voting in person, still maintain adequate funding and resources to handle a normal volume of voters. The added time necessary to process individuals who originally request to vote by mail, but then choose to cast ballots in person on Election Day, must be taken into account when considering these policy decisions.

Machine Problems

Colorado voters also reported machine breakdowns and an inadequate number of machines to handle the volume. Election Protection was successful in communicating with election officials and in helping to get additional voting machines deployed to these locations as needed.

Voter Identification

There were reports of poll workers asking only for a driver's license but, when the voter did not have one available, failing to request alternative forms of identification. In most cases, this was because of poorly trained election judges, and the voters were still allowed to vote a regular ballot.

FLORIDA

PROGRAM

On Election Day in Florida, Election Protection deployed over 200 legal volunteers, spread across Miami-Dade, Broward, Hillsborough, Orange and Leon Counties supported by a Hotline call center in Miami.

Significant election problems in Florida included incredibly long lines, absentee ballot difficulties, poorly trained poll workers, and inadequate election information.

BEFORE ELECTION DAY

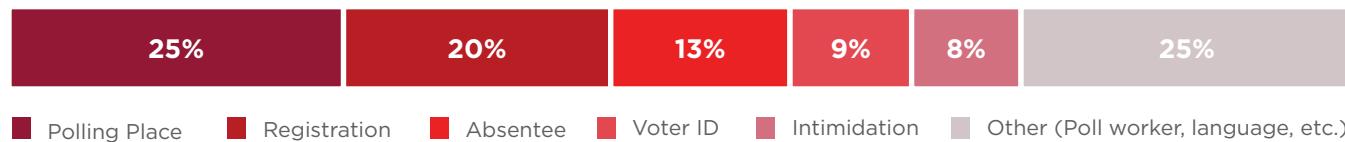
In 2011, Florida passed HB 1355, a law which (1) shortened early voting days, (2) created extra steps for voters who moved to new counties and (3) limited third party voter registration. Also, a federal court in Florida blocked the state's restrictions on community-based voter registration, holding that the restrictions were unconstitutional.

In May of 2012, election officials in Florida attempted to purge voters from the voting rolls based on faulty data matches that incorrectly labeled eligible American citizens as non-citizens. Election Protection Coalition partners and county election supervisors sought to end the removal process via litigation. After the incorrect purges came to light, the majority of Florida Supervisors of Elections refused to continue them.

In October of 2012, there were reports of calls being made to voters in Florida telling them they could vote by phone. Callers told voters that "the Supervisor of Elections authorized us to take your vote by phone." The callers had the voters' names, addresses, and party affiliations, and said that they only needed a few more pieces of information to accept the recipients' votes. In response, the Service Employees International Union (SEIU), an Election Protection Coalition partner, conducted robocalls to voters in Florida, which included the 1-866-OUR-VOTE Hotline number, in order to properly educate voters about voting procedures.

During early voting in Miami-Dade County, many voters waited in line at the North Miami Library for over eight hours on the Saturday before Election Day. Election Protection

2012 VOTING PROBLEMS IN FLORIDA



attempted to resolve this crisis by repeatedly requesting that Governor Rick Scott issue an executive order extending early voting to include the Sunday before Election Day. Unfortunately, the repeated appeals were denied. On the last day of early voting, voters at one North Miami voting site had to wait until 1:00 a.m. to cast their ballots. In response, the Miami-Dade Supervisor of Elections allowed voters to cast in-person absentee ballots on Sunday. However, shortly after voting began, the staff became overwhelmed by the number of voters and shut down the polling location. The hundreds of voters waiting outside protested, and the Supervisor eventually reopened the office for voting.

ELECTION DAY

Long Lines

On Election Day, Floridians continued to face long lines, with the longest lines occurring in Orange, Miami-Dade and Broward counties. In Miami-Dade County, as during early voting, voters had to wait in line until 1:00 a.m. to cast their ballots. In Orlando, at the Lake Nona YMCA precinct, over 100 determined voters were still waiting in line at 9:30 p.m.

In Broward County, many voters waited for long hours. In particular, Tarmac and Weston voters had to wait until 10:00 p.m. before being able to vote. In Miramar, the long lines worsened when precinct 27 ran out of paper ballots. Unfortunately, new ballots did not arrive until almost 7:00 p.m.

Challenges Faced by Voters with Disabilities

During early voting and on Election Day, Election Protection received numerous calls from voters with disabilities who were unable to stand in long lines, with many stating that they asked for help from poll workers, only to be told nothing could be done for them.

For example, a diabetic voter in Orlando recovering from recent foot surgery was denied a chair to sit on, while she waited in line, because the polling location did not have any extra chairs to provide. The diabetic voter would ultimately stand in line, unaided, for three and a half hours. A disabled voter in Miami-Dade, unable to stand for long periods of time, was also

denied a place to sit down, after being told that the polling location lacked sufficient space for him. The voter was simply told to come back later. He did, but it took two additional and unnecessary trips for the voter to cast his ballot. In both cases, Election Protection called election officials about these incidents. However, Election Protection was told that due to the decrease in early voting locations, voting officials were simply overwhelmed by early voter turnout, and they could not accommodate these seemingly modest requests.

Absentee Ballot Problems

In Palm Beach County, a printing error forced the county to hand-copy 35,000 returned absentee ballots so they could be counted. When the county realized there was a problem, they stopped sending out the remaining absentee ballots but failed to notify the voters who were waiting to receive them. In Broward County, numerous voters reported a failure to receive requested absentee ballots. One voter stated that she contacted the county about this problem and was told that "it was a good thing [she] called, otherwise [she] never would have received a ballot." Voters who failed to receive their absentee ballots faced the prospect of having to cast provisional ballots on Election Day.

However, the biggest problem may have been encountered by voters who received and voted their absentee ballot, only to have it rejected. In Florida, in order for an absentee ballot to count, the voter's signature on the ballot must match the signature on file with their voter registration. If it does not match, the ballot will be rejected. Throughout the year, Election Protection worked with state partners to increase voter awareness regarding the signature match requirement, and to urge voters to update their signature. Despite these efforts, Election Protection received numerous calls from voters who received absentee ballot rejection letters due to the signature match requirement. It is estimated that one to three percent of all Floridian absentee ballots were rejected due to this issue.

Problems Related to Voters Moving from One County to Another

Poll workers were confused over new requirements related to voters moving from one county to another. Voters who moved to a new county and failed to update their address were required to vote provisional ballots. This change did not impact voters who moved within their county. Across the state, voters who moved within their county were told by poll workers that they were required to vote by provisional ballot. In response, Election Protection contacted County Supervisors of Elections, with mixed results. In some instances, poll workers were given revised instructions, while in other cases, the results were not clear.

Polling Place Confusion

Voters also faced confusion when they voted in polling locations that housed more than one precinct, as well as when dealing with recent polling location address changes. In Hillsborough, voters arrived at a single polling location housing three distinct precincts and often did not know which precinct line to stand in. To make matters worse, this location provided voters with only three computers to verify precinct numbers. The computers were older models which ran slowly and broke down frequently. If a voter waited in an incorrect precinct line at this location, poll workers were supposed to direct them to the correct precinct. However, because of computer and phone problems at the Hillsborough Supervisor's office, they were unable to do so.

A young voter, accompanied by his grandparents, went to his polling location, which housed machines for multiple precincts. The voter saw a sign that seemed to direct him to a different polling location. When the family arrived at the new polling location, they did not appear on the registration rolls and were given provisional ballots. When he left the polling location, he spoke with an Election Protection volunteer, who determined, by using the Election Protection App, that the original polling location was indeed the correct site. The sign was only supposed to direct voters from one of the precincts at the original polling location to the new polling location. The voter reported that at least ten other voters had encountered the same problem.

Election Protection volunteers spoke to the Hillsborough Supervisor of Elections' office about the problems with voters in the wrong polling location. The office asked Election Protection volunteers to encourage voters to use the Election Protection App, in order to make sure they were in the right polling location. The App helped to ease the burden on poll workers, saving valuable time and shortening lines.

GEORGIA

PROGRAM

The Georgia Election Program consisted of field programs with volunteers in five counties (Clayton County, Cobb County, DeKalb County, Fulton County, and Gwinnett County) and a call center in Atlanta for the 1-866-OUR-VOTE and 1-888-VE-Y-VOTA Hotline numbers. Election Protection worked with both state and county election administrators to address problems that arose before Election Day.

Voters in Fulton County faced significant registration and provisional ballot problems, as well as challenger activity.

BEFORE ELECTION DAY

Voter Registration

Election Protection became aware that the voter registrations of many new citizens were not processed or were flagged as requiring additional citizenship verification. Through Election Protection Coalition partners at the Asian American Legal Defense Fund, volunteers were able to confirm that voters in over 18 Georgia counties were affected by this problem, with the majority in Gwinnett and Fulton Counties. For example, a new citizen in Gwinnett County reported that within minutes of being sworn in as a U.S. Citizen on September 21, 2012, she and others present submitted voter registration forms. However, when early voting began, she checked her registration status and polling location online but did not find her name listed on the My Vote Page of the Secretary of State's website. Election Protection volunteers contacted both state and county officials to inquire about the voter's registration. The Gwinnett County Board of Elections responded to the inquiry by sending the voter a letter requesting that she provide additional proof of citizenship in order to complete her voter registration process. This voter was finally able to cast a regular ballot on November 2, 2012.

Another Hotline caller, who had been a U.S. Citizen since July 2009, was told that her citizenship was being challenged when she attempted to vote early in Fulton County. Although she showed the poll worker her passport, driver's license, utility bills and precinct

2012 VOTING PROBLEMS IN GEORGIA



voter card, she was not allowed to vote a regular ballot. She was told that she could either vote a provisional ballot, or go to the nearest Georgia driver's license facility to clear her "challenged" status by showing them her passport, and then return to vote. She chose the second option. However, at the local driver's license facility, she was told that they could not help her and was sent to another location. At the second driver's license facility, she was told that they could not verify her U.S. Citizenship. She called the State Election Division and the Fulton County Registrar but did not get much assistance. She finally contacted Election Protection. Election Protection volunteers were able to work with the Secretary of State's office to verify her citizenship, and she was finally allowed to cast her vote using a regular ballot.

Challenger Activity

Another significant problem in Fulton County involved challenges to students' eligibility. Students at the Atlanta University Center (AUC) Consortium schools had their right to vote challenged. The AUC Consortium consists of Clark Atlanta University, Spelman College, Morehouse College, and Morehouse School of Medicine. Before Election Day, the Georgia Election Protection leadership became aware that the voter registrations of AUC Consortium students had been challenged by a representative of True the Vote on the grounds that they were ineligible to vote based on their student status and their residency status. In meetings with the Fulton County Board of Elections they were told that these challenges would be rejected because none of the True the Vote representatives were county residents, and they were therefore not permitted by law to challenge the eligibility of voters. Additionally, the challenge law does not allow challenges based on the status of a group; the challenge must be based on knowledge of the individual voter. However, on Election Day, many students were listed as being challenged and were offered only provisional ballots.

ELECTION DAY

Voter Registration and Provisional Ballots in Fulton County

In Fulton County, the names of hundreds of registered voters were erroneously not placed on precinct voter rolls, which was likely a contributing factor to the large number of provisional ballots cast in the county. 5,038 provisional ballots were cast in Fulton County, which represents a marked difference from 2008, when 4,100 voters voted provisionally.

Although these voters did not appear on the precinct voter rolls, their names were listed on the My Voter Page on the Secretary of State's website. Some voters used their smartphones to show poll workers that their names appeared on the website but received inconsistent responses from poll workers, who sometimes insisted that the voter use a provisional ballot and other times allowed the voter to use a regular ballot.

In addition, Fulton County did not have enough provisional ballots to meet the overwhelming demand. The county had the ability to print provisional ballots on demand, but did not have many printed ahead of time. Election Protection received reports that, although precincts had hundreds of voters in line waiting for the precinct to receive replacement provisional ballots, the County delivered less than ten replacement ballots at a time. Because of the shortage of provisional ballots, some voters were denied the opportunity to vote, as they could not wait in line.

On Election Day, Election Protection received a report of a registered voter and resident of Fulton County who attempted to vote at her assigned precinct at Centennial Park Elementary School. The voter was initially told that she was not registered because her name did not appear in the precinct poll book. However, a poll worker was able to confirm through the Secretary of State's My Voter webpage that this voter was properly registered and at the correct precinct. The poll worker advised her that she would have to vote a provisional ballot; however, the precinct had run out of provisional ballots. As a result, this voter was not able to vote at all.

A Fulton County report on its 2012 election administration cited a number of contributing factors to voter registration problems. The report found that properly registered voters failed to appear in their precincts' poll books because of the late entry of voter registration information into the state's database, as well as the delayed delivery of supplemental voter lists to poll managers. Entry of voter registration and delivery of supplemental lists were taking place up through the Saturday and Sunday before Election Day. There was even one

instance in which a poll manager did not receive the supplemental list until late on Election Day, after many voters had already appeared at the polls.

Student Voters

Over 250 Morehouse College students were not able to cast regular ballots on Election Day. For some, their names were not on the voter rolls, and others were told that there was a question regarding their residency status. Many students stood in lines for over seven hours waiting for the precinct to receive replacement provisional ballots, the only voting option available to them. There were reports that students at a polling place at Spelman College encountered similar problems.

ILLINOIS

PROGRAM

On Election Day, Election Protection field volunteers monitored polling locations in the cities of Chicago and Aurora as well as in Cook, DuPage, Kane, and Lake Counties. Chicago was also home to an Election Protection Hotline call center.

The most significant problems reported to Election Protection in Illinois were recurring polling place confusion, voter registration problems, woefully undertrained poll workers, and voting machine breakdowns.

BEFORE ELECTION DAY

In late July 2012, True the Vote transmitted a National Voter Registration Act (NVRA) notice of intent to sue letter to 160 counties in 15 states, including over 20 counties in Illinois. The letter alleged that the number of registered voters exceeded the number of eligible voters in each county and concluded that counties were thereby violating the NVRA mandate to conduct periodic list maintenance programs, demanding that the clerks purge their voter rolls of ineligible voters or face a lawsuit. However, under the NVRA, states are also prohibited from conducting a systematic list maintenance purge within 90 days of a general or primary election for federal office – the “quiet period.” Otherwise, eligible voters could be purged from the rolls with no recourse on Election Day. In response to the letters, Election Protection partners sent a letter of its own, advising clerks of the 90-day “quiet period.” Clerks responded to Election Protection’s letter, assuring that voters would not be purged during the prohibited period.

ELECTION DAY

Polling Place Confusion

Polling place confusion this year was exacerbated by redistricting, polling places changes, and precinct consolidations. The use of multi-precinct polling places exhibited problems typical of such setups, with many voters reporting disorganized polling locations and confusion about which line they were supposed to stand in to vote. Voters also reported

2012 VOTING PROBLEMS IN ILLINOIS



■ Registration ■ Polling Place ■ Poll Worker ■ Provisional ■ Equipment ■ Other (Voter ID, Language, etc.)

there was little oversight of polling place operations and a lack of adequate signage to direct voters to their correct precinct. There were reports of unhelpful election judges telling voters they had to know their precinct number beforehand to know which line to stand in. Making matters worse, the City of Chicago's website was down for much of Election Day, making precinct information harder to find. Voters were concerned that they had accidentally voted at the wrong precinct, in which case their ballot would be rejected, even though they were at the correct polling location. Others were having trouble just identifying their correct polling location. One caller from Chicago who went to the polling location near her house was told she was not registered there. Poll workers directed her to a second location; when she went to that location she was again told she was not registered there and was directed to a third location. Finally, she went online to the Board of Elections website, which directed her to yet another location. That fourth location also did not have her on the list, so she ended up casting a provisional ballot.

Voter Registration Problems

Illinois Election Protection also received numerous calls from voters who were told they were not registered to vote. There were multiple reports of voters who registered or updated their registration information at DMV offices, but their registrations were never processed. One Cook County voter reported that he updated his voter registration information in June 2011 when he renewed his driver's license, but when he showed up to vote on Election Day a poll worker told him he was not registered and could not vote. Another caller from McHenry County who was previously registered under her maiden name at her parents' address updated her registration information when she renewed her driver's license, but on Election Day she could not be found on the voter rolls at all with either her old or new registration information. Similarly, in DuPage County, a voter renewed her driver's license through an online transaction and simultaneously registered to vote online, but the DMV did not update its records. The election judge told the voter that a lot of people had had the same problem at her polling place.

In other cases, Election Protection volunteers verified voter registration information in the State Board of Elections database and confirmed that voters were in fact registered and at the correct polling place, even though they were not showing up on the rolls at the polling place when they went to vote. In addition, there were reports of a higher than average number of eligible voters either on the supplemental rolls, which some election judges failed to check, or dropped from the rolls entirely. This situation may have resulted in a higher rate of provisional ballots issued to voters who were entitled to a regular ballot. There was also a great deal of confusion among voters and poll workers about provisional ballot rules and multiple reports of poll workers refusing to issue provisional ballots to voters who should have received them.

Poll Worker Problems

Election Protection received many reports from voters complaining about a variety of problems with poll workers incorrectly applying rules and wide variance in the application of rules across precincts and jurisdictions. Voters reported some election judges improperly requiring voter ID, despite there being no general identification requirement to vote. Voters reported election judges refusing to issue regular ballots to voters who had their absentee ballot with them to turn in for cancellation. In addition, many voters found their names on the absentee ballot list when they went to their polling place, despite never requesting or receiving an absentee ballot. Machine breakdowns in some polling places were exacerbated by election judge uncertainty as to when or how to issue paper ballots.

Community partners also reported problems with language assistance. In some precincts, translated materials were not displayed prominently or were even left unused in envelopes. Some bilingual judges reported not clearly understanding when they were allowed to assist language minority voters and expressed reluctance to leave the election judge table to assist voters. Further, in some precincts, the polling places were not accessible to handicapped voters, and some election judges refused to offer curbside voting.

Machine Breakdowns

Finally, machine breakdowns were widespread. Election Protection received reports of machines not being able to read paper ballots, failing machines, and polling places running out of ballots. At one polling location in Stone Park, Cook County, touchscreen voting machines were improperly calibrated, which made the machines unusable, and poll workers were instructed by county election officials to recalibrate the machines after every four voters. Machine malfunctions were also reported in Lansing, Oak Lawn, and throughout Chicago.

MARYLAND

PROGRAM

The Maryland Election Protection Program encompassed Baltimore City, Howard County, Prince George's County, and Montgomery County. On Election Day, volunteers covered 120 precincts. There was also a local call center located in Baltimore which received calls from Maryland.

Maryland voters reported a variety of concerns before and on Election Day, including early voting problems, the effects of Superstorm Sandy, late openings of polling places, long lines, voting machine failures, problems with provisional ballots, and accessibility issues.

BEFORE ELECTION DAY

Absentee Ballots

In late October, Election Protection received 15 separate reports that absentee ballots in Maryland had been sent to voters with missing pages. Election Protection volunteers worked with the State Board of Elections to determine what voters should do in case they received incomplete applications. If voters received an incomplete ballot, Election Protection informed them that they would need to contact their local board of elections to request a complete replacement ballot.

Early Voting and Superstorm Sandy

During early voting, polling locations experienced wait times of up to seven hours statewide, and the long lines were particularly problematic in Prince George's County. Long lines during early voting were likely exacerbated by Superstorm Sandy.

Early voting on October 29 and October 30 was cancelled due to the approach of the storm. However, to help ease the burden on the system with Election Day rapidly approaching, early voting was extended, with all early voting centers open between 8 a.m. to 9 p.m. on Wednesday, October 31 through Friday November 2. The additional hours accounted for all but one hour lost from the cancelation due to the storm. In addition, the deadline for

2012 VOTING PROBLEMS IN MARYLAND



submitting a request for an absentee ballot was extended to October 3. Generators were provided to all polling sites without electricity so that they could remain open.

ELECTION DAY

Late-Opening Polling Places

On the morning of Election Day, some polling locations did not open on time, causing a great deal of frustration for morning voters. For example, at the polling location at Swan Field Elementary School in Howard County, poll workers did not know how to turn on the voting machines and could therefore not open the polling location. Election Protection dispatched two volunteers from the Greenbelt Command Center to evaluate the situation and to encourage voters to stay in line. Election Protection volunteers also notified the State Board of Elections of the problem.

Long Lines

Long lines were consistently a problem in Maryland on Election Day, especially in Prince George's County. Election Protection alerted the Maryland Board of Elections about each report of long lines. Polling locations with wait times over three hours were reported in a number of precincts, including Oakland Elementary in Laurel, Bladensburg Community Center in Prince George's County, Oxon Hill Library in Prince George's County, and Sargent Shriver Elementary in Montgomery County.

A number of factors seemed to contribute to the long lines, including confusion at locations with multiple precincts, as well as poor signage in many polling locations (with most of the reported problems occurring in Montgomery and Prince George's Counties). Election Protection volunteers verified that voters were in the correct line for their precinct, and encouraged them to stay when the lines became long.

Voting Machine Failures

Voting machines presented a challenge to voters in Maryland. Some precincts did not have enough machines to adequately handle voter turnout, while at others, machines malfunctioned or broke down. At Church Lane Elementary in Baltimore, four out of the ten machines malfunctioned, which caused up to three hours of wait time. A group of Election Protection volunteers were dispatched to encourage voters to stay in line.

Additionally, voters complained of having to re-enter their vote repeatedly after the machines tabulated their initial vote. At the Boys & Girls Club polling location in Laurel, a voter reported to the Hotline that, upon making her selections on the touch screen, not all of her choices were recorded. Election Protection contacted the Maryland Board of Elections to request that they send someone to fix the machines. In addition, the Hotline received reports that the Lakeland Elementary School polling location in Baltimore City had opened, but the machines were not properly set up. Voters were offered a paper ballot, but some decided not to wait to vote.

Provisional Ballots

In Precincts 5 and 6 in Baltimore, Election Protection volunteers reported that many voters were given provisional ballots. Election Protection also received reports that several individuals in Bishopville were being denied the chance to vote a regular ballot because the birthdate on their voter registration cards, which was correct, did not match the information on the voter rolls. All of these voters were required to fill out a provisional ballot.

The last phone call of Election Day in Maryland was from a first-time voter at a precinct in Oxen Hill. When she registered to vote, she did not provide any identification, and when she showed up at the polls, the poll worker did not ask her for any identification. She was only told that her name was flagged and that she had to vote provisionally. Election Protection informed her how to follow up after Election Day to determine whether her provisional ballot had been counted.

Accessibility Problems

Accessibility problems were widespread on Election Day. At the Montgomery Village Middle School polling location in Montgomery County, a deaf voter reported that poll workers had not provided adequate assistance. One poll worker, in particular, repeatedly ignored the voter's multiple attempts to communicate that the voter was deaf and could not understand the poll worker. The voter tried to write a note on a napkin that the poll worker was being rude, and the poll worker grabbed the pen out of the voter's hand.

At the Bladensburg Community Center polling location in Prince George's County, some disabled voters were asked to provide proof of their disability, which is not required under the Americans with Disabilities Act. Election Protection dispatched a group of volunteers to help clarify the situation. In addition, Election Protection notified Coalition partners at the National Disability Rights Network, who also contacted the Board of Elections. Election Protection volunteers received a call indicating that disabled voters in Clinton were being turned away unless they had brought someone to the polls to assist them. In this case as well, Election Protection contacted the Prince George's County Board of Elections to correct the situation.

Using Social Media to Dispel Rumors

There were several calls to the Hotline about a rumor that if a voter posted an image of their ballots on Facebook, his or her vote would not be counted. Election Protection called the Maryland Board of Elections to investigate what would happen if a voter did in fact post his ballot online. Election Protection was informed that even though cameras are prohibited within the polling place in Maryland, there is no punishment for people who do in fact bring a camera inside. Election Protection communicated this information to voters via the Election Protection Facebook account to dispel the rumor.

MICHIGAN

PROGRAM

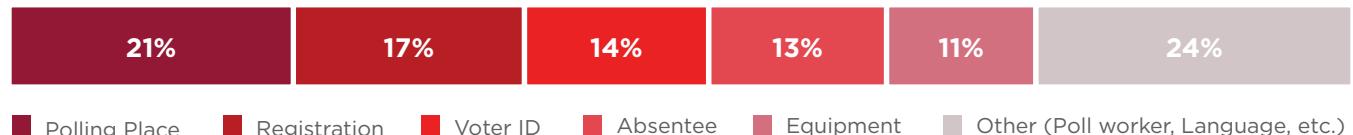
Election Protection had robust operations in Michigan during the 2012 election. On Election Day, Election Protection ran its statewide operations from Detroit, and volunteers were deployed at precincts in cities throughout the state, including Detroit, Ann Arbor, Ypsilanti, Southfield, Oak Park, Pontiac, Flint, Saginaw, Dearborn, Hamtramck, Lansing, East Lansing, Allegan, Benton Harbor, and St. Joseph. Volunteers were also dispatched to Warren, Westland, and Taylor as needed.

Despite the efforts of Election Protection, voters still suffered from a combination of resource deficits, poor planning by election officials, and legislative distractions that took focus away from the real problems voters faced on Election Day. On Election Day, Michigan voters were met with considerable disorganization, widespread machine failures, inadequate staffing, and long lines, the effects of which were compounded by registration snafus and confusing and inconsistent enforcement of the state's identification requirement. Overall, Election Protection responded to over 500 calls from Michigan and to countless field volunteer alerts across the state, which had a significant impact on the experience of Michigan voters and the integrity of the election.

BEFORE ELECTION DAY

Leading up to Election Day, Election Protection and the Michigan Election Coalition worked with clerks to identify counties in need of resources – including bilingual poll workers and encouraged trained volunteers to apply. Opening the lines of communication with election officials helped to facilitate early in-person absentee voting opportunities and address election administration issues early on. Election Protection partners also provided privacy screens and other polling place resources that reduced the propensity for long lines. Voter education was also a large component of Election Protection in Michigan, due to the multitude of election bills that were introduced, enacted, or vetoed before Election Day. The Michigan Election Coalition worked collaboratively to educate voters on voter identification requirements, polling place look-ups, and voter registration verification. In addition, through direct voter contact via the Election Protection Hotline, voter education

2012 VOTING PROBLEMS IN MICHIGAN



was promoted through radio, television and print interviews, op-eds, press conferences, tele-pressers, and national press calls.

Legislative Efforts to Restrict the Right to Vote

Rather than focusing on improvements to election administration in the lead-up to the 2012 elections, Michigan lawmakers pursued efforts to move Senate Bills 751, 754, and 803 which, together, would have greatly constricted the right to vote in Michigan, even though the state's voting laws were already limiting; for example, Michigan does not allow early voting, requires an excuse to vote by absentee ballot, and does not have an online mechanism to register to vote or to update registration information. Instead of making voting more accessible, the legislation would have instituted even more stringent photo identification requirements, new restrictions on voter registration drives, and a redundant citizenship checkbox requirement voters would have to execute on Election Day (voters are already required to affirm their citizenship when registering to vote).

Election Protection partners submitted testimony opposing the bills and worked in close collaboration with the Michigan Election Coalition ("MEC") to educate officials on the negative impact the bills would have on electoral participation and to put pressure on lawmakers to disband their efforts. Though the bills were ultimately pushed through the legislature, Governor Rick Snyder vetoed SB 754, affecting voter registration, and SB 803, which would have required the citizenship checkbox that voters would need to complete at the polls. While SB 751, which created an automatic challenge procedure for certain absentee ballots cast by voters who were determined to have "inactive" registrations, was signed into law, MEC continued to oppose its implementation and sent a letter to Secretary of State Ruth Johnson advising that federal requirements under the National Voter Registration Act prohibited Michigan from implementing the procedures under the new law for the 2012 election. Despite the letter's request for information from the Secretary of State on her plans for implementing SB 751, no response was received. It is unclear whether the law was formally implemented and what, if any, instruction clerks received for implementing the new

law. Election Protection did receive evidence from a few townships that procedures may have been adopted to implement the law, and is continuing to gather more information.

After Governor Snyder vetoed SB 803, Secretary Johnson nonetheless unilaterally decided to implement the requirement despite questionable legal authority. Voting rights advocates opposed the checkbox because it created an extra requirement for voters to overcome before receiving a ballot and increased the potential for poll worker error, long lines, and intimidation on Election Day. It was also a redundant procedure, as voters already needed to verify their citizenship during the voter registration process. Further, no lawmaker or election official had presented evidence of noncitizens voting in Michigan that would support the need for the additional Election Day procedure. In September 2012, MEC coalition members, SEIU and ACLU Michigan, filed a lawsuit against Secretary of State Ruth Johnson challenging the constitutionality of the checkbox under the Fourteenth Amendment's Equal Protection clause and sought to halt implementation of the citizenship checkbox on applications to vote in Michigan.

During Michigan's August primary election, Election Protection documented the checkbox requirement being enforced differently around the state, and clerks received inconsistent direction from the Secretary of State's office, with the directions varying by city and sometimes changing by the hour. Some registered voters were required to check the box in order to receive a ballot, while other voters encountered a challenge process. Some were made to listen to a statement and then given a ballot, while others were not asked about their citizenship at all.

Following the primary, the plaintiffs prevailed in their challenge to the checkbox requirement, and the Secretary of State was prevented from using the checkbox for the November general election.

ELECTION DAY

Registration Problems

In Michigan, voter registration problems were rampant on Election Day for voters who had registered to vote but who did not show up on the voter rolls at their polling place. This problem was reported from around the state with voters insisting they had registered to vote prior to the deadline. In some cases, Election Protection could verify a voter as properly registered even though they were not on the rolls. One voter from Flint reported standing in line for two-and-a-half hours, only to be told she was not registered. Afterwards,

an Election Protection volunteer verified that she was properly registered and at the correct polling location.

Another voter from Washtenaw County was turned away after she was told that she was not registered anywhere, when she believed she was properly registered because she had voted in a recent election. In Flint, a voter reported that she was told she was not registered, even though she registered to vote in April 2011. She asked to vote a provisional ballot, but was turned away. Similar stories of poll workers refusing to issue provisional ballots were reported from voters in Flint, Grand Rapids, Kalamazoo, Detroit, and Davison after waiting in line for hours. The voter from Davison reported that the poll workers could not find him on the rolls and told him he had not been registered in the last ten years, even though he had voted in 2008. The workers did not offer him a provisional ballot.

Long Lines, Voting Machine Issues, and Other Polling Place Issues

On Election Day, long lines were the problem of the day. In Wayne and Oakland Counties voters experienced widespread machine breakdowns and malfunctions, long lines, and poor polling place management. Many Detroit precincts had wait times that lasted several hours. At the Wayne County Community College polling site, a voter reported waiting in a line that was 300 people deep, and several other polling places had wait times of three hours or longer. Suburban voters near Detroit also had one to two-hour-long waits during peak hours in places such as Ferndale and Oak Park. Some Ann Arbor voters reported waiting two to three hours. One Ann Arbor voter reported that, after learning of the two-hour wait during the morning, she left the polling place with the intent to vote later; when she returned, she found the line to be even longer. In Lansing, a voter reported leaving her polling place in frustration after encountering a four-hour line being served by a single voting machine. At another polling place, an elderly couple in their eighties who had been standing in line for over an hour asked to move to the front of the line, but were denied and left without voting. Many of the calls to the Hotline were from voters with disabilities or elderly voters who were unable to stand in the lines.

Long lines were also a persistent problem in Battle Creek, Flint, Lansing, Saginaw, and Grand Rapids and many other smaller towns such as Hamtramck, Belleville, and Westland. In Harperwood, the Beacon Elementary School polling location had a two-hour wait, and voters were required to wait outside in the bitter cold. Election Protection volunteers helped alleviate lines by assisting voters to verify registration and polling place information, working with election officials to cut wait times, and even obtaining and providing additional privacy screens so more voters could vote at one time. Midway through Election Day, Election Protection transitioned poll monitors in high-traffic polling locations out of their

roles handing out voter's rights information and into the roles of encouraging voters to stay in line. Many of them distributed coffee and snacks, which were well-received by impatient and cold voters standing outside.

Voting machine failures around the state, and poll workers' inadequate responses to those failures, contributed to the long lines. In East Lansing, at the Vineyard Church polling site, a paper jam in the ballot counter caused poll workers to unlock the ballot box to place the ballots there for safekeeping until the machine was fixed and the ballots could actually be fed in. The voter, not trusting that process, waited until the machine was fixed to watch her ballot be fed to the vote machine; however, the voter reported that most people around her were just putting their ballots in the ballot box but uncounted.

In Calhoun, at the St. John's Church polling location, a voter reported that one of the two machines at the site would accept a ballot and then displayed an error message after the ballot had been accepted; this happened for seven consecutive voters before a technician came and fixed the scanner in question. The voter was concerned that those ballots would not be counted. Another voter from Oakland County reported that a voting machine rejected the ballot of a voter in front of her, and she also observed that the machine's vote counter did not go up when she entered her ballot, but the counter did go up when the voter behind her entered his. Again, the voter was concerned that her vote would not count. Machine problems were reported in Detroit, Taylor, Macomb County, Lake Charter, Bellville, Ypsilanti, Van Buren, Livonia, and other areas around the state.

Several jurisdictions and specific polling places also ran out of election materials, including ballots and ballot applications. One caller reported that in the city of Warren, their polling location ran out of ballots at 10:45 am. Election Protection volunteers were able to ensure that supplies were replenished before voters were turned away.

Much of the chaos and wait times at the polling locations were the result of poor organization and supervision of multi-precinct polling locations. Election Protection volunteers attributed significant disorganization to polling locations housing multiple precincts, and noted many cases of inadequate signage and supervision to direct voters to the correct line. Voters were extremely frustrated at the prospect of waiting in a two-hour line with no knowledge of whether they were standing in the correct line, and many left in frustration. Disorganization at the multi-precinct polling sites, combined with malfunctioning machines and poorly trained poll workers, became a recipe for chaos and voter frustration. More and better trained poll workers were needed.

Election administration planning and contingency protocols were lacking in the face of these reported equipment failures and ballot shortages.

Inconsistent and Incorrect Enforcement of Michigan's Identification Requirement

One of the most frequent problems reported was with voters who were not being issued an identification affidavit in lieu of providing photo identification, as required by Michigan law. In Royal Oak, Michigan, a voter reported that while she was waiting in a long line at the Emanuel Bethel Church polling location, a woman was standing outside shouting at the people in line, "Don't forget you need your identification to vote." When the voter asked a poll worker, the poll worker responded that it was true that voters need photo identification to vote, but when the voter persisted the poll worker finally admitted no identification was required. While the voter was ultimately able to vote without identification, many reports were received from voters who were being turned away because they did not have photo identification. This has been a recurring and significant problem during every election since Michigan passed its photo identification law. Cases involving the denial of the right to vote due to incorrect identification requirements were reported in Detroit, Oakland County, Macomb County, Benton Harbor, Grand Rapids, Dearborn, Warren, and Waterford.

MINNESOTA

PROGRAM

Minnesota voters were aided by a team of more than 300 Election Protection volunteers, including field program volunteers who covered precincts in 19 Minnesota cities, and close to 100 Hotline volunteers who staffed a call center from October 8th through Election Day. Minnesota voters relied on the field program and Hotline to aid in locating their precincts, address same-day voter registration issues and report problems occurring at the polling sites. Due to Superstorm Sandy, the Minnesota Hotline team also covered calls for Missouri on Election Day and the day before Election Day.

The most common problem reported related to instructions being given by poll workers to voters with respect to the two ballot initiatives (Voter identification and Marriage Amendment); reports of this issue were received from precincts in at least 13 cities throughout the state. Minnesota voters also reported long lines at polling locations, particularly in Minneapolis. Finally, there were a handful of incidents involving improper procedures with respect to same day voter registration and language assistance.

ELECTION DAY

Poll Worker Problems

One recurring report concerned instructions being given by poll workers regarding ballot measures. Callers from at least 13 different cities reported that poll workers were instructing voters that leaving the ballot measures blank would automatically result in a ‘no’ vote. For many voters, these instructions raised an issue of poll workers improperly influencing the outcome of the election. There was even a report of posters on the wall with the instruction “a blank vote is equivalent to a no vote” put up in Washington County polling places. In response to these reports, Election Protection contacted county and city election officials, who uniformly stated that poll workers were advised not to make such statements, and were responsive about directing the specific poll workers to stop such instructions.

In some of the reports, the problems appeared to indicate the inadequate training of poll workers. For example, some elderly Hmong voters were asked to provide identification,

2012 VOTING PROBLEMS IN MINNESOTA



■ Polling Place ■ Registration ■ Poll Worker ■ Intimidation ■ Absentee ■ Other (Voter ID, Language, etc.)

while a white person in line directly behind the Hmong voters who was getting out identification was told not to worry about providing it. A handful of other reports indicated that poll workers were rejecting identification for same day registration that was valid under law. In those cases, Election Protection volunteers were able to intervene and provide the voters with information that enabled the voters to overcome the issue (e.g., references to the Election Judge Manual). Additionally, there was at least one report in Minneapolis that people accompanying voters into the voting booth for purposes of providing language assistance were only permitted to help three voters. This limit applies to individuals assisting voters mark a ballot, however, and does not appear to apply to general language assistance. Election Protection contacted county election officials and ensured that language assistance could be provided to voters who required such help. Election Protection Minnesota intends to seek an advisory opinion from the Minnesota Attorney General regarding the scope of permitted assistance to avoid confusion in future elections.

Overburdened and Disorganized Polling Places

There were multiple reports of overburdened polling places, particularly in Minneapolis, where voters at several polling places experienced waits in excess of two hours. This was likely due to redistricting, which reduced the number of polling places and made it difficult to predict accurately voter turnout at the overburdened locations. In a few precincts, this may have also been the result of how same-day registration was handled, or the result of malfunctioning machines. With over 17% of Minnesota voters registering on Election Day, it is imperative that poll workers have proper training for managing this volume. Minneapolis has already publicly announced an inquiry and is committed to addressing these issues for the next election.

In addition, there were also several reports of general disorganization at polling places throughout Minnesota. Some voters were required to cast ballots in overflow areas without privacy, such as at the Lutheran Church polling location in Mankato. Other voters observed unattended tables for poll workers and forms with personal information left out for everyone

to observe without any safeguards, such as at the Waite Park School polling location in Minneapolis.

Far-Flung Effects of Superstorm Sandy

Although located in the Midwest, seemingly far from much of the damage wrought by Superstorm Sandy, some Minnesotans were nevertheless impacted by the storm. One Minnesota voter was held up at Heathrow Airport in England due to the storm, and was unable to return to the state in time to cast a ballot. Another voter had a record of mailing her absentee ballot, but was advised that the plane carrying it was delayed due to Superstorm Sandy. Election Protection officials contacted the Secretary of State's office on behalf of these voters in an attempt to figure out an emergency method of voting for the stranded caller. Unfortunately, the Secretary of State's office and the Governor's office had not been delegated authority by the legislature to help such individuals in emergency circumstances. While Minnesota election officials empathized, nothing could be done under current law to make sure this stranded traveler could cast a ballot, or to ensure that the delayed ballot would be counted. This emergency authority is something that the Secretary of State has asked for from the Minnesota Legislature in the past. To make sure all voters can exercise their rights in the case of emergencies such as Hurricane Sandy, such emergency authority certainly merits further consideration by lawmakers.

NEW YORK

PROGRAM

New York City served as one of the major hubs for the Election Protection program. Many of the national call centers were based there, and the New York City call center fielded over 5,700 calls. The Election Protection field program covered all five boroughs of New York City.

Voters in the City and across the state were confronted with problems including long lines, ballot shortages, and delayed absentee ballots.

BEFORE ELECTION DAY

The election system in New York was thrown into a state of uncertainty by Superstorm Sandy, just days before the election. In an attempt to lessen the burden on the election system, the period for receipt of absentee ballots was lengthened, early voting was implemented in New York City for the Saturday and Sunday before Election Day, and perhaps most importantly, voters who had been displaced by the storm were allowed to vote via affidavit (provisional) ballot at any polling location statewide.

New York election officials performed admirably in attempting to address problems posed to the election process by the storm, and Election Protection greatly appreciates their hard work and dedication during a difficult and stressful time. New York's 2012 election experience can be immensely helpful to inform future election administration efforts during times of crisis.

Absentee Ballots

Many callers reported that they never received their absentee ballots. Some individuals had requested absentee ballots, but their requests were never processed. One voter who was attending school out of state sent her request for an absentee ballot, but her request was either not received or not processed. She contacted her local Board of Elections on Election Day, and she was told it was too late to vote an absentee ballot.

2012 VOTING PROBLEMS IN NEW YORK



■ Polling Place ■ Registration ■ Poll Worker ■ Equipment ■ Absentee ■ Other (Voter ID, Language, etc.)

There were also reports of voters not receiving absentee ballots due to the Superstorm Sandy. One voter in Orange County requested an absentee ballot in advance of the deadline, and the request listed her office address in New York City for receipt of the ballot. Mail delivery to her office was interrupted because of Superstorm Sandy, and she did not receive the ballot. After calling the Orange County Elections Board about voting in a different way, she was treated rudely and had to call many times. Eventually, after consulting with Election Protection volunteers, she was able to download a ballot online and email it to the Elections Board.

ELECTION DAY

Long Lines

Long lines were reported in many precincts, largely due to understaffing and ballot shortages, particularly in Superstorm Sandy-affected areas. The Charles Hill Tower Precinct reported lines in excess of two hours. At P.S. 138 in Kings County, there were reports of voters waiting in line for over three hours, and an estimated 40-50 individuals left without voting after the location ran out of ballots.

Ballot Shortages

Many instances of affidavit ballot shortages were reported, likely due to Superstorm Sandy and voters not being able to vote in their normal precincts. These ballot shortages often went hand-in-hand with long lines. There were also many reports of broken or malfunctioning ballot scanning machines. Election officials were proactive in sending extra ballots to areas that reported shortages, and worked closely with Election Protection to identify polling locations in need of ballots, as well as those with long lines. They also worked to deliver extra voting machines to areas where Election Protection reported machine shortages.

Voter Identification Issues

In New York, no voter identification is required for individuals who are not first time voters who registered by mail. However, Election Protection received reports, both via the Hotline and anecdotally, of individuals being improperly asked for identification in New York City. For example, it was reported that all voters were being asked to show identification at the HolyRood Episcopal Church polling location in Orange County.

Poll Worker Training and Dissemination of Information

Poll worker training was limited in certain storm-affected areas, and there were some reports of poll workers not respecting the Governor's order allowing displaced voters to vote affidavit ballots at any polling location. There was also confusion about the specifics of the order. For example, at Fulton-Montgomery Community College in Fulton County, the Board of Elections refused to give affidavit ballots to out-of-town students living on campus. The campus was not located in an area impacted by the storm. These students were registered to vote in New York, but were from storm-affected areas and wanted to vote in their home counties. The Fulton County Election Commissioner denied them affidavit ballots, saying that they were not "displaced" because they did not live in the storm affected areas.

Election Protection volunteers contacted election officials about polling locations that were incorrectly requiring voters to provide identification, in order to make the officials aware of the incorrect application of the law. In Fulton County, Election Protection did speak with the Fulton County Election Commissioner in an attempt to clarify the Governor's order on affidavit ballots. However, the Commissioner declined to offer affidavit ballots to the students who were attempting to vote.

OHIO

PROGRAM

The Ohio Election Protection program took calls from around the state and administered comprehensive field programs with hundreds of volunteers monitoring polling locations in target counties that included Hamilton, Franklin, Cuyahoga, Montgomery, Lucas, Mahoning, and Trumbull. Field volunteers were also deployed to Summit and Stark counties on Election Day in response to problems reported into the hotline.

Voters in Ohio had to contend with changes to Ohio's election rules, in addition to voter intimidation, provisional ballots concerns, machine failures, and long lines.

BEFORE ELECTION DAY

Changes to Ohio Election Law

Well before Election Day, Ohio elections were marred by controversy. The rules governing Ohio elections were in a constant state of flux due to a series of controversial legislative reform efforts by lawmakers and administrative rulemaking decisions by election officials in the run-up to the election. The proposed changes to Ohio's voting rules were opposed at the outset by voting rights advocates because the changes restricted voting opportunities without justification. The earliest of these efforts occurred in early 2011 when Ohio Secretary of State Jon Husted announced a legislative proposal entitled "Ready 2012 and Beyond" (Ready 2012).

Ready 2012 was a package of changes to Ohio's election rules that, among its numerous proposals, aimed to reduce the early voting period from 35 days to 16 days, limit Saturday hours that boards of elections were able to offer early voting, eliminate early voting on Sundays altogether, and eliminate the last three days of the early voting period. In addition to early voting restrictions, the Ready 2012 proposals would have reduced the absentee voting period from 35 to 21 days, eliminated "Golden Week" which allows voters to register to vote and vote early at the same time, and prohibited boards of elections from sending unsolicited absentee ballot applications to voters and from paying return postage on

2012 VOTING PROBLEMS IN OHIO



applications or voted ballots, a service which many counties offered in past elections to shorten long lines on Election Day by encouraging absentee voting participation.

The reform agenda encompassed by Ready 2012 was introduced in the Ohio legislature as HB 194. HB 194 was strongly opposed by Ohio voting rights groups, but their concerns were disregarded and HB 194 quickly passed through the Ohio legislature and was signed into law by Governor John Kasich. The cuts to early voting opportunities were particularly unpopular and opposed by many Ohioans, since early voting has become an increasingly popular way for voters to cast their ballots, especially among African-American voters. In 2008, African-American churches organized massive GOTV efforts on Sundays, popularly known as “Souls to the Polls,” and the elimination of Sunday voting was regarded by many within the community as a racially motivated effort to suppress turnout because of perceived political leanings.

The Lawyers’ Committee for Civil Rights Under Law released an analysis in October 2012 demonstrating the disparate impact that reductions in early voting opportunities would have on African-American voters in Ohio’s most populous county, Cuyahoga County. The study, “Early Voting Patterns by Race in Cuyahoga County, Ohio: A Statistical Analysis of the 2008 General Election,” found that in the 2008 election African-American voters voted early at a rate 26 times that of white voters, and despite accounting for only 28.6% of the estimated overall vote, African-American voters cast approximately 78% of all early in-person votes. The study concluded that because of the disparate use of early voting by African-American voters, reducing opportunities to vote early would have a disproportionate impact on those voters.

Ohio’s voting rights groups mobilized in response to HB 194’s passage by securing over 250,000 certified signatures to place the measure on the November ballot for a referendum vote. But rather than face what was expected to be a successful referendum repealing HB 194, the legislature, led by Ohio Senate President Tom Niehaus, passed SB 295, which repealed HB 194 before the November 2012 election.

The early voting fight, however, did not end with HB 194's repeal. A subsequent bill was enacted (HB 224), which eliminated the last three days of early voting for most of Ohio's voters, yet established a more generous early voting period for military and overseas voters. A lawsuit filed in by the Presidential campaign of Barack Obama, Obama for America (OFA), challenged the disparate early voting deadlines and sought to restore early voting for the three days prior to Election Day for all Ohio voters. In support of its challenge, OFA claimed that "tens of thousands of Ohio voters" would attempt to cast ballots on those days, and that early voters are disproportionately members of minority groups and the working class. After litigating the case in federal district court and the Sixth Circuit Court of Appeals (including a failed emergency petition filed by Ohio in the U.S. Supreme Court), OFA was successful in restoring the last three days of early voting for all Ohio voters.

Despite its loss in federal court on the issue of early voting days for Ohio voters, the Secretary of State continued to institute reforms to the early voting program by restricting the hours during which counties could offer early voting. In August 2012, the Secretary of State issued Directive 2012-35, which effectively prohibited counties from offering any weekend voting hours and limited the number of hours boards of elections were able to offer early voting on weekdays. To help ameliorate any voter confusion about these changes, Election Protection partners undertook an education and outreach campaign to clarify the early voting hours and locations for voters throughout the state.

Voter Intimidation

In addition to the legislative and rulemaking battles, Ohio voters were subject to overt voter intimidation tactics. In October, anonymously-financed billboards began popping up around the state predominantly in minority neighborhoods with the message, "VOTER FRAUD IS A FELONY! Up to 3 1/2 YRS & \$10,000 Fine". These billboards were placed in heavily Hispanic and black communities in Cleveland, as well as Cincinnati and Columbus. 30 such billboards were placed in Cleveland alone. The strategic placement of the billboards in neighborhoods with heavy minority concentration not only stigmatized these communities by implying that voter fraud is a more significant problem in these areas, but it attached an implicit threat of criminal prosecution to the civic act of voting. In response, Election Protection sent an open letter to Clear Channel Outdoor, the vendor who owned the billboards, and launching a petition campaign asking Clear Channel to remove the billboards citing the racially charged message conveyed by the placement in minority neighborhoods. Clear Channel responded by taking down the offending billboards and, in their place, Election Protection was able to erect get-out-and-vote billboards in Cleveland, Cincinnati, and Columbus with a positive message about voting and promoting the 866-OUR-VOTE Hotline.

Additional issues that arose prior to Election Day in Ohio included upticks in challenges to voter eligibility, third-party training and recruitment of poll workers, and problems with absentee ballot distribution. The increase in pre-Election Day challenges of registered voters was due in large part to the “Ohio Voter Integrity Project,” believed to be affiliated with True the Vote, a Tea Party subgroup. For example, in Hamilton County, a single person representing the Ohio Voter Integrity Project challenged 380 voters at once. However, over 90% of the challenges were dismissed outright by the County Board of Elections because they were based on limited evidence and non-qualifying grounds, such as addresses missing dormitory or apartment unit numbers. Similarly, boards of elections in Cuyahoga, Lucas, and Franklin Counties dismissed nearly 700 challenges, combined. Election Protection is still collecting information on the outcome of the challenges lodged by the Ohio Voter Integrity Project in ten other counties.

In addition to mass challenges, it was also reported that True the Vote volunteers were recruiting and placing poll workers inside polling locations and providing unauthorized third-party training to their poll workers in major urban Ohio counties, such as Hamilton and Franklin counties, with a focus on placement in African-American districts. The League of Women Voters of Ohio (LWVO) notified and expressed concern to Secretary Husted about the outside trainings being conducted, but no response was received by LWVO and it is unclear what, if any, corrective steps the Secretary’s office took in response. By attempting to place its observers in precincts around the state on Election Day, the organization was also potentially breaking the law. The day before Election Day, the Franklin County Board of Elections determined that True the Vote had likely falsified the forms submitted for general election observers despite the warning on the forms which read “election falsification is a 5th degree felony.” The observer forms were unanimously rejected by the board, and the True the Vote observers were not permitted inside Franklin County polling locations.

Absentee Voting

Absentee voters were not immune to pre-Election Day voting problems, as they continued to deal with the recurring problem of not receiving their ballots despite having requested them. Reports came in during the several weeks running up to the election and, though this problem is a typical one associated with absentee ballots, an investigation found at least one major cause this election cycle. A review by the Northeast Ohio Voter Advocates (NOVA) of Cuyahoga and Franklin Counties’ absentee ballot applications that were denied because the applicant was determined to be “not registered” revealed that several hundred applicants were in fact properly registered. NOVA’s investigation found that, due to inadequate voter lookup methods of the voter list, in Cuyahoga County 865 applicants were

wrongly rejected their absentee ballots, and a sample of similar rejections from Franklin County found that 38% were also mistakenly deemed “not registered” and not mailed ballots. Cuyahoga County immediately corrected this error, but similar problems surfaced again later, and similar inadequate data search methods were likely being employed for absentee ballot applications by Ohio’s other 87 counties. Voter advocates proposed more reliable search methods to the Secretary of State, and on October 31, the Secretary of State issued a bulletin advising all boards of elections on improved criteria for properly identifying registered voters in the voter list. Relatedly, because counties use similar search methods when looking up voters who cast provisional ballots to verify their eligibility and could potentially result in similar faulty rejections, Election Protection worked with the Secretary of State’s office to develop best practices for looking up voters when trying to validate provisional ballots. This guidance was emailed to all of Ohio’s 88 counties.

ELECTION DAY

While Election Day went smoothly for many of Ohio’s voters, many others dealt with distinct and recurring voting problems. Issues with provisional ballots, voting machine failures, voters missing from the rolls, voter identification rules, and poll worker confusion were reported around the state. Some counties, like Cuyahoga County, were better organized and able to efficiently respond to issues as they arose on Election Day, while others, such as Summit County, suffered disorganization at the polling locations with poll worker problems, inadequate staffing, ballot shortages, poor signage, and inadequate responses to equipment failures.

Provisional Ballots

One of the most extensive problems reported statewide was too many provisional ballots being issued by widespread misapplication of the voter identification requirements – specifically, forcing voters with valid driver’s licenses to vote provisionally even though such voters were entitled to a regular ballot. Ohio law permits driver’s licenses with outdated addresses to be used as an acceptable form of identification so long as the voter is properly registered at their current address. One caller in Cincinnati observed a fellow voter turned away after presenting a valid Ohio driver’s license that had a non-matching address at the Over-The-Rhine Recreation Center. In Toledo, an Election Protection volunteer, who was also a voter, reported an exchange with a poll worker when she went to cast her vote at the Little Sisters of the Poor nursing home. After confirming that the address on the voter’s driver’s license matched the address in the poll book, the poll worker commented that voters whose addresses do not match are required to vote on a provisional ballot. Knowing this

was incorrect, the volunteer alerted the precinct captain who initially agreed with her poll workers' statements. However, after reviewing the precinct guidelines, the captain realized she had not reviewed the entire set of instructions on voter identification requirements and indicated that she had not been properly trained. The problem of misapplication of voter identification requirements came up frequently in Lucas, Montgomery, Hamilton, Franklin, Cuyahoga, Stark, and Summit counties.

Machine Problems

Machine failures were a systemic problem on Election Day, with multiple reports from Cuyahoga, Hamilton, Lorain, Lucas, Montgomery, Summit, and Franklin counties. Election Protection documented at least 10 polling locations in Cuyahoga County where there were machine breakdowns or malfunctions. The Cuyahoga County Board of Elections was responsive to machine issues as they arose, however the problems continued to occur throughout the day. In Canton, a voter reported that only three out of seven machines were printing out the verified paper record for voters, leading to longer lines. Election Protection worked with the Stark County Board of Elections, which deployed a technician to polling site and directed poll workers to issue emergency paper ballots in the interim.

At the Talmedge Community Center in Summit County, a voter reported that machines kept jamming and at least one ballot was "chewed up." Summit County had frequent reports of optical scan machines jamming when being fed ballots. In Lucas County, many polling locations were slow to open or opened without having all machines up and running because set-up took too long. Although the Lucas County Board of Elections had voting machine tech workers on site at all of the larger polling locations, the smaller ones did not have this resource.

Enlarging the problem of machine failures were poll workers who did not follow appropriate procedures when machine issues occurred, often leaving voters distressed that their vote would not count. One voter at the AJ Rickoff Elementary School polling location in Cleveland reported that when submitting the first page of her three page ballot, the voting machine read "error vote not counted." She asked a poll worker for assistance and the poll worker did not know what to do or whether the votes on the first page were counted. She was told to submit the other pages and upon submitting each the machine said "thank you for voting". The voter was very concerned that her vote would not count. Another voter, a disabled veteran, accidentally selected two choices on his ballot for President and the smudge was picked up by the machine, and gave him an option to recast the ballot. The poll worker hit the decline option to recast on the machine without the voter's permission,

even though the voter wanted to recast his ballot. Under Ohio law, voters with spoiled ballots are entitled to cast three ballots.

Long Lines

Long lines were reported in Summit, Cuyahoga, Warren, Franklin, and Montgomery counties. A caller from Summit County reported that voters were waiting for over two hours to vote at the Laurel Lake location, a retirement community, and that elderly voters were having trouble standing in line for that long. Franklin County experienced long lines at the Ohio Union and the King Arts Complex polling locations. Election Protection was in contact with the Franklin County Board of Elections throughout the day to report and resolve this problem. At the Ohio Union, voter check-in held up the line and Election Protection worked with the Board of Elections to split the poll book so there were more check-in lines. Paper ballots were also used to move some of the lines as polls opened. Adding to the delay was confusion among Ohio State student voters about their proper polling location who mistakenly believed the Ohio Union served all Ohio State University students. Election Protection deployed a team of six volunteers to help verify the polling locations of students.

Montgomery County in particular experienced much longer lines than in 2008. In addition to machine breakdowns and inefficiencies at the polling sites, Montgomery instituted the most far reaching precinct and polling place consolidation in the state after the 2008 Presidential election. There were very few lines in 2008 and those that formed were only for a few minutes in the morning. This year, Election Protection visited at least ten locations that had lines in the mornings, half of which continued into the early afternoon.

Voter Registration

Finally, Election Protection received reports from around the state of list maintenance problems with the voter registration list. A number of voters reported not being on the rolls even though they registered to vote. This problem was reported in Hamilton, Franklin, and Cuyahoga counties. In Franklin County, voters reported they had Franklin County Board of Election registration cards verifying their precincts, but poll workers were unable to find them in the poll books. Student voters from Central State University and Ohio State University who submitted registrations submitted their voter registration forms through on-campus registration drives also reported not being on the voter rolls on Election Day.

PENNSYLVANIA

PROGRAM

The Pennsylvania Election Protection Coalition covered the state in 2012. With the assistance of the Committee of Seventy, which runs a perennially-strong field program in Philadelphia, Election Protection was present in at least 12 counties on Election Day, with field command centers in Philadelphia, Pittsburgh, and Harrisburg. The Election Day field program was anchored by two local call centers in Philadelphia, receiving calls from Pennsylvania voters to the Election Protection Hotline. Finally, with the assistance of Coalition partners at the ACLU of Pennsylvania, there were lawyers on hand in many more counties across the state, prepared to advocate on behalf of voters when the need arose. Election Protection established relationships with local election officials, including a convening organized by Common Cause in mid-October, which invited local registrars to learn about Election Protection and make recommendations for seamless cooperation on Election Day.

The 2012 elections were undeniably chaotic in Pennsylvania. The Hotline received over 9,000 calls on Election Day from voters with questions and concerns – the second highest call volume of all the states, behind only California. Much of this confusion, such as that surrounding the identification law, came at the hands of state officials themselves and likely could have been avoided with a more measured approach, conscious to the obstacles that many voters face. In addition to concerns about voter identification, Pennsylvania voters encountered polling place and registration problems.

BEFORE ELECTION DAY

Voter Identification

Substantively, Pennsylvania Election Protection was defined by the issue of voter identification from start to finish. Coalition members began preparing well before Election Day as the state enacted one of the most aggressive voter identification laws in the country. The bill, which would ultimately become law as Act 18, generally required Pennsylvania voters to show unexpired government-issued photo identification when they went to the polls. As the bill worked its way through the Pennsylvania legislature, passing the Pennsylvania House in

2012 VOTING PROBLEMS IN PENNSYLVANIA



■ Voter ID ■ Polling Place ■ Registration ■ Intimidation ■ Poll Worker ■ Other (Absentee, Language, etc.)

August of 2011 and taken up in the Pennsylvania Senate in early 2012, the Election Protection Coalition worked tirelessly to block its passage. The bill ultimately passed the Senate in a 26-23 vote and Governor Tom Corbett signed it into law in March 2012.

Legal challenges to the law were filed almost immediately, and as those made their way through the Pennsylvania courts, the Election Protect Coalition transitioned to intensive voter outreach, hoping to educate voters about the law's new requirements and empower them with the tools they would need to obtain the necessary identification. To this end, groups and individuals across the state joined together to form the Pennsylvania Voter ID Coalition to organize efforts to reach voters on the identification issue. The Election Protection Hotline went live in early May, with volunteers answering voters' questions about identification.

By summer, the Pennsylvania Commonwealth Court heard a challenge to the voter identification law, made on the grounds that the law – and the haste with which the state sought to implement it – would disenfranchise large numbers of Pennsylvanians, a disproportionate number of whom would be minorities. Commonwealth Court Judge Robert Simpson, refused to enjoin the law, however, believing that by the time the November elections arrived the state would take ample steps to ensure that all Pennsylvania voters who wanted identification could get it. This decision was immediately appealed to the state Supreme Court, which disagreed with Judge Simpson in mid-September, and remanded the case to his court to reevaluate whether, given the difficulties in obtaining identification that massive numbers of Pennsylvanians had reported since the judge's initial ruling.

Taking hints from the Supreme Court's suspicion of the state's rapid implementation of the identification law, Judge Simpson temporarily enjoined the law on October 2, 2012, allowing voters in the 2012 general election to cast a regular ballot without showing photo ID. This was an undoubted victory for Election Protection and the voting rights of Pennsylvanians; however Judge Simpson's ruling also sought a dangerous compromise. Though he forbid poll workers from requiring photo identification to vote in this election, he left the law in place for future elections and so permitted the state to continue its so-called voter education

campaign. The state thus continued to run confusing advertisements stating “If you have it, SHOW IT” and allowed poll workers to still request to see photo identification on Election Day, providing voters who did not have it with information on the requirement for future elections.

Thus, although Election Protection celebrated the law’s injunction for the 2012 election, the state’s continued messaging on photo identification set the stage for widespread voter confusion about the status of the identification law. This confusion was exacerbated in the final weeks and months before the election by misinformation and deceptive practices that sought to take advantage of the chaos. Throughout the state, there were numerous instances of information about the law’s pre-injunction requirements being disseminated after the law was blocked. In the Philadelphia area, for example, the PECO local utility company sent a mailing with its bills informing voters that photo identification would be required in November, but the mailing didn’t reach voters until after the law had been blocked. In a more malicious example, a truck was spotted in several Pittsburgh neighborhoods with a large sign posted on it reading “PHOTO ID REQUIRED TO VOTE” the week before the election.

To combat both deliberate and inadvertent misinformation, Election Protection partners in the state, disseminated mailers, radio ads, and automated telephone calls to spread the correct word about ID.

Litigation concerning the constitutionality of the law and its implementation in future elections is ongoing, with a trial likely to occur in Summer 2013.

ELECTION DAY

Voter Identification

On Election Day, the voter identification saga continued, but was also joined by a bevy of other unanticipated voting rights issues. From the time the polls opened, it was clear that confusion among both voters and poll workers persisted over the identification law – as did the campaign of misinformation. Many voters across the state were greeted by signs at their polling place stating that “ALL VOTERS must show one of the following approved forms of Photo Identification to vote” as were provided to polling places in Dauphin County. A voter in Ambler, Pennsylvania in Montgomery County reported a sign at her polling place that said, “Have your ID out to vote.” The voter, who was informed about the law’s injunction, felt that the sign was misleading and intimidating, and complained to the polling place’s Judge of Elections. The Judge told her, however, that the county made poll workers put the sign up. The voter was persistent and, with the assistance of an Election Protection volunteer,

argued with the Election Judge about the signs, but the judge said the signs wouldn't be removed. Finally, misinformation even came from the state itself, with the Department of State issuing a mailing the weekend before the election telling voters that "If you want to vote, SHOW IT....Under a new law, voters are supposed to show a form of ID." The notice contained no mention of the identification law's injunction.

In addition, voters across the state reported confusion over being asked for photo ID, even though the law did not require voters to produce it, with many voters justifiably fearful that the request was confusing and deterring voters who did not have ID. Many informed voters asserted their rights, declining to show identification when it was asked of them. In some instances, these voters reported poll workers becoming defensive and hostile, and asking voters why they would not just cooperate, and accusing them of being "difficult."

One voter in Highland Park, a neighborhood of Pittsburgh, was told at the polls that identification was required to vote. As she was not a first time voter, this requirement did not apply to her, however, and she was steadfast in asserting her right to vote without showing an ID. It was only after the women "made a scene" that another poll worker approached her and agreed that she did not need ID. The voter was able to vote successfully.

Most concerning, some poll workers proceeded as if the injunction were not in place, in fact requiring voters to show photo identification in order to get a ballot. One voter in Erie County, Pennsylvania was turned away for lack of identification and told that "some places may not require ID, but this one does." It was not until he returned with a newspaper article about the injunction of the photo identification law that he was able to vote.

Throughout the identification chaos, hundreds of volunteers were at the polls, informing voters of their rights and providing them correct information about the voter identification law. They were integral in getting misleading signs taken down and channeling poll worker problems to Election Protection command centers in Philadelphia, Harrisburg, and Pittsburgh so that Election Protection leadership could talk to local officials.

Voter Registration and Provisional Ballots

Another problem that plagued Pennsylvania elections this year was voter registration and provisional balloting. As voting began, it became apparent that unprecedented numbers of voters were not appearing on the poll books. In some cases, this was a problem of poll workers not checking the supplemental pages that are given to polling places of late-processed registrants. In one Philadelphia precinct, a Judge of Elections acknowledged that she had simply asked many voters to fill out provisional ballots without checking the supplemental list. In other cases, the supplemental pages were altogether missing from poll books, as

happened in numerous districts across the state. One voter at Harrity Elementary School in Philadelphia was told she was not on the rolls and was not offered a provisional ballot. She returned to the polling place to request that the poll workers check the supplemental pages, only to find that the polling place did not have them on hand. In still other locations, long-time voters who were in the correct polling place were also missing from the regular poll books. One voter, who said he had voted for the past 26 years, reported his name missing from the poll books. Several others in counties across the state reported that although their names appeared in the Department of State's own voter registration database, they were not on the rolls and were not allowed to cast regular ballots. The Election Protection Hotline even received calls from Judges of Elections who wanted to report problems to which their county officials had not been responsive. One judge at the Pathway Church precinct in Philadelphia called to report that many newly registered voters who even came with their voter registration cards in hand were not on their lists. Another Philadelphia judge reported the same problem, and noted that she had been unable to get through to the county to resolve the issue.

Election Protection volunteers were instrumental in assisting voters with registration concerns. Throughout the day, they used the Hotline and their smartphones to locate voters' registration records on the Election Protection app to verify that voters were registered and in the right place. In some instances where voters were clearly registered but still not found on the poll books, Election Protection volunteers helped voters use the app to present Judges of Elections with proof of their registration, who in some cases then permitted voters to cast a regular ballot. And where poll workers turned away voters who did not appear on the rolls, volunteers helped encourage voters to cast provisional ballots before they left.

Although the total number of voters who were disenfranchised due to missing registration records can never be ascertained, and the number of provisional ballots cast across the state is still coming in, it is clear that record numbers of Pennsylvanians were affected. In Philadelphia alone, more than 27,000 provisional ballots were cast on Election Day, approximately double the number cast in 2008. Of these, approximately 5,000 were voters whose names were improperly omitted from the poll books, many apparently due to a Department of State programming error.

Polling Place Problems

A third major cause for concern in Pennsylvania was the availability of language assistance, particularly (though not exclusively) in Philadelphia, Berks, and Lehigh Counties, which are covered by section 203 of the Voting Rights Act. Specifically, Sections 203 and 4(f)(4)

of the Voting Rights Act (VRA) require that these covered jurisdictions provide all voting information such as registration or voting notices, forms, instructions, assistance, and ballots in the applicable minority group language. According to the October 2011 determinations issued by the U.S. Census Bureau, the Counties of Philadelphia, Lehigh, and Berks have an obligation to provide materials and assistance to Spanish-speaking voters. Additionally, Section 2 of the VRA prohibits voting practices and procedures that discriminate on the basis of membership in a language minority group.

However, in many locations, voters reported that there were no interpreters on hand to assist Spanish-speaking voters. One Spanish-speaking voter in Philadelphia reported to the Spanish-language Election Protection Hotline that the Police Athletic League did not have Spanish interpreters as required by law, and that Spanish-speaking voters were becoming frustrated by the lack of assistance. To make matters worse, this polling location had a history of not allowing voters to select their own interpreter – such as a family member – to assist them in casting their ballots, as is required under federal law.

Of course, the lack of language assistance was a problem in itself, as federal laws mandate such support. But the lack of interpreters and other language assistance also exacerbated the problems noted above with registration and identification. For example, a Spanish-speaking voter in Allentown, Pennsylvania in Lehigh County reported that poll workers could not locate her name on the list, but that there were no interpreters for Spanish speakers to help her resolve the issue at the polling place when she was told she couldn't vote. Thus, Spanish-speaking voters may have particularly borne the brunt of Election Day problems.

Many other polling place and voting issues added to these two systemic issues. Several polling places, for example, reported long lines as a result of the identification and registration issues. There were also numerous instances of polling places being relocated without notifying voters. In Pittsburgh, for example, at the University of Pittsburgh campus, many students showed up at the polling place on their registration cards only to find that their precinct had been moved, though thanks to Election Protection volunteers on hand, they were able to successfully redirect many of them to the correct location. Also, in Philadelphia, one polling place had been moved to a different building without notifying voters or other officials. The Department of State's own website reported the wrong building on Election Day.

SOUTH CAROLINA

PROGRAM

In South Carolina, Columbia served as the site of the Election Protection state command center, supported by a second field command center in Charleston. Election Protection volunteers monitored polling places in Richland, Lexington, Sumter, Charleston, Horry, and Berkeley counties.

Key problems arising in the period leading up to and on Election Day in South Carolina included photo identification concerns, voting machine shortages and malfunction and the resulting long lines, as well as a lack of proper disability access.

BEFORE ELECTION DAY

South Carolina's New Photo Identification Law

In the months leading up to Election Day, Election Protection attorneys were involved in litigation over the passage of a new, stricter voter identification law in South Carolina. While voter identification was already required for all voters in South Carolina, the new law would have required photo identification, and would not allow voters to use their non-photo voter identification cards at the polls.

South Carolina is covered by Section 5 of the Voting Rights Act. Consequently, the state is required to submit any changes in election law to the Department of Justice for preclearance or file a lawsuit in Federal Court in Washington, D.C. seeking preclearance. To obtain preclearance, the covered jurisdiction must demonstrate that the new law neither has the purpose nor will have the effect of denying or abridging the right to vote on account of race, color or membership in a language minority group. The law was denied preclearance by the Department of Justice, and South Carolina sued the department in federal court.

While the litigation was pending, South Carolina made a number of changes in how the state proposed to implement the new law, including provisions allowing exceptions for individuals who sign an affidavit setting forth the reason they have not obtained a photo ID. Less than one month before Election Day, the court ruled that the law, as South Carolina

2012 VOTING PROBLEMS IN SOUTH CAROLINA



■ Registration ■ Polling Place ■ Absentee ■ Equipment ■ Voter ID ■ Other (Poll Worker, Language, etc.)

proposed to implement it, was not discriminatory. However, the court did prevent the law from being implemented until 2013, underscoring the “potential for chaos” in changing the requirements for identification so soon before the Election. While the Election Protection Hotline did receive questions about voter identification requirements from South Carolina callers, there were no major reports of individuals being asked for photo identification when it should not have been required.

ELECTION DAY

Voting Machine Problems and Long Lines

Problems with long lines, sometimes as long as seven hours at some precincts, were reported by voters, Election Protection field volunteers, and Coalition partners.

Long lines in South Carolina were caused by machine shortages, machine breakdowns, and high voter turnout. According to reports, Richland County had, by far, the most significant problems with machines and long lines. As a result, the certification of the Richland County election results was significantly delayed, and the local legislative delegation held a hearing to investigate the reasons for the long lines. Election Protection also had reports of similar machine and wait time issues in Spartanburg, Greenville, Charleston, Horry, Berkley, Kershaw, and Sumter Counties. There were a total of 65 reports related to polling place problems on Election Day. At the Joseph Keels Elementary School, there were only 5 voting machines, and voters were waiting in line for as long as 6 hours. Some of these voters left the polling location in frustration, without having voted. With each instance of long lines in the state, Election Protection volunteers encouraged voters to remain in line, and ensured that election officials were aware of the problems.

These issues must be addressed going forward. Voting machines have been a problem in the past in South Carolina, and Election Protection is hopeful that this November’s difficulties will serve as the impetus for an evaluation of the voting machines and the voting process across the state.

Disability Access

In South Carolina, polling places are required to provide curbside access and other reasonable accommodations for disabled voters. However, Election Protection received reports that many polling locations were unable to provide curbside voting due to long lines and understaffing. One voter mentioned that she asked the poll workers to allow her to vote curbside, but they refused her request.

In response to the reported deficiencies, Election Protection coalition partners contacted election officials to make them aware of areas where disability access was insufficient. Voters who were unable to vote curbside were encouraged to return to the polling location and then report back to Election Protection. Coalition partners will be following up with election officials to ensure that proper accommodations are provided for disabled voters in these areas in the future.

TENNESSEE

PROGRAM

The Election Protection program in Tennessee focused its field efforts in Nashville and Davidson County in 2012, and reached thousands of voters across the state through the Election Protection Hotline. Led by a phenomenal local leadership team, Election Protection efforts attracted interest from hundreds of legal and grassroots volunteers eager to serve as poll monitors both inside and outside the polls during early voting and on Election Day.

Tennessee's main problems building up to and culminating on Election Day included invalidating several types of voter identification that Tennesseans had relied on for years, the disenfranchisement of voters with felony convictions, undertrained poll workers, voting machine malfunctions, and long lines.

BEFORE ELECTION DAY

Tennessee's New Photo Identification Law

Tennessee's Election Protection program was dominated by concern over the state's newly-implemented voter identification law. The law, passed in 2011, limited the types of voter identification that voters could use to prove their identity to only state or federal government-issued photo identification. For the weeks and months before the November election, the Election Protection Hotline took calls from voters across the state with questions about what type of identification they needed when they went to the polls.

Although several opponents of the law challenged it in Tennessee state court, the courts remained largely unsympathetic that the law would make it harder for eligible citizens to vote, and implementation proceeded. Among those parties challenging the statute was the City of Memphis, which made the case that the law would disenfranchise its citizens. Memphis then began issuing library cards with photographs on them in an effort to provide citizens with proper photo ID. The state countered that such identification could not be used to vote since they were not issued by the state or federal government.

2012 VOTING PROBLEMS IN TENNESSEE



In late October, a Tennessee appeals court upheld the identification law as constitutional, but also ruled that the library cards could be used to satisfy the identification requirement on the grounds that state law construes municipalities like Memphis as agents of the state. In response to this victory, many Memphis voters went to the polls during early voting to cast ballots using their library cards as identification; however, Secretary of State Tre Hargett directed Shelby County election officials not to accept the library cards while the case was pending appeal to the Tennessee Supreme Court.

As a result, voters who immediately went to the polls and presented their library cards – including a Tennessee state judge in Memphis – were told that they would have to cast a provisional ballot, which under the law would not be counted unless they could produce another form of acceptable identification before November 8. On November 1, the Tennessee Supreme Court weighed in, allowing Hargett's appeal, but declining to block the use of library cards, stating that the "right to vote has profound constitutional significance." In response, Election Protection sponsored automated telephone calls to targeted groups in Shelby County to get out the word that voters could use their Memphis library card.

Although the Memphis library card dispute ended with a victory for voting rights advocates, confusion and problems continued on Election Day surrounding voter identification. In several cases, voters reported poll workers requiring them to show both photo identification and their voter registration card, though the identification alone should have been acceptable for the majority of voters.

Felony Disenfranchisement

Tennessee's law that allows persons with past felony convictions to restore their voting rights is complicated, and it led to confusion among voters who wished to have their rights restored, but were unsure whether they were eligible and whether they had satisfied all of the necessary prerequisites.

The restoration law also created problems for voters without a felony conviction. In Nashville, a voter called to report that while she was voting, several men were turned away because

they had unpaid child support or other debts with the county. In these cases, poll workers were confused by the requirement that a voter with a felony conviction must not have any such outstanding debts and improperly enforced the law against voters with no felony conviction on their record.

Poll Worker Training

A lack of adequate poll worker training is a perennial concern. In Nashville, local election officials had been instructing poll workers that a voter could be challenged on the basis of citizenship, which is correct under state law; however, the training material and accompanying instruction indicated that lack of English proficiency could indicate a lack of citizenship and therefore grounds to challenge a voter – an inaccurate and unlawful generalization. In response, Election Protection Coalition members worked with local volunteers to draw attention to this and other issues and pressure the county to improve its poll worker training. The county remained intractable, however, requiring Election Protection volunteers to be particularly vigilant on Election Day.

ELECTION DAY

Voting Machine Breakdowns and Long Lines

Widespread problems with voting machines breaking down caused major problems during early voting and on Election Day. In Chattanooga, there were reports of machines breaking at multiple locations, including repeated problems at St. Elmo Recreation Center and Ridgedale Church, which created lines two to three hours long and spurred many voters to leave. At Concord Baptist Church in Chattanooga, a voter reported being told to leave her ballot on the side of the machine when a scanner stopped working. Poll workers told her that they would scan it later and did not give her the option to stay to be sure her vote was counted.

TEXAS

PROGRAM

The Texas Election Protection program spanned the early voting period and Election Day, covering Harris Galveston, Dallas, and Collin counties.

Voters faced numerous challenges leading up to the election including a new restrictive law requiring voters to show government issued photo identification, widespread voter registration problems and a significant number of late-opening polling locations. Finally, voters were fearful of intimidation from ballot box bullies at the polling place, which had been a major problem facing Texans in 2010.

BEFORE ELECTION DAY

Voter Registration Problems

In early September, voters were surprised to receive letters telling them that they were dead and that they were being removed from the voter list. Over 80,000 voters were identified in this faulty purge, which the state based on the Social Security Administration's death list. Social Security warned Texas that the list should not be relied on, but to no avail. After Harris County received hundreds of calls from voters who received the notice, the county refused to purge these voters. The state threatened the county with the loss of state funding, yet the county refused to back down and the state finally relented. Additionally, four living voters who received the letter filed a lawsuit that challenged the law allowing for this purge. The case settled with the state agreeing that counties will now have to verify a voter is dead before they can cancel a voter registration.

On the first day of early voting, voters who registered close to the registration deadline found themselves either not on the registration list or listed with a note that said their registration was not active until Election Day (and thus could not participate in early voting), even though they were properly registered. Election Protection had repeated discussions with the county attorney's office as well as the county clerk and discovered that the poll books had not been updated to reflect the new registrations. One voter called the Election Protection hotline worried that she would not be able to vote because she was leaving the

2012 VOTING PROBLEMS IN TEXAS



■ Registration ■ Polling Place ■ Voter ID ■ Equipment ■ Poll Worker ■ Other (Absentee, Language, etc.)

country the next day. An Election Protection volunteer convinced the county clerk to enter her into the poll book so that she could cast a regular ballot before her trip. The poll books were updated for the remaining days of early voting.

Texas' New Photo Identification Law

In 2011, Texas passed SB 14, one of the most restrictive photo identification laws in the country, which would have required voters to present, without exception, a government issued photo ID. While the law allowed voters to identify themselves at the polls using a concealed carry permit, the state legislature had rejected amendments that would have allowed the use of other forms of identification, such as a photo student ID.

Texas is a covered jurisdiction under Section 5 of the Voting Rights Act because of the state's history of racial discrimination in applying election law. As such, Texas is required to submit any changes to its election laws to the Attorney General or a Federal Court in Washington, D.C. for preclearance. To obtain preclearance, Texas must demonstrate that the new law neither has the purpose nor will have the effect of denying or abridging the right to vote on account of race, color or membership in a language minority group. In July 2011, the State submitted its photo identification law to the Attorney General for preclearance. After numerous requests for more information, the preclearance was denied in March of 2012 after the Department of Justice determined that the number of registered voters who lack a driver's license or a personal identification card could range from 603,892 to 795,955, and Hispanics were 46.6 to 120 percent more likely than non-Hispanics to lack these forms of ID. The state provided no data on whether African American or Asian American registered voters would also be disproportionately affected. The state also failed to provide data on the number of registered voters who had other forms of acceptable identification, including a United States Passport or concealed carry permit. Also, 81 of the state's 254 counties do not have driver's license offices and that those that do have such offices are open for limited hours, making it difficult for voters to obtain identification. Given the above reasons, the Department of Justice denied preclearance for the photo identification law.

The State then sought preclearance in Federal Court in Washington, D.C. In August, the court denied preclearance of the law. The three-judge court found that the law would almost certainly have a retrogressive effect because imposes “strict, unforgiving burdens on the poor, and racial minorities in Texas are disproportionately likely to live in poverty.” The court considered the same findings listed above, the failure of the Texas Legislature to accept the many amendments offered to blunt the effect of the law, including allowing any state-issued or tribal identification with a photo, extending driver’s license office hours, reimbursing impoverished voters for travel costs to get qualifying identification and waiving the fees for indigent persons who need the underlying documents. Therefore, the court denied preclearance, and the law was not in effect for the November election.

Voter Intimidation

In 2010, an initiative called “True the Vote” sprung from the King Street Patriots in Houston. That year, in Houston, voters complained that True the Vote poll watchers sought to deter targeted groups of voters from voting, disrupted voting when voting began, and confronted them about their eligibility to vote. Because of this history and the True the Vote’s announcement that they planned to recruit one million poll monitors for the 2012 election, the Election Protection Coalition wrote to Harris County seeking assurance that no True the Vote activity would disrupt voters, as it had in 2010. Additionally, Election Protection worked to educate and empower voters so they knew their rights and were properly prepared to vote in case their right to vote was questioned.

ELECTION DAY

Voter Identification Confusion

Despite the court striking down the photo identification law, confusion followed on Election Day. Voters and poll workers were confused over what identification they still needed to present – Texas voters are required to show their voter registration certificate. If they don’t have their certificate, they can show a number of different identifications that include non-photo identification such as a utility bill. Election Protection received reports of voters confused about what identification they needed to show and others who were told they needed to present photo identification. In San Antonio, two voters called to report that poll workers were making voters who presented unsigned voter registration certificates to sign them at the polling location, and then present a form of identification to compare the signatures. Another voter in San Antonio was told that she needed to present a driver’s license. The voter asked to speak to an election judge, who told her the same incorrect information and that if she didn’t have a driver’s license she could vote a provisional ballot.

The voter protested, but eventually showed her license and voted a regular ballot. Election Protection called the county clerk to request that the clerk inform the poll workers of the law. In Houston, meanwhile, a voter was initially told that her passport was not an appropriate form of identification. She protested and another poll worker finally stepped in and allowed her to vote.

Late-Opening Polling Places

On Election Day, voters in Galveston County arrived at polling locations only to find that many of the locations were not yet open. A reported 38 voting centers did not open on time, because poll workers did not start the computer systems early enough. This setback prompted a judge to extend voting hours on Election Day.

VIRGINIA

PROGRAM

The Virginia Election Protection program spanned four regions of the state, with field programs in Northern Virginia, the greater Richmond area, Charlottesville, and Hampton Roads. Hundreds of volunteers were on the ground in those regions, including Prince William, Fairfax, Albermarle, and Henrico Counties and the cities of Richmond, Norfolk, and Virginia Beach.

In Virginia, there were multiple areas of concern for voters both before and on Election Day, including a new law requiring voters to show identification, long lines, and absentee ballot issues.

BEFORE ELECTION DAY

Virginia's New Voter Identification Law

Virginia's new voter identification law was a serious concern going into the November elections. The new identification statute eliminated the prior law that allowed voters to prove their identity at the polls by signing an affidavit and replaced it with the requirement that voters provide one of several specified forms of photo and non-photo identification in order to receive a ballot. As jurisdictions in Virginia are covered by Section 5 of the Voting Rights Act, Virginia is required to submit any election law changes for approval to the Department of Justice for preclearance or file a lawsuit in Federal Court in Washington, D.C. seeking preclearance. The Department of Justice approved the new identification law in August 2012.

From the law's inception there was confusion over whether the identification law was a photo identification law, which it was not; to the contrary, there were many acceptable forms of non-photo identification available for voters to use, including voter registration cards, which were sent to every registered voter in the state.

2012 VOTING PROBLEMS IN VIRGINIA



■ Registration ■ Polling Place ■ Equipment ■ Absentee ■ Poll Worker ■ Other (Voter ID, Language, etc.)

ELECTION DAY

Voter Identification Confusion

Working with voter outreach groups across the state, Election Protection volunteers worked tirelessly to ensure that voters got the word about the new identification requirement and its details. On Election Day, however, there were still problems, including reports of poll workers who insisted on photo ID. At the Cuffee Center in Chesapeake, Virginia, for example, voters reported being asked for multiple forms of identification, even after presenting a voter registration card (which should have been sufficient). The same problem was reported at other precincts across the state. In Centreville, meanwhile, one voter reported waiting in line for an hour and a half, only to be asked to show photo identification. He knew that non-photo identification was acceptable, but showed his driver's license nonetheless just because he had spent so much time in line and wanted to cast his ballot.

In response to the numerous reports of incorrect enforcement of the identification law, Election Protection volunteers were dispatched to these precincts to speak with poll workers and, where necessary, polling place chiefs who could address inaccurate information being disseminated by poll workers.

Long Lines

Identification-related confusion problems on Election Day paled in comparison, however, to the long lines that voters endured in Virginia. Lines exceeding three hours were not uncommon. In Virginia, polling locations are required to have at least one machine for every 750 voters. Precincts that used this absolute minimum faced the longest lines.

At one Arlington precinct, voters reported waiting up to four and a half hours to vote, and at Salem High School in Virginia Beach, a voter reported being in line from 8:45am until she finally got to cast her ballot after 3:00pm. It is extremely important to note that the long lines were only a symptom of much deeper election administration problems.

Long lines across the state were a result of insufficient resources, poor allocation of resources that did exist, and frequent breakdowns of aging voting equipment. At the Salem High School precinct in Virginia Beach, for example, there were only two poll workers checking identification, creating a bottleneck once voters reached the check-in table. At a polling place in Woodbridge in Prince William County with extremely long lines, it was reported that there were only six voting machines available. While Prince William County's population has greatly increased, it has not been able to buy new voting machines. Even more of a concern is the fact that the machines the County has been using since 2003 are aged and breaking down, leaving Prince William County with more voters and less machines. Prince William County was able to supply each precinct with the minimum number of machines required under law; however, the minimum was not enough and voters faced extremely long lines. In Hampton, one polling place had only a single working voting machine at one point on Election Day. Such issues were widespread, suggesting systemic issues with resource management across the Commonwealth.

Absentee Ballot Problems

Virginia also had several serious problems with absentee ballots. First, many voters reported poll workers turning away individuals who had received, but not cast, absentee ballots and then appeared to vote in person on November 6. Under state law, these voters should have been permitted to cast provisional ballots, which would have been counted with evidence that the absentee ballot was never submitted.

One voter who had been medically discharged from the military only two weeks before the election reported being turned away because poll workers said his absentee ballot had already been mailed to him. There were also problems with voters requesting but never receiving their absentee ballots, or not receiving them until it was too late to return them in time for them to be counted.

Finally, many voters who tried to utilize in-person absentee voting were misled about the requirements for doing so. Although Virginia requires voters to provide an excuse to cast an absentee ballot in person before the election, which is not technically "early voting," voters who asked about options to vote early were at times turned away on this technicality. In both Chesapeake and Prince William Counties, voters reported seeking more information about "early voting," only to be told it did not exist in Virginia, without explanation that the in-person absentee option existed. Essentially, they were turned away based on semantics. As soon as Election Protection learned of this problem, volunteers contacted local officials who retrained workers at these locations.

WISCONSIN

PROGRAM

This year Election Protection Wisconsin dispatched hundreds of volunteers throughout the state to assist voters and poll workers. Even with high turnout, the voting process ran relatively smoothly. Wisconsin's primary and recall Election Protection programs early in the year contributed to the success of Election Day.

Most of the major issues in Wisconsin stemmed from recent changes in the law, which included an attempt to institute a photo identification requirement and changes in the residency requirements as they related to Election Day Registration. The effective operation of Election Protection and the Wisconsin Government Accountability Board (GAB) kept other problems to a minimum.

BEFORE ELECTION DAY

Wisconsin's New Photo Identification Law

In 2011, Wisconsin passed a restrictive photo identification law, but two different state courts subsequently issued injunctions barring the law from going into effect. The state appealed these injunctions. The state sought to bypass the state's intermediate appellate court, the Court of Appeals, and asked the Wisconsin Supreme Court to hear a direct appeal from the trial courts. This was done in an attempt to cause the law to go into effect in time to be used in the November general election, which would have provided very little time during which to educate voters and poll workers prior to the election. The Wisconsin Supreme Court refused to grant such a direct appeal, and the law was not in effect for the November election.

Role of the Government Accountability Board

Because of Election Protection's work to assist voters during the recall, along with the guidance from Wisconsin's independent Government Accountability Board (GAB), Election Day ran relatively smoothly. Setting aside the photo identification and residency issues, the most significant problem in Wisconsin on Election Day came out of Racine, where polling

2012 VOTING PROBLEMS IN WISCONSIN



places ran out of ballots, causing long lines and confusion. This has been a problem in other Wisconsin jurisdictions in past elections, and Election Protection has worked to implement plans in those jurisdictions for emergencies such as ballot shortages and will continue to encourage the state to implement statewide plans.

Throughout the year, the GAB issued helpful guidance for voters and poll workers that clearly improved voting administration state-wide by providing uniformity and clarity to new laws and regulations. The GAB interpreted the state's law requiring voters to provide proof of residency to allow voters to provide electronic proof. As a result, on Election Day, voters were able to show utility bills, bank statements, and other acceptable proof on the screens of their mobile devices in order to prove residency. Additionally, the GAB responded to Election Protection's inquiries as to what proof was acceptable and clarified the law by creating a clear list of acceptable proof of residency documents.

Proof of Residency Restrictions and Confusion

In 2011, the legislature passed a law that expanded the amount of time required to establish residency from ten to 28 days and repealed a safeguard that allowed a voter who lacked proof of residency to vote if another voter affirmed their residency. Most disturbing was the fact that these new laws were implemented without an effective voter education campaign to alert voters to the changes to their longstanding and long relied-on Election Day Registration (EDR) procedures. During the June 2012 recall, this caused widespread confusion among voters and poll workers. Election Protection received reports of poll workers rejecting acceptable forms of proof of residency and requiring photo identification from voters.

College students who had recently left school for the summer and wanted to vote at home felt the brunt of the confusing new changes for Election Day registration. Under the old law, voters had to establish ten days of residency, but now they were required to meet a 28 day requirement. For example, Joanna, a student at the University of Wisconsin-Madison, had her last day of classes on May 11th. Had she returned to her parents' home in Green Bay, she

would only have been able to establish 25 days of residency before the election. Thus, she could only vote at home in Green Bay if she had not voted at school during the 2011-2012 school year (as registering and voting in Madison would have removed her claim to Green Bay residency). Meanwhile, if she had voted at school during the 2011-2012 school year, she would have been required to return to Madison (two-and-a-half hours away from Green Bay) in order to vote on Tuesday, June 5.

ELECTION DAY

On Election Day, there were a significant number of poll sites with long lines and disorganization. At a polling location in La Crosse, there was no seating for voters waiting in line and several people fainted while waiting to vote. One way to relieve the lines is by splitting the poll books, which Election Protection has long advocated for. While many sites followed the procedure, others didn't. At Sandburg Hall in Milwaukee, voters lines exceeding an hour. Election officials split the poll books and wait times were substantially diminished.

Insufficient staffing contributed to the long lines and disorganization. Election Protection has found that polls in high-turnout wards need to include a dedicated greeter or site coordinator who can ensure voters are in the correct polling place, and in the correct line for registration, and, in a site with multiple wards, in the correct line for voting. Unfortunately, many of these locations did not have this dedicated staff. A voter had received a flyer in the mail erroneously directing him to vote at one location. He waited in line only to learn that he had to go to a different location to vote. At another location in Oshkosh, a number of voters waited in line to vote only to learn they were not listed as registered and they had to go back to the registration line. Had there been a greeter or site coordinator, these problems may have been identified when the voters arrived.

"Although the time in our history has passed when certain Americans were excluded by force of law from electoral participation, endemic yet solvable problems continue to plague our system of election and prevent too many eligible voters from fully participating in our democracy."



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