



8-23-2013

# Lining Up: Ensuring Equal Access to Vote

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## Recommended Citation

Lining Up: Ensuring Equal Access to the Right to Vote, Joint Report, Advancement Project & Lawyers' Committee For Civil Rights Under Law (Aug. 24, 2013), [http://b3cdn.net/advancement/666cb8d8d9d4a9a169\\_kxm6yslwk.pdf](http://b3cdn.net/advancement/666cb8d8d9d4a9a169_kxm6yslwk.pdf).

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# LINING UP

## ENSURING EQUAL ACCESS TO THE RIGHT TO VOTE



*Lining Up: Ensuring Equal Access to the Right to Vote*

By Advancement Project and the Lawyers' Committee for Civil Rights Under Law

Published August 22, 2013

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# ABOUT US

**Advancement Project** is a national, non-partisan, multi-racial civil rights organization, founded by a team of veteran civil rights lawyers with a mission to advance America's promise of an inclusive and just democracy in many areas, including voting rights. Advancement Project's voter protection program supports community-based efforts to increase civic participation, improve election administration, and remove structural barriers to voting, particularly in low-income communities of color. It seeks to educate voters and lawmakers, influence policy, expose problems and advocate for reforms. Since 1999, Advancement Project has worked proactively with local and national partners to monitor the administration of voting, investigate inequitable election practices, advocate with state and local election officials to remedy lapses in protecting voting rights, and engage in litigation and legislative advocacy in support of voters and election law reforms. It works in collaboration with state and local elections officials and community partners to forge the relationships necessary to advance election reform. Its lawyers bring cases to support the policy work and seek to build the legal and procedural framework necessary to carry out long-range voter protection work and to remove barriers to voting for voters of color. It uses innovative tools and strategies to strengthen social movements and achieve high-impact policy change. Locally, it provides strategic policy, legal, and communications support to grassroots organizations, increasing their capacity to identify and address racial injustices in their communities. On the national level, it extends and replicates lessons learned on the ground, through the use of legal advocacy, networking, media outreach, and public education.

**The Lawyers' Committee for Civil Rights Under Law** (Lawyers' Committee) is a nonpartisan, nonprofit organization, formed in 1963 at the request of President John F. Kennedy to involve the private bar in providing legal services to address racial discrimination. We are celebrating our 50th anniversary in 2013 as we continue our quest of "Moving America Toward Justice." The principal mission of the Lawyers' Committee is to secure, through the rule of law, equal justice under law, particularly in the areas of fair housing and fair lending; community development; employment; voting; education and environmental justice. For five decades, the Lawyers' Committee has been at the forefront of the legal struggle to achieve equality and protect advances in voting rights for racial and ethnic minorities and other traditionally disenfranchised groups. Today, that tradition continues. With the indispensable assistance of private law firms, the Voting Rights Project is an integrated program of litigation, voter protection, research, advocacy and education, which also includes leadership of Election Protection, the country's largest non-partisan voter protection coalition made up of local, state and national organizations.

# ABOUT THE AUTHOR

**Gilda R. Daniels** is an Associate Professor at the University of Baltimore School of Law. She is a voting rights expert and national speaker. She served as a Deputy Chief in the Department of Justice, Civil Rights Division, Voting Section under the administrations of Bill Clinton and George W. Bush. Her scholarship focuses on the intersections of race, law, and democracy. Her law review articles have appeared in *George Washington University Law Review*, *Cardozo Law Review*, *Indiana University Law Review (Indianapolis)*, *Denver Law Review*, and *New York University Journal of Legislation and Public Policy*. Her writings have also been published in the Huffington Post, the Baltimore Sun and various other publications. Daniels has specialized in voting rights/election law for almost twenty years. She has litigated voting rights cases under the Voting Rights Act, including those involving single and multimember districts, minority language requirements and compliance with other voting rights statutes, such as the National Voter Registration Act. She has also conducted settlement negotiations and sought legislative remedies. She has testified before United States House and Senate Judiciary Committees on voting rights and election law issues.

## **Acknowledgements**

The author would like to thank Advancement Project and the Lawyers' Committee for Civil Rights Under Law, especially Edward A. Hailes, Jr., Katherine Culliton-González, Marcia Johnson-Blanco and Meredith Horton.

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Protesters rally for voting rights in North Carolina on "Moral Monday," a weekly protest led by the North Carolina NAACP. Photo Credit: John West Photography LLC / West Documentaries



# EXECUTIVE SUMMARY

*On the Sunday before Election Day, when poll workers closed their doors on an unexpectedly massive crowd of Florida voters, they were met with chants of: “We want to vote! We want to vote.”<sup>1</sup>*

**Election Day 2012 marked** the convergence of three historic factors: the re-election of the country’s first African-American president, an unprecedented spate of suppressive voting laws passed or proposed in a majority of states, and a demonstration of the resolve and dedication of American voters who turned out and voted despite efforts to deter participation. New restrictive voting measures threatened to obstruct voter participation and inclusion on Election Day. State legislatures introduced or passed restrictive photo ID laws and other suppressive legislation that presented hurdles to voters—disproportionately voters of color and the poor—who lacked the documents, funds or time to obtain the newly-required ID to vote.

- » From January 2011 to October 2012, at least 180 restrictive voting bills were introduced in 41 states, and restrictive photo ID laws were proposed in 38 states.
- » By October 2012, after considerable litigation and advocacy to prevent their enactment, 16 new restrictive laws and two such executive actions had been adopted in 13 states.<sup>2</sup>

Additionally, measures reducing early voting periods inconvenienced many voters, including African Americans, who in states like Florida, rely more heavily on the early voting period than other racial groups.

- » Long Lines: African-American voters waited in the longest lines in 2012 compared to other racial groups, waiting an average of 23 minutes to cast a ballot. By comparison, white voters waited an average of 12 minutes, while Latino voters waited an average of 19 minutes.<sup>3</sup> A new study commissioned by Advancement Project using precinct-level data of over 5,000 precincts in Florida, found that the disparate impact of long lines in Florida on African Americans and Hispanics was severe.<sup>4</sup>
- » Reduced Early Voting Periods: Shortened early voting periods contributed to long lines in some locations, such as Florida, where African Americans were disproportionately impacted by reductions in early voting opportunities in 2012. Although African Americans comprise less than 14% of the Florida electorate, they cast 22% of all early votes in 2012.<sup>5</sup> According to one report, 46% of African-American voters in Florida voted early and in-person in 2012—a 7 percentage point decrease from 2008 that likely reflects the state’s cutbacks to its early voting period.<sup>6</sup>



Advancement Project and the Lawyers' Committee, along with numerous partners, fought hard before and on Election Day to make sure prospective voters were not deterred. We ran voter education campaigns, advocated with community partners to improve election administration procedures, protected against numerous challenges and deceptive practices, conducted poll worker and poll monitor trainings, staffed the Election Protection hotline and sent volunteers and staff to the polls during Early Voting and on Election Day to answer voter questions and help resolve problems they encountered. Also, when needed, we litigated in state and federal courts to protect the right to vote.

On Election Day, despite efforts to thwart turnout and dissuade voters, voters of color turned out and exercised their right to vote. African-American and Latino voters were a very important part of the election. In 2012, the overall voting rate was 61.8%. Despite efforts to shorten early voting time periods in key states like Florida and Ohio, African-American turnout was 66.2% -- up from 64.7% in 2008. The turnout rate for non-Hispanic whites was 64.1%, 48.0% for Latinos, and 47.3% for Asian Americans.<sup>7</sup> Turnout amongst voters of color is likely to continue to increase in the coming years, and unfortunately, as the potential power of voters of color increases, backlashes curtailing their voting rights like the ones we saw in 2012 are also likely to continue.

This report discusses the fight back in the war on voting, the problems experienced by voters of color when voting in 2012, and recommends needed reforms. **The report also highlights that in 2013, various state legislatures are continuing to propose restrictive voting measures. The war on voting is not over.**

Released in the wake of the Supreme Court's June 2013 decision in *Shelby County v. Holder* finding the Section 5 coverage formula of the Voting Rights Act unconstitutional, the Lawyers' Committee and Advancement Project's report chronicles the impact of restrictive voting laws on voters of color in the 2012 election. The report includes heroic stories culled from litigation documents, reports called into the 866-OUR-VOTE hotline, and interviews of real people adversely affected by restrictive voter laws and their efforts to exercise the right to vote. Considering that at least 36 states introduced restrictive voting laws in 2013, this report demonstrates the continued need for, and enforcement of, federal and state laws protecting the right to vote, coupled with voter vigilance to ensure the right to vote is not undermined. This report not only highlights the challenges that voters of color face, but also provides real solutions for progress and increased voter participation. It makes the case for the need for improvements in election administration and continued outreach, education, advocacy, and litigation in order to defend the right to vote for people of color.

On Election Day, despite efforts to thwart turnout and dissuade voters, voters of color turned out and exercised their right to vote. African-American and Latino voters were a very important part of the election.

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## Section 1

# INTRODUCTION

**During 2011 and 2012, states across the country** sought to pass restrictive laws and enact procedures that would have disproportionately disfranchised voters of color if the civil rights community, the courts and voters did not push back against such laws. Civil rights organizations embarked on a massive voter education program and fought against the laws in the courts and voters waited as long as was necessary to cast a ballot.

This report analyzes the experiences of voters of color in 2012, discusses the historical and continuing nature of this new wave of voter suppression, recounts the work of Advancement Project and the Lawyers' Committee to prevent the consequences of the suppressive laws and recommends reforms needed to ensure free, fair and accessible elections for all Americans. The report gives a brief history of voter suppression against voters of color, discusses the recent wave of restrictive voting laws and efforts to stop them, including restrictive voter ID laws; reductions to early voting; voter purges; and proof of citizenship laws. Additionally, the report discusses voter challenges; voter deception and intimidation, the impact of the long lines, and the use of provisional ballots. As importantly, it highlights a small sample of voters who were impacted by and stood up to restrictive voting laws and policies, and incorporates the litigation efforts to minimize the impact of these laws. The Appendix summarizes the series of victorious lawsuits challenging voter suppression laws that were brought under the Voting Rights Act and state constitutions. It also includes voter accounts of how restrictive voting measures impacted the right to vote and the herculean actions that these two organizations used to secure this significant right. Finally, this report addresses the current state of the right to vote, the ongoing need for reform, and provides a blueprint for future efforts in the ongoing fight for racial and ethnic equality at the voting booth.

Aware that suppressive laws meant that voters could encounter unprecedented problems on Election Day, Advancement Project and the Lawyers' Committee began to fight back against these laws in the year leading up to Election Day to help ensure that the right to vote was not compromised. These efforts included involvement in key litigation, organizational partnerships and coalition-building, policy work and grassroots organizing. In order to counter the suppressive laws being introduced and passed into law, both organizations engaged in targeted campaigns to educate voters and fought to remove numerous barriers



**Rally outside of the Supreme Court during oral argument in *Shelby County v. Holder*.**

to the ballot box. Much of this work was coordinated under the umbrella of Election Protection, the nation's largest non-partisan election protection program led by the Lawyers' Committee.

The groups' multi-pronged approach to voter protection proved effective in 2012 and will be even more critical moving forward in light of the Supreme Court's recent decision stripping away a key provision of the Voting Rights Act. In its June 2013 decision in *Shelby County, Alabama v. Holder*, the Supreme Court dramatically changed the voting rights landscape in the United States.<sup>8</sup> The *Shelby County* case effectively stripped away a critical legal protection for voters of color. The Voting Rights Act was enacted to ensure that state and local governments do not discriminate against voters of color. While the Supreme Court's decision in *Shelby County* did not affect the basic right to vote, it effectively crippled a key component of the Act that prevented states and localities with the worst records of voting discrimination from implementing new discriminatory provisions. As demonstrated in this report, this component—the Section 5 “preclearance” mechanism—was valuable in helping halt and mitigate the impact of restrictive voting laws leading up to the 2012 election. The Voting Rights Act's nationwide prohibitions on voting discrimination remain in place after *Shelby County*. However, the Supreme Court's disappointing decision striking the coverage formula for Section 5, resulting in states' no longer having to submit voting changes for review, means that the Lawyers' Committee, Advancement Project and our partners will redouble their efforts and work even harder in the days and months ahead to fight back against discriminatory voting changes and barriers to participation in elections.

## Section 2

# 2012: PROBLEMS AT THE POLLS

**In 2012, barriers to the polls** unnecessarily burdened a substantial number of voters. As discussed here, many voters of color endured extremely long lines both during early voting and on Election Day. However, the long lines in 2012 were merely a symptom of the recurring problems that continue to afflict our system of elections year after year. Despite being well-aware of the repeated problems experienced by voters, in 2011 and 2012 state lawmakers flooded legislatures across the country with new voting rules seemingly designed to create more barriers and decrease access. These lawmakers prioritized restrictive photo identification laws that were particularly burdensome on the elderly, African Americans, veterans, Latinos, students, people with disabilities, and lower income voters, all of whom are less likely to possess the required forms of identification. Reductions in early voting opportunities and new restrictions on voter registration were also on lawmakers' agendas.<sup>9</sup> These laws failed to address the real problems that burden voters—problems that voters reported to Election Protection and its partners in 2012. As discussed below, problems reported to the Election Protection Hotline included:

**Confusion about New Voter ID Laws.** The new wave of voter ID laws in place on Election Day changed the rules—and the experience—for many voters in 2012. Election Protection received reports from confused and frustrated voters in states with new identification requirements. For example in Chesapeake, Virginia, 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 in polling locations throughout the state.<sup>10</sup> In Pennsylvania, a protracted legal battle over the state's new photo ID law resulted in the state court preventing the law from being fully implemented for the 2012 elections. Instead, poll workers were required to ask for photo ID, but allow voters who did not have photo ID to cast regular ballots. The state's misleading and inaccurate "voter education" campaign added to the confusion among voters and poll workers. On Election Day, the new law was not uniformly applied across the state. Some poll workers proceeded as though the law was in effect, incorrectly requiring voters who did not have a photo ID to vote a provisional ballot. One voter in Erie County, Pennsylvania, for example, was turned away for lack of ID and was told that "some places may not require ID, but this one does."<sup>11</sup>

**Overuse of Provisional Ballots.** Poor poll worker training on registration and voter ID issues led to overuse of provisional ballots in some locations. In Pennsylvania, where there was considerable confusion among voters and poll workers about the state’s new voter ID law, these training deficiencies contributed to record numbers of provisional ballots being cast. Roughly twice as many voters cast 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 and electronic poll book problems led to 11,000 provisional ballots being cast – more than double the amount cast in any previous election.<sup>12</sup>

**Voter Intimidation.** Issues of voter intimidation persisted in 2012 and had a serious impact on voters’ experiences and their confidence in our election system. In California, for example, voters reported dealing with racial slurs and intimidating comments from poll workers. A poll worker in San Diego reportedly called a Latino voter a slur upon hearing his Spanish surname. Voters in Fresno reported feeling uncomfortable because of comments made by a polling place supervisor who was targeting Latino voters and saying, “I hope you are voting for the right person.” In Fresno County, a third party group reportedly 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 poll workers refused to remove the challengers or limit the number of them allowed in the polling place.<sup>13</sup>

This report provides a snapshot of Election Day 2012, highlighting these and numerous other breakdowns in the election process. Advancement Project and the Lawyers’ Committee supplied much-needed information and assistance to voters across the country on and before Election Day to help protect against egregious instances of voter disenfranchisement and to help resolve problems in election administration.

## PROBLEMS REPORTED TO ELECTION PROTECTION

The problems identified in the chart below were reported to the Election Protection Hotline – a national hotline staffed by trained volunteers to help voters resolve and report any difficulties they experience at the polls leading up to and on Election Day.<sup>14</sup> The Election Protection coalition promotes the Hotline number through a variety of widely-accessible methods, such as the internet, social media, and traditional media outlets. In particular, the coalition targets communities of color and those locations where problems at the polls have arisen in the past.<sup>15</sup>

Polling Place	21%
Registration	21%
Absentee Voting	12%
ID	11%
Voting Equipment	8%
Voter Intimidation	7%
Provisional Ballot	5%
Accessibility	3%
Electioneering	2%
Student Voting	1%





## Section 3

# HISTORY OF DISCRIMINATION IN VOTING

**The history of voting in this country** has been marked by the use of legislation, particularly on the state level, to effectuate disenfranchisement of voters of color. From strict voter ID laws to widespread felon disenfranchisement, African Americans and other people of color have felt the brunt of efforts designed to make access to the ballot harder, not easier. From Reconstruction to the new millennium, from poll taxes to voter ID, efforts to disenfranchise voters of color have become routine and the African-American community in particular has endured violence, death, mass resistance, legal obstruction and unfair burdens to access the fundamental right to vote.

More than a century ago, the nation sought to correct this inequity through adoption of the Fifteenth Amendment, which granted the right to vote, regardless of “race, color or previous condition of servitude.”<sup>16</sup> African Americans enjoyed short-lived, yet, unprecedented success.<sup>17</sup>

Towards the end of the nineteenth century, southern whites, who were outnumbered by former slaves in some areas of the South, enacted various disenfranchising voting laws in an effort to curb the increase in African-American voter participation and electoral success.<sup>18</sup> Poll taxes, literacy tests, secret ballot laws, lengthy residency requirements, elaborate registration systems, confusing multiple voting box arrangements, and eventually, Democratic primaries restricted to white voters to limit African Americans’ access to the ballot box were utilized for almost a century after the Fifteenth Amendment was ratified.<sup>19</sup> This resulted in dramatic reductions in voting rights for previously eligible voters; between

1890 and 1910, African Americans were removed from the voter registration rolls in large numbers and denied the right to vote. Louisiana, for example, had over 130,000 African Americans registered to vote in 1896. After amendments to the state constitution in 1898, by 1900 fewer than 5,000 African Americans were registered to vote. By 1910, only 730 African Americans were registered in the state.<sup>20</sup>

**From strict voter ID laws to widespread felon disenfranchisement, African Americans and other people of color have felt the brunt of efforts designed to make access to the ballot harder, not easier.**

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Latino voting rights faced a similar trajectory. Latinos in the Southwest, for example, were effectively discouraged from voting by a combination of *de facto* and *de jure* voting barriers.<sup>21</sup> In addition to intimidation grounded in longstanding racial discrimination, Latino citizens were excluded from equal electoral participation by institutional barriers such as gerrymandered districts, unequal voter eligibility requirements, and other voting barriers.<sup>22</sup> The disenfranchisement lasted for decades until the Civil Rights Act of 1957 began to dismantle this structure.

**President Lyndon B. Johnson shakes hands with Dr. Martin Luther King, Jr. after signing the Voting Rights Act of 1965 into law.**

It was not until the Voting Rights Act of 1965 was enacted that African Americans could begin to realize the promise of the Fifteenth Amendment. The law was renewed and expanded several times; in 1975, the Act was extended to protect the voting rights of Latinos and other “language minority groups.”<sup>23</sup> Considered the “crown jewel”<sup>24</sup> of our civil rights laws, it is highly regarded as an important and effective piece of congressional legislation.<sup>25</sup> President Lyndon B. Johnson, who signed the Act into law, called the Voting Rights Act of 1965, “one of the most monumental laws in the entire history of American freedom.” From 1970 to 2000, the number of African-American elected officials increased from 1,469 to 9,040.<sup>26</sup> Between 1973 and 2004, Latino officeholders increased by 279% from 1,280 in six states to 4,853.<sup>27</sup> In 1999, African Americans held thirty-seven seats in the United States House of Representatives, constituting nine percent of the seats in the House. Only one African-American governor, however, and two African-American senators were elected in the twentieth century. At the end of the century, African Americans constituted only two percent of elected officials nationwide.<sup>28</sup>

Indeed, African Americans and other people of color have enjoyed successes thanks to the protections of the Voting Rights Act. However, barriers to the ballot persist. Many of these barriers were exposed in the 2000 Presidential election when the world witnessed a dysfunctional election system filled with long lines, voter deception, voter intimidation, illegal purges, hanging chads and butterfly ballots. In Florida,

the epicenter of disenfranchisement, voters of color were found to be the victims of, among other things, deception, intimidation, and incorrectly labeled as people with felony convictions. The country, however, banded together to rectify the problems from the 2000 election and Congress adopted bipartisan legislation in the Help America Vote Act (HAVA), which sought to improve election machinery and adopted best practices of many states including expanding access to the ballot through provisional ballots.<sup>29</sup> The bipartisan legislation, however, has created additional problems at the polls including requiring photo ID for first-time voters who registered by mail and allowing states to create the rules surrounding the issuing and counting of provisional ballots.<sup>30</sup> These and other issues persisted and have been exacerbated in recent years.

Moreover, the onslaught of partisan attempts to thwart access to the ballot by voters of color increased significantly in the 2004 and 2008 Presidential elections. Particularly, state legislatures began to propose legislation to address exaggerated voter fraud claims through more stringent voter identification requirements. After the United States Supreme Court allowed a strict photo ID law from Indiana to move forward in 2008, more states took note and adopted similar procedures.<sup>31</sup>

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## Section 4

# RESPONDING TO A NEW WAVE OF ELECTION DAY CHALLENGES & RESTRICTIVE VOTING LAWS

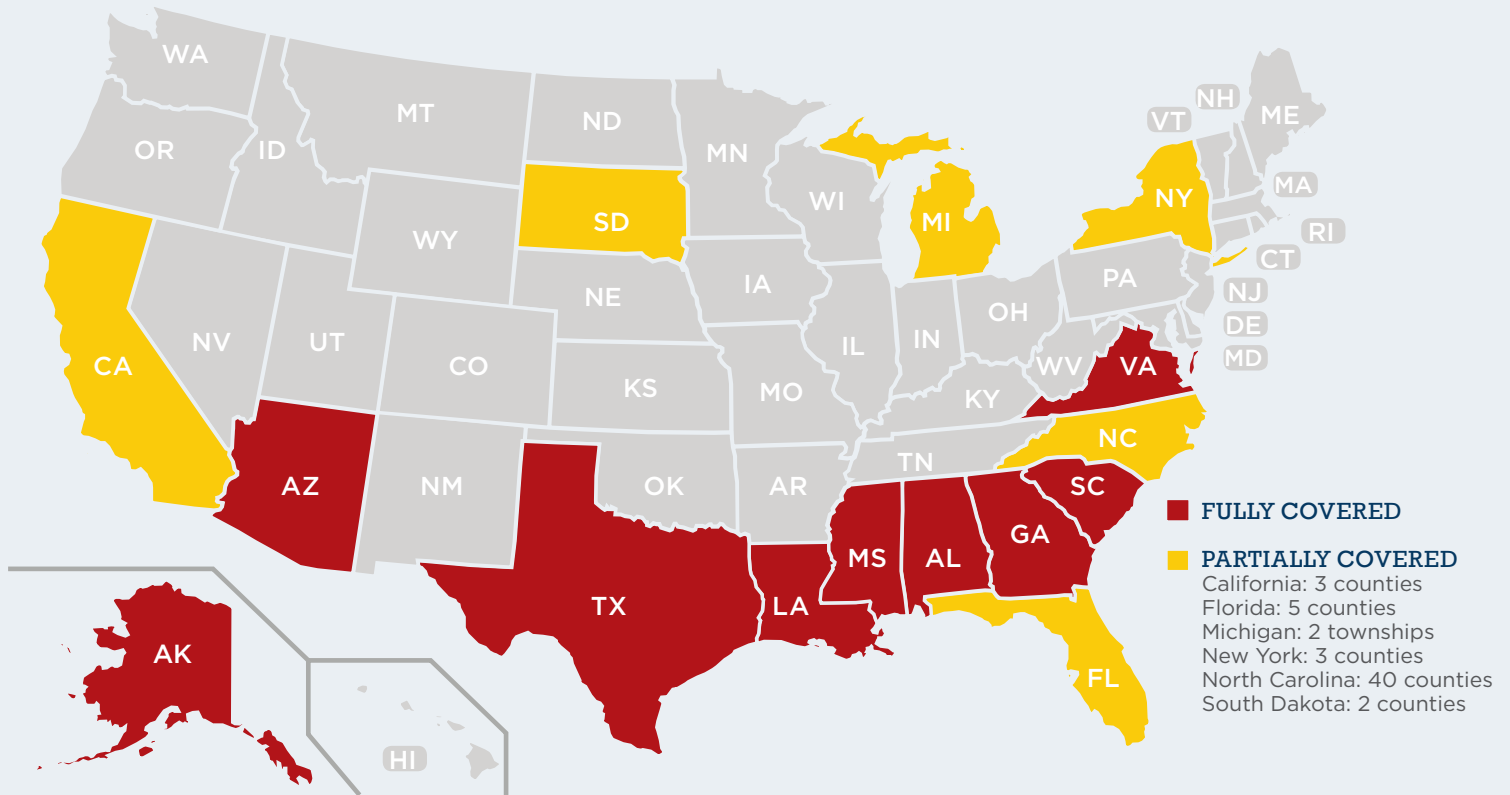
**From January 2011 to October 2012**, at least 180 restrictive voting bills were introduced in 41 states.<sup>32</sup> By October 2012, after considerable litigation and advocacy, 16 new laws and two executive actions that were considered restrictive had been adopted in 13 states.<sup>33</sup> For example, we saw restrictive voter ID laws proposed in 38 states but in the end, only Tennessee, Georgia, Indiana and Kansas had voter ID laws requiring government-issued photo ID in place during the 2012 general elections. This limited adoption was due in large part to gubernatorial vetoes of photo ID laws in five states, and state court orders blocking restrictive photo ID laws for 2012 in Pennsylvania and Wisconsin. Further, the strong protections of Section 5 of the Voting Rights Act prevented or delayed implementation of restrictive ID laws in Texas, South Carolina and Mississippi. As a result of the Supreme Court’s June 2013 ruling in *Shelby County*, however, these protections are no longer in place. (See Appendix)(Summary of 2012 Voting Rights Litigation.)

Advancement Project Co-Director Judith Browne Dianis described the enormity of the voter suppression tactics used in the 2012 election cycle as the “largest legislative effort to rollback voting rights since the post-reconstruction era” effectuating a “trifecta of voter suppression — making it harder to register to vote, harder to cast a ballot, and harder to have a vote counted.”<sup>34</sup> Lawyers’ Committee President and Executive Director Barbara Arnwine repeatedly pointed to the organization’s “Map of Shame” — a powerful illustration of the wave of states that proposed or implemented restrictive voting laws during that time period.<sup>35</sup> In an effort to ensure that history did not repeat itself, Advancement Project and the Lawyers’ Committee employed numerous litigation, policy, advocacy, communications, and voter education strategies to preserve the hard fought right to vote in communities of color.

### **A. The Role of the Courts**

Leading up to the 2012 election, ten major restrictive voting laws were blocked by the courts and turnout among African-American and Latino voters and youth — groups targeted by voter suppression initiatives — increased. In cases involving the Lawyers’ Committee and brought under the Voting Rights Act, federal courts struck down or helped mitigate the impact of restrictive voting laws in Florida, Texas and South Carolina that were found to disproportionately impact voters of color. In cases brought by Advancement

# FORMERLY COVERED SECTION 5 JURISDICTIONS



Section 5's relevance leading up to the 2012 election in the 15 states it fully or partially covered cannot be overstated.<sup>36</sup> Six of the nine states fully covered by Section 5 passed restrictive voting legislation leading into the 2012 elections, and Section 5 was responsible for preventing implementation of new restrictive voting laws in Texas, South Carolina, Florida, and Mississippi in 2012. In the 2012 elections, more than 22.9 million Black, Latino and Asian Americans voted in states covered by Section 5.<sup>37</sup> In the first half of 2013—prior to the *Shelby County* decision—11 of the 15 states covered by Section 5's protections - over 73% - introduced restrictive voting laws in their state legislatures. Further, only hours after the *Shelby County* ruling was released, officials in Texas, Mississippi, and Alabama announced plans to implement new restrictive voter ID laws and other suppressive measures that threaten to disenfranchise tens of thousands of minority voters. In the coming weeks and months, we expect to see more of the same.



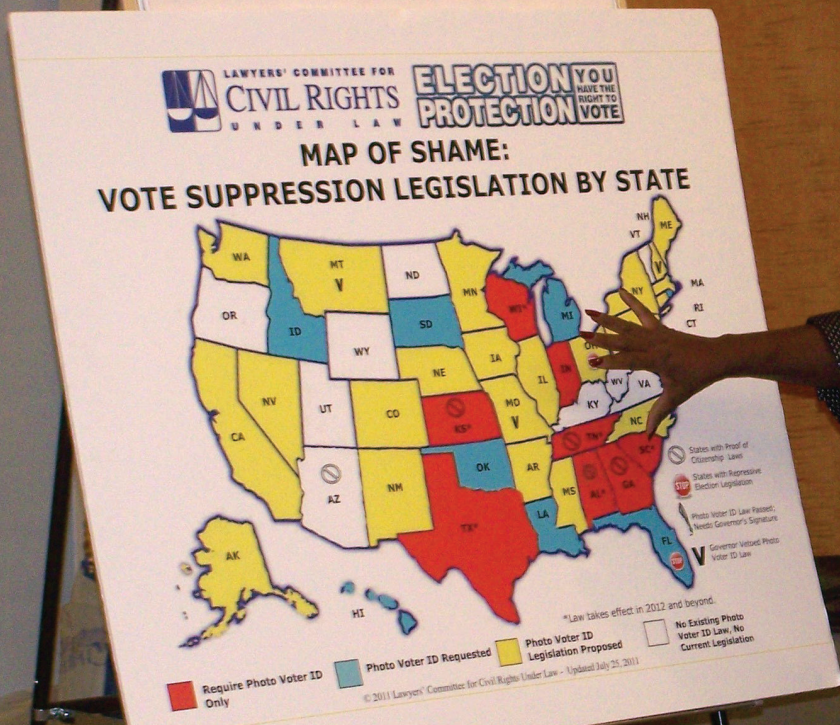
Project with partner organizations, a judge in Missouri tossed language of a proposed Photo ID ballot initiative that stood to make it harder for 250,000 Missourians to vote; a court in Ohio ordered that provisional ballots wrongly cast due to poll worker error, even when the voter was in the correct location, should be counted; a Pennsylvania court provided injunctive relief to freeze the application of strict photo ID laws during the election that stood to disenfranchise people like Viviette Applewhite and others who had a hard time obtaining a state ID. Advancement Project also brought a federal case to enjoin the Wisconsin voter ID law under Section 2 of the Voting Rights Act, helping to protect the rights of voters like Bettye Jones who didn't have a birth certificate. (The law was enjoined by two state courts prior to the 2012 elections before Advancement Project's lawsuit could be heard.) Also, Advancement Project and a coalition of national and Florida groups sued the Florida Secretary of State challenging discriminatory alleged noncitizen voter purges, which was favorably settled on behalf of over 2,600 voters who stood to be improperly purged from the rolls. Litigation efforts in Ohio lead a federal court to reject efforts to eliminate the last weekend before Election Day — a time of popular "Souls to the Polls" voter outreach programs — from the early voting period there.<sup>38</sup>

As noted earlier, the Voting Rights Act—and particularly its "preclearance" mechanism under Section 5—was a critical and effective tool for fighting back against restrictive voting laws in 2012. The Supreme Court's June 2013 decision in *Shelby County v. Holder* effectively removed this tool from the arsenal of voting rights advocates. Section 5 of the Voting Rights Act provided broad legal protection for voters of color by requiring jurisdictions identified as having a history of discrimination to submit voting changes for review ("preclearance") by the Department of Justice ("DOJ") or federal court before they can be implemented. Section 4(b) of the Voting Rights Act, which the Supreme Court struck down in *Shelby County*, set the formula for identifying the locations with the worst records of discrimination in voting. Now, states and localities previously covered by Section 4(b) no longer need federal approval to adopt voting changes.<sup>39</sup>

Additionally, in 2013, courts in Pennsylvania and Wisconsin continue to assess the legality of their restrictive photo ID laws after those very laws were enjoined by state courts prior to the 2012 elections. Regardless of the outcomes in these cases, the courts will continue to be an important venue for preventing and reversing the harmful impact of suppressive laws on voters of color. As a result, where warranted, our litigation efforts must continue.

## **B. Voter ID Laws**

During the 2012 election cycle, six states enacted what were considered strict voter ID laws that allowed for only certain forms of current, government-issued photo ID, such as a non-expired driver's license from only that state or current passport.<sup>40</sup> In many of these strict voter ID states — those that permit only a current, government issued photo ID — student IDs, even if issued from a state-supported public institution, are not acceptable forms of identification. States also passed laws that imposed restrictions on voter registration



activities, proof of citizenship requirements, cut the days and times for early voting and worsened felon disenfranchisement laws.

A major part of the success of the litigation was the real people who bravely told their stories and refused to allow the state to threaten their right to vote. Their stories provided an important illustration of the impact of new, restrictive photo ID laws on African-American voters, in particular.

In Wisconsin, the particularly compelling story of Bettye Jones illustrates the burdens and hardships that some elderly voters had to endure to comply with restrictive laws and secure the right to vote.

In 2012, Bettye Jones was a 77-year-old African-American woman registered to vote in a suburb just outside of Milwaukee, Wisconsin. Like many African Americans of her generation, Jones was born at home in 1935 in rural Tennessee because there was no local hospital serving African Americans, and was never issued an officially recorded birth certificate.<sup>41</sup> She moved to Cleveland, Ohio in 1949 and registered to vote there when she was 21 years old. "Voting is very important to me," she explained in her litigation challenging Wisconsin's photo ID law. "If I could not vote, it would deny my humanity." Jones lived through the time when African Americans had to fight for their right to vote and has voted in every election since 1956. She was a leader in desegregating schools and neighborhoods, and in breaking down barriers to political and social participation for people of color. She organized events in her home to support the passage of the Voting Rights Act and other civil rights initiatives. In the 1970's, Mrs. Jones worked to elect Carl and Louis Stokes to political office. Jones resided in Cleveland until her husband passed away in 2011, after which she moved to Brookfield, Wisconsin, to live with her daughter, Debra Crawford. Crawford, knowing how strongly her mother felt about voting, spent countless hours and hundreds of dollars trying to make sure

**Lawyers' Committee Executive Director Barbara Arnwine unveils the "Map of Shame," which tracks states with proposed or implemented restrictive voting laws.**

her mother could secure the ID needed to vote under Wisconsin's new photo ID law. Despite the fact that Jones possessed several forms of current and valid ID, including a current Ohio driver's license, which had been renewed the previous year, she would need to get a Wisconsin ID if she wanted to vote. Without a certified birth certificate, that proved to be a significant problem.

Jones experienced major difficulty in tracking down the records necessary to obtain her birth certificate. After multiple requests to the Tennessee Office of Vital Records for a delayed birth certificate were denied, Jones kept reapplying and providing additional information, fees and notarized documents as she received them. Ultimately, after four months and more than \$100 in fees and approximately 50 hours of time making and following up on document requests, Mrs. Jones finally obtained a delayed, unofficial post-dated birth certificate from the State of Tennessee in April of 2012 — along with a note telling her that it was unlikely to be accepted by government agencies since it was not a certified version of the original, which she needed under Wisconsin law to obtain a state ID.

After failure at her local DMV office, Mrs. Jones and her daughter decided to go to a different DMV from the one where they originally applied to see if her application might be more favorably received. Ultimately, after delivering bags of evidence to the DMV, even though she lacked a certified birth certificate proving her identity and legal presence as required by law, and after appealing to and meeting with the supervisor of the DMV office, Mrs. Jones was finally able to persuade a supervisor who issued her a Wisconsin state ID, for which she had to pay \$35.

Though she finally obtained a Wisconsin photo ID, she did not have one during the April 3, 2012 primary elections. Fortunately, shortly before the elections, a judge issued an injunction barring implementation of the Wisconsin photo ID law. The courts granting the injunctions agreed that the ID requirement would “constitute a substantial impairment of the right to vote,”<sup>42</sup> and revealed the “insurmountable burdens facing many of our fellow constitutionally qualified electors.”<sup>43</sup> If that injunction had not been in place, Jones would have been unable to cast a ballot — for the first time since 1956.

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Bettye Jones finally had the ID and was excited to cast her ballot for President in 2012. Unfortunately, she died about a week before Election Day, and never got to cast the ballot she spent the last year of her life fighting to obtain. Until the day she died she continued to express concern about the others who did not have the help, time and resources that she had in order to obtain a Wisconsin photo ID, even making a documentary video urging people to vote less than two weeks before her death.<sup>44</sup> She witnessed the struggles African Americans faced in order to vote, and was dismayed that it could once again be so difficult. She said that if she could not vote it would “hurt her soul.” “I would feel like a part of me had died.”





**Bettye Jones (right) with her daughter, Debra Crawford. Jones, born in rural Tennessee in 1935, was never issued an officially recorded birth certificate — a requirement to obtain a state ID and vote under Wisconsin law.**

Mrs. Jones fought until the last days of her life for the rights of people to be treated equally and for all to play a part in our democracy. She believed that her citizenship and those of others would be denied if she were not allowed to vote and that no voter should have to go through the extraordinary hurdles, difficulty and expense that she went through in order to exercise the right to vote.<sup>45</sup>

Veterans also were hard hit. Many, despite having records showing they served their country, had great difficulties traversing the mass of bureaucracy needed to get an ID to vote – and in many states with restrictive photo ID laws, their veteran’s cards were not good enough because they often lack an expiration

date. Ricky Lewis, an honorably discharged U.S. Marine, tried numerous times to get a photo ID to vote, showing his VA card, an ID card from Milwaukee County, and a utility bill, all to no avail. He was told he could not get the ID without a certified birth certificate and a social security card. When he tried to get a social security card, he was told he could not obtain one without a birth certificate, but when he went to the courthouse, they could not find a record of his birth certificate. After writing a letter to a different county and sending \$20, they sent him a birth certificate, but it had the wrong name. They told him that to correct the birth certificate he would be required to file a lawsuit in circuit court, which he lacked the resources to do.<sup>46</sup>

Two courts in Wisconsin issued injunctions against the state’s strict photo ID law, finding that they violated the state constitution. At trial in a case brought by the NAACP, experts estimated that more than 300,000 Wisconsinites lacked a Wisconsin ID.<sup>47</sup> Studies were presented showing that racial minorities – especially African-American and Latino voters – are far less likely to have a Wisconsin state-issued ID, finding that roughly half of African Americans and Latinos in Wisconsin lacked a valid state driver’s license.<sup>48</sup> Also, in a case brought by the League of Women Voters, the Dane County court found that Wisconsin’s strict photo ID law imposed “insurmountable burdens” and concluded: “These disenfranchised citizens would certainly include some of our friends, neighbors and relatives. Mostly they would consist of those struggling souls who, unlike the vast majority of Wisconsin voters, for whatever reason will lack the financial, physical, mental, or emotional resources to comply with [the ID law], but are otherwise constitutionally entitled to vote.”<sup>49</sup> The court ruled that Wisconsin’s Photo ID law imposed unconstitutional additional requirements on the right

to vote in violation of the state constitution, concluding that the evidence “demonstrat[es] the very real disenfranchising effects of Act 23’s photo ID requirements” and the “insurmountable burdens facing many of our fellow constitutionally qualified electors.”<sup>50</sup> The League of Women Voters’ case was reversed on appeal, where the court found that the evidence did not sustain a broad facial challenge to the law,<sup>51</sup> but the NAACP’s as-applied challenge still remains pending in the Wisconsin Court of Appeals. In addition, two other cases, one brought by Advancement Project challenging the law’s racially discriminatory impact as a violation of Section 2 of the Voting Rights Act,<sup>52</sup> and one brought by the ACLU challenging the law under the U.S. Constitution,<sup>53</sup> were stayed while the state court cases were on appeal. On July 29, 2013, trial was scheduled for November 4th of this year.

Voter ID laws also have a restrictive effect on Americans with disabilities, who are less likely to have valid driver’s licenses and may face difficulties getting to the various offices necessary to obtain underlying documents and to get an ID.

In Wisconsin, Mary McClintock, a wheelchair-bound voter had to take three trips via para-transit vans to the downtown DMV offices to obtain her photo ID to vote.<sup>54</sup> In Missouri, Emmanuel Aziz, who has multiple sclerosis and is confined to a wheelchair, challenged the state’s proposed photo ID ballot initiative. While he has an expired Missouri driver’s license and an expired passport, he has no means to renew them, nor any need to. He resides in a skilled nursing facility and does not have ready access to transportation. The cost of obtaining the underlying documents necessary to procure a new state identification would pose a significant hardship on him in getting to the offices necessary to get a certified copy of his birth certificate, obtaining a new identification and the costs for the documents.<sup>55</sup>

Additionally, proposed photo ID laws have an impact on students. In Missouri, Thomas Bloom, then a student at St. Louis University, testified against proposed photo ID requirements noting that while he had three forms of current and valid photo ID, including a valid Iowa driver’s license, a student ID card and an international student ID card, none would allow him to vote under the proposed restrictive law, which would not allow use of an out of state driver’s license or a valid university photo ID to vote. Bloom said that registering to vote in Missouri caused him to get engaged in his community. “It is the reason that when I

## FROM THE COURT

The Dane County Circuit Court, labeling Wisconsin’s photo ID law “the single most restrictive voter eligibility law in the United States,”<sup>56</sup> enjoined the law, finding that it violated Art. III, Sec. 1 of the Wisconsin Constitution, which guarantees the right to vote.<sup>57</sup> Applying heightened judicial scrutiny, the court concluded that the ID requirement is “unlikely to protect the electoral process” and would “constitute a substantial impairment of the right to vote.”<sup>58</sup> The court said that “Act 23 addresses a problem which is very limited, if indeed it exists,” finding that “[i]t offers no flexibility, no alternative to prevent the exclusion of a constitutionally qualified voter.”<sup>59</sup>



graduate in three months, I want to stay right here in Missouri,” he said. He said that a photo ID requirement “will rob [students] of our voice and our opportunity to fully participate as Missouri citizens.”<sup>60</sup>

Indeed, nearly anyone with an error or glitch on identifying documents stands to have difficulty getting the ID needed to vote under proposed strict photo ID laws. Joy Lieberman, a former elected official in Missouri, has been a registered voter in Missouri since 1952, and has since voted in every election. She has gone by “Joy” ever since reaching adulthood, even though it is her middle name. A lifetime of public service, she served on her local school board for 24 years and they even named a school after her, the Joy Lieberman Learning Center.<sup>61</sup> The problem: a glitch on her birth certificate. Her original birth certificate does not include her middle name, “Joy,” which is the name under which she is licensed to drive and registered to vote. She made efforts to have the birth certificate amended, but it does not look official.<sup>62</sup> She testified to her concerns that the state would not accept it as proof of her identity needed to renew her state driver’s license once it expired.<sup>63</sup> “Who is around now who can attest to what my name was 80 years ago?” she said. That Missouri’s proposed photo ID requirement would have allowed her to cast a provisional ballot was of little relief. “I am not a provisional citizen,” she wrote in a letter to the Governor urging him to veto the 2011 photo ID bill. “I and 230,000 other registered Missouri voters who will be disenfranchised are not provisional/marginal people. We are proud Americans, proud Missourians who deserve to vote. Driving is a privilege, but voting is a right!”<sup>64</sup>

Back in 2006, the Missouri Supreme Court agreed that voting is a fundamental right, ruling that the Missouri Constitution “establish[es] with unmistakable clarity that the right to vote is fundamental to Missouri citizens,” and that the photo ID requirement was a “a heavy and substantial burden on Missourians’ free exercise of the right of suffrage” due to the burdens inherent in obtaining the underlying documents necessary to get a state ID.<sup>65</sup> The Court highlighted the severe impact on poor voters, concluding: “For Missourians who live beneath the poverty line, the \$15 they must pay in order to obtain their birth certificates and vote is \$15 that they must subtract from their meager ability to feed, shelter, and clothe their families. The exercise of fundamental rights cannot be conditioned upon financial expense.”<sup>66</sup>

Nonetheless, legislators continue their efforts to amend the state constitution to allow for photo ID. In 2012, a judge struck a ballot initiative intended to do so on grounds that entitling it a “Voter Protection Act” would mislead Missouri voters.<sup>67</sup> Advancement Project, the ACLU of Eastern Missouri and the Fair Elections Legal Network challenged the language of the proposed photo ID constitutional ballot initiative, which legislative proponents had entitled a “Voter Protection Act.”

**“I and 230,000 other registered Missouri voters who will be disenfranchised are not provisional/marginal people. We are proud Americans, proud Missourians who deserve to vote. Driving is a privilege, but voting is a right!”**

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Advancement Project and its co-counsel argued that it was deceptive to entitle the measure a voter protection act in light of the Missouri Supreme Court's ruling that a strict photo ID requirement was a "a heavy and substantial burden on Missourians' free exercise of the right of suffrage" due to the burdens inherent in obtaining the underlying documents necessary to get a state ID.<sup>68</sup> The judge struck the language from the November 2012 ballot, finding that the ballot language was insufficient and unfair because it was "deceptive" and "misleading" to Missouri voters.<sup>69</sup> The measure did not go on the ballot in November 2012 as intended.

Denise Lieberman, a Senior Attorney for Advancement Project, who along with partners litigated the challenge to the ballot initiative, has for years coordinated a broad voter protection coalition in Missouri to oppose the legislature's repeated efforts to pass strict photo ID requirements and lead a charge that ultimately convinced the governor to veto the bill when it passed the legislature. She testified that Missouri's proposed ballot initiative failed to advance the integrity of the elections, weaken protections for voting in the constitution and relegate hundreds of thousands of eligible Missouri voters to second class citizens, particularly senior citizens, veterans, the poor, people with disabilities and people of color.<sup>70</sup>

Pennsylvania's photo ID law was a major source of voter confusion in 2012. The 1-866-Our-Vote Election Protection hotline received more than 9,000 calls from voters in Pennsylvania on Election Day (and this number was second only to California), many who were wrongly told by poll workers that a photo ID was required in order to vote. Pennsylvania passed a restrictive photo ID law in 2012, however a legal challenge prevented its implementation for the November 2012 election. On Election Day, poll workers could request photo ID from Pennsylvania voters, but could not *require* photo ID to be shown in order to cast a regular ballot.

Election Protection received a report from an African-American voter in Montgomery County, Pennsylvania who went to vote early and was told he had to have an unexpired driver's license to vote. He was not informed that could use his student ID instead. The voter decided to return with his student ID, however Election Protection volunteers informed him that he did not need to present photo ID in Pennsylvania for the 2012 election.<sup>71</sup> In Chester County, Pennsylvania another African-American voter reported that a poll worker improperly demanded to see her photo ID with expiration date before letting her cast a ballot. The voter was denied a ballot despite showing a student ID and a voter registration card.<sup>72</sup> In an even more egregious report, an African-American voter from Pittsburgh, Pennsylvania indicated that a white poll worker was only asking African-American voters for their ID. The voter was ultimately allowed to vote, but reported that she was verbally harassed by the poll worker.<sup>73</sup>

In Pennsylvania, Viviette Applewhite's story tells a similar scenario. Applewhite, an African-American woman who in 2012 was 93 years old, marched for civil rights with Dr. Martin Luther King, Jr., and tried unsuccessfully for many years to obtain a photo ID because she was adopted as an adult and lacked the necessary underlying



**Viviette Applewhite (center) with her legal team and supporters. Applewhite had voted in nearly every election since at least 1960 but was unable to obtain identification required to vote under Pennsylvania's strict photo ID law.**

documents to obtain a Pennsylvania ID. Like Mrs. Jones in Wisconsin, though her documentation was not legally sufficient for her to be eligible for an ID, she was ultimately issued an ID when she went to the Department of Transportation with a reporter. She is the lead plaintiff in a lawsuit challenging Pennsylvania's photo ID law. Many others in Pennsylvania had similar tales. Consider the stories of Wilola Shinholster Lee, Gloria Cuttino and Dorothy Barksdale, all African-American women born in the Jim Crow South who had been advised by their respective birth states that there is no record of their birth, rendering them unable to present the certified birth certificate necessary to get a state-issued photo ID in Pennsylvania. Nadine Marsh had never driven a car and was told that the Commonwealth of Pennsylvania did not have a record of her birth that she needed in order

to obtain a photo ID to vote. Bea Bookler is an elderly woman who has voted regularly for nearly 70 years and who still takes great pride in using her walker to vote at the polling station next door. She, however, is too frail to journey to the PennDOT Drivers' License Center to obtain a valid photo ID.<sup>74</sup>

In *Applewhite v. Pennsylvania*, a case brought by Advancement Project, the ACLU of Pennsylvania and the Public Interest Law Center of Philadelphia, along with pro bono counsel at Arnold & Porter, the Pennsylvania Supreme Court acknowledged that the parties debated the precise number of voters who would be disenfranchised by Pennsylvania's voter ID law.<sup>75</sup> Nevertheless, the Court conceded that "there is little disagreement with . . . [the] observation that the population involved includes members of some of the most vulnerable segments of our society (the elderly, disabled members of our community, and the financially disadvantaged)."<sup>76</sup> The plaintiffs' experts presented evidence showing that up to nine percent of the state's voters lacked acceptable ID. The trial court, in its vacated decision denying a preliminary injunction, estimated that "the percentage of registered voters who did not have photo ID as of June 2012, is somewhat more than 1% and significantly less than 9%, . . ."<sup>77</sup> Nevertheless, on remand, the Commonwealth Court, even using the lower estimate, concluded that the pace of issuance of IDs would not close "the gap between the photo IDs issued and the estimated need," thus supporting a preliminary injunction.<sup>78</sup>

The Voting Rights Act proved crucial in blocking discriminatory photo ID laws in Texas and South Carolina leading into the 2012 elections. In 2011, Texas passed one of the most restrictive photo ID laws in the country,

SB 14. The law would have required voters to present a government-issued photo ID without exception. Under the law, voters could identify themselves at the polls by presenting a concealed carry permit, but lawmakers rejected amendments that would have permitted the use of other forms of identification, such as a student ID, that contained a photo.

In the months leading up to Election Day, the Lawyers' Committee, Advancement Project and their partners were involved in litigation before the U.S. District Court for the District of Columbia in a critical case involving preclearance of Texas' Photo ID law under Section 5 of the Voting Rights Act. In August 2012, the court in *Texas v. Holder* refused to allow Texas to implement its photo ID law and highlighted the discriminatory impact the law would have on voters of color.<sup>79</sup> The court described the law as "the most stringent in the country" and pointed out that "the implicit costs of obtaining SB 14 qualifying ID will fall most heavily on the poor and that a disproportionately high percentage of African Americans and Hispanics in Texas live in poverty."<sup>80</sup> The court concluded that Texas' law "will almost certainly have retrogressive effect: it imposes strict, unforgiving burdens on the poor, and racial minorities in Texas are disproportionately likely to live in poverty."<sup>81</sup> Texas' law was not in effect for the 2012 elections. However, within hours of the Supreme Court's ruling in *Shelby County* eliminating the need for Texas to obtain federal approval of the law, Texas officials announced that it will be put into place immediately.<sup>82</sup>

In the months leading up to Election Day, the Lawyers' Committee and its co-counsel were also involved in litigation over South Carolina's passage of a new, strict photo ID law. While voters were already required to present identification at the polls, the new law would have required current, government-issued *photo* identification, and would not have allowed voters to use their non-photo voter identification cards at the polls.

In October 2012, the U.S. District Court for the District of Columbia ultimately precleared South Carolina's new photo ID law following changes made to the law to lessen its discriminatory impact.<sup>83</sup> The court permitted the law to move forward only after the State agreed to modifications that reduced the law's discriminatory impact on voters of color by allowing all voters without a qualifying photo ID to vote by provisional ballot after signing an affidavit giving a reason for why they had not obtained the required photo ID. The court found "an undisputed racial disparity" in the number of South Carolina voters without proper ID, and stated that this "racial disparity, combined with the burdens of time and cost of transportation inherent in obtaining a new photo ID card," might have "posed a problem for [the] law under...Section 5 of the Voting Rights Act" had the broad exemption not been put in place.<sup>84</sup> Although the court ruled that the law was not discriminatory as modified, the court did delay its effective date to 2013 to avoid chaos and confusion during the 2012 elections. While Election Protection did receive questions about identification requirements from South Carolina voters in 2012, there were no major reports of individuals being asked to present photo ID when it was not required.<sup>85</sup>

### C. Early Voting

Litigation proved similarly helpful in blunting the impact of cutbacks in early voting opportunities, most notably in Florida. In 2011, Florida passed HB 1355, which among other things reduced the number of early voting days from 12 to 8 and gave counties the discretion to set early voting hours.<sup>86</sup> Florida, which had 5 counties covered by Section 5, needed federal approval for these changes, as applied to those 5 counties.<sup>87</sup> The Lawyers' Committee and its partners litigated the Section 5 action, *Florida v. United States*, in the U.S. District Court for the District of Columbia. In August 2012, the court refused to approve Florida's "dramatic reductions" to the early voting period and found that the measures would have a discriminatory impact on African-American voters, finding, that "minority voters will be disproportionately affected by the changes in early voting procedures [called for by HB 1355] because they disproportionately use early in-person voting."<sup>88</sup>

After the ruling, however, the court offered an "escape hatch" to remedy the law's discriminatory impact on voters of color. Ultimately, the state ensured that the five counties covered by Section 5 would commit

Numerous post-election studies have now shown that African Americans and Latinos were disproportionately impacted by Florida's cuts to early voting and the long lines that followed.

to provide the maximum number of early voting hours for the November 2012 election. The Justice Department approved the agreement without further involvement from the court.

Even after salvaging some portion of the early voting period through litigation, the reduction of Florida's early voting days and hours, including in the counties that were not covered by Section 5, caused extremely long lines and frustration at the polls. Florida's early voting experience is a model for the need for reform and

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illustrates the significant impact of early voting cutbacks on African-American voters, with whom early voting is most popular. Although African Americans comprise less than 14% of the Florida electorate, they cast 22% of all the early votes in 2012.<sup>89</sup> In 2012, in-person early voting dropped from 2008 which is a likely result of Florida's cutbacks to early voting. Numerous post-election studies have now shown that African Americans and Latinos were disproportionately impacted by Florida's cuts to early voting and the long lines that followed.<sup>90</sup> According to one report, 46% of African-American voters in Florida voted early and in person in 2012—a 7 percentage point decrease from 2008 that likely reflects the reduction of early voting opportunities, particularly the elimination of early voting on the Sunday prior to Election Day.<sup>91</sup>

Long lines and polling place delays heavily impacted African Americans during Florida's early voting period in 2012. According to one study, the cutbacks resulted in lines that were 50% to 100% greater in 2012 than on corresponding days in 2008, and African-American voters disproportionately faced greater congestion



(including longer lines) during 2012 early voting. The authors concluded that the effect of Florida's early voting changes was to "inconvenience African Americans specifically."<sup>92</sup>

In Miami-Dade and Palm Beach Counties, notoriously long lines during early voting caused some voters on Saturday, November 3 to stay well past midnight, ultimately not casting ballots until Sunday, November 4. Palm Beach County did not conclude voting until 2:30 a.m. on Sunday morning. After midnight, early voters accounted for 573 of the early votes cast on Sunday, November 4, 431 in Miami-Dade County and 142 in Palm Beach County.<sup>93</sup> According to a study, those voters were disproportionately African American: 44% of the after-midnight voters were African American, despite their comprising only 17% of the registered voters in these two counties combined. In sharp contrast, only 12% of the after-midnight voters were white, who make up 41% of these counties' registered voters.<sup>94</sup> "Put simply, African-American and Hispanic voters disproportionately bore the brunt of having to wait to vote for hours on end in Miami-Dade and Palm Beach counties after early voting officially ended on Saturday, November 3."<sup>95</sup>

The studies concluded that racial minorities were hardest hit by the new voting restrictions, finding that "the voting rights of racial and ethnic minorities appear to have been disproportionately hampered by HB 1355's reduction in the number of early voting days, particularly the elimination of the final Sunday of early voting."<sup>96</sup> The authors reported that Saturday, November 3rd—the final day of early voting—was the most popular day for African-American and Latino voters, supporting their conclusion that voters of color were impacted most by the shorter early voting period:

[T]he excessive lines reported around early voting locations on Saturday, November 3, would by necessity have affected minority voters more than white voters.... Insofar as black and Hispanic voters have tended disproportionately to prefer voting early on weekends, any lengthy delays at the polls that occurred on a weekend due to inadequate or inefficient staffing likely would have had a greater impact on minorities, possibly even to the point that a prospective voter might leave or turn away from a winding queue.<sup>97</sup>



**In Miami, Florida, 102-year-old voter Desiline Victor left her polling place at North Miami Library after waiting in line for *four* hours, only to insist on returning later with Advancement Project staff to cast her ballot. When she emerged from the polling place wearing her "I voted" sticker after casting her ballot, the waiting crowd of voters erupted in applause. Above: Desiline Victor with Advancement Project Co-Director Judith Browne Dianis. Photo Credit: Paul Grant**

Florida's elimination of the Sunday before the election from the early voting period threatened to undermine the immensely successful *Souls to the Polls* Sunday voting effort championed by African-American churches.<sup>98</sup> Nonetheless, African Americans turned out in record numbers when church leaders re-organized *Souls to the Polls* for early voting.<sup>99</sup> The resilience of voters of color in the face of adversity is well documented and needed in a society that constantly seeks to displace and disenfranchise particular groups of voters that seek to legitimately exercise the franchise.

#### **D. Long Lines**

As with the early voting cutbacks discussed above, long lines on Election Day disproportionately plagued African-American and Latino voters. A new study commissioned by Advancement Project using precinct-level data of poll closing times in Florida, that was submitted to the Presidential Commission on Election Administration, found that African Americans and Hispanics experienced longer wait times during the 2012 elections.<sup>100</sup> Another study based on post-election survey data found that African-American voters waited the longest to vote among other racial groups, waiting an average of 23 minutes to cast a ballot. By comparison, whites' average wait time was 12 minutes, and Latino voters waited an average of 19 minutes.<sup>101</sup> The study also found racial disparities in wait times based on location. Voters who resided in predominantly communities of color zip codes (over 75% nonwhite) waited 13 minutes longer on average than voters in zip codes with smaller people of color populations (less than 25% nonwhite).<sup>102</sup> According to another report, long lines plagued voters in some areas of the country on Election Day and disproportionately impacted African-American and Latino voters, who were two to three times more likely than whites to wait

**African-American voters waited the longest to vote among other racial groups, waiting an average of 23 minutes to cast a ballot. By comparison, whites' average wait time was 12 minutes, and Latino voters waited an average of 19 minutes.**

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more than thirty minutes to vote.<sup>103</sup> According to a Pew Center report, in the November 2012 election, voters in Virginia waited in line an average of more than twenty-five minutes to vote,<sup>104</sup> and some voters waited up to five hours.<sup>105</sup>

Reports from voters on Election Day illustrate the trends identified in these studies. Virginia does not have early voting and only allows its citizens to cast an absentee ballot under very limited circumstances.<sup>106</sup> In Virginia, a Vietnamese-American couple went to the polls in the morning before work, left because of the lines and returned again after work to wait for approximately two

hours before casting a ballot.<sup>107</sup> An African-American working mother returned to the polls four different times to vote because each time the lines were too long to wait; the voter juggled getting to work and picking up her son from school in order to cast her ballot.<sup>108</sup> An African-American voter in Roanoke, Virginia reported to Election Protection that polling place equipment was better in certain areas of Virginia than

others. He reported that in areas where people of color reside, polling locations were supplied with only 2-3 polling machines that were malfunctioning, which resulted in long lines. He observed that many voters had to return to work without getting a chance to vote due to the lines.<sup>109</sup>

In Florida, due to the cuts in early voting, Sonia Gibson and her children waited 19 hours to vote. Due to the long lines, Ms. Gibson, an African-American teacher in Palm Beach County, FL, who voted during early voting with her two young-adult children, was forced to come to the polls on two different days. She testified before the Presidential Commission on Election Administration in Miami on June 28, 2013,

that she is not sure if her young-adult children would have been able to wait for 19 hours to vote if it were not for her convincing them. She believes that instead of having to wait many hours to vote, elections should be improved so that the citizens of Florida “can celebrate our constitution and our democracy.”<sup>110</sup> One study estimated that more than 200,000 voters in Florida did not vote in 2012 because of long lines.<sup>111</sup>

Other examples include:

- » Voters in Richland County, South Carolina, faced six-hour lines when voting machines broke down, even as the county was using only 700 of the more than 900 machines available.<sup>112</sup>
- » Some jurisdictions didn’t have enough poll workers, causing long lines.<sup>113</sup>
- » A pregnant woman came to the polls once, saw the line and got discouraged, then came back with warmer clothes so that she was prepared to wait in the freezing rain. She told the Advancement Project: “I’m pregnant and scared to drink the water here, but I’m waiting to vote.”<sup>114</sup>

Over thirty-two million people voted before Election Day last year, comprising over a quarter of the total vote.<sup>115</sup> Eighteen states do not have in-person early voting at all, and twenty-one states do not have no-excuse absentee mail-in voting.<sup>116</sup> If states adopted early and no excuse absentee voting, they could reduce the long lines and give voters and election officials an opportunity to resolve potential problems before Election Day.

## **E. Voter Purges**

As with the link between early voting and long lines, so too are voter challenges and voter purges closely related. In some states, challenges must occur in writing prior to Election Day. In those states, a challenge



**Florida voter Sonia Gibson testifies before the Presidential Commission on Election Administration about waiting in line during early voting.**

can also serve as a purge of eligible voters. Prior to the election, as late as August, Florida and Colorado were implementing programs to remove registered voters believed to be non-citizens in advance of the election — programs that proved to be error-prone and threatened to disenfranchise many eligible voters, disproportionately Latinos.

In Florida, the state compared the Department of Highway Safety and Motor Vehicles (“DHSMV”) list with the voter registration rolls and identified over 182,000 potential non-citizens, and sent a purge list of 2,700 of those voters to county election officials to remove from the voter rolls. This list was full of errors due to insufficient matching procedures for verifying the identities of the potential non-citizens, as well as outdated and inaccurate immigration status information in the DHSMV database. Voters of color were disparately impacted by Florida’s flawed voter purge efforts. Naturalized citizens like Karla Vanessa Arcia received threatening letters from their county Supervisor of Elections giving them 30 days to prove their citizenship and residency or be removed from the rolls. Another naturalized citizen, Murat Limage, upon receiving a removal letter from the Hillsborough County Supervisor of Elections, thought that his citizenship had been revoked. The majority of voters sent such letters were Latino, and 82 percent were voters of color.<sup>117</sup> In Miami-Dade, 1,572 individuals received purge letters. Of the 562 people who responded, over 98% were, in fact, U.S. citizens.<sup>118</sup>

After multiple lawsuits were filed, and after the media and county election officials also highlighted the defects in the list of potential non-citizens, the purge was abandoned. However, the Florida Secretary of State then instituted another new purge procedure based on data obtained from the Department of Homeland Security’s Systematic Alien Verification for Entitlements (“SAVE”) system, which tracks individuals’ eligibility for public benefits, but may not be an accurate indicator of a person’s current citizenship status or voting eligibility.<sup>119</sup> Using SAVE, Florida identified fewer than 200 individuals who are registered to vote who may not be citizens.<sup>120</sup> In addition to Florida and Colorado, fourteen other states indicated they planned to seek access to SAVE data.<sup>121</sup> While non-citizens and other ineligible voters should not be on the voter rolls, last minute purges using flawed data indicators can disenfranchise eligible voters and violate federal law if done within 90 days of an election.

Voters of color nationwide also experienced delays and frustration due to voter purge efforts and inaccurate poll books. Election Protection received a report from a 50-year old African-American voter in Picayune, Mississippi who had voted in the same county since she was 18 years old. On Election Day, she was told her name was not on the rolls, and she was instructed to vote using a provisional ballot. The voter reported that 200 people had the same experience.<sup>122</sup> Another African-American voter from Greenwich, Connecticut spent approximately six hours at and made two trips to her polling station. She was initially informed she was not on the rolls, despite having voted at that precinct the prior three years for each election, including the 2012 presidential primary. She was told this was likely due to her failure to return an address confirmation card. The voter left and returned with multiple utility bills, identification and other information,

as requested by the poll workers to establish residency. Eventually, after six hours, she was allowed to cast a regular ballot and was informed she would be returned to the active voter list.<sup>123</sup>

Additionally, private groups associated with the True the Vote campaign, discussed below, developed lists of alleged voters with felony convictions and demanded that election officials remove them from the rolls.

These lists were particularly error-laden. The Florida Department of State reviewed a list of voters submitted

## Florida's Governor reversed the state's near automatic restoration process and required people with prior felony convictions to incur a lengthy waiting period and then apply to have their rights restored.

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by one such group, Tampa Vote Fair, alleged to have had felony convictions in Hillsborough County, and found none were actually ineligible to vote.<sup>124</sup>

Florida has one of the nation's toughest requirements for restoring voting rights, banning those with past felony convictions from voting for life unless they obtain clemency from the governor. One in ten Florida adults, including nearly one in four African Americans, cannot vote because of a felony conviction.<sup>125</sup> In most states, individuals are eligible to have their voting rights restored upon completion of their sentences or additional state supervision. In 2011, Florida's Governor reversed the state's near automatic restoration

process and required people with prior felony convictions to incur a lengthy waiting period and then apply to have their rights restored, disenfranchising 100,000 former felons who would have been eligible to vote in 2012 under the prior policy. Now, individuals must wait five to seven years, depending on the felony and then apply for restoration.<sup>126</sup> The application process is onerous and backlogged. During the 2012 cycle, the Election Protection hotline received over one hundred calls from voters with past felony convictions inquiring if they were eligible to vote and asking how to have their rights restored.<sup>127</sup> Because of the state's backlog of applicants, none of these callers were able to have their rights restored to vote in time for the November 6th election.

### **F. Proof of Citizenship Laws**

State proof of citizenship laws can unnecessarily burden voters' access to voter registration and their ability to cast a ballot. Voters in all states have the option of registering to vote by using a state form, or the uniform, postcard registration form provided by the federal government. The only proof of citizenship requirement in the federal form is an attestation, or in other words, a statement under penalty of perjury, that the applicant is in fact a citizen of the United States. Some states however, have attempted to require additional proof of citizenship, such as a copy of the applicants' certificate of naturalization, or a copy of their passport or a certified birth certificate. Alabama, Arizona, Georgia, and Kansas have adopted proof of citizenship procedures requiring voters to produce additional evidence of citizenship to register to vote.





However, Arizona is the only state that conducted the 2012 general election using this procedure.<sup>128</sup> Beginning in 2006, the Lawyers' Committee and its partner organizations and law firms, including the ACLU Foundation, AARP Foundation Litigation, and MALDEF, represented a broad coalition of Arizonans, including the Inter Tribal Council of Arizona ("ITCA") in litigation involving the voting-related provisions of Proposition 200 and their validity under the National Voter Registration Act ("NVRA").<sup>129</sup> Laws such as Arizona's Proposition 200 made it more difficult for all voters to register. Between the time that Proposition 200 was passed in 2005 and the trial in 2008, more than 30,000 voter registrations were rejected because applicants did not include the additional proof of citizenship required by Proposition 200. Those rejected included people of all ages, political affiliation and races. In June 2013, the U.S. Supreme Court ruled that the NVRA prevents Arizona from requiring voters who register using the federal registration form to submit information beyond what is required on that form (a signature under penalty of perjury affirming that the voter is a citizen).<sup>130</sup>

**Chairman Rambler of the Inter Tribal Council of Arizona outside of the Supreme Court after oral argument in *Arizona v. ITCA*.**

Proof of citizenship laws and procedures have been linked to problems with voter purges like those discussed in Subsection E. In Florida, ongoing litigation in the *Arcia* case alleges that the inappropriate use of federal SAVE immigration data violated the National Voter Registration Act's prohibition on purging within 90 days of a federal election.<sup>131</sup> There are already sufficient legal protections against noncitizens voting.<sup>132</sup> On appeal before the 11th Circuit, an oral argument has been scheduled for October 10th of this year.<sup>133</sup> Fifteen other states followed Florida's lead and asked the federal government for access to SAVE, which targets naturalized citizens and makes them subject to removal from the voter rolls if they do not show proof of citizenship. The great majority of naturalized citizens in our country are voters of color.<sup>134</sup>

#### **G. Voter Challenges**

Voter challenges are a part of a larger "ballot security" system alleged to protect against voter fraud. The challenge system is multi-faceted. States are charged with developing legislation regarding voter challenges. Then, at the polling site, election officials or poll workers are in charge of checking in and assisting voters.

During elections, candidates and political organizations are allowed to have individuals inside of the polling place to “challenge” voters who they deem ineligible. Most states call them “poll watchers” or “challengers” and allow them to observe the casting of ballots, the counting of absentee ballots, and in some instances, challenge the poll workers’ handling of the voting process.

The basis for voter challenges varies widely and can occur at different phases of the election process. Voters can be notified by mail that they are being challenged, prior to stepping foot into a voting location; or the challenge can occur at the precinct when the voter goes in to cast their ballot. Often, voter challengers base their objections on reported information on mailing lists, or on a system called voter caging, where operatives send non-forwardable mail, and then compile a list of those mailings that are returned.<sup>135</sup> The operatives then utilize the list to prepare their challenges. These lists, however, often include blatant inaccuracies. Additionally, these lists tend to overwhelmingly target racial and ethnic minorities.<sup>136</sup>

In 2012, there was a barrage of voter challenges/caging efforts targeting voters of color. During this election cycle, an organization, True the Vote (“TTV”), announced that it would assemble one million voter challengers to serve at the polls for the November 2012 Presidential election.<sup>137</sup> Unfortunately, 2012 was not the first election in which disenfranchised groups, particularly racial minorities, have been exposed to True the Vote and their tactics. In 2009, Catherine Engelbrecht, head of the Houston Tea Party group King Street Patriots, created True the Vote, an organization designed to turnout volunteer poll watchers. This effort resulted in the strategic placement of trained poll workers at polling sites in Harris County, Texas during the 2010 local elections. TTV used pattern recognition software to sort the voter registry to identify precincts for voter challenges. Texas’ 18th Congressional District, which includes Harris County, contains the poorest areas in Houston and is 43.5 percent Latino and 36.1 percent African American. Leading up to the 2010 election, TTV trained and registered over 1,000 volunteers as poll watchers in minority communities in Harris County. The Houston Chronicle reported that TTV poll watchers were harassing voters by both blocking and disrupting those that were waiting in line and by hovering behind voters as they were in the process of voting.

**Unfortunately, 2012 was not the first election in which disenfranchised groups, particularly racial minorities, have been exposed to True the Vote and their tactics.**

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Prior to the 2012 Presidential election, TTV used pattern recognition software to comb through voter registration lists in Ohio. There, TTV partnered with Judicial Watch, the Ohio Voter Integrity Project and the Cuyahoga Valley Republicans. Together they had two agendas: (1) to train and register volunteers to “scrub the rolls of individuals who should not be registered to vote in Ohio in the 2012 general election;” and (2) to place election challengers at many voting locations throughout the state.<sup>138</sup>

Their first effort led to thousands of Ohioans being notified that their ability to vote was being challenged. Most of these challenges, however, were deemed to be unfounded. For example, in Franklin County, the Ohio Voter Integrity Project tried to get 308 voters removed from the rolls, citing reasons like incomplete address information, being registered at a vacant lot or being dead.<sup>139</sup> Similarly, an attempt was made to challenge 246 Ohio State University students because they did not provide their apartment or dorm room number in their address despite the fact the Ohio state law does not require that level of detail for voter registration.<sup>140</sup>

Of the most noteworthy stories out of Ohio in 2012 is the story of the Sharp family. Teresa Sharp and her family of seven were notified that their right to vote was being challenged in Franklin County. The Ohio Voter Integrity Project challenged the family on the basis that her address was listed as a vacant lot, which was incorrect.<sup>141</sup> Upon receiving the challenge, Teresa thought that the purpose behind organizations like True the Vote and the Ohio Voter Integrity Project were less about patriotism and more about voter suppression, stating that “somebody out here [is] trying to scare people into not voting.”<sup>142</sup> Advancement Project attorney Donita Judge conveyed a similar sentiment, testifying that based on her experience she believed that the TTV effort would both intimidate voters of color and could improperly prevent eligible registered voters from casting a ballot due to overly aggressive and unverified eligibility challenges.<sup>143</sup>

The group’s second effort was similarly unsuccessful. 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. Ultimately the Sharp family was not blocked from voting.

Problems with voter challenges in Ohio did not begin in 2012. In 2004, African-American voters sought and obtained a preliminary injunction against the former Ohio Secretary of State Kenneth Blackwell, prohibiting voter challenges inside of polling stations.<sup>144</sup> Tim Burke, Chair of the Hamilton County Board of Elections, testified that two-thirds of the poll challengers were designated for predominantly African-American precincts.<sup>145</sup> The court found that because of the “questionable enforceability of the State’s and County’s policies regarding good faith challenges and ejection of disruptive challengers from the polls, there exist[ed] an enormous risk of chaos, delay, intimidation, and *pandemonium* inside the polls and in the lines out the door.”<sup>146</sup>

Ohio law provided that challenges must have clear and convincing evidence that the voter should be removed from the rolls. In Ohio, poll workers are the only ones who can mount challenges in the polls against Ohio voters on Election Day. Certainly, these challenges would have the greatest impact and chilling effect on Election Day, possibly resulting in long wait times and long lines and creating the time-consuming



task of re-verifying a voter's eligibility when challenged. If voters who are challenged could not resolve their issues at the polls, they were required to cast provisional ballots.

On Election Day, the Election Protection program received a number of voter challenge complaints:

**Election Protection volunteers at the National Command Center in Washington, DC on Election Day.**

- » In Ohio, although eventually allowed to vote, a voter and her daughter (both African American) were given challenge affidavits. The voter noticed that the only other African-American voters at the precinct were also the only other persons given a challenge affidavit. All were eventually allowed to vote.<sup>147</sup>
- » In California, Election Protection received reports that TTV-affiliated Election Integrity Project poll monitors were telling the polling place supervisor that several African-American voters should not be allowed to vote.<sup>148</sup>
- » In Montana, with just five weeks before the election, the Montana Republican Party challenged the registrations of thousands of voters based on change of address records. The mass challenge, unprecedented in the history of the state, was focused in heavily Democratic counties like Missoula. Video the Vote, a non-partisan organization that utilizes volunteer citizen journalists to document voting irregularities in their communities, went to Missoula to talk to challenged voters and to see the impact on the local elections office.<sup>149</sup>
- » In North Carolina, TTV targeted early voters. However, because North Carolina's voter challenge process requires reliable evidence, the majority of the 500 voters of color targeted in Wake County were found to be eligible to vote in the election.<sup>150</sup>

Advancement Project and the Lawyers' Committee provided voters with educational materials explaining what voters could expect at the polls, including providing the rules regarding voter challenges for particular states. These materials included information on who could challenge voters and what instances served as reasons under state law for valid challenges, e.g., lack of citizenship, non-residency for 30 days prior to



the election, wrong voting precinct or too young to vote. The stories from 2012 demonstrate the need for strong protections against improper challenges and the continuing importance of voter education.

## **H. Provisional Ballots**

Thousands of citizens — disproportionately African Americans and Latinos — were wrongly made to cast provisional ballots in 2012, especially in Ohio, Florida, Arizona, and Pennsylvania.<sup>151</sup> The problem of provisional ballot overuse was particularly pronounced in Florida. At one Tampa precinct, voters were given so many provisional ballots that it was dubbed “Provisional City.”<sup>152</sup> According to one study, in 2012, African-American and Latino voters in Florida were more likely than white voters to be required to cast provisional ballots and nearly twice as likely to have their provisional ballots rejected. African Americans cast over 6,700 provisional ballots in Florida, 25% of which were rejected; Latino voters cast over 4,400 provisional ballots and slightly more than 27% were rejected. By contrast, the provisional ballot rejection rate for white voters was just 17%.<sup>153</sup>

Problems with provisional ballots were not limited to Florida voters:

- » Compared to 2008, in 2012, twice as many voters in Philadelphia, Pennsylvania had to cast provisional ballots because their names were missing from voter rolls. Pennsylvania had the sharpest drop in voter turnout among other swing states, down by more than 7 percent from 2008, which some have attributed to confusion over its photo ID law.<sup>154</sup>
- » In Philadelphia, Pennsylvania, an African-American voter reported to Election Protection that poll workers and a Judge of Elections refused to provide him a provisional ballot even though the voter believed he was entitled to vote at that location, despite federal law providing that all voters be entitled to cast a provisional ballot if their eligibility at the polls cannot be immediately established.<sup>155</sup>
- » Election Protection received a report from an African-American voter in Alameda County, California who reported that, despite being registered to vote by regular ballot, in person, and at the same address for about 40 years, she was forced to vote by provisional ballot on Election Day. According to poll workers at her polling place, she was registered as a mail-in voter and was only eligible to cast a provisional ballot. The voter insisted that she had never registered to vote by mail-in ballot and had not received a mail-in ballot. This voter noted that another African-American voter in line near her had the same experience.<sup>156</sup>
- » In Fulton County, Georgia, issuance of provisional ballots was unprecedented and widespread. Problems with electronic poll books resulted in 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.<sup>157</sup>





» At Morehouse College, a historically black college in Atlanta, over 250 students were unable to cast regular ballots on Election Day. Some were told that their names were not on the voter rolls. The residency status of others was questioned. Many of these students waited in line for over seven hours for the precinct to receive replacement provisional ballots, the only voting option available to them. Similar reports were received from students at polling places at nearby Spelman College, another historically black college.<sup>158</sup>

**José de Diego Middle School in N. Miami. There were not enough bilingual poll workers, and many Latino voters had been sent to the wrong polling place — causing headaches and even longer lines.**

An Election Day experience of an African-American voter in Pennsylvania further illustrates the problem:

“...One particularly frustrating case was a black man who waited on line to vote and was then told that he was at the wrong poll site and to go to a different location to vote. When he relayed this information to me, I asked if they called the Board of Elections to determine his correct polling location. He told me that the poll worker did not call any one, but simply asked him his address and upon hearing his address told him that this was not the correct poll site for him. It turned out that the poll worker was wrong, and that this was the man’s correct poll site. I told the voter to go back inside and speak to the poll worker and tell him that this was his correct poll site. The man was again turned away, and I had to pull up the Pennsylvania Board of Elections’ website on my phone, which showed that this was the man’s polling location before the man’s name was found in the poll book and he was able to vote.”<sup>159</sup>

In Ohio, Advancement Project and SEIU, along with pro bono counsel at Hunter, Carnahan, Shoub, Byard & Harshman, and Altshuler Berzon LLP, brought a federal challenge to Ohio’s “wrong precinct” law, which results in disqualification of provisional ballots cast in the wrong precinct even where poll worker error —

not the voter's actions or qualifications — results in the wrongly cast ballot. Racial and ethnic minorities, young voters and the working poor are more likely to have their ballots rejected under Ohio's rule. The case revealed that those who live in urban counties are more than twice as likely to be made to cast a provisional ballot in the first place, according to the state's provisional ballot statistics. Those ballots are also far more likely to be rejected under the "wrong precinct" rule because large urban counties are more likely to assign multiple precincts to vote at a single polling location, where casting a wrong precinct ballot is as simple as being given the wrong piece of paper or standing at the wrong table.<sup>160</sup>

The Court, ruling that such ballots should be counted, noted that the Ohio Secretary of State provided no real evidence that the number of provisional ballots rejected for the wrong precinct was decreasing. To the contrary, the Court found that the percentage of rejected provisional ballots actually increased from 2008 to 2010.<sup>161</sup> In 2008, "the number of wrong-precinct provisional ballots statewide (14,355) were 36% of the 39,989 total rejected provisional ballots . . . compared with 45% (5,309) of the 11,775 total rejected provisional ballots in 2010."<sup>162</sup> The Court went on to conclude that any real improvement to the number of provisional ballots rejected was directly related to the *Northeast Ohio Coalition for the Homeless* ("NEOCH") Consent Decree, "which beginning with the 2010 statewide election significantly reduced wrong-precinct disqualifications due to poll-worker error."<sup>163</sup> The remaining provisional ballots rejected for wrong-precinct reveal "no improvement," noted the Court.<sup>164</sup> In July 2013, the Court issued a permanent injunction barring the state from rejecting provisional ballots cast in the wrong precinct in any election unless the evidence is clear that the poll worker directed the voter to the correct place, the voter refused to go and the Board of Elections verified the voter's correct location.<sup>165</sup>

## **I. Problems with Poll Workers**

Election Protection received similar reports of improper poll worker behavior that left some African-American voters feeling intimidated or frustrated on Election Day. An African-American voter in Winston-Salem, North Carolina, reported that his son moved to a different county less than 30 days prior to Election Day and went to his old county (the correct polling place) to cast his vote. The poll worker refused to give him a ballot, even though his name was on the voter rolls. The poll worker claimed that the voter's move rendered him ineligible to vote, and the precinct judge continued to deny him a regular ballot even after the voter confirmed that he was, in fact, eligible to vote in that precinct. The voter spent over two hours at his correct polling station trying to cast a regular ballot. The voter also reported rude and inappropriate behavior from poll workers at this same polling location.<sup>166</sup> Sadly, this story is not unique and similar problems were reported all over the country.

In another instance, the mother of an African-American student at Kent State University (in Ohio) reported to Election Protection that when her daughter registered to vote in August 2012 as a freshman college student, she was told that she could vote at the student center. However, on Election Day, her daughter

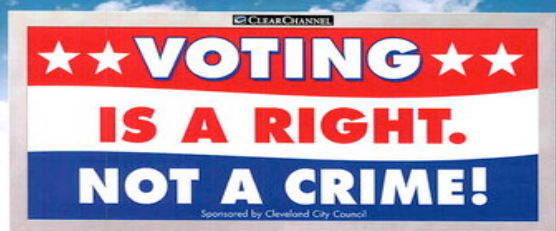
# INTIMIDATING BILLBOARDS

Billboards declaring that “Voter Fraud is a Felony” were placed in primarily African-American communities stigmatizing them by implying that voter fraud was prevalent in these communities, by attaching an implicit threat of criminal prosecution to the civic act of voting and frankly discouraging voting.

An anonymously financed billboard in Ohio:



Civil rights groups respond to intimidating billboards:



Channel billboard in Harris County, Texas, where the message is to “vote early.” The population of Harris County is 57 percent white.”<sup>169</sup>

The Lawyers’ Committee urged organizations and individuals to sign a petition to remove the billboards stating:

Because a substantial majority of these billboards are located in heavily African-American communities they are harmful in that (1) they stigmatize the African-American community by implying that voter fraud is a more significant problem

and other African-American students were turned away. They were told they could not vote at the student center and were required to vote at the United Methodist Church instead. However, other students were allowed to vote at the student center that day. This student finally voted at the church, but the experience left her frustrated and confused about the process for casting her ballot.<sup>167</sup>

## J. Voter Intimidation and Deception

Voter intimidation and deception were also rampant. In Ohio, the Lawyers’ Committee, along with other groups, including Advancement Project, fought for the removal of intimidating and stigmatizing billboards that were placed in predominantly African-American neighborhoods less than a month before the election. The ads appeared on Clear Channel billboards and stated: “Voter Fraud is a Felony!” It also included a picture of a gavel and the applicable Ohio penalties for voter fraud, which are up to three and a half years in jail and \$10,000 fine. Cleveland City Councilwoman Phyllis Cleveland stated, “They usually try to push cognac and cigarettes on people here in this neighborhood, now they are trying to intimidate them to keep them from voting.”<sup>168</sup>

According to a Huffington Post report, “[d]emographically, the voting age populations in the Ohio neighborhoods where the signs were placed are 96 percent African-American, 88 percent African-American and 76 percent African-American — a stark contrast to another ad that appears on a Clear

in African-American neighborhoods than elsewhere; (2) they attach an implicit threat of criminal prosecution to the civic act of voting in the upcoming election; and (3) they are clearly an effort to discourage lawful voting, in particular by African Americans. ..

We have confidence that Clear Channel, a corporation that embraces diversity, does not want to ally itself with individuals or organizations that are targeting specific communities to discourage them from exercising their fundamental right to vote. As is stands, however, Clear Channel is sanctioning voter suppression, when it should be providing essential voter information and recognizing the importance of every vote.<sup>170</sup>

On October 21, 2012, Clear Channel agreed to remove approximately thirty billboards placed in predominantly Latino and African-American neighborhoods and replace them with ten billboards that read, “Voting is a right. Not a crime!”

Additionally, the Lawyers’ Committee and its Election Protection partners, including Advancement Project, paid for about 36 Clear Channel billboards in predominantly Latino and African-American neighborhoods in Cleveland and Milwaukee that read, “Stand up and have your say — Vote. When we vote, we are all equal” and included the Election Protection hotline information. All of these measures helped to mitigate the effect of widespread voter intimidation and deception.

## Section 5

# NEW MILLENNIUM APPROACHES

**In response to the persistent wave** of suppressive voting laws and recurring breakdowns in election administration discussed above, the Lawyers' Committee and Advancement Project worked tirelessly before and on Election Day to ensure voters were not deterred from participating in the electoral process.

Beginning six months before Election Day, Advancement Project engaged in a massive social media campaign to educate and alert citizens about the process of voting and ways to protect their right to vote. It involved well-known social media outlets, such as Facebook, Twitter, and YouTube and an online e-newsletter entitled "Protect Our Vote" distributed weekly to a constituent list of 6,000+ individuals and included Advancement Project's work, partners, resources, and more. For this campaign, Advancement Project created a website, [apvote.org](http://apvote.org), with over 80 different links to voter materials, and videos featuring prominent celebrities such as Will.I.Am (of pop group Black Eyed Peas), director Robert Rodriguez (Sin City, Machete) and Star Jones, promoting the right to vote.

**Protect Our Vote E-Newsletter.** The *Protect Our Vote* initiative created a dramatic increase in web traffic. Advancement Project resources, such as litigation documents, partner highlights, PSA's, and more, were made available for the public, and the content was ever-changing as new laws were passed and court cases were won. *Protect Our Vote* also included custom webpages for voters in Ohio, Pennsylvania, and Florida, which included state-specific resources, and informed readers about Advancement Project litigation, partners on the ground, and events. In addition to the state-specific information, *Protect Our Vote* also included an interactive map of all 50 states providing state-by-state voter resources, such as deadlines for voter registration, where to register to vote, ID requirements, etc. It also housed a Spanish language resource page with Spanish voter protection resources available for download by users.

**#Yvote Twitter Town Hall.** Advancement Project hosted a Twitter town hall the week before the election with co-hosts, Voto Latino, Rock the Vote, and celebrity guests Wilmer Valderama, America Ferrera, and Rosario Dawson that proved very effective. Over 433,000 people participated in this town hall. Additionally, Advancement Project served as a co-sponsor for Voto Latino's twitter party, #VoteLatinoNow, and provided an opportunity to disseminate important information about issues impacting Latino voters.



These innovative social media events allowed Advancement Project to experience a larger increase in user engagement than ever seen before on all of its digital media platforms. Some metrics report an increase of over 200% engagement, which is remarkably high and a direct result of the time and focus put into



the online components for the *Protect Our Vote* campaign. Advancement Project's earned media campaign on voting produced more than 500 news hits (435 English language hits and 94 Spanish language hits), generating more than 1,122,000,000 media impressions, and deployed powerful messaging that became part of the national dialogue about voting.

The Lawyers' Committee and its partner organizations mobilized their resources through Election Protection again in 2012 and played a vital role supporting, educating and protecting

voters. Led by the Lawyers' Committee, Election Protection is the country's largest non-partisan voter protection coalition made up of over 100 local, state and national organizations and thousands of volunteers dedicated to ensuring that every eligible American who wants to vote is able to cast a ballot. For more than a decade, the Lawyers' Committee has administered this national voter protection program through the 1-866-OUR-VOTE Hotline (administered by the Lawyers' Committee) and the 1-888-Ve-Y-Vota Spanish language Hotline (administered by the National Association of Latino Elected and Appointed Officials Educational Fund). These hotlines are staffed by trained volunteers ready to provide voting assistance to callers from around the country. In conjunction with these national hotlines, Election Protection deploys thousands of volunteers throughout the country to monitor the polls and respond quickly to problems that voters report. Through the hotline and field program, the Lawyers' Committee has collected hundreds of thousands of stories from voters across the country that paint a true picture of the problems that have plagued American voters in every major election since 2000.

Election Protection 2012 was one of the largest and most effective efforts in the program's history, assisted by the dedication of over 7,000 volunteers across the country. Over the 2012 election cycle, the Election Protection Hotline received over 175,000 calls. Over 88,000 of those calls came in on Election Day alone. In addition, on Election Day, Election Protection assisted voters on the ground through field monitoring operations organized 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).<sup>171</sup> By working collaboratively with local election officials, Election Protection brought attention to voting issues as they arose and troubleshooted to resolve voting problems. Finally, litigation was also exceptionally important to combating many of the new state laws that would have otherwise burdened or disenfranchised voters in 2012. 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 suppressive laws during the 2012 election.

In 2012, Election Protection also enhanced its program, using innovative approaches to reach more voters and provide more effective assistance.

**Expanded Language Capacity.** Election Protection expanded its hotline language capacity with a pilot Asian language hotline, 1-888-API-VOTE, with coalition partners APIA Vote and the Asian American Justice Center. Through this hotline, voter assistance was available in five additional languages—Korean, Vietnamese, Thai, Mandarin and Cantonese.

**Expanded Grassroots Partnerships.** 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 expanded Election Protection’s reach and allowed us to cover more jurisdictions and serve more 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.



**Election Protection Smartphone Application.** To meet the needs of the digital age, Lawyers’ Committee deployed the first ever Election Protection Smartphone Application in 2012. 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. The app’s effectiveness was also recognized outside of the Election Protection community. In 2013, the app (designed by Revolution Messaging, LLC) won two “Pollie” awards from the American Association of Political

Consultants. It took Gold in the Best Use of Mobile Application category and won the “Best of the Best” award in the phones category.<sup>172</sup>

**Enhanced Web and Social Media Presence.** In addition, Election Protection continued to use the web and social media to reach voters. In 2012, the Election Protection website ([www.866OurVote.org](http://www.866OurVote.org)) continued to serve as an interactive clearinghouse of information on state and national voting rules, news, and election

topics, and Election Protection’s steady social media presence on and before Election Day helped provide timely updates and alerts to voters. In October 2012, Election Protection used its Facebook page to warn voters in Florida and Virginia about a rash of deceptive phone calls misinforming voters that they could vote by phone.

The communications tools employed by Advancement Project and Lawyers’ Committee provided much-needed support in the effort to combat the onslaught of restrictive voting measures and persistent failures

in election administration that arose during the 2012 election cycle. Many states’ swift responses to the Supreme Court’s recent decision in *Shelby County* stripping a key protection against discrimination in voting, make clear that such efforts will need to be redoubled to ensure equal and unfettered access to the ballot in future elections.



## Section 6

# LOOKING AHEAD: NEW RESTRICTIVE VOTING MEASURES IN 2013

**Despite the level of voter turnout and litigation victories** showing that voter suppression backfired, incredibly, legislatures continue to consider and pass restrictive voting laws that adversely impact the ability of voters of color to participate.<sup>173</sup> With the loss of a key protection against discriminatory voting laws through the Supreme Court's decision in *Shelby County*, more of the same can be expected. In 2013 legislative sessions, 24 states proposed legislation to implement restrictive voter ID laws or to make existing laws even more restrictive. For example, Virginia enacted a law in 2013 making its existing voter ID law, passed in 2012, more restrictive by limiting the forms of ID a voter may show to only state-issued photo ID. Moreover, states like North Carolina, which did not require photo ID, passed broad-sweeping legislation in 2013 (HB 589) imposing strict voter ID requirements, despite state election board records showing that more than 600,000 registered voters in North Carolina lack a DMV-issued driver's license or state ID. According to the state's data, approximately 30% of the voters without such ID are African American.<sup>174</sup> North Carolina's new law also imposes cuts to early voting, eliminates same day registration, repeals pre-registration for 16- and 17-year olds and a mandate for high school voter

In 2013 legislative sessions, 24 states proposed legislation to implement restrictive voter ID laws or to make existing laws even more restrictive.

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registration drives, authorizes additional poll observers and expands their allowed activities inside the polls, expands the scope of voter challenges, limits voter assistance and more.<sup>175</sup> In addition to North Carolina, eight other states also proposed cuts to early voting — despite clear evidence linking such cuts in 2012 to long lines in Ohio and Florida.

In addition, eight states considered legislation to require voters to produce proof of U.S. citizenship in 2013, eight states considered measures to place restrictions on third party voter registration activities, six states considered bills to eliminate

same day registration or tighten voter registration deadlines, and eight states considered registration list maintenance bills that could lead to wrongful purges. North Carolina and Ohio introduced legislation creating penalties for students who register to vote on college campuses in the state, and several states



considered measures making it harder for those with previous criminal convictions to restore their voting rights. Advancement Project and the Lawyers' Committee along with their partners in the states continue to lead the fight against implementation of these restrictive measures.<sup>176</sup>

**A protester rallies for early voting in North Carolina on “Moral Monday,” a weekly protest led by the North Carolina NAACP. Photo Credit: John West Photography LLC / West Documentaries**

While the problems of the 2012 elections did galvanize momentum for proactive voting measures in a number of states in 2013, too often the measures fell short of achieving the kind of reforms needed to prevent a repeat of the problems we saw in 2012. For example, Florida's efforts to remedy the long lines created by its cuts to early voting resulted in legislation in 2013 that does not completely address the problems caused by Florida's 2011 law, which cut early voting nearly in half. Rather than fully restore the mandatory 14 days of early voting that Florida citizens enjoyed before 2011, it allows elections supervisors to offer 8 to 14 days at their discretion. Moreover, the state lacks a polling place resource formula, so there is no assurance of an adequate number of voting machines or poll workers, among other essential resources that are needed to avoid long lines. The full early voting period is too important to leave at the discretion of individual counties, especially when hundreds of thousands of African-American and Latino voters were forced to wait for many hours to vote last year, or to walk away without casting their ballots. The problems voters faced in 2012 and will continue to face require bold reforms. Fixing the voting systems that have been broken by countless repressive voting measures will require the strength and durability that come with broader, more systematic reform measures, as we discuss below.

In North Carolina — led by Rev. Dr. William J. Barber, II, President of the North Carolina NAACP — voters took to the streets to fight back against newly proposed voter suppression measures and to show support for election reforms that truly work. Over 900 North Carolinians have been arrested for peacefully protesting the extremism of the sitting legislators over the course of thirteen weekly “Moral Monday” demonstrations in front of the North Carolina General Assembly.<sup>177</sup> These demonstrations have focused on a number of issues, including the strength of the state's current election system and the avalanche of



proposed legislation that threatens it.<sup>178</sup> In leading this movement, the North Carolina NAACP has touted the state's one-stop absentee voting system, which, since its implementation in 2007, has allowed people to simultaneously register and vote during the early voting period and which is largely responsible for North Carolina's above average turnout.<sup>179</sup> But instead of embracing its success, and its ranking as the state with the 11th highest voter turnout in 2012, the North Carolina General Assembly passed legislation requiring an unexpired, government-issued photo ID to vote, cutting early voting, and eliminating same-day registration, among other restrictions on access to the franchise.<sup>180</sup> The "Moral Mondays" coalition has vowed to keep fighting for as long as the legislature attempts to roll back the right to vote.<sup>181</sup> On August 12, just after Governor McCrory signed the law, Advancement Project filed suit on behalf of the North Carolina NAACP and Rosanell Eaton, a 92-year-old African-American woman who was one of the first blacks to register to vote in Franklin County in the 1940s, and who experienced segregation in schools and discrimination in voting through literacy tests firsthand.<sup>182</sup> Mrs. Eaton has always voted; she also registered many others and served as a poll worker for 40 years. She was born at home and has a current North Carolina driver's license, but the name on her certified birth certificate does not match the name on her driver's license or the name on her voter registration card.<sup>183</sup> The complaint alleges that "Mrs. Eaton will incur substantial time and expense to correct her identification documents to match her voter registration record in order to meet the new requirements under H.B. 589 to cast her ballot in North Carolina," that the new law violates Section 2 of the Voting Rights Act, and that due to the history of discrimination in voting in North Carolina, the court should order that the State be placed under the preclearance provisions of Section 3(c) of the Voting Rights Act.<sup>184</sup>

In the meantime, in Virginia, after a long advocacy campaign, Governor McDonnell decided to implement new administrative procedures that would allow for automatic restoration of the right to vote to nonviolent felons in the state on an individual basis.<sup>185</sup> Under Virginia law, the Governor cannot effectuate an instantaneous blanket restoration. Under the new procedures, a majority of the approximately 350,000 people who have completed their sentences but who have not yet had their voting rights restored may be reviewed on an individual basis, and upon verification that they have paid their debt to society, will regain their right to vote.<sup>186</sup> Given that more than half of the state's prison population is African American, these new procedures can have a profound impact on the political power of voters of color.<sup>187</sup> But, this procedure could be undone by the next governor, making the 2013 gubernatorial election in Virginia even more critical. It also gives us a strong basis to keep pushing for permanent restoration of rights in Virginia and numerous other states where people of color are disenfranchised by punitive felon disenfranchisement procedures that harken back to the Jim Crow era.

Unfortunately, the Virginia legislature recently passed a restrictive voter ID bill and a bill that seeks to purge potential non-citizens using unreliable data, both of which have a disparate impact on voters of color. Much further work is needed to fully protect voting rights in Virginia and many other states.

## Section 7

# CONCLUSION & RECOMMENDATIONS

**The work to secure access to the ballot** does not end when the election is over or when ballots are cast. While advocates were successful in thwarting some of the suppressive legislation that sought to limit access to the ballot, more remains to be done. The blow delivered by the Supreme Court in *Shelby County* has stripped away the critical federal approval process for states and localities with some of the most troubling records of discrimination in voting. Although important protections in the Voting Rights Act remain intact, many jurisdictions previously subject to the federal approval process have rushed and will continue to rush to promulgate laws that threaten to unfairly burden and disenfranchise voters of color. In response, Advancement Project and the Lawyers' Committee will continue to fight against suppressive legislation, educate citizens about their right to vote and promote changes that effectively address the challenges that voters faced before and on Election Day. The long lines, restrictive voter ID laws, ill-conceived voter purges, improper provisional ballot processes and other problems merit reform measures that improve voter participation and inclusion. Legislators justify the introduction and passage of suppressive laws citing unfounded claims of voter fraud. The result becomes laws limiting eligible voter participation rather than improving voter access and turnout or protecting the integrity of the elections. Millions of eligible voters are not registered to vote or are registered but have difficulty voting. For example, in Virginia, there are approximately 6.1 million Virginians of voting age, but only 5.4 million people on the voter registration rolls, and only 3.9 million Virginians who actually voted in 2012.<sup>188</sup> Nationwide, nearly 25% of eligible Americans, at least 51 million potential voters, are not registered.<sup>189</sup>

While some state legislatures have continued to introduce laws that would limit access to the vote, others are introducing laws that will improve access to the ballot. Advancement Project and the Lawyers' Committee are committed to not only fighting suppressive laws but also advocating for the reform that will remove barriers that inhibit

The long lines, restrictive voter ID laws, ill-conceived voter purges, improper provisional ballot processes and other problems merit reform measures that improve voter participation and inclusion.

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access to voter participation. With the Supreme Court’s decision in *Shelby County*, this work is even more important. Therefore, both organizations recommend the following urgently needed reforms to combat restrictive voter laws and voting discrimination and to restore the strength of the Voting Right Act.

**Recommendations to Restore and Strengthen the Voting Rights Act:**

- » Congress must act immediately to update the Voting Rights Act to ensure that there are effective federal protections to block discriminatory voting changes before they can be put into effect;
- » The DOJ should use all available legal authority to vigorously enforce all remaining provisions of the Voting Rights Act as well as all other federal voting rights laws under its jurisdiction;
- » Election officials should provide ample access to information about voting changes and data about their potential impact, and communities should be given the opportunity to not only know about, but also participate in, decisions regarding all aspects of any changes in voting practices or procedures.

**Recommendations to Provide Better Access to Fundamental Voting Rights:**

- » Secure, online voter registration that allows all citizens to register using a secure website;
- » Same-day registration for all eligible persons during both Early Voting and on Election Day;
- » Early Voting opportunities in every state including weekends and evening voting hours;
- » No-excuse absentee voting with procedures to prevent duplicate voting and fraud.

**Measures Needed to Stop Voter Suppression:**

- » Automatic restoration of voting rights for people with felony convictions upon completion of sentence;
- » Repeal of restrictive voting requirements, such as government-only photo ID and documentary proof of citizenship;
- » List maintenance procedures that, as required by the National Voter Registration Act (“NVRA” or “Motor Voter”), are “uniform, nondiscriminatory, and in compliance with the Voting Rights Act of 1965.” 42 U.S.C. §1973gg-6(a)(6)(b)(1);
- » Refrain from using inaccurate or inappropriate governmental or commercial databases for voter purges, especially outside of the 90-day window required by the NVRA;
- » Protect voters from unlawful and discriminatory challenges, as provided under Section 2 of the VRA, 42 U.S.C. § 1973, and state law, and improve state law protections, as needed;
- » Provide sufficient due process to every voter whose eligibility is challenged, as provided under the NVRA (including forwardable notice by mail, opportunity to update and appeal, and keeping a voter in “inactive” status but not removing them for two federal election cycles, so that they can affirm their eligibility at the polls and vote a complete ballot), along with additional protections of state law;
- » Adopt and enforce laws that prevent and punish voter intimidation and deception.

**Recommendations for Local Election Officials:**

- » Prioritize limited resources on efforts to ensure that voter registration is accurately processed in a timely manner and that polling places are fully equipped and staffed;
- » Increase and encourage voter registration and voter education opportunities in high schools;
- » Provide needed language assistance to limited-English proficient (“LEP”) voters, and provide continued outreach to the communities where these voters reside;
- » Designate and train county election officials to conduct strategic outreach and engagement activities with voters of color, including through community advisory boards, voter registration and participation events, and poll worker recruitment;
- » Take affirmative steps to ensure that poll workers and other election officials reflect the diversity within the community.

Voting is our most precious and fundamental American right, and the ballot box is the one place where everyone is equal, whether rich or poor, young or old, African-American, Latino, Asian Pacific Islander, Native American or white. Advancement Project and the Lawyers’ Committee are committed to ending discrimination in voting and ensuring that our democracy is inclusive. We invite concerned citizens to join us in our efforts to protect voting rights and build a next-generation voting rights movement.

## Appendix A: Selected 2012 Voting Rights Litigation

State	Type of Law Challenged	Litigation	Result
Arizona	Proof of Citizenship for Voter Registration	In <i>Arizona v. ITCA</i> , the Lawyers' Committee and other organizations challenged Arizona's Proposition 200 which required additional proof of citizenship for voter registration. The Lawyers' Committee argued the proof of citizenship requirement was preempted by the National Voter Registration Act of 1993 ("NVRA").	In June 2013, the Supreme Court ruled that the NVRA prevents Arizona from requiring that voter registration applicants who use the federal mail-in voter registration form to submit proof of citizenship beyond what is required on the form itself (a signature under penalty of perjury affirming that the voter is a citizen). <sup>190</sup>
Florida	Voter Purge Practice	In <i>Arcia v. Detzner</i> , Advancement Project and partners challenged Florida's flawed voter purge program that threatened thousands of eligible voters with disenfranchisement. <sup>191</sup>	The parties settled the Section 2 discrimination claim and the settlement agreement required the state to reinstate voters who had been improperly removed and send letters to anyone who had received the prior threatening notices, ensuring that over 2,600 improperly targeted voters were allowed to cast regular ballots. The remaining issue of whether such purges 90-days before a federal election violate the NVRA is on appeal before the 11th Circuit, and oral argument has been set for October 10th of this year in Miami.
Florida	Voter Purge	In <i>Mi Familia Vota Education Fund v. Detzner</i> , the Lawyers' Committee and ACLU of Florida alleged that the state of Florida violated Section 5 of the Voting Rights Act by failing to preclear its new voter purge procedures in advance of the 2012 elections.	In July 2013, the U.S. District Court for the Middle District of Florida dismissed the case because the Supreme Court's <i>Shelby County</i> decision suspended Section 5 review.
Florida	Early Voting, Voter Registration	In <i>Florida v. United States</i> , the Lawyers' Committee and partner organizations intervened to oppose preclearance under Section 5 of the Voting Rights Act. <sup>192</sup>	In August 2012, the U.S. District Court for the District of Columbia denied preclearance to Florida's reduction of early voting days and hours in its Section 5-covered counties, finding that African Americans would be disproportionately impacted by the changes. After the ruling, the 5 counties committed to provide 96 hours of early voting for the 2012 election and, which DOJ precleared. In its ruling, the court also precleared new rules for voters who move between counties, but enjoined many of the new restrictions on voter registration drives. Ultimately, the parties reached a settlement on the registration drive rules, which DOJ precleared.
Missouri	Voter ID	Advancement Project, and partners filed <i>Aziz, et. al v. Mayer, et. al</i> challenging Missouri's proposed voter ID ballot initiative under Missouri law.	Court struck the language from the Nov. 2012 ballot, concluding that the language, including entitling the measure the "Voter Protection Act," was insufficient and unfair because it would be "deceptive" and "misleading" to Missouri voters. <sup>193</sup>
Ohio	Provisional Ballots	In <i>SEIU v. Husted</i> , Advancement Project, in conjunction with co-counsel SEIU, sought to stop the disqualification of provisional ballots cast in the wrong precinct due to poll worker error.	The Court ordered the state to count all provisional ballots cast in the wrong precinct but correct polling place due to poll worker error. The Court issued a permanent injunction requiring the counting of wrong precinct provisional ballots in July 2013.



State	Type of Law Challenged	Litigation	Result
Pennsylvania	Voter ID	Advancement Project and partners filed <i>Applewhite v. Pennsylvania</i> challenging Pennsylvania's voter ID law under the Pennsylvania State Constitution.	Court issued a temporary injunction prohibiting implementation of the Photo ID requirement during the November 2012 election, concluding that the state had failed to provide adequate access to IDs. <sup>194</sup> Trial to permanently halt the law took place in July 2013.
South Carolina	Voter ID	In <i>South Carolina v. Holder</i> , the Lawyers' Committee along with other organizations intervened to oppose preclearance under Section 5 of the Voting Rights Act. <sup>195</sup>	U.S. District Court for the District of Columbia blocked the law for the 2012 elections, but permitted it to in 2013, after the state modified its plans for implementation by providing an alternative for voters who lacked the required ID. <sup>196</sup>
Texas	Voter ID	Advancement Project, the Lawyers' Committee and other partners intervened in <i>Texas v. Holder</i> , a case seeking Section 5 preclearance under the Voting Rights Act of 1965 and challenging Section 5's constitutionality.	The U.S. District Court for the District of Columbia barred implementation of Texas' restrictive photo ID law. The court found that the law would impose strict, unforgiving burdens on the poor and minorities. <sup>197</sup> The declaratory judgment denying preclearance was vacated in the wake of the <i>Shelby County</i> ruling.
Wisconsin	Voter ID	In <i>Milwaukee Branch of the NAACP v. Walker</i> the NAACP Milwaukee Branch and Voces de la Frontera brought suit challenging Wisconsin's photo ID law as a violation of the state constitution's protection of the right to vote.	Labeling the law "the single most restrictive voter eligibility law in the United States," the Dane County, WI, Circuit Court granted a permanent injunction striking the law, concluding that it violated Art. III, Sec. 1 of the Wisconsin Constitution. <sup>198</sup> The case is pending in the Wisconsin Court of Appeals.
Wisconsin	Voter ID	In <i>League of Women Voters of Wisconsin v. Walker</i> , the League of Women Voters of Wisconsin brought suit in state court alleging that the legislature lacked authority under the state constitution to impose its 2011 photo ID law.	The Dane County, WI Circuit Court issued an injunction blocking the law, concluding that the law imposed unconstitutional additional requirements on the right to vote in violation of the state constitution, concluding that the evidence "demonstrat[es] the very real disenfranchising effects of Act 23's photo ID requirements" and the "insurmountable burdens facing many of our fellow constitutionally qualified electors." <sup>199</sup> The ruling was reversed in the Wisconsin Court of Appeals in May 2013.
Wisconsin	Voter ID	In <i>Bettye Jones v. Deininger</i> , Advancement Project challenged Wisconsin's Photo ID law under Section 2 of the Voting Rights Act. <sup>200</sup>	Effectively enjoined during 2012 elections; on July 29, 2013, trial was scheduled for first week of November 2013.
Wisconsin	Voter ID	In <i>Frank v. Walker</i> the American Civil Liberties Union and the National Law Center for Homelessness & Poverty filed suit in federal court challenging Wisconsin's photo ID law under the Fourteenth and Twenty-Fourth Amendments of the U.S. Constitution. <sup>201</sup> The suit later added a claim alleging that the law violates the Voting Rights Act.	Effectively enjoined during 2012 elections; on July 29, 2013, trial was scheduled for first week of November 2013.

## Appendix B: Threats to Voting in the States

(As of August 22, 2013)

Restrictive voting proposals in 2013	States where restrictive voting legislation was introduced in 2013 (36 total)	Former Sec. 5 states	Legislation passed in 2013	Law passed leading to 2012
Voter ID restrictions (24 states)	AK, AR, CT, IL, IN, IA, MA, MD, MO, MT, NC, ND, NE, NH, NM, NJ, NV, NY, OK, TN, VA, WA, WI, WV	AK, NC, NY, VA	VA, ND, TN, AR (IN <sup>202</sup> ), NC	AL, KS, MS, NH, PA, RI, SC, TN, TX, VA, WI
Proof of Citizenship (8 states)	MA, MO, NV, OK, OR, SC, TX, VA	SC, TX, VA		AZ, KS, MS
Reductions to Early Voting (9 states)	AZ, IL, IN, NE, NC, SC, TN, TX, WI	AZ, NC, SC, TX	NE, NC	FL, GA, OH, TN, WV
Restricting Same Day Registration, VR deadlines (6 states)	AL, CA, MN, MT, NC, NE	AL, CA, NC	MT <sup>203</sup> , NC	
Restrictions on Voter Registration Drives (9 states)	IL, IN, LA, MT, MN, NC, NM, TX, VA	LA, TX, VA	VA, NC	FL, IL, ME, OH, TX, WI
List maintenance/Voter Purges (8 states)	CO, CT, IN, MI, NC, NM, TX, VA	NC, TX, VA	CT, TX, VA, NC	TN
Restrictions on Felon Rights Restoration (2 states)	ME, NC	NC	NC	FL, IA, SD
Penalties for student registration on campus (2 states)	OH, NC	NC	NC	
Limits Voter Assistance (1 State)	FL	FL		

## Endnotes

<sup>1</sup> See Testimony of Judith A. Browne Dianis, Co-Director, Advancement Project Hearing on *The State of the Right to Vote After the 2012 Election*, Before the Senate Committee on the Judiciary, Washington, DC, Wednesday, December 19, 2012 (available at: <http://www.advancementproject.org/resources/entry/right-to-vote-judith-browne-dianis-hearing-testimony-for-senate-committee-o>).

<sup>2</sup> See *Election 2012: Voting Laws Roundup*, Brennan Center for Justice, Oct. 11, 2012 (available at: <http://www.brennancenter.org/analysis/election-2012-voting-laws-roundup>).

<sup>3</sup> Charles Stewart III, *Waiting to Vote in 2012*, April 1, 2013, p.19 (available at [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2243630](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2243630)).

<sup>4</sup> Michael C. Herron and Daniel A. Smith, *Congestion at the Polls: A Study of Florida Precincts in the 2012 General Elections*, June 24, 2013 (available at: [http://b3cdn.net/advancement/beb126c6353be5f11f\\_v2m6vza6o.pdf](http://b3cdn.net/advancement/beb126c6353be5f11f_v2m6vza6o.pdf)).

<sup>5</sup> Michael C. Herron and Daniel A. Smith, *Florida's 2012 General Election under HB 1355: Early Voting, Provisional Ballots, and Absentee Ballots 1* (available at: <http://electionsmith.files.wordpress.com/2013/01/lwv-pr-herron-smith.pdf>).

<sup>6</sup> Paul Gronke and Charles Stewart III, *Early Voting in Florida*, April 2013, p.16 (available at [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2247144](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2247144)). See Michael C. Herron and Daniel A. Smith, *Early Voting in Florida in the Aftermath of House Bill 1355*, April 15, 2013, p.31 (available at <http://www.dartmouth.edu/~herron/HerronSmithFloridaEarly2012.pdf>); (from Herron/Smith short paper above at p.4); Michael C. Herron and Daniel A. Smith, *Florida's 2012 General Election under HB 1355: Early Voting, Provisional Ballots, and Absentee Ballots*, p.4 (available at: <http://electionsmith.files.wordpress.com/2013/01/lwv-pr-herron-smith.pdf>).

<sup>7</sup> U.S. Census, *Diversifying the Electorate—Voting Rates by Race and Hispanic Origin in 2012* (and Other Recent Elections), Issued May 2013 (available at <https://www.census.gov/prod/2013pubs/p20-568.pdf>).

<sup>8</sup> *Shelby County v. Holder*, 133 S.Ct. 2612 (2013).

<sup>9</sup> For additional discussion, see *Our Broken Voting System and How to Repair It: The 2012 Election Protection Report* (available at: <http://www.866ourvote.org/newsroom/publications/the-2012-election-protection-report-our-broken-voting-system-and-how-to-repair-it>).

<sup>10</sup> Source: *Election Protection Hotline* (42683).

<sup>11</sup> Id. at 50-51; *Recommendations & Case Studies Presented to the Presidential Commission on Election Administration By the Lawyers' Committee for Civil Rights Under Law, 2013* at 33-34 (available at: <http://www.lawyerscommittee.org/admin/site/documents/files/Recommendations-to-the-Presidential-Commission-28229.pdf>).

<sup>12</sup> *Our Broken Voting System and How to Repair It: The 2012 Election Protection Report* (available at: <http://www.866ourvote.org/newsroom/publications/the-2012-election-protection-report-our-broken-voting-system-and-how-to-repair-it>).

<sup>13</sup> *Recommendations & Case Studies Presented to the Presidential Commission on Election Administration By the Lawyers' Committee for Civil Rights Under Law, 2013* at 22 (available at: <http://www.lawyerscommittee.org/admin/site/documents/files/Recommendations-to-the-Presidential-Commission-28229.pdf>).

<sup>14</sup> On Election Day, Election Protection received more than 88,000 calls. See Statement from Eric Marshall and Marcia Johnson-Blanco, Leaders of Election Protection, November 6, 2012, found at <http://www.866ourvote.org/newsroom/news/election-day-2012-in-summary>.

<sup>15</sup> The information here merely provides a snapshot of some of the problems voters reported to Election Protection in 2012. The data provided does necessarily reflect the experiences of all voters in the 2012 elections.

<sup>16</sup> The Fifteenth Amendment of the United States Constitution states: "The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude. The Congress shall have power to enforce this article by appropriate legislation." U.S. CONST. amend. XV, §§ 1-2.

<sup>17</sup> After passage of the Fifteenth Amendment, African Americans from former confederate states elected members to the United States House of Representatives and the United States Senate. See ERIC FONER, *RECONSTRUCTION: AMERICA'S UNFINISHED REVOLUTION 1863-1877* 352 (Henry Steele Commager & Richard B. Morris eds., 1988).

<sup>18</sup> See J. Morgan Kousser, *THE SHAPING OF SOUTHERN POLITICS: SUFFRAGE RESTRICTION AND THE ESTABLISHMENT OF THE ONE-PARTY SOUTH, 1880-1910* (1974) (describing post-Civil War Constitutional Conventions in the South where participants openly argued for the discriminatory removal of African American voters, including in the Virginia convention, where one delegate proclaimed, “Discrimination!...that, exactly, is what this Convention was elected for ... with a view to the elimination of every negro voter....” See 2 Report of The Proceedings and Debates of The Constitutional Convention, State Of Virginia 3076 (1906).

<sup>19</sup> See Alexander Keyssar, *The Right to Vote: The Contested History of Democracy in the United States*, Basic Books (2000).

<sup>20</sup> *Id.*

<sup>21</sup> See Juan A. Sepulveda, Jr., *The Live and Times of Willie Velasquez: Su Voto Es Su Voz* 176 (2003).

<sup>22</sup> *Id.*

<sup>23</sup> See Voting Rights Act Amendments of 1975, Pub. L. No. 94-73, 89 Stat. 400 (codified as amended in scattered sections between 42 U.S.C. §§ 1973 to 1973bb-1); see also James Tucker, *The Battle Over Bilingual Ballots: Language Minorities and Political Access Under the Voting Rights Act*, 55-57 (2009).

<sup>24</sup> *President Ronald Regan, Remarks on Signing the Voting Rights Act Amendment of 1982* (“The right to vote is the crown jewel of American liberties, and we will not see its luster diminished.”); See also Fannie Lou Hamer, Rosa Parks, and Coretta Scott King Voting Rights Act of 2006, S. Rep. 109-295, at 1 (2006).

<sup>25</sup> DAVID J. GARROW, *PROTEST AT SELMA: MARTIN LUTHER KING, JR., AND THE VOTING RIGHTS ACT OF 1965*, 132 (1978).

<sup>26</sup> David A. Bositis, *Black Elected Officials: A Statistical Summary: 2000* at 5, Joint Center for Political and Economic Studies, <http://www.jointcenter.org/research/black-elected-officials-a-statistical-summary-2000>.

<sup>27</sup> This data is limited to six states because it is the only enumeration conducted prior to 1984. See Rodolfo O. de la Garza and Louis DeSipio, *Reshaping the Tub: The Limits of the VRA for Latino Electoral Politics in Espstein, et. al, The Future of the Voting Rights Act* 142 (2006).

<sup>28</sup> THEODORE CAPLOW, LOUIS HICKS & BEN J. WATTENBERG, *THE FIRST MEASURED CENTURY: AN ILLUSTRATED GUIDE TO TRENDS IN AMERICA, 1900-2000* 186 (2001).

<sup>29</sup> Help America Vote Act of 2002 (HAVA), Pub. L. No. 107-252, 116 Stat. 1666. HAVA is codified at 42 U.S.C. §§ 15301-15545 (Supp. III 2003).

<sup>30</sup> *Id.* at §§ 15481-15485.

<sup>31</sup> In *Crawford v. Marion County Election Bd.*, 553 U.S. 181 (2008), the United States Supreme Court upheld the constitutionality of an Indiana statute requiring government issued photo identification to vote, opening the door for this type of restrictive legislation nationwide.

<sup>32</sup> See Wendy Weiser and Diane Kasden, *Voting Law Changes: Election Law Update*, Brennan Center for Justice, October 2012, found at <http://www.brennancenter.org/publication/voting-law-changes-election-update>.

<sup>33</sup> See *Election 2012: Voting Laws Roundup*, <http://www.brennancenter.org/analysis/election-2012-voting-laws-roundup> (supra, note 2).

<sup>34</sup> Judith A. Browne Dianis, Co-Director, Advancement Project, Hearing on “The State of the Right to Vote After the 2012 Election” Before the Senate Committee on the Judiciary, Washington, DC, December 19, 2012 (supra, note 1).

<sup>35</sup> See “Map of Shame,” Lawyers’ Committee for Civil Rights Under Law, <http://www.lawyerscommittee.org/page?id=0057>.

<sup>36</sup> Nine states were fully covered by Section 5 (AL, AK, AZ, GA, LA, MS, SC, TX and VA) and six states were partially covered (CA, FL, MI, NY, NC and SD).

<sup>37</sup> Data compiled from U.S. Census, *Voting and Registration in the Election of November 2012 - Detailed Tables (Table 2)*(May 2013), available at <http://www.census.gov/hhes/www/socdemo/voting/publications/p20/2012/tables.html>.

<sup>38</sup> *Obama for America v. Husted*, 697 F.3d 423 (6th. Cir. 2012).

<sup>39</sup> For an overview of the decision, see “RISE UP FOR JUSTICE: THE SUPREME COURT’S DECISION IN SHELBY COUNTY V. HOLDER AND THE FUTURE OF THE VOTING RIGHTS ACT” (<http://www.866ourvote.org/pages/body/Shelby-FAQ-7.12.13.pdf>), and visit the Election Protection website at <http://Shelby.866OurVote.org>.

<sup>40</sup> A number of other states, including Florida, Hawaii, Idaho, Louisiana, Michigan, New Hampshire and South Dakota have “non-strict” photo ID laws that require photo ID but include provisions for those who do not have one, for example, by allowing a voter with ID to vouch for a voter without ID, or by allowing a voter without ID to provide personal information such as a birth date, or sign an affidavit swearing to his or her identity. See <http://www.ncsl.org/legislatures-elections/elections/voter-id.aspx> for a list of states and voter ID requirements.

<sup>41</sup> A 1950 study estimated that 94% of white births were registered nationwide, as opposed to only 81.5% of “nonwhite” births. Nearly a quarter of nonwhite births in rural areas were unregistered (as opposed to 11.1% of white births). See S. Shapiro, *Development of Birth Registration and Birth Statistics in the United States*, 4:1 POPULATION STUDIES: A JOURNAL OF DEMOGRAPHY 86, 98-99 (1950). Another study asserts that Southern States did not begin to undertake systematic efforts to register African-American births until after the Supreme Court’s decision in *Brown v. Board of Education*, 347 U.S. 483 (1954), and then only as “a means of tabulating illegitimacy rates” in African-American births for use in opposing desegregation efforts. Anders Walker, *Legislating Virtue: How Segregationists Disguised Racial Discrimination as Moral Reform Following Brown v. Board of Education*, 47 DUKE L. J. 399, 416 (1997).

<sup>42</sup> *Milwaukee Branch of the NAACP v. Walker*, No. 11 CV 5492, slip op. at 20 (Circuit Court Dane County July 17, 2012) (Order granting permanent injunction).

<sup>43</sup> *League of Women Voters of Wisconsin v. Walker*, No. 11 CV 4669, slip op. at 6-7 (Circuit Court Dane County March 12, 2012), rev. on appeal, *League of Women Voters of Wisconsin v. Walker*, Appeal No. 2012AP584-AC (Wisconsin Court of Appeals, District IV, May 30, 2013).

<sup>44</sup> *Personal Story: Bettye and Debra by the Advancement Project*, Stanley Nelson Production, Oct. 26, 2012, <https://www.youtube.com/watch?v=7AkSwXZDKIs>.

<sup>45</sup> Detailed summary of Bettye Jones Declaration filed in *Bettye Jones, et al v. Judge David G. Deininger, et al*; Case No. 2:12-cv-00185-LA (E.D. Wis. 2012).

<sup>46</sup> Complaint, *Milwaukee Branch of the NAACP v. Walker*, No. 11 CV 5492 (Dane Cty. Cir. Ct. 2012).

<sup>47</sup> *Milwaukee Branch of the NAACP v. Walker*, No. 11 CV 5492, slip op. at 7, 12-13 (Circuit Court Dane County, July 17, 2012).

<sup>48</sup> See John Pawasarat, University of Wisconsin-Milwaukee Employment & Training Institute, “The Driver License Status of the Voting Age Population in Wisconsin,” at 4-5 (available at: <http://www4.uwm.edu/eti/barriers/DriversLicense.pdf>).

<sup>49</sup> *League of Women Voters of Wisconsin v. Walker*, No. 11 CV 4669 (Circuit Court Dane County March 12, 2012), rev. on appeal, *League of Women Voters of Wisconsin v. Walker*, Appeal No. 2012AP584-AC (Wisconsin Court of Appeals, District IV, May 30, 2013).

<sup>50</sup> *League of Women Voters of Wisconsin v. Walker*, No. 11 CV 4669, slip op. at 6-7 (Circuit Court Dane County March 12, 2012), rev. on appeal, *League of Women Voters of Wisconsin v. Walker*, Appeal No. 2012AP584-AC (Wisconsin Court of Appeals, District IV, May 30, 2013).

<sup>51</sup> *League of Women Voters of Wisconsin v. Walker*, Appeal No. 2012AP584-AC (Wis. Ct. App. Dist IV, May 30, 2013).

<sup>52</sup> Memorandum in Support of Preliminary Injunction, *Jones v. Deininger*, No. 12-cv-00185 at 4 (E.D. Wis. April 23, 2012).

<sup>53</sup> Complaint, *Frank v. Walker*, No. 2:11-cv-01128, (E.D. Wis. Dec. 13, 2011).

<sup>54</sup> Complaint, *Milwaukee Branch of the NAACP v. Walker*, No. 11 CV 5492 (Dane Cty. Cir. Ct. 2012).

<sup>55</sup> *Aziz v. Mayer*, No. 11AC-CC00439, slip op. (Circuit Court, Cole County, March 27, 2012).

<sup>56</sup> *Milwaukee Branch of the NAACP v. Walker*, No. 11 CV 5492, slip op. at 2 (Circuit Court Dane County March 6, 2012) (Order granting temporary injunction).

<sup>57</sup> *Milwaukee Branch of the NAACP v. Walker*, No. 11 CV 5492, slip op. at 18, 20 (Circuit Court Dane County July 17, 2012) (Order granting permanent injunction).

<sup>58</sup> *Id.* at 20.



<sup>59</sup> Id. at 18.

<sup>60</sup> Testimony of Thomas Bloom, Missouri House of Representatives, House Elections Committee Hearing on HJR14 and HB329, Feb. 15, 2011, See Lizzie Bartek and Kati Cundari, “Students Offer a Unique Perspective on New Voter Legislation,” KMOV-4 St. Louis, May 31, 2011, (available at: <http://www.kmov.com/news/local/Students-Offer-a-Unique-Perspective-on-New-Voter-Legislation-122878539.html>).

<sup>61</sup> Rhonda Weiche, “Joy Lieberman Learning Center Gives Hope to Students for a Brighter Future,” Jan. 12, 2012, (available at: <http://universitycity.patch.com/groups/schools/p/joy-lieberman-learning-center-gives-hope-to-students-46fe762bf2>).

<sup>62</sup> See “Joy and Emmanuel Personal Voter Stories GOTV: A Stanley Nelson Production, 2012,” (available at: <http://www.advancementproject.org/resources/entry/joy-and-emmanuel-personal-voter-stories-gotv-a-stanley-nelson-production>).

<sup>63</sup> Testimony of Joy Lieberman, Missouri House of Representatives, House Elections Committee Hearing on HJR5 and HB48, Jan. 29, 2013.

<sup>64</sup> Joy Lieberman, “Not a Provisional Citizen,” Letters to the Editor, *St. Louis Post Dispatch*, May 20, 2011, (available at: [http://www.stltoday.com/news/opinion/mailbag/article\\_b8d17994-0950-568d-99e6-95f06ab56912.html](http://www.stltoday.com/news/opinion/mailbag/article_b8d17994-0950-568d-99e6-95f06ab56912.html)).

<sup>65</sup> *Weinschenk v. State*, 203 S.W.3d 201, 215 (Mo. 2006).

<sup>66</sup> Id. at 214.

<sup>67</sup> *Aziz v. Mayer*, No. 11AC-CC00439, slip op. (Circuit Court, Cole County March 27, 2012).

<sup>68</sup> *Weinschenk v. State*, 203 S.W.3d 201, 215 (Mo. 2006).

<sup>69</sup> *Aziz v. Mayer*, No. 11AC-CC00439, slip op. (Circuit Court, Cole County March 27, 2012).

<sup>70</sup> See e.g., *Testimony of Denise Lieberman, Senior Attorney and Missouri Voter Protection Advocate, in Opposition to SJR6 and SB27*, before the Missouri Senate Financial, Governmental Organizations & Elections Committee, Feb. 4, 2013, (available at: [http://b3cdn.net/advancement/e87364ce4d4ed6fe81\\_kvm6ijjhs.pdf](http://b3cdn.net/advancement/e87364ce4d4ed6fe81_kvm6ijjhs.pdf)), and *Testimony of Denise Lieberman, Senior Attorney and Missouri Voter Protection Advocate, in Opposition to HJR5 and HB48* before the Missouri House Elections Committee, Jan. 29, 2013 (available at: [http://b3cdn.net/advancement/93c5300019ab80af78\\_lvm6b8rwwg.pdf](http://b3cdn.net/advancement/93c5300019ab80af78_lvm6b8rwwg.pdf)).

<sup>71</sup> Source: *Election Protection Hotline* (OVL2012-266).

<sup>72</sup> Source: *Election Protection Hotline* (56922).

<sup>73</sup> Source: *Election Protection Hotline* (61585).

<sup>74</sup> *Applewhite v. Com.* 54 A.3d 1 (Pa. 2012).

<sup>75</sup> *Applewhite v. Com.* 54 A.3d 1, 4 (Pa. 2012).

<sup>76</sup> Id.

<sup>77</sup> *Applewhite v. Com.* No. 330 M.D. 2012, 2012 WL 3332376, at \*3, n.16 (Pa. Cmwlth. Aug. 15, 2012) (unreported), *vacated* 54 A.3d 1(Pa. 2012).

<sup>78</sup> See *Applewhite v. Com.* No. 330 M.D. 2012, 2012 WL 4497211at \*2, (Pa. Cmwlth. Oct. 2, 2012).

<sup>79</sup> *Texas v. Holder*, 888 F. Supp. 2d 113 (D.D.C. 2012).

<sup>80</sup> *Texas v. Holder*, 888 F. Supp. 2d at 144.

<sup>81</sup> Id.

<sup>82</sup> Ryan Reilly, “Harsh Texas Voter ID Law ‘Immediately’ Takes Effect After Voting Rights Act Ruling,” *Huffington Post*, June 25, 2013, (available at: [http://www.huffingtonpost.com/2013/06/25/texas-voter-id-law\\_n\\_3497724.html](http://www.huffingtonpost.com/2013/06/25/texas-voter-id-law_n_3497724.html)).

<sup>83</sup> *South Carolina v. United States*, 898 F.Supp.2d 30 (D.D.C. 2012).

<sup>84</sup> *South Carolina v. United States*, 898 F.Supp.2d at 40.

<sup>85</sup> *Our Broken Voting System and How to Repair It: The 2012 Election Protection Report*, State Reports, p.54 (available at: <http://www.866ourvote.org/newsroom/publications/the-2012-election-protection-report-our-broken-voting-system-and-how-to-repair-it>).

<sup>86</sup> HB1355's voter registration restrictions also impacted voter registration, which dropped by 14 percent in Florida due to the twelve months when voter registration drives were all but shut down due to restrictions on third party registration activities. See Ari Berman, *The GOP's Voter Suppression Strategy: How voter ID laws inspired progressive voters to fight stronger and turn out in higher numbers*, *The Nation*, Nov. 26, 2012 (available at: <http://www.thenation.com/article/171404/gops-voter-suppression-strategy#axzz2Z83OgwIF>).

<sup>87</sup> HB1355's restrictions applied statewide, however Florida was only required to seek preclearance of the law for its 5 counties that were covered under Section 5 of the Voting Rights Act.

<sup>88</sup> *Florida v. United States*, 885 F. Supp. 2d 299 (D.D.C. 2012).

<sup>89</sup> Michael C. Herron and Daniel A. Smith, *Florida's 2012 General Election under HB 1355: Early Voting, Provisional Ballots, and Absentee Ballots* (available at: <http://electionsmith.files.wordpress.com/2013/01/lwv-pr-herron-smith.pdf>).

<sup>90</sup> See e.g., Michael C. Herron & Daniel A. Smith, *Early Voting in Florida in the Aftermath of House Bill 1355*, April 15, 2013. <http://www.dartmouth.edu/~herron/HerronSmithFloridaEarly2012.pdf> The report reviewed 67 county early voting files made public by the Florida Department of State, and disaggregated the 2.4 million early votes cast by race and ethnicity.

<sup>91</sup> Paul Gronke and Charles Stewart III, *Early Voting in Florida*, April 2013, p.16 (available at [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2247144](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2247144)). According to one Dartmouth study, the decrease in early voting in Florida from 2008 to 2012 is due in part to increased use of absentee voting as a substitute method. Their data showed that in Florida counties where early voting decreased from 2008 to 2012, absentee voting rates tended to increase. However, the authors noted that absentee voting is not always a reliable substitute due to the notable percentage of ballots rejected by county canvassing boards. They found that the risks of ballot rejection disproportionately impact voters of color. ("a switch from early to absentee voting is not costless. Compared to early voting, voting absentee offers more opportunities for ballot rejection. . .") In 2012, nearly 2.4 million absentee ballots were cast—an increase of over 50,000 ballots from 2008. Nearly 1% were "rejected as illegal" by county canvassing boards. The rejection rate increases for voters of color. African Americans cast 220,000 absentee ballots and 1.5% were rejected. Hispanics cast 250,000 absentee ballots and 1.3% were rejected. By comparison, of the 1.78 million absentee ballots cast by white voters in Florida, only 0.8 percent were rejected. Michael C. Herron and Daniel A. Smith, *Early Voting in Florida in the Aftermath of House Bill 1355*, April 15, 2013, p.30-31 (available at <http://www.dartmouth.edu/~herron/HerronSmithFloridaEarly2012.pdf>) See also Michael C. Herron and Daniel A. Smith, *Florida's 2012 General Election under HB 1355: Early Voting, Provisional Ballots, and Absentee Ballots*, p.4 (available at: <http://electionsmith.files.wordpress.com/2013/01/lwv-pr-herron-smith.pdf>).

<sup>92</sup> Paul Gronke and Charles Stewart III, *Early Voting in Florida*, April 2013, p.26 (available at [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2247144](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2247144)).

<sup>93</sup> Michael C. Herron and Daniel A. Smith, *Early Voting in Florida in the Aftermath of House Bill 1355*, April 15, 2013 (available at: <http://www.dartmouth.edu/~herron/HerronSmithFloridaEarly2012.pdf>).

<sup>94</sup> Michael C. Herron and Daniel A. Smith, *Early Voting in Florida in the Aftermath of House Bill 1355*, April 15, 2013 (available at: <http://www.dartmouth.edu/~herron/HerronSmithFloridaEarly2012.pdf>).

<sup>95</sup> *Id.* at 39.

<sup>96</sup> Michael C. Herron and Daniel A. Smith, *Early Voting in Florida in the Aftermath of House Bill 1355*, April 15, 2013, p. 37-38 (available at <http://www.dartmouth.edu/~herron/HerronSmithFloridaEarly2012.pdf>). See also Michael C. Herron and Daniel A. Smith, *Florida's 2012 General Election under HB 1355: Early Voting, Provisional Ballots, and Absentee Ballots*, <http://electionsmith.files.wordpress.com/2013/01/lwv-pr-herron-smith.pdf>, at 4 ("Racial and ethnic minorities were not only more likely to have to cast provisional ballots at the polls, but they were also more likely to have their ballots rejected by county canvassing boards.").

<sup>97</sup> Michael C. Herron and Daniel A. Smith, *Early Voting in Florida in the Aftermath of House Bill 1355*, April 15, 2013, p.17-18 (available at: <http://www.dartmouth.edu/~herron/HerronSmithFloridaEarly2012.pdf>).

<sup>98</sup> See Michael C. Herron and Daniel A. Smith, *Souls to the Polls: Early Voting in Florida in the Shadow of House Bill 1355*, 11 *Election Law Journal* 2012.

<sup>99</sup> Absentee in-person voting was available to Florida voters on the Sunday before Election Day in 2012.

<sup>100</sup> Michael C. Herron and Daniel A. Smith, *Congestion at the Polls: A Study of Florida Precincts in the 2012 General Elections*, June 24, 2013 (available at: [http://b3cdn.net/advancement/beb126c6353be5f1f\\_v2m6vza6o.pdf](http://b3cdn.net/advancement/beb126c6353be5f1f_v2m6vza6o.pdf)).

<sup>101</sup> Charles Stewart III, *Waiting to Vote in 2012*, April 1, 2013, p.19 (available at [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2243630](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2243630)).

<sup>102</sup> Charles Stewart III, *Waiting to Vote in 2012*, April 1, 2013, p.19 (available at [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2243630](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2243630)).

<sup>103</sup> Rebecca Leber, *Poll Finds Minorities, Democrats Faced Longer Voting Lines*, Think Progress, Nov. 8, 2012, (available at: <http://thinkprogress.org/justice/2012/11/08/1165531/poll-finds-minorities-democrats-faced-longer-voting-lines/>), citing to Hart Research, *2012 Election Night Surveys*, Nov. 7, 2012.

<sup>104</sup> Pew Center on the States, *New Data on Lines at the Polls*, (available at: <http://www.pewstates.org/research/analysis/new-data-on-lines-at-the-polls-85899435524>).

<sup>105</sup> Jordy Yager, *Virginia Voters See Long Lines*, The Hill, Nov. 6, 2012, (available at: <http://thehill.com/homenews/campaign/266281-virginia-voters-see-long-lines-as-pols-swoop-in>).

<sup>106</sup> See Virginia State Board of Elections: Absentee Voting, (available at: <http://www.sbe.virginia.gov/absenteevoting.html>).

<sup>107</sup> Statement of Katie O'Connor, Staff Attorney, Advancement Project, United States House of Representatives Committee on Oversight and Government Reform Forum: *Lessons from Election Day 2012: Examining the Need for Election Reform*, Woodbridge, Virginia, Monday, January 14, 2013, (available at: [http://democrats.oversight.house.gov/images/stories/Advancement\\_Project\\_Statement\\_01\\_14\\_2013.pdf](http://democrats.oversight.house.gov/images/stories/Advancement_Project_Statement_01_14_2013.pdf)).

<sup>108</sup> Id.

<sup>109</sup> Source: *Election Protection Hotline* (61502).

<sup>110</sup> Testimony of Sonia Gibson, Florida New Majority Member-Leader and Palm Beach County Educator, before the Presidential Commission on Election Administration, Miami Public Meeting (June 28, 2013) at <http://www.supportthevoter.gov/2013/07/08/pcea-public-meeting-june-28-2013-webcast-materials/> (PCEA Miami Public Comments 4 of 4, at 22:16-25:23).

<sup>111</sup> Scott Powers and David Damron, *Analysis: 201,000 in Florida Didn't Vote Because of Long Lines*, Orlando Sentinel, Jan. 23, 2013 (available at [http://articles.orlandosentinel.com/2013-01-23/business/os-voter-linesstatewide-20130118\\_1\\_long-lines-sentinel-analysis-state-ken-detzner](http://articles.orlandosentinel.com/2013-01-23/business/os-voter-linesstatewide-20130118_1_long-lines-sentinel-analysis-state-ken-detzner)), citing analysis of Ohio State Professor Theodore Allen who estimated that "at least 201,000 voters likely gave up in frustration on Nov. 6."

<sup>112</sup> *Richland Elec. Official: 'That is Unacceptable'*, WLTX, Nov. 8, 2012 (available at: <http://www.wltx.com/news/article/208228/2/Richland-Elec-Official-That-is-Unacceptable>).

<sup>113</sup> Mike Rego, *Long Lines Await East Providence Voters*, EastBayRI, Nov. 6, 2012 (available at: <http://www.eastbayri.com/news/long-lines-await-east-providence-voters/>).

<sup>114</sup> Statement of Katie O'Connor, Staff Attorney, Advancement Project, United States House of Representatives Committee on Oversight and Government Reform Forum: *Lessons from Election Day 2012: Examining the Need for Election Reform*, Woodbridge, Virginia, Monday, January 14, 2013, (available at: [http://democrats.oversight.house.gov/images/stories/Advancement\\_Project\\_Statement\\_01\\_14\\_2013.pdf](http://democrats.oversight.house.gov/images/stories/Advancement_Project_Statement_01_14_2013.pdf)); See Brentin Mock, *Virginia Republicans' Bizarre Notion of 'Fair' Voting*, Colorlines, Jan. 30, 2013, (available at: [http://colorlines.com/archives/2013/01/virginia\\_electoral\\_college\\_robbery\\_fails\\_another\\_voter\\_suppression\\_defeat.html](http://colorlines.com/archives/2013/01/virginia_electoral_college_robbery_fails_another_voter_suppression_defeat.html)).

<sup>115</sup> United States Elections Project, *2012 Early Voting Statistics*, (available at: [http://elections.gmu.edu/early\\_vote\\_2012.html](http://elections.gmu.edu/early_vote_2012.html)).

<sup>116</sup> National Conference of State Legislatures, *Absentee and Early Voting*, (available at: <http://www.ncsl.org/legislatures-elections/elections/absentee-and-early-voting.aspx>).

<sup>117</sup> Compl. ¶ 26, *Arcia v. Detzner*, 1:12-CV-22282 (S.D. Fla., June 19, 2012) (82% of voters on purge list of 2,625 Florida voters were voters of color).

<sup>118</sup> Id. at ¶ 39.

<sup>119</sup> Compl, ¶ 2 *Mi Familia Vota Education Fund v. Detzner*, 8:12-CV-1294-T-27MAP (M.D. Fla. July 27, 2012).

<sup>120</sup> Scott Powers, *Removal of Non-Citizens from Voter Rolls Could be Delayed*, Orlando Sentinel, (available at [http://articles.orlandosentinel.com/2012-09-27/news/os-voter-purge-20120927\\_1\\_voter-rolls-systematic-alien-verification-chris-cate](http://articles.orlandosentinel.com/2012-09-27/news/os-voter-purge-20120927_1_voter-rolls-systematic-alien-verification-chris-cate)).

<sup>121</sup> Sara Burnett, *Suthers Backs Gessler, Asks Homeland Security to Screen Voters*, Denver Post, July 10, 2012, available at [http://www.denverpost.com/breakingnews/ci\\_21044134/suthers-backs-gessler-asks-homeland-security-screen-voters#ixzz24KJvcs9P](http://www.denverpost.com/breakingnews/ci_21044134/suthers-backs-gessler-asks-homeland-security-screen-voters#ixzz24KJvcs9P), Janell Ross, *Voter Roll Purges Could Spread To At Least 12 States*, Huffington Post, July 31, 2012, [http://www.huffingtonpost.com/2012/07/31/voter-roll-purge\\_n\\_1721192.html](http://www.huffingtonpost.com/2012/07/31/voter-roll-purge_n_1721192.html) (In addition to Florida and Colorado, states expecting to request access to SAVE: Alaska, Arkansas, Arizona, Georgia, Iowa, Kansas, Michigan, New Mexico, Ohio, Utah and Washington).

<sup>122</sup> Source: *Election Protection Hotline* (60111).

<sup>123</sup> Source: *Election Protection Hotline* (61597).

<sup>124</sup> Of a subset of 27 such voters, 23 either did not meet the match criteria established or had not been convicted of a felony, and the remaining four required additional investigation. See Sept. 14, 2012 Email from M. Matthews (Department of State) to M. H. Farris (Hillsborough County), on file with Advancement Project.

<sup>125</sup> Christopher Uggen, et. al. *State Level Estimates of Felon Disenfranchisement in the United States*, 2010 at 12, the Sentencing Project (July 2012) (available at [http://sentencingproject.org/doc/publications/fd\\_State\\_Level\\_Estimates\\_of\\_Felon\\_Disen\\_2010.pdf](http://sentencingproject.org/doc/publications/fd_State_Level_Estimates_of_Felon_Disen_2010.pdf)).

<sup>126</sup> In 2007, Governor Charlie Crist restored voting rights automatically for non-violent offenders and liberalized the procedures for executive clemency, offering a near automatic path to restoration for those convicted of nonviolent crimes. This benefitted felons who completed their sentence after April 2007. Felons with previous convictions were still required to apply for restoration.

<sup>127</sup> See e.g. *Election Protection Hotline* (56354)(54086)(31022).

<sup>128</sup> Kansas began implementing its law in 2013, while Alabama and Georgia have not yet implemented their laws.

<sup>129</sup> *Arizona v. Inter Tribal Council of Arizona*, 133 S.Ct. 2247 (2013). *Arizona v. ITCA* was consolidated with *Gonzalez v. Arizona*, a case brought on behalf of an additional group of Arizona citizens and organizations. See e.g. *Gonzalez v. Arizona*, No. 08-17094 (9th Cir. June 7, 2012).

<sup>130</sup> *Arizona v. Inter Tribal Council of Arizona*, 133 S.Ct. 2247 (2013).

<sup>131</sup> See e.g. Appellant's Brief, *Arcia v. Detzner*, Case No. Case: 12-15738 (11th Cir. Dec. 17, 2012), discussing that the NVRA requires a state to "complete, not later than 90 days prior to the date of a primary or general election for Federal office, any program the purpose of which is to systematically remove the names of ineligible voters from the official lists of eligible voters." 42 U.S.C. § 1973gg-6(c). Oral argument was scheduled for Oct. 10, 2013, <http://moritzlaw.osu.edu/electionlaw/litigation/arciaVdetzner.php>.

<sup>132</sup> *Id.*

<sup>133</sup> *Id.*

<sup>134</sup> See e.g., Advancement Project, *Segregating American Citizenship: Latino Voter Disenfranchisement in 2012*, Sept. 24, 2012 at 4-7 (citing various sources including federal Census data) (available at [http://b3cdn.net/advancement/691d4ca5f1fb88ac7f\\_gum6yz1ie.pdf](http://b3cdn.net/advancement/691d4ca5f1fb88ac7f_gum6yz1ie.pdf)).

<sup>135</sup> Justin Levitt and Andrew Allison, *A Guide to Voter Caging*, June 2007, Brennan Center for Justice (available at: [http://www.brennancenter.org/sites/default/files/legacy/d/download\\_file\\_49608.pdf](http://www.brennancenter.org/sites/default/files/legacy/d/download_file_49608.pdf)).

<sup>136</sup> *Id.* See also Teresa James, J.D., *Caging Democracy: A 50-Year History of Partisan Challenges to Minority Voters*, Project Vote, September 2007 (available at: [http://projectvote.org/images/publications/Voter%20Caging/Caging\\_Democracy\\_Report.pdf](http://projectvote.org/images/publications/Voter%20Caging/Caging_Democracy_Report.pdf)).

<sup>137</sup> Brentin Mock, *How the Right's Building a 'Poll Watcher' Network for November*, Colorlines.com, August 23, 2012, quoting True the Vote National Elections Coordinator Bill Ouren (available at [http://colorlines.com/archives/2012/08/true\\_the\\_votes\\_large\\_and\\_growing\\_far-right\\_network.html](http://colorlines.com/archives/2012/08/true_the_votes_large_and_growing_far-right_network.html)); For a detailed description of TTV and its history, see Stephanie Saul, *Looking, Very Closely, for Voter Fraud*, New York Times, Sept. 16, 2012 (available at: [http://www.nytimes.com/2012/09/17/us/politics/groups-like-true-the-vote-are-looking-very-closely-for-voter-fraud.html?pagewanted=all&\\_r=0](http://www.nytimes.com/2012/09/17/us/politics/groups-like-true-the-vote-are-looking-very-closely-for-voter-fraud.html?pagewanted=all&_r=0)).

<sup>138</sup> See Statement of Donita Judge, Advancement Project, *Ohio Field Hearing on Voting Rights Before the Senate Judiciary Subcommittee on the Constitution, Civil Rights, and Human Rights*, Cleveland, Ohio, Monday, May 7, 2012 (available at: [http://b3cdn.net/advancement/c2c872b6d31698c82d\\_4xm6bnkyx.pdf](http://b3cdn.net/advancement/c2c872b6d31698c82d_4xm6bnkyx.pdf)).

<sup>139</sup> Darrel Rowland, *Husted will probe any Voter Intimidation*, Dispatch Politics, June 6 2013, (available at: <http://dispatchpolitics.dispatch.com/content/blogs/the-daily-briefing/2012/10/17-october-2012---voter-intimidation.html>); True the Vote has been banned from polling stations in Franklin County.

<sup>140</sup> Josh Jarman, *Voter-Roll Challenges Dismissed*, The Columbus Dispatch, June 6, 2013, (available at: <http://www.dispatch.com/content/stories/local/2012/09/25/voter-roll-challenges-dismissed.html>).

<sup>141</sup> Dan Harris, *Is True the Vote Intimidating Minority Voters From Going to the Polls?*, ABC News, June 6, 2013, (available at: <http://abcnews.go.com/Politics/true-vote-intimidating-minority-voters-polls/story?id=17618823#.UbDKqfm1FfQ>).

<sup>142</sup> *Id.*

<sup>143</sup> See Statement of Donita Judge, Advancement Project, *Ohio Field Hearing on Voting Rights* Before the Senate Judiciary Subcommittee on the Constitution, Civil Rights, and Human Rights, Cleveland, Ohio, Monday, May 7, 2012 (available at: [http://b3cdn.net/advancement/c2c872b6d31698c82d\\_4xm6bnkyx.pdf](http://b3cdn.net/advancement/c2c872b6d31698c82d_4xm6bnkyx.pdf)).

<sup>144</sup> *Spencer v. Blackwell*, 347 F. Supp.2d 528 (S.D. Ohio 2004).

<sup>145</sup> *Id.* at 530 (The court heard evidence that “14% of new voters in a majority white location will face a challenger..., but 97% of new voters in a majority African American voting location will see such a challenger.”).

<sup>146</sup> *Id.* at 535.

<sup>147</sup> *Source: Election Protection Hotline* (48293).

<sup>148</sup> *Source: Election Protection Hotline* (64501).

<sup>149</sup> Video the Vote, *Voter Caging in Montana*, (available at: <http://www.videothevote.org/video/357/>).

<sup>150</sup> See Nicholas Riley, *Voter Challengers*, Brennan Center for Justice, Aug. 30, 2012, (available at: [http://brennan3cdn.net/9edfc63808b7bf0c09\\_y5m6iyf3a.pdf](http://brennan3cdn.net/9edfc63808b7bf0c09_y5m6iyf3a.pdf)); See also Nicolas Riley, *A Lesson From North Carolina on Challengers*, Brennan Center for Justice, July 2, 2012, (available at: [http://www.brennancenter.org/blog/archives/a\\_lesson\\_from\\_north\\_carolina\\_on\\_challengers/](http://www.brennancenter.org/blog/archives/a_lesson_from_north_carolina_on_challengers/)) (describing the challenge effort and highlighting safeguards in North Carolina’s challenger law that prevent pre-election challenges from proceeding without reliable evidence).

<sup>151</sup> Testimony of Judith A. Browne Dianis, Co-Director, Advancement Project Hearing on “The State of the Right to Vote After the 2012 Election”, Before the Senate Committee on the Judiciary, Washington, DC, Wednesday, December 19, 2012. (*supra*, note 1).

<sup>152</sup> *Id.*

<sup>153</sup> Michael C. Herron and Daniel A. Smith, *Florida’s 2012 General Election under HB 1355: Early Voting, Provisional Ballots, and Absentee Ballots*, at p.3 (available at: <http://electionsmith.files.wordpress.com/2013/01/lwv-pr-herron-smith.pdf>).

<sup>154</sup> *Id.*

<sup>155</sup> *Source: Election Protection Hotline* (64700).

<sup>156</sup> *Source: Election Protection Hotline* (65111).

<sup>157</sup> *Our Broken Voting System and How to Repair It: The 2012 Election Protection Report* (available at: <http://www.866ourvote.org/newsroom/publications/the-2012-election-protection-report-our-broken-voting-system-and-how-to-repair-it>).

<sup>158</sup> *Id.*

<sup>159</sup> The BLS Advocate, *A Voter Protection Experience*, <http://blsadvocate.org/tag/provisional-ballots>.

<sup>160</sup> Multi-precinct polling places are very common in population-dense urban areas with high concentrations of voters of color. In the 2012 primary elections, for example, 93.9% of precincts in Cuyahoga County were assigned to vote in multi-precinct voting locations.

<sup>161</sup> *Service Employees Intern. Union, Local 1 v. Husted*, 887 F. Supp.2d 761, 780-81 (S.D. Ohio 2012).

<sup>162</sup> *Id.*

<sup>163</sup> *Id.*



<sup>164</sup> *Id.*

<sup>165</sup> *Service Employees Intn. Union, Local 1 v. Husted*, No. 2:12-CV-562, (S.D. Ohio July 9, 2013) (Order granting permanent injunction).

<sup>166</sup> *Source: Election Protection Hotline (61537)*.

<sup>167</sup> *Source: Election Protection Hotline (62729)*.

<sup>168</sup> Stan Donaldson, *Politicians say advertisement in Ward 5 discriminates against minorities and felons*, *The Plain Dealer*, October 4, 2012, (available at: [http://www.cleveland.com/metro/index.ssf/2012/10/politicians\\_say\\_advertisement.html](http://www.cleveland.com/metro/index.ssf/2012/10/politicians_say_advertisement.html)).

<sup>169</sup> Leigh Owens, *'Voter Fraud' Billboards: Media Company Clear Channel Petitioned To Remove Controversial Ads*, *The Huffington Post*, Oct. 19, 2012, (available at: [http://www.huffingtonpost.com/2012/10/19/voter-fraud-billboards\\_n\\_1987058.html](http://www.huffingtonpost.com/2012/10/19/voter-fraud-billboards_n_1987058.html)).

<sup>170</sup> October 15, 2012 letter to Jim Cullinan, VP Marketing and Communication, Clear Channel Outdoor, (available at [http://www.lawyerscommittee.org/admin/voting\\_rights/documents/files/Clear-Channel-101512-Letter-final.pdf](http://www.lawyerscommittee.org/admin/voting_rights/documents/files/Clear-Channel-101512-Letter-final.pdf)).

<sup>171</sup> Statement from Eric Marshall and Marcia Johnson-Blanco, Leaders of Election Protection, Nov. 6, 2012, 11:00 p.m. (available at <http://www.866ourvote.org/newsroom/news/election-day-2012-in-summary>).

<sup>172</sup> Pollie Award Winners, American Association of Political Consultants, (available at: <http://www.theaapc.org/default.asp?contentID=758>).

<sup>173</sup> Chelyen Davis, *House Passes Cole bill to Limit Voter ID*, *Fredericksburg Free Lance Star*, Feb. 5, 2013 (bill would remove utility bills, pay checks, bank statements and Social Security cards as acceptable forms of identification; the bill would accept a concealed weapons permit.) (available at <http://news.fredericksburg.com/on-politics/2013/02/05/house-passes-cole-bill-to-limit-voter-id/>).

<sup>174</sup> *2013 SBOE-DMV ID Analysis*, State Board of Elections, January 7, 2013 (available at [http://www.wral.com/asset/news/state/nccapitol/2013/01/08/11956025/2013\\_Analysis.pdf](http://www.wral.com/asset/news/state/nccapitol/2013/01/08/11956025/2013_Analysis.pdf)).

<sup>175</sup> HB 589 (NC 2013), (available at: <http://www.ncleg.net/Sessions/2013/Bills/House/PDF/H589v8.pdf>).

<sup>176</sup> *See Selected 2012 Voting Rights Litigation Chart, Appendix A.*

<sup>177</sup> *Voter ID bill focus of 'Moral Monday' NAACP rally*, ABC 11 News, July 22, 2013, (available at: <http://abclocal.go.com/wtvd/story?section=news/local&id=9180663>); Michael A. Fletcher, *In North Carolina, unimpeded GOP drives state hard to the right*, *Washington Post*, May 25, 2013, (available at: [http://articles.washingtonpost.com/2013-05-25/business/39518695\\_1\\_state-income-tax-north-carolina-state-legislature](http://articles.washingtonpost.com/2013-05-25/business/39518695_1_state-income-tax-north-carolina-state-legislature)).

<sup>178</sup> *Id.*, Ari Berman, *North Carolina's Moral Mondays An inspiring grassroots movement is fighting back against the GOP's outrageous budget cuts and attacks on democracy*, *The Nation*, July 17, 2013, (available at: <http://www.thenation.com/article/175328/north-carolinas-moral-mondays#axzz2ZoghL7Lv>).

<sup>179</sup> *See e.g., NAACP, others rally against proposed bill to change early voting*, Associated Press, March 29, 2013 (available at: [http://coastal.news14.com/content/top\\_stories/692351/naacp--others-rally-against-proposed-bill-to-change-early-voting#sthash.LJ80i0u3.dpuf](http://coastal.news14.com/content/top_stories/692351/naacp--others-rally-against-proposed-bill-to-change-early-voting#sthash.LJ80i0u3.dpuf)), *NAACP links proposed NC voting changes to historical white supremacist politics*, Facing South, Institute for Southern Studies, <http://www.southernstudies.org/2013/07/naacp-links-proposed-nc-voting-changes-to-historic.html>; Statement of Rev. Dr. William J. Barber, II, President of the North Carolina NAACP, January 23, 2013, <http://carolinajustice.typepad.com/ncnaacp/fight-voter-suppression.html>.

<sup>180</sup> HB 589 (NC 2013), (available at: <http://www.ncleg.net/Sessions/2013/Bills/House/PDF/H589v8.pdf>). *See also* Statement of Katie O'Connor, Staff Attorney, Advancement Project, before the House Elections Committee of the North Carolina General Assembly, Wednesday, April 10, 2013. (available at: [http://b3cdn.net/advancement/47c0f4bf080301cb59\\_kgm6i2bn5.pdf](http://b3cdn.net/advancement/47c0f4bf080301cb59_kgm6i2bn5.pdf)).

<sup>181</sup> WTVD-TV Raleigh-Durham, NC, *North Carolina NAACP calls for June 3 rally for next protest*, May 24, 2013, Ari Berman, *North Carolina's Moral Mondays An inspiring grassroots movement is fighting back against the GOP's outrageous budget cuts and attacks on democracy*, *The Nation*, July 17, 2013, (available at: <http://www.thenation.com/article/175328/north-carolinas-moral-mondays#axzz2ZoghL7Lv>).

<sup>182</sup> Complaint, *North Carolina NAACP and Rosanell Eaton, et.al. v. Governor Patrick Lloyd McCrory, et.al.*, No. 1:13-cv-658 (M.D.N.C. Aug. 12, 2013).

<sup>183</sup> *Id.*

<sup>184</sup> *Id.* (passim).

<sup>185</sup> Olympia Meola, *McDonnell to speed rights process for nonviolent felons*, Richmond Times-Dispatch, May 29, 2013, (available at: [http://www.timesdispatch.com/news/state-regional/government-politics/article\\_08d1b42c-c80c-11e2-8950-0019bb30f31a.html](http://www.timesdispatch.com/news/state-regional/government-politics/article_08d1b42c-c80c-11e2-8950-0019bb30f31a.html)).

<sup>186</sup> *Id.*

<sup>187</sup> *Disenfranchised ex-cons a stain on Virginia's democracy*, Washington Post, May 28, 2013 (available at: [http://articles.washingtonpost.com/2013-05-28/opinions/39580559\\_1\\_voting-rights-felons-state-senate](http://articles.washingtonpost.com/2013-05-28/opinions/39580559_1_voting-rights-felons-state-senate)).

<sup>188</sup> Virginia QuickFacts, United States Census Bureau, (available at: <http://quickfacts.census.gov/qfd/states/51000.html>); Commonwealth of Virginia, State Board of Elections, Voter Registration Statistics as of 12/05/2012, (available at [http://www.sbe.virginia.gov/Files/Registration%20Statistics/2012/11/Locality\\_Statistics.pdf](http://www.sbe.virginia.gov/Files/Registration%20Statistics/2012/11/Locality_Statistics.pdf)); Virginia State Board of Elections, November 6, 2012 General Election Official Results, (available at [https://www.voterinfo.sbe.virginia.gov/election/DATA/2012/68C30477-AAF2-46DD-994E-5D3BE8A89C9B/Official/95\\_s.shtml](https://www.voterinfo.sbe.virginia.gov/election/DATA/2012/68C30477-AAF2-46DD-994E-5D3BE8A89C9B/Official/95_s.shtml)).

<sup>189</sup> Pew Center on the States, *Inaccurate, Costly, and Inefficient: Evidence That America's Voter Registration System Needs an Upgrade* (2012), (available at [http://www.pewtrusts.org/our\\_work\\_report\\_detail.aspx?id=85899370677](http://www.pewtrusts.org/our_work_report_detail.aspx?id=85899370677)).

<sup>190</sup> *Arizona v. Inter Tribal Council of Arizona*, 133 S.Ct. 2247 (2013).

<sup>191</sup> *Arcia v. Detzner* was brought by Advancement Project, 1999 SEIU United Healthcare Workers East, Fair Elections Legal Network, Project Vote and LatinoJustice PRLDEF.

<sup>192</sup> *Florida v. United States*, 885 F. Supp. 2d 299 (D.D.C. 2012).

<sup>193</sup> *Aziz v. Mayer*, No. 11AC-CC00439, slip op. (Circuit Court, Cole County March 27, 2012).

<sup>194</sup> *Applewhite v. Commonwealth of Pennsylvania*, 330 M.D. 2012, 2012 WL 4497211 at \*5 (Pa. Commw. Ct. Oct. 2, 2012) (The judge stated "...I am not still convinced in my predictive judgment that there will be no voter disenfranchisement arising out of the Commonwealth's implementation of a voter identification requirement.."). Advancement Project litigated this case in conjunction with the ACLU of Pennsylvania, the Public Interest Law Center of Philadelphia and pro bono counsel Arnold and Porter.

<sup>195</sup> The Lawyers' Committee, along with the law firm of Sullivan & Cromwell, the Brennan Center for Justice, and South Carolina civil rights attorney Armand Derfner represented the League of Women Voters of South Carolina and an individual voter, Craig Debose, as interveners in this litigation.

<sup>196</sup> *South Carolina v. United States*, 898 F.Supp.2d 30 (D.D.C. 2012).

<sup>197</sup> *Texas v. Holder*, 888 F. Supp. 2d 113 (D.D.C. 2012).

<sup>198</sup> *Milwaukee Branch of the NAACP v. Walker*, No. 11 CV 5492, slip op. at 18, 20 (Circuit Court Dane County July 17, 2012) (Order granting permanent injunction).

<sup>199</sup> *League of Women Voters of Wisconsin v. Walker*, No. 11 CV 4669, slip op. at 6-7 (Circuit Court Dane County March 12, 2012).

<sup>200</sup> *Jones v. Deininger* No. 12-cv-00185 (E.D. Wis.) Advancement Project along with the law firm Arnold & Porter, represented Bettye Jones, Cross Lutheran Church, the Milwaukee Area Labor Council, the League of Young Voters, and the League of United Latin American Citizens in the case.

<sup>201</sup> Complaint, *Frank v. Walker*, No. 2:11-cv-01128, (E.D. Wis. Dec. 13, 2011).

<sup>202</sup> Indiana's new law authorizes challengers to demand additional proof of identification beyond what is already required to vote at the polls.

<sup>203</sup> Minnesota's legislature authorized a ballot referendum for 2014 asking voters to repeal Election Day registration.



