

2012 Election Lessons Learned: How Voters Stood Up Against Suppression, ID, and Intimidation

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The right to vote is just that – a fundamental right which is the cornerstone of American democracy. In the 2012 election, that sacred value was challenged in a way we have not seen in a couple of generations, perhaps since the civil and voting rights movements of the 1960s. Some powerful people tried to deny this right; legislatures in many states decided that the freedom to vote should be restricted, and they erected many unnecessary and discriminatory barriers to registration and voting.

The measures taken were so blatant and widespread that they served to energize coalitions of citizens to fight for voting rights harder than ever, and made many voters more determined to vote and have their vote count. The U.S. Department of Justice was compelled to intervene through its powers under Section 5 of the Voting Rights Act, because the laws enacted in several covered states were clearly discriminatory in purpose and/or effect. State and federal courts also struck down or delayed many of the worst of these laws. And where identification laws did come into effect, some were made more flexible and less of a burden on voters after having gone through Department of Justice and court review.

President Obama himself confirmed the need for national attention to protecting the freedom to vote in his acceptance speech on election night, noting the problems that many Americans had faced in attempting to vote, and declaring “we need to fix that.” President Obama is right. His call to action frames both the unacceptable problems that affected the right to vote in 2012 and the need for action going forward to ensure that all eligible Americans can exercise their right to vote.

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As will be discussed below, the measures to make voting harder for eligible Americans took many forms. Most of them were instigated by Republican dominated state legislatures which in 2010 and 2011 passed laws that would disproportionately exclude certain groups from the voting process, particularly African Americans, youth and Latinos. It was for obvious reasons: African Americans, Latinos and young people tend to vote for Democrats. And in 2008 these three groups came out in record numbers. So the vote suppression efforts were, unfortunately, focused on demographic groups that historically have been targeted in efforts to restrict voting rights.

The new laws and procedures included strict photo identification and proof of citizenship laws; rules making it harder for former felons to regain their voting rights; laws making voter registration more difficult; pre-election purges of eligible voters; cutbacks on early voting which predictably resulted in unacceptably long lines at the polls; and misuse and manipulation of rules around provisional ballots. Other problems that arose included challenges to voters' right to vote by organizations connected to or empowered by True the Vote; disregard by state election officials of legal requirements to provide language assistance at the polls; and efforts by groups and individuals to intimidate and mislead voters about voting procedures. There were also new, unanticipated challenges on the East Coast as a result of the damage wrought by Hurricane Sandy.

In the end, however, many of the attempts at voter exclusion went just too far, and backfired on those who would seek to make disenfranchisement an election strategy. Given the strong turnout of the very groups that were targeted, it seems that the American voters were ready to take on this challenge. African Americans matched their record turnout of 2008 and were 13 percent of the electorate. [Latinos raised their share](#) -- they were 10 percent of the electorate this year, up from 9 percent in 2008. For all the talk of youth disengagement, the [proportion of the electorate under 30](#) went from 18 to 19 percent. Indeed, just as significant a sign that the tide has turned is the fact that a ballot amendment that would have made photo identification a requirement to vote went down to defeat in Minnesota. At one time the polls showed 80 percent support for the measure. But a strong grassroots campaign to educate the

public about the measure turned the tide. As noted in one [press report](#), “volunteers made contact with more than 1.5 million voters over the past four months to explain the costs, complications and consequences of the amendment.” The success of this campaign may be the strongest indicator yet of public opinion turning against these efforts to put up unnecessary red tape around the voting process.

The pushback against vote suppression laws was facilitated by the efforts before Election Day of a coalition of pro-voter organizations and citizens who came together and [fought back on efforts to exclude Americans from voting](#). Restrictive photo ID requirements were blocked by the Department of Justice and/or the courts in Pennsylvania, South Carolina, Texas, and Wisconsin, and vetoed by governors in Minnesota, Missouri, Montana, New Hampshire, and North Carolina. Extreme restrictions on voter registration drives were permanently blocked by the courts in Florida. Cutbacks to early voting were reversed in Ohio. Finally, an Arizona law that required documentary proof of citizenship to register to vote was blocked by the courts.

Moreover, the threats made by True the Vote and its allied organizations to challenge peoples’ rights at the polls turned out to be more bark than bite. Demos and other groups [worked to put a spotlight](#) on their misguided and possibly illegal intentions, and relatively few of these threats materialized.

Nonetheless, there was plenty of disenfranchisement and possible exclusion in the 2012 election that will help point us in a new direction going forward: enacting election reforms that expand access to the ballot and create a more inclusive democracy. These measures include Same Day Registration and other reforms to modernize our voter registration system; expansion of early voting to avoid long lines on Election Day; laws to prevent unfounded challenges and other forms of voter harassment and intimidation and greater efforts to ensure Americans who are not proficient in English can exercise their right to vote.

Impact of Voter ID Laws

Alabama, Kansas, Mississippi, Pennsylvania, South Carolina, Tennessee, Texas, and Wisconsin all passed new strict photo ID laws in their 2011 or 2012 legislative sessions. As has been repeatedly demonstrated, requiring people to show government issued photo identification in order to vote is [unnecessary, discriminatory and has the potential to disenfranchise hundreds of thousands of people](#).

The Department of Justice objected to the laws in Texas and South Carolina under the Voting Rights Act -- those two states are covered by Section 5 of the Act and all changes in election procedures must be approved before they can be implemented. The states filed lawsuits to obtain approval of these laws in the federal district court for the District of Columbia, but the courts rejected those efforts, and blocked the photo ID laws from being implemented in the 2012 election. In the process, Texas' own data showed that [795,955 registered voters](#) did not have the ID required and these voters were disproportionately Latino and African American. South Carolina's own statistics showed [239,000 registered voters](#) in that state did not have the requisite ID. In Wisconsin the courts struck the law down as unconstitutional under the state constitution. In Pennsylvania the courts also said that the photo ID law passed there could not be implemented this year because the state had not taken the necessary steps to educate voters about the new requirements and ensure that people could obtain IDs.

Therefore, four states had strict photo ID laws in force—Kansas, Georgia, Indiana, and Tennessee. We already know from past elections that many [people have been disenfranchised](#) by Indiana's voter ID law, and we know that the voter ID law in Indiana impacts the ability of African Americans and Latinos in that state [much more](#) than other groups. Advocates fighting the Tennessee law [estimate](#) that 390,000 registered voters in that state do not have the picture ID now required to vote in that state. Yet [the state has](#) only "issued 20,923 state IDs for voting purposes." Research will reveal what impact these laws had in 2012.

Then there was the problem of voter and poll worker confusion, especially in states such as Pennsylvania. In that state shortly before the election, the courts

finally halted the state's new ID law, yet the State continued running advertisements claiming ID would be required at the polls.

All of the polling places in Crawford County, Pennsylvania, posted signs saying that identification was required to vote. [This was not true](#). An Allegheny County judge issued an order to halt electioneering outside a polling location in Homestead, Pennsylvania when it was found that Republicans outside a polling location were [stopping people outside the polls](#) and asking for identification. As predicted by voting rights advocates, many voters across Pennsylvania encountered [poll workers wrongfully requiring identification](#), turning some voters away or requiring them to vote provisional ballots

Less Noticed—Proof of Citizenship Laws

Arizona enacted a requirement that citizens provide documentary proof of citizenship before being allowed to register to vote in 2004. It has been in litigation ever since and the Supreme Court has just agreed to hear the case. The argument in the case is that the Arizona law violates the National Voter Registration Act, which requires states to accept the federal voter registration form. The federal form does not have a proof of citizenship requirement, and the NVRA does not permit states to add their own requirements as a condition of accepting the form. Apart from its inconsistency with the NVRA, the Arizona law threatened to disenfranchise eligible voters who may not have ready access to documentation of their citizenship. Furthermore, such requirements create tremendous barriers to voter registration drives. People don't always walk around with proof of their citizenship, and groups doing voter registration don't usually walk around with photocopying machines to copy such citizenship documents, as the law requires. Georgia, Kansas and Tennessee have also enacted proof of citizenship laws, and again it remains to be seen what their impact was in 2012.

Felon Disenfranchisement Continues

We know that [some 5.85 million American citizens](#) were excluded from the voting process on November 6. These are the Americans who at one point in their lives committed a felony and are barred by laws in most states from voting—even though 4.4 million of those Americans have served their time. Thirteen

percent of African American men are denied the right to vote in this country because of such laws.

In two states—the swing states of Florida and Iowa—Republican governors made it even harder for a former felon to regain his or her voting rights in the last two years. In Florida there is a mandatory 5 year waiting time before a citizen can even apply to the governor’s clemency board and there is a backlog now of over 100,000 applications awaiting action. The Sentencing Project [says](#) there are about 1.3 million disenfranchised ex-felons just in Florida. One-quarter of African American voting age men in Florida were disenfranchised on November 6 because of this antiquated and anachronistic rule.

Voter Registration Made More Difficult, Especially In Florida

Voter registration has been demonstrated to be the key to voter participation. [Once people are registered, they vote](#). Unfortunately, [the US is one of only a few western democracies](#) that puts the burden on citizens to get through the registration process and make sure they continue to update their registration every time they move or change their name. The burdens of the voter registration process particularly depress participation by low income Americans and communities of color. Yet, some states attempted to make registration even harder prior to the 2012 election.

Nowhere was this more the case than in Florida. Rock the Vote and the League of Women Voters stopped conducting registration drives in Florida last year because a new law passed by that state’s Republican legislature required groups to turn in voter registration forms within 48 hours after collecting them or face a fine of up to \$1,000. As noted in a recent law review article by Ryan Haygood of the NAACP Legal Defense & Educational Fund, [community based voter registration drives are particularly important for registering communities of color and low-income communities](#):

For example, in 2004, while only 7.4% of white voters registered at private drives, 12.7% of African American voters and 12.9% of Latino voters used this channel to register. The disparity was likewise apparent in 2008: while only 5.0% of white voters registered at private drives, 11.0% of African American

voters and 9.6% of Latino voters registered at these events. And 2010 was no different: 6% of white voters registered through a voter registration drive, as compared with 14% of Latino voters and 12% of African American voters.

Purges

Partisan election administrators and the group True the Vote (TTV) and its affiliates attempted to purge thousands of voters from the rolls before the election, claiming they were not citizens or had died.

For example, right before the election a group calling itself The Voter Integrity Project in North Carolina [challenged thousands of registrations claiming people were dead](#). In addition to wasting the time of already stressed elections officials who threw many of the challenges out because the data matching the group used was so flawed, hundreds of people in NC had to prove they weren't dead to the BOE.

According to the Houston Chronicle, in Texas [state election officials “repeatedly and mistakenly matched](#) active longtime Texas voters to deceased strangers across the country – some of whom perished more than a decade ago – in an error-ridden effort to purge dead voters just weeks before the presidential election...Voters in legislative districts across Texas with heavy concentrations of Hispanics or African-Americans were more often targeted in that flawed purge effort, according the Chronicle's analysis of more than 68,000 voters identified as possibly dead.”

In Florida earlier this year, the governor and secretary of state claimed 182,000 [noncitizens had been flagged](#) on the state's voter rolls. But reporters and activists found hundreds of native and naturalized U.S. citizens among them. Additionally, advocates found that [a hugely disproportionate share of the flagged group was Latino or black](#). The list of potential ineligible voters eventually [whittled down to 198](#), with even that number in question.

After being embarrassed by his own inaccuracy, Colorado Secretary of State Scott Gessler (R) decided [not to pursue a voter purge](#) he initiated by sending letters asking almost 4,000 voters to prove their citizenship. After 482 people

responded with proof and [almost 90 percent](#) of the suspected non-citizens were verified through a federal database, Gessler planned to challenge 141 names still in question, but did not have enough time to handle the hearings before Election Day. Then after early voting had actually begun in the state, Gessler announced that a [new round of checks](#) revealed more individuals who he believes are illegally registered. However, [only fourteen of the 141 flagged](#) in that first round were actually removed from the rolls -- and none have a record of voting.

Cutbacks on Early Voting

Another mode of attack was to reduce the number of days people could vote early, and more particularly to cut out the last Sunday before Election Day. Nearly 54% of Florida's African American voters in 2008 voted at early-voting sites. Florida legislators knew very well about the "Soul to the Polls" program that had become a tradition in the last few election cycles. African American churches had come to routinely organize their congregations to, after services, go to an early voting site together and vote. [African Americans comprised one-third of the entire statewide turnout in Florida on the last Sunday before the 2008 election](#). The Ohio State legislature similarly tried to cut back on early voting days and its new law was also struck down by the courts - the Secretary of State appealed to the Supreme Court which turned down his request for an emergency stay.

According to reports, the cutbacks to early voting may have reduced the number of Florida voters who participated in early voting this year by [300,000 votes](#). According to an analysis by the Herald Tribune the drop in the early voting hit the Democrats harder because they accounted for 46 percent of the early votes to the Republicans' 36 percent — or a 248,000-vote edge, based on party registration.

Long lines

The other sad outcome of Governor Rick Scott's cutting of early voting was that many Floridians were forced to wait hours in line during the days that were available. Long lines were reported across the state, including a [six-hour](#) wait time at one early-voting site in Miami-Dade County. In [Palm Beach County](#),

early voting went on until [2:30 a.m.](#) Sunday morning the weekend before the election because of long lines of voters who were waiting to vote before 7 p.m. Saturday, the official ending time.

Scott refused to extend early voting hours to accommodate more votes. In response, Miami-Dade County and other counties allowed in-person absentee balloting on [Sunday and Monday](#). The Florida [Democratic Party filed a lawsuit to force Governor Scott to extend the early voting period](#). A settlement was reached the day before the election, allowing people to vote by [in-person absentee ballot](#) on Monday until 5 pm. On Monday, as the controversy wore on, and the lines for absentee voting grew, Broward Supervisor of Elections Brenda Snipes extended in-person absentee voting to 7 p.m.

Long lines continued to plague Florida on Election Day, when voters were still in line in the [early morning hours](#) of Wednesday, November 7, after Governor Romney had conceded. And it wasn't just Florida. In Virginia and Texas some voters waited in line for [four hours](#). There were reports of long lines and hours long wait times throughout the country, inevitably leading to stories of some voters having to walk away [without voting](#).

In addition, throughout the country but especially in Philadelphia and Pittsburgh, [high numbers](#) of people who were registered to vote were not on the voter [registration lists](#), especially first time voters. The causes for this are still being investigated.

Provisional Ballots

One of the most under-the-radar ways in which people are disenfranchised is the treatment of provisional ballots. When voters show up at the polling place, and their names aren't on the list of registered voters, poll workers are instructed to tell voters to complete provisional ballots. Often, those ballots are simply not counted because it turns out these voters were at the wrong precinct. Despite Ohio Secretary of State John Husted's appeals the courts ruled that ballots cast at the wrong precinct but the correct polling place must be counted. However, several swing states, such as Florida, Nevada, Iowa, and Virginia, [do not count](#) ballots cast in the wrong precinct, even if it was through

no fault of the voter. Moreover, the legal ruling in Ohio did not stop Secretary Husted from continuing to try to disenfranchise voters through provisional balloting. Just three days before the election, he issued a directive ordering county boards of election to reject provisional ballots when the identification information contained in Step 2 of the ballot affirmation form is not filled out by the voter – a step that poll workers, not voters, are supposed to take. The directive was in clear contradiction to Ohio law. [The issue is still being litigated.](#)

Challengers from True the Vote and Others

An organization called [True the Vote \(TTV\)](#), which grew out of a Texas tea party group, claimed in the months leading to the election that it wanted to recruit one million citizen activists to challenge peoples' right to vote at the polling place on Election Day. Early signs indicated that as in 2010, such challenges were [targeting minority neighborhoods](#). Before the election, various groups challenged the right of certain citizens to be on the registration lists in a number of swing states using deeply flawed name matching systems, even using Facebook to verify citizens' information. They said [they wanted to make](#) the experience of voting to be "like driving and seeing the police following you." On Election Day, however, after extensive criticism from voting rights advocates and the media, they were hardly seen or heard from.

[Challenges](#) by individuals did occur during early voting in North Carolina. Officials reported "people showing up at polling places and thinking they have the right to walk right in and inspect things. 'People have a skewed idea about their rights at these polling locations,'" said one election administrator. "And even observers seem to have a misguided definition of what their role is. They think they are election police. That is not what they are there for. Observer is a title for a reason. It says you can observe. It does not say you are in charge... Many observers "felt like it was their job to go up and tell a voter that they couldn't do a particular thing," McLean said. "They thought they had more authority."

On Election Day the Franklin County, Ohio Board of Elections determined that [True the Vote may have falsified the forms](#) submitted for election observers, who must be appointed by a group of candidates. According to the news article,

“The new observer forms, filed over the past few days by True the Vote representative (and Hilliard Tea Party Member) Jan Loar, used candidate signatures copied from a previous set of forms filed in early October. All but one of the six candidates whose names appeared on the original form had withdrawn permission to use their signatures.” TTV observers were banned from the polls in that county.

In Racine, Wisconsin, which had been the scene of disruptive challenges to African American and Latino voters in the June recall election for Governor Scott Walker, [reports](#) indicated that on November 6, election officials more tightly enforced the laws preventing disruption by election observers, and were better able to protect voters from intimidation by challengers who did show up.

For the most part, however, the threat of thousands of challengers at polling places on Election Day did not materialize. The failure of these efforts will hopefully deter organizations in the future from exploiting the challenge process to try to intimidate and possibly disenfranchise American voters, and lead to reform of the laws that allow groups to engage in these kinds of tactics going forward.

Voter Intimidation and Deceptive Practices

In early October, billboards [began appearing](#) – 85 in the Milwaukee area and 30 each in Cleveland and Columbus – saying “Voter Fraud is a Felony!” punishable by up to 3 1/2 years in prison and fines of \$10,000. The billboards only appeared in low income, minority areas.

After Demos and other voting rights advocates attacked the billboards as blatantly meant to intimidate, Clear Channel Outdoor took them down. Even better, they were replaced by billboards in Cleveland, Columbus, Cincinnati, and Milwaukee with signs that urged residents to “Stand Up and Have Your Say – VOTE.” [A second set of billboards](#) reminded voters that “When We Vote, We Are All Equal.” The pro-voter billboards also included the Election Protection coalition’s voter hotline number, 1-866-OUR-VOTE.

In addition to the challenges in North Carolina, there were other [attempts to deter voters in that state during early voting](#). The Board of Election put out a memo, stating “This office is also receiving reports of voters purposefully being given misinformation about the 2012 General Election.” For example:

- Voters are being told that they can vote by phone or online
- Voters are being told that if they are affiliated with a certain political party that they must vote
- on Wednesday, November 7th instead of Tuesday, November 6th.
- Voters are being visited by individuals who are misrepresenting themselves as county board of
- elections officials who are charged with conducting voter surveys
- Voters who have already voted are receiving phone calls advising them that their absentee
- ballot is already in the mail.
- Voters are being told that if they have an outstanding ticket, they cannot vote
- Voters are receiving misinformation that they are required to re-register each time they vote.

Some voters, primarily African American, in the swing states of Florida, North Carolina and Virginia received phone calls for weeks erroneously telling them they could [vote by phone](#).

Phoenix NBC Channel 12 reported that Republican Jeff Flake's US Senate campaign [made robo-calls](#) over the weekend to registered Democrats and gave them the wrong polling place location.

Registration forms were also a route used to disenfranchise some voters. A voter registration worker associated with the Republican Party was charged with voter [registration fraud](#) for throwing filled out registration forms in a garbage bin. His arrest came just weeks after the Republican National Committee said it had [cut ties with his employer, Nathan Sproul](#), after several Florida counties complained that Sproul's firm had submitted hundreds of voter registration forms with irregularities or missing information.

In addition, disturbingly both the [Romney Campaign](#) and TTV affiliates were found to be giving [wrong information](#) to people they were training to work the polls, such as with regard to voter identification requirements and ex-felon voting rights.

Language Assistance

Once again, groups found that language assistance requirements were not consistently implemented at the polls. The Asian American Legal Defense and Education Fund reported a number of failures, stating, “States with the most egregious violations include Virginia, where Korean American voters were segregated from other voters into a separate line; Philadelphia, where Vietnamese American voters faced a severe shortage of language assistance [and] Michigan, where Bengali materials were severely mistranslated.” In [New Orleans](#) it was reported that in at least three major polling places, language services were not provided to voters needing help with translations.

Hurricane Sandy

The human toll of Hurricane Sandy was immeasurable in states on the East Coast. It also took a toll on the ability of people to vote. As a result extraordinary measures were taken. In New York and New Jersey those displaced by the storm were allowed to cast a provisional ballot anywhere in the state and have it counted in elections for which the voter was eligible, which included at least statewide races and the Presidential race. [New Jersey](#) also allowed people unable to get to their polling site to vote by e-mail, but there were significant [problems](#) with that process leading the governor to announce that faxed and [email ballots](#) would be accepted until [Friday](#) after the election. New Jersey also used military trucks using generators in replacement of traditional polling places that had been damaged or destroyed. The state also extended the deadline for when county clerks could accept mail-in ballot applications to the close of business the Friday before the election.

As of Monday night, more than 100 polling places in New York State had been [changed](#), including about 60 in the city. New York State [extended](#) the deadline for absentee ballots to be received and counted to 13 days after Election Day,

from seven days. The biggest challenge was on Long Island, among the hardest hit places.

As might have been predicted there were long lines and lots of confusion in those [two states](#) on Election Day.

In person absentee balloting and early voting days were [lost](#) in Virginia and North Carolina because of Sandy. In Connecticut, the governor signed an [executive order](#) extending the voter registration deadline until the Thursday before Election Day for those affected by the storm. In Pennsylvania, the governor [ordered](#) the deadline for county election offices to receive applications for absentee ballots to be extended, on a county-by-county basis

A Pro-Voter Agenda

In the lead-up to the 2012 election, the fight against vote suppression laws and the threat of voter intimidation and harassment consumed enormous amounts of time and energy for pro-voter organizations. As important as that battle was, the real problem with the American voting process remains – as it has been for years -- that too many eligible people don't participate at all because of [unnecessary red tape around the voting process](#). Now that we have beaten back some of the worst attempts at voter exclusion (and we will continue to fight them), it is time to move toward pro-voter reforms that welcome Americans into the voting process and create greater access to the ballot box.

Such reforms must begin with the voter registration process, which remains the biggest structural barrier to full participation.

- Prior to the election, approximately [51 million eligible Americans were still not registered to vote](#). This represents almost [one in four eligible persons](#), disproportionately low-income voters, people of color, and younger Americans. Among eligible voters, some 30 percent of African Americans, 40 percent of Hispanics, 45 percent of Asian Americans, and [41 percent of young adults](#) (age 18–24), were not registered to vote in the historic 2008 election.

- In the 2008 elections, [the voting rate for all eligible persons of voting age was only 64 percent](#), while the voting rate for people who were registered to vote was 90 percent – showing that registration is key to turnout.
- In many states, pre-election registration deadlines of 25–30 days prior to the election have not been updated for decades; such deadlines may have been adopted long before the age of the Internet or computers, and no longer make sense in today's world.
- In the 2008 election, [2 to 3 million registered voters were prevented from voting because of various administrative problems](#), and 9 million eligible Americans were not registered because of residency rules or registration deadlines.

While there are certainly social and cultural reasons for low participation, there are legal changes that can be made that will make a significant impact on participation rates.

SAME DAY VOTER REGISTRATION

The single most effective change we can make is to allow for Same Day Registration. Eleven states, plus the District of Columbia, have now adopted Same Day Registration in order to ensure that eligible voters are not turned away because of errors with their registrations or failure to register in advance of Election Day. Same Day Registration eliminates arbitrary pre-election deadlines and allows voters to register and vote on the same day, making it a more convenient one-stop process and ensuring that eligible individuals who are not on the lists can register to vote, or correct inaccurate existing registration information. Same Day Registration means that voters no longer are without recourse when faced with registration problems that threaten their right to vote.

[Same Day Registration increases political participation](#), without undue costs or administrative burdens. States that allow Same Day Registration have consistently led the nation in voter participation. Indeed, [the top five states for voter turnout in 2008 all had Same Day Registration](#), and average voter turnout was seven percentage points higher in Same Day Registration states in the 2008 presidential elections.

Experts have projected substantial voter turnout increases in states that have considered adopting Same Day Registration, with average voting projected to rise by over 4 to nearly 9 percent. Even greater increases are estimated for young people, low-income populations, people of color, newly naturalized citizens, and those who have recently changed residences.

OTHER REFORMS TO MODERNIZE VOTER REGISTRATION

In addition to Same Day Registration, we need a modernized voter registration system in which eligible citizens interacting with the government will be asked if they consent to being registered to vote, and will be added to the rolls through a paperless process if they do. This shifts the administrative burden off of the individual voter and onto the government to register eligible citizens to vote.

Voter registration should become portable and permanent for persons who move within a state, by automatic updates to registration records as citizens change their address. Because all states now are required to have statewide voter registration databases, there should be no need for persons to register anew each time they move within a state.

BLOCKING THE BULLIES: LIMITING CHALLENGES AND PREVENTING VOTER INTIMIDATION

Every election cycle we have political parties, groups and individuals taking it upon themselves to try to knock people off the voter registration list and challenge Americans' right to vote at the polls based on flawed and often discriminatory targeting. This problem threatened to be much worse this year with the efforts of True the Vote and similar organizations to recruit thousands of challengers. Unwarranted challenges to the right to vote, and behavior that creates disruption and intimidation at the polling place need to end.

As Demos made clear in [Bullies at the Ballot Box](#) the procedure of making and adjudicating challenges to a voter's qualifications should be designed more explicitly to protect a voter's right to vote. States could quite easily eliminate the problem of registered Americans showing up at the polls to find that their

right to vote has been challenged by prohibiting Election Day challenges by private individuals. If some states wanted to preserve a voter protective procedure for challenging voters on Election Day, they could reserve that power for an Election Judge to administer.

If states allow challenges by private individuals, a person who wants to challenge another voter's right to vote should be required to have personal knowledge of the cause for which they are challenging that voter. Returned mail should not be considered prima facie evidence to sustain a challenge.

People who seek to jeopardize the voting rights of another citizen should at the very least have to sign their challenge as an oath. They should declare under penalty of perjury that the "statement of facts are true and based on my own personal knowledge."

The burden of proof must rest on the challenger to establish a legitimate basis for the challenge, and there should never be a presumption that a challenged voter is ineligible. The tie has to go to the voter. The challenged voter should be able to vote a regular ballot if she answers the poll workers' questions regarding eligibility or signs an affidavit affirming her eligibility.

There are also steps we can take to strengthen protections against intimidating behavior at the polls, beyond just voter challenges. Poll watchers or poll observers should not be allowed to interfere with voters inside the polling place. Elections officials should have statutory authority to reject anyone interfering with the orderly conduct of elections, and interfering with the orderly conduct of elections should be prohibited by law.

Finally, deceptive practices meant to burden a person's right to vote should be made a crime. The Voting Rights Act already prohibits intimidation, threats, or coercion with respect to the exercise of the right to vote. However, we need more specific legal protections against insidious practices such as making calls telling people they can vote by phone if they have been long-time voters, and pretending to record their vote by phone; voters being told that if they have an outstanding traffic ticket, or unpaid child support obligations, they cannot vote

and may even be arrested at the polling place; and calls telling voters that their polling station has moved when it hasn't. Federal law should enable the Justice Department to prosecute people for these types of deceptive practices, and give voters who have been harmed the right to sue to stop the deceptive practices.

LONG LINES

A modern democracy should not depend upon the willingness of eligible voters to stand in line for hours (in some states, in excess of three, four, five or six hours) in order to exercise the right to vote. Many voters who have jobs that depend on strict attendance simply [cannot exercise their fundamental right to vote](#) when wait times approach such extremes. Florida was a prime example in the 2012 election – the state's Republican leadership decided to reduce early voting hours that had been critical to allowing communities of color to vote, especially on the Sunday before Election Day. The long lines noted above in Florida and elsewhere confirm the need for states to provide early voting in order to avoid logjams on Election Day. North Carolina could be a model for this; North Carolina allows Same Day Registration during early voting – people who come to early voting sites are able to register and vote on the same day during the early voting period. This is a tremendous win-win for voters. When North Carolina [first implemented Same Day Registration in the 2008 election](#), over 250,000 voters took advantage of it and used it to register and vote on the same day.

LANGUAGE ASSISTANCE

We must ensure that Latino, Asian, and Native American voters get the assistance they ought to receive if this is to be a fully participatory democracy. Existing mandates regarding language assistance must be better enforced. In addition, though many states provide election information and material on their websites in alternative languages, even some that are covered by the language translation requirements of Section 203 of the Voting Rights Act do not; as web use becomes increasingly prevalent across a wide spectrum of groups, the parties should advocate measures that require states to do so. All states should be strongly encouraged to provide web-based information and materials, such as registration forms, in alternative languages known to be commonly used. Several states already do this: for example, Minnesota provides voter

registration forms in Hmong, Spanish, Somali, Russian, and Vietnamese. Iowa provides forms in Spanish, Vietnamese, Lao, and Bosnian. This is an easy, inexpensive way to get more information and easier access to limited-English speakers and should be done elsewhere.

CONCLUSION

The last two years saw a tremendous battle for voting rights supporters, with laws being passed in a tidal wave that were designed to suppress the votes of millions of voters. At the end of the day, the American people and American democracy won. Despite it all, because of the efforts of advocates and the strength and courage of the voters, the American people made their voices heard. But there is much left to do to ensure we become a more inclusive and representative democracy. That work begins today.