



NATIONAL
COMMISSION ON
VOTING RIGHTS

.....

IMPROVING ELECTIONS IN THE UNITED STATES: VOICES FROM THE FIELD

.....

A REPORT OF THE
NATIONAL COMMISSION
ON VOTING RIGHTS

SEPTEMBER 2015





Disclaimer

The opinions expressed in this report are those of the National Commission on Voting Rights and do not necessarily reflect those of NCVR sponsors or supporters.

Report Written by Tova Wang and Maria Peralta
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Lawyers' Committee for Civil Rights Under Law

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VIII

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The National Commission on Voting Rights is proud to have the following distinguished leaders serving as National Commissioners: Social justice leader, Dolores Huerta; Law Professor and Director of the Indian Law Clinic at the Sandra Day O' Connor School of Law, ASU, Patty Ferguson-Bohnee; Civil Rights Leader and NAACP Vice Chair, Leon Russell; Youth Engagement Leader, Biko Baker; and former Assistant Attorney General for Civil Rights, John Dunne.

Biko Baker

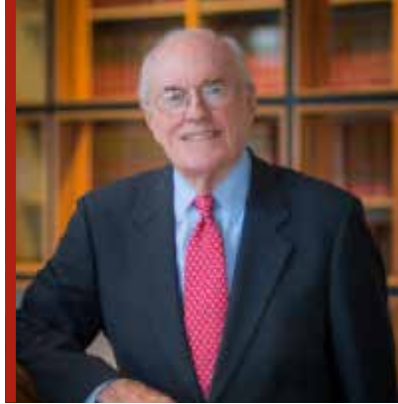


Former Executive Director of League of Young Voters and National Leader in Youth Civil Engagement Programs

Rob "Biko" Baker is the former Executive Director of the League of Young Voters, and a nationally-recognized youth leader. Based in Milwaukee, Mr. Baker is a pioneer in running city-level, data-driven voter turnout campaigns that dramatically increase the voter participation of young urban citizens. A leading voice on field campaigns targeting young African American

voters, Baker serves on CIRCLE's research advisory board and is a board member of the New Organizing Institute. He is also a well known communicator around elections, as well as cultural and political issues including gun violence and voting rights. In addition to being a former contributor to The Source, he has appeared on C-SPAN, Fox News and CNN. A popular and powerful speaker at conferences and events, Mr. Baker has interviewed luminaries Cornel West, Russell Simmons, and Howard Dean, and has been on panels with many of the nation's strongest progressive voices. Baker holds a Ph.D. in History from UCLA.

John Dunne



Former Assistant Attorney General for Civil Rights under President George H. W. Bush

Prior to joining Whiteman Osterman & Hanna as counsel to the Firm, John Dunne had served in a variety of federal, state and local government positions for thirty years. From 1990 to 1993 he was the Assistant Attorney General for Civil Rights at the U.S. Department of Justice. From 1966 to 1989 he was a member of the New York State Senate. Throughout his local and state service, he actively practiced law on Long Island, as a partner in the national law firm of Rivkin, Radler, Dunne & Bayh.

From 1990 until 1993 Dunne, as Assistant Attorney General, headed up the enforcement of all federal civil rights laws. As part of his duties, he argued cases in federal appeals courts and in the U.S. Supreme Court. He was awarded both the Edmund Randolph and the John Marshal awards for distinguished service.

During 24 years as a state senator, Dunne served at various times as Deputy Majority Leader and chair of the judiciary, environmental protection, insurance and prisons committees.

John Dunne has authored a number of articles for various law school journals including Hofstra, Fordham and St. Louis, the op-ed pages of The New York Times, The Washington Post, U.S.A. Today and the New York Law Journal, Business Insurance and New York Bar Journal.

Patty Ferguson-Bohnee



Faculty Director, Indian Legal Program Director, Indian Legal Clinic Clinical Professor of Law Sandra Day O'Connor School of Law, Arizona State University

Patty Ferguson-Bohnee has substantial experience in Indian law, election law and policy matters, voting rights, and status clarification of tribes. She has testified before the United States Senate Committee on Indian Affairs and the Louisiana State Legislature regarding tribal recognition, and has successfully assisted four Louisiana tribes in obtaining state recognition. Professor Ferguson-Bohnee has represented tribal clients in administrative, state,

federal, and tribal courts, as well as before state and local governing bodies and proposed revisions to the Real Estate Disclosure Reports to include tribal provisions. She has assisted in complex voting rights litigation on behalf of tribes, and she has drafted state legislative and congressional testimony on behalf of tribes with respect to voting rights' issues.

Professor Ferguson-Bohnee clerked for Judge Betty Binns Fletcher of the 9th U.S. Circuit Court of Appeals and was an associate in the Indian Law and Tribal Relations Practice Group at Sacks Tierney P.A. in Phoenix. As a Fulbright Scholar to France, she researched French colonial relations with Louisiana Indians in the 17th and 18th centuries. Professor Ferguson-Bohnee, a member of the Pointe-au-Chien Indian tribe, serves as the Native Vote Election Protection Coordinator for the State of Arizona.

Dolores Huerta



Founder and President of the Dolores Huerta Foundation and Social Justice Activist

As founder and president of the Dolores Huerta Foundation, Dolores Huerta travels across the country engaging in campaigns and influencing legislation that supports equality and defends civil rights. She often speaks to students and organizations about issues of social justice and public policy. The Dolores Huerta Foundation is a not-for-profit community organization that organizes at the

grassroots level, engaging and developing natural leaders. The Dolores Huerta Foundation creates leadership opportunities for community organizing, leadership development, civic engagement, and policy advocacy in the following priority areas: health and environment, education and youth development, and economic development.

Ms. Huerta is a life-long labor leader and civil rights activist who co-founded the National Farmworkers Association, which later became the United Farmworkers. She has received numerous awards for her community service and advocacy for workers', immigrants', and women's rights, including the Eugene V. Debs Foundation Outstanding American Award, the United States Presidential Eleanor Roosevelt Award for Human Rights, and the Presidential Medal of Freedom presented to her by President Obama in 2012.

Leon Russell



NAACP Vice Chair of the National Board of Directors

Leon W. Russell retired in January of 2012, after serving as the Director of the Office of Human Rights for Pinellas County Government, Clearwater, Florida. He had held this post since January of 1977. In this position Mr. Russell was responsible for implementing the county's Affirmative Action and Human Rights Ordinances. In September of 2007, Mr. Russell was elected President of the International Association of Official Human Rights

Agencies during its annual meeting in Atlanta, Georgia. The IAOHRA Membership is agency based and consists of statutory human and civil rights agencies from throughout the United States and Canada as well as representation from several other nations.

Mr. Russell served as the President of the Florida State Conference of Branches of the NAACP from January 1996 until January 2000, after serving for fifteen years as the First Vice President. He has served as a member of the National Board of Directors of the NAACP since 1990. He has served that board as the assistant secretary and currently serves as Vice Chairman of the National Board. He is a member of the International City Management Association; a member of the National Forum for Black Public Administrators; member of the Board of Directors of the Children's Campaign of Florida; past Board Member of the Pinellas Opportunity Council, past President and Board Member of the National Association of Human Rights Workers; member of the Blueprint Commission on Juvenile Justice with responsibility for recommending reforms to improve the juvenile justice system in the state of Florida.

Mr. Russell also served as the Chairman of Floridians Representing Equity and Equality. FREE was established as a statewide coalition to oppose the Florida Civil Rights Initiative, an anti-Affirmative Action proposal authored by Ward Connerly. Ultimately, the initiative failed to get on the Florida Ballot, because of the strong legal challenge spearheaded by FREE.

“Exercising one’s right to vote is one of the **most basic and important forms of activism. The stories of the challenges to voting that we’ve heard today mean that we have to **engage more, to organize more** in our communities and **never forget** the power we have collectively to make changes.”**

Dolores Huerta

“Elections administration was pretty invisible in Ohio until about 2000. When I was in the Secretary of State’s office, my husband used to say, ‘Nobody knows what you guys do. It’s an invisible office.’ No longer true.”

—Peg Rosenfeld of the Ohio League of Women Voters at the NCVR Columbus regional hearing



INTRODUCTION

Organized in response to the 2013 Supreme Court ruling in *Shelby County v Holder* that removed vital protections under of the Voting Rights Act, the **National Commission on Voting Rights (NCVR)** was convened by the Lawyers' Committee for Civil Rights Under Law along with over a dozen national partners to examine the state of voting across all fifty states.

Between June 2013 and May 2014, the NCVR conducted 25 state and regional hearings sponsored by national, state and local organizations and overseen by a distinguished panel of national commissioners and local guest commissioners. These hearings gave hundreds of voters, advocates, scholars and activists an opportunity to testify on the wide range of issues impacting voters today. NCVR hearing testimony, analysis of state voting laws, and a review of recent voting rights litigation produced an extensive record of both voting discrimination and election administration issues.

The NCVR's first report, *Protecting Minority Voters: Our Work is Not Done*, released in August 2014, concluded that voting discrimination is an ongoing and prevalent problem in the United States, particularly in states in the South; the first report also provided an in-depth analysis of the various barriers to voting that African American, Latino, Asian American and Native American voters continue to face.

Acknowledging the vast universe of existing data and research on election administration, most notably the Presidential Commission on Election Administration's recommendations to improve the voter experience, this second NCVR report, *Improving Elections in the United States: Voices from the Field*, focuses primarily on the voices of the people impacted by how elections are run in their communities—the successes as well as the challenges—through the compelling testimony provided by witnesses at the NCVR hearings in 2013 and 2014. The testimony illustrates the continuing tension that exists in our nation's election system between access and barriers. On one hand, the recent passage of state laws and initiatives to modernize elections has undoubtedly made voting more accessible for many voters. Same day and online registration, early voting, vote centers that let voters cast their ballots outside of the traditional neighborhood-based precinct, and the pre-registration of young people before they turn 18 are just a few examples. However, as the NCVR also heard, many states continue to fall short, either by moving too slowly away from outmoded systems and practices, failing to adequately enforce existing legislative requirements or, worse, proactively rolling back voters' basic rights through restrictive legislation. This Report highlights the many voices of constituents, advocates and activists who are impacted by these election

administration practices, including economically struggling voters, voters with disabilities, young voters and voters who have been disenfranchised due to a former felony.

Beginning with a timeline of significant legislation and court decisions impacting the way elections are administered in the United States, the Report then explores the following areas:

- **Voter Registration** – Section I provides examples of the types of expansive registration programs that encourage participation in the electoral process, such as online and same day voter registration. The Report also highlights practices that continue to make it harder for people to register. These practices include noncompliance with federal voter registration laws and rollbacks of state laws that have made it easier to register.
- **Election Day and Voting** – Section II examines the creative strategies and technology states and counties are employing to minimize long lines and streamline the voting process for voters. One such example is the development and implementation of election administration plans (EAPs) to create a more efficient process for planning and running elections. This section also highlights the obstacles to voting that many voters still face on Election Day due to variety of factors, including insufficient poll worker training or understaffing at polling locations; excessively restrictive voting laws and/or cuts to laws that encourage participation; and shrinking budgets that restrict counties from upgrading old and malfunctioning voting equipment.



National Commission on Voting Rights Hearing Locations

- **Expanding Access and Engaging all Eligible Voters** – Section III details the experiences of three constituencies who consistently participated and shared their stories at the NCVR hearings: **voters with disabilities, citizens with felony convictions struggling to regain their right to vote**, and **students and young voters** who want to be an active part of their communities' voting process.

It is our hope that this Report will be a valuable contribution to the existing record on election administration and encourage the expansion of programs that allow greater ease and access to the ballot and secure a voice for all in our democracy.

TIMELINE: A HISTORY OF ELECTION ADMINISTRATION IN THE U.S. SINCE 1965

1970

Voting Rights Act Amendments—
Lowers the voting age to 18 for all federal and state elections. The application of this change to state elections was found unconstitutional by the Supreme Court in *Oregon v. Mitchell*, 400 U.S. 112 (1970).

1973

Same day registration laws in the states—In 1973, Maine becomes the first state to pass same day registration. Minnesota follows shortly after in 1974.

1965

Voting Rights Act— Prohibits racial discrimination in voting rights practices by federal, state and local governments. In Section 4, the Voting Rights Act (VRA) defined a coverage formula to identify areas where voting discrimination was most prevalent, and, in Section 5, required that those areas seek preclearance, or approval, from the federal government before implementing voting changes.

1971

26th Amendment to the Constitution—
Reduces the voting age to 18 for all elections.

1975

Voting Rights Act Amendments—
Prohibits, nationwide, the use of literacy tests and similar prerequisites to registering or voting in all elections. Requires certain jurisdictions to provide bilingual voting materials and assistance. Prohibits states from imposing a 30-day residency requirement before allowing people to vote for President.

1975

Overseas Citizens Voting Rights Act—Guarantees that citizens located outside the U.S. may register to vote and vote.

1984

Voting Accessibility for the Elderly and Handicapped Act—Generally requires that states provide polling places for federal elections that are accessible to persons with physical disabilities and the elderly, or that a state establish a system whereby such voters who are assigned to a polling place that is not accessible be able to request an alternative means for casting a ballot on Election Day. The law also requires that states make available registration and voting aids for physically disabled and elderly voters.

1990

Americans with Disabilities Act—Prohibits discrimination against persons with disabilities in all activities of state and local governments, including voting, and requires that state and local governments give people with disabilities an equal opportunity to benefit from their programs, services and activities.

1982

Voting Rights Act Amendments—Reauthorizes the requirement that certain jurisdictions provide bilingual voting materials and assistance. Requires that voters who need assistance in voting because of blindness, disability or illiteracy may obtain assistance from a person of the voter's choice (other than the voter's employer or union, or agent of the employer or union).

1986

The Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA)—Requires that members of the military and merchant marine, their family members, and citizens residing outside the U.S. be able to register and vote absentee in federal elections. Provides that these individuals may register and request an absentee ballot in one transaction (using the Federal Post Card Application), and provides a back-up method for voting if the voter does not receive a ballot in time (the Federal Write-In Absentee Ballot). Repeals the Overseas Citizens Voting Rights Act of 1975.

1992

Voting Rights Language Assistance Act—Reauthorizes the requirement that certain jurisdictions provide bilingual voting materials and assistance.

1993

National Voter Registration Act (NVRA)—Requires that states provide federal voter registration applications when driver's license applications are submitted, at public assistance agencies, at certain state offices that provide state-funded services to persons with disabilities, and by mail. Prohibits the removal of persons from the registration rolls for federal elections based on not voting, and establishes procedures for removing persons from the registration rolls for federal elections for other reasons.

2002

Help America Vote Act (HAVA)—Seeks to improve election administration by creating a federal agency that serves as an information clearinghouse and sets certain standards relating to the administration of elections (the Election Assistance Commission), and by providing election administration funds to states. Requires accessible voting machines for voters with disabilities and requires use of a provisional ballot when an individual appears at the polls, declares that she or he is registered, but is not on the registration list. Does not specify what should be done with these ballots.

2000

Bush v. Gore—The United States Supreme Court rules that a statewide recount of ballots in Florida to determine the winner of the presidential election was a violation of the Equal Protection Clause and the Fourteenth Amendment. The ruling was based on the determination that there was no statewide standard for manually recounting ballots and that in practice each county had discretion to determine in its own manner which ballots to count or not.

2006

Fannie Lou Hamer, Rosa Parks, Corretta Scott King, Cesar E. Chavez, Barbara Jordan, William Velazquez and Dr. Hector Garcia Voting Rights Act Reauthorization and Amendments Act—Reauthorizes Section 5 of the VRA, requiring jurisdictions with a history of discrimination in voting to seek federal review before implementing voting changes; reauthorizes Section 203, requiring certain jurisdictions to provide bilingual voting materials and assistance.

2008


Crawford v. Marion County Election Board—The United States Supreme Court rules that Indiana's voter photo ID requirement is constitutional.

2013

Shelby County v. Holder—The United State Supreme Court rules Section 4 of the Voting Rights Act unconstitutional, claiming that the coverage formula for jurisdictions was outdated. Without Section 4, Section 5 becomes null, since no jurisdiction would be required to seek approval or pre-clearance before making changes to their voting laws and practices.

2009

Military and Overseas Empowerment Act (MOVE)—Amends UOCAVA to allow military, merchant marine and overseas voters to electronically request and receive voter registration and absentee ballot applications; generally requires that validly requested absentee ballots be sent to these voters no later than 45 days before an election for a federal office; and expands use of the federal write-in absentee ballot to all elections for federal office.

A close-up portrait of a woman with long dark hair, smiling. She is wearing a blue patterned top and a thin gold necklace. The background is a blurred outdoor scene with green foliage.

“At the end of the day, list maintenance is a good thing. We want clean, accurate voter rolls but we need to make sure that safeguards are in place to prevent the removal of qualified voters who are eligible to vote in Virginia...”

–Tram Nguyen, co-executive director of Virginia Majority, testifying about Virginia’s planned use of the Department of Homeland Security immigrant database to verify voter registration addresses.

SECTION 1: Voter Registration

Recent decades have seen significant efforts to make the voter registration process more accessible. The National Voter Registration Act of 1993 (NVRA) requires states to provide widespread access to registration applications at Departments of Motor Vehicles and public assistance agencies. The law also requires states to make registration forms available to community organizations and accept the forms used by those organizations in voter registration drives. More recently, voters have benefitted from an increasing number of states taking steps to modernize and streamline their voter registration processes. Today, 46 states and the District of Columbia have implemented some aspect of voter registration modernization.¹ Allowing voters to register when they vote—same day registration—and giving voters the ability to register and update their information online are just two examples of these reforms. In addition, many states are encouraging early civic participation by permitting 16- and 17-year-olds to “pre-register” and have their registration automatically activated when they reach voting age.

Yet despite these efforts, approximately 51 million eligible citizens are not registered to vote.² While some portion of this population may have made the affirmative choice not to register, many potential voters are not registered because of obstacles created by state action and inaction, including conduct by state election officials and the passage of laws that restrict access. For example, the NCVR described in its first report the myriad ways in which state election officials have manipulated voter registration to disenfranchise minority voters. These include restrictions on voter registration drives, failure to comply with the public agency provisions of the NVRA, and purges of the registration rolls in ways that disproportionately affect minorities.³

NCVR hearing testimony highlighted in the following section illustrates both the positive developments in voter registration as well as the ongoing challenges that eligible citizens still face when registering to vote.

SAME DAY REGISTRATION ENCOURAGES TURNOUT AND PARTICIPATION

Same day registration (SDR) is a one-stop process for registering and voting during a state's early voting period. In some states, same day registration is also available on Election Day and is known as Election Day Registration. As of January of this year, 14 states and the District of Columbia⁴ had enacted SDR. Numerous benefits have been attributed to SDR, including remedying inaccurate voter rolls, reducing the need for provisional ballots and eliminating arbitrary deadlines that cut off registration when voters are most interested.⁵ And while several studies have shown inconclusive results about the impact of SDR on voter turnout rates⁶ due to the complexity of factors in play in a given state, additional research points to meaningful increases in turnout,⁷ and of the greater likelihood of an impact when SDR is combined with other administrative reforms.⁸ Furthermore, an analysis of 2012 Census data shows that, on average, voter turnout in states with SDR is four percent higher than in states without.⁹

At the NCVR Minneapolis regional hearing, Neil Albrecht, the Executive Director for the City of Milwaukee Election Commission testified about election administration programs implemented by Wisconsin that have boosted voter turnout and participation. These programs include SDR.:

“Wisconsin celebrates one of the highest voter participation rates in the nation in presidential elections, second only to Minnesota. An examination of the registration and voting opportunities in these two states, in comparison to other states, demonstrates that diverse points of access to voting is critical to strong and consistent rates of voter participation. Examples of these include same-day registration...”¹⁰

In testimony before the NCVR, Executive Director of Democracy North Carolina Bob Hall summarized the popularity of SDR- available during early voting until 2013- amongst African American and young voters.:

“Same day registration. African-Americans, again, 22 percent of registered voters—they were 34 percent who used same day registration. Young people ages 18-25, 12 percent of the registered voters but thirty-three percent of those who use same day registration.”¹¹

Hall and many other North Carolina advocates spoke out against the state legislature's elimination of same day registration, which was part of a package of cutbacks and restrictive voting laws passed by the legislature in 2013.



Bob Hall, Executive Director of Democracy North Carolina (seated at left), testified about the negative impact of the state's repeal of same day registration at the NCVR North Carolina state hearing. Also pictured are North Carolina Representative Evelyn Terry and Anita Earls, Executive Director of the Southern Coalition for Social Justice.

PHOTO CREDIT: ERIC PRESTON

Additional research estimates that voter turnout could be nearly six percent higher if SDR were implemented nationally, and that among historically disenfranchised groups, including Latino, Asian American and African American voters, the increase could be even greater.¹²

Rollback of SDR Legislation: Making it Harder for Voters

Unfortunately, North Carolina is one of several states that repealed SDR, arguing that it creates the potential for fraud, an allegation demonstrated to be unfounded by academic research.¹³ Chris Brook, Legal Director of the ACLU of North Carolina, voiced concern about the impact of the elimination of SDR on African American voters, who in the 2012 election cycle were:

“45 percent of same-day registrants who were changing their address via same-day registration. We see similar impacts in the photo ID provisions that are in the Bill... So, the numbers don't lie here. It's very plain that the disproportionate impact is going to be felt from these changes in communities of color.”¹⁴

In another example of recent cutbacks to SDR, Ohio lawmakers repealed “Golden Week” in February 2014. Golden Week refers to the period when voter registration and absentee voting are both available, and this five-day overlap allowed Ohio citizens to register and cast an in-person absentee ballot on the same day.¹⁵ Addressing the argument that SDR imposed unreasonable administrative burdens on election officials, attorney Ellis Jacobs said this at the NCVR Columbus regional hearing in May 2014:

“The one thing that was said is that some boards of election have said that they have administrative issues with managing registration and voting on the same day. I called two of the boards of election near where I live and spoke to directors, and both of them had the exact same response. They both laughed when I put that to them. They said, ‘Are you kidding? This is what we do. We manage voters who need to register and need to vote. We don’t break a sweat doing it. It causes us no problems.’”¹⁶

Cuyahoga County Board of Elections member Sandy McNair, who testified as a private citizen, agreed with Ellis, adding, “I would echo that we didn’t have any problem administering either registration or people voting during that period.”¹⁷

In response to the early voting cuts, Ohio civil rights groups, churches and community organizations sued Ohio’s Secretary of State Jon Husted. The district court found that Husted’s cuts to early voting were unconstitutional and violated Section 2 of the Voting Rights Act, and the Sixth Circuit Court affirmed this ruling.¹⁸ Yet on appeal, the U.S. Supreme Court granted a stay on the lower court’s injunction, thus allowing early voting and Golden Week to be eliminated for the November 2014 general election.¹⁹ Advocates and voters won a partial victory in April 2015, with the state’s agreeing to a settlement that includes restoring one day of Sunday voting and extended weekday evening hours for voting. In a similar case regarding North Carolina’s same day registration, the Supreme Court also overruled a Fourth Circuit Court of Appeals decision, thus allowing the state’s elimination of same day registration.²⁰ In

Attorney Ellis Jacobs argued that same day voter registration does not impose unreasonable burdens on election officials at the NCVR Columbus regional hearing. PHOTO CREDIT: JIMMY MCEACHERN



July 2015, a federal trial opened challenging the 2013 North Carolina law that cut SDR and other expansive voting programs. As of this report's publication date, the presiding judge had not yet issued a ruling.

In addition, in 2014, Nebraska imposed new requirements for SDR during early voting. These requirements include verifying an early-voter's residence by mail after the ballot is cast, but before the ballot is counted. In Montana, voters rejected a ballot measure in November 2014 that would have repealed SDR. And in July 2015, the governor of New Hampshire—where SDR has been in effect since 1993—vetoed a bill that would have imposed a 30-day residency requirement for prospective voters in that state.

ONLINE REGISTRATION: COST EFFECTIVE AND CONVENIENT

Allowing individuals to fill out and submit voter registration forms online is another step that many states are taking to increase voter participation. According to the National Conference of State Legislatures, “[a]s of May 2015, 20 states offer online registration and another seven states plus the District of Columbia have passed but not yet implemented legislation to create online voter registration systems.”²¹ Not only does it provide greater ease and convenience to voters, online registration also has the added benefit of providing significant cost savings to states as well as producing more accurate voter lists.²²

The NCVR heard optimistic predictions for the implementation of online voter registration in the states. At the NCVR Virginia state hearing, Secretary of the Virginia Board of Elections Donald Palmer spoke of future cost savings and administrative efficiencies:

“We’ve had reductions of budgets for years going on almost a decade now, every year more cuts. And so what do we do in an environment where we want to increase access and the integrity of our system while we’re having reductions of resources? ... We try to use technology to make it easier for voters, to make our systems more accurate... One of the things we’ve done is online registration and we hope that it will ... increase the access to the voter, it increases integrity of the system, and it will have savings.”²³

On a similar note, former Nevada Secretary of State Ross Miller spoke at length about the benefits of online registration, which was rolled out in all of the state's counties in 2012. Over 1.17 million voters registered during that election cycle, compared to 965,000 in 2008,²⁴ a jump that Miller attributed to the combination of the online system and a robust statewide public education campaign:

“We averaged 470 registration transactions per day in the two weeks preceding our educational campaign. In the final three weeks of online registration, the same period as our campaign, we averaged nearly 2400 transactions per day, an increase of more than 500 percent of daily activity.”²⁵

At the NCVR Baltimore regional hearing last April, Deputy Administrator for the Maryland State Board of Elections Nikki Charlson reported on her state’s successful implementation of online registration and other web-based tools. “In 2012 which rolled out online voter registration and expanded online voter services, hugely popular in 2012, over 180,000 Marylanders used online registration to register and update registration information,” said Charlson.²⁶ According to Mary Cramer Wagner, Director of the Maryland Board of Elections’ Voter Registration and Petition Division, the main benefit of this online system has been the improvement in the “quality of information” in the State’s voter database.

One significant concern heard at the NCVR hearings and raised by some voting rights organizations is that most online voter registration programs are available only to citizens who have signatures on file with the Department of Motor Vehicles. In other words, only people who have driver’s licenses or state issued-identification can take advantage of online voter registration. As was described at the hearings and in the first NCVR report, over 20 million Americans of voting age do not have driver’s licenses, and those without them tend to be disproportionately minority and low-income.²⁷ According to Norman Robbins, Research Director of the Northeast Ohio Voter Advocates, “twenty percent of Ohioans with incomes

Ross Miller, former Nevada Secretary of State, spoke about the positive effects of Nevada’s online registration system at the NCVR Las Vegas regional hearing. PHOTO CREDIT: GETACHEW KASSA





Lori Schellenberger (seated at left), Director of the ACLU of California's Voting Rights Project, testified about online registration challenges and progress at the NCVR California state hearing. PHOTO CREDIT: ANDRIA LO

less than the poverty level for a family of four do not have even a vehicle. So we have a lot of low-income people who have no driver's license, and probably no state ID, who cannot take advantage of methods of online updating of registration.”²⁸

Expanding language accessibility to online voter registration was also a concern raised among advocates. At the NCVR California state hearing held in San Francisco in January 2014, Lori Schellenberger, Director of the ACLU of California's Voting Rights Project, spoke about ongoing efforts by community-based groups to gain greater access to online registration.

“Online voter registration is one example where we have had to fight very hard, and we have successfully fought that battle ... to have online voter registration be available in Spanish, be available in the languages that Section 203 of the Voting Rights Act requires that the counties offer... In addition, the system-wide launch was not accessible to people with disabilities. That is being changed... One of the caveats is that one has to have an ID to use it, and are we disproportionately impacting people who don't have access to state-issued identification... [T]he Secretary of State has made significant changes to the system so that now that system will be available to people without identification, will be accessible in those languages, and is more accessible to people with disabilities. That was only done through hard-fought and advocacies by civil rights groups.”²⁹

PRE-REGISTRATION: ENCOURAGING YOUNG PEOPLE TO VOTE

Another electoral reform that has gained momentum in many states is the pre-registration of young people at the age of 16 or 17. Under these policies, young people submit registration applications and then become automatically eligible to vote upon reaching voting age, ideally also receiving notification that their registration is active. Today, 22 states allow young people to register before they reach the voting age of 18 years.³⁰

A number of studies, including an often-cited analysis of young voters in Florida³¹ have shown pre-registration to positively impact youth voting. More recently, Duke University researchers John B. Holbein and D. Sunshine Hillygus found that, “[s]tates that implement pre-registration laws see an average 13 percentage point increase in the probability of voting among 18-22 year olds compared to states without preregistration,” and that, “along with having the virtue of raising overall turnout, preregistration has the advantage of doing so for a diverse set of young voters” across political affiliations, genders and races.³²

At the March 2014 NCVR Boston regional hearing, Sara Brady of Mass Vote spoke optimistically about the inclusion of pre-registration for 16- and 17-year-olds in an election reform package and its possibilities for increasing turnout. That package was later passed and signed by the Governor two months after the hearing.

Student Madison Gimmery highlighted the benefits of pre-registration programs at the North Carolina state hearing.

PHOTO CREDIT: ERIC PRESTON



“It’s actually been found that one of the biggest barriers to participation for young people is actually the registration process. It’s just getting on that list in the first place. So we think that preregistration will go a long way in helping with that specific demographic... It’s also important to highlight that voter participation is habit forming, right? So if you get these young people to be able to come out and vote that first time, when they’re 18 or 19 years old, the chances of them continuing to vote dramatically increase.”³³

Discussing the impact of losing the ability to pre-register young people, Madison Gimmery, a student who testified at the NCVR North Carolina state hearing, voiced concern about the State’s elimination of pre-registration which was part of a package of restrictive voting changes implemented in September 2014:

“(Pre-registration) was granted by a bill that passed with overwhelming bipartisan support and went into effect in 2010... The program was essentially cost-free and information on the pending applications was not available to the public. Over 160,000 teenagers preregistered here in North Carolina when they went to the DMV to get a driver’s license or through programs in their high schools. In 2012, 30 percent registered as Democrats, 30 percent as Republicans, and 40 percent as Independents. 18-24 year olds have the lowest voter registration rate out of any group in North Carolina and a much lower rate of voter turnout. The Commission on Youth Voting and Civic Knowledge recently issued a report in which they looked at how to increase civic engagement among youth. One of their recommendations was voting reforms that allowed preregistration and tying this with civics lessons in schools. This is what North Carolina was doing before September 1st of this year.”³⁴

In 2013, Colorado also passed legislation allowing 16-year-olds to pre-register. At the NCVR Denver regional hearing, President of the NAACP Colorado, Montana, and Wyoming state conference Rosemary Harris Lytle lauded pre-registration as a vehicle for early engagement with young voters:

“In Colorado we’re proud to have been a strong advocate of legislation last year that enabled 16 and 17 year olds to register to vote, pre-register, pre-registration to vote. We believe that early engagement, as in my grandmother’s model, makes for a better and stronger democracy.”³⁵

As discussed by NCVR hearing witnesses in the section above, the most effective and efficient voter registration programs are those that expand access and create opportunities for participation across diverse groups and ages. Same day registration, online registration



Rosemary Harris Lytle (seated at left) of the NAACP applauded Colorado's pre-registration laws at the NCVR Denver regional hearing. Also pictured are Dr. Lonna Atkeson of the University of New Mexico; John Zakhem, President of Zakhem Law LLC; and Dede Feldman, former New Mexico State Senator. PHOTO CREDIT: CHRIS FIELDS

and allowing young people to pre-register are among the reforms that have yielded positive results for voters. And as experience in North Carolina and Ohio illustrates, future attempts by states to restrict access to voter registration will likely be met with opposition by voters and advocates.

ISSUE SPOTLIGHT

NVRA Settlements: Positive Impact But More Enforcement Needed

The NVRA was passed specifically in response to the low percentage of eligible citizens registered to vote. The first NCVR report described the widespread failure of States to implement Section 7 of the NVRA, the provision designed to improve the voter registration rates of low-income Americans by requiring public agencies to offer their clients the opportunity to register to vote. The Commission noted that the lack of enforcement has led to far fewer voters of color being offered the opportunity to register to vote than if the law was being followed.³⁶

In response, a number of voting rights organizations, along with the Department of Justice in some instances, filed litigation against non-complying states, which resulted in significant increases in voter registration. The Ohio Department of Jobs and Family Services, for instance, reported that over the more than three years since it entered into a settlement agreement its public assistance offices averaged close to 15,000 voter registration applications submitted per month – compared to a monthly average of 1,775 prior to the intervention.³⁷ Settlement agreements (with or without litigation) in the following state have shown similar results: Alabama, Georgia, Indiana, Missouri, New Mexico and Pennsylvania.

As a result of these settlements and cooperative work in other states, almost two million additional people applied to register to vote through public assistance agencies between 2006 and 2013.³⁸ Data from the Election Assistance Commission reflect the impact of these interventions: half of the top ten states were ones that had been subject to pressure by voting rights groups.³⁹

While there are many success stories, continued vigilance is clearly needed. The potential for backsliding remains. As Norman Robbins pointed out at the NCVR Columbus regional hearing, “after the 2012 election, the registrations coming in from the largest public assistance agency, the Ohio Department of Jobs and Family Services, dropped and has stayed to about 50 percent of what it used to be...this amounts to about 90,000 fewer registrations per year coming from this low income population that is on various forms of public assistance in Ohio.”⁴⁰

Most recently, voting rights organizations, including Project Vote, Demos and the Lawyers’ Committee for Civil Rights Under Law, have together sent notice letters to the authorities in Oklahoma, New Jersey, Arkansas, Arizona, North Carolina, and South Carolina advising them of findings that they are not complying with the NVRA and if not remedied, they could be subject to litigation.⁴¹

“What do you do if the machine breaks down (on Election Day)? ... something happens with the weather? There are so many different elements. So having that standard baseline, I think, is great, and I wish we had more conversations around standardization of those things as opposed to uniformity.”

—Deirdre Reese, Executive Director of Ohio Voice, testified about the benefits of Ohio’s election administration plans at the NCVR Columbus regional hearing.



SECTION II: Voting And Election Day

Politics aside, success on Election Day may be defined differently depending on whether one is casting a ballot or counting them. For voters, a successful voting experience can include having access to a convenient polling location, getting language or other types of assistance at the polls if needed, and facing minimal hurdles to casting a ballot. For election administrators, success can mean staffing polling locations with enough well-trained election judges, having all voting machines and technology working properly and being well prepared with a backup plan for when things go wrong. Undoubtedly, for both voters and election administrators, avoiding long lines and delays would top these lists.

Long lines at the polls are not a new phenomenon, but lines that wrapped around buildings and voters that waited six or seven hours into the early morning in the last three presidential election cycles have made wait times one of the highest profile problems. During his victory speech in 2012, President Obama mentioned the need to fix the long lines and shortly afterwards set up the Presidential Commission on Election Administration (PCEA) to study the issue along with other election administration challenges.⁴² Among the many recommendations made by the PCEA was the expansion of early voting “to limit congestion on Election Day and to respond to the demand for greater opportunities to vote beyond the traditional Election Day polling place.”⁴³

The NCVR’s first report discussed the impact of long lines and early voting, detailing the ways in which minority voters disproportionately experience long lines and longer wait times than other groups, as well as the damage that reducing early voting inflicts on these communities.⁴⁴ The following section highlights NCVR hearing testimony addressing various aspects of election administration that make it easier for voters to cast their ballots, as well as factors that create roadblocks for voters on Election Day. It explores the role of Election Administration Plans in improving election administration and examines the increasing need to plan for unforeseen emergencies, the need for a highly trained and stable team of poll workers, how provisional ballots can be better administered, how innovation and technology can improve elections, and the need to upgrade voting machines.

MORE EFFICIENT ELECTION ADMINISTRATION SYSTEMS NEEDED

Election officials can do and want to do a better job administering elections. In addition to expanding early voting, state officials are exploring other policies to alleviate long lines at the polling place, including the more efficient allocation of resources. At times, however, these improvements result either from protracted battles between voters and state officials, in reaction to embarrassing system-wide problems, or in extreme cases, natural disasters.

Election Administration Plans in Ohio: Standardization, Not Uniformity

At the NCVR Columbus regional hearing in May 2014, both advocates and election administrators spoke extensively about how Election Administration Plans (EAPs) have improved the manner in which elections are planned and run in the State.

After the dysfunction of the 2004 elections in Ohio, which were plagued by malfunctioning or broken machines, confused and undertrained poll workers, voter registration problems, and wait times of up to 12 hours,⁴⁵ the Lawyers' Committee for Civil Rights Under Law represented the League of Women Voters of Ohio and other partners in a suit against Secretary Blackwell and Governor Bob Taft. The suit claimed systematic impairment of the right to vote based on failures of election administration and listed numerous problems ranging from failure to provide ballots to improper exclusion from the rolls to misallocation of voting machines.⁴⁶

The case settled under an agreement calling for the Secretary of State to streamline the election process and requiring all 88 Ohio counties to produce significant, centralized pre-election plans that ensured adequate resources at all polling places and included contingency plans for any shortages.⁴⁷ The settlement agreement also provided for extensive recruitment and training of poll workers.⁴⁸

Describing the EAPs as “the big winner”, Peg Rosenfeld, Election Specialist with the Ohio League of Women Voters, testified that,

[O]ver the last year or two, the current Secretary of State's office has come up with a template that's quite detailed that every board has to fill out, and they all screamed and yelled the first time they had to do this. But, now, they've done it a couple of times, and they realize it's terrible useful. It does prevent them from making some major mistakes. 'Oh, we didn't order the ballots in time.' So they don't make those mistakes over again.⁴⁹

Another hearing witness, Deirdre Reese, Executive Director of Ohio Voice, agreed on the overall benefits of the plans, saying,

“I would absolutely agree with that. I think it has been to the advantage of voters. It has forced county boards to be prepared. I think that is the best thing about having elections administration plans; whereas, some counties didn’t prepare for, oh, more people are going to come and ask for a paper ballot, even though there are electronic voting machines.”

However, Reese and other witnesses warned that the success of standardizing election planning did not imply that uniformity—a goal often cited by Ohio’s Secretary of State—was the most effective approach to statewide election administration. “Just in that example, Cuyahoga County versus Vinton County. They [Vinton County] just don’t have as many people, so they don’t need as many voting machines,” Reese observed. Reese further testified:

“Maybe they don’t need as many hours for early voting. It’s different when you have people in, you know, a huge city like this. If you’re traveling, you work in Dayton, so if we only have hours that are from 9:00 a.m. to 4:30 p.m., by the time I leave my job and come back, maybe pick up my children, when am I going to get to go and vote?”

The settlement requiring EAPs expired on January 11, 2015. Hearing witnesses expressed hope that election administrators would institutionalize the use of the plans beyond the settlement’s expiration.

Lessons from Superstorm Sandy: Emergency Planning and Preparedness Is Essential

One critical component of EAPs is the requirement that counties develop procedures to be used in the event of a natural disaster or other extraordinary event. Election Day contingency plans should provide detailed information about how a county will deal with failures of election equipment and ballot shortages. Contingency planning may also include backup plans in case of natural disaster or power outages at a polling place.⁵⁰ Testimony to the NCVR about Superstorm Sandy underscored the importance of this type of planning and the fallout that occurs when states and counties are not prepared.

One week before the 2012 general election, Superstorm Sandy made landfall, wreaking havoc in communities lining the East Coast and disrupting the administration of elections, especially in New York and New Jersey. Election officials in affected states scrambled to find new polling locations and poll workers and issued last minute directives that allowed voters to participate in the election a full week after Election Day.

Catherine Weiss, Chair of Public Interest at the Lowenstein Center for the Public Interest at Lowenstein Sandler, a law firm with offices in both New York and New Jersey, called these efforts “heroic.” Nonetheless, Weiss testified that Superstorm Sandy illustrated the need for laws that make it easier to cast ballots in emergencies. In describing the experience in New Jersey, she noted that,

“what mainly failed was technology ... the state’s database repeatedly crashed on election day, and when it crashed, everything that was derivative of that database, there was a text system where you can text the word “where” to a certain number in order to find where your polling place was that depended on the state database. It failed when the state database failed. And Google searches and all general search engines also were derivative of the state database, so we had blackout periods throughout the day, but we had people saying where do I vote, and we could not answer the question because they were not in their normal polling places.”

Weiss noted that the New Jersey Secretary of State’s directive to allow displaced voters to apply for mail-in and absentee ballots by fax or e-mail resulted in a deluge of requests that the system could not handle: “[t]housands, thousands and thousands of people tried to make that application. And the fax servers and the e-mail servers in all the county clerk’s offices went down.”⁵¹

In a similar response, New York’s Governor issued an emergency order that allowed registered voters to cast ballots in any precinct, but polling places were not prepared for the volume of voters and many ran out of ballots. Voters were told that more ballots were being sent to the precincts but waited for hours and “became frustrated and decided that it wasn’t worth voting that day,” according to testimony from Eric Merin, an attorney with Kirkland and Ellis LLC, which served as an Election Protection call center in New York during the 2012 elections. Merin added that the call center also took calls from nursing home staff who were calling on behalf of frustrated disabled residents who had not received their absentee ballots because of the storm.



At the New York City regional hearing, Catherine Weiss, Public Interest Chair at the Lowenstein Center for the Public Interest, testified about emergency preparedness and voting system failures after Superstorm Sandy.

PHOTO CREDIT: CHRIS FIELDS

Among the Weiss' recommendations were:

- Written emergency plans by all election officials in the country.
- Laws and rules that allow provisional balloting in any state polling place by people displaced by emergency, and extended use of absentee ballots, extended hours for voting, and early in-person voting to relieve the pressure of one-day voting systems.
- Implementation of a plan to educate voters about emergency election administration through both high- and low-tech systems of communications.
- Legislation to preserve the right to vote for emergency first responders, regardless of where they are deployed.⁵²

In another response to the widespread reports of election problems related to Superstorm Sandy, the National Association of Secretaries of State's Task Force on Emergency Preparedness issued a report in 2014 that outlined ideas and best practices for election officials to prepare for and respond to emergency situations. Among its many recommendations, the report stressed the importance of contingency planning to address communications to voters, the provision of ballots in the event of power failures or machine breakdowns, poll worker shortages and polling place relocations.⁵³

Poll Workers: A More Stable and Well-Trained Workforce Needed

Well trained poll workers play an essential role in ensuring a well-run election. According to the 2014 U.S. Election Assistance Commission survey of state election officials, 730,930 poll workers were hired and deployed on Election Day.⁵⁴ The thousands of temporary poll workers

who serve our country at every election, working long hours with mostly low pay, deserve great appreciation and respect. However, staff-ing the nation's polling places continues to be a challenge for many jurisdictions⁵⁵ and many voters, including witnesses at NCVR hearings, continue to cite problems with poorly trained poll workers as a main obstacle to voting.

In response to complaints, innovative election administrators have undertaken new tactics to recruit and train poll workers. Recruiting students, including high school students, is a best practice. Today, half of all states allow 16- and 17-year-olds to work at the polls.⁵⁶ As Matt Crane, Clerk and Recorder for Arapahoe County, Colorado told the NCVR at the Denver regional hearing in January 2014:

“We have a student judge program here in Colorado where we can use high school kids 16 years and older. We actively recruit our high schools for that because kids aren't afraid of technology. We've had some college kids show up. But in all honesty, they're not as reliable as high school kids, right? Because, you know, college they get up when they get up and they do their things. Whereas high school kids, their moms grab them by the ear and say, you got to get there. We've had a lot of luck with high school.”⁵⁷

Macomb County Deputy Clerk Todd Schmitz told the NCVR at the Michigan state hearing that recruiting young people provides longer term benefits to that workforce:

“Election law allows you to place students in a polling place as long as they're supervised by an adult election worker. And, so, in our situation, we're able to put two students in the polling places, a half a day each. We're training a whole new generation of poll workers. We're also putting a generation of poll workers who have some technology smarts in the polling places. And, so, that's a win-win all the way around. That's something that could be duplicated in a serious role throughout the state, as well.”⁵⁸

A handful of states have also passed laws to make recruitment easier and training more consistent. For example, in Nebraska, a state often cited as a laboratory for poll worker management, jurisdictions are permitted to “draft” poll workers “in the same fashion that courts select jury members... The election officials draw from a randomized pool of registered voters and send out notice for them to appear. The person can postpone his or her duty, but can't decline.”⁵⁹

Despite all of these efforts, this is an area in which our election system still confronts a number of challenges. NCVR hearing witnesses described problems arising from the lack of consistency in poll worker training and performance.

Cathy Woodson, an organizer with Virginia Organizing, spoke of the feedback her organization received about poll worker confusion about current voter requirements. As Woodson testified, this confusion led some workers to give voters incorrect information:

“Virginia has an election every year so every election is important to us. So you have an example of workers having the lack of knowledge about voter ID. Lots of confusion around what is needed and what is considered a valid voter ID. And now we’re about, of course, to implement the new law of photo ID. One particular example from the South Hampton Roads area was one person, a worker ... had been working the precinct for years and years and years and she never accepted anything except a photo ID. Never, ever. Would ask people to leave, go back and get a photo ID. Another example... Voters said, ‘Well, I went to vote, I was on my lunch hour, machines were down and nobody seems to know what to do.’”⁶⁰

Woodson stressed the importance of establishing a standardized training program for all election workers to minimize worker confusion and give registrars the ability to better evaluate the work.

Cathy Woodson of Virginia Organizing discussed the challenges surrounding voter ID requirements at the NCVR Virginia state hearing.



Poll worker staffing and performance varies from polling site to polling site, leading to very different experiences for voters.⁶¹ Indeed, there are no national standards regarding numbers, payment or training of poll workers, and usually there are not even state standards. Only 30 states require poll worker training.⁶²

Provisional Ballots: Misused and Misunderstood

For many voters, the recount controversy during the 2000 presidential elections is the first thing that comes to mind when thinking about problems during elections. However, provisional balloting also rose to the forefront during that election cycle as a major voting issue. At that time, only half of the states permitted voters to cast a “provisional” or “affidavit” ballot in such situations.⁶³ In the remaining states, including Florida, if a prospective voter’s name did not appear on the registration roll, the voter was simply turned away, even in instances in which the voter was certain he or she had properly registered. The passage of the Help America Vote Act (HAVA) in 2002 sought to address this problem by requiring states to provide “provisional ballots” when a voter’s name could not be found on the registration rolls. It was thought this would ensure that no voter was wrongly disenfranchised as a result of an administrative error – but it did not quite turn out that way.

While HAVA requires states to offer voters a provisional ballot, it leaves the decision of whether – and under what circumstances – to count those ballots to the states. As a result, today there are widely different provisional ballot practices, not only by state, but also by county. Instances when provisional ballots might be offered include, but are not limited to: when the voter does not have proper ID, when a voter has moved within the county and has not reregistered, and when a voter has requested an absentee ballot but then wanted to vote in person. Yet, while more than 892,202 provisional ballots were cast in 2014, 19.2 percent of them were rejected, and therefore not counted in the final election tallies.⁶⁴

Witnesses at NCVR hearings discussed the problems that often arise in the administration of the varied provisional ballot laws. Matt Crane, Clerk and Recorder of Arapahoe County, Colorado, described how poor training at one polling location resulted in faulty decision-making about how and when to issue provisional ballots:

“[W]hen the judges were going through and they saw the lines of people, and people waiting in lines, when they’re there a long time sometimes they get a little upset. So what I think the judges did ... especially at Center Point where I was at, they would try to look somebody up but if they didn’t find them on the first pass they would say, Okay, I don’t see you. You’re going to have to vote provisional. Instead of following their training where they said—I’m in the system as Matthew Crane, but if I come in and sign as Matt Crane, the system wouldn’t find me that way. So you have to take more time and search, use a few different search functions. So I think that was a lot of it. It’s definitely a training issue that we’ll continue to hammer home in the 40 hours we’ll spend with them this year.”⁶⁵

There was also testimony about the overuse of or confusion about when to offer provisional ballots. Gregory Mendoza, former Governor of the Gila River Indian Community in the Phoenix metropolitan area described how the issue affects his community:

“It is common within my tribe for voters to change addresses between election cycles... And many of our tribal citizens do not have street addresses. Thus, completing the necessary paperwork may be challenging. There must be a better way to allow our tribal members to vote that doesn’t rely on them having these updated address on file or use provisional ballots... And a voter who votes a provisional ballot leaves the ballot box never knowing if their actual vote was actually counted or will be counted.”⁶⁶

Law professor and NCVR National Commissioner Patty Ferguson-Bohnee, who runs the Indian Law Clinic at the Sandra Day O’Connor School of Law, agreed. Working the Native Vote hotline on Election Day, Ferguson-Bohnee said she heard from many Native Americans who live in rural areas facing potential disenfranchisement or discouragement from voting because of the lack of street addresses.



Gregory Mendoza, former Gila River Indian Community Governor, testified about the impact and nuances of provisional voting in his tribal community at the NCVR Arizona state hearing. PHOTO CREDIT: MIKE ELLER

“And at Gila River, a lot of people have some physical address, but it’s not a given physical address or street address, and so people use their P.O. boxes. And under state law, the counties are supposed to provide both your physical and your street address on the voter roster. And we received a lot of calls from Gila River from people who were being turned away because they didn’t have both addresses. So their ID might have been a physical address, which is put down, but the voter roster had their P.O. box or vice versa. And so they were told that their IDs didn’t match.”⁶⁷

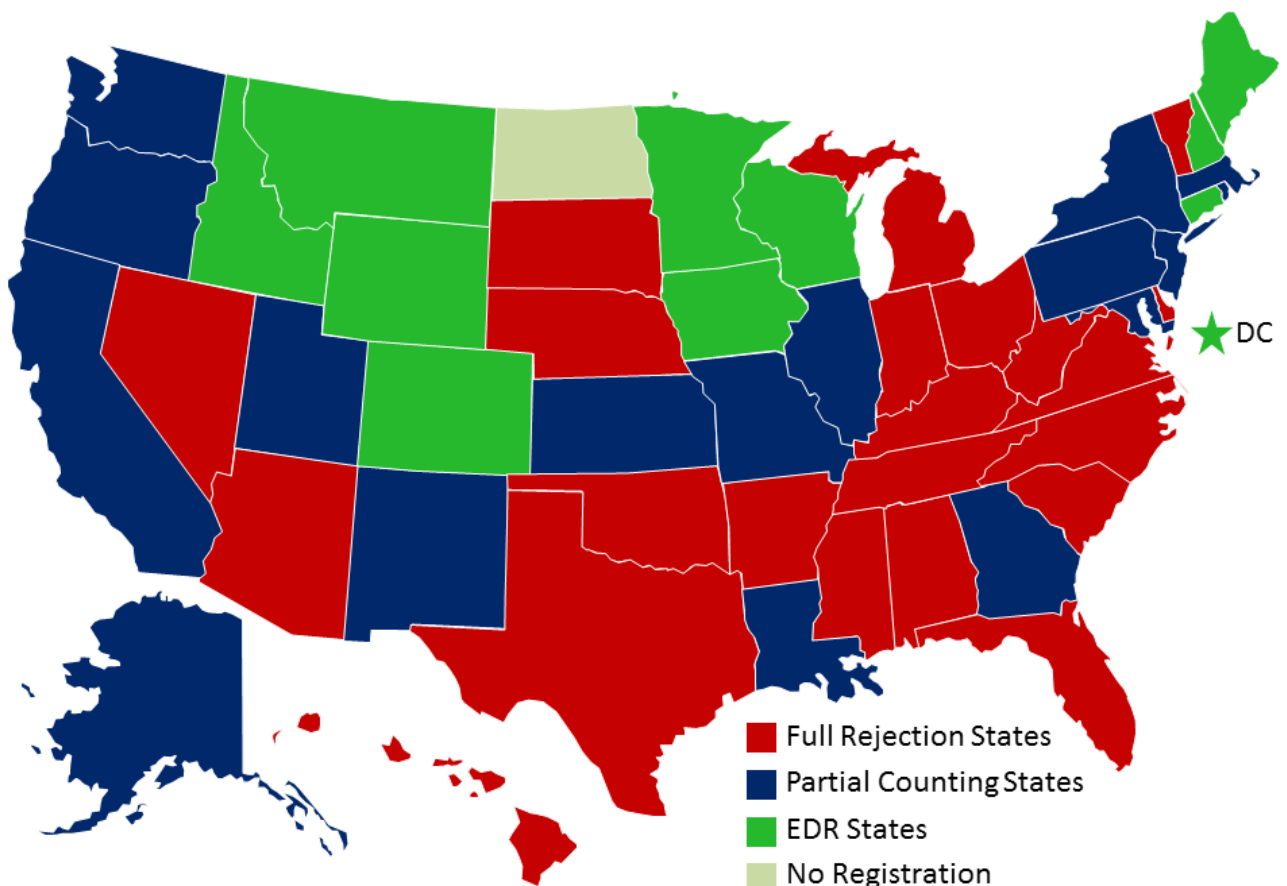
In Ohio, Carrie Davis, Executive Director of the Ohio League of Women Voters, cited the recent history of protracted litigation and partisan battles in Ohio over how and when provisional ballots should be used and counted, and warned about the potential impact of legislation that would create more requirements for casting a provisional ballot. Of Senate Bill 205, which has been signed by the Governor, Davis said:

“It adds additional fields for what must be filled out and if they are not filled out completely, which is what the statute says ‘completely’ then it’s rejected. That... violates provisions of the Civil Rights Act which says you can’t reject voting paperwork for immaterial errors. That aside, it’s almost in essence a de facto literacy test.”⁶⁸

Executive Director of the Ohio League of Women Voters Carrie Davis spoke about the negative effects of Ohio’s provisional ballot requirements at the NCVR Columbus regional hearing. PHOTO CREDIT: JIMMY MCEACHERN



Jon Sherman, an attorney at the Fair Elections Legal Network (FELN), proposed a remedy to address the inadequacies of provisional balloting at the NCVR Arizona state hearing.⁶⁹ According to FELN, there are 22 states that fully reject a ballot cast in the wrong precinct. (see map below) In 2012, this led to 45,376 ballots being rejected because they were cast at the wrong precinct; in 2008, 53,468 such ballots were discarded.⁷⁰ This includes places, often in big cities, where there may be several precincts combined in the same polling site. Sherman's testimony included a recommendation that states follow the lead of 15 other states and the District of Columbia by allowing the relevant portions of a ballot cast in the wrong precinct to be counted. For example, in Maryland, Oregon and Washington, a "provisional ballot may be cast anywhere in the state and, at a bare minimum, the votes for President, U.S. Senate, and any other statewide races such as gubernatorial races will count. And...if the voter votes in the wrong precinct but the correct state legislative district, his or her vote for that particular race will count as well."⁷¹



[Saving Votes: An Easy Fix to the Problem of Wasting Provisional Ballots Cast Out of Precinct](http://bit.ly/1hZav11) by Jon Sherman, Staff Attorney at the Fair Elections Legal Network. The full report can be found at: <http://bit.ly/1hZav11>

Map Created: January 2014

Note: Map illustrates states that either reject in full or partially count the relevant portions of provisional ballots. States with Election Day registration also avoid discarding ballots due to change of address.

USING INNOVATION AND TECHNOLOGY TO IMPROVE ELECTIONS

A growing number of the over 10,000 election jurisdictions around the country have been reallocating resources to modernize their voting systems or piloting innovations with the goal of making it easier for a voter to cast a ballot. Below are additional examples of election innovations described by witnesses to the NCVR.

Voting with iPads: Increasing Access and Efficiency

A key HAVA provision requires that voters with a full range of disabilities, including the blind and visually impaired, be given an equal opportunity to cast their ballots with the same access, privacy, and independence as any other voter.⁷² In 2011, Oregon became the first state to use iPads to allow voters with disabilities to vote with more ease and privacy. Election officials in Denver followed suit the following year. At the NCVR Denver regional hearing, Amber McReynolds, Director of Elections for the City of Denver, lauded her city's iPad Accessibility Pilot Project or iAPP, which was piloted with HAVA funding. The project helps voters living in group residential homes, including nursing homes, assisted living homes, and homes for persons with disabilities, to mark their mail-in ballots with an iPad. McReynolds gave specific examples in her testimony of the iPad's usefulness:

“There's language accessibility. They can use the headphones. They can use the touch technology that enables them to, if they have a disability or difficulty using their hands, they can sort of use the back of their hand if needed... We set up voting booths so they have privacy screens while they complete the voting process, so they are solely independent.”⁷³

Amber McReynolds, Director of Elections for the City of Denver, Colorado, discussed the successes of the city's iPad Accessibility Pilot Project at the Denver regional hearing. PHOTO CREDIT: CHRIS FIELDS



The ballots are not cast on the internet, but once marked and approved, they are printed face down to ensure privacy and then submitted to election officials on site.

Because they are using technology with readily available information, McReynolds added, they can “facilitate on the iPads updates in the voter registration...immediately identify what ballot style the voter needs to get, and then we can facilitate the voting process.”⁷⁴ Denver is expanding the program to have iPad voting available at all voting centers in Denver in time for November 2015 elections.

Vote Centers: Breaking Precinct Boundaries, but Concerns About Closures

An alternative to neighborhood precinct voting that has attracted growing interest from state and local election administrators is vote centers. Vote centers consolidate polling locations and allow eligible voters to cast ballots at any voter center location, regardless of whether it is in the voter’s precinct or not. Testimony to the NCVR included both support for vote centers and concerns about the potential impact on voter access.

Roman Montoya, Deputy Clerk of Bernadillo County, New Mexico, testified about the advantages that vote centers have had, not only on the overall voter experience, but also on election administration. With precinct voting, Montoya said, “registered voters at the wrong location get provisional ballots which may not have their correct candidates. At VCC (vote centers) the voters cannot go to the wrong location, so they always will get their correct ballots.” Before the implementation of vote centers, Montoya said his office was flooded with calls from voters confused about where they were supposed to vote or upset that polling locations had moved. In 2012, the year voting centers were introduced, the number of calls decreased significantly and officials were able to reduce the hotline staff “to four people, and we got to reassign the other 16 people to other election duties,” said Montoya.⁷⁵

Montoya did point out that although it was expected that the overall number of provisional ballots would decrease significantly at voting centers, that was not the case:

“A lot of it had to do with ... poll workers not looking up the correct name and not finding somebody, and giving up too soon and issuing provisional ballots. A lot of those might’ve been data entry things... and instead of putting Matthew they were putting Matt. Or could have been a human error, transposed on our side when we entered the registration in the first place.”⁷⁶

In addition to New Mexico, 13 states have passed legislation to either roll out pilot projects for voter centers in targeted areas, or allow the use of voter centers statewide.⁷⁷

Yet because of their complex requirements—including newer technology, higher efficiency to accommodate more voters per hour, and more specialized poll worker training—more planning and preparation is needed for vote centers to be established effectively. In addition, there is some evidence that changing polling locations can impact voter turnout, so a large scale public information campaign to alert voters of new vote center locations would be a necessary part of implementation.⁷⁸

Noting concern about precinct consolidation, attorney Ellis Jacobs testified to the NCVR in Columbus, Ohio, about its impact on voters without cars:

“If you reduce the number of precincts in white areas and African-American areas equally, the impact isn’t equal because not everybody has a car... The numbers are, nationwide, 19 percent of African-Americans live in households without a single car, compared to 4.67 percent of whites. And, so, if you now—instead of being able to walk down to the neighborhood polling place, you have to go a mile and a half to a polling place, and, that is, in fact, what is happening in the city of Dayton. We have polling centers for Election Day. You’ve got to drive there. If you don’t have a car, it is much less likely that you are going to go.”⁷⁹

Electronic Proof of Residency: Helping Voters Avoid Delays

In 2012, the Wisconsin Government Accountability Board, which administers the state’s elections, unanimously approved the use of smart phones, computers and tablets to confirm voter residency, making Wisconsin the first state in the country to implement such a policy.⁸⁰ Analiese Eicher, of the One Wisconsin Institute, testified to the NCVR about the importance of the program to young voters:

“The ability of young voters on university campuses to use utility bills, bank statements or other approved documents on their smartphones to meet the residency requirements... was a historic move towards fully harnessing the power of our technology to expand access to the polls. The fall 2012 Presidential Election was the first election where this electronic documentation was permitted... it was noted that it was of tremendous assistance in the voting process and actually made the process faster for many people registering to vote on Election Day.”⁸¹

Electronic Poll Books: More Training Needed to Expand this Administrative Capacity

The poll book is the primary information source for administering elections at polling locations. Traditional paper poll books used to manually verify a voter's eligibility have been increasingly replaced across the country by electronic poll books with expanded administrative capabilities and efficiencies. According to the Election Assistance Commission, 30 states reported using some form of electronic poll books in 2014.⁸² Jurisdictions using electronic poll books today are able not only to verify eligibility, but also to update a voter's address, process Election Day registrations, and update an individual's voting record which may be uploaded to the statewide voter registration system.

At the NCVR Virginia state hearing, Donald Palmer, then-Secretary of the Virginia State Board of Elections, pointed to the use of electronic poll books as one of several key technological approaches that make the Virginia voting experience more expedient and efficient. As Palmer testified,

Polling place and line management, again, these are some fundamentals that we need to focus on...that means that electronic pollbooks, using technology versus paper, training our poll workers or officers of elections to be fully involved with electronic pollbooks to make that process with the voter, that interaction streamlined and as quick as possible, reduce those lines. So use of pollbooks and new technology that allows scanning of IDs or looking up an individual to see what their status is to make sure they're in the right line, the right polling place... will ensure that that line moves quickly, that the individual stands in one line and one line only.⁸³

Yet concerns about electronic poll books remain, including questions around data security, signature matching, poll worker training and lack of information around the technology. For example, in a 2014 research report on electronic poll books commissioned by the Government Accountability Board for the State of Wisconsin, over half of the municipal clerks surveyed responded that they preferred paper to electronic poll books. However, a third of clerks indicated that they did not have enough information to form an opinion. The majority of respondents also said they believed their poll workers would respond negatively to using electronic poll books.⁸⁴

Lida Rodriguez-Taseff, partner at the law firm Duane Morris and Guest Commissioner at the NCVR Florida state hearing, described witnessing the challenges of teaching poll workers to navigate the new poll book system at a poll worker training: "[t]hey are going to have a really

difficult time typing in the names, getting the right information and providing the right data to that voter on Election Day.”⁸⁵

She also voiced concern about the potential difficulties of signature matching. At polling locations with electronic poll books, a voter signs an electronic signature pad or directly onto the screen of the device, which is then compared to the signature either on file or on a voter’s ID. Rodriguez-Taseff testified that,

“I as a poll worker have the ability to reject your signature if it doesn’t match the ID, if the ID signature does not match the signature on the electronic poll book. Now we are trying to create all sorts of checks to prevent poll workers from doing that, but guess what, the training is very amorphous and it will happen. It absolutely will happen. That’s the number one problem with the electronic poll books.”⁸⁶

AGING MACHINES AND NO FEDERAL FUNDING ON THE HORIZON

In spite of these new developments in voting technology, there are still many states and counties struggling to maintain an aging election infrastructure. Passed in 2002, HAVA appropriated \$3.9 billion for states to upgrade voting equipment, and that amount has not yet been fully disbursed. Since that time, however, no further federal funding has been allocated for elections, and there is little prospect of any additional resources on the horizon. While there is no shortage of ideas from researchers, advocates and politicians about improving elections, they almost all cost money.⁸⁷ The Presidential Commission identified this as a particular problem when it comes to the inevitable need to replace the voting machines initially purchased with HAVA funds.⁸⁸

Aging and malfunctioning machines were frequently cited at the NCVR hearings as one of the main reasons for long lines at the polls. At the Michigan state hearing, Jan BenDor, State Coordinator for the Michigan Election Reform Alliance, said failing vote tabulators were a “very serious threat to your right to vote.”⁸⁹ BenDor, who has worked as an election judge and poll worker trainer, conducted research on the inaccuracies of the machines, which were purchased in 2003 and 2004.

“They can be as much as two percent off. The first congressional district in 2012 was decided by .46 percent. So, it—you can’t trust them with a close election. These are prone to malfunction, they jam, they’re not secure, they’re easily compromised, and we’ve been able to demonstrate how easy it is to hack them. And they’re already beyond their recommended service life.”⁹⁰

Donald Palmer of Virginia testified that, “[n]ew technology is out there. It’s coming to Virginia. We’ll be testing it, but the localities don’t have the resources to buy the newest accessible equipment.”⁹¹

Similarly, at the NCVR Columbus regional hearing, Bill Anthony, Director of the Franklin County, Ohio Board of Elections, spoke of the tough choices counties have to make when deciding on technological upgrades.

“Counties cannot pay for elections and the equipment and the new technologies without some federal assistance. Right now, most counties use the old-fashion way of a poll book where you look for a person’s signature, and they sign it, and those have to be printed. An electronic poll book would make that process a lot easier and streamline it, and it will probably make it more ADA accessible for a lot of folks. But without the EAC [Election Assistance Commission] being fully funded, that’s not going to happen... for Franklin County to buy electronic poll books, it’s \$4 million. We have roughly \$12 million tied up in DRE’s. (direct recording electronic machines). We don’t have \$12 million to buy new equipment, or more. It may be more now. That’s talking 2005.”⁹²

IMPACT OF RESTRICTIVE VOTER ID REQUIREMENTS

As explained in the first NCVR report, one of the most controversial developments around voting has been the proliferation of voter identification laws across the country. Thirteen states passed restrictive voter ID laws between 2011 and 2014, and nine of the states require specified government-issued photo identification.⁹³ These laws have been and continue to be the subject of litigation in a number of states and have been struck down by the courts in some cases. In a significant recent ruling, the 5th Circuit Court of Appeals found that the Texas voter ID law has a discriminatory effect on minorities and violates Section 2 of the Voting Rights Act.⁹⁴ As the NCVR noted in its first report, racial minorities are less likely than whites to have the most common forms of government-issued photo ID. While about 11 percent of Americans do not have a driver’s license or non-driver’s government ID, African Americans, Latinos, immigrants, Native Americans and the poor disproportionately lack the required documentation.⁹⁵

Witnesses to the NCVR remarked on the additional burdens that the identification laws impose on voters. Tennessee State Representative Brenda Gilmore, who worked with the NAACP and the Council of Negro Women to help seniors get IDs after the passage of the



At the NCVR Nashville regional hearing, Tennessee State Representative Brenda Gilmore described the challenges seniors face when obtaining IDs. PHOTO CREDIT: JOSEPH GRANT

voter ID law in that state, cited the transportation challenges that many seniors face in order to get acceptable identification:

“Most of the driver’s license centers are located on the outskirts of town. A majority of these seniors live in the urban core and are concentrated in high-rises. The bus systems do not go to these locations or involve ... maneuvering a bus system that requires them to change bus lines to get to their final destination. Some of the rural areas do not have driver’s license centers at all and require people to take a day off from work to travel to a nearby city where a center is located.”⁹⁶

Melinda Sheldon, Deputy Director of Georgia Equality, testified about the unique obstacles these laws place on transgendered people and cited research by the Williams Institute, a think tank at UCLA Law School:

“For many transgendered people, acquiring a photo ID that reflects their preferred name and gender identity can be difficult or even impossible. In Georgia, 39 percent of transgender voting eligible population have no photo ID that accurately reflects their gender identity. A transgender voter may be challenged by a poll worker and required to fill out a provisional ballot until that eligibility is confirmed ... But just being challenged can have an emotional impact on any voter. When presenting ID, 41 percent of transgender voters reported being harassed. 15 percent report being asked to leave the polling place. And 3 percent of transgender voters report actually being assaulted at a polling place.”⁹⁷

In Pennsylvania, advocates including the Advancement Project, ACLU of Pennsylvania, Public Interest Law Center of Philadelphia (PILCOP) and the law firm Arnold & Porter filed suit under state law seeking a permanent injunction to block enforcement of Act 18, Pennsylvania's voter ID law. At the Pennsylvania state hearing, Ben Geffen, a staff attorney with PILCOP, recounted numerous examples of voters denied the vote because of the confusion created by the ID law, including the example of disabled grandmother and voter, Mary Baker:

“Even though the state was preliminarily enjoined from enforcing the law in the November 2012 election, a poll worker told Mrs. Baker on Election Day that she wouldn't be able to vote in the next election if she still didn't have an ID card. Sadly, Mrs. Baker stayed home from the poll in the May 2013 primary election because of the inaccurate information that she heard from the poll worker.”⁹⁸

PennDOT, the state agency which was required by law to provide free IDs to people who would need them to vote, also misinformed voters. Geffen said,

“At the trial, we heard testimony from a long-time voter...who testified that she was turned away when she went to PennDOT and asked for a voter ID because she asked for an ID and they said it cost \$13.50. She offered \$13.50 in cash and they told her, no, it's got to be check or money order so she went home empty-handed... So the overall lesson there is that poll workers may not be receiving adequate training and supervision to accurately administer the voter ID law.”⁹⁹

The Pennsylvania ID law was ultimately struck down after the court concluded, “[v]oting laws are designed to assure a free and fair election, the Voter ID law does not further this goal.”¹⁰⁰

In summary, states have an enormous opportunity to make Election Day a successful and enjoyable experience for both voters and administrators. Planning rigorously for the administration of elections, improving the recruitment processes and training of poll workers, re-allocating scarce resources to invest in new technologies that expand access to the ballot, and passing laws that remove barriers and encourage full electoral participation are among the reforms that states should explore.

CASE SPOTLIGHT

Michigan and The Citizenship Checkbox Controversy

In her testimony to the NCVR, Director of the Michigan Election Coalition Sharon Dolente discussed the history of Senate Bill 803, which she described as an example of efforts “to disenfranchise voters in Michigan.”¹⁰¹ S.B. 803 proposed a citizenship verification checkbox on applications to vote (which a voter must fill out at her polling place in order to receive a ballot) in Michigan. Shortly after the bill was introduced in the legislature, the Michigan Secretary of State issued a notice to all county and local clerks directing them to add a citizenship question to all applications to vote at polling locations and to absentee ballot applications. Subsequent guidance directed officials to challenge voters who refused to respond to the citizenship question, and to not give them a ballot if they continued to refuse to answer a question about their citizenship.

Although Governor Snyder vetoed S.B 803 in July 2012 after it passed the legislature, the Secretary of State continued to require the citizenship checkbox on applications to vote in the August primary elections, Dolente said. In response, several of individuals and community organizations, including the Service Employees International Union Michigan State Council, Latin Americans for Social and Economic Development and ACLU of Michigan, filed suit, challenging the Secretary of State’s authority to impose the checkbox requirement.¹⁰²

In addition, numerous county clerks decided not to include the citizenship question on the forms they ordered for the November 2012 general election. In October 2012, a federal judge blocked implementation of the checkbox requirement, finding, as summarized by Dolente, that “the citizenship checkbox requirement, as implemented and inconsistently administered by the Secretary of State, unjustifiably burdened the fundamental right to vote of Michigan citizens.”¹⁰³



**“I waited forty years before
I could vote privately and I
cherish that.”**

**—Fran Fulton, manager at an independent living
center in Philadelphia, testifying about being a
party in a successful lawsuit against the City of
Philadelphia which resulted in the retrofitting
of voting machines to accommodate blind and
visually impaired voters.**

SECTION III: Expanding Access And Engaging All Eligible Voters

VOTING RIGHTS FOR AMERICANS WITH DISABILITIES

In some respects, voting rights for people with disabilities have improved significantly in the last decade. As a result of the tireless efforts of advocates and people with physical challenges themselves, there is greater awareness of the right of the disabled to vote at the same time and place and in the same manner as everyone else. Federal legislation has also created opportunities for more voters with disabilities to exercise their fundamental right to vote.

Passed in 1990, the Americans with Disabilities Act (ADA) established public accessibility standards, with Title II of the ADA requiring state and local governments (“public entities”) to ensure that people with disabilities have a full and equal opportunity to vote. The ADA’s provisions apply to all aspects of voting, including voter registration, site selection, and the casting of ballots, whether on Election Day or during an early voting process.¹⁰⁴ Title III of the ADA is relevant on those occasions when the jurisdiction might use commercial or public facilities for polling places:

Public accommodations must make reasonable modifications in policies, practices, or procedures to facilitate access for people with disabilities. These facilities are also required to remove physical barriers in existing buildings when it is ‘readily achievable’ to do so; that is, when the removal can be done without much difficulty or expense, given the entity’s resources.¹⁰⁵

In addition, HAVA required for the first time that there be at least one voting machine accessible to people with disabilities at every polling place. This was a major advance in ensuring that people with disabilities are able to vote in person. Section 301(a) specifically requires that each polling place have at least one direct recording electronic voting machine (DRE) or other voting system equipped for people with disabilities, including those with limited vision and/or hearing.

Yet despite these advances, at virtually all of the hearings held over the course of 2013 and 2014, the NCVR heard testimony about continuing challenges facing people with disabilities. The NCVR developed a very detailed picture of the status of voting rights for the disability community in America today.

Voting Gap Narrows but Persists

At least 35 million voting-age people with disabilities live in the United States, and this group consistently has lower voter turnout than people without disabilities.¹⁰⁶

Rutgers University Professors Lisa Shur and Douglas Kruse have studied the voting patterns of people with disabilities in recent elections and found that in 2012, the voter turnout rate of people with disabilities was 5.7 percentage points lower than that of people without disabilities. A comparable study conducted in 2000 found a 12 percentage point voting gap.¹⁰⁷ Together, these studies suggest that the situation has improved in the last three presidential election cycles. Nevertheless, the NCVR heard from witnesses about the persistent voting gaps between those with disabilities and those without.

	Voter Turnout					Disability Gap		Number of voters (millions)
	2008		2010		2012		2012	
No Disability	64.5%		45.9%		62.5%			117.3
Any Disability	57.3%		42.8%		56.8%			15.6
Disability Gap	-7.2%	**	-3.1%	**	-5.7%	**	-5.7%	**
Type of disability:								
Hearing impairment	63.1%		50.0%		63.2%		0.7%	5
Visual impairment	56.8%	**	39.5%	**	57.3%	**	-5.2%	** 2.4
Cognitive impairment	46.1%	**	29.6%	**	44.8%	**	-17.7%	** 3.7
Mobility impairment	56.8%	**	43.5%	**	56.3%	**	-6.2%	** 9.3
Difficulty dressing or bathing	46.4%	**	32.4%	**	46.7%	**	-15.8%	** 2.2
Difficulty going outside alone	45.7%	**	32.9%	**	47.3%	**	-15.2%	** 4.6

*Difference from non-disability sample is significant at 95% level **99% level

Source: Lisa Shure, Meena Adya and Douglas Kruse, "Disability, Voter Turnout and Voter Difficulties in the 2012 Elections," July 18, 2013

For example, at the Nashville regional hearing, the NCVR heard that Tennessee had seen a 12 percentage point voting gap in 2000 and a 6.5 percentage point gap in 2008, representing major progress. However, advocates were then surprised when the gap shot back up to 9.5 percentage points in 2012. Carol Westlake, Executive Director of the Tennessee Disability Rights Coalition, attributed the increase in part to Tennessee's new voter identification law, which she said voters with disabilities "have trouble with."¹⁰⁸

In North Carolina, Mercedes Restucha-Klem, a staff attorney with Disability Rights North Carolina, told the NCVR that the 14 percentage point voting gap in that state has consistently been double the gap at the national level:

“Barriers include not being able to access the polling site because it’s not physical accessible, and not being able to cast a private and independent vote ... We also routinely hear of complaints to local boards of election that people who arrive at the polls in a van or a bus from a facility do not appear to be eligible to vote and are presumed to be incapable of voting and subject to coercion by facility staff or others.”¹⁰⁹

The extent to which people with disabilities are less likely to vote indicates that there are still access barriers, and likely continued unease with the in-person voting process.¹¹⁰ Almost one-third (30.1 percent) of voters with disabilities reported difficulty in voting at a polling place in 2012, compared to 8.4 percent of voters without disabilities. The most common problems reported were difficulty in reading or seeing the ballot, and understanding how to vote or use voting equipment.¹¹¹ Not surprisingly, voters with disabilities were more likely than those without disabilities to vote by mail before Election Day (25 percent compared to 14 percent) for varied reasons.¹¹² Yet, even voting by mail presented challenges. Close to ten percent had difficulty with absentee balloting and required assistance.¹¹³

The Accessibility Problem

One issue identified at the NCVR hearings that may contribute to the voting gap is the ongoing challenge of access to the ballot for voters with disabilities. Although a large scale federal review of voting access for voters with disabilities found that the number of polling places without barriers to access had gone up between 2000 and 2008,¹¹⁴ the study also shows how often jurisdictions continue to fail to provide fully accessible polling sites—meeting all requirements of accessibility for persons with physical and sensory disabilities—and too often assume that alternative methods of voting are sufficient to serve disabled voters.

Furthermore, the measures and methods used to ensure accessibility compliance are discretionary. As a result, some parts of the country perform better than others, as is the case in most areas of election administration. During the hearings, the Commission received substantial testimony about the various problems— as well as some successes—relating to accessibility.

For example, Chris Rodriguez, Director of Governmental Affairs and Media Relations at Michigan Protection and Advocacy, reported on his organization's efforts to encourage accessibility compliance:

“In 2010, we were able to survey, approximately, 95 percent of all polling locations, and found that... 25 [percent] of them had compliance issues that were non-compliant with Federal or State law. Since then, we believe that the non-compliant locations have gone down to somewhere around 10 percent. Hopefully, due to some of our efforts. Having made what we feel is a significant difference statewide, we have changed our focus now to a more targeted approach, concentrating on areas in the state in which we feel have the most numerous and egregious violations, and those are going to be in the city of Detroit and the city of Flint.”¹¹⁵

Likewise, Peri Jude Radecic, Executive Director of the Arizona Center for Disability Law, reported that,

“... in the early stages of our work under the Help America Vote Act, only 20 percent of the polling places we surveyed were accessible. Thanks to the work we have done with county election directors and monies that have flowed from the Help America Vote Act, I can now say 80 percent of those polling sites around Arizona are now accessible.”¹¹⁶

Yet according to Radecic, two of her partner organizations, the Navajo Nation Advisory Council on Disabilities and the Hopi Disability Advocacy Group, issued a voter survey and report in 2013 finding “voter accessibility issues for people on the Hopi and Navajo Nations. Those surveys found that there were accessibility problems, like a dirt parking lot or loose gravel, and entrances that were not accessible to people in wheelchairs.”¹¹⁷



Peri Jude Radecic, Executive Director of the Arizona Center for Disability Law, spoke about the positive effects of the Help American Vote Act, yet noted several areas for improvement on Native American reservations at the NCVR Arizona state hearing. PHOTO CREDIT: MIKE ELLER (HMA PUBLIC RELATIONS)

At the Denver regional hearing, Judd Choate, the Director of Elections for the Secretary of State's office, testified that "our real problem appears to be from the parking lot to the front door. And that's historically been the major problem with ADA compliance with people with disabilities, and it remains so."¹¹⁸ Choate's comments echoed the Government Accounting Office (GAO)'s finding that, despite improvements nationally, there seemed to be a persistent problem for voters with disabilities outside the polling location, such as getting through the entrance and providing accessible parking.¹¹⁹

Lack of curbside voting is another problem. Unfortunately, it is still often the case that such curbside balloting is nonexistent or poorly executed. The percentage of sites that did not offer curbside voting where it was necessary stayed virtually unchanged from 2000 to 2008, 28 percent and 27 percent respectively.¹²⁰

Melissa Picciola, Staff Attorney at Equip for Equality, the Illinois statewide protection and advocacy organization for people with disabilities, estimates that about a third of all polling places are inaccessible and that, "[e]ven if a polling place is accessible... one of the issues that we hear about is the path of travel from when one exits the vehicle or the entrance to the actual polling place is not being accessible."¹²¹

At the Texas state hearing, Robin Chandler, Policy Specialist for Disability Rights Texas, told the Commission that her group had surveyed 121 polling locations over an 18-month period and that “up to 90 to 95 percent had some type of accessibility problem. You know, some aren’t that serious, some are more serious.”¹²²

The GAO, in its recommendations, suggested that the Department of Justice (DOJ) could do more to oversee implementation of the ADA.¹²³ One positive step DOJ has taken is to develop and disseminate technical guidelines for ensuring that polling places are accessible and compliant with ADA, including how best to take the measurements to ensure wheelchair accessibility. The checklist emphasizes issues such as:

- Accessible parking at the poll site;
- Accessibility of the exterior route into the polling place;
- Accessible entrances and hallways leading to the polling place that are free of objects that could not be detected by a visually impaired or blind voter; and
- Accessibility of the voting area, including sufficient room for maneuverability for wheelchair users.¹²⁴

Poll Workers Need More Training

The lack of training of poll workers to implement the accessibility requirements of the voting process adequately – and while respecting the dignity of those with disabilities – was frequently cited as a problem at the NCVR hearings. Witnesses to the NCVR described interactions with poll workers who seemed ill-equipped to help voters with disabilities. Many of these workers did not know how to operate accessible voting machines and showed a lack of understanding about the importance of treating people with disabilities without making them feel embarrassed or humiliated.

At the Georgia state hearing, the Georgia Advocacy Office’s Protection and Advocacy for Voting Access Director Ruby Moore reported hearing stories of poll workers,

“refusing to assist people with disabilities, refusing to let the person of their choice assist them, making people with disabilities feel like second class citizens, or telling people that, You have a disability, so you’re not competent. I’ve heard guardians, family members, and staff refusing to let a person with disabilities vote or refusing to support them to vote.”¹²⁵

During the New York City regional hearing, Mary Ciccone, Managing Attorney for Disability Rights New Jersey, reported on poll workers' struggles to operate the accessible machines, a common refrain among hearing participants:

“Unfortunately because of technology, many poll workers do not understand it, do not know how to operate it, are scared to death that they don't know what they are doing so they don't have a lot of people using them. They just don't know how to do it. So they just sit there and go ‘I don't know how to do it, it is not working.’ So people who have visual impairments, they have the right to vote independently, but they wind up having to take someone to the polling place because the machine is not working or the person operating it does doesn't know how it works.”¹²⁶

Ciccone summarized other issues facing voters with disabilities:

“They didn't put signage at the proper entrance. They didn't unlock the door. They didn't know how to operate the machines. Those are things that are solely in the realm of poll worker training, and that tends to be a problem. Every election, the biggest issue that we see are actual on election day problems with people with disabilities that tend to result from lack of poll worker training.”¹²⁷

Maggie Knowles, the Protection and Advocacy for Voting Access Coordinator at the South Carolina non-profit Protection and Advocacy for People with Disabilities, described the poor treatment of voters with disabilities by poorly trained workers:

“At one polling location a surveyor was told by a poll worker, honestly, someone with a disability cannot drive here. At another location an individual was told that was trying to vote, your problem must be mental. You don't look handicapped to me.”¹²⁸

Knowles also discussed how many of the accessibility problems at the polls could be solved with better training that prepares poll workers to remedy barriers when they arise:

“The purpose of curbside voting is to allow people with disabilities to vote on Election Day. Yet, we found that a third of all locations we surveyed did not have a sign up indicating that curbside voting was available to them. At nearly half of the locations curbside voting was not checked every 15 minutes as it was supposed to be. At one location a man told us he was leaving after one hour waiting in his car. He had sent a passerby inside and asked them to help but, still, no one came out. At another location a 72-year-old man with Parkinson’s disease was denied curbside voting because he did not have a parking placard on his car. One of his children had driven him that day. He then went inside to vote, he was determined to vote, but was denied a chair to sit in because he had the long wait. He ended up sitting on the floor for hours.”¹²⁹

As referenced earlier in this report, several organizations who testified before the NCVR conducted their own poll worker trainings to try to address these shortcomings.

Voter Identification Laws Hurt Voters with Disabilities

People with disabilities are less likely to have the mandated ID because many do not have driver’s licenses. Even getting to the Department of Motor Vehicles (DMVs) and waiting in line to get an ID for voting presents challenges that other citizens would not face. Several people who testified before the Commission raised serious concerns about the impact of new voter ID laws on the disability community. Not surprisingly, this came up in North Carolina, which enacted a new strict voter identification law. Mercedes Restucha-Klem, Staff Attorney with Disability Rights North Carolina told the Commission that,

“People with disabilities will be disproportionately affected by the photo identification requirement in two key ways: Compared to the general population, they’re less likely to have access to the necessary documents to obtain identification. People struggling with maintaining their physical and their mental health, living on low incomes, and who already have a difficult time meeting their daily needs will find it difficult to prioritize obtaining the identification in order to vote. Many individuals with disabilities do not currently have a driver’s license or a photo identification card. They don’t receive bills or other documentation and they may often move or are homeless and do not have the required documentation to verify their residence. The second limitation is that photo identifications are currently only available through the Division of Motor Vehicles. The DMV is not well-positioned or equipped to meet the access needs of people with disabilities, many of whom do not drive, and rely on public transportation.”¹³⁰



Public Policy Director of the Arc of North Carolina Erika Hagensen, who herself has cerebral palsy, highlighted the challenges that voter identification laws place on the disabled community at the North Carolina state hearing. PHOTO CREDIT: ERIC PRESTON

Erika Hagensen, from Arc of North Carolina, also talked about the problems of getting “free” ID from the DMV, explaining that

“many counties don’t have a DMV office itself but a mobile DMV station. Similarly, the location of DMVs are designed with drivers in mind, many are off major transportation lines, and this really curtails the access for people who require transportation assistance.”¹³¹

Voters Face Hurdles to Receive Assistance

Section 208 of the Voting Rights Act requires that any voter with a disability or inability to read or write is eligible to receive assistance from a person of his or her choice, provided that the person is not the voter’s employer or union agent. At two hearings, the NCVR heard about challenges voters with disabilities face in having the person of their choice assist them in the voting process.

In Louisiana, voters need to provide documentary proof of their disability, and there are restrictions on who can help. Stephanie Patrick with the Louisiana-based Advocacy Center, told the Commission that:

“Louisiana’s laws regarding assistance in voting are onerous. People with physical disabilities who require an individual to accompany them into the polling booth are required to provide proof of disability. While the list of documents accepted as proof was expanded several years ago, it is still difficult for people with disabilities to obtain the required documents, for example, a note from a doctor, eligibility letters, or other official documents. People with the most significant disabilities are those most likely to encounter problems in obtaining these documents.”¹³²

Patrick added that some voters have also encountered problems with poll workers allowing them to get help from the person of their choice.

In Texas, Robin Chandler of Disability Rights Texas talked about that state’s confusing policy of who can help a disabled voter and under what circumstances.

“They have helpers called witnesses, helpers called assistants, helpers called agents, they’re all allowed to do different things. And, you know, basically the way I explain it is they speak very specifically to who can help, how many people they can help, what they need to do in order to legally provide assistance to every kind of voting related activity, filling out forms... And so what we found even with registration is that we go into institutions—my co-worker does training, she’s in institutions a lot, and the staff doesn’t know—they’re even afraid to help with voter registration.”¹³³

WITNESS Sec. 1.011; 84.003; and 86.001	When an individual cannot sign their own name, they may have a “witness” sign on their behalf. If the individual can make a mark, they will do so and the witness will attest. If they cannot make a mark, the witness will state that fact. The witness must print the name of the individual they are witnessing for and then sign and print their own name and residence address (unless they are on election officer). ALL THIS MUST BE DONE IN THE VOTERS PRESENCE.
ASSISTANT Sec. 64.031 – person And 86.010 for ballot by mail	Person of choice by voter who will assist the voter in marking an application, ballot by mail or ballot in person (if assisting with a ballot, they will be required to sign an oath and give their name and address).
AGENT Sec. 13.003	Parent, spouse or child of the individual with a disability and registered or eligible and applied to vote. If appointed by the individual, the agent may complete and sign a registration application, submit the application, act on the applicants behalf... (does not have to be in the presence of the voter) <i>*Many rules about assisting and witnessing do not apply if the person is an agent</i>

Categories of Poll Assistance in Texas. Source: Disability Rights Texas, April 2014

DISENFRANCHISEMENT OF PERSONS WITH FELONY CONVICTIONS

“When people ask me the question, ‘Why should I vote?’ ‘Why should I care about the civic engagement process?’ I tell people that’s where our power lies. Our power lies in solidarity and our power lies in the ability to cast a vote and cast a ballot for our elected officials. So my life is full of that irony while I preach that power and I preach that solidarity, I myself still cannot partake of that solidarity...”

—Flaco Aleman, Executive Director of Kentucky Jobs with Justice and formerly incarcerated individual

In its first report, the NCVR described in detail the legal disenfranchisement of millions of voters with prior felony convictions.¹³⁴ The Report discussed the range of laws on this subject, from the two states that allow people in prison to vote, to states that disenfranchise for life anyone convicted of a felony, and everything in between, including states that allow people to regain the right to vote after probation and/or parole. Despite measures to ease the requirements of the restoration process and improvements in data and information sharing,¹³⁵ an estimated 5.85 million individuals with prior felonies still face significant barriers to voting.¹³⁶

Flaco Aleman, Executive Director of Kentucky Jobs with Justice, spoke as a formerly incarcerated individual about his experience and the need to broaden access to the ballot at the NCVR Nashville regional hearing.

PHOTO CREDIT: JOSEPH GRANT



As discussed in that report, the disproportionate disenfranchisement of minority voters as a result of these laws is dramatic.

At numerous hearings across the country, the NCVR heard about the disenfranchising effect of the tangle of administrative hurdles to voting rights restoration for persons with felony convictions. Many witnesses told troubling stories of people eligible to vote who have been blocked from voting because of the unnecessary bureaucracy.

Elections and Criminal Justice Administrators Confused about the Law

One of the major problems identified at the NCVR hearings was that, oftentimes, election officials are confused about the laws and procedures governing the restoration of someone's right to vote. At the South Carolina hearing, Brett Bursey, the Executive Director of the South Carolina Progressive Network, told the Commission that his group partnered with the ACLU to do a statewide survey of 46 county elections offices.

“We...called all 46 county offices and asked them, well, we’re just—you know, we’re an ex-felon, what do we do to vote? Out of 46 counties, six counties got it right... Most of the counties said, you’ve got to bring something in to prove that you’ve finished your sentence. A few of the counties said, well, you can’t vote.”¹³⁷

The ACLU of Arizona conducted a similar survey and found widespread misunderstanding of the complex system of felon disenfranchising laws and procedures.¹³⁸ Alessandra Soler, the Executive Director of the ACLU of Arizona, spoke about the study at the NCVR hearing for the state:

“Arizona is one of only eight states in the country to bar individuals with certain felonies from ever voting again unless they go through an extremely complicated process that even county officials have a hard time understanding. We issued a report in 2006 where we analyzed how the civil rights restoration process here in Arizona worked and found that 54 percent of election officials are unable to answer elementary eligibility questions concerning individuals with felony convictions. And our survey showed that election officials are confused as to what the law is in Arizona and are dispensing incorrect and false information.”¹³⁹

Testimony received by the NCVR mirrored many of the findings from a five-year survey of election administrators conducted by the ACLU, the Brennan Center for Justice, and state partners. Election officials in 15 states were interviewed between 2003 and 2008 about felony disenfranchisement laws to determine the level of knowledge of their state's law.¹⁴⁰ The interviews found that election officials often “did not understand the difference between misdemeanors and felonies and improperly stated a person with a misdemeanor conviction was not eligible to vote.”¹⁴¹

Poor Administration of Notification Laws

If election administrators do not understand the confusing array of provisions in the law, it is no surprise that people completing their prison terms, probation or parole who may be able to vote are similarly ill-informed. Data support this. A Sentencing Project survey of 334 individuals under various forms of court supervision in Connecticut, New York and Ohio found that nearly half answered incorrectly or responded they did not know what their voting rights were.¹⁴² Similarly, an article for *Colorlines* found that many voters with prior felony convictions in Florida were unaware of their right to vote and had received conflicting information and instructions from county authorities.¹⁴³

The NCVR also heard about this problem at its hearings. For example, Barbara Yeomans, Executive Director of the League of Women Voters of D.C., explained that,

“DC law says a person otherwise eligible to vote may do so long as he or she is not currently incarcerated for a felony... However, many persons who have a ‘criminal record’ think that they are not allowed to vote in D.C. and that they have lost this right when they were convicted of a crime. League members... found that many citizens returning to the community from jail are unaware of their ability to vote in the district. Also, although DC’s laws regarding their voting rights have been in place for some time, it seems that there is not a lot of information directed toward those returning.”¹⁴⁴

Approximately half of the states require persons completing their requisite sentences to be notified of their right to vote. However, methods and procedures for notifying these individuals vary widely, including who is responsible for issuing the notification—a judge, a correctional officer, etc.—and how the information is communicated—verbally or in written form, in person or via mail.¹⁴⁵

Jed Oppenheim from Jackson, Mississippi told the NCVR that,

“Often times I’ve encountered people who think they can’t vote because of misdemeanors. I will say there’s a list of 22 felony disenfranchising crimes out on the table over here. I could read them if you want me to. But, for example, one of the things that’s not on here that people always think they can’t vote, if they have a [conviction] around particular drug crimes or drug offenses. And that is not one of the disenfranchising crimes.”¹⁴⁶

Several organizations including Project Vote and the ACLU have advocated for reforms to notification laws and processes to help individuals understand their rights clearly. Among the recommendations are: notifying individuals before sentencing that they will lose the right to vote and mandating that entities within the criminal justice system correctly and systematically inform people of rights restoration procedures before the completion of their sentences and when they become re-eligible.¹⁴⁷

Confusing Maze of Requirements for Re-Enfranchisement

The vast array of laws under which individuals can get their rights back—depending on when they were released, the type of crime committed, whether they have paid restitution or even child support, and so on—creates additional barriers to re-enfranchisement. It is a confusing and burdensome system for all involved that is exacerbated by rules often changing.

Research by Project Vote details the bureaucratic hurdles many states force people with felony convictions to overcome in order to have their voting rights restored, including:

- Completing an application including character references and an essay on why voting rights should be restored,¹⁴⁸ which is then sent through a long approval process;¹⁴⁹
- Payment of all fines and fees;¹⁵⁰
- And in the case of Florida, either waiting as long as seven years after completion of a sentence to argue before a clemency board for why voting rights should be restored, or waiting five years to apply to have voting rights restored without a hearing.¹⁵¹

Mark Schneider of the Voting Rights Coalition of Palm Beach County, Florida elaborated on the State's maze of requirements for restoring voting rights in testimony to the NCVR:

“The regulation of the petition process is entirely in the hands of the Governor and his cabinet, acting as the Clemency Board... This has led to wild swings in the number of felons who petition successfully... Currently, non-violent felons must wait five years after completion of their sentence, probation, and, where required, their financial restitution, before being allowed to petition... Violent felons must wait seven years to petition for a hearing, and each case must be dealt with individually. Petitioners in either case must meet onerous documentation requirements.”¹⁵²

In Virginia, Mercedes Harris from the Hollaback and Restore Project (HARP) told the NCVR that even though former governor Bob McDonnell made restoration of voting rights for a non-violent felony “automatic,” that has not meant it is easy. In fact, according to Harris, it takes even longer than it did before.

“First, identifying you as the person that you say you are... Second, the need to have your sentence order, proof of fines, court costs, and restitution have to be satisfied. Third, these things are checked by Virginia State Police and each Circuit Court via the Secretary of the Commonwealth, which takes time. For example, at one time the state police was only processing about 70 background checks per week. Fourth, getting your restoration record to the State Board of Elections so it is placed in voter files and placed in the databank where it can be retrieved by registrars before you vote. If you don't have your certificate of proof, you can't vote.”¹⁵³

Referring to Harris' testimony that at one point the state police were doing 70 background checks a week, Guest Commissioner and Executive Director of the ACLU of Virginia Claire Gastanaga pointed out that the numbers add up to “3640 background checks a year, which means we only have 96 years to get the 350,000 people who are currently on the disenfranchised list off at the rate we're going.”¹⁵⁴

At the same hearing, Rebecca Green, Co-Director of the Election Law Program at William & Mary Law School, discussed the impact of complicated re-enfranchisement procedures on elderly voters:

“Many callers to Revive My Vote hotline are elderly. Several callers have expressed that they’re reaching the end of their lives and would like to restore their rights as a matter of principle before it’s too late. Felony convictions for some callers are often in a distant past and can be very difficult to recall where their conviction or convictions took place and whether their fees and fines have been paid. Many have lost payment receipts years ago. Some callers to the Revive My Vote hotline, particularly older callers, are not technologically savvy or lack access to the Internet. One elderly caller convicted of a crime over 30 years ago reported that he did not believe in computers and did not have one or know how to use one. For some callers we’ve determined that online document retrieval may be difficult, if not impossible...”¹⁵⁵

Green added that the process of determining what is owed in fees and fines can be very complicated:

“We’ve also encountered a perception that the rights restoration process is costly when, in fact, the Secretary of the Commonwealth does not charge a fee for the process... The requirements of payment of all fines, fees, and restitution adds to the public perception that rights restoration is costly.”¹⁵⁶

Later at that hearing, Guest Commissioner Claire Gastanaga asked Mercedes Harris, “are you aware of anybody who has done everything but can’t afford to pay the court costs that are owed from when they were sentenced?” Mr. Harris replied, “85 percent of them.”¹⁵⁷

PAVING THE WAY FOR A NEW GENERATION OF VOTERS

“I have always considered myself a citizen first and foremost and I truly am passionate about these types of issues, but when we are not allowed to have a voice, you take away that ability.”

—Former Temple University student Chance Toland-Wilson testifying at the NCVR Pennsylvania state hearing on February 6, 2014

There have been concerted efforts in the last several election cycles to improve the participation rates of young voters, who had been voting at lower levels than other age groups. This work has been incrementally successful over the last decade, as the youth vote inched upward, culminating in a high point in 2008 when many young people were particularly enthusiastic about voting for presidential candidate, Barack Obama. African American youth voted at higher rates than any other young group in that election.¹⁵⁸

In the years since, however, many state legislatures have passed bills that have had a negative impact on young voter turnout, either directly or indirectly. These measures have included legislation that does not allow student IDs to be used as valid identification at the polls; roll-backs in same day registration; efforts to change residency rules; and attempts to repeal registration laws that would allow 16 and 17-year-olds to “pre-register” to vote. Data collected by the Center for Information and Research on Civic Learning and Engagement (CIRCLE), a research center at Tufts University, shows a six percentage point drop in youth turnout between the 2008 and 2012 elections that may be attributed to these rollback measures.¹⁵⁹ The turnout of young voters in certain states such as Texas was particularly low in 2014, with the state ranking 47th in turnout among voters 18 to 29 years of age.¹⁶⁰ At the Texas state NCVR hearing, a University of Houston student cited these statistics while testifying about the need to increase youth civic engagement.¹⁶¹ Additional NCVR hearing witnesses gave other examples of best practices for increasing youth voting participation as well as barriers that students and young people face when voting.

Encouraging Youth Turnout with Same Day and Online Registration

The registration process is a major obstacle for young people: a 2014 study showed that 24 percent of young people were not registered because of lack of knowledge about requirements such as voter registration deadlines, while only 14 percent of older Americans cited those reasons. Younger people were no more likely to cite lack of interest in the elections than any other group as the reason for not registering.¹⁶² The good news is that there are ways to make registration easier that have proven to increase participation rates. This is

especially true with respect to same day registration (SDR), which allows a person to both register and cast their ballot on the same day. Research also shows that providing the opportunity to register to vote online increases youth participation.

In states with SDR, 47 percent of young voters registered when they went to vote, while only 10.3 percent of youth registered at a DMV.¹⁶³ According to Demos, SDR could also increase youth turnout in presidential elections by as much as 14 percentage points.¹⁶⁴

At the NCVR North Carolina state hearing, the Commission heard that young people between the age of 18 and 25 are 12 percent of the voters, but 33 percent of those who used SDR.¹⁶⁵ Bryan Perlmutter, Director of Ignite North Carolina and the North Carolina Vote Defenders Project, described why SDR was so important for students:

“Students often times move dorm addresses or move apartments on a yearly basis and so this means that folks have to reregister continuously. And before, students used to know--they could go to the campus polling site and change their address and vote at the same time. So, the removal of same-day registration creates this huge barrier that students are going to have to register and need that infrastructure on campus to be able to do that, which is often times inadequate.”¹⁶⁶

At the Pennsylvania state NCVR hearing, former Temple University student Chance Toland-Wilson (center) testified about residency requirements and student voting. PHOTO CREDIT: BEN BOWENS



Data also show that online registration is utilized much more by young people than other age groups, although its impact on actual turnout is less clear at this time given the newness of the option. A 2008 study of the online registration system in Washington State in 2008 found that 61 percent of voters who registered online were under 34 years of age.¹⁶⁷ The same study found that in Arizona, people under 40 composed almost 55 percent of people who registered online, while overall only 31 percent of registered voters in Arizona are under 40.¹⁶⁸

Residency Requirements: A Barrier to Student Voting

In order to be eligible to vote, one must be a resident of the state in which he or she is voting. However, states have different definitions of what legally constitutes residency, not just for voting but also for myriad other government services. In 1979, the U.S. Supreme Court summarily affirmed a lower court ruling that students can vote from their campus addresses if they “establish residency,” but the Supreme Court did not consider the details of what constitutes “residency.”¹⁶⁹ As a result, some states and some election administrators have sought to define residency in a way that prevents students from voting where they attend school.

At the Pennsylvania state NCVR hearing, former Temple University student Chance Toland-Wilson recounted the challenges he faced when attempting to vote for the first time in 2012. Toland-Wilson was in the process of moving between off-campus housing locations and was repeatedly shuffled between two polling locations at the Temple campus.

“At Temple University, there are two different polling locations within two square blocks of each other, so we have a lot of access to polling machines. I was shuffled back and forth between those two polling locations three times in the 2012 presidential election. Each time, when I went and gave my initial address so they could process me, I was told ‘you have been given the wrong information.’ I took my phone...someone had installed an official website that allowed you to check where you’re supposed to go. I would show this to poll workers and they would say, I’m sorry, it’s not that I don’t believe you, it’s just there’s nothing I can do. That phrase was used over and over again. I had made sure, long before November, that I was able to vote and I would be able to vote in the normal fashion. I was still denied.”¹⁷⁰

In Michigan, Jesse Buchsbaum, Chair of the University of Michigan’s Voice Your Vote Commission, explained the additional burdens on students who register with their campus addresses instead of their permanent residences. After submitting a voter registration form at the university address, a student will receive a change of address sticker in the mail, which

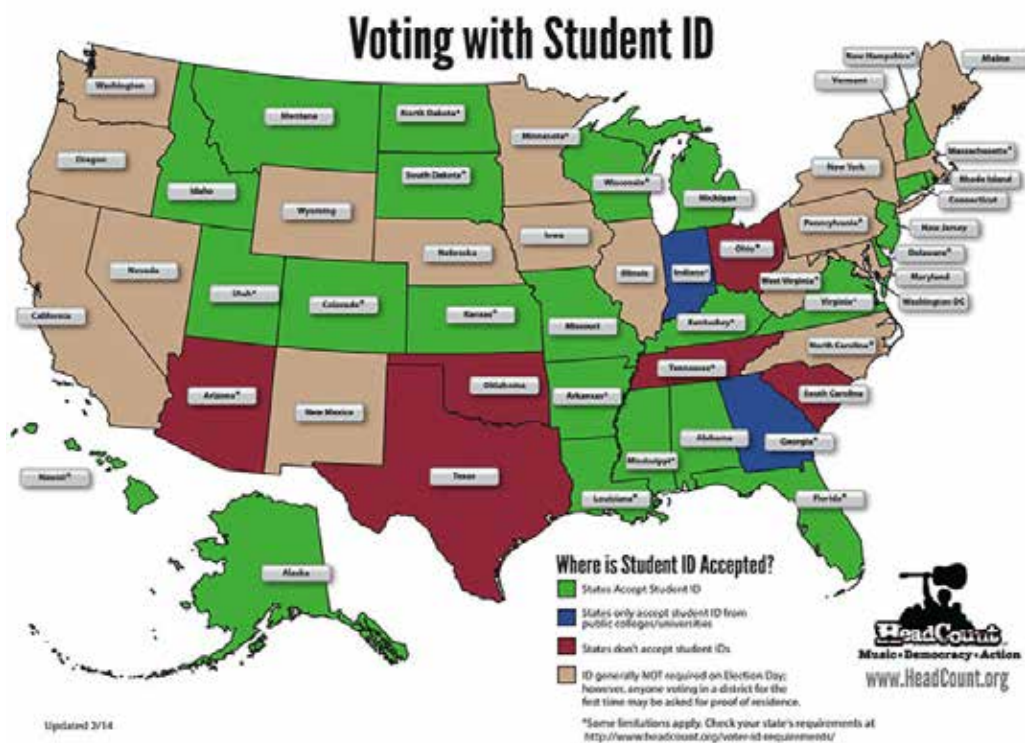
can be put on the back of a driver's license. In the course of his work for Voice your Vote, Buchsbaum notes that, many students do not attach this change of address sticker to the backs of their license. "Therefore, when they go to the polling place to vote, they do not have their current address on their driver's license, so they must fill out an additional change of address form in order to vote at that polling place, despite being previously registered to vote there," said Buchsbaum. He summarized at the NCVR hearing the implications of this process on youth voting:

“...It can increase the amount of time it takes for students to vote by a large magnitude. Especially in popular campus voting places, where voters already face longer lines than other citizens. As I have seen personally, students who need to fill out additional forms or wait in longer lines, they are discouraged from voting in future elections.”¹⁷¹

Buchsbaum adds that the lack of communication about the purpose of the change of address forms creates confusion and worry among some students: “[s]tudents fear that switching their address, they may no longer be able to list themselves as dependents of their parents. Others are afraid that they are forfeiting their citizenship in other states.”¹⁷²

Voter ID Creates Barriers to Youth Voting

Often exacerbating the confusion over residency requirements are new voter ID laws passed in many states (see map below). While voter identification is problematic for many groups of Americans, as detailed further in NCVR's first report, it presents particular challenges for students. Compounding the problem is that some states have intentionally excluded student ID cards, even IDs from state universities and colleges, from the types of identification accepted for voting. This is particularly problematic because most of these ID laws require that the identification—most commonly a driver's license—be from the state where the person is voting and have a current address. Even with ID, a student who is not living with his or her parents is unlikely to meet these requirements, particularly if he or she is not attending school in his or her home state. Many students, including student witnesses at the hearings, have expressed frustration about this and perceive it to be a way of intentionally excluding students from voting where they go to school.



With the passage of North Carolina's omnibus voter restriction law in 2013, identification will be required to vote in 2016 (pending legal challenges) and student IDs will not be accepted. Indeed, college students have joined the legal challenge to the North Carolina election law, arguing that by not allowing student ID, the law violates the 26th Amendment.¹⁷³

Other states that notably exclude student ID from the types of identification accepted for casting a ballot are Texas and Tennessee. Originally, New Hampshire's identification law excluded student ID, but a bill amending the law to include student identification was passed in 2013.¹⁷⁴ The Texas law, as noted above, has been found to be racially discriminatory in violation of Section 2 of the Voting Rights Act by the Fifth Circuit Court of Appeals.

Another study by CIRCLE in 2012 found that ID laws led to lower turnout among young people without college education, even when controlling for other possible factors.¹⁷⁵

At the NCVR's Tennessee hearing, Justin Jones, from the Nashville Student Organizing Committee, and student at Fisk University expressed the multitude of problems identification requirements can create for student voters:

“Living in a dorm, you don’t have a utility bill, you don’t have a water bill, you do not have an electricity bill. Therefore, we do not—it’s impossible to get these two residency requirements. Therefore, so many students are disenfranchised by this law. At my own school alone, we took statistics, and 9 out of 10 students do not have a Tennessee ID because out-of-state IDs are excluded. And Tennessee law explicitly excludes student IDs.”¹⁷⁶ In response, Tennessee college and university students filed a federal lawsuit in March 2015 challenging Tennessee’s voter ID law.

The NCVR also heard testimony from Casey Dreher, former Organizing Director of the Arizona Students’ Association, in a state where proof of citizenship has been required for registration and where there is an ID law.¹⁷⁷

“Students come to Arizona to study, but they do so believing that they’ll be able to participate in elections like students in any and every other state. However, due to the burdensome requirements of having to have your birth certificate on hand or an Arizona driver’s license, these students will not be allowed to vote for the very legislators that will be deciding how much to fund their universities, how much state-based financial aid will be available, or the many other policies that affect students that require state legislative approval.”¹⁷⁸

Amy Umaretiya, an undergraduate student at Arizona State University, testified about her experience as a first-time student voter in the 2012 elections and the confusion over acceptable forms of ID:

“First-time student voters aren’t well-versed in voter ID laws. And so when many of them showed up to the polling location with their driver’s licenses, unfortunately, they registered to vote with their on-campus addresses, their addresses on their licenses didn’t match up. And so they needed another form of identification to go along with that. Students who live at the dorms, however, don’t receive utility bills. They don’t have bank statements or credit card statements sent to their dorms. So when they show up to vote the day of election, if it hadn’t saved that piece of mail where they got the sample ballot or saved their voter ID card or they didn’t have it anymore, they were kind of out of luck... And it turns out that the Hudson polling location was allowing students to bring in a printout of their ASU account... And it was a solution, but many students didn’t take advantage of it because they would have to go back to campus and print out that document. And many students just came to the polling location between classes when they thought they had time. They didn’t have time to come back and wait in line after they had that printout.”¹⁷⁹

Students also appeared before the NCVR in Georgia to testify about the state's strict voter ID law. Only those students attending public colleges and universities can use their ID. Those attending private schools in the state must use another form.

After waiting in a long line to vote on Election Day, former Morehouse student Ronnie Mosely testified before the NCVR that he presented identification credentials and,

“[C]ompleted forms only to be told I was not in the system on the elector's list. I knew this was not true because I had checked my registration status day after day using the Georgia Secretary of State's My Voter Page... my information was in the Secretary of State's system, yet, my polling place still would not allow me to cast a vote.”¹⁸⁰

Finally, students are often at a disadvantage when they lack information on the proper voting requirements. Mike Burns, Director of the Campus Vote Project, an organization dedicated to educating and empowering students about the importance of civic engagement, addressed this issue at the NCVR Virginia state hearing:

“One of the things I'd like to hit on is photo ID and how it actually affects students. We're very excited that they are leaving the student IDs that have photos in them as a valid form of photo ID but, likewise, we're very concerned about the fact that there's no money being allocated to do educational outreach to inform people about these new changes. Students as our newest voters frequently start at an information deficit when voting, so to have these substantial changes to rules, if they're poorly explained to the public, that has a drastic impact on them.”¹⁸¹

WHAT'S NEW IN THE STATES

As described in the section on developments in voter registration, pre-registration has been the major legislative advance in promoting youth participation. A number of states have instituted the practice successfully; North Carolina eliminated it in 2013. Other types of legislation directed at students have been passed at the state level without attracting much attention in some states. Most these developments are positive. Utah is the only other state that enacted a negative law that squarely targets youth: in 2008 it repealed its requirement that high schools provide voter registration to students.¹⁸²

By contrast, the following positive measures have been passed in the last decade:

- In 2004 South Carolina passed a law requiring high schools to provide registration forms to students.¹⁸³
- In 2005 Illinois passed legislation that requires public institutions of higher learning to post registration forms on the school website, in school mailings and provide in-person registration.¹⁸⁴
- Addressing a long-standing controversial subject in New Hampshire, the state legislature passed a bill in 2009 specifically authorizing “a student at an institution of learning to claim domicile for voting purposes in the town or city in which he or she lives while attending the institution of learning.”¹⁸⁵
- In 2009, New Jersey passed legislation requiring high schools to provide registration forms when students were graduating.¹⁸⁶
- In 2010 Arizona passed a law requiring community colleges to take a great number of measures to promote and make voter registration available to its students as part of the schools’ educational mission.¹⁸⁷
- In 2011 Kentucky passed a bill requiring high schools “to provide information to twelfth-grade students on how to register to vote, vote in an election using a ballot, and vote using an absentee ballot, recommends classroom activities, written materials, electronic communication, Internet resources, participation in mock elections, and other methods identified by the principal after consulting with teachers.”¹⁸⁸
- In 2014, California passed a law designating high school voter registration weeks and allowing voter registration activities at high schools, including allowing schools to designate students as voter outreach coordinators.¹⁸⁹

CONCLUSION

A vibrant democracy demands the equal participation of all its citizens in the electoral process. As this report sets forth, many state and local officials, in spite of no new federal funding, are developing ways to make elections run more smoothly and efficiently and make the process accessible and available to as many voters as possible. Examples include modernizing voter registration systems, introducing innovative technology like iPads and electronic poll books at the polls to increase efficiency on Election Day; ensuring fully accessible polling locations; and developing programs to encourage the recruitment and development of the next generation of poll workers.

Yet, as the over 400 witnesses before the National Commission on Voting Rights testified, the election process in the United States continues to be overly complex and often challenging. Many voters still experience the sting of being turned away from the polls due to administrative errors, overly restrictive identification requirements, or poll workers ill-equipped to handle voter needs. Voters with disabilities often arrive at polling locations to find that accessible voting equipment is not functioning properly or that poll workers do not know how to operate the machines. Out-of-state college students have been denied regular ballots because their college addresses do not match their driver's licenses. Individuals convicted of a felony continue to face a maze of confusing rules and regulations around the restoration of their voting rights. And some states have reduced or cut completely early voting days and same day registration which encourage voters to turnout.

Only by instituting election laws and practices that remove barriers to civic participation will the nation meet its obligation to allow each citizen to exercise fully the right to vote.

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