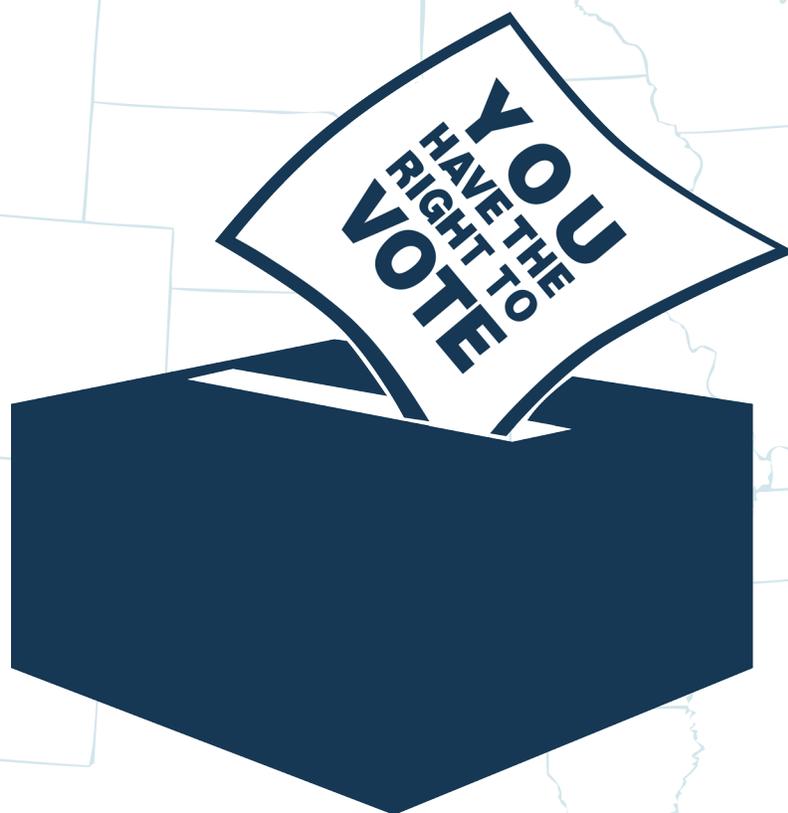


ELECTION PROTECTION 2012

A Preliminary Look at the Problems
Plaguing the American Voter



ABOUT ELECTION PROTECTION

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

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

Note: The following report is a preliminary glimpse into the issues and problems voters encountered when attempting to cast a ballot in 2012—many of which reoccur every election cycle. Early in 2013, Election Protection will release a report further discussing the issues addressed in this report and will include reform proposals that legislators should adopt to finally confront these problems in order to maintain integrity in our electoral process and make our elections free, fair, and accessible to all eligible voters.

Election Protection

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

Thank You

Election Protection and the Lawyers' Committee for Civil Rights Under Law would like to thank our national partners, without whom this historic effort would not have been possible:

Advancement Project	Fair Elections Legal Network	National Disability Rights
AFL-CIO	FairVote	Network
Alliance for Justice	Hip Hop Caucus	National Education Association
Alliance for Retired Americans	Hispanic National Bar	Native Vote
American Association for Justice	Association	National Council of La Raza
American Association of People	Human Rights Campaign	New Organizing Institute
with Disabilities	Impact	Non-Profit Vote
American Association of	Leadership Conference on	Overseas Vote Foundation
University Women	Civil and Human Rights	People for the American Way
American Bar Association	Education Fund	Foundation
American Civil Liberties Union	League of United Latin	Latino Justice - PRLDEF
American Constitution Society	American Citizen	ProgressNow
American Federation of	League of Women Voters	Project Vote
Teachers	Long Distance Voter	Rock the Vote
APIA Vote	Moms Rising	Service Employees International
Asian American Justice Center	NAACP	Union
Asian American Legal Defense	NAACP Legal Defense Fund	Sierra Club
and Education Fund	National Asian Pacific American	Southwest Voter Registration
Berkley Law	Bar Association	and Education Project
Brennan Center for Justice	National Association of Latino	State Voices
Bus Federation Civic Fund	Elected and Appointed	The Campaign Legal Center
Campaign Legal Center Voting	Officials Educational Fund	The Voter Participation Center
Rights Enforcement Project	National Bar Association	Turbo Vote
Campus Compact	National Black Law Students	United States Student
Campus Progress	Association	Association Foundation
Center for Community Change	National Coalition for Black	United Steelworkers
Citizens for Responsibility and	Civic Participation	UNC Center for Civil Rights
Ethics in Washington	National Coalition for the	U.S. PIRG
Citizens Engagement Lab	Homeless	US Vote Foundation
Color of Change	National Council of Jewish	Verified Voting Foundation
Committee of Seventy	Women	Vote Riders
Common Cause	National Congress of American	Voto Latino
Demos	Indians	Women Donors Network

Another tremendous thank you to nearly 100 law firms and corporate legal departments and about 35 law schools that participated in Election Protection 2012.

Contents

ELECTION PROTECTION 2012	1
THE NATIONAL STORY – A SUMMARY	2
RECURRING PROBLEMS	3
Access to the Ballot	4
Registered Voters Missing from Poll Books	
Registered Voters Denied Early Vote Opportunities	
Absentee Ballots Lost in Mail	
Disabled Voters Denied Accommodations	
Language Assistance Unavailable	
Inadequate Planning and Implementation	6
Limitations in Voting Opportunities	
Impact of Hurricane Sandy on the Election	
Poor Training and Lack of Needed Poll Workers	
Problems with Our Antiquated Voter Registration System	
Malfunctioning and Insufficient Number of Voting Machines	
Lack of Confidence in the Integrity of the System	10
Proliferation of Deceptive Practices	
Absentee Ballots Errors	
Misapplication of Voter ID Laws	
CONCLUSION	12



Election Protection 2012

A Preliminary Look at the Problems Plaguing the American Voter

The 2012 elections marked the third presidential election cycle that Election Protection, the nation's largest non-partisan voter protection initiative, has played a vital role supporting voters. Election Protection is a national coalition of law firms, civil rights organizations, and voting advocates who join forces to ensure that every eligible voter who wants to cast a ballot is able to do so and to have confidence that ballot will be counted.

Featured FACTS

- » Over **100** member organizations participate in Election Protection.
- » Election Protection organized field operations in **22** target states.

The need for a comprehensive national voter assistance program became obvious following the 2000 presidential election. That year, the challenges faced by voters and the systematic breakdown of our electoral process called into question the integrity of our elections, and with it came a call to action. Today, with over 100 member organizations and several thousand attorney volunteers, Election Protection, led by the Lawyers' Committee for Civil Rights Under Law, works 365 days a year to advance and protect the right to vote.

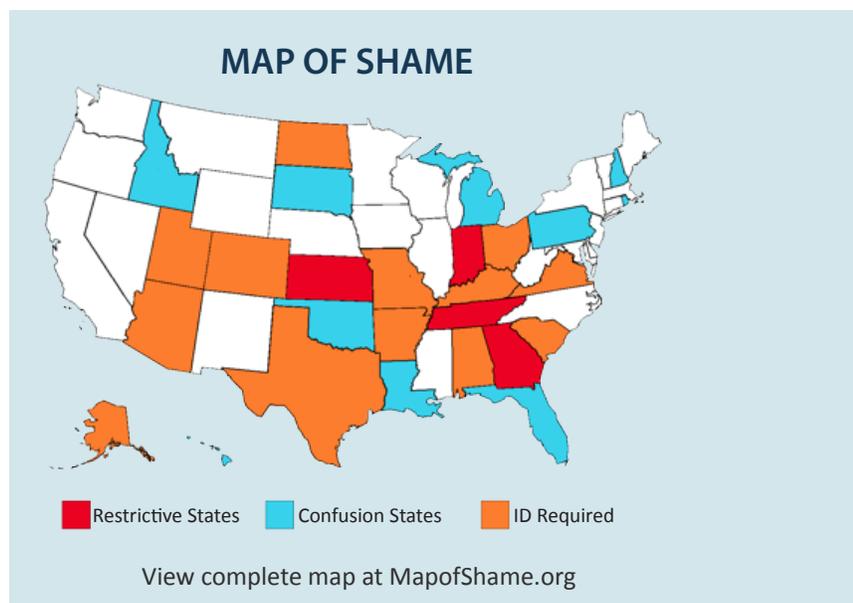
Election Protection incorporates three national voter protection hotlines: the English language 866-OUR-VOTE, administered by the Lawyers' Committee for Civil Rights

Under Law; the Spanish language 888-VE-Y-VOTA, administered by National Association of Latino Elected and Appointed Officials Educational Fund; and this year's pilot Asian language hotline 888-API-VOTE, administered by Asian American Justice Center and APIA Vote. In addition to the hotlines, the program administers field programs around the country. This year, Election Protection organized on-the-ground field operations in 22 target states: Arizona, California, Colorado, Florida, Georgia, Illinois, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Mexico, New York, Nevada, North Carolina, Ohio, Pennsylvania, South Carolina, Texas, Virginia, and Wisconsin. Through a partnership with Common Cause, the National Coalition on Black Civic Participation, and the Conference of National Black Churches, the program restored the grassroots poll monitoring component to its legal monitoring this year, expanding its capacity and coverage across the country.

THE NATIONAL STORY – A SUMMARY

Throughout the year, prognosticators and pundits kept searching for this year’s version of the hanging chad that would come to define the 2012 elections. It turns out clairvoyance was not necessary to predict the problems that would most plague this year’s election but rather an understanding of recent history (or a quick read of Election Protection’s previous four post-election reports). The breakdowns that most bedeviled election officials and led to problems for voters in 2012 were not new: chronic problems with our antiquated voter registration system that result in voters being denied their right to vote, woefully undertrained poll workers misapplying voter ID and provisional ballot laws, mismanaged and chaotic polling sites, last minute changes to polling locations that result in voter confusion over where to vote, problems with absentee voting, long lines, failing voting machines, and deceptive and intimidating practices.

Despite these systemic problems with the election process, in early 2011, politicians in states across the country did not pursue remediating legislation for the genuine problems but instead passed unnecessary and restrictive forms of voter identification and other suspect voting procedures and requirements, putting the votes of up to 25 million Americans at risk. This seemingly coordinated and broad-based attempt to restrict the vote was tracked by the widely-cited “Map of Shame” maintained by the Lawyers’ Committee for Civil Rights Under Law (www.MapofShame.org). Although thirteen state legislatures passed these restrictive measures, the civil and voting rights community and their allies fought back. Five governors (Minnesota, Missouri, Montana, North Carolina, and New Hampshire) vetoed restrictive photo ID laws. Three-judge panels in the U.S. District Court for the District of Columbia denied preclearance under Section 5 of the Voting Rights Act to Texas’s photo ID law, as well as to Florida’s restrictions on early voting. A federal court in Florida also blocked the state’s new restrictions on community voter registration. South Carolina was required to substantially modify its photo ID law in order to obtain Section 5 preclearance from the D.C. Court, which did not permit the law’s use in the 2012 election. Wisconsin’s photo ID law was blocked in state courts, and the Pennsylvania state courts ruled that poll workers could request photo identification, but voters were not required to show it in the 2012 election.



The attempts to restrict the ability of certain Americans to vote did not stop at the state legislature. Officials in Florida, Colorado, and Texas attempted to purge voters based on faulty data matches that incorrectly caught up eligible American citizens. For example, Bill Internicola, a World War II veteran, received widespread attention after his county election supervisor sent him a letter, based upon a program later disavowed by the Florida Secretary of State, incorrectly telling him that he was

not a U.S. citizen. As summer turned into fall, we saw attempts to intimidate and deceive voters pop up even earlier than usual. By mid-October, voters in Florida, Indiana, North Carolina, and Virginia were reporting that they received live phone calls falsely telling them that they could vote over the phone. Misleading information about straight-ticket voting made the rounds over email and through social networking in several states, including Pennsylvania, Texas, and North Carolina.



Election Protection responds to voter intimidation tactics.

In the middle of October, dozens of anonymously financed billboards appeared in predominantly African-American neighborhoods in Wisconsin and Ohio, bearing a picture of a gavel and menacingly stating that “VOTER FRAUD IS A FELONY! Up to 3 ½ YRS & \$10,000 Fine.” While technically true, the placement of these billboards in African-American communities was a tragic example of history repeating itself. These billboards falsely stigmatized these communities by suggesting that their voters were likely to commit voter fraud. It was a clear, racially motivated intimidation tactic that attempted to instill fear and dissuade eligible

Americans from voting. The funder of the billboards attempted to remain anonymous, complicating our initial attempts to address this issue, but the Lawyers’ Committee quickly galvanized the Election Protection coalition, and, under pressure from national and local partners, the billboards were removed, and empowering messages that promoted the 866-OUR-VOTE hotline were posted by Election Protection in the same neighborhoods.

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

RECURRING PROBLEMS

While attempts to restrict the vote were the big story leading up to Election Day, November 6, 2012 showed more of the same registration and polling place problems. As you will read, Election Protection recorded and addressed a wide range of problems – problems that recur each election cycle – that can be summarized into three categories: 1) access to the ballot; 2) inadequate planning

and implementation for elections; which result in 3) a lack of confidence in the integrity of the voting process. Below are examples in each of those categories that Election Protection encountered in 2012.

Access to the Ballot

Voters are disenfranchised every election due to voting barriers and administrative errors in the election process. The problems of access to the ballot are wide ranging, but repeat every election. Voters typically encounter these problems when registering to vote or, even after they cast their ballot, when their vote is being counted. The examples below are illustrative of these problems.

Registered Voters Missing From Poll Books. At the start of Election Day, it became clear that unprecedented numbers of registered voters could not be found in the poll books across Pennsylvania. This problem affected not only newly registered voters, but also long-time voters, who traditionally encounter fewer problems in the voting process. Precincts across the state reported never having received the supplemental poll books that counties are supposed to provide, meaning that many late-processed registrants could not be located. For example, a voter at Harrity Elementary School in Philadelphia was told she was not on the rolls and was not offered a provisional ballot. She returned to the polling place to request that the poll workers check the supplemental pages, only to find that they did not have them. The problems with registered voters missing from the rolls also affected long-time voters, who verified their registration status on the state's own registration database before going to the polls. The judge of elections at the Pathway Church in Philadelphia even called to report that many voters who came with their voter registration cards in hand were not on the list. Another Philadelphia judge reported the same problem and noted that she was unable to get assistance from the county to resolve the issue. Where voters could not be found, Election Protection volunteers worked diligently to make sure that they were allowed to cast provisional ballots.



In Illinois, Election Protection received an unusual number of calls from voters who were told they were not on the rolls. There were multiple reports of voters who registered or updated their registration information at DMV offices, but their registrations were not processed. One Cook County voter reported that he updated his voter registration information in June 2011 when he renewed his license, but when he showed up to vote on Election Day, he was told by a poll worker he was not registered and could not vote. Another caller from McHenry County who was previously registered under her maiden name at her parents' address reported that she had updated her voter registration information when she renewed her driver's license, but on Election Day, she could not be found on the voter rolls at all with either her old or new registration information. A similar scenario occurred in Dupage County through an online transaction: a voter reported that she had renewed her driver's license and simultaneously registered to vote online, but the DMV did not update their records.

Registered Voters Denied Early Vote Opportunities. On the first day of early voting, voters in Harris County, Texas, who properly registered close to the registration deadline found themselves either not on the registration list or with a note that said their registration was not active until Election Day. Election Protection had repeated discussions with the county attorney’s office as well as the county clerk and discovered the poll books had not been updated to reflect new registrations. One newly registered voter called the Election Protection hotline worried that she would not be able to vote because she was leaving the country the next day. An Election Protection volunteer convinced the county clerk to enter her into the poll book so she could cast a regular ballot before her trip. The Harris County poll books were then updated for the remaining days of early voting.

Absentee Ballots Lost in Mail. In Auburn Hills, Michigan, over 800 ballots were “lost in the mail.” Election officials were aware of the problem but chose to simply wait for voters to contact the clerk’s office if they did not receive their ballots. Election officials did not affirmatively notify voters of their lost ballots or resend ballots to ensure that those who requested absentee ballots would receive them. Over 100 lost absentee ballots were also unaccounted for in Roseville, Michigan. If Michigan had a system for electronically tracking absentee ballots, as has been adopted in other states, they could have effectively replaced the lost ballots rather than leaving these voters, who in Michigan require an excuse to vote absentee such as a disability or senior citizen status, at risk of not being able to vote.

Disabled Voters Denied Accommodations. In South Carolina, many polling locations were unable to provide curbside voting due to long lines and understaffing. A disabled voter in Richland County asked for curbside voting but was refused. Similarly, curbside voting was also denied to voters with physical disabilities in Harris County, Texas. A caller at the Bayland Park polling place reported witnessing officials deny curbside ballots to at least three voters with physical disabilities and that these voters were told to go to the end of the line like everyone else.



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Language Assistance Unavailable. Election Protection received numerous reports of a lack of Spanish language assistance in Philadelphia and Lehigh Counties in Pennsylvania. Both counties are covered by Section 203 of the Voting Rights Act and are therefore required to provide Spanish language assistance. However, some polling places with Spanish language voters had no poll workers who spoke Spanish, and Spanish language assistance hotlines were inaccessible on Election Day. For example, there were no Spanish speaking poll workers available at the Police Athletic League polling place in Philadelphia. Not being able to obtain help, some voters became frustrated and left the polls without casting a ballot. In another polling place in Los Angeles, California, only the warden was bilingual, creating a long wait for voters needing Spanish language assistance. When the warden went out to lunch for two hours, Spanish-speaking voters were left with no assistance.

In other locations, the bilingual assistance that was available was not properly communicated to the voters. For example, at the Hamtramck Community Center in Michigan, poll workers refused to inform voters of the availability of Bengali ballots, claiming that this would amount to racial profiling, even though poll workers were required to provide this assistance since Hamtramck was newly covered by Section 203. In Saint Paul, Minnesota, we learned that Limited English Proficiency (“LEP”) voters were asked to provide identification, even though the state lacked a photo ID requirement. The rationale given behind this disparate treatment was that the poll workers could not understand the voter when they pronounced their name; therefore, it was easier to look at the name on the identification. In a polling place in Philadelphia (6th and Erie), Pennsylvania, poll workers apparently instituted an ad hoc procedure asking LEP voters to write their names on a piece of paper, in effect creating a separate list of the Spanish-speaking voters who requested a ballot.

Lastly, we learned of instances in jurisdictions including Palm Beach, Florida and Vacaville, New Mexico, in which poll workers denied LEP voters the right to bring in an assistor of choice to help them cast a ballot, as provided by Section 208 of the Voting Rights Act. At the Riverhead Senior Citizens Center in Riverhead, New York, a voter was told that he could not bring in an assistor of choice because he was not disabled, which is contrary to law.

Inadequate Planning and Implementation

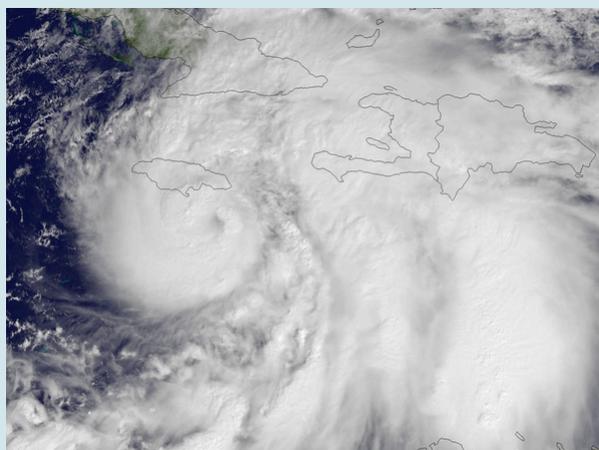
Many of the problems that occurred on Election Day can be traced to inadequate planning and preparation for heavy voter turnout. While a big story from the 2012 general election was the long lines, it is crucial to understand that long lines are not inevitable and that they have underlying causes that can be addressed. Below are examples of poor planning or systemic issues with election administration that created problems for voters and poll workers.

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

Impact of Hurricane Sandy on the Election. Hurricane Sandy caused immense destruction to large sections of the East Coast and, in the process, disrupted the 2012 general election for millions of voters. States along the East Coast tried to improvise with measures to accommodate voters affected by Sandy, but New Jersey and New York voters nonetheless suffered due to the fact that both states have limited absentee and early vote options, and emergency planning did not extend to voting.

New Jersey voters were permitted to cast a provisional ballot at any polling place within the state and could use the process allowing overseas voters to vote by absentee ballot, which permitted a ballot request by email or fax. While this was an important step, soon after the procedure was implemented, there were reports of email servers and fax machines being overloaded with ballot requests from displaced voters. New Jersey did extend the deadline to receive the ballots, but it is impossible to ascertain the number of voters who were unable to actually cast these ballots because of the inability to receive and process these requests.

New York lengthened the period for receipt of absentee ballots and implemented early voting in New York City for the weekend before Election Day. Furthermore, Election Protection sent a letter to the Governor of New York requesting the ability for displaced voters to cast affidavit ballots. In response, voters in certain impacted areas of New York were permitted to cast affidavit ballots at any polling location in the state; however, polling sites were not prepared for the amount of voters requesting affidavit ballots resulting in many precincts running out of ballots and voters waiting in line for hours for additional ballots to be delivered.



Hurricane Sandy

The storm made voting extremely challenging for first responders from impacted states, as well as first responders from other states aiding in the hurricane relief effort. On Monday, November 5, Election Protection learned that 8,000 out-of-state workers, coming from all 50 states, were unable to vote since they would not be in their home state to vote, and it was too late for them to request absentee ballots. The directive issued by the Governor Christie applied to the 2,000 New Jersey first responders, but not the out-of-state workers, and the foreman of the first responders crew was threatening to send the 8,000 out-of-state workers home with

no plan to return if election officials could not find a way to allow the workers to vote. In response to this problem, Election Protection faxed a letter to the governors of each state explaining the situation and requesting that the states develop a method for the first responders from their states to vote.

The changes rapidly put into place following the storm did a great deal to provide opportunities for displaced voters to cast ballots. Contingency planning must continue, and states must incorporate lessons from Hurricane Sandy to improve these emergency procedures and ensure fair elections.

Poor Training and Lack of Needed Poll Workers. Election Day in Virginia provided powerful examples of how poor planning and training result in voters being unable to vote or only able to do so through their own dogged persistence. Election Protection received many reports from voters that polling places were closing early, even though everyone in line by 7:00 p.m. should have been allowed to vote. At the police precinct in Blackstone, Virginia, voters were turned away from the polling place

at approximately 5 p.m. We heard from a voter who had been sent to the Police Precinct after going to her precinct at the Municipal Building, where she was assigned. Before leaving the Municipal Building, she overheard a conversation that the polling place was turning away voters because it was understaffed. At the Police Precinct she was turned away and left without voting after it became clear that no one would be admitted to vote. Another voter in Herndon reported being turned away from the polls after waiting two hours in line because the poll worker could not find his name in the electronic poll book. At the urging of his girlfriend, he returned to the polling place and asked the poll worker to look for his registration in a hard copy of the poll book, but the poll worker refused, telling him that they did not have time to look him up and that the electronic poll book contained the most up-to-date information. He insisted and finally a poll worker agreed to look in the hard copy of the poll book for him. She told him that she still could not find his name in the book. The voter asked to look for himself and immediately found his name and registration and showed the poll worker, who ultimately apologized for the mistake and finally gave him a ballot.



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In Ohio, one of the most reported problems was too many provisional ballots being issued by widespread misapplication of the voter ID requirements – specifically, forcing voters with valid driver’s licenses with addresses that did not match their current address to vote provisionally. Ohio law permits driver’s licenses with outdated addresses to be used as an acceptable form of identification so long as the voter is properly registered at their current address. This problem came up repeatedly from multiple locations in Montgomery and Hamilton counties and was also frequently reported in Franklin, Cuyahoga, Stark and Summit Counties. In one instance, a voter who presented a driver’s license with an old address was told to vote provisionally. He went back to his car to retrieve a utility bill that he happened to have,

but the poll worker would not accept that either because he had already presented his driver’s license with the old address. Voters who ran into this problem were forced to vote provisionally by poll workers, even though they presented acceptable forms of identification under Ohio law.

Polling place confusion this year was exacerbated by redistricting, polling places changes, and precinct consolidations. Problems typical of multi-precinct polling places were present with many voters reporting disorganized polling locations and confusion about which line they were supposed to stand in to vote. Voters also reported there was little oversight of polling place operations and that they lacked adequate signage to direct voters to their correct precinct. There were reports of election judges being unhelpful, telling voters they had to know their precinct number beforehand to know which line to stand in. Voters were concerned that they accidentally voted at the wrong precinct, even though they were at the correct polling location, which in many states will result in their ballot being rejected. Others were having trouble just identifying their correct polling location.

One example was a caller from Chicago who reported that she went to the polling location near her house and was told that she was not registered there. Poll workers directed her to a second polling place, where she was also told that she was not registered, and was then directed to a third location. Finally, she went online to the Board of Elections website, which said to go to yet another location. That fourth location did not have her on the list of voters, so she ended up casting a provisional ballot.

Much of the chaos and wait times at polling locations were the result of poor organization and management of multi-precinct polling locations, such as inadequate signage and supervision to direct voters to the correct line. In Detroit, many voters reported they were extremely frustrated at the prospect of waiting in a two-hour line with no knowledge of whether they were standing in the correct line, and many left in frustration. Disorganization at multi-precinct polling sites combined with malfunctioning machines, and poorly trained poll workers became a recipe for chaos and voter frustration.

Problems with Our Antiquated Voter Registration System. Our nation's reliance on paper-based voter registration systems continues to divert election officials' resources – both money and time – that make it more challenging to properly prepare for and administer elections. Additionally, mistakes made by election officials during the voter registration process often lead to long lines, confusion, and eligible Americans being improperly turned away on Election Day.

On Election Day, we received a number of calls through 866-OUR-VOTE and reports from our coalition partners on the ground in Fulton County, Georgia, indicating major failures in the voter registration process. Election officials mistakenly loaded old registration information into some of the electronic poll books that led to long lines, frustration, and eligible voters being turned away without being able to vote. We received reports that thousands of eligible voters in Fulton County had to vote provisionally as a result of these problems. In fact, the number of provisional ballots issued in Fulton County was so high that several polling places ran out of provisional ballots, and voters were reported to have been turned away without being able to cast any type of ballot. At a polling place on the campus of Morehouse College, a historically black college in Atlanta, Election Protection received reports of students standing in line for up to seven hours, due to this breakdown in the voter registration system.



Prior to the 2012 election, the Florida State Legislature changed voting rules to force voters who had moved between counties or changed their names to vote a provisional ballot as opposed to a regular ballot, as had been allowed in years past. This change caused confusion for poll workers and voters alike. The change, however, did not impact voters who moved within their county, and across the state, voters who had moved within their county were told by poll workers that they must vote a provisional ballot. Election Protection contacted Supervisors of Elections to notify them of this error. In some instances, the poll workers were reminded of the law; in others, the Supervisors did not have the capability to reeducate them.

Malfunctioning and Insufficient Number of Voting Machines. While long lines in Florida, Ohio, and Virginia drew media attention on Election Day, long lines – as long as 7 hours at some precincts – were also a serious problem in South Carolina. While the majority of machine issues and long lines were reported in Richland County, Election Protection also had reports of similar problems in Spartanburg, Greenville, Charleston, Horry, Berkley, Kershaw, and Sumter Counties. These long lines were caused by machine shortages, machine breakdowns, and high voter turnout. For example, at the Joseph Keels Elementary School polling location in Columbia, there were only five voting machines, and voters waited in line for as long as six hours; and at the Fort Lawn Community Center in Fort Lawn, voters reported that only two of the six voting machines were working.

Lack of Confidence in the Integrity of the System

As voters continue to encounter problems when voting, they will increasingly lose confidence in the electoral process. Unfortunately, the problems that lead to lack of confidence are infecting every aspect of the voting process and often start before voting even begins.

Proliferation of Deceptive Practices. Nefarious attempts to suppress voters through deception and intimidation occurred earlier than usual in 2012. In October, voters in Florida and Virginia received live phone calls falsely telling them they could vote by phone. In Florida, the callers said “the Supervisor of Elections authorized us to take your vote by phone.” The caller had the voter’s name, address, and party affiliation and said they only needed a few more pieces of information to accept the voter’s ballot. Election Protection countered these deceptive calls with robo calls informing voters that they could not vote by phone. Similarly, in the weeks before Election Day, voters in North Carolina reported receiving calls that said they could not vote if they had an outstanding traffic ticket or that those with a certain party affiliation could vote on November 7 instead of November 6. On October 29, the Executive Director of the North Carolina Board of Elections issued a memo to the Directors of the County Boards of Elections, warning them about the various cases of misinformation.

Absentee Ballot Errors. In Palm Beach, Florida, a printing error forced the county to hand copy 35,000 returned absentee ballots so they could be counted. When the county realized there was a problem, they halted sending out remaining absentee ballots but failed to notify voters who were waiting to receive them. However, the biggest problem may be for voters who received and voted their absentee ballot. In Florida, in order for an absentee ballot to count, the voter’s signature on the ballot must match the signature on file with their voter registration. If it does not match, the ballot will be rejected. Throughout the year, Election Protection worked with state partners to educate voters on the signature match and to urge voters to update their signature. Despite our efforts, we received numerous calls from voters who received letters that their absentee ballot was rejected. It is estimated that one to three percent of absentee ballots were rejected. In Stark County, Ohio, voters were sent absentee ballots on regular copy paper, rather than ballot paper. One voter called the Election Protection hotline believing she had received a fraudulent absentee ballot, describing her ballot as “photocopied.” When Election Protection called Stark County election officials to inquire about the photocopied ballot, they informed us that the ballots were not sent out on standard ballot paper because of a change in wording of “Issue 2,” which required them to reprint the ballot. Because of the reprint, they ran out of ballot paper stock and used copy paper stock. The voter stated that she wanted to vote during the early voting period instead, because she did not trust that her vote cast on the absentee ballot would be counted.

Misapplication of Voter ID Laws. Election Protection received many reports of voters who were turned away or given a provisional ballot because poll workers failed to understand their state’s voter identification law. In Michigan, voters without photo identification reported being turned away, even though Michigan law permits an affidavit substitute. This has been a recurring problem ever since Michigan passed its identification law. This problem was reported in Detroit, Oakland County, Macomb County, Benton Harbor, Grand Rapids, Dearborn, Warren, and Waterford.

In Royal Oak, Michigan, a voter reported that, while she was waiting in a long line at the Emanuel Bethel Church polling location, a woman was standing outside shouting at the people in line, “Don’t forget you need your ID to vote.” When the voter questioned the poll worker, the poll worker responded that it was true that voters need photo identification to vote, but when the voter persisted the poll worker finally admitted photo ID was not required. While the voter was ultimately able to vote without identification, many reports were received from other voters who were being turned away because they did not have photo ID.



Misleading sign at a Pennsylvania polling place.

Image used under Creative Commons from Erin McCann

In Pennsylvania, following the court battle over Pennsylvania’s new photo identification law and subsequent injunction, there was massive confusion across the state, which persisted through Election Day. The terms of the court decision permitted poll workers to still ask to see photo ID, though voters should have been allowed to cast a regular ballot without it in most cases. However, many voters reported being confused and deterred by the request. Election Protection received reports from across the state from voters who were improperly turned away for lacking photo ID. This was exacerbated by widespread misinformation disseminated at polling places. Voters in polling places in Dauphin County, for example, were greeted with misleading signs stating that voters must show an approved form of photo ID to vote. The state itself put out such misleading information, issuing a mailing the week before the election

that read, “If you want to vote, SHOW IT....Under a new law, voters are supposed to show a form of ID” and contained no mention that voter’s did were not required to show photo identification in order to vote on Election Day.

Similarly, although Texas’s restrictive 2011 photo identification law was found to violate Section 5 of the Voting Rights Act and never was officially implemented, voters and poll workers were still confused over what identification they still needed to present, and Election Protection received reports from voters who were told that they needed to present photo identification.

CONCLUSION

While this report has identified many problems in the 2012 election cycle, the majority of American voters fortunately did not encounter serious problems voting. Images of long lines at some polling places angered many but illustrated the determination and resilience of American voters as well. Thousands of voters were undeterred and stood in line for several hours because their right to vote mattered that much to them. But it does not have to be that way.

States like North Carolina, Nevada, and Minnesota had fewer problems because of proactive reforms. North Carolina allows voters to register and vote in person right up to the final weekend of the elections, and Nevada provides a wide range of early voting options, like supermarkets, making it convenient for voters to cast their ballots. Minnesota is one of several states that allows voters to register or update their registration at the polling place on Election Day, reducing the chances of voters being improperly turned away and eliminating the administrative burden of processing reams of provisional ballots after the elections are over.

The systemic problems with our electoral system detailed above have resulted in the long lines that President Obama rightly referenced during his victory speech, when he noted, “We have to fix that.” The long lines are a clear symbol of the all too common problems with America’s elections for the majority of Americans. To address these recurring problems, we must give hardworking election officials needed resources and adopt a set of uniform standards with accountability so that all Americans can have faith that elections are administered properly.

This preliminary election report has summarized the problems that voters faced during the 2012 election cycle. In the new year, Election Protection will release an indepth report detailing further not only the problems faced by voters but also making the case that now is the time for Congress, in a bi-partisan fashion, to set our country on the course to a truly accessible and secure system of elections.

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